

IN THE MATTER OF FACT FINDING

BETWEEN

THE STATE OF OHIO

AND

FRATERNAL ORDER OF POLICE
OHIO LABOR COUNCIL, INC.
UNIT 2

BEFORE: ROBERT G. STEIN

SERB CASE # 06-MED-04-0455

PRINCIPAL ADVOCATE FOR THE EMPLOYER:

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INTRODUCTION

The bargaining unit is represented by the Fraternal Order of Police OLC, Inc. (hereinafter "Union" or "FOP"), and the Employer is the State of Ohio (hereinafter "Employer" or "State"). The bargaining unit is comprised of approximately 600 full-time employees employed in over twenty-five (25) classifications contained in Appendix A of the Collective Bargaining Agreement (hereinafter "Agreement"). Prior to fact finding, the parties, from 4/26/06 through 12/6/06, met approximately sixteen (16) times. The previous contract between the parties expired June 30, 2006, but was extended during the negotiations process. The parties were able to resolve several issues during negotiations and mediation; however, there were several issues that remained unresolved and were considered in fact finding.

This set of negotiations follows the conclusion of negotiations with several other State bargaining units, including the two largest, OCSEA and SEIU 1199. Many of the issues center around the concept of patterned bargaining. Patterned bargaining is commonly employed both by employers and unions and has been extensively employed in the auto, steel, and trucking industries, just to name a few. In labor relations, negotiations with the largest bargaining unit among multiple bargaining units is significant and frequently establishes a pattern of settlement for others to follow. It is noted that in the considerable history of bargaining

between the State of Ohio and its unions, which this fact finder has been a party to for more than fourteen (14) years, patterned bargaining has been an integral component of negotiations. While it is reasonable to depart from the pattern because of genuine differences, it is important to understand how the establishment of a pattern by a significant part of the workforce deserves due consideration in any fact finding analysis of issues. Both unions and employers employ pattern bargaining to strike a deal that serves as a benchmark for all others to follow. In the words of the highly respected Arbitrator, Harry Graham, "The existence of the OCSEA/AFSCME agreement places a very, very heavy burden upon a union which seeks to deviate from it." In addition, this fact finder and others have noted that in multi-bargaining unit environments the establishment of a settlement pattern on core issues reduces the probability of a strike, and protects both parties from the phenomenon of "whipsawing" which in terms of the interest of the public and unionized employees should be avoided whenever possible.

The hard work put forth by the bargaining teams during the mediation process produced a viable framework within which the fact-finder can fashion a resolution to remaining issues in dispute. The parties have a respectful and professional working relationship, which was in evidence during the mediation process.

The Advocates represented their respective parties well and clearly articulated the position of their clients on each issue in dispute. In order to expedite the issuance of this report, the Fact-finder shall not restate the actual text of the parties' proposals on each issue and will attempt to concisely articulate his rationale on each issue.

CRITERIA

OHIO REVISED CODE

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

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

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made:

Issue 1 Article 4 Effect of Agreement

Union Position

The FOP argues that management is proposing extensive changes to this article and that said changes would serve to override ORC 4117.10 (A). Furthermore, the FOP points out that this language has been in the Agreement since its inception and that the current language reflects the intentions of the framers of Ohio's public sector law. Management has not demonstrated any difficulties with this language and cannot point to grievances filed solely on the concept of the limited past practice language contained in the Agreement, argues the Union.

Employer Position

The Employer argues it is proposing replacement language with the intent of bringing more clarity and standardization across all bargaining units in the state. Moreover, the Employer is seeking to clarify that the collective bargaining agreement represents the entire agreement between the parties and that it has the sole discretion to modify existing practices and rules. The Employer points out that Agreement, which runs for approximately 160 pages, contains only a handful of provisions which speak to management rights or to limitations placed on the language of the Agreement. The Employer points out that 95% of all the unions have voluntarily agreed to this very same language.

Discussion

What is being proposed by the Employer is common language that may be found in many labor agreements. It expresses the fact that what is contained in the written provisions of the Agreement represents a complete manifestation of the agreement between the parties on all issues related to collective bargaining. It is significant that without exception all of the other unions which have completed bargaining, including OCSEA and SEIU 1199 that represents tens of thousands of employees, have agreed to the same language being proposed by the State. The State of Ohio, with its numerous unions that represent diverse classifications ranging from laborers to psychiatrists, are administratively challenged with regard to the important matter of contract administration. Issues of economy and fair treatment across classifications and departments become important issues when thousands of employees are represented by multiple unions. There is nothing quite so divisive in labor relations as inequity of treatment without substantive

reason. Unless it can be demonstrated that a bargaining unit should be exempted from such language for reasons related to the uniqueness of the unit or the employees in the unit, it is not unreasonable for an employer to seek uniformity of language. While the Union made an eloquent argument in support of its position, the fact remains the other unions, preceding the FOP have established the pattern.

Recommendation

It is recommended that the Employer's proposed language be included in the new Agreement as follows:

Total Agreement

This Agreement represents the entire agreement between the Employer and the Union and unless specifically and expressly set forth in the express written provisions of this Agreement, all rules, regulations, practices and benefits previously and presently in effect, may be modified or discontinued at the sole discretion of the Employer. This section alone shall not operate to void any existing or future ORC statutes or rules of the OAC and applicable federal law.

Issue: Article 6 Management Rights

Union Position

The Union acknowledges that the current language is similar to what the Employer is proposing but points out the Employer has not stated what benefits are gained by a change in language. It also argues that although what the Employer is proposing appears to reflect much of what is listed in the current provision, a change in how it is stated may make it subject to new interpretations.

Employer Position

The Employer asserts that if the Employer has certain enumerated rights in all of its other contracts then it is reasonable to establish the same rights articulated in the same manner for the FOP unit. For example, if the Employer has certain management rights to direct a secretary in ODNR in OCSEA than that manager should have the same management rights to manage an employee in its FOP Unit 2 workforce. There is no basis for the FOP 2 unit to be treated differently than all other state employees, argues the Employer. And, once again the Employer asserts the pattern established by other bargaining units.

Discussion

Although the current management rights clause is similar in content to that which is being proposed by the Employer, the Employer argues it is seeking this change to create uniformity among bargaining units. While this may be an argument for letting the current language stand, language which fosters more efficient administration of the Agreement without materially changing the content of the provision, or the rights contained therein, is in essence a benefit to the public who must "foot the bill" for the cost of administration.

Recommendation

It is recommended that the Employer's proposed language be included in the new Agreement as follows:

The Labor Council agrees that all of the function, rights, powers, responsibilities and authority of the Employer, in regard to the operation of its work and business and the direction of its workforce which the Employer has not specifically abridged, deleted, granted or modified by the express and specific written provision of the Agreement are, and shall remain, exclusively those of the Employer.

