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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF THE FACT FINDING BETWEEN:

MEMPHIS BUS DRIVERS CHAPTER OF
LOCAL 1840, COUNCIL 25 AFSCME, AFL-CIO,

UNION,

-and-

MEMPHIS BOARD OF EDUCATION,

EMPLOYER.

MERC FACT FINDING
CASE NO. D93 C-0296

FACT FINDER: MARTIN L. KOTCH

Memphis Community Schools

FACT FINDING AND RECOMMENDATIONS

A fact finding hearing was held in the above matter on November 2, 1993. Representing the Union was Mr. Byron Delong, Staff Specialist, AFSCME Council 25. Representing the Employer was Mr. Kenneth Helinski, Superintendent of Schools, Memphis School District.

FINDINGS OF FACT

The bargaining unit in question consists of thirteen persons. Twelve of these are bus drivers; the thirteenth is a transportation aide who is qualified as a bus driver. The parties most recent Collective Bargaining Agreement expired on June 30, 1992. Negotiations for a new Agreement were last conducted in May, 1993.

The following issues remained unresolved at the time of the fact finding:

1. wages for drivers
2. wages for transportation aide
3. payment for increased hospital-medical insurance costs
4. pay schedule for field trips taken by transportation aide
5. increase in vocational education waiting time compensation

A considerable distance separates the two parties with respect to the above issues. The Union's position called for a three year contract, with provisions as follows:

1. drivers to receive an increase of 5% per year for each of the three years
2. transportation aide to receive an increase of 10% for each of the three years
3. increased costs for hospital-medical insurance to be borne by the Employer

4. the pay scale provided for drivers on field trips to apply to the transportation aide

5. a 10% increase for each year of the contract for waiting time on a vocational education run

The Employer's position may be summarized as follows:

1. drivers to receive an increase of 2% per year for each of the three years

2. transportation aide to receive an increase of 2% for each of the three years

3. increased costs for hospital-medical insurance to be borne by the employees

4. transportation aide to receive pay scale as provided for that position in the current contract

5. no increase for waiting time on a vocational education run

The Employer's position is one of a "wage percentage package." That is, should the employees desire the Employer to pay for the increase in hospital-medical insurance costs, such payment would figure into the 2% package, and wage allocation would drop below 2% by a commensurate amount.

In 1992-93, the Memphis Community School District suffered an $84,000 loss in revenues, a 2% decrease over 1991-92. It anticipates a further decline in 1993-94. As a result of these losses, and the uncertainty of school financing in the state, the Employer asserts that it does not have the financial ability to meet the level of increase the Union seeks. There is no question that uncertainty in the forecasting of revenues in education in the state looms large as a factor in the Employer's position.

COMPARABLES

The Employer has proposed use of the hourly rates of the six largest employers in the Memphis School District. Two of these are public employers - the School District itself, and the City of Memphis. The other four are private employers. It was agreed that evidence of the wages at all employers would be admitted, but that the wage scale for private employers would be treated as having only marginal probative value. Evidence developed through testimony, and accepted as valid, places the District's wages for bus drivers as higher than two area districts, but lower than several others. Internally, drivers in the District are paid at a higher hourly rate than are other hourly employees of the District.

The Union stresses that other contracts within the District provide far greater fringe benefits and gave more substantial increases than that achieved by these employees. The SEIU contract, covering virtually the remainder of non-instructional, non-administrative District employees, which runs from 1992-1995, had a wage increase of 5% for each year of contract in each classification. That contract also has a longevity provision not in this current contract.

Under the SEIU contract, custodians get full family MVF II, fully paid by the Employer. Other employees receive full family MVF I, also fully paid. In contrast, the AFSCME employees in this unit receive single subscriber MVF I, fully paid. However, the present position of the Employer in these negotiations has been that increases in the cost of insurance should be borne by the employee as part of the 2% package. Under the SEIU contract, employees have the opportunity to gain greater life insurance benefits in lieu of hospital-medical coverage. Such an option is not available to these employees, and five do not currently receive medical coverage.

With respect to vacations, employees receive 12 days in the current contract, including snow days. That is, a snow day, a day on which school is canceled, is paid, but is also considered a vacation day. SEIU employees, get 20 days of vacation after 10 years.

The three year teachers' contract, which expires in August of 1994, provided for a 5% increase for each year of the 3 year contract. The contract contains a longevity provision, and hospital-medical coverage is full family, and fully paid. The contract contains benefits in lieu of hospital-medical coverage, and broader dental, life, long term disability and vision. While not seeking any of these broader fringes at these negotiations, the Union has urged the Fact Finder to consider the economic fringes other units receive in assessing the economic benefits sought by the Union.

The Employer disputes the relevance of the other District contracts. Teachers are full time professionals, who have spent large amounts of time and money to gain their credentials. Further, teachers work a full day while bus drivers work about four hours per day. With respect to SEIU employees, the Employer stresses that they are 12 month employees who work 8 hours per day. As for the contracts having granted 5% increases, the Employer contends that this was at a time when raises were substantial, before the economic crisis hit. Even as to this, there were Union concessions with respect to management rights, use of part-time employees, etc., which provided cost-cutting to offset, in part, the wage increases. Finally, the Employer has been forced to contract classes, eliminating one teaching position, and has eliminated one administrator over the past year. With respect to Memphis Schools' hourly employees, the drivers earn more per hour than the head custodian. As a group, the drivers have the highest hourly wage of all hourly employees.

