

BEFORE THE ARBITRATOR

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In the Matter of the Petition of
MOUNT HOREB EDUCATION ASSOCIATION

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

To Initiate Arbitration
Between Said Petitioner
and

Case 14
No. 46334 INT/ARB-6159
Decision No. 27198-A

MOUNT HOREB AREA SCHOOL DISTRICT

Appearances:

Robert J. Taylor, Negotiations Specialist, appearing on behalf of the Association.

Michael J. Julka, Attorney at Law, appearing on behalf of the Employer.

INTEREST ARBITRATION AWARD

Mount Horeb Education Association, (herein "Association") having filed a petition to initiate interest arbitration pursuant to Section 111.70(4)(cm), Wis. Stats., with the Wisconsin Employment Relations Commission (herein "WERC"), with respect to an impasse between it and Mount Horeb Area School District (herein "Employer"); and the WERC having appointed the Undersigned as arbitrator to hear and decide the dispute specified below by order dated April 7, 1992; and the Undersigned having held a hearing in Mount Horeb, Wisconsin June 19, 1992; and each party having filed post hearing briefs, the last of which was received August 26, 1992.

ISSUES

The following is a summary of the issues in dispute with respect to the parties' 1991-3 collective bargaining agreement. The final offers set out the complete statement of the issues:

1. The Employer proposes to keep the current "personal leave" provision which reads:

"In addition, one (1) day personal leave, non-accumulative, will be granted each year for an emergency provided prior approval is given by the Administrator. Teachers requesting personal leave for less than a full day for doctor and dental appointments and other non-school related reasons should obtain their substitute replacement teacher and state the name of the replacement on the written request for personal leave." The Association proposes to change this to read:

"One (1) personal leave, non-accumulative, will be granted each

year provided prior approval is given by the Administrator."

2. Section XXIV- Grievance procedure, currently there is no time limit on the filing of grievances. The Employer would require that grievances be filed within 10 working days of the event giving rise to the grievance. The Association opposes this change.

3. Employee's share of retirement contribution. Currently, the agreement calls for: "[t]he District shall pay up to six (6) percent towards the teachers' share of WRS for the period July 1, 1990 through June 30, 1991. That amount was full for the period. The Employer proposes to increase this to 6.2% which would be full. The Association proposes to change the provision to read: "The District shall pay the teachers' share of WRS for the period of July 1, 1991, through June 30, 1993.

4. The Association proposes to increase the current \$18,271 hiring base to \$19,260 for 1991-2 and \$20,230 for 1992-3 on the current schedule. The Employer proposes a hiring base of \$17,991 for 1991-2 and \$18,533 for 1992-3. The Association costs its 1991-2 offer at \$2,250 per returning teacher or 7.98% wage increase, 6.92% total package. It costs its 1992-3 offer at \$2,194 per returning teacher or 7.0% wage increase and 7.35% total package. The Association costs the Employer 1991-2 offer as \$1,736 per returning teacher or 5.96% wage increase and 6.21% total package. It costs the Employer's 1992-3 offer at \$1,253 per returning teacher or 4.19% wage increase or 5.01% total package. The Employer costs its offer as \$1,736 per teacher, or 5.77% wage and 6.2% total package increase for 1991-2. It costs its second year offer at \$1,440 or 4.52% wage and 5.0% total package. [Per its brief. Supplemental Exhibit 48 varies slightly.] It costs the Association's proposal at \$2,197 per teacher or 7.43% wage and 7.73% total package for 1991-2. It costs the Association's proposal for 1992-3 at \$2,194 per teacher salary increase or 6.84% salary and 7.19% total package.

5. The Employer proposes to keep the current \$185 base for extra-curricular activities on the current schedule. The Association proposes to increase the base to \$195 for 1991-2 and \$200 for 1992-3, all on the current schedule.

6. Voluntary Early Retirement: The Employer opposes any change in the current language. The Association proposes the following changes:

1. Under the current plan the teacher must "qualify for full early retirement benefits under the provisions of 1989 Wisconsin Act 13 . . ." The Association proposes to eliminate the word "full."

2. Under the current plan the Employer will pay up to \$180 per month toward the single or family group health insurance premium as elected by the early retiree for 6 years or to age 65 or until the

early retiree qualifies for medicare or until the death of the early retiree whichever occurs first.

a. The Association proposes to change the amount to 50% of the district-approved family health plan.

b. The payment be made toward any insurance selected by the retiree for health insurance only.

