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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

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IN THE MATTER OF THE  
FACT-FINDING BETWEEN

BEFORE FACT FINDER:  
JAMES E. RIMMEL

AFSCME, OHIO COUNCIL 8  
LOCAL 2001

CASE NO.: 03-MED-06-0729

AND

HEARD: 16 MARCH AND  
30 JULY 2004<sup>1</sup>

MAHONING COUNTY DEPARTMENT  
OF JOB AND FAMILY SERVICES

DATE OF REPORT: 24 August 2004

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APPEARANCES

FOR AFSCME

James Adams  
Staff Representative

FOR JOB AND FAMILY SERVICES

Constance E. Pierce,  
Human Resource Director

BACKGROUND

This matter comes on for fact-finding under the State of Ohio's 1983 Public Employees Collective Bargaining Act<sup>2</sup> (Act) after impasse in negotiations between the subject parties over a successor agreement, the prior Agreement running from 1 December 2000 through 31 December

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<sup>1</sup> This matter was assigned for fact-finding by SERB under letter dated 1 October 2003. This process, however, was mutually extended by the parties to allow for certain collateral issues relative to health care to be resolved. While an initial hearing was held on 16 March 2004, the parties again mutually extended the process to continue negotiations and await deposition of the afore-referenced collateral matter.

<sup>2</sup> Ohio Revised Code Chapter 4117

2003. AFSCME Local 2001 is a unit of “employees in the classified service working in the Mahoning County Department of [Job & Family Services] as certified by the State Employment Relations Board” (SERB) with approximately 197 employees of record as of 1 December 2003. Initially, the parties identified seven (7) issues at impasse, to wit:

- Article 12.01 - Vacations
- Article 13.03 - Sick Leave Conversion
- Article 14 - Hospitalization/Health Benefits
- Article 30 - Overtime Assignment and Compensation
- Article 31 - Wages/Longevity/Teir System, etc.
- Article 47 - Job Performance Standard
- New Article - Pre-disciplinary Hearings

While several of these matters were primarily discussed/argued before me on 16 March 2004, the parties mutually agreed to continue the hearing to allow for possible resolution of a countywide issue on health care and further discussions between their representatives. This decision apparently proved worthwhile, the parties tentatively agreeing to resolutions on all but one issue at impasse, to wit: wages. It is thus the issue of wages and, more specifically, what level of increase, if any, should be accorded bargaining unit personnel in each of the three (3) years of a successor agreement that is now before me. And, while there was some last minute uncertainty as to precisely what the Union is actually seeking at this time in wage increases, the current proffer appears to be as follows:

|             | <u>First Year</u> | <u>Second Year</u> | <u>Third Year</u> |
|-------------|-------------------|--------------------|-------------------|
| Management: | 3%                | 2%                 | 2%                |
| AFSCME:     | 4%                | 4%                 | 4%                |

Now, there had been some discussion in connection with this issue as to the appropriateness of a “me too” provision as part of an overall wage settlement resolution, a proposal Management withdrew at hearing. The issue here, of course, is the ability of Management to accord after any

settlement here non-bargaining as well as other bargaining unit personnel greater increases than they are proposing for Local 2001 personnel. In any event, the recommendation which follows is premised upon an evaluation of all evidence/argument proffered by the parties in conjunction with the following statutory factors:

Past collectively bargained agreements, if any, between the parties:

Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

The interests 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;

The lawful authority of the public employer;

The stipulations of the parties;

Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment<sup>3</sup>.

### RECOMMENDATION

EFFECTIVE 1 SEPTEMBER 2003 INCREASE THE CURRENT HOURLY RATE FOR ALL BARGAINING UNIT PERSONNEL BY THREE PERCENT (3%). THIS INCREASE WILL BE COMPUTED FROM THE BEGINNING OF THE PAY PERIOD IN WHICH IT FALLS.

EFFECTIVE 1 SEPTEMBER 2004 INCREASE THE THEN CURRENT HOURLY RATE FOR ALL BARGAINING UNIT PERSONNEL BY TWO PERCENT (2%). THIS INCREASE WILL BE COMPUTED FROM THE BEGINNING OF THE PAY PERIOD IN WHICH IT FALLS.

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<sup>3</sup> RC 4117.14 (G) (a) to (f)

EFFECTIVE 1 SEPTEMBER 2005 INCREASE THE THEN CURRENT HOURLY RATE FOR ALL BARGAINING UNIT PERSONNEL BY TWO PERCENT (2%). THIS INCREASE WILL BE COMPUTED FROM THE BEGINNING OF THE PAY PERIOD IN WHICH IT FALLS.

