

**STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

**In the Matter of the Interest Arbitration Between:**

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**STATE OF NEW JERSEY  
(CORRECTIONS)**

**Employer**

**-and-**

**NEW JERSEY LAW ENFORCEMENT  
COMMANDING OFFICERS ASSOCIATION**

**Employee Organization**

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**Interest Arbitration  
Decision  
-and-  
Award**

**Docket No. IA-2011-013**

**Before  
Timothy A. Hundley  
Interest Arbitrator**

**For the Employer:**

**Jackson Lewis LLP  
Jeffrey J. Corradino, Esq.  
James J. Gillespie, Esq.**

**For the Employee Organization:**

**Law Offices of Mario A. Iavicoli  
Mario A. Iavicoli, Esq.**

On October 9, 2009, the Public Employment Relations Commission (“PERC”) certified the New Jersey Law Enforcement Commanding Officers Association (“Association”) as the exclusive representative of a sub-unit comprised of approximately 13 Directors of Custody Operations (“DOCOs”) employed in the Department of Corrections (“DOC”) and the New Jersey Juvenile Justice Commission (“JJC”).

During 2009 and 2010, the State and the Association engaged in collective negotiations for an initial agreement for the DOCOs, also referred to as Chiefs. The parties did not reach a voluntary settlement and, on October 27, 2010, the Association filed a Petition to Initiate Compulsory Interest Arbitration with PERC.

On December 30, 2010, PERC appointed me interest arbitrator pursuant to *N.J.A.C. 19:16-5.6(d)*. Accordingly, this case is governed by the interest arbitration procedures in place on December 30, 2010. *L. 2010, c. 105*, which took effect on January 1, 2011, establishes new interest arbitration procedures and timelines for petitions filed on or after that date. *See L. 2010, c. 105, §4 and PERC’s Frequently-Asked Questions, Interest Arbitration Procedures (March 14, 2011)*.

On July 20, 2011, I conducted a mediation session in an effort to resolve the many outstanding issues involved in negotiating an initial contract. However, the

impasse persisted. On October 6, 2011, the Civil Service Commission granted the DOC's request to reorganize and streamline its operations by creating a new title of Correction Major. The Correction Major position consolidated the functions that had previously been performed by DOCOs and Correction Captains (Exhibit S-19). All incumbents in the Captain and DOCO titles were laterally appointed as Correction Majors effective December 4, 2011. The DOCO and Captain titles were then deactivated (Exhibit S-19).<sup>1</sup>

On July 16, 2012, I conducted a second mediation session in an effort to resolve this negotiations dispute. However, an agreement was not reached and a formal interest arbitration hearing was conducted on October 11, 2012; December 17, 2012; and February 4, 2013.<sup>2</sup>

On the first day of hearing, the State moved to limit the scope of the proceeding to salary and uniform allowance. The gravamen of the State's position was that the Association's proposals on a range of contract language and other issues were moot in view of the Civil Service decision to abolish the DOCO title.

After hearing argument from both parties, I granted the State's motion to limit the presentation of evidence to the economic issues (1T14). The Association's attorney expressly reserved the union's right to proceed to interest

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<sup>1</sup> The JJC did not abolish the DOCO title but Michelle Shapiro, Human Resources Manager at JJC, testified that the last DOCO employed by that body retired on December 31, 2010 (1T39;1T126). Shapiro added that the JJC has no plans to hire any DOCOs and that it is using the Captain title to oversee custody operations (1T126).

<sup>2</sup> Transcripts of the hearing are cited as follows: 1T –October 11, 2012; 2T –December 17, 2012; 3T –February 4, 2013.

arbitration on the range of issues set forth in its petition, in the event the Civil Service decision is reversed by the courts and the DOCO title and sub-unit are reconstituted. I did not address that portion of the State's motion that sought to limit the award to the October 9, 2009 through December 4, 2011 time period. I consider that question *infra*.

At the hearing, the State and the Association each examined and cross-examined witnesses and introduced numerous exhibits into evidence. Post-hearing briefs were received by May 2, 2013 and the record was closed on that date.

The pre-2011 version of *N.J.S.A.* 34:13A-16f(5) called for an interest arbitrator to issue an award within 120 days of selection or assignment. However, the statute also permitted the parties to agree to an extension. Pursuant to this latter provision, the State and the Association have agreed to extend the time for issuing this award to July 1, 2013.

*N.J.S.A.* 34:13A-16f(1) requires that each party submit a final offer. The final offers of the State and the Association are as follows.

### **STATE'S FINAL OFFER**

#### **A. Salary**

1. The State proposes to pay a lump sum to former eligible DOCOs who were employed during the period from October 9, 2009 to December 4, 2011. The lump sum is a calculation based upon the 2% increases that other State of New Jersey Corrections law enforcement units

received on July 1, 2010 and January 1, 2011, respectively. Thus, the State specifically proposes the following regarding payment of the lump sum:

- a. Each unit member who was employed on July 1, 2010 and January 1, 2011 will receive a lump sum equal to 4% of his/her base salary as of October 9, 2009.
- b. Each unit member who was employed on July 1, 2010 but retired prior to January 1, 2011 only will receive a lump sum equal to 2% of his base salary as of October 9, 2009.
- c. Each unit member who was employed on October 9, 2009 but who retired prior to July 1, 2010 will not receive any lump sum.

**B. Uniform Allowance**

1. The State proposes to pay a pro-rata lump sum uniform allowance equal to the uniform allowance received under the Association's Captains Unit CNA for 2007-2011 (Exhibit S-9, p. 41), allocated from the time PERC certified the DOCO Unit (October 9, 2009) through reclassification (December 4, 2011). State Exhibit S-3, p. 4 explains the exact payment the State proposes for each member of the unit during the relevant period and the methodology for the calculation of that payment:

- \$446.25 for the January 2010 payment.
- \$917.50 for the July 2010 payment; and
- \$917.50 for the January 2011 payment.

