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STATE OF WISCONSIN ARBITRATION AWARD

In the Matter of the Arbitration between

VILAS COUNTY (SOCIAL WORKERS)

and

: INT/ARB-7796

LABOR ASSOCIATION OF WISCONSIN, INC.

Decision No. 28753-A

Re: Case 44 No. 53462

<u>APPEARANCES:</u> For Vilas County: John J. Prentice of Prentice, Pierski & Phillips, 229 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

For the Labor Association of Wisconsin, Inc.: Patrick J. Coraggio, Labor Consultant, 2825 North Mayfair Road, Wauwatosa, Wisconsin 53222.

The Association represents a collective bargaining unit of regular full-time and regular part-time professional social workers employed by the County Department of Social Services. The parties have an initial two-year agreement ending on December 31, 1996. This dispute arises out of a reopener involving wages and the employee contribution to the Wisconsin State Retirement System. The parties exchanged initial proposals on November 27, 1995, and met once thereafter before the Association filed a petition for arbitration on December 5, 1995. After a mediation meeting on February 15, 1996, a WERC investigator found that the parties were at impasse. On May 20, 1996, they submitted final offers and on June 6, 1996, the Commission certified that conditions precedent to arbitration under the Municipal Employment Relations Act had been met and initiated arbitration. The undersigned was notified of his appointment as arbitrator by letter from the Commission dated July 3, 1996. A hearing was held in Eagle River on October 1. The parties were given opportunities to present witnesses and written exhibits and to cross examine the witnesses. Written briefs were received on November 5 and the record is considered closed as of that date.

THE ISSUE TO BE ARBITRATED

At some stage in this process after the final offers had been submitted the parties agreed on the issue of the employee contribution to the state retirement fund. Thus, although the identical positions on this issue are described in the attached final offers, the only issue to be arbitrated is wages. The County offers an across-the-board wage increase of 3 1/2 percent effective January 1, 1996. The Association proposes across-the-board increases of 3 percent on January 1, 1996, and one percent on July 1, 1996.

The final offers are appended to this report as Addendum A, the County's final offer, and Addendum B, the Association's final offer.

POSTTIONS OF THE PARTIES

The Association's principal argument is that the Social Worker classifications rates are falling steadily below the rates of their counterparts in comparable counties. Vilas County has two classifications of professional social workers: Social Worker I with two, and Social Worker II with six incumbents. The Association introduced statistics purporting to show that in 1992 the Social Worker I classification rate was \$.15 below and Social Worker II classification \$.12 below the average rates of those classifications in what it considered the appropriate comparable counties: Florence, Forest, Iron, Oneida, and Price. By 1995 rates for these classifications were said to be \$1.29 and \$.82 respectively below the averages in those counties. The Association asserts that its wage increase proposal would only begin to make up for these deficits and at the end of 1996 would increase wages for these classifications only \$.06 and \$.07 per hour respectively over the final offer of the County.

The County disputes the inclusion of Florence County among the comparables, citing the precedent of a previous arbitration involving the courthouse employees in 1994 that, in the County's view, established the four contiguous counties as the appropriate comparables. This issue is discussed below. The County's principal argument is that internal comparables should govern and that three other collective bargaining units of County employees have already settled in 1995 and 1996 for 3.5 percent each year, the figure that the Association accepted for the 1995 settlement in this unit.

The counties on which the parties agree are the contiguous counties of Forest, Iron, Oneida, and Price. The Association makes the argument that the social workers in this unit interact with social workers in Florence County to about the same degree as they interact with their counterparts in the contiguous counties and that it is close enough to be in the same labor market.

The County argues that Vilas County is almost twice as large as Florence County, has a population and adjusted gross income about four times as large, and has a bargaining unit with twice the number of workers.

Both parties cite the 1994 interest arbitration award of Stanley Michelstetter (Decision No. 27896-A, 6/10/94) for the courthouse unit in which he rejected an AFSCME proposal that the comparable counties, in addition to the four contiguous counties, include Ashland, Bayfield, Door, Florence, Langlade, Lincoln, Marinette, Oconto, and Taylor counties. He gave a variety of reasons for rejecting all of them but said specifically about Florence that it had "significantly different concerns in the delivery of services." The Association asserts that this statement may have been applicable to the courthouse unit but is not applicable to this unit. Arbitrator Michelstetter also rejected Lincoln and Langlade counties (as well as several others) on grounds that they are "too distant to be in the same labor market," although he said that those two "appear to have a strong similarity and they are used to supplement comparisons where there is a lack of information in the surrounding counties."

