

**IN THE MATTER OF FACTFINDING
BEFORE ARBITRATOR BRADLEY A. AREHEART**

In the Matter of Factfinding between

CITY OF HELENA, MONTANA,

and

Issues: Wages, Health Insurance, Longevity

**INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, LOCAL 448**

Appearances for the Parties:

For the Union: Nate McConnell
IAFF, Local 448
Via Email to: nate@natemconnelllaw.com

For the Employer: Rebecca Dockter
City Attorney
City of Helena
Via Email to: rdockter@helenamt.gov
Aimee Hawkaluk
Assistant City Attorney
City of Helena
Via Email to: ahawkaluk@helenamt.gov

The parties selected Brad Areheart to hear the interest arbitration between the City of Helena, Montana (“City” or “Employer”) and the International Association of Firefighters Local 448 (“Union”). The parties submitted prehearing statements. A hearing was then held virtually by Zoom on October 17-18, 2024. Both sides were given a full and fair opportunity to present their cases. The following witnesses testified at the hearing:

For the City:

Renee McMahon, Human Resources Director
Mike Chambers, Assistant Fire Chief
Sheila Danielson, Finance Director
Jon Campbell, Fire Chief

For the Union:

Owen Koeppen, Captain, Helena Fire Department/Union Negotiator
Dave Maslowski, Lieutenant, Helena Fire Department/President of Local 448
Mike McDaniel, Captain, Helena Fire Department/Union Negotiator

At the conclusion of the hearing, it was agreed that both sides would have until November 15, 2024 to submit posthearing briefs. An extension of one additional week was sought by the City and the Arbitrator granted that request. The hearing was declared closed on November 22, 2024. The parties waived the MCA § 39-31-309 requirement for the factfinder to submit his findings of fact and recommendations within 20 days of his appointment and agreed that he could do so within 60 days of the receipt of briefs (or January 22, 2025), following the evidentiary hearing.

I. ISSUES

The parties submitted the following issues to the factfinder for a recommendation.

1. Section 12, Wages
 - a. Union Proposal: wage increases, based on median wage of Class I cities, and 4% for each of the following two years.
 - b. Employer Proposal: 3.5% wage increase for first year, and then cost of living adjustment based on what other City employees receive in second and third years.
2. Section 28, Health Insurance
 - a. Union Proposal: Current MOU language.
 - b. Employer Proposal: Same health insurance plan as other City employees.
3. Section 27, Longevity Pay
 - a. Union Proposal: \$0.79 raise per month for each year of service.
 - b. Employer Proposal: No change.

II. RELEVANT CONTRACT AND STATUTORY PROVISIONS

Recent CBA, Section 8 (Prevailing Rights)

Criteria to be used by all parties when evaluating prevailing rights (i.e. past practice): 1. That it is known by both parties as an accepted practice; 2) That it has occurred over a period of time and on more than one occasion; and 3) Readily ascertainable over a reasonable period of time as a fixed and established practice accepted by both parties.

Recent CBA, Section 12 (Fire Department Salary Matrix):

Employees in each rank* will be compensated on an hourly basis using the following formula to determine the respective hourly wage: multiply the current hourly wage times the current average annual hours worked (2434.93) and divide this product by the number of annual hours to be worked

under this Agreement. The methodology used for determining the wage adjustment is the median of the Class I cities, Helena is not included in the comparison.

Recent CBA, Section 27 (Longevity):

All members of the bargaining unit will receive \$16.71 per month for each year of service from their respective anniversary date. Prior continuous city employment will be credited for longevity calculations.

Recent CBA, Section 28 (Health, Dental, and Vision Coverage):

The City will contribute to health insurance premiums in the same amount as it contributes to the same plan for City employees not included in a bargaining unit. Employees will participate in the City of Helena's dental, vision and life insurance program at no cost to the employee.

MONT. CODE §39-34-103. Powers and duties of arbitrator for firefighters and public employers.

