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| In the Matter of Final and Binding Final Offer Arbitration Between | : | AWARD |
| DANE COUNTY JOINT COUNCIL OF UNIONS, AFSCME, AFL-CIO | : | Case XCIII No. 32554 MED/ARB-2537 |
| and | : | Decision No. 21458-A |
| DANE COUNTY | : | |

I. HEARING. A hearing in the above entitled matter was held on Thursday, May 24, 1984, at the Dane County Highway Department Offices, 2302 Fish Hatchery Road, Madison, Wisconsin, commencing at 9:40 a.m. Parties were given full opportunity to present evidence, give testimony and make argument. Briefs were filed.

II. APPEARANCES.

DAROLD O. LOWE, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appeared for the Joint Council.

MULCAHY & WHERRY, S.C., by JOHN T. COUGHLIN, Attorney, appeared for Dane County.

III. NATURE OF THE PROCEEDINGS. This is a proceedings in final and binding final offer arbitration between the above names parties. The Joint Council of Union (Local 705 and 720, AFSCME, AFL-CIO) filed a petition on December 8, 1983, with the Wisconsin Employment Relations Commission stating that an impass existed between it and Dane County in achieving a new collective bargaining agreement to succeed one which expired December 24, 1983. The Council asked the Commission to initiate mediation-arbitration. The Commission through Daniel L. Bernstone, staff member, investigated the matter and found the parties were deadlocked. Thereafter the Commission concluded that the parties had substantially complied with Section 111.70 (4) (cm) of the Municipal Employment Relations Act prior to the initiation of mediation-arbitration. The Commission then certified that the conditions precedent to initiation of mediation-arbitration as required by the statutes had been met and on March 5, 1984, ordered mediation-arbitration initiated.

The parties, having selected Frank P. Zeidler, Milwaukee, Wisconsin, as mediator-arbitrator, the Commission thereupon appointed him to that position on March 27, 1984. At the time of the initial meeting, the parties advised the mediator-arbitrator that they believed that further mediation would not be productive, and the mediator-arbitrator then notified the parties that he would conduct a hearing in order to issue an arbitration award.

IV. THE OFFERS.

A. The Union Offer:

"Amend 2.02 to read:

"2.02 Subcontracting. When it becomes necessary to determine when, or what, to subcontract, it is, and will be, the policy of the Employer to first consider the impact on the employment security of its employees and to notify the Union. It is the policy and intent of the Employer to use its employees as much as practical for work on the operations involved and to contract work out only when that course is required by sound business considerations. The Employer agrees that it will not subcontract work if laid off employees are qualified to perform the work. The Employer further agrees to bargain the impact of subcontracting with the Union.

"Amend Section 7.04 (c) to read:

"Interdepartmental Transfer (Local 720): Those employees wishing to transfer to another department within their same job classification shall file an application for such transfer with the Personnel Manager designating which department(s) they wish to transfer to. When a vacancy occurs and there are available interested employees on the transfer list for the classification of the vacancy, the most senior employee on the transfer list shall be transferred to the vacancy provided they are qualified to perform the duties of the vacancy.

"Amend Section 9.02 (b) to read:

"Hospital and Home Employees Working as Fill-in (run around) for the Above Schedule and Not on a Regularly Established Schedule: Shall be called to work ten (10) eight hour days each pay period and shall receive time and one-half (1-1/2) pay for work over eight (8) hours per day or eighty (80) hours per pay period. Schedules of work for each bi-weekly pay period shall be posted by 12 p.m. on each Friday preceding a bi-weekly pay period.

"Amend 13.04 to read:

"13.04 Pregnancy Leave. Employees shall be entitled to pregnancy leave without pay for a period not to exceed three (3) months. However, the Employer may, at it's option, grant pregnancy leave without pay for a period not to exceed six (6) months. Employees shall earn and accumulate seniority up to but not exceeding the first thirty (30) days of such pregnancy leave. Commencement of and return from such leave shall be at the times certified by the employee's doctor if so required by the employee's department head and/or the Personnel Manager. Whenever possible, the employee shall provide the Employer with fourteen (14) days notice prior to the commencement of her pregnancy leave. Such employee shall be entitled to return to the position she left before the end of the leave by first giving fourteen (14) days notice to her department head of her intention to return to work.

"Amend Section 14.01 (a) and (b) to read:

"14.01 Health and Accident Insurance:

"(a) A group hospital, surgical, major medical and dental plan as agreed to by the parties shall be available to employees. In the event that the Employer shall propose a change in this plan, this contract shall be re-opened for purposes of negotiations on such a proposed change (this re-opener provision also applies to the plans specified below). The Employer agrees to pay the full premium for employees and ninety percent (90%) of premium for dependents. Employees with a spouse on Medicare Plus, will receive a payment not to exceed that paid by the Employer for family coverage. However, the Employer shall pay, not to exceed $14.07 per month for single or $37.83 per month for family, on dental insurance, and $37.83 per month for spouse credit plan.

"(b) The Employer agrees that employees and their dependents may elect to become members of any health plan made available and approved by the Employer. There shall, however, be only one (1) thirty (30) day enrollment period per year during which time employees may change plans. The Employer agrees to pay costs for employees and dependents choosing other plans equal to the premiums for the insurance described in (a) above.

"Wage rates will be increased as follows:

"1. Effective March 4, 1984 - 24¢ per hour."

B. The Council Offer:

"1. 1% wage increase effective December 25, 1983.

"2. Retitle Article XIV Section 14.01 (a) and (b) Health and Dental Insurance and modify as follows:

"(a) A group hospital, surgical, major medical and dental plan as agreed to by the parties shall be available to employes. In the event the Employer shall propose a change in this plan, this Contract shall be reopened for purposes of negotiations on such a proposed change. For group health insurance the Employer shall pay up to sixty nine dollars and forty four cents ($69.44) per month for employes desiring the 'single plan' and up to one hundred eighty six dollars and sixty three cents ($186.63) per month for employes desiring the 'family plan' and up to one hundred ninety two dollars and four cents ($192.04) for spouse credit family plan. Employes with a

"spouse on Medicare Plus will receive a payment not to exceed that paid by the Employer for family coverage. For group dental insurance the Employer shall pay up to fourteen dollars and seven cents ($14.07) per month for employes desiring the 'single plan', up to thirty seven dollars and eighty three cents ($37.83) per month for those desiring the 'family plan' and thirty seven dollars and eighty three cents ($37.83) for spouse credit family plan.

