

P.E.R.C. NO. 2004-46

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY SHERIFF,

Petitioner,

-and-

Docket No. SN-2003-51

CAMDEN COUNTY SHERIFF'S OFFICERS  
P.B.A. LOCAL 277 AND SOA LOCAL 277,

Respondents.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of several proposals made by the Camden County Sheriff's Officers, P.B.A. Local 277 and Camden County Sheriff's Superior Officers, P.B.A. Local 277 (SOA) during interest arbitration proceedings for a successor collective negotiations agreement with the Camden County Sheriff. The Commission concludes that the PBA's proposal for seniority in job bidding in event of merger; the PBA's job bidding proposal; the SOA's salary step at 20 years proposal; and the PBA/SOA's counsel's fees proposal are mandatorily negotiable.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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P.B.A. LOCAL 277 AND CAMDEN COUNTY  
SHERIFF'S SUPERIOR OFFICERS, P.B.A.  
LOCAL 277 (SOA),

Respondents.

Appearances:

For the Petitioner, Genova, Burns & Vernoia, attorneys  
(Lynn S. Degen and Charlene Alexander, on the briefs;  
Howard S. Wilson, Counsel to the Office of the Sheriff,  
on the briefs)

For the Respondent, Klatsky & Klatsky, attorneys  
(Fred M. Klatsky, on the brief)

DECISION

On March 20 and June 5 and 25, 2003, the Camden County Sheriff filed petitions and amended petitions seeking several scope of negotiations determinations. The employer seeks negotiability determinations concerning proposals made by the Camden County Sheriff's Officers, P.B.A. Local 277 and Camden County Sheriff's Superior Officers, P.B.A. Local 277 (SOA) during interest arbitration proceedings.

The parties have filed briefs and exhibits. These facts appear.

The PBA represents Sheriff's Officers, Sheriff's Investigators, Senior ID Officers, and Sheriff's Officer Sergeants. The SOA represents captains and lieutenants. The parties' collective negotiations agreements expired on December 31, 2002. The PBA and SOA have petitioned for interest arbitration.

Our jurisdiction is narrow. We will address only the abstract issue of whether the subject matter of the proposals are within the scope of collective negotiations. Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144, 154 (1978). We do not consider the wisdom of any contract proposal. In re Byram Tp. Bd. of Ed., 152 N.J. Super. 12, 30 (App. Div. 1977).

The scope of negotiations for police officers and firefighters is broader than for other public employees because N.J.S.A. 34:13A-16 provides for a permissive as well as a mandatory category of negotiations. Paterson Police PBA No. 1 v. Paterson, 87 N.J. 78 (1981). However, we will consider only whether the proposals are mandatorily negotiable. We do not decide whether contract proposals concerning police officers are permissively negotiable since the employer need not negotiate over such proposals or consent to their retention in a successor agreement. Town of West New York, P.E.R.C. No. 82-34, 7 NJPER

594 (¶12265 1981).<sup>1/</sup> Paterson outlines the steps for determining whether a proposal is mandatorily negotiable:

First, it must be determined whether the particular item in dispute is controlled by a specific statute or regulation. If it is, the parties may not include any inconsistent term in their agreement. [State v. State Supervisory Employees Ass'n, 78 N.J. 54, 81 (1978).] If an item is not mandated by statute or regulation but is within the general discretionary powers of a public employer, the next step is to determine whether it is a term or condition of employment as we have defined that phrase. An item that intimately and directly affects the work and welfare of police and firefighters, like any other public employees, and on which negotiated agreement would not significantly interfere with the exercise of inherent or express management prerogatives is mandatorily negotiable. [87 N.J. at 92-93; citations omitted]

PBA Proposal for Seniority in Job Bidding In Event of Merger

The PBA has proposed the following:

In the event that the Camden County Sheriff's Department would absorb or merge with any other law enforcement agency, those non-Sheriff's Department officers who become employed by the Sheriff's Department will not bring with them any seniority for job bidding purposes. . . .

The County argues that denying incoming employees the opportunity to use seniority for job bidding in the event of a

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<sup>1/</sup> We do not consider any proposals that are no longer in dispute.

merger conflicts with N.J.A.C. 4A:4-7.11(c) and thus the proposal is preempted.

