Improving Societal Outcomes in Dispute Resolution Between Local Governments and Fire Fighters in British Columbia

by

Felim Donnelly

B.A., University of British Columbia, 2012

Project Submitted in Partial Fulfillment of the
Requirements for the Degree of
Master of Public Policy

in the
School of Public Policy
Faculty of Arts and Social Sciences

© Felim Donnelly 2015

SIMON FRASER UNIVERSITY

Spring 2015

All rights reserved.
However, in accordance with the *Copyright Act of Canada*, this work may be reproduced, without authorization, under the conditions for "Fair Dealing." Therefore, limited reproduction of this work for the purposes of private study, research, criticism, review and news reporting is likely to be in accordance with the law, particularly if cited appropriately.

Approval

Name: **Felim Donnelly**

Degree: **Master of Public Policy**

Title of Thesis: ***Improving Societal Outcomes in Dispute Resolution Between Local Governments and Fire Fighters in British Columbia***

Examining Committee: **Chair:** Doug McArthur
Director, School of Public Policy, SFU

J. Rhys Kesselman
Senior Supervisor
Professor

Dominique M. Gross
Supervisor
Professor

Joshua Gordon
Internal Examiner
Assistant Professor

Date Defended/Approved: March 9, 2015

Partial Copyright Licence

The author, whose copyright is declared on the title page of this work, has granted to Simon Fraser University the non-exclusive, royalty-free right to include a digital copy of this thesis, project or extended essay[s] and associated supplemental files ("Work") (title[s] below) in Summit, the Institutional Research Repository at SFU. SFU may also make copies of the Work for purposes of a scholarly or research nature; for users of the SFU Library; or in response to a request from another library, or educational institution, on SFU's own behalf or for one of its users. Distribution may be in any form.

The author has further agreed that SFU may keep more than one copy of the Work for purposes of back-up and security; and that SFU may, without changing the content, translate, if technically possible, the Work to any medium or format for the purpose of preserving the Work and facilitating the exercise of SFU's rights under this licence.

It is understood that copying, publication, or public performance of the Work for commercial purposes shall not be allowed without the author's written permission.

While granting the above uses to SFU, the author retains copyright ownership and moral rights in the Work, and may deal with the copyright in the Work in any way consistent with the terms of this licence, including the right to change the Work for subsequent purposes, including editing and publishing the Work in whole or in part, and licensing the content to other parties as the author may desire.

The author represents and warrants that he/she has the right to grant the rights contained in this licence and that the Work does not, to the best of the author's knowledge, infringe upon anyone's copyright. The author has obtained written copyright permission, where required, for the use of any third-party copyrighted material contained in the Work. The author represents and warrants that the Work is his/her own original work and that he/she has not previously assigned or relinquished the rights conferred in this licence.

Simon Fraser University Library
Burnaby, British Columbia, Canada

revised Fall 2013

Ethics Statement

The author, whose name appears on the title page of this work, has obtained, for the research described in this work, either:

a. human research ethics approval from the Simon Fraser University Office of Research Ethics,

or

b. advance approval of the animal care protocol from the University Animal Care Committee of Simon Fraser University;

or has conducted the research

c. as a co-investigator, collaborator or research assistant in a research project approved in advance,

or

d. as a member of a course approved in advance for minimal risk human research, by the Office of Research Ethics.

A copy of the approval letter has been filed at the Theses Office of the University Library at the time of submission of this thesis or project.

The original application for approval and letter of approval are filed with the relevant offices. Inquiries may be directed to those authorities.

Simon Fraser University Library
Burnaby, British Columbia, Canada

update Spring 2010

Abstract

The labour market for fire fighters in British Columbia exhibits serious inefficiencies. Fire fighters' salaries are excessive relative to the supply of labour, while demand for traditional fire suppression activities continues to decrease. These inefficiencies leave society as a whole worse-off since public funds that could be productively spent on other valued purposes are diverted to fire fighter salaries. An important and remediable contributor to the problem is the collective bargaining dispute resolution process, binding arbitration.

This study assesses several options for changing the arbitration process to correct the problem. Since the issue is common across North America, the analysis includes case studies of other jurisdictions. The study recommends: changes to the criteria arbitrators must consider; changing to a form of final-offer selection; and consideration of tripartite impasse panels. The provincial government should closely monitor the outcomes of any new system to ensure that changes effectively address the problem.

Keywords: Fire fighters; municipal labour relations; dispute resolution; collective bargaining; interest arbitration

Dedication

To my parents, who sacrificed so that I would always have the best opportunities; and to my siblings, who have been such an important part of the journey from the beginning.

Acknowledgements

Special thanks to Nancy Olewiler and Rhys Kesselman for their support through this process. Professor Kesselman's patience, experience, and insight made this a stronger paper and I am very grateful for his hard work as supervisor. Joshua Gordon's input as examiner is also greatly appreciated.

I would like to thank my interviewees for the generous volunteering of their time and expertise, and everyone who helped me work through the issues of a complex topic.

A big thank-you to my thesis group and my friends and classmates in the School of Public Policy for their teamwork and camaraderie; it is my hope that the passion we shared shines through in this paper.

Last, this work would not have been possible without my parents' unconditional and selfless support and encouragement for me through twenty years of education. They, along with so many others who lent me support, share a part of this thesis.

Table of Contents

List of Tables

List of Figures

List of Acronyms

BCPFFA	British Columbia Professional Fire Fighters Association
BCTF	British Columbia Teachers' Federation
CAO	Chief Administrative Officer
CUPE	Canadian Union of Public Employees
ESSC	Emergency Services Steering Committee
FOA	Final Offer Arbitration
GVLRA	Greater Victoria Labour Relations Association
GVRD	Greater Vancouver Regional District
IAFF	International Association of Fire Fighters
LRB	Labour Relations Board
MLA	Member of the Legislative Assembly
MPP	Member of Provincial Parliament
NDP	New Democratic Party
NYCCBL	New York City Collective Bargaining Law
OCB	Office of Collective Bargaining
PERB	Public Employment Relations Board
PERC	Public Employment Relations Commission
UBCM	Union of BC Municipalities

Executive Summary

Municipalities in British Columbia are responsible for the provision of fire services that keep their citizens safe. The labour market for fire fighters, however, displays serious inefficiencies. An oversupply of labour indicates that wages are much higher than necessary to attract qualified applicants, while the demand for traditional fire suppression services continues to decline. Consequently, the money that is diverted to unnecessarily high wages is unavailable for other local government priorities – everything from library services to recreation activities. Foregone priorities include, paradoxically, public safety, as money that is spent on wages could instead be allocated to new and better equipment.

The process by which local governments set their fire services budgets is complex and includes input from city administration, union membership, city councils, and fire chiefs. A distinct and important step in this process, however, is negotiation for collective agreements. Since the conventional dispute resolution tools of strike and lockout have adverse consequences for public safety, binding arbitration is the ultimate means for the parties to resolve impasses in British Columbia.

The outcomes of arbitration, however, fall within a narrow range of possibilities. This predictability has helped entrench a set pattern of collective bargaining in the province. The first few agreements set a trend that is nearly impossible to break, especially for smaller municipalities. Fire fighter locals have been much more successful than municipalities at bargaining strategically to maximize the gains of an initial contract, and this strategic coordination can result in many municipalities going for years without new contracts. Besides feeling the impact of years of increases as one lump-sum cost at budget time, local governments are unable to bring wages in line with the realities of supply and demand for fire fighters in the labour market. Money is taken from other services, or taxes are increased, to cover new wage increases in each successive deal.

Local governments have been aware of these problems for many years, petitioning the provincial government in 2011 and again in 2014 to review the guiding piece of legislation, the *Fire and Police Services Collective Bargaining Act* (henceforth, the *Act*). Nor is the problem unique to British Columbia: municipalities in Ontario formed

the Emergency Services Steering Committee (ESSC) to coordinate responses to spiralling emergency services wages. A reform bill in that province was introduced to amend the rules of binding arbitration, coming before the legislature in 2012. To date, though, political barriers in both provinces have proved too high to overcome.

What can be done to remedy the situation? First, the provincial government must acknowledge the problem and its own responsibility in setting the rules of collective bargaining and dispute resolution. A wealth of information exists to aid in designing a better system, particularly from other jurisdictions that have struggled with the problem. Several of these case studies are examined in this paper, with lessons for BC's government.

Second, although municipal employers in the province will never achieve the homogeneity in negotiating efforts or even goals and priorities that union locals possess, they must find a way to coordinate more effectively in the interim. There is a clear need for a stronger collective voice from municipalities on the issue and leadership to defend local governments', and society's, greater interests.

Third, and most importantly, the *Act* must be amended to fundamentally change how unions and employers interact. Impasse procedures are a large contributor to the problem, and this has been amply demonstrated over the 20 years since the *Act* was instituted in 1995. This study explores options for reform and recommends that arbitration outcomes should become less predictable, integrate more labour market considerations, and that the process should give more power to the parties. More extreme measures such as an awards cap or compensation commission are not recommended, but could have a place in the future.

The issue of fire fighter wages has a real and significant impact on local governments in British Columbia, and by extension their citizens. Although it is hard to divorce from other questions about the provision of fire services in modern urban areas, it deserves unique scrutiny and immediate attention. A major finding of this study is that dispute resolution procedures are hard to get right, and must be continually evaluated to ensure that outcomes are desirable. Undoubtedly, though, any of the options suggested

here would improve the status quo of labour relations around the province; and the citizens of British Columbia will be better off for it.

Chapter 1. Introduction

Municipalities in British Columbia are responsible for much of the provision of fire services within their borders. In providing these services, which are essential for the safety of BC's population, municipalities interact with the local labour market for fire fighters. In the province today, this market exhibits significant distortions.

In a recent hiring process by the City of Vancouver, the number of applicants exceeded the number of available positions twenty-three times to one. Municipalities note that retention rates among fire fighters are among the highest in any department. Fire fighters have seen wage increases twice that of inflation for more than a decade, significantly more than other unionized public employees and other first responders. In dollar terms wages and benefits exceed most comparable employee groups. Yet at the same time, the incidence of fires in real and per capita terms has fallen; fire departments respond to twenty times as many medical calls as they do fires (City of Vancouver, 2012). These are signs that the labour market is inefficient, with consequent excessive compensation relative to the supply of labour.

The expectation that cities provide a level of service proportionate to the need for that service is not met in the provision of fire services. Why? Although the causes of the imbalance are myriad, one is both distinct and a suitable target for policy reform: municipalities face significant constraints when interacting with the labour market. Both municipal employers and fire union employees are subject to binding interest arbitration in the event of an impasse in bargaining. According to cities, this process leaves them without reprieve from a cycle of artificially high wages. This process has ramifications far beyond the signing of one contract. In the words of labour relations scholars, "public safety collective bargaining dispute resolution is a central public policy concern" (Roberts & McGill, 2000, p. 28).

The Union of BC Municipalities has twice called on the province to review the *Fire and Police Services Collective Bargaining Act*, the piece of legislation that provides

guidelines for the interest arbitration process. A review of arbitration decisions supports the cities' assertion that the *Act* incentivizes arbitrators to award fire unions with wages that are not aligned with the fundamentals of the labour market. In this regard the problem is not unique to BC; in 2012 a push from municipalities in Ontario resulted in a bill to reform Ontario's counterpart legislation reaching the provincial legislature.

The study examines this problem with the goal of providing recommendations for changes to the *Act*. The aim of these changes is to integrate more labour market forces into the process and thereby improve the collective bargaining and dispute resolution system in British Columbia.[1] The study's analysis follows from a narrowly-defined public policy problem: *the collective bargaining and dispute resolution system in British Columbia as determined by the Fire and Police Services Collective Bargaining Act contributes to inefficiencies in the labour market for fire fighters in British Columbia's municipalities.*

Ultimately, addressing this issue would improve the efficiency of fire services provision, preserving public safety and fair working conditions while freeing up resources for other services. This in turn would benefit all British Columbians.

1.1. Organization of the Study

The study is organized as follows. Chapter 2 outlines the paper's methodology. Chapter 3 provides the context and background for the issue, including the legislative framework, major stakeholders, and labour market dynamics. Following is Chapter 4 which overviews the genesis and implementation of the *Act* and identifies its role in BC's status quo.

Chapter 5 reviews the literature on labour relations in the public sector. Case studies of other significant jurisdictions are found in Chapter 6. Chapter 7 outlines the

[1] Changing the *Act* would affect the dispute resolution framework for both fire and police services. While many of the same problems apply to the issue of police services provision, examining both services is beyond the scope of this project. The project will not be taking into account the effect of changes to the *Act* on police services, though this is worthy of future study.

primary options for reform, while Chapter 8 provides the framework that the study uses to assess these options. This assessment is provided in Chapter 9. Chapters 10 and 11 offer recommendations and a conclusion.

Chapter 2. Methodology

In order to investigate the policy problem and evaluate options for reform, the study employs several methodological approaches.

First, to examine the causes of the policy problem and its history, the study summarizes the debates in the BC legislature when the *Act* was introduced. Transcripts from *Hansard* show the goals of the government at the time, which problems were identified in the debate, and how they were addressed. Next the project offers a cursory overview of arbitration decisions since 1995 to illustrate how the *Act* was implemented and interpreted.

Second, the study makes use of extensive literature on the subject of public sector labour relations, dispute resolution, and arbitration. This has several purposes: it situates the problem by allowing a comparison of the situation in BC with the theory; it informs analysis of the problem by citing well-studied dynamics in labour relations; and it provides options for reform that the project can then critically assess.

Third, selected case studies are examined. These case studies are useful in understanding how other jurisdictions have coped with similar problems, often over a larger timeframe. They are particularly important for the study's analysis of policy options. These case studies were selected based on the jurisdictions' experiences with this issue and the availability of analysis and commentary.

Last, the study employs semi-structured interviews with key participants in local organizations. These include municipal and elected officials, lawyers, arbitrators, and other professionals. The interview results are not published in the paper but inform all aspects of the study, from problem identification through option identification and analysis.

Chapter 3. The Fire Fighter Labour Market and Collective Bargaining: A Major Public Policy Problem

3.1. Legislative Context and Major Stakeholders

In British Columbia, municipalities provide local fire protection services; most municipalities establish and maintain local fire departments. The *Fire Department Act*, *Community Charter,* and *Local Government Act* provide regulations for fire services. Although municipalities are not required to establish fire departments, fire inspection services are mandated under the *Fire Services Act*. Both paid and volunteer firefighters are utilized across the province, though the larger a municipality the higher is the percentage of paid firefighters (Bish, 2008).

The British Columbia Professional Fire Fighters Association (BCPFFA) represents career fire fighters in British Columbia; there are 53 Association locals in BC. The Association is part of the parent International Association of Fire Fighters (IAFF), a union representing more than 300,000 full-time fire fighters and paramedics in North America, with headquarters in Ottawa and Washington (IAFF, 2014). Approximately 3800 career fire fighters work in BC and are represented by the BCPFFA (BCPFFA, 2014). The fire fighter union has the third-biggest membership of unions representing BC municipal employees, behind the Canadian Union of Public Employees (CUPE) and the British Columbia Teachers' Federation (BCTF) (Bish, 2008).

Municipalities and regional districts in the province have also coordinated negotiating efforts in the form of two employer organizations/support bodies: the Metro Vancouver Labour Relations Function, and the Greater Victoria Labour Relations Association (and until recently the Southern Interior Municipal Labour Relations Association) (Dorsey, 2011). These organizations have provided an array of services,

typically negotiating collective agreements, evaluating and reclassifying jobs, providing training and education, and performing research and data analysis (GVLRA, 2013).

Of the two associations, the Metro Vancouver Labour Relations function is the most significant, since it is located in the Lower Mainland where agreements with the largest number of fire fighters are negotiated. Metro Vancouver (or Greater Vancouver Regional District (GVRD)) represents approximately 2.3 million residents in twenty-one municipalities, one electoral district, and one treaty First Nation (Dorsey, 2011). The Metro Vancouver Labour Relations Department is not an accredited bargaining organization, however. Accredited organizations are legal entities that have "exclusive authority ... to bargain collectively for the employer and to bind the employer by collective agreement" (Dorsey, 2011, p. 17). This lack of accreditation is important, since without accreditation city councils retain the ultimate authority to approve agreements.

The labour relations function of Metro Vancouver has evolved over its history**.** Recently, an independent specialist (mediator and arbitrator James E. Dorsey, QC) was commissioned to review its role, and it has undergone significant changes in the past several years.

