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**STATE OF OHIO
BEFORE THE OHIO STATE EMPLOYMENT RELATIONS BOARD**

IN THE MATTER OF FACT FINDING

**BETWEEN THE CITY OF ZANESVILLE
AND
FRATERNAL ORDER OF POLICE/OHIO LABOR COUNCIL, INC
(Sergeants and Lieutenants)**

SERB Case # 11-MED-07-0999

Date of Hearing: August 30, 2012

E. William Lewis, Fact Finder

Fact Findings and Recommendations

Appearances:

Mr. Chuck Choate, Senior Staff Rep.
Fraternal Order of Police/OLC
2721 Manchester Road
Akron, Ohio 44319

Todd M. Ellsworth, Esq.
Downes Fishel Hass Kim
400 South Fifth St., Suite 200
Columbus, Ohio 43215

AUTHORITY

In the matter brought before Fact Finder E. William Lewis in keeping with applicable provisions of Ohio Revised Code 4117 and related rules and regulations of the Ohio State Employment Relations Board. The parties have complied in a timely manner with all procedural filings. The matter before the Fact Finder is for consideration and recommendation based on merit and fact according to the provisions of ORC 4117, particular those that apply to Safety Forces and the mutual directives of the parties.

In attendance:

For the City:

| | |
|--------------------|----------------------------|
| Mr. Todd Ellsworth | Labor Counsel |
| Mr. Fred Buck | Safety Director(witness) |
| Ms. Rhonda Heskett | Director, Budget & Finance |
| Mr. Scott Hillis | Law Director |
| Mr. Eric Lames | Police Chief(witness) |

In attendance for the Union:

| | |
|------------------|--------------------|
| Mr. Chuck Choate | FOP Representative |
|------------------|--------------------|

See attached authorization of local committee by
Mr. Chuck Choate.

BACKGROUND:

The City of Zanesville, hereinafter known as the Employer/City, provides municipal and safety services to approximately 25,000 citizens. The Fraternal Order of Police, Ohio Labor Council, represents a bargaining unit of seven employees. This bargaining unit is one of six bargaining units within the City. The bargaining unit employees provide supervisory support services to the certified police officers, as well as safety force duties.

This is a successor Agreement to the Collective Bargaining Agreement that expired on December 31, 2011. The parties have had one bargaining session on May 10, 2012, and resolved all issues except those listed below:

ARTICLE 23, WAGES

Section 23.1-SALARIES, WAGES, AND SALARY RANGES(Appendix I)

Section 23.2-AUTOMATIC PAY INCREMENTS

Section 23.3-LONGEVITY PAY

Section 23.4-CALL-IN PAY/COURT PAY

Section 23.5-PENSION PICK-UP

ARTICLE 25, INSURANCE SCHEDULE

Section 25.1 (B) - Insurance

Section 25.2 (C) - CONTENT OF INSURANCE PLAN

1. Employee Premium Payroll Deductions
2. Employee Deductibles
3. Employee Co-Insurance
4. Employee Out-of-Pocket Maximums

Section 25.2 (D) - CONTENT OF INSURANCE PLAN

1. Co-pays for prescription drugs

Section 25.2 (E) - CONTENT OF INSURANCE PLAN

1. Dental and Vision coverage only

Section 25.5 - CONTENT OF INSURANCE

1. Life insurance policy

Based upon the mutually agreed settlement procedure between the parties, this Fact Finder was appointed by SERB on July 19, 2012. By mutual agreement, the Fact Finding Hearing was scheduled for August 30, 2012.

In accordance with Ohio Revised Code 4117.14(C)(4)(e), in making recommendations, the Fact Finder takes into consideration the following factors:

- (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 adjustment 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 issues submitted to mutually agreed upon dispute settlement procedures in the public service or in private employment.

THE FACT FINDING HEARING:

At the Fact Finding Hearing the parties mutually agreed to enter into mediation on the unresolved issues, as encouraged by ORC 4117. During the mediation session with the fact finder, all but one of the unresolved issues were resolved, and signed-off as Tentative Agreements. Therefore, the fact finder's recommendations will include the attached signed Tentative Agreements, agreed to before the fact finder at the August 30, 2012 Hearing, and his recommendation on the single unresolved issue of Longevity Pay, Section 23.3.

