BEFORE THE ARBITRATOR

In the Matter of the Interest
Arbitration of a Dispute Between

TEAMSTERS LOCAL 346

and

Case 271
No. 65754 INT/ARB-10689
Decision No. 31776-A

DOUGLAS COUNTY HIGHWAY DEPARTMENT

Appearances:

Andrew & Bransky, P.A., Attorneys at Law, by **Attorney Timothy W. Andrew**, 302 West Superior Street, Suite 300, Duluth, Minnesota, appearing on behalf of the Union.

Weld, Riley, Prenn & Ricci, S.C., Attorneys at Law, by **Attorney Stephen L. Weld**, 3624 Oakwood Hills Pkwy., P.O. Box 1030, Eau Claire, Wisconsin, appearing on behalf of the County.

ARBITRATION AWARD

By its Order dated October 2, 2006, the Wisconsin Employment Relations Commission, herein "WERC," appointed Dennis P. McGilligan as the Arbitrator "to issue a final and binding award, pursuant to Section 111.70(4)(cm)6. and 7. of the Municipal Employment Relations Act," to resolve the impasse between the above-captioned parties ". . . by selecting either the total final offer of Teamsters Local 346 or the total final offer of the Douglas County Highway Department."

A hearing was held in Superior, Wisconsin, on December 1, 2006. The hearing was not transcribed. The parties completed their briefing schedule on January 2, 2007.

After consideration of the entire record and the arguments made by the parties, the Arbitrator makes and renders his decision and Award.

BACKGROUND

Teamsters Local 346, herein "Union," represents for collective bargaining purposes a unit of certain employees of the Douglas County Highway Department, herein "County" or "Employer." The parties engaged in negotiations for a successor collective bargaining agreement to replace the prior agreement which expired on December 31, 2005, and they agreed on all issues except vacation language, premium contribution from new hires with single health insurance coverage, and wages, specifically, the number of positions entitled to a 15 cents wage adjustment in 2006.

The Union filed an interest arbitration petition on March 29, 2006, with the WERC. The WERC appointed Stanley H. Michelstetter II to conduct an investigation which he completed and then closed on August 24, 2006. On October 2, 2006, the WERC issued an Order appointing the undersigned to serve as the Arbitrator.

There are eight other bargaining units in the County. They include five AFSCME units: Buildings/Grounds/Forestry, Child Support Professionals, Dispatchers, Nurses, and Social Workers. WPPA represents Law Enforcement – Deputies and Law Enforcement – Jail Division. CWA represents Courthouse/Human Services – Nonprofessionals. There also are non-represented employees.

In the most recent round of negotiations, seven of the eight other bargaining units voluntarily agreed that employees hired after ratification of the 2005-07 contracts would contribute 5% of the single health insurance premium. The eighth, the Dispatchers, became a separate bargaining unit beginning with the 2006-07 collective bargaining agreement and agreed to the same change for single health insurance premium contribution effective January 1, 2004. Newly hired non-represented employees with single health insurance coverage also will pay 5% of the premium.

FINAL OFFERS

The Union's final offer states:

Add to Article 20, Section 2, Part G:

> The Employer **shall** also allow additional employees off of work for vacation provided there would be remaining staff available to meet the operational needs of the Department.

Article 21, Section 2:

> No change to the status quo. The Employer contributes 100% of the single plan premium.

Wage Schedule:

2006 – wage increase of 2.5%, plus 15 cents to all steps and classifications

2007 – wage increase of 2.5%

The County's final offer states:

Add to Article 20, Section 2, Part G:

The Employer **may** also allow additional employees off of work for vacation provided there would be remaining staff available to meet the operational needs of the Department.

Article 21, Section 2:

For employees hired prior to the ratification of this agreement the Employer shall contribute on behalf of all eligible employees working thirty (30) hours or more per week one hundred percent (100%) of the single plan premium or an amount not to exceed ninety percent (90%) towards the cost of a family plan for health insurance coverage.

For employees hired after ratification of this agreement the Employer shall contribute on behalf of all eligible employees working thirty (30) hours or more per week ninety-five percent (95%) of the single plan premium or an amount not to exceed ninety percent (90%) per month towards the cost of a family plan for health insurance coverage.

Wage Schedule:

2006 – wage increase of 2.5%, plus 15 cents to top step of
Equipment Operator I and II
Equipment Operator/Sign Coordinator
Equipment Operator Tech
Mechanics

(lower steps recalculated according to current percentage differences between steps)

2007 – 2.5% wage increase

It should be noted that there is no dispute with respect to the revised wage schedule for the Interim Patrol Superintendent, Working Foreman, and Parts Coordinator/Mechanic positions.

STATUTORY CRITERIA

In deciding the issues presented, Section 111.70(4)(cm)7, Stats., requires the Arbitrator to consider the following factors:

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. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.

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 in subd. 7r.

7r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by 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 of other employees performing similar services.

e. 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 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 employment 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 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.

POSITIONS OF THE PARTIES

The parties filed concise and well-reasoned briefs. The parties' positions and arguments and cases cited are not reproduced in detail; instead the parties' positions are summarized below. The parties' main arguments are discussed below in the **DISCUSSION** section of the Award.

Union's Position

The Union argues that its proposal on vacation is more reasonable than the County's offer because it simply protects employees against arbitrary denial of the use of the vacation time they have earned, while preserving the County's managerial right to refuse vacation requests when the County has an operational need for the staffing.

The Union also argues that because the County seeks to change the status quo on health insurance it has the burden of proving why its proposal is more reasonable. The Union asserts that the County has not met this burden because it has not demonstrated that there is a need for a change in the single plan health insurance premium contribution and has not offered an economic quid pro quo for the change.

Finally, the Union argues that the cost of living supports its proposal to give the head bookkeeper, bookkeeper and building service worker a 15 cents an hour wage increase because without the increase they will not keep up with the rate of inflation and will continue to lose purchasing power. The Union also argues that the available external comparables support its position that the head bookkeeper and bookkeeper should receive an additional 15 cents per hour after the 2.5% wage increase. The Union adds that it is not fair to single out the three employees filling the head bookkeeper, bookkeeper and building service worker positions and treat them differently by not giving them the additional 15 cents per hour all other classifications in the bargaining unit receive.

In conclusion, the Union submits that its final position on all three issues in dispute is more reasonable than the County's position. Based on the record and its

arguments, the Union asks that the Arbitrator adopt the final position of Teamsters Local 346.

County's Position

The County initially argues that this is a traditional we can't reward the last "lone holdout" case.

In support thereof, the County first argues that its final offer maintains internal consistency and should be selected on that basis alone.

The County also argues that the external comparables fully support its final offer.

