

Sullivan, J.P., Rosenberger, Rubin, Nardelli, Williams, JJ.

58412 The City of New York, et al.,
Plaintiffs-Respondents,

Paul A. Crotty

-against-

Patrolmen's Benevolent Association of the City
of New York, Inc. ("PBA"), et al.,
Defendants-Appellants

James J. Lysaght

-and-

Elliot I. Susser

The New York State Public Employment Relations
Board ("PERB"), et al.,
as Necessary Party
Defendants-Respondents,

Gary Johnson
Victoria A. Donoghue

-and-

Dennis C. Vacco, etc.,
Intervenor-Appellant,

John P. Dellera

Judgment, Supreme Court, New York County (Marylin Diamond, J.), entered April 15, 1996, which denied defendants-appellants, motion to dismiss the complaint, granted plaintiffs, cross-motion for summary judgment, and declared Chapter 13 of the Laws of 1996 unconstitutional on the ground it violates the Home Rule provision of the State Constitution and that BCB continues to have exclusive jurisdiction over collective bargaining impasses between the City and its police officers, unanimously affirmed, without costs.

The court properly declared chapter 13 of the Laws of 1996 unconstitutional as violative of the Home Rule provision of the New York State Constitution (article IX, §2[b][2] since it was

enacted without a Home Rule message. Contrary to the PBA's contention, chapter 13, §1 is a "special law, applicable only to New York City and not to all other cities, as it makes PERB procedures applicable to disputes between the City of New York and its police union, while leaving intact the right of other localities to opt out of PERB jurisdiction and resolution procedures (Civil Service Law §209) by creating their own mini-PERBs (Civil Service Law §212). Chapter 13, §2 amended Civil Service Law §209(2) and (4) by repealing the City's exemption from PERB and its impasse procedures. A Home Rule message was essential to the constitutional validity of chapter 13 since the statute did not serve a substantial State concern (see, Adler v. Deegan, 251 NY 467). The organization, operation and administration of a municipal uniformed force such as the police department, including terms and conditions of employment such as hours, shifts, overtime, seniority, vacations, are clearly matters of local concern, thus requiring a Home Rule message (see, Matter of Osborn v. Cohen, 272 NY 55, 60). The court also properly held that there was no logical rationale to deem such matters to be of State interest merely because they pertained to police officers.

We agree with the IAS court that the statute would not result in peaceful labor negotiations, and that the ability of other municipalities to opt out of PERB prevents the stated

legislative goal of uniformity.

We have considered appellants, remaining arguments and find them to be without merit.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: SEPTEMBER 12, 1996

Catherine O'Hagua Wolfe
CLERK