ILLINOIS PUBLIC LABOR RELATIONS BOARD
BEFORE ARBITRATOR ROBERT PERKOVICH

In the Matter of an Interest Arbitration between

Illinois Fraternal Order of Police Labor Council	**)**	
	)	**#S-MA-10-041**
And	**)**	**#S-MA-10-042**
	)	
County of Carroll and the Sheriff of Carroll County	**)**	

A hearing was held in Mount Carroll, Illinois on January 10, 2011 before Arbitrator Robert Perkovich who was jointly selected to serve as such by the parties, County of Carroll and the Sheriff of Carroll County ("Employer") and Illinois Fraternal Order of Police Labor Council ("Union"). The Employer was represented by its counsel Robert Long and presented its evidence by narrative and through its witness, Michael Doty. The Union was represented by its counsel, Gary Bailey and Becky Dragoo, and it presented its evidence in narrative fashion. The parties filed timely post-hearing briefs that were received on April 20, 2011.

STATEMENT OF THE ISSUES

The parties agree that the issues presented for resolution are as follows:

1. Comparable Communities
2. Wages (Corrections and Dispatch)
3. Vacation
4. Work Day/Overtime
5. Comp Time
6. Voluntary Overtime
7. Wage Language

A. General

Under the general governing state law I am to follow certain factors in resolving this interest dispute. Those factors include:

1. the lawful authority of the employer;
2. stipulation of the parties;
3. the interests and welfare of the public and the financial ability of the employer to meet those costs;

4. external comparability in public and private employment;
5. the cost of living;
6. the employees present overall compensation;
7. changes in any of the following categories during the pendency of the arbitration proceedings;
8. such factors not confined to the foregoing which are normally or traditionally taken into consideration in the resolution of interests and disputes.

Moreover, it is well-settled that the statute makes no effort to rank these factors in terms of their significance and thus it is for the arbitrator to make the determination as to which factors bear most heavily in any particular dispute. (See, e.g. *City of Decatur*, S-MA-29 (Eglit, 1986)).

In reaching my conclusion set forth below I have consider all of the above mentioned factors in keeping with Arbitrator's Eglit's well-founded observation.

BACKGROUND

The Employer, with a population of on or about 15,800, is a county located in the northwest corner of Illinois bordered by the Mississippi river on its west end. The Union, Illinois FOP Labor Council, represents two bargaining units of employees of the County of Carroll and the Sheriff of Carroll County. The first bargaining unit for deputies consists of seven full-time sworn deputy sheriffs below the rank of captain and the other consists of six correctional officers and eight dispatchers or telecommunications operators. The Union has represented these parties for approximately 20 years. During that time, there have been seven contracts and this is the first interest arbitration.

The Employer and the Union are parties to a collective bargaining agreement with a term of December 1, 2006 through November 30, 2009, covering the terms and conditions of employment of all employees as previously mentioned.

On August 3, 2009, the Union issued a demand to bargain a successor contract. During negotiations the parties reached some tentative agreements, but efforts to conclude a negotiated settlement on a successor contract failed. The parties therefore selected Robert Perkovich to serve as the arbitrator. Pursuant to authority granted to the parties under the Illinois Public Labor Relations Act (IPLRA), the parties agreed to some alterations from the IPLRA's interest arbitration procedures and those alterations were set forth in writing in a pre-hearing stipulation. On January 10, 2011, the parties held an interest arbitration hearing to present evidence regarding unresolved issues and since have submitted post-hearing briefs to the Arbitrator.

THE ISSUES:

THE COMPARABLE COMMUNITIES

The parties agree that for purposes of external comparability they will use Jo Daviess

County. They disagree however with regard to the counties of Lee and Bureau (as proposed by the Union) and Mercer and Warren (as proposed by the Employer). Also considered were other surrounding counties to Carroll County including Whiteside, Ogle, Stephenson, and Henry, but both parties excluded these communities because of size and other factors.

