

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In The Matter Of The Petition Of

**ASHWAUBENON EDUCATION
SUPPORT PERSONNEL**

To Initiate Interest Arbitration
Between Said Petitioner and

ASHWAUBENON SCHOOL DISTRICT

Case 28, No. 60335
INT/ARB-9384
Decision No. 30339-A

APPEARANCES:

Mr. David Brooks Kundin, Executive Director, Bayland Uniserv, 1136 N. Military Avenue, Green Bay, Wisconsin 54303-4414, on behalf of the Ashwaubenon Support Personnel

Attorney Dennis W. Rader, Davis & Kuelthau, S.C., P.O. Box 1534, 200 south Washington Street, Green Bay, Wisconsin 54305, on behalf of Ashwaubenon School District.

The Ashwaubenon Education Support Personnel, hereinafter referred to as the, AESP, filed a petition with the Wisconsin Employment Relations Commission to initiate interest arbitration pursuant to Section 111.70(4)(cm) of the Municipal Employment Relations Act with respect to an impasse between it and the Ashwaubenon School District, hereinafter referred to as the District. The undersigned was appointed as arbitrator to hear and decide the dispute, as specified by order of the Wisconsin Employment Relations Commission, dated May 29, 2002. Hearing was held on August 13, 2002 where the parties were afforded full opportunity to present testimony, evidence and argument. Post-hearing initial and reply briefs were exchanged by October 28, 2002, marking the close of the record.

PARTIES' FINAL OFFERS

A. FINAL OFFER OF THE AESP

1. Article XXIV – Early Retirement

Revise Paragraph A. to read:

Early retirement benefits shall be available to regular employees who resign from their duties and have reached the age of fifty-seven (57) on or before August 31st of the calendar year in which they retire and have been employed at least (15) years in the District shall be eligible to receive early retirement benefits under this provision.

2. Article XXII – Employee Benefits and Fringes:

Revise Paragraph A.2. to read:

Employees not returning to the District at the end of the school year will have health and dental premiums paid for the months of July and August in the same proportions paid during the previous year.

3. XXVII – Compensation:

Increase all wage rates on Appendix B by Thirty Cents (\$.30) in the 2001-2002 school year and by two and three-quarters percent (2.75%) to the schedule in the 2002-2003 school year.

4. All tentative agreements as attached.

B. FINAL OFFER OF THE DISTRICT

1. Article XXIV – Early Retirement. Revise Paragraph A to read:

Early retirement benefits shall be available to regular employees who resign from their duties and have reached age fifty-seven (57) on or before August 31st of the calendar year in which they retire and have been employed at least fifteen (15) years in the District shall be eligible to receive early retirement benefits under this provision.

2. ARTICLE XXII, Section A.1, add a new paragraph to read:

For all full-time employees hired after December 31, 2001, the District will pay the entire premium of a single plan and ninety-five percent (95%) of the family plan as so deemed by the employee. For all part-time employees working half time or more, hired after December 31, 2001, the

District will pay the single plan and ninety-five percent (95%) of the family plan on a prorated basis.

3. ARTICLE XXII, revise Section A.2 to read:

Employees not returning to the District at the end of the school year will have health and dental benefit premiums paid for the months of July and August in the same proportions paid during the previous year.

4. Article XXVII – Compensation:

Increase all wage rates listed on Appendix B by Thirty Cents (.30) in the 2001-2002 school year and by two and three-fourths percent (2.75%) to the schedule in the 2002-2003 school year.

5. All tentative agreements as attached (Exhibit A).

STATUTORY CRITERIA

The criteria to be utilized by the Arbitrator in rendering the award are set forth in Section 111.70(4)(cm), Stats., as follows:

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 may be made or revenues that may be collected by a municipal employer.

7g. “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 specified under subd. 7r.

