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**STATE OF WISCONSIN
BEFORE THE ARBITRATOR**

**WISCONSIN EMPLOYMENT
RELATIONS COMMISSION**

In the Matter of the Petition of

**KEWAUNEE EDUCATION ASSOCIATION
BAYLAND TEACHERS UNITED
WEAC, NEA**

**To Initiate Mediation-Arbitration
Between Said Petitioner and**

KEWAUNEE SCHOOL DISTRICT

**Case 14
No. 35818
MED/ARB-3554
Decision No. 23382-A**

APPEARANCES:

**William G. Bracken, Wisconsin Association of School Boards, Inc., on behalf of
the District**

Dennis W. Muehl, on behalf of the Association

On April 2, 1986 the Wisconsin Employment Relations Commission appointed the undersigned Mediator-Arbitrator pursuant to Section 111.70(4)(cm) of the Municipal Employment Relations Act in the dispute existing between the above named parties. Pursuant to statutory responsibilities the undersigned conducted a public hearing on June 17, 1986 which was followed immediately thereafter by a mediation session which did not result in resolution of the dispute. The matter was thereafter presented to the undersigned in an arbitration hearing conducted on June 26, 1986 for final and binding determination. Post hearing exhibits and briefs were filed by the parties which were exchanged by August 5, 1986. Based upon a review of the foregoing record, and utilizing the criteria set forth in Section 111.70(4)(cm) Wis. Stats., the undersigned renders the following arbitration award.

ISSUES:

The only substantive issue in dispute is the salary schedule for the 1985-86 school year. The Board proposes increasing each cell on the salary schedule by 5.4%. The Association proposes a 7.3% increase on each cell. The Board proposes an average per teacher salary increase of \$1,551, or 6.5%. The

Association proposes an average per teacher salary increase of \$2,000, or 6.3%.

The Board's total package increase amounts to an average of \$2,209 per teacher, or 7.1%. The Association proposes an average total package increase of \$2,751 per teacher, or 8.8%.

Both parties agree that the Peninsula School Districts are appropriate comparables in this case. However, the District argues that Oconto and Oconto Falls are also appropriate comparables.

ASSOCIATION POSITION.

The Peninsula Schools have been utilized in five previous arbitrations, one involving this District. Even more significant is the fact that the Board forwarded the Peninsula Schools as the appropriate comparison pool in an earlier med/arb proceeding.

A considerable number of arbitrators have rejected a party's attempt to alter the comparable pool adopted in a prior arbitration proceeding.¹

Furthermore, it is significant that all eight comparable Peninsula Schools are settled for 1985-86. Thus, any contention that this represents an inadequate number of settlements must be rejected. Nor can one maintain that the settlement pattern among the comparables is inconsistent.

Internal "settlement" data provided by the District should be rejected because these employees are unorganized and perform significantly different duties than teachers. In addition, the increases accorded certain employees (clerical and business manager) were conspicuously absent.

The sketchiness of the District's evidence pertaining to the private sector, the unique manner in which private sector settlements are reported (excluding lump sum payments and COLA fold-ins from wage and benefit increases), the lack of any information indicating that duties, responsibilities, and credentials are similar to those demanded of teachers, all render the Board's private sector comparisons irrelevant. In fact, the only information provided with respect to salaries of occupations requiring a college degree show teachers' salary levels to be far lower than for other professions.

¹ Citations omitted.

When a comparison of Peninsula School settlements is made it can be seen that the Association's offer is virtually identical to the settlement pattern. The Board's proposal, on the other hand, represents the smallest increase at all benchmarks. In fact, even the Board's suggested comparisons strongly support the reasonableness of the Association's offer.

It is also well established that the settlement pattern is the most appropriate measure of the impact of the cost-of-living, even though that pattern does not exactly reflect measurements of inflation.

Furthermore, nothing in the record indicates that the District's fringe benefit package differs materially from those of comparable districts. In fact, if the value of the parties' total packages is considered, it is important to note that the Board has achieved a significant concession on the part of the Association, namely front-end deductible health insurance coverage, an end which many other comparable districts are trying to achieve.

Regarding the state of the economy in the District, it is noteworthy that the rate of unemployment in the County is less than the State's. In fact, Kewaunee County has the lowest unemployment rate in the area.

With respect to equalized valuation per member, the District is very comparable with other Peninsula Schools.

The District's levy rate also falls within the range for comparable districts. Relatedly, the increase in the levy rate for 1985-86 was significantly below cost-of-living increases.

It is also noteworthy that the greatest percentage of Kewaunee residents are employed in the service sector, followed by manufacturing, with agriculture related employment comprising only 19.1%. In fact, three comparable districts have a greater percentage of agricultural employment.

Income per household in the District also falls at the median of the comparable pool.

The preponderance of the economic data in the record fails to establish that the District is so unique to justify its exemption from the settlement pattern.

Substantial weight should also be given to the fact that the Association's offer is identical to the tentative agreement reached by the parties, particularly in view of the fact that the tentative settlement corresponds to agreements reached by comparable parties.

BOARD POSITION

On the comparability issue, in a recent arbitration case² an arbitrator accepted the inclusion of Oconto and Oconto Falls as comparable districts with the other Peninsula Schools. Based upon this decision, said districts should also be utilized as comparables in this proceeding.

The Board's rejection of the tentative agreement reached between the parties is irrelevant to the disposition of the instant dispute. In this regard there is substantial precedent from other arbitrators on this issue.³

The legislative history of the med/arb statute does not indicate that the Legislature gave priority to any criterion for the resolution of med/arb disputes. Thus, all of the statutory criteria should be utilized in the resolution of this dispute.

