

IN THE MATTER OF INTEREST ARBITRATION
BETWEEN
THURSTON COUNTY FIRE DISTRICT NO. 3
AND
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS,
LOCAL 2903

OPINION AND AWARD

KENNETH J. LATSCH
Neutral Chairman

In the matter of interest
arbitration

between

THURSTON COUNTY FIRE DISTRICT NO. 3

and

INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, LOCAL 2903

OPINION

AND

AWARD

Perkins, Coie, Stone, Olsen and Williams, by Lawrence B. Hannah, attorney at law, appeared on behalf of the employer.

Durning, Webster and Lonquist, by James H. Webster, attorney at law, appeared on behalf of the union.

I. STATEMENT OF THE CASE

On April 20, 1984, Thurston County Fire District No. 3 ("employer" or "district") and International Association of Firefighters, Local 2903 ("union") notified the Executive Director of the Public Employment Relations Commission that an impasse existed in negotiations and requested that outstanding issues be submitted to interest arbitration in accordance with RCW 41.56.450 and WAC 391-55-220. The Executive Director concurred in the request and certified 20 issues for resolution in that forum. The matter was docketed as Case No. 5212-I-84-120. The union chose Michael McGovern as its representative on the arbitration panel. For its part, the employer selected Cabot Dow as its appointed panel member. The parties requested that Kenneth J. Latsch serve as neutral chairman of the arbitration panel. Prior to the formal hearing, the parties and the neutral chairman engaged in a protracted mediation effort to resolve remaining issues. Eleven issues were resolved during mediation. In addition, the issue relating to "call-back-pay" was resolved during the course of hearing. It should also be noted that issues

involving "chain of command" and "safety", as it relates to manpower levels, have been removed from consideration in this forum by the Executive Director based on the filing of an unfair labor practice by the employer (Case No. 5522-U-84-1004).

The arbitration hearing was conducted on December 6 and 28, 1984, and January 11, 1985. The hearing proceeded in an orderly manner. The parties had a full opportunity to submit evidence, to examine and cross-examine witnesses, and to argue the matter before the arbitration panel. The neutral chairman placed all witnesses under oath, and, as an extension of personal notes, the neutral chairman tape-recorded the proceeding. The advocates fully and fairly represented their respective parties with diligence and thoroughness. The parties submitted post-hearing briefs on January 28, 1985, at which time the neutral chairman closed the hearing.

The parties did not challenge the statutory authority of the arbitration panel to hear the outstanding issues. The neutral chairman followed procedures set forth by law for conducting the interest arbitration hearing. Although the neutral chairman took an active role in attempts to settle the dispute through mediation, the following opinion and award is based solely upon application to the evidence of statutory criteria set forth in RCW 41.56.460 as follows:

In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines 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 personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States.
- (d) The average consumer prices for goods and services, commonly known as the cost of living;
- (e) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(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.

II. STATEMENT OF THE ISSUES

The parties submitted the following issues for determination:

1. Hours of work
2. Wages
3. Education Incentive
4. Overtime
5. Insurance
6. Union Right to Grieve
7. Safety
8. Duration

III. BACKGROUND

Thurston County Fire District No. 3 was created in 1949 as an all-volunteer fire fighting service. Increased service demands required the initiation of full-time firefighting operations with a paid firefighting staff, but the district still relies on a large volunteer force to provide essential services for its coverage area. That area encompasses approximately 60 square miles and a population of approximately 45,000. The district has seven "satellite" stations in addition to the central office/main fire station to provide timely response throughout its area of responsibility. The City of Lacey is totally contained within the district's coverage area. Lacking its own fire department, the city has contracted with the district to provide fire suppression, fire inspection and other emergency services. The district has similar contractual arrangements with the Washington Department of Natural Resources (for the protection of large areas of undeveloped forest land) and with the Nisqually Indian Reservation. Under terms of an intergovernmental agreement between the fire district and Thurston County,

an emergency medical services contract provides that the county shall pay the fire district specific sums for paramedic services and will also provide necessary vehicles and equipment for emergency medical services. In return, the fire district provides facilities for the paramedics and is responsible for their daily activities. Apart from the service contracts, the fire district derives its primary revenue source from property tax assessments. At the time of hearing, the fire district's coverage area had an assessed valuation in excess of \$900,000,000.

