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STATE EMPLOYMENT  
RELATIONS BOARD

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**PURSUANT TO O.R.C. 4117.14(C)**  
**UNDER THE AUSPICES OF THE**  
**STATE EMPLOYMENT RELATIONS BOARD**

<b>IN THE MATTER BETWEEN</b>	)	
	)	
<b>AMERICAN FEDERATION OF STATE,</b>	)	
<b>COUNTY, AND MUNICIPAL</b>	)	<b>FACTFINDER'S REPORT</b>
<b>EMPLOYEES, LOCAL 3411</b>	)	
	)	
<b>and</b>	)	
	)	
<b>CITY OF TOLEDO</b>	)	<b>SERB CASE NO.</b>
<b>MUNICIPAL CLERK OF COURTS</b>	)	<b>09-MED-09-1069</b>

**This Factfinding arises pursuant to Ohio Revised Code Section 4117.14(C). The Parties, the American Federation of State, County, and Municipal Employees, Local 3411 ("the Union") and the City of Toledo, Municipal Clerk of Courts ("the City"), selected Susan Grody Ruben to serve as sole, impartial Factfinder, whose Recommendations are issued below.**

**Hearing was held June 14, 2010 in Toledo, Ohio. The Parties were represented by counsel and were afforded full opportunity for the presentation of positions and evidence. Pre-hearing submissions were received from both Parties.**

**APPEARANCES:**

**for the Union:**

**Steve Kowalik, Staff Representative, AFSCME Ohio Council 8, 420 S. Reynolds Road, Suite 108, Toledo, OH 43615.**

**for the City:**

**Donald M. Collins, Senior Attorney, and Ellen Grachek, Senior Attorney, City of Toledo, Department of Law, One Government Center, Suite 2250, Toledo, OH 43604.**

**FACTFINDER'S RECOMMENDATIONS**

**Statutory Criteria**

In reaching Recommendations on the open issues, the Factfinder has reviewed the parties' pre-hearing submissions, and the evidence and positions presented at the Factfinding Hearing. The Factfinder has analyzed this information in the context of the statutory criteria found in Ohio Revised Code Section 4117.14(G)(7):

- a) **Past collectively bargained agreements ... between the parties;**
- b) **Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;**
- c) **The interests 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;**
- d) **The lawful authority of the public employer;**
- e) **The stipulations of the parties; and**

- f) **Such other factors, not confined to those listed ... which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.**

**Bargaining Unit**

The bargaining unit consists of Deputy Clerks of the Municipal Clerk of Court. There are approximately 74 employees in the bargaining unit.

**Incorporated Articles**

The Factfinder hereby incorporates into her Recommendations the following articles, with the changes, if any, agreed to by the Parties at the

Factfinding Hearing:

Article 2	Management Rights
Article 6(4)	Compensatory Time
Article 6(5)	Holiday Overtime
Article 9(3)(c)	Reporting – Proof of Illness
Article 18	Hospitalization – Prescription Drug – Vision Care – Dental Insurance
Article 20(2)(d)	PERS
Article 21	Duration Provisions

**Unresolved Issues**

1. **Article 20(1) Wages**

**City's Proposal**

The City proposes 0%-0%-2%. This wage proposal is based on the City's dire economic circumstances. The 2% increase in the 3<sup>rd</sup> year of the Agreement will enable employees to keep up with the local market, and it is consistent with the other AFSCME contracts with the City.

### Union's Proposal

The Union proposes 0%-0%-3.5%. The wage freeze proposal in the first two years of the Agreement is due to the reduction in the Clerk's budget by the City of Toledo. The 3.5% proposal for the third year of the Agreement is supported by: 1) An increase in base pay will help offset the employees' new contribution to the health insurance premium; 2) Police and Fire have negotiated a 3.5% increase for the 3<sup>rd</sup> year of their contracts; and 3) The annual base salary for bargaining unit employees is far below Police and Fire. In the bargaining unit, 9 employees are in the \$20K-\$30K range, and 65 employees are in the \$30K-\$40K range.

### Factfinder's Recommendation

The Factfinder recommends 0%-0%-2%. This is consistent with the other AFSCME contracts with the City. It also helps offset the employees' new contribution to the health insurance premium.

## 2. Article 20(2) PERS Pick-Up

### City's Proposal

The City proposes the employees pay an additional 1.5% of their pension contribution for the life of the Agreement. Currently, employees pay 1.5%; the City requests an additional 1.5%. The City can no longer afford to pay the employees' share of this benefit. Toledo is one of two major cities in Ohio with pension pick-up of this nature. Columbus is the only other city that picks up any portion of the employees' share. No other employer in Toledo or Northwest Ohio pays any portion of the employees' share of pension pick-up.

**Union's Proposal**

The Union proposes status quo – i.e., employees will continue to pay 1.5% of the 10% employee portion of the pension contribution. The members of this bargaining unit are compensated at a lesser rate than most other City employees. Gains the Union made in this area were in lieu of a wage increase or a lesser base wage increase. The City's proposal would cause a financial hardship for these bargaining unit employees.

**Factfinder's Recommendation**

The Factfinder recommends status quo – i.e., employees will continue to pay 1.5% of the 10% employee portion of the pension contribution. The record indicates some of the other bargaining units in the City still contribute 0% of the employee portion of the pension contribution. Moreover, the pension pick-up of 8.5% in this bargaining unit was reached in exchange for base wage increases.

DATED: July 14, 2010

  
Susan Grody Ruben  
Susan Grody Ruben, Esq.  
Factfinder

**SUSAN GRODY RUBEN, ESQ.**  
ARBITRATOR AND MEDIATOR

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