

**BEFORE ARBITRATOR
BRIAN CLAUSS**

Policeman's Benevolent Labor Committee

and

**Kane County & Kane County Sheriff's Office
Co-Employers**

Interest Arbitration Award

APPEARANCES:
FOR THE UNION

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LOCATION OF HEARING:

Kane County Sheriff's Office

INTRODUCTION

Kane County, Illinois and the Kane County Sheriff, as co-employers pursuant to the Illinois Public Labor Relations Act (“County” and “Sheriff”), and the Policeman’s Benevolent Labor Committee (“Union”) are parties to a Collective Bargaining Agreement. (“CBA”)The parties reached impasse during negotiations for the CBA covering the period December 1, 2010 until November 30, 2013, and the undersigned was selected to hear and decide the interest arbitration pursuant to the procedure of the Illinois Labor Relations Board.

The CBA at issue in the instant Award shall be effective December 1, 2010 and shall continue in full force and effect until November 30, 2013

OVERVIEW OF KANE COUNTY, ILLINOIS¹

Kane County, Illinois is located approximately 40 miles west of Chicago. The County operates under the township form of government and is comprised of 16 townships covering a total of 522 square miles. The Kane County Board (“Board”) is the designated governing body. The Board’s structure and legal activities are controlled by state statute.

The following provides an overview of the County and its finances as reported in recent Certified Audited Financial Reports and Bond Ratings.

County Government Structure

A primary function of the County Board is to establish the various budgets for County funds and to levy taxes for County purposes. The Board also adopts ordinances and rules pertaining to the

¹ This section provides a general overview of the County and the broad range of the operations of the County government offices. This information is contained in the County’s certified Comprehensive Annual Financial Report for 2010 and the most recent bond rating summary. These documents were received at the hearing in this matter and are available at

<http://countyofkane.org/Documents/FinanceDepartment/ComprehensiveAnnualFinancialReports/CAFR2010.pdf> and
<http://countyofkane.org/Documents/FinanceDepartment/OtherDocumentsandReports/bondRating.pdf>

management and operations of County departments. There are currently twenty-six 26 members of the County Board, elected from separate districts, with staggered two-year terms, and one Board Chairman who is elected at-large for a four year term. Due to the reapportionment requirements every 10 years (2012 will be the next year of reapportionment), effective December 2012, the Board's size will decrease to twenty-four (24) members. The County Board is comprised of eleven standing committees that meet monthly. Each Board member serves on at least two standing committees.

County Budget Policy

The stated goal of the County is to maintain at least a 20% cash reserve of the appropriated budget for all funds in order to stabilize cash flow. Budget containment has been used over the past several years in order to achieve and maintain this reserve amount. As of November 30, 2010, the General Fund unreserved Fund Balance, excluding the Insurance Liability Fund, was \$43,238,801. This amount exceeds the 20% cash reserve requirement.

County Economic Outlook

The population and tax base continues to grow and diversify due to residential and commercial development. According to the 2010 Census, the County's population of 515,269 makes it the fifth largest county in Illinois. The 2030 population is projected at over 750,000.

Like all communities, economic development and residential housing has been slowed by the struggling economy. Over the several years prior to the slowdown, however, growth in service, manufacturing, retail, professional and agricultural industries contributed to the diverse economic growth of the County. The large population increases and rapid rise in the building of residential housing prior to the slowdown have led to the need for major infrastructure improvements.

Although a slowdown in growth has occurred, the need for future infrastructure improvements continues. Kane County has the unique distinction of having two casino operations within its borders. In 1993 a riverboat opened in the City of Aurora and in 1994 a second casino was opened in the City of Elgin. While riverboat casinos may bring about a current positive impact,

this growth continues to present significant challenges for Kane County in meeting the needs for providing additional services.

In 2010, Kane County collected \$99.9 million from sources other than property taxes and direct charges. Most of this revenue (intergovernmental revenues, grants, reimbursements and miscellaneous income), was received from the State of Illinois. The State provides the County with Sales Tax Revenue as well as various local use taxes to support operations. Public Act 86-16, effective in 1995, permitted Kane County to add up to a \$.04/gallon tax to all motor fuel sold within the County's borders.

Infrastructure Initiatives

The County Board finished a strategic plan initiative in 2006 and its implementation continues. The Board restructured many departments in an attempt to bring more efficiency to its operations pursuant to the strategic plan.

