

STATE EMPLOYMENT
RELATIONS BOARD
2005 FEB 11 A 11: 37

IN THE MATTER OF FACT-FINDING

BETWEEN

FOP OHIO LABOR COUNCIL, INC.

AND

LOCAL ORGANIZED GOVERNMENT IN COOPERATION (LOGIC)

BEFORE: Robert G. Stein

FACT-FINDING: CASE # 04-MED-09-0867

PRINCIPAL ADVOCATE FOR THE UNION:

Rick Grochowski, Staff Representative
FOP OLC INC.
807 Falls Avenue
808 Cuyahoga Falls, OH 44221

and

PRINCIPAL ADVOCATE FOR LOGIC:

Nick Codrea Jr.
LAW FIRM OF ROBERT J. TSCHOLL, ESQ.
220 Market Avenue, South
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Canton OH 44702

INTRODUCTION

The bargaining unit is comprised of approximately 15 full-time Dispatchers/Communication Officers and Supervisors employed at the government entity known as the Local Government in Cooperation ("LOGIC" or "Employer"). LOGIC is a multi-jurisdictional regional emergency dispatch center in Stark County, Ohio. It performs safety forces telecommunications for fourteen (14) cities and townships in Stark County (see parties' position statements for jurisdictions). The parties brought eight (8) unresolved issues to the fact-finder for resolution.

Advocates of both parties clearly articulated the position of their clients, along with providing supportive data and testimony on the issues in dispute: seniority, overtime, personal leave, longevity, uniform allowance, health insurance, and critical incidents. In order to expedite the issuance of this report, the Fact-finder will provide a summary of his rationale on all issues followed by detailed recommendations for resolution of each issue.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C)(4)(E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made:

OVERALL RATIONALE FOR RECOMMENDATIONS

Public sector employers in Ohio are facing some of the most difficult financial times in recent memory. State support for local government entities is a major source of uncertainty, causing many cities and townships to carefully scrutinize their finances. While local income is uncertain and state funding is threatening to decline, costs continue to rise. After wages, the most notable is the cost of health care.

There is hope that Ohio is beginning to recover from the economic downturn that began at the end of 2000, and nationally there appears to be solid evidence of an economic recovery, according to the most recent job creation reports, profit reports, and retail sale reports. Confidence in the economic recovery is being displayed by the Federal Reserve as evidenced by its raising of interest rates to keep the economy from overheating while keeping inflation in check. However, many people contend that Ohio is far from "out of the woods" economically, and for several reasons take the position that things may get worse before they get better. However, as with most economic predictions, we simply don't know the extent or form of economic recovery Ohio may eventually have, given the movement of jobs outside of the country and the sluggishness in the United States manufacturing sector.

The new state biennium budget begins on July 1, 2005, and there is considerable anxiety about projected shortfalls in revenue versus current

and anticipated expenditures. The figures being reported are in the neighborhood of a three to five billion dollar shortfall. Additionally, the temporary 1% state sales tax is scheduled to expire on June 30, 2005, which, if not renewed or extended, will present even greater economic challenges to the state legislature and to the governor. Moreover, the K through 12 school funding dilemma remains a problem, and many of the state's unions will begin negotiating new collective bargaining agreements in late 2005 and early 2006. On top of all of this, there is a myriad of other competing demands for state expenditures, not the least of which is a major commitment to Medicaid funding. The bottom line is that funding at the state level is predicted to translate into less revenue for local government entities.

Concerns about state funding are compounded by difficult financial times in some of the major public entities in Stark County that comprise LOGIC. For example, the City of Massillon and Jackson Township are just two of the major communities served by LOGIC where employees have been seriously impacted by financial deficits.

After an extended period of bargaining and tentative agreements reached during the fact-finding hearing, the parties reduced their differences to eight (8) issues. Advocates of both parties clearly articulated the position of their clients, along with providing supportive data and testimony on the issues in dispute. In order to expedite the

issuance of this report, the fact-finder will provide a summary of his rationale on all issues followed by detailed recommendations for resolution of each issue. The parties have also agreed that the fact-finder may reference positions that are recommended instead of having to restate the entire recommended article. Such references appear in red.

