

FACT-FINDING TRIBUNAL OF THE
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

2004 MAY 11 A 10:08

IN THE MATTER OF:

FRATERNAL ORDER OF POLICE,
OHIO LABOR COUNCIL, INC.

Employee Organization,

and

CRAWFORD COUNTY SHERIFF
Employer.

REPORT OF FACT FINDER

CASE NOS.:

02-MED-12-1234

02-MED-12-1235

02-MED-12-1236

DATES OF HEARING: April 8, 2004

PLACE OF HEARING: Bucyrus, Ohio

FACT FINDER: Charles W. Kohler

APPEARANCES:

FOR THE EMPLOYEE ORGANIZATION:

Andrea H. Johan, Staff Representative

FOR THE EMPLOYER:

Lori F. Torriero, Attorney at Law

INTRODUCTION

On September 4, 2003, the State Employment Relations Board (“SERB”) appointed the undersigned as fact finder pursuant to Ohio Revised Code Section 4117.14 (C) (3). This matter involves the negotiation of a collective bargaining agreement between the Crawford County Sheriff (“Employer”) and the Fraternal Order of Police, Ohio Labor Council, Inc. (“Union”). A fact-finding hearing was held on April 8, 2004, in Bucyrus, Ohio. The report and recommendations of the fact finder are to be served upon the parties no later than May 10, 2004, pursuant to the mutual agreement of the parties.

The following findings and recommendations are offered for consideration by the parties; were arrived at pursuant to their mutual interests and concerns; are made in accordance with the data submitted; and in consideration of the following statutory criteria as set forth in Rule 4117-9-05 of the Ohio Administrative Code:

1. Past collectively bargained agreements, if any, between the parties;
2. Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
3. The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
4. The lawful authority of the public employer;
5. Any stipulations of the parties;
6. Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

FACTUAL BACKGROUND

These matters involve three bargaining units:

Deputies, including Road Patrol, Corrections, and Investigations (02-MED-12-1234);

Captains and Sergeants (02-MED-12-1235); and

Dispatchers (02-MED-12-1236).

Currently, there are approximately 35 deputies, 11 captains and sergeants, and 9 dispatchers in these units. The bargaining units were certified on or about May 1, 2003.

Prior to the fact-finding hearing, the parties engaged in nine or ten formal negotiation sessions. Most of the disputed issues were resolved, and have been tentatively approved by the negotiators. The tentative agreements of the parties on these issues are hereby incorporated by reference into this report as Recommendations.

On April 8, 2004, the parties engaged in mediation with the fact finder. No issues were resolved, and a fact-finding hearing was held following mediation. The only unresolved issues are compensation and medical insurance. A discussion of these issues follows.

ISSUES

Issue 1 **Wages**

In December 2003, the Employer gave all bargaining unit employees a 3 percent wage increase for 2003, retroactive to March 31, 2003. For 2004, the parties have agreed to a zero percent wage increase, coupled with a “me too” clause. The “me too” clause provides that bargaining unit employees will receive the same wage increase in 2004 as Crawford County general fund employees. Therefore, only the wages for 2005 are still in dispute.

Position of the Union

The Union proposes that there be a wage re-opener for 2005. The Union notes that it already agreed that bargaining unit employees will not receive a wage increase for 2004 unless a raise is given to county general fund employees. As of the time of the fact-finding hearing, general fund employees had not received a wage increase for 2004, and no increase is currently planned.

The Union agrees with the Employer that the 2005 economic status of the county is uncertain at this time. The Union states that, by the time the re-opener is implemented, the financial ability of the county to provide a wage increase will be more certain. The Union suggests that negotiations begin on or about November 1, 2004. The proposal provides that the reopened negotiations be conducted pursuant to Chapter 4117 of the Ohio Revised Code.

The Union points out that it is not asking for any wage increase for 2005 at this time. It states that it is only asking for an opportunity to meet face-to-face to discuss wages at a time when the 2005 financial situation will be more clear.

Position of the Employer

The Employer proposes that wage increases for 2005 be equal to any increase that is granted to general fund employees. Thus, the Employer is proposing that the same "me too" language which has been agreed to for 2004 should also govern wages for 2005.