"(b) The Employer agrees that employes and their dependents may elect to become members of any health plan made available and approved by the Employer. There shall, however, be only one (1) thirty (30) day enrollment period per year during which time employes may change plans. The Employer agrees to pay costs for employes and dependents choosing other plans equal to the dollar amounts stated in 14.01 (a)."

V. FACTORS TO BE GIVEN WEIGHT. The following factors are to be given weight by the arbitrator according to Section 111.70 (4) (cm) 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 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.

The factors will be applied where applicable to the specific issues between the parties and to the proposals as a whole.

[illegible]

base wage would come to $8.88, an increase of 2.77% and the total compensation would come to $11.89, an increase of 2.76%. These figures relate to the end rate of the proposed contract, the "lift". According to the Employer, the actual percentage increase for the year however would be 1.5% under the Employer offer and 2.2% under the Union offer, because the Union offer on wages does not commence until March 4, 1984.

The County notes that there are 725 persons in the bargaining units composing the Joint Council, and 359 of these will be receiving a merit or longevity increase during the year. This constitutes 50% of the membership and the increased cost for this feature will be 1.5% for the County.

The County notes total compensation percentage increases for the units of government in Dane County which it considers as the primary comparables. These were as follows:

| | |
|---|---|
| City of Madison & Local 60 | 1.4% |
| State of Wisconsin & Council 24, AFSCME | 1.04% |
| Dane County | |
| Employer | 1.5% |
| Union | 2.2% |

The Union in its Exhibit 11 A considered counties nearby, and also among the most populous counties in the state as the comparables. These counties were Milwaukee, Waukesha, Brown, Racine, Rock, Kenosha and Sheboygan. With respect to percentage increase of wage rates for clerical workers, the settlements ranged from 3% to 5% with no settlements achieved in Waukesha and Kenosha. For blue collar employees, the settlements ranged from 3% to 5%, but with no settlement in Kenosha County.

The County in its Exhibit 59 showed that Dane County with eight bargaining groups settled in 1982 at an 8% increase for base wages and in 1983 at a 7.5% increase. The City of Madison with seven bargaining units settled at between 7.6% and 7.96% in 1982, and 6.0% in 1983 and 1.0% in 1984. The State of Wisconsin with six bargaining groups settled for 8.0% in 1981-82, 7.0% in 1982-83 and 0.0% in 1983-84.

The Union reported that the City of Madison is granting its clerical workers a 4.0% increase in 1985 and a 4% increase for blue collar workers. The State of Wisconsin is granting a 3.86% increase on 7/1/84 for its clerical and blue collar workers and did pay in the previous year an additional 1% of the employee's share of the Wisconsin retirement fund.

The Madison Metropolitan School District granted a 3% wage increase on its blue collar workers on February 26, 1984.

Positions of the Parties. The Union argues that its wage rates are reasonable. When the 1984 increases are given for the Madison area governmental units and the larger counties, the average increase comes to 3.36% and the average total package increase of the Union offer is only 2.2%.

The County made a survey of 18 employers with classifications of personnel similar to those found in Dane County, and it made a comparison of base wages, minimum and maximums, and total compensation. Subsequently it produced tables on its findings (ER 46). The classifications were Food Service Helper, Groundskeeper II, Licensed Practical Nurse, Nursing Attendant, Clerk Typist I-II, Clerk Typist III, Janitor I, Mechanical Repair Worker I, Park Laborer, Security Workers, Administrative Assistant I, Janitor III, Account Clerk II. The following table is an abstraction from Employer Exhibit 46:

TABLE I

RANK OF DANE COUNTY AMONG SELECTED MADISON
AREA EMPLOYERS WITH SIMILAR CLASSIFICATIONS OF EMPLOYEES

| Classification | No. of Employers Reporting | Rank in Maximum | Rank in Total Compensation |
|---|---|---|---|
| Food Services Helper | 9 | 2 | 1 |
| Groundskeeper II | 5 | 2 | 1 |
| LPN | 9 | 1 | 1 |
| Nursing Attendant | 9 | 1 | 1 |
| Clerk Typist II | 17 | 5 | 2 |
| Clerk Typist III | 9 | 3 | 2 |
| Janitor I | 12 | 3 | 2 |
| Mechanical Repair Worker | 9 | 4 | 2 |
| Park Laborer | 3 | 2 | 2 |
| Security Worker | 8 | 3 | 2 |
| Administrative Assistant I | 10 | 5 | 3 |
| Janitor III | 9 | 3 | 3 |
| Account Clerk II | 12 | 5 | 4 |

Madison has an important private employer, Oscar Mayer Foods Corporation. The County furnished some press clippings with 1984 dates reporting that the company is asking for a substantial pay cut of its employees, from an industry wage level of $10.59 per hour to possibly $8.25 per hour or lower. The company in 1982 had obtained a wage concession of its employees which was a freeze in wages (ER 47).

The County reported that it has large numbers of applicants for every opening it has presented during 1982-1984 period. The numbers range from 668 applicants for every Janitor I position (July 19, 1983) to 30 applicants per position for Nursing Attendant (January 1, 1983). In the latest position shown, that of Assistant Purchasing Agent (January 29, 1984) there were 102 applicants for one position (ER 45).

The County reported on its own fringe benefits, but no comparison was made of those in comparable categories. Twenty one types of fringe benefits were reported as available.

The Union argues that its wage rates are reasonable. When the 1984 increases are given for the Madison area governmental units and larger counties, the average increase comes to 3.36% and the average total package increase of the Union offer is only 2.2%.

The Employer states that comparable employers with which the County should be compared are the public and private employers within Dane County. Recruitment for the employees takes place within Dane County. The County notes the high rank of pay for the benchmark positions it has reported in its Exhibit 46, and states that this exhibit also shows that it exceeds the average minimum, maximum and total compensation for each of the positions reported.

The County notes the large number of applicants for positions for

The County argues that the step and longevity increases for the Joint Council employees amounts to an additional 1.5% increase in wages over the 1.0% offer. The cost for the County in wages then is really 2.5%.

