**BEFORE**
**EDWIN H. BENN**
**ARBITRATOR**

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|---|---|
| **In the Matter of the Arbitration**<br><br>**between**<br><br>**COUNTY OF ROCK ISLAND**<br><br>**and**<br><br>**AFSCME COUNCIL 31 AND LOCAL 2025A** | **CASE NOS.:** S-MA-09-072<br>AFSCME 2009-07-34357<br>Arb. Ref. 09.302<br>(Interest Arbitration) |

# OPINION AND AWARD

APPEARANCES:

For the County: Michael R. Miller, Esq.

For the Union: Catherine L, Struzynski, Esq.

Dated: April 7, 2010

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## I. BACKGROUND

AFSCME Council 31 - Local 2025A ("Union" or "AFSCME") represents various categories of employees of Rock Island County ("County"). The bargaining unit is a "wall-to-wall" unit and consists of numerous classifications of employees working for elected officials and County departments under direct control of the County Board and excludes those employees covered by other contracts, with other specific exclusions.[1] The most recent collective bargaining agreement covered the period December 1, 2005 through November 30, 2008.[2]

There are six other collective bargaining agreements covering County employees: (1) professional and non-professional employees in the Board of Health (AFSCME); (2) professional and non-professional employees at Sunny Hill Nursing Home [designated as "Oak Glen Home"] (AFSCME); (3) assistant state's attorneys (Local 150, Operating Engineers); (4) Highway Department employees (Teamsters Local 371); (5) adult and juvenile probation officers under the Chief Judge (Fraternal Order of Police ("FOP")) and (6) deputy sheriff patrolmen, sergeants and lieutenants (FOP).[3] All prior contracts — as did the one involved in this case — expired November 30, 2008.[4] Aside from the dispute in this bargaining unit over wages, successor contracts have been negotiated in all units except the Sheriff - FOP unit.[5]

This is an interest arbitration. The purpose of this proceeding is to establish the general wage increases for the 2008 Agreement between these par-

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1 2005 Agreement at Section 1.1 and Exhibit A; Union Exh. 2; County Exh. 6.

2 Union Exh. 2; County Exh. 6.

3 Union Exhs. 1, 3-13.

4 *Id*. *See also*, Union Exhs. 2, 3, 5, 7, 9, 11, 13.

5 Union Exhs. 4, 6, 8, 10, 12.

ties for the contract years beginning December 1, 2008, December 1, 2009 and December 1, 2010.[6] The parties have agreed to engage in this procedure because they were unable to reach final agreement on wages for the new 2008 Agreement.[7]

In or about September 2009, the County (without objection from the Union) implemented a 3.0% general increase retroactive to December 1, 2008 for employees in the bargaining unit.[8] The parties agreed that in the event more than 3.0% is awarded in this case for the contract year beginning December 1, 2008, that additional wage increase shall also be retroactive to December 1, 2008 and that any general wage increase for the contract year beginning December 1, 2009 shall be retroactive to December 1, 2009.[9] The parties further agreed that the undersigned is the sole arbitrator in this matter and that I have the authority to fashion the wage increases I deem appropriate.[10]

## II. THE PARTIES' OFFERS

At the hearing held March 24, 2010, the parties made the following wage offers:

| Effective Date | Union Offer | County Offer |
|---|---|---|
| 12/1/08 | 3.75% | 3.0% |
| 12/1/09 | 3.75% | 3.0% |
| 12/1/10 | 3.85% | 3.0% |
| Total | 11.35% | 9.0% |

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[6] Stipulations at par. 1.

[7] *Id*. The parties have also agreed that the duration of the Agreement shall be from December 1, 2008 through November 30, 2011.

[8] *Id*. at par. 6.

[9] *Id*. at par. 7.

[10] *Id*. at pars. 1, 3 (as amended). By giving me the authority to fashion the appropriate wage increase, this is therefore not a final offer interest arbitration proceeding.

