STATE EMPLOYMENT
RELATIONS BOARD

2010 SEP 10 P 2: 21

STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

In the matter of Fact Finding between:	)	SERB No. 09-MED-09-1064
	)	
INTERNATIONAL BROTHERHOOD OF	)	
TEAMSTERS, LOCAL 284	)	Hearing: August 23, 2010
	)	at Columbus, Ohio
and	)	
	)	
FRANKLIN COUNTY CHILD SUPPORT	)	
ENFORCEMENT AGENCY	)	Date of Report:
	)	September 8, 2010

FACT FINDING REPORT

Appearances:

Mitchell B. Goldberg, Appointed Fact Finder

For the Union;

Robert K. Handleman, Esq.,	Attorney
Don Moore,	Business Agent
Allen Price,	President, Local 284
Valerie Dillon,	Steward
Augie Lightle,	Steward
Donn Brust,	CSEA
Jennifer Knapmeyer,	Steward
Norma Barnes,	Chief Steward

For the Public Employer:

Aaron L. Granger, Esq.,	Attorney
Robert D. Weisman, Esq.,	Attorney
Lori Torriero,	Assistant Director
Melinda Carlson,	Litigation Manager
Steve Wygle,	Quality Assurance Manager
Christy Russell,	Office of Management & Budget, Asst. Director
Susan A Brown,	Director FCCSEA
Margaret K. Snow,	Director, Human Resources
Scott Solsman,	Assistant H.R. Director, Benefits Administrator

I. Introduction and Background.

On June 24, 2010, the State Employment Relations Board ("SERB") appointed the undersigned as the Fact Finder for this public employment labor dispute. The Employer operates a county governmental agency that provides for the establishment and enforcement of legal obligations regarding the payment of child support obligations. Operations include locating absent parents who are responsible for paying child support, establishing paternity for children born out of wedlock, establishing and enforcing court orders for the payment of medical insurance for children, and enforcing out-of-state orders for support obligations.

The Union is the excusive representative for approximately 203 bargaining unit members who work in the following classifications: Clerk, Secretary1&2, Client Information Specialist, Cashier, Account Clerk 1&2, Legal Secretary 2, Software Specialist, Paralegal, and Support Officers 1&2. The Employer and Union are parties to a collective bargaining agreement ("CBA") that is in force from March 31, 2009 through December 31, 2011.

Two economic provisions require re-opener negotiations for the payment of wages (Article 40) and health insurance benefits (Article 14) for the last two years of the contract term, January 1, 2010 – December 31, 2010, and January 1, 2011 – December 2011. Negotiations began on or about October 1, 2009 in accordance with the CBA provisions, and the parties engaged in mediation in order to resolve these disputed issues, but the negotiations failed to arrive at a mutually agreed upon settlement.

A hearing was scheduled for August 23, 2010 to hear evidence on the unresolved issues. The parties complied with their statutory obligations by timely submitting pre-hearing statements to the Fact Finder before the commencement of the hearing. They provided opening statements in support of their respective positions, witness testimony and documentary exhibits. Oral closing arguments were heard after all of the evidence was received.

The Fact Finder considered all of the required factors set forth in the Ohio Revised Code, the Administrative Code, and the SERB Guidelines before issuing the following recommendations on the unresolved issues.

I. Economic Evidence.

The national economy at the present time is struggling to recover from one of the worst recessions in the country's history. Economists are concerned that the recovery may stall again after the government's initial attempts to stimulate economic growth. National unemployment figures are in double digits and many believe the official numbers are understated due to the failure to account for the many former employees who have simply given up any further attempts to find jobs. Ohio is one of the states suffering the most. It continues to experience high unemployment, and it is among the leaders in residential foreclosures from a distressed real estate and construction market. The continuous loss in manufacturing jobs has carried over to wage freezes, layoffs, and furloughs in public sector employment due to lower tax collections to fund public services.

