

State of Wisconsin  
Before the Interest Arbitrator

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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the matter of the petition of

**NORTHWEST UNITED EDUCATORS**

Daniel Nielsen, Arbitrator  
Dec. No. 26009-A

to initiate Arbitration between  
said petitioner and

Appointment: 06 /06/ 89  
Hearing Date: 08 /24 /89  
Record Closed: 11 /10/ 89  
Award Issued: 01 /05/ 89

**BARRON COUNTY (DEPARTMENT  
OF SOCIAL SERVICES)**

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Appearances:

Northwest United Educators, 16 West John Street, Rice Lake, Wisconsin 54868, by Mr. Alan D. Manson, Executive Director.

Mulcahy & Wherry, S.C., Attorneys at Law, Post Office Box 1030, Eau Claire WI 54702-1030 by Ms. Kathryn Prens, appearing on behalf of Barron County.

**Arbitration Award**

On June 6, 1989, the undersigned was appointed by the Wisconsin Employment Relations Commission as arbitrator of a dispute between Northwest United Educators (hereinafter referred to as either NUE or the Union) and Barron County, Wisconsin (hereinafter referred to as either the County or the Employer) concerning the terms of a successor to the collective bargaining agreement between the parties, which expired on December 31, 1988, covering County employees in a bargaining unit consisting of all regular fulltime and regular part-time non-professional employees in the Department of Social Services, excluding the Director, supervisory, confidential, managerial, casual, seasonal and temporary employes.

A meeting was held on August 24, 1989 in Barron, Wisconsin, at which an effort was made to mediate the dispute. While two items were resolved in mediation and added to the list of stipulations, no overall settlement was achieved. Immediately after the effort at mediation, a hearing was held, at which time the parties were afforded full opportunity to present such

testimony, exhibits, other evidence and arguments in favor of their positions as was relevant to the dispute. The parties submitted additional exhibitry after the close of the hearing, as well as post hearing briefs and reply briefs. The latter were exchanged through the undersigned on November 10, 1989, whereupon the record was closed.

Now, having considered the evidence, the arguments of the parties, the statutory criteria, and the record as a whole, the undersigned makes the following Interest Arbitration Award.

## **I. The Final Offers**

The final offer of the Union and the County are appended to this Award as Appendices "A" and "B", respectively. At the hearing, Item # 6 in the Union's final offer - Miscellaneous Provisions - and Item # 2 in the County's final offer - Promotions - were added to the list of stipulations, leaving disputes over (1) wages in the second year of the agreement, (2) health insurance premium payments in the second year of the agreement, (3) mileage reimbursement in the second year of the agreement, and (4) life insurance contributions across the two years of the agreement. The difference between the parties on these issues is:

### **1. Wages**

NUE proposes wage increases of 4.0% across the board on 7/1/89, and 4.0% across the board on 1/1/90. The Union also proposes a 25¢ per hour increase for income maintenance workers, in addition to the 4%, effective 7/1/89.

The County proposes wage increases of 4.0% across the board on 7/1/89 and 3.5% across the board on 1/1/90.

### **2. Health Insurance**

NUE proposes that the County pay up to \$232.25 per month for health insurance coverage in 1989. Effective 1/1/90, this amount would again be paid, along with 90% of any increase above the actual 1989 premium of \$283.23.

The County proposes to pay up to \$232.25 per month for health insurance coverage in 1989. Effective 1/1/90, the County would increase this to a flat dollar amount reflecting 82% of the regular family health insurance plan premium for 1990.

**3. Mileage Reimbursement**

NUE would change the mileage reimbursement rate effective 1/1/90 to the IRS business mileage rate.

The County would maintain the current system for compensating mileage expenses, pegging reimbursement to a schedule based upon the per gallon price of unleaded gasoline at the Holiday Station in Barron, Wisconsin.

**4. Life Insurance**

NUE proposes to increase the County's monthly contribution to the state life insurance plan from \$4.25 per month to \$4.60 per month.

The County proposes to leave the monthly contribution at \$4.25 per month.

**II. Statutory Criteria**

This dispute is governed by the terms of Section 111.70(4)(cm)7, the Municipal Employment Relations Act. MERA dictates that arbitration awards be rendered after a consideration of the following criteria:

- "7. Factors considered. In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator shall give weight to the following factors:
  - a. The lawful authority of the municipal employer.
  - b. Stipulations of the parties.
  - c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
  - d. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services.
  - e. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings

with the wages, hours and conditions of employment of other employes generally in public employment in the same community and in comparable communities.

f. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes in private employment in the same community and in comparable communities.

g. The average consumer prices for goods and services, commonly known as the cost-of-living.

h. The overall compensation presently received by the municipal employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity of employment, and all other benefits received.

i. Changes in any of the foregoing during the pendency of the arbitration proceedings.

j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration or otherwise between the parties in the public service or in private employment."