The County next argues that it has met the commonly-recognized criteria required to change the status quo with respect to health insurance contributions. In this regard, the County claims that the escalating cost of health insurance establishes a need to modify the health insurance benefit. The County also claims that maintaining internal consistency with respect to employee contributions justifies the County's proposed change. The County adds that the minimal nature of the County's proposed health insurance change does not demand a quid pro quo. In the alternative, the County claims the additional 15 cents per hour wage adjustment for the vast majority of the unit is the quid pro quo.

The County further argues that the Union's proposed wage adjustments for the head bookkeeper, bookkeeper and building service worker classifications are unwarranted and would upset internal comparisons.

In addition, the County argues that its proposed vacation language is more reasonable than that of the Union's proposal.

Furthermore, the County argues that the interests and welfare of the public are better served by adoption of the County offer because it is in line with internal and external comparables and because it's in the public interest to require employees to share in the cost of health insurance premiums and to absorb a greater share of their own health care expenses.

Finally, the County argues that the "cost of living" criterion is of little consequence here because the bulk of the unit will receive a wage increase in line with the cost of living increase.

Based on the relevant facts, pertinent case law and arbitral authority, the County requests that its final offer be selected by the Arbitrator.

DISCUSSION

At the outset, the Arbitrator notes that the parties have agreed that the Union's Stipulated Agreements in Union Exhibit Tab No. 3 accurately reflect the agreements of the parties except for the three issues in dispute.

The parties also have stipulated that several of the statutory factors set forth above are not at issue here. They include: the "greatest," "greater," weight provisions of subsections 7 and 7g and the "ability to pay" provision of 7r c. Consequently, they will not be given weight in determining the reasonableness of the parties' final offers.

Further, the parties do not rely on all of the statutory criteria in support of their offers. The criteria not relied upon include: the "lawful authority," comparison with private sector settlements, the "overall compensation" and "changes during pendency" provisions of 7r a, f, h and i. Since said criteria are not addressed by the parties, the Arbitrator, like the parties, finds them to be non-determinative of the issues presented. *Sawyer County, Decision No. 31519-A, p. 6 (Torosian 9/06).*

With respect to the remaining criteria, the stipulations of the parties, the "interests and welfare" of the public, the "cost-of-living," and "such other factors," provisions of 7r b, c, g and j, were addressed, but, clearly they are not as significant as the primary criteria of 7r d and e; internal and external comparables. Consequently, the Arbitrator does not find them, individually or collectively, to be very important to the outcome of this case. Their relative significance will, however, be discussed below.

The Arbitrator turns his attention to the issues in dispute.

Vacation

Both parties propose adding language to Article 20, Section 2, Part G. The County proposes the following addition:

> The Employer may also allow additional employees off of work for vacation provided there would be remaining staff available to meet the operational needs of the Department. (Emphasis in the Original).

The Union's proposed addition is identical except it uses the word "shall" in place of the word "may," thereby requiring the Employer to allow additional employees off "provided there would be remaining staff available to meet the operational needs of the Department." (Emphasis in the Original).

The proposed additional language follows language which establishes a quota of one employee in each classification (working foreman, mechanic, operator #1, building service worker, and operator #2) off on vacation at any time.

Both parties opine that their proposed language is more reasonable than the other party's proposed language.

The Union argues that it made its proposal to address circumstances where the County has denied an employee's use of earned vacation time even when the employee was not needed to meet an operational need of the County. In this regard, the Union notes that at hearing Union Steward Dean Amys explained a recent instance where he was denied the use of his earned leave benefits based on a one year old disciplinary issue and not the operational needs of the County. Amys explained that he sought to take off over the full week of the 2006 deer hunting season and was initially approved for the time off. However, he was subsequently notified by Highway Commissioner Paul Halverson that he was being denied leave because he failed to follow the Department's call-in policy during the 2005 deer hunting season. Amys testified that he received no discipline at the time of his missed call out and had no opportunity to grieve the imposition of discipline for this incident in 2005. Patrol Superintendent Keith Armstrong testified that the Highway Department has had a long-standing policy of allowing more employees off for deer hunting than the quota system allows, with, and only with, the understanding that they must be available to respond to any call backs (usually for weather-related plowing needs). Armstrong stated that he approved Amys' leave request for 2006 deer hunting before realizing that Amys had not reported to call back during the 2005 deer hunting season.

The Union claims that in this instance the County wrongly denied Amys' use of his earned leave time for reasons other than the operational needs of the County. It argues that the proper response to Amys' refusal to respond to a winter call out during the 2005 deer season would have been to discipline him at that time and give him an opportunity to grieve that discipline.

The Arbitrator agrees with the Union that the County's denial of leave time during the 2006 deer hunting season for his failure to respond to a call back during the prior deer season has a disciplinary component to it. The County is punishing the Grievant for his actions by denying him a benefit provided to all other members of the bargaining unit – time off during deer season. Most arbitrators agree that an employer's action in disciplining an employee must be timely – taken without delay after the incident or incidents relied on by the employer in justifying its action. The Common Law of the Workplace, The Views of Arbitrators, National Academy of Arbitrators, Theodore J. St. Antoine, Editor, s. 6.15, Timeliness, Discipline and Discharge, p. 193 (1998). This component of procedural due process is necessary so employees are not subjected to the difficulties of responding to stale claims – claims by the employer relating to events so distant that witnesses or participants may be gone, memories may have faded, documentary evidence may have scattered. Id. In the instant case, the County should have notified Amys on a timely basis that it was going to take action against him for his failure to respond to a call back during deer season in 2005. However, Amys filed a grievance over the County's 2006 denial of time off during the deer season for what happened in 2005 and successfully resolved the matter through the grievance process. Consequently, the Union has not shown any harm to Amys by the County's tardy

disciplinary action against him. Nor does this example demonstrate a need for the Union's proposal.

In addition, the County's denial of Amys' leave request clearly is related to operational needs. Amys violated the Highway Department's long standing policy of allowing additional employees off for deer hunting with the understanding that they must be available to respond to call backs for things like weather-related plowing needs. This was a privilege the County extended to unit employees to be off on vacation that went beyond the quota system provided for in the contract. The need to have employees available for weather-related plowing and de-icing relates directly to the Department's operational needs. The County denied Amys' request for leave time during the 2006 deer hunting season because he did not respond to a call back during the 2005 deer hunting season for this purpose. This denial puts Amys and other unit employees on notice that, according to Departmental policy, they must be available for call back when they are off work during deer hunting season or they will not be allowed off for deer season in the future. In that sense, the County's decision to deny Amys time off during the 2006 deer hunting season in response to Amys' failure to respond to a call back during the prior deer season relates to both past and future operational needs of the Highway Department.

The Union also takes the position that, by virtue of agreed upon new language in Article 20, Section 3, there is now a "use it or lose it" rule which will jeopardize employees' ability to use all of their earned vacation. That new language states:

> Should an employee be denied vacation due to operational needs and that employee is unable to use his vacation time during the balance of the calendar year, that employee will be allowed to carry over up to five (5) days of vacation into the subsequent year however he will be required to take his vacation by March 31st of the subsequent year.

