STATE OF WISCONSIN
ARBITRATION AWARD

In the Matter of the Arbitration between UNIFIED BOARD OF GRANT AND IOWA COUNTIES and TEAMSTERS UNION LOCAL NO. 695	Re: Unified Board of Grant and Iowa Counties, Case 6, No. 37778 and ARB-4114 Decision No. 24399-A

Appearances: For the Unified Board of Grant and Iowa Counties: Thomas R. Crone, Esq., of Melli, Walker, Pease and Ruhly, S.C., Attorneys at Law, Suite 600, Insurance Building, 119 Martin Luther King, Jr. Blvd., P.O. Box 1664, Madison, Wisconsin 53701-1664.

For Teamsters Union Local No. 695: Marianne Goldstein Robbins, Esq., of Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., Attorneys at Law, 788 North Jefferson Street, P.O. Box 92099, Milwaukee, Wisconsin 53202.

This is a proceeding pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act. The arbitrator was notified of his appointment by the Wisconsin Employment Relations Commission from a panel submitted to the parties by letter dated April 27, 1987. A hearing was held in Lancaster, Wisconsin on July 9, 1987. The parties presented witnesses and evidence in the form of documents and were given opportunities to cross examine the witnesses. A record was made of the proceedings and delivered to the arbitrator on August 11. The parties had agreed to exchange written briefs through the arbitrator. This was accomplished effective September 12. The record is considered closed as of that date.

The dispute between the parties arises out of negotiation of a renewal of their agreement, which by its terms expired on December 31, 1986. The parties had exchanged initial proposals concerning a renewed agreement on October 23, 1986. On November 5, 1986 the Union filed a petition with WERC requesting initiation of arbitration pursuant to the applicable clause of the statute. A member of the WERC staff conducted a mediation session on December 16, 1986. There is disagreement between the parties concerning the results of that meeting, a disagreement that is described below. In any event, the Commission certified conditions precedent to arbitration on April 13, 1987, after the parties had submitted final offers that had been received by the Commission on February 19 (the Board's final offer) and February 24 (the Union's final offer).

The final offers are attached to this report as Annex A (the Board's final offer) and Annex B (the Union's final offer). The final offers differ in the following respects:

The Board offers employees three medical insurance plans, two HMO(s) and a standard plan. Both the Board and the Union propose to continue 100 per cent payment by the Board for single premium coverage. For employees who elect family coverage the Board proposes to pay monthly the greater of $155.00 or 85% of the average premium cost of the plans provided to employees. In the second year of the agreement the Employer proposes to pay monthly the greater of $160.00 or 85% of the average premium cost of the three plans. The Union proposes that the Employer pay monthly in the first year of the agreement the greater of $155.00 per month or 85% of the standard health insurance plan. During the second year of the agreement the Union proposes that the Employer pay monthly the greater of $160.00 or 90% of the standard health insurance plan.

The Union proposes to add the following clause to the agreement:

> Any employee not covered by the terms and conditions of this Agreement shall not perform bargaining unit work if such performance causes a layoff, reduces the weekly or daily hours of work or causes a reduction in bargaining unit positions.

The Employer makes no proposal on this issue.

The Board and the Union are in agreement on the levels of wages for the six classifications in the bargaining unit as to the starting rate, the rate at the completion of the probationary period, and the rate achieved after one year of service. The Union proposes to add another step after three years of service. This would increase the top rates for eligible employees in the unit by slightly less than 2.5%.

The parties do not differ concerning the other items that are included in their final offers.

POSITIONS OF THE PARTIES

Although the statutory criteria that are to be considered in this proceeding are not included in this report, a discussion of their applicability occurs at the end of the opinion section.

THE ISSUE OF WAGES

Both parties propose to raise existing rates by 2.5% in 1987 and 2% in 1988. The Union, in addition, would add a further 2.5% for employees who have completed three years of employment. The addition of the three year step is viewed by the Union as a device for recognizing the contributions of long-term employees and the necessity of making an effort to keep them. It also follows the pattern set by the Employer recently for its non-represented employees. In September, 1986, the Union points out that the Unified Board had adopted the recommendation of a committee reviewing its classification and compensation plan calling for step adjustments at one, three, five, and seven years. Although the Board decided that it was possible financially only to place employees at the third step in 1987, it had been noted that "the most

important feature of the plan from the committee's perspective was the establishment of base salaries adequate to attract and retain quality staff." The Union argues that its own proposed three year step has the same purpose. The Unified Board minutes stated that the increases for the non-represented employees were to be available to all who perform satisfactorily. The Board's Director testified at the hearing that every unrepresented employee who has reached the three year mark has thus far received the increase. The Union asserts that there is no difference between the way the plan for non-represented employees operates and the way in which its own proposed plan would operate.

According to a listing of non-represented employees that it obtained from the County Clerk, the Union asserts that increases for this group averaged 6.35% in 1986.

The Union presented wage rates for classifications that it said were similar to those in this unit for the counties of Chippewa, Crawford, Green, and LaFayette. The comparisons were made according to job titles. Although this method is inexact, without the use of job descriptions, the Union believes that job titles are good representations of similar jobs and that the comparisons in the accompanying table are valid.

According to the Union's comparisons in Table I, Chippewa County rates are all well above any of the rates proposed by either party in this case. Except for jobs in Classification (07), Crawford County rates for 1986 are all higher than either party has proposed for this unit in 1987. Except for jobs in Classification (08), LaFayette County rates for 1986 are all above any proposals made by either of these parties for 1987 and 1988. The Union makes the same claim for comparable jobs in Classifications (03), (04), and (06) in Green County for both 1987 and 1988. Only the 1986 Green County rate for comparable jobs in Classification (08) are lower than this Union's offer for 1987 and both offers in this case for 1988. In sum, the Union asserts that the Employer's rates in this unit are far below the same classifications in the comparable counties of Chippewa, Crawford, LaFayette, and Green.

Green County has a wage progression period of seven years. Chippewa County has a 30 month wage progression period. Crawford County has a two year wage progression period. LaFayette County has set rates with no progression. Thus three of the four counties with which the Union would compare this agreement have wage progression periods of two years or longer.

