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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

AWARD

In the Matter of Final and Binding
Arbitration Between

DANE COUNTY

and

DANE COUNTY ATTORNEY'S ASSOCIATION

I. HEARING. A hearing on the above entitled matter was held at the City County Building, 210 Monona Avenue, Madison, Wisconsin, on April 19, 1978.

II. APPEARANCES.

For the Dane County Attorney's Association:

- DANIEL MOESER, Esq.
- JOHN R. BURR, Esq.
- C. S. SPENCER, Esq.
- STUART A. SCHWARTZ, Esq.

For Dane County:

MULCAHY & WHERRY, S.C. by JOHN T. COUGHLIN, Esq.

III. NATURE OF PROCEEDINGS. This is a matter in final and binding final offer arbitration between Dane County, Wisconsin, and the Dane County Attorney's Association. The proceedings is the result of a voluntary arrangement between the parties to follow the procedure for final and binding final offer arbitration under the criteria set forth in Section 111.70 (4) (cm) 7 of the Wisconsin Statutes and to go immediately to arbitration rather than to attempt mediation first. The parties petitioned the WERC for mediation-arbitration pursuant to the Statutes, Section 111.70 on December 22, 1978, but waived investigation and mediation.

IV. THE FINAL OFFERS.

A. THE ASSOCIATION'S FINAL OFFER.

"The following is the Dane County Attorneys Association's final offer concerning negotiations for the 1979 contract:

"I. That wages be increased by 6.50 percent per annum (Art. VIII).

"II. That the vacation schedule be modified to provide as follows (Art. XI).

- 1-5 yrs. - - - - - 80 hours
- 6-10 yrs. - - - - - -120 hours
- 11-14 yrs. - - - - - -136 hours
- 15-20 yrs. - - - - - -160 hours
- 21 yrs. and up - - - - - -200 hours

"III. Upon recommendation of the department head, employee concurrence and concurrence by the Dane County Personnel Committee, not more than three full-time positions shall be opened to job sharing, on either a 60/40 or 50/50 time basis.

"IV. That for job-shared positions:

- "a). Salary increases for shared positions shall be based on the total time served by the individual employee rather than on longevity credits.
- "b). Employees sharing such position shall receive prorated sick leave, holiday, and vacation based upon the total number of hours worked by each individual.
- "c). State Bar dues for each employee in such position shall be paid in full by Dane County.
- "d). Full health insurance benefits equal to those of full-time employees shall be paid by Dane County for each employee in a job-shared position.
- "e). In the event one individual holding a job-shared position ceases to be employed by Dane County, the other individual holding such position shall be retained and the vacancy shall be filled through normal Civil Service procedures."

B. THE COUNTY'S FINAL OFFER.

"The Employer's final offer for the Arbitrator is as follows:

- "1. No Strike Agreement, pursuant to the Union's counter-proposal (see Exhibit 'A' attached hereto).
- "2. Seven per cent (7%) wage offer, plus roll-ups (.4%), equaling a 7.4% total package offer.
- "3. All other Employer proposals are hereby dropped.
- "4. This is a package proposal and must be accepted in toto.

"EXHIBIT 'A'

"Create a new Article:

"ARTICLE _____
"No Strike Agreement

- "A. Strike Prohibited: Neither the Association nor any of its officers, agents or County employes will instigate, promote, encourage, sponsor, engage in any strike, picketing, slowdowns, concerted work stoppage or any other intentional interruption of work during the term of this Agreement and until a successor Agreement is ratified by both parties.
- "B. Association Action: Upon notification by the County to the Association that certain of its members are engaged in a violation of this provision, the Association shall immediately in writing order such members to return to work, provide the County with a copy of such an order, and a responsible official of the Association shall publicly order them to return to work. In the event that a strike or other violation not authorized by the Association occurs, the Association agrees to take all reasonable, effective and affirmative action to secure the members' return to work as promptly as possible. Failure of the Association to issue the orders and take the action required herein shall be considered in determining whether or not the Association caused or authorized the strike.
- "C. Penalties: Any or all of the employes who violated any of the provisions of the section may be discharged or disciplined by the County, including loss of compensation, vacation benefits and holiday pay. In any arbitration proceeding involving breach of this provision, the sole question for the Arbitrator to determine is whether the employe engaged in the prohibited activity.
- The County and Association agree that the County, at its election, may seek payment of any liquidated damages owed under this provision either in state suit proceedings or through the arbitration procedure set forth herein.
- "D. Nothing in the above agreement shall be construed as a waiver of the right to binding arbitration by the Employer or the Association:"

V. FACTORS TO BE CONSIDERED. Under Section 111.70 (4) (cm) 7, the following text appears:

7. "Factors considered." In making any decision under the arbitration procedures authorized by this subsection, the mediator-arbitrator shall 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 employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services and with other employes generally in the public employment in the same community and in comparable communities and in private employment in the same community and in comparable communities.

e. The average consumer prices for goods and services, commonly known as the cost-of-living.

f. The overall compensation presently received by the municipal employes, 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.

g. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

h. 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.

VI. THE LAWFUL AUTHORITY OF THE EMPLOYER. There is no issue here about the authority of the Employer to meet either offer.

VII. STIPULATION OF THE PARTIES. It is the understanding of the arbitrator that certain provisions contained in the Association offer have been stipulated to. They are the following:

"IV. That for job-shared positions:.....

"b). Employees sharing such position shall receive prorated sick leave, holiday, and vacation based upon the total number of hours worked by each individual.

"c). State Bar dues for each employee in such position shall be paid in full by Dane County.

"e). In the event one individual holding a job-shared position ceases to be employed by Dane County, the other individual holding such position shall be retained and the vacancy shall be filled through normal Civil Service procedures."

VIII. WAGES.

A. Association Offer: That wages be increased by 6.50 percent per annum (Article VIII).

County Offer: Seven percent (7%) wage offer, plus roll-ups (.4%), equaling a 7.4% total package offer.

This proceeding presents a situation in which the Employer is offering more in wages than what the Association is asking. The Employer's offer, however, is tied to a no-strike clause which the Employer wants to insert. The Association made no particular presentation on the issue of wages. However, the arbitrator believes it desirable to consider the wage offers alone as to comparability and as to meeting other guidelines in the statutes.

There are 26 employees in the bargaining unit, of whom 24 are full-time employees and two are half-time, job sharing employees. There are 15 full-time Assistant District Attorneys and two part-time Assistant District Attorneys. The bargaining unit includes Court Commissioners, Assistant Court Commissioners, and a Deputy Register in Probate, among other classifications.