The district is considered to be a political subdivision of the State of Washington, operating under provisions of Title 52, Revised Code of Washington. An elected three-member commission sets district policy and retains overall budget authority. An appointed fire chief is responsible for daily operations. A deputy chief directs the district's administrative operation in such areas as training, facilities maintenance, office operations, and coordination of volunteer services. An assistant chief supervises routine training for fire suppression personnel and monitors equipment maintenance. The "EMS Services Supervisor" supervises the seven paramedics working in the district. A fire marshal directs the fire prevention operation and deals with such areas as fire suppression, public education and water system maintenance.

The command structure changes, to some degree, in emergency response situations. Under the general supervision of the fire chief and assistant chief, seven "command officers" assign necessary equipment and manpower to a particular incident. Four command officers are full-time employees of the district and three are volunteer officers. The command officer responsibility is rotated among the seven officers mentioned above. In addition, selected members of the fire suppression company serve as "duty officers" at the central fire station. Working on a rotating schedule, the duty officers assume responsibility for the station complex as well as the residents who work there. Duty officers also direct volunteers who respond to emergency calls until a command officer arrives on the scene.

As noted above, the fire district relies upon a large volunteer force to provide necessary services. Primarily responsible for the district's fire

suppression activities, the volunteers respond to the nearest fire station and are expected to operate the district's vehicles and firefighting apparatus. Effective January 1, 1984, the volunteers received \$7.00 for each emergency call answered and each training session attended. Regular training sessions are conducted each Monday night at the district's main station. Members of the professional firefighting staff are expected to assist in the training exercises. At the time of hearing, there were approximately 70 volunteers serving in the fire district. An average volunteer remains active with the district for five years, but it is not unusual to find volunteers with over fifteen years of service.

IV. ANALYSIS

1. The Issue of Comparability

In their closing briefs, both parties correctly reminded the arbitration panel that its deliberations must be made within the guidelines set forth in RCW 41.56.460. Of particular importance to this case, the parties disagreed over the interpretation of that section of the statute which requires comparison of affected employees' wages, hours and conditions of employment with those of employees of "like employers of similar size on the west coast of the United States" (RCW 41.56.460(c)).

The fire district has selected a number of "comparators" by adopting a "50 percent factor". In other words, the district chose comparative jurisdictions within a range from 50 percent less to 50 percent greater than Thurston County Fire District No. 3 with respect to population, coverage area, and assessed valuation. Applying the "50 percent" standard, the fire district selected six fire districts in Washington, one fire district in Oregon and four fire protection districts in California as comparatives.^{1/}

^{1/} The district's proposed comparators are:
 Washington: Clark County No. 6, King County No. 43, Pierce County No. 5, Pierce County No. 9, Snohomish County No. 7, and Snohomish County No. 12.
 Oregon: Mason County No. 1
 California: Barstow FPD, Lakeside FPD, Florin FPD, and San Marcos FPD.

The fire district's analysis established the following ranges for consideration:

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|---|-------------------------------|
| Population served: | 22,500 - 67,500 |
| Area covered: | 30 - 90 square miles |
| Property Assessment: (in area of coverage) | \$500 million - \$1.5 billion |

The fire district maintains that it is a rural jurisdiction, and its proposed comparators reflect that contention. Of the jurisdictions selected, Thurston County Fire District No. 3 ranks third in total assessed value and in coverage area and the district is tied for second in population. The district stresses that assessed valuation is a primary factor in establishing realistic comparisons. Using that criteria, the fire district compares well with the selected jurisdictions in terms of wages and other conditions of employment.

The union presented a different approach on the comparability issue. As part of its presentation, the union called Dr. David Knowles, labor economist, as a witness. Knowles testified that the fire district's comparators were suspect because of the emphasis on assessed valuation. According to Knowles' studies, such a standard distorts economic factors having direct impact on wages and working conditions in the immediate area. To correct this discrepancy, Knowles recommends emphasis on population in the fire district's coverage area. Population affects regional wage rates, local cost of living factors, and the availability of similar employment.