The County also argues that its wage increase in this year must be looked at in terms of the past three years experience, and compared with the Consumer Price Index rise for those years. In this method of viewing the current increase, the County has produced a 16.5% increase over the period of 1982-84 whereas the US City CPI-W only comes to 10.3%. The wage increase will be 6.2% greater for the employees than the CPI-W change in this period.

The County also argues that the Union in its exhibits for the wage increase comparisons between Dane County and other large counties, did not report that Milwaukee, Racine, and Kenosha Counties had wage freezes in 1983. Without actual wage comparisons, then, it is impossible to determine whether the information supports the Union's demands, and the Union exhibit on this subject is too sketchy to make the comparisons.

Discussion. The arbitrator is confronted here with insufficient information on wages presented by either party to know what the actual dollar increase in wages will be for the offers in total, and what the percentage will be for increases in wage costs including percentage increases and step and longevity increases. He also cannot determine what the total compensation percentage increase will be exhibited by adding 1.5% to both offers, this 1.5% representing the increase in wages due to step advancements and longevity. Thus the County's offer would come to a 2.5% increase and the Union offer to a 3.7% increase in total compensation. However there is nothing in other governmental units to compare this with, and the only comparisons to be made are those of base wages as shown in the exhibits of the parties.

The question then is to which groups of governmental agencies there are to make a primary comparison. The arbitrator believes that in this case the primary comparisons are to be made to Madison area governmental units because of an area job market unlike, say, a teachers' market. This analysis yields the following data for nearly the same pay period (1984):

| | |
|---|---|
| City of Madison | 1.0% |
| State of Wisconsin | 1.92% (average) |
| Madison MSD | 2.54% |
| Dane County | |
| Employer | 1.0% |
| Union | 2.23% |

From the above information the arbitrator concludes that the Union offer for base wages is more comparable to the averages of the known settlements for base wages by most comparable governments.

Other conclusions can be arrived at from other evidence on wages presented. These conclusions include:

1. The Union base wage offer is more comparable to wage settlements in a secondary list of comparable populous counties.

2. The Employer's settlements for 1982 and 1983 and its offer for this year when calculated in percentages and added, produces a larger percentage total than the increase in the CPI-W for the same years.

3. Neither party furnished direct evidence on the changes in the cost of living, but the arbitrator concludes from the brief of the Employer that the Union offer more nearly compares to the changes in the cost of living.

4. The County's 1983 wage rates for selected benchmark positions were comparable with those of existing public employers, and were better than those which were obtained in most of the reported private employing agencies.

5. The County's fringe benefits are substantial.

6. County employment attracts many applicants for openings.

7. No argument was made by either party about the ability of the County to meet the costs of either offer. The arbitrator concludes that the County has the ability to meet the costs of either offer.

Relating these conclusions to the statutory criteria, the arbitrator finds that there is no question of the County meeting the costs of either offer, but it is asserting that it is not in the welfare and interest of the public to meet the costs. This shall be considered later.

The Union offer on base wages meets the criterion of comparability with local settlements and with a list of counties of secondary comparison.

From the information known, the Union offer more nearly meets the change in the Consumer Price Index.

The County offer is satisfactory in comparison with similar employment in private industry.

The County offer when wages and benefits are considered together, is substantial, even though the total compensation is not known.

The continuity and stability of County employment seems sufficient to attract large numbers of applicants for openings.

On the whole the Union wage offer is more reasonable than that of the County because of its meeting the standards of comparability and relation to the change in the cost of living.

VIII. SUBCONTRACTING. The Union is proposing to change Section 2.02 of the agreement by adding two sentences in which the Employer is to agree that it will not subcontract work if laid off employees are qualified to perform the work, and in which the Employer agrees to bargain the impact of subcontracting with the Union. Under the present agreement the Employer is to consider the impact on the employment security of the employees and notify the Union of subcontracting. The Employer also under the present agreement states that it is the policy and intent of the Employer to use its employees as much as practical for work on the operations involved, and to contract work out only when that course is required by sound business considerations.

The Union received notice of intent for contracting out on four different occasions in February and March 1984. One contract was to provide handicapped clients of the Goodwill Industries with work experience and adjustment. Another was to provide clerical help in the Office of Register of Deeds to eliminate a backlog, another was to have student interns within the Park Department, and another was for the purchase of clerical services temporarily to cover scheduled vacations. All of the work involved work which is similar to work done by bargaining unit employees (UN 6 A-D). In May 1984 the County sought bids for work in the maintenance of Badger Prairie and Fish Lake Parks.

From the date of February 29, 1984, to the time of the hearing there were no layoffs of employees, but there were vacant positions which were not filled.

A witness for the Union testified that in 1984 the County contracted out for laundry work and six employees were laid off. Also the County contracted out work in the boiler room at the County Hospital and Home, and four firemen were laid off. It was the testimony of a personnel officer for the County that the six persons in the laundry received other jobs in the County, and of the four firemen, at least three received other County positions. In the latter case, the County asserts that the layoffs were the result of improved technology so that monitoring of the boiler functions could be done at another place and persons sent to deal with any servicing required.

County Exhibit 38 showed that in 1983 the County has purchase-of-service contracts with at least 21 vendors, and in 1984 about 180 vendors were listed.

Of the laundry workers displaced, most of them bumped into other positions, and the persons displaced by the bumping themselves bumped into other positions, or filled vacancies; but the net effect of the displacement, in the opinion of the arbitrator, was a lower average salary range for those employees. The County estimates it will have saved in nine months of 1984 the sum of $44,000 (ER 35).

The Parks Director reported that contract services in the parks provided for waste removal of a special type which were not available through any Dane County department. The services of handicapped persons also were purchased. Further since the park budget for service was very much reduced, students were hired to help obtain some of the service hours required. Also, a mowing contract was set out for two outlying parks (ER 36).

Of six bargaining units in Dane County employment, four of them have language in their contracts identical to the present contract language of the Joint Council contract. The Dane County Attorney's Association states that contracting work out is a management right, and in the case of sherifff's deputies and law supervisory officers, the contract has no language on subcontracting (ER 34). The State of Wisconsin and AFSCME Council 24 contract considers contracting out a managerial right, but it should not be used for the purpose of undermining the Union or discriminating against any of its members. The City of Madison and Local 60, AFSCME contract includes contracting out as a management right (ER 37).