The Employer's position on its wage offer as opposed to the Union's proposed addition of another increment after three years is based on several arguments. First, the Employer asserts that the Union is basing its position on two notions: one is that the employees at the Board's Twin Platte facility need the third year progression as compensation for losing two hours of work (the reduction of the bi-weekly hours for certain aides from 72 to 70); and the other is that the adoption of an extended progression system for non-unit employees warranted adoption of something similar for unit workers. The Employer argues that the first notion is not valid for the reason that one aide and several bus drivers at Twin Platte actually had their hours increased as the result of adding an extra day of work. Since the addition of a third year step affects everyone in the unit, the Employer describes the proposal as "overkill." The Employer also argues that it is inappropriate for the Union

Table I

COMPARISON OF WAGE RATES PRESENTED BY THE UNION

Classification	Unified Board 1986	Unified Board 1987*	Unified Board 1988*	Chippewa County 1987	Chippewa County 1988	Crawford # County 1986	LaFayette # County 1986	Green # County 1986
(03)	$4.96	$5.08/5.20	$5.18/5.30	$6.73-7.40	$6.99-7.66	$5.97	$5.97	$6.20
(04)	5.19	5.32/5.45	5.43/5.56	7.40-7.73	7.66-7.99	5.97	6.48-7.58	6.20
(05)	5.44	5.58/5.72	5.69/5.83	6.73-7.40	6.99-7.66	5.97	7.58	n/a
(06)	5.70	5.84/5.99	5.96/6.11	8.25	8.51	6.69	7.58	6.77
(07)	5.97	6.12/6.27	6.24/6.40	7.40-8.25	7.66-8.51	5.97	6.60	n/a
(08)	6.25	6.41/6.57	6.54/6.70	8.25	8.51	7.25	6.60	6.49

Source: Jt. Exhibit #2 and Union Exhibits A through E.

* Figure in front of the slash is the Board's final offer. Figure after the slash is the Union's final offer.

Rates for Crawford, LaFayette and Green Counties were all pending med/arbs at the time of the hearing in this matter.

to propose a third year step to compensate for reduction in hours of a few unit employees when the Union is also processing a prohibited practice complaint regarding the Employer's action. As to the second reason given by the Union, the Employer argues that the Union knew about the progression plan for non-represented employees when it negotiated a tentative agreement that did not include a third year. Therefore, the Union has no standing to change its position in making a final offer. The Union's proposal to add the third year step to provide comity with the non-represented employees is also invalid since the Employer asserts that the non-unit plan does not operate automatically but only when there is satisfactory performance on the part of affected employees.

Instead of the Union's 6.35% 1986 increase for the non-unit employees, the Employer calculates the figure as 4.19%.

In order of their priority the Employer lists the appropriate comparables as (a) internal comparables, (b) other similar providers in Grant or Iowa Counties, (c) other municipal units in Grant County, (d) other similar providers in contiguous counties, and (e) other major employers in Grant County.

The Employer introduced testimony purporting to show that the wage increases at Orchard Manor Nursing Home in Grant County increased by 2.0% for 1987 and 2.5% for 1988, the same amounts as proposed by the Employer for this unit. The final offers of Grant County and AFSCME in a med/arb case covering the County professional unit are respectively 2% and 2.5% (employer) and 3% and 3% (union) for the years 1987 and 1988.

The Employer also cites settlements at Pine Valley Manor in Richland County (2.5% for 1987 and 2.5% for 1988) and Vernon County Courthouse and Social Services (4% in 1987).

The Employer asserts that one of the most appropriate comparables is with the Hodan Center in Mineral Point, a private contract operator providing the same service as the Employer's Twin Platte Center for Iowa County. Rates at Hodan range from $3.80 to $5.70 per hour for aides and from $4.00 to $6.00 per hour for bus drivers. These compare with the Employer's proposal of $5.08 for Aides I and $5.84 for Aides II and $5.58 for bus drivers. In addition, increases from the beginning rates to the top rates at Hodan are based on performance reviews while the Employer's rate increases are based on automatic progression. The Employer also introduced a letter from the Opportunity Center in Prairie du Chien, Wisconsin, which presumably performs services similar to those at Twin Platte and the Hodan Center for Crawford County. The figures provided were on an annual basis, but the range started at $11,876, which when divided by 2,080 hours per year would equal $5.71 per hour. This is a rate that would fall about midway between the Employer's final offers for top rates in Classifications (05) and (06).

THE ISSUE OF PROTECTION OF BARGAINING UNIT WORK

This issue of including a new clause as Paragraph 30.06 of the labor agreement arose as a result of changes made by the Employer in work schedules of employees at its Twin Platte facility. On December 8 the Employer changed

the break schedule of unit employees and reduced the bi-weekly work schedules of several aides from 72 to 70 hours. At that time, certain of the work that had been performed by unit employees was reassigned to professional employees outside the unit. As a consequence, a class grievance was filed on December 11 protesting the change in the break time on grounds that it violated the existing agreement. Although it was not filed until January 16, 1987, the Union also filed a prohibited practice complaint with WERC alleging (along with another allegation) that the Employer had violated the labor agreement by assigning non-bargaining unit personnel to perform bargaining unit work. At the time of the hearing in this matter, that complaint was pending before the Commission.

The parties stipulated at the hearing that in its initial proposals in October, 1986, the Union had included language identical to this language in its final proposal. Although it was not part of the tentative settlement reached at the mediation session on December 16, 1986, the Union argues that it had been necessary to resurrect the language as a result of a conversation its Business Representative, Mr. Gowey, had with the Board's attorney, Mr. Crone, at the conclusion of the mediation session. The Union asserts that Mr. Gowey inferred from that conversation that the Employer interpreted the tentative agreement as acceptance by the Union of the change in hours and the change in the break period at Twin Platte. Since it continued to object to the changes made by the Employer on December 8, the Union argues that this position taken by the Employer immediately made the tentative agreement untenable. A grievance was already being processed. In a letter to the Board's Administrator, dated December 30, 1986, Mr. Gowey stated that "this grievance must be resolved prior to the Union presenting the tentative '87-'88 agreement for ratification." Further, the letter went on: "The Union objects to the unilateral implementation of those changes implemented on or about 8 December 1986 and the Union reserves its rights to bargain over those areas considered mandatory subjects of bargaining."

