

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In The Matter Of The Petition Of

TEAMSTERS LOCAL NO. 43

To Initiate Interest Arbitration
Between Said Petitioner and

RACINE COUNTY (DEPARTMENT OF PUBLIC WORKS)

INT/ARB-10963
Case 226, No. 67094
Decision No. 32372-A

APPEARANCES:

Attorney Nathan Eisenberg, Previant, Goldberg, Uelman, Gratz, Miller & Brueggeman, S.C., 1555 North RiverCenter Drive, Suite 202 Milwaukee, Wisconsin 53212, on behalf of Teamsters Local No. 43.

Mr. William R. Halsey, Long & Halsey Associates, Inc., 829 South Green Bay Road, Suite 106, Racine, Wisconsin 53406, on behalf of Racine County (Department Of Public Works).

Teamsters Local No. 43 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 Racine County (Department Of Public Works), hereinafter referred to as the Union and the County. The undersigned was appointed as arbitrator to hear and decide the dispute, as specified by order of the Wisconsin Employment Relations Commission, dated March 10, 2008. Hearing was held on August 6, 2008, without the services of a court reporter. Post-hearing initial briefs were exchanged and the County filed a reply brief by September 26, 2008. The Union chose not to file a reply brief; the record was closed by September 29, 2008.

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

AGREEMENT

This agreement is made and entered into, by and between Racine County and its agent the Racine Public Works Division (hereinafter referred to as County) and the Teamsters, Chauffeurs, and Helpers, Union Local 43, (hereinafter referred to as the Union) for and on behalf of themselves and the employees in the bargaining unit hereinafter described; such agreement to commence on January 1, ~~2005~~ 2007 and shall be effect through December 31, ~~2006~~ 2008.

6.05 It is understood that any employee may apply for a vacancy posted according to provisions of this Article, whether it be an upgrade or downgrade.

When no individual posts for a Machine Operator position under Article 6, a Laborer who has not completed the 12 month period set forth in Article 6.06 may voluntarily request a change in shop reporting location if such employee has successfully completed the 60 day probationary period.

A Labor's change in location request may be used only once during the mandatory 12 month Laborer period and granting the change in location request shall be at the discretion of management.

Except as provided in this Article 6.05, employees in the Labor classification shall be subject to all sections of the Labor Agreement including Schedule "A" regarding the labor classification.

10.12 Revise as follows:

Employees in the following categories will be assigned an overtime point total amount equal to the highest overtime point total on the respective list at the time of any of the following occurrences:

- (a) New hired employees.
- (b) Employees returning from an Approved Leave of Absence or Disability.
- (c) Employees transferring from one area of operations to another.

The reference to “Disability” in paragraph B above means a period of not less than six (6) calendar months.

29.01 Revise as follows:

This Agreement shall become effective January 1, ~~2005~~ 2007 and shall remain in effect through December 31, ~~2006~~ 2008 and thereafter from year to year unless either party gives written notice to the other party to terminate or amend such Agreement on or before August 1, of the preceding year. Provided, however, that a provision or provisions of this Agreement may be amended or modified as evidenced by written agreement of the parties.

LETTER OF UNDERSTANDING # 4

1. The wage rate of Limited Term Maintenance Worker (LTMW) will be the same as Laborer rate under the Collective Bargaining Agreement.
2. Overtime will be offered first to regular full-time employees, before being offered to LTMW. Article 10.06 shall not apply between regular full-time employees and LTMW, but shall apply within LTMW.
3. Articles 6.07 and 10.02 (a, b, & c) shall apply to LTMW, LTMW who work on any holiday designated in Article 12.01 will be paid time and one half for all hours worked. Winter seasonal shall count as a single-season under 6.07, provided the employee works the entire season.
4. In the event that the County wishes to employ a LTMW as a summer seasonal employee, it shall provide prior notice to the Union. Upon request by the Union, the parties shall bargain over employment of any LTMW beyond the winter season.
5. LTMW shall only work between November and March.

