

STATE EMPLOYMENT
RELATIONS BOARD

Dec 30 10 46 AM '99

**IN THE MATTER
OF
FACT FINDING
DETERMINATION & RECOMMENDATION**

BETWEEN	CASE NO: 99-MED-09-0750
The Monroe County, Ohio, Engineer	FACT FINDER: JOHN S. WEISHEIT
v	HEARING DATE: December 15, 1999
AFSCME, Ohio Council 8	AWARD ISSUED: December 28, 1999
Local 3852	

**REPRESENTATION
by**

<u>Employer Representatives</u>	<u>Union Representatives</u>
Michael L. Seyer, Clemens, Nelson & Associates	Tamara D. Carsey, Staff Representative, Ohio Council 8, AFSCME

AUTHORITY

This matter was brought before Fact Finder John S. Weisheit, in keeping with applicable provisions of ORC 4117 and related rules and regulations of the Ohio State Employment Relations Board. The parties have complied in a timely manner with all procedural filings. The matters before the Fact Finder are for consideration and recommendation based on merit and fact according to the provisions of ORC 4117 and understandings of the parties.

BACKGROUND

The above named parties engaged in collective bargaining for a successor labor agreement to the one expiring November 30, 1999. In the course of good faith bargaining several issues were tentatively agreed to, however, a few issues remained unresolved and an impasse was declared. The above named Fact Finder was assigned in keeping with provisions of the ORC 4117 and SERB Rules & Regulations. A Fact Finding Hearing was convened on December 15, 1999. Before adjourning the Hearing, the parties indicated sufficient opportunity to introduce such documents and testimony considered relevant. The Fact Finding Report, inclusive of recommendation, was agreed to be issued on or about December 28, 1999.

In compliance with ORC 4117.14(C)(4)(e), and related rules and regulations of the State Employment Relations Board, the following criteria was given consideration in making this Award:

1. Past collectively bargained agreements between the parties;
2. Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
3. The interest and welfare of the public, the ability of the public Employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
4. The lawful authority of the public Employer;
5. Any stipulations of the parties;
6. Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in public service or in private employment.

The parties have tentatively agreed to a number of provisions to be included in the Agreement.

The following Report is based on information provided in documents and testimony introduced at that time and in keeping with statutory consideration cited above.

ISSUES OF TENTATIVE AGREEMENT

The following issues were at tentative agreement between the parties prior to the declaration of impasse.

	Preamble/Purpose	Article 16	Layoff & Recall
Article 2	Management Rights	Article 17	Health & Safety
Article 3	Work Rules and Regulations	Article 18	Bulletin Boards
Article 4	Union Representation	Article 19	Leaves of Absence
Article 5	Non-Discrimination/ Gender	Article 20	Labor/Management Meeting
Article 6	Probation Period	Article 21	Sick Leave/Funeral Leave
Article 7	Dues Deduction	Article 22	Conversion of Unused Sick Leave
Article 9	Disciplinary Procedure	Article 23	Vacation Leave
Article 11	Seniority	Article 24	Holidays
Article 12	Vacancies, Promotions, & Transfers	Article 25	Call In Pay
Article 13	Temporary Transfers	Article 26	Contracting Out
Article 14	Hours of Work/Overtime	Article 29	Waiver in Case of Emergency
Article 15	Overtime Distribution	Article 30	Severability
		Appendix A.	Grievance Form
		Appendix B.	Hourly Rates of Pay

ISSUES AT IMPASSE

The following issues were at impasse at time of the Fact Finding Hearing:

Article 1	Union Recognition	Article 28	Health Insurance
Article 8	No Strike/No Lockout	Article 31	Duration of Agreement
Article 10	Grievance Procedure	Appendix C	Letter of Understanding - job classification/rate of pay/ change of assignment
Article 27	Wages		

ISSUES OF TENTATIVE AGREEMENT
AT FACT FINDING

Mediation at the Fact Finding Hearing resulted in agreement in principal on a number of issues. The Fact Finder's Recommendation is based on said principals and are included in this recommendation without comment pursuant to agreement by the parties.