The Union asserts that the import of the above language is very clear: "an employee can lose their earned vacation either if the balance exceeds 5 days at the end of the calendar year or if the employee is not able to use the carry-over prior to March 31st."

This argument has little merit. Patrol Superintendent Armstrong testified that it has always been the Department's policy to allow employees to carry over five days until March. The policy was simply placed in the collective bargaining agreement. "Nothing has changed." (Emphasis in the Original). To the best of Armstrong's knowledge, no one has ever been unable to use their vacation or has lost vacation as a result of this practice.

As a further means of justifying its proposed language, the Union explains that the bargaining unit earns more vacation weeks in a year than there are weeks in a year that can be taken as vacation under the quota system. However, the Union has not provided any evidence of instances in which employees have been unable to use all of their vacation. To the contrary, Patrol Superintendent Armstrong testified that employees

were able to use their vacation under the codified system. Clearly, employees have been able to use all earned vacation.

The Union adds that its proposal does not interfere with the operational needs of the Highway Department or its management rights. The Arbitrator agrees. The Union's proposal clearly states that it does not require the County to grant vacation if there will not be remaining staff available to meet the operational needs of the Department. As pointed out by the Union, even under its proposed language, the County's operational needs trump the employee's ability to take vacation.

The Union also points out that "[t]he concept that an employee should only be denied vacation due to operational needs was voluntarily agreed upon by the parties during negotiations." The Union states that Article 20, Section 3 from the stipulated agreements (quoted above) already provides, "Should an employee be denied vacation due to operational needs . . . ." Section 111.70(4)(cm)7r b, Stats., requires the Arbitrator to give weight to the stipulations of the parties and since Article 20, Section 3 is a stipulation and the Union's proposal is consistent with that stipulation, this factor, in the Union's opinion, supports its position.

Article 20, Section 3 does not say that an employee should only be denied vacation due to operational needs. However, the Union's proposed vacation language is consistent with the stipulation. Therefore, the aforesaid factor, standing alone, supports the Union's position.

The County, on the other hand, objects to the Union's proposed "shall" language, in part, because there is no clear language in Article 4 which states that the County's determination of operational needs cannot be challenged by the Union. That is true. However, Article 4 does provide that management's right to determine operational needs is subject to the other provisions of the contract as well as applicable law. The Union has the right under Article 5 to file a written grievance stating "the specific section of the current labor contract alleged to have been violated or the nature of the grievance," and the relief sought. The County's position that there should be language in the contract prohibiting a challenge to a determination of operational needs runs counter to contractual language already agreed upon by the parties recognizing a right to initiate such challenges. Consequently, it provides no basis for supporting the County's position.

The County also argues that the Union's proposed language creates the potential for future litigation when, for example, the County wants work such as patching or brushing done which could arguably be delayed for a day. The Union strenuously objected at hearing to any such intention stating that it was not going "to quibble" about whether the County decides to patch a road on any given day. In addition, there is no record evidence that the parties' relationship is litigious in nature. There has been only one grievance (Amys) on the issue of leave and that was settled voluntarily by the parties.

Finally, the County argues that the Union has not demonstrated a <u>need</u> for the change and has offered no <u>quid pro quo</u> for the proposed change. (Emphasis in the

Original). This is the crux of the problem. The Union has not demonstrated a real need for the change. It has not identified any concrete problems with the current system that need to be fixed. There has been only one grievance over leave/vacation denial and that was resolved on an informal basis during the grievance process. No one has been unable to use their vacation or lost it because of the current contract language and/or policy and practice. The record is undisputed the Union has not offered a quid pro quo for its proposed change in the status quo.

The Arbitrator finds that the Union has failed to identify any valid reason for insisting on the use of the mandatory word "shall." The Union has not provided an acceptable rationale for requiring the Employer to allow additional employees off and/or for restricting the Employer's discretion in this area by use of the word "shall." (Emphasis in the Original). The Union's inability to demonstrate a need for the Union's proposed vacation language combined with its failure to provide a quid pro quo for the change supports a conclusion that the Employer should continue to have broad discretion in determining when and how many employees may take vacation or other leave at any point in time. The fact that the Union's proposed vacation language is consistent with other language agreed to by the parties does not warrant a different conclusion.

Such an outcome is consistent with arbitral precedent. Management is entitled to determine when vacations are to be taken, subject to the terms of the collective bargaining agreement and past practice. The Common Law of the Workplace, supra, s. 9.4, Fringe Benefits, Vacations, Scheduling of Vacations, p. 309. The Employer's proposed vacation language is consistent with the parties' past practice of granting the Employer discretion in determining the scheduling of vacation and other leave.

In applying contractual provisions, arbitrators generally seek to strike a balance between employee preference and management's right to schedule vacations to meet legitimate needs of the enterprise. Id. The Union has not shown that the Employer has struck an unfair balance between these competing interests in the instant case. It also has not shown any reason why the only legitimate denial of vacation use should be the operational needs of the County.

For the reasons discussed above, and because the County's proposal is consistent with the factors and concepts traditionally taken into account in voluntary collective bargaining, the County's proposal on vacation language is favored.

Health Insurance

The Union begins its argument by noting that, in determining whether a change in the *status quo* is justified, arbitrators have traditionally invoked a four-part analysis, considering: (1) whether there is a demonstrated need for the change; (2) whether the proposal reasonably addresses the need; (3) whether the proposal is supported by the comparables; and (4) the nature of the quid pro quo, if one is offered. *Elkhart Lake-Glenbeulah School District Case, Decision No. 26491-A, p. 15 (Vernon, 12/90).*

1. The Need for Change

The Union maintains that there is no demonstrable need for the County's proposal. In this regard, the Union argues that from 2003 to 2006 the monthly premium for single health insurance coverage declined by 3.4% (from $509 in 2003 to $492 in 2006). At the same time, the Union notes that the family premium has increased by 34% (from $1,176 in 2003 to $1,580 in 2006). The Union claims that as a result the relative cost to insure singles has decreased. The Union notes that in 2003 the single monthly premium of $509 per month was 43% of the total family premium of $1,176 while three years later in 2006 the single premium was just 31% of the total monthly family premium of $1,580. According to the Union, these facts prove that although health care costs in the County are increasing, the increase is not due to single employees in the Plan and therefore there is no need to assess single employees 5% of the cost of their insurance.

The County submits that the ever-increasing cost of health insurance as well as internal consistency in benefit contributions meets the "need" requirement.

In support thereof, the County argues that its health insurance premiums are continuing to increase. In this regard, the County notes that premiums increased by almost 146% for single coverage and over 221% for family coverage in the eight-year period from 1998 to 2006 (from $492.05 per month for family coverage in 1998 to $1,580.64 in 2006). The County claims this increased its contribution for family coverage from $2.55/hour in 1998 to $8.21/hour in 2006. According to the County, this increase in health insurance premiums over the past eight-year period demonstrates the need to address the County's escalating health insurance costs.

