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Collective Bargaining Bulletin

A REVIEW OF CONTRACT NEGOTIATION AND ADMINISTRATION

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Highlights

In the Manual

Illustrative Language
New illustrative contract language includes a safety and health provision at 16:2521 and a sexual harassment policy at 16:4521.

Contract Settlements
Terms of settlements reported April 13-26 and weighted average, average, and median wage increases are in *Table of Contract Settlements* at 19:3961.

Reduced Pay and Benefits for New Hires Called for in New York City, AFSCME Accord

New York City municipal employees hired after July 1 would receive lower pay and benefits than incumbents under terms of a tentative three-year agreement reached by the city and the American Federation of State, County and Municipal Employees, the parties announced April 20.

The agreement, which would be retroactive to July 1, 2002, and cover about 121,000 workers, would provide a $1,000 lump-sum payment to each employee upon ratification; a 3 percent second-year increase also payable upon ratification; and a 2 percent third-year increase July 1, which would be funded by productivity improvements and other operational savings. An additional raise of 1 percent would be paid over the third year ‘‘subject to mutual agreement by the city and [the union] upon attaining sufficient productivity savings, which may include a reduction in the utilization of sick leave, work-rule modifications, and other productivity efforts,’’ the parties added.

Under the agreement, a Joint Labor Management Committee on Productivity Initiatives would work to identify ways to generate savings ‘‘to be applied to compensate employees in a time of fiscal austerity,’’ the parties said. The resources generated by the committee's findings also could be applied to improved benefits for new hires, according to the union.

Under the tentative contract, new hires would be paid at a rate 15 percent lower than the incumbent rate for the first two years of employment. New hires also would face stretched-out length-of-service requirements to qualify for annual leave, reduced eligibility for night-shift differential pay in their first three years, and reduced sick leave accrual in their first five years. New hires would not be eligible for a floating holiday, and would receive a reduced cash-out rate for unused sick leave upon separation from city employment.

The agreement also would establish labor-management committees to study resources for child care, review pension issues, and explore telecommuting and alternative work schedules.

If ratified, the contract would be the first deal completed in the current municipal bargaining round. Contract talks are continuing between the city and unions representing teachers and city uniformed employees such as firefighters, police, and sanitation workers.

Workers at Wisconsin Power to Receive Added Pay if Earnings Per Share Meet Target

International Brotherhood of Electrical Workers members April 15 ratified a four-year contract with Wisconsin Power and Light Co. in Madison, Wis., that provides wage increases that will total at least 12.8 percent over term.

The more than 1,400 workers at the utility, which is a subsidiary of Alliant Energy Corp., worked during negotiations under a contract extension that maintained provisions of the previous contract, which had been set to expire May 18, 2003.

Wages increase 3 percent retroactive to May 18, 2003, 3.25 percent June 1, and 3.25 percent June 1, 2005. A wage increase of 3.3 percent in the fourth

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year could be boosted to 3.6 percent if Alliant Energy's final earnings per share meet or exceed the "target" goal for 2005, or elevated to 3.75 percent if final earnings per share meet or exceed the "distinguished" goal.

Monthly employee medical plan premium contributions, which range from $32 to $34 for individual coverage and $85 to $91 for family coverage in the first year of the contract, will rise each year, reaching $50 to $52 for individual coverage and $140 to $144 for family coverage in the fourth year. The parties agreed to modify the retirement plan to reduce a Social Security offset from 50 percent to 46 percent.

Leave plan changes reduce eligibility for an annual two-week military leave pay differential for armed services training from one year of seniority to six months; allow employees 40 hours of sick leave annually to care for an ill child, spouse, or parent; and extend one day of bereavement leave upon the death of an employee's aunt or uncle.

Kroger, UFCW Boost Pay, Agree on Health Plan Changes

About 4,000 workers at 58 Kroger Inc. supermarkets in central Indiana will receive hourly wage raises totaling between $1.25 and $4.95, depending on workers' classifications, over the 55-month term of contracts ratified April 16 by United Food and Commercial Workers members.

Initial hourly increases of between 25 cents and 40 cents are retroactive to Nov. 1, 2003, when the previous contract expired, the union said. The parties Nov. 11 agreed to an indefinite extension, and experienced "some very contentious moments" during continuing talks.

