

ILLINOIS LABOR RELATIONS BOARD
INTEREST ARBITRATION BEFORE
ARBITRATOR BRIAN CLAUSS

COUNTY OF IROQUOIS, ILLINOIS)	
)	
)	
Employer)	
)	
And)	
)	Case No. S-MA15-269
ILLINOIS FRATERNAL ORDER OF, POLICE LABOR COUNCIL)	
)	
Union)	

INTEREST ARBITRATION AWARD

For the Union:

Jeff Burke, Esq.
Fraternal Order of Police Labor Council
Western Springs, Illinois

For the Employer:

David Hibben, Esq.
Chicago, Illinois

Location of Hearing: Iroquois County Building
Watseka, Illinois

Date of Hearing: November 30, 2016

Briefs Filed: March 3, 2017

INTRODUCTION

Iroquois County, Illinois (“County”) is the Employer and the Fraternal Order of Police Labor Council (“FOP” or “Union”) represents the members of the bargaining unit comprised of 911 dispatch personnel as determined by the Illinois Labor Relations Board pursuant to the Illinois Public Labor Relations Act. The parties have no prior collective bargaining relationship and the Agreement (“Collective Bargaining Agreement,” “Contract,” or “CBA”) that results from the instant process will be their first Contract.

The parties reached impasse during negotiations for the CBA and the undersigned was selected to decide the interest arbitration pursuant to the procedure of the Illinois Labor Relations Board. The Arbitrator was selected and accepted this appointment pursuant to IPLRA Section 14 impasse procedures.

Resolution Procedure

The interest arbitration session was held at the Iroquois County Building and was attended by representatives of the 911 Center, County managers and employees, member of County Government, members of the bargaining team, the Union Business Representative, and counsel for the Union and the Employer. At the hearing, the parties presented evidence and exhibits. Following the hearing, the parties submitted briefs and support of their positions.

Term of Agreement

The CBA that results from the instant process and Award shall be effective January 22, 2015, and shall continue in full force and effect until November 30, 2019. Wages will be paid retroactively on all hours worked or earned.

Jurisdiction

This interest arbitration comes before the Arbitrator pursuant to Section 14 of the Illinois Public Labor Relations Act. The bargaining unit is comprised of employees of the County’s 911 Center.

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

Iroquois County

Iroquois County is in central Illinois with the county seat in the City of Watseka. The county is 1,119 square miles of which 1.6 square miles is water. It is a rural county and is among the largest of the 102 Illinois counties by area. According to U.S. Census data, the County had approximately 30,000 inhabitants comprising approximately 12,000 households and 8,200 families in 2010. The population has been in slight decline for over a hundred years with only one twentieth century census showing a slight increase in population.

Interstate 55 runs the length of the county. The north border of Iroquois County is sixty miles south of downtown Chicago and the county seat of Watseka is approximately an 85 mile drive from downtown Chicago and approximately a 145 mile drive from Springfield. The eastern border of the county is the western border of Indiana counties Benton and Newton. Kankakee County is on the north, Ford County to the west and Vermilion County to the south.

There are approximately 12,000 households, 8,175 families, and approximately 13,400 housing units in the county. Population density is 26.6 inhabitants per square mile.

Prior to the hearing, the parties engaged in an effort to mediate that matter. The parties also had a discussion to refine the issues, offers, and areas of agreement. The record was left open for the parties to submit written briefs after the hearing. The parties submitted written briefs and the Union supplemented the record with the Interest Arbitration Award from Arbitrator Morgen in *FOP and Kankakee County*.

STATUTORY FACTORS

The statutory provisions in pertinent part governing this arbitration are found in Section 14 of the Act. All the statutory factors were considered by the undersigned when analyzing the issues presented in this Interest Arbitration. The statute does not provide for a ranking of the statutory factors according to importance and it is therefore up to the arbitrator to determine the importance of the statutory factors. *City of Decatur and IAFF*, (Eglit 1986). Nonetheless, all the statutory factors were considered in the instant matter. They are:

(g) As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

(h) Where there is no agreement between the parties ... the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (A) In public employment in comparable communities.
 - (B) In private employment in comparable communities.
- (5) The average consumer prices for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties in the public service or in private employment.

OPEN ISSUES

The parties agreed to the following open issues:

- (1) Hours or Work/Work Schedule;
- (2) Wage Increases;
- (3) Step Pay Plan;
- (4) Management's Rights "Work Schedule Rotations" Provision;
- (5) Compensatory Time Bank Maximum;
- (6) Overtime Compensation;
- (7) Shift Bidding by Seniority/Rotation;
- (8) Vacation Scheduling;
- (9) Personal Day Payout/Forfeit;
- (10) Health Insurance Deductible;
- (11) Affordable Care Act Language; and
- (12) Personal Day Notice.

POSITIONS OF THE PARTIES ON IMPASSE ISSUES

The Union

The Union argues that its external comparables should be adopted because they are from bordering counties with Unionized 911 centers. The Union cites to a number of arbitration awards for the proposition that not only are external comparables a critical factor, but also that they should only be from similarly-situated, unionized workplaces. The Employer has only offered external comparables from a Sheriff's Department contract from 2012. There is no mention of whether those workplaces are unionized.

The Union continues that the internal comparables should be the three law enforcement bargaining units at the Sheriff's Department because they are 24/7 public safety units that deal directly with the 911 Center. The AFSCME unit is comprised of office staff who work Monday through Friday straight days and do not interact with law enforcement.

The Union cites the COLA in support of its proposals because, although there has been a minimal COLA raise in the past few years, the insurance premium increases will offset much of any pay increases to bargaining unit members.

The Union notes that there is no inability to pay argument offered by the County. To the contrary, the County is on sound financial footing and has had surpluses exceeding a million dollars for the past few years. An argument for a vague concept of fiscal prudence does not trump the statutory factors. The comparable jurisdictions are the best barometer for establishing the appropriate terms for the instant CBA.

The Union dismisses the Employer's statutory bar argument as contrary to the Interest Arbitration statute. The statute allows for retro pay for any fiscal year in which interest arbitration has been initiated. A mediation request serves as initiation of interest arbitration. Here, the mediation request served as initiation. Further, to adopt the Employer's argument would allow municipal Employers to drag out the process and then ignore a retro pay award with impunity.

The Union emphasizes the sound financial condition of the County with over a million in surplus. The Union continues that the other collective bargaining agreements inform on how wages should be awarded in the instant matter. Further, the County's surplus is estimated to

grow. Moreover, there is an additional .5% public safety tax that was recently enacted. It will generate over a million dollars a year for public safety. The expense to the County for a small wage increase for public safety employees will be easily absorbed by the increased revenue.