Article 1	Union Recognition	Article 10	Grievance Procedure
Article 8	No Strike/No Lockout	Article 28	Health Insurance
		Article 31	Duration of Agreement

**SUMMARY OF THE PARTIES' RESPECTIVE POSITIONS
ON ISSUES AT IMPASSE**

Employer	Issue	Union
3% increase each year of the Agreement.	Article 27 Wages	4% increase each year of the Agreement.
Modify assignments and rate of pay in certain situations of employees in selected operator classification.	Appendix ___ Letter of Understanding	Reject.

DISCUSSION & DETERMINATION

General

The issues at impasse are considered collectively. The economic impact was reviewed in context of total cost estimate of related issues tentatively agreed to, and issues at impasse. Consideration was given to the totality impact of the issues at impasse as well as those issues of tentative agreement. Recommendations were made on an item by item basis, as called for under ORC 4117.

It is noted that a wage increase has an additional proportionate cost to the Employer. Cost to increase the base rate of pay by 1% annually is about \$6,000.

Comparables

Comparables are considered when, and to the extent that, they are determined relevant. Economic information was submitted relative to other County employee groups and bargaining units, various demographic units from the State, to selective local governmental agents and local private sector. Each bargaining unit and/or employee group of similar employees is recognized as having unique differences in matters of employment consideration and priorities. Differences exist in specific terms and priorities that may well result in differences in the ultimate terms of the respective agreements. The comparables submitted are limited in weight and influence due to the fact that they reflect selective comparative criteria. This is particularly recognized when certain benefits were attained in the collective bargaining process. Such information does provide a base for consideration; however, it is not necessarily the sole controlling factor in ultimate determination and recommendation. No one set of comparables argued by either party was necessarily considered in full context as presented by the respective party.

Department Bargaining Unit Relationship With Other County Groups

Reference was raised regarding the historical pattern of wage and economic benefits granted all County employees, within and outside of collective bargaining. It is typical that terms of employment will be more comprehensive and detailed for those employees working under a collective bargaining unit agreement as contrasted with employees not covered under such an agreement. While certain terms and benefits may be the same or similar, others are quite different.

Financial Atmosphere

Inability to pay was not raised as an issue. Rather, the Employer contends appropriateness and relevancy of wage and economic benefits of this bargaining unit. The Union priority on economic issues is focused on rate of pay and health insurance premium. These two issues are given due consideration and is reflected in the recommendation.

Effective Date of Contract/duration

The parties have agreed that the Agreement will be of a three-year duration effective January 1, 2000. It is also relevant to note that Employer insurance contributions are submitted the month in advance. The recommendation takes this matter into consideration.

Issue

**ITEM BY ITEM
DISCUSSION**

**Article 17
Wages**

While the issue of wages reflects a 1% difference each year of the three year Agreement, the compounding cost factor is given due consideration as well as the recommended modification in employee insurance premium insurance contribution rates. There is little doubt that insurance cost will continue to increase. Significant wage increases and major increases in health insurance benefits are not determined appropriate to occur together at this time. Employee health insurance cost based on a percentage rate will be significantly more costly to the Employer as contrasted to a fixed dollar amount, such as that found in the expiring agreement. Increasing the wage schedule an additional 1 % per year, as proposed by the Union, would cost about \$18,000 more than the Employer's proposed 3% annual cost estimated at an additional \$100,000 during the life of the Agreement. This is in addition to increased Employer cost for health insurance premium benefits of bargaining unit members. This is reflected in the following recommendation. A review of the economic comparative presented by the Union, and estimate cost factors provided by the Employer, project the recommendation included herein will retain current buying power of bargaining unit employees. It is difficult to determine health insurance premium cost factor adjustment based on cost projections provided and unknown factors of the coming years. However, it is generally proved more "employee friendly" to move to an annual percentage rate plan of employment share of premium payment than a single fixed dollar rate, as in the expiring agreement. Such a provision should provide an improved financial benefit for employees during the duration of the Agreement.

Determination

It is recommended the current wage scale be increased by 3% at each level effective January 1, 2000. Effective January 1, 2000, the wage schedule then in effect, shall be increased by 3%. Effective January 1, 2002, the wage schedule then in effect, shall be increased by 4%.

