IN THE MATTER OF THE ARBITRATION BETWEEN

Teamsters Local 346,
Duluth, Minnesota,

Union,

and

DECISION AND AWARD

BMS Case No. 13-PN-0584
Interest Arbitration
(Jailers and Dispatchers)

Aitkin County,
Aitkin, Minnesota,

Employer.

ARBITRATOR:	Janice K. Frankman, J.D.
DATE OF AWARD:	November 17, 2013
HEARING SITE:	Aitkin County Courthouse 217 Second Street NW Aitkin MN
HEARING DATE:	October 1, 2013
RECORD CLOSED:	October 17, 2013
REPRESENTING THE UNION:	Timothy W. Andrew, Esq. Andrew & Bransky, P.A. 302 West Superior Street, #300 Duluth MN 55802
REPRESENTING THE EMPLOYER:	Susan K. Hansen, Attorney at Law Madden Galanter Hansen, LLP 505 North Highway 169, Suite 295 Plymouth MN 55441-6444

JURISDICTION

The hearing in this matter was held on October 1, 2013, pursuant to Minn. Stat. § 179A.16. The Bureau of Mediation Services received written requests from the Union and the Employer by letter dated June 17, and July 1, 2013, respectively to submit contract negotiations to conventional interest arbitration. A Request for Final Positions and Certification to Arbitration was issued by Commissioner Tilsen on July 8, 2013. Final positions were filed by the Union and the Employer respectively on July 16, and July 22, 2013. The Union submitted a modified final position to the Employer by letter dated September 25, 2013.

The parties were afforded a full and fair opportunity to present their cases. Counsel for the parties summarized voluminous looseleaf notebooks. There was no sworn testimony. They submitted Post-Hearing Briefs dated October 15, which were received on October 18, 2013, when the record closed and the matter was taken under advisement.

In arriving at a decision on the issues and making an award, pursuant to Minn. Stat. § 179A.16, subd. 7, the Arbitrator has considered the statutory rights and obligations of the Employer to efficiently manage and conduct its operations within the legal limitations surrounding the financing of its operations.

ISSUES AT IMPASSE

This matter was certified to arbitration pursuant to Minn. Stat. §179A.16, subd. 2, and Minn. R.5510.2930. The certified issues to be resolved by arbitration follow:

1. Wages 2013 – What Shall Be The 2013 General Adjustment, If Any? – Art. 26 & App. C, NEW
2. Step Adjustment – Shall Steps 10-13 Be Adjusted? – Art. 26 & App. C, NEW
3. Shift Differential – What Shall The Shift Differential Be? – Art. 26

Background

Teamsters, Local No. 346, in Duluth, Minnesota, affiliated with the International Brotherhood of Teamsters, ("Union") is the exclusive representative of a unit of non-licensed essential employees which includes 25 jailers, dispatchers and a jailer sergeant in the Aitkin County Sheriff's Department.[1] This matter arises from a wage re-opener provision for 2013, the third year of the parties' Collective Bargaining Agreement ("CBA"). The Union seeks a general wage increase, partial restructuring of the step provisions and an increase in hourly shift differential. The County seeks to maintain *status quo*. The parties agree that contiguous Counties, with one exception are properly comparable. The County does not agree with the Union's assertion that St. Louis County should be included in the group.

Aitkin County ("County" "Employer") employs a total of 250 people. Ten are elected officials and 86 are non-union employees. 154 employees are represented by three exclusive

[1] This record includes data and documentation which identifies or refers to varying numbers in the bargaining unit from 20 to 25.

representatives including the Union which represents three essential bargaining units (46 members); AFSCME Council 65 which represents two non-essential units (86 members), and The International Union of Operating Engineers, Local 49 which represents one non-essential bargaining unit (22 members). Union Exhibit 20

The County population was 15,927 in 2012. Located in north central Minnesota, it has 400 lakes. Its website reports that its population can triple in the summer months attracting "anglers, boaters and others who enjoy lake recreation". County Exhibit 19 In the winter, it attracts visitors who enjoy ice fishing and snowmobiling.