The Union argues that inclusion of the proposed clause is a modest proposal and would prevent the Employer in the future from making the kinds of changes in schedule hours that it made on December 8. The Union cites WERC cases to support its argument that the proposed clause constitutes a mandatory subject of bargaining.

On this issue the Employer takes the position that the Union had dropped a similar clause in the 1985 bargaining and had dropped this one from its original demands as evidenced by its acceptance of a tentative agreement on December 16 that did not include this clause.

The Employer's main contention is that its current Management Rights clause provides authority for its actions in reducing the bi-weekly schedules of unit employees on December 8 and reassigning some of their duties to non-bargaining unit employees. The inclusion of the proposed clause would be unfortunate for two principal reasons: first, the Board's work force is very small, consisting of about 41 non-represented employees and 22 unit employees at some seven work sites. In these circumstances it is often necessary for non-unit employees to work alongside unit employees and often do the same kind of work. The lack of this flexibility that would result from operation of the proposed clause would result in fatal inefficiencies in such a small organization. Second, its inclusion would undermine the strong Management Rights

clause that is necessary for efficient operation of the enterprise and to which the Union freely agreed in two previous negotiations.

The Employer asserts that there are no comparable clauses in any of the labor agreements which these parties have used for purposes of comparison and that such a clause would be without precedent in this kind of work.

THE ISSUE OF HEALTH INSURANCE

On this issue the Union argues that its proposal is closer to the percentages of premiums that have been paid in previous collective bargaining agreements. In the 1985 agreement the Employer's dollar contribution to the standard family plan for employees hired prior to January 1, 1983 was 95% of the premium. For those choosing the HMO plan it was 91%. The Employer's $150.00 contribution in 1986 was equal to 87% of the standard family plan for members of the unit and 89% for those who chose an HMO plan. According to the Union's calculations the Employer's proposed $155 monthly contribution in 1987 would be equal to 85% of the standard plan and 86% of the HMO. This is the same as the Union proposal for 1987. For 1988 the Employer's proposal of $160.00 would equal 83.7% of the standard family plan premium and 84.8% of the HMO premium. Although the premiums for 1988 are only estimates at this time, the Union argues that its 90% proposal applied to the standard plan premium is closer than the Employer's proposal to the percentages paid by the Employer in 1985 and 1986. Adoption of the Employer's proposal would result in a reduction in the percentage contributed in an earlier period.

The Union asserts that it is appropriate to base its proposed 85% in 1987 and 90% in 1988 on the standard plan premium in order to provide maximum options for the employees in choosing among the standard and HMO plans.

Further, the Union argues that its comparables support its position. Courthouse and related department employees in Crawford and LaFayette Counties receive 100% employer premium contributions for family coverage. The Pine Valley Nursing Home agreement in Richland County, which is used by the Employer as a comparable, establishes a 92% employer contribution toward family coverage for full-time employees. And the Chippewa County agreement provides for a 100% employer contribution for the family plan effective July 1, 1986.

The Employer points out that the 1985 agreement called for $137.24 contributions to the family plan (the Union's estimated 95%) only for longer term employees. At that time employees hired after January 1, 1983, received only $85.00 per month toward the family plan premium. This was only 56% of the HMO and 59.6% of the standard plan.

The Employer produced a listing of employees in the unit purporting to show that only 4 single employees currently are insured under the standard coverage. None of the ten employees who have currently chosen family coverage come under the standard plan. Under these conditions the Employer argues that the Union proposal of tying its percentages to the standard plan is inappropriate.

As in connection with the Union comparables related to the other issues in dispute, the Employer discounts the importance of comparisons with courthouse and related department employees in LaFayette and Crawford Counties and points out that although the Board policy covers all employees in the unit who work more than 20 hours per week, the Richland County Pine Manor agreement provides only 46% payments on the family plan for part-time employees, defined as those who work five days out of 14. The Board also points out that other units in Grant County (Sheriff and Orchard Manor) have provisions in their agreements calling for only 70% employer contributions, although they are to increase to 80% in 1988.

As it does in connection with the other issues, the Employer argues that the Union has no basis for changing its proposal on this issue from what it had tentatively agreed to accept on December 16, 1986.

THE ISSUE OF BARGAINING HISTORY

On December 16, 1986, the Union and the Employer met with the WERC mediator and reached a tentative agreement. Its terms were identical to the Employer's final offer in this proceeding. Testimony as to what happened after the meeting is in dispute. The Union asserts that the mediator had told them in Union caucus that the Employer had agreed that the parties disagreed concerning interpretation of the Employer's unilateral actions in changing the hours for certain employees and changing the time of the rest period at Twin Platte. According to the testimony of the Union's Business Representative, Mr. Gowey, this meant that the Union needed to process a grievance on the rest period change and a prohibited practice charge before the Wisconsin Employment Relations Commission on the hours change. At the end of the mediation session, however, Mr. Gowey testified that he had inferred from a conversation with the Employer's attorney, Mr. Crone, that the tentative agreement had washed out those two matters.

Subsequently there was some correspondence between the parties. On December 18, 1986, Mr. Crone wrote to Mr. Gowey enclosing a summary of the tentative agreement and asking when he would present it to the membership for ratification. In a December 30, 1986 letter that Mr. Gowey wrote to the Employer's Administrator (with a copy to Mr. Crone) the Union stated that ". . . this grievance must be resolved prior to the Union presenting the tentative '87-'88 agreement for ratification. The Union objects to the unilateral implementation of those changes implemented on or about 8 December 1986 and the Union reserves its rights to bargain over those areas considered mandatory subjects of bargaining."

