

BEFORE THE ARBITRATOR

AUG 20 1997

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In the Matter of the Petition of :

MANITOWOC PUBLIC EMPLOYEES LOCAL 731  
AFSCME, AFL-CIO

WERC Case 44  
No. 53616  
INT/ARB 7861  
Dec. No. 28901-A

for final and binding Arbitration of a dispute with:

MANITOWOC SCHOOL DISTRICT

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**Appearances:**

Mr. Gerald Uglund, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, Manitowoc, WI for the Union. Mr. William G. Bracken, Coordinator of Collective Bargaining Services, Godfrey & Kahn, S.C., Oshkosh, WI. for the District.

**Sworn Testimony was received from:**

Mr. Bob Huston, Director of Personnel, and Mr. Ken Michler, Director of Business Services, Manitowoc School District, Manitowoc, WI.

**Background:**

Representatives of the Manitowoc School District (hereinafter referred to as the "District" or the "Employer") and Local 731, AFSCME, AFL-CIO (hereinafter referred to as the "Union" or the "Employees") met on November 7, 1995 and exchanged proposals on issues to be included in a successor agreement to the agreement which expired on Dec. 31, 1995. The Union represents all regular full-time and part-time (over 20 hours/week) employees in the Building and Grounds Department of the District excluding the supply manager, maintenance foreman, and custodial supervisor-Lincoln School. The Parties met on two other occasions and failed to reach an agreement. On December 29, 1995 the Union filed a petition with the Wisconsin Employment Relations Commission for final and binding interest arbitration pursuant to Section 111.70(4)(cm)6 Wis. Stats. Investigator Sharon Gallagher, a member of the WERC staff, conducted an investigation on February 21, 1996 and then advised the Commission on October 17, 1996 that an impasse existed. The parties submitted final offers to the Commission, and on October 31, 1996 the Commission certified the parties' final offers and directed them to select an impartial arbitrator. The Undersigned, Richard Tyson, was selected and appointed on December 4, 1996. He conducted a hearing on the matter on March 7, 1997 at the District's offices located in Manitowoc, Wisconsin. No transcript of the hearing was taken. Both parties had a full opportunity to present exhibits and testimony and to outline their arguments in this dispute. They agreed to a schedule for submitting corrected

and rebuttal exhibits and for exchanging briefs and reply briefs, the last of which was received by the Arbitrator on July 1, 1997.

**The Issue(s)**

The parties are agreed on all items for inclusion in the agreement for 1996 and 1997 except for five matters: the general wage increase, the wage for the licensed electrician, the dollar amount of "caps" on the Hospital and Surgical Insurance ("health insurance") and the rate for the sick leave retirement payout and retirement benefit. The Employer's offer includes across-the-board increases of 1.85%, effective Jan. 1, 1996 and 3.22% on Jan. 1, 1997 resulting in a 2.6% increase in total wages in 1996 and 3.44% in 1997, and for a total "package" cost increase of 3.8% each year. The Union's offer provides for a 3% base wage increase Jan. 1, 1996 and a 3.25% increase Jan. 1, 1997. It provides for a 2-year wage rate of \$15.73 and \$16.24 in 1996 and 1997 for Maintenance Class A employees who are required to be licensed electricians (or \$1.03 and \$1.06 more). It also proposes to increase the sick leave retirement payout and retirement benefits from \$60 to \$61.80/day and from \$50 to \$51.50/day, respectively, and to increase the health insurance "cap" for the fiscal years 1996-97 and 1997-98 from \$490/mo or 95% of premium to \$504.70/mo. (1996-97) and \$521.10 (1997-98)/mo. or 95% of premium. That is, the Union proposes to increase these fringe benefits' values by the general base wage increase.

The parties are also in dispute over the relevant comparison group; the District would include the adjacent school districts as primary comparables, and would consider districts adjacent to those as secondary comparables. The Union would include athletic conference districts: Green Bay, Sheboygan, and Fond du Lac as primary comparables, and would consider nearby Two Rivers as a secondary comparable. There is a dispute over the costing method in that the Union views the base increase as the cost, while the District considers step and longevity increases as well as fringe benefits increases in the "package."

**Cost**

The District (EX 10-15) costs the proposals as follows:

Cost Item	1996			1997		
	District Offer	Union Offer	Difference	District Offer	Union Offer	Difference
Wages	\$ 1,475,258	\$1,492,002	\$ 16,744	\$ 1,525,802	\$1,544,511	\$ 18,709
Fringes	594,517	598,366	3,849	622,620	627,223	4,603
Total	\$ 2,069,775	\$2,090,369	\$ 20,594	\$2,148,422	\$2,171,734	\$ 23,312

The District then calculated the following percentage increases:

	1996		1997	
	Employer offer	Union offer	Employer offer	Union offer
Wages (+step&long.)	2.6%	3.8%	3.4%	3.5%
Fringes	6.9%	7.6	4.7	4.8
Total	3.8%	4.8	3.8	3.9

**Criteria for the Arbitration of Interest Disputes (Article V (E) 2 of the Agreement)**

The Labor Agreement requires that the parties give evidence and make arguments in accord with the following, which is the statutory criteria of the "old" Sec. 111.70 Wis. Stats. It directs the Arbitrator to consider and give weight to certain factors when making his decision. Those factors are:

- a. The lawful authority of the employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any settlement.
- d. Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
  - i. In public employment in comparable communities.
  - ii. In private employment in comparable communities.
- e. The average consumer prices for goods and services, commonly known as the cost-of-living.
- f. The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- g. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- h. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, factfinding, arbitration or otherwise between the parties, in the public service or in private employment.

## Arguments of the Parties

### The Employer

The Employer argues that its offer best meets the criteria for determining an arbitration of the parties' interest dispute while the Union's offer "simply exceeds the bounds of reasonableness."<sup>1</sup> The current political and economic environment, as exemplified by revenue controls, dictates that the interest and welfare of the public is best served by an award in favor of the Employer. Its offer is much closer to the internal settlement pattern, in contrast to the Union's offer which it categorizes as a "rogue bargaining unit." Moreover, wages paid these unit employees compare favorably with other district employees in the area,

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<sup>1</sup>Employer Brief, p. 2.

resulting in low turnover and, when there is a vacancy, an abundance of applicants. The District's offer provides reasonable compensation increases. It provides total package increases of 3.8% each year of the contract (1996 and 1997), which is generally what was provided other units. The Union's offer which calls for increases of 4.8% and 3.9% as well as several fringe benefit gains is unreasonable, and fails to recognize that the maintenance of its excellent fringe benefit package comes at a price; it must look at the total package of compensation, and in this case the rapidly rising health insurance costs means that wages cannot rise as much as the Union may wish.

Both of the parties' offers for 1997 are approximately 3.8%. The main difference in the offers is the 1996 offers, as well as the Union's proposal to increase sick leave payout at retirement and the retirement benefit by the wage increase. The Employer's 1996 offer of a 1.85% increase in base wages "rolls up to an average wage increase per employee of 2.6%."<sup>2</sup> The fringe benefit component of the package increased 6.9%, including a 10% family and 19.2% single health insurance premium increase. The total package increase offered to the Union is 3.8%, consistent with its settlements with the teachers, administrators and other employees. The Union's offer for 1996 is 4.83%, or considerably greater. The Employer's 1997 offer of a 3.22% increase of base wages results in a 3.44% increase in actual wages and a 3.8% increase in total compensation when fringe benefit increases (particularly an 8% health insurance premium increase) are considered.

The Employer maintains that its approach to costing the agreements is, by default, to be accepted since the Union provided no evidence as to total package costs. The Union's approach in the instant case, which focuses solely on base wage increases offered by the Employer relative to comparable employers, is too simplistic and unreasonable, and not in step with reality or arbitral opinion. The Employer argues that 92% of the employees are on longevity, and the increments which they acquire each year, along with the base wage increases must be costed for comparison to other employees. It cited Arbitrator Zeidler who opined that when confronted with having to make comparisons of Glenwood City support staff wage increases which included movements along a 13 or 14 step schedule with other employees' wage increases, "...one then is compelled to rely on a comparison of total wage costs."<sup>3</sup>

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<sup>2</sup>Employer Brief, p. 5.

<sup>3</sup>Glenwood City School District (Support Staff), Dec. No. 26944-A, 1/30/92, p. 16.

The Employer also maintains that its costing method is most appropriate in another sense: to determine wages and benefit cost increases, it "cast forward" the 50 unit members on their appropriate schedules which were increased by the respective wage offers. The Union, on the other hand, considers the actual costs, which leads to "apples and oranges" comparisons. Citing Arbitrators Yaffe and Zeidler, casting forward or backward is accepted as the best, fairest method of costing respective offers.<sup>4</sup> The new collective bargaining law and the corresponding WERC administrative rules require the cast forward method in determining compliance with the restraints on school district professional staff compensation, indicating that the method indeed is the "standard."<sup>5</sup> The Union's contention that the Employer's method of costing is based solely on the QEO law which does not apply to this unit is not true since the relationship runs the other way; because the cast forward method is the most appropriate method, the QEO law "merely embodies what has been the practice."<sup>6</sup> Furthermore, the Union's contention that the District's cost is significantly less than it would appear using the cast-forward method is also erroneous on two additional counts. The hiring of a new employee at a lower rate is not a savings; the parties bargained "start" and subsequent rates so they must be reasonable rates, and they are reflective of productivity differences between new and trained employees. Besides, there is little turnover in the unit because of the relatively high wages.

The District's offer is more consistent with the appropriate external comparables. The District constructed two external groups for comparison: Group A comprising the contiguous districts, and Group B, other area districts. Recognizing that the contiguous districts are smaller than Manitowoc, the Employer maintains that arbitral opinion supports the use of a "labor market approach" in the case of support staff, as compared to professional staff who are more likely to be recruited in a broader market.<sup>7</sup> It is in the immediate area wherein "the laws of supply and demand are more appropriate."<sup>8</sup> The athletic conference may be

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<sup>4</sup>Kenosha Service Employees, Dec. No. 19882-A, May, 1983 and Watertown School District, Dec. No. 20212-A, June, 1983, respectively.

<sup>5</sup>Employer brief, pp. 11-12.

<sup>6</sup>Employer Reply Brief, pp. 1-2.

<sup>7</sup>Arbitrators Zeidler in Sun Prairie School District (Support Staff), Dec. No. 21286-A, May, 1984, Johnson, in Kewaskum School District (Auxiliary Personnel), Dec. No. 26484-A, Dec. 1990, Baron, in Peshtigo School District, Dec. No. 27288-A, Feb. 1993, and R. J. Miller in Richland School District (Support Staff), Dec. No. 24064-A, April, 1987.

