ARBITRATION OPINION AND AWARD

In the Matter of Arbitration Between NEW RICHMOND SCHOOL DISTRICT And WEST CENTRAL EDUCATION ASSOCIATION SECRETARIAL AND BOOKKEEPING PERSONNEL UNIT	Case 25 No. 43374 Int/Arb-5530 Decision No. 26414-A

Impartial Arbitrator

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Hearing Held

July 24, 1990
New Richmond, Wisconsin

Appearances

For the District

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For the Association

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BACKGROUND OF THE CASE

This is a statutory interest arbitration proceeding between the New Richmond School District and the West Central Education Association, Secretarial and Bookkeeping Personnel Unit, with the matter in dispute the wages to be paid during the two year term of the renewal labor agreement covering July 1, 1989 through June 30, 1991.

After the parties had been unable to reach complete agreement in their contract renewal negotiations, the Association on December 22, 1989 filed a petition with the Wisconsin Employment Relations Commission requesting final and binding arbitration in accordance with Section 111.70(4)(cm)7 of the Municipal Employment Relations Act. After preliminary investigation by a member of its staff, the Commission on April 11, 1990 issued certain findings of fact, conclusions of law, certification of the results of investigation, and an order requiring arbitration. On April 24, 1990 it issued an order appointing the undersigned to hear and decide the matter as arbitrator.

A hearing took place in New Richmond, Wisconsin on July 24, 1990, at which time all parties received a full opportunity to present evidence and argument in support of their respective final offers. Both parties closed with the submission of post hearing briefs, after the receipt of which the record was closed by the Arbitrator effective September 13, 1990.

THE FINAL OFFERS OF THE PARTIES

The certified final offer of each of the parties is incorporated by reference into this decision and award; the two offers differ only in the following summarized respects:

(1) The Employer proposes a secretarial wage freeze for 1989-90, and it offers to increases wages by 2.5% for 1990-91; the second year adjustment would increase secretarial wages from $8.80 to $9.02 per hour for 1990-91.

(2) The Association proposes a secretarial wage freeze for 1989-90, and proposes an increase from $8.80 to $9.20 per hour for 1990-91.

THE STATUTORY CRITERIA

The decision and the award of the Arbitrator in these proceedings are governed by Section 111.70(4)(cm)7 of the Wisconsin Statutes, which directs arbitral consideration of the following criteria.

"a. The lawful authority of the municipal employer.
b. Stipulations of the parties.
c. The interests and welfare of the public and the finanacial ability of the unit of government to meet the costs of any proposed settlement.
d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.

e. 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 generally in public employment in the same community and in comparable communities.

f. 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 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 employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

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

j. Such other factors, not confined to the foregoing, which are normally or traditionaly 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."

POSITION OF THE ASSOCIATION

In support of its contention that the final offer of the Association is the more appropriate of the two final offers before the undersigned, the Association argued principally as follows:

(1) That arbitral consideration of the comparison criterion favors selection of the final offer of the Association.

(a) That the principal comparables should consist of the new and old school districts comprising the Middle Border Athletic Conference; that Bloomer is new to the conference as of 1989-90, and River Falls and Hudson left the conference in 1989-90.

(b) That while the Employer proposes to exclude River Falls and Hudson from the principal comparison group, these districts have traditionally been used by the parties as comparables; if the Employer wished to exclude River Falls and Hudson this year, it should have addressed the matter during the contract negotiations process. Further, that the District has used Hudson and River Falls as comparables in other support staff bargaining within the District.

(c) That arbitrators have generally recognized the comparability of schools within the same athletic conference.

(d) That Hudson and River Falls are in the same geographic

area, and their annual school cost per member and their mill rates and equalized valuations are comparable with the old and new Middle Border Conference.

(e) In examining 1990-91 secretarial wages within the old and new athletic conference, Baldwin-Woodville has a top rate of $9.44 per hour, the Bloomer top rate is $9.09, Hudson's top rate is $11.42, and only the District of Mondovi is below the District's final offer at $7.39.

(f) In considering percentage wage increases for 1990-91, the Middle Border Conference increases ranged from 3.5% to 5%, as compared to the Association's proposal of 4.5% and the District's offer of 2.5%.

(g) That certain Employer offered comparisons are distorted by its practice of adding the increment cost to some schedules and failing to do so for others.

