IN THE MATTER OF THE INTEREST ARBITRATION BETWEEN

	)	
COUNTY OF RAMSEY	)	**BMS NO. 06-PN-0916**
	)	
“EMPLOYER”	)	**DECISION AND AWARD**
	)	
LAW ENFORCEMENT LABOR SERVICES, INC. LOCAL NO. 322	))	**RICHARD R. ANDERSON ARBITRATOR**
	)	
"UNION”	)	**AUGUST 21, 2006**
	)	

APPEARANCES

For the Union:

Dan Vanelli, Business Agent
Wayne Ruffcorn, Deputy Sheriff
John Eastham, Deputy Sheriff

For the Employer:

John W. Johnson, Labor Relations Manager
Joan Gramling, Human Resource Manager
Gail Blackstone, Human Resource Director
Nick Ganas, Payroll Manager
Julie Kleinschmidtt, Finance Director

JURISDICTION

Pursuant to the provisions of the Minnesota Public Employment Relations Act (PELRA),[1] Commissioner of the Bureau of Mediation Services (BMS) James A. Cunningham, Jr. certified the following issues in dispute to interest arbitration in a letter dated May 16, 2006.[2]

1. **Wages 2006 (Article 28 and Appendix) - what shall the wage increase be for 2006?**
2. **Wages 2007 (Article 28 and Appendix) - what shall the wage increase be for 2007?**
3. **Wages 2008 (Article 28 and Appendix) - what shall the wage increase be for 2008?**
4. **Wages - Service Credit For Service Following Appointment Above The Minimum (Art.24.2 & 24.4).**
5. **Deferred Compensation Contribution (New)**
6. **License Premium (New) - premium for maintaining P.O.S.T license.**

The undersigned, being duly appointed as an arbitrator under the auspices of the BMS, was notified of my selection as the neutral arbitrator in this matter in a letter dated June 8, 2006 from the Employer. A hearing was held on July 17, 2006 in St. Paul, Minnesota. The parties were afforded a full and fair opportunity to present their case. Witness testimony was sworn and subject to cross-examination. Exhibits were introduced and received into the record. The hearing closed on July 27, 2006. Post-hearing briefs were simultaneously mailed on August 9, 2006 and received on August 10 and 11, 2006 by the Union and Employer, respectively at which time this matter was then taken under advisement.

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[1] MINN. Statute §179A.16, subd. 2.
[2] Joint Exhibit No. 2

BACKGROUND AND FACTS

Ramsey County, hereinafter the Employer, is located in east central Minnesota. The Employer has 4,413 employees, of which 3,371 are represented in 19 bargaining units serviced by six different unions. Law Enforcement Labor Services, Inc. Local No. 322, hereinafter the Union, is the recognized collective bargaining representative for all of the Employer's Deputy Sheriffs, herein after Deputies. The current unit consists of 198 Deputies. Law Enforcement Labor Services, Inc., through a sister local also represents a bargaining unit of 15 Deputy Sheriff-Lieutenants.

The parties have a history of collective bargaining in the Deputies' unit dating back to December of 2005. Minnesota Teamsters and Public and Law Enforcement Employees' Union Local No. 320 formerly represented this unit for an extended period of time, with their last collective bargaining agreement being effective from January 1, 2003 through December 31, 2005. The present parties are currently operating under the provisions of that expired agreement.

OPINION AND AWARD

On the basis of the evaluation of all of the testimony, documents and arguments presented by the parties, the decision by this Arbitrator is as follows:

ISSUE 1 – WAGES 2006 (ARTICLE 28 AND APPENDIX)

ISSUE 2 – WAGES 2007 (ARTICLE 28 AND APPENDIX)

ISSUE 3 – WAGES 2008 (ARTICLE 28 AND APPENDIX)

Current Contract

The current contract has a nine-step wage schedule. The wage levels per month range from $3,386.31 at Step 1 or $19.54 hourly to $4,960.07 or $28.62 hourly at Step 9.

Union Proposal

The Union proposes a general increase of 3.5% over the 2005 wage rates, effective January 1, 2006; a general increase of 3.5% over the 2006 wage rates effective January 1, 2007; and a general increase of 3.5% over the 2007 wage rates effective January 1, 2008.