FINAL OFFER OF THE UNION

A.02 Revise wage schedule as follows:

Effective January 1, 2007	3.0%
Effective January 1, 2008	3.0%

FINAL OFFER OF THE COUNTY

20.02 Add the following paragraph:

For employees hired on, or after, January 1, 2008 the following retiree premium payment schedule will apply:

<u>20 years & over of service</u>	<u>15%</u>
<u>15, 16, 17, 18, 19 years of service</u>	<u>20%</u>

A.02 Revise wage schedule as follows:

Effective January 1, 2007	2.0%
Effective April 1, 2008	2.0%
Effective October 1, 2008	2.0%

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

Although the County claims that its lower wage proposal is based on economic restraints, its calculations are of questionable formulation, accuracy and consequence. While the County provides a cost comparison at page 4–10 of its exhibit book, it fails to identify any sort of methodology or basis for its calculations that the Union’s offer will cost \$118,000 more than the County’s offer over the term of the contract. Based on the Final Offers, the Union, on the other hand, calculates the difference in cost between the Union and County proposals to be more fairly estimated between \$45,000 and \$55,000.

To the extent the County claims it would be difficult to budget for the Union’s Offer, there is no indication whether the County is referring to the \$118,000 (an incorrect figure) or a more accurate appraisal of the cost of the Union’s wage increase proposal. The County’s argument also loses weight because it has not claimed the need to raise taxes and has not claimed an inability to pay; rather it is just reluctant to use the budgeted money to actually pay the wage increase. The County never outright stated or presented evidence that it could not pay a 3% wage increase and maintain the status quo of retiree benefits under its present budgetary constraints.

The County’s attempt to invoke the “greatest weight” factor under section 111.70(4)(cm)(7) is inappropriate. The “greatest weight” factor was meant to have arbitrators take into account the financial and budgetary influence, impact, and pressures that come to bear under legislative revenue limitations. Here, there is no evidence that the County has been levying property taxes at the maximum permissible rate. The County has failed to demonstrate how the Union’s proposal would impact its ability to

cope with budgetary restrictions or the levy limit. The County presented no evidence that it would be forced to raise property taxes beyond the estimated 2% levy limitation.

The factor of “greater weight” is not applicable because economic conditions of the municipal employer are not relevant when the economic conditions experienced by, and within, the County are the same conditions as those experienced by every one of the comparables and every other county in the State.

The County never suggested that it is suffering from economic woes to a greater degree than its comparables, which include wage increases that exceeded 2%. There is no evidence the Racine County’s economy is worse than its comparable neighbors.

While the County points to the Attorneys’ Association labor agreement, that is the only internal bargaining unit that has settled with the County for 2007 and 2008.

The Union maintains that the Attorneys’ contract does not constitute an Internal Comparable and is of little relevance to this interest arbitration for several reasons. First, the Attorneys Association involves a bargaining unit of professional employees who are salaried (as opposed to the hourly employees here). Second, the hourly rate of the Attorneys exceeds \$25 per hour, assuming a 2080 hour work-year. Third, any wage increase in the Attorneys’ unit will cost the County more per employee, again making comparisons unrealistic and meaningless. Fourth, the Union and the Arbitrator were not privy to the specific details of the settlement, nor the stipulations of the parties. Additionally, the County asserts that it has offered the same wages and Retirement proposals to all its bargaining units; however, except for the Attorneys, none of those bargaining units have agreed to the County’s proposal. One settled labor agreement is not a “pattern.”

While the County is likely to note that the Attorneys' group received a 2% wage increase on January 1, 2008 and a 2% increase four months later, on April 1, 2008, it is not clear what percentage wage increase the parties agreed upon for 2007, and what increase the wage schedule as contained at Exhibit 1, page 3–5, represents from the 2005–2006 contract. In any event, their contract does suggest that the Attorneys receive wage increases on a more regular basis than the County is offering the employees in this bargaining unit. In addition, the Attorneys are entitled to an annual merit increase where most steps represent a \$3000 salary increase, an increase of from 2.5% to more than 5%. Thus, the Attorneys' contract does not support the County's Offer.

The Union argues that it is seeking a modest wage increase consistent with the increases in the External Comparable group and that its wage proposal is necessary, given the significant increase in the cost-of-living. The Union notes that the employees experienced what was essentially a wage freeze over the 2005–2006 labor agreement. Despite such sacrifices, the County proposes a wage increase substandard on its face and well below the increase offered to public works employees in the comparable Counties.

