

# The Professionals Guild of Ohio



## PGO UNION NEWS

November 2016

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### **Five More States Considering Increase in Minimum Wage**

Currently, 29 states and the District of Columbia have minimum wages above the federal minimum wage rate of \$7.25 per hour. Soon, that list could grow to 33 as Arizona, Colorado, Maine, and Washington all have ballot proposals to increase the minimum wage in those states.

Also, South Dakota, which passed a ballot measure two years ago increasing its minimum wage to \$8.50 per hour with an annual cost of living increase, has another minimum wage measure on the ballot on November 8, 2016. Shortly after the passage of the earlier ballot measure increasing the minimum wage rate to \$8.50, the South Dakota legislature lowered minimum wage rate for minors to \$7.50 per hour. The new ballot proposal will allow voters to determine if workers under the age of 18 will be entitled to the \$8.50 rate.

In some of these pending ballot proposals, it is not just the minimum wage rate that will change. There are also "hidden" wage issues being addressed. In Maine, for example, there is a provision related to restaurant servers and other tipped employees. This provision would gradually repeal a law permitting an employer

to take a tip credit toward its minimum wage obligation for tipped employees. Eventually, tipped employees would earn tips over and above the minimum wage rate being paid by the employer.

According to Jerold Waltman, a political scientist at Baylor University who has written extensively about minimum wage and politics, the growing list of states that have raised their minimum wage has little impact on changing the federal minimum wage rate. "If I'm a congressman from Alabama, what do I care that Colorado just raised the minimum wage?", says Waltman.

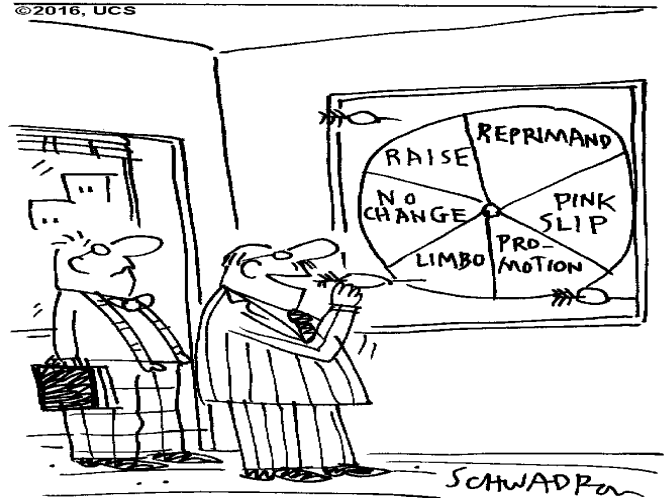


### ECOT Money Grab Claw-Back

In order to make charter schools (also known as “community schools”) more accountable in its use of taxpayer funding, the Ohio Department of Education (ODE) has begun using “participation data,” to determine whether or not on-line students are genuinely engaged in student educational activities as full-time students. For months now, the Ohio Department of Education (ODE) has been battling the Electronic Classroom of Tomorrow (ECOT) for the release of log-in/log-out records and documentation of all non-classroom educational activities.

After being subject to a court order, ECOT finally provided records for a sampling of 706 students (less than the 750 student sampling ordered by the Court). Based on its audit of these records, ODE determined that ECOT had documentation for funding of 414 of the 706 allegedly full-time students (FTE’s) whose records were submitted. On September 26, ODE issued a letter indicating that, based on its records audit, ECOT had provided documentation supporting funding for only 6,300 of the 15,300 students ECOT claims it has enrolled in 2015-16.

On September 30, the Franklin County Court ruled that the State can seek repayment of more than \$60 million of the \$106 million ECOT received in state funding last year. The Court ruling is in response to two preliminary injunctions filed earlier this summer, one filed by ECOT and the another filed by two parents of students enrolled in ECOT.



“Come in, Sims. It’s time for your annual job performance review.”

In a 28-page written opinion, the Court determined that neither ECOT nor the parents could prove there is a substantial likelihood of them succeeding on their claim the ODE is breaching its contract with ECOT, or otherwise violating either state or federal law, by using participation data to determine support funding. The Court also ruled that there is a public interest in ensuring that our children are receiving the education that our taxpayers are funding and accountability for the hundreds of millions of dollars in public money that are directed to community schools every year.

### PGO Wins Grievance Arbitration

A PGO Council 12 member employed as a Secretary 1 working in the Children Services Division in Montgomery County Jobs and Family Services requested a position audit and reclassification. In support of her request, she completed a Position Audit Questionnaire and provided supporting documentation detailing her job duties in the Mandated Services Department.

The answers in the questionnaire and the documentation established that she spent nearly 75 percent of her time in activities that were essentially the duties of a paralegal. As the worker described it, she functioned as the “legal department for the Agency... handling and processing all court entries, correspondence, etc.” The Clerical Supervisor and Caseworker Manager agreed with the submitted detail of her duties. Despite the consensus regarding





"I told my boss there weren't enough hours in my day. He said that's why they invented the night."

actual duties being performed and acknowledging that no existing job classification included the handling of legal documentation, the Agency refused to reclassify the position and the Union filed a grievance.

In the arbitration proceeding, the Agency argued that any remedy granted in the matter should apply to the worker requesting the job audit alone, as she was the only Secretary 1 employee performing such duties. However, PGO was able to establish there were unfilled Secretary 1 positions in the Mandated Services Department that would be filled by employees doing the same duties. The Arbitrator agreed with PGO that the remedy should be one appropriate for a group grievance.