## III. DISCUSSION

### A. The Economy

Before getting into the merits of this case, the current state of the economy must be discussed. As far as the economy goes, these are most difficult times. The current recession has been characterized as the greatest recession experienced by this country since the Great Depression of 1929.[11]

A Bureau of Labor Statistics ("BLS") News Release dated November 6, 2009 showed that at the national level "[t]he unemployment rate [for October 2009] rose ... to 10.2 percent, the highest rate since April 1983."[12] Compared to October 2008, the national unemployment rate for October 2009 therefore increased by almost four points from 6.5%.[13] With its April 2, 2010 News Release, the BLS reported March 2010 unemployment at the national level at 9.7%.[14] That 9.7% national unemployment rate has held steady for February and January 2010.[15] The predictions are now coming that the "Jobless Rate Holds Steady, Raising Hopes of Recovery."[16] After the April 2, 2010 BLS News Release also showed that 162,000 jobs were created in March 2010, President

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[11] Willis, "U.S. Recession Worst Since Great Depression, Revised Data Show", Bloomberg.com (August 1, 2009); http://www.bloomberg.com/apps/news?pid=20601087&sid=aNivTjr852TI. According to Treasury Secretary Timothy Geithner in an interview on April 1, 2010 "...[T]his was the worst economic crisis since the Great Depression ... [with] huge amount of damage done to businesses and families across the country ... and we're going to be living with that damage for some time, it's just going to take us a while to heal that damage." http://today.msnbc.msn.com/id/26184891#36130394. *See also*, The Los Angeles Times (April 1, 2010) reported at http://latimesblogs.latimes.com/dcnow/2010/04/geithner-says-unemployment-likely-to-remain-unacceptably-high-for-a-log-time.html.

[12] http://www.bls.gov/news.release/archives/empsit_11062009.pdf.

[13] http://www.bls.gov/news.release/archives/empsit_11072008.pdf.

[14] http://www.bls.gov/news.release/archives/empsit_04022010.pdf.

[15] http://www.bls.gov/news.release/archives/empsit_03052010.pdf; http://www.bls.gov/news.release/archives/empsit_02052010.pdf.

[16] Goodman and Hernandez, The New York Times, (March 5, 2010) reported at http://www.nytimes.com/2010/03/06/business/economy/06jobs.html?scp=1&sq=Flat+jobless+rate&st=nyt.

Obama stated that "[t]he worst of the storm is over."[17] Hopefully these positive assessments are all correct and the economy will now begin to make a meaningful recovery. But nevertheless, since the recession began, millions of jobs have been lost.

The recession has hit Illinois hard. While the national unemployment rate is currently at 9.7%, according to the Illinois Department of Employment Security ("IDES") News Release dated March 25, 2010, the current unemployment rate in Illinois based on February 2010 data is 11.4% — "... its highest level since July 1983."[18] And Rock Island County has been hit even harder than the overall State unemployment rate. For February 2010, the County was at a 12.4% unemployment level — which is four points above February 2009.[19]

As high as those unemployment percentages are, in reality they are lower than what is truly reflective of the current unemployment situation. Those numbers do not reflect the "underemployed" — *i.e.*, those individuals who have had to take part-time positions because they lost their full-time positions or

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[17] http://www.bls.gov/news.release/archives/empsit_04022010.pdf; The Los Angeles Times, (April 2, 2010) reported at http://latimesblogs.latimes.com/dcnow/2010/04/obama-on-the-economy-the-worst-of-the-storm-is-over-.html. *See also*, Rampell and Hernandez, "Signaling Jobs Recovery, Payrolls Surged in March", The New York Times (April 3, 2010) reported at http://www.nytimes.com/2010/04/03/business/economy/03jobs.html?ref=todayspaper:

> The clouds have parted.
>
> After losing eight million jobs since the recession began in December 2007, payrolls finally surged in March, the Labor Department reported on Friday. Employers added 162,000 nonfarm jobs last month. Nationwide, the unemployment rate held steady at 9.7 percent.
>
> "We are beginning to turn the corner," said President Obama, speaking in Charlotte, N.C., calling it "the best news we've seen on the job front in more than two years." ...