One obstacle at the bargaining table was the amount of the employer contribution to health care. While Kroger gained an 8 percent cap on its annual increase in contributions to workers' health care plans, the company agreed to make additional lump-sum payments to keep the health care fund solvent.

In addition, employees hired before 1998 who want to remain in their previous health care plan will have to make premium contributions for the first time. They also may join the plan for employees hired after 1998, for which there is no employee premium contribution and for which some improvements in coverage were made, including lower prescription drug copayments. Full-time employees hired before 1998 will receive $8,000 in cash if they switch to the other plan, while part-timers will receive $3,000. The company would not discuss differences between the plans.

Kroger also agreed to contribute 33 percent more to the pension plan over term, although benefit levels will remain roughly the same. "Nobody is going to take the pension cuts that originally were feared," UFCW said.

Pay, Pension Improvements Negotiated for Palo Alto RNs

About 2,000 registered nurses at Stanford Hospitals and Clinics and Lucile Packard Children's Hospital in Palo Alto, Calif., are working under a new three-year contract negotiated by the independent Committee for Recognition of Nursing Achievement (CRONA).

The contract, which took effect April 1, provides wage increases of 6 percent in the first year, 6 percent in the second year, and 7 percent in the third year. With the first increase, the starting salary is $33.84 an hour, and the top rate is $50.15 an hour.

The hospitals agreed to continue to contribute 5 percent of pension-eligible earnings to each RN's retirement account. In addition, the employers will increase matching contributions to a 403(b) retirement plan by 1 percent, up to a maximum of 5 percent, for nurses with at least 15 years of retirement-eligible service.

The parties agreed to designate specific nurses for some units as resource nurses who are in charge of the unit. Previously, the hospital rotated nurses who wanted to work in this position. The differential for acting as a resource nurse increased from $2 an hour to 7.5 percent of base pay.

An in-house registry for nurses that will be a pilot program for at least 18 months also is established. Nurses can register to float within certain units and areas at higher pay, based on experience. Participants in the program will not receive any benefits because of the higher salaries. An RN with two to five years of experience will be paid $45 an hour for the day shift, $49.50 for the evening shift, and $53 for the night shift. A nurse with more than five years of service will receive $50 an hour on the day shift, $55 on the evening shift, and $58.50 on the night shift.

The cap on the number of hours of paid time off that nurses can bank was lowered under the new contract from 1,040 hours to 520 hours. If a nurse accrues more than 520 hours, the hospitals each year will cash out those hours over the cap.

"We believe this agreement will help our hospitals recruit and retain the very best nurses and continue to provide the highest quality of care to our patients for which we are widely recognized," the hospitals said.

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Facts & Figures

Job Openings, Hires Rose as 2003 Came to a Close

Both job openings and hire rates increased modestly in 2003, according to figures from the job openings and labor turnover survey released Feb. 26 by the Bureau of Labor Statistics.

The December results showed that the level of job openings rose by 155,000 over the year to 2.7 million. The job openings rate stood at 2 percent in December, up from 1.8 percent a year earlier. The rate is the number of job openings on the last business day of the month as a percent of total employment plus job openings.

Hires were up by 136,000 over the year to finish at 3.1 million. The hire rate—the number of hires during the entire month as a percent of total employment—was 2.4 percent in December, slightly above the 2.3 percent rate of a year earlier.

Because the JOLTS figures are not seasonally adjusted, the agency advises data users to track changes over the year rather than from month to month. However, with the upcoming release of JOLTS estimates for January, BLS will provide seasonally adjusted data for the first time.

Also, BLS announced that starting with the release of the estimates for January, it will add JOLTS to its official economic reports. Over the last year and a half, the agency has posted the JOLTS monthly report on its Web site only, and has considered the data series developmental, as analysts reviewed methodology in preparation for making it a regularly scheduled report.

Initially funded in BLS's budget for fiscal 1999, JOLTS is a separate survey of about 16,000 business establishments. While the data have been used mainly by researchers so far, an increasing number of forecasters are starting to watch the figures for signs that demand for workers and hiring are picking up.

