

INTEREST ARBITRATION BEFORE  
ARBITRATOR MICHAEL ANTHONY MARR

EVERETT, WASHINGTON

In the Matter of the Interest Arbitration	)	OPINION AND AWARD
	)	
	)	PERC Case No. 131896-I-19
	)	
between the	)	DECISION AND AWARD
	)	REGARDING THE COLLECTIVE
SNOHOMISH COUNTY CORRECTIONS	)	BARGAINING AGREEMENT
GUILD,	)	BETWEEN THE PARTIES FOR
	)	JANUARY 1, 2018 THROUGH
Union,	)	DECEMBER 31, 2021
	)	
and	)	
	)	
SNOHOMISH COUNTY,	)	
	)	
Employer.	)	
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DECISION AND AWARD

INTEREST ARBITRATOR:	MICHAEL ANTHONY MARR
HEARING DATE:	NOVEMBER 16 AND 17, 2020
EMPLOYER'S COUNSEL	STEVEN J. BLADEK CHARLOTTE F. COMER DEPUTY PROSECUTING ATTORNEYS CIVIL DIVISION 3000 ROCKEFELLER AVENUE, 8 <sup>TH</sup> FLOOR EVERETT, WASHINGTON 98201-4060
UNION'S COUNSEL	JOHN A. FOLLIS NICOLE FRANKLIN ANDERSON HUNTER LAW FIRM 2707 COLBY AVENUE, SUITE #1001 EVERETT, WASHINGTON 98201

HEARING LOCATION: VIDEO CONFERENCE HEARING VIA ZOOM  
PLATFORM WITH ARBITRATOR LOCATED  
IN HONOLULU, HAWAII

WITNESSES FOR THE  
EMPLOYER: JAIME KANE  
NATHAN DANIEL KENNEDY  
BOB SPRAGUE  
DORIS HOLZER  
LAURA PECK

WITNESSES FOR THE  
UNION: SCOTT WARNKEN  
CHARLES CARRELL  
CARLA PUSATERI

DATE OF OPINION  
AND AWARD: FEBRUARY 18, 2021

COUNTY EXHIBITS:

A. GENERAL BACKGROUND

1. Snohomish County Corrections Guild Tentative Agreement date 3/11/2020 re CBA 2018-2021
2. Snohomish County Corrections Guild CBA 2018-2021
3. Snohomish County Corrections Guild CBA 2015-2017
4. Introduction to Snohomish County Position Paper
5. Snohomish County Labor Agreements (11/6/2020)
6. Snohomish County 2020 Budget Summary – Council Adopted
7. Snohomish County Amended Emergency Ordinance 20-037
8. Executive’s 2021 Recommended Budget
9. General Fund 2<sup>nd</sup> Quarter Year End 2020 Revenue Forecast
10. Table of Revenue Sources
11. General Fund 1<sup>st</sup> Quarter Year End 2020 Revenue Forecast
12. Snohomish County 2020 COVID Strategy Presentation
13. Introduction to Snohomish County Sheriff’s Office, Corrections Bureau Position Paper
14. Snohomish County Sheriff’s Office Organizational Chart
15. Snohomish County Sheriff’s Office – Corrections Bureau Organizational Chart
16. Job Description: Snohomish County Corrections Deputy
17. Corrections Bureau Budgeted FTEs
18. Department of Retirement Systems PSERS handbook
19. Job Description: Snohomish County Corrections Sergeant
20. Teamsters Corrections Sergeants/Lieutenants CBA 2018-2020
21. Job Description: Snohomish County Corrections Lieutenant

22. Job Description: Snohomish County Sheriff's Deputy
23. Snohomish County Deputy Sheriff's Association CBA 2019-2021
24. Department of Retirement Systems LEOFF 1 Handbook
25. Department of Retirement Systems LEOFF 2 Handbook
26. Snohomish County Position Paper re Comparable Counties
27. 2015 Interest Arbitration Award - Snohomish County Corrections Guild
28. 2017 Interest Arbitration Award - Snohomish County Corrections Guild
29. 2014 Interest Arbitration Award – Snohomish County Corrections Sergeants & Lieutenants
30. 2010-2020 Intercensal Population Estimates for Washington State
31. Certified Population Estimates for Oregon and Counties for 2016-2017
32. Certified Population Estimates for Oregon and Counties for 2018-2019
33. 2017 Assessed Value for State of Washington
34. 2019 Assessed Value for State of Washington
35. 2016-2017 Assessed Value for State of Oregon
36. 2018-2019 Assessed Value for State of Oregon
37. PERC Arbitration Panel Opinion and Award 129400-I-17-Pierce County Corrections Guild for CBA period 1/1/2016 -12/31/2018
38. Washington County, OR CBA 7/22/2019-6/30/2022
39. Pierce County CBA 1/1/2019 – 12/31/2020
40. Spokane County CBA 2016-2019
41. Spokane County Job Classification & Salary Report
42. Snohomish County Position Paper re Insurance Benefits – Article 10
43. AON comparison of Snohomish County Regence Medical Plans to comparable counties' Medical Plan
- 44rev. AON comparison of Snohomish County Kaiser Medical Plans
45. Snohomish County Regence Select 17 PPO Plan Booklet – Group F
46. Snohomish County Regence Select 17 PPO Plan B Booklet
47. Snohomish County Regence PPO Plan A Booklet
- 48rev. Snohomish County Kaiser Permanente Booklet – Group F
- 49rev. Snohomish County Kaiser Permanente Booklet
50. Snohomish County Regence PPO Select 17 PPO Plan Summary – Group F
51. Snohomish County Regence PPO Plan B Summary
52. Snohomish County Regence PPO Plan A Summary
53. Snohomish County Kaiser Permanente Summary – Group F
54. Snohomish County Kaiser Permanente Summary
55. Medical Census – Snohomish County Corrections Deputies
56. Pierce County Medical Rate Information
57. Clark County CBA 2019-2021
58. Clark County Medical Rate Information 2020
59. Spokane County Medical Rate Information
60. Multnomah County, OR CBA 2017-2022
61. Multnomah County Medical Rate Information
62. Washington County Medical Rate Information
63. Snohomish County Tiered Rates for 2020 Groups F and H
64. Clark County Corrections Deputy

65. Pierce County Corrections Deputy
66. Spokane County Detention Corrections Officer
67. Multnomah County, OR Corrections Officer
68. Washington County, OR Jail Deputy
69. Snohomish County Joint Resolution 20-011
70. 2020 Wage Analysis
71. Clark County Summary of Benefits Coverage Regence Preferred
72. Pierce County Summary of Benefits Coverage Teamsters Welfare Trust Plan A
73. Email confirming Pierce County 2020 Medical Plan Rates
74. Spokane County Summary of Benefits Coverage Premera Blue Cross PPO
75. Washington County Summary of Benefits Coverage Providence Low Deductible
76. Multnomah County Medical Plan Comparison Moda 400 Kaiser 10/20
77. Multnomah County 2020 Medical Plan Rates
78. Multnomah County Summary of Benefits Moda Health PPO 400 Plan
79. Washington County Oregon 2020 Employee Benefits

#### GUILD'S EXHIBITS

1. Collective Bargaining Agreement, January 1, 2018 through December 31, 2021
2. Settlement Agreement, submitted March 5, 2020
3. PERC Certification to Interest Arbitration
4. Comparable wage and health benefits analysis of expert witness, Carla Pusaeri.
  - a. Analysis under the current plan
  - b. Analysis under Union offer
  - c. Analysis under County offer
5. Collective Bargaining Agreements
  - a. Pierce County Corrections Guild, January 1, 2019 through December 31, 2020
  - b. Clark County Corrections Deputy Guild, January 1, 2019-December 31, 2021
  - c. Multnomah County Deputy Corrections Deputy Association, 2017 - 2022
  - d. Washington County Police Officers' Association, 2017-2022
6. Correction Deputies Job Descriptions
  - a. Snohomish County
  - b. Pierce County
  - c. Clark County
  - d. Multnomah County
  - e. Washington County
7. US Census Bureau
  - a. Snohomish County
  - b. Pierce County
  - c. Clark County
  - d. Multnomah County
  - e. Washington County
  - f. Spokane County

8. Arbitrator's decision in Snohomish County's Sheriff's Office, Corrections Bureau, Employer v. Snohomish County Corrections Officers Guild, Employee, Labor Organization, PERC 127771-I-15, March 6, 2017
9. Snohomish County 2020/2021 Month Healthcare Premiums
10. From the Washington State Department of Revenue, Population, Real Property, And Assessed Value (2019 data)
11. Regional Price Parity Index Adjustment

### **I. THE ARBITRATION HEARING**

The interest arbitration hearing held on November 16 and 17, 2020 was transcribed by J. Michael Jay, a court reporter with BHL Court Reporters.<sup>1</sup> Therefore, when applicable, citations to the transcript in this Decision and Award shall begin with the letters "Tr." The Collective Bargaining Agreement currently before your Arbitrator governing the relationship between the parties for the period of January 1, 2018 through December 31, 2021, shall sometimes hereinafter be referred to as the "CBA."

The entire interest arbitration process was conducted as set forth in WAC 391-55-200 through 255. A pre-arbitration hearing telephone conference call with the parties and your Arbitrator was held on February 14, 2020 and a pre-arbitration hearing conference that was held via the Zoom video conference platform on November 12, 2020, pursuant to WAC 391-55-255.

The parties were given full opportunity to present evidence, call witnesses, and cross-examine witnesses. The County agreed to proceed first with the presentation of evidence. The order and presentation of evidence was taken pursuant to WAC 391-55-230.

Your Arbitrator and the parties received an electronic copy of the transcripts on December 16, 2020. Since they agreed that their closing briefs would be due 30 days

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<sup>1</sup> This decision and award shall refer to many arbitrators. Therefore, the words "your Arbitrator" shall always be in reference to arbitrator "Michael Anthony Marr."

from the receipt of the transcripts, your arbitrator received their electronic copies on January 19, 2021. Your Arbitrator's Opinion and Award, as agreed by the parties with the agreement of your Arbitrator, was therefore due on or before February 18, 2021. These deadlines were set pursuant to WAC 391-55-240 and by agreement of the parties prior to your Arbitrator closing the arbitration hearing proceeding.

Your Arbitrator has reviewed the arguments and evidence presented during the arbitration hearing and the written transcripts of the proceedings. Your Arbitrator has also considered the numerous exhibits stipulated into evidence. Your Arbitrator does not feel compelled to address all of the numerous arguments and issues raised by the professional advocates of the parties. Please note that this is not to be interpreted that your Arbitrator has not read and reread his notes, the transcripts and numerous pages of exhibits and carefully considered all arguments of counsel. Rather, your Arbitrator has elected to address only those elements that your Arbitrator is mandated to consider pursuant to the WAC, Title 391, Chapter 391-55, "Impasse Resolution Case Rules" and RCW, Title 41, Chapter 41.56, "Public Employees' Collective Bargaining" or as otherwise mandated by law, which have had a significant impact on his decision-making process. Your Arbitrator, as a general rule, will not comment on matters he believes are irrelevant, superfluous, redundant, or rendered moot by his decision and award.

## **II. BACKGROUND**

The CBA between the Snohomish County Corrections Guild and Snohomish County will be expire on December 31, 2021. On July 2, 2019 the Public Employment Relations Commission advised the Guild and the County that it had certified 62 Articles of the CBA for interest arbitration. On December 26, 2019 your Arbitrator was advised

by the parties of his mutual selection as arbitrator and that they requested a ten-day hearing.

The interest arbitration hearing was initially set for ten (10) days. Prior to the hearing the parties advised your Arbitrator that they had resolved all certified issues with the exception of Article 10, "Insurance Benefits." Hence, all evidence received during the arbitration hearing held on November 16 and 17, 2020 related to Article 10 of the CBA.