The selection of comparable communities, whether by the parties or an arbitrator is, in my view, a less than precise science despite reliance on objective, statistical measures. I believe this to be the case because the process is often subject to selective use of those objective measures, the use of different source data even when parties use the same objective measures, and the difference between arbitrators in giving weight to those measures. This case, in my estimation, is no different because, for example, the parties do not use the same source data, the pool of potential comparable communities is not the same, both parties use measures that the other does not, and both do not give the statistics for all the comparable communities in dispute.

Despite the misgivings that I may have, the use of external comparability is an important consideration in the resolution of interest disputes and thus, I undertake that task[1].

With regard to the measure of population, the population of the Employer is either 15,749 or 15,841 and it ranks as the smallest county in respect to other comparable communities suggested by both parties. The Employer's comparable communities are closest in size to the Employer. Mercer County's agreed population being 16,481 and Warren's population is either 17,411 or 19,489 and they respectively rank second and third smallest of the communities. The Union's suggested comparable communities Lee and Bureau are significantly larger than Carroll County. Bureau has a population of 35,257 and Lee County has a population of 35,075 or 35,129, over double the size of Carroll County. Looking at the list of comparable communities based on population alone, the counties of Lee and Bureau are too large to be used for meaningful comparison thus the measure of population favors inclusion of Mercer and Warren.

On the measure of proximity the only proposed county which borders Carroll County is Jo Daviess whose county seat, Galena, is located approximately 40 miles away from Carroll County seat, Mt. Carroll. Lee County almost borders Carroll County on the southeast corner and its county seat, Dixon, is located approximately 37 miles away from Mt. Carroll. Next in terms of county seat to county seat distance is Bureau County located 70 miles away. On the other hand Mercer's county seat, Aledo, is 100 miles away from Mt. Carroll and the county seat of Warren, Monmouth, is approximately 110 or 112 miles away. Therefore Lee and Bureau, but not Mercer or Warren counties, should be considered included in regards to proximity.

I next turn to comparability factors that relate to finances. With regard to the Equalized Assessed Value (EAV) of these counties, Carroll County sits at the lower end of this range with a 2009 EAV of 361,050,176, placing it third from the lowest of the given comparables, after both Warren County (227,252,463) and Mercer County (220,907,129). On the other hand Bureau

[1] In those cases where the record evidence falls into the categories I have described above with respect to their reliability I have used, where possible, both sets of numbers provided by the parties when they have not substantially changed the comparability analysis.

(549,884,183) and Lee (635,113,328) counties have significantly higher EAV's, Lee being 76% higher than Carroll County and thus on this measure it would appear that only Warren and Mercer are comparable to the Employer. On the other hand, the evidence with regard to General Fund balance shows that Lee and Bureau counties have similar balances, 1.38 and 1.12 million, to that of the Employer at 1.54 million, but that the balances of Mercer and Warren are significantly lower at, respectively, 434,917 and 412,824[2].

Some of the other factors relied by the Employer include the amount of the general fund sales tax. In regards to the General Fund Sales Tax, Carroll County weighed in at 401,445 whereas Mercer (433,834) was 8% higher, Warren (539,349) was 34% higher and Jo Daviess (850,675) was 112% higher. Lee County (396,955) was only 1% less than Carroll County. There were no provided statistics on Bureau County.

The size and composition of the Sheriff's Departments was also a suggested factor. Data compiled by the Employer indicates that Carroll, Mercer and Bureau counties have similarly sized Sheriff's Departments with 30, 40 and, respectively, 37 total employees. On the other hand Warren County has 52 total employees Lee County has 76. In a similar vein, the record reflects that the crime index of Lee, Bureau, and Warren counties, at 914.8, 1,241.3 and 1.045.3 are similar to that of the Employer, at 980.7, but that the crime index of Mercer at 2,384.9 is significantly higher.

In summary it is clear that with regard to proximity, General Fund balance, and crime index Lee and Bureau counties are most comparable to the Employer and that with regard to population, department size, sales taxes and EAV Mercer and Warren are more comparable. However, in my view population, though relevant, is not conclusive, and even though those latter two entities are comparable to the Employer in terms of department size and sales taxes, Lee County is similar to the Employer in terms of sales tax revenue and Bureau County is similar to the Employer in terms of department size.

