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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of an Interest
Arbitration Between:

GREEN LAKE COUNTY (Sheriff's Department)

And

Case ID: 308.0000
Case Type: MIA
Dec. No.35779-B

GREEN LAKE COUNTY LAW ENFORCEMENT
ASSOCIATION, WPPA/LEER

APPEARANCES:

von Briesen & Roper, by Mr. Patrick C. Henneger, appearing on behalf of the County

Mr. Robert West, Consultant to WPPA/LEER, appearing on behalf of the Association

ARBITRATION AWARD

Green Lake County, hereinafter County or Employer, and the Green Lake County Law Enforcement Association, WPPA/LEER, Local 1072, hereinafter Association or Union, reached impasse in their collective bargaining for a collective bargaining agreement to be effective January 1, 2015. The parties submitted their final offers to the Wisconsin Employment Relations Commission and the Commission Ordered Arbitration on August 21, 2015, and provided them with a panel of ad hoc arbitrators from which they selected the undersigned to hear and resolve their bargaining impasse. A hearing in the matter was held on December 7, 2015 in Green Lake, Wisconsin. Thereafter, the parties filed post-hearing briefs, and granted the undersigned an indefinite extension to issue the award..

BACKGROUND:

The parties were unable to reach a voluntary settlement for a successor collective bargaining agreement to their 2013-14 agreement and submitted final offers on the matters

that are in dispute. Both parties' final offers are for a three-year collective bargaining agreement covering the period January 1, 2015 through December 31, 2017.

The County's final offer:

1. All terms of the 2013 – 2014 Collective Bargaining Agreement between the parties not modified by this Final Offer shall be included in the successor Agreement between the parties for the term of said Agreement.

2. The term of the successor Agreement shall be for the period of January 1, 2015 through December 31, 2017 and all dates relating to term shall be modified to reflect said term.

3. The County proposes to revise Article 9 –Retirement to reflect that all deputy sheriffs hired before July 1, 2011 will make a contribution at the rate of 5.5% of their gross income toward the employee required contribution under Wis. Stat. Section 40.05(1) effective the first pay period following January 1, 2015. The County further proposals to revise Article 9 – – Retirement to reflect that all deputy sheriffs will make the entire employee required contribution under Wis. Stat. Section 40.05(1) effective the first pay period following January 1, 2016.

4. The County proposes that all 2014 rates of pay set forth in Appendix A of the 2013 – 14 Agreement for each classification/step be increased by 2.0% effective January 1, 2015. The County proposes that 2015 rates of pay for each classification/step be increased by 1.5% effective January 1, 2016. The County proposes that the 2016 rates of pay for each classification be increased by 1.5% effective January 1, 2017.

The Association's final offer:

1. All provisions of and attachments to the 2013 – 2014 Agreement between the parties not modified by this final offer shall be included in the successor Agreement between the parties for the term of said Agreement.
2. The term of the Agreement shall be for the period of January 1, 2015 through December 31, 2017 all dates relating to term shall be modified to reflect such term.

3. APPENDIX A – Wage Rates

A. The Association proposes that all 2014 rates of pay set forth in APPENDIX A of the 2013 – 2014 Agreement for each classification/step be increased by the following rates:

Effective January 1, 2015: 1.5%

B. The Association proposes that the 2015 rates of pay for each classification/step be increased by the following rates:

Effective January 1, 2016: 1.5%

C. The Association proposes that the 2016 rates of pay for each classification/step be increased by the following rates:

Effective January 1, 2017: 1.5%

PERTINENT STATUTORY LANGUAGE:

Section 111.70(4)

* * *

(mc) *Prohibited subjects of bargaining; public safety employees.* The municipal employer is prohibited from bargaining collectively with a collective bargaining unit containing a public safety employee with respect to any of the following:

5. If the collective bargaining unit contains a public safety employee who is initially employed on or after July 1, 2011, the requirement under ss. 40.05 (1) (b), 59.875, and 62.623 that the municipal employer may not pay, on behalf of that public safety employee any employee required contributions or the employee share of required contributions, and the impact of this requirement on the wages, hours, and conditions of employment of that public safety employee. If a public safety employee is initially employed by a municipal employer before July 1, 2011, this subdivision does not apply to that public safety employee if he or she is employed as a public safety employee by a successor municipal employer in the event of a combined department that is created on or after that date.