ARTICLE 23, WAGES

Section 23.3 LONGEVITY PAY

UNION POSITION:

Current Contract.

CITY POSITION:

Reduce the Longevity Pay Schedule by one percent (1%) across the board for years 2012 and 2013.

DISCUSSION:

During the Evidentiary Hearing on this issue the City, through its witnesses, introduced evidence that the bargaining unit supervised by these employees has already agreed to their proposal(TB-31). Also, the Firefighters, who share the same building, have the same longevity provision as proposed here by the City(TB-30). Traditionally, safety force supervisory contracts “dove-tail” off of the patrol contracts, as is evidenced here.

Although the Union argued that some other bargaining units within the City have had only one year reduced in the longevity schedule, they are usually lesser paid employees. Furthermore, they are not safety force units. The safety forces’ internal comparables are compelling to the fact finder, on this issue.

RECOMMENDATION:

Section 23.3 Longevity Pay, to read as follows:

- A. The City of Zanesville will grant longevity pay each year to permanent full-time employees covered by this Agreement in accordance with the following schedule:

In the years of 2012 and 2013:

| YEARS OF SERVICE AS OF SEPTEMBER 30 | LONGEVITY PAY |
|--|--|
| 5 | 1% of Previous Annual Payroll Earnings |
| 9 | 2% of Previous Annual Payroll Earnings |
| 13 | 3% of Previous Annual Payroll Earnings |
| 16 | 4% of Previous Annual Payroll Earnings |

In the year 2014:

| YEARS OF SERVICE AS OF SEPTEMBER 30 | LONGEVITY |
|--|--|
| 5 | 2% of Previous Annual Payroll Earnings |
| 9 | 3% of Previous Annual Payroll Earnings |
| 13 | 4% of Previous Annual Payroll Earnings |
| 16 | 5% of previous Annual Payroll Earnings |

Sections B, C, D, --current language

Section E. Change to read as follows:

Employees who are on the payroll as of June 30 will be entitled to a prorated share of their longevity pay even though they may terminate prior to October 1. The prorated pay shall be based on the number of completed pay periods in the final year of service divided by twenty-six (26) and multiplied by the longevity pay due for the entire year.

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ARTICLE 23
WAGES

Section 23.1 Salaries, Wages, and Salary Ranges

- A. The salaries, and salary ranges for the position classifications of Sergeants and Lieutenants shall be in accordance with those set forth in Appendix I. Wages for 2012 shall be effective October ~~1~~⁵ 2012. Wages for 2013-2014 shall be effective the first day of the first full pay period of January.

Section 23.2 Automatic Pay Increments

- A. Wage step increments for 2012 shall be effective October ~~1~~⁵ 2012 for those employees eligible for a step increment on January 1, 2012. Wage step increments in 2013-2014 shall be in accordance with the following schedule:

| <u>PAY RANGE STEP</u> | <u>LENGTH OF SERVICE</u> |
|-----------------------|--------------------------|
| 1 | Date of promotion |
| 2 | First January in rank |
| 3 | Second January in rank |

- B. Pay increases in 2012 shall be effective on October ~~1~~⁵ 2012. Pay increases in 2013 and 2014 shall be effective on the first day of the first full pay period in January.
- C. Length of service as used in this Article shall mean length of service in rank.
- D. Employees promoted in January will be assigned to Step 1. The following January will be considered their first January of service for purposes of determining length of service in Part (A) of this section.