The County has an institution called the Hospital and Home, or Home West. A Union witness, Dan Collins, stated that he was at a meeting of the Human Resources Committee of Dane County which is an overseer committee for this institution and for human services of the County. At this meeting an administrative assistant to the County Executive stated that talks be initiated by the County with the University Hospital or other agency to lease out or sell the institution. Any such decision however would have to have the County Board take action, and the Human Resources Committee itself took no further action.

Position of the Parties. The Union says that it has lost jobs over the past years through subcontracting, and first proposed the change of Section 2.02 three years ago. The contract as written provides the Union no protection from contracting out, and if the work of the hospital is contracted out, the Union would not be able to bargain the impact. The contracting by the County of work that could be done by the Union grows daily. The Union considers the preservation of bargaining unit work as very critical.

The County holds that the subcontracting proposal of the Union is unduly restrictive, even to the point of possibly being illegal. Under present statute and case law, subcontracting-contracting decisions are mandatory subjects of bargaining when they primarily relate to wages, hours and conditions of employment. The test, however, has to be applied on a case by case basis. Further the impact of the decision to subcontract can also be a subject of mandatory bargaining. The current language of the contract in existence since 1968 limits the County in subcontracting to consider the impact on the employment security, and it requires the County to subcontract only when required by sound business considerations. It also requires the County to use employees as much as practical for work on operations and to notify the Union when subcontracting occurs.

The Union proposal forbids the County to subcontract if any employee is on layoff and to bargain the impact after a decision is made. This is much more restrictive than the mandate of the Wisconsin Supreme Court on contracting out. It is a radical departure and unwarranted limitation on the County's statutory right to subcontract.

The County says that the limitation of its right to subcontract if any employee is on layoff would have deleterious consequences on the ability of the County to render service. It could not render specialized services, and it could not contract with non-profit agencies who use social service workers and other personnel if social services workers were laid off.

The County states that the Union cannot show that the County acted in bad faith in the past. In the case of the laundry workers, they received other positions; in the case of the firemen, the County made a technological advance with automatic monitoring of the boilers. The County also contracted for specialized sanitation work which it did not do itself. It provided employment for the handicapped, it got student help when its park budget was reduced, and it got temporary help to deal with a backlog or fill-in for vacations and holidays. The County met its obligation by notifying the Union of contracts. Subcontracting is not new, and the County has used it selectively.

The County notes that no other Union in a comparable agency has such limits as are proposed by the Union here. In the Dane County contracts for attorneys and law enforcement officers, the County has the complete right to subcontract. In Madison the City has an unfettered right. The present contract here affords the employees more protection than that found in other units of government.

As to the sale of the County Home West, this is speculation and a nebulous threat only, and does not warrant the restrictions proposed.

Discussion. In applying the standard of comparisons with other units of government, the arbitrator finds that the previous contract's language more nearly conforms to what exists within Dane County and other units of government in the Madison area cited by the Employer than the proposed language of the Union.

The arbitrator does not find the addition of a provision by the Union to have the Employer bargain the impact of a decision to contract out unreasonable, particularly if a large function such as the Hospital and Home is under consideration for termination. It would be in the public welfare and interest to have the County bargain the impact.

The arbitrator does find unreasonable the proposal barring the Employer from subcontracting out work if a laid off employee is qualified to perform the work. This proposal might not be unreasonable if the precisely same group of functions formerly performed by a County employee were to be contracted out, but a scanning of the list of vendors of the County indicates that the vendors perform some types of specialized functions, like the placing of the handicapped. This activity might include functions performed by employees of the County such as in social work placement, but would also include possibly other functions. The arbitrator believes that the Union and its members have a substantial degree of protection in the existing contract language which holds the Employer to using employees as much as practical for work on operations involved and to contract work out only when that course is required by sound business considerations. The Union can challenge the Employer if it believes that these commitments are not being met by the Employer.

On the whole then, the arbitrator finds the County position on retaining the present contracting-out clause to be more reasonable than the Union's proposal, because of an excessively restrictive nature of the proposal.

IX. INTERDEPARTMENTAL TRANSFER. The Union is proposing that employees be able to transfer from one department to another by seniority when a vacancy occurs and the employees have indicated they want to transfer by being on a transfer list.

The Union supplied a list of employees who asked for transfers during 1983 to May 15, 1984. The list showed the employees in their respective classifications by date of hire. The list showed that employees were not selected for transfer with respect to seniority, but that some persons lower in the list were selected while those higher in the list were not (UN 9 A).

The existing contract language which the County wishes to retain is,

As to the term "first consideration", Arbitrator Rice in a decision of January 24, 1984, in a grievance involving the Employer and Local 2634, AFSCME, Dane County Professional and Social Workers who have a clause in their contract similar to the clause now in the Joint Council contract, ruled that "first consideration" means first interview and not first right to appointment.

The "first consideration" feature is found in existing contracts within Dane County of Local 65, AFSCME, Local 2634, AFSCME (as referred to above) and District 1199, UPQHC. In the contracts with Dane County of the Attorney's Association, the Law Enforcement supervisory and non-supervisory employees, there is no interdepartmental transfer opportunity (ER 25).

In AFSCME Council 24 contract with the State of Wisconsin there is no interdepartmental transfer language, and management has the discretion of whether a transfer applicant to a vacancy will be considered. In the City of Madison contract with Local 60, persons desiring to transfer are placed on a list of all applicants who meet the minimum training and experience requirement. Such applicants are then tested, and the Employer considers for appointment the applicants with the four highest composite scores (ER 27).

Employer witnesses gave testimony to the effect that the service of the County would be impaired if the Union proposal were in effect. A position of Clerk III, South Madison Office, Social Services with receptionists, and other duties and lead worker duties, was cited as one that is extremely stressful and not any Clerk III who can transfer by seniority would fit the position. Similarly a Clerk Typist I-II at the Department of Social Services first floor, was cited as an extremely difficult position because of angry clients, numerous duties, and many contacts (ER 29).

Section 7.05 of the present contract between the parties is as follows:

"7.05 Hospital and Home Transfers. The Hospital and Home management shall maintain a transfer list for each job classification in their employ for Hospital and Home employees that indicate to the Hospital and Home management an interest in transferring within their job classification. When a vacancy occurs and there are available interested employees on the transfer list for the classification of the vacancy, the most senior employee on that list shall be transferred to the vacancy. There shall be a management representative for Home-East and another for Home-West designated by the Employer to receive transfer requests. The transfer list shall be made available for inspection to authorized Union representatives at such reasonable times as requested."