[18] Currently reported at http://www.ides.state.il.us/economy/cps.pdf. Some metropolitan areas in Illinois are over the 20% unemployment level. For example, the Rockford metropolitan area is currently reported to have a 20.7% unemployment rate (not seasonally adjusted)). *See* http://lmi.ides.state.il.us/download/LAUS_YTD_CITY.pdf.

[19] http://lmi.ides.state.il.us/download/countyrank_feb10.pdf.

simply have given up looking for work. As of April 2, 2010, the BLS reported that at the national level, the underemployment rate is at 17.5%.[20] Given the higher unemployment rate in Illinois than at the national level and the even higher unemployment rate in Rock Island County, locally the underemployment rate is probably higher than the 17.5% national rate.

**B. The Use Of External Comparables**

To support its wage offer, the County heavily relies upon external comparables — *i.e.*, the wages and benefits paid in other similar counties.[21] The Union argues that external comparables are not relevant in this case.

In this case — at this time and in this economy — I find that I am unable to give determinative weight to the County's reliance upon external comparables.

In these economic times it is very difficult for interest arbitrators to formulate contracts using the traditional tools for setting wages and working conditions which were used in the past. *See* my award in *County of Boone and Boone County Sheriff and Illinois Fraternal Order of Police Labor Council*, S-MA-08-010 (March 23, 2009) at 13 which issued at the height of the economic downturn:

> ... With an economy in free-fall, unemployment marching steadily upward, credit markets frozen, businesses laying off or closing, revenue streams diminishing, government intervention programs of massive proportions seeking to prevent further harm and not knowing whether, when or to what degree those programs will succeed in stopping the blood-letting, how am I as an interest arbitrator rationally supposed to

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[20] http://www.bls.gov/news.release/archives/empsit_04022010.pdf. The seasonally adjusted figure for March 2010 is 16.9%. *Id*. According to the BLS, the individuals in this category are "[t]otal unemployed, plus all persons marginally attached to the labor force, plus total employed part time for economic reasons, as a percent of the civilian labor force plus all persons marginally attached to the labor force." *Id*.

[21] County Exhs. Parts I-VII.

> set the economic terms of a multi-year collective bargaining agreement which the parties unsuccessfully attempted to reach ...?

For establishing terms and conditions of collective bargaining agreements in bargaining units of security employees, peace officers and fire fighters, Section 14(h) of the Illinois Public Labor Relations Act ("IPLRA") lists eight factors for consideration by interest arbitrators.[22] Those factors are also typically used as a guide in cases where the employees are not covered by interest arbitration provisions of the IPLRA.

At the hearing, the County correctly observed that "... traditionally, external comparables are the measuring stick for these matters." Although there are eight statutory factors with no factors receiving more weight from the language of the statute, prior to 2009, parties in interest arbitrations and interest

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[22] 5 ILCS 315/1, *et seq*. Section 14(h) of the IPLRA lists the following factors for consideration in interest arbitrations:

> (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 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.

arbitrators — including the undersigned — placed great weight on the external comparability factor found in Section 14(h)(4) of the IPLRA.[23] And prior to 2009, that is how these cases were litigated, with most attention — and sometimes all of the arguments — focused on comparability.

Because of the crash in the economy which really took hold in late 2008 and into 2009 to the present, I have found that I just could not give the same weight to external comparables as I had in the past. Given the drastic change in the economy, looking at other communities where contracts were negotiated prior to the crash or where the economy did not have the same impact as elsewhere became "apples to oranges" comparisons. *See* my award in *North Maine Fire Protection District and North Maine Firefighters Association* (September 8, 2009) at 12-13:

> Citation is not necessary to observe that, in the public sector, the battered economy has caused loss of revenue streams to public employers resulting from loss of tax revenues as consumers cut back on spending or purchasing homes and there are layoffs, mid-term concession bargaining and give backs (such as unpaid furlough days which are effective wage decreases). But the point here is that it still just does not make sense at this time to make wage and benefit determinations in this economy by giving great weight to comparisons with collective bargaining agreements which were negotiated in other fire protection districts at a time when the economy was in much better condition than it is now. There is no doubt that comparability will regain its importance as other contracts are negotiated (or terms are imposed through the interest arbitration process) in the period after the drastic economic downturn again allowing for "apples to apples" comparisons. And it may well be that comparability will return with a vengeance as some public employers make it through this period with higher wage rates which push other employee groups further behind in the comparisons, leaving open the

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[23] *See* Benn, "A Practical Approach to Selecting Comparable Communities in Interest Arbitrations under the Illinois Public Labor Relations Act," Illinois Public Employee Relations Report, Vol. 15, No. 4 (Autumn 1998) at 6, note 4 [emphasis added]:

> … The parties in these proceedings often choose to give comparability the most attention. *See* Peter Feuille, "Compulsory Interest Arbitration Comes to Illinois," Illinois Public Employee Relations Report, Spring, 1986 at 2 ("Based on what has happened in other states, most of the parties' supporting evidence will fall under the comparability, ability to pay, and cost of living criteria. … *[o]f these three, comparability usually is the most important*.").

> possibility of very high catch up wage and benefit increases down the line. But although the recovery will hopefully come sooner than later, that time has not yet arrived. Therefore, at present, I just cannot give comparability the kind of weight that it has received in past years.
>
> Instead of relying upon comparables, in *ISP [State of Illinois Department of Central Management Services (Illinois State Police) and IBT Local 726*, S-MA-08-262 (January 27, 2009)] and *Boone County,* I focused on what I considered more relevant considerations reflective of the present state of the economy as allowed by Section 14(h) of the Act — specifically, the cost of living (Section 14(h)(5)) as shown by the Consumer Price Index ("CPI").

While perhaps deserving more weight in better economic times, the County's present reliance upon external comparables is therefore not a factor which can ultimately determine the outcome in this case.

**C. The Cost-Of-Living And Inflation**

Instead of placing great weight on external comparability as in the past, to set wage and benefit levels during these uncertain economic times, I have focused more on the cost-of-living and inflation. *North Maine, supra* at 13 ("[i]nstead of relying upon comparables, in *ISP* and *Boone County,* I focused on what I considered more relevant considerations reflective of the present state of the economy as allowed by Section 14(h) of the Act — specifically, the cost of living (Section 14(h)(5)) as shown by the Consumer Price Index ('CPI')").

As of this writing, the most recent data from the BLS show the following changes in the cost-of-living since the prior Agreement expired on November 30, 2008:[24]

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[24] http://data.bls.gov/cgi-bin/surveymost?cu. By accessing that website for the BLS data bases, the latest CPI comparisons can be examined through designation of year ranges for U.S. All items, 1982-84=100, retrieving the data and then, if further specificity is desired, by using the link to "more formatting options".

**CPI December 2008 To The Present**

| Year | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **2008** | | | | | | | | | | | | 210.228 |
| **2009** | 211.143 | 212.193 | 212.709 | 213.240 | 213.856 | 215.693 | 215.351 | 215.834 | 215.969 | 216.177 | 216.330 | 215.949 |
| **2010** | 216.687 | 216.741 | | | | | | | | | | |

For purposes of this case, the above data demonstrate several things.

First, since December 2008, the cost-of-living has increased only by 3.1%.[25] Indeed, as the recession set in, at one time there was even a fear of "deflation":[26]

> As dozens of countries slip deeper into financial distress, a new threat may be gathering force within the American economy — the prospect that goods will pile up waiting for buyers and prices will fall, suffocating fresh investment and worsening joblessness for months or even years. The word for this is deflation, or declining prices, a term that gives economists chills. ...