I quote all this to emphasize that an arbitrator's choice of comparables is not necessarily an objective judgment. I don't know whether Lincoln and Langlade counties are in the same labor market, but if, using a compass, one draws a circle using Eagle River as the center and the northwestern edge of Iron

County and the southwestern edge of Price County as its outermost points, the circle includes all of Florence, Langlade, and Lincoln Counties.

In terms of relevant statistics it seems clear that Florence County is much smaller than Vilas County, and although the Association may be right in arguing that its "delivery of services" is similar, I would raise the question of why they did not also include Lincoln and Langlade Counties, which are just as close as Florence County to Vilas County. In my opinion the adoption of different comparables by each new arbitrator complicates the process unnecessarily, and so I will adopt Arbitrator Michelstetter's comparables, the four contiguous counties: Forest, Iron, Oneida, and Price.

THE INTERNAL COMPARABLES

The County placed considerable emphasis in its testimony and its argument on the theme that it has made uniform settlements since 1986 with its courthouse, highway, and Sheriff Department units and in this unit for its 1995 settlement as well as its offer for 1996 in this wage reopener.

In response to the County's emphasis on the 3.5 percent pattern that has been established in bargaining with the unions in the other collective bargaining units, the Association introduced exhibits purporting to show that in June, 1996, about four months after making its final offer in this proceeding, the County had reclassified and/or made additional wage adjustments upward in amounts ranging from .32 to 3.16 percent for sixteen of the eighteen job classifications in the courthouse unit; that in September, 1995, the County had adjusted the salaries of all elected officials upward by four percent effective January 1, 1996; that the current labor agreement covering employees of the Sheriff's Department gave Jailer/Dispatchers, which classification, according to the Association, is "a substantial portion of the Sheriff's Department," -- a County witness testified that there are 10 Jailer/Dispatchers-- a 14.1 percent increase in 1995 and an 8.2 percent increase in 1996, a total increase of 15.3 percent beyond the 3.5 percent across-the-board increases for 1995 and 1996. The Association asserts that this conduct on the part of the County does not constitute equal treatment in terms of the internal comparables.

The County response to the Association's assertion regarding internal comparables is that in the case of the courthouse unit there had been a recognition that a wage catch-up was necessary for most members of the unit. Although Arbitrator Michelsetter had awarded in favor of the County in 1994, testimony in this proceeding indicated that the parties had agreed as a result of the 1994 settlement that some wage catch-up was in order and that a study should be made of reclassifications and wage upgrades. As the result of the study the wages of sixteen classifications were increased beyond 3.5 percent and two classifications were downgraded, although their rates were redlined. The changes noted by the Association in this proceeding were the result of that process. In the case of the jailer/dispatchers in the Sheriff's Department, they were deputized in 1994 and transferred from the courthouse unit to the Sheriff's Department unit. Since their wages were low in comparison with deputized jailer/dispatchers in comparable counties, their rates were increased beyond the uniform 3.5 percent. In the case of the elected officials, their salaries had been increased only 3.0 percent in 1995, so the 4.0 percent increase for 1996 brought them up to the settlements in the bargaining units. The County argues that it is prepared to undertake with the social workers the same kind of study it did for the courthouse employees. It is asserted that such studies could not be undertaken all at once and that it would happen in

1997.

A County witness in this proceeding testified as follows in direct examination following her explanation of catch-up in the courthouse and Sheriff's Department units:

Query: Was catch-up raised with social workers?
Response: I mainly remember the Sheriff's Department,

that they got catch-up and that the 3.5

percent was uniform.

Query: On social workers, did they argue reclassification?

Response: Yes.

Query: Did we say that we would do it in 1997?

Response: That's what I recall. Query: Our word is good?

Response: Yes.

Query: The methodical approach?

Response: Yes.

In cross examination of this witness there was the following exchange:

Query: Why didn't the County form a committee for

the social workers?

