STATE EMPLOYMENT RELATIONS BOARD EMPLOYMENT
STATE OF OHIO ...LATIONS BOARD

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In the matter of Fact Finding between:	)	SERB No. 08-MED-11-1309
	)	
GREEN COUNTY CHILDREN SERVICES BOARD	)	
	)	
and	)	Hearing: May 8, 2009 at Fairborn, Ohio
	)	
THE PROFESSIONALS GUILD OF OHIO	)	Date of Report: May 27, 2009
	)	

FACT FINDING REPORT

Appearances;

Mitchell B. Goldberg, Appointed Fact Finder

For the Public Employer:

Marc A. Fishel, Esq.,	Attorney
Rhonda Reagh,	Executive Director
Alice Maddox,	Director of Operations
Julie White,	Human Resources Analyst
Susan Alberter,	Family Resources Director

For the Guild:

Chauncey M. Mason,	Executive Director
Chad King,	President
Nicole Larson,	Vice President
Melissa Baughn,	Secretary
Alison McCarren,	Former President

I. Introduction and Background.

The Ohio State Employment Relations Board ("SERB") appointed the undersigned as the Fact Finder of this public employment labor dispute on January 23, 2009. The parties agreed to extend the time limits for holding a hearing and for issuing a report. The agreed upon hearing was held on May 8, 2009 at Michael's House in Fairborn, Ohio. They agreed to the issuance date of May 27, 2009 for this report.

Timely pre-hearing statements were filed with the Fact Finder before the hearing in accordance with SERB rules and guidelines. By agreement, no record was made of the proceedings. The parties provided their respective positions on the unresolved issues at the hearing. They made oral presentations and submitted documentary exhibits.

SERB certified the Guild as the sole and exclusive representative of all the Board's professional employees, including Child Welfare Caseworkers, I, II, and III. There are 42 employment positions in the unit, 40 of which are filled. The unit employees investigate and monitor cases of alleged child abuse and neglect. They serve children who are in the agency's custody, and they provide necessary services related to adoption and foster care. The Board employs approximately 101 employees including those within the bargaining unit.

The parties met in negotiations throughout November, December and January. A SERB mediator met with the parties on February 4 and 11. They were able to resolve all of their disputed issues across the table and entered into tentative agreements (TA's) on their economic issues. The agreements were subject to the approval by the County Commissioners. The Commissioners rejected the tentative agreements reached on wages for a two-year contract providing for a 4% across-the-board increase in the first year, and a 3% increase in the second year. The rejection placed other economic issues back on the table. These include disputes over the medical and life insurance benefits, and the length of the successor contract for the one that expired on February 15, 2009.

The Fact Finder considered all of the required factors and standards set forth in the Ohio Revised Code, the Ohio Administrative Code, and the SERB guidelines in issuing the following recommendations on the unresolved issues. All unchanged language from the expired CBA, and all items and issues tentatively agreed upon between the parties approved by the Commissioners before and during the hearing are hereby adopted for purposes of this Report, and are to be considered incorporated herein.

II. Economic Evidence.

The agency receives three sources of public funding: (1) federal funds that pass through the state budget; (2) state funding; and (3) local funding through a tax levy. The Commissioners' rejection of the wage and duration package agreed upon at the table is based upon its concerns that the above revenues will be interrupted and reduced due to factors surrounding the state and nationwide recession.

The federal pass-through funds are referred to as TANF (Temporary Assistance to Needy Families). The Board believes that the agency will lose at least 50% of these funds, which amounts to approximately $300,000 from the funds that come through the State budget to the agency. The loss is about 33% greater than the agency's original projections, and is due to the redistribution of monies at the federal and state levels. The State received federal stimulus dollars, but notwithstanding these funds, TANF funds still were reduced by 50%. The Board and the Commissioners are concerned that these funds will not be restored to CSB, and that there will be a further decline in funding once the stimulus dollars are depleted. Recent news from the State that it is over $1 billion short in its revenue projections for the current fiscal year supports the Board's concerns about its continued revenues.

The State has announced a budget crisis and is working to minimize its expenditures to balance its budget. The agency has already received state funding cuts of 10% in the Child Protection Allocation line item in its budget. This line item represents the bulk of the CSB's state funding. The Board believes that further cuts will be made.

Other state funding has come in the past from the tangible personnel property tax. The agency has budgeted for $167,457 for this revenue in 2009. However, this tax has been eliminated by a new tax called CATS. The State holds agencies harmless from the elimination of this tax until 2011. Thereafter, the subsidy ends. The agency will not receive funds from the replacement tax.

