

ILLINOIS LABOR RELATIONS BOARD  
INTEREST ARBITRATION BEFORE  
ARBITRATOR BRIAN CLAUSS

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COUNTY OF EFFINGHAM, ILLINOIS and	)	
THE EFFINGHAM COUNTY SHERIFF,	)	
	)	
Employers,	)	
	)	
and	)	Nos. S-MA-14-332
	)	S-MA-14-333
	)	
ILLINOIS FRATERNAL ORDER OF	)	
POLICE LABOR COUNCIL	)	
	)	
Union.	)	

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**For the Union:**  
John Weathers  
Fraternal Order of Police Labor Council  
Western Springs, Illinois

**For the Employers:**  
Richard Stewart, Jr.,  
Hesse Martone, P.C.  
Springfield, Illinois

## **INTEREST ARBITRATION AWARD**

### **INTRODUCTION**

Effingham County and the Effingham County Sheriff's Department (the "County" and each an "Employer" and collectively, the "Employers") are co-employers pursuant to the Illinois Public Labor Relations Act and are parties to a Collective Bargaining Agreement ("CBA" or "Contract") with the Fraternal Order of Police Labor Council ("FOP" or "Union").

The parties reached impasse during negotiations and the undersigned was selected to decide the interest arbitration pursuant to the procedures of the Illinois Labor Relations Board. The arbitrator was selected and accepted this appointment pursuant to IPLRA Section 14 impasse procedures for protective service bargaining units.

#### *Resolution Procedure*

The interest arbitration session was held at the County Building on January 12, 2016, and was attended by the Sheriff, members of the County Board, the County Manager, members of the bargaining team, the Union Business Representative, and counsel for the Union and the Employers.

#### *Term of Agreement*

The CBA at issue in the instant Award shall be effective September 1, 2014 and shall continue in full force and effect until August 31, 2017. Wages will be paid retroactively on all hours worked.

### **EFFINGHAM COUNTY**

Effingham County, Illinois is a rural county approximately 75 miles southeast of the state capitol of Springfield. According to US. Census data, the County had 34,242 inhabitants in 2010. Population growth is predicted to be .4% for 2015. There are 13,515 households and 9,302 families residing in the county. There were 14,570 housing units at an average density of 30.4 per square mile.

Effingham County has an elected County Board. There are a number of positions mandated by Illinois law, including a County Sheriff. The Effingham County Sheriff has a Sheriff's Department that is responsible for law enforcement. The Sheriff's Department is also responsible

for the administration of the County Jail and providing security and prisoner transportation for the Circuit Court of Effingham County. The Sheriff's Department is also responsible for civil process.

The Sheriff's Department website provides a useful summary of population and geography of the County:

The largest concentration [of inhabitants reside] in Effingham, Teutopolis, Altamont, and the Lake Sara area. There are 10 incorporated cities and villages, and the county is divided into 15 townships. Effingham County covers 482 square miles and is located in the southeast part of the State of Illinois.

Within Effingham County, there are approximately 972 miles of roadways, including 51 miles of interstate, 71 miles of state highways, 148 miles of county roads, and 702 miles of township roads.

Highways and interstates serving Effingham County are State Routes 33 and 40, running east and west; State Routes 32, 37 and 45, running north and south; Interstate 57 running north and south, and Interstate 70 running east and west.

The Effingham County Sheriff's Office is the primary Law Enforcement agency responding to calls for service throughout the County. Effingham City and Altamont have a 24 hour police force and the City of Teutopolis has a part time force. The Sheriff's Office patrols and handles all crashes which occur on the 850 miles of rural roadways and most of the crashes along the 71 miles of State Highways. They are assisted by the Illinois State Police on State Highways and Troopers handle most calls and crashes on the Interstates.

The parties had been in negotiations regarding the terms of the collective bargaining agreements for the Effingham County Deputies, Peace Officers, Corporals and Sergeants, as well as Effingham County Correctional Officers and Telecommunicators. Upon reaching impasse, the parties selected the undersigned under the process of the Illinois Labor Relations Board.

Prior to the hearing, the parties engaged in a discussion to refine the issues, offers, and seek possible resolution. The record was left open for the parties to submit Final Offers after the hearing.

## INTEREST ARBITRATION

### *Jurisdiction*

This interest arbitration comes before the Arbitrator pursuant to Section 14 of the Illinois Public Labor Relations Act. The subject CBA covers sworn Deputies/Peace Officers and Corporals, Sergeants and Correctional Officers.

### STATUTORY FACTORS

The statutory provisions governing this arbitration are found in Section 14. All of the statutory factors were considered by the undersigned when analyzing the issues presented in this Interest Arbitration Award. 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 Local (Eglit 1986).