Positions of the Parties. The Union says it is asking to have the representatives of Local 720 of the Joint Council to have rights similar to those provided to the workers of the Hospital and Home who are represented by Local 705, with about one third of the Joint Council membership. Currently if an employee in Local 720 is denied a transfer, this cannot be reviewed by an arbitrator. The County has the sole right to make the decision as to who can fill a vacancy. The present transfer language does not grant the employees any decent coverage when they wish to transfer.

The County notes that there are 30 departments of the County and Local 720 employees are in 25 pay ranges. The present employees have better

Under the Union proposal persons would automatically get a transfer based on seniority, and this would have a devastating effect on the County service. This is because in some classifications there are a large number of positions with a wide variety of job duties such as production typing or dealing with clients as in the Clerk Typists I-II position. The Employer notes especially the positions dealing with clients, which require special skills. It would be disasterous if a transfer for example who had production skills was transferred into an area requiring people skills. If a transfer who obtained the position on seniority did not work out, then there would have to be additional persons transferred in, and in the process damage would be done to the service.

The County argues that it has not used its right to determine who is transferred in an arbitrary and capricious manner. It objects to the open-endedness of the language which permits a person to transfer without limit. The County says that there are people who file for transfers innumerable times a year, and sometimes five transfer requests are made in a two week period.

The County also says that permitting this type of transfer would limit the County's ability to supervise employees who may have a discipline problem such as absenteeism. It would also require the County to provide additional training. People could go into a position, bump back and then another employee would have to be trained. Also the Union proposal would interfere with the County's retention of minorities and prevent the County reaching court mandated affirmative action goals.

The County notes that the Hospital and Home situation is an intra-departmental transfer situation and not an inter-departmental situation. It also notes that no other contracts in comparable areas contain a provision like this one.

Discussion. From the foregoing the arbitrator concludes that the Union proposal is not a proposal with language found comparably in other contracts in comparable units. The language of Section 7.05 deals with an intra-departmental situation and does not cover an inter-departmental situation.

The arbitrator is not convinced that limiting transfers to bargaining unit transfers is a bad situation in itself from the point of view of public interest, since this type of provision is found elsewhere, in which after transfers are considered, others on the eligible lists may be considered. However, the unacceptable feature from the public viewpoint is limiting the choice of the appointing authority to the most senior transfer.

If the "rule of three" or "rule of five" in appointing selections had been incorporated in the proposal, the proposal would have been more reasonable. Limiting the choice of the appointing authority to the most senior transfer is not reasonable for some of the reasons advanced by the County. While the arbitrator acknowledges that there are some substantial reasons in the Employer's argument against the Union proposal, the arguments about the very limited ability of persons in the same classifications to achieve success after transfers, and as to their adaptability, is not persuasive. However, the removing of a reasonable range of choice among transfers from the appointing authority is not reasonable.

The County's proposal to retain the same language in Section 7.04 is more reasonable because of its comparability with other clauses in contracts of comparable units of government and because the removal of any range of choice from an appointing authority is not reasonable in inter-departmental transfers.

X. REGULAR SCHEDULES FOR FILL-IN EMPLOYEES. The Union is proposing to add the following sentence to Section 9.02 (b):

"Schedules of work for each biweekly pay period shall be posted by 12 p.m. on each Friday preceeding a bi-weekly pay period."

It is the intent of the Union that if the schedules of such employees thereafter are changed, the employee shall be paid time and one half for the hours worked on the changed schedule.

This provision relates to the operation of the Home West and the Home East of the County. The Home West is a nursing home for the physically ill and aged. The Home East is a 185 bed psychiatric facility. The employees who are affected by this Union proposal are Nursing Assistants who are called "fill-in" or "run-around" or "floating" staff. There are Nursing Assistants who have permanent shifts in these facilities which operate 24 hours a day, seven days a week. The "floats" are also permanent staff, but they are hired under the terms that they will have to fill-in for the other type of Nursing Assistants when they are off due to sickness, vacation, or special request, injury, or other cause. The operation of the Homes is said to produce stress on the employees from which they need relief from time to time, since some of the patients are "physical", that is, they strike at the employees.

There are 7 floating staff at Home West (full-time Nursing Assistants) and 14 such full-time float Nursing Assistants at Home East with 2.5 full-time Psychiatric Attendants at Home East also.

In addition to the float personnel, the County also hires Limited Term Employees to work in the float positions.

The County calculates the average daily wage of a float employee wage at $71.52 and thus any day worked under a change in shifts would command an additional $35.76 as one half-times more pay.

The County sampled the changes that occurred in three different months and made an estimate of costs. The following data is abstracted from Employer Exhibit 32:

TABLE II

ESTIMATED COST OF THE UNION PROPOSAL FOR A FIXED SCHEDULE FOR FLOAT PERSONNEL AND TIME AND ONE HALF FOR CHANGED HOURS WORKED

Sampling of Float Schedule Changes

| West | | East | |
|---|---|---|---|
| December | 81 | December | 17 |
| February | 86 | February | 27 |
| April | 63 | April | 31 |

Cost of Schedule Changes in Overtime Wages

| West - Schedule Changes | | East - Schedule Changes | |
|---|---|---|---|
| December | 81 x 35.76=$2,896.56 | December | 17 x 35.76=$ 607.92 |
| February | 86 x 35.76=$3,075.36 | February | 27 x 35.76=$ 965.52 |
| April | 63 x 35.76=$2,252.88 | April | 31 x 35.76=$1,108.56 |
| Sub Total | $8,224.80 | Sub Total | $2,682.00 |
| 20% Retirement & Social Security | .20% | | .20% |
| Total | $9,869.40 | Total | $3,218.40 |
| Average Monthly Overtime | $3,289.92 | | $1,072.80 |

Currently there are seven LTE's being employed between the two Home units.

The overtime budget for the Hospital and Home division was $266,242 (actual) in 1982 and $292,757.34 (actual) in 1983, but was reduced to $110,225 in 1984 in the budget, a 62% decrease (ER 31).

Positions of the Parties. The Union notes that the workers' schedules are changed without notice and that they can be told to go home when they show up. The schedules are posted but changes are not required to be posted and are made frequently.