- (1) The arbitrator shall establish dates and a place for hearings and may subpoena witnesses and require the submission of evidence necessary to resolve the impasse.
- (2) Prior to making a determination on any issue relating to the impasse, the arbitrator may refer the issues back to the parties for further negotiation.
- (3) At the conclusion of the hearings, the arbitrator shall require the parties to submit their respective final position on matters in dispute.
- (4) The arbitrator shall make a just and reasonable determination of which final position on matters in dispute will be adopted within 30 days of the commencement of the arbitration proceedings. The arbitrator shall notify the board of personnel appeals and the parties, in writing, of the determination.
- (5) In arriving at a determination, the arbitrator shall consider any relevant circumstances, including:
 - (a) comparison of hours, wages, and conditions of employment of the employees involved with employees performing similar services and with other services generally;
 - (b) the interests and welfare of the public and the financial ability of the public employer to pay;
 - (c) appropriate cost-of-living indices;
 - (d) any other factors traditionally considered in the determination of hours, wages, and conditions of employment.
- (6) The determination of the arbitrator is final and binding and is not subject to the approval of any governing body.

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Since the possibility of arbitration looms over a factfinding procedure, it is reasonable for a factfinder to use the standards set out in § 39-34-103(5). Moreover, a factfinder is not bound to choose one side's view of any issue (i.e., issue by issue final offer arbitration). A factfinder ought to try and craft a package that best approximates the intent of the parties. Doing so may better facilitate settlement and thus save the parties the cost of a separate arbitration proceeding.

III. FINDINGS OF FACT

General Information

The City operates a fire department to provide fire suppression and other emergency services to the residents of Helena. 39 of the 43 individuals employed by the fire department are represented by the Union. All members of the Local 448 are City of Helena employees. There are 36 employees assigned to fire suppression (three battalion chiefs, six captains, 18 firefighter II's and five firefighter I's) and three are employed in fire prevention (one fire marshal, one deputy fire marshal, and one fire inspector).

Fire suppression employees work 2434 hours per year, which amounts to about 47 hours per week. Suppression employees work 24 hours on, 48 hours off, and a Kelly day after five shifts in a 15-day period. Fire prevention employees work 2080 hours per year and work either four or five days per week.

Helena is the capital of the state of Montana. It has approximately 32,100 residents, according to the 2020 census. It is a "first class" city according to Montana law. Mont. Code ("MCA") § 7-1-4111. Other first-class cities include: Billings, Bozeman, Butte, Great Falls, Kalispell, and Missoula. The cities provide a natural group within which to compare. Helena is sixth in population, with only the Class 1 city of Kalispell having fewer people.

The City claims that the fire department in Helena has been able to successfully recruit and retain firefighters. Assistant Chief Chambers testified that since he came to Helena seven years ago, he has been responsible for hiring 22 employees and the City has, on average, received 22-35 applicants per opening. There was also testimony from several City witnesses that no departing firefighters have cited wages as a reason to leave employment with the City. M. Chambers, Day 2, at 6:13:30 and 6:57; J. Campbell, Day 2, at 9:06-9:08; R. McMahon, Day 2, at 01:19:55.

Bargaining

The City and Union have been signatory to a series of collective bargaining agreements, the most recent of which expired on July 1, 2024. The parties appear to have held nine bargaining sessions this year. City Br. at 1, 4, 11. They have also held one mediation session, and resolved most of the open issues. However, they were not able to agree on the following issues: Wages, Longevity, and Health Insurance. As such, the parties requested factfinding in accordance with MCA § 39-31-308.

Fire Departments Across Class 1 Cities

Different cities take different approaches to structuring their fire departments. Each city's fire department has negotiated a different number of hours, and they all differ from the number of hours negotiated in Helena. Un. Ex. 5 (Bozeman is 2547; Great Falls is 2190; Billings is 2272; Kalispell is 2432; Missoula is 2184; and Butte is 2190).

Another difference between fire departments concerns positions and duties. Some cities have positions that other cities do not have. Some cities have firefighter ("FF") titles that appear to rest

solely upon a certain number of years in class (e.g. Missoula has a 10-year and 15-year FF and Bozeman has a 2-year and 3-year FF), while others have titles that rest upon promotion by duties (e.g., Provisional FF, Confirmed FF, FF I, and FF II). While some positions exist in all cities (Provisional FF and Captain), other positions exist only in some cities (e.g., only Helena and Missoula have a Confirmed FF and only Butte has a FF III). Ultimately, no other Class 1 city has the exact same set of positions as Helena.

