

BEFORE THE INTEREST ARBITRATOR

SNOHOMISH COUNTY FIRE )  
PROTECTION DISTRICT 1, )  
Employer, )  
)  
and )  
)  
INTERNATIONAL ASSOCIATION OF )  
FIREFIGHTERS LOCAL 1828, )  
Union )  
\_\_\_\_\_ )

INTEREST ARBITRATION AWARD

Perkins Coie LLP, by **Lawrence B. Hannah**, Attorney at Law, appeared on behalf of the Employer.

Emmal Skalbania and Vinnedge by **Sydney D. Vinnedge**, Attorney at Law, appeared on behalf of the Grievant.

By agreement of the parties, Kenneth James Latsch was selected to serve as interest arbitrator in a dispute concerning the appropriate terms for a successor collective bargaining agreement. A hearing was conducted on September 18, 19 and 20, 2017, in Everett, Washington. During the course of the hearing, the parties presented testimony and documentary evidence in support of their respective versions of the facts at issue.

The parties submitted post-hearing briefs on November 8, 2017. The briefs were received in a timely manner, and the hearing was closed. The instant interest arbitration proceedings arose in a unique way, and it is appropriate to explain the procedural background that led to these proceedings.

*Procedural Background*

In Spring 2016, Public Employment Relations Commission Executive Director certified 15 issues for interest arbitration between International Association of Firefighters, Local 1828 (Union) and Snohomish County Fire District 1 (the Employer) (Case 128135-I-16). On March 9, 2016, the Employer filed an unfair labor practice complaint seeking execution of a

stipulation to submit to interest arbitration. In *Snohomish County Fire District 1*, Decision 12669 (PECB 2017), issued on March 20, 2017, the Union was ordered to execute an agreement reached by the parties to submit the issue of “Hours of Work” to interest arbitration.

It is important to note that the agreement made between the parties specifies that this proceeding is different from the vast majority of interest arbitration cases in Washington State. In this case, the parties agreed to submit the Hours of Work issue, found in “Appendix C”, and that the Arbitrator must select either the Employer’s position or the Union’s position, without further modification. Accordingly, this award will comport with the agreement made by the parties, and I will confine my decision to that analytical approach.

### **APPLICABLE STATUTORY PROVISIONS**

When certain public employers and their uniformed personnel cannot reach agreement on new contract terms through negotiation and mediation, RCW 41.56.450 specifies that interest arbitration will be used to resolve their contractual dispute. The parties stipulate that RCW 41.56.450 applies to the instant case.

The intent and purpose of the law is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes. *Pacific County*, PERC Case 24235-1-11-572 (Siegel, 2012).

RCW 41.56.465 sets forth criteria which must be considered by the Arbitrator in deciding the issues in dispute:

- (1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, the panel shall consider:
  - (a) The constitutional and statutory authority of the employer;
  - (b) Stipulations of the parties;

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

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

(e) Such other factors, not confined to the factors under (a) through (d) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment.

*City of Everett* Interest Arbitration PERC Case No. 25228-1-12-612

For employees listed in RCW 41.56.030(7) (e) through (h), the panel shall also consider a 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. The statute does not provide guidance as to how much weight should be given to any of these standards or guidelines but leaves that determination to the Arbitrator's reasonable discretion.

### **PRINCIPLES OF THE INTEREST ARBITRATION PROCESS**

Before discussing the issues that must be decided, it is appropriate to set forth general principles that have been applied in interest arbitration cases. Arbitrator Carlton Snow set forth the controlling principle for interest arbitration decisions in *City of Seattle*, PERC Case No. 6502-1-86-148 (Snow, 1988):

[A] goal of interest arbitration is to induce a final decision that will, as nearly as possible, approximate what the parties themselves would have reached had they continued to bargain with determination and good faith.

A number of other arbitrators have agreed with Arbitrator Snow's analysis. See: *Kitsap County Fire Protection District No. 7*, PERC Case No. 15012-1-00-333 (Krebs, 2000); and *City of Centralia*, PERC Case No. 11866-1-95-253 (Lumbley, 1997). Arbitrator Snow's observation serves to provide a general framework for analyzing specific language and wage proposals.