In 2002, the County opened a remodeled jail which has 89 beds. The County partners with Central Minnesota Community Corrections to provide a Sentence-to-Serve program. It also provides a work release program. Operational costs are offset by charging offenders $20 per day to stay, and by assessing other fees "to relieve taxpayer burden". It also sells open beds to other counties on a space available basis to avoid overcrowding. Union Exhibit 7. The County reported a recent decrease in inmates from other counties, apparently due in part to St. Louis County's decision to transfer its inmates to a Wisconsin county.

The County has reported its experience during the recent severe recession beginning in 2008, experienced throughout the nation and the state. This record includes summary documents and charts, some of which are supported by county and state auditor records and other governmental resources. They address flucuation, including unallotment of County Program Aid in past years; and reduction in County Tax Capacity and increased tax levies passed on to residents. They provide cryptic County Budget and Levy data f or the period 2006-2014; general and unrestricted fund data and County unemployment statistics. A March, 2011 County Board Resolution "Designating Reserve Fund Balance" and portions of a 2011 communication from the State Auditor relative to 2011 Revenues, Expenditures and Debt are also included. A 2011 Notice of Pay Equity Compliance has been provided along with Consumer Price Data for the years 2005-2012, and a number of Historical Comparison Group charts prepared from a variety of sources. Excerpts from the County "Salaried and Professional Compensations Guidelines" and internal CBAs with regard to wage detail have been included along with a CD-ROM which includes current County and Comparison County Contracts and a recently issued (September, 2013) Arbitration Award for one of the Comparison Counties. The record does not include a full financial report for the County or relevant balance sheets. More specifically, there has been no offer of detail with regard to the operations of the Sheriff's Department which employs this bargaining unit.

The Union's exhibit book provides background information and detail to address factors in support its case. It includes documentation for dates in 2012 and 2013 and beyond, including some compensation detail for the entire workforce produced by the County Human Resources Department. The County has also provided the current Contracts for all Comparison Counties.

Factors for Analysis

Four well-accepted criteria for deciding financial issues in interest arbitration include consideration of internal and external comparables, the County's ability to pay and other economic factors including changes in cost-of-living and potential adverse impact on retention or attraction of employees.

There has been a remarkable number of interest arbitration awards issued in Minnesota in 2012 and 2013. They reflect a return to more traditional analysis than had been the case as Minnesota experienced economic woes along with the rest of the nation. In recent years, the analysis of the "ability to pay" category has more frequently included consideration of one-time or extraordinary events which significantly impact the financial position of a city in negative or positive ways, and which have carried great weight in determining awards. Examples have been loss of significant revenue through unallotment of State aide; unusual loss or reduction of investment income; reduction in tax levies or property tax receipts; reduced real property market value; receipt of federal stimulus money; and unexpected proceeds from bond sales or other extraordinary transactions. This experience has led both the parties and arbitrators who decide these cases to proceed with caution, and with closer consideration of the distinct factors in each case. Interestingly, there is also some suggestion that the manner in which public employees are being compensated is changing and which may lead to a change in the issues which are raised in interest arbitration.

In this case, as in the past, there has been focus upon the general state of the economy and the statutory provision which requires the arbitrator to consider the statutory rights and obligations of the Employer to efficiently manage and conduct its operations within the legal limitations surrounding the financing of its operations. The County, in particular, has referred to the state of the economy at all levels of government in this country and around the world including predictions and forecasts made by national leaders and others. It has referred to state deficits, financing of national debt, the level of unemployment, devalued real estate, increased taxes and an aging and decreasing population. In contrast, the Union has pointed to healthy fund balances and investment accounts and generous wage and salary increases provided to salaried employees and elected officials.

The three issues presented for resolution follow, together with the positions and arguments of the parties and analysis of the factors in conjunction with decisions reached with regard to the unit compensation requests which have been made in this case.

Issue 1 – Wages – General Adjustment, if any for 2013 – Art. 26 and Appendix C

<u>Union Position</u>

The Union seeks a general wage increase in the amount of three percent (3%) for 2013, retroactive to January 1. It supports its request by wage comparison with bargaining units in the eight (8) Counties contiguous to Aitkin County for the three year period of the parties' CBA and specifically in 2013. It points to increases received by elected officials and non-union employees in the County. It points to the Consumer Price Index over the three year period of the Contract and the fact that this bargaining unit has received no wage increase since 2010. It argues that without a general wage increase for another year, the Union will continue to fall further behind in its relative ranking, well below the average, in the comparison group and will suffer further loss of purchasing power. It notes that increases based upon the CPI for the three years would have resulted in a 7% increase, and that the requested 3% increase is justified by the loss in purchasing power.