Employer Proposal

The Employer proposes a general increase of 2% over the 2005 wage rates effective the first full pay period following March 1. 2006, a general increase of 2% over the 2006 wage rates effective the first full pay period following March 1, 2007, a general increase of 1.5% over the 2007 wage rates effective the first full pay period following March 1. 2008, with an additional wage increase of 1.5% effective the first full pay period following July 1, 2008.

UNION POSITION

Ability to Pay

The Union argues its wage proposals should be awarded because the Employer is financially sound and has the ability to pay for its proposed wage increases, 4% premium for Deputies maintaining their P.O.S.T. license and deferred compensation payments. The costs of the Union's total proposals are only $1,022,826.30.[3] The Employer can easily pay this amount. At the end of December 31, 2005, the Employer's assets exceeded liabilities by over $621 million. Of this amount, almost $117 million is unrestricted and may be used to meet the Employer's ongoing obligations. The Employer's General Fund balance over

[3] Wages in 2006-2008 of $577,958.07, deferred compensation of $47,520 in years 2006-2008 and 4% P.O.S.T. license premium of $397,348.33 in 2006.

the previous year increased by $4 million and now totals approximately $277 million. At the end of fiscal year 2005, the unreserved fund balance for the General Fund was approximately $135 million or 36.1% of total General Fund expenditures. In addition, the Employer's total general obligation debit decreased in excess of $1,500,000. Finally, Employer Finance Director Julie Kleinschmidtt testified that the Employer does have the ability to pay the Union's requested proposals.

Pay Equity

The Employer is currently in compliance with the Pay Equity Act and is not required to file again until 2009, which is after the contract involved herein expires. The Union's wage proposals should be awarded because the Employer will still be in compliance with the Pay Equity Act if the Union wage proposals are awarded.

Internal Equity

The Union further argues that internal equity considerations support an award of its proposals. Although the Employer has settled with fourteen of its bargaining units and with its unrepresented employees, there are exceptions. Public Defenders settled for 2.5% effective January 1, 2006 and another 2.5% effective July 1, 2007.[4] Radio Dispatchers 1 and 2 and Telecommunicators received an additional 1% on both March 1, 2007 and March 1, 2008. Additionally, the Employer over 30 years ago established rates with the St. Paul Building & Construction Trades Council for its building trades employees to be the "prevailing wage rate" for the construction trades less the Employer's benefit package. The Employer now has separate contracts with its building trades' carpenter, electrician and

[4] They have not settled for 2008 as of the date of the hearing.

painter who received 2.35%, 2.7% and 2.53%, respectively in 2006. The Union also argues that since 2003, the Employer's wage pattern is largely responsible for the Deputies losing ground in the market place. Additionally, the wage increases with effective dates of the first payroll period following March 1 have essentially resulted in a two month wage freeze each year.

While the Employer has a number of settlements with wage increase percentages being the same amounts that it is proposing herein, the foregoing demonstrates that there are exceptions to an internal wage pattern. In view of the inconsistent internal policy of the Employer, the Union argues that it is appropriate to look to external market considerations.

External Market Considerations

The Union argues that its wage proposals should be awarded because they are supported by external market comparisons. A comparison clearly demonstrates that the Deputies are lagging considerably behind its external comparability group consisting of the counties of Anoka, Carver, Dakota, Hennepin, Scott and Washington. These counties constitute an appropriate comparable group because they are a part of Minnesota Economic Development Region 11, and have been used as an appropriate comparison group for Ramsey County by past arbitrators.

During negotiations, the Employer produced a spreadsheet showing that Deputies were second in the comparison group and only behind Dakota County for 2005 with a top pay of $59,520. However, comparison of the top pay does not provide an accurate picture of the realities in the comparison group. A more realistic picture of totaling the amount that deputies earn at each step in their career shows that the Employer's Deputies are last in the comparison group. According to the data supplied by the Union, they are 6.16% under the average of the established comparison group.[5]

The Employer's Commission Files Recommendation for 1970, cited by the Employer as justification in paying Corrections Officers the same as the Deputies, recommended "paying a prevailing rate" for Employer job classes. The Report proposed paying Deputies $2.00 per month more than St. Paul Police Officers. This relationship is now broken with St. Paul Police Officers receiving a 25 year potential based on 2006 wage rates of over $1,500,00 or 15.64% above the Deputies. The Union's proposal for 2006 of a 3.5% wage increase and a 4% P.O.S.T. licensing increase will only reduce the difference by less than one-half.