The Union and County, as well as the Arbitrator, agree that Brown, Dane, Kenosha, Outagamie, Rock, Walworth, Waukesha, and Winnebago counties are appropriate comparables consistent with Arbitrator Greco's decision in Teamsters Local 43 and Racine County (Public Works Division), Decision No. 31681v (Greco, 1/12/07). The Union, however, asserts that the City of Racine is also an appropriate comparable. It is the largest city by area and population within Racine County and therefore shares similarities with respect to location, economic conditions, and per capita property values. In addition, the City of Racine is in the same labor market as the County.

Interest arbitrators normally believe that the External Comparable criterion is the most persuasive single factor. Arbitrators recognize that one of the most important aids in determining which offers are more reasonable is an analysis of the compensation paid to similar employees by other comparable employers. The wages of employees here are in the middle of the comparables; however, each of the comparables paid larger wage increases for their comparable bargaining unit employees than the County's wage proposal. While the manner by which employees receive wage increases and the timing of the increases vary widely, the County's proposal is indisputably inferior to every comparable, because each of those counties offers wage increases at more regular, as well as more reasonable intervals and more significant wage increases.

Kenosha County's wage rates exceed those of Racine County. In addition, the City of Racine's contract with its Public Works bargaining unit also supports adoption of the Union's proposal here. The City of Racine's wages increased 3.7% as of January 1, 2007. Those employees received a similar wage increase of 3.7% on January 1, 2008. Furthermore, the City of Racine offers its retirees health insurance benefits with fewer restrictions than those placed on County retirees.

Every External Comparable increased wages by more than 2% over the course of a calendar year. Walworth County's bargaining agreement provides a 1.5% wage increase on January 1, 2007 and then provides for a 1.5% increase on July 1, 2007. But the Walworth County contract averages a wage increase over 2007 that exceeds 2%. Those counties that have a single annual wage increases are consistent with the wage increase sought by the Union. Specifically, Dane County and Outagamie County

provided for 3% wage increases, while Waukesha County wages increased by just under 3% when the cost of its proposal is averaged.

In every instance, the counties offering their employees less than a 3% wage increase at the beginning of a contract year offered them a supplementary wage increase in six months or less. Racine County offers a mere 2% increase for the 15 months from January 1, 2007 through April 1, 2008. Such additional increases at regular intervals make the wage increases in the External Comparable counties substantially greater than that proposed by Racine County here.

Although the County notes that at the end of the two-year contract, the wage rates between its Offer and the Union's Offer are virtually identical, the County cannot fairly frame this issue by only looking at the wage rates at the end of the contract. The delayed implementation of these increases saves the County money, while placing costs on the employees. Thus, the County's attempt to draw attention to wage rates during the last few months of the contract is disingenuous.

Where the cost-of-living is expressly discussed, arbitrators have recognized the relevant time frame for the increase in cost-of-living is the period since the last labor agreement. Since the last time the parties met at the negotiating table the cost-of-living has increased consistently and significantly. The CPI shows that consumer prices advanced at a seasonally adjusted annualized rate of 7.9% second-quarter 2008 after increasing at 3.1% in the first three months of 2008. Arbitrators recognize that increases in cost-of-living are included "by inference" in the analysis of comparables.

The County has the authority to pay the Union's proposal. Even assuming the 2% tax levy limit, it is not that there are insufficient funds; the 3% proposed by the Union does not threaten or otherwise implicate the County's lawful authority.

The interest in the welfare of the public also favors adopting the Union's Offer, because the public has a concern for retaining competent and properly paid County employees. The County budgeted 2% in each of its 2007 and 2008 budgets for wage increases, an amount more than it is presently offering, and will still end the year 2007 with a budget surplus.

The County's proposed change to the retirees' health insurance benefits is unnecessary, will fragment our Union, and will not aid in relieving its current financial obligations. The County asserts that health insurance is expensive and narrowed its proposal to target only new employees. The only present effect of a change in these benefits would be on the County's projected "Other Post-Employment Benefits" (OPEB) calculations, which represents a future cost that is not reasonably or accurately modifiable.