B. EARNING LONGEVITY CREDITS.

In the existing system under the agreement between the parties in Article VII, Section 2, there is a system of longevity, based on earning longevity credits. A portion of this provision is pertinent here, because it is fundamental to the calculation of base wages and other wage increases. Section 2 is in part as follows:

"Section 2. Longevity. All regular full-time and regular part-time employes covered by the terms of this Agreement shall earn longevity credits as follows:

"(a) Regular full-time employes shall receive one half ($\frac{1}{2}$) a longevity credit for each biweekly pay period in which they receive compensation for forty (40) or more hours.

"(b) Regular part-time employes shall receive one half ($\frac{1}{2}$) a longevity credit for each eighty (80) hours of compensated time.

"(c) Longevity pay shall be included in each employe's regular biweekly pay and shall have the effect of increasing the employe's basic pay as hereinafter indicated....."

C. SALARY INCREMENTS - MERIT AND GATE STEPS.

Under the agreement between the parties salaries can be increased by merit and gate steps. How these are applied is best stated in the language of the agreement. The pertinent parts are recited here:

"Section 3. Salary Increments.

"(a) Merit Steps: Employees shall be hired at no less than the first minimum step of their classification and shall be advanced to the second step or the next higher step effective as of the first day of the first biweekly pay period after employe has earned 6.5 longevity credits. For the third through the fifth step of the salary range, employes shall be advanced one step in their classification salary range for each additional thirteen (13) longevity credits earned unless thirty (30) days prior to the merit step date the department head notifies the employe and the Personnel Manager in writing that the increment increase is being denied. The written denial shall give the reason thereof and shall be grievable.....

"(b) Gate Steps: Gate Steps shall be defined as all those steps reached with each thirteen (13) longevity credit increment following the fifth step and continuing through the maximum step of the respective classification salary ranges except as otherwise defined below. Gate step increases shall only be granted to those employes who demonstrate consistent extra effort and consistent quality performance. Thirty (30) days prior to a gate step increase date, notice of such gate step date shall be sent by the Employer to the department head and affected employe. To grant or deny a gate step increase, the department head must take affirmative written action. If a gate step increase is not to be granted, the department head must send written notice of such decision to the affected employe within five (5) days following such decision. If a gate step is denied, it may be granted upon the next thirteen (13) longevity credit increment. A gate step increase denial is not grievable unless it is denied two consecutive times. If an employe grieves a step increase denial after the decision to deny such increase two consecutive times, the grievance procedure specified in Article V of the agreement shall apply; but the burden of proof concerning the consistent extra effort and consistent quality performance gate step criteria shall be on the aggrieved employe."

The merit steps, according to testimony, are usually granted upon showing of attendance as required by the longevity systems. According to testimony, gate step increases are rarely denied.

D. BASE WAGE OFFERS AND COSTS. Employer's Ex. 2 presented information on the proposed offers. The following is an abstraction of this information:

TABLE I

PROPOSED SALARY SCHEDULES AT SELECTED STEPS - 1979

<u>Step C</u>	<u>County Offer</u>	<u>Assn. Offer</u>	<u>\$ Difference/Month</u>
1	1405	1398	7
5	1654	1647	7
10	2014	2004	10
17	2677	2663	14

Emp. Ex. 4 asserted that the average wages for 25 bargaining unit employees in 1978 was \$23,745. The County offer for 1979 would result in an average wage of \$25,407, while the Association offer would result in an average wage of \$25,288, or an average of \$119 less.

Emp. Ex. 7 was an exhibit on the value of the merit/gate step. The following is abstracted from this exhibit:

TABLE II
MERIT/GATE STEP VALUE AT SELECTED STEPS
COUNTY OFFER, 1979

Step	Monthly Salary	Increase	
		\$	%
1	1405		
2	1463	58	4.1
5	1654	64	4.0
6	1724	70	4.0
12	2177	83	4.0
17	2677	115	4.5

E. COMPARISONS WITH ATTORNEYS IN OTHER COUNTIES. The Employer presented a number of exhibits about Assistant District Attorneys employed in other counties. It used 17 counties for comparison, most of them in the southern or east central portion of Wisconsin. The County also used the City of Madison and the State of Wisconsin. The list included as to counties: Milwaukee, Dane, Waukesha, Racine, Brown, Winnebago, Rock, Kenosha, Marathon, Sheboygan, LaCrosse, Dodge, Jefferson, Columbia, Sauk, Green and Iowa. They ranged in population in 1979 from 961,000 to 20,000. Seven counties, Rock, Dodge, Jefferson, Columbia, Sauk, Green, and Iowa, are contiguous to Dane County. Emp. Ex. 11 showed monthly increases and percent increases. The following table is derived from these two exhibits and includes only the eight highest paying counties or employers.

TABLE III
1979 MONTHLY SALARIES, ASSISTANT DISTRICT ATTORNEYS
AND AVERAGE DOLLAR AND PERCENT INCREASES

Employer	Minimum	Maximum	Aver. Incr. \$	Aver. Incr. %
State of Wisconsin	1396	3570		
Milwaukee	1400	2808	82	7.0
Dane (County Offer)	1405	2677	139	7.0
Dane (Assn. Offer)	1398	2663	74	6.5
Madison City (Asst. City Atty.)	1470	2556		6.0
Racine	1384	2321		7.0
Waukesha	1491	1985	110	6.0
Sheboygan	1517	1937	100	7.0
LaCrosse	1186	1864		7.5
Winnebago	1383	1778		6.67
Brown	1222	1685	95	7.0
Marathon	1267	1660		7.0

F. COMPARISON WITH PUBLIC ATTORNEYS IN DANE COUNTY ON BASE PAY. Emp. Ex. 14 deals with compensation for an attorney in the bargaining unit with five years experience as compared to one in the City of Madison and one in the State of Wisconsin with similar experience with the following results indicated as far as base wages are concerned:

TABLE IV

BASE WAGE FOR ATTORNEYS WITH FIVE YEARS EXPERIENCE

Asst. D. A., Dane Co. Offer	\$25,465
Madison, C. A.	21,624
State of Wis. Atty.	26,200

G. COMPARISON ON TOTAL COMPENSATION. Emp. Ex. 14 listed total compensation offered Assistant District Attorneys under its offer with Madison City Attorneys and State of Wisconsin Attorneys, each with five years experience. The results listed were as follows:

TABLE V

TOTAL COMPENSATION FOR ATTORNEYS WITH FIVE YEARS EXPERIENCE
INCLUDING ESTIMATED VALUE OF PAID HOLIDAYS AND VACATIONS

Asst. D. A., Dane Co. Offer	\$35,046
Madison Asst. C. A.	29,332
State of Wis. Atty.	34,176

In this exhibit the Employer, however, included as cost the value of paid holidays and paid vacations which are not necessarily an additional out-of-pocket expense to the Employer. Deducting these items produces the following results:

TABLE VI

TOTAL COMPENSATION FOR ATTORNEYS WITH FIVE YEARS EXPERIENCE
NOT INCLUDING ESTIMATED VALUE OF PAID HOLIDAYS AND VACATIONS

Asst. D. A., Dane Co. Offer	\$32,620
Madison Asst. C. A.	27,486
State of Wis. Atty.	32,510

A change in starting wage schedule for Assistant District Attorneys will bring the five year wage total to about \$18,000 to \$19,000.

H. TOTAL COST OF OFFERS. In considering wages, it is useful at this time to mention total costs of the offers including fringe benefits. There are other matters involved in the offers than base wages, which would

TABLE VII

TOTAL IMPACT COST OF OFFERS - ANNUAL

	1978 Base Year	County Offer	Union Offer
Wages	\$23,745	\$25,407	\$25,288
Longevity	584	625	622
Health Insurance (WPS)	941	917	966
Life Insurance	47	50	50
Dental Insurance (Catastrophic)	147	161	170
Disability Insurance (Wage)	67	72	71
Wisconsin Retirement Fund	3,017	3,202	3,187
Social Security	1,070	1,404	1,404
Lost Productivity (Vacation Increase)	1,024	1,096	1,197
TOTAL	\$30,642	\$32,934	\$32,955
INCREASE \$		2,292	2,313
INCREASE %		7.480%	7.548%

Emp. Ex. 5 listed costs resulting in a total impact of the County and Association offer on a first year employee. Again because of the requests on health insurance and other subtle differences, it is best to give the exhibit here in full:

TABLE VIII

TOTAL IMPACT OF COST OFFERS

Year 1 of Employment	COUNTY OFFER		ATTORNEY ASSOC OFFER	
	1 Full Time Asst. D.A.	2 Job Sharing Asst. D. A.	1 Full Time Asst. D. A.	2 Job Sharing Asst. D. A.
Wages	\$17,217	\$16,940	\$17,133	\$17,134
Longevity	0	0	0	0
Merit	0	0	0	0
CLE Paid	*	*	*	*
State Bar Dues	23	46	23	46
\$Value Paid Holidays	700	680	696	696
\$Value Paid Vacation	673	646	670	656
Social Security	1,055	1,038	1,050	1,050
Retirement	2,118	2,084	2,107	2,107
Health Insurance	1,233	1,233	1,233	2,466
Life Insurance	7	7	7	7
Dental Insurance	215	215	215	430
Disability Insurance	Unknown	Unknown	Unknown	Unknown
TOTALS	\$23,228	\$22,889	\$23,120	\$23,918

*course payment for required Continuing Legal Education (CLE) approved by management

I. COMPARISON WITH OTHER DANE COUNTY EMPLOYEES. Emp. Ex. 12 gave some information on offers by the County to other groups of employees. The following table gives this information:

TABLE IX
OFFERS AND SETTLEMENTS FOR DANE COUNTY EMPLOYEES

Employees	Aver. Inc. \$	Aver. Inc. %
Asst. D. A. (County Offer)	139	7.0
(Assn. Offer)	129	6.5
Law Enforcement - Supervisory	104	7.0
Joint Council	65	6.73
Law Enforcement - Non-Supervisory	74	6.25
Local 65	Not Settled	
Social Workers	Nego. not Commenced	

J. COMPARISON ON LONGEVITY PAYMENT. Emp. Ex. 15 was a chart of monthly longevity payments for various years of service in the list of comparable employers provided by the County. In Dane County employees get a 3% longevity payment after the 5th year, 6% after the 10th year, 8% after the 14th year, 9% after the 16th year, 10% after the 18th year, and 11% after the 20th year. The City of Madison has the same kind of longevity payment, but no other employer approaches this level, and ten counties have no longevity payments whatsoever.

K. COMPARISON OF VACATION. In this matter Dane County is holding to a vacation plan of 10 days for 1 to 6 years of service, 15 days for 7 through 14 years of service, 20 days for 15 through 21 years, and 25 days thereafter. The Association is proposing 10 days vacation for 1 to 5 years of service, 15 days for 6 to 10 years of service, 17 days for 11 to 14 years, 20 days for 15 through 20 years, and 25 days for 21 or more years of service. This plan is one of six in the State that produces 5 weeks of vacation. Out of 20 plans listed, the Dane County proposal is one of six with benefits as high as five weeks vacation.

L. INSURANCES. Dane County offers to pay 100% of employees share of the retirement fund, 24% of life insurance, gives coverage in life insurance equal to about the employee's salary, provides 100% single and 94% family health insurance, and pays 100% dental insurance for the single plan and 94% for the family plan.

M. CHANGE IN THE COST OF LIVING. Emp. Ex. 6 dealt with increases in the consumer price index and negotiated wage increases. The following table contains this information:

TABLE X

INCREASES IN CONSUMER PRICE INDEX
vs. NEGOTIATED WAGE INCREASES

1974 - 1979

<u>Month</u>	<u>Salary & Longevity*</u>	<u>U.S. City Average Consumer Price Index</u>
January - 1974	12.8 %	9.4%
January - 1975	6.78	11.7
January - 1976	5.5	6.8
January - 1977	5.5	5.2
January - 1978	6.0	6.6
January - 1979	7.0	9.5

*does not include merit/gate increases

N. THE ASSOCIATION'S POSITION. The Association believes, that even though certain exhibits such as Employer Exhibits 4 and 5 were presented, they are not favorable to the County. Although Emp. Ex. 4 purports to show that the Association offer is \$21.00 higher than the County, yet this figure was the result of the County costing out lost productivity for the vacation increase by taking the average employee for the average wage, when this is not the way it would be applied. The Association also points out that as to the cost factors of life, dental and disability insurance, these are optional with employees and not all members take these particular forms of insurance.

The Association also says that vacation should not be costed out as lost productivity, because when someone is gone on vacation, the other employees cover the workload. If the figure of lost productivity is subtracted from the costs, the Association offer is \$80 less in total cost than the Dane County offer.