The Union also argues that other external market comparisons warrant an award of their wage proposals. The Employer provides police services for seven communities within the County — Arden Hills, Gem Lake, Little Canada, North Oaks, Shoreview, Vadnais Heights and White Bear Township. Six other cities besides St. Paul have their own Police Departments — Maplewood, Mounds View, New Brighton, North St. Paul, Roseville and White Bear Lake. Based on 2005 rates, Police Officers in those jurisdictions, with whom Deputies work with side by side, are the poorest paid. Data supplied by the Union discloses that over a 25 year career Police Officers in those communities would earn an average of 10.25% more than Deputies.[6] Maplewood police officers would earn the highest difference (13.94%) while North St. Paul Police Officers would earn the lowest difference

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[5] The Union compared 25 year earnings @ 2006 wage rates with the Employer's 2005 wage rates. The percentages ranged from 20.91% in Scott County to 1.43% in Washington County. (Page 194 of the Union Book)

[6] Page 247 of the Union Book.

(9.61%). The Union's proposed wage increase for 2006 will still keep the Deputies at the bottom of the group, but keep them from losing further ground.

The Union further argues that the prevailing rate of wage increases where wages have been established in 2006 for deputies in 66 of the 87 counties averaged over 3%. Averages also exceeded 3% for police officers in 22 of the 25 cities in Stanton Group V, 21 of the 27 cities in Stanton Group VI, 19 of the cities in Stanton Group VII and 77 of the 109 greater Minnesota cities. While less than one-half have settled for 2007, their wage increases also averaged over 3%. The four jurisdictions in the above groups, who have established wage increases in 2008, also increased more than 3%.

Other Economic Considerations

The Union argues that its wage proposal should be granted in part also based upon economic forces, namely the cost-of-living as measured by the Consumer Price Index (CPI) issued by the Department of Labor-Bureau of Labor Statistics. The All Urban Consumers CPI for Midwest Region Non-Metropolitan index increased 4.1% in 2005 and has exceeded 3.5% thus far in 2006. The Employer's wage proposal ignores the impact inflation has on the Deputies while the Union’s wage proposal will allow the Deputies' wages to keep pace with inflation and maintain their purchasing power.

EMPLOYER POSITION

Ability to Pay

The Employer argues that its financial picture is not as rosy as the Union argues. Testimony of Employer Payroll Manager Nick Ganas based on Employer Exhibit No. 18 discloses that the costs of the Union's wage proposals and P.O.S.T. license premium would be $2, 388,654 for a difference of $1, 409, 017 as compared to the Union's cost figures of $177,166.69 on page 31 of its Book. According to Ganas, the Union failed to consider costs of overtime, use of temporary Deputies and night shift differentials.[7]

Contrary to the Union assertion, the Employer argues that testimony of County Finance Director Kleinschmidtt demonstrates that the Employer cannot easily afford to pay for the Union proposals; and the Employer is under strict financial constraints. Kleinschmidtt testified that the "unreserved fund" balance does not mean that the money is available for any expense. This fund is designated for specific expenses. One of the major uses of the fund is to manage cash flow as the bulk of the Employer's revenue is received just four times a year. State money comes in July and December while property tax collections occur in May and October, while Employer expenses occur throughout the year. In addition, while the Employer's General Fund increased over $15 million as the Union argued, this was a budgeted increase that has been allocated to fund a portion of the Employer's unfunded liability for retiree health insurance currently estimated to be $530 million, if amortized over thirty-year period.

Kleinschmidtt further testified that a smaller amount has been allocated to the "Undesignated Fund Balance" or emergency reserve to restore the emergency reserve that had been depleted during the State Budget crisis that began in 2003. County Board policy dictates that the fund balance is to be maintained at 7.5% of the Employer's budget; however, the fund balance is actually below the recommended levels of the State Auditor.

