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Recommended Citation
Jeffrey Hantz, Article III, Section 32 of the Pennsylvania Constitution Requires the General Assembly to Draft Laws that Promote a Legitimate State Interest or Public Value, and Any Classification Must Be Reasonably Related to Accomplishing that Articulated State Interest or Public Value: Pennsylvania Turnpike Commission v. Commonwealth, 45 Duq. L. Rev. 97 (2006).
Available at: https://dsc.duq.edu/dlr/vol45/iss1/6

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Article III, Section 32 of the Pennsylvania Constitution Requires the General Assembly to Draft Laws That Promote a Legitimate State Interest or Public Value, and Any Classification Must Be Reasonably Related to Accomplishing That Articulated State Interest or Public Value: Pennsylvania Turnpike Commission v. Commonwealth

CONSTITUTIONAL LAW — EQUAL PROTECTION — LABOR REGULATION — The Pennsylvania Supreme Court found the First-Level Supervisor Collective Bargaining Act unconstitutional for violating the ban on special laws regulating labor in article III, section 32 of the Pennsylvania Constitution.


On November 20, 2001, the Public Employee First-Level Supervisor Collective Bargaining Act (the “Act”)¹ was proposed in the Pennsylvania House of Representatives that would have required collective bargaining between public employers and their first-level supervisors.² The Act was intended to redefine the relationship between public employers and their first-level supervisors as set forth by the Public Employee Relations Act (“PERA”).³ While PERA permits collective bargaining between public employers and employees generally,⁴ section 1101.704 expressly exempts first-level supervisors⁵ from any such requirement.⁶

³ 43 PA. STAT. ANN. § 1101.101-.2301 (West 2006); Tpk. Comm'n, 899 A.2d at 1087.
⁴ 43 PA. STAT. ANN. § 1101.401. PERA defines “public employer” as follows: “Public employer” means the Commonwealth of Pennsylvania, its political subdivisions including school districts and any officer, board, commission, agency, authority, or other instrumentality thereof and any nonprofit organization or institution and any charitable, religious, scientific, literary, recreational, health, educational or welfare institution receiving grants or appropriations from local, State or Federal governments but shall not include employers covered or presently subject to coverage under the act of June 1, 1937 (P.L. 1168), as amended, known as the “Pennsylvania Labor Relations Act,” [or] the act of 1971 (P.L. 509), as amended. [In lieu of 43 PA. STAT. ANN. § 1101.401, effective Mar. 25, 2005].
⁵ 43 PA. STAT. ANN. § 1101.704. PERA excludes first-level supervisors from the definition of “public employer” in its collective bargaining provisions.
The original draft of the Act included a "Declaration of Policy" that stated the problem that the Act was intended to rectify. The Act was amended after being referred to the House Labor Relations Committee. The committee replaced the expansive language in the definition of "public employer" with "The Pennsylvania Turnpike Commission" and changed the title of the Act to its current title, "First-Level Supervisor Collective Bargaining Act." The "Declaration of Policy" was also removed. The House of Representatives passed the Act on June 12, 2002, and the Senate passed it on November 26, 2002. Pennsylvania Governor Mark Schweiker signed the Act into law on December 9, 2002, effective immediately. The Act mandated that
a single public employer, the Commission, must collectively bargain with its supervisors.15

In January 2003, Ernest Gigliotti, president of the International Brotherhood of Teamsters, AFL-CIO, Local 30 (“Local 30”), requested on behalf of the Commission’s first-level supervisors that the Commission engage in collective bargaining.16 The Commission said that it was not required to negotiate with Local 30 until six months before the start of its fiscal year.17 The Commission then petitioned for review of the validity of the Act to the Pennsylvania Commonwealth Court,18 arguing that the Act was unconstitutional special legislation in violation of article III, section 3219 of the Pennsylvania Constitution.20 Specifically, “the Commission sought declaratory judgment and injunctive relief to stay implementation of the Act.”21 Separate answers were filed by Local 30, the Pennsylvania Labor Relations Board, and the Pennsylvania Office of Attorney General.22 The Commission filed a motion for summary judgment, which was granted by a panel of the commonwealth court23 in a published opinion.24

