

STATE EMPLOYMENT RELATIONS BOARD  
COLUMBUS, OHIO

STATE EMPLOYMENT  
RELATIONS BOARD

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IN THE MATTER OF FACT FINDING :  
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BETWEEN :   
:   
FRANKLIN COUNTY CHILD SUPPORT :   
ENFORCEMENT AGENCY : REPORT OF THE FACT FINDER   
:   
-AND- :   
:   
INTERNATIONAL BROTHERHOOD OF :   
TEAMSTERS, LOCAL NO. 284 :

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SERB CASE NUMBER: 99-MED-12-1169

BARGAINING UNIT: Clerk, Secretary I, Client Information Specialist,  
Cashier, Support Payment Processor, Account  
Clerk I, Legal Secretary I, Secretary II,  
Balancing Clerk, Software Specialist,  
Investigator, Paralegal, and Support Officer I.

FACT FINDING PROCEEDING: May 18, 2000; Columbus, Ohio.

FACT FINDER: David W. Stanton, Esq.

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APPEARANCES:

FOR THE EMPLOYER

LEGAL REPRESENTATIVE

Robert D. Weisman, Attorney  
Melissa L. Zox, Attorney

FOR THE UNION

LEGAL REPRESENTATIVE

Jonathan C. Wentz, Attorney

**NEGOTIATIONS COMMITTEE MEMBERS**  
**AND OTHER WITNESSES**

**FOR THE EMPLOYER**

**Barry Burton, Deputy County Administrator**  
**Jerry Mapes, Dir. Human Resources**  
**Joseph J. Pilat, Director**

**FOR THE UNION**

**Allen Price, Business Agent**  
**Angie Moore, Steward**  
**Janette Fraley, Steward**  
**Anna Maria Robinson,**  
**Committeemember**  
**Joyce Zimmerman,**  
**Committeemember**  
**Andrew Perkins,**  
**Committeemember**  
**Krista Carter, Steward**  
**Tracy Tarantino, Employee**  
**Latrice Dawkins, Employee**  
**Kyra McDougald, Employee**  
**Lisa Price, Employee**  
**Gary Lindsey, Employee**  
**Tammie Reed, Employee**  
**Althea Walker, Employee**

## ADMINISTRATION

By correspondence dated January 20, 2000, from the State Employment Relations Board, Columbus, Ohio, the Undersigned was notified of his mutual selection to serve as Fact Finder to hear arguments and issue recommendations relative thereto pursuant to Ohio Administrative Code Rule 4117-9-05(j), in an effort to facilitate resolution of those issues that remained at impasse between these Parties. The impasse resulted after numerous attempts to negotiate a successor Collective Bargaining Agreement proved unsuccessful. This impasse was originally scheduled for Hearing on April 5, 2000, but was canceled based on March 14, 2000 correspondence received by the Undersigned indicating the Parties had reached "Tentative Agreement." That TA was ultimately rejected by the Membership, on or about March 23, 2000 - by a vote 79 Reject to 17 Accept.

The Fact Finder met with these Parties on May 18, 2000, commencing at approximately 9:00 a.m. wherein the Parties were offered Mediation with the Fact Finder concerning those issues that remained at impasse. When it became apparent that any Mediation efforts would not lead to resolution of those issues, the Fact Finding proceeding commenced thereafter. During the course thereof, each Party was afforded a fair and adequate opportunity to present testimonial and/or documentary evidence supportive of positions advanced. The Fact Finder offered the Parties the opportunity to provide a written summation at the conclusion of the Fact Finding proceeding which was declined.

The evidentiary record of this proceeding was subsequently closed at the conclusion of the Fact Finding proceeding and those issues that remain at impasse are the subject matter for the issuance of this Report hereunder.

**The following findings and recommendations are hereby offered for consideration by these Parties and were arrived at based on their mutual interests and concerns; and, are made in accordance with the statutorily mandated guidelines set forth in Ohio Administrative Code Rule 4117.9 which recognizes certain criteria for consideration in the Fact Finding process as follows:**

- (1) Past collectively-bargaining agreements, if any, between the Parties;**
- (2) Comparison of 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 and the ability of the Public Employer to finance and administer the issues proposed and the affect of the adjustment on a normal standard of public service;**
- (4) The lawful authority of the Public Employer;**
- (5) Any stipulations of the Parties; and,**
- (6) Such other factors not confined in 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.**

**I. THE BARGAINING UNIT DEFINED; ITS DUTIES AND RESPONSIBILITIES TO THE COMMUNITY; AND, GENERAL BACKGROUND CONSIDERATIONS**

