**International Association of Fire Fighters Union, Local 1604**
**And**
**City of Bellevue**
**Interest Arbitration**
**Arbitrator: John J. Champagne**
**Date Issued: 06/16/1980**

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**Case #: 02440-I-79-00064**
**Employer: City of Bellevue**
**Union: International Association of Firefighters Union; Local 1604**
**Date Issued: 06/16/1980**

**In the Matter of an Interest**
**Arbitration Between**

**CITY OF BELLEVUE**

**and**

**INTERNATIONAL ASSOCIATION OF**
**FIREFIGHTERS UNION, LOCAL 1604**

**Appearing for the City of Bellevue**
**J. David Andrews**
**Otto C. Klein III**
**Perkins, Cole, Stone, Olsen & Williams**
**1900 Washington Building**
**Seattle, WA 90101**

**Appearing for the Union**
**Thomas H. Grimm**
**Inslee, Best, Chapin, Uhlman & Doezie, P.S.**
**10800 Northeast 8th**
**Bellevue, WA 98004**

**JUNE 16, 1980**

## 1. INTRODUCTION

**This proceeding is an interest arbitration hearing between the City of Bellevue (hereinafter referred to as "the City" or "City") and International Association of Firefighters Union, Local 1604**

**(hereinafter referred to as "the Union" or "Union") In accordance with RCW 41.56.450 (as last amended by sec. 2, ch. 184, Laws of 1979, 1st Ex. Sess.), the hearing on this matter was conducted on March 4, 5 and 6, 1980, in Bellevue, Washington, pursuant to a submission agreement (EX. 22) dated February 27, 1980. The City was represented by J. David Andrews and Otto G. Klein III, attorneys at law of the firm of Perkins, Cole, Stone, Olsen & Williams, Seattle, and the Union by Thomas H. Grimm, attorney at law, of the firm of Inslee, Best, Chapin, Uhlman & Doezie, of Bellevue.**

**Pursuant to the submission agreement, John J. Champagne, Esquire, of Olympia, Washington, was selected as the sole arbiter for this interest arbitration proceeding.**

**The entire proceedings were reported by a qualified court reporter, and a transcript consisting of three volumes, containing a total of 674 pages, was prepared by the court reporter. There were a total of 73 exhibits introduced at the hearing.**

**Under the submission agreement, Ex 22, there were a total of 16 issues to be submitted to the arbiter, to be presented, issue by issue; that is, each issue being tried separately. The submission agreement also provided that all evidence considered by the arbiter must be included in the submission agreement or introduced at the hearing.**

**At the outset of the hearing, it was disclosed that a complaint charging unfair labor practices had been filed with the Public Employment Relations Commission by the City of Bellevue, under date of February 29, 1980. This complaint related to issue No.15 under the submission agreement entitled "New Section - Health and Safety (Minimum Manning)." Under letter dated February 29, 1980, the Executive Director of the Public Employment Relations Commission notified the arbiter and the parties that the issue above listed was considered to be now in litigation before the Commission and in said letter ordered that issue withheld from the interest arbitration. The arbiter ruled that no evidence would be permitted on this particular issue and ordered that the issue be excluded from the interest arbitration.**

**At the outset of the hearing, the parties were able to stipulate as to issue No. 7 (Holidays) as listed in the submission agreement, with the exception that the following paragraph was to be placed in the "Hours" section (Article XII) of the existing collective bargaining agreement between the parties:**

**"For clarification, it is understood that if holiday time is worked and straight time pay received in lieu thereof, no claim shall be made that the employees' hours of work have been affected in any way."**

**(Joint Ex. 2)**

**It is extremely important in this introduction to point out the criteria used by the arbiter in arriving at the arbiter's award. RCW 41.56.460 directs the arbiter to be cognizant of the legislative purpose of ch. 41.56 contained in RCW 41.56.430, and also consider the standards listed in RCW 41.56.460. RCW 41.56.430 reads:**

> **Uniformed personnel -- Legislative declaration. The intent and purpose of this is 1973 amendatory act is to recognize that t there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the interrupted and dedicated service of these class of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service ice there should exist an effective and adequate alternative means of settling disputes. (1973 c 131 _ l.)**

**The foregoing general statement of legislative intent will be considered by the arbiter throughout in reaching the arbiter's decisions and awards.**

**The criteria set out in RCW 41.56.460 are as follows:**

> **Uniformed personnel -- Arbitration panel -- Basis for determination ion . In making it's determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guideline to aid it in reaching a decision, it shall take into consideration the following factors" ,**
> **(a) The constitutional and statutory authority of the employer.**
> **(b) Stipulations of the parties.**
> **(c) Comparison Of the wages, hours and conditions of employment of the uniformed personnel of cities and counties involved in the proceeding with the wages, hours, and conditions of employment of uniformed personnel of cities and counties respectively of similar size on the west coast of the United States.**
> **(d) The average consumer prices for goods and services**