In support of its Final Offers, the Union argues:

Hours: A mandatory subject of bargaining and the Union's offer seeks to preserve the employer's current practice. This is not a Section 14 bargaining unit and therefore there is no right to mid-term interest arbitration. The TAs include a no strike guarantee and to adopt the Employer's proposal would allow for unilateral Employer changes absent agreement. Under the Employer's proposed language, there would need only be an "opportunity to bargain" over the proposed changes and no duty to reach agreement or resort to interest arbitration. Further, it would establish an improper status quo for future bargaining.

Annual Wage Increase: The bargaining unit members are significantly underpaid when compared to comparable communities. The Union's Final Offer of 2.5% annual amounts to 12.5% - which is close to the Employer's Final Offer of 13%. The difference lies in the retroactivity. The Union seeks retroactivity whereas the Employer's offer appears to be based upon a mistaken belief that retroactivity is not allowed. There is no sound reason to deny retroactivity due to this mistaken belief. There are no other internal or external comparables that were denied retroactivity.

Step Pay Plan: All external and internal Union comparables have a step pay plan. Even if starting at \$15.00/hour, this bargaining unit would lag behind three of the four external comparables. Even if there were no equity adjustments awarded, there should nonetheless be a Step Pay Plan. More pay would mean less turnover.

Management Rights: The parties have similar proposals but for the "work schedule rotations" in the Employer's proposal. The Union's proposal seeks to maintain the existing work schedule.

Comp Time Bank Maximum: The Union's proposal of 100 hours maximum is the same as the other three FOP collective bargaining agreements. The Union's proposal would maintain uniformity on the issue among the collective bargaining agreements.

Overtime: The Union also seeks the same as in the other FOP collective bargaining agreements with an 8/80 proposal. The Employer offers OT for hours worked in excess of 80. The Union's proposal is similar to the external and internal comparables that pay OT for hours worked in excess of 8 per day. There are no internal or external comparables that support the Employer's position.

Shift Bidding: The Union seeks a seniority-based assignment system. Champaign and Livingston counties use that system and it is unclear how Ford and Kankakee assign shifts. The current system of a two-month rotation is unpopular and has led to resignations. The Employer fears that the Union's proposal will lead to newer employees getting the worst assignments and not getting the exposure and experience that they need. The Union responded to the Employer's concern by including a proposal that the Director can assign employees with three years or less experience.

Vacation Use: The Union proposes that only one employee be allowed to take vacation time until the bargaining unit reaches nine employees. After reaching staffing at nine employees, the Union proposes that two employees be allowed to take vacation time.

Personal Day: The Union proposes that employees be paid for unused personal days as is done in the comparable communities.

Health Insurance Deductible: The Union proposes that Bargaining Unit employees pay a \$500 deductible, the same amount as the other FOP bargaining units. The employees are already paid less than their counterparts at nearby counties and there is no justifiable reason for the Employer's proposed \$1,000 deductible.

ACA Language: The Union sees no need to include ACA language that would essentially allow the Employer to unilaterally change the terms of healthcare. The ACA is changing and the need to include the Employer's language has not been shown.

Personal Day Notice: The Union proposes that employees be paid for unused personal days.

The Employer

The Employer initially argues that the lawful authority statutory factor requires that the Union's economic proposals be rejected and the Employer's adopted. In support, the Employer

cites the 2016 Illinois Supreme Court case *State of Illinois CMS v. AFSCME* for the proposition that there is no lawful authority to order a wage increase. The Employer further argues that state law prohibits the awarding of backpay because it goes beyond the current fiscal year.

The Employer further argues that the interest and welfare of the public and the County's ability to pay require the adoption of the Employer's economic proposals. The Employer explains that it will appeal an award for the Union and the costs for the appeal would not be in the best interest of the County. According to the Employer, avoiding the threat of litigation is a valid reason to adopt the Employer's economic proposals. The County continues that it can afford its economic proposals but cannot afford the Union's economic proposals. Accordingly, the County's proposals should be adopted.

The Employer continues that the non-economic Management Rights clause should be adopted because it mirrors the other County units. The shift bidding, hours of work and vacation scheduling are the same as current practice and the County's proposals should be adopted in order to maintain the status quo. However, the Employer cites an interest arbitration award from a municipal employer arbitrating an existing labor agreement for the proposition that the status quo should be preserved. This is an initial contract and the status quo between the Employer and the Union does not yet exist. There is no Employer citation to an interest arbitration award for an initial contract.

The County also argues that it cannot have seniority-based shift bidding, the Union's hours of work proposal, and the Union's vacation scheduling proposal, because it removes discretion from the manager of the 911 center and would cost more in overtime. Further, comparison to existing County CBAs and non-union employees support the County's management rights clause and shift bidding proposals.

The County continues that the factor of wages, hours, and work conditions of similar employees support the County proposals. Although the Union's comparable communities all contain step pay increases, the County disputes their relevancy as comparable communities. Some are municipalities and those should not be compared to a County, some are not contiguous to the County and should not be considered, and others do not use a population comparison.

The County also argues that the fifth factor, commonly referred to as the CPI, does not support the significant increase that the Union is seeking. Regarding the sixth factor of overall

compensation, the County points out that all employees enjoy the same or similar vacations, holidays, sick leave, insurance, benefits and stable work environment. The County proposals seek to equalize any inequalities and should be adopted. The County maintains that the sixth factor is inapplicable because there have been no changes in the circumstances at the County or between the parties.

Finally, the County contends that the all-encompassing nature of the eighth factor should consider the average weekly pay rate for the County. Iroquois is an agricultural county and ranks in the lowest quarter of Illinois communities. The telecommunicators are paid near that average weekly pay rate for the County. This supports the County proposal.

**ANALYSIS OF STATUTORY FACTORS APPLIED TO
THE FINAL OFFERS FOR WAGES**

The Union's Final Offer is:

1/22/2015	12/1/2015	12/1/2016	12/1/2017	12/1/2018
2.5%	2.5%	2.5%	2.5%	2.5%

The Employer's Final Offer is

Effective 12/1/16 each member of the bargaining unit shall receive a 7% increase to their base pay. Starting salary shall be \$13.16

Effective 12/1/17 each member of the bargaining unit shall receive a 2.5% increase to their base pay and the starting pay shall increase by 2.5%.

Effective 12/1/18 each member of the bargaining unit shall receive a 2.5% increase to their base pay and the starting pay shall increase by 2.5%.

The Union offer totals a 12.5% pay increase whereas the Employer offers 12%. The offers also differ on the timing and differ on the question of backpay.