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[7] It also appears the Union did not figure the costs of the P.O.S.T. premium and deferred compensation, since the Union's Exhibit was just comparing the wage increase differentials.

Finally, the Employer argues that any increase in the Deputies' compensation (more than 75%) must be paid from tax levies. This levy is already set for 2006 and almost finalized for 2007. One assumption in setting the tax levy was based upon the internal wage settlements reached for 2006 and 2007. Although the tax levies for both 2006 and 2007 will each increase $10.9 million, only $3.3 million in 2006 and $2.5 million in 2007 are available for all other expenses after the amounts to cover State cuts or cost shifts and emergency communications are expended.

Although Kleinschmidtt testified that the Employer would be able to pay for the Union's proposals, it nevertheless would be a financial restraint on the Employer. There is no justification for the Union's proposals since there is no compelling reason to require the Employer to make cuts to finance them. Any difference in the costs of the Employer's proposals and the Union's proposals would have to be paid for by cutting program or personnel costs, which means either cutting employees or services or both.

Internal Equity

The Employer argues that an internal comparison shows that the Employer's proposals are consistent with the salary schedules of other employees. Evidence clearly shows a well-established pattern of settlements that cover 92% of its employees, including settlements with other essential employees. In addition, the Deputies have accepted an insurance package and other items that are part of the Employer's settlement pattern. Although some minor deviations exist in two bargaining units, the established wage increase pattern still provides a strong basis for awarding the same wage settlement to the Deputies, and there is no compelling reason for deviating from this pattern.

External Market Considerations

The Employer argues that wage comparisons with six other Metro counties disclose that there is no compelling reason to award the Union's wage proposals. Rather, the evidence shows that the Employer will continue to pay wage levels that are within the range of what other Metro counties are paying. The Employer's wage proposal for 2006 will place the Deputies third, standing only below wage levels of Hennepin and Anoka counties at the five-year salary level. At the 10-year salary level the Deputies will be sixth only above Washington County. However, at both the 15-year and 20-year wage levels, the Deputies will rank third behind only Dakota and Scott counties.

Finally, the Union's argument that all other jurisdictions pay deputies more than correctional officers, therefore the Deputies are entitled to receive a greater salary than the Employer Correctional Officers receive, which a higher wage increase would accomplish, has no merit. Correctional Officers have received the same salary as Deputies since 1970. Because other jurisdictions pay their deputies more than its correctional officers, is no basis for it to do the same.

Other Economic Considerations

The Employer argues that it has no difficulty in recruiting or retaining Deputies. Between January 1, 2001 and December 31, 2005, 65 Deputies separated their employment, of which 28 were due to retirement, 25 due to promotion, one due to death and 11 due to resignation.[8] During 2004 and 2005 there were 14 new job posting dates with 262 total applicants.[9]

DISCUSSION AND AWARD

In formulating this award, I intend to look at the traditional criteria that arbitrators use in determining wage rates in interest arbitration matters — ability to pay, pay equity, internal comparisons, external comparisons and other economic factors.

Ability to Pay

The Employer never professed an inability to pay, only that granting the Union's proposals including wages, P.O.S.T license premium and deferred compensation would cause financial constraints. There is no evidence that the Employer would be financially unable to fund the Union's entire proposal although it could require drawing down the Employer's General Fund balance or reduce operating costs through some program cuts or layoffs especially where the budget and tax levy has already been set for 2006 and almost finalized for 2007. However, since my award is significantly less costly, I see no reason for a funding problem.

Pay Equity

My role as an arbitrator is to ensure that any award does not conflict with the Employer’s compliance with the Pay Equity Act as measured by DOER. The Employer is currently in and will remain in compliance even if the Union’s entire economic proposals are awarded. Since my award has significantly less impact on pay equity, I see no issue here.

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[8] The reason for the resignations are not known. Employer Exhibit No. 8
[9] It is not known how many positions were open at each posting or whether a single individual had multiple applications. Employer Exhibit No. 9

Internal Equity

Since equity pay and the ability to pay are not in issue, I intend to ensure that any award not compromise the internal relationship of employees, and at the same time ensure that the Deputies are not left behind by the “marketplace". I will also consider the other economic considerations raised by the parties.

