

**2011 REPORT**

**OF THE**

**POLICE AND FIRE PUBLIC INTEREST**

**ARBITRATION IMPACT TASK FORCE**

**TO THE GOVERNOR AND LEGISLATURE**

**June 17<sup>th</sup>, 2011**

The report below is hereby submitted pursuant to N.J.S.A. 34:13A-16.8, on behalf of the Police and Fire Public Interest Arbitration Impact Task Force (hereinafter referred to as the “Task Force”). The creation of the Task Force was part of P.L. 2010, c.105, which took effect on January 1, 2011. In that legislation, it provided that the Task Force shall be comprised of eight members as follows:

- (1) four to be appointed by the Governor;
- (2) two to be appointed by the Senate President; and
- (3) two to be appointed by the Speaker of the General Assembly.

A chairperson is selected from among the appointees of the Governor and a vice chairperson from among the appointees of the Legislature. The Chair of the Public Employment Relations Commission (PERC) shall serve as non-voting executive director of the Task Force. Appointments to the Task Force were to be made by January 31, 2011 and the Task Force was to meet initially within 60 days of the law’s effective date.

### **Role of the Task Force**

*It shall be the duty of the task force to study the effect and impact of the arbitration award cap upon local property taxes; collective bargaining agreements; arbitration awards; municipal services; municipal expenditures; municipal public safety services, particularly changes in crime rates and response times to emergency situations; police and fire recruitment, hiring and retention; the professional profile of police and fire departments, particularly with regard to age, experience, and staffing levels; and such other matters as the members deem appropriate and necessary to evaluate the effects and impact of the arbitration award cap.*

*Specifically, the task force shall study total compensation rates, including factors subject to the arbitration award cap and factors exempt from the arbitration award cap, of police and fire personnel throughout the state and make recommendations thereon. The task force also shall study the interest arbitration process and make recommendations concerning its continued use in connection with police and fire labor contracts disputes.*

*The task force shall make findings as to the relative growth in total compensation cost attributable to factors subject to the arbitration award cap and to factors exempt from the arbitration award cap, for both collective bargaining agreements and arbitration awards.*

N.J.S.A. 34:13A-16.8(e).

The Task Force is required to report its findings, along with any recommendations it may have, to the Governor and the Legislature annually, on or before April 1 of each year. The Task Force's final report due on or before April 1, 2014 shall include, in addition to any other findings and recommendations, a specific recommendation for any amendments to the arbitration award cap. Upon the filing of its final report on or before April 1, 2014, the task force shall expire.

### **2011 Report of the Task Force**

Notwithstanding the appointment of the Task Force in February 2011, the Task Force was able to hold meetings on February 22 and March 30, 2011. At its first meeting, David Cohen was selected as the Chairperson and Robert Fagella was selected as the Vice-Chair.

As of the date of this report, it should be noted that there have not been any filings for interest arbitration since January 1, 2011, which also involve a collective negotiations agreement which expired on or after January 1, 2011. Thus, the Task Force does not yet have any awards to analyze and interpret concerning the full impact of the law. Since January 1, 2011, there have been twelve petitions for interest arbitration involving collective negotiations agreements which expired prior to January 1, 2011. While those petitions involve collective negotiations agreements which expired prior to January 1, 2011, they still will be subject to the procedural aspects of the law (but not the 2.0% cap provisions). Currently, there are four interest arbitrators ready to serve under the new law and four more are waiting until their schedules permit taking new cases.

It is anticipated that parties which might be subject to the 2.0% cap may try to reach more voluntary agreements, or use mediation and fact-finding prior to filing for interest arbitration. One of the items that the Task Force will review in the coming year is the increase in requests for mediation and fact-finding as compared to the same time period prior to enactment of the new interest arbitration statute. The Task Force will also review whether voluntary settlements are in general conformance with the new percentage caps. Further, we will need to review whether PERC's resources for mediation and fact-finding need to be adjusted and how the new procedures for appeals of interest arbitration awards are working.

In the interim, the Task Force has made recommendations to PERC regarding the compilation and reporting of interest arbitration awards. PERC will be working with the Division of Local Government Services of the Department of Community Affairs to update PERC's database of current public sector collective negotiations agreements. The Task Force is aware that N.J.S.A. 34:13A-8.2 always has required public employers to "file with the commission a copy of any contracts it has negotiated with public employee representatives following the consummation of negotiations."<sup>1</sup> Compliance with that provision, however, has not been consistent and, in the law enforcement area, such data is critical to the Task Force to complete its obligations. By May 15, 2011, or immediately thereafter, PERC will be sending reminders to public employers of the requirement to submit agreements to PERC for its database.

---

<sup>1</sup>N.J.S.A. 34:13A-16.8(d)(2) also provides that, in order to facilitate the work of the task force, PERC is required to post on its website all collective negotiations agreements and interest arbitration awards entered or awarded after the date of enactment, including a summary of contract or arbitration award terms in a standard format developed by the Public Employment Relations Commission to facilitate comparisons. All collective negotiations agreements shall be submitted to PERC within 15 days of contract execution.

Beginning in the next fiscal year, DLGS will require certification of submission of all current collective negotiations agreements to PERC as a condition of budget submission to DLGS.

The Task Force is also working with PERC to complete a worksheet to assist with the compilation of financial data by the parties necessary for the interest arbitration process. The worksheet will ask the parties to identify what “base salary”<sup>2</sup> items existed in the expired collective negotiations agreement and the total cost of those items in the 12 months preceding expiration of the collective negotiations agreement. The parties will then identify the percentage and dollar impact that will be caused, for any adjustments to the identified base salary items, for the duration of the successor collective negotiations agreement. The worksheet will have to be certified as to its accuracy by the representative of the party submitting the data. Since much of the financial information is in the hands of the public employer, the Task Force is reviewing ways to remind the public employer of its responsibility to compile the information necessary to complete this worksheet and how the time needed to provide such financial information, or information disputes, will be addressed.

The Task Force anticipates that its April 2012 report will have much more information and data to provide in connection with its statutory responsibility.

---

<sup>2</sup> "Base Salary" is defined in N.J.S.A. 34:13A-16.7(a) as the salary provided pursuant to a salary guide or table and any amount provided pursuant to a salary increment, including any amount provided for longevity or length of service. It also shall include any other item agreed to by the parties, or any other item that was included in the base salary as understood by the parties in the prior contract. Base salary shall not include non-salary economic issues, pension and health and medical insurance costs.

**POLICE AND FIRE PUBLIC INTEREST  
ARBITRATION TASK FORCE MEMBERS**

**Members**

David Cohen, Esq. – Chair  
Director of Office of Employee Relations  
State of New Jersey

Robert A. Fagella, Esq. – Vice Chair  
Zazzali, Fagella, Nowak, Kleinbaum & Friedman

Robert M. Czech  
Chair & CEO Civil Service Commission  
State of New Jersey

Ronald Bakley  
NJ State Fraternal Order of Police

William J. Lavin  
President New Jersey State Firefighters

Dominick Marino  
Professional Firefighters Association of New Jersey  
International Association of Fire Fighters

Thomas Neff  
Director, Division of Local Government Services  
Department of Community Affairs  
State of New Jersey

Hon. Declan O’Scanlon, Jr.  
Assemblyman

**Staff**

P. Kelly Hatfield  
Chair  
Public Employment Relations Commission  
Task Force Executive Director (non-voting)

Lorraine H. Tesauro  
Director of Conciliation & Arbitration  
Public Employment Relations Commission  
PERC Staff Liaison to Task Force