

**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**MICHIGAN EMPLOYMENT RELATIONS COMMISSION**  
**BUREAU OF EMPLOYMENT RELATIONS**

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**PETITIONING PARTY:** AFSCME Council 25

And

**RESPONDING PARTY:** Baraga County Memorial Hospital

**MERC CASE NO.:** L17 G-0580



**FACT FINDER'S REPORT**

Pursuant to Michigan Labor Mediation Act (P.A. 176 of 1939 as amended)

(MCL 423.1, et seq), and

Public Employment Relations Act (P.A. 336 of 1947 as amended)

(MCL 423.201, et seq)

**Fact Finder**

Thomas B. North

**Advocates**

Union Advocate: Grant Pecor

Employer Advocate: Nick Caldwell

**PETITION FILED:** January 5, 2018

**PANEL CHAIR APPOINTED:** March 4, 2018

**SCHEDULING CONFERENCE HELD:** April 9, 2018

**HEARING DATE HELD:** July 9, 2018

**BRIEFS SUBMITTED:** July 27, 2018

**REPORT ISSUED:** August 20, 2018

**TABLE OF CONTENTS**

- 1. Introduction and Background.....page# 2
- 2. Statutory Authority.....page#3
- 3. Stipulations and Preliminary Rulings.....page#3
- 4. Comparables.....page#3
- 5. Issues before the Fact Finder..... page#3
  - a. PTO maximum accruals
  - b. Retiree health insurance
  - c. Exclusivity of Work
  - d. Longevity
- 6. Summary of Award

**WITNESS LIST**

- 1. Margie Hale
- 2. Bob Murphy
- 3. Grant Pecor
- 4. Gail Jestila
- 5. Janelle Beder

**1. INTRODUCTION AND BACKGROUND**

The Employer, Baraga County Memorial Hospital, is one of the few public, critical care hospitals in the state of Michigan. It is located just east of L’Anse, Michigan, in Baraga County of the Upper Peninsula, one of the least populated counties. Such hospitals are a creature of statute, and the equivalent of a municipality. Public critical care hospitals are smaller hospitals (with fewer than twenty five (25) beds), paid on a different basis than other hospitals, and with more legal requirements to meet. This hospital has fifteen (15) beds. The largest payer to public critical care hospitals is the Medicare/Medicaid system. Also, the mortgage of the hospital building is guaranteed by the U.S. Department of Housing and Urban Development, pursuant to a written agreement.

The Employer has 179 employees and different bargaining units. The Union, AFSCME Council 25 Local 208 includes a variety of those employees.

Bargaining sessions were held on the following dates in 2017: August 16, September 5, September 26, and October 3 (at which time, an impasse was reached). A November 2, 2017

mediation session resulted in a best offer from the Employer, to be voted on. Another mediation was scheduled for January 18, 2018, at which time the Petition for this fact finding was placed before the Employer (having been filed on January 5, 2018). There were Union proposals and Tentative Agreements in April, 2018.

## **2. STATUTORY AUTHORITY**

The statutory authority for this report is the Michigan Labor Mediation Act, MCL 423.1 et seq, and Public Employment Relations Act, MCL 423.210 et seq. Published MERC fact finding reports also reveal that many fact finders also consider the factors that pertain to Public Act 312 compulsory arbitration proceedings for police and fire departments, being MCL 423.239, in the absence of any statutory factors for fact finding.

## **3. STIPULATIONS AND PRELIMINARY RULINGS**

Both parties stipulated verbally at the commencement of the hearing to the admission of all of each other's exhibits, copies of which had been shared between them prior to hearing, for review, pursuant to an agreement at the telephonic pre-hearing conference. Exhibits were marked as designated by the letter "U" prior to the exhibit numbers for Union exhibits, and simply by Arabic numerals for the Employer's exhibits, which had been compiled and marked previously into two notebooks. However, in this report, the fact finder will refer to Employer exhibits with a letter "E" prior to the exhibit number, for consistency between the parties. The Union exhibits admitted are therefore Exhibits U1 through U9 inclusive. The Employer exhibits are Exhibits 1 through 46 (E1 through E46), inclusive. All of the foregoing exhibits were therefore admitted into the record, pursuant to that stipulation, and each was provided to the fact finder, who has maintained custody of them since. The abbreviation "Ex." is used to denote the word "Exhibit" herein.

