

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION  
DEC 17 1990

STATE OF WISCONSIN  
Before the Interest Arbitrator

In the Matter of the Petition )  
 )  
 of )  
 )  
 Crawford County Sheriff's )  
 Department Employees, )  
 Local 1972, AFSCME, AFL-CIO )  
 )  
 For Final and Binding )  
 Arbitration Involving Law )  
 Enforcement Personnel in the )  
 Employ of )  
 )  
 Crawford County )  
 (Sheriff's Department) )  
 \_\_\_\_\_ )

Case 54  
No. 43736 MIA-1520  
Decision No. 26522-A

APPEARANCES

For the Union:

Daniel R. Pfeifer, Staff Representative

For the County:

Dennis White, Attorney

PROCEEDINGS

On July 12, 1990 the undersigned was appointed Arbitrator by the Wisconsin Employment Relations Commission pursuant to Section 111.77 (4)(b) of the Municipal Employment Relations Act, to resolve an impasse existing between Local 1972 AFSCME, hereinafter referred to as the Union, and the

Crawford County Sheriff's Department, hereinafter referred to as the Employer.

The hearing was held on September 21, 1990 in Prairie du Chein, Wisconsin. The Parties did not request mediation services and the hearing proceeded. At this hearing the Parties were afforded an opportunity to present oral and written evidence, to examine and cross-examine witnesses and to make such arguments as were deemed pertinent. The Parties stipulated that all provisions of the applicable statutes had been complied with and that the matter was properly before the Arbitrator. Briefs were filed in this case and the record was closed on November 15, 1990 subsequent to receiving the final briefs.

#### STIPULATIONS BY THE PARTIES

At the hearing the Parties made the following stipulations:

1. Union Exhibits 1, 2, 3 and 4 are agreed to (which include comparables, final offers and other contract stipulations).

2. The County is offering the same health insurance package that is in its final offer here to all other collective bargaining units and employees in the county.

3. There are no part-time employees in the unit.
4. No employees in the unit have been off work due to illness for more than six continuous months.
5. The employees did not want to consider lower health and welfare benefits as an option in health care.
6. The County made the first proposal for the \$500 bonus which appears in the final offers of both parties.
7. The Union won its current 100% County payment of health insurance through interest arbitration in 1984.

ISSUES

The issues of this case are as follows:

	<u>UNION</u>	<u>COUNTY</u>
Duration:	1/1/90 to 12/31/91	Same
Wages:	Effective 1/1/90 4% across the board Effective 1/1/91 4.5% across the board	Effective 1/1/90 4.5% across the board Effective 1/1/91 4.5% across the board
Health Insurance:	\$500 bonus for elimination of family coverage of those who have duplicate coverage	Same
Cost of Health Insurance:	Status quo; County to pay 100%	100% of premium for single coverage; 95% of premium for family coverage 1/1/90; 95% of premium for family coverage 1/1/91 with a cap in 1/1/91 of \$329 per month

UNION

COUNTY

Health Insurance      Status quo

Health insurance not to be provided for part-time employees who regularly work an average of less than 20 hrs. per week

Status quo

County will not be obligated its share of the employees' health insurance premium after an employee has been off for six continuous months due to an illness which prevents him/her from working. This does not apply to Workers Compensation.

UNION POSITION

The following contentions and arguments were made on behalf of the Union: The most important issue involved in this case centers around health insurance. Comparing the respective wage offers and health insurance offers by the Parties, it is the Union's contention that the County is not offering a quid pro quo; i.e. the higher wage offer does not offset the additional anticipated costs to the employees due to increases in health care costs. The Union cited a 1989 interest arbitration wherein Arbitrator Gil Vernon ruled that since one side had not offered a quid pro quo for the change that was requested, the change was not allowed. The County

may argue that its \$500 bonus for those who opt out of family coverage may offset the additional health care premium. In fact, this proposal offers the County substantial savings in that the County would save approximately \$3300 for each employee opting out of the family plan. It also noted that if the employee returned to the health insurance within two years, the employee would have to repay this bonus. In any event, the Union stated that this is merely cost shifting and not cost reduction. This is a significant change in the status quo which shifts the burden of negotiating premium increases from the County to the Union. Again, the Union cited cases in support of this contention.

The County benefits by having compensation paid in the form of health insurance rather than wages. Various legislated benefits would be reduced and the employees do not have to pay taxes on health insurance benefits. Also, the County's offer makes the health insurance contribution retroactive to January 1, 1990, and the employees would have substantial deductions from their back pay for insurance that the County has already paid.

In the area of comparables, these clearly favor the Union's position. There was no support among the comparables for the County's offer of placing a cap of \$329 per month during 1991 on the amount that the County would have to pay

toward family coverage. With respect to wages, the Union contended that Crawford County falls behind the average maximum wage with respect to the comparables, and the Crawford County wage for deputy is substantially below state average. The cost of living is increasing at a rate of 4.5%, and the Union has made an offer to accept a lower wage proposal in consideration for the continuation of the 100% payment of health insurance. If the County's offer were accepted, the take home pay of the employees would be substantially lower due to the anticipated increases in health care costs, particularly in 1991.