The function originated with the founding of the Municipal Labour Relations Bureau in 1964 by three municipalities (Dorsey, 2011). In 1974 the letters patent of the GVRD were amended by the province, after application from municipalities, to include a labour relations function, thereby incorporating the Municipal Labour Relations Bureau (Metro Vancouver, 2015). The new labour relations function in the GVRD included collective bargaining, research, and job evaluation and classification. Municipalities were free to use the services offered by GVRD (including coordination of bargaining) but, unlike many other employer associations, joining was not mandatory. Dorsey notes that "this organizational structure was a conscious half-measure: exclusive bargaining agency for the GVRD, but voluntary membership and retention of approval or rejection of settlement terms by individual municipal councils" and that "the design was to foster inclusion, but not compulsion" (2011, p. 60).

The department largely maintained this model despite occasional tweaks. In 1982 the letters patent were amended to allow municipalities to appoint council

members to be directors on the Greater Vancouver Regional Labour Relations Bureau, in order to increase participation. The Bureau also gained control of its own budget. These changes ushered in a period of increased involvement by municipalities, and most in the region joined (Dorsey, 2011). Dorsey noted in his report, however, that over time the Labour Relations Bureau began to resemble other regional committees rather than an employer association, contributing to disillusionment among members. By his account, "in recent years, few demonstrated leadership in governance or building a new vision for the Bureau" (2011, p. 61). Beginning in 2002, the department's coordination role began to weaken, with Richmond withdrawing, joining Surrey and Port Coquitlam (the latter of which had withdrawn in 1982) as municipalities pursuing their own course. Burnaby (2008), Vancouver (2009), and Delta (2010) all served the two-year notice to withdraw from the function by the end of the decade (Dorsey, 2011).

As a result of the exits of large member municipalities and the resulting review, Metro Vancouver has altered its structure and service delivery model. Under its new model (established through Metro Vancouver Bylaw 1182), all Metro Vancouver member municipalities are also members of the Labour Relations Function and benefit from the new established “base services”. These services include access to Metro Vancouver's research and data and benchmarking, human resources and labour relations advice specific to the municipal sector and a forum through which to address emerging issues of regional importance. The majority of municipalities also subscribe to collective bargaining and compensation services. Although there is no longer the requirement for “double ratification” as was found under the former Bureau model, municipalities in the region still coordinate through the Labour Relations Function Oversight Committee

Organizationally, the Metro Vancouver Labour Relations Function now provides advice to its own Oversight Committee. This committee includes eight regional Chief Administrative Officers (CAOs) and in turn updates Metro Vancouver's Regional Administrative Advisory Committee and the Metro Vancouver Mayors Committee (Metro Vancouver, 2015).

In summary, the changes at Metro Vancouver's Labour Relations Function over the past decade are indicative of a trend away from formal employer bargaining structures among the region's municipal employers. The function's current iteration

reflects this sentiment, as it operates less as an employer organization and more as a human resource consulting service with an additional focus on voluntary coordination. Since political forces help usher the restructuring at Metro Vancouver, the extent to which this trend may change in the future depends on the willingness of regional leaders to cooperate again.

3.2. Collective Bargaining and Dispute Resolution

Labour relations between local governments and fire services are governed by two pieces of legislation in British Columbia: the *Labour Relations Code* and the *Fire and Police Services Collective Bargaining Act*. Since the vast majority of paid firefighters in the province are represented by the IAFF, municipalities bargain with union representatives and they determine the terms and conditions of employment by signing collective agreements. After the expiration of a collective agreement, either the union or employer may require the other to commence bargaining by written notice. The conditions of employment may not be altered after a collective agreement is expired until a new one is signed or there is a strike or lockout.

The legislation does not explicitly prohibit strikes among fire fighters nor a lockout of fire services by the employer. In other legislation, the *Labour Relations Code* allows for the designation of some groups of employees as "essential services," in which case the employees are mandated to return to work. This clause is included to recognize that some employees perform duties for which a dispute "poses a threat to the health, safety or welfare of the residents of British Columbia" (*Labour Relations Code*, RSBC 1996, c.244). This designation is made by the minister after consideration at the request of either party. A group of fire services employees has never been designated an essential service in British Columbia. Under the current *Act*, there has not been a strike or lockout of unionized fire services in the province.

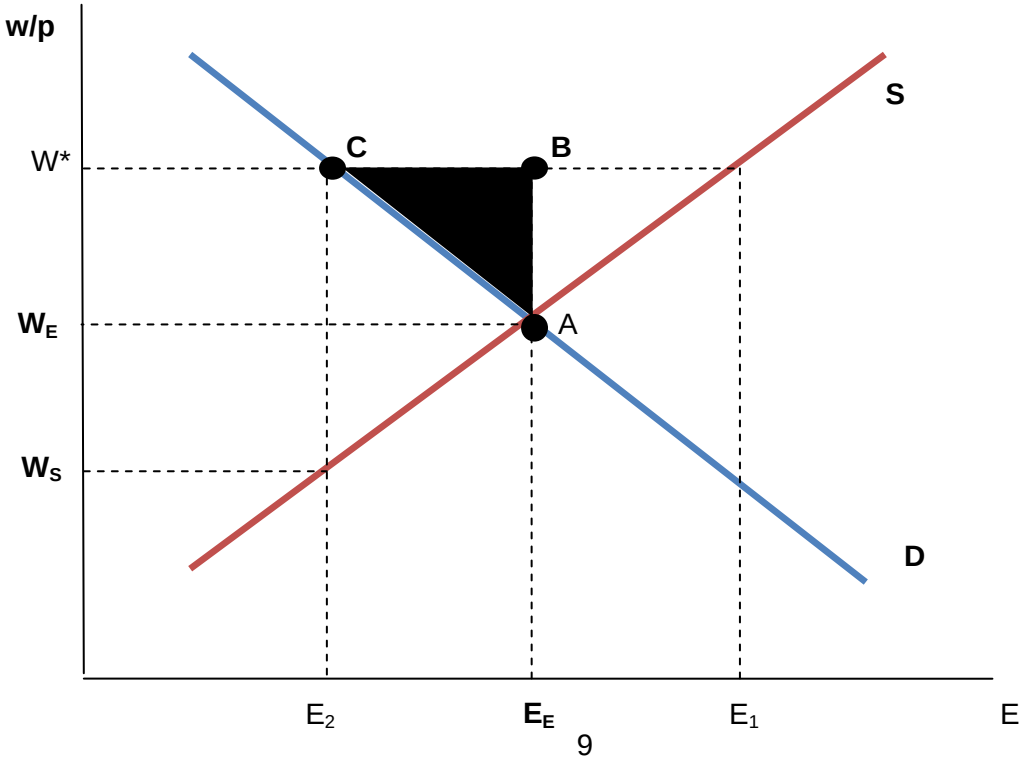
The *Fire and Police Collective Bargaining Act* allows for collective agreements between municipal employers and fire unions to be concluded via arbitration. Either side may apply for the dispute to be moved to arbitration; it proceeds when "in the opinion of the associate chair [of the mediation division of the Labour Relations board] the party

seeking arbitration has made every reasonable effort to reach a collective agreement" (RSBC 1996, c.142). The two parties then collectively choose either a single arbitrator or three-person panel. The arbitrator commences hearings and provides a decision no more than twenty-one days after their conclusion. The *Act* specifies several criteria that the arbitrator must consider in his or her decision (see Appendix A for the full *Act* text) and the decision is binding on both parties. The decision is not open to question or review in court on any grounds. Either party or any other person is able to challenge whether the *Act* has been complied with, however; these are referred to the Labour Relations Board (LRB) (RSBC 1996, c. 142).

3.3. Labour Market Dynamics

A labour market for fire fighters exists in the Lower Mainland of British Columbia. This market shares the broad principles common to other labour markets: supply of labour is positively related to the real wage rate, while demand for labour is negatively related to the real wage rate. The labour market for fire fighters can be displayed as in figure 3.1, where w/p is the real wage rage and E is the employment level:

Figure 3.1. Labour Market Dynamics



Here the public sector employer demand (D) and labour market supply (S) are initially at equilibrium at point A, with E_E labour being supplied at wage W_E. Unionization is an exogenous factor which raises the wage rate some amount to wage W*. This causes a gap in labour supplied and demanded to occur, the distance from E_2 to E_1. Initially the supply of labour does not change, remaining at E_E, and therefore temporary equilibrium is established at point B. The shaded triangle represents the market inefficiency at point B. For labour this is a rent while for the employer it is a loss.

Normally under these circumstances in the private sector the employer would cut the employment of labour so that equilibrium would be restored at point C, with employment level E_2. If this is not possible eventually the (private-sector) employer would be unable to sustain itself as the cost of labour outstrips productivity – B is not a stable equilibrium.

In the public sector the same basic dynamics apply. An important difference exists, however. Productivity is the primary metric on which private-sector employers base their demand; this determines the location and shape of the demand curve. In the public sector productivity is important, but employees that cost more than their marginal productivity (in this case, those between E_E and E_2 when at wage level W*) do not result in an unstable equilibrium. This is because labour is only one component of a city's bottom line, or budget. The employer in this case can use tax dollars to cover the resulting loss, or borrow. Hence the public-sector labour market can remain at point B for an extended period of time. Even if the public-sector employer could reduce its workforce to E_2, this situation would still be economically inefficient, because the value of additional employment (W*) exceeds the wage at which workers willingly supply their labour (W_S).

3.4. BC's Labour Market

The model explains the theoretical basis for labour market inefficiencies in the public sector. But what is the evidence that this occurs in BC?

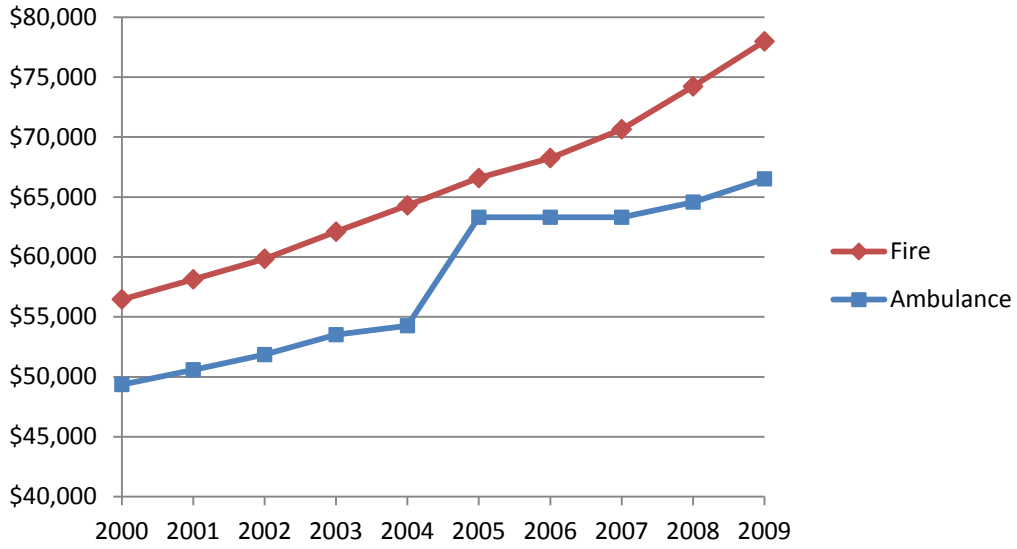
First, strong evidence exists of a large gap between the labour demanded and supplied at the current wage, and that therefore the BC equilibrium is far from the most

economically efficient outcome at point A. City administrators interviewed for the project indicated that they have no difficulty filling positions or retaining staff and that they do not feel as though they are competing with other municipalities. From 2007 to 2011, the lowest ratio of applicants to hires in Vancouver Fire and Rescue was 6:1 in 2007, when there were 198 applicants and 33 hires. The highest ratio was in 2011 when over 1,000 individuals applied for 48 positions – a staggering 23 to 1 ratio (City of Vancouver, 2012).

There is other evidence that fire fighters earn a wage that is well above what is necessary to attract and retain them. From 2002 to 2009, the compounded wage adjustment for fire fighters in Vancouver was 33.8%, while the Canadian Union of Public Employees' (CUPE) wages rose 25.4%, and the Vancouver consumer price index (CPI) increased by 15.4%. Hence fire fighter salaries grew by more than twice the rate of inflation. Fire fighters also earn in dollar terms a significant amount more than other first responders. Figure 3.2 shows the compensation for 10th-year fire fighters and paramedics in Vancouver from 2002-2009.[2] By 2009 a tenth-year fire fighter earned over $11,000 more per year than an equivalent paramedic. The highest-paid provincial forest fire fighters' hourly wage was 86% of what a fourth-year Vancouver fire fighter made in 2012 (City of Vancouver, 2012).

[2] BC ambulance salaries are province-wide.

Figure 3.2. Annual 10th year fire fighter and paramedic salaries, 2002-2009

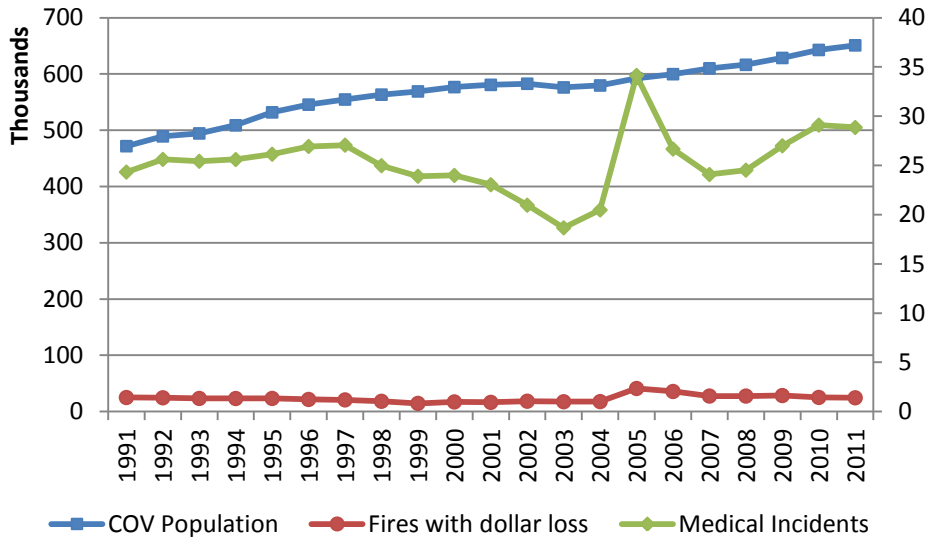


[Source: City of Vancouver, 2012]

These impressive salaries exist against a backdrop of declining need for traditional fire suppression services. Figure 3.3 displays the population of the city of Vancouver (left axis) along with the number of fire and medical incidents (right axis) over the period 1991-2011. The chart illustrates several key points. The number of fires is dramatically lower than the number of medical incidents that fire fighters respond to; this is common across municipalities in the Lower Mainland. This trend speaks to a broader phenomenon: the number of fires is extremely low, and fire fighters increasingly respond to incidents outside of the traditional roles of fire suppression and rescue. While the city's population grew steadily and rapidly over the period, increasing 38%, the number of fires saw a *decline* of 2%. Medical calls, in contrast, grew at 19%. This means that both in absolute and per capita terms the region is witnessing a decline in the need for traditional fire services.[3]

[3] This chart also illustrates a key deficiency in the data: consistency. Although this data was submitted to an arbitrator during a hearing, it displays troubling inconsistencies. For instance, the number of medical incidents spiked from 20,479 in 2004 to over 34,000 the next year. In some years the number of fires exhibiting swings in the order of 25%. Greater consistency in reporting standards for fire and medical incidents is needed.

Figure 3.3. Population and Number of Fires and Medical Incidents in City of Vancouver, 1991-2011



[Source: City of Vancouver, 2012]

The study excludes staffing levels and focuses on wages in the problem definition for several reasons. First, there is a clear case that wages are higher than necessary at current staffing levels to attract and retain qualified personnel. Are staffing levels too high as well? This question is more nuanced, since relating the number of fire fighters employed to the need for labour requires a determination of what ratio of emergency calls to personnel and response times society should maintain. Second, wages are determined through a clearly-defined channel: collective bargaining agreements. The dynamics of bargaining and negotiation are well known, and can be addressed in guiding legislation. The process for determining staffing levels is less well-defined, and is linked with setting the city budget every year. It involves communication between the union, fire chief, city administration, and council, and establishing levels of service has the potential to be more political with respect to the city electorate than wages.

The question of productivity is difficult to address. In the private sector, a firm's demand curve for labour is set by the revenue generated per worker; hence, their productivity. The "output" of workers in this setting is a public good, safety. How then to

measure productivity? As Figure 3.3 illustrates, much of the work performed by fire fighters is related to medical rather than fire emergencies. Are fire fighters equally productive when they respond to medical emergencies as when they respond to fires, hazardous materials calls, or rescues? This study does not attempt to answer these questions, as they are part of a larger conversation involving issues of coordination between fire and ambulance services, and the role both should play in today's urban societies.

