

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Fact-Finding between,  
The County of Genesee, New York,  
Employer,  
-and-  
The Civil Service Employees Association,  
Union.

REPORT AND  
RECOMMENDATION  
PERB CASE NO.  
M2008-249

Before: MICHAEL S. LEWANDOWSKI, Independent Fact Finder

Appearances:

For the County: Karen Marchese  
Human Resources Director

For the Union: Lynn M. Knoop  
CSEA Labor Relations Specialist

The County of Genesee, New York ("County") and the Civil Service Employees Association ("Union"), a union that represents approximately 300 employees of the County, engaged in collective negotiations for a successor agreement to the collective bargaining agreement that expired on December 31, 2008. The negotiations efforts of the parties were unsuccessful and thus resulted in an impasse. After failing to reach agreement, the parties petitioned the New York State Public Employment Relations Board ("PERB") to appoint a mediator to assist them in the resolution of their dispute. Mediation efforts resulted in a

tentative agreement however in the end those efforts failed after the tentative agreement was rejected by the Union's membership. I was then designated Fact Finder.

In accordance with the preceding designation, the parties agreed to meet on June 29, 2009 to set in place a process to go thru the instant fact-finding. At the aforementioned meeting, a date was set for data to be exchanged and presented to me for consideration. As part of the agreed-to process, the parties provided written narratives and data in support of their respective positions as to how the dispute should be resolved in negotiations. It should be understood that this report and recommendation does not address all of the issues open in the parties' negotiations but it does contain, as I understand the position of the parties, a prioritized list of those issues, which if resolved, could lead to a new agreement between the parties. The issues that are not addressed here are still considered open however the parties have reached a tentative agreement on how to handle those issues they feel need to be included in a new agreement. What I attempt here is to analyze the data and provide information that may lead to a resolution of this dispute.

Before I get into an address of the issues for which I here make findings and recommendations, I think it is appropriate to acknowledge the tentative "agreement" that failed to gain acceptance from the majority of voting Union members. In its written submission, the Union stated that it "reluctantly consented to take an agreement to the membership for ratification." The terms of that "agreement" provided wage increases of 2% effective February 1, 2009; 1.25% effective July 1, 2010 and 1.25% effective July 1, 2011. Wages for new employees hired after ratification of the proposed agreement would be reduced by 10% across the board. Additionally, new hires would see a reduction in sick leave accruals earning one sick day per month for a total of 12 days per year. The spousal buy back for health insurance benefit would be increased if 50 or more employees participated by November 1, 2009. This benefit would increase to \$3,000.00. If 60 or more members participated by November 1, 2011, the benefit would go up to \$3,500.00 as of January 1, 2011. Effective November 1, 2010, personal leave would be adjusted to provide 2 personal leave days to employees working 20-35 hours per week and 1 personal leave day to employees working 20-29 hours per week. The parties also agreed that any item previously agreed to as evidenced in writing in their current negotiations would be incorporated into the new agreement.

**ISSUES**

The following constitutes my findings and recommendations on the issues addressed.

**WAGES:**

The County proposes wage increases as follows.

Upon ratification of a new agreement, 2%

Effective 7/1/2010; 1.25%

Effective 7/1/2011; 1.25%

The Union's last wage proposal follows.

Effective 1/1/2009; 2%

Both sides submitted financial data. The Union provided a significant amount of data including a review of the County's finances and information concerning the recent settlements reached between public employers and public unions in surrounding counties as well as information about what the County has agreed to in wage increases for its employees in other bargaining units.

There is no doubt that at the present time and into the foreseeable future, the State and the County face significant potential losses in revenue due to the current state of the economy. Nevertheless, the data presented shows that the County

has seen a 6.74% increase in sales tax revenues for the second quarter of 2009 and has been able to fund wage increases that are in excess of that which it offers this Union. Specifically, the Genesee County Sheriff's Employees Association ("SEA") received a 2% salary increase retroactive to January 1, 2009. That union will also receive a 2% wage increase in 2010 and another 2% wage increase in 2011. Each of the agreed to wage increases would be payable on a date later than the historically normal wage increase date for SEA wage increases. While the County justifies the variance between what it offers CSEA and what it agreed to with SEA by noting that the deputy sheriffs here receive salaries lower than comparable employees in surrounding counties and by the County's analysis, CSEA-represented employees receive wages higher than employees in comparable titles in surrounding counties, the facts show that by granting 2% per new contract year, the County will still be increasing CSEA employees less than what comparably titled employees will get under their collective bargaining agreements (note chart that follows) and when considering my recommendation that the County and CSEA adopt the reduced wage adjustment schedule that was advanced in mediation, the County can take steps towards reducing wages without affecting current employees. The net effect is that the County would be providing proper wage increases to its employees who are members of this bargaining unit while at the

same time starting a process of reducing what it believes is the disparity with other Counties in the wages paid this work group.

Again, this is accomplished by providing a wage increase that, while more than what was advanced in mediation and rejected by the Union membership, is less than what competing Counties are increasing the pay of their CSEA-represented employees.

The following chart shows what surrounding counties have agreed to for wage increases for contract years 2009-2011.

**WAGE INCREASES AGREED TO IN SURROUNDING COUNTIES**

COUNTY	2009	2010	2011
WYOMING COUNTY	2%	2%	2.25%
ORLEANS COUNTY	2.25%	2.25%	3%
CATTARAUGUS CO	3%	3%	3%
STEUBEN COUNTY	3%	3.25%	3.4%
<b>CHAUTAUQUA</b> CO	3%	3%	3%
ONTARIO COUNTY	3%	3.5%	3%

I do take note that the budget data/picture presented by the parties is in conflict. The Union did an analysis of the County's budget that shows that the County has historically

grossly overstated expenses and understated revenues and the same analysis shows the County has a healthy surplus in funds. This conflicts with the County's presentation which shows the County has historically had a higher tax levy than surrounding counties and is experiencing staggering (34%) increases in health insurance premium cost and higher retirement system contributions.

It is difficult to ascertain what the economic picture will look like for the immediate upcoming years especially noting the dire fiscal condition of New York State; however the increases recommended here are modest and the reduction in future wages should provide a basis to allow for an increase to current employees and to allow the County to move towards achieving pay comparability with surrounding counties for this group of employees.

Based on the above, I recommend that the parties return to the previously mediated settlement plan, which included both increases in wages for current employees and reductions in wages for future employees. The only modification I would recommend is to increase the percentage increases to 2% per year for each year of a three-year agreement, the first year becoming effective July

1, 2009, the second year becomes effective July 1, 2010 and the third year becomes effective July 1, 2011.

**SCHEDULE D:** As noted above, I recommend the County adopt Schedule D for future employees hired after the ratification of the new agreement.

**OTHER ITEMS:** I further recommend that the parties agree, as detailed in the tentative agreement dated February 19, 2009, that "in addition to the above matters, previously agreed to as evidenced by signed agreements" to incorporate such items into the new agreement. This package should include the changes in personal leave and spousal buy back as referred to in the tentative agreement.

Based on my analysis of the data presented to me including the economic data and the positions of the parties, I recommend that the parties resolve their negotiations based on the foregoing recommendations.

Respectfully submitted, October 18, 2009



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FACT FINDER