The Advocates further stipulated that Grant Pecor, despite being the Employer's advocate, could testify, limited to his experiences as the sole remaining and available member of the Employer's bargaining team from one or more prior years. The fact finder finds that stipulation removed any potential ethical issues of an advocate testifying in the hearing. It was stipulated that Grant Pecor could give a narrative direct testimony, subject to any objections and/or cross examination.

There were no preliminary rulings requested or made.

## **4. COMPARABLES**

There were no stipulations or preliminary rulings regarding comparables. This reports contains findings concerning comparables, however. The admitted exhibits include comparables from both parties.

## **5. ISSUES BEFORE FACT FINDER**

The Union sought at the fact finding hearing to introduce evidence regarding short term disability insurance. The Employer objected on the basis that matter is not in the fact finding petition as filed. The response is that the matter was part of the Union's April, 2018 proposal, after the Petition was filed. This is the only objection posed to the Fact Finder at the hearing and it was taken under advisement. It is noted that both parties were given the opportunity at the telephonic pre-hearing conference to request a period of time within which to amend pleadings and neither party requested to do so. The Fact Finder hereby sustains the objection, since parties do not have notice and an opportunity to prepare for a hearing on matters not set forth in the pleadings.

Ex.E12 is the Employer's summary of the issues at the fact finding hearing.

### **a. 1. PTO (Paid Leave) Maximum Accruals**

Economic issue.

#### **2. Proposals**

Ex. E28 is a comparison of the parties' proposals on this issue. The Union proposed a maximum of sixty (60) days may be accumulated, and any excess unused as of the initial anniversary of the Agreement would be lost. The Employer proposed a maximum of three hundred sixty (360) hours may be accumulated (sic), any accumulation in excess of four hundred twenty (420) hours shall be paid out to employees, and accumulations in excess of 360 hours, but less than 420 hours, must be used by the initial anniversary date or lost.

After the Petition, the Union offered to agree to the Employer's proposal if a new short term disability insurance benefit were added.

#### **3. Facts/Proofs, and Statutory Criteria**

The Unions's witness, Bob Murphy, Staff Representative of AFSCME, testified regarding maximum paid accruals. Ex. U1 is Petitioner's spreadsheet including this matter. The right column of that exhibit includes the maximum accruals currently, including almost all of the comparables listed below. With no disability insurance, unless they purchase it, the Baraga hospital Union employees can only use accumulated paid time off in the event of a disability.

The Union made concessions in the last Collective Bargaining Agreement, from 2014 to 2017, and currently extended. It is now seeking to remove some concessions, according to Mr. Murphy.

Exs. U2 through 9 are collective bargaining agreements for hospitals in respectively: Ironwood, Ontonogon, Iron River, Dickinson County, Escanaba (St. Francis), Houghton (Portage Health), Schoolcraft County, and Chippewa County, all in the Upper Peninsula. They were offered as comparables. Six of the comparable hospitals have disability insurance as a benefit, and accordingly, also have lower PTO accumulations allowed.

Ex. E29 is a summary of comparables from the Employer. It includes internal comparables for Baraga hospital employees who are unrepresented or part of other bargaining units, all of which are similar to the current provision in this bargaining unit's last agreement. Two external comparables are listed, one of which, Schoolcraft County, is among the Union's comparables. Both of these comparables have lower PTO accumulation, but also have disability insurance.

Ex. E30 is the paid time off accumulated by each employee, by name as of March 31, 2018. Four employees were over the cap. Under the Employer's proposal, they would each receive in excess of \$1,000 for their accumulation over 420 hours, and then also have up to one year from the date of the Agreement to use another 60 hours accumulated (between 360 and 420 hours), before losing any that were unused at that time.

Gail Jestila, Chief Financial Officer of the hospital, testified that an overall high accumulation of PTO is reflected in liabilities on the hospital's balance sheet. Margie Hale, Chief Executive Officer of the hospital, testified that this year, when two employees left, the payout for accumulated PTO was over \$16,000.

It is found from the proofs that all of the above facts in this subsection, are true and correct, and that there are no disputes as to any of those facts.