In interest arbitration, significant gains are meant to be the rarity. It is generally accepted that parties should not make gains at arbitration that they could not get at the bargaining table via face-to-face negotiations. As Arbitrator Bierig recently noted in 2013:

If an arbitrator awards either party a wage package which is significantly superior to anything it would likely have obtained through the collective bargaining process, that party is not likely to want to settle the terms of its next contract through good-faith collective bargaining. The temptation and political pressures will be very great to try one's luck again in arbitration in hopes of getting a better deal than is likely available at the bargaining table. City of Chicago & PBLC Unit 156, (Bierig, 2013) at 56.

The statutory factors that must be considered in Illinois public sector interest arbitration are:

(g) As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

(h) Where there is no agreement between the parties ... the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (A) In public employment in comparable communities.
 - (B) In private employment in comparable communities.
- (5) The average consumer prices for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties in the public service or in private employment.

While all the statutory factors must be considered, there are four key factors to the analysis: (i) the impact of inflation on the employees' purchasing power – generally measured by the Consumer Price Index; (ii) the pay and benefits received by other similarly situated employees – the “comparables;” (iii) the effect of the final offers on the interests and welfare of the public, and the government's ability to meet the costs after the final offers; and (iv) the effect on the overall compensation of the employees at issue.

Section 14(h) Factors

The Iroquois County dispatchers are not a Section 14 public safety bargaining unit and would not normally be submitting the matter to interest arbitration. However, the instant matter is an initial contract and the parties do not dispute that interest arbitration is available to resolve the impasse to arriving at an initial contract.

The parties do not agree on external comparables. The County maintains that the comparables should be the same as those in a prior FOP contract – DeWitt County, Edgar County, Iroquois County, Livingston County, and Piatt County.¹ The Union maintains that Champaign County, Livingston County, Kankakee County, Ford County, the City of Bourbonnais, and the City of Bradley.

The Union cites the external County dispatch centers in near or neighboring counties and the dispatch centers in Bradley and Bourbonnais as being appropriate for comparability to the instant bargaining unit. In support, the Union posits them as geographic and market-driven comparison of employers and communities. The Employer counters that, even if the counties are comparable, save for non-contiguous Livingston County, the municipal dispatcher centers are not comparable. The County offers the Union’s position in the Iroquois County Sheriff’s Department interest arbitration as indicative of the appropriate comparable communities.

The near and neighboring counties are substantially similar to the instant bargaining unit – they are rural communities in central Illinois. The near and adjacent counties share much of the same characteristics as Iroquois County. Further, the Union-cited county dispatcher centers are all unionized workplaces with one represented by AFSCME and the others represented by FOP. Although Livingston County is non-contiguous, there is no requirement that the comparable external comparable communities be contiguous. Livingston County is separated from Iroquois by a strip of Ford County. The comparable communities are not a “leapfrogged” group throughout the state. Rather, each is a comparable, nearby community in central Illinois with a unionized county dispatch center.

The County correctly argues that the municipal dispatch centers in Bourbonnais and

¹ There are three FOP-represented bargaining units: Deputies and Corporals, Sergeants and Lieutenants, and Correctional Officers. AFSCME represents civilian bargaining unit members in the county.

Bradley are not suitable comparables because they are municipal rather than county employees. The County is correct – municipal employers and county employees are two distinct types of government employees. Their tax base and funding sources are different. They perform different functions with the municipal dispatchers serving one city and the county dispatchers serving the entire county. Here, the Iroquois County dispatchers serve twenty communities in one of the largest counties in Illinois. Further, Bourbonnais no longer dispatches because its 911 center was absorbed by Kankakee County at the beginning of 2017. It no longer exists and is irrelevant as a comparable.

Accordingly, the external comparables are: Champaign, Livingston, Ford, and Kankakee counties.

The Internal Comparables

The Union argues that the comparable employees are the three Sheriff's Department bargaining units represented by the Union. The Union continues that the county employees represented by AFSCME are not suitable comparisons because they are nine-to-five civilians who do not deal with emergency issues. According to the Union, the dispatchers are not like other civilian employees and should not be compared to civilian employees. The Employer counters that all County employees should be compared to the dispatchers regardless of whether Union or non-Union.

There are many arbitration decisions for the proposition that appropriate internal comparables are other unionized employees. There are also many arbitration decisions that discuss the proposition that public safety units should be comparable to other public safety units. However, as the Union states in its brief, the instant employees are not Section 14 public safety employees. They are civilian dispatchers seeking an initial contract.

Here, the unionized county employees are the appropriate internal comparables. Non-union employees are not appropriate comparisons because they lack collective bargaining and their wages and conditions of employment are set by the Employer and not negotiated as a group. For this analysis, the appropriate internal comparables are all the unionized County employees including the three FOP units at the Sheriff's Department and the civilian employees represented by AFSCME.

The Lawful Authority of the Employer

The Employer devotes a significant portion of the brief arguing that the Employer's economic proposals must be adopted because the County lacks the legal authority to pay retro pay and has not appropriated the funds to pay the Union increases or any backpay. In support, the County cites the CMS vs AFSCME decision.

The Union counters that the claimed statutory prohibition against retroactive wage payments is negated by Section 15 and explicitly authorized pursuant to Section 14(j). The Union rejects the County's reliance on State of Illinois Department of Central Management Services v. American Federation of State, County and Municipal Employees, Council 31, 51 N.E.2d 738, 401 Ill.Dec. 907 (2013). According to the Union, CMS v AFSCME involves payments from the State to a State bargaining unit. The Court found, pursuant to the appropriations clause of the Illinois Constitution, "The General Assembly by law shall make appropriations for all expenditures of public funds by the State." Thus, the County's alleged restriction on its appropriations power applies only to the Illinois General Assembly, not to the County.

Identical Employer arguments were recently addressed in the Kankakee County and FOP interest arbitration. Arbitrator Morgen addressed it as follows:

First, in accordance with Illinois Statutes, the Board is required to pass an annual appropriations bill (55 ILCS 5/6-1001), and it is prohibited from entering into any contract to obligate the County to an expense for which appropriation has not been previously made (55 ILCS 5/6-1005). Second, the County claims that it lacks lawful authority consistent with *State v. AFSCME*, 2016 IL 118422, in which the Illinois Supreme Court held, in essence, an arbitrator's award that orders payment of a wage increase without a corresponding appropriation from the General Assembly is a violation of public policy. The County concludes it does not have lawful authority because it neither had appropriated sufficient funds to pay for the retroactive raises proposed by the Union, and in light of *State v. AFSCME*, it would be a violation of public policy for this Arbitrator to adopt the Union's final offer.

