

P.E.R.C. NO. 95-22

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF HIGHLAND PARK,

Petitioner,

-and-

Docket Nos. SN-94-88
and ID-94-1

PBA LOCAL #64,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of a contract proposal submitted by PBA Local #64 in successor contract negotiations with the Borough of Highland Park. That proposal would change existing rotating shift assignments into steady shift assignments and would base such assignments on seniority bidding. The Borough simultaneously petitioned for an issue definition determination, asserting that Local #64's proposal was economic in nature. The Borough asserts that Local #64's proposal is not mandatorily negotiable because it would allegedly prevent the police chief and captains from observing and evaluating all police officers; make police officers unfamiliar with the Borough's "character" during the two-thirds of the day besides their shift; and require that shift placements be based strictly on seniority. In the absence of any contrary argument, and given the well-established caselaw holding that contract provisions that base shift assignments solely on seniority are not mandatorily negotiable, the Commission holds that Local #64's proposal is not mandatorily negotiable. Given this holding, the Commission need not consider whether the proposal is economic or non-economic.

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Appearances:

For the Petitioner, Ruderman & Glickman, attorneys
(Steven S. Glickman, of counsel)

DECISION AND ORDER

On April 4, 1994, the Borough of Highland Park petitioned for a scope of negotiations determination. The Borough asks for a declaration that a successor contract proposal of PBA Local #64 is not mandatorily negotiable. That proposal would change existing rotating shift assignments into steady shift assignments and would base such assignments on seniority bidding. The Borough simultaneously petitioned for an issue definition determination, asserting that Local #64's proposal was economic in nature.

The Borough has filed briefs and the parties' 1990-1992 contract. Local #64 has not responded to either petition. These facts appear.

Local #64 represents the Borough's lieutenants, sergeants, and patrol officers in its police department. The parties entered

into a collective negotiations agreement effective from January 1, 1990 to December 31, 1992. Article VI is entitled Hours of Work and Work Schedules. Section A provides:

A. The normal work day shall consist of not more than eight (8) hours of work in a twenty-four (24) hour period, except as mutually agreed to by the parties, except when regularly scheduled shift changes occur, and except to complete any assignment that has been commenced within the employee's tour of duty.

The parties are engaged in successor contract negotiations and Local #64 has petitioned to initiate interest arbitration.

Local #64 has proposed to add the following sentences to Section A:

The shifts will consist of three (3) permanent shifts, hours to be 6 AM to 2 PM, 2 PM to 10 PM, and 10 PM to 6 AM. All shifts will be renewed yearly, annually being based on seniority bid and rank. Lineups shall be conducted on the hour.

At present, lieutenants, sergeants, and patrol officers work rotating shifts, as opposed to the proposed steady shifts. The current shifts are from 8 a.m. to 4 p.m., 4 p.m. to midnight, and midnight to 8 a.m. The police chief and captains work steady day shifts.

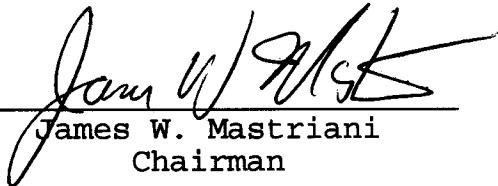
The Borough asserts that Local #64's proposal is not mandatorily negotiable because it would allegedly prevent the police chief and captains from observing and evaluating all police officers; make police officers unfamiliar with the Borough's "character" during the two-thirds of the day besides their shift; and require that shift placements be based strictly on seniority. See, e.g., Cherry Hill Tp., P.E.R.C. No. 93-77, 19 NJPER 162 (124082

1993). Local #64 has not contested these assertions. In the absence of any contrary argument, and given the well-established case law holding that contract provisions that base shift assignments solely on seniority are not mandatorily negotiable, we hold that Local #64's proposal is not mandatorily negotiable. Given that holding, we need not consider whether Local #64's proposal is economic or non-economic in nature.

ORDER

The proposal of PBA Local #64 to revise Article VI, Section A is not mandatorily negotiable.

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