Judge McGinley wrote the opinion of the commonwealth court.25 Applying the standard set forth in Curtis v. Kline,26 the commonwealth court sought to determine if the Act promoted a legitimate state or public interest, and if so, whether the classification was reasonably related to accomplishing that interest.27 The Commis-

15. The statute reads, “[i]t shall be the duty of the public employer and employee organizations representing first-level supervisors to settle all disputes by engaging in collective bargaining in good faith and by entering into settlements by way of written agreements and maintaining of the same.” 43 PA. STAT. ANN. § 1103.301. The Act’s definitions of first-level supervisor and supervisor are materially identical to the definitions of those terms contained in PERA. Tpk. Comm’n, 899 A.2d at 1089. See supra note 5.
17. Id. The Act provides that “[c]ollective bargaining shall begin at least six months before the start of the fiscal year of the public employer.” 43 PA. STAT. ANN. § 1103.302.
18. Tpk. Comm’n, 899 A.2d at 1089.
19. In pertinent part, the Pennsylvania Constitution provides:
The General Assembly shall pass no local or special law in any case which has been or can be provided for by general law and specifically the General Assembly shall not pass any local or special law:

7. Regulating labor, trade, mining or manufacturing.
PA. CONST. art. III, § 32(7).
21. Id.
22. Id. at 1090.
sion conceded that the Act likely promoted a legitimate state interest or public value because its implementation would give rise to meaningful labor relations. However, the crux of the Commission's dispute was that these policy arguments apply to any public employer, not just the Commission. The Commission also argued that the legislation was per se unconstitutional because it created a class of one. The commonwealth court agreed with the Commission, saying there is no rational reason to treat first-level supervisors employed by the Commission differently than those employed by any other public employer. Accordingly, the court granted the Commission's motion for summary judgment without addressing the Commission's contention that the Act was per se unconstitutional.

Local 30 asserted four arguments on appeal. First, it contended that the Commission did not meet its burden to demonstrate unconstitutionality. Second, Local 30 claimed that the Commission was a unique class of one, making it appropriate for experimentation with an alternative to PERA. Third, the General Assembly had afforded other publicly employed, first-level supervisors the right to collectively bargain. Finally, Local 30 claimed that there was no such thing as a per se unconstitutional statute.

The Commission made several arguments in response. It contended that the Act was a classic example of an unconstitutional special law and that the Commission's disparate treatment was not rationally related to the Act's purpose. Additionally, the Commission claimed that it did not warrant disparate treatment regarding labor relations. Finally, the Commission claimed that there was no evidence showing that the Act was part of a pilot

28. Id.
29. Id.
30. Id.
31. Id. at 927.
33. Id. at 927 n.9.
35. Id.
36. Id.
37. Id.
38. Id. at 1091-92.
40. A special law is one which either has a closed class of one or classifies in an unnecessarily restrictive way. Chalmers v. City of Philadelphia, 95 A. 427 (Pa. 1915).
41. Tpk. Comm'n, 899 A.2d at 1092.
42. Id.
program or, alternatively, it argued that the Act was unconstitutional per se.\textsuperscript{43} Justice Castille delivered the opinion for the Pennsylvania Supreme Court.\textsuperscript{44} After recognizing that a challenge to the constitutionality of a statute requires plenary, non-deferential review,\textsuperscript{45} he explained that the Commission faced a heavy burden of persuasion,\textsuperscript{46} insofar as legislation passed by the General Assembly is presumed to be valid and constitutional.\textsuperscript{47} The court analogized the constitutional provision at issue to the federal principles of equal protection under the law,\textsuperscript{48} recognizing that the same analysis was required.\textsuperscript{49} However, Justice Castille highlighted the Legislature's ability to classify different entities in spite of equal protection, as long as the classification is for the purpose of the health, safety and welfare of the community.\textsuperscript{50} After analyzing the "Declaration of Policy" from the original version of the Act, the court was unable to determine how the Act would prevent injury to the public.\textsuperscript{51} In fact, Justice Castille noted that PERA did not allow first-level supervisors to strike and, even if it did, first-level supervisors do not collect the tolls or maintain the roads and are thus not necessary for the public to be able to drive on the Pennsylvania Turnpike.\textsuperscript{52}

