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MAY 17 1984

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

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 In the Matter of the Petition of :
 :
 WISCONSIN PROFESSIONAL POLICE :
 ASSOCIATION/LAW ENFORCEMENT :
 EMPLOYEE RELATIONS DIVISION :
 :
 For Final and Binding Arbitration : Case XL
 Invoking Law Enforcement : No. 31712 MIA-787
 Personnel in the Employ of : Decision No. 21211-A
 :
 DOOR COUNTY (SHERIFF'S DEPARTMENT) :
 :
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APPEARANCES

Patrick J. Coraggio and Thomas A. Bauer on behalf
of the Association

James C. Pankratz, Corporation Counsel, on behalf
of the County

On January 16, 1984 the Wisconsin Employment Relations Commission appointed the undersigned arbitrator pursuant to Section 111.77 (4)(b), Wisconsin Statutes in the dispute existing between the above identified parties. The parties waived their statutory right to a hearing in the matter and exchanged briefs by March 19, 1984. Based upon a review of the evidence and arguments contained therein and utilizing the criteria set forth in Section 111.77(6), Wis. Stats., the undersigned renders the following arbitration award.

ISSUE

The only issue in dispute is whether the parties' 1984 agreement should contain the following fair share proviso, which has been proposed by the Association:

Membership in the Association is not compulsory. An employee may join the Association and maintain membership therein consistent with its constitution and by-laws. No employee will be denied membership because of race, color, creed or sex. This Article is subject to the duty of the Wisconsin Employment Relations Commission to suspend the application of this Article wherever the Commission finds that the Association has denied an employee membership because of race, color, creed or sex.

The Association will represent all of the employees in the bargaining unit, members and non-members, fairly and equally and therefore all employees shall pay their proportionate share of the costs of the collective bargaining process and contract administration by paying an amount to the Association equivalent to the uniforms dues required of members of the Association.

The Employer agrees that on the first paycheck of every month it will deduct from the earnings of all employees in the collective bargaining unit covered by this Agreement, the amount of money certified by the Association as being the monthly dues uniformly required of all employees. Changes in the amount of dues to be deducted shall be certified by the Association thirty (30) days before the effective date of the change. Deductions shall be made each month, and the total of such deductions shall be paid to the Association.

The Employer shall not be liable to the Association, employees or any party by reason of the requirements of this Article for the remittance or payment of any sum other than that constitution actual deductions from employees' wages earned.

The collective bargaining representative shall indemnify and save the Employer harmless against any and all claims, demands, suits, orders, judgments or other forms of liability against the Employer that arise out of the Employer's compliance with this Fair Share agreement.

The Association agrees to certify to the Employer only such Fair Share costs as are allowed by law and further agrees to abide by the decisions of the Wisconsin Employment Relations Commission and/or courts of competent jurisdiction in this regard. The Association agrees to inform the Employer of any change in the amount of such Fair Share costs thirty (30) days before the effective date of the change. The Association shall provide employees who are not members of the Association with an internal mechanism within the Association which will allow those employees to challenge the Fair Share amount certified by the Association as the cost of representation and receive where appropriate a rebate of any monies determined to have been improperly collected by the Association.

ASSOCIATION POSITION

The Association's fair share proposal is consistent with the mandate of every pertinent judicial and W.E.R.C. decision in that it includes a dues rebate mechanism, a "hold harmless" and "indemnification clause", and a clause setting forth the parties' intent to abide by future legal developments. The Association has thus done all it can to comply with the legal requirements regulating fair share agreements.

The Association even went further during negotiations and proposed a referendum to ascertain the will of the majority in this regard, which was rejected by the County.

Ninety percent of the bargaining unit are dues paying members. Since the entire unit benefits from the Association's representation activities, it is appropriate that the cost of such representation be spread more evenly among those who receive the benefits of such representation.

Lastly, the Association's proposal is reasonable because it is supported by comparability data. In this regard it is highly significant that all of the counties in the northeastern region of the State have fair share provisos in their collective bargaining agreements covering their sheriffs, and in addition, the County has a fair share agreement in its highway department.

COUNTY POSITION

Non-members of the Association should have the freedom of choice as to whether they desire to pay dues to the Union. The fair share proposal of the Association instead acts as a form of coercion to compel union membership, taking away the freedom of choice of the unit members in this regard. Therefore, the Association's proposal should not be awarded herein.

DISCUSSION

While a significant public policy issue has been raised by the County in this matter, it is the undersigned's task in a proceeding such as this to select a final offer which is in accord with the practice in comparable employer-employee relationships and which is also in accord with the statutory and legal framework regulating the collective bargaining relationship of the parties.

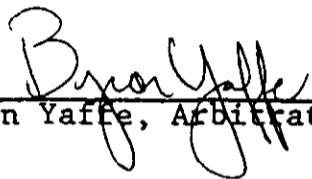
In this regard it is undisputed that the Association's proposal is in accord with the practice of comparable employer-employee relationships. Furthermore, there is no dispute as to whether said proposal comports with the statutory and legal framework which regulates such fair share agreements. Under such circumstances, and absent compelling evidence why the Door County Sheriff's Department should be the exception rather than the rule in this regard, the undersigned believes it appropriate to select the Association's proposal for incorporation into the parties' 1984 collective bargaining agreement.

Based upon the foregoing considerations, the undersigned hereby renders the following

ARBITRATION AWARD

The Association's final offer shall be incorporated into the parties' 1984 collective bargaining agreement.

Dated this 1st day of May, 1984 at Madison, Wisconsin.


Byron Yaffe, Arbitrator