As stated earlier herein, the Employer has 4,413 employees, of which 3,371 are represented in 19 bargaining units serviced by six different unions. There are also 198 Deputies, which is roughly 6% of the unionized work force and approximately 4.5% of the Employer's total employee compliment. The evidence disclosed that there is a consistent internal pattern that has emerged in establishing wage increases wherein an overwhelming majority of employees have received the same wage increase percentages since at least 2003.[10] The Employer has currently negotiated settlements with 15 of the 19 bargaining units and set wage increases for all its unrepresented employees for 2006 and 2007; and in 14 of the 19 bargaining units and set wage increases for all of its unrepresented employees in 2008.

There are some exceptions to the internal wage increase percentage pattern. As pointed out by the Union, Public Defenders in 2006 and 2007 and certain Correctional Officers in 2007 and 2008 received wage increases percentages other than what had been established in other negotiated settlements and what has been determined for

[10] Except for the exceptions listed herein, it appears that all employees have received the same wage increase percentages.

unrepresented employees.[11] In addition, figures furnished by the Union disclosed that three Building Trades employees receive higher wage increase percentages for 2006.[12] These employees constitute less than .02% of the Employer's employee compliment and involve small deviations in pay. This hardly overrides the internal consistency pattern established for approximately 92% of the other employees.[13] Thus, absent compelling reasons, it would be difficult to award greater wage increase percentages through interest arbitration than what has been established in negotiated settlements or given to unrepresented employees.

External Market Considerations

In spite of the overwhelming evidence that the internal consistency criterion should be applied in awarding any wage increases, it is necessary to see if any external considerations constitute a compelling reason to override the internal equity considerations present herein. The traditional comparison group for the Deputies is the seven county Metropolitan area that includes the counties of Anoka, Carver, Dakota, Hennepin, Scott and Washington. I see no reason to add any city, either within or outside Ramsey County, in this comparison group. Ramsey County is considerably larger and has a different organizational structure than any of the cities the Union is attempting to compare its

[11] With the exception of the Public Defenders, all bargaining units have a three-year agreement. Public Defenders had a wage freeze in its predecessor two-year agreement. The current agreement is effective 7/01/05 through 6/30/07. They received 2.5% effective 7/01/05 and another 2.5% effective 7/01/07. Radio Dispatchers 1 & 2 and Telecommunicators in the Correctional Officer bargaining unit received an additional 1% effective March 1. 2007, with an additional 1% effective March 1, 2008.

[12] Figures were only supplied for 2006.

[13] The remaining percentage involves employees in bargaining units that have not settled.

Deputies to. It also has different sources of funding and financing of its operation than those cities.

There is no evidence that external market considerations should supercede internal consistency in any wage increase award. The Union bases its whole external market argument on total cumulative wages that deputies could earn in a 25-year period under their contract based on comparison group 2006 wage rates versus what Employer Deputies could earn based on 2005 wage levels.[14] Under the Union's argument the Deputies cumulative earnings could be considerably less than other deputies in the comparison group, however, the Union is only looking at one point in time. To get a more realistic picture the actual wages throughout the whole time period must be considered. Further, it is difficult to compare groups' wage potential differentials using different years as a base. In short, there is not enough data to realistically consider this argument.

The Employer on the other hand points to the actual earnings of its Deputies versus other deputies in the comparison group, wherein the Deputies are receiving higher wage levels at different steps or intervals in their respective salary schedule. At the five-year level, their salaries rank only behind Anoka and Hennepin counties; and at the 15 and 20-year levels, their salaries also rank third, only behind Scott and Dakota counties. Based on data furnished by the Employer it appears that 146 of the 198 Deputies are at five-year, 15-year and 20-year wage levels.