Finding that the duties being performed by Secretary 1 personnel in the Mandated Services Department was more than "the routine processing of documents" set forth in the classification description, the Agency was ordered to negotiate with the PGO for a new or revised classification with a higher pay rate.

### Traffic Cameras

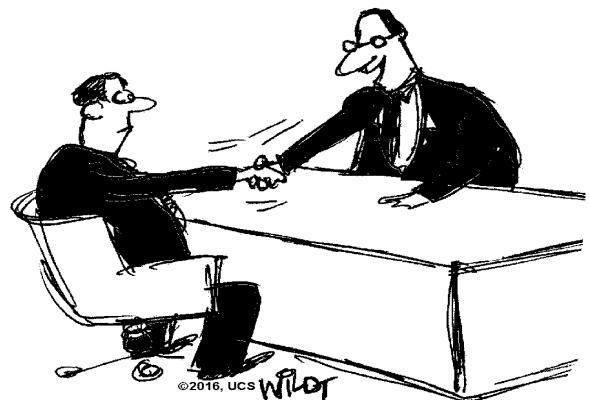
Employees who must maintain a valid driver's license for their government job must be careful to keep "points" from accumulating on their license. Even though your license may still be valid despite having a certain number of points, many liability insurance providers set a limit on the points an employee can have and still be insured when driving a government vehicle. So, government employees need to be aware of their rights when it comes to traffic violations in their personal vehicles that could impact their status to drive a government vehicle.

The latest tool being used by municipalities to monitor traffic violations is the "automated traffic enforcement camera system." These systems impose monetary liability on the owner of a vehicle for failure of an operator to stop at a traffic signal displaying a steady red light indication or for the failure of an operator to comply with a speed limitation.

The initial reaction to the use of traffic cameras in Ohio was vociferous. Many citizens objected claiming that there would be wholesale use of the cameras by municipalities as a means of raising money, having no real impact on traffic safety. In reaction to the widespread objections, Ohio lawmakers passed Senate Bill 342, imposing substantial restrictions on the use of traffic cameras. It was believed that these new restrictions would effectively eliminate the use of traffic cameras.

One of the major provisions in SB 342 is language stating that any traffic camera citation is *not* a moving violation and that "points shall not be assessed against a person's driver's license." Since the passage of SB 342 in 2014, no municipalities have adopted the use of traffic cameras and many have discontinued using them.

Still, there are a few cities and townships that continue to use these devices and those cited may wish to challenge the violation to avoid paying the fine as Mr. Fordham E. Huffman did when cited by the City of Cleveland. Mr. Huffman claimed that City of Cleveland did not publish notice of the traffic camera's location at least 30 days prior to using the camera for enforcement, as required by the Cleveland ordinance. The Court of Common Pleas agreed, and the violation was vacated.



"Congratulations. We're 'last hired, first fired' here, so everyone agreed we had to hire someone!"

**PGO Council 16 Approves Wage Increases**

Service support specialists and nurses employed by the Athens County Board of Developmental Disabilities recently approved wage increases negotiated under a wage reopener. Bargaining unit workers will receive a 2 percent increase in September 2016 and a 2.5 percent increase in September 2017. Workers that have not reached the top of their pay ranges will also receive step increases each year in September. The Union did agree to eliminate the intermediate BA plus pay range from the remaining BA and MA pay ranges.

The Union bargaining committee included Council President *Audra Harrison*, Vice President *Mark Shrivvers* and PGO Executive Director *Chauncey Mason*.

**Jim Beam Workers End Strike**

After enduring a week with its workers on the picket line, Jim Beam distilleries finally provided an acceptable contract proposal. The proposal was ratified by the union membership in a 204-19 vote.

Key issues causing the strike was the failure of the company to address its overtime process and its over-reliance on temporary workers. Due to the increased demand for Jim Beam bourbon, many employees were having to work 60-80 hour weeks.

After overwhelmingly rejecting the company's first two contract proposals with votes of 201-19 and later 174-46, the distillery workers went out on strike. To settle the strike, management included language that would increase the use of seniority and result in the hiring of more full-time employees.



"Well, it's better than no award at all."



"Oh yeah? Well I found 930 websites that say I'm not addicted to the internet."

**Chicago Teachers Avert Strike**

Up until minutes before the midnight October 10 deadline, the Chicago Teachers Union was prepared to strike. It looked like a repeat of its 2012 showdown with Mayor Rahm Emanuel. Instead, a marathon bargaining session produced a tentative agreement and classes resumed on October 11.

There is no doubt that the teachers won a major victory. The mayor was pressured to pull money out of Chicago's treasure chest of diverted property taxes, called the Tax Increment Finance (TIF) program. Hours after averting the strike, the mayor announced that he would draw \$175 million from TIF funds to fill city budget holes—including \$88 million to pay for the settlement with the teachers.

Emmanuel, like Mayor Richard M. Daley before him, had claimed that the district was broke and the only solution was for teachers to give up pay and benefits. The union changed that discussion, refusing to limit its bargaining to scraps from a continually shrinking pot of money.

The teachers insisted that the district was "broke on purpose," pointing out how the city was willing to fund glitzy development projects like the DePaul Stadium. CTU spent years making the case that TIF money should go to fund desperately under-resourced schools. The new agreement will, among other things, restore suspended step and lane wage increases and pension payments.

Source: Labor Notes, November 2016.