The Union points to the County's 2011 year-end unrestricted fund balance of $18,233,263. and total expenditures of $23,881,854. for the same period resulting in a high, 76.4% ratio, far exceeding the State Auditor's recommendations and the statewide county average. It points to the County investment Portfolio balances for 2011, 2012 and as of June 30, 2013, noting steady increases over time from $27,229,925 to $30,534,488. The Union argues that the County clearly has the ability to pay the requested increase for 2013. It challenges the County's assertions that it must be conservative to protect funds earmarked for capital improvements as well a requirement for fiscal responsibility based upon the recent past. The Union points to the State Auditor's instruction with regard to unrestricted funds and the impropriety of offsets for capital improvements. It characterizes the County's position in that regard as disingenuous.

The Union responds to the County's comparison of union step increases to non-union merit increases as being completely improper. It objects vigorously to the County's argument that the Union has been well-compensated with step increases notwithstanding the "soft wage freeze" in the 2011 and 2012. It argues that step increases reflect scheduled compensation based on tenure and that where there is a balance of retirements and new employees, the County would never show an increase in expenses for wages without a general wage increase. The Union points to the apparent manner in which non-union employees are compensated referring to assurance of mid-point pay at the five year anniversary of employment, particularly in comparison to the union step structure which results in top pay only after 28 years of employment. The Union urges recognition of the fact that there are many contract years when a bargaining unit member receives no step increase.

The Union notes that the total cost of a 3 percent general wage increase at $.56 per hour for 20 employees working 2080 hours in 2013 would be $23,296. Based upon the County's 2011 expenditures of $23,881,854, its annual expenditures would increase by approximately .0975%. Union Exhibit 12.

Finally, the Union asserts that there is no reason why St. Louis County, the only contiguous county not a part of the county comparison group, should not be included. It notes that even without the St. Louis County comparison, the Union's case is just as well supported.

Employer Position

The following is the City's final position sent to the Commissioner: "The County proposes there shall be no general adjustment for 2013." The County supports its position by referring to severe economic conditions in 2008 – 2011, and projections for state deficits and a slow economic recovery. It asserts the need to be conservative in its management of the County which requires holding the bargaining unit's base wages to 0% general wage increase for a third contract year. The documentation provided by the County in support of its case has been summarized above at page 3.

With regard to the 2011 unrestricted fund figures, the County relies upon a County Board Resolution dated March 8, 2011, in which it purports to reserve $11, 903,081. of its $23, 881,854.

Unrestricted Fund Balance for long term Capital projects thereby leaving "already designated reserves (of) $11,730,501 of its unrestricted fund balance for the purpose of maintaining the operations of the County and complying with the recommendation of the Office of the State auditor's recommendation on fund balances" which it stated in its Resolution"equals 46% of the 2011 operating budget or 5 months and 15.4 days of operations." Employer Exhibit 26.

The County further argues that internal consistency supports its position, stating that 89% of the County employees had agreed to or had received no increase in 2013. It points to the Sheriffs deputies represented by the Union who "voluntarily" agreed to 0% increase for 2013, and to settled Contracts for 2013-2014 with two units represented by AFSCME and one unit represented by IUOE Local 49.

The County argues that the bargaining unit continues to be well-compensated since step increases have continued at the rate of 4.6% per year. Compared to the CPI for the years 2005 through 2012, has concluded that the bargaining unit had a total general increase and average step movement totaling 44.3% compared to the 18.6% CPI increase for the same period.

The County argues that by a wide variety of "historical comparison group" measures, Aiken County has "low standing" leading to a conclusion that it doesn't make sense for the County to be a wage leader. The County objects to the inclusion of St. Louis County in the comparison group. It specifically compares the population, tax capacity, net tax levy, number of households, revenues and expenditures of the two Counties in support of its conclusion that they are not comparable.