Additionally, the Employer retains the rights to: 1) hire and transfer employees, suspend, discharge and discipline employees; 2) determine the number of persons

required to be employed or laid off; 3) determine the qualifications of employees covered by this Agreement; 4) determine the starting and quitting time and the number of hours to be worked by its employees; 5) make any and all rules and regulations; 6) determine the work assignments of its employees; 7) determine the basis for selection, retention and promotion of employees to or for positions not within the bargaining unit established by this Agreement; 8) determine the type of equipment used and the sequences of work processes; 9) determine the making of technological alterations by revising the process or equipment, or both; 10) determine work standards and the quality and quantity of work to be produced; 11) select and locate buildings and other facilities; 12) transfer or sub-contract work; 13) establish, expand, transfer and/or consolidate, work processes and facilities; 14) consolidate, merge, or otherwise transfer any or all of its facilities, property, processes or work with or to any other municipally or entity or effect or change in any respect the legal status, management or responsibility of such property, facilities, processes or work; 15) terminate or eliminate all or any part of its work or facilities,

Issue: Article 8 No Strike/No Lockout Provision

Union Position

The Union asserts that the Employer's language overlooks and overrides the appeal language contained in Article 18. The Union does not see a need to make an adjustment that differs from the law.

Employer Position

The Employer argues that it wishes to explicitly reinforce prohibitions against strikes in any form, to establish an affirmative duty on the Union to cooperate at all times when a violation occurs, and to require the Union to provide notice to its members that concerted interference is prohibited. And, the Employer wishes to set forth disciplinary consequences for violators. The Employer asserts that the proposed language does not affect an employee's right to appeal any managerial action through the grievance procedure.

Discussion

For reasons previously stated regarding patterned "boiler plate" language that has been accepted to date by all of the other bargaining units save one which is currently in negotiations, the Employer's position on this issue is consistent with what all of the other bargaining units have accepted.

Recommendation

It is recommended that the Employer's proposed language be included in the new Agreement as follows:

8.01 - Union Prohibition

The Union does hereby affirm and agree that during the term of this Agreement it will not either directly or indirectly, call, sanction, encourage, finance or assist in any way, nor shall any employee instigate, or participate, either directly or indirectly, in any strike, slowdown, walkout, work stoppage or the withholding of services from the Employer. Nothing herein is intended to restrict in any way the Union's right and ability to represent any member or members alleged to have violated the prohibitions set forth in this section.

8.02 – Affirmative Duty

In addition, the Union shall cooperate at all times with the Employer in the continuation of its operations and services and shall actively discourage any attempt to prevent any violation of this Article. If any violation of this Article occurs, the Union shall immediately notify all employees that the strike, slowdown, work stoppage, or other concerted interference with or the withholding of services from the Employer is prohibited, and not sanctioned by the Union. The Union will inform all employees of their obligation to return to work immediately.

8.03 – Disciplinary Actions

It is further agreed that any violation of the above shall be automatic and sufficient grounds for immediate disciplinary action. Any such disciplinary action may be appealed pursuant to Article 20 herein contained.

8.04 – Employer Prohibition

The Employer agrees that it shall not lock-out any employees.

Issue: Article 22 Hours of Work and Overtime

Union Position

The Union's position is straightforward. It contends that in previous negotiations the removal of sick leave was effectuated, but that all other forms of leave were not affected. The Union, among other objections,

also states the Employer has never demonstrated any abuse of sick leave usage or an abuse of leave used in lieu of sick leave.

Employer Position

The Employer agrees that for the most part the FOP unit does not use sick leave as much as other units. However, the Employer asserts that for the purposes of uniform treatment, it makes little sense to exclude what amounts to "super sick leave" when this provision has been agreed upon by all of the unions which have completed negotiations. The Employer is again seeking to treat all employees in a uniform manner.

Discussion

The parties resolved all of the other issues in this article during mediation. The only remaining open issue is Section 22.07. It involves substituting any other paid leave for sick leave for purposes of conforming to the definition of "active pay status" and subsequently an employee's eligibility for overtime. The Employer's position in this article has also been adopted by all of the other bargaining units to date. The change will result in uniform treatment of all employees, regardless of their use of sick leave or other forms of leave in lieu of sick leave. As previously stated, this issue is one that crosses bargaining unit and classification lines and draws no distinction based upon classification. If a registered nurse in the Department of Mental Health or an operator 3 in ODOT must conform to this requirement, it is difficult to justify why a member of the FOP unit would be exempt. The pattern established by the bargaining unit supports the Employer's position.

Recommendation

In addition to what has been tentatively agreed upon by the parties in all other sections of Article 22, the following language changes as proposed by the Employer are recommended:

22.07 Overtime and Compensatory Time

Because of the unique nature of the duties and emergency response obligations of members of this unit, management reserves the right to assign employees to work overtime as needed.

1. Any member who is in active pay status more than forty (40) hours in one week shall be paid one and one-half (1.5) times his/her regular rate of pay plus shift differential if ordinarily paid for all time over forty (40) hours in active pay status. All overtime must be authorized by an administrative authority. Schedules will not be changed solely to avoid the payment of overtime.
2. The employee may elect to take compensatory time off in lieu of cash overtime payment for hours in an active pay status more than forty (40) hours in any calendar week. Such compensatory time shall be granted on a time and one-half (1.5) basis. A bargaining unit member shall be paid for unused compensatory time only upon termination of employment and under the terms of paragraph 8, hereunder. (The Employer shall not substitute compensatory time in lieu of cash payment should the maximum accrual for compensatory time allowed by the Fair Labor Standards Act as amended be reached.)
3. The employee may choose to accrue compensatory time to a maximum of 480 hours (i.e., 320 hours at time and one-half).
4. When the maximum hours of compensatory time accrual is rendered, payment for overtime work must be made in cash.

5. Upon termination of employment, an employee shall be paid for unused compensatory time at the rate which is the higher of:
 - a. the final regular rate of pay received by the employee or
 - b. the average regular rate of pay received by the employee during the last three (3) years of employment.
6. Compensatory time may not be used for the purpose of pyramiding overtime.
7. For purposes of this Article, active pay status is defined as the conditions under which an employee is eligible to receive pay, and includes, but is not limited to, vacation leave, personal leave, bereavement leave and administrative leave. Sick leave **or any leave used in lieu of sick leave** shall not be considered as active pay status for purposes of this Article.

Holidays observed on a scheduled work day will be considered as active pay in the computation of hours for overtime purposes.

8. Compensatory time off shall be granted at the discretion of the Employer in accordance with the operational requirements of the facility. If such use is denied, the compensatory time requested shall be paid to the employee, at his/her option, to a maximum of eighty (80) hours in any pay period. Within the Department of Natural Resources, denials of compensatory time requests based on staffing demands, during peak season requirements, may constitute undue disruption in the affected work location. Such peak times are incorporated in Appendix F. **Compensatory time is not available for use until it appears on the employee's earnings statement and on the date the funds are available.**

9. Requests for compensatory time off may be submitted within twenty-four (24) hours in advance of the anticipated time off. Such request shall be given every reasonable consideration. All requests must be followed up by a request in writing submitted at a reasonable time after the initial request.

Issue: Article 43 Disability Leave

Union Position

The FOP rejects the Employer's proposed changes that it states represent "a radical decline in the amount of leave available." Moreover, the FOP argues that the changes being proposed are inappropriate for law enforcement. It proposes expanding the benefits under this provision to include raising the rate of compensation to 70% for the first six (6) months and then to 50% for the remaining twelve (12) months. Additionally, the Union proposes other improvements that are contained in its Position Statement. The FOP also points to a recent fact finding report issued in the Attorney General's Office that departs from the pattern established with other bargaining units in the state. In response to the Employer's new Section H language, the Union argues a limit of thirty (30) days should be placed upon a suspension of payments.