Even for those cities that have the same titled positions as another city, there may be differences in the corresponding duties. Here, the Union did not rely on job titles but sought to ensure that the job duties being performed by certain positions match the duties performed by the same positions in other cities. To use just one example, the Union claims that its Firefighter IIs perform duties that correspond with those of Engineers in most cities. So even though Kalispell has a Firefighter II, the Union does not compare its Firefighter II pay to Kalispell’s Firefighter II pay. It takes the position that Kalispell’s Firefighter IIs do work that better corresponds with the work performed by Confirmed Firefighters in Helena.

Matching Up Firefighter Ranks Across Class 1 Cities

The Union has sought to match up firefighter ranks across Class 1 cities. They note the hourly rate of pay for each classification. Below is a table taken directly from Union Exhibit 5, which shows how the Union lines up these positions across cities.

Table 1

FY2025 Median Wage Adjustment July 1 2024- July 1 2025														
		Helena	Bozeman	Wage	Great Falls	Wage	Billings	Wage	Kalispell	Wage	Missoula	Wage	Butte	Wage
		FY24	FY25		FY25		FY25		FY25		FY25		FY25	
Annual Hours		2434.93	2547		2190		2272		2432.04		2184		2190	
BC	Hourly	43.4415			BC	45.65	BC	52.4208			BC	49.6999		
CAPT	Hourly	36.991	CAPT	41.2710	CAPT	39.5	CAPT	45.4199	CAPT	33.77	CAPT	45.7456	CAPT	40.8656
LT	Hourly	33.8553			LT	37.16					15yr FF	39.2656		
FFII	Hourly	31.2561	ENG	36.1352	ENG	35.11	ENG	38.1064	ENG	29.55	10 yr FF	36.9342	FFIII	33.83
FFI	Hourly	28.1119	3rd YR FF	29.7543	FFI	30.72	FFI	29.6767	FFII	28.98	FF 1st Class	35.3056	FFII	33.57570
CFF	Hourly	27.33	2nd YR FF	28.4718	FF	29.26	FF	28.5522	FFI	28.14	CFF	32.4942	FI	33.3078
PFF	Hourly	24.6513	PFF	27.1894	PFF	27.79	PFF	24.1525	PFF	25.33	PFF	28.5456	PFF	28.3973

Un. Exh. 5.

The City has argued that job duty mapping is not the best way to compare pay. In many situations, Helena does not have enough comparison points. The City would have the factfinder instead use job titles, and only for positions that are commonly held across Class 1 cities: Provisional FF, Confirmed FF, FFI, FFII, Lieutenant, and Battalion Chief. This provides a reasonable vantage point for assessing whether Helena’s firefighter pay is competitive.

There was testimony that rank-to-rank comparisons were made in 2020, but that the issue did not come up in 2021, 2022, or 2023. The issue did come up in the most recent rounds of negotiation, but not until meeting 5 or 6. J. Campbell, Day 2, 8:56. According to the City, Helena is the only Class 1 city that determines wages based upon a rank-by-rank comparison; the others base

raises on a flat percentage increase that applies to all fire employees. M. Chambers, Day 2, at 06:06:00.

Hourly Rate of Pay Versus Annualization

The Union’s approach to determining wage adjustments under Section 12 is to consider the hourly rate of pay in different Class 1 fire departments (as shown above) and to compare those rates of pay. This results in its proposed wage rates, which are the median of those paid in other cities and reflected in the table below.