Nonetheless, the study posits that there are serious questions regarding the degree to which fire fighters should base their mandate on medical emergency response. Although they respond to many medical emergencies, fire fighters have neither the training nor the equipment that ambulance services possess. Often, they provide attention at a scene until ambulance services can respond, in the event that the medical needs surpass those fire fighters are equipped to perform. The base assumption in this study, then, is that society has a need for distinct ambulance and fire services, with some degree of overlap and coordination unavoidable and desirable. The productivity of fire fighters is therefore assumed to be related to the need for fire suppression, prevention, education, as well as other events such as rescues.

The net result of problems in the labour market is that funds are diverted to fire services (primarily in the form of salaries) and away from all other municipal priorities, or else result in tax increases. These other priorities, paradoxically, may include public safety, since unnecessarily wage increases could instead be spent on new and better fire trucks, halls, equipment, and so on. One report found that in three municipalities in Ontario, fire salaries and benefits increased from $431 million to $554 million in five years. Had wages not increased, the extra $123 million could have been spent on 289 new fire pumper trucks, or 492 new fire tankers (Emergency Services Steering Committee [ESSC], 2011). Market inefficiencies have a real and significant impact on the allocation of revenue for the public goods and services that municipalities provide.

3.5. A Recognized Issue

All municipalities in the province contract their own fire services; however, the labour market is broadly the same for each employer, especially in the Lower Mainland. The primary avenue for wage and staffing levels throughout the province is through collective agreement negotiation.

Each local government has a unique relationship with its fire service, the employees, and union representatives. These relationships are important to collective bargaining; on some occasions negotiation progress can be reduced to how one or two individuals work together. As councils and administrative officers often have close working relationships, municipalities with left-leaning councils can conclude deals differently than those with right-leaning councils, and these may change via elections. Though the labour market is similar for each town and city, it is certainly not the case that only one collective bargaining relationship exists between fire fighters and municipal employers in the province.

Nonetheless, many city administrators recognize the problem in the fire fighter labour market, and they have displayed increasing discontentment with the bargaining framework imposed on them. The dispute resolution process, binding interest arbitration, does not allow municipalities the freedom to set wage levels or control their growth.[4]

The Union of BC Municipalities (UBCM), an organization that boasts 100% membership of municipalities in the province, sponsored a resolution in 2011 and again in 2014 calling on the province to review the *Act*. The Union contended that "the Act has not led to improved collective bargaining[;] rather it has resulted in the parties invariably ending up at an impasse and the collective agreement being settled through binding arbitration with awards that are not in line with the economic reality of British Columbia communities" (UBCM, 2011, p.17). The BC Mayors Caucus called on the province to review the *Act* in 2013 on the grounds that smaller communities were being forced by the system to pay more generous wages equivalent to those in the province's big cities

[4] A detailed account of the precise workings of this dynamic follows in section 4.3.

(Metcalfe, 2013). Some municipalities have petitioned the province directly asking for changes to the process.

The problem is not unique to BC; in 2005, Ontario's municipalities established the Ontario Emergency Services Steering Committee (ESSC) to address the issue of rising emergency services costs to municipalities in that province. The legislative framework in Ontario is very similar to British Columbia and the organization lobbied for changes to provide municipalities better control over emergency services costs. The ESSC succeeded in building momentum for the issue, with media in the province picking up on the campaign. In 2012 a private member's bill amending the legislation was debated in the legislative assembly but died following an election. The organization is still actively involved in coordination, research, education, and advocacy on behalf of municipalities (ESSC, 2013).

Chapter 4.

How Did We Get Here?

4.1. Legislative History

Dispute resolution between local governments and fire unions has witnessed several legislative changes throughout BC's history. In the 1970s the government of British Columbia passed the *Essential Services Disputes Act*, which allowed specific unions to seek binding interest arbitration as a mechanism of dispute resolution (Borden Ladner Gervais, 2002). This act was repealed in 1987, and the *Industrial Relations Reform Act* was instated. Five years later, this Act was replaced with the *Labour Relations Code*, which is still in place today. From 1992 to 1995, the *Code* governed collective bargaining and dispute resolution between fire unions and municipal employers. Beginning in 1995, the *Fire and Police Services Collective Bargaining Act* has been the guiding piece of legislation in the area, remaining in force today.

The left-leaning New Democratic Party (NDP) of British Columbia brought in the *Act* in 1995. Dan Miller, the Minister of Skills, Training, and Labour, was responsible for the Bill. At the time the NDP held a majority in the legislature, with the right-leaning Liberals the primary opposition party, and the Bill passed easily. The parliamentary debate over the Bill, however, illustrated many of the difficulties in crafting labour legislation. Since much of the debate centred on the future impact of the Bill, it also represented a concise primer on the genesis of today's problems and the major tradeoffs that the legislation embodies.

Any discussion of labour legislation risks degenerating into a dichotomous and reductionist pro-labour and pro-employer exchange. Some of the legislative debate adhered to this pattern, as the NDP and Liberals defended and attacked the Bill, respectively. Nevertheless, much of the debate was thoughtful, and several members

with practical experience in labour relations spoke eloquently about the potential benefits and pitfalls.

The immediate catalyst for the legislation's introduction was an ongoing dispute in Vernon between the city and their fire fighters, which resulted in the parties being unable to conclude a new collective agreement for more than three years (Miller, 1995, Jun. 15). Both the NDP and Liberals acknowledged the greater rationale behind the legislation: that fire fighters (and police officers) occupied a special place in collective bargaining, since they cannot wholly discontinue their work without society being adversely affected. Therefore, it was agreed that extraordinary means of resolving disputes were necessary (Miller, 1995, June 15).

Minister Miller stated that the goal of the Bill was "to facilitate firefighters, police officers and their employers to reach a collective agreement," since "there [was] no means under the [previous] legislation to allow those disputes to be resolved" (1995, June 15, p. 15543). The Minister explained that in his view of collective bargaining, "the more quickly and expeditiously collective agreements are concluded and people get on with life, the better" (1995, June 15, p. 15543). From the government's perspective, the primary goal of the Bill was to expedite the process of collective bargaining and offer greater certainty to the process.

The opposition, as noted, generally did not dispute this premise. Their primary concern was that the legislation did not contain safeguards to ensure that it did not favour either unions or employers. Further, they asserted that the omission of these safeguards would result in better outcomes for unions and worse outcomes for employers than the previous framework under the *Labour Relations Code*. Much of the debate proceeded from this contention.

The first axis of debate was the style of arbitration: the Liberals wanted the legislation to mandate final-offer selection while the NDP advocated conventional arbitration. The opposition identified several problems with conventional arbitration. First, since there is no risk of a strike or a lockout, and the ultimate method of dispute resolution is known, conventional arbitration has the potential to dissuade the parties from engaging in real, committed bargaining. Final-offer selection, in the words of one

Liberal Party MLA, "imitate[s] the risk that's out there for two parties if a strike or a lockout were to occur," and encourages the parties to bargain more effectively on their own. Second, conventional arbitration has the potential to result in parties taking extreme positions in arbitration, since there is no incentive to do otherwise. Final-offer minimizes this since "if [one] party is ... seen to have dug in its heels and not bargained meaningfully, then the likelihood of [that] party being the one that loses in that arbitration is far higher" (Farrell-Collins, 1995, p. 15545).

Second, the opposition wanted the Bill to include safeguards in the form of criteria. Under the *Act*, arbitrators must consider a list of criteria when rendering a decision. Liberals fought to have an "ability to pay" criterion included, so that the economic circumstances of the municipality would be represented in the mandatory considerations. Liberal MLAs argued that arbitrators would "draw upon the findings [elsewhere] without regard to local conditions or circumstances — without regard ... to local settlements in other public sector contracts or to negotiations where the full force of collective bargaining, including the lockout and the strike, were available to the employer and the employee" (Farrell-Collins, 1995, p. 15545).

Additionally, opposition MLAs warned that the criteria in the *Act* would allow unions to "whipsaw" deals, where generous contracts in one region would influence arbitrations in others (Symons, 1995). Comparability with other employees doing similar work would become the dominant consideration in arbitrations, overriding local conditions. This effect in particular would hurt smaller communities as decisions would tie wages to the big cities of the Lower Mainland.

Third, opposition MLAs expressed concern that the process built into the Bill to determine whether to proceed to arbitration was insufficient. According to the *Act*, a dispute can be referred to arbitration on direction of the minister after a report is made by the associate chair of the mediation division of the Labour Relations Board. If arbitration was too easy to enter into, Liberal members said, it would become the norm, preventing the parties from engaging in the meaningful negotiating that is crucial to successful bargaining.

The government defended the legislation as fair and unlikely to adversely impact collective bargaining dynamics. Their responses highlight some of the difficulties in crafting labour legislation, since the effects of regulations are uncertain. They contended that final-offer selection was unnecessary, and that the legislation had a clause allowing the minister to specify that method if in his or her opinion it became needed. Further, some MLAs claimed that it was too harsh a mechanism, and Minister Miller pointed to legal experts that final-offer is not always an appropriate resolution (Miller, 1995, Jun. 20). On the issue of criteria, the government believed that the clause allowing the Minister of Labour to specify other criteria would allow for ability-to-pay to be considered in circumstances where needed. Finally, government MLAs expressed doubt that unions in particular would benefit from greater access to arbitration, and that there were specific tests that the bargaining parties had to pass to be granted permission.

The *Act* was introduced not without controversy outside the legislature. The Okanagan Mainline Municipal Labour Relations Association was strongly opposed to the legislation, contending that the *Act* would take away control of costs from municipalities (Hurd, 1995). In a letter to the minister on June 2, 1995, the Association voiced its concerns:

> With the introduction of this legislation, your government broke a promise it made when it introduced the new Labour Relations Code. Your government promised that it would take labour law out of the realm of partisan politics by establishing a special committee of advisers to make recommendations with respect to future labour relations legislation. You never did establish that committee. Not only did you renege on that promise, you did not even extend us the courtesy of prior notice of your intent to introduce Bill 35. (Serwa, 1995, p. 15551).

The government also did not consult with GVRD Labour Relations, which represented the largest group of municipal employers of fire services in the province. Their May 26 letter to the minister stated:

> Our dismay stems from the fact that this legislation has been tabled in the House with absolutely no consultation with these employers. It seems incomprehensible to us that such legislation, which will have its most significant effect on the employers we represent, could be tabled without such consultation (Symons, 1995, p. 15567).

Municipalities' opposition continued as the *Act* was put into effect. In the first arbitration hearing after the *Act* was implemented, the arbitrator noted that "the City came to the process with reluctance" and that it participated despite "reluctance ... to authenticate a process with which it profoundly disagrees" (*Vernon (city) v Local 1517,* [1995], BCCAAA no. 432, [*Vernon*]). In summary, the current *Act* is the latest in a line of legislation attempting to provide clarity to a difficult matter. It was enacted without major changes after significant substantive concerns were raised in the legislature, and without formally consulting employer representatives in labour negotiations. This process, together with the legal implementation of the *Act*, marked the genesis of the problem in British Columbia today.

4.2. *Act* Implementation

When employers and fire fighter unions are unable to negotiate a new collective bargaining agreement and the minister has granted arbitration, the matter is referred to an arbitration board under the Labour Relation Board's Collective Agreement Arbitration Bureau, an administrative tribunal. Beginning soon after its passage into law, arbitrators began the process of interpreting the *Act* for the cases that reached arbitration.

A search of the tribunal's records indicates that between 1995 and 2012 eleven disputes between employers and fire fighter unions in BC were resolved via binding arbitration (and reported[5]). A far greater number of awards were settled either without impasse or at various stages prior to arbitration, consistent with patterns elsewhere. Research by R.A. Lester in 1984 indicated that in the United States only between 6 and 29 percent of government negotiations had been resolved by arbitration where it was available; the vast majority are freely negotiated (Lester, 1984). Nonetheless, arbitration decisions have important ramifications beyond the parties directly involved. Interview respondents indicated that the perceived outcome of proceeding to arbitration can impact negotiations; if the perceived outcome is likely to be no better than a negotiated one, the parties may not bother going to arbitration. Perhaps most importantly,

[5] Some arbitration decisions are unreported, such as *City of Campbell River -and- Campbell River Firefighters Association, I.A.F.F. Local 1668 (unreported)*

arbitration decisions, particularly at the beginning of negotiation cycles, are often used in subsequent negotiations by other parties in the region and by arbitrators as benchmarks. Thus these eleven decisions have had an outsized impact beyond their effects on the parties at the time.

The process of deciding an appropriate resolution to a dispute via arbitration is complex. Arbitrators must issue settlements by making determinations on which criteria are most important and when. They examine the submissions given by the employer and employee representatives, which advocate their position on the issues in dispute. The parties arrive at their positions through an argumentation of which criteria and principles should be applied and weighted most heavily, often citing experts, recent statistics, legal research, and any other relevant information. Arbitrators weigh the opposing evidence and often respond in detail to the arguments of both parties in providing a decision.

Arbitrators in British Columbia resolving disputes between municipalities and fire services have made their judgements on how to adjudicate and which considerations are paramount through the eleven decisions. Their decisions represent legal interpretations of the *Act* and its application to collective bargaining in the province.

4.2.1. Legal Interpretation

A major tenet of legal doctrine is that neutrals examine only the facts of the case before them. Public sector labour interest arbitrations differ from many other disputes in that the ramifications of a decision between two parties (an employer and employees) affect in some cases many millions of dollars of public spending. This crossroads of legal doctrine and public policy is a central theme of this study. As such it is important to understand how parties and arbitrators have addressed this question over the last two decades in British Columbia, and with what results.

A basic analysis of the eleven awards in British Columbia shows that the employer and employee representatives repeat lines of argumentation. Employers argue consistently that the local economic environment, the ability of the government to pay, and settlements with other municipal employee groups are the most relevant considerations. Employee representatives, conversely, argue that the contracts of those

doing similar work, both regionally and sometimes nationally, are the most important factors; these include only firefighters and occasionally police.

The response of arbitrators to these arguments began with the first decision after the *Act* was passed in 1995: arbitrator H.A. Hope's *Vernon (city) v Local 1517* decision in December of 1995[6]. This decision had a strong influence on subsequent decisions since Hope was forced to consider how the *Act* would be interpreted and its place in the history of public sector collective bargaining in the province. In its submission to Hope, the City contended that "the statutory criteria should be applied so as to ensure that local economic conditions and priorities dominate" (*Vernon*). It argued that section 4(6)(c) – "terms and conditions of employment for other groups of employees who are employed by the employer" (RSBC 1996, c.142) – sets this out. In addition, it cited Minister Miller's letter stating that local conditions are covered under section 4(6)(d) – "the interest and welfare of the community served by the employer and the employees as well as any factors affecting the community" (RSBC 1996, c.142). As evidence, the City cited letters by Professor Paul Weiler[7] to the GVRD prior to the *Act*'s passage in which he states that these should be given precedence in crafting legislation. The Union argued that historical relationships and comparability with similar employees should be given precedence, including previous arbitration decisions, and that wages should therefore be fixed to levels for Vancouver fire fighters.

Arbitrator Hope rejected the City's arguments, noting that the City could not cite other arbitration awards that concluded "that wages should be settled on the basis of local labour market conditions" (*Vernon*). Further, he dismissed the arguments of Professor Weiler, noting that they "do not form a basis for departing from established arbitral principles in the adjudication of firefighters interest disputes" (*Vernon*). Instead, he ruled that "in this dispute there is ample reason to maintain the status quo on the

6 This decision in December 1995 contained an error whereby arbitrator Hope was provided with a copy of the *Act* missing one of the criteria under section 6. A judge referred the case back to arbitrator Hope in August 1996, at which time he determined that the decision did not warrant changes after the error had been corrected for. For the purposes of this paper it is referred to as the same decision.

7 Professor Weiler was an important figure in labour law and served as the head of the Labour Relations Board in the 1970s. His recommendations figured prominently in the legislative debate for the *Act* and its legal interpretation, as shown here.

major issues that divide the parties" (*Vernon*), noting that parity is a well-documented historical approach to determining wage settlements. Accordingly, he awarded a 13% raise over five years, equivalent to the Union's initial demand: Vancouver fire fighters' contract at the time.