In addition, other legal principles have developed in interest arbitration litigation. Interest arbitration is conducted in the context of past negotiations and future contractual terms. The arbitrator must be mindful of the parties' bargaining history to provide an appropriate context for an award that will set their future rights and obligations. See *City of Seattle*, PERC Case No. 6576-1-86-150 (Beck, 1988). As noted in Elkouri and Elkouri, *How Arbitration Works*, Sixth Edition (BNA, 2003): interest arbitration is more nearly legislative than judicial.

.. our task here is to search for what would be, in the light of all the relevant factors and circumstances, a fair and equitable answer to a problem which the parties have not been able to resolve by themselves.

An arbitrator must consider the parties' bargaining history as expressed in their most recent collective bargaining agreement. As Arbitrator George Lehleitner reasoned in *City of Yakima*, PERC Case No. 15379-1-00-346 (Lehleitner, 2000):

When a party seeks to change existing contract language, it is incumbent upon them to come forward with compelling reasons to justify the proposed language. This is particularly true where the language has been in the contract for many years and there has been no showing of problems with its application.

The reluctance to change existing contract language is particularly strong when it comes to recently modified contractual terms. In most cases, an arbitrator will change recently modified contract language only if the moving party can prove that the language at issue did not achieve its objective or if it had unintended consequences. *City of Camas*, PERC Case No. 6303-1-02-380 (Wilkinson, 2003).

## **BACKGROUND INFORMATION**

Snohomish County Fire Protection District 1 (Employer) operated under the general policy direction of an elected seven member Board of Commissioners. Daily operations were supervised by the Fire Chief, who was assisted by several Deputy Fire Chiefs. The Employer provided fire suppression; emergency medical services, including advanced life support (ALS), basic life support (BLS), transport, and community paramedicine; fire prevention, investigation and education; disaster planning; and other special operations for local residents.

At the time of hearing, the Employer provided its various services to unincorporated areas of southern Snohomish County and had contractual relationships to provide the same services to the municipalities of Brier, Edmonds and Mountlake Terrace. Pursuant to a vote of local residents, the Employer was to assume jurisdiction over the City of Lynnwood as well, leading to the creation of the new “South Snohomish County Fire and Rescue”. The merger of Lynnwood into the Employer’s jurisdiction is noted as part of the fire district’s general operation but otherwise is not a consideration in this matter.

At the time of hearing, the Employer operated twelve fire stations which were staffed 24 hours a day by approximately 204 operations personnel. The operations personnel were represented by the International Association of Firefighters, Local 1828 (Union). The “operations” function encompassed fire fighters, EMT’s, paramedics, fire captains and battalion chiefs. Most operations personnel worked 24 hour shifts on a four platoon shift cycle. The shift cycle consisted on one day on-duty, one day off-duty, one day on-duty, and five days off duty.

All operations personnel were trained in fire suppression work. Of the 204 operations personnel, 70 were Firefighter/EMT’s, 68 were Firefighter/Paramedics, and 49 were Fire Captains. The operations personnel were assigned to one of the four platoons, which determined their work schedule, and to a specific fire station.

Fire stations were considered to be “fully staffed” if they had enough operations personnel to run the various apparatuses assigned to a particular station on a twenty-four hour basis. As the Union noted in its closing brief, Station 11 was a good example of a fully staffed facility, with three operations employees assigned to an engine and two assigned to a medic unit, twenty-four hours a day. If calls required deployment of the engine and the medic unit, both units could respond because they were adequately staffed to deal with both calls at the same time. If a station did not have adequate staffing to deploy all apparatuses at one time, the station could be “cross-staffed”.

Operations personnel were dispatched by SNOCOM. SNOCOM was a consolidated emergency public safety 911 dispatch agency serving the Southwest Snohomish County area.

SNOCOM received emergency calls and dispatched the nearest emergency units. SNOCOM determined which units were closest by monitoring an automatic vehicle locator system which was installed in the Employer's vehicles.

The Employer had "automatic aid agreements with 8 bordering fire departments and districts, so SNOCOM was able to dispatch the closest available unit to an emergency, regardless of jurisdictional boundaries. If a "major call" came in, involving advanced life support (ALS) needs, dispatching was made through a computer aided dispatch (CAD) program without regard to fire department or fire district boundaries. Less severe cases, such as basic life support (BLS) calls or calls requiring a single engine were generally dispatched to the closest available district within the jurisdiction from which the call originated.