Arbitrators do not like to change previously negotiated long-held employee benefits, nor do they like to establish dual systems of benefits among employees, believing both should usually be changed by mutual agreement of the parties. A compelling justification is typically demonstrated by satisfying a three part test: (1) there must be a legitimate problem which requires attention; (2) the disputed proposal must reasonably address a problem; and (3) the proposed change must be accompanied by an appropriate quid pro quo.

First, there is no actual, significant and pressing need for the change in the status quo. Although the County claims that the retiree health benefit is expensive and the retiree should pay at least what active employees pay, this justification is not a justification at all. The County is aware that insurance costs have been rapidly escalating for years. The County and Union have been working together over the last several bargaining agreements to reduce the County's cost.

The parties made significant strides in reducing present healthcare costs through premium sharing and reduced future health benefit costs and allocations. Rather than waiting even a full contract to determine whether the agreed-upon changes will have a cost-reduction effect on the County's healthcare costs and rather than providing any evidence that further cost savings are necessary, the County instead seeks to force the change upon each bargaining unit.

The County's "fairness" contention also fails to demonstrate a reason for deviating from the status quo. The County agreed to the retiree premium contribution levels until it later decided that retirees should contribute at the same rate as active employees out of fairness. Furthermore, the County's proposal will not reduce its present health care spending obligations; in fact, the County has not complained that they are out of line. The County has not demonstrated that it cannot meet its retiree health care obligations in either the present or the future when the recently negotiated changes take effect. Its exhibits fail to take into account the fact that retirees leave the County health insurance roles when they become Medicare-eligible at age 65. Rather than seek other methods of cost saving, the County chooses to systematically strip retirees of that benefit.

The County, with some assistance from the Union, has taken actions to reduce the County's health insurance costs. These include eliminating benefits for Medicare eligible retirees, contracting for services, and the health center partnership with the City of Racine.

The County's retiree health insurance proposal also fails to meet the second prong of the test. It does not reasonably address the current budgetary concerns. Although it will have an effect on projected costs, it will not affect the County's budget now.

With respect to the third prong, the County offers nothing in exchange for its proposal. It expects to reduce compensation packages of employees, offer fewer benefits to these employees down the road, and offer nothing for this in the bargain.

Kenosha County and the City of Racine are the only comparables with the retiree health insurance benefit, and they both contain a better benefit than Racine County's. The County is attempting to force this reduced benefit on the Union so that it can create a pattern to be used against other bargaining units of the County in upcoming interest arbitration proceedings.

The Union's proposal to maintain the status quo with respect to this benefit is a more reasonable Offer. Because the County offered no quid pro quo, it failed to meet a single criterion of the three-part test and did not prove that the restrictive language was obtained by another group without an adequate quid pro quo. There is no compelling need for this proposal. It will not address or resolve any County financial concern in the short-term. It was proposed without even waiting two years to determine the full extent of the 2005–2006 insurance benefit changes.

For all of the foregoing reasons and the record, the Arbitrator should select the Union's Final Offer, for it is more reasonable and equitable than the County's. The Union cites arbitral authority in support of its position.

POSITION OF THE COUNTY

The County argues that the two Final Offers produce the same final wage lift. The County points out that there is one Internal Comparable bargaining unit, the Attorneys Association, that has accepted the County's proposal regarding wages and insurance premium payment sharing for future retirees.

The difference in the cost of the offers is \$118,537.15. The Offer to the Union is consistent with all other Offers, along with the Attorneys' settlement. Moreover, non-represented/management employees have also received the same amounts as in the Offer to the Union. The County budgeted 2% wage schedule increases for each year of the contract (2007 and 2008). For 2008 the County's Final Offer will have a wage lift up 4% for that year, but will cost only 2%, which will be within the budget.

The County also proposes that employees hired on or after January 1, 2008 be required to pay at least 15% of the health insurance premium upon retirement. At the current payment rate of 15% for active employees, the employees covered by this change will be required to pay a retiree premium share that is at least equal to the employee share that they paid as active employees. The County argues that this is an issue of fairness and future retirees should not pay less of a premium share than active employees. The proposal does not affect any current retirees or any active employees hired prior to January 1, 2008. The change to the 15% payment of the premium by retirees would help

control the growth in the future of the OPEB. The computed actuarial accrued liability from the 2007 report is projected at \$253 million; with the impact spread over 30 years, the net OPEB obligation for 2007 is \$13 million. Such projections clearly establish that the retiree health insurance costs are huge and that the County's proposal for new hires to pay a minimal 15% premium share upon retirement is both prudent and fair.