Table 2

MEDIAN						
FY25 Hourly			Increase	Annual Increase	FTE's	TOTAL
BC	\$49.6999					
		14.41%	\$ 6.2584	\$ 15,238.77	4	\$ 60,955.06
CAPT	\$41.0683					
		11.02%	\$ 4.0773	\$ 9,927.88	7	\$ 69,495.19
LT	\$38.2128					
		12.87%	\$ 4.3575	\$ 10,610.21	7	\$ 74,271.45
FFII	\$35.6226					
		13.97%	\$ 4.3665	\$ 10,632.09	18	\$ 191,377.55
FFI	\$30.2372					
		7.56%	\$ 2.1253	\$ 5,174.89	1	\$ 5,174.89
CFF	\$28.9061					
		5.77%	\$ 1.5761	\$ 3,837.69		\$ -
PFF	\$27.4897					
		11.51%	\$ 2.8384	\$ 6,911.25	2	\$ 13,822.49
					39	\$ 415,096.64

Un. Exh. 5

The Employer’s proposed approach is to annualize the salaries in different cities by multiplying the cities’ hourly wages (by rank) by the number of hours they work to determine an annualized wage. M. Chambers, Day 2 at 6:34. The City argues this way of analyzing wages is fair since the shifts and hours vary so much from city to city. Assistant Chief Chambers claimed that annualization is the only way to compare apples to apples. M. Chambers, Day 2 at 05:39:50 and 06:47. The City observed that annualized pay would currently slot Union members between 4th and 1st for pay when compared with other Class 1 cities. City Exh. 14, tab: “annualized no sec. 13.” Moreover, the City argues that it does not follow that because Local 448 negotiated more annual hours than other city’s fire departments, it should automatically enjoy better pay than so many of the other cities.

The Affordability of Proposed Wage Increases

The Union’s proposal to increase wages flows from its methodology of comparing job duties to match up ranks, and then comparing the hourly rate of pay associated with those matched positions. It has found the median associated with each rank and proposes that amount for FY25. In years 2

and 3, the Union asks for a 4% increase. The City’s proposal is to offer a 3.5% increase in FY 25 (the first year of the contract). For FY26 and FY27, the proposal is to pay the same cost of living adjustments (COLA) as it does to the rest of City of Helena employees. Those COLAs would be determined by the annual budget process. R. McMahon, Day 2, 1:01:23.

The Union’s proposed raises would cost approximately \$518,870, once retirement, workers compensation, and FICA are added to the base wage increase. The table below reflects these amounts:

Table 3

%	Wage Increase	\$ 415,096.64
0.1436	FURS	\$ 59,607.88
0.1064	FICA, Wrk Comp, Etc	\$ 44,166.28
	TOTAL IMPACT	\$ 518,870.80

Un. Exh. 5.

In contrast, the City’s proposal of a 3.5% increase in FY 25 would cost approximately \$137,813. Exh. 14, Tab: “3.5% Impact.”

The City argues that it cannot afford to pay the increase sought by the Union. Ms. Danielson testified that the General Fund is the default funding source for all funds in the City. When a specific fund is depleted, the General Fund compensates for it. The main source of revenue for the General Fund is the property tax levy. The City notes property tax increases are limited by statute to half the rate of inflation over the prior three years. City Exh. 4; MCA § 15-10-420. The City projects \$302,000 in unallocated general revenue for FY25. City Exh. 17, at 6. That amount does not reflect a COLA for city employees, nor does it reflect the Union’s wage proposal. The City argues the current holding of only \$302,000 shows they cannot afford the Union’s proposal, which would cost more than all the unallocated general revenue. After a COLA for city employees and other budgetary adjustments, the City only has \$198,000 in unallocated funds to spend on the Union’s wage increase. The City argues that the Union has not sufficiently considered the City’s ability to pay.

The Union responds that the City can indeed afford the Union’s proposal. They point to Ms. Danielson’s statement, “we could implement the union’s proposal.” S. Danielson, Day 2, 8:26:51. The Union notes that there is already \$302,000 in unallocated revenue which was intended to fund the 3.5% increase for city employees. It further argues that the City has not proven that it is in poor economic condition or has a true inability to pay for the raise sought by the Union.

Health Insurance

The Union seeks a continuation of the health insurance benefits it currently has under an MOU that was signed in 2022. Under that MOU, employee premiums were the same as the current proposal but deductibles and out of pocket maximums were substantially less (\$1,200 less per year). The Union claims that the City failed to negotiate over health insurance premiums as it is required to

do. There is currently an arbitration pending regarding the claim for failure to negotiate health insurance premiums.

