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STATE OF MICHIGAN
DEPARTMENT OF LABOR
MICHIGAN EMPLOYMENT RELATIONS COMMISSION
ACT 312 PUBLIC ACTS OF 1969, AS AMENDED ARBITRATION PANEL

In The Matter of the Act
312 Arbitration Between:

COUNTY OF GENESEE

-and-

MERC Case No. D82 L-5235

LOCAL 2259, MICHIGAN AFSCME,
AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES,
COUNCIL 25

G.T. Roumel

ARBITRATION PANEL'S FINDINGS, OPINION AND ORDERS

APPEARANCES:

FOR THE COUNTY OF GENESSEE

Howard R. Grossman, Attorney
John P. O'Brien, Sheriff
David Tibbetts, Personnel
Technician

FOR LOCAL 2259, COUNCIL 25, AFSCME

Roert Wines, AFSCME
Michael Coupeau, Vice President
Local 2259, AFSCME
Randy Smith, President, Local
2259, AFSCME
Owen Dorff, Negotiator
Ernest Eckert, Negotiator

BACKGROUND

Local 2259, Council 25, American Federation of State,
County and Municipal Employees, and the County of Genessee
entered into a Collective Bargaining Agreement effective January
1, 1982, expiring December 31, 1983. This Agreement provided
for wage and fringe benefits for the first two years. However,
commencing January 1, 1983, the parties provided in Section 24.1
for an economic reopener.

Genesee, County of

Roumel, George T

The County and the Local were not able to reach agreement on the issues involving the economic reopener. Thus, the matter has been submitted under Act 312, Public Acts of 1969, as amended, to this Panel for resolution.

The Local represents the following employees of the Genesee County Sheriff's Department: police deputies, police detectives, male security guards, female security guards, radio dispatchers, identification bureau officers and cooks. It does not represent the command officers in the Sheriff's Department.

The County employs approximately 976 employees in all of its departments. There are some fourteen bargaining units including Local 2259 representing the County's employees.

ISSUES

The parties have agreed with the Panel that the unresolved issues to be considered by the Panel, all of which are economic, are:

1. Cost of living allowance
2. Chief Steward pay for arbitrations
3. Wages
4. Pension
 - A. Military buy back
 - B. Governmental service buy back
 - C. 23 year retirement

Section 9 of Act 312 (MSA 17.455(9)(39)), sets forth the criteria to be taken into consideration by an Act 312 arbitration panel in arriving at its findings, opinions and orders. Among that criteria is Section 9(c), namely, "the

interests and welfare of the public and the financial ability of the unit of government to meet those costs."

BASIC ECONOMIC CONDITION

At the time the parties began bargaining pursuant to their economic reopener, Genesee County was projected to end its fiscal 1982 year with a deficit of 4.9 million dollars. But after reducing expenditures, laying off employees and transferring 2.5 million dollars from the Delinquent Tax Revolving Fund, the County met its financial obligations for 1982.

In preparing the 1983 budget, the Genesee County Controller projected a deficit of 7.6 million dollars. This deficit was based on expenditures of 46.5 million dollars and revenues of 38.9 million dollars. The projected expenditures assumed a six percent wage increase. Thus, of the 7.6 million dollar projected deficit, 2.9 million was in projected wage and COLA increases.

In an attempt to balance its budget, the County determined to ask its unions to "freeze" wages. By doing so, the County intended to reduce the projected deficit to 5.4 million dollars. Other projected expenditures were reduced by program and personnel cuts and again transferring funds from the Delinquent Tax Revolving Fund. As a result, the final 1983 adopted budget was 40 million dollars, representing a five and one-half percent reduction from the 1982 adopted budget.

Besides inflation and increased benefit costs, other financial problems were plaguing the County in 1983. Due to the fiscal condition of the State of Michigan, the County had lost State shared income tax revenues in the amount of \$375,000. The County also lost revenue of 1.2 million dollars due to higher County State Equalization Value and the subsequent automatic reduction in the tax rate. The County also had to pay \$800,000 in increased D.S.S. hospitalization costs because of high unemployment in Genesee County.

At the time the 1983 budget was adopted in Genesee County, the automobile industry was still in a state of depression. The center of Genesee County is Flint, Michigan, one of the better known automobile cities in the nation which has experienced high unemployment. This unemployment affected income tax revenues to the State and the State shared income tax revenues. There was also a possibility of further State revenue cuts in that funding from the cooperative reimbursement programs might be terminated. While these funding cuts did not come to pass, at the time the 1983 budget was adopted and at the time of negotiations concerning the 1983 economic reopener this factor was unknown.

Local 2259 has now reminded the Panel that the dire economic consequences predicted by the County when it adopted its 1983 fiscal budget did not come to pass. The deficits did not mature. The County was able to find funds to commence the

building of a new County jail which, apparently, it was obligated to do as a result of a federal court suit. Therefore, the Local maintains that the County can afford the wage increase set forth in its last best offer here.