The Collective Bargaining Agreement between the International Brotherhood of Teamsters, Local 284, hereinafter referred to as the "Union," and the Franklin County Child Support Enforcement Agency, hereinafter referred to as the "Employer," expired on December 31, 1999. That Agreement was extended by the Parties through February 29, 2000. Apparently, these Parties had reached Tentative Agreement on Wages and the remainder of the contract except Sick Leave and Fair Share. The Fact Finding Hearing, pertaining to those issues, was originally scheduled for April 5, 2000. By correspondence dated March 14, 2000, from Robert D. Weisman, Counsel for the Employer, with copies to opposing counsel Robert Handelman and George M. Albu, Administrator, Bureau of Mediation, SERB, the Undersigned was advised that the Parties had reached "Tentative Agreement," thereby canceling the April 5, 2000 Proceeding. The Parties were able to reach tentative agreement on those issues that remained at impasse. However, subsequent thereto, ratification efforts failed. Thereafter, these Parties met only once in an effort to define the unresolved issues and to possibly resolve them; however, those efforts proved unsuccessful, thus necessitating the May 18, 2000 Fact Finding Hearing.

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As the Record demonstrates, the Bargaining Unit represented by the Local 284 consists of, "all employees of the Franklin County Child Support Enforcement Agency," except:

Attorneys I and II; Attorney Supervisors; Administrative Hearing Officers;

**temporary employees; seasonal employees; management-level employees; professional employees; confidential employees, including Administrative Secretaries I and II, Client Affairs Officers, Fiscal Assistants, Accountants, Public Affairs Officers, Personnel Officers, Staff Development Coordinators I; and Supervisors as defined under the Act, including Director, Assistant Directors, Administrative Counsel, Support Managers, Support Officer Supervisors, Support Payment Processing Managers, Personnel Administrators, Fiscal Officers, Clerical Supervisors, Client Information Supervisors, Balancing Supervisors, Account Clerk Supervisors, Support Payment Processor Supervisors, and SETS Coordinators.**

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**The Bargaining Unit Members provide a valuable service to the community within which it serves wherein it, as the name suggests, provides support and assistance for the enforcement of the legal obligation regarding payment of child support. Franklin County, which comprises the City of Columbus, and other smaller Cities and Townships in Central Ohio, has realized steady economic growth and there seemingly are no indications present that would suggest that trend will not continue. As the Record demonstrates, this Employer has not raised any “inability to pay” argument, but emphasizes its accountability to the citizens within this community concerning fiscal prudence and its ability to finance whatever economic enhancements that may be recommended, without jeopardizing the level of service it currently provides. This Union seeks what it characterizes necessary economic improvements since many members of this Bargaining Unit receive “financial aide” to assist with their financial status based on the current wage and economic benefits that, as it notes, were deemed insufficient based on the overwhelming rejection of the Tentative Agreement .**

**The predecessor Agreement between these Parties contained an across-the-board increase of 3% in year one(1); 3% for years two(2) and three(3), respectively, and they**

were also eligible for merit increases of 1/4% to 1/2% based on the Agency's Total Collections for the previous calendar year. Additionally, that Agreement contained language that required the County to pay 8 ½ % of each Employee's Wages to the PERS of Ohio. No Longevity Pay language existed therein. Employees accrued Sick Leave at the rate of 4.6 hours of paid leave for each 80 hours or more of service in any pay period. Employees were required to submit a written physicians excuse to their supervisor for absences of more than three(3) consecutive days in duration. Employees could receive a cash payout of 1/4 of the accrued, but unused sick leave for employees with at least 8 or more years of service with the County or any other Ohio political subdivision. After 19 years of service with the County or any other Ohio political subdivision, employees could cash out ½ of the unused, accrued sick leave. That article also contained a Wellness Incentive Program. A "standard" Check-off and Maintenance of Dues or Fees Deductions Articles existed, but no language providing for Fair Share Fee deductions.