During the course of a 24 hour shift, the Employer regularly experienced a period of time where a higher volume of emergency calls were received. Referred to as "peak" or "surge" hours, these higher call volume time periods required a greater number of emergency responses per hour than the rest of the work shift. The Employer's peak hours typically occurred between 9:00 AM (0900) and 7:00 PM (1900), and the most common type of call involved medical transport. In 2013, to address the peak hours issue, the Employer created "Peak Activity Units" (PAU's). The Employer believed that PAU's would reduce costs while serving the high volume of medical transport calls during peak hours. Since their creation, PAU units have been staffed by operational personnel who are also deployed to fire suppression and rescue calls.

Since the beginning of their operation, PAU's have been staffed by operational personnel assigned to a 24 hour shift and by personnel assigned to an alternative shift. Between 2013 and 2017, the Employer assigned certain operational personnel to work a four day, 10 hour/day shift (4/10), Monday through Thursday or Tuesday through Friday, for PAU service. In August 2013, the alternative shift was changed to a twelve hour shift, seven days a week. In July 2017, all operational personnel returned to the standard 24 hour shift. PAU's continued to operate and were staffed by operational personnel on the 24 hour shift.

The record discloses that several medic units have operated on alternate work schedules since at least 2013. Under terms of a Memorandum of Understanding reached between the parties in 2013, and in effect from August 1, 2013 through July 5, 2017, Medic 10 has been operated as a regular “day shift” EMS unit since December 6, 2013. Aid 21/Medic 21 has been a regular day shift EMS unit since April 1, 2014. From April 1, 2014 to July 5, 2017, both units operated on a twelve (12) hour work shift structure. The “day units” were temporarily suspended as the result of a settlement to litigation reached by the parties, but the work performed in those emergency units continued with extra staff and overtime call-ins.

### **THE ISSUE**

In their closing briefs, both parties noted that this is a unique interest arbitration proceeding. The procedural background and prior litigation bringing us to this point have direct influence on how this matter can be resolved. In addition, the parties’ stipulations as to how the award is to be issued also affect these proceedings. In any event, the task at hand is to determine what the issue(s) may be for determination, and how to express the differences between the parties.

In this case, the single issue for determination is whether the Employer’s proposal concerning Appendix C of the collective bargaining agreement should be adopted, or should the Union’s proposed language in Appendix C be followed. By agreement of the parties, I have no other jurisdiction in this matter to make any other adjustments that do not completely adopt one of the two proposals. I must decide whether the Employer or the Union will prevail based on the language they presented at hearing and in their respective post-hearing briefs.

#### **The Employer’s Proposal**

### **APPENDIX C – SHIFT STAFFING AND DAY UNITS**

**(2015 – 2017)**

#### **Restored staffing levels**

The Employer will operate with individual station operations staffing levels that are equal or greater in number than at the end of 2014, which totaled no less than forty-seven (47) members on –duty 0800-2000 hours and forty-

three (43) members on-duty 2000-0800 hours; plus the additional staffing agreed to within this Appendix (a third peak activity unit), provided that staffing levels shall be subject to revision via an expedited bargaining and impasse process in the event the District were to experience a major loss or shortfall of revenues.

The Employer shall maintain Medic 10 (or as relocated) at a minimum to a dedicated 12-hour/7 day a week peak activity unit being staffed with a minimum of one Firefighter/EMT-P and one Firefighter/EMT-B.

The Employer shall continue to staff Aid 21/Medic 21 (or as relocated) as a peak activity unit with a minimum of two Firefighter/EMT-Bs (or one Firefighter/EMT-P and one Firefighter/EMT-B if Medic 21) staffing the unit and working the schedule that is selected as described in the “Alternative shift schedule defined” section of this Appendix.

Operations shift staffing levels shall be maintained if the District merges or consolidates with another agency. For example, if the District staffing is at forty-five (45) and then the District merges with another agency that has a staffing of six (6), after the merger has taken place the staffing within the District’s new jurisdictional boundaries would be fifty-one (51) (45+6).

The parties will be expected to fulfill the commitments set forth herein, but it is not intended to, and does not, alter the scope of the parties’ respective duties to bargain as set forth in RCW 41.56, except as otherwise agreed by the parties under the terms of the CBA and this Appendix, and is not intended to undermine the budget-making authority of the District.

If there should be a change to a current and/or future ILA Contract for service, staffing within that city may be changed pursuant to the new and/or amended ILA. The parties will bargain about the impacts and effects of any such changes pursuant to Chapter 41.56 RCW.

