

**ILRB**  
**#160**

Interest Arbitration  
Illinois State Labor Relations Act

Chicago State University,

Employer

and

Metropolitan Alliance of  
Police, Chicago State  
University Campus Police  
Chapter #144,

Union

ISLRB No. S-MA-96-148  
Arbitrator's File 96-159

Herbert M. Berman,  
Arbitrator

Joel A. Schunk,  
Counsel for Employer

Thomas P. Polacek,  
Attorney for Union

Award: June 30, 1997  
Opinion: October 4, 1997

**RECEIVED**

OCT 08 1997

Illinois State Lab Rel. Bd.  
SPRINGFIELD, ILLINOIS

---

**Opinion and Award**

---

**Contents**

	page
Index of Tables.....	iii
I. Statement of the Case.....	1
II. The Issues.....	2
A. Economic Issues.....	3
1. Sick Leave: Article VII, Section 7.4.....	3
(a) Union Offer.....	3
(b) Employer Offer.....	3
2. Personal Days: Article VII, (New) Section 7.14.....	3
(a) Union Offer.....	3
(b) Employer Offer.....	3
3. Wages: Article X, Section 10.1; Appendix A.....	3
(a) Current Contract.....	3
(b) Union Offer.....	5
(c) Employer Offer.....	6
4. Shift Differential: Article X, (New) Section 10.2.....	8
(a) Union Offer.....	8
(b) Employer Offer.....	9
5. Uniform Allowance: Article XIII, Section 13.1.....	9
(a) Union Offer.....	9
(b) Employer Offer.....	9
6. Duty Weapon: Article XIII, Section 13.2.....	9
(a) Union Offer.....	9
(b) Employer Offer.....	10
B. Non-Economic Issue: Term of Contract, Article XIX, Section 19.1.....	10
III. Applicable Statutory Standards.....	10

IV. Ability to Pay.....	12
A. Summary of Arguments.....	12
1. The Employer.....	12
2. The Union.....	13
B. Discussion and Findings.....	14
1. Mission.....	15
2. Budget and Budget Process.....	15
3. Enrollment, Deficit and Union Recognition of Limited Ability to Pay.....	16
4-5. Appropriation, Taxing and Fund Raising Ability.....	18
6. Conclusion.....	19
V. Comparability.....	21
VI. Discussion and Findings: Economic Issues.....	28
A. Sick Leave: Article VII, Section 7.4.....	28
B. Personal Days: Article VII, (New) Section 7.14.....	30
C. Wage Schedule: Article X, Section 10.1; Appendix A.....	32
D. Shift Differential: Article X, (New) Section 10.2.....	35
E. Uniform Allowance: Article XIII, Section 13.1.....	36
1. Current Contract Provision.....	36
2. Union Proposal.....	37
3. Employer Proposal.....	37
4. Discussion and Findings.....	38
F. Duty Weapon: Article XIII, Section 13.2.....	41
G. Term of Contract: Article XIX, Section 19.1.....	42
VI. Summary of Award.....	43

**Index of Tables**

TABLE 1: BUDGET, ENROLLMENT, PER CAPITA BUDGET .....15

TABLE 2: APPROPRIATIONS—FY 1990 COMPARED TO FY 1997 .....16

TABLE 3: ESTIMATED PERSONNEL EXPENDITURES: FYS 1994-1996.....18

TABLE 4: CSU PERSONNEL EXPENDITURES FYS 1994-1996 .....27

TABLE 5: NEIU PERSONNEL EXPENDITURES FYS 1994-1996 .....28

TABLE 6: HOLIDAYS AND PERSONAL DAYS .....31

TABLE 7: 1995-96 WAGE SCHEDULE COMPARED TO WAGE SCHEDULE PROPOSED BY THE  
PARTIES FOR 1996-97 .....32

TABLE 8: WAGE COMPARABILITY: STARTING WAGE/TOP WAGE .....32

TABLE 9: POLICE OFFICERS' AVERAGE ANNUAL SALARY & YEARS OF SERVICE .....33

Interest Arbitration  
Illinois State Labor Relations Act

Chicago State University,

Employer

and

Metropolitan Alliance of  
Police, Chicago State  
University Campus Police  
Chapter #144,

Union

ISLRB No. S-MA-96-148  
Arbitrator's File 96-159

Herbert M. Berman,  
Arbitrator

Joel A. Schunk,  
Counsel for Employer

Thomas P. Polacek,  
Attorney for Union

Award: June 30, 1997  
Opinion: October 4, 1997

---

**Opinion and Award**

---

**I. Statement of the Case**

Chicago State University (CSU) is a four-year, public university chartered by the State of Illinois and located in Chicago; it has an enrollment of 9,462 students and employs 925 employees (Union Exhibit 1).<sup>1</sup> Funds needed to operate the University are derived primarily from appropriations made by the Illinois General Assembly (Young 182-83). The Union represents 14 "Police Officers I" currently employed by CSU (UX 10, Article I, §1.1; UX 1).

The parties' first agreement was signed May 30, 1995, with wages retroactive to July 1, 1994 (UX 10). This Agreement expired July 31, 1996, subject to a wage reopener on

---

<sup>1</sup> In the remainder of this Opinion, I shall cite Union exhibits as "UX\_\_\_\_" and Employer exhibits as "EX\_\_\_\_." I shall cite non-testimonial portions of the hearing transcript as "Tr.\_\_\_\_." I shall cite testimony by the surname of the witness and the appropriate page reference, for example, "Norey 22."

July 1, 1995. The parties agreed on the terms of a wage re-opener, but in 1996 they did not agree on the terms of a new contract. When they negotiated their first agreement the parties were subject to the Illinois Educational Labor Relations Act (IELRA). Under the IELRA, the Union could call a strike but neither party could invoke interest arbitration. By the time the 1995-96 Agreement had expired, however, university-based police officers had been brought under the Illinois State Labor Relations Act (ISLRA). The ISLRA precluded the Union from calling a strike and permitted either party to seek interest arbitration.

Unable to reach agreement in 1996, the parties invoked interest arbitration. They waived the tri-partite arbitration panel established by the ISLRA and submitted their dispute solely to me for resolution (Tr. 5). A hearing was held in Chicago on February 19, 1997. I received all post-hearing briefs on or before April 5, 1997.

## **II. The Issues**

The parties asked me to resolve the following issues:

### **A. Economic Issues**

1. Sick Leave
2. Personal Days
3. Wages
4. Shift Differential
5. Uniform Allowance
6. Duty Weapon

- B. Non-Economic Issue: Term of Contract and Contract Reopener.

The proposals on these issues are set out below.

**A. Economic Issues**

**1. Sick Leave: Article VII, Section 7.4**

**(a) Union Offer**

No change in 1995-96 Agreement.

**(b) Employer Offer**

Discontinue payment of sick leave upon termination, death or retirement of an officer (UX 2).

**2. Personal Days: Article VII, (New) Section 7.14**

**(a) Union Offer**

Add the following new section to Article VII as Section 7.14:

Section 7.14. Personal Days. All covered employees shall be entitled to use two (2) personal days per year. Personal days shall be used at the employee's discretion, with prior approval from the Chief of Police or his designee. Probationary officers shall not be entitled to use personal days until after completion of the probationary period.

**(b) Employer Offer**

Rejection of Union offer.

**3. Wages: Article X, Section 10.1; Appendix A**

**(a) Current Contract**

Article X - Wages

Section 10.1. Wage Schedule. Employees shall be compensated in accordance with the wage schedules attached to this Agreement, as Appendix "A."

Appendix A - Wage Schedule

A. The following information comprises the wage compensation plan for all officers who are members of Metropolitan

Alliance of Police, Chicago State University Campus Police  
Chapter #144.

