**BEFORE THE ARBITRATOR**

In the Matter of the Interest Arbitration between

**DOUGLAS COUNTY**

and

**LOCAL 2375, AFSCME, AFL-CIO**

Case No. 201
No 50396 INT/ARB-7156
Decision No. 28122-A

**APPEARANCES:**

**John Mulder**, Personnel Director, Douglas County, appearing on behalf of Douglas County.

**James Mattson,** Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appearing on behalf of Local 2375.

**JURISDICTION:**

On August 17, 1994, the Wisconsin Employment Relations Commission, pursuant Section 111.70 (4)(cm)6 and 7 of the Municipal Employment Relations Act, appointed the undersigned to serve as the arbitrator in a dispute between Douglas County, hereinafter referred to as the Employer or the County, and Local 2375, AFSCME, AFL-CIO, hereinafter referred to as the Union Hearing in the matter was held on November 16, 1994, at which time the parties, both present, were given full opportunity to present oral and written evidence and to make relevant argument. Post hearing briefs were filed by the parties and the last was received on January 20, 1995 whereupon the hearing was closed. Based upon a review of the record presented and the criteria set forth in Section 111.70 (4)(cm) Wis. Stats. the undersigned renders the following arbitration award

**THE ISSUES:**

The percentage wage increase is the sole issue which remains at impasse between the parties. In this respect, the County offers a 3% wage increase effective January 1, 1994 and a 2.5% wage increase effective January 1, 1995. The Union seeks a 3.5% increase effective January 1, 1994 and a 3.5% wage increase effective January 1, 1995. The County also offers implementation of a Flexible Benefit Plan.

## STATUTORY CRITERIA:

The voluntary impasse procedure instructs the arbitrator to give weight to the factors found in Wis. Stats 111 70 (4) (cm) 7 at its subsections a through j in deciding this dispute. Accordingly, this arbitration award will be rendered after considering the criteria and the evidence and arguments as it relates to the criteria

## POSITIONS OF THE PARTIES:

The County posits that its final offer is most reasonable since it has structured its final offer in accord with what it believes the parties would have voluntarily agreed upon had they been able to reach agreement based upon the controlling criteria for resolving disputes under Section 111.70(4)(cm) and arbitral principles which have been established in other arbitration decisions Further, it maintains that the following statutory criteria are most germane to this dispute:

c. The interest and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement

e Comparison of wages and other benefits to other employees generally in public employment in the same community and its comparable communities.

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

With respect to wage comparison criterion, the County states that it has reached voluntary settlements with its paramedics unit and its courthouse clerical unit, units which make up 46% of its unionized work force, at 3% in 1994 and 2 5% in 1995 and argues that internal settlement patterns are important citing several arbitrators opinions in support. It continues that an award which would include the Union's final offer in this instance would send a wrong message to those who have settled and would make reaching voluntary settlements more difficult. It also posits that it has a long history of maintaining consistent wage increases among its seven bargaining units

Acknowledging that the internal settlement pattern cannot stand alone, the County, using Ashland, Bayfield, Burnett, Sawyer and Washburn Counties as external comparables, declares that while the settlements within these counties have been slightly higher, their settlements are similar to that which it is proposing since the other settlements have also included changes in health insurance. Further, noting that the wages it proposes are near the average of the proposed comparables for both the Social Worker and Child Support Investigator positions, it holds its offer is within reason for these positions Also addressing total compensation, the County posits that there are no major discrepancies in fringe level benefits among the comparables even when the Union's comparables are used

Addressing the cost-of-living criterion, the County asserts that based on the frequently-cited arbitrator principle that the internal settlement pattern is the best reflect of the cost-of-living its offer reflects a reasonable cost-of-living increase. Further, the County notes that the consumer price index is averaging between 2.6% and 2 47% for 1994, an amount which is below its 3% offer in 1994 and

very near its 2 5% offer in 1995 and adds that its proposal for a Flexible Benefit Plan will give employees an opportunity to save money and thus reduce the affect any increase in the cost of living might have. Referring more specifically to the Flexible Benefit Plan, the County states the Union may argue that this benefit should not be costed against the employees and counters that administration of this plan will result in administrative costs which the employees will not bear but which will have a financial impact upon the County.