**commonly know as the cost of living.**
**(e) Changes in any of the foregoing circumstances during the pendency of the proceedings.**
**(f) 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. [1979 1st ex.s. c 184 § 3; 1973 c 131 § 5.]**

**The parties in an interest arbitration have an exceedingly difficult task under 41.56.460(c) above. It is an equally difficult task for the arbiter to apply the guideline comparable cities selected by the parties to arrive at a just and fair award. In this case the City followed the literal mandate of the statute and selected cities from California, Oregon and Washington, the cities selected being of similar size and located on the west coast of the United States. The Union,on the other hand, selected cities only in the State of Washington, and only those located in the Puget Sound region, which cities were of varying size and which contained varying elements of comparability to the City of Bellevue insofar as geographic location, size, assessed valuation, etc. were concerned. Both parties introduced extensive testimony and evidence concerning the comparability of the cities selected by each party, and each party spent considerable time cross-examining the opposing party's witnesses regarding the comparability of the selected cities, and in criticizing the opposition party's selection of the cities.**

**The cities of similar size evidence presented by each of the parties with their respective elements of comparability, will be considered by the arbiter, the City's selection because it was selected pursuant to the mandate of the statue and the Union's selection because the arbiter must give more weight to the Washington cities selected by both parties because they have much more in common with the City of Bellevue than cities outside the State of Washington. Suitable a adjustments for varying degrees of comparability or lack of comparability have been taken into consideration.**

**II.**
**ISSUES**

**Of the original 16 issues listed under the submission agreement, the parties presented 14 issues to the arbiter which are as follows:**

**1 - Preamble - Retroactivity**

**2 - Article VII - Reduction and Recall**
**3 - Article X and Appendix B - Education Incentive**
**4 - Article XI - Overtime**
**5 - Article XII - Hours**
**6 - Article XIII - Off Shift Response**
**7 - Article XVII - Vacation Leave**
**8 - Article XXIII - Savings Clause**
**9 - Article XXVII - Medical Coverage**
**10 - Article XXVIII - Term of the Agreement**
**11 - Article IX and Appendix A - Wages**
**12 - New Section - LEOFF, II (Pension)**
**13 - New Section - No Pyramiding**
**14 - New Section - Longevity**

**DISCUSSION**

**ISSUE NO. 1 - PREAMBLE - RETROACTIVITY**

**It is the Union's position that the contract should be made retroactive to January 1, 1980, and the City's position that it should be March 1, 1980. The parties to this dispute began their negotiations for a new contract to replace the contract then in existence which would expire December 31, 1979, in May of 1979. The parties held approximately 16 meetings in an attempt to resolve their differences and were unable to do so which resulted in this arbitration hearing.**

**The City is opposed to making the contract retroactive to January 1, 1980 because they feel it probably promotes stalling on the part of the Union. On the other hand, the Union wants the contract made retroactive to January 1, 1980 because if a later date were selected the Union feels this could promote stalling on behalf of the City.**

**DISCUSSION:**

**It is apparent from a reading of the record herein that there is a potential for either of the parties to engage in stalling tactics. However, the potential for stalling perhaps lies more with the City. It the City were to engage in stalling tactics, the the longer they could stall, the more money they can save if a later retroactive date is selected by the arbiter. On the other hand, the longer Union stalls and a later retroactive date is selected by the arbiter, the longer the Union members are without their pay increase and other benefits, if any.**

**The legislative directive to be found in RCW 41.56.430 to prevent strikes, is, in the opinion of the arbiter, better served**

**by encouraging prompt settlement of collective bargaining agreement negotiations and the selection of a January 1, 1980 retroactive date would also act as reassurance to the uniformed members of the Union that they would not be financially penalized - a factor which could conceivably result in lesser tensions between the parties.**

**ARBITER 'S AWARD:**

**The contract shall be made retroactive to January 1, 1980.**

**ISSUE NO. 2 - ARTICLE VII - REDUCTION AND RECALL**

**City's position is illustrated by City's Ex. 16 which is dated February 28, 1980, one day following the date of the submission agreement. The City desired to add the following final paragraph to Article VII placed in the collective bargaining agreement:**

**"Notwithstanding the above, in a lay off situation, the Union and it's members agree to work with the employer to preserve the Department's minority and female hiring level and its paramedic capabilities."**

**The union's position is that the City's proposal is unnecessary and ambiguous and basically unworkable.**

**DISCUSSION:**

**The Chief of the Department testified that in his experience with the Bellevue Fire Department beginning back in the mid-sixties, the City had never had to lay off any personnel and repeatedly testified that he did not anticipate any lay offs over the next two years. On the contrary, there was testimony to the effect that the City was beginning to hire, commencing March 1, 1980, nine or ten additional new firemen to man a new station in the Bellevue Fire Department. The clause as submitted by the City does not have any clear definition of the duty placed upon the Union or upon the City, for that matter; and it is ambiguous in this regard It would be impossible under the clause as submitted to determine who would be laid off, whereas the current reduction and recall clause is definite and maintains a strict seniority based reduction and recall system. There is ample testimony in the record to the effect that both parties are supportive of the affirmative action and paramedic program of the City, but to place the City's suggested clause in the contract would seriously affect the existing relationship, and perhaps morale, where there is at present no anticipated need for force reduction.**

