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State of Michigan

Department of Labor & Economic Growth

Employment Relations Commission

FACT FINDING REPORT AND RECOMMENDATIONS

In the matter of fact finding between

Independence, Charter Township of

and

Teamsters, Local 214

Michigan Employment Relations Commission Case No. D09 G-0822

DATE OF FACT-FINDING PETITION:	February 16, 2010
DATE OF PRE-HEARING CONFERENCE:	April 22, 2010
LOCATION OF PRE-HEARING CONFERENCE:	telephone conference
DATES OF HEARING:	August 5, 2010
LOCATION OF HEARING:	Clarkston, MI
DATE HEARING CLOSED:	August 5, 2010
FACT FINDER:	Gregory M. Saltzman

APPEARANCES:

For Independence Township:

Mr. Gregg Schultz, Esq., Roumell & Lange, P.L.C., outside counsel

Ms. Carol Gabrin, director of human resources, Independence Township

Mr. John M. Lamerato, assistant city manager for finance and administration, City of Troy, expert witness

Mr. Dave Wagner, township supervisor, Independence Township

For Teamsters Local 214:

Mr. Michael R. Landseidel, business representative, Teamsters Local 214

Mr. David Belcher, bargaining unit member

Ms. Julie Meredith, bargaining unit member

Ms. Katherine Poole, bargaining unit member

Ms. Linda Richardson, bargaining unit member

I. General Background

The Charter Township of Independence (hereinafter the Employer) has a population of approximately 36,000 and is located in Oakland County in southeastern Michigan. The Employer has ongoing collective bargaining relationships with units represented by AFSCME and the IAFF. Teamsters Local 214 (hereafter the Union) was certified in 2008 as the bargaining representative for another unit of Independence Township employees, consisting of supervisory personnel (department directors, department assistant directors, administrative assistants, and librarians) in the following Independence Township departments: Parks & Recreation, Library, Public Works, Finance, Building, Senior Center, Facilities, IT, and Administrative. There were 19 members of the bargaining unit as of the date of the fact finding petition.

The parties attempted to negotiate their first contract but were unable to reach agreement, despite the assistance of a MERC mediator. The Union petitioned for fact finding. The petition listed the following unresolved issues: health care, wages, longevity, number of paid holidays, holiday pay if the day is worked, and duration of agreement.

The Employer and the Union reached tentative agreement on many issues prior the fact-finding hearing in August 2010, and there was further convergence in the positions of the parties at the time the parties submitted their briefs (August 30, 2010, for the Union; September 8, 2010, for the Employer). The principal issues remaining in dispute as of the time of brief submission were:

- ***Health Insurance:*** The Employer proposed a larger increase in employee and retiree contributions to premiums than the Union was willing to accept. The Employer and the Union also differed on the amount of the annual payment to any employee who elects not to be covered by the Employer's health insurance plan. The parties differed on copays for prescription drugs, too.

- ***Dental and Optical Insurance:*** The Employer proposed either beginning employee contributions to premiums for dental and optical insurance or eliminating such insurance and replacing it with a defined contribution plan in which each employee receives reimbursement of up to $1,000 per year for dental and optical expenses.

- ***Wages:*** The parties disagreed about whether wages for 2012 and 2013 should be frozen by this contract or determined by a subsequent contract.

- ***Overtime Pay:*** The parties disagreed about whether paid but nonworking time should continue to be included when calculating eligibility for overtime pay for hours in excess of 40 per week.

- ***Longevity Pay:*** The Employer proposed suspension of longevity pay.

- ***Paid Holidays:*** The Employer proposed eliminating two paid holidays.

- ***Bumping Rights:*** The parties disagreed about whether department heads should be granted bumping rights in the event of layoff in the department head's classification.

- ***Vacation Days:*** The Employer proposed reducing the number of vacation days for employees with more than 20 years of service.

- ***Township Vehicles:*** The Employer proposed eliminating the car allowance for certain bargaining unit members.

- ***Duration of Agreement:*** The Employer proposed a three-year contract from the date of ratification, while the Union proposed a three-year contract from January 1, 2009.