Henceforth "comparability" became the dominant criterion in arbitration awards. Decisions in Cranbrook, the Okanagan, and Vernon in the following years adhered to the same pattern: wages either tied to or equal to Vancouver fire fighters'. Arbitrator McPhillips, ruling in Cranbrook, stated: "in my view, Arbitrator Hope's approach is correct. It must be concluded that, based on criteria set out in the Act, local market conditions are not to be given dominant or paramount consideration." (*Cranbrook (city) v Cranbrook Fire Fighters, Local 1253*, [1996], BCCAAA no. 446). Arbitrator Munroe added in 1997: "the local CUPE settlements are a factor requiring consideration[,] but neither factually nor as a matter of law do they overwhelm the parties' collective bargaining history, or the more-or-less universal acceptance (reluctant or otherwise) of the standard fire fighter rate - i.e., the Vancouver fire fighter rate as a powerful criterion" (*Okanagan Mainline Municipal Labour Relations Assn. and International Assn. of Fire Fighters Local 953, 1399, and 1746,* [1997], BCCAAA no. 594).

In the Lower Mainland, the first arbitration took place in 2001. In her decision, Arbitrator Judi Korbin outlined the importance of previous decisions: "I must not only be guided by the criteria enunciated in the Act but also by principles of interest arbitration that have developed historically and do not conflict with the Act" (*Vancouver (city) v Vancouver Firefighters' Union, Local 18*, [2001], BCCAAA no. 419, [*Vancouver*]). Presented with Union demands of parity with higher-paid Toronto fire fighters (more than 10% over three years) versus City demands for parity with a recent CUPE settlement (7% over three years), Korbin split the difference, awarding 8.5% increases over three years. In doing so she noted that she "accept[s] that it is not the role of an interest arbitrator to be an innovator" (*Vancouver*). This helped entrench the principle of conservatism in arbitration awards, which dissuades arbitrators from breaking with historical bargaining patterns.

Arguments by municipalities that the labour market was skewed were also rejected by arbitrators. In 2011 arbitrator McPhillips rejected the case of fire mechanics in the City of Surrey:

> The City has also put forward the argument that 10% of the Surrey Fire Fighter bargaining unit are not suppression fire fighters but rather clerical and mechanical support staff who perform jobs which are similar or identical to CUPE members. It is submitted this should affect wages for the Fire Fighter bargaining unit. In my view, that argument cannot be given effect here as that is definitely an issue for bargaining (and there is no existing pattern of these employees being treated separately by the parties) or for the British Columbia Labour Relations Board with respect to dealing with the appropriateness of the bargaining unit . (*Surrey (city) v Surrey Fire Fighters' Assn.*, [2011], BCCAAA no. 50, [*Surrey*])

In this way McPhillips re-affirmed that arguments not pertaining directly to the criteria prescribed by the legislature, including labour market considerations, were to be rejected by arbitrators.

An important and singular exception to these rulings was given by arbitrator Stan Lanyon in 2004. In the dispute between the City of Prince Rupert and the IAFF Local, the city had petitioned the Minister of Labour to direct Lanyon to consider the city's dire fiscal situation, and other recent municipal contracts which contained 0% wage increases. The Minister duly "ask[ed] Arbitrator Lanyon to consider whether particular economic circumstances exist within the community and decide the appropriate weight to be given to labour market comparisons in his review of section 4(6) of the Act." (*Prince Rupert (City) v. Prince Rupert Fire Fighters Assn., Local 559*, [2004], BCCAAA no. 236). Lanyon found that local conditions justified the same wage awards as CUPE (1% in the first year, 0% over the next four), becoming to this date the first and only arbitrator ruling on fire fighter interest arbitration disputes to give this criterion overriding importance. Prince Rupert 2004 remains a unique case and has been treated as such by subsequent arbitrators.

Some research has also investigated whether arbitrators have a personal incentive to moderate their awards, since their employment in this circumstance is contingent upon both parties agreeing upon an arbitrator. While the existence of this phenomenon is debatable, some jurisdictions have mitigated it by randomly assigning

arbitrators to a case from a pool maintained by the labour board. BC has no such safeguard and any reform should investigate whether it is appropriate.

Prince Rupert 2004 notwithstanding, arbitrators in British Columbia have instituted a pattern of decisions setting out comparability, conservatism, and the historical relationship between the parties as the primary considerations in arbitration. Lines of argumentation regarding local governments' ability to pay and labour market conditions have consistently been rejected, with Hope in his original award affirming that the legislature did not include direction to consider such circumstances. Due to the importance of precedence, the legal interpretation of the *Act* is unlikely to change in the coming years.

4.3. Labour Relations' Status Quo

The consistent pattern of interpretation set by arbitrators in the wake of the *Act*'s introduction contributed to the solidification of dynamics in bargaining between municipalities and fire locals. The results of arbitration generally fall into a narrow range of possibilities, as arbitrators often "split the difference" between offers. In this way the pattern of arbitration falls victim to one of the greatest problems with conventional arbitration as identified in the legislative debate: the sides do not have an incentive to submit reasonable demands, but rather the opposite. This is clearest in the case of Surrey in 2011, when the City submitted a demand for 0% increases over two years, the Union submitted a demand for 10% over two years, and the arbitrator awarded 5.5% increases over two years (*Surrey (City) v. Surrey Fire Fighers' Assn. (Wage Grievance),* [2011], BCCAAA no. 50). Comparability, the importance of historical bargaining, and the conservative nature of arbitration have combined to render arbitration a predictable exercise for the parties involved.

Both parties have therefore integrated the expected results of arbitration into their negotiation strategies. "Setting the trend" has paramount importance. For unions, this means coordinating bargaining so that the most generous deal is signed first. Because nearly every fire service in the province is part of the same organization, the union has exceptional capacity to coordinate negotiating efforts across municipalities. Arbitrator

Gordon cited a previous award in her 2008 Burnaby decision in explaining the bargaining patterns from 2003-2006:

> [Lorne West, 6th Vice President of the I.A.F.F.] also testified about the negotiation about the Vancouver/Lower Mainland Firefighter wage rate increases during the last round of collective bargaining for the 2003-2006 Collective Agreements. He said ... the bargaining strategy of the four Locals [Surrey, Richmond, Vancouver, and Burnaby] is to "lead" with the Local that can achieve the best collective agreement. Then, other Locals will piggy-back on that collective agreement. (*Burnaby (City) v Burnaby Fire Fighters Union, Local 323*, [2008], BCCAAA no. 220).

Employers do not have the luxury of similar coordination. Though some cooperate through Metro Vancouver Labour Relations and the Greater Victoria Labour Relations Association, other municipalities remain outside those organizations. As previously mentioned, the Metro Vancouver function is currently at its weakest in many years from an employer-organization standpoint, with Richmond, Surrey, Vancouver, Burnaby, and others coordinating less than before. A previous GVRD Labour Relations Director succinctly captures the problem of municipal coordination:

> In contrast to private employers whose management teams usually possess common goals and objectives when dealing with their unions, municipal Councils will rarely, if ever, possess similar basic philosophies. Furthermore, those holding a minority view rarely exhibit any loyalty to the majority view. (Dorsey, 2011, p.18).

These factors have resulted in an established pattern for bargaining and settlement in the province. Bargaining is cyclical, beginning with the expiration of a large number of contracts in a short period of time (these contracts were usually signed with matching terms). Although stalling can be a tactic for both parties, the union has been much more effective than municipalities at coordinating negotiations. Consequently years may pass without new agreements as locals attempt to maximize gains in the first contract. After one or two municipalities settle with their union, others quickly follow suit, especially if they are small, since they have very limited capacity to sign a deal that differs from the trend. Mediation is cursory and ineffectual, and only in very rare instances do the parties enter into arbitration – particularly for large packages of issues – since the predicted ranges of outcomes is well known.

The most recent bargaining cycle began in December of 2011, when seventeen municipalities' contracts expired with the IAFF (although others, such as Township of Langley, had contracts unrenewed since 2009) (Business Council of British Columbia, 2014). The first contract settled of this group was Delta's, in May 2014. Surrey signed a deal shortly thereafter on identical terms. Others such as New Westminster have followed suit with the same terms. When new agreements are signed, lump-sum payments are given to employees for raises that would have occurred in years covered by the agreement but during which time they were without a new agreement. Some evidence exists that this may be more favourable to union membership than a gradual percent increase (this phenomenon is further explored in Chapter 9). Moreover, lump-sum payments can impose fiscal strains on municipalities as small yearly increases manifest instead as large one-time expenses. The recent settlement at the City of Vancouver is one example of this effect (Lee, 2014).

Any one local government, therefore, has limited control over the size of the wage increases fire fighters receive each year. Far from decreasing the over *level* of wages (as Chapter 3 outlined is necessary), the best-case scenario for municipalities is holding nominal wage increases at 0% as inflation lowers the real wage. Interviewees also noted the impact of political obstacles on the ability to reduce staffing levels, since levels of service are expected to be maintained or expanded. Union rules make contracting out non-essential service work difficult. Municipalities have already taken advantage of the few options left to them as costs and wages rise; in the words of one interviewee, "you can only squeeze blood out of a stone for so long."

Chapter 5. Literature Review

Unionization in the public sector in North America began in the 1960s and is now common across jurisdictions (Lipsky & Katz, 2006). Gradually public employee groups gained the right to collectively organize and some were given the right to strike. Over time many jurisdictions recognized the need for an alternative to the strike mechanism in services such as fire and policing. Today binding interest arbitration is a common dispute resolution process for fire fighters.

This ubiquity is not without controversy, however. The legal profession is not unanimous in its endorsement of arbitration to resolve public-sector disputes (Kantowitz, 1986). Others have taken issue with unelected officials having the power to determine public spending decisions, albeit indirectly. Further, the availability of arbitration may dissuade elected officials from taking accountability for their actions. Malin notes that "indeed, it is this lack of accountability that has led a minority of courts to invalidate interest arbitration statutes as improperly delegating governmental decisionmaking [sic] authority to a private individual" (2013, p. 151). Legislation sometimes endows the government authority over dispute outcomes in the form of award caps and other mechanisms in lieu of arbitration or a right to strike.

The fields of industrial relations and law provide much of our understanding in the areas of labour relations, collective bargaining, and dispute resolution. Scholars in these areas have collected empirical evidence on the effects of different systems and illustrated the tradeoffs between them. Some have traced the number of jurisdictions employing interest arbitration through time, although as Lipsky and Katz note, "obtaining a precise count on the number of states requiring the arbitration of interest disputes is difficult in part because state statutes are frequently revised, repealed, or amended" (2006, p. 277). Much diversity exists in the precise workings of dispute resolution processes, and many states and provinces employ slightly different systems. Some broad features are common, however:

- Arbitration criteria: legislation often stipulates which considerations must be taken into account by an impasse panel. Many of these criteria are shared across jurisdictions.
- Arbitration form: the conventional arbitration form allows the panel complete control in fashioning an award. Final offer arbitration limits this power by requiring the panel to choose between the final offers of the parties. Other modifications of these systems exist and many jurisdictions also require mediation and fact finding to take place prior to arbitration.
- Impasse panel: all jurisdictions with interest arbitration require neutrals to administer the process. A panel may have one or three neutrals, or may be tripartite with one neutral arbitrator and one arbitrator chosen by each party. Arbitrators are usually chosen from a pool maintained by the labour board or commission, and may be subject to term limits and other conditions for inclusion or removal. They may be selected at random, appointed by a commissioner, or agreed upon by the parties.

Scholars have examined the impacts of the differing features of interest arbitration on outcomes. These impacts are divided primarily into three "effects:" "wage," "chilling," and "narcotic" effects. The wage effect represents the extent to which the availability or form of interest arbitration results in higher or lower wages than otherwise. The chilling effect refers to parties' unwillingness to bargain when arbitration is available. The narcotic effect describes parties that refer their disputes to arbitration more frequently over time.

Scholars agree on some general trends with regard to these effects. The availability of binding arbitration generally leads to higher wage settlements than when it is not available. The chilling effect of arbitration is impactful and final offer arbitration helps mitigate this effect (Lipsky & Katz, 2006). Parties in some jurisdictions rely heavily on arbitration to resolve their disputes.

The universality of these effects is far from established, however. Lipsky and Katz's review found that "empirical research on these two effects certainly did not result in uniform or consistent findings, and researchers and practitioners continue to disagree

on the precise effects of interest arbitration on the bargaining process and bargaining outcomes"[8] (2006, p. 266). Moreover, many other characteristics of the bargaining environment besides the legislative context greatly affect outcomes. Kochan and Baderschneider found in a statistical analysis of New York, "for firefighters, management negotiator authority, level of hostility, and city population exert[ed] a significantly greater impact than the arbitration statute in two of the equations" (1978, p. 446). Local analysis is necessary to inform the broad conclusions offered in the literature.

[8] Note: Lipsky and Katz here outline two types of effects, outcomes and process. Thus the narcotic and chilling effects are delineated under the "process" group of effects.

Chapter 6. Case Studies

6.1. New York – Arbitration Panel Composition

The state of New York has a long history of dispute resolution in emergency services and is home to the largest metropolitan area in the United States; consequently, scholars have paid considerable attention to the issue there. The state's experience provides valuable insights applicable to British Columbia. These include the composition and decision-making of arbitration panels and the impact of an ability to pay criterion

In 1967 the Taylor Law was signed in New York, setting out rules to govern public sector collective bargaining in the state (Lipsky & Katz, 2006). The law was administered by a state-wide Public Employment Relations Board (PERB), which had responsibility for dispute resolution or "impasse" procedures. The law allowed for the creation of local boards similar to the state-wide PERB, as long as they followed procedures "substantially equivalent" to the Taylor Law (Anderson, MacDonald, & O'Reilly, 1977, p. 482). Under this provision, the City of New York passed the New York City Collective Bargaining Law (NYCCBL) in 1967 and created the Office of Collective Bargaining (OCB). This body was an "independent and impartial agency of city government" and had responsibility to appoint impasse panels for disputes in the City of New York.

The original Taylor Law of 1967 prohibited strikes among public sector employees but did not mandate binding interest arbitration. By 1974 it became apparent that this was a necessary provision and amendments were introduced requiring binding arbitration for impasses involving fire and police services in the state (Kochan, Lipsky, Newhart, & Benson, 2010). The NYCCBL, however, had required binding arbitration from its inception in 1967.

Though the PERB and OCB were similar, they also exhibited important differences. The primary difference is the composition of impasse panels; the OCB appointed panels composed of three neutral arbitrators; in contrast, the PERB appointed "tripartite" panels, composed of one neutral chairperson and one arbitrator nominated by each of the two parties. Thus disputes in New York City were heard by three neutrals, while disputes in much of the rest of the state were heard by tripartite boards. These differences persisted until 2001, when legislation was passed transferring jurisdiction of all fire fighter and police disputes in the state to the PERB (and thus all disputes were heard by tripartite panels) (Lipsky & Katz, 2006).

Lipsky and Katz examined this difference in a 2006 paper. In it they suggest that the two approaches to board composition may have had influences on collective bargaining and arbitration outcomes that scholars have overlooked. They posit that the all-neutral panel employed by the OCB more closely resembled a "judicial" arbitration prototype, where the goal of arbitrators is "to render an award based squarely on the record presented by the parties that matches or at least closely approximates a decision that would have been made by a judge in an analogous civil trial" (2006, p. 271). The "negotiation" prototype, which tripartite panels approximate, values discussion and collaboration throughout the arbitration process, and "view[s] interest arbitration in a much less formal or legalistic manner" (p.271). The authors draw a spectrum of possible arbitration prototypes, from the most rigid judicial systems to the most informal negotiation types[9]. Although the switch from OCB to PERB dispute jurisdiction in 2001 constitutes a somewhat natural experiment on the prototypes, the authors admit it is difficult to yet draw a conclusion as to the effects of each type.

Another important aspect of New York's experience is the inclusion of an ability to pay criterion in the Taylor Law. All binding arbitration hearings for fire fighters in the state since 1974 have been required to consider the employer's ability to pay.[10] The criterion became an important part of decisions, with some contending that the ability to

[9] In this schema, British Columbia's single neutral arbitration panel more closely resembles the judicial prototype.

[10] In the Taylor Law, this is written as "the financial ability of the public employer to pay," whereas the NYCCBL's analogous criterion is "the interest and welfare of the public," which came to be interpreted as the employer's ability to pay.

pay criterion took precedence in impasse proceedings in New York City as early as 1972 (Fox, 1981). In 1978, though, its importance increased when the state legislature amended the Financial Emergency Act (of 1975) so that "impasse panels in New York City [were] required to accord substantial weight to the city's financial ability to pay when considering demands for increases in wages or fringe benefits" (Anderson, 1982, p. 18)[11]. This change resulted in the ability to pay criterion coming to dominate decisions thereafter (Fox, 1981).