**ARBITER'S AWARD:**

**The contract should not include a new final paragraph as proposed by the City. Article VII of the existing contract shall remain the same.**

**ISSUE NO. 3 - ARTICLE X AND APPENDIX B - EDUCATION INCENTIVE**

**It is the City's position that educational incentive pay be amended to provide for straight dollar amounts rather than a percentage of base salary. The Union's position is to retain the current percentage of base salary compilation.**

**Discussion:**

**The City's position is that education incentive pay should not be automatically increased merely because wages may have been increased under a collective bargaining agreement, nor under arbitration for that matter. An educational incentive pay plan has been in effect for many years, and was proposed by the then Chief of the Department in 1970. The training received and education gained is a benefit not only to the individual fireman but also to the City as well. This is evidenced by the recognition that the Bellevue Fire Department is one of the finest, if not the finest, in the Puget Sound region of the State of Washington, and perhaps the entire State of Washington. There is no doubt in The arbiter's mind that the educational incentive program plays a significant part in the high esteem in which the Department is held . The arbiter can find nowhere in the record or in the briefs adequate rationale or substantiation for this change in the contract as proposed by the City, other than the fact that it will in the future, save the City money at least for the term of the new contract. To reduce an incentive that has proven its value, without adequate rationale, is not indicated.**

**ARBITER'S AWARD:**

**Article X and Appendix B - Education Incentive - shall remain unchanged.**

**ISSUE NO. 4 - ARTICLE XI - OVERTIME**

**The Union's position t ion : The Union proposes that mandatory overtime be paid at the rate of two times the regular hourly rate and that, in addition, the base for computing overtime pay be changed from the present 2,763 hours to 2,080 hours. The Union proposed no change in the present contract regarding payment of time-and-a-half of the hourly rate for discretionary overtime.**

**The City's position: The City believes that overtime should be calculated a t the t rate of one-and-a-half times the firefighter 's base hourly rate.**

**DISCUSSION:**

**The City presented considerable testimony and several exhibits which showed that the Union's requested change in overtime pay rates would entail a substantial increased cost to the City. For example, with regard to the reduction of the computation of overtime based upon 2,080 hours rather than the current 2,763 hours, would amount to a 33 percent increase over current overtime pay. The City also presented evidence to the effect that the proposed hourly rate of double the ordinary hourly rate for overtime work would amount in an increase of approximately 77 percent, if combined with a reduction of the base rate upon which the overtime is based -- in other words, the reduction to the 40 - hour week. Various computations by the City show that the Union's request as to overtime could amount to an increase in the overall package on the collective bargaining agreement of at least 4.83 percent. Evidence also indicated that all other City employees of the City of Bellevue, both uniformed and nonuniformed, are presently receiving time-and-one-half for overtime based upon the number of hours actually worked by the employee. None of the cities used as comparables by either of the parties paid double time for overtime, and that included cities in Washington, Oregon and California, with the sole exception of the City of Puyallup which pays double time for the first hour of overtime and time-and-a-half thereafter. There was some confusion and inaccuracy in some of the testimony and exhibits presented to the arbiter regarding the number of 1979 overtime hours for the Union's bargaining unit personnel. An accurate computation of this item was submitted to the arbiter under date of April 15, 1980, computed by the secretary of the Bellevue Fire Department. The arbiter has taken into consideration the fact that firefighters, including City of Bellevue firefighters, work an entirely different type of time schedule than other municipal employees. This is mandated by the type of work and activities the firefighters are called upon to perform. The firefighters' working shift is divided into active time and other time in which the firefighter is not actively engaged in any type of work for the fire department but really is on duty and immediately available on call in the event of a fire emergency or other alarm. Other City employees are not so engaged, and the hours worked are entirely different. The prevailing area-wide practice in this area is to pay not only firefighters but all municipal employees on a time-and-a-half basis based upon the number of hours worked. There are a couple of exceptions to the practice of basing it upon the number of hours worked, but the prevailing practice is as stated. Since the overtime pay is based upon the hourly rate of the firefighter, and the firefighters are**

**receiving, in effect, an hourly wage increase under issue No. 11, Wages, as set forth hereinafter in this award, an increase in overtime pay is automatically built into the award.**

**ARBITER'S AWARD**
**Overtime shall be calculated at the current rate (1979) , which is one-and-a-half times the firefighters' base hourly rate computed by dividing monthly salary by actual hours of work.**