Finally, addressing the interest and welfare of the public and governmental unit's financial ability criterion, the County asserts that its goal, consistent with another stated interest arbitration principle, is to provide equity in wage increases among its bargaining units and that its offer does so. Maintaining that its offer is not unreasonable when compared with the external comparables and consistent with its internal settlements, the County states that while it does not argue it has an inability to pay it believes the Union must prove a need to deviate from the internal settlement pattern It also posits that the public is better served when the internal pattern is maintained.

The Union argues that not only is its proposal supported by the established external comparables but the County's assertion that its wage proposal is consistent with the internal settlement pattern is not accurate. Continuing, it states that with only three of seven bargaining units having settled and one unit, Local 2375-A, having settled for a substantially higher amount than that which has been offered in this dispute, the Union posits there is no internal settlement pattern. Further, it argues that the external settlement pattern best demonstrates the appropriate wage rate for these employees

Specifically addressing the external settlement pattern, the Union charges that the County has made some "significant oversights/omissions when it supplied evidence" relative to the comparables. In this respect, it asserts that Ashland, Bayfield, Burnett, Iron, Sawyer and Washburn Counties have long been the established comparables and that when the County omitted Iron County from the comparables, it committed a serious oversight which amounts to "an act of 'cherry picking' through comparable counties."

With respect to wage comparisons, the Union, comparing the parties' wage proposals, particularly as they affect Social Worker levels, with the locally established comparables as well as statewide benchmarks, declares the comparisons "underscore the appropriateness" of its offer. Continuing, the Union states it anticipates the County will argue that the settlement pattern set by the comparable counties should be discounted since most of the settlements are the back-end of multi-year contract and cites arbitral opinion to contradict that argument.

Referring to the cost of living criterion, the Union states support for its proposal can be found when economic data relating to the cost of living is reviewed. Citing the most-recent CPI information submitted by it, the Union states the index for the North Central Metro Areas at 4.1% in September, 1994 strongly supports its wage proposal of 3.5% for 1995.

Finally, the Union argues that the County's offer of a Flexible Benefit Plan does not offset its smaller wage proposal. In this respect, it holds that while this plan may have some limited value to its bargaining unit employees, its value as a whole is greatly overstated.

**DISCUSSION:**

The remaining issue in dispute between the parties is the degree to which the wage rate should be increased in each year of the two year collective bargaining agreement While both parties apply several statutory criteria in discussing the merits of their final offers, the County relies heavily upon internal comparables as support for its position while the Union looks primarily to external comparables declaring there are no internal comparables Further, the Union differs with the County with respect to which counties comprise the comparables.

The County, citing past bargaining history and the recent settlements it has negotiated with three of its seven bargaining units urges that greatest weight be given to internal comparability when the comparison criterion is evaluated Among those three settlements, two have accepted the County's proposal which is before this bargaining unit. The third, the Health Department bargaining unit, has settled at 4% for 1994 in a wage re-opener.[1] The Union posits internal comparability does not exist since only three of the seven bargaining units have settled and since one of the three units has settled for more than the County's proposal. The fact that the largest unit within the County and that almost one-half of the County's organized employees have settled for 3% in 1994 and 2 5% in 1995 contradicts that assertion.[2] Further, there is adequate explanation for the deviant settlement. Thus, it is concluded that there are internal comparisons to be made and that they do support the County's position.

With respect to the external comparables, the County states the comparables consistently used in the past during negotiations by the parties and established by other arbitrators in disputes involving this county are Ashland, Bayfield, Burnett, Sawyer, and Washburn Counties. The Union, however, asserts that Iron County has also been among those traditionally considered comparable by the parties and by the arbitrators Since neither party submitted evidence to support their assertion[3] and since Iron County does not differ significantly from the demographics of the other counties agreed upon by the parties, the arbitrator in this dispute has accepted the Union's proposed comparables as the appropriate set.

Based upon a comparison of the percentage increase received by the external comparables, it is easily concluded that the Union's offer for 1994 is consistent with the settlements among the comparables and, therefore, is not unreasonable. There are relatively few settlements among those external comparables for 1995, however, and the two counties which have reached agreement, Iron and Washburn County, appear to be attempting to bring the wage rate of their employees to a level more like that paid employees performing similar tasks among the comparables.[4] Therefore, at least

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[1] County Exhibit 7 indicates that during the wage re-opener for the Health Department unit, a higher wage rate increase was agreed upon since the County is having difficulty hiring and retaining nurses who work in the Department due to the availability of higher wage rates in the private sector.

[2] The largest unit within the County has over two times as many organized employees as any other bargaining unit within the County and this plus the other unit which has settled for the County's offer comprise approximately 46% of the organized employees within the County.

