

STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the Matter of the Petition of  
DOUGLAS COUNTY HEALTH DEPARTMENT  
EMPLOYEES, LOCAL UNION NO. 2375-A,  
AFSCME, AFL-CIO

To Initiate Arbitration  
Between Said Petitioner and

DOUGLAS COUNTY  
(HEALTH DEPARTMENT)  
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Case 167  
No. 41901 INT/ARB-5205  
Decision No. 25966-A

Appearances:

Mr. Victor Musial, Staff Representative, AFSCME Council 40, appearing on behalf of the Union.

Mr. Mark L. Pendleton, Douglas County Personnel Director, appearing on behalf of the County.

ARBITRATION AWARD:

On April 20, 1989, the Wisconsin Employment Relations Commission appointed the undersigned Arbitrator, pursuant to 111.70 (4) (cm) 6. and 7. of the Wisconsin Municipal Employment Relations Act, to resolve an impasse existing between Douglas County Health Department Employees, Local Union No. 2375-A, AFSCME, AFL-CIO, referred to herein as the Union, and Douglas County (Health Department), referred to herein as the Employer, with respect to certain issues as specified below. The proceedings were conducted pursuant to Wis. Stats. 111.70 (4) (cm), and hearing was held at Superior, Wisconsin, on July 31, 1989, at which time the parties were present and given full opportunity to present oral and written evidence and to make relevant argument. The proceedings were not transcribed, however, briefs were filed in the matter, which were exchanged by the undersigned on September 18, 1989.

THE ISSUES:

The dispute between the parties involves wage increases for 1989 and 1990, and a health insurance issue. The issues are reflected in the parties' final offer as follows:

UNION FINAL OFFER:

1. Effective January 1, 1989: 3% across the board wage increase.
2. Effective July 1, 1989: \$0.50 per hour across the board Special Class Adjustment.
3. Effective January 1, 1990: 3.25% across the board wage increase.
4. Effective July 1, 1990: 1% across the board wage increase.
5. Those items agreed to by the parties (attached).

EMPLOYER FINAL OFFER:

1. Article XXIX, Duration and Renewal

Two Year Agreement, January 1, 1989 to December 31, 1990.

2. Article IX, Salary, Section I

Effective January 1, 1989, increase wage rates 3% across-the-board.

Effective January 1, 1990, increase wage rates 3.25% across-the-board.

3. Article XVIII, Pension and Insurance, B. Health Insurance: 3 New Paragraph:

"The County reserves the right to change the insurance carrier and/or self fund its insurance program, provided the coverages are substantially equivalent or superior to the health insurance coverages that were offered by Blue Cross/Blue Shield in 1986. If all of Douglas County's Collective Bargaining units agree to this provision and if a change in coverage occurs, the employee's contribution will then be reduced to 10% and the Employer's contribution increased to 90%."

4. Stipulated items as agreed and initialled.

DISCUSSION:

Wis. Stats. 111.70 (4) (cm) 7 direct the Arbitrator to give weight to the factors found at subsections a through j in making any decision under the arbitration procedures authorized in that paragraph. The undersigned, therefore, will review the evidence adduced at hearing and consider the arguments of the parties in light of the statutory criteria.

The Arbitrator will first consider the dispute over the salaries to be paid for 1989 and 1990. Both parties to the dispute propose a 3% general increase effective January 1, 1989, and a 3.25% general increase effective January 1, 1990. The Union, however, in addition to the foregoing general increases on January 1st of each year of the two year Agreement, proposes a Special Class Adjustment of 50¢ per hour across the board, effective July 1, 1989, and a second general increase of 1% effective July 1, 1990, which the Employer opposes. The question before the Arbitrator, then, is whether the record evidence supports the 50¢ per hour

Special Class Adjustment proposed by the Union in 1989 and the July 1, 1990, 1% across the board second increase which the Union proposes for 1990.