The Union argues that the PTO accumulation proposed by the Employer, although still higher than all of the comparable hospitals in the evidence, does not rise to the level of leave offered, when there is also disability insurance as a paid benefit, and is not competitive with contracts at other hospitals.

The Employer argues that the vast majority of the Union's comparables are not similarly situated, because those hospitals operate under different circumstances than Baraga. The Employer claims that among the Union comparables, only Schoolcraft County is similarly situated, as a public sector hospital with a similar number of beds. Dickinson, Chippewa, and Portage are not designated critical access hospitals, and in a related matter, five of the Union's comparable hospitals are part of larger health care systems, that can spread finances, employees, billing etc., over more than one hospital. Baraga and other critical access hospitals "stand alone." Further, Margie Hale testified that Dickinson County Hospital lost \$12,000,000 last year, although it is found that does not totally invalidate it as a comparable.

The Employer argues, however, that Helen Newberry Joy Hospital is a critical access hospital in the U.P. with a similar number of beds, and is a comparable.

It is found that Schoolcraft County and Helen Newberry Joy Hospitals are more similarly situated to Baraga County Memorial, for the reasons argued by the Employer. It is noted that the Union did not offer any arguments to the contrary.

As far as the statutory factors in MCL 423.239, part of PA 312, , which are often applied in fact finding, there were proofs as to some, but not all. For example, there was no evidence introduced

in this case as to the cost of living, or any changes while this fact finding case has been pending. Further, there is no question raised in this case as to lawful authority of the employer.

Evidence as to comparables for this issue is summarized above. Despite it not having been argued by the Union, the defect in the Employer's argument regarding comparables is that the statute from Act 312 proceedings, applied by default and analogy in fact finding, requires consideration of private employment in comparable communities as well. Therefore, while other public sector critical care access hospitals are MORE similarly situated to Baraga, private hospitals are also considered as comparables. It is found that all communities presented in the exhibits are comparable, but that distinctions between public and private hospitals are to be taken into account, as are distinctions between hospitals that are part of larger health systems, which are less similarly situated to Baraga. The Employer's internal comparables from other bargaining units are also considered under the statute.

It is found that as to this issue, the comparables favor the Union's position against cutting PTO accumulations, on the basis that the majority of comparable hospitals include a disability insurance benefit, which reduces PTO that needs to be accumulated. Although this Fact Finder has sustained an objection to disability insurance being included among the issues, it is still a factor to use in determining the consideration of comparables. However, this is blunted by the Employer's proposal that affected employees each receive cash in excess of \$1,000 for hours of eliminated accumulation in excess of 420, making this a close issue, only slightly weighing in favor of the Union.

Further, the remaining statutory factor as to which evidence was presented is that of the financial ability of the hospital to pay, including: (i) financial impact on the community and any award, (ii) the interests and welfare of the public, and (iii) all liabilities, whether or not they appear on the balance sheet. Further, under the statute, the financial ability is to be given the most significance, if supported by competent, material, and substantive evidence.

It is found that the following are facts supported by competent, material, and substantive evidence.

Gail Jestila stated that critical access hospitals are municipalities, so they have employee benefits of an average of 40% or more of wages, that private entities do not, at 20-30% of wages. But critical access hospitals also do not receive tax revenues directly, creating financial problems to pay those benefits. Ex E16 is a GASB Income Statement for this Employer, with GASB being the Government Accounting Standards Board, to whom the Employer has to report. GASB has rules that must be followed. That exhibit shows a loss of over \$600,000 for the eight months from October, 2017 through May, 2018. Page 4 of Ex. E17, audited financial statements, shows a net position decrease (loss) of \$669,000 for the fiscal year ended September 30, 2017. (However, there was a net position increase the prior year, 2016, as pointed out by the Union, although of a much lesser amount of \$277,000). The hospital is losing even more money currently (Ex. E16B). Ms. Jestila stated that Ex. E16A, the balance sheet as of May 31, 2018, is unhealthy. In 2015,

there was a drastic change (Exs. E25 and 26), in that the Employer had to begin reporting a previously unfunded pension liability through MERS, the state's municipal retirement system.

