BEFORE THE ARBITRATION BOARD

In the Matter of the Interest Arbitration Between King County Fire District 44 the Employer and International Association of Fire Fighters Local 3816 the Union	**ARBITRATOR'S AWARD** PERC No. 15764-I-01-360

Appearances:

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Date of Final Award: January 16, 2002

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WITNESS LIST

For the Employer:

Henry Kramer, Fire Commissioner

Judy Minor, Fire Commissioner

Gregory Smith, Fire Chief

Cabot Dow, Labor Negotiator

Michael Barlow, Deputy Chief

Kevin Nold, member of the Union's bargaining team

For the Union:

Cabot Dow, Labor Negotiator (recalled)

Gregory Smith, Fire Chief

Donald Goff, Fire fighter

Greg Markley, District Representative, Washington State Council of Fire Fighters and City Kent Fire fighter

William B. Eberlein, Fire fighter

EXHIBIT LIST

Employer Exhibits:

1. April 17, 2001 Certification
2. Chapter 41.56 RCW and WAC Impasse Resolution Rules
3. October 4, 2001, Submission to the Arbitrator
4. Union's Proposals on Issues
5. Current Collective Bargaining Agreement, Expired
6. Data Re: Fire District
7. District Personnel Information
8. Negotiations Documents
9. Documentation on Comparables
10. Wage Comparables

11. Longevity Pay Comparables
12. Acting Pay Comparables
13. Financial Information re Insurance
14. Past Ten Years' Labor Agreements

14.2 (Update) Bureau of Labor Statistics Data - updated CPI data, October 19, 2001

15. Contracts, 1990-1998
16. Cites from Relevant Arbitration Awards
17. Cites Population Bands Used by Previous Arbitrators
18. Summary

18-1. Spreadsheet - Union first draft of comparable data on three comparators identified in prior CBA, with cover letter to Chief Greg Smith, August 31, 2001

19. Backup data concerning information from the Employer on Kitsap Fire District No. 18
20. Two spreadsheets showing insurance costs for each bargaining unit member 1999 - 2002.

21.1 Rebuttal to Union Exhibits 21-23 Re: Hours of Work and Work Schedules, undated

21.2 Rebuttal (page 2) to Union Exhibits 21-23 Re: Hours of Work and Work Schedules, undated

Union Exhibits:

1. PERC letter Certifying issues for Interest Arbitration
2. Greg Markley's letter listing issues Local 3186 wanted certified
3. Cabot Dow's letter listing issues the District wanted certified
4. Local 3186's specific Proposals for Arbitration
5. District's specific Proposals for Arbitration
6. 1998 — 2000 King #44 CBA
7. 1995 — 1997 King #44 CBA
8. Exhibit listing All Comparables Cited by Either Party During Negotiations
9. Excerpt from 1998 — 2000 King #44 CBA showing Article 37 Agreement on Comparables
10. TA from 1997 showing Article 37 Agreement on Comparables
11. Additional Potential Comparables given to Local by District during negotiations
12. Excerpts from 2001 WA State Fire Service Directory Showing Population Served, Assessed Valuation and Geographic Area Served for Comparables
13. 2001 — 2003 Collective Bargaining Agreement Between JAFF, Local 3315 and Snohomish County Fire Protection District #3
14. 2000 — 2002 Collective Bargaining Agreement Between IAFF, Local 3235 and Snohomish County Fire Protection District #8
15. 2001 — 2003 Collective Bargaining Agreement Between Maple Valley Professional Fire

fighters, IAFF, Local 3062 and King County Fire Protection District #43

16. 2000 — 2002 Collective Bargaining Agreement Between Key Peninsula Fire fighters, IAFF, Local 3152 and Pierce County Fire District #16
17. 1998 — 2000 Collective Bargaining Agreement Between IAFF, Local 3740 and King County Fire Protection District #20
18. 2000 — 2002 Collective Bargaining Agreement Between IAFF, Local 2819 and North Kitsap Fire & Rescue
19. 1999 — 2001 Collective Bargaining Agreement Between Poulsbo Fire Department and IAFF, Local 2819
20. CPI — Related Information
21. Comparison of Number of Days Worked Per Month by Members of Local 3186's Bargaining Unit and By Comparables
22. Comparison of Productivity Hours Worked Per Year by Members of Local 3186's Bargaining Unit and By Comparables
23. Contacts For Information Regarding Productivity Hours
24. Comparison of Annual Compensation Received by Local 3186's Bargaining Unit Members and Comparables
25. Base Wage and Longevity Comparisons for Local 3186 and Comparables
26. Education Pay Incentive Comparisons
27. Deferred Comp. /Social Security Comparisons
28. 2001 WFCA Insurance Premium Rates
29. WFCA Insurance Premium Payment Comparisons
30. Back up Data Regarding Insurance Information Obtained For Comparables
31. WFCA Insurance Program Overview and Plan Options
32. WFCA Administrative Guidelines
33. Comparisons of Acting Lieutenant Pay Received by Members of Local 3186's Bargaining Unit and Comparables
34. Real estate sales information on homes being developed and sold around Washington National Golf Course
35. King Fire District 44 Revenues from 1995 through 2001 (approximation)
36. Labor market information for the Seattle-Tacoma-Bremerton area and other labor markets in Washington State, various dates, taken from various governmental on-online sources

I. PROCEEDINGS

This dispute, between the King County Fire District 44 (the Employer or District) and the International Association of Fire Fighters Local 3186 (the Union) concerns certain terms of a labor agreement between the two parties with an effective date of January 1, 2001, and an expiration date of December 31, 2003. The parties reached an impasse in their negotiations on four issues. Pursuant to RCW 41.56.450, those issues were certified for interest arbitration by the Public Employment Relations Commission (PERC) and submitted to a three-person panel of arbitrators chaired by neutral arbitrator Jane R. Wilkinson for resolution. Evidentiary hearings were held in southeast King County, Washington on October 18 and November 7, 2001. Each party had the opportunity to present evidence, examine and cross-examine witnesses and argue its case. The neutral Arbitrator received the parties' post-hearing briefs on December 19, 2001, which shall be deemed the closing date of hearing. The neutral Arbitrator submitted a draft to the panel members on January 9, 2002, for review and comment, which were received back on January 14, 2002. The neutral Arbitrator signed and circulated a copy of the final award on to the partisan arbitrators for their signatures on January 15, 2002.

II. STATUTORY CRITERIA

In RCW 41.56.465, the Washington Legislature specified that interest arbitrators must apply the following criteria when determining the terms of a new collective bargaining agreement:

> (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, it shall take into consideration the following factors:
>
> (a) The constitutional and statutory authority of the employer;
>
> (b) Stipulations of the parties;
>
> ****

(c)(ii) For employees listed in RCW 41.56.030(7)(e) through (h), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered;

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

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

(f) Such other factors, not confined to the factors under (a) through (e) 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.

In resolving the issues in this dispute, whether or not fully articulated herein, the arbitration panel has been mindful of these criteria and has given consideration to all of the evidence and arguments presented by the parties relative to these criteria. The arbitration panel also recognizes that interest arbitration is an extension of the collective bargaining process. The arbitration should endeavor to approximate the result that reasonable parties themselves would likely have reached in good faith negotiations. *E.g., Kitsap County Fire Protection District No. 7* (IAFF Local 2876), PERC No. 15012-1-00-333 (Krebs, 2000); *City of Centralia (IAFF Local 451),* PERC No. 11866-I-95-253 (Lumbley, 1997).

III. BACKGROUND INFORMATION

The King County Fire District 44 has 20 or 21 full-time employees, including its chief and deputy chief, and two part-time employees. About 14 fire fighters, two lieutenants and one assistant chief comprise the bargaining unit. At the start of this contract period, all paid fire fighters, that is, all bargaining unit personnel, worked a 42.1-hour per week daytime shift schedule that consisted of 12-hour shifts. This equated to 2195 hours per year during the year

2000 and most of 2001. Work hours were reduced to a 40-hour workweek or about 2086 hours per year in 2001. Turnover among paid fire fighters is relatively low and the average length of service is somewhat over seven years.

The District uses about 75 volunteer fire fighter/EMTs to cover the night shift. Some volunteers live in the District and respond to the stations from their homes, while others live outside of the District, training and responding to incidents when they are in the District at their respective stations. Resident Volunteers are provided with living quarters in the fire stations and are required to stand by for responses at the station a minimum of three times each week between the hours of 6PM and 6AM. Response call volume for the District was 1955 incidents in the year 2000; about 60% to 70% of those calls were for emergency medical.

During the year 2000, the King County Fire District 44 merged with and absorbed King County Fire District No. 46. The merger substantially increased the size of District 44 in terms of area served, assessed valuation, operating revenues, and so forth. The District is located in a semi-rural area of southeast King County, Washington. About 90% of the District contains dwelling densities of one per acre to one per 35 acres. The District also has a small airport, the Seattle International Raceway, the Green River Community College, and several schools, a justice center, a library, and a private (religious affiliated) camp/conference center. The District receives no tax revenue from the college or schools. The Muckleshoot Indian Reservation is also located within the District's boundaries. The District receives no tax revenues from the reservation, but it has a $65,000 annual contract to provide fire protection services to the reservation. The southern portion of the District is mostly agricultural. The Urban Growth Boundary Line cuts through the District in its northwest quadrant, and the City of Auburn is currently in the process of annexing some of that area. The area being annexed is known as the Lea Hill area, and it contains relatively high-density housing. Although the Lea Hill area comprises only 10% of the land mass area of District 44, it contributes 38% of the District's

assessed valuation. When those annexations are complete, the District will have to lay off between five and seven career personnel. The parties have agreed upon and negotiated a Reduction in Force provision in their 2001-2003 (Article 8.3, see Exh. D. 8-21, p.2) in anticipation of this eventuality.

The District's fiscal resources are not ample and it has practiced a conservative fiscal policy, which includes no borrowing. Therefore, it annually sets aside dollars into its capital reserve fund to make future capital purchases for the more expensive items of equipment, such as fire engines, aid vehicles, or other apparatus that cost more than $100,000. The District is limited by law to a maximum levy of $1.50 per every $1,000 of assessed valuation and prior to 2002, limited to a maximum increase of 106% of the previous year's total taxes. The maximum permissible statutory levy for 2001 is $2.5 million, based on the 106% statutory limitation on the District. In 2001, the District received a maximum of $1.46 per $1000 of assessed valuation. On November 6, 2001, Washington voters passed Initiative 747. This legislation places a 1% cap on annual property tax increases; everything above that must be sent to voters for approval.

The parties' last contract expired on December 31, 2000. The parties negotiated for, but were unable to reach agreement on a successor contract, but they agreed to a contract term of three years, beginning January 1, 2001, and ending December 31, 2003.

The Executive Director of the Public Employment Relations Commission certified four issues (wages, health care premiums, acting lieutenant pay, and longevity pay) for interest arbitration and the arbitration hearing admitted testimony and exhibits on these four issues.

IV. SELECTION OF COMPARATORS

Having a list of suitable comparator jurisdictions is necessary for a full evaluation of all four issues certified for interest arbitration. Therefore, a comparator list will be selected at the outset of this discussion. Because of the unique shift schedule worked by the Local 3186

bargaining unit members, the neutral Arbitrator cautions that the selection of comparators in this case is not as critical to the final resolution of economic issues as would be the case in other interest arbitration disputes. Rather, as the parties know and as will be discussed extensively below, the key issue concerning methodology in this case is whether the comparison should be of monthly wages, of hourly wages, or whether some other method should be used to take into account the unique shift schedule of Local 3186.

A. Parties' Proposed Comparators

1. Union's Proposed Comparators

The Union proposes the following jurisdictions as comparators to King County Fire District 44:

1. Kitsap FD No.10
2. Kitsap FD No.18
3. Pierce FD No. 16
4. King FD No. 20
1. King FD No. 43
2. Snohomish FD No. 3
3. Snohomish FD No. 8

2. Employer's Proposed Comparators

The comparable jurisdictions proposed by the Employer are:[1]

1. Clallam FD No. 3
2. Clark FD No. 3
3. Clark FD No. 11
4. Cowlitz FD No. 2
5. King FD No. 26
6. King FD No. 45
7. Kitsap FD No. 2
1. Kitsap FD No. 10
2. Kitsap FD No. 18
3. Pierce FD No. 3
4. Pierce FD No. 16
5. Snohomish FD No. 3
6. Snohomish FD No. 4
7. Snohomish FD No. 8

[1] The Employer's comparator list on page 28 of its post-hearing brief stated that because 14 jurisdictions are too many comparators, it narrowed the list of jurisdictions (that had passed the + or – 50% population and assessed valuation screen) to 10 "core" comparators, eliminating King FD No. 45, Snohomish FD No. 4, and Snohomish FD No. 8, and Pierce FD No. 3. At hearing and elsewhere in its brief however, it presented wage and benefit data on those four "eliminated" fire districts. *See, e.g.*, Employer's post-hearing brief, pgs. 53, 54, 56 and Exh. E. 9, 10, 11 & 12. Therefore, the arbitration panel has included these jurisdictions in the list of proposed comparators of the Employer.

B. Positions of the Parties - Comparators

1. Union's Position

The Union notes that in determining comparability, arbitrators give the greatest consideration to population, assessed valuation, geographic proximity and labor market. (Citations omitted). Historical comparators normally receive recognition from interest arbitrators, and the party who is proposing the discontinuance of an historical comparator bears the burden of proving the lack of comparability. (Citation omitted).