Second, looking at the parties' wage proposals that were to take effect as of December 1, 2009, both exceeded the increase in the CPI — the Union's more so than the County's. Effective December 1, 2009, 7.5% of the Union's 11.35% total wage proposal would have been in effect, while 6.0% of the County's 9.0% total wage proposal would have been in effect. The point here is that because both wage proposals exceed increases in the CPI, to keep pace with inflation and recognizing the adverse impact the recession has had on the economy, at this time a lower wage increase than that sought by the Union appears appropriate.

But what about for the rest of 2010 and 2011 — future periods covered by new Agreement? Predicting into the future is most difficult, particularly in

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[25] The December 2008 CPI stood at 210.228 and the February 2010 CPI stood at 216.741. 216.741 - 210.228 = 6.513. 6.513 ÷ 210.228 = 3.1%.

[26] Goodman, "Fear of Deflation Lurks as Global Demand Drops", The New York Times (October 31, 2008); http://www.nytimes.com/2008/11/01/business/economy/01deflation.html.

these difficult economic times. However, the federal government has to make those kinds of assessments. Christina D. Romer, Chair of the President's Council of Economic Advisors, stated the following in "The Economic Assumptions Underlying the Fiscal 2011 Budget" (February 1, 2010):[27]

> Finally, for the inflation rate (measured using the GDP price index), we project that inflation will be 1 percent over the four quarters of 2010, 1.4 percent over 2011, and 1.7 percent over 2012. These projections are lower than those of some forecasters and higher than others. The low levels of projected inflation reflect the effects of continued high levels of slack in the economy. Under these conditions, we see little risk of noticeably increased inflation. At the same time, inflationary expectations appear to be well anchored, and so we do not project rapid declines in inflation or deflation. The Administration anticipates that inflation will level off at 1.8 percent, squarely within the Federal Reserve's long-run projection range of 1.7 to 2 percent.

The Federal Reserve is of the same view that there will be little risk of inflation in the next few years. According to the Federal Reserve's press release dated March 16, 2010, with "... longer-term inflation expectations stable, inflation is likely to be subdued for some time."[28]

Thus, according to the above economic forecasts, for the upcoming periods covered by the Agreement (the balance of 2010 and through November 30, 2011 when the Agreement expires), there is "... little risk of noticeably increased inflation ... [and] inflation is likely to be subdued for some time." Those forecasts also tilt the result towards a lower wage increase than the one sought by the Union.

**D. Internal Treatment Of Other Bargaining Units**

While the economy has caused external comparables to be given less weight than in prior years, consideration of internal treatment of other em-

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[27] http://www.whitehouse.gov/sites/default/files/microsites/20100201-cea-statement-economic-assumptions-underlying-fiscal-2011-budget.

[28] http://www.federalreserve.gov/newsevents/press/monetary/20100316a.htm.

ployee bargaining units remains relevant. What has the County done with its other bargaining units?

The Union presented evidence on the wage provisions of the other six bargaining units for the County's represented employees:[29]

| Unit and Effective Date | Board of Health and AF-SCME | Sunny Hill Nurs-ing Home and AF-SCME | State's Attorney and IUOE | Highway Dept. and IBT | Chief Judge and FOP | Sheriff and FOP |
|---|---|---|---|---|---|---|
| 12/1/08 | Greater of 4.0% or $.50/hr. | Greater of 4.0% or $.50/hr. | 3.75% | 3.75% (plus $.10/hr. for certain positions) | 3.0% (an-other 3.0% effective 6/1/09)[30] | Not yet set |
| 12/1/09 | Greater of 3.75% or $.50/hr. | Greater of 3.75% or $.50/hr. | 3.75% | 3.50% | 3.25% | Not yet set |
| 12/1/10 | Reopen | Reopen | 3.75% | 3.50% | 3.25% | Not yet set |
| 12/1/11 | Reopen | Reopen | | | | |

At the hearing, the parties stipulated that negotiations for the Highway Department and the Teamsters for their contract were completed by March 24, 2009 and, after that date, the County Board ratified that contract.[31]

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[29] Union Exh. 1. *See also*, the specific contracts — Union Exhs. 4 at Appendix (Sections 2-4) and Article XIX; 6 at Appendix II and Article XXI; 8 at Article XII; 9 at p. 20 and 10 at p. 21; 12 at Appendix A.