Response: In my opinion we did it with the courthouse

unit because it was part of the agreement.

Query: Did the County say that it would make adjust-

ments for the social workers?

Response: Yes, but not in writing.

Ouery: When?

Response: In one of the first three meetings.

Query: So the County said that it would take care

of the unit in 1997?

Response: Not specifically. My recollection was that

Prentice (the County's attorney) said they'd do it in 1997 in the second or third meeting.

Query: No guarantee?

Response: He said they'd take a hard look.

On the other hand there was testimony earlier from an Association witness to the effect that in the negotiations in November, 1995, she had presented a listing of rates in the comparable counties that showed Vilas County social workers were paid less than their counterparts. She was then asked in direct examination:

Query: Did the Association bargain catch-up?

Response: Yes.

Query: Repeatedly?

Response: Yes.

Query: Was there any response from the County?
Response: Just 3 1/2 percent because that was what the

others were offered.

Thus there is a conflict in the testimony. The County argues that it told the Association during these reopener negotiations that it would consider reclassification of the Social Worker classifications in 1997. The Association argues that the County did not make such a commitment during the negotiations

and that it withheld information about the adjustments in the other units during the collective bargaining. The Association claims that it was not aware of the 1997 commitment until it heard the testimony of a County witness at the hearing on October 1, 1996. The Association goes even further by pointing out that the adjustments in the other two units were not included in any of the County exhibits in this proceeding. On the basis of the testimony at the hearing the Association asserts "that there is no internal pattern in Vilas County supporting a 3.5 percent wage offer."

WAGE RATE COMPARISONS

Both parties presented comparisons of wage rates with the external comparable counties. Since I have accepted the contiguous county comparison determined to be appropriate by Arbitrator Michelstetter, I have used the County's exhibits in examining comparability of the rates. The comparisons for the years 1994, 1995, and 1996 are attached hereto as Addendum C (Social Worker I rates) and Addendum D (Social Worker II rates). These tables indicate that in 1994 Vilas County Social Worker I hourly rates were \$.70 below the average of the four contiguous county maximum rates for this classification and \$1.29 below in 1995. In 1996 only Forest and Oneida Counties had settled. The Vilas County rates would be \$1.38 behind the average of these two in 1996 if the County's offer is adopted and \$1.32 behind if the Association's offer is adopted.

In the case of Oneida County the Social Worker III classification became Lead Social Worker and Social Worker II was eliminated, apparently in 1994. Both parties used Oneida Social Worker III in comparison with Social Worker III in the other counties. Both Iron and Price Counties have Social Worker III classifications, but these rates were not used in any of the comparisons by either party in this proceeding. In comparison with averages for the contiguous counties the respective figures for Social Worker II are \$.38 behind in 1994 and \$.80 behind in 1995. If the County's offer is adopted Social Worker II rates would be \$.75 behind the average in the two counties that have settled in 1996. If the Association's offer were adopted, they would be \$.67 behind.

Both parties presented testimony and made arguments concerning overall compensation (Factor h. in the Statute). It would be difficult to make a detailed description of what was presented on conditions such as hours worked, holidays, sick leave, vacations, health insurance, employee retirement contribution, and longevity pay. Except on the issue of overtime and call-in pay, both parties appeared to agree in their written briefs that these conditions for Vilas County social workers are generally quite similar to such conditions in the comparable counties. The County presented a substantial amount of evidence on the issue of overtime and call-in pay, arguing that this benefit was quite liberal for the social workers. For instance, Vilas County social workers are allowed to bank 100 hours of compensatory overtime, although it is to be used in the year it accrues except for overtime accrued in the last sixty days. The call time provision is very generous in that employees are paid 2 hours of call pay at their normal rate and in addition are paid for the hours worked. The County presented exhibits purporting to show that in 1995 overtime equaled 2.71 percent and call time 1.16 percent of the overall payroll. The County presented a table showing that if these costs were included in the Vilas County social worker rates, the results would produce rates much closer to the average rates for social workers in the comparable counties.

