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STATE EMPLOYMENT
RELATIONS BOARD

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**IN THE MATTER OF
FACT-FINDING PROCEEDINGS**

**: REPORT OF THE
FACT-FINDER**

BETWEEN

:

TEAMSTERS LOCAL UNION NO. 284

:

AND

:

**FRANKLIN COUNTY CHILD
ENFORCEMENT AGENCY**

:

:

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SERB CASE NO.:

96-MED-12-1125

HEARING:

**APRIL 11, 1997
COLUMBUS, OHIO**

FACT-FINDER

THEODORE V. CLEMANS

I. APPEARANCES:

On Behalf Of The Franklin County Child Support Enforcement Agency

Bob Weisman, Attorney
Melissa Zox, Attorney
Joseph Pilat, Director of CSEA
Guy Worley, Deputy County Administrator
Elizabeth James, Manager, CSEA
Melinda Carlson, Supervising Attorney, CSEA

On Behalf Of Teamster Local Union No. 284

Robert Handelman, Attorney
Jonathan Wentz, Attorney
Norma Barnes, Account Clerk and Witness
Rhonda Billingslea, Account Clerk and Witness
Bob Skidmore, Paralegal and Witness
Pam Ripley, Litigation Secretary and Witness
Krista Carter, Paralegal
Taunya Lewis, Enforcement Secretary and Witness
Adre Jackson, Client Information Specialist
Laurie Stout, Support Offices and Witness
Jennifer Whetstone, Negotiating Team Member
Ceola Garrett, Support Officer

II. INTRODUCTION AND BACKGROUND

The parties to this fact-finding hearing are the Franklin County Child Enforcement Agency (hereinafter referred to as the "Employer") and Teamsters Local No. 284 hereinafter referred to as the "Union"). The parties have a previous collective bargaining history, the Union having won an election in 1993. There is a current collective bargaining agreement which was effective on December 7, 1993 and expired on December 31, 1996, but which, by mutual agreement, was extended to January 31, 1997. The parties are still operating under the provisions of the expired agreement as of the time of the Fact-Finding Hearing.

The parties have met a number of times and worked in good faith for the purpose of negotiating a successor agreement without success. However, they have reached agreement on all disputed issues except the issues submitted to fact-finding. By a telephone call from the State Employment Relations Board, the undersigned was advised of his designation to serve as Fact-Finder, pursuant to Ohio Administrative code 4117-9-05, for the purpose of making findings of fact and recommendation concerning issue(s) then at impasse between the Employer and the Union. The fact-finding hearing was scheduled and conducted on April 11, 1997 in a conference room on the 26th floor of the Franklin County Courthouse, Columbus, Ohio.

The bargaining unit is comprised of approximately 160 employees, of which

approximately 150 are members of the Union. The bargaining unit, as defined in the existing collective bargaining agreement, is comprised of the following classifications: Support Officer, Investigator, Cashier, Clerk, Client Affairs Officer, Account Clerk, Legal Assistant, Typist, Secretary 1, Secretary 2, Support Payment Processor and Client Information Specialist. Approximately fifty percent of the bargaining unit is composed of employees in the Support Officer classification. The function of the Employees are defined by detailed job descriptions from the title of the classification.

The function of the Employer is to operate an agency that will initiate legal and/or collection services to enforce child support laws for the residents of Franklin County.

At the time of the fact-finding hearing, the parties agreed that there was little to be accomplished by further mediation and suggested the fact-finding should proceed. Prior to the hearing, the Union and Employer submitted prehearing statements in accordance with Ohio Administrative Code 4117-9-05(F), the administrative rules of the State Employment Relations Board. The parties agreed upon and submitted one joint exhibit and their respective exhibits without objection by either party. The Union submitted exhibits #1-26 and the Employer #A-S as evidence for consideration during the fact-finding hearing.

