

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In the Matter of the Arbitration of the
Dispute Between the

**Sturgeon Bay School District Employees
Local 1685, AFSCME, AFL-CIO**
and

WERC Case 33
No. 59106
INT/ARB 9066
Decision No. 30095-A

Sturgeon Bay School District

Appearances:

Mr. Neil Rainford, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 14002 County Road C, Valders, WI 54245 for the Union. Mr. Clifford B. Buelow of Davis & Kuelthau, S.C., 111 E Kilbourn Ave., Milwaukee, WI 53202.

Background

Representatives of the Sturgeon Bay School District (hereinafter referred to as the "District" or the "Employer") and Sturgeon Bay School District Employees Local 1685, Wisconsin Council 40, AFSCME, AFL-CIO (hereinafter referred to as the "Union" or the "Employees") exchanged proposals on economic issues to be included in a successor agreement (for the years 2000-02) to their agreement which expired June 30, 2000. The Union represents all full time and regular part-time employees of the District, excluding managerial, professional, student, and confidential employees (approximately 44 members in secretarial, bus driver, custodian/maintenance, and food service positions). The Parties met on two other occasion and failed to reach an agreement. On August 9, 2000 the Union filed a petition with the Wisconsin Employment Relations Commission for final and binding interest arbitration pursuant to Section 111.70(4)(cm)6 Wis. Stats. Investigator Sharon Gallagher, a member of the Commission's staff, conducted an investigation which reflected that the parties were deadlocked in their negotiations and advised the Commission that an impasse existed. The parties submitted final offers to the Commission by March 9, 2001. On March 20, 2001 the Commission certified the parties' final offers and directed them to select an impartial arbitrator. The Undersigned, Richard Tyson, was selected and appointed April 12, 2001. He conducted a hearing on the matter on June 6, 2001 at the Sturgeon Bay School District offices in Sturgeon Bay, Wisconsin. No transcript of the hearing was taken. Both parties had an opportunity to present exhibits and testimony and to outline their arguments in this dispute. They agreed to a schedule for submitting certain additional exhibits, and exchanging briefs and reply briefs. After the reply briefs were received by the Arbitrator, the Employer submitted information to the Arbitrator with regards to District budget action and the Fund 10 balance. On November 24, 2001 he received a motion from the Union to strike this new evidence from the record as it was closed.

The Issue(s)

Although many issues were resolved in the bargaining process, several issues remain in contention: both parties have proposed 3.5% increases in each year of the contract though the Employer has proposed an additional 2.5% when employees would begin paying 10% of the health insurance premium as proposed by the Employer. The Union proposes to decrease the probationary period for unit employees from the current 1 year to 6 months, add an additional holiday (Christmas Eve) for school year employees, reduce the steps to the maximum wage from 5 years to 4 (from 6 to 5 for bus drivers), provide an equity adjustment for the extracurricular transportation rate, and add a \$.25 per hour premium for shifts beginning after 2 p.m. At the hearing the 10% insurance premium co-pay was considered the major item in this dispute.

Cost Costing of the proposals by the Employer is as follows¹:

Salary and Benefits Costs Under the District's Offer

	<u>1999-00</u>	<u>2000-01</u>	<u>%change</u>	<u>2001-02</u>	<u>%change</u>	<u>2 yr %change</u>
Wages \$	809413	\$850954	5.13%	\$905572	6.42%	11.55%
Benefits	387411	417784	7.84	462475	10.7	18.54
Total Comp.	1196825	1268738	6.01	1368046	7.83	13.84
\$ change		71913		99309		171222

Salary and Benefits Costs Under the Union's Offer

	<u>1999-00</u>	<u>2000-01</u>	<u>%change</u>	<u>2001-02</u>	<u>%change</u>	<u>2 yr %change</u>
Wages \$	809413	\$862334	6.54%	\$904935	4.94%	11.48%
Benefits	387411	419827	8.37	474748	13.08	21.45
Total Comp.	1196825	1282160	7.13	1379683	7.61	14.74
\$ change		85336		97523		182859

Difference	\$ 13423	(\$ 1786)	\$ 11637
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The Statutory Criteria

The parties have directed their evidence and arguments to the statutory criteria of Sec. 111.70 (7) Wis. Stats. which directs the Arbitrator to consider and give weight to certain factors when making his decision. Those factors are:

7. 'Factor given greatest weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state legislative or administrative officer, body, or agency which places limitations on expenditures that

¹ER EX D and F The Employer calculated the health insurance cost for alternative dates when the Employees would start paying the 10% premium. This table uses a 1/1/02 date.

may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.

- 7. g. 'Factor given greater weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors under subd. 7r.
- 7. r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give weight to the following factors:
 - a. The lawful authority of the employer.
 - b. Stipulations of the parties.
 - c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any settlement.
 - d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services.
 - e. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.
 - f. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees generally in private employment in the same community and in comparable communities.
 - g. The average consumer prices for goods and services, commonly known as the cost-of-living.

- h. The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration or otherwise between the parties, in the public service or in private employment.

Arguments of the Parties

The Union

Both parties's offers include wage increases of 3.5% per year, consistent with increases in the cost of living. The Employer's offer includes the elimination of a long standing insurance benefit which is not supported by the internal or external comparables, and is not adequately compensated. The Union's offer includes 5 modest enhancements which are fair and consistent with the external comparables.

The "greatest weight" and "greater weight" factors are not relevant in this dispute. There is no evidence that any expenditure or revenue restrictions prohibit the Employer from meeting the Union's offer. The Sturgeon Bay school district is not poorer than other, comparable districts, or financially disadvantaged. The Employer asserts that it should win "hands down" because of the existence of revenue caps. Arbitrators have held that the greater weight factor is not controlling; rather, evidence needs to show that the Union's offer would cause the Employer to exceed statutory limits.² In the presence of revenue limits or costs controls, the Employer's construction of the "greatest weight" factor would mean that the lowest cost offer automatically wins. Arbitrators construe this factor to require a specific showing that the Union's offer will adversely impact the employer and its ability to meet the limits. In this case, the District admits that it can pay the additional \$10,000 for the Union's offer. Clearly if it were pinched for funds,

²Union Reply Brief, p. 22

it could do more than go after the lowest paid employees for premium contributions. The District gave no evidence that the Fund 10 balance would be in jeopardy under the Union's offer. In fact, the balance increased \$22,539 to \$1,529,214 in 2000.