On a personal note, I apologize to the parties for the delay in completing my fact finding report. I recognize the importance to the parties of a prompt report. A few days before I received the post-hearing briefs, however, my father became gravely ill; and he died on September 6. I had to put aside this fact finding report while I attended to my dying father, selected a funeral plot for him, worked on settling his estate, and took care of my elderly mother's finances. And I decided it was fair to finish my work on MERC cases in the same order in which the hearings occurred. I therefore completed a fact finding report for which I held hearings in July and an Act 312 arbitration award for which I held a hearing in July before I finished my fact finding report in this case, for which I held a hearing in August.

II. The Proposals of the Parties

The detailed proposals of the parties as of the time they submitted briefs were as follows:

Health Insurance

The parties tentatively agreed on significant cutbacks in health insurance. First, they tentatively agreed on a less generous benefit design, with higher out-of-pocket payments for medical goods and services but lower monthly premiums. Bargaining unit employees had been covered by the Blue Cross-Blue Shield of Michigan Community Blue PPO1 plan, and the Employer proposed switching to the PPO4 plan, which had much higher out-of-pocket payments. The parties tentatively agreed on the BCBS Community Blue PPO2 plan, which has higher out-of-pocket payments than does PPO1 but lower ones than PPO4. The reduction in premiums by switching from PPO1 to PPO2 is substantial. As of September 1, 2009, the one-person premium was $616.06 per month for PPO1 vs. $442.06 for PPO2, the two person-premium was $1,386.15 for PPO1 vs. $994.61 for PPO2, and the family premium was $1,663.38 for PPO1 vs. $1,193.57 for PPO2 [Union Exhibit 12].

Second, the parties tentatively agreed on changing employee contributions for health insurance premiums. Employees had contributed either 1% or 2% of salary (depending on hire date) for health insurance. The parties tentatively agreed on employee contributions of 10% of the cost of health insurance for the period from January 1 through September 30, 2009.

How does this change in contribution formula affect the amount that each bargaining unit member contributes? This depends on each individual's salary, whether he or she was subject to the 1% or the 2% of salary contribution rate, and whether he or she has one-person, two-person, or family health insurance coverage. Salary data were presented in Union Exhibit 10 and Employer Exhibit 2, while the latter also presented the annual cost for health insurance and the annual employee contribution for health insurance under the old contribution formula. I used the listing of bargaining unit members in Union Exhibit 11 to determine which employees in Employer Exhibit 2 were in the bargaining unit. I used the information on monthly insurance rates from Union Exhibit 12 to determine which employees had one-person insurance coverage. Based on this analysis, I determined that only one bargaining unit member would make lower contributions for health insurance premiums under the 10% of premium system than under the old system; this individual had a relatively low salary, was hired recently enough to be subject to the 2% of salary rate, and had only one-person insurance coverage. Even this individual, however, would save only about $100 per year under the 10% of premium system based on the September 1, 2009, insurance rates. As insurance rates climb faster than salaries, this individual will soon be paying more under the 10% of premium system. All 18 of the other bargaining unit members would contribute more under the 10% of premium system than under the old 1% or 2% of salary system. Thus, the tentatively agreed change in the system of employee contributions for health insurance premiums, like the switch from PPO1 to PPO2, represents a cutback in health insurance.

Third, the parties tentatively agreed to raise from 55 to 60 the minimum age at which department heads can receive retiree health insurance.

Nevertheless, **the Employer wants additional cutbacks in health insurance that the Union rejects.** The Employer wants employees to contribute more than 10% of premiums as premiums rise. Initially, the Employer proposed that employees contribute 50% of the cost of all premium increases that occur on or after October 1, 2009 [Employer Exhibit 1]. In the Employer brief of September 8, 2010, however, the Employer compromised somewhat and proposed that employees contribute 35% (rather than 50%) of the cost of all premium increases that occur on or after October 1, 2009.

As health insurance rates rise, the employee contribution would rise above 10% under the Employer proposal. For example, suppose that insurance rates double (which would take 5 years if insurance rates rise 15% a year, or a little over 10 years if insurance rates rise 7% a year). An employee would contribute 10% of the original amount and 35% of the increase, which works out to contributing 22.5% of the new total.

In the Union brief of August 30, 2010, the Union proposed that employee contributions remain at a constant 10% of premiums.