7r. “Other factors considered.” In making any decision under the arbitration procedures authorized in this paragraph, the arbitrator or arbitration panel shall also give weight to the following factors:

- a. The lawful authority of the municipal 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 proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment performing similar services.
- e. Comparison of the wages, hours and conditions of employment involved in the arbitration proceedings 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 the wages, hours and conditions of employment of the municipal employees, involved in the arbitration proceedings with the wages, hours and conditions of other employees 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 municipal 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 in 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.

POSITION OF THE AESP

The AESP points to Article XXII, Employee Benefits and Fringes, of the labor agreement, which contains the contractual provisions that apply to payment of health and dental insurance premiums. Since 1982 the District has fully paid the health and dental premiums for full-time employees and pro-rated payment for part-time employees working more than eighteen hours per week. However, the District is seeking to alter the status quo by requiring employees hired after December 31, 2001 to pay a portion of the family and dental premiums. Teachers have had fully paid coverage since 1982.

Because the District is seeking to change the status quo, the AESP submits that the District must meet the three-pronged test:

Has the party demonstrated a need for the change?

If that has been demonstrated, has the proposing party provided a quid pro quo for the change?

Have those two criteria been demonstrated by clear and convincing evidence?

The AESP points out that other arbitrators have relied on that test when there is a proposal that changes the status quo.

The AESP asserts that the District has not even met the first test because it has failed to show any need for the change in the manner the premiums are paid. It has also failed in its heavy burden to provide clear and convincing evidence. There has been no evidence demonstrating a need for the change. It has not shown that it cannot meet the increased costs, nor has it shown how State revenue controls would prevent it from continuing with the status quo. Simply asserting that there are increased costs for support staff does not meet the three-pronged test.

Assuming the District has met its burden to show a need to change the status quo, it has not offered any quid pro quo. In fact, its offer erodes wages over time, because employees would be required to pay more for existing health benefits.

Under Sec. 111.70(4)(cm)7, Stats., any laws that limit expenditures or revenues is the factor that is given the greatest weight. However, there has been no evidence showing the District can no longer pay 100% of the family health and dental premiums. Rather, the District seems to argue that since other support staff in the area pay part of the premiums, then this support staff should also.

Under the statutory criteria, the next factor that must be given greater weight are the economic conditions. However, the District has not shown how the economic conditions would require the support staff to pay a portion of the premium. Instead, the AESP has provided evidence showing that the District's Fund 10 balance is higher than the average district in the Bay Conference.

The District ignores greatest weight and greater weight factors, and instead moves down to item "e" on the "other factors" list of the statute. While the AESP does not dispute the evidence regarding other Bay Conference support staff, comparables do not have the weight of the first two factors.

The AESP maintains that a reliable factor in the financial health of a school district is its Fund Ten Balance, which is money that districts keep in reserve for unanticipated expenses. The average balance for 2000-01 in the Bay Conference is 13.91%; the District's is 28.29%. In 2002-02 the District still leads the conference with more than double the Conference average. For 2000-01 the District's balance ranked 96 out of 426 districts. It should not come as a shock that the District leads the conference

in payment of health and dental premiums. The District should not be permitted to change the status quo.

The AESP further argues that another measure of the financial strength of a district is its Act 11 Contribution, which is part of the revisions to the retirement law. The District received a WRS credit of \$316,572, while Bay Conference districts received an average credit of \$238,821.

Other economic indicators also support the fact that the District is in good financial condition, including the mill rate, which has decreased in the District over the past few years. The District receives an average amount of equalized aid. The financial health of the District simply does not demonstrate a need to change the status quo as to how the insurance premiums are paid.

In response to the District's arguments, the AESP contends that Section 111.70, Stats., does not support the District's offer because the District acknowledges it is not arguing inability to pay. Moreover, if the District's cast forward method of costing is adopted, then there is no financial benefit to the District, for only employees hired after April 2001 would be required to contribute to the health insurance premiums.

The AESP asserts that the District is acting in a mean-spirited attempt to punish its lowest paid employees with the premium contributions, which are not required of the other internal employees. The District's argument that the support staff should share the pain is weak. Though the District contends the teachers are under the QEO law, teachers can go to arbitration. Moreover, administrators are not even represented.

