



CITY OF PONTIAC
OFFICE OF THE EMERGENCY MANAGER
LOUIS H. SCHIMMEL

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Dated: December 22, 2011

ORDER NO. S-127-REVISED

RE: American Federation of State, County and Municipal Employees, AFL-CIO
Local 202 (AFSCME), Contract Provision Termination, Retiree Health Care

TO: ✓ Sherikia Hawkins, City Clerk
Cathy Square, Director, Department of Public Works and Human Resources
Director
American Federation of State, County and Municipal Employees, AFL-CIO
Local 202 (AFSCME)

The Local Government and School District Fiscal Accountability Act (Public Act 4 of 2011) in Section 17(1) empowers an Emergency Manager to issue the orders the Manager considers necessary to accomplish the purposes of the Act and any such orders are binding on the local officials or employees to whom they are issued. Section 19(1) provides that an Emergency Manager may take on one or more additional actions with respect to a local government in receivership: (g) Make, approve or disapprove any appropriation, contract, expenditure...”; (k) After meeting and conferring with the appropriate bargaining representative and, if in the emergency manager’s sole discretion and judgment, a prompt and satisfactory resolution is unlikely to be obtained, reject, modify, or terminate 1 or more terms and conditions of an existing collective bargaining agreement. The rejection, modification, or termination of 1 or more terms and conditions of an existing collective bargaining agreement under this subdivision is a legitimate exercise of the state’s sovereign powers if the emergency manager and the state treasurer determine that all of the following conditions are satisfied...; (l) Act as sole agent of the local government in collective bargaining with employees or representatives and approve any contract or agreement; (ee) Take any other action or exercise any power or authority of any officer, employee, department, board, commission, or other similar entity of the local government, whether elected or appointed, relating to the operation of the local government. The power of the emergency manager shall be superior to and supersede the power of any of the foregoing officers or entities...; and 19(2) ...the authority of the chief administrative officer and governing body to exercise power for and on behalf of the local government under law, charter, and ordinance shall be suspended and vested in the Emergency Manager.

The City engaged in good faith collective bargaining with AFSCME. The City met with AFSCME Union representatives on November 9, 2011 and November 29, 2011 . During our

negotiations, the City requested that AFSCME agree to place all retirees into a single health insurance plan and single dental insurance plan for all active and retiree plan participants to reduce costs and present the most favorable climate for the City in future bids of health/dental insurance plans, scheduled to occur in 2012. In addition, the City also requested the union to agree to changes in the provisions concerning life, disability, vision, and hearing. The union refused to negotiate any changes to current retirees.

On December 16, 2011, I requested that the State Treasurer concur in my determination under Section 19(k) of the Local Government and School District Fiscal Accountability Act, ~~Public Act 4 of 2011 (Act) to allow termination of those sections of the Collective Bargaining Agreement with AFSCME concerning health insurance, dental insurance, life insurance, disability insurance, optical insurance, and hearing insurance for the retirees.~~

As stated in the December 16, 2011, correspondence to the State Treasurer, in my sole discretion and judgment, and after conferring with AFSCME and its representatives, a prompt and satisfactory resolution of outstanding issues is unlikely to be obtained. Therefore, I determined that the four conditions of Section 19(k) of the Act had been satisfied.

On December 20, 2011, the State Treasurer concurred with my determination and made his separate determination (see attached) that the four conditions of Section 19(k) of the Act had been satisfied.

It is hereby ordered:

- I. By operation of law, as provided in Section 19(k) of the Act, pursuant to the determinations made by me and the State Treasurer, the sections of the Collective Bargaining Agreement with the City and AFSCME concerning only the retirees* entitled to the benefits as described below and to the extent the retirees are eligible and currently receive the benefits of health insurance, dental insurance, life insurance, disability insurance, optical insurance, and/or hearing insurance have been terminated and replaced with the following:

Healthcare

The City shall provide all bargaining unit active and pre-age 65 retirees with healthcare insurance in the form of Humana PPO - 08 Plan or a comparable plan with another carrier. The Medicare aged retirees will be provided one Medicare Advantage Plan, Plan G with \$10/\$20/\$40/\$40 RX.

A. It is mandatory for current and future retirees to enroll in Medicare upon reaching eligible age. The retirees may, at the City's discretion, be required to participate in a Medicare Advantage plan.

B. The City will not pay any Medicare Part B premium.

***Unless otherwise noted, retirees shall include both eligible spouses of retirees as well as eligible dependents.**

Dental Care

A. The City will provide bargaining unit retirees dental care insurance in the form of Delta Dental Core Plan or a comparable plan with another carrier. A buy up plan will also be offered with a contribution from the enrolled person equal to the difference in illustrative rate between the core plan and the buy up plan.

Life, Disability, Vision and Hearing

~~A. All City of Pontiac funded life, disability, vision and hearing coverage for all retirees is eliminated.~~

- II. I hereby notify AFSCME of the termination of the sections of the Collective Bargaining Agreement with the City and AFSCME concerning retiree health insurance, dental insurance, life insurance, disability insurance, optical insurance, and hearing insurance.
- III. The Human Resources Director is directed to take all steps necessary to advise the retirees and the various insurance providers of the changes in coverage.
- IV. The implementation date of the new plans and provisions shall be February 1, 2012.

The Order shall have immediate effect.

Copies of the documents referenced in this Order are to be maintained in the offices of the City Clerk and the Law Department and may be reviewed and/or copies may be obtained upon submission of a written request consistent with the requirements of the Michigan Freedom of Information Act and subject to any exemptions contained in that state statute and subject to any exemptions allowed under that statute (**Public Act 442 of 1976, MCL 15.231, et. seq.**).

This Order is necessary in order to carry out the duties and responsibilities required of the Emergency Manager as set forth in the **Local Government and School District Fiscal Accountability Act (Public Act 4 of 2011)** and the contract between the State of Michigan and the Emergency Manager.



Louis H. Schimmel
City of Pontiac
Emergency Manager

cc: State of Michigan Department of Treasury
Mayor Leon B. Jukowski
Pontiac City Council

