

STATE OF MINNESOTA
BUREAU OF MEDIATION SERVICES
IN THE MATTER OF INTEREST ARBITRATION BETWEEN

FARIBAULT COUNTY,

EMPLOYER,

ARBITRATOR'S AWARD

-and-

BMS Case No. 12-PN-1086

LAW ENFORCEMENT LABOR SERVICES,

Interest Arbitration

UNION.

ARBITRATOR:	Rolland C. Toenges
DATE OF BMS CERTIFICATION TO IMPASSE:	July 12, 2012
DATE ARBITRATOR NOTIFIED OF SELECTION:	December 19, 2012
DATE OF HEARING:	March 14, 2013
DATE OF POST HEARING BRIEFS:	March 29, 2013
DATE OF AWARD	April 3, 2013

ADVOCATES

FOR THE EMPLOYER:

Susan K. Hansen, Attorney
Madden, Galanter, Hansen, LLP
505 N. Highway 169, Suite 295
Plymouth, MN 5541-6444

FOR THE UNION:

Len McFarland, Business Agent
Law Enforcement Labor Services
327 York Avenue
St. Paul, MN 55130

ALSO PRESENT

William Groskreutz, Jr., County Commissioner
Tom Loveall, County Commissioner
Darren Esser, County Accountant
Brenda Ripley, Central Services Director

Steve Linde, Deputy Sheriff
Barry Meyers, Deputy Sheriff

ISSUES IN DISPUTE

2. **Wages for 2012.**
3. **Wages for 2013.**
5. **Health Insurance – Amount of Employer Contribution for 2012.**
6. **Health Insurance – Amount of Employer Contribution for 2013.**

ISSUES SETTLED BY THE PARTIES PRIOR TO HEARING

1. Duration of Agreement – 1012 and 2013.
4. Paid Time Off – increase maximum amount of PTO.
7. Uniforms – amount of allowance for 2012.
8. Uniforms – amount of allowance for 2013.
9. Training pay – amount of.

JURISDICTION

The instant matter came on for hearing pursuant to a determination by the Commissioner, Minnesota Bureau of Mediation Services (BMS), that the Parties had reached an impasse in their attempt to negotiate an agreement setting forth certain terms and conditions of employment for 2012 and 2013.

The Parties selected Rolland C. Toenges to arbitrate the issues in dispute and bring resolution to the matter.

Arbitration of the instant matter is being conducted in accordance with the provisions of the Minnesota Public Employment Labor Relations Act, as amended, 179A.01 – 179A.30 (PELRA). Under PELRA, 179A.16, the employees at issue are defined as “Essential Employees.” An impasse involving Essential

Employees is required to be resolved via compulsory binding arbitration, as Essential Employees are barred from conducting a work action.

A hearing on the issues at impasse was conducted on March 14, 2013 at the Faribault County Court House in Blue Earth, Minnesota. The Parties were afforded full opportunity to present evidence, testimony and argument bearing on the matters at impasse. Both Parties submitted voluminous binders in to evidence, containing documentation supporting their respective cases.

Being there was no request for other than conventional arbitration, the Arbitrator has the authority to award the final position of either party or, in the alternative, to fashion an award supported by the preponderance of evidence.

There was no request for a stenographic record of the hearing. The Parties agreed to submit Post Hearing Briefs on or before March 29, 2013.

BACKGROUND

Faribault County (Employer) provides a full range of county government services, including law enforcement. The employees at issue in the instant matter are members of the Sheriff's Department and are classified as Deputy Sheriff.

Law Enforcement Labor Services, Inc. (Union) is the certified representative of "all licensed essential employees in the Faribault County Sheriff's Department," which currently consists of seven (7) licensed Deputies.

The Parties have a lengthy history of collective bargaining and have resolved several previous impasse situations via arbitration. Their most recent Collective

Bargaining Agreement (CBA) was in effect from January 1, 2011 through December 31, 2011. The issues being arbitrated in the instant matter will be part of a CBA effective January 1, 2012 through December 31, 2013.

Although there were nine (9) issues certified at impasse by the Commissioner, Bureau of Mediation Services (BMS), the Parties had settled five (5) prior to the hearing. This leaves four (4) issues, involving wages and health insurance, subject to arbitration in the instant proceeding.

ISSUES TO BE ARBITRATED

ITEM #2, Wages for 2012 (Appendix A) – amount of general increase.

ITEM #3, Wages for 2013 (Appendix A) – amount of general increase.

ITEM #4, Health Insurance - 2012 amount of Employer contribution.

ITEM #5, Health Insurance – 2013 amount of Employer contribution.

FINAL POSITION OF THE PARTIES

UNION POSITION, ITEMS #2 & #3:

Increase in wage rates of two and one half percent (2 ½ %) over 2011 rates.

Increase in wage rates of two and one half percent (2 ½ %) over 2012 rates.

