
In the Matter of the Interest Arbitration

between

STATE OF CONNECTICUT

- and -

**CONNECTICUT STATE EMPLOYEES ASSOCIATION
CORRECTIONAL SUPERVISOR COUNCIL (NP-8 UNIT)**

Opinion and Award

BEFORE: Barbara Zausner, Arbitrator

AWARD DATED: May 2, 2003

APPEARANCES

For the State: J. Philip Margeson
Judith Lederer, Esq.

For the Union: Robert J. Krzys, Esq.
Robert Rinker, Executive Director

Introduction

This award is the result of an interest arbitration between the State of Connecticut and the Connecticut State Employees Association, SEIU Local 2001, Correction Supervisors Council (NP-8 Unit). I was appointed interest arbitrator pursuant to statute. I met with the parties and held hearings on November 11-12, 26-27, December 11, 12, 13, 2002, January 9-10, 16-17, February 14, 21, and March 11, 2003.

By April 19, I had received the parties' briefs, reply briefs and supplemental materials. The record includes 63 State and Union exhibits, and 45 joint exhibits.

The Collective Bargaining Unit

The Unit consists of approximately 360 Lieutenants and 8 Training Officers who supervise Correctional Officers on assigned shifts. They may also assume responsibility for the custody and security of inmates, buildings and grounds as shift supervisors. On about a third of the days in a year, the Lieutenants are responsible for the decision making at all the correctional facilities. Correctional Training Officers are assigned to the Connecticut Justice Academy, correctional institutions or community correctional centers and are responsible for independently performing a full range of tasks in planning, coordinating and conducting orientation and in-service programs. Correctional Lieutenants must have 4 years experience as a Correctional Officer to be eligible for promotion. Correctional Training Officers must have 5 years experience.

The Statute

Connecticut General Statutes, Section 5-276a(e)(4), provides,

...In making such award, the arbitrator shall select the more reasonable last best offer proposal on each of the disputed issues based on the factors in subdivision (5) of this subsection. The arbitrator (A) shall give a decision as to each disputed issue considered, (B), shall state with particularity the basis for such decision as to each disputed issue and the manner in which the factors enumerated in subdivision (5) of this subsection were considered in arriving at such decision, (C) shall confine the award to the issues submitted and shall not make observations or declarations of opinion which are not directly essential in reaching a determination, and, (D) shall not affect the rights accorded to either party by law or by any collective bargaining agreement, nor in any manner, either by drawing inferences or otherwise, modify, add to, subtract from or alter such provisions of law or agreement...

The factors to be considered by the arbitrator are listed in Section 5-276a(e)(5) as follows:

- the history of negotiations between the parties (including those leading to the instant proceeding);
- the existing conditions of employment of similar groups of employees;
- the wages, fringe benefits and working conditions prevailing in the labor market;
- the overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees)
- the ability of the employer to pay;
- changes in the cost of living;
- the interests and welfare of the employees.

The history of negotiations between the parties

In 2000, these Lieutenants obtained the right to bargain collectively. The parties entered into a voluntary recognition agreement with CSEA, SEIU, Local 2001 as the exclusive bargaining agent under the State Employee Relations Act. The State notes that this contract will “creat[e] new rights for a group of employees that were previously in the classified service as managers.” The State argues that “this bargaining unit must face the reality of severe economic times, and, as such, does not deserve treatment consistent with and as has been afforded other unions in past negotiations.”

The Union claims that shortly after the unit was recognized, the State “began a series of unilateral actions ... that eliminated various benefits for employees in the bargaining unit.” For example, “longevity payments due in April, 2002, and October, 2002, were withheld; the Lieutenants’ evaluation process was cancelled and replaced unilaterally with a new system; the sick leave bank was terminated and closed to lieutenants; the grievance process they had been using as managers was declared no

longer available to them; their vacation bonus days were suspended in January, 2003; and, on January 24, 2003, the Department of Corrections unilaterally changed the work schedules of the Lieutenants from a 5-3/4-4 to a 5-2 schedule.”

There were about 188 separate issues in dispute when these proceedings began. The parties worked throughout the process to resolve the issues. Thanks to their efforts, the number was reduced to 43. It is significant that this is an initial collective bargaining agreement.

Conditions of similar employees

The group most similar to this unit of Lieutenants is the Corrections Officers they supervise. Both units work in the same environment under the same conditions fulfilling the same mission. Other protective service employee groups also have similar conditions. For some purposes, all employees in the State service should be considered in comparisons because the Employer’s ability to pay is the same for all groups. I rely heavily on comparisons in deciding the issues in this case. The pattern of wage settlements among the units is part of this criterion.

Conditions in the labor market

This factor has little relevance for this decision. Wages and benefits in the State sector have been established for numerous bargaining units, each of which has more in common with the Lieutenants than any private sector employees have.

Overall compensation

The Lieutenants’ compensation and benefits were based on managerial programs in effect for State employees at that level. This agreement is a first agreement and there is no negotiated base to refer to. This group has been reasonably well compensated under those plans.

Ability of the Employer to pay

This factor is considered in the economic discussion area below. This criterion is of paramount importance.

Changes in the cost of living

This factor is not as important as some of the others. The cost of living has been relatively stable over the past few years and wage increases for the other bargaining units have kept pace. The State cites economic forecasts of “a low to moderate inflation rate for the term of the NP-8 contract.” For 2003-03, the figure is 2.1%, it is 2.4% for 03-04 and 2.5% for 04-05.

Interests and welfare of the employees

Few of the open issues are decided on the basis of this factor. The Union raises this issue in connection with the history of negotiations. It points to the many changes in benefits and compensation that occurred between the time the unit was recognized and the close of the record in this proceeding.

THE OPEN ISSUES

Issue 4C - Union Rights - Union Business Leave - Amount
Issue 6Q - Equal opportunity for training
Issue 6R - Use of seniority for limited training
Issue 11C - Hours of Work - Line Supervisors
Issue 11D - Hours of Work - Other Supervisors
Issue 11E - Hours of Work - Starting and ending times
Issue 11F - Hours of Work - Shift assignments - Grand parenting shifts assignment
as of November 29, 2001
Issue 11G - Hours of Work - Shift and facility assignments
Issue 11H - Hours of Work - Bidding on vacant positions - Assignments less than six
months
Issue 11 I - Hours of Work - Bidding on vacant positions - Assignments greater than
six months
Issue 11J - Hours of Work Bidding on vacant positions - Application of seniority
Issue 13A - Temporary assignment not to be used until bidding procedures are
completed
Issue 14A - Compensation - General Wage Increase - 2002-03 – Amount
Issue 14B - Compensation - General Wage Increase - 2003-04 – Amount
Issue 14C - Compensation - General Wage Increase - 2004-05 - Amount
Issue 14E(1) - Compensation- Annual increment - Amount of payment -2002-03
Issue 14E(2) - Compensation- Annual increment - Amount of payment -2003-04
Issue 14E(3) - Compensation- Annual increment - Amount of payment -2004-05
Issue 14G - Upgrading – Amount
Issue 14I - Longevity - Effective Date
Issue 14J - Longevity – Amount
Issue 14K -Longevity - Future increases
Issue 14L - Payment on promotion or upgrade
Issue 17A - Safety - Committee – Number
Issue 17B - Safety - Committee - Topics
Issue 17C - Safety - Committee - Amount of Fund
Issue 17D - Safety - Committee - Committee Action
Issue 17E - Safety - Compliance with Federal, State and local laws
Issue 19A - Transfers - Circumstances
Issue 19B - Transfers - Permanent v. Temporary
Issue 19C - Transfers - Notification
Issue 19D - Application of Seniority
Issue 20A - Hazardous Duty Pay - Committee
Issue 20B - Hazardous Duty Pay - Procedures

Issue 20C - Hazardous Duty Pay - Rate
Issue 20D - Hazardous Duty Pay - Appeal procedure
Issue 20E - Hazardous duty stipend
Issue 22 - Educational Leave
Issue 23 - Conflict of Interest
Issue 26 - Light duty programs
Issue 27 - Application of 5-145a
Issue 30 - Leave for volunteer fire or ambulance duty
Issue 31 - EMT stipend
Issue 32 - Military leave
Issue 33 - Blue Book
Issue 40 - Granting of time off
Issue 42A - Vacation - Accrual rate
Issue 42B - Vacation - Bonus days
Issue 42C - Vacation - Maximum accumulation
Issue 42F - Vacation - Approval of vacation time and carryover to new shifts and facilities
Issue 44 - Leave time accrual and posting
Issue 45F - Reclassification of Training Officers

ECONOMIC DISCUSSION

The State's economic presentation focuses on its inability to pay due to the factors it outlines. The Union's position is that the State has made bad choices in the past, including tax cuts and poor spending decisions. While the State makes a compelling case about its financial constraints, the Union makes an equally compelling argument that there is no record basis for singling out this group for differential treatment when it comes to the GWI and other economic conditions.

This section summarizes the parties' evidence and argument with respect to all of the economic proposals in general. Both parties make comprehensive presentations of evidence and argument that applies to the many issues that contain an economic component. Some of the last best offers (LBOs) will save money and some will add costs. The criterion, "the ability of the Employer to pay", is a critical factor in this decision. A summary of the parties' positions follows.

The State

Marc S. Ryan, Secretary of the Office of Policy and Management (OPM), testified for the State and presented a comprehensive report detailing the "current and future economic constraints facing the State." Mr. Ryan also spoke to recent budgets and those projected for the future. Exhibit 16 is his report.

The State argues that its "financial situation has changed dramatically from a few years ago and ... decisions ... on employee wage increases" must recognize certain factors listed below as set forth in the Employer's brief.

- While the State's spending cap continues to be a major issue in terms of the State's ability to pay, the more pressing issue is the State's current economic situation and particularly the negative impacts upon the State's revenue.

- The nation has been in a recession officially since March 2001 and the attacks of September 11 only exacerbated the declines in the stock market, employment and consumer confidence and spending.
- The State surpluses of recent years were almost entirely the result of the booming stock markets through capital gains. However, with the substantial declines in the markets of 18.7% in FY 02 and 53.7% in FY 03, as well as negative growth in withholding for both FY 02 and FY 03, the State's revenues will be insufficient to continue current services without incurring significant deficits.
- Due to a projected deficit of \$551 million, the Governor called a Special Session of the Legislature in November 2001. The Legislature enacted cuts and reallocations to address the deficit through a General Fund Deficit Reduction Plan.
- Faced with an additional deficit of \$638 million for FY 03, the legislature enacted a Deficit Mitigation Plan. The law contained additional tax increases and other revenue increases totaling \$485 million, with the principal element being tax increases. The changes in this law will result in over \$650 million in a permanent tax increase in **each** year of the 03-05 biennium.
- Despite this very significant tax increase, it is anticipated that the current service gap in FY 04 will be over \$2 billion, rising to over \$2.5 billion in FY 05.
- The Budget submitted by the Governor contains no increases for collective bargaining contracts that are unsettled for the 03-05 biennium.
- Fiscal year 2002 had a negative revenue growth of 7.5%. The revenue growth for the fiscal year 2003 is projected to be a modest 1.6%. Based upon this low growth figure, the State will be hard pressed to deal with the skyrocketing costs of health care and pharmaceutical benefits, including those for State employees and retirees, and the increasing costs, caseloads and demands for services faced by the State human service and other agencies. For example, in the fiscal year 2001-03 pension costs were 17% higher; health insurance costs were 27.2% higher for active employees and 17% higher for retirees than in the prior biennium.

The record includes a detailed description of the history of the state income tax and spending cap. The State concludes, "none of the uncapped expenditures has any relationship to the salary issues in the present arbitration. All of the increases in the costs associated with the vast majority of NP-8 employee wages and benefits are subject to the spending cap."

The expenditure cap can only be exceeded by a vote of at least three fifths of each house of the General Assembly. An exception has "been limited to situations of allowing the spending of a surplus ... but generally only to avoid the issuance of debt or for expenditures which were primarily one-time in nature. (S-16, p. 39).

State revenues continue to decline. Personal income tax revenues have fallen by .7% since March 2001 and remain down in 02. "Modest growth is forecast beginning in April 2003. The slowdown in the economy has also adversely affected sales tax collections. Revised revenue forecasts have reduced the estimated revenues in personal income tax, sales tax, inheritance tax and all other taxes. "The situation deteriorated even further during the Fall of 2002 [when] the Governor mandated the layoff of 3,000 state employees." The legislature took other steps to reduce the 02-03 deficit including the enactment of an early retirement program and the elimination of funding of increases for any unsettled collective bargaining agreements."

State spending needs will also affect spending in other areas. Disasters, court mandates, increases costs of services and increased demand for services will further constrain spending. (S-16, p. 36).

The State points out that interest arbitration awards issued last spring and earlier were based on different forecasts. Negative predictions have since proven true.

The Union

Professor James P. Stodder presented his study of “Connecticut’s Economy and the Relative Size of its State Government.” (U-5). His discussion includes historical information about the State’s tax burden compared with the high per capita income. He cites “profligate tax cutting in the 1990s and an overheated rush to commit to bonding projects” as culprits in the current budget picture. The State increased its total General Fund indebtedness greatly between 1992 and 2001 to the point where the State now “leads the nation in state debt per capita.” Expenditures, on the other hand, remained flat during that period.

Although the State has “dug its own hole, [it has] the wealth [to] dig itself out.” The Deficit Mitigation Act may result in a surplus on June 30, 2003. The tax increase will “address much of the problem for 2003-2005.” The Union concludes that the State has the ability to pay.