Franklin County and the Columbus area depend less upon manufacturing jobs. They have fared better than other areas of the state due to large state government employment, the universities and service industries such as insurance. Nevertheless, the June 2010 unemployment rate for Franklin County was 9.2% compared with 5.8% in June 2008. Figures approaching double digits are expected through 2012. Franklin County ranked below Cuyahoga County in the number of real estate foreclosures for the second quarter of 2010.

These economic facts have taken their toll on state and county tax revenues. The County's general fund budget for 2010 is expected to reach the projected decline of 2.1%. The decline will be in the 1.7% range when the other revenue funds are included. Accordingly, the County must continue to operate and deliver taxpayer services within these restrictions. Specifically, sales tax receipts for 2010 are running at or slightly ahead of budget for the first half year; conveyance fees and investment income receipts have dropped substantially, and annual prisoner housing revenue has declined by $3 million from 2009 figures. The state's allocation to Franklin County has declined by $500 million from 2009 figures. The county's chief financial concern is the possibility that state allocations will cease after June 2011. If this occurs, the county will lose $22.1 million in revenue or 7.7% of its general fund revenue.

Insofar as this CBA is concerned, however, the federal budget is the more important factor. This agency is funded through federal appropriations that are passed through the states under various complex formulas to determine the funding of each child support agency. While this agency may on occasion receive loans or transfers from the county's general fund, the bulk of the funding comes from the federal government though the states under these formulas.[1] The Union contends, and the Agency has not presented evidence to the contrary, that child support collections remain a high bi-partisan federal priority. Reductions in federally injected revenue, therefore, are not expected to occur throughout the remaining term of this CBA.

Accordingly, it is important to note that the Agency is not claiming the inability to pay the amounts of the Union's wage proposals and/or its health insurance benefits to unit employees. Instead, the Agency's positions are grounded upon a conservative operations approach that will prevent it from going into the red if poor economic conditions persist that put further strains upon its expected revenues.

II. Unresolved Issues.

Wages – Article 40

The Union.

The Union is proposing an across-the-board wage increase of 4% for 2010, and another 4% increase for 2011. In addition, it proposes an additional "market" adjustment of 1% added to the base wages, effective January 1, 2010, and another 1% market adjustment added to the base wages for 2011. It further proposes that a loyalty incentive

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[1] For example, there was mention of a $700,000 loan from the general fund to the Agency in 2009 that was repaid, and a one-time transfer of $230, 000 in 2010 to provide assistance in prosecuting enforcement cases. This transfer amounts to approximately 1% of the general fund revenue projected for 2010.

be paid as an addition to the base wages based upon years of service. Employees with 5 years of service but less than 10 years would receive an additional $.25 per hour. Those with 10 years but less than 15 years would receive $.50 per hour. Those with 15 but less than 20 years would receive $.75 per hour. Employees with more than 20 years of service would receive $1.00 per hour.

The Union's position is premised upon its belief that this unit has suffered from below market wage increases in the past compared to increases received by other county employees. Its proposal is an effort to bring the employees in this unit up to par with the wages paid to the other county employees for comparable work. The CBA between the County and AFSCME, Ohio Council 8, Local 2049 covering the period from January 1, 2007 to January 1, 2010 provided for 3% increases in 2007, 2008 and 2009, and a 1% market adjustment added to the base wages in each year. Longevity payments were provided with a service credit of $150 for employees with 5 but less than 10 years of service, and $300 for employees with 10+ years of service.

The CBA between the County Department of Job and Family Services and OCSEA, Local 11 runs from April 1, 2008 through March 31, 2011. These employees perform similar work to that performed by this unit. These employees received 3% in each of the three years together with 1% market adjustments each year.