<sup>8</sup>Employer Reply Brief, p. 5.

appropriately considered for teacher comparisons, but not for the custodial and maintenance employees. In this case, Green Bay and Fond du Lac are simply too far away. All but two of the 50 unit employees live in Manitowoc. The personnel director testified that the District recruits for custodial and maintenance employees in the immediate area. Some of the employees in the custodial/maintenance units in adjacent districts are not unionized. They should not be precluded for making comparisons because of this, according to Arbitrators Oestricher, Kerkman, Briggs, Gundermann, Nielsen, Weisberger, Baron, Johnson, and Petrie.<sup>9</sup> The Union has no evidence that non-union employers should be excluded.<sup>10</sup>

The Union has selected the athletic conference school districts for its comparables. These may be used for interest disputes involving teachers, but there is no rationale for their use in support staff comparisons. There is some irony here, in that the Union simultaneously rejects the internal comparison with District teachers who have received 3.8% package increases each year! The Union's proposed comparables are much larger than Manitowoc, and are "too geographically dispersed to be of any real value" in deciding appropriate wages.<sup>11</sup> The Union never presents analysis of actual wages paid for comparison because in fact, the District is a wage leader, while other area districts are trying to catch up. The wage leader should not have to match wage increases.

When Manitowoc custodial and maintenance employees' wages are compared to similar employees in Group A and Group B, "striking" results are found; the District is "truly a wage leader."<sup>12</sup> It need not match increases since it is so far ahead. Under the Board's offer Manitowoc will exceed the Group A average as follows:

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<sup>9</sup>Mount Horeb School District (Auxiliary Personnel), Dec. No. 7301, Dec. 1995, Kenosha Unified School District (Substitute Teachers), Dec. No. 19916-A, June 1983, Montello School District (Auxiliary Personnel), Dec. No. 19955-A, June 1983, Cameron School District (Support Staff), Dec. No. 27562-A, Aug. 1993, City of Marshfield, Dec. No. 25298-A, Dec. 1988, Green Bay School District (Substitute Teachers), Dec. No. 21321-A, Aug. 1984, Benton School District (Auxiliary Personnel), Dec. No. 24812-A, Feb. 1988, Kewaskum School District (Auxiliary Personnel), Dec. No. 26484-A, Dec. 1990, and Shiocton School District (Support Staff), Dec. No. 27635-A, Dec. 1993, respectively.

<sup>10</sup>Employer Reply Brief, p. 5.

<sup>11</sup>Employer Reply Brief, p. 3.

<sup>12</sup>Employer Brief, p. 37.

<u>class</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Max. w/long.</u>
Custodian I	\$2.57	\$3.52	\$3.67
Head Custodian	\$1.10	\$1.25	\$1.55
Maintenance I-A	.15	\$1.04	\$1.10

Under the Board's offer Manitowoc will exceed the Group B average as follows:

<u>class</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Max. w/long.</u>
Custodian I	\$3.48	\$3.38	\$3.46
Head Custodian	\$1.18	\$1.53	\$1.64
Maintenance I-A	.12	\$ .55	\$ .50

On an annual basis, this will translate into between \$250 and \$7634 higher earnings. The Union's offer obviously will unreasonably increase these differentials and should be rejected by the Arbitrator.

The Employer notes that the wage differentials increase when longevity is considered. This is because Manitowoc employees receive up to \$.30/hr. longevity after 25 years. Only two of the seven Group A and three of the seven "B" comparables have a longevity benefit. This imposes a recurring cost to the District, and adds to employee cost as does wage rate increases. Two internal units received a relatively higher wage increase but were "frozen" in step; the Custodial-Maintenance employees however want both. Currently the average step and longevity pay of unit employees is \$1.77 "on top of an average base hourly wage rate of \$12.02."<sup>13</sup> Longevity must be considered when the "overall compensation" criterion is evaluated. The result is that the District has very low turnover and an abundance of applicants who are on file wanting a district job in this unit.

The Employer's offer is in the best interests and welfare of the public because it promotes equity among District employees. The District intends to treat all employee groups the same in order to maintain morale. It has tried to keep internal settlements to 3.8%. The internal pattern should prevail when there is a well-established internal pattern as in this case. Manitowoc teachers received a 3.8% package increase in both 1995-96 and 1996-97; Administrators received 3.5% and 3.8%. The unionized educational paraprofessionals (aides) received 3.8% and 4.3%, the latter due to the compacting of salaries; they were "frozen in step for two years. In the instant case, the Employer's offer of 1.85% translates into 2.6% due to step and longevity increases. The Clerical and staff specialists group (non-union) received 4.26% and 3.8% increases, the former being adjustments to recruit entry level clerical employees (who were starting at \$6.00-6.50) and then to increase current employees wages to keep them ahead of starting wages. They accepted a step freeze as well.

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<sup>13</sup>Employer Brief, p. 40.

This decision was not a unilateral decision as the Union would have the Undersigned to believe; rather it was jointly decided by these employees and the District. Clearly the Union's offer of 4.8% for 1996 is outside the internal pattern of around 3.8%. The district contends that, absent unusual circumstances, the internal pattern should govern this award.

The Employer's offer is in the best interests and welfare of the public because it gives consideration to the low income of District taxpayers. The Employer construes the interest of the public to be consistent with the new collective bargaining legislation which includes providing professional employees with a 3.8% compensation package and limits district tax revenues. It is a construction recognized increasingly by interest arbitrators in Wisconsin.<sup>14</sup> The net income per tax return of in the District is lower than Comparable Group B as well as the Union's comparables, indicating that the District does not have the same means to pay as do other districts. Its unemployment rate, while low, is higher than in Calumet and Sheboygan counties.

The District does not contend that it is unable to pay the Union's offer; however, tax revenues are limited and the District has a very modest reserve which is already "spoken for." Of the \$10.5 million reserve, the District has allocated \$6.5 million for Jefferson School long term debt, capital projects, and a balance needed for the self-funded insurance plan."<sup>15</sup> The Union has suggested that the Employer is costing an excessive health insurance rate for its self-funded plan against the employees' wage increase and therefore building excessive reserves. The Union has provided no evidence in support of "this unproven assertion."<sup>16</sup> After these designated reserves are taken out, the District's reserves are only 12.6% of its budget--less than the 15% which its accountants recommend. Even as valuations in the District rise, the revenue caps will mean that available funds remain the same.

When the parties' offers are compared to the Consumer Price Index which rose 2.9% during the period, it is evident that the District's offer is within .3% while the Union's offer is .9%

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<sup>14</sup>citing Arbitrators Rice in DePere School District, Voluntary Impasse Procedure, Aug. 1993, Tyson in Madison Metropolitan School District (Clerical), Dec. No. 27611-A, Aug. 1993, Zeidler in Madison Metropolitan School District (Assistants), Dec. No. 27610-A, Oct. 1993, and Yaffee in Arrowhead Union High School District, Dec. No. 27823-A, Aug. 1994.

<sup>15</sup>Employer Brief, p. 30.

<sup>16</sup>Employer Reply Brief, p. 14.



above and should be rejected. For 1997, the District's offer is .5% above, while the union's .6% above. Unit employees have done well with respect to inflation; since 1985 they have had increases of 58-60% under the Employer's offer, or 10% more than inflation. They have really done much better than that, the Employer contends, since there is a growing feeling (among both Democrats and Republicans) that the CPI has been overstating the true increases in the cost of living by about 1% per year.<sup>17</sup>

Most significantly, the District urges the Undersigned to find that consideration of the overall compensation of unit employees favors its offer. It has emphasized the total package approach to costing the proposals and making comparisons. The Union's focus on wage increases is narrow and simplistic, particularly when it disregards significant changes in health care costs. Its asymmetry in this vein is troubling; surely if the Employer were to propose cutting this or other fringe benefits, the Union's focus would instantly change from wages-only to package! Numerous arbitrators have spoken to the issue of "total package as being the best barometer of the value of any settlement."<sup>18</sup> Were the District's insurance costs and unit employee step and longevity to be less, the Employer's offer would have been greater so as to be consistent with the internal pattern. The Union's comparables, interestingly have total package increases less than that offered by the District. Green Bay custodial-maintenance employees received 3.73 and 3.75% increases. Sheboygan custodial-maintenance employees received 2.75 and 3.24% increases. In both cases wages rose more than the District is offering, but health insurance increases are or are projected to be less. Moreover, the District is unusual in that it pays 100% of the health care insurance costs.

Finally, the Employer contends that the Union has provided no real justification for its offers on the other matters. The absence with pay policy has no connection with wage rates and has never been adjusted for the general wage increase. The district's offer contains the status quo. Similarly, the District's sick leave payout has no connection with wage rates and has never been adjusted for the general wage increase. It is, moreover, a benefit few other school districts provide. In neither case has the Union offered a quid pro quo for the change in the status quo it proposes. The health insurance cap also has never been adjusted for the general wage increase. The cap is currently \$490 or \$48 above the family rate and is therefore not an issue. The retirement benefit of \$50 per year of service has never had a connection with wage rates and has never been adjusted for the general wage increase as

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<sup>17</sup>Employer Reply Brief, p. 6.

<sup>18</sup>Employer brief, p. 47 (citations omitted).

well. There is no rationale for changing it and no quid pro quo has been offered. Finally, the Union's demand for a new class of Maintenance Electrician who is licensed is another change in the status quo for which there is no compelling reason; the wage for the position is adequate, and no other hires will take place.

In sum, the Employer contends that its offer is the more reasonable. Its wage offer results in wages being the highest among the comparables, appropriately defined as being geographically proximate. It promotes equity among District employees as well as considers the interests and welfare of the taxpayers while maintaining competitive wages. It is fair to unit employees by maintaining their purchasing power and current fringe benefits. The Union's focus on base wage rate increases alone is misguided, and fails to consider the limited funds available, particularly if step and longevity increases and health care cost increases are to continue to be fully paid by the District.

#### The Union

The Union wants wage increases for custodian and maintenance employees which are in line with increases of comparable employees. These comparable employees include custodian and maintenance employees in the athletic conference schools, namely Green Bay, Sheboygan, and Fond du Lac, as well as Manitowoc city and county employees. The Union's wage proposals of 3% and 3.25% is less than the relevant CPI. The Employer's proposal is significantly less, and is attempting to "catch-down" unit employees' wages to levels paid in the very small, non-comparable districts adjacent to Manitowoc.

The Employer's 3.8% total package offer inappropriately applies the QEO law to this unit's employees while increasing wages of paraprofessionals and clericals by greater amounts. The Employer rationalizes its low wage offer to the Union by increasing the (self-funded) health insurance rates charged to this unit 9.56% for family, and 19.21% for single coverage, without providing any justification. Moreover, the Employer's method of costing the package overstates the true cost because it gains significantly from turnover--paying new employees at below the pay rate for two years. Adding insult to injury, the Employer then costs the step increases from the low start rate against the general wage increase.

The Union has the more reasonable offer regarding other issues as well. The District has hired an electrician recently, now specifying licensure, and is not willing to pay the rate which other licensed electricians are paid in the city and county. The Union's proposals to increase the health insurance caps, retirement sick leave payout, and retirement benefit by the general wage increase do not represent real gains; rather they seek to prevent erosion of

those benefits.

