

## OFFICIAL GRIEVANCE FORM

Name AFSCME COUNCIL 25; ALL Locals; Grievance # 2015 Class Action # 1

<u>COPIES SENT TO</u>	NAME: <u>AFSCME COUNCIL 25 AND ALL LOCALS</u>	
	ADDRESS/CITY/ZIP: _____	Presented to Kenneth Wilson at Step 4
	CLASSIFICATION: _____	April 20, 2015
	WORK LOCATION: _____	
	PHONE #: _____	
	DEPT.: _____	
	SENIORITY DATE: _____	

**(VIOLATIONS): AS TO LOCAL 3317 ARTICLE 38 SECTION 38.01; AS TO ALL OTHER LOCAL UNIONS, ARTICLE 30, SECTION 30.01; AS BEING INCORPORATED IN TO THE CBA'S, WAYNE COUNTY CHARTER PROVISION § 141.36, SUB§ (a) (1) and § 141.32 IN EFFECT PRIOR TO THE ENACTMENT OF WAYNE COUNTY ORD. No.2010-514.**

STATEMENT OF FACT: (See Attached Sheet) \_\_\_\_\_

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DISPOSITION REQUESTED: (See Attached Sheet) \_\_\_\_\_

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Dated: April 20, 2015

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Richard E. Johnson,  
AFSCME Staff Representative

**AFSCME Council 25,**  
**Policy Grievance No. 2015 Class Action No. 1**

Pursuant to the mandatory provisions of Article 38, Section 38.01 of the Collective Bargaining Agreement entered into between Local 3317 and Wayne County; further, under the provisions of Article 30, Section 1 of AFSCME Council 25 and its affiliate Local Unions, Article 30, Section 30.01; the parties have incorporated by reference, the Charter provisions and ordinances relating to retirement, being Section 141-1 et seq. Section 141-36 of the contract in part provides as follows:

**Sec. 141-36. - Financial objective; contribution certification.**  
**Defined Benefit Plan**

**(a) Financial objective.**

- (1) The financial objective of the retirement system is to receive contributions each fiscal year which, as a percentage of member payroll, are designed to remain level from year to year and are sufficient to (i) fund the actuarial cost allocated to the current year by the actuarial cost method, and (ii) fund unfunded actuarial costs to prior years by the actuarial cost method as follows:***
  - a. Over not more than 30 years for amounts existing December 1, 1982.***
  - b. Over not more than 25 years for amounts arising from benefit changes effective after November 30, 1982, or as otherwise permitted by law.***
  - c. Over not more than 15 years for amounts arising from experience losses or gains during retirement system fiscal years ending after November 30, 1981.***
- (2) Contribution requirements for defined benefits shall be determined by annual actuarial valuation; provided that the contribution requirement may be reduced or eliminated for a fiscal year pursuant to the procedures in section 141-32. The actuarial cost method shall be one which produces a contribution requirement not less than the contribution requirement produced by the individual entry-age normal cost method.***
- (3) The excess of actual contributions made for periods after November 30, 1981, over the minimum required by subsections (a)(1) and (2) of this section may be used to reduce contributions required for subsequent fiscal years.***

**Certification of contribution requirement. The retirement commission shall certify to the county executive the amount of annual contribution needed to meet the financial objective.**

**Defined Contribution Plans**

**a. Financial objective**

**(1) Contribution requirements of the county for defined contribution benefits shall be in accordance with the county contribution program specified for a member's coverage group, benefit plan, or ordinance. (Exhibit 1: Wayne County Charter, Sections 141-1 through 141-43)**

On February 26, 2015 "Rehmann Robson, CPAs, the Wayne County Charter appointed auditors issued its "independent auditors' report." (Exhibit 2)

At page (31) of the audit report, Rehmann Robson made the following findings and statement:

**"6. FUNDED STATUS AND FUNDING PROGRESS. (GASB Statement No. 25)**

*As of September 30, 2013, the most recent actuarial valuation date, the actuarial accrued liability using the entry age actuarial cost method was \$1.66 billion; compared to the actuarial value of assets of \$749 million, the Plan had an unfunded actuarial accrued liability of \$910 million for a funded ratio of 45 percent. The unfunded actuarial accrued liability was 337 percent of covered payroll of \$270 million."*

The GRS&C actuarial report for September 30, 2014 has not yet been prepared; therefore, AFSCME Council 25 reserves the right to amend this grievance once the Rehmann Robson audit report for fiscal year ending September 30, 2014 is published.

Further, on October 27, 2014, the Director of the Wayne County Employees' Retirement System sent a letter to the County Executive and Wayne County Board of Commissioners certifying that the audit prepared by its actuary, Gabriel, Roeder, Smith & Company, for a period ending September 30, 2013 stated that the Actuarial Accrued Liability (AAL) was \$910,500,000.00, which provided for a 45% funding of the County's obligations under Article 38 (Local 3317) and Article 30 (all of AFSCME locals).