The most recent Collective Bargaining Agreement (1998-2000) stipulated to the following three comparators: King Fire District No. 20, King Fire District No. 43 and Kitsap Fire District No. 10. Based upon the parties' historical agreement that these three jurisdictions were appropriate comparators and continued to be appropriate, the Union utilized these three comparators throughout the parties' negotiations. When the District indicated it no longer agreed with those comparators, the Union asked the District to identify new comparators, which it did. The District identified Snohomish FD No. 8, Snohomish FD No. 3, Kitsap FD No. 18 and Pierce FD No. 16, along with Kitsap FD No. 10, which was a comparator under the 1998-2000 CBA. Neither party identified any additional jurisdictions to the other party as being potentially comparable to King 44 during the parties' collective bargaining and mediation process other than the jurisdictions that are discussed above. Therefore, in preparing for the instant interest arbitration proceeding, the Union proceeded forward under the assumption that a determination as to the merits of the parties' respective interest arbitration proposals would be based upon the above comparables. It is that list that the Union proffers in these proceedings. They are all appropriate comparators in terms of geographic proximity, labor market, population and assessed valuation. Any imbalance favors the District because five of the seven are smaller in terms of population and assessed valuation than the District. It normally would be disadvantageous for a union to select a smaller jurisdiction, a consideration in the Union's favor

also.

The District's proposal of an almost entirely new set of comparators in interest arbitration is the sort of conduct that has been held by PERC in the past to constitute an unfair labor practice pursuant to RCW 41.56.140. See *City of Clarkston*, Dec. 3246 (PECB, 1989). The Union elected not to file ULP charges because it wanted to proceed with arbitration. Nevertheless, consistent with PERC precedent, the District should be required to abide by the comparator list it communicated during negotiations.

In any event, a number of comparators on the District's arbitration list are not appropriate, the Union contends. It includes jurisdictions outside of the geographic area and labor market of the District by offering comparators from Clark, Cowlitz and Clallam counties. These should not be utilized when there are a sufficient number of jurisdictions within the Puget Sound area from which to choose. Three comparators on the District's list were previously submitted to the Union and therefore are on the Union's list. Thus, the parties agree on Kitsap FD No. 10, Kitsap FD No. 18 and Pierce FD No. 16. This leaves Kitsap FD No. 2, Snohomish FD No. 4 and King FD No. 26. Kitsap FD No. 2 should not be included because that unit recently organized and does not yet have a collective bargaining agreement. The current wages were set in a non-union environment. Had Snohomish FD No. 4 and King FD No. 26 been timely identified by the District, the Union probably would not object to their inclusion on the list of comparators because of their similarities to the District. Also, their exclusion or inclusion will not significantly impact this dispute.

2. Employer's Position

To select comparators, the District applied a +/- 50% screen to the populations and assessed valuations of western Washington fire districts and selected the ten that were the closest in these values to King FD No. 44, which is located in the center of the population and assessed valuation ranges. The resulting list is well balanced geographically, the Employer

asserts.

The District disagrees with the Union that it acted in bad faith to offer new comparables at hearing. The District disclosed during bargaining the criteria it would use for selecting comparables, *i.e.*, population and assessed valuation, and the Union was well aware that there are a number of other fire districts in western Washington that fit the criteria. There is no legislative requirement limiting the arbitration panel to the comparable fire districts identified in negotiations, nor is there a requirement for the arbitration panel to consider what went on during negotiations, as the neutral Arbitrator stated at hearing. Finally, during negotiations, the District made it clear that the comparables it presented were for illustrative purposes only. In fact, the District's parameters for selecting comparables have not changed. It was the Union that was intransigent during bargaining, and now the District's good faith efforts at sharing its intended comparables selection methodology with the Union has been twisted and turned against the District in the form of a bad faith claim.

The District accuses the Union of using a crude, unstable selection methodology that does not reflect the methods commonly used by neutral interest arbitrators. The Union's criteria were Puget Sound location, historical use as comparators, comparators mentioned during negotiations. None of these considerations are identified in the statute. The Union apparently performed no population or valuation screen because three of its comparators do not pass that screen.

Regarding historical comparators, the District asserts that the Union included King FD No. 43 and King FD No. 20 despite the fact that it agreed to delete the list of comps appearing in the 1998-2000 contract in exchange for a new Article for a Union-sponsored Retiree Medical Trust. See Exh. E. 8-21 and testimony at Tr. II: 233. Neither King FD No. 43 nor King FD No. 20 fit the statutory criteria for "similar size," but they do have high compensation levels.

C. Arbitrators' Analysis and Findings - Comparators

1. Selection of Comparables, In General:

Comparability is not defined by statute, although the statute does speak to "like personnel of public fire departments of similar size." Comparability is a relational concept that cannot be determined with mathematical precision. The interest arbitrator faces the problem of making "apples to apples" comparisons on the basis of imperfect choices and sometimes-incomplete data. The arbitrator's task is to review data in evidence and devise a manageable list of employers that more closely resembles the important attributes of the subject jurisdiction than those jurisdictions not on the list. In determining comparability, arbitrators give the greatest consideration to population, geographic proximity or labor market, and assessed valuation. *See, e.g., Kitsap County (Kitsap County Sheriff's Guild)*, PERC No. 13831-I-98-299 (Buchanan, 1999); *City of Bremerton (Bremerton Police Officers' Guild)*, PERC No. 12924-I-97-279 (Axon, 1998); *City of Kennewick (International Association of Fire Fighters, Local 1296,* AAA 75 300 00225 96 (Krebs, 1997); *City of Centralia (International Association of Fire Fighters, Local No. 451)*, PERC No. 11866-I-95-253 (Lumbley, 1997); *Spokane County (WSCCCE, Council 2)*, PERC No. 10159-I-94-235 (Levak, 1995). Arbitrators are also willing to consider other economic indicators when necessary. *E.g., Whatcom County (Whatcom County Deputy Sheriff's Guild),* PERC Case No. 15395-I-00-347 (Gangle, 2001). With respect to geographic proximity, Arbitrator Howell Lankford explained in a recent award:

> [T]he City argues against geographic proximity. ... [H]owever, it is quite clear that Washington interest arbitrators have commonly preferred geographically proximate comparators when such were available. The City objects to the introduction of such traditional "labor market" considerations as proximity into the selection of comparables under the statute. But one of the traditional rationale for labor market analysis in collective bargaining fits squarely within the directive of the statute: Employees' satisfaction -or lack of it- with their wages and working conditions depends, first, on their sense of local, comparability. It may be interesting in the abstract to know what police officers make in Cheney; but what a Kelso officer could make by driving to Centralia or Battle Ground is much more personal data. This is true of traditional, two-party collective bargaining as well, of course: no one expects wage data from the far corner of the state to have the

> same weight as wage data from just next door. The statute directs an arbitrator's attention, first, to the Legislature's finding that "the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington;" and it is entirely consistent with that directive to give primary attention to wages paid by nearby employers of the same size.

City of Kelso (Kelso Police Officers Association) (Lankford, November 16, 2001).

2. Appropriate Comparators to King County Fire District 44

In this case, the neutral Arbitrator believes geographic proximity is an important consideration. First, in the greater Seattle-Tacoma-Bremerton-Everett metropolitan area (or Puget Sound area, as it has been referred to in these proceedings) there are an ample number of fire districts from which to choose. There is no need to search further for comparable jurisdictions. Second, it is common knowledge that Seattle, located in King County, is the highest cost of living metropolitan center in Washington and Oregon. The closer one is to metropolitan center, the costlier it is to live. This, in turn, has an effect on wages generally. It is because of similar cost of living characteristics of this identified region that the Bureau of Labor Statistics maintains separate price and economic data for the Seattle-Tacoma-Bremerton area. *See, e.g.*, Exh. U. 36.

Four of the comparables proposed by the Employer are outside of the Puget Sound area: Clark County FD No. 3, Clark County FD No. 11, Clallam County FD No. 3, and Cowlitz County FD No. 2. Clark County is in the Portland-Vancouver metropolitan area, and it tends to be a higher cost, higher wage area of Washington State, but not as high as Seattle and some of the areas around Seattle.

Economic indicators, such as average earnings per job and household income, which the neutral Arbitrator took the liberty of procuring from governmental on-line sources (and which are therefore appropriate for arbitral notice), shows the disparity among counties:

Table 1.

Indicator	King	Clark	Clallam	Cowlitz	Pierce	Snoho-mish	Kitsap
Median Household Income by County – 1999*	$60,483	$50,005	$33,008	$38,535	$46,057	$54,713	$45,122
Ave. Annual Earnings Per Job, By County, 1999**	$47, 598	$31,430	$23,598	$29,914	$31,107	$34,052	$32,217
Median Home Price, 2001.3, by County***	$268,000	$155,000	$130,000	$123,900	$160,000	$215,000	$160,000

* *Source*: Washington State Office of Financial Management, online at http://www.ofm.wa.gov/poptrends-/table16.pdf
** *Source*: Washington State University, online at http://niip.wsu.edu/cgi-bin/broker.exe
***Source*: Washington State University Center for Real Estate Research, Housing Market Snapshot by County, Third Quarter 2001, online at http://www.cbe.wsu.edu/~wcrer/

Table 2.

Indicator	Seattle MSA	Portland MSA
Union – Service sector - mean hourly, Dec. 2000*		
Public & Private Combined	$19.86	$18.21
Public Sector Only	$21.56	$19.95
Fire fighters, mean hourly**	$23.16	$20.93
Ave. Annual Pay, MSA, all categories 2000***	$41,953	$35,830

* *Source*: BLS, Mean Hourly Earnings By Selected Characteristics, December 2000, online at http://www.bls.gov/ncs/ocs/sp/ncbl0355.txd
** *Source*: BLS, 2000 Metropolitan Area Occupational Employment and Wage Estimates, Portland-Vancouver, OR-WA PMSA and Seattle-Bellevue-Everett WA PMSA, online at http://www.bls.gov/oes/2000/oes_wa.htm and oes_or.htm
*** *Source*: BLS, Average annual pay for all covered workers by Consolidated Metropolitan Statistical Area, Portland-Salem MSA and Seattle-Tacoma-Everett MSA, online at http://www.bls.gov/news.release/anpay2.t02.htm

Table 1 shows that King County clearly is at the high end in terms of earnings per job, median household income, and median home price. Next comes Snohomish County, followed by Pierce and Kitsap, except that median household income is higher in Clark County than in Pierce and Kitsap Counties. Trailing far behind are Cowlitz and Clallam Counties, which makes their use as comparators highly undesirable when more geographically proximate comparators are available. Table 2 shows that the Portland MSA, which usually includes Clark County, lags Seattle's in several pay measures, including fire fighters' mean hourly wage by a significant amount. Jurisdictions located in Clark County can be an appropriate comparator to jurisdictions located in King County or the Puget Sound region when there are an insufficient number of comparators located in closer proximity. In this case, the parties have presented the arbitration

panel with an ample number of potential comparators from which to choose that are located within the Puget Sound area, and as shall be shown, ten of those jurisdictions passed the commonly used plus or minus 50% screen for population and assessed valuation. King FD 44 is located towards the edge of King County in somewhat rural area, and this arguably produces a downward pressure on wages. Nevertheless, there are a number of equally semi-rural fire districts having similar characteristics within the Puget Sound region available as comparators; there is no need to go outside of that region for comparators based on this consideration.

Of the remaining proposed comparators, as stated above, the neutral Arbitrator applied the plus or minus 50% screen, although she agrees with Arbitrator Levak's comment that one does not have to adhere to this screen "slavishly." *City of Pasco (Pasco Police Officers Guild),* (Levak, 1990). The neutral Arbitrator had some difficulty with the assessed valuation figures because of discrepancies between and among the parties' exhibits and in the Employer's brief. The population and assessed valuation figures shown below are from the parties' exhibits and the neutral Arbitrator believes they generally reflect the valuations used for 2001 levies. However, some of the figures presented in exhibits were for the prior year, and in some cases it was unclear.[2] Where different figures were presented, but where it ultimately made no difference in the outcome, the neutral Arbitrator engaged in some guesswork to select the most recent valuation. In two instances where there is a data conflict that does make a difference, the neutral Arbitrator's selection is explained in a footnote (in the case of Kitsap FD No. 2) or in the ensuing discussion (in the case of Snohomish FD No. 3).

[2] The year selected is important. For example, the most recent assessed valuation for King County Fire District was $1,624,807,105. The valuation for the preceding year was $1,279,122,930.

Table 3.

(Jurisdictions passing both +/- 50% screens are shaded/bold-faced)

Jurisdiction	Population	A/V ($ Million)
King County FD 44	**25,000**	**1,624,807,105**
-50%	***12,500***	***812,000,000***
+150%	***37,500***	***2,437,000,000***
King #20	20,000	749,368,352
King #26	**29,000**	**1,479,572,614**
King #43	40,000	**2,333,377,334**
King #45	**13,000**	**824,781,214**
Kitsap #10	**15,000**	**1,315,776,082**
Kitsap #18	**22,000**	**1,366,973,039**
Kitsap #2[3]	20,308	2,790,408,150
Pierce #16	**18,000**	**1,082,017,536**
Pierce #3	**33,349**	**1,700,212,580**
Snohomish #4	**18,000**	**979,827,037**
Snohomish #8	**28,000**	**1,763,656,736**
Snohomish #3	22,000	*578,355,370 or 1,286,749,400*

Neither party had any particularly strong objection to those jurisdictions that passed the plus or minus 50% screen for population or assessed valuation in the Puget Sound area. The Union's sole objection to them was that the Employer brought them up for the first time at the arbitration hearing, and it posited that it was an unfair labor practice to do so. The Employer's brief countered that it had not represented to the Union during negotiations that its proffered comparables were exclusive, and that the Union had the ability to apply the same screen and produce the same list as was produced at hearing. The neutral Arbitrator ordinarily does not find it helpful to explore the parties' conduct during negotiations, and notes that there is no requirement in the statute that she does so. The Public Employment Relations Commission has the exclusive jurisdiction to entertain questions of unfair labor practices under Ch. 41.56 RCW. *See, Spokane County (Spokane County Deputy Sheriff's Association)*, (Beck, 2001),

[3] The Employer claimed an assessed valuation of $2,390,951,072 for Kitsap FD No. 2, which would place it within 150% of King FD No. 44, while the Union claimed the assessed valuation is $2,790,408,150. The neutral Arbitrator therefore verified the data online at Kitsap County's WEB page, and determined that the figure provided by the Union ($2,790,408,150) appeared to be the correct one.

