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**FACT-FINDING TRIBUNAL OF THE
STATE EMPLOYMENT RELATIONS BOARD**

IN THE MATTER OF:

**AMERICAN FEDERATION OF STATE
COUNTY AND MUNICIPAL
WORKERS, INC., Ohio Council 8,**

**Employee Organization,
and**

**COSHOCTON COUNTY ENGINEER,
Employer.**

REPORT OF FACT FINDER

CASE NO.:05-MED-04-0485

DATES OF HEARING: February 14, 2006

PLACE OF HEARING: Coshocton, Ohio

FACT FINDER: Charles W. Kohler

DATE OF REPORT: March 9, 2005

APPEARANCES:

FOR THE EMPLOYEE ORGANIZATION:

Colleen Bonk, Esq., Staff Representative

FOR THE EMPLOYER:

Marc A. Fishel, Esq.

INTRODUCTION

On October 7, 2005, the State Employment Relations Board ("SERB") appointed the undersigned as fact finder pursuant to Ohio Revised Code Rule Section 4117.14(C)(3). This matter involves the negotiation of a successor collective bargaining agreement between the Coshocton County Engineer ("Employer") and the American Federation of State County and Municipal Workers, Inc., Ohio Council 8 ("Union"). A fact-finding hearing was held on February 14, 2006, in Coshocton, Ohio. The report and recommendations of the fact finder are to be served upon the parties no later than March 9, 2006, 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

Prior to the fact-finding hearing, the parties engaged in four formal negotiation sessions. On September 13, 2005, the negotiators reached a tentative agreement on all issues. The tentative agreement was presented to the Union membership for ratification. The membership rejected the tentative agreement.

Following the rejection of the tentative agreement, contract negotiations resumed. During these negotiations, the negotiators for both parties agreed to retain the language of the tentative agreement on most of the issues. All of the terms of the tentative agreement reached on September 13, 2005, except for the issues discussed herein, are to be considered as recommendations of the fact finder. The tentative agreements of the parties on the undisputed issues are hereby incorporated by reference into this report.

The issues remaining in dispute are Health and Safety, Wages, Health Insurance, Sick Leave Conversion, and Duration. The fact finder will make recommendations on these issues in this report.

1. Article 20 - Health and Safety

The only issue which remains in dispute concerns steel toed boots. Currently, Section 20.7 requires employees to wear "protective work boots." The Employer seeks to insert a provision that all bargaining unit employees be required to wear steel toed boots while on duty. The Union is not necessarily opposed to this proposal, provided that the Employer agrees to pay for the boots.

The parties agree that the boots are beneficial in preventing injuries. Wearing the boots makes it less likely that an employee will miss work due to a foot injury. This reduces the amount of time that the Employer will have to operate with a reduced work force. The Employer may also reduce workers' compensation expense as a result of requiring steel toed boots.

Given the benefit that this requirement provides to the Employer, it is logical for the Employer to pay for the boots. The Union proposal for an allowance of \$100.00 per year is reasonable. The fact finder recommends the following language for Section 20.7:

Employees shall be required to wear protective steel toed boots. The Employer shall pay for replacement of such boots through a voucher system up to \$100.00 per year.

2. Article 35 - Wages

The Employer proposes a wage increase of 30 cents per hour effective on the execution of this agreement, an additional increase of 30 cents per hour beginning on January 1, 2007, and another increase of 30 cents per hour effective on January 1, 2008. The Union proposes an increase of 50 cents per hour during each year of the contract, retroactive to the expiration of the expired agreement.

The fact finder has considered the evidence concerning comparability of wage rates and the financial condition of the Employer. Based on a review of the available information, the fact finder recommends the following:

1. Bargaining unit members shall be paid a lump sum of \$520.00 upon the execution of the collective bargaining agreement. This payment is to compensate members for the lack of a wage increase from September 1, 2005, to February 28, 2006.

2. Effective March 1, 2006, all bargaining unit members will receive a wage increase of 50 cents per hour.

3. Effective September 1, 2006, all bargaining unit members will receive an additional wage increase of 50 cents per hour.

4. Effective September 1, 2007, all bargaining unit members will receive an additional wage increase of 50 cents per hour.

3. Article 32 - Health Insurance

Prior to the current collective bargaining agreement, the Employer was obligated to maintain the same level of health insurance benefits while the contract was in effect. In the negotiations for the 2002-2005 agreement, this requirement was removed. The

new language requires the Employer to provide bargaining unit employees with the same level of benefits that are provided in the health insurance plan of the Coshocton County Board of Commissioners. The plan of the Commissioners is referred to as the "county plan." Thus, the Employer is permitted to make changes in benefits provided to bargaining unit members, so long as the same changes are made in the county plan.

The change made in 2002 has been controversial. Even though the contract was ratified by the Union membership, many employees believed that the agreement still required the Employer to maintain the same the level of benefits for the duration of the agreement. In fact, a grievance was filed over the issue. However, the grievance was denied at Step 3 and was not taken to arbitration.

Position of the Union

At fact finding, the Union has proposed that the bargaining unit receive the same level of benefits as other county employees, except that the Out-of-Pocket Maximum using preferred providers may not be more than \$500.00 for those employees selecting single coverage and \$1,000 for those who select family coverage.

Currently, the Out-of-Pocket Maximum is \$1000 for individuals and \$2000 for families, if preferred providers are utilized. If non-preferred providers are utilized, the Out-of-Pocket Maximum is \$2000 for individuals and \$4000 for families.