Award

The salary schedule set forth on APPENDIX B: 2012 Wage Schedule to the party's Contract for 2011-2013 shall be revised to provide a general wage increase of 1.8% for 2013 which shall be set forth on New APPENDIX C: 2013 Wage Schedule.

The increase for 2013 shall be retroactive to January 1, 2013.

Article 26 of the CBA shall be revised as follows:

ARTICLE 26

WAGES

Employees covered by this Agreement shall be paid in accordance with Appendix A for 2011 and Appendix B for 201. The Agreement will be reopened for negotiation of the 2013 general wage adjustment and step adjustments. The results of the 2013 wage reopener will be set forth in Appendix C and Employees shall be paid in accordance with it retroactive to January 1, 2013. Employees whose wage is below the maximum of the appropriate wage schedule will advance to the next step on the wage schedule on their anniversary date based upon the time interval for each step. In no event shall an employee's wage exceed the maximum of the appropriate wage schedule.

Shift Differential. (See, below at page 12)

Discussion

This Award is the result of careful and complete review of the party representative presentations together with the arguments made by them in their post-hearing Briefs. In addition, interest arbitration awards cited by the parties have been studied and considered along with additional interest arbitration matters heard and decided in Minnesota in 2012 and 2013. See, Crow Wing County and LELS, Inc. , BMS 13-PN-0553 (Johnson, 9/20/2013); County of Wadena and Teamsters, Local 320, BMS 13-0513 (Befort, 10/18/2013); Greater Minnesota AFSCME Council 65 and Pine County, BMS 12-PN-0571 (Kircher, 11/21/2012); LELS, Inc. and City of Willmar, BMS 12-PN-0441(Latimer, 8/13/12) remand for rehearing of issue 3 (8^{th} Judicial District Court, Kandiyohi County, Court File No. 34-CV-12-708 (4/29/2013); Mille Lacs County and LELS, Inc., BMS 11-PN-0781 (McCoy, 7/6/2012).

Each factor traditionally considered by labor arbitrators, referred to above, has been considered. General statements will not be repeated here nor will there be further discussion of factors not determinative of the outcome. Instead, application of the factors to this unique case will be addressed. It is clear that the times are changing once again, following what has been recognized as a deep recession. Review of arbitration awards issued in 2012 and 2013 reflect positive changes in the economy and analysis and outcomes consistent with the improvements. They continue to reflect caution and varying outcomes depending upon the nature of the issue and the unique facts of each case. In this case, tension between comparison of internal and external comparables has presented the greatest challenge in deciding the outcome in a positive economic environment in the County and in consideration of consumer price index figures for the past three years.

Internal Comparables

This bargaining unit negotiated a wage re-opener for 2013 in their 2011-2013 Agreement with the County which provided for 0% general wage increases for the first two years. It is one of three units represented by the Union in Aitkin County. The three units entered into three year Contracts for the years 2011-2013. The Supervisors unit Agreement does not have a wage reopener. It provides for 0% general wage increase for the three years. The Deputies unit, which includes five members, has not settled its wage re-opener. There are three other bargaining units in the County, two of which are represented by AFSCME Council 65. The third unit is represented by IOUE Local 49. All three of those units negotiated two year contracts with the County for 2013-2014. The AFSCME Contracts were signed on July 9, and September 24, 2013 respectively. The IOUE Agreement was executed on January 22, 2013. In each case, there has been agreement to 0% increase for the first year and general wage increases in 2014. The increases are $.45 per hour in all cases which represents slightly less than a 3% increase.

The County reports consistent general wage increases for the six bargaining units in the years 2005 through 2012 in their three 3-year contracts. The wage reopeners for 2013, under consideration here, and unsettled in the case of the Deputies' unit, distinguish the internal union comparables for this year. It is noteworthy that the Supervisors, represented by the Union, signed their three year contract for 2011-2013 on November 8, 2011. The County has emphasized that the Supervisors "voluntarily settled" their Contract with 0% increase for 2013, leaving a first impression that they had negotiated the settlement in 2013.