EMPLOYER POSITION, ITEMS #2 & #3:

Increase in wage rates of one and one half percent (1 ½ %) over 2011 rates.

No increase in 2012 wage rates for 2013.

THE UNION SUPPORTS ITS POSITION ON ITEMS #2 & #3 WITH THE FOLLOWING:

- The Union's position will cost approximately \$4,201.47 more than the Employer's position in 2012 and \$8,869.77 in 2013, for a total in both years of \$13,075.86.

- The costs shown by the County, which include overtime, holiday, Medicare, PERA and Worker's Compensation are beyond the issues certified and should not be considered.
- The Union's position is rationally based on the four traditional considerations generally used by Arbitrators to determine appropriate wage rates, and should be awarded:
 1. Ability to pay.
 2. Internal equity.
 3. External Market Comparisons.
 4. Cost of living and other economic forces.
- The bargaining history between the Parties supports the Union's position - going back to 1999 the annual wage increases have averaged 2.4%.
- Faribault County Deputies are significantly lower paid than other County employees in grade C-41.
- Faribault County has the ability to pay the Union's position.
- The Union's position costs only \$13,075.86 more than the County's position and is well within the County's ability to pay:
 1. For year ending 12/31/2011, the County had \$1,731,200 in unassigned funds.
 2. The County has deposits and investments of \$7,419,493 for 2011.
 3. The County's expenditures showed a final of \$3,149,402 vs. an actual of \$2,888,686, meaning the County spent \$260,716 less than the final expenditure amount.
 4. The County's revenues exceeded budgeted amounts by \$596,276 and general government expenditures were \$260,716 at the end of 2011.
 5. Public Safety expenditures alone were \$38,945 under budget.
 6. The County's total revenues for 2011 were \$7,726,360 vs. actual amount of \$8 322,636 for a total excess amount of \$596,276.

7. The County's County Program Aid (CPA) from the State of Minnesota was \$3,701,239 in 2011 and the same amount in 2012. The Governor's proposed CPA for the County is \$344,793 for 2013 and \$4,293.42 for 2014.
- The County has the ability to easily pay the Union's wage request out of unassigned funds alone.
 - The Union's wage proposals are fair and reasonable and should be awarded.
 - The Union's position is supported based on Pay Equity considerations:
 1. Faribault County was certified as being in compliance with the Pay Equity Act on July 28, 2013.
 2. The Union's wage position is not in conflict with Faribault County Pay Equity compliance.
 3. Faribault County non-union employees, in the same pay grade as Deputies (C-41) have a longer pay range (9 steps versus 6 for Deputies) and higher maximum rates.
 4. AFSCME members are moving in a pay range that gives them a wage increase even if they accepted a 0% general wage increase because they have eight steps.
 5. Deputies stop moving in their pay range at step six, while AFSCME members go to eight steps.
 6. Some of the AFSCME members receive 4% to 9.25% over the two years of their agreement while five of the seven deputies will only receive 1.25% over the two years, if the County's position is awarded.
 7. The CBA between Faribault County and AFSCME provides an eight-step pay range and higher maximum rates for employees in the same pay grade as Deputies (C-41).
 8. Even adding the Deputies \$1.00 per hour hazard pay to their top rate, they are still below AFSCME members and some non-union employees in grade C-41.

9. Most County employees who work above their scheduled hours 1,950 or 2080 receive overtime, while Deputies scheduled 2, 223 hours per year work at straight time.
 10. The Union's position is not only reasonable, but it is necessary to address this inequity.
 11. The County appears to be advocating whipsaw bargaining via the Arbitrator's power.
 12. To award the County's position would be rewarding the County for refusing to bargain fairly.
 13. There is no internal pattern for wage increases as the County representative claims.
 14. The IUOE settled their agreement based on different set of circumstances and benefits. Their three-year deal was for the general wage increase of 1% in 2011, .5% in 2012 and .75% in 2013.
 15. In addition to the seven Deputies at issue in the instant proceeding, 13 members of MNPEA have not settled for 2012 and 2013
- Regional and external labor market comparisons support the Union's position:
 1. Region 9 has been used in past arbitrations as an appropriate comparison group for Faribault County.
 2. Faribault County ranks seventh among the Region 9 Counties in population and seventh in tax capacity, but third in per-capita tax capacity.
 3. Faribault County Deputy wage rates are generally below the average of the Region 9 comparison group.
 4. Faribault Deputy starting pay in 2011 was 4% below average while top pay was 9% below the average Region 9 top pay.
 5. The County's wage position in 2012 and 2013 will place Deputies 9% below the Region 9 average starting wage and 9% below the average top

wage, placing Faribault County Deputies at the bottom of the comparison group.

