P.E.R.C. NO. 99-107

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF MATAWAN,

Petitioner,

-and- Docket No. SN-99-64

P.B.A. LOCAL 179,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines whether a proposal made by P.B.A. Local 179 may be considered by an interest arbitrator for inclusion in a successor collective negotiations agreement with the Borough of Matawan. The PBA seeks to codify the Borough's current practice of paying the premiums for medical and dental coverage for the spouses and dependents of certain police officers who retire. The Commission concludes that while the PBA is seeking new contract language, its proposal, if awarded, would not create a new benefit, affect other employees, or create non-uniformity in retiree health benefits. It would simply continue the Borough's present practice with respect to payment of retiree health premiums, which both parties acknowledge complies with N.J.S.A. 40A:10-23. Given the Commission's holding that N.J.S.A. 40A:10-23 does not require a blanket prohibition against submitting all retiree health benefit proposals to interest arbitration, the Commission concludes that the proposal may be considered by an interest arbitrator.

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.

P.E.R.C. NO. 99-107

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF MATAWAN,

Petitioner,

-and- Docket No. SN-99-64

P.B.A. LOCAL 179,

Respondent.

Appearances:

For the Petitioner, Ruderman & Glickman, P.C., attorneys (Joel G. Scharff, on the brief)

For the Respondent, Loccke & Correia, P.A., attorneys (Charles J. Sciarra, on the brief)

DECISION

On March 1, 1999, the Borough of Matawan petitioned for a scope of negotiations determination. The petition seeks a determination that a proposal made by P.B.A. Local 179 may not be considered by an interest arbitrator for inclusion in a successor collective negotiations agreement between the Borough and the PBA. The PBA seeks to codify the Borough's current practice of paying the premiums for medical and dental coverage for the spouses and dependents of certain police officers who retire.

The PBA represents patrol officers, sergeants, detective bureau personnel and detective sergeants. The parties' collective negotiations agreement expired on December 31, 1998 and they are in interest arbitration proceedings for a successor agreement.

Article XVI of the expired agreement contains an Insurance clause. Section B.3. is entitled Retiree Health Insurance and provides: "The Borough shall assume the entire cost of hospital insurance for members of the Police Department who have retired on disability pension or who have retired after 25 or more years of service." While this language refers only to officers who have retired in the noted circumstances, the Borough also pays the medical and dental premiums for the spouses and dependents of such officers. Certain other Borough employees and negotiations units are contractually entitled to this benefit and the Borough states that, given the uniformity requirements of N.J.S.A. 40A:10-23, the Borough has provided this benefit to PBA retirees. See N.J.S.A. 40A:10-23 (employer may assume the entire cost of premiums for eligible retirees and their dependents "under uniform conditions as the governing body shall prescribe"). The Borough also states that it has honored the provision in its health coverage plan that states that this benefit will be provided to police officers consistent with a 1984 ordinance.1/ The plan adds that the terms of the ordinance control if the plan is inconsistent with it. The 1984 ordinance is not part of the record and may have been superseded by more recent ordinances.

1/ The Borough is self-insured for medical coverage and has contracted with Insurance Design Administrators to administer a health coverage plan that pertains to all employees.

In July 1998, the Borough introduced three ordinances concerning employee medical coverage. One ordinance provided that retirees' spouses are eligible for coverage "but they must fully contribute to the cost of such coverage." On August 17, the PBA filed an unfair practice charge alleging that the ordinances violated the Borough's health care plan and amounted to a repudiation of the Borough's agreement with the PBA. The Borough responded that the ordinances did not affect medical coverage of employees in the PBA's negotiations unit and that dependent coverage would continue until the parties had engaged in negotiations. On September 16, the parties agreed, with the assistance of a Commission representative, that coverage would be provided to retirees and their dependents under existing terms and that "the medical benefit coverage shall be subject to negotiations and interest arbitration if necessary." The PBA withdrew its charge.