The fact-finding proceedings were conducted pursuant to Chapter 4117 of the Ohio Revised Code and Ohio Administrative Code Chapter 4117, the administrative rules of

the State Employment Relations Board. The Fact-Finder, in making the following Findings of Fact and Recommendations on the issues at impasse, has taken into consideration the criteria listed in Rule 4117-9-05 K(1)-(5) of the State Employment Relations Board. In addition, the Fact-Finder has taken into consideration all reliable evidence relative to the issue before him. At the conclusion of the hearing on April 11, 1997, the record and hearing was closed and the matter is now ready for the issuance of a fact-finding report. It should be noted that the Fact-Finder, not being a resident of Franklin County, has no general knowledge of the financial conditions of Franklin County, Ohio or the relationship of the parties involved in the fact-finding dispute.

At the time of the fact-finding hearing, issues on the following subjects and articles were unresolved:

1. Check Off (Articles 5).
 - a.) Maintenance of Dues of Fees Deduction (Article 24).
 - b.) Fair Share (proposed).
2. Sick Leave and Wellness Program (Article 35).
3. Vacation Leave (Article 39).
4. Wages (Article 40).
5. Duration (Article 41).

III. ISSUES, FINDING OF FACT AND RECOMMENDATION

**A. ARTICLE 5 - Check off
ARTICLE 24 - Maintenance of Dues of Fees Deduction
FAIR SHARE - Proposed**

1. Position Of The Employer

The position of the Employer is that the current agreement provisions should remain unchanged in the new collective bargaining agreement.

The main contention is that the Union is requesting a fair share fee arrangement, to which the Employer objects for philosophical reasons.

The Employer points out that it is a fundamental right of the employee to join or refrain from joining a union. The Board of Commissioners or the Employer should not place themselves in a position that would interfere with an employee's right to join or not join a union under the provisions of the Ohio Revised Code Section 4117.03. The Employer argues that no collective bargaining agreement with other bargaining units under the supervision of the Franklin County Board of Commissioners contain a fair share fee provision in their agreements. In addition, the Employer points out that during the last contract negotiations, the parties worked very hard to find a middle ground on this issue and compromised with the current contract language by including a maintenance of dues or fees provision in the agreement.

2. Position Of The Union

The Union argues the current agreement does not contain a requirement that non-members pay a service or administrative fee for the required representation by the Union. The Union points out that they have a statutory obligation to fairly represent all bargaining unit employees in negotiations as well as contract issues. If non-members do not contribute to these costs of doing business on behalf of the union, they are getting a "free ride" at the expense of members who do pay their share of the costs.

The Union asks that the Fact-Finder give weight to the fact that ninety-five percent (95%) of the bargaining unit employees have voluntarily joined the Union (Union Exhibit 2) and pay their dues for representation by the Union. In addition, the Union argues that fair share provisions are common among several metropolitan county Child Support Enforcement Agencies and submits several exhibits in evidence to support its claim that broad recognition of fair share provisions have been accepted in similar jurisdictions.

3. Discussion And Recommendation

No other item except compensation on the bargaining table, or at impasse, generated such divergence of positions and heat as the Union's proposed fair share clause. The Union has advanced a fair share fee proposed as

part of its contract proposals since being recognized as the bargaining agent for the unit. In each instance this proposal has been rejected by the Employer, notwithstanding its recommended acceptance of a maintenance of dues clause during the last contract negotiations. Understandably, both parties have tended to overstate their cases.

While unlawful in the public sector, agency shop provisions, in which initial employment and its retention require union membership, is the rule rather than the exception. Where, as here, a singular employer has a large group of employees with common employment interests. As long as there exists the substantial economic disincentive to belong to a union or employee organization by sharing equally in the fruits produced by such an union "collective" bargaining results without sharing in the cost burden of producing such benefits, it is surprising that the Union counts the members it now possesses.