6. Except for the employee premium contribution, all costs and payments associated with health care coverage plans and the design and selection of health care coverage plans by the municipal employer for public safety employees, and the impact of such costs and payments and the design and selection of the health care coverage plans on the wages, hours, and conditions of employment of the public safety employee.

Section 111:77(6)

* * *

(am) In reaching a decision, the arbitrator shall give greater weight to the economic conditions in the jurisdiction of the municipal employer than the arbitrator gives to the factors under par. (bm). The arbitrator shall give an accounting of the consideration of this factor in the arbitrator's decision.

(bm) In reaching a decision, in addition to the factors under, par. (am) the arbitrator shall give weight to the following factors:

1. The lawful authority of the employer.

2. Stipulations of the parties.

3. The interests and welfare of the public and the financial ability of the unit of government to meet these costs.

4. 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:
   a. In public employment in comparable communities.
   b. In private employment in comparable communities.

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

6. 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.

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

8. 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 or otherwise between the parties, in public service or in private employment.

DISCUSSION:

There are only two issues in dispute between the parties regarding their 2015-17 collective bargaining agreement, as evidenced by their final offers. They are wages, and what portion, if any, of the established WRS required employee contribution rate for public safety employees hired before July 1, 2011 will be paid for by the County during the term of the agreement. Prior to the parties' 2013-14 collective bargaining agreement the County, on behalf of it public safety bargaining unit employees paid the entire required employee contribution to the WRS. However, public safety bargaining unit employees hired on or after July 1, 2011, pursuant to the legislative adoption of Act 32 Wis. Stats. 111.70(mc), were required to pay the entire amount of the required WRS employee contribution like all other non-public safety employees of the County.

In 2013 the required employee WRS contribution rate was 6.5% of a public safety employee's compensation/wages, and in 2014 it was 7.0% of the employee's compensation/wages. The parties bargained a 2013-14 agreement wherein they agreed that effective January 1, 2014, employees hired on or before July 1, 2011, would be required to pay 3.5% of their compensation/wages into the WRS and the County would pay the remaining 3.5%. Bargaining unit employees also agreed that effective January 1, 2014, they would begin paying 8% or $52.56/mo., $108.66/ mo., and $142.97/mo. of the of the cost of their health insurance premium, rather the flat $40, $80 and $90 per month per month they had been paying in 2013 for the HMO Single, Limited Family and Family plans respectively. The County's summary of the that voluntary settlement regarding employee health insurance costs in 2014 stated that the increased premium costs to employees in 2014, stated as a percentage of the wage rate maximum (12yrs) for the Deputy Sheriff classification monthly salary ranged from 1.2% on January 1, 2014, to 1.1% on December 31, 2014. Obviously, the cost impact of the increased insurance premium contribution for employees varied among bargaining unit members depending upon their wage rate with the cost impact being greater than 1.2% on January 1, 2014, for employees making less that the top (12 yrs) Deputy Sheriff wage rate.