While each of the criteria is not thoroughly discussed in this Award, each has been fully considered in arriving at the Award in the case.

### **III. The Positions of the Parties**

#### **A. The Position of the Union**

##### **1. Comparability**

Barron County is more comparable to Chippewa, Dunn, Polk and St. Croix Counties than to the other contiguous counties of Burnett, Rusk, Sawyer and Washburn. While all are comparable to some extent, these first four should be considered the primary comparables on the basis of population, income

levels, economic base, government revenues and other relevant statistical information.

## 2. Insurance Payments

The Union notes that contiguous counties pay an average of 92.75% of the full family health insurance premium, at an average cost of \$248.03, as compared to 82% and \$232.25 per month in Barron County. Across the unit, the County pays nearly \$3,000 per year less than comparable contiguous counties. NUE's proposal to have the County pick up 90% of the increase for 1990 is a modest attempt to slowly bring this county nearer the average. The Union points out that its proposal would result in payment of only 83.3% of the total premium in 1990, even if premiums soared by 20% in that year. This is an annual cost of only \$815 across the entire unit.

Another aspect of the health insurance issue is the payment of premium increases during a hiatus period in the contract. NUE's proposal would obligate the County to pay 90% of any increase over the 1989 rate, even during a hiatus. The County's proposal is limited to payment of a flat sum, without any mechanism to pay a portion of any increase during the hiatus. All of the surrounding eight counties have language guaranteeing an employer contribution to insurance during the hiatus. Barron County itself, has had contract language to this effect in past contracts. Given that the second year and hiatus period increases are not generally known during bargaining, it is appropriate to include language in the collective bargaining agreement distributing the burden of these increases to both parties.

## 3. Life Insurance

The state life insurance plan features premiums based upon salary and age. The County's premium contribution of \$4.25 per month has been in effect since 1/1/87. During that time, both salaries and ages across the unit have of course increased. The 8% increase in premium contribution proposed by NUE, at an annual total cost of \$54.60 across the unit, is appropriate as a means of maintaining the value of the negotiated benefit relative to salary levels, leaving the individual employee to pay additional costs based upon the age factor.

## 4. Wages

### a. General Wage Increase

While NUE's second year wage proposal varies slightly from other internal wage settlements, there has been a history in this County of settling wages at a level which is appropriate to a particular unit or classification, regardless of

the settlements in other units. In combination with the data showing that County wages are below average, that total compensation including health insurance is below average, and that the increase in CPI is at 5.0%, this justifies the 0.5% greater increase proposed for this unit in 1990. This modest increase will serve to partially close the gap between these workers and those performing similar services in the area.

b. Income Maintenance Worker Adjustment

The 25¢ per hour adjustment for IM Workers in July of 1989 is supported by the critical nature of the job and the exceptional productivity of IM Workers in Barron County. Statistics on average caseload show that Barron County IM Workers maintain caseloads of 196.3 clients, while workers in the eight surrounding counties service 176 clients, and workers in the four primary comparables carry caseloads averaging 167.7 clients. This greater productivity justifies a wage rate reflecting the higher levels of effort expended by County IM Workers. The Union notes that the administrative cost of income maintenance service in Barron County is only 1.5% of the total administrative spending, while the cost in comparable counties is 8.1%. In short, the County's IM Workers are a bargain.

While the hourly wages under the NUE offer are slightly higher than those for the four primary comparables, the Union notes that County workers work fewer hours per month than their counterparts. This again shows the much greater efficiency of these workers. It also suggests that monthly income figures are a more valid basis for comparing wages. On a monthly basis, County IM Workers will receive \$1468 per month in 1989, as compared with \$1,506 per month in the four primary comparables.