**ASSOCIATION'S FINAL OFFER**

The Association's final offer, as set forth in its post-hearing brief, reads as follows:

**A. Salary**

1. The Association proposes to place the former DOCOs on salary range 29 retroactive to June 30, 2007 or, in lieu thereof, to adjust their

salaries to that of a Range 29 employee (Exhibit A-1, p. 24).<sup>3</sup>  
Accordingly, it seeks base compensation for the July 1, 2007 through June 30, 2011 years as follows:

- |    |                   |              |
|----|-------------------|--------------|
| a. | 7/1/07 to 6/30/08 | \$120,384.09 |
| b. | 7/1/08 to 6/30/09 | \$124,597.59 |
| c. | 7/1/09 to 6/30/10 | \$128,958.49 |
| d. | 7/1/10 to 6/30/11 | \$131,537.68 |
| e. | 7/1/11 to 6/30/12 | \$134,168.43 |

[Exhibit A-1, Exhibit 1]

2. The Association proposes wage increases to base compensation as follows:

- a. 3.5% effective July 1, 2007
- b. 3.5% effective July 1, 2008
- c. 2.0% effective July 1, 2010; and
- d. 2.0% effective January 2011.

[Association Exhibit A-1, pp. 24-25]

## **B. Uniform Allowance**

The Association proposes the following uniform allowance payments for all employees with at least one year of service on the dates listed below:

- \$867.50 in July 2007;
- \$867.50 in January 2008;
- \$892.50 in July 2008;
- \$892.50 in January 2009;
- \$892.52 in July 2009;
- \$892.50 in January 2010;
- \$917.50 in July 2010;
- \$917.50 in January 2011.

[Exhibit A-1, p. 48]

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<sup>3</sup> In its final offer as presented at the hearing, the Association sought adjustment to salary range 29 as of June 30, 2011 (Exhibit A-1, p. 24), although it also appended information showing the salaries for range 29 for 2007 through 2011. Similarly, while the Association lists the 7/1/2011 to 6/30/2012 compensation for range 29, it states that it does not seek any increase beyond June 30, 2011 (Association's brief, p. 9).

**C. Medical Benefits**

The Association seeks reimbursement of health benefits premium contributions that unit members made prior to the adoption of legislation making such contributions compulsory (1T43-1T44).

**STATUTORY FACTORS**

I am required to resolve this dispute based on a reasonable determination of the issues, giving due weight to those statutory factors set forth in *N.J.S.A. 34:13A-16*g deemed relevant. The nine statutory factors are as follows:

(1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

(2) Comparisons of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995, c. 425 (C:34:13A-16.2); provided, however that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c. 68 (C.40A:4-45.1 et seq.).

(6) The financial impact on the governing unit, its residents, the limitations imposed upon the local unit's property tax levy pursuant to section 10 of P.L. 2007, c. 62<sup>4</sup> (C40A:4-45.45), and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services; (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

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<sup>4</sup> In July 2010, N.J.S.A.40A:4-45.45 was amended by L. 2010, c. 44.



(9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by Section 10 of P.L. 2007, c. 62 (C.40A:4-45.45).

### **BACKGROUND**

The individuals involved in this proceeding are high-level commanding officers in DOC and JJC correctional institutions. Like all New Jersey corrections officers, they are empowered to act as officers for the detection, apprehension, arrest and conviction of offenders against the law. *N.J.S.A. 2A:154-4*.

Prior to the December 2011 reorganization, DOCOs were the highest level uniformed custody staff members in their assigned correctional facility. DOCOs worked under the direction of a civilian Administrator, Associate Administrator, Superintendent or Assistant Superintendent of the prison complex (Exhibit S-13). DOCOs were responsible for maintaining discipline among resident inmates and were charged with directing the overall operations of the custody staff.

Illustrative job duties included assigning supervisory custodial work; developing and implementing effective work procedures and staffing standards; and overseeing the institution and control of proper inmate traffic patterns. DOCOs also served as permanent members of an institution's inmate classification committee, and they performed a range of additional functions such as evaluating the fiscal needs of the custody unit; conducting grievance hearings; developing

emergency operation measures to address inmate disturbances; and providing recommendations regarding physical plant improvements, repairs, and alterations (Exhibit S-13).

As of October 9, 2009, the PERC-certified unit included 12 DOCOs with salaries ranging from \$107,092.66 to \$114,676.61 (Exhibit S-4). Two more DOCOs were appointed in 2010 but a total of nine unit members retired between March 31, 2010 and January 1, 2012. As a result, there are now five former DOCOs employed by the State as Correction Majors (Exhibit S-4).

In its October 2011 decision, the Civil Service Commission noted that Correction Captains worked under the DOCOs but that, pursuant to their job descriptions, Captains assisted in the overall supervision of the custody workforce and were authorized to act in the place of a DOCO in his or her absence (Exhibit S-19, p. 7). The Commission concluded that DOC's proposal to consolidate the Captain and DOCO titles was not arbitrary, capricious, or unreasonable. Further, the Commission commented that the decision to eliminate one layer of management was a "not unusual approach to better manage an organization" (Exhibit S-19, pp. 8-9).

Under the reorganization each institution is assigned two Correction Majors, a Correction Major for Security and Correction and a Correction Major for Administration. A single salary rate of \$116,000 was established for the position

and any former DOCO or Captain with a higher salary had his or her compensation “red-circled” until such time as the Correction Major salary exceeds his or her existing salary (Exhibit S-19, p. 10).<sup>5</sup>

The sole issues in this proceeding are salary increases; uniform allowance; the term of the award; and reimbursement of health benefit premium contributions. The State and the Association each urge that the nine statutory criteria weigh in favor of their respective proposals on these items. In support of their positions, the parties have submitted documentation concerning the State budget; agreements between the State and other law enforcement and civilian units; cost of living data; selected interest arbitration awards; and information on the compensation received by County Sheriffs in New Jersey and correctional employees in Pennsylvania and Delaware.

Gustav Bass, a former DOCO and the Association President, testified on behalf of the union, as did Major Matthew Kyle, who held the rank of Captain until December 2011. The State presented witnesses Robert Peden, Deputy Director of the State’s Office of Management and Budget; Michele Shapiro, Human Resources Manager with the JJC; and Kenneth Green, Director of the DOC’s Office of Employee Relations. Peden also submitted a written Budget Presentation. James J. Gillespie, Esq., testified for the purpose of authenticating several exhibits.