The pension is a defined benefit retirement. The unfunded liability was previously known, but did not have to be reported until a GASB pronouncement, "Statement 68", in 2015. The vast majority of accrued salaries and benefits in the financial statements are for PTO accumulations (with the rest being current payroll, including withheld taxes). There is \$1,100,000 in unfunded pension liabilities for retirees (shown as \$734,000 in the exhibits, but that will increase with required changes this fiscal year from "Statement 75" in Ex. E26). As of September 30, 2018, the discount rate has to be looked at. Ms. Jestila fears that the Employer will be unable to pay. The system is pressuring the Employer to fund pensions at 100%, unlike the past.

The agreed guarantor of the Employer's hospital building, the U.S. Department of Housing and Urban Development, requires the hospital to turn a profit. If there is a loss, it can require a business plan be drafted and filed. Ms. Jestila stated that HUD has assigned a representative to work with this Employer, and based on contact with that representative, "HUD is getting nervous", although it understands the struggles with unfunded pensions. If a business plan were required and filed, and if HUD "doesn't like it", it can then require the hospital to contract out to a third party for creation of a new business plan, or take over operation of the hospital. HUD can also take the Employer's bank accounts and buildings, as collateral on the mortgage. The HUD representative has stated that HUD has taken over hospitals before. HUD looks at the Income Statement, and also the ratios on the Balance Sheet.

Essentially, GASB Statement 68 put unfunded pensions on the financial statement, which kicked in HUD concerns under Ex. E27. Page 7, of Ex. E17, in the Hospital column for 2015, shows the adjustment for valuation of net pension liability of a negative \$4,664,000, which Ms. Jestila testified is actually closer to a negative \$7,500,000, due to further changes that are coming. However, the hospital paid \$2,000,000 on that since, in 2017 (not yet reflected in the financial statements).

#### **4. Recommendations**

It is recommended that the Employer's proposal be adopted. Despite the comparables weighing in the Union's favor, that is blunted significantly by the Employer's proposal, including a provision that affected employees be compensated with cash for accumulated PTO that is eliminated, which is reasonable. More importantly, the statute requires giving the most consideration to financial ability. The Fact Finder only recommends a proposal that cuts a benefit, due to the evidence of financial inability to pay it in full.

The Fact Finder believes that this and the other issues before him must be viewed from a "big picture perspective" as a starting point. Not only is it always best to see the big picture, but taken to their logical conclusion, the facts as proven show that it is in the best interests of both parties, as well as current and near-future employees, for Baraga County Memorial to continue as a

public sector hospital. Even a cut of a benefit like PTO accumulations, in numbers of hours, on top of concessions in the last contract, pale in comparison to current employee benefits being preserved. Even with cuts, employee benefits at public sector hospitals are one and a half to two times greater as a percentage of wages, than at private sector hospitals. Employee benefits like PTO accumulations are particularly valuable in remote, rural, low population communities like Baraga County, that lack diversity of employment opportunities.

It is found that there is a real risk that Baraga County Memorial Hospital may have to be sold to a private hospital, like Dickinson County Hospital; may have assets foreclosed upon by HUD as has happened elsewhere; may be taken over by HUD, the effect of which is not established in evidence; or may have to file a business plan or contract for one at great cost for HUD. The evidence supports the reality of those risks. Those risks are present due to the current financial loss being experienced (despite a profit of a lesser amount in 2016), which is not allowed by HUD, the mortgage guarantor. That loss, in turn and in great part, is caused by the previously unfunded pension liability now having to be carried "on the books" by Statement 68 from GASB being in effect, and the pressure to fully fund pensions at 100%. These entities, HUD and GASB, must be complied with by a public sector hospital. So, although the unfunded pension liability was known, it did not create jeopardy at the time with HUD, when it was not reflected in the financial statements. Therefore, despite the concessions in the last contract, the time is now to balance the hospital's books for future financial stability. This is not the fault of any party or the employees; it is a matter of timing and reality.

#### **b. 1. Retiree Health Insurance**

Economic issue.