The County presented private sector wage rate evidence. In two health care centers in Vilas County one social worker was paid \$13.00 per hour and another

was paid \$10.00 to \$11.00 per hour in September, 1996. A DILHR report of rates in the North Central Service Delivery Area (Forest, Langlade, Lincoln, Oneida and Vilas Counties) showed rates for 10 social workers employed in private industry were paid an average of \$12.03 in 1995. In the Northwest Service Delivery Area (Ashland, Bayfield, Burnett, Douglas, Iron, Price, Rusk, Sawyer, Taylor, and Washburn Counties) 23 privately employed social workers were paid an average of \$13.49 in 1995.

The parties presented figures from different series for cost-of-living, the Association using the Consumer Price Index for Urban Wage Earners and Clerical Workers for the U.S. and the County using the CPI for Urban Wage Earners and Clerical Workers for the North Central States. Each indicated a December to December change of 2.5 percent during 1995. Both parties gave little weight to cost-of-living as a significant factor in this proceeding.

DISCUSSION

Chapter 111.70 (4) (cm) 7 lists ten factors for the arbitrator to consider. As to Factors a., b., and c., there is no argument. The municipal employer has lawful authority. The parties stipulate that they have agreed upon one of the issues in their final offers, i.e., the amount of the employee contribution to the State Retirement Fund. No question has been raised about the welfare of the public nor the County's ability to pay. The total dollar difference is minuscule.

Factor d. requires consideration of the comparison of "wages, hours and conditions of employment" of these employees with "the wages, hours and conditions of employment of other employees performing similar services." This is the factor that relates to comparing these social workers with social workers in the four contiguous counties. The evidence presented indicates that the Vilas County social workers' wages have fallen behind and that neither final offer would do much in the way of catch-up. Although the County's brief criticizes the Association's presentation of Social Worker III rates for Iron and Price Counties, I cannot find any place in the exhibits where the Association has used those rates in its comparisons.

Factor e. involves comparing these social worker wages, hours, and conditions of employment with similar conditions of employment generally for public employees in the same community and in comparable communities. My judgment for this factor is that these employees have been treated about the same as other Vilas County employees in terms of general increases, hours of work, and benefits but that they have not received the kind of attention and wage adjustments that the County has given to the employees in two other units.

Factor f. asks for similar comparisons with "other employes in private employment in the same community and in comparable communities." While the County has provided some data suggesting that these social workers are paid at rates higher than the rates paid to social workers in the private sector, it has not been shown that their functions are the same as the functions of these social workers. I am in agreement with the Association's comments on these data: "... the County fails to provide vital information regarding th(ese)

position(s) that would make (them) relevant to the case at hand. For example, certification and education requirements, years of service, job descriptions, fringe benefits, etc. are missing." In this proceeding the parties appear to agree that social workers in the four continguous counties all perform similar functions and that their rates can be compared without comparing job descriptions. The job of social worker is a well-established position in the public sector with qualifications and duties established by laws and regulations. The same is not the case for employees designated as social workers employed by private enterprise. They may or may not have similar qualifications and duties. But to make any valid comparison of the rates for social workers in public and private employment, it would be necessary to know more about the latters' qualifications and functions.

Factor g., cost-of-living has been discussed above. Neither party nor this arbitrator consider it to be a significant issue in this proceeding.

As indicated above, the principal argument that differentiates the County from the Association concerning overall compensation, Factor h., involves overtime and call pay. Call pay is more generous in Vilas County than among the comparables. But although their hours worked are not in addition to call pay, both Iron and Oneida Counties have two hour call pay provisions. And although Oneida County social workers have a 37 1/2 hour week, the call pay provision states that call pay is at the rate of time and one-half. All of the comparable counties pay premium overtime after 40 hours. Iron County, in addition, pays overtime premium for hours over 8 in one day. Oneida County allows social workers to bank overtime up to 37 1/2 hours per year. Although the Vilas County provision for 100 hours of accumulation is more generous, the data in the County's exhibits indicated that only one employee in this unit accumulated more than 37 1/2 hours in 1995 or in the period up to the time of the hearing in 1996. Iron County allows social workers to bank overtime or take it in pay. Price County management retains the right to decide whether it will pay overtime hours in comp time off, in pay, or a combination.

Thus, although the County has produced figures purporting to show that the combination of overtime premium, call—in pay, and the immeasurable cost of compensatory time off ought to be considered as an addition to straight—time hourly rates in making comparisons, the County has not demonstrated that these costs are greater for these employees than such costs are in Iron, Price, and Oneida Counties. Their costs for overtime pay, call—in pay, and compensatory time off may not be as generous as they are in Vilas County, but we do not have a basis for saying that they are not.