Thus, the instant case presents the very conundrum that I posed *supra* at page 3. However, when one looks to what I believe to be the critical factors of proximity and labor market, the nature of the work that these bargaining unit employees will face as reflected in the data on crime index and department size, and the financial factors of General Fund balance and sales taxes I believe that the choice between the proposed comparable communities must be struck in favor of Lee and Bureau and I so find.

Thus, the communities that I will use for the purpose of external comparability analysis in weighing the parties' final offers are Jo Daviess, Lee and Bureau.

[2] Interestingly, when General Fund revenue is examined a contrary conclusion is warranted. However, I find that General Fund balance is a more persuasive measure in that the balance relates to funds available to these entities to pay for employees' terms and conditions of employment.

WAGES

The Employer's final offer on wages is to increase the schedule for telecommunications by $0 on 12/1/09, by $250 on 12/1/10 and by $375 on 12/1/11. For the correctional officers the Employer offers to increase pay by $375 on 12/1/09, an additional $375 on 12/1/10 and another $375 on 12/1/11. Since the interest arbitration began there has been an agreement to increase the deputies pay by $600 on 12/1/09, on 12/1/10 and on 12/1/11. The Employer thus proposes a three tier system for wages for telecommunications employees, correctional officers and deputies. Finally, under the Employer's final offer employees will additionally receive a $500 step increase for fiscal year 2010 which is already a part of the parties 30 step pay structure. [3]

In support of its final offer, the Employer finds that the proposed cost differential between its final offer and that of the Union would amount to $23,424 including the change in wages as well as additional costs such as FICA and pension contributions. Also, as a general matter, the Employer fears that its expenditures may continue to rise generally as its ability to collect funds may decrease, citing a company that left the county reducing its tax collection by approximately $300,000. Moreover, the Employer has already extinguished its ability to increase property taxes because of statutory maximums and it predicts that expenditures will continue to rise due to increases in health care and fuel costs.

The Employer also supported its offer with arguments regarding several other statutory considerations including, most importantly, (1) the impact of the County's final offer on overtime with regard to the overall compensation to dispatch workers (2) the fact that deputies' wages have not compared as well as the wages for dispatchers and correctional officers vis-à-vis the relevant external market and (3) the fact that dispatch and correctional officers have historically received the same increase in compensation. The Employer also cited other statutory factors such as the cost of living, internal comparables, external comparables as well as employee workload.

In support of its final offer on actual wage increases for dispatchers, the Employer's proposed wage schedule relies heavily on estimated back pay for overtime which the Employer believes is mandated by the Fair Labor Standards Act (FLSA). The Employer, therefore, accounts for this back pay in every aspect of its proposal reducing the amount of "scheduled" pay to account for these increases in back pay. Thus, the Employer is concerned that if those hours are not accounted for and that if their interpretation of the FLSA is correct, the telecommunications/dispatchers would experience a "windfall" of money that would be unfair and put their compensation out of line with comparable communities and with their own workforce[4].

The Employer also supports its position by citing arbitral precedent disfavoring the use of

[3] This step increase already appears to be a part of the negotiated CBA although it is unclear if both parties accounted for this increase as their figures differ in relation to wages.

[4] I treat the issues of overtime and the FLSA *supra* and in doing so I have rejected the Employer's final offer.

comparables in times when the economy has taken a "hard hit." The Employer notes that one of the proposed comparables, Bureau, negotiated a contract since the fall of 2008, but that Jo Daviess and Lee both have contracts that were negotiated before the economic downturn. Thus the Employer seeks to discount the weight of comparability arguments in relation to wages.

However, the Employer does still present comparable data in relation to both dispatchers and correctional officers. With respect to dispatchers as of December 2008 the Employer's offer, taking into account overtime back-pay, Carroll County would rank below JoDaviess and Bureau counties. In 2009, again given the Employer's proposal, Carroll County would come in below Lee and Bureau but above Jo Daviess. With respect to correctional officers, Carroll County was generally lower paid than Bureau and Lee Counties. However, JoDavies officers (excepting at 5 and 10 years) were generally paid less than Carroll.