### **III. THE COUNTY AND THE GUILD**

Snohomish County is located in the Puget Sound area of Washington State. It has both rural and urban areas extending from Puget Sound on the west to the crest of the Cascade Mountains on the east. It is sandwiched between King County to the south and Skagit County to the north. The Guild's members work in the Snohomish County Correctional Facility which is located in downtown Everett, the largest city in Snohomish County. County Closing Brief at 2.

The Snohomish County is a charter county organized pursuant to the Constitution of the State of Washington. It is led by an executive branch that is responsible for enforcing and implementing the policies and ordinances enacted by the Snohomish County Council. County Closing brief at 2.

The Snohomish County Council is the legislative branch of the County's government. It enacts ordinances and levies and sets and adopts policies which are supported by the Council's annual balanced budget. It also considers proposals from the executive branch. In addition, it sets parameters for labor negotiations and labor agreements. County Closing Brief at 2.

Snohomish County, like most county governments, provides a full range of services that vary among its nineteen (19) departments. Six of the departments, Assessor, Auditor, Clerk, Prosecutor, Sheriff, and Treasurer, are headed by elected officials. County Closing Brief at 2.

Significant County resources are expended to maintain public safety. Public safety elements of the County include fifteen (15) judges, five (5) Commissioners, a Superior Court, four (4) District Courts, a Prosecutor's Office, a County Clerk's Office, an Office of Public Defense, and a Sheriff's Office. The Sheriff for Snohomish County is responsible for overseeing law enforcement and corrections operations. Tr. at 27, 65, 66; County Exhibits 14 and 30.

Snohomish County employs approximately two thousand nine hundred eighty-five (2,985) full-time equivalent employees. Approximately seventy-five percent (75%) of this workforce of 2,254 bargaining unit members are unionized and they are represented by thirty-six (36) separate bargaining units. County Closing Brief at 3.

The Snohomish County Corrections Guild represents one hundred ninety-five (195) Corrections Deputies working in the Snohomish County jail. Tr. at 12-21; 70; *See*, County Ex. 5. The Guild's collective bargaining agreement is the only labor contract between the County and its unions that has not fully settled. Tr. at 123.

Corrections deputies monitor, supervise and maintain custody of inmates in the Snohomish County Jail, the residential release facility, and those who are placed in non-custody community corrections programs. Other duties include, but are not limited to, inmates booking, supervising activities within the jail, supervising the preparation of inmates for transportation to courts and other appointments, conducting security checks,



instructing inmates on jail rules and investigating suspected rule violations. *See*, Guild Ex. 6a; County Ex. 13.

**IV. CURRENT ARTICLE 10 CBA LANGUAGE AND GUILD AND COUNTY PROPOSALS TO ARTICLE 10<sup>2</sup>**

The current language of Article 10 provides in relevant part as follows:

The following Section of Article 10 is being submitted to interest arbitration as agreed upon by the Guild and the County and shall be modified and incorporated into the terms of this agreement as provided by the arbitration award.

**ARTILCE 10 – INSURANCE BENEFITS**

Medical Insurance – Effective January 1, 2015 employee medical insurance premium contributions shall be:

<u>Regence Selections</u>	<u>Employee Premium Contribution</u>
Employee Only	\$ 25
Employee and Spouse	\$ 95
Employee and Children	\$ 85
Employee and Family	\$120
 <u>Group Health Options</u>	
Employee Only	\$ 0
Employee and Spouse	\$ 0
Employee and Children	\$ 0
Employee and Family	\$ 0
 <u>Regence PPO</u>	
Employee Only	\$ 58
Employee and Spouse	\$195
Employee and Children	\$ 98
Employee and Family	\$235

Effective April 1, 2017, employee premium contributions shall be increased or decreased by five percent (5%) of the change in the tiered monthly medical premium from the rate of the previous plan year (April 1, 2016 - March 31, 2017).

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<sup>2</sup> Your Arbitrator requested that the County and the Union submit their respective proposals, using additions or deletions from current contract language, with strikethroughs and underlines in customary legislative draft format. The Article heading of each party's proposal is underlined as a matter of format.

Article 10, Sections 10.1 through 10.8 were settled by the parties and incorporated into their April 13, 2020 collective bargaining agreement as agreed by the parties.

Effective April 1 of each year thereafter, employees' premium contributions shall be increased or decreased by five percent (5%) of any change in the tiered monthly medical premium from the rate previous plan year (April 1 – March 31).

In the event an employee chooses the Group Health Plan, notwithstanding the premium sharing required by this Article, the employee shall pay premium sharing only if the cost the Group Health Plan exceeds the County's portion of the premium coverage under the Selections Plan. In that event, premium sharing under the Group Health Plan shall be the difference between the County's cost of the premium for employee coverage under the Selections Plan and the premium for employee coverage under the Group Health Plan. The employees' contribution will be paid pre-tax. The County will provide notice during open enrollment to the Employees and the Guild of any premium contribution change.

Effective April 1, 2018, the Regence PPO Plan shall be removed as an option.

#### **IV. A. GUILD'S ARTICLE 10 PROPOSAL**

The Guild submitted its proposal pursuant to WAC 391-55-220 on November 2, 2020. The Guild's proposal is to maintain the existing Article 10 Insurance Benefits language relating to the Regence Select 17 and Kaiser (#654700) (previously group health in Article 10) plan options, to maintain the Article 10 Insurance Benefits language for Regence Selections Employee Contributions at their current rates, and to maintain the existing language for Employee Regence premium contributions, and for the premium contributions to be maintained as increased or decreased by equal to five percent (5%) of the tiered monthly premium from the rate of the previous plan year. In a nutshell, the Guild proposed no substantive changes to Article 10. The Guild's proposal is as follows:

#### **ARTICLE 10 - INSURANCE BENEFITS**

~~The following Section of Article 10 is being submitted to interest arbitration as agreed upon by the Guild and the County and shall be modified and incorporated into the terms of this agreement as provided by the arbitration award.~~

Medical Insurance – Effective January 1, 2015 employee medical insurance premium contributions shall be:

<u>Regence Selections</u>	<u>Employee Premium Contribution</u>
Employee Only	\$ 25
Employee and Spouse	\$ 95
Employee and Children	\$ 85
Employee and Family	\$120
<u>Group Health Options</u>	
Employee Only	\$ 0
Employee and Spouse	\$ 0
Employee and Children	\$ 0
Employee and Family	\$ 0
<u>Regence PPO</u>	
Employee Only	\$ 58
Employee and Spouse	\$195
Employee and Children	\$ 98
Employee and Family	\$235

Effective April 1, 2017, employee premium contributions shall be increased or decreased by five percent (5%) of the change in the tiered monthly medical premium from the rate from the previous plan year (April 1, 2016 – March 31, 2017).

Effective April 1 of each year thereafter, employees premium contributions shall be increased or decreased by five percent (5%) of any change in the tiered monthly medical premium rate from the previous plan year (April 1 – March 31).

In the event an employee chooses the Group Health Plan, notwithstanding the premium sharing required by this Article, the employee shall pay premium sharing only if the cost of the Group Health Plan exceeds the County’s portion of the premium coverage under the Selections Plan. In that event, premium sharing under the Group Health Plan shall be the difference between the County’s cost of the premium for employee coverage under the Selections Plan and the premium for employee coverage under the Group Health Plan. The employees’ contribution will be paid pre-tax. The County will provide notice during open enrollment to the Employees and the Guild of any premium contribution change.

Effective April 1, 2018, the Regence PPO plan shall be removed as an option.

#### **IV. B. COUNTY’S ARTICLE 10 PROPOSAL**

The County also submitted its proposal pursuant to WAC 391-55-220, on

November 2, 2020. The County’s Article 10 proposal contains major changes because it will eliminate the Regence Select 17 and Kaiser Permanente (#1654700) plans and offer the Regence Plan A, Regence Plan B, and Kaiser Permanente (#1654800) plans to Guild members. County Exs. 44(rev), 45, 46, 47, 48(rev), 49(rev), 50, 51, 52, 53, 54, & 55. The County’s proposal is to make the plan changes effective on April 1, 2021 to coincide with the next medical plan year. This would allow Guild members to participate in the County’s open enrollment in February and March to choose a new plan for April 1.

The County also proposes to change the cost-sharing provision so that Guild members would be responsible for a flat 5% of the medical insurance premiums at whatever tiered rate the employee chooses to participate. The County’s proposal is set forth below.

ARTICLE 10 - INSURANCE BENEFITS

~~The following Section of Article 10 is being submitted to interest arbitration as agreed upon by the Guild and the County and shall be modified and incorporated into the terms of this agreement as provided by the arbitration award.~~

~~Medical Insurance — Effective January 1, 2015 employee medical insurance premium contributions shall be:~~

<u>Regence Selections</u>	<u>Employee Premium Contribution</u>
Employee Only	\$ 25
Employee and Spouse	\$ 95
Employee and Children	\$ 85
Employee and Family	\$120
 <u>Group Health Options</u>	
Employee Only	\$ 0
Employee and Spouse	\$ 0
Employee and Children	\$ 0
Employee and Family	\$ 0

Regence PPO

Employee Only	\$ 58
Employee and Spouse	\$195
Employee and Children	\$ 98
Employee and Family	\$235

Effective April 1, 2021, Regence Select 17 and Kaiser Permanente (#1654700) will be removed as plan options and Regence Plan A, Regence Plan B, and Kaiser Permanente (#1654800) will be added as plan options.

For the April 1, 2021 – March 31, 2022 and each succeeding plan year, the County will determine tiered plan rates using its current calculation methodology of aggregating Regence Plan A and Regence Plan B (all Regence County employees other than Regence LEOFF) and separately aggregating Kaiser Permanente plan populations.

Effective April 1, 20172021, employees selecting a Regence plan shall pay premium contributions shall be increased or decreased by equal to five percent (5%) of the change in the tiered monthly medical premium (rounded to the nearest dollar) from the rate from the previous plan year (April 1, 2016 – March 31, 2017).

Effective April 1 of each year thereafter, employees premium contributions shall be increased or decreased by five percent (5%) of any change in the tiered monthly medical premium rate from the previous plan year (April 1 – March 31).

In the event an employee chooses the Group Health Employees choosing the Kaiser Permanente Plan, notwithstanding the premium sharing required by this Article, the employee shall pay a premium contribution sharing only if the cost of the Group Health Kaiser Permanente Plan exceeds the County's portion of the premium coverage under the Selections for Regence Plan A. In that event, employees in premium sharing under the Group Health Kaiser Permanente Plan shall pay a premium contribution equal to be the difference between the County's cost of the premium share for employee coverage under the Selections Regence Plan A and the premium for employee coverage under the Group Health Kaiser Permanente Plan (rounded to the nearest dollar). The employees'

Employee contributions will be paid pre-tax to the extent allowed by law. The County will provide notice during open enrollment to the Employees and the Guild of any premium contribution change.

Effective April 1, 2018, the Regence PPO plan shall be removed as an option.

## V. INTEREST ARBITRATION IN WASHINGTON STATE

The State of Washington Supreme Court has held that the legislature did not intend for statutory interest arbitration to displace the negotiation process, interest arbitration was not a substitute for collective bargaining, interest arbitration is an instrument of collective bargaining which displaces possible “economic tactics,” and interest arbitration is an extension of the bargaining process.” *City of Bellevue v. Int’l Ass’n of Firefighters, Local 1604*, 119 Wn.2d 373, 381 (1992). Subsequently, the Washington State Supreme Court stated that interest arbitration is a process whereby, if a union and an employer cannot agree on a new contract during collective bargaining, an arbitration panel will be formed to resolve any disputes over the terms of the new contract. *International Ass’n of Firefighters v. City of Everett*, 146 (2002).