I find the County's arguments unpersuasive. First, and most significant, the Union correctly points out Section 15 provides that the Act "or any collective bargaining agreement negotiated thereunder shall prevail and control" in the event of conflict with any other law or executive order regarding wages. Thus, the provisions of the Act precede the statutes cited

by the County (55 ILCS 5/6-1001 and -1005). The County did not cite any Interest Arbitration decisions to support its proposition, and I could find no such cases on point, either. Further, the Union correctly concludes that if the County's interpretation was accurate, public sector employers would never have to give retroactive raises if a successor contract was resolved more than a year after the predecessor contract expires. This is particularly true in contract negotiations that reach an impasse and are ultimately resolved through Interest Arbitration, such as the instant matter.

Second, Section 14(j) of the Act clearly and unequivocally provides for awarding increases retroactively:

...If a new fiscal year has commenced either since the initiation of arbitration procedures under this Act or since any mutually agreed extension of the statutorily required period of mediation under this Act by the parties to the labor dispute causing a delay in the initiation of arbitration, the foregoing limitations shall be inapplicable, and such awarded **increases may be retroactive to the commencement of the fiscal year**, any other statute or charter provisions to the contrary notwithstanding. At any time the parties, by stipulation may amend or modify an award of arbitration. (emphasis added)

Here, the predecessor contract expired November 30, 2014, and the parties mutually agreed to defer negotiations for a successor agreement. The parties initiated negotiation for a successor agreement in 2015, initiated Interest Arbitration proceedings in 2016, and scheduled a Hearing with the undersigned Arbitrator for January 2017.

The circumstances under which this Arbitration comes before me are what the drafters of Section 14(j) seemed to have envisioned. Therefore, given that Section 15 provides precedence of the Act over any conflicting statutes—in this instance, statutes purporting to prohibit the County from paying retroactive increases—and, further, given that Section 14(j) of the Act clearly allows for an interest arbitrator to award retroactive increases, the County's contention that it lacks lawful authority based on Illinois Statute is rejected.

Next, with respect to the County's assertion that the 2016 Illinois Supreme Court's decision in *State v. AFSCME* essentially prohibits awarding the Union's retroactive wage increase proposal, because it would be unenforceable and subject to vacation as a violation of public policy, I respectfully disagree with County and instead concur with the Union that the instant Interest Arbitration is distinguishable from *State v. AFSCME*. The dispute in *State v. AFSCME* initially arose from a grievance arbitrator's award to enforce granting a wage increase in a multi-year collective bargaining agreement between AFSCME and the State of Illinois. Conversely, the matter here concerns an Interest Arbitration

between a union and a county joint-employer. The appropriation authority at issue in *State v. AFSCME* is that of the General Assembly and not of a county as is the case here. The Court concluded:

¶ 56 ...we hold that section 21 of the Act, when considered in the light of the appropriations clause, evinces a well-defined and dominant public policy under which multiyear collective bargaining agreements are subject to the appropriation power of the State, a power which many may only be exercised by the General Assembly. We further hold that the arbitrator's award, which ordered immediate payment if the 2% wage increase without regard to the existence of corresponding appropriations by the General Assembly, violated public policy...

The Court does not address an Interest Arbitration that awards a wage increase retroactively in accordance with Section 14(j) of the Act. It would be for a court to determine whether *State v. AFSCME* applies to an Interest Arbitration award made pursuant to Section 14(j), not for this Arbitrator to interpret, particularly in view that the parties have granted me no authority to do so—either in their Collective Bargaining Agreement or in their Stipulations. My authority, jurisdiction, and responsibilities in this Interest Arbitration derive from the Act, the parties' Collective Bargaining Agreement, and their arbitral Stipulations.

The analysis in Kankakee County applies to the instant issue. The applicable statutes and caselaw support the Union's position. The Employer's legal bar argument is not persuasive. The lawful authority analysis supports the Union.

The Interests and Welfare of the Public and the Financial Ability of the Unit of Government to Meet Those Costs

The Union cites the new public safety tax and the general solid state of County finances in support of its position. Further, the Union also points to the understaffing, low wages, turnover, and scheduling as critical problems with the dispatch center. A properly paid, properly staffed, and properly scheduled work force would ensure that the citizens of the County would have a dependable 911 service.

The Employers do not argue an inability to pay. Rather, the Employers argue that the interest of the community requires them to be good conservators of the taxpayers' money and that the County's approach is fiscally conservative. The Employer continues that the County is in sound financial shape, but the impact of the new public safety tax is unknown. The Employer also maintains that it will appeal an interest arbitration award that does not award the County's

wage offer. The Employer continues that in order to avoid the added costs of protracted litigation and the adverse effect that would have upon the County's finances, the Employer's offer must be adopted.

Obviously, the public has a strong interest in an effective and properly staffed County 911 system. People phone the 911 center for emergencies and deserve to have those calls handled in a professional and timely manner. One of the keys to a well-functioning 911 center is a high-caliber and well-trained staff that is supervised by equally high-caliber and well-trained managers. In the instant matter, the testimony suggests an employee turnover issue that is mainly related to compensation below neighboring communities. The testimony indicated that some employees left due to the pressure, but also that some employees left for better pay as dispatchers for other 911 centers.

The presentations, testimony, submissions, and documentary evidence indicate that the County is in solid financial shape. The County and Union wage increase percentages are close – with the main difference found in whether retroactive payments would be made. It should also be noted that the County's threat of litigation is a non-starter. Any losing party could threaten litigation as a reason to support their offer – a position clearly counter to the purposes of the interest arbitration statute.

The citizens have an interest in ensuring that the County deputies maintain their position in regards to the comparable counties. Recruiting and retaining dispatchers benefits the citizens of the County. The Union's wage offer is the more reasonable and best achieves the interest arbitrator's obligation "to replicate the results of arm's length bargaining between the parties, and, to do no more." *FOP and McLean County*, (Hill, 2013) citing, *Metropolitan Alliance of Police, Chapter 471*, (Goldstein 2009). Further, the County has a recent Public Safety tax that was enacted and that will affect its ability to pay the increased costs of the dispatchers.

Comparison of the Wages, Hours and Conditions of Employment of the Employees Involved in the Arbitration Proceeding with the Wages, Hours and Conditions of Employment of Other Employees Performing Similar Services and with Other Employees Generally

The comparable dispatch centers in Champaign, Ford, Kankakee, and Livingston have the following wages:

SEE ATTACHED GROUP EXHIBIT 1

The comparable internals are FOP Deputies and Corporals, FOP Sergeants and Lieutenants, FOP Corrections, and AFSCME civilian Iroquois County employees. Their wage scales are included in Section 3, Step Pay Plan, below and incorporated by reference to this section.

Both parties argue that the internal comparables favor their offer. The Union reminds that non-law enforcement units are not particularly relevant to deciding a public safety Agreement and that non-union employees are completely irrelevant comparisons. The Employer reminds that these are telecommunicators and not sworn police or fire members.