The parties began negotiations for a successor agreement in October 1998 and the PBA filed a Petition to Initiate Compulsory Interest Arbitration in January 1999. As noted, the PBA has proposed to codify the existing practice of paid premiums for retirees' spouses and dependents.2/ The Borough has

---

2/ While no specific language has been submitted to us, PBA delegate Ben Smith certifies that the PBA "seeks only to have language included in the Collective Bargaining

Footnote Continued on Next Page

proposed that retirees' dependents pay the premiums for coverage and that eligible dependents be limited to spouses.

The Borough has made the same proposals in current negotiations with its blue and white collar units. It states that, because of N.J.S.A. 40A:10-23, it may not legally implement any agreed-upon changes in its practice of paying retiree spouse and dependent premiums until uniformity is achieved.3/ The Borough states that it adopted the medical insurance ordinances described earlier because it thought that it would prevail in negotiations on this issue.

The Borough's position is that, while the issue of paid health insurance premiums for retirees' dependents is mandatorily negotiable, it may not be submitted to interest arbitration. It notes that all its employees are covered by the same health insurance plan and that, under Bernards Tp., P.E.R.C. No. 88-116,

---

2/ Footnote Continued From Previous Page

Agreement which codifies the existing terms and conditions of employment in the insurance benefits now provided by the Borough." We have enough information on the disputed matter to consider the Borough's petition. N.J.A.C. 19:13-2.2.

3/ The Borough's agreement with the blue collar unit expired on December 31, 1997 and provided for payment of medical and dental premiums for retirees' spouses and dependents. The Borough's white collar employees have recently unionized and are in negotiations for a multi-year agreement retroactive to January 1, 1998.

14 NJPER 352 (¶19136 1988), an interest arbitrator cannot grant a proposal to pay retiree health insurance premiums where, by virtue of N.J.S.A. 40A:10-23 and the employer's method of providing health insurance, the award would automatically affect employees over whom the arbitrator had no jurisdiction. The Borough recognizes that the PBA withdrew its unfair practice charge based on the parties' agreement to submit to interest arbitration the issue of paid premiums for retirees' dependents. However, it asserts that the PBA may apply to reinstate the charge.

The PBA rejects the Borough's uniformity argument and its reliance on Bernards. The PBA asserts that, unlike here, the employer in Bernards was not currently paying premiums for retired employees. The PBA also notes that the Borough has entered into individual employment contracts with two lieutenants and the police chief, all of which provide for paid premiums for retirees' dependents. It therefore asserts that the uniformity provision in fact requires it to negotiate the same benefits with the PBA.

The PBA also rejects the Borough's suggestion that it may reinstate its unfair practice charge if it receives an unfavorable scope of negotiations decision. The PBA contends that the September 16, 1998 agreement in the unfair practice proceeding was signed by all parties and has been relied upon by several PBA members who have since retired. The PBA asserts that this matter

should be settled in interest arbitration, where the arbitrator may evaluate such factors as the cost of continuing this benefit.

The Borough counters that the individual contracts entered into with the lieutenants only preserved paid premiums for retirees' dependents through December 31, 1998, but since the lieutenants have retired their right to paid premiums is vested. The police chief's contract expires May 31, 2000 and provides that, in recognition of the fact that the chief will retire after 25 years of service, the Borough will assume the entire cost of hospital insurance and dental benefits for the chief, his spouse and dependents. In its brief, the Borough indicates that this provision will be maintained beyond May 31, 2000, "if need be," until the chief's retirement. The Borough states that the chief's contract is the "defining point" of the Borough's commitment to pay for retiree dependent coverage because of the uniformity requirement. It states that the benefits of all employees who retire prior to that date will be vested.

Paterson Police PBA No. 1 v. Paterson, 87 N.J. 78 (1981), outlines the scope of negotiations analysis for police officers and firefighters:

> 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. In a case involving police and firefighters, if an item is not mandatorily negotiable, one last determination must be made. If it places substantial limitations on government's policymaking powers, the item must always remain within managerial prerogatives and cannot be bargained away. However, if these governmental powers remain essentially unfettered by agreement on that item, then it is permissively negotiable. [87 N.J. at 92-93; citations omitted]

This case involves only the first aspect of the Paterson test: do specific statutes preempt an interest arbitrator from considering the PBA proposal?