The Washington State Supreme Court has also made it clear that when interpreting statutory language, the goal of the court is to carry out the intent of the legislature. *Id.* In ascertaining the legislative intent, the language at issue must be evaluated in the context off the entire statute. *Id.* If a statute’s meaning is clear on its face, the court will give effect to that plain meaning as an expression of the legislative intent. *Snohomish County Public Transp. V. PERC*, 173 Wash.App. 504, 294 P.3d 803 (2013).

In your Arbitrator’s view, if the essence of an arbitrator’s decision and award is based upon the factors set forth in RCW 41.56.465 and RCW 41.56.430, the decision and award is consistent with of the State of Washington Legislature and decisions decided by the State of Washington Supreme Court. So that your Arbitrator is not misunderstood, RCW 41.56.430 does not mandate that it is your Arbitrator’s responsibility and duty to determine what the agreement the parties should have reached if they continued to

bargain,” or to “compromise” or to “split the baby” as part of his analysis as to which proposals to award. This is not the function of interest arbitration nor are they factors to be considered by your Arbitrator under RCW 41.56.465. Your Arbitrator shall weigh the proposals of the parties on their merits while applying the criteria set forth in RCW 41.56.465 while being mindful of the legislative intent set forth in RCW 41.56.430.

## V. APPLICABLE STATUTORY LAW

The interest arbitration before your Arbitrator is governed by RCW Title 41, Chapter 41.56. Your Arbitrator is mandated to consider the proposals of the parties within the context of RCW 41.56.465, entitled “Uniformed personnel-interest arbitration panel, Determinations, Factors to be considered,” which provides in relevant part as follows:

(1) 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, the panel shall consider:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c) The average consumer prices for goods and services, commonly known as the cost of living;

(d) Changes in any of the circumstances (a) through (c) of this subsection during the pendency of the proceedings; and

(e) Such other factors, not confined to the factors under (a) through (d) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those employees listed in RCW [41.56.030\(7\)\(a\)](#) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than

seventy thousand, consideration must also be given to regional differences in the cost of living.

(2) comparison of 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.

The legislative purpose set forth in RCW 41.56.430, entitled “Uniformed personnel, Legislative declaration,” which your Arbitrator must be “mindful” of, provides as follows:

The intent and purpose of chapter 131, Laws of 1973 is to recognize that 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 uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

Accordingly, your Arbitrator has applied the declaration set forth in RCW 41.46.430 and the standards and guidelines set forth in RCW 41.56.465 to the unsettled certified issue (Article 10) that is the subject of this Decision and Award. In addition, a universally accepted principle of interest arbitration is that the party requesting a change in the status quo has the initial burden of showing why the status quo should be changed.

**VI. A.      CONSTITUTIONAL AND STATUTORY  
AUTHORITY OF THE EMPLOYER.**

The parties did not assert any statutory or constitutional constraints on your Arbitrator or against one another. However, the County asked your Arbitrator, in its closing brief to be mindful of the differences in statutory provisions between Washington and Oregon comparators. County Closing Brief at 15.

The County notes that a primary distinction between Washington and Oregon is that Washington prohibits by law an employer from paying an employee’s portion of the



retirement system premium, which is not the case in Oregon. In addition, the County noted that it opposed consideration of the 6% retirement pickup for any purpose as it is illegal in Washington to do so. County Brief at 15.

**VI. B. STIPULATIONS OF THE PARTIES.**

As noted above, the parties agreed that all certified issues were settled with the exception of Article 10. Therefore, evidence taken has been limited to Article 10.

The parties also agreed that all exhibits presented by the parties would be accepted into evidence for your Arbitrator's consideration and that objections would go to the weight given by your Arbitrator. Your Arbitrator is unaware of any other stipulations entered into by the parties.

**VI. C. THE AVERAGE CONSUMER PRICES FOR GOODS AND SERVICES, COMMONLY KNOWN AS THE COST OF LIVING.**

The County and the Guild agreed on previous certified issues regarding wages. Hence, the CPI is not a relevant factor for this interest arbitration. In addition, neither party presented any CPI evidence.

**VI. D. CHANGE OF CIRCUMSTANCES DURING THE PENDENCY OF THE PROCEEDINGS.**

Your Arbitrator is unaware of any changes in circumstances, in regard to factors set forth above in items VI. A, VI. B. and VI. C. and none were argued by the parties during the pendency of the proceedings.

**VI. E. LIKE PERSONNEL OF LIKE EMPLOYERS OF SIMILAR SIZE.**

The Revised Code of Washington Section 41.56.465(2) provides that arbitrators shall compare wages, hours, and conditions of employment of "like personnel of like employers of similar size" on the west coast. Absent a distinctive factor, population,

assessed value, geography are oftentimes the only factors arbitrators use to determine to determine appropriate comparators which constitute “like personnel of like employers of similar size.”

**VI. E. 1. THE COUNTY’S POSITION.**

The County acknowledged that 4 counties were needed to create an accurate pool of comparators. It asserted that the appropriate comparators to Snohomish County were the Washington counties of Pierce, Clark, Spokane, and Multnomah County in Oregon. It strongly asserted that your Arbitrator should not use Washington County in Oregon because to do so would be to give Oregon comparators equal weight with Washington comparators. It emphasized that Washington and Oregon counties do not allow for an apples-to-apples comparison because of differences in statutory criteria, taxation systems, and retirement systems. One Oregon county, Multnomah County, was sufficient. County’s Closing Brief at 22.

The County noted that a key statutory difference was the fact that it is illegal under Washington law for a County to pay an employee’s portion of the monthly retirement contribution whereas Oregon does not have this constraint and Oregon entities regularly pay six percent of an employees’ portion. In addition, Oregon has no state income tax and no sales tax while Washington relies on sales and property taxes to support its general fund. Snohomish County also has greater restraints on collected revenue as gas taxes are dedicated to the County’s Road Fund and airport revenues are used for the Airport Enterprise Fund and these funds cannot be used by the General Fund for purposes of paying Corrections Deputies. Oregon has no such restrictions and funds from any source can be used for any purpose. County Closing Brief at 22.

**VI. E. 2. THE GUILD'S POSITION.**

The Guild strongly asserted that the bargaining history of the parties has included the counties of Pierce and Clark in Washington and Multnomah and Washington in Oregon and there is no good reason to change the comparators.

**VI. E. 3. YOUR ARBITRATOR'S ANALYSIS.**

A discussion of comparators would be inappropriate without considering the bargaining history of the parties. Arbitrators must consider the bargaining history of the parties to give adequate context to their decisions and awards which will affect the rights and obligations of the parties.

The bargaining history provided to your Arbitrator between Snohomish County and the Guild, who represents the Corrections officers, has been substantial. The parties have evidently been unsuccessful on numerous occasions at the negotiation table and have sought interest arbitration. The first interest arbitration between the parties was decided in 1996 by Arbitrator Gary Axon, the second by Arbitrator William Reeves in in 2007, and the third by Arbitrator Michael Cavanaugh in 2017.

Your Arbitrator begins his analysis of comparators with Arbitrator William F. Reeves' decision and award between Snohomish County and the Guild, dated December 26, 2007. *See*, County Ex. 28. A review of Arbitrator Reeves' decision begins with first interest arbitration between the parties in December of 1996 with Arbitrator Axon selecting the Washington Counties of Pierce, Spokane, Clark, Thurston, Yakima, and Kitsap, discusses various arbitrations thereafter, and concludes with his selection of comparators. As stated in his decision at pages 20-25:

I find any discussion of comparables must begin with the list of comparables established by Arbitrator Axon in his 1996 interest

arbitration between the County and the bargaining unit represented by the Guild. See Snohomish County (Arbitrator Axon, 1996). The 1996 arbitration was the first interest arbitration between the parties. Arbitrator Axon selected the following comparables: Pierce, Thurston, Spokane, Clark, Yakima, and Kitsap. (Hereinafter referred to as the “Axon Six”).

In the recently decided *Sergeants* Arbitration, Arbitrator Jane Wilkinson selected a different set of comparables. Given the recentness of Arbitrator Wilkinson’s award and the relationship between the bargaining units, I find it appropriate to carefully look at Arbitrator Wilkinson’s selection of comparables in the *Sergeants* Arbitration.

As in this arbitration, the County in the Sergeants Arbitration proposed the Axon Six as comparables. The Sergeants and Captains Bargaining Unit “Sergeant BU” proposed Clark, Spokane, Pierce counties in Washington State, and Multnomah and Clackamas counties in Oregon. Additionally, although it did not propose Kitsap County, the Sergeants BU included Kitsap in its comparative analysis.

Arbitrator Wilkinson rejected Thurston and Yakima counties because their population and assessed valuation were well below the 50% cutoff. Arbitrator Wilkinson based this decision on the fact that Yakima and Thurston County have not made similar gains in population and assessed valuation since Arbitrator Axon’s Award as has Snohomish County. In her comparables, Arbitrator Wilkinson included the three jointly proposed comparables (Clark, Pierce, and Spokane). Arbitrator Wilkinson also included Kitsap County even though Kitsap did not meet the 50% threshold for either population or assessed valuation. Arbitrator Wilkinson justified her selection of Kitsap by noting the following:

- Kitsap County is relatively close geographically to Snohomish County.
- The Bureau of Labor Statistics (BLS) groups Bremerton (the largest city in Kitsap County) with Seattle and Tacoma in its CPI indices.
- Kitsap County’s assessed valuation per capita is the closest of any proposed Washington comparable.

However, it appears the most significant reason for selecting Kitsap County was because the union was willing to consider it. Arbitrator Wilkinson noted that in the absence of a stipulation from the parties, she avoids including jurisdictions that do not meet the 50% population threshold. As stated by Arbitrator Wilkinson at page 9:

Kitsap does not meet the population and assessed valuation -50% bandwidth. However, given that the Union is willing to consider Kitsap County a comparable proposed by the County, I will consider it also.

Arbitrator Wilkinson noted that reasonable minds could differ over whether or not to include Oregon jurisdiction, particularly Multnomah County. Nevertheless, Arbitrator Wilkinson excluded from her list of comparables the union-proposed Oregon counties of Multnomah and Clackamas. Arbitrator Wilkinson based her decision on several factors including:

- A preference for Washington jurisdictions to those from other states because of the difficulty of comparing collective bargaining laws, statutory benefits, labor markets, and cost of living.
- A question over the sergeant's responsibility in Oregon and Washington to the extent that Oregon sergeants might not be supervisors, and therefore, not "like personnel" within the meaning of RCW 41.56.465(2).
- Oregon presented a particular problem with making comparisons at the Captain/Lieutenant level because these classifications were not represented and the union admitted to having difficulty obtaining reliable data for that classification.
- Clackamas County did not meet the 50% threshold for population.

In determining the appropriate Comparables for the instant arbitration, I must agree with Arbitrator Wilkinson to the extent that Thurston County and Yakima County are no longer appropriate comparables for Snohomish County. They both fall below the 50% threshold for both population and assessed valuation, and neither jurisdiction has any distinctive characteristic which would warrant its inclusion on any other criteria.

Second, I feel compelled to give considerable weight to comparables selected by Arbitrator Wilkinson. My reasons are grounded in common sense and include:

- The Sergeant Arbitration award is less than 4 months old;
- The arbitration involves the same department and profession;

- As acknowledged by the Guild, the Sergeants Arbitration is relevant because members are potentially promoted to positions within the Sergeants bargaining unit.

In short, I find it beneficial to retain some relationship between the comparables used for the Sergeants and Captains, and the comparables used by the Guild who are supervised by the Sergeants and Captains. For that reason, I will include Kitsap and Spokane as comparables.