Similarly, the parties disagreed about retiree contributions for health insurance premiums. The Employer proposed that retirees and retiree spouses pay 50% of any increase in premiums up to a maximum of $250 per month (in addition to 50% contributions for spousal insurance required of some employees). The Employer proposed that, after the death of the retiree, retiree spouses pay 100% of any increase in premiums, without limitation. The Union proposed that those retirees and retiree spouses currently eligible for noncontributory health insurance continue to receive noncontributory health insurance.

The Employer proposed raising from 0% to 50% the required premium contribution for the spouses of department directors hired before June 5, 2007, in cases where the department director retires before age 65 with 20 years of service or at age 60 with less than 25 years of service. The Union proposed keeping at 0% the required premium contribution for the spouses of such department directors.

The parties disagreed about eligibility for retiree health insurance. The Employer proposed raising from 15 to 20 the minimum number of years of service required for eligibility; the Union proposed keeping the minimum at 15.

The Employer proposed a payment of $1,000 per year to any employee who elects not to be covered by the Employer's health insurance plan. The Union proposed that this payment continue to be $1,700 per year.

The Employer and the Union disagreed about copays for office visits, urgent care, and prescription drugs. The Employer proposed a $30 copay for each office or urgent care visit, while the Union proposed a $20 copay.

With regard to prescription drugs, the Employer offered new concessions in the Employer brief of September 8, 2010, while also switching from a two-tier plan to a three-tier plan. Previously, the Employer had offered a plan with a $10 copay for generic drugs, a $40 copay for brand name drugs, and a closed formulary providing no benefits for non-formulary brand name drugs [Employer Exhibit 16]. In the Employer brief, however, the Employer sweetened its offer by reducing the generic copay from $10 to $5 and by offering coverage for non-formulary brand name drugs with an $80 copay. The Employer brief made no change in the proposed copay for formulary brand name drugs, keeping this at $40. The Union proposal was a $10 generic copay and a $20 brand name copay. The Union brief and exhibits did not address the issue of whether there should be a prescription drug formulary (a list of brand name drugs that the insurance company deems reasonably cost-effective).

Dental and Optical Insurance

The Employer proposed changing the current dental and optical insurance plans in either of two ways, with the choice left to the Union:

1. Continue the present dental and optical insurance plans, but the employees begin contributing to the premiums: 25% of the current premium, plus 35% of any increases in the premium, or

2. Eliminate the present dental and optical insurance plans, and replace them with a defined contribution plan, under which the Employer contributes $1,000 per year for each employee to an individual account that the employee can use for dental or optical expenses for themselves or their families. Any unused portion of an employee's annual $1,000 allowance shall accumulate for use during the life of the collective bargaining agreement.

The Union proposed keeping the current dental and optical insurance plans and keeping them noncontributory (i.e., the Employer continues to pay 100% of the premiums).

Wages

Initially, the Union had proposed a 2% wage increase effective January 1, 2009, but the Union dropped this proposal in the Union brief of August 30, 2010. The Union and the Employer now agree on a 0% wage increase for 2009, 2010, and 2011. The differing proposals of the parties regarding contract duration, however, imply possible differences in wages for 2012 and 2013. The Union proposed a three-year contract expiring December 31, 2011, so that wages for 2012 and 2013 would be determined not by the contract now under negotiation but by the <u>subsequent</u> collective bargaining contract. The Employer proposed a three-year contract expiring three years from the date of contract ratification, with a wage freeze for the duration of the contract, so that the bargaining unit would also receive a 0% wage increase for 2012 and most or all of 2013.

Overtime Pay

A few members of the bargaining unit are exempt from the Fair Labor Standards Act (FLSA) and therefore have no statutory right to time and a half for hours worked in excess of 40 per week. The parties disagreed about overtime pay for the non-exempt employees in the bargaining unit. The Employer proposed that non-exempt employees receive time and a half only to the extent required by the FLSA: i.e., for hours <u>worked</u> in excess of 40 per week. The Union proposed maintaining the present practice: time and a half for hours paid in excess of 40 per week. The two proposals differ in weeks when an employee receives pay for hours not worked, such as holidays, vacation, or sick time. If the Monday in a given week, for example, were a paid holiday, and the employee worked 35 hours on Tuesday through Friday of that week, then the Employer's proposal would provide no overtime pay, while the Union's proposal would provide 3 hours overtime pay (for the excess over the 8 + 35 = 43 paid hours that week).

