

PUBLIC EMPLOYEES RELATIONS BOARD
STATE OF OKLAHOMA

FILED

DEC 19 2008

Public Employees Relations
Board

AMERICAN FEDERATION OF STATE,)
COUNTY AND MUNICIPAL EMPLOYEES)
UNION, LOCAL 3894,)

Complainant,)

vs.)

THE CITY OF LAWTON, OKLAHOMA,)

Respondent.)

Case No. M010-PPC

ORDER

This matter came on for hearing before the Public Employees Relations Board (the "Board") on the 11th day of December, 2008, on the Motion to Dismiss filed by the Respondent City of Lawton, Oklahoma (the "City"). The City appeared by and through its attorneys, Timothy E. Wilson and John Vincent. The American Federation of State, County and Municipal Employees Union, Local 3894 (the "Union") appeared by and through its attorney, Douglas D. Vernier.

The Union brought the present Prohibited Practice Charge:

On August 1, 2008, the City unilaterally began withholding increased amounts from employees' paychecks to go into the City's retirement/pension fund without an agreement or any authorization. This increase was also implemented without bargaining with the Union. Pension contributions are a mandatory subject of bargaining and said unilateral change constitutes a Prohibited Practice Charge under Sections 51-208(B)(1) and (5) of the Municipal Employees Collective Bargaining Act.

The City moved to dismiss the Prohibited Practice Charge on the grounds that the Board lacks jurisdiction over the subject matter. The City contends that the issue of whether the parties are required to bargain over the amount of employee pension contributions or whether the City has the

authority to unilaterally set pension contributions requires a declaratory judgment ruling on the relationship of 11 O.S. §§48-101 to 48-106 with 11 O.S. §51-207, something which is beyond the authority of the Board.

Section 51-204 of the Municipal Employees Collective Bargaining Act ("MECBA") provides that the Board shall administer the provisions of this act. Section 51-207(A) of MECBA states that the municipal employer and an employee organization shall negotiate in good faith with respect to wages, hours, and other terms and conditions of employment. It is a prohibited practice for a municipal employer to "[i]nterfere with, restrain or coerce municipal employees in the exercise of rights granted by this act" and to "[r]efuse to negotiate collectively with representatives of any employee organization which is an exclusive bargaining representative as required in this act." 11 O.S. §51-208(1) and (5). Here, the Prohibited Practices Charge alleges a violation of MECBA; therefore, the Board does have subject matter jurisdiction.

The Board finds that the City's Motion to Dismiss should be, and is hereby, DENIED.

Dated: December 19, 2008



Craig W. Hoster, Chair
Public Employees Relations Board

By unanimous vote. Chair Craig W. Hoster presiding. Members Larry W. Gooch and Linda Samuel-Jaha present and voting.