Having decided to include these jurisdictions in my list of comparables, I am mindful Kitsap County falls below the 50% threshold for both population and assessed valuation. Furthermore, I am aware Spokane County and Kitsap County are not part of metropolitan areas nearly as large as the more populated portion of Snohomish County. As mentioned earlier, the U.S. Census Bureau lists the Seattle-Tacoma-Everett Metropolitan Division with a population of 2,496,619 and the larger Seattle-Tacoma-Bellevue Metropolitan Statistical Area with a population of 3,263,497. The Bremerton-Silverdale WA Metropolitan Statistical Area consists of Kitsap County and has a population of 244,800. Although located within the Puget Sound area, Kitsap County requires a ferry ride or the Tacoma Narrows Bridge to access the Seattle-Tacoma-Bellevue Metropolitan Statistical Area. The Spokane Metropolitan Area consists of Spokane County with a population of 451,200. Spokane is not proximate to any larger metropolitan area.

With respect to the Guild's proposed comparables, I note the following. First, RCW 41.56.465(2) does not provide a preference of comparability to Washington jurisdictions. Second, I note the legislature specifically provided a preference of comparability to Washington jurisdictions in interest arbitration involving employees listed in RCW 41.56.030(7)(e) through (h) and the legislature omitted such a preference for Washington comparables for employees listed in RCW 41.56.030(a) through (d).

I can only conclude that if a preference was meant to be given to Washington comparables in all instances, the legislature would not have distinguished between interest arbitrations involving different employees. Accordingly, I find it would be improper to give a preference to a Washington jurisdiction solely because it is a Washington jurisdiction. It may be that more emphasis be placed on some of the Washington comparables because they are in the same labor market as Snohomish County, but this is more a question of relative ranking than one of what comparables are appropriate. See generally, Cowlitz County Corrections (Arbitrator Lehleitner, 1995).

With the above discussion in mind, I find both Multnomah County and Washington are appropriate comparables for Snohomish County. As seen

in Table 1, both are within the 50%-150% bandwidth for population and assessed valuation. Like Snohomish County, both Multnomah and Washington Counties are part of large Metropolitan Statistical Areas. While not adjacent to Snohomish County, the Portland Metropolitan area is approximately 200 miles away and it is close to Snohomish County and is Spokane County. Finally, Multnomah and Washington Counties are both part of the Portland-Vancouver-Beaverton Metropolitan Statistical Area with a 2006 estimated population of 2,137,565. This compares favorably to Snohomish County being part of the Seattle-Bellevue-Everett Metropolitan Division which has a 2006 estimated population of 2,496,619.

Having made the above finding, I recognize there may be differences in the way data is collected or reported in Oregon jurisdictions. I will keep in mind my list of Comparables is heavily weighted toward jurisdictions in the Portland-Beaverton Metropolitan Statistical Area.

Accordingly, I find the appropriate Comparables consist of Clark County (WA), Kitsap County (WA), Multnomah County (OR), Pierce County (WA), Spokane County (WA), and Washington County (OR). See Table 2. When compared to Comparables, Snohomish County is third in population and second in assessed valuation. Additionally, Snohomish County is third in per capita assessed valuation.

Of the comparables, I find the most irrelevant Comparable is Spokane County and the most relevant Pierce County. Even though Kitsap is smaller and has a lower assessed valuation than Spokane County, I find Kitsap County is a more relevant Comparable than Spokane because of its assessed valuation per capita and its geographical proximity to Snohomish County. Furthermore, to a limited extent, Kitsap County and Snohomish County share a similar economy with their common neighbor, King County. The disparity between Spokane and the other Comparables is more dramatically seen in the assessed valuation per capita where Spokane County is far below any of the other Comparables.

County	2007 Pop	R A N K	2007 Pop as a % of SNO	2006 Assessed Valuation in (000)	R A N K	AV as a % of SNO	Per Capita Assessed Valuation in (000)	R A N K
Snohomish	688,300	3	100%	\$84,124,485	2	100%	\$123	3
Clark	415,000	6	60%	\$42,831,709	5	51%	\$103	5
Kitsap	244,800	7	36%	\$28,579,488	7	34%	\$117	4
Multnomah	701,545	2	102%	\$87,156,706	1	104%	\$124	2
Pierce	790,500	1	115%	\$78,973,988	3	94%	\$100	6

Spokane	451,200	5	66%	\$31,028,466	6	37%	\$ 69	7
Washington	500,585	4	73%	\$63,862,044	4	76%	\$128	1
STATISTICAL COMPARISONS								
Comps > SNO	2	XXXXX XXXXX	1	XXXXXX XXXXXX	2	XXXXX XXXXX		
Comps < SNO	4	XXXXX XXXXX	4	XXXXXX XXXXXX	3	XXXXX XXXXX		
RANGE		XXXXX		XXXXXX		XXXXX		
Max	+2%	XXXXX	+4%	XXXXXX	+2%	XXXXX		
Min	-33%	XXXXX	-76%	XXXXXX	-44%	XXXXX		
Average w/o SNO	517,272	XXXXX XXXXX	\$55,405,400	XXXXXX XXXXXX	\$107	XXXXX XXXXX		
Median w/o SNO	500,585	XXXXX XXXXX	\$63,862,044	XXXXXX XXXXXX	\$103	XXXXX XXXXX		

I find Pierce County the most relevant because it is close in size and assessed valuation to Snohomish County and most importantly because the two counties have a high degree of social and economic integration with King County which is sandwiched between the Snohomish and Pierce Counties. As Mentioned previously, Peirce, King, and Snohomish Counties together comprise the Seattle-Tacoma-Bellevue Metropolitan Area. Furthermore, both Parties' selected Pierce County as a comparable. Finally, the data relating to Pierce County will be of a similar nature as opposed to the Oregon Comparables which may have anomalies in the collection or reporting of statistics vis a vis the Washington Comparables.

(Footnotes omitted).

As noted above, Arbitrator William F. Reeves ultimately decided to use six comparators for the interest arbitration between the parties in 2007. These comparators were, Pierce, Spokane, Clark, and Kitsap counties from Washington State and Multnomah and Washington counties from Oregon State. *See*, County Ex. 28 at 25.

The third interest arbitration between Snohomish County and the Guild was heard before Arbitrator Michael E. Cavanaugh, J.D. with a decision issued on March 6, 2017. *See*, County Ex. 27/Guild Ex. 8. It in relevant part provides at pages 5 through 10 as follows:



The parties agree that Pierce and Clark Counties in Washington are appropriate comps, in addition to Multnomah and Washington Counties in Oregon. The County proposes to continue use of the Oregon jurisdictions as well as the other comparators utilized by Arbiter Reeves, including Spokane and Kitsap Counties in Washington. The County concedes that Kitsap County falls below the “-50%” cutoff, but argues that I should nonetheless continue to treat it as an appropriate comparable because of the bargaining history. The County also contends that the populations of Kitsap and Snohomish Counties remain roughly in the same relationship to each other now as they did at the time of Arbiter Reeves’ decision (-64.10% in 2007 as compared to 66.02 % now). *See*, County Brief at 21. In addition, the County notes that of all the proposed camps, Kitsap most closely approximates Snohomish in “relative affluence,” i.e. in financial resources as judged by assessed valuation per capita. *See*, County Brief at 23-24.

Similarly, the County notes that Arbiter Reeves also used Spokane County as a comp in 2007, despite what the Guild, with justification, labels as the very different labor market East of the “Cascade Curtain.” As with Kitsap, however, the County appeals to bargaining history in support of the use of Spokane County in the analysis. The Guild notes, however, that the history is more complicated than the County implies, pointing to the fact that Arbiter Reeves only considered Kitsap and Spokane because Arbiter Wilkinson, in a proceeding involving Snohomish Corrections Sergeants a few months earlier, had done so. *See*, Guild Brief at 17. In that prior proceeding, Spokane had been proposed by the union representing the Sergeants, and the union also agreed to consider Kitsap – without necessarily conceding that it met the statutory definition of a jurisdiction of “similar size.” Consequently, Arbiter Wilkinson included both in her analysis without respect to whether Kitsap actually fell within the traditional “-50%” range. *See* Exh. E-5 at 22. Arbiter Reeves then followed suit, while at the same time expressing reservations about the appropriateness of those Counties as comparators under the statutory criteria. *See*, Exh. E-5 at 23. Under these circumstances, says the Guild, the Arbitrator should not consider himself bound by the history with respect to either Spokane and Kitsap.

I agree with the County that the parties’ bargaining history is important, if only because remaining true to the parties’ past use of comparator jurisdictions, especially when they have been selected by mutual agreement, lends stability to the process and to the ongoing collective bargaining relationship. But there has been no prior agreement between these parties that Spokane and Kitsap were appropriate comparators. Rather, a different union with the facility proposed Spokane, for whatever reason, and did not strenuously object to Kitsap. Thus, then years ago these two jurisdictions found their way into Arbiter Wilkinson’s analysis,

at least in an informal sense with respect to Kitsap and Arbiter Reeves felt “compelled” to follow suit a few months later.

That history is not exactly one that reflects a joint and well-considered agreement by the parties that Kitsap and Spokane should continue to influence the terms and conditions of the CD’s in Snohomish County. And in any event, the importance of bargaining history fades with time, especially when a jurisdiction formerly used in the analysis, such as Kitsap here, clearly falls outside the test uniformly used by interest arbitrator to set a lower limit on the “similar size” criterion, i.e., the “-50%” cutoff. The same is true, in my view, for jurisdictions that clearly fall outside the relevant labor market. For those reasons, I find both Kitsap and Spokane should be excluded from the analysis here.

Turning to the Oregon jurisdictions, I agree with the County (and the Guild’s expert witness) that the use of Oregon comparators presents analytical difficulties, even though Multnomah and Washington Counties were used in 2007 and have been proposed by both parties here. As noted, however, the statute specifically allows for jurisdictions on the West Coast, and given that it is difficult, if not impossible, to find an adequate set of comparators for Snohomish County within the Puget Sound region, the Portland-Vancouver metropolitan area is the next best thing. The parties have agreed, for example, that Clark County (Vancouver, Washington) should be utilized (but for the Columbia River) on the Oregon side of the border. The differences Mr. Finkelstein noted in his testimony may be taken into account, of course, in determining what the comparisons actually mean in the context of analyzing wages and working conditions for Snohomish CDs, but I find it necessary to include some Oregon jurisdictions in order to reach an adequate pool of comparators and to achieve some balance in the size of the pool.

On the other hand, the analytical difficulties presented by the Oregon jurisdictions caution against adding another Oregon County to the mix as the Guild has proposed, i.e. Clackamas County. As an additional reason for caution, the Clackamas bargaining unit contains employees beyond corrections staff, i.e. it also includes patrol deputies, medical examiners, and others. See Guild Exb. H.A.4 at 6 (Article I, Section I). That fact would add even more anomalies to an analysis that already includes both Washington and Oregon jurisdictions and their differing responsibilities and revenue streams. I also note that Clackamas would increase the heavy representation of the Portland-Vancouver metro area in the analysis, i.e. Clark County, Multnomah County, and Washington County already represent that metro area, and already predominate over the two Washington comps which are themselves located some distance from Snohomish (Clark and Pierce). For all these reasons, I decline to add Clackamas as a comparable.

In sum, I shall utilize the following jurisdictions in the comparability analysis: Pierce and Clark in Washington; and Washington and Multnomah Counties in Oregon. This cohort of comparables is smaller than I would like, but I find it to be adequate for this proceeding in light of the difficulty of finding additional comparators consistent with the statutory criteria.

(Footnotes omitted).<sup>3</sup>

Accordingly, Arbitrator Michael E. Cavanaugh selected 4 of the counties used by Arbitrator Reeves as comparators, Pierce, Clark, Washington, and Multnomah, but excluded Kitsap and Spokane. *See*, County Ex. 27 at 9/Guild Ex. 8 at 9.

