

ROSEBURG INTEREST ARBITRATION
FAVORS CITY & LOCAL LABOR MARKET

Arbitrator Michael E. Cavanaugh awarded the City's Last Best Offer on May 22, 2007 in a case involving Roseburg and its firefighters. At issue were wages and insurance. Bargaining stalled when the IAFF demanded a wage increase based on IAFF wins in Ashland and Grants Pass based on comparison to TVF&R and Clackamas #1 wages.

Since enactment of SB 750, interest arbitrators have interpreted and applied the criterion of "comparison of the overall compensation of other employees performing similar services with the same or other employees in comparable communities" differently. In the Roseburg decision, Arbitrator Cavanaugh undertakes an exhaustive analysis of the legislative history and earlier arbitrations. He concludes that local labor market factors must be taken into account along with communities in the same or nearest population range, and rejects the IAFF attempt to compare Portland metropolitan fire service providers. In doing so, the Arbitrator rejected the comparability methodology adopted earlier cases involving North Bend (Lankford 1999), Grants Pass (Brown 2000), Astoria (Lindauer 2000), and Ashland (Boedecker 2001). In each of these cases, the cities had objected to consideration of much larger fire districts in the Portland area which the IAFF asserted were valid comparators because they served smaller cities such as Tualatin, West Linn, and Milwaukee.

The parties' positions. The City proposed base wage adjustments of 4% effective July 1st of each of three years under the agreement. The union proposed 3%

adjustments twice each fiscal year on July 1st and January 1st which when compounded over the life of the agreement would have resulted in a 19.4% increase, in contrast with the City's 2.5% offer. The City proposed to maintain the current insurance plan and to increase employee premium co-pays by \$5; for full family coverage the employee would pay \$35 per month in contrast with the IAFF status quo offer.

The Arbitrator's analysis of the statutory criteria can be summarized as follows:

Ability to Pay. The City's \$7.2 million "rainy day reserve" resulted from budgeting conservatively and spending wisely. Weight was given to impacts of the O&C Timber receipts shortfalls. The City computed the increased costs in years 4-6 under the next contract between the parties proposal as \$959,300. The Arbitrator relied upon future added wage costs built into the IAFF proposal without looking to the next contract term, which was \$510,000. The City argued limited ability to pay, and the Arbitrator concluded that this factor favors the Union LBO when "viewed in isolation."

Ability to Attract & Retain Qualified Personnel. Held to favor the City LBO because neither a recruiting nor retention problem existed, and those who had left did so for family or other personal reasons.

Overall Compensation, Comparable Communities. The IAFF argued that population is the sole permitted criterion for comparability under SB 750, and that it did not matter that the comparator employed no fire fighters at all; if a community fell within the appropriate population range, then according to the IAFF, the compensation of fire fighters serving that community must be used.

The City asserted that the Legislature could not have intended that a city like Roseburg should be compared to TVF&R, Clackamas FD #1, or Klamath FD #1 due to

the relative size of these employers simply because a smaller city exists within the district, and that comparisons to Portland Metro cities like West Linn and Milwaukie unfairly distorts the wage comparison due to the resources of such communities and their ability to pay wages commensurate with being in the highest wage labor market in Oregon. The City relied on those interest arbitrators who have continued to employ a geographic labor market analysis after SB 750. The Arbitrator determined:

- The IAFF did not improperly select fire districts that encompass smaller and comparable cities;
- The lack of symmetry is a logical defect in the IAFF approach; that is, it makes TVF&R a comp for Roseburg when the reverse would never be true.
- A particular fire district may be an inappropriate comparator based on geographic location and/or labor market factors, over the IAFF strenuous objection that SB 750 removed all consideration of geography and labor market leaving only population as the sole determinant. The Arbitrator relied on post-SB 750 decisions of arbitrators Lehleitner, Snow, Krebs, Helm, Nelson and Brand and rejected decisions of Calhoun, Levak and Lankford to the contrary. He noted Levak had ruled one way, but explained the opposite to be true in stating, “Only jurisdictions *within a labor market* that are in the same or nearest population range” can be considered.
- Seven to eight arbitrators apply the statute as Lehleitner does and consider labor market, while four agree with the IAFF.

- All comparables must be within the same or nearest population range, and an arbitrator may give more weight to those most similar in terms of geographic location and/or labor market and thereby derive the “most appropriate” comparators.

Legislative History & Statutory Interpretation. The Arbitrator rejects Arb. White’s findings from the legislative history in his May, 2007 Lane County Rural Fire & Rescue arbitration in reliance on Prof. Henry Drummond’s account of the SB 750 pre-veto negotiations, “The ‘comparability’ limitation does not preclude the use of other traditional benchmarks, such as labor market, per capita income, and similar criteria.” Arb. Cavanaugh concludes that being within the “same or nearest population range” is not the sole criterion to apply in selecting comparators.

Comparators. The Arbitrator accepted the comps that both parties agreed upon: Ashland, Grants Pass, Redmond, Newberg, and Forest Grove. Also included was Klamath FD #1 because it exists in a comparable economic region of Oregon. Rejected as falling outside the same population range were Douglas FD #2, Coos Bay, South Lane, and Winston Dillard. Milwaukee and West Linn (Clackamas FD #1 and TVF&R) were entitled to little or no weight because they are suburban Portland communities and exist in an economic environment very different from Roseburg.

Comparison of Overall Fire Fighter Compensation. The Arbitrator concluded that the LBO that comes closest to the comparators or that exceeds the comparators by a modest amount should be favored because strike prohibited employees should earn roughly what their counterparts in comparable jurisdictions earn. In this case the arbitrator projected that the Union LBO would result in the fire fighters leading the

comps by 7.51% in January 2009, in contrast with the City comps which would lead the comps at that time by 1.2%.

Cost of Living. The IAFF's proposal would result in wage adjustments significantly ahead of COLA, while the City's LBO would probably be in the same range as the City comparators.

Interest and Welfare of the Public. The Arbitrator finds that had he adopted the IAFF approach and relied on Portland metro comps, then the union's proposal for wage increases of 19% in contrast with the City proposal of 12.5% could be justified.

However, Arb.Cavanaugh determined that the law does not require Roseburg to pay Portland wages or even an average of overall compensation that has been inflated by the inclusion of jurisdictions in the very different Portland market.

Akin Blitz

Akin Blitz, a shareholder at the Bullard Smith Jernstedt Wilson law firm, represented the City of Roseburg with Adam Collier of his firm. Akin represents local governments throughout the Pacific Northwest. In the 1980's he represented the City of Eugene in the police interest arbitration decided by Arb. Carlton Snow which for decades has served as the seminal local labor market decision. That case curbed Will Aitchison's statistical methodology of comparing to cities with vastly larger economies from California to Alaska, thereby artificially driving up Oregon public wages. Ernie Niemi of ECO Northwest and Jim Mooney assisted as expert witnesses on Roseburg's behalf.