The County's Public Facilities Management Department has a CBA with FOP-OLC that runs from January 1, 2008 through December 31, 2010. It also provides for 3%

across-the-board increases each year, 1% market adjustments to the base wage each year and longevity payments. The FOP-OLC CBA with the Sheriff's Office for civilian employees ran from August 7, 2007 to January 3, 2010. It provided for 3% increases each year and service credits. The CBA with FOP-OLC Unit 2, the Patrol Communications Technicians, covered the same term with similar compensation. The Professionals Unit in the Sheriff's office represented by the FOP-OLC received a 2.5% wage increase in 2009, a 0% increase for 2010, and a re-opener for 2011.

The CBA between Franklin County Children's services and the OFT runs from February 1, 2009 through January 31, 2011. It also provides for 3% wage increases each year, 1% market adjustments and pay range increases. The CBA between the Franklin County Veterans Service Commission and CWA runs from January 1, 2008 through December 31, 2010. It provides for a 3.5% across-the-board increase in year-1, 3% in year-2 and 3% in year 3, together with longevity lump sum payments. The Sheriff's Office CBA, Unit 1 for civilian employees with Teamsters Local 413 runs from September 14, 2009 through December 31, 2011. This CBA provided for a 3% across-the-board wage increase in 2009 with re-openers for 2010 and 2011 and service credits.

While wages for some of these units are uncertain for 2011, JFS employees, Facilities Management employees and Children's Services employees are each receiving 4% across-the-board wage increases (3% + 1% market) in 2010. Facilities Management employees and Children's Services employees are also receiving longevity payments and pay range increases.

The FCCSEA and the Teamsters, Local 284 engaged in Fact-Finding when they could not reach an agreement in 2009. Fact Finder E. William Lewis issued a Report on July 13, 2009 recommending wage increases retroactive to January 1, 2009 under a CBA that would expire on December 31, 2011. He recommended a 2.5% across-the-board increase for 2009 with a re-opener for 2010 for wages and health insurance benefits. The Fact Finder's recommendations were accepted and memorialized in a CBA between the parties. It is the re-opener for 2010 and 2011 wages and health insurance benefits that are at issue here.

The Agency.

The Agency proposes a 0.8% across-the-board wage increase for 2010 with adjustments to minimum base wages of up to 25% for each job classification. The adjustments are an attempt to implement recommendations contained in the 2009 Archer Classification and Compensation Study that the County obtained to develop a new pay scale to guide its efforts to obtain a new compensation system based upon the use of objective criteria and data. The Agency's proposals for increasing minimums in each classification to bring minimum compensation levels up to market is a first step toward reaching the market minimum goal for each classification. It is attempting to address the below market salaries of many of its employees. It would like to address this issue before it considers the Union's proposals for loyalty payments based upon years of service.

Recommendation:

I believe that the existing poor economic conditions will continue to result in minimal pay increases for public sector employees. Layoffs and furloughs will continue to occur under these poor economic conditions. Nevertheless, we are dealing here with two years of wage increases, from January 1, 2010 through December 31, 2011. I recognize that 2010 wage increases that appear in the other county contracts were negotiated several years ago when economic prospects were not so bleak. The County is contractually obligated to make these payments notwithstanding the recession that occurred in the interim. But, paying 4% increases across the board to JFS employees in 2009, while this unit only received 2.5% in 2009, after Fact Finding, imposed a disparity between the earnings of this unit's employees compared with others doing similar work. I agree with the Union that this result is unjustified.

Moreover, the unjustified disparity is increased by the JFS contract that provides another 4% across-the-board increase in the last year of its contract, April 1, 2010 through March 31, 2011. The County has shown that wage increases will ultimately be reduced or even eliminated because of the poor economy, as evidenced by the latest FOP-OLC contract that produced a 0% increase for 2010 and a re-opener for 2011. Nevertheless, JFS employees will have received 8% over the period from April 1, 2009 through March 31, 2011, while this unit only received 2.5% for 2009. I believe that this disparity should be substantially addressed now, while there are sufficient funds available to pay the employees for 2010 and 2011. Thereafter, when wage increases are frozen or minimized for JFS employees and others, this unit's employees can receive small increases to eventually overcome this disparity.