While considering the bargaining history of the parties as it relates to comparators, your Arbitrator continues his analysis of appropriate comparators with the population chart set forth in the County’s Closing Brief at page 19. An appropriate comparator for these factors falls within a 50% to 150% bandwidth.

TABLE 1: POPULATION

COUNTY	2017 Population Est.	Diff from Snohomish	2019 Population Est.	Diff from Snohomish
Pierce (WA)	859,400	+8.87%	888,300	+8.50%
Snohomish (WA)	789,400	-----	818,700	-----
Spokane (WA)	499,800	-36.69%	515,250	-37.06%
Clark (WA)	471,000	-40.33%	488,500	-40.33%
Kitsap (WA)	276,900	-66.52%	285,800	-67.01
Multnomah (OR)	803,000	+1.72%	821,730	+0.04%
Washington (OR)	595,860	-24.52%	613,410	-25.08%

All of the counties proposed by the County and the Guild fall within the 50% to 150% bandwidth. It is significant to note that neither party suggested Kitsap County, but the County included it as part of the parties bargaining history.

<sup>3</sup> Footnote 10 to Arbitrator Cavanaugh’s decision and award provides “The County reluctantly accedes to the use of the Oregon jurisdictions because they have been used “historically,” i.e. Arbiter Reeves used them in a prior interest arbitration between the parties in 2007. *See*, County Brief at 20.

Your Arbitrator continues his analysis with the customarily accepted factor of assessed valuation, set forth in the County's Closing Brief at 19.

TABLE 2: ASSESSED VALUATION (in dollars)

COUNTY	2017 Assessed Valuation	Diff from Snohomish	2019 Assessed Valuation	Diff from Snohomish
Snohomish (WA)	\$117,506,038,841	-----	\$144,354,459,717	-----
Pierce (WA)	\$100,141,886,919	-14.78%	\$124,617,717,801	-13.67%
Clark (WA)	\$ 56,730,413,938	-51.72%	\$ 68,659,416,914	-52.44%
Spokane (WA)	\$ 44,093,844,529	-62.48%	\$ 52,969,824,314	-63.31%
Kitsap (WA)	\$ 34,016,038,164	-71.05%	\$ 42,137,381,313	-70.81%
Multnomah (OR)	\$ 75,599,622,697	-35.66%	\$ 82,290,831,090	-42.99%
Washington (OR)	\$ 59,433,948,215	-49.41%	\$ 64,971,433,212	-54.99%

Only two of the counties proposed by the County and the Guild fall within the 50% to 150% bandwidth, Pierce County in Washington and Multnomah County in Oregon. Clark County is the next closest to the bandwidth at -52.44%, followed by Washington County at -54.99%, Spokane County at -63.31%, and Kitsap County at -70.81%.

Your Arbitrator next considers Assessed Valuation Per Capita. The County introduced Table 3 to show the relative affluence of the listed counties as a comparison Snohomish County. *See*, County Closing Brief at 20.

TABLE 3: ASSESSED VALUATION PER CAPITA (in dollars)

COUNTY	2017 Assessed Valuation/Capita	Diff from Snohomish	2019 Assessed Valuation/Capita	Diff from Snohomish
Pierce (WA)	\$135,730.32	+7.78%	\$162,506.43	+6.76%
Snohomish (WA)	\$126,858.23	-----	\$152,214.14	-----
Spokane (WA)	\$113,506.23	-10.53%	\$133,254.66	-12.46%
Clark (WA)	\$ 93,617.50	-26.20%	\$108,433.62	-28.76%
Kitsap (WA)	\$128,702.38	+1.45%	\$156,006.60	+2.49%
Multnomah (OR)	\$ 94,146.48	-25.79%	\$100,143.39	-34.21%
Washington	\$ 99,761.66	-21.36%	\$105,918.44	-30.41%

(OR)				
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All of the counties fall within the 50% to 150% bandwidth. It is noticeable that Spokane County is at -12% while Washington County is at – 30.41%. This factor is acceptable, but does not carry as much weight, absent a good reason, as population, assessed value, and geography.

Your Arbitrator next considers the “Regional Price Parity Index.” The Guild introduced the Regional Price Parity Index to illustrate how far a dollar will go in the proposed comparators. Guild’s Closing Brief 5. This is also an acceptable factor, but like assessed value per capita, does not carry as much weight, as a general proposition, to population, assessed value, and geography.

TABLE 4: REGIONAL PRICE PARITY INDEX

COUNTY	MSA	RPPI	Difference	Wage Adjustment
Snohomish (WA)	Seattle-Tacoma-Bellevue	112.9	0.00%	0.0%
Clark (WA)	Portland-Vancouver	103.8	-8.77%	8.8%
Multnomah (OR)	Portland-Vancouver	103.8	-8.77%	8.8%
Washington (OR)	Portland-Vancouver	103.8	-8.77%	8.8%
Pierce (WA)	Seattle-Tacoma-Bellevue	112.9	0.00%	0.0%
Spokane (WA)	Spokane-Spokane Valley	95.8	-17.85%	17.8%

This index shows that it is less expensive to live in Spokane than it is in any of the other comparators along the I-5 corridor. A dollar goes further in Spokane County than it does in any other County, including of course, Washington County or Snohomish County.

Your Arbitrator notes that the County and the Guild agreed that four (4) counties constitute a sufficient pool of comparators to Snohomish County and that appropriate comparators are the Washington counties of Pierce and Clark and Multnomah County in Oregon. Both agree that Kitsap County should be excluded. However, the parties disagree on which county should be the fourth county to join the pool. The County argues that Spokane County should be used in place of Washington County. The Guild argues that the fourth county should be Washington County in Oregon.

Your Arbitrator shall now decide which County, Washington or Spokane should be included in the pool of four (4) comparators for the purposes of interest arbitration before him.

The chart immediately below, was created by your Arbitrator with data from the Employer’s Closing Brief at pages 19 – 22. It illustrates how Spokane County and Washington County compare to Snohomish County in regard to population, assessed value, and assessed value per capita.

County	Pop 2019	Difference from Snohomish 2019	Assessed Valuation 2019	Difference from Snohomish 2019	Assessed Valuation per Capita 2019	Difference from Snohomish 2019
<b>Snohomish</b>	818,700	-----	\$124,617,717,801	-----	\$152,214.14	-----
<b>Spokane</b>	515,250	-37.06%	\$52,969,824,313	-63.31%	\$133,254.66	-12.46%
<b>Washington</b>	613,410	-25.08	\$64,971,433,212	-54.99%	\$105,918.44	-30.41%

When your Arbitrator compares the populations of Spokane County (-37.06%) and Washington County (-25.08%) to Snohomish County, Washington County is clearly the better comparator.

Likewise, when your Arbitrator considers the Assessed Valuation of Spokane County (-63.31%) and Washington County (-54.99%) to Snohomish County, Washington County is again the better comparator.

When your Arbitrator considers the assessed valuation per capita of Spokane County (-12.46%) and Washington County (-30.41%) to Snohomish County, Spokane County is clearly a better comparator than Washington County.

Geographic proximity is the third most commonly used factor to determine appropriate comparators. Snohomish County is closer to Washington County than it is to Spokane County. Washington County, like Snohomish County is also along the I-5 Corridor. Snohomish County is also next to the largest county in Washington State, King County, which houses the largest city in Washington State, Seattle, and they share, to a limited extent, a similar economy. *See*, County Ex. 26 at page 25. Similarly, Washington County is next to the most populated County is Oregon, Multnomah County, which contains the largest city in Oregon, Portland.

Spokane, while in Washington State, is not located along the I-5 corridor, but is located along the I-90 freeway to Eastern Washington State on the other side of the Cascade mountains. In addition, Spokane County has no large economic neighbor to rely upon, which is unlike Snohomish County which shares a similar economy and labor market with its neighbor, King County, or Washington County, which shares a common border with Multnomah County. Spokane is also further in terms of miles than Washington County is from Snohomish County.

It is significant to note that Arbitrators Reeves and Cavanaugh, whose comparator analyses are set forth above, both found that geography fell in favor of Washington County over Spokane County, when compared to Snohomish County, for the same reasons as your Arbitrator.

In the interest arbitration decided by Arbitrator Cavanaugh, decided on March 6, 2017, the parties agreed that the Washington counties of Pierce and Clark and the Oregon counties of Multnomah and Washington were appropriate comparators. *See*, County Ex. 27 at page 5. Your Arbitrator must also give substantial weight to bargaining history in terms of the comparators that the parties previously agreed to use.

Arbitrator Reeves, in his decision issued approximately ten (10) years earlier, on December 26, 2007, also used these four counties as comparators, in addition to Spokane and Kitsap, which were stricken by Arbitrator Cavanaugh. *See*, County Ex. 28 at 24. Your Arbitrator agrees with Arbitrator Cavanaugh's conclusion that Arbitrator Reeves considered Spokane and Kitsap because of bargaining history. It is significant to note that Arbitrator Reeves expressly stated that Spokane was the least relevant in his analysis. He also expressly stated that he considered Kitsap more relevant than Spokane and Spokane evidently was not given much weight. *See*, County Ex. 28 at 25.

On the balance, the factors that support the Guild's position for Washington County to be included in the pool of comparators are population, assessed valuation, geography, the Regional Parity Index, and the bargaining history of including Multnomah and Washington counties in their two previous arbitrations before Arbitrators Reeves and Cavanaugh. The County has only one factor that supports its position for using Spokane County as a comparator, assessed valuation per capita.

Bargaining history regarding comparators selected by other arbitrators is exceptionally important and should not be disturbed except for exceptionally good cause. If an arbitrator disagrees with a previous arbitrator's comparators, the arbitrator can



always give what he/she deems with disfavor little weight, with a rational reason rather than striking the comparator.

The County relied upon the arbitration decision between the Pierce County Corrections Guild and Pierce County for the proposition that Correction Officers are not “like personnel” within the meaning of RCW 41.56.456. *See*, County Ex. 37 at 12-14.

This interest arbitration hearing was considered by an arbitration panel consisting of Denise Greer (County), Eamon McCleery (Union), and neutral arbitrator Gary L. Axon in 2018. As stated:

While Pierce County recognizes that Washington County meets the similar size test, the County asserts that Washington County does not meet the “like personnel” component. In Washington County, the classifications of jail deputy and law enforcement deputy are in the same bargaining unit and are paid the same rate. Thirty Washington County deputies have chosen to dual certify and thus perform both correction and road deputy duties, which is encouraged by Washington County. The dual certified deputies are able to move back and forth between jail and road deputy positions, filling in as needed.

In Washington State, there is a clear pattern of significant pay differences between deputy sheriffs and correction deputies. In sharp contrast, Washington County employees are all paid the same...

The parties agree to two Washington counties and one Oregon county as the appropriate comparators to provide guidance to the establishment of wages, benefits, and working conditions for Pierce County correction officers. In this case, the dispute is whether to add Spokane County or Washington County, Oregon to the list of three counties that will establish a balanced group of like employers.

The Arbitration Panel rejects the Guild’s proposal to add Washington County, Oregon to the list of comparables. If Washington County were added to the list to establish the four comparators, this would yield two counties from Washington and two counties from Oregon. In the judgment of this Arbitration Panel, the use of two Oregon counties would give too much weight

to out-of-state jurisdictions in setting wages and working conditions of Pierce County deputies. This Arbitration Panel agrees with the statement of arbitration Wilkinson that arbitrators prefer “Washington jurisdictions from those of other states because of the difficulty of comparing collective bargaining law, statutory benefits, labor markets, and the cost of living. Snohomish County Correction, Case Number 20802-I-06-0488 (2007). Specifically, Oregon counties have the PERS pick-up that is prevented from being adopted in Pierce County because of Washington State law. In addition, Washington residents are well aware of the fact that Oregon does not have a sales tax.