N.J.S.A. 40A:10-17 authorizes a local employer to enter into insurance contracts to provide medical, dental and other health coverage for its employees. N.J.S.A. 40A:10-22 and 40A:10-23 authorize an employer to continue that coverage after retirement. These laws provide:

N.J.S.A. 40A:10-22

> The continuance of coverage after retirement of any employee may be at rates and under the conditions as shall be prescribed in the contract, subject, however, to the conditions set forth in N.J.S.A. 40A:10-23. The contribution required of any employee toward the cost of coverage may be paid by him to his former employer or in such manner as the employer shall direct.

N.J.S.A. 40A:10-23

> 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 a. who have retired on a disability pension or b. who have retired after 25 years or more of service credit in a State or locally administered retirement system and a period of up to 25 years with the employer at the time of retirement, such period of service to be determined by the employer and set forth in an ordinance or resolution as appropriate or c. who have retired and reached the age of 65 years or older with 25 years or more of service credit in a State or locally administered retirement system and a period of service of up to 25 years with the employer at the time of retirement, such period of service to be determined by the employer and set forth in an ordinance or resolution as appropriate, or d. who have retired and reached the age of 62 years 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....[4/]

The text and legislative history of N.J.S.A. 40A:10-23 indicate that the Legislature intended to give a public employer the discretion to pay for health coverage premiums for retirees and their dependents, provided it does so uniformly for eligible retirees. See Senate County and Municipal Government Committee Statement, Assembly No. 1573 - L. 1983, c. 364 (describing a 1983 amendment to the statute and explaining that, while a governing body

---

4/ N.J.S.A. 40A:10-23.1, 23.2 and 23.3 specify additional circumstances in which a public employer may pay for retiree health coverage.

is not required to pay retiree insurance premiums, a governing body that chooses to do so must apply its policy uniformly to all qualified retirees); see also Gauer v. Essex Cty. Div. of Welfare, 108 N.J. 140, 147 (1987). The courts have jurisdiction to determine whether an ordinance authorizing an employer to pay for retiree health premiums complies with the uniformity or other requirements of N.J.S.A. 40A:10-23. See Gauer, 108 N.J. at 148, 151; Fair Lawn Ret. Police v. Bor. of Fair Lawn, 299 N.J. Super. 600, 605-606 (App. Div. 1997), certif. denied 151 N.J. 75 (1997); Wolfersberger v. Bor. of Point Pleasant, 305 N.J. Super. 46 (App. Div. 1996), aff'd o.b. 152 N.J. 40 (1997).5/

While we do not have jurisdiction to determine the validity of a governing body's ordinance authorizing retiree health benefits, we have considered N.J.S.A. 40A:10-23's uniformity requirement in several scope of negotiations cases. As we recently explained in Manalapan Tp., P.E.R.C. No. 98-136, 24 NJPER 269 (¶29128 1998),

---

5/ The courts have held that not all distinctions between employee groups violate the uniformity requirement of N.J.S.A. 40A:10-23. See Gauer (N.J.S.A. 40A:10-23 neither required nor justified terminating benefits to County employees who had been hired by a predecessor autonomous agency which had agreed to pay their retiree health benefits; these employees stood on a different footing than other County employees, for whom the County had not agreed to pay retiree health benefits); Fair Lawn (N.J.S.A. 40A:10-23 did not preclude adoption of ordinance which provided for continued payment of 50% of health premiums for retired employees but, in accordance with negotiated agreement, provided that Borough would pay 100% of premiums for current employees when they retired).

those cases generally fall into two categories: (1) those where, during successor contract negotiations, an employer sought to remove an existing provision requiring payment of retiree health premiums on the grounds that the same benefits were not being provided to other employees or negotiations units, and (2) those involving proposals for new contract provisions concerning retiree health benefits. As we discussed in Manalapan, we have denied relief in the first category of cases on the grounds that the Superior Court, not this Commission, has jurisdiction to determine whether an employer's overall health benefits system complies with N.J.S.A. 40A:10-23. See Essex Cty. Sheriff, P.E.R.C. No. 97-26, 22 NJPER 362 (¶27190 1996); City of Newark, P.E.R.C. No. 93-57, 19 NJPER 65 (¶24030 1992). The cases in the second category arose in the context of interest arbitration, and we have held that an interest arbitrator may not rule on a proposal that, by virtue of N.J.S.A. 40A:10-23 and the employer's method of providing health insurance, would affect employees over whom the arbitrator had no jurisdiction. Bernards; Verona Tp., P.E.R.C. No. 97-71, 23 NJPER 48 (¶28032 1996); see also Middlesex Cty. and PBA Local 152, 6 NJPER 338 (¶11169 App. Div. 1978), aff'g P.E.R.C. No. 79-80, 5 NJPER 194 (¶10111 1979). We detail and clarify the rationale in both sets of cases before turning to the issues in this dispute.

