

ATTORNEYS AT LAW ~ Founded 1912 ~ www.spsk.com	CLIENT ALERT January 31, 2011
--	--

NEW ARBITRATION LAW WILL SIGNIFICANTLY IMPACT FUTURE POLICE AND FIRE CONTRACT NEGOTIATIONS

By: John D. McCarthy, Esq. and Peter A. Marra, Esq.

On January 1, 2011, the Employer-Employee Relations Act was amended to change the arbitration process for police and fire contract negotiations. When municipalities cannot reach agreements with police and fire unions, the parties are required to arbitrate. Under the revised Act, the interest arbitration process has been considerably altered.

Two Percent Cap

First, the Act now imposes a two percent cap on all salary items that an arbitrator can award, including cost of living increases, step increment payments and longevity pay. There are no exceptions for salary items, and the Act specifically prohibits arbitrators from awarding any new non-salary costs to police and fire departments.

Pay may increase more than two percent for one or more years in a multi-year contract. However, the average annual increase over the length of a multi-year contract cannot exceed two percent.

Health care and pension costs are exempted from the two percent cap. Nevertheless, these benefits may be negatively impacted by other proposed legislation in 2011.

Fast Track Arbitrations

The Act establishes a forty-five day “fast track” for arbitrations. The arbitrator must make a decision within forty-five days of the date that the request for arbitration is filed. If arbitrators do not comply with the forty-five day deadline, they will be charged \$1,000 for each day that the decision is late. This change is intended to avoid lengthy delays between the expiration of old contracts and the implementation of new contracts.

Either party can appeal an arbitrator’s award to the Public Employment Relations Commission within seven days of receiving the award. The Commission must render a decision within thirty days of receiving the appeal.

Continued..

The Act caps arbitrator pay at \$1,000 per day, with a maximum payment of \$7,500 per case. This change is intended to incentivize arbitrators to quickly resolve cases. The arbitration costs will be split equally between the municipality and the union.

Arbitrators will now be randomly selected by a computer program from a special panel of arbitrators. The appointment of an arbitrator is no longer subject to appeal. Mutual selection of an arbitrator is no longer permitted.

Unfair Practice Charge

The Act now allows a party to file an unfair practice charge with the Public Employment Relations Commission if the other party refuses to negotiate prior to the expiration of the contract. The losing party in such a hearing must bear all legal and administrative costs associated with the filing and resolution of the unfair practice charge.

Sunset of The Act

The Act is scheduled to sunset on April 1, 2014. Beginning on that date, the two percent cap will become inoperative, except for those parties whose contracts expired before April 1, 2014 and have not reached a final settlement. When a final settlement is reached in those pending negotiations, the two percent cap will expire for those parties.

Obviously, the aforementioned revisions to the Act will significantly impact the pay and benefits of police officers and firefighters. If you have any questions about the implementation and effect of the Act, or would like advice on negotiating under the revised Act, please do not hesitate to contact John D. McCarthy (jdm@spsk.com) or Peter A. Marra (ptm@spsk.com) of Schenck, Price, Smith & King, LLP at **(973) 539-1000**.