The County has violated the Contracts by refusing to fund the AAL and has allowed the AAL to increase annually.

**WHEREFORE; AFSCME Council acting on behalf of its' local unions demands that the County immediately start funding the AAL as required by the above stated provisions of the Contracts.**

**EXHIBIT #1**

**Sec. 141-36. - Financial objective; contribution certification.**

***Defined benefit plan.***

**(a) *Financial objective.***

- (1) The financial objective of the retirement system is to receive contributions each fiscal year which, as a percentage of member payroll, are designed to remain level from year to year and are sufficient to (i) fund the actuarial cost allocated to the current year by the actuarial cost method, and (ii) fund unfunded actuarial costs to prior years by the actuarial cost method as follows:
  - a. Over not more than 30 years for amounts existing December 1, 1982.**
  - b. Over not more than 25 years for amounts arising from benefit changes effective after November 30, 1982, or as otherwise permitted by law.**
  - c. Over not more than 15 years for amounts arising from experience losses or gains during retirement system fiscal years ending after November 30, 1981.****
- (2) Contribution requirements for defined benefits shall be determined by annual actuarial valuation; provided that the contribution requirement may be reduced or eliminated for a fiscal year pursuant to the procedures in section 141-32. The actuarial cost method shall be one which produces a contribution requirement not less than the contribution requirement produced by the individual entry-age normal cost method.**
- (3) The excess of actual contributions made for periods after November 30, 1981, over the minimum required by subsections (a)(1) and (2) of this section may be used to reduce contributions required for subsequent fiscal years.**

***Certification of contribution requirement.*** The retirement commission shall certify to the county executive the amount of annual contribution needed to meet the financial objective.

***Defined contribution plans.***

**(a) *Financial objective.***

- (1) Contribution requirements of the county for defined contribution benefits shall be in accordance with the county contribution program specified for a member's coverage group, benefit plan, or ordinance.**

**(Ord. No. 94-747, §§ 30.01, 30.02, eff. 12-2-94; Ord. No. 2005-924, § 1, 10-6-05; Ord. No. 2010-514, 9-30-10; Ord. No. 2014-679, § 1, 11-20-14)**

**Sec. 141-32. - Inflation equity programs.**

- (a) The retirement commission shall maintain a reserve for inflation equity provided that the fund shall be limited to no more than \$12,000,000.**
- (b) (1) Subject to the limit of (a) above, the retirement commission may credit the reserve at the end of each fiscal year with a portion of the excess, if any, of the rate of return on the actuarial value of retirement system defined benefit assets over the rate established for this purpose by the retirement commission.**
  - (2) The retirement commission shall establish the portion of the reserve fund available for distribution to retired members and survivor beneficiaries; provided that portion shall not exceed \$5,000,000.00.**
  - (3) The calculation of "defined benefit assets" shall exclude the county's retirement contribution for that fiscal year as set forth in section 141-36 provided the amount in the reserve fund in excess of the limit set forth in subsection (a) above shall be debited from the reserve fund and credited to the defined benefit plan assets and such credit shall offset and/or reduce the county's defined benefit contribution requirement and thereafter be considered defined benefit plan assets.**
- (c) The retirement commission may restrict the distribution and/or the minimum permanent pension to retired members and survivor beneficiaries having a pension effective date prior to dates selected from time to time by the retirement commission.**
- (d) The formula for the distribution shall be as from time to time determined by the retirement commission and shall take into account the period of retirement and period of credited service.**
- (e) Nothing in this section shall preclude the county from reducing or eliminating its contribution for a fiscal year in which defined benefit assets exceed defined benefit liabilities.**
- (f) Within nine months of first annual distribution from this fund, the CFO shall explore and report to the county commission whether it is advantageous to issue bonds as a strategy to fully fund the retirement system and reimburse the inflation equity fund of \$32,000,000.00.**

**(Ord. No. 94-747, § 26.01, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00; Ord. No. 2010-514, 9-30-10)**

**EXHIBIT #2**



Wayne County Employees'  
Retirement System

Defined Benefit Plan

Year Ended  
September 30,  
2014 and 2013

Financial  
Statements

## INDEPENDENT AUDITORS' REPORT

February 26, 2015

To the Wayne County Board of Commissioners  
and the Wayne County Retirement Commission  
Detroit, Michigan

### Report on the Financial Statements

We have audited the accompanying statements of plan net position of the *Wayne County Employees' Retirement System Defined Benefit Plan* (the "Plan"), a pension trust fund of the Charter County of Wayne, Michigan, as of September 30, 2014 and 2013, and the related statements of changes in plan net position for the years then ended and the related notes to the financial statements, which collectively comprise the Plan's financial statements as listed in the table of contents.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### *Independent Auditors' Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Plan's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Plan's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

## ***Opinion***

In our opinion, the financial statements referred to above present fairly, in all material respects, the plan net position of the Plan, as of September 30, 2014 and 2013, and the respective changes in its plan net position for the years then ended in accordance with accounting principles generally accepted in the United States of America.