The County continued to receive an agreed portion of Elgin Riverboat revenue in 2010. The County received approximately \$6.5 million in 2010 and is expected to receive approximately \$6.5 million in 2011. Riverboat revenue had declined dramatically over the last several years because of the statewide public smoking ban for all public buildings and higher state gaming taxes placed on casinos. The agreement with the Riverboat states that this money is to be used for education, environment and economic development. As this money is not guaranteed every year, it is important for the County to use this money on capital projects only. The Economic Development and Kane Kares programs continued in 2010 because of Riverboat funding.

The County passed \$11.3 million in capital improvements bonds in early 2007. These bonds have been used to fund much needed capital improvements projects throughout the County, including additional build out and roof replacement at the North Campus. These funds were used to build out the Sheriff's shell space at the Judicial Center in 2008. The remaining funds have been earmarked for the improvements at the North Campus, with the addition of a Traffic Court facility.

The County completed construction on a new Adult Justice Facility and Sheriff's Office at the Judicial Center Campus in 2008. Related to the new jail and Sheriffs Office, the County

implemented jail management software in 2008. The County began implementing public safety software in 2009 and expects the software to be fully implemented in 2011. The County will be funding the \$3.6 million public safety software purchase mainly through the new RTA sales tax, with additional funding from the ETSB and a Department of Justice grant. The County began collecting the RTA sales tax monies as of April 1, 2008.

In December 2009, the County purchased the North Campus Circuit Clerk's Office building that it previously leased on Randall Road in St. Charles. The County also has space limitations at the Judicial Center that need to be addressed. In the first six months of 2010 the County started examining options to meet the expanding space needs of the Judiciary. It was determined that additional funding was needed for capital improvements at the North Campus, mainly the addition of Traffic Court.

Capital projects under the American Recovery and Reinvestment Act (ARRA) / Energy Efficiency and Conservation Block Grant (EECBG) program focused on implementing changes to Kane County Facilities to improve their energy efficiency. Such projects included upgrades to lighting, air handling systems, energy management systems, insulation, and other improvements to County Facility systems and building shells.

The County issued \$7.7 million of recovery zone economic development bonds in December 2010 for the purpose of paying all or a portion of the costs of acquiring, constructing, improving, and equipping various water and/or sewer public works joint County-municipality projects. The County is loaning the bond proceeds over 10 or 20 years to the units of local government pursuant to intergovernmental agreements between the County and such units. The County is pledging Riverboat revenues to cover the debt service associated with these bonds; however, the debt service will actually be paid by units of local government.

Major transportation initiatives in 2010 included the Stearns Road Bridge Corridor project and the Orchard & Jericho intersection. The Stearns Road Bridge Corridor was open to traffic in December 2010. Other transportation projects included engineering and construction of various federally funded traffic signal interconnect projects the most notable being the sections of Randall Road; Binnie to IL 72, and Red Haw to Silver Glen. Annual pavement resurfacing and striping initiative covered over 97.5 lane miles.

Additional ongoing capital improvement projects that were funded in 2010 included computer replacement and voice and data infrastructure maintenance. The Information Technologies Department maintained lifecycle management initiatives via PC replacement and Server Replacement Programs. The Information Technologies Department also maintained lifecycle management initiatives for voice and data infrastructure through the creation of a parts closet program and a program to replace components over a five-year period.

Future Infrastructure Initiatives

Future budget planning includes the continuation of long-range operating and capital plans so that large projects can be identified and funding sources secured to ensure completion of those projects approved by the County Board.

The Kane County Division of Transportation will continue efforts to engineer and construct various federally funded bridge rehabilitation/replacement projects and begin construction of the Orchard Road widening to four lanes from Jericho Road to US 30. Studies are in process to determine the feasibility of constructing the Longmeadow Parkway Bridge as a toll bridge. Major transportation initiatives in 2011 will also include various traffic signals interconnect projects to enhance our traffic control system. The annual pavement resurfacing and striping initiative is to cover approximately 100 lane miles.

Other capital initiatives include the continuation of the computer standardization program, continuation of voice and data infrastructure program, replacement of Sheriff's Office vehicles, energy improvements under the American Recovery and Reinvestment Act (ARRA) / Energy Efficiency and Conservation Block Grant (EECBG) program, and building improvements at the North Campus, old Courthouse and Government Center.