The bottom line is that Pierce County is not an Oregon county. The statute defines comparable jurisdictions as ones of “like personnel” or “like employers of similar size” on the west coast of the United States. RCW 41.56.465. While the Arbitration Panel recognizes that Washington County meets the “similar size” test, the Panel agrees with the County that there are some unique factors in Washington County that argue against making it an appropriate comparable for failure to meet the “like personnel” part of the statutory requirement.

In Washington County, the classifications of jail deputy and law enforcement deputy are in the same bargaining unit and they are paid the same rates. Spokane County correctional officers are paid on the same rate structure as Pierce County correctional officers. Road deputies in Pierce County are not part of the same bargaining unit, nor are they paid the same rate.

While it is recognized that there are significant differences between Oregon and Washington taxing authority, retirement plans, cost of living, statutory framework, and combined with the fact that the road deputies and jail correctional officers are covered by the same collective bargaining unit with equal pay for both groups of employees, the Arbitration panel is not convinced that adding a second Oregon county will provide a reasonable and fair balance to use as a guide to determine the wages and benefits for Pierce County Washington’s corrections deputies.

The Arbitration Panel cannot ignore the fact that in two prior arbitration awards involving Pierce County employees, arbitrators utilized Spokane County as a comparator. The Arbitration Panel agrees with the County that consistency in comparables is a valid reason for following precedent. Spokane County and Washington County are both within 50% of the population of Pierce County. Interest arbitrators uniformly utilize population for comparable

employers. While Spokane is at the bottom of the comparators in assessed valuation per capita, it is well within the range of assessed valuation of Pierce and Multnomah. The same hold true with per capita income where Peirce County is at \$46,706 and Spokane is at \$43,028.

Based on all of the above-stated reasons, the Arbitration Panel concludes the evidence should be confined to three Washington counties and one Oregon County.

Arbitrator Axon, the neutral member of the Arbitration Panel announced that Spokane County would be included in a pool of four comparators and that Washington County would be excluded. This issue was evidently not raised for consideration by Arbitrator Reeves or Arbitrator Cavanaugh.

The County has argued that Snohomish County Corrections Officers are not “like personnel” when compared to the Washington County Jail Deputies for reasons stated by Arbitrator Axon. The collective bargaining agreement between the Washington County/Washington County Sheriff’s Office and the Washington County Police Association, reflects the Union represents several classifications of law enforcement personnel. Your Arbitrator sees nothing remarkable with the Union representing several classifications of employees within one collective bargaining agreement.

The evidence establishes that Snohomish County Corrections Deputies and Patrol Deputies have different pay rates (County Ex. 37 at 12, Tr. at 133), have different medical plans (Tr. at 132), and retirement plans (County Exs. 18, 24, 25, Tr. at 133). The evidence also shows that in Washington County, a “Jail Recruit Deputy,” a “Police Corp Recruit” and a “Recruit Deputy” are paid the same salary in Washington County and receive the same health benefits indicates that the “like personnel” requirement of RCW 41.56.465(2) has not been met. *See*, Guild Ex. 5d. at 35-37, 54-55.

Your Arbitrator is persuaded that Spokane County, with all its deficiencies, should be included as a comparator with Pierce (WA), Clark (WA), and Multnomah (OR) in the pool of comparators for purposes of the interest arbitration before your Arbitrator. Washington County, given the “like personnel” requirement of RCW 41.56.465(2), is inferior to Spokane County. Your Arbitrator cannot keep Washington County in a pool of five comparators given the “like personnel” requirement of RCW 41.56.465(2).

The “like personnel” requirement is a statutory requirement. It is not a factor, i.e., assessed valuation or assessed valuation per capita, which arbitrators are not mandated to follow.

As comparators to Snohomish County, your Arbitrator finds that the most relevant county is Pierce County, followed by Clark County and Multnomah County. Like Arbitrator Reeves, your Arbitrator finds that Spokane County is the least relevant county as a comparator to Snohomish County.<sup>4</sup>

**VI. F. OTHER FACTORS NORMALLY AND  
TRADITIONALLY TAKEN INTO CONSIDERATION  
IN THE DETERMINATION OF WAGES, HOURS,  
AND CONDITIONS OF EMPLOYMENT**

The Revised Code of Washington, Section 41.56.465 provides that arbitrators shall consider other factors normally considered by arbitrators in determining wages, hours, and conditions of employment. The factors are not specified. Nor is there any guidance as to how much weight to allocate to such a factor. Such factors traditionally include, but are not limited to, the ability to pay, bargaining history, retention and recruitment, and internal parity, aka, internal equity.

**VI. F. 1. ABILITY TO PAY**

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<sup>4</sup> Your Arbitrator, while using Multnomah County as a comparator, shall be mindful that it is an Oregon county and that Oregon has different laws from Washington especially those laws that relate to taxation, collective bargaining, and retirement.

The ability to pay is a broad and relative factor. It includes, but is not limited to, the size of the employer, the ability of the employer to generate revenue, the employer's fiscal health, general economic conditions, and the size of the Employer and the Union. There is no set formula that arbitrators use to determine an employer's ability to pay.

Many employers in Washington State, like Snohomish County, are experiencing revenue decreases due to a decline in sales taxes collected by businesses. This is the result of Government "stay-at-home" orders and restrictions on businesses during the current COVID-19 pandemic. The current pandemic is cited in Snohomish County Quarterly Budget, dated March 31, 2020. It in relevant part provides:

#### Covid Overview

In January 2020 one of the first confirmed cases of Coronavirus in the United States was identified in Snohomish County. County Executive Dave Somers and Governor Inslee both declared a state of emergency. In March, the Governor announced the Stay Home Stay Healthy Order, which prohibited non-essential businesses from operating and restricted many activities for all Washingtonians. Since Governor Inslee's stay at home order, sales tax revenues dropped steadily along with many other General Fund Revenues. Sale tax receipts for March 2020 were 23% below the same time period in 2019. The unemployment rate was 20.2%.

#### General Economic Overview

Real gross domestic product (GDP) – the net value of the production of goods and services in the United States, adjusted for price changes – decreased at an annual rate of 4.8% in Q1 2020, according to the "advance" estimate released by the Bureau of Economic Analysis on 4/29/20. Real GDP increased 2.1% in the previous quarter (Q4 2019).

March consumer confidence indicators were down sharply compared to February. The Conference Board index of consumer confidence decreased by 12.6 points in March to 120.0. The University of Michigan (UM) consumer sentiment index decreased 11.9 points to 89.1 in March. However, the preliminary April survey from UM released on April 9<sup>th</sup> declined to 71.0, the largest monthly drop in the survey's history.

According to the state's Economic and Revenue Forecast Council (ERFC), Washington employment growth is expected to be 1.8% in 2020 and should grow only 1.0% in 2021 – 2023. Again, this information is based on pre-COVID 19 Health Emergency.

*See, County Ex. 11*

The ability to pay is a factor that can fall in favor of either an employer or a union depending upon the fiscal health of the employer. It is often the strongest factor an arbitrator uses to determine if he/she is going to accept an employer's proposal, a union's proposal, or award contract language not proposed by either party.

Although the Article 10 issue before your Arbitrator concerns the health plan of the Guild's Corrections Officers, the County has acknowledged that its proposal will not cost the County much more, if anything, to maintain the County's current health plan for the Guild's bargaining unit. See the following exchange between Mr. Follis and Mr. Nathan Daniel Kennedy, the County's Finance Director.

Mr. Nathan Daniel Kennedy testified that the County's Article 10 proposal had nothing to do with cost savings, it was more about "administrative burdens."

Mr. Kennedy: Yes. My understanding is they have two health insurance plans that have been around for a while. They're not conformant to the rest of the AFSCME plans and the non-rep plans. Yes, we are trying to convert them over. That's what this is all about.

Mr. Follis: Have you calculated how much money it would save the County, or would have saved the Union in 2020 if the Guild's old plans were eliminated and they were put on these two new plans?

Mr. Kennedy: No, because basically the plans are relatively comparable in overall cost and benefits. It's not so much a matter of cost savings. It's more a matter of economics to scale and the administrative burden.

Mr. Follis: You don't have anything you can show the Arbitrator in this case where any analysis was done by anyone from the County anywhere about how the current two plans that are going to affect Guild is costing the County any significant money? There is just nothing like that; is that true?

Mr. Kennedy: The County Finance Department has not. Potentially Aon has. But the County Finance Department has not. No.

Mr. Follis: You're not aware of any such discussion or analysis, that fair?

Mr. Kennedy: I'm only aware that I know AON as looking at the comparability of the plans in terms of overall benefits and cost structure. They would be the one that would testify on that.

Mr. Follis: There's nothing that's ever reached your desk as far as, you know, hey, if we change the Guild and get them off these two old plans we can save x dollars, that's nothing that's ever come to your attention?

Mr. Kennedy: No The purpose of this is not to save large amounts of money, no. That's not the purpose. Because, like I said, if they have comparable plans, you're not going to save money. There was also an exchange between Mr. Follis and Doris Holzer, the account executive from AON.

Mr. Follis: And part of the vast experience includes these two plans the Guild is currently on that the County is proposing to eliminate; is that correct?

Ms. Holzer: That's correct.

Mr. Follis: And as far as – you know, you've talked a lot about administrative efficiencies, and I think you said, well, I can guess this and I can speculate the insurance company does that, but as far as putting any kind of a dollar figure on an administrative efficiency, you just can't do that, can you?

Ms. Holzer: No, it's very difficult.

Mr. Follis: And nobody asked you to do that, did they?

Ms. Holzer: No.

Mr. Follis: Nobody ever asked you to investigate, hey, you know, if we ended these two plans for the Guild and transferred everyone to these other insurance plans like we're proposing, I want you to investigate how much money that can save us or how much time that can save us or how much your bill would be less, there's been no conversations like that whatsoever, have there?

Ms. Holzer: Not in any way, no.

Tr. at 195-196.

The County has the ability to pay for the current health care plan (Regence Select 17). It is not concerned about cost, believes the cost will not be significant, and has not done any analysis to determine if the County will pay more or less, in terms of dollars, to justify it's proposal. This factor falls in favor of the Guild.

#### **VI. F. II. RETENTION AND RECRUITMENT**

A factor traditionally used in interest arbitrations are problems relating to retention and recruitment. No evidence was introduced by either party regarding retention and turnover, although the Guild did present evidence relating to the difficulties bargaining unit members face when working in the jail, with inmates, and the threat of COVID-19. Hence, this factor has not been used by your Arbitrator in determining whether to adopt the proposal of the County or the Union.

#### **VI. F. III. BARGAINING HISTORY REGARDING ARTICLE 10.**

Part of Arbitrator Reeves' interest arbitration award in 2007 concerned Article 10. At that time, Guild members could enroll in one of three medical plans offered by the County, the Regence Selections, the Regence PPO, and the Group Health options. The Regence Selections plan was an "in-network plan. The Regence PPO offered the most flexibility in terms of physician selection. The Group Health plan offered the least flexibility in terms of physician selection.

Under the terms of the CBA at this time, the County's contribution to a Guild member's health insurance benefits was capped at \$508.88 and the employee paid the difference between the premium and the County's contribution. The County's cap led to an increase in an employee's monthly contribution. For example, for the Regence PPO family plan, an employee's contribution in December 2004 was \$223.00 but at the time



Arbitrator Reeves wrote his opinion and award on December 26, 2007, an employee's coverage for the same plan was \$496.00

The County proposed new language that would place a cap on an employee's monthly contribution. Bargaining unit members would pay the same amount as the employees represented by AFSCME or the Teamsters, and the County's unrepresented employees. The Guild proposed that employees pay 5% of monthly insurance premiums, not to exceed \$100.00 and a provision that would maintain current benefits.

