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Pittsburgh Police Residency: A Recap and a Look Ahead

Summary: The state’s highest court has overturned a lower court ruling on a 2014 arbitration award regarding a requirement that police be residents of the City. As a result of the ruling, instead of being required to reside in the City of Pittsburgh to be employed as a Pittsburgh police officer, the area of residence will be within a 25 air mile radius from the City County building in Downtown Pittsburgh.

As what was most likely the last stop in the dispute over where Pittsburgh police officers are allowed to reside, the Pennsylvania Supreme Court on May 22nd began its 18 page opinion by noting it was going to “...consider whether a home rule municipality may amend its home rule charter to eliminate mandatory subjects of bargaining as defined by...Act 111 [the 1968 law that outlines binding arbitration for police and fire employees]”.

Until October of 2012, language in the Second Class City Code required police officers to move into the City and live there while employed as a police officer. The General Assembly amended that language to change “shall” to “may” in terms of the City’s ability to mandate residency within City boundaries. Due to language in the collective bargaining agreement between the City and the police union that allowed for a reopener should the statute change, the issue was bargained on, could not be resolved, and went to arbitration. Soon after, prompted by an action by City Council, the City electorate approved an amendment to its Charter to require residency for all employees in November of 2013. In 2014, the arbitration panel announced its decision to allow a new area of residency of 25 air miles (the radius) for police.

Three court decisions followed. In July of 2014 Allegheny County Common Pleas Court upheld the arbitration award, noting that language in the Home Rule Charter Law prohibited the City from limiting or enhancing powers granted by statutes of general application—specifically, Act 111. In January of 2016 the Commonwealth Court reversed the Common Pleas decision, holding that the Charter amendment had the force of a state statute. Interestingly and somewhat surprisingly, in so doing the Court overruled a 2002 decision it had reached regarding the City of Wilkes-Barre which in part

stated “When Act 111 applies; neither a home rule charter, nor enactment by a home rule municipality may change the ability to bargain about residency”.

An appeal of that decision brought the issue to the Supreme Court, which had to decide in favor of *either* the police union’s argument (“...the charter provision requiring domicile within the City limits violates [language in the Home Rule Charter Law]) *or* in favor of the City’s argument (“...where a home rule charter provision establishes a residency requirement, the subject of residency is removed from the collective bargaining requirements of Act 111”). The Court ruled in favor of the police union’s position, reversing the Commonwealth Court decision, and reinstating the award of the arbitration panel. To wit; “[The Home Rule Charter Law] says that a municipality may not limit ‘powers granted by statutes which are applicable in every part of this Commonwealth’. Accordingly, the City’s ability to remove a subject of collective bargaining created by Act 111 is preempted” the opinion noted at its conclusion.

So what happens next? Obviously there are both short- and long-term implications. According to the City’s Personnel Department, 888 police employees would be eligible to leave the City and reside within the radius (there are 1,055 police bureau employees in the 2017 budget). News articles noted that some officers established residency outside the City after the 2014 arbitration award and prior to the court proceedings.

When we wrote about the police residency issue in 2012 following the approval of the amended language in state law (see *Policy Brief Volume 12, Number 53*) we asked two questions. First, will there be a mass exodus of police officers seeking to establish residency outside the City? Second, will other bargaining units ask for the permission to live outside the City?

To the first question, which addresses police officers who now have the freedom to locate in a wider area, a lot will depend on their housing situation (whether they currently own a house or rent), available housing stock in the wider residency area where the officer may decide to relocate, family situation, etc. The head of the City’s police union predicted a “steady exodus” in a news article following the Supreme Court decision. Much will depend on motivation for the officers to move. Are the schools an issue because children of police might be picked on or bullied? Is it taxes? The municipal wage tax is paid in the community where one lives, not where the job is. Other factors regarding family security might be in play as well.

In order to examine a somewhat comparable situation, we revisit something we wrote in the 2012 *Brief* as it applies to Philadelphia. In 2012, the collective bargaining agreement allowed officers who had at least five years of employment with the Philadelphia Police Department to relocate outside the City. Officers who had participated in a deferred retirement plan could also move outside the City’s boundaries. According to Philadelphia’s Human Resources Department, currently 1,058 uniformed police employees (just over 16% of the total 6,467 uniformed employees) reside outside of the City. Based on the data provided in 2012 (about 3% of 6,600 uniformed police employees lived outside of Philadelphia) the percentage has significantly increased in the

last five years. Living outside of Philadelphia but working in the City translates to a slightly lower wage tax (3.47%) than residing and working in the City (3.9%). Thus, the wage tax is less of an incentive to move for Philadelphia police than Pittsburgh police.

As to the second question, our 2014 report provides some illumination. Pittsburgh police will have the ability to be outside the City, while non-uniformed and fire personnel will still be residing within. In eleven of the municipalities we surveyed there were different residency requirements for different types of employees. Typically, police were permitted to reside outside of the municipality within a certain distance or had no residency requirement while non-uniformed employees were required to live in the municipality. Whether this caused or causes friction between bargaining units or those required to live in the municipality have made efforts to change their residency requirement is unknown. How Pittsburgh's other employees will handle this situation in collective bargaining will be seen in the coming years.

The City will have to change references to residency, some of which have already been completed. Current City Code language (181.02) and the Home Rule Charter (Section 711) require all employees to "...maintain their domicile within the City throughout their terms of employment with the city." That will have to be amended to reflect the Court's ruling and the state's Home Rule Law limitations on ordinances and the City's Home Rule Charter. The Personnel Department's policies on "Employee Verification Statement of Legal Residence and Domicile" and "Acceptable Documents to Verify Legal Residence and Domicile" now note that "police union officers are permitted to live within a 25 air mile radius of the City-County building".

Eventually, as current employees separate from the Pittsburgh police force replacement workers can be hired from areas outside the City boundaries (as is the case now) with residency having to be established within the radius. This could also allow for police employees of other municipalities to seek employment with Pittsburgh without having to change residency so long as they are in the radius.

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