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STATE OF MICHIGAN  
DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Fact Finding  
Between LAPEER COUNTY

and

TEAMSTERS LOCAL 214

MERC Fact Finding Case No. D88E-1373

STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
DETROIT OFFICE  
1988 DEC 20 AM 9 45

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FACT FINDING RECOMMENDATION

INTRODUCTION

Pursuant to Section 25 of Act 176 of the Public Acts of 1939, as amended, and the Commission's regulations, the Employment Relations Commission appointed this fact finder on August 5, 1988 and requested that a hearing be promptly scheduled and findings and recommendations be made thereafter. Hearings were conducted on Thursday, November 3 and Thursday, December 1, 1988. During those Hearings, the parties presented numerous exhibits and the respective spokesmen offered oral testimony. The parties declined the offer to file briefs and the fact finder indicated that his report would follow within Thirty (30) Days of the close of the the last day of Hearing (December 1). The undersigned, Douglas C. Dahn, is the fact finder herein.

*Lapeer County*

*Douglas Dahn*

LABOR AND INDUSTRIAL  
RELATIONS COLLECTION  
Michigan State University

### APPEARANCES

#### For Lapeer County:

Richard Kloor, Chairman  
District 2, Lapeer County  
Board of Commissioners

Nick O. Holowka,  
Prosecuting Attorney

John Biscoe,  
County Administrator

#### For Teamsters Local 214:

Joseph Valenti  
President

### HISTORY

The parties to this dispute are Lapeer County, "County" hereinafter and Teamsters Local 214 "Union" hereinafter. The Union represents approximately Seventy Five (75) Clerical and Administrative Employees found within the various departments of the County.

The parties have negotiated several prior Collective Bargaining Agreements, the last of which expired December 31, 1987. Since that date, the parties have been involved in contract negotiations, however, have been unable to reach an agreement.

The services of a mediator have been utilized and, while most economic and non-economic items have been agreed to, there are certain issues that remain in dispute and, therefore, the Union, through its President, Joseph Valenti, petitioned for fact finding as of June 10, 1988.

The fact finding Hearings consisted of a detailed presentation by both sides supported by numerous exhibits and concluded with both sides giving oral arguments. The parties declined to file post-Hearing briefs. The material has been reviewed in great detail by the fact finder and the fact finder has been impressed by the sincerity and professional quality of the presentations, which have assisted the fact finder in defining the issues and allowing him to issue his report.

**NOTE ON FORMAT AND ISSUE SUMMARY**

The issues presented to the fact finder are grouped below and for each issue, the following format will be used.

- A. Issue identification;
- B. Discussion;
- C. Recommendation;
- D. Rationale for recommendation.

The issues for consideration are:

**Union Issues:**

- (1) length of contract;
- (2) wages;
- (3) increase in longevity;
- (4) overtime after Eight (8) Hours;
- (5) pension increase; and
- (6) paid health insurance for retirees.

**County Issues:**

- (1) length of contract;
- (2) wages;
- (3) longevity;
- (4) overtime after Eight (8) Hours;
- (5) pension increase;
- (6) paid health insurance for retirees;
- (7) prescription drug rider co-pay increase;
- (8) implement classification study; and
- (9) removal of the Friend of the Court position from the bargaining unit.

In rendering this report, the fact finder will primarily consider the bargaining unit's historic relationship with the employer as well as comparing that relationship with the other employee groups of the employer. The fact finder will also consider the relationship of this unit with like employee groups of other employers in the surrounding area. Finally, the fact finder will consider the public interest in deciding whether a particular benefit or provision should be included or excluded from the parties' Collective Bargaining Agreement.

(1)

(A) ISSUES (UNION AND COUNTY)

WAGES AND LENGTH OF CONTRACT

(B) DISCUSSION

The Union's and County's issue of wages and length of contract have been combined herein and will be discussed jointly. The Union proposes a Two (2) Year agreement; the County proposes a Three (3) Year agreement. Concerning wages, the Union

proposes an increase retroactive to January 1, 1988 of Twenty-five (25¢) Cents per hour across the board with a subsequent increase effective July 1, 1988 of Twenty-five (25¢) Cents and, thereafter, increases on January 1 of 1989 of Twenty-five (25¢) Cents per hour, with a final increase on July 1, 1989 of Twenty-five (25¢) Cents per hour.