The Employer also supports its case with Consumer Price Index data obtained from the Bureau of Labor Statistics which cites the CPI for all urban consumers in the US as 1.3%.[5] The Employer's calculations for December 2009 through November 2010 indicate that taking retroactive overtime into consideration for dispatchers, their final offer would result in an average compensation increase of 3.5% to the dispatchers and an average increase of 2.69% to correctional officers. The Employer also projects into 2011 and 2012 and finds that dispatchers' and correctional officers' wage increases will continue to exceed the estimated CPI. The Employer also estimates that under the Union's offer the average percentage wage increase for dispatchers would be 2.61% and that correctional offers would receive an increase of 2.91% in 2011.

Lastly, the Employer supports its case with information regarding internal comparables. Since the fall of 2008, the Employer has not negotiated any wage increases for any of its internal units. The Employer did provide a 5% in total wage increase to its non-union employees over fiscal year 2010 and 2011. For fiscal year, 2010 non-union employees received a 3% wage increase and in 2011 they will receive a 2% increase. The Employer is also in negotiations with the carpenters and the last wage offer made was a 2% increase for 2011.

The Union's final offer on wages is to increase the schedule for correctional officers and telecommunications by $475 on 12/1/09, an additional $475 on 12/1/10 and another $475 on 12/1/11.

In support of its final offer the Union presents salary information for the proposed comparable counties, Jo Daviess, Bureau, and Lee as of 12/01/08 and in doing so both corrections officers and dispatchers (telecommunications) are making less at every step of the salary pay plan, after "Start" and ranging up to 20 years of service. At different points in between 20 and 30 years of service, JoDaviess and Bureau County corrections and dispatchers make less than Carroll County. However, Lee County employees consistently gross between $6,000-$10,000 more than Carroll County at all years between 0-30.

[5] The Employer uses a different CPI than that of the Union.

Additionally, the Union cites historical salary information for all proposed communities including Carroll County to demonstrate that it has consistently negotiated modest wage increases. In 2006, 2007 and 2008 corrections and dispatch officers received the same increases as those of the Carroll County deputies, $750 each step each year. Jo Daviess County included 3.5 % increases for both deputies and correctional officers in 2006, 2007 and 2008 at each step. Bureau County provided a 3.5 % increase for both deputies and correctional officers in 2006 however, in 2007 and 2008 changed that to 3.25% + $100 each step. Lee County also provided a 3.0% increase at each step for both deputies and corrections employees in 2006 and 2007. In 2008, Lee County rounded each employee's salary up to the nearest $1K.

The Union also cites available information from Bureau County and Lee County for years 2009 – 2011 finding that the wage increases proposed by the Union are less than those bargained for in comparable counties. For instance, Lee County has allowed for a $1,000 increase per step per year for deputies, corrections and telecommunications. Bureau County has negotiated a 3.25% step for each year for each step for years 2009 and 2010. [6] The Union points out that for the past 20 years the corrections officers and dispatchers have maintained salary consistency. The Union feels that there is no legitimate reason to create a wage schedule for dispatchers that provides less compensation than for corrections officers.

The Union also cites cost of living data from the Bureau of Labor Statistics provided by the United States Department of Labor ("BLS") drawing from four different indices including (1) all US City Average for consumers (2) all US City Average for wage earners (3) all Midwest Urban Average for consumers (2) all Midwest Urban Average for wage earners. The increase in the cost of living between December 1, 2009 – November 30, 2010 determined by these four indexes varied from 1.32% - 1.73% with an average of 1.51%. The Union asserts that their final offer in the first year equates to a wage increase from 1.58% at starting pay to 1.05% at the top pay grade. Thus the proposed Union increase would be slightly less than the estimated cost of living increase for the same period of time whereas the Employer's final offer would equate to a wage increase below that of cost of living (1.24% at start pay to 0.83% at top pay). Moreover, the Union asks the arbitrator to consider the current cost of living climate in which gasoline costs are rising significantly.