Wages

<u>Step</u>	<u>1995-1996</u>	<u>Initial Placement</u>
Starting	\$2,091.00/month	Woodie, Maddux, Cartwright, M. Jones
I After comple- tion of 1 year service	2,153.00/month	S. Jones, Steward, Alvarez, Norey, Robinson
II After comple- tion of 3 years service	2,217.00/month	Harris
III After comple- tion of 5 years service	2,307.00/month	Cotton, Sheckles
IV After comple- tion of 7 years service	2,375.00/month	

- B. Initial placement of officers, at the time the Board ratifies this Agreement, shall be as indicated above. An officer will move to the next highest step in the pay period immediately following completion of the years of service, as indicated above.
- C. By agreement of the parties, this wage scale is retroactive to July 1, 1994. All covered employees shall receive a one-time lump sum payment representing the employee's wage increase for the period beginning July 1, 1994 (or the employee's date of employment, whichever is later) and ending on the date of the execution of this Agreement.
- D. The parties agree that should the State Legislature not appropriate a sufficient increase in funds to the personnel services line item of the budget applicable to Chicago State University employees in order to pay for the step movements during the forthcoming fiscal year, then the employer will notify the Union and all step movements will be frozen as of August 1. Step movement will become a topic for discussion at a wage or contract opener, and any agreed-to step movements shall be made retroactive to

the employee's anniversary date in the classification for any employees whose wages were frozen pursuant to this paragraph.

- E. The parties agree that this Agreement shall be subject to a reopener on July 1, 1995, only for the purpose of negotiating wages.

#### Intent of the Parties

It is the expressed understanding of the parties that, upon execution of this Collective Bargaining Agreement, the union will immediately notify the Illinois Educational Labor Relations Board of its desire to withdraw its pending Unfair Labor Practice Charge related to retroactive salary payment.

#### **(b) Union Offer**

With the exception of the actual wage schedule, which is entirely new, additions to the 1995-96 Agreement are underlined; deletions are ~~struck through~~.

Section 10.1. Wage Schedule. Employees shall be compensated in accordance with the wage schedules attached to this Agreement, as Appendix "A." All wages shall be retroactive to August 1, 1996. Covered employees shall receive a lump sum payment for any retroactive wages within thirty (30) days of the execution of this Agreement.

#### Appendix A - Wage Schedule

- A. The following information comprises the wage compensation plan for all officers who are members of Metropolitan Alliance of Police, Chicago State University Campus Police Chapter #144.

#### Wages

<u>Step</u>	<u>1996-1997</u>
Starting	\$2,508.00/month
I At 1 year anniversary	2,716.00/month
II At 2 year anniversary	2,825.00/month
III At 3 year anniversary	2,836.00/month

IV	2,980.00/month
At 4 year anniversary	
V	3,193.00/month
At 5 year anniversary	
VI	3,269.00/month
At 6 year anniversary	
VII	3,365.00/month
At 7 year anniversary	

~~B. Initial placement of officers, at the time the Board ratifies this Agreement, shall be as indicated above. An officer will move to the next highest step in the pay period immediately following completion of the years of service, as indicated above.~~

~~C. By agreement of the parties, this wage scale is retroactive to July 1, 1994. All covered employees shall receive a one-time lump sum payment representing the employee's wage increase for the period beginning August 1, 1996 July 1, 1994 (or the employee's date of employment, whichever is later) and ending on the date of the execution of this Agreement.~~

~~D. The parties agree that should the State Legislature not appropriate a sufficient increase in funds to the personnel services line item of the budget applicable to Chicago State University employees in order to pay for the step movements during the forthcoming fiscal year, then the employer will notify the Union and all step movements will be frozen as of August 1. Step movement will become a topic for discussion at a wage or contract opener, and any agreed to step movements shall be made retroactive to the employee's anniversary date in the classification for any employees whose wages were frozen pursuant to this paragraph.~~

### **(c) Employer Offer**

The Employer's offer consisted of explanatory material (Part 1) and a modification of the Wage Schedule (Part 2).

#### **Part 1 of Employer's Wage Offer**

##### Wage Scale and Longevity Adjustments

The Employer is offering to spend the full value of the salary adjustment money appropriated by the State Legislature in this wage offer. The unit base salary total as of November

11, 1997 (sic) was \$324,972 with 3% or \$9,749 above that base being available for wage increases. The components of this offer are as follows:

A) Each officer entitled to move a step during this fiscal year has or will be permitted to make that movement with the cost of such movement being deducted from the overall available money for salary adjustments.

1. 5 Officers/Cost \$3960 annualized.

B) Each existing step would be adjusted upwardly by 1.78%, which represents the value of the remaining appropriated dollars minus the cost of the step movements in A above. These steps would be as follows:

Starting Salary	\$2160
Step 1	2264
Step 2	2331
Step 3	2425
Step 4	2497

C) The salary adjustments resulting from implementation of "B" above would be effective retroactive to August 1, 1996.

D) Employer proposes continuation of Section B, except to strike first sentence; Section C, except for relevant date change; Section D unchanged.

E) Employer proposes a second year wage reopener on/or about July 1, 1997.

**Part 2 of Employer's Wage Offer**

Appendix A - Wage Schedule

A. The following information comprises the wage compensation plan for all officers who are members of the Metropolitan Alliance of Police, Chicago State University Campus Police Chapter #144.

Wages

Effective August 1, 1996

<u>Step</u>	<u>Monthly Salary</u>
Starting	\$2,160.00
I After completion of 1 year service	\$2,264.00

II  
After completion of three years service \$2,331.00

III  
After completion of five years service \$2,425.00

IV  
After completion of seven years service \$2,497.00

B. An officer will move to the next highest step at the beginning of the pay period immediately following completion of the years of service, as indicated above.

C. All covered employees shall receive a one-time lump sum payment representing the employee's wage increase for the period August 1, 1996, or the employee's date of employment, whichever is later, and ending on the date of the execution of this Agreement.

D. The parties agree that should the State Legislature not appropriate a sufficient increase in funds to the personnel services line item of the budget applicable to Chicago State University employees in order to pay for the step movements during the forthcoming fiscal year, then the employer will notify the union and all step movements will be frozen as of August 1. Step movement will become a topic for discussion at a wage or contract reopener, and any agreed-to step movements shall be made retroactive to the employee's anniversary date in the classification for any employees whose wages were frozen pursuant to this paragraph.

**4. Shift Differential: Article X, (New) Section 10.2**

**(a) Union Offer**

The 1995-96 Agreement does not provide for a shift differential. The Union proposes to add the following shift differential clause to Article X, Wages, as Section 10.2:

Section 10.2. Shift Differential. Covered employees permanently assigned to certain shifts shall receive in addition to other compensation, shift differential pay as follows:

<u>Shift</u>	<u>Additional Compensation</u>
3rd shift (3:30 p.m. - 11:30 p.m.)	\$.15/hr
1st shift (11:30 p.m. - 7:30 a.m.)	\$.25/hr

**(b) Employer Offer**

Rejection of Union offer.

**5. Uniform Allowance: Article XIII,  
Section 13.1**

**(a) Union Offer**

The Union proposes to amend Article XIII, Section 13.1, Uniform Allowance, as follows (additions underlined; deletions ~~struck through~~):

Section 13.1. Uniform Allowance. The Employer agrees to provide to each new employee all necessary equipment as listed in General Order 95-1 (see attached Appendix "C"). The employer will also provide a bullet proof vest to each new employee. ~~Provided the Police Department has sufficient funds in the commodities line item, it will replace items listed in General Order 95-1 when replacement is appropriate, as determined by the Chief.~~ Each covered employee shall receive an annual uniform allowance of \$750.00, payable in equal installments of \$375.00 on June 1, and \$375.00 on December 1 of each year. Each employee shall receive a cleaning and maintenance allowance of \$75.00 every four months, commencing June 1, 1995. Employees are responsible for the purchase, care, cleaning and maintenance of all uniforms and equipment.