The city's police and fire unions became thoroughly dissatisfied with arbitration outcomes, arguing that the OCB was too closely tied to city politics. Additionally, since comparability had become a secondary criterion for panels, the unions felt their wages lagged those in other jurisdictions (Lipsky & Katz, 2006). The city's success at tying fire fighter and police wages to those of its biggest state and municipal employee union members increased this gap, according to the police and fire chiefs. Lipsky and Katz note:

> There was some irony in this situation: the city insisted on the sanctity of the pattern, whereas the police and firefighter unions demanded that the pattern be broken; in the private sector typically it has been unions that insist on conformity with a pattern and employers that want flexibility (2006, p.270).

The unions were a major force behind the change in impasse jurisdiction from the OCB to PERB in 2001, believing that PERB panels would have a greater inclination to award higher wages. One quote from the police chief summarized their frustration with the process, when he derided the OCB as "nothing more than an arm of the Mayor's Office of Labor Relations that no longer served any useful purpose and should be abolished" (Lipsky & Katz, 2006, p. 270).

New York's long history of arbitration in the public sector allowed Kochan, Lipsky, Newhart, and Benson to examine patterns of outcomes in a 2010 paper. The authors compared the outcomes in the initial experimental period of the Taylor law (when arbitration was mandated for a three-year period) from 1974 to 1976 with more recent

[11] This amendment was in response to the prolonged period of financial stress American cities had experienced (Fox, 1981).

data. In doing so they tested for the often-hypothesized wage, chilling, and narcotic effects of arbitration.

The authors found no evidence of a narcotic effect, with dependence on arbitration actually decreasing over time. They suggest that "an argument can be made that the availability of interest arbitration, rather than leading to a narcotic effect, encourages the parties to be more realistic in their negotiations and to settle their impasse without an award" (2010, p. 571). However, major regional disparities existed; Buffalo, for example, needed arbitration to settle every dispute since 1995. The authors note "there appears to be a relationship between fiscal distress and reliance on arbitration" (p. 571). The study found no evidence for a chilling effect on negotiations, nor an increase in wages due to the existence of a binding arbitration system. An important finding, though, was increases in the length of time between the expiration of a contract and the issuance of an award – from an average of 300 days in 1976 to 790 days in the 2000s. Several explanations were put forward, including the appeal of lump-sum payments.[12] Another possibility is party learning and adaptation:

> In earlier rounds of bargaining, both parties hoped for major victories in arbitration and, therefore, they were anxious to complete it. But experience taught the parties that breakthroughs in arbitration rarely if ever occurred. Thus, the parties learned over time that arbitration seldom resulted in major gains or losses for either side. Instead, it became more predictable, and therefore, one side or the other had little motivation to move it forward expeditiously (Kochan et al., 2010, p. 582).

In recent years New York has moved toward a system of award caps for financially-distressed municipalities and requires arbitrators to assign 70% weighting to the ability to pay criterion.

[12] Some research indicates that lump-sum payments appeal to union members more than gradual increases, a subject which shades into the psychology of decision-making (Kochan et al., 2010).

6.2. New Jersey – Final Offer Arbitration

New Jersey's experience with arbitration in emergency services provides many lessons for other jurisdictions. The state has experimented with both final-offer and conventional arbitration forms, and most recently a cap on awards. The outcomes in that state illustrate the difficulties in clearly delineating the effects of arbitration forms.

Binding arbitration for police and fire services in the state began in 1977 with the amendment of legislation to include the Police and Fire Arbitration Act, known as Chapter 85. The legislation provided for mediation and factfinding, and allowed the parties involved to choose one of six dispute-resolution options, including variations on final-offer selection.[13] If the parties did not agree on a form, the default was package final-offer selection on economic issues and issue-by-issue final-offer for non-economic issues. Most disputes ended in the default form of final-offer arbitration (Tener, 1982). Impasse panels consisted of one neutral arbitrator selected from a board maintained by the Public Employment Relations Commission (PERC). The legislation prescribed eight criteria for consideration by arbitrators, many of which were common to other states' statutes. Of note were criteria mandating consideration of "comparable private employment" and "the financial impact on the governing unit, its residents and taxpayers" (Martin, 1993, p. 78).

Initially Chapter 85 was well received. Commentators commended its apparent ability to bring compromise – while 103 awards were issued in 1978, the first year of implementation, by 1981 that number was 65 (Tener, 1982). The parties generally approved of the system (Weitzman & Stochaj, 1980). Over time, however, municipalities became dissatisfied with arbitration outcomes. The New Jersey State League of Municipalities, an employer group, called for legislative change in 1992. Municipalities frustrated with outcomes appealed arbitration decisions in the courts to attempt to have them vacated on the grounds that arbitrators did not sufficiently consider the financial

[13] The six forms are: (1) conventional arbitration; (2) package final-offer; (3) issue-by-issue final-offer; (4) package final-offer with factfinder recommendations as a third choice; (5) issue-by-issue with factfinder recommendations as a third choice; (6) package final offer for economic issues and issue-by-issue for non-economic issues (Tener, 1982).

impact on municipalities (one of the eight criteria). The opposition of municipalities led to change in 1996, when the legislature amended the act.

The 1996 Arbitration Reform Act included several changes to impasse procedures. Most significantly, it changed the default form of arbitration from final-offer to conventional arbitration. It also included stronger wording to enforce arbitrator consideration of the impact of wage increases on local budgets and services, and required arbitrators to explain both relevant and irrelevant factors in their decision-making. The PERC also became responsible for educating arbitrators on several issues, including the budget-setting process for municipalities, and publishing a private-sector wage report (Stokes, 1999).

In 2010 the government reformed the system again. The new bill, effective January 2011, capped arbitrated awards at 2% per year for base salary, while greatly increasing the speed of proceedings; mediation time was reduced by 75 days, and arbitrators had 45 days to post an award after being selected (New Jersey PERC, 2014).

Outcomes over time under the different systems have varied. Despite the risky nature of final-offer selection, arbitration was commonplace in the 1980s and 1990s. Turpin's 1997 study showed that from 1983 to 1992 police employees and their employers went to arbitration 318 times. Arbitrators selected the union's final offer in 67% of those decisions (Turpin, 1997). Average wage awards, as a consequence, were high. In the first three years of the act, successful union[14] offers (those selected in arbitration) averaged 6.9, 7.0, and 7.7 percent. Successful employer offers averaged 5.9, 6.2, and 7.2 percent (Liebeskind, 1987). In the early 1990s average wage awards were just above 7 percent (Martin, 1993). Effective wage increases could be even higher; data from the League of Municipalities showed that between 1981 and 1991 police officers earned on average 14.7 percent per year raises, due to both horizontal (raises within a pay scale) and vertical (increase in entire scales due to new contracts) raises. This was 4.2 percentage points higher than police officers in other US states, while inflation averaged 4.6 percent per year over that decade (Martin, 1993).

[14] This includes all unions, although most were fire and police awards, with a few teachers and hospital worker awards**.**

The systemic cause of high awards, according to municipalities, was a lack of consideration of the ability to pay criterion by arbitrators. Research by Turpin supports the argument that arbitrators based awards more often on wages of comparable employee groups than on impacts to the employer. In a study of decision-making in the 318 police awards, he notes that only two arbitrators viewed comparability as irrelevant. By contrast, in seventy-three awards ability to pay was not a determining factor. 258 awards specified exactly which factors were considered in creating comparable employee groups; 121 explicitly identified ability to pay factors (Turpin, 1998). Moreover, by the early 1990s case law was beginning to mount in the municipalities' favour, with numerous awards vacated by courts. The courts ruled that arbitrators "had failed to consider thoroughly the statutory criteria in light of Cap Law[15] restraints and the county's ability to pay," and that "criteria could not be dismissed merely by determining that a municipality has the financial capability to meet the employees' demands" (Martin, 1993, p. 82, 84).

The new legislation in 1996 coincided with a decrease in the magnitude of wage awards. In the fifteen years from 1996 to 2010, average wage awards were greater than 4 percent just once – in 2004. Wage awards were, however, declining prior to the act's introduction: from 1993 to 1996 the average awarded increases were 5.65, 5.01, 4.52, and 4.24 percent (New Jersey PERC, 2014). Union awards were being selected less often than previously, with a success rate of 49.5 percent from 1992 to 1995 (Stokes, 1999). The trend of decreasing wage awards was in place prior to the legislation, then, and likely caused by the impact of court decisions on arbitrators' decision-making and a decrease in the inflation rate (Roberts & McGill, 2000; Stokes, 1999). Stokes noted in 1999 that "in short … initial data suggest that conventional arbitration has not produced results much different from those that might have been obtained under [Final Offer Arbitration]" (p. 229).

One impact of the 1996 changes, though, is clear: the gap between the parties' offers widened and the number of issues submitted to arbitration increased. The gap between the parties' offers increased from 29 percent in 1995 to 55 percent in 1998

[15] New Jersey state law limiting the amount that municipalities can raise taxes (2.5 percent per year).

(Stokes, 1999). The average number of compensation issues submitted increased from 2.03 to 4.82 post-legislation (Roberts & McGill, 2000). These data "suggest the parties may be impeding serious negotiations earlier in the process, thereby giving more authority to arbitrators" (Stokes, 1999, p. 228). This is consistent with labour relations theory on final-offer versus conventional arbitration forms.

Impacts of the final change, the 2011 reform, are difficult to assess. The obvious impact of the awards cap has been a decrease in average wage awards: to 2.05 percent in 2011, 1.98 percent in 2012, and 1.89 percent in 2013. The wage increases in voluntary contracts has also plummeted. Interest arbitration petitions from parties fell as well: from 121 in 2010 to just 28 in 2013 (New Jersey PERC, 2014). The new law seems to be an effective yet draconian method of keeping wage awards for police and fire unions low.

Chapter 7.

Policy Options

Many actions by government have the potential to ameliorate or mitigate the problem in British Columbia, and the scope of possible action on the policy problem is large. The provincial government, along with municipalities, could enact transformative changes to how fire services function. Some jurisdictions have experimented with the privatization of fire services, for example, or the merging of fire and emergency medical services. This study does not assess such options since its focus is limited to legislative change to the collective bargaining and dispute resolution process.

Even within the narrower context of amending the *Act*, the government has many options to consider. To complete a sufficiently robust analysis of options, this study narrows the range of options further. Certain options have been screened out since they are unlikely to be effective. Repealing the legislation and returning dispute resolution to the purview of the *Labour Relations Code* is one such option. Though possible to enact, this change is not assessed since having a piece of legislation unique to fire fighter and police bargaining has recognized value across Canada and the United States. Another option not considered is maintaining the status quo. No major changes in the processes or outcomes of collective bargaining or dispute resolution are imminent, and so the problem is unlikely to resolve on its own.

Yet more options are excluded from the formal analysis portion of the study but could be considered by the provincial government. Foremost among these options is a group involving direct intervention by the provincial government, such as a cap on arbitration awards or a program similar to Premier Bennett's Compensation Stabilization. These options either interfere with or replace the interest arbitration model, giving the government direct control over disputes and how to end them (arbitration may be one prescribed solution, on a case-by-case basis). Some jurisdictions have used or currently

use these mechanisms, and they are an effective way to address the policy problem. They are a viable set of options for the government to consider. The study excludes them from the formal analysis, however, for several reasons.

First, these options are politically much more difficult to implement, if not close to impossible in today's political environment. The province's municipalities are not in the disastrous fiscal state that can help justify these moves, as in some places in the United States. Fire fighters retain both public popularity and huge political clout. Second, interest arbitration has normative value. In society the ability of parties to resolve their own disputes, with or without some degree of neutral intervention, is an established norm.[16] A dispute resolution process with some independence from provincial political forces is recognized by many as important. This study therefore examines options that work within, rather than replace, the interest arbitration framework. Nonetheless, it is worth noting that other options – ones that are highly effective – are available.

A last option that is suggested by the research but excluded from assessment is contract expiration limits. As indicated in Chapter 4, the ability of the union to coordinate locals' bargaining to whipsaw agreements is a crucial component of the system's dynamics. Holding out and not engaging in bargaining for any one local allows the union to push the boundary – that is, sign agreements more generous than otherwise possible – by focusing efforts on the cities where they have the most leverage. Mandating a limit on the period of time – 12 or 18 months, for example – that expired contracts can continue in force would limit the union's ability to whipsaw and, presumably, make the negotiation process more balanced.

Some problems exist with this proposal, however. At the end of the time limit the negotiation would be forced to proceed to arbitration, or else some other "penalty" such as a fine would have to be meted out. Both of these options are undesirable. The first would greatly increase the importance of arbitration (generally to be avoided), and potentially spike the number of contracts settled via that process. Penalties, on the other

[16] Arbitration itself is controversial in some ways, however – for instance, allowing an unelected official to make rulings on decisions that affect how public funds are used.

hand, would have to be calibrated so that they are not used by parties strategically.[17] Ultimately, though, this option was excluded from the analysis due to a lack of available research. Further study could increase the viability of this proposal, however.

The remaining options are well-established variants on the dispute resolution process that are either in use in other jurisdictions or identified by scholars or lawyers as potential solutions. Though three options are presented for analysis, they are not mutually exclusive and different forms of each option could be implemented together. Moreover, the number of combinations of arbitration forms and procedures that a government could enact is vast. Indeed, almost every jurisdiction has a slightly different dispute resolution system. The options below illustrate the broad changes that could be enacted, while noting the various permutations among them and which are most common or most likely to be effective.

The three options set forth are: changes to the legislative criteria for consideration in arbitration; final-offer selection and its variants; and changing the composition of arbitration panels.

7.1. Arbitration Criteria

Arbitrators are often required to give consideration to certain criteria set out in a list when rendering a decision. Criteria are written directly into legislation. This list may be accompanied by guidelines indicating the criteria's relative importance (weighting, or lack thereof); what information is relevant for consideration under each criterion and/or clarification of the criterion; and whether and how the arbitrator should identify consideration of a criterion in his or her written decision. Again, the scope of possibility for change in British Columbia is large. These options will be assessed as a group, however, because of their common outcome: changing the decision-making process of the arbitrator (and what information parties focus on providing for consideration).

[17] This would distort the bargaining process since the party better able to bear the cost of the penalty would be able to use it to leverage a better settlement.

For the policy problem at hand, four changes are most appropriate: (1) creating an ability to pay criterion; (2) creating a criterion mandating consideration of private sector and/or other public sector wage awards (that is, clarifying and/or expanding the notion of "comparability" to include other groups besides fire fighters); (3) creating a criterion which includes labour market considerations such as recruitment and retention needs; and (4) prescribing weighting to one or all of these criteria. The first three options, new criteria, represent an inclusion of "employer-friendly" considerations. The first two represent common arguments from employers: that decisions should be made in light of the impact on the municipality (fiscal and otherwise) and that "comparable" wage groups should include other municipal employees, or private sector employees in the region. The fourth option indicates the importance of these criteria over "union-friendly" criteria such as comparisons with other fire service personnel.

An ability to pay or "welfare of the public" criterion is common across jurisdictions, while New York City and New Jersey are examples of jurisdictions that prescribed greater importance to this criterion. Although common, this particular criterion is difficult to define conclusively. Chapter 9.1 investigates some of the lines of debate in determining an ability to pay criterion.

7.2. Final Offer Arbitration

Final offer arbitration or final offer selection is a form of arbitration involving a "choice," rather than a decision, by the arbitrator on issues in dispute. The variations of final offer are many. Some of these are:

- Package: the parties submit an offer as a single package, regardless of the number of issues, and the arbitrator selects one
- Issue-by-issue: the parties submit offers for each issue and the arbitrator selects offers on an issue-by-issue basis
- Modified final offer selection: a combination of the two previous options; the most common variant is final offer on a package basis for economic items and issue-by-issue for other items

- Multiple offer selection: both parties submit more than one offer. The arbitrator chooses one party as the "winner" but does not specify the offer. The "losing" side then selects one of the "winning" side's offers

- Repeated final offer: the arbitrator may reject both parties' offers and propose a new one, which the parties can then accept or decline. The arbitrator can then select one party's offer or require new offers from both. (ESSC, 2009)

This list is not exhaustive and indicates the scope for creativity in dispute resolution processes. All final offer variants share one similarity: they introduce an element of risk into the arbitration process for the parties. The goal of final offer forms is to discourage parties taking extreme positions into hearings and incentivize negotiations. For this study's analysis, the "final offer arbitration" option will be examined as a general form.

7.3. Arbitration Panel Composition

Every form of arbitration requires an arbitration or impasse panel. Several variants exist; the three most common are:

- Single neutral

- Multiple neutrals, usually three

- Tripartite panels: one neutral arbitrator and one arbitrator representing each of the parties

The issue of arbitration panel composition also extends to the selection of arbitrators and the maintenance of an arbitration board. Arbitrators can be randomly selected, selected by the governmental authority (in BC's case, the Labour Relations Board), or agreed-upon by the parties. There may also be term limits on arbitrators, or regulations governing when and how they can be removed (after successful appeals of decisions, for example). This study will examine the option of changing to a tripartite panel, since B.C. already requires a neutral panel (single or multiple neutrals at the discretion of the parties).

