

**STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO**

In the matter of Fact Finding between:)	SERB No. 11-MED-10-1532
)	
TEAMSTERS LOCAL UNION NO. 413,)	Hearing: November 20, 2012
Employee Organization,)	at Columbus, OH
)	
and)	
)	
FRANKLIN COUNTY SHERIFF'S)	Date of Report:
OFFICE,)	November 29, 2012
Public Employer.)	

FACT FINDING REPORT

Before Mitchell B. Goldberg, SERB appointed Fact Finder

Appearances:

For the Union:

Susan D. Jansen,	Attorney
Bud Raver,	Vice President, Local 413

For the Employer:

Robert D. Weisman,	Attorney
J. David Campbell,	Attorney

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 October 11, 2012. The parties agreed that the issuance date for this Report would be November 29, 2012. They submitted pre-hearing statements setting forth their positions on the unresolved issues in a timely manner under SERB Rules and Guidelines. The hearing was conducted on November 20, 2012 at the Employer's offices in Columbus, Ohio. They provided evidence and submitted documentary exhibits in support of their respective positions.

The parties requested and the Fact Finder agreed to engage in mediation efforts for the purpose of resolving as many issues as possible. Tentative agreements were reached on some issues, but the parties were unable to resolve the following issues.

The Union was certified on February 21, 2008 as the exclusive bargaining representative for the unit consisting of all clerical, service, maintenance and technical employees, medical records clerks, and dental assistants. The Union is one of 14 collective bargaining units to which either the Sheriff's office is a party, or over which the Franklin County Board of Commissioners have authority. The Sheriff's office is a party to the following CBAs: (1) Patrol Communication Technicians (dispatchers) and FOP-OLC; (2) Social Workers, Data Security Specialists, Full-time RNs, Full-time LPNs Chaplains and Programmer Analysts (Unit 3) and FOP-OLC; (3) Sworn Uniformed Deputies below Corporal and FOP Lodge No. 9; and (4) Deputies above Corporal except for Major and above and FOP Lodge No. 9. The Commissioners are party to a CBA with AFSCME Ohio Council 8, and have authority over CBAs with OCSEA, AFSCME Local 11, Teamsters Local 284 (2 contracts), AFSCME Ohio Council 8, FOP-OLC, CWA, OFT, OEA and OAPSE/AFSCME Local 4.

The following recommendations consider the criteria set forth in Section 4117.14 (C)(4)(e) of the Ohio Revised Code, Section 4117-9-05(K) of the Ohio Administrative Code and SERB Guidelines. This Report and the following recommendations adopts and incorporates all unchanged terms, provisions and language in the expired CBA, all terms, provisions and language that were tentatively agreed upon during negotiations, agreements arrived at through mediation, and agreements that were made at the hearing.

All of the 6 outstanding unresolved issues have economic implications. The parties submitted substantial economic evidence as to the financial conditions of the country, state, county and Sheriff's office. The Sheriff's evidence focuses upon the national economic forecasts that predict the continuance of the slow recovery after the great recession, including high unemployment, fluctuating

stock prices, and the “fiscal cliff.” A grand bargain that avoids the cliff would forestall another recession, but it will come with a tightening of the federal budget that will produce more unemployment for federal workers. Services that are cut at the federal level will be passed along to the states. Ohio will incur higher unemployment payments and increased medicaid obligations. Past cuts to local governments will continue together with the impact of implemented state tax cuts that will put more pressure on the counties and other local governments to further reign in their expenditures. This is the financial background that underpins the Sheriff's economic proposals and positions.

The Union, on the other hand, emphasizes the positive aspects of the County's finances and circumstances, particularly when compared to other governments and agencies throughout the state. Franklin County is among the more economically stable metropolitan areas in the country. It is the residence of large national corporations and major public employers such as Ohio State University. This diversity of business and public employers has permitted the county to weather the past economic recession and will permit it to lead the state and country in the stronger recovery that improves month by month. Unemployment has decreased substantially. A growing population has produced a strong tax base. The County has substantial assets with growing revenues and healthy general fund balances. The Union believes that its proposals are reasonable and the costs of the proposals are reasonably within the County's affordability.

II. Unresolved Issues.

(1) Article 18 – Wages.