The Arbitrator agrees. While it is true, as pointed out by the Union, that the premium for single health insurance coverage declined slightly from 2003 to 2006 it increased 5% from 2005 to 2006. From 1999 to 2006, it increased from a monthly premium of $200.20 to $492.23. The County's history of generally increasing costs for health insurance premiums supports a finding that there is a need to address the County's escalating health insurance costs. That is true notwithstanding the fact that the premium for family health insurance coverage has increased at a greater rate than the single premium.

The fact that there has been a slight decrease in the premium for single health insurance coverage over the past three years (with a modest increase from 2005 to 2006) does not remove the need to implement employee contributions for new hires with single coverage. In a similar situation, in *Marquette County (Highway), Decision No. 31027-A pp.8-9 (6/24/05),* Arbitrator Eich addressed the union's argument that there was no need for increased employee contributions from new hires because of relatively moderate premium increases in that year:

> It is true, as the County acknowledges, that, at least for the year 2004, the County's insurance expenses were comparatively moderate; and this fact fuels, in large part, the Union's "lack-of-need" argument. But, as the

> County states in its brief, "language and benefit changes are not solely proposed to impact current practices and benefits; proposals also address future costs and possible savings." (Reply Brief, at 2) Escalating health insurance costs are a fact of early twenty-first century life in America; and, as discussed in more detail below, interest arbitrators have recognized that these trends create a need for both private- and public-sector employees to share the burden of these costs through reasonable premium contributions. (Emphasis in the Original).

Assuming arguendo that the County has not proven actual need, the Union's case still must fail. In *Sauk County, Decision No. 29584, p.8 (2/4/00)*, Arbitrator Vernon noted that "[t]he fact that the Employer's proposal is universally supported in the internal and external comparables, establishes a need in its own right." In a similar fashion, Arbitrator Torosian concluded in *City of Wausau (Support/Technical), Decision No. 29533-A, p. 30 (11/16/ 99)*, that the action of four of five internal comparables in agreeing to the changes proposed in the arbitration was enough, in and of itself, to establish the need for change:

> Four of the five City units have voluntarily settled for the same insurance change proposed here, which persuades the Arbitrator that the internal comparables support the Employer's "need" to make a similar change in this unit and that its proposal reasonably addresses the need. The undersigned is of the opinion that the need for uniform benefits in the area of health insurance is vitally important. Some municipal employers have as many as 15 – 20 collective bargaining units each with its own collective bargaining agreement. To allow each unit to alter its total package with respect to health insurance benefits and the level of premium contribution, if any, by its employees, would make the administration of a health insurance program more difficult and raises a fairness issue among its employees.

Here, all other eight bargaining units have agreed to the change for new employees' premium contribution for single health insurance coverage. (Emphasis added).

The Union also argues that the original rationale for why the parties negotiated 100% employer payment for single and 90% employer payment for family coverage still exists and does not support a change. According to the Union, that rationale was: "the County agreed to pay 100% of the single premium because the total cost to the County to insure a single employee at 100% was significantly less than the cost to insure a family at 90%." The Union opines that the same is true in 2006 because the County paid $492 to insure a single at 100% and $1,422 to insure a family at 90%. The Union asserts that there is no reason to upset this framework since the employee with single coverage continues to give the County more "bang for its buck" than an employee with family coverage.

The Union submitted no evidence regarding the original rationale for why the parties agreed to a 100% employer payment for single and 90% employer payment for family coverage and so it is impossible to determine precisely what the original rationale for the disparity was and whether it supports the same framework for paying health insurance premiums today. However, assuming arguendo that the Union is correct, and the County agreed to full payment for single coverage because it was so much less costly than the premium for employees with family coverage the Union's case still must fail. The County only paid $200.10 a month for a single monthly premium in 1998. In 2006 it paid almost $500 per month. This is no longer "chump change." In this era of State-imposed levy limits, rising health insurance costs and taxpayer scrutiny of public expenditures, $500 per month is a lot of money to pay for single health insurance coverage regardless of how it compares to the family health insurance premiums.

Finally, the County is asking for a very modest contribution from Highway Department employees (maintaining the existing 100% payment from the Employer for current employees with the single plan while asking new employees for a 5% contribution to the single premium costs). As such, the County's proposal cannot be considered unreasonable. Based on same, and the County's arguments regarding the need for a change and the internal comparables, the Arbitrator is satisfied that the County has demonstrated that a need exists for a change in the parties' allocation of single health insurance premiums.

2. Does the Offer Reasonably Address That Need?

Following Arbitrator Eich in *Marquette County, supra, p. 11*, this Arbitrator finds that because all other Douglas County bargaining units have settled their contracts with a provision that provides for new employees to pay 5% of the premium for single health insurance coverage and because of the other considerations discussed above, there is both a need for the change and the change reasonably addresses the need.

3. Is the Proposal Supported by the Comparables?

It is undisputed that the internal comparables support the County's offer on the premium contribution of new employees to single health insurance coverage.

Of additional weight, and very important in this case, the bargaining history of the County bargaining units favors the internal comparison criterion. *Sawyer County, supra, p. 12*. Since 1997 all County units have agreed to the same health insurance premiums. The Union in the instant case is the lone exception.

Likewise, the external comparables support the County's position.

At the outset the Arbitrator notes that while the Union raised an issue at hearing about including Iron County in the external comparables it dropped that position in its brief. Consequently, the Arbitrator finds it unnecessary to address that issue in this decision.

The Union cited in its brief the counties selected as comparables by Arbitrator Malamud in the most recent arbitration between the parties. *Douglas County (Highway Department), Decision No. 28215-A (Malamud, 3/19/95).* They include the five northwestern Wisconsin counties – Ashland, Bayfield, Burnett, Sawyer and Washburn – as well as the City of Superior. In all five county highway departments, employees pay a portion of the premium for single health insurance coverage. The premium contribution ranges from 12% in Burnett and Sawyer counties to 10% in the remaining three counties. Like in the County's offer, City of Superior employees pay 5% of their single health insurance premium with one exception (firefighters hired prior to 2/1/04 pay nothing for single health insurance coverage).

4. Is a Quid Pro Quo Necessary?

The Union argues that the County has offered absolutely nothing in exchange for reducing its payment for single employee coverage to 95%. Assuming arguendo that there is a need for a change; the Union opines that "since there is no quid pro quo appropriate to the circumstance the County's offer is not reasonable." The Union believes that the introduction of a two-tiered benefit structure constitutes a significant change in the negotiated status quo and constitutes a real and significant future reduction in benefits within the bargaining unit.

The County, on the other hand, argues that no quid pro quo is required when the internal and external comparisons so strongly support its proposal. In the alternative, the County argues that even if the Arbitrator finds that not to be the case, the additional 15 cents wage adjustment for the bulk of the bargaining unit serves as the quid pro quo.