Among the "other factors," the authority of the Employer is also not relevant. The Cost of Living factor does favor the Union's offer. Inflation has been about 3.5% from January, 2000 until April 2001, matching both parties' wage offers. However, the loss which would be suffered by employees if they were to pay 10% of their health insurance premium means that the Union's offer is to be preferred under this criterion. The Employer misapplies this criteria, using the total package costs while numerous arbitrators conclude that it is the wage rate increase which is to be compared to changes in the CPI.

The Union's offer is most consistent with that of the comparables, which are most of the Packerland Athletic Conference (Algoma, Denmark, Gibraltar, Sevastopol, and Southern Door). The Employer included Oconto, Kewaunee, and Luxemburg-Casco. The Union added Oconto Falls which had been a member of the conference. Bus Drivers in Oconto are not unionized, but other employees are, so the Oconto District can be included. Kewaunee and Luxemburg-Casco should not be included since employees there are not unionized, a position taken by numerous arbitrators. The Employer quotes Arbitrators Kerkman, Baron, and Weisberger as favoring inclusion of non-represented employees, but each of these subsequently reversed their former positions.³ The proposal to reduce the probationary period from one year to 6 months is reasonable. Sturgeon Bay Teacher Aides have a 90 day period. In most of the comparables, the period is generally 60 - 75 days for support staff. The one year period "intrudes on the employee's rights to just cause".⁴ Reducing the number of years to the maximum step from 5 years to 4 is similarly consistent with the comparables which generally have the maximum step reached within 2 years. The Union's proposal for a sixth holiday for school year employees is consistent with the norm (averaging 6.2 days). The proposal to increase the pay for extracurricular bus drivers is consistent with the trend as well, and corrects a long standing inequity. The proposal to provide a \$.25/hr. shift differential for seven custodians scheduled to work the night shift finds support from at least two other districts, is fair, and costs little.

The Employer's proposal to require a 10% insurance contribution by employees does not find

³Union Reply Brief, pp. 30-32.

⁴Union Brief, p. 11.

support both internally and externally, is not necessary, and is not compensated with an adequate *quid pro quo*. The only District employees asked to pay are the new unit, the Teachers' Aides. Most employees— the Teachers, unrepresented employees, and the administrators— have 100% of the premium paid by the District. The Employer has no plans to extend the co-pay to them when it clearly could, indicating that the need and the alleged benefits is simply not there. The Employer's citation of newspaper articles indicating that many employers have shifted costs to employees does not prove a need for this employer to impose a benefit reduction on this one group of employees.⁵ Its exhibits on the costs of health care premiums in the comparables demonstrate that its proposal will not reasonably address the need to contain premium increases since these districts which have co-payments have had the same increases. The Employer's plan will undoubtedly shift, but not reduce costs since most of the District's employees still will **not** be paying towards their health care. If there were a true need, the unrepresented employees and administrators would be required to pay 10%. If the co-payment were a true remedy, described by the District as a "partnering" of employer and employees to reign in skyrocketing health care costs, certainly the administrators and non-represented employees should have gotten in "on the ground floor."⁶ There is no need based on the District's lack of funds— it just wants to use the money (saved by shifting insurance costs to Local 1658 employees) for other District priorities. In doing so, it imposes an undue burden on some of the lowest paid employees in the District, some of whom may need to forgo insurance.⁷

While support staff employed by the external comparables do make co-payments, arbitrators consistently give greater weight to internal comparables on questions of fringe benefits.⁸ If the Arbitrator is to consider that the external comparables are relevant, he should reject such a dramatic increase which is proposed. The Employer's proposal will change the ranking of Sturgeon Bay from *first* to a tie for *last* in terms of employer contribution; any reasonable proposal to have employees share costs would move *toward* the middle. The Employer's proposed *quid pro quo* of a 2 ½ % wage increase if the insurance proposal is implemented is

⁵Union Reply Brief, p. 4

⁶Union Reply Brief, p. 10.

⁷Union Reply Brief, p. 7.

⁸Arbitrators Anderson in Menomonee Falls School District, Dec. No. 26996-A (June, 1991), Dichter, in Madison Metropolitan School District, Dec. No. 28907-A (August, 1997), Zeidler, in Kenosha Unified school District No. 1, Dec. No. 16851-A, (July, 1979), and Stern, in Kenosha Unified School District, Dec. No. 26768-A, (August 1991).

inadequate. This amounts to a wage increase of between \$.25- .40 per hour, averaging \$.34. The employees' 2001 share of the insurance cost of \$1000.37 per year (for the family plan) equates to \$.48 per hour for full year employees and \$.69 per hour for school year employees. The Employer alleges that the Section 125 plan will reduce these by 28% to \$.35 and \$.50 per hour. A Local 1658 employee's income, however, is more likely to be between \$28,700 and \$49,900 which is taxed at the 15% rate rather than above \$49,900, so the co-payments will result in a loss of \$.41 and \$.59 per hour. The *quid pro quo* is simply inadequate; all employees on the family plan will lose, particularly those who are the lowest paid. Those who work between 1100 and 1449 hours will lose more, since the Employer only pays 75% currently, and will pay 10% less under the Employer's proposal. Moreover, those "grand-fathered" employees working 1250-1450 hours will have their premiums jump from 0 to 32.5%. And most importantly, there is no lasting *quid pro quo* for increases in employees' co-payments of \$100-200 per year if premiums continue to rise 10%-20% per year.

The Union takes exception to the Employer's total package costing of the proposals. The parties have never included step increases in the cost of a contract; such is not done for support employees since the top rate is considered the rate for the job. Step increments, unless newly bargained, are part of the prior agreement, and recognize learning on the job. The "cast forward" method under current administrative rules, applies to teachers. The District's use of this costing is inappropriate and a dramatic change in the parties' bargaining relation. "More importantly" the comparability group does not support the methodology.⁹ No comparisons can be made with the District's total package costing— with one exception: the Employer provided data on Oconto Custodians and Food Service Employees total package costs for 2000-01 which was 19.95%! In using the total package cost the Employer has argued that the "overall compensation" factor is determinative, and favors its offer. Such an approach does not apply in this case. The package of benefits – some are better than the comparables, some are not– were already earned through the give and take of negotiations over the decades.

In sum, the Union has proposed 5 enhancements generally supported by the comparables. The Employer has proposed an unneeded, dramatic change in health insurance premium requiring employee payments which are not supported and for which its *quid pro quo* is inadequate.