Section 23.3 Longevity Pay

- A. The City of Zanesville will grant longevity pay each year to permanent full-time employees covered by this Agreement in accordance with the following schedule:

In the years 2012 and 2013:

| <u>YEARS OF SERVICE AS OF SEPTEMBER 30</u> | <u>LONGEVITY PAY</u> |
|--|--|
| 5 | 1% of Previous Annual Payroll Earnings |
| 9 | 2% of Previous Annual Payroll Earnings |
| 13 | 3% of Previous Annual Payroll Earnings |
| 16 | 4% of Previous Annual Payroll Earnings |

*Longevity rates
for Year 2013 is
sole issue for
fact-finding.*

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In the year 2014:

YEARS OF SERVICE
AS OF SEPTEMBER 30

LONGEVITY PAY

| | |
|----|--|
| 5 | 2% of Previous Annual Payroll Earnings |
| 9 | 3% of Previous Annual Payroll Earnings |
| 13 | 4% of Previous Annual Payroll Earnings |
| 16 | 5% of Previous Annual Payroll Earnings |

- B. Payment is to be calculated on the previous annual payroll earnings.
- C. September 30 of each year in which the payment is to be made shall be used in calculating years of service for longevity pay.
- D. Payment shall be made in a lump sum during October of each year and shall be separate from the employee's regular paycheck. Longevity pay shall be taxed as if earned over the entire payroll year (26 pay periods).
- E. Employees who are on the payroll as of June 30 will be entitled to a prorated share of their longevity pay even though they may terminate prior to October 1. This shall apply to termination under honorable circumstances. Upon termination under honorable circumstance, employees who are eligible for longevity pay will be paid, as part of their terminal pay, the final partial year's longevity pay on a prorated basis. The prorated pay shall be based on the number of completed pay periods in the final year of service divided by twenty-six (26) and multiplied by the longevity pay due for the entire year.

Section 23.4 Call-In Pay/Court Pay

- A. Call-in pay shall be provided when an employee is required to report for work or to report for scheduled or ordered court appearances at times other than his regular shift or hours of work regardless of whether or not work is available or the court case is actually conducted.
- B. An employee called in under Section A shall receive three (3) hours pay at his base rate (straight time) or pay for time actually worked at the applicable rate whichever is greater.
- C. Call-in pay shall not be provided for: (1) work extending beyond the end of an employee's scheduled shift; (2) work before and continuing into his scheduled shift; ~~(3) scheduled training period; (4) scheduled departmental meetings;~~ (5) situations in which employees are summoned back to work to correct errors or incomplete task during his assigned duty hours.

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- D. Employees who fall under Section C only shall be paid at the applicable hourly rate, except that for scheduled training periods and scheduled department meetings employees shall receive one (1) hour's pay at his base rate (straight time) or pay for time actually worked at the applicable rate, whichever is greater.
- E. "Scheduled" as listed in Section C only shall mean a minimum of 48 hours notice.
- F. An employee may, at his option, receive compensatory time off in lieu of pay for call-in or court appearances.
- G. Call-in time for which payment is rendered shall not be used for computing the forty (40) hour work week for premium pay. Any time actually worked under each call-in that exceeds 2 hours shall be used in computing the forty (40) hour week for premium pay. Hours worked as defined in Section 2.3(B) shall be used to compute the forty (40) hours work week for premium pay.

Section 23.5 Pension Pick Up

The City shall pay ("pick-up") that portion of the employees' contribution to the R.F.D.P.F. Ohio Police and Fire Pension Fund equal to ~~9%~~ 6% of the employees' earnings in 2012 and 3% of the employee's earnings in 2013. The reduction of the pension pick-up will begin in 2012 with the pay period commencing October ~~1~~, 2012 and in 2013 the first full pay period in January. Beginning the first full pay period in 2014 the City shall no longer assume or pick up any of the employee's share of pension contribution. ~~Should the employer be prohibited by law from making the employees' contribution, the Employer shall adjust the salary of the members by an equal percentage the wages of the employees by providing the employees a supplemental increase of 2.41% in 2012, 2.41% in 2013, and 2.41% in 2014, in exchange for the pension pick-up reduction of 3% in 2012, 3% in 2013, and 3% in 2014.~~

Section 23.6 Temporary Transfer Compensation

Employees required to work and substantially perform the job duties in a higher classification on a temporary basis for a minimum of four (4) hours or more shall be paid at the minimum entry rate of the higher classification. The absence of a Captain or Lieutenant from his assigned shift will not automatically result in the temporary upgrade of a Lieutenant or Sergeant on that shift.

