



michigan municipal league

MEMO

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To: Interested Parties
From: Samantha Harkins
Date: May 6, 2009
Re: PA 312 Talking Points

Talking Points:

- The budget and reforms are being negotiated now.
- Local government is called on to make reforms.
- Human resources account for more than 75% of the costs of a municipality, and over 50% of that is typically for public safety. PA 312 prevents locals from controlling their own costs.
- Proper wages and benefits for our police and firefighters is a priority for your community but mandatory binding arbitration under PA 312, as well as the threat of being taken to PA 312, are barriers to fiscal efficiency for local leaders.
- PA 312 needs proper guidelines for arbitrators and needs to make more sense.
- Changes for PA 312 needs to be included in the negotiations as one of the reforms on the table.



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MML recommendations:

1. Ability to Pay - The communities' ability to pay an award is at the heart of the problem. Ability to pay should be given greatest weight in a decision, and arbitrators should be compelled to consider the following:

- the total economic cost of an arbitrator's award cannot exceed the total percentage of increase of the local units' General Fund Revenue (excluding re-appropriation of fund equity) or the Consumer Price Index, whichever is less
- consider the impact on the community of any award over a minimum five year period from the date of the award
- prohibit from considering unused millage or assessment capacity
- require consideration of all liabilities whether or not they appear on the balance sheet of a local government (i.e. GASB 45)
- Prohibit changing the priorities of a local government by specifying funds previously identified for a different governmental purpose.

2. Internal Comparables – require arbitrators to place more significance on internal comparables than external ones when rendering a decision to better reflect the local ability and willingness to pay employees, capture the mood and spirit of the community, and demonstrate what a community feels is appropriate to pay all of its employees.

3. Comparable Communities - provide that “comparable communities” means communities with similar characteristics (i.e. organizational structure, population, taxable value (TV), TV per capita, number of employees subject to binding arbitration

4. Pensions and Retiree Health Care – Prohibit awards that change pensions or retiree health care and result in an increase in the unfunded accrued liability of a local unit.

5. Catastrophic Event – Many times a community is faced with a catastrophic economic event that dramatically changes its financial viability. When a community is forced to abide by the decision of an arbitrator and a catastrophic economic event occurs, the parties should be able to return to arbitration to reconsider the economic facts. This would only apply to awards, and not negotiated agreements.



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Senate Legislation (See Bill Summary):

- Good - Places ability to pay of community with greatest weight of arbitrator and mediator decision, but doesn't give explanation of ability to pay (as MML requested)
- Bad – doesn't list internal comparables in decision consideration factors (MML requested internal comparables be added with high weight)
- Good - Retroactive decisions limited to 60 days
- Increases power and responsibility of mediator
 - o Good – prevent issues from going to arbitration
 - o Bad – cost of doing serious mediation; not as many arbitrators
- Allows losing party to pay legal fees to winning party
 - o Good – will ensure proposals are serious and lessen points going to arbitration
 - o Bad – could put community on hook for big payout of union bills
- Shortens timeframes and doesn't allow for parties to stipulate to extensions
 - o Good – ensures mediations and arbitrations happen in short time frame and prevents excessive retroactive decisions
 - o Bad – could hamper process because mediators/arbitrators and municipal attorney's have tight schedules and may need more time
- Allows only decisions not agreed to in mediation to go to arbitration
 - o Good – limits issues to deal with in arbitration, and prevents last-minute issues
 - o Bad – prevents issues that may arise and need to be addressed at the last minute
- Both parties equally share cost of mediation and cuts state out of payments
 - o Good – allows mediator/arbitrator to be paid what parties want (pay for quality)
 - o Bad – eliminates state from having to contribute anything