

HAND DELIVERED

STATE EMPLOYMENT
RELATIONS BOARD

In the Matter of Fact-Finding :
: Between the : SERB Case Number: 17 A 9 11
: 04-MED-10-1145
: **SOUTHEAST OHIO EMERGENCY**
: **MEDICAL SERVICES DISTRICT,**
: Employer : Date of Hearing:
: September 23, 2005
: and the :
: **UNITED MINE WORKERS OF**
: **AMERICA, LOCAL 490,**
: Union :
: Howard D. Silver
: Fact-Finder

REPORT AND RECOMMENDATIONS OF THE FACT-FINDER

APPEARANCES

For: Southeast Ohio Emergency Medical Services District

Robert W. Cross
Cross Management Consulting Services, Inc.
5631 Seventh Street
Portsmouth, Ohio 45662

For: United Mine Workers of American, Local 490

Ralph Ball
Local Secretary
United Mine Workers, Local 490
5512 Fullview Heights
Athens, Ohio 45701

This matter came on for fact-finding hearing at 10:00 a.m. on September 23, 2005 in conference room B of the Rio Grande University Student Center in Rio Grande, Ohio. The hearing concluded at 11:10 a.m., September 23, 2005.

This fact-finding proceeds under authority of Ohio Revised Code section 4117.14(C) and regulations promulgated pursuant thereto by the State Employment Relations Board expressed in Ohio Administrative Code section 4117-9-05. This matter is properly before the fact-finder for review and recommendation.

BACKGROUND

The parties to this fact-finding procedure, the Southeast Ohio Emergency Medical Services District, the Employer, and the United Mine Workers of America, Local 490, the Union, are parties to a collective bargaining agreement in effect from January 1, 2002 through December 31, 2004. The parties reached tentative agreement as to a successor contract but three times a tentative agreement for a successor collective bargaining agreement was rejected by a majority of those bargaining unit members who voted on whether to ratify a tentatively agreed successor agreement.

The Southeast Ohio Emergency Medical Services District is comprised of three Ohio counties, Athens County, Lawrence County, and Jackson County. This consortium was established in 1995 and continues to operate under authority of Ohio Revised Code section 307.052.

The bargaining unit consists of emergency medical technicians (EMTs), paramedics, and dispatchers employed in a three-county area at stations in each county, providing twenty-four hour per day, seven day per week coverage. Dispatchers work from the district's

central office, dispatching emergency medical and fire calls in the three counties served by SEOMES. The bargaining unit contains approximately ninety full-time employees and ninety to one hundred part-time employees.

The parties began negotiating their successor agreement on November 15, 2004. Three tentative agreements were reached but each was rejected by a majority of the bargaining unit members voting on whether to ratify a tentative agreement. The bargaining unit was organized in 1994, with the United Mine Workers serving as the exclusive representative of the bargaining unit, and an initial collective bargaining agreement between the parties ratified in 1995.

The Southeast Ohio Emergency Medical Services District is operated by a board comprised of nine members, with three members from each county. It has traditionally been the case that at least one county commissioner from each of the three participating counties serves as a board member.

ISSUES AT IMPASSE

Article 20(C)(1) and (2) - Personal Days and Birthdays

During bargaining the parties discussed a modification of the number of hours to be assigned to field personnel on their birthdays. These discussions did not lead to an agreement and in the absence of a meeting of the minds for the alteration of the language of Article 20, the Employer proposed the retention of

current language within the parties' latest collective bargaining agreement, and the Union expressed no opposition to this proposal.

Recommended Language: Article 20(C) (1) and (2)

(C) Personal Days and Birthdays

(1) All full-time bargaining unit members shall earn two (2) personal days each calendar year. One personal day must be taken prior to July 1st and the second personal day must be taken prior to January 1st.

Personal days are non-accumulated from year to year and must be taken in the year earned; however, unused personal days may be converted to sick leave if the employee notifies SEOMES in writing of such request.

(2) All full-time bargaining unit members shall earn an eight (8) hour holiday on their birthdays. Birthday/Holidays are non-accumulative and must be taken within sixty (60) calendar days.

Article 31(B) (2) - Temporary Vacancies

The Employer proposes the retention of language within Article 31, section (B) (2), which refers to how reassignments are to be handled when a bargaining unit member calls off with less than twelve hours notice. The Employer proposes that the language within the parties' latest collective bargaining agreement be retained, with the addition of one sentence that reflects current practice.

