



**STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

PO Box 429
TRENTON, NEW JERSEY 08625-0429

www.state.nj.us/perc

ADMINISTRATION/LEGAL
(609) 292-9830

CONCILIATION/ARBITRATION
(609) 292-9898

UNFAIR PRACTICE/REPRESENTATION
(609) 292-6780

For Courier Delivery
495 WEST STATE STREET
TRENTON, NEW JERSEY 08618

FAX: (609) 777-0089
EMAIL: mail@perc.state.nj.us

January 30, 2013

MEMORANDUM

TO: Commissioners

FROM: Counsel Staff

SUBJECT: Supplemental Report on Developments in the Counsel's Office Since December 5, 2012

Commission Cases

On January 29, 2013, in a decision that has been approved for publication, the Appellate Division of the Superior Court reversed City of Camden and IAFF Local No. 788, P.E.R.C. No. 2012-18, 38 NJPER 188 (¶63 2012), and vacated the interest arbitration award that the Commission had affirmed. ___ N.J. Super. ___, 2013 N.J. Super. LEXIS 8, 39 NJPER ___ (¶__ 2013) (copy attached). Although the Court observed that, ordinarily the vacation of an interest arbitration award does not bar the original arbitrator from rehearing the case, given the present circumstances, the remand of the dispute to the Commission includes a directive that a new arbitrator be assigned to conduct the new interest arbitration proceeding.

The arbitrator had determined that, in view of the history of State aid provided to the City of Camden, the State of New Jersey was a "fourth party" to the arbitration proceeding and was responsible for paying any shortfalls that were beyond the City's means, in order to implement the economic terms of the interest arbitration award.

Agreeing with both the City and the firefighters union, the Court held that the arbitrator lacked the authority to make the State a party to the arbitration proceeding. It observed:

We recognize that, in light of the City's financial straits, the challenge to provide both adequate firefighting service to the

municipality and reasonable compensation to the firefighters presents a fiscal Gordian knot. But it was not within the arbitrator's authority to sever that knot by usurping both the authority granted by the New Jersey Constitution to the Legislature and Governor and governmental policy-making authority.

[Slip opinion at 26].

The Court's opinion also finds that the arbitrator failed to properly apply statutes that took effect in 2010 and 2011 [respectively, N.J.S.A. 40A:10-21 and N.J.S.A. 40A:10-21(b)] requiring contributions by public employees to the cost of health insurance and therefore must be vacated.

Additionally, the Court stated that the arbitrator is required to give a "reasoned explanation" that reflects he gave "due weight" to the statutorily mandated criteria. It holds that the arbitrator failed to meet these requirements.