The Employer states that county revenues have been flat for the last four years, while expenses have been increasing. The Employer notes that it voluntarily provided bargaining unit members with a 3 percent wage increase for 2003. The county is attempting to find a solution to its budget problems, and needs to know that it will not be required to reopen negotiations on

wages for 2005. The Employer contends that, in its current financial situation, it should not have to spend additional funds to negotiate wages with the Union less than six months from now.

The Employer is willing to give bargaining unit members whatever increase is given to county general fund employees. The Employer asserts that its proposal protects bargaining unit members because, if the budget situation improves, and county employees are given a wage increase, bargaining unit members will also receive an increase.

Discussion and Recommendations

The parties agree that the current financial condition of the county makes it difficult to provide any wage increases at this time. The Union has already agreed to a zero percent increase for 2004, coupled with a “me too” provision. The Employer has stated that there is little likelihood of an increase in 2004 for county general fund employees, which means that bargaining unit members will probably not have a wage increase in 2004. In recognition of the county’s economic climate, the Union has not requested any wage increase for 2005.

The Union has requested that a wage reopener for 2005 be included in the new agreement. The fact finder believes that there is merit to the Union’s proposal. The financial status of county for 2005 will be more clear in the final months of 2004. The cost of health insurance, which is a major expense, will be determined near the end of the year. The Employer states that the county is considering many options to improve its finances. It is likely that some of these changes will be known, and possibly implemented, later this year.

While the Employer asserts that the negotiations will result in the unnecessary use of scarce funds, the fact finder believes that bargaining unit members should not have to accept the possibility of another wage freeze for 2005 without having an opportunity to review the financial

condition of the county at a time when more relevant data, including the cost of health insurance, will be available. Therefore, the fact finder will recommend the following:

The fact finder recommends that the tentative agreements of the parties relative to wages for 2003 and 2004 be adopted. With respect to 2005 wages, the fact finder recommends the following:

The parties agree to reopen negotiations for the purpose of negotiating wages for 2005. Negotiations are to commence on or about November 1, 2004. The procedures of Chapter 4117 shall apply to these reopened negotiations.

Issue 2 **Medical Insurance**

The prior agreement provides that the Employer must provide medical insurance with the same benefit level that was in place at the signing of the agreement. The agreement was signed on March 29, 2000. The Employer retained the right to change insurance carriers or to select another method of providing insurance. The agreement requires the employees to pay 19 percent of the cost of the insurance plan (single or family coverage) that is selected.

Position of the Union

The proposal of the Union provides that the Employer has the right to change insurance carriers or insurance coverage. The proposed language requires that any new plan provide coverage which is "comparable to or better than" the current plan. The Union proposes the retention of the 19 percent employee contribution. Additionally, the Union proposal provides that, if premiums increase by more than 5½ percent in any calendar year, negotiations pertaining to insurance coverage can be reopened.

The Union asserts that the bargaining unit must have some protection against a substantial change in benefits, or a significant increase in premiums. The Union notes that the county generally negotiates with insurance vendors every year. Since the coverage and premium can change from year to year, the Union contends that it should have the right to negotiate, particularly with respect to the employee contribution. The Union states that it is willing to give the Employer some leeway by only requiring negotiations with the Union if premiums increase by 5½ percent or more in any calendar year.

Position of the Employer

The Employer also proposes new language concerning the type of insurance coverage which it must provide. The Employer proposal provides that coverage must be “comparable to or better than” existing coverage. Additionally, the language offered by the Employer adds a prepositional phrase which would, in essence, define “comparable to” to mean that any new plan include coverage for “hospitalization, major medical and prescription drugs.” The Employer proposes that the same contribution of 81 percent continue to be paid by the Employer. Further, the Employer also proposes that negotiations for insurance coverage can be reopened if premiums increase by 9 percent or more in any calendar year.

The Employer argues that it needs as much flexibility as possible to negotiate with insurance vendors. Increases in insurance costs have been a major contributor to the increase in county expenses. It asserts that insurance costs have risen by 10 to 14 percent during the past few years, and more room to negotiate is needed to control costs and continue to provide quality coverage. Thus, the Employer is proposing the adoption of its language concerning the type of coverage which must be provided.