**ISSUE NO. 5 - HOURS OF DUTY**
**The City's position: The City proposed a clause at some time subsequent to February 26, 1980, which clause would require the Union and the City to collectively bargain regarding possible changes in the hours of work and in addition, setting up a procedure whereby if an impasse is reached, there would be a method of resolution of the impasse.**

**The Union's position is that no change should be made in the existing contract, Article XII.**

**DISCUSSION:**
**The City's proposal as to hours of work as set fort in Ex. 29 was proposed at some time subsequent to February 26, 1980. There is strongly conflicting testimony between the parties as to what occurred on February 26, 1980 with regard to this particular clause of the contract, the Union maintaining that the City and the Union had agreed on a new Article XII, with amendments, which the Union had signed off, and the City maintaining that it had not so agreed. Exhibit 31 does not show any signature by the City. Article XII of the present contract provides that the regularly scheduled duty hours shall be scheduled for periods of 24 consecutive hours beginning at 0800 hours. A reading of the entire record herein would indicate that these hours of work have been the historical hours of work for the Bellevue firefighters, and the arbiter is extremely reluctant to eliminate practices which have been initially established by collective bargaining in the past. The arbiter is hesitant to disturb what has been a stabilized situation except on very compelling grounds, and in the arbiter's opinion, the City has failed to show such compelling grounds. It is possible that in the future, the parties hereto will wish to negotiate on the hours of work, but the City's proposal on this clause of the contract was made subsequent to the time that the arbitration proceedings were scheduled. The Union has submitted no counterproposal.**

**ARBITER'S AWARD:**

**Hours of duty as outlined in the 1978-79 contract under Article XII shall remain the same.**

**ISSUE NO. 6 - OFF SHIFT RESPONSE**

**The Union's position : The Union seeks to increase the off shift response payment from $7 per response to $12 per response. In addition, all calls lasting more than one hour would be paid at overtime rates under the contract.**

**The City's position: The City wishes to retain off shift response at $7 per response as provided in the present contract.**

**DISCUSSION:**

**The City's proposal that Article XIII of the present contract be amended in a minor way by the addition of the word "voluntarily" and the deletion of The word "volunteers" in that clause was agreed to by the Union testimony and in representation by their counsel to the arbiter. The parties are agreed that the article would read as follows:**

**"If an employee voluntarily responds to alarms while off duty, he shall be paid at the rate of $ _____ per response."**

**The disagreement of the parties is as to the amount to be paid for off duty response on a volunteer basis, the Union contending that it should be increased to $12 per off duty response for the first hour and over time rates thereafter , and the City contending that the present $7 per response be maintained. counsel for the Union in its brief, concedes that if this present system of off duty response were to be abandoned, it would increase the need of the City to have extra personnel on duty on a full-time basis. it should be emphasized that the off duty response is purely on a voluntary basis and the record indicates that the $7 per response was agreed upon by the parties to assist in compensating the off duty volunteer for his costs in responding when on-shift employees are answering alarms and other emergency calls and the station is in need of manning during their absence. The ever present inflation factor has had a definite effect upon the rate paid for off duty response. One other factor to be taken into consideration in resolving the issue of off duty response, a fact as testified to by the City's witness, is that the number of calls is steadily declining, which would have an effect upon the financial impact on the City were an increase to be granted by the arbiter. Both parties testified that off duty response is of considerable benefit to the; City and as such, off duty volunteers who respond to that should be compensated realistically.**

**ARBITER'S AWARD:**

**Article XIII - Off Shift Response is amended to read as follows:**

**"If an employee voluntarily responds to alarms while off date, she shall be paid at the rate of $8 per response."**

**ISSUE NO. 7 - VACATION LEAVE**

**The Union's position: The Union proposes a change in the rate of accrual of vacation leave by the addition of 2 hours per month per man for each seniority level. The City's position is that the vacation leave be maintained at the same level as presently exists.**

**DISCUSSlON:**

**Under cross-examination, the Union's chief witness testified that the Union's position with regard to increasing the vacation leave accrual was made because other City employees, not firefighters, got a certain vacation rate and that the Union was desirous that they be placed in the same category insofar as vacation leave is concerned. The effect of the Union proposal as testified to by the principal Union witness was that it would provide each firefighter with an extra shift of free time. The City presented testimony that the granting of an extra shift to each of the firefighters would be an increased cost to the City, which cost could be estimated as being a minimum of 2/3 of a man-year, or a cost of .8 of one percent increase on the total package under consideration in this arbitration, if computed as straight time and 1.2 percent on the total package, if computed at time-and-one-half. These computations were based upon the current hourly rate for firefighters. The Personnel Director of the City also testified to the fact that a firefighter in years on through four is getting the same number of hours off for vacations is the police and fire dispatcher who has worked one to five years. The parties' witnesses were apparently in agreement that the principal reason for the granting of vacation time is to provide employees with a chance to rest, recuperate from their labors, and as a form of compensation for the performance of their tasks. On behalf of the City, Deputy Chief Wheeler of the Bellevue Fire Department, testified at considerable length, using as an illustration Ex. 37 of the City which is the Union shift calendar as distributed by the Union to their membership and to the public. Chief Wheeler's testimony showed how the battalion chiefs computed the vacation time for each of the firefighters, with relation to vacation time earned, Kelly days off, holidays worked, etc. Chief Wheeler**