As a measure of unmet labor demand, the job openings statistic has shown gradual improvement in recent months, at the same time that unemployment (labor supply) has declined somewhat. Most private forecasters expect this trend to continue, as payroll employment gains are projected to become larger.

The latest JOLTS report also showed a separation or turnover rate of 2.9 percent in December, a shade below the 3 percent shown a year earlier. BLS defines the separation rate as the number of separations (quits, layoffs, and discharges) over the entire month as a percentage of total employment. The highest separation rate over the last year was 3.7 percent in August.

More information of the JOLTS report is available at http://www.bls.gov/jlt/home.htm#contact.

Job Openings and Labor Turnover, December 2003
Percentages of total employment in selected industries

Highest	Job Openings		Lowest	Highest	Hires		Lowest
3.1	Health Care and Social Assistance	Educational Services	1.1	4.7	Accommodation and Food Services	Educational Services	1.1
3.1	Professional and Business Services	Construction	1.1	4.6	Arts, Entertainment, and Recreation	Real Estate and Rental and Leasing	1.3
2.6	Accommodation and Food Services	Durable Goods Manufacturing	1.2	3.7	Construction/ Retail Trade	Nondurable Goods Manufacturing	1.5
Highest	**Layoffs and Fires**		**Lowest**	**Highest**	**Total Separations***		**Lowest**
4.6	Construction	Finance and Insurance	0.3	6.9	Construction	Educational Services	1.2
3.3	Arts, Entertainment, and Recreation	Health Care and Social Assistance	0.3	5.3	Arts, Entertainment, and Recreation	Finance and Insurance	1.3
2.9	Natural Resources and Mining	Educational Services	0.5	5.0	Accommodation and Food Services	Health Care and Social Assistance	1.8

*Includes quits, layoffs, fires, and other separations.
Source: Bureau of Labor Statistics

A BNA Graphic/btm413g1

Facts & Figures

Unemployed Member Reported by 8.1 Percent of Families

The proportion of U.S. families with one member unemployed rose to 8.1 percent in 2003, the third consecutive year that figure has increased, the Bureau of Labor Statistics reported April 20.

The 2003 figure was 0.3 percentage point higher than in 2002. In an average week in 2003, 6.1 million families had at least one unemployed member, up from 5.8 million a year earlier, according to BLS.

The data are contained in BLS's annual report on the employment characteristics of families, which compiles information on employment, unemployment, and family relationships. The data are derived from the agency's monthly employment survey of 60,000 households, known as the current population survey.

The percentage of families with an unemployed member in 2003 was at its highest level since 1994, the year BLS began compiling annual averages on family employment. In 1994, the rate was 8.5 percent. The rate bottomed out in 2000, when it was 5.7 percent, and has risen every year since then.

The agency's definition of families includes married-couple families, as well as those maintained by a man or woman with no spouse present.

The proportion of families with an unemployed member was highest for blacks at 13.7 percent, followed by Hispanics (11.1 percent) and Asians (9.4 percent). White families had the lowest rate at 7.1 percent. The rate increased for all groups in 2003 except Hispanics, who saw the rate decline slightly from 11.2 percent in 2002.

The survey also showed that the employment situation for families worsened in 2003. Eighty-two percent of families had at least one employed member, down from 82.4 percent the year before. That means 18 percent, or 13.5 million families, had no family member employed, up from a little more than 13 million in 2002.