Section 4117.09 of the Ohio Revised Code clearly prohibits public employees from contractually requiring employees to belong to union for the purpose of securing or retaining employment. This provision does, however, provide that public employers may enter into bargaining agreements with union's that require non-union members to contribute their fair share of the union's cost of collective bargaining to the employee

organization. While discretion is placed in the public employer (here, Board of Commissioners) to agree to or reject a fair share provision as part of its collective bargaining agreement with an employee organization, a review of the statutory scheme intended by the state legislature and the Court decisions thereunder, demonstrate to this Fact-finder that fair share is in terms of public policy a favored policy. A host of constitutional and statutory challenges thereto have been rejected by the Courts. The statutory provisions themselves lend almost irrefutable support to the process by which fair share is implemented. The concept of fair share is gaining increasing acceptance in collective bargaining agreements, particularly in the field of human services and child support organizations as demonstrated by the evidence in the record placed before this Fact-Finder.

The Employer presents a very strong argument that the Employer should not be about the business of interfering with an employee's right to join or not join a union, a right that has its root in the statutory provisions of Section 4117.03 of the Ohio Revised Code. However, the Union proposal does not require membership in the Union and further, the Union is required as a safeguard to prescribe an internal procedure to provide a rebate to such non-members employees of those expenditures made in support of partisan politics or ideological causes, not germane to the

Union's representation work in the realm of collective bargaining. Non-members must make a timely demand on the Union for such rebate, determined by the organization's prescribed internal procedure. Absent a determination by the state employment relations board that the organization's internally prescribed procedure for determining the rebate is arbitrary and capricious, that determination is conclusive upon the parties.

The Employer has failed to produce any survey, objective documentations or other indicia of the reason or reasons why non-member employees not now members of the Union have chosen not to become members. The Union has provided unchallenged evidence that ninety-five percent (95%) of the bargaining unit supports the Union by voluntary dues deduction. This is not a case where the fact-finder is faced with a decision to extend a fair share provision to an employee organization with a slight majority of the membership in the bargaining unit. Regardless of what views one may possess as to organized labor, of the reasonableness or unreasonableness of positions taken by such an organization at any time on any issues one cannot dispute the value of collective bargaining between the parties. Nor can an impartial observer dispute the persistence with which some organizations such as the Union, pursues the objectives

of those it represents in contract negotiations, as witnessed in these proceedings.

Based upon the record developed and arguments advanced by the parties this Fact-Finder must conclude that the Union's proposed fair share contract provision, has merit and is not rendered unreasonable by reason of the Employer's role of protecting the interest of non-members of the bargaining unit, or its philosophical opposition to the concept.

It is the hope of this Arbitrator, that instead of increasing the focus on advocacy of parochial interests , it provides an opportunity for the parties to improve their communication, understanding, recognition, and acceptance of each other's problems so as to forge a solution acceptable to their interests and to the community they both serve. While the parties respective economic interests are divergent, and will ever remain so, this does not preclude the spirit of cooperation that is essential for the completion of their joint mission, requiring sacrifices by both for the benefit of the community and the child support issues and demands by the public.

It is with a full understanding and appreciation of the fact that this Fact-finder's findings conclusions and recommendations are not binding, but

advisory only, that he concludes that a fair share provision is an appropriate and reasonable provision to be included into the parties collective bargaining agreement. That language is as follows:

Article 24

Those employees who are members of the bargaining unit and who have not signed check-off authorization shall have a monthly Fair Share Fee deducted automatically from the first paycheck each month. The fair share fee amount shall be certified to the Employer by the Treasurer of the Local Union. The Fair Share Fee deducted shall be subject to all requirements of the Ohio Revised Code, Section 4117.09(C) and all applicable law on like subject matter. Fair share fee deductions shall begin for new employees after the one hundred twenty (120) day probationary period.

Those Union members who have signed payroll deductions of dues shall have their dues deducted from the first paycheck of each month. Payment to the Union of dues and fair share fees shall be made in accordance with check off provisions provided herein. It is agreed by the Union that any bargaining unit employee may withdraw voluntary dues authorization at any time by written request to the Employer.

