

APR 30 1987

WISCONSIN EMPLOYMENT RELATIONS COMMISSION
BEFORE THE MEDIATOR-ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Arbitration Between)
MILWAUKEE DISTRICT COUNCIL 48,)
LOCAL 80, AFSCME, AFL-CIO)
and)
WEST ALLIS-WEST MILWAUKEE)
SCHOOL DISTRICT)

Case 51
No. 36888
Dec. No. 23950-A
MED/ARB 3882

Appearances: For the Union, Alvin R. Ugent, Esq., Milwaukee.
For the Employer, Herbert P. Wiedemann, Esq., Milwaukee.

BACKGROUND

On April 24, 1986, the Milwaukee District Council 48, AFSCME, AFL-CIO, Local 80 (referred to as the Union) filed a petition with the Wisconsin Employment Relations Commission (WERC) requesting that the Commission initiate mediation-arbitration pursuant to Section 111.70(4)(cm)(6) of the Municipal Employment Relations Act (MERA) to resolve a collective bargaining impasse between the Union and the West Allis-West Milwaukee School District (referred to as the Employer or School District) concerning a successor to the parties' collective bargaining agreement which expired on June 30, 1986.

On September 16, 1986, the WERC found that an impasse existed within the meaning of Section 111.70(4)(cm). On October 20, 1986, after the parties notified the WERC that they had selected the undersigned, the WERC appointed her to serve as mediator-arbitrator to resolve the impasse pursuant to Section 111.70(4)(cm)(6)(b-g). No citizens' petition pursuant to Section 111.70(4)(cm)(6)(b) was filed with the WERC.

At the request of the parties, the undersigned held an arbitration hearing in Milwaukee, Wisconsin, on January 9, 1987 (the mediation phase of mediation-arbitration having been waived). At that time, the parties were given a full opportunity to present evidence and oral arguments. A transcript of the proceeding was taken. Post-hearing briefs were submitted by both parties.

ISSUE IN DISPUTE

The sole issue which remained at impasse concerned wages for 1986-87 and 1987-88. The Union's final offer proposed a 5% increase effective July 1, 1986 and another 5% increase effective July 1, 1987. The Employer's final offer proposed a 3.1% increase effective July 1, 1986 and another 3.1% increase effective July 1, 1987.

STATUTORY CRITERIA

Under Section 111.70(4)(cm)(7), the mediator-arbitrator is required to give weight to the following factors:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public employment in the same 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 employees, including direct wage compensation, vacation, holidays and excused time, insurance and pension, 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 the private employment."

POSITIONS OF THE PARTIES

The Union

The Union's primary argument in this proceeding is that its final offer is well supported by comparative wage increase data which it presented concerning other school districts in the Milwaukee County area. Since that evidence clearly shows that most custodial and maintenance employees have received wage increases around 5%, the Union believes that its offer should be selected.

In addition, the Union points to increases negotiated or voluntarily agreed to by the Employer for other School District employees. These include teacher aide unit increases of 5.19% for 1985-86 and 5.79% for 1986-87; teacher unit increases of 5.19% for 1985-86 and 5.79% for 1986-87; and administrators' increases of 5.01% for 1985-86.

Finally, the Union points to BNA's GERR publication reporting that state and local government wage adjustments for the first six months of 1986 average 5.3% (first year adjustment) for local government employees.

As for the Employer's emphasis on wage rates and levels, in contrast to percentage increases, the Union argues that there are many present and historical factors which account for this and that prevailing percentage increases are the best evidence of which party's final offer should be selected.

The Employer

To support its final offer, the Employer relies upon two main arguments. First, while it acknowledges that a percentage increase of 5% has been common in settlements in the Milwaukee suburban districts to date for custodial and maintenance employees, it believes that a comparison of wage levels (cents-per-hour) is more relevant. Such an analysis establishes, in the judgement of the Employer, that this unit already has the highest wage levels and that implementation of the Union's final offer will increase the School District's wage leadership, a step which the arbitration process should not mandate.

Second, the Employer points to the deteriorating financial situation facing the School District. This includes the less than 1% state aid for 1986-87, the shift in the major tax burden from industrial property owners to residential property owners, the loss of higher paid industrial/manufacturing jobs to low paying service jobs, and the aging population of the District. In response, the Employer has made extensive efforts to reduce expenditures including closing schools where possible because of decreased enrollments, selling surplus real property, deferring maintenance projects, reducing its budget balance to 2.5%, and capitalizing expenditures by borrowing. The Employer notes that the District currently has the highest tax rate of all the comparable suburban school districts.