The Union also refutes claims by the Employer that it is suffering a substantial enough financial hardship to claim inability to pay or hardship. The Union supports this argument with data obtained through audited financial statements which indicate that the ending General Fund Balance (GFB) for Carroll County was $1,547,582. The Union also shows that Carroll County's ending GFB was $1,544,817 in 2004, therefore the Employer has essentially the same ending fund balance as five years prior. Moreover, even if the Employer's ability to pay is somewhat reduced, Section 14(h) of IPLRA requires that the interests and welfare of the public are taken into consideration and therefore that maintaining quality emergency service employees is essential to the interest and welfare of the public. The Union further points out that this disparity in cost between the Union's offer and the Employer's offer is quite minimal amounting to a cost difference of $4,325.00 over the course of fiscal year 2010, only 0.28% of the 2009 ending GFB.

[6] There currently is no information for Jo Daviess county for years 2009-2011.

Given these facts and arguments I now turn to choosing between the competing final offers and when I do so I am compelled for the reasons described below to choose that of the Union.

First, as noted *infra* at footnote 4, I have rejected, as described below the Employer's FLSA argument. Thus, to the extent that it has relied on that argument to support its final offers with respect to issues other than that of overtime, I have not considered those assertions or calculations.

Moving to the traditional statutory factors to resolve this issue, I find that I must adopt the Union's final offer. First, with regard to comparability the external comparable communities of JoDaviess, Lee and Bureau are of little help in choosing between the final offers because neither the final offer of the Employer or that of the Union measure up nicely with those communities[7]. However, the external comparables are useful in one respect and that is regarding the fact that the Employer's wage offer creates a third tier among its wage schedule, a system that none of those communities has[8].

With regard to the internal comparables I find first, relying on many years of arbitral precedent, that comparing unionized employees with those who are not organized is less than helpful. Thus, in terms of internal comparability, that leaves then only the carpenters to whom the Employer has made an offer of 2%. However, the record as it stands now does not reflect the parties' final agreement, if any, and what wage increase that agreement, if any, produced.

Finally, the parties' arguments with regard to the cost of living are less than helpful as neither final offer compares favorably with the CPI. However, the Union's final offer of a wage increase at or about 1.58% is closer and reasonable.

Thus, I find that based on the fact that the external comparables provide for no three tier wage schedule, that the Employer has failed to articulate a justification therefor, and that the Union's final offer compares more favorable with the CPI I must adopt, and I do adopt, the Union's final offer

VACATION

The Employer's final offer on vacation time is to revise Article 18, Section 1 to reduce all new employees' vacation time allotment.

After One Year of Service	10 → 7
After Five Years of Service	13 → 10

[7] Thus, I need not consider the wisdom of using wages negotiated in the external comparables before the economic downturn.

[8] In addition, this aspect of the Employer's final offer on wages has no support in the record justifying this significant departure from the parties' bargaining history.

After Ten Years of Service	15 → 13
After Fifteen years of Service	20 → 15

In support of its final offer, the Employer argues that employees currently enjoy an inordinate amount of benefit time that is out of line with internal comparable units because bargaining unit employees enjoy a much higher number of guaranteed time-off days. Similarly, the Employer argues that the allotted guaranteed days off schedule is far more generous than external comparables of Bureau, Jo Daviess, and Lee counties when that same measure is used. Thus the Employer maintains this disparity combined with the economic downturn justify changing the agreement from the status quo.[9]

The Union's final offer on vacation time is to maintain the status quo and make no changes to vacation time.

In support of its final offer the Union provides evidence of the year to year vacation comparables of JoDaviess, Bureau, and Lee Counties which shows year to year the vacation time of Carroll compared to the other counties and it appears that there are in fact times when the Employer's "vacation-only" scheme actually provides fewer vacation hours in a specific year. Both Bureau and Lee Counties have similar vacation hour plans with relatively similar vacation time allotments. Jo Daviess County has a similar vacation plan as that of the Employer, although the Employer appears to provide slightly more vacation days than Jo Daviess (except for years 12-15). Moreover, when adjusted to reflect only vacation time, the Union points out, the Employer's offer appears to reduce allotted vacation time below vacation time allotted to Jo Daviess, Bureau, and Lee counties. In addition, the Union supports its position to maintain status quo based on several arbitration opinions which find that departing from the status quo requires that the requesting party show special circumstances necessary to make changes to existing procedures on the parties. The Union argues that there are no special circumstances to warrant a change in the status quo. Finally, the Union states that the Employer's final offer would mean adoption of a problematic two-tiered system where senior employees would have greater benefits than new employees. The union argues that this is problematic due to the internal strife that could be created between co-workers, and between employees and the Union.