**(b) Employer Offer**

No change in current Agreement.

**6. Duty Weapon: Article XIII, Section 13.2**

**(a) Union Offer**

The Union proposes to amend Article XIII, Section 13.2, Duty Weapon, as follows (additions underlined; deletions ~~struck through~~):

Section 13.2. Duty Weapon

Officers covered by this Agreement shall have the option to carry the state-issued revolver, or his/her own revolver or a 9mm semi-automatic, but not both, as the official duty weapon. Covered employees may use all or a portion of their

annual uniform allowance for the purchase of an approved duty weapon.

Covered officers will abide by General Order 95-1 (see attached Appendix "C"). Should the Chief of Police find it necessary to modify, add to, or delete sections of this general order, he shall first meet with the Union to discuss the changes and receive input.

**(b) Employer Offer**

No change in current Agreement.

**B. Non-Economic Issue: Term of Contract, Article XIX, Section 19.1**

The Union proposes a one-year contract ending July 31, 1997. The Employer proposes a two-year contract ending July 31, 1998, with a second year reopener for wages only.

**III. Applicable Statutory Standards**

Section 14(g) of the ISLRA provides that "[a]s 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)." Section 14(h) sets out the factors used to evaluate economic proposals:

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.

The critical factors in economic interest arbitration are contained in paragraphs 3 through 6. The "standards relied upon most frequently and given the greatest weight by interest arbitrators are: (1) comparability; (2) the cost of living; and (3) the ability to pay. The different emphases placed on those standards, as well as the other standards that are included in public sector interest arbitration statutes, generally depend upon the economic circumstances that exist in the jurisdiction at the time of the arbitration proceeding."<sup>2</sup> The "most significant standard for interest

---

<sup>2</sup>Arvid Anderson, Loren Krause & Parker A. Denaco, "Public Sector Interest Arbitration and Fact Finding: Standards and Procedures," Tim Bornstein, Ann Gosline & Marc Greenbaum, eds., *Labor and Employment Arbitration*, 2nd ed. (New York: Matthew Bender, 1997), Vol. II, chap. 48, §48.05[1].

arbitration in the public sector is comparability of wages, hours and working conditions."<sup>3</sup>

The Employer maintains that "it has a limited ability to pay salary adjustments through the bargaining process" and that "the union understood and accepted this limited ability to pay both in contract language and in presenting subsequent proposals to the employer" (Emp. Brief, 2). The Union suggests that "this argument falls flat, and should be rejected..." (Un. Brief, 17).

If the Employer is "unable to pay," if it cannot meet the Union's demands, it would be futile to analyze evidence relating to comparability and other criteria. Accordingly, I shall first determine whether the Employer has the "ability to pay"—whether it is "unable" to meet the Union's demands.

#### **IV. Ability to Pay**

##### **A. Summary of Arguments**

##### **1. The Employer**

The Employer's contention that it has a "limited ability to pay" rests on the argument that CSU is an impoverished institution with limited resources and a limited ability to increase tuition and raise money through endowments or research grants. Thus, the Employer suggests, CSU is almost wholly dependent on funds allocated by the General Assembly upon the recommendation of the State of Illinois Board of Higher Education (Young 175). Counsel for the Employer

---

<sup>3</sup> *Ibid*, at §48.05[2].

asserts that the Board of Higher Education and the General Assembly have consistently underfunded the Employer's operations (Tr. 169-70).

## 2. The Union

The Union argues that the limited-ability-to-pay "argument falls flat" because:

1. The State Finance Act permits a "total transferability of two percent of...total appropriation between line items," and this "transferability allows CSU to transfer money into the personal services line item, which includes employee salaries" (Un. Brief, 18, citing the testimony of Sharon Young).

2. The "annual budget appropriation process is not the University's only source of revenue" (Un. Brief, 18). CSU increases tuition annually, and CSU has the "authority to set tuition rates higher than those recommended" by the Illinois Board of Higher Education (Un. Brief, 18).

3. There are other ways to raise revenue: (1) higher parking fees, which are used to supplement police officers' salaries; (2) fees for "student union" and "university facilities"; (3) grants, such as a COPS grant recently received by CSU for the purpose of hiring new personnel; (4) a bill presented to the General Assembly for a supplemental appropriation (Un. Brief, 19-20).

4. CSU "has input at practically every stage" of the budget appropriation process, and "the legislature has never been presented information regarding the results of an

interest arbitration as a basis for budget appropriation requests" (Un. Brief, 20).

### **B. Discussion and Findings**

As the Employer points out, this is a case of first impression. It is the first statutory interest arbitration involving "protective service employees" of a public university. Since a university, unlike a municipality, does not have independent taxing authority, the guidelines normally used in determining a municipality's "ability to pay," although relevant, may not be decisive.<sup>4</sup> I must also keep in mind that "[g]enerally, ...ability to pay is regarded as a negative rather than a positive factor,"<sup>5</sup> that a "demonstrated inability to pay is viewed as a limiting factor to support an award less generous than otherwise indicated by the comparability data."<sup>6</sup>

The Employer's evidence respecting its ability to pay is separated into the following categories (EX C):

1. Mission;
2. Budget Process;

---

<sup>4</sup> Over Governor Jim Edgar's veto, the General Assembly placed university police officers under the jurisdiction of the ISLRA. In his veto message, Governor Edgar noted (EX C4):

If Senate Bill 245 were to become law, an arbitrator would be empowered to impose pay increases or change terms of employment for peace officers without agreement by a university's board of trustees. Unlike municipalities and counties, universities do not have the ability to levy and collect taxes to pay for higher costs of a collective bargaining settlement which might be mandated by an arbitrator.

<sup>5</sup> Anderson, et al., *supra*, n. 2, at §48.05[3].

<sup>6</sup> Richard W. Laner and Julia W. Manning, "Interest Arbitration: A New Terminal Impasse Procedure for Illinois Public Sector Employees," 60 Chicago Kent L. Rev. 839, 859 (1984).

3. Enrollment, Deficit and Union Recognition of Limited Ability to Pay.
4. Appropriation Process;
5. Taxing and Fund-Raising Ability.

### 1. Mission

The Employer states (EX C):

1. This university's mission is to provide an accessible, affordable education to its primary constituency. The only way to do that is to maintain cost, such as tuition, at an affordable rate.
2. This university has among the highest minority graduates of any university in the United States.
3. The student population is among the highest in need for financial aid, so that tuition increases are a roadblock to their enrollment.
4. Unlike larger, research oriented universities, Chicago State is a teaching university and does not receive the kind of grants and funding that other universities in Illinois may receive.

### 2. Budget and Budget Process

The Employer has made budget and enrollment comparisons to other universities it considers comparable, and I have extrapolated per capita budget or budget-dollars per student from these figures (see EX C1):

**Table 1: Budget, Enrollment, Per Capita Budget**

University	Total Budget	Enrollment	Per Capita Budget
GSU	\$ 29,931,000	6,300	\$ 4,751
NEIU	50,088,500	9,865	5,077
UIC	382,371,000	25,000	15,295
<b>CSU</b>	43,000,000	9,400	4,574

The Employer also noted that from fiscal year 1990 to fiscal year 1997 enrollment increased at a greater rate than appropriations (EX C2):

**Table 2: Appropriations—FY 1990 Compared to FY 1997**

	Enrollment	General Funds Appropriation	Per Capita Appropriation
FY 1990	6032	\$26,369,200	\$4372
FY 1997	9462	30,299,100	3202
Change	+56.9%	+14.9%	-27%

### **3. Enrollment, Deficit and Union Recognition of Limited Ability to Pay**

A "revised FY 1997 spending plan/contingency plan" prepared by CSU (EX C3) shows that "total unmet needs" or deficit came to \$1,830,870. The "fund balance shortfall" for FY 1996 was \$350,000 (EX C3).