5. Mileage Payments

The mileage reimbursement system for the County's Homemaker Aides -- the lowest paid workers in the bargaining unit -- has been fixed since the early 1980's. Data from the American Automobile Association shows that per mile costs of using personal vehicles have increased from 23.8¢ per mile to 30.6¢ per mile between 1983 and 1989. While the County's reimbursement system is based upon gas prices, the increase in costs is unrelated to the cost of gas and oil, which have actually decreased. Instead, the costs of maintaining, insuring, financing and depreciation have soared. Adopting the IRS rate of 24¢ per mile will still leave employees losing money on the operation of their private vehicles, but will reduce the amount of their loss and provide a mechanism for adjusting reimbursements automatically as costs increase. Moreover, capping reimbursement at the IRS maximum will protect both the County and workers from having to pay federal taxes on mileage

reimbursement in the unlikely event that gas prices increase to the point that the current system generates a reimbursement above 24¢.

For all of the foregoing reasons, NUE asks that its final offer be incorporated into the contract for 1989 and 1990.

## **B. The Position of the County**

### **1. Comparability**

The County rejects NUE's attempt to break the eight contiguous counties into primary and secondary comparables. Of six awards involving Barron County, only one has adopted such an approach, and it has not been followed by subsequent arbitrators. It is a firmly established principle of arbitration that established comparables should not be disturbed, since to do so would undermine the stability of bargaining.

Furthermore, the three principle determinants of comparability are geographic proximity, population and median income. The eight contiguous counties are plainly proximate to Barron County. The populations range from 13,068 at the low end to 54,220 at the high end. Barron County's population of 40,968 is squarely within that range. In terms of median income, Barron County's median family income of \$15,799 is nearly identical to the average for the eight comparables (\$15,815), while the Union's proposed four primary comparables are considerably wealthier (\$18,191). Thus the arbitrator in this case should employ the traditional eight comparables, without artificially distinguishing between primary and secondary comparables as urged by the Union.

### **2. Health Insurance**

In eight of the past ten years, the County and NUE have contracted for the payment of health insurance premium contributions on the basis of a flat dollar amount. The County proposes to continue this practice, setting the premium contributions at the historic level of 82%, expressed in a flat dollar amount. NUE, however, asks that 1990 increases be determined on the basis of the 1989 contribution plus 90% of any increase. This both increases the cost to the County over the traditional levels and dramatically extends the County's liability for future increases.

Arbitrators have been reluctant to impose major structural changes in the area of insurance, uniformly holding that such changes should be bargained voluntarily. This principle should obtain in this case, particularly in light of

the lack of evidence showing any compelling need for change. All of the comparables have either maintained or decreased their relative contributions to health insurance over the past three years, and while the County's contribution is low in percentage terms, the actual dollar amount contributed is consistent with the actual dollar contributions of the comparables.

More importantly, the internal pattern of insurance contributions is absolutely uniform in supporting the County's position. The voluntary agreements reached with other County bargaining units are entitled to deference. The County argues that allowing this unit to secure a different and better insurance bargain through arbitration will undercut bargaining with other units. Thus the status quo offer of the County should be favored since it maintains the internal pattern on insurance.

Turning to the effect of the Union's insurance proposal on increases during the hiatus, the County first notes that this intended effect was first raised by the Union at the arbitration hearing. Prior to that point, the Union had never suggested that this would be the result of its proposal. This result should be rejected by the arbitrator, as it represents an attempt to bargain insurance contributions for all future years, rather than simply the term of the contract. It imposes an open-ended obligation on the employer and effectively removes the subject from bargaining.

Finally, the Union fails to offer any tradeoff for this major concession. The usual pattern of bargaining is characterized by exchange, with major concessions being made only in return for offsetting concessions. Arbitrators generally require that the moving party show not only a need for a given change, but also demonstrate that a quid pro quo has been offered. The Union here offers absolutely nothing in return for the requested change in insurance.

### 3. Life Insurance

The County applies all of the health insurance arguments regarding the need for a quid pro quo, and the reluctance of arbitrators to impose involuntary benefit changes, to the life insurance issue.

### 4. Wages

#### a. General Wage Increase

All but one of the eight comparable counties have wage settlements in place for 1990. The 3.5% offer of the County meets or exceeds the increase granted in the comparable counties in real dollar terms. Although Washburn County granted a 4% increase on wage rates in 1990, that increase is not



effective until six months into the year, yielding an actual value of 2% to employees in that contract year.

The County's pay levels already rank in the top half of the comparables group for most positions, and the County's wage offer will maintain the relative ranking of its employees within the comparables. NUE's offer, on the other hand, seeks to improve upon an already established leadership position in wages. Nothing in the record supports this effort.