There is great difficulty with Local 2259's position. Act 312 was never intended as a device to permit a union to avoid making a contractual decision in a situation such as the County found itself in June 1983. The point is that an Act 312 Panel must make determinations on the same basis that the parties would have made those determinations at the time the contract expired. To take any different approach would interfere with collective bargaining, which is not the purpose of the dispute resolution mechanism of Act 312.

COMPARABLES

Another criteria to be utilized by an Act 312 arbitration panel to arrive at its findings, opinions and orders is set forth in Section 9(d) of the Act. This is the comparable criteria, a comparison of wages, hours and conditions of employment of the particular bargaining unit with those of "other employees." This concept of comparison would include "public employment in comparable communities" and "private employment in comparable communities." But by implication, this criteria would also include comparables with employees within the County.

As mentioned, there are thirteen other bargaining units in Genesee County, including a bargaining unit consisting of the command officers in the Sheriff's Department. All of these bargaining units in 1983 accepted a wage freeze, not only as to base wages, but also as to cost of living. As already alluded to, this freeze eliminated projected wage increases, reducing the 1983 County budget.

In this situation this is indeed a most persuasive criteria. Usually when a comparison is made of the activities of other employees of the employer, the police or fire union argues that the other units were not subject to Act 312, and advantages that the Act provides. In this case, the bargaining unit of command officers had the opportunity to go to Act 312 but chose not to.

Thus, this is a situation where all of the other employees of the County recognized that the County had a critical financial situation at the time that the 1983 budget was adopted. This crisis justified the acceptance of a wage freeze.

The Panel is aware that in 1983 other employees in the County did receive two paid holidays on a one-time only basis. This would suggest that there was not an absolute freeze. The Panel is likewise aware that there was a salary readjustment so that security sergeants in the Department are paid equally with patrol sergeants. This represented a \$1,500 adjustment.

WAGES

The last best offer of Local 2259 is to increase the wages by three (3%) percent across the board for the 1983 contract year effective October 1, 1983. The last best offer of the County is to have a wage freeze across the board for the 1983 contract year.

There is merit to a wage freeze. However, a majority of the Panel is perplexed by the fact that other employees did receive two paid holidays in 1983 despite the freeze. This benefit was not given to members of Local 2259.

The last best offer of Local 2259 is, in effect, a monetary demand. When combined with the fact that the requested increase is only to be effective from October 1, 1983, one could conclude that in effect the last best offer of Local 2259 is for its membership to receive a benefit equivalent to the two holidays received by other employees. Viewed in this light, the offer could be interpreted to provide a monetary amount to those in each of the following categories based upon a middle range of pay scale:

Cook I	\$159.10
Cook II	\$168.87
Radio Dispatcher	\$178.13
Security Guard	\$196.01
Deputy	\$216.19
Detective	\$234.06

Based upon this interpretation and noting that this is in effect equivalent to the two paid holidays received by the other employees, a majority of the Panel with the County delegate

dissenting would adopt an award based upon a one-time payment in the amount set forth above to those members of Local 2259 in the above-stated classifications. The Chairman has concluded, however, that it must be clear who receives the above payments. Though the Union Panel Chairman questioned this approach in order to get a majority vote on this matter, he has concurred. The payment will be made to those employees who have been paid for at least 1,040 hours straight time pay during the 1983 calendar year and who were a member of the bargaining unit as of October 1, 1983. The Order will so provide.

COST OF LIVING ALLOWANCE

The last best offer of Local 2259 would be to continue the cost of living in its present form, with payments already made in 1983. Apparently, the County would freeze the cost of living. However, since the cost of living has already been paid in 1983, the majority of the Panel with the County delegate dissenting would adopt the last best offer of Local 2259.

CHIEF STEWARD

Local 2259 has asked that the Chief Steward be paid for attendance at arbitration hearings. The County has resisted this. The County claims that it is not obligated to provide this benefit to the other bargaining units in the County. The Union maintains that this is afforded other units. The evidence on the point is sketchy.

Because the evidence is sketchy, the Chairman of the Panel is not convinced that other units pay for the Chief Steward to attend arbitration hearings, or if they do, whether this is justified. Therefore, the majority of the Panel with the Union member dissenting will adopt the last best offer of the County and not provide for payment to the Chief Steward for attendance at arbitration hearings.

RETIREMENT

There are several issues between the parties as to retirement and fringe benefits. These issues are:

- (1) Reduce the minimum number of years required for normal retirement from 25 years to 23 years;
- (2) Increase the multiplier from 2.0 to something higher;
- (3) Provide opportunity to buy military time for retirement purposes;
- (4) Provide opportunity to buy other governmental services for retirement purposes.

In regard to the military and governmental buy-backs, items three and four set forth above, both the County and Local 2259 have provided these options in their last best offer. Therefore, the Panel would adopt these two option provisions provided that they are within the framework of the present pension plan.

