

## **FEB 7<sup>TH</sup> BENEFITS EDUCATIONAL**



BMWED  
EDUCATIONAL  
NOVEMBER 20, 2009  
CLEVELAND, OH

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## **FEB 7<sup>TH</sup> ISSUES & QUESTIONS**

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## WHO IS A "PROTECTED EMPLOYEE UNDER FEB 7<sup>TH</sup>?

- Employees who "have or attain ten (10) or more years' of employment relationship – *Article I, Sec. 1*
  - Term "employment relationship" means effective bidding seniority, not just years of service – *Award No. 6 , SBA 1087*

## WHICH EMPLOYEES ARE PROTECTED UNDER ARTICLE I, SEC. 1?

- Employee must have worked on full time basis in three calendar years preceding the year in which he obtained 10 years of employment relationship – *Award No. 1, SBA 1087*
- Determination is made at the time employee reaches 10 years, not the first time claim is presented.



	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
06	15	22	20	22	22	22	22	22	22	22	22	22
07	0	0	20	22	22	22	22	22	22	22	22	0
08	10	22	22	22	22	22	22	22	22	22	22	15
AVG	8.33	14.67	20.67	22.00	22.00	22.00	22.00	22.00	22.00	22.00	22.00	12.33

**WHAT ARE "SEASONAL EMPLOYEES" PROTECTED UNDER ARTICLE I, SECTION 2?**

- Any employee who has 10 or more years of service who does not fit the definition of protected under Article I, Section 1
- Protection is based on days worked in 1997, and must have worked in 1995, 96 and 1997 so no one becoming seasonally protected since 2005 is eligible for seasonal protective benefits – must be amended in collective bargaining

## **BENEFITS AVAILABLE TO ARTICLE I, SECTION 1 PROTECTED EMPLOYEES**

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- At minimum, payment of “protected rate” equivalent to straight time employment year ‘round even if furloughed
- If furloughed, continuation of all H&W benefits until recalled to service regardless of length of furlough
- Benefits continue until retirement, resignation, dismissal, death or forfeiture of protective benefits

## **WHAT IS THE “PROTECTED RATE”?**

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- “the normal rate of compensation” of the position held when the employee becomes protected under either Article I, Section 1
- Adjusted upwards for subsequent general wage increases – *Award No. 14, SBA 1087*
- Generally means the hourly rate of the position, unless overtime is so regular that it is considered part of vacation pay

## **CAN THE "PROTECTED RATE" BE LOWERED?**

- Only if employee makes a voluntary exercise of seniority to a lower rated position
  - Voluntary exercise means an employee bids to a lower rated position
  - Voluntary exercise means an employee who returns from vacation or leave and selects a lower rated position advertised during his/her absence
  - Does not mean when an employee bumps a position after job abolishment or displacement

## **WHAT IF I BUMP A LOWER RATED POSITION?**

- An employee is obligated to displace or bid to the highest rated position not requiring a change in residence
- If the employee fails to do so, he/she will be treated as occupying the higher rated position for purposes of Feb 7<sup>th</sup>
  - An employee does not lower his/her protected rate by bumping a lower rated position
- If no position available without change in residence, employee may displace any position and has no offset against protected rate

## HOW DO I LOSE MY PROTECTIONS

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- Through natural attrition -- retirement, resignation, dismissal or death; or
- “failure to retain or obtain a position available to him in the exercise of his seniority rights in accordance with existing rules or agreements,” – *Article II, Section 1*

## WHAT SENIORITY MUST I EXERCISE

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- Only seniority rights currently held; there is no obligation to bid and obtain new seniority rights
- Must exhaust seniority as provided in the agreement – this includes going to distant headquartered positions that do not offer meals and lodging unless your collective agreement provides otherwise

## WHAT OTHER WAYS CAN AN EMPLOYEE LOSE PROTECTION?

- A furloughed protected employee who does not respond for extra work when called
- Failure to take an involuntary temporary assignment to any position that does not involve the crossing of craft lines and does not violate existing seniority rules, *Article II, Section 3*

## CAN AN EMPLOYEE REINSTATE HIS PROTECTED STATUS?

- No, once protected status is gone, an employee cannot regain it except through subsequent collective bargaining



**DOES A FURLOUGHED PROTECTED EMPLOYEE  
HAVE TO REPORT OUTSIDE EARNINGS?**

- No, the Feb 7<sup>th</sup> Agreement has no provision for the offset of outside earnings