Employer Position

The Employer argues that all employees are already covered under OIL program and Worker's Compensation. The Employer rejects the Union's argument that its members' jobs are materially different in terms of the difficulty or danger than those performed by thousands of correction officers and ODOT employees. The Employer also points out that the recommendation of the fact finder regarding the FOP bargaining unit in the Attorney General's Office will result in claims that must be handled by hand as opposed to being more efficiently processed by computer software. The other part of the Employer's proposal addresses investigations. The Employer argues it has had problems with employees disappearing while under investigation and therefore proposes a new Section H to address this perceived problem.

Discussion

The Employer in its proposal is introducing changes that restrict eligibility, require validation of certain diagnoses, and reduce the duration of the benefit. However, the Employer asserts that these changes were accepted by the other bargaining units on the basis of quid pro quo trade offs for higher wage increases. This assertion was not refuted by the Union. In addition, these changes cannot be viewed in isolation but must be considered in terms of the complete list of negotiated benefits that also address illness and injury, such as OIL and Workers Compensation. Although eloquently argued, the Union's argument that its members hold substantially unique positions regarding the potential for injury is not persuasive when one considers the variety of classifications in other bargaining units which face the risk of injury. For instance, a significant number of ODOT workers place themselves at great risk when working near moving traffic on highways and roads in Ohio. Nurses and TPWs in MRDD facilities and teachers in prisons also are exposed to dangerous situations. Also, I find it reasonable for the Employer to seek confirmation for claims of certain disabilities that are more difficult to diagnose. Finally, the Employer's proposal must be viewed in light of what appears to be a quid pro quo trade off with other bargaining units for enhanced wage increases. I find that in the new Section H being proposed by the Employer there is a 30 day limit placed upon the Employer before benefits may be paid in accordance with normal eligibility requirements. The intent of the proposed language appears to only hold the disability payments in abeyance until the interview is scheduled or thirty (30) days, whichever is less.

Recommendation

It is recommended that the Employer's proposed language be included in the new Agreement as follows:

43.01 Disability Program

Eligibility **and administration of disability benefits** shall be pursuant to current Ohio Law and the Administrative Rules of the Department of Administrative Services **except for** the following modifications and clarifications:

A. Any full-time permanent employee with a disabling illness, injury, or condition that will last more than fourteen (14) calendar days and who has completed one (1) year of continuous state service immediately prior to the date of the disability may be eligible for disability leave benefits.

B. To be eligible for disability leave benefits, an employee must be disability separated pursuant to Administrative Rule 123:1-33-02 or 123:1-33-03; or in active pay status or approved sick leave; or on approved disability leave; or approved leave of absence pursuant to Administrative Rule 123:1-34-01 or the terms of this Agreement for the employee's personal medical reasons. Employees alleging conditions precluded by OAC 123:1-33-14 are not eligible for disability benefits, unless the exceptions of the section are met. An application for disability benefits based on a diagnosis of a mental disorder, including but not limited to, psychosis, mood disorders, and anxiety, must be confirmed by a licensed mental health provider authorized by the Employer's mental health administrator. Where the initial application is accompanied by the opinion of such provider, it shall be processed accordingly. However, where the diagnosis is submitted by any other medical professional, the Employer shall make expeditious arrangements for the required examination by the licensed mental health provider. Approval

of the application will be contingent upon receipt of substantiation from such provider. In the event the examination is outside the parameters of the employee's mental healthcare plan, the cost of the examination shall be borne by the Employer.

C. Part-time or established term regular employees who have worked fifteen hundred (1500) or more hours within the twelve (12) calendar months preceding disability shall be entitled to disability benefits based upon the average regular weekly earnings for weeks worked over that twelve (12) month period.

D. **Effective for all claims filed on or after July 1, 2006, disability benefits will be paid at 70% of the employees base rate of pay for the first three (3) months, and 50 % for the next nine (9) months, and** shall be entitled to receive disability leave benefits **up to a lifetime** maximum of twenty-four (24) **twelve (12)** months. **All employees receiving payments under Article 43 prior to July 1, 2006 shall be paid according to the terms of Article 43 contained in the Collective Bargaining Agreement which expired on June 30, 2006. The utilization of disability leave prior to July 1, 2006 and the continuation of any disability leave past July 1, 2006 shall not be counted against the above one (1) year maximum. Employees who are grandfathered under the previous provisions of Article 43 shall continue to only receive benefits under such provisions until their instant disability leave is terminated, either by recovery and ability to return to work, expiration of the time period allocated to that disability claim, the lifetime maximum limits or termination of employment.**

Thereafter any claim filed shall be administered in accordance with the new provisions of this Article, effective July 1, 2006.

E. Employees will participate in transitional work programs mutually agreed to by the parties and as provided for in the applicable Administrative Rules. The Employer agrees that transitional work programs will not violate the provisions of the Family and Medical Leave Act. An employee will continue to receive disability leave benefits for the hours the employee is unable to work while the employee participates in an authorized transitional work program.

F. Pursuant to OAC rule 123:1-33-14, employees who have been denied Workers' Compensation lost time benefits for an initial claim, may file an application for disability leave benefits twenty (20) days from the notification by the Bureau of Workers' Compensation of the denial of an initial claim.

G. Disability separations shall be made pursuant to OAC 123:1-33. The Employer's decision to disability separate an employee or to deny reinstatement from an involuntary disability separation shall not be grievable but shall be exclusively subject to appeal through the State Personnel Board of Review (SPBR).

H. In the event an employee submits an application for disability leave after either (1) the employee has received notice that he/she is under investigation for possible disciplinary action or (2) where an investigation regarding the employee

is actively underway, disability payments may be held in abeyance subject to the following procedure: The Agency shall promptly notify DAS that (1) an investigation is underway, (2) the date that the investigation was initiated, (3) the basis of the investigation and (4) why access to the employee is necessary for completion of the investigation. A copy of the disability leave application and all accompanying documentation shall be forwarded with the notification. In the event that DAS concurs that the disability payments should be held in abeyance, DAS shall notify the employee, by regular and certified mail, that the disability payments shall not be processed until the completion of the investigation. An investigatory interview pursuant to Article 18 of the collective bargaining agreement shall be scheduled no more than thirty (30) days after the Agency files the notice of investigation for possible discipline with DAS. The matter shall then be subject to the constraints of Article 18 and 19 of the collective bargaining agreement. Upon completion of the investigation, or the thirty (30) day period, payments may be made, providing the application qualifies for eligibility. However, if the investigation cannot be completed as a result of the employee's absence, the investigatory interview shall be cancelled and the application shall be denied. Said denial shall not prevent the submission of a new application, subject to the above same requirements. This Section shall not be applicable where the absence, and subsequent disability, is the result of hospitalization for more than five (5) days for a serious medical condition. If an application for disability benefits is pending and/or has been approved prior to the initiation of the investigation, this Section shall not be applicable.

