

P.E.R.C. NO. 92-74

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF BELLEVILLE,

Petitioner,

-and-

Docket No. SN-92-7

LOCAL 32, OPEIU,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines that a contract provision concerning health benefits for retirees is not mandatorily negotiable unless modified to meet the requirements of N.J.S.A. 40A:10-23.

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Appearances:

For the Petitioner, Lorber, Schneider, Nuzzi, Vichness and
Bilinkas, attorneys (Vincent J. Nuzzi, of counsel)

DECISION AND ORDER

On July 29, 1991, the Township of Belleville petitioned for a scope of negotiations determination. The Township seeks a determination that a clause in its collective negotiations agreement with Local 32, OPEIU is an illegal subject of negotiations and may not be included in a successor agreement unless modified to conform with a statute which allegedly preempts the contract article.

The Township has filed a legal memorandum. Local 32 has not. These facts appear.

Local 32 is the majority representative of the Township's employees. The parties entered into a collective negotiations agreement effective January 1, 1988 through December 31, 1990. Article XIII describes the medical and dental coverage for employees and their dependents. The last sentence of the article reads:

The foregoing benefits shall continue after retirement.

The Township asserts that this article is an illegal subject of negotiations because it requires the Township to pay for the cost of health insurance for all retirees. The Township contends that N.J.S.A. 40A:10-23 prevents the Township from agreeing to do so. That statute provides:

Retired employees shall be required to pay for the entire cost of coverage for themselves and their dependents at rates which are deemed to be adequate to cover the benefits, as affected by Medicare, of the retired employees and their dependents on the basis of the utilization of services which may be reasonably expected of the older age classification;

* * *

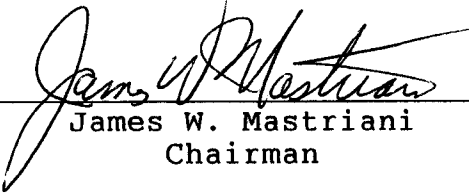
The employer may, in its discretion, assume the entire cost of such coverage and pay all of the premiums for employees who have retired on a disability pension or after 25 years' or more service with the employer, or have retired and reached age of 62 or older with at least 15 years of service with the employer, including the premiums on their dependents, if any, under uniform conditions as the governing body of the local unit shall prescribe.

The disputed article is not mandatorily negotiable unless modified to meet the requirements of N.J.S.A. 40A:10-23. That statute expressly, specifically and comprehensively precludes payment of medical insurance premiums for any retiree who does not meet that statute's conditions. See Morris Cty. Prosecutor, P.E.R.C. No. 91-120, 17 NJPER 347 (¶22155 1991); Little Egg Harbor Tp., P.E.R.C. No. 90-123, 16 NJPER 398 (¶21165 1990).

ORDER

The last sentence of Article XIII, Section 2 of the 1988-1990 agreement is not mandatorily negotiable unless modified to meet the requirements of N.J.S.A. 40A:10-23.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

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

DATED: Trenton, New Jersey
December 19, 1991
ISSUED: December 20, 1991