P.E.R.C. NO. 2004-58

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION COUNTY CORRECTIONS OFFICERS,
PBA LOCAL 199,

Appellant,

-and- Docket No. IA-2001-46

COUNTY OF UNION,

Respondent.

Appearances:

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

For the Respondent, Schenck, Price, Smith & King,
attorneys (Kathryn V. Hatfield, of counsel

DECISION

Union County Corrections Officers, PBA Local 199 appeals from an interest arbitration award involving approximately 200 corrections officers. See N.J.S.A. 34:13A-16f(5)(a). The award was issued by the second arbitrator appointed in this case, after we vacated earlier awards issued by the first arbitrator. See Union Cty., P.E.R.C. No. 2003-33, 28 NJPER 459 (¶33169 2002); Union Cty., P.E.R.C. No. 2003-87, 29 NJPER 250 (¶75 2003). The second arbitrator relied on the record developed at the hearing before the original arbitrator, together with material subsequently submitted.

The parties' final offers, submitted before the first award, were as follows. The County proposed a four-year contract from 2001 through 2004, with a 1.5% across-the-board salary increase effective January 1, 2001 and a 1.5% increase effective June 23, 2001. For 2002 through 2004, it proposed increases of 4% for officers at the maximum guide step and increases of 3.5% for officers "in guide." Almost all officers are at the maximum step. The County also proposed to increase the clothing allowance by $25 in each of the first three years of the agreement.

The County also sought health benefits changes for both new and current employees. For current employees, it proposed to increase prescription co-payments and institute an employee contribution towards health benefit premiums. In 2002, employees earning under $65,000 would pay a $10 per month premium contribution; those earning between $65,000 and $75,000 would pay $25; and those earning over $75,000 would pay $35. In 2003 and 2004, employees earning over $75,000 would pay $40 per month. For members of Horizon PPO (Blue Select), the County proposed a $5 doctor visit co-pay for 2002 and a $10 co-pay for 2003 and 2004. For all unit members, it sought an increase in the out-of-network cost share from 80/20 to 70/30. The County also proposed a health benefit buyout option where an officer covered under a spouse's plan could decline additional health coverage

and receive $2,500 annually. Effective January 1, 2003, the County proposed to reduce the deductible for any single benefit period.

The County also sought a provision that, effective January 1, 2002, new employees would be limited to a choice of Physician's Health Service (PHS) or Blue Choice coverage, unless they paid the difference between these plans and the plan selected. Those choosing PHS or Blue Choice would pay $15 per month for single coverage and $25 per month for family coverage. Those contributions would be increased by the proportionate annual increase in the plan cost.

The County also proposed enhancements to sick leave and retiree and vacation benefits, but linked these enhancements to the award of the noted health benefits proposals. Thus, it proposed to increase its subsidy of retiree health benefits from approximately 25% to approximately 75%; raise the maximum reimbursement for unused sick leave, on a graduated basis, for those with more than 200 accumulated sick days; and grant additional vacation days for each year of service from 25 through 30.

Finally, the County also sought the award of several proposals that it described as "operational." These proposals were described in Union Cty. I, 28 NJPER at 459, but are not at issue in this appeal.

The PBA proposed a three-year contract from 2001 through 2003 with 5% increases in each year. It sought to increase the 10-year senior officer differential from $1365 to $1520 and the 15-year differential from $2365 to $2500 and also proposed that the 20-year differential be increased by the same percentage as base salaries were increased, as provided for in the expired contract. In addition, the PBA sought a $1500 stipend for employees in the Special Operations Unit (SOU) and an increase in the County contribution to the PBA Insurance Development fund from $135 to $158 per employee. It proposed that any overtime worked could, at the employee's option, be paid either at time and one-half or placed in a compensatory time off bank of up to 100 hours, with time off subject to the employer's approval. It also sought eye care and orthodontic coverage, with the latter funded by employees through payroll deductions -- an arrangement it maintained was in effect for some other County employees. It proposed that grievances pursued to arbitration be heard by a member of the Commission's arbitration panel, instead of by one of the five arbitrators designated in the agreement. Finally, it sought time off for one employee per shift to pick up food for other officers.