Neither party has indicated that there have been changes in the foregoing circumstances during the pendency of these proceedings, the consideration in Factor i.

Factor j., "Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration . . ." Although this may or may not apply to the unusual circumstances in this dispute, it seems a good place to discuss them. It is a well-accepted principal among arbitrators that uniformity of treatment in terms of wage increases of an employer's separate bargaining units is persuasive in choice of a final offer. In this case the County argues against accepting the Association's final offer because it would be a departure from the uniform 3.5 percent increases (and the 3.0 and 4.0 increases over two years for the elected officials) for the employees in the other collective bargaining units and the non-represented employees. But as

described above, except for the across-the-board increases, treatment has not been uniform. In two units there have been substantial departures from uniform treatment. The County declares that they have promised consideration of catch-up for the social workers in 1997. The Association declares that until the hearing it had not been so informed, that the County could have made the adjustments at the same time it made the courthouse unit adjustments and that while it welcomes the prospect of catch-up adjustments in 1997, it believes that it is now entitled to the modest adjustments represented by its final offer.

According to the wage comparisons made by the County in this proceeding, which were about the same as those made by the Association, the rate for the Vilas County Social Worker I classification in 1995 was about 11 percent lower, and the rate for Social Worker II was about 6 percent lower, than the averages of the same classifications in the comparable counties. The proposed increase of the Association, when compared with the proposed increase of the County, will hardly affect the disparity, but in view of the need for catch-up for these employees and because I agree with the Association that despite the uniform 3.5 percent increases, the County has not treated all its bargaining units equally, I choose the Association's final offer as a resolution of this proceeding.

AWARD

The Association's final offer shall be incorporated into the labor agreement between the parties.

Dated:

November 18, 1996

At Madison, Wisconsin

David B. Johnson

Arbitrator

ADDENDUM A

Name of Case: Vila	2 County	(Social Workers)
Case 44	No. 53462	2 Int/act - 77-96

The following, or the attachment hereto, constitutes our final offer for the purposes of arbitration pursuant to Section 111.70(4)(cm)6, of the Municipal Employment Relations Act. A copy of such final offer has been submitted to the other party involved in this proceeding, and the undersigned has received a copy of the final offer of the other party. Each page of the attachment hereto has been initialed by me. Further, we (do) (Compa) authorize inclusion of nonresidents of x Wisconsin on the arbitration panel to be submitted to the Commission.

⊬ <u>ΜΑΥ / ⊬</u> (Date)	1996 + Jahr (Representative)	_
★ On behalf of:	JOHN J. GREWTICE	
Con benan or.	VILAS COUNTY	—



— WISCONSIN EMPLOYMENT — RELATIONS COMMISSION

FINAL OFFER OF VILAS COUNTY TO THE VILAS COUNTY SOCIAL WORKERS ASSOCIATION, LOCAL 610

- 1. Effective January 1, 1996, Appendix A (page 25) is amended to reflect a 3.5% wage increase A/T/B.
- 2. Article XIII (page 14) is amended to read as follows:

The County agrees to pay up to six and twofive-tenths percent (6.52%) of the employee's share of the employee's contribution to the State Retirement System, in addition to the employer's share.

3. Status quo on the balance of the contract.

Dated this 14th day of May, 1996.

ON BEHALF OF VILAS COUNTY-

By:

John J. Prentice, Esq.

RECEIVED MAY 2 0 1996

— WISCONSIN EMPLOYMENT — RELATIONS COMMISSION

ADDENDUM B

Name of Case: Vilas County (Focial Workers) Cose 44 No. 53462 Int (art - 7796	į
Cose 44 No.53462 Int/art-7796	

The following, or the attachment hereto, constitutes our final offer for the purposes of arbitration pursuant to Section 111.70(4)(cm)6, of the Municipal Employment Relations Act. A copy of such final offer has been submitted to the other party involved in this proceeding, and the undersigned has received a copy of the final offer of the other party. Each page of the attachment hereto has been initialed by me. Further, we (do not) authorize inclusion of nonresidents of Wisconsin on the arbitration panel to be submitted to the Commission.