The Union’s economic argument focuses on what it describes as the “three most important statutory factors.” First, it emphasizes the “distinct pattern of wages and increments and other economic adjustments that have been awarded to other state employee units for the ... time period at issue.” The pattern is a 3% general wage increase each year with annual increments paid on time each year. According to the Union, the “State bears the burden of persuading the arbitrator to deviate from the pattern.” However, the Union concedes, “the economic projections in those proceedings are less optimistic than now.” Nevertheless, the Union argues, “the real balance to be achieved in the disposition of the economic issues in this case is necessarily a judgment of how far to deviate from the pattern in light of the changed economic environment without having the lieutenants pay too high a price.”

Another statutory factor featured in this presentation is the interest and welfare of the employees. Here, the Union points to a lack of negotiations between these parties. “There was never any chance for the Union to negotiate a wage package since it had no offer to respond to.” As is noted elsewhere, the unit lost benefits that its members enjoyed as managers and job security in the unit was eroded. In all, there were 166 layoffs in the DOC. Secretary Ryan made clear that “the administration laid off unionized workers because there was no agreement on a concessions package. Managers, who agreed to a wage freeze, were protected from layoffs.

As to the State’s ability to pay, the Union argues that “any reliance the State places on its budgeted amounts for collective bargaining funds as a factor in determining the ability to pay should be rejected.” The Union cites Arbitrator Healy’s opinion on this subject. (J-37, 23-24). It also notes Arbitrator Foy’s finding that the analysis “must focus on the big picture in Connecticut and the relationship between Connecticut and the national economy.” The Union asserts, “Connecticut state taxes do not overburden Connecticut citizens.”

Discussion

The factors raised by both parties are of critical importance in making decisions about the economic issues in dispute. This discussion continues in the sections following the parties' LBOs on specific economic issues. In general, I have concluded that the best place to spend limited resources is in direct compensation. In light of the economic realities, the awards should avoid unwarranted cost increases where that conclusion is consistent with other statutory criteria. Those include the conditions of similarly situated employees, the history of negotiations, and the interests and welfare of the employees.

LAST BEST OFFERS (LBOs), POSITIONS OF THE PARTIES ON THE OPEN ISSUES, DISCUSSION AND AWARD ON EACH ISSUE

Issue 4C - Union Rights - Union Business Leave - Amount

Union LBO:

Commencing with contract year of July 1, 2003 and each contract year thereafter, a bank of 50 person days is established in each year of the contract for attendance at steward training, union conventions, legislative or administrative hearings or other legitimate union business, such as by-law meetings, executive session, etc.

State LBO:

Section Five. Union Business Leave.

(a) Provided . . . of emergency. A bank of forty-five (45) days is established in each year . . .

Union argument

The Union seeks fifty days as the minimum needed for this unit of more than 300 people. It also points out that this is the parties' first contract period and "that will necessarily require more Union activity than a unit that has been recognized for a period of years." Union representatives will need training to handle the complex issues that arise in this unit. The State has recognized that issue by resolving Issue 4D, a provision for training on the contract's terms.

In its reply brief, the Union disputes the State's "past practice" argument. It points out that there is no record evidence of a practice. Further, other units whose contracts are in evidence do not follow the alleged formula. There is "no hour per employee" formula. "The Union submits that 50 days per year is more reasonable than 45 especially in a new unit . . . where there are likely to be more per capita investigations due to the nature of the unit. "More Union business leave may well be appropriate."

State argument

The State relies on a past practice in each bargaining unit that allowed one hour for each bargaining unit member. When this unit was certified, there were 360 unit members. The State's offer (45 person days X 8 hours = 360) is based on the membership at the time of certification. It relies on factors 1, 2 and 7.

Discussion

The difference between the parties is five person days per year, not enough to cause the problems anticipated in the Union's argument. The State's position is supported by a measurable standard even

though the Union can cite actual contract figures that deviate from the formula. This offer also has a cost component of almost \$11,000 per year. If the number of hours is insufficient in practice, the parties will have a basis for negotiating a change. The State's LBO is the more reasonable in light of comparisons, economic considerations and the State's LBO takes the employees' interests and welfare into account.

Award Issue 4C: The State's LBO

Issue 6Q - Equal opportunity for training

Union LBO:

Employees will be given equal opportunity to receive employer-sponsored training including in-house training and at the Command Institute. Employees will receive time off to attend training.

State LBO:

No contract provision.

Union argument

The Department provides in-house training and also runs a Command Institute. The Union points to testimony that not all unit members receive notices or invitations to participate in training opportunities that may play a role in promotion. The Union argues that lieutenants should have an equal opportunity to participate. It also asserts that the State's offer of no provision is unresponsive to the problems identified in Union testimony.

State argument

The State relies on testimony of Lt. Greg Harding that training is provided on an ongoing basis in basic areas such as emergencies. Deputy Commissioner Lantz also testified about leadership and specialized training.

The State argues that "the Union's position here lacks specificity of their intent, and other than a broad-based proposal that lacks foundation, nothing was established on the record that highlighted specific deficiencies in the DOC training selections." It points out that "the parties have agreed ... to the employer's obligation to train, and the mechanisms put in place to provide that training." Further, not all training need be provided to every employee in every facility. The Employer also notes there is no evidence that it has not provided "equal opportunity in the area of training" in the past. The State adds, "Tuition reimbursement is provided for those who seek advanced degrees that will put them in position for promotional consideration. Selection for training on the basis of seniority makes no more sense than awarding tuition reimbursement on that basis." The factors considered relevant by the State are factors 1, 2 and 7.

Discussion

I agree with the Employer. There is no record showing that Lieutenants have been denied equal access to training. The history of negotiations between the parties shows that they agree in principle on the need for and importance of training. They have agreements on tuition reimbursement. There is no evidence that other similar groups of employees have a contractual guarantee in this area. In this initial contract period, the interests and welfare of the employees are better served by working with the

currently agreed upon training provisions and leaving further modification to the future. The Employer's position is more reasonable in light of the statutory criteria.

Award: Issue 6Q: The State's LBO.

Issue 6R - Use of seniority for limited training

Union LBO:

When space is limited at an employer-sponsored training, the most senior employee(s) as defined in Article ___ shall be selected for the training.

State LBO:

No contract provision.

Union argument

The Union seeks to have seniority applied when there is a limited space for training. The State opposes seniority as a basis for training opportunities. The Union claims it is seeking a way for training to be apportioned fairly. Its LBO "insures that employees will not be passed over during their career. The application of seniority will result in everyone eventually receiving an opportunity if they want one." The State's offer forces an "all or nothing" approach to the issue.

State argument

The State contends that the Union has not established "a specific need for such a provision." There is no indication of what type of training is involved and whom it would benefit. The Union's proposal does not speak to an appeal process but grievances over denial of requests "would kick in and clog up the system." In the State's view, "Seniority cannot be the sole determining factor in the selection of employees for training. If, for example, a specialized training were required in the area of safety, if most of the senior Lieutenants worked at three (3) of the eighteen (18) facilities, you would have all your expertise located in those specific areas. "

The Union failed to establish that specific training has been denied to more senior Lieutenants in the past, nor has it shown the results, if any, of the denials. The State's position is based on statutory factors 1, 2 and 7.

Discussion

There is no basis in the record for requiring a grant of a training opportunity to a Lieutenant on the basis of seniority. As the State observes, the burden is on the Union to show that employees have not received the training they need or would like. It is also up to the Union to establish that lost opportunities have had an adverse effect. Moreover, where the Employer sees a need to train an employee or group of employees, seniority would not necessarily be an appropriate basis for selection.

Regarding training that a lieutenant might like to take to advance her or his promotional prospects, the agreement provides other means for achieving that goal. There is no demonstrated need for the provision and the State's LBO, for no contract provision, is more reasonable.

Award Issue 6R: The State's LBO.

Issue 11 – Hours of Work

Much of the discussion preceding the award on each issue within this Article applies to more than one issue.

Issue 11C - Hours of Work - Line Supervisors

Union LBO:

a. Line Supervisors will work a five (5) on, three (3) off rotating schedule. Each employee will work a workday that will result in an average workweek of forty (40) hours per week in an eight (8) week cycle. This schedule shall be implemented as soon as practicable following legislative approval of this Agreement.

State LBO:

(b) Employees assigned to facilities that maintain continuous operations shall work an eight hour and fifteen minute shift and will be scheduled to work thirty nine (39) days in a fifty six (56) day period averaged over a one hundred twelve (112) day cycle. The schedule will consist of five (5) consecutive days on followed by two (2) consecutive days off.

(c) After each fifty six (56) day period is completed, the regularly scheduled days off will rotate for each employee based on a master schedule for the facility. Each employee will be scheduled for two (2) additional days off during each one hundred twelve (112) day cycle as part of the master roster schedule. Continuous operation facilities shall be defined as facilities that require twenty-four (24) hour, seven (7) day a week custody coverage.

Union argument

The Union points out that the only difference between the parties' offers is in the actual schedule; 5-3 or 5-2. The Union focuses on the history of the Lieutenants' schedule. For some time they worked a 5-3 schedule until the Employer changed to a 5-3/4-4 schedule of ten-hour days. That change was made before this unit had collective bargaining rights. The Union notes the State's proposed a 5-3 schedule of 37.5 hours during the instant negotiations. U-11). The Union urges that the State's LBO be rejected for a number of reasons.

First, the Agency is a continuous operation in a hazardous setting. These factors militate in favor of reducing burnout and stress by increasing time away from the facility. Most corrections officers, who are supervised by these Lieutenants, work a 5-3 schedule as do the State Police employees. The 5-3 schedule provides for more time away from work.

Second, the current 5-2 schedule was unilaterally instituted during the pendency of these negotiations in order to avoid layoffs of other DOC employees according to Dan Callahan's testimony. The Union asserts that it is not fair to "target [] the lieutenants to provide the Agency some overall budget relief."

Third, supervisory issues existed in the 5-3,4-4 schedule. Lieutenants' shifts did not always overlap those they supervised. The Union's proposal would place both units on the same schedule. The Union's proposal also allows the Lieutenants to arrive before the Correctional Officers' shift begins and to leave after those shifts end. This would allow the Lieutenants to complete their paperwork before and after the shift leaving them free to run the shift. "As Theresa Lantz testified, the frontline Lieutenants are the most important persons on any shift."

In response to the State's argument, the Union maintains "there is no presumption in favor of a 'current' schedule." The Lieutenants were not on a 5-2 schedule at any time in the past prior to the unilateral implementation of that schedule in January 2003. Major Henry's testimony, on which the State relies, expressed concern over a ten-hour work day. Major Henry confirmed that, for the most part, the Correctional Officers work a 5-3 schedule and that the 5-2 schedule results in less time off for the Lieutenants.

The Union contends there is "no citation to any testimony or ... document to support" the State's claim that it would "need ... forty more Lieutenants to staff the facilities at a cost of \$2 million [if the Union's proposal were awarded]." It cites Major Henry's testimony that "the same number of Lieutenants were capable of staffing the 5-3; 4-4 [schedule as] the 5-2." The Union points to the testimony of Deputy Commissioner Theresa Lantz who "confirmed that OPM targeted the unionized workforce" for cuts in November, 2002. She did not testify about specific cost savings but guessed the change would save about \$2 million. Only Lieutenants' schedules were changed.

The Union disagrees with the State's estimate that the Union's offer would require 40 more lieutenants. It cites Calahan's testimony "that 40 positions department-wide would have been cut if the Lieutenants had not been the focus of the cuts." (p. 6).

State Argument

The State argues that the Union's LBO "is the return of the Lieutenants that are line supervisors to the ten (10) hour workday." It cites testimony of Major Daniel Henry on the following points.

- (a) The ten (10) hour workday increases physical and emotional stress, and may cause lapses in judgment that could result in injury or death to staff and inmates.
- (b) An analysis of sick leave usage over the two (2) year period shows that Lieutenants used 4,707 sick days per year versus 1,827 used when on the 4 & 2 schedule; an increase of 158%. It costs approximately \$1,000,000 - \$1,500,000 to replace those lieutenants annually.
- (c) Worker's Compensation increased 35% during the same period from an average of eight (8) days per year to eleven (11) days per year.
- (d) Lieutenant shortages required substantial involuntary overtime due to the thirty (30) hour coverage in a twenty-four (24) hour period. The change in schedule eliminated unnecessary overlaps.
- (e) There were scheduling issues, problems with continuity of shift supervision, training needs, and swapping of schedules.
- (f) There were difficulties evaluating and mentoring under a schedule where a Lieutenant might work with an Officer for only four (4) hours on a shift.

Deputy Commissioner Theresa Lantz testified regarding the schedule change and the analysis that was made before the change on January 9, 2003. She said, "The Agency has been challenged with making cuts across the board among non-management ranks.... To make cuts we ... had to look across the Agency at all operations.... Our mission is to protect public, staff and ensure humane and constitutional environment for offenders. Making directed cuts in personnel was an exhaustive process requiring a look at how we could streamline programs, systems and operations in order to meet our mission as well as the monetary reductions we were required to make. [T]he change in the Lieutenants schedule ... was the only way we could achieve the savings we wanted while maintaining a safe and secure operation."