**Alternative shift schedule defined**

The Employer and Union agree that the 24-hour shift schedule describe in Article 25 is the agreed upon default shift schedule for operational members of IAFF Local 1828 unless modified by mutual agreement of the Employer and Union.

The Employer and Union agree the purpose of an alternate shift schedule is not to supplant either the 24-hour schedule or 24-hour staffing; rather, it is an effort to evaluate whether or not a data-driven response framework increases responsiveness and service to the community.

There may be up to a total of three (3) peak activity units during the duration of this Appendix. Up to twelve (12) operations employees with the least amount of seniority (satisfactory completion of the probationary



manual; a maximum involuntary service of two years per career) may be assigned by the Employer to a peak activity unit.

More senior employees may request being transferred to the alternative shift schedule. The Fire Chief and Union President or their designees shall solicit interest from the Firefighter/EMT-B and Firefighter/EMT-P classification before newly-hired or junior employees are assigned. Employees who volunteer for this alternative shift schedule shall be selected based on seniority with the most senior person given priority. Employees volunteering for this alternative shift schedule are agreeing to fill the position for one (1) calendar year unless otherwise mutually agreed to by both parties, after which they shall be transferred to a 24-hour shift schedule.

The alternative shift configuration shall be 2 on, 2 off, 3 on, 2 off, 2 on, 3 off unless changed by mutual agreement of the Union and Employer. The shift configuration shall be not less than twelve (12) hours a day inclusive of a one (1) hour exercise period, and shall not be greater than an average of 42.5 hours per week. The alternative shift configuration shall not include debit days. The alternative shift start-time shall be 0800 and shift end-time shall be 2000 unless changed by mutual agreement of the Union and Employer.

Employees assigned to the alternative shift schedule may be rotated to other units (example dedicated engine) at their assigned station to maintain training requirements.

There shall be one (1) vacation spot allowed per day for every four (4) employees on the 12-hour 7 day-a-week alternative shift schedule. This vacation spot is separate from the vacation spots available for employees on the 24-hour shift schedule.

Employees assigned to the alternative shift schedule shall not use more vacation/holiday leave than they earn in a calendar year plus their accrued carryover as listed in the CBA.

Holiday hours for employees assigned to the alternative shift schedule shall be equal to and administered in congruence with the CBA for 24-hour employees.

Employees assigned to alternative shift schedules shall not be eligible to work operational shift overtime as articulated in Article 28.8.1.

Employees assigned to the alternative shift schedule shall have the first opportunity to work available overtime on the peak activity units.

In the event of an extended absence lasting greater than sixty (60) consecutive work days (e.g. on-duty or off-duty illness or injury resulting in long-term disability, military leave) by an employee assigned to an

alternative shift schedule, the Employer will first attempt to cover the shift vacancy, after 60 days, with an employee who desires the alternative shift schedule assignment (with the most senior employee given priority). Any involuntary reassignment after sixty (60) work days will be handled in reverse order of seniority (off of probation) and after at least two weeks' notice.

### **Laid-Off Firefighter Consideration**

The Employer and Union agree to continue to work collaboratively during the hiring process of laid-off, lay-off notified, new and/or lateral Firefighter/EMTs and Firefighter/Paramedics. This includes personnel from the IAFF 7<sup>th</sup> District.

### *The Union's Proposal*

## **APPENDIX C – SHIFT STAFFING AND DAY UNITS**

**(2015 – 2017)**

### **Restored staffing levels**

Prior to the execution of the Partnering for Protection MOU, prior to the addition of the 24-hour MSO and prior to the nighttime brownout of M10, operational 24-hour staffing was 44 at forty-four members on duty.

The parties agree the Employer will operate with individual station operations staffing levels that are equal or greater in number than at the end of 2014, which totaled no less than forty-seven (47) members on-duty 0800-2000 hours and forty-three (43) members on-duty 2000-0800 hours.

The Employer shall continue to staff Medic 10 (or as relocated) as a Peak Activity Unit (PAU) with a minimum of one Firefighter/EMT-P and one Firefighter/EMT-B staffing the unit and working the schedule that is describe within this Appendix.

The Employer shall continue to staff Aid 21/Medic 21 (or as relocated) as a PAU with a minimum of two Firefighter/EMT-Bs (or one Firefighter/EMT-P and one Firefighter/EMT-B if Medic 21) staffing the unit and working the schedule that is described within this Appendix.