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<sup>5</sup> It appears that only former Captains are now in this position (Exhibit S-18). The top-step salary for a Captain was \$121,800 (2T33). As of October 9, 2011, the highest paid DOCO earned \$114,676.61 and most earned \$112,447.32 (Exhibit S-4).

In addition to this information and testimony, I have taken arbitral notice of the March 31, 2013 PERC Interest Arbitration Salary Analysis, as well as the Private Sector Wage Surveys prepared by the New Jersey Department of Labor and Workforce Development (NJWLD). These documents are posted on the Commission's website.

Recent legislation also has a bearing on this proceeding. *L. 2010, c. 2* ("Chapter 2"), pertains to all New Jersey public employees who are enrolled in a State or locally administered retirement systems. Chapter 2 mandates that these employees shall pay 1.5% of their base salary as a contribution toward health insurance premiums. It took effect on May 21, 2010, except for employees covered by a collective negotiations agreement in effect on that date. For those employees, the statute applies once the contract expires.

Finally, *L. 2011, c. 78*, signed on June 28, 2011 ("Chapter 78"), requires that public employees pay a statutorily-fixed percentage of the premium costs for their health benefits coverage. The applicable percentage depends on the employee's salary and the type of coverage chosen and is phased in over four years. The statute also increases the Police and Fire Retirement System (PFRS) employee contribution from 8.5% to 10% of the employee's base salary.

## **STATE'S POSITION**

The State vigorously argues that, based on an analysis of the statutory factors, the only reasonable decision is for the Arbitrator to select the State's final offer as presented.

### **Uniform Allowance**

With respect to the issue of uniform allowance, the State argues that the parties' offers are substantially the same when viewed in the context of the arbitral ruling on the scope of this proceeding.<sup>6</sup> It contends that the only difference between the parties is that the State's offer includes a 50% pro-rated payment for January 2010, a result that it urges is consistent with the fact that the unit was not certified until October 2009.

### **Public Interest and Financial Impact**

With respect to salary, the State maintains that the public interest and financial impact criteria strongly support the award of its own final offer. The State emphasizes that New Jersey's budgets for fiscal years 2009 through 2012 were severely strained. The State points to New Jersey's 9.9% unemployment rate (as of September 2012) and the consequent reduction in income tax revenues. Citing Peden's testimony, the State asserts that it has very limited resources available for salary increases for this and other units.

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<sup>6</sup> The State interprets my October 11, 2012 ruling as limiting the award to the October 9, 2009 through December 4, 2011 time frame.

The State also emphasizes that much of the budget is devoted to mandated pension contributions for State employees; non-discretionary debt service obligations; health benefit premiums; and post-retirement medical costs. With respect to the portion of the budget earmarked for all other appropriations, the State underscores that the largest category is State aid to municipalities and school districts, with much of the education aid also being mandated.

The State stresses that the Executive Operations category, which includes the DOC budget, accounts for only 11% of the FY-13 budget. As a result of the above-noted fiscal pressures, as well as a reduction in the total DOC inmate population, the State notes that the DOC appropriation was reduced by \$30 million or 2.8% between FY-12 and FY-13. JJC also experienced similar inmate and budget reductions.

Within this framework, the State insists that it has shown that it would be “completely out of line” to place DOCOs on a new salary scale, resulting in a 7% adjustment to base compensation, while also awarding them across-the-board salary increases. It remarks that this is especially so given that the Association has presented no economic evidence that undercuts the information that the State itself has submitted.

### **Comparisons with Other Employees**

The core of the State's position is that the parties' final offers must be considered in light of the State's strong pattern of internal settlement with its other law enforcement units. For the October 9, 2009 through December 4, 2011 time period, the State underscores that all five units representing DOC and JJC law enforcement employees agreed to increases of 0% effective July 2009; 2% effective July 2010; and 2% effective January 2011. It reasons that, consistent with the Appellate Division's decision in *Somerset County Sheriff's Office*, P.E.R.C. No. 2007-33, 32 *NJPER* 372 (156 2006), *aff'd* 34 *NJPER* 21 (8 App. Div. 2008), the same increases should be awarded here, and paid out in a single lump sum.

The State also emphasizes that the Association's offer far exceeds the adjustments received by public and private sector workers during the 2009 through 2011 time period. Indeed, the State adds that more recent voluntary settlements with its civilian units also weigh in favor of the employer's offer. Those increases were 0% effective July 1, 2011 and July 1, 2012; 1% effective July 1, 2013 and 1.75% effective July 1, 2014. Similarly, the State observes that a July 1, 2011 through June 30, 2015 agreement between it and the PBA 105 rank-and-file corrections officers unit included 0% increases for 2011 through 2013 for officers moving through the pay scale, followed by a 1% increase effective July 1, 2014.

The State also urges that its final salary offer is reasonable when the compensation of the former DOCOs is compared with those of the civilian prison administrators to whom they report. It contends that award of the Association's final offer would result in inappropriate wage compression and would cause DOCO salaries to exceed those of the higher-level civilian administrators. As of September 2012, Associate Administrators earned \$119,000 while Administrators had an annual salary of \$122,000 (Exhibits S-16 & S-17).

Finally, the State asserts that its offer is supported by a comparison of unit salaries with those in the comparable jurisdictions of Pennsylvania and Delaware, where the 2012 salaries of top-level corrections officers were \$102,797 (Pennsylvania) and \$113,671 (Delaware) (Exhibits S-21 & 22). The State also strongly rejects the Association's position that County Sheriffs in New Jersey are a relevant point of comparison. It reasons that Sheriffs are elected officials with county-wide responsibilities. The State adds that their salaries are in part controlled by statute.

### **Cost of Living**

In continuing its analysis of the relevant statutory factors, the State observes that the cost of living for the relevant time period must be taken into consideration. It points out that the CPI for New York and Northeastern New Jersey remained low for 2009 through 2011, increasing just 1.7% from 2009 to 2010 and 2.8% from



2010 to 2011. For Philadelphia and southern New Jersey, the State maintains that the pertinent figures were 1.9% from 2009 to 2010 and 2.6% for 2010 to 2011 (Exhibit S-26).<sup>7</sup> The State concludes that its offer closely tracks the CPI, while the Association's substantially exceeds it.

