

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF ALLENDALE,

Appellant,

-and-

Docket No. IA-95-071

ALLENDALE PBA LOCAL 217,

Respondent.

SYNOPSIS

The Public Employment Relations Commission affirms an interest arbitration award issued to resolve negotiations between the Borough of Allendale and PBA Local No. 217. The Commission remanded a previous award to permit the Borough to submit a new final offer and issue a new opinion based on the Borough's revised offer and the PBA's original offer. The Borough appealed the arbitrator's award on remand, contending that the arbitrator did not explain the basis for his award, did not apply the criteria in N.J.S.A. 34:13A-16g, and awarded excessive wage increases. The Borough also maintains that the arbitrator erred in taking arbitral notice of statistics showing changes in the average wages of private sector jobs in New Jersey during calendar year 1996. The Commission finds that the arbitrator's consideration of the Commission's annual report on private-sector wage increases was a proper subject of arbitral notice, the Legislature clearly intended the survey would be used in arbitration proceedings; and an arbitrator has discretion to rely on independent research. The Commission concludes, after consideration of each of the Borough's arguments, that the arbitrator adequately analyzed the evidence presented on the relevant statutory factors and reached conclusions supported by substantial credible evidence in the record.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

P.E.R.C. NO. 98-123

STATE OF NEW JERSEY
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In the Matter of

BOROUGH OF ALLENDALE,

Appellant,

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Docket No. IA-95-071

ALLENDALE PBA LOCAL 217,

Respondent.

Appearances:

For the Appellant, Murray, Murray & Corrigan, attorneys
(Robert E. Murray and Valerie J. Dion, on the brief)

For the Respondent, Loccke & Correia, attorneys
(Leon B. Savetsky, of counsel)

DECISION

The Police and Fire Public Interest Arbitration Reform Act, P.L. 1995, c. 425, N.J.S.A. 34:13A-14 to -21, authorizes the Commission to decide appeals from interest arbitration awards. N.J.S.A. 34:13A-16f(5)(a). We exercise that authority in this case, where the Borough of Allendale appeals from a December 5, 1997 interest arbitration award involving its police officers. The award was issued after a March 11, 1997 award was vacated on procedural grounds. Borough of Allendale, P.E.R.C. No. 98-27, 23 NJPER 508 (¶28248 1997). Allendale held that while the arbitrator correctly excluded, as untimely, certain proposals which the Borough had sought to arbitrate, he erred by not ruling on the issues to be included in the proceeding until he issued his final opinion and award. We remanded the matter to the arbitrator to

permit the Borough to submit a new final offer.^{1/} We directed the arbitrator to issue a new opinion and award after reviewing the Borough's revised final offer and the PBA's original final offer.^{2/}

On remand, the parties' offers were as follows.

The PBA proposed a four-year contract from January 1, 1995 through December 31, 1998 with 5.5% across-the-board wage increases for each year. It also sought to: (1) increase the clothing allowance by \$100 effective January 1, 1995 and (2) modify the contract bereavement clause by allowing three days off rather than one day off for the death of a grandparent.

The Borough proposed a four-year contract from January 1, 1995 to December 31, 1998 with no salary increases in 1995 and 1996. For 1997 and 1998, the Borough proposed a new maximum step for each rank, but no increases in salaries below the maximum. The new step for 1997 would be \$1500 above the 1996 maximum and the new step for 1998 would be \$1500 above the 1997 maximum.^{3/}

^{1/} Unlike the Borough, the PBA had not argued that it was disadvantaged by the timing of the arbitrator's ruling and did not seek to submit a new offer.

^{2/} We held that the new opinion and award should be based on the record already submitted unless the parties agreed otherwise or the arbitrator required additional submissions. On remand, the parties did not seek to supplement the record and the arbitrator did not request additional submissions.

^{3/} The unit includes patrol officers and sergeants. A lieutenant slot is vacant.

In 1995 and 1996, all but two of the unit members were either patrol officers at the maximum step or sergeants, who were paid at a single salary rate under the expired contract. The Borough agreed to the PBA's proposal to increase the clothing allowance by \$100 per year, effective January 1, 1995.