#### **2. Proposals**

Ex. E31 is the Employer's summary of comparison of proposals on this issue. The Employer essentially proposes to cut this benefit of payment of single subscriber medical insurance premiums for the first three years after retirement of an eligible employee, for all employees retiring after June 30, 2018. The Union proposed that this benefit be kept for all eligible retiring employees. After petitioning for fact finding, the Union proposed that current employees with twenty (20) or more years of service would be eligible for this continued benefit, that current employees with fewer years of service would be enrolled in MERS (municipal retirement) with matching 1% of earnings contributions by employer and employee, and that new employees hired after an Agreement became effective would not receive retirement health insurance benefits.



### 3. Facts, Proofs, and Statutory Criteria

Gail Jestila testified that Respondent is trying to eliminate health insurance for retired union employees as a cost cutting effort. Ex. E31 includes the current provision between the parties that has been extended, under which the employer pays 100% for three years after retirement.

The Union did not address this issue in its proofs or post-hearing Brief. Ex. U5, comparable from Dickinson County, includes retiree paid health insurance, with it becoming secondary at Medicare age. Retiree health insurance was not found in other Union exhibits.

Ex. E32 is the Employer's comparables as to this issue. At Helen Newberry Joy Hospital, a 3% employer contribution for a Section 510(C) (9) Post-Employment Health Plan, must be made through MERS (p. 41 of Ex. E23). The Employer argues that employees of that hospital opted to receive less pension in exchange for the employer contributions to health insurance on retirement. As to its internal comparables, other bargaining units at Baraga have provisions very similar or identical to the current AFSCME provision, only AFSCME has 100% payment by the hospital (testimony of Gail Jestila). The other units have a dollar amount paid by the Employer. Retiree health insurance for unrepresented staff terminated June 30, 2108 ( Ex. E34).

In Ex. E16A, the hospital's Balance Sheet for the month ended May 31, 2018, the left column is for the year to date (from October 1, 2017). Under the Liabilities section, the "Postemployment benefit obligations" line is the actuarials for retiree health insurance for current employees, single subscriber rate for three years from retirement. The amount of liability is \$734,412. Gail Jestila testified that amount is going up to about \$1,100,000 when required accounting changes are made this fiscal year. Exs. E25 and E26 are GASB press releases regarding changes to require the full liability to go onto the books, i.e., the increase to \$1,100,000. In Ex. E25, Statement 75 is to be enacted this year, the first fiscal year beginning after June 15, 2017. Ms. Jestila fears the hospital will be unable to pay this liability. She stated the hospital has \$6,000,000 of unfunded liability in a shrinking reimbursement environment, yet HUD requires a profit.

The Findings of Fact as to financial ability of the hospital are the same for this issue as for the prior issue, PTO Maximum Accruals. The Union argues in its Brief that per Ex. E34, as of June 30, 2018, postdating Ex. E6 (sic – actually Ex. 16A), the postemployment benefit has been cut from unrepresented employees, who according to Ex. E33 are 60% of the employees previously eligible for retiree health. Ms. Jestila's testimony did not clarify whether the line item in Ex. 16A includes those unrepresented employees or not, and it must be found therefore, that they were included and that the actual liability after June 30, 2018 will be greatly decreased by very roughly 60%. (The Employer's post hearing brief, at the top of page 16, although also not clear, is read to confirm that the elimination of the benefit for unrepresented staff was subsequent to the actuarial determination of a prospective liability of \$1,100,000). However, the remaining amount of liability is still very large and although now will be fully "on the books", is still unfunded. Regardless, the AFSCME unit accounts for approximately 20% (Ex. E33) of the \$1,100,000 prospective liability, or about \$220,000.

The hospital argues that the paid retiree health insurance for all future retirees of the hospital, including AFSCME, is necessary to financially preserve health insurance benefits for employees during retirement, and it is so found. It is also found that this benefit is rare among comparables.

It is also found that there is not financial ability to recommend the Union's most recent proposal that included 1% employer contributions to a health savings plan, which would cost even more (\$36,000 per year).

#### **4. Recommendations**

It is recommended that the Employer's proposal be adopted, due primarily to the same financial ability findings contained in the recommendations on the last issue, and secondarily due to the lack of comparables, except one.

##### **c. 1. Exclusivity of Work**

Economic issue.

