

EDWARD B KRINSKY, ARBITRATOR  
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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

In the Matter of the Petition of  
Barron County  
(Public Health Agency)  
To Initiate Mediation-Arbitration  
Between Said Petitioner and  
Northwest United Educators

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Case L  
No. 31492 MED/ARB-2241  
Decision No. 20826-A

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Appearances: Mulcahy and Wherry, by Bruce A. Barker, for the County.

Robert West and Alan D. Manson (on the briefs), Executive Directors,  
for the Union.

On August 3, 1983, the Wisconsin Employment Relations Commission appointed the undersigned as mediator-arbitrator, pursuant to Sec. 111.70(4)(cm)6.b. of the Municipal Employment Relations Act.

On October 19, 1983, a mediation meeting was held at Barron, Wisconsin. At that meeting the parties agreed to delete from their final offers the issues which were contained in both offers and were not in dispute. The parties did not reach agreement on the remaining three issues. Neither party opted to withdraw its final offer, and the parties agreed to proceed with arbitration. The hearing also was held on October 19th.

Following the hearing the parties submitted briefs and reply briefs. The record was completed on January 4, 1984, with the exchange by the arbitrator of the parties' reply briefs.

The amended final offers of the parties are as follows:

FINAL OFFER  
OF BARRON COUNTY

1. Except as provided in this offer or the stipulations between the parties, the terms of the 1982 collective bargaining agreement shall remain unchanged except that the dates shall be changed to reflect a contract duration from 1/1/83 to 12/31/84.
2. Article X - Mileage. The last paragraph shall be amended to read as follows:

"Gasoline prices will be computed based upon the pump price for unleaded gasoline at the Holiday station in Barron, Wisconsin on the 1st of each month."

3. Addendum I.

Increase all wages effective January 1, 1983 by 5% and all wages effective January 1, 1984 by 5%.

FINAL OFFER OF NORTHWEST UNITED EDUCATORS

1. Except as provided in this offer, or the stipulations between the parties, the terms of the 1982 collective bargaining agreement shall, with date changes to reflect a duration from 1/1/83 to 12/31/84, remain unchanged.

2. Recognition - Article I

1.02 - Replace last paragraph ("regular part time employees...") with: "All fringe benefits shall be prorated based on the percentage of full time employment (7 hours per day) that the part time employees work on their average regular workday. For experienced employees, the percentage will be based on the total hours worked in the preceding contract year divided by regular workdays (not to include leaves, holidays, or vacations); for new employees, until there is a full contract year of experience, the percentage will be based on the number of hours worked in the first six months of employment."

3. Addendum I

1. Wages

Effective	1/1/83	1/1/84
Public Health Nursing Section	\$ 9.07	\$ 9.78
Home Care Section	8.43	9.09
WIC Director	10.20	10.99

Facts

The bargaining unit consists of 6 Home Care Nurses, 3 Public Health Care Nurses and 1 WIC Director who has been newly recognized as part of the bargaining unit. Six of the employees work part-time. Because nine of the ten employees are in the Home Care and Public Health Care classifications, it is those which are analyzed below where wage comparisons are made. There are three issues which remain in dispute between the parties as they attempt to agree on a contract covering 1984 and 1985. Each is considered in turn, below.

## Issue # 1 - Mileage Reimbursement

### Facts

The issue involves a difference over which gas stations will be used by the parties in computing the reimbursement to employes for use of their cars. Under the existing agreement, the Standard station in Rice Lake is used. The County wants to change the contract language in order to use the Holiday station in Barron where gas prices are lower.

At the arbitration hearing the County asked each of three employes in the bargaining unit who were present where they buy gas. One employe said she bought gas at three stations, including the Holiday station in Barron. The second employe bought gas at five stations including the Holiday station in Barron. None of the employes bought gas at the Standard station in Rice Lake.

The County presented documents showing that the Courthouse, Social Service, and non-unionized employes all have reimbursement based on the gas price at the Holiday station in Barron. It showed also that between November, 1982, and October, 1983, the pump price at Standard in Rice Lake was consistently higher than at Holiday, ranging each month from 10¢ to 19¢ difference.