Apart from its emphasis on population, the union's approach differs from the district's in that the union relies upon comparators in and around the Puget Sound area.^{2/} Relying upon earlier arbitration awards, the union stresses that local comparisons provide a realistic basis for analysis and that

^{2/} The union's comparators are: White Center, Vancouver, Pierce County No. 9, Snohomish County No. 7, Renton, Longview, Kitsap County No. 7, King County No. 10, Clark County No. 6, King County No. 3 (Burien), Bremerton, Bellingham, and Auburn.

"remote" comparisons made with jurisdictions in other states are important only if local comparators are not available. To support this contention, the union refers to the award issued by Arbitrator Howard S. Block in City of Bellevue (PERC Case No. 3642-I-81-83) where Arbitrator Block wrote:

In interest arbitration, we usually look first for relevant local and regional comparisons because area peer parity is most meaningful to all those involved.

Arbitrator Block went on the hold that Puget Sound cities should be given far greater weight than more remote jurisdictions in Oregon and Washington.

The comparability issue is not simply a mathematical exercise whereby several comparators can be selected on the basis of size, population, or assessed value. In like manner, mere geographic location is not enough to assure comparability. Rather, a combination of these factors must be analyzed while keeping in mind the nature of the employer's business operation. Such analysis in this case lends itself to several observations. First, it must be remembered that Thurston County Fire District No. 3 is a jurisdiction which contains large rural areas as well as developed urban centers. Second, labor market trends are more meaningful to affected employees in this matter if the trends are local phenomena. Taking these considerations into account, the lists of comparators presented by both parties are flawed.

The district would suggest that fire districts in the southern part of California are comparable without demonstrating that traditional labor market factors there are similar to those found in the immediate vicinity. More statistical comparability concerning size and assessed valuation cannot draw the California jurisdictions closer in terms of prevailing wage rates, working conditions and methods of operation. Absent complete evidence that such labor market conditions are similar, the California comparators cannot be used.

The union's list of comparators includes several cities of significant size in the Puget Sound region. The neutral chairman cannot rule that the fire

district is similar to the cities listed. This is not to say that fire districts cannot be compared to cities for interest arbitration. However, those cities selected in this matter do not share the unique operating challenges faced by the fire district.

Given all of these factors, the neutral chairman concludes that, absent the California jurisdictions, the fire district has presented a reasonable set of comparators. For the most part, the jurisdictions selected are near incorporated cities, but retain large rural coverage areas. Several have partial responsibility for the cities they are near. The Oregon comparator, Marion County Fire District No. 1, is particularly similar in that it has primary coverage responsibility for a large developed business and residential community just north of Salem, Oregon while retaining a rural coverage area as well.

The choice of comparable jurisdictions in this matter was made only after careful deliberation over the jurisdictions presented as well as the statutory requirement that the "west coast" of the United States provide the geographic area for consideration. Although the final list of comparators seems stilted in favor of Washington jurisdictions, such a result does not violate the spirit of the law. While the Washington legislature undoubtedly wanted to establish a range of choice, there is no requirement that each coastal state provide a comparator. Rather, the statutory requirement allows careful consideration of a wide range of economic and labor market situations before the most comparable jurisdictions can be determined. Those final comparators arise without regard to state boundaries.

2. Issues

A. Hours of Work

Employer position:

Retain existing shift schedule

Union position:

Implement a "24/48" shift schedule

The work shift issue is central to this arbitration proceeding, and both parties made well-reasoned, persuasive arguments in support of their respective positions. The existing work schedule is complex, and it is apparent that three separate work shifts are now in use by the fire district.

The fire district utilizes a full complement of paid firefighters from 8:00 a.m. to 5:00 p.m. on weekdays. After 5:00 p.m. and on weekends, one paid firefighter serves as "duty officer" to supervise residents and volunteers responding to fire suppression calls. In practice, the duty officer responsibility is rotated, and each affected employee serves as duty officer once a week. With the use of the duty officer program considered as part of the formula, fire suppression personnel work an average 53-hour week. Fire prevention employees work a 40-hour week, and paramedics work a 24/48 shift, similar to that requested by the union for all employees. The paramedic shift is required under terms of the contract between Thurston County and the fire district for emergency medical services.