The Employer relies on the internal patterns of settlement. Employer Exhibit No. 11 reveals that in 1989 five other bargaining units bargaining with this same Employer settled for general wage increase of 3% effective January 1, 1989. Those units include Sheriff, Highway, Human Services, Buildings and Grounds and Ambulance. The exhibit also reveals that there is only one other bargaining unit other than the instant unit which has not settled for 1989, the Courthouse Clerical unit, and that unit is in arbitration for the years 1989-1990. None of the other five bargaining units referred to above have settlement data available for 1990. In addition to the foregoing bargaining units, there are also the nursing home units at Middle River Nursing Home involving RN's and LPN's which were settled for 1989 and 1990 with the Employer granting a 9% increase for 1989 and a 6% increase for 1990. Employer Exhibit No. 11 further reveals that for the years dating back to 1985 there have been uniform percentage settlements across all bargaining units, with the exception of certain years where Parkland Nursing Home employees and Middle River Nursing Home employees received a smaller general wage increase than the remaining bargaining units negotiated. The uniformity of settlements which have occurred provided the same percentage increases of 3% for 1988, 3% for 1987, 3% for 1986 and 4% for 1985 for all units, except those noted in the previous sentence, including the Health Department unit which is being arbitrated here. From all of the foregoing, it is clear that there has been a uniformity of patterns of settlement across all bargaining unit lines in the past, with the exception of the nursing homes. From the foregoing, it is clear that the Employer offer here for 1989 is supported by the internal patterns of settlement which have emerged for five other bargaining units with which the Employer bargains.

The Employer argues that the internal patterns of settlement should control the instant matter. In support of the argument that the internal patterns of settlement should take primacy, the Employer cites prior arbitration awards, wherein arbitrators have held that arbitrators have given great weight to settlements between an employer and its other bargaining units. (Douglas County Federation of Nurses & Health Professionals (Middle River Rn's and LPN's), Dec. No. 25954-A (August 11, 1989); City of Kaukauna Public Works, Dec. No. 24533-A (Dec., 1987); Marinette County Social Services, Dec. No. 22574-A (Sept., 1985); Douglas County Health Dept., Dec. No. 23922-A (January, 1987); Brown County Attorney's Association, Dec. No. 23609-A (March, 1987).

The undersigned accepts the premise that internal patterns of settlements which are established by settlements which occur between the Employer and other bargaining units are among the most persuasive of the criteria to be considered in establishing which party's final offer should be established. The internal patterns of settlement, however, are not necessarily the controlling criteria. There are circumstances which can cause an arbitrator to depart from the internal patterns of settlements and award a settlement proposed by the union which is higher than the pattern. Those circumstances are recognized by arbitrators generally. Typical of that arbitral opinion are the expressions of Arbitrator Grenig in Marinette County Social Services (supra), wherein he states: "The frustration of a union's being locked into an established pattern of settlement is understandable, but, in the absence of compelling circumstances, late settlements above a pattern established earlier penalize employees involved in voluntary negotiations . . ." Thus, arbitral authority holds that where there are compelling circumstances, settlements or awards may deviate from the internal patterns of settlement. In fact, the Employer, here, has done precisely that when it provided

wage increases to the Registered Nurses at its Middle River Nursing Home facility of 9% and 6% for 1989 and 1990 respectively. Resolution #44-89, a resolution by the Personnel Committee of the County Board, satisfies the undersigned that the Employer found a compelling reason for departing from the internal patterns of settlement for the nurses employed there where the resolution itself reads: "due to the labor market demands for nursing home RN's, the January 1, 1989, wage increases for the RN's be made payable as soon as possible." Because arbitral authority recognizes the need to consider whether there are compelling circumstances to depart from the internal patterns; and because the Employer itself has recognized that compelling circumstances dictate that necessity; and because the undersigned is of the opinion that it is appropriate to look to the record to determine whether compelling circumstances exist for departing from those internal patterns; the undersigned will review the record evidence to determine whether those circumstances exist.

The Union's case is grounded primarily on the proposition that compelling circumstances exist for the departure from the internal patterns of settlement. The Union relies primarily on comparison of wage rates paid to nurses in the employ of the Health Department of the Employer compared to wage rates paid to nurses in private sector hospitals in the Duluth-Superior area, and on criteria c - the interest and welfare of the public, wherein, the Union points to the turnover rate among employees in this bargaining unit as justification for the additional proposed increases which the Union sets forth in its final offer.

