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DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

In the Matter of the
Fact-Finding Between:

NORTH HURON BOARD OF EDUCATION,

Employer

MERC Fact-Finding
Case No. L83 D-352

-and-

TRI-COUNTY BARGAINING ASSOCIATION,

Union

FACT-FINDING

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North Huron Board of Education

INTRODUCTION

The fact-finding hearing was held on January 30, 1984 in Kinde, Michigan, pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended. The undersigned is the Fact-Finder.

A pre-hearing conference was held on January 16, 1984 at the Michigan Education Association offices in Flint, Michigan.

There are approximately 49 employees in the bargaining unit which is described as "all certified personnel employed by the Board, excluding Administrators, Superintendent, Athletic Director, maintenance and custodial personnel, office workers, cooks, bus drivers, teacher aides or any other person employed who does not sign a standard tenure or non-tenure teaching contract".

After the close of the hearing, the Fact-Finder received a letter from the Union, dated February 6, 1984, along with a brochure description of the MESSA-PAK (a form of insurance coverage). The letter relates to the insurance issue which is discussed below. Likewise, the Employer objected in letter form on the basis that the Union violates Rule 62(h), General Rules, Employment Relations Commission. Rule 62(h) states:

- (2) An administrative law judge or fact finder has power to:
 - (h) Take official notice of generally recognized facts. Parties shall be notified either before or during the hearing of the material so noticed and they shall be afforded an opportunity to contest the facts so noticed.

The above provision is something akin to what is referred to as judicial notice. The import of the rule is to allow the fact-finder to consider certain facts without proof or evidence being submitted, i.e. laws, MERC rules, geographical limits, etc. Each party has an opportunity where the fact-finder takes such notice to contest such facts. Thus, the objection made misapplies the rule cited.

What should be considered, however, is that the document was submitted after the close of the hearing. There was considerable testimony concerning the issue of health insurance. Moreover, considerable evidence was accepted as proffered by the Employer which is nothing more than articles on health care taken from periodicals, newspapers, magazines, and no less than four brochures describing the "employer plan" were admitted. Although a fact-finding is a legal proceeding, the rules of evidence are not strictly adhered to; therefore, I will consider the Union brochure along with the other evidence. After all, one of the purposes of fact-finding is to govern all the facts and then make a recommendation.

APPEARANCES

EMPLOYER

Ed Rutledge	Consultant
John Moore	Superintendent
David Thuemmel	Board Member
Dennis Gottschalk	Board Member
John Jacobitz	SET Inc.

UNION

Jim Hobson	Tri-County Bar. Assoc.
Gary Vandermark	Michigan Education Assoc.
Doug Schroeder	MESSA Field Representative
Mary Davidson Kelly	North Huron Representative
Joyce Stanek	North Huron Representative
Mary Ann Thompson	North Huron Representative
Lee Long Field	Michigan Education Assoc.
Manuel Thies	Tri-County Bar. Assoc.

ISSUES

1. Early Retirement Incentive
2. Salary
3. Insurance
4. Calendar
5. Duration of Agreement

DISCUSSION AND RECOMMENDATIONS

The issues will be examined in the above order, although the insurance issue was presented last. It should be noted at the outset that both parties acknowledged that the hard-core issue is one of insurance. It was often admitted that if that issue could be resolved then the others would fall in place. Unfortunately, they were unable to resolve the other issues consequently, and therefore, recommendations will be made as to those as well.

Certain joint exhibits were introduced:

Joint Exhibit #1	Collective Bargaining Agreement (1980-83)
Joint Exhibit #1a	Contract changes due to 1982-83 Reopener
Joint Exhibit #2	Petition for Fact-Finding
Joint Exhibit #3	Answer to Petition

A. EARLY RETIREMENT INCENTIVE

Exhibits:	A-1	Union Position
	E-1	Employer Statement

The Union suggests that a study committee be formed, with equal representation from the parties, to ultimately make a recommendation concerning an early retirement incentive program. The Employer opposes such a committee mainly because, in effect, the result could be a form of continuous contract negotiations. The Union, however, urges that the purpose of the committee is "to develop a recommendation for implementation of such a program beginning in the 1984-85 school year, said recommendation to be subject to ratification of both parties".

Negotiation of retirement benefits or plan modifications require in-depth, careful consideration. This is also a "hard issue". Typically, complex actuarial computations, comparisons and cost evaluations are required. Although the Employer makes a good point - collective bargaining should always have a terminal point - the so-called study committee could do the time consuming fact gathering, comparisons, etc., that could well lead to a recommendation that could benefit both parties. It should be noted, however, that this kind of approach cannot replace collective bargaining concerning this mandatory subject.