The State concludes, "an award in favor of the Union in Issue 11C would create the need for forty (40) more Lieutenants to staff the facilities, with the agency incurring an additional cost of \$2,000,000 per year. The staff analysis showed that the agency "could meet its mission priorities, maintain a safe and secure environment while meeting the budget expectations directed by the Office of Policy and Management by utilizing the schedule provided in the State's LBO." It is the position of the State that its LBO in Issue 11C is more reasonable, as it is more efficient and cost effective, as well as more

beneficial to the health and welfare of the unit employees. The State relies on statutory factors Nos. 2, 4 and 7, and the health and welfare of employees, to support its LBO.

Discussion

This issue is of great importance to both parties. Application of the statutory criteria points in the direction of the Union's LBO. A significant morale issue in the history of these negotiations has been the unilateral changes made shortly after the Union was recognized. Had the parties been able to bargain over the changes, it is possible they could have reached mutual accommodation. A return to the 5-3 schedule would restore the status quo existing at the time the unit was recognized. That result better serves the interests and welfare of the employees.

Similarly situated employees (the Correction Officers and State Police units) work a 5-3 schedule. It makes sense to have supervisors work the same basic schedule as their subordinates.

While the issue has ramifications for the budget, there is no actual figure in the record to reflect the cost of restoring the 5-3 schedule. The calculations offered in the State's presentation are based on a 5-3, 4-4 schedule of ten-hour days and various other schedules (as presented in Major Henry's testimony). Those estimates assume increased sick leave and other leave use and an increase in workers' compensation events. On the other hand, potential savings inhere in the 5-3 schedule (added time away from work, more contact with family, better morale, increased supervisory contact, etc.) that may offset some of the cost.

The Union's LBO establishes a 5-3 schedule of nine hour and eight minute (9:08) shifts. The State's offer is for a 5-2 schedule with eight hour and fifteen minute (8:15) shifts. Both offers average 40 hours per week over a 56-day period. Although the Union's LBO would result in a longer shift, the difference between the offers is less than an hour. As the Union notes, much of the State's argument against this LBO is directed at a 10-hour day, almost twice as long an increase (over 8 hours) than the Union's actual LBO.

The State's opposition is based on "significant cost increases", specifically, a need for 40 more Lieutenants to staff the 5-2 schedule, and estimated increases in sick leave usage, "workers' compensation incidents and duration and increased physical and emotional stress resulting in possible judgment lapses." As the Union observes, some of the State's cost calculations are speculative. More important, the proposed 9:08 hour shifts and an increase in time away from the facility may ameliorate the concerns raised by the State.

The history of negotiations is an important consideration. There is a presumption in favor of restoring the status quo in situations like this. The existing conditions of similar employees favors a return to the 5-3 schedule. For all of these reasons, the Union's LBO is the more reasonable.

Award Issue 11C: The Union's LBO.

Issue 11D - Hours of Work - Other Supervisors

Union LBO:

b. Administrative Supervisors will work a five (5) on, two (2) off schedule of eight (8) hour days, Monday through Friday.

State LBO:

(d) Employees assigned to non-continuous operations, or who perform specialized duties at a continuous operation facility, shall work eight (8) hours per day, five (5) consecutive days on followed by two (2) consecutive days off that do not rotate.

Union argument

The Union claims there is no evidence in the record on which to base a change in schedule to one that would “impinge” on the employees’ weekends.

State argument

The State relies on the testimony of George Vose, an expert in the field of corrections. Mr. Vose has had considerable experience in the administration and management of correctional facilities. He testified, “Staff need to have consecutive days off.” However, limiting staff availability for either rotation or transfer would put dramatic limitations on management’s ability to assign.”

The State argues the Union’s LBO would restrict management’s ability “to institute new administrative functions as required by changes in the agency mission.” It cites other Agreements that cover twenty-four (24) hour operations such as the NP-5, Protective Services (Joint Exhibit #11) and the NP-6/P-1, District 1199 (Joint Exhibit #20). The NP-4 Agreement (Joint Exhibit #27) contains a similar provision to the CSEA proposal, however it provides management with the flexibility to alter the weekend rotation if need be. The State argues that the Union’s proposal “would require that the parties enter into mid-term bargaining over the Administrative Supervisor’s schedule if there was a change in the mission that required alternate schedules.” Factors 3 and 7 are emphasized.

Discussion

Neither of the contracts covering other 24-hour operations has a guaranteed 5-2 schedule with weekends off. The NP-4 Agreement appears to continue that schedule for certain positions but much discretion remains with management and the language in NP-4 does not parallel the Union’s LBO here.

The State’s LBO does not necessarily eliminate the weekend off schedules now in effect but it does provide the State more flexibility. The State’s LBO is more reasonable in light of comparisons.

Award Issue 11D: The State’s LBO.

Issue 11E - Hours of Work - Starting and ending times

Union LBO:

Each shift established for the Line Supervisors shall commence and end at approximately the same time as the shifts commence and end for the officer complement supervised by the Line Supervisors.

State LBO:

No contract provision

Union argument

The Union seeks to have the Lieutenants starting and ending times coincide as much as possible with the shifts of the correctional officers in this issue and in 11C. The idea is to “cement the bond between supervisor and the officers. The State put on no evidence as to why this proposal was not feasible [and] it agreed better supervision is a goal of the Agency.”

State argument

The Union’s offer “mandates the assignment of Line Supervisors to ... the same schedules as Corrections Officers without regard to agency operating needs. It is the State’s position that an award to the Union on this issue would permanently restrict management’s ability to assign staff as needed.”

The State offers examples when it might be necessary for operational reasons not to overlap shift times. The State relies on factors 2 and 7.

Discussion

There is no evident basis for restricting management’s ability to assign staff as the Union’s LBO would require. This issue is closely related to other scheduling issues. The Employer has had the right to make many of these staffing and scheduling decisions and there is no evidence that it has abused its discretion. The State’s position on this issue is more reasonable. This is not a widely-enjoyed benefit.

Award Issue 11E: The State’s LBO

Issue 11F - Hours of Work - Shift assignments - Grand parenting shifts assignment as of November 29, 2001

Union LBO:

Section One. The Department of Correction agrees to implement a bid shift assignment program for Line Supervisors as set forth in this agreement. The Bid Shift Program will allow Line Supervisors to bid according to seniority for shift preferences. Thus, Line Supervisors will bid their desired shift preference according to seniority. Seniority for purposes of the bid shift program shall refer to seniority as defined in Section One of the Seniority Article.

Section Two. Bidding will be done through the completion of bid forms. On the form each Line Supervisor must list a first, second, third, fourth or as many preferences as necessary to indicate that supervisor’s preferences as to all shifts then established at the applicant’s facility. Bids must be fully completed and submitted when requested prior to the start of the averaging cycles to be affected by the selection. All supervisors must submit these forms.

Prior to each cycle, management will indicate the estimated Line Supervisor levels at each facility for each shift prior to the submission of the forms. Management retains the exclusive right to determine the number of supervisors to staff each shift. Upon receipt of all forms, management shall finalize the schedule.

Section Three. The implementation of the bid shift program shall commence with the first full averaging schedule cycle after legislative approval of this agreement or the next following cycle if mutually agreed to by the parties. The initial bid shift election provided for herein shall last for 336

days or six (6) 56 day averaging cycles. Thereafter, the bid shift election process shall take place in time for implementation in each following 336 day period or six (6) 56 day averaging cycles.

Section Four. Seniority will be applied as the determining factor in shift assignment for line supervisors when all other factors are equal. Management retains the right to determine when all other factors are equal. If a Line Supervisor is denied his/her shift preference under this section, he/she shall receive a written explanation of the reason for denial. The Union may grieve a pattern of denials of shift assignment by seniority.

Section Five. Transfers. When practicable, transfers should be made to coincide with a bid shift cycle change. If practicable, line supervisors transferred prior to the close of a bidding schedule will be permitted to bid at their new facility.

Section Six. Discipline. Bid shift can be denied or limited for disciplinary reasons subject to just cause.

Section Seven. Administrative Denial. Bid shift can be denied or limited to a line supervisor for administrative purposes such as reassignment to another facility. (e.g., line supervisor must learn and be familiar with new facility operations. This type of assignment is limited to two weeks.)

Section Eight. Denial of Bid Shift/Evaluations. Management may deny or limit a line supervisor the option to elect a bid shift if that supervisor in his/her most current service evaluation is rated “unsatisfactory” in any one or more categories or who is rated “needs improvement” in two or more categories.

State LBO:

No contract provision.

Union argument

This issue is “the second of the major non-economic issues in this case.” The Union points out that the Corrections Officers have the right to bid for their shifts. (J-27, p.18). Seniority applies when all other factors are equal. The right to grieve and arbitrate is limited to “a pattern of a failure to give effect to seniority.” Stability of shifts is an important benefit. The Union highlights Mr. Vose’s acknowledgment that “the lack of a bid process for shifts in place for supervisors does hurt recruitment to that rank especially where the officers they supervise have the right to bid for shifts.” (Union brief, p. 29).

The Union notes that its LBO meets the objections raised by the State’s witnesses. It preserves management’s rights and “builds in additional managerial prerogatives.” The Union’s witnesses testified about the many shift and facility transfers they have faced. This LBO allows officers to stabilize their schedules without hampering management’s operational rights or its disciplinary rights or its ability to address performance issues.

State argument

According to the State, the Union’s LBOs for issues 11F, 11G, 11H, 11I, and 11J “involve the application of strict seniority governing shift assignments and vacant positions.” The State relies on

testimony of George Vose to support its opposition to the Union's LBO. Mr. Vose's primary objection to Issue 11 F is " that you would have senior people gravitating to what is normally the preferred shift, and preferred days off. This limits management's ability to assign personnel to difficult shifts."

Discussion

The Correction Officers who are supervised by these Lieutenants have the right to bid on shifts by seniority. In their contract, the exercise of seniority rights has limiting conditions. The choice on this issue is to award bidding by seniority or to leave the subject uncovered in the Agreement. As seniority is a significant benefit of membership in a bargaining unit, the choice for "no provision" must be supported by strong evidence. In the instant case, there is considerable discussion in the record of the advantages of unlimited flexibility for management.

A reasonable resolution to this issue is proposed by the Union. As noted in its argument, the LBO is not a "strict bid shift by seniority." Seniority prevails only if all other qualifications are equal. Bids may be denied for disciplinary, administrative and other reasons. The Union's LBO meets many legitimate management concerns. These are set forth in its argument above.

An award of the Union's LBO is supported by application of the statutory criteria. Seniority rights are found in all of the contracts covering similar groups of employees. It is in the employees' interest to have contractual seniority rights and to look forward to exercising them.

Award Issue 11F: Union's LBO

Issue 11G - Hours of Work - Shift and facility assignments

Union LBO:

Except as otherwise provided for in this Agreement, all shift and facility assignments are permanent and may not be changed involuntarily.

State LBO:

No contract provision.

Union argument Issues 11 G,H, I, J

These issues speak to transfers within and among facilities. The Union seeks seniority preference for open positions as set forth above. 11G makes shift and facility assignment permanent except as otherwise provided in the Agreement. Issues 11H and I deal with position vacancies of more than and less than six months. Short-term openings are limited to lieutenants at a facility which "insures continuity of staff."

Issue J "restricts the absolute right to the transfer." Position openings of more than six months are

open to all Lieutenants. This provides opportunities for employees to try to move closer to home or to meet career considerations by obtaining experience at other facilities. Management has “considerable rights to deny” transfers if other factors such as experience, particular skills, or other legitimate reasons such as those raised by Deputy Commissioner Lantz.

The Union argues that management’s “no provision” offer gives no consideration to “a legitimate concern of any employee.” The Union links argument on this point with subjects raised in connection with Issues 19A – D.

Discussion 11G

The Union’s offer includes a clause that makes shift and facility assignments permanent and not subject to involuntary change “except as otherwise provided for in this Agreement.” The language gives “a wide degree of latitude for management to deny the bid shift.” (Quoting from Union brief).

As noted earlier, seniority is a benefit of paramount importance to bargaining unit members. All other organized State employee groups have seniority rights in one form or another. Seniority benefits are important to the interests and welfare of the employees. The State is experienced in dealing with seniority provisions and, while the application of seniority impinges on managerial rights to some extent, the benefits of such a system outweigh the inconvenience of operating within one. These general comments apply to other issues where seniority and bidding rights are factors.

Award Issue 11G: The Union’s LBO

Issue 11H - Hours of Work - Bidding on vacant positions - Assignments less than six months

Union LBO:

Bargaining unit members will have the right to bid on vacant positions before these positions are filled from outside the bargaining unit. The bidding process is as follows:

For positions that will be vacant for 6 months or less, bidding will be limited to facility assigned bargaining unit members.

If and when the employee whose absence created the vacancy returns to his/her position, the employee who filled the vacancy shall return to his/her previous assignment.

State LBO:

No contract provision.

Union argument

(See Union argument above)

State argument

The State argues that this offer “places seniority above any other factor to be utilized in assignment of personnel. It requires that management appoint bargaining unit members to vacant positions based

on seniority without consideration of other factors.” The State also asserts arguments raised on other issues in this section.

Discussion

The Union’s argument that this LBO “insures continuity of staff for a short-term opening” has some merit. The State’s objection is to any restriction on management’s ability to assign.” The LBO does not require the application of “strict seniority” but rather gives preference to those within a facility.

Management retains its right (consistent with the Agreement’s provisions) to consider all the factors it deems relevant. Faced with a choice of “no provision” I find the more reasonable LBO to be that of the Union.

Award Issue 11H: The Union’s LBO

Issue 11 I - Hours of Work - Bidding on vacant positions - Assignments greater than six months

Unions LBO:

Bargaining unit members will have the right to bid on vacant positions before these positions are filled from outside the bargaining unit. The bidding process is as follows:

If a vacancy occurs in a line supervisor position and the vacancy is expected to be longer than six months, all line supervisors in the bargaining unit are entitled to bid on the opening.

