



parties agreed to extend the deadline for the Fact-Finder's Report until June 19, 2015. Service of the Factfinder's report will be by email.

All tentative agreements made between the parties are deemed to have been incorporated herein and are adopted as part of the party's final agreement. The agreed upon sections are listed in Appendix A.

### **FACTUAL BACKGROUND**

The Southwest Regional Water District, Butler County, Ohio is a public water supplier to a rural area in southwest Ohio. They service approximately 15,000 households and employ 17 unionized employees. The members include full and part time service and maintenance employees of the district including Plant Operators I, II and III, Troubleshooters, Crew Leader, Equipment Operators, System Maintenance employees, General Maintenance employees, and temporary employees performing production and maintenance work. The parties met for negotiations on February 6, March 5 and 13, 2015. Mediation was held March 31, and April 2, 2015. At the May 26, 2015 fact finding they had six unresolved contract Articles.

### **UNRESOLVED ISSUES**

Based upon considerations enumerated in Ohio Revised Code 4117.14 including past collectively bargained agreements between the parties, comparison of the issues submitted relative to other public employees doing comparable work, the interests and welfare of the public, the ability of the employer to finance and administer the issues proposed, the effect of adjustments on the normal standard of public service, the lawful authority of the Employer, other factors traditionally considered in the determination of issues submitted, the Fact-Finder makes the following recommendations:

### **UNRESOLVED ISSUES**

Article VIII:	Hours of Work and Overtime
Article XXV:	Holidays
Article XXVI:	Stand-by Provisions
Article XXXIII:	Health Care and Dental Plans

Article XXXVII: Paid Sick Days  
Article XXXIX: Job Classifications and Wages

**Article VIII: Hours of Work and Overtime:**

Union Position:

The union proposes that the hours of work between Memorial Day and Labor Day be set at 7 a.m. to 3 p.m. Their rationale is that this schedule avoids the worst of the summer heat. They are also asking for an additional (50) cents per hour for time worked between 10 p.m. and 7:00 a.m. This additional payment is for a “hazard” pay differential for working night time hours.

Employer Position:

The employer responds that management already sets a 7 a.m. to 3 p.m. schedule for the summer months. If the union proposal to put the summer schedule in the contract is granted, the employer loses the ability to adjust the schedule to meet the needs of the customers.

The employer argues that the additional 50 cents per hour is a triple bonus for working overtime. Overtime is the first bonus, stand by pay the second (2.81 an hour for the week assigned) and the additional 50 cents per hour would be the third.

The Employer also had their own proposal for this Article. The District wants to change the way “hours worked” are calculated for the forty (40) hour workweek for overtime eligibility. They propose that sick time be eliminated from that calculation. The rationale is to help reduce sick time abuse. They argue that eleven (11) of the seventeen (17) employees have less than one hundred (100) hours of sick time accumulated.

Discussion:

Summer Shift:

The union has a reasonable concern about summer heat and the toll it takes on employees who work outside. But management is responsible for making sure their employees are safe from temperature extremes. Putting shift hours into the contract removes the flexibility that the District has to adjust to other situations and to serve their customers. The Factfinder is satisfied

that management is mindful of the summer heat as the schedule is already set at 7:00 a.m. to 3:00 p.m.

Hazard Pay:

The union request for an additional fifty (50) cents per hour for work from 10:00 p.m. to 7 a.m. is excessive. The standby pay at \$2.81 is already additional compensation over and above the overtime pay. Again, management is responsible for ensuring that all precautions are taken when employees are working at night and ensuring employee safety.

Removal of sick time from Overtime calculation:

The Employer proposal to remove sick time from the calculation of the forty hour workweek is based on FLSA language and an attempt to curb sick time usage. FLSA does not include non- working hours to be part of the forty (40) hour work week, so this change does fall within Federal law.