The Employer opposes any consideration that the Arbitrator might give to comparisons of wage rates between the employees in this bargaining unit with nurses in the employ of private hospitals in the Duluth area, arguing that the out of state community of Duluth, Minnesota, is not an appropriate comparable for consideration in setting wage rates. In support of its position, the Employer cites Douglas County Health Department, Dec. No. 23922-A (January, 1987); Douglas County Law Enforcement, Dec. No. 31456 (December, 1983); Grant County, Dec. No. 22428-B (April, 1986) and City of Superior Police Department, Dec. No. 23757-A (April, 1987). In Douglas County, Arbitrator Boyer opined:

The Record must be characterized as void of substantiation as to alleged similarities of duties, but more significantly, such assertions as to the latter fail to address the differences in applicable collective bargaining statutes and/or other historical differences in bargaining outcomes.

In Douglas County Law Enforcement, Arbitrator Richard M. Miller opined:

Duluth and St. Louis County should be rejected as comparables because the employers and employees negotiate under completely different rules and laws than those existing in the State of Wisconsin.

In City of Superior Police Department (supra), Arbitrator Richard U. Miller states:

While Superior's Minnesota sister city might otherwise be appropriate by location, the fact that it is governed by a different set of state rules, policies and statutes particularly as they relate to collective bargaining, precludes Duluth from consideration.

In Grant County, Arbitrator Vernon found:

Arbitrators, as pointed out by the Union, have been loath to accept out-of-state comparables based on the fact they were negotiated in a different statutory environment.

In support of its position that private hospitals in the City of Duluth be considered for the purpose of making wage comparisons, the Union has adduced evidence establishing that there is a commonality of labor market between the Superior and Duluth area. Union Exhibit No. 2 is an affidavit from a former registered nurse in the employ of the Health Department, who quit her job to take a position at St. Mary's Hospital in Duluth, Minnesota. Union Exhibit No. 4 is a publication from the Wisconsin Department of Industry, Labor & Human Relations dated January, 1984, showing the commuting patterns for work purposes between Douglas County and the surrounding counties in Wisconsin and showing commuting patterns between Douglas County and the State of Minnesota. The exhibit shows that there are 1,611 Minnesotans commuting into Douglas County, Wisconsin, for job purposes, and that there are 2,372 residents of Douglas County who commute to Minnesota for job purposes. Union Exhibit No. 5 lists advertisements in the Duluth newspaper, the Duluth News-Tribune, dated July 30, 1989, where the Employer, the Douglas County Health Department, is advertising for full-time Public Health Nurse in the Duluth paper. Union Exhibit No. 20 establishes that St. Mary's and St. Luke's hospitals in Duluth, Minnesota, provide home health services in Douglas County. In 1987, St. Mary's had 90 clients in Douglas County and St. Luke's had 43 clients in the County. From all of the foregoing evidence, the undersigned is satisfied that there is commonality of labor market between Douglas County and St. Louis County, and that there is an interchange of services provided by hospitals from St. Louis County to residents who reside in Douglas County. All of the foregoing satisfies the undersigned that there is a community of interest between St. Louis County and Douglas County which cannot be ignored, notwithstanding the fact that a state line separates the two communities.

The undersigned has considered all of the citations relied on by the Employer which would support its position that the private hospitals in Duluth should not be considered for the purpose of making wage comparisons. The undersigned is persuaded after lengthy deliberation that the statutory criteria requires that those comparisons be considered. Criteria d requires the Arbitrator to make a 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. Because the undersigned finds that the Registered Nurses in private sector hospitals in the City of Duluth are performing similar services as the Registered Nurses in the employ of the Health Department of Douglas County, it follows that the statutory criteria d requires the foregoing comparisons to be made. In the cases relied on by the Employer, the Arbitrators determined that because the wages negotiated in another state are negotiated under a completely different set of rules and laws than those that exist in the State of Wisconsin, wage comparisons should not be made across state lines. The undersigned notes that criteria f requires a comparison of the 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 in private employment in the same community and in comparable communities. Thus, the statute requires an arbitrator to make comparisons of wages paid in the private sector to wages paid in the public sector. Therefore, the arbitral authority relied on by the Employer here is not on point. The different laws and rules under which out of state bargaining occurs referred to in the cases relied on by the Employer, refers to bargaining which occurs in the public sector and is regulated by statutes which vary from state to state. Here, the data relied on by the Union reflects wages paid in private sector hospitals which are not regulated by

