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STATE OF MICHIGAN

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

ALPENA COUNTY

-and-

MERC ACT 312 CASE NO. L11 C-3010

POLICE OFFICERS ASSOCIATION
OF MICHIGAN

ACT 312 OPINION AND AWARD

APPEARANCES:

ADVOCATES: JOHN H. GRETZINGER, ATTORNEY
PATRICK J. SPIDELL, BUSINESS AGENT

PANEL MEMBERS: JOHN H. GRETZINGER, ATTORNEY
PATRICK J. SPIDELL, BUSINESS AGENT

PETITION DATED: JUNE 10, 2011
CASE HEARD: NOVEMBER 7, 2011
AWARD DATE: DECEMBER 12, 2011

AWARD

2011 Wage Reopener: The County Last Best Offer Is Adopted.

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INTRODUCTION

The Petition for Act 312 Arbitration was filed by the Police Officers Association of Michigan (POAM/Union) on June 10, 2011. The County of Alpena (County/Employer) filed an Answer to Fact Finding Petition dated June 28, 2011. By letter dated September 23, 2011, the Undersigned was notified he was appointed as the Impartial Arbitrator and Chairperson of the Arbitration Panel relative to this case.

A Hearing was held on November 7, 2011. At the conclusion of the Hearing, the Advocates elected to file Post-Hearing Briefs which have been received and considered. I have given careful consideration to all of the evidence and arguments submitted by the Parties, even though the Opinion herein may not specifically reference each and every one of the above.

The sole issue in this case is wages for the year 2011. The POAM seeks a 2% increase. The County wants a wage freeze for 2011.

The Employer argues that the Panel is governed by the provisions contained in 2011 PA 116. The Governor of Michigan signed 2011 PA 116 (PA 116) on July 20, 2011. PA 116 amended Act 312. Among the changes to Act 312 by PA 116 are the following:

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“Requires the arbitration panel to give the ‘most significance’ to the public employer’s ‘financial ability to pay’ defined to include the ‘financial impact on the community,’ the ‘interests and welfare of the public’ and [all] liabilities, whether or not they appear on the balance sheet of the unit of government.’

Requires panel consideration of the wages, hours and other terms and conditions of employment of ‘other employees’ of the employer ‘outside of the bargaining unit in question.’

Requires submission of last offers of settlement on economic issues ‘before the beginning of the hearing.’

Alters the definition of public police or fire department employee’ for purposes of coverage under the Act.

Sets time limits, including completion of the hearing, including the filing of post-hearing briefs within 180 days ‘after it commences.’ The consequences of a failure to adhere to time limits are not identified.

The ‘expense of the proceedings ... shall be borne by the parties.’ The State no longer pays a portion of the chairperson’s fee.

MERC is to establish qualifications and training for panel chairs which may be waived for individuals who had served as panel chairs before the amendments.”

The above changes are not deemed remedial or procedural. Rather, they are fundamental changes governing the manner in which Hearings are conducted and the criteria applicable to the issues in dispute. While it is true Act 116 does not eliminate arbitration as the means for resolving the dispute, it substantially changes the criteria which are applicable to the panel when rendering its award relative to the issues in dispute. The Act also substantially changes the time limitations which the arbitration panel must follow. When all of the changes in Act 312 are considered in total, it must be concluded that Act 116 is a substantive change to those rights which had existed prior to its adoption.

Act 312 is an extension of the collective bargaining process. All of the bargaining which occurred prior to the effective date of PA 116 was predicated on the applicability of Act 312. If PA 116 is deemed applicable to this case, it would seem necessary to remand this matter to the Parties so that they could formulate their positions based on the provisions contained in PA 116. That result would not be in the interests of either Party since it would only prolong the dispute.

Based on the above considerations, I conclude that PA 116 is not applicable to the Petition in this case which was filed before the effective date of the Act – July 20, 2011.

The aforementioned discussion does not mean ability to pay is irrelevant.

The applicable Section 9 factors in Act 312 relative to “basis for findings, opinions and orders” are as follows:

- “(a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (i) In public employment in comparable communities.
 - (ii) In private employment in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.”

Comparables:

The Parties have agreed to the following comparable Counties:

Presque Isle County; Oscoda County; Alcona County and Montmorency County

Issue:

2011 Wage Scale for individuals in the classifications of Deputy Sheriff for 2011.

County Offer: The County proposes a wage freeze.

POAM Offer: The POAM proposes a 2% wage increase.