(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.

### **ECONOMIC IMPASSE ISSUES**

The parties agreed that the only disputed economic issues that were mandatory subjects of bargaining within the meaning of Section 14(g) of the IPLRA were:

- (2)(a) What shall the wage increases for the Deputies Bargaining Unit be for September 1, 2014, September 1, 2015 and September 1, 2016?
- (2)(b) What shall the wage increases for the Corrections Bargaining Unit be for September 1, 2014, September 1, 2015 and September 1, 2016?
- (3)(a) What shall the language in Article 12 of the Deputies Collective Bargaining Agreement be in regards to Health Insurance?
- (3)(b) What shall the language in Article 12 of the Corrections Collective Bargaining Agreement be in regards to Health Insurance?
- (1) What, if any, changes shall be made to the current system of Corporal and Sergeant compensation?

### **POSITIONS OF THE PARTIES**

#### **The Employers' Final Offer**

##### *Wages: Deputies Bargaining Unit*

The Employers propose:

- a 2.00% across-the-board increase effective September 1, 2014
- a 2.00% across-the-board increase effective September 1, 2015
- a 2.00% across-the-board increase effective September 1, 2016

##### *Wages: Corrections Bargaining Unit*

The Employers propose:

- a 2.00% across-the-board increase effective September 1, 2014
- a 2.00% across-the-board increase effective September 1, 2015
- a 2.00% across-the-board increase effective September 1, 2016

## *Health Insurance*

The Employers' proposal was the same for both units:

### **ARTICLE 12 – INSURANCE**

#### **Section 12.1 – Coverage**

The Employer shall continue for the duration of this Agreement to provide health insurance for full time employees. The Employer will not change the insurance carrier without advising the Union, and offering opportunity for input. Union representatives may attend and participate in the insurance committee meetings regarding insurance options. If the Employer changes carriers during the term of this Agreement such coverage shall be the same as available to members of the Effingham County Board and other employees in Effingham County.

Effective January 1, 2016 the County shall offer the employees' health insurance coverage in the form of the current Health Savings Account. The Union and the County recognize that insurance costs are likely to increase over time and that the County may during the lifetime of this Agreement find it to be in the best interests of the County to change the plan of insurance. The Labor Council and County shall have the right to impact bargain over the effects of any significant or substantive changes in benefits or a significant change to the premium during the term of this Agreement. Impasses in such bargaining shall be resolved in accordance with 5 ILCS 315/14, as amended.

Employees currently on the Traditional Plan that change to the Health Savings Account, shall have a one-time deposit of \$2,600 put into their Health Savings Account during the first pay period after their account is established. Employees currently participating in the Health Saving Account Plan shall have a one-time deposit of \$800 put into their Health Savings Account during the first pay period following execution of this Agreement.

#### **Section 12.2 – Contributions**

The Employer shall pay one hundred percent (100%) of the contribution of coverage for full time employees (but not dependents) for the term of this Agreement, with the following provisions:

1. The Employer shall pay 100% of the monthly premium for health insurance up to \$400.00 per month effective December 1, 2012.
2. If the monthly per employee insurance for single insurance premiums exceeds \$400.00 per month, the premium over \$400.00 per month shall be paid equally between the Employer and Employee, with a cap on Employee contribution of \$75.00 per month effective December 1, 2012.
3. Effective upon execution of the Agreement, the County shall pay 100% of the monthly premium for health insurance up to \$603.34 per month. If the monthly per employee insurance for single insurance premiums exceeds \$603.34 per month, the premium over \$603.34 per month shall be paid

equally between the Employer and Employee. In exchange for removal of the cap, the County agrees to forgive any back premium contributions of employees that were on the Health Savings Account Plan in 2014 and 2015.

There shall be no insurance contribution for part-time employees.

*Corporals and Sergeants Pay:*

The Employers proposed status quo for both ranks.

**Employers' Position**

In support of the Employers' position, the following are cited:

*Internal Comparables*

There are a number of bargaining units within the County. Employees in the Clerk of the Circuit Court of Effingham County, Effingham County Clerk, Effingham County State's Attorney, Sheriff's Maintenance Employees, and the Effingham County Treasurer are represented by Laborers Local 1197. Probation Officers and clerks in the Effingham County Probation Department and the Effingham County Public Defender's Office are covered by collective bargaining agreements with the Chief Judge for the Fourth Judicial District and Laborers Local 1197. Employees of the Effingham County Highway Department are represented by Teamsters Local 326.

*External Comparables*

The parties stipulated to the following external comparables:

Christian County  
Clinton County  
Fayette County  
Jefferson County  
Marion County  
Montgomery County

The Employers maintain that the wages and healthcare final offers are consistent not only with the internal comparables, but also the external comparables. Further, the Employers argue that the Union's offers be rejected because they violate the law and the parties' pre-hearing agreement. According to the Employers, the Union has offered two final offers. Neither should be considered.