The grievance was filed on December 11, 1986. On January 12, 1987, Mr. Crone directed a letter to Mr. Gowey, which contained the following pertinent paragraphs:

> This letter will also confirm our discussion of this date regarding ratification of the tentative agreement as it relates to the referenced grievance.
>
> As I earlier stated, it is the Employer's position that ratification of the 1987-1988 tentative agreement will not in any way effect the merits of the December 11, 1986 grievance. That grievance seeks a restoration of the lunch period/break schedule that existed at at Twin Platte prior to December 8, 1986. Ratification of the tentative agreement is understood not to waive or resolve such dispute. It is further understood that the reference to "current policy" in Article 21, Section 21.01 does not constitute an express or implied ratification by the Union of the December 8, 1986 change in the meal period/break schedule. As such, the Union will be free to pursue the grievance in accordance with Article 5.
>
> If the above does not accurately reflect our mutual understanding, please contact me immediately. On the assumption it does, please advise as to when you expect to present the tentative agreement for ratification.

On January 16, 1987, the Union filed a prohibited practices complaint with WERC alleging that the Employer had violated the collective bargaining agreement. The complaint asserted that on December 8, 1986, the Employer had reduced hours at the Twin Platte facility, had eliminated a negotiated fifteen minute paid break period, and had reassigned certain bargaining unit work to supervisory personnel or professional staff. The complaint also included allegations of earlier violations of the labor agreement.

It is the Union's position that because of the pendency of the prohibited practices complaint and the Employer's attitude that ratification of the tentative agreement would constitute acceptance of the unilateral changes the Employer had made, the Union members were advised to vote against ratification. The members took that advice and voted the tentative agreement down. Subsequently the parties filed their final offers with the WERC.

It is the Employer's position that Mr. Crone's January 12 letter makes it clear that the grievance was no obstacle to ratification and that the Union never was on record as believing that ratification by the members would make the subject of the prohibited practice complaint moot. In any case, the Union filed the prohibited practice case soon after receiving Mr. Crone's January 12 letter. Since the Union knew that the grievance proceeding was not an obstacle, and since they had filed a complaint that would be determined by WERC, there was consequently no reason not to ratify the tentative agreement.

The Employer cites Elkouri and Elkouri, How Arbitration Works; Green County Pleasant View Nursing Home, Dec. No. 17775-A (9/18/80), Arbitrator Petrie; as well as my own case, Green County (Social Services and Highway Departments), Dec. Nos. 17937-B, 17932-B (1/27/81) to support its position that this disppute should be decided on the basis of bargaining history. Since the Employer's final offer is the same as the terms of the tentative settlement, the implication is that there was a meeting of the minds on

December 16, 1986, and that the Union later changed its collective mind and decided that it preferred to add some improvements to what it had previously found acceptable. The Employer also argues that there was no direct testimony to support the Union's contention that if the members ratified the tentative agreement, they would be ratifying the unilateral actions taken by the Employer on December 8, 1986. Furthermore, the Employer argues that the exchanges of correspondence introduced at the hearing show that the grievance of December 11 was being processed and was not an obstacle to ratification and that the prohibited practice complaint later filed concerned a matter of refusal to bargain during the term of the agreement and was not pertinent to any problem in the new agreement.

OPINION

On the issue of whether this case should be decided on the basis of the bargaining history, I disagree with the Employer. Whether or not the Union explicitly communicated its reservations about its belief that Mr. Crone's remarks at the end of the mediation session implied that the tentative agreement washed out the matters that later became the subject of the prohibited practice complaint, it seems clear that this was Mr. Gowey's belief. The Union members did not reject the tentative agreement because they were disatisfied with what their negotiators had achieved. They rejected it pursuant to the advice of those who had negotiated it. I credit Mr. Gowey's testimony that the advice was based upon his belief that acceptance of the terms of the tentative agreement implied that the Union was accepting the actions the Employer had taken on December 8 and which the Union believed to be the basis for a prohibited practice charge. Although Mr. Gowey may have erred by not better communicating these sentiments to Mr. Crone, I do not believe that this case can be decided on the basis of a tentative agreement that the Union believed to be flawed. These circumstances are distinguishable from the circumstances described in Green County Pleasant View Nursing Home, Dec. No. 17775-A or in Green County (Social Services and Highway Departments), Dec. Nos. 17937-B and 17932-B, referred to above.

In a way I regret that this case cannot be decided on the basis of bargaining history, for this is a very difficult decision. Unlike many cases where the parties agree on the application of one of the criteria listed in the statute on comparability but disagree on the area to be compared, in this case the Union would have me compare the disputed terms with conditions among employees in other counties. The Employer, however, generally would compare employment conditions in this dispute within the county and with private employers. The Union generally bases its wage case on levels of payment, the Employer generally on the amounts of increases that are being granted. I examine the issues of wages, insurance, and work assignment separately.

WAGES

The Union's comparisons of wage levels in Chippewa, Crawford, LaFayette and Monroe Counties were impressive. Although such comparisons ought to be made using job descriptions rather than job titles only, neither party introduced any testimony indicating that more detailed comparisons are possible for these job classifications. In any event, the Employer also used

job titles alone in its comparisons with the Hodan Center, Grant County's Orchard Manor Nursing Home, and Richland County's Pine Valley Manor. Perhaps most impressive in the Union's comparisons was the fact that almost all 1986 rates in the counties the Union used for comparison were higher than the rates proposed by the Employer in this case for both 1987 and 1988.

Since three of the counties were in mediation-arbitration, I have attempted to make my own comparisons of the job classifications for the years 1986, 1987, and 1988, using this Union's proposed top rates in this case, the negotiated rates in Chippewa County, and the employers' proposals as final offers in Crawford, Green, and LaFayette Counties. Those figures are presented in Tables II, III and IV.

The only classifications that are not higher for 1986 in the other four counties than the Iowa-Grant rates are in the range 07 classifications of Secretary II and Family Support Worker, where the Crawford County rate of $5.97 is the same. Likewise, the Crawford County employer proposal in med/arb for that same 07 range is the only rate that is lower than Iowa-Grant Union proposals in med/arb for 1987. The same statement applies to the proposed 1988 proposed rates in med/arb, where only the employer proposal for the 07 classifications ($6.15) is lower than the Union proposal for those classifications in this case ($6.40). In all other instances shown on the table the comparable rates in existence (Chippewa County) or proposed by employers (Crawford and LaFayette Counties) are higher than the rates proposed by the Union in this case.