Chapter 8. Objectives, Criteria, and Measures

Crafting effective labour relations legislation is a delicate process. Many considerations must be taken into account, with some of them conflicting. Table 8.1 illustrates the evaluative framework this study employs to assess the tradeoffs between options. The analysis follows a matrix structure with specific criteria, measures, and weighting.

Table 8.1. Criteria and Measures

Group	Criterion	Measure	Weighting
Effectiveness	Impact on wage increases in arbitration (wage effect)	Scale Worst: -5 Best: 5	3
	Impact on number of contracts settled before arbitration (narcotic effect)	Scale Worst: -5 Best: 5	1
	Impact on quality of negotiations (chilling effect)	Scale Worst: -5 Best: 5	1
	Impact on relationship between union and employers	Scale Worst: -5 Best: 5	1
Other Impacts	Complexity	Scale Worst: -5 Best: 5	.25

8.1. Criteria

In order to assess which options are best for addressing the policy problem, the study sets out two groups of evaluative criteria: (1) effectiveness; and (2) other impacts. These criteria were selected to encompass as many potential impacts, both direct and indirect, as possible.

Efficiency is the primary societal goal identified in the policy problem: an inefficient labour market has, in this case, detrimental effects on the allocation of local governments' resources. The dispute resolution process, as demonstrated in Chapter 4, is intimately related to this broader societal goal. Hence the "effectiveness" criteria, which evaluate changes to the dispute resolution process, largely reflect this notion of efficiency. No other societal goals (such as environmental or public safety concerns) are included in the analysis since the options will not have a significant impact on them.

The "effectiveness" group includes four criteria: impact on wage awards, impact on number of contracts settled before arbitration, impact on the quality of negotiations, and impact on the relationship of the parties. These goals align with literature on the subject and follow from the policy problem set out in Chapter 2.

- Wage Effect: this criterion assesses the impact of a reform on the wage increases received by fire fighters. Since these increases are too high relative to the supply of labour, a positive outcome is awards that are closer to 0 or in line with inflation.
- Narcotic Effect: arbitration is a costly process that is in place as a last resort. As scholars note: "one of the central criteria for evaluating the effectiveness of the collective bargaining process is the extent to which unions and employers are able to resolve their differences without dependence on third parties." (Kochan and Baderschneider, 1978, p. 431)
- Chilling Effect: this criterion measures the degree to which the parties do the hard bargaining prior to arbitration. While difficult to measure, some proxy measures could be the number of issues submitted to arbitration and the distance between the parties' positions. It is similar to the narcotic effect in that it is more valuable to have the parties determine the terms of work than arbitrators.

- Relationship between parties: since long-term relationships and cooperation between individuals are important parts of the bargaining process, the overall framework should support, or at least not detract from, the parties' relationships. Again difficult to measure, some proxies would be the extent to which any one municipality and local use arbitration, the length of their contracts, and the length of the negotiating process.
- Complexity: this criterion indicates the impact the change may have on the process of bargaining and dispute resolution, whether increasing or decreasing time, cost, and so on.

8.2. Measures

The study could employ concrete measurement tools for several criteria: impact on wage awards could be measured in percentage change, while one could measure the expected increase or decrease in number of contracts going to arbitration. However, all of the criteria use a "scoring" measure to assess the degree of impact, for several reasons.

First, a common measurement allows all of the criteria to be compared consistently to one another. Different measures do not illustrate tradeoffs as directly as a numerical score. More importantly, however, the research has not produced the requisite level of certainty necessary to use precise measuring tools. Attributing observed changes in wage awards to specific instruments, as one example, is fraught with difficulty. To the extent that such attribution has been successful, the research has occurred in other jurisdictions, and inferring that similar effects would occur here is another challenging assumption. Furthermore, the absolute level of wage awards varies with time, economic conditions, and negotiation cycle, and length of contracts signed also varies. Concrete measures would become almost meaningless taking these challenges into account.

Hence, the "score" measurement reflects the analytical methodology employed in the study: gathering as much information as possible from the literature, examining case studies, and using interviews and local analysis to make educated guesses about the

relative merits of each option. It follows a -5 to +5 format, allowing the analysis to show whether a certain option will have a positive, negative, or no impact on a given criterion. For example, certain changes can worsen the relationship between bargaining parties, leave them unchanged, or improve them.

The analysis is meant to be broad; as previously mentioned, each option has many permutations and sub-options. Labour relations is a complex, human topic, and though the study attempts to consider some confounding factors in the formal analysis, it will always be difficult to come to definitive conclusions. The score measurement tool is therefore a guide to help illustrate these options' broad tradeoffs.

8.3. Weighting

Weighting the criteria's scores provides context to the analysis of options, integrating the fact that some considerations are more important than others. Weighting is a sensitive element of the analysis, since small changes to weighting can dramatically affect conclusions. The weighting in table 8.1 attempts to follow the arc of the policy problem and BC's situation as set out in Chapters 3 and 4, reflecting society's goals. Nonetheless, there will always be some arbitrariness inherent in criteria weighting.

The impact on wage awards is weighted three times as heavily as the other effectiveness criteria, since only the wage effect criterion represents the policy problem as outlined in Chapter 3. The primary goal of the study, to create a more efficient labour market, is represented by this wage effect criterion in the context of an arbitration system. The other effectiveness criteria, while important, represent "process-specific" criteria; that is, they represent the concern that creating a more efficient labour market is important, but not at the expense of dramatically poorer negotiating practices (for instance, referring to arbitration in every case, or giving arbitrators total power to decide contracts). Last, the complexity criterion is worth a quarter of an effectiveness criterion, due to its relative unimportance.

Chapter 9.

Assessment of Options

As previously mentioned, the assessment of policy options in the area of labour relations is somewhat speculative. As Johnson and Warchol note, "one of the difficult aspects of conducting research in public sector labo[u]r relations is that the unique legal, statutory, political and economic environments of each state places limits on research generalizabilty" (1996, cited in Roberts & McGill, 2000, p.40). Moreover, analysis must always be sensitive to the issue of time horizons. Since parties adapt over time to the dispute resolution structure, a policy option may result in different short-term and long-term outcomes.

9.1. Option #1: Arbitration Criteria

This group of options is one of the most frequently discussed topics in the labour relations public-sector dispute resolution literature. The criteria and instructions written into the legislation are the most visible and direct constraints on the behaviour of arbitrators, which in turn greatly influences outcomes. The four main sub-options considered here (an ability to pay criterion, an expanded comparability criterion, a labour market criterion, and weighting) represent the ability of legislators to influence which considerations are most appropriate in disputes.

BC is similar to other jurisdictions in the existence of an act dedicated to police and fire labour disputes. Its list of criteria is somewhat shorter than most, with five stand-alone, in addition to two "catch-all," criteria. The province is distinct from some other jurisdictions in the absence of an explicit ability to pay criterion. The arbitrator is endowed with significant autonomy, since the *Act* does not place any requirements on how much consideration each criterion should receive, what should be considered under

each criterion, or on how the arbitrator gives evidence of consideration, in writing or otherwise. Changes to the legislation would therefore represent a significant departure from the current system of arbitral decision-making prescribed by the *Act*.

If changes were made to one or more criteria and their weighting, what would the immediate impact be on the dispute resolution process? The most important impact would be on arbitrators' behaviour. Determining how their behaviour would change, however, is not a straightforward matter. Arbitrators are not computer programs that respond consistently and directly to changes in "directives"; evidence from other jurisdictions demonstrates the difficulties of fine-tuning arbitration criteria for a specific purpose.

First, the inclusion of an ability to pay criterion is unlikely to change singlehandedly the decision-making of arbitrators or wage awards. Ontario has experienced the same problems (and, in fact, have much more organized municipal support for legislative change than British Columbia), despite their equivalent act containing "the employer’s ability to pay in light of its fiscal situation" as its first criterion (*Fire Protection and Prevention Act*, SO 1997, c.4). New Jersey's statute similarly mandated consideration of both "the interests and welfare of the public" and "the financial impact on the governing unit, its residents and taxpayers," yet these did not preclude arbitrators from favouring union offers (Tener, 1982, p. 10).

Why is this criterion not as effective as others? Two interrelated issues bear on this point. First, what constitutes a municipality's ability to pay is difficult to define; second, and in part consequently, arbitrators find it difficult to give full weight to ability to pay in their decisions.

Turpin notes that "the concept of ability to pay has been defined in about as many ways as there have been interest arbitration awards" (1997, p. 2). Anderson et al. contest that ability to pay "can only be fairly and intelligently considered when the panel is presented with fully documented references to such subjects as real estate and sales tax collections, constitutional debt limitations, the possibility of deficits, per capita income of citizens, [and] economic trends in the particular locality" (1977, p. 465). Turpin's 1997 study found that in more than 60 percent of the awards studied, arbitrators didn't mention

which factors were used in consideration of ability to pay. In those that did mention which factors were considered, only one (property taxes) was used in more than 50 percent of decisions. This led to a situation, in the words of one New Jersey judge, where "the parties and the arbitrator, in silence, decide not to treat as being relevant any real analysis of the interests and welfare of the public [nor] any analysis of the financial impact on the governing unit, its residents and taxpayers" (Martin, 1993, p. 82).

New Jersey, as one example, experienced a large number of cases appealed to the courts in the late 1980s on the grounds that arbitrators did not sufficiently consider the ability to pay and comparability criteria. One judge found that in addition to including private sector and other county employees as "comparable" groups, "the parties must also address the financial impact that any salary increase would have on the county budget and the taxpayers, regardless of how difficult that analysis might be" (Martin, 1993, p. 82). Partly as a result of this judicial interpretation, one of the amendments of 1996 included requirements that arbitrators participate in an annual continuing education program on "topics such as employer budgeting and finance, public management and administration, [and] employment trends and labo[u]r costs" (Mapp, 2012, p.12). Hence complexity must be added to the process in order to clarify the criterion so that arbitrators give it significant consideration.

Comparability is a more straightforward policy option; that is, amending the *Act* so that it mandates consideration of public or private sector wages and/or wage awards. As a single criterion, however, it may not be effective at reducing wage awards. As the analysis of BC arbitration decisions shows, arbitrators have generally been sympathetic to the argument that only police and fire fighters perform comparable work. Additionally, arbitrators in BC have generally given significant weight to the parties' historical bargaining patterns. As Hope's 1995 award states, "it can be said that interest arbitration is not an appropriate medium for the imposition of fundamental changes in collective agreement relationships" (*Vernon*).

An additional means to make these criteria more effective at reducing wage awards is the prescription of weighting to one or more criteria. New York's latest revision of their state statute requires 70% consideration of ability to pay. Previously the Financial Emergency Act required New York City arbitrators to accord "substantial weight" to

ability to pay. This proved to be an effective means of reducing wage awards in that jurisdiction, although the system's framework (an all-neutral panel organizationally structured within the Mayor's Office) may have had as great an impact as the statute. Once again, the only means to resolve whether an arbitrator has sufficiently considered the criterion in question would be through the court system, a relatively indirect, costly, and time-consuming method. Further, as long as the system stipulates that both parties must agree upon an arbitrator, some incentive towards moderate awards will remain.

Changing the criteria in the *Act* has the potential to change how arbitrators determine wage awards and therefore to reduce wage increases. This may depend, ultimately, on increased complexity (educating arbitrators and more complex party submissions), the judicial system's interpretation of the criterion, and arbitrators' own judgements. Reducing wage awards could take years as feedback from the courts on appropriate consideration of the criterion reaches arbitrators' decisions, as it did in New Jersey. Nonetheless, including one or more of these criteria, particularly with weighting attached, is undoubtedly more effective than the status quo.

The impact of changing legislative criteria on the narcotic effect has not been directly studied, so the analysis is somewhat speculative. Generally the narcotic effect of arbitration can be assumed to increase as the process becomes more attractive to one or both of the parties. In this case, since the structure of dispute resolution would remain the same (with just criteria changing), a large increase or decrease in the number of cases going to arbitration would be unexpected. Preparing more detailed briefs for arbitration (due to ability to pay information requirements) may be a small dissuading factor. Also, if the changes indeed affect wage awards downwards, municipalities may be less averse to arbitrations, while unions would be more averse. The narcotic effect would increase or decrease to the extent that these reactions are equal. On balance, however, there is little reason to expect a large effect.

Impact on the chilling effect of arbitrations/party relationships is equally ambiguous. Since the parties would interact with each other in the same way under this policy option, no considerable impact could be expected with confidence.

As previously mentioned, this policy option has the potential to increase the complexity of the arbitration process. Greater information demands for parties, increased arbitrator responsibility for determining financial health, and more detailed decisions may lengthen the hearing process.[18] Moreover, the number of appeals by either party may increase, not only increasing the burden on the appeals system, but destabilizing the position of the arbitrator and changing implementation of the criteria in the case of vacated award.

9.2. Option #2: Final Offer Arbitration

Final offer selection or final offer arbitration has been used as an alternative to conventional arbitration since the 1970s, and remains a popular choice for resolving public sector labour relations disputes (Lipsky & Katz, 2006). Although a handful of police or fire cases prior to 1995 were settled in a final offer setting, changing BC's dispute resolution system to final offer would represent a dramatic change to how the process currently operates.

Determining the impacts final offer arbitration would have requires careful analysis of the framework's effects. First, it has been shown conclusively that final offer arbitration brings parties' offers closer together prior to arbitration. Both parties have a stronger incentive than in conventional arbitration to take less extreme positions prior to arbitration. When New Jersey changed their decades-old final offer arbitration system to conventional arbitration, the state witnessed an increase in the gap between the parties' offers from 29 percent to 55 percent (Stokes, 1999), while the average number of compensation issues submitted increased from 2.03 to 4.82 (Roberts & McGill, 2000). BC's arbitration awards history is consistent with conventional arbitration in other jurisdictions: generally parties begin far apart and arbitrators "split the difference." Pre-arbitration gaps in final offers and issues submitted to arbitration should decrease under a final offer form.

[18] Though currently arbitrators must submit a decision within 21 days of concluding a hearing, the length of time to conduct the hearing may increase under this option.

Would more disputes end in an arbitration decision under final offer, or fewer? Lipsky and Barocci found that in comparing Massachusetts to other states in the 1970s, the states with final offer forms experienced fewer arbitrated settlements than those with conventional arbitration, ranging from 7 to 16.3 percent of negotiations in states with final offer to 30 percent in those that did not. In New Jersey initially had a low rate of arbitrated settlements as well, which increased over time. Lipsky and Barocci studying Massachusetts found that the rate of negotiations ending in a decision also increased over time in states with final offer. This may be the result of parties adjusting to the new form of arbitration as outcomes become more well-defined. In BC, then, rates of reliance on arbitrated settlements could decrease in the short term but may not remain low over time.

The impact of FOA on ultimate wage awards depends in part on the previous two effects. If the parties' offers are closer together prior to bargaining and each "wins" approximately half the time, resulting wage awards could be lower than the current "split the difference" system. If FOA successfully introduces risk into the arbitration process and discourages parties from using the process, freely negotiated settlements have the potential to be fairer. Much of the effect of a change to FOA, however, would depend on arbitrators' behaviour and the pattern of decisions that emerges.

Arbitration decisions in other jurisdictions have not always adhered to a 50-50 split in award winners. Municipalities in New Jersey complained throughout the 1980s that the arbitration system resulted in higher wages, since 67% of police arbitration decisions were awarded to the union between 1983 and 1992 (Turpin, 1997). Massachusetts experienced a similar phenomenon, with employees "winning" FOA decisions around two-thirds of the time (Lipsky & Barocci, 1978). Much of final offer arbitration's appeal is in its effects on parties' actions prior to arbitration; once before an arbitrator, the panel's decision-making and whatever legislative criteria are in place are responsible for the outcome, as in conventional arbitration.

The significant difference in final offer compared to other forms is that arbitrators are prohibited from "splitting the difference." Nonetheless, if criteria such as comparability are more influential to the panel, union offers will be favoured. The case of New Jersey again illustrates this effect: as the courts gradually instructed arbitrators to

give more weight to the ability to pay criterion, union success rates dropped. Robert Martin noted in 1993 that "this employee success rate of 44% [in 1992] was well below the prior two-to-one favo[u]rable ratio and suggests that arbitrators, either consciously or subconsciously, may have begun to take the employer's ability-to-pay arguments more seriously" (1993, p.91). Hence if the arbitration structure in BC is changed to final offer without changing the criteria in the *Act*, it may not ameliorate the wage increase problem whatsoever, while running the risk of exacerbating it.