## ***Reporting Entity***

As discussed in Note 1, the financial statements present only the Wayne County Employees' Retirement System Defined Benefit Plan pension trust fund and do not purport to, and do not, present fairly the financial position of the Charter County of Wayne as of September 30, 2014 and 2013, and the changes in its financial position for the years then ended, in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

## ***Implementation of GASB Statement No. 67***

The Plan implemented the provisions of GASB Statement No. 67, *Financial Reporting for Pension Plans*, in the current year. While there was no effect on the amounts reported in the financial statements themselves, there were substantial changes to the disclosures found in Note 7 to the financial statements, including the calculation of the County's net pension liability, which will be required to be recorded by the County in its next fiscal year. Our opinion is not modified with respect to this matter.

## ***Other Matters***

### ***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that management's discussion and analysis and the schedules of pension information, as listed in the table of contents, be presented to supplement the financial statements. Such information, although not a part of the financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the financial statements, and other knowledge we obtained during our audit of the financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

### ***Other Information***

Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise the Plan's basic financial statements. The schedule of changes in net position by component is presented for purposes of additional analysis and is not a required part of the basic financial statements.

The schedule of changes in net position by component is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of changes in net position by component is fairly stated in all material respects in relation to the basic financial statements as a whole.

*Rehmann Loborn LLC*

# WAYNE COUNTY EMPLOYEES' RETIREMENT SYSTEM DEFINED BENEFIT PLAN

## Notes to Financial Statements

Both rulings were appealed and went before the Michigan Court of Appeals on March 12, 2013, resulting in a decision issued on May 9, 2013, which reversed the trial court's ruling, finding that the Ordinance violated Public Employee Retirement System Investment Act (PERSIA) in many particulars. The Court of Appeals confirmed the trial court's dismissal of the County's counterclaim against the WCERS. The County then filed an application for leave to appeal to the Michigan Supreme Court on June 20, 2013. Oral argument was heard on October 8, 2014 and the Supreme Court unanimously decided on December 18, 2014, to uphold the Court of Appeals decision that the \$32 million offset against the County's ARC violated PERSIA, and the County must satisfy its ARC obligations, and the transferred funds must be returned to the IEF. The case has been remanded to the trial court for further proceedings.

## 6. FUNDED STATUS AND FUNDING PROGRESS (GASB Statement No. 25)

As of September 30, 2013, the most recent actuarial valuation date, the actuarial accrued liability using the entry age actuarial cost method was \$1.66 billion; compared to the actuarial value of assets of \$749 million, the Plan had an unfunded actuarial accrued liability of \$910 million for a funded ratio of 45 percent. The unfunded actuarial accrued liability was 337 percent of covered payroll of \$270 million.

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Examples include assumptions about future employment and mortality. Actuarially determined amounts are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multi-year trend information about whether the actuarial value of the Plan's assets are increasing or decreasing over time relative to the actuarial accrued liability for benefits.

The schedule of employer contributions, presented as required supplementary information following the notes to the financial statements, presents trend information about the amounts contributed to the Plan in comparison to the ARC (annual required contribution), an amount that is actuarially determined in accordance with the parameters of GASB Statement 25. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost for each year and amortize any unfunded actuarial liabilities (or funding excess) over a period not to exceed 30 years.

Projections of benefits for financial reporting purposes are based on the substantive plan (the plan understood by the employer and plan members) and include the types of benefits provided at the time of each valuation and the historical pattern of sharing of benefit costs between the employer and plan members to that point. The actuarial methods and assumptions used include techniques that are designed to reduce the effects of short-term volatility in actuarial accrued liabilities and assets, consistent with the long-term perspective of the calculations.

Additional information as of September 30, 2013, the latest actuarial valuation, includes:

Actuarial cost method		Entry age normal
Amortization method contribution	County	Level percent-of-payroll
	WCAA	Level dollar
Remaining amortization period		26 years (closed)
Asset valuation method		4-year smoothed market
Actuarial assumptions:		
Investment rate of return	County / WCAA	7.75% (includes wage inflation at 3.5%)
	DWMHA	3.73%
Projected salary increases	County / WCAA	3.5-9.05% (includes wage inflation at 3.5%)
	DWMHA	0.00% (frozen accrued benefits)
Cost-of-living adjustments		Not applicable

## JAMIL AKHTAR, P. C.

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[jimakhtar@att.net](mailto:jimakhtar@att.net)

April 20, 2015

Kenneth Wilson  
Labor Relations Director  
9th Floor  
600 Griswold St.  
Detroit, MI 48226

Dear Mr. Wilson:

Attached please find a copy of the Class Action Grievance being filed by AFSCME Council 25 and its affiliated local unions. Please contact AFSCME Staff Representative, Richard Johnson, to make arrangements for an expedited Step 4 hearing.

If you have any questions, please do not hesitate to contact Mr. Johnson and I remain,

Very Truly Yours,



Jamil Akhtar

JA/sah  
cc: Al Garrett  
cc: Richard Johnson