The District cannot argue it has met the quid pro quo test when the vast majority of its employees are not required to contribute to the health insurance premium. The

AESP contends that it defies logic for the District to extract contributions from its newest and lowest paid employees while the rest pay nothing.

The AESP maintains that the District is waffling between two positions on quid pro quo. It first argues the salary and benefits are sufficient to demonstrate a quid pro quo, and its suggestion that the District's proposal to decrease the health and dental benefit is the quid pro quo is absurd. However, by the end of its brief the District then argues there is no need to look for a quid pro quo.

The District also argues that its proposal is in the best interests of the public, but that argument would mean the cheapest proposal would always win. How the public interest is enhanced with the District's offer is difficult to comprehend.

While the District is uncertain as to whether it needs to provide a quid pro quo, it does admit that it is changing the status quo. However, the District uses circular reasoning, for it contends that because the AESP has done well in previous negotiations then there needs to be a change the status quo.

The AESP finds it unusual for a district to argue that non-union comparables should not be included, unless it argues, as here, that the benefits are too good to be allowed to continue. The AESP agrees it is the leader in the Bay Conference. The AESP does not object to the Bay Conference as the proper comparables and further agrees that it is at or near the top of the comparables. It has done so through lawful bargaining and to keep up with the internal comparables. The District has a twenty-year history of paying full family health and dental benefits.

The AESP points out that there was no demonstration that the District had tried to alter this arrangement in past negotiations. Clearly, the issue of increasing health

insurance costs has been with the District a long time; however, it has not demonstrated that it has tried to deal with those increases with proposals in previous negotiations. Rather, this is the first time it has decided to go after the AESP. None of the cases cited by the District, after a close analysis, support its proposal.

In conclusion, the AESP maintains that the District is singling out the lowest paid employees, the internal comparables do not support its proposal, the District admits it is changing the status quo without offering a quid pro quo, and because the AESP is the leader the District incorrectly believes it is justified in its position. The District is seeking to significantly alter the status quo by changing a twenty-year practice. During that same period the District has paid the same benefit to its teachers. The District ignores the factors that must be considered, ignores its financial health, ignores the long-standing practice and its burden of proof when proposing a change from the status quo. It only relies on the argument that other support staffs do not have the benefit. The AESP's arguments should therefore be selected. It cites arbitral authority in support of its position.

POSITION OF THE DISTRICT

The District first notes that arbitrators are directed under the statute to give greatest weight to revenue controls, which were intended to provide tax relief to taxpayers. While support staff were not specifically included under the qualified economic offer, the legislature changed the criteria to include all employee settlements. Support staff unions, as well as teacher units, must moderate their wage and fringe benefit demands accordingly.

With respect to the greater weight factor of economic conditions, neither party provided decisive evidence on that statutory factor. Neither offer violates the lawful authority criteria, the stipulations do not appear to favor either side's offer, nor have there been any relevant changes during the pendency of the proceedings. The remaining factors will be discussed below.

Because the parties have not entered interest arbitration before, the appropriate comparable group must be established, the District submits. The District identifies its comparable pool as the Bay Athletic conference: De Pere, Howard-Suamico, Marinette (excluding food service personnel), New London, Pulaski, Shawano-Gresham, and West De Pere (custodial unit only). The AESP has included all the districts, whether unionized or not, within the Bay Conference. Because Marinette (food service), West De Pere (clerical and food service personnel), and Seymour School District, are not unionized, the District has not included them in its comparable pool. The District submits that many other arbitrators have supported this viewpoint. Non-unionized groups cannot bargain their wages and benefits. The Seymour School District, for example, unilaterally changed its contribution level toward the health insurance.

When arbitrators are determining appropriate comparable public employers, they have considered factors such as: location, population and geographic size, total property value, per capita property value, income athletic conference, and the labor market. The average enrollment data for the District's proposed comparable pool is close to the District's.