The County proposes wage increases as follows:

<u>Percent</u>	<u>Effective Date</u>
1-1/2%	January 1, 1988
1-1/2%	July 1, 1988
1-1/2%	January 1, 1989
1-1/2%	July 1, 1989
1-1/2%	January 1, 1990
1-1/2%	July 1, 1990.

The Union strongly urges that the only equitable way to compensate members of its bargaining unit is with a cents-per-hour increase as contrasted with the County's proposal of a percentage increase. The Union points out that the other employee groups under the County's control have received wage increases of Eight Hundred (\$800.00) Dollars or more. The Union argues that their employees should receive a similar dollar increase and if the percentage concept is used, only the higher-paid employees benefit.

The County argues that it is making the same wage proposal to this bargaining unit as it has made to most of its other bargaining unit employees and to its non-bargaining unit employees.

Concerning the term of the Agreement, the Union argues that the fact finder lacks the authority to rule for a Three (3) Year period, since there is no hard data available as to what will be the County's economic position in 1990.

The County proposes a Three (3) Year agreement since it has negotiated such an agreement with the Union representing the Sheriff's employees and, thus, wishes to continue that pattern with this bargaining unit.

#### C. RECOMMENDATION

It is recommended that a wage increase be implemented, retroactive for all hours paid to January 1, 1988 in the amount of One and One Half (1-1/2%) Percent, with a subsequent increase (also retroactive) of One and One Half (1-1/2%) Percent, effective July 1, 1988. It is further recommended that the parties' wages be increased by the amount of Three (3%) Percent, effective January 1, 1989. It is recommended that the agreement's term be for a Two (2) Year period, commencing January 1, 1988 and running through December 31, 1989.

#### D. RATIONALE FOR RECOMMENDATION

This fact finder carefully listened to the argument and examined the data presented by the Union concerning a cents-per-hour increase versus a percentage increase. This fact finder would point out to the Union that the parties' pattern has been to negotiate percentage increases. Further, the record establishes that the County, with all of its employee groups, organized and unorganized, provides percentage increases. Since the parties have, in the past, negotiated percentage increases and since that is the pattern the County consistently follows with all of its employee groups, this fact finder does not believe he should change that pattern.

Concerning the amount of the recommended increase, the record shows, particularly County Exhibits B and C, that a One and One-Half (1-1/2%) Percent increase, effective January 1, 1988 with a subsequent One and One-Half (1-1/2%) Percent increase, effective July 1, 1988 is consistent with the County's pattern. Further, the record reveals that the County has regularly dealt with this bargaining unit like it deals with its elected officials and appointed department heads and, therefore, the fact finder does not believe he should deviate from that practice.

For the Year 1989, the fact finder finds from County Exhibit C that the Sheriff's Department employees shall receive a Three (3%) Percent increase effective January 1, 1989 and,

therefore, again consistent with the parties internal history, this fact finder believes that such a wage increase should also be made applicable to this bargaining unit.

Concerning the term of the agreement, the fact finder agrees with the Union that the Year 1990 appears to be uncertain from an economic standpoint. The County has outlined numerous possible economic problems and, therefore, it would seem to be in the best interests of the employees and the County to limit the term of this agreement to Two (2) Years. Thus, this fact finder recommends a Two (2) Year agreement.

(2)

A. ISSUE (UNION AND COUNTY)

INCREASE IN LONGEVITY

B. DISCUSSION

Presently, the parties have a longevity program which provides for Three Hundred Fifty (\$350.00) Dollars after Ten (10) Years of service and Six Hundred Fifty (\$650.00) Dollars after Fifteen (15) Years of service. It is the Union's position that there is sufficient funds to provide a longevity program consisting of One Hundred Fifty (\$150.00) Dollars after Five (5) Years, Four Hundred (\$400.00) Dollars after Ten (10) Years, and Seven Hundred (\$700.00) Dollars after Fifteen (15) Years.



The County proposes to increase the current longevity program in Year Fifteen (15) from Six Hundred Fifty (\$650.00) Dollars to Seven Hundred (\$700.00) Dollars.