### **Continuity and Stability of Employment**

The State writes that *N.J.S.A.* 34:13A-16(g) requires a review of the parties' proposals in relation to the continuity and stability of employment. It writes that the courts have interpreted this criterion as encompassing such considerations as the rate of turnover; likelihood of layoffs; attrition; overall salary structure; and the rate of unemployment generally. The State comments that there is no evidence that layoffs; attrition or turnover are a concern for this unit. Therefore, it maintains that these factors do not warrant award of the Association's offer.

### **Statutory Restrictions on the Employer**

The State concludes its analysis by observing that *N.J.S.A.* 34:13A-16g(9) requires an arbitrator to consider any statutory restrictions imposed on the employer before issuing an award. While the State recognizes that many sections of the revised interest arbitration statute do not pertain to this proceeding, it nevertheless insists that the 2010 statute is a persuasive expression of public policy that must inform consideration of the State's final offer. In that vein, it stresses

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<sup>7</sup> This exhibit includes the "original data value" for the CPI-U for New York and Philadelphia.

that the 2010 statute prohibits an arbitrator from rendering an award that increases base salary on an annual basis by more than 2%.

Based on all of the foregoing, the State concludes that the only reasonable outcome is for the Arbitrator to award the State's final offer as presented.

### **ASSOCIATION'S POSITION**

The linchpin of the Association's analysis is that the former Chiefs or DOCOs are seeking a contract with wage increases; uniform allowance; medical benefits; and retroactive pay on exactly the same terms as set forth in the five contracts governing Senior Corrections Officers; Corrections Sergeants; Correction Lieutenants; Corrections Investigators; and (former) Corrections Captains. The Association urges that, pursuant to this principle, the award should span the July 1, 2007 through June 30, 2011 time period, consistent with the agreements governing the aforementioned uniformed employees. The Association also maintains that, before applying the across-the-board increases set forth in the corrections law enforcement agreements, the base compensation for the former Chiefs should be raised to salary range 29.

### **Public Interest and Financial Impact**

The Association maintains that the State can easily accommodate, within its existing budgetary framework, the award of a package that enhances base compensation and then includes across-the-board increases that mirror those

received by other law enforcement corrections units. It stresses that an award pertaining to this unit of 13 members will have a *de minimis* impact on DOC's overall budget. The Association also argues that these dedicated law enforcement officers should not be penalized because the State now has obligations —such as large employer pension contributions—that are the result of its own past decisions to forgo these payments.

### **Comparisons with Other Employees**

With respect to its proposal to enhance the base compensation of the former DOCOs, the gravamen of the Association's position is that each of the other superior officer correction ranks is three salary levels above the next lower rank, as follows:

Correction Officer	Range 18
Correction Sergeant	Range 21
Correction Lieutenant	Range 24
Corrections Captains (former)	Range 27
[Exhibit A-1, Exhibits 1 through 5]	

Consistent with this compensation structure, the Association maintains that the former Chiefs should be elevated to a range above that of the former Captains. It contends that its proposal for a two-step adjustment to salary range 29 is reasonable. The Association highlights that, prior to 2009, top-step Captains could earn more than the DOCOs to whom they reported.

The Association continues that compensation at salary range 29 is appropriate in view of the documentary evidence it has submitted concerning the salaries received by County Sheriffs in New Jersey. Sheriffs in Camden, Passaic, Union, and Bergen counties, receive annual compensation ranging from \$138,000 to \$148,909, while those in Morris, Mercer, Gloucester, Ocean, Somerset, Warren and Middlesex counties earn between \$122,250 and \$129,636 annually (Exhibit A-2).

### **Cost of Living**

The Association reasons that the cost of living criterion weights in favor of its salary proposal. It relies on Exhibit A-3, which shows that the cost of living in New Jersey is the third highest in the U.S., with only Hawaii and California being more costly. The document was prepared by CNBC.com and is based on data from the federal Bureau of Labor Statistics (BLS) (3T16-3T17).

### **Uniform Allowance**

With respect to the issue of uniform allowance, the Association asks the arbitrator to award uniform allowance payments that track those in the July 1, 2007 through June 30, 2011 agreement pertaining to the former Captains.

### **DISCUSSION AND ANALYSIS**

My consideration of the parties' proposals is governed by *N.J.S.A.* 34:13A-16g and pertinent Court and PERC decisions. I must indicate which of the factors

are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor. *N.J.S.A.* 34:13A-16g; *Cherry Hill Tp.*, P.E.R.C. No. 97-119, 23 *NJPER* 287 (¶28131 1997).

In addition, I note that *N.J.S.A.* 34:13A-16g(8) requires consideration of those factors ordinarily or traditionally considered in the determination of wages, benefits, and employment conditions. Accordingly, I have been guided by the decision-making principles that are typically used in deciding interest arbitration disputes. One such principle is that the party proposing a change in an employment condition bears the burden of justifying it. I have applied that principle to this proceeding.

The unresolved issues in this proceeding are limited to salary; contract duration; uniform allowance; and reimbursement of health benefits premium contributions. In arriving at an award, I am mindful of both the difficult and essential law enforcement services that these unit members perform, and the budgetary restrictions under which the State must operate.

In arriving at an award, I conclude that all of the statutory factors are relevant but that not all are entitled to equal weight. My weighing and balancing of the nine factors, particularly those pertaining to the public interest, financial impact, and comparisons with other employees, leads me to award salary increases and a uniform allowance that, for October 9, 2009 through December 4, 2011,

mirror the internal settlements between the State and its other uniformed correction officer units. These internal settlements implicate three statutory criteria: the public interest and welfare; comparisons with other employees; and the continuity and stability of employment. In addition, they also shed light on what the State, and several unions, believed constituted a reasonable salary determination in a challenging budgetary environment. Indeed, both parties urge adherence to this settlement pattern, albeit they have a different understanding of how it should apply in this case

Within this framework, the terms of my award are as follows:

1. **Salaries**

0% across-the-board salary increase effective October 9, 2009.

For all eligible former DOCOs employed on July 1, 2010, effective the first full pay period in July 2010, there shall be a 2.0% across-the-board salary increase applied to each employee's base salary in effect on June 30, 2010.