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ARTICLE 25
INSURANCE SCHEDULE

Section 25.1 Insurance

- (A) ~~During the term of this contract, The City of Zanesville shall continue its premium payment for the existing~~ provide a health, dental and vision insurance plan for the employee and qualified dependents. ~~except employees choosing single coverage shall pay by payroll deduction \$10.00 per pay period in 2009, \$13.00 in 2010, and \$16.00 in 2011. Bargaining unit employees choosing family coverage shall pay by payroll deduction \$25.00 per pay period in 2009, \$30.00 in 2010, and \$35.00 in 2011.~~
- (B) Effective January 1, 2013, if the spouse of a City employee is employed and is eligible for employer-sponsored health coverage with said employer, he or she must enroll in that particular health plan. If the spouse cannot obtain coverage through his or her employer until a certain date or open enrollment period, the spouse will be covered under the City's plan until he or she can obtain coverage through his or her employer. The spouse must provide documentation to the City that he or she is not eligible for coverage. Employees whose spouse has health insurance coverage through an employer are eligible for up to a \$1,200 reimbursement or an amount in reduced insurance premium payroll deduction up to the \$1,200 reimbursement to offset the cost increase to the employee. If an employee's spouse would be required to pay more than 50% of the insurance premium through their employer, he or she would be allowed to remain on the City's plan. Spouses may also remain on the City's plan under secondary coverage.

Section 25.2 Content of Insurance Plan

- A. The City of Zanesville may periodically change the content of the insurance plan after consultation with representatives of the affected bargaining units. ~~The purpose of changing the content of the plan shall be to either improve the coverage provided and/or reduce the premiums without substantially reducing the benefit levels. Reasonable adjustment of deductibles to compensate for inflation shall not be construed as a reduction in benefit levels. A \$350.00 deductible for family coverage and a \$150.00 deductible for single coverage shall be in effect. Copay under the prescription drug plan shall be \$10.00. The plan will not pay for a brand drug unless no generic is available or the prescribing physician specifies "no generic." Effective January 1, 2010, the retail copay, for a 30-day supply, shall be \$7.00 for generic drugs, \$15.00 for brand name drugs which have no generic equivalent, and \$25.00 for brand name drugs which have a generic equivalent for covered prescriptions. For the City's mail or on-line prescription drug plan, the copays, for a 90-day supply, shall be \$14.00 for generic drugs, \$30.00 for brand name drugs which have no generic equivalent and \$50.00 for brand name drugs which have a generic equivalent.~~

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- B. The City shall establish an employees health care committee comprised of the Budget and Finance Director and one representative each from the four City unions and one unaffiliated representative. (In addition there will be one (1) member from the supervisor's unit on this committee chosen by the members). When necessary or desirable, this committee shall explore alternate health care plans, cost saving measures, and proposed changes to current coverage before changes are proposed pursuant to paragraph (A) of this section.
- C. Employee cost sharing under the basic medical and major medical sections of the health plan shall be as follows:
1. For the years 2012 and 2013, the employee payroll deduction for health coverage shall not exceed 7 ½ % of the fully funded rates provided to the City by the plan's third party administrator at the annual plan renewal. For 2012 the deduction each pay period shall be \$22.45 for single coverage and \$52.70 for family coverage, which shall be effective October 1, 2012. The annual increase/adjustment in 2013 may not exceed 10% of the previous year's deduction. For the year 2014, the payroll deduction for health coverage shall not exceed 10% of the fully funded rates nor what the 2013 payroll deduction would have been if the agreed to percentage of funding rates had been 10% in 2013. Deductions in 2013 and 2014 shall be effective the first day of the first full pay period in January.
 2. The annual in-network deductible shall be \$200 per individual and \$500 per family. The annual out-of-network deductible shall be \$400 per individual and \$1,000 per family.
 3. The in-network co-insurance shall be 90%. The out-of-network co-insurance shall be 70%. If in-network options are not available, the out-of-network co-insurance shall be 90%.
 4. The annual in-network out-of-pocket maximum shall be \$800 per individual, including deductible. The annual in-network out-of-pocket maximum shall be \$2,000 per family, including deductible. The annual out-of-network out-of-pocket maximum shall be \$1,600 per individual, including deductible. The annual out-of-network out-of-pocket maximum shall be \$4,000 per family, including deductible.