As noted above, the County employs 250 people including 10 elected officials, 154 union employees and 86 non-union employees. The County has provided conflicting and confusing documentation with regard to compensation of its non-union employees. It argues that the non-union employees have received zero general wage increases for the years 2011-2013, and compares union step increases to the merit pay which non-union employees have received in each year.

The County reports non-union merit pay in the amount of $54,953.50 for 2012. Employer Exhibit 36. Its Compensation Guidelines for 1/1/2011 – 12/31/2013 refer to, but do not include Appendices A and B, which provide compensation schedules and job classifications for salaried and professional employees. The Guidelines state that salary increases <u>will</u> "take effect January 1st each year; that there would be 0% general adjustment to the compensation schedule for the period January, 2011- December, 2013; that "(t)he salary range <u>will</u> include a mathematical midpoint"; that effective January 1, of each of the three years, "each employee <u>shall</u> receive a base pay merit increase of 1.80% to their current wage for satisfactory performance of above, <u>up to the maximum of the applicable salary range</u>"; and that "(u)pon completion of five (5) years of service and receipt of a satisfactory or higher Annual Performance Evaluation the minimum pay for each position <u>shall</u> be the midpoint of the salary range." Employer Exhibit 50A. There has been no example nor is there adequate information in the volume of documentation submitted in this case to determine precisely what the County is paying its non-union employees, and more specifically, what they are being paid in 2013.

The Union has properly and rightly objected vigorously to the County's representations with regard to non-union employee pay. There is no precedent or rationale for comparing the merit pay described above to union step increases which are not otherwise considered in this analysis. The Union has submitted spreadsheets provided by the County Human Resources Department which list all County employees by position and reflect wage/salary status for each one "as of 1/15/2013". For one group of non-union employees, 1.8% increases are noted for 2011, 2012 and 2013. For others, the spreadsheet reports "As of 1-15-2013 no increase 2010 2011, 2012". <u>See</u>, Union Exhibit 20 The Union has argued that "at least 38 union employees have received 1.8% increase in each of the three years. It has also pointed to $4,000 "flat" increases received by five of the ten elected officials in 2012, including the Sheriff, and a 1.8% increase received by the Sheriff in 2013.

A decision cannot properly be based upon speculation. The state of the record here raises a serious question as to an accurate assessment of comparability with non-union employees. While the record includes the current status of all union contracts, it does not provide updates with regard to current, and the most relevant information for 2013, for the non-union workforce. Based upon the mandatory language of its Compensation Guidelines, and the County's argument for internal wage consistency, it appears as likely as not that all non-union employees, with the exception of those who did not meet performance requirements, have received at least a 1.8% increase for 2013. There is nothing in this record to refute that conclusion. In any event, the County's assertion that 89% of its employees received no increase in 2013 has not been supported.

With regard to concern for a whipsaw effect on union negotiations, it is relevant to observe that all union employees except this unit and the Deputies unit have settled their contracts for 2013, and that the three contracts for 2014 which cover 108 employees include general wage increases of nearly 3%. The other three units are represented by this Union, and the one which is unsettled has five members.

Consideration of this factor alone provides strong support for this Award.

External Comparables

The parties do not agree as to the proper list of County comparables. The Union seeks to add St. Louis County to the other seven Counties which Aitken County has accepted as comparable for at least eight years. The Union urges inclusion of St. Louis County basically because it is the only contiguous county not included and because it does compare with the existing list with regard to the issue of wages particularly.

The County has objected to its inclusion largely because of its size in terms of geography, population and households and corresponding revenue and expenditures. In fact, the agreed upon comparable list already reflects quite a range. The Union has conceded that the most relevant comparisons with or without inclusion of St. Louis County support its case. Consequently, given the history of agreement with the current list, and the possibility that other contract terms may not support the inclusion of St. Louis County for proper external comparison, the Arbitrator leaves resolution of that aspect of this matter to the parties for negotiation or for another day.

This record includes charts and data which compare Carlton, Cass, Crow Wing, Itasca, Kanabec, Mille Lacs, Pine and Aitkin Counties. Relevant comparisons look at current wage rates, percentage increases for 2013 as well as for recent preceding years, and years for which contracts which include 2013, have been settled. Carlton is the only County which has not settled for 2013. Kanabec County settled its Contract, and an interest arbitration award was issued for Crow Wing County during the pendency of this matter. In both Counties, there is a 0% increase for 2013 wages. The other four Counties settled for 2.5, 3.0, 2.0, and 1.5% respectively. The average increase of the six settled Counties for 2013 is 1.5%, and 2.25% for the Counties where there are increases.