The District asserts that the determined comparable pool will play a vital role in future negotiations, and the District argues its proposed pool meets criteria arbitrators apply when choosing the appropriate group.

While the wages are not in dispute, it is important to review the wage rates of the various job classifications to determine how they fair in relation to represented employees in surrounding districts. Many arbitrators rely on total package as the best barometer of the value of any settlement. The District has identified the costs associated with salaries and benefits under both offers, and one must consider the costs associated with fringe benefits.

When total package is considered, the District has provided settlements above the average for the four-year period from 1999-00 to 2002-03. While the AESP questioned the use of the cast forward costing, it provided no alternative method. Hundreds of arbitrators have used that approach. The employee complement must be consistent over the life of the agreement to accurately measure wages and fringe benefits. Actual cost has only been proposed when there is an ability to pay argument.

The District has also supplied hourly wage comparisons. The District argues that the Administrative and Educational Associates, Cooks, and Cashier wages earned by the District's employees are higher than any other wages within the proposed comparable pool. Sixty-eight percent of the employees at the District are earning the highest wages paid in the Bay Conference. In addition, the wage increases proposed by the parties exceeds that bargained by unionized Bay Conference employees.

When the cost of living is considered, the wage and benefit gains are in excess of the CPI under either offer.

The District has also summarized the fringe benefits offered by comparable districts. All but one comparable has a Section 125 Plan. With respect to employer contributions to health insurance, the average contribution level by each employer is 94%. The District's offer of 95% for employees hired after December 31, 2001 is clearly within the ballpark. In fact, the District is the only employer that currently provides for full payment of this benefit.

The District is providing the hourly rates of pay associated with the health insurance benefit for the comparable districts and under its offer. Current employees receive a health insurance benefit clearly superior to the health insurance provided to other represented employees. The District's offer is attempting to bring its health insurance benefit in line with other comparable districts and employees.

The employees also receive dental insurance. The majority of comparable employees are required to contribute toward the cost of dental insurance. Applying the hourly rate of pay approach to the dental benefit, the District contends that its dental benefit ranks toward the top of the comparables.

The District also offers longevity to AESP employees; however, most comparable employees do not enjoy that benefit. Half do not offer the longevity benefit, and, but for Pulaski, the District maintains that it has the most lucrative longevity benefit among the comparables that do provide it.

When the holiday benefit is calculated under the hourly computation, the District argues that its holiday benefit is far above comparable represented groups. Using the same approach with vacations, its vacation benefit is well above the average. Applying the approach to sick leave, that also exceeds the average of the Conference.

The personal leave benefit is comparable to that offered to comparable employees. The District's life insurance is more lucrative than that provided to comparable employees. The District pays 100% of the employee contribution toward the WRS, while the majority of the comparable districts include a specific percentage. The District contributes a portion of the group health and dental premium for retired employees, while four of the comparables do not offer any early retirement to current employees.

When the hourly pay approach is summarized for the above-described benefits, the District's proposal that future employees pay five percent of the premium would continue the employees at their above-average rank. If anything, the insurance concession would be a modest attempt to bring the District more in line with wages and benefits offered to current comparable employees.

When a party is proposing a change in a substantive term of the contract, arbitrators have recognized that the proposing party must establish a persuasive case. When there is a change in the status quo, the test some arbitrators apply include: a compelling need for the change, the proposal should reasonably address the need for the change, and a sufficient quid pro quo for the change. If there is overwhelming support for the change, some arbitrators do not require a quid pro quo, while others have concluded that comparable support minimizes the need for a quid pro quo.

Employers must look to ways to reduce the skyrocketing health insurance costs. The District has incurred health insurance increases close to 16% for each of 2001-02 and 2002-03. Escalating health insurance costs are a problem for public and private sector

employers. The District is only asking that future employees have a stake in the cost of maintaining the current health insurance program.

Under the District's proposal, the employees would continue to rank number one among the comparables. The District's employees do not have front-end deductible costs. The average deductible for other districts is \$350 for family and \$183 for single plans. Other arbitrators have agreed with similar proposals by district employers.