It is also important to see if the Deputies will lose ground in their standing with other comparison group counties if the Employer's proposal is awarded. Such does not appear

[14] They also compared various cities police officers cumulative earnings, which I have rejected as not being an appropriate comparison.

to be the case. Data furnished by the Union discloses the following.[15] Anoka and Carver County deputies received 2% for 2006. It appears that they have not settled for 2007 and 2008 because no data was furnished. Dakota County deputies received 1.6% in 2006. No data was furnished for 2007 and 2008. No data was furnished for Hennepin County deputies for 2006-2008. Scott County deputies settled for 1% in both 2006 and 2007.[16] No data was furnished for 2008. Washington County deputies received 1.97% in 2006. No data was furnished for 2007 and 2008. For at least 2006, the Employer's proposal is not out of line with comparison group wage percentage increases for Anoka, Carver, Dakota, Scott and Washington counties; and in 2007, for Anoka and Carver counties. Based on external market considerations, there is no reason, much less a compelling reason, to deviate from the internal equity pattern that has been established in determining an appropriate wage increase percentage for the Deputies.

Other Economic Considerations

Other economic considerations also do not warrant a deviation from the established internal wage pattern. While the CPI has increased approximately 3.5% thus far in 2006, the Employer is having no difficulty in retaining existing or hiring new Deputies. While CPI is a consideration in determining wage increases, it loses its value where there are overwhelming internal considerations. The Employer's wage proposals for 2006, 2007 and 2008 are therefore awarded.

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[15] Pages 285-287 of the Union's Book.

[16] According to page 196 of the Union's Book, Scott County deputies will receive a 3% wage increase effective January 1, 2007 and a 4.5% base adjustment on March 15, 2007.

ISSUE 4 – SERVICE CREDIT FOR SERVICE FOLLOWING APPOINTMENT ABOVE THE MINIMUM - ARTICLE 24.2 AND 24.4

Current Contract

24.2 The five, ten, fifteen, and twenty year longevity rates are for total County service. Employees earning this seniority shall receive a one-step advancement on the anniversary date in addition to the normal one-year increment step. No employee will be paid at the five, ten, fifteen, or twenty year step without that length of continuous County service.

Union Proposal

The Union is proposing that the language in 24.2 remain unchanged.

Employer Proposal

The Employer is proposing the following new language for 24.2.

> The five, ten, fifteen, and twenty year longevity rates are for total County service, except as noted below. Employees earning this seniority shall receive a one-step advancement on the anniversary date in addition to the normal one-year increment step. Employees who are hired initially at a step above the entry rate shall continue to receive credit for all future increases as if they had been employed by the County for the length of time they were given credit for upon initial hire, plus the time they have actually worked for the County.

UNION POSITION

The Union argues that the Employer has no compelling reason to change this provision. The current agreement allows movement through various steps based upon continuous service. The Employer has the ability to hire new Deputies above Step 1 and now wants to advance new employees more quickly, who do not start at Step 1, through the wage schedule than employees who started at Step 1. Awarding this proposal would have a negative effect on the morale of the Deputies. It would allow the Employer to reward a chosen few with a compressed wage scale, something that is not available to current rank and file Union members.

The Union further argues that the Employer's pay schedule is unattractive in the length of time to top pay in comparison with other Metropolitan law enforcement contracts. The Union recognized this and during negotiations tried to get the Employer to compress the steps, which it refused. The Employer, by its proposal, only wants to compress steps in situations of its own choosing, which is inherently unfair and unequal treatment.

EMPLOYER POSITION

The Employer argues that its proposal is not about moving employees quickly through the wage schedule. The Employer only wants to give new hires the same credit for advancement through the steps that it gave them when it hired them at a higher step.[17] The Employer further argues that the Union desires to penalize employees that the Employer hires from other agencies at a salary above the entry rate, by slowing down their progression through the salary range even though they may have the same years of experience as other Deputies, who gained their experience exclusively with the Employer.

DISCUSSION AND AWARD

The Employer's proposal is a major revision to this article and affects seniority for wage purposes. It does in effect give Deputies who are hired a step higher than Step 1 super seniority for wage level advancement over those hired at Step 1. Seniority, especially seniority that has been established through the collective bargaining process, is a major concern of most, if not all unions, whether it be for lay off, recall, job bidding or advancement, longevity, job assignment, wage progression, etc. It should not be tampered with by arbitrators unless there are compelling reason(s) to do so. This is something that is

[17]For example, a Deputy hired at Step 4 would move to Step 5 after one year and not have to wait the five years the contract now requires.

best left to the bargaining table for obvious reasons. The party requesting to change or add new language to a collective bargaining agreement bears the burden of proof by clear and convincing evidence that the new or changed language is justified. In this case, the Employer has failed to submit any compelling evidence or reason to justify the need for its proposal. The Union's proposal is therefore awarded.