The court was equally dismissive of Local 30's other arguments.\textsuperscript{53} Justice Castille noted that it was possible that the Act was part of an incremental approach to correct problems of Commonwealth-wide concern.\textsuperscript{54} While the General Assembly was permitted to take this approach, it could not do so by creating special legislation in violation of the Pennsylvania Constitution.\textsuperscript{55} Also, while the Legislature had passed other laws that dealt with other

\textsuperscript{43} Id. at 1092-93.
\textsuperscript{44} Id. at 1086. Justices Newman, Saylor, Eakin, Baer, and Baldwin joined in the majority opinion authored by Chief Justice Cappy. Id.
\textsuperscript{46} Tpk. Comm'n, 899 A.2d at 1094 (citing Zogby, 828 A.2d at 1087-88).
\textsuperscript{47} Id. (citing Commonwealth v. Mockaitis, 834 A.2d 488, 497 (Pa. 2003)).
\textsuperscript{48} See U.S. CONST. amend. XIV, § 1 ("No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.").
\textsuperscript{49} Tpk. Comm'n, 899 A.2d at 1094.
\textsuperscript{50} Id. (citing Zogby, 828 A.2d at 1088) (stating that principles of equal protection do not "prohibit differential treatment of persons having different needs").
\textsuperscript{51} Id. at 1095-96.
\textsuperscript{52} Id. at 1096.
\textsuperscript{53} Id.
\textsuperscript{54} Tpk. Comm'n, 899 A.2d at 1097.
\textsuperscript{55} Id.
employers and purported to have the same effect as the Act, employers and purported to have the same effect as the Act,56 these laws were distinguishable and had not yet been challenged in the court.57 Justice Castille concluded this portion of the opinion by making the assumption that there may be a legitimate state interest behind the Act.58 However, with no distinctions between the first-level supervisors of the Commission and other publicly employed first-level supervisors, the Act did not pass constitutional muster.59

In the alternative, the court addressed the issue of per se unconstitutionality.60 After discussing the background of the argument,61 Justice Castille concluded that previous mentions of a per se unconstitutional standard were not dicta.62 The court noted, "where a decision rests on two or more grounds equally valid, none may be relegated to the inferior status of obiter dictum."63 Because the Act applied only to the Commission, the court noted this was a clear example of a class of one, concluding that the Act was per se unconstitutional.64

Justice Saylor had previously noted that, "[i]n the seven years before the Constitution of 1874 was adopted, the General Assembly enacted 8755 local or special acts and only 475 general laws."65 These local or special acts were seen as prejudicial to similarly situated people or locations as compared to those who benefited from the local laws.66 With this background in mind, article III,
section 32 was not added to the Pennsylvania Constitution of 1874 to prohibit the General Assembly from enacting limited measures as part of a series of legislation intended to improve similarly situated people or locations.\textsuperscript{67} Rather, the entire purpose of adding the ban on special legislation was to end the pervasive favoritism that existed in the General Assembly.\textsuperscript{68} There was no fear of excess legislation.\textsuperscript{69} Simply stated, if there is a situation worthy of legislation, such legislation should be general and apply, without distinction, to all similarly situated individuals or locations.\textsuperscript{70}

