

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

Doctor's Council of the District of
Columbia General Hospital,

Petitioner,

and

The District of Columbia General
Hospital,

Agency.

PERB Case No. 86-N-01
Opinion No. 147

DECISION AND ORDER

The parties to this proceeding are the Doctor's Council of the District of Columbia General Hospital (Council or Union) and the Office of Labor Relations and Collective Bargaining (OLRCB) on behalf of the D.C. General Hospital (DCGH).

A dispute as to the negotiability of certain proposed items arose in connection with the parties' negotiation of an initial contract. As a result, this negotiability appeal was filed by the Council on May 27, 1986.

The issue presented by this appeal is whether fringe benefits, e.g. health, life and pension benefits, constitute mandatory subjects of bargaining pursuant to the provisions of the Comprehensive Merit Personnel Act of 1978 (CMPA) which must be bargained upon request.

The Council was certified by the Public Employee Relations Board (Board) on March 1, 1985 as the exclusive representative for a unit of employees consisting of non-managerial medical officers employed by DCGH. (PERB Case No. 83-R-11, Certification No. 30). On February 18, 1986, during the negotiations of the parties' first collective bargaining agreement, the Council submitted a set of proposals which included, among other items, pensions and health and life insurance. On April 9, 1986, OLRCB notified the Council that these fringe benefits were not mandatory subjects for bargaining and that it would not negotiate them.

The Council asserts in this appeal that these fringe benefits are included within the very broad scope of bargaining under the CMPA. More specifically, the Council directs attention

to the provisions of Sections 1-618.17(b) and 1-618.8(b) of the D.C. Code, noting that fringe benefits are not excluded from the statutory scope of bargaining. In fact, the union argues, the statutory language extends the duty to bargain to "any other compensation matters". Moreover, according to the Council, an interpretation of the CMPA as making fringe benefits mandatory subjects of bargaining is consistent with the private sector and other state and local governments within the public sector. The union contends further that under the Board's decision in PERB Case No. 82-N-01, Opinion No. 43, which defines mandatory subjects of bargaining, as those subjects which are within the scope of wages, hours and terms and conditions of employment. The proposals which are the subject of the instant appeal are mandatory subjects. Finally, the union asserts that the City Council, not the Executive, is given the discretion as to the final adoption of collective bargaining agreements.

In response, OLRCB contends that since the federal legislation that establishes health, life and retirement benefits, now covering D.C. Government employees also establishes the agency contribution rate, any change in the coverage would require legislation by the City council and acceptance by Congress. OLRCB submits that the union's demands are, therefore, illegal because the District is not authorized to vary the employer contribution rate in the absence of legislation. In support of its contention, OLRCB cites a decision of the Comptroller General (Alaska Railroad, August 6, 1981), wherein it was concluded that a federal agency could not negotiate benefits above the permitted maximum rate established by the Code of Federal Regulations.

Contrary to the union's interpretation, OLRCB reasons that Section 1-618.17 (L) of the D.C. code, which provides that collective bargaining is permissible concerning benefit programs, allows the Mayor the discretion as to whether or not he would bargain on those issues. Thus, OLRCB construes fringe benefits to be a permissive category of bargaining.

The Board finds that the applicability of the Federal Benefit programs to the District's employees is not in dispute. Similarly, the question of whether a variance in the employer's contribution rate to benefit programs would necessitate legislation is not dispositive of the issue of whether the union's proposals are negotiable.

The critical question presented by this appeal is whether management, under the provisions of Section 1-618.17, is required to bargain on fringe benefits upon request. In concluding that fringe benefits are mandatory subjects of bargaining, the Board construes Section 1-618.17 to require the negotiation of compensation-related items. Therefore, a proposal which includes pensions, health and life insurance is appropriately included within the scope of bargaining between the parties to this proceeding.

The Board notes a recent and analogous decision issued by the Federal Labor Relations Authority (FLRA). In AFGE, Local 1897 and Department of Air Force, 24 FLRA No. 41 (December 9, 1986) the Authority found negotiable the union's proposals pertaining to fringe benefits. The decision discusses at length the legislative history of the federal statute governing labor-management relations^{1/} specifically noting that "...Congress intended that matters relating to wages and fringe benefits were to be treated in the same manner as other conditions of employment" ... (T)hat is, proposals concerning them were to be within the duty to bargain under Section 7117(a)..." (Id. at p. 379)

In finding that fringe benefits are mandatory subjects of bargaining, the Board of course does not require agreement on any of these or other subjects of bargaining.

O R D E R

IT IS ORDERED THAT:

The District of Columbia General Hospital is required to bargain upon request on pensions, health and life insurance benefits.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
May 7, 1987

^{1/} 5 U.S.C. Chapter 71.

^{2/} The Authority further noted in its decision that the federal statute does not contain any language excluding the general subject of wages and fringe benefits from the definition of conditions of employment or prohibit negotiation on such matters in particular. (Id. at p. 380)