ISSUE 5 – DEFERRED COMPENSATION - DEFERRED COMPENSATION CONTRIBUTION

Current Contract

No current contract provision.

Union Proposal

The Union proposes to add a new provision to the existing Agreement with the following language.

> Effective January 1, 2006, the Employer will contribute a match to an employees' contribution up to $10.00 per month. Effective January 1,2007, the Employer will contribute a match to an employees' contribution up to $15.00 per month. Effective January 1, 2008, the Employer will contribute a match to an employees' contribution up to $20.00 per month.

Employer Proposal

The Employer opposes this change in the new Agreement.

UNION POSITION

The Union argues that this is a benefit that a majority of bargaining unit employees as well as unrepresented receives. The Employer has been providing a deferred compensation match for its employees since July 1, 2004, and has enhanced the program in subsequent years. Twelve bargaining units began receiving $10 per month in July 1, 2004; and three more units began receiving this $10 per month benefit on July 1, 2006.

Fourteen bargaining units plus unrepresented employees will receive at least $15 per month effective January 1, 2007; and one unit, Assistant County Attorneys, will receive $20 per month effective January 1, 2007. There is no evidence that these amounts increased for 2008.

The Union further argues that the Employer can easily afford this benefit. The cost for 2006, if all Deputies participate, is $23,760, with the cost of $11,880 for an additional $5 per year in 2007 and 2008. Finally, the Union argues that it has demonstrated through clear and convincing evidence that its proposal should be awarded.

EMPLOYER POSITION

The Employer argues that the Union's proposal is unjustified. They are requesting an increase in deferred compensation match from zero to $20 per month within a three-year period while no other unit received such a large increase. There is no reason for the Union to leapfrog over other employee groups who have previously negotiated incremental increases over time.

DISCUSSION AND AWARD

As stated in Issue No, 4, the party requesting to change or add new language to a collective bargaining agreement bears the burden of proof by clear and convincing evidence that the new or changed language is justified. In this case, the Union has submitted compelling evidence and reason to justify the need for its proposal, at least for the years 2006 and 2007.

A vast majority of employees have the deferred compensation benefit that the Union is seeking in 2006 and 2007. All of the groups received at least $10 per month in 2006.[18] Most groups will also receive $15 per month, with one group receiving $20, effective January 1, 2007. There is no evidence that any group will receive an additional or increased deferred compensation benefit in 2008, however, Assistant County Attorneys will receive $20 in 2007. This small group receiving what the Union proposes in 2008 does not justify increasing the benefit. Thus, internal equity, which is the controlling criterion in determining fringe benefits, such as deferred compensation, justifies awarding the Union's proposal for 2006 and 2007; but does not justify the Union's proposal for 2008. The Union's proposal is therefore awarded for 2006 and 2007 and denied for 2008.[19]

ISSUE 6 – LICENSE PREMIUM - PREMIUM FOR MAINTAINING P.0.S.T LICENSE

Current Contract

No current contract provision.

Union Proposal

The Union proposes to add the following new provision to the current Agreement.

> Employees covered by this agreement who have at least three (3) years of service with the Sheriffs Department, will receive four percent (4%) per hour above their base rate for maintaining licenses and successful completion of Department and State mandated training. The Employer reserves the right to pay such premiums to employees with less than three years in the Department providing such employee holds the required certification.

Employer Proposal

The Employer proposes that no new provision be added to the current Agreement.

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[18] The effective date for most groups was January 1, 2006 while three groups had an effective date of July 1, 2006, however, the amount of the benefit was $15.
[19] The amount in 2008 will be the amount awarded in 2007.