EXCEPT FOR PAY INCREASES RESULTING FROM PROMOTION, MERIT RAISE AND/OR ORGANIZATIONAL CHANGES, SHOULD THE EMPLOYER GRANT NON-BARGAINING OR OTHER BARGAINING UNIT PERSONNEL SALARY/RATE INCREASES IN EXCESS OF TWO PERCENT (2%) IN EITHER THE PERIOD OF 9-1-04 THROUGH 8-31-05 OR 9-1-05 THROUGH 8-31-06 BARGAINING UNIT PERSONNEL WITHIN LOCAL 2001 WILL HAVE THEIR RATES INCREASED BY THE AMOUNT IN EXCESS OF TWO PERCENT (2%) AS OF THE SAME DAY WITHIN EITHER OF THESE PERIODS SUCH IS EFFECTIVE FOR NON-BARGAINING AND/OR OTHER BARGAINING UNIT PERSONNEL. PROVIDED, HOWEVER, SHOULD NON-BARGAINING AND OTHER BARGAINING UNIT PERSONNEL SALARIES/WAGES BE DECREASED ACROSS THE BOARD WITHIN THE DEPARTMENT DURING EITHER OF THE AFORE PERIODS BELOW THAT WHICH EXISTS PRIOR TO EITHER PERIOD, LOCAL 2001 PERSONNEL WILL HAVE THEIR WAGES REDUCED IN LIKE FASHION. UNLESS OTHERWISE MUTUALLY AGREED THIS "ME-TOO" PROVISION WILL TERMINATE AS OF 31 AUGUST 2006.

#### RATIONALE

At hearing, the Union premised, with minor exception, its entire case on a pay ratio that existed between bargaining and non-bargaining unit personnel prior to the enactment of the State of Ohio's Public Employee Collective Bargaining Act in 1983. It claimed while the differences then approximated \$10,000, such have grown considerably over the years to where, in some cases, they are more than double. No data was proffered either in the form of testimony or exhibits dealing with such matters as job content, educational requirements, experience requirements, requisite training, mental and manual skills, level of accountability, etc. In other words, the Union seeks to move the average hourly worker's rate closer to that of the average manager within the Department based solely on the differences in rates.

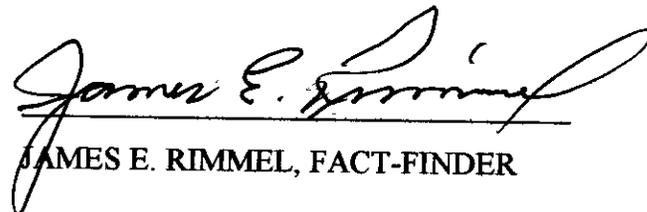
Whether this effort is viewed as an equity adjustment petition or simply a request for increases in excess of that to be accorded Management personnel so as to narrow the present earnings gap

between these groups, the fact is the Union has not provided a sound, statutorily proper rationale to do same. In other words, no nexus has been shown between what is paid managers and what is contractually provided in the form of hourly rates. As such, I can only conclude that paid bargaining unit personnel is premised upon what they are required to do on their respective jobs. This reality, however, under the Act, is subject to adjustment in accord with the factors set forth under 4117 of the Ohio Revised Code, as cited above.

While this Employer does not advance a lack of ability-to-pay argument, the Union has provided no relevant comparative or other relevant data in support of its request for greater hourly rate increases. The fact is comparative data proffered by the Employer from SERB's data base, as well as for other bargaining units within the Department, demonstrate, on balance, that proposed by Management is reasonable. Record data also reflect that proposed by Management is reasonable when compared with the 2.1% cost-of-living adjustment for 2003. In any event, that proposed by Management will increase unit employment costs by nearly \$2.4 million over the life of the successor agreement, a considerable sum regardless of the source(s) of funding for this agency.

Finally, with the recommended "me-too" provision, unit employees will be provided certain protection from alleged capricious action of Management in awarding "excessive" increases to non-bargaining unit personnel after the Local 2001 contract is settled. Of course, an appropriate "me-too" proviso needs to reflect possibility of wage increases as well as decreases so as to be truly fair to both parties.

At hearing, the parties requested I append to this report their tentative agreements on various contractual changes/additions to become effective under the terms of the 1 September 2003/31 August 2006 Agreement. Said agreements are attached hereto as requested by the parties.

  
JAMES E. RIMMEL, FACT-FINDER