Arbitrator Reeves adopted the County's proposal, but stated that he would consider his decision when he discussed the issue of wages. His decision was largely based upon the comparators he used and the need for internal equity. Arbitrator Reeves stressed that he understood the need for a uniform copay. Your Arbitrator agrees with the legal reasoning in Arbitrator Reeves' decision and award.

Article 10 issues were once again raised in interest arbitration before Arbitrator Cavanaugh's in 2017. Snohomish County proposed two changes to Article 10. The first was a "cost-sharing" provision for future premium increases. Bargaining unit employees would pay for 20% of premium increases and the County would pay for the remaining 80%. The County also proposed the elimination of the Regency 200 PPO Plan.

Arbitrator Cavanaugh noted that the comparators of Clark, Multnomah, and Washington counties had employee share agreements which capped the employees share at 5% and that Pierce County picks up the first 6% of any premium increase. Hence, he awarded the proposal of the County, but rather than awarding the 80/20 % split as proposed, he awarded a 95/5% split. Your Arbitrator also agrees with the legal reasoning set forth in Arbitrator Cavanaugh's decision and award.

Arbitrator Cavanaugh did not go into the details of these plans. Since the Union provided the collective bargaining agreements of the comparator counties utilized by Arbitrator Cavanaugh, your Arbitrator was given an opportunity to review the medical provisions of these plans.

The medical plan language in the CBA between Pierce County and the Pierce County Corrections Guild, effective January 1, 2019 through December 31, 2020, indicates that Corrections Officers pay 0.056% of monthly medical premium, but the rate was increased up to 6% of the 2019 premium cost. It provides in relevant part as follows:

14.1 – Medical. Effective January 1, 2019, the County agrees to pay to the Washington Teamsters Welfare Trust c/o NORTHWEST ADMINISTRATORS, INC., for each active (non-separated) eligible regular employee who received compensation for eighty (80) hours or more in the previous month (cash outs of accrued leave upon separation shall not count toward the eighty (80) hours of compensation in a month), the following premiums for the period of January 1, 2019 through December 31, 2019 as follows:

The current rates for 2019 are as follows:

	Premium	County Pays	Employee Pays
Medical “Plan A” or Kaiser	\$1,433.00		
Vision-Plan EXT	\$ 17.30		
Total Monthly Premium...	\$1450.30	\$1368.33	\$ 81.97

14.9 For the calendar year 2020, effective January 1, 2020 and for the 2020 calendar year, the County will pay up to the first 6% increase (above the 2019 premium amount) of the total monthly premium for the Teamsters Plan A medical/vision insurance plan. Any increase above 6% will be picked up by the employee, through automatic payroll deduction. Regular part-time employees will pay this increase in addition to their additional pro-rata share of the premium. However, for those employees enrolled in Plan A, at no time during 2020 shall a full-time employees’ portion exceed 9% of the premium for Teamsters Plan A medical/vision insurance. If the premium increase paid by the employees enrolled in Plan A reaches 9% after the County has paid the first 6% of the premium

increase, the County shall pay any remaining amount that exceeds 9% of the premium, in addition to the first 6%.

*See*, Guild Ex. 5a at pages 25 and 27.

The medical plan language in the CBA between Clark County and the Clark County Corrections Deputy Guild, effective January 1, 2019 through December 31, 2021, indicates that Corrections Officers pay 0.05% of monthly medical premium. It provides in relevant part as follows:

The County shall maintain Health Insurance coverage (including medical, dental and vision). The County shall pay ninety-five percent (95%) of the premium cost for such coverage and the employee shall pay five percent (5%) of the premium cost. Premium cost will be on a tiered basis as determined by the weighted average based on CDG enrollment.

*See*, Guild Ex. 5b at 30.

The medical plan language in the CBA between Multnomah County and the Multnomah County Corrections Deputy Guild, effective 2017-2022, indicates that Corrections Officers, for 2019 paid between 5% and 7.5% for the monthly medical premium, depending upon the plan chosen. It provides in relevant part as follows:

2019 Health Plans	County Contribution	Full-Time Employee Contribution
Revised MODA Plan – PPO 400	92.5%	7.5%
MODA Major Medical Plan	100%	0%
Kaiser Medical Plan	95%	5%

*See*, Guild Ex. 5c at 21.

The medical plan language in the CBA between the Washington County/Washington County Sheriff’s Office and Washington County Police Officers’ Association, effective 2019-2022, indicates that Corrections Officers, for 2019, payed

between 5% and 10% of monthly medical premium, depending upon the plan chosen.<sup>5</sup> It provides in relevant part as follows:

...Effective January 1, 2018, each plan under the PPO and HMO will have its own established rate based on actuarial cost of the plan. The County's maximum contributions for medical, dental and vision will be 90% for the plan selected by the employee.

For those employees that meet the Wellness points requirements for the plan year 2018, the County's maximum contribution for medical, dental, and vision will be 95% for the selected plan by the employee...

Should health insurance premiums effective January 1, 2020 or January 21, 2021 increase by 10 percent (10%) or more over the preceding year, either the County or the Association may reopen discussion concerning the restructuring of contribution rates and/or restructuring of benefit plan design. The parties agree to a forty-five (45) day mid-term bargaining period in the event a reopener is exercised.

*See*, Guild Ex. 5d at 35.

Arbitrator Cavanaugh also granted the County's proposal to remove the Regence 200 PPO Plan because only two bargain unit members and only three in the County, used the plan. He concluded that maintaining the plan for 2 bargaining unit members was outweighed by the administrative burden of "negotiating and administering a plan for so few employees - - creating spreadsheets and plan documents, distributing them, as well as the extra work for the third party actuary - cannot be justified with such a small pool."<sup>6</sup>

It is significant to note that Arbitrator Cavanaugh, in justifying the removal of the

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<sup>5</sup> Your Arbitrator included the Washington County medical plan provisions for purposes of showing the bargaining history between the parties and to give context to Arbitrator Cavanaugh's decision and award. Since your Arbitrator has excluded Washington County from the pool of comparators, the medical plan provided to Corrections Officers from Spokane County should be used. *See*, County Ex. 59. Like the Snohomish County medical plan for Corrections Officers, the Spokane County medical plan has 4 tiers. Depending upon the tier, for the Premera Blue Cross Plan, an employee's co-pay can range from 0.499% (Employee) to 0.099% (Employee, Spouse, & Children). For the Kaiser Permanente Plan, an employee's co-pay ranges from 0.500% (Employee) to 0.99% (Employee, Spouse, & Children). There is not much difference between the medical plan provided by Spokane County to bargaining unit employees when compared to the other counties in the pool of comparators.

<sup>6</sup> As a general proposition, for an Employer's proposal to change in the status quo based upon administrative convenience and internal equity, when the change will result in a bargaining unit employee's overall compensation being reduced, the Employer must show either a savings in terms of dollars or hours. An exception to this rule is where the savings is clear and unequivocal, i.e. when Arbitrator Cavanaugh awarded the County's proposal because only two bargaining unit employees were enrolled in the Regence 200 PPO plan.

Regency 200 PPO Plan stated, “Moreover, the County offers a very similar plan, the Regence Selections, which is in fact the plan chosen by most bargaining unit members. Thus, the PPO may be safely dropped.” *See*, County Ex. 27 at 23.

The County now proposes to drop the Regence Select 17 Plan which Arbitrator Cavanaugh saw as a “safety net” for Guild bargaining unit members and add Regence A, Regence B Plan and two Kaiser plans. The Plan Benefit Ratio chart set forth below expresses the percentage of covered medical benefits under each plan. This chart shows that there is not much difference between the Regence Select 17 and Regence A and Regence B. Most County employees have moved from the Regence Select 17 Plan to the Regence B Plan.

Sno County Plan	Regence Select 17	Regence Plan A	Regence Plan B	Kaiser (#1654700)	Kaiser (#16548000)
Plan Benefit Ratio	94%	91.6%	91.9%	94.7%	94.3%

*See*, County Ex. 42

The County also pointed out that the proposed plan benefit ratios are better than the plans of every major comparable jurisdiction considered by the Guild and the County.

Plan/Comparable Jurisdiction	Plan Benefit Ratio
Regence Plan A	91.6%
Regence Plan B	91.9%
Kaiser (1654800)	94.3%
Clark County	89.8%
Multnomah County	86.2%
Washington County	88.6%

Pierce County	90.9/91.7%
Spokane County	83.3%

*See, County Ex. 43.*

The County maintains that the proposed plans are “not significantly different” from the Regence Select 17 Plan. However, the numbers indicate that the Regence Select 17 offers a little more coverage than the County’s proposed plan. The plan benefit ratio for the Regence Select 17 is 94% while the Regence B Plan is at 91.9%. This is a 2.1 % reduction in the plan benefit ratio. The reduction cannot be considered de minimis.

The fact that the County has the best plan benefit ratio when compared to all proposed comparators is impressive. However, the bargaining history regarding Article 10 falls in favor of the Guild’s proposal to maintain the status quo for the reasons stated in Section VI. E. 3. above and the fact that the plan benefit ratio for Guild bargaining unit members, will be reduced by 2.1%, unless the County prevails with its arguments regarding administrative convenience and internal equity.

**VI. F. IV. INTERNAL EQUITY**

Internal equity is an applicable factor when an Employer wishes to move all employees who have similar job functions and wages, usually to the same employee benefit, in the case before your Arbitrator, health benefits. Arbitrators are oftentimes reluctant to apply this factor to bargaining units with dissimilar job functions or different rates of pay.

The County argued that internal equity, aka, internal parity, is good cause for your Arbitrator to find that this factor falls in favor of the County. It argues that the Guild is the only Union that continues to have access to the Regence Select 17 and Kaiser

Permanente (#1654700) plan options. Most employees have moved to the County's proposed Regence B Plan which is the most similar to the Regence Select 17 plan. The County emphasized during the arbitration hearing and in its Closing Brief that every other bargaining group in the County (with the exception of members of the Washington Law Enforcement Officers' and Fire Fighters' Retirement System), 33 bargaining units consisting of over 1,900 employees have agreed during negotiations to be included in three updated medical plans proposed by the County. County's Closing Brief at 16.

The County notes that this includes the Sergeants and Lieutenants bargaining unit, whose members supervise Guild members. In addition, Guild members belong to the same Public Safety Employee Retirement System and are often promoted into the Sergeants and Lieutenants bargaining unit. Tr. at 124. This is good reason to apply internal equity to the Guild members and award the County's proposal.<sup>7</sup> However, a Union witness testified that the Sergeants and Lieutenants bargaining unit agreed to the County's medical proposal, not because they agreed with the proposal, but because the Sergeants and Lieutenants bargaining unit did not want to expend funds to contest the County's change in medical plans. Tr. at 278.

The Guild had no objections to bargaining unit members being consolidated on the same health plan as Patrol Deputies because their medical plan is more similar to the Regence Select 17. The Guild noted that both classifications of employees often carry firearms, must physically confront/control criminals, make arrests, are assaulted, and are exposed to COVID-19.

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<sup>7</sup> Internal equity is one of the weakest factors arbitrators consider (if they do consider it) because work responsibilities, duties, and sometimes, dangers, differ among worker classifications. For example, an administrative clerk who works at the executive branch of the County does not face the dangers Corrections Deputies must face while at work. Nor do they have access to interest arbitration under Washington law. However, the Sergeants and Lieutenants bargaining unit is very similar to the Corrections Deputies bargaining unit and weight should be given to their decision to accept the County's Health Proposal.

However, a close comparison of the job descriptions for Corrections Deputies, County Ex. 16, and Patrol Deputies, County Ex. 22 indicates substantial differences. Patrol Deputies must successfully complete 720 hours of training a condition precedent to obtaining "Peace Officer Certification." To maintain the certification, Patrol deputies must also successfully complete 24 hours of State approved training on an annual basis. This certification is not available to Corrections deputies.