(Arbitrator Beck refused to take the union's evidence of the employer's bad faith bargaining into consideration, and reminded the parties that PERC, not the panel, has jurisdiction over "refusal to bargain" allegations).

As to the selection of comparators, the neutral Arbitrator believes it is best to follow objective economic criteria, along with the parties' stipulations and agreements. Accordingly, those jurisdictions that are shaded on Table 1 will be included in the Arbitrators' final list of comparators. With respect to Snohomish FD No. 3, two figures are shown, one that passes the screen and one that does not. The District explained that the larger figure ($1,286,749,400) included the assessed valuation for the City of Monroe. Without the City of Monroe, the assessed valuation is the smaller figure, $578,355,370. The City did not, however, explain which figure is the tax base for that fire district. Both parties proposed Snohomish FD No. 3 as a comparator and therefore the arbitration panel assumes they are in agreement on this. Accordingly Snohomish FD will be included in the arbitration panel's final list of comparators.

Next comes an examination of the proposed Puget Sound comparators that did not pass the above screening mechanism to see whether other considerations warrant their being included on the comparator list.

The first jurisdiction is King County Fire District No. 20, proposed by the Union. King No. 20 was one of the three comparators to which the parties stipulated in their 1998-2000 Collective Bargaining Agreement. Arbitrators are ambivalent about historical comparators. While they give some weight to those comparators, they also recognize that economic circumstances change, political considerations that no longer exist may have driven a prior agreement, or that a party made a mistake to which it should not be forever bound. King No. 20 failed the assessed valuation screen with its low property valuation. It is also an anomaly, paying inordinately high wages to its approximately six bargaining unit fire fighters, as measured both on a monthly and hourly basis. Finally, the arbitration panel notes that the

parties reached a tentative agreement during their negotiations not to include any comparators in their new Agreement. See Tr. II: 233. For these reasons, the arbitration panel rejects King No. 20 as a comparator.

Next on the list is King County Fire District No. 43, which failed the population screen but passed the assessed valuation screen. King No. 43 was also on the parties' list of comparators in their prior CBA. It is a more populous, wealthier fire district located immediately adjacent to King County Fire District 44. Because its adjacent location has a labor market influence and passed the assessed valuation screen and because of its historical use as a comparator, the neutral Arbitrator has elected to include it on the final list of comparators. Importantly, King No. 43 is useful because it is one of the few jurisdictions having a day shift schedule, and it pays a premium to bargaining unit members who work that schedule. The significance of these facts will be discussed in detail below.

Finally, there is Kitsap County Fire District No. 2, which failed the assessed valuation screen, but passed the population screen. The Union vigorously objected to the inclusion of this jurisdiction as a comparator because until recently, it was non-union, and it still does not have a collective bargaining agreement. Thus, the wages in existence now are wages for the year 2000, and they were unilaterally set by the employer, as opposed to being negotiated wages. The neutral Arbitrator agrees with the Union. Interest arbitrators generally eschew non-union employers as comparators if possible, and also avoid using comparators that lack current wage data. Although comparators without a current contract can be utilized for ranking purposes when historical data for all comparators is available, this places the comparator in a position of secondary importance. The Employer attempted to "age" Kitsap Fire District No.'s 2 data by 3.4%, the amount of its offer, but this ends up being only an approximation of the final wage settlement of the employer and the union in that district. The neutral Arbitrator therefore rejects Kitsap No. 2 as a comparator.

Accordingly, these ten jurisdictions comprise the Arbitrators' final list of comparators:

1. King County Fire District No. 26
2. King County Fire District No. 43
3. King County Fire District No. 45
4. Kitsap County Fire District No. 10
5. Kitsap County Fire District No. 18
6. Pierce County Fire District No. 3
7. Pierce County Fire District No. 16
8. Snohomish County Fire District No. 3
9. Snohomish County Fire District No. 4
10. Snohomish County Fire District No. 8

V. THE DISTRICT'S FISCAL HEALTH AND FUTURE CONDITION

Arbitrators typically consider an employer's ability to pay wage and benefit increases both in absolute and relative terms. Although this consideration is not explicitly spelled out in RCW 41.56.465, it is a consideration that would fall under subsection (f), "Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment." It also is a consideration that affects all four issues certified for interest arbitration. Therefore, it will be discussed in advance of those issues.

A. Positions of the Parties

1. Employer's Position

The District contends that annexation, the Farmland Preservation Program, and the Muckleshoot Indian Reservation are factors that show the rural nature of the District, and circumstances that will keep it as such in the upcoming years. All of these things have a depressing effect on the District's tax base and its future.

Annexation has the effect of removing that area from the tax rolls of the District, thereby reducing its revenue. The District will continue to own assets but is required to pay to the

annexing city, in cash, properties or by a contract for fire protection services, a percentage of the fair market value of the assets proportionate to the percentage annexed. Thus, annexation results in both a reduction of revenue to a fire protection district as well as a loss of assets, the District contends.

The District is divided by Highway 18, which cuts through the northwest corner of the District and essentially constitutes the Urban Growth Boundary Line, to the west of which is residential and commercial territory, and to the east of which is the remaining rural region of the District. This Urban Growth Boundary Line delineates the boundary of the Lea Hill area, which is the area the City of Auburn began to annex two years ago, and is continuing to annex piecemeal. This region constitutes one tenth of the land mass area of the Fire District. When the City of Auburn first annexed what is now known as the Southwest Annexation, the City contracted with the District for emergency services to that area for an amount equivalent to the usual tax revenue. The City has now canceled that contract and the annexation process for two new areas is nearly complete. These annexed areas account for 14% of the District's assessed valuation. The Lea Hill area as a whole is 10% of the District's landmass, but 38% of its assessed valuation. Thus, the District argues, with annexation the District will have a dramatic decrease in revenue without a corresponding decrease in area served. In addition, the District's assets will be eroded.

The rural nature of the District is evidenced in part by the existence of agricultural lands, many of which are now protected as such by the Farmland Preservation Program. This program authorizes the County to preserve rapidly diminishing farmland by purchasing the right to develop it. In selling the development rights to their property, owners allow restrictive covenants to be placed on the lands, which thereby limit the property's use and development. Currently, King County has development rights to 2.8 square miles of land in the District, which is now open space for agriculture. Other development regulations include the strict building

limitations (one home per 10 to 35 acre limits) in what was previously District 46.

The District provides fire protection service to 75% of the Muckleshoot Tribal Lands, despite the fact that those lands aren't taxed. The District services those lands by contract for $65,000, but payment is erratic.

The District thus maintains that the enforced rural and agricultural nature of the District is a major contributing factor to the limited population served by the District and its depressed assessed valuation base with which the District has to work for its funding.

Initiative 747, passed in November 2001, places an arbitrary 1% cap on annual property tax increases, and requires everything above this 1% threshold to go to the voters for approval. The significance of this legislative development is that the board will only be able to increase the District's tax revenue by one percent 1% a year, as opposed to the 6% previously. The 6% cap afforded flexibility in planning for growth and inflation, which is always above 1%. According to the District, the consequence of Initiative 747 is that it will soon face a shortfall of funds and will have to confront voters with costly elections just to make ends meet, let alone approve additional services or react to emergencies. This is an affront to the conservative fiscal policy the District has successfully operated under for nearly a decade. Pursuing the taxpayers for additional monies violates the District's policy to live within its budget, dictated by property tax revenues received and the Board has no desire to ask the taxpayers for additional taxes in the form of special levies or bonds.

The District encourages the Arbitrators to keep in mind this tight fiscal picture that it will be facing when they weigh and consider the financial impact of the Union's wage and benefit demands.

2. Union's Position

The Union points out that any party that makes an "inability to pay" argument in an interest arbitration proceeding bears the burden of proving the validity of such an argument in

that particular instance. (Citation omitted).

The Union also notes that the District has not actually made a *per se* "inability to pay" argument in this instance but it did raise some issues on its financial condition. The Union contends that the District is in good economic health at this time. For instance, the total annual revenues that have been received by the District have increased every year since at least 1995, and the amount of the District's total annual revenues to date for the year 2001 is already more than double the amount of the total revenues that were received by the District in 1995. The District is also clearly located in a geographic area where further growth will take place over time that will allow the District's total revenues and its assessed valuation to continue to increase. For instance, a new golf course was recently opened up within the District's geographic boundaries, and a large number of exclusive and highly priced residences are currently in the process of being built around this golf course. As construction on these homes is completed over the next several years, these homes alone will add at least several million dollars to the District's current assessed valuation and will also add to its total revenues. Since the District was not able to legitimately claim that it was experiencing any financial difficulties at this time, it resorted at hearing to raising speculative concerns of various types about future events that might or might not occur or negatively impact upon the District's financial health at some future time.

The District raised concerns about the possible cancellation of a contract for services that the District has with the City of Auburn, about the possible annexation of some of the District's territory by the City of Auburn, and about the possible impact of a recent initiative. The District's concerns are speculative. The District's Fire Chief admitted at hearing that discussions about the potential annexation of portions of King 44's territory by the City of Auburn have been ongoing for many years now with little action in that regard actually having been taken. Tr. I: 78-85. Moreover, the Union has already agreed to allow the District to re-

open the parties' next collective bargaining agreement should such an annexation actually take place. The "contract for services" situation is unsettled and unresolved and its cancellation could have little impact. *Id.* The impact of the new voter-approved initiative will undoubtedly not be clear for at least several more years.

In conclusion, the Union submits that by the time that an interest arbitration award is issued, the parties will already be into the second year of their new three-year CBA, and the District will still be in good financial health. Within approximately one year after the issuance of the panel's award in this matter (or potentially much sooner than that if there really is an annexation of the District's territory), the parties will be back at the bargaining table to negotiate another CBA. Those negotiations are the appropriate forum for dealing with any changes in the economic health of the District.

B. Arbitrators' Analysis and Findings – District's Fiscal Health and Future Condition

Although both sides have made valid points regarding that District's financial health, its ability to pay, and its prognosis for the future, the arbitration panel has determined that it is not a significant *special* consideration in these proceedings for several reasons:

1. The panel believes that fiscal responsibility and caution should be the norm among small public employers, and therefore it is not inclined to give any special consideration to an employer's track record of fiscal responsibility and conservatism. Stated another way, that a public employer has behaved fiscally irresponsibly in the past is not a reason to bind it to a fiscally *irresponsible* interest arbitration award.

2. The extent to which the semi-rural nature of the District depresses its assessed valuation, resulting tax revenues, and population served is reflected in the arbitration panel's selection of comparators. The comparators selected by the panel were similar in size and assessed valuation to the District.

3. The Lea Hill annexation will reduce the revenues and assets of the District, but also will have a proportionate reduction of obligation. There will be fewer building fires, and fewer people needing emergency medical response. The District may downsize, a fact the parties recognize with the reopener clause in their Collective Bargaining Agreement. The District may lose some economy of scale, but it presented no evidence of this, so that is only speculative.

4. Initiative 747 is a concern, but it probably won't affect the District during the life of the Collective Bargaining Agreement under consideration, and it may go the way of Initiative 695 (another tax-related initiative, which was struck down last October by the Washington Supreme Court, *see Amalgamated Transit Union Local 587 v. the State of Washington,* No. 69433-8 (October 26, 2000).[4]

5. Finally, the arbitration panel's final award is fairly close to the Employer's offers and well within its ability to pay, thus making the District's fiscal condition and prognosis an academic consideration.

VI. WAGE ISSUE

A. Proposals - Wages

1. Employer's Proposal

The Employer's final proposal on wages stated as follows:

[Article 17.1] Effective July 1, 2001, wages shall be paid as follows:

Fire Fighter Probationary	$3188.86
Fire Fighter Third Class	$3664.50
Fire Fighter Second Class	$4066.72
Fire Fighter First Class	$4447.23

[4] According to the *Seattle P-I*, a lawsuit was filed challenging Initiative 747 in the Thurston County Superior Court on December 5, 2001. See story online at: http://seattlepi.nwsource.com/local/49381_brfs05.shtml.

Note: The above schedule reflects a 3.4% wage increase.

Salaries January 1st, 2002 will increase 3.0%.

Salaries for 2003 will be open for negotiations.

2. Union's Proposal

The Union's final proposal on wages was the following:

> Effective on January 1 of each year of the parties' new CBA (2001, 2002 and 2003), the base wages of each bargaining unit member should be increased by 100% of the mid-year Seattle-Tacoma CPI-U plus 2%.
>
> This translates into a 5.7% base wage increase effective January 1, 2001, and a 6% base wage increase effective January 1, 2002/
>
> The increase for January 1, 2003 is yet to be determined (dependent upon the mid-year Seattle-Tacoma CPI-U)

B. Positions of the Parties - Wages

1. Employer's Position

Compensation Analysis Should Be Hourly. The Employer argues that on an hourly basis, bargaining unit members are paid the highest of its comparators. Bargaining unit personnel in its three stations work seven days a week, 12 hours a day, from 6:00 to 18:00. Over a nine-week period, this 12-hour shift schedule averages out to 42 hours per week, or 2,195 hours annually. The hours of work are the fewest of any of the comparator group, thus translating into a high hourly pay rate.

The dramatic difference in shift schedules underscores the fallibility of the Union's approach. The majority of comparable jurisdictions work the 24-hour shift schedule and many more hours per year than King FD 44. The Union exhibits include "days" worked and "structured" hours of work but exclude (1) hours per week, (2) hours per shift and (3) distribution of hours of work among bargaining unit personnel. The Union ignores the fact that the "Day" worked by a District 44 fire fighter is half the time of a "Day" worked by a fire fighter in a comparable jurisdiction. Even in jurisdictions that have at least theoretical 12-hour day-shift

schedules (Snohomish FD No. 8 and King FD No. 43), the hours worked in King County Fire District 44 are lower.