(2) That arbitral consideration of the consumer price index will support selection of the final offer of the Association.

(a) That the 1989 CPI increased by 4.6%, and estimated 1990 increases total 4.9%.

(b) That the Association proposed increase of 4.5% in wages for 1990-91 is more closely attuned to cost-of-living considerations than is the 2.5% wage increase proposed by the Employer.

(c) That since 75% to 82% of the secretaries in the bargaining unit do not participate in the group insurance offered by the District, the impact of insurance cost increases is diminished in these proceedings.

(3) That arbitral attention to internal comparables supports the selection of the final offer of the Association.

(a) That Food Service Employees recieved a 9% increase for 1989-90, Teacher Aids have tentatively agreed to an 8.26% increase for 1989-90, and the Custodians and Secretaries accepted a 1989-90 wage freeze in exchange for having their WRS portion paid by the District.

(b) That the Food Service Employees received a 6.9% wage increase for 1990-91, and Teachers Aids are projected at a 4.67% increase for 1990-91; that each of these groups has had the WRS plan since it was implemented by the District on January 1, 1986.

(c) That while the Custodians have accepted a 2% wage increase for 1990-91, they have been provided with an insurance package that far exceeds that offered to other support staff members.

(d) That the District would have had a persuasive argument for offering the 2.5% wage increase for 1989-90, if the insurance package offered to the secretaries was the same as that offered to the Custodians, but this is not the case; that the Food Service Employees and the Teacher Aides received higher wage increases for 1989-90 and 1990-91 because they did not have insurance benefits comparable to those received by the Custodians.

(3) That the Association's final offer contains a quid pro quo for the additional retirement system benefit agreed upon by the parties, in the form of the wage freeze for 1989-90.

(a) That the trade off for the custodial unit was not as large as that within the secretarial unit, since the District paid for the increase in insurance premiums and provided full additional benefits for the Custodians.

(b) That while it is quite common for employees first enrolled in the WRS to take a reduction of wages, the record shows that various other districts applied only reduced yearly wage increases, rather than wage freezes; that it is unrealistic for the District to apply a 1989-90 wage freeze and to expect a low wage for 1990-91.

(c) That the wage rate for 1990-91 is the only true item in dispute in these proceedings, not the cost of the Wisconsin Retirement System, which in this case was not picked up by the Employer until April of 1989.

(4) That various other considerations favor the selection of the Association's final offer in these proceedings.

(a) That the availability of a Tax Sheltered Annuity to those in the bargaining unit should not favor the selection of the Employer's final offer; that the TSA option had been in effect far in advance of the WRS being introduced into the District.

(b) By analogy, that the Custodians had a pension plan far in advance of the introduction of the WRS to the District.

(c) For the District to argue that the Secretaries should only receive a 2.5% wage increase because of the TSA is not persuasive; that the custodial unit received a 2% wage increase, previously had a pension plan, and received full insurance benefits with the District picking up the cost of the increases.

(5) That there is nothing in the record to suggest an impaired ability to pay on the part of the District; that various items in the record clearly indicate the financial ability of the District to meet the costs of either final offer.

(a) That the record shows healthy increases in equalization and TIF aids between 1988-89 and 1990-91.

(b) That the record shows that the District had a 1987-88 general fund end of year balance of 19.78%.

(c) That the District experienced a 15.79% increase in 1987, in total income per tax return in the District.

(d) That St. Croix County personal income per capita was $17,084 in 1989, versus a statewide average of $15,551, and the County is identified as the fastest growing area of the State, with the most impressive income growth.

In summary, that the final offer of the Association is favored by arbitral consideration of athletic conference comparables, internal comparables within the District, cost of living considerations, the quid pro quo for the parties' WRS agreement, and the District's ability to meet the costs of the Association's final offer.

POSITION OF THE DISTRICT

In support of its contention that the final offer of the District is the more appropriate of the two offers before the Arbitrator, the District emphasized the following principal arguments.

(1) The the principal comparison pool should consist of the Middle Border Athletic Conference.

(a) That Hudson and River Falls should be excluded, due to the fact that both schools had left the Middle Border and joined the Big Rivers Conference, commencing with the 1989-90 academic year.