43.02 Insurance Providers and Third Party Administrators

In the event that the administration of the disability program is conducted by a private insurance carrier or a third party administrator the administration shall be conducted in accordance with insurance industry underwriting procedures and standards without reducing benefits or eligibility requirements as provided in this Agreement. **The Employer reserves the right to contract with a licensed mental health adjudicator to evaluate and approve or disapprove applications for disability leave based on any form of mental disorder as provided in 43.01.**

43.03 Information and Orientation

To facilitate the understanding of Disability Benefits and the application procedure requirements, the Employer and the Department of Administrative Services shall make explanatory materials available to Labor Council Members, Associates or individual members, upon request. **No later than January 2007,** the Employer will offer a Disability orientation program **focusing on eligibility requirements** for Labor Council representatives, so that they may train Associates in procedures.

43.01 Disability Program

Eligibility **and administration of disability benefits** shall be pursuant to current Ohio Law and the Administrative Rules of the Department of Administrative Services **except for** the following modifications and clarifications:

A. Any full-time permanent employee with a disabling illness, injury, or condition that will last more than fourteen (14) calendar days and who has completed one (1) year of continuous state service immediately prior to the date of the disability may be eligible for disability leave benefits.

B. To be eligible for disability leave benefits, an employee must be disability separated pursuant to Administrative Rule 123:1-33-02 or 123:1-33-03; or in active pay status or approved sick leave; or on approved disability leave; or approved leave of absence pursuant to Administrative Rule 123:1-34-01 or the terms of this Agreement for the employee's personal medical reasons. Employees alleging conditions precluded by OAC 123:1-33-14 are not eligible for disability benefits, unless the exceptions of the section are met. An application for disability benefits based on a diagnosis of a mental disorder, including but not limited to, psychosis, mood disorders, and anxiety, must be confirmed by a licensed mental health provider authorized by the Employer's mental health administrator. Where the initial application is accompanied by the opinion of such provider, it shall be processed accordingly. However, where the diagnosis is submitted by any other medical professional, the Employer shall make expeditious arrangements for the required examination by the licensed mental health provider. Approval of the application will be contingent upon receipt of substantiation from such provider. In the event the examination is outside the parameters of the employee's mental healthcare plan, the cost of the examination shall be borne by the Employer.

C. Part-time or established term regular employees who have worked fifteen hundred (1500) or more hours within the twelve (12) calendar months preceding disability shall be entitled to disability benefits based upon the average regular weekly earnings for weeks worked over that twelve (12) month period.

D. **Effective for all claims filed on or after July 1, 2006, disability benefits will be paid at 70% of the employees base rate of pay for the first three (3) months, and 50 % for the next nine (9) months, and** shall be entitled to receive disability leave benefits **up to a lifetime** maximum of twenty-four (24) **twelve (12)** months. **All employees receiving payments under Article 43 prior to July 1, 2006 shall be paid according to the terms of Article 43 contained in the Collective Bargaining Agreement which expired on June 30, 2006. The utilization of disability leave prior to July 1, 2006 and the continuation of any disability leave past July 1, 2006 shall not be counted against the above one (1) year maximum. Employees who are grandfathered under the previous provisions of Article 43 shall continue to only receive benefits under such provisions until their instant disability leave is terminated, either by recovery and ability to return to work, expiration of the time period allocated to that disability claim, the lifetime maximum limits or termination of employment. Thereafter any claim filed shall be administered in accordance with the new provisions of this Article, effective July 1, 2006.**

E. Employees will participate in transitional work programs mutually agreed to by the parties and as provided for in the applicable Administrative Rules. The Employer agrees that transitional work programs will not violate the provisions of the Family

and Medical Leave Act. An employee will continue to receive disability leave benefits for the hours the employee is unable to work while the employee participates in an authorized transitional work program.

F. Pursuant to OAC rule 123:1-33-14, employees who have been denied Workers' Compensation lost time benefits for an initial claim, may file an application for disability leave benefits twenty (20) days from the notification by the Bureau of Workers' Compensation of the denial of an initial claim.

G. **Disability separations shall be made pursuant to OAC 123:1-33. The Employer's decision to disability separate an employee or to deny reinstatement from an involuntary disability separation shall not be grievable but shall be exclusively subject to appeal through the State Personnel Board of Review (SPBR).**

H. **In the event an employee submits an application for disability leave after either (1) the employee has received notice that he/she is under investigation for possible disciplinary action or (2) where an investigation regarding the employee is actively underway, disability payments may be held in abeyance subject to the following procedure: The Agency shall promptly notify DAS that (1) an investigation is underway, (2) the date that the investigation was initiated, (3) the basis of the investigation and (4) why access to the employee is necessary for completion of the investigation. A copy of the disability leave application and all accompanying documentation shall be forwarded with the notification. In the event that DAS concurs that the disability payments should be held in abeyance,**

DAS shall notify the employee, by regular and certified mail, that the disability payments shall not be processed until the completion of the investigation. An investigatory interview pursuant to Article 18 of the collective bargaining agreement shall be scheduled no more than thirty (30) days after the Agency files the notice of investigation for possible discipline with DAS. The matter shall then be subject to the constraints of Article 18 and 19 of the collective bargaining agreement. Upon completion of the investigation, or the thirty (30) day period, payments may be made, providing the application qualifies for eligibility. However, if the investigation cannot be completed as a result of the employee's absence, the investigatory interview shall be cancelled and the application shall be denied. Said denial shall not prevent the submission of a new application, subject to the above same requirements. This Section shall not be applicable where the absence, and subsequent disability, is the result of hospitalization for more than five (5) days for a serious medical condition. If an application for disability benefits is pending and/or has been approved prior to the initiation of the investigation, this Section shall not be applicable.

43.02 Insurance Providers and Third Party Administrators

In the event that the administration of the disability program is conducted by a private insurance carrier or a third party administrator the administration shall be conducted in accordance with insurance industry underwriting procedures and standards without reducing benefits or eligibility requirements as provided in this Agreement. **The Employer reserves the right to contract with a licensed mental health adjudicator to**

evaluate and approve or disapprove applications for disability leave based on any form of mental disorder as provided in 43.01.

43.03 Information and Orientation

To facilitate the understanding of Disability Benefits and the application procedure requirements, the Employer and the Department of Administrative Services shall make explanatory materials available to Labor Council Members, Associates or individual members, upon request. **No later than January 2007,** the Employer will offer a Disability orientation program **focusing on eligibility requirements** for Labor Council representatives, so that they may train Associates in procedures.

Issue: Article 55 (all proposals) Wages

Union Position

The Union is proposing a 4% increase each year of the Agreement retroactive to July 1, 2006, along with a restoration of lost step increases from the previously agreed upon two year step freeze. The Union argues that the Employer's offer is insufficient in offsetting the two year wage, step, and longevity freezes that occurred in the prior contract period. The Union is also seeking pay range reassignments of Central Office Enforcement Officer and Park Officer Investigator and is requesting a class study for some of the remaining classifications. In addition, the Union is proposing an increase in pay range assignment for nine classifications, including the two cited above, and is seeking an increase in pay for lead workers. The Union agrees with the Employer's proposed language regarding automatic promotion for Wild Officer Cadets, but argues for an automatic promotion for Tax Enforcement Agents. The Union also states that there is no uniformity in promoting employees from Tax Enforcement Agent 1 to 2 (see Union's proposed language). The Union contends this change would consistently place the agents in the proper classification to reflect the comparability of the work they perform when compared to other investigators in the bargaining unit. Also, the Union is seeking a

lowering of the time period for promotion from one year to four months for promoting from Police Officer 1 to Police Officer 2. The Union argues that this change would help overcome the competition from other, more highly paid, departments in various areas of the state.