The union maintains that a 24/48 shift would be desirable for the affected employees as well as the fire district. Under the union's proposal, fire suppression employees would work 24 hours and have 48 hours off duty, with a total 56-hour work week. On its face, this proposal would give the district an additional three hours per week and would provide professional firefighters for all emergency calls. In addition, the union maintains that the existing shift schedule is inefficient and destroys employee morale.

Determination of a work shift depends, in large part, on analysis of the fire district's operation. Undisputed testimony presented during the course of the hearing established that the district views its paid personnel in a different manner than most fire departments. The fire district emphasizes fire prevention activities and stresses its "proactive" role in the local community. Further, testimony presented by the district indicates that it uses the professional firefighters as a training force for its volunteer force. As the district notes in its closing brief, the existence of the volunteer firefighters is a crucial, if unstated, issue coloring the course of proceedings. Those volunteers assume primary fire suppression responsibilities during evening hours and on weekends. Evidence presented

indicates that the paid firefighting personnel are dissatisfied with the district's emphasis on its volunteers, but the neutral chairman cannot order the type of change requested in shift schedules.

In this case, Thurston County Fire District No. 3 has made a conscious decision to retain, and rely upon, a volunteer firefighting force. While implementation of a new work shift would not, in itself, do away with the volunteers, it would undoubtedly be expensive because new employees would eventually be needed, and it would not accomplish the goals established by the employer. In fact, the union's proposal would lead to a complete realignment of employee work schedules, and the district would lose a substantial part of its fire suppression service during normal business hours. The fire district has determined that it is most productive by maintaining a professional fire suppression and fire inspection force during regular business hours and retaining a volunteer group to respond to fire suppression calls at other times. The neutral chairman cannot order a new shift structure that would have such a pervasive effect on the employer's operation.

B. Wages

Employer position:

- no increase for calendar year 1984
- 3.6% increase on the base wage rate for calendar year 1985,
- retain existing paramedic differential
- modify longevity to include consideration of merit
- 4% increase on the base wage rate, effective January 1, 1986

Union position:

- modify wage structure to determine wage rates on the basis of a percentage of the "Top Firefighter" position
- 12% increase on base of "Top Firefighter" position effective January 1, 1984
- retain current longevity program
- add a 5% premium for Fire Inspector

- Add a 10% premium for paramedics
- 10% increase on base "Top Firefighter" position effective January 1, 1985

While the work shift issue proved to be the most emotional issue presented before the arbitration panel, it is obvious from the various proposals put forth, that the wage issue is the most detailed. It must be emphasized that analysis of the wage issue excludes discussion of education incentive, overtime and insurance. While these issues undoubtedly have effect on a total compensation package, they will be addressed separately in this analysis. In considering the final wage figure to be awarded, those factors have been carefully considered.

The district presents its wage proposals as part of a "total economic package" meant to include a wide range of monetary items. Within the framework of the comparable jurisdictions set forth by the employer, the existing wage structure appears to be well above average. In fact, very few of the district comparables can compete with the wages paid.

The union seeks a sizable increase in base salaries. In addition, the union desires to implement a new salary schedule, basing all wage increase calculations on the "top firefighter" classification. The union seeks further changes by implementing premium rates for paramedics and fire inspectors. The union reasons that the substantial pay increases are necessary because of "retaliatory" measures taken by the fire district. Since the firefighters' union was certified as bargaining representative, in August, 1983, the affected employees have not received a pay increase. During the same period, non-represented employees and volunteers have received increases in compensation.

The parties are almost diametrically opposed on the issue of wage increases. While the employer seeks retention of the status quo, in addition to restrictions on existing longevity pay provisions, the union seeks a new wage formula, new premiums and a large increase in base wage rates.

While the comparable jurisdictions in this case indicate that a base wage increase of approximately three percent is justified, the neutral chairman must consider other statutory criteria. As stated in RCW 41.56.460, the arbitration panel must be aware of cost of living factors, changes in circumstances during the pendency of arbitration proceedings and 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. See: RCW 41.56.460(f).