N.J.A.C. 4A:4-7.11 provides:

(a) When any of the functions of a department, agency or unit of a political subdivision operating under Title 11A, New Jersey Statutes, are transferred, consolidated, unified, absorbed or combined with those of the State or of a separate political subdivision operating under title 11A, New Jersey Statutes, the Department of Personnel upon request of both appointing authorities shall approve the transfer of some or all affected employees to the receiving unit.

(b) Any employee so transferred who holds both permanent or probationary status in a title in the career service shall continue to hold such status in the receiving unit.

(c) Seniority calculations and leave entitlements for transferred permanent or probationary employees shall be calculated as if the entire period of service was in the receiving unit.

(d) If positions are abolished because they are made no longer necessary by the consolidation of functions, affected employees shall be accorded all layoff and special reemployment rights in N.J.A.C. 4A:8.

To be preemptive, a statute or regulation must speak in the imperative and expressly, specifically and comprehensively set an employment condition. Bethlehem Tp. Ed. Ass'n v. Bethlehem Tp. Bd. of Ed., 91 N.J. 38, 44 (1982); State v. State Supervisory Employees Ass'n, 78 N.J. 54, 80-82 (1978).

N.J.A.C. 4A:4-7.11 does not expressly refer to seniority for job bidding or any other specific purpose. We nevertheless read the reference to "seniority calculations" in 7.11(c) as encompassing all applications of seniority to terms and conditions of employment regulated by the Department of Personnel ("DOP"). This treatment of 7.11(c) is consistent with 7.11(b) and (d), which are expressly linked with Civil Service rights and a similar DOP regulation. N.J.A.C. 4A:4-7.4. That regulation provides that intergovernmentally transferred employees retain seniority or service credit for purposes of determining promotional, layoff or demotional rights and sick and vacation leave entitlements. We have no basis to believe that DOP intended to regulate the application of seniority to other terms and conditions of employment. Parties may choose to define seniority differently, e.g. departmental seniority, for non-regulated terms and conditions of employment such as overtime allocation, or, as in this case, for job bidding.<sup>2/</sup> Accord Local 195, IFPTE v. State, 88 N.J. 393, 416 (1982) (Civil Service regulations do not preempt negotiations over transfer and reassignment procedures). The PBA's proposal is mandatorily negotiable.

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<sup>2/</sup> We interpret job bidding to refer to the parties' negotiated procedures in Article XIII, Section 5.

PBA Job Bidding Proposal

The PBA has proposed several revisions to Article XIII, Section 5, which deals with job bidding. The article was awarded by an interest arbitrator after we held, during the last round of contract negotiations, that a PBA shift assignment bidding proposal was mandatorily negotiable with respect to positions in the Hall of Justice, Transportation, Jury Management and Records units. Camden Cty. Sheriff, P.E.R.C. No. 2000-25, 25 NJPER 431 (¶30190 1999), clarified, P.E.R.C. No. 2000-72, 26 NJPER 172 (¶31069 2000), aff'd 27 NJPER 357 (¶32128 App. Div. 2001). In Camden, we noted that the PBA's proposal had exempted certain positions from the bidding process and we found that approximately 64 other positions required special training or qualifications such that they could not be subject to a bidding system. With respect to the Identification Bureau, we held that the Sheriff had the prerogative to select the individuals to be assigned but that, once assigned, officers could bid for which of the three shifts they would work.

The current article provides for job bidding where all qualifications are equal pursuant to a point system based on seniority and earned college degrees. The PBA proposes the following revisions to the article:

H. Job Bidding, Article XIII, Section 5, page 20

1. Include in the contract the actual number of biddable positions under each unit, to clarify what and

how many positions are biddable. For example, on page 21, the first assignment to be bid on is "Hall of Justice-Front Door Security." The PBA is requesting that the Sheriff identify how many assignments there will be in the "Hall of Justice-Front Door Security."

2. Revise the actual methodology of the officer's choosing their shift assignments by seniority and college credits. Currently it states: "Standard slips for choices for shift assignments shall be developed and distributed [to all affected personnel by October 15th of each year and each employee shall return his preference slip on or before November 15th of each year. The employee shall list his/her shift assignment choices giving first, second and third preferences.]" The PBA is requesting to modify this language to make it easier for the employees to select their assignments by seniority. The procedure set forth below is the PBA request:

By October 15 of each year, the Sheriff shall provide a written Organizational Bidding Chart with the 13 assignments for Officers, as set forth in Section 5B and for the Sergeants in Section 5F, which organizational chart shall set forth the days off and shifts for each of the 13 assignments for Officers and the 5 Sergeants, and the specific number of slots for all the Officers and Sergeants who are needed within each assignment. For example, if there are 79 biddable slots within the 13 assignments, then the Sheriff shall have 79 slots for the Officers and Sergeants to sign up, which assignments include one of the 13 areas set forth in Section 5B, together with days off and shifts.