For all eligible former DOCOs employed on January 1, 2011, effective the first full pay period in January 2011, there shall be a 2.0% across-the-board salary increase applied to each employee's base salary in effect on December 30, 2010.

2. **Uniform Allowance**

A retroactive uniform allowance is awarded as follows:

\$892.50 in January 2010 for those employed on that date.

\$917.50 in July 2010 for those employed on that date.

\$917.50 in January 2011 for those employed on that date.<sup>8</sup>

### **Cost of the Award**

An integral part of the analysis mandated by *N.J.S.A. 34:13A-16g* is a costing out of the award. The State calculates that the cost of its uniform allowance proposal is \$23,705.00. The cost of this item under the award is \$446.25 more per eligible employee. Similarly, the State calculates the cost of its proposed lump sum salary payments as \$44,809.31. The cost of the salary increases under the award is virtually identical.<sup>9</sup> There are no increment costs under the award because the former DOCOs did not have an incremental salary guide and, further, a single salary rate was established for the Correction Major title.

The rationale for the award is set forth in the following discussion, in which I analyze the evidence on each statutory factor and describe how it relates to my decision to award the above-noted salary increases and uniform allowance payments. With that discussion as a foundation, I then address the Association's proposal for reimbursement of health benefits premium contributions.

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<sup>8</sup> Consistent with the State's spreadsheet in Exhibit S-3, Exhibit 2, Bass shall not receive the above-noted payments for January 2010 and July 2010 because he received uniform allowance payments as a Captain in July 2010 and January 2010, prior to becoming a DOCO on July 3, 2010. Stephen McWherter shall not receive the payment for January 2010 because he received a uniform allowance as a Captain on that date and became a DOCO on January 16, 2010.

<sup>9</sup> There is a slight divergence because the award includes the increases in base salary. As a result, the increase in January 2011 costs \$45 more per officer than under the State's proposal because the 2011 increase is calculated on a December 2010 salary of \$114,696.26.

## **SALARIES AND UNIFORM ALLOWANCE**

### **Interest and Welfare of the Public**

The public interest and welfare, *N.J.S.A.* 34:13A-16g(1), is a broad criterion that encompasses a review of an employer's financial circumstances and an analysis of the compensation package required to attract and retain a productive and high-morale law enforcement department. This statutory factor also encompasses the public interest in labor relations stability.

The New Jersey Supreme Court has underscored the central importance of the public interest in deciding interest arbitration disputes, *PBA Local 207 v. Bor. of Hillsdale*, 137 *N.J.* 71 (1994). Accordingly, I have given this multi-faceted criterion substantial weight. Moreover, because the "public interest and welfare" synthesizes and integrates several of the considerations enumerated in other statutory factors, my discussion of this criterion touches on some points that are addressed in more detail later in this opinion.

As a threshold matter, the public interest is pertinent to the issue of contract duration, and it favors a salary award that commences on October 9, 2009, when the DOCO unit was certified, and ends on December 4, 2011, when the DOCO title was deactivated. These dates delineate the time period when the State was under a legal obligation to negotiate over the terms and conditions of employment for the sub-unit. Accordingly, it is reasonable and appropriate to limit the award to this



time frame. While I appreciate that other uniformed corrections employees were covered by contracts that commenced on July 1, 2007, those long-established units were on a different legal and labor relations footing from this group.

Within this contractual framework, I am awarding across-the-board salary increases of 0% for 2009; 2% effective July 2010; and 2% effective January 2011. These figures parallel those in the five DOC law enforcement contracts (Exhibits S-5 through S-9) and the fiscal and compensation components of the public interest strongly favor the award of these adjustments.

In this regard, PERC has consistently held that maintaining an established pattern of settlement promotes harmonious labor relations, provides uniformity of benefits, maintains high morale, and fosters consistency in negotiations. *Essex Cty.*, P.E.R.C. No. 2005-52, 31 *NJPER* 86 (¶41 2005); *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 *Somerset* Court affirmed an award in which the arbitrator applied these principles.

Consistent with this strong internal settlement pattern, I have determined that the across-the-board increases should be included in unit members' base salaries, as was accomplished with all of the employees in the other corrections officers' units (Exhibit S-5, p.21; Exhibit S-6, p. 27; Exhibit S-7, pp. 25-26; Exhibit S-8, p. 24; Exhibit S-9, p. 21). While the State suggested that this practice would tend to

interfere with the compensation structure surrounding the creation of the new Correction Major title (1T26), I am not persuaded of this point.

The awarded increases are retroactive to dates that precede the deactivation of the DOCO title and, after the 2011 increase, they will result in unit members receiving a salary somewhat (\$990.18) above the established salary rate for the new position. However, the Civil Service Commission decision anticipated this type of scenario, and stated that such employees would have their compensation “red-circled” until such time as the Correction Major salary exceeds an employee’s existing salary (Exhibit S-19, p. 10). Some of the former Captains who are now Correction Majors are similarly situated. In this posture, the State has not demonstrated why the former DOCOs should be treated differently with respect to how their across-the-board increases are paid out.

The foregoing analysis is also pertinent to the issue of uniform allowance. Exhibits S-5 through S-9 show that employees in the other corrections officers units were entitled to uniform allowance payments in July 2007; January 2008; July 2008; January 2009; July 2009; January 2010; and January 2011, provided the officer had at least one year of service on the date of payment.

I have awarded uniform allowance payments that track those received by the former Captains, the group of employees most similar to the former DOCOs. However, the payments are awarded only for the October 9, 2009 through

December 4, 2011 time frame. Consistent with this approach, eligible former DOCOs shall receive the same January 2010; July 2010; and January 2011 payments that were received by the former Captains. However, they shall not receive the July 2009 or earlier payments. Because the corrections officers agreements provided for uniform allowance payments on a six-month rather than annual basis, it is not necessary to pro-rate the January 2010 payment, as the State suggests, to reflect the fact that the sub-unit was not certified for the entire July 1, 2009 through June 30, 2010 time period.

I turn next to the Association's proposal to adjust the base compensation for the former DOCOs. This issue cannot be resolved by examination of the internal settlements. However, my ruling is shaped by the unique circumstances of this case, where the sub-unit was certified on October 9, 2009 and the DOCO title was deactivated on December 4, 2011.