The Association says that as to Emp. Ex. 5 (Table VIII), the Association points out that there is but one job-shared position in the Association at this point and 23 of the 24 positions are full-time positions. Under the Association's final offer, the Employer can refuse to engage in job-sharing totally if the Employer thinks it is too expensive and that it will cost the Employer too much.

Also in Emp. Ex. 5, the Association offer is shown to be \$108 less for each full-time attorney than the County offer. The cost for the two job-sharing positions is shown to be \$1,029 higher. The result then in total cost would be to multiply 23 times \$108 (representing the lower costs for 23 employees) and subtract the cost of \$1,029 for the job-sharing employees, and the result would be that under the Association offer, the total cost would be approximately \$1,300 (actually \$1,355) less.

The Association therefore believes that its offer results in a lower total cost than does the Employer's offer.

O. THE COUNTY'S POSITION. The County notes that it has selected an appropriate list for comparison in a composition of contiguous counties and the ten largest counties in the state. However it also says that it affords the most weight to comparison with the State of Wisconsin and the City of Madison due to the historical use of these groups in the bargaining process between the parties, and further there is a concentrated labor market for attorneys among these public employers.

The County also says it selected for comparison, but particularly as to fringe benefits, other employees in its own employ.

The County holds that its offer on wages is more reasonable than the Association offer in light of the comparisons it made in its exhibits. The County says that almost everyone gets a merit step increase or a gate step increase, and when these are added to the base rate increase, the County offer is approximately 11% as compared to 10.5% for the Association. Dane County Assistant District Attorneys have the third highest maximum salary among the comparable counties and are very competitive. Also other counties are not likely to have the various other categories of employees in the bargaining unit so as to make a comparison with Court Commissioners and so on.

On the matter of wages alone, the County's offer ranks among the highest in percent increase and affords the highest dollar increase. The position of the Association erodes the overall competitive posture of the attorneys in the long run. The County also says that it is critical to maintain a competitive posture for the attorneys with respect to other management employees, and the County offer does this. The Association offer to trade a lower wage increase for fringe benefits which exceed the County's pattern is inappropriate.

The County says its offer is more reasonable when considered in light of total compensation afforded other public agency attorneys in Dane County and in Wisconsin. The County, for example, with the City of Madison, affords the most lucrative longevity payments for County attorneys and state attorneys. The County asserts that its employees enjoy the fourth highest level for holidays, and has a very competitive position for vacation, pays a high level for insurances, and pays for dental insurance when eight other employers of the 18 comparable counties pay no dental insurance whatsoever.

For total compensation, the Assistant District Attorneys would receive the highest compensation of all Dane County public attorneys when one considers the full range of benefits as shown in Emp. Ex. 14 (See Tables IV, V, VI). Further the County pays for continuing legal education and pays disability insurance.

P. DISCUSSION. The matter here is a curious one with the County arguing why it should pay more in base wages and why it should continue a higher total compensation cost than what the Association is asking for.

The wage offers of the parties must be recognized as part of a package in which some other important elements are involved. The County has tied its higher wage offer to an important type of no-strike clause; and the Association has tied its lesser wage offer to getting more vacation, limiting the number of job sharing positions, and improving the compensation of the job sharing positions already in existence. Although the wage offers are therefore tied to some much desired items, nevertheless it is necessary to analyze the wage offers of themselves.

Upon review of the documentation and data, the arbitrator makes the following findings:

1. In base wage offer at 7% the County more nearly meets the rise in CPI and what its most comparable governmental units are offering (Table X, Table III). Both offers in total compensation with merit and gate steps included, exceed the rise in the CPI for 1978-79.

2. In total compensation, when the merit and gate step increases and fringe benefits are included, the Dane County total compensation exceeds comparable units, and the lesser package of the Association is more comparable to other total benefits (Tables IV, V, VI).

3. The defense on the basic wage and total compensation of the County is that the attorneys must be considered in the same competitive position internally with other management officials and supervisory officials in the County employ (Table IX). The arbitrator holds that this is a valid argument and therefore concludes that on the basis of comparability, the County's offer more nearly meets the statutory guidelines.

IX. VACATION SCHEDULE.

A. OFFERS AND EXHIBITS.

Association Offer: That the vacation schedule be modified to provide as follows (Article XI).

1-5 yrs.	80 hours
6-10 yrs.	120 hours
11-14 yrs.	136 hours
15-20 yrs.	160 hours
21 yrs. and up	200 hours

County Offer: (approximately as per Article XI).

1-6 yrs.	80 hours
6-14 yrs.	120 hours
15-22 yrs.	160 hours
23 yrs. and after	200 hours

Emp. Ex. 17, noted earlier, provides information on 18 units outside of Dane County and one unit inside, as well as the Association and County offers on the subject of vacation. Eight units offer more than ten days by the 6th year, and of these, six have 15 days vacation at that time. Ten offer more than 15 days by the 14th year, but of these only two offer 20 days. However, at the 15th year, only one of seven units offers 20 days vacation. At 21 years, nine units offer more than 20 days. At 22 years, Dane becomes one of six units offering 25 or more days. At the 26th year, it is one of nine units offering 25 or more days vacation. The attorneys have a schedule like the police schedule, and this schedule is superior in vacation offering to other Dane County employees in that it affords a vacation of 15 days one year earlier than other employees get it, and it affords a 25 day vacation one year earlier than other employees get it.

Association Exhibit 6 was a copy of a report by Fact Finder Krinsky dated August 16, 1976, in which he recommended improvement in the County vacation plan (which is the current plan the County is supporting), and further recommended that the County consider adjustments to the third week of the vacation schedule in subsequent bargaining to bring that benefit more into line with vacations given to employees in other governmental units.

THE ASSOCIATION'S POSITION. The Association says that the Fact Finder determined that the present vacation plan of Dane County as it applies to attorneys is outmoded, and that it needs to be revamped. While the County attempted to compare its vacation plan to the largest counties and populations, the Association's offer is identical to the vacation schedule enjoyed by the attorney's employed by the State of Wisconsin. Considering the unique position that the attorneys hold with the County, their proposal is reasonable and fair.