The Employer argues that the Union has recognized the University's limited ability to pay by reason of two provisions contained in the 1995-96 Agreement. Paragraph D of the Wage Schedule provides in relevant part:

The parties agree that should the State Legislature not appropriate a sufficient increase in funds to the personnel services line item of the budget applicable to Chicago State University employees in order to pay for the step movements during the forthcoming fiscal year, then the employer will notify the Union and all step movements will be frozen as of August 1.

Section 13.1 reads:

Provided the Police department has sufficient funds in the commodities line item, it will replace items listed in General Order 95-1 when replacement is appropriate, as determined by the Chief.

The Employer has computed the cost of the Union's final offer as follows (EX C6):

<u>Current Total Bargaining Unit Base Salaries</u>		<u>\$324,972</u>
Union Wage Proposal		
First Year Cost		\$ 88,428 (+27.2%)
Second Year Step Movements		13,372 (+4.1%)
Shift Differential		
Additional Cost Added to Permanent Base		3,328
Personal Days		
Estimated Overtime Cost for Replacement		2,502
Total Base Adjustment Required to Meet Union's Final Offer		\$107,630 (+33%)
<u>Added Cost to Line Items Other than Personnel Services</u>		
Uniforms and Allowances		\$ 10,500
Total Cost of Union's Economic Proposals		\$118,130

Union Exhibit 11 contains estimated budgets for fiscal years 1995 and 1996 and "detailed budget requests" respecting the University Police Department for FY 1997. The revised 1995-96 budget for "non-academic personal services," a category that includes supervisory and non-supervisory police officers (except the chief of police), clerks, secretaries, telecommunicators, security guards, a locker room attendant, and carpenters, came to \$794,275. Of this amount, police officers in the bargaining unit earned \$228,780. The 1996-97 estimated budget for police officers was the same.

Total estimated personnel expenditures for fiscal years 1995 and 1996 were (UX 11):

**Table 3: Estimated Personnel Expenditures: FYs 1994-1996**

Category	Number of Positions Fiscal Years			Estimated Expenditures Fiscal Years	
	1994	1995	1996	1995	1996
Academic/Instruction	629.0	617.0	622.0	19,082,363	19,372,363
Academic/Administration	64.0	65.0	65.0	3,599,896	3,599,896
Civil Service	324.0	329.0	333.0	8,673,154	8,806,154
Budgetary Adjustments	-118.5	-79.1	-79.2	636,087	1,913,587
<b>Grand Total</b>	<b>898.5</b>	<b>931.9</b>	<b>940.8</b>	<b>31,991,500</b>	<b>33,692,000</b>

Taking FY 1996 as a base, personnel costs for bargaining unit employees came to 0.67% of total personnel expenditures (228,780 ÷ 33,692,000).<sup>7</sup> Depending on whether there are 9 or 14 employees in the police bargaining unit, this unit represents (rounded off) 1% (9÷925) or 1.5% (14÷925) of total personnel employed by CSU. Thus, it would appear, police officers' pay is disproportionate to than their numbers.

#### **4-5. Appropriation, Taxing and Fund Raising Ability**

CSU is not a wealthy institution. The projected budget for FY 1996 showed a "shortfall" of \$350,000. I realize that CSU is poorly endowed, that it has little opportunity to secure grants and that it serves a relatively impoverished constituency. And, unlike a municipality, CSU has no taxing authority. It can raise money only through allocations from

---

<sup>7</sup> I have added up the salaries of Police Officer 1's listed in the "detailed budget request-fiscal year 1997" (UX 11, p. 2) excluding all vacant positions. I realize that 9 PO-1's are listed on this exhibit and that Union Exhibit 1 states that there are 14 employees in the bargaining unit.

the State of Illinois, tuition, fees, grants, gifts and service contracts. For reasons described in Section 6 below, however, CSU's limited ability to raise funds is not dispositive of the issue of "ability to pay."

#### **6. Conclusion**

An institution's "ability to pay" or to absorb the cost of contract proposals in a particular bargaining unit cannot be determined in a vacuum. The "ability to pay" must be considered in light of the proposals made in relation to the bargaining unit under consideration. If, as here, police officers amount to no more than one and one-half percent of the total number of employees and represent less than one percent of total personnel costs, it is difficult to conclude that even a substantial wage increase in that unit—for example, a 33% raise that brings total costs in the unit up to about 0.9% of total personnel expenditures—would dramatically impinge upon an employer's ability to pay.

In collective bargaining, pay equity among different units of employees is a significant consideration for employers. A raise in one unit, even the small unit under review, can affect wages in other units. But I have not been asked to set wages for employees in other bargaining units or in unrepresented units. Nor has the Employer suggested that employees in other units are comparable to police officers. My concern is limited to police officers; and in pleading poverty or "limited ability to pay," the Employer has

suggested only that it cannot afford the requested wage increases for police officers, not other employees.

The remarks of commentators Arvid Anderson and Loren Krause on this point are of interest:

Often times, the employer's ability to pay argument is not based on the cost of the increase sought by the employees involved in the interest arbitration proceeding. Rather, the public employer will argue that it cannot afford to give the same increase to all of its employees and that the arbitrator must consider ability to pay in light of the demands of, and the employer's responsibility to, all of its employees... Nevertheless, most arbitrators do consider the collective bargaining relationship between the public employer and its other employees and justify such consideration as falling under the criterion of "interest and welfare of the public."<sup>8</sup>

Here, no evidence was offered or argument advanced with respect to the broader impact of a wage increase in this small unit. In any event, I agree with the remarks contained in a study published by the State of Michigan Departments of Labor and Management and Budget:

[A]rbitrators must deal only with the particular bargaining unit whose dispute they are deciding.... [T]he statute does not permit the arbitrator to consider matters beyond the unit before him; otherwise, the arbitrator would take over all the legislative and budgetary functions of elected [or appointed] officials.<sup>9</sup>

Had the General Assembly believed that placing university peace officers under the ISLRA would give peace-officer bargaining units an undue influence on wages or benefits in other units, it could have taken steps to ensure otherwise.

---

<sup>8</sup> Anderson, et al., *supra*, n. 2, §48.05[4].

<sup>9</sup> See Anderson, et al., *Ibid*.

The importance of the ability-to-pay criterion "lies largely in the fact that, while an employer's ability to pay is not, in and of itself, a sufficient basis for change in wages, it is a significant element properly to be taken into account in determining the weight to be attached to other criteria."<sup>10</sup> Thus, an employer's "ability," or more accurately its "inability," to pay may warrant granting a smaller increase (or none at all) than otherwise would have been allowed. In this case, since the evidence did not show that the Employer's overall financial condition would foreclose it from meeting the Union's proposals in the relatively small bargaining unit under review, I am reluctant to factor in the "ability-to-pay" test.

#### **V. Comparability**

The parties agreed that Governors State University (GSU), Northeastern Illinois University (NEIU) and University of Illinois at Chicago (UIC) are comparable to CSU (Tr. 6-7). In addition, the Union contends, the following universities, municipalities and government agency are comparable to CSU (UX 1, Part 1):

##### **A. Universities**

1. Eastern Illinois University (EIU)
2. Northern Illinois University (NIU)
3. Southern Illinois University (SIU)
4. University of Illinois at Champaign (U of I)
5. Western Illinois University (WIU)

---

<sup>10</sup> Marlin M. Volz & Edward P. Goggin, eds., *Elkouri and Elkouri: How Arbitration Works*, 5th ed. (Washington: BNA Books, 1997), 1124.