**testified that vacation schedules are ordinarily put together in blocks of 3 shifts and that the normal firefighter has 15 shifts of vacation tine coming each year , off of the work schedule as shown on Ex. 37. By giving the firefighter three shifts off, it gives the firefighter 13 days of vacation time. The net effect of this procedure is to give each of the firefighters 15 shifts of vacation when vacation shifts are lumped together with Kelly days and holidays worked a total of five 13-day blocks of vacation time throughout the entire year. Even when one takes into consideration the fact that the firefighters work a 53+ hour week and are on duty for 24 hours per shift, nevertheless, the net effect of their working schedule is to give the firefighters more than ample vacation time in which to recuperate from their labors, and is also ample compensation for the labors performed.**

**ARBITER'S AWARD**

**Article tide XVII of the current 1978-79 contract shall remain the same.**

**ISSUE NO. 8 SAVINGS CLAUSE.**

**The City's Position: The City wishes to change the savings clause in the current contract which would be balanced for management the same way it is for labor. The City proposes to entitle this clause "Union - Management Savings Clause", rather than strictly " Savings Clause " . The Union's position is that no change should be made in the 1978-79 contract.**

**DISCUSSION:**

**The City's principal witness on this issue on cross-examination testified that there had never been an actual problem for this particular bargaining unit with regard to the present wording of the savings clause in the contract, and further, that that wording had.been in the contract since 1974. In the course of the hearing, the City amended its proposal somewhat and the proposed clause of the City now under consideration by the arbiter is shown in Ex. 39. The arbiter has been unable to understand the City's proposal and testimony as to how it would work to keep the total cost to the City the same. There is apparently no real problem existing , nor has there been since the adopt ion of this particular article in 1974. The city appears to ask the arbiter to speculate as to what some future judicial or legislative action might be which would be of concern to the parties and perhaps increase the cost of the contract. Again, the arbiter is very hesitant to disturb a stabilized situation unless on very compelling grounds, particularly a clause in a contract that has been established by collective bargaining over a period of years**

**and there is no showing that the clause is not working nor that it is not likely to work.**

**ARBITER'S AWARD:**
**The present wording of Article XXIII will remain the same.**

**ISSUE NO. 9 - MEDICAL COVERAGE**
**The City's position: The City proposes to pay 100 percent on medical and 80 percent of the dental premium in effect on January 1, 1980. The City, in addition proposes that any increases in premiums during the term of the agreement being arbitrated, would be split between the City and the individual firefighter.**

**The Union's position: The Union proposes that the City pay 100 percent of medical and dental premiums in effect at the beginning of each year of the contract. They further propose that any increases during each respective calendar year of the contract would be split evenly between the City and the employee for the remainder of the year in which the increase took effect. At the beginning of the succeeding year, the City would be required to increase its contribution to the full amount.**

**DISCUSSION:**
**The testimony of the parties' principal witness on this issue and an examination of City's Ex. 43 and Union Ex. 40, indicate (Page No. 20 missing)**

**ARBITER'S AWARD**
**Article XXVI shall read as follows:**

**"a) Effective January 1, 1980 The employer shall pay 100 percent of the cost of medical coverage based upon The Blue Cross rate schedule in effect on January 1, 1980. For employees who include dependents under Group health, the employer shall pay the costs up to and including the rate for the employee, spouse and one child based upon the rate schedule in effect on January 1, 1980.**

**b) Effective January 1, 1980 the employer shall pay the full premium of the City dental plan based upon the rates in effect on January 1, 1980 for the employees who participate in the City's dental plan.**

**c) Any increases in premiums; in excess of that provided herein shall be borne by the employee and employer on a 50-50 cost sharing basis for the duration of this agreement."**

**ISSUE NO. 10 - TERM OF THE AGREEMENT**

**The City's position: The City seeks a three-year contract.**

**The Union's position: The Union seeks a one-year contract.**

**DISCUSSION:**

**The majority of contracts between firefighters and comparable Washington cities have terms of two years. The difficulty with the Union's position of requesting a one year contract is that as of the date of the arbiter 's award , the Union and the City would again commence negotiations for a 1981 contract after having just spent 10 months in fruitless negotiation on the 1980 contract. On the other hand, regarding the City 's proposal for a three-year contract, the record in this hearing is replete with testimony regarding the effect of inflation and increases in the cost of living as it affects both of the parties. In addition, the arbiter can take judicial notice of the fact that at the present time the nation's economy is in something of a recession, the magnitude and length of which is totally unpredictable, even by the experts. For the arbiter to attempt to speculate and predict in order to set reasonable contract terms for a three-year period would be somewhat of an exercise in futility.**