Under these circumstances I must find for the Union. First, the Employer's perspective that the issue of vacation time should be determined in the context of all guaranteed time off is inappropriate. It is clear that the parties themselves have not viewed the matter in that context as they have negotiated separate articles in the collective bargaining agreement that separate vacation for other forms of time off. Moreover, it is equally clear that the external comparables have also done so. In light of those facts I do not believe it to be proper to therefore combine all forms of guaranteed time off.

Having so held it is clear from the recitation of the evidence above that the external

[9] The numbers provided by the Employer use the measure of "guaranteed time-off" including personal time, as opposed to strictly vacation time. The Union's calculations include only vacation time therefore the numbers provided by both parties clearly do not match up.

comparables favor the Union's final offer. Moreover, the Employer has again failed to articulate a justification for creating for the first time a tiered, in this case two tiers, vacation scheme.

I therefore adopt the Union's final offer.

WORK DAY/OVERTIME

The Employer's final offer on work day and overtime issues is to revise Article 21, Sections 2 and 3 of the collective bargaining agreement in three different ways. The first is to place telecommunicators on a seven day work period for overtime administration purposes. The second would be to exclude all paid time off from overtime hour calculations. The third would be to disallow double time pay for employees who worked more than two consecutive days in a row if this due to another employee using comp time.

In support of its final offer, the Employer asserts that these changes must occur in order to comply with the FLSA. The Employer again asserts that the parties' agreement as it is currently written does not comply with the FLSA, Section 7(k), which requires telecommunications employees be paid overtime for all hours worked in excess of 40 hours during a regular work week.

With respect to the overtime, the Employer also seeks to change the status quo to remedy what it sees as a potential problem in the contract language that overtime calculations would exclude all paid time off. However, the Employer concedes that overtime pay is not perceived as a problem at this point in time. In fact, the Employer states that neither the correctional officers nor the deputies receive significant overtime and that this change would have little impact on deputies or correctional officers.

With respect to the three external comparables, all three counties have similar provisions to the parties' status quo.

The Union's final offer on workday and overtime is to maintain the status quo.

In support of its final offer the Union, the Union once again argues that disturb the status quo the moving party must be seeking to address an existing problem, not hypothetical problem with the current agreement. In this case, the Union believes that the Employer does not seek to address a current problem, and is instead simply seeking to reduce its expenditures and is creating new ways to do so. The Union further argues that because the Employer made little attempt to sufficiently negotiate the issues of work day and overtime allotment when it did not make an offer regarding the use of the work period for dispatchers "on-the-record," the changes suggested are an "after-thought" offer at interest arbitration and should be rejected.

Again, I must find for the Union. First, the external comparables clearly compel adoption of the Union's final offer. Thus, the only basis on which I can adopt the Employer's final offer is if I agree that it is legally necessary. However, I cannot accept that argument for two reasons. First, I agree with the awards of Arbitrator Briggs that stand for the proposition that if parties

have not adequately negotiated over an issue it should not be imposed in interest arbitration and the record here is less than clear that any significant bargaining took place over the issue of overtime and FLSA. Second, whether or not the Employer is correct as a matter of law, I agree with the Union that the Employer had, and still has, numerous avenues with which it can address its legal concerns that lie outside the interest arbitration forum.

Thus, I adopt the Union's final offer.

COMPENSATORY TIME

The Employer's final offer on compensatory time is to amend Article 21, Section 7 to modify the accumulation of compensatory time so that "time worked outside the employees' regular duty schedule that does not qualify for time and a half overtime rates shall have compensatory time banked at straight time rates." Apparently, this change was included to coordinate with the proposed change in work day/overtime policy to become FLSA compliant.