Longevity Pay

Since 1988, the Employer has had a two-tier system of longevity pay, with department directors receiving 40% more longevity pay for any given number of years of service than other employees in this bargaining unit. (This reflects the higher wages of department directors.) The Union tentatively agreed to the Employer's proposal to eliminate longevity pay for new hires. The disagreement concerns longevity pay for current employees.

The Employer initially proposed eliminating longevity pay for all employees. At the hearing, however, the Employer proposed merely suspending longevity pay for current employees for the duration of this collective bargaining contract. The Union proposed continuing longevity pay for current employees.

Paid Holidays

The Employer proposed eliminating two paid holidays (the employee's birthday and a floating holiday), while keeping 12 designated holidays (New Year's Day, Martin Luther King Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thankgiving Day, day after Thanksgiving, day before Christmas, Christmas). The Union previously proposed continuing to provide 14 paid holidays, including the employee's birthday and a floating holiday. In the Union's August 30, 2010, brief, the Union modified its position by proposing that all present employees be grandfathered with 14 paid holidays and that all new employees would receive only the 12 paid holidays designated by the Employer.

Bumping Rights

The Employer brief asserted that department heads currently have no bumping rights. The Employer proposed that department heads have no bumping rights in the event of a layoff in a department head's classification. The Union proposed that a department head have the right to bump a less senior employee in the event of a layoff.

Vacation Days

The Employer proposed reducing paid vacation time for employees with more than 20 years of employment so that these employers would receive a maximum of 20 paid vacation days per year rather than as many as 25 days. The Union proposed continuing the existing schedule for awarding paid vacation days.

Township Vehicles

The Employer proposed eliminating the car allowance for those present employees who receive an allowance. The Employer proposed that employees who utilize vehicles in the performance of their duties either be provided a Township vehicle for use or be reimbursed for mileage at the IRS rate, based on the Township's discretion. The Union accepted the latter proposal for new employees but proposed that the car allowance continue for those present employees who receive an allowance.

Duration of Agreement

The Employer proposed in its September 2010 brief that the agreement last for three years from the date of implementation, so that the agreement would expire in fall 2013 at the earliest. The Union proposed that the agreement last through December 31, 2011.

III. Rationales Presented by the Parties

Most of the issues in dispute are economic, though bumping rights is a non-economic issue. The parties addressed three common norms for assessing economic proposals: employer ability to pay, compensation offered by this employer to other employee groups, compensation provided by comparable employers to employees in the same occupation as this bargaining unit, and compensation presently received by employees in this bargaining unit.

Ability to Pay

The key issue still in dispute is the extent to which limitations on the Employer's ability to pay necessitate reductions in employee compensation. The Union has already agreed to significant cutbacks in health insurance, to a three-year wage freeze, and to benefits cutbacks for newly hired employees. The Union argued that there will be an economic turnaround and that further cuts will adversely affect employee morale.

The Employer argued that an economic turnaround will not occur soon enough to avoid deeper cuts than the Union has already accepted. The Employer receives 30% of its General Fund revenue from property taxes and 38% from revenue sharing from the State of Michigan [Employer Exhibit 6]. Both property taxes and state funding declined substantially because of the severe business cycle downturn of 2008-09, and the Employer did not anticipate an increase in funding from these sources soon.

For example, taxable values for property in Independence Township declined from $1,707,642,610 in 2008 to $1,443,197,370 in 2010 [Employer Exhibit 7], a 15.5% decline over two years. The Employer projected in April 2010 that taxable values would decline further to $1,200,000,000 in 2013 [Employer Exhibit 7]. A decline in taxable values implies a decline in property tax revenues. Because of Headlee Amendment limits on tax rates, the Employer could gain only a modest amount of additional tax revenue in 2011, 2012, and 2013 by raising millage rates—not enough to offset the decline in taxable values [Employer Exhibit 11].

Similarly, state shared revenue declined from about $2.3 million in 2008 to $2.0 million in 2009 and $1.9 million in 2010 [Employer Exhibit 13].

While Employer revenues are falling, the Employer's health insurance costs are rising. Prices are rising steadily for health insurance for employees and retirees. Unfunded liability for the retiree health plan is a problem. The Gabriel Roeder actuarial firm calculated that the

Employer's retiree health plan is only 25.3% funded and that the Employer's required annual contribution to that plan (for all employee groups, not just the Teamsters bargaining unit) would rise from $534,857 in 2008 to $584,977 in 2011 [Employer Exhibit 15A].