With respect to the External Comparables, the Union omits a very significant benefit comparison when looking at wages, which is the growing cost of retiree health insurance. The cost of health insurance has stabilized due to the increase in employee premium share contribution and other changes implemented by the County. The City of Racine and the County opened a clinic for employees, retirees, and covered family members in an attempt to control costs.

Even with such efforts, the future growth of the retiree population and the use of health insurance benefits are of concern when considering the need to control future health insurance costs. The size of the active employee group is decreasing, but the retiree group continues to grow.

Given such cost concerns and the issue of fairness, the County believes that an analysis of the retirement health insurance benefits provided by the counties that are comparables is appropriate. Two of the counties, Winnebago and Outagamie, have no retiree insurance coverage. Dane, Waukesha, Rock, and Brown Counties allow retirees to continue in the counties' group health insurance coverage, but they must pay the full premium amount. Walworth County allows the employee to convert 60% of the employees' Sick Leave for the purpose of paying retiree health insurance premiums. Kenosha County's employees who are at least 60 years of age and have 15 years or more

of service with the County to stay in the County's health insurance plan at no cost to the employee until the employee reaches eligibility for Medicare.

Thus, the benefit offered by Racine County is substantially greater than all of the External Comparables counties. Kenosha County has the most generous benefit of the External Comparables, restricting eligibility to over age 60 with at least 15 years of service. The proposal to increase the retiree health insurance premium for employees hired on or after January 1, 2008 is a very modest step for controlling future costs, especially given that the County provides a benefit that far exceeds any of the comparable counties.

There is also some valid concern regarding the current CPI, which is being accelerated by high oil/gas prices; however, the County asserts that it is not appropriate to base a wage dispute involving back pay for two-year contract on CPI issues that occur during the final six months of that contract period. In October, 2007 gas was approximately \$2.75 per gallon, and during 2008 the price increase the height approximately \$4.10 per gallon. The price of gas has recently dropped from that height to approximately \$2.70 per gallon. There is no way to determine the likely continuation of the high gas prices and its effect on this CPI. Since it affects only the latter part of the contract, it is not appropriate to consider the impact of gas prices on CPI.

Under Subsection 7g of the statute, the arbitrator must consider and give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in the subparagraph 7r. The County has been forced to reduce positions and lay off employees in the past few years. The County has budgeted 2% for

each year the contract. An award for the Union will require that the County cut costs by a staff reductions or other cuts and expenses.

With respect to paragraphs D. and E. under Sec. 111.70(4)(CM)7r, it is the County's position that the ratification of a very similar agreement with the Attorneys Association establishes an Internal Comparable that should be in the County's favor in this dispute.

When considering the External Comparables, the County argues that the final wages established in each Offer are the same and that the increases granted by the comparables do not justify an award of higher back pay.

The County also argues that its proposal to have employees hired on or after January 1, 2008 pay a 15% premium share upon retirement is based upon fairness. Employees who pay 15% during their active employment should not realize the reduction in the premium share upon retirement. In addition, County employees are eligible for retiree health insurance coverage that far exceeds that available to employees of the comparable counties. Finally, the retiree health insurance cost is an issue because of the growing size of the retiree population relative to the number of active employees and the higher utilization of the benefit by the retiree group. The County argues that this consideration is not relevant to the increase in CPI late in the contract.

In response to the Union's arguments, the County asserts that the Union has made several inaccurate arguments. Contrary to the Union's contention, the County's Offer clearly has a 2% cost for 2007 and a 2% cost for 2008. In addition, while there may not be immediate savings with the proposed retiree premium changes, the County argues that there is a need for fairness and that there will be future savings. New employees will pay

the same percentage premium as active employees when they retire. Although the Union argues that the County did not demonstrate that there would be a budget shortfall should the Union offer be selected, the testimony of County officials established that there is not enough money budgeted to cover the Union's offer. In addition, the County's testimony indicated there that there would need to be layoffs or other cuts in existing expenses under the Union's Offer. The County's costing is more accurate because it is based upon actual wages paid to all the employees covered by the collective bargaining agreement.

