

P.E.R.C. NO. 95-25

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF DUMONT,

Petitioner,

-and-

Docket No. SN-94-80

N.J. P.B.A. LOCAL 83
(DUMONT UNIT),

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of a contract proposal submitted by N.J. P.B.A. Local 83 (Dumont Unit) in successor contract negotiations with the Borough of Dumont. The proposal concerns retiree health benefits. The Commission finds the proposal not mandatorily negotiable to the extent it would require the employer to pay less than 100% of premiums for retirees covered under the State Health Benefits Plan and to provide employees of Local 83's unit different benefits than other Borough employees covered by the State Health Benefits Plan.

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Appearances:

For the Petitioner, Ruderman & Glickman, attorneys
(Mark S. Ruderman, of counsel; Leonard C. Schiro, on the
brief)

For the Respondent, Loccke & Correia, attorneys
(Richard D. Loccke, of counsel)

DECISION AND ORDER

On March 9, 1994, the Borough of Dumont petitioned for a
scope of negotiations determination. The Borough seeks a
declaration that a successor contract proposal submitted by N.J.
P.B.A. Local 83 (Dumont Unit) is not mandatorily negotiable. The
proposal concerns retiree health benefits.

The Borough has filed a brief and exhibits. Local 83 has
not responded. These facts appear.

Local 83 represents the Borough's police officers except
the chief. The parties' most recent collective negotiations
agreement expired on December 31, 1992. Article XXVIII is entitled
Medical Coverage. That article provides, in part:

Each member covered by this agreement shall receive a stipend of fifty dollars (\$50.00) per month at age sixty-five (65) toward extended health care benefits.

Those covered employees not eligible to receive medicare benefits commencing at age sixty-five (65) because they or their spouses are not enrolled in social security will receive an alternate equivalent plan paid for solely by the Borough. Payment will be provided through the form of a reimbursement. The eligible retiree will first purchase the plan, then submit proof of payment to the borough.

The Borough participates in the New Jersey State Health Benefits Plan ("SHBP").

During successor contract negotiations, Local 83 proposed that the quoted part of Article XXVIII be retained in any new contract. The Borough responded that this part of Article XXVIII was preempted by N.J.S.A. 52:14-17.38 and N.J.A.C. 17:9-5.5 and filed this petition.^{1/} The Borough's attorney also wrote a letter asking the State Health Benefits Bureau whether Article XXVIII violated the cited statute and regulation. The Bureau's Assistant Director responded that it did.

In Borough of Mountain Lakes, P.E.R.C. No. 94-110, 20 NJPER 239 (¶25118 1994), we held that N.J.S.A. 52:14-17.38 and N.J.A.C. 17:9-5.5 require local employers affording health insurance coverage

^{1/} An interest arbitration hearing has been held. The parties did not address Article XXVIII in their interest arbitration submissions. We reject Local 83's contention that the negotiability issue is thus moot. Given its position in the instant petition that the proposal was not mandatorily negotiable, the Borough was not required to submit a proposal on that subject.

to retirees under N.J.S.A. 52:14-17.38 to pay the full cost of premiums. We accordingly restrained arbitration of a grievance seeking less than 100% payment of premiums for retirees under the SHBP.

In Hudson Cty., P.E.R.C. No. 92-56, 18 NJPER 37 (123012 1991), we held that a SHBP employer is statutorily required to provide the same benefits based on the same conditions to all eligible employees in all negotiations units. We restrained arbitration over a grievance seeking to provide employees in one negotiations unit different benefits under different conditions by having an arbitrator order the employer to withdraw from the SHBP.


Applying Mountain Lakes and Hudson Cty., we hold that Article XXVIII is not mandatorily negotiable to the extent it would require the employer to pay less than 100% of premiums for retirees covered under the SHBP and to provide employees of Local 83's unit different benefits than other Borough employees covered by the SHBP.

ORDER

Article XXVIII is not mandatorily negotiable to the extent it would require the employer to pay less than 100% of premiums for retirees covered under the State Health Benefits Plan and to provide

employees of Local 83's unit different benefits than other Borough employees covered by the State Health Benefits Plan.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Goetting, Klagholz, Ricci, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: September 29, 1994
Trenton, New Jersey

ISSUED: September 30, 1994