UNION POSITION

The Union argues that its proposal should be awarded. The Employer currently pays its Corrections Officers the same amount as its Deputies. It believes the job duties and responsibilities of the Deputies and Corrections Officers are significantly different and the difference should be recognized and awarded by the Employer. The Employer's internal data also supports the Union's position. Employer Pay Equity Report data shows Deputies have 813 work points compared to 685 work points for Corrections Officer 2, a difference of 18.7%. Predicted pay for Deputies based on their work points is $5,137.83 or $177.83 per month or 3.6% above their actual pay of $4,960 in 2005.

The Union further argues that the practice in other counties supports its position wherein 86 of the 87 counties pay their deputies more than jailers. Also, arbitrators have traditionally recognized that Deputies should be paid more than Corrections Officers or jailers. In addition, the City of St. Paul pays its police officers 4% above their wage level for maintaining their P.O.S.T. license.

Finally, the Union argues that the Employer's justification for paying Deputies and Corrections Officers the same amount had its genesis in 1969. There may have been justification then, but things have changed. In 1977, the State created a licensing board for police officers and deputies. Since then the Legislature has added numerous requirements for the maintenance of a law enforcement license.

EMPLOYER POSITION

The Employer argues that there is no justification for the Union's proposal. It amounts to an additional wage increase of 4% per year solely on the basis that other counties pay their deputies more than corrections officers; therefore, the Employer should also do so. It ignores the historical basis of the Employer since 1970 of compensating its Corrections Officers at the same level as its Deputies, and the fact that the Corrections Officers' wage level was raised up to the level of the Deputies.

DISCUSSION AND AWARD

As stated on more than one occasion herein, the party requesting to change or add new language to a collective bargaining agreement bears the burden of proof by clear and convincing evidence that the new or changed language is justified. In this case, the Union has not submitted compelling evidence or reason to justify the need for its proposal. There is no reason based upon internal considerations to grant this benefit since no other law enforcement group has this premium. There is also no external consideration that warrants granting this benefit.[20] The Union's whole argument for granting its proposal is based on its desire to separate/increase the pay level of its Deputies versus its Corrections Officers, as other jurisdictions do. Because the Employer chooses to pay its Corrections Officers at the same rate of pay as its Deputies is not justification for granting the Union's proposal. The Employer's proposal is therefore awarded.

AWARDS

ISSUE 1 – WAGES 2006 (ARTICLE 28 AND APPENDIX)

The Employer's proposal is awarded. There will be a general increase of 2% over the 2005 wage rates effective the first full pay period following March 1, 2006 in the new Agreement.

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[20] The only jurisdiction conveying this benefit in the Metro area is the City of St. Paul, which is not an appropriate comparison for reasons set forth earlier herein.

ISSUE 2 – WAGES 2007 (ARTICLE 28 AND APPENDIX)

The Employer's proposal is awarded. There will be a general increase of 2% over the 2006 wage rates effective the first full pay period following March 1, 2007 in the new Agreement.

ISSUE 3 – WAGES 2008 (ARTICLE 28 AND APPENDIX)

The Employer's proposal is awarded. There will be a general increase of 1.5% over the 2007 wage rates effective the first full pay period following March 1, 2008, with an additional general wage increase of 1.5% effective the first full pay period following July 1, 2008 in the new Agreement.

ISSUE 4 – SERVICE CREDIT FOR SERVICE FOLLOWING APPOINTMENT ABOVE THE MINIMUM - ARTICLE 24.2

The Union's proposal is awarded. The Article 24.2 language in the new Agreement will remain as currently is.

ISSUE 5 – DEFERRED COMPENSATION - DEFERRED COMPENSATION CONTRIBUTION

The Union's proposal is awarded for 2006 and 2007 and denied for 2008. Effective January 1, 2006, the Employer will contribute a match to an employees' contribution up to $10.00 per month; and effective January 1, 2007, the Employer will contribute a match to an employees' contribution up to $15.00 per month. Effective January 1, 2008, the Employer will contribute a match to an employees' contribution up to $15.00 per month.

ISSUE 6 – LICENSE PREMIUM - PREMIUM FOR MAINTAINING P.0.S.T LICENSE

The Employer's proposal is awarded. There will be no P.O.S.T. license premium pay provision in the new Agreement

Dated: August 21, 2006 ______________________________

Richard R. Anderson, Arbitrator