The Employer

⁹Union Reply Brief, p. 19

The Employer contends that the primary issue is its health insurance proposal which it believes to be most reasonable. There are other the significant changes proposed by the Union for benefit increases which are not reasonable. The substantial cost increases in health care as well as the external comparisons of other units' settlements with its offer to the support staff shows that the District's offer is to be preferred; it is nearly in line with what is generally found elsewhere. The cost concession is compensated by a 2 ½ % additional wage increase. As a matter of public policy its offer is also to be preferred in that it's proposal forces the Union to recognize the rapidly escalating costs of health care and to take a stake in its control. Another similarly situated group in the District-- the teaching assistants-- supports its offer. The teachers and administrators units in the District are not really at issue for comparison purposes since their "agreement" is determined by the state to be the *status quo* plus 3.84% increases in wages and benefits. The comparables selected by the District are supported by the data while the Union's comparables are not. Currently these other districts' employees are paid less, have fewer holidays, greater insurance deductibles, and enjoy fewer other benefits.

The Employer contends that the cost of its offer is 13.9% for the 2 years-- 12.25% wages (with step increases) and a 17.3% benefit increase. The Union's offer raises wages 11.5% (with regular and accelerated step increases) and benefits 21.5%, for a 2 year increase of 14.7%. The total difference is about \$10,000. Over the 2 years, the Union's offer is \$212 lower on wages for the average employee but \$553 higher on benefits, primarily the health insurance costs. It has costed the offers using the "cast forward" method, and strenuously argued that it is the most acceptable method to be used.

The Employer would use the Packerland Athletic conference for comparing employee wages and benefits. These districts include Algoma, Denmark, Gibraltar, Kewaunee, Luxemburg-Casco, Oconto, Sevastopol, and Southern Door. The Union excludes Luxemburg-Casco and Kewaunee due to non-union status, and includes Oconto Falls for no explicable reason. It was in the former conference; the current conference is appropriate, though its inclusion doesn't matter for this dispute. Arbitrators Grenig and Malamud used most but not all of these in Teachers disputes as the conference composition changed. The Employer's data shows that employers it selected are more similar to Sturgeon Bay than those included in a list of comparables selected by the Union. Luxemburg-Casco and Kewaunee are excluded from the Union's list because they are not unionized. The Employer argued that numerous arbitrators have concluded that this is not a valid reason to exclude employers from the list.¹⁰ Today the "vast majority" of arbitrators do not

¹⁰Arbitrators Kerkman in Kenosha Unified School District (Substitute Teachers), Dec. No. 19916-A (June 1983), Briggs in Montello School District (Auxiliary Personnel), Dec. No.

look to union status to define comparability.¹¹ Besides, this dispute is about the provision of health care, which is not related to union status. The statute requires comparison with employees providing similar services who, in this case, all pay for part of their health care premium.

The Union proposes several contract changes for which there is no compelling need, nor has the Union offered a *quid pro quo* for their acceptance; hence they should be rejected by the Arbitrator. Numerous arbitrators have opined that contract provisions voluntarily agreed to by the parties should not be changed through this procedure without “extremely persuasive and compelling reasons.”¹² The Employer notes Arbitrator Malamud’s “three pronged test” for a *status quo* change: a need has to be established, a *quid pro quo* is offered for the change, and that these be established with clear and convincing evidence.”¹³ Arbitrators also require evidence that the proposed change will remedy the problem which the proposal addresses. These tests reflect what would be necessary in striking a bargain between the parties were they able to do so.

The union’s proposals have significant costs as seen below:

	<u>2000-01</u>	<u>2001-02</u>
Shift differential	\$ 3380	\$ 3380
Extra holiday	1515	1601
Salary structure	<u>6485</u>	<u>5949</u>
total	11380	10930
plus: FICA-WRS	2043	1962

The Union’s proposal for a 3.5% per year increase really is a 4.9% increase. The Union proposes major salary structure changes which arbitrators are very reluctant to award without need or justification.¹⁴ There is no need or justification for this increase based on the

19955-A (June, 1983), Gunderman in Wautoma Area School District (Bus Drivers), Dec. No. 20338-A (Nov. 1983), Nielson in City of Marshfield, Dec. No. 25298-A, (Dec. 1988), Weisberger in Green Bay School District (Substitute Teachers), Dec No. 21321-A, Aug, 1984, Johnson in Kewaskum School District (Auxiliary Personnel), Dec. No. 26484-A (Dec, 1990), and Petrie in Schiocton School District (Support Staff) Dec. No. 27635-A (Dec. 1993) .

¹¹Employer Reply Brief, p . 6.

¹²Employer Brief, p. 18. Cited were Arbitrators Petrie in Elkhorn Area School District (Support staff) Dec. No. 19093-A (June, 1982), Flagler, in Des Moines Transit Co. 38 LA666 (April, 1962), Yaffee, in Wilmot Grade School District, Dec. No. 26861-A, (Dec. 1991), among others.

¹³Glidden School District, Dec. No. 27244-A (Oct. 1992)

¹⁴Arbitrators Oestreicher in Dane County (Sheriff’s Dept.)Dec. No. 29033-A (Sept, 1997), Baron, in Cassville School District, Dec. No. 27188 (Oct. 1992), and Fleischli in School District of Waukesha, Dec.No. 21125-B (Sept. 1984)

comparables. Only two of eight comparables have shift differentials. There is also no need for extracurricular bus driver rates to increase 8.77% when the Union's own exhibits show that this is double the increase for the comparables. The average district provides 9 holidays and 5 for school year employees; Sturgeon Bay already provides 10 days for full time employees and 5 for school year employees. There is no *quid pro quo* offered for these changes. There is also no need for reducing the probationary period to 6 months from one year. Three of the eight comparables have the same period. There is no evidence of any harm in having a year's probation period. It is necessary to be able to observe employees in a range of activities throughout the whole year to make a proper evaluation. Additionally, a school year employee hired in the Spring might only be observed for 3 months under the Union's proposal. The shorter probationary period requires a "quicker and less informed decision" to continue an employee.¹⁵ Some of the comparable districts may have fewer steps in the salary schedule as well, but there is no evidence that the District's step progression is a problem such as causing high turnover. All of these provisions resulted from the give and take of bargaining and should not be changed through arbitration without compelling reason. The Employer suggests that it too could pick and choose among provisions where the District's employees fare better than the comparables' and propose benefit reductions as the Union is doing for these issues for benefit improvement.