7. Sick leave payout on retirement. The Employer opposes any change to the current benefit which is payout of \$25 per day for unused sick leave up to 130 days for regular retirees who retire at age 65 or older and \$25 per day for up to 180 days for early retirees who qualify for full . The Association proposes to increase this to \$50.00 per day and 180 days for all retirees.

POSITIONS OF THE PARTIES

The Association takes the position that its offer is necessary to maintain its competitive wage position and to obtain parity in the other benefits sought. The Association argues that the appropriate comparison group is the Capitol Conference plus the contiguous district of Middleton-Cross Plains. The association argues Middleton-Cross Plains should be added because it shares a border with Mount Horeb, is also a bedroom suburb of Madison, shares shopping and entertainment facilities. The Association denies that any of the schools of the State Line League are at all comparable in that they are not bedroom suburbs of Madison, with the remote possible exception of Barneveld and Belleville. It notes the others are primarily agrarian and much smaller.

The Association argues that its proposed change of "emergency" leave to "personal" leave is supported by the comparables. It argues that the contract's provision for personal leave, but for its requirement that the leave be for an "emergency" is essentially self contradictory. Most personal leave situations are foreseeable circumstances, while most emergency situations are, by definition, unforeseeable. It points to the internal comparison to the associate staff personnel agreement which provides for personal leaves in both emergency and non emergency situations. The association argues its proposal is supported by all of the comparison districts.

The Association argues that all of the comparable districts except Wisconsin Heights have voluntary early retirement provisions and all of them are more favorable than Mount Horeb's. It notes that none of these have the restrictive requirement that the teacher be eligible for a "full" early retirement. It argues that the "full" requirement is both burdensome and discriminatory.

It also argues that its proposal to change the flat dollar amount to a percentage of 50% is consistent with the original

intent of the committee which originally recommended the early retirement provision. At the time it was adopted the dollar amount was about 50% of the premium. It notes that at the time it was adopted the sick leave payout was doubled to \$25 for the purpose of also encouraging teachers to retire early. The Association believes its proposals would make its early retirement proposal closer to comparable.

The Association argues the proposal is necessary in that not all teachers who are eligible to voluntarily retire early have done so. It argues that improvement is necessary in order to encourage them to use the early retirement option. In its view this benefits the employees and the employer in that the employer may now hire teachers at lower pay to replace the retiring teacher. It notes that there are only six or seven teachers who will be eligible for early retirement during the term of this agreement.

As to the Employer's proposal to change the grievance procedure, it argues the Employer has not shown any need for the change. Additionally it argues that the internal comparison to the staff association agreement provides a fifteen day time limit.

The Association sees little difference between the parties's proposals for early retirement. Both provide for full employer payment of the employee's share.

The Association also argues that its proposal for extra curricular pay is by far more reasonable. It argues that Mount Horeb has one of the lowest extra curricular schedules among the comparables. In its view, its proposal is justified and constitutes only a very small part of its total package.

The Association denies that the Employer will have any difficulty in meeting its offer. The Association notes that the undesignated and designated fund balances have increased over the last few years. Further, it argues that incomes in the area have risen faster than among the comparables. Similarly, it argues that Mount Horeb has relatively good equalized value per member and one of the lowest mill rates among the comparables.

The Association notes that the Employer has frequently used the hammer of interest arbitration in past negotiations and adoption of the Employer offer would undermine the parties bargaining by placing unit wages and benefits in a "mediocre" position.

The Employer takes the position that the Association is attempting to invoke the arbitration process to override its voluntarily bargained agreements. It argues that most of the Association's proposals have substantial cost impact on the Employer. Thus, it is the Employer's position that salary is not the "driving" issue in this case.

The Employer proposes a comparability group consisting of schools in the Capitol Conference (Columbus Lake Mills, Lodi, McFarland, Poynette, Verona and Wisconsin Heights) and supplemented with schools from the State Line League which have settled for 1992-3 of (Albany, Barneveld, Blackhawk, Juda, Monticello, and Pecatonica). It believes the enhanced group of comparison school districts is appropriate because the Capitol Conference has few settlements for the first year and only one for the second year. There is no evidence of historical use of comparisons by the parties since they have never been to arbitration before. In its view it has always looked to the neighboring schools of the State Line League rather than the more urban school districts in the Madison area. It denies that Middleton-Cross Plains is a comparable school district in that it is larger and does not have the agricultural base that Mount Horeb does.

