

IN THE MATTER OF FACT FINDING

BETWEEN

**MAHONING COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES
(CHILD SUPPORT ENFORCEMENT DIVISION)**

AND

AFSCME, OHIO COUNCIL 8 AND LOCAL 3577, AFL-CIO

SERB CASE # 12-MED-01-0015 AND 12-MED-10-1230

Robert G. Stein, Fact-finder

LEAD ADVOCATES FOR THE UNION:

**Jack Filak, Regional Director
AFSCME OHIO COUNCIL 8
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LEAD ADVOCATES FOR THE EMPLOYER:

**Kevin Kralj
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INTRODUCTION

The parties to this matter are AFSCME Ohio Council 8, Local 3577 (hereinafter "Union") and the Mahoning County Department Job and Family Services, Child Support Enforcement Division (hereinafter "Employer" "Child Support," "Agency," or "County"). The Employer is located in northeast Ohio. The bargaining unit is comprised of approximately fifty-three (53) employees who hold positions in the Child Support Enforcement Division of the Department (See Collective Bargaining Agreement)

General/State/Local Economic Overview: Caution and disquiet have marked the years since the "great recession" was declared to have ended on a national level. Of course, what is often declared to be ended nationally does not always translate at the local level particularly in Ohio, which has had more than its share of job losses prior to and as a consequence of the great recession. Recovery has taken time since 2008 and has been marked by considerable national political discord, but in spite of this extended gridlock fostering fiscal uncertainty, the private sector has continued to add jobs (see latest BLS on 215,000 jobs created in November, and 184,000 jobs created in October, both exceeding expectations and resulting in a lowering of the national unemployment rate to 7%), the stock market has recovered and exceeded levels previously reached in 2008, and the index of manufacturing activity continues to rise for the sixth straight month, "signaling strong demand at home and abroad that could boost growth prospects into next year." (WSJ, 12-3-13. One sign of the growing strength of the employment is in manufacturing, adding some 27,000 jobs to elevate the factory employment nationally above 12 million for the first time since 2009. Moreover, factory workers are averaging 4.5 hours of overtime per week,

which is an increase of 10% over last year. (Josh Boak, Associated Press, 12-9-13) Yet, caution still exists and there are still pause for great concern in the ranks of the unemployed. Currently there are more than 4 million people who have been unemployed for 6 months or more. Those who have been unemployed for more than 18 months has not changed significantly in spite of the aforementioned growth. Complicating the future more is the fact that extended unemployment benefits (28 weeks beyond the average of 26 weeks) for approximately 1.3 million Americans (approximately 40,000 in Ohio) are set to expire on December 28, with the addition of another 800,000 that will see their unemployment benefits expire during the first two months of 2014, unless Congress approves another extension. A budget deal announced on December 10, 2013, passed by the House of Representatives and is expected to pass in the U. S. Senate, does not include relief for these individuals and the impact of this amount of people losing their benefits remains to be seen.

The economy in Ohio has shown signs of steady improvement from a very long and severe national recession, yet recently there are signs that progress has stalled with rate of job creation slowing down from the rate of growth previously experienced following the declared end of the recession. Mahoning County, which has lost approximately more than 20% of its population since 1970 and which saw its manufacturing based decline by more than 66% from 1970 to 2000, finally appears to be in a state of positive economic development and there appears to be some hope for the future. (See U.S. Census Bureau, Quick Facts Report, Sarah Boyarko, VP Regional Chamber of Commerce; Valley Economic Development Report Card for Youngstown Warren Region, 2013) General Motors certainly appears to be doing better and new jobs in the service and health sectors are projected to be added to the area, which is good news. However, the loss in population, the loss of higher paying manufacturing jobs, and the education of the local populace that lags behind and this remains to be a concern. The Agency operates on a shared funding basis, supplemented by federal funding.

The fact finder, at the request of the parties, entered into mediation and was unable to move the parties closer in terms of their position on the issue of converting pension pick-

up to wages and on the issue of personal days.

These items were specifically addressed by the fact finder in this report and are based upon the evidence and arguments proffered by the Union and the County. The recommendations contained in this report are intended to conform to the statutory criteria that all fact finders must follow.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

The recommendations contained in this report are listed in accordance with Articles that were open and the subject of mediation. For the sake of brevity the specific rationale proffered by the parties in support of their position statements. However, in summary the parties' positions on the issues of wages and health care are as follows:

Summary of Union's Position:

The Union's position on the issues can be found in its Position Statement. It is proposing to eliminate the current 9.5% Employer pension pick-up of the employee's 10% contribution to the PERS retirement plan, which can be found in Article 39.01 Wages, Section B. In its place the Union proposes a prospective 11% increase to all steps of all wage rates, which contends is the amount that is necessary to make this a cost neutral change to the employee. This change is commonly referred to as a "FLIP" and refers to conversion of a pension pick-up back to wages and herein shall be referred to as FLIP. The Union is also proposing that on a one time basis the Employer provide the bargaining unit with 4 additional personal days, 2 days for 2012 and 2 days for 2013.

