STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In The Matter Of The Petition Of

RACINE UNIFIED SCHOOL DISTRICT

To Initiate Interest Arbitration
Between Said Petitioner and

PAINTERS OF RACINE UNIFIED SCHOOL DISTRICT
ALLIED TRADES LOCAL 108

INT/ARB-10622
Case 226, No. 65494
Decision No. 32135-A

APPEARANCES:

Attorney Frank L. Johnson, 36 Stonewood Court, Racine, Wisconsin 53402, on behalf of Racine Unified School District.

Attorney Asmaa Abdul-Haqq at hearing and Attorney Sara J. Geenen in post-hearing briefs, Previant, Goldberg, Uelman, Gratz, Miller & Brueggeman, S.C., 1555 North RiverCenter Drive, Suite 202, Milwaukee, Wisconsin 53212, on behalf of the Painters of Racine Unified School District Allied Trades, Local 108.

Racine Unified School District, hereinafter referred to as the District, 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 Painters of Racine Unified School District Allied Trades Local 108, hereinafter referred to as the Union or the Painters. The undersigned was appointed as arbitrator to hear and decide the dispute, as specified by order of the Wisconsin Employment Relations Commission, dated June 27, 2007. Hearing was held on January 21, 2008, without the services of a court reporter. Post-hearing initial and reply briefs were exchanged by March 18, 2008, marking the close of the record.

Now, having considered the evidence adduced at the hearing, the arguments of the parties, the Final Offers, and the record as a whole, the undersigned issues the following Award.

TENTATIVE AGREEMENTS

The parties delineate their tentative agreements as follows:

1. Omitted.

2. The parties agree that all of the issues in dispute between them have been resolved for the 2005-07 agreement and will complete that agreement forthwith. The parties are in disagreement on only one issue for the 2007-09 agreement which shall be certified to arbitration under Sec. 111.70(4)(cm), Stats.

3. Wages:

   05-06 no change
   06-07 no change
   07-08 wage reopener
   08-09 wage reopener

4. Grievance procedure as proposed by Racine Unified in its March 13, 2007 preliminary final offer, effective May 1, 2007.

5. Seniority effective May 1, 2007, add a new provision:

   After considering qualifications, abilities and time worked in a position, the principle of seniority for reductions in force will prevail. Seniority will be established as of the first day of full-time employment. The district will recall employees on layoff prior to hiring new employees in the order of seniority provided the employee is qualified to perform the available work. If an employee is not recalled within one (1) year from the date of layoff, layoff status will cease and the employee will be considered terminated.

6. Add to the Board rights effective immediately: The employment of any individual may not be suspended without pay or terminated without due process and good cause.

7. Health Plan:

   2005-06. Health Plan design changes will automatically change to the Building Service Employees' plan (monthly contributions not included)

   2006-07 Health Plan design changes will automatically change to the Building Service Employees' plan (monthly contributions not included)

   2007-09 Health Plan changes and network changes which were made for the other bargaining units will be effective in this unit as of May 1, 2007. Any other changes which may in the future, during the term of this contract, be made to the health insurance plan which are generally applicable to the other bargaining units will be adopted in this unit.

8. Health Plan Contribution

   2005-07 current moratorium (side letter) 11%
   2007-08 Health Plan contribution Reopener
   2008-09 Health Plan contribution Reopener

9. Retirement: in dispute, see final offers.

<u>FINAL OFFER OF THE DISTRICT</u>

Tentative agreements and status quo on all other provisions.

<u>FINAL OFFER OF THE UNION</u>

EARLY RETIREMENT

A. To be eligible the employee must have thirty (30) consecutive years with the District in regular, full-time employment and be between the age of 58 and 62 years.

B. Employees who choose early retirement shall notify the District in writing of their intent to do so at least ninety (90) days prior to their expected date of retirement.