state bargaining statutes. While private sector bargaining is also regulated by laws different from those which regulate bargaining in the public sector in the State of Wisconsin, that fact is immaterial in view of the mandate of Wis. Stats. 111.70 (4) (cm) 7 (f), which requires the Arbitrator to make comparisons of wages of other employees in the private sector. From all of the foregoing, it follows that the Union's comparisons of wage rates of private hospitals in Duluth, Minnesota, to the wage rates paid by the instant Employer are appropriate.

Having determined that the private sector wage comparisons in the Duluth hospitals to wage rates paid Registered Nurses in Douglas County Health Department are appropriate, we find that the evidence (Union exhibit No. 7) establishes that in 1988 Douglas County Public Health Nurses were paid \$10.73 as a starting wage, compared to 1988 nurses' wages at Miller Dwan, St. Mary's and St. Luke's Hospitals of \$11.51 per hour, and at Superior Memorial Hospital starting wages for 1989 of \$11.40 per hour. At the four year mark, Douglas County, in 1988, paid a wage of \$11.87 per hour compared to Miller Dwan wages of \$13.73 per hour, and St. Mary's and St. Luke's Hospital of \$13.59 per hour. Superior Memorial Hospital 1989 rates after four years were \$13.00 per hour. The maximum rate paid to PHN's in Douglas County in 1988 was \$11.87 per hour, compared to a maximum rate paid at Miller Dwan of \$16.38 and at St. Mary's and St. Luke's of \$16.08 per hour, and a 1989 rate at Superior Memorial Hospital of \$15.98 per hour. The Employer proposal for 1989 would establish a starting PHN rate of \$11.05 per hour, a four year rate of \$12.23 per hour and a maximum rate of \$12.23 per hour, whereas, the Union proposal would establish a starting rate of \$11.55 per hour, a four year rate of \$12.73 per hour and a maximum rate of \$12.73 per hour. Union Exhibit No. 7 provides no data for 1989 wage rates paid at Miller Dwan, St. Mary's or St. Luke's Hospitals, consequently, comparisons are necessarily made between the offers for 1989 and the wage rates of 1988 which were in effect for those hospitals. It can be seen from the foregoing that the 1989 Union offer for PHN's would approximate the 1988 starting rates at Miller Dwan, St. Mary and St. Luke at the starting rates, and exceed the 1989 Superior Memorial Hospital rates of \$11.40 by 15¢ per hour. However, when considering the Union offer at the four year level, the 1988 rates at Miller Dwan, St. Mary's and St. Luke's exceed the four year PHN rate proposed by the Union for 1989 by \$1.00 per hour at Miller Dwan, and 86¢ per hour at St. Mary's and St. Luke's Hospitals. The 1989 Union PHN offer at the four year benchmark is 27¢ below the 1989 wages paid at Superior Memorial Hospital. When considering the maximum wage rates for 1989, the Union proposed \$12.73 maximum for Douglas County PHN's is \$3.65 less than the maximum rate paid at Miller Dwan in 1988, and is \$3.35 less than the maximum rate paid in 1988 at St. Mary's and St. Luke's Hospitals. The maximum rate under the Union's offer for Douglas PHN's is \$3.25 less than the maximum rate of \$15.98 paid at Superior Memorial Hospital in 1989.