The Union agrees to establish and maintain a rebate procedure that complies with the applicable laws of the State of Ohio. Further, the Union agrees to indemnify the Employer and hold the Employer harmless from any finding by a government agency or court of law that it has unlawfully deducted any dues or any fair share fee or a portion of a fair share fee. The Union also agrees to reimburse the Employer for any monetary damages it is ordered by a governmental agency or court of law to pay as a result of a finding or order that it has unlawfully deducted dues or a fair share fee or a portion of a fair share fee.

B. ARTICLE 35 - Sick Leave Accumulation And Use

1. Position Of The Employer

The employer asks that Article 35 be revised to include less sick leave

accrual benefits but enhance the sick leave provision with the inclusion of a wellness incentive provision. The wellness benefit would reward those with improved attendance by converting unused sick leave to a cash pay out or personal leave hours. The employer points out that the bargaining unit employees used 14,240 hours of sick leave during 1996 or average of 80 hours per bargaining unit employee. In support of its position, the Employer contends that sick leave usage by the bargaining unit is purportedly far in excess of comparable public sector employers under the direction of the Franklin County Board of Commissioners. The Employer argues that it is reasonable for the bargaining unit to accept some reduction of such leave accrual per year in exchange for a cash payout option that will reward better attendance and efficiency in the workplace.

2. Position Of The Union

The Union argues that a fact-finder should retain the current language with slight modifications to Section 1 of Article 35. The Union argues that there is no evidence or justification within the Employer to justify a reduction of accrual sick leave benefits. The Union would remove the language allowing "approval by management" and replace it with "proper verification," because they believe there is no reasonable justification to condition the use of sick leave based on management approval. The Union rejects the idea of a wellness program if it means any loss of sick

leave accrual for bargaining unit employees. The Union points out that the sick leave accrual in the current agreement is consistent with similar agencies of the Employer and their collective bargaining agreements.

3. **Discussion And Recommendation**

Employers vary in their approaches to identifying the point at which an employee's absences will be considered excessive. Some agreements absenteeism provisions precisely define excessive. Other agreements prefer to avoid a rigid definition and instead make determinations on a case-by-case basis. Close scrutiny of the current collective bargaining agreement on sick leave reveals that the present definition of excessive must be concluded to be set at fifty-six (56) or more hours before substantiation of documentation is required to use additional sick leave. Several studies suggest that typical sick-leave plans in public sector collective bargaining agreements actually may increase sick leave use or abuse by employees. One study concluded that organizations with paid sick leave provisions experience nearly twice the amount of absenteeism of organizations without such a program. Federal, state and local government employees have the highest attendance problems. Yet there are legitimate reasons for absences, such as injury, illness or personal mishaps.

Unchallenged evidence was submitted by the Employer that they had experienced 14,240 hours of sick leave usage in 1996 which is an average of 80 hours or ten work days per bargaining unit employee. I believe it is safe to conclude that this amount of average sick leave use would be considered excessive and problematic. However, there are no specific evidence given concerning the type of sick leave abuse and one could assume that the high rate of usage is due to legitimate illnesses.

We must all share the concern for absenteeism and the subsequent disruption of operations, and it clearly reduces the productivity of the absent employee. It also can be an insidious drain on the productivity of others, since an organization with high absenteeism usually also has low morale and relatively poor performance by those who do report to work. I would note that sick leave is intended for genuine illness and in no wise can be justified as an additional source to increase vacation time. In sum, therefore, I am persuaded that the parties and the public, are best served with a reasonable sick leave and attendance agreement provision that will reward employees for improved attendance and increase productivity resulting from reduced absenteeism and easier work scheduling. Thereby engendering a desirable level of stability in the work force.