The parties also agreed that all public safety bargaining unit employees would receive wage increases of 1.5% effective on January 1, 2013, 2% effective on January 1, 2014, 0.5% effective July 1, 2014, 0.5% effective December 31, 2014. Thus, effective

January 1, 2014, employees received a 2.0% increase to their 2014 contractual wage rate and began contributing 3.5% of their compensation/wages into the WRS, and an additional approximately 1% of wages for the health insurance premium costs for 2014. Thus, the employees 2% wage increase on January 1, 2014, was 2.6% less than their newly agreed upon 3.5% contribution to the WRS and increased health insurance premium costs on that date. Then on July 1, 2014, employees received an additional 0.5% wage rate increase, which was followed by another 0.5% wage rate increase on December 31, 2014, which more or less offset their increased health insurance premium costs. Consequently, in 2014 employees received a total 3.5% increase to their wage rates, but at the same time were required to contribute 3.5% of compensation/wages to the WRS. Clearly, little, if any, of a *quid pro quo* was provided for the increased WRS contribution costs to employees hired before July 1, 2011, as part of that bargain.

During the 2015-17 contract period under the County's final offer public safety bargaining unit employees hired before July 1, 2011, would receive a 2% increase to their wage rates effective January 1, 2015, and be required to contribute and additional 2% of their wages/compensation to the WRS: effective January 1, 2016, employees would receive an additional 1.5% increase to their wage rates and be required to contribute an additional 1.1% of their wages/compensation to the WRS: and on January 1, 2017, the employees would receive an additional 1.5% increase to their wage rates and be required to pay the "entire employee required contribution" for public safety employees to the WRS. At the time of the hearing herein it was unknown what that WRS rate will be for 2017.

Under the Union's final offer public safety bargaining unit employees would receive a 1.5% increase to their wage rates on January 1, 2015, another 1.5% increase on January 1, 2016, and an additional 1.5% increase on January 1, 2017. But, under the Union's final offer for public safety employees hired before July1, 2011, the County would continue to pay on behalf of those employees' the difference between the employee contribution of 3.5% and the total employee required contribution to WRS. In 2015 that difference would be 3.3% (6.8%-3.5% = 3.3%), in 2016 that difference would be 3.1% (6.6%-3.5% = 3.1%), and in 2017 the difference is unknown because the WRS required contribution rate was not known at the time of the hearing herein.

In this case, the parties adduced no evidence regarding Wis. Stats. 111.77(6)(bm) 1. 2. and 4b. so those criteria will not be discussed herein. Also, there has been no change in circumstances during the pendency of this proceeding as referenced in Wis. Stats. 111.70(bm)7. The remaining statutory criteria are discussed below.

111.77(6)(bm) 3. The interests and welfare of the public and the financial ability of the unit of government to meet these costs.

The County argues that while it may have the financial ability to pay either final offer, the interests and welfare of the public strongly favor its final offer. The public has an interest in the County attracting and retaining deputy sheriffs with a strong ethos of public service. Likewise, the public has an interest in the County being fiscally responsible with limited taxpayer funds when setting deputy sheriff compensation. It asserts that its final offer is more aligned with the public interest because it appropriately balances the need to provide adequate compensation to attract and retain quality deputies with the need to be fiscally responsible and demand that all deputies in the unit pay their fair share of the WRS contributions. The County also contends that from a public-interest perspective there is no justification for maintaining high wage rates in comparison with similar surrounding counties unless all public safety employees in the bargaining unit pay their full WRS contribution, as do deputies in comparable counties. The County believes it is fiscally irresponsible and contrary to the public interest to exacerbate the gap between wages and the WRS contributions among its primary comparables.

The Association argues that the interests and welfare of the public are best served when public safety has well trained and fairly treated officers. It argues that when considering which final offer is more reasonable it is important for an arbitrator to analyze just how the respective offers will affect the welfare of the public. It quotes from arbitrator Grenig's prior award.

> "The public has an interest in keeping the village in a competitive position to recruit new employees, to attract competent experienced employees, and retain valuable employees now serving the village presumably the public is interested in having employees who by objective standards and by their own evaluation are treated fairly. Village of Osceola, Dec. No. A (Grenig 2011).