The Union's external comparison group is more appropriate. In his 1992 decision involving the District and the teachers, Arbitrator Rice used the athletic conference districts for the primary comparables.<sup>19</sup> These are similar in terms of enrollments, pupil costs, state aid, geographic proximity, levy rates, and equalized values. A secondary group was also identified, which included districts in the Appleton and Oshkosh area, as well as Two Rivers. The Union would give secondary consideration to the latter, but primary consideration to Green Bay, Sheboygan, and Fond du Lac. These four districts had average enrollments of 9938 in 1995-96, while Manitowoc had 5592. While there is a size difference, the difference is considerably smaller than the difference between Manitowoc and the Employer's Group A comparables which averaged 1071 if Two Rivers were excluded, or less than one fifth the enrollment of Manitowoc. Manitowoc's mill rate has consistently been between 83-90% of the four districts proposed by the union, while the equalized valuation per member has been in the range of 108-114%, indicating that it would not be fiscally disadvantaged. The Net Income per Return was 93% of the four district's average of \$34,070.

The Employer's comparison group, consisting of Howard's Grove, Kiel, Mishicot, Reedsville, Two Rivers, and Valders has enrollments which average only 23% that of Manitowoc. These schools have an average of 9 custodial-maintenance staff, compared to 50 at Manitowoc. They do not have a comparable mix of employees or specialized division of labor which characterizes districts in the Union's comparable group (only 2 of 6 have Head Custodians, 2 do not have maintenance employees). Only half of the Employer's Group A employees collectively bargain; arbitrators have a long-standing practice of preferring to make comparisons between organized units.<sup>20</sup> The Employer's comparison Group B, consisting of Chilton, Elkhart Lake-Glenbeulah, New Holstein, Plymouth, Sheboygan, and Sheboygan Falls is also not comparable, particularly when Sheboygan is excluded. Without Sheboygan, the average enrollment is only 1,545 or 27% of Manitowoc's enrollment. Only Plymouth and Sheboygan have departments of any size.

The Employer's citations of authority for its comparables are not relevant in the instant case. Arbitrator Baron included only one non-conference district for comparison with Peshtigo-- the larger, nearby Marinette. Arbitrator Briggs disregarded athletic conference schools which

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<sup>19</sup>Dec. No. 27226-A, Oct. 1992

<sup>20</sup>Union Reply Brief, pp. 37-47. The Union's numerous citations are omitted herein.

were 73-108 miles away from Montello, and data were lacking for their inclusion. Here, Fond du Lac is 42.5 miles away, Green Bay is 27 miles, Sheboygan is 20 miles, and Two Rivers is .9 miles. Miller used both the parties' lists, and gave greater weight to the Union's list since the settlements conformed to the pattern, and Arbitrator Zeidler chose more similarly sized districts than the Employer is selecting in the instant case (these are cited above).

The Union's wage offer is more in line with increases of comparable employers. The four comparable districts' custodial maintenance employees received increases in 1996-97 of 2.5%, 3%, 3.2%, and 3.25%; The Union proposes 3% while the Employer's offer is 1.8%. Three comparables are settled for 1997 at 3%, 3.2%, and 3.25%; the Union's offer is for a 3.25% increase while the Employer's offer is 3.22%. These comparables also received additional adjustments and/or fringe benefit improvements. Clearly the Union's offer is more reasonable. The Employer, on the other hand, is trying to "catch-down" Manitowoc wages by its comparison of wage rates position by position with its chosen "comparables." Arbitrators are reluctant to accept this without compelling reasons; rather arbitrators tend to "maintain the historical relationship,"<sup>21</sup> The Employer further contends that the "internal pattern" should be determinative.<sup>22</sup> Citing Arbitrators Bellman, Zeidler, and Vernon, however, the Union contends that external comparisons of similar employees should carry great weight particularly when lock-step following of internal patterns result in inequities.<sup>23</sup>

Other custodial-maintenance employees in the area are receiving increases similar to that proposed by the Union. The County employees received 3% increases in 1996, and 3.75% increases in 1997. Again, they also received additional specific wage adjustments and/or fringe benefit improvements. County Health Care Center and Highway Department employees, as well as the Professional and Sheriff's units received the same general increases. City Hall and the city's Waste Water Treatment Plant employees received 3% increases in 1996 and 3.5% in 1997. Both the Union's and Employer's offers for 1997 include increases which is less than similar employees will be getting in the same community.

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<sup>21</sup>Arbitrator Imes in Fond du Lac County, Dec., No. 23622-A, Oct. 1986.

<sup>22</sup>Union Reply Brief, pp. 35-7.

<sup>23</sup>Waushara County, Dec No. 26111-A, March 1990, School District of Waukesha, Dec. No. 18391-A, April 1981, and Rock county Department of Public Works, Dec. No. 24319-A, Aug. 1987.

The Employer would have the Arbitrator believe that the internal pattern of settlements in the District is in accordance with its offer of 3.8% package increases each year. This is not true. First of all, there can be no "settlement" with the administrative or clerical or confidential staff since there are no bargaining relationships; the Employer decides what is to be paid.<sup>24</sup> Still, the Clericals received 3.17% wage increases in 1996. Data for the administrative group is only part of the total, and they are covered by the QEO law; there also is a discrepancy in the Employer's data (EX 30) implying a 19% wage and package increase rather than an alleged 2.87% increase--besides, they are not employees in terms of the law.<sup>25</sup> The Teachers are professional employees and are statutorily treated differently--by formula. They have in numerous decisions been deemed non-comparable for a variety of reasons.<sup>26</sup> The only relevant organized group is the paraprofessionals (teachers' aides); they received 3.9% increases which is .9% more than even the Union's offer and more than 2% more than the Employer's offer (1.3% less including steps). There fundamentally is no clear "pattern of settlements" favoring the District's offer.

The District's position regarding the licensed electrician is unreasonable. In July, 1995 it advertised for the position, and "found they would have to pay a higher rate than the beginning rate for Maintenance Class A."<sup>27</sup> The Director of Staff Services "got the steward" to approve a higher start rate than the scheduled \$12.07 rate. The position has higher requirements than the class, and the District provided testimony that the licensed electrician will be overseeing others doing electrical work, yet the Employer's offer is nowhere near what other municipal licensed electricians earn. The City will be paying \$18.42/hr. in 1997. Two Rivers School District will be paying \$16.42, which is the rate the Union proposes as of August 1; the District wants to pay \$15/hr.

The Union objects to the Employer's costing of its offer. It should not count the step movements in the offer, particularly when the employees start at lower rates. Citing Arbitrators Petrie, Malamud, Vernon, and Rauch, the Union argues that particularly in the case of "blue collar" jobs with shorter rate range progressions, the step increases are

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<sup>24</sup>Union Brief, p. 11.

<sup>25</sup>Union Reply Brief, pp. 1-2.

<sup>26</sup>Union Reply Brief, pp. 6-10 (citations omitted by the Arbitrator).

<sup>27</sup>Union Brief, p. 12.

generally counted as a cost in addition to the structural wage increase.<sup>28</sup> The Employer in the instant case has costed .75% against the employees for 1996, and .23% in 1997; it has not used the same "total package costing" for external comparables. The Employer gains through starting employees out at low wages, and then gains again by reducing wage increases by the cost of the steps. Since on average there is a zero net effect of step movements and turnover (some employees move up, other, new employees move down), the steps should be disregarded. The Employer's use of this method derives from the QEO law which does not apply to this unit.<sup>29</sup> Longevity is very modest in Manitowoc (\$.03 to \$.30), and it takes the employees 25 years to reach the top longevity. Longevity pay among the comparables averages \$1.02/hr.

Were the Employer's intentions of doing this costing known, the Union would not have accepted the low start rates. By employing this method--costing a "radical unilateral change in the health insurance premium", steps, and longevity against the wage increase and applying the QEO law to this unit--the District is changing the status quo of the bargaining relationship.<sup>30</sup>

The Employer contends that what is driving the lower base wage increase offer of the District is the significant cost of health insurance, namely the 9.56% family and 19.21% single premium increase. The District's health care is a self-funded plan. Its costs charged to employees have not increased rapidly until 1996. The Union speculates that since it has not been presented any information on costs and how the reserves are managed, the Employer may be manipulating these charges in order to justify a substandard wage increase.

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<sup>28</sup>Village of Menomonee Falls, Dec. No. 25101-A, Aug., 1988, City of Beloit, Dec. No. 22374-A, Nov., 1985 and Green Bay Area School District, Voluntary Impasse Procedure, Feb., 1987, DePere School District, Dec. No. 19728-A, Dec. 1982 and Lodi School District, Dec. No. 24377-A, Oct. 1987, and City of Menasha, Dec. No. 24322-A, May, 1976.

<sup>29</sup>Union Reply Brief, pp. 25-28. Additionally, the Union contends that the Employer has not "made a serious case of inability to pay under the revenue 'caps'." It also distinguished Arbitrator Yaffee's Arrowhead decision (cited earlier by the Employer), in which the new support staff union's proposals were found to impinge on that district's educational programs because of revenue caps, from the instant case. There would be a \$200,000 overage at Arrowhead; it was a new contract; and "urban sprawl" required other, new expenditures. Fundamentally, the Employer presented details of the cuts necessary were the union to have prevailed.

<sup>30</sup>Union Reply Brief, pp. 47-56.

Other Board employees' health care cost increases from 1994-95 to 1995-96 were 6.1%.<sup>31</sup> Other area employers are not experiencing such increases. The plan's reserves are at 33% of claims which is, by the Employer's testimony (Ken Mischler), at the high end of the 25%-33% recommended range. The District is 43rd of the 427 school districts in the state in terms of Fund 10 balances; the Employer contends that these are "spoken for" including the insurance reserves--certainly this is true of other districts. These built up reserves are being paid for by the employees' lost wages, yet they are the Employer's property in the event that the plan is dissolved, and perhaps applied to the "District's ambitious building plan."<sup>32</sup>

The issue of the health insurance caps is related to the preceding issue. Currently the Employer is paying the full premium, but is hedged from significant increases by paying at most 95% of costs or \$490 (F)/ \$225 (S). The Employer unilaterally increased the charges for health insurance as indicated above and while the increases are not above the caps, they are creeping towards them. The parties have bargained these caps since 1990, and the Union's offer merely seeks to preserve the status quo by increasing them by the general wage increase, that is, maintaining their real value. The same reasoning applies to the Union's offer for sick leave banking and the retirement benefit. These benefits are declining in value over time. The former benefit of \$60 per day of accumulated sick leave at retirement (to pay for health insurance) has lost \$10 of real value since 1990. The retirement benefit (\$50/ year of service) has similarly lost nearly 20% of its value. The Union is simply seeking to restrain the further loss of these benefits, while the Employer is essentially reducing their value without a quid pro quo. The Employer has also improperly costed these components of the Union's proposal, since the value of these benefits accrues to the District in the event employees separate before retirement.<sup>33</sup>

The Employer's contention that its offer best meets the cost-of-living criterion is also incorrect. The Union uses the most relevant index, the North Central Urban, Size C or D which increased 4.2% and 4.1%. It also contends that the price index changes are properly compared to the wage increases, not the package costs, citing Arbitrators Kerkman, Slavney, and Friess.<sup>34</sup>

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<sup>31</sup>Union Reply Brief, p 12.