The Employer ran a budget deficit in 2009, forcing it to deplete its unreserved/undesignated fund balance from $2,417,971 on December 31, 2008, to $1,970,181 on December 31, 2009 [Employer Exhibit 14]. The Employer has cut expenditures significantly – from $7,570,484 in 2009 to an estimated $5,031,978 in 2010. But an anticipated decline in revenues in 2012 could drive the Employer's fund balance as of December 31, 2012, as low as $138,000 [Employer Exhibit 14]. The Employer presented testimony at the fact finding hearing that the Employer's economic condition led to layoffs in 2010 and that there has been a reduction of at least one position in this bargaining unit.

Compensation Offered by This Employer to Other Employee Groups

The Union argued that members of this bargaining unit should not be treated worse than members of the AFSCME or IAFF bargaining units in Independence Township. This internal comparability argument underlay the Union's original proposal (since dropped) for a 2% wage increase for 2009 and the Union's ongoing proposal to maintain longevity pay and 14 paid holidays per year for current employees.

The Employer presented testimony at the fact finding hearing that Independence Township was seeking the same cutbacks in negotiations with AFSCME as the Township was seeking from the Teamsters. At the time of the hearing, bargaining had not yet begun with the IAFF. The Employer acknowledged that AFSCME and the IAFF received 2% wage increases in 2009, but the Employer brief noted that the IAFF had voluntarily given up the additional 2% wage increase scheduled for January 1, 2010, because of the poor economic condition of the Employer.

The Employer also argued that there was no justification to give department directors more lenient eligibility standards than other Teamster bargaining unit members with regard to health insurance eligibility for retiree spouses.

Compensation Provided by Comparable Employers

The Employer argued that many employers in southeastern Michigan are now cutting wages and eliminating jobs. In this context, the Employer claimed, its offer of a wage freeze is very reasonable.

Compensation Presently Received by Employees in This Bargaining Unit

The Union argued that rights already granted should not be revoked. This is the basis for the Union's proposal that there not be further increases (beyond those already tentatively agreed to) in employee contributions to health insurance premiums. This is also the basis for the Union's proposal to maintain the status quo for current employees with regard to premium contributions for retiree health insurance, premium contributions for dental and optical insurance, overtime pay based on hours paid rather than hours worked, longevity pay, holiday pay for a floating holiday and the employee's birthday, vacation pay, and township vehicles.

The Employer brief (page 19) made a status quo argument when it noted that, "Currently, Department Heads have no bumping rights." With regard to other issues, however, the Employer argued that reductions in the Employer's ability to pay justified changing the status quo.

Non-Economic Issue: Bumping Rights

The Employer expressed concern that employees who have been reduced or demoted from supervisory or management positions to hourly rank would be demoralized. Even if they have the skills to perform the new job, the Employer argued, their attitudes would not be conducive to job success.

IV. Fact Finder's Analysis of the Issues

Ability to Pay:

I find convincing the Employer's argument that the Employer has had serious budget problems that have adversely affected its ability to pay. The worst business cycle downturn since the 1930's appears to be ending. Nevertheless, property tax revenues will continue to decline because these taxes are based on assessments in ***prior*** years (so that there is a lag between changes in property values and changes in property tax collections). Furthermore, prospects now appear dim for further federal government aid to state governments, so that the state government of Michigan will have to wrestle with its budget problems for the next fiscal year without another federal bailout. This bodes ill for state revenue sharing with Independence Township.

Employer Exhibit 14 forecasts that the Employer will have a balanced budget for 2010, thanks to significant cuts in expenditures. According to this exhibit, presented in August 2010, the Employer's unreserved/undesignated fund balance will actually rise by $11,000 in 2010. This suggests that the Employer does not face an immediate fiscal crisis.

But this exhibit forecasts a $363,000 reduction in the Employer's fund balance in 2011 and a $1,480,000 reduction in 2012. The result would be a fund balance of only $138,000 on December 31, 2012, a figure that I consider imprudently low relative to the Employer's annual expenditures. If this forecast is accurate—and it is much more difficult to make accurate forecasts far in the future than for the short term—then the Employer may be forced to make significant cuts in spending by the beginning of 2012. Hence, I recommend making some but not all of the additional cuts in benefits that the Employer proposed. Nevertheless, recognizing the uncertainty about future economic conditions, I recommend a wage reopener to address wages in 2012 and 2013, rather than deciding on a wage freeze for 2012 and 2013 now.