The Union proposes across-the-board wage increases for each year of the three-year term, 2.5% for year 1, and 3% for years 2 and 3. The Employer is proposing 0.75%, 0.75% and 1% over the same period. I find that the internal comparatives are the driving factors that control my recommendation on this issue. While the external comparisons vary for employees performing similar work, it is important for this unit's compensation to remain constant and within the ranking and context of the County's

overall compensation for other employees performing comparable work.

Recommendation: My recommendation for Article 18 that includes wages, shift differential, service credit and call-in pay is in Exhibit A, attached hereto and made apart hereof.

(2) Article 27 -Health Insurance/Life Insurance

The Employer's proposal is for higher employee premium contribution rates based upon projected higher insurance costs. It proposes \$95.00/single/children and \$195 per month spouse/partner beginning on ratification of the new CBA. For the next period beginning April 1, 2013, the contributions would be no higher than \$110/\$230 per month; and beginning April 1, 2014 they would be raised to \$125/\$250. The Union agrees that there should be increases, but they should be reasonable, consistent with those provided in the other internal CBAs, and that they should be coordinated with the wage increases. Higher contribution costs with minimal wage increases may actually result in wage reductions.

Recommendation: My recommendation for Article 27 is in Exhibit B, attached hereto and made apart hereof.

(3) Article 38 – Injury Leave Pay.

The Union proposes an injury leave that provides leave with pay for up to 1040 hours. This is a separate bank not to be deducted from other leave banks such as sick leave. This is based upon the exposure that its members have to the population that increase risks of injury. Other units have this type of leave. The Employer believes that the risk of injury is exaggerated, that workers compensation fairly compensates the employees for on-the-job injuries, and that the proposal is too costly.

Recommendation: My recommendation for Article 18 is attached hereto as Exhibit C and made apart hereof.

(4) Article 32 – Uniforms

Each party proposed changes and increases of varying amounts. The Union wants to include

the payment of a uniform jacket for property room personnel.

Recommendation: My recommendation for Article 32 is attached hereto as Exhibit D, and made apart hereof.

(5) Article 21 – Vacation Leave

The Employer proposes to define the scope of permissible exceptions for medical care that otherwise permit employees to take advantage of the Employer's incentive for non-use of sick leave. Time off for doctor, dental and eye exams should have time limits imposed so that employees do not take off for longer periods than are reasonable for attending those types of appointments. The Union objects to these imposed time limits because the time taken for these appointments are beyond the employees' control and depend upon the availability of the professionalS and the resulting waiting time.

Recommendation: Retain current language.

(6) Article 15 – Assignments and Transfers

The Employer proposes major changes to this article that open up job biddings for vacancies to all employees within the unit instead only among series employees for series openings. The Union is in favor of opening up bidding to all members, but wants selections to be based upon seniority. The Employer wants to consider a variety of factors in order to pick the most qualified applicant for the position. It wants to be able to open the bidding to applicants outside the unit, and it wants ultimate discretion to fill the vacancy with only an internal appeal within the Sheriff's department and elimination of the right to file a grievance over the selection and obtain arbitration. The Union wants seniority to be among the selection factors and wants to preserve its existing grievance and arbitration rights.

Recommendation: Section 2 shall be amended and shall read as follows:

Days Off. Assignment of days off shall be offered on the basis of seniority within the unit to which the employee is assigned. There shall be no shift reassignment of an individual employee. However, the Sheriff reserves the

right to conduct general shift reassignments as a part of his management right to set staffing levels and change shift hours, after a seventy-two (72) hour prior notice has been given to the affected employees. However, if the shift hours of one (1) or more records clerk(s) change(s), the records clerks shall be entitled to bid upon the newly created shift hours by seniority. Any employee transferring from one unit to another shall have last consideration on bidding for days off.

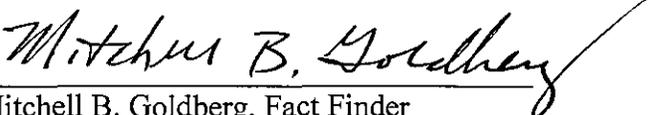
Section 5, first sentence shall be changed to read: "When an Office wide vacancy is to be filled the Sheriff or his designee will post the vacancy in the office bulletin so as to allow members at least seven (7) days to request consideration for the assignment." The remaining language is unchanged.