If and when the employee whose absence created the vacancy returns to his/her position, the employee who filled the vacancy shall return to his/her previous assignment.

State LBO:

No contract provision.

Discussion

Like Issue 11H, this LBO gives preference to bargaining unit members in bidding for vacant positions. The Union’s offer creates opportunities for movement without disrupting operations. For the general reasons mentioned in consideration of other transfer and bidding provisions, the Union’s offer is more reasonable than “no contract provision.”

Award Issue 11 I: The Union’s LBO.

Issue 11J - Hours of Work Bidding on vacant positions - Application of seniority

Union LBO:

If two or more line supervisors bid on a vacant position of either less than six months or more than six months, the position will be assigned to the most senior employee as defined in the Article pertaining

to seniority.

Seniority will be the determining factor in the assignment to vacant positions when all other factors are equal. Management retains the right to determine when all other factors are equal. If a line supervisor is denied his/her bid to a vacant position, he/she shall receive a written explanation of the reason for the denial. The Union may grieve a pattern of denial of assignment to vacant positions by seniority.

State LBO:

No contract provision.

Union argument

See argument above

State argument

The State's arguments are set forth above.

Discussion

The Union's LBO, like other seniority provisions, leaves management's rights intact. Contrary to the State's argument it does not require the application of "strict seniority." The offer is explicit in requiring seniority preference only when other factors are not equal. Management retains its right to determine whether or not employees are equal. This proposal is important for the interests and welfare of the employees and is consistent with other State contracts.

Award Issue 11 J: The Union's LBO

Issue 13A - Temporary assignment not to be used until bidding procedures are completed

Union LBO:

Temporary assignments of Correctional Officers to fill vacant Lieutenant positions shall not be utilized until the bidding procedures for Lieutenants have been completed.

State LBO:

No contract provision.

Union argument

The Union claims that the work at issue belongs to the Lieutenants and they should be offered any temporary openings before those are "assigned to employees of another unit." Lieutenants are trained to fill lieutenant openings.

State argument

The State's "position in this matter highlights the Union's positions in Issues 11F-J., as the restrictions on management to run its facilities would be dramatic if a bidding procedure were put in place." The State cites testimony of Commissioner Lantz and Mr. Vose, who testified to reasons for not awarding bidding on shifts, posts and assignments. It claims it would be hampered in meeting operational needs in emergencies and other circumstances if the Union's LBO were awarded. This provision "would generate a plethora of grievance activity that could bind up the grievance and arbitration process."

It is the State's position that its LBO is more reasonable and should be awarded, as it does not impose restrictive seniority provisions for temporary assignments. The State relies on statutory factors 1, and 2.

Discussion

There is little record basis for including the Union's proposed language in the Contract. The State views the issue as "among the most important non-economic issues of this proceeding." The State asserts its need for flexibility to make temporary assignments, including the use of Officers to fill in for Lieutenants. The State's testimony in support of its offer is convincing.

Award Issue 13A: The State's LBO

Issue 14 – General Wage Increases and Annual Increments

Discussion

For reasons that will be detailed herein, I have concluded that the Union's LBOs for the GWIs in 2002-03, 2003-04 and 2004-05 are more reasonable than those of the State. The pattern of wage increases is a major consideration. The State and the Legislature have already approved wage increases for nearly every other bargaining unit as proposed by the Union here. Had the State been in a position to make economic offers earlier, the Union might have made different proposals. However, for reasons outside of these negotiations, the State's offer came in at the end of the arbitration process. The conditions that prevail in the spring of 2003, when the State's offers were made, are considerably different from those forecast in 2001 and 2002.

The parties' arguments are set forth in their economic discussions and apply to each subsection of Issue 14. The Union emphasizes several arguments: First, the Union sees no reason for a wage freeze in any year. Managers received layoff protection in exchange for wage freezes. No DOC managers have been laid off. Other State employees were offered a wage freeze in exchange for layoff protection.

"Here, further budget reductions ordered by OPM resulted in a schedule change for Lieutenants. A single wage freeze is not justified where layoffs have occurred and neither 14 A or B should be awarded to the State. Moreover, the pattern of 3% is firmly established for all three years." Some units achieved even greater increases.

However, the Union recognizes a change in the economic landscape. It concedes, "The third year is a close call." "The Union stays with the pattern of 3%. The State makes a bona fide offer of 2.5%.

This is clearly different from the grievously out of line proposal for each of the first two years especially where the state legislature has already balanced the books for 2002-2003 by adjusting the revenue stream for that year. That adjustment will continue to raise revenue in the biennium of 2003-2005. Ryan testified, as did Stodder, that modest growth in Connecticut's economy is forecast for 2003 and beyond."

The State points to the anticipated "\$2.0 and 2.5 billion problem in the biennial budget we're ready to pass." (Marc Ryan, 3/11/03, pp. 17-18). "Members of this unit have fared consistently well with general increases over the past four years...." According to its calculations, the employees have received GWI or PARS increases of 18.5% between September 24, 1999 and December 28, 2001. Other units, by comparison, have received lower GWIs. The State relies on the "current and future budget restrictions to support its offer of no increase in the first two years and a 2.5% increase in the third year of the agreement.

In its reply brief, the State argues that under an award of the State's LBOs in issues 14A, B, C, E(1), E(2) and E(3), "the wages of Correctional Supervisors would still be one and one-half percent above the increase in the CPI over the same period of time."

I have given careful consideration to the evidence and argument as to the ability of the employer to pay. Each of the other statutory criteria weigh in favor of the Union's LBOs. The overall increase in compensation sought here is no more than that received by every other bargaining unit in the State. The State has the same means to fund the package for this unit as it has to meet its other collective bargaining obligations. If there are to be deviations in the pattern for this unit, the parties can undertake the same negotiations that have been ongoing between the State and other bargaining units in recent months.

Issue 14A - Compensation - General Wage Increase - 2002-03 - Amount

Union LBO:

Effective June 28, 2002, the current salary schedules for all employees shall be increased by three percent (3%). This will result in a three percent (3%) increase to the base annual salary for all employees.

State LBO:

(GWI 02-03)

Effective June 28, 2002 the base annual salary for all employees shall be increased by zero percent (0%).

Award Issue 14A: The Union's LBO.

Issue 14B - Compensation - General Wage Increase - 2003-04 - Amount

Union LBO:

Effective June 27, 2003, the salary schedules in effect for all employees shall be increased by three percent (3%). This will result in a three percent (3%) increase to the base annual salary for all employees.

State LBO:

(GWI 03-04)

Effective June 27, 2003 the base annual salary for all employees shall be increased by zero percent (0%).

Award Issue 14B: The Union's LBO.

Issue 14C - Compensation - General Wage Increase - 2004-05 - Amount

Union LBO:

Effective June 25, 2004, the salary schedules in effect for all employees shall be increased by three percent (3%). This will result in a three percent (3%) increase to the base annual salary for all employees.

State LBO:

(GWI 04-05)

Effective June 25, 2004 the annual base salary for all employees shall be increased by two and one-half per cent (2.5%).

Discussion

It is very tempting to award the State's LBO because it is only .5% lower than that of the Union and, in light of the current economic situation, might be a good place to reduce the cost of this award. However, the State's approach to other bargaining and non-bargaining unit employees has been to negotiate over concessions. As the Union points out, this unit has already faced layoffs and reductions in benefits. There is no basis in the record for deviating from the pattern for this unit. The Union's LBO is more reasonable for the same reasons noted above.

Award Issue 14C: The Union's LBO.

Issue 14E(1) - Compensation- Annual increment - Amount of payment -2002-03

Union LBO:

Annual increment - 2002-03.

Employees will receive their salary advancement in their salary range on an employee's applicable annual increment or anniversary date.

State LBO:

Annual Increments - 2002-03.

Employees shall be eligible for and receive annual increments in accordance with existing practice, except the payment will be delayed by six (6) months and paid accordingly in the pay period which would include January 1, 2003 or July 1, 2003.

Any eligible employee at the maximum of his/her salary range will receive a lump sum on what would have been their Annual Increment date.

Issue 14E(2) - Compensation- Annual increment - Amount of payment -2003-04

Union LBO:

Annual increment - 2003-04.

Employees will receive their salary advancement in their salary range on an employee's applicable annual increment or anniversary date.

State LBO:

Annual Increments - 2003-04. There shall be no payment of the Annual Increment for the 2003-04 year.

Issue 14E(3) - Compensation- Annual increment - Amount of payment -2004-05

Union LBO:

Annual increment - 2004-05.

Employees will receive their salary advancement in their salary range on an employee's applicable annual increment or anniversary date.

State LBO:

Annual Increments - 2004-05.

Employees will be eligible for and receive annual increments in accordance with existing practice, except the payment will be delayed by three months and paid accordingly in the pay period which would include October 1, 2004 or April 1, 2005.

Any eligible employee at the maximum of his/her salary range will receive a lump sum on what would have been their Annual Increment date.

Union argument 14E 1,2,3

“Here, the issue is payment for annual increments. Increments represent advancement for satisfactory service. As [Arbitrator] Foy held (see Joint 36) increments are really delayed wages. Nevertheless, the State's LBO's in E(1) and (3) provide cash relief to the employer. As the Union noted in Issue 14C, the times are changed from when the 2001-2005 pattern was set. Nevertheless, the Union contends it is important to continue the availability of annual increments in each year. The timing question raised by the State in year 1 and year 3 is a legitimate response to a change in the circumstances. The freeze in year 2 is not supported by the application of the statutory factors.”

State argument

The State relies on its claim that “the salaries of those in this unit have more than kept pace with the changes in the CPI.” The State points to increases received by these Lieutenants in 1999 – 2001. It also cites its budgetary problems.

Discussion 14E (1)-(3)

As noted above, discussions on economic issues apply to all of the issues. Some comments are warranted with respect to the treatment of annual increases. The parties have agreed on the value of an annual increment (3%). The delayed payments proposed by the State in 14E (1) and (3) have the virtue of easing spending in the short run while protecting Lieutenants’ pay rates. This is one small area where some savings can be had without subjecting the bargaining unit to unfair treatment. There is no basis for denying the annual increment in the second year of the contract. Therefore I conclude that the State’s LBOs on Issues 14E, 1, and 3 are the more reasonable and the Union’s LBO on Issue 14E (2) is more reasonable.

Award Issue 14 E (1) The State’s LBO.

Award Issue 14 E (2) The Union’s LBO.

Award Issue 14 E (3) The State’s LBO.

Issue 14G - Upgrading - Amount

Union LBO:

Effective June 25, 2004, the maximum salary rates for the salary ranges of all classifications shall be increased by five percent (5%). This increase is in addition to any general wage increase that may apply on this date.

State LBO:

No contract provision.

Union argument

The Union seeks to increase the maximum pay rate by 5%. As support for its offer, it points to other settlements. The Union also cites evidence of “just how deficient the maximum pay for Lieutenants is.” (U-6,7,27). The current maximum for Lieutenants is \$58,953. The Union claims that “when adjusted for forty hours” all other State units have higher maximums than the Lieutenants. According to the Union’s estimates, the proposal would not cost much money initially because “the increase in the maximum would alleviate the requirement to pay anyone the 2.5% lump sum in year 3.”

State argument

The State’s argument is set forth above. It relies on comparative data.

Discussion

I have concluded above that the pattern of wage increases made to other State bargaining units for the years at issue here should not be broken. That decision is not based on a finding that there is money available for improved compensation but rather on other principles like comparisons, the parties’ bargaining history, and the interests and welfare of the employees. According to the Union’s calculations, an award of this issue would cost almost \$162,000 in the third year; \$352,642 on an annualized basis. This issue has serious cost consequences for the future. The parties have a comprehensive system for dealing with job classifications and rates and that system should be used if

maximum pay is to be raised.

Award Issue 14G: The State's LBO

Issue 14I - Longevity - Effective Date

Union LBO:

Effective December 3, 2001, employees will continue to be eligible for longevity payments for the life of the Agreement in accordance with existing practice.

State LBO:

a) Effective upon legislative approval of this Agreement, employees in this bargaining unit who were in the classifications of Correctional Lieutenant (MP 56) or Correctional Training Officer (MP 58) on or before December 3, 2001, will be eligible for longevity payments for the life of the Agreement in accordance with the longevity schedule of the classified service Management Pay Plan on such date. The classifications will be considered in their MP designation as noted above.

(b) Any employee promoted to the classification of Correctional Lieutenant on or after December 4, 2001 shall receive longevity in accordance with the following schedule:

| | | | |
|----------|----------|----------|-----------|
| 10 years | 15 years | 20 years | 25+ years |
| \$141.50 | \$283.00 | \$424.50 | \$566.00 |

Union Argument

See below

State Argument

See below

Issue 14J - Longevity - Amount

Union LBO:

The longevity schedule is included as Appendix .