While the District is proposing to change the status quo, the comparables clearly support the need for the change. The unmistakable and undeniable trend is for employees to pay a portion of the premium. Every district among the comparables requires an employee contribution.

The District further asserts that its offer is more reasonable, when it is only proposing that future employees pay \$537.86 per month or \$1.47 per day. Those amounts will be even less under the Section 125 Plan, which brings down the employee contribution from 5% down to 3.6 %.

The District's offer also helps employees understand how expensive health insurance really is. While the proposal does not solve the problem, it does bring the point home to future employees. Though administrators and teachers have their insurance paid for, their salary and benefits are capped by statute. The law also prohibits involuntary fringe benefit changes. In addition, those employees have not received the total package increases that this group has received from 1999-00 to 2002-03. The quid pro quo is in the outstanding array of fringe benefits support staff employees already receive.

Other arbitrators have struggled with the issue of exorbitant insurance increases and they have strongly supported employers' attempts to contain them.

The District's offer is in the best interests of the public for it promotes accountability, as many arbitrators have held.

Though the AESP provided information on Fund Balances, it did not breakdown or identify the costs which are available to fund escalating insurance costs. The Fund Balance is not a bank that the AESP can raid when it sees fit. The employees must assume the responsibility of keeping wages and fringe benefits to a reasonable level, given the legislature's intent to deliver property tax relief.

In response to the AESP's arguments, the District agrees that with a change in the status quo, an analysis must be made to determine if there is justification. However, the District submits that is not the end of the analysis. The need is the escalating insurance costs. The District must look at ways to curb the excessive insurance increases. To minimize the proposed change in employee contributions, current employees would not be affected.

The AESP has placed "all its eggs in one basket" when the AESP asserts the District has not met the first hurdle of the three-pronged test. Because each case differs, all the criteria must be reviewed. Comparable support must be demonstrated, and the comparables overwhelmingly support the District's proposal.

When a proponent of a change is attempting to bring a unit in line with comparables, there is no need to offer a quid pro quo for the change, which is the case here.

Moreover, the District argues both parties' identical wage proposals are more generous than that of other represented employees in the Bay Conference. In addition, the wage and benefit package overwhelmingly surpasses total compensation of Bay

Conference employees. The wages and benefits of the Administrative Associate, Educational Associate and Cook job classifications rank at the top of the comparable pool and are \$4 to \$6 per hour above the average. The District asks why it needs to continue to pay superior wages and benefits when its benefits already exceed that offered by unionized Bay Conference employees?

The District further asserts that it pays \$60,536 toward the cost of family health insurance coverage over and above that paid by the average of comparable Districts. The District's proposal would require employees to pay less than the average paid by comparable employees. Moreover, the District is not changing the health plan. Employees are more likely to realize how expensive the insurance is if they are required to pay a portion.

The District believes that those employees not subject to statutory salary and benefit limitations should be willing to pay a small portion of the entire insurance premium both in order to maintain it and to make employees more sensitive to the cost of doing so. Not one comparable district pays 100% toward the cost of the premium. The trend is for employees to pay a portion of the premium.

The District responds to the AESP's arguments by replying that administrators and teachers are not appropriate comparable employees, because their salaries and benefits are statutorily capped. Teachers are also protected by the law that prohibits involuntary fringe benefit changes if the District imposes a Qualified Economic Offer.

Districts around the state are operating under tight revenue controls and they no longer have the unlimited ability to tax. The District asserts those revenue controls fall within the statutory greatest weight criteria of limiting expenditures and revenues. It does

not matter under that language of the statutory criteria whether a district has the ability to pay. The AESP ignores the problem by simply saying the District has enough money to meet its offer.

Simply because the District has a healthy Fund 10 balance does not require the District to continue paying 100% of the insurance premiums. Under the AESP's reasoning, if a district's Fund 10 balance were ten times other districts, then those employees should receive ten times the wages and benefits. Rather, the bargaining process provides for accommodating change. Because the District is not in dire straits does not mean it should continue to pay 100% of the premiums.