Also by October 15 of each year, the Sheriff shall designate those Officers and Sergeants that he is assigning to non-biddable positions. Therefore, the Officers and Sergeants who have not been assigned to non-biddable positions shall receive the above Organizational Bidding Chart on or before October 15 of each year, for purposes of bidding their assignments, including days off and shifts.



Between October 15 and November 15 of each year, the Officers and Sergeants who are allowed to bid their assignments shall bid as follows:

1. The Officers bidding shall be divided into four groups with the most senior Officers being in the first group, the next 25% of Officers and Sergeants in seniority will be in the second group, the third 25% of Officers and Sergeants in seniority shall be in the third group, and the fourth group will consist of the bottom 25% Officers and Sergeants in seniority.

2. The first group of Officers and Sergeants shall bid for their assignments during the week of October 15 through October 22. The second group will bid for their assignments between October 22 and October 29. The third group will bid for their assignments between October 29 and November 7, and the fourth group will bid from November 7 through November 15 of each year. Based on the seniority list as agreed to between the Sheriff and the PBA, each Officer and Sergeant in each group will bid during the week in the order of seniority. If an Officer and Sergeant will not be at work during the week when he or she should be bidding, then the Officer or Sergeant may bid his assignment by an absentee bid proxy. The proxy shall be signed by the Officer and/or Sergeant and either the PBA President, Vice President or Delegate.

The Organizational Bidding Chart shall be posted in the \_\_\_\_\_ on the wall with all of the assignments, including days off, shifts and the individual assignment. There will be sufficient space and lines for each slot in each assignment. As each Officer in the order of seniority bids on the assignment, the name of the Officer and the seniority number will be listed on

the master chart on the wall in the office of \_\_\_\_\_. As each Officer comes in, in the order of seniority, each Officer will be able to see which assignments have already been bid for and taken and those jobs that remain open. The PBA shall have one representative present during all times when any Officer or Sergeant bids for his or her assignment. The PBA will also have a copy of the master Organizational Bidding Chart and will fill it in simultaneously as each Officer and Sergeant bids his or her position. Each Officer or Sergeant will bid in order of seniority either by notifying the Employer and the PBA of his or her assignment choice, or giving a written proxy to the PBA to hand in to the Employer in the order of seniority.

3. An Officer or Sergeant who is in a bid position cannot be moved out of that bid position because disciplinary charges might be brought or have been brought. The Officer or Sergeant may be moved out of a bid position after the Officer or Sergeant has been found guilty of the disciplinary charges or had consented to be disciplined, which discipline includes being moved out of a bid position for a specific period of time. The penalty for the discipline may be being moved out of a bid position for a specific period of time, which shall be included in the Notice of Discipline and Specification of Charges.

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4. Arbitrator Tener ruled that job bidding should include assignments, which include the shift, days off and working unit. However, the Sheriff has not complied with the Arbitrator's ruling. The PBA is requesting to further implement Arbitrator Tener's award by specifically stating that the bidding process includes the unit, the shift, days

off, and all other specifics which Arbitrator Tener awarded.

The County argues that the proposal does not recognize its right to deviate from the bidding system when necessary for a training program, or to assign an employee with specialized skills, or to meet the safety needs of the public. It also argues that the proposal seeks to curtail its right to reassign personnel if even part of the reason for doing so involves disciplinary action. It further argues that the proposal infringes on its rights by requiring that the contract include: the actual number of positions under each unit; a designation of what positions are biddable; the specific days off for each assignment; and a designation of which personnel are assigned to non-biddable positions (prior to having personnel make their bid selections).

We turn first to the contract's provision governing deviation from the bidding system.

Article XIII, Section 5C of the current contract contains the following sentences, which the PBA does not propose to change.

Further, in order to meet with needs of training and/or specialized abilities, shift assignments may need to be altered in order to meet the bona fide safety needs of citizens of the County. In these cases, the changes shall be made with timely notice and explanation and shall last until such time as the specific needs have been met, at which

time the affected employee shall be returned to his/her bid shift.