As to the goal of curbing sick time abuse, the change should only be made if there is evidence of inappropriate use of sick time. Management said that eleven of the seventeen unionized employees had 100 hours or less of sick time. This statistic was used to show that the District has a sick abuse problem. The Factfinder reviewed EX-26 (seniority list), four (4) employees have been hired since last year and would not have the time in to accumulate one hundred (100) hours. A fifth employee is part time- which also reduces the amount of potential sick time that can be accrued. That leaves six employees hired in 2012 or before with less than one hundred (100) hours of sick leave. Six of seventeen (17) employees is 35% of the total. Of those six, a certain percentage may have had injuries, illness or parental leave which drained their hours. Assuming that may be the case for two of the six, it leaves four employees who regularly use their sick time. It is then just over 25% of the group that abuse their time. While this is not the higher number that the employer put forth, it is still significant.

Recommendations:

Summer Shift:

*Current Language on the summer schedule, management to make decision*

Hazard Pay:

*Current Language no hazard pay*

Removal of sick time from overtime calculation:

Article VIII- Hours of Work and Overtime:

Paragraph three:

One and one-half (1 1/2) times the regular straight time hourly rate shall be paid, as overtime pay, for all hours worked in excess of eight (8) hours in any work day, or ten (10) hours if agreed upon, or forty (40) hours in any work week; for purposes of computing overtime eligibility, holiday and vacation shall be included in active pay status. Notwithstanding any other provision of this Agreement, Plant Operators shall be paid at a premium rate of one and one half (1 1/2) times the regular straight-time hourly rate for all hours worked either on a Sunday, or scheduled day off [provided that the work on a scheduled day off would cause the employee to exceed forty (40) hours of work in any work week]. There shall be no pyramiding of overtime, and an employee shall not earn both premium pay and overtime pay for the same hours worked. Plant Operators shall receive a 55 cent an hour straight – time shift differential for any shift commencing after 1:00 p.m. *(sick time removed)*

#### **Article XXV: Holidays**

Union:

The union proposes Veterans Day be added to the list of holidays. They argue that all the other contracts in the area have Veterans Day as a paid holiday. They state that they would like the time off to honor veterans and military.

Employer:

The District responds that the union members already enjoy a generous paid holiday benefit. Currently they receive 10.5 paid holidays per year. Management is open to exchanging a holiday for Veterans Day but not to add to the benefit.

Discussion:

The union employees are currently allowed 12.5 paid holidays- including 2 personal business days. Other public employers are at thirteen paid holidays, and some have more. Federal, state and local public employees are generally provided Veterans Day as a paid holiday. The Factfinder believes that it is not unreasonable to allow this same benefit to the members of IUOE, Local 20.

Recommendation:

*Include Veterans Day as a paid holiday for union members.*

Article XXV:

The following days shall be considered holidays:

New Year's Day  
Martin Luther King's Birthday  
Good Friday  
Memorial Day  
Independence Day  
Labor Day  
VETERANS DAY  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Eve  
New Year's Eve (1/2 day)

**Article XXVI: Stand By Provisions**

Union:

The union proposes a continuation of the adjustment to the stand by pay by the same percentage as base wages. Each of the previous District contracts has continued this increase. They also argued that stand by duty is every three weeks thus restricting them in their off hours to stay close to home. This in contrast to other jurisdictions cited which have a seniority call out

system. In that case, those employees can say no to overtime and are not on a “schedule”, allowing more freedom in their personal lives.

Employer:

Management proposes that the current stand by premium be frozen at \$2.81. In the past this rate has always been increased along with the wage rate for each year. Management argues that the stand by premium is already significant and should be not be increased to match the wages.

Discussion:

All the previous contracts have allowed for the stand-by increase with the percentage of the wage rate increases. The District did not argue inability to pay. If the parties have traditionally allowed for increases in stand-by pay, the Factfinder believes it should continue in this contract.

Recommendation:

Article XXVI Stand- by Provisions (paragraph 8):

Effective the pay period beginning nearest to March 1, 2015 each employee assigned to stand-by duty shall have an additional \$2.86 added to his straight time hourly rate for each hour worked during each week he is assigned to stand-by duty. This amount shall be increased by 2.0% on March 1, 2016, and 2.0% on March 1, 2017.