Operations shift staffing levels shall be maintained if the District merges or consolidates with another with another agency. For example, if the District staffing is at forty seven (47) and then the District merges with another agency that has a staffing of six (6), after the merger has taken place the staffing within the District's new jurisdictional boundaries would be fifty-three (53) (47+6).

The parties will be expected to fulfill the commitments set forth herein, but it is not intended to, and does not, alter the scope of the parties' respective

duties to bargain as set forth in RCW 41.56, except as otherwise agreed by the parties under the terms of the CBA and this Appendix, and is not intended to undermine the budget-making authority of the District.

If there should be a change to a current and/or future ILA Contract for service, staffing within that city may be changed pursuant to the new and/or amended ILA. The parties will bargain about the impacts and effects of any such changes pursuant to Chapter 41.56 RCW.

### **Peak Activity Units**

The Employer and Union agree that the 24-hour shift schedule described in Article 25 of the Collective Bargaining Agreement (CBA) is the agreed upon default shift schedule for operational members of IAFF Local 1828 unless modified by mutual agreement of the Employer and Union.

The Employer and Union agree the purpose of this Appendix is not to supplant either the 24-hour schedule or 24-hour staffing. The parties agree to explore the PAUs on a trial period based on the data collected for the purpose of analyzing the effectiveness and cost of the PAUs. The parties will meet quarterly to review the data.

There may be up to a total of two (2) PAUs during the duration of this Appendix. Up to eight (8) operations employees with the least amount or seniority (satisfactory completion of the probationary manual, a maximum involuntary service of two (2) years per career, and hired after January 1, 2014) may be involuntarily assigned by the Employer to a PAU.

More senior employees may request being transferred to the alternative shift schedule. The Fire Chief and Union President or their designees shall solicit interest from the Firefighter/EMT-B and Firefighter-P classifications before newly hired or junior employees are assigned. Employees who volunteer for this alternative shift schedule shall be selected based on seniority with the most senior person given priority. Employees volunteering for this alternative shift schedule are agreeing to fill the position for one (1) calendar year unless otherwise mutually agreed to by both parties, after which they shall be transferred to a 24-hour shift schedule.

The Employer shall be permitted to implement up to eight (8) employees on ten (10) hour operational shifts for the purpose of staffing two PAUs. The first shift will be Monday to Thursday and the second shift will be Tuesday to Friday. PAU shift start time shall be 0800 hours and end time shall be 1800 unless modified by mutual agreement of the Employer and Union. Any additional operational hours for PAUs may be staffed at the overtime rate of pay.

Overtime shall be paid for any additional hours worked in excess of scheduled work hours.

Employees assigned to the alternative shift schedule may be rotated to other units (example dedicated Engine 10 or Engine 21) at their assigned station to maintain training requirements.

There shall be one (1) vacation spot allowed per day for every four (4) employees on the 10-hour alternative shift schedule. This vacation spot is separate from the vacation spots available for employees on the 24-hour shift schedule.

Employees assigned to the alternative shift schedule shall not use more vacation/holiday leave than they earn in a calendar year plus their accrued carryover as listed in the CBA.

Holiday hours for employees assigned to the alternative shift schedule shall be equal to and administered in congruence with the CBA for 24-hour employees.

Employees assigned to the PAUs shall be eligible to work operational shift overtime as an exception to Article 28.8.1.

Employees assigned to the PAUs shall be eligible to work available overtime on PAUs.

Employees assigned to the PAU schedule shall be immediately eligible for a 7.0% shift differential.

In the event of an extended absence lasting greater than sixty (60) consecutive work days (e.g. on-duty or off-duty illness or injury resulting in long-term disability, military leave) by an employee assigned to an alternative shift schedule, the Employer will first attempt to cover the shift vacancy, after 60 days, with an employee who desires the alternative shift schedule (with the most senior employee given priority). Any involuntary reassignment after sixty (60) work days will be handled in reverse order of seniority (satisfactory completion of the probationary manual) and after at least two weeks' notice.

### **Laid-Off Firefighter Consideration**

The Employer and Union agree to continue to work collaboratively during the hiring process of laid-off, lay-off notified, new and/or lateral Firefighter/EMTs and Firefighter/Paramedics from the IAFF.

To summarize, the basic differences between the two proposals can be expressed as follows.