The County contends that the proposed scheduling system is not warranted. There are sound business reasons for having float personnel, and schedules are not changed at the whim of the administrator. The persons who fill the positions know the nature of their employment which is fully explained to them. The float pool is crucial to the operation of the facility in order to provide flexibility as special requests are made or people call in sick. If people cannot have time off, there will be an additional stress on them, and this would adversely affect patient care.

The County says that the paying of time and one half would cause a large increase in the budget. The dollar impact on the County would amount to $52,352.64 per year according to the County estimate, and this would amount to a windfall of $2,227.77 for each employee in the float pool.

Under the contract float personnel are compensated for work at undesirable hours, namely from 6 p.m. and 6 a.m. and all day Saturday and Sunday.

The County argues that operating with an on-call staff would mean people less familiar with the operation would be on duty.

The Union proposal penalizes the County financially and would impact adversely on patient care, and no evidence of the need for it has been shown.

Discussion. An examination of the information provided by the County shown in Table II indicates that with 7 full-time Nursing Assistants at Home West each of whom would have about 22 working days in December 1983, there nevertheless were 81 changes in the schedule. This means more than 11 days of changes per employee out of 22 working days. In February 1984 the condition was more severe with 84 changes for the 7 attendants, 12 changes in probably 21 days of work.

The problem is not so great at Home East where 16.5 employees had at the most 31 changes, or about two changes a month.

The arbitrator recognizes the probability of some increased costs for overtime, but he is not persuaded that the operations of the Homes require the number of changes for a floating pool of personnel as represented by the Home West experience. It does not seem plausible that injuries to staff from patients and sickness of staff alone would produce such a constant altering of the shifts of the floating personnel, and possibly special requests for changes by regular staff may play the biggest part in the situation. The arbitrator is not persuaded therefore that the County has made a case for the extent of the changes of schedule required of the floating personnel and that it cannot help reduce the problem with lesser cost by the use of on-call personnel. The Union proposal for schedules for floating personnel is in the opinion of the arbitrator the more reasonable one.

XI. PREGNANCY LEAVE. The Union is proposing to change Section 13.04 of the agreement which provides for pregnancy leave. Under the present provision the employee seeking such leave is entitled to a leave without pay for a period not to exceed three months. The Union is adding two sentences,

"However, the Employer may, at its option grant pregnancy leave without pay for a period not to exceed six (6) months. Employees shall earn and accumulate seniority up to but not exceeding the first thirty (30) days of such leave."

The County provided an exhibit which showed that in 1982 and 1983 10 employees took maternity leave, and to the time of May 2, 1984, 4 took such leave. The average calendar days of paid leave was 28.4, the average calendar days of unpaid leave was 72.9, and the average total calendar days of leave was 101.3 days (ER 33 C).

In Dane County employment, the non-supervisory law enforcement officers have the same provision as is in the Joint Council current agreement. The Social Workers and the United Professionals for Quality Health Care have a disability clause which considers childbirth as the same as any other disability for which sick leave is granted. The Highway employees have no comparable language.

On March 5, 1981, the Dane County Board of Supervisors authorized the Personnel Manager to grant a leave of absence without pay for a total period not to exceed three months whenever requested for reasons including disability due to pregnancy and childbirth or for purposes of new born infant care (ER 33 B).

Section 13.03 (a) of the agreement entitles disabled employees to a leave of absence without pay for a period of not to exceed six months, provided certain conditions are met about applying for the leave and reporting. Section 13.03 (b) 2 provides that an employee on leave shall have the general seniority frozen thirty days from the initial date of disability leave. Section 7.02 of the agreement provides for 30 days seniority on a leave of absence, but refers only to the terms of Sections 13.01 and 13.02, which latter sections apply generally to leave without pay.

Position of the Parties. The Union believed that a tentative agreement had been reached on Section 13.04 which would have made the section equivalent to the terms as expressed in Section 7.02 (d) which provides for leaves under Sections 13.01 and 13.02 as earning and accumulating seniority up to, but not exceeding, the first thirty days of such leave.

The County position is that it currently allows seniority to accrue up to 30 days under Section 13.03 (b) 2 and Section 7.02 (d) of the agreement. The extending of the leave to six months, the County views as a child-rearing leave proposal rather than a pregnancy leave, and says that the record of previous use does not show the need for this. Further the Union is asking for a benefit not found in other contracts within the County. Further no employee ever requested an unpaid leave of six months.

Discussion. The provision or benefit being sought by the Union amounts first to a clarification of the contract language to include the matter of seniority specially under the provision of absence for pregnancy. It also includes a request for a pregnancy leave at the Employer's option of six months. The Union proposal considering comparability alone, is not comparable to the provisions for this type of leave found in other units of government. However, based on the concept of public interest and clarification of the contract, the arbitrator feels it is justified in the public interest. The option of the Employer granting a person a leave of absence for six months after a pregnancy is an option only and not mandatory, and there may be conditions including disability, but not limited to it, when the Employer could exercise that option to the benefit of the service. On the whole then the arbitrator finds a slight weight here in favor of the Union offer.

XII. HEALTH INSURANCE. The County is proposing to change the existing Health and Accident Insurance clause of the present agreement to one in which there is a dollar limit for the single, family and spouse plans. The Union would retain the present contract provision which calls for the Employer to pay full premium for employees and 90% of the premium for the dependents. The County asserts that under the present plan it pays about 94% of the health costs.

The Union provided copies of clauses in previous contracts between it and the County from January 1, 1968, until the present. An essential feature of these contracts was that the County paid the premium for the employee, and that ultimately it paid 90% of the premium for the dependents of the employee (UN 3 A-M).

The County under the present 1984 agreement has allowed for employees to enroll in one of five different health care programs operated by outside agencies. Four of these are health maintenance organizations (HMO's) and one a fee-for-service plan. The fee-for-service plan is called a health incentive program (HIP) in that it provides for a deductible at the outset, but a repayment of varying sums depending on the lack of call on the service. The fee-for-service plan has rates of $69.25 in the single plan and $185.00 in the family plan. The HMO plans all call for a somewhat less monthly payment from the County, with the cheapest plan calling for a total of $60.59 single and $164.80 family (ER 1).

In the fee-for-service plan, the employee pays $11.57 toward the premium cost on the family plan, and two of the HMO plans have a smaller employee cost toward the family plan (ER 3).