Employer Position

The Employer is proposing the patterned wage settlement agreed to by all of the other bargaining units preceding these negotiations. The Employer argues that the bargaining unit in terms of past wage settlements has done as well as virtually every bargaining unit in the state. The Employer argues that the FOP bargaining unit has received the same raises as everyone else and in some cases they have gotten some more. Furthermore, the Employer asserts that many classifications in the bargaining unit have been upgraded. Moreover, the Employer asserts that its wage increase proposal is fair in light of CPI.

Discussion

While there is almost never an adequate way to recover from prior years when out of necessity bargaining units had to accept substandard wage settlements, there was no compelling evidence introduced into the record to support a departure from the pattern of across-the-board wage settlement adopted by all of the other Unions to date. While I understand the Union's frustration with having to accept a wage, step, and longevity freeze during the life of the current Agreement, the fact is this is what was agreed upon under very difficult circumstances. All of the bargaining units had to deal with this condition and made the same sacrifice. Although in better condition, the State of Ohio continues to experience a loss of high paying manufacturing jobs and the tax revenue that accompanies such changes. After carefully reviewing the Fact Finding Report issued by Arbitrator Graham, it appears that what the Employer is proposing and what has been accepted by state bargaining units in 2006 closely resembles, with the odd exception, what continues to exist in other Ohio public sector jurisdictions. Many settlements remain modest over the next two to three years and have not included "catch-up" wages for prior periods when employees had to make even greater sacrifices. In the experience of this neutral, wage increases with few exceptions have remained in the high two percent or low three percent range, in large part restrained by an uncertain Ohio economy. Due to a delay in settling this contract, it appears more efficient to provide a fixed amount of money based upon a 3% increase to cover the period of retroactivity from

July 1, 2006 until the 3% increase goes into effect. However, this amount, which averages approximately \$700 (based upon a 3% increase applied to the average wage) should reasonably be increased by \$150 to account for additional hours, which may have been worked during this period. Furthermore, it is presumed that a single payment, versus individual calculations for each bargaining unit employee, will be processed more efficiently and therefore be paid to bargaining unit employees in a more timely fashion. Based upon the pattern of settlement with the other bargaining units, there is no basis upon which to provide for lost longevity pay that was, by agreement of all bargaining units, frozen during the last contract period.

Recommendation

Based upon the data, no recommendation is made for broad based upgrades, lead worker rate changes, or for a study related to same at this time with the exception of moving the classifications of Central Office Enforcement Officer and Park Investigator one pay range higher. Additionally, the data does not support for wages forgone during the wage freeze period. The data supports a recommendation for the pattern wage settlement with an efficient single payment provided for retroactive pay as follows:

ARTICLE 55, 56 – WAGES AND LONGEVITY

55.01 Definitions of Rates of Pay

All rates of pay as used in this Agreement are defined as follows:

- A. Class base rate is the minimum hourly rate of the pay range for the classification to which the employee is assigned.
- B. Step rate is the specific value within the range to which the employee is assigned.
- C. Base rate is the employee's step rate plus longevity adjustment.
- D. Regular rate is the base rate plus supplements, whichever apply.
- E. Total rate is the regular rate plus shift differential, where applicable.

55.02 Each employee in the bargaining unit, shall all receive \$850 dollars of retroactive pay for the period that encompasses July 1, 2006 through the time when the 3% pay increase takes effect. This amount will be prorated for anyone who was employed after July 1, 2006. In accordance with the following schedule effective with the pay period which includes January 1, 2007, the effective increase for all pay ranges shall be three percent (3%).

<u>Range</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
<u>1</u>	<u>\$11.08</u>	<u>\$11.40</u>	<u>\$11.75</u>	<u>\$12.17</u>	<u>\$12.54</u>		
	<u>\$23,046</u>	<u>\$23,712</u>	<u>\$24,440</u>	<u>\$25,314</u>	<u>\$26,083</u>		
<u>2</u>	<u>\$11.63</u>	<u>\$11.99</u>	<u>\$12.38</u>	<u>\$12.78</u>	<u>\$13.19</u>		
	<u>\$24,190</u>	<u>\$24,939</u>	<u>\$25,750</u>	<u>\$26,582</u>	<u>\$27,435</u>		
<u>3</u>	<u>\$12.17</u>	<u>\$12.54</u>	<u>\$12.99</u>	<u>\$13.42</u>	<u>\$13.86</u>		
	<u>\$25,314</u>	<u>\$26,083</u>	<u>\$27,019</u>	<u>\$27,914</u>	<u>\$28,829</u>		
<u>4</u>	<u>\$12.78</u>	<u>\$13.19</u>	<u>\$13.67</u>	<u>\$14.14</u>	<u>\$14.62</u>		
	<u>\$26,582</u>	<u>\$27,435</u>	<u>\$28,434</u>	<u>\$29,411</u>	<u>\$30,410</u>		
<u>5</u>	<u>\$13.42</u>	<u>\$13.86</u>	<u>\$14.42</u>	<u>\$14.87</u>	<u>\$15.26</u>		
	<u>\$27,914</u>	<u>\$28,829</u>	<u>\$29,994</u>	<u>\$30,930</u>	<u>\$31,741</u>		
<u>6</u>	<u>\$14.14</u>	<u>\$14.62</u>	<u>\$15.07</u>	<u>\$15.50</u>	<u>\$16.00</u>		
	<u>\$29,411</u>	<u>\$30,410</u>	<u>\$31,346</u>	<u>\$32,240</u>	<u>\$33,280</u>		
<u>7</u>	<u>\$14.87</u>	<u>\$15.26</u>	<u>\$15.71</u>	<u>\$16.22</u>	<u>\$16.75</u>	<u>\$17.42</u>	
	<u>\$30,930</u>	<u>\$31,741</u>	<u>\$32,677</u>	<u>\$33,738</u>	<u>\$34,840</u>	<u>\$36,234</u>	
<u>8</u>	<u>\$15.71</u>	<u>\$16.22</u>	<u>\$16.75</u>	<u>\$17.42</u>	<u>\$18.09</u>	<u>\$18.83</u>	
	<u>\$32,677</u>	<u>\$33,738</u>	<u>\$34,840</u>	<u>\$36,234</u>	<u>\$37,627</u>	<u>\$39,166</u>	
<u>9</u>	<u>\$16.75</u>	<u>\$17.42</u>	<u>\$18.09</u>	<u>\$18.83</u>	<u>\$19.72</u>	<u>\$20.62</u>	
	<u>\$34,840</u>	<u>\$36,234</u>	<u>\$37,627</u>	<u>\$39,166</u>	<u>\$41,018</u>	<u>\$42,890</u>	
<u>10</u>	<u>\$18.09</u>	<u>\$18.83</u>	<u>\$19.72</u>	<u>\$20.62</u>	<u>\$21.53</u>	<u>\$22.62</u>	
	<u>\$37,627</u>	<u>\$39,166</u>	<u>\$41,018</u>	<u>\$42,890</u>	<u>\$44,782</u>	<u>\$47,050</u>	
<u>11</u>	<u>\$19.72</u>	<u>\$20.62</u>	<u>\$21.53</u>	<u>\$22.62</u>	<u>\$23.71</u>	<u>\$24.86</u>	
	<u>\$41,018</u>	<u>\$42,890</u>	<u>\$44,782</u>	<u>\$47,050</u>	<u>\$49,317</u>	<u>\$51,709</u>	
<u>12</u>	<u>\$21.53</u>	<u>\$22.62</u>	<u>\$23.71</u>	<u>\$24.86</u>	<u>\$26.09</u>	<u>\$27.34</u>	<u>\$28.70</u>
	<u>\$44,782</u>	<u>\$47,050</u>	<u>\$49,317</u>	<u>\$51,709</u>	<u>\$54,267</u>	<u>\$56,867</u>	<u>\$59,696</u>
<u>13</u>	<u>\$23.71</u>	<u>\$24.86</u>	<u>\$26.09</u>	<u>\$27.34</u>	<u>\$28.70</u>	<u>\$30.12</u>	<u>\$31.58</u>
	<u>\$49,317</u>	<u>\$51,709</u>	<u>\$54,267</u>	<u>\$56,867</u>	<u>\$59,696</u>	<u>\$62,650</u>	<u>\$65,686</u>
<u>14</u>	<u>\$26.09</u>	<u>\$27.34</u>	<u>\$28.70</u>	<u>\$30.12</u>	<u>\$31.58</u>	<u>\$33.17</u>	<u>\$34.83</u>
	<u>\$54,267</u>	<u>\$56,867</u>	<u>\$59,696</u>	<u>\$62,650</u>	<u>\$65,686</u>	<u>\$68,994</u>	<u>\$72,446</u>
<u>15</u>	<u>\$28.70</u>	<u>\$30.12</u>	<u>\$31.58</u>	<u>\$33.17</u>	<u>\$34.83</u>	<u>\$36.49</u>	<u>\$38.31</u>
	<u>\$59,696</u>	<u>\$62,650</u>	<u>\$65,686</u>	<u>\$68,994</u>	<u>\$72,446</u>	<u>\$75,899</u>	<u>\$79,685</u>
<u>16</u>	<u>\$31.58</u>	<u>\$33.17</u>	<u>\$34.83</u>	<u>\$36.49</u>	<u>\$38.31</u>	<u>\$40.24</u>	<u>\$42.25</u>
	<u>\$65,686</u>	<u>\$68,994</u>	<u>\$72,446</u>	<u>\$75,899</u>	<u>\$79,685</u>	<u>\$83,699</u>	<u>\$87,880</u>