Ways of Reducing the Employer's Health Insurance Costs

There are various ways of reducing employers' health insurance costs: e.g., eliminating insurance altogether, requiring larger employee or retiree contributions to premiums, or requiring larger out-of-pocket payments for the utilization of health goods or services. Eliminating employer-sponsored insurance altogether places an undue burden on employees; premiums for individual health insurance plans far exceed those for employer-sponsored plans with identical benefits, and very few people have the wealth to bear the risk of catastrophic medical expenses without insurance. The situation is even worse for retirees too young to be eligible for Medicare; individual health insurance plans for a 61-year-old are extremely expensive.

The parties have already agreed to require larger employee contributions to health insurance premiums. The change in the formula for employee contributions to premiums (10% of premiums, rather than 1% or 2% of salary) will likely cause significant increases over time in employee contributions because premiums will probably grow faster than salaries. Implementing the further increase in employee contributions and the increase in retiree contributions proposed by the Employer, however, could eventually lead many employees and retirees to become uninsured. This could lead to financial ruin or to failure to get medical treatment that would substantially improve health.

Increasing out-of-pocket payments for the utilization of health goods or services could be justified in two ways. First, it may prevent overutilization of health care. If patients have to pay at least a portion of the cost of a good or service, then they typically utilize less than if they pay nothing out of pocket, as the RAND health insurance experiment convincingly demonstrated.[1] But there is a risk that out-of-pocket payments may limit utilization even of services that **are** cost-effective, such as medications to control hypertension or preventive care for those at high risk of developing diabetes. Thus, it is appropriate to have first-dollar coverage for some health care goods or services where a typical patient might not see utilization as an urgent necessity but where there is very strong evidence that the health care goods or services provide benefits that exceed their costs.

Second, unlike requiring large employee or retiree contributions for insurance premiums (which may cause some employees or retirees to go uninsured), raising out-of-pocket payments maintains insurance coverage for catastrophic medical expenses.

The Employer can save money either (a) by substantially raising employee and retiree contributions for insurance premiums, or (b) by substantially raising out-of-pocket payments for utilization of health goods and services. The advantage of the latter is that it does less harm to

[1]See, for example, Newhouse, J.P., W.G. Manning, C.N. Morris, et al., "Some Interim Results from a Controlled Trial in Health Insurance," *The New England Journal of Medicine*, 305: 1501-1507, 1981. See also Manning, W.G., J.P. Newhouse, N. Duan, et al., "Health Insurance and the Demand for Medical Care: Evidence from a Randomized Experiment," *American Economic Review*, 77(3): 251-277, 1987.

the well being of employees and retirees than the former (at least if exceptions are made for out-of-pocket payments for highly cost-effective treatments such as preventive care for those at high risk of developing diabetes). Same cost savings for the Employer, less harm to employees and retirees.

The parties have already agreed to increase out-of-pocket payments by switching from Blue Cross-Blue Shield of Michigan's Community Blue PPO1 to the BCBS Community Blue PPO2. This new plan will maintain insurance coverage for catastrophic medical expenses, while still maintaining low out-of-pocket expenses for at least some cost-effective medical care (such as childhood vaccines). The Employer's previous proposal to switch to PPO4 would have entailed an even larger increase in out-of-pocket payments, but the Union did not accept that proposal.

Based on the information presented during fact finding, it is unclear whether the parties considered an intermediate option, BCBS Community Blue PPO3. This requires larger out-of-pocket payments than PPO2 but smaller out-of-pocket payments than PPO4. Correspondingly, monthly premiums for PPO3 are lower than those for PPO2 but higher than those for PPO4. In my view, it is better to address the Employer's ability to pay problem by switching to PPO3, effective January 1, 2012, than by raising employee contributions to premiums above 10% or by requiring larger premium contributions by retirees. The delay in implementation till January 1, 2012, provides ample lead time to make appropriate arrangements with BCBS of Michigan but is still soon enough to address the substantial drop in the Employer's fund balance forecast for 2012.