(b) That River Falls had left the conference prior to the start of the 1989-90 school year and had not negotiated a renewal agreement while still a member of the conference, that it should be excluded from consideration in these proceedings.

(c) That while Hudson adopted its 1989-90 changes while still a member of the conference, its non-union status lends additional support to excluding it from arbitral consideration in these proceedings.

(d) That while both parties agree that Bloomer, which was added to the conference in 1989-90 with a contract already in place for 1988-91, should be considered a

primary comparable, the arbitrator may appropriately elect to accord limited weight to this district.

(2) That the final offer of the District is the more reasonable one, when considered in light of the parties' adoption of retirement benefits effective April 1, 1989.

(a) That when the District became aware that all of its eligible support staff members were required to belong to the Wisconsin Retirement System, the secretaries and custodians were added to the system effective April 1, 1989.

(b) That contributions toward wages should be treated like wages, in that, upon retirement, employees will receive scheduled cash payments in accordance with the WRS.

(c) Since the implementation of retirement contributions by the Employer was new money, it should be considered part of the parties' wage package.

(d) In costing the respective final offers, the widely accepted cast forward method should be used, which will take into account the Employer's 12% retirement contribution, and all other fringe benefits costs.

(e) That the additional retirement contributions by the Employer amounted to 26¢ per hour per hour for the retirement contribution between April - June, 1989, $1.04 per hour for 1989-90, and an additional $1.08 for 1990-91.

That this new money for retirement benefits will directly benefit employees during retirement, and it must be considered by the Arbitrator in evaluating athletic conference comparables.

(3) That the final offer of the District is the more reasonable when considered in light of comparisons within the Middle Border Conference.

(a) That the District's offer of a 30¢ per hour increase compares with the average increase in the conference of 27¢ per hour.

(b) That the Board's offer would leave the District some 92¢ per hour above the other conference schools which have settled for 1990-91, versus the Association's offer which would move them to an average of $1.10 per hour above the comparables.

(c) That use of a wage freeze or a lower than normal wage increase when implementing retirement contributions has been a common practice in the Middle Border Conference.

That this has been the case with the Amery, Durand, Ellsworth and Mondovi Districts.

(4) That the final offer of the District is favored by arbitral consideration of certain other public sector comparables.

(a) That consideration of five contiguous school districts which are not members of the Middle Border Conference favors the position of the District.

(b) That consideration of St. Croix County Courthouse secretarial rates favors the position of the District.

(c) That the final offer of the District is also favored by arbitral consideration of the wages paid in comparable public sector jobs in the counties within which the athletic conference districts are located.

(5) That the final offer of the District is favored by arbitral consideration of internal comparables.

(a) That the Custodians, who also were enrolled in the Wisconsin Retirement System effective April 1, 1989, accepted a wage freeze in 1989-90 and minimal wage increases in 1990-91 and 1991-92. That the fact that the Custodians have full insurance benefits, achieved over a fifteen year bargaining period, cannot be considered to favor the position of the Association in the dispute at hand.

(b) That the food service employees, who were placed into the Wisconsin Retirement System effective January 1, 1986, and who received substantial wage increases for 1989-90 and 1990-91, receive no other fringe benefits, and have not been as highly paid in comparison with other districts as have been the secretaries.

(c) That although teacher aides have received tentative agreement on a 70¢ per hour wage increase at some time during 1989-90, these employees paid their own share of the retirement contributions during their first two years of employment. Further, the teacher aides have not been as highly paid in comparison with other districts as have been the secretaries.

(d) That the secretaries are receiving 12% in additional monies due to the retirement agreement, and have been eligible for up to $100 per month in Employer tax sheltered annuity contributions.

(6) That the final offer of the District is favored by arbitral consideration of private sector comparisons to comparable jobs within St. Croix County.

(7) That the District's final offer exceeds any increases in cost of living.

(a) That an examination of the final offers of the two parties indicates a first year increase of either 7.93% or 10.90%, depending upon whether retirement is included or excluded, and second year increases of 3.09% under the Board's final offer, or 5.04% under the Association's final offer.

(b) That the rate of increase in consumer prices for small metropolitan areas has decreased from 4.6% in July, 1989, to 3.0% in May of 1990.

(c) That the Employer proposal, providing for a two year increase of 14.0%, is closer to the rate of increase in consumer prices, than is the Union proposed increase of 16.0%.