## **II. THE IMPACT OF THE TENTATIVE AGREEMENT**

As the Record demonstrates, these Parties reached agreement on the unresolved issues on or about March 14,2000. The Bargaining Unit rejected that Tentative Agreement by a vote of 79-17. While that vote may seem overwhelming, the Undersigned cannot, and will not, ignore the fact that these Parties have demonstrated their manifested intent to be bound by agreement when they reached this TA. This factor that is "normally and customarily" relied upon in this process, must provide the cornerstone by which collective bargaining exists, not only under the statutory process, but generally. It is incumbent upon each Party to any dispute to place at the bargaining table those individuals that will seek

**the best available “deal” and to be assured that its constituents will support what it brings back for final approval. These individuals are charged with the responsibility, based on the authority bestowed upon them by their selection, to “close the deal”, and then, most importantly, support that which they have represented to the other side as being worthy of labeling it as a TA. The stability and trust that is tantamount to any collective bargaining relationship, will diminish and erode when “good faith” is factored out of the equation when tentative agreements are not honored or supported. Painstaking bargaining generally precedes any agreement and to ignore and/or discount that which is “hammered out” at the table by those selected to represent the group will only lead to the demise of the relationship between the Parties. It is with these time-honored, basic and fundamental notions that the Undersigned places outcome -determinative weight on that which was tentatively agreed to by these Parties.**

**As previously discussed, seven(7) issues remain at impasse between these Parties. They are listed and addressed as follows and will be discussed more fully herein below where the Fact Finder will indicate a recommendation with rationale therefore. Moreover, those Articles that were not opened, or those previously agreed to, shall be transferred to the successor Collective Bargaining Agreement, either unchanged, or as modified by the Parties.**

**The Fact Finder is required to consider comparable Employee Units with regard to their overall makeup and services provided to the members of the respective community. Both Parties have relied upon comparable data relative to other municipalities and jurisdictions concerning comparable work provided by this Bargaining Unit and, as is**

typically apparent, there is no “on point comparison” relative to this Bargaining Unit and the jurisdiction within which it performs it’s functions. Indeed, the enforcement of the legal assessment of the payment of Child Support, is a unique function of this Unit. Whatever similarities that may exist must be taken into consideration by the Fact Finder based on the above-noted statutory criteria. It is, and has been, the position of this Fact Finder that the Party proposing any deviation or deletion of the current language or of the “status quo,” bears the burden of proof and persuasion to compel the change proposed. Failure to meet that burden will result in a recommendation that the Parties maintain the *status quo* practice or current language; and, where Parties have reached Tentative Agreement, that shall be afforded compelling weight. Based on the aforementioned considerations, the following issues remain at impasse between these Parties:

- 1) Article 5 - Check off
- 2) Article 23 - Maintenance of Dues or Fees Deductions
- 3) Article 39 - Sick Leave and Wellness Incentive
- 4) Article 43 - Wages
- 5) Article 43 - Retroactivity
- 6) Fair Share - New Language
- 7) Longevity Pay - New Language

**I. ARTICLE 5 - Check Off;**  
**ARTICLE 23 - Maintenance of Dues or Fees Deductions;**  
**NEW LANGUAGE - Fair Share Fee**

While the Undersigned supports the Labor Organization’s objective to avoid “free-

riders,” and this objective overrides any philosophical arguments against, the Record indicates that no other Bargaining Unit working under the auspices of the Franklin County Commissioners contains language permitting Fair Share Fee deductions. Therefore, internal comparables do not support its inclusion. Moreover, current language affords the Union to lock in all of its members until ten(10) days prior to the expiration of the Agreement. Indeed, this is a narrow window of opportunity to withdraw as a member. As such , it is hereby recommended that the Parties maintain the *status quo* language concerning Check off and Maintenance of Dues or Fees Deductions, but not include Fair Share that had been tentatively agreed to by these Parties.

## **II. ARTICLE 39 - Sick Leave and Wellness Incentive Program**

It is recommended that the Parties maintain current language concerning Sick Leave Accrual at 4.60 hours or 120 hours per calendar year for every 80 hours of County service in any pay period. Moreover, it is recommended that the Parties adopt what was characterized as the Union’s Counter proposal that effectively would require a Physician’s statement for all sick leave after an employee exhausts 72 hours of sick leave. Such represents an increase from the language of the predecessor Agreement that required such for all absences of more than three(3) days duration, while affording the County the ability to “police” what it characterized as excessive absenteeism.

Additionally, it is recommended that the Parties maintain the current language concerning the Wellness Incentive Program, applicable to all Full-time employees. The so-called “wellness” period begins December 1 and concludes November 30. Eligible

**employees receive their cash incentives in the employee's second paycheck in December. Such, based on the evidentiary record, awards employees for regular attendance with cash payouts or personal leave days. Programs such as this have received growing acceptability based on the ability to reward employees "good" attendance. Naturally, absenteeism must be addressed and no employment setting is immune from it. Such a program can reduce it by rewarding regular attendance either monetarily or with personal leave hours.**