The Employer argues that the interests and welfare of the public should be given substantial weight. It notes that the interest of the public is a balance of maintaining attractive salaries and obtaining public education at the lowest practical cost. It believes that the economic conditions in effect at the time of negotiations should be controlling. The available data indicates that while Mount Horeb is a growing community, the average annual income of its residents is lower than that of the rest of Dane County. Unlike other comparable communities, Mount Horeb has relied upon agriculture and related businesses for its economic base. In October, 1990, milk prices slipped substantially, At the time the parties were negotiating, this and other factors indicated that the agricultural aspect of the community was likely to face a steep recession. Evidence also indicates that the Employer had 300 applications for 5.5 positions which are now open. Similarly, 44 of 104 unit teachers have been with the district 15 or more years.

The Employer also argues that while historically, the district has ranked low with respect to BA base, BA 6, it is comparable at BA Max and MA base and ranks highly at MA 9, MA max, and Schedule Maximum. While it is low at some benchmarks, the unit is distributed very heavily toward those benchmarks which compare most favorably. It notes that the Association's offer does not change this pattern.

The Employer also argues that some of the settlements in the comparability group are the second year of two or more year settlements. Those settlements were concluded prior to the drop in milk prices which the farmers in the district experienced shortly before the parties began bargaining this agreement. These included Poynette, McFarland, Columbus and Verona. Lodi and Lake Mills reached settlements in late 1991. It believes Lodi's lower settlement was because of the more difficult agricultural economic situation. Further, the Employer argues that the teachers have allocated a significant portion of their package to other benefits

and accordingly, their proposal does not significantly change the relative position of the salary schedule at the various benchmarks. Thus, it does not believe that the Association has demonstrated any need to change the salary schedule rank.

The Employer also argues that its offer is more consistent with the increase it gave the administrative and support staff personnel. The 1001-2 administrative increases were only 5.8% (equivalent to the 5.77% salary only offer made by the Employer to the teachers) and 2.9% for 1992-3. Similarly, the support staff received 5.0% salary (5.89% total package) increase for 1991-2.

Similarly, it cites Village of Mount Horeb employees who collectively bargained 5.0% salary only increases for 1992. It also cites increases among organized Dane County professional employees who received increases all under 4%.

The Employer argues that its offer is favored by the cost of living criterion because it exceeds the available data for cost of living and exceeds likely increases in the cost of living during the second year of the agreement. It also believes that unit employees receive a generous total compensation package and the arbitrator should consider that in the district's favor.

The Employer admits that its proposal to establish a time line by which grievances must be filed is a change in the existing status quo. However, it argues that it sees this change as desirable to promote the prompt resolution of disputes and has offered a quid pro quo of increased pension contribution in order to obtain this change. It argues this change is supported by comparison to all of the comparable districts, except some State Line League school. It also points out that the Employer's support bargaining unit has a time limit for filing grievances.

In its view, the Association's final offer should be rejected because it simply goes too far. It believes the Association has shown no need to change the status quo on personal leave either as to the "emergency" requirement or the provision for naming and paying for a substitute teacher. Five of the Association's nine comparison district's have an emergency requirement. The Association has shown no direct reason for making any change in this provision and did not offer any quid pro quo for it.

The Employer finds the Association's proposal for early retirement particularly difficult to accept. It argues that the parties specifically voluntarily bargained the provisions contained in the predecessor agreement and the Association's final offer in this case simply systematically undermines all of the limitations fashioned by the parties in the prior agreement. It argues that Association has shown no change in circumstances or other reason for the changes which it seeks here. Chief among the changes which the Association makes is the elimination of the requirement that

employees be eligible for "full" retirement. This would make any teacher who is 55 years old and who has taught 15 years in the district eligible for the benefit whereas before a teacher would have had to have had 30 years of creditable service and be age 57 to obtain the benefit. It views this as substantially increasing the pool of teachers who qualify for the benefit.

The Employer asserts that the "windfall" savings from replacing retiring teachers with less experienced teachers is illusory if the teachers are not replaced or replaced with better educated, more experienced teachers. Similarly, it notes that the "windfall" savings will occur anyway because the teacher will, of course, retire at some point anyway. It notes that the Association cannot accurately project the number of teachers who will actually retire early. Further, it notes the Association's projected windfall savings fall to consider FICA and WRS on sick leave payout. It also argues that the costs steadily grow as the replacement teacher advances on the salary schedule and costs mount for health insurance. The Employer emphasizes that the Association has offered no quid pro quo for any of the changes it would make in the early retirement benefits and sick leave payout. It notes that the practice among comparables is not uniform and that there is no support whatsoever to the Association's proposal to require the Employer to contribute to whatever insurance carrier the employee selects.

The Employer argues that the Association's attempt to change the language supporting WRS contribution by the Employer would make such full contributions automatic. This has never been the practice between the parties and is not supported by comparisons with other districts. Similarly, it denies that the Association has offered any quid pro quo for this change.