6. The Faribault County Deputy pay range, being shorter than most of the Region 9 comparison group, causes it to increasingly fall below the Region 9 average for longer term employees.
7. Five of the Seven Faribault County Deputies are at step 6, top pay in grade C-41 in 2012.
8. Six of the Seven Faribault County Deputies are at step 6, top pay in grade C-41 in 2013.
9. No other County in Region 9 has accepted a 0% increase for 2012 and 2013.
10. The average wage increase in Region 9 for 2012 is 1.4% with range movement and 2% with range movement in 2013.
11. Faribault County Deputies are the only Deputies in Region 9 that work 2,223 hours at their base rate of pay.
12. Deputies in Sibley County work 2,184 hours at the base rate.
13. Deputies in all other Region 9 Counties work a regular 2080-hour schedule, except Sibley with 2,184, which means Faribault Deputies work straight time while other Region 9 Deputies receive overtime.
14. Simply because the County has created an arbitrary pattern, is not a justifiable reason for keeping the Deputies at salaries below their fair market value, or for offering an increase below the cost of living.
15. While it is true that Faribault County is the only county to pay severance based solely on years of service, every county in the region, except Faribault has a sick leave buyback plan and Martin County calls theirs severance.
16. While Faribault County has retiree health benefits, this benefit is set to sunset and only three of the seven Deputies are eligible. Further, this benefit has been in the budget for many years and should not be considered as a trade off for a lower wage or insurance award.

17. The Union's wage position of a 2.5% increase for 2012 and 2.5% for 2013 should be awarded because it is fair, reasonable and supported by market comparisons.
- Other economic forces support the Unions position:
 1. The cost of living (Consumer Price Index – Midwest Urban-size Class D) rose 3.4% on an annual basis for the year ending 2011 and 2.2% on an annual basis for the year ending December 2012.
 2. Anything less than a 2.8% increase will result in an erosion of employee purchasing power.
 3. The County has always granted general wage increases consistent with the Cost of Living, even during the "Great Recession "of 2009-2011. The total wage increase for this same period was 6.9%, while the CPI totaled 5.2%.
 4. To maintain its pattern of increasing wage rates based on the CPI, the County should be providing a wage increase that is three-quarters of a percent higher than the CPI ($5.2/6.9 = .75$) With a 2.0 CPI in 2012, this means that the wage increase for 2013 should be 2.75%.
 5. Typical wage increases from 1999 through 2011, several of which resulted from arbitration awards, are consistent with the Union's position for 2012 and 2013.

THE EMPLOYER SUPPORTS ITS POSITION ON ITEMS #2 & #3 WITH THE FOLLOWING:

- The County's position best represents the settlement the parties would have reached had they been able to do so through the collective bargaining process.
- The fundamental objective of interest arbitration is to formulate awards from the evidence which represents the agreement the parties would have ultimately reached, mindful of whatever influence a work stoppage might

theoretically have provided, had the parties been able to continue negotiating to a successful conclusion.

- In past interest arbitration at Faribault County, arbitrators have agreed with this principle.
- Just as it is the controlling consideration for voluntary settlements, the prevailing standard for determining issues in interest arbitration is internal consistency with the pattern of voluntary, negotiated settlements with the Employer's other bargaining units.
- The County's position is consistent with the pattern of internal settlements.
- Arbitrators place primary emphasis on internal consistency in recognition that the maintenance of a uniform pattern in compensation and benefits maintains labor relations stability, employee morale, avoids whipsaw bargaining and encourages unions to engage in serious, good faith bargaining, rather than resorting time after time to the costly process of interest arbitration.
- The economy is a factor given considerable weight by arbitrators in deciding economic items in interest arbitration.
- The County's position best reflects the economic realities faced by public sector employers in Minnesota caused by state and national economic conditions.
- PELRA requires arbitrators in interest arbitration proceedings to consider the "obligations of the public employers to efficiently manage and conduct their operations within the legal limitations surrounding the financing of these operations."
- An arbitrator's consideration of external settlements, to the detriment of the internal pattern, negatively impacts the ability of a jurisdiction to efficiently manage its own operations within its own financial limitations.
- The state, national and international economy continues to falter as a result of the recession that began in 2008 and continues today.