The Union agreed that the additional sentence proposed by the Employer does reflect current practice and had no objection to the retention of current language and the addition of the sentence proposed by the Employer.

Recommended Language: Article 31(B) (2)

(B) Temporary Vacancies

* * *

(2) When a bargaining unit member calls off their scheduled shift with less than a twelve (12) hour notice, all scheduling provisions and calling procedures under this Agreement will not apply. The shift will be filled with a bargaining unit employee in the most expedient manner to assure coverage of the shift vacated. If the call-off occurs with less than twelve (12) hours notice, the shift will be filled by bargaining unit employees on the shift, if the station chief is not on that shift.

Article 30(D) - Mandatory Overtime

The Employer proposes the retention of current language within the parties' latest collective bargaining agreement within Article 30, section (D), addressing mandatory overtime, and proposes adding an additional sentence.

The Union had proposed during bargaining that charge and non-charge paramedics be paid at the same level but this proposal was not agreed by the Employer.

The Union expressed no opposition to the retention of current language within the Article 30(D) and did not oppose the addition of the sentence proposed by the Employer.

Recommended Language: Article 30(D) - Mandatory Overtime

(D) Mandatory Overtime.

Full-time bargaining unit members may, from time to time, be required to work mandatory overtime. When

mandatory overtime is necessary, and is not of an emergency or immediate nature (such as handling a run or transfer near the end of a scheduled shift, etc.) Management will first call the voluntary overtime list for volunteers. If no volunteers are obtained, the Employer will start at the bottom of Station Seniority List, then of the County Seniority List and, the least senior bargaining unit member in the county will be required to work the overtime. For the purposes of this Article the SEOMES district will rotate up the seniority list when mandating an employee to work overtime so that the same employee will not continually be mandated to work the overtime. Full-time non-charge paramedics will not be mandated to fill a full-time paramedic shift or opening, but may be mandated to fill any other position for which they are qualified on the crew.

Article 33 - Wages

The history of wage increases within the bargaining unit of the Southeast Ohio Emergency Medical Services District includes a four percent (4.0%) wage increase and a four percent (4.0%) increase in longevity effective January 1, 1996; a four percent (4.0%) wage increase and a four percent (4.0%) increase in longevity effective January 1, 1997; no wage increase effective January 1, 1998, but a one time bonus of three hundred dollars (\$300.00) for full-time employees, one hundred fifty dollars (\$150.00) for employees who work more than one thousand hours, and seventy-five Dollars (\$75.00) for those who work less than one thousand hours. Effective January 1, 1999 all employees received a thirty cent (\$.30) per hour increase and an increase in longevity

of three percent (3.0%); on January 1, 2000 all employees received a thirty cent (\$.30) per hour increase with a three percent (3.0%) longevity increase; on January 1, 2001, all employees received a thirty cent (\$.30) per hour increase and a three percent (3.0%) longevity increase. On May 1, 2002 all employees received a forty cent (\$.40) per hour increase and a three percent (3.0%) increase in longevity; on May 1, 2003 all employees received a thirty cent (\$.30) per hour increase and a three percent (3.0%) increase of longevity; and on May 1, 2004, all employees received a thirty-five cent (\$.35) per hour wage increase and a three percent (3.0%) increase in longevity.

The Employer presented evidence of the wage increases over the past two years in Athens, Jackson, and Lawrence Counties. Athens County provided no increase in wages in 2004 and a three percent (3.0%) increase in 2005. Jackson County provided no increase in wages in 2005. Lawrence County provided a three percent (3.0%) wage increases for organized employees but provided no increase in wages for non-union workers.

The Employer also presented a ten-year annual wage settlement data sheet presenting wage breakdowns from 1995 through 2004 conducted by the State Employment Relations Board. This wage breakdown, dated first quarter 2005, refers to eight major metropolitan areas in the state of Ohio, city, county, township, and school districts; units by type, that is, police, fire, teacher, and other; and first, second, and third years of contract durations. This data shows that statewide, in 2003, wage increases

averaged 3.10%, and in 2004 wage increases averaged 2.79%. The lowest wage increase identified by this data is for the Warren/Youngstown region reflecting 2.25% in wage increases in 2004. The highest wage increase is presented by the Cincinnati region, reflecting a 3.47% increase.