The County has provided a summary statement with its materials which address wages, observing that "Aitken County is one of the smaller counties in the Historical Comparison Group" It concludes that "Relative to Aitkin County's overall low standing on such demographic factors as population, numbers of households and median household income, the County's position results in favorable and competitive wages for employees in the Non-Licensed Unit." It also states that the County has excellent attraction of applicants in the unit; however, the data presented by the County reflects internal hiring for the few vacancies in the Sheriff's Department in recent years. <u>See</u>, 2013 Wages tab

Aitken County has the smallest population among the comparables and is well below the average which is 34,800 based upon 2010 figures. The range is from 16,202 to 62,500. Based on 2011 revenue and expenditure figures per capita, Aitken is third among the comparables in revenue per capita and first in expenditures per capita. Total revenue and expenditures largely follow the comparative size of the individual Counties.

Most relevant to this analysis is hourly wage comparison for 2013 based upon figures for starting wages for dispatchers, jailers and jailer sergeant. Data from Union Exhibit 14 has been used, excluding St. Louis County data from the average computation, and maintaining the 2011 and 2012 figures for Carlton, Crow Wing and Kanabec Counties which are either not settled or have 0% general wage increases for 2013.

The averages for the dispatchers, jailers and jailer sergeant are $16.70, 16.97 and 18.93 respectively. Those figures compare to $14.48, $14.48 and $15.71 for Aitken County which pays the lowest hourly wage for all three positions.

The range among the comparable Counties is from $14.48 to 18.72 for dispatcher and jailer positions. Kanabec and Mille Lacs Counties follow Aitken in lowest pay at $15.16 and $15.32 respectively for those positions.

Cass County does not have a jailer sergeant. The range for that position is $15.71 to $21.92. Pine County and Kanabec County follow Aitken in lowest pay at $17.75 and $18.06 respectively.

With the 1.8% increase provided by this Award Aitken does not improve its rank position as lowest among the eight comparison Counties, and remains well below the averages set out above ($16.70 and $16.97) at $14.74 for starting dispatcher and jailer wages, and ($18.93) at $15.99 for the jailer sergeant.

These figures speak for themselves. While the Union's requested increase of 3% is justified by these findings, the Arbitrator cannot justify an increase for this unit for 2013, above the confirmed 1.8% increase received by non-union employees and the Sheriff. The bargaining unit is simply being provided with an opportunity to begin to earn at the same level as its peers and to be competitive.

Ability to Pay

The detail provided above at page 5 with regard to the County's unrestricted fund balance; the available revenue figures compared to expenditures; and the County's investment fund balance support a conclusion that the County has the ability to pay the general wage increase awarded here. The Union has observed that the County's ability to make the capital improvement plans it has detailed, and purportedly reserved from approximately one-half of its unrestricted fund balance without the need to issue bonds, is evidence of financial strength. The Union has observed the inaccuracy of the County's assertion that the fund balance was indeed reserved as the County Board's 2011 Resolution provided. The second page of the document expressly provides that which the State Auditor requires: "These funds are reserved for these projects, however County Board Action is required prior to any major expenditure in addition to verifying a need for any expenditure, additionally these figures will be reviewed annually," Employer Exhibit 26, page 2. See, Employer Exhibit 28A. In addition, 2013 data provided by the Union reports continuing increases in the County's investment accounts.

There has been no evidence of shortfalls, deficits, budget cuts or any other adverse circumstance which would suggest that the County is not in a very good financial position. While the expressed desire to continue to proceed with caution, and conservatively, is an understandable strategy given the dramatic turns the economy took beginning in 2008, there has been no evidence to suggest that the County cannot afford to move its employees forward to financial recovery and parity with other hardworking County employees and peers in its region.