It is the Fact-Finder's recommendation that Article 35 be rewarded as follows:

ARTICLE 35

SICK LEAVE USAGE AND WELLNESS INCENTIVE

Section 1. Sick Leave

Full-time employees earn sick leave at the rate of 4.0 hours for 80 or more hours while on active pay status in any pay period. The time credit is strictly proportionate to the hours in paid status in each pay period up to the 4.0 hour limitation for any pay period. Sick leave accrual will commence with the first pay period following approval of this Agreement by the Franklin County Commissioners. Part-time employees are not eligible for sick leave.

Sick leave is charged in minimum units of 0.25 hours. Employees are eligible for sick leave only for days on which they would otherwise have been scheduled to work. Sick leave payment will not exceed the normal work day or work week earnings.

Sick leave will be granted to employees, upon approval of the management for the following reasons.

1. Illness or injury of the employee or a member of the employee's immediate family living in the same household or persons covered under the Family and Medical Leave of Absence policy. In the case of a member of the immediate family, as defined in the Family and Medical Leave Act, not living with the employee, the Director or his/her designee will credit sick leave if the employee provides proper verification of a serious health condition as defined in the Family and Medical Leave Act. In all other cases, the Director or his/her designee may credit sick leave where it complies with sick leave rules and regulations instituted by management.
2. Death of a member of the employee's immediate family. Sick leave granted by reason of death in the immediate family will not exceed five working days. Immediate family is defined as mother, step-mother, father, step-father, brother, stepbrother, sister, step-sister, child, step-child, spouse, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law,

brother-in-law, legal guardian or other person who stands in the place of a parent.

3. Medical, dental or optical examination or treatment of the employee or a member of the immediate family living in the same household. In the case of a member of the immediate family, as defined in the Family and Medical Leave Act, not living with the employee, the Director or his/her designee will credit sick leave if the employee provides proper verification of a serious health condition as defined in the Family and Medical Leave Act. In all other cases, the Director or his/her designee will credit sick leave if employees comply with the sick leave rules and regulations instituted by management.
4. When, through exposure to a contagious disease, either the health of the employee would be jeopardized or the employee's presence on the job would jeopardize the health of others.

Employees failing to comply with sick leave rules and regulations will not receive sick pay. Application for sick leave based upon a known misrepresentation shall result in disciplinary action up to and including dismissal and shall result in refund to the County of salary or wage paid during sick leave. If an employee is off more than three (3) consecutive days on sick leave, the employee must provide a written doctor's excuse to his/her supervisor unless it is a preapproved FMLA leave. Falsification of, or a failure to produce a doctor's excuse shall be grounds for disciplinary action up to and including dismissal.

If the Employer has a reasonable basis to believe an employee sought sick leave based upon a known misrepresentation, it may, at its discretion, require the employee to provide a written doctor's excuse to his/her supervisor to verify the illness. Falsification of, or a failure to produce a doctor's excuse shall be grounds for disciplinary action up to and including dismissal.

Upon retirement, resignation or death, from active County service after eight (8) or more years with the County or with any of Ohio's political subdivisions, an employee may elect to be paid in cash for one-fourth (1/4) of the accrued but unused sick leave credit, subject to the limitations indicated below. This payment will be based upon the employee's rate of pay at the time of retirement. Upon accepting such payment, all other sick leave credit accrued up to that time will be eliminated.

Upon retirement, resignation or death, from active County service after

nineteen (19) or more years with the County or with any of Ohio's political subdivisions, an employee may elect to be paid in cash for one-half (1/2) of the accrued but unused sick leave credit subject to the limitations indicated below. This payment will be base upon the employee's rate of pay at the time of retirement. Upon accepting such payment, all other sick leave credit accrued up to that time will be eliminated.

Such payment will be made only once to any employee. That is, an employee who returns to County Service after retirement, termination or resignation may accrue and use sick leave as before, but may not convert the unused sick leave at the time of a second retirement.

In all cases of sick leave conversion to cash, an employee must remain separated from service for a minimum of sixty (60) days before payment can be made.

Payment for Sick Leave Credit eliminates all accrued Sick Leave Credit earned by the employee up to the time of conversion.