It also contends that herein the County advances a "cheaper is better" argument, and asserts there are many flaws inherent in that argument, one of which is the concept of "pay now or pay later". Ultimately, when the Employer prosecutes for the least expensive law enforcement possible, they may save a few tax dollars in the short run but, inescapably the time will come when failure to keep up, catches up. The Association concludes, therefore, it is best to grant small, yet comparable, increases that can easily be met now without punitive reductions, as opposed to deferring fair compensation to a later time. It argues that in this case County finances are in good shape and it would clearly not benefit the public to dig a financial whole by rolling back the WRS payments, and because its decoupling County employees in terms of health insurance will do enough damage.

The undersigned does not find the County's argument that the public interest supports adoption of its final offer. As will be discussed under criteria 111.77(6)(bm) 4 below, while the County believes the wage rates and treatment of the required employee contributions to WRS among the three counties it deems to be its primary comparables support it final offer, an examination of the remaining comparables does not lead the undersigned to the same conclusion. Columbia County pays 100% of the employees' required contributions to the WRS. Dodge County employees contribute 2% effective in February 2015 and 4% effective in January 2016. In Fond du Lac County the County pays up to $3500 dollars per year on behalf of its employees toward their share of required contributions to the WRS. And, in Winnebago County employees pay 3.8% in 2015, and the County pays up to 3%. Clearly, the situation among all of the comparable counties is mixed and, does not favor adoption of either party's final offer.

Also, as discussed below, parties have not been involved in an interest arbitration in this bargaining unit before now, and so obviously the County voluntarily bargained itself into being in the top third of wage rates among those counties deemed comparable by the undersigned for purposes of this arbitration. An explanation for doing is not present in the record evidence herein.

Consequently the undersigned does not find persuasive the County's arguments that its wage rates juxtaposed against the amount it pays toward its public safety employees required employee contribution to the WRS warrant adoption of its final offer over the Union's.

111.77(6)(bm) 4. 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:

a. In public employment in comparable communities.

Regarding this factor, the parties have not previously litigated this issue in interest arbitration.

The County argues that it is most comparable to geographically proximate Adams, Marquette and Waushara counties, secondarily comparable to Dodge and Columbia counties, but shares so little in common with Fond du Lac and Winnebago counties that the latter should be rejected as comparables. In terms of population, largest municipality within the County, number of deputy sheriffs, population per square mile, County tax levy, total equalized value, and median household income make it most comparable to the other rural counties of Marquette, Adams and Waushara. The Union argues that external comparability was not discussed at the bargaining table and neither party introduced any historical evidence to support their selection of comparable counties.

The above stated criteria for evaluating comparability that the County relies upon in support of its contention that Adams, Marquette and Waushara counties should be deemed to be the primary comparables do support its contention, it is also the case that Adams Marquette and Waushara counties have the lowest wage rate at the top step of each classification. And, when one compares the wages paid by the other four counties the Union asserts should not be considered primary comparables or comparable at all - Columbia, Fond du Lac, Winnebago, and Dodge- Green Lake County's wage rates at the top steps more closely resemble the rates paid by those counties than they do Adams, Marquette and Waushara counties' wage rates.

It is clear to the undersigned that if Green Lake County had historically looked to Adams, Marquette and Waushara counties when negotiating wage rates for its deputy sheriffs it would not now be paying the third-highest wage rate maximum at each classification among the seven counties being considered. Adams, Marquette and Waushara counties rank 8th, 7th, and 6th respectively at the top rate for each classification among the eight counties, whereas, Green Lake County ranks 3rd. And, the County's

deputy sheriff's wage rates, when compared with Adams, Marquette and Waushara counties at the maximum wage rate for each classification, are as much as $6 per hour more for a Patrol Sergeant and a Patrol Officer, approximately $5 per hour more than Adams County, $4 per hour more than Marquette County, and $3 per hour more than Waushara. Regarding what employees pay toward their share of the required WRS contribution, Adams, Marquette and Waushara counties all require their public safety employees hired prior to July 1, 2011 to pay their full share, whereas none of the other four counties require their employees to pay his/her full share.