Union's Productivity Analysis Flawed: Although a number of prominent arbitrators have used "hourly wage" (factoring in "hours of work") as an appropriate and preferable method of making wage comparisons, the Union has invented a flawed "productive hours" approach. According to the District, the Union's method is conceptually flawed because in fire suppression work, there is no measurable, quantifiable output. The job of a fire fighter is not to generate widgets, but rather to be available to respond to the public safety needs of the community. The hours worked by a fire fighter must therefore be considered as the time the fire fighter is available to respond; this includes standby time as well as the time spent responding to calls. The Union's position boils down to the notion that day shift personnel are productive their whole 12-hour shift, whereas a shift person may only be actually productive for part of the time, the rest of the time being standby time. If standby (i.e., "on call") time is not considered, then two misleading results occur: First, the "productive hours" appear higher in *Exh. E. 22* than they would otherwise be, as they cannot be both responding to calls and being "productive" (doing structured tasks at the station) at the same time. This creates an artificial inflation of the time actually spent addressing the scheduled tasks. Second, Exh. U. 22 does not reflect the time fire fighters working for comparable jurisdictions spend responding to calls, so they are not credited for being available to respond, and/or actually responding, to public safety needs. Consequently, the failure to add this time to the time the fire fighters are working on scheduled/structured tasks during a shift results in an artificial deflation of the time actually spent addressing the needs of the populous. Therefore, the Union's claimed level of "productive hours" worked by the comparables is significantly lower than in actuality.

The Employer points that Fire fighter Markley acknowledged that the numbers used in Exh. U. 22 take into account neither the time during which the members of the other fire

districts are on call, nor the time during which the fire fighters actually spend responding to calls. See Tr. II: 269. Similarly, in response to a line of questioning regarding why hours of work were not included in Exh. U. 24, a Union witness testified at hearing (Tr. II: 243):

> Some people work shifts, some did not, and we felt that it was important that when we really looked at it to kind of leave that component out." "....we wanted to look at monthly salaries, so we didn't think the figure was important to spin all the way out.

Fire fighter Eberlein testified that because it is difficult to measure how many calls shift fire fighters (24-hour personnel) respond to per night, and the corresponding duration of those calls, the Union decided to "not even deal with the standby time." (Tr. II: 290-91). The District urges the Arbitrator to recognize that it is a preposterous notion to "not even deal" with the very portion of fire fighter service that makes them so valuable to the general public. Eberlein also testified (Tr. II: 294):

> "Some nights fire fighters can sleep all night, and other nights, they may run all night, and sometimes they have one or two calls, so I think to go through and do the whole year is to spend a lot more work and time that I had to be able to do that."

The Employer asserts that the Union's analysis also is flawed because it co-mingles 12 and 24-hour shift schedules.

In summary, according to the Employer's argument, the fact that standby time is difficult to quantify because of its day-to-day variance does not render it immaterial, and it must be considered as hours worked by the arbitration panel. Excluding it altogether from the analysis does not even paint a partial picture of where the bargaining unit falls in relation to comparable fire districts. Instead, it produces a distortion of truth. Moreover, the Union's approach is a dramatic departure from the position previously assumed by the Union, in which it was actually using hourly compensation rates to assert its alleged under-compensated position in negotiations.

Employer's Conclusion - Wages: Using proper methodology, the District submits that its proposals are well supported, even using the Union's comparators. With the Union's

comparators, to ensure an "apples to apples" comparison with respect to the longevity element, it chose a 10-year longevity benchmark. For a total compensation analysis, the District considered salary, longevity pay, holiday pay, employer contribution, deferred compensation, supplemental retirement, and medical. The result is that bargaining unit employees rank second among the comparables in both hourly wage and total hourly compensation and their compensation is 8% above the comparator average.

2. Union's Position

The Benchmark Should be Eight Years. The eight-year benchmark is the appropriate one for comparison purposes, which actually gives the District an advantage over a 10-year benchmark, for example, because many comparator employers provide longevity pay at 10 years. Utilizing a benchmark of 10 years of service would have placed the members of this bargaining unit an average of another 1.64% behind its peers in total compensation. This shows that the total compensation analysis that the Union has submitted to the panel has significantly underestimated the degree to which the bargaining unit is under-compensated.

Monthly, Not Hourly, Compensation Should Be Compared: The Union maintains that monthly compensation, and not hourly, should be the unit of comparison. Interest arbitrators have rejected attempts to utilize compensation comparisons that were based upon the number of hours per week or month that individuals were scheduled to be on duty under similar circumstances to those that are presented in this instance. For example, in *City of Bothell (Bothell Fire Fighters IAFF 2099)* PERC Case No. 75-300-0025-87 (Krebs, 1987), the arbitrator held that in order to prevent a total compensation analysis that was based upon "hours of scheduled duty" from being seriously misleading, a myriad of other issues that might impact the validity of such a total compensation analysis also should be considered, thus making it impractical and unwise for arbitrators to attempt to utilize such an analysis. The Union further asserts that its exhibit and analysis of the productive hours of bargaining unit members vis-à-vis

the comparable bargaining units is a reason why it is misleading to base a compensation analysis on the scheduled hours on duty; the Union's exhibit shows that by at least some important measurements, King County Fire District 44 bargaining unit members are more productive than their peers, even though they are scheduled to be on duty for fewer hours in any given period. See Exh. U. 22. In this instance, the District has chosen to assign the members of the Union's bargaining unit to a day shift schedule, and thus, to a shift schedule which requires the members of the Union's bargaining unit to be on duty for less hours per week and less hours per month on the average than their peers. Further, according to the Union, the District must believe that it can accomplish its operational mission in an enhanced fashion by assigning the members of the Union's bargaining unit to this day shift schedule, and in so doing, it is getting a bargain, or "more bang for its buck," by assigning the members of the Union's bargaining unit to work a day shift schedule.

The Union contends that most fire fighters who are assigned to work 24-hour shifts (which is most of the employees of the comparators) are simply asked to be on "standby" status by their employers for a significant number of hours each day. Fire fighters who are on "standby" status typically are required by their employers to remain on duty and to be available and ready to respond quickly in case an emergency occurs, but they are not otherwise assigned by their employers to perform any specific productive tasks.

The Union contends that in the King FD 44 bargaining unit, by comparison, because of being on the day shift schedule, employees essentially have no "standby" time, and only get lunch and coffee breaks "off" during their scheduled shifts. Thus, even though the members of the Union's bargaining unit are scheduled to be on duty for fewer hours per week, month and year than their peers, they are actually being assigned to perform productive tasks by the District during more hours per week, month and year than their peers. Additionally, the Union established at hearing that the bargaining unit's day shift schedule requires the District's

employees to be at work on more days per month than their peers. See Exh. U. 21.

The evidence established that day shift schedules like the one that the members of the Union's bargaining unit are currently assigned to work by the District are unpopular amongst fire fighters. See Tr. II: 242-246,[5] Exh. U. 21, 22. This is because the ratio of non-standby time on the day shift is relatively high, and because the day shift schedule involves more time away from one's family for a significant portion of the day. Thus, two of the comparators include contractual incentives to work the day shift. King FD No. 43 pays a 10% premium to bargaining unit members who work the day shift, and Snohomish FD No. 3 pays a 6% premium. (Note that only King 43 has bargaining unit members who are actually assigned to work a day shift schedule at this time). Thus, although at least two of King FD No. 44's comparators have actually agreed that their fire fighters should be paid *more compensation* per month in order to get them to agree to work an undesirable day shift schedule rather than a 24-hour shift schedule, the District is somehow trying to argue in this proceeding that the members of the Union's bargaining unit should receive *less* compensation per month than their peers simply because the District has succeeded in assigning all of the members of the Union's bargaining unit to work on such an undesirable day shift schedule on a regular basis. For these reasons, the Union maintains a monthly compensation analysis should be utilized.

Total Compensation Analysis: The Union's total compensation analysis has included the following elements: base wage; longevity pay; education pay; holiday pay; deferred compensation and/or social security; and the cost to the employer of providing health care benefits to its employees and their dependents. See Exh. U. 24. The elements are not set in stone, and any reasonable methodology is suitable, in the Union's opinion.

The Union contends that its bargaining unit's top step base wage is currently about

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[5] Arbitrators' note: This transcript reference is incorrect. Such testimony as there was on the subject is at Tr. II: 231 in a question put to Greg Markley with reference to King FD No. 43's day shift premium:

> Q. In other words, implying, at least, I guess, that that's a more undesirable shift to go to the day shift, and therefore they're required to pay this premium to get people to do it? A. Yes.

7.65% behind the average top step base wage of the comparables. See Exh. U. 25. This is the case even though most of the comparators that the Union believes that the panel should utilize are relatively small in size, and the less favorable 8-year benchmark is used. The lag is not slight; rather it is significant. Only Pierce FD No. 16 pays less on a monthly and annual basis.

All that the Union is asking for is a gradual "catch up" base wage increase of 6% to be spread out over each year of the contract, that is, at 2% per year. There still will be a lag, but the request is a reasonable one. Interest arbitrators have held where there is a healthy economy, targeting wages to the comparable average is reasonable. (Citation omitted).

The District proposes a wage increase retroactive to only July 1, 2001, but it submitted no evidence to justify this deviation from the norm, the Union asserts. Therefore, the pay increase for the year 2001 should be retroactive to the start of that year, the Union asserts.

C. Arbitrators' Analysis and Findings - Wages

1. Methodology: Monthly or Hourly

The most important consideration in this dispute is whether the comparator analysis should be of monthly wages, of hourly wages, or whether some other method should be used to take into account the unusual shift schedule of Local 3186. Alone among the comparators or proposed comparators, all bargaining unit members work a 12-hour day shift and relatively low 2190 hours annually. By comparison, most employees of the comparators work a 24-hour shift and their annual hours range from 2,340 to 2,764 or more, for an average of 2,576 annual hours worked. When viewed against its comparators, the top step base wage of King County Fire District 44 fire fighters is relatively low, but when converted to an hourly wage, because of the low number of hours actually worked, the District comes out on top. Not surprisingly, the Union argues for a monthly wage comparison, while the Employer just as vigorously contends that an hourly wage comparison is more appropriate.

The essence of the Union's argument is that day shift employees work more productive hours than 24-hour employees, who spend part of their time on stand-by time. If Local 3186 members are not responding to calls, they are otherwise engaged in assigned work while on duty, except while on lunch or coffee breaks. Therefore, the Union contends, their time is more valuable to their employer than the time of comparable employees, and should be measured accordingly. A pure hourly rate comparison does not take this into account and therefore paints a distorted picture.

The Employer strenuously disagrees. It essentially contends that 24-hour employees are as valuable to their employers economically as 12-hour shift employees, and that the Union's methodology fails to consider that the standby time of the 24-hour employee is often productive time, time spent fighting fires, responding to calls, or doing other work.

The problem for the neutral Arbitrator is that there may be some truth to the Union's position, but no suitable methodology has been suggested for identifying less productive standby time and assigning a valuation to that time. The Union made a stab at it, but it was more guesswork than a methodology based on objective, quantifiable data. See Exh. U. 22 and 23.

To the neutral Arbitrator, given the same fixed salary, she would prefer fewer hours of work rather than more, and believes that would be the case for most people, even though one might have to exert more effort during those fewer hours. Thus, with the salary as a constant, one's equivalent hourly wage is higher when one works fewer hours. As the District pointed out, Arbitrator Lankford recently reached the same conclusion under similar circumstances (except that the hourly wage analysis favored the union and was opposed by the employer) in *City of Kelso (Kelso Police Officers Association)* (Lankford, 2001). Arbitrator Lankford stated, at pgs. 9-10:

> What the statute requires an arbitrator to compare is not simply "wages" but "wages, hours, and conditions of employment." To the extent it is reasonably

> practicable, that comparison should be done on an "all things considered" basis, reflecting wages and hours of work together. For example, police officers who are making 20% less than the average wage paid by comparable jurisdictions have no particular reasons to expect a raise if they are also working a total of 20% fewer hours than the average (which the City would certainly be quick to point out if the shoe were on the other foot). Washington interest arbitrators have commonly recognized this interrelationship in the past.

In *City of Centralia (IAFF Local 451)* PERC No. 11866-I-95-253 (Lumbley, 1997), the arbitrator took a similar view, except that the arbitrator faced a complicating factor: He had to do a comparator analysis based on the status quo, and then factor in the employer's proposal to *increase* the bargaining unit's total hours of work. Regarding the hourly wage, arbitrator Lumbley wrote:

> [A]s the net hourly wage comparisons above make abundantly clear, Centralia is simply too far out in front. The demand that this trend continue is one of the two reasons the parties ended up in interest arbitration.

Addressing the bargaining unit's total annual hours, he commented:

> By any comparison, the scheduled hours of unit employees here are extremely low. .... The hours worked by firefighting employees in other jurisdictions demonstrates conclusively that the contract hours in Centralia are out of touch and that the City's demand for a modest increase in those hours is reasonable.

Arbitrator Lumbley ultimately reached an intermediate solution of a longer workweek and a wage increase that reflected the longer workweek. Cases cited in the District's post-hearing brief indicate that other arbitrators also have elected to use an hourly calculation to evaluate comparables when employees within those comparators work varying shift schedules. *City of Vancouver (Vancouver Police Officer's Guild*, (Beck, 1997); *City of Ellensburg (IAFF 1758)* (Snow, 1992); *City of Bellingham v. IAFF 106, (Beck*, 1991); Cowlitz *County v. IBT Union 58*, (Beck, 1987); *City of Bellevue (IAFF 1604*), (Gaunt, 1987); *City of Seattle v. Seattle Police Officer's Guild*, (Kienast, 1984).

The neutral Arbitrator, therefore, believes that the dominant wage comparison should be on an equivalent hourly basis. Other considerations can be made to account for the productivity of District employees. One of those would be to maintain a presumably high

ranking among the comparators, when measured on an hourly basis. Another possible measuring device is to look to the King County Fire District No. 43's CBA for guidance. A few of its bargaining unit members work 12-hour day shifts, and they are paid a 10% premium, presumably to account for their greater productivity – or the lesser desirability of working this shift.[6] Thus, one might use this precedent to factor in a 10% discount on the District's wages for the sole purpose of seeing where the District's employees stand on an hourly basis vis-à-vis its comparators.