The County has typically argued that because of its dependency on the farm economy, it is unable to pay comparable increases. The Union has brought forth exhibits which show that the upturn in the farm economy more favorably supports the Union's final offer as the more reasonable.

The County may argue that it is unable to pay the higher costs because it has not initiated a County sales tax as compared to other counties. The Union contended that this is a County decision over which it has no control, and if the County wished to raise revenues, it could do so. Since the Union has no control over this issue, it believes this sales tax argument should not be relevant. Likewise, the County has exhibits which show overtime worked by the Sheriff's

Department employees. It is the Union's position that it is the County that determines whether or not employees will work overtime, and this is a decision of management, not of the Union. If it wishes to hire additional employees, it is well within the County's right to do so. County Exhibit 35 shows wage increases between 1977 and 1986. It does not, however, show or take into account the wage freeze in 1987, and, therefore, should not be considered by the Arbitrator.

The County's final offer also contained proposals that would affect part-time employees and those who would be off for six months or more due to an illness. The Union rejects both proposals. It fears that the Employer could reschedule the employees to part-time status to save health insurance costs and is also opposed to the withdrawal of health care benefits to those who are ill. The Union is also unclear as to when the six month period would commence. Is it before or after sick leave has been exhausted? In any event, these two proposals are changes in the status quo without a quid pro quo. The Sheriff's Department does not now have any part-time employees who were covered by the Collective Bargaining Agreement and has not had any employees who were off work in excess of six months. The County has stated that these are issues that exist in other bargaining units and the Union does not feel it is appropriate to address issues that do not exist in one bargaining unit in an attempt to set patterns

for other bargaining units. Again, the Union cited cases in support of this position.

Finally, based on the record and the arguments made on behalf of the Union, the Union contended that its final offer is the more reasonable and requested that the Arbitrator find in favor of the Union.

#### EMPLOYER POSITION

The following represents the arguments and contentions made on behalf of the Employer in this case: According to statistics provided by the Employer, Crawford County ranks last in population, adjusted gross income and equalized property values. Increases in property values were lower than other comparable counties and with high mill rates compared to other counties in the area. Even though the County has a relative lack of wealth, its payments to its employees rank higher than its population rank even though employees work fewer hours than some of their counterparts in other counties. This is particularly true when longevity pay is added in.

In the area of health insurance costs the County outranks most of its comparables, particularly when co-



payments and deductibles are calculated for other counties. Therefore, on the package cost which includes wages and health care costs, the County ranks near the middle of its comparables. The County must have co-payments on health insurance since the County has experienced substantial health insurance cost increases over the past several years. When the Union won through arbitration the full payment of health insurance costs in 1984, this burden was not so great, and the County noted that it has kept wage increases above the consumer price index except for 1987 when there was a cash flow crisis. The County is simply not able to keep paying health increases and CPI wage increases as it has in the past. If this continues, the County will move to second place rank in net pay including the health insurance differential. This ranking cannot be justified by its population or economic base.

The County stated that the Union refused to lower premiums by adopting a health plan with lesser benefits and the Union still insisted in its final offer on wage increases consistent with other settlements. The County's final offer tries to keep its wage increases comparable to others while bringing its health insurance costs in line with other counties. The County noted that even if its offer were accepted, its percentage pay of insurance premiums would

still rank higher than percentage paid by several comparable counties.

Some arbitrators have required that a quid quo pro be established when either side wishes to make a substantial change. The County submitted that it has made such a quid pro quo offer since its final offer of 4.5% wage increases during 1990 and 1991 exceeds many settlements in the area. The County said that a dollar for dollar quid quo pro is not always possible and cited a pertinent case to that effect.

The County claimed the statutory criteria favors the Employer's offer. While neither the lawful authority of the Employer or the stipulations of the Parties favors either offer, the interest and welfare of the public and financial ability of the unit of government weigh in favor of the Employer. Crawford County is the poorest county and already has one of the highest tax rates. Property values have not increased. It is unreasonable to ask this county to rank as one of the highest net pay employers when including health insurance costs. Comparison to other employees in comparable jobs also favors the Employer's offer. The County's wage offer exceeds wage increases provided in the private sector and the settlement granted to state employees and exceeds the average settlement for comparable communities. Likewise, comparison to the cost of living showed that the percentage

increases offered to Crawford County employees, particularly in light of the additional health insurance costs borne by the County, would exceed the CPI increases as presented.

The overall comparison for the Crawford County employees and those in comparable units shows that, when utilizing the factor of net take-home pay, the County would move to one of the top ranks among those communities. In light of the County's limited resources, this is not reasonable. Another factor which may be taken into consideration is the County's offer of a \$500 bonus to those who have family coverage elsewhere. The County noted that the Union recognized the validity of this concept and has adopted it in its proposal. The proposal to eliminate health insurance for part-time employees and for those who are ill for more than six months will not have any impact on this unit. In any event, these changes would place the County in the middle of the rankings of the comparables. There were no changes which occurred during the pendency of the proceedings other than perhaps the impact of the Mid East crisis on the cost of living. The County noted that while the cost of living might increase substantially, this might also trigger a recession which could have negative impacts on the County's tax base.