The Pennsylvania Supreme Court has expressly distinguished general and special legislation.\textsuperscript{71} In the broadest sense, a law is general where it affects every person who is brought within the relations and circumstances provided for in that law.\textsuperscript{72} More specifically, a law is general when it is based on a valid legislative classification.\textsuperscript{73} The classification may not be arbitrary or enacted solely for the purpose of evading constitutional requirements.\textsuperscript{74} Moreover, there must be a valid state interest in creating the classification.\textsuperscript{75} On the other hand, if there is a closed class of one, the law is special.\textsuperscript{76} Where a classification is unnecessarily restrictive or improperly selected, the law is special, even though the subject of the legislation demands separate laws for separate classes.\textsuperscript{77}

Article III, section 32 was first interpreted by the Pennsylvania Supreme Court in \textit{Wheeler v. City of Philadelphia.}\textsuperscript{78} There, the court held that even though Philadelphia was in a class of one, the class was not closed, which made the classification valid.\textsuperscript{79} This

\textsuperscript{67} Id.
\textsuperscript{68} Id.
\textsuperscript{70} Id.
\textsuperscript{73} Hickok, 761 A.2d at 1136.
\textsuperscript{74} Id.
\textsuperscript{75} Id.
\textsuperscript{76} Perkins, 27 A. at 359.
\textsuperscript{79} \textit{Wheeler}, 77 Pa. at 342 (holding a class of one is not necessarily unconstitutional if the class is open to other members).
rule was elaborated on by the court in *Haverford Township v. Siegle*.\(^80\) The Pennsylvania Supreme Court held that the General Assembly had the right to exclude members of a class from legislation when the law would be of no use to the excluded members.\(^81\)

In *Freezer Storage, Inc. v. Armstrong Cork Co.*, the Pennsylvania Supreme Court set forth the standard of review that is proper when a statute is challenged under article III, section 32.\(^82\) Courts may rely not only on stated bases for classifications, but may also consider any hypothetical reason that can serve to verify the constitutionality of the classification.\(^83\) The court entertained several valid reasons for the classification and upheld the statute.\(^84\) When a basis for the classifications is sought, the actual intent of the Legislature is irrelevant.\(^85\) As long as the court can hypothesize a rational basis for the distinctions, the classification is valid.\(^86\) The court's conclusion in *Freezer Storage* was based on several cases which did, in fact, find that the General Assembly had valid reasons to classify people, businesses, and municipalities because of reasons the court thought of sua sponte.\(^87\) The

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80. 28 A.2d 786 (Pa. 1942). The statute at issue in *Haverford* imposed regulations on police barracks in townships of a certain population that employed more than three police officers. *Haverford*, 28 A.2d at 787. The Township argued that classifications must be based on population because article III, section 34 of the Pennsylvania Constitution permitted the Legislature to classify according to population. *Id.* The Pennsylvania Supreme Court held that expressly granting one type of classification did not exclude others. *Id.* at 790.

81. *Haverford*, 28 A.2d at 786. The court found that "[a] township having one or two or no police officers would be justified in objecting strenuously to the expense and inconvenience of maintaining a complete system of police civil service which would have no function to perform." *Id.* at 788. The exclusion was found to be reasonable and necessary. *Id.*

82. *Freezer Storage*, 382 A.2d 715, 718 (Pa. 1978). The statute at issue in *Freezer Storage* created a distinction between engineers, architects, builders and others involved with land improvement, to which the statute did not apply. *Freezer Storage*, 382 A.2d at 718. The statute limited liability for injuries attributable to builders to twelve years after completion of the project. *Id.*

83. *Freezer Storage*, 382 A.2d at 718.