For the year 1990, the PHN wage rates, pursuant to the Union offer, would generate a starting rate of \$12.05 per hour compared to a 1990 starting wage rate at Superior Memorial Hospital of \$12.25 per hour. The wage rates contained in Union Exhibit No. 7 still reflect the 1988 wage rates for Miller Dwan, St. Mary and St. Luke, and, therefore, the \$12.05 starting PHN wage rate proposed by the Union would exceed the starting wage rate paid at Miller Dwan, St. Mary's and St. Luke's for 1988 by 54¢ per hour. However, the four year PHN wage rate proposed by the Union for 1990 still falls behind the four year wage rate paid in 1988 at Miller Dwan, St. Mary's and St. Luke's, with the Union offer remaining 46¢ below the four year rate paid at Miller Dwan in 1988 and 32¢ below the four year benchmark paid at St. Mary's and St. Luke's Hospitals in 1988. In comparing

the four year levels between Douglas County and Superior Memorial Hospital at the four year benchmark, we find that Douglas County is \$1.08 below the rate paid at Superior Memorial Hospital. The maximum PHN wage rates proposed by the Union remain at \$13.27 and continue to fall significantly below the maximum rates paid at Miller Dawn, St. Mary's and St. Luke's in 1988, and are \$4.31 lower than the wage rates paid at the maximum for nurses at Superior Memorial Hospital.

If we were to compare the County's wage rate proposals with rates at Miller Dwan, St. Mary, St. Luke and Superior Memorial Hospital, the comparisons would be still more unfavorable than the comparisons made with the Union final offer, because the final offer of the Employer is 50¢ lower for 1989 and 64¢ lower for 1990. It is clear from all of the foregoing comparisons that the Union offer is supported by the comparisons with the private sector hospitals in Superior and Duluth. It remains to be determined whether these comparisons establish compelling circumstances for a departure from the internal patterns of settlement.

The foregoing comparisons with the private sector hospitals in Duluth and Superior are not the only comparisons which are available for consideration by the evidence adduced at hearing. We have in evidence Employer exhibits which compare settlement patterns and wage rates among surrounding counties which have been determined to be comparable counties in prior arbitration awards. Those counties are Bayfield, Sawyer, Taylor, Ashland and Washburn counties. Employer Exhibit No. 7 establishes that for 1989, Bayfield County settled for 3% and 75¢ with its Health Department bargaining unit; Ashland County at 3% with its Health Department; Washburn County 4% tentative with its Health Department; Sawyer County 4% with its Health Department; and Taylor County at 3% with its Health Department. For 1990 in public sector bargaining in comparable counties, settlements with Health Department employees are as follows (Employer Exhibit No. 8): Bayfield 3.25%; Washburn, 3.5%; Sawyer, 4%; Ashland, 3%. From the foregoing, it is clear that the Employer offer here of 3% in 1989 and 3.25% in 1990 is closer to those patterns of settlement than is the Union's offer of 7.5% for 1989 and 4.25% for 1990.

Employer Exhibit No. 9 sets forth PHN wage rates paid among comparable Northwestern Wisconsin counties for 1989 and 1990. For 1989, the Employer final offer is \$12.23 maximum rate compared to the Union final offer of \$12.73. The maximum PHN health rates paid among the comparable counties are: Bayfield County, \$11.89; Sawyer County, \$11.81; Taylor County, \$11.36; Ashland County, \$10.89; Washburn County, \$10.35. For the year 1990, the Employer final offer generates a maximum rate of \$12.63 compared to the Union maximum final offer of \$13.27. The comparable counties' 1990 maximum rates are: Bayfield, \$12.27; Sawyer, \$12.29; Taylor, not settled; Ashland, \$11.22 and Washburn, \$10.71. From the foregoing, it is clear that the Employer offer exceeds the maximum wage rates for Public Health Nurses among the comparable Northwestern Wisconsin Counties for both the years 1989 and 1990.