The Union incorrectly argues that the Attorneys received three increases in 2008 and that the increase for 2007 is unknown because, unfortunately, the Attorneys' contract contains a typographical error. The Attorneys' first wage increase actually occurred on January 1, 2007.

While the Union claims that the County is not offering a 6% wage increase over the two years of the contract, in fact, the County's proposed three increases result in a 6% wage lift. With respect to the CPI, the County again points out that in August 2008 there was a decline in CPI. Furthermore, much of the CPI is due to the price of crude oil, which is very volatile.

The Union asserts that the County has a budget surplus for 2007. However, this is due in large part to the fact that only the Attorneys Association has settled. That there are no other settlements, which would have included pay increases, by itself produces the 2007 budget surplus.

The Union contradicts itself when it argues on one hand that the County does not need to increase the retiree premium because there are no employees affected, but on the other hand asserts that the County needs to provide a quid pro quo.

The Union further states that the County is choosing to systematically strip retirees of health insurance through the interest arbitration process. However, the County has sought savings through other programs. In addition, the County's proposal does not systematically strip retirees of health insurance because the County's proposed change in the retiree premium share only applies to new hires and would not affect any current employees.

Finally, the Union argues that the parties agreed to maintain the status quo in negotiating the last contract, even though they agreed to increase active employees' premium contributions. The County disputes the statement regarding an agreement to maintain the status quo; the Union has not provided any documentation or testimony to support this claim.

In conclusion, it is the County's position that it has made a substantial case in support of its Final Offer. The County argues that the Arbitrator should consider the fact that both Final Offers produce the same final wage rate and the budget situation will require some difficult expense reductions in the event that the Union's Offer is accepted. In addition, there is an internal settlement with the Attorneys Association and the Arbitrator should give that some weight in deciding this case. Furthermore, if the Arbitrator does give consideration to the wage increases provided by External Comparable counties, that analysis should include a review of the benefits and expenses associated with the retiree health insurance. This is such a significant issue regarding costs that it has to be an important factor in evaluating the Final Offers. The County asserts that all of the arguments significantly support its position regarding its Final Offer

and urges the Arbitrator to select the County's Final Offer for the 2007–2008 collective bargaining agreement.

ANALYSIS

APPROPRIATE EXTERNAL COMPARABLES

In Teamsters Local 43 and Racine County (Public Works Division), Decision No. 31681v (Greco, 1/12/07), the External Comparables were determined by Arbitrator Greco to include: Brown, Dane, Kenosha, Outagamie, Rock, Walworth, Winnebago, and Waukesha counties. In order to provide consistency, stability, reliability, and predictability, arbitrators are generally reluctant to alter prior determinations of the appropriate comparable group, particularly when so recently determined. While the City of Racine may have certain relevant similarities to the County, disrupting the very recently decided roster of External Comparables outweighs that argument. I therefore find that the group of comparables decided by Arbitrator Greco should continue to be relied upon.

MERITS

The Union proposes a 3% wage increase for both 2007 and 2008; the County proposes a 2% across-the-board wage increase for 2007, a 2% wage increase on April 1, 2008, and an additional 2% wage increase on October 1, 2008. When analyzing such wage proposals, it is productive to examine what wage increases the External Comparables have agreed to, because such comparisons give insight into how like-situated parties have addressed generally similar economic circumstances. The following table summarizes the External Comparables' wage increases for 2007 and 2008.