In Table V, I have made a slightly different comparison of rates for the counties of Chippewa, Crawford, Green and LaFayette. Instead of trying to compare individual job classifications and rates, I have listed the job rates for what appear to be the lowest rate ranges listed in the labor agreements for each county for the year 1986. (For instance, Crawford County has eleven ranges, LaFayette County has thirteen, Green County has nine, Chippewa County has seven. The top rate in the lowest six ranges of each of these counties is compared with the top rate for the six ranges in the 1986 labor agreement in this proceeding.)

Table II

COMPARISONS OF UNIFIED BOARD JOB CLASSIFICATIONS AND TOP RATES
WITH TOP RATES PAID TO SAME CLASSIFICATIONS IN COMPARABLE COUNTIES

1986

Iowa-Grant Unified Board Job Classifications	1986 Top Rates	Chippewa County Top Rates for Same Classifications	Crawford County Top Rates for Same Classifications	Green County Top Rates for Same Classifications	LaFayette County Top Rates for Same Classifications
03: Social Service Aide I File Clerk	$4.96	$6.47-$7.14	$5.97	$6.20	$5.97
04: Custodian I, Secretary I	5.19	7.14- 7.47	5.66- 5.97	6.20	6.48- 7.58
05: Bus Driver, Nursing Assistant, Aide I	5.44	6.47- 7.14	5.97	n/a	7.58
06: Social Service Aide II	5.70	7.99	6.69	6.77	7.58
07: Secretary II, Family Support Worker	5.97	7.14- 7.99	5.97	n/a	6.60
08: Bookkeeper	6.25	7.99	7.25	6.49	6.60

Source: Union Exhibits A, B, C, D, E and K.

Table III

COMPARISONS OF UNIFIED BOARD JOB CLASSIFICATIONS AND TOP RATES
WITH TOP RATES PAID TO SAME CLASSIFICATIONS IN COMPARABLE COUNTIES

1987

Iowa-Grant Unified Board Job Classifications	Union Proposed Top Rates	Chippewa County Top Rates for Same Classifications	Crawford County* Top Rates for Same Classifications	Green County Top Rates for Same Classifications	LaFayette County* Top Rates for Same Classifications
03: Social Service Aide I File Clerk	$5.20	$6.73-$7.40	$5.97	n/a	$6.08
04: Custodian I, Secretary	5.45	7.40- 7.73	5.66- 5.97	n/a	6.60- 7.72
05: Bus Driver, Nursing Assistant, Aide I	5.72	6.73- 7.40	5.97	n/a	7.72
06: Social Service Aide II	5.99	8.25	6.69	n/a	7.72
07: Secretary II, Family Support Worker	6.27	7.40- 8.25	5.97	n/a	6.73
08: Bookkeeper	6.57	8.25	7.25	n/a	6.73

Source: Union Exhibits A, B, C, D, and E and Employer Exhibits 28 and 29.

* Employers' proposals in med/arb cases pending at time of hearing in this proceeding.

Table IV

COMPARISONS OF UNIFIED BOARD JOB CLASSIFICATIONS AND TOP RATES
WITH TOP RATES PAID TO SAME CLASSIFICATIONS IN COMPARABLE COUNTIES

1988

Iowa-Grant Unified Board Job Classifications	Union Proposed Top Rates	Chippewa County Top Rates for Same Classifications	Crawford County* Top Rates for Same Classifications	Green County Top Rates for Same Classifications	LaFayette County* Top Rates for Same Classifications
03: Social Service Aide I, File Clerk	$5.30	$6.99-$7.66	$6.15	n/a	$6.26
04: Custodian I, Secretary I	5.56	7.66- 7.99	5.83- 6.15	n/a	6.80- 7.95
05: Bus Driver, Nursing Assistant, Aide I	5.83	6.99- 7.66	6.15	n/a	7.95
06: Social Service Aide II	6.11	8.51	6.89	n/a	7.95
07: Secretary II, Family Support Worker	6.40	7.66- 8.51	6.15	n/a	6.93
08: Bookkeeper	6.70	8.51	7.47	n/a	6.93

Source: Union Exhibits A, B, C, D and E.

* Employers' proposals in med/arb cases pending at time of hearing in this proceeding.

Table V

COMPARISONS OF TOP RATES IN THE LOWEST SIX RANGES CONTAINED IN LABOR AGREEMENTS IN FOUR COUNTIES WITH TOP RATES IN THE SIX RANGES IN THE IOWA-GRANT AGREEMENT: 1986

Iowa-Grant Rate Ranges	Iowa-Grant 1986 Top Rate 1 Year Progression	Chippewa Cty. 1986 Top Rate 30 Month Progression	Crawford Cty. 1986 Top Rate 2 Year Progression	Green Cty. Top Rate 3 Year Progression	LaFayette Cty. Top Rate, No Progression
03:	$4.96	$6.47	$5.66	$5.59	$5.97
04:	5.19	6.84	5.97	5.86	6.30
05:	5.44	7.14	6.02	6.13	6.48
06:	5.70	7.47	6.41	6.40	6.60
07:	5.97	7.69	6.62	6.72	6.78
08:	6.25	8.70	6.69	7.04	7.13

This table shows that in 1986 the Iowa-Grant Unified Board top rates were lower than the top rates in the lowest six rate ranges shown in the other 1986 labor agreements. The differences ranged from a minimum of 44 cents at Grade 08 in a comparison with Crawford County to a maximum of $2.45 at Grade 08 in a comparison with Chippewa County. If Chippewa County is excluded, the maximum difference is $1.11 at Grade 04 in a comparison with LaFayette County.

The Employer presented some wage rate information from the Vernon County Unified Board, but it was not useful for making comparisons. It was not clear whether the employees were represented by a union, but the limited number of classifications and rates included in the information were presented on an annual basis. When the figures were divided by 2,080 (the hours in a 52 week, 40 hour week year), they were far above the wage rates in the table above. The wage data presented by the Employer showing rates at the Richland County Pine Valley Manor Nursing Home and Grant County's Orchard Manor Nursing Home represented employees in a bargaining unit not comparable to the one in this proceeding and those rates are not considered useful for comparisons.