LONGEVITY: SEMI-ANNUAL PAYMENT (April and October)

EFFECTIVE: December 3, 2001

| Salary Group | 10-14 Years | 15-19 Years | 20-24 Years | 25+ Years |
|--------------|-------------|-------------|-------------|------------|
| 51 | \$345.00 | \$690.00 | \$1,035.00 | \$1,380.00 |
| 52 | \$362.00 | \$724.00 | \$1,086.00 | \$1,448.00 |
| 53 | \$380.00 | \$760.00 | \$1,140.00 | \$1,520.00 |
| 54 | \$400.25 | \$800.50 | \$1,200.75 | \$1,601.00 |

| | | | | |
|----|------------|------------|------------|------------|
| 55 | \$418.50 | \$837.00 | \$1,255.50 | \$1,674.00 |
| 56 | \$439.00 | \$878.00 | \$1,317.00 | \$1,756.00 |
| 57 | \$460.50 | \$921.00 | \$1,381.50 | \$1,842.00 |
| 58 | \$484.50 | \$969.00 | \$1,453.50 | \$1,938.00 |
| 59 | \$508.00 | \$1,016.00 | \$1,524.00 | \$2,032.00 |
| 60 | \$533.00 | \$1,066.00 | \$1,599.00 | \$2,132.00 |
| 61 | \$559.00 | \$1,118.00 | \$1,677.00 | \$2,236.00 |
| 62 | \$581.75 | \$1,163.50 | \$1,745.25 | \$2,327.00 |
| 63 | \$604.00 | \$1,208.00 | \$1,812.00 | \$2,416.00 |
| 64 | \$629.25 | \$1,258.50 | \$1,887.75 | \$2,517.00 |
| 65 | \$654.75 | \$1,309.50 | \$1,964.25 | \$2,619.00 |
| 66 | \$679.75 | \$1,359.50 | \$2,039.25 | \$2,719.00 |
| 67 | \$706.25 | \$1,412.50 | \$2,118.75 | \$2,825.00 |
| 68 | \$734.00 | \$1,468.00 | \$2,202.00 | \$2,936.00 |
| 69 | \$764.25 | \$1,528.50 | \$2,292.75 | \$3,057.00 |
| 70 | \$793.50 | \$1,587.00 | \$2,380.50 | \$3,174.00 |
| 71 | \$826.25 | \$1,652.50 | \$2,478.75 | \$3,305.00 |
| 72 | \$859.00 | \$1,718.00 | \$2,577.00 | \$3,436.00 |
| 73 | \$893.00 | \$1,786.00 | \$2,679.00 | \$3,572.00 |
| 74 | \$928.25 | \$1,856.50 | \$2,784.75 | \$3,713.00 |
| 75 | \$966.00 | \$1,932.00 | \$2,898.00 | \$3,864.00 |
| 76 | \$1,004.00 | \$2,008.00 | \$3,012.00 | \$4,016.00 |
| 77 | \$1,043.00 | \$2,086.00 | \$3,129.00 | \$4,172.00 |
| 78 | \$1,089.75 | \$2,179.50 | \$3,269.25 | \$4,359.00 |
| 79 | \$1,133.00 | \$2,266.00 | \$3,399.00 | \$4,532.00 |
| 80 | \$1,178.50 | \$2,357.00 | \$3,535.50 | \$4,714.00 |

Correctional Lieutenant - Salary Group 56
Correctional Training Officer - Salary Group 58

State LBO:

See State LBO, Issue 14I

Union argument 14 I and J

The Union sees this issue as a question of “whether the current longevity schedule should be maintained or whether a two tiered system should instituted for employees promoted to Lieutenant after December 4, 2001 as the State contends.” The result would be to put newly promoted Lieutenants on a lower longevity scale. The Union opposes a two-tiered system as “divisive.” It also claims that “continued higher levels of longevity would help retain and would also encourage correctional officers to seek a promotion.” This proposal, with the proposed increase in maximum pay “would insure against further slippage of this class into the future.”

State argument 14I and J

The State claims its LBO “takes into consideration the Correctional Lieutenants former status, and grants the continuance of longevity under the managerial pay plan for those who were in the classification prior to December 3, 2001.” Employees promoted after December 4, 2001, “were

already on the frozen bargaining unit longevity if they had achieved ten (10) years of service, and never realized the benefit of the manager's plan." It also claims this would be the only bargaining unit in the Executive Branch with an "enriched plan." The State relies on factors 2, 4 and 7.

Discussion

The State's LBO maintains the status quo for most of the employees in the unit. The existing benefit is a generous one. Other newer members of the unit, accepting the State's argument, will not adversely be affected. The State's proposal allows significant future cost saving while not penalizing the Lieutenants who were in the unit when it was recognized. In view of the decision to award pattern increases, it is critical to find areas where costs can be controlled.

Award Issue 14 I The State's LBO

Award Issue 14 J The State's LBO

Issue 14K -Longevity - Future increases

Union LBO:

The longevity schedule shall be increased each contract year by the same percentage as any general wage increase in the CSC bargaining unit

State LBO:

No contract provision.

Union argument

This proposal would increase longevity payments at the same rate as the GWI to prevent erosion of the benefit over time.

State argument

The State claims "the Union never established a need for this expensive benefit." None of the twelve contracts negotiated by the OLR has an "escalator provision tied to their longevity schedules." Only two Judicial Branch units have the provision. The State relies on factors 2,4,5 and 7.

Discussion

There is no support in the record for the Union's LBO on this issue. The Union concedes that the provision is uncommon. The benefit is also a costly one and falls into the category of issues that should be sacrificed in favor of overall equal wage treatment; that is, pattern increases.

Award Issue 14K: The State's LBO.

Issue 14L - Payment on promotion or upgrade

Union LBO:

Pay on Promotion or Upgrade.

In calculating base salary for a promotion or upgrade, the base salary shall include any lump sum payment to maximum step employees.

State LBO:

No contract provision.

Union argument

This issue is of limited applicability. It would only apply if a lieutenant were upgraded to a class in this unit and there is only one such class, that of training officer. The proposal would ensure that when an employee is upgraded to the higher salary grade, his/her full annual salary is taken into account so that the upgrade takes into account the total salary and not just the pay up to the maximum level of the Lieutenants salary grade. Again, this only has applicability to one class in this unit and would apply only if the upgrade sought in Issue 45F were granted.

State argument

The State claims this is “an attempt to double dip the system by awarding both a lump sum payment and a promotional increase” upon promotion. The State points to the difference between management and non-management compensation plans. It also claims it has “successfully defended this issue in previous interest arbitrations.”

Discussion

This issue is tied to Issue 45F. The State’s LBO is awarded in that issue and, as the Union points out, this issue is therefore, moot. There is no support in the statutory criteria for an award of the Union’s LBO.

Award Issue 14L: The State’s LBO.

Issue 17 Safety

The State’s LBO is a Safety Article that differs in form and content from the Union’s LBO. The State’s LBO is shown at the end of the Union’s LBOs in Issues 17A-E. Its LBOs on each of the Union’s issues, 17A-E, is “no contract provision.”

Issue 17A - Safety - Committee - Number

Union’s LBO:

Representation on the committee will be equally distributed between Union and Management, each having five (5) members. Each party shall appoint its representatives for the term of the Labor Agreement. The committee shall elect its chairperson and both Union and Management will have one

vote on proposals.

Issue 17B - Safety - Committee - Topics

Union's LBO:

A Joint Union/management Safety Committee shall be established to investigate, discuss and develop corrective measures on specific safety and health matters including but not limited to: (1) cell extraction, (2) gas masks, (3) eye protection/surgery. Committee proposals shall detail the problem, resolution, the benefit of implementation and costs.

Issue 17C - Safety - Committee - Amount of Fund

Union's LBO:

Effective July 1, 2003, there shall be established an annual fund of \$5,000 for committee proposed safety health programs. There will be unlimited carryover of unused funds from one contract year to the succeeding contract year(s). The fund will automatically expire upon expiration of the contract.

Issue 17D - Safety - Committee - Committee Action

Union's LBO:

Committee endorsement will be sufficient cause for implementation, within available committee funds. Proposals shall be submitted to the Office of Labor Relations. Within thirty days of the submittal of the proposal, the Office of Labor Relations may reject the proposal if the program or action is not related to a legitimate safety or health problem. If the committee endorsement is rejected by the Office of Labor Relations, the matter may be submitted to arbitration. Proposals not rejected by the Office of Labor Relations shall be submitted to the Commissioner of Administrative Services to draw upon funds.

Issue 17E - Safety - Compliance with Federal, State and local laws

Union's Last Best Offer: Disputes over unsafe or unhealthy work conditions shall be processed through the Labor Department for compliance with Connecticut OSHA.

State's LBO Safety

Section One. Unsafe or Unhealthy Conditions.

Notwithstanding the hazards of a correctional custody environment, the Employer is receptive to all recommendations regarding improvement of apparently unsafe or unhealthy conditions. Once the Employer determines that an unsafe or unhealthy condition exists, it will attempt to alleviate or otherwise remedy the condition.

Section Two. Disputes.

Disputes over unsafe or unhealthy working conditions shall be processed through the Labor Department for compliance with COSHA or otherwise with the Department-wide Labor Management

Committee, but shall not be subject to the grievance and arbitration procedure.

Section Three. Labor-Management Committee.

The appropriate applications of this Section, including disputes on the operation of unsafe vehicles or equipment, shall be discussed by the Labor Management Committee at the agency or institution level.

Union argument 17 A-E

The Union's proposal would create a joint labor management safety committee that would be funded at \$15,000 per contract year. The Union cites other collective bargaining agreements that include joint labor-management safety committees. (J-20 P-1, NP-6 Art 34; J-21 P-2, Article 21 and 22; Joint 22, P-3A, Article 21; Joint 24, P-4, Article 27; Joint 9, NP-1, Article 25; Joint 25, NP-2, Article 19; Joint 27, NP-4, Article 24; Joint 11, NP-5, Article 11.)

State argument

The State argues that the Union's LBOs on the safety issues must be regarded as one article. It points to the parties' June 17, 2002 agreement to establish a Labor Management Committee. (Joint Exhibit #3, pg 33). That article "establishes fixed numbers of participants at both the facility and agency levels, and grants time off for participation by members in committee(s) without loss of pay or benefits. Sections Two and Three of that article spell out the parameters of meetings and discussion topics, albeit not specifically addressing the issue of safety, but does not limit what may or may not be addressed in that forum."

The State opposes adding duplicative language. It argues that the Labor Management committees, historically, have addressed safety issues. The language in the NP-4 contract is distinguished because it "does not handcuff the process with possible arbitration." The agreement cited above "addresses the interest and welfare of the employees." The State also notes that there is no evidence of "specific problems" in the record.

The State adds, "Although \$5,000 per contract year does not represent a significant amount of money on its face, there lies the potential of tying up funds for three (3) years with no specific target(s) for its use. Finally, the potential for litigation of disputes in these matters creates a monetary liability that is undetermined.

Discussion

A review of the agreements cited in the Union's argument reveals a variety of "safety" articles, few of which are as comprehensive and detailed as the Union's LBO. Safety and health issues in the health care areas differ from this unit. Safety articles in exhibits J-20 and J-21 include training components. There is no funding provided in several agreements. In some contracts, there is a Labor Management committee to deal with specific issues such as work schedules and a safety committee to deal with such issues as equipment and weather. Some of the contracts have safety articles similar to that proposed in the State's LBO.

The State raises an excellent argument against awarding the Union's very comprehensive proposal, specifically, the existing agreement to establish a Labor Management Committee. There is no record of past problems with safety issues and not much indication that the Union's proposal is a common

one. The significant interests and welfare issues that arise under the title, "Safety", may well be met by the established mechanisms. If not, there will be a basis for further negotiation. The Union's proposal also ties up additional funds from a very tight budget. The State's proposal takes into account the need for focus on safety issues.

Award Issues 17 A-: The State's LBO (Issue 17A is the State's Safety article).

Award Issues 17 B- The State's LBO

Award Issues 17 C- The State's LBO

Award Issues 17 D- The State's LBO

Award Issues 17 E- The State's LBO

Issue 19 Transfers

The State's LBO for an article on Transfers is shown after the Union's positions on Issues 19 A-D. The State offers that Article as its LBO on issue 19A and proposes no contract provision for issues 19B, 19C, and 19D.

Issue 19A - Transfers - Circumstances

Union's LBO:

An employee may only be transferred from one facility to another facility by the employer under the following circumstances:

- (1) Where the approved staffing levels of his/her present unit have been reduced through reorganization action, budgetary action, or other approved governmental actions recognized by state statutes; or
- (2) Where changes in staffing assignments are required to accommodate agency operational needs; or
- (3) At his/her request, either under the provisions of job bidding for a vacant position at another facility or pursuant to a voluntary transfer request granted by the employer outside of the bidding process for a vacant position.

Except as provided herein or as otherwise provided in this agreement, inverse class seniority shall be the basis for selecting employees for non-disciplinary involuntary transfers from one facility to another.

Issue 19B - Transfers - Permanent v. Temporary

Union's LBO:

A permanent transfer is defined as a transfer where the intent is that the employee will not return to his/her previous facility.

All other transfers shall be considered temporary.

State's LBO:

No contract provision.

Issue 19C - Transfers - Notification

Union LBO:

When a permanent or temporary transfer is to be made, the employer shall notify the employee of said transfer and the nature of the transfer at least fifteen (15) working days in advance of such transfer except in cases of an emergency.

19C: State LBO

No contract provision.

Issue 19D - Application of Seniority

Union LBO:

In the case of voluntary transfers and voluntary transfer requests, the following shall apply:

An employee requesting transfer under this section must put his/her name on a departmental transfer list in accordance with the departmental procedures in order to be considered. Such list will be updated quarterly.

As the correctional facilities develop vacancies, the senior employee in the same classification whose name appears on the transfer list for a particular facility will be transferred.

An employee must have worked six (6) months as a permanent employee to be eligible to have his/her name placed on the transfer list.