84. *Id.* Builders differ in insurance pricing and structure, have no control over maintenance and may be liable under more theories than other parties involved in a land improvement project. *Id.*

85. *Id.*

86. *Id.*

87. *Id.* at 719. The Pennsylvania Supreme Court allowed a classification of open-pit coal mining because of higher environmental risks than other types of mining. DuFour v. Maize, 56 A.2d 675 (Pa. 1948). A state agency was permitted to withhold loans from nursing homes that did not reach certain safety standards because the court found the Legislature would want to promote higher safety standards. Tosto v. Pa. Nursing Home Loan Agency, 331 A.2d 198 (Pa. 1975). The court upheld a tax on domestic life insurance companies, which did not apply to domestic casualty insurance companies, because it hypothesized the tax could be rationally based on the different characteristics of the two types of insurance. Commonwealth v. Life Assurance Co., 214 A.2d 209 (Pa. 1965).
Pennsylvania Supreme Court concluded that, once a distinction is found to be valid, a reviewing court has no further discretion to examine the judgment of the General Assembly.\(^8\)

In 1992, the Pennsylvania Supreme Court reconsidered whether legislation that created a class of one should be struck down as unconstitutional in *Harristown Development Corp. v. Department of General Services.*\(^9\) The Right to Know Act and the Sunshine Act purported to require any nonprofit corporation that collected over $1,500,000 in rental income from the Commonwealth to make records and meetings of covered agencies public to all citizens of Pennsylvania.\(^9\) Harristown was the only nonprofit corporation collecting over $1,500,000 from the Commonwealth when it filed the suit, and it therefore claimed Act 153 was in violation of article III, section 32 of the Pennsylvania Constitution.\(^9\) In its decision, the court reiterated the Pennsylvania standard that “a classification of one member is not unconstitutional so long as other members might come into that class.”\(^9\) Concerning the requirement that there be a rational basis for classification, the court hypothesized that keeping track of the activities of corporations that supply that level of rental space to the Commonwealth is a very important interest and could serve as a rational basis for the classification.\(^9\) Because it was possible for another nonprofit corporation to join the class and there was a legitimate Commonwealth interest in creating the classification, the statute was upheld.\(^9\) Even though the Act was written with Harristown in mind, the class was not intrinsically closed.\(^9\)

Eight years after *Harristown*, the Pennsylvania Supreme Court held a law concerning civil servant promotions to be in violation of article III, section 32 in *DeFazio v. Civil Service Commission.*\(^9\)

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12. Id. at 1132 n.9.
13. Id.
14. Id. at 1129.
15. Id.
16. 756 A.2d 1103 (Pa. 2000). The Act in question provided:

    Whenever a vacancy is likely to occur or is to be filled in a permanent position in the office of sheriff, the sheriff shall submit to the civil service commission a statement indicating the position to be filled. The civil service commission shall thereupon certify to the sheriff the names of the three eligibles willing to accept appointment who are highest, according to the results of the written examination, on the appropriate promotion list or employment list, whichever is in exis-
This Act applied only to sheriffs in counties of the second class, of which Allegheny County is the only county. 97 "Sheriffs of second class counties" was a new classification. 98 Allegheny County Sheriff DeFazio sought to enjoin the county from enforcing the hiring policies and limits on political activities. 99 The attorney general argued that the Act was constitutional because of the unique characteristics of the Allegheny County Sheriff's Office. 100 While recognizing the General Assembly's ability to differentiate among the counties of the Commonwealth, the court stated that "[p]lainly such a subclassification bears no relationship either to the distinction of Allegheny County as a county of the second class or any unique function of the office of county sheriff." 101 The Allegheny County Sheriff became the only county official in Pennsylvania lacking discretion to hire, promote or terminate his employees. 102 Because the court could not discern any rational reason for this differential treatment, the Act was held unconstitutional. 103

Later in 2000, the Pennsylvania Supreme Court validated a statute that implicated article III, section 32 in *Harrisburg School District v. Hickok*. 104 The court, following *DeFazio*, recognized that the General Assembly may create classifications when "those classifications are reasonable rather than arbitrary and bear a reasonable relationship to the object of legislation." 105 The Act in question was then ruled unconstitutional, because there was no
rational basis for treating the students of the Harrisburg School District differently than other students in similarly failing educational systems.\textsuperscript{106} Despite this holding, the General Assembly was determined to improve the failing Harrisburg School District.\textsuperscript{107} Therefore, the Act in question in \textit{Hickok} was amended.\textsuperscript{108} The new class still had only four members: Harrisburg, Allentown, Erie and Reading.\textsuperscript{109} The commonwealth court declared the amendment unconstitutional for the same reasons as the original version.\textsuperscript{110} The Pennsylvania Supreme Court reversed, holding that the new classification was "reasonably related to the Commonwealth's legitimate interest in, and the General Assembly's constitutional duty to ensure, the existence of a thorough and efficient system of public education."\textsuperscript{111}