Although not all the units with which the Union would compare this bargaining unit have progression periods as long as three years, Green County has a seven year period for progression, and both Chippewa and Crawford County have progression periods that exceed the current period in this case by factors of two and one-half and two respectively. It is also noteworthy that the Sheriff's Department unit in Grant County has three year progression and the professional unit in Grant County has a two year progression period. Although LaFayette county and Vernon County have fixed rates, it appears to the arbitrator that the average progression period for employees represented by unions in Grant County and the counties with which it is compared in this proceeding is closer to three years than to the one year that the Employer

proposes to keep. And as to the private employer (Hodan Center) which the Employer proposes for comparison, its progression periods for comparable job classifications (based on performance appraisal) are six years at the minimum and with a possible maximum of about twenty-four years.

At the hearing the Union presented 30 names of non-bargaining unit employees and asserted that all eligible employees among the thirty names had received a three year step increase when the longer progression had been adopted in 1986. The Employer disputed this at the hearing, asserting that there were eleven employees that the Union had not counted among the non-represented employees and that two of these had not received the increases. But testimony on this subject was ambiguous and the Employer's superintendent stated at one point that all non-represented employees had received three year step increases. The arbitrator does not believe that the Employer demonstrated in any convincing fashion that the Employer's use of the term "satisfactory performance" in judging whether non-represented employees are to receive the three year increments differs in any meaningful way from the Union's proposed use of time in grade as the criterion for three year pay increases.

In sum, on the issue of wages I find the Union's case more convincing than that of the Employer, and if this were the only issue, it would be my opinion that the award should be made in favor of the Union.

THE ISSUE OF HEALTH INSURANCE

The Union's comparable counties, as well as the Pine Valley Nursing Home in Richland County, used by the Employer in its wage comparables, support the proposal of an increasing percentage contribution by the Employer to the cost of health insurance. But the Employer's arguments are more impressive. it was pointed out that only in the 1986 expired agreement had the Employer's contribution for the family plan premium been extended to employees hired after January 1, 1983. Thus the Employer contribution was substantially increased in the most recent agreement. Other organized public sector units in Grant County have much lower percentage contributions by employers. But the Employer's most telling argument is that there are no current employees in the unit who have chosen the standard plan upon which the Union would base its required percentage contribution. All ten employees in the unit who have families have currently chosen one or the other of the HMOs that are offered. Since those plans are less costly than the standard plan, the result of adoption of the Union's proposal would be to assure that all of the HMO premiums for the family plan would be paid by the Employer under the new labor agreement. In these circumstances, if this were the only issue, I would choose the Employer's final proposal.

THE ISSUE OF PROTECTION OF BARGAINING UNIT WORK

This issue was added by the Union to its final offer in the period after the tentative agreement when the Union had decided that ratification implied that ratification would make moot any prohibited practice complaint concerning the Employer's unilateral action in reducing hours for aides at Twin Platte and transferring part of their work assignments to administrative and

professional personnel. I have given my opinion above that the Union's position on this point was not unreasonable and in fact that it constituted understandable grounds for recommending that the members reject the tentative agreement.

I understand the Employer's position that addition of the clause would be unwise from its standpoint because the small size of the bargaining unit demands flexibility for the Employer in making work assignments, the alternative being a situation where the combined unit and non-unit employees would be less productive. I do not find persuasive the other Employer argument, that its inclusion would undermine the present, strong Management Rights clause. This reflects the Employer's interests. But the Union's interests are of equal importance, and in this case, judging by both parties' description of the unilateral action taken by the Employer on December 8, 1986, it is not unreasonable for the Union to have such a clause as protection against future unilateral actions regardless of how the prohibited practice complaint currently before WERC is decided.

Given the circumstances surrounding this case, I do not believe that this proposal by the Union is unreasonable for the protection of bargaining unit work. On the other hand, as the Employer points out, there are no similar clauses in the other labor agreements that have been used for comparisons in this proceeding. It is my judgment that this issue is a toss-up as a component in the award in this case.

FACTORS LISTED IN THE STATUTE

In arriving at this decision I must consider ten factors listed in Chapter 111.70(4)(cm)7. Without listing them verbatim I will indicate how I have considered them in arriving at my award. Items a. and b., the lawful authority of the employer and stipulations of the parties, are not at issue. As to Item c., it could be argued in this case that the interests and welfare of the public would be served (in different ways) by the choice of either final offer, by greater economy and perhaps greater productivity if I choose the Employer's offer, and by better morale of the employees and perhaps greater productivity if I choose the Union's final offer. While these are very important matters involving the interest and welfare of the public, the application of this factor will not be settled by anything I say in this award. The Employer has not raised the issue of its financial ability to meet the costs of the settlement.

Factors d. and e. involve comparisons of wages, hours and conditions of employment of these employees with wages, hours and conditions of employment of other employees performing similar services (d.) and similar comparisons between these employees and other employees generally in public employment in the same community and in comparable communities (e.). As to factor d., the evidence presented by the parties is mixed, as I have indicated in the opinion section of this report, but actual rates for similar job titles of employees performing similar services in the public sector in adjacent and nearby counties are considerably higher than the present rates or the rates proposed by this Employer. And even if the Union's proposal is accepted, those same rates paid to employees of this employer would still be below the rates paid to other employees performing similar services in the public sector in

adjacent and nearby counties. In connection with the application of this factor, I believe that this conclusion still holds if I exclude Chippewa County, which is perhaps two hundred miles away from the operations of this Employer. The evidence provided by the Employer as it relates to factor d. goes mostly to the level of increases being granted, which are generally modest and in the 2% to 3% range. The difference between those increases and the Union's proposal is in the extra 2 1/2% represented by the addition of a third year increment. But in view of the fact that the employees performing similar services that are used for comparisons are predominantly covered by progression schedules that are greater than the Employer's progression period (an on the average at least close to the three year period proposed by the Union), I believe that in making a judgment on this factor, the Union's final proposal is closer to the comparables.