The record indicates that the parties are in arbitration because they were unable to conclude an initial collective bargaining agreement. Undisputed testimony establishes that affected employees have not had a wage increase in well over a year. However, the absence of an increase does not demonstrate a "retaliatory" intent. While engaged in negotiations, the employer was not obliged to make a unilateral wage increase. Indeed, such action could have amounted to an unfair labor practice within the meaning of RCW 41.56.140(1) and (4). At the same time, increases of consumer prices have been low. Taken together, these factors, in conjunction with the comparable jurisdictions' wage rates, demonstrate that the union's base wage increase request cannot be implemented. Careful analysis of the comparators' wage rates as well as the prevailing rates within the fire district's union organization leads to the conclusion that a wage increase of four per cent is appropriate.

The next issues to be addressed deal with changes in the existing wage structure. While the union seeks to "benchmark" wage increases on the "Top Firefighter" rate, the district desires to retain existing wage structures. Conversely, the employer desires to restrict the use of so-called "longevity steps" by imposing a merit evaluation while the union desires retention of the existing longevity program. Both proposed changes must be rejected. Within the context of a first contract, it must be concluded that both parties have made significant movement to reach settlement. It is unfortunate that their efforts ended in the arbitration forum. While it is appropriate to discuss wage increases, it is inappropriate to change fundamental wage structures in such drastic ways.

In a related issue, the union seeks initiation of premium rates for paramedics and fire inspectors. The fire district resists this proposal. However, some additional pay increase seems reasonable within the context of the employer's stated mission as a fire district. Throughout the course of the hearing, the employer stressed that it was a "proactive" fire district designed to prevent fires and other catastrophes before they could occur. As a "first line of defense" in such an organization fire inspectors must evaluate business entities and report their findings in a timely, urgent manner. Paramedics are expected to conduct public safety courses and provide a number of educational services to community members. Given the nature of their respective positions, it is concluded that the fire inspector and paramedic positions deserve a premium for their work performed. However, the record does not indicate that a five percent premium for fire inspectors and a ten percent premium increase for paramedics is necessarily accurate. Given the record presented, and after due deliberation, it is appropriate to grant a two and one-half percent premium for the fire inspector and a five percent premium for paramedics. Such premiums shall be applied on the wage rates the affected employees would normally receive.

The employer has also suggested a form of premium itself by its duty officer proposal. The district proposes that duty officers receive a twenty-five (25) dollar premium for shifts they cover. The union resists the implementation of such a plan since the union stressed a work shift proposal that would eliminate the position. Given the resolution of the shift schedule, the employer's proposal concerning premium pay for duty officers shall be incorporated in the final award.

The final issue to be addressed in this section of analysis relates to the application of retroactivity. The union seeks retroactive wage increases dating to January 1, 1984. Such a result would mitigate the alleged "retaliatory" proposals set forth by the district during the long course of negotiations. The employer maintains that retroactivity is beyond the scope of the arbitration panel to consider. The fire district points to Article II, Section 25 of the Washington State Constitution which provides:

The legislature shall never grant any extra compensation to any public officer, agent, servant, or contractor, after the services shall have been rendered, or the contract entered into, nor shall the compensation of any public officer be increased or diminished during his term in office.

The district also points to Article VIII, Section 7 of the State Constitution:

No county, city, town, or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to, or in aid of any individual, association, company or corporation...

These constitutional provisions have been interpreted by the State Supreme Court in Christie v. Port of Olympia, 27 Wn.2d 534, 179 P.2d 294 (1947). The Christie decision stands for the proposition that retroactive payments may be possible in the context of a prior contract under which certain services were performed.

It is undisputed that retroactivity is a common element in collective bargaining agreements. However, there must be some fixed point from which retroactivity can be calculated. The selection of a calendar date does not qualify for such purposes. Only the expiration date of a prior agreement gives such a standard for retroactive payments. See: RCW 41.56.950. The neutral chairman is cognizant that the parties have been engaged in a long negotiation process, but it must be re-emphasized that this is an initial contract.

There is no starting point from which retroactivity can be granted. Absent such a fixed point, the wage increases awarded in this matter shall take effect on the date the award is issued.