1. The recession in the State of Minnesota has been severe and has impacted government at all levels.
2. The dramatic decline in the economy that began in 2008 is anticipated to continue through 2013. What was predicted to be a short, mild recession has turned out to be a long, deep and painful recession.
3. The February 2012 State of Minnesota economic forecast was for a deficit of 1.103 billion dollars in the 2014-2015 biennium.
4. The February 2013 State of Minnesota economic forecast was for a deficit of \$625 Million for the 2014-2015 biennium.
5. Forecasters continue to report that it will take until late 2013 or 2014 before employment returns to levels observed before the recession.
6. Although the State was able to pay back approximately 11% of outstanding budget borrowing from schools, 2.4 million remains in outstanding payment and property tax shifts.
7. The February 2012 payback of 11% in outstanding budget borrowing from schools left the State with a balance in the "rainy day" fund of \$0.00.
8. The States \$217 million forecast balance reported in February 2013 triggered a buyback of borrowing from schools, but still leaving \$801 million in outstanding payment and property tax shifts.
9. The State's revenue is projected to increase by 3.9%, but its total spending is projected to increase by 5.4%.
10. This imbalance is exacerbated through the State's inclusion of inflationary factors in its revenue projection and omission of inflationary factors in its projection on expenditures.
11. The US Economy did not perform as well as hoped during the first half of 2012. Job growth slowed noticeably in the spring.
12. Europe is in recession, growth rates in China, India and much of the rest of Asia are slowing, and the Eurozone's on-going sovereign credit problems remain unresolved. Economists lowered their forecasts for the remainder of 2012 and early 2013.

13. Real GDP growth has averaged 2.2% since the recession officially ended in mid-2009. Real consumption spending, which is more than 70% of GDP, has only grown at a 1.9% rate during this same period.

14. A regional economic indicator of manufacturing and factory activity for Minnesota and eight other Midwest states declined below growth neutral in October 2012.

15. In October 2012, Minnesota employers eliminated 8,100 jobs.

16. Forecasts for real GDP growth in 2012 and 2013 have not improved as much as casual observer might have expected

- Faribault County has significant financial constraints in its ability to fund the Union's wage position.
- State aid to Faribault County was reduced by \$341,000 in 2009, an additional \$207,000 in 2010, and an additional \$23,100 in 2011, for a total of \$371,000.
- In 2011, state Sentence To Serve (STS) costs of \$19,100 were shifted to Faribault County.
- The County's Market Value Credit (MVC) shifted an additional \$358,000 to County Property Taxes.
- In 2013, the County will lose \$118,500 or 26% of CPA based on the State's "Needs" formula.
- In 2011, \$19,500 Sentence to serve costs was shifted from the State to the County.
- As a result of these funding reductions, Faribault County has taken numerous actions to minimize the burden on tax payers:
 1. Lowered mileage reimbursement rates for employees.
 2. Reduced training & travel of employees.
 3. Cut Public works supply purchases.
 4. Cut Public Works road maintenance by \$98,000.
 5. Canceled capital outlay expenditures on courthouse building projects of \$30,500.
 6. Combined Auditor and Treasurer positions saving \$30,000.

7. Implemented a mandatory furlough for most employees saving \$134,000.
 8. Delayed hiring of jailers and several other positions saving over \$60,000.
 9. Cut allocations to County groups including library, Historical Society, Fair, etc. saving \$17,200.
 10. Numerous small adjustments were made to budgets in advance of looming cuts.
- Despite these cuts, County tax levies have increased 18.8 percent since 2009 to make up differences between increased expenditures and decreased revenues.
 - The County's projected General Fund Balance is expected to rise, as more dollars need to be reserved for payment of retirement insurance liability of \$350,00 per year.
 - Beginning in 2013, the County expects to be \$750,000 short in payment of annual debt service fees due to bond payments and increased staffing levels needed in the Law Enforcement Center.
 - In 2010, the County's Unreserved Fund Balance was at 23% of Total Current Expenditures, which is among the lowest of state counties. This compares to an average of 47.2% for all counties in the state.
 - The seven Deputies, at issue in the instant proceeding, comprise 8% of the County's work force.
 - The County's final position is consistent with negotiated settlements for the County's two largest unions.
 1. The two largest bargaining units, comprising 36 employees, have voluntary settlements with the County providing for a total 1.25% general wage increase over two years, 2012 and 2013.
 2. This same general wage increase has also been set for 54 non-union employees.
 - The Deputy Unit, consisting of seven employees, should not be awarded a

wage package that is inconsistent with the County's internal wage settlement pattern.

- If the Arbitrator grants an increase beyond the 1.25% pattern for 2012-2013, it will cause a whipsaw effect causing all of the other settled bargaining groups to want a catch up for 2014.
- The Jailer Unit is obviously waiting in the wings watching for the results of this interest arbitration. Any additional increase, if granted by the Arbitrator, will be demanded by the Jailer/Dispatcher unit for 2013 and 2013 in interest arbitration.
- The County is currently in compliance with the Minnesota Pay Equity Act and the Deputies are a male dominated class. Since the Deputies are a male dominated class, Pay Equity does not support the Union's position.
- The Union's argument that Deputies have a top pay rate lower than other job classes in the same C-4-1 grade has no merit. The Deputies six step pay range results from the County's 2006 concession allowing them to move to the top rate in their pay range in less time.
- The County added two steps to the non-union wage schedule in 2006 in order to bring the County's pay practices into compliance with the Pay Equity Act. This had no immediate cost implications due the longevity of affected employees.
- The eight-step structure applicable to the Courthouse Unit is historical and predates the 2006 establishment of the Deputies six step structure.
- The Union's argument regarding its six-step structure, versus the eight-step structure for other employees, has been made in previous interest arbitration cases and rejected by Arbitrators.
- Deputies are paid annual salaries that are greater than other County employees in the C-4-1 pay grade because their annual work schedule is 2,223 hours versus 1950 hours. At step six this amounts to \$51,348 for Deputes versus \$45,630 for other C-4-1 pay grade employees.