The current 1 mill tax levy that specifically funds the agency will expire at the end of 2009. The voters, however, passed a 1-mill replacement levy and a .5 mill addition. Because of the recession and the present economic circumstances, the County Auditor estimates that the replacement levy will only provide for a 6% -7% increase in revenues. This is due to increases in foreclosures, property devaluations and increased tax delinquencies. This increased revenue must replace expected losses in federal and state money. Moreover, the agency must bear revenue losses caused by reduced contributions from other agencies for services that must be provided by CSB under law.

In the past, other agencies such as Juvenile Court, MRDD and the Mental Health Board have provided for expenditures in their budgets to CSB for placement costs that are mandated CSB costs. These are moneys paid to outside providers such as foster homes. For example, the Mental Health and Recovery Board's tax levy failed. As a result, they will significantly reduce the amount they currently pay CSB for placement costs. Juvenile Court has reduced its contribution from $16,000 per month to $2,000 per month to CSB. Moreover, CSB's partner agencies such as the Visitation Center, the Family Violence Center and the courts have lost TANF funds. These agencies provided services to CSB at no cost – now CSB will be required to pay for services such as drug and alcohol testing. TANF also supports the Jobs and Family Services agency. Unemployment figures continue to rise. JFS will be required to keep more TANF funds to support its services and less will be available to CSB.

The Union acknowledges the above economic facts of life. Nevertheless, looking at the short term of a two-year contract, it believes that the CSB is not experiencing the type of economic crisis that prevents it from paying proposed reasonable cost of living pay increases and insurance costs. In 2007, CSB started the year with a $4 million carryover that produced revenues of $12.3 million by year-end. Expenses were $8.2 million, less than $9.3 million that was budgeted, leaving a carryover in 2008 of $4.1 million. Total revenue in 2008 was $12.5 million with actual expenses of $8.9 million, leaving a carryover in 2009 of nearly $3.6 million. The Guild believes that the Board has historically managed its operations in a conservative manner, and that it is being overly conservative in rejecting the Guild's reasonable economic proposals.

The property tax levy provides for 41% of CSB revenue. Federal funding accounts for 46% and State funding accounts for 13%. Accordingly, state income tax revenue reductions are less important to CSB because it does not depend upon state income tax receipts. TANF funds only account for 3% of the revenue in the CSB budget. Personal property tax money only amounts to 2% of the revenue. The Board recognized these economic facts when it negotiated wage increases for inadequately paid caseworkers for a two-year contract. The economics have not changed. There are more than sufficient funds to pay for the increases agreed upon in the TA.

The Board believes that its concerns are real, and that it is not being overly conservative. For example, from 2004 to 2008, the agency spent more than it received in two out of these five years (2004 and 2008). In 2005, it received $762,000 more than it spent; in 2006 it received $286,000 more than it spent; and in 2007 it received only $566 more than it spent. These figures, however, do not include the continued carryover that was maintained.

III. Unresolved Issues.

(1) Wages

The Union proposes a two-year contract paying across-the-board increases of 4% in the first year, and 3% in the last year. It believes the increases are necessary to address the comparatively low wages that are currently being paid to these college-educated professional employees who must perform very difficult work. The Board has committed to pay 3% wage increases to all of its non-union staff members in 2009, some of whom are less educated and perform less difficult work, but nevertheless receive wages in similar pay ranges. For example, secretaries earning $13 and $14 per hour are receiving 3% wage increases for 2009.

The Board counters the Guild's proposal by offering a three-year contract with a wage freeze in year-one, a 1% increase in year-two, and a 2% increase in year-three. It believes that the present trend of spending more than it receives cannot be sustained. Between 2002 and 2008 its personnel costs have increased by 24.4%, while its placement costs have increased by 43.4%. The agency attempts to keep a cash balance equal to three months of expenditures (approximately $2 million based upon 2008 expenses).

The Guild estimates that its proposal will cost approximately $50,000 for year-one and $39,000 for year-two, totaling a package cost of $139,000. The Board estimates that a 1% across the board increase will cost approximately $16,000 including roll-ups. It estimates that the Guild proposal would cost $172,240 over two years, and that its proposal will cost $62,265 over three years.

Considering all of the economic evidence presented, I conclude that the negotiated wage increase for the first year of the contract is justified. More importantly, under the agency's current economic circumstances, the increase is affordable. There is no persuasive evidence that the economic conditions, as bad as they are, are so dire that the unit members should undergo a wage freeze when 85 non-unit employees are receiving a 3% cost of living increase. The Board's argument that over the past five years unit members have received somewhat higher increases than the non-unit staff rings hollow. The difference only amounts to a few percentage points over this five-year period. Moreover, one must assume that past increases were considered and agreed upon by the Board and that any differences were considered justified.