##### **2. Proposals**

Ex. E37 is the Employer's summary of proposals as to this issue. The Union proposes no change to the current agreement, which provides that exclusivity of work is not granted to any classification, and performance of bargaining unit work by non-bargaining unit personnel shall not result in layoff or reduction of hours. The Employer proposes addition of the following language: "***For example, supervisors may fill in for employees under their supervision to avoid unnecessary overtime where individuals are absent or on leave.***" After the petition was filed, in April, 2018, the Union counter-proposed adding the language, "**and a bargaining unit employee is not available**" at the end of the Employer's proposed language (Ex. E14A).

##### **3. Facts, Proofs, and Statutory Criteria**

Margie Hale testified that supervisors regularly "work the floor", especially in radiology, the laboratory, financial/purchasing, the kitchen, housekeeping, maintenance and IT. She stated that sometimes, it is necessary for supervisors to just perform the work. She said the Union's counter-proposal would require payment of overtime and negatively impact not only the Employer, but also employees, who would have to take more calls, or have hours cut if the Employer had to hire more people to cover the floor work. It is found that this would only partially be true, since supervisors would still be used for the work if no bargaining unit employee were available. And Ex. E37 says the Union is proposing no change in the agreement, so it is not found that original proposal would create any additional negative impact on anyone, as there was no evidence of significant negative impact occurring from the current language. However, it is also found that the Employer expressly seeks to avoid paying "unnecessary overtime", with emphasis on the word, "unnecessary."

Ms. Hale also testified that Ex. E39 is a copy of a grievance filed by an employee and the outcome of that. Although the grievance was denied as untimely, she stated it points up the need to clarify this area with the Employer's proposal. However, it is found that Ms. Hale also denied the grievance on the substantive basis that no violation of the existing contract was established. Taking that as true on its face, Ex. E39 cannot constitute a basis to have to change the current agreement for clarification. Also, it is found to be one isolated instance.

Ex. E38 is the Employer's summary of its comparables on this issue. As for internal comparables at Baraga, one other unit has no similar provision, and the other two have letters of understanding that are similar to the current agreement with AFSCME. Schoolcraft Memorial has no similar provision, and Helen Newberry Joy includes the right of management to use working supervisory/managerial personnel.

Among the Union's comparables, Ex. U3, from Ontonogon Hospital, contains a provision similar in effect to Baraga's current language (on page 11). Ex. U9, from War Memorial Hospital in Chippewa County, also contains a similar provision, but it expressly only applies "in emergencies, to protect patients, to protect safety of employees and/or Hospital equipment, (and) in instructing employees...". The rest of the Union's comparable exhibits are found to not include a specific provision, but some do include in management rights, references to general rights to staff of their respective hospital.

Without making any finding or recommendation as the Management Rights section of the current agreement, which is not at issue and only generally applies, the findings are instead as to specific provisions addressing work by non-bargaining unit personnel. The comparables are found to favor the Union, however the Union's presentation is not clear as to which of its proposals (original or counter-proposal) is sought to be recommended at this point.

The difference in positions is one of whether, when a bargaining unit employee is absent or on leave, and another bargaining unit employee is available on payment of overtime, the supervisor should just be able to perform the work, rather than calling in an overtime employee.

The Employer's financial ability is again the most significant factor. However, it is found that the financial impact of this issue is not very significant, since there was no evidence of the amount of overtime being paid that is unnecessary.

It is found that, while the Employer's motivation is reasonable, e.g., to avoid paying unnecessary overtime, its proposed language is not necessary to be added to the current agreement language to accomplish that. There is no evidence that the current agreement is being violated when the Employer's supervisors or other non-bargaining unit employees perform work of the bargaining unit to avoid payment of overtime, as long as it does not result in a reduction of employment or paid hours. It is specifically found that the current agreement as extended, Ex. E3, safeguards the Employer's management rights broadly, and expressly grants the Employer discretion over approving overtime work.

#### **4. Recommendations**

It is recommended that the Union's original proposal be granted, that the current contract language remain unchanged. This recommendation is based on the findings above as to the current agreement's protections against the Employer paying for overtime work that it believes unnecessary, when non-bargaining unit personnel are available instead.

##### **d. 1. Longevity**

Economic issue.