The arbitrator awarded a four-year contract with the wage increases and health benefits changes proposed by the County, together with its sick leave, vacation, retiree health benefits,

and clothing allowance proposals. In addition, she awarded the eye care and orthodontic coverage that the PBA had sought, as well as its grievance procedure proposal. Finally, she modified Articles 14 and 16 of the expired contract to reduce the number of officers per day permitted to use vacation, personal and religious leave.

The PBA appeals, contending that the arbitrator did not apply the principles of conventional arbitration; placed too much weight on an alleged pattern of settlement between the County and other of its negotiations units; did not adequately consider the PBA's stipend and non-salary proposals; and did not calculate the total net annual economic changes for each year of the agreement. It asks that the award be vacated and remanded to another arbitrator. In the alternative, it requests that we modify the award to reflect the County's April 2002 withdrawal of its proposals concerning the number of officers per day permitted to be on vacation, religious or personal leave.[1/]

The County responds that the arbitrator analyzed the evidence in the context of the statutory factors and reasonably

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1/ In addition, the PBA's Notice of Appeal had objected to what it contended was the arbitrator's award of retroactive health benefits changes. However, the record includes a November 17, 2003 letter from the County's attorney to the PBA's attorney stating that health benefits changes would be prospective only. The County maintained that the PBA's objection was moot. The PBA's brief notes the County's position and does not further address the point. Therefore, we do not do so either.

concluded that several criteria supported an award that conformed to the County's settlement pattern. It also maintains that conventional arbitration does not bar an arbitrator from awarding one or the other party's proposal. In addition, the County asserts that the arbitrator considered the evidence on each of the PBA's stipend and non-salary proposals; explained her reasons for denying them; and calculated the total net annual economic changes for each year of the agreement. It acknowledges that it withdrew its proposals to amend Articles 14 and 16 and states both that it will continue to honor that agreement and that it is unnecessary to modify the award.

The standard for reviewing interest arbitration awards is now established and has been affirmed by the Supreme Court. We will not vacate an award unless 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. Teaneck Tp., P.E.R.C. No. 2000-33, 25 NJPER 450 (¶30199 1999), aff'd in part, rev'd and remanded in part on other grounds, 353 N.J. Super. 289 (App. Div. 2002), aff'd o.b. 177 N.J. 560 (2003); Cherry Hill Tp., P.E.R.C. No. 97-119, 23 NJPER 287 (¶28131 1997). Because the Legislature entrusted arbitrators with weighing the evidence,

we will not disturb an arbitrator's exercise of discretion unless the appellant demonstrates that the arbitrator did not adhere to these standards. Teaneck, 353 N.J. Super. at 308-309; Cherry Hill.

Within this framework, we have interpreted Reform Act provisions and provided direction concerning the analysis required of arbitrators. An arbitrator must provide a reasoned explanation for an award and state what statutory factors he or she considered most important in arriving at the award, explain why they were given significant weight, and explain how other evidence or factors were weighed and considered in arriving at the final award. N.J.S.A. 34:13A-16g; N.J.A.C. 19:16-5.9; Borough of Lodi, P.E.R.C. No. 99-28, 24 NJPER 466 (¶29214 1998). Once an arbitrator provides such an explanation, the burden is on the appellant to offer a particularized challenge to his or her analysis. Lodi; Cherry Hill.

A major issue before both the first and second arbitrators was the alleged pattern of settlement between the County and majority representatives of other negotiations units. At the November 13, 2001 hearing, the County asserted that its health benefits proposals had been accepted in six other negotiations units, including three law enforcement units. The County maintained that the representatives of these units had also accepted the salary, sick leave, retiree health benefit and

vacation proposals that it was offering this unit. It urged the arbitrator to maintain this alleged pattern and argued that to do otherwise would disrupt labor relations stability because it would discourage future settlements and undermine the morale of employees in other units. Before the second arbitrator, the County submitted two interest arbitration awards that it argues support the award of its wage and health benefits proposals -- an April 2002 award involving the County's police superiors unit and a January 2003 award, clarified in April 2003, involving the unit of detectives in the County prosecutor's office.