- The Union's argument regarding the C-4-1 pay relationship does not justify a variation from the internal settlement pattern of a 1.25% general wage increase over the two year term of 2012 and 2013.
- The appropriate external comparison group for Faribault County is Economic Region 9 counties of Blue Earth, Brown, Le Sueur, Martin, Nicollet, Sibley, Waseca and Watonwan.
- When making comparisons with other Region 9 counties it is important that the following factors be taken into consideration:
 1. Faribault County Deputies advance to the top of their pay range much faster.
 2. Faribault County Deputies advance to the top of their pay range in six years, compared to the Region 9 County average of 16 years
 3. The County's position would result in Faribault County Deputies exceeding the average wage paid to Region 9 Deputies at six years by \$.32 per hour.
 4. Faribault County provides retired employees with health insurance benefits, if hired before January 1, 2002, based on the County's contribution for active employees in effect at the time of their retirement. Three Deputies are eligible for this benefit. No other Region 9 County provides such a rich benefit.
 5. Faribault County provides a generous severance pay benefit, separate and apart from accrued sick leave and vacation. None of the other Region 9 counties provide this type of benefit.
 6. The 2012 uniform allowance for Faribault County Deputies exceeds the Region 9 average by \$62.
 7. Faribault County allows Deputies to carryover \$150 of their uniform allowance. None of the other Region 9 counties allow Deputies to carryover a portion of the uniform allowance.
 8. Faribault County Deputies are allowed to take home squad cars, for which the County pays all maintenance costs, repair and fuel costs.

- Faribault County has excellent retention and attraction, which is a component of comparisons:
 1. Faribault Deputies are of long tenure; some have been employed since the 1990's.
 2. When there was a Deputy vacancy in 2010, 55 applications were received.
 3. The two employees, who have left the Deputy Unit, left either for disciplinary or medical reasons, not for jobs with better compensation.
- When the wages paid to a broad cross-section of Faribault County employees are compared to the average of Region 9 counties, Faribault County rates are at 82% of the Region 9 average
- Based on the County's 2012 wage position, its Deputies would be at 90% of the Region 9 average at the minimum step and 86% at the maximum (sixth) step.
- Given the established internal settlement pattern, the Consumer Price Index (CPI) should have no impact on the Arbitrator's Award.
- While the Consumer Price Index (CPI) rose 28.2% from 200 through 2011, Faribault Deputy pay rates increased 31.7%.
- The impact of the CPI is not unique to the Deputies, but has an impact on all other County employees, who receive a 1.25% wage increase for 2012 - 2013.
- Faribault County is the second smallest of Region 9 counties, with a 2010 population of 14,553, 54% of the average.
- Faribault County has the second smallest 2010 tax capacity of the Region 9 counties at 63% of the average.
- Faribault County 2010 net tax levy was the second smallest of the Region 9 counties at 62% of the average.
- Faribault County's total 2010 revenue was the second smallest of the Region 9 counties at 57% of the average.

- Faribault County's total 2010 expenditures were the lowest of the Region 9 counties at 48% of the average.
- Faribault County's number of households in 2010-2011 was the third smallest of the Region 9 counties at 59% of the average.
- Faribault County's owner occupied housing units in 2007-11 were the smallest of the Region 9 counties at 62% of the average.
- Faribault County's median household income in 2007-2011 was the lowest of the Region 9 counties at 84% of the average.
- Faribault County's persons below the poverty level in 2007-2011 was the third highest among the Region 9 counties at 11.8%
- Given that Faribault County ranks low on demographic factors with other Region 9 counties, it is not appropriate to simply average wages paid in the larger wealthier counties.
- To the extent external comparisons are relied upon by the Arbitrator, the relative relationship of Faribault County's demographic data to the other Region 9 counties needs to be taken into consideration.
- There is no evidence of a change in the demographic or economic status of Faribault County's relationship to other Region 9 counties that would warrant a change in the County's wage or benefits relationship from what has existed in the past.

DISCUSSION - WAGE ISSUES

The Parties both presented positions that are not viewed as extreme or unrealistic. Therefore, a thorough analysis is warranted using the commonly accepted criterion of ability to pay, internal comparisons, market comparisons, cost of living, recruitment and retention and bargaining history, to determine which position is best supported by the facts presented.

ABILITY TO PAY:

The union points out that its position for a 2.5% increase in both years of the CBA would cost only \$13,075 more than the Employers position of 1.5%.