In exchange for switching in 2012 to PPO3, the Employer should agree to limit employee premium contributions to 10% and to avoid increasing premium contributions for retirees, so that bargaining unit members and retirees do not become uninsured.

With regard to eligibility for retiree health insurance, long advance notice of major cutbacks should be provided so that individual employees can make suitable financial plans. Otherwise, retirees could find themselves unable to afford health insurance. On this basis, I reject the Employer's proposal to eliminate all eligibility for retiree health insurance for those employees hired before June 5, 2007, who have reached age 60 with 15 years of service.

Nevertheless, I find convincing the Employer's argument that department directors should not be treated more favorably than other members of this bargaining unit in terms of eligibility for retiree health care. Hence, I accept the Employer's proposal to eliminate Employer contributions for health insurance premiums for the spouse of any department director hired before June 5, 2007, who retires at age 60 with 15 years of service.

With regard to prescription drugs, a three-tiered plan with higher copays for non-formulary prescription drugs can steer patients away from drugs that are not cost effective, yet it allows more freedom of choice for patients than a closed formulary plan providing no insurance benefits whatsoever for non-formulary drugs. I support the Employer's prescription drug proposal.

There are two possible effects of a reduction from $1,700 to $1,000 in the payment to employees who decline coverage under the Employer's health insurance plan. If there is no change in the number of employees who decline coverage, then the reduction will save the Employer money. If even one employee who would have declined coverage for a $1,700 payment chooses to continue coverage when the payment is $1,000, however, then the reduction from $1,700 to $1,000 actually costs the Employer money. The Employer did not address this issue in fact finding. Hence, I recommend the status quo of $1,700.

Dental and Optical Insurance

Dental and optical costs are less likely to be catastrophic than costs of treating cancer, stroke, or multiple sclerosis. There is thus a less compelling need for dental or optical insurance than for medical insurance. Given that the Employer has limited ability to pay, I consider employee contributions of 25% of dental and optical insurance premiums to be reasonable. But I reject the notion that employees should be responsible for paying more than 25% of any premium increases.

Overtime Pay, Paid Holidays, Vacation Pay, and Township Vehicles

These are issues for which I believe the Employer's ability to pay argument is stronger than the Union's argument for not revoking rights that have already been granted. If the Employer does not negotiate similar policies with AFSCME and the IAFF, however, then Teamsters bargaining unit members will feel that they have not been treated equitably.

Longevity Pay

The Employer has agreed to suspend rather than eliminate longevity pay. In the next section, where I present my recommendations, I propose the use of an "employer ability to pay factor." Using this employer ability to pay factor to calculate longevity pay is a way of effectuating the Employer's proposal of suspending or partially suspending longevity pay in years when the

Employer's ability to pay is poor, while guaranteeing that the longevity pay will be restored in years when the Employer's ability to pay is good.

Bumping Rights

I recognize the Employer's concern about the adverse morale effects of demotion. On the other hand, anxiety about possible layoff is also harmful to morale. In the current economic climate, Independence Township department heads have reason to be concerned about reorganization plans that might eliminate their positions. By granting department heads bumping rights, the Employer will get higher productivity from department heads prior to any possible layoffs, admittedly at the risk of lower productivity in the future if a department head is demoted and becomes demoralized. Furthermore, there is widespread acceptance of the notion that seniority strengthens a claim to continued employment. On the issue of bumping rights for department heads, I side with the Union.

Contract Duration

Given the amount of effort that went into negotiating a first contract, it is reasonable to adopt a contract expiring December 31, 2013, rather than December 31, 2011. The parties have other responsibilities for 2011 besides renegotiating the many sections of a brand-new contract. But the parties need a wage reopener for 2012 and 2013 so that they can consider updated information about employer ability to pay when determining wages for 2012 and 2013.

V. Recommendations of the Fact Finder

I make the following recommendations regarding a new collective bargaining agreement:

Health Insurance

Through December 31, 2011, the health insurance plan will be the Blue Cross-Blue Shield of Michigan PPO2 plan, with a $20 copay for each office visit or urgent care visit. The prescription drug coverage will be a three-tiered plan with $5 copay for each generic, $40 copay for each formulary brand name prescription, and $80 copay for each non-formulary brand name prescription.