EXTERNAL COMPARABLES: WAGES

	2006	2007		2008	
	2 nd half	1 st half	2 nd half	1 st half	2 nd half
Racine County (Union)	\$18.22 - \$22.52	\$18.77 - \$23.20 (3%)		\$19.33 - \$23.90 (3%)	
Racine County (County)		\$18.58 - \$22.97 (2% 1/1 07))		\$18.96 - \$23.43 (2% 4/1/08)	\$19.34 - \$23.90 (2% 10/1/08)
Brown County		\$19.45 - \$20.43	\$19.74 - \$20.74 (1.5%)	\$20.04 - \$21.05 (1.5%)	\$20.34 - \$21.37 (1.5%)
Dane County		\$16.79 - \$22.77 (2.5%)	\$16.96 - \$23.00 (1%)	\$17.38 - \$23.58 (2.5%)	\$17.55 - \$23.82 (1%)
Kenosha County	\$23.36 - \$26.11	\$23.83 - \$26.63 (2%)	\$24.07 - \$26.90 (1%)	\$24.67 - \$27.57 (2.5%)	
Outagamie County	\$15.75 - \$19.31	\$16.26 - \$19.94 (3%)			
Rock County	\$18.27 - \$20.77				
Walworth County	\$18.81 - \$20.83	\$19.34 - \$21.12 (1.5%)	\$19.58 - \$21.36 (1.5%)		
Waukesha County	\$15.39 - \$22.46 (1/7/06)	\$15.70 - \$22.91 (2% 3/31/07)	\$16.01 - \$23.37 (2% 9/29/07)	\$16.33 - \$23.84 (2% 1/5/08)	\$16.50 - \$24.07 (1% 7/5/08)
Winnebago County	\$15.19 - \$21.69	\$15.49 - \$22.14 (2%)	\$15.64 - \$22.34 (1%)	\$15.95 - \$22.79 (2%)	\$16.50 - \$24.07 (1%)

(Based Upon the Union's Exhibit)

The table reflects that for 2007 nearly all the comparables had wage increases of at least 3%, though many of those counties had splits to achieve that result. The Union's proposal of a 3% across-the-board wage increase for 2007 is more closely aligned with the External Comparables than the County's 2% proposal. The External Comparables thus support the Union's wage proposal for 2007.

Of those counties that have settled for 2008, nearly all of the External Comparables have included wage splits, resulting in a lift ranging from 3% to 3.5%. (Kenosha County, however, has a flat 2.5% across-the-board wage increase for 2008.) The External Comparables are more closely aligned with the County's 2008 wage offer, and thus support that aspect of the County's Offer.

Given that the External Comparables support the Union's wage proposal for 2007 and the County's wage proposal for 2008, the External Comparables do not strongly support either party's Final wage offer.

The County urges that its Final Offer be adopted because it is under financial constraints. However, as the Union points out, the County has not clearly demonstrated that its economic situation is distinguishable from the External Comparables with respect to paying either of the proposed Final Offer. Rather, the evidence reflects that Racine County is under generally the same financial constraints as the External Comparables.

The County has also proposed that employees hired on or after January 1, 2008 must pay 15% or 20% of the health insurance premium when they retire, depending on the retirees' years of service. As with the wage proposals, it is useful to examine what the External Comparables provide for retirees health insurance premium payments. The following table summarizes the retirees required health insurance premium payments:

EXTERNAL COMPARABLES: RETIREE HEALTH INSURANCE PREMIUMS

	RETIREE COVERAGE	CONDITION FOR COVERAGE	RETIREE PREMIUM PAYMENT
Racine County (County)	Yes	If Retiree has 20 or more years of service: If Retiree has 15 to 19 years of service:	15% 20%
Racine County (Union)	Yes		Status Quo
Brown County	Yes	Retirees with at least 10 years of service.	100%
Dane County	Yes	Retires after age 55 but before 65.	100%
Kenosha County	Yes	Retires after 1/1/79; at least 60 years old with at least 15 years of service.	0% until Medicare eligibility
Outagamie County	No	--	--
Rock County	Yes	All Retirees who retire before age 65 until age 65.	100%
Walworth County	Yes	Various conditions.	Certain Unused Sick Leave Toward Premium Payment (Also unused Vacation Pay, Unused Holiday or Comp. Time if hired on or before execution of labor agreement)
Waukesha County	Yes	All Retirees.	100%
Winnebago County	No	--	--

The table reflects that there is some variation in whether retirees have coverage and, if they have coverage, what they are required to pay toward the health insurance premium. Winnebago County and Outagamie County do not provide health insurance coverage for their retirees. Of those counties that provide for health insurance coverage for their retirees, most require that the retirees pay 100% toward the health insurance premium. However, Kenosha County fully pays for their retirees health insurance monthly premiums. Walworth County retirees may apply certain unused paid leave toward the premium payments. Because, of those External Comparables that allow for retiree health insurance, most require the retirees to fully pay the premium, the External Comparables generally support the County's retiree health insurance premium proposal.