B. Municipalities

1. Chicago
2. Cicero
3. Elmhurst
4. Evanston
5. Evergreen Park
6. Lincolnwood
7. Morton Grove
8. Oak Park
9. River Grove
10. Skokie

C. Government Agency: Central Management Services, State of Illinois (CMS)

In "selecting its comparable universities, the Union relied upon...number of students, number of employees, calls for service, size of campus and number of patrol officers" (Un. Brief, 9). The Union also relied upon the fact that until recently CSU, EIU, GSU, NEIU and WIU were all managed by the Board of Governors, covered by identical Civil Service rules, and subject to uniform industrial relations policies relating to both economic and non-economic benefits (Un. Brief, 9). "Nearby Chicagoland municipal communities" were also used as a basis of comparison. The Union suggested that comparisons must be made in interest arbitration to "other employees performing similar services"; and that the "police officers employed by the ten municipal departments...have the same general qualifications and certifications as state university police officers, and perform the same duties" (Un. Brief, 10).

In police and firefighter interest arbitration, the "most common factors used to establish comparability are:

- (1) nearby communities;
- (2) similar population size;

- (3) past practice;
- (4) parity relationships (e.g., police and fire-fighters);
- (5) extent of fire or crime problem;
- (6) extent of recruitment and retention problems;
- (7) comparable ability to pay, state equalized value, taxes levied;
- (8) distinctive characteristics of the locality;
- (9) comparable duties of the referenced group of employees; and
- (10) the peculiarities of the particular trade or profession, specifically the hazards of employment, physical qualifications, educational qualifications, mental qualifications and job training and skills."<sup>11</sup>

One of the most significant standards used to determine municipal comparability—the comparative ability to tax and to issue bonds—does not apply to universities. And the taxing and revenue raising capacity of a municipality, unlike the revenue raising ability of a public university, is directly related to the wealth of the firms and individuals within its borders, retail sales, and the value of taxable real estate in its jurisdiction. Universities are in a different position. Public universities, especially those with small endowments that serve a relatively impoverished sector of the public, rely heavily on government funds. Except to the extent that students are drawn from the surrounding area, business activity and the wealth or poverty of firms and individuals in the community are largely irrelevant.<sup>12</sup> Accordingly, factors such as population, equalized assessed

---

<sup>11</sup> Anderson, et al., *supra*, n. 2. §48.05[2].

<sup>12</sup> There are world-famous, wealthy universities in relatively poor communities. The University of Chicago, Princeton University and Yale University come to mind. Obviously, these lavishly endowed universities,

valuation, median household income and median home value, all of which reflect the ability of a municipality to raise funds, are immaterial in this case. In sum, even if CSU police officers perform duties similar to those performed by Chicago and Skokie police officers, to cite two examples suggested by the Union, I consider it inappropriate—especially without evidence on comparative wealth and fund-raising capacity—to compare university police departments to municipal police departments.<sup>13</sup>

In this case, no demographic or economic data respecting the proposed comparable municipalities was produced. Nor was any theory advanced to warrant a finding that the ten proposed municipalities, including the City of Chicago, were more comparable to CSU than hundreds of other municipalities (and other public bodies employing police officers) in metropolitan Chicago. Why Cicero and not nearby Berwyn? Why Skokie and not neighboring Morton Grove? In short, outside of the

---

with their affluent students, wealthy alumni, research grants and lavish investment funds cannot be compared to CSU.

<sup>13</sup> Chicago is a large, complex and diverse city served by a large, complex and diverse police department. In the Chicago police department there are specialized positions, including administrative employees, lab employees and social workers who may never wear a uniform or make an arrest. There are extended chains of command, and radical differences in basic police needs, functions and problems in different districts of the city. The duties of a uniformed police officer stationed in a particular district of a city may be roughly comparable to those of a university police officer in the same district, but it is exceedingly difficult to make side-by-side comparisons between the Chicago (or the Skokie) police department, for example, and the CSU police department. Nevertheless, I have learned to never say never. If a university's wealth, fund-raising capacity, and policing responsibilities are comparable to those of a nearby municipality, an arbitrator may someday find it appropriate to make cross-category comparisons.

fact that the proposed municipalities employ police officers, there seems little obvious commonality between them and CSU.

I am left with Central Management Services (CMS) and the proffered group of comparable universities. CMS is not comparable to CSU. No reason was suggested for inclusion of this state-wide managerial agency. CMS is not a teaching institution; it does not have to police a "campus" on which students live and study.

The suggested universities may or may not have much in common with CSU. Until recently, CSU, EIU, GSU, NEIU and WIU were under the authority of the Board of Governors; they were managed by the same public board and were subject to the same rules, including those relating to personnel and industrial relations. But the Board of Governors has been disbanded and the universities that were once part of that system have been cut loose. They are autonomous. Because of their common governance, there may once have been a commonality among these universities. But that commonality no longer exists. In short, I do not consider former Board of Governors universities comparable to CSU simply because they were once part of the same system.<sup>14</sup>

---

<sup>14</sup> Undermining the claim that all Board of Governors universities were comparable because of a common governance, CSU Special Assistant for Insurance, Budget and Business Affairs Sharon Young testified that all universities in the Board of Governors system were not "treated equally in terms of the budget process" (Young 177). In Young's opinion, CSU was "treated poorly" (Young 178). I also note that the Union submitted payroll data on some, if not all, the proposed university comparables (UX 11). This data showed individual budget line-items for listed occupations; but there was no evidence on general budget items, assets,

Nor, finally, did the evidence establish other valid reasons to compare CSU to the universities listed on Union Exhibit 1. Not only are most of these universities geographically remote from CSU—SIU is about 330 miles away—no data was produced to establish that they are financially comparable to CSU, that each has a comparable ability to raise funds and pay benefits and similar recruitment or retention problems. It is difficult to find comparisons between CSU on one hand and NIU, SIU and U of I on the other hand. The latter are major research and teaching institutions that draw students from the State of Illinois and beyond. They have large campuses, thousands of live-in students,<sup>15</sup> and enrollments more than double (NIU) or almost quadruple (U of I) CSU's enrollment. U of I has 10,000 employees, NIU more than 3,000, and CSU 925. U of I is about 135 miles from Chicago, NIU 65 miles from Chicago.<sup>16</sup> The remaining universities listed in Union Exhibit 1, EIU and WIU, are smaller than U of I, NIU and SIU, but the evidence did not establish sufficient commonality, either in terms of geographic proximity, labor markets or the number of "calls for service" per student to consider them comparable to CSU. I also have doubts that UIC is

---

liabilities, funding, sources of funding, and similar economic matters. Neither the balance sheets for these universities nor their operating budgets were introduced into evidence.

<sup>15</sup> CSU has one 180-room (up to two occupants per room) dormitory on campus (Young 205-06).

<sup>16</sup> As little evidence was provided on these universities, I have taken arbitral notice of information in the public domain. I am aware that admission standards at some of the allegedly comparable institutions,

comparable to CSU, but I shall not second-guess the parties' stipulation.<sup>17</sup> For the same reason, even though GSU is a suburban school with half the employees and 60 percent of the students of CSU, I shall consider GSU comparable to CSU.

