

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ESSEX,

Public Employer,

-and-

Docket No. ID-80-7

ESSEX COUNTY SUPERIOR OFFICERS
OF COUNTY DETECTIVE ASSOCIATION,

Employee Organization.

COUNTY OF ESSEX,

Public Employer,

-and-

Docket No. ID-80-8

ESSEX COUNTY PROSECUTORS, DETECTIVES
AND INVESTIGATORS ASSOCIATION,

Employee Organization.

SYNOPSIS

The Chairman of the Commission, pursuant to N.J.A.C. 19:16-6.2(e), issues a decision in two issue definition determination matters. The Chairman concluded that the two items in dispute: the half hour dispute article and the car reimbursement article, are economic issues and directly affect the employees' income, hours and economic fringe benefits as defined in N.J.S.A. 34:13A-16(f)(2).

P.E.R.C. NO. 80-101

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Appearances:

For the Public Employer, Grotta, Glassman & Hoffman
(Mr. Thomas J. Savage, of Counsel)

For the Employee Organizations, Barry H. Evenchick, Esq.

DECISION AND ORDER

Petitions for Issue Definition Determination, Docket Nos. ID-80-7 and ID-80-8, were jointly filed by the County of Essex (the "County") and the Essex County Superior Officers of County Detective Association and Essex County Prosecutors, Detectives and Investigators Association (the "Associations") on or about January 3, 1980 to resolve a dispute as to whether certain issues are economic or non-economic as defined in N.J.S.A. 34:13A-16(f)(2). The parties are presently engaged in compulsory interest

arbitration in accordance with Public Laws of 1977, Chapter 85. The arbitration proceedings have been consolidated for purposes of hearing. Rodney Dennis has been appointed by the Commission's Director of Arbitration to serve as the arbitrator.

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 noneconomic or 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 the disputed issue or issues as economic or noneconomic 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 purpose of the procedure, therefore, is simply to provide a means for resolving disputes as to whether issues are economic or noneconomic. All issues must be classified as one or the other so that the final offers of the parties can be properly considered by the arbitrator who is to consider all economic issues as a package and all noneconomic issues on an item by item basis. The arbitration mechanism requires this classification of disputed issues.

Section 3 of the Police and Fire Arbitration Act, N.J.S.A. 34:13A-16(f)(2) defines economic issues as including "...those items which have a direct relation to employee income including wages, hours in relation to earnings, and other forms of compensation

such as paid vacations, paid holidays, health and medical insurance, and other economic benefits to employees." (emphasis added). What is germane in classifying these issues is the effect on employees. Would the item, if agreed to by the parties, affect an employee's income, hours, or economic fringe benefits? 1/

The Petitions herein list two items which the Associations identify as noneconomic issues and which the County contends are economic issues. The two items are as follows:

1. (Half Hour Dispute Article)

Each person employed as of January 31, 1972, to receive 25 days pay, at the average highest rate in existence during the period of time in question, to be paid at the time of retirement, separation or death, whichever may come first, and an additional 15 days of compensatory non-forfeitable time to be credited on the books and to be taken in future calendar years, except that any time remaining on the books at the time of retirement, separation or death, whichever shall come first, to be added to the days for which compensation is to be paid aforesaid. 2/

2. Increase in gross monthly allowance for reimbursement for use of personal automobiles in conducting County business.

The Associations and the County filed briefs in support of their respective positions, both of which were received by January 16, 1980.

1/ In re Township of Saddle Brook, P.E.R.C. No. 78-73, 4 NJPER 195 (¶4098 1978) and In re Township of Springfield, P.E.R.C. No. 80-86, 5 NJPER _____ (¶_____ 1980).

2/ This provision relates to proposed compensation for an additional half hour worked by all unit members represented by the Associations since January 31, 1972 as a result of a New Jersey Supreme Court order that the Courts expand their working hours.

The County submits that the statutory definition of economic issues as well as prior Commission decisions mandate the conclusion that both issues are economic. The Associations assert that the "half hour dispute" proposal is similar to a "make whole" award to compensate individuals for hours worked for the past eight years; and as compensation for an historic problem, "does not in any meaningful sense affect the income to be received by employees for 1979 or 1980, nor does it affect their hours or economic fringe benefits." (Associations' brief, p. 11). The Associations argue that it would be inequitable to require them to be limited in the amount of their economic package by holding this proposed article to be economic when it is intended to resolve a serious dispute that is unrelated to present contract negotiations. The Associations moreover add that little money will be paid to employees during the present year since the operative provision calls for compensation only at the time of retirement, separation or death. The Associations further state that reimbursement plans for automobile expenses do not amount to a form of income and relate to the restoration to the employee of monies which were originally loaned to the County.

After careful consideration of the parties' submissions, the undersigned concludes that both of the disputed matters are economic issues and directly affect the employees' income, hours

or economic fringe benefits. The provisions, if agreed to, would affect an employee's income and economic fringe benefits. The "half hour dispute" provision is in effect tantamount to an over-time pay provision with a "retirement, death or separation" salary or wage component and a "compensatory time off" component that can be availed of in any future calendar year. In no way is an issue less an economic one if the economic impact on employees is absorbed over a period of years by the employer. An extension of the Associations' argument would mandate the conclusion that proposals relating, for example, to insurance coverage for retirees and payment for unused sick leave, etc., would likewise be noneconomic proposals. The aforementioned broad statutory definition of economic issues does not permit this result.

Second, the undersigned finds that the car reimbursement provision provides an economic benefit to the affected employees. The Commission in In re Township of Springfield, supra, found that reimbursement for certain educational costs was an economic provision and likewise an increased travel allowance bears a direct relation to employee income and other economic fringe benefits.

ORDER

The County of Essex and the Essex County Superior Officers of County Detective Association and the Essex County Prosecutors, Detectives and Investigators Association are hereby Ordered to

submit their positions to the interest arbitrator appointed by the Commission to this matter as part of their respective economic packages, unless these issues are withdrawn.

BY ORDER OF THE COMMISSION



Jeffrey B. Tener
Chairman

DATED: February 15, 1980
Trenton, New Jersey