The firm settlement pattern strongly supports the County's position on a general wage increase, while the Union's position is wholly unsupported.

b. Income Maintenance Worker Adjustment

The Union's proposed 25¢ per hour special adjustment for the ten IM Workers is a significant cost item to the County. This proposal, if adopted, would add \$4,550 per year to the cost of direct wages. The adjustment is not, the County argues, in any way justified.

Noting the Union's arguments that IM Workers' jobs have become increasingly complex, the County points out that this is true for all IM Workers, not simply those in Barron County. The County's IM Workers already receive the third highest rate of pay among comparable counties, while working fewer hours than many and reaching the maximum pay level more quickly. The County's wage offer will maintain that ranking. NUE's offer would not only provide across the board increases higher than those enjoyed by any comparable employee, but would add an entirely unjustified 25¢ per hour sweetener. As the County's wage offer maintains the pay ranking of the IM Workers, it should be preferred over the excessive pay proposal of the Union.

5. Mileage Reimbursement

The Union provides no persuasive rationale for an increase in the current mileage reimbursement rate. The current language was part of NUE's own final offer in negotiations in 1983. Use of the IRS rate, as is now proposed by the Union, has absolutely no support in the external comparables, and only Burnett County reimburses employees at a rate of 24¢ per mile. Only two other units within the County receive mileage reimbursement, and neither uses the IRS rate as the basis. Instead, those employees are reimbursed on the sliding scale currently contained in the Social Services contract.

Aside from the lack of support in any comparable, and the fact that the mileage language is NUE's own creation, the County cites the familiar principle that

changes in the status quo generally require both a showing of need and the offer of a quid pro quo. Neither element is present in the Union's offer or the Union's evidence.

## 6. Cost of Living

The overall increase in the compensation package proposed by the County is 3.83% for 1989. The Union's offer is a 4.27% increase. The cost of living increase for 1988 was 2.89%. Since the CPI increase for the preceding year is the common basis for comparison, the County's package should be favored.

## 7. Interests and Welfare of the Public

The County argues that its offer is premised upon restraint made necessary by problems in the farm economy, which provides much of the income for County residents. In the aftermath of 1988's drought, County residents have realized substantial economic hardships. In the face of these hardships, the citizens have a right to expect some moderation in the increases received by public employees.

For all of the foregoing reasons, the County asks that its final offer be accepted.

## C. Reply Brief of the Union

In reply to the arguments of the County, NUE makes the following major points:

1. The County's population of 40,968 shows it to be far more comparable to the four primary comparables -- Chippewa, St. Croix, Dunn and Polk -- than the four smaller counties which the County would grant equal weight.
2. The most recent per capita adjusted gross income figures show Barron County, at \$6,187, to be far more comparable to the four primary comparisons, at an average of \$6327, than to the relatively poorer counties of Burnett, Rusk, Sawyer and Washburn, where the average adjusted gross income is \$5,131.
3. While the County claims that the change in mileage reimbursement is not supported by internal comparisons, NUE notes that there are no internal settlements for 1990, which is when the change in reimbursement systems would take place.

4. The County's characterization of NUE's insurance proposal as a drastic change is overblown, since the cost exposure to the County is the difference between paying 82% of the premium and paying 83.3% of the premium. Further the County's complaint that NUE seeks to prevent it from bargaining over insurance in the future ignores the very simple fact that the County is always free to make proposals regarding insurance, just as NUE may.

5. The County's claim that its insurance premiums were the second highest among the comparables is true but irrelevant, since the issue here is the amount of the premium the County actually pays. Whether measured in dollar terms or percentages, the County's contribution to insurance is substandard.

6. The County's argument that its insurance continues the negotiated internal pattern is deceptive. There is no negotiated internal pattern for 1990 since, as noted above, there are no other settlements within the County for that contract year.

7. The County's complaint that the Union first suggested at the arbitration hearing that its insurance offer would include automatic payments during the hiatus period is misplaced. The certified offer has never changed. The County first comprehended that point on August 24th. That component of the offer tracks the pattern of other contracts in the past which were settled before the insurance rates became known, and thus represents the status quo for this situation.

8. The status quo arguments of the County are not consistent with its offer. The County has proposed changes, in the form of increases, in both wage rates and health insurance payments without evidence of a quid pro quo. The same economic forces which compel change in those areas compel change in the less expensive areas of life insurance and mileage reimbursement.

#### **D. The Reply Brief of the County**

1. The County rejects Union suggestions that higher insurance contributions or wage increases should be justified on the basis of mythical savings realized by the 82% contribution rate for insurance. The County's insurance costs have been increasing steadily, including hikes of 23% in 1989 and 15% in 1988. These large increases explain the County's reluctance to increase the percentage of the premium it pays, as that would simply compound the yearly boost in costs already being realized.

