



Law School for Legislators Public Safety Issues In Michigan

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What Safety?

- Generally considered as police, fire, emergency dispatch, and sometimes ambulance
- Only the Michigan State Police are mandated to exist - MCL 28.1 *et seq.*
- Counties and Sheriffs are only required to maintain a jail -MCL 43.16; 51.75
- Road patrol duties are not mandated- *Wayne County Sheriff v. Wayne County Board of Commissioners*, 148 Mich. App. 702, 385 N.W.2d 267 (1983)

What Safety?

- Numerous statutes authorize the forming and funding of police and fire services
See, e.g. MCL 41.801; 70.18; 109.1
- None mandate that these units of government provide - must look to local charters
- Level of public safety services is subject to financial constraints

Minimum Manning and Public Safety

- Generally the level of services to be provided is a matter of discretion with government units
- Minimum manning only for public safety only becomes an issue where level of services is "inextricably intertwined" with employee safety

Minimum Manning and Public Safety

- Becomes a mandatory subject of bargaining under PERA (MCL 423.201 *et seq.*) *See, Detroit Fire Fighters Ass'n, IAFF Local 344 v. City of Detroit*, 482 Mich. 18, 753 N.W.2d 579 (2008)
- General safety of the public is not sufficient to trigger duty to bargain or to maintain status quo during bargaining

Interest Arbitration - Public Act 312 of 1969 (MCL 423.231 *et seq.*)

- Public employees have the right to organize for purposes of collective bargaining. MCL 423.201 *et seq.* (PERA); Mich Const. Art. XI, Sec. 5 (State Police)
- All Michigan public employees are prohibited from striking - MCL 423.206
- Act 312 provides for binding arbitration of unresolved contract terms on mandatory subjects of bargaining

Interest Arbitration - Public Act 312 of 1969 (MCL 423.231 *et seq.*)

- Applies to police officers, fire fighters, and emergency communications officers and emergency medical responders if part of the police or fire service (not apply to State Police)
- Tri-partite panel - Union rep., Employer rep., neutral chair

Interest Arbitration - Public Act 312 of 1969 (MCL 423.231 *et seq.*)

- Issue-by-Issue determination
 - Non-economic - Panel may create compromise
 - Economic - Panel must accept either Union or Employer last best offer
- Statutory Criteria for consideration used, based in comparable communities and other internal bargaining units

Interest Arbitration - Public Act 312 of 1969 (MCL 423.231 *et seq.*)

- Pros

 - It results in an agreement

 - It has virtually eliminated public sector strikes

Interest Arbitration - Public Act 312 of 1969 (MCL 423.231 *et seq.*)

- Concerns

- It takes budgeting control from the elected officials

- It often results in lengthy delays to complete the process

- It can be expensive

- It often results in split decisions and balancing

Interest Arbitration - Public Act 312 of 1969 (MCL 423.231 *et seq.*)

- Concerns

Not always foster serious bargaining because of chance to win in arbitration

Often not enough deference paid to local community standards

Interest Arbitration - Public Act 312 of 1969 (MCL 423.231 *et seq.*)

- Wisconsin uses a baseball type approach - winner takes all

Theory being the more at risk, the less likely either side will risk much

The Future of Public Safety in Recessionary Times

- Hard decisions will have to be made by state and local elected officials
- Public Safety often the largest budget item for those governmental units maintaining services
- Consolidation of services, or contracting for services likely to become increasing trend
- Contracting out police, fire or dispatch services may still require bargaining