This language was included in the PBA proposal reviewed in Camden and, after delineating the positions in the Sheriff's office that could be subject to a bidding system, Camden summarized prior case law to the effect that, in order to be mandatorily negotiable, a seniority bidding clause must expressly preserve management's right to deviate from seniority when necessary to train employees or to use their specialized abilities on a particular shift. Camden, citing City of Asbury Park, P.E.R.C. No. 90-11, 15 NJPER 509 (¶20211 1989), aff'd NJPER Supp.2d 245 (¶204 App. Div. 1990); Borough of Carteret, P.E.R.C. No. 88-145, 14 NJPER 468 (¶19196 1988). The clauses in Asbury Park and Carteret were virtually identical to the PBA proposal in Camden. Accordingly, we held there that "the proposal recognizes the employer's right to deviate from the bidding system when necessary for training purposes, to assign an employee with specialized skills, or to meet the safety needs of the public." We have subsequently described the clause in Asbury Park as preserving management's right to act unilaterally when emergencies occur. Cherry Hill Tp., P.E.R.C. No. 93-77, 19 NJPER 162 (¶24082 1993), recon. granted, P.E.R.C. No. 93-103, 19 NJPER 267 (¶24133 1993); Teaneck Tp., P.E.R.C. No. 93-66, 19 NJPER 122 (¶24058 1993), aff'd 20 NJPER 406 (¶25205 App. Div. 1994); see also City of Hoboken, P.E.R.C. No. 95-23, 20 NJPER 391 (¶25197

1994) (seniority bidding system must allow for deviation when necessary to accomplish governmental policy goal, such as strengthening supervision). Cf. City of Long Branch, P.E.R.C. No. 83-15, 8 NJPER 448 (¶13211 1982) (employer has reserved authority to deviate from contractual overtime allocation system to assign employees to protect the public interest).

In its reply brief, the County argues that, contrary to the wording in the Commission decision, the actual contract language does not authorize it to deviate from the bidding system where necessary to meet public safety needs, but only allows it to make alterations to accommodate training or specialized abilities when those particular types of adjustments are necessary for safety purposes.

The County's objections to the "exception" clause do not provide a basis to hold that the PBA proposals on other aspects of the bidding system are not mandatorily negotiable, particularly where neither party has proposed to modify the exception clause that was upheld in Camden. Employers have a managerial prerogative and the reserved authority to reassign employees in order to meet emergent public safety needs. Article XIII incorporates that authority. Cf. Long Branch.

The third paragraph of Section H.3 would prevent the County from moving an officer from a bidded position because disciplinary charges might be brought or have been brought. The

paragraph requires notice of possible removal from a bidded position in the specification of charges and a determination of guilt or consent to be disciplined before the employee is moved.

Police unions in Civil Service jurisdictions may negotiate over pre-disciplinary procedures. See Monmouth Cty. v. CWA, 300 N.J. Super. 272 (App. Div. 1997). In addition, Civil Service regulations provide that reassignments shall not be utilized as part of a disciplinary action, except when disciplinary procedures have been utilized. N.J.A.C. 4A:4-7.7. An officer has a strong interest in remaining in a shift assignment that he or she has chosen, perhaps to accommodate personal or family obligations. The employer's interest in removing someone if that individual caused a problem in an area can be accommodated after compliance with any negotiated disciplinary procedures.

As for the employer's remaining objections, it has not shown how the proposal would significantly interfere with any governmental policymaking powers. The PBA states that the Sheriff would exercise his managerial prerogative to determine how many officers would be assigned to particular positions, and that determination would then be noted for bidding purposes. The County has not described how notifying employees of the number of positions in each unit and the designation of what positions are biddable would significantly interfere with its managerial prerogative to establish staffing levels, and the PBA asserts

that the bidding system cannot work properly unless officers know how many openings are available in given areas. Similarly, while the County maintains that it is not possible to specify the days off for rotating assignments, it has not explained why noting that fact for bidding purposes, or specifying the days off when and if it is possible to do so, would significantly interfere with any managerial prerogative.<sup>3/</sup> Under all these circumstances, we conclude that the PBA's proposal is mandatorily negotiable.