In sum, I adopt the comparables agreed to by the parties: UIC, GSU and NEIU. NEIU is clearly comparable to CSU. Although CSU is on the South Side and NEIU is on the far North Side of Chicago and probably draws from a somewhat demographically different constituency than CSU, NEIU is at least an urban institution with its roots in the city of Chicago. Its enrollment compares to that of CSU—10,228 to 9,462; and it employs 1100 people in comparison to CSU's 925. Sufficient budget data on NEIU was introduced to permit appropriate comparisons:

**Table 4: CSU Personnel Expenditures FYs 1994-1996**

	Number of Positions			Estimated Expenditures	
	Fiscal Years			Fiscal Years	
	1994	1995	1996	1995	1996
Academic/Instruction	629	617	622	19,082,363	19,372,363
Academic/Administration	64	65	65	3,599,896	3,599,896
Civil Service	324	329	333	8,673,154	8,806,154
Budgetary Adjustments	-118.5	-79.1	-79.2	636,087	1,913,587
<b>GRAND TOTAL</b>	<b>898.5</b>	<b>931.9</b>	<b>940.8</b>	<b>31,991,500</b>	<b>33,692,000</b>

particularly U of I, are very high; and that, therefore, it is unlikely that these schools are competing with CSU for students.

<sup>17</sup> At the hearing the parties stipulated that UIC was comparable to CSU (Tr. 6-7). In its post-hearing brief, the Employer's assent to the comparability of UIC was grudging: "The employer selected its primary comparison group using two universities similarly situated to Chicago State and then the University of Illinois-Chicago to demonstrate the divergence of funding between various universities" (Emp. Brief, 8). I shall take the parties' stipulation at face value; I will not explore the Employer's reasons for including UIC as a comparable institution.

**Table 5: NEIU Personnel Expenditures FYs 1994-1996**

	Number of Positions			Estimated Expenditures	
	Fiscal Years			Fiscal Years	
	1994	1995	1996	1995	1996
Academic/Administration	526	537	543	24,836,360	15,091,360
Civil Service	428	422	422	10,471,042	10,471,041
Budgetary Adjustments	28.2	55.4	55.4	371,398	1,095,998
GRAND TOTAL	982.2	1,014.4	1,020.4	35,678,800	36,658,400

## VI. Discussion and Findings: Economic Issues

### A. Sick Leave: Article VII, Section 7.4

Article VII (Benefits), Section 7.4 (Sick Leave) allows employees "in a status position" to earn sick leave credit at the rate of 0.0462 hours for "each hour in pay status." There is no limitation on the accrual of sick leave.

In 1984, the Illinois General Assembly enacted a law permitting "compensation on termination or retirement of one-half of accrued sick leave" (Young 185).<sup>18</sup> This law has not been repealed or amended (Young 211). Section 7.4(C)(2) of the Agreement provides that upon termination of employment, the employee or his estate is entitled to a lump-sum payment equal to the lesser of one-half of sick leave earned after December 31, 1983 or one-half of accrued sick leave earned less sick leave used. Section 7.4(C)(4) provides:

In the event the State Legislature amends or repeals the law permitting sick leave payout, this

---

<sup>18</sup> Although not cited by either party, I assume that Young was referring to 30 ILCS 105/14a, which provides, among other matters, that "[t]he Department of Central Management Services shall prescribe by rule the method of computing the accrued vacation period and accrued overtime for all employees, including those not otherwise subject to its jurisdiction.... Accrued sick leave shall be computed by multiplying 1/2 of the number of days of accumulated sick leave by the daily rate of compensation applicable to the employee at the time of his death, retirement, resignation or other termination of service...."

contract will automatically so amend to maintain conformance with that legislation. Any such amendment will have immediate application to employees within the unit.

The Employer seeks to discontinue payment of sick leave upon an employee's termination, retirement or death. The Union proposes no change in the current sick leave provisions of the contract. During negotiations, the Employer explained the basis for this proposal (UX 2):

Employer carries an obligation to pay for unused sick leave at 50% of its value upon death, termination or retirement. This is a liability for which the university has not received, nor is likely to receive any funds from the state legislature, although the legislature was the body which required this payment.

The university's current liability for sick leave within the bargaining unit could be as high as \$17,250. This is based on the following series of facts:

- a) Employees can earn 12 sick days each year
- b) There is no limit on the number of sick days an employee can earn
- c) Based on the current 2.25 years of service of the officers.

This unfunded liability grows each year and requires the employer to eliminate or keep positions vacant for an extended period in order to meet this obligation.

The Union cited *City of Markham*, S-MA-95-63 (Berman 1995) and *City of Springfield*, S-MA-18 (Berman 1987) for related propositions (Un. Brief, 13):

*City of Markham*: The "well-accepted standard in Interest Arbitration when one party seeks to implement entirely new benefits or procedures (as opposed to merely increasing or decreasing existing benefits) or to markedly change the product of previous negotiations, is to place the onus on the party seeking the change."

*City of Springfield*: "Without economic or operational justification it is inappropriate [for an arbitrator] to take away employees' benefits."

I agree with the Union that the "University presented no credible evidence to support" this change (Un. Brief, 13). Obviously, an "unfunded liability" entails unknown future contingencies, but the Employer's assertion that it must "eliminate or keep positions vacant for an extended period in order to meet this obligation" was not supported by actuarial evidence. Without such evidence, this assertion was *ipse dixit*—an "assertion by one whose sole authority for it is the fact that he himself has said it."<sup>19</sup>

There is another issue. Section 7.4(C)(2) of the Agreement would seem only to reiterate statutory requirements. Neither I nor the parties can amend the statute. As stated in Section 7.4(C)(4), when the law changes, the Employer's liability for payment of accrued sick leave upon termination of employment, retirement or death will automatically change.

I adopt the Union's proposal on sick leave.

**B. Personal Days: Article VII, (New) Section 7.14**

The 1995-96 Agreement does not provide personal days to police officers. The Employer proposes to maintain the status quo. The Union proposes to add to Article VII a new Section 7.14 providing for two paid personal days to police officers.

---

<sup>19</sup> Steven H. Gifis, *Barron's Law Dictionary* (Woodbury, N.Y: Barron's, 1984).

The Union has made the following comparisons (UX 3):

**Table 6: Holidays and Personal Days**

Institution	Holidays	Personal Days	Total Days Off (Non-Vacation)
GSU	11	3*	14
NEIU	11	2	13
UIC	11	0	11
Average	11	1.67	12.67
CSU - Union	11	2	13
CSU - Employer	11	0	11
CSU - Current	11	0	11

\*Attendance-based

Additional paid days off are not cost-free, but the Employer offered no probative evidence in support of its argument that "the two personal days will result in \$2500 in overtime cost and beyond" (Tr. 251; see also EX C6). Presumably, as the Employer points out (Tr. 251), one employee may have to work overtime to replace the employee given the day off. But it is possible to arrange schedules in such a way as to minimize overtime; and in the absence of supporting evidence, I cannot rely on the Employer's cost estimate.

In short, even though the evidence showed that CSU is a relatively impoverished institution, the evidence did not show that CSU is unable to meet the Union's proposal for additional personal days. I am reluctant to "nickel and dime" CSU by adopting all of the Union's proposals on minor economic items, but I cannot disregard evidence on comparability in favor of an unverified claim.

I adopt the Union's proposal on personal days.