## **The Union's Final Offer**

The Union's final proposals, for both the deputies unit and corrections unit, for wages and insurance are set forth below:

### **Quid Pro Quo Offer:**

- 1) The Union, in an effort to create additional savings for the County, offer to, at the first conceivable point in time, have any members currently enrolled in what has been commonly referred to as the "traditional health insurance plan" switch to what has been commonly referred to as the "health savings account (HSA) plan" in its current iteration. In doing so, the Union will agree that its members, for the first time since the implementation of the HSA plan, will be responsible to pay premiums for said plan under the below basic structure:
  - a. The Employer will pay the first \$600.00 per month of premium, after which the Employer and Employee will share costs above \$600.00 premium at a ratio of 50/50 to a total Employee outlay of \$100.00, effectively capping monthly Employee health insurance outlay at \$100.00.
- 2) In return, the Union will receive the following as a quid pro quo:
  - a. Annual Wage Increase: Retroactive for all hours worked.
    - i. Year 1: 2.5%
    - ii. Year 2: 2.5%
    - iii. Year 3: 2.5%
  - b. Health Savings Accounts Funded:
    - I Individuals that are transferred from the Traditional plan to the HSA plan are provided with \$1250.00 in funds into their new account.
    - II Individuals that are already participating in the HSA plan are provided with \$250.00 in funds to their already existing account.

## **Union's Position**

The Union contends that the Employers' argument of a statutory bar on dual Union offers borders on bad faith. In support, the Union emphasizes the importance of the pre-hearing and post-hearing negotiations between the parties. The Union reminds the Employers that the parties had closed-door discussions prior to the hearing in an effort to reach an amicable agreement. Further, the Arbitrator left the record open for the parties to clarify their final offers prior to the close of the record. The Union's offer is that clarified offer. However, despite a series of discussions, the Employers did not clarify their offer. The Employers cannot participate in the agreed process and then later complain that that process was unfair.



The Union points to the internal and external comparables in support of its position. According to the Union, the internal comparables are not as relevant to the instant inquiry as the Employer suggests. Rather, the Union's offer reflects that the Union has offered to voluntarily move to the HSA healthcare program. None of the other Unions volunteered to move all bargaining unit members to the HSA. The Union's agreement to move to the HSA is part of a quid pro quo offer. Because none of the internal comparables involve bargaining units that voluntarily moved to the HSA, their reference value is reduced.

Regarding the external comparables, the Union contends that the reference points in the Employers' exhibit do not provide an accurate frame of reference for consideration. The Union uses customary reference points of 1, 5, 10, 15 and 20 years of service. When the Union's proposal is considered against the comparable Sheriff's Departments, it is clear that the Union's proposal places the instant employees in the proper position.

Finally, the Union continues that it withdrew the issue of rank differential for corporals and sergeants within the deputies unit. Accordingly, the Employers' arguments on the issue are irrelevant.

## ANALYSIS

The statutory factors that must be considered 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.

#### *Whether the Union Made a Final Offer*

The Employers argue that the Union's offers should not be considered because they violate the law and the agreed ground rules for the instant interest arbitration. The Union counters that the record was kept open to clarify issues left open during the pre-hearing discussions.

The Union's position prevails. An examination of the record indicates that record was left open to clarify the Employers' and Union's positions in light of the pre-hearing and post-hearing discussions. Both parties were able to clarify their final offers based upon the pre-hearing and post-hearing discussions.

The Act requires that eight statutory factors be considered. However, interest arbitration awards consistently point to four critical considerations: pay and benefits received by similarly situated employees; overall compensation of the bargaining unit members; impact of inflation; the effect of the final offers on the interests and welfare of the public and the employer's ability to pay.

### **INSURANCE**

The Union agrees to move to the HSA healthcare program, but with a cap on cost increases that are split with the employees. The basic difference between the Employers' healthcare offer and the Union's healthcare offer is the effect of an insurance premium increase upon the employee and whether the split costs will be capped (Union Offer) or not be capped. (Employers Offer).

The Union reminds that the internally comparable units have not voluntarily moved to the HSA plan. Therefore, the Union contends that comparison of their healthcare costs to the instant HSA healthcare costs is an inappropriate comparison. The Union fears that the Employers' healthcare plans will end up costing the employees more than the current healthcare plan. Because it will cost more, the Union maintains that the instant employees should have a cap on premium increases.