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D. Co-pays under the prescription plan shall be determined as follows:

| | <u>2012</u> | <u>2013</u> | <u>2014</u> |
|-------------|---|---|---|
| Retail: | Tier 1 = \$5 Tier 2 = \$20 Tier 3 = 20% of claim | Tier 1 = \$5 Tier 2 = \$25 Tier 3 = 25% of claim | Tier 1 = \$5 Tier 2 = \$30 Tier 3 = 30% of claim |
| Mail Order: | Tier 1 = \$10 Tier 2 = \$40 Tier 3 = 20% of claim | Tier 1 = \$10 Tier 2 = \$50 Tier 3 = 25% of claim | Tier 1 = \$10 Tier 2 = \$60 Tier 3 = 30% of claim |

The Tier 2 co-pay shall be used for a Tier 3 drug that has no Tier 1 or Tier 2 equivalent. Tier 3 drugs are capped at \$100 per prescription.

E. The payroll deduction for employees choosing only dental and/or vision coverage shall be \$3.00 for dental, \$1.50 for vision or \$4.50 for dental and vision per pay period.

Section 25.3 Changes in Insurance Status

Employees must report any family, marital, or Medicare status changes, which affect their health insurance coverage, to the City Auditor immediately following such a change. An employee failing to do so is liable for back payments to the City for additional premiums paid by the City on the employee's behalf.

Section 25.4 Paid Insurance While on Workers' Compensation

While an officer is on workers compensation as a direct result of his employment with the City, the City of Zanesville agrees to continue paying his insurance premiums for up to one year, provided that the employee continues paying his or her share of the insurance cost established in Section 25.42.

Section 25.5 Life Insurance Clause

The City will provide a ~~twenty-thousand-dollar (\$20,000.00) life insurance policy on members. Effective January 1, 2010, the life insurance policy shall increase to of thirty thousand dollars (\$30,000).~~ It is the employee's responsibility to notify the City of a change in the policy's beneficiary.

Section 25.6 Insurance Grievances

A grievance alleging violation of the terms of this Article shall proceed immediately to Step 3 in the grievance procedure pursuant to Section 13.15. While decisions made by the city's insurance

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provider while processing claims in accordance with the city's health plan are not grievable, issues involving whether or not the City changed its plan in violation of ~~Section 25.4~~ this Article are grievable.

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APPENDIX I

PAY RATES FOR SERGEANTS AND LIEUTENANTS

- SERGEANTS: Step 1 shall be 10% above highest step Police Officer hourly rate.
 Step 2 shall be 12% above highest step Police Officer hourly rate.
 Step 3 shall be 15% above highest step Police Officer hourly rate.
- LIEUTENANT: The Lieutenant's rate shall be 9% above the highest Sergeant's rate.

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I am authorized to proceed in this factfindi
11-MED-07-0999 without my committee
pres. further, I am authorized to tentatively
sign to a mediated settlement in this
matter.

Cheryl Chubb
J. O. P.

City
Todd M. Elliott
[Signature]

CONCLUSION

The Fact Finding recommendation contained herein was arrived at giving consideration to the positions and arguments of the parties, and the criteria enumerated in ORC 4117.14(C)(4)(e). Additionally, the Fact Finder incorporates as part of his recommendations, the attached signed Tentative Agreements contained herein, reached during our mediation discussions. Furthermore, I also incorporate into this Report, the tentative agreements of the parties reached through negotiations, and the language of the expired Agreement which remains unchanged by the parties.

This concludes the Fact Finding Report.

Respectfully submitted this 6th day of September 2012.

A handwritten signature in cursive script that reads "E. William Lewis".