The deteriorating financial circumstances of the District are further reflected in wage increases which were negotiated or given to the District's teachers, teacher aides and administrators. Based upon testimony of the Superintendent of Schools, the Employer argues that the increases were lower than those found in the Milwaukee metropolitan area and state-wide. Further, the Employer points to the recently negotiated settlement for the District's clerical unit which provides for a three year contract beginning July 1, 1986 with 3% increases each year with an additional 1% spread over the three year contract for salary schedule structural changes. It also points to a settlement between the City of West Allis and its custodial and maintenance unit which, in the Employer's judgement, provides salaries for many unit members which are less than those provided by the Employer's final offer in this proceeding. The City's increases for this unit are 3.5% and 3% respectively for a two year agreement plus an additional amount for "reallocations," although it is unclear whether these reallocations apply to only clerical workers who are also a part of the custodial/maintenance unit.

In conclusion, the Employer argues that its final offer should be selected because it exceeds, by a significant amount, the increase in the cost of living.

DISCUSSION

Because only wages are in dispute in this proceeding, one might be tempted to characterize this as a simple case. It is not. Competing considerations make this a complex case although it is undisputed that percentage salary increases among comparable school districts supports the Union's final offer of 5% for each year of the proposed two year agreement. Moreover, the undersigned agrees with the Union that in an arbitration proceeding of this type, percentage wage increases among the comparables should be given more weight than absolute wage levels (expressed in cents-per-hour). There are two reasons for this conclusion. The interest arbitration process is not generally designed to disturb the comparable relationships of employers' wage rates and, moreover, sufficient data were not presented concerning other terms and conditions of employment among the comparables to make a comparison of hourly wage rates only very meaningful.

However, the Employer has introduced evidence in this dispute which cannot be ignored before making a final determination. The evidence concerns the deteriorating financial circumstances of the District regarding state aid, recent shift of property tax burden to residential owners, increasing number of lower paid service jobs, and the District's aging population. The Employer notes that it has already made serious efforts to address these financial pressures by closing schools, selling surplus real property, deferring maintenance projects, capitalizing expenditures through borrowing, and reducing its budget reserve to 2.5%. In addition, the District already has the highest tax rate of all the comparable school districts. Without more, however, it would not be fair to require that members of this bargaining unit alone shoulder the burden of smaller than normal wage increases (considering the comparable data from other school districts) unless all other employees of the Employer were asked to accept similar smaller than normal wage increases.

While administrators (other than the Superintendent of Schools) and teachers received increases which are in the range of the increases incorporated into the Union's final offer, there was unchallenged testimony that these increases were in fact lower than those justified by appropriate comparable data. (There was no information on this point about the teacher aides' increases which paralleled the teacher unit percentage increases.) The Superintendent's increase was approximately 3.5%, an additional reflection of the financial difficulties of the District and its efforts to curtail costs, even though his salary (particularly taking into account his experience, tenure and size of district) is less than that of other superintendents in the Milwaukee metropolitan area. In addition, salary increases negotiated for the District's clerical unit, even when consideration is given to additional salary structural changes, is closer to the Employer's final offer than to the

Union's final offer. Accordingly, it appears that many School District employees are receiving salaries or wages which have been adjusted to reflect the District's financial difficulties already noted.

Under MERA's statutory criteria, the undersigned believes that it is equitable to give substantial weight to the District's financial circumstances and to recognize the general "belt tightening" which has already affected the School District's taxpayers (who are paying the highest tax rate among the comparables), pupils and their parents (who have been affected by school closings and other budget economies) and other employees of the Employer. By giving determinative weight to the Employer's arguments that the School District's financial problems and needs to cut costs (or at least to reduce the amount of cost increases) should be borne equitably by all concerned, the undersigned wishes to emphasize certain points established in the record. The employees in this bargaining unit have not be asked to make a disproportionate contribution to alleviate the Employer's fiscal problems. Moreover, the Employer's offer not only exceeds the cost of living, it also provides wage rates which are not low vis-a-vis the rates paid to comparable employees by other public employers, including the City of West Allis. Under these circumstances, the undersigned believes that the selection of the Employer's final offer is more reasonable, even though generally she believes that comparative data should be given great weight in a "typical" or "simple" case.

AWARD

Based upon the statutory criteria contained in §111,70(4)(cm) (7), the evidence and arguments of the parties, and for the reasons discussed above, the mediator-arbitrator selects the final offer of the Employer and directs that it, along with all already agreed upon items, be incorporated into the parties' collective bargaining agreement for 1986-88.

Madison, Wisconsin
April 25, 1987

June Miller Weisberger
Mediator-Arbitrator