Issue 1 SENIORITY

Section 14.1 At the hearing the Union suggested a slight change in the language in the second sentence of the first paragraph. The additional words bring clarity to the definition of assuming the duties of a full-time vacancy in terms of actual hours worked. The data supports the Union's position in making this change. However, there is insufficient support to justify the addition of a new section 14.5 as proposed by the Union. It is suggested that rather than attempting to commit the parties to formal contract language, the parties meet and confer on the issue of training, if necessary.

Recommendation

Section 14.1 Seniority shall be defined as an employee's uninterrupted length of continuous full-time employment with the Red Center function of LOGIC. However, if an employee had assumed the duties of a full-time vacancy, **by working forty hours** prior to employment as a full-time employee by LOGIC, said employee's seniority commences at the date the employee assumed the duties of the full-time vacancy.

The remainder of the Article shall remain the same.

Issue 2 WAGES

The Employer's position of 1st year: Base rate, 2nd year: 2%, and 3rd year: 2%, while being lower than what most bargaining employees desire, is largely supported by the above referenced discussion on the financial condition of LOGIC, local governments in Ohio, and in particular the region LOGIC serves. The financial condition of LOGIC's customer base and the cost of absorbing health care increases during the life of the Agreement are two major reasons why the Employer is only offering 4% over the next three years. The data for the most part supports the Employer's position in year one and two on this issue when all other factors are taken into consideration. However, the Employer's position on year three is too low, and does not take into consideration the probability of an improving economy and inflation.

Recommendation

See Appendix 1

Issue 3 OVERTIME

The Union is proposing that sick leave, vacation leave, and personal leave all count as hours worked. The evidence and trends in the public sector for which this neutral is familiar strongly suggest that sick leave is not being included in the calculation of overtime. In addition, in jurisdictions where sick leave is still counted, the trend is for the parties to remove it

from collective bargaining agreement language. However, the same cannot be said for vacation time. This is time that employees are encouraged to use as a break from work and it is often scheduled in advance. It is not unusual for vacation time to count as time worked for purposes of calculating overtime. Personal leave is not as predictable. In many jurisdictions employees may cash out personal leave in lieu of using it. It is also the type of leave that is taken more spontaneously and is not scheduled weeks or months in advance. The data in part supports the Union's position on this issue.

Recommendation

New: Section 19.5 Vacation days shall be considered as time worked for the purposes of overtime computation.

Issue 4 PERSONAL LEAVE

In the experience of this neutral in Ohio, it is not uncommon for a public employer to provide more than one personal day to employees of a bargaining unit. Whether the days of personal leave are separated from or connected with sick leave accumulation depends upon jurisdictions being considered. The Union's position in part is supported by the evidence and comparable public sector jurisdictions in Stark County of which the fact-finder has direct knowledge. It is also clear that the bargaining history between the parties supports the concept of personal leave.

Recommendation

Section 22.1 An employee with more than one year in the unit may use one day of accumulated sick leave as a personal leave day **and shall receive an additional day of personal leave that is not connected with sick leave accumulation.** Advance scheduling of **the two (2)** personal days shall be subject to the approval of the Employer based upon operational necessities. The employee shall notify the Employer at least seven days in advance of such leave except in cases of personal or family emergency, in which case the employee shall notify the Employer as far in advance of his scheduled shift as possible. The remainder of this article is current language.

Issue 5 LONGEVITY

This is a common benefit among law enforcement personnel and it is typical for the amount of longevity to be adjusted periodically in order to keep up with the cost of living. Jackson Township has such a benefit. Based upon reasonable cost of living increases over the next three years, an adjustment that represents the halfway point between current rates and what the Union is seeking is justified during the life of the Collective Bargaining Agreement.

Recommendation

30.01 The language of this provision shall remain the same, except that the amount shall be changed to **\$150.00**. Employees completing three or more years of service shall receive an additional **\$75.00** for each additional year of continuous service.

Issue 6 UNIFORM ALLOWANCE

During the fact-finding process the Employer provided a very informative document. Employer Exhibit 2 reveals that as of December 28, 2004 the bargaining unit spent \$3,762.15 for uniform replacements. What is more revealing is the fact that several members of the bargaining

unit failed to spend their entire allotment. While a cost of living adjustment is justified to maintain the value of the uniform allowance, there is little evidence to support the seventy-five dollar (\$75) increase sought by the Union.