The County stressed that its health benefit premium costs had increased 10.5% overall during 2001 and argued that award of its proposals would help offset these escalating costs. In the remand proceedings before the first and second arbitrators, the County submitted a statement of actual and projected health care costs for this unit for 2001-2004, as well as projected savings should its proposals be implemented.

The PBA countered that the settlements the County reached with other law enforcement units in fact supported the award of its offer, because the County had agreed to substantial economic benefits in addition to the package offered to this unit. It also maintained that unit members were comparable to municipal police officers and were poorly compensated by that measure. Finally, it stressed that one-third of the unit had been laid off

in April 2001, resulting in an increased workload, forced overtime, and stressful working conditions. It maintained that this circumstance justified a somewhat differential treatment of corrections officers.

The original arbitrator issued two awards directing 4% increases for all unit members for each year of the agreement; awarding the County's clothing allowance proposal; and denying the remainder of both parties' proposals.[2/] The County appealed both awards, arguing in part that the arbitrator did not properly consider the settlements with other of its negotiations units. Our decisions emphasized that we expressed no opinion on the merits of the parties' proposals and made no finding either that there was a County-wide pattern on wages or health benefits or that an arbitrator should follow any such pattern. Union Cty. I set out the following principles:

> N.J.S.A. 34:13A-16g(2)(c) requires an arbitrator to consider evidence of settlements between the employer and other of its negotiations units, as well as evidence that those settlements constitute a pattern.
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> Pattern is an important labor relations concept that is relied on by both labor and management.
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> A settlement pattern is encompassed in N.J.S.A. 34:13A-16g(8), as a factor bearing on the continuity and stability of employment

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2/ His first decision awarded a three year contract for 2001-2003, with 4% increases each year. The second decision awarded 4% increases for 2001 through 2004.

> and as one of the items traditionally considered in determining wages. Thus, interest arbitrators have traditionally recognized that deviation from a settlement pattern can affect the continuity and stability of employment by discouraging future settlements and undermining employee morale in other units. [28 NJPER at 461]

After setting out this framework, we noted that while the arbitrator had stated that other units' acceptance of the proposals was "supportive but not persuasive," he had made no findings as to whether the settlements differed from the offer to this unit; the significance of any differences; and whether in fact there was a settlement pattern among the County's negotiations units. We remanded the award for him to make those determinations; discuss and apply the above-noted principles; and explain his weighing of the County's arguments and evidence concerning the settlements vis-a-vis the PBA's. 28 NJPER at 462. In Union Cty. II, we determined that the arbitrator had not made these findings and we therefore vacated the second award. We also remanded the case to the Director of Arbitration for appointment of a new arbitrator. Our second decision thus did not consider whether the arbitrator had complied with the other grounds of the initial remand.[3/]

3/ P.E.R.C. No 2003-33 had also directed the arbitrator to: (1) discuss the evidence on all of the County's operational proposals and explain his basis for accepting or rejecting them and (2) explain the salary award in the context of the statutory criteria, as well as his findings and analysis concerning internal settlements.