[30] The contract between the Chief Judge and the FOP discontinued merit bonus pay effective December 1, 2008 and provided for a 3.0% increase at that time with another 3.0% increase effective June 1, 2009. Union Exh. 12 at Article XIX and Appendix A.

[31] The following exchange occurred at the hearing:

> MS. STRUZYNSKI: … The evidence will show that the agreement between Rock Island County and the Teamsters covering the Highway Department — that the last negotiating session for that contract was on March 24, 2009 — and that the County Board approved the terms of that contract some-time after March 24th.
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> ARBITRATOR BENN: And that's not disputed?
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> MR. MILLER: No, that is not disputed.

**E. Setting Of The Wage Increase**

The above discussion shows that because both wage proposals exceed increases in the cost-of-living and inflation which have occurred since the expiration of the 2005 Agreement and because projections do not forecast notably increased inflation in the remaining years of the new Agreement, the Union's higher wage proposal is not appropriate. With respect to how the County has negotiated with other bargaining units, the wage settings for those units are not entirely consistent. As shown by those contracts, there are different wage increases.

But one consideration stands out with respect to internal setting of wage rates and the downturn in the economy. After negotiations were completed on March 24, 2009, the County Board ratified the contract between the Highway Department and the Teamsters. That contract provided for wage increases of 3.75%, 3.5% and 3.5% for the contract years beginning December 1, 2008, December 1, 2009 and December 1, 2010, respectively. This shows that in March 2009 when the country was in the midst of the current economic recession — the County was of the opinion that it was in a financial position where it could nevertheless grant a higher wage increase than it seeks to implement in this case.

The Union argues that the focus should be on all contracts within the County which became effective on December 1, 2008 — noting in particular that the wage rates were higher in most cases than those negotiated for the Highway Department and the Teamsters. I disagree.

Comparison of the contract between the Highway Department and the Teamsters with the AFSCME contracts with the Board of Health and Sunny Hill

Nursing Home shows that the AFSCME contracts have higher wage rates in the first two contract years. However, those two AFSCME contracts have reopeners for the contract period beginning December 1, 2010 as well as the additional contract period beginning December 1, 2011. Given the reopeners and longer duration of those contracts (with unknown results), I do not find them to be helpful in setting the wage increases for this contract.

The contract between the County and the Operating Engineers covering the assistant state's attorneys was signed in mid-November 2008.[32] While the economy was sliding downward at that time, after mid-November 2008 it got much worse. In November 2008 when the assistant state's attorneys contract was signed, the national unemployment rate was at 6.7%.[33] In March 2009 when the negotiations for the Highway Department contract were completed, the national unemployment rate had dramatically increased to 8.5%.[34] Thus, although the County signed the contract with the Operating Engineers covering the assistant state's attorneys when the recession was in well in progress, the recession was not as bad as it became in March 2009 when the Highway Department negotiations were completed. Given the drastic downward movement of the economy between the signing of the assistant state's attorneys contract and the completion of the Highway Department contract, the higher wage increases for the assistant state's attorneys contract should not be given as much weight as the wage increases under the Highway Department contract. The fact that, as shown by the discussion *supra* at III(A), the unemployment

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[32] Union Exh. 8 at p. 34.

[33] http://www.bls.gov/news.release/archives/empsit_12052008.pdf.

[34] http://www.bls.gov/news.release/archives/empsit_04032009.pdf.

rate has increased dramatically since March 2009 (going from 8.5% in March 2009 to the current 9.7% after reaching a high of 10.2% in October 2009) leads me further away from relying upon the higher increases in the assistant state's attorneys contract. I therefore find the Highway Department contract with the Teamsters more relevant for internal comparison purposes.