**ARBITER'S AWARD:**

**Article XXVIII of the contract should provide as follows.**

**"The terms of this Agreement shall be in full force and effect on January 1, 1980. Except as otherwise provided herein, this agreement shall remain in full force and effect through December 31, 1981, during mg which time no additional provisions may be negotiated to become effective prior to January 1, 1982."**

**ISSUE NO. 11 - WAGES**

**The Union's position: The Union proposes that wages beginning January 1, 1980, or whatever is the beginning date of the contract, be increased for all personnel in the bargaining unit 14.6 percent. To this 14.6 percent, the Union proposes an additional seven percent, for a total of 21.6 percent total wage increase of the existing rate. In addition to the 21.6 percent hourly wage increase over existing rates, the Union also proposes quarterly increases based on increases in the Seattle area cost price index.**

**The City's position: The City proposes a 10 percent increase during 1980 for all levels of firefighters: in 1981 the City**

**proposes a wage increase equal to 80 percent of the percentage increase in the Seattle cost price index for the period from July, 1979 through July, 1980, with a maximum increase of 12 percent.**

**DISCUSSlON:**

**As pointed out in the Union's brief, the issue of wages is the most important issue in any negotiations or arbitration and that is certainly true in this instance. The transcript of the evidence in this proceeding consisted of 674 pages, of which 207 were devoted to the issue of wages, just under one-third of the testimony presented. RCW 41.56.460 requires that the arbiter keep in mind the legislative purpose set forth in RCW 41.56.430 in reaching a decision, and then lists the six standards or guidelines to be taken into consideration t ion in reaching such decision. The arbiter is charged with the duty of applying these standards and guidelines in reaching a decision which must be based upon the evidence submitted by the parties as well as the standards and guideline, in order that the arbiter arrive at a fair and impartial decision. As the parties are aware, this is not a simple or easy task in the field of interest arbitration where the arbiter is, in effect, dictating the terms of a collective bargaining agreement which the parties will have to live with for the term of the contract, which is also to be determined by the arbiter.**

**RCW 41.56.460(c) reads as follows:**

**(c) Comparison of the wages, hours and conditions of employment of the uniformed personnel of cities and counties involved in the proceedings with the wages, hours, and conditions of employment of uniformed personnel of cities and counties; respectively of similar size on the west coast of the United States.**

**The foregoing is one of the standards or guidelines used by the arbiter to aid the arbiter in reaching a decision on the issues. As pointed out in the introduction of this arbiter's decision, there was considerable difference between the parties as to selection of comparable cities. The City chose. to follow the statute and chose cities on the west coast of the United States which were comparable or similar in size to the City of Bellevue. Some were in California, some in Oregon and some in Washington. The Union, on the other hand, selected cities in the State of Washington, all of which were in the Puget Sound area and all of which were in what they termed the "Seattle labor market." As pointed out by counsel for the Union in his brief, the situation is somewhat analogous to that found in eminent domain proceedings**

**wherein each party selects their own theory of the case and selects their own comparable properties to support their theory of value. It is then up to the trier of the facts to weigh the evidence presented and weigh the degree of comparability in all of the various interdependent factors affecting comparability. This is not an easy task, for either the parties or for the arbiter. From a practical standpoint, it would be impossible for the trier of fact to discuss each of the areas of comparability because to do so would result in an exhaustive and unduly long decision. All of the cities presented by the parties have been considered by the arbiter. No single city was used for comparison purposes because no single city is identical to the City of Bellevue any more than one piece of property is identical to another in the market data approach to valuation in eminent domain cases.**

**Emerging from all of the test imony presented at the hearing and all of the exhibits introduced by the parties, several significant factors have been given considerable consideration by the arbiter. Union Ex. 46 clearly shows that the Bellevue firefighter works more duty hours than firefighters in all but two of the Union's comparable cities in the Puget Sound area. The arbiter has also kept in mind that the City is hiring approximately 9 or 10 new firemen beginning in the month of March which hirings will have an effect upon various Union exhibits relating to population, number of alarms, assessed valuation, etc., per firefighter. RCW 41.56.460(e) requires the arbiter to keep in mind changes in any of the foregoing subsections during the pendency of the proceedings. The arbiter has done so. Changes have occurred in the economy, for example, since the hearing on this matter in early March. As an example, the country finds itself in a recession with considerable unemployment in such industries as wood products, home building and allied industries. The prime rate for lending by banks has dropped from 20 percent in early March to 16-1/2 percent as of the date of this dictation. Collection of taxes in King County is below predictions, and the rate of inflation has decreased.**