<sup>32</sup>Union Reply Brief, p. 13.

<sup>33</sup>Union Reply Brief, p. 19.

<sup>34</sup>Brown County, Dec. No. 26207-A and No. 42303, May, 1990, Village of Butler, Dec. No. 26501-A, Dec. 1990, and Vernon County, Sept. 1990.

In sum, the Employer is attempting in this bargain to "catch down" employee wages by comparing them to non-comparable districts. In its effort, it employs a "perverse costing" method of including step movements, and including an unjustified health insurance premium increase so as to only offer unit employees a 1.8% increase in 1996. Custodial-maintenance employees in other districts, the City, and County are receiving in the neighborhood of 3% or more--which is the Union's offer. The Union intends to continue to help restrain health care cost increases but rejects the Employer's offer which would have the potential effect of shifting costs to the employees in the event of a rapid change in these costs. The Union seeks a fair wage for the licensed electrician. Finally, it merely seeks to maintain the current level of benefits of the sick leave payout and retirement benefits.

## **Discussion and Opinion**

The parties' Labor Agreement requires the Arbitrator to consider the aforementioned criteria in making an award. The criteria cited by the Parties as most pertinent to this decision are the interests and welfare of the public (c), external (d)(I) and internal comparisons, overall compensation (f), inflation (e), and implicitly, other factors (h). Each of these is considered below as the outstanding issues of this dispute have been analyzed by the Arbitrator. The outstanding issues are first noted, followed by the Arbitrator's analysis of wage levels and increases. Lastly, other factors and other issues are discussed.

Several issues are raised by the parties. First, the unresolved issue of external comparability needs to be addressed, as well as the issue of the cost of health insurance indicated by the Employer. Second, what are the differences in wages and percent increases between the external comparables and the parties' offers? Third, what is the relative weight to be given internal vs external comparisons, and what are the differences in wages and percent increases between the internal comparables and the parties' offers? Fourth, how much weight is to be given to overall compensation and how can such be compared? Fifth, how are the Union's fringe benefits proposals to be evaluated? Lastly, how are the respective offers to be evaluated with respect to other criteria?

### Public sector comparables

In applying the criteria (d.), Arbitrators (including the Undersigned) have been guided by considerations of geographic proximity, similarity of size and other characteristics of the employer, and similarity of jobs. Similarity of jobs is further based on level of responsibility, the nature of the services provided, and the extensiveness of training and/or education required. The parties have not directly contested the issue of specific job classifications and their comparisons. The Employer has provided job descriptions for



custodial-maintenance employees in Manitowoc and its Group A and B comparables, and has attempted to match employees in making wage comparisons. The Union has listed the "division of labor" or job categories for its own and the Employer's comparables to the effect that the small districts do not have such specialized positions to be considered comparable. In the main, the dispute centers on geographic proximity vs. similarity of size and other characteristics of the employer, particularly the issue of union/non-union status.

The Employer has argued for comparisons to be made between Manitowoc Custodial-maintenance employees and those in the school districts immediately surrounding it, including Two Rivers, a secondary comparable selected by the Union. As secondary comparables the District has selected the districts immediately to the west and south of those districts which would include Sheboygan (included on the Union's list). The Union uses the

Table 1 Comparison of Proposed Comparables

District	FTE Enrollment	# teachers	tax returns #	Net Income/	Union/ Non-	custodian #	mill . rate
Howard's G	1001	65	1426	\$36.5	NU	5	
Kiel	1507	94	2749	30.1	U	13	
Mishicot	984	64	1837	29.2	NU	6	
Reedsville	797	49	1445	28.0	NU	3.5	
Valdars	1064	70	1981	30.7	U	10	
Group B- Chilton	1342	80	2233	32.1	NU	11	
E.L.-Glen	749	52	1346	42.0	U	3	
New Holstein	1400	99	3198	29.0	NU	12	
Plymouth	2513	152	4857	33.5	U	28	
Sheboy.FIs	1628	119	3561	34.7	U	16	
Union list- Sheboygan	10264	633	10443	34.8	U	95	17.36
Fond du L	7531	430	8266	34.7	U		14.04
Green Bay	19618	1215	54772	34.9	U		15.34
Two Rivers	2337	156	2709	31.9	U	14	13.16
Manitowoc	5592	328	15177	31.6	U	50	13.42

Source: (EX 35-7, 59-61,82-84; UX9)

three other districts in the athletic conference, Sheboygan, Green Bay and Fond du Lac, and

would give secondary consideration to Two Rivers. Limited data was supplied by the parties from which to compare all aspects of these districts for 1995.

Criteria (d) of the parties' agreement requires the Undersigned to give consideration to a comparison of the wages, hours and conditions of work of employees performing similar services in comparable communities. Proximity and size, as noted by the parties, are given weight in the determination of such comparability by arbitrators including the Undersigned. In the case of non-professionals, a radius of 30-40 miles is often considered reasonably proximate, and employers which are reasonably similarly sized may be deemed comparable. All of the parties' comparables appear to have school district boundaries within this radius of the Manitowoc district, though Fond du Lac is perhaps at the edge. Similarity of size is not well defined, though the Undersigned has considered relatively proximate employers which are "half and twice" as large as comparable, absent other important differences. Here, Sheboygan and Fond du Lac qualify in terms of district enrollments, while Two Rivers and Plymouth would be close enough. Green Bay is between three and four times as large as Manitowoc, or about as large relative to Manitowoc as Manitowoc is to Kiel and Sheboygan Falls. The number of custodians and the division of labor within the unit (UX 7) generally follows enrollments, though Sheboygan Falls notably has only three classes of employees. Generally the Employer's other comparables include only the titles "cleaner" and/or "custodian" and in three cases a "maintenance" person; Manitowoc categories includes 4 custodian classes (2 Heads) and 9 maintenance classes such as Electronic Technician, HVAC, Painter, Plumber, etc. as well as the "B" class (presumably general). Green Bay, Fond du Lac, and Sheboygan have similar or greater specialization, and Two Rivers and Plymouth have lesser.

The Employer urges the Undersigned to select comparables according to a "labor market approach" arguing that the contiguous districts constitute the labor market, and asserting that Green Bay and Fond du Lac are in separate markets. Economic interaction is greater within the contiguous districts and the "laws of supply and demand are more appropriate." The Undersigned is not persuaded, and would not adopt the Employer's set of comparables based exclusively on contiguity. Its citations of arbitral authority are not exactly applicable to the circumstances of the present case. There is no evidence that Reedsville is comparable to Manitowoc because it borders it--the same would be said of Milwaukee and Whitefish Bay. The Undersigned notes that the wage differentials between Manitowoc and the smaller, adjacent districts are quite similar to those of Sheboygan and its adjacent districts as is the case throughout the state. While it is true that there is economic interaction and influence from one district to the next, that influence is not equivalently two-way. Howard's Grove

and Kiel will more likely be influenced by wages and labor market conditions in Manitowoc and Sheboygan (as suggested by Arbitrator Baron) to a significantly greater degree than will Manitowoc and Sheboygan be influenced by Howard's Grove and Kiel. Were the Employer "Reedsville", would Manitowoc have been chosen as a comparable?

The parties' agreement requires that comparison be made with similar employees of comparable employers, so the primary employers used will be the Fond du Lac, Sheboygan, Two Rivers, and Plymouth school districts; additional consideration will be given to Green Bay, Kiel, and Sheboygan Falls. The question of inclusion of non-union employers is moot.

Health care costing

The Employer's costing of the health insurance premium appears to the Undersigned to be significantly higher than for other MPS groups. The Union claims that there is no justification for the increase and suggests Employer manipulation of the premium so as to lower the wage offer. The Employer responded that the Union has no proof that the \$419/196 rates were inappropriate, and that the rate was set "after two recommendations are received from the District's insurance broker and Employer's Health."<sup>35</sup> The Undersigned notes that the costing by the Employer (EX 30) uses a single premium of \$203.24 and a family premium of \$418.31 for CY1996 while the rates for the other employees are based on a fiscal year and were less for both 1995-96 and 1996-97. The Employer's costing of other employees' insurance implies that the rate charged against the Custodial-maintenance is too high, or the rates assigned these other employees are too low. The importance of this is apparent when the Employer maintains that the total package cost for this unit is the same as that offered the teachers and administrators (3.8%). The costs for Administrative and Confidential, Paraprofessionals, and Secretary/clerical (EX 30) health care for each group are reported as follows:<sup>36</sup>

	<u>FY1994-95</u>	<u>1995-96</u>	<u>1996-97</u>
single	\$166.32	\$170.49	\$180.89/mo.
family	373.67	381.80	405.09

The Employer's contention is that its offer provides a 3.8% increase in total cost, which includes wages (plus step and longevity increases) and fringe benefits including this health

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<sup>35</sup>Employer Reply Brief, p. 14.

<sup>36</sup>prepared 2/22/95 as the "WASB/WEAC Costing Form to Determine QEO". It costs 1995-96 insurance as \$174.64/\$392.35 or about 2.5% higher than was indicated on the subsequent costing on 1/31/96 as the base for the 1996-97 year.

insurance. The health insurance charge used in the costing for this unit which is on a calendar year is as follows (EX 11-15):

	<u>CY1995</u>	<u>CY1996</u>	<u>CY1997</u>
single	\$ 170.49	\$203.24	\$219.50/mo.
family	381.80	418.31	451.77

The record does not indicate that this unit's employees are to pay rates different from other units, and since the Employer costs all other units at the same rates, the Undersigned presumes that these employees are "charged" the same, though the contracts are of different duration. Nevertheless, the CY1996 charge for this unit exceeds the QEO costing of rates for the 1996-97 year, and, equals or exceeds the 1996-97 "actual costs" indicated by the Employer. The "History of Custodial/Maintenance Insurance Caps vs Actual Costs" (EX-29) is reportedly:

	<u>1993-94</u>	<u>1994</u>	<u>1994-95</u>	<u>1995</u>	<u>1995-96</u>	<u>1996-97</u>	
single	\$155.72		\$166.32		\$ 170.49	\$ 196.28	Actual costs
family	349.55		373.67		381.80	419.00	Actual costs
		\$210/460(or 95%)		\$225/490(or 95%)			Contractual caps

The Union obviously objects to assessing this unit's employees with FY1996-97 rates for CY1996. The Arbitrator finds this to be a reasonable objection, particularly when the Employer compares the package costs increases of "internal" units. Whether the District's rates are set by fiscal or calendar year is not evident, but in either case, the Union's objection to the Employer's costing is well taken in that assessing the Union's health insurance cost increase for the full year instead of half would seem to overstate its cost. Alternatively, if the cost is really correct, then the other "internal comparables" would seem to be under-assessed.