For 2012 and 2013, the health insurance plan will be the BCBS of Michigan PPO3 plan, or a similar plan provided by another carrier that:

- Raises the deductible from $100/person, $200/family to $250/person, $500/family
- Raises coinsurance (percent copays) from the patient paying 10% in-network, 30% out-of-network, to the patient paying 20% in-network, 40% out-of-network
- Raises the coinsurance annual maximum from $500 per member/$1,000 per family in-network to $1,000 per member/$2,000 per family in-network
- Raises the coinsurance annual maximum from $1,500 per member/$3,000 per family out-of-network to $3,000 per member/$6,000 per family out-of-network
- Continues the flat-dollar copay of $20 for each office visit or urgent care visit and the three-tiered prescription drug plan with $5/$40/$80 copays.

The employee contribution for premiums will be a flat 10% of the monthly premium (even if premiums rise).

Retirees or retiree spouses who are eligible for the Independence Township health insurance plan will be covered by the same plan as employees and employee dependents: PPO2 through December 31, 2011, and PPO3 for 2012 and 2013. Those retirees and retiree spouses currently eligible for noncontributory health insurance will continue to receive noncontributory health insurance.

For employees hired prior to June 5, 2007, eligibility for retiree health insurance will be the same regardless of whether the employee was a department director or held another job. If an employee hired prior to June 5, 2007, retires at age 60 and with 15 years of service, then the Employer will pay 100% of the health insurance premium for the retiree and 0% of the health insurance premium for the spouse.

The payment to employees who elect to decline health insurance coverage from Independence Township will be $1,700 per year.

Dental and Optical Insurance

The present dental and optical insurance plans will continue, but the employees will contribute a flat 25% of the premiums (even if premiums increase).

Wages

Wages will be frozen (i.e., a 0% increase) for 2009, 2010, and 2011. Negotiations between the parties commencing approximately September 1, 2011, will determine wages for 2012 and 2013.

Overtime Pay

Non-exempt employees will receive time and a half only to the extent required by the FLSA: i.e., for hours worked in excess of 40 per week.

Longevity Pay

The amount of longevity pay in any given year will be the product of two numbers:

(a) The amount given in the schedule in effect since January 1, 1988, times
(b) The relevant employer ability to pay factor shown in the table below:

Employer's unreserved/undesignated fund balance as of December 31 of the prior year	*Employer ability to pay factor for this year*
At least \$2.5 million	100%
At least \$2.4 million but less than \$2.5 million	90%
At least \$2.3 million but less than \$2.4 million	80%
At least \$2.2 million but less than \$2.3 million	70%
At least \$2.1 million but less than \$2.2 million	60%
At least \$2.0 million but less than \$2.1 million	50%
At least \$1.9 million but less than \$2.0 million	40%
At least \$1.8 million but less than \$1.9 million	30%
At least \$1.7 million but less than \$1.8 million	20%
At least \$1.6 million but less than \$1.7 million	10%
Less than \$1.6 million	0%

For example, if the Employer's December 31, 2011, unreserved/undesignated fund balance is \$1,820,000, then the employer ability to pay factor for 2012 would be 30%. The schedule in effect since January 1, 1988, indicates that an employee with 14 to 16 years of service who was not a department director would receive \$2,000 in longevity pay. For 2012, this amount would be multiplied by 30%, so that the employee's longevity pay for 2012 would be \$600.

No longevity pay will be provided to employees hired after the date this contract is ratified.

Paid Holidays

The employee's birthday and one floating holiday will be eliminated as paid holidays.

Bumping Rights

Department heads shall have the right to bump in the event of a layoff into an equal or lower classification as long as the person has the necessary qualifications and seniority at the time of the bump.

Vacation Days

Employees with 20 or more years of service will receive 20 working days of vacation per year.

Township Vehicles

The car allowance will be eliminated. Employees who utilize vehicles in the performance of their duties will either be provided a Township vehicle for use or be reimbursed for mileage at the IRS rate, based on the Township's discretion.

Duration of Agreement

This agreement will remain in effect through December 31, 2013, except that wages for 2012 and 2013 will be determined by negotiations between the parties commencing approximately September 1, 2011.

CONCLUSION

The above report represents the Findings of Fact and the Recommendations arrived at as a result of the hearing I conducted and my review of the parties' submissions.

Gregory M. Saltzman
Fact Finder

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at Ann Arbor, Michigan