The County's proposal to require new employees to pay 15% or 20% toward the health insurance premium when they retire would be a change in the status quo. Arbitrators generally require that when there is such a change, there must be a compelling justification. Typically, such a justification is demonstrated by satisfying a three-part test:

- (1) there must be a legitimate problem which requires attention;
- (2) the disputed proposal must reasonably address a problem; and
- (3) the proposed change must be accompanied by an appropriate quid pro quo.

Exceptions to these requirements have been recognized by arbitrators under extraordinary circumstances.

It is undisputed that health care costs and concomitant insurance costs have been increasing across the country over the last several years. However, as both parties agree, the parties here have recently worked to restructure their health insurance and healthcare

approaches in an attempt to stem those rising costs. It is important to allow those processes to begin to work before immediately again imposing a change in the health insurance premium payment structure.

Under the second criteria that a proposed change should address an actual problem, with such recent substantial restructuring in their approach to healthcare and insurance, it is not yet known what impact those changes will generate; therefore, it is too early in the process to assess whether there will be a problem. With respect to the third criteria, the County has not proposed a quid pro quo for the proposed retiree health insurance premium payment. Finally, there has been no demonstration of circumstances so extraordinary as to override the need for applying the three-prong test.

The analysis also requires that the Arbitrator review what other bargaining units within the County have agreed to. I believe that when insurance benefit changes are at issue, the Internal Comparables can carry significant weight. For a variety of reasons, it is important to have similar benefits between internal groups of employees.

The only internal bargaining unit that has settled is the Attorneys Association (5 employees), which the County contends was settled for 2007-2008 on the same wage increase and retiree health insurance premium payment as proposed by the County here. The County also points to the fact that the non-bargaining unit employees have received similar wage increases and the County's retiree health insurance premium payment proposal has been implemented with those employees.

However, the parties in the remaining bargaining units have not settled, although the County has made the same proposal to those other bargaining units on wage increases and the retiree health insurance as it has offered here. Besides the instant bargaining unit

(51 employees), those other units include: Command Staff - Sheriff's Department (25 employees), Machinists Court House (166 employees), Deputy Sheriffs - Sheriff's Department (116 employees), Machinists HSD (150 employees), AFSCME Ridgewood (156 employees), Nurses Local 5039, AFT, AFL-CIO, Ridgewood (36 employees)

The Union asserts that the Attorneys Association is not an appropriate Internal Comparable because it is a professional bargaining unit with a salary schedule, not an hourly wage schedule. However, comparisons between internal bargaining units of professional and hourly employees are regularly considered by arbitrators as Internal Comparables, particularly with respect to benefit comparisons, such as the County's retiree health insurance premium co-payment proposal. Internal comparisons between bargaining units provide very useful insights into which Final Offer would likely have been voluntarily agreed to. Accordingly, the Attorneys Association bargaining unit shall be considered here as an appropriate Internal Comparable.

With respect to the other internal bargaining units, it is significant that, while the County has made proposals that mirror its Final Offer here, none of those other units within the County have settled. Including this unit, there are 700 represented employees of the County that have not settled, while only six represented employees (the Attorneys Association) have. An internal settlement pattern has not, therefore, been established. Consequently, the Internal Comparables do not support the County's Final Offer on wages or retiree health insurance.

CONCLUSION

Given that: (1) the wage issue does not favor either party, (2) an internal settlement pattern has not been established, and (3) most importantly, an adequate justification for the County's proposed change in the retiree health insurance premium payment has not been demonstrated (particularly given the recent changes the parties have entered into to address health insurance premiums), I find that the Union's Final Offer is more reasonable.

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 Union's Final Offer for the January 1, 2007 through December 31, 2008: collective bargaining agreement is favored over the County's Offer, and in that regard the Arbitrator makes and issues the following

AWARD

That the January 1, 2007 through December 31, 2008 collective bargaining agreement shall contain the Union's Final Offer, 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 October 11, 2008, by

Andrew M. Roberts, Arbitrator