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CLIENT UPDATE

**PUBLIC ACT EXPANDING ELIGIBILITY FOR MANDATORY ARBITRATION
UNDER PA 312 TO CORRECTIONAL OFFICERS AND
CERTAIN EMERGENCY DISPATCHERS**

Public Act 312 of 1969 (MCL 423.231, *et seq.*, “Act 312”) established a procedure to address impasse in bargaining between public employers and their public safety unions (police or fire). Mandatory binding arbitration is a critical part of the collective bargaining process. The arbitration panel is comprised of three members: one delegate from the union, one delegate from the employer, and one assigned by the Michigan Employment Relations Commission (MERC). For economic issues (i.e., wage, benefits), each party submits their last and best offer to the arbitration panel, and the panel is required to choose one or the other. For non-economic issues (i.e., work schedule, selection of vacation days, etc.), each party submits their request, and the arbitrator may issue an award that represents a compromise. The appointed MERC arbitrator must consider a County’s ability to pay, external and internal comparable contracts and the merits of each party’s positions. The outcome is uncertain, and the process is long and expensive, and to be avoided if possible.

Act 312 has been amended several times since 1967. This update explains the most recent amendment, Public Acts 171 of 2023, which includes two new categories of employees and **went into effect on January 22, 2024**:

1. **Corrections officers** who were previously not subject to Act 312 are now covered. The new definition of “public police or fire employee” adds coverage for “. . . a corrections officer employed by a county sheriff in a county jail, work camp, or other facility maintained by the county and that houses adult prisoners. . .” MCL 423.231(1)(d), *as amended*. This represents a significant change in Act 312. Any collective bargaining agreement with corrections officers which expires on or after January 22, 2024, will be subject to the mandatory binding arbitration described above. Please note that this does not apply to facilities housing juvenile offenders, or CBAs which expire prior to January 22, 2024.
2. Act 312 previously included “**emergency telephone operator[s]**, but only if directly employed by a public police or fire department” and specifically excluded them if they were “employed by a 911 authority or consolidated dispatch center.” MCL 423.232(1)(c). The amended Act 312 defines an emergency telephone

operator as including “a person employed by a police or fire department for the purpose of relaying emergency calls to police, fire, or emergency medical service personnel.” It goes on to state that Act 312 does not apply to an emergency telephone operator “employed by a 9-1-1 authority or consolidated dispatch center.” The difference between the new language and the old language is subtle and may have been intended to be a clarification. Act 312 continues to apply to emergency dispatchers who are directly employed by a police or fire department, and not to other emergency dispatchers. The legislative fiscal analysis makes no mention of any change for emergency telephone operators.

There are other changes in the act which do not directly implicate county services. Please do not hesitate to contact Bonnie Toskey (btoskey@cstmlaw.com) or Matt Nordfjord (mnordi@cstmlaw.com) if you have any questions.

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