The County in its exhibits addressed what it thought would be its prospective costs under current trends. In 1983 the Employer paid $184 toward a $197 premium cost for the family plan on the fee-for-service plan. The employee paid $13.00. If the cost rose to $220 for this type of premium, the employee would pay only $1.00 more under the present formula and the Employer would pay $22.00 more (ER 4). In 1983 with a fee-for-service plan and one HMO plan, 97.6% of those enrolled in a plan in the County were under the fee-for-service plan. In 1984 75.0% were under the fee-for-service plan and the remainder scattered among the HMO plans (ER 5).

The County provided reports from various news sources and journals about the need to contain medical costs, and about various proposals to do so. Among these were methods of requiring co-payment by the user in the case of medical insurances provided by employers (ER 9-16 incl.) The idea was advanced in some of the reports that through co-payments and deductibles, use by participants might be less but health care would not suffer significantly (ER 15, 16).

The County presented a witness, Thomas Korpady, Director of Health and Disability Benefits of the Department of Employee Trust Funds, State of Wisconsin. In 1984 and 1985 the state will pay 90% of a standard fee-for-service plan, or 107% of the lowest priced alternative plan in the area, whichever is less. The state now allows its employees to enroll in one of 16 HMO plans (ER 22). It was the testimony of Korpady that when choices of plans are offered, as the out-of-pocket expenses for a plan decrease, the number of employees electing that plan increases. HMO plans are less expensive to the employer and employee and there is a movement away from standard fee for service plans (ER 17-21 incl.)

Korpady states that in his opinion it is absolutely essential for competitive health care for there to be a potential out-of-pocket cost when people have a choice of competing health plans. It was his opinion that there was insufficient incentive for Dane County employees to switch from the standard fee-for-service plan to a less costly form of health insurance when the current out-of-pocket expense is about $12. (TR 122)

Korpady also considered Dane County as a competitive health care market because of the large number of providers per population unit (TR 122).

The County provided a series of articles from Madison newspapers from August 8, 1982, to November 28, 1983, describing the formation of HMO's in the Madison area to help contain costs in the rise of health insurance (ER 23 A-S).

The County furnished a copy of a decision of May 31, 1983 by Arbitrator Bellman in the matter of Dane County and LOCAL 65, AFSCME, in which the arbitrator gave the award to a final offer of the County to include a dollar cap in health insurance benefits. The Union had proposed full premium for employees and 90% of the premium for dependents (ER 8).

Currently there are dollar caps on insurance for Local 65 and the Attorneys' union, and the Law Supervisory union of the County. There are no dollar caps on the Nurses' agreement, the Social Workers contract, or the Non-Supervisory Law Enforcement Officers' agreements. There are dollar caps on dental insurance for the Joint Council of Unions, Local 65, the Attorneys, Nurses, and Social Worker contracts in Dane County (ER 2).

In the State of Wisconsin and AFSCME Council 24 contract, the state will pay 90% of the gross premium for the single or family standard health plan, or 107% of the gross premium of the lowest alternative qualifying plan, whichever is lower, but not more than the total amount of the premium. The 107% figure will be changed to 105% after November 1, 1984.

In the City of Madison there are dollar caps in the 1984 contract. In 1985 the City will pay the dollar amount equal to the rates of the lowest bidder among the health care providers (ER 6).

Position of the Parties. The Union states that the Employer's exhibits do not prove that co-payment in health care produces lower costs. The practice is not sound, and health care costs increase anyway. The Union asserts that the Employer is not stating the issue. It is the desire of the Employer to force the employees to pick up all costs if there are increases, and then to have to bargain back the increases each time. The County will be expecting the employees to pay all future increases. The Union cites Arbitrator Kerkman in an award in which the arbitrator held that the County did not establish sufficient proof that the change with health insurance should be adopted. Here also the proof for a change is not supported.

If the health insurance went up to $40 per month, the County could easily force concessions in all areas to grant relief from the increased health insurance premium. If the matter has to go to arbitration, the process takes a long time and the waiting time is stressful on employees when they delay immediate benefits to get a better agreement. The balance in bargaining power is grossly effected when insurance premiums rise significantly. The County in proposing to pay for all increases in 1984 is making a concession in order to ultimately alter the bargaining power. The concession is not enough to "buy out" the longstanding provisions the Union has, which provisions were supported by Arbitrator Krinsky.

The County acknowledges that its offer for a dollar amount is an effort to obtain a health care cost containment over a period of time without a reduction in benefits. The explosive nature of increased health care costs which have affected the County was recognized by Arbitrator Bellman in his award. Arbitrator Krinsky in his award did indicate that further bargaining any change in circumstances could present an opportunity for the County to achieve its goal.

In the efforts of the Dane County health care community, the County itself is seeking to contain costs by two of several methods recommended, increasing consumer awareness of costs and increased competition in the medical community through use of competitive plans.

The County refers extensively to the experience of the State of Wisconsin in efforts to contain health care costs, its emphasis on inducing shifts to HMO's from previous fee-for-service providers, and its movement toward fixing a limit on what it will pay after it has competition from health care providers. The state experience in its employees moving from standard plans to HMO plans because of reduced cost to employees is also noted by the County.

The County also points to the experience and practice in the City of Madison in which there is a dollar amount to be paid by the City equal to the lowest priced health care plan.

The County contrasts its experience with the Joint Council where in 1983 97.6% of the employees remained with the fee-for-service plan, and 75% of them remained with it in 1984. Conditions have changed since the Krinsky award. The County is not asking the arbitrator to set the level of economic incentive, but to put them in a position to engage in meaningful

negotiations in late 1984. The County notes that its offer will require the County to pay more toward health insurance costs than the Union offer in 1984 in that the County assumes all costs. This type of offer was supported by Arbitrator Kerkman in a 1983 award between the County and its organized Attorneys.

The County contends that the employees in the Joint Council are not sufficiently aware of the increasing costs of health care and, without the dollar caps proposed by the County, they will remain so. The present out-of-pocket expense of $12 a month is not a sufficient incentive to have them move from the more costly fee-for-service plan to an HMO plan.

The County contends that scientific evidence shows that awareness of health care costs through co-payment plans for cost containment is supported by scientific evidence as shown in the County's exhibits. This occurs without significant diminution in the quality of health care.