(8) That the final offer of the District reasonably addresses the interest and welfare of the public criterion.

(a) That the District is neither flush with funds nor in severe financial straits.

(b) Based upon athletic confrerence comparisons, the District ranks in the "middle of the road" with respect to cost, aid and equalized value per member.

(c) From 1987-1989 the general taxes levied by St. Croix County increased by over 12.5% and the local taxes levied increased by over 23.17%, with both figures higher than any counties within which comparable school districts are located.

(d) That certain year end balances in the operating fund in 1987-88 reflected the need to cover the July and August 1988 payrolls, since tax dollars for the 1988-89 school year were not available until August of 1988.

(e) That the secretarial unit is not being short changed in the budget process, as the District's final offer provides for wages in line with all internal and external comparables.

In summary and conclusion, that the final offer of the District is favored by consideration of all comparables, that the implementation of a 12% retirement package requires short term moderation in wage adjustments, that the secretarial unit has the benefit of up to $100 per month in tax sheltered annuity benefits, and the established practice within the District and the athletic conference supports the use of reduced wage increases at the time of implementation of employer paid retirement contributions.

FINDINGS AND CONCLUSIONS

Despite the variety of arguments and items of evidence advanced by the parties, this case turns principally upon arbitral consideration of the significance of the District's extension of WRS benefits to the members of the secretarial bargaining unit, and its assumption of the obligation to pay for both the employer and the employee costs of the program. In these connections, both parties have agreed that the cost implications of the retirement commitment of the Employer justified a wage freeze for the first year of the two year renewal agreement, but they disagree upon the appropriate impact of the action, if any, during the second year of the two year agreement.

Prior to applying the statutory arbitral criteria to the dispute, arriving at a decision, and rendering an award, it is appropriate for the undersigned to briefly address the nature of the process, the role of the arbitrator, and the mechanics of arriving at a decision and award in interest disputes. As has been emphasized by the undersigned in various other cases, a Wisconsin interest neutral operates as an extension of the parties' negotiations process, and he will normally attempt to arrive at the settlement that the parties themselves should have reached, but for their inability to achieve an agreement over the bargaining table. In attempting to make such a determination, interest arbitrators will look closely at the parties' past agreements, including their negotiations history, in an attempt to determine which of the final offers is the more appropriate for arbitral adoption. These considerations fall well within the scope of sub-section (j) of Section 111.70(4)(cm)7 of the Wisconsin Statutes, and they are typically considered and applied in conjunction with the remaining statutory criteria. These types of considerations in the interest arbitration process are well described in the following excerpts from the widely cited book by Elkouri and Elkouri:

> "In a similar sense, the function of the 'interest' arbitrator is to supplement the collective bargaining process by doing the bargaining for both parties after they have failed to reach agreement through their own bargaining efforts. Possibly the responsibility of the arbitrator is best understood when viewed in that light. This responsibility and the attitude of humility that appropriately accompanies it have been described by one arbitration board speaking through its chairman, Whitley P. McCoy:
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> > 'Arbitration of contract terms differs radically from arbitration of grievances. The latter calls for a judicial determination of existing contract rights; the former calls for a determination, upon considerations of policy, fairness, and expediency, of what the contract rights ought to be. In submitting their case to arbitration, the parties have merely extended their negotiations - they have left to this Board to determine what they should by negotiations, have agreed upon. We take it that the fundamental inquiry, as to each issue, is: what should the parties themselves, as reasonable men have agreed to?...To repeat, our endeavor will be to decide the issues, as upon the evidence, we think reasonable negotiators, regardless of their social or economic theories might have decided them in the give and take of bargaining..'." 1./

1./ Elkouri, Frank and Edna Asper Elkouri, How Arbitration Workes, Bureau of National Affairs, Fourth Edition - 1985, pp 104-105. (footnotes omitted)

The Application of the Statutory Criteria

While the Wisconsin Legislature has not seen fit to indicate any priorities of importance between the various arbitral criteria described in Section 111.70(4)(cm)7, it has been widely accepted in Wisconsin and elsewhere that the comparison criterion is the most important and the most persuasive of the various criteria, and the so-called intraindustry comparisons which have been used by the parties themselves in their past negotiations are normally the most persuasive comparisons. These considerations are briefly addressed in the following excerpts from the authoritative book by Irving Bernstein:

> "Comparisons are preeminent in wage determinations because all parties at interest derive benefit from them. To the worker, they permit a decision on the adequacy of his income. He feels no discrimination if he stays abreast of other workers in his industry, his locality, his neighborhood. They are vital to the union because they provide guidance to its officials upon what must be insisted upon and a yardstick for measuring their bargaining skill. In the presence of internal factionalism or rival unionism, the power of comparison is enhanced. The employer is drawn to them because they assure him that competitors will not gain a wage-cost advantage and that he will be able to recruit in the local labor market. Small firms (and unions) profit administratively by accepting a ready-made solution; they avoid the expenditure of time and money needed for working one out themselves. Arbitrators benefit no less from comparison. They have 'the appeal of precedent and ...awards based thereon are apt to satisfy the normal expectations of the parties and to appear just to the public.' ..."

* * * * *

> "a. Intraindustry Comparisons. The intraindustry comparison is more commonly cited than any other form of comparison, or, for that matter, any other criterion. More important, the weight it receives is clearly preeminent; it leads by a wide margin in the first rankings of arbitrators. Hence there is no risk in concluding that it is of paramount importance among the wage-determining standards.
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> Wage parity within the industry is so compelling to arbitrators that, absent qualifications dealt with below, they invariably succumb to its force. Its persuasiveness, in fact, provides as sound a basis for predictions as may be uncovered in social affairs. The loyalty of arbitrators to this criterion at the general level could be documented at length..." 2./

Although Bernstein is using private sector terminology, it will be noted that the terms intraindustry comparisons, in the dispute at hand, refer to comparisons with other comparable school districts. In determining which intraindustry comparisons to utilize in a given case, interest arbitrators prefer to look to the parties' bargaining history, and they are extremely reluctant to abandon those comparisons utilized by the parties in the past.

2./ Bernstein, Irving, The Arbitration of Wages, University of California Press, 1954, pp. 54, 56.

the past. This principle is described as follows by Bernstein:

> "This, once again, suggests the force of wage history. Arbitrators are normally under pressure to comply with a standard of comparison evolved by the parties and practiced for years in the face of an effort to remove or create a differential. When Newark Milk Company engineers asked for a higher rate than in New York City, the arbitrator rejected the claim with these words: 'Where there is, as here a long history of area rate equalization, only the most compelling reasons can justify a departure from the practice.
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> "The last of the factors related to the worker is wage history. Judged by the behavior of arbitrators, it is the most significant consideration in administering the intraindustry comparison, since the past wage relationship is commonly used to test the validity of other qualifications. The logic of this position is clear: the ultimate purpose of the arbitrator is to fix wages, not to define the industry, change the method of wage payment, and so on. If he discovers that the parties have historically based wage changes on just this kind of comparison, there is virtually nothing to dissuade him from doing so again...." 3./

The Elkouris in their previously cited book, also offer the following observations on the force of bargaining history in determining the weight to be placed by arbitrators on various possible comparisons:

> "Where each of various comparisons had some validity, an arbitrator concluded that he should give the greatest weight to those comparisons which the parties themselves had considered significant in free collective bargaining, especially in the recent past." 4./

In addressing the record in this dispute, there is no doubt that the parties have regarded the principal intraindustry comparison group utilized by them in the past as the various members of the Middle Border Athletic Conference and, as argued by the Employer, there is something akin to a pattern in the past handling of employer adoption of WRS employee contributions, which indicates that a significant wage increase value has been placed upon such action by conference schools.

(1) In the Amery School District the Board agreed to pick up 2% of the employee contribution of 6% effective January 1, 1989, with the additional 4% contribution picked up effective the last day of the 1989-90 labor agreement; in addition,

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3./ The Arbitration of Wages, pp 63, 66. (footnotes omitted)

4./ How Arbitration Works, p. 811. (footnotes omitted)

there was a 4% wage increase effective during the term of the agreement. In terms of total dollars, the increase for the two years thereby totalled approximately 5.0%.

(2) In the Durand School District the Board agreed to pay the full charge for WRS coverage effective January 1, 1986, but it had relatively nominal wage increases of 15¢ per hour on July 1, 1985, 5¢ per hour effective July 1, 1986, and an additional 24¢ per hour effective January 1, 1987.