The City responds that the MOU only applied to FY 2023 and is thus inapplicable to the current negotiation. They contend that each year’s budget is developed year by year. The City also claims that they have no control over the insurance plans offered by Montana Municipal Interlocal Authority; they cannot modify deductibles or out of pocket maximums. The most the City can do is offer a generous wage proposal to help offset any increased health insurance costs—which it says it has done with the proposed 3.5% increase.

The City acknowledges that it must bargain over health insurance matters, but it also notes the Union has historically accepted the health insurance rates that the City provides to all employees. The City claims that the Union has never sought to negotiate insurance rates. Finally, the City notes that the Union’s proposal is not affordable because were the City to offer a different benefits package to the Union, it would have to offer the same benefits to all City employees.

Longevity Pay

The Union seeks a \$0.79 increase to longevity pay. That would take the longevity bonus from \$16.71 to \$17.50 per month for each year a firefighter has been employed with the City.

The City seeks to keep the status quo longevity payments the same. They note that \$16.71 per month multiplied by the number of years a firefighter has been employed is already inequitably high compared to other City employees. Finally, the City notes that the longevity bonus offered by the City is only \$0.29 off the median longevity bonus in Class 1 cities.

Cost of Living Indices

The parties said very little about cost of living during the hearing. However, in light of it being a statutory factor for interest arbitrations in the firefighter space, the factfinder has considered the cost-of-living issue. I find Helena to be an especially expensive place to live, relative to other Class 1 cities.

According to salary.com and livingcost.org, Helena has the most expensive overall cost of living among larger cities in Montana. Cost of Living in Montana, <https://www.salary.com/research/cost-of-living/mt> (updated 12/24/2024); Cost of Living in Montana: 6 Cities Compared, <https://livingcost.org/cost/united-states/mt> (updated 10/10/2024).

I understand the conventional wisdom is that Bozeman is the most expensive city in Montana. That understanding appears to be driven in large part by the skyrocketing cost of real estate. Even if the cost of real estate is the focus, Helena comes out as the median among Class 1 cities.

Table 4

Montana City	Typical Home Price
Bozeman	\$623,962
Kalispell	\$607,775
Missoula	\$512,346

Helena	\$428,038
Billings	\$367,116
Great Falls	\$284,175
Butte	\$251,812

Source: SoFi, Cost of Living in Montana, <https://www.sofi.com/cost-of-living-in-montana/> (updated 04/2023).

In sum, even if Helena is not the most expensive of the Class 1 cities, my research disclosed that it is near the top. In light of this additional information, the Union’s proposed wages seem especially justified.

IV. OPINION

Interest arbitration is intended to be a last resort for resolving contract disputes when the parties cannot reach a mutual agreement on a collective bargaining agreement. When called upon to break an impasse, interest arbitrators should proceed cautiously. As a substitute for a bargained resolution, interest arbitration proceedings should approximate the intent of the parties and produce a result that most likely would have been reached absent the arbitrator’s intervention. Interest arbitration is not a forum for wholesale contract revisions absent compelling external factors.

Of course, this is not an arbitral proceeding, but rather factfinding. Even so, the general cautionary precepts associated with interest arbitration apply to interest factfinding. The function of factfinders is to investigate and assemble all of the facts surrounding disputes. Following the investigation, a report is made that includes recommendations and which, unlike the findings of an arbitrator, the parties have a choice of accepting or rejecting. With the expansion of collective bargaining in the public sector, state statutes often make provision for the use of factfinding as a way to resolve impasses that arise during negotiations. Montana is one such state and has a Part of its state statute devoted to bargaining, factfinding, and interest arbitration. Montana Code Section 39, Chapter 31, Part 3.

Issue 1. Wages

The City says the language of Section 12 is not in dispute (and the factfinder should recommend its inclusion in the new CBA). The source of the disagreement is “what methodology to use in order to fairly and equitably determine median wages and whether the City can use other similar communities in addition to Class 1 cities to fact-check the outcomes when looking at a broader market.” The City claims that the Union’s base wage proposal is inflated because of its methodology (i.e., simple rate of pay versus the City’s annualization) for comparison. They frequently refer to the Union’s approach as “wage padding.” The reason for this is because the Union’s negotiated annual hours of 2434.93 is higher than in all but one other Class 1 fire department. So, granting the Union the median hourly rate of pay across Class 1 cities would, on average, place its members’ take-home pay near the top. On the other hand, the Union argues it is constantly playing “catch up” with other Class 1 cities—that it achieves fair wages with each new CBA but does not keep pace with the market in subsequent years.