Moreover, the Union suggests that such a committee make recommendations for implementation in the 1984-85 school year, which places some urgency on the development of a

recommendation. But the time of implementation of a benefit is always an issue and can be treated as such.

Early retirement, and the incentives that sometime attach, can be beneficial to both the Employer and employee, as is obvious from the use of such a program in private industry and in certain areas of public employment.

Finding/Recommendation:

A committee should be formed to develop recommendations, if possible, concerning early retirement incentives. The time, if at all, of implementation has to be made a part of the deliberations of the committee.

B. SALARY

It must be stated at the beginning of the economic issues that the Employer has stipulated that "the ancillary issue of 'ability to pay' does not exist".

They urge, however, that "[w]hile claiming no inability to pay, the Employer is, of course, concerned that the costs of any labor contract will reflect that which is reasonable, prudent and deserving of continued local support" (see Exhibit E-6).

Union Proposal:

1983-84 Salary Schedule

That the 1982-83 Salary Schedule be improved six and one-half percent (6.5%) on each step.

1984-85 Salary Schedule

That the 1983-84 Salary Schedule be improved by application of a full Cost of Living Adjustment to each step as determined in the July 1983-June 1984 rise in the CPI (US Cities Average, UC&WE), provided that said adjustment shall not be more than eight percent (8%) nor less than six percent (6%).

Employer Position: The Board proposes the following increases to each step of the 1982-83 Salary Schedule;

1983-84	5% (Retroactive to 7/1/83)
1984-85	5%
1985-86	5%

The Union submitted 24 exhibits containing wage comparisons, rankings, graphs, cost and expenditure information. The Employer produced 16 exhibits in support of their position containing similar information.

The Employer's exhibits comparing Huron County District wages places an employee with a B.A. degree earning maximum wages, 9 of 9 by rank over the last five school years. A person holding a M.A., a maximum salary is ranked 5 of 9, and below the average in the 82/83 school year.

When the tri-county area is compared, the ranking is as follows:

B.A. Maximum	16th of 19 districts
M.A. Maximum	14th of 19 districts

There is no question that the employees at the maximum rates are, in general, considerably behind their counterparts in other school districts.

The Union's request would place the bargaining unit employees more in line with the median range of the comparables. Granting their request would not unduly place a financial burden upon the Employer because in addition to all the argument, made by the Union, the Employer has had the use of these monies and the interest thereon, during the course of their negotiations. Inasmuch as there is no inability to pay as a defense to the Union's request, the Union position appears to be the more reasonable in light of all the evidence.

Finding/Recommendation:

The Union request should be granted retroactive to July 1, 1983. That is:

1983-84	6.5% (Retroactive to 7-1-83)
1984-85	Not less than 6%, nor more than 8% based upon application of cost of living adjustment as outlined in their position.

C. INSURANCE

The current provision and/or benefit is set forth in Appendix C of the collective bargaining agreement.

APPENDIX C
INSURANCE

- A. Upon submission of a written application, the school district will provide medical coverage in the form of MESSA Super Med II, premium rate as established 7-1-80 for the 1980-1981 school year and rate established 7-1-81 for the 1981-1982 school year.

- B. Persons not electing health insurance shall be eligible to participate in MESSA Options, up to the single subscriber rate for Super Med II.
- C. Effective with the beginning of the 1981-1982 school year the Board shall provide full premium payments for a 50/50 Dental Insurance Plan, for the teacher and his/her eligible dependents.

Union Position: That the Board provide without cost to the employee MESSA PAK # 1 (Variation) for the full term of the agreement. Benefits under MESSA PAK # 1 shall include:

Plan A (Persons electing health insurance)
MESSA Super MED 2
Delta Dental 50/50/50 (\$1000
Orthodonture Maximum)
\$10,000 Negotiated Term Life Insurance
w AD&D
VSP I Vision Insurance

Plan B (Persons not electing health insurance)
Delta Dental 60/60/60 (\$1000
Orthodonture Maximum)
VSP 2 Vision Insurance
\$20,000 negotiated Term Life - AD&D
\$25.00 up to single member rate for
MESSA options

Employer Position: The Board proposes the following benefit package for each year of the contract;

1983-84 Health Insurance: Fully paid MESSA Super Med 2 or MASB SET "Ultra-Med 500", selected at the option of the employee, from the date of ratification of the contract. Premium increases paid by employees since 7/1/83 would not be reimbursed retroactively and would be absorbed by the employees.
Other Benefits: As existing under the prior agreement.

1984-85 Health Insurance: Premium payment up to the level of the least expensive of MESSA Super Med 2 or MASB "Ultra Med 500." Employee may choose either program but will be responsible for payment of additional premium the over Board subsidy.
Other Benefits: As existing under the prior agreement.