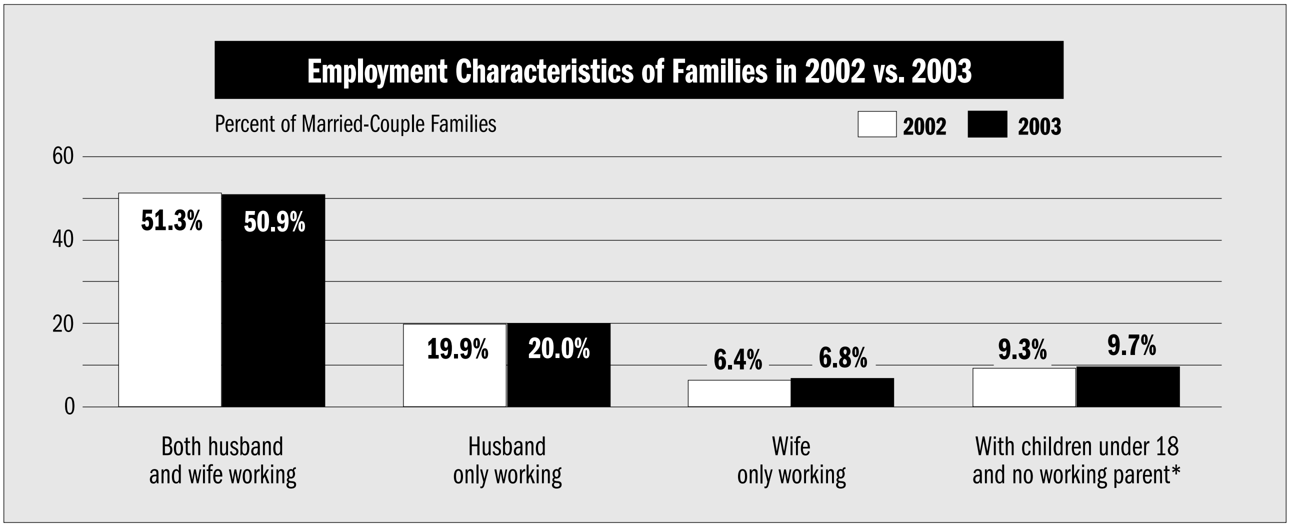
Among families with children under the age of 18, 90.3 percent had at least one parent employed, down from 90.7 percent in 2002. All of the decline was among single-parent families, BLS said. The 9.7 percent of families with no working parent translates into 3.4 million families, up from 3.3 million in 2002.

Slightly more than half (50.9 percent) of both husbands and wives in married-couple families worked, the lowest total in the 10 years the annual averages have been compiled, according to BLS. The annual average peaked in 1997 at 53.4 percent and dropped slightly over the next three years before declining from 52.7 percent in 2001 to 51.3 percent in 2002.

The proportion of married couples in which only the wife worked rose for the third straight year. In 2003, the rate rose to 6.8 percent from 6.4 percent in 2002. The proportion in which only the husband worked was little changed at 20 percent. However, that figure has increased by 0.8 percentage point since 2000, according to BLS.

The labor force participation rate for mothers with children under 18 was 71.1 percent in 2003, down by 0.7 percentage point from a year earlier. The participation rate for mothers with children under one year old fell by 2.4 percentage points to 53.7 percent in 2003.

The latest report on employment characteristics of families is available at http://www.bls.gov/news.release/pdf/famee.pdf.



Source: Bureau of Labor Statistics *Calculated from the total of families with children under 18. A BNA Graphic/de4076g1

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In the Courts

Court Says NLRA Does Not Apply To Employees Working in Canada

The National Labor Relations Act does not apply to employees while they were voluntarily performing work in Canada, the U.S. Court of Appeals for the Third Circuit ruled April 22 (*Asplundh Tree Expert Co. v. NLRB*, 174 LRRM 2929, 3d Cir., No. 02-1151, 4/22/04).

Company workers were covered by a bargaining contract while performing work for an Ohio utility. Following an ice storm, Ottawa, Ontario, contracted with the company to provide assistance in clearing electrical lines and removing fallen trees. Twenty employees volunteered for the work, and were told they would receive $25 per day for food and up to $75 a day for hotel rooms.

The company obtained lodging in Ottawa for $61 a night. Workers who thought the food per diem was too low asked the company for another $14—the difference between the $75 the company was willing to pay for rooms and the $61 it was paying.

The company refused the request, and implied complaining workers would be the first let go in an impending layoff. Two workers refused to return to work, and were told, ''this means you quit.'' When they returned to the United States, they were not allowed to resume their jobs.

Rejecting the company's argument that the National Labor Relations Board did not have jurisdiction because the conduct occurred outside the United States, the board found that the company violated NLRA by threatening the employees with layoff and discharging them.

Reversing NLRB, the appeals court decided that Congress did not intend NLRA to apply to employees working temporarily outside the country for U.S. employers.

