

FISH AND WILDLIFE OFFICERS GUILD

And

STATE OF WASHINGTON

SUPPLEMENTAL DECISION AND AWARD OF ARBITRATOR

PERC # Case 132969-I-20

And

Case 132968-M-20

JEFFREY W. JACOBS

ARBITRATOR

October 22, 2020

IN RE ARBITRATION BETWEEN:

FISH AND WILDLIFE OFFICERS GUILD

and

STATE OF WASHINGTON

**SUPPLEMENTAL DECISION AND AWARD OF
ARBITRATOR**

PERC # 132969-1-20 & 132968-M-20¹

APPEARANCES:

FOR THE UNION:

Jim Cline, Cline and Associates
Troy Thornton, Cline and Associates
Shanleigh Kennedy, Cline and Associates
Kate Kremer, Labor Consultant
Isabel Van Vladriken, WDFW Officer
Officer David Jones, WDFW Officer
President of the FWOG
Ralph Downes, WDFW Officer
Hwa Kim, WDFW Officer
Keith Kirsch, WDFW Officer
Ryan Valentine, WDFW Officer
Glen Steffler, WDFW Officer
Taylor Kimball, WDFW Officer
Jason Snyder, WDFW officer

FOR THE STATE:

Gil Hodgson, State Office of the Attorney General
Suzanne Liabraaten, State Office of the Attorney General
Thomas Knoll, State Office of the Attorney General
Siobhan Murphy, State Labor Negotiator, OFM
Nona Snell, Ass't Director of OFM
Leslie Connelly, Budget Analyst for OFM
Angie Gill, Policy Analyst, OFM
Captain Bob Weaver
Deputy Chief, Paul Golden

PRELIMINARY STATEMENT

The original decision and award was issued on September 29, 2020. The parties requested clarification of certain other issues and requested that one issue that was omitted be decided now.

ARTICLE 14.8 A-C: The State proposed changes in this article based on HF 2739. These changes were proposed as follows:

- 14.8 A. An employee receiving industrial replacement benefits may not receive greater than twenty-five percent (25%) of their base salary from the receipt of shared leave. All forms of paid leave available for use by the recipient must be used prior to using shared leave when qualified under Section 14.3 19 A.1.
- B. Shared leave may be used intermittently or on nonconsecutive days so long as the leave has not been returned under Section 14.9 of this Article. All forms of paid leave, except sick leave, available for use by the recipient must be used prior to using shared leave when qualified under Section 14.3 24 A.2 or 14.3 A.3, or 14.3 A.4.
- C. ~~For shared leave qualified under subsection 14.3.A.5 of this Article, the employee is not required to deplete all of their vacation leave and sick leave 2 and can maintain up to forty (40) hours of each of vacation and sick leave.~~

¹ PERC's September 1, 2020 letter requires that the "I" designation be used in future references.

The Guild proposed to continue the current contract language without changes to the present language. The Guild argued that the changes are unnecessary and that retention of current language would be in the best interest of the affected officers.

Here, the changes proposed by the State were both consistent with the language of HF 2739 and were not shown to adversely impact the affected officers in a material way sufficient to warrant retaining the current language. On these unique facts, there was sufficient evidence to warrant the changes proposed by the State.

Based on a review of the positions and the exhibits submitted at the hearing the State's position based on the language of HF 2739 is awarded.

ARTICLE 41.9 A-D: The State proposed retaining the current contract language of Article 41.9 A-C and deleting only Article 41.9 D, which pertains to registered nurses. The resulting change would have altered the numbering from the current language as well.

The Guild seeks to delete the entire section and asserted that the current language did not apply to the bargaining unit.

As discussed in the original award,² the provisions may well apply to this bargaining unit and there was insufficient evidence to establish how the section did not apply to the bargaining unit. Based on that, the State's position is awarded and the language of 41.9 A-C is to be retained in the new CBA. Only section 41.9 D is to be deleted.

ARTICLE 41.29

The State seeks the deletion of the entire section. The State argued that this section simply adds cost to the contract, which, as it argued all along, was contrary to the specific instructions not to add additional cost to the contract given the State's claimed financial situation.

² The original award made the mistaken assumption that the parties both wanted 41.9 A-D deleted. This was an error, as only 41.9 was agreed to be deleted. As discussed though, there was insufficient evidence as to how or why the current coalition language would not apply to the bargaining unit or what adverse impact retaining the language would have if it were to be retained.

The Guild seeks to retain the entire section and argued that there was no evidence to support the claim that these officers would not be eligible for this payment. It was clear that they are currently eligible for such pay upon the conditions set forth in the current language. Thus, there is no “additional” cost to the State if the language is retained.

Based on the overall evidence and the Guild’s persuasive assertion that this provision does not add cost, but merely potentially retains any such costs the Guild’s position is awarded with regard to Section 41.29. There was also insufficient evidence to demonstrate a compelling need for a change in this language. Accordingly, the Guild’s position is awarded.

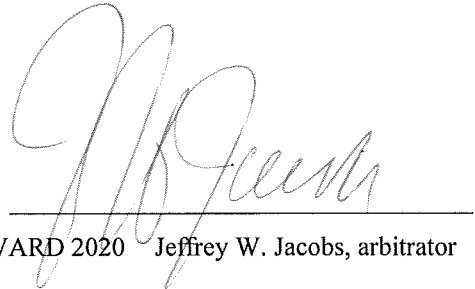
SUMMARY OF AWARD

ARTICLE 14.8 A-C – The State’s position is awarded.

ARTICLE 41.9 A-C – The State’s position on Article 41.9 A-C is awarded. Article 41.9 D is deleted for the reasons stated above.

ARTICLE 41.29 – The Guild’s position is awarded.

Dated: October 22, 2020



Supplemental Fish and Wildlife Guild and State of Washington Interest AWARD 2020 Jeffrey W. Jacobs, arbitrator