Section 2. Wellness Program.

The Employer shall maintain a Wellness Incentive Program as an incentive to minimize sick leave and increase attendance. The wellness period runs from December 1 through November 30. For this Agreement, the wellness period will commence during the first day of the pay period in which December 1, 1996 falls. All new full-time employees hired after December 1, 1996 are eligible for the program beginning with the next twelve (12) month wellness period following their date of hire. The wellness plan that is contained in Article 35, Section 6 of the parties' 1993-1996 Collective Bargaining Agreement shall remain in effect through the quarter ending on June 30, 1997. After June 30, 1997, only the new wellness plan set forth below shall be in effect. Based upon the following schedule, certain eligible full-time employees will be permitted to convert a determined amount of unused sick leave to either a cash pay out, or to an equal number of personal leave hours.

1. If a full-time employee uses 8 hours or less of sick leave during a wellness period, the employee may convert up to 40 hours of sick leave to either a cash pay out, or to personal leave hours.
2. If a full-time employee uses between 8.25 and 16 hours of sick leave during a wellness period, the employee may convert up to 32

hours of sick leave to either a cash pay out, or to personal leave hours.

3. If a full-time employee uses between 16.25 and 24 hours of sick leave during a wellness period, the employee may convert up to 24 hours of sick leave to either a cash pay out, or to personal leave hours.
4. If a full-time employee uses between 24.25 and 32 hours of sick leave during a wellness period, the employee may convert up to 16 hours of sick leave to either a cash pay out, or to personal leave hours.
5. If a full-time employee uses between 32.25 and 40 hours of sick leave during a wellness period, the employee may convert up to 8 hours of sick leave to either a cash pay out, or to personal leave hours.

If an employee elects to convert the hours to personal leave days, the employee must utilize the personal days within the wellness period that follows the period in which the personal days were earned.

On December 1 of each year, the Agency's payroll officer will notify employees who are eligible for the sick leave conversion programs and provide them with a "Request to Convert Sick Leave to Personal Leave: or "Request to Convert Sick Leave to Cash Payout" form. If the Employer is aware of a eligible employee's selection of a cash pay out, the cash pay out will be issued to the employee in his/her second paycheck in December.

C. ARTICLE 39 VACATION LEAVE

1. Position Of The Employer.

The Employer points out that there current proposal reduces by one year the time necessary to receive additional vacation benefits under the current collective bargaining agreement vacation schedule. The Employer argues

that the vacation is comparable to other similar jurisdictions when looking at the total benefit package.

2. Position Of The Union

The Union proposes a more aggressive change in the current collective bargaining agreement by reducing the threshold number of years by three years of service to be eligibility for vacation benefits. It points to several contracts in comparable employer units which have the union proposal in the agreement in support of its proposal. The Union points out that the current Employer has the proposed schedule in place for all exempt staff working for the Employer. The Union offers evidence that vacation is just as valuable a benefit to bargaining unit employees and their families as it is to the supervision personnel of the Employer.

3. Discussion And Recommendation.

The Fact-Finder does not dispute the importance of vacation time and how it affords employees a period of rest. In addition, it allows the employees to spend quality time with their family. However, a fact-finder must balance fiscal responsibility to the taxpayer and adequate employee needs. In my judgement the employer proposed vacation schedule somewhat

adequately accommodates employee needs for periods of rest on the one hand and Employer's scheduling needs on the other. However, the Employer is dealing with some severe retention and staff turnover problems in four classifications within the bargaining unit. I find a basis for enhancing part of the vacation schedule to assist the Employer with retention and in doing so on the reason that most bargaining unit employees have less than five years of service. This is especially so in light of the Employer's failure to offer evidence of any problems or hardship for it under their current proposal.