The Association has argued forcefully that in the years leading up to 2009 and continuing through 2011, some former Captains had higher salaries than the higher-ranked DOCOs, who were not organized. It has also submitted information showing that, within the correction officer chain of command, all other superior officers were three salary ranges higher than the rank below them. I also recognize that, during the October 2009 through December 2011 time period, the former DOCOs did perform the work outlined in the DOCO job description.

However, the salient point is that the DOCO title no longer exists; the DOCO and Captain duties have been consolidated into the Correction Major position; and a single salary rate has been established for that position. Officers whose compensation exceeds that rate have had their salaries red-circled, and the intent of the Civil Service Commission decision appears to be that, as future negotiations proceed, the compensation of former DOCOs and former Captains will merge into a single salary or pay scale. Permanently enhancing the base salary of former DOCOs to reflect duties that they no longer perform would run counter to this objective, and would lengthen the process contemplated by the Commission.

I note as well that information concerning the differentials between, *e.g.*, correction officer and sergeant and sergeant and lieutenant, does not automatically establish that a similar differential should have pertained between Captain and DOCO. The DOC asserted, and the Civil Service Commission found, that there was an overlap between Captain and DOCO responsibilities.

Finally, it is worth observing that the five former DOCOs who became Correction Majors received a 3.16% increase when that title was created and are well paid when compared to a broad spectrum of public and private sector employees. Thus, the 2011 Correction Major salary of \$116,000 is higher than for all private sector employment categories except managers of enterprises (\$137,028). For example it exceeds average wages in such areas as

finance/insurance (\$107,143); utilities (\$106,173); and professional and technical services (\$91,213). It is also higher than the average 2011 New Jersey private sector wage of \$56,888 and the average government salary of \$61,160 (2012 NJLWD Private Sector Wage Report).

In concluding a discussion of the public interest, some additional comments are warranted. The fiscal component of the public interest criterion is a critical factor in most interest arbitration proceedings. The record in this case amply demonstrates that, during the 2009 through 2011 time period, the State, like the nation as a whole, was still struggling to recover from a severe, almost unprecedented recession. New Jersey's high unemployment rate led to reduced income tax revenues, but the State still had to accommodate such non-discretionary expenditures such as debt service; employer pension contributions; post-retirement medical benefits; and education aid.

I have given substantial weight to these considerations by awarding across-the-board increases and uniform allowance payments that, like the State's final offer, are modeled on the settlements that the State negotiated with other corrections officers for 2009 through 2011. These settlements, including a 0% increase in 2009, are indicative of the State's own view of what constitutes a reasonable salary determination in a challenging budgetary environment.

### **Comparisons with Other Employees**

*N.J.S.A.* 34:13A-16g(2) is a multi-pronged factor that calls for a comparison of the wages, hours, and working conditions of the employees involved in the proceeding with employees “performing similar services” and “employees generally” in (1) private employment in general; (2) public employment in general; and (3) public employment in the same or similar comparable jurisdictions. The record includes data on each of these categories and I have carefully considered all the information submitted, and given the comparability criterion significant weight. However, like the parties, my primary focus is on comparisons with other State corrections officers.

The linchpin of my analysis is that the State has traditionally engaged in “pattern” bargaining with its correction officers units (1T42). As Exhibits S-5 through S-9 illustrate, the State has been successful in achieving uniformity among these units with respect to across-the-board salary increases for 2009 through 2011. In this posture, a consideration of the wages and compensation of employees “performing the same or similar services in the same jurisdiction” weighs strongly in favor of the awarded across-the-board rate increases, which parallel those in the noted settlements.

Consistent with this strong internal settlement pattern, I decline to award the State’s proposal to pay unit members’ a lump sum based on the settlements,

instead of folding the increases into base salary. The State has not set forth persuasive grounds for deviating from the practice of including the across-the-board increases in base salary. *See Union Cty., supra* (arbitrators must fully articulate the rationale for any decision to deviate from an internal settlement pattern).

At the same time, comparability considerations do not warrant award of the Association's proposal to adjust unit members' base compensation to salary range 29. Former Captains and former DOCOs now perform the same duties but, as adverted to in the public interest discussion, the Association's proposal would lengthen the timeline for achieving a unified salary rate for all employees now holding the Correction Major position. Moreover, the Association's proposal would result in former DOCOs receiving total salary increases well beyond those received by other State corrections officers or by public or private sector workers in general.<sup>10</sup>

The awarded across-the-board increases are also consistent with much of the other comparability information included in the record. Bloomberg BNA, Labor & Employment Resource Center, Exhibit S-24, shows the following average/median negotiated wage increases for state and local government workers throughout the U.S.

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<sup>10</sup> Under the Association's proposal, former DOCOs would, as of July 1, 2010, be advanced to a salary of at least \$131,537.68, well above the \$121,800 rate at which former Captains are red-circled. The Association then proposes that this salary be increased by 2%.

**2009            2.0%/2.0%**

**2010            1.3%/1.0%**

**2011            .09%/0.0%**

**[Exhibit S-24]**

Thus, the awarded 4% increase for October 9, 2009 through December 4, 2011 closely aligns with the average 4.2% increase, for calendar years 2009 through 2011, for all state and local government workers. It is also within the range of the median 3% increase.

For private sector employees nationwide, BNA reported increases higher than, but within the range of, the awarded increases for 2009 through 2011.

**2009            2.3%/2.5%**

**2010            1.6%/1.6%**

**2011            1.4%/1.0%**

**[Exhibit S-24]**

In New Jersey itself, the NJLWD reported a -0.7% decrease in average private sector wages for 2009, followed by an increase of 2.2% for 2010 and 2.1% for 2011, or a three-year annual average of 3.6%.<sup>11</sup>

I recognize that the awarded increases are lower than those reported by PERC for public safety employees statewide. *PERC's Salary Analysis* reflects

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<sup>11</sup> The NJLWD also shows increases in the average wages for all State, federal, and local government workers in New Jersey of 2.2% for 2009; 2.2% for 2010; and 2.4% for 2011. These figures represent changes in "total" wages and thus encompass such items as increments, not just negotiated wage increases.



these figures for interest arbitration awards and voluntary reported settlements for 2009 through 2011.