2. The comparisons drawn by the Union between the County's percentage contribution and those in comparable counties ignores the wide variations in insurance increases from employer to employer. Health insurance increases among comparables have ranged from 14% to 78%. Thus there is no basis for predicting that the percentage contributions in other counties will remain at above 90%, and the figure is deceiving. The only sure thing is that the County's insurance costs will continue to increase.

3. Contrary to the Union's claims, there has never been an agreement to pick up the costs of insurance during the hiatus period. Every contract since at least 1983 has limited the employer's liability for premium increases to the contract year, a fact implicitly acknowledged by the Union in agreeing to flat dollar amounts in contracts after those which supposedly covered increases during hiatus periods. The Union would never have made such agreements if it had the benefit it now claims.

4. The differentiated wage increases granted in the past have been based upon market conditions, which do not apply in this case. The greater than 4.0% increase in the Public Health unit for 1989, for example, is a response to the well publicized shortage of nurses. The County notes that it received significant language concessions in that unit, of a type not forthcoming in these negotiations. The County's willingness to make market adjustments when needed is shown by the fact that the IM Workers in this unit received wage bumps in 1983 and 1984 to bring their wages up to the market. The additional wage bump sought by the Union in this year is not justified by market conditions, and should be denied.

5. Because the County's workers work fewer hours per month than their counterparts in other counties, hourly wage rates are the only valid basis for comparison. The County's hourly wage rates in 1989 exceed the average of the comparables at all but two positions, and the 1990 wage increase is equal to or greater than the increases in the comparable counties.

6. The efficiency arguments of the Union concerning IM Workers are misplaced. The caseload data cited by the Union is suspect, since the source documents themselves caution that management practices and variations in caseload assignments may distort the figures. Further the County has added two case workers and one supervisor since the data was compiled. If the IM Workers were overburdened, as suggested by the Union, there should be evidence of overtime utilization in the unit. Further, the Union might be expected to make proposals to increase the length of the work day, increasing both the work day and the overall compensation. Neither the evidence nor the final offer persuasively establish the Union's claims of overwork in this unit.

7. The Union's argument that tying the reimbursement rate to the IRS rate will avoid administrative burdens should the current sliding scale generate more than 24¢ per mile is a straw man. Gas prices would have to increase to \$1.85 per gallon in order for reimbursements to reach 25¢, and this would have to be accompanied by no increase in the IRS rate. The County avers that this is rather unlikely to occur in 1990.

#### **IV. Discussion**

Two substantive issues dominate this case. Wage increases and health insurance are the central disputes, with life insurance premiums and mileage reimbursements having relatively little weight in determining which offer is selected. Each issue is discussed in turn, after a brief discussion of the dispute over comparability.

##### **A. Comparability**

NUE has argues that four of the eight counties surrounding Barron County deserve special weight in this proceeding as primary comparables. This additional weight, the Union argues, is justified by their greater similarity to Barron County in population and income. Acknowledging that these four counties do have populations and median incomes more nearly reflecting those of Barron, the undersigned must still decline to alter the historic comparability relationship between the nine counties. The Union has not pointed to any change in relative population size or income levels from those prevailing at the time when the comparability relationship was first established or the times when it was reinforced in subsequent proceedings. Presumably the arbitrators in 1980, 1982, 1984, 1985 and 1987 were aware of the differences in size and wealth among the nine counties, and yet declined to divide the comparables group into primary and secondary comparables. Absent a change in circumstances, the parties are entitled to rely upon the benchmarks established in prior arbitrations.

##### **B. Wages**

Both parties have proposed a 4.0% general increase for 1989, effective at the mid-point of the year. The difference in 1990 is 0.5%, with the Union seeking 4.0%, and the County offering 3.5%. The non-compounded increase in wage rates for the seven comparable counties having two year settlements averages 6.75%, as compared to 7.5% and 8.0% for the Union and County offers, respectively. Comparisons drawn solely on relative rates of increase favor the County's as being more reasonable.

When comparisons are drawn on absolute wage rates, the ranking of County workers depend largely upon whether hourly rates or monthly rates are used. Since the County's workers are scheduled for only 1820 per year, as compared to an average of 1904 hours for workers in comparable counties, they generally rank in the lower half of the comparables in total pay, while ranking in the upper half when hourly rates are compared.<sup>1</sup> The relatively low ranking in total pay are somewhat offset by the greater amount of leisure time enjoyed by County workers, which has its own personal value, and which the Union has not proposed to change.