The undersigned also considers the wage rate comparisons for RN's employed by the Middle River Health Care facility of Douglas County to the wage rates proposed for PHN's in the Public Health Department. The Employer established a two year increase of 15% for the nurses employed at the Middle River Health Care facility, generating in 1990 a starting rate of \$11.04 and a one year rate of \$11.82. Even after the 15% increase, the wage rates proposed in the County's final offer of a PHN maximum of \$12.23 exceeds the RN rates generated by the 15% increases which became effective in total on January 1, 1990, of \$11.82. In

making an RN to RN comparison, the County's proposed starting rate for RN's would generate \$10.84 per hour in 1990 compared to \$11.04 for RN's employed at Middle River Health Care facility, and a maximum RN rate after four years pursuant to the County's offer of \$12.00 per hour in 1990, compared to \$11.82 for RN's employed in the Middle River Health Care facility effective January 1, 1990. Thus, the Employer offer here results in rates for RN's which approximate the rates paid at the Middle River Health Care facility even after the 15% increase has been added to the rates, 9% in 1989 and 6% in 1990. From the foregoing, it follows that notwithstanding the 15% increase generated over two years at Middle River, the Employer offer is favored when comparing wage rates to wage rates for Nurses in the employ at the Health Department with the wage rates in force at Middle River.

The Employer has also argued that the Union's proposal would destroy the relationships that have existed previously between certain job classifications, where Social Workers and Deputies have enjoyed a constant wage differential when compared to Nurses in the employ of the Health Department. County Exhibit No. 11 establishes that Social Worker III's have been paid one to two cents more than Home Health Care Coordinators for 1985, 1986, 1987 and 1988, and that if the Employer offer is adopted, the differential will be maintained, and if the Union offer is adopted, the Home Health Care Coordinator will be paid 49¢ more than a Social Worker III in 1989, and 65¢ per hour more in 1990. County Exhibit No. 14 establishes similar comparisons for a Staff Nurse RN to a Social Worker I, and a Public Health Nurse to a Social Worker II. Employer Exhibit Nos. 17 and 18 show historic wage rate differentials between RN's and Douglas County Deputies, where RN's have earned 37 to 40¢ per hour less than Deputies in the years 1985 through 1988, and would earn 9 to 21¢ per hour more in 1989 and 1990 if the Union offer were adopted. County Exhibit No. 18 compares PHN's to Sergeant rates of pay, showing similar results if the Union offer were adopted, and Employer Exhibit No. 19 makes the comparison between Home Health Care Coordinators and Sheriff Department Lieutenants with similar results being projected in the event the Union offer is adopted. The undersigned is unpersuaded by these data. The Employer relies on criteria e in support of its argument that this data should be persuasive. Criteria e directs a comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with wages, hours and conditions of employment of other employees generally in public employment in the same community and comparable communities. While criteria e is a valid criteria, the undersigned believes that the specific comparisons of wage rates paid for similar services found in criteria d should take primacy over the general comparisons of wage rates for dissimilar positions. Furthermore, while there existed a relationship between Nurses and Social Workers and between Nurses and Sheriff Department employees, the disparity in wages which would result by adopting the Union offer is a reflection of the marketplace laws of supply and demand. The record stands unrefuted that there is a shortage of nurses to fill available vacancies both nationally and in Douglas County. There is no showing that such a shortage exists, either in Social Services or in the Sheriff's Department of the Employer. In the opinion of the undersigned, laws of supply and demand could warrant reestablishing the relationships of employees in the Health Department and employees in Social Services and the Sheriff's Department of the Employer.

We turn now to a consideration of criteria c, the interest and welfare of the public, and the financial ability of the unit of government to meet the costs of any proposed settlement. Both parties have adduced evidence with respect to this criteria. The Union adduces evidence dealing with the shortage of Nurses and evidence purported to show that its offer is necessary to reduce the excessive



turnover which the Union asserts has occurred. The Employer relies on this criteria to support its position that a uniform internal pattern of settlement is in the interest and welfare of the public because it will prevent unions from holding out for higher increases after earlier settlements take place, and, further, the Employer points to the sizeable tax increase it experienced in 1988.