The other two issues are increasing the multiplier factor from 2.0 and reducing the minimum number of years required for normal retirement from twenty-five to twenty-three. The Panel recognizes that there is a tendency to have more

advantageous pension plans for police service personnel than other employees. This is simply because of the nature of police work. However, in regard to the comparables, the retirement pension plans provide:

V. Retirement Age and Service Requirements
And Service Credit Multiplier Factor,
All Jurisdictions, 1982

	<u>Years of Service & Age</u>	<u>Service Credit Multiplier Factor</u>
Genesee	25 Years any age or 8 years and age 60	2.0% on 1st 25 years 1.0% on years over
Flint*	23 years, any age	2.4% on 1st 25 years 1.0% on years over 25
Ingham	10 years and age 60	1.2% of 1st \$4,200 1.7% after \$4,200
Macomb	25 years and age 50 or 8 years and age 60	2.0% on all years
Oakland	25 years and age 55 or 8 years and age 60	1.8 on all years
Saginaw	25 years and age 55 or 10 years and age 60	1.2% of 1st \$4,200

* Applies only to Police Officers. For other classifications the requirements are 25 years, any age or 10 years and age 55 and the service credit multiplier factor is 2.2% for all years of service.

When the Panel reviews these comparables, one notes that, with the exception of Flint, Genesee County has the highest multiplier at 2.0%. This is only equaled by Macomb County. Likewise, except for Flint, all of the jurisdictions compared provide for a twenty-five year service requirement.

However, there is also a minimum age requirement in all the above listed jurisdictions except Flint and Genesee County. Flint is not a novelty. One cannot explain the Flint situation. But, the fact is, based upon the comparables, Local 2259 has offered no rationale for an increased multiplier or a reduction in age.

However, the County has offered a provision for an early retirement option. This offer is:

There is a provision in Act #156 that permits "early retirement benefits at 55 years of age or older to the extent of actuarially equivalent benefits not increasing the costs of the plan" (Section 12a [1] [b]). Under this provision the Sergeants and Lieutenants (AFSCME Local 916, F & G) have been granted an early retirement at age 55 with 23 years of service. There is a benefit reduction of 0.6% for each full calendar month prior to age 60 under this arrangement. The County offers this option to Local 2259.

One must understand that the costs entailed can be applied to any pension plan. Since the County is willing to provide the aforementioned early retirement option, that will be adopted by a majority of the Panel. But because of the cost factors and comparable factors, the majority of the Panel will not recommend any change in the retirement eligibility except the early retirement proposed by the County or recommend any change in the multiplier.

CONCLUSION

Again, the members of Local 2259 must realize that Act 312 is not a give all or take all. The Act in Section 9

provides for specific criteria to be applied. In this situation a wage freeze pattern, applied to all other County employees, was brought about by economic conditions. No one could predict that these conditions would improve. There is no reason to break this pattern. However, in the name of not breaking the pattern, because there was holiday pay provided for others, the majority of this Panel has provided for a one-time monetary payment to employees in classifications represented by Local 2259.

The Union and County delegate have waived their signatures here. The Chairman is authorized to state that Panel Member Raymond E. Knott dissents as to the Order concerning the payment of one-time wages and as to the cost of living Order but concurs as to the Orders concerning the Chief Steward and pension. Panel Member Jack Johnson dissents as to the pension Order denying the request for an increase in the formula and a reduction in the eligibility as well as the Order denying payment for Chief Steward. However, Mr. Jackson does concur in the portion of the pension Order providing for military and government buy-back. He likewise concurs in the Order as to the payments set forth herein as to classifications represented by Local 2259.

ORDERS OF PANEL

The Panel hereby orders that for the period from January 1, 1983 through December 31, 1984, the Collective Bargaining

Agreement between Genesee County and Local 2259, Council 25,
American Federation of State, County and Municipal Employees
shall provide:

1. Wages shall remain as they now exist in the Contract
except that for the 1983 contract year on a one-time basis only
the following classifications will receive the following
one-time payments:

Cook I	\$159.10
Cook II	\$168.87
Radio Dispatcher	\$178.13
Security Guard	\$196.01
Deputy	\$216.19
Detective	\$234.06

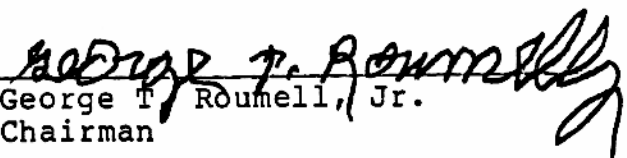
The payment herein shall be made only to those members of Local
2259 who have been paid for at least 1,040 straight time hours
during the 1983 calendar year and who were in the bargaining
unit on the payroll as of October 1, 1983.

2. The cost of living shall continue as provided in the
contract and be paid during said 1983-84 period.

3. The County's last best offer for early retirement,
military buy-back and governmental buy-back in the pension plan
shall hereby be adopted. Local 2259 proposals as to reduced
eligibility age and the service credit multiplier factor shall
be denied.

4. There shall not be pay for the Chief Steward for
attending arbitrations.

Dated: June 27, 1984.


George T. Roumell, Jr.
Chairman