The Employer also finds that the Association's proposal to increase the extra curricular base is unwarranted because salaries although by comparison to some are already reasonable. It believes comparisons are not useful in this area because there is a wide and inconsistent divergence of salaries for extra curricular activities. In any event, it argues the Association has not offered any compelling need for change or any quid pro quo for its proposals.

In reply the Association denies that it is "making wholesale changes" in the agreement. It argues that its proposals are well within the comparisons. Specifically addressing early retirement, it argues that its proposal is necessary to make the benefit attractive enough to get teachers to retire early. It believes the quid pro quo for this proposal is the savings the employer will get when teachers retire early. Similarly, it believes that teachers are clearly underpaid for extra curricular activities and adoption of the Employer's proposal would only undermine staff morale. It also alleges that the Employer's argument misstates arbitral

opinion in this area. In its view, a union need not offer a quid pro quo or justify changing the status quo by anything other than a resort to comparison. Similarly, it believes the Employer's argument that the teachers must somehow limit the number of issues is unreasonable as long as the proposals it makes are supported by comparability.

It also finds the Employer's argument that it seeks to use the State Line League schools it chose because they had settled for the years in issue is incorrect. Monticello has not settled for 1992-3 but has final offers for that year. Barneveld and Black Hawk did not even have final offers for that year. Pecatonica was not settled in either year and only had certified final offers in 1992-3. Albany and Juda while settled, are so far from Mount Horeb that their comparability is highly questionable. By comparison, Middleton-Cross Plains has settled and should be considered. It notes that contrary to the Employer, Middleton-Cross Plains is more than half rural with only Middleton as its urban part.

The Association asserts that the Employer's comparison to its 1992-3 administrative staff increase is misleading. When corrected, the Association asserts that the Employer has on the average has increased their wages 7.05%. It similarly asserts that other comparisons are misleading or incomplete. After completion of the briefing process, the parties by letter dated September 4, 1992 mutually agreed to clarification of the Employer's presentation of comparisons to the administrative staff.

In its reply, the Employer reiterates that it has chosen communities from the State Line League primarily because they are agrarian like Mount Horeb. It argues that the Association has shown no evidence to support its assertion that Middleton-Cross Plains and Mount Horeb share bedroom community status with Madison. It reiterates that without buttressing, there is only one settlement in the Capitol Conference for 1992-3. It reiterates its position that the Association has not shown a practice among the comparables, a compelling reason for change, or an equitable quid pro quo and, therefore, the Arbitrator should not accept the Association's proposal for personal leave. It notes that the proposal for "personal leave" is in addition to the three days of family emergency leave employees are already entitled to under the current agreement.

Again the Employer reiterates that voluntary early retirement is highly important in this dispute. It notes that over of half of the individual changes the Association proposes to make in the agreement are related to voluntary early retirement. The Employer reiterates that it is the Association which has historically sought interest arbitration in the past, but that the parties have always voluntarily settled short of arbitration. It reiterates its position that adoption of the Association's proposal would undermine the voluntary relationship of the parties.

The Employer disagrees with the Association that there is support in the comparables for changing the requirements for voluntary early retirement. Of the State Line League and Capitol Conference, only Columbus, Lodi and Verona allow early retirement as early as age 55 and of these Verona and Lodi require board approval of early retirement. McFarland and Mount Horeb follow the early retirement statute and allow early retirement at age 57. Contrary to the data provided by the Association, Lake Mills requires age 59. Juda requires 62. Poynette, Albany, Barneveld, Blackhawk, Monticello, Pecatonica and Wisconsin Heights do not have early retirement plans. It denies that there is any comparability for the Association's plan. There is no pattern of employers paying an uncapped percentage of health insurance. It argues that few districts approach the \$9,000 total payout whether they use cash stipends or unused sick leave payout. No district allows the retiree to choose an insurance carrier other than that provided by the employer. It reiterates its position that the cost savings proposed by the Association are illusory in that people will retire at the age they select anyway.

The Employer also argues that it has established both a need for a change in the grievance procedure time limit and offered a quid pro quo. It argues that the Association has failed to meet its burden to show the changes it seeks.

It disagrees with the Association and asserts that the change in WRS language is important in that the Employer will be required to increase its contribution anytime the state changes the contributions requirements.