We start with Essex and Newark. In those cases, we rejected employer contentions that clauses providing for employer payment of retiree health premiums could not be retained in

successor contracts because, contrary to N.J.S.A. 40A:10-23, the same benefits allegedly were not being provided to other employees. In neither case was there a proposal to change retiree health benefits in the current round of negotiations. Newark, 19 NJPER at 68; see also Essex. We noted that the employers' arguments turned on the application of the contract provisions and their relationship to other parts of the employer's health benefits system which were not before us and over which we had no jurisdiction. Essex; Newark. We observed that an employer seeking a determination as to whether its overall health benefits system met the uniformity requirement of N.J.S.A. 40A:10-23 could seek further relief in Superior Court.

Essex and Newark also noted that the disputed contract clauses did not "facially violate" the uniformity requirement in N.J.S.A. 40A:10-23. We recognize that the proposed clauses in the Bernards line of cases did not "facially violate" the statute either, but we reviewed them for compliance with N.J.S.A. 40A:10-23 because there was an allegation that a current interest arbitration proposal would affect other employees or create non-uniformity among employee groups. Compare Manalapan (holding that existing contract clause granting paid retiree health premiums need not be removed from contract; interest arbitrator could consider proposal to conform clause to age and service requirements of N.J.S.A. 40A:10-23 because award of the proposal would not affect other employees or create non-uniformity). We will evaluate a proposed clause in these

circumstances; unlike a situation where a party alleges that an existing health benefits system violates N.J.S.A. 40A:10-23, a Superior Court action may not be available to assess whether a negotiations proposal would bring a jurisdiction's health benefits system into conflict with N.J.S.A. 40A:10-23.

We turn to those decisions which discuss the relationship between N.J.S.A. 40A:10-23 and interest arbitration. Bernards was the first of these cases and, when it was decided, State Health Benefits Plan (SHBP) regulations governing local employers included a uniformity requirement like that in N.J.S.A. 40A:10-23. See N.J.A.C. 17:9-5.5; New Jersey State PBA v. State Health Benefits Comm., 153 N.J. Super. 152 (App. Div. 1977); Borough of Bradley Beach, P.E.R.C. No. 81-21, 6 NJPER 429 (¶11216 1980); see also N.J.A.C. 17:9-5.4 (imposing uniformity requirement for payment of active employee dependent coverage). Therefore, Bernards relied on N.J.S.A. 34:13A-18 and cases involving proposals that SHBP employers pay the costs of retiree health insurance.

We note that a March 1999 amendment to the SHBP statute may have, for some SHBP employers, eliminated the requirement that payment of retiree health benefits be uniform for all employees: N.J.S.A. 52:14-17.38 now provides that a non-school board local employer may negotiate the portion of retiree health benefit premiums it is required to pay and states that, for non-represented employees, the employer may, in certain circumstances, determine the payment obligations for employers and employees. Nevertheless, an

understanding of how the pre-1999 SHBP framework shaped Bernards is useful here. N.J.S.A. 34:13A-18 provides, in part:

> The arbitrator shall not issue any finding, opinion or order regarding the issue of whether or not a public employer shall remain as a participant in the New Jersey State Health Benefits program ...nor, in the case of a participating public employer, shall the arbitrator issue any finding, opinion or order regarding any aspect of the rights, duties, obligations in or associated with the New Jersey State Health Benefits Program....