C. Employees who retire early pursuant to this section shall be eligible for group hospitalization and surgical/medical benefit plant (sic.) on a single or family basis, whichever is appropriate, with the district paying cost thereof. The insurance coverage under this section will be equivalent to the coverage provided by Union employees wh (Sic.) have not retired. Upon reaching the age of 65, the employee will be entitled to the same medical benefit plan, making the same contributions, as may be available to an employee retiring at age 65 who did not select early retirement.

D. Employees who retire early pursuant to this section shall be eligible for a life insurance plan substantially equivalent to the coverage provided to employees who have not retired. The district will pay the cost thereof until age 65.

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 UNION

INITIAL BRIEF

The Union contends that it is proposing Early Retirement contract language that is common in other bargaining units within the District. Considering the significant length of service of the Painters, the limited financial impact, the Union's previous concessions, the availability of the benefit in some form for the vast majority of the represented employees, and the bargaining history, the Union asserts its offer is more reasonable.

While the District puts forth evidence of its health care costs and its ranking among the comparables, it did not prove that it meets the economic conditions criteria of 7g. That criteria should therefore not be considered.

When the other criteria are considered, the Union argues that its Final Offer is supported for the following reasons: (1) the District has the financial ability to meet the costs of the Union's Final Offer; (2) the internal and external comparables; (3) the bargaining history; (4) and the employees' overall compensation package.

There is a considerable body of arbitral authority which recognizes that when a pattern exists among the internal comparables, significant weight should be given to that pattern. A pattern of Early Retirement benefits to bargaining unit members between the ages of 55 and 58 clearly exists in the District. In fact, 99.5% of the represented employees at the District have some type of Early Retirement. The Painters, however, entirely lack an Early Retirement benefit before age 62. The proposed benefit is very reasonable, and in some ways is less costly or generous when compared to the Early Retirement benefits in other bargaining agreements. While it is due in part to the limited number of employees, it is also due to the strict 30-year service requirement. The minimum service and age requirements are greater than or equal to the requirements placed on employees covered by other collective bargaining agreements. The only difference is the percentage the District would be required to contribute to insurance costs; the Union only seeks the same benefit granted to the 360 Building Services Employees' (hereinafter referred to as BSE) employees.

The BSE contract is nearly identical to the Painters in terms of fringe benefits, wage increases, and paid time off. However, the Painters are not eligible for retirement until age 62, while BSE employees with thirty consecutive years of full-time service are eligible for full retirement at age 58, under substantially the same terms as the Union's Final Offer.

The REA previously had the exact same Early Retirement benefit as proposed here; however, it chose to bargain away those benefits for a more generous wage increase in its current contract. In fact, the REA benefited substantially from its previous inclusion, and used it as leverage to secure another significant benefit in its current labor agreement. The REA's new benefit is still quite substantial, however.

Education Assistants are eligible to retire at age 58 with 30 years of service. Early Retirement is also available to employees at higher ages with less service. The amount that they must contribute to their health insurance premiums is limited. Furthermore, they have negotiated a 3% increase in their newest contract, while the Early Retirement benefit remains.

The District's Carpenters labor agreement does not include retirement prior to age 62, but they are paid at a 10% higher rate than the Painters.

A very significant majority of employees have an Early Retirement benefit that includes a minimum 70% District payment of the health insurance premium. More than 99.5% of the District's employees have an employer-paid Early Retirement benefit. The internal comparables make clear that the Union's Final Offer is more reasonable than the

District's offer. It was reasonable for: the Education Assistants to agree that Early Retirees would contribute to their insurance premiums; the REA to trade away its fully District-paid Early Retirement for higher wages; and the BSE to have the District pay its Retirees' entire premiums. Similarly, it is reasonable for the Union to set forth a Final Offer that requires the District to pay the full premium for its Early Retirees. Consistency among internal bargaining units promotes stability in the collective bargaining process. It is not reasonable to deny 5 employees a benefit identical to that available to 362 BSE employees and similar to that available for nearly every other unionized District employee.