For these reasons the undersigned is persuaded that obviously Green Lake County has historically over many years of bargaining not compared itself to Adams, Marquette and Waushara counties when negotiating wage rates for its public safety employees. And, as the Union has argued, there is no record evidence regarding the historical use of any County as a comparable. Therefore, I have concluded that for this arbitration only, Adams, Marquette and Waushara counties will not be used as primary comparables, rather those counties whose wage rates much more closely approximate Green Lake County's deputy sheriff wage rates will be used by the undersigned as the primary external comparables.

Regarding the wages and WRS contribution among the seven other counties that have been referenced by the parties as comparable, as noted above, Green Lake County is a leader on wages with the 3rd highest wage rates at the top step of each classification. The County's final offer on wages for 2015 is equal to or less than the wage increases in the other 7 counties. The 2015 wage lift increases in Columbia, Dodge, and Winnebago counties exceed the County's proposed 2% increase for 2015. (Columbia = 2.5%, Dodge = 2.5%/1%, and Winnebago = 1%/!.5%) Fond du Lac County wages increase by 2% in 2015. And, the wage increases for 2015 in Marquette, Adams and Waushara counties for 2015 are 1%/1%, 2%, and 1%/1% respectively. In 2016 those increases are 3%/1%, 2%, and 1.5% respectively. And, only Dodge County has agreed to 2016 wage increases, which are 2/5%/1.5%. The remaining three counties are not settled for 2016. In 2017 only Marquette and Adams counties are settled and they agreed to increase wages by 1%/1% and 2%/0.5% respectively. The Association's final offer proposes to increase public safety employee wages by 1.5%, 1.5% and 1.5% in 2015, 2016, 2017 respectively. The comparables do not offer more support for one party's final offer on wages over the other.

As to what portion of the employees' required WRS contribution is paid for by the County, as discussed earlier, the situation among all of the comparable counties is mixed and, does not favor adoption of either party's final offer.

Regarding internal comparability, in prior arbitration decisions I have stated on several occasions that this factor should be considered as a significant, if not controlling, factor in evaluating the parties final offers relating to benefits and wages. However, that conclusion was reached when local government employers collectively bargained wages, hours and conditions of employment with represented employees. That is no longer the case. Local government employers can now only bargain with their public safety employees hired prior to July 1, 2011, regarding fringe benefits, hours, and other conditions of employment. And, therefore, because that conclusion was applicable only with respect to collectively bargained agreements with an employer's other employees, internal comparability today it is no longer a controlling factor, and does not hold the same significance, if any at all, when now an employer can act unilaterally, without bargaining, regarding hours, fringe benefits and other conditions of employment for its other employee.

However, internal comparability is a factor in this case in a limited way only because the County has argued that "as a matter of equity and fairness" its deputy sheriffs should be treated like its other employees with respect to them being responsible for their required employee contribution to the WRS.

The undersigned disagrees that "internal fairness and equity" should control the outcome of this dispute. The Legislature determined that as a matter of public policy it was not going to be concerned with such considerations. While it prohibited local government employers in Wisconsin from bargaining with its non-public safety employees regarding who pays all or part of those employees' share of the their required WRS contribution, it did not prohibit them from doing so with its public safety employees hired before July 1, 2011. In fact, contrary to how it determined to treat all other local government employees respecting the employees required contribution to the WRS it permitted public safety employees hired prior to July 1, 2011, to bargain with their employer over that issue. Prior to the passage of Acts 10 and 32 many local government employers were paying part or all of their employees required contribution to the WRS and the Legislature left those bargains

in place. Further, the Legislature also, in addition to prohibiting local government employers from bargaining with its general employees about the employees required contribution to the WRS, prohibited those employers from bargaining over that issue with public safety employees hired on or after July 1, 2011. Thus, the Legislature enunciated as a matter of public policy that even employees within the same bargaining unit could be treated differently.