The Fact-finder recommends the following vacation schedule:

1. Less than 1 year of service: No vacation.
2. 1 year of service, but less 5 years: 80 hours per year (10 working days).
3. 5 years of service, but less than 14 years: 120 hours per years (15 working days).
4. 14 years of service, but less than 24 years: 160 hours per year (20 working days).
5. 24 years or more of service: 200 hours per year (25 working days).

D. ARTICLE 40 - WAGES

1. Position Of The Employer

The Employer has proposed that the bargaining unit compensation for 1997 be based on salary study to be completed within 60 days of the new collective bargaining agreement being approved by the parties. The Employer would engage the services of the David M. Griffith And Associates to perform job analysis of all bargaining unit positions, conduct job evaluation using the Archer System for internal equity, collect salary survey data from comparable government entities and develop a pay plan design for a comprehensive compensation plan covering all pay grades for bargaining unit employees. In the first year of the agreement, bargaining unit employees would be placed on a pay range based on their years of service with the Employer. For example, bargaining unit employees with one to four years of continuous employment with the Employer will receive an adjustment of 25% of the difference between the minimum and midpoint of the range as determined in the study or a 3 % across the board wage increase, whichever is greater. Those bargaining unit employees with more than four years but less than seven would receive 50% of the difference, employees with seven years but less than ten would receive 75% and those over ten will receive the midpoint.

In the second and third year of the agreement, the Employer proposes a 1.75% across the board wage increase for all bargaining unit employees and a pay for performance increase with a maximum of 1.75% effective on the employee anniversary date of employment. The pay for performance percentage would be determined by the performance appraisal instrument developed by the Employer and containing four performance dimensions, each with a weighted value. The overall performance rating would determine the amount, if any, wage increase each bargaining unit member would receive in addition to the across the board wage increase. The employee would not be able to appeal their appraisal rating through the grievance procedure.

The Employer notes that while the proposal is unique it is concerned about retention problems and a study by an independent third party is a credible method for addressing this issue. The Employer asserts that all non-bargaining unit County employees receive pay increases based solely upon merit and one bargaining unit under the Franklin County Commissioners receive a part of their wage increase based upon the concept of merit pay. The Employer asserts there are no guarantees of wage adjustments as a result of Griffith Study. The Employer notes that any wage increases in the first year of the contract should not be applied retroactively, but

become effective when the new collective bargaining agreement is approved by the parties.

2. **Position Of The Union**

The fundamental argument of the Union is that it seeks to remedy what it believes to be a historical underpayment of wages for the bargaining unit employees in all classifications across the board. The Union proposes a fourteen percent (14%) pay increase for all bargaining employees except for support officers and paralegal classifications, where it proposes raises of twenty percent (20%) and twenty-two percent (22%), respectively. The Union points out the additional rationale for the increases in wages for the bargaining unit arise because some employees are barely able to support their household and qualify for forms of state and federal public assistance. The Union believes its members testimony and evidence substantiated the family support issues under the current wage structure of the Employer.

The Union notes and offers into the record evidence of copies of exit interviews from the Employer's retention records that confirm several employees are leaving their position with the Employer because of low pay and stressful working conditions. The Union claims many of those

employees leaving the Employer are accepting similar positions with higher pay with other public employer's in the area.

The Union strongly opposes any pay for performance plan proposed by the Employer based on the rationale that the current proposed pan is very subjective and management has a history of being arbitrary as well as applying inconsistent standards in application of policies within the Agency. The Union asserts that the Employer's proposal does not allow the Union to appeal adverse decisions through the grievance procedure involving merit pay by the Employer. The Union states the same magnitude of compensation increase should be given to the bargaining unit that the Employer voluntarily granted to exempt employees within the Agency.

3. Discussion And Recommendation

Many forces are converging upon local government today, driving an urgent need for a thorough examination of the way jobs are performed and a fundamental reshaping of the way services are delivered. A growing number of state and local government agencies are forming cooperative workplace partnerships in an effort to transform their government entities into flexible customer-oriented organizations better equipped to serve both the taxpayer and public. Communications and the willingness to work

together are crucial to this process. But the labor-management relations paradigm needs to be shifted from one of conflict and traditional adversary approaches to one that will foster cooperation and a sense of partnership in the workplace as to the direction of the organization. No such change will take place unless both management and labor are prepared to accept each other's legitimate role in the partnership.