Many arbitrators agree that a public safety bargaining unit is the appropriate comparison for a law enforcement interest arbitration analysis. See e.g., *City of Chester and Illinois Fraternal Order of Police*, SMA-10-206 (Feuille, 2011). However, the instant interest arbitration distinguishes from that general proposition – it is not a law enforcement unit, but does deal with public safety matters on a 24/7/365 basis. But, because this bargaining unit is comprised of civilians, the civilian AFSCME employees are also appropriate internal comparables.

The parties also disagree about the relevance of the wages for non-represented employees. The Employers see the non-represented employees as being relevant to the wage offer. However, most arbitrators agree that the wages of non-represented employees are largely irrelevant – for the obvious reason that those employees have no bargaining rights. See e.g., *City of Chester and Illinois Fraternal Order of Police*, SMA-10-206 (Feuille, 2011).

A comparison of the external comparables indicates that under the Employer's offer, the Iroquois County telecommunicators would be towards the bottom of the comparable 911 center whereas with the Union offer they would be in the middle. When compared to the internal bargaining units, the dispatchers would be comparable to their unionized civilian counterparts employed by the County.

The Union's wage offer is the more reasonable offer under all the statutory criteria.

The Average Consumer Prices for Goods and Services, Commonly Known as the Cost of Living.

Both the Union and the Employer cite the CPI in support of their position. The Union contends that CPI has little relevance because both offers exceed the CPI, and the Employer favors the CPI because their offer is closer to the CPI.

The CPI is an important factor to consider in Interest Arbitration awards. It has been very low and the leading economic forecasters predict that it will not significantly increase over the remaining life of the Agreement. Both offers exceed the CPI. The CPI does not favor either party's offer.

The Overall Compensation Presently Received by the Employees

This factor requires an examination of:

The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

As stated above, the County has the ability to pay. There is no evidence that the Union's offer would lead to constraints in other areas of County services. To the contrary, the County recently began a new Public Safety tax and will have increased public safety revenue available for Public Safety purposes. Further, the citizens have an interest in ensuring that the County deputies maintain their position in regards to the comparable counties. Recruiting and retaining Department members benefits the citizens of Iroquois County.

Under the Employer's Health Insurance offer, the Employees will have their deductible increased to \$1,000. This deductible increase is substantial for the dispatchers and must be considered against any wage increase. Although the dispatchers' wages will increase, so will their health care costs.

The Union's offer is the more reasonable and best achieves the interest arbitrator's obligation "to replicate the results of arm's length bargaining between the parties, and, to do no more." Illinois *Fraternal Order of Police and McLean County*, (Hill, 2013) citing, *Metropolitan Alliance of Police, Chapter 471* (Goldstein 2009).

The Remaining Statutory Factors

In addition to the above-cited statutory factors, the undersigned has considered all the remaining statutory factors.

ANALYSIS OF THE STATUTORY FACTORS APPLIED TO THE REMAINING OPEN TERMS

The Open Terms

The Employer and the Union have agreed to a number of Tentative Agreements. Twelve open terms remain and are discussed below as listed by the parties in the Ground Rules.

1. Hours of Work/Work Schedule

The Union's Final Offer:

Section 6.1 Hours of Work

Due to the four (4) on/two (2) off work schedule, employees will work eight and one half hours (8 1/2 hours) in order to meet 2080 hours per year. Employees will be paid eighty (80) hours of work per pay period, excluding overtime. The normal work week shall include four consecutive days of work followed by two days off.

The Employer's Final Offer

Section 6.1 Hours of Work

Due to the four (4) on/two (2) off work schedule, employees will work eight and one half hours (8 1/2 hours) in order to meet 2080 work hours per year. Employees will be paid eighty (80) hours of work per pay period, excluding overtime. The normal work week shall include four consecutive days of work followed by two days off. Should the Employer determine to change the work schedule, the Employer shall provide notice to the employees and an opportunity to bargain over the change.

The Union's offer seeks to preserve the employer's current practice. The bargaining unit has no right to strike if the Employer should unilaterally change the work schedule. According to the Union, the Employer's proposal would only allow a change to hours or schedule and provides no resolution procedure because this is an initial contract and not a section 14 public safety interest arbitration. The Employer would be free to implement unilateral changes following bargaining.

The Employer maintains that determining the appropriate schedules for the Dispatch Center is a management right. If there is a change, there will be an opportunity for the Union to bargain the change.

A review of the internal comparables supports the Union's offer. The three FOP and County Sheriff contracts provide, in pertinent part, that "the County Board and Council may agree to changes to this Section by mutual agreement." There is no unilateral right to change in those Agreements. Further, schedules are set in the external comparables. These were bargained-for schedules.

This is an initial contract. Considering the above-cited comparables from the FOP contracts with the Sheriff's Department, the external comparables, all the 14(h) factors, the Union's offer is the more reasonable.

2. Annual Wage Increases

See above discussion.

3. Step Pay Plan

The Union's Final Offer:

The Union offers the Step Pay Plan

ARTICLE 19
WAGES

Section 19.1 – Wage Scale

		1/22/2015	12/1/2015	12/1/2016	12/1/2017	12/1/2018
		2.50%	2.50%	2.50%	2.50%	2.50%
start	\$15.00	\$15.38	\$15.76	\$16.15	\$16.55	\$16.96
1 years	\$15.30	\$15.68	\$16.07	\$16.47	\$16.88	\$17.30
2 years	\$15.61	\$16.00	\$16.40	\$16.81	\$17.23	\$17.66
3 years	\$15.92	\$16.32	\$16.73	\$17.15	\$17.58	\$18.02
4 years	\$16.24	\$16.65	\$17.07	\$17.50	\$17.94	\$18.39
5 years	\$16.56	\$16.97	\$17.39	\$17.82	\$18.27	\$18.73
6 years	\$16.89	\$17.31	\$17.74	\$18.18	\$18.63	\$19.10
7 years	\$17.23	\$17.66	\$18.10	\$18.55	\$19.01	\$19.49
8 years	\$17.57	\$18.01	\$18.46	\$18.92	\$19.39	\$19.87
9 years	\$17.92	\$18.37	\$18.83	\$19.30	\$19.78	\$20.27
10 years	\$18.28	\$18.74	\$19.21	\$19.69	\$20.18	\$20.68
11 years	\$18.65	\$19.12	\$19.60	\$20.09	\$20.59	\$21.10
12 years	\$19.02	\$19.50	\$19.99	\$20.49	\$21.00	\$21.53
13 years	\$19.40	\$19.89	\$20.39	\$20.90	\$21.42	\$21.96
14 years	\$19.79	\$20.28	\$20.79	\$21.31	\$21.84	\$22.39
15 years	\$20.19	\$20.69	\$21.21	\$21.74	\$22.28	\$22.84
16 years	\$20.59	\$21.10	\$21.63	\$22.17	\$22.72	\$23.29
17 years	\$21.00	\$21.53	\$22.07	\$22.62	\$23.19	\$23.77
18 years	\$21.42	\$21.96	\$22.51	\$23.07	\$23.65	\$24.24
19 years	\$21.85	\$22.40	\$22.96	\$23.53	\$24.12	\$24.72
20 years	\$22.29	\$22.85	\$23.42	\$24.01	\$24.61	\$25.23

The Employer's Final Offer:

There is no Employer step offer and the Employer opposes step pay.