Debt Administration

\$40 million dollars of General Obligation (Alternate Revenue) Bonds were issued in 2009 for highway improvement projects. Pledged revenues for repayment have been identified from the Regional Transportation Authority (RTA) sales tax. Excerpts from Standard & Poor's Ratings Direct – October 14, 2009 regarding those bonds indicates the following:

Standard & Poor's Rating Services assigned its AA+ long-term rating to Kane County's series 2009A general obligation (GO) alternate revenue source bonds and series 2009B federally taxable GO alternate revenue source bonds. At the same time, Standard & Poor's affirmed its AA+ underlying rating (SPUR) on the county's outstanding GO bonds, and its AA SPUR on the county's outstanding debt certificates, reflecting the limited-tax pledge.

The AA+ long-term rating and SPUR reflect the County's:

- Participation in the deep and diverse Chicago MSA economy
- **Strong wealth and income indicators**
- Maintenance of very **strong financial reserves** despite challenges faced by decreasing revenue streams

Offsetting credit considerations include the county's **moderate overall debt burden**, particularly from overlapping entities, and elevated debt service carrying charges.

Kane County has been able to build and sustain strong reserves due to **conservative financial management**. The county has a formal fund balance policy of three months general fund expenditures and as a practice, has historically maintained more than that in the general fund. The county has also implemented mid-year cuts in an effort to minimize the imbalance in fiscal year 2009 due to decreased revenues in sales tax, recording fees, and development permits.

Kane County's management practices are considered good under Standard & Poor's Financial Management Assessment methodology, and indicate that practices exist in most areas. Key items include monthly reporting of financial position to each committee, with procedures for budget adjustments in place if needed.

The stable outlook reflects our expectation that the county will maintain at least a strong financial position as it manages pressures on its

economically sensitive revenue streams. The county's participation in the diverse Chicago metropolitan area economy also provides credit stability.

INTEREST ARBITRATION

Jurisdiction

This interest arbitration comes before the Arbitrator pursuant to Section 14 of the Illinois Public Labor Relations Act. The subject collective bargaining agreement (“CBA”) covers both sworn and non-sworn employees of the County of Kane and the Kane County Sheriff (as statutory co-employers pursuant to the Illinois Public Labor Relations Act). The nature of the agreement and the significant and lengthy bargaining history regarding the treatment of covered employees as a single unit for bargaining purposes, and the precedent of Illinois Labor Relations Board and Appellate Court renders this a mixed unit for interest arbitration purposes. The employees covered by this agreement include all deputized Peace Officers and Peace Officer Sergeants and all full-time and regular part-time civilian employees of the Kane County Sheriff’s Office.

The arbitrator was selected and accepted this appointment pursuant to IPLRA Section 14 impasse procedures for protective service bargaining units.

Issues, Party Positions and Award

Wages – Rather than relying upon the risk of adoption of one party’s final offer in exclusion of the other, the parties have stipulated to my authority to craft a wage award based on the statutory factors and evidence in this case.

The co-employers, primarily Kane County, took the position that the County’s financial position and its desire to be financially responsible to the citizens did not permit offering of any wage increase. The County introduced certain financial data in support of that position. The Union countered that the County’s financial position did not support their offer and instead seeks a three year agreement of 3½% or a lump sum in the 1st year, 4% and 4½% each year thereafter. The Union states that comparables and the County’s financial condition support their request.

Both parties’ arguments have some merit. However, a wage freeze for a unit of this type, when considering County’s financial situation, position amongst comparable jurisdictions, and in the wake of concessions made by this bargaining unit in the last year of the current contract, is no

more reasonable than the Union's proposals which exceed recent wage increases in comparable contracts and awards.