As to factor e., I refer back to Table V. This factor differs from factor d. in that the comparison is intended to be made with employees in comparable communities who may be performing dissimilar services. The same comments made above with reference to factor d. apply here. These other communities appear to pay higher rates, on average, than this Employer pays. And within the same community it appears that the level of increases granted to the non-unit employees of this Employer are most significant. They received, according to the Union, increases averaging 6.35% for 1987. Although this testimony was disputed by the Employer in its brief, the Employer's calculation of a 4.19% increase was made on an aggregative salary total basis. The two estimates are not entirely comparable. The Union's calculation was based on names of employees, their current rates, and their actual increases, as given to the Union by the County Clerk. The Employer's calculation was based on a total annual compensation of all classifications. Where the jobs were unfilled, starting rates had been used. In the absence of estimates that can be compared more accurately, I believe that the non-unit employees have received increases in 1987 that were better than those proposed by the Employer for the bargaining unit employees in 1987. Although the Grant County professional unit has a two year progression period, it is significant that the Employer has negotiated a three year progression period for the Sheriff's Department unit, represented by this same union.

Factor f. refers to comparisons of wages, hours and conditions of employment with private employees generally in the same community and in comparable communities. On this factor the Employer has introduced two principal comparisons: the Hodan Center in Mineral Point, and the Communications Products Corporation in Lancaster. Both of these employers pay lower rates to a variety of job classifications than this Employer pays. In the case of the Hodan Center the employees are not represented by a union. The private employees of the Communications Product Corporation are represented by Local 695 of the Teamsters Union, the same union that represents the employees in this proceeding. It was not clear from the document whether any of those employees, with the possible exception of truck drivers, perform similar kinds of work to the employees in this proceeding. Although factor f. requires that I consider the "wages, hours and conditions of employment of other employees generally in private employment in the same community . . .," this rather tenuous evidence cannot carry enough weight to overbalance the strong evidence discussed above concerning factors d. and e. indicating that these employees are paid less than other public employees in this and other comparable communities. I should also note that Hodan employees have a progression

period of from six to twenty-four years. Communications Products Corporation employees have a five year progression period which appears to be governed by the criterion of time in grade.

As to factor g., while the Union's wage proposal is slightly higher than the increase in the Consumer Price Index for 1986 or 1987, this factor should be given relatively less weight than comparability in making a judgment on wage levels.

Aside from the testimony on wages and health insurance, there was not enough evidence presented to make any independent finding on application of factor h., which relates to overall compensation. There was no indication that the overall compensation of these employees is so high as not to warrant the increases proposed in this case by the Union.

There was no testimony presented that would raise a question about changes in circumstances during the pendency of these arbitration proceedings, nor other factors "normally or traditionally" taken into consideration in proceedings such as these, which are covered in factors i. and j.

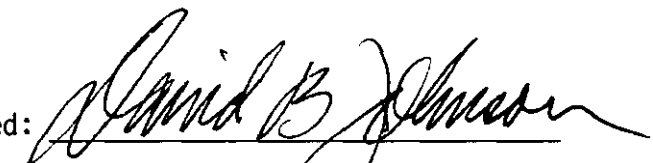
In sum, in this arbitrator's opinion, factors d. and e. are most important in making a judgment as to which final offer to accept, and wages are the most important element in this dispute. Application of the criteria spelled out in those factors leads me to choose the Union's final offer.

AWARD

Based upon a careful consideration of the evidence presented by the parties and the application of the factors in the statute, which I have just discussed, I choose the Union's final offer as the award in this proceeding.

Dated: November 9, 1987

at Madison, Wisconsin

Signed: 

David B. Johnson
Arbitrator appointed by WERC

J. Ex #2 RECEIVED

MAR 30 1987

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

ANNEX A

Name of Case: United Board of Grand Iowa Counties

The following, or the attachment hereto, constitutes our final offer for the purposes of arbitration pursuant to Section 111.70(4)(cm)6. of the Municipal Employment Relations Act. A copy of such final offer has been submitted to the other party involved in this proceeding, and the undersigned has received a copy of the final offer of the other party. Each page of the attachment hereto has been initialed by me.

X Further, we ~~(do)~~ **(do not)** authorize inclusion of nonresidents of Wisconsin on the arbitration panel to be submitted to the Commission.

X _____ (Date)

X _____ (Representative)

X On Behalf of: _____

_____

ZMARB9.FT

February 18, 1987

FINAL OFFER

UNIFIED BOARD OF GRANT AND
IOWA COUNTIES

All references are to the 1986 Agreement between Unified Board of Grant and Iowa Counties and Teamsters Union, Local No. 695.

1. Amend Article 7, Section 7.03 as follows:

7.03 The Employer agrees to notify the Union in writing of all new hires who have successfully completed their probationary period. Such notification shall include the employee's name, mailing address and social security number.

2. Amend Article 27, Section 27.01 and 27.02 as follows:

27.01 The Employer agrees to continue the current Equitable Life Group Health Insurance Plan for regular employees who work, on average, twenty (20) hours or more per week. The Employer further agrees to permit regular employees who work, on average, twenty (20) hours or more per week to elect participation in such HMO(s) as are currently available to other employees. The Employer agrees to pay 100% of the single premium for employees who elect such coverage.

27.02 Upon satisfactory completion of the employee's probationary period, the Employer agrees to pay, effective January 1, 1987, for employees who elect family coverage, the greater of $155.00 per month or 85% of the average premium cost of the plans provided to employees. Effective January 1, 1988, said payment shall be the greater of $160.00 per month or 85% of the average premium cost of the plans provided to employees.

3. Amend Article 29, Section 29.01 as follows:

29.01 The Employer agrees to provide and remit all contributions due on behalf of the

employees covered by the Wisconsin Retirement Fund at the rates in effect on January 1, 1987 and January 1, 1988, respectively.

4. Amend Article 30, to add new Section 30.05 as follows:

30.05 When an employee performs work in a job classification with a lower rate of pay, the employee shall continue to receive his regularly classified rate of pay for all such time worked. This provision shall not apply when the employee is permanently reclassified in accordance with Article 11.