The undersigned has reviewed the evidence the Union has adduced at hearing with respect to the shortages of nurses generally in the country, and is satisfied that Union Exhibit No. 3 establishes that there is presently in existence a shortage of RN's. The same exhibit supports the proposition that nurses are underpaid generally as a professional group. The question remains, however, whether the evidence establishes that the Employer has experienced high turnover because of its wage rates, and as a corollary whether the wage rates are sufficient to attract new employees to vacant positions. There is in evidence Union Exhibit No. 1, the minutes of the Board of Health meeting of August 30, 1988, which at page 4 and 5 of the minutes reads:

Nancy stated that there are two staff resignations - two public health nurses resigned. One is going back to school and another has taken a position in Alaska. She starts on September 18. One nurse was working with the MCH block grant and also filling in three days per week in public health. This nurse will be assuming one of the positions. One of the home health nurses would like the other position open, but cannot make the change because there is no replacement for her. Ads have been placed in the newspapers but to no avail, because there is a nursing shortage. The other position left open has been filled by Pat Schmolke. She has experience and has worked with screening children for many years. In 1986 Pat left her position as Home Health Coordinator for Douglas County and took a position at St. Francis Nursing Home as coordinator there.

Nancy also added that she has received resignation from one of the Home Health Aides, and another will be filling her place, so a vacancy will occur.

Pat added that Environmental Health has a problem also. The individual who was hired as a Sanitarian I last October will be able to take the exam required for his job next April. He hasn't had the background for this exam so it is a longer process. This has an impact on the services offered.

Nancy and Pat both agreed that it will be difficult to fill positions vacant within the Department now because of the low salaries offered here. It is impossible to compete with hospitals for example, because they offer much higher wages.

Pat Heiser mentioned that also there will be two maternity leaves toward the end of the year that will need approval.

In addition to the foregoing minutes, there is Union Exhibit No. 2 referred to supra wherein Nancy Peterson, an RN in the employ of the Public Health Department, resigned after having been employed for five years because of excessive work load and low pay to take a position as a Registered Nurse at St. Mary's Hospital in Duluth. The foregoing minutes of the meetings of the Board of Health on August 30,

1988, and the affidavit of Nancy Peterson establish that there is turnover in the Department, caused in at least one case because of the lower pay of the Douglas County Health Department compared to private hospitals in the area. Furthermore, the minutes of the Board of Health acknowledge that there is difficulty in filling the positions which are vacant for RN's for the Health Department because of the low pay scale. It follows from the foregoing that the interest and welfare of the public will be served if higher rates are established which will help prevent turnover, and which will facilitate the filling of positions.

The undersigned also considers the high tax increase which the Employer has experienced which should generate constraint in wage increases. The record evidence at Employer Exhibit No. 26 establishes that the tax rate in budget year 1989 has increased to \$6.91 from \$4.78 in 1988, an increase of 47.5%. Employer Exhibit No. 27 establishes that the tax rate increase in Douglas County caused the County's tax rate ranking to jump from 41st in the state to 11th. The \$6.91 per thousand of equalized value compares to a state-wide average of \$4.79 per thousand of equalized value. From the foregoing data, the undersigned is persuaded that wage increases should be tempered due to the fact that the tax rate per one thousand of equalized value has increased so dramatically.

After considering all of the evidence adduced with respect to the interest and welfare of the public, the undersigned is persuaded that neither offer is preferred under this criteria. While the higher wage rates for nurses may well facilitate the hiring and retention of nurses, which would be in the public interest, that advantage to the public is offset by the huge tax increase experienced by the public which certainly works against the public interest, and which calls for moderation in wage rate increases. Consequently, the undersigned concludes that neither offer is preferred under criteria c.