The payment of this one-year increase will not unreasonably deplete the carryover balance. These employees are personally experiencing the effects of the current recession. Their home values are declining at the same time as their living costs increase. The largest increase is in health care. It is a fact of life that wage increases have for the most part been wiped out over the past years by large cost increases in health insurance premiums, increased co-payments, deductibles and related costs. Moreover, 29 of the 40 unit employees are relatively new employees who are paid at Level I rates amounting to wages between $13 and $17 per hour. Twenty caseworkers are at the lowest level. Their raises of 4% and 3% bring them to $14.54 per hour. This amounts to annual salaries in the $30,000 range. The Board argues that the "promotion in place" (PIP) merit increase plan provides for more income. However, equating merit pay with across the board cost of living increases is comparing apples to oranges. This issue involves across the board cost of living wage increases similar to those paid to non-unit members. These increases are similar and comparable to wage increases to nearby public employees in Xenia, Green County, Beavercreek, Fairborn and Sugarcreek, all of who are receiving 3% or more in 2009.[1]

On should further weigh the impact of reduction in the carryover balance against the need and the increased demand for caseworker services. The workload upon these employees will necessarily be increased due to the breakdown of family units and increased family problems resulting from layoffs, unemployment, bankruptcies, foreclosures and other related life stresses and problems, all of which will impact the need for child related services. These are employees who are providing the community safety net services that unfortunately are now in high demand.

Recommendation. I recommend a two-year contract beginning on February 16, 2009 with a 4% across-the-board pay increase for all bargaining unit members. For year two, I recommend that the Board pay bargaining unit members an across-the-board wage increase equal to the highest across-the-board increase paid to any class or job positions of non-bargaining unit employees for 2010. For example, if all non-bargaining unit job positions and classifications are subject to a wage freeze for 2010, these bargaining unit employees will be subject to the same freeze. However, if any one or more non-bargaining unit positions or classifications (meaning all employees within the

[1] The exception is Green County JFS Teamsters, who accepted a wage freeze to avoid layoffs and they reduced their work schedules. It is assumed that JFS's funding is more reliant upon the state budget.

classification or position) receive a wage increase, the bargaining unit members, and each of them shall receive the increase in the highest amount paid to any one or more classes.

(2) Health Insurance and Life Insurance

Presently, the unit members pay 20% of health insurance premiums, the same as the rest of the agency's employees. The Guild proposes a reduction to 10%, with the agency paying the difference. The present member contribution towards dental insurance is 34% with the agency paying the balance. The Guild proposes a change to 90%-10% for these premiums, the same as the 10% contribution proposal for medical insurance.

The Guild further proposes a waiver plan where members who choose to opt out of the employer plan receive a cash payment of $2,000 for waiving participation in the family plan, and $1,000 for waiving the single plan.

The Guild proposes a language change that would require the agency to bargain the effects of any benefit changes made in the county plan under which agency participates, during the term of the CBA.

Finally, the Guild proposes an increase in the current life insurance benefit from $20,000 to $30,000.

The Board opposes all of the above proposals, because all county employees have access to the same coverage. The current employee premium contributions have been in place for many years. There is no logical reason why these unit members should be treated differently than other county employees. The Board estimates that the Guild's proposal would cost $123,597 during the term of the CBA, which is equivalent to a 7.98% wage increase. The Board further believes that the waiver idea should be tabled until the Board can analyze whether any real cost savings could be recovered. Moreover, a loss of participants due to waiver elections could adversely affect the premiums for the entire group, due to a group number reduction.

Recommendation. I recommend no change in the current insurance provisions at this time because of economic concerns.

(3) Duration

Recommendation. I recommend a two-year contract for the above stated reasons.

Date of Report: May 27, 2009 Mitchell B. Goldberg

Mitchell B. Goldberg, Appointed Fact Finder

Certificate of Service

This Report was served by U.S. Mail, first class, on May 27, 2009 upon Marc A. Fishel, Esq., 400 S. Fifth St., Suite 200, Columbus, Ohio, attorney for the Employer; Chauncey M. Mason, Executive Director of the Guild, PO Box 7139, Columbus, Ohio; and Edward E. Turner, Administrator, Bureau of Mediation, SERB, 65 E. State St., 12th Fl, Columbus, Ohio 43215-4213.

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