(3) In the Ellsworth School District the Board assumed one-half of the employee contribution for WRS effective January 1, 1987, with the remainder paid by the Employer beginning on July 1, 1987; the wage increases agreed upon by the parties totalled 1% effective July 1, 1986 and an additional 1% effective July 1, 1987.

(4) In the Mondovi School District the Board picked up the full 6% employee WRS contribution effective January 1, 1986, and granted a 1.5% increase for 1985-86; for those employees not eligible for retirement, it granted a full 6% wage increase for 1985-86.

In analyzing the above settlements within the principal comparison group, it is quite apparent to the undersigned that the parties have placed significant value upon the fact of employers agreeing to assume the 6% employee WRS contribution, and they have also recognized the relative costs of employers immediately assuming such charges at the outset of a renewal labor agreement, versus gradual phasing in of such an obligation during the life of an agreement. This is logical, because the cost to an employer of the 6% contribution is approximately equal to the cost of a 6% wage increase, and a 6% increase assumed at the beginning of a two year agreement is twice as costly as the same commitment made effective one-half way through a two year renewal agreement.

Employer Exhibit 27 and Union Exhibit 11 address the percentage increases for secretarial employees within the principal intraindustry comparison group for 1989-90 and 1990-91. While the figures do not exactly coincide, the 1989-90 increases for the various districts are approximately as follows: Baldwin-Woodville - 2.5%; Bloomer - 4.0%; Durand - 4.6%; Ellsworth - 3.8%; Hudson - 4.5%; and Mondovi 4.0%. These figures average approximately 3.9%, and with the Employer agreeing to the immediate assumption of the full 6.0% WRS contribution at the start of the school year, it is apparent that its commitment considerably exceeded the average wage increase within the principal comparison group, and that some additional consideration for the second year of the agreement would be justified.

In next looking to the 1990-91 athletic conference wage increases, it will be noted that the four settlements are approximately as follows: Baldwin-Woodville - 3.0%; Bloomer - 4.0%; Durand - 4.0%; and Hudson 5.0%. The 4% average conference settlement, therefore, is lower than the 4.5% proposal of the Association, without regard to the residual value in the second year of the Employer's having agreed to the full 6% WRS employee contribution at the start of the two year renewal agreement. The Employer's

2.5% proposed wage increase during the year would be enhanced at least to the extent of 1.5% from its first year WRS commitment, and it seems clear to the undersigned that the employer's second year wage offer is more appropriate when evaluated in comparison with the principle comparison group. The Arbitrator will note at this juncture that River Falls and Hudson will probably be excluded by the parties from their principal intraindustry comparison group in their future negotiations, if they have not already done so; if these two districts were excluded at this time, the appropriateness of the Employer's final offer would be more apparent.

On the basis of the above, the Impartial Arbitrator has preliminarily concluded that the Employer's final offer is significantly favored by arbitral consideration of the principal intraindustry comparison group, the Middle Border Athletic Conference. Without unnecessary additional elaboration with respect to internal comparisons and other private and public sector comparisons within the geographical area, the Arbitrator will note that these secondary comparables have been carefully examined, but they neither significantly detract from nor enhance the above conclusion. Internal comparisons with the custodians, the food service workers, the teacher aides and the secretaries indicate too many inherent differences between the groups to warrant persuasive direct comparisons between the groups. While various of the private sector comparisons would favor the Employer, such comparisons are far less persuasive than those within the primary, intraindustry comparison group.

In next addressing the cost of living criterion, it will be noted that the Association argued that consumer price increases for 1989 and 1990 could total approximately 9.5%, and urged that this consideration should favor the selection of its final offer. The Employer urged that there had been no appropriate basis established for arbitral acceptance of the Union generated CPI estimates for May 1990 through the end of the year; it emphasized in its brief that the rate of inflation had decreased to an annual rate of 3.0% in May of 1990, a substantial reduction from a 4.6% annual rate in July 1989, the first month of the renewal labor agreement.