In conclusion, though the District's proposal may not solve the problem, it does bring the point home of just how expensive health insurance is. It has identified the need to change the contribution level for insurance. The District's proposal modestly addresses the need to reduce insurance costs. Arbitrators have recognized that a party proposing a change does not need to offer a quid pro quo when the proposal brings the employees in line with the comparables. Future employees should be willing to pay a small portion to maintain this expensive benefit. The AESP cannot have the best of all worlds with the wage increases as well as generous fringe benefits. The comparables overwhelmingly support the need for changing the contribution to health insurance. The foregoing demonstrates the District's offer is more reasonable.

DISCUSSION

External Comparable Group

Because this is the first time the parties have gone to interest arbitration, the appropriate group of comparables must be established. The AESP had included all support personnel from school districts within the Bay Conference, whether unionized or not. The District proposed only the unionized support personnel from within the Bay Area Conference. However, the AESP in its reply brief agreed with the District's proposed group of comparables of the unionized support personnel from within the Bay Area Conference.

The prevalent view among arbitrators is that only unionized groups of employees should be considered as appropriate comparables, because the non-unionized employees do not have the right to negotiate their wages, hours, and working conditions. I, therefore, find that the proposed group of external comparables of the unionized support personnel from within the Bay Area Conference meets the statutory criteria as an appropriate pool, which includes:

De Pere
Howard-Suamico
Marinette
New London
Pulaski
Shawano-Gresham
West De Pere

Final Offers

While each offer contains a number of proposals, they are identical in all respects, save for the following proposal by the District:

For all full-time employees hired after December 31, 2001, the District will pay the entire premium of a single plan as so deemed by the employee. For all part-time employees working half time or more, hired after December 31, 2001, the District will pay the single plan and ninety-five percent (95%) of the family plan on a prorated basis.

I will therefore focus on that proposal by the District when applying the statutory criteria.

A. Section 111.70(4)(cm)7 “Factor given greatest weight”

This statutory provision requires the arbitrator to give greatest weight in the decision-making process to imposed revenue and expenditure limits. The District contends that, while support staff were not specifically included under the qualified economic offer statutory provisions, the legislature changed the criteria to include all employee settlements, and the AESP must moderate their wage and fringe benefit demands accordingly. However, the evidence does not demonstrate what and how that provision would specifically apply in this instance.

The AESP, on the other hand, argues that because the District has high Fund 10 balances, the District’s proposal should not prevail under section 111.70(4)(cm)7, Stats. This statutory criteria has generally been interpreted as a “revenue control” mandate, which requires the arbitrator to give highest priority to statutory limits on the parties’ economic proposals, not as a justification for continuing a given benefit.

In this instance, the “greatest weight” criterion does not dictate the result.

B. Section 111.70(4)(cm)7g. “Factor given greater weight”

This provision requires the arbitrator to give greater weight to the economic conditions of the municipality than to those listed under subdivision 7r. The AESP contends the District has not shown how the economic conditions would require the support staff to pay a portion of the premium. Instead, according to the AESP, it has provided evidence showing that the District’s Fund 10 balance is higher than the average district in the Bay Conference.

A high Fund 10 balance does not control the result under this subsection of the statute, for it does not address the entire economic picture of the District. Moreover, as cited by the District, Arbitrator Gil Vernon has reasoned:

The Union argued that the District could clearly afford to grant its request because the District has a surplus Fund 10 budget. The Arbitrator is persuaded, however, by cases cited by the District that recurring expenses should not be paid out of such funds. It is prudent, reasonable, and in the public interest to maintain a healthy Fund 10 balance. Black River Falls S.D. (Support), No. 29002-A (11/4/97)

Such reasoning is appropriate here as well. A high Fund 10 balance is not a “factor given greater weight” that would, by itself, determine the result.