The Employer's costing differs stating the two-year cost at \$23,175. The Employer points out that when wage rates are increased there are roll up costs, such as Social Security, Medicare, PERA, Workers Compensation and Overtime, which are based on a percentage of the wage rates. Either of these figures seems relatively modest in terms of the Employer's overall budget. However, they must be viewed in perspective of their relationship to the Employer's total wage costs if extrapolated to the Employer's other 103 employees. The Employer points out that the unit at issue, consisting of seven Deputies, makes up only 8% of the County's total work force. If the difference in the position of the Parties (3.5%) were also applied to the other 82% of County employees, it is axiomatic that the financial impact would be substantial.

The Union points out that the economic resources of the County support the cost of its position. The union points out that the County's tax levy is going up from a 2% increase in 2011 to 3.9% in 2012 and that Certified County Program (state) Aid will continue at the 2011 level in 2012. Also, the County's revised budget data shows modest decreases in 2012 and 2013 (down only 6%). The Union points out that the County's General Fund is consistent with the 35% to 50% recommended by the State Auditor and its unassigned funds were at \$1,731, 200 in year ending 2011. The Union points out that the 2011 budgeted expenditures of 3,149,402, versus actual expenditures of \$2,888,686, leaves a difference of \$260,716. The Union points out that the County had \$7,419,493 in total cash and investments in the year ending 2011.

The Employer counter argues that the general economic recession that has plagued the nation over the past several years has had a substantial negative

impact on the County's economic health. The Employer points out that budget deficits at the state level are resulting in cutbacks in state funding of County programs. The Employer points out that state aid to the County was reduced by \$341,000 in 2009, an additional \$207,000 in 2010 and an additional \$23,1,00 in 2011. Further, the State has been shifting other program costs to the County. The Employer points out that it has taken numerous actions to reduce costs, such as cutting training and travel, lowering reimbursement rates, cutting back road maintenance, cutting positions, furloughing employees, cutting back programs, and delaying hiring of replacements.

The Employer points out its tax levy has increased 18.8% since 2009 to make up for decreased revenue and increased expenditures. The Employer acknowledges that its General Fund is expected to increase, but points out the increase is necessary to fund its liability for retiree health insurance benefits. The Employer counters the Union assertion that its Fund Balance compares favorably with the State Auditor's recommendations. The Employer describes the Fund Balance at 42%, well below the level stated by the Union. The Employer states its Unreserved Fund Balance in 2010 was at 23% of total expenditures, which ranks among the lowest of all state counties, which average 47.2%.

INTERNAL COMPARISONS – PAY EQUITY:

The Union points out that the County was certified as being in compliance with the Pay Equity act in July 2012 and its wage position does not conflict with the County's pay equity compliance. The Union points out that the pay equity study placed Deputies in Grade C-41, the same grade as other employees who have a longer pay range with a higher maximum rate.

The County counters that its position is consistent with settlements that have been implemented for 90 of its 110 employees, including union and non-

union. The Employer points out that the Deputies purposely negotiated their shorter pay range so they could reach the top rate faster. The Employer also points out that there are differences in the Deputies compensation package that offset the higher maximum rates of other jobs in the same (C-41) pay grade. The Employer points out that the only other bargaining unit that does not have a settlement is the Jailer unit consisting of 13 employees, where negotiations have been delayed due to representation matters.

MARKET COMPARISONS:

The Union argues that Faribault County's Deputy wage rates are generally below the average of the Region 9 county comparison group. The Union also argues that Faribault County Deputies have a shorter pay range than most of the other counties in the Region 9 comparison group. The Union points out that because most of the seven Faribault Deputies will be at the top pay step in 2013, they will increasingly fall behind other employees in the Region 9 counties, who have a higher top pay step.

The Union argues that no other Region 9 county Deputies have accepted a 0% increase in 2012 or 2013. The Union points out the Martin County wage rates increased 2% in 2012 and 2% in 2013; that Nicollet County wage rates increased 1.5% in 2012 and 2013; that LeSueur County wage rates increased 1% in 2012 with a 5% step movement in July 2013; that in Waseca County a 2% step movement is effective in July 2013 plus \$10 per step, with 2% step movement in July 2014. The Union argues that Faribault Deputies work a longer work year (2,223 hours) versus 2,184 hours in Sibley County and 2080 hours in all other Region 9 counties.

The Employer counter argues that, when making comparisons with the other Region 9 counties, offsetting factors need to be taken into consideration. This includes faster advancement of Faribault County Deputies to the top of the pay range; that the Employer's position would place Faribault Deputes

above the six year average rate of the other Region 9 counties; that Faribault Deputies receive retiree health insurance benefits that only one other Region 9 county provides;¹ that Faribault County provides certain severance benefits that no other Region 9 county provides and that Faribault County Deputies are allowed to take Squad cars home, that are fully maintained and serviced by the Employer.