Further, the City argues that it cannot afford to pay the increase sought by the Union. The City cannot just create additional revenue for itself. The City noted that Montana law constrains its ability

to raise taxes and fund the increases proposed by the Union. The City says that the proposed 3.5% increase is fair in light of its study regarding how other fire departments in the state are paid.

I find the Union's wage rate comparison, and especially Owen Koeppen's testimony on the matter, to be persuasive.

First, it has long been the Union's methodology to compare hourly wage rates across cities held by firefighters in comparable positions. J. Jacobs Arbitration Decision (2010), at 6. The Jacobs decision is persuasive evidence that the parties have bargained wage increases on a per-position basis in the past, and the City has not offered persuasive evidence of an alternative practice. Id. at 16. There was also testimony during the hearing to support this as a practice between the parties. M. McDaniel, Day 1, 1:07:04; O. Koeppen, Day 1, 2:11:50. I am persuaded the Union's methodology is a prevailing right under Section 8 of the CBA.

Second, annualizing firefighter pay does not make sense. Firefighters are fundamentally hourly workers. They are not exempted under the FLSA and are entitled to overtime based on an hourly wage. Even if they are sometimes paid monthly, that does not make them salaried. As such, it was reasonable for the Union to use an hourly rate to compare wages across Class 1 cities.

Third, if the parties find the job comparison methodology does not lend itself to an apples-to-apples comparison across cities or that market factors have made that approach unworkable, they can renegotiate the issue in the future. Interest arbitrators should not upset past practices regarding contractual language. As such, I will not depart from what appears to be the historical approach of mapping firefighters in other cities by their job duties and then comparing their median hourly compensation.

As such, I recommend the Union's proposed wage increase for FY 25 based on how past wage increases have been accomplished. Here, I have also considered the high cost of living in Helena. For FY26 and FY27, I recommend that the City pay the Union the higher of either the COLA provided to other City employees or the annual CPI-U for Montana ending in the month of the contract year's expiration. This will ensure Union members receives wages that are at least consistent with inflation.

Regarding affordability, it is a bit tautological for the City to contend that it does not have budgeted the amount sought by the Union. If that were a sufficient defense, a public employer could simply set their own internal budget for what it was prepared to offer and leave it at that. I find that the testimony elicited at the hearing indicates the City is in reasonably healthy financial shape to compensate firefighters in the way it has traditionally done so.

Issue 2. Health Insurance

For health insurance, the current CBA states that the City will contribute to health insurance premiums in the same amount as it contributes to the same plan for City employees not included in a bargaining unit. It also says that participation in said insurance will be at no cost to the employee. These requirements seem to be met in the new proposed measure.

Additionally, I am persuaded that the MOU was not entered into for perpetuity. As such, I recommend the City's new health insurance rate structure be applied to firefighters.

Issue 3. Longevity Wages

For longevity wages, the testimony is a bit muddled. The City says it is high compared to other City employees. The Union says it is seeking a modest increase and that the City can afford it.

I am persuaded that the current longevity bonus is reasonably competitive and fair—especially considering the wage increases I am recommending. I recommend no increase for longevity wages.

V. RECOMMENDATIONS

The recommendation for each issue is as follows:

1. Wages: I recommend the inclusion of Section 12 in the new CBA. Based upon that clause, past practices interpreting it, and the high cost of living in Helena, the City should increase pay for the Union's FF positions. Those increases should be based on median FF wages in Class I cities, as reflected in Table 2. In years 2 and 3 of the CBA, increases should be the higher of the COLA other city employees receive or the prior year's CPI-U for Montana ending in the month of the contract year's expiration.
2. Health Insurance: The City should provide the same health insurance benefits that other city employees receive (*status quo*).
3. Longevity Pay: The current longevity bonus should remain intact (*status quo*).

The factfinder examined all statutory factors, as well as arguments raised by the parties, in making his decision.



Bradley A. Areheart, Arbitrator

Date: January 21, 2025