The parties agree that Appleton, Green Bay, Kenosha, Madison, and Sheboygan are appropriate as external comparables. The Union also offered evidence as to the wages and working conditions of four additional school districts, though they do not have a specific "Painter" job category. The leave provisions of most of them are similar to the Painters.

Each of those districts offers its building personnel some manner of partially-paid Early Retirement between the ages of 55 and 58. While the cost allocation of the premiums varies dramatically from 100% employer paid to 100% employee paid prior to age 62, the service requirements and eligibility age are much lower than what is sought by the Union. The labor agreements entered into the record reflect that Early Retirement prior to age 62 exists in all comparables. Those Early Retirement benefits exist elsewhere with concurrent wage increases; however, the Union's wages have been frozen at $23.09 since 2004.

Kenosha's Painters have received an increase of 5% per year since 2005 and fully paid health care for single coverage if they retire at age 57 with fifteen years of service. Kenosha faces the same budget pressures and economic constraints as Racine.

Sheboygan Painters received a 3% wage increase in 2006 and longevity pay. A Painter in Sheboygan can retire at age 58 with 30 years of service. The Retiree pays 30% toward the premium.

Appleton Painters have received a 3% wage increase and Early Retirement benefits. Employees who retire at age 58 with 30 years of service receive 24 months of fully-paid family, or 36 months of fully-paid single, Health Insurance premiums. However, their contract also allows accumulated sick leave to be used toward Health Insurance premiums upon retirement.

Madison's Painters have the only labor agreements without an Early Retirement benefit. However, their wage rate is substantially higher than the District's Painters. Furthermore, accumulated sick leave can be used to pay for Health Insurance premiums. Moreover, the entire monthly pension contribution is paid under Madison's contract.

The District's argument about the rising health care costs is irrelevant and does not prove that it cannot meet its financial obligations should the Union's Final Offer be selected. The District only proved that substantial health care costs are widespread, but that alone does not permit the District to claim poverty without evidence that an actual inability to pay exists. Furthermore, the Union's proposals are limited in scope and duration. There are only five Painters whose ages and respective years limit those who would qualify for the Early Retirement to three over the next thirty years.

Moreover, given the Union's proposed requirement of 90-day notice and when the award would be issued, the eligible employees would be 58, 59, and 59 years old. It is also notable that the District would be paying substantially less in vacation pay, offsetting about 30% of the family coverage cost for the first two years of retirement.

Even considering the escalating health care costs, the numbers at issue here are very small, especially when one considers that the District already offers the benefit to thousands of employees.

The Union's Final Offer is also accompanied by an appropriate quid pro quo. It made several concessions during bargaining, including a wage freeze and agreeing to bear part of the burden of higher medical costs likely sharing a higher premium, higher deductibles and co-pays. No wage increase for the Carpenters is guaranteed, only the right to reopen and attempt to negotiate.

Arbitrators recognize that, as here, change is sometimes necessary. The Painters do not have an Early Retirement benefit after reaching age 58 with 30 years of service. Employees in other bargaining units receive a substantial benefit with Early Retirement. Some bargaining units have the benefit without a quid pro quo. The REA used the benefit as leverage to gain a substantial wage increase. The lack of this benefit has placed the Union at a distinct bargaining disadvantage with the District.

REPLY BRIEF

The Union contends that the District mischaracterizes the facts. It fails to acknowledge that 99.55 of its represented employees are covered by labor agreements that have Early Retirement provisions which are subsidized by the District.

The statutory factors the District cites fail to support its position. The District can afford the proposal. The proposed benefit should cost just over $50,000 per year for three years. The minimal cost would render the unfunded liability argument unpersuasive, for the proposal would have essentially no impact on the overall liability.

The Painters had their wages frozen for two years without gaining a single benefit. The two-year term allows the District to reassess and renegotiate the contract terms should financial conditions or other reasons make new terms desirable. The District gains administrative convenience and cost savings by placing the Painters on the same health plan as all other District employees.