The *Employer's* proposed Appendix C would consist of:

- \* Standard Shift of 24 hours
  - The shift cycle consists of one day on-duty, one day off-duty, one day on-duty, and five days off duty.
  - average of 47.25 hours per week
- \* Alternate Shift of 12 hour days,
  - The shift cycle consists of 2 on, 2 off, 3 on, 2 off, 2 on, 3 off schedule
  - 8:00 AM to 8:00 PM
  - average of 42.5 hours per week
  - a maximum of 12 operational personnel on alternative shifts

The *Union's* proposed Appendix C would consist of:

- \* Standard Shift of 24 hours
  - The shift cycle consists of one day on-duty, one day off-duty, one day on-duty, and five days off duty.
  - average of 47.25 hours per week
- \* Alternate Shift of 10 hour days
  - a weekly schedule of 4 days on, 3 days off
  - 2 shifts: Monday-Thursday and Tuesday-Friday
  - 40 hours per week
  - a maximum of 8 operational on alternative shifts

## COMPARABILITY

The major dispute in this proceeding deals with the creation of an alternative work schedule for Peak Activity Units. In this case, the PAU's deal with emergency medical service and patient transport.

The parties stipulated to Bellevue, Eastside Fire and Rescue, Everett, Kent, Kirkland, Redmond, Shoreline and Tacoma. These jurisdictions specify the following in the area of "Operational Shifts":

In Bellevue, the 2013 – 2015 CBA specifies that the standard operational shift permitted by the collective bargaining agreement specifies a 24 hour shift, with a maximum average hours worked per week of 48.18. This is also the operational shift used by the Bellevue Fire Department. A year-around Basic Life Support (BLS) unit has operated since January, 2017 on an 8:00 AM to 5:00 PM schedule, and a twelve hour Advanced Life Support (ALS) unit has been in place for approximately 6 months.

The Eastside Fire & Rescue (King County Fire District 10) 2015- 2018 CBA specifies a standard 24 hour shift, with an average hours worked per week of 49. The Eastside Fire & Rescue Department generally uses the 24 hour shift configuration. Twelve hour suppression shifts are allowed by contract, but they have not been operated in the past 18 months.

In Everett, the 2015-2017 CBA specifies a standard 24 hour shifts. The average hours worked per week was 42. This is also the operational shift used by the Everett Fire Department. Day units have been used for the past year and one half, originally operating from 8:00 AM to 8:00 PM. The day units now operate from 8:00 AM to 6:00 PM, using overtime or extra staff.

In Kent, the 2014-2016 CBA calls for a 24 hour shift, and an average hours per week of 50.48. The Kent Fire Department uses the standard set out in the CBA as its standard operational work shift.

In Kirkland, the 2015- 2017 CBA sets a 24 hour shift with an average hours per week of 48. The Kirkland Fire Department uses the CBA standard as its operational work shift. From 2005 through 2010, an extra Aid unit on a 12 hour shift was authorized, and the CBA specifies that regular 12 hour shifts are permitted at one fire station.

In Redmond, the 2016- 2019 CBA establishes a 24 hour shift with an average hours per week of 48.64. The Redmond Fire Department uses the CBA standard as its operational work shift.

In Renton, the 2016-2018 CBA sets a 24 hour shift with an average hours per week of 53. The Renton Fire Department uses the CBA standard as its operational work shift.

In Shoreline, the 2015- 2017 CBA sets a 24 hour shift with an average hours per week of 47. The Shoreline Fire Department adopted the CBA standard as its operational work shift. In the past 10 years, there was a practice of using “day units” of nine to 12 hours in duration.

In Tacoma, the 2015-2018 CBA sets a 24 hour shift with an average hours per week of 46.1. The Tacoma Fire Department uses the CBA standard as its operational work shift. During periods of budget cuts, a 12 hour fire/EMS unit operated for the past 3 to 4 years.

## ANALYSIS

While the parties have serious disagreements about the implementation of an alternate work schedule, it is important to highlight the areas of agreement that they share. First, the parties agree that the 24 hour shift schedule is recognized as the “standard shift”, and that the instant dispute centers on an alternative to that norm. Second, the parties are both committed to provide quality emergency service for residents within the fire district’s jurisdiction. The sole question before me is how to provide that quality service as it relates to “surge hours” during the regular work shift when call volumes for emergency medical transports goes up.

It must also be noted that I do not have authority to make any adjustments in the positions taken by the parties. I must determine whether the Employer’s proposal should be adopted or whether the Union’s proposal is going to be followed. I cannot make any changes in either proposal, nor can I attempt to make some kind of compromise award that takes both proposals into account. Ultimately, I am being asked to determine how emergency services will be delivered during “surge” periods.