The relationship between bargaining parties may also suffer under FOA. The requirement that arbitration creates a winner and a loser does little to promote a healthy working relationship. Bowers and Cohen note that "too frequently, and understandably so, losers tend to devote a substantial amount of energy getting back at the winner" (as cited in Anderson et al., 1977, p. 497). Further, final offer forms also suffer from significant drawbacks that compromise the ability of arbitration to offer "fair" awards. In package final offer, "arbitrators can be confronted with the dilemma of choosing between two final packages, each of which may contain one or more unacceptable demands" (Lipsky & Barocci, 1977, p. 67). Similarly parties may insert "sleeper" demands that are unreasonable compared to the rest of the package (Lipsky & Barocci, 1977). Issue-by-issue final offer can counteract this effect, but presents unique challenges. Proposals are sometimes intertwined and dependent upon one other, and it is sometimes difficult to distinguish "economic" and "non-economic" issues (Anderson et al., 1977).

9.3. Option #3: Tripartite Panels

Several jurisdictions mandate the use of tripartite panels rather than neutrals for interest arbitration procedures. Since BC uses a single neutral in impasse panels, changing to a tripartite format would change both how parties prepare for arbitration hearings and the ultimate means of resolution.

What changes could be anticipated from a switch to tripartite resolution? The primary effect would be a change to an arbitration process where the parties are more engaged. The current system affords arbitrators a significant degree of authority to act

as judges, bound in their decision mostly by legislative criteria (which, as noted previously, are not particularly onerous and do not assign weighting to any particular criterion). A tripartite panel would be more collaborative, with negotiation and mediation effectively occurring throughout the hearing process, promoted by the neutral arbitrator (Lipsky & Katz, 2006). Kochan et al. note that "in virtually all arbitration cases in New York State, after the formal hearings are concluded, the tripartite panel goes into 'executive session,' where negotiation and mediation are common features of the process," and that "there was near universal preference among the arbitrators for the tripartite design over use of a single neutral" (2010, p. 580).

For municipalities in BC dissatisfied that their voices are not consistently heard in current arbitrations, this may be a favourable development. Also, tripartite panels may counteract the dominance of the comparability criterion and the strong "pattern" bargaining in BC. As Lipsky and Katz contend, "the arbitrator's goal in the judicial prototype is to render an award based squarely on the record presented by the parties" (2006, p.271). In BC, this results in wage awards that approximate the current trend, since arbitrators have ultimate authority and are generally sympathetic to the comparability criterion. Conversely, in a "negotiation" prototype such as tripartite arbitration, "if required to issue an award, the arbitrator's goal is to produce one that is identical to or at least closely approximates a deal the parties might have negotiated on their own" (2006, p.271). This has the potential to result in more localized awards, particularly if the criteria are also amended to give more weight to local ability to pay and labour market conditions.

Interview respondents indicated that the "pattern" bargaining dynamic in BC is at least partially responsible for the low level of settlements determined through arbitration, particularly later in negotiation cycles. If this dynamic were altered through the adoption of tripartite panels, there may be an increase in the number of disputes entering arbitration. Since disputes can be resolved at any stage of the process, however, and since the tripartite framework favours negotiation over decisions, there may not be a net increase in the number of awards.

A tripartite framework may also resuscitate elements of bargaining that are currently suppressed by the "pattern" bargaining dynamic. Tripartite panels may

encourage municipalities to continue bargaining through the process instead of settling prematurely. In other words, since the dispute resolution mechanism will not resemble conventional arbitration as closely, it will help counteract the traditional "chilling" effect whereby parties take extreme positions and allow the arbitrator to decide the outcome. The system is also unlikely to hurt the parties' existing relationships.

Tripartite panels have been the target of criticism, however. Some contend that it is inappropriate that an individual be required to be both partisan and neutral in the same proceedings (Rogers, 2002). Further, the code of conduct governing neutral arbitrators is straightforward, whereas grey areas can occur with "non-neutral neutrals;" for instance, in the degree to which arbitrators should help prepare a case. Broadly speaking, though, tripartite design in fire fighter interest arbitration has escaped such criticism in jurisdictions where it has been in place for decades. One outcome of the proposed option is an increase in complexity, however, with a need for pools of neutral arbitrators to be set up, and potential increased complexity during the arbitration process.

9.4. Scoring Matrix

Table 9.1. Total Scoring for Options

Criterion	Option #1: Arbitration Criteria	Option #2: Final Offer	Option #3: Tripartite Panels
Wage Effect	3	0	1
Narcotic Effect	0	3	-1
Chilling Effect	0	4	2
Relationship of Parties	0	-3	0
Complexity	-2	3	-1
Pre-weighting total	1	7	1
Post-weighting total	**8.5**	**4.75**	**3.75**

The results of the options assessment are shown in table 10.4. Prior to weighting, final offer is the highest-ranked of the three options, while arbitration criteria and tripartite panels are ranked equivalently. Post-weighting, however, arbitration criteria improves to the top rank and tripartite panels falls behind the other two.

The table illustrates the tradeoffs among options and offers a few key takeaways. First, the most effective option by far at addressing the primary policy problem (wage effect) is Option #1. Tripartite panels will likely help somewhat, while final offer arbitration is not effective. Option #1 benefits from this characteristic because of the weighting scheme; it does not address either the narcotic or chilling effects of interest arbitration. Final offer, conversely, is most effective at addressing the chilling and narcotic effects, while potentially damaging the relationship between parties. This is a strong indicator that combining these reforms may make the greatest impact. A final key takeaway is that tripartite panels are the least effective option, having no great impact, either positive or negative, on any of the criteria. Nonetheless, all of these options represent potential improvements to the status quo in British Columbia.

Chapter 10.

Recommendations

Following the investigation of this policy problem, its causes, and its ancillary issues, this study provides several recommendations. These recommendations attempt to incorporate the tradeoffs inherent in policymaking as well as the normative features of the issue of fire fighter compensation in BC. They are directed primarily at the provincial government, which holds jurisdiction over this problem, but also at municipalities in the region.

10.1. Recommendation 1: Set up Bodies for Investigating Reform and Oversight

The provincial government has so far been uninterested in exploring options for reform to the dispute resolution system for municipalities and fire fighters. For progress to be made on the issue, this stance must change. Municipalities have called for reform through their representatives at UBCM, and the government should respond to these calls by employing the considerable resources at its disposal and rigorously investigating the *Act*'s implementation and results.

A primary finding of the literature and jurisdictional review is that there is little consensus on the precise design of legislation in this area. Best results are likely achieved through consultation with both bargaining sides and labour specialists. Additionally, the study found that outcomes change through time as parties adjust to the system and economic and other circumstances change. Hence, once the government makes changes, it should enact a process to monitor outcomes and, if necessary, adjust process design.

10.2. Recommendation 2: Amend the *Act*

The current *Fire and Police Services Collective Bargaining Act* must be amended or replaced. It was introduced without sufficient consultation or foresight and is responsible for British Columbia's dysfunctional status quo. If the government decides to keep interest arbitration as the cornerstone of the dispute resolution process, as this study has suggested, it can pursue a range of options.

This study's analysis of options suggests that implementing several changes simultaneously is likely to be the most effective way forward. In light of the policy problem, an inefficient labour market, the most important changes should relate to the arbitration criteria. Since comparability dominates arbitrators' decision-making under the current framework, stronger employer-focused criteria should feature in revised legislation. A weighted ability to pay criterion would likely change arbitrators' behaviour, particularly if appeal is available through the courts. As noted in Chapter 9, though, it is difficult to specify which sub-criteria should be used.

Criteria relating directly to the labour market address the policy problem more directly. Oregon's statute was revised in 1995 to include the following criterion: "ability of the unit of government to attract and retain qualified personnel at the wage and benefit levels provided" (Miler, 1999, p. 271). Giving such criteria prominence in arbitration hearings would introduce some of the considerations that exist in freer markets.

These changes could be made concurrent with a switch to final offer selection. Giving parties the power to determine the terms of their agreements is desirable, and a change to final offer would ensure that the incentive to proceed to arbitration is minimal. Tripartite panels may also help, since they stimulate continued bargaining through all steps of the dispute resolution process. Here monitoring of the process over time is particularly important, so that imbalances in outcomes are caught and mitigated.

10.3. Recommendation 3: Stronger Employer Cooperation

This recommendation speaks both to the policy problem and the process of reform. Municipalities in BC are the least-coordinated, in terms of a shared mandate for collective bargaining, than they have been in many years. A stronger collective mandate and political will for fiscal responsibility in fire fighting, whether through Metro Vancouver or another organization, would undoubtedly help address the issue facing the region. Confronted by a vastly more centralized and organized bargaining party in the IAFF, employers should hasten to coordinate their efforts once more.

The study also found that legislative change in other jurisdictions occurred when municipalities banded together to lobby a higher level of government. On this score Ontario is much farther ahead than British Columbia, with the Emergency Services Steering Committee having proposed legislative amendments, lobbied MPPs, and generally raised awareness and coordinated response to the issue. Municipalities should follow Ontario's example and form a stronger, more organized voice on the issue in BC to help overcome the political obstacles to change.

10.4. Recommendation 4: Consider an Awards Cap or Compensation Stabilization

One of the central themes addressed in the study is normative in nature: should the provincial government take direct responsibility for the fiscal outcome of collective negotiations, or should that responsibility be imbedded in the legal system through changes interest arbitration tribunals? There is no correct answer to this question, although there are options that could be implemented for either choice.

If the government decides to take more direct responsibility for fiscal outcomes, it should consider an award cap or stabilization program. Again variations on these mechanisms are many: the cap could be temporary as fire costs diminished relative to economic growth and city budgets, or the program could create a tiered system based on need for fire services or specific labour market conditions. Regardless, these options come at a high political price and are undoubtedly more contentious than the generally

well-established mechanisms of interest arbitration. Moreover, any changes should nonetheless adhere to Recommendation 1 and follow a carefully planned engagement process and include mechanisms for evaluation and revision. These measures are particularly important for an option as heavy-handed as an awards cap.

Chapter 11. The Future of Dispute Resolution

The provision of fire services in modern urban areas faces many questions, but the issue of fire fighter wages stands as distinct and remediable. Unnecessarily high wages clearly result in inefficient outcomes that manifest as reduced municipal services or higher taxes. Policymakers in the region must acknowledge the key role that impasse procedures play in maintaining this problem. Reforming the *Fire and Police Services Collective Bargaining Act* is a necessary first step toward more effective and beneficial labour relations in the province, and therefore improved societal outcomes.

These reforms must include mechanisms to lower the collateral damage done by arbitration, either by handing more power to the parties, breaking down trend bargaining, or directly integrating labour market considerations into the process. This study has illustrated in part, however, the difficulties in crafting effective labour legislation. Balance is not easily attained and overly heavy-handed mechanisms should be avoided. Nonetheless, if the government makes a commitment to improve outcomes, it can take advantage of a wealth of literature and the examples of other jurisdictions.

Change may yet be beginning. Local governments are increasingly recognizing the severity of the issue as workarounds are exhausted. Municipalities will likely come to a greater level of cooperation in the next few years as the bargaining cycle continues. BC may follow Ontario's example and bring the issue to greater public awareness.

Overall, the citizens of BC benefit from perhaps a higher level of public safety than ever, which should be celebrated. But the time has come for the province and cities to take a hard look at what is being given up to obtain that level of safety and to what degree the labour market should be distorted. The first step in that process is providing for more effective labour relations between unions and cities, and the citizens of British Columbia will be better for it.

References

Anderson, A., MacDonald, E.S., & O'Reilly, J.F. (1977). Impasse resolution in public sector collective bargaining: An examination of compulsory interest arbitration in New York. *St. John's Law Review*, *51*(3), 453-515.

Anderson, A. (1982). Interest arbitration in New York city. *The Arbitration Journal, 37*(4), 16-20.

Bish, Robert L. (2008). *Local government in British Columbia.* Richmond: Union of BC Municipalities.

Borden Ladner Gervais. (2002). *Legal developments in interest arbitration: A cross-Canada check-up (British Columbia)*. Vancouver: Coady, M.A., and Tucker, S.M.

British Columbia Professional Fire Fighters Association (BCPFFA). (2014). *Who we are*. Retrieved from: http://www.bcpffa.org/?zone=/unionactive/view_page.cfm&page=Who20We20Are

Burnaby (City) v Burnaby Fire Fighters Union, Local 323, [2008], BCCAAA no. 220.

Business Council of British Columbia (BCBC). (2014). *Industrial relations bulletin*. Vol. 46 (3). Retrieved from http://www.bcbargaining.ca/content/1113/SNV46N03Jun_Jul.pdf

City of Vancouver. (2012). Documents of the city of Vancouver in the matter of an arbitration pursuant to the *Fire and Police Services Collective Bargaining Act*.

Cole, William D. (2007). *The seven year itch: Assessing the effectiveness of mediation-arbitration in Ontario fire fighter collective bargaining disputes* (Master of Laws Major Research Paper). Osgoode Hall Law School, Toronto.

Cranbrook (city) v Cranbrook Fire Fighters, Local 1253, [1996], BCCAAA no. 446.

Dorsey, James E. (2011). *Sustainable or spent force? Review of Metro Vancouver labour relations function*. Retrieved from: http://www.geoffmeggs.ca/wp-content/uploads/2011/05/Review-of-Metro-Vancouver-Labour-Relations-Function-RV-01.pdf

ESSC. (2009). *Collective bargaining dispute resolution in Ontario's emergency services: Are the current methods for resolving collective bargaining disputes still viable or is change necessary?* Hicks Morley Hamilton Stewart Storie LLP.

ESSC. (2011). *Position paper: Escalating emergency services labour costs and the Ontario taxpayer's ability to pay*.

Emergency Services Steering Committee (ESSC). (2013). *What we do*. Retrieved from: http://www.es-sc.ca/what_we_do.html.

Farrell-Collins, G. (1995, Jun. 15). "Access to Information. British Columbia. Parliament." *Edited Hansard 21*(4). 35th parliament, 4th session. Retrieved from http://www.leg.bc.ca/hansard/35th4th/h0615am.htm

Fire and Police Services Collective Bargaining Act (RSBC 1996, c. 142). Retrieved from BC Laws website: http://www.bclaws.ca/Recon/document/ID/freeside/00_96142_01

Fire Protection and Prevention Act (SO 1997, c. 4). Retrieved from Ontario E-Laws website: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_97f04_e.htm.

Fox, M. (1981). Criteria for public sector interest arbitration in New York city: The triumph of "ability to pay" and the end of interest arbitration. *Albany Law Review, 46*, 97-131.

Greater Victoria Labour Relations Association (GVLRA). (2013). *Services*. Retrieved from: http://www.gvlra.com/services.aspx

Hurd, W. (1995, Jun. 15). "Access to Information. British Columbia. Parliament." *Edited Hansard 21*(4). 35th parliament, 4th session. Retrieved from http://www.leg.bc.ca/hansard/35th4th/h0615am.htm

International Association of Fire Fighters (IAFF). (2014). *About us*. Retrieved from: http://client.prod.iaff.org/#page=AboutUs

Labour Relations Code (RSBC 1996, c. 244). Retrieved from BC Laws website: http://www.bclaws.ca/Recon/document/ID/freeside/00_96244_01#section4

Lester, R. A. (1984). *Labor arbitration in state and local government: An examination of experiences in eight states and New York City*. Princeton, NJ: Princeton University.

Liebeskind, A. K. (1987). Compulsory interest arbitration for public safety services in New Jersey: The first three years. *Journal of Collective Negotiations, 16*(4), 343-361.

Lipsky, D. B., & Barocci, T. A. (1977). Final-offer arbitration and public-safety employees: The Massachusetts experience. *Proceedings of the Thirtieth Annual Winter Meeting of the Industrial Relations Research Association*, 65-76.

Lipsky, D. B., & Katz, H. C. (2006). Alternative approaches to interest arbitration: Lessons from New York City. *Public Personnel Management, 34*(4), 265-281.

Kanowitz, Leo. (1986). Alternative dispute resolution and the public interest: The arbitration experience. *Hastings Law Journal*, *38*, 239-303.

Kochan, T., Lipsky, D.B., Newhart, M., & Benson, A. (2010). The long-haul effects of interest arbitration: The case of New York state's Taylor law. *ILRReview, 63*(4), 565-584.

Kochan, T., & Baderschneider, J. (1978). Dependence on impasse procedures: Police and firefighters in New York state. *Industrial and Labor Relations Review, 31*(4), 431-449.

Lee, Jeff. (2014, December 5). Vancouver firefighters get pay raise. *The Vancouver Sun*. Retrieved from: http://www.vancouversun.com/news/metro/Vancouver+firefighters+raise/10441693/story.html

Malin, M. H. (2013). Two models of interest arbitration. *The Ohio State Journal on Dispute Resolution*, *28*(1), 145-168.