The stipulations and parties' bargaining history benefit the District to a greater degree than they benefit the Union. The Union risks significant uncertainty with respect to wages and other conditions of employment due to the nature of the stipulations.

The Union contends that the vast majority of represented employees have the Early Retirement benefit. Arbitral authority recognizes that where a pattern exists among internal comparables, significant weight should be given to the internal pattern. Arbitrators recognize that employers and employees have the same interest when it comes to internal comparables, i.e., consistency and equitable treatment.

The District tries to obscure the fact that Early Retirement benefits are the norm. The Painters proposed a middle-of-the-road benefit that recognizes and rewards an employee's loyalty and length-of-service. The Union's Final Offer allows retirement at a higher age and after double the years of service teachers need to retire. The Teachers' contract permits retirement at a younger age with fewer years of service. While the benefit is no longer fully funded by the District, it costs the District substantially more than the benefit sought by the Union. The three additional years a teacher is entitled to Early Retirement under the Teachers' contract cost the District $20,000 more per employee who elects Early Retirement than the Union's benefit. The Union's Final Offer would bring the retirement provision in line with the majority of the other District's bargaining agreements.

When the Union's overall compensation package is taken into account, it becomes clear that the Painters' labor agreement lags behind the external comparables because of inferior wages and the Early Retirement benefit. Many of the external comparables allow some type of Early Retirement for Retirees between ages 55 and 58.

Under the circumstances of this case, no quid pro quo is required because the Union's Final Offer is necessary to promote some level of equity among the bargaining units and bring the contract into the mainstream. If the contractual provision is similar among the comparables, the scale of the quid pro quo is typically reduced.

Further eliminating the need for a quid pro quo is the fact that other groups, specifically the BSE, achieved comparable provisions without a quid pro quo. In 1980 those employees petitioned the District to grant an Early Retirement benefit. The negotiations were not ongoing at the time of the petition. The lack of notes by the District further supports the fact that the benefit was granted outside of normal negotiations.

Despite the fact that no quid pro quo is needed here, the Union gave concessions in negotiating and mediating the current matter. The stipulations indicate that the Union decided to forego any other beneficial collective bargaining agreement changes to obtain a benefit other unions already had from the District. More importantly, the District approached the Union in the middle of the term of the parties' last contract when the Union agreed to a mid-contract wage freeze to allow the District to control its budget as a sign of good faith to finally grant the Union its long-sought Early Retirement benefit in the next contract. That placed the Union in a position where it could ask for, and fairly expect, a new benefit during the next round of negotiations.

While the internal comparables alone provide a sufficient pattern to justify the Union's Final Offer, consideration of all the other factors overwhelmingly support the Offer. Only a couple of years ago, a very significant majority of the District's unionized employees were eligible for fully District-funded Health Insurance upon Early Retirement at the age of 58. The Union submits that its Final Offer should be selected. The Union cites arbitral authority in support of its position.

POSITION OF THE DISTRICT

INITIAL BRIEF

The District initially points out that under factor "7g," Racine County has a fairly high unemployment rate as compared to southeast Wisconsin and the State as a whole.

The District asserts that the stipulations are very significant in determining the more reasonable offer. The stipulations include a provision for resolution of grievances through arbitration, which had been long sought by the Union. It is a major concession. In addition, there are new provisions on seniority, due process, and just cause. Furthermore, the parties agreed that the Union's employees have the same health plan as the BSE. If that unit obtains health plan enhancements, this unit would automatically receive those enhancements. The stipulations also include a moratorium on the 11%

monthly premium contribution. It saves each employee $103.07/month, or $1,236.84/year. The District notes the Union had voluntarily agreed to the 11% several years ago. Now the Union is reaching for two more contract enhancements without giving a quid pro quo in return.