The current wage rankings are the result of voluntary settlements, and the County's offer maintains the relative position of County employees among their peers. The Union's argument on total pay is essentially a claim for catchup, which in turn is an appeal to equity. The monthly wages within the County relative to those paid in other counties are not so low as to be inequitable, particularly when viewed in light of the shorter work week. Further, the higher than average hourly rate increase over the two year contract will provide some measure of catchup in monthly compensation.

On balance, the undersigned finds that the issue of across the board increases favors the final offer of the County.

Turning to the question of a special adjustment for Income Maintenance Workers, the undersigned notes that these workers are already in the upper half of the comparable grouping in both hourly and total compensation, and have received special adjustments in the past to bring them more in line with market rates. The Union, however, argues that a higher rate of pay is justified by both the increasing complexity of the job and the much greater efficiency of these workers than Income Maintenance Workers in other counties.

The first of these arguments does nothing to justify an increase for Barron County's Income Maintenance Workers beyond those received by their counterparts in the eight surrounding counties. To the extent that IM Workers in general face greater complexities, this factor should be reflected in the wage rates of all such workers. It is well established that a party seeking to gain a higher wage increase than that granted to similar employees must distinguish

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<sup>1</sup> Actual hourly compensation compares less favorably, however, when the significantly higher employee's contribution to health insurance is factored in. From the insurance participation data in the record, it appears that insurance contributions consume approximately 14¢ per hour of gross pay across the bargaining unit. Absent total compensation and insurance participation data for comparable employees, though, the true significance of this, and its impact on the rankings, is difficult to reliably determine.

the group which is to receive the greater benefit from those who do not. Factors common to all such employees, such as the complexity of the work, will not suffice.

The second basis for the requested adjustment is a claim of exceptionally high productivity and efficiency. The undersigned accepts the Union's argument that a persuasive showing of significantly higher workloads and efficiency can justify a higher wage rate for the County's workers than that received by other workers with less productivity and less demanding jobs. A consistently greater intensity of effort during work hours logically suggests greater compensation, since the employer presumably achieves much lower unit costs and can operate with fewer employees. Having said this, however, the undersigned is compelled to add that translating the concept into reality is more involved than simply offering caseload statistics.

Many factors enter into efficiency. Superior management techniques may allow one group of workers to operate more efficiently than another. The addition of superior technologies, such as computers, may allow a worker to process more work with the same amount of effort. Factors such as these are not taken into account either by the Union's statistics or arguments. Moreover, a permanent increase in wages on the basis of significantly higher productivity should reasonably be premised upon data demonstrating that this is a consistent, long term state of affairs. In particular, the undersigned is reluctant to rely for such a sweeping conclusion on the skimpy data presented by the Union. The figures from July of 1988 are merely a snapshot of relative caseloads at a single point in time. They are presented with caveats from the source, suggesting that they may not be completely valid comparisons, and reflect a period of time when the Department was staffed at a lower level than is currently the case. In short, while the Union's argument has some validity, the evidence needed to prove the claimed higher levels of efficiency and productivity is lacking.

On the overall issue of wages, the final offer of the County is preferable under the statute.

## **B. Health Insurance**

The health insurance issue is limited to the second year of the contract, and focuses on two changes sought by the Union. The first is a guarantee of employer contribution to increases beyond the contract term. The second is an increase in the amount of employer contribution.

While the Union contends that past contracts have contained language which would have guaranteed employer participation in insurance premium increases during a contract hiatus, the contract language for the years cited does not support the claim. The 1983-84 contract provided that:

"26.01 The Employer agrees to pay up to \$135.00 per month toward the single or family plan health insurance premium in 1983 and \$135.00 and 75% of the increase in the 1984 family premium over and above the 1983 premium of \$171.45 per month.."

This language does not convey an open-ended promise to pay premium increases beyond those realized in the 1984 premium. The formula specified in the contract is capable of yielding only a single figure once the 1984 increase is known.

The language of the 1985-86 collective bargaining agreement is slightly more arguable:

"...During 1986 the County will continue to pay \$168 toward the family plan and 80 percent of any increase in the monthly premium above the 1985 premium (\$204.05)."