Recommendation

31.1 All employees shall receive an annual uniform allowance credit in the amount of **two hundred and thirty-five dollars (\$235) in the first year of the Agreement, two hundred and forty-five dollars (\$245) in the second year of the Agreement, and two hundred and fifty-five dollars (\$255) in the third year of the Agreement.** The remainder of this article is current language.

Issue 7 HEALTH INSURANCE

The Employer provided persuasive data in support of the health care changes it is seeking. This is never an easy topic for either employers or employees. Yet, escalating health care costs are a reality that must be faced head on by employers and employees. While there appears to be little meaningful activity to address this issue for working Americans nationally, the only reasonable reaction is to make adjustments locally where they can be made in order to maintain coverage.

At first blush, the Employer's position appears to represent a major change, particularly in a year where it is proposing that wages remain constant. Going from a fully paid plan to assuming some of the costs is a paradigm shift, but a necessary one. A closer examination of the Employer's proposal reveals that in order to maintain a viable health care

plan, the Employer is assuming a majority of the risk for absorbing increases. For example, if there is an increase of 12% in the cost of health care from one year to the next, the Employer will pay 9% of the cost or 75% of the increase. If the resulting increase in this hypothetical example amounted to an \$80 increase for family coverage, the Employer would pay \$60 of the increase and the employee would pay \$20. According to SERB, a substantial majority of public sector employees in Ohio contribute a significant amount toward their health care coverage in the form of premiums.

At this point in time there are no good answers to the health care crisis, only coping strategies. However, what is critical is to maintain the best coverage possible for as long as possible. In the private sector and in some public sector entities, employers have been forced to offer only minimal health care plans that put employees and their assets in jeopardy. In fact, a new trend is for employers to just cover employees and not their dependents, a sobering prospect. It seems reasonable that while employers and unions continue to lobby for a national approach to solving the health care crisis, bold steps need to be taken now to protect employees and their families. The Employer's proposal takes this step.

Recommendation

The Employer's language regarding the sharing of cost increases over 6% should be put into place.

Issue 8 CRITICAL INCIDENTS

The Union's proposal with one small modification is very sound and should be adopted. The Employer essentially agreed with the concept of providing this vital assistance at no cost to its employees. The FOP should be recognized for its leadership in this area.

Recommendation

The Union's proposal is adopted as written with one additional sentence that should be the first sentence in Section 00.1. It reads as follows:

Section 00.1 Normal day-to-day situations encountered by bargaining unit members shall not be considered critical incidents. For the purpose of this Article a Critical incident shall be defined...see Union's proposed language.

TENTATIVE AGREEMENTS

During negotiations and fact-finding the parties reached tentative agreement on several issues. These tentative agreements are part of the recommendations contained in this report.

The Fact-finder respectfully submits the above recommendations to the parties this 8th day of February 2005 in Portage County, Ohio.



Robert G. Stein, Fact-finder

APPENDIX 1

| | | Increase | Annual | Hourly |
|------------------------------|------|----------|--------------|----------|
| <u>Starting Salary</u> | 2005 | Base | \$ 25,195.60 | \$ 12.11 |
| | 2006 | 2.0% | \$ 25,699.51 | \$ 12.35 |
| | 2007 | 3.0% | \$ 26,470.50 | \$ 12.72 |
| <u>After One Year</u> | 2005 | Base | \$ 30,700.75 | \$ 14.76 |
| | 2006 | 2.0% | \$ 31,314.77 | \$ 15.06 |
| | 2007 | 3.0% | \$ 32,254.21 | \$ 15.51 |
| <u>LOGIC Supervisor</u> | 2005 | Base | \$ 32,753.88 | \$ 15.66 |
| | 2006 | 2.0% | \$ 33,408.96 | \$ 15.97 |
| | 2007 | 3.0% | \$ 34,411.23 | \$ 16.45 |
| <u>Technical Coordinator</u> | 2005 | Base | \$ 32,780.80 | \$ 15.76 |
| | 2006 | 2.0% | \$ 33,436.42 | \$ 16.08 |
| | 2007 | 3.0% | \$ 34,439.51 | \$ 16.56 |

(A) The Technical Coordinator position shall be filled at the sole discretion of the LOGIC Director. The provisions of R.C. O.R.C. Se. 124.321 are explicitly preempted by this section. The LOGIC Director may also lay off the Technical Coordinator at his sole discretion.

(B) The Technical Coordinator shall perform duties as prescribed by the Director.