The contract between the Chief Judge and the FOP for adult and juvenile probation officers was signed on May 28, 2009.[35] Compared to the Highway Department contract with the Teamsters, the Chief Judge - FOP contract contains higher wage increases in the first year (a 3.0% increase on December 1, 2008 and another 3.0% increase on June 1, 2009) as compared to 3.75% for the Highway Department employees, but lower increases for the remaining two years of the contracts (3.25% in each year under Chief Judge - FOP contract compared to 3.5% for the same period for the Highway Department employees). For making internal comparisons, I do not find the Chief Judge - FOP contract as reliable as the Highway Department contract. Under the Chief Judge - FOP contract there was an apparent *quid pro quo* for the 3.0% increase of December 1, 2008 followed soon thereafter by another 3.0% effective June 1, 2009.[36] The employees under that contract gave up merit bonus pay effective December 1, 2008.[37] Nothing similar happened under the Highway Department contract or for this bargaining unit.

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[35] Union Exh. 12 at p. 32.

[36] Union Exh. 12 at Article XIX and Appendix A

[37] Union Exh. 12 at Article XIX.

The Highway Department contract with the Teamsters therefore is the most relevant internal comparison.[38]

Balancing the above, I find the Union's 11.35% total wage proposal is too high and the County's 9.0% total wage proposal is too low. Instead (and because the parties have agreed that I have the authority to use my discretion to set the wage rates and that I am not bound by the parties' final offers), there are three determining factors for me in deciding this case.

First, increases in the cost-of-living and inflation have been low since the expiration of the 2005 Agreement, which leans towards a more modest increase than the one sought by the Union.

Second, if the County Board was of the opinion at a time deep into the recession that it could implement a 10.75% wage increase in the Highway Department over the three contract year periods (3.75%, 3.5% and 3.5%), it should be able to implement the same wage increase for the employees involved in this dispute. From the above analysis, the results of the contract in the Highway Department are closest to the circumstances facing the parties for this Agreement. Nothing in the evidence before me indicates why the County could not do the same for these employees as it did for the employees in the Highway Department.

Third, and taking the downturn in the economy into consideration, the 10.75% wage increase in the Highway Department contract is the lowest of all the internal contract wage increases that have established wage rates (*i.e.*, not subject to future reopeners or not yet negotiated).

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[38] Because the new Sheriff - FOP contract has not been finalized, there is no need to consider that contract.

I therefore find that the same increase implemented in the Highway Department contract with the Teamsters shall be implemented in this case — 3.75%, 3.5% and 3.5%.

## IV. CONCLUSION AND ORDER

Based on the above, the wage increases for the employees involved in this dispute shall be the same as those given to the employees under the Highway Department contract as follows:

| Effective Date | Wage Increase |
|---|---|
| 12/1/08 | 3.75% |
| 12/1/09 | 3.50% |
| 12/1/10 | 3.50% |
| Total | 10.75% |

As agreed by the parties, because the wage increase effective December 1, 2008 is above the previously granted 3.0%, employees are entitled to the balance (0.75%) retroactive to December 1, 2008. Similarly, as agreed by the parties for retroactivity, the wage increase established effective December 1, 2009 shall also be paid on a retroactive basis.

While the wage increases have now been established, I return to the fact that these are most unique and difficult economic times for public employers, employees, unions and taxpayers. Most everyone is reeling from these times — the only difference is in degree. Until the economic waters calm, parties in collective bargaining relationships have to be able to react to these conditions without future repercussions. Therefore, as I have done in other cases decided in this economy, the result in this case must be on a non-precedential basis. That means that the methodology and analysis I used to set the wage rates and the ultimate rankings with respect to other communities which may flow from

this award (either up or down) shall not be prejudicial to any position taken or argument made by either party for future negotiations or interest arbitration proceedings. These are most difficult economic times and no party should be prejudiced or allowed to take advantage of these times for negotiation or arbitration of future contracts.

Edwin H. Benn
Arbitrator

Dated: April 7, 2010