Against this backdrop, the second arbitrator's opinion and award reviewed the Union Cty. decisions and summarized the testimony presented at the November 2001 hearing, together with the supplemental material submitted. At the outset of her discussion, she stated that the awards of the three experienced arbitrators who had reviewed the County's proposals were relevant to her analysis and she framed the central issue as "whether the pattern of settlement within the County should dispose of the wages and health care issues." The arbitrator also made several factual findings. First, she concluded that "health care costs are a substantial portion of the new money costs" for the 2001-2004 contract, and cited the County's submissions showing actual increases in health costs for this unit of $140,799 in 2001; $159,997 in 2002; and projected increases of $157,068 and $176,775 for 2003 and 2004, respectively. Based on the County's documents, she found that its health benefits proposals would offset these amounts by $108,433.[4/] Second, she concluded that the officer-inmate ratio was the about the same as before the April 2001 layoff and that the workload increases, disruptions and forced overtime that had followed in its wake had been ameliorated to some extent by the time of the interest arbitration hearing. Finally, she stated that her review of the

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4/ The County stated that its 2004 costs would be offset by this amount if its proposals were awarded.

various settlements and awards showed that, except for minor differences, "the essence of the deals is the same as the one offered here."

The arbitrator also analyzed the evidence and arguments - including those pertaining to internal comparability and the alleged pattern of settlement - in light of the statutory criteria. For example, she wrote that the public interest was of paramount importance in deciding all of the disputed issues.

With respect to the comparabilty criterion, N.J.S.A. 34:13A-16g(2), she found that the most relevant comparisons were with other County law enforcement employees and corrections officers in other counties, as opposed to municipal police officers in Union and other counties. She noted that this conclusion had also been reached by the original arbitrator in this case and by the arbitrators in the police superiors and prosecutor's detectives units. Further, the arbitrator found that the substantial similarities among the settlements and awards created a "strong presumption" that a compatible result was warranted in this case.

The arbitrator gave "little weight" to the overall compensation and lawful authority criteria, stating that there was no evidence that award of either party's position would have an adverse impact on the County and commenting that the unit's

benefits were similar to, and compared favorably with, those of corrections officers in other counties.

In terms of the financial impact of the award and the continuity and stability of employment, she concluded that the County needed relief from burdensome and persistent increases in health care costs and that the award of its health care proposal would be beneficial to taxpayers in "small measure" in the near future but more significantly in the long run. She found the chief impact of an award that differed from the County's position would be to "disrupt the stability and harmony of labor relations within the jurisdiction."

Within this framework, the arbitrator concluded that the same wage pattern that had prevailed with respect to other County employees should be extended to this unit. She stated that there was a relatively small difference between the parties' proposed wage increases and that, because almost all officers were at the maximum step, the PBA's wage proposal would result in a maximum salary, by the end of the contract, only slightly higher than that proposed by the County. The arbitrator reiterated that the differences between the offer to this unit and the various settlements and awards were not significant, adding that in some cases the settlements reflected benefit enhancements that this unit had gained in earlier contracts. She noted that employees in this unit continue to enjoy benefits that other employees do

not and that unit members were at the higher end of the salary range for the various County negotiations units. She found that post-layoff working conditions and inmate-officer ratios were "insufficient to overcome the persuasiveness of the pattern argument."

Based on a similar analysis, she awarded the County's health benefits proposals, together with its proposed enhancements to sick leave, vacation and retiree health benefits. She concluded that nothing in the record supported a deviation from the health benefits pattern for corrections officers "notwithstanding their stressful working conditions, high level of professionalism and service." She reasoned that the costs of the health benefits changes were lower for unit members than for most other employees, presumably because the dollar amount contributions proposed by the County represented a lower percentage of corrections officers' salaries than the percentage paid by most other County employees.

With respect to the parties' non-salary proposals, the arbitrator applied the traditional arbitration principle that the party proposing a change bears the burden of justifying it. Teaneck, 25 NJPER at 455. We detail her discussion of each of the PBA's proposals later.

The gravamen of the PBA's appeal is that the arbitrator considered only the alleged settlement pattern among County

negotiations units - to the exclusion of the statutory factors -- and did not issue a true conventional award. We disagree. As the foregoing summary indicates, the arbitrator's consideration of the County's pattern argument was intertwined with her analysis of the statutory factors and she reasonably found that those factors supported an award consistent with the County's wage and health benefits proposals.