Cost of living considerations are difficult to apply and to weigh in relationship to other arbitral criteria for various reasons: first, the weight to be placed upon cost of living data varies with the state of the economy and the rate of inflation; second, movement in the consumer price index somewhat overstates the actual rate of inflation due to the make-up of the market basket for goods and services, upon which cost of living changes are measured; third, increases in cost of living have already been given some weight in theseproceedings, to the extent that this factor is reflected in the comparison wage data referenced above. Without getting into complex total costing considerations, it must be noted that the Employer is proposing a direct 6% benefit to employees in the first year of the renewal labor agreement by paying the total WRS cost, and a 2.5% second year wage increase for total direct increases of 8.5%. The Union's second year wage offer would increase this figure to a two year total of 10.5%.

In considering recent and reasonably anticipated movement in the CPI in light of the factors referenced above, the Arbitrator has preliminarily concluded that the Employer's final offer totalling direct increases to

employees in the amount of 8.5%, comes closer to meeting the impact of cost of living increases upon bargaining unit employees, than does the final offer of the Association. In this connection it must be recognized that the Employer's commitment to pay the entire 6% employee WRS contribution was effective with the first year of the renewal agreement, and it exceeded the rate of inflation in the first year of the agreement. To add an additional 4.5% in additional wage increases in the second year, is simply not justified by the hard cost of living data in the record. On the basis of all of the above, the Arbitrator has preliminarily concluded that cost of living considerations favor the selection of the final offer of the Employer in these proceedings.

What next of the arguments of the parties that generally fell within the interest and welfare of the public criterion, including ability to pay? In this connection the Union emphasized the generally healthy economic condition of the Employer, and urged that it had the ability to pay the increases contained in the Union's offer. The Employer urged that the District was neither flush with funds, nor in severe financial straits. It took issue with certain arguments advanced by the Union relative to the availability of money, urged that the secretarial unit was not being shortchanged, and submitted that its final offer was favored.

The Arbitrator will note that interest and welfare of the public considerations, including ability to pay, vary greatly in their relative importance. This criterion may be given determining weight in any dispute where the employer is bereft of funds and lacks the ability to fund even those increases which may be strongly indicated by other criteria; the reverse is not true, however, and an employer which possesses the ability to fund any final offer is not thereby required by the criteria to pay more than is generally indicated to be proper through the application of other of the various arbitral criteria. On the basis of the above, the Impartial Arbitrator has preliminarily concluded that the interest and welfare of the public criterion does not favor the selection of the final offer of either party in these proceedings.

Summary of Preliminary Conclusions

As addressed in more significant detail above, the Impartial Arbitrator has reached the following summarized, principal preliminary conclusions:

(1) An interest arbitrator operates as an extension of the parties' contract negotiations, and will normally attempt to place the parties into the same position they would have occupied but for their inability to agree over the bargaining table. In carrying out this role, the arbitrator will closely examine such factors as the parties wage history and their negotiations history, in addition to the specific statutory criteria.

(2) While the Wisconsin Statutes do not prioritize the various arbitral criteria described in Section 111.70(4)(cm)7, it has been widely recognized in Wisconsin and elsewhere that the comparison criterion is normally the most important, and that the most important comparisons are intraindustry comparisons which have been previously used by the parties in their past negotiations.

(3) The primary intraindustry comparison group in the dispute at hand consists of the various members of the Middle Border Athletic Conference.

(4) Arbitral consideration of the comparisons between the District and the Middle Border Athletic Conference significantly favors the selection of the final offer of the Employer in these proceedings. Neither the various internal comparisons, nor the external public and private sector comparisons can be accorded significant weight in the final offer selection process.

(5) Cost of living considerations somewhat favor the selection of the final offer of the Employer in these proceedings.

(6) The interest and welfare of the public criterion, including ability to pay, cannot be accorded significant weight in the selection of the final offer in these proceedings.

Selection of Final Offer

Based upon a careful consideration of the entire record in these proceedings and a review of all of the statutory criteria, the Impartial Arbitrator has prelminarily concluded that the final offer of the Employer is the more appropriate of the two final offers.

AWARD

Based upon a careful consideration of all of the evidence and arguments, and a review of all of the various arbitral criteria provided in Section 111.70(4)(cm)7 of the Wisconsin Statutes, it is the decision of the Impartial Arbitrator that:

(1) The final offer of the New Richmond School District is the more appropriate of the two final offers before the Arbitrator.

(2) Accordingly, the final offer of the District, hereby incorporated by reference into this award, is ordered implemented by the parties.

William W. Petrie

WILLIAM W. PETRIE
Impartial Arbitrator

November 12, 1990