While it is very unlikely that the outcomes of any of these cases would be different today than they were when they were decided, the method of deciding them has evolved since the language of article III, section 32 was first added to the Pennsylvania Constitution. The original test was simply whether the act in question had a classification that was open to more than one member and more than one location in the Commonwealth.\textsuperscript{112} The courts later explained that people and locations may be excluded from valid classifications if the legislation and policy to be furthered by the restriction do not apply to those potential class members.\textsuperscript{113}

Nearly a century after the appearance of article III, section 32, the Pennsylvania Supreme Court expanded its method of deciding the constitutionality of acts challenged under it.\textsuperscript{114} When a basis for classifications in an act of the General Assembly is sought, courts are free to supply their own rationale behind the legislation, and the actual subjective intent of the General Assembly is irrelevant.\textsuperscript{115} If the Legislature creates a class that is forever limited to one member, it is per se unconstitutional.\textsuperscript{116} Finally, if the

\begin{itemize}
  \item \textsuperscript{106} Id. at 1136.
  \item \textsuperscript{107} Harrisburgh Sch. Dist. v. Zogby, 828 A.2d 1079, 1083 (Pa. 2003).
  \item \textsuperscript{108} Zogby, 828 A.2d at 1083. The statute now applies to schools with "a history of extraordinarily low test performance which is coterminous with a city of the third class that has opted under the 'Optional Third Class City Charter Law' or 53 Pa.C.S. Pt. III Subpt. E." 24 Pa. Cons. Stat. § 17-1707-B.
  \item \textsuperscript{109} Zogby, 828 A.2d at 1084.
  \item \textsuperscript{110} Id. at 1086.
  \item \textsuperscript{111} Id. at 1091.
  \item \textsuperscript{112} Wheeler v. City of Philadelphia, 77 Pa. 338, 342 (1875).
  \item \textsuperscript{113} Haverford Twp. v. Siegle, 28 A.2d 786 (Pa. 1942).
  \item \textsuperscript{114} Freezer Storage, Inc. v. Armstrong Cork Co., 382 A.2d 715, 718 (Pa. 1978).
  \item \textsuperscript{115} \textit{Freezer Storage}, 382 A.2d at 718.
  \item \textsuperscript{116} Harristown Dev. Corp. v. Dep't. of Gen. Servs., 614 A.2d 1128, 1132 n.9 (Pa. 1992).
\end{itemize}
classification has no relationship to the policy sought to be furthered by legislation, the act will be held unconstitutional.\textsuperscript{117}

The Pennsylvania Supreme Court consistently applied all of these principles in \textit{Pennsylvania Turnpike Commission v. Commonwealth}.\textsuperscript{118} The class had only one member, the Pennsylvania Turnpike Commission.\textsuperscript{119} A reading of \textit{Wheeler}\textsuperscript{120} and \textit{Haverford}\textsuperscript{121} would support declaring the Act unconstitutional special legislation as soon as this determination is made, so long as there is a base understanding that the Commonwealth would benefit from constructive labor relations between all public employers and their first-level supervisors.

However, this factor alone is not sufficient to declare an act of the General Assembly unconstitutional under article III, section 32. When the classification includes the Pennsylvania Turnpike Commission and excludes everyone else, the court should, as it did in the instant case, analyze whether or not the policy and the method of enforcing the act apply to the excluded class.\textsuperscript{122} When making this determination, the court used the original “Declaration of Policy” that accompanied the Act.\textsuperscript{123} The court could have hypothesized any valid policy reason behind the Act pursuant to \textit{Freezer Storage},\textsuperscript{124} but it was unable to discern any valid reason not stated in the original “Declaration of Policy.”\textsuperscript{125} While the Act stated that the overall policy of the Commonwealth was to promote harmony in the labor relationship between first-level supervisors and their public employers, perhaps the General Assembly intended to promote a slightly different policy by the time the final version of the Act became law.