5. Amend Article 33, Section 33.01 to reflect a two (2) year agreement, January 1, 1987 through December 31, 1988.

TRC

APPENDIX B

EFFECTIVE 1/1/87

WAGE CLASSIFICATION	START	COMPLETION OF PROBATIONARY PERIOD	1 YEAR
03	$4.63	$4.85	$5.08
04	4.85	5.08	5.32
05	5.08	5.32	5.58
06	5.32	5.58	5.84
07	5.58	5.84	6.12
08	5.84	6.12	6.41

EFFECTIVE 1/1/88

WAGE CLASSIFICATION	START	COMPLETION OF PROBATIONARY PERIOD	1 YEAR
03	$4.72	$4.95	$5.18
04	4.95	5.18	5.43
05	5.18	5.43	5.69
06	5.43	5.69	5.96
07	5.69	5.96	6.24
08	5.96	6.24	6.54

Job Classifications

03: Social Service Aide I,
File Clerk

04: Custodian I, Secretary I

05: Bus Driver, Nursing Assistant
Aide I

06: Social Service Aide II

07: Secretary II,
Family Support Worker

08: Bookkeeper

TRC

RECEIVED

MAR 27 1987

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Jt. Ex. #3

ANNEX B

Name of Case: Unified Board of Grant & Iowa Counties

The following, or the attachment hereto, constitutes our final offer for the purposes of arbitration pursuant to Section 111.70(4)(cm)6. of the Municipal Employment Relations Act. A copy of such final offer has been submitted to the other party involved in this proceeding, and the undersigned has received a copy of the final offer of the other party. Each page of the attachment hereto has been initialed by me.

X Further, we ([redacted]) (do not) authorize inclusion of nonresidents of Wisconsin on the arbitration panel to be submitted to the Commission.

X 3/26/87 (Date)

X John A. Gourney (Representative)

X On Behalf of: Teamsters Union Local 695

RECEIVED

FEB 24 1987

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

FINAL OFFER

FOR THE 1987 - 1988 AGREEMENT

BETWEEN

UNIFIED BOARD OF GRANT AND IOWA COUNTIES

and

TEAMSTERS UNION LOCAL NO. 695

All Articles and Sections of the current Labor Agreement to remain in full force and effect except for the following:

(~~Old Language~~ : New Language)

7.03 The Employer agrees to notify the Union in writing of all new hires who have successfully completed their probationary period. Such notification shall include the employee's name, mailing address and social security number.

ARTICLE 27 - HEALTH INSURANCE

27.01 The Employer agrees to continue the current Equitable Life Group Health Insurance Plan for regular employees who work, on average, twenty (20) hours or more per week. The Employer further agrees to permit regular employees who work, on average, twenty (20) hours or more per week to elect participation in such HMO(s) as are currently available to other employees. ~~The Employer agrees to pay up to Eighty-Five Dollars ($85.00) per month toward the cost of single or family coverage.~~

27.02 The Employer agrees to pay one hundred percent (100%) of the single premium for employees who elect such coverage. Upon satisfactory completion of the employee's probationary period, the Employer ~~further~~ agrees to pay, effective ~~July 1, 1986, an additional Sixty-Five Dollars ($65.00) per month toward the cost of family coverage for employees who elect such coverage. (Note: Prior to July 1, 1986, the Employer shall continue to make its supplemental premium contribution of $52.04 per month for employees hired prior to January 1, 1983 who elect family coverage.)~~ January 1, 1987, for employees who elect family coverage, One Hundred Fifty-Five Dollars ($155.00) per month or eighty-five percent (85%) of the standard health insurance plan, whichever is the greater. Effective January 1, 1988, said payment shall be One Hundred Sixty Dollars ($160.00) per month or ninety percent (90%) of the standard health insurance plan, whichever is the greater.

27.03 The Employer shall contribute toward the applicable HMO(s) premium an amount equal to the Employer's share toward the standard health insurance plan premium cited in this Article for either the single or family plans, provided that the Employer's contribution shall not exceed the applicable HMO premium.

27.03 Renumber, to become §27.04.

27.04 Renumber, to become §27.05.

ARTICLE 28 - WAGES

See Appendix B.

ARTICLE 29 - RETIREMENT

29.01 The Employer agrees to provide and remit all premiums due on behalf of the employees covered by the Wisconsin Retirement Fund at the rates in effect on January 1, ~~1986~~ 1987 and January 1, 1988, respectively.

ARTICLE 30 - MISCELLANEOUS

30.05 When an employee performs work in a job classification with a lower rate of pay, the employee shall continue to receive his regularly classified rate of pay for all such time worked. This provision shall not apply when the employee is permanently reclassified in accordance with Article 11.

30.06 Any employee not covered by the terms and conditions of this Agreement shall not perform bargaining unit work if such performance causes a layoff, reduces the weekly or daily hours of work or causes a reduction in bargaining unit positions.

ARTICLE 33 - TERMINATION

33.01 Amend to provide for a two (2) year Agreement, namely, January 1, 1987 through December 31, 1988.

APPENDIX B - WAGES AND CLASSIFICATIONS

EFFECTIVE 1/1/87

WAGE CLASSIFICATION	START	COMPLETION OF PROBATIONARY PERIOD	1 YEAR	3 YEARS
03	$4.63	$4.85	$5.08	$5.20
04	4.85	5.08	5.32	5.45
05	5.08	5.32	5.58	5.72
06	5.32	5.58	5.84	5.99
07	5.58	5.84	6.12	6.27
08	5.84	6.12	6.41	6.57

EFFECTIVE 1/1/88

WAGE CLASSIFICATION	START	COMPLETION OF PROBATIONARY PERIOD	1 YEAR	3 YEARS
03	$4.72	$4.95	$5.18	$5.30
04	4.95	5.18	5.43	5.56
05	5.18	5.43	5.69	5.83
06	5.43	5.69	5.96	6.11
07	5.69	5.96	6.24	6.40
08	5.96	6.24	6.54	6.70

"The Union reserves the right to add to, subtract from or change this Proposal as it deems necessary during the course of negotiations. Any Agreement is negotiated subject to approval by Wisconsin Teamsters Joint Council No. 39 as required by the Constitution of our International Union."