**Another factor to be taken in to consideration is the unfunded liability in the sum of 5 million dollars with regard to the LEOFF pension, which the City of Bellevue must spread out over a period of 30 years, and its allocation for the year 1980 is in the sum of $117,000. Balanced against these recent changes in the economy is the fact, as testified to, that the Bellevue area economy has historically outstripped statewide growth. Bellevue has gained substantial additions to its property values in recent years. Union's Ex. 60 shows that Bellevue has been in the mid-area of the**

**comparable cities submitted by the Union, ranking sixth in 1978 and 1979 out of the 9 cities selected. The arbiter has also kept in mind the contracts negotiated with other elements of the City work force in which the police received a total package increase of 11 percent, police and fire dispatchers, public works employees, and nonrepresented employee groups each received a 10.8 percent package. City's Ex. 66 shows monthly salary percentage increase in the Seattle area cities ranging from approximately 9.6 percent to a high of 12 . 3 percent in the City of Redmond and the next high of 10.4 percent in the City of Auburn, with most of the increases being in the 10.0 to 10.2 percent area. For comparison purposes also, the City presented testimony as to the relationship over a five-year period between the monthly salary paid to firefighters in the City of Seattle and those in Bellevue, which showed that firefighters in the City of Bellevue were paid on a percentage basis compared to Seattle at about 96.4 percent on the average.**

**Although the length of the work week, as pointed out hereinabove, is relevant, in the absence of a full consideration of all of the associated benefits and contract provisions in the comparable cities' contracts, in the opinion of the arbiter the salary base of firefighters computed on a monthly basis gives a firmer base for comparison. Firefighters are employed on a monthly basis and not by he hour.**

**How all of the above abbreviated summary of the wealth of data submitted during the proceedings is to be interpreted will vary greatly among reasonable people. There is very little ground, however, record herein to support what amounts to a 21.6 percent increase in wages for the firefighters. Balanced against this, it must be kept in mind that the CPI increased during 1979 approximately 13.2 percent, and at an even greater rate during January, February, and March of 1980. collective bargaining agreements entered into with other City employees in 1979 could not, in the arbiter's opinion, have taken into account such a large increase in the CPI index.**

**ARBITER'S AWARD:**

**All members of the bargaining unit are awarded a 10.6 percent increase in their monthly base salaries for the period January 1, 1980 to December 31, 1981. In addition thereto, during the period January 1, 1981 to December 31, 1981 all of the members of the bargaining unit shall be granted a wage increase over and above the 10.6 percent of 80 percent of the percentage increase in the Seattle-Everett CPI for the period from July, 1979 through July, 1980, not to exceed 12 percent.**

**ISSUE NO. 12 - NEW SECTION, LEOFF, 11 (PENSION)**

**The Union's position t ion : The Union proposes changing the sick leave provisions for LEOFF II employees by the establishment of a sick leave bank for firefighters.**

**The City's Position: At the outset of the hearing on this issue, the City desired to maintain its present policy with regard to sick leave for LEOFF II firefighters. During the course of the hearing, the City made a compromise proposal to be inserted in the contract where none now exists. The City's 's proposal (Ex . 70) amends somewhat the present system of sick leave accrual as provided in Bellevue City Code 3.80.100, .200, .210 and .220.**

**DISCUSSION**

**LEOFF I I employees are those who came in to the Department after October 1, 1977. The sick leave benefits for the two classes of firefighters vary greatly with LEOFF I firefighters receiving unlimited sick leave up to six months for any one illness or injury, whether duty-related or not. If a LEOFF II employee is disabled while on duty and runs out of sick leave, he then receives Workmen's Compensation benefits of approximately one-half his regular salary. The legislature recently amended the law relating to LEOFF for two primary reasons: (1) because of the unfunded liability built into the system, and (2) the abuses which had sprung up under the system wherein up to 59 percent of the uniformed employees were retiring under the disability provisions then in effect. In addition, there were apparently abuses of the disability leave provisions of the previous law. It should be noted that the Union's proposal in this arbitration proceeding was related only to the sick leave benefits and not to the pension, and that the labeling of this issue is, in that respect, misleading. At the present tine under the Bellevue City Code, the firefighters receive 12 hours per month for sick leave. Under the same code, other City employees accumulate only 8 hours of sick leave per month. In the event a firefighter exhausts all of his sick leave, then the firefighter has the option of using accrued vacation time. The arbiter assumes that the discrepancy between the firefighter's ability to accumulate 12 hours per month of sick leave as contrasted with other City employees accumulating sick leave at the rate of 8 hours per month exists because of the recognition by the City of the firefighter's exposure to risk of injury and illness because of the nature of the firefighter's duties. It should be kept in mind that the discrepancy that exists with regard to the LEOFF I and LEOFF II firefighters exists because of the change made by the legislature in the law relating to this subject. City Ex. 71 shows that the majority of the comparable**