The Union argues that the current deficit being experienced by the Employer is somewhat artificially created by the Commissioners, in that they underfunded the Agency and have been doing so for the past several years. Moreover, the FLIP has been made among the Administration of the Agency (approximately 12 employees) without loss of pay to them. The Union avers it is simply asking to be treated in the same fashion. The Union asserts the bond rating of the County is excellent, sales tax revenue has increased, home values are rising, and unemployment in the County has declined. (Union Binder, Tabs 6 through 10)

The Union claims that it's proposal is modest taking into consideration what the County and Child Support bargaining unit employees have endured. The Union states that while it can appreciate the financial concerns of the County, as a matter of fairness for the bargaining unit employees it is simply seeking the same treatment afforded to

management and other bargaining units, which is a FLIP from pension pick-up to wages that does not result in a financial loss for bargaining unit employees. (See Union Binder, Tab 1)

Summary of Employer's Position:

The Employer's position on the issues can be found in its Position Statement. It is proposing no wage increases for the 2012 and 2013 wage reopeners. It argues that the Child Support budget is running a current deficit of \$300,000. This estimated deficit is the Agency's local share of 34%. The Employer asserts the actual deficit is \$890,000 and the federal government reimburses 66% of Child Support expenditures as long as the Agency covers its 34% share. If this does not occur, the federal government will not provide its 66% matching funds currently estimated to be \$590,000. The Employer further asserts that in spite of the bargaining unit not receiving recent wage increases the bargaining unit, when compared to other Ohio counties is "fairly compensated." (See Employer's Position Statement, Emp. Ex. B, In support of this view the Employer also points out that 49 members of the bargaining unit receive annual longevity increases of 1% on the base wages. (Employer Ex. B) And, 8 of the 53 employees are still receiving annual step increases that average 3.56%.

The costs of the FLIP being sought by the Union is 11% that the Employer claims would simply place Child Support in a greater deficit position. (See Union Binder, Tab 2 for calculations) The Employer also cites the another fact finder report in support of its position (Employer Ex. C)

Discussion:

With the exception of FY 2010, the General Fund contribution to CSEA by the County has trended downward from 2000. In 2013 it was \$350,000, in 2012 it was \$400,000, and in 2011 it was \$510,000. At the hearing the Employer indicated it is projecting a deficit of approximately \$303,000, that will have to be addressed in order for the Department to receive 66% matching Federal funds. However, according to the Employer's own witnesses the County's finances are improving. (See testimony of Audrey Tillis, Budget Director) Business Administrator, Tom Babinel made it clear in his presentation regarding the vital importance for Child Support to make up its current deficit in order to receiving matching federal funding. That current deficit exceeds \$300,000 and based upon the facts presented is directly related to the decline in funding of the Agency by the County, which as stated previous has with the exception of one year declined significantly in past several years. Yet, the Union argues that the bargaining unit should not permanently suffer a loss in a Flip, because the County has chosen to "underfund" Child Support where a deficit situation threatens to risk federal funding, and the security of its members. It asserts that no other County employees have been treated in this manner. The Union's presentation of internal comparable data regarding the County having agreed to employee revenue neutral FLIPs for other bargaining units and for administrative employees is persuasive in this matter, yet a recommendation must be tempered by the current financial conditions.

RECOMMENDATIONS:

In consideration of the financial condition of the Agency's budget and the importance placed upon eliminating the Agency's deficit to qualify for federal funds, and in balancing this need with the Union's concern that the bargaining unit be treated fairly and in same manner that other union and management employees have been treated regarding the FLIP, the following two recommendations are made regarding the reopeners for the years of 2012 and 2013:

PENSION PICK-UP (FLIP) Effective with the last pay period in December, 2013, eliminate the 9.5% Employer contribution to of the employee's 10% contribution to the PERS retirement system on a **cost neutral basis**. (i.e. the employee's wages shall be raised only by the current cost of the PERS pick-up) The difference (or additional Employer cost per employee of the FLIP as calculated in the right hand column of Tab 2 of the Union Binder) shall then be held by the Employer until the first pay in October 2014 at which time each bargaining unit member's salary shall be adjusted upward by this additional amount.

For Example: Effective with the last pay period in December of 2013, J. Droney shall have her pay adjusted by the amount of the Employer's PERS pick up amount specifically identified in second column of Tab 2 of the Union's binder, labeled "PERS EMPL PICKUP." Effective the first pay period in October of 2014, Ms. Droney shall then have her pay adjusted by the specific amount specifically identified in last column of Tab 2, labeled "TOTAL COST TO EMPLOYER."

ONE TIME PERSONAL DAYS: As an offset to having bargaining unit employees experience a delay in receiving full and fair treatment financially neutral treatment regarding the FLIP, each bargaining unit member shall receive for 2014 only, three (3) additional personal days.

TENTATIVE AGREEMENT

Any tentative agreements reached by the parties as well as any current language that is not changed or not addressed above shall be considered to be recommended in the successor Collective Bargaining Agreement.

The fact finder respectfully submits the above recommendations to the parties this ____ day of December 2013 in Portage County, Ohio.

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The fact finder respectfully submits the above recommendations to the parties this 16th day of December 2013 in Portage County, Ohio.



Robert G. Stein, Fact finder