When considering the cost of the Union's Final Offer, its proposal is very costly. The current contract already includes an Early Retirement provision. If all three Painters retired at the same time, the cost would be $169,776/year. That cost will increase as health care costs increase. Their Final Offer would add four more Early Retirement years to the three already in place. That would add $226,368 for all three Painters over the four additional years.

The District is concerned about its unfunded liability for its Retiree benefits. A new reporting law requires public employers to account for their liability on an accrual basis after December 2007. Because the liability is in the millions, the Board of Education has directed its negotiators to bargain changes with all its groups to control costs. Teacher Retirees electing family coverage would now pay 30% of the premium difference between family and single coverage. The District will aggressively bargain with the Carpenters, BSE, and the Secretary/Clerk bargaining units. The internal comparables in regard to Early Retirement vary widely, and because of the huge potential liability they remain in a state of flux. The Painters' group has five members. Under the Union's proposal three of them would be able to retire with free Health Insurance for the next seven years. The Union picked the best retirement benefit from one of the other internal comparables that would fit three of its most senior members. The Union is moving in the opposite direction from the District, as well as most other employers.

When the external comparables are considered, not one of them comes close to paying 100% of family coverage for the 7 years that the Union's Final Offer would provide. Most do not even have what the Painter's contract currently provides.

Considering private sector union Painters, they earn a similar wage rate but do not work a minimum 2080-hour year because of weather and job availability. That private sector contract does not indicate what Painters who retire at 58 receive in the way of paid Health Insurance.

The District notes that according to the Towers Perrin survey Health Insurance premiums increases averaged 6% for 2007.

The District points out that the Union has not proposed any quid pro quo for its proposed improvement in Retiree Health Insurance. In fact, the District has made numerous concessions that are part of the tentative agreements. Many arbitrators have said that when public sector employers have proposed ways to reduce spiraling health care costs, either a minimal or no quid pro quo is required. In other cases arbitrators have approved of employers deleting post-retirement Health Insurance benefits. Here, the District is not proposing a change to the status quo to reign in Retiree health care costs; rather, it is the Union attempting to increase those costs.

Union witness Lou Schneider, president of the local, testified that 27 years ago the Union obtained free health coverage for Retirees from ages 58 to 65 without a quid pro quo. That supposedly happened in the middle of negotiations. However, no written tentative agreement or Board of Education minutes were offered to support the testimony. In fact, Schneider also testified that both the District and the Union always engage in quid pro quo bargaining. During that bargain an expensive cost of living supplement was apparently bargained out. That would appear to have been the quid pro quo for the Retiree Health Insurance.

The Union also proposes that the District pay 100% of the Life Insurance premium for Early Retirees aged 58 to 65. However, the District cannot do so. Approximately one year ago the District changed its Life Insurance carrier to the State public employee retirement system. Employers are not allowed to pay the State retirement system directly. The premium would be subtracted by the State from the Retiree's monthly pension. Each month the District would have to determine what that month's premium would be for each Retiree and write a check to the Retiree for that amount. This would create an unanticipated administrative burden. Only two of the bargaining units (BSE and Secretary/Clerks) have such a provision. Those contracts have expired, and the District will propose language to fix the problem. Those two units only make up 361 of the 2,390 bargaining unit employees. The vast majority of the represented employees at the District must pay for the Life Insurance themselves. Again, the Union is proposing an improved benefit without a quid pro quo.

REPLY BRIEF

In response to the Union's arguments, the District asserts that if there is an internal pattern, it favors the District. The Early Retirement provision the Union includes in its Final Offer is based upon a BSE settlement made 25 years ago when health care costs were not much concern to the District, or employers across the United States. Retirement benefits for the other internal comparables have either recently changed or are in the process of being changed. As recently as last year the District's teachers, the largest bargaining unit, agreed to a major modification in the cost of Retiree insurance.

More recently, the District has proposed to both the BSE and the Secretary/Clerk groups that they modify their Early Retirement health insurance provisions to something similar to that of the Educational Assistants or the Teachers.