In Middlesex Cty., the Appellate Division held that, based on this language, an interest arbitrator could not rule on a proposal that a SHBP employer pay the cost of health coverage for retirees. However, it expressly declined to reach the issue of whether the proposal would be negotiable between the parties and commented that that question involved the Legislature's intent in enacting N.J.S.A. 34:13A-18. 6 NJPER at 339, at 340, n.*.

Bradley Beach did address that question. It held that retiree health coverage is a mandatory subject of negotiations even where an employer participated in the SHBP. It stated that the then-existing uniformity requirement was not inconsistent with negotiations over employer payment of retiree health coverage, although the parties could not submit the issue to interest arbitration should they be unable to reach an agreement. 6 NJPER at 430. Both Middlesex and Bradley Beach viewed N.J.S.A. 34:13A-18 in light of the then-existing SHBP uniformity requirement for retiree health benefits. They concluded that the statute was enacted to prevent an interest arbitrator from

awarding an increase in coverage that, by operation of the SHBP, would bind the employer to provide that benefit to other employee groups who were not participants in the proceeding or were not eligible for compulsory interest arbitration. Middlesex, 6 NJPER at 339; Bradley Beach, 6 NJPER at 430. In light of this gloss on N.J.S.A. 34:13A-18, Bernards in turn reasoned that the purpose underlying N.J.S.A. 34:13A-18 also applied to proposals involving non-SHBP employers since N.J.S.A. 40A:10-23 also contained a uniformity requirement.

While our subsequent cases addressing the then-existing SHBP uniformity regulations did not discuss the relationship between negotiations and interest arbitration, viewed as a whole, they reflect the dichotomy articulated in Bradley Beach. We reiterated that proposals concerning payment of retiree and dependent health benefits could not be submitted to interest arbitration where the employer was a SHBP participant. See Borough of Oradell, P.E.R.C. No. 91-85, 17 NJPER 222 (¶22095 1991); Lyndhurst Tp., P.E.R.C. No. 87-9, 12 NJPER 608 (¶17230 1986). As noted, we extended the reasoning in these cases to non-SHBP employers, who are bound by a similar uniformity requirement in N.J.S.A. 40A:10-23. See Bernards; see also Verona Tp., P.E.R.C. No. 97-71, 23 NJPER 48 (¶25172 1994); Borough of River Edge, P.E.R.C. No. 91-50, 17 NJPER 2 (¶22001 1990).

However, outside the interest arbitration context, we have held that a proposal that an SHBP employer pay for dependent

health care coverage was mandatorily negotiable where it expressly did not take effect until the employer met the uniformity requirements that, under SHBP regulations, also pertain to dependent coverage. See Ocean Tp., P.E.R.C. No. 95-12, 20 NJPER 331 (¶25172 1994), aff'd 21 NJPER 324 (¶26208 App. Div. 1995). We have not addressed proposals that triggered N.J.S.A. 40A:10-23's uniformity requirement outside the interest arbitration context.

The 1999 amendment to N.J.S.A. 52:14-17.38 may have undercut the rationale of Middlesex, Bradley Beach and other cases involving an interest arbitrator's authority to consider a proposal concerning a local non-school board employer's payment of retiree health premiums for SHBP coverage. If N.J.S.A. 52:14-17.38 eliminates the uniformity requirement with respect to these SHBP employers, then an interest arbitrator's ruling on a proposal concerning payment of retiree health premiums would not appear to affect another employee group. While we need not decide that point now, we hold that, for cases arising under N.J.S.A. 40A:10-23, there is no need to distinguish between proposals that are mandatorily negotiable between the parties and those that may be submitted to interest arbitration.

Interest arbitration is a statutorily mandated procedure for resolving negotiations impasses between public employers and exclusive employee representatives of public fire and police departments. PBA Local 207 v. Bor. of Hillsdale, 137 N.J. 71, 80 (1994); N.J.A.C. 19:16-5.1. An arbitrator has the authority and

obligation to consider proposals submitted on mandatorily negotiable issues. See N.J.A.C. 19:16-5.7(6); Cherry Hill Tp., P.E.R.C. No. 97-119, 23 NJPER 287 (¶28131 1997) (arbitrator could not decline to consider health benefits proposal on grounds that changes in health benefits are best resolved through negotiations).