C. Education Incentive

Employer position:

- increase monthly salary by \$50.00 for a one year certificate

- increase monthly salary by \$100.00 for an Associate of Arts degree
- both increases conditioned on participation by employee in 48 hours of teaching per year.

Union position:

- maintenance of specific certificates compensated at rate of 1 - 3.5% of base salary paid as monthly premiums
- alternatively, the achievement of specific academic credentials with rates of 1.5 - 6% of base salary paid as monthly premiums.

The parties conceptually agree that an educational incentive program would be beneficial. Apart from this broad outline, the parties maintain fundamental differences over the underlying purpose behind an educational program. The employer anticipates the creation of new training opportunities for its volunteer force by paid firefighters with particular expertise in fire suppression and emergency services. The union proposes an educational program that initially benefits the professional firefighting personnel. With a well-educated cadre of professionals, the union maintains that the district's entire operation necessarily benefits. To some degree, both parties are correct.

A public employer certainly benefits from a well-educated work force. If its employees are specifically trained in complex operations, the normal work schedule progresses smoothly and a better quality work product results. In this case, the normal work schedule involves regular contact with volunteer firefighters. The district expects its professional staff to assist in volunteer training. With these factors in mind, the district's proposal is reasonable. Established premiums are set forth and the employee is aware of the standards required to achieve the educational incentive payments. The rates are indicative of a true incentive in a situation where no such provision existed previously. Finally, the district's qualification on the payment of such incentives reflects the nature of the employer's business entity. The educational incentive allows additional compensation and the training requirement satisfies the union's desire to work with better trained volunteers as well as the employer's need to maximize training opportunities for volunteer firefighters.

D. Overtime

Employer position:

- Retain existing schedule of compensating overtime only after 240 hours are worked in a 28-day period

Union position:

- Compensate all work beyond regular shift schedule at the rate of time and one-half, either in wages or in compensatory time.

The existing overtime policy provides that an employee is eligible to receive overtime compensation only if the employee works more than 240 hours in a 28-day cycle. Work performed up to the 240 hour limit is compensated at straight time rates of pay. The union's proposal would modify existing practice by requiring payment of time and one-half regular rates for any work performed beyond the regular shift. Evidence presented by the employer indicates that nearly all of the comparable jurisdiction pay overtime for hours spent beyond normal work shifts.

It appears that the employer seeks to gain an unnecessary advantage through limitations on the use of overtime. While seeking to maintain its professional firefighters on a limited work schedule, the district prohibits overtime payment for a number of "after hours" activities. This is not to imply that regularly scheduled duty officer assignments should be compensated at overtime rates. Rather, overtime should be paid for those other activities requiring work after the end of the regular work day. Such a requirement maintains existing shift schedules but recognizes realistic compensation for additional work performed.

E. Insurance

Employer position:

- full payment of employee medical and dental insurance premiums and freeze dependent medical and dental premiums at current rates
- discontinue "trial" LEOFF II disability insurance plan

- remove non-volunteers from a life insurance plan offered to volunteer firefighters
- reject union request to add vision care

Union position:

- full payment for dependent medical and dental premiums in a "mutually agreeable" insurance plan
- retain LEOFF II disability insurance benefit under terms of a new insurance plan
- add vision care benefit
- continue to include professional firefighters in volunteer firefighter life insurance plan

As in the case of the wage issue, the insurance issue has a number of components. For its part, the district seeks to reduce insurance costs by "capping" dependent medical and dental premium costs at existing payment levels. Any added premium costs would be passed on to employees who would be responsible for increases as they came due. Such a proposal would terminate full premium coverage in effect since 1980. In addition, the district seeks termination of a life insurance plan designed originally for volunteer firefighters and the discontinuance of the existing LEOFF II disability insurance benefit.

The union seeks retention of existing benefits and premium payments and asks for two significant changes as well. The union seeks participation in the selection of an insurance carrier, and it desires the addition of vision care benefits. The union also desires to change the insurance carrier for LEOFF II disability coverage.