The Employer’s proposal would create a 12 hour alternative work schedule for the Peak Activity Units (PAU’s). The Union objects to the Employer’s approach, raising a number of issues concerning the toll that such a shift could take on bargaining unit employees. For example, the Union argued that employees did not like 12 hour shifts, and such a shift structure was very difficult on the individual employee’s personal life. In addition, the Union argued that potential job applicants will reject employment with the fire district because of the possibility of working the 12 hour shift. The Union maintained that applicants did not like “day shifts” and that the existence of such a shift cycle could foreclose the Employer from finding good firefighter applicants. The Union also contended that’s day shift assignments are difficult, and that such an assignment runs contrary to the standard 24 hour shift cycle that firefighters have grown to expect.

I have considered the Union’s concerns as part of my deliberation. As to the possible negative effect that a 12 hour shift could have on recruitment, I cannot conclude that such a result would take place. The Union cannot show that there has been such an effect, even

though several versions of the 12 hour shift have existed. I must conclude that such concern is speculative, and I cannot give it weight as part of this decision.

As to the firefighters' stated desire to work a 24 hour shift, it is understandable that such a shift structure would be beneficial to the employees. By working a 24 hour shift, the number of total shifts required for a full workweek is reduced significantly. This would allow firefighters more free time and is one of the most significant benefits of employment in the fire service. However, such a shift structure is not set in stone, and I must recognize the Employer's operational needs to provide the kind of emergency services required at the time most necessary. Such a need does not automatically fit within a 24 hour shift structure, and an alternative may be needed.

Finally, the Union argued that assignments to "non-standard" shifts are onerous and should be avoided. It must be noted that the use of such an alternative shift is limited to the PAU's and that such service is very well received by local residents, thus enhancing the firefighters' reputation for care and responsiveness.

I must consider which proposal is more realistic for the service requirements set forth during the course of hearing. As the Employer noted in its closing brief, fire management considered several alternatives to creating a PAU. For example, the Employer considered the use of private ambulances for emergency medical service transport. While there were several advantages to the use of private contractors, it was determined that the transport work should remain with the bargaining unit employees, so, for the time being, the Employer has decided not to pursue this option any further.

I must also recognize that the Employer raised several issues concerning the Union's conduct in getting this matter to interest arbitration. I realize that unfair labor practice litigation occurred, but I will not use this forum to somehow attempt to re-litigate the issues raised in that earlier dispute. I make my award based on the arguments put before me at hearing and the evidence submitted as detailed above.

I must also note that the Union has agreed with a number of the Employer's proposals concerning the use of PAU's. As analysis of the two proposals will disclose, the parties



disagree over the scope of day unit coverage (three units versus two), the hours to be worked (10 vs. 12), the shift sequence (four consecutive days versus “staggered” days of work) and the premium to be paid for the work performed (5% versus 7%). The Union otherwise recognizes the need for this kind of service for local residents.

I have reviewed the record made in this matter, the comparables presented and the arguments submitted by both parties. I have concluded that the Employer’s version of Appendix C is appropriate for the kind of service that must be provided, and so I will direct the adoption of the Employer’s proposal. I believe that the Employer’s proposal will provide the necessary framework to provide the kind of emergency service that is needed for local residents. The 12 hour shift structure gives stability to service delivery for the entire week and does not leave any “gaps” in coverage that other shift configurations could. The 12 hour shift structure also mirrors the peak time periods identified for extra service.


While the 12 hour shift may not be popular, it is necessary to provide the appropriate level of service. I note that the comparables used by the parties refer to the use of alternative shift structures, and that such shifts have been implemented without significant problems. It must be emphasized that this award is directed at the unique circumstances presented, and I am not, in any way, endorsing the termination of the traditional 24 hour shift structure in Washington State fire service.

The 24 hour shift is well-established and should continue for a number of years to come. However, I must also recognize that operational needs may require the creation of alternative work shifts for specific programs, such as the PAU’s presented here, and an Employer must be able to address such needs as they arise.

## AWARD

Based on the foregoing, and the record made in this matter as a whole, I award the Employer's version of Appendix C, as presented at the interest arbitration proceedings on September 18, 19 and 20, 2017.

DATED at Lacey, Washington, this 21<sup>st</sup> day of November, 2017.

  
KENNETH JAMES LATSCH  
Arbitrator