#### SOA Proposal for Additional Salary Step at 20 Years

The SOA has proposed the following:

Superior Officers who complete 20 years in Police and Fire or Public Employees pension will attain Senior Rank Status and will receive an additional 7% added to and become a part of their base salary each year. This benefit will be provided to existing and future superior officers.

The County argues that this proposal is not mandatorily negotiable and is preempted by State regulation and case law, which preclude certain pre-retirement increases in base salary for pension purposes. The County relies on Fraternal Order of Police v. Bd. of Trustees, Police and Firemen's Retirement System, 340 N.J. Super. 473 (App. Div. 2001) and Wilson v. Board of Trustees of Police, 322 N.J. Super. 477 (App. Div. 1998). It

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<sup>3/</sup> The record does not indicate whether there are multiple biddable assignments with the same shift and work hours.

also cites N.J.A.C. 17:4-4.1(a)(1), which provides that creditable compensation for pension purposes shall be limited to base salary and shall not include extra compensation.

The SOA counters that the County's reliance on Fraternal Order of Police and Wilson is misplaced and contends that there are two distinct issues: whether or not the SOA's proposal to add an additional salary guide step at 20 years is mandatorily negotiable and, if the arbitrator awards an additional step at 20 years, whether the additional pay is included in base salary for pension purposes. The SOA states that the latter question must be answered by the Division of Pensions.

We have often addressed the argument that a proposed form of compensation is not negotiable because it is preempted by pension statutes. See, e.g., Gloucester Cty. Prosecutor, P.E.R.C. No. 2002-44, 28 NJPER 141 (¶33045 2002); City of Orange, P.E.R.C. No. 2002-4, 27 NJPER 323 (¶32115 2001); Delran Tp., P.E.R.C. No. 99-86, 25 NJPER 166 (¶30076 1999). Those cases recognize that there is a fundamental difference between a proposal concerning salary and other forms of compensation and a proposal specifying whether a form of compensation is creditable for pension purposes. See Gloucester; Galloway Tp., P.E.R.C. No. 98-133, 24 NJPER 261 (¶29125 1998).

The same distinction pertains here. The proposal for a senior officer step is mandatorily negotiable. Whether or not



the additional salary, if awarded, is creditable for pension purposes under N.J.A.C. 17:4-4.1 and pertinent case law is an issue to be resolved by the Division of Pensions.

PBA/SOA's Counsel Fees Proposal

The PBA/SOA proposal reads as follows:

Any and all reasonable attorneys fees and related costs that the PBA/SOA incur in any grievance arbitration, interest arbitration, Superior Court litigation, Appellate Court litigation and the New Jersey Supreme Court litigation, shall be paid by Camden County Sheriff and/or Camden County to the PBA/SOA if the PBA/SOA prevails on any issue in any matter being litigated in any matter involving both the PBA and the County or the SOA and the County (The County includes Camden County and Camden County Sheriff).<sup>4/</sup>

In its sur-reply, the PBA and SOA amend their proposal to add that "payment of legal fees shall comply with N.J.S.A. 40A:5-16, which requires the appropriate Affidavit or Certification."

The County maintains that this proposal is not mandatorily negotiable because R. 4:42-9 allows for counsel fees only where permitted by statute or in the family, probate, mortgage, tax certificate, or insurance actions set forth in the rule. The County also maintains that N.J.S.A. 40A:5-16 prohibits the County from paying for services not rendered to it; argues that the PBA and SOA seek to impose an expense on the County without regard to

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<sup>4/</sup> An initial SOA proposal was replaced by the foregoing in the PBA/SOA's initial brief.

the CAP law, N.J.S.A. 40A:4-45.1; and contends that the proposal is inconsistent with the "American rule" requiring that each party pay its own litigation costs. Finally, it maintains that to the extent the proposal would require the County to pay for counsel fees for interest arbitration, it is preempted by N.J.S.A. 34:13A-16f(6), which provides that "[t]he parties shall bear the costs of arbitration subject to a fee schedule approved by the Commission." It also notes that, under conventional arbitration, there is rarely a "prevailing party."

The PBA and SOA respond that no statute, court rule or decision prohibits one party to a contract from agreeing to pay the other's counsel fees. They also argue that counsel fees awarded against a public entity are not automatically precluded because a taxpayer burden might be created, citing Gregg v. Township Committee, 232 N.J. Super. 34 (App. Div. 1989).