Clearly, the Legislature has decreed that as a matter of public policy it is permissible and, obviously, preferred that public safety employees hired before July 1, 2011, should be able to enjoy better treatment from their employer regarding who pays the required employee contribution to the WRS. And, as the Association argues, the Legislature established a mechanism that will ultimately remove this discrepancy among local government employees over time. Obviously, the Legislature chose not to establish such a mechanism for dealing with the disparity it created between public safety employees and nonpublic safety employees. If a local unit of government is concerned, as here, about the effect the continuation of the disparate treatment among employee groups will have upon the morale of its employees who are prohibited by law from enjoying similar treatment, that concern should be addressed in the legislative forum wherein the public policy permitting such disparity among employees was established.

Consequently, if a local government employer determines, for whatever its reasons, that it wants to remove or reduce the enjoyment of the previously negotiated benefit of the employer paying all or part of the employees' required contribution to the WRS that those employees enjoyed before the change in the law, then just like any other change to a previously negotiated significant fringe benefit as WRS contributions then it must first show a need for the change and potentially offer a quid pro quo to the recipient of the benefit in return for the recipient agreeing to the change. In this case, because the Legislature established the public policy that favors disparate treatment among public safety employees even within the same bargaining unit, as well as between public safety and nonpublic safety bargaining units, in the undersigned's opinion a local government employer must establish a need by more than simply referencing the disparity that does exist and will continue to exist if its proposed change in the existing benefit being enjoyed by a select group of employees is not agreed to.

In the undersigned's opinion, the County's equity and fairness argument is also undermined by its differentiation in plan design for these bargaining employees when compared with all of its other employees. The "equity and fairness" argument rings hollow when the County has chosen to treat these bargaining unit employees differently with respect to the health insurance benefit, which like the WRS, affects all of its other employees.

For these reasons, the internal comparability fairness and equity arguments do not support adoption of the County's final offer

111.77(6)(bm) 5. The average consumer prices for goods and services, commonly known as the cost of living.

The County notes that both it and the Union's final offer wage increases exceed the CPI for 2015, and that both wage increase offers for 2016 and 2017 should exceed the CPI in each of those years. It argues that employees hired before July 1, 2011, will experience a smaller net increase as a result of paying additional WRS contributions in 2015 and 2016, and, therefore, the CPI favors the County's final offer as these employees will not experience much, if any, increase in the cost of living. The County also argues that given that CPI was flat for 2015 and should remain so for 2016 now is a prudent time for the County to address the WRS imbalance rather than simply ignoring the issue as the Union proposes. The county concludes that, on the whole, the CPI factor favors its final offer because it appropriately addresses that the WRS imbalance while still maintaining bargaining unit employees cost-of-living.

The Union asserts that neither party argued on this criteria as the cost of living has been low and, therefore, the criteria is immaterial to the selection of either final offer in this case.

The undersigned does not believe that the CPI factor favors adoption of either party's final offer inasmuch as the cost of both parties' final offers exceed the CPI.

111.77(6)(bm) 6. 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.

The parties did not adduce and significant evidence on this factor other than to show the discrepancies that exist between public safety employees hired before July 1, 2011, and all other county employees regarding employee WRS contributions, and the differences in health insurance plan design for all public safety employees and all other County employees, about which the parties are prohibited from bargaining over. Consequently there is insufficient evidence regarding this factor from which to reach any meaningful conclusion at to whose final offer find supported in this criteria.

111.77(6)(bm) 8. 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 or otherwise between the parties, in public service or in private employment.

One such factor is a *quid pro quo*, and whether the facts of this case require there to be one if the County's offer, which requires deputies hired prior to July 1, 2011, to pay an increasingly greater portion of the required employee contribution to the WRS over the term of the 2015-2017 collective bargaining agreement, is to be selected. The County argues that given the internal and external uniformity of employees paying their full WRS contribution no *quid pro quo* is necessary to bring the bargaining unit members hired before July 1, 2011, in line with what it believes is the norm. It asserts there is no basis to demand a *quid pro quo* when the *status quo* is all other bargaining unit members, County and municipal employees, and employees in comparable counties are paying full WRS. It asserts that even if a *quid pro quo* were required, the County has provided an adequate one, and the Union voluntarily accepted an overall 3.5% wage increase in 2013 – 2014 in exchange for paying 3.5% toward their WRS. In contends that in its final offer it proposes an overall 5% wage increase in exchange for an additional 3.1% WRS contribution, which may be reduced in 2017 based upon recent trends in WRS contribution rates. Moreover, the Union cannot claim that the County has not offered an adequate *quid pro quo* when bargaining unit members as a whole will be better off under the County's final offer than under the Union's. Even employees who will pay an increased WRS contribution, it believes, will be better off in the long run under its final offer because they will receive greater retirement benefits as a result of higher wages and making larger employee

retirement contributions than the Union proposes. The County also asserts that it has offered a *quid pro quo* by gradually phasing in the WRS contributions over the course of three years in combination with wage increases, rather than demanding the full WRS contribution at once.

The County also argues that it has a strong interest in achieving internal fairness and consistency, that workplace morale will suffer when one group of County employees receives a special benefit that other employees do not, and that it has taken a reasonable and responsible approach to addressing the WRS disparity. It contends further that it was perfectly clear when the last contract was voluntarily settled that the County would seek to have employees hired before July 1, 2011 pay their full WRS required contribution under the next agreement, and that true to its word, the County's final offer finishes what the parties started in their last agreement – full WRS contributions by all bargaining unit members by the end of the successor agreement. It asserts that the Union's final offer would halt the progression of the WRS contributions in its tracks and freeze the unequal treatment of bargaining unit employees for at least three more years. And, it argues the Union offers no good reason for suddenly stopping increasing the amount bargaining unit employees contribute toward their required contribution to WRS.

The Association argues that Wisconsin arbitrators have, over the years, recited a three or sometimes four prong test in support of changes to the *status quo* the elements of which must be met in order to compel a change in the *status quo*. The first is that the party proposing the change must establish a compelling need for the change, that there is support for the change among the comparables, and that the party proposing the change has provided a sufficient *quid pro quo* for the change. It asserts the County has not provided a *quid pro quo* in exchange for its demanded modification to what employees currently contribute to the WRS. It contends that for an item to be considered a *quid pro quo* it must be of value to the receiving party. It argues that arbitrator Mawhinney in a prior case arising under the current statutory scheme confronted with arguments similar to those advanced by the County herein concluded that a *quid pro quo* was required in order for an arbitrator to take away that which the legislature refused to take – an employer paying the employees required contribution to the WRS. In this case, the Association contends that the County has not offered an adequate *quid pro quo* and when reviewing the employee

required WRS contributions currently being paid by employers among the counties it deems comparable there is no clear pattern of contribution levels. And, there certainly is not a sufficiently established pattern to justify a change to the *staus quo* in this bargaining unit without a *quid pro quo* being required.

The undersigned has already discussed the County's argument that equity and fairness among all of its employees requires a change in the *status quo* regarding WRS payments made by it public safety employees hired before July 1, 2011. Such disparities are permitted and were legislated as a matter of public policy and, thus, the argument that equity and fairness demand removal of the disparity flies in the face of the legislative determination that such discrepancies are supported as matter of public policy. Further, the undersigned is persuaded that the external comparables that have been discussed above and, which are applicable in this case, do not establish that there is sufficient uniformity among them that the County need not offer a *quid pro quo* in exchange for its final offer requiring its employees to pay more to the WRS than they are currently paying. I do not disagree that there may be a circumstances where all or almost all of the comparables have adopted the proposed change and a *quid pro quo* may not be required. However, this is not that case. Here, as discussed above, other of the County's comparables are not requiring their employees to contribute their full employee share to WRS. Consequently, I am persuaded the County's final offer must contain a sufficient *quid pro quo* for its proposed change to the employee's payment of their required payment to WRS in order for it to be adopted. And, merely because in the last bargain the Union, for whatever its reasons, did not obtain a *quid pro quo* in return for agreeing to the changes to what public safety employees would pay to the WRS does not preclude it from arguing that one is required in this case in order for the County's offer to be selected by the undersigned.