While the Union contends the Teachers traded away portions of the Retiree benefit for a large wage increase, there is no evidence to support the claim. The Union also is erroneous in its claim that the Painters accepted a wage freeze without any benefit from the District. Hanstedt testified that they agreed to the freeze in exchange for the District's agreement to keep a moratorium on the 15% premium contribution. The Union is wrong in its assertion that the Carpenter's wages were not recently frozen. In that regard, Hansted testified that all support groups were frozen by agreement for the 2005-2007 school years. In addition, the Union is incorrect when it states 99.5% of the District employees have an Early Retirement benefit. In fact, all employees have some Early Retirement benefit, but they are all different.

The Union further attempts to portray every internal comparable bargaining unit, except the Painters and Carpenters, as having an Early Retirement provision like the one in its Final Offer. As the District notes above, 2,015 of the District's employees have an Early Retirement benefit that costs less than the retirement benefit that the remaining 361 employees have. The contracts of those remaining employees are now in negotiations.

When considering external comparables, the Union raises the issue of wages. However, wages are not at issue. There is a reopener in the latter part of the 2007-2009 labor agreement. The Union's argument that under its proposal the District will not have to pay vacation for the three Painters who will retire is misplaced. Vacation is the equivalent of lost productivity, not more money.

The five external comparables who employ Painters have various kinds of Retiree benefits, but none come close to the Union's proposal. Furthermore, the Union's argument that the District already offers the benefit to thousands of its employees is incorrect. It only offers it to 361 of its employees.

The Union contends it is offering a quid pro quo for its proposals. However, its claimed quid pro quo is with respect to a wage freeze from the previous contract. It is not appropriate to go back to prior contracts to support a claimed quid pro quo. Unions and employers should not be allowed a major improvement without the appropriate quid pro quo during the current negotiations.

The District concludes that its offer is more reasonable. The District does not attempt to gain something the Union was unwilling to grant. Its Final Offer takes nothing away and makes a number of valuable concessions. If the Union succeeds, a message is sent to all District bargaining units that they should always arbitrate because voluntary settlements are not important. This would be a giant step backwards for good labor relations. The District cites arbitral authority in support of its position.

ANALYSIS

A. EARLY RETIREMENT

The Union's Final Offer proposes that Early Retirees (Age 58 to 62) with thirty years of service, receive Health Insurance paid for by the District. Much of the thrust of the Union's argument is that its proposal reflects what the vast majority of the other represented employees of the District, essentially following a consistent pattern among the internal comparables. Most arbitrators believe that it is important to follow a pattern among the internal bargaining units, particularly with respect to benefits. Arbitral precedent favors consistency between internal bargaining units. Consistency avoids a bidding war between the units. Arbitrators recognize that and often give it great weight.

The following table summarizes the internal bargaining units' Retiree Health Insurance provisions in their labor agreements:

INTERNAL COMPARABLES – RETIREES' HEALTH INSURANCE

BARGAINING UNIT	AGE/SERVICE	PREMIUM PAYMENT
Educational Assistants	Age 58 and up (30 years of service) Age 60 and up (25 years of service) Age 62 – 65 (20 years of service)	Retiree pays 30% of premium Retiree pays 25% of premium Retiree pays 20% of premium
Secretaries/Clerks (163 employees)	Age 62 – 65 (no years of service requirement) Age 60 – 65 (25 years of service) Age 58 – 65 (30 years of service)	Retiree pays 30% of premium Retiree pays 25% of premium Retiree pays 0% of premium
Building Service Employees (198 employees)	Age 58 – 62 (30 years of service) Age 62 – 65 (no years of service requirement) Age 55 – 65 (25 years of service)	Retiree pays 0% of premium Retiree pays 0% of premium Retiree pays 40% of premium
Teachers (1,571 employees)	Age 55 – 65 (15 years of service) After 9/1/07 (15 years of service)	Retiree pays same as active teacher $19/single/$37.99/family Family retiree pays 30% of the difference between the family and single premium/ single pays the same per month as active teacher
Carpenters (7 employees)	Age 62 to 65	Retiree pays 0% of premium
Painters (5 employees) District's Final Offer (Status Quo) Union's Final Offer	Age 62 to 65 Age 58 to 62 (30 years of service)	Retiree pays 0% of premium Retiree pays 0% of premium