The arbitrator's analysis with regard to health benefits was thus grounded in the internal comparability component of N.J.S.A. 34:13A-16g(2); the public interest, N.J.S.A. 34:13A-16g(1); the financial impact of the award, N.J.S.A. 34:13A-16g(6); and the continuity and stability of employment and such other factors ordinarily or traditionally considered in determining wages, hours and employment conditions. N.J.S.A. 34:13A-16g(8). Similarly, the award of the wage proposals was based on considerations of the public interest; internal comparability; comparability with other corrections officers; and the continuity and stability of employment. N.J.S.A. 34:13A-16g(1),(2) and (8).

We recognize that the arbitrator's statutory analysis was framed by her statement that the substantial similarities among the settlements and awards created a presumption that a compatible result was warranted in this case. While the PBA objects to what it views as an overemphasis on pattern, the arbitrator's overall approach was consistent with the principles

set out in Union Cty. I and Union Cty. II: i.e., pattern is an important labor relations concept; deviation from a pattern can affect the continuity and stability of employment; and an employer-wide pattern on a particular issue must be carefully considered in assessing whether a party has met its burden of justifying a proposal consistent with the pattern.

Union Cty. II also stated that evaluation of whether a pattern should be followed with respect to a particular unit should take into account any unique considerations pertaining to that unit. The arbitrator made such an assessment when she discussed the post-layoff conditions that the PBA had highlighted and found that circumstances had stabilized by the time of the hearing and did not warrant departure from what she had found was a pattern with respect to wages and health benefits. In sum, the arbitrator's overall approach to analyzing the statutory factors and the parties' arguments concerning the alleged settlement pattern was consistent with the Reform Act. Although the PBA challenges some of the arbitrator's findings and conclusions, it has shown no basis to disturb her exercise of discretion in awarding the County's wage and health benefits proposals.

For example, the PBA disputes the arbitrator's statement that the police superiors and prosecutor's detectives awards supported her own award, citing the stipends and salary increases those units received. In addition, it cites a portion of the

police superiors opinion to the effect that "the County's proposals would stimulate the very problems it has indicated it wishes to avoid: poor morale, chaos and internal jealousies."

This arbitrator recognized that the other arbitrators had awarded senior officer stipends but, in response to the PBA's contention that this circumstance undercut the County's pattern argument, she noted that the stipends were the same as those that the corrections officers had obtained in their prior agreement.[5/] She thus concluded that the stipend awards did not provide a basis to depart from the County's wage and health benefits proposals. While the PBA maintains that the prosecutor's detectives were awarded higher stipends than members of this unit, the record indicates that the arbitrator directed 15 and 20-year stipends for detectives in the same amounts that corrections officers now receive. He concluded that the detectives already received consideration similar to the corrections officers' 10-year stipend and therefore did not award that part of the union's proposal. In this posture, the PBA has offered no basis to disturb the arbitrator's analysis.

Similarly, the above-quoted section from the police superiors award does not, when placed in context, militate against award of the County's proposals. The arbitrator's

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5/ The 15 and 20-year stipends were increased to current levels in 2000, the last year of the prior contract. The ten-year stipend was instituted at that time.

comments were directed to the fact that the County had opposed a stipend for that unit modeled on the corrections officers' stipend and, further, as part of a six-year contract from 1999 to 2004, had proposed split increases of 1.5%/1.5% for 2002 instead of for 2001. Moreover, while the PBA suggests that the police superiors received significantly different salary increases than what this arbitrator awarded, the two awards directed essentially the same increases for the 2001-2004 period in which the County alleged a pattern. Although the police superiors arbitrator did not award 3.5% increases for unit members "in-guide", the County now maintains that there are no guide steps for superior officers. In any case, because most corrections officers are at the maximum step, they received the same 4% increases for 2002 through 2004 that the police superiors were awarded.