##### **2. Proposals**

Ex. E40 is the Employer's summary of the parties' proposals as to this issue. The Union proposes increases in the percentage of annual gross wage that constitutes longevity pay, for employees with over 2,080 hours. According to the testimony of Margie Hale, the Union agreed to a wage proposal that is not a fact finding issue, but tied that agreement to their longevity proposal. The Employer proposes retention of the current percentages.

At the outset, as to this issue, it is acknowledged that at the end of the hearing, the parties through their attorneys, verbally stipulated that the Fact Finder not make any findings or recommendation on wages, but just longevity and the three other issues above, including possibly short term disability, pursuant to the objection that was pending and under advisement at the time.

##### **3. Facts, Proofs, and Statutory Criteria**

Ex. U1, prepared by Bob Murphy, is the spreadsheet, and includes a third column, longevity adjusted to the highest rate an employee can reach. Longevity was reduced in 2011 in the last collective bargaining agreement, and Petitioner is attempting to address this. The exhibit includes longevity for the Union's comparable hospitals from exhibits U2 through U9. Mr. Murphy testified that the comparison was difficult, due to different job duties at different hospitals and he did not go through job descriptions. He acknowledged that there could be math errors in the exhibit. However, he definitively stated that Baraga has fallen behind in the U.P. employment market for pay for higher years of service, due to its longevity language in the current contract. Baraga's longevity was reduced in the contract that started in 2011. Baraga's starting pay rates are clearly within the range, and \$.51 per hour above average. But the maximum pay rate at the top end of years of service is \$1.09 below average. (Ex. U1, first page, right two columns).

Margie Hale testified that the Union's proposal is not acceptable due to the cost. That is shown on Ex. E40 as approximately \$24,000 per year in increases.

Ex. E45 corrects errors in Ex. U1 as to the math of longevity. Ex. E46 breaks longevity into an hourly rate and shows the impact. Ex E36 shows that Baraga Memorial has a lot of longevity of employment despite lower longevity rates, which are acknowledged by the Employer through its attorney.

Ex. E41 is the Employer's comparables. Its external comparables, Schoolcraft and Helen Newberry Joy hospitals, are shown to have no longevity pay at all. The same goes for two on the internal comparables, other bargaining units at Baraga. The remaining unit at Baraga and its unrepresented staff are shown to have the same longevity schedule as in AFSCME's current agreement.

Each parties' comparables are found to clearly support their respective positions. In the same way as the first issue above (PTO), all comparables presented are considered, but the Employer's two external comparables are found to be more similarly situated, among all of the external comparables. For that reason, the comparables are found to slightly favor the Employer's position.

Applying the statutory criteria for guidance, the Employer's financial ability is given the most significance, and also favors the Employer for the same reasons as stated above as to the first two issues.


#### **4. Recommendations**

It is recommended that the Employer's proposal be adopted. This issue is viewed very similarly to the first issue above (PTO) as a purely economic issue. It would be best if the Employer's longevity schedule (and perhaps also starting pay) compared more competitively to other, albeit larger, hospitals in the U.P. However, the lack of financial ability for the reasons stated above are of the greatest significance, and secondarily, the more similarly situated external comparables presented by the Employer. Further stabilization of Baraga's finances is necessary to try to ensure that it continues as a critical care, public hospital, with greater overall employee benefits than those found at private hospitals, even if some, including longevity, are less than at those comparable hospitals.

**6. SUMMARY OF AWARD**

<b>ISSUE</b>	<b>/</b>	<b>RECOMMENDATION</b>
<b>PTO Max Accruals</b>	<b>/</b>	<b>Per Employer's proposal- max accumulation 360 hrs., current accumulation between 360 &amp; 420 hrs. used by one yr. anniversary or lost, in excess of 420 compensated</b>
<b>Retiree Health Insurance</b>	<b>/</b>	<b>Per Employer's proposal – retain benefit only for eligible unit employees who retired by June 30, 2018</b>
<b>Exclusivity of Work</b>	<b>/</b>	<b>Per Union's proposal – retain current contract provision</b>
<b>Longevity</b>	<b>/</b>	<b>Per Employer's proposal – retain current contract provision</b>

August 20, 2018



Thomas B. North

MERC Fact Finder