This discussion will turn next to an examination of the wages of the arbitration panel's comparators relative to the bargaining unit's. The Union stated that it used the eight-year employee as the benchmark, while the District used the ten-year benchmark. As to the base annual or monthly salaries, their figures agreed on all the relevant comparators. The arbitration panel will use the ten-year benchmark, to which the Union presumably would not object because it is more favorable to its position, and which reflects a more common breaking point for longevity pay.[7] The arbitration panel will use the figure 2195 as the number of hours the bargaining unit members work in a year. This was apparently the number of hours they worked near the outset of the CBA under consideration. Currently, however, the arbitration panel understands that their hours have been reduced to about 2080. Therefore, the higher figure being employed here is to the Union's advantage.

2. Comparator Wage Analysis

The following table shows the top step base wage of each comparator on a monthly basis, along with annual hours worked, and the resulting equivalent hourly wage. It also provides the same information for King County Fire District 44 in terms of current pay, along

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[6] According to the Union, the CBA for Snohomish 3 also contains a day shift premium (of 6%). No fire fighters are currently assigned to this shift however.

[7] The neutral Arbitrator notes, however, that the Union's method for selecting the benchmark, based on the average tenure of bargaining unit employees, is generally the more acceptable one; according to the Union, the average length of service of bargaining unit members in King FD No. 44 is about eight years.

with the pay rate that would result from each party's proposal for 2001.

Table 4.
Comparables' Base Pay, Monthly and Hourly

Jurisdiction	*Top Step Base Monthly Pay*	*Annual Hours Worked*	*Hourly Rate*	*King 44 with 10% Adjustment*
King FD 44 Current	***$4,302***	***2195***	***$23.52***	***$21.38***
Employer Proposal	***$4,448***	***2195***	***$24.32***	***$22.11***
Union Proposal	***$4,547***	***2195***	***$24.86***	***$22.60***
King FD 26	$4,557	2,624	$20.84	
King FD 43 – 24 hr shift	$4,894	2,596	$22.62	
*King FD 43 – 12 hr days**	*$5,383*	*2,346*	*$27.53*	
King FD 45	$4,493	2,704	$19.94	
Kitsap FD 10	$4,575	2,764	$19.86	
Kitsap FD 18	$4,471	2,604	$20.60	
Pierce FD 3	$4,546	2,512	$21.72	
Pierce FD 16	$4,007	2,607	$18.44	
Snohomish FD 3*	$4,800	2,340	$24.62	
Snohomish FD 4	$4,581	2,340	$23.49	
Snohomish FD 8	$4,562	2,680	$20.43	
Average*	$4,595	2,552	$21.75	

*Snohomish FD 3 has a 45-hour week (2340) and a 56-hour week; per the District's brief, for comparative purposes, the 45-hour week has been included in the above table. Similarly, the shorter workweek was used for King FD 43.

Although the bargaining unit's monthly wage is well behind the average, as can be readily seen, when wages are considered on an hourly basis, the bargaining unit's *current* pay is higher than the average of the comparators. With the 10% discount factor applied to FD 44's actual hourly rate, a methodology option discussed above, the current pay trails the average slightly. The neutral Arbitrator wishes to emphasize that this 10% adjustment off the bargaining unit wages for comparison purposes is merely an attempt to give fair consideration to the Union's argument regarding the arguably greater productivity of 12-hour day-shift fire fighters, with the 10% figure derived from King FD No. 43's contract. It is an artifice derived from a small universe (a single comparable collective bargaining agreement that has two or three fire

fighters on day shift) that could be considered problematic if subjected to a vigorous challenge.[8] The difference between King County Fire District 44's hourly wage, the Employer's proposed wage and the Union's proposed wage (both current and as adjusted per the shaded column above) and the average of the comparators is as follows:

Table 5.
King 44 Hourly vs. Comparator Average (Base Wage)

	King 44 Percent Vs. Comparator Average:	
	King 44 Unadjusted	***King 44 Less 10%***
Current wage vs. comparator average	8.15%	-1.7%
Employer's proposal over comparator average	11.8%	1.67%
Union's proposal over comparator average	14.3%	3.92%

The next table shows the ranking of King FD 44's wages relative to its comparators:

Table 6.
Comparator Ranking (Base Wage)

Jurisdiction	**Pay/Hr**
King FD 43 – 12 hr shift	$27.53
Snohomish FD 3 – 45 hr wk	$24.62
King FD 44 Current	***$23.52***
Snohomish FD 4	$23.49
King FD 43 – 24 hr shift	$22.62
Comparator Average	**$21.75**
Pierce FD 3	$21.72
King FD 44 Less 10%	*$21.38*
King FD 26	$20.84
Kitsap FD 18	$20.60
Snohomish FD 8	$20.43
King FD 45	$19.94
Kitsap FD 10	$19.86
Pierce FD 16	$18.44

[8] The neutral Arbitrator stresses that she does not endorse using the 10% discount factor as a negotiating tool, nor should its use herein be cited as precedent in other cases.

As Table 6 shows, King FD 44 bargaining unit members come out third from the top in terms of hourly pay even before any year 2001 wage increase, and one should bear in mind that there are only a few fire fighters working these shorter workweeks in the top two jurisdictions. With the 10% adjustment, the bargaining unit's rank drops three places. However, on an adjusted basis, both the Employer's and the Union's proposal (with the 10% adjustment) would move it up one notch. Without any adjustment, the Employer's offer of $24.32 brings the hourly wage close to Snohomish FD No. 3's shorter workweek, and the Union's proposal of $24.86 places it ahead.

A more accurate comparison of wages, albeit a more difficult one to make, is a total compensation comparison. The neutral Arbitrator chose to include base wage, longevity pay, and employer paid health care in the total compensation analysis because the record contains the most complete and reliable data for all of the comparators on these elements. The results are shown on the next table and they do not differ very much from the base wage analysis:

Table 7.

Comparables' Total Compensation, Monthly and Hourly

Jurisdiction	Monthly Base	Hours Yr	Long % 10 yrs	Long $ 10 yrs	Monthly Med	Monthly Dental	Monthly Total	Hourly Total
King 44 Current	**$4,302**	**2195**	**0**	**0**	**$550**	**$123**	**$4,975**	**$27.20**
King 44 District Proposal	**$4,448**	**2195**	**0**	**0**	**$550**	**$123**	**$5,121**	**$28.00**
King 44 Union Proposal	**$4,547**	**2195**	**3%**	**$136.41**	**$550**	**$123**	**$5,356**	**$29.28**
King FD No. 26	$4,557	2,624	4%	$182.28	$505	$126	$5,370	$24.56
King FD No. 43	5,383	2,346	5%	$269.15	$550	$131	$6,333	$32.39
King FD No. 45	4,493	2,704	0	$0.00	$550	$123	$5,166	$22.93
Kitsap FD No. 10	$4,575	2,764	2%	$91.50	$550	$123	$5,340	$23.18
Kitsap FD No. 18	$4,471	2,604	2%	$89.42	$550	$131	$5,241	$24.15
Pierce FD No. 3	$4,546	2,512	0	$0.00	$550	$131	$5,227	$24.97
Pierce FD No. 16	$4,007	2,607	4%	$160.28	$485	$131	$4,783	$22.02
Snohomish FD No. 3	$4,800	2,340	2%	$96.00	$550	$41	$5,487	$28.14
Snohomish FD No. 4	$4,581	2,340	0	$0.00	$414	$66	$5,061	$25.95
Snohomish FD No. 8	$4,562	2,680	--	$50.00	$550	$131	$5,293	$23.70
Averages	$4,598	2,552	2.01%	$93.86	$525	$113	$5,330	$25.20

The next table shows the total compensation rankings of King County Fire District 44 relative to its compartors, with and without the 10% adjustment, and includes the current King FD No. 44 pay along with both parties' offers.

Table 8.
Hourly Pay Ranking

Jurisdiction	Total Comp Hourly Pay
King 43	$32.39
King 44 Union Proposal	**$29.28**
Snohomish 3	$28.14
King 44 District Proposal	**$28.00**
King 44 Current	**$27.20**
King 44 Union 10% off	***$26.96***
Snohomish 4	$25.95
King 44 District 10% off	***$25.79***
Comparator Average	**$25.20**
King 44 Current 10% off	***$25.06***
Pierce 3	$24.97
King 26	$24.56
Kitsap 18	$24.15
Snohomish 8	$23.70
Kitsap 10	$23.18
King 45	$22.93
Pierce 16	$22.02

Table 8 shows that in terms of actual hourly total compensation, King County Fire District 44 bargaining unit members rank very high, just behind those few employees in King FD No. 43 and Snohomish FD No. 3 who work a 12-hour shift. With the 10% adjustment off base pay, King FD No. 44's current pay rank drops to slightly below the comparator average, which is a respectable position considering that the comparators have received pay hikes for 2001. Both the Union's and the District's adjusted proposals will move the bargaining unit's rank to above the average, as shown on the next table.

Table 9.
King 44 Hourly vs. Comparator Average (Total Compensation)

	King 44 Percent Vs. Comparator Average:	
	King 44 Unadjusted	***King 44 Less 10%***
Current wage vs. comparator average	7.94%	-0.56%
Employer's proposal over comparator average	11.11%	2.34%
Union's proposal over comparator average	16.19%	6.98%

3. Other Statutory Considerations

a) The Cost of Living

The Employer's Contention - CPI: The CPI is not a cost of living index; rather, it is a price change index. If anything, the CPI overstates inflation, in some cases by as much as an entire percentage point. (See, Exh. D. 14-9 and 14-10.) There is nothing to support the notion that public or private employees are entitled to wage increases based on 100% of the changes in the Consumer Price Index. Nevertheless, the District's offer compares favorably with the CPI. In addition, the bargaining unit's cumulative wage increases over the past three years have put it nearly 2.5% above the cumulative percentage increases of the CPI over the same period. During the same period, bargaining unit members were enjoying a reduction in workweek from 44.0 hours to 42.1 hours and their hours have recently been reduced to 40 hours per week. (Tr. II: 328).

The Union's Contention - CPI: The Union did not address this question in its post-hearing brief.

Arbitrators' Discussion - CPI:

Evidence shows that the bargaining unit received a 4% increase during each year of the parties' 1998-2000 contract, which outpaced the changes in the cost of living during that period. The increases in the cost of living were approximately 3.5%, 2.9% and 3.0% for each of 1997,

1998 and 1999, respectively. Exh. U. 20, pg. 2. The parties agree that they traditionally apply the mid-year Seattle-Tacoma-Bremerton index. This stipulation is somewhat ambiguous to the neutral Arbitrator because the Bureau of Labor Statistics publishes a Seattle-Tacoma-Bremerton CPI-U in June of each year (along with the other even months), as well as two half-year indices, one for the first half, and one for the second half. The exhibits presented by the parties indicate that they use the June index published by the BLS. See Exh. E. 14 and Exh. U. 20. Those documents show that the Seattle-Tacoma-Bremerton CPI-U increased in June 2000 by 3.7%, and in June 2001 by 4%.

The parties' 1998-2000 agreement did not contain any reference to a consumer price index. See Exh. U. 6, E-14. Their 1995-1997 CBA, in Article 17.1 specified increases for 1996 and 1997 equal to 100% of the *CPI-W* "calculated mid-year," with a floor of 2.5% and a ceiling of 6%.

Interest arbitrators frequently award CPI-based increases. They generally defer to the parties' past practice as to which index to utilize. They also defer sometimes to the parties' past practice of using 100% of the CPI, as compared to a lesser figure, such as 90%. The lesser figure took on some popularity in the face of criticism that the CPI tended to overstate actual changes in the cost of living. Recent methodology adjustments and further analysis indicate that this is less apt to be true, and arbitration awards from the past few years indicate a possible trend towards 100% CPI increases:

Table 10.
CPI Increases in Recent Arbitration Awards

Case Name	% CPI Applied
Spokane County (Spokane County Deputy Sheriff's Association), (Beck, 2001)	100%
City of Longview (Longview Police Guild), PERC No. 15438-1-00-350 (Nelson, 2001)	100%
City of Mountlake Terrace (Mountlake Terrace Police Guild), PERC Case No. 15590-1-01-354 (Croll, 2001)	90%

City of Kelso (Kelso Police Officers Association) (Lankford, 2001)	80%
Kitsap County Fire Protection District No. 7 (IAFF Local 2876), PERC No. 15012-1-00-333 (Krebs, 2000)	100%
City of Aberdeen (Aberdeen Police Assn.), PERC No. 14678-I99-322 (Axon, 2000)	100%?
City of Bellevue (IAFF Local 1604), PERC No. 14037-I-98-309 (Beck, 1999)	100%

In *Spokane County, supra*, Arbitrator Beck rejected a 90% formula, explaining:

> I have rejected the Employer's contention that in setting wages based on the CPI, I should use a 90% figure. In making this decision, I note that the BLS has established a new formula in calculating the basic components of the CPI as of January 1999 in order to correct the prior method which the BLS determined created upward biases in the CPI. (footnote: See Municipal Research and Service Center, May 25, 2001 update, http://www. mrsc.org/finance/cpipage. htm.)

The neutral Arbitrator agrees with Arbitrator Beck's rationale, and also notes that the parties have not shown a past practice of discounting the CPI in calculating their wage adjustments. Accordingly, any CPI-based wage adjustments awarded herein will be based on 100% of the CPI.

b) Other Considerations

The parties presented little evidence or argument on other traditional considerations. What evidence there was suggested that recruitment and retention is not a problem with the District.

One significant matter, however, concerns the retroactivity of the wage increase. The District proposes that the first year wage increase be retroactive only to July 1, 2001, rather than to the agreed-upon start of the contract, January 1, 2001. The District presented no rationale for this. Interest arbitrators who have considered the question have uniformly rejected it. In *City of Kelso (Kelso Police Officers Association)* (Lankford, 2001), the arbitrator explained:

> But if interest arbitration awards are not commonly retroactive to the expiration of the prior agreement, that creates an obvious pressure to initiate the interest arbitration process far enough in advance to avoid the retroactivity problem, regardless of whether two-party bargaining has really been exhausted or not.