Finally, the PBA contends that, in contrast to the police superiors and prosecutor's detectives proceedings, this record did not suffice to award the County's health benefits proposals However, it does not challenge the arbitrator's findings concerning the County's health benefits costs; the savings that would be realized from implementation of the changes for this unit; or her observation that corrections officers would pay a lower percentage of their salaries than many other County employees. We thus will not disturb the arbitrator's exercise of discretion. In this posture, the arbitrator reasonably

determined to give significant weight to the internal settlements and awards on wages and health benefits issues. Compare Teaneck, 25 NJPER at 458 (decision to place significant weight on increases received by other public safety employees consistent with the Reform Act).

We are also satisfied that the arbitrator followed the conventional arbitration process when she awarded the County's wage and health benefits proposals. As the PBA notes, we have repeatedly stated that fashioning a conventional award is not a precise mathematical process, and that setting wage figures involves judgment, discretion, and labor relations expertise. Lodi; City of Newark, P.E.R.C. No. 99-97, 25 NJPER 242 (¶30103 1999). While conventional arbitrators usually issue awards in between the parties' proposals, there is no requirement that they do so and no prohibition against a conventional arbitrator awarding one or the other party's proposal on one or more issues.

Thus, while the PBA urges that the arbitrator should have awarded provisions "in between" the parties' proposals, including health contributions less than those sought by the County, she was not obligated to do so. The contributions awarded were consistent with those in other units and they comprised a lower percentage of corrections officers' salaries than the percentage paid by many other County employees. The arbitrator found that the County had experienced a significant increase in health care

costs and that the contributions proposed by the County would partially offset them. In this context, the arbitrator was not required to discuss why lower amounts were not awarded. Similarly, the arbitrator had no obligation to issue an award in between the parties' wage proposals when she explained the basis for her award and the PBA has not shown that the record or the statutory factors required the arbitrator to award higher salary increases.

In sum, the essential requirements of conventional arbitration are that the arbitrator give due weight to the statutory factors; reach a reasonable determination of the issues; render an award supported by substantial credible evidence; and provide a reasoned explanation for his or her conclusions. For the reasons outlined above, we are satisfied that the arbitrator fulfilled these obligations.

We turn next to the PBA's challenge to the arbitrator's analysis of its proposals for a SOU stipend, an increase in the senior officer differential, a personal injury liability fund, a compensatory time-off bank, and a "food pick-up" provision. With respect to all of these proposals, the PBA argues that the arbitrator did not discuss the evidence; apply the statutory factors; or provide a reasoned explanation for her award.

In considering the senior officer differential, the arbitrator commented that the proposal would cost $144,000 over

the life of the contract and would entail a 10% increase in the first-level differential. She found that the PBA had not shown that the existing differentials were unreasonable and added that the PBA's contention that the taxpayer impact would be "inconsequential" did not meet its burden of showing a need for an increase.

Similarly, the arbitrator found that the PBA had not met its burden with respect to the SOU stipend, reasoning that all unit members were exposed to a very stressful environment; extreme emergencies did not happen very often; and there was thus no basis to add a stipend for the 10% of the unit that volunteers to be in SOU. Turning to the personal injury liability fund, she stated that there was no evidence concerning its costs, history or usage and, therefore, the PBA had not shown the need to increase employer contributions. Similarly, the arbitrator stated that the limited evidence on the "food pick-up" proposal indicated that it would require more than the twenty minutes leave time the PBA estimated. She found no reason to bind the employer to provide paid time off for one officer to obtain meals for others, when food was available at the jail and officers receive a $350 meal allowance. Finally, she concluded that the County had argued persuasively that the compensatory time bank would be costly and exacerbate staffing problems.

The arbitrator appropriately applied the traditional arbitration principle that a party proposing a change must justify it. Teaneck. The arbitrator also stated her reasons for denying all of the above proposals and the PBA does not challenge her findings; provide any particularized challenge to her analysis; or point to any evidence that the arbitrator did not consider or to which she could have applied the statutory factors. In that vein, we note that parties rarely argue, and arbitrators rarely find, that the full panoply of statutory factors is relevant to proposals such as those for food-pickup or a personal injury liability fund. See North Hudson Reg., P.E.R.C. No. 2004-17, 29 NJPER 428 (¶146 2003).