The internal comparables are:

Corrections

ARTICLE 26
WAGES AND COMPENSATION

Section 26.1 Wages

Current pay steps shall be increased by 2.75% effective 12-1-2013, 2.5% effective 12-1-2014; and 2.5% effective 12-1-2015. After four (4) years of service, and for each year of service thereafter, bargaining unit employees shall receive a 2% longevity pay increase on their anniversary date of hire.

Corrections Officers assigned as a supervisor shall receive a monthly stipend of \$100.00 retroactive to 12-1-04. This amount shall not become part of employee's base salary but shall be paid as a separate amount monthly.

The following wage schedule shall apply to all employees covered by this Agreement.

STEP	Current	12/1/2016	12/1/2017	12/1/2018
		2.5%	2.5%	2.5%
Start	\$34,220.81	\$35,076.33	\$35,953.24	\$36,852.07
1 year	\$37,177.72	\$38,107.16	\$39,059.84	\$40,036.34
2 years	\$38,820.45	\$39,790.96	\$40,785.73	\$41,805.38
3 years	\$40,462.02	\$41,473.57	\$42,510.41	\$43,573.17

4 years and each year thereafter, add 2% to preceding longevity step

Deputies and Corporals

WAGES AND COMPENSATION

Section 26.1 Wages

The following wage schedule shall apply to all employees covered by this Agreement.

2.5% effective 12/1/2016, 2.5% effective 12/1/2017, 2.5% effective 12/1/2018

STEP	Current	12/1/2016 2.5%	12/1/2017 2.5%	12/1/2018 2.5%
Start	\$40,531.03	\$41,544.30	\$42,582.91	\$43,647.48
1 year	\$46,826.08	\$47,996.73	\$49,196.65	\$50,426.56
2 years	\$48,550.54	\$49,764.30	\$51,008.41	\$52,283.62
3 years	\$50,275.00	\$51,531.87	\$52,820.17	\$54,140.67
4 years	\$51,999.46	\$53,299.44	\$54,631.93	\$55,997.73
5 years	\$53,723.92	\$55,067.02	\$56,443.69	\$57,854.78
8 years	\$54,586.86	\$55,951.53	\$57,350.32	\$58,784.07
10 years	\$55,448.40	\$56,834.61	\$58,255.47	\$59,711.86
11 years	\$56,598.96	\$58,013.93	\$59,464.28	\$60,950.89
14 years	\$57,749.51	\$59,193.25	\$60,673.08	\$62,189.90
15 years	\$58,900.07	\$60,372.57	\$61,881.88	\$63,428.93
17 years	\$59,286.79	\$60,768.96	\$62,288.18	\$63,845.39
20 years	\$59,673.53	\$61,165.37	\$62,694.50	\$64,261.86
22 years	\$60,446.98	\$61,958.15	\$63,507.10	\$65,094.78
24 years	\$61,221.82	\$62,752.36	\$64,321.17	\$65,929.20
26 years +	\$61,995.28	\$63,545.16	\$65,133.79	\$66,762.13

Corporals' rate of pay is calculated by adding \$1,200 to the appropriate base rate of pay shown above.

Sergeants and Lieutenants

ARTICLE 26
WAGES AND COMPENSATION

Section 26.1 Wages

(a) Effective December 1, 2006, sergeants and lieutenants in the Iroquois County Sheriff's Office shall be paid rank differentials as follows:

i) Sergeants shall be paid a salary that is equivalent to eight percent (8%) higher than the salary of the highest step in the deputy pay plan in the Office;

ii) Lieutenants shall be paid a salary that is equivalent to ten percent (10%) higher than the salary paid to the highest step in the sergeant pay plan in the Office.

iii) Sergeants' and lieutenants' salaries shall be increased to the amount corresponding to the foregoing differentials on December 1, 2006 and shall be thereafter increased from time to time as the deputies receive salary increases in order to maintain the appropriate differentials. Increases in sergeants' and lieutenants' salaries resulting from increases in deputies' salaries shall be effective (or retroactively effective as the case may be) on the same date as the date of the deputies' salary increases occurring on or after December 1, 2006.

ARTICLE XXI GENERAL ECONOMICS

Section 1. Starting Wages

The following starting wage scale shall be instituted:

	12/1/2014	12/1/2015	12/1/2016
2/1/2014			
SECRETARIAL AND CLERICAL SWITCHBOARD OPERATOR	\$10.20	\$10.50	\$10.80
COMPUTER AND CENTRAL EQUIPMENT ASSESSMENT OFFICE FIELD PERSONNEL AND TAX EXTENSION CLERK	\$10.20	\$10.50	\$10.80
JANITORIAL	\$9.60	\$9.90	\$10.20
COOKS	\$9.60	\$9.90	\$10.20
HOUSEKEEPERS	\$9.60	\$9.90	\$10.20
BUILDING MAINTENANCE	\$11.60	\$11.90	\$12.20

To move from Maintenance Worker I to Maintenance Worker II position you must have five (5) years road construction experience or five (5) years experience with the County and be able to operate all machinery with at least minimum skill levels. 40

The internal comparables indicate a step pay plan for the deputies and corporals. Sergeants and Lieutenants have an 8% and 10% pay increase tied to the highest deputy step pay and highest sergeant step pay respectively. There is no step pay plan for the AFSCME represented employees. The external comparables indicate step pay at the four 911 dispatch centers.

All but one of the internal and external comparables has a step pay plan. Based on the comparable internal and external bargaining units and the Section 14(h) factors discussed above, there is support for a step pay plan. The Union’s Final Offer is the more reasonable.

4. Management's Rights

The Union's Final Offer:

Except as specifically limited by the express provisions of this Agreement, and subject to the Union's rights to bargain established by Section 4 of the Illinois Public Labor Relations Act regarding policy matters which directly affect wages, hours, terms and conditions of employment, the Employer retains traditional rights to operate the Employer's Office, as well as those rights enumerated within the Statutes of Illinois, including the Illinois Public Labor Relations Act. Such management rights include, but are not limited to the following:

- (a) To plan, direct, control and determine all operations and services of the Employer's Office;
- (b) To supervise and direct employees;
- (c) To establish the qualifications for employment and to employ employee employees;
- (d) To establish reasonable work rules in accordance with the provisions of this Agreement;
- (e) To suspend, discharge, and take other disciplinary action against employees for just cause. A probationary employee may be suspended or terminate by the Director without just cause.
- (f) To establish reasonable work standards and, from time to time, amend such standards;
- (g) To lay off employees for lack of work or lack of fund,
- (h) The Employer shall have the right to operate the Employer's Office and all its various aspects, as long as such is consistent with the Law of Illinois.