**III. ARTICLE 43 - Wages;  
ARTICLE 43 - Retroactivity;  
New Language - Longevity Pay**

**The Parties' prior Agreement provided that the Employer "pick-up" the Employee's PERS contribution. As part of the TA, the Employer essentially "bought out" this aspect of the Agreement, by adding 8 ½% into the salary schedule in addition to market adjustments. The TA provided Retroactivity, but no Longevity Pay. The addition of the 8 ½ % increase in the base rate reflected the "buy-out" of the PERS. The TA provides for adjustments in the employees first year the greater of a classification market adjustment or a 5% across the board increase, whichever is greater, based on the employee's length of service and other internal considerations. The comparable data provided reveals that such an increase is both fair and in most cases exceeds increases recognized within the State. It appears that the PERS buy-out was problematic to the Union. As such the Employer agreed to revise its Wage proposal to reflect the reinstatement of the PERS contribution, while backing out the 8 ½ % attendant therewith**

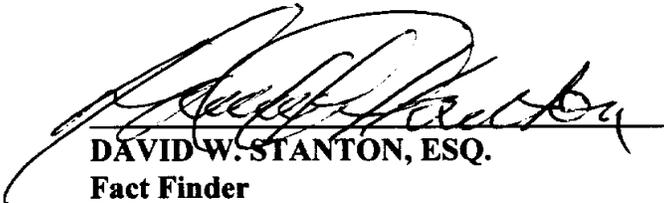
from base wages. The Employer expressed willingness to agree to a package with or without PERS pick-up so long as the Wage package with PERS reflects a base Wage adjustment that “backs out” the 8 ½ % from the TA which effectively “bought out” the PERS contribution. The Undersigned is precluded from recommending an “either/or” proposal, but the Union cannot have it both ways. The 8 ½ % was added into the base wage to off set the removal of the PERS contribution. Moreover, had the Employer not proposed to reinstate the PERS contribution, while reducing the overall wage increase by that amount, the Undersigned would have recommended, in its entirety, the TA reached between the Parties to ensure the integrity of the statutory process. It is this revised proposal reinstating the PERS contribution by the Employer, but reducing by 8 ½ % the base wage proposed increase , that is recommended, while also including the other aspects of the TA, i.e., No provision for Longevity Pay; and, including Retroactivity as reflected in the MOA entered between the Parties.

Inasmuch as these Parties do not take issue with years Two(2) and Three(3), respectively, it is recommended that they adopt the percentage increases attendant therewith of 3 1/4% increases, across the board, while providing employees the opportunity to earn merit pay increases of 3/4% for meeting certain Agency Total collections levels; and 1/4% for all employees who receive 70% or higher on their Employee Performance Reviews.

#### **CONCLUSION:**

Hopefully, the recommendations contained herein can be deemed as reasonable in light of the data presented, the representations made by the Parties; and, based on the

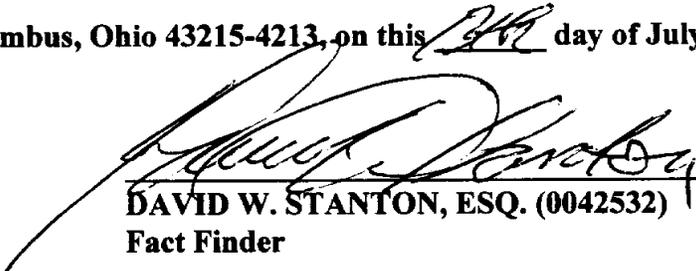
common interests of both entities. It is hopeful that the Parties can adopt these recommendations so that the successor Collective Bargaining Agreement can be ratified and the Collective Bargaining relationship can continue without interruption. Moreover, these recommendations were made based on the comparable data provided; the manifested intent of each party as reflected in the Tentative Agreement reached between them; the stipulations of the Parties; the positions indicated to the Fact Finder during the course of Fact Finding; and, were based on the mutual interests and concerns of each Party to this Agreement.

  
DAVID W. STANTON, ESQ.  
Fact Finder

Dated: July 10, 2000.  
Cincinnati, Ohio.

CERTIFICATE OF SERVICE

The Undersigned certifies that a true copy of the foregoing Fact Finding Report and Recommendations have been forwarded by overnight U.S. mail service to Jonathan C. Wentz, Handelman & Kilroy, 360 South Grant Avenue, Columbus, Ohio 43215; Robert D. Weisman, Schottenstein, Zox & Dunn, 41 South High Street, Columbus, Ohio 4315-6106; and, to George M. Albu, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215-4213, on this 10 day of July, 2000.

  
DAVID W. STANTON, ESQ. (0042532)  
Fact Finder