The District considers the main issue in this case to be health insurance. It is not proposing to change the plan, but rather proposing to have the employees appreciate its cost by shouldering a part, and having them become a partner in facing the problem of rapidly escalating costs. Several arbitrators have concurred with employers that such a strategy was a reasonable response. Their participation in the costs will reflect their use of health care, and will give them a stake in the redesign of the plan as opportunities arise. Some employees may drop duplicate coverage paid by the district. The proposal will not solve the health care cost crisis but will move the district in the right direction. It is fundamentally an economic matter of how much the District can put into salaries and how much into benefits. Data shows that its cost of the family plan has increased nearly triple the rate of inflation. Other organizations across the country also face this problem, and have responded by shifting costs to employees. There is a critical need to reign in these costs, and the Employer's offer addresses this need.¹⁶

¹⁵Employer Reply Brief, p.8.

¹⁶Employer Brief, p. 36.

The current WEA health plan is a very rich plan. The deductible is only \$100/ 200 with very modest drug co-pays of \$2 generic/\$ 7 brand name/ \$2 mail order. Other districts have a higher drug co-pay. Drug costs have been rising 30% per year. Arbitrators have been willing to award for employers who have demonstrated the need for cost sharing in the face of such dramatic increases in health care costs. The District's offer is reasonable; a family plan co-pay of 10% will cost less than \$2 per day, and actually less since the District will provide a Section 125 plan to shelter their costs. Employees in all the comparable districts pay for the family premium; five pay 10%, two pay 8%, and one pays 5%. Half pay for the single premium; three of these pay 10%, the other pays 8%. Many of these districts also do not contribute the employer's full amount unless employees are full-time. Private employers in the area are even less generous. Besides this Cadillac health plan, Sturgeon Bay employees' other fringe benefits are better than the comparables'. While others wait one year to get a week's vacation, Sturgeon Bay employees wait 6 months. They have the second highest rate of sick leave accumulation. Sturgeon Bay is one of the three districts providing longevity, and one of the only two providing full dental. It is one of the two providing up to 2 years health insurance coverage for an employee retiring after 15 years. And it is one of only 3 providing long term care insurance. The District's teachers aides currently pay 10% towards the premium. The Union may argue that the teachers and administrators do not have to pay 10% for their health insurance. Under the QEO law, however, they have capped salaries when fringe benefits are continued at the same level. If the Union really wanted to claim comparability (to the teachers) on health insurance, it should be consistent and limit its wage and benefit offer to 3.8% instead of 7.1% or 7.6%!¹⁷ Despite the very generous package of wages and benefits received, and the fact that the District's proposal has support among the comparables, the support staff have been offered an additional 2 ½ % to "buy" their participation in the plan.

The Union's arguments against the Employer's health insurance proposal are misleading or wrong. It has argued that the District's contribution under its offer will be among the lowest of the comparables. This means, however, that the employees' contribution will be among the lowest as well. The Union has argued that under the District's offer, employees will be hit with a drastic increase; however, they currently pay nothing, unlike all the comparables. While no quid pro quo is necessary when bringing a group up to the pattern, a substantial one is offered which is fair and reasonable. An average \$.34 per hour (2 ½ %) will increase annual earnings by \$500 for school year employees and \$700 for full year employees. This would have covered the employees' premium projected when the final offer was prepared, though not the \$1000 employee

¹⁷Employer Reply Brief, p. 14.

portion now required due to the substantial and unexpected jump in health insurance premiums. With a Section 125 plan, a full year employee in the 28% Federal tax bracket will break even. The Union argues that a 15% marginal tax bracket is more appropriate; depending on spousal earnings, this may be true, but FICA and state taxes (7.65% and about 5%) would still bring the rate to about 28%.¹⁸ The Union has accused the Employer of lowering its contribution for parttime employees; this is incorrect. Those working 1100-1449 hours will still only pay 25%, and those working 900-1099 will continue to pay 50%. Its costing of its offer shows this. The Union also contends that “grandfathered” 1250+ hour employees will lose their 100% employer payment. No employee is currently covered by the provision.

The “Greatest weight” factor favors acceptance of the Employer’s offer since revenue controls exist. Beginning in 1993, state law limits revenues which Districts may raise, in exchange for the State’s assumption of two-thirds of the cost of K-12 education. Teachers and Administrators’ compensation is generally limited to 3.8%. Arbitrators are to recognize such limitations in their arbitration of interest disputes. The District only has so much money and, unlike earlier periods, cannot increase the levy to raise more funds. Acceptance of the Union’s offer will simply mean that \$10,000 will have to be cut from elsewhere, hampering its ability to maintain a high quality instructional program. The Union may argue that the District has a fund balance; however, this factor is not about the inability of the District to pay, which is another matter. It is that the Union’s 7.1%/7.6% offer is unreasonable in light of the District’s limitation on revenues. This factor means that the union must moderate its demands. The Fund 10 balance is less than 15% of expenditures, and is not unreasonable (no evidence was presented making comparisons with other districts). The Employer maintains that the “greater weight factor” of local economic conditions, on the other hand, gives no preference to either offer. The Employer would like the Arbitrator to take notice of the weakened economy, the rise in unemployment rates, and the September 11 attacks and their aftermath under “pendency” (factor i), citing arbitrators’ considerations of the 1981-3 slump when rendering awards.¹⁹ Additionally, the Employer would like the Arbitrator to consider the budget enacted after the close of the record and the decline of the budgeted Fund balance.

The “interests and welfare of the public” are best served by an award in favor of the District’s offer. It is more consistent with the funds available, particularly due to revenue controls. It is in

¹⁸Employer Reply Brief, pp. 22-3.

¹⁹Employer Reply Brief, pp.2-3.

the public interest not to raid the fund balance to pay for the union's unreasonable offer; its maintenance promotes fiscal stability, preserves the District's bond rating, and saves interest by avoiding borrowing. Its offer is very generous and enables the District to attract competent employees, but seeks to minimize the increasing costs of fringes.

The District is a wage and benefit leader with respect to the comparables. As such, the percent wage increase does not need to match that of districts trying to catch up (e.). In 2000-01, all job classes exceeded the comparable average with the exception of the Helper/servers. The Secretary I position was 10.9% or \$1.33 above average while the Secretary II was 3.4% or \$.42 above. Maintenance and Custodians were 11% (\$1.52) and 20.9% (\$2.56) above, respectively. The Head Cook was 6.4% (\$.73) above, while the Helpers were 3.8% (\$.39) below. Most rank toward the top at the maximum benchmark. The wage rate increases exceed the average of the comparables in virtually all cases and match the average Helper increase – excluding the additional 2 ½ % adjustment. The high relative wage and benefit rates have resulted in very little turnover, and 10-32 applicants for each vacancy.