COST OF LIVING:

The Union points out that the Consumer Price Index rose 2.2% in the 12-month period ending December 2012 and is expected to rise at least as much in 2013. The Union argues that anything less than a 2.8% wage increase will result in erosion of employee purchasing power. The Union further argues that the County has a historical pattern of increasing wage rates based on the CPI, which should be maintained.

The Employer counter argues that, given the internal settlement pattern, the CPI should have no impact on the Arbitrator's Award. The Employer points out that while the Consumer Price Index rose 28.2% from 2000 through 2011, Deputy rates rose 31.7%. The Employer further argues that the CPI is not unique to Deputies, has an impact on all employees alike and is a factor considered in the County's internal settlement pattern.

RECRUITMENT AND RETENTION:

The Employer points out that the ability to recruit and retain employees is an important measure of the Employer's compensation competitiveness. The Employer points out that there were 55 applicants for a Deputy opening in 2010 and only two Deputies have left in recent times, neither for reasons of accepting other employment.

¹ Waseca County is the only other Region 9 County that provides retiree health insurance benefits, but on a more limited basis than Faribault County.

BARGAINING HISTORY:

The record shows the history of Deputy wage adjustments from 1999 through 2011.² During this 13-year period, three of the CBA's have been settled via arbitration covering six of these 13 years. Annual wage rate adjustments have ranged from 1.0% to 3.3%. Over the 13-year period annual wage adjustments averaged 2.3%. Negotiated settlements during this time period averaged 2.2% while arbitrated settlements averaged 2.8%. The record shows that the Deputy wage adjustments during this period closely paralleled those of other Faribault County employees, particularly in recent years. An earlier CBA (1992, 1993 & 1994) was also settled via arbitration.

The six-step pay range has remained in effect for most, if not all, of this period, even though it was an issue in previous arbitrated settlements. A review of the previous arbitration awards show that the arguments, presented by the Parties in support of their respective positions in the instant case, are essentially the same as those presented in previous arbitration cases³ The previous Arbitration Awards are in evidence in the instant proceeding and it would be redundant to repeat the relevant dicta here.

FINDINGS:

- Although both Parties presented comprehensive and detailed information concerning the County's economic condition, the economic health of Faribault County as described by the Employer is most persuasive. The budget shortfalls at the state level and the negative effect on local government aid is significant and well publicized. This is evidenced by the need for Faribault County to have

² Union Exhibit #6-5.

³ Union Exhibit #13 & Employer Exhibit, "Prior Arbitration Awards."

implemented cost saving actions, including furloughing employees. Of particular significance is Faribault County's obligation to fund its liability for retiree health insurance benefits, an increasingly costly benefit not typically provided by employers.

- The record shows that a 2012 – 2013 wage adjustment has been established for 90 of the Employer's 110 employees. This adjustment is essentially consistent with the Employer's position in the instant proceeding, which the Employer argues should also apply to the Deputy Unit. This Arbitrator does not necessarily accept the premise that, because the vast majority of employees have settled at a certain adjustment, a small bargaining unit is obligated to follow suit. Such a premise would render the bargaining power of the small bargaining unit moot. However, the small bargaining unit, not unlike a unit of any size, must make a compelling case why the settlement pattern accepted by the vast majority of employees is not appropriate. In the instant case, the Arbitrator does not find the Union's case sufficiently compelling to deviate from the Faribault County settlement pattern.
- It is axiomatic that a settlement pattern reached on behalf of the vast majority of employees, by competent and knowledgeable parties, represents a reasonable compromise considering all influencing factors. Further, a review of Deputy pay adjustments, among Faribault County employees during an eleven-year period (2000 through 2010), shows Deputy pay adjustments essentially paralleled those of all other Faribault County employees.
- Although much external comparison data was presented regarding Region 9 counties, such data has limited applicability to Faribault County Deputies. This is due to differences in pay structure; pay

policy and difficulty in determining how actual pay in the comparison counties compares to actual pay in Faribault County. Differences in benefits and policies can also be an offsetting factor to differences in pay levels. Faribault County Deputies have two benefits (special severance pay and retiree health insurance) that are essentially unique among the Region 9 county comparison group.