Moreover, the arbitrator's denial of the foregoing proposals does not indicate a failure to apply conventional arbitration. The arbitrator fulfilled her obligation to consider the evidence presented and explain her award. She was not required to award any particular number of proposals, although we note that she did award the eye care and orthodontic coverage that the PBA had sought, as well as its grievance procedure proposal.

For all these reasons, we will not disturb the arbitrator's decision to deny the foregoing proposals.

We address two final points: the PBA's argument that the arbitrator did not calculate the total net annual economic

changes for each year of the agreement, as required by N.J.S.A. 34:13A-16d(2), and its request that we modify the award.

An arbitrator satisfies N.J.S.A. 34:13A-16d(2) if he or she identifies what new costs will be generated in each year of the agreement; figures the change in costs from the prior year; and determines that the costs are reasonable. Rutgers, The State Univ., P.E.R.C. No. 99-11, 24 NJPER 421, 424 (¶29195 1998). We have declined to remand an award where the arbitrator has substantially complied with this requirement but has not referenced N.J.S.A. 34:13A-16d(2). See Teaneck. We reach that conclusion here.

The rationale underlying N.J.S.A. 34:13A-16d(2) is to require the arbitrator to identify the various economic changes flowing from the agreement and to make a determination that the overall package is reasonable. The arbitrator identified the total net economic changes when she calculated the annual costs of the County wage and clothing allowance proposals that she awarded, together with the projected savings from the County's proposed health benefits changes (Arbitrator's opinion at 26). She effectively found that those changes were reasonable when she concluded, first, that there would be no adverse financial impact on the County and, second, that the award would result in an overall compensation package that was consistent with that received by other County employees and other corrections

officers. No purpose would be served by remanding the award to require the arbitrator to expressly state that the total net annual economic changes were reasonable.

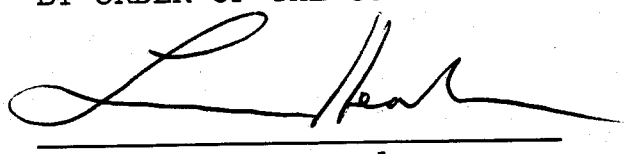
We turn to the PBA's request to modify the award. The PBA has submitted exhibits showing that, prior to the issuance of the first award, the County withdrew its proposals concerning the number of officers per day permitted to be on leave.[6/] The County acknowledges the withdrawals and the first arbitrator noted them in his initial opinion. Thus, the proposals were not before the arbitrator, although it is not clear that the exhibits the PBA has submitted to us were presented to her. In this posture, we will modify the award to excise the award sections that change Articles 14 and 16 by reducing the number of officers permitted to be on vacation, personal, or religious leave. See N.J.S.A. 34:13A-16f(5)(a) (Commission may correct or modify an award). This modification does not affect other portions of the award. Cf. N.J.S.A. 2A:24-9 (Court shall correct or modify an award where the arbitrator ruled on a matter not submitted, unless such action would affect the merits of the decision on the issues submitted). The award is otherwise affirmed.

6/ The exhibits include an April 17, 2002 letter from the County's attorney advising the PBA's attorney that the proposals were withdrawn, as well as a grievance settlement pertaining to the number of officers permitted to be on leave, which also so states.

ORDER

The arbitrator's award is affirmed with the modification that the changes to Articles 14 and 16 pertaining to the number of officers permitted to be on leave are excised.

BY ORDER OF THE COMMISSION



Lawrence Henderson
Chairman

Chairman Henderson, Commissioners Buchanan, DiNardo, Katz and Sandman voted in favor of this decision. None opposed. Commissioner Mastriani was not present.

DATED: March 25, 2004
Trenton, New Jersey
ISSUED: March 26, 2004