The parties are in agreement that the amount of money involved in this dispute is not large, perhaps resulting in a difference, on average of .01 cents per mile driven on the job. The County bases its proposal to change the gas station used on the argument that "...it is only appropriate that the reimbursement computation be based on the gas station which maintains the lower, more reasonable, more stable fuel costs, especially when the station with the lower cost is located in Barron, close to the Courthouse and is easier to reach and use than the station proposed by the Union." The County argues that continuation of the present arrangement is an unnecessary expenditure of taxpayers' money.

The Union views the County's proposal as an attempt by the County to reduce a fringe benefit now enjoyed by the employes.

### Discussion

The County's proposal would result in a cost-savings and would make the mileage reimbursement policy consistent with that in effect for its other bargaining units. From what the arbitrator is able to discern from the County's exhibits, its proposal would not significantly change the County's position relative to that of comparable counties in the amount paid for mileage reimbursement.

The Union's proposal, however, would maintain the status quo. Employes would continue to receive a benefit that was negotiated by the parties previously. There would be no change, therefore, in the relationship between what is paid these employes for mileage reimbursement, and what is paid within the County to other employes, and what is paid by comparable counties.

The arbitrator is sympathetic to the County's position, which is a simple means of achieving cost-savings while not inconveniencing anyone. Employes can still buy gas where they choose to. The only change is in the reimbursement rate which is pegged to gas prices.

The fact remains, however, that the County is attempting here to change a negotiated benefit. In the Arbitrator's view, the party seeking to change such a benefit needs to show compelling reasons for changing that benefit through arbitration rather than through the bargaining process. What the County has shown is that there will be a small cost-savings, and perhaps administrative convenience in having a consistent policy. It has been living with these costs and inconvenience, and it has not shown them to be overly burdensome. The County has also not shown that maintenance of the status quo will result in significant deterioration of its position relative to the reimbursement schedule of comparable counties.

For these reasons, the Arbitrator supports the Union's position that the current mileage reimbursement policy should be maintained.

## Issue # 2 - Part-Time Fringe Benefits

### Facts

The Union proposes to change the "Recognition" language. There appears to be a difference between the parties over what the intent is of the Union's proposal. Given the nature of the "final offer" process, the Arbitrator believes that he must give each final offer its plain meaning, that is, what the proposal appears on its face to say, not what either party argues that it means.

The Union's final offer proposes to rewrite the last paragraph of 1.02 of the 1982 contract, which reads as follows:

"Regular part-time employees shall not be entitled to any fringe benefits except as follows:

In succeeding years, vacation and holiday benefits shall be pro-rated based on the total hours worked in the preceding year and health insurance and sick leave shall be pro-rated based on the total hours paid in the preceding year."

The County argues in its brief that this offer eliminates the 14-hour threshold requirement for receipt of benefits. The Union argues, and correctly so in the Arbitrator's opinion, that the proposal does not eliminate the 14-hour requirement. That requirement is contained in the first paragraph of existing section 1.02 which the Union final offer would not change. The first paragraph of 1.02 of the 1982 contract reads as follows:

"1.02 Under this agreement, a regular full-time employee is one who regularly works thirty-five (35) or more hours per week. Full-time employees shall be eligible for all benefits as specifically provided under this agreement. A regular part-time employee is defined as an employee who works less than a full-time employee and who has worked for more than twenty (20) consecutive scheduled work days and who is regularly scheduled to work fourteen (14) or more hours per week. "

The Union's proposal seeks to change the formula for proration of benefits with the result that there will be an increase in benefits to part-time employees..

The Union seeks to correct the current situation in which, it contends, some part-time workers actually work more hours than full-time workers (when paid leave hours are deducted from hours worked), yet they receive smaller vacation and holiday benefits than do the full-time workers. The Union states that its proposal,

"would simply require that the percentage of a regular 7 hour workday used to compute average daily wages for part-time employees (for purposes of vacation and holiday as well as computations for sick leave and insurance benefits) be based on the hours each employee was paid for in the previous year compared to the 1820 standard."

The County contends that the Union proposal "represents a substantial departure" from the existing negotiated language governing fringe benefits for part-time employees. The County contends also that there is a logical basis for differentiating between full-time and part-time employee fringe benefits, and the Union has not provided any persuasive evidence or arguments for changing the benefits.