For the reasons stated above, I am favorable impressed with concept of an objective third party performing a compensation study and developing a compensation plan based on credible compensation survey data measuring comparable positions. However, the origination and implementation of such a plan should come from the bilateral process of collective bargaining between the parties where a reasonable exchange of viewpoints could resolve both parties concerns about the fairness and equity of the process. A fundamental recommendation to the parties in the future would be to form a compensation steering committee, which has equal numbers from labor and management. The parties would jointly interview and hire a third party (perhaps David M. Griffith & Associates) to perform the study. The compensation steering committee would direct, implement and monitor the quality of the study results. To the extent that both sides can reduce unnecessary conflict, their energies can be focused

upon improving the employees wages and working together to accomplish the Agency goals.

On the particular issue of wages, this Fact-Finder earnestly believes his role is based in the context of the continuous nature of the parties relationship, and any major deviations in that relationship have to come from the bilateral process of negotiations, not from the fact-finding process or procedures. In my view, the most relevant factors to be considered in reaching a determination of the appropriate rates of pay for the bargaining unit are the statutorily mandated recent historical factors or circumstances that may exist in a particular situation and geographically near comparable units of pay for similar work factor. In this regard, the historical, the current retention problems with the Support Officer position, and comparable job factor tends to put upward pressure on any increase such that the Union's proposal is well within the realm of reasonableness were this historical and comparable position factor to be the only relevant factor to be considered. However, other relevant factors, such as other public sector settlements within the County and City, serve to depress the previous stated factors. Taking into account the evidence presented and the significant differences between the positions

of the parties in this case, the Fact-Finder makes the following recommendation:

ARTICLE 40

WAGES

Upon the approval of this Collective Bargaining Agreement by the Franklin County Board of Commissioners all bargaining unit employees except Support Officer/Investigator shall receive a six and one-half percent (6 1/2 %) across the board wage increase.

Upon the approval of this Collective Bargaining Agreement by the Franklin County Board of Commissioners, Support Office/Investigator classification shall receive a ten percent (10%) across the board wage increase. The wage increases for all bargaining unit employees shall be retroactive to April 1, 1997.

Effective January 1, 1998, all bargaining unit employees shall receive a four and one-half percent (4 1/2 %) across the board wage increase.

Effective January 1, 1999, all bargaining unit employees shall receive a three and one-half percent (3 1/2 %) across the board wage increase.

ARTICLE 41

DURATION

This Agreement shall be effective as of April 1, 1997 and shall continue in full force and effect through March 31, 2000.

This concludes the Fact-Finder's Report and Recommendations.



THEODORE V. CLEMANS
FACT-FINDER

Dated: May 28, 1997

CERTIFICATE OF SERVICE

I hereby certify that on May 28, 1997, I served a copy of the foregoing Fact-Finders Report by regular U.S. mail, postage paid upon:

Robert K. Handelman, Esq.
Handelman & Kilroy
360 South Grant Avenue
Columbus, Ohio 43215-5537
(Attorney for Teamsters Union, Local 284)

Mr. Thomas G. Worley
Administrator
Bureau of Mediation
State Employment Relations Board
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Columbus, Ohio 43215-4213

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Schotenstein, Zox & Dunn
41 South High Street
Columbus, Ohio 43215
(Attorney for Franklin County
Child Support Enforcement Agency)

I hereby certify that a copy of the foregoing Fact-Finders report, by agreement of the parties, was faxed, on May 28, 1997, to the following:

Mr. Robert D. Weisman
FAX: 614-464-1135

Mr. Robert K. Handelman
FAX: 614-221-5423



THEODORE V. CLEMANS
FACT-FINDER