In its presentation, the fire district stressed the increases in insurance payments it has incurred as a result of its present premium coverage. To remedy this problem, the district seeks a flat restriction on future payments for dependent premiums. While the neutral chairman is aware that insurance rates are escalating, the district's proposal is extreme. It must be remembered that the full premium payment began in 1980, and, while an employer is not to be bound forever by past actions, a more reasonable

approach seems to be available. Rather than restricting premium payments at existing rates, the district shall be obligated to pay one-half of all premium increases beyond existing dependent medical and dental premiums, and the other half of the premium cost shall be borne by the affected employees for the duration of this contract.

It is the neutral chairman's considered opinion that unions have legitimate concerns over the benefits made available through particular insurance plans. Those benefits, and their resulting costs, must be fully negotiated between the parties. Typically, an employer which provides full payments should have the right to select an insurance plan. However, with the burden of insurance premiums being transferred, in part, to employees, is it appropriate to allow the employer in this case to retain full control over insurance plan selection? Since the employees now have a direct interest in the cost of insurance, the plan to be offered should be mutually agreeable by the parties. To that end, the union's proposal concerning the requirement that insurance plan be negotiable is adopted.

The employer seeks further insurance restrictions by removal of the existing LEOFF II disability insurance plan. It is clear that the Washington State Legislature sought to modify LEOFF disability insurance by replacing the inclusive LEOFF I plan with the more restrictive LEOFF II. While it is ultimately up to the legislature to provide a new insurance program to increase existing disability coverage, the parties to a collective bargaining agreement can provide for the payment of supplemental disability insurance for those firefighters covered by LEOFF II. Such insurance of two LEOFF insurance plans does not preclude the negotiation of a form of supplemental disability insurance coverage. The employer cannot demonstrate that maintenance of the existing supplemental plan is burdensome or costly.

A more unique situation arises from the fire district's proposal to eliminate the volunteer life insurance plan currently provided to bargaining unit employees. Paid firefighters are eligible for accidental death insurance coverage if they also serve as volunteers. As the practice developed,

insurance benefits were retained although most paid personnel quit their volunteer work. The union does not dispute that the benefit was originally intended for volunteers only, but strenuously objects to its removal. While the insurance plan may be unique to the district, the neutral chairman concludes that it should only apply for volunteers. If a paid employee serves as a volunteer, that employee can enjoy the accidental death insurance policy. This conclusion does not end analysis of this issue. While the insurance policy is offered as an incentive for volunteer service, a member of professional firefighters rely upon that plan for family security. Given the inherent costs associated with accidental death insurance for firefighters, it would be unfair to simply remove the affected employees from insurance coverage. Rather, the affected employees should be offered the opportunity to maintain insurance at their own expense. Such a result re-establishes the real incentive nature of the accidental death insurance policy and provides continued coverage for those professional employees desiring to maintain it personally.

The union seeks to add a new vision plan to the list of existing insurance benefits. Examination of the record indicates that the proposal does not contain certainty in cost and that the type of coverage could be disputed when benefits are requested. Given these circumstances, the record does not support the addition of vision care to the other insurance benefits offered.

F. Union Right to Grieve

Employer position:

- union allowed to grieve violation of union rights only

Union position:

- union allowed to grieve any alleged violation of the collective bargaining agreement

The parties have a fundamental difference of opinion over the role of the union in a grievance procedure. The employer insists that the union has a right to grieve "union rights" issues (such as union security) in its own name but cannot grieve matters concerning individual employees unless those employees initiate the grievance. The union maintains that it must have the unlimited right to grieve if the resulting collective bargaining agreement is to be enforced properly.

It is a fundamental tenet of labor law that a collective bargaining agreement is "owned" by the employer and the union serving as exclusive bargaining representative. Bargaining unit employees stand in the position of third party beneficiaries to enjoy the rights and privileges secured for them by the contract. As a primary party to the contract, the union does have a right to grieve issues in its own name, and such a ruling shall be included in the instant award.

The employer expresses a concern that the union will interject itself where employees do not wish to grieve a particular issue. Admittedly, such action is possible. But it seems highly unlikely. Unless the affected employee notifies the union that a situation exists, the union will not be in a position to "invent" grievable disputes. A collective bargaining agreement is only as good as the parties desire it to be. Without active enforcement, a contract becomes a meaningless document. The union must be given the opportunity to enforce the contract for the benefit of the bargaining unit employees.