THE COUNTY'S POSITION. The County says that the proposal for improved vacation benefits is totally unsupported by comparisons with other attorney employee benefits including those in the State and in the City of Madison employment. It also is not comparable with those in other Dane County bargaining units. The County notes that in a 26 year span Dane County employees are sixth in total number of vacation days available to them. In this they exceed the status of Madison Assistant City Attorneys and are equal with the days available to the Assistant Attorney Generals of the State of Wisconsin. Vacation benefits, when combined with paid holiday benefits of 10.5 days, represent one of the highest paid time-off benefits. The County also says that it is desirable to keep a pattern of relative parity among bargaining units in the Dane County area, and cites various arbitration awards to this effect. To adopt the Association position would be pattern setting, and this is not the function of arbitration. In saying that it wanted to meet the salary schedule of the attorneys working for the State, the Association merely selected certain levels and did not make a thorough analysis of total benefits.

DISCUSSION. There is merit in the contention of the Association that there should be some advance in the pattern of the third week of vacation if comparison with the City of Madison and the State of Wisconsin patterns are useful. However against that must be balanced the fact that in the long run, the vacation plan for Dane County Assistant District Attorneys provides a higher cumulative total of vacation hours than does the City of Madison plan, and the Dane County present plan evens itself out with the Wisconsin State attorneys' vacation plan. Also the pattern of comparison with other Dane County employees becomes less parallel under the

Association offer. The long-range benefit of the Assistant District Attorneys under the County offer may not be so weighty, since the number of employees who serve 26 years may not be great; but the weighty matter here is the increasing disparity of benefits that would occur between the attorneys and other Dane County employees under the Association proposal. Already the attorneys, police and management get the third week of vacation and the fifth week of vacation one year before other employees. Under the Association proposal they would get the third week and the fifth week two years before other employees, and also a 17 day span of vacation. This internal pattern of comparability the arbitrator considers most weighty here, and therefore supports the County position as being most comparable under the guidelines.

X. NUMBER OF JOB-SHARED POSITIONS.

A. Association's Offer: Upon recommendation of the department head, employee concurrence and concurrence by the Dane County Personnel Committee, not more than three full-time positions shall be opened to job sharing, on either a 60/40 or 50/50 time basis.

County Offer: No change from present.

B. BACKGROUND. According to Assn. Ex. 3, "Job sharing is generally defined as the division of a full-time position between two or more part-time incumbents. This concept is becoming increasingly popular with employers as a means of effectively meeting certain of their employment needs through tapping a labor market that offers many varied job skills, but which is not available for full-time employment."

On December, 1977, Edward Garvoille, Personnel Manager of Dane County, reported to the Personnel Committee of the Dane County Board that several departments wanted to utilize job sharing. He researched the subject and reported that only certain positions could be used for job sharing, and that the County Board had to approve job sharing activities. He listed the benefits and disadvantages, and stated that job sharing could increase fringe benefit costs especially in health insurance. Among other things, the Personnel Manager said, "In general the experiences of other jurisdictions favorably supports the concept of job sharing, although definite problems have been encountered. As a result of our survey, it appears that job sharing should be a viable alternative to Dane County Departments if the position to be shared is carefully studied and the decision to use this approach has been thoroughly discussed with the Personnel Division to ensure proper planning and processing coordination." (Assn. Ex. 4).

Thereafter the County Board adopted a resolution on December 15, 1977, giving the District Attorney the right to fill one Assistant District Attorney position with two part-time incumbents and authorizing an amendment to the contract between Dane County Attorneys and the County in Article XIV, Section 1 to have the health insurance premiums paid by the Employer on a pro-rata basis with the Employee paying the remainder. (Assn. 3).

The present contract with the same section to be accepted in the new contract has this statement in Article II - Management Rights:

"Section 1. The Association recognizes the prerogatives of the County to operate and manage its affairs in all respects in accordance with its responsibilities and powers or authority which the County has not officially abridged, delegated, or modified by this Agreement and such powers or authority are retained by the County. These management rights include, but are not limited to the following; the rights to plan, direct and control the operation of the work force, determine the size and composition of the work force, to hire, to lay-off, to discipline or discharge for just cause, to establish and enforce reasonable rules of conduct, to introduce new or improved methods of operation, to contract out work, to determine and uniformly enforce minimum standards of performance, all of which shall be in compliance with and subject to the provisions of this Agreement."

It has been noted here earlier that the District Attorney offered two persons a shared position on December 20, 1977. In the hearing the District Attorney, James E. Doyle, Jr., said that the two employees have proved to be good workers. They are supposed to work 20 hours a week but put in between 20 and 25 hours. The District Attorney said he would be in favor of the practice continuing, but that there would be a limitation of probably three full-time positions which could be turned into job shared positions. The District Attorney says he had no bad experiences except that some grievances of the persons holding the job shared positions were denied. The two employees replaced a person of four or five years' experience, and that it was the opinion of the District Attorney that the two employees, when they had accumulated experience, would do an equal if not a better job. The District Attorney said that he believed quite strongly that two people do a better job than one, because more work is done. Women attorneys are particularly in this kind of market (TR. 153-156).

C. THE ASSOCIATION'S POSITION. The Association notes that the testimony and information from Mr. Garvoille, the Personnel Manager, is that job sharing is a unique and worthwhile method of employing individuals and should further be encouraged on all fronts. The County created job sharing positions at their own impetus. All of the 24 positions now filled on a full-time basis in the bargaining unit are technically open to job sharing. The Association is proposing to limit this to three positions, and to limit the split to a 50/50 or 60/40 basis as the only practical method. Because employees and department heads are affected, they should have to agree to a proposal as well as the County Board.

D. THE COUNTY'S POSITION. The County notes that the intent of the Association is to limit proliferation of job sharing within the department. The County says that under Article II, Management Rights, it clearly has the authority to set the number and division of job sharing positions. The County views job sharing within the District Attorney's office as only of limited applicability, even as the District Attorney has stated it in the hearing. The structure of the job sharing program and the nature of duties performed by the bargaining unit members constitute self-limiting mechanisms. The presumption that the County would open all 24 positions to job sharing is untenable, and the record is devoid of evidence of any abuse on job shared positions. The Association offer overreaches the bounds of collective bargaining and infringes on the rights of management which are inherently and contractually the sole province of the County.

E. DISCUSSION. The essence of the Association position is to limit the authority of management to determine the number and kind of staff to carry out duties. The authority to determine the number and kinds of personnel to carry out the functions of management is generally an important management right, which is also generally not subject to limitation.

However, in this matter, the authority of the Employer to engage in job sharing constitutes something of a threat to job security of full-time employees. The issue comes to whether there is a need to restrict management in its customary rights to determine the number and kinds of personnel to carry out the work. The arbitrator believes that a case has not been made by the Association to restrict the customary right of management to determine the number and kinds of personnel to carry out the work, and believes that the position of management is more reasonable on this issue.

XI. SALARY INCREASES FOR JOB-SHARED POSITIONS.

A. OFFERS. Association's Offer: IV. That for job-shared positions:

a) Salary increases for shared positions shall be based on total time served by the individual employee rather than on longevity credits.

County's Offer: No change.

B. BACKGROUND. Two persons holding job-sharing positions in the District Attorney's office, grieved that they were not getting a merit step increase after they had jointly accumulated 6.5 longevity credits.

The grievants at the time of their hire had been told that each would be paid 50% of the salary of an Assistant District Attorney and each would enjoy the benefits attached to the positions on a prorated (50/50) basis. This included the premium on health insurance. The County denied the grievance on the grounds that the contract language clearly did not provide for the relief requested by the grievants. The immediate supervisor of the grievants, however, agreed with their position, and so did the District Attorney. The District Attorney in an affidavit stated that if he discussed salary matters with the employees, he probably advised the grievants they would get a salary increase after the six months probationary period. The arbitrator held that the language of the contract with respect to longevity was not changed between the parties and that it had specific provisions for part-time employees, and that the language of the contract did not authorize the payment of an increment when two part-time employees earned 6.5 longevity credits as a sum of their credits (Emp. Ex. 8).

Emp. Ex. 21 was a listing of 1979 Salary Progression Provisions, Part-time Employes, in Wisconsin governmental units. The units included 17 counties, the City of Madison, and the State of Wisconsin. In seven counties part-time or job sharing employees received no scheduled step increase. In two units of government, such employees received a prorated step increase at the normal time. In Dane County and three other units any part-time or job sharing employees received the normal step increase at the prorated time. In five units of government, part-time or job sharing employees receive normal step increases at the normal time. Two other units each had a unique plan which is not described here.

C. THE ASSOCIATION'S POSITION. The Association says that it was not the intent of Dane County when they implemented job sharing to create a situation in which the County would benefit financially from having two people in a position as opposed to one, as they do in this case, because raises are tied to the earning of longevity credits. Thus two persons in a job sharing position can earn a raise only after one year, whereas one person in the position can get the raise after six months.

D. THE COUNTY'S POSITION. The County says that the Association offer is not warranted for several reasons. The first is that longevity credits measure time in service and hence the employee's actual experiences on the job. The purpose and structure of the salary structure are to provide increases in terms of merit and job performance. Job performance is tied to professional experience on the job. The testimony of the District Attorney supported the concept of the need to spend time on the job. The record is silent as to why job sharers should get a benefit of an increment after only 50% of the experience of a full-time employee.

The County also holds that all other employees working half-time would wait a full year rather than a half-year for the first merit step. The testimony of the Senior Payroll Accountant for the County says that the job sharing attorneys would have to be removed from the computer program and handled manually. This is an administrative burden which the County objects to.

The County also argues that under its Exhibit 21, only five employers of 20 governmental units surveyed afford part-time employees normal job progression or step increases at a time concomitant with that of full-time employees. Some receive no increase, and some receive some type of prorata increase.

Thus the Association has failed to show a comparative and practical reason why its demand for an accelerated salary increase should obtain.

E. DISCUSSION. On the basis of comparative conditions both within Dane County and other counties, the County's position is most comparable to others in the prevailing practice. However, the arbitrator notes that according to the account of the grievance given in Emp. Ex. 8, the employees were hired by the District Attorney with the indication that they would get a raise at the end of a six month probationary period. The arbitrator feels that even though another arbitrator held that the agreement did not allow such a provision, yet the County was bound by the promise of its Agent, the District Attorney as hiring agent, and that at this time his commitment should be recognized. The arbitrator holds that the Association offer in this case is more reasonable despite lack of comparability. The arbitrator also believes that accounting problems in administering a just solution should not bar the application of that solution.

XII. FULL HEALTH INSURANCE BENEFITS FOR EACH JOB SHARING EMPLOYEE.

A. OFFERS. Association Offer: IV. That for job-shared positions:.....

Full health insurance benefits equal to those of full-time employees shall be paid by Dane County for each employee in a job-shared position.

County Offer: No change from present practice.

B. BACKGROUND. At the present time, the two persons in job sharing positions as Assistant District Attorneys are expected to pay a prorata portion toward full health insurance coverage. The County pays or will pay 50% for individual health insurance, and 47% for the premium for family coverage (since the County only pays 94% of family coverage for a full-time Assistant) (Assn. 5). The health insurance benefits paid by the County are shown in this chart derived from Emp. Ex. 3.

TABLE XI

FULL-TIME TO PART-TIME (JOB SHARERS)
DANE COUNTY ATTORNEY
HEALTH INSURANCE PREMIUM COST SHARE COMPARISONS

Health Insurance

Full-Time Attorneys - County pays 94% of Family Coverage
100% of Single Coverage

<u>Total Premium</u>	<u>County Cost</u>	<u>Employee Cost</u>
\$109.88	\$102.76	\$ 7.12
38.69	38.69	-
19.10	17.90	1.20
7.10	7.10	-

Part-Time Job Shared Attorneys - County pays 47% of Family Coverage
50% of Single Coverage

<u>Total Premium</u>	<u>County Cost</u>	<u>Employee Cost</u>
\$109.88	\$ 51.38	\$58.50
38.69	19.34	19.35
19.10	8.95	10.15
7.10	3.55	3.55

The County claims, according to its Emp. Ex. 5, that the cost for health insurance for one full-time attorney would be \$1,233 for health insurance, but for two job sharing attorneys each getting full coverage, the cost would be \$2,466.

Emp. Ex. 23 lists the following benefits offered by Dane County: health insurance, life insurance, dental insurance, disability insurance, vacation, sick leave and holidays. At present Dane County non-represented employees who work part-time or share jobs get all of these benefits on a prorata basis. The job sharing Dane County Assistant District Attorneys also get these benefits on a prorata basis. All other 50% part-time or job sharing Dane County employees in bargaining units get all of the listed benefits on a prorata basis, except that they get health insurance and dental insurance paid in full.

In Emp. Ex. 23 in a list of 16 other units of government, mostly counties, but including the State of Wisconsin, the City of Madison and the Madison public schools, ten units of government prorated health insurance for job sharing and part-time employees, and six gave full insurance benefits.

The Dane County group of employees who are part-time and who get full health and dental insurance amount to 40 employees who work half-time or more. They are part of a total work force of 1650 permanent budgeted positions (TR. 126).

The County created job shared positions in the Clerk I-II classification in the office of Corporation Counsel, with division of time worked being either on a 50/50 or 60/40 basis at the direction of the Corporation Counsel. All fringe benefits were to be given in proportion of hours worked, and merit step increases on the basis of the accumulation of longevity increases. This proposal was adopted March 1, 1979 (Emp. Ex. 24).

C. THE ASSOCIATION'S POSITION. The Association says that all Dane County employees who worked at least 50% of the time received full benefits. Only the two attorneys in the job sharing position did not so enjoy the benefits. The result is inequitable and unfair.

D. THE COUNTY'S POSITION. The County notes that it had expressed a concern in evaluating the job sharing concept that the use of it could cause additional costs in benefits. The County therefore passed a resolution to amend the current contract with the attorneys to provide that there should be no additional benefit costs (Assn. 3). It followed this concept in setting up job sharing positions in the Corporation Counsel's office (Emp. Ex. 24).

The County says that under its offer, two job sharing employees in the first year would receive slightly less than what one full-time employee would receive, because of the fact that the one full-time employee would get an increment, but the combined cost of health, life, and dental insurance for the two part-time employees would be the same as for one employee. Also the State pays full legal education and State Bar dues for both employees. Under the Association offer, the cost for the two employees would be \$798 more or 3.5% in excess of the cost of a full-time employee. Under the County's offer, the County would pay \$339 less or 1.46% less for the two job sharing employees. This varies less from the norm than does the Association offer.

The County says that the Association has not proved any quantitative benefit accruing to the County from job sharing. Rather the employee gets the benefit.

The County argues that its Ex. 20 shows that data on public and private employers does not support the Association claim. Further no private sector employers engage in job sharing, but only in part-time employment, and of these only two afford full health coverage; only one affords dental coverage and seven do not; and only two afford prorata disability insurance, while six furnish no such insurance.

The sole argument of the Association is that a minuscule part of the County work force, 40 employees who work half-time or more, get such coverage. It is inappropriate to compare the job-sharing Assistant District Attorneys with these other employees, because the other employees have a part-time status at the Employer's convenience and had these benefits from a time when job sharing was not a concern. Job sharing, however, was created as a benefit to the employee, and the County had no intention of embarking on it if it required an additional cost. The parties agreed in the contract to a prorata benefit cost.

The County also contends that the Association offer oversteps the bounds of benefits afforded other part-time employees, because its offer demands that a job sharer get full insurance benefits regardless of hours worked. No other employees have this benefit.

The County contends that in the hearing the Association attempted to amend its offer, by specifying that it meant that only employees working 50% or more of the time would get full benefits, and the Association proposed an amendment to this effect (TR. 157-159). The County says it did not agree to a proposed amendment on this issue, and that the parties may not unilaterally amend their offer following certification. Further an arbitrator may not impose an interpretation which exceeds the scope of the offer on its face. An arbitrator is constrained under court rulings to make a complete and final determination. This may include his restatement of an offer so as to produce a proper final award. However in this case, there is no ambiguity in the offer of the Association, and therefore it is not within the powers of the arbitrator to alter it.

One Wisconsin arbitrator has said that an offer ambiguous on its face may be interpreted according to the clear intent of the party proposing it. However in this case the Association offer is clear and unambiguous, and the arbitrator therefore is not allowed unilaterally to alter it.

E. DISCUSSION. A threshold issue here is whether the arbitrator can in effect modify the language of the Association offer by holding the offer to mean that full health insurance benefits are to be limited to **half-time** job sharing employees. The arbitrator is of the opinion that the language of the offer must stand as it is, and as it stands it admits the interpretation put on it by the County, namely that any job sharing employee, whatever fraction of time the employee works, would qualify for full health insurance.

The question then arises, is this such a gross defect as to call for the immediate rejection of this particular offer, and also the entire offer of the Association of which this is an inseparable part? The arbitrator holds that the offer is not so defective in itself as to call for the denial of the specific offer or the entire offer of the Association. The reason for this opinion is that the offer with its language does not expose the Employer to any division of a job shared position which the Employer does not want for a financial reason. The positions are divided by ordinance, the creation of which is the sole function of the Employer.

The matter then comes to the essence of the proposal which is that the two job sharing positions are to have full health insurances as enjoyed by regular employees and 40 more than 50% part-time employees. The arbitrator is of the opinion that on the basis of comparability with other part-time employees, the two job sharing Assistant District Attorneys should have full health insurance. The arbitrator believes that the merits of this comparison outweigh the merits of the County's valid contention that there will be an adverse impact on the County, and further that the increased cost of job sharing may discourage the County from further use of this type of employment method.

The arbitrator holds then that the Association offer here more nearly conforms to the guidelines of comparability with other employees in the same employing unit, namely Dane County.

In making such a judgment the arbitrator has not given a great deal of weight to Emp. Ex. 20, which lists some governmental units, widely scattered across the nation, and some Madison area private employers, as to what their practices are with part-time employees. This evidence has a remote quality which does not make it particularly material here.

XIII. NO STRIKE CLAUSE.

A. THE OFFERS. The County is offering a no strike clause, which has been recited in specific detail earlier. The Association opposes such a clause.

B. BACKGROUND. Emp. Ex. 22 deals with the presence of no strike clauses in the area around Dane County. The following is a summary of this exhibit's listing of no strike clauses:

TABLE XII

NO STRIKE CLAUSES IN CONTRACT

1. Dane County Joint Council of Unions
2. Dane County, Local 65
3. Dane County, Teamsters Local 695, Non-Supervisory Law Enforcement
4. Dane County, Social Workers
5. Dane County, W.P.P.A., Supervisory Law Enforcement
6. Dane County, Special Education Association (1976-1978)
7. Kenosha County, Assistant Attorneys Association
8. Wisconsin State Attorneys Association
9. AFSCME Council 24, State of Wisconsin, Clerical and Related Employees
10. AFSCME Council 24, State of Wisconsin, Blue Collar and Building Trades, Security and Public Safety, Technical Employees
11. State of Wisconsin, Nurses Association.
12. State of Wisconsin, Wisconsin Association of Science Professionals
13. State of Wisconsin, Wisconsin Federation of Teachers
14. State of Wisconsin, State Engineering Association
15. Madison Nurses Association
16. Madison Firefighters Local 311

17. Association of Madison Fire Supervisors
18. Madison Professional Police Officers Association
19. Association of Madison Police Supervisors
20. Madison Metropolitan Sewerage District
21. Madison Teachers
22. Madison Schools, Supportive Educational Employees (Technical)
23. Madison Schools, Local 60, Custodial and Maintenance Employees
24. Madison Schools Local 60, Food Service Employees

According to an Employer witness, there were two public employee unions in the Dane County area that did not have no strike clauses in their agreements.