There is no readily discernible pattern across the District's bargaining units with respect to Retiree Health Insurance. While the Union's Final Offer mirrors one component of the BSE's and one component of the Secretaries/Clerks' Retiree provisions, none of the other bargaining units' Retiree Health Insurance provisions are the same. Some do not provide for age 58 to 62 Retiree Health Insurance, while others allow for Health Insurance with that age bracket but with differing requirements for years of service or Retiree contributions to the premium. The Union contends that with respect to the REA, the REA gave up much of its Early Retirement benefit in exchange for a generous wage increase. However, the record evidence does not clearly address what transpired with respect to the REA negotiations; therefore, how or why there was such a change in the REA contract cannot be used to support the Union's position. Accordingly, the internal bargaining units do not convincingly support the Union's Early Retiree component of its Final Offer.

Turning to the external comparables, the following table summarizes the Retiree Health Insurance provisions under their labor contracts:

AGREED TO EXTERNAL COMPARABLES – RETIREES'S HEALTH INSURANCE (CURRENT OR MOST RECENT CONTRACTS)

BARGAINING UNIT	AGE/SERVICE	PREMIUM PAYMENT
Appleton	10 to 14 years of service 15 to 19 years of service 20 or more years of service	Retiree pays 0% family limited to 12 months family and 18 months single) Retiree pays 0% family limited to 15 months and 21 months single Retiree pays 0% family limited to 24 months and 36 months single
Green Bay	Retiring under age 65	Retiree pays 100% of premium
Kenosha	Age 57 or after (15 years of service)	Retiree with family coverage pays difference between family

		and single premium Retiree with single coverage pays 0% of premium
Madison		If eligible for State retirement, retiree can use any unused sick days up to 200 days to pay premium, then 50% of sick days after 200 days is used
Sheboygan	Age 60 to 62 Age 62 to 65	Retiree pays 10% of family premium, 5% of single premium Retiree pays 5% of family premium, 0% of single premium
Painters District's Final Offer (Status Quo) Union's Final Offer Early Retirement	 Age 62 to 65 Age 58 to 62 (30 years of service)	 Retiree pays 0% of premium Retiree pays 0% of premium

There is also a wide variation among the external comparables with respect to Early Retirement, without a general pattern demonstrated.

The District further claims that the Union has not offered a quid pro quo for its Early Retirement proposal. The Union responds that one is not necessary here because they are simply seeking what others already have. However, as found above, there is not a consistent pattern among the internal and external comparables.

The Union further maintains that a quid pro quo is not required because in 1980 the BSE bargaining unit petitioned the District to grant an Early Retirement benefit outside of negotiations and received one without a quid pro quo. There is some dispute as to how those Early Retirement benefits were achieved. However, even assuming the Union's description, what occurred 27 years ago with a different bargaining unit is not determinative. The economic conditions have changed substantially since 1980.

The undersigned finds that, given that there is no clear consistent pattern among the internal or external comparables and that the Early Retirement proposal is a substantial benefit improvement, a quid pro quo is required.

In that regard, the Union asserts that they have established that there was a quid pro quo because they traded other desired economic items, such as the wage freeze for the prior two years and a willingness to bear more of the health care costs.

As the District notes, the concept of a quid pro quo is the negotiating technique of giving up something in the current bargain in exchange for something that party desires. Thus, a wage freeze over the prior collective bargaining agreement (absent a clear understanding to the contrary) cannot be used as proof of what the Union is now willing to give up to support the basis for the improved retirement benefit. Moreover, the parties reached a Tentative Agreement which allows for a wage reopener for each of the two years of the 2007/08-2008/09 collective bargaining agreement.