The Employer's Final Offer:

Except as specifically limited by the express provisions of this Agreement, and subject to the Union's rights to bargain established by Section 4 of the Illinois Public Labor Relations Act regarding policy matters which directly affect wages, hours, terms and conditions of employment, the Employer retains traditional rights to operate the Employer's Office, as well as those rights enumerated within the Statutes of Illinois, including the Illinois Public Labor Relations Act. Such management rights include, but are not limited to the following:

- (a) To plan, direct, control and determine all operations and services of the Employer's Office;
- (b) To supervise and direct employees;
- (c) To establish the qualifications for employment and to employ employee employees;
- (d) To establish reasonable work rules and work schedule rotations and

- assign such in accordance with the provisions of this Agreement;
- (e) To suspend, discharge, and take other disciplinary action against employees for just cause. A probationary employee may be suspended or terminated by the Director without just cause.
 - (f) To establish reasonable work standards and, from time to time, amend such standards;
 - (g) To lay off employees for lack of work or lack of fund,
 - (h) The Employer shall have the right to operate the Employer's Office and all its various aspects, as long as such is consistent with the Law of Illinois.

The parties are in substantial agreement about the language of the Management Rights clause of the Agreement. The difference is the Employer's Section (d) scheduling language: "To establish reasonable work rules and work schedule rotations and assign such in accordance with the provisions of this Agreement."

The Director has been making the work schedules on a rotating basis. The Employer argues that the right to establish schedules and assignments is a management right. Further, when comparing the Employer's Section (d) to the language of the Iroquois County FOP contracts, they are shown to be identical. For example, the Deputies and Corporals Contract provides, in pertinent part in Article 12, section (d):

To establish reasonable work rules and work schedule rotations and assign such in accordance with the provisions of this Agreement

When the comparables and the Section 14(h) standards are considered, the Employer's proposal is the more reasonable.

5. Compensatory Time Bank Maximum;

The Union's Final Offer:

The Employer agrees to grant compensatory time off in lieu of overtime payment at the Employee's discretion and at the same overtime rate. Employees shall be allowed to accumulate up to a maximum of one hundred hours. Compensatory time off shall be granted at the Employee's request at such time and in such blocks as are mutually agreed between the Employee and the Director or his designee. Permission to use compensatory time shall not be unreasonably denied. When compensatory time off is granted, the Employee shall not be required to remain on standby status, Employees shall be allowed to carry over compensatory time from one year to the next.

The Employer's Final Offer:

The Employer agrees to grant compensatory time off in lieu of overtime payment

at the Employee's discretion and at the same overtime rate. Employees shall be allowed to accumulate up to a maximum of sixty- four (64) hours. Compensatory time off shall be granted at the Employee's request at such time and in such blocks as are mutually agreed between the Employee and the Director of his designee. Permission to use compensatory time shall not be unreasonably denied. When compensatory time off is granted, the Employee shall not be required to remain on standby status. The Employer will pay all the compensatory time remaining at the end of the fiscal year.

The Employer cites no reason for the 64 hour total. An examination of the internal comparables indicates that 100 hours is the norm for compensatory time accumulation. The Union's final offer is in keeping with the other Employer bargaining units. It is the more reasonable offer.

6. Overtime Compensation

The Union's Final Offer:

All hours worked in excess of the normally scheduled work day or over eighty (80) hours in a pay period shall be compensated at the overtime rate of time and one half (1 ½) times the Employee's regular hourly rate of pay or compensatory time equivalent (at the Employee's option). For purposes of calculating overtime, all compensated hours shall be considered hours worked.

The Employer's Final Offer:

All hours worked in excess of 40 hours per week shall be compensated at the overtime rate of time and one half (1 ½) times the Employee's regular hourly rate of pay or compensatory time equivalent (at the Employee's option). For purpose of calculating overtime, all compensated hours shall be considered hours worked.

The internal Sheriff's Department comparables are again instructive. The Union's proposal is virtually identical to the overtime compensation provisions of the Correction Agreement, Deputies and Corporals Agreement, and the Sergeants and Lieutenants contract. All three contract provisions apply to hours worked beyond the normal work day of eight or ten hours and an eighty hour pay period.

Based upon the comparables, and the Section 14(h) statutory criteria, the Union's offer is the more reasonable.

7. Shift Bidding by Seniority/Rotation

The Union's Final Offer:

Employees with three or more years of service will bid for their preferred shift

by seniority every two months. The Director will assign the shift for employees with less than three years of service. Employees may voluntarily trade shifts, with the Director's approval, which shall not be unreasonably denied.

The Employer's Final Offer:

Employees will bid for their preferred shift by rotating seniority every two (2) months. Employees may voluntarily trade shifts, with the Director's prior approval, and the Director may deny such trades. The Director may unilaterally change shifts if it is deemed that two telecommunicators are too inexperienced to work together on the same shift.

The Director testified that has been making the work schedules on a rotating basis seniority basis. The Employer proposal is the current practice for this unit. The Employer argues that the right to establish schedules and assignments is a management right. When the comparables and statutory factors are considered, the Employer's proposal is the more reasonable.

8. Vacation Scheduling

The Union's Final Offer:

Vacation days will be scheduled on a first come, first serve basis.

Up to two employees per day may be off on benefit time, excluding sick time, when the Employer employs at least nine active bargaining unit members. If it employs fewer than nine active bargaining unit members, one employee per day may be off on benefit time excluding sick leave. Should a sick call or employee emergency require an employee to be called in, the Employer will follow the provisions of Article 6, Section 6.7, second paragraph. Employees on vacation days will not have their vacation days cancelled because an employee called in sick.

The Employer's Final Offer:

The current policy of allowing one (1) employee per day off on vacation, personal time, or holiday shall continue under this Agreement. Employees on vacation day(s) will not have their vacation cancelled because an employee called in sick.

