

P.E.R.C. NO. 84-103

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF NEW PROVIDENCE,

Petitioner,

-and-

Docket No. ID-84-9

P.B.A. LOCAL 132,

Respondent.

SYNOPSIS

The Public Employment Relations Commission holds that a "retention of benefits" proposal which P.B.A. Local 132 has submitted to interest arbitration is non-economic in nature.

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Respondent.

Appearances:

For the Petitioner, David A. Wallace, Esq.

For the Respondent, Lawrence M. Koenig, Esq.

DECISION AND ORDER

On December 27, 1983, the Borough of New Providence ("Borough") filed a Petition for Scope of Negotiations Determination with the Commission. The petition seeks a determination whether a retention of benefits proposal, which P.B.A. Local 132 ("PBA") has submitted to binding interest arbitration pursuant to N.J.S.A. 34:13A-14 et seq., is economic or non-economic in nature.

The disputed proposal, entitled Retention of Benefits, provides:

Except as otherwise provided herein, all rights, privileges, and benefits which the officers are presently enjoying shall be maintained and continued by the Employer during the term of this Agreement at not less than the highest standard in effect as of the effective date of this Agreement. The provisions of all municipal ordinances and resolutions, except as specifically modified herein, shall remain in full force and effect during the term of this Agreement and shall be incorporated in this Agreement as if set forth herein, at length.

N.J.S.A. 34:13A-16(f)(2) defines economic issues as:

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.

The Borough contends that since the proposed language fails to distinguish between rights, privileges, and benefits of an economic nature and those which do not meet the definition of economic contained in the statute, this proposal should be classified as a non-economic item for interest arbitration.

The PBA argues that since it enjoys non-memorialized existing benefits which normally would be categorized as economic items, its proposal should be labeled economic in nature.

While the Commission has recently held that language items which specifically memorialize existing levels of particular economic benefits are economic issues for purposes of interest arbitration, see Township of Hillside and Hillside PBA Local No. 70, P.E.R.C. No. 83-146, 9 NJPER 386 (¶14174 1983), we agree with the Borough that a general retention of benefits clause such as the one proposed by the PBA is a non-economic item for the purpose of interest arbitration.<sup>1/</sup> A retention of benefits clause, like its

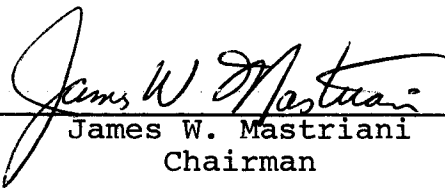
<sup>1/</sup> It is apparent from the parties' submissions that a dispute may exist with respect to whether a certain issue or issues would be interpreted in a contract enforcement proceeding as a "retained benefit." Nothing here should be construed as determining whether any issue would constitute a "retained benefit" in the event the PBA's proposal is incorporated into the future labor agreement.

logical counterparts -- a management rights clause or a "zipper" clause --, is commonly accepted as a language proposal, regardless of whether a particular grievance under such a clause has economic or non-economic implications.

ORDER

The instant Retention of Benefits proposal is non-economic in nature.

BY ORDER OF THE COMMISSION

  
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James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Butch, Newbaker and Suskin voted in favor of this decision. Commissioner Hipp opposed the decision. Commissioner Graves abstained and Commissioner Hartnett was not present.

DATED: Trenton, New Jersey  
February 15, 1984  
ISSUED: February 16, 1984