As an exercise, the Arbitrator has constructed "blended" rates for the calendar year from the fiscal year costs calculated by the Employer for QEO purposes and for what it reports as "actual" costs. It would appear that the costing used by the Employer for other units to compare with this one was around \$18/mo. lower than the costs for Custodial-maintenance

	<u>1995-97 QEO costing "blended" 1996 rate</u>	<u>"Actual" costing "blended" 1996 rate</u>	<u>Employer's costing of C-M --differences from "blended" 1996 rates</u>	
			<u>QEO</u>	<u>"actual costs"</u>
Single	\$ 175.60	\$183.39	\$ 27.64	\$ 19.85/mo.
Family	393.43	400.40	24.86	17.91/mo.
Annual cost difference (4 S/46 F)			\$ 15,049	\$ 10,839/yr.
Percent of 1995 total cost			.75%	.5%

employees. A "blended rate" for 1996 would be \$183.40/400.40 per month based on what the Employer reports as "actual costs" (EX 29) or \$175.60.40/393.45 per month based on what the Employer reports for "QEO costs" (EX 30). These costing differences result in annual package cost differences for the 4 single and 46 family employees which are between .5% and .75% of 1995 costs. Presuming the accuracy of the District's "actual costs" for FY 1995-96 and 1996-97 rather than the QEO rates (ie., the lower differential) the Employer's offer of a 3.8% package would be restated as approximately a 3.3% package offer using the "blended" rate.

Using the District's assumptions of 8% increases for 1997-98, monthly "blended rates" (e.g. \$418.31 & \$451.77 and \$196 & \$212) for 1997 would be \$204/435.50 per month, or \$9,725 less cost, or again somewhat less than .5% of the total package is added to the "package cost" with the Employer's use of the subsequent fiscal year rate.

Whether the Employer's rates for costing purposes are determined on a fiscal or calendar year basis has not been made known to the Undersigned. However, were the Employer's rate assessed the C-M unit for this correct, then it would seem to be the case that the other units "got more" than represented; were the Employer's rate assessed the other units to be correct, then it would seem to be the case that this unit was "overcharged" about .5% of the total package.

#### Wage comparisons: percentage increases

The parties in this dispute focus on entirely different aspects of wage comparisons. The Employer would examine wage levels for external comparisons with the smaller, adjacent districts, and on percentage increases in package costs for internal comparisons. The Union has focused on percent increases in base wages for both. The issue of package vs base increase comparisons raises the question of the treatment of step increases. The parties have supplied the Undersigned with opposing arbitral opinion on this matter; should steps and/or longevity be "counted" in the wage increase? This can be of considerable significance in many interest disputes. The Union has argued against the inclusion of the step and longevity increases against the base wage increase. There has been no evidence presented on the past bargaining practice in order to evaluate this claim.

In this case the Employer contends that the average unit employee receives \$1.77 in "longevity." Longevity, however, increases by modest three cent increments until it reaches the maximum thirty cents (\$.30) per hour after 25 years of service. The wage schedule has a Start, 6 month, 12 month, 18 month, and 24 month step for each class, with fairly

substantial increases at the last step. It is apparent that the step increments comprise the greater part of the \$1.77. The Undersigned has tended to "cost" or include the step increments in making wage comparisons when there is a very long or unusual schedule, particularly viz comparison schedules. In these cases it would seem that the parties have negotiated built-in wage increases which properly are added to base increases for comparison purposes. In the instant case, the schedule is "short" and not unlike many of the comparables (particularly the Union's) and fairly typical of "blue-collar" employees' schedules. The Union argues that it results in a "loss" for the employee to wait for the full rate, and a "gain" for the Employer when turnover occurs. The Employer has argued that the schedule reflects productivity differences between newly hired and experienced employees and therefore turnover does not result in a "loss" for employees and a "gain" for the employer. Some schedules may provide for incremental wage increases for fifteen years, which may be a stretch of the productivity increase-wage increase theory, but fundamentally, the Undersigned agrees with the Employer here. Turnover may save costs, but results in less experienced employees. Unfortunately, acceptance of the very reasonable understanding of the step increases as representing returns to higher productivity gained through accumulated on-the-job training would seem to then favor the Union's philosophy of costing the base wage increase. Wage gains for increased OJT and productivity would not properly be used to reduce the base wage increase, while longevity increases perhaps would (though similar considerations would necessarily apply to any comparison group).

Below are comparisons of base wage increases, as well as available data on total wage and package cost increases.

Table 2: External Comparables'  
 Percentage increase in base wages, 1995-96 and 1996-97 and CY 1996 and 1997  
 FY1995-96    CY1996    FY1996-97    CY1997    FY1997-98

Fond du Lac	3.0 %		3.0%		
Plymouth	3.25		3.0		
Sheboygan	3.25		3.25		3.25
Two Rivers	2.5		3.0		
average	3.0		3.06		
Green Bay	2.6		3.2		3.2
Kiel	3.2		2.0		2.25
Sheb. Falls	2.8		2.8		
Manitowc U		3.0		3.25	
Manitowc E		1.85		3.22	

Source: EX 48-9, 66-7, UX 18-20

The Union offer calls for base wage increases which appear to be about .2-.3% higher than these other districts while the Employer's offer is about .8-1% lower over the two years (Table 2). The only available data on total wage increases supplied by the Employer (Table 3) is for the Sheboygan and Green Bay settlements. These average 6.54% on a blended

Table 3: Percentage increase in total wages, 1995-96 and 1996-97 and CY 1996 and 1997  
 FY1995-96    CY1996    FY1996-97    CY1997    FY1997-98

Fond du Lac					
Plymouth					
Sheboygan	3.37		3.5		3.57
Two Rivers					
average					
Green Bay	2.63		3.2		3.2
Kiel					
Sheb. Falls					
Manitowc U		3.8		3.5	
Manitowc E		2.6		3.4	

Source: EX 24

Table 4: Total package costs increases, 1995-96 and 1996-97 and CY 1996 and 1997  
 FY1995-96    CY1996    FY1996-97    CY1997    FY1997-98

Fond du Lac					
Plymouth					
Sheboygan	2.75%		3.24%		3.66%
Two Rivers					
average					
Green Bay	2.32		3.73		3.75
Kiel					
Sheb. Falls					
Manitowc U		4.8*		3.9*	
Manitowc E		3.8*		3.8*	

Source: EX 85

\*using the Employer's costing of health insurance rates

basis, slightly below the midpoint of the Employer's total wage increase offer of 6% and the Union's 7.3% offer. Limited data also has been provided by the Employer for comparison of "package cost" increases. After subtracting .5% from what the Employer has used as the costs of the parties' offers, it still would appear that the Employer's offer (6.6% in Table 4) is closer to the (blended) 6.74% increases occurring in Sheboygan and Green Bay (Green Bay had no health insurance cost increases for 1995-96 and Sheboygan had a 4.5% drop; data presumably would have been available for other districts).

The parties' Agreement requires consideration of wages and other conditions of employment of other employees in public employment. Comparisons with base wage increases of other Manitowoc employees clearly favor the Union's offer, as indicated in Table 5. The Employer suggests that the larger increases for the clerical and paraprofessional units are less real than apparent since those employees were "frozen in step" while their base wages were increased by fairly high rates. It would seem to the Arbitrator, however, that those employees would be better off with the higher base wage increases in 1996-97, while retaining opportunities for step increases in the subsequent years. Teachers would appear to receive lower percentage wage increases than is offered by the Employer to the Union. In the case of teachers, however, a "long schedule" of step increments or built-in wage increments results in increases which are similar to increases proposed by the Union, as seen

Table 5: Manitowoc Public Employees  
 Percentage increase in base wages, 1995-96 and 1996-97 and CY 1996 and 1997  
 FY1995-96 CY1996 FY1996-97 CY1997 FY1997-98 CY1998

MPS-teachers	1.37%		1.19%			
paraprofessional (aides)- MPS	4.10		3.85			
MPS-clerical	4.0		3.17			
MPS-administrative	2.9 (19)		3.05			
city employees		3.0		3.5		3.0
county employees		3.0		3.75		
Union offer		3.0		3.25		
Board offer		1.85		3.22		

Source: UX Appendix, 2, B; EX 24, EX 30, p. 1-2 (data for administrative wages indicate 2.9% wage increases but a 19% greater cost on the QEO form)



Table 6: Manitowoc Public Employees  
 Percentage increase in total wages, 1995-96 and 1996-97 and CY 1996 and 1997  
 FY1995-96 CY1996 FY1996-97 CY1997 FY1997-98 CY1998

MPS-teachers	3.6%		3.5%			
paraprofessional (aides)- MPS	4.1		3.9			
MPS-clerical	4.0		3.2			
MPS-administrative	2.9		3.1			
city employees						
county employees						
Union offer		3.8		3.5		
Board offer		2.6		3.4		

Source: EX 24

Table 7: Manitowoc Public Employees  
 Percentage increase in package costs, 1995-96 and 1996-97 and CY 1996 and 1997  
 FY1995-96 CY1996 FY1996-97 CY1997 FY1997-98 CY1998

MPS-teachers	3.8%		3.8%			
paraprofessional (aides)- MPS	3.8		4.3			
MPS-clerical	4.3		3.8			
MPS- administrative	3.5		3.8			
city employees						
county employees						
Union offer		4.8*		3.8*		
Board offer		3.8*		3.8*		

Source: EX 24

\*using the Employer's costing of the health insurance rates

in Table 6. Table 6 shows two year total wage increases somewhat over 7%, which is closer to the Union's offer. "Package cost" data (Table 7) were not provided for city and county employees. Package cost data for other Manitowoc School District employees were in the range of 7.7-7.8% for the last two fiscal years, or slightly higher than the Union's offer were its costs adjusted by .5% each year (to 7.6%) for what would appear to be a high health

insurance rate assessment. If the .5% adjustment were only applied to CY 1996, the Union's offer would still provide package cost increases somewhat closer to these other units than would the Employer's offer.

Wage levels Tables 8, 9, and 10 compare wage rates of three relatively common custodial-maintenance classes among the comparable employers selected by the Arbitrator. Table 8 indicates that the four primary comparables' 1996 average wages for Custodians was \$12.48 at the top rate, and \$13.45 at the maximum rate. The Employer's offer is \$13.80 and \$14.10, respectively, or about \$1.32 greater than average at the top rate and \$.65 more at the maximum longevity rate. The addition of Green Bay would raise these averages about \$.50, still indicating that the Employer's offer is reasonable; consideration of Kiel and Sheboygan Falls further adds to this conclusion. The 1997 wage rates for Fond du Lac and Plymouth were not available, but assuming a 3% increase results in average maximum wages of \$14.14, or \$.40 less than the Employer's offer (\$.04 less if Green Bay is included).