Patrol deputies must also be armed while on duty and pass firearms qualifications. Corrections deputies are not required to be armed except when they transport inmates, are qualified to carry a firearm, and the arrest is pursuant to a court order. Tr. 44.

Patrol deputies have the authority to arrest while patrolling the community. While on patrol, they can enforce civil traffic laws, make arrests for criminal offense. The authority of Corrections deputies to arrest is limited situations involving a court order or when a criminal self-surrenders. Tr. 44.

The law enforcement authority of a Corrections deputy remains within the confines of the Snohomish County Jail (except while transporting inmates) while the authority of a Patrol deputy extends into the Snohomish County community. Tr. at 45.

Your Arbitrator is persuaded by the County that these two classifications of employees are dissimilar. The Corrections deputies are not entitled to the same medical plan as Patrol deputies.

The County, in its Closing Brief, page 5, "administrative convenience," sometime a component of internal equity, and stated as follows:

In order to offer two medical plans exclusive to the Guild bargaining unit as the Guild proposes, the County must deal with additional administrative costs and burdens. In order to maintain these plans, the County must:



- Pay AON (the County insurance broker) to negotiate and contract the legacy plans with Regence and with Kaiser;
- Pay AON to perform rate development and experience reporting and tracking (adds complexity with different sub-groups, rates and contributions);
- Contract with Regence and Kaiser Permanente to create plan documents (Booklets & SBCs) and distribute them (See Exs. 45-49; Exhibits 50-54 Medical Plan Summaries);
- Calculate yearly rates;
- Post and maintain current plan documents and rates on the County's website;
- Ensure COBRA provider has correct plan and eligibility/COBRA open enrollment;
- Prepare for enrollment; explaining the differences between the plan choices and ensuring they enroll in their plan of choice;
- review the plan documents; and
- educate promoted employees on their new plan options.

(Footnote omitted).

The Guild argued that the County's desire for administrative convenience and internal parity, on the balance, is overcome by the out-of-pocket expense to the bargaining unit members.

The Guild further argued that while the County argued "administrative convenience" as the reason to support its proposal for internal equity, it was unable to support its proposal by quantifying, in terms of dollars saved. In your Arbitrator's view, as a general proposition, "administrative convenience" and internal parity are factors that do not need to be quantified in terms of dollars. However, such proposals are most certainly stronger if quantified. In addition, in your Arbitrator's view, if a Union asks for such information, same should be provided unless the savings is extraordinarily apparent. Such a situation would be, as in the parties' interest arbitration before Arbitrator Cavanaugh where only three County employees in all of Snohomish County used the Regence PPO plan.

The Correction Officers' bargain unit consists of 195 Corrections Officers. This is 0.065% of the County's total workforce of 2,985 FTEs or 0.086% of the Counties unionized workforce of 2,254 bargaining unit members. This is a large group of employees.

As noted above, most bargaining unit employees are currently covered under the Regence Select 17 Plan. Most employees have moved from this plan to the Regence Plan B. The primary differences between these two plans are in various medical co-pays ranging from \$17 dollars to \$30 dollars (substantial increase), a change in the co-pay for certain surgeries from \$0 dollars to \$300 dollars (substantial increase), and a change in emergency room visits from \$75 to \$200 (266% increase) (which is waived if the patient is admitted.) These numbers do not appear significant. However, to Guild members, many of whom have families to support, the percentage increases and dollar amounts are substantial. As noted above, the plan benefit ratio will decrease by 2.1%. *See*, page 45 above.

The Guild asked the County on multiple occasions to support its proposal by providing data relating to dollar amounts saved as a basis for its proposal. If, after a study there was no savings, the County's proposal would most likely be denied given the Guild's opposition. Similarly, if the savings was minimal, the County's proposal again would most likely be denied. Conversely, if there was significant and substantial saving, the County's proposal might be awarded given a total compensation analysis.<sup>8</sup>

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<sup>8</sup> The Union argued that the "total compensation package" of Guild members would be reduced, as per the testimony of Ms. Pusateri, if the County proposal was accepted by your Arbitrator. However, wages, health plans, and other benefits go hand in hand in determining the "total compensation package." Her testimony was very conclusory. Tr. 280-325. However, the County acknowledged that overall compensation would be "minimally reduced." Tr. at 337. Hence, with the County's acknowledgement, the Article 10 proposals of the parties have not been given an "total package analysis," but have also been reviewed on the basis of cost to bargaining unit employees v. the administrative convenience and need for internal equity argued by the County. It is significant to note that if a total package analysis was done, your Arbitrator would acknowledge that arbitrators have consistently rejected the Oregon PERS

However, the County never did a study to determine the savings. Your Arbitrator notes that if there are problems with quantifying a dollar amount of saving for the County proposal, then a quantification analysis that was not conclusory could have been provided in terms of dollars or hours saved.<sup>9</sup> It would be extremely unfair if your Arbitrator awarded the County proposal if the County would have no or very little savings in terms of dollars or hours saved, given the added costs to Guild bargaining unit members.

Your Arbitrator is persuaded that the County's Article 10 proposal, given the evidence before him, based upon administrative convenience and internal equity, is outweighed by the number of bargaining unit employees who will have substantial

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pickup when determining overall employee wages. County Ex. 27 at 30 n. 41/Guild Ex. 8 at 30 n. 41 (Cavanaugh), County Ex. 28 at 41 (Reeves), and County Ex. 27 at 27-28 (Axon).

<sup>9</sup> If the County was unable to provide evidence in terms of dollars saved, it might have been able to accomplish this by showing hours saved. Questions and Answers are in evidence from Mr. Kennedy, the County's Finance Director, regarding time saved if the County proposal was awarded, but it's very conclusory, as was the evidence from Union witness, Ms. Pusateri who testified on the issue of total compensation. Q: ...are there administrative reasons why the County may want to move the Guild from their existing medical plans to plans that most of the County is already on?" A: Well, yes. I mean, it's economy to scale of kind issue. Right now, and don't quote me, I can't remember how many plans we have, but it's like 12 different plans. We have a plan it seems like – we have multiple plans out there, and it's difficult to track, to account for, to keep records of. It's difficult in administering in terms of fairness to various employees. It's a huge headache and administrative burden, not just on my staff, but I would imagine also on HR's staff. And it hems our ability to provide overall, in my opinion, overall good services in terms of maximizing benefits to all of our employees. Q: And can you expound on those things, the administrative burden to your staff, as well as the expanded benefits that we could be offering to all county employees? A: Well, we have several people and we have a senior budget analyst that spends more than 50 percent of her time on just health insurance alone. Well over 50 percent of her time. I have several people in my financial operations department, one or two people that spend time for accounting for all of this. And many people would say, well, okay, so you have two, three, four people doing that work. In most entities where you only have one or two plans or three plans, you have a very limited number of plans, that can be condensed down into half of an FTE. We have several people, that's what they do. And if we have plans condensed, we wouldn't have as many people on the payroll just to do that work. But it's also – like I said, its also frustrating in terms of just general management of the County in terms of making – offering people benefits and so forth. I think it makes sense on its own as to why we find it frustrating.

Your Arbitrator agrees that administering medical plan data can be frustrating. Medical plans, requirements, qualifications, premiums, co-payments, etc. are not as simple as they once were. However, with the utmost respect, the testimony regarding "12 different plans" is confusing to your Arbitrator as other testimony from the County indicates that most County employees have been moved to the Regence B plan and most certainly did not involve 12 different plans. Non-conclusory testimony regarding the County's proposal, based upon an administrative burden, would have included, but not necessarily been limited to, the exact number of plans administered by the County as they relate to Guild, a definitive statement that the testimony regarding the plans is related to the Guild, not plans related to police officer, firefighters, etc., what constitutes a "very limited number of plans," the exact number of employees working on health plans (rather than "two, three, four people doing that work"), and why, given the number of plans, work can be "condensed down into half of an FTE." For purposes of balancing the administrative burden against the cost to bargaining unit members, it would have been helpful to know the approximate number of hours saved with an approximate dollar amount assigned to the hours saved, if the County proposal could in fact, given the number of plans, be "condensed down into half of an FTE" and why the County would be able to "provide overall, in my opinion, overall good services in terms of maximizing benefits to all of our employees."

Please note that your Arbitrator is not attempting to advise the County what it needs to prove to show that it has a valid administrative burden. Your Arbitrator's comments are meant to help the County understand why your Arbitrator believes this testimony is confusing and conclusory. The burden is on the County to show why the status quo regarding Article 10 should be changed. Your Arbitrator does not believe that this burden has been met.

increases in their medical costs. These two factors, administrative convenience and internal parity, do not fall in favor of the County, but fall in favor of the Guild.

## **VII. CONCLUSION.**

Your Arbitrator is persuaded that the Union proposal is slightly better than the County's proposal because of the following totality of circumstances:

1. The comparators, Pierce, Clark, Multnomah, and Spokane counties strongly support the status quo. Since there is no evidence that these contracts have been substantially changed since Arbitrator Cavanaugh's most recent award in 2017 and they cannot be used to support the County's proposal. Rather, the apparent lack of substantial changes supports the Guild's proposal. *See*, Guild Exs. 5a, 5b, 5c, 5d, County Exs. 45-49, 50-54, 58, 59, 61, 62, and 63.<sup>10</sup>
2. While the County is not as fiscally healthy as it was prior to the COVID-19 pandemic, the "ability to pay" factor which gauges the County's fiscal health does not fall in favor of the County. The County acknowledged that its Article 10 proposal has nothing to do with saving money, but is based upon administrative convenience, often an element of internal parity, aka, internal equity. This factor falls in favor of the Guild.
3. The County's proposal, based upon the factors of administrative convenience and internal parity are outweighed by the number of Guild members and particularly, the increased dollar and percentage cost to them. It is significant to note again that the County's proposal was not predicated on saving the County money or time. Hence, this factor falls in favor of the Guild.
4. Based upon the totality of circumstances set forth in items 1 through 4 above, your Arbitrator is persuaded that the Guild's proposal is slightly stronger than the County's proposal.

## **VIII. AWARD.**

The County's proposal to change Article 10 is respectfully denied. The Guild

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<sup>10</sup> When Arbitrator Cavanaugh awarded the County's proposal to discontinue the Regence PPO Plan, he stated as follows: "The administrative burden of negotiating and administering the plan for so few employees – creating spreadsheets and plan documents, distributing them, as well as extra work for the third party actuary – cannot be justified with such a small pool. Moreover, the County offers a very similar plan, the Regence Selections, which in fact if the plan chosen by most members. Thus, the PPO Plan may be safely dropped." The Regence PPO Plan was used only by three County employees, two of whom were Guild bargaining Unit employees. Your Arbitrator cannot help but wonder what Arbitrator Cavanaugh would have done if he knew the County was going to propose that the Regence Select 17 Plan, albeit for a similar, but lesser plan a few years later. In addition, it is worth noting again that the Correction Officers Guild consists of 0.086% of the County's unionized workforce of 2,254 bargaining unit members.

proposal to maintain the status quo and for no change to Article 10 is awarded.<sup>11</sup>

DATED: Honolulu, Hawaii, this 18th day of February, 2021.



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MICHAEL ANTHONY MARR  
Arbitrator

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<sup>11</sup> It is significant to note that the original draft of this decision and award granted the County's proposal. Your Arbitrator understands the County's desire for administrative convenience and internal equity. While proofreading the draft of the decision and award your arbitrator had difficulty justifying awarding the County's proposal based upon administrative convenience and internal equity given the fact that the County has the financial ability to pay to maintain the status quo, the "ability to pay" factor fell in favor of the Guild, bargaining unit employees will be getting less for their dollar if forced to move from the Regence Select 17 Plan to the Regence B Plan, and some bargaining unit employees, particularly those with large families and several children, will have significant dollar increases with various types of medical coverage. Tr. 245.