The County is concerned that the heavy reliance on the fee-for-service system, if continued, will result in a significant increase in premiums when there is a shift on the part of other agencies of government toward HMO plans.

The County discounts the Union contention that the dollar caps on insurance will give it undue bargaining power in future contract talks. The County has not made retroactivity of premium increases an issue even though there are dollar caps on dental premiums. The County did not use its caps as leverage for any of its other employees groups which had them in the 1984 contracts. Further it is unlikely that in 1985 the lowest priced plan in the current system of choices in the County will exceed the premium cap set by the County. If, however, the Union objects to some position of the County on this matter in the future, it has recourse under Section 111.70 of the statutes to arbitration.

Discussion. The statutory criteria that apply here are the factors of comparability, the interest and welfare of the public and other factors commonly applied in arbitration. On the basis of comparability within the County, internally the units that have the present type of clause out number those that do not by one. Thus the differences in the number of units which have the feature and those which do not is narrow. However the comparable factors found in the State of Wisconsin agreement with its AFSCME employees and the Madison agreement favor the County's offer. The arbitrator believes that the weight of comparability here falls to the County.

As to the interest and welfare of the public, there is a need to be concerned about the increased costs of health care as reflected in the growth of the premiums. The County in its offer is addressing the concern. Whether the proposed cap will produce some containment of health care costs for the County is not certain. Immediately for 1984 it will not, because the County is assuming all premium costs. The County is acting prospectively. It is assuming that fee-for-service health care costs will increase, and it will be paying at a rate of about $20 of that increase for every $1.00 increase to its employees. It is assuming that with a dollar cap, it can induce a movement from fee-for-service plans to HMO plans, and it is assuming in its brief that any rise in HMO plans will not be such that the lowest cost plan will exceed its cap. It also is assuming that the state experience in HMO's will be its experience in the future.

All of the foregoing are assumptions. They can be changed by

The matter of whether the long-term existence of the present pattern in insurance should be altered now deserves attention. Arbitrator Krinsky declined to support the County's proposal to make a change. This arbitrator would do so also if the comparables did not justify consideration of a newly evolving pattern of dollar caps for insurances. Also the rapid evolution of the HMO's in the Madison area constitute a changing factor which must now be considered. Thus the proposal of the County should not be barred because it changes a long standing pattern. Changed circumstances justify consideration of the County's proposal.

As to whether the existence of a cap will alter bargaining relationships between the parties in the future, the arbitrator believes that the relationships will be changed only somewhat. The demand from the Employer for consideration by the Union of co-payment and reduction of health insurance which has been present for sometime now merely takes a different form, and the Union is protected from unreasonable demands in this area through its right to arbitrate any issue on health insurance which it considers unreasonable. Currently under the instant offer, the Union stands to benefit dollarwise, though its apprehensions about future demands of the Employer are increased by the County offer.

On the basis then of comparability and public interest, the arbitrator believes that the County offer more nearly meets the statutory factors applicable here.

XIII. SUMMARY. The following is a summary of the arbitrator's findings and conclusions.

A. Stipulations: All other matters have been stipulated to between the parties.

B. Wage rates:

1. The Union's offer for base wages is more comparable to the averages of the known settlements for base wages in the most comparable governments.

2. The Union base wage offer is more comparable to the wage settlements in a secondary list of comparable counties.

3. The County's settlements for 1982 and 1983 and its offer for this year when calculated in percentages and the percentages are added, produces a larger percentage total than the increase in the CPI-W for the same years.

4. Neither party, however, furnished direct evidence on the changes in the cost of living, but the arbitrator concludes from the brief of the County that the Union offer more nearly compares with the change in the cost of living.

5. The County's 1983 wage rates for selected benchmark positions were comparable with those of existing public employers and were better than those which were obtained in most of the reported private agencies.

6. The County's fringe benefits are substantial.

7. County employment attracts many applicants for openings.

8. No argument was made by either of the parties about the ability of the County to meet the costs of either offer. The arbitrator concludes that the County has the ability to meet the costs of either offer.

9. On the whole the Union wage offer is more reasonable than that of the County because of its meeting the standards of comparability more closely and because it more closely relates to the change in the cost of living.

C. Contracting out:

1. The proposal of the County to retain the present clause more nearly meets the standard of comparability with the language in clauses in comparable units of governments and contracts they may have.

2. The Union proposal to bargain the impact of contracting out would serve the public interest.

3. The Union proposal to restrict contracting out as long as there is a laid off employee to do the work is excessively restrictive according to the evidence presented and would not be in the public interest.

4. On the whole, the arbitrator finds the County position on retaining the present contracting out clause to be more reasonable than the Union's proposal because of an excessively restrictive nature of the proposal.

D. Interdepartmental transfers:

The County's proposal to retain the same language in Section 7.04 is more reasonable than the proposed change in language of the Union because of the comparability of the present language with other clauses in contracts of comparable units of government, and because the removal of any range of choice in applicants from the appointing authority is not reasonable in interdepartmental transfers.

E. Regular schedules for fill-in employees:

Because of excessive changes in the schedules of fill-in employees, at least in Home West, the arbitrator holds the Union proposal to pay time and one half for changes in the schedules of such employees is the more reasonable one and the arbitrator believes that the County can reduce the cost to itself in this situation by use of on-call staff.

F. Pregnancy leave:

The arbitrator is of the opinion that the Union offer outweighs the County offer in that while the County proposal to retain the present contract provisions meets the standard of comparability, the Union offer is useful for clarification of the contract and is in the public interest. However the two proposals are very nearly alike.

G. Health insurance:

On the basis of comparability and of public interest, the arbitrator believes that the County offer more nearly meets the statutory factors to be considered.

Of the foregoing matters presented, certain matters are more weighty than others. For the Union these are its position on wages and the issue of regular schedules for fill-in employees. The factors favoring selection of the Employer offer are its position on contracting, the matter of inter-departmental transfers and health insurance. The latter three matters, and especially those matters of transfers and of contracting out which would have an adverse impact on the ability of the County to deliver its services, leads the arbitrator to the conclusion that the proposal of the County on the whole more nearly meets the statutory criteria to be considered than does the Union offer.

XIV. AWARD. The 1984 agreement between the Joint Council of Union, AFSCME, AFL-CIO, and Dane County should include the final offer of Dane County.

FRANK P. ZEIDLER
MEDIATOR-ARBITRATOR

DATE_____