Consequently, because the undersigned is not persuaded the County has offered a sufficient, if any, *quid pro quo* in return for the changes its final offer makes to the *status quo* regarding the amount of the required employee contribution to the WRS will be paid by the County selection of the Union's final offer is supported by this factor.

111.76(am). In reaching a decision, the arbitrator shall give greater weight to the economic conditions in the jurisdiction of the municipal employer than the arbitrator gives

to the factors under par. (bm). The arbitrator shall give an accounting of the consideration of this factor in the arbitrator's decision."

The County argues that that its economic conditions are comparatively worse than in the surrounding counties, particularly with respect to its tax levy. It only received 87,000 dollars in new revenue in 2015 from its tax levy and asserts that small increase coupled with strict levy limits for 2016 and 2017 significantly hampers its ability to give all bargaining unit members a wage increase for 2015, 2016, and 2017 unless its final offer requiring public safety employees to pay more of their required WRS contribution is selected. It contends its final offer reasonably accounts for its meager new levy revenue by balancing wage increases in 2015 and 2016 with gradually increasing WRS contributions for those public safety bargaining unit members who do not currently pay their entire required WRS employee contribution. The County believes that this greater weight factor requires selection of its final offer.

The Association asserts that the County did not introduce one scintilla of evidence regarding local economic conditions for the County or any of the comparables. It concludes, therefore, that it is impossible to substantively analyze these conditions or determine if they are different from the comparables. It contends it did provide a newspaper article from the Princeton Times-Republic, which reported on the County's budget adoption discussion, and that article makes clear, and is unrefuted in the record, that Green Lake County is in excellent fiscal condition and has a substantial surplus across most of the County. The Association contends the article also shows that one supervisor who raised his concern about the growing surplus was not arguing for employee take backs or reductions in spending. Rather, he was suggesting that some of the surplus be converted to tax relief. For these reasons the Association concludes this criteria favors selection of the Association's final offer.

As acknowledged by the County, it clearly can afford the Union's final offer, but asserts that if required to do so it will limit the funds available to grant its other employee increases going forward. As the Union has argues, the County an ample surplus, so ample in fact that at least one County Supervisor questioned the propriety of maintaining such a large surplus. Thus, when taking that fact into consideration and without their being other

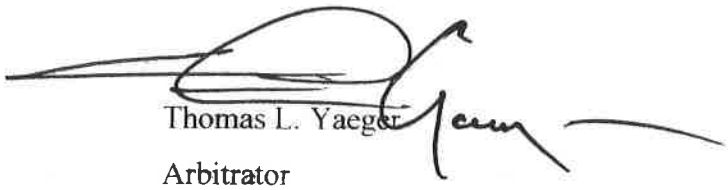
record evidence to establish that selection of the Union's final offer would cause undue financial hardship on the County. I am persuaded that assigning greater weight to this factor, which I have done, it overcomes the other factors' substantial support for selection of the Union's final offer.

Therefore, based upon the evidence, testimony, arguments, and application of the statutory criteria contained in Section 111.77(6) Wis. Stats. to the facts of this dispute the undersigned enters the following

AWARD

The Union's final offer is selected and shall be incorporated into the parties' 2015-2017 collective bargaining agreement.

Entered this 29th day of June 2016.



Thomas L. Yaeger
Arbitrator