The evidence shows that the cost of a 1% across-the-board increase for each unit member is approximately $75,000. A 3.5% increase will therefore cost approximately $262,500, a sum that is manageable within the Agency's budget for 2010.

Accordingly, I recommend that the employees in this unit receive a 3.5% across-the-board wage increase retroactive to January 1, 2010 through December 31, 2010. They shall receive a 2.5% across-the-board wage increase in the last year of this CBA, January 1, 2011 through December 31, 2011. There shall be no market adjustments during this period, and no loyalty incentive payments. This recommendation is based upon the belief that raises for other county employees will be less than these percentages for 2011 and beyond when their contracts are negotiated, due to the poor economy.

Health Insurance Benefits – Article 14

The Union.

The Union proposes a change in health care plans from the current Franklin County Board of Commissioners Choice Plus Health Benefit Plan ("CPHBP") to the Michigan Conference of Teamsters Welfare Plan ("MCT"). It believes that substantial savings will result from this change. It argues that the benefits are comparable and in some respects better. The change would result in savings of $272,721 in 2010, and more in 2011. Based upon the County's prediction of a 12.8% premium increase, the savings in 2011 could amount to $589,055. If the County does not pick up the bulk of the premium increase there will need to be benefit cuts and increased member contributions.

The Union's plan comparison exhibit (Union Exhibit B) shows the blended cost per employee without employee contributions. Using the unit number of 203 instead of 201 produces a blended annual cost of $11, 441 per employee compared with the Agency's cost per employee figure under the present plan of $11, 772, or a savings of $331 per employee. The total savings in 2010 would have been $67,193 if the MCT plan were in effect. The savings becomes much larger in 2011 and 2012 when the Agency's estimates are much higher, such as $14, 278 per employee in 2011 compared with the MCT cost of $11520 per employee, a savings of $559,874.

A Fact Finding Report issued to the City of Marietta, Ohio and Teamsters Local 637 in July 2007 supports the Union's case. The City and Union accepted the Fact Finder's recommendation to accept the MCT plan, notwithstanding the City's objections to the switch raised at the hearing. The Fact Finder found that the new plan was a "clear benefit and gain by the employees," meaning that there were recognizable cost savings with comparable benefits when the MCT plan was compared with the former higher cost plan.[2]

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[2] Furman Report, p.10.

The Agency.

The Agency proposes an increase in employee contributions under the existing plan that covers all county employees. The increase would be from $50 per month to $55 effective January 1, 2010 for single coverage and single with children. The contribution would increase to $60 per month in 2011. Including spouse coverage would increase the contribution from $110 per month to $135 in 2010, and to $160 per month in 2011. It argues that the increased costs for the present plan and coverage are spiraling out of control. The predicted increase for 2011 over 2010 will be 14%, from $12, 919 composite cost per employee to $14, 728.

The County will attempt to address these increased costs by reducing the benefit structure by 6%, in order to achieve only an 8% increase. This may be achieved by increasing co-payments, deductibles and increased drug payments.

Analysis.

The Agency has a number of objections and concerns over a switch to the MCT plan as proposed by the Union. First, removing 203 employees from the County pool will produce a remaining smaller risk pool that may increase the insurance costs for the remaining pool. Second, the County's Employee Benefits department would still have some administrative responsibilities for assisting these unit members even if they become members of the MCT plan. Third, the existing plan's EAP and behavioral health plan is more favorable to employees and encourages them to utilize this benefit. There are no co-payments with the first 30 visits. The MCT plan provides for a co-payment with the first visit.

The Agency does not accept the premise that the MCT plan offers true cost savings. The MCT annual rate for family coverage is more costly than the County's composite employee costs in 2010 and 2011. The Union argues that the County will achieve savings, however, because single rates, single plus children or single plus spouse will be below the County composite rates for both years. But, the County plan is designed to provide incentives for spouses to leave the plan to lower overall costs. The MCT plan would reverse the incentive by providing family coverage for all family members at the highest level of coverage, thereby eliminating the present significant discount to single parents with children. If a significant number of employees who currently pay for single coverage with dependent children opt for family coverage under the MCT plan, the County's total costs will escalate. This is perceived as a fundamental flaw in the Union's cost savings analysis.

