

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Fact-Finding between

CIVIL SERVICE EMPLOYEES ASSOCIATION,  
LOCAL 1000, AFSCME, AFL-CIO, LOCAL 801,

UNION,

-and-

FACT FINDER'S  
REPORT

COUNTY OF ALBANY,

EMPLOYER.

PERB Case No.: M2011-159  
Department of Public Works Unit

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BEFORE: Louis J. Patack, Esq.  
Fact Finder

APPEARANCES:

For Civil Service Employees Association  
Eric Muldoon  
Labor Relations Specialists

For County of Albany  
Evelyn A. Kinnah, Esq.  
Commissioner, Department of Human Resources  
Jennifer Skelly Clement  
Deputy Commissioner, Department of Human Resources

BACKGROUND

The Civil Service Employees Association ("CSEA") represents employees in six separate bargaining units in the County of Albany ("County" or "Employer"). The units are Department of Health, Department of Social Services / Children, Youth and Families, Department of General

Services, Department of Mental Health, Sheriff's Department (Non-Secure Personnel), and Department of Public Works.

The parties negotiate a collective bargaining agreement for each unit, and almost without exception the agreements are for the same term, and contain identical wage increases and health insurance adjustments. They negotiated a one-year agreement for 2009 for all the units, and it included a 3% salary increase and no changes to health insurance premium contributions or co-payments.

Negotiations for successor agreements began in 2010. On June 8, 2011, an agreement was reached for the Health Department unit. The parties agreed on a three-year contract, with wage increases of 0% in 2010, \$500 added to base in 2011, and 2% in 2012. In terms of health insurance, co-pays for non-formulary brand drugs increased from \$30 to \$40 for both retail 30-day and 90-day domestic mail order supplies. There were other amendments to the expired agreement, but they have not been addressed by the parties in this proceeding, and are not relevant here.

The County had made the salary and insurance proposal accepted by the Health Department unit to all the units. The other five units, however, were not prepared to settle quite as quickly as the Health Department employees, and by the time each informed the County of its willingness to accept the same settlement the County had withdrawn its offer.<sup>1</sup>

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<sup>1</sup> What appears to have occurred is that the County and Health Department unit verbally settled on May 17, and that all the units except Public Works expressed their willingness to accept the same deal by the time the County and Health Department signed their Memorandum of Agreement on June 8. (Public Works did not agree to the deal, and declared impasse in July.) CSEA acknowledges that the reason the County negotiating team withdrew the Health Department offer from the other units is that the County Department of Management and Budget had notified the team of financial concerns stemming from the proposed State property tax cap.

In July, 2011, the five remaining units declared impasse, and the State Public Employment Relations Board (“PERB”) assigned a mediator to assist the parties. When the parties were unable to reach agreement during mediation, the impasse proceeded to fact-finding, and PERB, in accordance with the provisions of Section 209 of the New York Civil Service Law, appointed the undersigned as the fact finder.

The fact finder continued mediation efforts, meeting with the parties on October 2 and 22, and December 14, 2012, and February 8, 2013. At these sessions the parties focused on what are commonly the issues most critical to settling a contract, those being salaries and health insurance, but did address certain other issues common to all units, and some unique to only a single unit.

When no settlement could be reached with any of the bargaining units at the February 8 meeting the parties agreed to submit briefs to assist the fact finder in writing a report that would include recommendations for settling the impasse.

After receiving and studying the briefs the fact finder, rather than immediately issuing his report, and based upon information contained in the briefs, made some suggestions he believed might encourage the parties to continue their efforts to settle.

Based upon those suggestions the parties renewed their efforts to reach accommodations that would satisfy the goals of both the County and each of the bargaining units.

Because the Health Department settlement had covered the three-year period 2010 through 2012, and, as noted above, the agreements for all the units commonly are for the same time frame, the parties, during our mediation sessions, focused on reaching three-year contracts.

During their talks following submission of the briefs, however, the representatives began exploring the possibility of a longer term settlement, and requested that the fact finder delay

issuing his report. Adding more years would allow the parties to address the serious economic problems even CSEA concedes the County has faced in recent years, while at the same time insuring some reasonable salary increases. As important, CSEA might be able to agree to increased health insurance contributions necessary to fund raises if they could be absorbed during a long-term agreement.