DISCUSSION

With respect to comparables, little data have been provided as to the bus driver or aide job descriptions from neighboring districts, or districts with appropriately similar demographics, tax base, etc. As previously noted, the Employer's exhibit concerning the hourly wage scale of the six largest employers in the Memphis School District is of limited utility, apart from the average for public employees, and even there, comparability is problematic. More cogently, both parties seemed content to rest their arguments on comparisons with other units represented in the Memphis District; the Union draws attention to the fringes received by other units, the Employer to the wages paid. As indicated, the Employer disputes the relevance of the fringe package for full-time, full day employees, contending, in effect, that only hourly wages are worthy comparable factors. For its part, the Union does not urge that it should receive the fringe package enjoyed by other units. Rather, it puts forward these benefits, far superior to that enjoyed by its members, as a demonstration of the modesty of its demands relative to wages.

There being a paucity of hard data concerning comparables, the Fact Finder is constrained to look at such figures as are in the record. There is no doubt that the District's financial position has been in a downward spiral for the past three years, culminating in a 2% decrease in revenue for the year 1992-93. Whatever the financial position of the Employer when it negotiated the other contracts alluded to by both parties, it is clear that it is in a much more precarious position today. The Employer has pointed to several other districts in the northern and eastern parts of the state which, since the defeat of Proposal A, in June, 1993, have had teacher salary freezes, failed to arrive at contracts, or, in one case - New Haven - dropped bussing.

The defeat of Proposal A, followed by the removal of property taxes for school financing, accounts for much of the difficulty in these negotiations. No one knows what the school financing picture in the State of Michigan will look like for the next school year. There is no guarantee that revenues lost, as in Memphis, will be made up in the future.

There are psychological problems which loom large as well. The parties are caught in a variant of the never-ending cycle of "me-too" arguments. Having faced a critical decline in revenue, the Employer feels obliged to hold the line on wages - and this is the first negotiation of the severely constrained financial period. The Union looks backward to more generous negotiations and says, in effect - "why start with us?" The Employer looks forward to straitened financial circumstances and says, in effect - "we must start somewhere - the others will follow in like manner."

A second psychological factor is health benefits. It is apparent that a number of this small unit of drivers (and aide) work for the hospital-medical benefits available to them. The Employer's proposal that increases in the cost of the *same* coverage be borne by the employees strikes at a critical issue for unit members.

The Employer has made a case for wage increases significantly below the level afforded school units in the last set of contract negotiations. The decrease in revenue is substantial, and there is no way of accurately predicting the future of school financing in the state. A Headlee override was defeated in August, 1993 (since the time of the last negotiating session between the parties), and 1993-94 revenues are projected below that of 1992-93.

The Union acknowledges the fiscal shortfall of the District. Its argument for its wage increase demands is essentially that others received similar increases in the past, and that, more importantly, other units receive more substantial fringe benefits than do these employees.

In the view of the Fact Finder, the presence of more attractive fringe packages in other units cannot suffice to buttress the 5% - three year proposal of the Union. The Employer's position is well taken. These other units are simply not comparable. For a host of reasons, the teachers' contract cannot be looked to as a model for the bus drivers. Similarly, the full year - full time employees contract (SEIU Secretarial -

Custodial - Food Service employees) cannot provide a basis for wage demands for this unit. In terms of hourly wages, the drivers are at the top of the District's scale. And, fringes accrue in proportion to the amount of worklife devoted to the employer; this is a fact of the American workplace, union and non-union.

In the course of the hearing on this matter, some discussion was had with respect to a contract of less than three years. No resolution was arrived at in this regard. Nonetheless, in light of the financial uncertainty concerning state financing of education, recourse to less than three years seems advisable. A two year duration will put the parties back at the table very soon, but with, perhaps, more revenue at the Employer's disposal, or at the least, with some certainty as to what that revenue will be.

With respect to the wage demands, the parties' original proposals were at some substantial remove. In light of the substantial decline in school revenues, the Union's proposal is unrealistic. By the same token, the Employer's proposal is somewhat rigidly low, and its insistence that employees pick up increased costs of hospital-medical coverage, with no increase in that coverage, has little justification. This is particularly so in that five of the thirteen unit members do not now receive any such benefits, a significant savings over potential contractual liability for the Employer.

The remaining two issues, vocational education waiting time and field trip compensation for the transportation aide received little attention at the hearing, and virtually nothing was put into the record to support any change in present contract language.

RECOMMENDATIONS

Tying length of contract, basic wage demands and health care costs together, the following would appear to meet the demands of fairness, fiscal ability and responsibility:

1. It is recommended that the parties agree to a two year contract, with wage increases of 2% the first year, and 3% the second year (drivers and aide); Increases in the cost of hospital-medical coverage to be borne, as at present, by the Employer.

2. In light of the financial condition of the Employer, and the uncertainty of school financing, and in the absence of any basis on the record for altering the compensation schemes for vocational education waiting time or field trips by the transportation aide, it is recommended that these contract provision remain unchanged.

December 12, 1993

Martin L. Kotch