''Although we are sympathetic to the argument that the NLRA *should* apply abroad under the circumstances here, we must determine if the NLRA *does* apply abroad,'' the court said. The ''boilerplate language'' in NLRA that might seem to authorize extraterritorial jurisdiction was not enough to overcome the presumption against extraterritoriality. ''Congress included no mechanism for extraterritorial enforcement, and did not provide a method for resolving any conflicts with labor laws of other nations,'' the court said.

Federal Labor Law Preempts California Labor Neutrality Law

A California law that prohibits employers that annually receive more than $10,000 in state funds from using those funds to assist or deter unionization efforts by their employees is preempted by the National Labor Relations Act, the U.S. Court of Appeals for the Ninth Circuit ruled April 20 (*Chamber of Commerce of the U.S. v. Lockyer,* 174 LRRM 2876, 9th Cir., No. 03-55166, 4/20/04).

Affirming a lower court's grant of summary judgment to various employer groups, the appeals court decided that the state law ''undermine[s] federal labor policy by altering Congress' design for the collective bargaining process.''

The statute, which took effect Jan. 1, 2001, states the California legislature's intent ''to prohibit an employer from using state funds and facilities for the purpose of influencing employees to support or oppose unionization and to prohibit an employer from seeking to influence employees to support or oppose unionization while those employees are performing work on a state contract.''

Employer groups sued to block the law, while AFL-CIO and other union groups intervened to support it.

Because the California statute ''directly regulates the union organizing process itself and imposes substantial compliance costs and litigation risk on employers who participate in that process, it interferes with an area Congress intended to leave free of state regulation,'' the court said.

California and unions that intervened cited several federal statutes that limit employers' use of certain federal funds to assist or deter union organizing. But the court found that the federal laws ''apply only to certain, specific federal spending'' and do not contain remedial provisions comparable to the California law. ''Given the limited application and scope of these federal statutes, we find them too ambiguous a basis for inferring congressional intent to permit California's intrusion into the collective bargaining process,'' the court concluded.

News in Brief

Executive Order Stands

The U.S. Supreme Court April 19 declined to consider whether federal labor law preempts President Bush's executive order requiring federal contractors to post notices informing employees of their rights not to join a union or to pay agency fees for non-representational purposes (*UAW-Labor Employment and Training Corp. v. Chao,* U.S., No. 03-858, *cert. denied* 4/19/04). In April 2003, the U.S. Court of Appeals for the District of Columbia Circuit rejected a challenge to Executive Order 13201 brought by the United Auto Workers, the UAW-Labor Employment and Training Corp., and the Office and Professional Employees International Union (8 COBB 51, 5/1/03).

Airline to Pay Pilots $23.2 Million

American Airlines will pay $23.2 million to its pilots' union after an arbitrator ruled that management improperly subcontracted regional flights to fly passengers in violation of its labor contract, the Allied Pilots Association announced April 16. APA filed two grievances after the Fort Worth-based carrier had contracted with two Midwest carriers to fly passengers out of St. Louis after American had furloughed pilots following the Sept. 11 terrorist attacks and the downturn in the airline industry.

IBT, DHL Agree on Job Security

The International Brotherhood of Teamsters April 14 announced an agreement with DHL that guarantees the company will not lay off any regular, full-time employees of Airborne Inc. before April 2006 as a result of the 2003 merger between the two freight companies. The change-of-operations agreement, which enhances layoff protections contained in the master contract that Airborne and IBT signed onto in July 2003, ''provides for the effective combination of the respective employees of the two companies,'' DHL said.

CPI Rose in March

Consumer prices rose in March by a seasonally adjusted 0.5 percent, the Bureau of Labor Statistics reported. Monthly data are added to *Consumer Price Index for 2004*; the BLS report is available at http://www.bls.gov/news.release/cpi.toc.htm.

Perspective

SEIU Coordinates Campaign for Contracts for 50,000 Workers

With contracts covering more than 50,000 workers at 73 health care facilities in California, Oregon, and Washington expiring this year, nine locals of the Service Employees International Union are engaging in a massive coordinated contract campaign to negotiate a set of common standards with the hospitals.