### Discussion

The discussion of this issue mirrors the discussion of the mileage issue, only this time it is the Union which seeks to change existing negotiated benefits and the County that seeks to maintain the status quo.

The Union has not demonstrated to the arbitrator's satisfaction that there is a need to alter the benefits proposal through arbitration. What it has shown is that there may be instances in which part-time employees work as much as full-time employees but receive fewer benefits. It is not uncommon for part-time employees to receive benefits which are inferior to those given to full-time employees. Whether such differences are viewed as fair or unfair, changes in them if they are to occur should be negotiated, not established through arbitration, in the arbitrator's opinion wherever possible.

The Union has not presented any evidence of benefits paid to other employees of the County or of comparable employers to substantiate its position that the benefits of part-time employees in this unit should be changed.

For all of the above reasons, the Arbitrator favors the County's position on the issue of part-time benefits.

### Issue # 3 - Wages

#### Facts

Both parties have made two-year wage offers for 1983 and 1984. In addition to the usual kind of data and arguments presented in wage arbitration cases, the Union has emphasized the need for a "catch-up" adjustment to change the relative wage position of unit employees, in comparison to similarly employed workers in other counties, even if by doing so they receive an above average pay increase.

The parties are not in agreement about which counties should be used for comparison purposes. The County contends that the eight contiguous counties should be used (Burnett, Chippewa, Dunn, Polk, Rusk, Sawyer, St. Croix, and Washburn). The Union contends that four of the eight (Chippewa, Dunn, Polk and St. Croix) are much closer to Barron County than the others in terms of such things as population, equalized valuation and per capita income.

The Arbitrator believes that both sets of comparisons are relevant and he has used them both.

The parties disagree about which wage rates should be used. The Union uses the maximum rates. The County believes that minimum and intermediate rates should be used also to take account of the time it takes employes to achieve the maximum.

The parties disagree also about whether to use year-end rates, favored by the Union, or average rates during the year, favored by the County which reflect moneys actually earned.

For ease of presentation the Arbitrator has used the maximum rates and year-end rates preferred by the Union. The use of these rates does not affect the Arbitrator's ultimate decision in this case. Their use should not be construed as a statement that maximum and year-end rates are regarded as more relevant than other rates.

#### Discussion

The arbitrator will reserve for later discussion the question of whether a catch-up adjustment is needed or has been justified by the Union.

As mentioned above, both parties offer wage increases for 1983 and 1984, 5% offered by the County, 7.8% sought by the Union. As of this writing, the parties have furnished the Arbitrator with data for 1984 in the following counties that they view as comparable.

#### Counties

Dunn:	5%	1/1/84	with reduction by the amount of the life insurance premium
	2%	7/1/84	

Rusk:	1.4%	1/1/84
	7.0%	7/1/84

Sawyer: 4% (according to the Counties' reply brief).

It is not clear to the Arbitrator which of these 1984 "settlements" result from voluntary settlements, and which from arbitration, and which, if any, were part of multi-year contracts.

The only other data for 1984 supplied by the parties are those which show that the County's other bargaining units have settled voluntarily for 5% increases, and consumer price data. The County furnished CPI data showing that in 1984, from January through August, the Urban Consumer Index rose from 293.1 to 300.3. On an annualized basis this is an increase of about 3.7% if the rate of increase

were remaining steady, but in fact it has been declining. The Urban Wage index rose in the same period from 292.1 to 299.5, which is an increase of 3.8% on an annualized basis.

Thus, using available data on cost of living, and the increases given within the County and to similar workers in comparison counties, it is the Arbitrator's opinion that the County's offer for 1984 is more justifiable than is the Union's offer.

Turning now to the 1983 wage increase, the "internal" comparisons favor the County position, since each of the other bargaining units settled voluntarily for 5% wage increases. The cost of living indexes, referred to above, rose 3.9% from December, 1981 to December, 1982. Based on the increase in the cost of living increase in 1982 there is more basis for awarding the County's offer for 1983 than the Union's offer.