Finally, the County for the reasons set forth above

asked that the Arbitrator select the County's offer as the most reasonable and order its implementation.

#### DISCUSSION AND OPINION

Once again we have a negotiation process which has broken down over basically the sole issue of the cost of health and welfare programs. This has become the #1 priority of negotiators of collective bargaining agreements in the country. In almost every interest arbitration this has been either the factor or a major factor which separates the parties. While both sides have a vested interest in coming to an amicable solution of this difficult problem, they were unable to do so in this case and the Arbitrator is left to choose which side's position is most reasonable in light of the evidence presented at the hearing.

The Arbitrator informed each side that it is his position that when one side or another wishes to deviate from the status quo of the previous Collective Bargaining Agreement, the proponent of that change must fully justify its position and provide strong reasons and a proven need. The Arbitrator recognizes that this extra burden of proof is placed on those who wish to significantly change the collective bargaining relationship. In the absence of such showing, the party desiring the change must show that there

is a quid pro quo or that other groups were able to achieve this provision without the quid pro quo. It is the County that wishes to alter the status of the collective bargaining relationship in this case. The Union won through another interest arbitration in 1984 the provision which requires the County to pay 100% of the health care costs for both single and family coverage.

With respect to the statutory criteria, a review of the comparables shows a mixed bag. It is true that Crawford County is by most measures a substantially poor county. It is also true that the County has made similar proposals to its other bargaining units.<sup>1</sup> When the Arbitrator looks at the total package under each proposal, he is not convinced that either proposal would make substantial changes in the comparability rankings. While Crawford County's economic picture is certainly not rosy, there is no showing that the governmental unit has an inability to meet the demands placed upon it by the Union's final offer or that an undue hardship would ensue. Likewise, while the increases in the Employer's health care costs are substantial, other governmental units around the state have endured much more substantial increases. The Arbitrator finds that, when taking into account the interest and welfare of the public and the

comparison of wages and hours and conditions of employment,<sup>1</sup> neither of these factors significantly mitigates toward either side's position in this matter.

Likewise, the average consumer price index data and the overall compensation of the unit employees have not persuaded the Arbitrator that either side's position is more appropriate than the other.

This leaves us with the status quo concept. As noted above, proponents of change must fully justify through strong reasons or proven need those changes or a quid pro quo must be shown or other groups must have been shown to have achieved this without a quid pro quo. It is here that the County has failed to prove its position. Its proposals go beyond proven need. While the bulk of the evidence shows Crawford County to be in some economic distress, it has not been shown to this Arbitrator's satisfaction that this is substantial enough at this time to warrant such a basic change in the collective bargaining relationship.

The County has not shown a quid pro quo. It attempted to equate the \$500 bonus for those who opt out of family coverage and the additional salary increase in the County's

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<sup>1</sup>. Results not finally determined as of the date of the hearing.

proposal. Neither of these provides sufficient justification. The Arbitrator notes that, while the employees who opt out of family coverage would receive a \$500 bonus, the County would achieve many times that amount in savings due to the fact that it would no longer cover dependents of those employees who take advantage of this option. The extra 1/2% proposed by the County in its final wage offer also does not offer substantial quid quo pro, particularly in light of the 2nd year dollar cap on family coverage. The Arbitrator buys the County's argument that quid quo pro's cannot always be dollar for dollar but, quite frankly, the Employer's offer is not close to a quid pro quo situation. There was also no showing that the type of proposal has been accepted by another bargaining unit without a substantial quid pro quo.

The Employer argued that the Union's refusal to negotiate benefit decreases should be considered by the Arbitrator. Unions and employers must be creative in finding solutions to spiraling health insurance costs. The Parties failed in this attempt. If there was some showing that the Union was being unreasonable in its total demands, this argument might be effective. However, this is not the case. The Arbitrator notes the Union accepted a wage freeze in 1987 and the overall bargaining history shows this Union's willingness to compromise. This issue will not go away. The

Parties should consider meeting outside the collective bargaining process to discuss this matter prior to the next negotiations.

After reviewing all of the facts and evidence presented by each side in this case, the Arbitrator has determined that it is the Union's proposal which is more reasonable. This is true particularly in the light of the fact that the County's proposal in the health care area is not a cost reduction proposal but a cost sharing proposal and would represent a substantial change in the bargaining relationship.



AWARD

On the basis of the foregoing and the record as a whole, and after a full consideration of each of the statutory criteria, the undersigned has concluded that the final offer of the Union is the more reasonable proposal before the Arbitrator, and directs that it, along with the predecessor agreement, as modified by the stipulations reached in bargaining, constitutes the 1990-1991 agreement between the Parties.

Signed at Oconomowoc, Wisconsin this 12th day December, 1990.

  
Raymond E. McAlpin, Arbitrator