- The fact that Faribault County Deputies reach the top step of their pay range in less time than Deputies in most other Region 9 counties is an offsetting factor to longer pay ranges that have a higher maximum pay rate. The shorter pay range results in Faribault County Deputies getting to a higher rate sooner and for a longer period of time. While it is true that Faribault County Deputies actually earn more than some other employees who have a higher maximum rate, this is due to greater hours in their work schedule.
- The record shows factors making up Faribault County's economic capacity fall at or near the bottom of Region 9 comparison counties. This includes population, tax capacity, revenue, expenditures, assessed valuation, and number of households. The record shows that wage rates for other bargaining units, non-union employees and administrative staff in Faribault County share essentially the same relationship to other Region 9 counties, as do Deputies.
- The record shows that, during the 13-year period from 1999 through 2011, nearly one half of annual wage adjustments for Faribault County essential employee were established via arbitration awards. A review of these arbitration awards indicates that the same considerations addressed in the instant case were also considered in most, if not all, of the previous arbitration cases. The economic health

of the County remains a matter of concern, as does its economic capacity, which ranks near or at the bottom of other Region 9 comparison counties. The internal pay relationships between Deputies and other Faribault County employees remain essentially unchanged. The pay of Faribault County Deputies, like most other Faribault County employees, remains among the lower pay levels of other Region 9 comparison counties. As was the case in the previous arbitration cases, pay equity is not a controlling factor in the instant case. The record shows that Faribault County's has ability to effectively recruit and retain Deputies, which is one of the best indicators of competitive pay,

AWARD ON WAGE ISSUES

The Employer's position is sustained.

The 2011 Deputy pay rates shall be increased by 1, 25% effective January 1, 2012 and remain in effect through December 31, 2013

FINAL POSIITON OF THE PARTIES – HEALTH INSURANCE

UNION POSITION, ITEMS #5 & #6:

Employer to contribute \$690 toward Triple Gold health plan in 2012.

Employer to contribute \$715 toward Triple Gold health plan in 2013.

EMPLOYER POSITION, ITEMS #5 & #6:

Employer to contribute \$665 toward Triple Gold health plan in 2012.

Employer to contribute \$665 toward Triple Gold health plan in 2013.

THE UNION SUPPORTS ITS POSITION ON ITEMS #5 & #6 WITH THE FOLLOWING:

- The Union's position of an increase of \$25.00 in the Triple Gold plan for 2012 and an additional \$25 increase in 2013 is well within the affordability of County finances and is supported by long-standing past practice.
 1. The total cost to the Employer over the County's offer is \$600 for 2012 and 2013.
 2. Only one Deputy is enrolled in the Triple Gold plan.
 3. The County has the ability to pay the cost of the Union's position out of unassigned funds alone.
 4. Historically, the County has always spread health care dollars over all the health care plans and the contributions to the Triple Gold Health plans are well within the County's ability to pay.
 5. The Union's position is fair and reasonable and should be awarded.

THE EMPLOYER SUPPORTS ITS POSITION ON ITEMS #5 & #6 WITH THE FOLLOWING:

- Since approximately 2011, the County has maintained its contribution to the \$1,000 Triple Gold health insurance plan at \$665 per month while the County has increased its contribution to the \$5,000 HSA plan and VEBA plan.
- The County has maintained its contribution to the Triple Gold plan at \$665 to incent employees too move to the \$5,000 HSA plan and VEBA plan.
- It is well-established principle in interest arbitration that, when examining issues related to health insurance, arbitrators look to internal consistency with non-union employees and settlements negotiated with other bargaining units in the same jurisdiction.
- Faribault County has historically maintained an internally consistent pattern of health insurance contribution levels and its position in the instant proceedings is to continue this pattern of internal consistency.
- One Deputy is enrolled in the Triple Gold plan. There is no justification to treat one employee differently than the other County employees with regard

to the county's contribution, as all employees are impacted and benefited in the same manner.

- The Union's position perpetuates the status quo without regard to changing conditions in the marketplace and forecloses the opportunity to follow the lead of other employers in the State of Minnesota to address the changing conditions and spiraling costs of health insurance.

DISCUSSION - INSURANCE ISSUES

The Employer's position is to keep its contribution to the Triple Gold health plan option at the 2011 level of \$665. The Employer explains its purpose in doing this is to incent employees to enroll in the higher deductible plans (\$5,000 HSA or VEBA). The Employer's contribution to the \$5,000 deductible plans is \$531 in 2012 and \$581 in 2013 plus an annual contribution to the high deductible enrollee's Health Savings Account (HSA). The record shows that the Employer's contributions to its employee health insurance plans have been uniform from at least 2000 through 2011.

FINDING ON HEALTH INSURANCE ISSUES

Health Insurance, unlike pay rates, is a matter of employee welfare, unrelated to the type or value of work the employees perform. Accordingly, there is a strong case to be made for maintaining uniformity in benefits among all employees. A review of previous arbitration awards, where health insurance has been an issue, shows that benefit uniformity has strong support among Arbitrators.

AWARD ON HEALTH INSURANCE ISSUES #5 & #6

The Employer's position is sustained.

The Employer's contributions to the Triple Gold health insurance option shall be \$665 in 2012 and \$665 in 2013.

CONCLUSION

The Parties are commended on the professional and through manner with which they presented their respective cases. It has been a pleasure to be of assistance in resolving these disputed matters.

Issued this 3rd day of April 2013 at Edina, Minnesota.

ROLLAND C. TOENGES, ARBITRATOR