V 2/5/96 V thich (Representative) (Representative) (V)

On behalf of: 1 who Issuration Wise in



- Hisconsia employment -Rolatione Commission



VILAS COUNTY SOCIAL SERVICES, LOCAL 610 WISCONSIN EMPLOYMENT — CONTRACT REOPENER / FINAL OFFER RELATIONS COMMISSION February 13, 1996

WAGES:

Effective 1/1/96 3%

Effective 7/1/96 1%

Revise Article XIII - Wisconsin Retirement System to read as follows:

"Effective January 1, 1996 the County agrees to pay up to 6.5% of the employees share of the employees contribution to the State Retirement System in addition to the employer's share."

ADDENDUM C

Vilas county Social Workers

Social Worker I Position Hourly Rate Comparison

County	<u>1994</u>		<u>1995</u>		<u>1996</u>		
	<u>Min</u>	<u>Max</u>	<u>Min</u>	<u>Max</u>	<u>Min</u>	<u>Max</u>	
Forest	\$ 12.38	\$ 12.38	\$ 12.81	\$ 1281		1/1 \$ 13 20 7/1 \$ 13 46	
Iron	\$ 12.54	\$ 12.54	\$ 13.17	\$ 13 17	NS	NS	
Oneida	\$ 11.04	\$ 11.57	\$ 1170	\$ 14 06	\$ 12.25	\$ 14 56	
Price	\$ 11.53	\$ 12.45	\$ 11 93	\$ 1289	NS	NS	
AVERAGE:	\$ 11.87	\$ 12.24	\$ 12 40	\$ 13.23	\$ 12.97	\$ 13.74	
VILAS County Offer: Union Offer:	\$ 11.54	\$ 11.54	\$ 11.94	\$ 11.94	\$ 12.36 1/1 \$ 12.30 7/1 \$ 12.42	\$ 12.36 \$ 12.30 \$ 12.42	
PLUS/MINUS AVERAGE: County Offer: Union Offer:	\$ (0.33)	\$ (0.70)	\$ (0.46)	\$ (1.29)	\$ (0 61) 1/1 \$ (0 67) 7/1 \$ (0.55)	\$ (1.38) \$ (1.44) \$ (1.32)	

ADDENDUM D

Vilas County Social Workers

Social Worker II Position Hourly Rate Comparison

<u>County</u>	<u>1994</u>		<u>1995</u>		<u>1996</u>		
	<u>Min</u>	<u>Max</u>	<u>Min</u>	<u>Max</u>	<u>Min</u>	<u>Max</u>	
Forest	\$ 13.12	\$ 13.12	\$ 13 58	\$ 13 58	1/1 \$ 13 99 1/ 7/1 \$ 14 27 7/		
Iron (1)	\$ 13 27	\$ 13 27	\$ 13 93	\$ 13 93	NS	NS	
Oneida (2)	\$ 12 14	\$ 12.74	\$ 13.45	\$ 1461	\$ 13 92	\$ 15 18	
Price (3)	\$ 12.62	\$ 13 66	\$ 13.06	\$ 14.14	NS	NS	
AVERAGE:	\$ 12.79	\$ 13 20	\$ 13.51	\$ 14 07	\$ 14 06	\$ 14.48	
VILAS County Offer: Union Offer:	\$ 12.82	\$ 12.82	\$ 13.27	\$ 13.27	\$ 13.73 1/1 \$ 13.67 7/1 \$ 13.81	\$ 13.73 \$ 13.67 \$ 13.81	
PLUS/MINUS AVERAGE: County Offer: Union Offer:	\$ 0.03	\$ (0.38)	\$ (0.23)	\$ (0 80)	\$ (0.33) 1/1 \$ (0.39) 7/1 \$ (0.25)	\$ (0.75) \$ (0.81) \$ (0.67)	

Note (1) County also has Social Worker III position. Social Worker III position based on experience and training.

Most recent hire at Social Worker III level had 18 years experience.

Note (2) Social Worker III position eliminated with 1995 contract.

Note (3) County also has Social Worker III position. Master's Degree is required for Social Worker III position Majority of employees are Social Worker II. Very limited number of SW III positions available.

SWII