> Second, leaving long periods between collective bargaining agreements, and without orderly wage and benefit provisions, does not seem to serve the stated legislative intent and purpose of the statute: "to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes." The first year award should be fully retroactive.

Accord, Walla Walla County Sheriff (Walla Walla Commissioned Deputies Association) (Greer, 2000); *City of Bothell (IAFF Local 2099),* (Krebs (2000). There is no question that the first year wage increase awarded here should be fully retroactive.

4. Arbitrators' Conclusion and Award - Wages

After weighing and evaluating the above considerations, it is the conclusion and determination of the neutral Arbitrator that the bargaining unit should be awarded a CPI-based increase for each year of the 2001-2003 Collective Bargaining Agreement. This falls short by 2% each year of the Union's proposal, which is not supported by a comparator analysis. It exceeds the Employer's proposal somewhat, and is justified because RCW 41.56.465(d) and (f) require the interest arbitrator to consider "the cost of living and "[s]uch other factors ... that are normally or traditionally taken into consideration" in setting wages. In addition, the excess over the Employer's proposal will cushion the impact of the neutral Arbitrator's award on dependent health care benefits, below. This wage award will maintain the District's high hourly pay ranking vis-à-vis its comparators, which is justified on the basis of its shift schedule. The increase for the first year of the contract, which according to Exh. E. 14 and Exh. U. 20 will be 3.7%, will be fully retroactive to January 1, 2001. The increase for the second year of the contract, according to CPI data contained on Exh. U. 20, will be 4%. The increase for the third year of the contract will equal 100% of the increase in the June 2001 to June 2002 Seattle-Tacoma-Bremerton CPI-U, as published by the Bureau of Labor Statistics. The arbitration panel does not deem it necessary to impose a floor or ceiling on the CPI increase for 2003 because the relevant period, which began in June 2001, has not shown signs of an extreme fluctuation.

VII. LONGEVITY PAY ISSUE

A. Proposals – Longevity Pay

1. Union's Proposal

The Union proposes establishing a longevity pay schedule as follows:

Years of Service	Pay (% of Top Step Base Wage)
0-6 yrs	0%
7-13 yrs	3%
14-20 yrs	5%
21+ yrs	7%

2. Employer's Proposal

The Employer opposes the establishment of any longevity pay schedule.

B. Positions of the Parties

1. Union's Position

The Union maintains that six out of the seven Union comparators provide some sort of longevity pay. The only exception is King FD No. 20. Most begin at four or five years with 1% to 3%. At the 10-year mark, the pay ranges from 2% to 5% per year. It increases further in several jurisdictions after 15, 20 and 25 years. One jurisdiction pays a flat dollar amount ($25) starting at the five-year mark that increases at five-year intervals to $100 at the 20-year mark. Longevity pay is, of course, a significant economic benefit.

2. Employer's Position

The District contends that bargaining unit employees already are enjoying an hourly wage (calculated on both a base wage and a total compensation basis) that is 8% higher than the average of the comparators *when using the Union's comparables.* The figure is even

higher using the District's comparables. Therefore additional longevity pay is not warranted.

About half of the District's comparable jurisdictions pay this wage premium, and the other half do not. The District urges the Arbitrator to take note of the fact that the Union's selected list of comparables "coincidentally" just happen to be those same jurisdictions which pay wage premiums for longevity. See Exh. U. 25.

C. Arbitrators' Longevity Pay Analysis and Findings

As previously noted, King County Fire District 44 currently pays no longevity premium. After advancement to fire fighter first class, the pay scale remains flat. The longevity pay of the District's comparators relative to the Union's proposal is shown on the next table.

Table 11.
Longevity Pay: Comparators/Union Proposal

Jurisdiction	Longevity Premium			
	5 yrs	10 yrs	15 yrs	20 yrs
King 44 Current	**0**	**0**	**0**	**0**
King 44 Union Proposal	**0**	**3%**	**5%**	**7%***
King 26	2%	4%	6%	8%
King 43	3%	5%	5%	5%
King 45	0	0	0	0
Kitsap 10	1%	2%	3%	5%
Kitsap 18 (5% after 25 yrs)	1%	2%	3%	4%
Pierce 3	0	0	0	0
Pierce 16	2%	4%	4%	4%
Snohomish 3	0%	2%	3%	3%
Snohomish 4	0	0	0	0
Snohomish 8 (%)**	0.55%	1.10%	1.64%	2.19%
Comparator Average	0.95%	2.01%	2.56%	3.12%

* The Union's proposal actually breaks at 21 years, but was included in the 20-year column for purposes of comparison.

**Snohomish FD 8 pays a flat dollar rate at five-year intervals of $25, $50, $75 and $100. The percentage figure is a calculated figure for purposes of comparison.

The Union's proposal is generous relative to the comparator average. Although it does not propose a premium for the five year mark, and the District's comparators average nearly

1%, the premium kicks in at seven years with a 3% premium, which remains in effect at year ten, as compared with the 2% average of the comparators. By year 15, the Union's proposal is at 5%, but its comparators average only about half that, or 2.56%. At year 21, the Union proposes 7%, but the comparator average at year 20 (and 21) is not much more than 3%.

The difficulty the neutral Arbitrator has with any longevity pay proposal is that longevity pay essentially is an element of base wage. For the parties, it is an easily quantifiable economic item, although an arbitrator is less well equipped to cost this proposal since it requires the creation of a spreadsheet showing each bargaining unit member's longevity. The discussion above on wages included a total compensation analysis that took into account the longevity premium paid by the District's comparators, and fashioned a wage award having that analysis, as well as the other statutory factors in mind. The neutral Arbitrator has thus determined that this wage award is the incremental compensation "pie" so to speak, for the bargaining unit with a ten-year benchmark assumed. How the parties wish to divvy up that pie is ultimately up to their mutual agreement. The wage award gives each bargaining unit member an equal share. If they wish to divide it some other way by carving out longevity pay, they are free to do so via collective negotiations. As a matter of good employment practices, one can make a case for rewarding tenure and experience with increased pay, whether it be in the form of a longevity premium, as the Union proposes, or in the form of a step on the pay schedule, as occurs in some sectors. Unless the case for longevity pay over and above the wage award is compelling, however, the neutral Arbitrator believes it is something that should be negotiated by the parties, and not awarded in interest arbitration. Instead, the award should determine the appropriate level of compensation for the bargaining unit, and make that award in the form of increased wages instead of trying to allocate it among the various compensation categories that arise in these cases. Specific allocations in the form of premium pay, incentives and the like are best left to the negotiation of the parties.

D. Arbitrators' Conclusion and Award on Longevity Pay

For the foregoing reasons, no longevity pay will be awarded the bargaining unit for the 2001-2003 Collective Bargaining Agreement.

VIII. ACTING LIEUTENANT PAY ISSUE

A. Proposals - Acting Lieutenant Pay

1. Union's Proposal

The Union proposed that Article 17.1.2 of the parties' Collective Bargaining Agreement should be amended to read: "Acting Lieutenants shall receive an additional 12% above their normal hourly rate of pay for each shift they serve as Acting Lieutenant."

2. Employer's Proposal

The District proposed amending Article 17.1.2 to state that: "Effective the first of the month after the arbitration award is issued, Acting Lieutenants pay shall increase from $15 per shift to 8% per shift."

B. Positions of the Parties

1. Union's Position

The Union contends that the evidence at hearing established that bargaining unit members are assigned to work as Acting Lieutenant on a regular and recurring basis and there is typically very little difference between the job duties that they perform in this role and the job duties that are performed by the District's permanent, "hard bar" Lieutenants. Tr. II: 220-223. Thus, they should be paid the same. There is a 12% differential between the top step base wage of a fire fighter and that of a Lieutenant, therefore, the Union seeks 12% acting pay for assignments to this position.

Even the District recognizes that bargaining unit members are underpaid when assigned

as Acting Lieutenants, since the District is proposing to significantly increase the premium pay from $15 per shift to an 8% premium pay, which is a 67% of this pay differential, versus the 100% that the Union seeks.

The Union points out that with the exception of King FD 20, which has no acting pay, the comparators' rates support the Union's position. Four of the Union's comparators pay 100% acting pay and one is close to that at 95%. One is at 50% for fewer than nine shifts, and at 100% for nine shifts or more.

2. Employer's Position

The Employer submits that its offer is supported by comparisons with other fire departments and is a fair offer because: 1. The District's pay premium kicks in from the first hour that fire fighter acts for a lieutenant, whereas the norm among other fire departments is to require the fire fighter to be on shift for an average of 6.5 hours before they qualify for the pay premium. See Exh. D-12. 2. The 8% pay is 67% of the 12% wage differential between a top step fire fighter and a lieutenant. This 67% spread is ample, given the fact there is not a corresponding increase in responsibility, in that acting lieutenants are not responsible for ongoing personnel issues as is the case with regular full-time lieutenants. While the Union is demanding the 12% premium, the norm among other fire departments is slightly less than 10%. 3. The Union demanded 12% at the outset of bargaining and has not budged. The Employer offered 10% in a package offer with some give-and-take that the Union refused.

C. Arbitrators' Acting Lieutenant Pay Analysis and Findings

All of the comparable jurisdictions pay a premium when a fire fighter is assigned out-of-classification at the next step up, which is usually the lieutenant classification. In specifying the premium, the Union referenced the percent of spread between the pay of the higher classification and the fire fighter pay. Thus, if a fire fighter assigned as an acting lieutenant is paid 100% premium, that individual receives the full lieutenant's pay. The District, on the other

hand, referenced the premium as the percent above the fire fighter's base pay. In the case of King County Fire District 44, the spread between fire fighter and lieutenant is 12%. Thus, a 12% premium using the District's methodology would equal a 100% premium applying the Union's approach; a 6% premium in the District's parlance would be a 50% premium to the Union, and so forth. The following table uses the District's approach because that data was supplied for all the comparators, whereas it was not supplied using the Union's formula.

Table 12.
Acting Pay: Comparators vs. King FD No. 44

Jurisdiction	% Premium	Threshold (Hrs)
King 44 Current	***($15)***	***0***
King 44 District Proposal	***8%***	***0***
King 44 Union Proposal	***12%***	***0***
King 26 (4%-10%, used median of 7%)[9]	7%	12
King 43	10%	0
King 45	5%	6
Kitsap 10	12%	12
Kitsap 18 (5% & 10%, median=7.5%)[10]	7.5%	6
Pierce 3	12.50%	1
Pierce 16	9.50%	12
Snohomish 3	20%	4
Snohomish 4	10%	6
Snohomish 8	7.50%	6
Comparator Average	**10.1%**	**6.5**

Unlike longevity pay, which is a predictable, quantifiable element of compensation, acting pay cannot be calculated as part of the total compensation package because it is not known in advance who will be assigned to act in the lieutenant's classification and for how long. Therefore, the arbitration panel's award pays particular heed to the practice of the comparators. That evidence, based on the best available data of record, shows that the District's offer (8%) is

[9] Appendix A in the King 26 Agreement shows a 10% spread between the fire fighter and lieutenant classification, and a 4% spread between fire fighter and probationary lieutenant. Article 10, §1 of the Agreement states that acting pay is at the probationary lieutenant level (4%), unless the fire fighter has accumulated 2624 hours as an acting lieutenant, in which case the employee will receive full lieutenant's pay.

[10] Article 15.1 in the Kitsap FD 18 Agreement shows a 10% spread between the fire fighter and lieutenant classification. Article 15.10, on Acting Pay, specifies that that the premium will be 50% of this spread if the assignment is for less than nine shifts, and 100% if for over nine shifts.

too low, while the Union's (12%) is too high. With the comparator average at around 10%, the premium should be in the range of that figure. The threshold hours required to receive the premium are indeed higher with the comparators – 6.5 hours, according to the data. But given that the evidence in this proceeding is that the District virtually always has an Acting Lieutenant on duty, the neutral Arbitrator finds that 10% acting pay premium is the appropriate figure. This constitutes about 83.3% of the spread between fire fighter and lieutenant in the King County Fire District 44 bargaining unit. It also seems like a fair figure. The District presented evidence that the Acting Lieutenant does not perform the full panoply of duties of a "hard bar" Lieutenant. Chief Gregory Smith testified:

> On a daily basis, the lieutenant, an acting lieutenant, probably has pretty much the same responsibilities as far as history there. They are to supervise the crew during their routine and emergency routines; in other words, when they're doing their routine work at the station around the District and also while they respond to emergency incidents. I guess the difference is that a full lieutenant also has the additional responsibility of ongoing personnel management, and they also have to do yearly reviews of personnel, and they're also responsible for personnel issues that an acting probably wouldn't be responsible for.

Tr. I: 145-46. The Union's cited evidence to the contrary was did not address the point made by Chief Smith. Greg Markley, a City of Kent fire fighter and District Representative to the Washington State Council of Fire Fighters testified:

> They aren't paying these members for the job they're doing, but yet, if something should happen, we know they're going to hold them 100 percent accountable. And during our bargaining process, Chief Smith had mentioned that they aren't held as accountable as the other lieutenants, and I don't know how you can do that. We operate in emergency situations where people could get hurt very easily, and if you're only going to pay them partially for the job they're doing, then I guess that when it comes down to the liability issue: I guess I'm just getting -- you know, Well, I was only getting $15, I wasn't getting full pay, so I'm not fully responsible, and that's ridiculous.

Tr. II: 222-23. Therefore, the weight of the evidence is that the Acting Lieutenant does not assume the full panoply of duties that must be undertaken by a regular Lieutenant.

The District proposed to make the Acting Pay increase effective after the arbitration award issues. Neither party addressed the retroactivity of the Acting Lieutenant Pay award in

their post-hearing briefs. The neutral Arbitrator has determined to make the Acting Pay retroactive to January 1, 2001.

D. Arbitrators' Conclusion and Award on Acting Lieutenant Pay

The arbitration panel awards the following contract language on Acting Lieutenant pay:

> "Effective January 1, 2001, Acting Lieutenants shall receive an additional 10% above their normal hourly rate of pay for each shift they serve as Acting Lieutenant."