In recent years, arbitrators have held that the undisputed economic impact of rising health insurance costs has reduced or eliminated the employer's burden of establishing a traditional quid pro quo where health insurance benefits are at issue. *Marquette County (Highway Department), supra, pp. 16-17.*

In *Village of Fox Point, Decision No. 30337-A (Petrie, 11/ 02),* Arbitrator Petrie stated:

> [T]he spiraling costs of providing health care insurance for its current employees is a mutual problem for the Employer and the Association …. In light of the mutuality of the underlying problem, the requisite quid pro quo would normally be somewhat less than would be required to justify a traditional arms-length proposal to eliminate or modify negotiated benefits or advantageous contract language.

More recently, Arbitrator A. Henry Hempe in *Buffalo County (Human Services Clerical Parapro), Decision No. 31484-A, p. 28 (5/16 /06)* expressed a similar view:

> Given the critical mutual nature of the health insurance problem in Buffalo County that, if unresolved, portends dire future consequences for each party, responsible, fair proposals for change that address the problem offer a reasonable prospect of success, are compatible with conditions of employment in the external comparables as well as the mutual needs and interests of the parties do not necessarily require a quid pro quo.

In an earlier health insurance premium case, *Pierce County (Human Services), Decision No. 28186-A, p. 7 (4/27/95),* Arbitrator Weisberger observed:

> The County's argument is particularly effective since it is made against the background of external public sector comparability data which generally support the County's proposal and the County's related argument (supported by substantial arbitral authority) that increasing health care costs paid by an employer reduce significantly or even eliminate the usual burden to provide special justifications and a quid pro quo.

Other arbitrators have not required any quid pro quo for changes in health insurance benefits. See, for example, *Pierce County (Sheriff's Dept.), Decision No. 28187-A (Friess, 4/24/95)* (comparative tests contained in the statutory criteria are sufficient burden of proof for implementation of changes in health insurance premiums through arbitration); *Walworth Co. Handicapped Children's Educ. Bd., Decision No. 27422-A (Rice, 5/3/93)* (rising health insurance premiums alone alter the status quo and negate any presumption that the prior contract arrangements for paying health costs should carry over to the successor agreement); *Cornell School District, Decision No. 27292-B, p. 25 (Zeidler, 11/23/92)* (where comparables indicate a change may be in order, the concept of quid pro quo does not prevail.) *Buffalo County (Sheriff's Department), Decision No. 31340-A, p. 11 (Grenig, 2/8/06).*

Most relevant, however, is Arbitrator Dichter's ruling in *City of New Berlin, Decision No. 29683-A, pp. 19, 22 (5/18/00)*:

> The City has argued that the rule that requires a quid pro quo is "trumped by the well established 'Lone Holdout rule.'" In essence, that is what Arbitrator Yaffe found in his case. He concluded that no quid pro quo was necessary, because a pattern was established. This Arbitrator in past cases has recognized that when addressing benefits the need for uniformity is great. I, therefore, agree with Arbitrator Yaffe and the City that no quid pro quo is required. The Lone Hold out rule does trump any requirement that otherwise would exist . . . The internal comparables have trumped all else.

The County is correct that support among the external comparables also eliminates the need for a quid pro quo.

Arbitrator Vernon in *School District of Rhinelander, Decision No. 27136, p p. 8-9 (9/21/92) states:*

> On the merits of the Employer's proposal, both Parties discuss the necessity nor non-necessity of a quid pro quo. . . On the other hand, the District makes an argument with which, in principal, the Arbitrator must agree. They contend that when the comparables fully support the position of the Party seeking the change, the need for a quid pro quo is minimized, if not eliminated.

In *School District of River Falls, Decision No. 30960, p. 14 (3/16/05),* Arbitrator Rice wrote:

> This arbitrator does not rigidly subscribe to the quid pro quo concept for changes in health insurance contribution but where comparables indicate a change may be in order the concept of quid pro quo does not prevail. When the comparables fully support the position of a party seeking a change, the need for a quid pro quo is minimized if not eliminated.

Arbitrator Eich stated in *Oshkosh Area School District, Decision No. 31279, p. 15 (10/21/05)* that many arbitrators have recognized the principle that the need for a quid pro quo is lessened or eliminated where there is "overwhelming support among the comparables."

Finally, in *City of Platteville, Decision Nos. 31342-A and31343-A, p. 12 (1/23/06),* Arbitrator Imes concluded:

> Finally, based upon the health insurance settlement pattern within the City and the fact that the City's proposed language is reasonable when compared with health insurance provisions among the external primary and secondary comparables, it is concluded that the City's offer is more reasonable than the Union's proposal. It is also concluded that there is no need for a quid pro quo since the insurance coverage offered by the City is acceptable to two bargaining units within the City and since it far exceeds the insurance benefit enjoyed by employees among the primary and secondary comparables.

The Union makes a number of arguments contending that the County did not offer a quid pro quo and/or that the 15 cents given to most of the bargaining unit was not an adequate quid pro quo. However, since, as noted below, the Arbitrator finds that no quid pro quo is necessary these arguments are rejected.

The Union also argues that the impact of the change should not be measured in terms of the total immediate cost to the County but rather on how the change is going to affect individuals in the future. However, it is impossible to properly evaluate such a

hypothetical. In fact, the proposed change is very modest in nature and has no financial effect on current members of the bargaining unit.

The Union cites a decision by Arbitrator Schiavoni in *Drummond School District, Decision No. 30067-A (10/19/01)* for the proposition that the County's proposal to grandfather current employees does not excuse the County from its failure to offer a quid pro quo. In *Drummond School District, supra,* Arbitrator Schiavoni rejected the District's proposed change in health insurance from paying 100% of the premium for family coverage to paying a pro-rated portion of the family coverage for new employees based upon a 1440-hour work year. Arbitrator Schiavoni reached this conclusion based, in material part, on two factors: one, the District's proposed change varied from the arrangements agreed to in comparable districts; and two, the existing insurance benefit was so generous that it was evident that the party who currently enjoyed "this benefit would not voluntarily agree at the bargaining table to such radical changes without a substantial, significant quid pro quo." *Drummond School District, supra, p. 21*. In the instant case, the County's offer is consistent with the external comparables and its proposal was voluntarily accepted at the bargaining table by all other bargaining units in County government without a quid pro quo thus demonstrating the reasonableness of the offer.

In addition, Arbitrator Schiavoni stated in *Drummond School District, supra, p. 22*, that if the employer had offered a "more modest proposal" which more closely approximated the benefits provided to part-time employees by the comparables "the result would have been different." In the instant case, the County has made an extremely modest proposal to change the premium for new employees with single health insurance coverage and the proposal is supported by the comparables.

Consequently, based on the foregoing, *Drummond School District, supra*, is distinguishable from the instant dispute.