A comparison of the internal comparables indicates that neither the Union's nor the Employer's Vacation Scheduling Final Offer is appropriate in light of the internal and external comparable and statutory factors. The Dispatch Center is a 24/7 operation. Accordingly, the internal Sheriff's Department provisions are instructive on this issue. Because this is a non-economic issue, the arbitrator is allowed to draft the term. The following is the final term for Vacation Scheduling:

Vacation shall be scheduled insofar as practicable at times desired by each employee, provided however it does not affect the Employers' operating needs and services to the public. Employees will make their vacation selections on the basis of seniority within their assigned unit of work. When two or more employees seek the same vacation period, preference shall be given to the most senior employee where operating circumstances permit. In establishing vacation schedules, the Sheriff shall consider both the employees preference and the operating needs. When the Employers are unable to grant and schedule vacation preferences for all employees, but are able to grant some employees such vacation preferences, employees shall be granted such preferred vacation period on a basis of seniority. An employee who has been granted his/her first preference shall not be granted another preference request if such would require denial of the first preference of a less senior employee.

The Director shall not unreasonably deny vacation requests by employees. Employees shall not receive pay in lieu of vacation time off unless it is necessitated by the Director's inability to grant the employee their requested vacation time.

9. Personal Day Payout/Forfeit

The Union's Final Offer:

Personal days shall be credited to employees at a rate of one (1) per year. The day shall be credited to the employee on the day following their first anniversary date of employment and each year thereafter. Personal days shall not be accumulated and if the day remains unused on the employee's next anniversary date, the employee shall be paid for one day's pay at their then current rate of pay. Personal days shall not be taken immediately before a holiday or vacation unless approved by the Director.

The Employer's Final Offer:

Each employee shall be entitled to one (1) personal day per year. The day shall be credited to the employee on the day following their first anniversary date of employment and each year thereafter. Personal days shall not be accumulated and if the day remains unused on the employee's next anniversary date, the employee shall forfeit that day. Employees shall provide at least two (2) days notice to the Employer in advance of the use of a personal day.

The internal comparable of the AFSCME collective bargaining agreement is instructive. Article XVII, Section 5 provides for the accumulation of two personal days a year. If one personal is unused in the anniversary year, it is compensated at the regular rate of pay.

When the comparables and statutory factors are considered, the Union's proposal is the more reasonable.

10. Health Insurance Deductible

The Union's Final Offer:

18.1 Health Insurance

Employees shall contribute monthly to health insurance premiums according to the following schedule:

Effective 12-1-2016:

Single coverage	25%
Employee + Spouse	50%
Employee + Children	50%
Family	50%

Employees may opt out of Employee + One or Family Coverage at any time.

There will be no substantial change to employee health insurance during the life of this Agreement, except that the health insurance deductible may increase to \$500.

The Employer's Final Offer:

Employees shall contribute monthly to health insurance premiums according to the following schedule:

Effective 12-1-2016:

Single coverage	25%
Employee + Spouse	50%
Employee + Children	50%
Family	50%

Employees may opt out of Employee + One or Family Coverage at any time.

There will be no substantial change to employee health insurance during the life of this Agreement, except that the health insurance deductible shall increase to \$1,000. Should the terms of the Affordable Care Act require the Employer to change the terms of its health insurance plan during the term of this contract, or impose upon the Employer fees, costs or taxes not otherwise applicable to the Employer, the Employer and the Union agree to meet and bargain over those changes.

The Union argues that its final offer does not include unnecessary ACA language. Further, the costs to low-paid employees should not be doubled. The Union continues that the Employer's Final Offer does not seek to establish the same deductible for all county employees because theirs is \$500. The Employer also argues that the ACA language reflects the realities of the changes to the ACA and that it might affect the costs of healthcare. Further, other county employees have a \$1,000 deductible.

The internal comparables are instructive. The AFSCME represented County employees have had a \$1,000 deductible since April 1, 2011. For this new contract, the

Employer seeks to establish continuity in the healthcare plan throughout the County employees as part of an initial contract. Further, the ACA language only is implicated if the ACA changes terms or imposes additional costs. The proposal requires bargaining over those ACA changes. It does not require bargaining over other changes to the health plan.

Based upon a review of the comparable communities and the statutory factors, the Employers Final Offer is the more reasonable offer.

11. Affordable Care Act Language:

The Union's Final Offer:

Employees shall contribute monthly to health insurance premiums according to the following schedule:

Effective 12-1-2016:

Single coverage	25%
Employee + Spouse	50%
Employee + Children	50%
Family	50%

Employees may opt out of Employee + One or Family Coverage at any time.

There will be no substantial change to employee health insurance during the life of this Agreement, except that the health insurance deductible may increase to \$500.

The Employer's Final Offer:

Employees shall contribute monthly to health insurance premiums according to the following schedule:

Effective 12-1-2016:

Single coverage	25%
Employee + Spouse	50%
Employee + Children	50%
Family	50%

Employees may opt out of Employee + One or Family Coverage at any time.

There will be no substantial change to employee health insurance during the life of this Agreement, except that the health insurance deductible shall increase to \$1,000. Should the terms of the Affordable Care Act require the Employer to change the terms of its health insurance plan during the term of this contract, or impose upon the Employer fees, costs or taxes not otherwise applicable to the Employer, the Employer and the Union agree to meet and bargain over those changes.

The analysis of Section 10 above applies to the instant matter. Based upon a review of the comparable communities and the statutory factors, the Employers Final Offer is the more reasonable offer.

12. Personal Day Notice.

The Union's Final Offer:

Personal days shall be credited to the employees at a rate of one (1) per year. The day shall be credited to the employee on the day following the first anniversary date of employment and each year thereafter. Personal days shall not be accumulated and if the day remains unused on the employee's next anniversary date, the employee shall be paid for one day's pay at their then current rate of pay. Personal days shall not be taken immediately before a holiday or vacation unless approved by the Director.

The Employer's Final Offer:

Each employee shall be entitled to one (1) personal day per year. The day shall be credited to the employee on the day following their first anniversary date of employment and each year thereafter. Personal days shall not be accumulated and if the day remains unused on the employee's next anniversary date, the employee shall forfeit that day. Employees shall provide at least two (2) days' notice to the Employer in advance of the use of a personal day.

The analysis of Section 9 above applies to the instant matter. Based upon a review of the comparable communities and the statutory factors, the Union's Final Offer is the more reasonable offer.

TENTATIVE AGREEMENTS

All prior tentative agreements are incorporated into this Award by reference.

RETROACTIVITY

Payments are retroactive and apply to all hours worked or paid during the CBA period.

JURISDICTION

Jurisdiction is retained for 90 days from issuance of this Award to resolve any issues that may arise regarding implementation.

AWARD

Having considered the evidence and arguments in accord with the all applicable statutory

factors, the following terms apply:

1. Union Offer
2. Union Offer
3. Union Offer
4. Employer Offer
5. Union Offer
6. Union Offer
7. Employer Offer
8. Arbitrator's Term
9. Union Offer
10. Employer Offer
11. Employer Offer
12. Union Offer

Date of Award: December 29, 2017

Brian Clauss

BRIAN CLAUSS, Arbitrator