The arbitrator resolved the unsettled issues by conventional arbitration, as he was required to do absent the parties' agreement to use another terminal procedure. N.J.S.A. 34:13A-16d(2). He fashioned a conventional award that established a four-year contract from January 1, 1995 through December 31, 1998, with the following across-the-board salary increases:

1995	4.25%
1996	4.00%
1997	3.75%
1998	3.50%

[Arbitrator's opinion (II), p. 30]^{4/}

He awarded a \$100 increase in the clothing allowance but denied the PBA's proposal to modify the bereavement clause (Arbitrator's opinion (II), pp. 15, 30). The salary increases awarded were the same increases included in his March 1997 award.

The Borough asks us to modify the award. It contends that the arbitrator did not explain the basis for his award, did not properly apply the criteria in N.J.S.A. 34:13A-16g, and

^{4/} "Arbitrator's opinion (I)" refers to the opinion issued on March 11, 1997. "Arbitrator's opinion (II)" refers to the opinion issued on December 5, 1997.

awarded excessive wage increases. It also maintains that, on remand, the arbitrator erred in taking arbitral notice of statistics showing changes in the average wages of private sector jobs in New Jersey during calendar year 1996. We turn first to this procedural issue.

In discussing the comparability criterion, N.J.S.A. 34:13A-16g(2), the arbitrator stated:

[A]rbitral notice is taken here ... of recent statistics released by the New Jersey Department of Labor showing a percentage increase in wages of 3% in local government and 3.3% in federal government between 1995 and 1996....

* * *

Note is also taken that the private sector figures taken from this same report by County shows a 3.6% increase in Bergen County in 1996 and a state-wide increase of 4.00% and 4.3% depending on the category. These figures, generated by a state agency and dealing with different sectors with specificity, clearly support the wage award issued herein. [Arbitrator's opinion (II), pp. 28-29] 5/

The Borough argues that the statistics cited by the arbitrator are not a proper subject of arbitral notice because there is no indication of where the arbitrator found the statistical charts, where they were published, or who prepared them. It contends that the figures are not reliable and that it is not clear whether the average salaries include overtime,

5/ The 4% figure is the change in average wages for the public and private sector combined; 4.3% is the figure for the private sector.

clothing allowance or other benefits. It maintains that it was prejudiced because it did not have the opportunity to object to consideration of the figures or to offer its analysis of them.

We recognize that, in the judicial and administrative context, parties have a right to be heard both on the propriety of noticing a matter and the tenor of the matter noticed. See N.J.R.E. 201(e); N.J.A.C. 1:1-15.2. While it may have been preferable had the arbitrator given the parties an opportunity to be heard, the Borough's objections to the statistics are not persuasive.

The arbitrator cited the statistics contained in the Commission's annual report on private-sector wage increases. See N.J.S.A. 34:13A-16.6 (Commission required to perform or cause to be performed an annual survey of private-sector wage increases).^{6/} The report is prepared for the Commission by the New Jersey Department of Labor, Division of Labor Market and Demographic Research (NJDOL). The 1997 report, which was given to all members of the Commission's special panel of interest arbitrators, shows average annual private-sector wages in New Jersey for 1995 and 1996, as well as the percentage change in those wages between calendar years 1995 and 1996.^{7/} The same

^{6/} The report was attached to the arbitrator's decision on remand.

^{7/} NJDOL defines "wages" as all compensation for personal services, including commissions, bonuses, and the cash value of compensation received in a medium other than cash.

information is provided for each county. The document also shows changes in average wages for such major industry groups as construction, manufacturing, transportation, wholesale and retail trade, services and finance, insurance and real estate. In addition, the survey shows wage changes for federal, state and local government workers in New Jersey.^{8/} The statistics are based on the wage data required to be reported to NJDOL by the over 200,000 employers participating in the unemployment insurance system. It is thus a comprehensive report, as well as a well-established one: NJDOL has calculated average statewide private-sector wages since 1939 and published the figures since 1947. The county figures have been calculated for two years, as requested by the Commission and required by N.J.S.A. 34:13A-16.6.