#### C. RECOMMENDATION

It is recommended that the County's offer of increasing the longevity program after Fifteen (15) Years from Six Hundred Fifty (\$650.00) Dollars to Seven Hundred (\$700.00) Dollars be implemented.

#### D. RATIONALE FOR RECOMMENDATION

This fact finder believes that the most crucial comparable is how does the employer treat the other employee groups that it manages. When that comparable is examined, it is seen that all other employee groups have a longevity program less than what the Union now proposes and, therefore, based on that evidence, this fact finder believes that the County's offer is the most appropriate and the one that should be implemented.

#### (3)

##### A. ISSUE (UNION AND COUNTY)

##### OVERTIME AFTER EIGHT (8) HOURS

##### B. DISCUSSION

The Union has proposed that the present provision of providing overtime after Forty (40) Hours be modified to include after Eight (8) Hours and after Forty (40) Hours. The Union

maintains that Lapeer County is one of the few counties left in the State of Michigan that continues to only pay overtime after Forty (40) Hours. Further, the Union argues that Two (2) of the Four (4) Bargaining Units within the County presently have overtime after Eight (8) Hours.

The County proposes to continue its current overtime policy. The County maintains it has no control over the wages, hours, and working conditions of the Road Commission and, therefore, one should only review the employee groups within the county's control and when that is done, it is seen that the only other employee group that has overtime after Eight (8) Hours is the Deputy Sheriff's.

#### C. RECOMMENDATION

It is recommended that the present overtime provision of providing overtime after Forty (40) Hours be continued.

#### D. RATIONALE FOR RECOMMENDATION

The record establishes that most of the employee groups under the control of the County are governed by a provision that only provides for overtime after Forty (40) Hours. Additionally, it should be noted that the County treats both its organized employees and unorganized employees in the same fashion and, therefore, this fact finder is hesitant to change that practice. Therefore, it is recommended that the present overtime provision be continued.

(4)

A. ISSUE (UNION AND COUNTY) PENSION INCREASE

B. DISCUSSION

Presently, employees within the bargaining unit are provided with the MERS Benefit Program C.1. The Union proposes that the C.1 Plan be upgraded to the MERS B.2 Program which increases the multiplier factor to Two (2%) Percent, with no reduction. The Union maintains that the existing Pension Plan is One Hundred Thirty Six (136%) Percent funded and, therefore, the monies are available to provide the employees with their proposal.

The County, through its Exhibit G, argues that all employee groups, except for the Sheriff's Department, are currently under the MERS C.1 Plan. The County also points out, concerning the Sheriff's Department, that they were given the increase in pensions in order to encourage retirement.

C. RECOMMENDATION

It is recommended that the County's current MERS Plan be continued.

D. RATIONALE FOR RECOMMENDATION

The fact finder is mindful that presently, the Pension Plan is One Hundred Thirty Six (136%) Percent funded. It is also obvious that the County could, without disturbing its financial

situation, provide the additional pension benefit. Once again, a review of how the County treats its other employee groups shows that this bargaining unit is treated in the same fashion as those other groups and, thus, the fact finder is hesitant and reluctant to change that practice. Finally, a review of the benefits provided in the present Pension Plan, as set forth in the County's Exhibit G, shows to the fact finder that the current benefit is adequate.

(5)

A. ISSUE (UNION AND COUNTY)

PAID HEALTH INSURANCE FOR RETIREES

B. DISCUSSION

Presently, bargaining unit employees, upon retirement, receive no contribution toward the the cost of their health insurance. The Union proposes that some contribution be made and recommends that the fact finder consider the Seven Hundred Fifty (\$750.00) Dollars contribution, which the Sheriff's Deputies presently receive towards the cost of their coverage. The County argues through their Exhibit J that no employees of the County, other than the Sheriff's Department, receive such a benefit and, therefore, it would be inappropriate to provide that benefit to this bargaining unit.

### C. RECOMMENDATION

It is recommended that the County's present practice of not providing health insurance coverage to retirees be continued.