DISCUSSION AND FINDINGS

The current wage scale for the Deputy classification is as follows:

		1	2	3	4	5
	Start	Year	Year	Year	Year	Year
Deputy Sheriff\$	17.03	17.45	17.59	17.89	17.99	18.10

A 2% increase would result in the following change:

		1	2	3	4	5
	Start	Year	Year	Year	Year	Year
Deputy Sheriff\$	17.37	17.80	17.94	18.25	18.35	18.46

A 2% increase translates to following per hour change:

	(.34)	(.35)	(.35)	(.36)	(.36)	(.36)
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The Comparable County Wage Rates are displayed:

COMPARABLE COUNTY WAGE RATES

	Start	1 Year	2 Year	3Year	4Year	5Year	8Year	15 Year
Presque Isle County (7-1-2011)	16.65	17.38	17.92	19.83	20.51	20.93		
Oscoda County 1-1-2011	15.78	16.31	16.87	17.67				
1-1-2012	15.94	16.48	17.03	17.85				
Alcona County 1-1-2011	14.10	17.37	17.53	17.53	18.41	18.41	18.59	18.77
1-1-2012	14.39	17.12	17.89	17.89	18.78	18.78	18.97	19.15
1-1-2013	14.68	18.07	18.25	18.25	19.19	19.19	19.35	19.54
Montmorency County 1-1-2009	14.57	16.57	17.18	17.55	17.87			
1-1-2010	14.57	16.57	17.18	17.55	17.87			
1-1-2011	14.57	16.57	17.18	17.55	17.87			
1-1-2012	14.57	16.57	17.18	17.55	17.87			

The Collective Bargaining Agreement (CBA) between the Parties herein provides for

Longevity Pay:

<u>Continuous Service</u>	<u>Longevity Pay</u>
Less than five (5) years	-0-
At least five (5) years but less than ten (10) years	100.00
At least ten (10) years but less than fifteen (15) years	150.00
At least fifteen (15) years but less than twenty (20) years	200.00
At least twenty (20) years	250.00

The County also provides fully paid Health Insurance for the bargaining unit employees.

The Union provided the following data relative to the Pattern of Bargaining for the

Comparable Counties:

	1-1-08	7-1-08	1-1-09	7-1-09	1-1-10	7-1-10	1-1-11	7-1-11	1-1-12	1-1-13	1-1-14
Deputies											
Alcona County	37,366	37,710	38,272		38,272		39,042		39,832	40,643	Expires
		1.00%	1.50%		0.00%		2.00%		2.00%	2.00%	(12-31-13)

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Montmorency County	36,234	37,170	37,170	Expired (12-31-10)
		2.50%	0.00%	
Presque Isle County	39,832	41,038	42,266	43,534
		3.00%	3.00%	3.00%
				Expires (6-30-11)
Oscoda County	34,800	35,322	35,851	36,389
		1.50%	1.50%	1.50%
				36,753
				37,121
				Expires (12-31-12)
Alpena County	36,920	37,648	37,648	
		2.00%	0.00%	

Total % Increase 1-1-08 to 12-31-11

Alcona County	4.50%
Montmorency County	2.50%
Presque Isle County	9.00%
Oscoda County	5.50%
Alpena County	2.00%

The Presque Isle County CBA expired on June 30, 2011 and the same wage will be continued to June 30, 2012.

Montmorency County will receive no wage increase for the period 1/1/2010 through 1/1/2012 except for a lump sum payment of \$350.00.

Alpena County is the most populous among the Comparable Counties. The Taxable Value declined by 2.2% in 2010 and the downward trend is likely to continue.

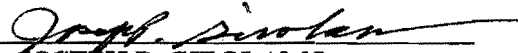
J. P. Ritter, Deputy and President of the Alpena County POAM, confirmed the Bargaining Unit received a 2% raise in 2009. In 2010, the POAM did not receive any additional monetary compensation, however, it did receive two extra holidays.

Lyle Van Wormer, Vice Chairman of the Board of Commissioners and the Chair of the Finance Committee, gave testimony relative to the County financial condition in 2011. He noted that for 2011 the County budget had a deficit of \$147,000. One significant problem for the County was attributable to a reduction in State revenue sharing. He also stated that Health Care

costs increased by 29% in 2009 and 27% in 2010. The County forecast for 2012 is a deficit of \$390,000. Another area of difficulty relates to the decline in property assessments which results in reduced property taxes. The decline is projected to continue for several years. The Witness stated that no County employee received a wage increase in 2010 and the same for 2011.

Alcona County stands alone, among the Comparable Counties, with a significant wage increase - 2% on 1/1/12 and 1/1/13. A five year Deputy in Alpena County has an hourly wage of \$18.10 which places it in the middle among the Comparable Counties. Significantly, Alpena County for 2011 continued to provide fully paid Health Care, even though the cost for that benefit has increased substantially. All of the Internal Comparables support the County Last Best Offer in that no Alpena County employee has received a wage increase in 2011. Finally, the evidence in this case substantiates that the County has experienced some financial hardship.

Given the above considerations, the Panel concludes that the County Last Best Offer should be awarded for 2011.


JOSEPH P. GIROLAMO
Impartial Arbitrator and Chairperson

 12/13/2011
JOHN H. GRETZINGER Panel Member

I disagree with the conclusion that PA 116 is not a remedial statute but as the representative of the County I join in the award because I believe that that evidence supports this result under the standards set forth in PA 116 or under the pre-PA 116 standards.

 12/14/2011
PATRICK J. SPIDEL, Panel Member
Dissent.

Dated: December 12, 2011