**C. Wage Schedule: Article X, Section 10.1;  
Appendix A**

It is useful to compare 1995-96 wages (UX 10, Appendix A) to the wages proposed by the parties (UX 4):

**Table 7: 1995-96 Wage Schedule Compared to Wage Schedule Proposed by the Parties for 1996-97**

<b>Step</b>	<b>1995-1996 Wage Schedule</b>	<b>Union Proposal</b>	<b>Employer Proposal</b>
Start	\$ 2,091/month 25,092/year	\$ 2,508/month 30,096/year	\$ 2,160/month 25,920/year
1 yr	2,153 25,836	2,716 32,592	2,264 27,168
2 yrs		2,825 33,900	
3 yrs	2,217 26,604	2,836 34,032	2,331 27,972
4 yrs		2,980 35,760	
5 yrs	2,307 27,684	3,193 38,316	2,425 29,100
6 yrs		3,269 39,228	
7 yrs	2,375 28,500	3,365 40,380	2,497 29,964

The Union has compared starting salaries and top salaries at CSU to those at the comparable universities:

**Table 8: Wage Comparability: Starting Wage/Top Wage**

<b>University</b>	<b>Starting Wage</b>	<b>Top Wage</b>
GSU	\$23,637	\$32,957
NEIU	25,092	37,428
UIC	29,120	46,113
CSU 1995-96	25,092	28,500
CSU: Union Offer	30,096	40,380
CSU: Employer Offer	25,920	29,964

The Employer offered comparative evidence on "average annual salary" and "years of service" (EX D):

**Table 9: Police Officers' Average Annual Salary & Years of Service**

University	Average Annual Salary	Average Years of Service	Number of Officers
GSU	\$27,906	14	6
NEIU	28,584	7	16
UIC	41,787	9	48
<b>Average</b>	<b>32,759</b>	<b>10</b>	<b>23.3</b>
<b>CSU</b>	<b>23,212</b>	<b>2.25</b>	<b>14</b>

For fiscal year 1996, "[a]ll state universities were appropriated an amount equal [to] 3.3% of the Personnel Services Line Item for salary increases to existing staff" (EX D2). The comparable group of universities made the following salary adjustments (EX D2):

GSU	3.3% (negotiated)
NEIU	3% + merit (not negotiated)
UIC	3.1%
CSU	3.3% (negotiated; 3 separate bargaining units)

On the basis of a "bargaining unit salary base" of \$324,972, the Employer has computed the Union's wage proposal as follows (EX C6):

First Year Cost	\$88,428 (+27.2%)
Second Year Step Movements	13,372 (+4.1%)

The Employer's final offer contained the following statements (UX 4):

The Employer is offering to spend the full value of salary adjustment money appropriated by the State Legislature in this wage offer. The unit base salary total as of November 11, [1996] was \$324,972, with 3% of \$9,749 above that base being available

for wage increases. The components of this offer are as follows:

A) Each officer entitled to move a step during this fiscal year has or will be permitted to make that movement with the cost of such movement being deducted from the overall available money for salary adjustments.

1. 5 Officers/Cost \$3960 annualized

B) Each existing step would be adjusted upwardly by 1.78%, which represents the value of the remaining appropriated dollars minus the cost of the step movements in A above....

The wage comparisons are misleading. Not only is UIC a much larger and wealthier institution than CSU, police officers' tenure at the other universities ranges from triple (NEIU) to sextuple (GSU) that of CSU. While employee turnover at CSU may be related to relatively low salaries, a side-by-side salary comparison between CSU and the comparable universities is not overly instructive. Where salary is based in part on years of service, a comparison between the mean salary of a workforce that averages 14 years of service and the mean salary of a workforce that averages 2.25 years of service has little practical significance.

From April 1996 through March 1997, the CPI-U (all urban consumers) index for metropolitan Chicago went up 2.9%.<sup>20</sup> In comparison to similarly placed employees at comparable institutions, CSU police officers may be underpaid. But they are relatively inexperienced. Generally, police officers with two years of experience cannot expect to enjoy the same wages as

---

<sup>20</sup> This information is found on the Internet at "<http://stats.bls.gov/pub/special.requests/chicago/www/economy.html#Consumer-Price-Index>."

police officers with 7 to 14 years of experience. And a one-year wage increase that costs 27% (discounting step adjustments), coupled with three new intermediate salary steps, is too much to expect CSU to ingest (and digest) in one gulp. As noted, CSU's sources of income are limited. CSU relies primarily on legislative allocations. While it may raise small amounts of money by increasing parking fees or other user fees, it remains a fairly poor institution serving a fairly poor constituency. Under the circumstances, the Union's demands are extravagant. I am limited to choosing the most reasonable offer within the standards of Section 14(h) of the ISLRA, and I have no choice but to select the Employer's relatively stringent proposal over the Union's relatively generous proposal.

I need not, and shall not, rule on the Employer's contention, at page 7 of its post-hearing brief, that the Union refused to bargain in good faith with respect to salaries.

I adopt the Employer's wage proposal.

**D. Shift Differential: Article X, (New)  
Section 10.2**

The Union proposes a 25¢ per hour differential for first shift and 15¢ per hour for third shift. Estimating the cost of proposed shift differentials as \$4500 a year (EX E), the Employer opposed all shift differential.<sup>21</sup>

---

<sup>21</sup> An annual shift-differential cost of \$4500 assumes (if the differential is 20¢ per hour on average) 22,500 man-hours on first and third shifts or 10.8 man-years (22,500 ÷ 2080). As there are only 14 police officers in the unit, it is difficult to understand how the Employer

Shift differentials are not unusual, and I realize that employees required to work rotating shifts have inconvenient personal schedules and may be vexed by periods of sleeplessness. However, little probative evidence was produced relating to the standards set forth in Section 14(h), including evidence about the physiological and psychological effects of shift rotation. The evidence showed only that there was a 20¢ per hour shift differential at GSU and no shift differential at UIC and NEIU (UX 5; EX E). I cannot substitute generalized notions of workplace equity for the evidence required by Section 14(h) of the ISLRA.<sup>22</sup>

I adopt the Employer's proposal on shift differential.

**E. Uniform Allowance: Article XIII, Section 13.1**

**1. Current Contract Provision**

Article XIII, Section 13.1 of the 1995-96 Agreement states that the Employer will provide "each new employee all equipment as listed in General Order 95-1" and makes each officer responsible for the care of his uniform and equipment.<sup>23</sup> Each employee has a cleaning and maintenance

---

arrived at this estimate. If there were roughly the same number of police officers on each shift, there would be four to five officers per shift. Perhaps the Employer factored in the cost of anticipated overtime.

<sup>22</sup> In a recent decision, *City of O'Fallon & FOP Lodge 198*, S-MA-95-119/120 (1997), I adopted a proposed shift-differential and noted, at page 34, that "[a] reward in the form of additional remuneration for having to rotate periodically to second or third shift is not inappropriate." In that case, unlike the instant case, comparability data supported the proposed shift differential.

<sup>23</sup> In relevant part, General Order 95-1 (UX 10, Appendix C) provides:

allowance of \$75 every four months. Neither the Agreement nor General Order 95-1 requires the Employer to provide bullet-proof vests to police officers.

## 2. Union Proposal

The Union seeks the following changes in Section 13.1:

1. The Employer will give new employees the equipment listed in General Order 95-1.
2. The Employer will provide a bullet-proof vest to each new employee.
3. The Employer will give each employee \$375 on June 1 and \$375 on December 1 of each year as a "uniform allowance."
4. Employees will be responsible for the purchase of uniforms and equipment.
5. Delete the requirement that the Police Department have sufficient funds in order to replace items listed in General Order 95-1.

In essence, the Union seeks to substitute a clothing allowance for the quartermaster system now in place.

## 3. Employer Proposal

The Employer proposes no change in Section 13.1.

### I. Purpose

This order establishes the regulation uniform and equipment for sworn and civilian (dispatcher) personnel.

### II. Official Uniform and Equipment

#### A. Sworn Personnel

When assigned to uniform duty, the official dress for a sworn member will consist of a neat, clean, and well pressed official uniform, fully loaded official firearm, revolvers, 18 rounds of ammunition, for 9mm semi-automatic pistols - 45 rounds of ammunition; identification card, official star and shield, name plate, black leather belt, black leather holster, citation books, watch, notebook, black shoes, black or dark green socks, a ball point pen with black ink, baton and holder, regulation flashlight with holder, and laerdal pocket mask with rubber gloves....