DISCUSSION

Comparison Group

Both parties agree that the Capitol Conference is an appropriate comparison group and both agree that they otherwise have had no bargaining history with respect to an appropriate comparison group of teachers doing comparable work in comparable school districts. The reason both parties seek to enhance the comparable group is because there are few settlements in the Capitol Conference in the second year of this two year agreement. None of the proposed enhancements is closely comparable in that they are different in size and composition. Most of those proposed by the Employer are so remote from Mount Horeb as to have no usefulness at all. The Middleton School district proposed by the Association is contiguous, but has an enrollment roughly three times as large as Mount Horeb. Further, its equalized value per member is over 150% of Mount Horeb's. For these reasons and the fact that the circumstances of this case do not require an enhanced comparability group, I have not considered any of the other comparisons offered by the parties outside the Capitol Conference.

Early Retirement

The Association has set forth a number of proposals affecting early retirement. Because these essentially relate to the same interests and have been consistently treated by the parties as a package, I will consider them together.

A. early retirement

The Association's proposal to eliminate the requirement that the teacher be eligible for "full" retirement under WRS, essentially reduces the eligibility for retirement from age 57 with 30 years of retirement service credit to age 55 years with only 15 years teaching in the district. The Association argues that only seven teachers are eligible during the term of the agreement; however, about 40% of the unit has 15 years of experience. It appears most likely that a substantial number will qualify in the years shortly following the conclusion of this agreement. As shown below, Columbus, Lodi and Verona have plans as liberal. Many of the plans limit the number of teachers who may benefit at one time. Lake Mills and Lodi limit the number of teachers who may retire early to three in one year. Lodi, McFarland and Verona require that teachers obtain permission to retire early under their provisions. Even the Association's comparison to the much larger district of Middleton limits the number of people who may benefit to six per year. There is no doubt that the proposal here is the most generous of all of the comparables in terms of eligibility and number of people who may retire at one time.

B. sick leave payout

The current benefit provided by the Employer substantially exceeds that of all comparable employers except possibly Verona. Although it is not in issue, three of the comparable districts have cash incentives for teachers to retire early. Of these, two (Lake Mills and Lodi) expressly limit the number of teachers per year who can obtain the benefit to three and Verona requires board approval before the benefit is granted.

C. retiree health insurance

The following is a comparison of the 1991-2 family health premium, years of service requirements/retirement eligibility age and health insurance for retirees benefit paid among the Capitol Conference:

Columbus	454.40	10/55	50% 8yr, 100% 4
Lake Mills	439.00	15/59	95% of last yr. rate until 65
Lodi	427.02	16/55	2,000(f)/55-56 full to 65
McFarland	356.70	20/57	100% of last rate
Poynette	278.00	none	

Verona	490.42	15/55, 10/60 w/per, 15/62 w/o 90%/7	
Wis. Heights	375.00	none	
Mount Horeb (er.)	432.70	57	180/6
Mount Horeb (un.)	432.70	15/55	50%/6

No comparable employer permits its retirees to channel health insurance premium payments to a health plan other than one sponsored by it.

D. summary retirement issues

The Employer correctly argues that arbitrators should consider the impact their decisions have on bargaining. Section 111.70(4)(cm) was designed to minimize the intrusion of the arbitration process into the bargaining process and to encourage the parties to resolve their own disputes. Two of the "other factors" arbitrators may consider under the statute are the past bargaining of the parties and their past collective agreements. Although different arbitrators phrase it differently, it is well established that parties seeking to change existing contract language must establish that there is a need for a change and that their proposal is reasonably needed to make the change. A party may alternatively show that it has offered a quid pro quo for its proposal. Where there is no quid pro quo, the party proposing to change existing language, particularly recently negotiated language, must show the changed circumstances causing the need to make the change or other legitimate reasons why a change is now needed.

The Association has not shown a quid pro quo for its proposed change to the retirement issues and it has not shown any changed circumstances since it last negotiated the provisions in question.

Early retirement provisions serve the mutual self interest of the parties and the public by encouraging teachers to spend their careers with a school district, providing retirement with dignity and peace of mind to those who have served the public well. All such proposals must be balanced with the public interest to retain highly experienced teachers in the educational process. The undisputed evidence indicates the parties extensively negotiated the early retirement provisions in the expiring agreement and extensively revised and enhanced the prior benefits to deal with the expanded early retirement benefits provided by the legislature. The testimony indicated that in negotiations leading to the prior agreement, the parties mutually established a committee to study retirement benefits. When the committee deadlocked, the parties negotiated the existing provisions. The Employer was highly concerned about the costs and sought to avoid automatic increases. The Employer clearly was opposed to provisions which, in its view, would lead to the wholesale retirement of a large number of teachers. The parties agreed to retirement benefits which did not restrict the number of teachers who could retire, but provided more

controlled benefits and effectively limited the age threshold. This was sharply different than those districts which chose to establish a higher level of benefits to encourage more teachers to retire.