Martin, R.J. (1993). Fixing the fiscal police and firetrap: A critique of New Jersey's compulsory interest arbitration act. *Seton Hall Legislative Journal, 18*, 59-110.

Mapp, Anthony. (2012). Arbitration reform bill A-3393: New Jersey's dramatic change in compulsory interest arbitration. *Rutgers Conflict Resolution Law Journal, 9*(2).

Metcalfe, Bill. (2013, July 4). Mayor wants to change process for bargaining with police and fire unions. *The Nelson Daily*. Retrieved from: http://thenelsondaily.com/news/mayor-wants-change-process-bargaining-police-and-fire-unions-25471#.VEVy5vldWbO

Metro Vancouver (2014). *Labour relations and collective agreements*. Retrieved from: http://www.metrovancouver.org/services/labour/Pages/default.aspx

Metro Vancouver (2015). *Terms of Reference, Metro Vancouver Labour Relations Function*. Retrieved from: http://www.metrovancouver.org/services/labour-relations/LabourRelationsPublications/LabourRelationsFunction-TermsofReference.pdf

Miller, D. (1995, Jun. 15). "Access to Information. British Columbia. Parliament." *Edited Hansard 21*(4). 35th parliament, 4th session. Retrieved from http://www.leg.bc.ca/hansard/35th4th/h0615am.htm

Miller, D. (1995, Jun. 20). "Access to Information. British Columbia. Parliament." *Edited Hansard 21*(9). 35th parliament, 4th session. Retrieved from http://www.leg.bc.ca/hansard/35th4th/h0620pm2.htm

Miller, R. (1999). High risk final offer interest arbitration in Oregon. *Journal of Collective Negotiations, 28*(4), 265-279.

New Jersey Public Employment Relations Commission (PERC). (2014). *Biennial report on the police and fire public interest arbitration reform act*.

Office of the Fire Commissioner. (2013). *Annual Statistical Fire Report 2012*. Victoria, BC: Emergency Services BC.

Okanagan Mainline Municipal Labour Relations Assn. and International Assn. of Fire Fighters Local 953, 1399, and 1746, [1997], BCCAAA no. 594.

Prince Rupert (City) v. Prince Rupert Fire Fighters Assn., Local 559, [2004], BCCAAA no. 236.

Roberts, G. E., & McGill, J.R. (2000). New Jersey interest arbitration reform act: A third year assessment. *Review of Public Personnel Administration, 20*, 28-42.

Rogers, S.C. (2002). Can tripartite arbitration panels reach fair results? *Business and Commercial Law*, *8,* 10-11.

Serwa, C. (1995, Jun. 15). "Access to Information. British Columbia." Parliament. *Edited Hansard 21*(4). 35th parliament, 4th session. Retrieved from http://www.leg.bc.ca/hansard/35th4th/h0615am.htm

Stokes, G. (1999). Solomon's wisdom: An early analysis of the effects of the police and fire interest arbitration reform act in New Jersey. *Journal of Collective Negotiations, 28*(3), 219-231.

Surrey (city) v Surrey Fire Fighters' Assn., [2011], BCCAAA no. 50.

Symons, D. (1995, Jun. 15). "Access to Information. British Columbia. Parliament." *Edited Hansard 21*(5). Retrieved from: http://www.leg.bc.ca/hansard/35th4th/h0615pm1.htm

Tener, J. (1982). Interest arbitration in New Jersey. *The Arbitration Journal, 37*(4), 9-12.

Turpin, R. A. (1997). Factors considered by public sector interest arbitrators in assessing ability to pay. *Journal of Collective Negotiations, 26*(1), 1-7.

Turpin, R. A. (1998). An analysis of public sector arbitrators' assessments of wage comparability. *Journal of Collective Negotiations,* 27(1), 45-51.

Union of BC Municipalities (UBCM). (2014). *Resolutions to be considered at the 2014 UBCM convention*. Retrieved from: http://www.ubcm.ca/assets/Resolutions~and~Policy/Resolutions/2014ResolutionsBook_FINAL_WEB.pdf

Union of BC Municipalities (UBCM). (2011). *UBCM resolutions*. Retrieved from: http://www.ubcm.ca/assets/Resolutions~and~Policy/Resolutions/2011%20Res%20Book%20for%20web.pdf

Vancouver (city) v Vancouver Firefighters' Union, Local 18, [2001], BCCAAA no. 419.

Vernon (city) v Local 1517, [1995], BCCAAA no. 432.

Weitzman, J., & Stochaj, J.M. (1980). Attitudes of arbitrators toward final-offer arbitration in New Jersey . *Arbitration Journal, 35*(1).

Appendix A

Fire and Police Services Collective Bargaining Act

Definitions

1 In this Act:

"arbitration bureau" means the Collective Agreement Arbitration Bureau continued under the Code;

"board" has the same meaning as in the Code;

"Code" means the *Labour Relations Code*;

"employer" means an employer of one or more members of a fire fighters' union or police officers' union;

"fire fighters' union" means a trade union certified for a unit in which the majority of employees has as its principal duties the fighting of fires and the carrying out of rescue operations;

"parties" means a fire fighters' union or police officers' union and an employer with which it bargains collectively;

"police officers' union" means a trade union certified for a unit in which the majority of employees is engaged in police duties.

Application of Labour Relations Code

2 The Code and the regulations under it apply in respect of the matters to which this Act applies, but if there is a conflict or inconsistency between this Act and the Code, this Act applies.

Settlement of dispute by arbitration

3 (1) If a fire fighters' union or a police officers' union and an employer have bargained collectively and have failed to conclude a collective agreement or a renewal or revision of a collective agreement, the trade union or the employer may apply to the minister for a direction that the dispute be resolved by arbitration.

(2) The minister may direct that the dispute be resolved by arbitration if

(a) a mediation officer has been appointed under section 74 of the Code and has conferred with the parties, and

(b) the associate chair of the mediation division of the board has made a report to the minister

(i) setting out the matters on which the parties have and have not agreed,

(ii) stating whether in the opinion of the associate chair the party seeking arbitration has made every reasonable effort to reach a collective agreement, and

(iii) stating whether in the opinion of the associate chair the dispute or some elements of the dispute should be resolved by applying the dispute resolution method known as final offer selection.

(3) The minister may specify terms of reference for an arbitration under this Act.

(4) If the minister directs that the dispute be resolved by arbitration, a trade union must not declare or authorize a strike and an employer must not declare or cause a lockout, and if a strike or lockout has begun the parties must immediately terminate the strike or lockout.

Settlement by arbitration

4 (1) If the minister directs that a dispute be resolved by arbitration, the parties may, by agreement, make arrangements for the appointment of a single arbitrator or the establishment of a 3 person arbitration board.

(2) If the parties have failed to agree to a single arbitrator or an arbitration board is not fully constituted within 10 days after the minister makes a direction under subsection (1), the director of the arbitration bureau must appoint a single arbitrator to hear the dispute.

(3) The arbitrator or arbitration board appointed or established under this section must commence the hearing within 28 days of being appointed or established and must issue a decision within 21 days of the conclusion of the hearing.

(4) Sections 92 to 98, 101 and 102 of the Code apply to an arbitration under this Act.

(5) The arbitrator or arbitration board may encourage settlement of the dispute and, with the agreement of the parties, may use mediation or other procedures to encourage settlement at any time during the arbitral proceedings.

(6) In rendering a decision under this Act, the arbitrator or arbitration board must have regard to the following:

(a) terms and conditions of employment for employees doing similar work;
(b) the need to maintain internal consistency and equity amongst employees;
(c) terms and conditions of employment for other groups of employees who are employed by the employer;
(d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered;
(e) the interest and welfare of the community served by the employer and the employees as well as any factors affecting the community;
(f) any terms of reference specified by the minister under section 3;
(g) any other factor that the arbitrator or arbitration board considers relevant.

(7) Each party to an arbitration under this Act is responsible for

(a) its own fees, expenses and costs,
(b) the fees and expenses of a member of an arbitration board that is appointed by or on behalf of that party, and
(c) an equal portion of the fees and expenses of the chair of the arbitration board or a single arbitrator.

Referral of questions to the Labour Relations Board

5 (1) A question

(a) as to whether or not this Act has been complied with, or
(b) respecting the interpretation or application of this Act, or an order made under this Act

may be referred to the board by a party or another interested person.

(2) The board has jurisdiction to decide a question referred to it under subsection (1) and may, by order, enforce the decision

(a) in the manner, and

(b) by applying the remedies

available under the Code for the enforcement of a decision or order of the board.

Appendix B

Terms of Reference, Metro Vancouver Labour Relations Function

PURPOSE

The Terms of Reference for the Metro Vancouver Labour Relations Function is a framework that represents a “Principle of Common Interest and Trust’ among Metro Vancouver municipalities to participate as a member of the Metro Vancouver Labour Relations Agency. The Metro Vancouver Labour Relations Function has as its base, the values of open, honest transparent, consistent and collaborative ways for its members to work together on common labour relations and human resources issues. The governance, membership, costs allocation model, functions, and principles of the Metro Vancouver Labour Relations Function are articulated under the Terms of Reference.

OBJECTIVES

The objectives of the Metro Vancouver Labour Relations Function are to:

a. Provide Metro Vancouver municipalities with a forum to address matters of common interest in the areas of labour relations, collective bargaining and human resources management;
b. Coordinate collective bargaining preparation and strategic planning as well as mutual support across member municipalities;
c. Provide leadership and innovative thinking to help coordinate strategic collective bargaining positions and tactics to achieve bargaining coherency across member municipalities;
d. Collate and provide timely, reliable information to assist municipalities in their own collective bargaining activities as well as labour and human resources management;
e. Provide, upon request, professional assistance in collective bargaining including leading negotiations;
f. Provide advice on legal aspects of collective bargaining;

g. Provide advice and, upon request, professional advocacy services in collective agreement administration and arbitration;
h. Provide, upon request, professional job evaluation services and advocacy in job evaluation and classification disputes; and
i. Promote understanding of differing circumstances and needs across member municipalities.

SHARED VALUES, EXPECTATIONS & RESPONSIBILITIES

In support of the purpose and objectives of the Metro Vancouver Labour Relations Function, member representatives expect each other to:

a. Acknowledge the value of coordination of labour relations strategies through association with other municipalities under the auspices of the Function;
b. Ensure that financial obligations to the Function are fulfilled;
c. Demonstrate respect and professionalism in Function interactions;
d. Value and learn from differences of perspective and approach;
e. Maintain the confidentiality of information received from other member municipalities through Function interactions;
f. Seek to minimize surprises in the collective bargaining process by keeping each other informed of negotiation progress and actions contemplated or taken; and
g. Be open, honest and forthright in the sharing of information, metrics and communications in Labour Relations matters and not be critical or judgemental where diversity arises.

GOVERNANCE STRUCTURE

An Oversight Committee will decide on the general direction of the Labour Relations and Human Resource Management. The Function will provide the best professional advice to the Oversight Committee so that the Committee can make the best decisions possible. The Chair of the Oversight Committee, in conjunction with the Function Manager or designate, will provide updates to RAAC and Metro Vancouver Mayors Committee on common bargaining issues and strategies and other related issues as deemed appropriate. From an administrative and operation perspective, the Metro Vancouver Labour Relations Function will be located at the

Metro Vancouver Headquarters. Metro Vancouver will continue to offer administrative and operational support to the Function such as office accommodation, staff payroll and information technology.

Role & Function

The role and functions of the Oversight Committee shall be to:

a. Review and endorse the annual budget proposed by the Labour Relations Function;
b. Review and approve the Labour Relations Function's program content and service objectives as well as the annual work plan;
c. Advise the Mayors Committee when appropriate of strategic collective bargaining positions to achieve bargaining coherency across member municipalities;
d. Evaluate the performance of the Function and develop feedback systems to evaluate the level of customer service and satisfaction for the services provided;;
e. Ensure that the Function and its participants act as much as possible on sound professional principles rather than transient political needs; and
f. Seek consensus across Municipalities on the direction and labour relations strategy of the Function.

Composition

The composition of the Oversight Committee shall consist of:

1. A total of eight (8> Chief Administrative Officers/City Managers from the following municipalities:

   i. Vancouver;
   ii. Surrey;
   iii. A representative selected from Burnaby or Richmond;
   iv. A representative selected from Coquitlam, New Westminster;
   v. A representative selected from North Vancouver City, North Vancouver District or West Vancouver;

vi. A representative selected from Port Coquitlam, Port Moody, Maple Ridge or Pitt Meadows;

vii. A representative selected from the Delta, Langley City, Langley Township, or White Rock; and

viii. A representative selected from Metro Vancouver.

2. A Chair elected from the appointed Committee members of the Oversight Committee.
3. The following will sit as ex-officio non-voting members:

- The Chair of the Regional Administrative Advisory Committee; and
- The Chair of the Human Resources Advisory Committee.

4. Alternates: If a Committee member is unable to attend a meeting, an alternate can attend in their place as per the following:

- Area (i) Vancouver — Deputy City Manager! or alternate
- Area (ii) Surrey — Deputy City Manager! or alternate
- Areas (iii) to (vii) — another municipal CAO/'City Manager from within each designate area
- Area (viii) Metro Vancouver — Deputy CAO or alternate

5. Only members can vote. Members should commit to a minimum two year appointment with the option of reappointment.

Oversight Committee Meeting

a. The Committee will meet quarterly each year or at the call of the Chair;
b. The meetings may be conducted in person or by electronic means; and
c. A quorum of the Oversight Committee is a majority of the members of the Committee.

Dispute Resolution

Recommendations will preferably be made in consensus. If consensus cannot be reached based on diverging positions, the recommendations will be presented to the Regional Administrative Advisory Committee for resolution.

Reporting to Metro Vancouver Mayors Committee

The Chair of the Oversight Committee and the Function Manager or designate as required shall provide updates to the Metro Vancouver Mayors Committee on common bargaining issues and strategies and other related issues as deemed appropriate.

OPERATING & ADMINISTRATIVE MODEL

The services of the Labour Relations Function will be under the mandate of the Oversight Committee. Metro Vancouver will continue to provide administrative and operational support to the staff.

BASE SERVICES

The Metro Vancouver Labour Relations Function will provide 'Base Services' to all member municipalities. Base services refer to research and the distribution of relevant information and administrative services which includes the facilitation of strategic discussions by member municipalities.

Research will include:

- data collection;
- preparation of surveys;
- compilation of economic data;
- tracking settlement levels;
- compiling benchmarking comparisons;
- communication of issues and trends in Human Resources and Labour Relations;
- liaising with benefit carriers;
- maintaining contact with municipalities across Canada to provide up-to-date information on police and fire settlements;
- responding to information requests from municipalities;
- monitoring technological advancements in other jurisdictions; and
- performing historical searches.

Administration will include:

- communicating with municipalities at various levels;
- continuously improving technologies e.g. to facilitate easier user access to various data as well as for other purposes;
- liaising with senior government and their agencies on behalf of the municipalities;
- maintaining contact with other external employers on labour relations matters;
- staying current on recent labour relations trends and issues and keeping employers current;
- directing and coordinating the delivery of services;
- ensuring staff resources and performance are at appropriate levels;
- providing presentations, strategies and common interests with respect to collective bargaining;
- facilitating strategic workshops to the Oversight Committee;
- preparing and managing the annual budget;
- responding to requests/tasks from the Oversight Committee; and managing fee-for-service contracts.

FLEXIBLE SERVICES

The Metro Vancouver Labour Relations Function will provide additional 'Flexible Services' to those municipalities that require these services on a fee-for-service basis. These additional services will primarily include:

- labour negotiations and collective bargaining services; and
- compensation and job evaluation reviews and related research.

COSTS ALLOCATION MODEL

The costs for the Metro Vancouver Labour Relations Function to provide 'Base Services' shall be allocated amongst all member municipalities based upon the cost allocation as detailed in the Servicing Bylaw. The costs for the Metro Vancouver Labour Relations Agency to provide additional 'Flexible Services' shall be allocated amongst participating municipalities and based upon the cost allocation as detailed in the Servicing Bylaw.

NOTICE TO WITHDRAW

Should a Municipality decide to withdraw from the Function, a two year notice period is required. In RAAC discussions there was consensus that notice could not be provided

prior to December 31, 2013. The withdrawal of services will be effective as of January 01 two calendar years from the date of notice to withdraw which creates a minimum withdrawal period of two years plus a day. The withdrawal notice applies to both Base and optional Flexible Services. A Municipality may opt for both or either of the Flexible Services but my not opt out of Base Services if they want either of the Flexible Services (Metro Vancouver, 2015).