Employees are not eligible for transfer under this Article if they have been granted, rejected or constructively rejected a prior transfer within the previous six (6) month period.

Employees may remove their names from the transfer list at any time prior to being notified of an opening at the facility of their choice. The employee must notify the employer within 24 hours upon receipt of an offer of transfer of his or her intention to accept or reject such offer. Failure to comply with this provision shall be considered a constructive rejection of the offer of transfer.

Voluntary transfers shall only be carried out after application of the bidding procedures provided elsewhere in this agreement for vacant positions have concluded and the vacancy still remains.

State LBO:

ARTICLE TRANSFERS

Section One. An employee may be transferred by the employer where changes in staffing assignments are required to accommodate Agency operational needs.

Section Two. A permanent employee may apply in writing for transfer to a specific shift or work location. These applications shall be retained in an appropriate file by the agency, facility or institution. The agency shall also maintain a list of transfer applications. This list, together with a list of vacancies, shall be updated quarterly and copies shall be provided to CSEA and the local.

In general, no application for employee transfer will be accepted within one (1) year of the effective date of an employee initiated transfer.

Section Three. When a vacancy occurs in a classification, the agency will review the applications of

permanent employees seeking lateral transfer to the shift or work location where the vacancy exists and will give consideration to transfer on the basis of Agency operational needs.

Section Four. This Article shall not be deemed to limit the agency's right to fill a vacancy by some means other than a lateral transfer when the need for training, operational efficiency, staffing and service requirements, need for special skills or background, or compliance with Federal or State programs so dictate. The agency's decision concerning such factors shall be final.

Union argument

These issues pertain to employee rights respecting transfers and the employer's rights. Transfer rights is described as "one of the three major non-economic issues in this proceeding" with schedules and bid shifts. This issue is tied to schedule issues.

The Union claims the State's position opposes any restrictions on transfers and does not include a notice period. The Union's proposal speaks to both involuntary transfers and voluntary transfers. It permits the use of inverse seniority for involuntary transfer. Language referring to other provisions of the Agreement "protects management where all other factors are not equal."

Provisions for voluntary transfers do not exist now. The Union claims its proposal is "more detailed and precise." The Union argues that "the State has made no concession except to propose the establishment of a list for voluntary requests." The Union points to testimony that "lieutenants have been transferred without any consistent policy, and despite the Union's willingness to build in safeguards to retain certain managerial prerogatives, the State still refuses to recognize what other agencies have recognized which is that some protection against transfers is a salutary employment policy."

The other contracts with transfer protection are; Joint 20, Article 15 and 18; Joint 21, Article 14; Joint 22, Article 25; Joint 23, Article 36; Joint 24, Article 32; Joint 10, Article 30; Joint 7, Article 24; Joint 25, Article 15; Joint 26, Article 34; Joint 27, Article 10; and Joint 11, Article 35.

The statutory factors when applied to these issues and the wide gulf between the positions support an award to the Union.

State Argument

The State argues that the Union's proposals in Issue 19 must be analyzed as one complete article. It reasserts its argument against "the application of strict seniority" and refers to the testimony of Mr. Vose and Deputy Commissioner Lantz. Mr. Vose testified that the Union Issue 19A would restrict transfers "unless a reorganization action occurred through budgetary action." Vose also testified about different skills and skill sets among supervisors. He also testified that "post rotation, staff rotation and staff transfer is valid in that it allows people to gain experience ... [and] to see different environments." In his opinion, it is not healthy to restrict staff to one post for years.

Deputy Commissioner Lantz testified about the importance of balancing "the skill sets, the knowledge, the experience, the characteristics, the motivation, the leadership potential" of staff. She would be opposed to the use of seniority as the sole factor.

Acting Personnel Director Callahan testified about transfers procedures. He said that all requests are evaluated for operational needs.

The State distinguishes the transfer provision of the NP-4 unit in that "they don't supervise, and there is less of a diversity, skill set and abilities consideration when making a Correction Officer transfer."

The State relies on existing conditions of employment of similar groups of employees (J-9, 10, 11, 21, 24, 26). The State's LBO provides "a mechanism that takes into account skills, abilities, diversity and agency operating needs." It concludes that its LBO in Issue 19A is more reasonable and that there should be no contract provision for issues 19B, 19C, and 19D.

Discussion 19A,B,C,D

As the State asserts, these issues must be considered as a whole. While there are elements of the State's article that might be preferable to one of the Union's LBOs in this area, I must award either the State's article or each of the Union's LBOs. My review of the record convinces me that the Union's LBOs are more reasonable. First, the Corrections Officers have a transfer provision. The fact that they don't supervise others is not an adequate distinguishing factor. These employees all work in the same environment meeting the same basic mission. Transfer issues are covered extensively in the Union's testimony and it is clear that more rights in this area would better serve the interests and welfare of the employees. Transfers can have a positive or negative impact on the employee and should be governed by sound principles such as those proposed in the Union's more comprehensive LBOs.

In response to the State's arguments, the Union's LBOs do not require the application of strict seniority nor do they unduly hamstring the Employer's ability to transfer. The Union's offer in 19A sets forth three conditions with various additional factors for consideration. Managerial rights are preserved. This offer is not very different from Section 1 of the State's offer. 19 B distinguishes between permanent and temporary transfers and is similar to Section 2 of the State's offer. 19C provides for notice to the employee "except in cases of ... emergency." 19D sets up a mechanism for dealing with transfer requests. The State's offer does not include a mechanism nor does it provide for notice. These latter considerations make the Union's LBOs more appealing. They better serve the interests and welfare of the employees without unduly burdening the Employer's ability to direct the work force. The other statutory criteria, especially comparisons, favor the Union's LBOs.

Award Issue 19A: The Union's LBO

Award Issue 19B: The Union's LBO

Award Issue 19C: The Union's LBO

Award Issue 19D: The Union's LBO

20A - Hazardous Duty Pay - Committee

Union LBO:

(a) Hazardous duty is work performed which has a clear and present risk of serious illness or injury or death which risk is over and above that normally inherent in the duties of the classification of the employee(s) or the principal facility or job site where his/her duties are performed. If an employee is assigned to work at a job site or facility other than his or her principal job site or facility said employee will be paid hazardous duty pay if the risk of his or her work there is over and above that normally inherent in his duties and would normally warrant hazardous duty pay.

(b) Physical hardship duty is work which may not be hazardous but which causes extreme physical discomfort or distress not normally inherent in the duties of the classification or the principal facility or job site where his or her duties are performed, such as cramped quarters, exposure to fumes, dust or noise. If an employee is assigned to work at a job site or facility, said employee will be paid physical hardship pay if the physical discomfort or distress of his/her work there is over and above that normally

inherent in his or her duties and would normally warrant physical hardship duty pay.

(c) Commissioner of Corrections will establish a committee and disseminate procedures for review and action on requests for hazardous or physical hardship duty pay as provided herein. Committee will be set up to include one person familiar with safety policy, one State employee selected by the Union, and on an ad hoc basis one person familiar with the job requirements under consideration.

State LBO:

No contract provision

Issue 20B - Hazardous Duty Pay - Procedures

Union LBO:

The procedure will provide that any such request must be submitted to the committee within ten (10) working days of the date of the initial performance of the duty alleging to be covered hereunder or within thirty (30) days following implementation of the contract. The procedure will further provide that the committee and agency head must, within thirty (30) days of receipt act on and submit their recommendation to the Commissioner of Administrative Services for a final and binding determination within thirty (30) days of receipt. These time frames may be extended for a reasonable time when in the judgment of the committee or the Commissioner of Administrative Services, the nature of the claim requires additional research, documentation and/or evaluation. In no case will retroactive payment accrue for any period of time prior to the date of initial performance as indicated above.

State LBO:

No contract provision.

Issue 20C - Hazardous Duty Pay - Rate

Union LBO:

(e) The pay differential for hazardous duty and physical hardship duty shall be twenty-five percent (25%) of the employee's normal duty rate. Employees so engaged shall receive two (2) hours minimum payment. For work in excess of two hours payment shall be for actual time worked.

State LBO:

No contract provision.

Issue 20D - Hazardous Duty Pay - Appeal procedure

Union LBO:

(d) The denial of a request for hazardous duty or physical hardship duty pay is subject to grievance and arbitration; grievances over said denials shall be filed at Step III.

State LBO:

No contract provision.

Issue 20E - Hazardous duty stipend

Union LBO:

Effective July 1, 2003, all bargaining unit members shall receive a \$800 hazardous duty stipend. The stipend shall be paid in one lump sum in the pay period including December 1.

State LBO:

No contract provision.

Union argument

These proposals would establish a hazardous duty committee to set pay rates for certain types of work. While “all corrections work is hazardous”, the Union argues that the parties should have a committee to deal with questions and concerns in this area. The LBO includes procedural provisions.

State argument

The State claims the Union has not met its burden of proving a need for provisions in Issues 20A, B, C and D. It points out that employees in this unit “receive hazardous duty retirement.” Further, the job evaluation system grants points to correctional employees for hazardous duty. The State cites the State Police, Protective Service and Correctional Officers Agreements, none of which contains proposals such as the Union’s LBOs here.

Discussion

The Union concedes that its LBO in 20A “breaks new ground.” As the State points out, there is no evidence to support an award of the Union’s LBO. Similarly situated employees, including those who work in the same hazardous environment, do not have special committees to deal with this issue. Other compensation programs take hazardous environments into account. The statutory criteria favor the State’s LBO. Issues 20B,C, and D do not stand alone. Having rejected the Union’s LBO in 20A, the other LBOs must be rejected as well. Issue 20E seeks specific compensation. In light of the importance of conserving scarce resources there is no basis for adding costs.

Award Issue 20 A: The State’s LBO.

Award Issue 20 B: The State’s LBO.

Award Issue 20 C: The State’s LBO.

Award Issue 20 D: The State’s LBO.

Issue 22 - Educational Leave

Union LBO:

The employer recognizes the importance of professional career educational development and encourages the attainment of job-related degrees by qualified employees. Consistent with fiscal conditions and operational requirements, the appointing authority will grant an educational leave of

absence without pay or with full or part pay in order to enable an employee to pursue studies in pursuit of a degree. The following guidelines will apply:

- (1) Studies must be part of a bona fide degree program.
- (2) The degree program pursued must be job-related and be of expected value to the employer.
- (3) An employee will be supported in only one degree program at the same level of study.
- (4) Educational leave with pay will not exceed one school year per degree program per employee.
- (5) An employee must have completed at least two years of State service before educational leave with pay will be granted.
- (6) Employees granted an educational leave with pay will be required to agree to remain in State service following completion of such leave for a period of time equal to two years for each school year of paid educational leave, pro-rated for less than full-time leave.

State LBO:

No contract provision.

Union argument

This provision provides for an educational leave program, “with or without pay, at the discretion of management.” It depends on the availability of funds in the Agency. The Union emphasizes the benefit of “further knowledge and study.” benefit officers and the Agency. The Union’s LBO should be awarded.

State argument

The State argues against the Union’s offer because tuition money is “already earmarked for the Lieutenants” and there are other educational opportunities available. Most other contracts do not include this benefit. Corrections Officers have no educational leave program. There is no evidence of problems in this area. The State points to resolved issues governing training that commit funds, including tuition reimbursement. The Command Institute provides educational credits.

The State also highlights other problems, like staffing a 24/7 operation, in the grant of educational leaves. Only one other contract has the educational leave language in the Union’s LBO. The employees covered in the P-4 contract (J-24) “perform vastly different duties from those of the Correctional Lieutenants.” They are not similar employees as that term is used in the statute.

Discussion

The Union’s LBO must be regarded as an economic issue. As such, an award in the Union’s favor would require solid evidence to support it. As the State observes, there are other educational programs available and no indication that Lieutenants have been deprived of those opportunities. The State’s LBO is more reasonable. No other similar employees have a leave program as proposed here.

Award Issue 22: The State’s LBO

Issue 23 - Conflict of Interest

Union LBO:

In the event of an alleged conflict of interest, the employee shall have the right to request an advisory opinion from the State Ethics Commission.

State LBO:

No contract provision.

Union argument

The Union offers this provision as an “informational article.”

State argument

The State relies on testimony of Linda Yelmini “regarding problems with the inclusion of contractual provisions that are, in essence, redundant with respect to other-existing rights.” There is no evidence “to demonstrate why the members of this bargaining unit need reiteration of an already existing right. There has not even been any evidence as to whether lieutenants have attempted to seek advisory opinions from the Ethics Commission and been rebuffed by the Agency.”

Discussion

There is no support in the record for including statutory language in the contract, particularly where, as here, the right is clearly available to all on request.

Award Issue 23: The State’s LBO.

Issue 26 - Light duty programs

Union LBO:

The parties agree to establish a light duty program.

State LBO:

No contract provision.

Union argument

The Union agrees that neither side presented much evidence on this point. The evidence showed that there are employees who are absent due to injuries but there was no evidence of whether the Lieutenants could have light duty positions made available to them. While such a program would save money, the Union recognizes there is scant evidence in the record upon which to base a judgment.

State argument

The state views the Union’s LBO as “vague and overbroad.” There is no information about implementing the program or how it would work in a corrections facility. There is no evidence about what limited functions could be performed and no indication that lieutenants who could work were not given work. No other bargaining units have contract language creating light duty policies.

Discussion

As the State points out, the burden of establishing a need for this proposal lies with the Union. The evidence does not support creating a contractual light duty program. None of the statutory criteria supports the Union's LBO. Therefore, the State's LBO is the more reasonable.