The extensive proposal by the Association herein does not constitute incremental change characteristic of the normal progression of wages and benefits, but a wholesale revision of the current benefits negating the compromises its made in the prior agreement. Further, the proposal of the Association would incorporate some features unheard of among any of its comparables. The rationale asserted by the Association herein is the same it advocated in negotiations with the Employer. The essence of the Association's position is that the Employer will more than offset the costs involved in this proposal by the savings from hiring less experienced teachers at the beginning of the salary schedule. This is also its argument that it is offering a quid pro quo for the proposal. The Association has not shown any significant change in the circumstances relating to early retirement since the time it entered into the prior agreement.

The Employer correctly argues that teachers hired at the beginning of the salary schedule do not have the same value as teachers with experience. The parties' own collective bargaining agreement has established higher wages than comparable for highly educated, experienced teachers. It is highly unlikely that any employer who agreed to that type of salary schedule would ever agree to a early retirement plan which would unnecessarily deplete the unit of these highly valued teachers.

The Association's argument with respect quid pro quo is overstated. The effect of the Association's proposal is to accelerate staff turnover savings from the point that teachers would have normally retired for those who make their choice based upon the employer supplemental benefits.

In summary, early retirement provisions serve the mutual self interest of both parties. Standing alone the proposals of the Association are not unreasonable. However, contrary to the Association, such proposals must be balanced with the public interest in maintaining incentive for teachers to continue active teaching in their later years. Clearly, the parties chose to do this in their prior agreement. The Association has not shown any reason to change this agreement. Accordingly, the Employer's position as to these proposals is favored.

Grievance Procedure

As noted above, a party proposing a change in a contract provision must show a need for a change or that it has offered an equivalent quid pro quo. For a long time, the parties have had a grievance procedure which does not limit the time by which

grievances must be filed. There is no evidence that this has ever caused any problem in the grievance procedure. The Employer correctly argues that a time limit will insure the expeditious filing of grievances and prevent the litigation of stale disputes. Many grievance procedures have time limits. The imposition of a time limit may mean that a meritorious grievance will not be heard because of a late filing. Even in the absence of a time limit arbitrators may refuse to hear grievances in which an employee who knew of his or her right and failed to pursue it when the delay makes it difficult for the Employer to defend itself. This could be a problem for both sides. The absence of a time limit may reduce the number of grievance matters that might otherwise become the subject of complaints to the Equal Rights Division because the employee is in reality seeking relief from the failure to file a timely grievance. The Employer has not shown any need to make the change.

The current agreement with the support staff provides for a fifteen day time limit. The Employer proposes a 10 working day time limit which tends to be roughly equivalent during the school year. The Employer has not shown that any other comparable school district has a time limit this restrictive and there often is a considerable difference between the nature of grievances filed in a professional bargaining unit from those filed in a non professional bargaining unit. The Employer has alleged that its offer of increased WRS contribution is a quid pro quo for the same. A quid pro quo is an offer a reasonable opposing party would normally accept in collective bargaining as trade of equal or greater value. The arbitrator must make this judgment on the facts presented. Under the facts presented, the Employer has not demonstrated that its proposal is an adequate quid pro quo. Accordingly, the Association's position on this issue is favored.

Extra-Curricular Pay

Extra curricular pay is the incentive the Employer offers to its teachers to perform these functions which are vital to the overall school program. As with respect to other aspects of pay, the public interest supports teachers being paid an appropriate compensation for these services. The comparisons offered by the Association to the conference demonstrate that there are wide variances in the rates paid, but that Mount Horeb is substantially one of the lowest paying employers in the selected categories. The available evidence supports the Association's position on this issue.

Employee's Share of Retirement Contribution

The main difference between the parties is the Association's use of the word "full." The Association has shown no reason why the existing language should be changed since the parties have agreed to an amount equal to full. Similarly, only two of the

comparable districts have language similar to that of the Association. Accordingly, the Employer's position on this provision is preferred.

Personal Day

The Employer correctly argues that the Association has made no showing of a quid pro quo for its proposal for the personal day. Small increases in time off are often part of general increases in collective bargaining. In some cases, they are used in lieu of pay increases. Since the parties both agree that there has been inflation and changes in economic plans of comparable employers, the Association has shown some circumstances which might justify this benefit as part of an appropriate total package increase.

