



## Labor Corner: 2011 Labor Law Changes Impact Municipalities

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The Michigan legislature was active in 2011, passing or amending several laws that will impact public sector labor relations. A summary of some of the significant changes follows.

### **PUBLIC ACT NO. 54 OF 2011 AMENDMENT TO PUBLIC EMPLOYMENT RELATIONS ACT (PERA)**

The principal statute governing public sector labor law is the Public Employment Relations Act (PERA). On June 8, 2011, PERA was amended by PA No. 54, which requires Michigan public employers to freeze unionized employee wages and benefits at their current levels upon expiration of a collective bargaining agreement (CBA) until a successor agreement is reached.

So new unionized employees whose CBA provides them with automatic increases in pay and benefits (vacation/sick/PTO) at specified times cannot receive the increases following expiration of the CBA until a new agreement is ratified. Additionally, public employees who receive health, dental, vision, prescription, or other insurance benefits under a CBA must bear any increased cost of maintaining these benefits after the agreement expires. Employers may also execute payroll deductions necessary to pay any increased costs of maintaining employee benefits.

PA No. 54 also prohibits parties to a CBA from agreeing to, or an arbitration panel from ordering, retroactive wage or benefit increases. Similarly, the parties may not circumvent this compensation freeze by agreeing to extend the expiration date of the CBA during negotiations.

### **PUBLIC ACT NO. 152 OF 2011 PUBLICLY FUNDED HEALTH INSURANCE CONTRIBUTION ACT**

For medical plan years beginning on or after January 1, 2012, public employers are prohibited from paying more of the annual costs or illustrative rate (and any payments for reimbursement of co-pays, deductibles, or payments into health savings accounts or similar accounts used for health care costs) than a total of \$5,500 times the number of employees with single person coverage, \$11,000 times the

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number of employees with individual and spouse coverage, plus \$15,000 times the number of employees with family coverage. Allocation of payment for medical benefit plan costs among the employees and elected officials is solely within the discretion of the employer.

As an alternative to the hard cap requirements, a public employer may instead limit payment to no more than 80 percent of the total annual costs of the medical benefit plan it offers, with employees and elected officials paying 20 percent or more of the annual costs. Allocation of the employee share of the medical benefit plan costs is solely within the discretion of the employer, but elected public officials must pay 20% or more of the total costs of the plan in which they participate.

Unionized employees covered under a CBA may continue to receive benefits as provided for in the contract until it expires. However, any CBA or other contract executed on or after September 15, 2011 cannot include terms inconsistent with the hard cap or 80/20 provisions of PA No. 152.

Public employers who fail to comply with the requirements of PA No. 152 must permit the state treasurer to reduce each Economic Vitality Incentive Program payment (for cities, villages, and townships) by 10 percent, and the Department of Education will assess a penalty equal to 10 percent of each payment of any funds for which the public employer qualifies under the State School Aid Act, during any period of non-compliance.

#### **PUBLIC ACT NO. 258 OF 2011 MUNICIPAL PARTNERSHIP ACT**

The Municipal Partnership Act authorizes two or more local governments, or one or more local governments and a public agency, to enter into a contract to form a joint endeavor that can exercise the functions of the local government or public agency. As to labor matters, PA 258 eliminates provisions that require labor agreements to be recognized, require employees to have the same seniority and benefits, or require members and beneficiaries of pension systems or other benefits to have the same rights and benefits, following a transfer of personnel.

Also, the law prohibits bargaining over whether the local government will enter into a contract for a joint endeavor; the procedures for obtaining a contract for a joint endeavor; and the identities of the parties to such a contract. However, the contents or language of a joint endeavor contract is a permissive subject of bargaining. In addition, upon request, the local government must bargain over the effect of the joint venture on the employees.

#### **CONCLUSION**

These changes will significantly change the dynamic of labor negotiations, including limiting the potential financial exposure for public employers and limiting the topics of bargaining between unions and management. The new laws are certain to have an immediate effect on public sector collective bargaining.

If you have any questions about any of these changes, please contact Mike Blum.