**Article XXXIII Health Care and Dental Plans:**

Union:

Union agreed to increase employee’s portion to 15% of health care premium and 25% for dependents. They also propose a \$150 payment per month for each employee who opts to go with another health plan. This would be for all 36 months of the contract that the employee can show evidence that they are in another plan.

Employer:

The District cites a need to reduce health care costs, showing increases in premiums in the last two years at 8% and 12.5 % respectively. Their proposal is to ‘carve out” spousal coverage

for any spouse who has premium payments of 50% or less of the total. This change would save the District \$38,000 per year. It does not affect dependents as there is no birthday rule whereby the spouse with the earliest birthday is obligated to cover the dependents. Thus, this proposal would have no impact on the coverage for children/ or dependents other than the spouse.

Discussion:

Health care costs are increasing and more of the burden is shifting to employees. About a third of all Ohio public sector contracts now have a spousal carve out provision. The union proposed paying employees to opt out of the plan. The Factfinder sees issues with both proposals. The problem with the spousal carve out proposal is that the percentage seems high. The employer did not explain how they arrived at that percentage. Fifty percent (50%) of even a single person health premium could be a burden for any family. The employer did not offer an increase in wages or other benefits that come close to offset a large premium payment. The union proposal has problems as well. There was no back up data to determine if this is viable. The administration of this type of plan could be burdensome for the employer and there was no evidence of other jurisdictions using this type of plan. It is the Factfinder's opinion that since the employer is not in a financial crisis and the current plan is working for employees, it is not crucial to make major changes at this time.

Recommendation:

*Current Language*

**Article XXXVII: Paid Sick Days**

Union:

The union has no proposal for this section of the contract.

Employer:

The employer proposes a sick leave sell back provision, which would give an employee the right to sell back 32 hours of sick time for 2 days of vacation. In order to be eligible for this exchange, the employee would have to maintain a sick leave balance of 200 hours or more.

Discussion:

This proposal gives an employee another option for sick time use. If they want a couple extra vacation days during the year they can utilize sick time. In the Factfinder's opinion, this is just another option for employees to use if they choose.

Recommendation:

Article XXXVII- Paid Sick Leave:

C: Unused, credited sick leave may accumulate from year to year to a maximum of 1440 HOURS. SO LONG AS THE EMPLOYEE MAINTAINS A MINIMUM OF ACCUMULATED BALANCE OF 200 HOURS, AN EMPLOYEE SHALL HAVE THE OPTION , EXERCISABLE ONCE A YEAR ON THE EMPLOYEE'S ANNIVERSARY DATE, TO CONVERT TWO (-2-) HOURS FROM THE EMPLOYEE'S ACCUMULATED SICK LEAVE BALANCE TO ONE (-1-) ADDITIONAL HOUR OF VACATION LEAVE, PROVIDED THAT NOT MORE THAN THIRTY-TWO HOURS OF SICK LEAVE MAY BE CONVERTED TO VACATION LEAVE IN ANY YEAR AND THAT THE RESULTING ADDITIONAL VACATION HOUR(S) MUST BE USED IN ACCORDANCE WITH ARTICLE XXIV OF THIS AGREEMENT DURING THE CALENDAR YEAR IMMEDIATELY FOLLOWING SUCH CONVERSION.

### **Article XXXIX Job Classification and Wages**

Job Classification:

Union:

The union proposes a change to the General Maintenance section of Job Classifications to reflect additional duties now performed by the individual holding this classification. They also request a \$1.00 per hour increase in wages for this position.

Employer:

Management made no proposal for a change in the job classification for general maintenance nor did they respond to the union.

Discussion:

This appears to be more of a housekeeping issue since job classifications and descriptions are contained within the contract. The union argues that this person has taken on additional duties. Currently there is no description of the duties or qualifications for this position. Since there was no real opposition to creating this class or to the additional \$1.00 per hour, the Factfinder recommends the inclusion of this language in the contract.