[3] Both parties cited previous arbitration decisions in their briefs but neither submitted the actual awards for the arbitrator's review.

[4] A comparison of the 1993 wage rates for Social Worker I, and II positions in Iron County with the 1993 wage rates for those counties identified as comparable shows that these employees are the lowest paid employees among the

with respect to the reasonableness of the percentage increase sought by the Union for 1995, the external comparables do not give adequate guidance

Wage rate comparisons among the external comparables for 1994 also support the Union's proposal for 1994 to the extent that they show that under the County's offer, employees in this unit would not fare as well as they have in the past with respect to wages paid A comparison of the minimum and maximum rates paid at the Social Worker I and II level and the maximum rate for the Social Worker V level with the rates paid similar positions among the comparable counties shows that while the rank would remain the same at each benchmark, the rates would come closer to the average rate paid among the comparables at those benchmarks Further, under either offer, in addition to moving nearer the average rate paid, the Social Worker V level at the minimum rate would drop one step in rank among the comparables The fact that a slight reduction in wages would occur under the County's offer is offset, however, by the fact that settlements among the comparables indicate that several counties secured either a health insurance deductible or co-pay effective either July 1, 1993 or January 1, 1994 while no similar cost to Douglas County bargaining unit employees occurs under either party's position in this dispute Thus, this comparison is not as persuasive as it would be under other circumstances

While the external comparisons suggest that the Union's proposal is slightly more reasonable than the County's offer, arbitrators, including this one, are generally inclined to rely upon internal comparables rather than the external comparables where a clear pattern of voluntary settlements exists and no evidence indicates that such a settlement would seriously alter the rank of these employees when compared with the wage and benefits[5] earned by similar employees in external comparables. The reasons most often cited for giving great weight to this pattern are that internal settlements more accurately reflect what the parties would have agreed to if they had reached a voluntary settlement and that the use of internal comparability lends stability to the bargaining process by providing less opportunity for dissension arising out of preferential treatment of one bargaining unit over another In this instance, since there is no evidence that the County's offer would significantly alter the wage and benefits relationship of its employees with that of other employees performing similar work among the comparables, there is no reason to deviate from the prevailing practice of the parties which is established by the internal comparison pattern.

The County's offer is also supported not only by the internal settlement pattern, but by the cost-of-living criterion as reflected in the Consumer Price Index. The CPI-U and CPI-W data for

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comparables For example, at the Social Worker I minimum rate, they are paid approximately $. 92 less than the minimum rate of the next lowest paid Social Worker I employees, Washburn County employees. At the Social Worker II minimum rate, they receive $1.50 per hour less than the next lowest paid Social Worker II employees, Burnett County employees When, the same comparison is made between the Social Worker I minimum rate in Washburn County and the next lowest paid employees among the comparables, the wage rate paid in Washburn County is approximately $ 68 per hour less. Further, although the maximum rate for the Social Worker II position fares slightly better, moving in rank from second to third from last, that rate is still $.47 less than the next maximum rate abaove it among the comparables. In both counties, at the Social Worker I and II levels, their 1993 mimimum and maximum rates are well below the minimum and maximum rates for these positions in Douglas County.

[5] The Douglas County unit fares well when compared to employees performing similar work among the comparables when a benefit comparison is made, particularly with respect to vacation leave, holidays, sick leave accumulation and longevity benefits.

small metro areas and nonmetro urban areas submitted indicates that the percentage increase in the cost of living varied from 2 5 to 3 1 percent at the beginning of 1994 when this agreement would have been reached if there was a voluntary agreement [6] Since the County's offer nearly parallels the cost-of-living increases known at the time the agreement would have been reached, it is concluded that the County's offer is more reasonable

In conclusion, based upon the following findings and the foregoing discussion which reviews the evidence and arguments submitted, together with the criteria found in Wis. Stats. 111 70(4)(cm)(7), and based upon the weight given each criterion it is determined that the County's offer is more reasonable Accordingly, it is determined that the following award be made.

**AWARD**

The final offer of the County, together with the stipulations of the parties, shall be incorporated into the 1994 and 1995 collective bargaining agreement

Dated March 15, 1995, at La Crosse, Wisconsin

Sharon K. Imes

Sharon K. Imes, Arbitrator

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[6] It is recognized that the September, 1994 rates for these indices reflect a higher percentage increase in the cost of living but the pertinent data is the cost-of-living which was reflected at the time an agreement should have been reached.