Further, the unions maintain that their proposal is a logical extension of N.J.S.A. 40A:14-117, which provides for reimbursement of counsel fees to police officers where disciplinary or criminal proceedings instituted by the employer are dismissed or resolved in favor of the officer.

The County's arguments rely solely on preemption. Therefore, we must assess whether R. 4:42-9 or the cited statutes expressly and specifically prohibit the type of contractual agreement the PBA and SOA propose. Bethlehem; State Supervisory.

We conclude that they do not affirmatively bar the proposed counsel fees clause. Cf. Borough of East Newark, P.E.R.C. No. 92-96, 18 NJPER 167 (A23080 1992) (clause requiring employer to reimburse employee for costs of defending disciplinary charges that were sustained not affirmatively barred by statute requiring reimbursement when charges are disposed of favorably to the employee).

While R. 4:42-9 allows a court to award counsel fees only in the types actions enumerated or where authorized by statute, the rule has been construed to allow counsel fees "where the parties have agreed thereto in advance by stipulation in a promissory note, power of attorney or other agreement or contract. . . ." Pressler, Current N.J. Court Rules, comment 2.11 on R. 4:42-9 (2003), citing Satellite Gateway Com. v. Musi Dining Car Co., 110 N.J. 280 (1988); Ryan v. Biederman Industries, 223 N.J. Super. 492 (App. Div. 1988); Liqui-Box v. Estate of Elkman, 238 N.J. Super. 492 (App. Div.), certif. denied, 122 N.J. 142 (1990). In this posture, the rule does not bar the County from agreeing to pay the unions' counsel fees in court actions and does not by its terms apply to the arbitration proceedings also included in the proposal.

Similarly, while the CAP law limits the amount by which a County tax levy can increase each year, it does not expressly prohibit any particular type of expenditure. The County's policy

argument that the clause would impose substantial costs on the County may be presented to the arbitrator.

With respect to N.J.S.A. 40A:5-16, the statute requires that, before disbursing funds, a local unit must be presented with an itemized bill and a certification that "the goods have been received by, or the services rendered to" the unit. Its purpose is to provide the disbursing officer with a detailed statement of the claim presented and ensure an adequate public record of expenditures. See O'Donnell v. Morris Cty. Bd. of Chosen Freeholders, 31 N.J. 434 (1960) (construing predecessor statute, R.S. 40:5-1). The County's argument that N.J.S.A. 40A:5-16 bars governmental disbursements unless the services were "rendered to" the entity itself is overbroad, because a public body may be statutorily obligated to pay for legal services rendered to another. See N.J.S.A. 40A:14-117. Therefore, we find that N.J.S.A. 40A:5-16 does not expressly and specifically bar the type of agreement the PBA and SOA propose.

Finally, with respect to arbitration proceedings, we note that neither our rules nor the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes refers to, or expressly bars, payment of the other party's counsel fees. While the interest arbitration statute requires the parties to "bear the costs of arbitration", we have interpreted that clause to mean the costs of the services

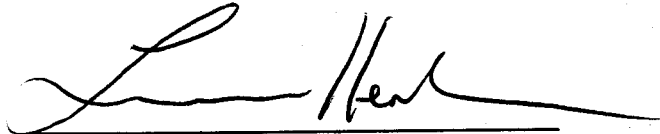
performed by the arbitrator. N.J.A.C. 19:16-5.11. Thus, we cannot say that the interest arbitration statute affirmatively bars payment of the other party's counsel fees. We appreciate that in conventional arbitration it may be difficult to identify a prevailing party,<sup>5/</sup> but that is an argument that can be made to the arbitrator.

Given the above, we conclude that the PBA/SOA proposal is mandatorily negotiable.

ORDER

The following are mandatorily negotiable: the PBA proposal for seniority in job bidding in event of merger; the PBA job bidding proposal; the SOA salary step at 20 years proposal; and the PBA/SOA's counsel fees proposal.

BY ORDER OF THE COMMISSION



Lawrence Henderson  
Chairman

Chairman Henderson, Commissioners Buchanan, DiNardo, Mastriani and Sandman voted in favor of this decision. None opposed. Commissioner Katz was not present.

DATED: January 29, 2004  
Trenton, New Jersey  
ISSUED: January 29, 2004

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<sup>5/</sup> The proposal seeks counsel fees when the PBA or SOA "prevail on any issue."