IX. HEALTH CARE PREMIUM AND PLAN ISSUE

A. Proposals - Health Care Premium and Plan

1. Employer's Proposal

The District proposes to amend Article 26.1 to read as follows:

> The Employer agrees to provide medical, dental, and life insurance for employees. Medical Insurance shall be the Preferred Option Plan offered by the Washington Fire Commissioners Association for employees and their eligible dependents (spouse and children) or an alternate plan that is mutually agreed upon by both the Employer and the Union. The maximum contribution by the District for spouse and dependent medical and dental insurance shall not exceed $482.55 per month. Dental and Life Insurance shall be as mutually agreed upon by both the Employer and the Union.

2. Union's Proposal

The Union opposes any change to the Contract language and would maintain the status quo, except that it proposes to add the following language to the parties Agreement:

> The Employer and the Union shall establish a labor/management committee to investigate alternative carriers and/or cost containment procedures for medical insurance during the term of this Agreement.

B. Positions of the Parties

1. Employer's Position

The District explains that it proposes to continue to pay 100% of the *employee*

premiums through 2003. The District has proposed to cap the District obligations on premiums for spouses and dependents of employees through 2003 at the year 2000 level (for Traditional WFCA Plan premiums). The District has also proposed the change from the Traditional Plan to the Preferred Plan Option, a plan that five of the bargaining unit members have elected to enroll their families in already. Under the District proposal, employees will be responsible for premium increases for their family members.

According to the District, the Washington Fire Commissioners Association (WFCA) plan rate increased by 18.34% in 2001 and it projects a 30.89% for 2002.[11] During the previous decade (1990 to 2000), the District's medical insurance costs had increased about double the rate of inflation. The District's proposal caps dependent coverage only; it continues to provide full coverage for employees. Its proposal will put the Union in the appropriate position to work with the District in managing the cost of insurance while still receiving excellent coverage and while participating in a more reasonable insurance solution. It will, in turn, provide the economic relief that the District seeks.

Prior to 1993, the District paid 100% of the premiums for employee medical and dental insurance and a fixed dollar amount towards dependents. Since 1993, the District has paid 100% of the premiums for employees, spouse and eligible dependents. This occurred in exchange for significant cost reductions that the parties obtained in the early 1990's. At the same time the District switched from a more expensive plan to the WFCA plan and offered both the Traditional and Preferred Plans; employees received better benefits and the District was able to pay all the premiums.

According to the Employer, the WFCA Traditional Plan Option is a traditional first dollar fee-for-service plan created in the 1980s. Later, the Preferred Plan Option (PPO) was added. The Preferred Plan Option incorporates cost containment features such as increased

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[11] The neutral Arbitrator's calculations do not match these figures. See Table 13, *infra*.

deductibles and co-payments, primarily avoiding the first dollar coverage found in the original plan, the "Traditional" Plan.

The District contends that even with its cost containment features, the Preferred Plan Option is recognized in the insurance industry as an excellent insurance plan providing employees with benefits that protect themselves and their families with coverage nearly equal to or better than what is found in PPOs and other medical insurance plans available in the insurance market. In fact, a number of District bargaining unit employees already enroll their spouses and dependents in the PPO Plan Option.[12] Five employees have enrolled in the PPO also. Furthermore, the benefits come at a lower cost.

The District also points out that over a period of eight years (1992-2000), the District saw only a 27.5% increase in its obligations to pay premiums for spouse and two children. During that time, the rates increased from $379.25 to $483.55. However, in the year 2001 alone, the premium increased approximately 20%. Clearly, the premiums costs to the District have become excessive and out of control.

The District submits that caps on employer insurance contributions are in place in seven other fire districts, constituting half of the District's comparables: King FD No. 26, Kitsap FD No. 10, King FD No. 45, Pierce FD No. 16, Kitsap FD No. 18, Snohomish FD No. 4, Clark FD No. 3. Of the Union's seven comparable fire districts, there are caps in the majority (four of seven) of jurisdictions: Pierce FD No. 16, Kitsap FD No. 10, Snohomish FD No. 3, Kitsap FD No. 18.

In conclusion, the District asserts that it does not make sense that an employer would agree to what the Union proposes.

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[12] Fire fighter Nold testified that he chose to enroll in the preferred plan to obtain the benefit of the Well Care for his child and wife. Some benefits for Well Care can only be found in the preferred plan. (Tr. II: 347). The traditional plan does not offer members of the bargaining unit the benefits for newborns for shots and immunizations. With the preferred plan, the employee only has to select from a group of doctors in the book to get 100% coverage.

2. Union's Position

The District, like its comparables, provides health insurance through the WFCA Employee Benefit Program that offers a "Traditional" and a "Preferred" or "PPO" plan. The District currently pays 100% of the premiums for both the members of the Union's bargaining unit and for their dependents in both plans.

Four out of seven of the District's comparators (King FD No. 43, Kitsap FD No. 10, Snohomish FD No. 3 and Snohomish FD No. 8) offer exactly the same benefits to their bargaining unit members as the District currently offers. King FD No. 20 also pays 100% of the premiums, but limits enrollment to the PPO. The two remaining comparators limit the bargaining unit to the PPO and have monthly co-pays of $9.83 per month in the case of Kitsap FD No. 18 and $65.33 per month in the case of Pierce FD No. 16. Neither of the two comparators that have previously implemented some sort of cost sharing system with respect to the payment of medical and/or dental insurance premiums has instituted the sort of onerous system that the District is seeking to implement in this instance.

All of the District's comparators are facing the exact same increases in premium costs for 2002 that King FD No. 44 is facing in this instance as well. Yet, five out of the District's seven comparators will continue to provide 100% coverage for those increased premiums to their employees and to their dependents, and the other two comparators will continue to provide premium cost sharing arrangements that are more beneficial to their employees than the one that the District is proposing to the panel in this instance despite the above-referenced potential increases in premium costs.

The District and all of its comparators enrolls employees and dependents in a dental insurance plan and an orthodontia insurance plan that is offered by the Washington Dental Service and pays for 100% of the premiums for this plan. Given the fact that the medical and dental insurance benefits that are currently being offered by the District are on par with its

comparators, the Union contends that the status quo should be maintained, and this is especially so given the bargaining unit's wage lag.

Moreover, the Union argues, the District's proposal would open up a Pandora's box because by imposing a monthly cap of $482.55, it would obligate bargaining unit members to pay potentially unlimited and substantial sums towards their medical premiums. Thus, maintaining 100% responsibility on the District's part for the payment of employee and dependent premiums is of the utmost importance to the Union.

C. Arbitrators' Health Care Premium and Plan Issue Analysis and Findings

The rate increases in the WFCA health care plans have indeed been staggering over the past few years. Between the years 1999 and 2000, both the Traditional and the PPO plan rates increased 9.7%. As shown in the following table, between 2000 and 2001, premium rates increased 22%. And from 2001 to 2002, they went up 15% for spouse and dependents, and 45% for the employee. Dental plan increases were much less dramatic. In 2001, the average dental plan increase for the various categories was around 7%, and in 2002 the increase was 4.93% across-the-board in all categories.

Table 13.
WFCA Insurance Plan Rates and Percent Increases, 2000-2002

	2000	2001	*2001*	2002	*2002*
TRADITIONAL PLAN			*increase*		*increase*
Employee	$133.75	$163.18	*22%*	$236.61	*45%*
Spouse	$204.54	$249.54	*22%*	$286.97	*15%*
Spouse and Child	$322.15	$393.02	*22%*	$451.97	*15%*
Spouse + 2 Children	$414.29	$505.43	*22%*	$581.26	*15%*
One Extra Child	$117.61	$143.48	*22%*	$165.00	*15%*
Two Extra Children	$209.75	$255.90	*22%*	$294.29	*15%*
			Employee + Full family increase for 2002:		*22.3%*
PREFERRED PLAN					
Employee	$109.08	$134.18	*23%*	$194.56	*45%*
Spouse	$168.18	$205.18	*22%*	$235.96	*15%*
Spouse and Child	$264.81	$323.07	*22%*	$371.53	*15%*
Spouse and 2 Children	$340.56	$415.48	*22%*	$477.81	*15%*
One Extra Child	$96.63	$117.89	*22%*	$135.57	*15%*
Two Extra Children	$172.38	$210.30	*22%*	$241.85	*15%*
			Employee + Full family increase for 2002:		*22.3%*
Dental (with orthodontia)					
Employee	$39.86	$41.20	*3.4%*	$43.23	*4.9%*
One Dependent	$27.29	$29.97	*9.8%*	$31.45	*4.3%*
Two Plus Dependents	$82.58	$89.67	*8.6%*	$94.09	*4.9%*
Employee+Full Family[13]	$122.44	$130.87	*6.9%*	$137.32	*4.9%*

The District overstates the effect of these increases on its own costs. The District's per employee cost increase in the year 2000 was under 10%, and its per employee cost in the year 2001 actually went *down*. Exh. E. 20 breaks out, by employee, the cost of insurance for each of the years between 1999 and 2002, and then gives a total monthly cost to the Employer. The following table sets forth those totals, the number of employees each year, the cost per employee, and the percentage change from year to year:

[13] The neutral Arbitrator uses the term "full family" to include a spouse plus two dependents under the WFCA plans.

Table 14.
Year-to-Year Changes in Per Employee Benefit Costs

Year 2002	Total Benefit Cost	$11,532.02
No. Employees: 20	Per Employee for 2002	$576.60
	Increase from 2001	**19.6%**
Year 2001	Total Benefit Cost	$9,642.87
No. Employees: 20	Per Employee for 2001	$482.14
	Increase from 2000	**-0.3%**
Year 2000	Total Benefit Cost	$6,283.52
No. Employees: 13	Per Employee for 2000	$483.35
	Increase from 1999	**9.4%**
Year 1999	Total Benefit Cost	$5,741.33
No. Employees: 13	**Per Employee for 1999**	**$441.64**

Data Source: Exh. E. 20

The relatively modest increase in 2000 occurred because two of the higher cost bargaining unit members switched to the PPO plan, which resulted in a significant savings. The year 2001 saw the effect of the merger with District 46, and serendipitously, five of its seven employees did not require insurance for a spouse or dependents. Thus, the per employee insurance cost to the District actually declined, despite the steep increase in rates.

There is no way to tell whether the trend in high rate increases will continue, but it is a fair guess that they will outpace the rate of inflation by some margin. The high rate increases in recent years has caused the health care cost issue to be a contentious one at most bargaining tables, and the neutral Arbitrator believes that more represented employees are sharing in the costs of health care insurance to some degree.

The evidence as to the comparator jurisdictions is as follows:

Table 15.
Comparator Jurisdictions' Medical and Dental Coverage

Jurisdiction	Coverage
King FD No. 26	2001-2003: $625 employer cap for LEOFFII full family.
King FD No. 43	100% Employer Paid
King FD No. 45	Employees pay anything in excess of yr 2000 dependent premiums + 15%, not to exceed 15% of the dependent premium cost.
Kitsap FD No. 10	100% Employer Paid
Kitsap FD No. 18	Kaiser Physicians or Group Health w/ $5 co-pay. Starting 1999, employees pay $9.22/mo premium, to escalate each year by the CPI. (Arbitrator estimates 2002 premium at @ $10.20).
Pierce FD No. 3	100% Employer Paid
Pierce FD No. 16	Employees pay all premium increases above a 7.5% increase in each of the 2000 and 2001 rates to an accumulated total of 15% above the 2000 rates.
Snohomish FD No. 3	Employer maximum 2001: $730 plus a COLA for each succeeding year.
Snohomish No. FD 4	PPO only option; 100% Employer Paid
Snohomish FD No. 8	100% Employer Paid

This evidence shows that only four of the ten comparable jurisdictions provide 100% employer paid medical and dental coverage that includes the Traditional Plan as King FD No. 44 does now. One jurisdiction, Snohomish FD No. 4, offers 100% employer paid full family coverage, but offers the PPO option only, which gives it a substantial savings (22% in 2001 for full family) over the Traditional Plan. The majority either has some sort of employee contribution toward the premium, a cap on the employer's liability that could lead to an employee contribution, or a built-in containment feature as with Snohomish FD No. 4.

Arbitration awards from the past several years also have shown a willingness on the part of arbitrators to frame an award that includes some sort of employee contribution to the cost of health care insurance. Appendix A to this award lists all the awards about which the neutral Arbitrator has knowledge from the past four years that have addressed the issue, and the arbitrator's disposition. In most of those cases, the employees either were, or ended up making

a contribution to the cost of insurance. Those cases, as well as an examination of the comparators' CBAs also shows that there are about as many ways of approaching this problem as there are contracts in existence to address it. In other words, there does not appear to be any typical, uniform or accepted cost-sharing formula.

Turning to the parties' proposals, the neutral Arbitrator believes they both are unreasonable. The Union didn't move off its position of 100% full family coverage, which no longer is a viable position. Its intransigence not only made the District's negotiating position difficult, but the neutral Arbitrator was handicapped by the lack of guidance from those most affected as to what a reasonable cost-sharing mechanism should look like. The District's proposal to cap its obligation for employee dependents for both medical and dental at $482.55 is wholly lacking in justification. First, given that the District didn't experience any real per employee cost increases until 2002, there was no reason for it to reach back to 2000 for numbers on which to base its cap. Second, any employer cap should contain an escalator which, at the very least, should be tied to the CPI. Third, it probably is a good idea, at least in the long run, to impose some sort of ceiling on the employees' liability. Fourth, including dependent dental coverage in the cap seemed like an unnecessary complication; dental premium costs have escalated at a much lower rate than health care premium costs. Regarding the Employer's proposal to eliminate the Traditional Plan altogether, the neutral Arbitrator believes it is premature. Too many people in the bargaining unit are still on the Traditional Plan, and its elimination could be highly disruptive and even distressing for some of their families. Rather than eliminate it, the focus should be on providing incentives to switch to the lower cost plan – or pay the price.