Recommendation:

The Factfinder recommends that the job classification for general maintenance be changed and include an additional \$1.00 per hour for that position.

B (4) General Maintenance of Article XXXIX to read:

CLASSIFICATION REQUIREMENTS INCLUDE, KNOWLEDGE AND ABILITY TO OPERATE DISTRICT MOWING, LANDSCAPING AND BASIC EXCAVATION EQUIPMENT AND THE ABILITY TO OPERATE A VEHICLE WITH ATTACHED TRAILER. (NO CDL REQUIREMENT). THIS POSITION IS TO HAVE A \$ 1.00 PER HOUR WAGE INCREASE EFFECTIVE MARCH 1, 2015.

**Article XXXIX Job Classification, Wages and Wage Schedules Continued:**

Wages:

Union:

The union proposes a wage increase of 4.5% for each year of the contract. They rely on a recent contract settled by the City of Fairfield, a nearby community. The employees of the City of Fairfield received a 3% wage increase for each of the next three years. The union maintains that the additional 1.5% is necessary to correct the disparity in pay between the two bargaining units.

Employer:

The employer offered two options for wages. Option A: includes a merit pay component with raises over the life of the contract of 1.7%, 2.0%, and 2.0%. Management currently has a merit pay plan in place and the employer proposes a similar program for the union membership. They would get the base wages in the contract plus merit pay of one to two percent depending on their evaluation. Raises for all employees would move from the contract anniversary date to the employee work anniversary date. Option B: This plan would provide additional steps at the top of the pay scale. Currently, 13 of the 17 employees are at Step 10. If raises are given they would be added to the top step. For instance, the step would increase by 1.7%, 2.0%, and 2.0% on the employee anniversary date. Those not in the top step would only receive the step increase without a base wage increase.

#### Discussion:

The key points on this issue are these: The Union proposal is not realistic. Four and one half percent is way above the comparable wage increases in the state. SERB reports that the average wage increases across the state for public employees through 2014 is less than 2% per year. (See Appendix B) The Cincinnati region fared no better – also under 2%. Second, the union employees do not have to catch up, they are already at or near the top of employees doing similar work and receive the additional benefit of a 7% pension pickup. Third, while the District has reserves, there are two major projects necessary for the long term and prudent management calls for financial planning for those expenditures. Last, the customers' rates have been raised and are near the top for water in a five county survey. In the Factfinder's opinion, the union is well compensated compared to other public employees in their field of work.

On the other hand, the Employer proposes to change several things about wages 1.) Move increases to the employee anniversary date. In the first year, this could cause some employees to wait almost a year for an increase depending on what time of year they hired into the District. While this is not major, in a year with modest increases, the employees would have a harder time accepting this change. 2.) Besides changing the anniversary date, Option A makes a

switch to a merit pay system. While this works well with managers who can have goals set, and work to meet those goals, it is more difficult to quantify the work of the union members. Disputes arise over subjective standards and not enough money has been offered to “buy” this change.

3.) Option B, while increasing the wages of the top tier employees leaves the others behind.

This is a difficult sell to organized labor.

The Factfinder believes that the increases offered by the District at 1.7% in 2015, 2.0% in 2016, and 2.0% in 2017 are reasonable this group. However, they should be given on the contract anniversary date to all members as they have in the past. Even with these modest changes, the members of IUOE continue to be well compensated for their work in contrast to other public employees in their field.

Recommendation:

Contract language for Article XXXIX wages:

“Effective 3/1/2015 there will be a 1.7% increase in base wage rate, effective 3/1/2016: 2% increase and effective 3/1/2017 a 2% increase in the base wage rate. “

Dated: June 19, 2015



Carol J. Bader, Esq. Fact-Finder

#### **CERTIFICATE OF SERVICE**

The foregoing Report was delivered via email on this day of 19<sup>th</sup> day of June, 2015 to Donald Collins, General Counsel, SERB, Donald Crain, Esq., Brown, Frost and Todd, LLC and Rick Gerrein, Business Agent, IUOE, Local 20.