C. External Comparables

As the District notes, its Health Insurance costs have gone up significantly and they are expected to continue to increase. Indeed, employers around the country are facing higher health insurance premium costs, and they must determine how to address the challenge. Because the parties were not able to voluntarily settle this issue, the statute requires me to analyze how other comparable districts have responded to the dilemma.

The following tables, summarized from the parties’ exhibits, is instructive:

EMPLOYER CONTRIBUTION TO FAMILY HEALTH INSURANCE PREMIUM

<u>EXTERNAL COMPARABLES</u>	<u>PERCENTAGE CONTRIBUTION</u>
De Pere	95%
Howard-Suamico	95%
Marinette	90%
New London	90%
Pulaski	96%
Shawano-Gresham	94%
West De Pere	95%

This summary reveals that the external comparables strongly support the District's proposal to pay 95% of the family health insurance premium and the employee pay 5% of the premium for those employees hired after December 31, 2001.

**EMPLOYER CONTRIBUTION TO FAMILY
DENTAL INSURANCE PREMIUM**

<u>EXTERNAL COMPARABLES</u>	<u>PERCENTAGE CONTRIBUTION</u>
De Pere	100%
Howard-Suamico	90%
Marinette	90%
New London	90%
Pulaski	97%
Shawano-Gresham	94%
West De Pere	100%

Likewise, this summary also demonstrates that the external comparables strongly support the District's proposal that it pay 95% of the family dental insurance premium and the employee pay 5% of the premium for those employees hired after December 31, 2001.

D. INTERNAL COMPARABLES

The AESP points out that the teachers in the District do not contribute toward either the health insurance premiums or dental insurance premiums, supporting the AESP position of the status quo. However, as the District notes, teachers' salaries and benefits are statutorily capped, and they are also protected by the law that prohibits involuntary fringe benefit changes if the District imposes a Qualified Economic Offer. There are, therefore, some limitations in comparing teachers to support staff, who are not under the same statutory restrictions. The administrators are not represented, and, for reasons above described, non-unionized employees are not appropriate comparables.

E. ANALYSIS

One of the key arguments raised by the AESP is that they have had fully paid health and dental insurance for about twenty years. However, if that argument were taken to its logical conclusion, no change could ever be made. In this instance, there is persuasive evidence that the premiums are going up dramatically and the problem needs to be addressed in a rationale, reasonable manner.

The external comparables fully support the District's proposal, while the internal comparables support the AESP. However, for the above reasons, the comparison with the teachers must be tempered somewhat because of statutory differences. On balance, the external comparables carry more weight, in this instance.

The District also notes that the employees represented by the AESP are at, or near, the top of the external comparable group in terms of wage and fringe benefits. The District proposal would not materially alter their position.

The AESP asserts that with a change in the status quo, a need for the change must be demonstrated, along with a quid pro quo. Generally, that approach should be followed; however, each case must be considered in its own context. Here, the District has demonstrated a compelling problem that needs to be addressed, the comparables favor the District's proposal, the AESP employees would remain in their relative position under the District's proposal, and only employees hired after December 31, 2001 would be affected.

The "grandfathering" approach has particular merit. It minimizes the impact of the change in premium payments, for it would not affect the vast majority of employees,

i.e., those who are accustomed to the District's paying the full premium. Rather, it would gradually be instituted, requiring only the new hires to pick up a five-percent share of the premiums, a contribution similar to that of the external comparables

On balance, the undersigned finds that the District has made a persuasive case for its proposal, and I, therefore, find that the District's final offer is more reasonable.

F. CONCLUSION

Having considered the statutory criteria, the evidence and arguments of the parties, the undersigned, based on the above and foregoing, concludes that the final offer of the District is more reasonable and therefore should be favored over the offer of the AESP, and in that regard the undersigned makes and issues the following

AWARD

The District's final offer shall be incorporated into the 2001-2002 and 2002-2003 two-year collective bargaining agreement between the parties, along with those provisions agreed upon during their negotiations, as well as those provisions in their expired agreement which they agreed were to remain unchanged.

Dated in Madison, Wisconsin, on December 3, 2002, by

Andrew M. Roberts