In view of the foregoing, we are satisfied that the survey concerning average private sector wages and wage changes was a proper subject of arbitral notice. See N.J.R.E 201(b)(2); see also 5000 Park Assocs. v. Collado, 253 N.J. Super. 653, 656 (Law. Div. 1991) (court took notice of U.S. census data). Moreover, the Legislature clearly intended that the survey performed or caused to be performed by the Commission would be

^{8/} The Borough objects that the survey shows a 2.1% increase for State employees for 1996, despite the fact that the State's agreements with majority representatives of various units included no across-the-board wage increases for 1996. This figure reflects overtime, increment advancements or other payments which were not affected by the wage freeze. In any case, the arbitrator cited the survey primarily for its information on private-sector wage increases.

used in arbitration proceedings. See N.J.S.A. 34:13A-16.6 (survey is a public document that shall be used in public sector wage negotiations and made available to all interested parties).

We also reject the Borough's argument that it was unnecessary for the arbitrator to consider the report because the parties had submitted comprehensive evidence on private and public sector salaries. The Code of Professional Responsibility for Arbitrators of Labor-Management Disputes gives an arbitrator discretion to rely on independent research, consistent with his or her acceptance of full personal responsibility for the award. See Article 2G (so providing where the parties' mutual desires are not known or when the parties express differing opinions on reliance on independent research). Our interest arbitration rules state that arbitrators shall be guided by the Code's objectives and principles. N.J.A.C. 19:16-5.10. Thus, the arbitrator could consider the report even though other information had been submitted on private sector wage increases.

We turn to the Borough's contentions that the arbitrator did not set forth the rationale for the award, did not properly apply the statutory criteria, and awarded excessive wage increases.

In requiring that disputes be resolved by conventional arbitration unless the parties agree to another terminal procedure, the Reform Act entrusts the arbitrator with weighing the evidence and fashioning an award. An arbitrator must assess

the evidence on individual statutory factors and then weigh and balance the relevant, sometimes competing, factors. In reviewing a challenge to an award, we will determine whether the arbitrator considered the criteria in N.J.S.A. 34:13A-16g and rendered a reasonable determination on the issues. Cherry Hill Tp., P.E.R.C. No. 97-119, 23 NJPER 287 (¶28131 1997); N.J.A.C. 19:16-5.9. Consistent with pre-Reform Act case law, we will vacate an award if the appellant demonstrates that: (1) the arbitrator failed to give "due weight" to the subsection 16g factors judged relevant to the resolution of the specific dispute; (2) the arbitrator violated the standards in N.J.S.A. 2A:24-8 and -9; or (3) the award is not supported by substantial credible evidence in the record as a whole. Cherry Hill Tp.; cf. PBA Local 207 v. Bor. of Hillsdale, 137 N.J. 71, 82 (1994); Div. 540, Amalgamated Transit Union, AFL-CIO v. Mercer Cty. Improvement Auth., 76 N.J. 245, 253 (1978).

The primary issue in this proceeding was salary increases. The arbitrator awarded salary increases of 4.25%, 4%, 3.75% and 3.5% for 1995, 1996, 1997 and 1998. He declined to award either the PBA's proposal for 5.5% increases for each year or the Borough's proposal for no increases for 1995 and 1996 and a new \$1500 maximum step for each rank in 1997 and 1998.^{9/}

^{9/} The percentage value of these steps for patrol officers would be 2.6% and 2.53% (Arbitrator's opinion (II), p. 14).

