

P.E.R.C. NO. 82-129

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ESSEX SHERIFFS
DEPARTMENT,

Petitioner,

-and-

Docket No. ID-82-9

ESSEX COUNTY SHERIFFS
IDENTIFICATION OFFICERS
ASSOCIATION,

Respondent.

SYNOPSIS

The Chairman of the Commission, in an issue definition determination matter, finds that the County's proposal concerning guidelines on outside employment is non-economic in nature. The Chairman concluded that the proposal is not economic in nature because any effect on employee income is not direct, and any economic benefit affected would not flow from the County to its employees.

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Appearances:

For the Petitioner, David H. Ben-Asher, County Counsel
(Elaine K. Hyman, of Counsel)

For the Respondent, Goldberger, Siegel & Finn, Esqs.
(Howard A. Goldberger, of Counsel)

DECISION

A Petition for Issue Definition Determination was filed by the County of Essex with the Public Employment Relations Commission on January 28, 1982 alleging that a dispute existed as to whether certain issues which were the subject of collective negotiations between the County and the Essex County Sheriffs Identification Officers Association were economic or non-economic as defined in N.J.S.A. 34:13A-16(f)(2). At the time the petition was filed, a Petition to Initiate Compulsory Interest Arbitration in accordance with the Public Laws of 1977, Chapter 85, was on file with the Commission.

In its Rules adopted to implement the Police and Fire Arbitration Act (Chapter 85), the Commission established a procedure to resolve disputes as to whether issues are economic

or non-economic. That procedure is set forth fully at N.J.A.C. 19:16-6.1 et seq. The Rules provide that the Chairman or other designee of the Commission shall render a written determination which classifies a disputed issue or issues as economic or non-economic within the meaning of N.J.S.A. 34:13A-16(f)(2). These determinations are deemed to be final administrative determinations not subject to review in any proceeding before the Commission.

The County's Petition identified two issues as to which a dispute existed. The first involved a portion of the miscellaneous clause having to do with reimbursement for expenses incurred by Sheriffs Officers while attending a training school or course at the direction of the Sheriff. In its statement in response to the County's petition, the Association concurs with the City's characterization of this clause as economic. Accordingly, there no longer exists a dispute as to the identification of this issue and the matter is not before us.

The second issue involves restrictions on outside employment as proposed by the County. The County's clause, which it contends involves a non-economic issue, reads as follows:

Fulltime employees must consider the County their primary employer. As such they must be available and able to perform all of the position's required duties. Outside employment must not interfere with an employee's job performance, ability to work scheduled overtime, or compromise his or her County position through a conflict of interest.

The County contends that this proposal does not meet the statutory definition of an economic issue, which is set forth in N.J.S.A. 34:13A-16(f)(2):

In the event of a dispute, the commission shall have the power to decide which issues are economic issues. Economic issues include those items which have a direct relation to employee income including wages, salaries, hours in relation to earnings, and other forms of compensation such as paid vacation, paid holidays, health and medical insurance, and other economic benefits to employees.

While the County concedes that such a clause may limit an employee's access to a second job, this does not directly relate to an employee's income. The County cites our decision in In re City of Plainfield, P.E.R.C. No. 81-42 , 6 NJPER 490 (¶11249 1980), in which we found that proposals concerning scheduling of specific duties on certain work days and holidays, were not economic in nature even though the proposals could reduce an employee's eligibility for overtime wages.


The Association argues that the clause might limit outside employment opportunities and that this potential limitation may have a direct impact on employee income.

We agree with the position of the County that this issue is not economic in nature because any effect on employee income is not direct. Further, the clause does not involve wages or benefits which flow from the public employer to the public employee.

ORDER

The City's proposal concerning guidelines on outside employment of Sheriffs, Officers is deemed to be non-economic in nature and shall be so treated by the interest arbitrator appointed to resolve the collective negotiations impasse between the parties.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

DATED: Trenton, New Jersey
June 18, 1982