Accordingly, I find the facts and applicable statutory factors support a wage increase as follows:

In lieu of across the board pay increases, effective 12/1/10, bargaining unit employees shall receive one time lump sum payments, less applicable deductions and pro-rated based on the number of days the employee worked and received pay during the fiscal year, as described below:

Deputies - \$2,400

Sergeants - \$2,600

Civilians with 8 or more years of service - \$2,200

Civilians with less than 8 years of service - \$1,800

Employees shall be compensated in accordance with the wage schedule attached to the CBA and marked Appendix C which shall be amended in accordance with this award. The wage schedule shall be considered a part of the CBA and provide as follows:

A. Civilians Wage Schedule - Reference appropriate appendix

Effective 12/1/11 - 2% across the board increase

Effective 12/1/12 – 2% across the board increase

B. Deputy Wage Schedule – Reference appropriate appendix

Effective 12/1/11 – 2% across the board increase

Effective 12/1/12 – 2% across the board increase

C. Sergeant Wage Schedule – Reference appropriate appendix

Effective 12/1/11 – 2% across the board increase

Effective 12/1/12 – 2% across the board increase

Insurance – The co-employers, primarily Kane County, took the position that the significant Health Plan design changes were necessary in order to contain the cost of insurance for both the employees and the County. Both the County and the Union provided information on

- (1) premiums and benefits in comparable jurisdictions,
- (2) the Kane County health insurance plan history, and
- (3) plan usage patterns within the various plans currently offered by the county

Based on the evidence, I find that the plan design changes are reasonable and legitimate in terms of all parties' stated interests to provide above-par health coverage at reasonable costs to both employees and County employers. Therefore, the changes described in attached Exhibit 3 may be implemented by the County in 2012 and 2013.

The Wellness Program

Also before me is a disputed issue regarding the implementation of a Wellness Program (hereinafter the Wellness Program or Wellness Plan) instituted in 2011.

The Union grieved the implementation of the Wellness Plan because it “penalizes” employees who choose not to participate by charging them additional insurance premiums. The Union also raises concerns of employees regarding the privacy of medical records, unwarranted interference by the employer in employee family medical decisions, and general discomfort regarding freedom of choice in making medical decisions. Further, the union argues strenuously that the unilateral implementation of the Wellness Plan constitutes more than a violation of the existing contract and that the employer ought not be permitted to take license with the existing language to “force” employees to participate and to raise the individual premiums of nonparticipants. Additionally, the Union fears that allowing the employer to unilaterally make changes of this type especially by adding premium amounts will open the door to further encroachment upon employees private lives and/or pocketbooks.

The County maintains that the Wellness Plan constitutes legitimate and responsible cost containment under the terms of the current Agreement. Further, the Wellness Plan is a way to contain health insurance premium costs for everyone by:

- (1) identifying early signs of disease for early intervention,
- (2) identifying life threatening conditions that may not otherwise come to light, and
- (3) identifying and educating plan participants who are at risk for developing health problems in the future.

The County points to several instances where participation in the Wellness Plan has led employees to discover life-threatening conditions such as cancer and heart disease which would likely have gone on undetected. The County asserts that these life-saving discoveries prove the legitimacy of the Wellness Plan as both a cost containment instrument and an important life saving mechanism.

To date, employees' participation in the Wellness Program has been limited to:

- (1) answering questions - primarily by filling out a written health assessment,
- (2) providing a blood sample for analysis, and
- (3) receiving the results and recommendations of the Plan's medical staff

The County's position is convincing given the minimal requirement of participation. The County's position is reasonable not only because of potential cost savings but also because of the potential life saving and quality of life improvements for County employees.

I find that the Wellness Program will be maintained, as described above, for the term of this agreement, without change. Further, in recognition of the concerns raised by the Union, I also specifically find that the participation requirements described above will not be expanded and any proposed changes to the Wellness Plan including, but not limited to, changes in requirements for participation, or plan participant costs (including non-participation premiums) must be bargained with the Union and shall not be unilaterally implemented.

The current contract language regarding County and employee contributions (an overall 85%/15% split) will remain status quo. For Plan year 2012 only, the actual amount of employee contributions for each plan shall not increase.

Civilian Information Processors Stipend. Intake and Release and Foreclosures. The parties reached impasse after protracted negotiations over stipend pay for specific civilian employees, commonly referred to as “info processors”, who perform somewhat different job duties than previously performed under previous agreements as a result of changes in the Sheriff’s office operations and facilities. The Union contends that additional pay is appropriate because of the changed circumstances and additional responsibilities of these employees. The employer, primarily the Sheriff, acknowledged that some amount may be appropriate for the Intake and Release positions, however, for purposes of this arbitration no offer was provided.