Table 8: Custodian Wage Rates, 1996, 1997

	1996				1997		
	start	top	maximum	years top/max	start	top	maximum
Fond d'Lac <sup>1</sup> b	\$11.44	\$12.62	\$14.52	1/ 15	\$11.60	\$12.62+	\$14.73
Plymouth	10.84	12.68	13.63	2/ 20	10.84+	12.86+	13.83+
Sheboygn <sup>1</sup> b	8.57	11.31	12.33	2/ 15	8.84	11.67	12.73
Two Rivers b	12.08	13.30	13.30	2/	12.38	13.64	13.64
average	10.73	12.48	13.45		10.91+	12.70+	13.73+
Green Bay <sup>1</sup> b	8.02	15.28	15.48	3/ 16	8.37	15.74	15.94
Kiel b	7.97	9.69	9.69	1/ 6	8.20	9.94	9.94
Sheb. Falls b	9.20	9.60	10.24	7/	9.46	9.87 <sup>2</sup>	10.53
Manitowc U	12.13	13.96	14.26	2/ 25	12.52	14.41	14.71
Manitowc E	12.00	13.80	14.10		12.39	14.24	14.54

<sup>1</sup> C1, C2

<sup>2</sup> error EX 66

b blended rate for fiscal 1995-96 and 1996-97, and 1997-98.

+ unsettled

Sources: UX Appendix 8, EX 42-3, 66-7

Table 9 indicates that the four primary comparables' average 1996 wage for Head Custodians was \$13.03 at the top rate, and \$14.04 at the maximum rate. The Employer's offer is \$14.16 and \$14.46, respectively, or about \$1.13 greater than average at the top rate and \$.42 more

at the maximum longevity rate. The addition of Green Bay would raise these averages about \$.40, again still indicating that the Employer's offer is reasonable; consideration of Kiel and Sheboygan Falls further adds to this conclusion. The 1997 wage rates for Fond du Lac and Plymouth were not available, but assuming a 3% increase for these districts' employees results in average maximum wages of \$14.76, or \$.16 less than the Employer's offer (\$.08 more if Green Bay is included).

Table 9: Head Custodian Wage Rates, 1996, 1997

	1996				1997		
	start	top	maximum	years top/max	start	top	maximum
Fond d'Lac b	\$11.91	\$13.04	\$14.99	1/ 15	12.08+	\$13.23+	15.21+
Plymouth <sup>3</sup>	11.03	12.94	13.92	2/ 20	11.03+	13.13+	14.12+
Sheboygan b	10.57	11.31	13.30	2/ 15	10.88	12.39	13.51
Two Rivers b	12.73	14.15	14.15	2/	13.05	14.50	14.50
average	11.55	13.03	14.04		11.76+	13.31+	14.34+
Green Bay b	13.99	15.52	15.72	3/ 16	14.40	15.99	16.19
Kiel b	9.08	10.95	10.95	/ 6	9.48	11.64	11.64
Sheb. Falls b	9.20	9.60	10.24	7/	9.47	10.14 <sup>4</sup>	10.81
Manitowoc U	12.85	14.32	14.62	2/ 25	13.27	14.79	15.09
Manitowoc E	12.71	14.16	14.46		13.12	14.62	14.92

<sup>3</sup> Plymouth has 5 Head Custodian classes. The Employer used the 3 lower wage ones and are included herein; the other two were \$.30 and \$.99/hr. higher.

<sup>4</sup> error EX 70

b blended rate for fiscal 1995-96 and 1996-97, and 1997-98.

+ unsettled

Sources: UX Appendix 9, EX 42-3, 66-7

Table 10 indicates that the four primary comparables' average 1996 wage for Skilled Maintenance employees was \$13.77 at the top rate, and \$14.85 at the maximum rate. The Employer's offer is \$14.53 and \$14.83, respectively, or about \$.76 greater than average at the top rate but \$.02 less at the maximum longevity rate. The Union's offer is \$.15 greater at the maximum rate. Here the Manitowoc C-M unit's modest longevity compared to other districts is even more noticeable. The addition of Green Bay would raise these averages about \$.50, again still indicating that the Employer's offer for the top rate is reasonable, though the Union's offer would be more reasonable at the maximum rate; consideration of Sheboygan Falls Skilled Maintenance wage rates results in the conclusion that the Employer's offer is more reasonable. The 1997 wage rates for Fond du Lac and Plymouth were not available; again assuming a 3% increase results in average maximum wages of \$15.28, or

\$.02 less than the Employer's offer (\$.46 more if Green Bay is included, \$.13 less if Sheboygan Falls is added).

Table 10: Skilled Maintenance Wage Rates, 1996, 1997

	1996				1997		
	start	top	maximum	years top/max	start	top	maximum
Fond d'Lac b	\$12.37	\$13.50	\$15.53	1/ 15	12.58+	\$13.70+	15.75+
Plymouth <sup>3</sup>	12.20	14.62	15.72	2/ 20	12.29+	14.83+	15.94+
Sheboygan b	11.40	12.27	13.37	2/ 15	11.77	12.66	13.80
Two Rivers b	13.32	14.78	14.78	2/	13.65	15.16	15.16
average	12.35	13.77	14.85		12.57+	14.10+	15.15+
Green Bay b	15.27	16.96	17.16	3/ 16	15.74	17.49	17.69
Kiel b	N/A						
Sheb. Falls <sup>5</sup> b	10.66	11.87	11.87	7/	10.96	12.20	12.20
Manitowoc U	12.76	14.70	15.00	2/ 25	13.17	15.18	15.48
Manitowoc E	12.62	14.53	14.83		13.03	15.00	15.30

<sup>3</sup> M1, M2 errors in EX 74, 75

<sup>5</sup> Maintenance Assistant

b blended rate for fiscal 1995-96 and 1996-97, and 1997-98.

+ unsettled

Sources: UX Appendix 9, EX 42-3, 66-7

Conclusions Conclusions about whether the Union's offer or the Employer's offer is the more reasonable with regard to wages is extraordinarily difficult in this case. Base wage increases of external and internal comparables (including city and county employees) both clearly favor the selection of the Union's offer. Limited data has been supplied by the Employer to compare and evaluate differences in total wage increases; the available data for external comparables marginally favors the Employer's offer while the data for other Manitowoc employees clearly favors the Union's offer. Package costs data comparisons present difficulties. Conclusions based on comparisons with other school district employees hinge on the question of the Employer's assessment of health insurance rates; when C-M employees are assessed a "blended" rate of the FY 1995-97 rates costed by the Employer for other district employees, then the "package cost" for the C-M unit is .5% lower than purported, and the Union's offer is found to be more similar to what was received by other district employees. The very limited data made available by the Employer regarding "package cost" increases of external comparables (Sheboygan and Green Bay) show increases more in line with the Employer's offer. Wage level comparisons for the three positions examined generally tend to favor the Employer's offer. Manitowoc Custodial-maintenance

wages tend to exceed that of most other districts compared by the Undersigned, though he notes that the very modest longevity program at Manitowoc results in a smaller wage advantage at the maximum rates. Green Bay wages tend to be considerably higher than the primary comparables, while Kiel and Sheboygan Falls wages tend to be considerably lower.

The Arbitrator would somewhat favor the Union's offer with regard to wages for several reasons. The clear internal and external pattern of base wage increases is consistent with it. The comparison of package cost increases does not lead to a clear indication of which offer is the more reasonable; internal comparisons favor the Union's offer when the Employer's assessment of health insurance costs are re-evaluated, and the paucity of data make external comparisons tenuous. Total wage increase comparisons within Manitowoc clearly favor the Union's offer while limited external comparisons do not provide clear conclusions to the contrary. Moreover, custodial-maintenance employees have few steps, and the step increases would not be "costed against" the wage increase under the productivity-wage argument advanced by the Employer.

Consideration of wage levels of similar public employees in comparable districts would tend to favor the Employer's offer. The issue therefore is to determine the relative weight to attach to internal vs external comparisons. On this, Arbitrator Gundermann opined:

... "As a general proposition, arbitrators are inclined to look toward internal comparables rather than external comparables where a clear pattern of voluntary settlements exist. The rationale most often given in support of using internal comparables is that internal settlements most accurately reflect what the parties would have agreed to if they reached a voluntary settlement. It is also asserted that by using internal comparables there is added stability to the bargaining process and less opportunity for dissension arising out of one unit receiving preferential treatment over another unit." City of Oshkosh, Dec. No. 26923-A (March 3, 1993)

Arbitrators often contend that a primary consideration in rendering an award is what in their opinion a voluntary settlement would have been which is indicated by a "clear pattern of (internal) voluntary settlements." Unfortunately, whether such a "clear pattern" exist in this case which would compel a decision in either party's favor, is in dispute. The pattern of wage increases is clearly similar to the Union's offer while the "package" increases purportedly are not; but this is unclear. There is some tendency for arbitrators to give greater consideration to external comparability in the case of professional employees than in the case of nonprofessional employees on the theory that the former are recruited and retained in a broader labor market. Arbitrator Vernon recognized a limit to relying on an

internal pattern, were one to exist:

“...the internal pattern cannot control when adherence to that pattern would cause too much external market disparity. In this case, the general guidance gained from looking at other municipalities strongly suggests that the Employer’s offer would perpetuate a great wage disparity.” City of Monona (Fire Department) Dec. No. 26562-A (March, 1993)

The situation described above is argued by the Employer to be relevant in the instant case, though the district’s wages are higher, and the employees are not considered “professional.” Its applicability would suggest an award in favor of the District’s offer if wage levels of Manitowoc C-M employees were significantly “out of line” with respect to comparable districts. The discussion above would suggest that particularly for less senior employees, some evidence for such a conclusion exists. The Arbitrator notes that over three-quarters of the unit’s employees have seven or more years seniority, indicating that for most employees, their wages may be high but not so significantly as to ignore the internal pattern.

#### Other issues and criteria

The Union has argued for an eventual wage rate for the licensed electrician equal to that received in the Two Rivers school district (\$16.24/hr.). The Employer’s offer is \$15/hr. City Hall electricians earned \$17.88 in 1996 and \$18.42 in 1997, while the Wastewater Treatment electricians earned \$17.45 and \$18.06. The Undersigned notes that the Sheboygan school district licensed electrician earned a (blended) rate of \$14.70 in 1996 and \$15.17 in 1997 at the top (2- year) rate and could have earned a maximum (longevity) rate of \$16.02 and \$16.54. Green Bay has an “electronics technician” position which pays in excess of \$18/hr. The Employer responds that the wage offer is “adequate.” The licensed electrician is needed by the District in order that certain work be performed; he will necessarily supervise the work of other maintenance employees. The Union’s offer on this matter appears to be the more reasonable.