Among the issues the locals plan to bargain with all the hospitals are establishment of patient care committees that give workers an equal voice with the employer, a joint training and upgrading fund, competitive wages that would prevail within a hospital chain regardless of geographic location, fully employer-paid health insurance, and health insurance for retirees, according to Blanca Gailegos, a spokeswoman for SEIU Local 399 in Southern California.

First-Time Statewide Talks

Gailegos told BNA April 12 that this is the first time that several hospital chains, including Catholic Healthcare West and Daughters of Charity, are bargaining statewide contracts with the California locals. In addition, Sutter Health is negotiating with SEIU for its hospitals in Northern California, and more than a dozen contracts with individual hospitals in the three states are up for renewal, she said.

The CHW contracts covering about 14,000 employees at more than two dozen California hospitals expire April 30, while the Daughters of Charity contracts covering 1,600 workers at six facilities statewide expire June 30, Gailegos said. In addition, contracts covering 4,000 employees at 14 Sutter facilities in Northern California, as well as individual hospital contracts, expire at different times throughout the year.

The expiring contracts cover many classifications of workers, including some registered nurses; licensed vocational nurses; service, technical, and maintenance workers; and business office clericals, Gailegos said.

The SEIU and CHW negotiations began in February, and the parties are working toward reaching a settlement by the expiration date at the end of the month, according to the union. Local 399 and Local 121RN, both in Southern California, and Local 250 in Northern California coordinated their proposals and have joint bargaining teams at the table, she said. Once there is a settlement, all members in the locals will vote as one on the final contract.

CHW April 12 declined to discuss the negotiations.

Talks Called 'Historic Opportunity'

The union sees this year's negotiations with so many facilities as an "historic opportunity to change the course of hospital care" in California. As part of the campaign, SEIU recently issued a report, *Putting California's Hospitals on the Right Track: Workforce Investment Strategies for Affordable, Quality Care*, which outlines the problems in the hospital industry and recommends solutions.

According to the report, staffing shortages and the use of temporary personnel strain the workers, whose injury rates are higher than those in manufacturing, mining, and agriculture. Salaries of many workers have not kept up with the rising cost of large-city living, forcing workers to commute long distances and provide medical services while exhausted, the report said. The majority of hospital workers in the state do not have access to training and upgrading opportunities and cannot retire with dignity due to insufficient pension and health care benefits. Also, many health care workers do not have employer-provided health coverage for their children, according to the report.

The hospital industry has an opportunity to "chart a new course with its employees for the benefit of the patients they serve," the report said. Hospitals can either continue to put patients' health at risk due to inadequate staffing or they can join with the union to address the workforce crisis by establishing training and upgrading funds, giving workers a strong voice in patient care delivery, and setting wages at levels sufficient to recruit and retain qualified staff.

Major Union Goals Outlined

The report also expanded on several major union goals in the negotiations, including:

- Improving patient care by giving workers a voice in staffing through patient care committees. A joint committee of caregivers and managers would work together to come up with staffing solutions that work for patients and the hospitals, and if the committees become deadlocked, a neutral health care expert would settle the difference. This proposal would attract people to the industry and help ensure adequate staffing and quality care.

- A proposal to establish a joint labor-management training and upgrading fund to which each hospital would contribute an amount equivalent to 1.5 percent of caregivers' salaries. Instead of continuing to pay a premium to temporary agencies to obtain workers in classifications in which there are shortages, the hospitals should encourage their employees to upgrade their skills and move into hard-to-fill positions.

- Efforts to help recruit and retain workers by improving industry compensation standards. Many hospital jobs are not considered viable careers and the facilities cannot recruit and retain enough staff. By improving wages and benefits, including retiree health coverage and pensions, hospitals would improve retention rates and help employees make health care a long-term career.

Outside the collective bargaining process, SEIU is calling on the hospital industry in California to support a legislative package of industry reform measures to help increase access to quality, affordable health care, including opposing repeal of the California Health Insurance Act of 2003. That act requires employers of 20 or more workers to provide health insurance to their employees or pay into a state insurance purchasing pool. A ballot initiative to repeal the law will appear on the November general election ballot.

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