When the Tentative Agreements are further reviewed, they reflect that the Union has gained some substantial improvements for the Painters. For example: (1) the grievance procedure now includes arbitration; (2) a Painter can no longer be suspended without "due process and good cause;" and (3) layoffs will now occur by seniority.

The Union argues that there was a significant exchange on the Health Insurance; however, the stipulations indicate that the 11% moratorium on the employee contribution continues and that for 2007-08 and for 2008-09 there are Health Insurance contribution Reopeners. Accordingly, the Union has not adequately demonstrated a quid pro quo for its proposed Early Retirement Health Insurance proposal.

The Union asserts that because the District can afford the cost of its Early Retiree proposal, the District's argument about rising health care costs is irrelevant. That the District may have the "Ability to Pay" the Union's Final Offer does not foreclose further analysis. In this climate of rising Health Insurance costs, both parties must consider the economic impact of Health Insurance proposals. That consideration is pertinent to the analysis. While this bargaining unit only has five employees, three of which could take the proposed Early Retirement benefit (as compared to most of the other, much larger bargaining units of the District), the cost of the Union's Final Offer must be considered.

The current monthly family Health Insurance premium is $1,572/month ($18,864/year) and $637/month (($7,644/year). Those are costs that must be taken into consideration, if any of the three currently eligible employees retire early, and should be measured against the total costs of this bargaining unit. The impact on negotiations with other bargaining units is also relevant.

Because there is not a persuasive internal or external pattern with respect to Early Retirement and because the Union has not demonstrated that there has been a quid pro quo, the District's position of retaining the status quo on Retiree Health Insurance is found preferable.

B. LIFE INSURANCE

The Union also proposes that Painters who retire early should be eligible for a Life Insurance plan substantially equivalent to the coverage provided to employees who have not retired, with the District paying the cost until age 65. The District proposes continuing with the status quo, which provides that the Retiree pays full cost at age 65 except for paid-up premium cost (currently 20%).

As with the Early Retiree benefit, it is important to determine whether there is an internal pattern with respect to Life Insurance for Retirees. The following table summarizes Retiree Life Insurance among the internal comparables.

LIFE INSURANCE

BARGAINING UNIT	PREMIUM PAYMENT
Secretaries/Clerks; Building Service Employees	District pays full cost, including paid-up premium cost (currently 20%)
Carpenters; Education Assistants; Teachers	Retiree pays full cost at age 65 except for paid-up premium cost (currently 20%)
Painters	
District's Final Offer (Status Quo)	Retiree pays full cost at age 65 except for paid-up premium cost (currently 20%)
Union's Final Offer	Employees who retire early shall be eligible for a Life Insurance plan substantially equivalent to the coverage provided to employees who have not retired. The District pays the cost until age 65

Again, there is no consistent pattern among the internal comparables with respect to Life Insurance for Retirees. For the vast majority of the represented employees (including the status quo for the Painters), the Retiree pays the full cost at age 65 except for paid-up premium cost (currently 20%). Moreover, the Union is seeking an improvement in that benefit without a quid pro quo. Therefore, the District's proposal to maintain the status quo is determined to be more favorable.

CONCLUSION

Accordingly, having considered the statutory criteria, the evidence and arguments presented by the parties, the Arbitrator, based on the above and foregoing, concludes that the District's Final Offer to retain the status quo on Early Retiree Health Insurance and

Life Insurance is favored over the offer of the Union, and in that regard the Arbitrator makes and issues the following

AWARD

The Final Offer of the District is to be incorporated into the July 1, 2007 through June 30, 2009 two-year collective bargaining agreement between the parties, along with those provisions agreed upon during their negotiations, as well as those provisions in their prior agreement which they agreed were to remain unchanged.

Dated at Madison, Wisconsin, on April 26, 2008, by

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Andrew M. Roberts, Arbitrator