While the 1983-84 contract speaks in terms of increases in 1984 rate versus the 1983 rate, the 1985-86 contract refers to "any increase in the monthly premium above the 1985 premium." The clause appears to limit this liability, however, by stating that the County will pay this amount "During 1986". The language is not as completely unambiguous as the 1983-84 language, but still serves poorly as the sole evidence of a claim of bargaining history.

The hiatus issue is an argument over future bargaining position, and the tactical benefits of insuring some employer participation in insurance cost increases while bargaining progresses make the Union's desire for this language understandable. To say that it is understandable, however, is not say that it is justified in arbitration. There is a tactical advantage to be gained here by the Union, and in the ordinary course of bargaining some concession would be required to obtain this language. Far from having offered a tradeoff to gain the hiatus clause, the Union apparently did not express an intention to gain one until after the final offers had been submitted, focusing attention instead on obtaining a higher insurance contribution in general.

Arbitration is a poor reflection of bargaining, but it is intended to result in contract provisions roughly approximating what would have been realized had



the parties been successful in reaching a voluntary agreement. The undersigned does not believe that the employer would have voluntarily agreed to a provision shifting the burden of negotiating over insurance increases to itself, absent some demand for that language, together with a rationale and an offer of a tradeoff, at the bargaining table or in the exchange of final offers. The Union has shown no compelling need to gain this change in bargaining position in arbitration, particularly as it never expressly requested it in bargaining.

Consideration of the hiatus issue favors the final offer of the County.

The issue of how the second year insurance premium is to be apportioned is a closer question. While the County strongly argues that the internal pattern of settlements should not be disturbed by granting these employees a different insurance benefit than is contained in other agreements, the fact is that there is no internal pattern of settlements for 1990. The County cannot break faith with other Unions over this issue, and employees in other units cannot feel betrayed, if no commitments have yet been made.

As noted above, arbitration is intended to reflect bargaining and the general rule for changes in the status quo is that the moving party must prove a need for the change, and the offer of a quid pro quo. The Union's showing of need for an increase in insurance contribution is satisfied in this case by the significantly higher employee contributions made in Barron County than in any of the comparable counties. Employees in comparable counties paid roughly \$15 in 1988 and \$20 per month in 1989 for family coverage, while Barron County employees paid \$41 and \$51 per month in those two years. While the County points to its insurance rates as the second highest in the comparable grouping, its actual payments for insurance are the third lowest in each year, since it pays 82% of the premium as compared to an average of 92.75% for the comparables.

The Union has met its burden of showing a need for change in insurance, and its offer of calculating the 1990 rate by taking the 82% base for 1989 and adding 90% of the amount of increase is a modest proposal. There is nothing in the record, however, to show that any quid pro quo has been offered the County. Even though the monetary amount in dispute is relatively slight, the requested change in this language has some importance for the future direction contribution rates, and will ripple out through other County units. There are no other internal settlements for 1990, but there is a uniformity in the County's contracts in the area of insurance language. Any changes in this contract will surely be reflected in others. Given the implications of this change, the Union cannot expect to achieve it in a package which not only

does not suggest any compensating concession but includes demands for higher wage increases than are justified by the comparables.

The Union has demonstrated a need for an improvement in the area of health insurance premium contributions. As there is no evidence of a quid pro quo for the requested change, however, the final offer of the County, though flawed, is slightly preferred. When weighed together with the hiatus issue, the final offer of the County on health insurance is the more preferable under the statute.

### C. Life Insurance

The Union has provided a persuasive rationale for increasing the life insurance contribution. The premium amount is tied to wages, yet is expressed as a flat dollar amount in the contract. From the record, increasing this amount by a percentage identical to the amount of the wage increase maintains rather than improves the benefit. The County correctly notes that the Union has not provided proof of a quid pro quo for this increase, but the tie-in to wage rates renders this more similar to a wage issue rather than a true benefit issue. The Union's proposal does not seek some fundamental structural change in life insurance, merely an increase in premium contributions to reflect the increase in the rates. Moreover the 35¢ per month cost of the increase makes the identification of a specific quid pro quo somewhat problematic.

### D. Mileage

Neither party's position on mileage reimbursement is particularly persuasive. The effective reimbursement rate under the County's sliding scale is slightly lower than that in most surrounding counties, and ties reimbursement to the cost of gasoline, which is but one component a vehicle's operating cost. For its part, the Union proposes to increase reimbursement rates beyond those in paid in seven of the eight comparables, and to introduce the IRS rate as the formula for calculating mileage reimbursements, a method not used in any of the comparable counties.