The Union complains that for the first time under the contract employees doing the same work in the same classification and paying the same Union dues will have different benefits based solely on when they began employment. Presumably, this will lead to morale or other problems because a new hire would be paying higher single health care premiums while standing next to someone doing the same work but paying lower single health care premiums.

While new hires may well be unhappy or other similar problems may occur if the County's offer is adopted, this unhappiness or discontent does not rise to a level that will adversely affect the interests and welfare of the public. *City of Marshfield (Police Department), Decision No. 31559-A, p. 8 (Greco, 7/24/06)*. Nor has the Union shown that this affects any of the other statutory criteria. Therefore, the Arbitrator rejects this argument of the Union.

Further, the Union argues that Arbitrator Malamud's 1995 Interest Arbitration Award between the parties proves that the County has taken inconsistent positions on the

issue of health insurance concessions in return for wage increases. *Douglas County, Decision No. 28215-A (3/19/95)*. The Union notes the County successfully asserted in 1995 that in the comparable counties an increase in the single employee contribution to health insurance was the trade off for higher wages. Now, the Union points out, eleven years later the County claims that the single employee contribution to health insurance is only a de minimus takeaway or none at all and therefore no quid pro quo is necessary. The Union concludes that of course the County was right in 1995; where there are health insurance concessions there must be a quid pro quo.

Notwithstanding any inconsistencies in the County's position over the past eleven years, there have been dramatic changes in the area of health insurance costs during this period of time. In increasing numbers, arbitrators have held that the undisputed economic impact of rising health insurance costs has reduced or eliminated the employer's burden of providing a quid pro quo where health insurance benefits are at issue. Consequently, the Arbitrator cannot hold the County to the same argument today that it made many years ago.

Finally, the public interest is better served by requiring employees to share in the cost of health insurance premiums and to absorb a greater share of their own health care expenses. Arbitrator Vernon, in *Elkhart Lake – Glenbeulah School District, supra, p. 16* discussed the theory that the public has an interest in reduced health insurance costs:

> With a direct stake in the cost of health insurance and with consciousness heightened about the problem, it may inspire the Parties to be more aggressive about even more cost reducing features in their health insurance. . . . In any event, any action taken by the Parties mutually to reduce health insurance costs is in the public interest. (Emphasis in the Original).

Given the fact that both internal and external comparables unanimously lend support to the County's final offer on health insurance, the fact that existing employees with single coverage will not be affected, the fact that new hires will know up front that an employee contribution will be required (and thus be able to make an informed decision as to their potential employment with the County), and the fact that the County's offer is in the public interest, the Arbitrator agrees with the County's position that no quid pro quo is warranted or required. Based on same, and all of the foregoing, the Arbitrator finds the County's offer on the single health insurance premium for new employees more reasonable than the Union's offer.

Wages

At issue is whether three classifications – head bookkeeper, bookkeeper and building services worker – should receive the same 15 cents adjustment in 2006 that the other classifications in the bargaining unit received. In other words, the County's final offer does not provide the 15 cents adjustment for the three classifications in question.

The Union argues that all bargaining unit employees should receive the same wage increase of 2.5% plus 15 cents in 2006. The Union opines that its offer is more reasonable and should be adopted by the Arbitrator for the following reasons: under the Union's offer the employees in question lose less ground to inflation (cost of living); based on the five agreed upon external comparable counties both the head bookkeeper and the bookkeeper classifications are paid less than similar positions in the agreed upon counties; and the most relevant internal comparable for these positions are the remaining twenty-eight employees within the same bargaining unit who all received the 15 cents adjustment.

The County, on the other hand, argues that the Union's proposed wage adjustments for the three classifications in question are unwarranted and are not supported by external and internal comparisons.

The Union has the burden of proof to support its proposal that the three classifications in question should receive the 15 cents adjustment in 2006. *City of Hartford, Decision No. 26759-A, p. 4 (Kerkman, 9/18/91).*

Cost of Living

The Union initially argues that under both its and the County's offers, the three positions at issue lose ground to inflation, but they lose less ground under the Union's offer. In support thereof, the Union points out that through September 2006 the Consumer Price Index was increasing at an annual rate of 3.4%. This followed the same 3.4% rate for 2005 and a 3.3% rate for 2004. The Union notes that the average annual percentage increase under its proposal is 2.98% for the head bookkeeper and 3.01% for the bookkeeper and building service worker classifications over the contract's two year term. The Union concludes: "to minimize the amount of ground these classifications lose to inflation the Union's more reasonable offer should be adopted by the Arbitrator."

The County argues that under its offer the wage increases for the equipment operators in 2006 is close to the cost of living. The County adds that under both offers the wage increase for the mechanics is also close to the cost of living. However, the record is clear that providing the same 15 cents adjustment to the three disputed positions in 2006 that the rest of the unit received helps them to keep up with the present rate of inflation better than the County's offer. Thus, the 7r, g criterion "cost of living" favors the Union's offer.

External Comparables (Two Bookkeeper Positions)

The Union argues that both the head bookkeeper and the bookkeeper are paid less than similar positions in the agreed-upon comparable counties. In this regard, the Union claims that the proper external comparisons for the head bookkeeper positions are as follows: Ashland County (office manager), Sawyer County (account clerk), and Bayfield County (office manager). According to the Union, as of January 1, 2005, the average wage rate for these positions in the aforesaid three counties is $17.68 per hour compared

to $16.42 per hour for the head bookkeeper in Douglas County. On January 1, 2006, the average climbs to $18.13 compared to $16.83 (2.5%) under the Employer's proposal and $16.98 (2.5% plus 15 cents) under the Union's offer.

However, as Highway Commissioner Halverson explained, the Highway Department's head bookkeeper and bookkeeper are not performing many of the duties found in their respective job descriptions. Halverson testified that the department has a three-person office staff consisting of an accountant/CPA, the head bookkeeper and the bookkeeper. The accountant is responsible for all major accounting activities, including developing all financial reports and working with budgetary issues, and has managerial authority as well as supervisory authority over the two bookkeepers. Halverson added that the accountant position was created by the previous Highway Commissioner and resulted in reduced job duties for both the head bookkeeper and bookkeeper. Their duties became largely clerical in nature. The head bookkeeper no longer performs accounting and budgetary duties. The position also has only minor bookkeeping duties, data entry for example, and little or no managerial authority. The bookkeeper performs clerical tasks and acts as a receptionist.

As a result, it would be inappropriate to compare the head bookkeeper position in the County with the three positions in the three comparable counties cited by the Union above because they do not perform the same type, level and complexity of duties. Especially since two of the three external comparables relied upon by the Union to support a 15 cents adjustment for the head bookkeeper appear to have managerial authority (the two office managers in Ashland and Bayfield counties) and all three positions have bookkeeping and accounting type responsibilities.