The Association has offered comparison data with the Capitol Area Conference schools; however, this employer may provide leaves under another title not available in the other districts. The Association's comparative data indicates that three school districts have less of a benefit than Mount Horeb, one is uncertain and 3 may have a better benefit. Accordingly, the Association's proposal is not particularly supported by the comparisons to comparable districts.

Wages

The following is a wage comparison for the last year of the parties' previous contract to the agreed upon comparable units of teachers in other districts:

1990-1 Comparisons

<u>Dist.</u>	BA Base	Rank	BA + 7	Rank	BA Max	Rank	Yr.
Colum.	19,714	3	24,495	1	31,797	1	15
Lake Mills	18,925	7	24,034	5	26,305	7	9
Lodi	20,009	2	24,181	4	26,962	3	10
McFar.	19,200	6	24,384	3	28,704	2	11
Poy.	19,325	4	23,669	7	26,565	6	10
Verona	20,453	1	24,407	2	25,067	8	7
Wi.Ht.	19,200	5	23,808	6	26,880	4	10
Mt.Hrb	18,271	8	23,489	8	26,597	5	9

<u>Dist.</u> <u>Colum.</u>	MA Base 21,594	Rank 4	MA + 10 28,888	Rank 6	MA Max 33,677	Rank 2	Yr. 15
Lake Mills	21,385	6	29,725	3	33,147	3	13
Lodi	21,817	3	28,770	7	32,632	5	14
McFar.	20,950	8	29,435	4	35,091	1	15
Poy.	22,028	2	28,985	5	31,304	8	12
Verona	23,174	1	29,978	2	31,490	7	11
Wi.Ht.	21,120	7	28,416	8	31,872	6	14
Mt.Hrb	21,416	5	30,742	1	32,814	4	11

[note teachers at McFarland not placed by their actual experience]

{Although not shown, Mount Horeb ranks third among its comparables for the salary schedule maximum.} Half of this bargaining unit is in the area of the salary schedule most represented by the MA maximum and schedule maximum. An additional 14% of the unit is in the part of the schedule represented by the BA+24 maximum. Neither party is proposing to change the salary schedule. 12% of the unit is at the beginning of the schedule. Many of the comparable school districts have longevity programs which Mount Horeb does not. The total compensation criterion requires that the arbitrator consider the full compensation received by employees. The evidence was insufficient to consider longevity. However, the available evidence indicates that, in general, Mount Horeb teachers are comparably or better paid. This is particularly true when one considers the length of its schedule.

Selection of the Most Appropriate Final Offer

Section 111.70(4)(cm), Wis. Stats., requires that the arbitrator select the final offer of one party or the other. The arbitrator is not allowed to modify the offers of the parties. This selection is to be made upon the criteria specified in the statute. I have relied upon the following, in addition to the factors discussed above.

Comparison to Other Public Employees

i. internal

The increases which the Employer afforded its administrative personnel were not inconsistent with its position herein. Similarly, the Employer and the support personnel have a collective bargaining agreement only for the first year of this agreement. The total package increase for that group for 1991-2 was 5.89%. By

direct comparison (including salary increment for the Association), this is comparable to the Employer's offer.

ii. external

Similarly, by direct comparison, the Employer's offer is comparable to increases in Dane County and in the Village of Mount Horeb. Even excluding increment, these other increases are far closer to the Employer's position than the Association's.

Cost of Living

For 1990-1 the U.S. non metropolitan area consumer price index rose 5.3% and it would appear that inflation for 1991-2 is about 2.5%. Ordinarily, collective bargaining agreements adjust wages, in part, based upon inflation which has occurred in the previous year. By any method of consideration, this factor heavily favors the offer of the Employer, particularly in the second year of this agreement. The Employer correctly argues that the inflation figures for 1991-2 (which would affect the 1992-3 year) were lower than anticipated and lower than those for the prior year. The Employer correctly argues that these represent a change of circumstances favoring more moderate increases than those in settlements which were made before the circumstances changed. Specifically, McFarland settled its agreement in January, 1990, whereas the parties herein submitted their final offers in the period February to March, 1992.

Total Compensation

Section 111.70(4)(cm) h. and j. correctly require that the arbitrator consider the value of additional benefits sought by the Association. This certainly includes the value of the improved personal day and the improved benefits to retirees. These items were not directly costed by the parties, but must be considered by the arbitrator in weighing the offers.

These provisions also require that I consider the value of the total compensation presently received by Mount Horeb teachers. Currently, this district has one of the highest contributions to health insurance among the comparables. In general, its benefit level is comparable to that of other employers.