Criteria g mandates consideration of the average consumer prices for goods and services commonly known as the Cost of Living. The Union proposes a lift of approximately 7.35% the first year and 4.25% the second year. The Employer proposes a lift of 3% the first year and 3.25% the second year. The Consumer Price Index year-end increase for 1988 calculated to 4.4%. Consumer Price Index for the end of the year 1989 is presently unknown, however, it appears that the CPI for 1990 increase will be in the vicinity of 5%. Thus, for the years of 1988 and 1989, the Consumer Price Index will increase approximately 9.5%. The Employer offer here calculates to a before tax wage increase to the employees of 6.25% over two years. As a result, employees would lose approximately 3.25% to the cost of living over the two year period of time, if the Employer offer were adopted. The Union proposal results in a lift of 11.7% over the same two year period, a lift of 2.2% more than the estimated cost of living increases for 1988 and 1989. Employer Exhibit No. 25 compares cost impacts of the respective offers of the parties compared to the increases in the cost of living. In the opinion of the undersigned, it is not the cost impact of the increase which should be compared to the Consumer Price Index increases, but, rather, the amount of wage increase, because it is the wage increase which insulates the employees against cost of living increases and not the cost of the settlements to the Employer. Consequently, any reliance the Employer places on the costs of its offer compared to the costs of the Union offer is misplaced. Because the cost of living increases are closer to the Union proposal than that of the Employer by approximately one full percent; and because the Employer offer falls 3% of the estimated cost of living for 1988 and 1989, the undersigned concludes that the CPI criteria favors the Union offer. The weight to be afforded that criteria, however, is diminished, because, in the opinion of the undersigned, there is no showing in this record why the Union should be afforded

more insulation against cost of living increases than any other bargaining unit which has settled for a 3% increase in 1989.

We have found that the internal patterns of settlement favor the adoption of the Employer offer in this dispute. We have found that the comparisons of wage rates to the Northwest Counties of Wisconsin comparing Public Health Department nursing salaries favor the adoption of the Employer offer, as do the patterns of settlements in those counties. We have further determined that the wage rates paid in the Middle River Health Care facility to Registered Nurses, compared to the proposed wages for 1988 and 1989 by the Employer, supports the Employer offer. However, the comparison of private wage rates paid in private sector hospitals in Superior-Duluth, and the cost of living criteria both support the Union offer. We have further determined that the interest and welfare of the public criteria supports neither offer. The question, then, is whether the foregoing conclusions establish compelling circumstances causing a departure from the internal patterns of settlement. After lengthy reflection, the undersigned concludes that the circumstances are not sufficiently compelling in the instant matter so as to establish a reason to depart from the internal patterns of settlement. It follows, therefrom, that the Employer final offer with respect to salary should be adopted.

We turn now to the insurance issue, wherein the Employer has proposed that it reserves the right to change insurance carrier and/or self fund the insurance program, provided the coverages are substantially equivalent or superior to health insurance coverages that were offered by Blue Cross/Blue Shield in 1986. The Employer makes its offer contingent upon all of Douglas County's collective bargaining units agreeing to this provision, and, then, if the Employer determines that a change in coverage should be made, the Employer's contribution for health insurance premium will be raised to 90%.

The undersigned has reviewed all of the evidence and argument with respect to this issue, and is persuaded that the outcome will be determined by the disposition of the salary issue as decided above. The undersigned is so persuaded, because the Employer proposal may not be implemented unless all of Douglas County's collective bargaining units agree to the provision. If that happens, there will be unanimous internal settlements supporting the change. Arbitral authority is consistent that with respect to the fringe benefit of health insurance, departure from the settlements should not be awarded. Therefore, the undersigned concludes that a health insurance issue is not controlling. Because the undersigned has found for the Employer on the salary dispute, and because the Arbitrator is without authority to award anything other than the final offer of one party or the other, it follows that the insurance proposal of the Employer must be adopted as well.

Therefore, based on the record in its entirety, and the discussion set forth above, after considering all of the arguments of the parties, and the statutory criteria, the Arbitrator makes the following:

#### AWARD

The final offer of the Employer, along with the stipulations of the parties as furnished to the Wisconsin Employment Relations Commission, as well as those

terms of the predecessor Collective Bargaining Agreement which remain unchanged throughout the course of bargaining, are to be incorporated into the parties' written Collective Bargaining Agreement for 1989 and 1990.

Dated at Fond du Lac, Wisconsin, this 9th day of November, 1989.

A handwritten signature in black ink, appearing to read "Jos. B. Kerkman", written over a horizontal line.

Jos. B. Kerkman,  
Arbitrator

JBK:rr