Such criteria include the consumer price index. In this regard, recent salary increases in the District compare so favorably with the CPI that the arbitrator must rule for the District on this issue. Relatedly, it is significant that the Board's total package proposal would exceed the relevant CPI increase by 3.3%, thereby protecting the teachers' welfare in this regard.

Furthermore, teachers' salaries are being paid by other workers who are, generally speaking, receiving relatively modest, if any, wage increases. For the economic welfare of the State and its citizens, local taxes and expenditures must be brought into line with the ability of taxpayers to pay.

Relatedly, the prices received by farmers in the District must also be considered in the resolution of the instant dispute since they obviously affect the ability of farmers to pay the taxes which support the District. In this

² Citation omitted.

³ Citation omitted.

regard it is significant that 45% of the school levy is paid by the agricultural community

Regarding the economic health of the District, it is noteworthy that:

1. The District is not wealthy as shown by its effective buying income.
2. The percent increase on the levy rate, while not the highest, is still substantial, which demonstrates the local effort which has been made to support the District
3. There has been a tremendous increase in delinquent taxes.
4. Local tax protesters have withheld \$1,000,000 in taxes.
5. Local voter attitude toward taxes has been very negative.

In fact, no other comparable school district has been faced with the tax protest movement to the extent that has developed in Kewaunee.

The bottom line is that the Board's offer more reasonably balances the public interest with competing employee interests. On the other hand, the Association's offer will require taxpayers to shoulder a greater burden at a time when restraint and moderation are warranted.

It is also significant that the District's average teacher salary ranks highest among comparable districts. In fact, the District is very competitive at the high end of the salary schedule where the majority of its staff congregate, and it will remain so under the Board's offer. This is one reason why the District does not have to match the other district increases in salaries, since other districts are trying to "catch-up" to the District's enviable position

Given the unique political environment in the District, the relatively low increases received by other private and public sector employees, the dismal farm economy and declines in income by farmers, the low cost-of-living, and the highest average teacher salary among comparable districts, the Board's offer is clearly the more reasonable of the two at issue herein.

DISCUSSION:

On the comparability issue, in view of the fact that the Peninsula School Districts have all settled for 1985-86, and in view of the fact that said Districts have been utilized by the parties in the past, and have been

proposed by the Board in an earlier proceeding, the undersigned sees no need to expand the list of comparable districts for purposes of this proceeding.

Utilizing said group of comparables, the record dramatically demonstrates that the Association's proposal is clearly the more comparable of the two at issue herein. This is true no matter what indicia of comparability is utilized.

When benchmark increases are compared, the District proposes increases ranging between \$160 and \$360 below the lowest increase granted in comparable districts, while the Association's proposal is generally within about \$50 of the comparable average. When actual salaries are compared, neither set of proposals would result in salaries which are out of line in the context of comparable salary schedules. In fact, under the Association's proposal, although the District's salaries would be consistently above average among the comparables, at only one of seven salary benchmarks would the District remain the wage leader among its comparables. When average salary increases are compared, the District's proposal would fall more than \$400 below the lowest increase, while the Association's proposal would fall slightly below the comparable average. When the average dollar value of total package increases are compared, again the District's proposal is more than \$270 below the lowest comparable increase and more than \$400 below the average increase, while the Association's proposal again falls within the range of increases agreed upon among the comparables. Based upon all of this data, it is uncontroverted in the record that the District's proposal is substantially out of line with comparable settlements in the area, while the Association's proposal, though above average in terms of said settlements, clearly falls within the range of said settlements.

In view of the foregoing, it must be concluded that the Association's proposal is the more comparable, and therefore the more reasonable of the two at issue herein, unless the record demonstrates why a significant exception should be made to the settlement pattern among the District's comparables. In the undersigned's opinion, no such justification exists based upon the record evidence presented herein. In fact, the record demonstrates that the District is very much in the mainstream economically when it is viewed in the context of its comparables. Though its levy rate is relatively high, it is not out of line with the situation which exists in comparable districts. In addition, in most other respects, the District is not significantly distinguishable, economically, from its comparables. Though perhaps the District is confronting more taxpayer resistance than some of its counterparts, that resistance does not appear to be based upon distinguishable hard economic data. Nor does the record demonstrate that

the District's salaries are substantially above comparable district salaries in an amount which justifies the significant distinction in increases the District seeks herein. While the undersigned is cognizant of the political pressures which exist in the District in this regard and is sympathetic to the Board's attempt to respond constructively to those pressures, a persuasive case simply has not been made (based upon hard economic data) justifying the exception to the settlement pattern the District is proposing

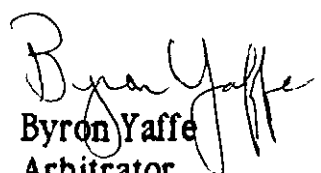
Though the undersigned would have preferred awarding an increase more in accord with the lower end of the settlement pattern among comparable districts in light of the District's relatively high salaries, particularly in the context of the applicability of the other statutory criteria referred to herein by the District, in view of the fact that the District's proposal would result in an unjustified and significant disparity in the size of 1985-86 salary increases between the District and its comparables, the undersigned must conclude that the Association's final offer should be awarded herein

Accordingly, the undersigned hereby renders the following:

ARBITRATION AWARD

The Association's final offer shall be incorporated into the parties' 1985-1986 collective bargaining agreement.

Dated this ¹⁴12 day of September, 1986 at Madison, Wisconsin.


Byron Yaffe
Arbitrator