The arbitrator reviewed the evidence submitted on the statutory criteria, N.J.S.A. 34:13A-16g, and found that his award was the "most reasonable" resolution of the dispute (Arbitrator's opinion (I), p. 23; Arbitrator's opinion (II), p. 29).^{10/}

Consistent with N.J.S.A. 34:13A-16g(2), the arbitrator compared the wages of the employees involved in the proceeding with those in private employment in general, in public employment in general, and with employees performing similar services in comparable jurisdictions. He found that Borough officers were well compensated compared to private and public employees in general (Arbitrator's opinion (I), p. 22). He also found that while Borough officers earned more than police officers in some northwest Bergen County towns, they were lower paid than officers in other towns (Arbitrator's opinion (I), pp. 21). Overall, he concluded that comparisons to other Bergen County police officers were more relevant and entitled to more weight than other comparisons and that his award would enable Borough officers to keep their salary position relative to such police officers (Arbitrator's opinion (I), p. 21; Arbitrator's opinion (II), p. 26).

^{10/} The arbitrator's second opinion incorporated the discussion in his first opinion, but supplemented his analysis concerning the public interest, comparability and financial impact criteria (Arbitrator's opinion (II), pp. 15-16, 29). We have considered both opinions in deciding this appeal.

The arbitrator also considered the parties' evidence as to the wage increases, if any, to be awarded. He reviewed the PBA's evidence concerning overall compensation and interest arbitration awards and settlements in 20 Bergen County police departments and found that its proposal for 5.5% increases was "excessive" and "out of line" (Arbitrator's opinion (I), p. 24).^{11/}

On the other hand, the arbitrator rejected the Borough's position that the interest arbitration award in State of New Jersey and State Law Enforcement Conference, IA-96-013, justified a wage freeze for 1995 and 1996. The arbitrator declined to model his award on that case, stating that the arbitrator there had awarded a two-year wage freeze in large part because a wage freeze had been incorporated in previous agreements with 60,000 other State employees (Arbitrator's opinion (II), p. 20-21). As discussed later, he found that his award was supported by the Commission's report concerning statewide changes in average private-sector wages (Arbitrator's opinion (II), pp. 27-28). He also found that, under his award, Borough officers would continue to be well compensated compared to other Bergen County police officers (Arbitrator's opinion (I), p. 21).

^{11/} The PBA maintained that for 1995, 1996, and 1997, the average wage increases for Bergen County police units were 5.045%, 4.829% and 4.588% (Arbitrator's opinion (I), p. 12). The Borough acknowledged that several police units had received increases in the 3.75% to 5% range for 1995 through 1998, but maintained that the contracts included provisions increasing work hours, adding salary guide steps or reducing starting pay.

With respect to the financial impact of his award, N.J.S.A. 34:13A-16g(6), the arbitrator found that the Borough was a well-off community with above-average home values and per capita income, expanding tax ratables, significant budget surpluses, an exceptional tax collection rate and the ability to budget well within the annual CAP index rate (Arbitrator's opinion (I), p. 22; Arbitrator's opinion (II), p. 25-26). He acknowledged that the Borough had a high tax rate and had reduced appropriations to several programs, but noted that a large portion of the difference between the Borough's offer and his award could be funded from savings from police force attrition (Arbitrator's opinion (II), pp. 24-25). He found that his award was closer to the cost of living than either party's offer (Arbitrator's opinion (II), p. 22).

The Borough argues that the arbitrator did not comply with the Reform Act because he did not explain why he awarded the wage increases he did -- increases which the Borough contends are excessive because the officers were already well compensated.

Fashioning a conventional arbitration award is not a precise mathematical process. Given that the statute sets forth general criteria rather than a formula, the setting of wage figures necessarily involves judgment and discretion and an arbitrator will rarely be able to conclusively demonstrate that his award is the only "correct" one. We agree that the arbitrator could have more explicitly linked the statutory criteria, the

parties' evidence and arguments, and the award itself; however, we are satisfied from our review of the record and the arbitrator's opinions that he gave due weight to the statutory criteria and that the award is supported by substantial credible evidence in the record.

