

P.E.R.C. NO. 90-108

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF FAIR LAWN,

Petitioner,

-and-

Docket No. ID-90-4

FAIR LAWN PBA LOCAL 67,

Respondent.

BOROUGH OF FAIR LAWN,

Petitioner,

-and-

Docket No. ID-90-3

FAIR LAWN SUPERIOR
OFFICERS' ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines that identical demands made by the Fair Lawn PBA Local 67 and the Fair Lawn Superior Officers' Association in interest arbitration with the Borough of Fair Lawn are economic. The proposals concern setting dates for municipal court appearances.

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Appearances:

For the Petitioner, DeMaria, Ellis & Hunt, attorneys
(Richard M. Salsberg, of counsel; Robert T. McGovern and
Richard H. Bauch, on the briefs)

For the Respondents, Loccke & Correia, attorneys (Michael
J. Rappa, of counsel)

DECISION AND ORDER

On January 19, 1990, the Borough of Fair Lawn filed two petitions for Issue Definition Determination. The Borough asserts that identical demands made by the Fair Lawn PBA Local 67 ("PBA") and the Fair Lawn Superior Officers' Association ("SOA") should be classified as economic issues for the purpose of interest arbitration pursuant to N.J.S.A. 34:13A-16(f)(2). The cases have been consolidated and all parties have filed statements.

N.J.S.A. 34:13A(f)(2) defines "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. [Emphasis supplied]

The PBA and SOA have demanded that this paragraph in their respective agreements be omitted from successor contracts:

12.05 No employee covered by this Agreement shall issue a summons or sign a complaint setting the Municipal Court appearance for a date other than when he is scheduled for duty. If any such case is to be postponed, the Department reserves the right to request the Municipal Judge to reschedule such Court appearance on a date and time when the officer is scheduled for duty.

The Borough contends that the paragraph is economic because absent this restriction, an employee could control the amount of overtime pay he receives by scheduling court appearances outside his scheduled tour of duty. The PBA responds that the paragraph is either an illegal or permissive subject of negotiations because court scheduling is in the control of the municipal judge and is governed, and thus preempted, by court rules. It asserts that the Borough's petition should not be determined.

The negotiability of the proposals is not before us. The respondents have not filed scope of negotiations petitions and the time for doing so has passed. See N.J.A.C. 19:16-5.5(c).

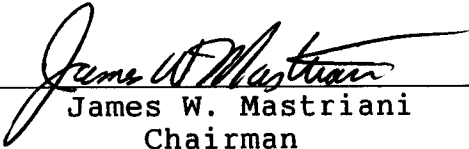
The respondents' proposals are economic. Even though the economic benefit does not flow directly from the paragraph, its interaction with the other provisions of Article 12 affects the

amount of available overtime pay. Contrast City of Plainfield, P.E.R.C. No. 81-42, 6 NJPER 490 (§11249 1980) (asserted connection between the reallocation of regular shift duties and the number of overtime opportunities was too speculative to conclude that the proposals had a direct economic impact on employees). Here the proposals would broaden overtime opportunities partially within the control of the employee and beyond the control of the employer. Cf. Washington Tp., P.E.R.C. No. 83-142, 9 NJPER 285 (§14133 1983) (expansion of the circumstances in which an employee could use paid bereavement leave, without an increase in the number of days allocated for such leave, is economic even though the benefit might not be actually be used by the employee).^{1/}

ORDER

The PBA and SOA proposals to delete Article 12.05 from their respective contracts are economic.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Johnson, Reid, Ruggiero, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: Trenton, New Jersey
May 14, 1990
ISSUED: May 15, 1990

^{1/} The arguments of the PBA and SOA concerning the respective abilities of police officers and the municipal judge to control court dates may be relevant to the proposal's economic value and should be made to the arbitrator.