Issue

**ITEM BY ITEM
DISCUSSION**

**Appendix ___
Letter of
Understanding**

The Letter of Understanding put forth by the Employer addresses several issues related to use of employees, employee work classification, and related pay classification associated with assignment. The provisions were an outgrowth of an earlier Employer position to change position classification language in Article I, Union Recognition.

Regarding the Employer's first premise addresses its right to assign its work force, in particular, operators, the Employer clearly has such rights in Article 3 Management Rights. By the Union's recognition of the Agreement as a whole, it so recognizes this inherent management right.

Determination

The second premise raised reflects the Employer's right to change and/or modify work classification and related wage classification unilaterally. It is not uncommon that such letters and/or memorandums of understanding are included in a collective bargaining agreement to clarify terms of the agreement. Usually such a letter addresses is to clarify application and/or intent of a single point or term of the agreement Sometimes a letter will address a new issue the parties are introducing on an experimental basis or for a limited period of time.

In this instant case, several significant terms are proposed that are contrary to clear and express terms of the Agreement. It is considered more appropriate that such major Agreement modification would be better addressed in the context of the specific terms of the Agreement in question. Further, there is not sufficient supporting evidence or fact to justify a meaningful recommendation on the issues raised at this time.

It is recommended that the Letter of Understanding submitted by the Employer not be included in the Agreement at this time.

**ISSUES TENTATIVELY AGREED TO
IN PRINCIPAL AT THE FACT FINDING HEARING**

It is recommended that the following Articles be included in the Agreement as stated in the following in addition to the two previous stated recommendations.:

Article 1 Union Recognition

It is recommended that Article I - Union Recognition, be included in the Agreement as stated in the expiring agreement.

Article 8 No Strike/No Lockout

It is recommended that Article 8 - No Strike/No Lockout , be included in the Agreement as stated in the expiring agreement.

Article 10 Grievance Procedure

It is recommended that Article 10 - Grievance Procedure, be included in the Agreement as stated in the expiring agreement.

Article 28 Health Insurance

It is recommended the following be included in the Agreement as Article 28 - Health Insurance:

Section 1: The Employer shall, for the term of the Agreement, contribute the following amounts towards a full-time employee's monthly health car premium(s):

Single Plan	100%
Group Plan	80%
Family Plan	80%

It is understood and agreed that an employee(s) shall pay the difference between the above referenced amounts and the total amount of the monthly premium for the type of the coverage that employee selects (i.e., single, group, family). If more than one (1) health care plan is made available through the County Commissioners, the above percentages shall be based on the least expensive of the plans offered.

Section 2. Employees shall be eligible to enroll in said plan(s) on an annual basis, in accordance with the enrollment period(s) described therein.

Section 3. The employer shall continue the insurance committee as set up by the Monroe County Commissioners with Local 3852 President or his designee as a member of the committee.

Section 4. Initial contributions as set forth in this provision will be made within thirty (30) days of date of this Report as reflected with his signature.

DETERMINATION AND AWARD

It is recommended that all items of tentative agreement between the parties prior to Fact Finding be included in the Agreement.

If not otherwise addressed, it is recommended all provisions of the expiring agreement be included in the Agreement.

It is recommended that all items tentatively agreed to in principal at the Fact Finding Hearing be included in the Agreement as stated above.

It is recommended the issues at impasse be included in the Agreement as stated in this Award.

TOTALITY OF AGREEMENT

This will affirm the foregoing report, consisting of **9 pages**, inclusive of this page, and recommendations contained herein are made in this matter of Fact Finding by the below signed Fact Finder.

All matters presented before the Fact Finder and not specifically addressed were given consideration but are not recommended for inclusion in the Agreement.

If there is found conflict in the Report between the Fact Finder's Discussion and his Recommendations, that language in the Recommendations shall prevail.

All matters of tentative agreement are recommended to be included in the Agreement.

To the best of my knowledge, said Report and its included recommendations complies with applicable provisions of ORC 4117 and related Rules and Regulations adopted by the State Employment Relations Board.

I therefore affix my signature at the City of **Galion**, in the County of **Crawford**, in the State of **Ohio**, this date of **December 28, 1999**.


John S. Weisheit, Fact Finder