55.03 Employees in the bargaining unit shall be paid in accordance with the following schedule effective with the pay period which includes July 1, 2007. The effective increase for all pay ranges shall be **three and one half percent (3.5%)**.

<u>Range</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
<u>1</u>	<u>\$11.47</u>	<u>\$11.80</u>	<u>\$12.16</u>	<u>\$12.60</u>	<u>\$12.98</u>		
	<u>\$23,858</u>	<u>\$24,544</u>	<u>\$25,293</u>	<u>\$26,208</u>	<u>\$26,998</u>		
<u>2</u>	<u>\$12.04</u>	<u>\$12.41</u>	<u>\$12.81</u>	<u>\$13.23</u>	<u>\$13.65</u>		
	<u>\$25,043</u>	<u>\$25,813</u>	<u>\$26,645</u>	<u>\$27,518</u>	<u>\$28,392</u>		
<u>3</u>	<u>\$12.60</u>	<u>\$12.98</u>	<u>\$13.44</u>	<u>\$13.89</u>	<u>\$14.35</u>		
	<u>\$26,208</u>	<u>\$26,998</u>	<u>\$27,955</u>	<u>\$28,891</u>	<u>\$29,848</u>		
<u>4</u>	<u>\$13.23</u>	<u>\$13.65</u>	<u>\$14.15</u>	<u>\$14.63</u>	<u>\$15.13</u>		
	<u>\$27,518</u>	<u>\$28,392</u>	<u>\$29,432</u>	<u>\$30,430</u>	<u>\$31,470</u>		
<u>5</u>	<u>\$13.89</u>	<u>\$14.35</u>	<u>\$14.92</u>	<u>\$15.39</u>	<u>\$15.79</u>		
	<u>\$28,891</u>	<u>\$29,848</u>	<u>\$31,034</u>	<u>\$32,011</u>	<u>\$32,843</u>		
<u>6</u>	<u>\$14.63</u>	<u>\$15.13</u>	<u>\$15.60</u>	<u>\$16.04</u>	<u>\$16.56</u>		
	<u>\$30,430</u>	<u>\$31,470</u>	<u>\$32,448</u>	<u>\$33,363</u>	<u>\$34,445</u>		
<u>7</u>	<u>\$15.39</u>	<u>\$15.79</u>	<u>\$16.26</u>	<u>\$16.79</u>	<u>\$17.34</u>	<u>\$18.03</u>	
	<u>\$32,011</u>	<u>\$32,843</u>	<u>\$33,821</u>	<u>\$34,923</u>	<u>\$36,067</u>	<u>\$37,502</u>	
<u>8</u>	<u>\$16.26</u>	<u>\$16.79</u>	<u>\$17.34</u>	<u>\$18.03</u>	<u>\$18.72</u>	<u>\$19.49</u>	
	<u>\$33,821</u>	<u>\$34,923</u>	<u>\$36,067</u>	<u>\$37,502</u>	<u>\$38,938</u>	<u>\$40,539</u>	
<u>9</u>	<u>\$17.34</u>	<u>\$18.03</u>	<u>\$18.72</u>	<u>\$19.49</u>	<u>\$20.41</u>	<u>\$21.34</u>	
	<u>\$36,067</u>	<u>\$37,502</u>	<u>\$38,938</u>	<u>\$40,539</u>	<u>\$42,453</u>	<u>\$44,387</u>	
<u>10</u>	<u>\$18.72</u>	<u>\$19.49</u>	<u>\$20.41</u>	<u>\$21.34</u>	<u>\$22.28</u>	<u>\$23.41</u>	
	<u>\$38,938</u>	<u>\$40,539</u>	<u>\$42,453</u>	<u>\$44,387</u>	<u>\$46,342</u>	<u>\$48,693</u>	
<u>11</u>	<u>\$20.41</u>	<u>\$21.34</u>	<u>\$22.28</u>	<u>\$23.41</u>	<u>\$24.54</u>	<u>\$25.73</u>	
	<u>\$42,453</u>	<u>\$44,387</u>	<u>\$46,342</u>	<u>\$48,693</u>	<u>\$51,043</u>	<u>\$53,518</u>	
<u>12</u>	<u>\$22.28</u>	<u>\$23.41</u>	<u>\$24.54</u>	<u>\$25.73</u>	<u>\$27.00</u>	<u>\$28.30</u>	<u>\$29.70</u>
	<u>\$46,342</u>	<u>\$48,693</u>	<u>\$51,043</u>	<u>\$53,518</u>	<u>\$56,160</u>	<u>\$58,864</u>	<u>\$61,776</u>
<u>13</u>	<u>\$24.54</u>	<u>\$25.73</u>	<u>\$27.00</u>	<u>\$28.30</u>	<u>\$29.70</u>	<u>\$31.17</u>	<u>\$32.69</u>
	<u>\$51,043</u>	<u>\$53,518</u>	<u>\$56,160</u>	<u>\$58,864</u>	<u>\$61,776</u>	<u>\$64,834</u>	<u>\$67,995</u>
<u>14</u>	<u>\$27.00</u>	<u>\$28.30</u>	<u>\$29.70</u>	<u>\$31.17</u>	<u>\$32.69</u>	<u>\$34.33</u>	<u>\$36.05</u>
	<u>\$56,160</u>	<u>\$58,864</u>	<u>\$61,776</u>	<u>\$64,834</u>	<u>\$67,995</u>	<u>\$71,406</u>	<u>\$74,984</u>
<u>15</u>	<u>\$29.70</u>	<u>\$31.17</u>	<u>\$32.69</u>	<u>\$34.33</u>	<u>\$36.05</u>	<u>\$37.77</u>	<u>\$39.65</u>
	<u>\$61,776</u>	<u>\$64,834</u>	<u>\$67,995</u>	<u>\$71,406</u>	<u>\$74,984</u>	<u>\$78,562</u>	<u>\$82,472</u>
<u>16</u>	<u>\$32.69</u>	<u>\$34.33</u>	<u>\$36.05</u>	<u>\$37.77</u>	<u>\$39.65</u>	<u>\$41.65</u>	<u>\$43.73</u>
	<u>\$67,995</u>	<u>\$71,406</u>	<u>\$74,984</u>	<u>\$78,562</u>	<u>\$82,472</u>	<u>\$86,632</u>	<u>\$90,958</u>