E. William Lewis
Fact Finder

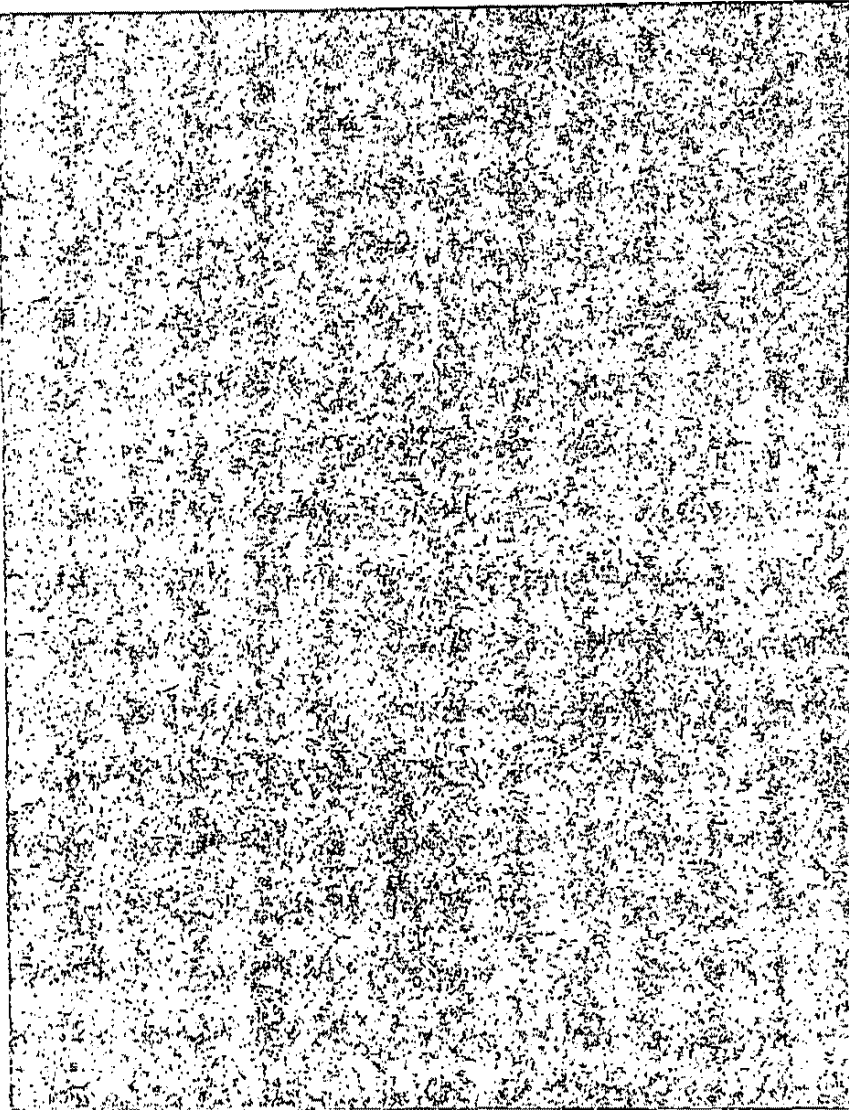
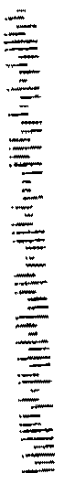
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of this Fact Finder's Report was served by regular U.S. mail to Mr. Chuck Choate, Senior staff Representative, FOP/OLC at 2721 Manchester Road, Akron, Ohio 44319, and to Mr. Todd Ellsworth, Esq. Downes Fishel Hass Kim, 400 South Fifth Street, Suite 200, Columbus, Ohio 43215, and to Ms. Mary Laurent, Bureau of Mediation, State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215, this 6th day of September, 2012.

A handwritten signature in black ink, appearing to read "E. William Lewis". The signature is written in a cursive style with a large initial "E" and a long, sweeping tail.

E. William Lewis
Fact Finder

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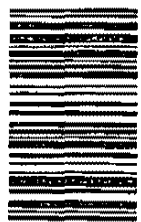
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State Employment Relations Board
46 East State Street, 12th floor