### D. RATIONALE FOR RECOMMENDATION

This fact finder is, of course, aware of the cost of health insurance and recognizes that employers are increasingly providing said benefit to their retirees. However, the record establishes that this employer has not provided such benefit in the past to the retirees of its various employee groups, including the unorganized and, therefore, this fact finder believes it is not appropriate for him to change that pattern. Thus, the fact finder recommends that the current practice of not providing health insurance coverage to retirees be continued.

### (6)

#### A. ISSUE (COUNTY) PRESCRIPTION

#### DRUG RIDER CO-PAY INCREASE

#### B. DISCUSSION

The present Contract provides for a Two (\$2.00) Dollar prescription drug co-pay. The County is proposing that the co-pay be increased from Two (\$2.00) Dollars to Five (\$5.00) Dollars. The Union opposes this increase in co-pay.

The County strenuously argues that this increase is necessary, due to the escalating costs of health insurance.

### C. RECOMMENDATION

It is recommended that the current Two (\$2.00) Dollar prescription drug co-pay be continued.

### D. RATIONALE FOR RECOMMENDATION

This fact finder, as he has previously stated, is aware of the ever-increasing costs of health insurance and the Exhibits presented by the County established that they are experiencing what other employers are facing in this area. The County's Exhibits, specifically Exhibit M, points out that all other employee groups within the County, under the County's control, are provided with the Two (\$2.00) Dollar co-pay drug rider and, therefore, this fact finder does not believe he should change that pattern and recommends the continuation of the current benefit.

(7)

### A. ISSUE (COUNTY) IMPLEMENTATION

#### OF CLASSIFICATION STUDY

### B. DISCUSSION

A classification study was conducted for Lapeer County and copies of that study have been made available to the Local Union and such has been briefly discussed during negotiations, but the parties have not reached an agreement as to which portions, if any, should be implemented. That study is set forth

as County Exhibit L, under the date of December 1987. It is an extensive presentation, thoroughly reviewing all of the classifications of the County with recommendations concerning a combining of many of those classifications.

It is the position of the Union that the fact finder lacks the jurisdiction to recommend the implementation of a classification study before it has been negotiated. Additionally, the Union contends that such an action by the fact finder possibly would be a violation of P.E.R.A. The Union contends that this issue should be referred back to the parties for negotiations.

#### C. RECOMMENDATION

It is recommended that this issue be remanded back to the parties for further negotiations.

#### D. RATIONALE FOR RECOMMENDATION

The fact finder is aware of the County's proposal that the classification study be implemented as to new hires only, with the current employees being grandfathered. It is the position of the fact finder that this topic is one which should be negotiated by the parties. From the evidence put forth in this record, it would appear that the parties have not had extensive negotiations over this issue and, therefore, for this fact finder to make a recommendation at this time concerning this

issue would, in his opinion, be premature. For that reason, the fact finder recommends that the parties return to negotiations concerning this issue.

(8)

A. (COUNTY) REMOVAL OF THE FRIEND OF  
THE COURT POSITION FROM THE BARGAINING UNIT

B. DISCUSSION

The County has proposed that the Friend of the Court position be removed from the bargaining unit and the Union opposes that proposal.

It is the position of the Union that the fact finder lacks the authority to recommend whether or not a position should be in or out of the bargaining unit. Further, the Union contends that the appropriate procedure would be to file a Unit Clarification Petition with the Michigan Employment Relations Commission.

The County argues that the position is not appropriately within the bargaining unit and, therefore, should be removed.

C. RECOMMENDATION

The fact finder makes no finding with respect to whether or not the position should be in or outside of the bargaining unit and further recommends that the parties pursue this issue with M.E.R.C.



**D. RATIONALE FOR RECOMMENDATION**

This fact finder concurs with the Union that the appropriate procedure for the County to follow in this matter would be to file a Unit Clarification Petition with M.E.R.C., as that is the appropriate agency to consider this issue, if the parties cannot agree through negotiations as to the proper unit placement of the position in question.

This concludes the fact finder's findings and recommendations and it is hoped they are helpful to the parties in resolving their dispute.

Respectfully submitted,

BARBIER, TOLLESON, MEAD,  
PAIGE & CARLIN, P.C.

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Dated: December 19, 1988