Position of the Employer

The Employer's fact finding proposal is to retain current language with a change in the contribution that employees make toward the premium. Currently, bargaining unit members pay \$30.00 per pay period for insurance. The Employer proposes that employees be required to make the same contribution as other employees covered by the county plan.

Virtually all other county employees make a contribution equal to 12 percent of the premium for the plan which they select. Based on the current premium, employees with single coverage would pay \$20.44 per pay period. Those with family coverage would pay \$51.12 per pay period. Of course, the contribution amount could increase or decrease during the term of the agreement.

Discussion and Recommendation

Providing health insurance to employees is a major expense for employers. The cost of health care has been increasing much faster than inflation. Thus, employers must find ways to control the cost as much as possible. Generally, the larger the number of employees in a group, the lower the cost per employee.

In a group, all employees receive the same level of benefits. The Union's proposal would single out bargaining unit members by requiring that Out-of-Pocket Maximums be no higher than \$500.00 for individuals and \$1000.00 for families. As stated above, it would not be economical to have a different plan for bargaining unit members. Thus, if the deductibles in the county plan were increased beyond the specified limits, the Employer would have to use funds to pay employees for the difference. Given the unpredictability of future health care expenses, the expense to the Employer to provide this benefit is not determinable.

The fact finder does not believe that it would be fiscally prudent for the Employer to limit the Out-of-Pocket Maximum for members of the bargaining unit. Thus, the fact finder will not recommend the adoption of the Union proposal.

The tentative agreement provided that employees make a premium contribution of \$30.00 per pay period for health insurance. The Employer is now proposing to change the contribution so that it is equal to other employees covered by the county plan. The immediate result would be to increase the premium from \$30.00 per pay period to \$51.12 per pay period, an increase of 70 percent.

The fact finder notes that the bargaining unit members are covered by the AFSCME Care Plan. The plan includes both dental and life insurance. The cost of the plan, which is \$33.50 per month for both single and family coverage, is paid by the Employer. This is less than the amount that the Employer pays for dental and life insurance for other county employees. Thus, the Employer receives a benefit from this bargaining unit because the Employer's contribution to dental and life insurance is less than it is for other county employees.

The fact finder believes that it is inadvisable to increase the premium in a substantial amount unless the provision is negotiated along with other economic proposals. Any change in the employee contribution should be considered at the time when the economic package is under consideration.

In the tentative agreement, the parties agreed to retain the existing language. The fact finder recommends that the parties adopt the language in Article 32 that is found in the tentative agreement. Thus, the Article will not specify limits on the Out-of-Pocket Maximums. The employees' contribution will remain at \$30.00 per pay period.

4. Article 28 - Conversion of Unused Sick Leave

In the 2002-2005 agreement, Article 28 allowed employees to convert part of their unused sick leave at the time of retirement. Employees could convert one hour of sick leave for each four hours of unused sick leave. The maximum payout was limited to 240 hours.

The Union has proposed that employees be able to convert unused sick at a rate of one hour per every three hours of accumulated sick leave. Under the proposal, the maximum payout would be increased to 400 hours.

The Employer notes that this proposal would potentially increase its costs by 3200 hours, based on the current employees. Thus, it asserts that the proposal must be viewed in connection with other economic proposals.

The Union's proposal was incorporated into the original tentative agreement. Thus, during negotiations it was, in fact, considered along with the other economic issues and the parties agreed to the Union proposal.

The fact finder will recommend that the language in the original tentative agreement be adopted. Thus, the conversion rate will be increased to one hour per every four hours of unused leave, up to a maximum payout of 400 hours.

5. Article 42 - Duration

The Employer contends that the agreement be effective from the day of execution to December 31, 2008. It notes that the change in the expiration date would allow more time before the parties have to negotiate a new agreement.

Under the Union proposal, the new agreement would be retroactive to September 1, 2005, and would expire on August 31, 2008.

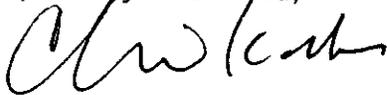
The wage increases recommended herein are based on the assumption that the agreement would expire on August 31, 2008. Hence, the final wage increase is effective on September 1, 2007.

The evidence reflects that these parties have a history of negotiating collective bargaining agreements which expire on August 31 every three years. The original tentative agreement fixed an expiration date of August 31, 2008.

The fact finder sees no compelling reason to change the term of the agreement. Thus, the fact finder recommends that the new agreement be retroactive to September 1, 2005, and that it expire on August 31, 2008.

The fact finder makes the above recommendations to the parties for their consideration.

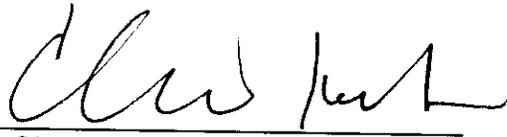
Respectfully Submitted,



Charles W. Kohler
Fact Finder

CERTIFICATE OF SERVICE

I do hereby certify that on this 9th day of March 2005, a copy of the foregoing Report and Recommendations of the Fact Finder was served upon Collen M. Bonk, Staff Representative, AFSCME Ohio Council 8, 1145 Massillon Road, Akron, Ohio 44306; and upon Marc A. Fishel, Downes, Hurst and Fishel, 300 South Second Street - 2nd Floor, Columbus, Ohio 43215; each by Federal Express overnight delivery; and upon Craig Mayton, 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.

A handwritten signature in black ink, appearing to read 'Charles W. Kohler', written in a cursive style.

Charles W. Kohler, Fact Finder