Award Issue 26: The State's LBO.

Issue 27 - Application of 5-145a

Union LBO:

The parties acknowledge the applicability of C.G.S. Section. 5-145a to bargaining unit employees.

State LBO

No contract provision.

Union argument

This another offer that would include "some 'information' ...[about] statutory rights in the field of workers' compensation."

State argument

The State relies on the testimony of Linda Yelmini. This statute applies to other employees as well as corrections officers. The Union has not met its burden of establishing a need for this provision.

Discussion

For the reasons set forth in Issue 23, the State's LBO is the more reasonable

Award Issue 27: The State's LBO.

Issue 30 - Leave for volunteer fire or ambulance duty

Union LBO:

Section 5-249 of the General Statutes and Regulation 5-249-1 shall apply to bargaining unit employees.

State LBO

No contract provision.

Union argument

"Here again, it would be a positive sign by the employer to recognize leave for volunteer fire or ambulance duty. The Union realizes there is a dearth of direct evidence on this point."

State argument

The State makes the same arguments here as are offered regarding Issues 23 and 27.

Discussion

Like Issues 23 and 27, the Union's offer would incorporate statutory language or rights into the contract. There is no record basis for doing so and the criteria support the State's LBO.

Award Issue 30: The State's LBO

Issue 31 - EMT stipend

Union LBO:

Effective July 1, 2003, the State shall pay a Four Hundred Dollar (\$400) annual skill premium to each employee who is certified as an Emergency Medical Technician. Such payment should be made on or about December 1 of each contract year, Employees receiving this stipend are expected to respond to emergency calls and provide EMT services on or about State facilities in accordance with applicable laws and regulations.

State LBO

No contract provision.

Union argument

"The Union seeks to add a \$400 EMT stipend to the contract. It would be good policy to encourage those in a correctional facility to garner the skills of an emergency technician. The only issue for this case at this time would be the cost. While this is a worthwhile proposal, the Union admits that there are certainly higher priorities in this case as to economic issues."

State argument

The State claims that this payment "is not supported by the statutory criteria." Lieutenants work with medical staff on site. Other employees who enjoy an EMT stipend "serve a vastly different clientele in a Monday through Friday work setting. "NP-4, the corrections officer contract does not have any money earmarked for EMT stipends, in obvious recognition that the services are provided through other DOC employees."

Discussion

In view of the paucity of evidence on this issue and in light of the fact that emergency medical services are available through the Department, I find the State's LBO to be the more reasonable.

Award Issue 31: The State's LBO.

Issue 32 - Military leave

Union LBO:

Military leave shall [be] govern[ed] by Sections 5-248(c) and 27-33 of the Connecticut General Statutes and the appurtenant regulations thereof.

State LBO:

ARTICLE MILITARY LEAVE

Section One: Paid leave for drills, emergencies. A full-time permanent employee who is a member of the armed forces of the State or any reserve component of the armed forces of the United States shall be entitled to military leave with pay for required field training, provided such leave does not exceed two (2) calendar weeks in a calendar year, in addition to up to seven (7) days of military leave for weekend drills. Additionally, any such employee who is ordered to active duty as a result of an unscheduled emergency (natural disaster or civil disorder) shall be entitled to military leave with pay not to exceed thirty (30) calendar days in a calendar year. During such leave the employee's position shall be held, and the employee shall be credited with such time for seniority purposes.

Section Two: Unpaid leave. Other requests for military leave may be approved without pay. Nothing in this Article shall be construed to prevent an employee from attending ordered military training while on regularly scheduled vacation.

Section Three: Supersedence. The provisions of this Article shall supercede Sections 5-248(c) and 27-33 of the Connecticut General Statutes and the appurtenant regulations.

Union argument

The Union seeks to apply the statutes to military leave. The State's proposal deviates from the statutes. The Attorney General of the State of Connecticut has criticized the Department's policy. (see Union 29 and Joint 41) The Union's position should be awarded especially since the State never presented any reason to deviate from the applicable statutes.

State argument

While there are many similarities between the Union and State Last Best Offers on this issue, the differences are important. A comparison between the State's offered language and existing language in other contracts is helpful in focusing on those differences.

The proposed language of the State's LBO for the CSC unit is identical to the language covering NP-4 members. As both of these bargaining units work exclusively for the Department of Corrections, it makes perfect sense to tailor language that is specific to that Agency's particular needs. One of the statutory factors, which is "existing conditions of employment of similar groups of employees", is squarely on point, given the symmetry of the two groups of employees.

The language of P-3A and P-3B (two other CSEA contracts) is not instructive, in that it indicates that "the present military leave policy shall remain in force, except that paid leave for military callups shall be limited to emergencies". (Joint Ex. 22 & 23) The Union did not offer any evidence to elaborate on what is involved in "the present military leave policy" for those P-3A and P-3B members employed by DOC. It is curious that no proviso was made for emergency military callup in the Union LBO for lieutenants, as the language contained in Joint. 41 does not speak to such a situation.

The P-4 contract does speak to unscheduled emergencies, and provides for the same benefits proposed in the State LBO with regard to employees leave in such a situation. (Joint Ex. 24)

Union Ex. 29 was issued in August of 2000, prior to the NP-4 negotiations for the most recent contract. Based on the language contained in that contract, it is clear that the opinion was not deemed to control, and the two weeks plus seven weekend days provided to employees satisfied the State's obligation regarding annual training plus weekend drills. Additionally, the question regarding seniority credit for a number of concerns, also addressed in Union 29, is provided for in the State LBO.

Finally, the Union did not provide any testimony speaking to existing practice for lieutenants regarding military leave. There is, therefore, nothing to demonstrate why the Union proposed language is necessary. The State, in contrast, mirrored the NP-4 language, relying on the statutory criteria within the Arbitrator's authority.

For all of the foregoing reasons, the State LBO is the more reasonable and should be awarded.

Discussion

The most reasonable approach to this issue is to award the same language that applies to the Corrections Officers. Comparison is the key factor in this decision.

Award Issue 32: The State's LBO

Issue 33 - Blue Book

Union's LBO:

References in this Agreement to "rules and regulations" refer to the "Blue Book" Regulations of the Department of Administrative Services in effect on December 3, 2001. Such references include all applicable General Letters and Q-Items.

State LBO:

ARTICLE BLUE BOOK

References in this Agreement to "rules and regulations" refer to the "Blue Book", Regulations of the Department of Administrative Services and/or Office of Policy and Management in effect on December 3, 2001, and as amended thereafter.

Union argument

The Union seeks to lock in the existing provisions of the Blue Book during the term of the contract. It argues that a grant of the State's position would open up an avenue to cut benefits without bargaining.

State argument

The State opposes the Union's LBO because "it does not allow for any changes from the status quo as it existed on December 3, 2001." Other CSEA contracts with similar provisions include the terms, "and as amended thereafter". (See P-3B; pg.88; P-3A, pg.39).

Discussion

The State's LBO is more reasonable for several reasons. Most important, it contains language used in other collective bargaining agreements. The language has been the subject of negotiations and interest arbitration, as the State points out.

Award Issue 33: The State's LBO

Issue 40 - Granting of time off

Union LBO:

The State shall provide to the Union the minimum staffing requirements for each shift at each of the Agency's facilities and other units and the number of bargaining unit members that can take time off per shift. The State shall also provide to the Union the number of vacant positions at each facility and other units.

State LBO:

No contract provision.

Union argument

The Union seeks information as to the minimum staffing requirements at each facility. It relies on "administrative directives that call for maintaining such data for various purposes including budgetary reasons. (Union 31-33) In addition, the Union was able to compile such information itself. (see Union 23)"

Staffing has "an impact on officer safety." The information will "help the Union to fulfill its statutory obligation as the bargaining representative. There was no showing of how disclosure was either improper or unlawful."

State argument

The State also claims there is no link between the information sought and the granting of time off. The Union has not met its burden of proving a need for the information nor have any past problems been described. The State asserts security concerns in providing this information.

The State points out at the outset that the language sought by the Union is a non-mandatory subject of bargaining. It is squarely within management's rights to establish a staffing component, which level needs to remain completely flexible to ensure facility safety and security concerns are fully met. As interest arbitration is only required on mandatory subjects of bargaining, an award of the Union's LBO would be *ultra vires*."

The State also claims there is no link between the information sought and the granting of time off. The Union has not met its burden of proving a need for the information nor have any past problems been described. The State asserts security concerns in providing this information.

Discussion

For reasons argued by the State, I find the State's LBO to be the more reasonable. The record does not support the Union's LBO.

Award Issue 40 The State's LBO.

Issue 42A - Vacation - Accrual rate

Union LBO:

Effective December 3, 2001, the following vacation leave shall continue to apply to employees in this bargaining unit:

| <u>STATE SERVICE</u> (including war service) | <u>VACATION LEAVE</u> |
|---|-----------------------|
| 0 - 10 years | 15 days |
| 11 years | 16 days |
| 12 years | 17 days |
| 13 years | 18 days |
| 14 years | 19 days |
| 15 years | 20 days |

Issue 42B - Vacation - Bonus days

Union LBO:

Effective December 3, 2001, employees in this bargaining unit shall continue to be entitled to vacation leave beyond 15 days which shall be granted as bonus day(s) each January 1st for the coming year. For example, an employee will be granted one additional vacation day on January 1st of the calendar year in which he/she will attain eleven (11) years of state service.

The rate of vacation accrual for employees is 1 and 1/4 days a month. Vacation leave shall not accrue for any calendar month in which the employee is on leave of absence without pay an aggregate of more than five (5) working days.

State LBO: 42A & B

The following annual vacation leave shall apply for employees in the bargaining unit as of December 3, 2001:

| <u>YEARS OF SERVICE</u> | <u>VACATION LEAVE</u> |
|-------------------------|-----------------------|
| 10 years | 15 days |
| 11 years | 16 days |
| 12 years | 17 days |
| 13 years | 18 days |
| 14 years | 19 days |
| 15 plus years | 20 days |

Vacation leave beyond fifteen days is granted as bonus day(s) each January 1st of the calendar year. For all employees in the bargaining unit as of December 4, 2001, the following leave shall apply:

| <u>YEARS OF SERVICE</u> | <u>VACATION LEAVE</u> |
|-------------------------|-----------------------|
|-------------------------|-----------------------|

Zero (0) to five (5) years
Over five (5) and under
twenty (20) years
Over twenty years

One (1) day per month
One and one-quarter day per month
One and two-thirds day per month

Issue 42C - Vacation - Maximum accumulation

Union LBO:

For employees in this bargaining unit, the maximum accumulation of vacation shall be one hundred twenty (120) days.

State LBO

The maximum accumulation of vacation time shall be sixty (60) days. However, for all bargaining unit members who have accumulated more than sixty days of vacation time as of the date of legislative approval, such number of days shall be the maximum accumulation for those employees.

Union argument 42 A, B, C

The Union argues that the State's offer establishes a two-tiered system. The Union's offer seeks to maintain the status quo. The Union also claims the State's LBO "is confusing." Its offer is different from the language used in Issues 14 I and J (Longevity provisions). The Union cites testimony in favor of providing more "time away from the job." It maintains, "cutting vacation accrual is not justified by the statutory factors.

The Union also objects to the elimination of bonus days on which subject the State has no proposal. The Union argues that in the absence of a proposal "the choice is restricted to the Union's offer." The State has not met its burden of proof for removing this benefit.

As to 42C, the Union claims the State's offer here is unclear. Lieutenants currently have the right to accumulate 120 days. Other organized groups can accrue up to 60 days. The State's offer appears to create varying accrual maximums. "Setting up such a disparate treatment makes no sense."

State argument

"The State's argument in support of its Last Best Offers for Issues 42A and 42B are presented together, as the LBO for both issues are merged as one continuum. Conceptually, the vacation days and "bonus" days (as the Union has presented them in Issues 42 A and 42B) are a backdoor attempt by the Union to maintain the management level of vacation they previously enjoyed before creation of this bargaining unit."

According to the State, all other contracts except P-3A have language similar to what is proposed by the State. "Every employee hired on or after July 1, 1977 accrues vacation at the rate proposed in the State's LBO." Collective bargaining for state employees began on that date. The rate for managers is higher and that is the rate proposed by the Union. The State argues that the Union is attempting to maintain the benefits of managerial employees and enjoy collective bargaining rights as well. The

State's LBO maintains the status quo for employees in the unit as of the date of recognition. It does not offer the benefit to new bargaining unit members. The State points to Arbitrator Golick's award in the P-3B unit on this point.

The State also asserts that the Union's proposal in 42B could provide benefits beyond what Lieutenants previously enjoyed. There is no maximum of bonus days that Lieutenants can earn. The Managerial leave provision caps bonus days at 20 for 15+ years. (S-17).

Discussion Issues 42 A, B, C

I read the State's offer in Issue 42 A as identical to the Union's; that is the first level of vacation accrual is 0-10 years. In this issue, as in some others, the State seeks to reduce benefits for new(after unit recognition) bargaining unit members while preserving the status quo for existing members. The virtue of such plans is that they provide meaningful and long-term cost savings. The vacation accrual rate in the State's offer is comparable to many other State bargaining units. The Union's offer is comparable to the management vacation plan. Various trade-offs among the issue are necessary to bring this contract into line with those of similarly situated employees while keeping in mind the particular nature of corrections employment. As the State points out, the Union now enjoys the benefits of collective bargaining and is not subject to reductions and changes that might be applied to management groups as cost-cutting measures.