What transpired is that the parties eventually were able to reach memoranda of understanding (MOUs) for all the units involved in the fact-finding. The MOUs then had to be approved by the County Legislature and ratified by the members in the different units. The County Legislature approved the agreements, and, with the exception of the one for the Department of Public Works (“DPW”), all were ratified. The DPW unit rejected the tentative agreement.

The MOUs for the Departments of Social Services / Children, Youth and Families, General Services, Mental Health, the Sheriff’s Department, Non-Secure Personnel, and for DPW, are all for the seven-year period 2010 through 2016, and contain identical salary and health insurance provisions. They are, in the exact language of the agreements, as follows:

**Salary Increases:**

- 1/1/2010 – 0% salary increase
- 1/1/2011 – 0% salary increase
- 9/1/2012 – 2% salary increase, retroactive to September 1, 2012
- 7/1/2013 – 2% salary increase, retroactive to July 1, 2013
- 1/1/2014 – 2% salary increase, and 0.5% last pay period of 2014
- 1/1/2015 – 0% salary increase
- 1/1/2016 – 2%

**Health Insurance:**

- a. Employees hired after the execution of this agreement shall pay 15% of their health insurance premiums.

- b. Effective July 1, 2014, employees hired prior to January 1, 1989, shall pay 2% toward the cost of their health insurance. Such percentage shall increase 2% per year until a total of 10% of the premium is reached.
- c. Employees hired prior to January 1, 1989, who were previously contributing 0% towards their premium, will revert to 0% upon retirement.
- d. Effective 30 days after legislative approval or as soon as practicable thereafter, co-payments for both retail and domestic non-formulary brand drugs shall increase to \$60. Prescription Drug Copay – Chart to be amended accordingly.

The MOUs also contain these identical provisions:

Exploratory Committee on Contract Consolidation of all six CSEA contracts:

The parties agree to continue to negotiate in good faith, after the signing of this memorandum, in an effort to consolidate all six CSEA Collective Bargaining Agreements into one document. The parties shall establish a joint Labor Management working group to meet no less than every month between 10/1/13 – 10/1/14 to establish a written plan for implementation of said goal. There is no intent to consolidate the individual Bargaining Units at this time.

Vacation Accruals at Time of Separation:

Employees with a hire date of January 1, 2014 or after shall be entitled to a maximum of thirty (30) days unused vacation leave that may be liquidated upon separation.

With the exception of the one for the DPW unit, all the MOUs also contain an identical drug testing provision. It is not in the DPW memorandum, however, because there is already a testing policy in place for DPW.

Some of the agreements contain provisions unique to the particular bargaining unit, and they all conclude with this identical language:

This agreement shall include any existing policy, practice and procedure side letters that were created from 1/1/2010 through the signing of this agreement.

Finally, it should be noted that concurrent with the signing of the MOUs the parties entered into a tentative agreement with the Department of Health unit, extending its 2010-2012

agreement through 2016. That agreement, also now approved by the County Legislature and ratified by the unit, contains the same salary increases for 2013 through 2016 found in the agreements for the other units, and the same health insurance provisions. It also includes the identical language for the provisions dealing with drug testing, contract consolidation and vacation accruals.

Because all the bargaining units involved in this fact-finding, except for the Department of Public Works ("DPW"), have now settled, this report is limited to the one unit.

#### DISCUSSION

The fact finder's goal, in writing a report, is to recommend terms that the parties will find acceptable, or at least that will assist them in continuing their efforts to reach an agreement.

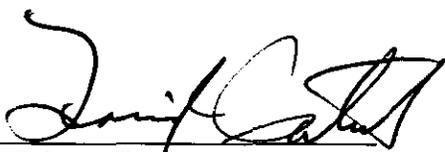
Here, possibly with some assistance from the fact finder, the County and four of the five bargaining units have achieved that goal without the need for issuing a report.

And as to the DPW unit, there is no evidence in the record that would suggest a settlement on salary, health insurance, or the miscellaneous items common to all units different than that reached by the County and five of the six CSEA units.

There is also no reason for the fact finder to make recommendations on the proposals applicable only to the DPW unit, since they are not addressed in the DPW tentative agreement.

Accordingly, the fact finder recommends that the parties settle upon the terms contained in their July 2, 2013, Memorandum of Understanding.

Dated: September 9, 2013  
Loudonville, New York

  
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LOUIS J. PATACK