<u>Other Economic Factors</u>

While the County referred to earlier reduction in or unallotment of County Program Aid, it has not demonstrated a continuing adverse consequence. It has also referred to decreased tax capacity and increased tax levies but has failed to relate those facts to adverse impact upon the operation of the County. If anything, it suggests that its citizen employees need all the help they can get with increased tax burden and decreased equity in their homes and other property. It has not provided balance sheet or budget information to demonstrate nexus to a shortfall compelling increased tax levies to the detriment of its citizenry. It appears that steps taken several years ago to curtail pay increases has permitted the County to maintain noteworthy financial strength.

The Consumer Price Index is a measure of inflation to which wage increases are often tied. By increasing wages consistent with the CPI, consumer purchasing power is maintained. The award here is consistent with the annualized CPI for 2013, and with the confirmed 1.8% increases received by non-union employees in 2013.

Issue 2 – Step Adjustment, if any for Steps 10-13 – Art. 26 and App. C

<u>Union Position</u>

The Union seeks to have the four year steps at Steps 10-13 on the wage schedule adjusted to two years in order to reduce the number of years to reach top pay from 28 to 20 years.

The Union supports its request with comparison data which reflects that the average number of years to the maximum among the comparables is 9.6 with a range of 3 to 10 years making the County an extreme outlier among them. This fact was observed by the Arbitrator in the recently decided Crow Wing County case. *Supra* at page 7. The adverse impact of the County's 28 years to the top is reflected in reduced career earnings, marked at the several intervals beginning at 6 years of employment when step increases are no longer provided annually.

<u>Employer Position</u>

The following is the Employer's position sent to the Commissioner:

The County is opposed to a modification of the current wage step structure for steps 10-13.

The County argues that the Union has a heavy burden to demonstrate a compelling need to make this structural change. Collective Bargaining Agreements for the County's six bargaining units have included the same wage step structure since 2005.

<u>Award</u>

The Union's request is denied.

Discussion

It is clear that the step structure is dramatically out of line with the external comparables, and its impact compounds an already inequitable wage rate. This bargaining unit has an average tenure of 6.5 years, a very long way from achieving its top pay rate. Data suggests that few employees will achieve the top rate based upon average tenure in a position. Nonetheless, internal consistency must prevail. The internal bargaining units are represented by three different unions. The two others have settled their Contracts for 2013 and 2014. This bargaining unit as well as the two others which perform distinct work, and which the Union represents, will return to the negotiation table shortly with the impending expiration of their current agreements. The bargaining table is the appropriate place to resolve this issue.

Issue 3 – Shift Differential adjustment, if any – Art. 26

Union Position

The Union seeks an increase in shift differential pay from $.20 per hour to $1.00 per hour for hours worked from 6:00 p.m. to 6:00 a.m.

The Union argues that an increase in the shift differential is warranted to recognize the disruption to an employee's life and family which, for this bargaining unit is a significant and constant part of the 24/7 operation in which they work. The County is paid the lowest shift differential among the external comparables. The average is $.68 per hour without including St. Louis County as a comparable. The range among the seven comparables is $.20 to $.95.

Employer Position

The County proposes to retain the current shift differential. It argues there has been a uniform shift differential between this unit and the Deputies unit since 2008. It expresses concern that whipsaw bargaining will be the result. It also expresses concern about the cost to increase the pay.

Award

The shift differential shall be increased to $.68 per hour.

Article 26 shall be revised as follows with respect to this issue:

ARTICLE 26

***

Shift Differential. Effective January 1, ~~2010~~ 2013 employees will receive shift differential of ~~$0.20~~ $0.68 per hour for hours worked from 6:00 p.m. to 6:00 a.m.

Discussion

The whipsaw effect that the County is concerned about would be between two of the three units represented by the Union. The Deputies unit has five members who have not settled their wage re-opener, perhaps waiting for the results here. The fact that they may follow with the same request cannot be a reason for denying this unit a reasonable shift differential. They both preserved the right to bargain in 2013 when they executed three year Agreements with the County in 2011. There is good reason to believe that this increase would have been achieved at the bargaining table. It is a rate which is consistent with the average among the eight comparable counties and reflects a reasonable increase of $5.76 per twelve hour shift worked through the night which the County can afford to pay.

Dated: November 17, 2013

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Janice K. Frankman, J.D.
Labor Arbitrator