Prior to the expiration of the collective bargaining agreement, the Employer paid the full cost of insurance fringes. The premium for certain additional benefits has increased since July 1, 1983. The employees have paid the additional cost of increased premium probably because the parties could not agree upon a solution to this issue.

Essentially the current plan and the updated plan suggested by the Union is also sponsored by them. The Union presented eight exhibits (A3 - A3G) in support of their position. Not one of the comparables, county-wide or tri-county, when examined, has the Employer suggested option to MASB-SET-ULTRA-MED "500". Although it is evident that four of the district units allow a choice or option relative to coverage. In each case the alternate from MESSA is Blue Cross.

The Employer submitted 18 exhibits on their behalf. The Employer seeks to have an alternative form of insurance. With the documents, there are charges that the Union has direct ties to MESSA, and that somehow this constitutes an "Orwellian visage of clone-like sameness . . .". Well, it is true, this is 1984! And we are still struggling with the age old problem - How to get the most for our money. The rub here is what all of

us realize as a problem - skyrocketing health care costs.

The Employer produced Mr. John Jacobitz as an expert on behalf of the MASB-Set program. The parties were well versed with each other, as it turned out, because Mr. Jacobitz had worked for MESSA, MEA and now MASB-Set. He was, I believe, quite candid. The program advanced by the Employer is a \$500.00 annuity stay-well program. The program descriptions are contained in Exhibits E-3e to h. He shed much light on the parties' current predicament.

From him we learned that these "carriers" compete in the same marketplace. The MASB underwriter used to underwrite MESSA. One is sponsored by the Union, the other the Michigan Association of School Boards (MASB). The difference in coverage is not appreciable. There could be a cost savings and benefit to members if employees "stayed well" - did not get sick.

Some problem areas were disclosed: the vast majority those covered by the Employer plan are administrators not teachers. In fact, he said that only one teacher group was participating. There is state-wide pool rating of claims/premiums. He acknowledged that with 50 people it would be "suicide" relative to cost; therefore, the unit must be pooled. He acknowledged that many districts had no interest in the MASB plan because of the possible cost. There could be tax implications for early withdrawal of the annuity.

The Union objects to the Employer proposal because: there are too many variables to consider and they cannot agree to have the Employer's insurance proposal because it is capped in a later contract term.

It is obviously true that the parties are competing in the marketplace for insurance coverage. You have become salespersons for a benefit package. Perhaps the employees should have a choice.

It would appear that the employees are somewhat in the middle of this dilemma. They should not suffer because the parties cannot agree. I have carefully reviewed all the data submitted and make the following decision.

Finding/Recommendation:

That the plan and its improvements in existence on this date, March 6, 1984, be continued throughout the first contract year - 1983-84. That all premiums be paid by the Employer, retroactive to July 1, 1983.

That the parties are to agree to two alternate plans to take effect in the 1984-85 contract year, because the employees should have the right to make a choice. One choice/option shall be the MESSA-PAK suggested by the Union; the other could be the Set Ultra 500. This may help to address the ever increasing costs of health care, if the alternatives are viable. The parties may have to modify their qualifications for membership in the various plans within the two options.

If the parties cannot agree to alternate plans, then the presently existing benefits as of March 6, 1984, shall continue for the 1984-85 contract year with all premiums fully paid by the employer.

D. CALENDAR

The current student attendance days are 183, and teachers work days are 186.

The Union suggests that student attendance days be reduced to 182, and teacher work days be reduced to 185.

The Employer urges the maintenance of the status quo for the reasons well stated in Exhibit E-4.

However, when compared to the county and tri-county districts, the student days appear to be approximately 2.5 above the average, and teacher calendar days are roughly 2 above the average or median. Thus it appears that the Union's request is reasonable because their proposal ". . . would still provide for maintenance of the longest student year while keeping the teacher work year . . ." above the average.

Finding/Recommendation:

The Union request should be granted for the reasons stated. It should be adopted in contract year 1984-85 inasmuch as the calendar for this year has already been set.

E. DURATION

The Union suggests two years, July 1, 1983 to June 30, 1985; while the Employer suggests three years beginning from July 1, 1983.


Obviously, because of the issues described above, specifically early retirement, salary and insurance, the contract term should be two years. This will allow the parties to target their recommendations and possible implementation of benefits.

Finding/Recommendation:

The term of contract should be two years effective July 1, 1983.

CONCLUSION

It is suggested that the recommendations contained in this Fact-Finding can, and should, serve as a basis for an agreement.



JOHN A. LYONS

Dated: March 6, 1984