One problem with the entire notion of a cap, one with which the neutral Arbitrator struggled in fashioning the award, is that it most affects those employees who may be least able to afford paying high monthly premiums, that is, employees with multiple dependents. Of

course, on the other side of the coin, employees who are single or who have spouses who also have insurance coverage cost an employer a whole lot less, so requiring everyone in the bargaining unit to pay an equal amount isn't fair either. An attribute of putting the cost-sharing burden on the high cost employee is that it could induce that employee to switch to a lower cost plan.

In fashioning an award, the neutral Arbitrator determined to keep the Traditional Plan option and adopt the Union language requiring the parties to form a labor management committee to investigate cost containment measures.[14] Clearly, whatever is awarded here will require refinement, if not wholesale revision by the parties, so the parties are advised to work collaboratively on this issue. The neutral Arbitrator decided to adopt a formula that would require the parties to share the differential in cost between the PPO and Traditional Plan. This approach should have the dual effect of limiting the District's liability and creating an incentive for employees with dependents to move to the PPO plan to avoid paying premiums altogether. Consistent with the District's proposal, the neutral Arbitrator's award will only affect spouse and dependent premiums. The District will remain obligated for 100% of employee premiums. In addition, as explained previously, the Arbitrator does not deem it necessary to impose cost sharing in the dental area. Therefore, the Employer will remain responsible for 100% of the employee and dependent dental premiums.

The cost-sharing approach that the neutral Arbitrator has decided upon is as follows: Effective the date of the next plan enrollment, or March 1, 2002, whichever is later, the District will pay the equivalent of 100% of the spouse and dependent premium for the WFSCA Preferred Plan. If the employee elects to enroll in the Traditional Plan, the employee shall pay, by way of payroll deduction, 50% of the difference in monthly cost between the Traditional Plan

[14] The neutral Arbitrator notes that this language was already in the parties' Agreement. She surmises it was not utilized however.

and the Preferred Plan for the employees' dependents. The District shall pay the other 50%. To protect employees against an obligation that could become too burdensome, a cap on their liability of 25% over their previous year's obligation will be imposed.

After reviewing Exh. E. 20, the neutral Arbitrator calculates that the cost to employees for dependent premiums who elect to remain with the Traditional Plan would have been or will be as follows:

Table 16.
Cost-Sharing Impact on Bargaining Unit Members

Dependents	Plan	No. Affected Employees	2001 Employee Premium (Mo.)	2002 Employee Premium (Mo.)
Spouse + 2	Trad	4	$44.98	$51.72
3 dependents	Trad	1	$35.60	$40.93
Spouse	Trad	2	$25.51	$29.33
None	Trad	7	$0.00	$0.00
Spouse + 1	PPO	4	$0.00	$0.00
None	PPO	1	$0.00	$0.00
Spouse + 2	PPO	1	$0.00	$0.00

The plan premiums for 2003 and beyond are not available. The following table, however, assumes that premiums continue to rise at a high rate, therefore, it assumes an 18% annual increase. Should that occur, the effect on bargaining unit members would be as follows for 2003 and 2004:

Table 17.
Projected Cost-Sharing Impact on Bargaining Unit Members
Assumes 18% Annual Premium Increase

Dependents	Plan	No. Affected Employees	2003 Employee Premium (Mo.)	2004 Employee Premium (Mo.)
Spouse + 2	Trad	4	$61.03	$72.02
3 dependents	Trad	1	$48.30	$57.00
Spouse	Trad	2	$0.00	$0.00
None	Trad	7	$34.61	$40.84
Spouse + 1	PPO	4	$0.00	$0.00
None	PPO	1	$0.00	$0.00
Spouse + 2	PPO	1	$0.00	$0.00

The neutral Arbitrator believes these costs are not unreasonable.[15] The neutral Arbitrator's award will not impose any cost sharing on employees in the PPO plan. Although the Employer's proposal effectively would have imposed some cost-sharing, its brief states that the PPO option already has containment features such as increased deductibles and co-payments, thus avoiding the first dollar coverage found in the Traditional Plan.

D. Arbitrators' Conclusion and Award on Health Care Premium and Plan Issue:

Based on the foregoing discussion and analysis, the Arbitrators' award on health care premiums and plan coverage is as follows:

1. The District will make both the Washington Fire Commissioner Association's Traditional Plan and its Preferred Provider Plan available to bargaining unit members, along with the Washington Dental Service Dental Plan, or such other plans upon which the parties have mutually agreed.

2. The District will pay 100% of employee premiums for medical and dental insurance.

3. The District will pay 100% of spouse and dependent premiums for dental insurance.

4. The District will pay 100% of spouse and dependent premiums for employees enrolled in the WFCA's Preferred Provider Plan or a plan equivalent as mutually agreed.

5. The District will pay 100% of the premium for the employees' Life Insurance.

6. For employees with a spouse and/or dependents enrolled in the WFCA's Traditional Plan, the District and employee will each pay one-half of the difference between the monthly premium for the Traditional Plan and the equivalent monthly premium for the Preferred Provider Plan option during the year in question, except that the employee's obligation shall not exceed 125% of his or her previous year's obligation. This paragraph will take effect on the date of the next open enrollment period following this arbitration award or on March 1, 2002, which comes later.

7. The District and the Union shall establish a labor/management committee to investigate alternative carriers and/or cost containment measures for medical insurance during the term of this Agreement.

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[15] Table 17, being based on Exh. D. 20, covers 20 employees, but there are only 17 or 18 employees in the bargaining unit. After devising the above formula and drafting this award, the neutral Arbitrator once again inspected Exh. D. 20, and saw that one of the highest cost employees (in the Traditional Plan "Spouse + 2" category) is Chief Smith. That leaves only three bargaining unit members in the highest priced category.

X. FINAL AWARD

The decision and award of the neutral Arbitrator and arbitration panel majority in this dispute is as follows:

A. Wages

- Effective January 1, 2001: the bargaining unit shall receive a wage increase equal to 100% of Seattle-Tacoma-Bremerton 1999 June to 2000 June CPI-U, which equals 3.7%.
- Effective January 1, 2002, the bargaining unit shall receive a wage increase equal to 100% of Seattle-Tacoma-Bremerton 2000 June to 2001 June CPI-U, which equals 4.0%.
- Effective January 1, 2003, the bargaining unit shall receive a wage increase equal to 100% of Seattle-Tacoma-Bremerton 2001 June to 2002 June CPI-U.

B. Longevity Pay

There shall be no longevity pay awarded.

C. Acting Pay

Article 17.1.2 of the parties' Collective Bargaining Agreement will be amended to read:

> Effective January 1, 2001, Acting Lieutenants shall receive an additional 10% above their normal hourly rate of pay for each shift they serve as Acting Lieutenant.

D. Health Insurance Premiums for Dependents and Health Plans.

Article 26 of the parties' 2001-2003 Collective Bargaining Agreement will be amended to read:

26.1. The District will make both the Washington Fire Commissioner Association's Traditional Plan and its Preferred Provider Plan available to bargaining unit members, along with the Washington Dental Service Dental Plan, or such other plans upon which the parties have mutually agreed.

26.2. The District will pay 100% of employee premiums for medical and dental insurance.

26.3. The District will pay 100% of spouse and dependent premiums for dental insurance.

26.4. The District will pay 100% of the premium for the employees' Life Insurance.

26.5. The District will pay 100% of spouse and dependent premiums for employees enrolled in the WFCA's Preferred Provider Plan or a plan equivalent as mutually agreed.

26.6. For employees with a spouse and/or dependents enrolled in the WFCA's Traditional Plan, the District and employee will each pay one-half of the difference between the monthly premium for the Traditional Plan and the equivalent monthly premium for the Preferred Provider Plan option during the year in question, except that the employee's obligation shall not exceed 125% of his or her previous year's obligation. This paragraph will take effect on the date of the next open enrollment period following this arbitration award or on March 1, 2002, which comes later.

26.7. The District and the Union shall establish a labor/management committee to investigate alternative carriers and/or cost containment measures for medical insurance during the term of this Agreement.

The parties are hereby directed to amend their Collective Bargaining Agreement for the years 2001 though 2003 accordingly.

Date: January 16, 2002

Jane R. Wilkinson

Jane R. Wilkinson, Chairperson
Neutral Arbitrator

J. Monroe Shropshire
Fire Commissioner, King County Fire District No. 44

Concurs on Issues:_____

and dissents on Issues: _____

Mike Wilson
Washington State Council of Fire Fighters, 3rd District Representative

Concurs on Issues:_____

and dissents on Issues: _____

XI. APPENDIX A - COMPENDIUM OF WASHINGTON ARBITRATORS' RULINGS DURING PAST FOUR YEARS ON MEDICAL COSTS

Case Name	Arbitrator's Ruling on Medical Costs
Mason County (Woodworkers Local Lodge W536/IAM), (Axon, 2001)	The Arbitrator increased the employer's medical insurance contribution in two steps over an eight-month period from its previous level of $425 to $543 per employee per month. But for the first time, employees will have to contribute about $57 per month for the insurance package, "not an unreasonable amount" according to the arbitrator.
Spokane County (Spokane County Deputy Sheriff's Association), (Beck, 2001)	The employer offered three medical plans: traditional, PPO and group health. It paid 100% of the cost for the employee under the PPO and group plans and 90% for the traditional plan. Full family coverage cost employees an additional amount, e.g., $41 monthly out of their own pocket for group health. The employer sought to eliminate the traditional plant, and argued that the majority of bargaining unit members had decided against the traditional plan and that the plan was not available to unrepresented employees. The arbitrator granted the employer's wish with the proviso that it fully fund the group plan's premiums. The panel reasoned that this would bring the bargaining unit in line with the employer's other bargaining units that enjoy fully funded coverage under a two-plan system.
Spokane Transit Authority (Amalgamated Transit Union, Local 1015), PERC Case No. 15129-I-00337, (Snow, 2001)	The employer's contribution to family insurance premiums remained at 90%.
City of Burlington Police Department (SEIU Local 120), PERC No. 14894-I-99-328 (Axon, 2000)	Arbitrator declined to add a co-pay to the medical insurance because the parties would soon be back to bargaining table. He warned, however, that the status quo of 100% employer-paid insurance "is not the standard in the comparator group," and that the union could expect to give up this perk in the future.
Walla Walla County Sheriff (Walla Walla Commissioned Deputies Association) (Greer, 2000)	The arbitrator ordered the employer to pay 50% of the cost of health insurance of dependents in 2001, a new benefit for the bargaining unit; he found the comparator average to be 50%.
City of Bothell (IAFF Local 2099), (Krebs, 2000)	Arbitrator Krebs rejected the employer's proposal to have employees pay health care cost increases exceeding 8%. The union convinced the arbitrator that the employer had not experienced runaway health care costs and the parties were set to go back to the bargaining table for their next contract.
Mason County Sheriff's Department (Teamsters Local 378) (Beck, 1999)	The arbitrator noted that while during the 1990's the employer's medical premium contribution was a fixed amount which generally covered the full premium costs, the $356 figure agreed upon for 1998 did not pay the full premium. He agreed with the union that the premium contributions for 1999 were greater than $368 at each of the comparables and that there was no explanation for these greater premium contributions or any evidence regarding the coverage of these plans. In granting the employer's proposal of $368, he noted that local Teamster unions representing five different county bargaining units had accept a contribution of $368 for 1999 as had all of Mason County's other unionized employees.

Kitsap County (Kitsap County Sheriff's Guild), PERC No. 13831-I-98-299 (Buchanan, 1999)	The employer proposed switching from a traditional group health insurance plan to an HMO-based plan. Under the existing plan, the employer paid 100% of the employee's coverage and 50% of dependents' coverage, up to $195 per month. Under the proposed HMO plan, it would pay 100% of dependents' coverage, which would still be cheaper for the employer. The employer argued that most of its employees were covered under the HMO plan. Arbitrator Buchanan denied the employer's request, reasoning that the new HMO plan would equal lower-quality health care and "employees, who are employed in high-risk employment such as these Sheriff's employees should be in a health insurance plan that presents top quality, easily available medical care." He increased the employer's contribution for dependents to 60% up to $250.
City of Bremerton (Bremerton Police Officers' Guild), PERC No. 12924-I-97-279 (Axon, 1998)	Arbitrator Axon awarded the employer a $5 co-pay on medical.
City of Kennewick (IAFF Local 1296) AAA 75 300 00225 96 (Krebs, 1997)	The union opposed the employer's proposal to increase the fire fighters' annual health insurance deductibles and institute a co-payment for doctors' office visits. The employer cited drastic increases in health insurance premiums, and argued that all other employees had agreed to the proposed changes and that it would have to administer two health insurance plans if the fire fighters' union did not implement the proposed changes. The arbitrator awarded the employer's proposal on this issue, noting that only one of the comparators required its employees to share in as small a proportion of medical costs as Kennewick. He also found that the increased payments on the part of the fire fighters were justified in light of the premium increases and agreements with all other employee groups.
City of Longview (Longview Police Guild), PERC No. 15438-1-00-350 (Nelson, 2001)	Arbitrator Nelson denied the Employer's cost-sharing proposal because of language problems in the proposal and lack of sufficient negotiation. She stated, "The Arbitrator will not redraft or redact the proposed language." After a review of the evidence, the arbitrator found that there was substantial room for bargaining on the proposed changes.
City of Kelso (Kelso Police Officers Association) (Lankford, 2001)	In this case, Arbitrator Lankford stated: "I will award a cap to encourage employees to find alternatives to Kaiser coverage with the following three limitations: First, the cap will be set at the average insurance costs for comparable jurisdictions, i.e. 8% over the full family cost of AWC Plan B, which will make the initial cap $552.26 (based on 2001 rates). Second, the cap will be set in terms of the maximum cost of AWC Plan B, rather than running category by category. Thus officers in the employee/spouse or employee/child categories will be fully covered, and employees in the three most expensive categories of AWC coverage will all have an out-of-pocket cost of $53.81 if they choose to continue under the current Kaiser coverage. Third, the cap will take affect the first month following the employees' next opportunity to change carriers. Finally, nothing in the record suggests that the comparable cities split premium increases with their police employees, so the AWC Plan B plus 8% cap will increase in subsequent years as the cost of AWC Plan B increases."