Interests and Welfare of the Public

In this case, there is no question about the ability of the Employer to meet the Association's offer. The sole question raised by the Employer is the ability of the local taxpayer to bear the additional costs imposed by the Association's offer. The evidence indicates that Mount Horeb is a fast growing community whose agricultural economy has gradually been overshadowed by urban growth. Mount Horeb still has a substantial agricultural economic

base. Recreation and tourism are also other aspects of its economy. However, the fastest growing segment appears to be as a suburb of Madison. Average income in Mount Horeb has grown more quickly than the rest of Dane County, but average income is still lower than average in the County. The following is a comparison to the communities the parties have agreed are comparable:

income comparison 1990	
Columbus	\$24,924
Lake Mills	28,868
Lodi	26,345
McFarland	34,077
Poynette	25,294
Verona	37,814
Wis. Heights	-
Mount Horeb	28,284

The Employer correctly asserts that at the time of bargaining milk prices had substantially declined from a year earlier when many of the Capitol Area Conference schools settled their contracts. Indeed, cattle and hog prices declined precipitously in 1991, while farm costs rose steadily. This factor would dictate restraint, particularly in the second year of the agreement.

comparison to the external comparables
1991-2 Capitol Conference Increases

Sch. Dist.	\$/ ret. tch	sal %	total pkg	Set. date
McFarland	\$2,529	7.96%	8.04%	1/90
Wi. Hgts U	\$2,250	7.98%	6.92%	FO 2/92
Lk. Mills	\$2,186	7.0%	7.17%	9/91
Columbus	\$2,111	6.77%	7.0%	6/90
Poynette	\$2,100	7.0%	7.4%	10/89
Lodi	\$2,036	6.6%	6.15%	6/90
Verona	\$2,000	6.85%	n.a.	9/90
Wi. Hgts E	\$1,720	6.1%	5.42%	FO 2/92
Mt.Horeb A	\$2,197	7.54%	7.74%	FO 2/92
Mt.Horeb B	\$1,736	5.96%	6.21%	FO 3/92

The wage increase proposed by the Association for 1991-2 is

the second highest settlement in the conference by dollar per returning teacher analysis and percentage total package and salary increase. [The Association's offer exceeds the total package offer of the Union at Wisconsin Heights, but not the percentage wage increase or dollars per returning teacher.] The Employer offer is the lowest of all settlements, but higher than the final offer of the Wisconsin Heights board. While the Employer has argued that I should give less weight to settlements occurring before economic conditions had worsened, as noted above, these conditions primarily affect the second year of this agreement. The Association's position is closer to the average of the above offers without Wisconsin Heights and even using the Wisconsin Heights employer offer (other than for total package which does not include Verona. On the basis of this comparison, the Association's offer would be preferred for the first year.

The only settlement which has occurred for 1992-3 is in McFarland. When the McFarland settlement is averaged with the union's final offer in Mount Horeb, the average of the total packages is roughly equidistant from each offer. The comparison criterion does not require mere comparison to averages. In this case, it is highly likely that one or both both comparisons were intended to be higher than comparable when they were made.

McFarland settled in January, 1990, clearly before the current economic conditions had occurred. It concluded a three year agreement. That district has a higher per capita income than Mount Horeb. McFarland settled for \$2,157 per returning teacher, 6.2% wage increase and 6.85% total package. McFarland was, by far, the highest settlement in 1991-2, by about \$300 per returning teacher over the next lower, Lake Mills and almost a full percent more. Its third year is consistent with the rate of increase for other settlements in the prior year in comparable districts.

Similarly, it is also likely that the Wisconsin Heights union final offer was intended to be somewhat higher than comparable (by percentage amounts). There is considerable distance between its offer and that of the employer. Based upon my experience in this field, unions in that situation ordinarily would make a final offer somewhat higher than comparable.

In any event, by the time final offers were exchanged in Mount Horeb more than two years after McFarland settled, economic conditions had worsened and the rate of inflation had lowered. At the same time that the parties here submitted their final offers, the teachers' union in comparable Wisconsin Heights submitted theirs. That final offer provides for 5.71% total package for 1992-3. This percentage is far closer to the Employer's final offer. The Employer's final offer for the second year is heavily favored by the proper application of the comparison criterion.


selection

When the additional benefits sought by the Association herein are considered and the weight of the two years is evaluated, the offer of the Employer is preferable. Accordingly, the offer of the Employer is adopted.

AWARD

The parties 1991-3 collective bargaining agreement shall contain the final offer of the Employer.

Dated at Milwaukee, Wisconsin, this 22nd day of October, 1992.


Stanley H. Michelstetter II,
Arbitrator