Further, the Employer states that the Union proposal, which requires renegotiation of insurance benefits if premiums increase by 5½ percent or more, would not provide enough flexibility to the Employer. The Employer is willing to reopen negotiations, but states that the trigger proposed by the Union is unrealistic in today's health care climate. Thus, it proposes a 9 percent trigger.

Discussion and Recommendations

Coping with large and unpredictable increases in health insurance premiums is difficult for all employers, public as well as private. Relatively small employers, such as Crawford County, have far fewer options than larger employers. Health insurance is a complex issue, as there are so many variables in terms of coverage. In general, there is a trend toward requiring employees to shoulder more of the cost of health insurance. Asking employees to pay more puts them in a difficult situation when wage increases are low or nonexistent.

The cost of health insurance is unpredictable. The current premium of the better insurance plan is \$1201.40 per month for family coverage. The Employer share is \$973.14, while the employee share is \$228.26. The year-to-year premium increase for this type of coverage was 8.8 percent in 2003, and 2.5 percent in 2004.

The Employer is attempting to obtain quality coverage for employees at as low of a cost as possible. The Union has agreed to a change in the insurance provision which will provide more flexibility. It has agreed to "comparable or better" coverage, compared with the language in the expired agreement which requires that the same benefit level be maintained. This change will give the Employer more leeway in the selection of coverage.

The language proposed by the Employer would seem to give the Union little control over the level of coverage. The precise meaning of the proposed language is not clear. However, it appears that any plan that provided coverage for “hospitalization, major medical and prescription drugs” would be permissible under the collective bargaining agreement. Since most health insurance plans provide these coverages, almost any plan selected by the Employer would fall within the terms of the collective bargaining agreement. However, the benefit provided could be substantially reduced and the Union would have no recourse.

Both parties have proposed that a contingent reopener for insurance for 2005 be included in the agreement. The reopener would be contingent on the amount of the increase in insurance costs in any calendar year. The only difference between the proposals is in the amount of an increase in premiums which would trigger the reopener. The Union has proposed a 5½ percent trigger, while the Employer has proposed a 9 percent trigger.

The trigger proposed by the Union is unrealistic in today’s health care environment. The Employer would have little flexibility in providing coverage while trying to avoid new negotiations. However, the trigger proposed by the Employer is somewhat high given the increases of 8.8 and 2.5 percent in the last two years. A trigger in between the two proposals would be more appropriate. The fact finder will recommend a trigger of 7½ percent.

The fact finder recommends that Article 21 provide as follows:

ARTICLE 21

HEALTH INSURANCE

Section 21.1 The Employer shall continue to provide a group medical program including hospitalization and major medical. The Employer shall have the right to change insurance carriers or coverage so long as the employees retain coverage that is comparable to or better than that existing on January 1, 2004. The County shall provide thirty (30) days notice to the Union prior to implementing any change in insurance.

Section 21.2 The Employer agrees to pay eighty-one percent (81%) of the cost of both single and family plans for the duration of the Agreement. Employees shall pay the difference, through payroll deduction, between the amount paid by the Employer and the actual rate of the premium.

Section 21.3 In the event that the monthly health insurance premium increases by seven and one-half percent (7.5 %) or more in any calendar year, the parties agree to reopen negotiations for the purpose of negotiating health insurance changes. The procedures of Chapter 4117 shall apply to these reopened negotiations.

The above recommendations are respectfully submitted to the parties for their consideration.



Charles W. Kohler
Fact Finder

CERTIFICATE OF SERVICE

I do hereby certify that on this 10rd day of May 2004, a copy of the foregoing Report and Recommendations of the Fact Finder was served upon Catherine A. Brockman, Assistant Executive Director, Fraternal Order of Police, Ohio Labor Council, Inc., 222 East Town Street, Columbus, Ohio 43215; and upon Lori F. Torriero, Downes, Hurst & Fishel, 400 South Fifth Street, Suite 200, Columbus, Ohio 43215; each by Federal Express overnight delivery; and upon Dale A. Zimmer, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213 by regular U.S. Mail, postage prepaid.



Charles W. Kohler, Fact Finder

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