Award Issue 42A The State's proposal
Award Issue 42B The State's proposal
Award Issue 42C The State's proposal

Issue 42F - Vacation - Approval of vacation time and carryover to new shifts and facilities

Union LBO:

Once vacation schedules are posted or a vacation is approved, there will be no bumping on the basis of seniority. The employer will not change scheduled vacations except in the case of emergency.

State LBO

Once vacation schedules are posted or a vacation is approved, there will be no bumping on the basis of seniority. The Agency will not change scheduled vacations except in the case of emergency. This provision shall not apply in a case of a subsequent change in facility or shift.

Union argument

The Union seeks language protecting an employee's approved vacation leave. The State's LBO would disturb an approval if an employee is transferred to a new shift or facility. Its offer would "further strip[] an employee of all rights upon transfer and even in the case of shift transfer." The Union claims there is no evidence to support its offer which could have a bad effect on family life.

State argument

The State is concerned with staffing facilities according to operational needs. When a shift or facility change is made after vacation is approved it may be necessary to make changes. The Union's offer prevents that. Neither the NP-4 nor -5 unit has this kind of protection. The P-3B contract is distinguished in that the employees are educational professionals, most of them work for other agencies. Moreover, they do not work in a 24/7 operation. The State focuses on factor 4.

Discussion

In view of the new transfer rights and protections awarded herein, the State's proposal is the more reasonable. It is consistent with terms of other contracts, the NP-4 unit in particular. The transfer provisions confer some stability and the problems anticipated in the Union's argument may not arise. It is not unreasonable for changes in vacation to follow shift or facility changes. Vacations schedules affect an entire operation and it is very difficult to protect the scheduled vacation of one individual once vacations shift-wide or across a facility have been scheduled.

Award Issue 42F: The State's proposal

Issue 44 - Leave time accrual and posting

Union LBO:

All leave accrual will continue at the same rate, in days per month, as provided elsewhere in this Agreement.

In the event that the State should change the unit of leave posting, the value of accrued leave shall not be diminished in any way.

In cases of dispute, the principle that there is to be no loss to the employee will govern the decision.

State LBO:

All leave accrual will continue, in the same rate, in days per month, as provided elsewhere in this Agreement. In the event that the State should change the unit of leave posting from days to hours, or when use of leave time is permitted in hourly increments, conversion shall be based on one day equals eight hours.

Union argument

The Union claims this issue "was litigated by the parties at an administrative forum with jurisdiction over the claims. In both cases, (see Joint 39 and 40), the State essentially sought what is now seeking in its LBO. The cases stand for the proposition that a day is a day is a day." The State's LBO is similar to the Union's in granting time off in days regardless of the length of the employee's workday. However, the State's LBO reserves to the State the right "to change the concept of a day off is a day off if the State were to convert to a system of posting accrued leave in terms of hours rather than days.

"The cases lost by the State preserve the right to take a day off. They do not allow the State to 'water' down an employee's accrued time by changing the method of leave posting and then arbitrarily defining a day as eight hours."

The Union argues "there is no showing that other employees who work longer shifts than eight hours are subject to a loss of benefits such as may be the case with the State's proposal."

State argument

The State includes language that “reiterat[es] the understanding” that a day consists of eight hours for purposes of leave calculation. It cites Issue 11A, a provision for an average forty hours per week. “Given the uneven nature of the daily work schedule” the State anticipates problems calculating leave that has been taken. The State urges adding “as much plain language as possible” to this “first-time contract.”

Discussion

The essential element in this issue is the retention of the value of accrued leave. The cases cited by the Union squarely support the Union’s LBO here.

Award Issue 44 The Union’s LBO

Issue 45F - Reclassification of Training Officers

Union LBO:

Effective July 1, 2003, employees performing the work of Training Lieutenant shall be reclassified to Training Officer.

State LBO:

No contract provision.

Union argument

The Union seeks a salary upgrade to a higher classification for certain Lieutenants who do training. The training officer classification is paid two salary grades higher than Lieutenant. The Union relies on testimony of Lt. Melendez whose job analysis shows that many lieutenants are doing work of a higher classification.

State argument

The State argues that duties to which Lt. Melendez testified “fall squarely within the job specification for Correctional Lieutenant.” The State offers a letter from Vicki Arpin in response to the Lieutenants’ upgrade request. Further, Issue 41, which was resolved, provides for a job classification review for this unit no later than June 30, 2004. If studies indicate adjustments should be made, negotiations will begin. The Agency relies on the language of the Lieutenant job specification. The State also points to the resolution of Issue 41 which provides for the bargaining unit to have a classification review no later than June 30, 2004.

Discussion

Arbitrator Golick observed “that interest arbitration is not the ideal forum for assessing an upgrade proposal” for a variety of reasons. “The factors that must be considered are varied and complex, and are best explored in a forum that is devoted entirely to the question. A deeper and more detailed analysis of all aspects of the positions in question would permit more reliable assessments of their

placement within the State structure. “ I conclude, as she did, that “there is insufficient evidence to support a finding that the current placement is patently wrong, particularly where there is no demonstrable showing of recruitment or retention problems among existing employees.”

Award The State’s LBO.

CONCLUSION

In making these awards, I have considered all of the relevant evidence, including the extensive exhibits and testimony on each issue and including that which is not summarized herein. I have also applied the appropriate statutory criteria to each issue. These findings and conclusions are respectfully submitted.

Barbara Zausner, Arbitrator
 May 2, 2003

SUMMARY of AWARDS

Prevailing LBO

| | |
|---|-------|
| Issue 4C - Union Rights - Union Business Leave - Amount | State |
| Issue 6Q - Equal opportunity for training | State |
| Issue 6R - Use of seniority for limited training | State |
| Issue 11C - Hours of Work - Line Supervisors | Union |
| Issue 11D - Hours of Work - Other Supervisors | State |
| Issue 11E - Hours of Work - Starting and ending times | State |
| Issue 11F - Hours of Work - Shift assignments - Grand parenting shifts assignment as of November 29, 2001 | Union |
| Issue 11G - Hours of Work - Shift and facility assignments | Union |
| Issue 11H - Hours of Work - Bidding on vacant positions – Assignments less than six months | Union |
| Issue 11 I - Hours of Work - Bidding on vacant positions – Assignments greater than six months | Union |
| Issue 11J - Hours of Work Bidding on vacant positions – Application of seniority | Union |
| Issue 13A - Temporary assignment not to be used until bidding procedures are completed | State |
| Issue 14A - Compensation - General Wage Increase - 2002-03 – Amount | Union |
| Issue 14B - Compensation - General Wage Increase - 2003-04 – Amount | Union |
| Issue 14C - Compensation - General Wage Increase - 2004-05 - Amount | Union |
| Issue 14E(1) - Compensation- Annual increment – Amount of payment -2002-03 | State |
| Issue 14E(2) - Compensation- Annual increment – Amount of payment -2003-04 | Union |
| Issue 14E(3) - Compensation- Annual increment – Amount of payment -2004-05 | State |
| Issue 14G - Upgrading – Amount | State |
| Issue 14I - Longevity - Effective Date | State |
| Issue 14J - Longevity – Amount | State |
| Issue 14K -Longevity - Future increases | State |

| | | |
|--|-------|-------|
| Issue 14L - Payment on promotion or upgrade | State | |
| Issue 17A- Safety- Committee- Number | State | |
| Issue 17B - Safety - Committee – Topics | State | |
| Issue 17C - Safety - Committee - Amount of Fund | State | |
| Issue 17D - Safety - Committee - Committee Action | State | |
| Issue 17E - Safety - Compliance with Federal, State and local laws | State | |
| Issue 19A - Transfers – Circumstances | | Union |
| Issue 19B - Transfers - Permanent v. Temporary | Union | |
| Issue 19C - Transfers – Notification | Union | |
| Issue 19D - Application of Seniority | Union | |
| Issue 20A – Hazardous Duty Pay – Committee | State | |
| Issue 20B - Hazardous Duty Pay – Procedures | State | |
| Issue 20C - Hazardous Duty Pay - Rate | State | |
| Issue 20D - Hazardous Duty Pay - Appeal procedure | State | |
| Issue 20E - Hazardous duty stipend | State | |
| Issue 22 - Educational Leave | State | |
| Issue 23 - Conflict of Interest | State | |
| Issue 26 - Light duty programs | | State |
| Issue 27 - Application of 5-145a | | State |
| Issue 30 - Leave for volunteer fire or ambulance duty | State | |
| Issue 31 - EMT stipend | | State |
| Issue 32 - Military leave | | State |
| Issue 33 - Blue Book | State | |
| Issue 40 - Granting of time off | | State |
| Issue 42A - Vacation - Accrual rate | | State |
| Issue 42B - Vacation - Bonus days | State | |
| Issue 42C - Vacation - Maximum accumulation | State | |
| Issue 42F - Vacation - Approval of vacation time and carryover to new shifts and facilities | State | |
| Issue 44 - Leave time accrual and posting | Union | |
| Issue 45F - Reclassification of Training Officers | State | |

APPENDIX A

The Resolved Issues

These issues are incorporated herein by reference.

Issue 1- Entire Agreement

Issue 2- Employee Bill of Rights

A- Constitutional Protections

B- Whistle Blower Protection

C- Respect and Dignity in the Workplace

Issue 3- Management Rights

Issue 4- Union Rights

A- Union staff representatives access to facilities

B- Union Business leave-Request- Less than two weeks notice

D- Steward training on new collective bargaining agreement

E- Permission to enter facilities

Issue 5- Service Rating

A- Mutually agreed upon form

B- Determination of an overall rating

C- Grieving and arbitrating service ratings.

Issue 6- Training

A- Employer Obligation

B- Training Committee- Role

C- Training Committee- Number of participants'

D- New Employee Orientation

E- Work Schedule

F- Tuition Reimbursement – Amount of Fund

G- Tuition Reimbursement – Carryover of unused funds

H- Tuition Reimbursement – Reimbursement level

I- Tuition Reimbursement – Maximum number of credits for reimbursement

J- New Employee – Union Orientation

K- Workshop and Conference Fund – Committee – Role

L- Workshop and Conference Fund – Number of Committee members

M- Workshop and Conference Fund – Release Time for Committee members

N- Workshop and Conference Fund – Amount of Fund

O- Workshop and Conference Fund – Reimbursement level

P- Workshop and Conference Fund – Carryover of unused funds

T- New facility orientation

Issue 7- Working Test Period

A- Length

B- Review Period

C- Failure of Supervisory Training Program

D- Grieving a failure of a promotional working test period

E- Return to previous position upon failure of a promotional working test period.

F- Credit for provisional appointment

G- Pay for provisional appointment

Issue 8- Layoff and Reemployment

A- Bumping procedures – Comparable Classification

- B- Contracting out
- Issue 10- Discipline (A-P)
 - A- Right to not compel testimony against him or herself
 - B- Corrective action and progressive discipline
 - C- Definition and procedures for discipline
 - D- Suspensions – Reasons
 - E- Suspensions – Notice of suspension
 - F- Suspensions - Reporting of suspensions
 - G- Suspension – Maximum length of suspensions
 - H- Demotion – Reasons
 - I- Demotion - Notice
 - J- Demotion- Reporting of demotions
 - K- Demotion - Demotion as an alternative to layoffs
 - L- Demotion as an alternative to layoffs – Voluntary demotions
 - M- Demotion as an alternative to layoffs – Rate of pay on a demotion
 - N- Demotion as an alternative to layoffs – Remedy for a sustained grievance regarding demotions
 - O- Dismissal – Reason
 - P – Dismissal - Notice
- Issue 11- Hours of Work
 - K- Shift Differential – Definition
 - L- Shift Differential – Rate for evening shift
 - M- Shift Differential –Rate for night shift
 - N- Shift Differential – Include differential for paid time off
 - O- Weekend Differential – Definition
 - P- Weekend Differential – Rate
 - Q- On-call Pay - Designation
 - R- On-call Pay – Rate
 - S- On-call Pay – Rate for Holidays
 - T- Call Back - Definition
 - U- Call Back – Rate of Pay for return to work
 - V- Call Back – Rate of Pay for non-return to work
- Issue 12 G – Banking accrued compensatory time
- Issue 15 A- Travel – Meal reimbursement
- Issue 16 Correctional Meal Money
 - A- Correctional Meal Money- Eligibility
 - B- Correctional Meal Money – Amount
 - C- Correctional Meal Money – Future increases
- Issue 18 Meal Breaks
 - A- Meal Breaks – Paid
 - B- Meal Breaks- Length
 - C- Meal Breaks – Extended work day
- Issue 21 Equipment and Clothing
 - A- Equipment and Clothing – State provided
 - B- Equipment and Clothing – Keep current
 - C- Equipment and Clothing – Cleaning allowance
- Issue 24 A- Certification and licensing – reimbursement
- Issue 28 – Domestic partner benefits
- Issue 29 – Past Practices
- Issue 34 – Overpayment
- Issue 35 – Duration

Issue 36 – Group life insurance

Issue 41 – Applicability of SCOPE agreement

Issue 43 – Sick Leave

A- Accrual rate

B- Unlimited accrual

C- Use of Sick Leave - Incapacitated

D- Use of Sick Leave - - Medical appointments

E- Use of Sick Leave – Death in immediate family – Definition

F- Use of Sick Leave – Death in immediate family – Number of days

G- Use of Sick Leave – Critical Illness

H- Use of Sick Leave – Death not in immediate family

I – Payment on Death

J- Payment on retirement

K- Holiday

L- Vacation