The Union also proposes to increase the health insurance caps, sick leave payout and retirement payout by the base wage adjustment which it proposes. The rationale is that the value of these diminishes in real terms without such increases. The Employer’s argument on these matters is that the insurance cap increase is unnecessary, and it, along with these other benefits has never been linked to the general wage increase. The Union is proposing a fundamental change in the status quo without justification or the offer of a quid pro quo. The Employer’s exhibits indicate that the caps will not be exceeded (in this contract), and that the bargaining history does not show any such linkage as evidenced by the irregular and

discrete changes in the value of the payouts and caps. It would seem that maintenance of the value of these benefits would in a sense maintain the status quo in a dynamic sense, though this is perhaps not the usual interpretation of this idea. The Union has not shown a compelling need for the change, or in lieu of that, showing substantial support among the comparables; the Employer asserts that these are benefits which "other employees in comparable school districts simply do not have." (Reply Brief, p. 17)

The Employer contends that its offer is to be preferred based on comparisons with the recent rates of inflation (e.). Its 3.8% increases exceed the 2.9% CPI increase for 1996 and what is estimated to be a 3% 1997 increase; the CPI, moreover, overstates inflation. The employees have generally received increases above inflation for the past decade. The Union argues that the appropriate index (North-central "C" or "D" CPI-U) showed increases of 4.1-4.2%, and that the cost-of-living factor should apply to the base wage increase only. While the Arbitrator would not consider step wage increases which reflect "productivity gains" in comparisons with price index increases (following the Employer's argument), he disagrees with the argument made by the Union that "(I)t is the wage increase which insulates employees against the erosion of the dollar caused by inflation, the cost to the employer does not."<sup>37</sup> Health care costs are included in the price index, and to the degree that these costs increase more than other items, employees wages which are increased by the price index change are (everything else equal) "overcompensated" if their employer provides health care. The Arbitrator would conclude, however, that this factor tends to favor the Union's offer for several reasons. The Employer included step increases (about .6%+ in 1996) in its "package" costing and seems to have over assessed health costs to the C-M employees (about .5%). Generally the "closest" relevant price index change is the appropriate price index to use. Finally, something can be said for the argument that this criteria was considered by the comparables' parties as they arrived at settlements. These tended to average more than that offered by the Employer, and about equal to what the Association has proposed.

The Employer raises the issue of the interests and welfare of the public and the ability of the Employer to pay (c.), which favors its offer. It is able to pay the Union's offer. This interest and welfare of the public is manifest in the revisions to the collective bargaining law which caps professional school district wage and benefits increases and establishes revenue caps. By extension, this calls for increases for Custodial-maintenance employees in the same amounts as other employees. It also contends that there would be a morale problem created

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<sup>37</sup>Arbitrator Kerkman in Brown County, Dec. No. 42303, May, 1990.

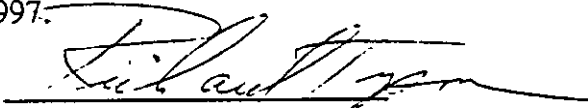
if this unit were to receive through arbitration a wage and benefit increase which exceeds that voluntarily agreed to by other units. The Arbitrator notes that there already have been considerable variations in wage and benefit increases and that an award in favor of the Union would not be a considerable "reward" to it, given the (above) finding on costs. While some credence may be given to the Employer's assertions, the Arbitrator would also agree with the Union that the morale of the unit's employees is an important consideration and that they should not be singled out for significantly lower wage and benefit increases than are received by other employees in the District, community, and area. The issue again hinges on the costing of "packages" offered by the Employer and Union which the Arbitrator has reason to believe are over assessed by the Employer.

#### Award.

Having carefully considered all of the evidence and argument of the Parties set forth above as well as the arbitral criteria provided under Section 111.77 Wisc. Stats., it is the decision of the Undersigned that:

The final offer of the Union, along with those items to which the parties are tentatively agreed is to be incorporated into the 1996-97 Collective Bargaining Agreement between the Manitowoc Public School District and the Manitowoc Public Employees Local #731, AFSCME, AFL-CIO

Dated this 14th day of August, 1997.

  
Richard Tyson, Arbitrator





**Wisconsin Council 40**  
**AFSCME, AFL-CIO**

8033 Excelsior Drive, Suite B  
Madison, Wisconsin 53717-1903  
Phone: 608 836-4040  
Fax: 608 836-4444

Michael Murphy  
*President*  
Robert W. Lyons  
*Executive Director*

AUG 20 1997

PLEASE REPLY TO: JERRY UGLAND, Staff Representative  
P.O. Box 370, Manitowoc, WI 54221-0370 (414) 684-1222

**RECEIVED**  
AUG 15 1996

— WISCONSIN EMPLOYMENT —  
RELATIONS COMMISSION

June 28, 1996

Sharon A. Gallagher, Examiner  
Wisconsin Employment Relations Commission  
70 Stoney Beach Road  
Oshkosh, WI 54901

Re: Manitowoc Public Employees, Local 731, AFSCME, AFL-CIO (Maintenance and Custodial Employees) and Manitowoc Board of Education  
Impasse Investigation

Dear Ms. Gallagher:

The Union has received and is hereby responding to the Employer's revised final offer dated May 30, 1996 and received June 4, 1996. The Union's revised final offer is enclosed. The Union's May 8, 1996 draft of proposals and tentative agreements contained some errors and omissions.

Due to a typographic error, the 1995, 24 month rate for the C-IV Head Custodian - Elementary is corrected from \$12.90 to \$13.90. Proposed rates for 1996 and 1997 are corrected also.

Tentative agreements not identified in the May 8, 1996 draft are now included. They are revisions to:

Date changes as appropriate. (Although this was depicted in specific language change.)

**ARTICLE VI - JOB POSTING, A. Posting.**

Location for job postings.  
Copy of posting sent to steward.

**ARTICLE VIII - WORKING HOURS, OVERTIME, PAYDAYS, A. & C.**

Change of title to Director of Building and Grounds.



*in the public service*



ARTICLE XIII - OTHER FRINGE BENEFITS, A. Convention.

Change of title to Director of Building and Grounds.


ARTICLE XIV - MISCELLANEOUS CONTRACT PROVISIONS, A. Union Dues Deduction, & C. Working Conditions.

Change of title to Director of Building and Grounds.

Copies of the initialed tentative agreements are enclosed as well as a working list of the agreements. No substantive changes were made for this offer.

The Union requests that you certify the revised final offers of the Union and the Employer.

Sincerely,



Gerald D. Uglund

RECEIVED  
JUL 15 1996

Copy to: Jack Wanek  
Randy Siebert  
Robert Huston  
John Crubaugh  
Merritt Wilcox Jr.

— WISCONSIN EMPLOYMENT —  
RELATIONS COMMISSION

June 27, 1996

RECEIVED  
JUL 15 1996

REVISED FINAL OFFER FROM

MANITOWOC PUBLIC EMPLOYEES,  
LOCAL 731, AFSCME, AFL-CIO

— WISCONSIN EMPLOYMENT —  
RELATIONS COMMISSION

TO

THE MANITOWOC BOARD OF EDUCATION

The following are proposed changes in the 1993 - 1995 collective bargaining agreement between the above mentioned parties for a successor agreement.

The union reserves a continuing right to add, delete, or modify its proposals prior to certification of final offers. Some current language is provided for context.

"..." notation indicates that there is surrounding language from the predecessor agreement in the area of the notation.

~~Overstricken~~ language is proposed to be deleted.

Highlighted language is proposed as new language to be inserted with existing language.

CAPITALIZED PROPOSALS are not in final language.

All provisions of the 1993-1995 collective bargaining agreement shall continue unchanged except for updating to reflect a new term, to correct errors, and to make changes with which the parties agree or which are awarded through interest arbitration.

ARTICLE IX - ABSENCE WITH PAY POLICY

A. Sick Leave

...

- 6. Upon retirement, the Board will credit to the retiree ~~sixty dollars (\$60)~~ sixty-one and 80/100 dollars (\$61.80), effective 1/1/96, ~~sixty-three and 81/100 dollars (\$63.81)~~ effective 1/1/97 for each day of accumulated sick leave ...

...

ARTICLE XI - INSURANCE

A. Hospital and Surgical Insurance

...

2. ...

~~For the period July 1, 1992 ... or 95% of either, whichever is higher. For the period commencing July 1, 1995, the district payments will be \$490.00 per month family, \$225 per month single or 95% of either, whichever is higher. For the period commencing July 1, 1996, the district payments will be \$504.70 per month family, \$231.75 per month single or 95% of either, whichever is higher. For the period commencing July 1, 1997, the district payments will be \$521.10 per month family, \$239.28 per month single or 95% of either, whichever is higher.~~

...

ARTICLE XII - RETIREMENT

A. Retirement Benefit

1. Employees who have accumulated ten (10) years or more of service in this school district shall be entitled to a retirement benefit of ~~fifty dollars (\$50.)~~ ~~fifty-one and 50/100 dollars (\$51.50)~~ effective 1/1/96, ~~fifty-three and 17/100 dollars (\$53.17)~~ effective 1/1/97 for each year of service ...

APPENDIX A - WAGE RATES

PROPOSED WAGE ADJUSTMENTS AND WAGE RATES APPEAR ON THE ATTACHED SPREADSHEET.

## SIGNED TENTATIVE AGREEMENTS

### AGREEMENT

This Agreement made and entered into as of the 1st day of January, ~~1993~~, 1996, by and between ...

#### ARTICLE IV - GRIEVANCE PROCEDURE

##### A. Definitions

1. A grievance is defined as any dispute over the interpretation and application of this Agreement or any alleged violations of its terms.
2. A grievant may be the Union, an employee, or group of employees represented by the Union.
3. The term "days" when used in this article shall mean calendar days of the year.

##### B. Purpose

The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to problems which may from time to time arise affecting the administration of the collective bargaining agreement.

##### C. General Procedures

1. Since it is important that grievances be processed as rapidly as possible, the number of days indicted at each level should be considered as a maximum and every effort should be made to expedite the process. The time limits specified may, however, be extended by mutual agreement.
2. Any initiated grievance may be carried over the summer by mutual consent of the parties.
3. At all levels of the grievance procedure, at the option of the grievant, the grieving employee will be allowed to attend and attending Union representative(s) shall present the grievance.

~~The Board will notify the Union of grievances not settled at the Superintendent's level, if the Union has not participated at that level.~~

4. Grievances initiated by the Union may, at its option, be initiated at Level II of the grievance procedure.
5. The Union may withdraw the grievance in writing without establishing a precedent any time and at any level of the grievance procedure.
6. If the grievance is not processed by the Union and the grievant within the time limits at any level of the grievance procedure, it shall be considered resolved by the previous disposition without establishing a precedent. Failure by the Administration or the Board of Education to communicate their disposition in writing (except at Level I the disposition may be made orally) shall permit the Union or grievant to appeal the grievance to the next step of the grievance procedure.
7. Any step(s) of the grievance procedure may be waived by mutual consent of the parties.