55.04 Employees in the bargaining unit shall be paid in accordance with the following schedule effective with the pay period which includes July 1, 2008. The effective increase for all pay ranges shall be **three and one half percent (3.5%)**.

<u>Range</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
<u>1</u>	<u>\$11.87</u>	<u>\$12.21</u>	<u>\$12.59</u>	<u>\$13.04</u>	<u>\$13.43</u>		
	<u>\$24,690</u>	<u>\$25,397</u>	<u>\$26,187</u>	<u>\$27,123</u>	<u>\$27,934</u>		
<u>2</u>	<u>\$12.46</u>	<u>\$12.84</u>	<u>\$13.26</u>	<u>\$13.69</u>	<u>\$14.13</u>		
	<u>\$25,917</u>	<u>\$26,707</u>	<u>\$27,581</u>	<u>\$28,475</u>	<u>\$29,390</u>		
<u>3</u>	<u>\$13.04</u>	<u>\$13.43</u>	<u>\$13.91</u>	<u>\$14.38</u>	<u>\$14.85</u>		
	<u>\$27,123</u>	<u>\$27,934</u>	<u>\$28,933</u>	<u>\$29,910</u>	<u>\$30,888</u>		
<u>4</u>	<u>\$13.69</u>	<u>\$14.13</u>	<u>\$14.65</u>	<u>\$15.14</u>	<u>\$15.66</u>		
	<u>\$28,475</u>	<u>\$29,390</u>	<u>\$30,472</u>	<u>\$31,491</u>	<u>\$32,573</u>		
<u>5</u>	<u>\$14.38</u>	<u>\$14.85</u>	<u>\$15.44</u>	<u>\$15.93</u>	<u>\$16.34</u>		
	<u>\$29,910</u>	<u>\$30,888</u>	<u>\$32,115</u>	<u>\$33,134</u>	<u>\$33,987</u>		
<u>6</u>	<u>\$15.14</u>	<u>\$15.66</u>	<u>\$16.15</u>	<u>\$16.60</u>	<u>\$17.14</u>		
	<u>\$31,491</u>	<u>\$32,573</u>	<u>\$33,592</u>	<u>\$34,528</u>	<u>\$35,651</u>		
<u>7</u>	<u>\$15.93</u>	<u>\$16.34</u>	<u>\$16.83</u>	<u>\$17.38</u>	<u>\$17.95</u>	<u>\$18.66</u>	
	<u>\$33,134</u>	<u>\$33,987</u>	<u>\$35,006</u>	<u>\$36,150</u>	<u>\$37,336</u>	<u>\$38,813</u>	
<u>8</u>	<u>\$16.83</u>	<u>\$17.38</u>	<u>\$17.95</u>	<u>\$18.66</u>	<u>\$19.38</u>	<u>\$20.17</u>	
	<u>\$35,006</u>	<u>\$36,150</u>	<u>\$37,336</u>	<u>\$38,813</u>	<u>\$40,310</u>	<u>\$41,954</u>	
<u>9</u>	<u>\$17.95</u>	<u>\$18.66</u>	<u>\$19.38</u>	<u>\$20.17</u>	<u>\$21.12</u>	<u>\$22.09</u>	
	<u>\$37,336</u>	<u>\$38,813</u>	<u>\$40,310</u>	<u>\$41,954</u>	<u>\$43,930</u>	<u>\$45,947</u>	
<u>10</u>	<u>\$19.38</u>	<u>\$20.17</u>	<u>\$21.12</u>	<u>\$22.09</u>	<u>\$23.06</u>	<u>\$24.23</u>	
	<u>\$40,310</u>	<u>\$41,954</u>	<u>\$43,930</u>	<u>\$45,947</u>	<u>\$47,965</u>	<u>\$50,398</u>	
<u>11</u>	<u>\$21.12</u>	<u>\$22.09</u>	<u>\$23.06</u>	<u>\$24.23</u>	<u>\$25.40</u>	<u>\$26.63</u>	
	<u>\$43,930</u>	<u>\$45,947</u>	<u>\$47,965</u>	<u>\$50,398</u>	<u>\$52,832</u>	<u>\$55,390</u>	
<u>12</u>	<u>\$23.06</u>	<u>\$24.23</u>	<u>\$25.40</u>	<u>\$26.63</u>	<u>\$27.95</u>	<u>\$29.29</u>	<u>\$30.74</u>
	<u>\$47,965</u>	<u>\$50,398</u>	<u>\$52,832</u>	<u>\$55,390</u>	<u>\$58,136</u>	<u>\$60,923</u>	<u>\$63,939</u>
<u>13</u>	<u>\$25.40</u>	<u>\$26.63</u>	<u>\$27.95</u>	<u>\$29.29</u>	<u>\$30.74</u>	<u>\$32.26</u>	<u>\$33.83</u>
	<u>\$52,832</u>	<u>\$55,390</u>	<u>\$58,136</u>	<u>\$60,923</u>	<u>\$63,939</u>	<u>\$67,101</u>	<u>\$70,366</u>
<u>14</u>	<u>\$27.95</u>	<u>\$29.29</u>	<u>\$30.74</u>	<u>\$32.26</u>	<u>\$33.83</u>	<u>\$35.53</u>	<u>\$37.31</u>
	<u>\$58,136</u>	<u>\$60,923</u>	<u>\$63,939</u>	<u>\$67,101</u>	<u>\$70,366</u>	<u>\$73,902</u>	<u>\$77,605</u>
<u>15</u>	<u>\$30.74</u>	<u>\$32.26</u>	<u>\$33.83</u>	<u>\$35.53</u>	<u>\$37.31</u>	<u>\$39.09</u>	<u>\$41.04</u>
	<u>\$63,939</u>	<u>\$67,101</u>	<u>\$70,366</u>	<u>\$73,902</u>	<u>\$77,605</u>	<u>\$81,307</u>	<u>\$85,363</u>
<u>16</u>	<u>\$33.83</u>	<u>\$35.53</u>	<u>\$37.31</u>	<u>\$39.09</u>	<u>\$41.04</u>	<u>\$43.11</u>	<u>\$45.26</u>
	<u>\$70,366</u>	<u>\$73,902</u>	<u>\$77,605</u>	<u>\$81,307</u>	<u>\$85,363</u>	<u>\$89,669</u>	<u>\$94,141</u>

55.05 Pay Range Assignments

Changes in pay ranges effective July 01, 2005, except for Central Office Enforcement Officer.