**cities used by the City in its presentation provide for accrual of sick leave at the rate of 12 hours per month for the majority of the cities listed. The Union failed to present any evidence to the arbiter of the practice in their comparable cities as they used those comparable cities with respect to other issues in this arbitration. This is perhaps understandable since the action by the legislature in the major revision of the LEOFF system occurred only so recently. The large discrepancy which exists between the LEOFF I and LEOFF II firefighters is one which was specifically and intentionally created by the legislature and it is difficult for the arbiter to recommend the Union's proposal particularly in view of the liberal treatment now given to the firefighters in accruing sick leave at the rate of 12 hours per month as contrasted with other City employees who accumulate at the rate of 8 hours per month: In addition, the City's principal witness in this area testified that the City's proposal as shown in Ex. 70 was recently negotiated with the police officers who have brought the same issue to the bargaining table. There is testimony in the record to indicate that the police officers were successful in obtaining this type of a clause in their contract. The City's proposal as shown in Ex. 70 does grant to the brand new firefighter some relief from the situation he finds himself in with regard to sick leave where he could be injured on the job.**

**ARBITER'S AWARD:**

**The City's proposed provision for disability leave as set forth in Ex. 70 shall be inserted in the contract. The parties are reminded that the second sentence of Ex. 70 was stricken during the course of the hearing and shall not be a part of the clause in the contract.**

**ISSUE NO. 13 - NO PYRAMIDING**

**The City's position: The City proposes that a no pyramiding clause be added to the contract.**

**The Union's position : The Union opposes he City's proposal for a no pyramiding clause.**

**DISCUSSION:**

**The City's proposal with regard to not pyramiding is not based upon any problems which have occurred between the City and the firefighters in this area. The City's principal witness with regard to this clause as proposed by the City, testified that the present practice of the City is not to pyramid pay. In other words, the City is paying overtime pay based upon base pay and they do not include in their calculations for overtime pay any premium pay into**

**the base hourly rate paid to the firefighters. The City's main witness also testified to the effect that the present contract between these parties as it is presently being administered, presents no problem to either of the parties.**

**To emphasize this current practice between the parties, the Union's principal witness testified that throughout the negotiations the firefighters' position was totally in agreement with the City with respect to overtime pay not being based upon anything other than base pay, and that educational premiums or educational incentive pay not be added to the base pay for purposes of calculating overtime pay. The witness further testified that this has been the historical position of the Union with regard to this item . The test imony also revealed that should the arbiter rule in favor of the City with regard to overtime pay, that the City's proposal for no pyramiding clause be added to the contract would be unnecessary.**

**ARBITER'S AWARD:**

**The City's request for a no pyramiding clause in the contract is denied.**

**ISSUE NO. 14 - NEW SECTION, LONGEVITY**

**The Union's proposal: The Union proposes longevity pay of 2 percent after five years of service, 4 percent after 10 years of service, and 6 percent after 15 years of service.**

**The City's proposal: The City opposes longevity pay.**

**DISCUSSION:**

**This proposal was addressed by the City's witness, Dow, who had an extensive background in negotiating firefighters collective bargaining agreement between the City of Bellevue and the Union, going back over a large number of years in which this witness testified that the educational incentive provision in the collective bargaining agreement came into that agreement because the parties had agreed to reward firefighters through this system of educational incentive rather than through a longevity or seniority system. This witness also has participated in negotiations on many other contracts between various cities in the Puget Sound area and firefighters, and testified that the City of Bellevue's philosophy in this regard was contrary to the majority of the other fire departments in the Puget Sound area and that when the educational incentive clause was agreed upon, it was agreed**

**upon for the purpose of rewarding the firefighter for improving his fire-related education in lieu of longevity pay. This witness also testified that for the most part, both longevity and educational incentive clauses are not found in contracts in the State of Washington between firefighters and cities. This City's witness' testimony in this regard was somewhat contradicted by the Union's principal witness, but the Union's witness could only testify as to what his "understanding" was rather than what the actual historical fact background was. Union Ex. 72 shows that their selected comparable cities of Seattle, Tacoma, Kent, Renton and Puyallup do carry longevity clauses whereas the City's Ex. 73 shows only one city in the State of Washington, Everett, which has a longevity clause, and all other cities in Washington, Oregon and California having no longevity clauses. Bellevue Fire Chief Sterling testified that he was adamantly opposed to any longevity program and that in his opinion, the educational incentive provided by far the greater benefit to the City and the Fire Department. Chief Sterling felt that a longevity clause rewards a low performer as well as a high performer, whereas the educational incentive clause is a reward to the high performer and results in a far more proficient department. He further testified that retention of firefighters had never been a problem to the Department.**

**ARBITER'S AWARD:**
**The Union's request for a longevity clause is denied.**

**DATED at Olympia, Washington this 14th day of May, 1980**

**JOHN J. CHAMPAGNE**
**ARBITER**