

BEFORE THE EMPLOYMENT RELATIONS BOARD  
OF THE STATE OF OREGON

AFSCME LOCAL 2831	)	
	)	
Complainant	)	
	)	CONSENT ORDER
v	)	
	)	UP – 010-09
LANE COUNTY	)	
	)	
Respondent	)	
_____	)	

I. STATEMENT OF THE CASE

On February 19, 2009, Complainant AFSCME Local 2831 (Union) filed an unfair labor practice complaint against Lane County alleging violations of ORS 243.672(1)(e). The allegations arose out of a unilateral change during bargaining a successor agreement between the parties. The County presented a proposal to changes in Article XI during bargaining. While the parties negotiated the issue, no resolution was reached. The County unilaterally implemented the change in Article 11 before bargaining was complete. The County denied the allegations and the matter was set for hearing. Prior to a hearing being held, the parties agreed to settle the case by entering into a consent order.

Following discussions between Allison Hassler, counsel of the Union and Roland Hoskins, Lane County Labor Relations Manager, the parties agreed to entry of this consent order, subject to Board approval. They also agreed to waive all further hearing on the merits before the Board as well as the right to judicial review of the order.

## II. SETTLEMENT AGREEMENT

In lieu of a hearing on the issues raised by the petition, the parties agree and stipulate to the entry of the facts and conclusions set forth below.

## III. STIPULATED FACTS

1. AFSCME Local 2831 is a labor organization under ORS 243.650(13).
2. Lane County (County) is a public employer under ORS 243.650(20).
3. The parties began bargaining for a successor agreement May, 2008. On July 15, 2008 Lane County introduced a proposal to restricting the right to sale Time Management hours (TM) from Article XI, Leave Time and Holidays. Previously, this provision had allowed employees to receive cash for accumulated TM. The County reported that the conversion of this leave time to cash was a taxable earning according to the IRC. Meaning the County was required to withhold taxes for the hours sold. The Union did not agree with the County's analysis and conclusion.
4. On December 8, 2008, the County announced to employees that it was changing the way TM could be sold. At the time, the parties were still in bargaining and impasse had not been reached. The Union was not notified of the change before all employees were notified.
5. The County's final offer after impasse was declared on January 6, 2009, contained modifications to Article XI that reflected the County's December 8, 2008 change to TM sales.
6. The parties reached a tentative agreement providing that changes to Article XI would be resolved through the Employment Relations Boards ULP process.

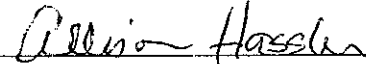
IV. STIPULATED CONCLUSIONS OF LAW

1. The Board has jurisdiction over these parties and this subject matter.
2. The County violated ORS 243.672(1)(e) by implementing the change to IM sales before the parties reached impasse.

V. STIPULATED ORDER

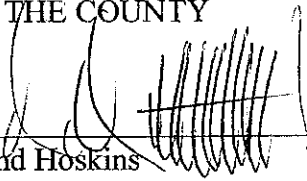
1. The County is declared to have violated ORS 243.672(1)(e) by implementing the change to IM sales before the parties reached impasse.
2. The County shall cease and desist from violating ors 243.672(1)(e).
3. The County shall request a Private Letter Ruling from the IRS. The Union shall have input into the questions asked in the ruling.
4. Status quo for Article XI prior to December 8, 2008 shall be maintained while awaiting the ruling from the IRS. After reviewing the Private Letter Ruling, either party may initiate bargaining. The status quo shall be maintained until the issue is bargained to completion.

FOR THE UNION

  
Allison Hassler  
Legal Counsel  
Oregon AFSCME, Council 75

DATE: 9-16-09


FOR THE COUNTY


  
Roland Hoskins  
Labor Relations Manager

DATE: 9-22-2009

This Consent Order is hereby approved and adopted this 27<sup>th</sup> day of September 2009.

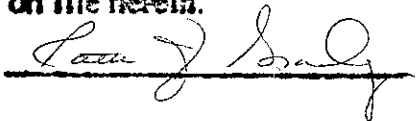
FOR THE EMPLOYMENT RELATIONS BOARD

  
Paul Gamson, Chair

  
Vickie Cowan, Board Member

  
Susan Rossiter, Board Member

**I certify the foregoing to  
be a true and correct copy of  
the original Consent Order  
on file herein.**

  
Paul J. Sady