The Employer presented a bulletin of the Ohio Auditor of State which presents the Consumer Price Index (CPI) for the years 2001 through 2004. This measure of inflation presents the following:

<u>Year Ended 9/30</u>	<u>CPI Increase</u>
2004	2.4
2003	2.3
2002	1.3
2001	2.6

The Employer has made no claim of an inability to fund a reasonable wage increase in addition to the increase in longevity by three percent (3.0%). The Employer proposes a thirty cent (\$.30) per hour wage increase for the first year of the successor collective bargaining agreement between the parties upon ratification of the agreement. The Employer proposes a forty cent (\$.40) per hour wage increase effective the first full pay period twelve months after ratification of the parties' successor agreement; and a forty-five cent (\$.45) per hour wage increase effective the first full pay period twenty-four months after ratification of the parties' successor agreement. The thirty cent (\$.30) per hour wage increase proposed by the Employer would result in wage increases for individual classifications in a range from 2.7% to 4.2%; in 2006 the forty cent (\$.40) per hour wage increase would produce increases in a range of 3.9% to 5.4%; and in 2007 the

forty-five cent (\$.45) per hour wage increase would produce increases ranging from 3.9% to 5.8%.

The Union has no objection to the wage proposal from the Employer. What separates the parties on the Article on wages is the effective date of the wage increases.

The Employer proposes that the wage increases take effect the first full pay period following ratification of the successor contract by and between the parties. The Union proposes that the wage increases, as proposed by the Employer, be retroactive to January 1, 2005.

On behalf of making the wage increases retroactive to January 1, 2005, the Union points out that the Employer budgeted for these wage increases effective January 1, 2005, and although it has taken the parties past that date to reach agreement on a successor contract, other than this delay there is no reason to withhold a wage increase that had been planned and budgeted for January 1, 2005. The Union points out that what caused the defeat of the prior tentative agreements submitted to the membership of the bargaining unit was the lack of retroactivity in wage increases expressed within the tentative agreements.

The Employer opposes any retroactive wage increase and proposes that the agreed wage increase should take effect when the successor agreement takes effect, that is, in the first full pay period following ratification of the successor agreement by the parties.

The history of wage increases within the bargaining unit has, with a few exceptions, been consistent in amount and in timing. Annual wage increases between three and four percent occurred on January 1, 1996, 1997, 1999, 2000, and 2001. Increases of three to four percent occurred thereafter on May 1 in 2002, 2003, and 2004. Thus, the last wage increase applied to the bargaining unit occurred on May 1, 2004. Allowing the May 1, 2004 wage increase to have the traditional one year duration (the exception is January 1, 1998 when no wage increase was provided but one time bonuses were awarded, and May 1, 2002, when the prior wage increase had been effective January 1, 2001).

The fact-finder is cognizant of the fact that in any bargaining process between the parties for a successor collective bargaining agreement there are inherent costs that increase when final agreement by the parties is delayed. The longer the process takes, the higher the costs to both parties. These increased costs, or more precisely put, the apportionment of these increased costs between the parties is what separates the parties in this fact-finding and what must be resolved if a successor agreement is to be secured.

The January 1, 2005 retroactive date proposed by the Union shifts the entire financial consequence of the drawn out bargaining between the parties to the Employer. The Employer's opposition to any retroactive wage increase shifts the entire cost of the delays in bargaining to the bargaining unit by suggesting that increased wages begin only when final agreement has been reached.

The fact-finder finds that both parties should share in the burden of the increased costs of bargaining when an agreement has been delayed. The fact-finder finds no blame or fault upon which to assign to either party an increased burden in apportioning these costs between the parties.

Based on the history of wage increases that have been agreed by the parties annually since 1996 the fact-finder recommends that the wage increase proposed by the Employer and agreed by the Union take effect May 1, 2005. This effective date for the wage increases under the successor collective bargaining agreement between the parties would be in accordance with the last wage increase occurring one year before and would, in the opinion of the fact-finder, require an equivalent sacrifice from both parties as to what they want and what they can have.

Recommended Language - Article 33: Wages

Section 1: The hourly rate for each employee along with the starting rates for each classification is established in Appendix A. The wage rates for any newly created classification is established before implementation of the position, if disagreement exists, Management may implement their rate and the Union may grieve.

