



COLLECTIVE BARGAINING AND CHANGES IN YOUR COMMUNITIES

MICHIGAN MUNICIPAL LEAGUE 2024

Capitol Conference

Brandon Fournier, Esq.

Partner at Shifman Fournier



Out with the new in with the old

- Public Act 113 of 2023
 - Repeal PA 54 of 2011.
 - Wage increases and economic benefits are now retroactive for non-312 groups.
 - Health care increases cannot be passed through to the member.

Out with the new in with the old

- Public Act 115 of 2023

- Section 15 of PERA prohibited a labor union representing public employees from demanding to bargain.
- Decisions as to whether or not a public employer will enter into an intergovernmental agreement to consolidate one or more functions or services.
- Decisions about whether the public employer will jointly perform, or collaborate with other public employers to perform, a governmental function.
- The procedures for entering into such intergovernmental agreements. The new statute eliminates these prohibitions, which means that a municipal labor union may demand to bargain over these topics with the public employer.

Out with the new in with the old

- Public Act(s) 8 & 9 of 2023
 - Repealed Right to Work Law.
 - The statute provides that if the Constitution is amended or the Janus decision is reversed that mandatory union participation shall be restored.

Something new...

- Public Act 169 of 2023
 - Every 90 days, public employer must inform recognized union of each employee it represents, including:
 - Name
 - Home address
 - Personal email address
 - Wage
 - Classification and department
 - Notify 30 days after hire
 - Must notify all employees it intends to engage in collective bargaining

Something new...

- Act 312 expansion
 - Public Act 171 Of 2023: Adds corrections officers to Act 312 Arbitration.
- Elliot Larsen Civil Rights Act:
 - Protected Class now includes: Sexual orientation
 - Gender Identity
- CROWN Act:
 - Protect discrimination based on “hair texture,” “braids, locks and twists.”

Something new...

- Public Act(s) 43 and 44 of 2023
 - Made lawful the ability for an employer to collect the cost of required training.
 - Supersedes Michigan Court of Appeals decision (Sands Appliance Servs. v. Wilson 463 Mich. 231).
 - Does not apply beyond police officers.

More to come...

- Public Act 152 of 2011 modification or repeal
 - Adopted in 2011 created the hard cap, 80/20 or opt out standard.
 - A target of labor to repeal or remove the 80/20 option.
 - We recommend modifying contracts now to codify health care premium sharing and not rely on the Act alone.

More to come...

Amend PERA to enshrine minimum staffing as a mandatory topic of bargaining

- Statute as proposed would require all labor negotiations to include.
- Overturns City of Oak Park case which held staffing was a permissive topic of bargaining.

More to come...

- Retiree Health Care
 - Enshrine “*Tackett*” language into statute.
 - Effort by labor groups to make retiree health care unalterable after retirement.

Court updates

- Several Cities in Michigan were sued for improperly using Act 345 revenue for retiree health care.
 - Court of Appeals found that the use of Act 345 tax revenue to fund retiree health care was not prohibited by the statute. Currently pending at the Michigan Supreme Court.
- Mandatory retirement age
 - Clinton Township retiree challenged the Act 345 Mandatory Retirement provision for police officers and firefighters.

Court updates

- Allen Park retiree health care:
 - Court of Appeals found that that the Allen Park labor agreements satisfied the *Tackett* and *Kendzierski* standard.
 - The City will be appealing the ruling to the Michigan Supreme Court (the Court is likely to overturn this case).

Court updates

- Michigan Minimum Wage and Paid Medical Leave Act
 - The Michigan Supreme Court is still considering the adopt and amend scheme for the Michigan minimum wage and paid leave.
 - If the Court invalidates the legislative effort, employers will be required to provide a greater amount of paid leave to employees.

ACT 312 Frustration

- Oakland County and Oakland County Sheriff's Assoc. (MERC Case No. 21-G-1532-CB)
 - *Arbitrator awarded the Union's LBO on each wage issue:*
 - ISSUE 1: WAGES
 - Fiscal year Union County
 - 2022 Union 7% County 5%
 - 2023 Union 4% County with a me-too 4% with a \$3,250 lump sum
 - 2024 Union 3% County with a me-too 3% with a me-too
 - 2025 Union 3% County with a me-too 2% with a me-too

Brownstown and Brownstown Professional Fire
Fighters Union, Local 4112, I.A.F.F (Case No. 22-L-2251-CB)

ARTICLE 33: PENSION: SECTION 33.5 Employees may opt to remain in the existing pension plan. An employee who chooses to remain in the DC system and is a participant in the plan for twenty (20) months shall be entitled to receive the full vested contribution upon their termination of employment. The employer will assist in expediting receipt of funds upon termination. The employer's contribution for those employees who remain in the existing defined contribution pension plan shall be 20% of base wage, and those employees may make voluntary contributions to the plan.