	<b>Awards</b>	<b>Voluntary Reported Settlements</b>
<b>2009</b>	<b>3.75%</b>	<b>3.60%</b>
<b>2010</b>	<b>2.88%</b>	<b>2.65%</b>
<b>2011</b>	<b>2.05%</b>	<b>1.87%</b>

Some of these awards and settlements were finalized before public employers began to feel the full budgetary impact of the economic downturn. In any case, however, the internal settlement pattern is the predominant comparability consideration in this proceeding. As noted, the award aligns with the salary increases and uniform allowance included in those settlements.

Moreover, the awarded increases are consistent with the developments that will unfold once the new interest arbitration statute is fully implemented. For all contracts expiring between January 1, 2011 and April 1, 2014, *L. 2010, c. 105* prohibits an arbitrator from rendering an award that increases base salary on an annual basis by more than 2%. Base salary is defined as “the salary provided pursuant to a salary guide or table and any amount provided pursuant to a salary increment, including any amount provided for longevity or length of service.”

### **Overall Compensation**

The overall compensation criterion, *N.J.S.A.34:13A-16g(3)*, requires the arbitrator to consider all the economic benefits received by the employees involved

in the proceeding, including direct wages, vacations, holidays, excused leaves, insurance, pensions and medical benefits. It thus directs a focus on all employee benefits, not just the items that are at issue in the proceeding.

The former DOCOs were not part of a negotiations unit until October 2009 and, as such, they did not have the full panoply of contractual benefits enjoyed by other State corrections officers. However, as of December 28, 2011, all Corrections Majors are part of the unit that previously represented Correction Captains, Supervising Conservation Officers, and Supervising Parole Officers (Exhibit S-9, Appendix 1; Exhibit S-20). It would thus appear that, from that date forward, they were subject to the provisions of Exhibit S-9.

This proceeding is limited to the economic issues of salary; uniform allowance; and reimbursement of health benefits contributions for the October 9, 2009 through December 4, 2011 time period. My resolution of these disputed issues is primarily shaped by the internal correction officer settlements cited by both parties. Within this framework, the overall compensation criterion is not a significant factor in my assessment of what base salary increases or uniform allowance to award.

### **Stipulations**

*N.J.S.A.* 34:13A-16g(4) requires the arbitrators to consider the stipulations of the parties. There are no stipulations in this matter.

## **Lawful Authority of the Employer; Statutory Restrictions on the Employer**

*N.J.S.A.* 34:13A-16g (5) mandates consideration of the lawful authority of the employer, including the limitations imposed by *N.J.S.A.* 40A:4-45.1a *et seq.*, commonly known as the appropriations CAP law (“1977 law”). *N.J.S.A.* 34:13A-16(g)(9), similarly directs an analysis of the statutory restrictions imposed on the employer, including specifically the new tax levy cap enacted in 2007 and amended in 2010. *See L. 2007 c. 62*, codified at *N.J.S.A.* 40A:4-45.44 through 45.47; *see also L. 2010, c. 44*.

These CAPs do not pertain to the State: they were designed to help control the costs of local government and limit increases in the local property tax. Nevertheless, the general language in *N.J.S.A.* 34:13A-16g(5) and (9) pertaining to the employer’s “lawful authority” and “statutory restrictions” do have application to this proceeding. They implicate such considerations as the constitutional requirement for a balanced budget, *NJ CONSTITUTION, Article VIII, Section II*, and recent legislation mandating that the State make employer pension contributions (1T83). In other words, these criteria, like *N.J.S.A.* 34:13A:16(g)(6), encompass fiscal concerns about the employer’s ability to fund an interest arbitration award.

*N.J.S.A.* 34:13A-16g(5) and (9) weigh in favor of the awarded across-the-board increases and uniform allowance. These items track the internal correction officer settlements and closely parallel the State’s own offer. Accordingly, I find

that the award will not cause the State to breach any statutory restrictions or overstep its lawful authority.

### **Financial Impact of the Award**

*N.J.S.A.* 34:13A-16g(6) requires an arbitrator to consider the financial impact of an award on the governing unit, its residents and taxpayers. As such, the factor has a strong overlap with the fiscal component of the public interest and with *N.J.S.A.* 34:13A-16g(5) and *N.J.S.A.* 34:13A-16g(9), which mandate a consideration of the legal restrictions imposed on an employer. However, the financial impact criterion directs a broader inquiry than 16g(5) and (9) since the legal ability to fund an award does not automatically signify that it is reasonable in view of the entity's overall financial picture. The financial impact criterion requires such an assessment and also directs an arbitrator to consider "to the extent evidence is submitted," the impact of an award on an employer's ability to initiate, expand, or maintain programs and services.

I have given *N.J.S.A.* 34:13A-16g(6) substantial weight in awarding moderate salary increases that mirror internal settlements and that are lower than those received by public safety employees statewide. I also conclude that my award will not have an adverse financial impact on the State or its residents and taxpayers.

The “Budget Highlights” section of the State’s FY 2013 Budget notes several recent positive developments, including increased State aid to schools; New Jersey hospitals; and a variety of other programs. Nevertheless, Peden explained that these developments take place within a budgetary framework in which discretionary spending is increasingly constrained by substantial mandatory expenditures for such items as debt service; education aid; employer pension contributions; and health benefits premiums for employees and retirees. Peden observed that spending for all Executive Departments represents only 11% of the total budget, and he noted that, because FY 12 revenues were less than estimated when the FY 13 budget was prepared, the projected surplus is also less than anticipated. In that regard, the surplus for FY 13 constitutes about 2% of the total budget, less than the 5% recommended by agencies (T81). Finally, Peden linked the State’s continued high unemployment rate to reduced income tax receipts, a circumstance that puts further pressure on the budget.

All of these circumstances are relevant given Peden’s testimony that the cost of the award must be funded from the current budget (1T121). Moreover, I underscore that this contract covers a time period, October 1, 2009 through December 4, 2011, when the unemployment rate rose sharply; mortgage foreclosures increased; and personal income declined. *See NJLWD, New Jersey Economic Indicators*, No. 516, p. 8 and No. 518, pp. 12-15 (describing economic

conditions in August and October 2009). During the term of this award, the State faced dramatic and extraordinary budgetary challenges, including a \$2.2 billion budget gap in 2009-2010 and a \$10.7 billion gap in 2010-2011 (FY 2010-2011 Budget In Brief, Letters from Gov. Christie and Lt. Gov. Guadagno).