The uniformity requirement in N.J.S.A. 40A:10-23 pertains regardless of whether a negotiations proposal is submitted to interest arbitration. While an interest arbitrator may not award a proposal that would automatically affect other employee groups, neither can an employer and a majority representative of one unit agree to a provision that would pertain to other units. Thus, both interest arbitration and negotiations proposals concerning an non-SHBP employer's payment of retiree health premiums must take N.J.S.A. 40A:10-23 into account. Compare Ocean Tp.

We also clarify that N.J.S.A. 40A:10-23 does not automatically bar an interest arbitrator from considering all proposals concerning a non-SHBP employer's payment of retiree health insurance premiums. Further, we find that Ocean Tp.'s reading of N.J.A.C. 17:9-5.4 is one that may be applied to interest arbitration proposals that implicate N.J.S.A. 40A:10-23.

Ocean Tp. held that a proposal that non-SHBP employees share the cost of dependent coverage did not violate N.J.A.C. 17:9-5.4(b) because the co-payment would not take effect until a similar provision was negotiated with all units. It also noted

the disputed proposal was the only way that uniform co-payments for dependent coverage could be negotiated where an employer has more than one negotiations unit represented by different organizations. 20 NJPER at 331. The Appellate Division approved our analysis, reasoning that if a public employer could not seek to negotiate over co-payment reductions contingent upon achieving the same reductions in other units, then the current co-pay levels would have to be maintained in perpetuity. 21 NJPER at 325.

We think a similar analysis pertains when either an employer or a majority representative seeks to change or institute provisions concerning employer payment of retiree health benefits under N.J.S.A. 40A:10-23 -- even where the negotiations unit involved is eligible for interest arbitration. We see no reason why an interest arbitrator could not award a change in employer payments for retiree health coverage, contingent upon the same change being negotiated or awarded with respect to other units. N.J.S.A. 34:13A-18 does not by its terms prohibit this result, and the Bernards concern that an interest arbitrator not issue an award that would bind another unit is addressed if any change in employer payments takes effect only when uniformity requirements are met.

Retiree health benefits are a significant concern to both employers and employees. A blanket prohibition against submitting proposals involving non-SHBP employers to interest arbitration could effectively prevent a change in whatever practice is in

place. We hold that N.J.S.A. 40A:10-23 does not require that result.

Against this backdrop, we turn to the PBA proposal. It seeks contract language that codifies what the Borough acknowledges is its obligation to continue to pay, until at least May 31, 2000, the health coverage premiums of current officers andtheir dependents when the officers retire, provided the officers are qualified under N.J.S.A. 40A:10-23. While the PBA is seeking new contract language, its proposal, if awarded, would not create a new benefit, affect other employees or create non-uniformity in retiree health benefits. Compare Manalapan; contrast Verona; Bernards. It would simply continue the Borough's present practice with respect to payment of retiree health premiums, which both parties acknowledge complies with N.J.S.A. 40A:10-23. In this posture, and given our holding that N.J.S.A. 40A:10-23 does not require a blanket prohibition against submitting all retiree health benefit proposals to interest arbitration, we conclude that the proposal may be considered by an interest arbitrator.

We appreciate the Borough's argument that, if the interest arbitrator awards the proposal, it might then be required to extend it to other employees for the duration of the PBA contract. In opposing the PBA proposal, the Borough may so argue to the arbitrator and may explain its objective of reaching uniformity in eliminating dependent coverage and then adduce

evidence and reasons supporting that objective. Ocean Tp. But we will not bar the interest arbitrator from considering the PBA proposal based on the assumption that the Borough will propose future changes in the indefinite future and that other negotiations units will then agree to any such proposals.

ORDER

The PBA proposal is mandatorily negotiable and may be considered by the interest arbitrator for inclusion in a successor agreement.

BY ORDER OF THE COMMISSION

Millicent A. Wasell
Chair

Chair Wasell, Commissioners Buchanan, Finn and Ricci voted in favor of this decision. None opposed. Commissioner Boose was not present.

DATED: June 22, 1999
Trenton, New Jersey
ISSUED: June 23, 1999