Management will provide a wage increase of \$0.30 retroactive to May 1, 2005; \$0.40 the second year effective May 1, 2006; and \$0.45 the third year effective May 1, 2007.

SEOEMS Board would be willing to pay \$200.00 additionally a year for any dispatcher who receives certification and license as a Ham Operator.

Section 2: Longevity Pay

Full-time bargaining unit members shall be paid longevity at the following rate in addition to their base hourly rate.

	<u>2005-2006</u>	<u>2006-2007</u>	<u>2007-2008</u>
1 Year	133.01	137.00	141.11
2 Year	299.30	308.27	317.51
3 Year	465.59	479.55	493.93
4 Year	631.86	650.81	670.33
5 Year	798.12	822.06	846.72
6 Year	964.41	993.34	1023.14
7 Year	1130.69	1164.61	1199.54
8 Year	1296.98	1335.88	1375.95
9 Year	1463.24	1507.13	1552.34
10 Year	1696.03	1746.91	1799.31
11 Year	1971.83	2030.98	2091.90
12 Year	2161.64	2226.48	2293.27
13 Year	2394.42	2466.25	2540.23
14 Year	2627.21	2706.02	2787.20
15 Year	2859.99	2945.78	3034.15
16 Year	3092.79	3185.57	3281.13
17 Year	3325.57	3425.33	3528.08
18 Year	3558.37	3665.12	3775.07
19 Year	3791.16	3904.89	4022.03
20 Year	4023.95	4144.66	4268.99
21 Year	4256.74	4384.44	4515.97
22 Year	4489.53	4624.21	4762.93
23 Year	4722.33	4863.99	5009.90
24 Year	4955.11	5103.76	5256.87
25 Year	5187.89	5343.52	5503.82
26 Year	5443.71	5607.02	5775.23
27 Year	5689.30	5859.97	6035.76
28 Year	5934.88	6112.92	6296.30
29 Year	6180.46	6365.87	6450.00
30 Year	6426.02	6450.00	6450.00

All years past 30 years shall be paid at \$6450 once per year to all full-time bargaining unit members.

<u>PART-TIME</u>	<u>FIELD</u>	<u>DISPATCH</u>
5-9 Years	0.05	0.08
10-14 Years	0.10	0.24
15+ Years	0.23	0.31

Part-time employees who become full-time employees shall be placed at the full-time longevity rate closest to the longevity rate they are presently earning as part-timers that will not cause them a decrease in their longevity rate of pay.

Full-time employees who become part-time employees shall have their full-time service used for their placement on the part-time longevity scale.

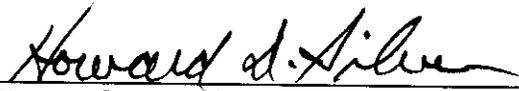
APPENDIX A: WAGE RATES

	Effective May 1, 2005	Effective May 1, 2006	Effective May 1, 2007
	\$0.30 per hour increase	\$0.40 per hour increase	\$0.45 per hour increase
<u>Crew Members</u>			
EMT-B	\$7.42	\$7.82	\$8.27
EMT-1	\$7.73	\$8.13	\$8.58
EMT-P	\$8.33	\$8.73	\$9.18
Full-Time Charge EMT-P	\$9.52	\$9.92	\$10.37
Full-Time EMD	\$11.28	\$11.68	\$12.13
Part-Time EMD	\$10.23	\$10.63	\$11.08

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In addition to the recommended language proposed by the fact-finder through this report, the fact-finder adopts by reference, as if full rewritten herein, all other Articles tentatively agreed by the parties.

In making the fact-finding recommendations presented in this report, the fact-finder has considered the criteria required by Ohio Revised Code Chapter 4117, and sections 4117-9-05(K) (1) - (6) of the Ohio Administrative Code.


Howard D. Silver
Fact-Finder

October 17, 2005
Columbus, Ohio

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Report and Recommendation of Fact-Finder in the Matter of Fact-Finding Between the Southeast Ohio Emergency Medical Services District and the United Mine Workers of America, Local 490 , was filed with the State Employment Relations Board, via hand-delivery, and sent by facsimile to Gary Young and Robert Cross, and mailed via ordinary U.S. mail, postage prepaid, this 17th day of October, 2005, to the following:

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Howard D. Silver
Fact-Finder

October 17, 2005
Columbus, Ohio