



Michigan Public Sector Labor Law 101

FOCUS: Labor & Employment Corner

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Foster Swift Municipal Law News: MTA Edition

January 2011

In Michigan, public sector labor-management relations are governed by the Michigan Employment Relations Commissions (MERC). The principal statute administered by MERC is the Public Employment Relations Act (PERA), which grants collective bargaining rights to public employees.

PERA requires a public employer to bargain collectively with a union selected by a majority of the employees in an appropriate bargaining unit. A bargaining unit is a group of employees who share a "community of interest" based on factors such as similarity of duties, supervision, work rules, compensation, benefits, skills, working conditions, classifications, physical location, and centralized labor relations.

Unions can demonstrate majority status either through voluntary recognition or an election. To secure voluntary recognition, employees generally sign applications for membership stating they wish to be represented by a particular union, and the employer may grant recognition if it is satisfied a majority of employees have designated the union as their representative. If a public employer does not grant recognition voluntarily, a petition may be filed with MERC requesting an election. Voting in the election is by secret ballot. If the union receives a majority of the valid ballots cast, it is certified as the exclusive collective bargaining representative of all of the employees in the bargaining unit.

Once a labor organization is recognized or certified, is it unlawful for the employer to refuse to bargain collectively with the union. The duty to bargain includes the obligation to meet with the union at reasonable times and to confer in good faith with respect to wages, hours and other terms and conditions of employment. The duty to bargain does not, however, require either party to agree to a proposal or make a concession. An impasse occurs when the parties have exhausted all means of reaching an agreement.

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In the event impasse is reached, either party may request MERC to mediate. Mediation is a non-binding process in which a neutral third person assists the parties to resolve their dispute. The mediator has no authority to impose a settlement or compel resolution of disputed issues.

If bargaining and mediation fail to result in a final agreement, fact finding may be requested. A neutral fact finder will issue a non-binding recommendation for settlement of the dispute. Since strikes are prohibited in the public sector, fact finding is the final impasse resolution procedure available, except for public safety personnel who are subject to Act 312 arbitration. Parties often return to negotiations or mediation after fact-finding and are frequently able to resolve their differences.

Act 312 provides for compulsory arbitration of unresolved contract disputes in police and fire departments operated by a city, county, village, or township, as well as emergency medical personnel and emergency telephone operators employed by a municipal police or fire department. Act 312 is not intended to supplant collective bargaining, but rather is the final step in that process.

Labor-management relations in the public sector can be complex. Municipalities are well advised to seek the assistance of experienced counsel in any situation involving union organizing activity or the collective bargaining process.