A plain language reading of the Act confirms the idea that the policy championed by the Legislature was to promote harmony in the labor relations between the Pennsylvania Turnpike Commission and all of its employees.\textsuperscript{126} Additionally, the Commonwealth surely would wish to support avoiding a shutdown of the operations of the Pennsylvania Turnpike.

\begin{thebibliography}{9}
\bibitem{DeFazio_v._Civil_Serv._Comm'n} DeFazio v. Civil Serv. Comm'n, 756 A.2d 1103, 1106 (Pa. 2000).
\bibitem{899_A.2d_1085} 899 A.2d 1085 (Pa. 2006).
\bibitem{Tpk._Comm'n_899} 899 A.2d at 1088.
\bibitem{Haverford_Twp._v._Siegle} Haverford Twp. v. Siegle, 28 A.2d 786 (Pa. 1942).
\bibitem{Haverford_28_A.2d_786} 28 A.2d at 786.
\bibitem{Tpk._Comm'n_899} 899 A.2d at 1088.
\bibitem{Tpk._Comm'n_899} 899 A.2d at 1095.
\bibitem{Id._at_1088} Id. at 1088.
\end{thebibliography}
be futile in most courts, but, as the court correctly concluded, it is not the policy alone that determines whether legislation will be held constitutional when challenged under article III, section 32.\textsuperscript{127} Even if a valid policy failed to be fulfilled in this case, the public at large would not be harmed. As the court correctly noted, a failure in labor relations between the Turnpike Commission and its first-level supervisors would probably never be noticed by the public.\textsuperscript{128} First-level supervisors oversee toll collectors and maintenance crews, but do not themselves collect tolls or maintain roads. Meaningful labor relations and continuance of normal turnpike operations are important, but the Act does not rationally support these policies. Even if the court did not look at the Act as broadly as it could have, its conclusion that the Act constituted unconstitutional special legislation was correct. Although the labor relationship between the Commission and its first-level supervisors would be more fair for both sides, there is no reason the same policy should not apply to all public employers. It is this distinction that would invalidate the Act even if it was rationally tied to a policy that promoted a legitimate state or public interest.

Ruling that the Act was unconstitutional, however, failed to ensure that first-level supervisors of the Turnpike Commission, or of any public employer, will have more constructive labor relationships with their employers. The Pennsylvania Supreme Court made it clear that any attempt to benefit only one public employer will fail, absent a compelling argument in support of the benefit to the Commonwealth.\textsuperscript{129} Part of the Commonwealth's argument in defense of the Act was that the Turnpike Commission was to be used as a pilot program to determine if the Act would be useful for other public employers.\textsuperscript{130} The General Assembly is permitted to attempt such a program, and perhaps this is the means by which the Legislature will achieve its goal of meaningful and constructive labor relations between public employers and their first-level supervisors. However, Justice Castille noted that any incremental approach may constitute special legislation.\textsuperscript{131}

In order to achieve its goal, the most efficacious approach for the General Assembly would be to pass the Act as it was originally drafted, applying it to all public employers and their first-level supervisors.

\textsuperscript{127} Id. at 1095-96.
\textsuperscript{128} Id. at 1096.
\textsuperscript{129} Id.
\textsuperscript{130} Tpk. Comm'n, 899 A.2d at 1092-93.
\textsuperscript{131} Id. at 1097.
supervisors. In doing so, the Legislature could avoid all of the problems that could cause a law to be determined special. Applying a law to every similarly situated public employer would create the exact situation the Framers of the Pennsylvania Constitution imagined when they required that every law be generally applied across the Commonwealth.

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