Section 7 shall be removed and replaced by the following language:

Selection Criteria. Employees who post for a vacancy in accordance with 15.6, above, and meet all minimum qualifications of the position will be considered before any external candidates are interviewed or considered. When filling a vacancy the Sheriff will consider the most qualified candidate using, but not limited to, the following criteria: operational needs of the office, work experience, special requirements (if any) including education, seniority, and work performance. Only if internal candidates are unsatisfactory will the Sheriff consider external candidates. When filling a vacancy within the unit, the Sheriff reserves the right to fill a vacancy by transfer or by hiring an outside applicant.

Section 8 shall remain the same except that all references that refer to thirty (30) days shall be changed to sixty (60) days.

Date of Award: November 29, 2012


Mitchell B. Goldberg, Fact Finder

CERTIFICATE OF SERVICE

This Report was served upon the following persons by electronic mail on the 29th day of November, 2012:

SERB Email: med@serb.state.oh.us
Susan D. Jansen, Esq., Attorney for Union, sjansen@djflawfirm.com
Robert Weisman, Attorney for Employer, rweisman@icemiller.com
Robert Weisman

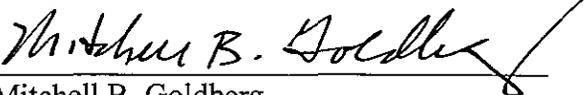

Mitchell B. Goldberg

EXHIBIT A

ARTICLE 18 WAGES

~~Section 1. Wage Increases. The three percent (3%) wage increase for all bargaining unit classifications which went into effect January 5, 2009 remains in effect, with negotiations pursuant to a re-opener solely for the purpose of negotiating wages for years 2010 and 2011 will commence after October 1, 2009. The parties agree to reopen this Agreement on the issue of wages. The reopening of the Agreement as set forth herein shall invoke the dispute settlement procedure set forth in ORC 4117.14. The results of the negotiation process or any settlement reached between the parties including a fact finder's recommendation shall become effective January 1, 2010 and January 1, 2011.~~

The Sheriff shall provide a wage increase of one and one-half percent (1.5%) to all bargaining unit members commencing on the first day of the first full pay period in January 2012. Effective with the commencement of the first day of the first full pay period in January of 2013, there will be a one and one-half percent (1.5%) increase in the wage rate. Effective on the first day of the first full pay period in January of 2014, there will be a two percent (2%) increase in the wage rate.

Section 2. Shift Differential.

- A. Shift Differential Pay Rate. Shift differential is hereby established as sixty-five cents (\$0.65) per hour.
- B. Eligibility. Shift differential pay shall be provided for any eight (8) hour workday for which at least half of the hours occur after 3:00 p.m. and prior to 7:00 a.m. In the event a bargaining unit member is assigned temporarily to a shift where shift differential is applicable that member shall receive shift differential for those hours worked as described above.
- C. Method of Payment. Shift differential pay shall be paid only for actual hours worked during an eight (8) hour workday. Shift differential shall not be paid in addition to regular pay for any hours of leave with pay. If shift differential pay is applicable, under the terms of this Article, and authorized overtime occurs in conjunction with the regular workday, the shift differential shall be paid for each hour of overtime worked. Shift differential pay will be paid on a biweekly basis and will not be cumulative under any circumstances.

Section 3. Service Credit. Bargaining unit members shall receive, in addition to other pay called for herein, service credit adjustments based upon the following table:

\$375.00 for 5 years of continuous service

\$75.00 for each additional year of service

For purposes of this article, employees will be eligible for service credit payment based on service attained as of November 30 of each calendar year.

Payment of service credit shall be made to eligible members in a lump sum, in a separate check, and will be issued no later than the first regular pay day in December of each calendar year.

Upon separation of employment, members who are eligible for service credit under this Section (or in the event of death, the surviving spouse or secondly the estate) will be paid as part of the member's termination pay the final partial year of service credit, pro-rated to the number of pay periods completed during said partial year since the member's last payment date. For the purposes of this Section, continuous service shall include any approved FMLA or military leave.

If an employee has not been in a paid status (has been on leave without pay or absent without leave for 80 hours during a pay period), the service credit payment will be reduced by one twenty-sixth (1/26) of the total amount due for each such pay period. This provision does not apply to an employee who is on FMLA leave or military leave, or is receiving temporary total disability compensation as a result of a work-related injury.