The County made comparisons with wages paid at three area private health care institutions. The increases given in 1983 ranged from 4.35% to 6.04%, which is closer to the County's increase than to the Union's. The Union notes correctly in its post-hearing brief that the hourly rates paid at these institutions is considerably higher than the hourly wage rates paid to unit employees, which would make these comparisons more favorable to the Union's position if the jobs were comparable. Unfortunately there are no job descriptions or related data presented which would enable the Arbitrator to evaluate whether these private sector wage rates should be compared with rates paid by the County to the employees of the bargaining unit. There is also no data allowing historical comparison of those rates.

The County also presented wage data for private businesses located in Barron County. Eleven of twenty-eight businesses responded to the County's survey. Among production workers, five firms gave no increase in 1983, three gave increases from .89% to 4.35%. One firm gave 5.01%, and two firms gave in excess of 7%. No data is presented about the numbers of employees involved.

Among office workers, four firms gave no increase for 1983. One firm granted a 2.67%, and two firms gave 5.01% and 5.94%. One firm gave 6.67% and two firms gave in excess of 8%.

The Arbitrator does not have a basis to know whether these firms are representative of those located in the County, and he has no knowledge that the work performed by any of their employees should be compared to that done by employees in the bargaining unit. The only conclusion that seems apparent is that in relation to the wage increases given by these firms, the County's wage offer seems to be more in line with them than does the Union's.

The remaining data presented by the parties which the Arbitrator views as significant is the data relating to wages paid in comparable counties to comparable employees.

From the parties' exhibits, the Arbitrator has constructed the following table showing the 1982 and 1983 maximum hourly rates paid to public health and home care employees, as well as the 1983 increase in dollar and percentage terms. The data are grouped to show the four counties that the Union thinks should be used for comparison, and the eight that the County believes should be used. (No data is shown for Washburn County since the parties were unable to verify which figures were correct.

(Public Health Nurse)

<u>County</u>	<u>1982 Max</u>	<u>1983 Max</u>	<u>\$ Increase</u>	<u>\$ Increase</u>	<u>Rank</u>
Chippewa	10.37	11.20	.83	8.0	
Dunn	9.36	9.89	.53	5.7	
Polk	8.84	9.14	.30	3.4	
St. Croix	9.77	10.37	.60	6.1	
4-County Median	9.565	10.13	.565	5.9	
Burnett	9.26	10.15	.89	9.6	
Rush	7.71	8.28	.57	7.4	
Sawyer	8.72	9.43	.71	8.1	
Washburn					
7-County Median	9.26	9.89	.60	7.4	
Barron NUE-Offer	8.41	9.07	.66	7.8	1982=7 1983=7
Barron County-Offer	8.41	8.83	.42	5.0	1982=7 1983=7

(Home Care Nurse)

Chippewa	9.98	10.78	.80	8.0	
Dunn	9.36	9.89	.53	5.7	
Polk	8.16	8.46	.30	3.7	
St. Croix	8.31	8.82	.51	6.4	
4-County	8.835	9.355	.52	6.05	
Burnett	8.36	9.16	.80	9.6	
Rusk	7.71	8.28	.57	7.4	
Sawyer	8.65	9.36	.71	8.2	
Washburn					
7-County Median	8.36	9.16	.57	7.4	
Barron NUE-Offer	7.82	8.43	.61	7.8	1982=7 1983=7
Barron County-Offer	7.82	8.21	.39	5.0	1982=7 1983=8



For Public Health Nurses the data show that either the County or Union offers leave the hourly rate for Barron employes in 7th place of the 8 counties (including Barron) for which there are data, for 1983 in contrast to 1982. The hourly rate increase offered by the Union (66¢) is closer to the 4-County Median increase (56.5¢) or the 7-County Median (60¢) than is the County's offer of (42¢). On a percentage basis, the Union's 7.8% offer is closer to the 7-County Median (7.4%) than is the County's (5%) offer, but the County offer is closer to the 4-County Median (5.9%) increase than is the Union's offer.

For Home Care Nurses the Union's offer (61¢) is closer to either the 4-County Median (52¢) or the 7-County Median (57¢) than is the County's offer (39¢). In percentage terms the Union's offer (7.8%) is closer to the 7-County Median (7.4%) than is the County's offer (5%), but the County's offer is closer to the 4-County Median (6.05%) than is the Union's offer. In terms of rank, the Union offer maintains Barron County in 7th place out of 8 from 1982 to 1983, while the County's offer reduces Barron's rank from 7th to 8th.