When considering health care offers, internal consistency has been historically recognized as critical to the analysis. Although internal consistency is not dispositive, it must be considered. Arbitrator Peter Feuille analyzed the issue in *City of Peoria and IAFF (1992)* and that analysis is instructive in the instant matter. Responding to a union final offer that sought a separate health care plan from other municipal employees, he stated:

... the health insurance issue in dispute here is a city-wide issue, in that the City is trying to continue to maintain City-wide uniformity in its health insurance plan whereby all employees will receive the same medical and dental benefits and also make contributions according to the same contribution formula. In other words, health insurance is not an issue that is somehow unique to this City bargaining unit. Instead, it is most usefully addressed from a city-wide perspective.

Accordingly, the Panel believes that the internal comparability evidence deserves considerable weight. Unlike some other labor-management issues, this health insurance issue is the type of issue where comparisons with other City employees are imminently appropriate and useful. In this instance, other city employees constitute healthy appropriate comparison groups within the meaning of Section 14(h) of the Act. This internal evidence provides much stronger support for the City's offer than for the Union's offer.

In the instant matter, the movement to an HSA has been agreed to by the Union, with a cap on increases. None of the internal comparables have a cap on the increase on health insurance premiums. Contrary to the Union's argument, the comparables are in opposite.

That distinction is critical to the instant inquiry in light of Arbitrator Feuille's above-cited analysis. Here, the healthcare plan is a county-wide matter. Like every other employer, providing for affordable healthcare is a critical issue – particularly so in the continuing uncertainty surrounding the Affordable Care Act and increasing costs of healthcare.

It is no secret that the Employers seek to move all County employees to the same HSA plan with similar premiums and provisions for addressing premium increases. The Employers

devote a considerable amount of their brief arguing that the County has the authority to alter the healthcare plan to achieve that goal after seeking input from the Union.

Given the Union's final offer, the inquiry involves a cap or without a cap. The Employers have offered justification for the cap - including a payment of \$2600 into an HSA. However, the Union has offered no compelling reason that it should not only have an increase in the Employers'-paid premium to \$600.00, but also have a cap on premium increases that none of the other bargaining units enjoy. Moreover, while the instant bargaining unit members may face increased healthcare costs in the future, the Employers' final offer on health care also includes \$2600.00 per employee contribution to the HSA account.

The Employers' offer seeks to bring continuity to the County's healthcare plan and represents a more reasonable approach than the Union's proposal. The compelling factor of internal comparability clearly dictates that the Arbitrator award the Employers' Final Offer on health insurance. Moreover, the Employers' offer includes significant concessions, including a guarantee of the current insurance provider; impact bargaining and interest arbitration for significant cost increases; and paying for out-of-pockets costs by a deposit of \$2600.00 into the employees' HSA accounts during this CBA.

For the foregoing reasons, the Employers' Final Offer on Healthcare is awarded.

## **WAGES**

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 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, at 56.

The Union seeks 2.5% wage increases for each of the three years of the CBA that are retroactive. The Union withdrew the issue of corporal and sergeant compensation due to a

Tentative Agreement. The Employers seek a 2% wage increase for each of the three years of the CBA.

The Union argues that the statutory factors support its position. According to the Union, it has agreed to something that no other bargaining unit has also done – voluntarily moved to the HSA program. According to the Union, this voluntary move is reason enough to award the Union’s wage offer. Further, the Union continues that when the statutory factors are considered, the Union’s offer must prevail.

The four key factors are: the pay and benefits received by other similarly situated employees; the impact of inflation on the employees’ purchasing power; 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 on the overall compensation of the employees at issue.

*Pay and Benefits of Similarly Situated Employees:*

The Employers and the Union both point to the external comparables in support of their positions. The internal comparables are seen differently – the Employers argue the 2% annual increases of other bargaining units are key to the instant matter and the Union dismisses those comparisons because there is no evidence of a “me too” or “lockstep” history, and also because the other unions did not volunteer to move to the HSA program for healthcare.

Here, an examination of the Union’s position indicates that it is persuasive. While not dispositive, it should be noted that the Union has given up the traditional healthcare plan in favor of the HSA plan sought by the Employers. Nothing in the record shows that any other internal bargaining unit moved to the HSA plan. Further, the Union’s five year benchmarks are a better indicator of the position of the instant bargaining unit members.

*Internal Comparables and the Deputies Final Wage Offer*

The internal comparables are consistent with the Employers’ 2% annual increase.

*Internal Comparables and the Corrections Final Wage Offer*

The internal comparables are consistent with the Employers’ 2% annual increase.


- (1) What, if any, changes shall be made to the current system of Corporal and Sergeant compensation?

The Question is Moot.

Date of AWARD: August 5, 2015

Respectfully submitted,

(S/B August 5, 2016)

By:   
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**BRIAN CLAUSS, Arbitrator**