The negotiations focused on two “areas” of assignment within the Sheriff’s office specifically, “Intake and Release” which is located in the correctional area of the office and “Foreclosures” which is located within the clerical unit of the office. The parties provided the arbitrator with ample evidence of bargaining history as well as documentary and verbal testimony regarding the job duties of info processors assigned to each area. The negotiations focused on a monthly stipend for employees in these areas. I note that the agreement already includes stipends or “specialty/additional pay” (*see Article 21 Section 6*) for employees that perform certain duties. The Union proposes \$150 per month.

The evidence establishes that job duties have changed in some regard for info processors. However, it is clear that info processors assigned to the Intake and Release Area accept considerably more risk and responsibility than other info processors within the bargaining unit. Intake and Release employees are in constant direct contact with jail prisoners who are either being admitted or released from the Kane County Jail. Intake and Release employees must operate within a correctional atmosphere far different than other info processors. Their risk of prisoner altercation or injury is certainly higher.

Info processors who work in the foreclosure area do work which has, at least partially, been previously performed by a sworn deputy. However, the main difference between the duties of foreclosure info processors and other info processors is in the subject matter and location of the work more than anything else.

Although a deputy was previously assigned to perform foreclosure processing duties, that deputy was nonetheless a deputy and therefore a law-enforcement officer who could be called

upon to act in a law enforcement capacity at any time. Foreclosure info processors are civilians who work primarily in the secured administrative area within the Sheriff's office and within the secured area of the Kane County Courthouse. While employees that work in the foreclosure area do different types of info processing which is certainly essential to the Sheriff and County's operations that work is, as the employer argues, more akin to the traditional info processing work performed within the bargaining unit. Accordingly, I find that the Union's final offer regarding the info processors assigned to the Foreclosures area shall not be awarded.

Based upon the evidence and statutory factors I find that the Union's final offer of a \$150 stipend per month for any employee assigned to the Intake and Release area is reasonable and appropriate. It is hereby awarded.

Grievances and Unfair Labor Practice Complaints

During the hearings, the parties have referred to grievances and potential Unfair Labor Practices regarding both the implementation of the Wellness Plan and the stipend issue for info processors. I anticipate that this award shall serve as final approbation of those matters. This decision is rendered with the intention that these disputes shall be resolved by my award specifically providing for the retroactive implementation of the Wellness Plan and for the provision of a stipend for certain bargaining unit members.

Tentative Agreements on CBA Language

The parties executed numerous tentative agreements which I hereby incorporate and award as part of this interest arbitration. All signed and dated tentative agreements shall be provided to the arbitrator within 20 days of the issuance of this award. All current contract language that is not modified by the terms of this award or by a tentative agreement executed by all parties shall remain status quo.

Retention of Jurisdiction

As agreed by the parties, the Arbitrator retains jurisdiction for 60 days from the date of award for the purpose of administering incorporation of the tentative agreements and the terms of this award into a successor agreement.

Brian Clauss

Brian Clauss

October 25, 2011

KANE COUNTY

Exhibit 3

Plan Options		2011 Current	Proposed 2012	Proposed 2013	
PPO	Deductible:	In Network (Ee/Fam)	\$300/\$900	\$500/\$1,500	\$600/\$1,800
		Out of Network (Ee/Fam)	\$600/\$1,800	\$900/\$2,700	\$1,200/\$3,600
	Out of Pocket:	In Network (Ee/Fam)	\$750/\$2,250	\$1,000/\$3,000	\$1,500/\$4,500
		Out of Network (Ee/Fam)	\$2,250/\$6,750	\$2,000/\$6,000	\$3,000/\$9,000
	Co Pays:	Physician Office Visits:			
		Primary Care	\$20	\$20	\$25
		Specialist	\$20	\$40	\$45
		Emergency Services	\$100	\$250	\$250
		Rx:			
		Generic	\$15	\$10	\$10
Formulary Brand	\$25	\$40	\$40		
Non-Formulary Brand	\$40	\$60	\$60		
HMO	Co Pays:	Physician Office Visits:			
		Primary Care	\$20	\$25	\$25
	Specialist	\$30	\$35	\$45	
	Emergency Services	\$100	\$250	\$250	
	Inpatient Co-pay	\$250	\$250	\$250	
	Rx				
	Generic	\$10	\$10	\$10	
	Formulary Brand	\$15	\$20	\$25	
Non-Formulary Brand	\$30	\$35	\$40		