Section 4. Call-In Pay. When a bargaining unit member is ordered to report, without prior notice, and the member reports to the work site, he shall be paid at one and one-half (1½) times the member's applicable rate of pay for all hours at a minimum of three (3) hours. Such minimum shall not apply when the time overlaps into the member's regularly scheduled work hours or the work expires within one-half hour of the member's start time.

FOR THE TEAMSTERS LOCAL 413

FOR THE EMPLOYER:

DATE _____

EXHIBIT B

ARTICLE 27

HEALTH INSURANCE/LIFE INSURANCE BENEFITS

The Union agrees to accept the County's medical benefits plan provided to other County employees under the direct auspices of the Franklin County Board of Commissioners during the term of this Agreement in a manner consistent with other provisions of this Article. Any changes implemented in the overall County plan will also be applied to bargaining unit employees eligible for health insurance benefits. Should any changes to the County's plan be implemented during the term of this Agreement, the Union will be given prior notice of the change and upon request by the Union a County representative will meet with the Union and explain the changes in the plan.

Effective ~~January 1, 2009~~ upon the first pay period following the explicit or implicit ratification or approval by the union, employees will pay ~~\$50~~ \$95 per month and ~~no higher through December 31, 2009~~ to cover themselves and any child(ren) they may have and ~~\$110~~ \$195 per month and ~~no higher through December 31, 2009~~ for employees who choose to cover their spouse.

Effective ~~January 1, 2010~~ April 1, 2013, employees will pay an amount not to exceed \$55 ~~\$110~~ per month and ~~no higher through December 31, 2010~~ to cover themselves and any child(ren) they may have and employees will pay an amount not to exceed \$135 ~~\$230~~ per month and ~~no higher through December 31, 2010~~ for employees who choose to cover their spouse.

Effective ~~January 1, 2011~~ April 1, 2014, employees will pay an amount not to exceed \$60 ~~\$125~~ per month and ~~no higher through December 31, 2011~~ to cover themselves and any child(ren) they may have and employees will pay an amount not to exceed \$160 ~~\$250~~ per month and ~~no higher through December 31, 2011~~ for employees who choose to cover their spouse.

The Sheriff shall provide, through the County Commissioners, and pay the premiums for individual life insurance coverage with a death benefit at the current level. The plan will only be modified if the County's life insurance is modified, and the Union will be given prior notice of the change and upon request by the Union a county representative will meet with the Union and explain the changes in the plan.

All employees who work less than thirty (30) hours per week on a regular basis will not be eligible for County medical or life insurance benefits.

All employee contributions paid by the employee will be paid for under IRS Chapter 125 on a pre-tax basis in accordance with the rules set forth by the IRS.

EXHIBIT C

ARTICLE 38 INJURY LEAVE PAY

The Parties recognize that there may be some situations where an employee sustains a work related injury that causes the employee to be absent from work and the Ohio Workers' Compensation System does not provide wage replacement benefits. Depending on the situation there could be as much as seven work days for which temporary total disability compensation is not paid pursuant to the Ohio Workers' Compensation System. This article is solely designed to address that seven day gap. Should the Ohio Legislature or the Ohio Bureau of Workers' Compensation or the Ohio Industrial Commission modify Ohio Workers' Compensation Legislation or Administrative Rules during the term of this Agreement to provide compensation inclusive of the seven day gap, the Parties agree that this Article shall become void upon the effective date of the Legislation or Administrative Rule.

When a bargaining unit employee sustains a work related injury or occupational disease and is unable to perform the essential functions of his/her job because of the work related injury, the employee may be eligible to receive up to a maximum of seven days of injury pay to cover full or partial days the employee is off work and is not otherwise provided compensation under the Ohio Workers' Compensation System. The County will provide injury pay to eligible employees at the employee's base hourly rate of pay.

To be eligible for injury pay the employee must have a workers' compensation claim that has been certified by the Employer or allowed pursuant to a final administrative order issued by the Ohio Bureau of Workers' Compensation, the Ohio Industrial Commission of Ohio or a court order. Secondly, the employee must complete the Accident Report Form for Injured Employees (ARFIE) within 48 hours following the injury or first disability date for an occupational disease unless the employee is physically incapable of reporting. The employee shall not receive injury pay for any days if the injured employee refuses to return either to modified duty or transitional duty under any temporary restrictions given by the physician of record and the County states it will accommodate the injured employee under these same temporary restrictions.