The arbitrator appropriately recognized that the statutory factors had to be weighed and considered together and "blended into" a reasonable award (Arbitrator's opinion (I), p. 23). He stated that the 1995-1998 agreement includes an average annual salary increase of 3.875% and found that Borough officers would maintain their position vis-a-vis other officers in comparable Bergen County municipalities (Arbitrator's opinion (I), p. 21; Arbitrator's opinion (II), p. 22). He also found that the salary increases awarded were supported by the statutory survey showing a 4.3% increase in private sector jobs in New Jersey during 1996 (3.6% in Bergen County) and a 3% increase in federal and local government (Arbitrator's opinion (II), pp. 27-28). We conclude that this award represents a reasonable resolution of the dispute. Although we emphasize that we evaluate the entire award to determine whether it is supported by substantial credible evidence in the record as a whole, we will now address the Borough's specific challenges to the arbitrator's findings and analysis.

The Borough argues that the arbitrator could not have correctly applied the comparability and overall compensation

criteria, N.J.S.A. 34:13A-16g(2) and (3), because, it asserts, the salaries awarded are excessive when compared with those of several high-level state officials.^{12/} We disagree.

The arbitrator reviewed the Borough's submissions concerning public sector employees and agreed with the Borough that its officers were "well compensated" within that group (Arbitrator's opinion (I), p. 22). However, the Act does not mandate that a particular salary relationship be maintained between police officers and other employees. Therefore, the arbitrator was not required to award the Borough's offer because of the salaries of Borough officers vis-a-vis those of the noted state officials. The arbitrator appropriately exercised his discretion in awarding increases based on all the statutory criteria, including comparisons with private employees in general, public employees in general, and other police officers. We note as well that while the arbitrator found that comparisons with other Bergen County police officers were entitled to more weight than other comparisons (Arbitrator's opinion (II), p. 26), the increases he awarded appear to be less than those received by

^{12/} A patrol officer at maximum will, under the award, be paid \$67,135 in 1998 as compared to \$60,665 under the Borough's offer (Arbitrator's opinion (I), p. 27; Arbitrator's opinion (II), p. 14). Officers may also receive a longevity payment of 2% to 10% of base salary depending on years of service, with 20 years required for the highest payment. The Borough notes that New Jersey's chief administrative law judge, public defender, and director of criminal justice earned \$95,000 in 1997.

other municipal police officers in Bergen County for 1995 through 1997. He accepted the Borough's position that the officers were well compensated (Arbitrator's opinion (I), p. 21-22), and did not seek to enhance their salaries vis-a-vis those of other police officers or employees in general.

We also disagree that the arbitrator erred by not explaining why officers below the maximum step should receive increases of 16% -- i.e., the total of the across-the-board increases included in the award plus the increases received by moving to a higher salary guide step. In 1995 and 1996, only two unit members were eligible for a step increase.^{13/} The other officers were at the maximum salary for their rank. Two new officers were hired in May and December 1997 and, after a year of service, will presumably move from step one to step two of the salary guide in the last months of the 1995-1998 agreement. In this posture, the arbitrator did not err in analyzing the parties' final offers in terms of how they would affect the substantial majority of the unit.

Nor did the arbitrator refuse to consider evidence of police officer salaries in New York, Philadelphia, Camden, Newark and Atlantic City. The arbitrator acknowledged the lower salaries of police officers in these cities, but observed that the Borough did not have the severe financial problems they did, a finding the

^{13/} There were fourteen members in January 1995 and eleven at the time of the July 1996 hearing.

Borough does not challenge (Arbitrator's opinion (II), pp. 26-27). He was not compelled to award the Borough's offer because of police officer salaries in urban areas when he found that those salaries were less relevant than salaries in other Bergen County towns and when he found, in effect, that the salaries of city officers were depressed by their employers' serious financial problems (Arbitrator's opinion (II), pp. 26-27).

Similarly, we are satisfied that the arbitrator considered the Borough's evidence concerning private-sector wage increases. The arbitrator reviewed exhibits, submitted by the Borough, showing average nationwide wage increases for 1993 and 1995 of 2.8% and 2.9% (Arbitrator's opinion (I), pp. 16-17). He noted that the Borough had also submitted individual contracts, from industries throughout the country, that reflected "little or no wage increases" (Arbitrator's opinion (I), p. 16). While he stated that data concerning wage increases in diverse industries throughout the country was "not dispositive," his language demonstrates that he gave the data some consideration (Arbitrator's opinion (II), p. 27). As noted earlier, he also cited the Commission's survey of private-sector wage increases, prepared by NJDOL at the Commission's request, and found that it "clearly supported" his award (Arbitrator's opinion, p. 28). We will not disturb his judgment that the NJDOL data on private-sector wage increases, which included information on different sectors of New Jersey's economy, was entitled to more

weight than the Borough's private-sector evidence (Arbitrator's opinion (II), p. 28).

We also reject the Borough's argument that the arbitrator could not rely on NJDOL data about average wage increases because, it asserts, the average New Jersey private-sector salary is lower than that of a Borough officer. The arbitrator could reasonably conclude that data concerning changes in average wages were pertinent to assessing the increases, if any, which would maintain the officers' comparative position vis-a-vis other workers.

We also disagree with the Borough that, contrary to the admonition in Hillsdale, the arbitrator relied too heavily on the Borough's ability to pay. Hillsdale and related cases criticized awards which had granted union offers in their entirety (under the final offer system), based on comparable police salaries and the employer's "ability to pay." The courts emphasized that "[s]ection 16g(6) does not require a municipality to prove its financial inability to meet the other party's final offer." Hillsdale, 137 N.J. at 86. The arbitrator recognized this principle when he stated that the fact that the Borough might have the financial ability to pay the PBA offer did not mean it should be awarded (Arbitrator's opinion (I), at p. 23).

While the arbitrator also stated that the Borough had not demonstrated the need for a wage freeze or a 1.28% average wage increase over four years (Arbitrator's opinion (II), p. 24), that language is not inconsistent with Hillsdale: the arbitrator in

effect stated that in order for him to award one or the other party's proposal in a conventional arbitration proceeding, he had to be convinced that it was the most reasonable resolution of the dispute. Nor did the arbitrator contravene Hillsdale by stating that the Borough was a wealthy community (Arbitrator's opinion (II), p. 27). While financial health is not a basis for awarding increases higher than are warranted under the statutory criteria, it is relevant to assessing whether an entity can fund an award that, based on all the criteria, the arbitrator finds to be reasonable. Thus, it was appropriate for the arbitrator to note that because three officers left the force in 1995 and had not been replaced at the time of his decision, the Borough had realized a savings in police salaries which could be a source for funding the difference between his award and the Borough's offer (Arbitrator's opinion (II), p. 25).

The Borough does not challenge the arbitrator's findings that it has an expanding tax base and has been able to budget well within the CAP index rate, but it contends that he disregarded other evidence of precarious finances. We disagree and conclude that substantial credible evidence in the record supports the arbitrator's determination that the Borough is a financially sound community.

The arbitrator recognized that the Borough had reduced or eliminated appropriations for its capital improvement fund and mental health, library and health care programs, but concluded

that the Borough had not substantiated its assertion that these cuts indicated fiscal distress (Arbitrator's opinion (II), p. 24). The arbitrator's conclusion is supported by the record, although we disagree with his suggestion that the Borough could not rely on exhibits to establish financial problems. The reduced appropriations were small in relation to the \$7 million budget (elimination of \$4000 and \$5000 donations to mental health centers; \$21,000 reduction in \$277,650 library budget) and the Borough has not shown how its failure to appropriate money to the capital improvement fund in 1996 will impair its capital program.

With respect to the Borough's near-loss of \$900,000 in State aid from the Gross Receipts and Franchise Tax in 1995, the arbitrator recognized that the Borough could lose State aid in the future (Arbitrator's opinion (I), pp. 22-23), but this recognition did not require him to award lower salary increases. The Borough acknowledges that its State aid increased from 1995 to 1996.^{14/}

Similarly, the arbitrator did not err in finding that the Borough had a significant budget surplus. The Borough's 1996 budget shows a \$772,731 surplus balance on January 1, 1996 -- more

^{14/} The Borough states that it will plan future budgets without anticipating State aid. While we cannot predict what, if any, State aid the Borough will receive in the future, we note generally that the Energy Tax Receipts Property Tax Relief Act, P.L. 1997, c. 167, is designed to provide aid to municipalities from the State's taxation of energy and telecommunications. The Gross Receipts and Franchise Tax was repealed and replaced with a new system of taxation of energy and telecommunications. P.L. 1997, c. 162.

than 10% of total general appropriations. The surplus balance on January 1, 1995 was \$547,020 and \$781,390 on January 1, 1994.

Finally, the arbitrator's overall conclusion that the Borough is a fiscally healthy community is not undermined by his acknowledgment that the Borough has a high tax rate (Arbitrator's opinion (I), pp. 22-23). Moreover, it does not appear that the arbitrator erred in finding that the Borough had a tax collection rate of 98%: the 1996 appendix to the budget statement indicates a 97.86% collection rate in 1995 and a 98.58% rate in 1994.^{15/} Similarly, we need not decide the relevance of Borough home values to formulating an award: the arbitrator simply referred to home values in presenting an overview of the community.

The arbitrator's other alleged errors do not warrant our vacating the award. The award is not deficient because the arbitrator found that the concept of adding salary guide steps was "not unreasonable" yet denied the Borough's proposal to add new maximum steps in 1997 and 1998 (Arbitrator's opinion (II), p. 29). He explained that the increases which the Borough had offered in conjunction with the steps -- and in lieu of other increases -- were not reasonable under all the statutory criteria. He was not required to separate out the proposal to lengthen the salary guide from the Borough's proposed salary increases.

^{15/} The Borough relies on an exhibit showing a 95.97% tax collection rate for 1991.

Similarly, the arbitrator was not required to award increases equal to what he found to be the cost of living where, based on all of the statutory factors, he concluded higher increases were appropriate.

The Borough also challenges the arbitrator's statement that the "substantial discrepancy" between its original and revised final offers was not accounted for by the exclusion of the proposals which the Borough had originally sought to arbitrate (Arbitrator's opinion (II), p. 28). We agree that the arbitrator's role was to analyze the PBA's final offer and the Borough's revised final offer in the context of the statutory criteria. However, we are satisfied that he did so and that the noted discussion did not undercut his analysis.

Similarly, a mathematical error in the arbitrator's description of the Borough's original final offer does not make the award deficient where he had accurately described it two pages earlier in the opinion and, in any case, the focus of the remand proceeding was the Borough's new final offer.

The Borough maintains that there is a divergence between the actual wage increases awarded and the arbitrator's statements, in his first opinion, that certain of the criteria strongly favored the Borough's original final offer. We need not address this point where the Borough's offer was revised and the arbitrator's second opinion includes additional analysis of some of these criteria.

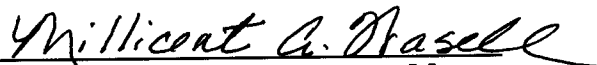
The Borough states that the arbitrator should have included the PBA's bereavement leave proposal in the second award, even though the Borough did not reiterate its earlier agreement to that proposal in submitting its revised final offer. While the arbitrator was not required to award the proposal in these circumstances, the parties are free to agree to the proposal, as they appear to have done.

For all these reasons, we conclude that the arbitrator adequately analyzed the evidence presented on the relevant statutory factors and reached conclusions supported by substantial credible evidence in the record. We also find that he gave "due weight" to each of those factors and decided the dispute based on a reasonable determination of the issues. N.J.S.A. 34:13A-16g; N.J. State PBA Local 29 v. Irvington, 80 N.J. 271, 295 (1979). He properly exercised his authority under N.J.S.A. 34:13A-16d(2) and 16g and fully considered the requirements of the law.

ORDER

The arbitrator's award is affirmed.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Boose, Buchanan, Finn, Klagholz, Ricci and Wenzler voted in favor of this decision. None opposed.

DATED: March 26, 1998
Trenton, New Jersey
ISSUED: March 27, 1998