D. Initiating and Processing

1. Level I - Initiation

Grievances must be timely presented. The matter grieved must be brought to the attention of the Director of Building and Grounds or school principal for discussion within twenty-one (21) days after the employee has knowledge that the issue is grievable. The Director of Building and Grounds or school principal shall make his/her decision known to the Union representative within seven (7) days of being apprised of the grievance.

2. Level II - Superintendent of Schools

If not settled satisfactorily at Level I above, within ten (10) days after receiving disposition at Level I, the grievance shall be reduced to writing by the Union and presented to the Superintendent of Schools or his designee. Delivery to the School Board Office by any means shall constitute presentment to the Superintendent of Schools. Such written grievance shall specify the section of this Agreement allegedly misinterpreted, misapplied or violated. The Superintendent of Schools or his designee shall meet with the grievant and the Union representative and make his/her disposition known in writing to the Union representative within ten (10) days after such hearing is held.

3. Level III - Representative Group of the Board of Education

If not settled satisfactorily at Level II above, within ten (10) days after receipt of the Superintendent of Schools or his designee's disposition at Level II, the Union may request a review of said disposition by a representative group of the Board of Education. Such review shall be had in the form of a meeting with the grievant and Union representatives(s), the Superintendent of Schools and/or designee and said representative group of the Board of Education. Such meeting will be held within twenty-one (21) days. The group shall make the result of its review known to the employee or his/her representative in writing within the (10) days after such hearing is held.

4. If not settled satisfactorily at Level III above, either party may within thirty (30) days after receipt of disposition at Level III demand arbitration of the grievance by notice in writing to the other party.

~~The petitioner will contact the Wisconsin Employment Relations Commission (WERC) requesting that a seven-person panel of private ad hoc arbitrators be provided. By alternate striking, the single arbitrator will be chosen.~~

## ARTICLE V - ARBITRATION PROCEDURE

### A. GRIEVANCE ARBITRATION.

1. Arbitration may be initiated by either of the parties under the following circumstances:
  - (a) When either of the parties fails or refuses to meet and negotiate in good faith within the time limits indicated in the grievance procedure or mutually agreed extensions, or
  - (b) Failure to resolve issues as per the grievance procedure.
2. The issue(s) shall, if either party desires, be submitted to a Board of three (3) arbitrators. One (1) member shall be appointed by the Union and one (1) member shall be appointed by the Board. Said two (2) members shall choose a third impartial member, who shall serve as the Chairperson of the Arbitration Board. ~~If the parties' appointees cannot agree on the selection of a Chairperson, the parties shall request a list of five (5) names from the Wisconsin Employment Relations Commission, upon receipt of said list, the parties shall alternately~~

~~strike names until one (1) remains. This person shall be the impartial arbitrator. The parties will determine who shall strike first by the flip of a coin.~~

If the parties do not agree on which arbitrator to serve as chairman of the Board of Arbitration, the WERC shall appoint an arbitrator from its staff who shall serve as chairperson. If neither the employer nor the Union chooses to have an arbitration board hear the grievance, the issue shall be submitted to the arbitrator, who shall serve as sole arbitrator.

3. The Arbitration Board or sole arbitrator appointed shall hear the dispute and the determination of the majority of the Board or the sole arbitrator shall be final and binding upon the parties.
4. Each party shall bear the cost of its chosen Arbitration Board member, if any, and possible attorney's fees. The Arbitration Chairperson shall determine which party shall pay his fee, if any, on the basis of loser pays. In the event of a split award, the Chairperson may divide the fee between the parties.

B. Interest Arbitration If, after a reasonable period of negotiations the parties are deadlocked,

1. The issue(s) shall, if either party desires, be submitted to a Board of three (3) arbitrators. One (1) member shall be appointed by the Board. Said two (2) members shall choose a third impartial member, who shall serve as the Chairperson of the Arbitration Board. If the parties' appointees cannot agree on the selection of a Chairperson, the parties shall request a list of five (5) names from the Wisconsin Employment Relations Commission (WERC); upon receipt of said list, the parties shall alternately strike names until one (1) remains. This person shall be the impartial arbitrator. The parties will determine who shall strike first by the flip of a coin.

If neither the employer nor the Union chooses to have an arbitration board hear the case, the issue(s) shall be submitted to the arbitrator, who shall serve as sole arbitrator.

3. The Arbitration Board or sole arbitrator appointed shall hear the dispute and the determination of the majority of the Board or the sole arbitrator shall be final and binding upon the parties.



4. Each party shall bear the cost of its chosen Arbitration Board member, if any, and possible attorney's fees. The Employer and the Union shall pay one-half (½) of any filing fees and any costs or fees charged by the Arbitration Board Chairperson or sole arbitrator.
5. There shall be two (2) alternative forms of "interest" arbitration :

Form (a): The Arbitration Board or sole Arbitrator shall have the power to determine all issues in dispute involving wages, hours, and conditions of employment.

Form (b): The parties shall submit their final offers that were in effect five (5) calendar days after the time the Chairperson of the Arbitration Board or sole arbitrator was selected.

The final offers may not be amended thereafter except as the parties mutually agree. The Arbitration Board shall select the final offer of one (1) of the parties and shall issue and award incorporating that offer without modification.

The "interest" arbitration proceedings shall be pursuant to Form (b) unless the parties shall agree prior to the hearing that Form (a) shall control.

6. In reaching a decision, the Arbitrator Board or sole arbitrator shall give weight to the following factors:
  - (a) The lawful authority of the employer.
  - (b) Stipulations of the parties.
  - (c) The interests and welfare of the public and the financial ability of the unit of government to meet these costs.
  - (d) Comparison of the wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally:
    - (i) In public employment in comparable communities.

- (ii). In private employment in comparable communities.
- (e) The average consumer prices of goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration and otherwise between parties, in the public service or the private employment.

**ARTICLE VI - JOB POSTING**

A. Posting. Whenever a vacancy occurs, ... on the bulletin board in each school building and Board Office. A copy will be sent to the Union Steward as well.

...

**ARTICLE VIII - WORKING HOURS, OVERTIME, PAYDAYS**

A. ...

Work schedules shall be set by the Director of Building and Grounds to meet ... may be approved by the Director of Building and Grounds and the employee(s) involved ...

...

C. ...

1. Employees shall receive ... The Director of Building and Grounds reserves the right to schedule ...

...

...

ARTICLE X - SOCIAL SECURITY AND RETIREMENT

...

B. Wisconsin Retirement

The Board shall pay to the Wisconsin Retirement Fund an amount equal to six and ~~two-tenths~~ ~~five~~ tenths percent (6.25%) of the gross earnings of each employee as the contributions required to be made by participating employees of the Board of Education.

ARTICLE XIII - OTHER FRINGE BENEFITS

- A. Convention. ... Substitutes will be permitted only with the permission of the Director of Building and Grounds. If the convention falls on a school day, employees may attend with prior approval of the Director of Building and Grounds and use of vacation for this purpose.

ARTICLE XIV - MISCELLANEOUS CONTRACT PROVISIONS

A. Union Dues Deduction.

1. The Board shall deduct ... authorization the Director of Business Services of the Board.
- ...

- C. Working Conditions. ... who will requisition changes or improvements through the Director of Buildings and Grounds.

ARTICLE XVI - DURATION

- A. Effective Date. This Agreement shall be effective as of January 1, ~~1993~~, 1996, and shall remain in full force through December 31, ~~1995~~ 1997.

APPENDIX A - WAGE RATES

CHANGE COLUMN TITLES TO ROW TITLES, CHANGE ROW TITLES TO COLUMN TITLES AND USE COMPLETE TITLES FOR LEGIBILITY AND UNDERSTANDING.

Premium Rates--- ...

Custodian Substitute for Lincoln Head Custodian - ~~25¢~~  
\$ .75 per hour.

Maintenance Substitute for Foreman --~~25¢~~ \$ .75 per hour.

**MANITOWOC PUBLIC EMPLOYEES  
Local 731, AFSCME, AFL-CIO  
to MANITOWOC BOARD OF EDUCATION**

**06/27/96  
WAGE PROPOSAL**

**7/1/1995 RATES:**

**STATUS QUO**

CLASSIFICATION	RATE	6 MONTH	1 YEAR	1½ YEAR	2 YEARS
Delivery	10.43	10.58	10.71	10.85	12.07
CI-Custodian	11.78	11.85	12.00	12.25	13.55
CII-Cust.-Groundskeeper	11.88	11.94	12.10	12.36	13.64
CIII-Pool Operator	11.91	11.98	12.15	12.41	13.77
CIV-Head Cust.-Elem.			12.48	12.69	13.90
CV-Head Cust.-Jr. Hi's			12.73	12.89	14.23
Maintenance Class B	11.97	12.02	12.21	12.45	13.82
Maintenance Class A	12.39	12.46	12.71	12.99	14.27
Maintenance Class A*	14.27				

\*When licensure as an electrician is required.

*Tennore*

**1/1/1996 PROPOSED RATES:**

**Rate of Increase:**

**3.00%**

CLASSIFICATION	RATE	6 MONTH	1 YEAR	1½ YEAR	2 YEARS
Delivery	10.74	10.90	11.03	11.18	12.43
CI-Custodian	12.13	12.21	12.36	12.62	13.96
CII-Cust.-Groundskeeper	12.24	12.30	12.46	12.73	14.05
CIII-Pool Operator	12.27	12.34	12.51	12.78	14.18
CIV-Head Cust.-Elem.			12.85	13.07	14.32
CV-Head Cust.-Jr. Hi's			13.11	13.28	14.66
Maintenance Class B	12.33	12.38	12.58	12.82	14.23
Maintenance Class A	12.76	12.83	13.09	13.38	14.70
Maintenance Class A*	13.79	13.86	14.12	14.41	15.73

\*When licensure as an electrician is required. #

**1/1/1997 PROPOSED RATES:**

**Rate of Increase:**

**3.25%**

CLASSIFICATION	RATE	6 MONTH	1 YEAR	1½ YEAR	2 YEARS
Delivery	11.09	11.25	11.39	11.54	12.83
CI-Custodian	12.52	12.61	12.76	13.03	14.41
CII-Cust.-Groundskeeper	12.64	12.70	12.86	13.14	14.51
CIII-Pool Operator	12.67	12.74	12.92	13.20	14.64
CIV-Head Cust.-Elem.			13.27	13.49	14.79
CV-Head Cust.-Jr. Hi's			13.54	13.71	15.14
Maintenance Class B	12.73	12.78	12.99	13.24	14.69
Maintenance Class A	13.17	13.25	13.52	13.81	15.18
Maintenance Class A*	14.24	14.31	14.58	14.88	16.24

\* When licensure as an electrician is required. #

# The incumbent licensed electrician shall receive \$14.70 effective 1/1/96, \$15.18 effective 1/1/97, and the Maintenance Class A\* two year rate (\$16.24) effective 8/1/97.