The County made its wage comparisons by conducting a telephone survey of the comparable counties. Consequently, the County had accurate information upon which to compare the positions. Based on this information, the County compared its head bookkeeper's $16.83/hour wage rate in 2006 with the $15.07 paid in Burnett County to the account clerk, the $15.50 paid to the account clerk in Sawyer County, the $13.69 paid in Washburn County to the account clerk II and the $17.03 paid the account clerk in Bayfield County. Only Ashland County, with a bookkeeper classification at $19.00, pays significantly higher than the $16.83 proposed by the County.

The Union also objects to the County's use of the account clerk II position from Washburn County as a comparable for the head bookkeeper position. The Union opines that this was inappropriate because the position in question was taken from the professional, technical and clerical unit and not the highway department unit and because the County offered no support for similar duties between that position and the positions represented by the Teamsters Union. However, who represents the positions in question does not determine the outcome of this dispute; more important is the comparison of their duties and responsibilities. The County's wage comparisons were based on such information obtained through their telephone survey. Furthermore, the Union did not offer any job descriptions or testimony as to the duties and responsibilities of these

positions that would refute the County's comparisons. Thus, the external comparables do not justify the extra 15 cents sought by the Union.

The Union compares the following positions to the bookkeeper classification in the County: Burnett County account clerk, Sawyer County assistant account clerk and Bayfield County account clerk. Effective January 1, 2006, they receive $14.77/hour, $15.53/hour and $17.03/hour respectively. These positions have an average hourly rate of $15.77/hour compared to $15.31 (2.5%) under the Employer's proposal and $15.46 (2.5% plus 15 cents) under the Union's proposal. The problem with this comparison, however, is that Douglas County's bookkeeper is a clerk/receptionist, not a true bookkeeper or account clerk. Therefore, the external comparables used by the Union are not appropriate.

The Union also argues that for the comparable counties that have clerical positions within the Highway Department bargaining unit (Ashland, Bayfield, Burnett and Sawyer) the average percentage increases for 2006 and 2007 far exceed the 2.5% offered by the County. However, the across-the-board wage increase is not at issue here. Both parties agree on 2.5% wage increase for 2006 and 2007 for all members of the bargaining unit. Operators and mechanics received an additional 15 cents adjustment in 2006 based on "catch-up" with employees performing similar work in the comparable counties. However, the parties did not agree to "catch-up" for the bookkeeper positions.

More importantly, external comparisons of wage rates in comparable communities are significant and often controlling when considering general wage increases. *City of Hartford, supra, p. 3.* When considering reclassifications or adjustments, however, the relationship between work performed in the disputed classification, compared to work performed in the comparable classifications, is the most significant. *Id.* As Arbitrator Kerkman explained:

> External comparables might be persuasive evidence in support of or against the proposed reclassifications, if the evidence were to show that ranking of a position in a comparable community is the same as or different than the ranking of the position proposed by the parties in the dispute being arbitrated. *City of Hartford, supra, p. 4.*

Here, what little evidence exists of the positions in the comparable counties supports the County's argument that the head bookkeeper and bookkeeper do not compare to the positions relied upon by the Union.

The Union further argues that it is not appropriate to punish the incumbents in just a few positions because the County does not take full advantage of the duties and responsibilities granted to those positions through their job descriptions. However, the Union does not argue that the County lacked the authority to reorganize the Highway Department office and assign the accounting, budget and bookkeeping duties to the accountant/CPA and no longer have the disputed positions perform these duties. Consequently, the Arbitrator rejects this position of the Union.

In addition, the Union argues that we do not know whether in the comparable counties the comparable positions performed all of their possible job duties under applicable job descriptions or something less. This is true. However, the record supports a finding that the County's head bookkeeper and bookkeeper perform duties that are less complex and responsible than their counterparts relied upon by the Union in comparable counties. The Union also questions the wisdom of going beyond the job descriptions when comparing positions in the County to positions in the comparable counties. However, if, notwithstanding the job descriptions, the positions are not actually performing at the same or a similar level of complexity or authority it is not appropriate to compare them for salary purposes.

Based on all of the above, the Arbitrator finds that the external comparables favor the County's offer on the positions in question.

Internal Comparables (Two Bookkeeper Positions)

The Union argues that the most relevant internal comparables are not in other bargaining units within the County but the remaining twenty- eight employees within the same bargaining unit. The Union opines that this is true because all the employees in the Highway Department bargaining unit share a community of interest. The Union believes that it is unreasonable for the County to expect a settlement or that its offer be found reasonable when it singles out less than one-tenth of the bargaining unit for substandard treatment.

It is true, as pointed out by the Union, that the Wisconsin Employment Relations Commission looks to whether employees share a community of interest as one of the factors it considers when determining the appropriate make-up of a bargaining unit. However, that doesn't mean that all employees in the unit have to be treated alike. As the parties' own collective bargaining agreement demonstrates, different groups of employees are treated differently for things like wages. For example, as of January 1, 2005, the agreement provided that at the top step an Operator I was paid $17.49/hour and an Operator II was paid $17.19/hour while the head bookkeeper was paid only $16.42/hour and the bookkeeper was paid even less at $14.94/hour. The Union has not shown that the head bookkeeper and bookkeeper should receive the same 15 cents adjustment that the rest of the bargaining unit received in 2006.

The Union also argues that even under the County's own comparison with the account specialist III position in the CWA bargaining unit the head bookkeeper position is 16 cents behind the comparable (head bookkeeper at $16.42/hour and account specialist III at $16.58/hour, both in 2005). As a result, the Union notes, the Union's position nearly catches the head bookkeeper up to the account specialist III position while the County's position continues the 16 cents/hour difference between the positions.

The most significant factor in justifying a wage adjustment/reclassification is the work performed vis-à-vis that of other internal classifications. Arbitrator Kerkman, in *City of Hartford, supra, pp. 3-4,* stated:

> The Arbitrator agrees with the Union that reclassifications, if they are to be awarded, will be determined by the internal comparisons and not the external. The external comparisons of wage rates paid in comparable communities are significant and often controlling when considering general wage increase. When considering reclassifications, however, the relationship between work performed in the disputed classifications, compared to work performed in the classification assigned to the range which is proposed, is the most significant. . . . the raw data of wage rate to wage rate comparisons are meaningless because it ignores the internal relationships which are paramount in the slotting or ranking of positions. Consequently, the Employer evidence bearing on the external comparisons among comparable communities is unpersuasive . . . (Emphasis in the Original).

Arbitrator Kerkman went on to opine in *City of Hartford, supra, pp. 5-6* that it is the complexity of job duties which determines the appropriate compensation:

> . . . the common denominator for determining whether a position is properly slotted in the range in which it is placed, or whether it should be reclassified to a higher range, requires a showing that the components of the job for which reclassification is being sought are more complex than the components of other positions in the same range as the proposed job is presently classified. Furthermore, in order to justify the reclassification to the proposed range, it must be shown that the proposed reclassification has the same degree of complexity for its components as the jobs in the range to which the proposed position is advocated. The Arbitrator will hold the Union to the standard of proof requiring it to show that the positions that it seeks to reclassify have components which have significantly higher degrees of complexity than the components of the positions in which they are presently slotted. The Union must also show that the components of the proposed position have complexities equal to the complexities of the positions in the range or rank to which the proposed job is targeted. (Emphasis in the Original).