Class #	Pay Range	Classification Title
22251	10	Wildlife Education Officer
22290	8	Wildlife Officer Cadet
22292	10	Wildlife Officer

22293	11	Wildlife Investigator
22520	8	Park Officer Cadet
22521	10	Park Officer
22522	10	Park Officer Investigator
22523	10	Park Officer Specialist
22581	10	Armorer
22821	8	Preserve Officer 1
22822	8	Preserve Officer 2
22841	8	Forest Officer 1
22842	10	Forest Officer 2
23511	11	Enforcement Agent
23521	10	Liquor Control Compliance Officer
26611	8	Police Officer 1
26612	10	Police Officer 2
26811	10	Tax Enforcement Agent 1
26812	11	Tax Enforcement Agent 2
26813	12	Tax Enforcement Agent 3
26910	8	Watercraft Officer Cadet
26911	10	Watercraft Officer
26912	10	Watercraft Officer Specialist
26921	11	Watercraft Investigator
26915	10	Watercraft Education Officer

Upon completion of their probationary period, Police Officer 1’s shall be reclassified to Police Officer 2. **Upon successful completion of the Wildlife Officer Pre-Service Training program, Wildlife Officer Cadets shall be promoted to Wildlife Officer.**

ARTICLE 56 - LONGEVITY PAY

Maintain current language

Issue: Article 57 Shift Differential

Union Position

The parties agree in principle that shift differential should be paid on the basis of what hours are worked during a set period of time as opposed to the current system where it is tied to shifts.

Employer Position

The Employer is receptive to a very modest increase in shift differential for hours that start on or after 5:00 pm and end at 6:00 a.m.

Discussion

The parties appear to be in agreement that shift differential should be tied to all hours worked between 5:00 p.m. and 6:00 a.m. as opposed to being tied to shifts. It also noted that Ohio State Troopers bargaining unit members, who understandably perform a distinct function from those in the FOP bargaining unit, currently receive 75 cents per hour. Shift differential is based upon the inconvenience of hours worked and is less dependent upon a particular function. However, there is a general relationship between pay and the amount of shift differential, which may account for higher amounts being paid to employees with historically higher pay classifications. I find the current shift differential to be competitively low when compared to other differentials paid to offices in law enforcement. There is justification to increase shift differential pay over the life of the Agreement in order to remain with the bargaining unit that comes closest in comparability, the State Trooper bargaining unit.

Recommendation

It is recommended that the amount of shift differential be increased to 60 cents per hour, effective with the pay period that includes July 1, 2007 and to 75 cents per hour with the pay period that includes July 1, 2008. In addition, it is recommended that the hours for which the shift differential should be applicable are all hours worked from 5:00 pm to 6:00 am.

ARTICLE 57 - SHIFT DIFFERENTIAL

Bargaining unit members who are regularly assigned to work shifts, including Enforcement Agents at the Department of Public Safety, shall receive a shift differential of \$.45 per hour for each hour worked commencing at 5:00 pm and ending at 6:00 am. The shift differential shall be added to the employee's regular rate of pay. **Effective with the pay period that includes July 1, 2007 shift differential shall be increased to \$.60**

per hour for each hour worked. Effective with the pay period that includes July 1, 2008 shift differential shall be increased to \$.75 per hour. No shift will be changed for the sole purpose of avoiding the payment of shift differential.

Issue: Hazardous Duty or Use of Technology

Union Position

The Union wishes to reinstate hazardous duty pay retroactive to July 1, 2006. Furthermore, the Union is proposing that employees who work during a declared emergency receive two and one half (2 ½) times their regular rate of pay.

Employer Position

The Employer opposes the reinstatement of hazardous duty pay, pointing out that when it was negotiated out of the Agreement in the last round of negotiations, the Employer paid for this change with a permanent wage adjustment of 2% added to the salary schedule. The Employer is also proposing the insertion of a clause to establish that no employee should have an expectation of privacy while on paid time as an employee.

Discussion

In prior negotiations the parties agreed to remove hazardous duty pay in exchange for a permanent wage increase. There was insufficient evidence introduced into the record to reinstate hazardous duty pay without the Union having to give up its permanent "quid pro quo" increase.

The Union indicated it would accept the Employer's language concerning privacy if it was accompanied by additional language which stated "in accordance with law."

Recommendation

The Employer's language with the modification proposed by the Union is recommended:

ARTICLE 58 - USE OF TECHNOLOGY

In accordance with applicable law, no state employee should have an expectation of privacy while on paid time as an employee.

Issue: Article 60 Home Office Supplement

Union Position

The Union argues a supplemental increase is justified due to increased costs. Moreover, the Union points out that through this arrangement the State is saving a considerable amount of money. The Union claims that about 150 officers are involved in this arrangement.

Employer Position

The Employer argues that a more realistic cost increase would be about 10% for Employee's home offices.

Discussion

A reasonable adjustment in the amount of the stipend to maintain a home office is justified based upon the evidence.

Recommendation

ARTICLE 60 - HOME OFFICE SUPPLEMENT FOR DEPARTMENT OF NATURAL RESOURCES AND DEPARTMENT OF COMMERCE

In the Department of Natural Resources, the Employer, shall pay one hundred dollars (\$100) per month to Wildlife Investigators, Wildlife Education Officers, Wildlife Officers 1 and 2, Watercraft Officers, Watercraft Investigators, Watercraft Specialists, and Watercraft Education Officers who are required by their Employer to maintain an office in their homes on a permanent basis. **Effective with the pay period that includes July 1, 2007, this payment shall be increased to one hundred and twenty-five dollars (\$125)** per month This payment will compensate these employees for the use of their homes as office space, i.e., public listed phone (unless Employer provides voice mail system with established message retrieval procedures), equipment and supply storage, files etc.

In the Department of Commerce, Liquor Compliance Officers, who are required by the Employer to maintain an office in their homes on a permanent basis, shall receive fifty-five dollars (\$55) per month. **Effective with the pay period that includes July 1, 2007, this payment shall be increased to sixty** dollars (**\$60**) per month to compensate for the use of their homes as office space.

TENTATIVE AGREEMENT

During negotiations, mediation/fact-finding the parties reached tentative agreements on several issues. These tentative agreements and any unchanged current language are part of the recommendations contained in this report.

The Fact-finder respectfully submits the above recommendations to the parties this _____ day of January 2007 in Portage County, Ohio.

Robert G. Stein, Fact-finder