The Union's final offer on compensatory time is to maintain the status quo and in support of its final offer, the Union cites the comparable communities of Bureau (which grants compensatory time at an overtime rate), Jo Daviess (which has no contractual provision for compensatory time) and Lee County (all comp time earned at overtime rate). Moreover, the Union points out that the Employer makes its final offer on this issue contingent upon its final offer being awarded on the issue of overtime. Therefore, if the Employer does not prevail on that issue, the Union's final offer on this issue must be adopted.

As noted above, I have rejected the Employer's FLSA argument and thus to the extent that its final offer on this issue is dependent on that argument its final offer here too must be, and is, rejected. Moreover, the external comparables clearly favor the Union's final offer.

Thus, I adopt the Union's final offer.

VOLUNTARY OVERTIME DISTRIBUTION

The Employer's final offer on voluntary overtime distribution is to amend Article 21, Section 10 to include language that would allow the employer to choose employees, beginning with the most senior employees, to fill shifts among those who could do so at straight time rates, prior to seeking out employees who would fill those hours at overtime rates.

In support of its final offer, the Employer argues that the change is a reasonable method to reduce costs and cites the internal comparables.

The Union's final offer on voluntary overtime distribution is to maintain the status quo and in support of its final offer the Union presents comparables. Bureau County has an identical voluntary overtime structure to that of the Employer. Jo Daviess County has voluntary overtime paid at time and a half with a rotating seniority system without mention of forced overtime. Lee County has no mention of overtime distribution.

Clearly the evidence relating to internal comparability favors the final of the Employer. However, I cannot ignore the fact that the Employer's final offer is a change to the parties' long standing status quo and thus I must determine whether it has met the burden of justifying the change. When I view the issue in that fashion I find that the Employer has failed to meet its burden because its assertion that the change would be a reasonable method to reduce costs is just that, an assertion, without a factual basis in the record to support it.

Thus, I adopt the Union's final offer.

WAGE LANGUAGE

The Employer has also included in its final offer a change in the work period, so that the bargaining unit pay period coincides with the Employer's bi-weekly pay periods for other employees.

In support of its final offer in respect to this matter, the Employer explains the need to adjust the pay period to allow for more efficient and effective record keeping and auditing. The Employer feels that this change is within its management rights and is necessary to resolve a burden on the County auditors. The Employer further guarantees that no employee shall suffer any loss as a result.

The Union's final offer is to maintain the status quo.

In support of its final offer, the Union argues that there will be a a loss suffered by the employees. The Union first addressed the issue that there is a possibility that this change will effect payments, possibly delaying pay distribution which would allow the Employer to obtain an "interest-free loan" from its employees. The Union also feels that the Employer should have brought up any suggested changes during negotiations instead of raising the issue at interest arbitration. The Union also argues that the offer improperly includes language requiring the Sheriff's Department to "submit to the appropriate county office each employees earnings and pay status and ending status of all leave accounts with each payroll, and such shall be available to the Union, on request." The Union feels that this interest arbitration is not the proper venue to raise such an issue.

It is clear from the recitation above that neither party has relied on any of the statutory factors that are to guide the selection between competing final offers. However, the Employer's final offer is again a change to the status quo and again it has failed to meet its burden of proving the need for a change beyond a mere assertion. Moreover, again the absence of any significant bargaining between the parties at the bargaining table is another reason to reject the Employer's proposed final offer and I do so[10].

[10] To the extent that the Employer believes that its final offer is nothing more than an exercise of its management rights, it can of course test that theory by unilateral action and need not achieve its goal in interest arbitration when it is not otherwise, as described above, warranted.

I therefore adopt the Union's final offer.

AWARD

I therefore award as follows:

1. That the parties' tentative agreements are adopted.
2. That the Union's final offer on wages is adopted.
3. That the Union's final offer on vacations is adopted.
4. That the Union's final offer on work day/overtime is adopted.
5. That the Union's final offer on compensatory time is adopted.
6. That the Union's final offer on voluntary overtime distribution is adopted.
7. That the Union's final offer on Article 22 is adopted.

DATED: June 22, 2011

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Robert Perkovich, Arbitrator