Finally, the Agency argues that a move to the MCT plan will damage the County "brand" that is useful in recruiting new employees. The brand is the high level of the total benefits package that has become a source of pride among the employees and others in the community.

Based upon the record before me, the Agency's objections do not appear to be persuasive enough to discount the serious consideration of the Union's proposal. One must analyze the two plan proposals on a line-by-line basis with an expert's analysis as to what the effects will be if the MCT plan is approved. The Union's comparison exhibit dated October 14, 2009 appears to show that the present plan and the MCT plan are comparable, but the comparison must be done by experts who can analyze and explain the details of each plan along with plan histories relative to delivery of insurance services to beneficiaries, so that informed decisions can be made.[3] I do not have the actuarial background or experience necessary to make accurate cost comparisons under different scenarios, including projections as to how many employees will elect to switch their coverage to the more expensive family coverage under the MCT plan.

The existing language of Article 14 requires that "any changes implemented in the overall County plan design will be discussed prior to implementation with the Joint Benefits Committee of which the Teamsters are a member." It was represented by the Agency's counsel at the hearing that the MCT proposal has not as yet been brought before the Joint Committee for review and consideration. It seems to me that this needs to be done for transparency purposes so that all County employees may be educated as to

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[3] Union Exhibit C shows for example, that annual deductibles are more favorable in non-network than the United plan. However, there is a lifetime maximum for MCT of $5 million, with no maximum for United. Co-insurance is 90%-10% for network and 80/20 for non-network for MCT. United has no co-insurance for network and 80/20 for non-network. Doctor visits for MCT has a $20 co-pay for network and a 60% maximum for non-network. United has a $15 co-pay for network and 80% for non-network after deductible. MCT pays 100% for well care exams, but United requires a co-pay of $15 for network. Maternity benefits appear comparable. MCT requires a $250 co-payment for inpatient hospitalization in network; United covers 100% without a co-payment. MCT has smaller co-payments for emergency care. Similar differences are set forth in each of the other covered categories. Each plan has more favorable components compared to the other depending upon member usage.

the pros and cons of the MCT plan as compared to the existing County plan. MCT representatives should be given the opportunity to sell their proposal and to address all of the County's objections so that the Committee may make an informed decision on behalf of all of its employees.

If it turns out that the benefits are substantially equal as determined by the experts, and that the costs are significantly less as proposed by the MCT, the MCT plan should be adopted. The County's brand argument is already becoming damaged by continuous cost increases and benefit reductions, and by requiring more contributions from its employees. Competition from MCT can only be viewed as beneficial if its proposal does produce substantial cost savings with similar benefits. The pubic and the taxpayers expect that government managers will be open-minded when it comes to saving money by reducing future health care cost increases. The fact that a respected health insurance provider is a union sponsored health plan instead of a self-insurance plan with a stop-loss covered by an insurance company should be irrelevant when it comes to making sound economic decisions in this area.

Recommendation:

I recommend that the Union's proposal be taken before the Joint Committee for serious consideration as stated above. This contractual requirement should occur before a Fact Finder recommends a spin off of this unit into a different insurance plan separate from other County employees. Until any plan changes are made, the employee contributions for 2010 shall be $55 per month for single, and single with children, and

$135 per month with included spousal coverage. For 2011, the contributions shall be $60 per month, and $160 respectively. These are the same contributions that appear in the JFS contract for these years, and reflect the Agency's proposal in this matter.

Date of Report: September 8, 2010.

Mitchell B. Goldberg

Mitchell B. Goldberg, Appointed Fact Finder

CERTIFICATE OF SERVICE

The foregoing Report was served upon the following parties this 8th day of September 2010 by U.S. Mail, First Class, postage prepaid:

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