Against this backdrop, the financial impact criterion weighs strongly in favor of an award that mirrors the internal correction officer settlements for 2009 through 2011. The State, and several majority representatives, concluded that a 0% increase for 2009; together with 2% increases effective July 2010 and January 2011, constituted a reasonable salary determination in a very challenging budgetary environment.

Conversely, *N.J.S.A. 34:13A-16g(6)* militates strongly against an award that, as proposed by the Association, would adjust unit members' base compensation from \$112,447.32 in 2009 (and \$116,000 after establishment of the Correction Major title) to \$131,537.68 in 2010 — before application of across-the-board increases that track those in the internal settlements.

The Association's salary proposal is not warranted in view of the deactivation of the DOCO title, but fiscal considerations also preclude increases at the proposed levels. In this vein, I am not persuaded by the Association's contention that unit members should not be penalized for the State's past budgeting

mistakes, particularly given the *de minimis* impact of its final salary offer on the overall budget.

Regardless of the origin of the State's budgetary problems, an award must take into account fiscal circumstances as they exist. Similarly, the small size of this unit does not support higher increases than were received by comparable corrections officers units. Such an approach would have a deleterious fiscal impact if espoused by, and adopted for, all employee groups.

For the foregoing reasons, I conclude that the awarded increases represent a reasonable determination of the salary dispute and will not have a negative effect on the State or its residents and taxpayers.

### **Cost of Living**

*N.J.S.A.* 34:13A-16g(7) mandates consideration of the cost of living, which is typically measured by the Consumer Price Index for all Urban Consumers (CPI-U) published by the BLS. The annual percentage change in the CPI-U for the New York and Philadelphia regions was as follows<sup>12</sup>:

	<b>New York</b>	<b>Philadelphia</b>
<b>2009 to 2010</b>	<b>1.7%</b>	<b>2.0%</b>
<b>2010 to 2011</b>	<b>2.8%</b>	<b>2.7%</b>

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<sup>12</sup> Exhibit S-26 is a BLS document showing the "original data value" for the CPI-U for these areas and time periods. The BLS website reflects the above-noted annual percentage changes, which are very close to those cited by the State.

Thus, the CPI increased 4.5% (New York) and 4.7% (Philadelphia) between 2009 and 2011. The awarded increase for the October 9, 2009 to December 4, 2011 contract term is somewhat lower than, but within the range of, these figures. Moreover, it should be recalled that the CPI-U includes increases in medical costs which, even under recent legislation, are still borne largely by the State.

Overall, I have given the cost of living criterion some weight in arriving at salary increases.

### **Continuity and Stability of Employment**

*N.J.S.A. 34:13A-16g(8)* directs a consideration of the continuity and stability of employment, including seniority rights and other factors ordinarily and traditionally considered in determining wages and employment conditions in public and private sector negotiations. It incorporates two concepts that have been discussed at other points in this award. The first centers on the importance of considering internal settlements, since unwarranted deviation from such settlements can undermine morale, discourage future settlements, and affect labor relations stability within a jurisdiction. The second principle is the desirability of providing for a competitive compensation package that will prevent excessive turnover, thus maintaining “continuity and stability in employment.”

When these principles are considered in the context of this case, the continuity and stability of employment criterion weighs strongly in favor of the



awarded salary increases and uniform allowance, which align with the settlements involving the other correction officer units.

Similarly, *N.J.S.A.* 34:13A-16g(8) reinforces the decision not to increase the base compensation of the former DOCO position. There is no evidence in the record that the State has had difficulty in attracting and retaining candidates for high-level command positions in the DOC and JJC, either before or after the creation of the Correction Major title.

#### **OTHER ECONOMIC PROPOSALS – REIMBURSEMENT FOR HEALTH BENEFITS**

At the arbitration hearing, the Association stated that it was asking the State to reimburse unit members for health benefits premium contributions remitted by unit members before Chapter 2 went into effect (1T43-1T44). Bass articulated this proposal but was unsure whether officers had contributed 1.5% or 2% of their salary (1T44).

I decline to award this item. The Association has not met its burden of justifying the proposal where it cannot quantify the amount of reimbursements it seeks. I note as well that, even prior to the enactment of Chapter 2 and Chapter 78, there was no prohibition against employees contributing toward their health benefits premiums. Further, some employers and unions had negotiated clauses requiring such payments.

## **AWARD**

### **1. Salaries**

0% across-the-board salary increase effective October 9, 2009.

For all former eligible DOCOs employed on July 1, 2010, effective the first full pay period in July 2010, there shall be a 2.0% across-the-board salary increase applied to each employee's base salary in effect on June 30, 2010.

For all former eligible DOCOs employed on January 1, 2011, effective the first full pay period in January 2011, there shall be a 2.0% across-the-board salary increase applied to each employee's base salary in effect on December 30, 2010.

### **2. Uniform Allowance**

A retroactive uniform allowance is awarded as follows:

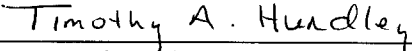
\$892.50 in January 2010 for those employed on that date.

\$917.50 in July 2010 for those employed on that date.

\$917.50 in January 2011 for those employed on that date.<sup>13</sup>

3. All proposals of the State and Association not awarded herein are denied and dismissed.

Dated: June 12, 2013  
Princeton, N.J.


  
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Timothy A. Hundley  
Arbitrator

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<sup>13</sup> Consistent with the State's spreadsheet in Exhibit S-3, Exhibit 2, Bass shall not receive the above-noted payments for January 2010 and July 2010 because he received uniform allowance payments as a Captain in July 2010 and January 2010, prior to becoming a DOCO on July 3, 2010. Stephen McWherter shall not receive the payment for January 2010 because he received a uniform allowance as a Captain on that date and became a DOCO on January 16, 2010.

State of New Jersey       }  
County of Mercer       }ss:

On this 12<sup>th</sup> day of June 2013, before me personally came and appeared Timothy A. Hundley to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.

  
Virginia G. Hundley  
Notary Public of New Jersey  
My Commission Expires 6/22/2015