#### 4. Discussion and Findings

Currently, CSU operates a quartermaster system under which it supplies uniforms and equipment needed by police officers (Chesser 223). A police officer wishing to replace equipment goes through his Sergeant, who passes the officer's request on to the Captain; the Captain then sees "what we have in our quartermaster, see what we have got to fit..., if that is possible" (Chesser 240). If the item is unavailable, the Captain then checks the "commodity" to see "if we have... money to spend for the officers" (Chesser 240). Although no officer has been disciplined for being "out of uniform," officers are required to keep their uniforms clean and in repair (Chesser 241).

Chief of Police Albert Chesser testified that the Employer has allocated \$5200 per year to "commodity line-items," from which uniforms and equipment are purchased (Chesser 223-24). About \$3000 per year is spent replacing uniforms, and, according to Chesser, the money available for uniforms and equipment is insufficient (Chesser 224).

Officer Sharon Robinson was hired on July 1, 1994 (Robinson 69). Officer Robinson testified about the quartermaster system in some detail. She noted that in theory officers are issued equipment when hired, and if it becomes worn out or irreparably damaged they may turn it in for new equipment (Robinson 92). When hired, Robinson was not issued a winter hat, a summer hat, a rain coat, tie or bullet-proof vest (Robinson 93). Ultimately, she was issued a bullet-proof

vest (Robinson 94). Vests "are only supposed to be worn for three years" and they should be discarded after five years (Robinson 95). An expiration date is printed in the inner lining of each vest (Robinson 94). Her vest was about one and one-half years old, but she has seen vests issued to other officers that were out of date; one "dated back to 1989" (Robinson 94-5).<sup>24</sup>

Equipment and uniform items issued to Robinson have worn out and "become unusable," and she has tried without success to replace them (Robinson 95). A winter coat issued to her as a replacement was too small but she "took it because [she] was afraid [she] wouldn't have anything else" (Robinson 96). After trying without avail to get torn pants and shirts replaced, she paid to repair them (Robinson 96-8). Robinson has not used her \$75 tri-yearly cleaning and maintenance allowance for "things other than repairing or sewing torn shirts or pants" (Robinson 98). She has her uniform dry-cleaned every week for "about \$15 a week" (Robinson 98-9).

The Union offered no evidence with respect to the supply system used in comparable institutions, but it clearly established that the quartermaster system now in place is inadequate. Indeed, Chief Chesser conceded that the money available for uniforms and equipment is insufficient and that the only "other source of income with which to purchase uniforms"

---

<sup>24</sup> Officer Robinson testified on cross-examination that she realized that CSU did not supply vests to police officers until 1992; she assumed that the department had bought a used 1989 vest (Robinson 129-30).

is "begging another department...to...give us something" (Chesser 224). In his closing argument, counsel for the Employer argued there "are just not sufficient available funds" to support the clothing allowance proposed by the Union (Tr. 261).

Subsection 8 of Section 14(h) of the ISLRA permits an arbitrator to consider "[s]uch 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." In my judgment, adequate, safe clothing and equipment fall within the category of "such other factors" that may "normally or traditionally [be] taken into consideration." At the very least, those engaged in the rigorous and hazardous occupation of a police officer should expect that tools of the trade furnished by his/her employer will be adequate.

The Department has been issuing vests since 1992, and it is appropriate to formalize that requirement and to ensure that the vests issued are safe and that out-of-date vests will be replaced. If the Department expects police officers to have the equipment needed to carry out their duties, it must give them the means to do so. And if the Employer expects its police officers to command respect from the public, the uniforms it has traditionally provided to them should enhance, not tarnish, their bearing and appearance.

I am not unaware of the shortage of funds. But I cannot countenance continuation of a concededly underfunded, inadequate quartermaster system.

I adopt the Union's proposal on uniform allowance.

**F. Duty Weapon: Article XIII, Section 13.2**

Article XIII, Section 13.2 provides that "officers... shall have the option to carry the state-issued revolver, or his/her own revolver or a 9mm semi-automatic, but not both, as the official duty weapon." The Employer is not required to defray the cost of a sidearm. The Union proposes to permit police officers to use a portion of their uniform allowance to purchase "an approved duty weapon." The Employer proposes no change in the current Agreement.

Officer Wilbert Norey, a four-year employee (Norey 22), testified that he considers the state-issued weapon unsafe—that the state-issued weapon he used at the Police Academy firearms school "malfunctioned continuously" (Norey 38). Norey and other officers training at the Academy "continually had problems" with state-issued weapons; they "malfunctioned to the point that it became unsafe" (Norey 38-9).

To some degree, this proposal rests on approval of the proposed uniform allowance. If police officers are provided with a uniform allowance, it would seem to make no practical difference to the Employer whether that allowance is spent on a weapon or on the care and purchase of other equipment. Norey's testimony was undisputed. Consistent with Section 14(h)(3) of the ISLRA, it would seem in the best interest of

officers and the public that a police officer have a safe, reliable sidearm.

I adopt the Union's proposal on duty weapon.

**G. Term of Contract: Article XIX, Section 19.1**

The Union proposes a one-year contract expiring July 31, 1997 (UX 9). The employer proposes a two-year contract expiring July 31, 1998 (UX 9) with a "second year wage reopener on/or about July 1, 1997" (UX 4).

The Employer offered no evidence or argument with respect to its wage-reopener proposal. The Union argued that the testimony offered at this hearing shows that the "parties...require substantial further talks to continue to resolve the great number of issues arising out of the employer/employee relationship" and that "returning to the table after one year to negotiate wages only will not work to create and maintain an open bargaining relationship" (Un. Brief, 25).

Generally, a mid-term reopener is designed to permit negotiations without risk of strike or lockout. In 1995, when the parties negotiated their first agreement, work stoppages were not barred. When university police were brought under the ISLRA and work stoppages were barred, the usual rationale for arbitral imposition of a reopener would no longer seem applicable.<sup>25</sup> If wages are to be negotiated and, if necessary,

---

<sup>25</sup> Obviously, parties subject to the ISLRA may have their own reasons for negotiating a wage reopener. In the absence of evidence on other

resolved through interest arbitration, little would be gained by disallowing bargaining on other issues. Wages are related to other issues—issues the parties should not be precluded from exploring without sound reason. Once bargaining begins, it only makes sense in a legal environment in which strikes are barred to permit bargaining on all issues.

I adopt the Union's proposal on term of the contract.

#### **VI. Summary of Award**

My Award is summarized below:

1. Sick Leave: Article VII, Section 7.4. I adopt the Union's proposal.

2. Personal Days: Article VII, (New) Section 7.14. I adopt the Union's proposal.

3. Wages and Wage Schedule: Article X, Section 10.1; Appendix A. I adopt the Employer's proposal.

4. Shift Differential: Article X, (New) Section 10.2. I adopt the Employer's proposal.

5. Uniform Allowance: Article XIII, Section 13.1. I adopt the Union's proposal.

6. Duty Weapon: Article XIII, Section 13.2. I adopt the Union's proposal.

7. Term of Contract: Article XIX, Section 19.1. I adopt the Union's proposal.

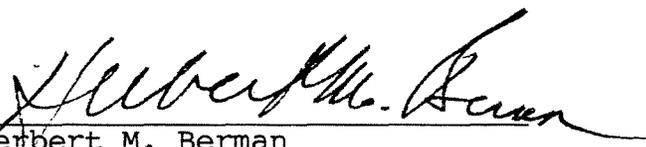
---

statutory criteria, however, there is less reason for an arbitrator to impose a wage reopener on the parties.

All tentative agreements reached by the parties are incorporated herein and made a part hereof by reference. All wages and benefits shall be retroactive to August 1, 1996.

This Award, without an accompanying Opinion, was signed by the undersigned and mailed to the parties on June 30, 1997.

The foregoing Opinion and Award in its entirety was signed by the undersigned and mailed to the parties on October 4, 1997.



Herbert M. Berman  
Arbitrator

Award: June 30, 1997  
Opinion: October 4, 1997