On balance, the final offer of the County is preferred on this issue. There is some validity to the Union's criticism of the system, but it is balanced by the fact that the sliding scale was established through voluntary collective bargaining and generates a reimbursement rate which is near the average for the area, while the Union seeks to introduce an entirely new system, unsupported by the comparables and generating a rate in excess of the area standard.

## **V. Conclusion**

The final offer of the County is more reasonable under the statute on the issues of wage rates and health insurance. These are the most important issues in dispute, and the undersigned therefore selects the final offer of Barron County.

On the basis of the foregoing and the record as a whole, and having given full consideration to the factors listed in Section 111.70 (4)(cm)7, the undersigned makes the following

### **AWARD**

The final offer of Barron County, together with the stipulations reached in bargaining and mediation, shall be incorporated into the 1989-90 collective bargaining agreement.

Signed this 5th day of January, 1990, at Racine, Wisconsin:

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Daniel Nielsen, Arbitrator

**Barron County / NUE Dec No 26009-B, Appendix "A"**

**FINAL OFFER OF NUE FOR THE BARRON COUNTY DEPARTMENT OF SOCIAL SERVICES NON-PROFESSIONAL EMPLOYEES**

1. Unless otherwise indicated below, the terms of the preceding agreement shall remain in effect.
2. Article XXV - Duration: Change the dates in this Article to reflect an agreement from January 1, 1989 through December 31, 1990.
3. Article XXVI - Health Insurance - Life Insurance: Replace the first paragraph of 26.01 with: "Effective January 1, 1989, the Employer agrees to pay up to \$232.25 per month toward the single or family health insurance premiums for employees who have successfully completed their probationary period. The Employer will pay up to \$232.25 toward either the regular family plan, or either of the two optional family plans, but only up to the actual full regular insurance single premium for any of the single plans. Effective January 1, 1990 the County will continue to pay up to \$232.25 toward the family plans, plus 90 percent of any increase in the regular family health insurance plan premium above the 1989 premium of \$283.23."

In 26.02 change "\$4.25" to "4.60."

4. Wages:
  - A. Increase all 1988 rates by 4 percent effective 7/1/89; increase all 1989 rates by 4 percent effective 1/1/90.
  - B. Increase the Income Maintenance Worker rate by an additional 25¢ per hour effective 7/1/89 (after the application of the 4 percent in A above).
5. Article X - Mileage: Add: "Effective January 1, 1990, the mileage reimbursement rate will be the current IRS business mileage rate."
6. Article XXI - Miscellaneous Provisions: Add to 21.03, to the end of the last sentence: "..., provided that there is an available employee lounge in the courthouse."

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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

FINAL OFFER  
TO  
BARRON COUNTY SOCIAL SERVICES NON-PROFESSIONAL EMPLOYEES  
FOR A 1989-90 AGREEMENT

1. Except as provided in this Final Offer, the terms and conditions of the 1987-88 Agreement shall become the terms and conditions of the 1989-90 Agreement.

2. ARTICLE V - PROMOTIONS

Section 5.01: Revise to read as follows:

5.01 When the County chooses to fill a vacancy or create a new job, a notice of the vacancy shall be posted on the employees' bulletin board for at least five (5) days concurrent with public advertisement of the position. Said notice shall contain the prerequisites for the position and said prerequisites shall be consistent with the requirements for the position. Those employees within the service who meet the prerequisites may apply. Following the five (5) day notice applicants will be tested according to the requirements of the Merit System Rule. In the event none of the bargaining unit applicants qualify, the County may then hire an external applicant for the position.

3. ARTICLE XXVI - HEALTH INSURANCE - LIFE INSURANCE

Section 26.01: Revise paragraph 1 to read as follows:

7.08 Effective January 1, 1989, the Employer agrees to pay up to \$232.25 per month toward the single or family health insurance premiums for employees who have successfully completed their probationary period. The Employer will pay up to \$232.25 toward either the regular family plan, or either of the two optional family plans, but only up to the actual full regular insurance single premium for any of the single plans. Effective January 1, 1990, the above-stated dollar amounts shall be adjusted to a flat dollar amount equal to 82 percent (82%) of the County's regular family health insurance plan premium for 1990.

4. ADDENDUM II - SALARY SCHEDULE

1989: Increase all wage rates 4.00%, effective July 1, 1989.  
1990: Increase all wage rates 3.50%, effective January 1, 1990.

Dated this 24th day of April, 1989.

ON BEHALF OF THE COUNTY:

By: Kathryn J. Prew