G. Safety

Employer position:

- district to assign qualified personnel, either professional or volunteer, to operate and drive equipment
- district to establish driver training programs

Union position:

- establish specific training criteria for volunteer drivers and equipment operators, based on criteria found in current IFSTA manuals.

As noted in the Statement of the Case, one aspect of the safety issue has been removed from consideration because of the filing of an unfair labor practice complaint. The remaining issue relates to the conflicts which have arisen between professional and volunteer firefighting forces serving in this jurisdiction.

The employer maintains that it has adequate training programs to assure that all equipment and vehicle operators are properly qualified. The union argues that volunteer personnel have committed a number of serious mistakes in the operation of district fire trucks and water pumping apparatus.

It is clear that accidents have occurred in the fire district. The union presented compelling testimony that volunteers and student residents do not receive adequate training. However, the district presented a strong case that paid firefighters are responsible for as many equipment and vehicle accidents as are the volunteers. The professional firefighters who testified on the safety matter reflected a genuine concern for their personal well being as well as their ability to perform effectively in critical situations if volunteers are on an emergency scene. The fire district admits that it did not have a regular training officer for approximately one year, and if nothing else, this absence had a perceptible impact on employee personnel.

Testimony presented indicates that this particular issue is shrouded in emotion. The record indicates that the employee has a safety program in place, and while the sufficiency of the training offered is disputed, the neutral chairman is satisfied that the existing structure provides a framework for meaningful training exercises.

The employer has chosen to rely upon volunteers as its primary fire suppression force. The district must realize its responsibility to provide all of its firefighting personnel necessary training to maintain safe operation.

H. Duration

Employer position:

- the contract should extend through December 31, 1986

Union position:

- the agreement should extend through December 31, 1985

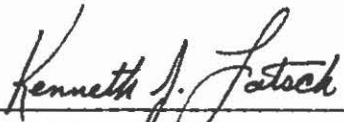
The parties have engaged in a long negotiation process. In most cases, the resulting agreement should be of longer duration to establish a sense of stability in the relationship. In this case, however, a longer duration would not serve the parties' best interests. As stated several times throughout the preceding analysis, this is a first contract. That the parties have entered interest arbitration proceedings is an indication of the difficulties encountered in the negotiations. It is appropriate to set the terms of a contract and then permit the parties another opportunity to negotiate a successor agreement. Neither party can be totally satisfied with the results of this arbitration process. Satisfaction was not guaranteed when the choice to go to arbitration was made. The contract shall be effective from January 1, 1984 through December 31, 1985.

V. AWARD

1. The existing hours of work and work shift structure shall be retained.
2. Effective on the date of this award, the following adjustments in wage rates shall be implemented:
 - A. The monthly base wage shall be increased four percent (4%)
 - B. Retain existing wage structure
 - C. Retain existing longevity schedule
 - D. Implement a two and one-half (2½) percent monthly premium for fire inspectors.
 - E. Implement a five (5) percent monthly premium for paramedics
 - F. Implement employer's proposed \$25.00 premium for duty officers

3. Implement the employer's proposal concerning education incentive
4. The union's overtime proposal shall be implemented.
5. The following insurance modifications shall be made:
 - A. Full payment for employee dental and medical insurance premiums.
 - B. Full payment for existing dependent dental and medical insurance premiums with future premium increases shared equally between the fire district and the employees for the term of the agreement.
 - D. Present health and dental insurance plans shall remain in effect. All future health and dental insurance plans must be mutually agreed upon by the parties.
 - E. Retain existing LEOFF II disability insurance supplement.
 - F. Remove non-volunteer professional firefighters from the volunteer accidental death insurance policy coverage. Allow non-volunteer professional firefighters to continue coverage under the insurance plan at their own expense.
6. The union has the right to grieve in its own name
7. The existing safety program shall be retained.
8. The contract shall be effective from January 1, 1984 through December 31, 1985.

Respectfully submitted this 27th day of February, 1985.



KENNETH J. LATSCHE, Neutral Chairman