C. THE ASSOCIATION'S POSITION. The Association is opposed to the inclusion of the no strike provision, in the opinion of the arbitrator, but it offered no argument or evidence on it.

D. THE COUNTY'S POSITION. The County says that its proposal for a no strike clause is supported by comparisons with the agreements of all other Dane County bargaining units and the Kenosha Attorneys' no strike agreement. All other units in Dane County contain no strike agreements. Other public employers like the State and municipal employers in the Dane County area also have such a clause in their agreements. The preponderance of evidence supports the County's position on the inclusion of the clause.

The record is devoid of any reasonable objection to the content of the clause, and the Association did not raise any credible objection or introduce any evidence why the clause should not be included. The clause merely defines the kind of strike activity that is unacceptable, requires the Association to take responsibility for those activities, grants penalties and grants binding arbitration. The employees are officers of the court, and it is highly unlikely that strike activity outside of that contemplated in Section 111.70 should be necessary in the normal course of the bargaining process.

E. DISCUSSION. Emp. Ex. 22 gives clear evidence that in the agreements between the public employers and public employee unions there is some kind of a no strike provision. Thus a strong argument can be made for the inclusion of the no strike clause in the agreement between the parties here. However, an unusual feature included in the County's proposed clause in this matter raises a critical question on the issue of the comparability of the proposed clause. The proposed clause has the following words in it:

"A. Strike Prohibited: Neither the Association nor any of its officers, agents or County employees will instigate, promote, encourage, sponsor, engage in any strike, picketing, slowdowns, concerted work stoppage or any other intentional interruption of work during the term of this Agreement and until a successor Agreement is ratified by both parties."

The clause, "...and until a successor Agreement is ratified by both parties", is unique among the no strike clauses listed by the County as comparable. All of the clauses listed either expressly state or else imply that the no strike provision is only for the duration of the agreement. The introduction of a clause binding one of the parties beyond the duration of the agreement is innovative, and militates against the acceptance of the Dane County proposal in this issue as being not comparable.

It is to be noted that the County has included the paragraph:

"D. Nothing in the above agreement shall be construed as a waiver of the right to binding arbitration by the Employer or the Association."

Under this clause, the Association, though still bound after the conclusion of the proposed Agreement, could exercise its right to arbitration under Section 111.70, but not to the permissive strike feature of Section 111.70.

The argument of the County is that members of the Association, being attorneys and officers of the court, should have little cause to want to strike, and this argument is reasonable enough. However, it does not erase the highly innovative feature of restricting the conduct of one of the parties after the Agreement is otherwise terminated. The arbitrator here is therefore constrained to rule that the proposal of the County for a no strike clause does not meet the test of comparability and therefore ought not be included in the Agreement between the parties.

In making this judgment, the arbitrator is not judging the strike or no strike principle. This principle is on the order of another principle encountered in arbitration: fair share or no fair share. Both deal with issues on which there has been much strongly divided opinion. Whether such matters should become subjects for arbitration, is a prerogative of the Legislature and higher tribunals. Since both principles are subject to arbitration, this arbitrator is of the opinion that proposals involving these principles must be judged on the basis of comparability with other similar clauses, preferably voluntarily agreed to. In this case, the arbitrator finds the County offer not comparable because of the duration feature.

XIV. CHANGES DURING THE PENDENCY OF THE PROCEEDINGS. The consumer price index continues to rise. This is a factor favoring the County's offer.

XV. SUMMARY. The following constitutes a summary of the foregoing weighing of the statutory factors, as applied to the offers of the parties:

1. Base Wages. The County's offer is higher, and places the Assistant District Attorneys among the highest paid in the State, comparable to the position of attorneys for the State of Wisconsin. The percentage increase in basic wages is comparable to the percentage increases offered supervisory employees in the County. The Association offer on base wages is low for the comparable categories. The County offer therefore more nearly meets the guideline of comparability on this item.

2. Total Compensation. The County cost in total compensation is higher than the Association offer. Both exceed the rise in the cost of living because of the feature of merit and gate steps. Though the lesser Association offer more nearly meets the standard of comparability with other units of government, yet the internal situation in Dane County among management officials makes the County offer more reasonable.

3. Cost of Living. Though both offers exceed in total compensation the change in the Consumer Price Index in 1977-78, the continuing rise favors the County's offer.

4. Vacation Schedule. The County's offer on vacation schedules is more comparable to the internal situation of vacation schedules within Dane County, and therefore more reasonable.

5. Limiting Job Sharing Positions. A case has not been made by the Association that the threat to full-time bargaining unit employees is sufficient to limit the customary right to management to determine staffing.

6. Salary Increases for Job Shared Positions. Though the County's position is more comparable to the prevailing practice on increases in job shared positions, yet the evidence is that the job sharing employees were hired by a County official on the basis that they would get an increment at the end of six months. The arbitrator believes that in the interests of equity, the Association offer is more reasonable on this issue.

7. Full Health Insurance Benefits. Though the Association offer on full health insurance benefits for job sharing employees has an omission in language which would permit any job sharing employee working less than half time to get full insurance benefits, yet the arbitrator does not find this a fatal defect, since the County controls the amount of time a job sharing employee will work. On the basis of comparability with other part-time employees in Dane County, the Association offer more nearly conforms to the guideline of comparability.

8. No Strike Clause. While no strike clauses are common in agreements between public employers and public employees in Dane County, yet the County offer contains a feature of binding the Association after the agreement has otherwise expired. The arbitrator finds this so unique as to believe that the standard of comparability has not been met, and therefore the Association position of not including the clause should prevail.

9. Conclusion. Of the issues above, the arbitrator is of the opinion that the matters of total compensation and of the no strike clause are most important in weight by some margin. Of these two, the important feature in the County's no strike clause of binding one party after the rest of the agreement is terminated is so unique and lacking in comparability, as to outweigh the County's superior offer on total compensation. Therefore the following award is made:

XVI. AWARD. The 1979 Agreement between Dane County and the Dane County Attorney's Association should include the offer of the Dane County Attorney's Association.

Frederic P. Zerkler, arbitrator
July 10, 1979