It is true, as pointed out by the Union, that in the past the County has linked the head bookkeeper with the account specialist III in the CWA-represented Courthouse/ Human Services NonProfessionals bargaining unit. However, they do not perform duties with the same level of complexity. Highway Commissioner Halverson testified that the current head bookkeeper, who has been in that position for an extended period of time, only performs "some" of the duties in the job description. Of the 10 enumerated "Essential Duties and Responsibilities" listed for the position, Halverson testified that the head bookkeeper does not handle accounts receivable or accounts payable; those duties

are performed by the accountant. He stated that, while the head bookkeeper does verify and post details of business transactions and account totals to the general ledger (#1), her work is basically data entry. She does not prepare or reconcile payment authorizations, checks, account statements or receipt invoices (#2); she does, however, handle petty cash. She does not deal with personnel forms (#5) or work with either internal or external departments generating reports (#6). The accountant does this work. She does assist with maintaining an up-to-date inventory and equipment list, obtaining rates and insurance coverage (#3). She also calculates and inputs employee wages and benefits used for payment of wages (#4). She performs basic clerical duties, answers the phone, relays messages and sorts and distributes the mail (#7) in the absence of the bookkeeper. She operates a computer mainly for data entry and her use of the computer for word processing is basically limited to simple memos (#8). Further she performs no spreadsheet functions (#8). She does not train employees and only occasionally assists the bookkeeper (#9). The duties most directly related to accounting/bookkeeping/budget functions have been absorbed by the Accountant. The head bookkeeper performs only routine clerical and minor bookkeeping duties.

In contrast, the job description for the account specialist III position in the CWA unit lists significantly more complex duties and responsibilities, including the completion of month-end verification and balancing of accounts, bank reconciliation with the State accounting system, preparing month-end payables, generating reports to verify account balances, running a trial balance, calculating transfer amounts and transferring money, preparing adjustments to transfer monies, researching and resolving account discrepancies, preparing spreadsheet analysis, and maintaining and updating accounting records, to name a few. These types of more difficult and complex accounting/bookkeeping functions are performed in the Highway Department by the accountant, not the head bookkeeper. A comparison between the head bookkeeper and account specialist III position in the CWA unit is not appropriate.

Assuming arguendo that such a comparison is appropriate, the Union case still must fail. There is considerable arbitral authority that where a pattern exists among internal comparables, significant weight should be given to the internal pattern. *Sawyer County, supra, p. 10*. Here, the 2.5% offered these positions by the County is consistent with the wage settlements in all the other bargaining units in the County. The Union has not shown that these positions should receive the 15 cents adjustment agreed to by the parties for the rest of the unit.

Furthermore, what little evidence of bargaining history exists, supports the County's position. The County's proposal continues the 16 cents/hour difference between the account specialist III position and the head bookkeeper position while the Union's offer nearly catches the head bookkeeper up to the aforesaid position (within 1 cent in 2006). However, the Union offered no rationale or persuasive evidence for doing so.

As stated by Arbitrator Torosian: "Based on the pattern of internal settlements and the parties' bargaining history, the internal comparability criterion must control. No

compelling reason has been offered for an exception." *Sawyer County, supra, p. 12*. In the instant case, the internal comparables favor the County's position on the head bookkeeper.

For the same reasons, the Arbitrator also finds that the County's proposal regarding the bookkeeper is favored.

The bookkeeper position has, in the past, been compared to the office specialist II position in the CWA unit. A review of that classification's job description reveals receptionist duties, which include receiving and directing telephone calls and referring callers to the appropriate person, as well as greeting and directing visitors. The office specialist II is also responsible for secretarial duties (typing correspondence, memos, forms, reports, meeting minutes, agendas, schedules and other materials), which the bookkeeper position does not do. Yet the County's proposed wage rate of $15.31 for the bookkeeper in 2006 exceeds by 5 cents the hourly rate paid to the office specialist II in 2006. The Union's proposed $15.46 is clearly high and unwarranted based on the history and comparison of these two positions.

The County's proposal for the bookkeeper position also is consistent with the wage pattern for all other bargaining units.

In conclusion, while the cost of living criterion favors the Union, both external and internal comparables favor the County's wage proposal for the head bookkeeper and bookkeeper. Therefore, the Arbitrator finds that the County's offer is more reasonable than the Union's proposal.

Building Service Worker

The parties made limited distinct arguments regarding the merits of a 15 cents adjustment for the building service worker.

At hearing, the Union stated that it was only able to identify one external comparison for this position but did not provide any additional information or argument on the subject. The County stated that Bayfield County is the only external comparable that has a classification which is similar to building service worker, essentially a janitorial/maintenance classification, in their Highway Department. Bayfield County has a combination custodian/operator position. According to the job title, the Bayfield County custodian also operates equipment unlike the Douglas County building service worker. The County notes that if this is an appropriate comparison, the $16.74/hour rate paid in Bayfield County in 2006 is only 6 cents higher than the $16.68 maximum rate under the County's final offer. As a consequence, the Arbitrator agrees with the County that "on the basis of external comparisons, there is no need for a 15 cents wage adjustment for this classification."

As discussed below, internal comparisons also support the County's position.

Within the County, the building service worker in the Highway Department compares closely with the building maintenance worker classification in the AFSCME-represented Building & Grounds unit. In 2005, both classifications were compensated at an hourly rate of $16.27. Under the County's offer, both classifications would continue to be compensated at the same rate in 2006 - $16.68/hour. On the other hand, implementation of the Union's proposed wage adjustment would eliminate this parity between County employed janitors. Absent external or internal comparisons that would support such a result, the Arbitrator finds the County's proposal on this position more reasonable.

A 2.5% wage increase for this position in 2006 is consistent with the wage increase for all other bargaining units in the County.

Based on all of the above, the Arbitrator finds that while the cost of living supports the 15 cents wage adjustment proposed by the Union for the building service worker, the internal and external comparisons support the County's position. Therefore, the Arbitrator finds the County's proposal more reasonable on the issue of wages.

Having considered the statutory criteria, the evidence and arguments presented by the parties, the Arbitrator, based on the above and the record as a whole, concludes that the offer of the County is more reasonable than the offer of the Union, and to that effect the Arbitrator makes and issues the following

AWARD

The County's offer is to be incorporated in the 2006-2007 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 that they agreed were to remain unchanged.

Dated at Madison, Wisconsin, this 3rd day of February, 2007.

By _____
Dennis P. McGilligan, Arbitrator