The District's final package offer of 6%/7.9% significantly exceeds the 3.4% increase in the consumer price index and should be preferred over the Union's offer of 7.1%/7.6%. Its "cast-forward" method is the appropriate measure to gauge whether employees' purchasing power is maintained. The "most important" other factor of "overall compensation" favors the District's offer. Its total package basis accounts for all costs or benefits received by the employees. The Union's focus on wage changes is "troubling".²⁰ Fringe benefits are not guaranteed, and have a cost which cannot be disregarded. There is only so much money, and if fringes rise, less is available for wages and vice versa. Besides a generous health care plan, the District provides other lucrative benefits, including retirement and severance pay. Under the statute, wages and such benefits are to be considered.²¹ The Employer noted that the Undersigned has observed that health care costs are somewhat included in the computation of the CPI so that comparing wages-only with CPI increases may result in overcompensation when the CPI medical care component is rising faster than other items and the employer provides health care.

²⁰Employer Brief, p. 71

²¹Employer Reply Brief, pp. 3-5, citing Arbitrators Yaffe in School District of Athens, Dec. No. 20025-A (April, 1983), Weisberger, in Manitowoc County (Highway Department), Dec. No. 19942, (May, 1983), and Malamud, in Necedah Area School District (Support Staff), Dec.No. 28259-A, (August, 1995).

In sum, the Employer's wage and benefit package offer of 13.9% for 2000-02 best compares with what other Districts pay, and best meets the "greatest weight" criterion under the current regime of revenue controls. The Union's offer of 14.7% includes unjustified new benefits, and fails to address the crucial issue of rapidly rising health care costs. The Employer's offer, on the other hand, brings the District in line with the comparables and the District's teachers' aides on health care and gives the employees a stake in its costs. The district is a wage leader, and will continue to be so under its offer which best matches the settlement pattern. Employees' wages are well insulated from erosion by inflation. Its health insurance proposal brings the District's employees in line with other, comparable employees, and largely compensates them for bearing a modest portion of its cost. Consideration of overall compensation shows the Employer's offer to be favored.

Discussion and Opinion

The Statute requires the Arbitrator to consider the aforementioned criteria in making an award. The criteria cited by the Parties as pertinent to this decision are the "greatest weight" factor of statutory limits, as well as internal and external (e. and d.) comparisons, interests and welfare of the public (c), cost of living (g), and other factors--*status quo* change (j), overall compensation (h.), and pendency (i). Each of these will be considered below as the issues of this dispute have been considered by the Arbitrator. These issues include whether the Union's and Employer's status quo changes are warranted, whether the Employer's offer in particular includes an adequate quid pro quo if necessary, how the parties' offers compare with external and internal comparables, and what constitutes the external comparables which in part establish that pattern. First, the Arbitrator will address the matter of the Employer's submitted material received after the close of the record. The "greatest" weight factor is then discussed. The external comparability factors are then addressed to determine what constitutes the comparables. He then will comment on the question of the *status quo*, as outlined above, and related matters, including internal comparisons, and will follow it by a discussion of comparable pay comparisons and other factors and of other issues.

The parties and the Arbitrator left the record open for a period of 14 days after the hearing for submission of certain, specified documents which were then submitted by each party. After briefs and reply briefs were exchanged, the Employer submitted the budget passed by the Sturgeon Bay Board of Education. On November 24, 2001 he received a motion from the Union to strike this new evidence from the record as it was closed. The motion is granted, following the reasoning laid out in numerous cases cited by the Union. The Union has no opportunity to

cross-examine or rebut the evidence. Moreover, there will always be events occurring which might have bearing on the matter, but there must be some finality to the case.

Both parties propose wage increases of 3 ½ % each year which is consistent with the pattern of settlements. The Union proposes several enhancements which the Employer has costed as an additional 1 to 1 ½ %, and which change the *status quo*. On the face of it, it would appear that the Union's offer is then somewhat above the external pattern, though “enhancements” may have been negotiated in other districts. The Employer's offer contains a proposal for a *status quo* change which is in the main supported by external comparables, though arguably, not with internal. The Employer's proposal for the changes it seeks in health care is not unreasonable, is consistent with what the Undersigned considers reasonable efforts at cost containment, and provides some compensation to the employees in the form of an additional 2 ½ % wage increase.

At the same time, the Union's offer includes provisions which are reasonable and may be close to the “pattern” in other units.

The Employer contends that the “greatest weight” factor favors its offer, thus it should be accepted by the Arbitrator. The Arbitrator agrees that this factor is more than a repetition of the “ability to pay” factor under the presumption that the legislation including it was not intended to be redundant. The Employer contends that since revenue caps exist for the District, the additional burden of the Union's offer will require it to cut other programs to the detriment of education in the district. Arbitrators should not second guess educational priorities. The Union asserts that for the “greatest weight” factor to apply, the Employer must show that the Union's offer would significantly effect the District's offer to meet the revenue cap. The existence of the revenue caps is not in itself controlling. The Undersigned would agree that by their existence, revenue caps do not automatically favor the cheaper proposal, as Arbitrator Dichter has noted, and that:

“Judgements must be made by the arbitrator that balance the total cost of a proposal against the effect that the cost will have on an employer's ability to meet its other needs.

Where costs are small, the effect is minimal.”²²

The “greatest weight” factor has not been directly shown to favor the Employer's offer given the small dollar amount in dispute relative to the total budget and fund balance. No program cuts or other consequences were shown to result from the Union's offer. However, even the Employer's offer provides wage and benefit increases greater than the growth of revenues which requires funds taken from elsewhere. As indicated below, this factor also impacts this case in another way. Combined with the revenue caps, the Qualified Economic Offer legislation practically

²²School District of Omro (Aides/Food Service) , INT/ARB 8230 (Oct. 1998)

precludes bargaining of wages and benefits for teachers and administrators which makes comparisons between support staff and teacher's "settlements" less useful.

The comparables

The Union and the District maintains that the appropriate comparable counties are members of the Packerland Athletic Conference: Algoma, Denmark, Gibraltar, Oconto, Sevastopol, and Southern Door. Oconto Falls was in the conference from 1987 to 1999 and would be included by the Union, and was used by Arbitrator Malamud in 1987. The Employer prefers the current conference, but indicated that the inclusion of Oconto Falls "does not affect the outcome", and will be included by the Undersigned. Kewaunee and Luxemburg-Casco are in the PAC but are non-union. Data provided by the Employer indicates that the latter is more similar to Sturgeon Bay in terms of enrollment, FTEs, levy, and mill rate than are most of the other PAC members. Kewaunee is 6th of 9 in enrollment and FTEs, but has the highest mill rate. Statistically it would not be considered any more of an "outlier" than other included districts such as Algoma. The Undersigned would continue to use those counties used by Arbitrators Malamud and Grenig, recognizing that those disputes involved teachers who were unionized. Literal reading of the statutory criteria under Section (d) or (e) would not exclude non-union comparisons such as with Kewaunee and Luxemburg-Casco on a blanket basis, though the weight given such comparisons may vary, as noted by Arbitrator Petrie. Section (j) indicates the legislative intent that consideration is to be given to the factors listed and other factors which are "normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining..." Non-union wages and benefits more or less normally impact collective bargaining outcomes. The Undersigned would also give consideration to those districts because teachers in those districts are unionized. He has noted in other decisions that in such cases comparisons may be useful in that were wages, benefits, and other conditions to be "out of line," those employees may become organized ("threat effect"), or the employer may have difficulty attracting qualified employees ("roll out effect"). His hypothesis is somewhat confirmed by Employer Exhibits (I - K) which show Kewaunee and Luxemburg-Casco wages to be above PAC averages.

Such other factors: *Status quo*

Both the District and the Union have proposed changes in the labor Agreement. The Employer has proposed a significant change in the provision of health insurance for bargaining unit members by requiring a 10% contribution in exchange for an additional 2 ½% wage increase. The Union also proposes several changes which are individually modest, but cumulatively cost an amount equivalent to the difference between the offers, according to the District. It would

add a holiday for school year employees, reduce the probationary period, increase bus drivers' extracurricular pay, give a \$.25 per hour premium for evening shift maintenance employees, and reduce the time to the top step by up to 1 year. Arbitral authority and practice would indicate that the parties must present a compelling case for their proposals, that the proposals are needed as a remedy or have intrinsic merit, and that it generally would need to offer an adequate *quid pro quo*, unless its offer has clear support such as among the comparables.²³

What evidence has the Employer offered to compel adoption of its insurance co-pay proposal? The family rate has increased over 11% per year from 1988 to 1998, and nearly 13% per year since, rising 22.1% in the current year. The District cites newspaper accounts of causes and employer responses which are not persuasive to compel selection of its offer. The evidence from other public employers is mixed as to the percent contribution (County employees pay 10%, City employees pay 0%), though it shows that the District's drug co-pay and deductible is low. The comparables have had similar increases since they use the WEA plan. The districts do vary on eligibility for part time employees and the amount of premium co-pay. It is clear that the pattern includes insurance premium co-payments for the family plan of about 9% and a little over 5% for the single plan.

Table 1: Comparables' health insurance provisions 2000-01

District	ER pays – Family	ER pays – Single	part time	generic/ brand
Algoma	90%	90%	>50%,prorated	\$ 2/ \$4
Denmark	92	92	>50%,prorated	\$ 2/ \$7
Gibraltar	95 (75 ½ time)	100	582-701 hrs pays single	\$ 2/ \$7
Kewaunee	91.5	100	20+ hrs covered	\$ 2/ \$4
Luxum-Casco	90	100	none	\$ 2/ \$4
Oconto	90	90	prorated at 90%	\$ 0/ \$5

²³see for example, Vernon in Elkhart Lake and Bloomer School District (Dec. No. 43193-A and 24342-A), Nielson in Manitowoc Public Schools, (Dec. No. 26263-A) and Petrie, in New Richmond School District, as well as those cited above by the Union and District.

Oconto Falls	91(1080 + hrs)	91	prorated 720-1080 hrs.	
Sevastopol	90 (50% 20-25hrs/wk)	100	none for <20 hrs	\$ 2/ \$7
So. Door	90 (45%<25hrs/wk)	90(45%<25hrs/wk)		\$ 2/ \$4
AVE	91%	95%		
Sturgeon Bay	100 (75% 1100-1449 hrs,)	100 (75% 1100-1449 hrs)	(50% for 900-1099 hrs./yr.)	\$ 2/ \$7

Source: ER EX S and UN EX 2E, 20

Formulas vary for eligibility and employer contributions for part time employees, but it appears that the District is neither the most nor least generous. In addition to finding support among the comparables for its proposal, the District has argued that the employees' contribution has merit in giving them a stake in the cost and structure of the health care plan. This is difficult to demonstrate from the data since all of the districts appear to be in the same pool with the same plan, having 2 cost of plan differences (the higher cost plan has lower brand drug co-payments, and perhaps other features). All but the Sturgeon Bay district employees pay nearly 10%. It is possible that some employees may go on a spouse's plan if the deductible is less than 10% for comparable coverage reducing the District's cost, though the premium--and therefore the co-payment-- will not likely fall for employees in general. Similarly an employee who pays 10% of the premium is not likely to reduce his demand for health care, the benefits of which would accrue to the pool. While it is theoretically possible that Local 1685 employees may be prompted to collectively work with the District to find a more economical plan, their reward may be low compared to the value of benefits lost. Still, there may be some value in having employees know what their health care costs as well as having the public know that the employees are contributing to it. While the intrinsic merit of the Employer's proposal cannot be clearly demonstrated, it certainly brings employees into the mainstream of those similarly employed.

The Union has argued that the internal comparables, the teachers, administrators, and non-represented employees, do not pay towards the insurance premium, and that for such benefits, the internal pattern is more important. The Arbitrator would normally agree that internal consistency of benefits is often sought, unless doing so would result in a unit's employees being significantly out of line with similar employees in comparable communities. Here, Unions often

argue that employees should be brought up to the external pattern while the Employer contends that internal settlements should govern. Indeed the Union in this case contends that the district's probationary period and steps to wage maxima, for instance, are out of line. The pattern of health insurance benefits for educational support staff in comparable communities is quite clear in this case: all pay nearly 10% for the family plan. Additionally, the Arbitrator notes that one internal unit, the Teacher's Aides, pays 10% towards health insurance, while the teachers and administrators, as a practical matter, cannot be induced to pay. The Union has argued that comparisons should not be made between union and non-union wages and benefits because they are unilaterally determined in the latter case, rather than reflective of the "give and take" of bargaining. The QEO law, which is now several years old, effectively means that an employer may impose its offer to teachers and administrators as long as the *status quo* is maintained for benefits. Theoretically, meaningful bargaining may take place between teachers and the district on wages and benefits, and revenues may exceed the caps through referenda, but these are not likely. There is, in essence, no meaningful internal pattern of settlements as normally construed. For the teachers and administrators, the "settlement" is an imposed 3.8% per year package of wages and benefits, which will be less than what the District will pay the support staff.

Does the District need to provide a *quid pro quo* for its offer, and is an adequate one provided? The Employer has cited cases where arbitrators did not consider one necessary when bringing a group up to the pattern. The Union's citations indicate the necessity of one when employees are asked for significant concessions. The Undersigned agrees with Arbitrator Vernon when he indicated that a "blockbuster" *quid pro quo* should not be necessary to have the parties agree to an Employer's proposal which receives nearly universal support among the comparables, and when there are enough "sweeteners" such as a higher than average wage increase and other benefits.²⁴ In this case the "regular" wage proposal of 3½% meets and slightly exceeds the pattern. The additional 2½ % "sweetener" is adequate in the opinion of the Arbitrator. On average, it provides about \$500 more for school year employees and \$700 for full year employees. Employees on the single plan will be better off, though the Arbitrator recognizes that among the comparables, single plan employees only pay about 5%. For these employees, the Union's characterization of the District's proposal as an "overstretch" (from 0% to 10% when the comparables' average single plan contribution is 5%) appears to be correct were it not for the 2½% offer which compensates most single plan participants in the near term. Some employees on the family plan will be compensated or slightly better off with the extra 2½ %, and others will be worse off under the Employer's offer. Higher wage (above \$13.50/hr.), full year

²⁴Fond du Lac School District (Teachers), Dec. No. 27443-A (June, 1996)

employees (currently 41% of the unit) will receive an additional \$700 or more per year. With a Section 125 plan, the \$1000 cost of the health insurance co-payment will clearly be compensated for employees in the 28% Federal bracket (marginal), and almost compensated for those employees in the 15% bracket when FICA and State taxes are considered. The Arbitrator notes that the recent tax legislation reduces these tax rates, and current proposals call for further reduction, which lessens the value of the Section 125 benefits. Lower wage, school year employees working more than 1449 hours (9 of 44) will not be fully compensated; an employee earning \$11/hr in wages who is on the family plan and who works 1500 hours/yr. will lose \$300 more or less after taxes. Currently that employee would be receiving \$6.67/hr. in health benefits which would be reduced to \$6/hr. Employees working less than 1499 hours are not affected by the District's proposal and will continue to pay 25% or 50% of the premium as stated by the Employer. They will, however, receive an additional 2½ % wage increase.

The Union proposes several changes. Its proposal for reducing the probationary period appears to have support among the comparables as seen in Table 2. Generally speaking the period is in the range of 80 - 90 working days. Kewaunee requires 1 calendar year, though the Employer has determined the period unilaterally. No evidence of a "problem" has been offered by the Union, though the Arbitrator recognizes the difficulty of probationary employees expressing "problems"

Support for reducing the number of steps to the maximum on the wage schedule is also mixed, but tends to show that the District's 5 or 6 (bus drivers) years to maximum is long. The Undersigned would not conclude, however, that this indicates inadequate compensation of Sturgeon Bay support staff. The schedule is the result of years of bargaining. It is not unlikely

Table 2: Comparables' probationary periods, years to maximum, and holidays

District	probationary period	years to maximum	holidays F-T	school year
Algoma	60 days	4	8.5	3.5
Denmark	180	1	9.5	7
Gibraltar	90	.5	10	7 (+2 pers.)
Kewaunee	365	1	8	5
Lux-Casco		n/a	7	3
Oconto	365	10	10(union)	5

Oconto Falls	60 working days	5	10	5 (+1 float)
Sevastopol	75 working days	1.5	8	5
So. Door	60 working days	2-3	10	6
AVE			9	5.2 +
Sturgeon Bay	365	5	10	5

*averaged (unweighted) over 6 classifications

that steps were added to the schedule in lieu of greater scheduled wage increases at some point in time, with the result that the District's maximum wages tend to be higher than most comparables'. Beginning wages trail the comparable average in many cases, but again, the Union has not provided any evidence that the longer schedule has had an adverse impact on bargaining unit employees or the district such as with problems filling vacancies.

The Union's proposal to add a holiday for school year employees is reasonable, particularly if non-union Luxemburg-Casco were excluded from consideration. The District's 5 paid holidays for school year employees, however, is consistent with the modal value. The District's full year employees receive 10 paid holidays which is also equal to the modal value, and slightly above average. In neither case is the District significantly out of line. Similarly, bus drivers' wages are not particularly out of line with that of the comparables. The Union has indicated that in the three districts where there is a differential between regular and extracurricular route pay, wages will rise somewhat more (1.3%) for the latter, but nowhere near the amount which is included in its offer (5.27%). Perhaps over the years the parties have agreed that the latter was less demanding as drivers wait for these activities to finish, and in fairness, should be paid less. Whether this differential is still the right amount seems to be a matter for the parties to resolve themselves. The Union proposes a shift differential for night custodians so as to "move the district from the bottom of the rankings to third out of eight." Only two of the eight districts compared by the Union have a differential. While the Undersigned sees some merit in the proposal, it does not seem to fulfill a compelling need and/or enjoy support among the comparables. The Union has provided a concession for none of these proposed changes as seen by the wage comparisons which follow.

Table 3: Comparables' Wage (maximum rates) 1999-2000

District	Sec'y I	Sec'y II	Maint.	Custod.	Head cook	Helper	years to max.
Algoma	\$12.26	\$10.72	\$16.84	\$15.33	\$13.11	\$7.79	4

Denmark	10.62	10.62	13.40	9.16	9.43	9.43	1
Gibraltar	12.31	12.31	11.88	11.88	12.52	11.06	.5
Kewaunee	11.67	11.23	14.04	12.80	10.84	10.11	1
Lux-Casco	12.44	10.70	13.67	12.46	12.08	10.00	N/a
Oconto	10.89	10.89	12.16	12.16	10.03	10.03	10
Oconto Falls	10.68	10.68	11.73	11.11	9.74	8.80	5
Sevastopol	11.52	11.52	12.71	10.29	9.66	9.66	1.5
So. Door	10.93	10.75	12.53	11.68	11.06	10.57	2-3
AVE	11.71	11.17	13.21	11.78	10.92	9.75	
Sturgeon Bay	13.11	11.67	14.83	14.30	11.79	9.49	5

Wage comparisons

The Employer contends that it is a wage and benefit leader, and that while it does not have to match the percent increase of lower paying comparables, its offer is reasonable. Data in Table 3 from the Union and Employer show that the district is generally a wage leader at the schedule maxima. Wages were above average in 1999-2000, and in some cases significantly above average, with the exception of the food service helper. Wages settlement data in Table 4 indicate that this will also be true for the following year since the 3 ½ % increase under either parties' offer exceeds most other districts' increases.

The data for 2001-02 is limited. Algoma's reopener provides for a 4.2% total increase depending on the WRS and WEA insurance rates. Since its WEA rate increased 21-22% (S/F), the schedule increases would seem to be modest. Denmark's increase was 3.25% while Sevastopol bus drivers will have 3.6% increases. The data indicate that under the Union's offer, support staff employees will generally widen the wage gap and continue to be the exception to the norm which includes contributions to family plan health insurance of about 10%. Under the Employer's offer, they will be "brought into the mainstream" while continuing their wage leadership position among the comparables.

Table 4: Comparables' Wage Settlements 2000-2002

District	2000-01	2001-02	

Algoma	3.5%	Reopener	
Denmark	3.25	3.25	
Gibraltar	3.25	NS	
Kewaunee	3.0	NS	
Lux-Casco	3.4*	NS	
Oconto	3.0	NS	
Oconto Falls	\$.30/hr 3.0%*	NS	
Sevastopol	3.5%	NS (3.6% bus drivers)	
So. Door	\$.40/hr.3.8%*	NS	
AVE	3.3%		
Sturgeon Bay	3.5%	3.5% U / 6.0% E	

*averaged (unweighted) over 6 classifications

Other factors and issues

The remaining factors brought to the Arbitrator's attention are the Cost-of-Living (g), interests and welfare of the public(c), and overall compensation(h). Both parties submitted data for the US City Average of a 3.4% increase in the CPI for 2000. The Employer contends that the cost of living factor favors its offer while the Union's offer is excessive. It's 13.9% offer over two years is closer than the Union's 14.7%. The Union argues that the CPI clearly favors the Union's offer since it increases wages at the same rate as inflation while the Employer's offer includes the health insurance payments which will reduce real wages below inflation for many employees. The parties differ on the matter of comparing just the wage increase or the entire package with the CPI. The Union has argued that unlike teachers, step increases are not counted for non-professional units. In the more usual case, when the schedule is "short," this correct. In this case the long schedule seems to reflect more than a learning curve. The Union also argued that benefits are already bargained and their maintenance is not costed. The Undersigned has noted, however, that as health care costs have rapidly risen, the "package" cost is increasingly "taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining." Health care costs are currently 5.8% of the market basket used in the computation of the CPI. These have increased at more than twice the rate of other

components. Employees whose wages increase by the CPI who receive employer-paid health care and/or spend less than 5.8% of their budget on health care are somewhat overcompensated for inflation. Since health care accounts for about 14% of GDP, it is clear that a fair amount of health care costs are business and government expenditures, not consumer expenditures so that not all of the health care cost increase is properly added under factor (g). Nevertheless, the Arbitrator notes that while the data of record shows the CPI to have increased 3.4%, subsequently the index has fallen with the current economic slump and will close 2001 at under 3%. Consideration of the CPI tends to favor the District's offer. The Employer asserts that consideration of overall compensation (h) received by employees under its offer is most important, and that the Union's narrow focus on wages is wrong. This factor is difficult to apply in this case and other cases where the full range of benefits for employees in comparable units are unknown; rather, it is an important consideration to keep attention from being focused on only one or two issues. The Employer has listed certain other benefits which the District's support staff enjoy *viz* the comparables such as LTC insurance, while the Union has called the Arbitrator's attention to less favorable items such as the long probationary period and low start rates for certain jobs. Total package comparisons with other districts, however, cannot be made by the Arbitrator without information on those other districts.

The interest and welfare of the public allegedly favor the Employer's offer because it is closer to the revenue growth limitation, reflects the public's desire for spending limits and property tax relief as manifest in the legislation, is closer to the wage and benefit increase of other District employees, and better maintains the Fund 10 balance. it makes the employees stakeholders in their health care and its costs. To the extent that it can and does lead to better "consumer awareness" and cost moderation, the Arbitrator would agree that the public's interest is promoted. The Union contends that there is no evidence that the District has an inability to pay for its offer or that adverse consequences will result. Instead it would require the district's lowest paid employees to pay for insurance so that it can spend more on unknown, "other priorities."

The parties' respective offers present a difficult choice. Both include 3.5% wage changes as well as changes in the *status quo*. The Union's proposed changes are reasonable, but not compelling and are not sufficiently supported by the comparables. Its proposal including the costs of the changes may be high in comparison to employees in other, comparable districts who received about 3.3% in 2000-01, though such "enhancements" may have occurred in those districts. No evidence has been provided, however. The Employer has proposed a significant change in health insurance which the parties have indicated that the major item in the dispute. The evidence of a problem has been presented, though it is not unique to this Employer. The Arbitrator favors the Employer's proposal if it were to induce cost-consciousness and consumer

awareness. As indicated above, cost reduction may be difficult to achieve. The Employer's proposal enjoys overwhelming support among the external comparables. While internal comparables do not give such support, the Arbitrator gives great weight to the fact that legislation places practical limits on any changes in benefits of teachers and administrators and thus their comparability. The District has offered a *qui pro quo* for its proposed change which the Undersigned considers adequate though not fully compensating many, particularly lower income employees.

Award

Having carefully considered all of the evidence and argument of the Parties set forth above as well as the arbitral criteria provided under Section 111.70 Wisc. Stats., it is the decision of the Undersigned that:

The final offer of the Employer is to be incorporated into the 2000-01 Collective Bargaining Agreement with the Sturgeon Bay School District Employees Local 1685.

Dated this 20th Day of December, 2001

Richard Tyson,
Arbitrator