Thus, on the question of wage offers in contrast to comparable counties for 1983, the Arbitrator believes that the data favor the Union's position more than the County's position.

Much of the Union's presentation is based on its contention that there is a need for a catch-up adjustment for the employes of the bargaining unit relative to similar employes in comparable units of government. The Union does not present any historic data to show the relative position of these employes and how it has changed. The County argues that there is nothing that justifies a catch-up at this time, and the Union has voluntarily settled for the same wage increases as granted to other bargaining units in the county for the past several years.

The figures for 1982 and 1983 demonstrate clearly that wages in this bargaining unit are below the median wages for similar employes in comparable counties. It is not clear to the Arbitrator why this should be the case, since the evidence does not suggest that the County does not have the means to pay wages as great as the median paid by the contiguous counties.

The Arbitrator has constructed the following chart to show the relationship between the maximum rates paid in Barron County as contrasted to the median maximum rates of its neighbors.

	Barron as a % of 4-County Median (Counties preferred by Union)	Barron as a % of 7-County Median (Counties preferred by County)
Public Health Nurse - 1982	87.9	90.8
Public Health Nurse - 1983 Union Offer	89.5	91.7
Public Health Nurse - 1983 County Offer	87.2	89.3
Home Care Nurse - 1982	88.6	93.5
Home Care Nurse - 1983 Union Offer	90.1	92.0
Home Care Nurse - 1983 County Offer	87.8	89.6

These data demonstrate that the Union's offer would result in progress towards having these employes paid closer to the median wage rates of neighboring counties, while the County's offer results in deterioration of the position of unit employes.

This is further support for the Union's position. Thus, the Union has demonstrated the relatively low wage position of these employes, but it has not provided persuasive justification for a special catch-up increase, in the Arbitrator's opinion.

As noted earlier, the Union has presented no historical wage data to show that the position of bargaining unit employes has deteriorated over the years relative to employes in other counties. It may be the case that the bargaining unit has held the same relative position for many years. The Arbitrator does not know that information.

Also, it appears that for the past several years the parties have reached voluntary wage settlements, and for the same percentages given to other County employes. Was the need for catch-up discussed in bargaining those contracts? Has the position of these employes worsened during those years? Why should there be catch-up now through arbitration, where for several years there has been voluntary agreement with no catch-up? The Arbitrator does not know that information, but without it the Arbitrator cannot properly evaluate the Union's argument that the County "...either ignores or does not recognize the fact that the nurses have not been treated fairly in the past."

Even if catch-up were justified for 1983, which is arguably the case but not persuasively demonstrated here, it is premature to determine what amount of catch-up would be necessary in 1984 since so few settlements for 1984 have occurred. Perhaps the Union's 7.8% would be justifiable but as with the discussion of 1983 rates, the basic question is whether catch-up should be provided at this time.

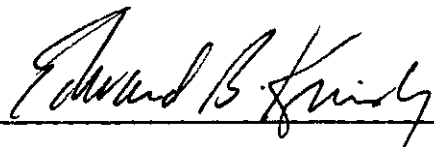
In summary, on the wage issue the Arbitrator favors the County's position in relation to the changes in the cost of living, increases given to other employes of the County, and increases given to private sector firms in the County. The County's offer is also supported by the little that is known at this time about settlements for 1984. The Union's position is favored for 1983 in relation to increases given to similar employes in comparable counties, but the Union has not persuaded the Arbitrator that a catch-up adjustment should be made at this time.

It is the Arbitrator's opinion that after considering the evidence in relation to all of the criteria listed in the statute for the Arbitrator's decision, the County's offer is supported more than is the Union's.

The Arbitrator is required by the statute to make a decision in favor of the final offer or the other in its entirety. Based on the above facts and discussions the Arbitrator hereby makes the following AWARD.

The County's final offer is selected.

Dated at Madison, Wisconsin this 19<sup>th</sup> day of January, 1984.

  
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Edward B. Krinsky, Arbitrator