EXHIBIT D

ARTICLE 32 UNIFORMS

Section 1. Initial Issue. Employees will be provided with five prescribed shirts and one prescribed sweatshirt or sweater at no cost to the employee. The new employee will also be allowed to submit an Auditor Expense Report requesting reimbursement in an amount not to exceed one-hundred dollars (\$100.00) for the purchase of black dress casual or cargo pants. To qualify for the reimbursement, the new employee must submit an Auditor Expense Report which documents the clothing items purchased and the amount paid for each item along with original qualifying receipts for the purchase of the black pants. The receipts must bear the date of purchase, the item purchased, the amount of the item purchased, and the name of the supplier.

Section 2. Uniform Replacement.

- A. Each member required to wear a uniform shall be annually credited with a uniform replacement allowance in the amount of eighty dollars (\$80.00) ~~seventy five dollars (\$75.00)~~ for the purchase of prescribed uniform items only. Such credit shall be placed with a qualified vendor and may only be used by the employee for the purchase of prescribed civilian uniform shirts, sweatshirts or sweaters. Members hired during the first six months of the year will not be provided with a replacement credit for the remainder of the calendar year. Members hired during the second half of the calendar year shall not receive a uniform replacement credit for the remainder of the year as well as the following calendar year. If replacement is needed during these early periods of employment for whatever reason, the cost shall be paid by the employee.
- B. Members, who have been employed at least eight months and worked at least one thousand two hundred and fifty (1,250) hours in the twelve month period preceding April 1st, may submit original receipts for reimbursement in an amount not to exceed eighty dollars (\$80.00) ~~seventy five dollars (\$75.00)~~ for the purchase of black dress casual or cargo pants. To qualify for the reimbursement, the member must submit an Auditor Expense Report which documents the clothing items purchased and the amount paid for each item along with original qualifying receipts for the purchase of the black pants. The receipts must bear the date of purchase, the item purchased, the amount of the item purchased, and the name of the supplier. Required documentation must be submitted between April 1st and April 15th. Reimbursement will not be made for pants purchased more than twelve months preceding April 1st of the year the IOC is submitted.

Section 3. Storekeepers and Property Room Clerks.

- A. Newly hired or newly assigned storekeepers, who serve in the Storeroom or the Commissary, **and property room clerks** may be reimbursed for the purchase of steel-toed work shoes or boots in an amount not to exceed eighty dollars (\$80.00) ~~seventy five dollars (\$75.00)~~. To qualify for the reimbursement, the storekeeper must submit an Auditor Expense Report which documents the boots or shoes purchased and the amount paid for them along with an original qualifying

receipt for the purchase of the steel-toed boots or shoes. The receipts must bear the date of purchase, the item purchased, the amount of purchase, and the name of the supplier.

- B. Storekeepers, who serve in the Storeroom or the Commissary, **and property room clerks** and have been employed as a storekeeper at least eight months and worked at least one thousand two hundred and fifty (1,250) hours in the twelve month period preceding April 1st, may be reimbursed for the purchase of steel-toed work shoes or boots in an amount not to exceed **eighty dollars (\$80.00)** ~~seventy-five dollars (\$75.00)~~. To qualify for the reimbursement, the storekeeper must submit an Auditor Expense Report which documents the boots or shoes purchased and the amount paid for them along with an original qualifying receipt for the purchase of the steel-toed boots or shoes. The receipt must bear the date of purchase, the item purchased, the amount of the purchase, and the name of the supplier. Required documentation must be submitted between April 1st and April 15th. Reimbursement will not be made for boots or shoes purchased more than twelve months before April 1st of the year the IOC is submitted.

- C. Storekeepers must wear steel-toed boots or shoes. **Property Room Clerks will be provided with a winter coat.**

Section 4. Dental Assistant. The dental assistant shall be issued five sets of prescribed scrubs. A uniform replacement allowance in the amount of one hundred twenty-five dollars (\$125.00) will be annually credited for uniform replacement.

Section 5. Wearing Uniforms. Uniforms will be worn as prescribed by regulation.

FOR THE UNION:

FOR THE EMPLOYER:
