

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WAYNE COUNTY RETIREES' ASSOCIATION, INC.;
AFSCME SUBCHAPTER 38; EUGENE WRIGHT,
ANTHONY CECE, DOUGLAS WADLIN, CHARLES BONZA,
EVELYN GLANTON, MARGY BISHOP, BEVERLY BRODEN,
PAUL PENERACKL, AND KIM SMITH , On behalf of
themselves and all others similarly situated,
Plaintiffs,

V.

CIVIL ACTION
NO. 16-10546
HON. JUDITH LEVY

CHARTER COUNTY OF WAYNE, and WARREN EVANS,
Individually and in his official capacity of
Wayne County Executive, and Ex-Official Member
of the Wayne County Employees Retirement System,
and GARY WORONCHAK, Individually and in his
official capacity as Chairman of the Wayne County
Commission, and Ex-Official Member of the Wayne
County Employees Retirement Commission, WAYNE
COUNTY EMPLOYEES RETIREMENT SYSTEM AND ITS TRUSTEES;
TINA TURNER, in her official capacity as Chairman of the Wayne County
Employees Retirement Commission, DENNIS MARTIN, in his official
capacity as Trustee for the Wayne County Employee Retirement Commission,
HENRY WILSON, in his official capacity as Trustee for the Wayne
County Employee Retirement Commission, HUGH S. MACDONALD,
in his official capacity of Trustee of the Wayne County Employee
Retirement Commission, ELIZABETH MISURACA, in her official
capacity as Trustee of the Wayne County Employee Retirement
Commission, joint and severally,
Defendants.

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On behalf of Plaintiffs.

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On behalf of Defendant Gary Woronchak, Individually
and in his official capacity as Chairman of the Wayne County
Commission, and Ex-official Member of the Wayne County
Employees Retirement Commission, Wayne County Employees
Retirement System and its Trustees.

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On behalf of Defendants Charter County of Wayne, and
Warren Evans, Individually and in his official capacity of
Wayne County Executive, and Ex-Official Member of the Wayne
County Employees Retirement System.

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On behalf of Defendant Wayne County and Warren Evans,
individually and in his official capacity as the Wayne County
Executive.

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On behalf of Defendants Wayne County Employees
Retirement System and Its Trustees; John Doe No. 1 Through John
Doe No. 8, Individually and in Their Official Capacity As Board
Members of the Wayne County Employees Retirement Commission.

PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

Now comes Plaintiffs by and through their attorneys, Jamil Akhtar, P.C. by
Jamil Akhtar and Mark Porter, Associates by Mark Porter, brings this Motion for
a Preliminary Injunction under Fed. R. Civ. P. 65(a) for their Motion Plaintiffs
state as follows:

1) Plaintiff Wayne County Retirees Association, Inc., and the
class action representatives Wayne County Retirees Sub-Chapter 38 AFSCME are

now before this honorable Court, under the provisions of Fed. R. Civ. P. 65, requesting a preliminary injunction, to prevent Defendants from implementing changes to retirees medical benefits and altering the composition of the Wayne County Retirement Board of Commissioners. Defendant Wayne County Executive Warren Evans, without notice to retirees, who are classified as “mirror” retirees, are those individuals who retired from Wayne County on and after January 1, 2007. Said changes include but are not limited to (1) implementing a High Deductible Healthcare Plan, in the amount up to \$2,600.00, for those retirees who have a family medical plan; (2) changing the contribution of retirees medical benefits from ten percent to twenty-five percent.

2) On February 10, 2016, the Defendant Wayne County Executive Warren Evans, through his corporation counsel’s office: put the Wayne County Employees Retirement System, Board of Commissioners, on notice that as of October 1, 2015 they had been removed from office and would be replaced by a new Board, appointed by Evans and the retirees of Wayne County would lose one of their two elected retirement board trustees.

The actions of the Defendants in implementing the high deductible health care plan without notice to the retirees has caused extreme hardship to said retirees

placing them in a position of making a choice between medical insurance and prescription drug coverage or paying their bills.

3) Plaintiff's complaint, with the exception of count IV (breach of contract) all allege a deprivation of a property right protected under Amendment 14 of the U.S. Constitution and actionable under 42 USC 1983.

4) The damages are irreparable, in that the imposed financial hardship, which Defendant Evans has publicly stated are "draconian" are designed to be beyond "economic". The Plaintiffs will be irreparably harmed above and beyond economic loss, by the changes to health care benefits.

5) The Plaintiff's complaint has demonstrated numerous "serious questions going to the merits and irreparable harm which directly outweigh any potential harm to the Defendants if an injunction is issued.

6) The issuance of a preliminary injunction supports the public interests. For instance, Plaintiff's vested rights to lifetime medical benefits have been in place and relied upon by the Plaintiffs for decades. The benefits of the collective bargaining agreement, at the time of retirement, will not be merely reduced, but have become so expensive for Plaintiff under the guise of a law, that facially and as applied, violates the U.S. Constitution "it is always in the public interest to prevent violations of a party's constitutional rights"; *G & V Lounge*,

Inc. v. Michigan Liquor Control Commission, 23 F.3d 1071, 1079 (6th Cir. 1994).

Wherefore, Plaintiff requests that this honorable Court grant an injunction as requested herein.

Dated: February 5, 2016

/S/ Jamil Akhtar-P38597

/S/ Mark Porter-P42280

PLAINTIFF'S BRIEF IN SUPPORT OF INJUNCTION

STATEMENT OF ISSUES PRESENTED

- 1) Are the Plaintiffs entitled to a preliminary injunction under the provisions of Fed. R. Civ. P. 65(a) where the implementation of the High Deductible Healthcare Plan as it applies to the “mirror” retirees is in violation of the terms and conditions of the collective bargaining agreement, in effect on the date of Plaintiff's retirement.
- 2) Are the Plaintiffs entitled to a preliminary injunction under Fed. R. Civ. P. 65(a) as it relates to the county increasing their medical premium cost from ten percent to twenty-five percent, is a violation of the labor contract in effect on the date of their retirement.
- 3) Are Plaintiffs entitled to a preliminary injunction under Fed. R. Civ. P. 65(a) where the “mirror” retirees are obligated to participate in the High Deductible Healthcare Plan, when they are required to pay more for the same medical benefits received by county employees.
- 4) Are the Plaintiffs entitled to a preliminary injunction under Fed. R. Civ. P. 65(a) when the Defendants unilaterally abolished the Wayne County Retirement Board of Trustees, on the effective date of their retirement and attempt to create a new pension board; at the same time eliminate one of the two retiree representatives on the pension board.

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I. STATEMENT OF FACTS

1) On the date of their retirement, all of the Plaintiffs were entitled to receive “mirror” medical benefits, said benefits could be modified by future collective bargaining agreements, to reflect the benefits being paid to active employees of Wayne County. (Exhibit 1).

2) Pursuant to paragraph number three of section D of the insurance article of the various collective bargaining agreements, on the date that the employee retired, the retiree’s premium cost sharing was capped at ten percent of the medical benefit premium, being paid by active employees; further, retirees were guaranteed that there would be no increase in premiums once they reached the age of sixty and were within five years of Medicare eligibility (Exhibit 1).

3) On the date of their retirement, there were three retirement plans offered by the county, identified in their respective collective bargaining agreement; the three plans were Blue Cross Blue Shield PPO, the Health Alliance Plan/HMO and the Blue Cross Blue Shield High Deductible Plan (Exhibit 1).

4) On January 1, 2016, the Defendants, without giving the retirees any notice, changed their medical benefit plan to a High Deductible Blue Cross Blue Shield PPO and Health Alliance Plan HMO; this change required the retiree to pay \$2,600.00 for a family plan, \$1,300.00 for a two person plan and \$650.00 for

an individual plan; the HDHP is a first dollar participant medical benefit plan, wherein no insurance benefits are paid until the high deductible is met (Exhibit 2 - sworn statement Hugh Macdonald).

5) On December 16, 2015 Wayne County Executive Warren Evans sent to all active county employees a memorandum advising them that their medical benefits would be changed effective January 1, 2016; that they would receive up to a \$1,600.00 bonus which could be transferred to a health savings account (HSA) to help pay for the high deductible (Exhibit 3).

6) When implementing the HDHP on January 1, 2016, Defendants did not provide the same cash bonus to the Plaintiffs. (Exhibit 3).

7) In February, 2016, Hugh Macdonald, the Secretary/Treasurer of Plaintiff Wayne County Retirees Sub-Chapter 38 AFSCME became aware that the county was about to reduce the Plaintiff's retirement checks to reflect a increase from ten percent of the medical premium up to twenty-five percent of the medical insurance premium (Exhibit 2).

8) On February 19, 2016 the deputy county executive, Richard Kaufman, filed an affidavit with this Court, stating that the Defendants had a right to increase the medical insurance premium from ten percent to twenty-five

percent; but has not yet implemented said increase (Exhibit 4 - Kaufman's Affidavit). (Dkt. 17-1)

9) On March 17, 2016 Wayne County Board of Commissioners, acting on a request from Defendant, Warren Evans, to implement the increase in medical benefits premiums from ten percent to twenty-five percent voted to send the request back to committee (Exhibit 5).

10) The Home Rule Charter for Wayne County sets forth the composition of the Wayne County Employee's Retirement Board and provides for two retirement board members to be elected by all retirees of Wayne County (Exhibit 6 - Home Rule Charter for Wayne County)

11) The Wayne County Board of Commissioners upon the adoption of the Home Rule Charter, implemented by ordinance , the Charter retirement provisions established by Article VI of the Home Rule Charter for Wayne County and adopted all necessary ordinances for the operation of the Wayne County Employees Retirement System (Exhibit 7).

12) The Wayne County Charter can only be amended by the citizens of Wayne County through a ballot initiative (Exhibit 8 - Wayne County Home Rule Charter Article VII, Sec.7.112).

13) On February 10, 2016 the Defendants, through its corporation

council, sent a communication to the director of the Wayne County Employees Retirement System advising that as of October 1, 2015, that Warren Evans retirement board was to take over the operation of the Wayne County Employees Retirement System and that the present members of the Wayne County Retirement Commission were removed and were without power or authority to take any official action (Exhibit 9).

14) On October 1, 2015, the Michigan Court of Appeals in a published decision, *In the Matter of Harper Woods Retirees Association, et al v. City of Harper Woods*; ____ Mich App ____ (2015) issues its decision stating that: “The Supreme Court noted that traditional contract principles do not preclude the conclusion that the parties intended to vest lifetime benefits for retirees because **“a collective/bargaining agreement [may] provid[e] in explicit terms that certain benefits continue after the agreement’s expiration.”** *Tackett*, 574 US at ____ (citations and quotation marks omitted, alterations in original)” (Exhibit 10)

LEGAL ARGUMENT

A. STANDARDS FOR GRANTING A PRELIMINARY INJUNCTION

The 6th Circuit Court of Appeals in *City of Pontiac Retired Employees v. Schimmel*, 751 F.3d 427 (6th Cir. 2014) stated the factors the court must consider

when it is deciding a Motion For a Preliminary Injunction. The court at the City of Pontiac Retiree Association court at 430 held as follows:

The district court properly identified the four factors it must balance when considering a motion for preliminary injunction: "(1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would suffer irreparable injury without the injunction; (3) whether issuance of the injunction would cause substantial harm to others; and (4) whether the public interest would be served by issuance of the injunction." PACCAR Inc. v. TeleScan Techs., LLC, 319 F.3d 243, 249 (6th Cir.2003), abrogated on other grounds by KP Permanent Make-Up, Inc. v. Lasting Impression I, Inc., 543 U.S. 111, 125 S.Ct. 542, 160 L.Ed.2d 440 (2004). "When a party seeks a preliminary injunction on the basis of a potential constitutional violation, 'the likelihood of success on the merits often will be the determinative factor.'" Obama for Am. v. Husted, 697 F.3d 423, 436 (6th Cir.2012) (quoting Jones v. Caruso, 569 F.3d 258, 265 (6th Cir.2009)). Whether the movant is likely to succeed on the merits is a question of law we review de novo. NAACP v. City of Mansfield, 866 F.2d 162, 169 (6th Cir.1989). We review "for abuse of discretion, however, the district court's ultimate determination as to whether the four preliminary injunction factors weigh in favor of granting or denying

preliminary injunctive relief." Tumblebus Inc. v. Cranmer, 399 F.3d 754, 760 (6th Cir.2005). This standard is deferential, but the court may reverse the district court if it improperly applied the governing law, used an erroneous legal standard, or relied upon clearly erroneous findings of fact. NAACP, 866 F.2d at 166-67.

B. PLAINTIFFS HAVE A PROPERTY RIGHT WHICH IS PROTECTED UNDER THE DUE PROCESS CLAUSE OF THE 14th AMENDMENT

The 6th Circuit Court of Appeals in *City of Pontiac Retired Employees*, 751 F.3d 427, 432 set forth what a plaintiff must allege and prove in order to have a property right created by statute or contract; the 6th Circuit stated this Rule of Law as follows:

"Third, the retirees argue that the City violated the Fourteenth Amendment by depriving them of their health care benefits without due process of law. A procedural due process claim requires a showing that the plaintiff has been deprived of a protected property interest without adequate process. Hahn v. Star Bank, 190 F.3d 708, 716 (6th Cir.1999). "A contract, such as a collective bargaining agreement, may create a property interest." Leary v. Daeschner, 228 F.3d 729, 741 (6th Cir.2000). But to have a property interest in a contractual benefit, a person must "have a legitimate claim of entitlement to it." Bd. of

Regents of State Coll. v. Roth, 408 U.S. 564, 577, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972). This issue was not considered thoroughly by the district court. Moreover, we cannot properly assess the **retirees'** claim without analyzing the collective bargaining agreements in their entirety, which were not before the district court when it considered this issue. Based on excerpts alone, "it is difficult to discern the intent of the contracting parties and whether health care benefits were guaranteed indefinitely or were instead subject to change." City of Pontiac Retired Emps. Ass'n, 726 F.3d at 788 (Griffin, J., dissenting). Furthermore, the district court did not consider whether, as a threshold matter, the retirees' procedural due process claim is viable in light of Atkins v. Parker, 472 U.S. 115, 105 S.Ct. 2520, 86 L.Ed.2d 81 (1985), and Bi-Metallic Inv. Co. v. State Bd. of Equalization, 239 U.S. 441, 36 S.Ct. 141, 60 L.Ed. 372 (1915)".

A key element in determining a violation of the 14th Amendment property right cause of action, is the ability of the plaintiff to demonstrate and prove that there was no notice given by the defendant, of its intent to eliminate a property right created by statute and/or contract. The U.S. Supreme Court in Atkins v. Parker, 472 US 115, (1985) set forth this notice requirement as follows:

"The claim that petitioners had a constitutional right to better notice of the consequences of the statutory amendment is without merit. All citizens are

presumptively charged with knowledge of the law, see, e. g., North Laramie Land Co.v. Hoffman, 268 U. S. 276, 283 (1925). Arguably that presumption may be overcome in cases in which the statute does not allow a sufficient "grace period" to provide the persons affected by a change in the law with an adequate opportunity to become familiar with their obligations under it. See Texaco, Inc. v. Short, 454 U. S. 516, 532 (1982). In this case, however, not only was there a grace period of over 90 days before the amendment became effective, but in addition, every person affected by the change was given individual notice of the substance of the amendment.¹³⁴¹ "(Atkins at 131)

In the City of Pontiac Retired Employee decision, the 6th Circuit did not address "the retirees procedure due process claim is viable in light of Adkins." The Adkins case specifically dealt with notice requirements before depriving a party of a property right protected by the 14th Amendment; there is absolutely no argument on the part of the Defendants, that it did not provide the retirees with any notice that their medical benefits would be changed as of January 1, 2016. It is undisputed that Plaintiffs rights to continued medical benefits, which were provided for in their collective bargaining agreement on the date of their retirement would be "perpetual benefits". The law in Michigan as to whether or not the retirees medical benefits are "perpetual benefits" was affirmatively decided

by the Michigan Court of Appeals in its published decision in City of Harper Woods Retirees Association v. City of Harper Woods (Ex. 10). The Harper Woods court made it clear that if the contract provided for medical benefits which were “perpetual benefits” that the retiree did in fact have a property right to the continuation of those benefits. The court was fully aware of the United States Supreme Court decision in “M & G Palamers USA, LLC, et al v. Tackett, et al (574 U.S. __)(2015). The Harper Woods decision was a post Tackett decision and therefore, this published decision of the Michigan Court of Appeals, which was not appealed by the Defendants constitutes the law in the State of Michigan as it relates to post retiree medical benefits.

(C) Plaintiffs had a property right by way of their collective bargaining agreement, requiring the County to maintain their medical benefit premium at ten percent.

As stated above, all of the collective bargaining agreements entered into on and after January of 2007 provided for the Plaintiffs to pay a medical benefit premium capped at ten percent of the premium paid by active employees. The AFSCME collective bargaining agreements, the Governmental Administrators Association collective bargaining agreements and the Police Officers Association

of Michigan bargaining agreements, all provided for the same medical benefit premiums for retirees, ten percent. (Exhibit 1)

MONTHLY CONTRIBUTION (Deducted twice a month on a pre-tax basis)	Single Person Rate	Two Person Rate	Family Rate
PPO	\$116.77	\$130.20	\$152.85
HMO	\$116.77	\$166.98	\$192.90
HDHP	None	None	None

The affidavit of Richard Kaufman dated February 19, 2016 makes it clear that it is the intent of the County to implement an increase in the cost of the premium for medical insurance. (Exhibit 4) At the time of their retirement, even though the County offered a HDHP, that plan did not have any premium co-pays associated with it. The HDHP plan called for a premium of zero dollars (see above).

THE FOUR ISSUES TO BE DECIDED BY THE COURT

ISSUE #1 AND ISSUE #2

The implementation of the High Deductible Healthcare Plan (HDHP), without notice to the “mirror” retirees and the attempt to increase medical benefit premiums is a violation of the retiree’s contractually created property rights.

On January 1, 2015 the Defendants unilaterally implemented a change in medical insurance coverage for “mirror” retirees, from the traditional Blue

Cross Blue Shield PPO and Health Maintenance Organization (HMO) Health Alliance Plan to the HDHP. The Plaintiffs all had identical contract language which provided , at the time of their retirement for three different retirement plans; (1) Blue Cross Blue Shield PPO, (2) Health Alliance Plan HMO and (3) High Deductible Health Care Plan (HDHP); the HDHP was a plan which the employees did not have to pay any medical benefits premium for and the co-pays and deductions s were set forth in the health care plan.

On January 1, 2015, Wayne County unilaterally and without notification to the retirees changed all retirees over to the HDHP plan (Exhibit 2 - Hugh Macdonald).

Further, as part of the implementation of the HDHP, the Defendants increased the medical premium payment from ten percent to twenty five percent of the cost associated with active employees benefits. The increase from ten percent to twenty five percent has not yet been implemented; the Defendants have been unable to obtain permission from the Wayne County Board of Commissioners (Ex. 4 - Kaufman's affidavit and Ex. 11 - minutes of the meeting of 3-17-16). The economic hardship on the Plaintiffs in many instances are extreme and force the retirees to make a choice between medication and paying their everyday bills for food, heat, water, mortgages, etc. (Ex. 12)

Upon the implementation of the HDHP, the retirees first dollar payment for medical benefits and prescription benefits, went from the co-pays set forth in the original plans, to \$2,600.00 for a family plan; said \$2,600.00 has to be paid out of pocket before any county provided benefits are started. The Defendants in order to lessen this \$2,600.00 burden on its active employees pay the employees a lump sum payment of \$1,300.00 per year to be transferred to their health savings account, to help pay for the first \$1,300.00 of the \$2,600.00 first dollar payment under the HCHP (Ex. 3 - Evans letter dated December 16, 2015).

A) Whether the movant has a strong likelihood of success on the merits:

In February, 2016, Hugh McDonald, the treasurer of Plaintiff Wayne County Retirees Sub-Chapter 38 AFSCME became aware that the county was about to reduce the Plaintiff's retirement checks to reflect a increase from ten percent of the medical benefits premium up to twenty-five percent of the medical benefit premium (Exhibit 3). On February 19, 2016 the Deputy County Executive, Richard Kaufman, filed an affidavit with this Court stating that the Defendants had a right to increase the medical insurance premium from ten percent to twenty-five percent but has not yet implemented said increase (Exhibit 4 - Kaufman's affidavit).

The law in Michigan as established by the Michigan Court of Appeals in *City of Harper Woods Retirees Association* ; ___Mich App___(2015) , is that a public sector collective bargaining agreement can establish perpetual health insurance benefits for its retirees. The County cannot deny that the collective bargaining agreements entered into between the County and the various unions, all provide for perpetual medical benefit coverage which is to be equal to the medical benefits provided to active employees. Plaintiff has attached the entire 113 page AFSCME contract for the Court's review(Exhibit 13); the 6th Circuit in the Pontiac decision stated that absent a complete copy of the collective bargaining agreement, it could not evaluate the issue of perpetual medical insurance benefits (*City of Pontiac Retirees Association, et al*, 751 F.3d at 432).

Once a property right has been established, the law interpreting the 14th Amendment property right violations, specifically state that there must be notice prior to the taking of said property right. See *Atkins*, 472 US at 130-131). Therefore, Plaintiffs have a strong likelihood of success on the merits.

B. Whether the movant would suffer irreparable injury without the injunction:

The 6th Circuit in *City of Pontiac Retirees Association* stated:

“But “[n]umerous courts have found that reduction in retirees insurance coverage constitutes irreparable harm, meriting a preliminary injunction”

Hickey v. Kelsey-Hayes Co. 866 Fed Supp 1034, 1044 (Ed. Mich 1994) and *Welch v. Brown*, No. 13-1476, 551 Fed appx. 804, 813-14, 2014 WL 25641, at *9 (6th Cir. January 3, 2014 . . . “ (at 432)

The holding of the 6th Circuit in the *City of Pontiac Retirees Association* case was not changed by the Supreme Court’s decision in *Tackett*; in the case now before the Court, there is no question that the retirees are entitled to post retirement medical benefits, it will be proven at the hearing for injunctive relief that the retirees are suffering irreparable harm due to the extreme hardship of being forced to pay \$2,600.00 up front before any medical benefits start. This is truly irreparable harm as envisioned by the 6th Circuit in the *Pontiac* decision. (Ex. 12)

C. Whether issuance of the injunction would cause substantial harm to others:

The third requirement is for the plaintiff to demonstrate to the court that the injunction will not cause substantial harm to Wayne County. According to Warren Evans letter to “Dear County Employees and Elected Officials” dated December 16, 2015 Wayne County is financially sound and has the ability to pay its bills (Exhibit 3). The County cannot argue that an injunction causing the near bankruptcy of hundreds of retired Wayne County employees will cause a financial hardship on Wayne County or cause any other drastic events to be triggered. Therefore, the

County will not suffer any “substantial harm”.

D. Whether the public interests would be served by issuance of the injunction:

The public interests in fact will be served by this honorable Court issuing an injunction. The Defendants are protectors of the public trust, in that the citizens of Wayne County rely upon the administration of county government to not violate the contractual and legal rights of its employees and retirees. The public interest will be served by requiring the leadership of Wayne County to fulfill its obligations owed to the Plaintiffs under both moral and legal principles. The interest of the public is served when government functions under the rule of law.

Wherefore, Plaintiff respectfully requests that this honorable Court grant its injunction and order the County to cease and desist its implementation of the HDHP and increasing medical benefits premium from 10% to 25% ; further, to make all of the retirees whole until such a time as a full trial on the merits can be had.

ISSUE #3

In the alternative, plaintiff are required to pay more for their medical benefits than do active county employees:

A) Whether the movant has a strong likelihood of success on the merits.

The reading of the retiree medical provisions of the collective bargaining agreement as set out above and contained in (Exhibit 1) clearly

states that it was the intent of the parties that the HDHP medical plan was not to have a premium associated with the HDHP. Further, the contract which was in effect on the date of their retirement, provided for a different percentage contribution rate for medical benefits; that being ten percent with annual increases or decreases to age sixty and then at age sixty, their medical benefit premium was frozen.

Under the Defendant's plan, active county employees pay fifty percent (50%) less for the HDHP medical benefits than do retirees. A review of Exhibits 1 & 3 demonstrates that active employees receive cash bonuses to pay for one half of the cost of the HDHP medical benefits. Not only is the unannounced changes to medical benefits by unconstitutional, making retirees to pay 50% more for their HDHP medical benefits, is truly "Draconian" and mean spirited.

Clearly the Plaintiffs have stated a cause of action, demonstrating that they have a strong likelihood of success on the merits.

(B) Whether the movement would suffer irreparable injury without the injunction

Following the holding in the *City of Pontiac Retirees Association* case entered by the 6th Circuit in May of 2014, the injunction: standards set forth

by the United States Supreme Court in *Sampson v. Murray* 415 US 61 (1974) do not apply in cases such as that now before the Court.

Under normal circumstances an injunction would not be entered where there is only economic loss ; however, in the case now before the Court we are not dealing with dollars, but we are dealing with the health, welfare and even the possibility of death, if the retirees are unable to afford the medical care and treatment and not able to purchase their medication. (Exhibit 12). The deductible for prescription, office visits and other related costs are set out in the Wayne County Health and Welfare Plan and have been in effect since the Plaintiffs retired from Wayne County (Ex 15 - Wayne County Health and Welfare Plan).

The irreparable harm is clear and obvious; in many instances, without the financial ability to pay for medical care and treatment and prescription medication, a individual's physical and/or mental health can suffer to a point where the deterioration of a persons health is affected. (Exhibit 12)

(C) Whether issuance of the injunction would cause substantial harm to others

The 6th Circuit in *City of Pontiac Retirees Association* stated:

But “[n]umerous courts have found that reduction in retirees insurance coverage constitutes irreparable harm, meriting a preliminary injunction”

Hickey v. Kelsey-Hayes Co. 866 Fed Supp 1034, 1044 (Ed. Mich 1994) and *Welch v. Brown*, No. 13-1476, 551 Fed appx. 804, 813-14, 2014 WL 25641, at *9 (6th Cir. January 3, 2014 . . . “

The holding of the 6th Circuit in *City o Pontiac Retirees Association, surpa*, was not changed by the Supreme Court’s decision in *Tackett surpa*; in the case now before the Court, there is no question that the retirees are entitled to medical benefits, it will be proven at the hearing for injunctive relief that the retirees are suffering irreparable harm due to the extreme hardship of being forced to pay up to \$2,600.00, up front before any medical benefits start. This is truly irreparable harm as envisioned by the 6th Circuit in *Pontiac, surpa*.

(D) Whether the public interests would be served by issuance of the injunction:

The public interests in fact will be served by this honorable Court issuing an injunction. The Defendants are protectors of the public trust, in that the citizens rely upon the administration of county government to not violate the contractual and legal rights of its employees and retirees. The public interest will be served by requiring the leadership of Wayne County fo fulfill its obligations owed to the Plaintiffs under both moral and legal principles. The interest of the public is served when government functions under the rule of law.

Wherefore, Plaintiff respectfully requests that this honorable Court grant its injunction and order the County to cease and desist its implementation of the HDHP and to make all of the retirees whole until such a time as a full trial on the merits can be had.

ISSUE #4

The Defendant's unilateral abolishment of the Wayne County Retirement Commission, which is established by the Wayne County Home Rule Charter, is a property right vested in Plaintiffs.

The Plaintiff's last argument is that they are entitled to an injunction, preventing the Defendants from abolishing the Retirement Board, created by Home Rule Charter and preventing the County Executive from appointing a new retirement board of directors.

The Defendants principal argument, as to its ability to remove one of the two Charter created retiree trustee positions on the Wayne County Retirement Commission Board, is authorized by the Public Employment Relations Act being Act 136 PA 1947 as amended. This argument fails for several reasons.

The Defendants argue in it's supplemental brief (Dkt. 28, p.3-5) that the composition of the pension board is a mandatory subject of bargaining under the PERA; citing *Werdlow, et al v. City of Detroit Police and Fire System Board of Trustees*, 269 Mich. App. 383, reversed in part, 477 Mich. 893 (2006).

This Honorable Court in its December 4, 2015 decision (Dkt. 35) at pages 1882 and 1883 held that:

“Plaintiff may, however, allege that their rights to pensions and vested retirement benefits, as well as their rights to representation on the governing public employee pension board are property rights, and that the rights to arbitrate are procedural rights owed before Plaintiffs are deprived of their property rights.”

Plaintiff relies upon two separate arguments to state that the composition of the retirement board, is in fact a property right which cannot be taken away absent due process. Those elements are as follows:

- 1) The composition of the retirement board is provided for by the Wayne County Home Rule Charter and Retirement Ordinance (Exhibit 6 & 7);
- 2) All CBA’S specifically states that the Wayne County Employees Retirement Ordinance is incorporated; the contractual language is:

“General provisions

A. The detailed provisions of the Wayne County Employees Retirement System shall control except where changed or modified below.”
(Exhibit 16).

The Wayne County Employees Retirement System, unlike the

Detroit Police and Fire Retirement System, as discussed in *Werdlow supra*, is an entirely different system. The Detroit Police and Fire Retirement System is composed only of employees of the police and fire department and all of their employees are represented by labor unions. However, the Wayne County Employees Retirement System is composed of three classifications of members, all of whom have specific standing under the Charter and Retirement Ordinance; said members are classified as (1) unionized employees, (2) non-unionized employees and (3) retirees. The retirement ordinance at Section 141-35 et seq, allows for active employees and retirees to vote for their respective representatives. (Exhibit 6 & 7)

What the Defendant is suggesting to this honorable Court, is that the active employees who are not covered by a Collective Bargaining Agreement including retirees have no standing to challenge the changes to the makeup of the Retirement Board.

A. Whether the movant has a strong likelihood of success on the merits:

Because of the fact the Defendants did not receive approval from several hundred non-union employees and over four thousand retirees, all of whom are members of the retirement system and taking into consideration that the composition of the Retirement Board is a Charter requirement; further, the

Home Rule Charter specifically states that only the citizens of the Wayne County can change the Home Rule Charter, Defendants will not succeed and the Plaintiffs have a strong likelihood of prevailing (Ex. 6, 7 & 8).

On February 18, 2016 Deputy CEO Kaufman went before the Wayne County Commission, requesting that the commission allow Evans to make changes to the composition of the Pension Board. (Ex. 17 - Detroit Free Press). The commission rejected the Defendant's request to eliminate the Home Rule Charter Retirement Commission and to replace the Home Rule Charter Commission with the Evans appointees. Therefore, the union has a strong likelihood to succeed on the merits.

B. Whether the movant would suffer irreparable injury without the Injunction:

The irreparable injury as spelled out above, is that the Plaintiffs two representatives on the retirement commission, are in jeopardy of losing their elected positions to the retirement board. Under the Evans plan, one of the two elected retiree representatives would have to give up their seat. Therefore, absent that injunction, Defendants will take unilateral action to remove one of the retiree representatives on the retirement commission and that constitutes irreparable injury.

There is no way that at a later date, the commission could undo the harm created by the Defendant's appointees, taking action on such thing as investing

retirement money, inappropriate financial projects, selecting a interest investment assumption, which is not realistic, changing the number of years for amortizing the financial projections of the retirement system and other issues of both a financial and administrative actions which could never be reversed.

C. Whether issuance of an injunction would cause substantial harm to others:

By preventing the defendants from removing the legally elected retirement Board Members, this Honorable Court will maintain the status quo, thus insuring no harm will come to the retirees of Wayne County and that no action taken by the Defendants will in any way harm the funding of the pension system.

It is also important to remember, that the Defendants attempted to remove the Charter Retirement Board, is a clear violation of Sec. 21 of Act 314 P.A. 1965.

(Exhibit 18)

4. Whether the public interests would be served by issuance of the injunction

The public interests in fact will be served by this honorable Court issuing an injunction. The Defendants are protectors of the public trust, in that they rely upon the administration of county government to not violate the contractual and legal rights of its employees and retirees. The public interest will be served by requiring the leadership of Wayne County to fulfill its obligations owed to the Plaintiffs under

both moral and legal principles. The interest of the public is served when government functions under the rule of law.

Wherefore, Plaintiff respectfully requests that this honorable Court grant its injunction and order the County to cease and desist its implementation of the HDHP and making changes to the composition of the Retirement Board.

CONCLUSION

Wherefore, Plaintiff respectfully requests that this honorable Court grant its request for injunctive relief as to all areas set out in its complaint and supported with the above arguments, legal positions and evidence.

April 5, 2016

/S/ Jamill Akhtar

/S/ Mark Porter

CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2016, I electronically filed the foregoing Plaintiff's Motion and Brief and this Certificate of Service, with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties of record.

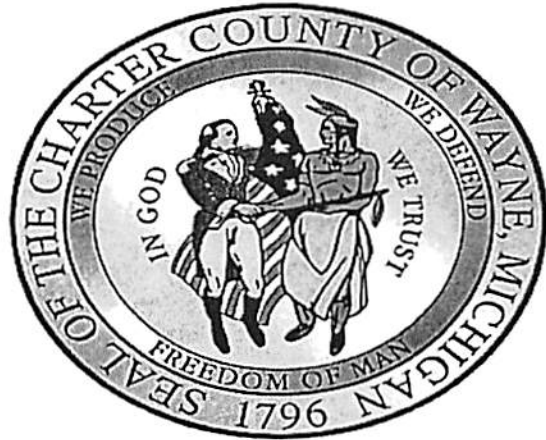
/S/ Jamil Akhtar

Jamil Akhtar

EXHIBIT #1

COLLECTIVE BARGAINING AGREEMENT

BETWEEN



**Robert A. Ficano
County Executive**

- AND -

**AFSCME
LOCALS 1862, 2057 AND 2926**

**OCTOBER 1, 2011
THROUGH
SEPTEMBER 30, 2014**

ARTICLE 29 - INSURANCE PROGRAMS

Except where it is in conflict with the express terms of this agreement the *Wayne County Health and Welfare Benefit Plan* ("the Plan"), effective December 1, 2006, is incorporated by reference.

29.01 Medical Insurance

- A. During each open enrollment, qualified employees will be eligible to select a medical plan among the available options listed below:
1. Health Maintenance Organization (HMO) – Table A
 2. Preferred Provider Organization (PPO) – Table B
 3. High Deductible Plan – Table C
- B. Prescription drug coverage will be provided as described in Table D for qualified employees enrolled in an available medical plan, subject to graduated co-payments based on the class of drug prescribed in accordance with the *Wayne County Health and Welfare Benefit Plan*.
- C. Effective October 1, 2012, active Employees will be required to contribute toward the cost of healthcare based on the following schedule for the 2012-2013 plan year:

MONTHLY CONTRIBUTION (Deducted monthly; total amount is divided equally amongst 1st 2 pays of each month on a pre-tax basis)	Single Person Rate	Two Person Rate	Family Rate
PPO	\$137.46	\$153.28	\$179.94
HMO	\$124.71	\$178.33	\$206.02
HDHP	None	None	None

Contributions for each plan year after the 2012-2013 plan year shall be increased/decreased at the same rate at which reported monthly illustrative rates or premiums increase or decrease.

Contributions shall be paid out of the first two (2) pays of each month. Employees on any type of leave of absence who continue to be enrolled in an Employer-sponsored healthcare plan shall be required to make the monthly contribution in order to maintain enrollment in the plan regardless of the number of hours actually paid or type of time used (e.g., regular, annual, sick, etc.).

If the employee is on approved sick leave and is not receiving any form of compensation from the County, the payment of monthly contributions shall be deferred until the employee's return to work. At that time payment of all monthly contributions shall be made, but no payment shall be more than fifteen percent (15%) of the obligation. An employee separating from service prior to full payment of all deferred contributions will be required to remit full payment of the outstanding deferred contribution obligation upon separation from County service.

The Employer will implement a premium recovery Section 125 Plan providing a pre-tax benefit for active employees contributing towards the monthly cost of health care benefits to the extent possible under Internal Revenue Service regulations.

- D. Employees who retire from County service who are eligible for post-retirement health care benefits shall participate in the same health care plan options, coverages (excluding Master Medical and dental coverage), co-pays, deductibles, etc. as active employees covered by this, or any subsequent, collective bargaining agreement.

Employees retiring under the provisions of this Agreement shall make monthly contributions toward the cost of medical and prescription drug benefits based on the average monthly premiums and/or illustrative rates ("rates") of the medical and prescription drug plans available to retirees. The average monthly rates for the separate medical and prescription drug plan categories shall be calculated by averaging the single-person, two-person, and family rates of each available plan resulting in an average monthly plan rate for each available plan. The average monthly plan rates for the PPO and HMO medical plans shall then be further averaged together to reach the standard average monthly medical plan rate.

Retirees enrolling in either the PPO or the HMO plan option shall contribute ten percent (10%) of the standard average monthly medical plan rate in addition to ten percent (10%) of the average monthly prescription drug plan rate.

Contributions toward the cost of retiree healthcare shall continue at the appropriate rate as described above until the first of the month after the retiree is within five (5) years of eligibility for Medicare due to age. The rate in effect at that point in time shall thereafter be the maximum monthly contribution rate for that retiree and shall be assessed until such time as the retiree and all covered dependents have enrolled in Medicare. Contributions toward health care costs shall not be assessed against the retiree during months when all covered members are enrolled in Medicare.

- E. Qualified employees may select only one health care plan option. Selection and enrollment of a qualified employee and his or her eligible dependents in an available health plan will remain the responsibility of the employee.
- F. Health care coverage for eligible dependents will be in accordance with the terms and conditions outlined in the *Wayne County Health and Welfare Benefit Plan*.

- G. Spouses who are eligible for primary medical coverage through another employer shall not be eligible for primary coverage through Wayne County.
- H. All employees who are newly hired, rehired, re-employed, or reinstated must participate in the plan of the County's choice for at least one year. Participation will begin the first of the month following the effective date of active service and will continue without election until completion of one year in the mandatory plan.
- I. In the event Federal legislation which provides health care coverage for employees covered by this Agreement is enacted into law during the term of this Agreement, the parties agree to renegotiate the provisions of this section as needed upon request.
- J. In the event Federal legislation which provides health care coverage for employees covered by this Agreement is enacted into law during the term of this Agreement, the parties agree to renegotiate the provisions of this section as needed upon request.

29.02 Healthcare Benefit Opt-Out Program

At the Employer's option, a Healthcare Benefit Opt-Out Program may be offered in accordance with the terms and conditions outlined in the *Wayne County Health and Welfare Benefit Plan*.

29.03 Coordination of Benefits

The Employer will continue to coordinate medical, vision and dental benefits with insurance carriers of spouses and dependents of Wayne County active employees. All employees and retirees must notify the Benefits Administration Division of any changes, including but not limited to, marital, dependent, employment and insurance status.

29.04 Optical Program

The Employer shall continue to provide retirees and an active employees self-insured optical reimbursement program with a \$75.00 maximum benefit level for each retiree and family member, and a \$175.00 maximum benefit level for each active employee and family member—who is currently covered under Professional Services Group Benefit Certificate and Comprehensive Hospital Care Group Benefit Certificate, HMO, or PPO, at the Employer's expense. Benefits will be restored every two years on October 1 of each odd-numbered year.

Once participation in this program is elected, the enrollment shall be maintained for a minimum of two (2) years. After the two (2) year period, the employee may elect another vision/optical program.

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

**ROBERT A. FICANO, COUNTY EXECUTIVE AND
WAYNE COUNTY SHERIFF**

- AND -

POLICE OFFICERS ASSOCIATION OF MICHIGAN

OCTOBER 1, 2011 THROUGH SEPTEMBER 30, 2016

- C. Employees who retire within the qualifying period who have qualified shall be paid a pro-rated amount at the time of separation based upon the length of active duty within the qualification period.

30.13: The Employer will contribute fifteen dollars (\$15.00) per employee each year toward the annual membership fee for any full-time, regular status employee of the bargaining unit who elects membership in the Deputy Sheriff's Association of Michigan (DSAM).

ARTICLE 31
INSURANCE PROGRAMS

31.1: Except where it is in conflict with the express terms of this Agreement, the *Wayne County Health and Welfare Benefit Plan* is hereby incorporated by reference.

31.2: Medical Insurance.

- A. During each open enrollment period, qualified employees will be eligible to select a health care plan among the available options listed below:
1. Preferred Provider Organization (PPO) as described in Appendix A.
 2. Health Maintenance Organization (HMO) as described in Appendix B.
 3. High-Deductible Health Plan (HDHP) as described in Appendix C.
- B. Prescription drug coverage will also be provided for qualified employees enrolled in an available medical plan, subject to graduated co-payments based on the class of drug prescribed as described in Appendix D.
- C. Effective October 1, 2013, active employees will be required to contribute toward the cost of medical and prescription drug coverage as a monthly rate as indicated in the schedule below:

MONTHLY CONTRIBUTION (Deducted twice a month on a pre-tax basis)	Single Person Rate	Two Person Rate	Family Rate
PPO	\$150.09	\$167.36	\$196.47
HMO	\$128.93	\$184.36	\$212.99
HDHP	None	None	None

Employees on any type of leave of absence who continue to be enrolled in an Employer-sponsored healthcare plan shall be required to make the monthly contribution in order to maintain enrollment in the plan.

For each successive plan year thereafter, contributions shall be increased / decreased at the same rate at which reported monthly illustrative rates or premiums increase or decrease.

Contributions shall be deducted out of the first two (2) pays of each month. Employees on any type of leave of absence who continue to be enrolled in an Employer-sponsored healthcare plan shall be required to make the monthly contribution in order to maintain enrollment in the plan.

- D. Employees who retire from County service who are eligible for post retirement health care benefits shall participate in the same health care plan options, coverages, co-pays, deductibles, etc. as active employees covered by this, or any subsequent, collective bargaining agreement.

Employees retiring under the provisions of this Agreement shall make monthly contributions toward the cost of medical and prescription drug benefits based on the average monthly premiums and/or illustrative rates ("rates") of the medical and prescription drug plans available to retirees. The average monthly rates for the separate medical and prescription drug plan categories shall be calculated by averaging the single-person, two-person and family rates of

Page 88

Wayne County/POAM

October 1, 2011 through September 30, 2016

SIGNATURE COPY

each available plan resulting in an average monthly plan rate for each available plan. The average monthly plan rates for the PPO and HMO medical plans shall then be further averaged together to reach the standard average monthly medical plan rate.

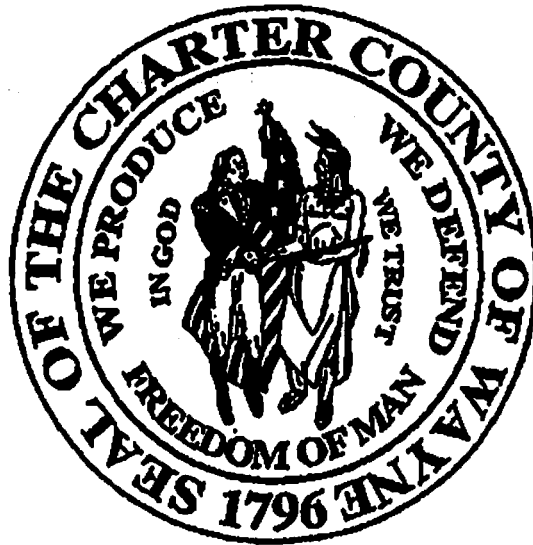
Retirees enrolling in either the PPO or the HMO plan option shall contribute ten percent (10%) of the standard average monthly medical plan rate in addition to ten percent (10%) of the average monthly prescription drug plan rate.

Contributions toward the cost of retiree healthcare shall continue at the appropriate rate as described above until the first of the month after the retiree is within five (5) years of eligibility for Medicare due to age. The rate in effect at that point in time shall thereafter be the maximum monthly contribution rate for that retiree and shall be assessed until such time as the retiree and all covered dependents have enrolled in Medicare. Contributions toward health care costs shall not be assessed against the retiree during months when all covered members are enrolled in Medicare.

Retiree Health Care Limited to Retiree Only. Effective the date of the award by Arbitrator Richard Block, October 16, 2013, bargaining unit members who hired into the County service on or after January 1, 2002 who are not participants in the Employee Health Care Benefit Trust ("Trust") established by Wayne County who are eligible for post-retirement health care benefits shall participate in the same health care options, coverages, co-pays, deductibles, etc., as active employees covered by this or any subsequent bargaining agreement for themselves only and shall be responsible for any and all premium obligations due for coverage for spouses and/or dependents.

The County shall negotiate with the bargaining unit over a version of its present Employee

COLLECTIVE BARGAINING AGREEMENT
BETWEEN



THE COUNTY OF WAYNE (MICHIGAN)

Robert A. Ficano
Wayne County Executive

- AND -

AFSCME LOCAL 3317, AFL-CIO,
SERGEANTS, LIEUTENANTS AND CAPTAINS

OCTOBER 1, 2011
THROUGH
SEPTEMBER 30, 2014

ARTICLE 37 – INSURANCE PROGRAMS

37.01

Except where inconsistent with the express terms of this Agreement, the *Wayne County Health and Welfare Benefit Plan*, effective December 1, 2006, is hereby incorporated by reference.

37.02 Medical Insurance

A. Effective upon the next open enrollment following execution of this Agreement by the County Executive, qualified employees will be eligible to select a health care plan among the available options listed below:

1. Health Maintenance Organization (HMO)
2. Preferred Provider Organization (PPO)

3. Traditional Plan

- B. Prescription drug coverage will also be provided for qualified employees enrolled in an available medical plan, subject to graduated co-payments based on the class of drug prescribed in accordance with the Wayne County Health and Welfare Benefit Plan.
- C. Active employees will be required to contribute toward the cost of healthcare as an hourly rate for the 2006-07 and 2007-08 plan (fiscal) years based on the following schedule:

HOURLY CONTRIBUTION BASED ON 2080 ANNUAL HOURS	PRE-TAX HOURLY CONTRIBUTION	ESTIMATED AFTER-TAX HOURLY CONTRIBUTION
PPO or HMO Rates (without Rx)	\$ 0.45	\$ 0.32
Traditional Rates (without Rx)	\$ 1.34	\$ 0.94
Prescription Drug Rates	\$ 0.10	\$ 0.07

Hourly contributions for each plan year after the 2007-08 plan year shall be increased / decreased at the same rate at which reported monthly illustrative rates or premiums increase or decrease, not to exceed ten percent (10%) over the previous plan year's contribution rate for the specified plan.

Contributions shall be made based on a 2080-hour work year and paid out of the first two (2) pays of each month. Employees on any type of leave of absence who continue to be enrolled in an Employer-sponsored healthcare plan shall be required to make the monthly contribution in order to maintain enrollment in the plan regardless of the number of hours actually paid or type of time used (e.g., regular, annual, sick, etc.). Overtime hours shall not be used to calculate contributions.

- D. Employees who retire from County service who are eligible for post retirement health care benefits shall participate in the same health care plan options, coverages, co-pays, deductibles, etc. as active employees covered by this, or any subsequent, collective bargaining agreement.

Employees retiring under the provisions of this Agreement shall make monthly contributions toward the cost of medical and prescription drug benefits based on the average monthly premiums and/or illustrative rates ("rates") of the medical and prescription drug plans available to retirees. The average monthly rates for the separate medical and prescription drug plan categories shall be calculated by averaging the single-person, two-person and family rates of each available plan resulting in an average monthly plan rate for each available plan. The average

monthly plan rates for the PPO and HMO medical plans shall then be further averaged together to reach the standard average monthly medical plan rate.

Retirees enrolling in either the PPO or the HMO plan option shall contribute ten percent (10%) of the standard average monthly medical plan rate in addition to ten percent (10%) of the average monthly prescription drug plan rate. Retirees electing to enroll in the Traditional plan option shall contribute an amount equal to retirees enrolled in the PPO or HMO plan option plus the monthly rate difference between the standard average monthly medical plan rate and the average monthly Traditional plan rate.

Contributions toward the cost of retiree healthcare shall continue at the appropriate rate as described above until the first of the month after the retiree is within five (5) years of eligibility for Medicare due to age. The rate in effect at that point in time shall thereafter be the maximum monthly contribution rate for that retiree and shall be assessed until such time as the retiree and all covered dependents have enrolled in Medicare. Contributions toward health care costs shall not be assessed against the retiree during months when all covered members are enrolled in Medicare.

EXHIBIT #2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WAYNE COUNTY RETIREES' ASSOCIATION, INC.;
AFSCME SUBCHAPTER 38; EUGENE WRIGHT,
ANTHONY CECE, DOUGLAS WADLIN, CHARLES BONZA,
EVELYN GLANTON, MARGY BISHOP, BEVERLY BRODEN,
PAUL PENERACKL, AND KIM SMITH, On behalf of
themselves and all others similarly situated,
Plaintiffs,

V.

CIVIL ACTION
NO. 16-10546
HON. JUDITH LEVY

CHARTER COUNTY OF WAYNE, and WARREN EVANS,
Individually and in his official capacity of
Wayne County Executive, and Ex-Official Member
of the Wayne County Employees Retirement System,
and GARY WORONCHAK, Individually and in his
official capacity as Chairman of the Wayne County
Commission, and Ex-Official Member of the Wayne
County Employees Retirement Commission, WAYNE
COUNTY EMPLOYEES RETIREMENT SYSTEM AND ITS TRUSTEES;
TINA TURNER, in her official capacity as Chairman of the Wayne County
Employees Retirement Commission, DENNIS MARTIN, in his official
capacity as Trustee for the Wayne County Employee Retirement Commission,
HENRY WILSON, in his official capacity as Trustee for the Wayne
County Employee Retirement Commission, HUGH S. MACDONALD,
in his official capacity of Trustee of the Wayne County Employee
Retirement Commission, ELIZABETH MISURACA, in her official
capacity as Trustee of the Wayne County Employee Retirement
Commission, joint and severally,
Defendants.

Declaration of Hugh Macdonald

I, Hugh Macdonald, declare as follows:

- 1) I am the secretary- treasurer of Wayne County Retirees Sub-Chapter 38 AFSCME and as secretary-treasurer I am the chief administrative officer for this organization. I am over twenty-one years of age and authorized to make this declaration on behalf of Wayne County Retirees Sub-Chapter 38 AFSCME. The following facts are within my personal knowledge and if called to testify, I could and would competently testify thereto.**
- 2) I am one of the two elected retiree board members on the Wayne County Employee Retirement Commission.**
- 3) Wayne County Retirees Sub-Chapter 38 AFSCME represents approximately 1,400 retired dues paying retirees of Wayne County plus an additional estimated 2,000 retirees of Wayne County as a result of the "Stipulated Order Approving Class Action Settlement and Dismissing Case" entered by the Honorable Leslie Kim Smith on September 4, 2015, Case No. 09-031117-CL.**
- 4) In 2015, I was one of the named Plaintiffs in a class action lawsuit filed in the Wayne County Circuit Court, Case No. 09-03117-CL which dealt with retiree's medical insurance benefits; for the Wayne County retirees who retired prior to January 1, 2007.**
- 5) As part of the process of implementing the settlement of the litigation, it was agreed that Ms. Genelle Allen representing Wayne County and myself were designated by the attorneys for both Wayne County and the class action plaintiffs, that Ms. Allen and myself were placed in charge of the implementation of the class action settlement.**
- 6) Pursuant to the agreement between the parties in the process of implementing the settlement of the class action lawsuit, I started forwarding spreadsheets to Ms. Allen, which summarized the various issues that retirees were being**

made by retirees. On December 21, 2015 I requested that Ms. Allen provide me with written confirmation as to the date Wayne County would be implementing the modifications to the medical insurance benefits to those retirees identified as "mirror" retirees. As of this date, Ms. Allen has failed to respond to my requests for information.

- 7) In late January of 2015, while attending a Retirement Board meeting I learned that the County had unilaterally implemented changes to the "mirror" retiree's medical insurance which included the high deductible health care plan (HDHP) and was in the process of implementing a change in retiree's contributions for medical insurance costs from ten percent to twenty-five percent.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 5th day of April, 2016 in Dearborn, Michigan.

A handwritten signature in black ink, appearing to read "Hugh S. Macdonald", written over a horizontal line.

Hugh S. Macdonald, Secretary- Treasurer
Wayne County Retirees Sub-Chapter 38 AFSCME

EXHIBIT #3



Warren C. Evans
Wayne County Executive

MEMORANDUM

TO: All Health Benefit Eligible Wayne County Employees
(Excluding Members of POAM and Employees Covered by Legislative Branch Executive and Non-Executive Exempt Benefit Plan)

FROM: Livia Calderoni, Division Director
P/H-R Benefits & Disability Administration Division

DATE: December 16, 2015

RE: **NOTICE OF IMPLEMENTATION OF HEALTH PLAN CHANGES, FSA / HSA ELECTIONS AND ANNUAL BONUSES, EFFECTIVE JANUARY 1, 2016**

Effective January 1, 2016, the changes outlined below will be made to the County's Health Care Plan for active employees. Additionally, beginning immediately until the deadlines specified below, active employees have the opportunity to make the following elections:

- 1) Decline participation in a County group health (medical / prescription drug, dental and vision) insurance plan for calendar year 2016 –
January 4, 2016 Deadline for January 1, 2016 Effective Date
- 2) Change (add and/or delete) dependents –
January 4, 2016 Deadline for January 1, 2016 Effective Date
- 3) Elect to participate in a Dental Insurance Buy-Up Plan –
January 4, 2016 Deadline for January 1, 2016 Effective Date
- 4) Elect to participate in a Health Savings Account (HSA) –
December 31, 2015 Deadline for January 1, 2016 Effective Date
- 5) Elect to participate in a Flexible Spending Account (FSA) –
December 31, 2015 Deadline for January 1, 2016 Effective Date

In early 2016 (anticipated in February 2016), the County will hold an active Open Enrollment period, at which time employees will have the option to select a health care plan with any carrier that offers a County sponsored plan. For example:

Scenario 1: an employee who is enrolled in the Blue Cross Blue Shield PPO high-deductible health plan (HDHP) medical/prescription drug coverage plan may change to an HMO HDHP plan offered by another carrier.

Scenario 2: an employee who is enrolled in the Blue Cross Blue Shield Traditional Dental plan may change to a Dental HMO plan offered by another carrier.

Any employee who currently opts out of group health care coverage will have the opportunity to enroll during the active enrollment period in early 2016. Eligible employee will also be able to elect to participate in a HSA going forward.

I. HEALTH CARE PLAN CHANGES**Medical / Prescription Drug Coverage**

Effective January 1, 2016, employees will be transferred into a HDHP, as described in the terms of applicable labor agreements or benefit plan, with your current carrier. Employees will be required to pay 25% of the monthly rate. The following tables outline the changes:

Medical Plan Changes

Current Enrollment (2015)	Enrollment on January 1, 2016
Community Blue PPO	New Simply Blue HDHP
Simply Blue HDHP	New Simply Blue HDHP
HAP HMO	HAP HDHP
Medical / Rx Plan Opt Out	Opt Out Continues

Employee 25% Monthly Contribution Toward Cost of Medical / Rx Coverage

Coverage Type	NEW BCBSM Simply Blue HDHP / PPO	HAP HDHP / HMO
Single Person	\$107.22	\$86.75
Two Person	\$257.33	\$215.13
Family	\$321.68	\$269.77

Declining Medical / Prescription Drug Coverage: You may elect to decline medical and prescription drug coverage at this time. If you wish to decline coverage, complete the attached Health Plan Implementation Election Form and return it to the Benefits & Disability Administration Division no later than January 4, 2016.

Dental Coverage

Effective January 1, 2016, employees will be transferred to a new \$20 dental plan with their current carrier with benefits as described in the attached benefit comparison / summary. There will be no employee monthly contribution cost associated with this change. Alternatively, employees may elect to "buy up" to the current plan with their current carrier. However, the County will pay only \$20 toward the cost of any "buy up" plan; all additional costs will be the sole responsibility of the employee.

Dental Plan Changes

Current Enrollment (2015)	Enrollment on January 1, 2016
Blue Cross Traditional Dental	Blue Dental EPO
Golden Dental Plan	Golden Dental \$20 Plan
Dental Plan Opt Out	Opt Out Continues

Employee Monthly Contribution Towards Cost of "Buy-Up" Dental Coverage

Coverage Type	Blue Cross Dental	Golden Dental
Single Person	\$23.51	\$10.70
Two Person	\$84.44	\$27.08
Family	\$110.84	\$58.98

Electing Dental Buy-Up Coverage: To elect "buy-up" dental coverage, complete the attached Health Plan Implementation Election Form and return it to the Benefits & Disability Administration Division no later than January 4, 2016.

Declining Dental Coverage: You may elect to decline dental coverage at this time by completing the Health Plan Implementation Election Form and returning it to the Benefits & Disability Administration Division no later than January 4, 2016.

Vision Coverage

Employees will remain in the current vision plan until the Open Enrollment period to be held in early 2016. At that time, employees will be able to make a new election if more than one option is available pursuant to the applicable labor agreement or benefit plan. There is no monthly employee contribution cost associated with vision plan coverage.

Dependent Changes

Employees may add and/or delete dependents from their medical/prescription drug, dental and/or vision coverage by completing the Health Plan Implementation Election Form, which is attached to this Notice.

Changing Dependents: To add and/or delete dependents complete the Health Plan Implementation Election Form, which is attached to this Notice.

Health Care Plan Summaries / Employee Monthly Cost Share

Comparisons and summaries of the new plans are attached to this Notice and are available on the Benefits page at www.waynecounty.com. Any required employee monthly contribution toward the cost for participation in these plans will be deducted from the first two pays of each month beginning with the first pay in January 2016. The contribution amounts are included on the tables above and in the attached plan summaries.

II. HEALTH SAVINGS ACCOUNT (HSA) & FLEXIBLE SPENDING ACCOUNT (FSA) OPTIONS

Employees may elect to participate in either a HSA or a general or limited purpose health FSA for calendar year 2016. Both a HSA and a general purpose and/or limited purpose FSA allow for employees to set aside funds on a pre-tax basis for qualified healthcare expenses that are not covered by an employee's healthcare plan (including insurance deductibles, coinsurance / co-pays, as well as dental and vision expenses). However, they differ in terms of who is eligible, who owns the funds, whether funds are portable or roll over, contribution limits, and eligible expenses. Employees participating in a HSA may not participate in a general purpose FSA but may participate in a limited purpose FSA at the same time.

More information about HSAs and FSAs is included below. Additionally, a comparison chart highlighting the differences between a HSA and FSA is attached to this Notice and is available on the Benefits page at www.waynecounty.com along with answers to frequently asked questions (FAQs), a list of qualified medical expenses and other information. Additionally, American Fidelity has created a one-stop landing page that features information on each type of account, including videos, worksheets, and other tools to help employees better understand HSAs and FSAs. Visit <http://americanfidelity.com/waynecounty> to access this information.

HSA Option

Employees who are enrolled in a qualified HDHP healthcare plan can participate in a HSA. More money can be contributed to a HSA (as compared to a FSA). Additionally, funds in an HSA that are not spent in a given year roll over to the next year, like those being offered by the County. Participants continue to own money in the HSA even if there is a change in health plans or termination of employment. However, funds in an HSA cannot be used to pay your employee monthly contribution toward the cost of healthcare.

Contribution limits for an HSA are set each year by the IRS. The 2016 HSA contribution limits are as follows:

Coverage Tier	2016 Tax Year
Single Person Maximum Contribution	\$3,350
Family (2 or more covered members) Maximum Contribution	\$6,750
Additional "Catch Up" Contribution for Persons Age 55 to 65	\$1,000

Election of an HSA: To commence participation in a HSA, go to <http://americanfidelity.com/waynecounty> by December 31, 2015 to complete your enrollment or print a paper copy of the attached **HSA Deduction Authorization Form** and return it no later than December 31, 2015 in order for contributions to commence with the first pay in 2016.

Health FSA Options

General Purpose FSA: All full-time permanent employees are eligible for a general purpose FSA; participation in a HDHP is not required. Upon an employee's election to participate in a FSA, the County advances funds up to the employee's selected annual contribution election not to exceed \$2,600 for the year. Once elected, employees may not change their contribution amount. Moreover, unspent and unclaimed funds are forfeited (with some exceptions) at the end of each calendar year. Any funds in a FSA are also forfeited upon termination of employment.

Limited Purpose FSA: A Limited Purpose FSA is very similar to a general purpose FSA. However, under a Limited Purpose FSA, eligible expenses are limited to qualifying dental and vision expenses only for the employee, spouse, and eligible dependents.

Election of a Health FSA: Employees wishing to elect to participate in a general purpose health FSA or Limited FSA in 2016 may do so through American Fidelity. Visit <http://americanfidelity.com/waynecounty> by December 31, 2015 to complete your enrollment or visit the Benefits page at www.waynecounty.com to download a paper copy of the Health Savings Account (HSA) Payroll Deduction Authorization Form.

End of Calendar Year Alert for Health FSA Participants

To be eligible to participate in a HSA effective January 1, 2016, all funds in a 2015 FSA must be fully disbursed by December 31, 2015. Otherwise the funds will be forfeited. To be considered fully disbursed by December 31st, Employee Benefit Concepts (EBC) must receive the participant's 2015 claim(s) by noon on December 31st via fax, email, U.S. mail or in person at the contact information below. For active debit card holders, the debit card will be active until midnight on December 31st.

For more information about current FSA participation and FSA claims handling, please contact EBC at (248) 855-8040 or email claims@employeebenefitconcepts.com. Submit your claim(s) via fax at (248) 855-2454 or by U.S. Mail or in person 28800 Orchard Lake Rd, Suite 140, Farmington Hills, MI 48334.

Dependent Care FSA Option

FSAs can also be established to pay for certain expenses to care for dependents while the legal guardian is at work. While this most commonly means child care, for children under the age of 13, it can also be used for children of any age who are physically or mentally incapable of self-care, as well as adult day care for senior citizen dependents who live with the person, such as parents or grandparents. Additionally, the person or persons on whom the dependent care funds are spent must be able to be claimed as a dependent on the employee's federal tax return. The funds cannot be used for summer camps (other than "day camps") or for long term care for parents who live elsewhere (such as in a nursing home).

Election of a Dependent Care FSA: Employees wishing to elect to participate in a Dependent Care FSA in 2016 may do so through American Fidelity. Visit <http://americanfidelity.com/waynecounty> by December 31, 2015 to complete your enrollment or visit the Benefits page at www.waynecounty.com to download a paper copy.

Participants with funds remaining in their current Dependent Care FSA account after December 31, 2015, may continue to submit claims until April 1, 2016 for qualified expenses incurred on or before March 15, 2016. Contact EBC for additional information.

III. DISCONTINUATION OF ADOPTION FSA, PARKING-AT-WORK AND COMMUTER TRANSIT BENEFIT PLANS

Effective January 1, 2016, the County will no longer offer an Adoption FSA, Parking-at-Work or Commuter Transit benefit plans. Participants with funds remaining in their current Adoption FSA, Parking-at-Work or Commuter Transit account after December 31, 2015, may continue to submit claims until April 1, 2016 for qualified expenses incurred on or before March 15, 2016. Contact EBC for additional information.

IV. ANNUAL WAGE BONUS

In accordance with applicable labor agreements and benefit plans, employees may receive an annual wage bonus. Wage bonuses will be paid once a month on the first pay of each month on a prorated basis. Employees have the option of receiving their bonus payment as part of their payroll check, which will be taxable, or have all or a portion of the bonus deposited in a pre-tax HSA, FSA or Limited FSA. The table below illustrates the amounts of the bonus earning, how the applicable earning will be paid on a monthly basis and the calculated amount of the deduction for participation in a HSA, FSA or Limited FSA if elected.

Employee Status	Annual Bonus Amount	Prorated Monthly Earning Amount	HSA, FSA or Limited FSA BI-weekly Deduction <u>IF ELECTED</u> (based on 26 pays)
Single Person OR Decline Coverage	\$ 650.00	\$ 54.17	\$ 25.00 / pay
Two Person	\$ 1,000.00	\$ 83.33	\$ 38.46 / pay
Family	\$ 1,300.00	\$ 108.33	\$ 50.00 / pay

To elect a HSA, FSA or Limited FSA, see sections above for instructions.

V. ACTIVE OPEN ENROLLMENT ANTICIPATED IN EARLY 2016

Subject to Commission approval of new contracts with insurance carriers, an active Open Enrollment period is anticipated to be held in early 2016 (anticipated in February 2016). At that time, employees who do not decline healthcare coverage will be able to select the medical / prescription drug HDHP (PPO or HMO) plan of their choice. Employees will also be able to select from available dental plans. Additionally, employees will have the opportunity to decline health care coverage for the remainder of the 2016 calendar year.

VI. CUSTOMER SERVICE SUPPORT

For general assistance, please contact the NEW Benefits Hotline at (313) 224-8100 or (888) 989-8686 or email benefits@waynecounty.com. Assistance will be available between the Christmas and New Year's holidays on December 28 - 30, 2015 from 9:00 a.m. - 5:00 p.m.

HSA and FSA Online Enrollment Instructions and Information

Visit <http://americanfidelity.com/waynecounty> for more information about HSAs and FSAs. Complete your enrollment by December 31, 2015 by using the following login information:

Login ID: employee social security number
 Password: last four digits of employee SSN + last 2 digits of employee's birth year

VII. ATTACHMENTS TO THIS NOTICE

- Health Care Benefit Plan Comparisons & Summaries
- January 1, 2016 Health Plan Implementation Election Form
- Health Savings Account (HSA) Payroll Deduction Authorization Form
- Comparison of Wayne County Flexible Spending Account (FSA) and Health Savings Account (HSA)



HEALTH SAVINGS ACCOUNT (HSA) One-Time Bonus Payment Deposit Authorization

Important: For use only by employees currently enrolled in a High Deductible Health Plan (HDHP) through Wayne County and eligible for an annual wage bonus.

First Name _____ **Last Name** _____ **M.I.** _____ **Employee ID #** _____

Daytime Phone _____ **Work E-mail Address** _____ **Home E-mail Address** _____

Date of Birth _____ **Effective Date of HDHP Enrollment** _____

I am currently enrolled in a High Deductible Health Plan (HDHP) through Wayne County and eligible for the annual bonus payment. Fifty percent (50%) of the annual bonus will be paid in January 2016 in accordance the following schedule.

Coverage Type	Annual Bonus Amount	First Bonus Payment
Single Person	\$850.00	\$325.00
Two Person	\$1,000.00	\$500.00
Family	\$1,300.00	\$850.00

I elect to have contributed to my HSA the amount stated below from my annual bonus payment that will be distributed on or around January 22, 2016. This is a one-time contribution to my HSA. I understand that I must complete a separate HSA Deduction Authorization Form if I want to direct additional funds to my HSA. I also understand that this does not alter any contributions I have previously authorized be made to my HSA.

One-Time Deduction: \$ _____

☐ I do not wish to contribute any portion of the bonus payment to my HSA

***This form must be submitted to Benefits & Disability Administration Division no later than
Tuesday, January 19, 2016.***

Contribution Limits: Annual HSA contributions cannot exceed the statutory IRS contribution annual maximums updated each year (listed below for the current year). See Department of Treasury Web Site for more details. <http://www.irs.gov/office/public-affairs/hse/>

Tax Year	2016
Single Person Maximum Contribution	\$3,350
Family (2 or more members) Maximum Contribution	\$6,750
Additional "Catch Up" Contribution for Persons Age 55 and Over	\$1,000

By signing this form, I authorize my employer to contribute the elected amount to the HSA administrator, Health Equity. I hereby confirm that all personal information and selections made on this form are correct and that I am currently qualified to contribute to an HSA under IRS guidelines.

Signature _____

Date _____

DISCLAIMER: HSAs are personal health savings vehicles rather than group employee benefits. Although Wayne County has agreed to forward contributions through its payroll system to Health Equity, it has not specifically endorsed Bancorp Bank or any other HSA provider. Persons are not restricted from moving funds to another HSA, but Wayne County is not required to forward payroll contributions to another HSA provider. With respect to HSAs offered through Health Equity, Wayne County does not impose conditions on the use of HSA funds, make or influence any investment decisions with respect to funds contributed to an HSA, or received any payment or compensation in connection with an HSA. All bank fees associated with the maintenance of an HSA account are strictly the responsibility of the individual account holder.

Submit Completed Form to:

Wayne County Benefits Admin. Division • 600 Griswold St, 9th Floor, Detroit, MI 48226
Phone: (313) 224-8100 • Fax: (313) 987-1228 • E-mail: benefits@waynecounty.com

EXHIBIT #4

EXHIBIT A

AFFIDAVIT OF RICHARD C. KAUFMAN

RICHARD C. KAUFMAN, first being duly sworn, deposes and states as follows:

- 1. The following statements are true and correct based on my personal knowledge. To the extent the statements are based on any documents, I have personal knowledge of those documents. If called as a witness, I could testify to the following from personal knowledge.**
- 2. I currently serve as the Deputy Chief Executive Officer for the Charter County of Wayne (the "County"). I have held this position continuously since April 1, 2015.**
- 3. The County has long been insolvent due to years of declining tax revenue and mismanagement, resulting in a \$51.2 million annual structural deficit, \$1.3 billion of unfunded health care liabilities, and over \$900 million in unfunded pension obligations, among other issues. Due to the County's tenuous financial position, the County entered into a Consent Agreement with the State of Michigan in August 2015 pursuant to 2012 Public Act 436, as amended, MCL 141.1541 to MCL 141.1575. The Consent Agreement requires the County to "undertake remedial measures to address the County's financial emergency and provide for the financial stability of the County . . . to: (1) improve the County's cash position; (2) reduce the underfunded amount needed to pay future pension obligations for participants in the Wayne County Employees Retirement System . . . and other post-employment benefit . . . commitments; and (3) eliminate the County's \$52 million structural debt." As Deputy Chief Executive Officer, part of my responsibilities include developing and advising the County Chief Executive Officer, Warren Evans, regarding possible solutions for the County to fulfill its obligations under the Consent Agreement.**
- 4. Despite significant improvements over the last few months, the County still remains financially troubled. One of the largest sources of financial problems for the County is its**

significantly underfunded healthcare and pension obligations, as described before. The Consent Agreement specifically requires that the County address these items as part of its remedial action.

5. One way that the County is working toward fulfilling its obligations under the Consent Agreement is modifying the health insurance benefits the County offers its active employees. Prior to January 1, 2016, active employees had the option to participate in a variety of health insurance plans. Depending on the terms of the active employee's contract or collective bargaining agreement, the County offered a PPO plan option, an HMO plan option, a traditional indemnity plan option, and/or a high-deductible healthcare plan.

6. In December 2015, a memorandum was sent from the Chief Executive Officer's office to all health-benefit eligible active employees, excluding members of the Police Officers Association of Michigan and employees covered by the Legislative Branch Executive and Non-Executive Exempt Benefit Plan.

7. The memorandum notified the recipient active employees that the County was implementing health care changes, FSA/HSA changes, and providing annual bonuses, among other things, effective January 1, 2016. As relevant to this case, the County notified active employees that they would be transferred into a high-deductible healthcare plan and would be required to pay 25% of the monthly rate, effective January 1, 2016. The memorandum also advised that the recipient active employees could participate in a Health Savings Account ("HSA") or Flexible Spending Account ("FSA").

8. In addition, the memorandum notified active employees that, "in accordance with applicable labor agreements and benefit plans," the County would be paying an annual bonus, prorated monthly over the course of the year. The memorandum explained that "[e]mployees have the option of receiving their bonus payment as part of their payroll check, which will be taxable,

or have all or a portion of the bonus deposited in a pre-tax HSA, FSA, or Limited FSA.” To be clear, the memorandum did not state that the compensation must be deposited into a pre-tax HSA, FSA, or Limited FSA, nor does the County require that the compensation be used for anything healthcare related, including, but not limited to, payment of the plan deductible.

9. The changes outlined in the memorandum were made pursuant to applicable labor agreements and benefit plans in effect at the time. The changes outlined in the memorandum became effective January 1, 2016. The memorandum did not mention retirees at all.

10. Some of the County’s retirees are commonly referred to as “mirror retirees,” meaning that they have participated in retirement in the same healthcare plan options, coverages, co-pays, deductibles, etc. as similar active employees.¹ These “mirror retirees” historically have paid a percentage of the premium cost for these plans. However, the percentage of the premium the “mirror retirees” have paid does not necessarily mirror the percentage premium contributions that similar active employees have made toward their healthcare coverage.

11. When the change in health insurance coverage became effective for the recipient active employees on January 1, 2016, the County also transitioned certain “mirror retirees” onto the same insurance plans as those active employees. However, the County did not increase the percentage of the premium cost that these “mirror retirees” owed for these plans from the percentage of the premium cost they had paid in the past.

12. In other words, although recipient active employees were required to pay 25% of the cost of their health insurance plan premium beginning January 1, 2016, the same 25%

¹ The mirror language generally reads in some variation of the following: “Employees who retire from public service who are eligible for post-retirement health care benefits shall participate in the same health care plan options, coverages, co-pays, deductibles, etc. as active employees covered by this, or any subsequent, collective bargaining agreement.”

requirement was not imposed on "mirror retirees." The amount that "mirror retirees" owed for premium contributions for their health insurance benefits in January 2016, February 2016, and now March 2016 remains the same percentage of the premium cost for the plan that they owed in December 2015. For example, if the "mirror retirees" owed 10% of the premium cost of the old health insurance plan in December 2015, that "mirror retirees" will continue to owe 10% of the premium cost of the new insurance plan in March 2016.

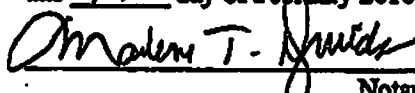
13. The County continues to explore possible ways to satisfy its obligations under the Consent Agreement, including reducing the underfunded post-employment healthcare benefits. Warren Evans, other members of his administration, and I continue to consider, investigate, and discuss options for satisfying the County's obligations under the Consent Agreement. At this time, however, there are no finalized plans to modify the premium contributions that "mirror retirees" pay for their health insurance. Although Warren Evans has submitted a draft resolution to the County Commission that would increase the percentage contribution from "mirror retirees" to equal the percentage contribution provided by similar active employees, that draft resolution has not yet been placed on the County Commission's agenda for consideration, and whether the County Commission will ultimately agree to it is entirely speculative.

14. Accordingly, the "mirror retirees" percentage-of-premium-cost contributions for health insurance coverage will remain the same in March 2016 as they were in February 2016, January 2016, and December 2015.

Further, the Affiant sayeth naught.


Richard C. Kaufman
Deputy County Executive Officer

Subscribed and sworn to before me
this 19th day of February 2016



Notary Public
State of _____, County of _____
My Commission Expires: _____
Acting in the County of _____

MARLENE T. DZIURDA
Notary Public, State of Michigan
County of Oakland
My Commission Expires Oct. 31, 2017
Acting in the County of Wayne

EXHIBIT #5

Commissioner questions pension board authority

Eric D. Lawrence, Detroit Free Press 7:21 p.m. EST February 18, 2016



(Photo: JARRAD HENDERSON, Detroit Free Press)

Concerns about who is in charge of Wayne County's underfunded pension system were on stark display as commissioners debated a reorganization plan for the system's board that is part of a federal legal case.

The debate came as commissioners in their regular meeting today formally rejected an appointment by Wayne County Executive Warren Evans of Yusuf Hai of Canton to a "new" pension board as envisioned in union contracts ratified last year under the county's consent agreement. The 13-2 vote — Commissioners Joseph Palamara, D-Grosse Ile Township, and Abdul (Al) Haidous, D-Wayne were opposed — followed a rejection at a committee meeting on Wednesday.

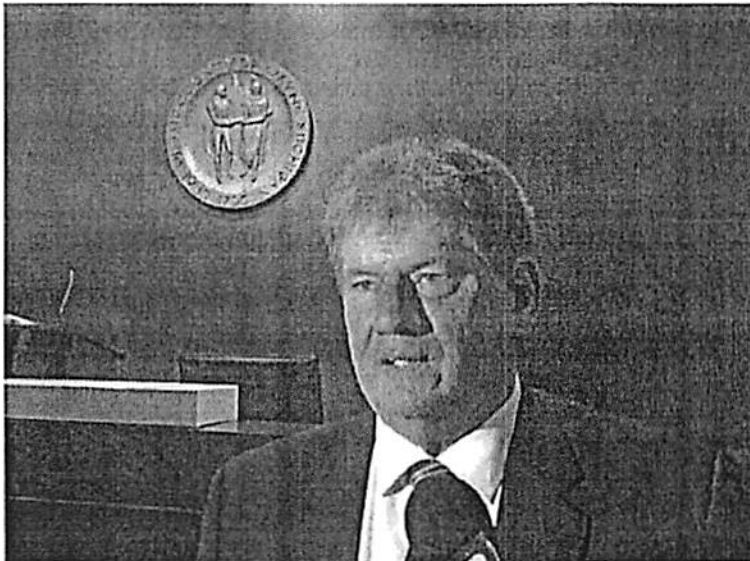
Haidous repeatedly questioned the decision-making ability of the "old" board, which the county's office of corporation counsel said last week no longer has authority to act, should serious problems develop in the financial markets. The old board had been meeting as normal, but a dispute has arisen over the Evans administration's efforts to reorganize the board. Although most unions technically approved the new board in their contracts, an argument has been made that it would not cover exempt employees and retirees and could require a change in the county's voter-approved charter.

"Who's in charge here? (We) have no board," Haidous said. He suggested that if the financial markets, which have been volatile in recent weeks, plunge and no pension board is authorized to make a decision, then commissioners would have a bigger controversy than the fate of the county's unfinished jail off Gratiot Avenue.

But other commissioners sought to ease his mind.

"I have absolutely zero concerns about the health and security of the pension fund (in light of) this confusing and unfortunate situation," said Commission Chair Gary Woronchak, D-Dearborn, who is also an ex-officio member of the board.

And Commissioner Burton Leland, D-Detroit, noted that although he does not know "who's on first" regarding the legal arguments, that the money managers who have been retained have a fiduciary duty and are good people.



Wayne County Commission Chair Gary Woronchak, D-Dearborn, says the county's pension system is secure despite a dispute over reorganizing the pension board. (Photo: Eric D. Lawrence, Eric D. Lawrence, Detroit Free P)

At Haidous' request, Deputy County Executive Richard Kaufman appeared before commissioners for the second time in two days to discuss the topic.

Kaufman, who has acknowledged that the administration made a mistake in not acting swiftly enough to reorganize the board, encouraged the commission to move ahead with the appointment, saying the commission would not be solving the problem unless it prepares for both sides of an

eventual court decision. The legal question about whether a charter amendment is needed, which was raised in the recent federal lawsuit brought by retirees, is a "totally novel legal argument," Kaufman said, noting that the county has no duty to bargain with retirees or exempt employees.

He also said both boards can exist "while we're waiting on a legal decision."

The new board would represent a shift in the balance of power from one dominated by representatives elected by employees and retirees to one dominated by Evans' appointees. Concerns about pension system funding have been raised many times by the administration since Evans took office last year. As recently as December, officials said the system was believed to be underfunded by as much as \$818 million.

But Commissioner Diane Webb, D-Livonia, said she does not approve of the planned reorganization, saying employees and retirees should have a greater voice in the management of the system because they have a direct interest in it.

Commissioners said the rejection of Evans' appointment should not be considered a reflection on the candidate.

Contact Eric D. Lawrence: elawrence@freepress.com. Follow him on Twitter @_ericdlawrence.

Read or Share this story: <http://on.freep.com/1TtbkSv>

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EXHIBIT #6

ARTICLE VI RETIREMENT

6.111 Retirement System

The Wayne County Employees Retirement System created by ordinance is continued for the purpose of providing retirement income to eligible employees and survivor benefits. The County Commission may amend the ordinance, but an amendment shall not impair the accrued rights or benefits of any employee, retired employee, or survivor beneficiary.

COMPILER'S COMMENTS:

The Wayne County Retirement Ordinance was republished on November 20, 1986 (Ordinance 86-486) to incorporate all prior amendments, conform the ordinance with federal law, remove outdated provisions, and reconcile inconsistent terminology. This was done again on November 17, 1994 in Ordinance 94-747, which has since been amended by Ordinances 97-728, 98-335, 2000-536, 2002-1103, 2002-1147, 2003-124, 2005-924 and 2010-514. (Code Chapter 141)

It has been ruled that those provisions of the Wayne County Retirement Ordinance which provided for "20 and out" benefits for non-union employees were invalid because in conflict with MCL 46.12a which requires that a county employee have at least 25 years of service to become eligible for retirement benefits if less than 60 years of age. (Donald Gray vs. Wayne County Retirement System, et al Civil Action No. 84-401 649 CK, August 31, 1984, Third Circuit Judge Roland Olzark presiding.)

6.112 Retirement Commission

The Retirement Commission is composed of 8 members: The CEO or the designee of the CEO, the chairperson of the County Commission, and 6 elected members. The members must be residents of Wayne County. Four members shall be active employees elected by active employees of the County in the manner provided by ordinance and 2 members shall be retired employees elected by retired employees of the County in the manner provided by ordinance. The term of the elected members is 4 years. The Retirement Commission shall administer and manage the Retirement System. The costs of administration and management of the Retirement System shall be paid from the investment earnings of the Retirement System.

COMPILER'S COMMENTS:

In Opinion 88-012, the Corporation Counsel advised that the Retirement Commission was without authority to amend the Retirement Ordinance or to expand benefits beyond those authorized by the Ordinance.

At the general election held on November 6, 2012, voters rejected by a vote of 302,104 (yes) to 321,515 (no) a proposed amendment to this Section. The ballot question certified to the County Clerk read:

"Shall Section 6.112 of the Wayne County Home Rule Charter be amended to expand the Wayne County Retirement Commission's membership from 8 to 9, adding as a member the Wayne County Treasurer or his or her designee; and also to authorize the Chairperson of the Wayne County Commission, who is also a member of the Wayne County Retirement Commission, to appoint a person to serve as his or her designee on the Retirement Commission; and further to allow employees and retirees of the Wayne County Airport Authority to vote for and serve as members of the Wayne County Retirement Commission with no more than one member being an airport employee or retiree until such time as the Airport Authority establishes its own retirement system or pension plan?"

6.113 Financial Management

The financial objective of the Retirement System is to establish and receive contributions each fiscal year which, as a percentage of active member payroll, are designed to remain approximately level from year to year. Specifically, contributions shall be sufficient to (i) cover fully costs allocated to the current year by the actuarial funding method, and (ii) liquidate over a period of years the unfunded costs allocated to prior years by the actuarial funding method. The period of years used in the application of item (ii) shall not exceed 35 years for unfunded amounts in existence December 1, 1982, 25 years for unfunded amounts resulting from benefit changes effective on or after December 1, 1982, and 15 years for experience gains and losses during years ending after November 30, 1981. Contributions made after November 30, 1981, which are in excess of the minimum requirement, may be used to reduce contribution requirements in a subsequent fiscal year. The actuarial funding method must produce contribution requirements which are not less than those produced by the individual-entry-age-normal-cost-actuarial method.

6.114 Employment of Actuary

The actuary employed by the Retirement System must have 5 years experience as a practicing actuary.

EXHIBIT #7

Sec. 141-35. - Retirement commission.

(a) Composition.

(1) The retirement commission shall consist of the following eight individual trustees:

- a. The chairperson of the county commission.**
- b. The county executive or the individual designated by the executive to serve in the executive's place. The designation shall be in writing and filed with the retirement commission.**
- c. Four members of the retirement system, who are residents of the county, to be elected by the members of the retirement system. Each member trustee shall be from a different county department, as provided in the county Charter on January 1, 1987, that is: the county commission; prosecuting attorney; sheriff; county clerk; county treasurer; register of deeds; corporation counsel; personnel; management and budget; health; public works; office of public services; and senior citizens. Employees of all other county agencies shall be considered collectively to be employees of one additional county department for the purposes of this provision. This restriction upon eligibility to serve as a trustee shall not be affected by changes made in the organization and administration of executive departments by an executive reorganization plan. The elections shall be conducted in accordance with procedures adopted by the retirement commission.**
- d. Two retired members, who are residents of the county, to be elected by the retired members and beneficiaries. The elections shall be conducted in accordance with procedures adopted by the retirement commission.**

(2) Retirement commission trustees shall serve without compensation for their service as a retirement commissioner but shall be reimbursed by the retirement system for their actual and necessary expenses incurred in the performance of the duties of retirement commissioner. Absence from work on account of retirement commission duties is authorized and shall be treated so that the individual suffers no loss of pay or benefits.

(b) Term of office; oath of office; vacancies.

- (1) The term of office of the elected member trustees shall be four years, one such term of office to expire at the end of each calendar year. The term office of the elected retired member trustees shall be four years, one such term to expire at the end of each even-numbered calendar year.**
- (2) Each trustee shall, prior to taking office, take an oath of office administered by the county clerk.**
- (3) A vacancy shall occur on the retirement commission if a member elected trustee ceases to be a member or becomes employed in a county department in which is employed another member elected trustee or ceases to be a county resident or resigns.**
- (4) A vacancy shall occur on the retirement commission if a retired member trustee ceases to be a retired member or ceases to be a county resident or resigns.**
- (5) A vacancy shall be filled according to the retirement commission election policy.**

(c) Meetings. The retirement commission shall schedule sufficient meetings to effectively carry out its duties and shall designate the time and place of each meeting. The retirement commission shall adopt rules of procedure. The retirement commission shall select from its membership a chairperson and a vice-chairperson.

(d) Quorum; record of proceedings. Four trustees shall constitute a quorum at any meeting of the retirement commission. At least four concurring votes shall be required for a valid action by the retirement commission. The retirement commission shall keep a written record of its proceedings.

(e) Executive director. The retirement commission shall appoint an executive director. The executive director shall be the secretary of the retirement system and shall be the administrative officer of the retirement system. The duties of the executive director shall be established by the retirement commission.

- (f) **Employees of retirement commission; employment of outside services.**
 - (1) The retirement commission may employ persons in the county classified service.
 - (2) The corporation counsel shall be the legal advisor to the retirement commission.
 - (3) The retirement commission shall designate an actuary who shall advise the board on the actuarial operation of the retirement system and on such other subjects as the retirement system may determine. "Actuary" shall mean a member of the American Academy of Actuaries or an individual who has demonstrated the educational background necessary to effectively render actuarial advice to the retirement system and who has at least five years of relevant public employee retirement system actuarial experience. A partnership or corporation may be designated as actuary if the duties of actuary are performed by or under the direct supervision of an individual who meets the preceding requirements.
 - (4) The retirement commission shall employ a medical director who is licensed by the State of Michigan to engage in the practice of medicine.
 - (5) The retirement commission is authorized and empowered to employ such other persons and services as it requires to effectively carry out its duties.
- (g) **Reports.**
 - (1) The retirement commission shall prepare an annual report for each fiscal year. The annual report shall contain information about the financial, actuarial and other activities of the retirement system during the fiscal year. A copy of the annual report shall be furnished the county commission within 300 days of the end of the fiscal year.
 - (2) A summary of the annual report shall be made available to the members, vested former members, retired members and beneficiaries of the retirement system.
- (h) **Investment authority.** The retirement commission is the trustee of the assets of the retirement system. The retirement commission has the authority to invest and reinvest the assets of the retirement system subject to all terms, conditions, limitations and restrictions imposed by the state on the investments of public employee retirement systems. The retirement commission may employ investment counsel to advise the board in the making and disposition of investments. In exercising its discretionary authority with respect to the management of the assets of the retirement system, the retirement commission shall exercise the care, skill, prudence, and diligence, under the circumstances then prevailing, that an individual of prudence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and similar objectives.
- (i) **Use of retirement system assets; prohibited actions.**
 - (1) The assets of the retirement system shall be held and invested for the sole purpose of meeting the obligations of the retirement system and shall be used for no other purpose.
 - (2) Members of the retirement commission and its employees are prohibited from:
 - a. Having a beneficial interest, direct or indirect, in an investment of the retirement system.
 - b. Borrowing from the defined benefit trust.
 - c. Receiving any pay or emolument from any individual or organization, other than compensation for personal services or reimbursement of authorized expenses paid by the retirement system, providing services to the retirement system.
 - (3) No payment shall be made unless it has been authorized in advance by a specific or continuing resolution of the retirement commission. Authorized payments shall be made by county voucher signed by two persons designated by the retirement commission. An attested copy of the resolution designating the persons and specimen signatures shall be filed with the county treasurer.

(Ord. No. 94-747, §§ 29.01—29.09, eff. 12-2-94; Ord. No. 2014-679, § 1, 11-20-14)

EXHIBIT #8

HOME RULE CHARTER FOR THE COUNTY OF WAYNE



As adopted June 16, 1981
by the Wayne County Charter Commission
Approved July 22, 1981
By Governor William G. Milliken

•
Approved by the Voters
November 3, 1981

•
Amended by the Voters
August 7, 1984
November 4, 1986
November 3, 1992
November 5, 1996
August 4, 1998
August 3, 2004
November 6, 2012

With Compiler's Comments to December 14, 2012

7.112 Initiative, Referendum and Recall

(a) The people of Wayne County reserve the power to amend and revise this Charter, the power to recall elective officers, and the powers of initiative and referendum.

(b) The scope of these reserved powers are the same as comparable powers under the State Constitution. The procedures for the exercise of these reserved powers may be established by ordinance. In the absence of an ordinance establishing procedures, the procedures provided by law for the exercise of the reserved rights under the State Constitution are applicable. Petitions must be signed by registered voters constituting not less than 10% of the base vote to amend or revise the Charter; not less than 25% of the base vote to recall an elected officer; not less than 8% of the base vote to invoke the initiative; and not less than 5% of the base vote to invoke the referendum. The base vote is the total vote cast in the County or the affected district for all candidates for Governor at the last gubernatorial election. The petitions must be filed with the County Clerk.

COMPILER'S COMMENTS:

As of November 2012, the County Commission has not adopted an ordinance which would modify the procedures for the exercise of reserved rights.

7.113 Public Meetings

Meetings of the Commission and all other County boards and commissions are open to the public as provided by law.

COMPILER'S COMMENTS:

The requirements of the Open Meetings Act (Public Act 267 of 1976) are found in MCL 15.261 et seq, MSA 4.1800(11) et seq.

7.114 Freedom of Information

County records are public and open to inspection as provided by law.

COMPILER'S COMMENTS:

The requirements of the Freedom of Information Act (Public Act 442 of 1976) are found in MCL 15.231 et seq; MSA 1801(1) et seq.

The requirements of the Bullard - Plawacki Employee Right to Know Act (Public Act 397 of 1978) are in MCL 423.501 et seq; MSA 17.62(1) et seq.

EXHIBIT #9



Warren C. Evans
County Executive

February 10, 2016

Robert Grden
Executive Director
Wayne County Employees Retirement System
28 West Adams, Suite 2800
Detroit, MI 48226

RE: WCERS Board Composition

Dear Mr. Grden:

Wayne County and all its unions reached labor agreements (or, in the case of 3317, imposed under PA 436) that uniformly provide for a new WCERS Board composition as of October 1, 2015. Consequently, the old Board is without authority to act on or after October 1, 2015, and decisions made by this Board can be reviewed and considered by the new Board which will be constituted soon.

One of the actions approved by the old Board was a resolution authorizing the VMT law firm to take certain actions. A copy of the Resolution is attached. Since this action was resolved by the old Board after October 1, 2015, it has no force and effect.

As Corporation Counsel for the County of Wayne, I advise you not to take any action pursuant to the attached Resolution, including but not limited to paying attorney fees to the VMT law firm for any work they do per the Resolution.

If you have any questions regarding this letter, please do not hesitate to contact me.

Sincerely yours,



Aysha Elhasan

Wayne County Corporation Counsel

Enclosure

cc: Tony Saunders
Gary Woronchak
Henry Wilson
Tina Turner
Dennis Martin
Elizabeth Misuraca
Hugh Macdonald
Jack Timmony, Esq.

DEPARTMENT OF CORPORATION COUNSEL
500 Griswold, 30th Floor Detroit, Michigan 48226 • (313) 224-5030
www.waynecounty.com

HJ06088

Be It Resolved, that the Retirement Commission hereby authorizes the VMT law firm to begin the appropriate legal action to challenge any County-imposed change(s) to the composition of the Retirement Commission which is/are contrary to the VMT opinion letter of 11-6-2015 (including a request for declaratory ~~relief~~ judgment); and that VMT is also authorized to request the County Administration and Corporation Counsel to seek the declaratory ruling of the court.

• Sole trustee of the board - WEE - under 80% funded
• ST want CA position and WEE

14 days.

**WAYNE COUNTY EMPLOYEES' RETIREMENT COMMISSION
SPECIAL MEETING**

**January 27, 2016
3:00 pm**

**28 WEST ADAMS, 18TH FLOOR
CONFERENCE ROOM
GRAND PARK CENTRE
DETROIT, MICHIGAN 48226**

Commissioners Present:

**Tina Turner
Denis Martin (via conference call)
Henry Wilson
Elizabeth Misuraca
Hugh Macdonald**

ELECTED MEMBERS TO THE BOARD

**Tony Saunders
Office of the Wayne County Executive**

EX-OFFICIO MEMBER

**Gary Woronchak, Chairman
Wayne County Commission**

EX-OFFICIO MEMBER

Others Present:

Robert Grden, Gerard Grysko, Kelly Tapper, Kevin Kavanagh, Alan Helmkamp, Jack Timmony, Robert Abb and Jacqueline Sobczyk.

1. Call to Order at 3:00 pm.
2. Roll Call;

Present: Tina Turner, Denis Martin (via conference call), Henry Wilson, Elizabeth Misuraca, Hugh Macdonald, Tony Saunders and Gary Woronchak.

Mr. Wilson made a motion to go into Closed Session pursuant to the provisions of the Michigan Open Meetings Act, M.C.L.A. 15.243(1)(g), which permits a Public Body to discuss matters in closed session that are subject to Attorney-Client Privilege, noting that a roll call is required for this motion. This is not subject to disclosure under The Freedom of Information Act, M.C.L.A. 15.231 *et seq.* The agenda item to be discussed is #3.

The motion was supported by Ms. Misuraca and carried 7-0 with a roll call vote, Tina Turner - yes, Denis Martin - yes, Henry Wilson - yes, Elizabeth Misuraca - yes, Tony Saunders - yes, Gary Woronchak - yes and Hugh Macdonald - yes.

The Board went into closed session at 3:03 pm.

The Board came out of closed session at 3:54 pm.

3. Consideration of a legal report from VanOverbeke, Michaud & Timmony, P.C. regarding the implementation of Collective Bargaining Agreements-Changes in composition of the Retirement System Board of Trustees.

Mr. Woronchak moved the adoption of the following resolution:

Be it Resolved, by the Wayne County Employees' Retirement Commission, to Authorize VanOverbeke, Michaud & Timmony, P.C. to approach the County Administration on behalf of the Retirement Commission (Board of Trustees) in an attempt to reach consensus on controlling legal issues on Retirement Commission composition, and in the event that effort proves unsuccessful, to ask the County Administration to join in a declaratory judgment action to resolve those issues, and to report those discussions to the Retirement Commission within 14 days to seek further direction.

The motion was supported by Mr. Saunders and carried 5-2 with Ms. Turner and Mr. Macdonald voting no.

Mr. Macdonald moved the adoption of the following resolution:

Be it Resolved, by the Wayne County Employees' Retirement Commission, to Authorize VanOverbeke, Michaud & Timmony, P.C. to promptly take legal action if these efforts fail.

The motion was supported by Mr. Wilson and carried 4-3 with Ms. Misuraca, Mr. Woronchak and Mr. Saunders voting no.

4. **Public Comment.**

There was no public comment.

5. **Adjournment.**

Mr. Macdonald moved to adjourn the meeting.

The motion was supported by Mr. Wilson and carried unanimously 7-0.

There being no further business to come before the Board the meeting was adjourned at 4:27 pm subject to the call of the Chair.

Respectfully submitted,



Robert J. Grden, Executive Director
Wayne County Employees' Retirement System

EXHIBIT #10

Harper Woods Retirees Ass'n v. City of Harper Woods, — N.W.2d — (2015)
2015 L.R.R.M. (BNA) 192,274

2015 WL 5737812
Only the Westlaw citation is currently available.
Court of Appeals of Michigan.

**HARPER WOODS RETIREES ASSOCIATION, Judith Dekeyser, Donald Kuczborski,
James Manor, and Jeffrey Manor, and Others Similarly Situated, Plaintiffs—
Appellants,
v.
CITY OF HARPER WOODS, Defendant–Appellee.**

Docket No. 318450.

Oct. 1, 2015.

Wayne Circuit Court; LC No. 12–013098–CK.

Before: FORT HOOD, P.J., and JANSEN and GADOLA, JJ.

Opinion

GADOLA, J.

Plaintiffs appeal as of right from the trial court’s order granting defendant’s motion for summary disposition pursuant to MCR 2.116(C)(8) (failure to state a claim) and (C)(10) (no genuine issue of material fact). We reverse and remand for further proceedings consistent with this opinion.

I. FACTS

The Harper Woods Retirees Association (HWRA) is a nonprofit corporation composed of individuals who were once employed by defendant, and retired between the 1980s and early 2000s. The individually named plaintiffs are retirees who hold the following positions within the HWRA: Jeffrey Manor, president; James Manor, treasurer; Judith DeKeyser, secretary; and Donald Kuczborski, trustee. According to plaintiffs’ complaint, members of the HWRA obtained vested health care benefits through multiple collective bargaining agreements (CBAs) and personal contracts with defendant. These agreements identified specific health insurance plans, riders, and prescription drug co-pays available to retirees.’ Plaintiffs alleged that retirees

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previously received Blue Cross–Blue Shield of Michigan (BCBS–M) “Traditional,” “Master Medical,” or “Community Blue–1” insurance plans, which guaranteed either no deductibles for treatment or “first dollar” deductibles of approximately \$10 for office visits. Plaintiffs also claimed that some of their original health plans had a \$2 deductible for generic prescriptions and a \$5 deductible for name brand prescriptions.

¹ Plaintiffs attached three CBAs to their complaint. The January 1, 2004 through December 31, 2006 CBA between defendant and the International Association of Firefighters, Local No. 1188, stated the following:

For any employee covered by this Agreement and his dependents, the City will pay the full cost of Blue Cross Preferred Provider Organization (PPO) Comprehensive Hospital Semi–Private Service with Riders D45NM, MM, ML, IMB, DCCR, Blue Shield MVF–1 service with \$2.00 prescription drug program, and out of state reciprocity rider. Effective August 1, 1998, the prescription drug rider shall be \$10.00.

Upon an employee’s retirement from employment by the City, and during the period of his retirement thereafter ... the City will pay the full cost of the above health care insurance coverages for such retiree and his spouse, until each has reached age 65 and, from and after his reaching age 65, shall pay the full cost of his Blue Cross/Blue Shield Care Insurance Plan which supplements his own Medicare Health Care coverage.

• • •

For retirees and their spouses, the insurance coverage shall continue to be the existing Traditional BCBS plan (# 63049/905), provided however that for those employees retiring on or after October 1, 2005, the prescription co-pay shall be increased from \$2 to \$5.

The 2000 through 2002 CBA between defendant and the American Federation of State, County and Municipal Employees, Local No. 1107, stated the following:

[F]or all retirees from the City’s service who were members of this Local at the time of retirement from the City, the City will pay, during the term of this agreement, the full cost of Blue Cross Comprehensive Hospital, Semi–Private, Preferred Provider Organization, Service with Riders D, D45NM, MM, ML, Pap Smear and Ten Dollar (\$10.00) Prescription Drug Program Rider and of Blue Shield MVF–1 Service.

The January 1, 2000 through December 31, 2002 CBA between defendant and the Police Officers Labor Council stated the following:

The City agrees to pay the premium of the retirees for the Blue Cross–Blue Shield Plan listed above except such plan shall be traditional rather than PPO, and to provide additional coverage for the employee’s spouse....

The prescription drug rider for all retirees shall be a \$ 2.00 co-pay plan.

On April 12, 2012, defendant announced plans to unilaterally alter its retirees’ health care coverage. According to plaintiffs’ complaint, defendant sought to move retirees under the age of 65 into a BCBS–M “Community Blue–2” insurance plan and retirees over the age of 65 into a BCBS–M “Medicare Advantage, Mid–Option” insurance plan. Plaintiffs alleged that the new plans “would include co-pays and deductibles amounting to \$1,000.00 to \$1,500.00 per year, per retiree” and would require retirees who previously paid \$2 and \$5 co-pays for their prescriptions to increase co-pays to \$5 for generic prescriptions and \$20 for name brand prescriptions.

In June 2012, individual retirees established the HWRA to oppose defendant’s proposed changes. However, following two meetings between defendant and the HWRA, defendant maintained that its retiree health care benefits expired upon the term end of the relevant CBAs, giving defendant the discretion to alter retiree health insurance coverage. On July 9, 2012, city council approved defendant’s alterations, and on August 1, 2012, the changes became effective.

In October 2012, plaintiffs filed a complaint alleging breach of contract, seeking a declaration that defendant breached its contracts, enjoining further alteration of retiree benefits, and ordering the

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return of previous health insurance coverage, and alleging defendant violated the Contracts Clause of the United States Constitution. Plaintiffs also sought class certification for the 88 members of the HWRA. The trial court initially refused to certify the membership of the HWRA as a class. However, following a motion hearing on June 28, 2013, the court instructed plaintiffs to reintroduce their motion for class certification, and instructed defendant to bring a motion for summary disposition on the question of whether a municipality may unilaterally alter the health care benefits of its retired employees.

At a hearing in September 2013, the court addressed both motions. First, the court granted plaintiffs' motion for class certification in part, defining the certified class to include all of defendant's employees who (1) were covered by a CBA at the time of retirement or (2) had a personal contract with defendant at the time of retirement. However, the trial court did not identify the specific persons included in the class certification. Next, addressing defendant's motion for summary disposition, the court relied on the Sixth Circuit Court of Appeals' holding in *Reese v. CNH America LLC*, 694 F3d 681 (CA 6, 2012) to conclude as a matter of law that employers may unilaterally alter retirees' health insurance coverage provided in a CBA if the alterations are reasonable. Because plaintiffs had not challenged the reasonableness of defendant's health insurance alterations, the trial court granted defendant's motion.

Plaintiffs appealed the trial court's summary disposition order as of right to this Court. On appeal, plaintiffs argued that the lower court erred in granting defendant's motion for summary disposition and failed to provide proper notice to class members after certifying the case as a class action. We held oral argument on the matter on February 4, 2015. Shortly thereafter, we issued an order remanding the case for the limited purpose of identifying the members of the certified class and providing them notice in compliance with MCR 3.501(C).² *Harper Woods Retirees Assoc v. Harper Woods*, unpublished order of the Court of Appeals, entered February 13, 2015 (Docket No. 318450). In July 2015, the trial court submitted an order on remand certifying the class and identifying the class members. Now that the members of the class have been identified, we address plaintiffs' remaining arguments on appeal.

² We also instructed the parties to submit supplemental briefing on the vesting of retirement benefits in light of the United States Supreme Court's recent decision in *M & G Polymers USA, LLC v. Tackett*, 574 U.S. —; 135 S.Ct. 926; 190 L.Ed.2d 809 (2015).

II. STANDARD OF REVIEW

We review de novo a trial court's decision on summary disposition. *Cuddington v. United Health Servs, Inc.*, 298 Mich.App 264, 270; 826 NW2d 519 (2012). Defendant moved for summary disposition under both MCR 2.116(C)(8) and (C)(10), and the trial court did not specify under what rule it decided the motion. However, because the court decided defendant's motion on purely

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legal grounds without reference to evidence outside the pleadings, we review the motion under MCR 2.116(C)(8).³ *Spiek v. Dep't of Transp.*, 456 Mich. 331, 338; 572 NW2d 201 (1998). A motion under MCR 2.116(C)(8) tests the legal sufficiency of the complaint. *Malden v. Rozwood*, 461 Mich. 109, 119; 597 NW2d 817 (1999). In reviewing the motion, courts must accept as true all well-pleaded factual allegations within the complaint. *Wade v. Dep't of Corrections*, 439 Mich. 158, 162–163; 483 NW2d 26 (1992). A decision granting a motion under MCR 2.116(C)(8) is proper if the claims alleged are “so clearly unenforceable as a matter of law that no factual development could possibly justify recovery.” *Id.* at 163. We review de novo questions regarding interpretation of a contract. *In re Smith Trust*, 274 Mich.App 283, 285; 731 NW2d 810 (2007), *aff'd* 480 Mich. 19 (2008).

³ In contract-based actions, any contracts attached to the complaint are considered part of the pleadings. *Liggett Restaurant Group, Inc v. City of Pontiac*, 260 Mich.App 127, 133; 676 NW2d 633 (2003); see also MCR 2.113(F). Plaintiffs attached excerpts of 33 CBAs and six personal contracts to its response to the motion for summary disposition. The trial court did not consider these contracts in deciding the motion for summary disposition. Rather, the court concluded that, as a matter of law, an employer could unilaterally alter retiree health care benefits found in a CBA or personal contract if the alterations were reasonable.

III. DISCUSSION

Plaintiffs first argue that the trial court erred in granting defendant's motion for summary disposition after concluding that, under *Reese*, 694 F3d 681, defendant could unilaterally modify any retiree health insurance benefits provided under its CBAs or personal contracts, regardless of whether the rights had vested, so long as the modifications were reasonable. We agree.

In Michigan, “[t]he foundational principle of our contract jurisprudence is that parties must be able to rely on their agreements[,] ... [which] applies no less strongly to collective bargaining agreements.” *Macomb Co v. AFSCME Council 25*, 494 Mich. 65, 80; 833 NW2d 225 (2013). “A collective bargaining agreement, like any other contract, is the product of informed understanding and mutual assent.” *Port Huron Ed Ass'n v. Port Huron Area Sch Dist*, 452 Mich. 309, 327; 550 NW2d 228 (1996). When contractual language is unambiguous, courts must interpret and enforce the language as written because it reflects, as a matter of law, the parties' intent. *Hastings Mut Ins Co v. Safety King, Inc.*, 286 Mich.App 287, 292; 778 NW2d 275 (2009). “[T]he principle of freedom to contract does not permit a party *unilaterally* to alter [an] original contract.” *Quality Prod & Concepts Co v. Nagel Precision, Inc.*, 469 Mich. 362, 364; 666 NW2d 251 (2003). Rather, when the alteration of a provision in a CBA “affects vested rights already accrued[,] [the change] may give rise to a cause of action in contract.” *Dumas v. Auto Club Ins Ass'n*, 437 Mich. 521, 530; 473 NW2d 652 (1991).

The trial court erred in concluding that defendant could unilaterally alter the health insurance

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benefits provided under its CBAs and personal contracts as a matter of law. Generally, unilateral alteration of contracts is prohibited because "mutuality is the centerpiece to waiving or modifying a contract." *Quality Prod.*, 469 Mich. at 364.⁴ The trial court also erred in holding that the reasonableness of defendant's proposed alterations, in light of the city's alleged financial crisis, was a proper basis upon which to permit or refuse enforcement of the contractual provisions at issue. In Michigan, "[a] mere judicial assessment of 'reasonableness' is an invalid basis upon which to refuse to enforce contractual provisions." *Rory v. Continental Ins Co*, 473 Mich. 457, 470; 703 NW2d 23 (2005). Further, rising medical insurance costs and the city's financial situation are irrelevant to the inquiry because the fact that a contractual obligation "proved to be more onerous ... than anticipated is no defense." *Johnston v. Miller*, 326 Mich. 682, 696; 40 NW2d 770 (1950).

⁴ The presence of a modification clause in a written contract also raises a presumption, as a matter of law, that a contract may not be modified absent mutual assent. *Quality Prod.*, 469 Mich. at 372. Although plaintiffs did not attach the entirety of each CBA to their complaint, at least one of the attached CBAs includes a modification clause providing that the agreement would remain in full force and effect absent written notice, renegotiation, and "agreement upon a new contract."

In ruling that defendant could unilaterally alter any of its retirees' health care benefits as a matter of law, the trial court found the Sixth Circuit's decision in *Reese*, 694 F3d 681, controlling. In *Reese*, retirees brought suit against their employer seeking a declaration that they were entitled to lifetime health insurance benefits under their CBAs and an injunction preventing their employer from altering the level of health benefits then in effect. The Sixth Circuit held that when an employer and its retirees "did not perceive the relevant CBAs as establishing fixed, unalterable benefits," an employer "could make 'reasonable' changes to the healthcare plan covering eligible retirees." *Id.* at 684. The court described "reasonable" alterations as those that are reasonably commensurate with the former insurance plan, those that are reasonable considering what medical care is currently available, and those that provide benefits roughly similar to the benefits provided to current employees. *Id.* at 685. The court then offered a nonexhaustive list of factors for the trial court to consider when determining if alterations are reasonable. *Id.* at 685-686.

In this case, the trial court was not bound to follow *Reese*. "Although lower federal court decisions may be persuasive, they are not binding on state courts." *Abela v. Gen Motors Corp.*, 469 Mich. 603, 607; 677 NW2d 325 (2004). Further, *Reese* does not stand for the proposition that an employer may always unilaterally alter its retirees' health care benefits under a CBA, regardless of the CBA's specific language, so long as the alterations are reasonable. Rather, the *Reese* court indicated that a retiree's right to health insurance benefits under a CBA could be unilaterally altered if evidence indicated the parties intended to permit such alterations, not because vested health insurance benefits under a CBA are unilaterally alterable as a matter of law.⁵ Thus, defendant and the trial court erred by interpreting *Reese* as establishing an absolute right for employers to unilaterally alter health insurance coverage for retirees.

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5 The Sixth Circuit also adopted this interpretation of *Reese* in *United Steel, Paper & Forestry, Rubber, Mfg Energy, Allied Indus & Serv Workers Int'l Union v. Kelsey-Hayes Co*, 750 F.3d 546, 548–551 (CA 6, 2014) (“[In *Reese*,] the scope of the vested right to health care could be unilaterally altered because that is what the evidence indicated the parties intended in that case, not because all vested health care rights in all CBAs are subject to unilateral alteration as a matter of law.”). The Sixth Circuit recently vacated its decision in *United Steel* on other grounds and remanded the case to the district court for reconsideration because the court relied on an inference established in *UAW v. Yard-Man, Inc*, 716 F.2d 1476 (CA 6, 1983), to conclude that the retirees in that case had vested lifetime rights to health care benefits provided under a CBA. *United Steel, Paper & Forestry, Rubber, Mfg Energy, Allied Indus & Serv Workers Int'l Union v. Kelsey-Hayes Co*, 795 F.3d 525 (CA 6, 2015). In *Tackett*, 574 U.S. at —, the United States Supreme Court overruled *Yard-Man*, concluding that a judicially created inference that parties intended benefits under a CBA to vest for life upon retirement was inconsistent with ordinary principles of contract law.

Although the trial court erred in concluding that an employer may unilaterally alter any health insurance benefits included in a CBA or personal contract as a matter of law so long as the alterations are reasonable, the preliminary question remains whether plaintiffs had vested rights to the health benefits they now claim. “ ‘Under established contract principles, vested retirement rights may not be altered without the [retiree]’s consent.’ ” *Butler v. Wayne Co*, 289 Mich.App 664, 672; 798 NW2d 37 (2010), quoting *Allied Chem & Alkali Workers of America v. Pittsburgh Plate Glass Co*, 404 U.S. 157, 181 n.20; 92 S Ct 383; 30 L.Ed.2d 341 (1971). However, in order to demonstrate that a benefit conferred in a CBA or personal contract is deemed vested, a retiree must show that (1) they had a contractual right to the claimed benefit that was to continue after the agreement’s expiration, and (2) that the right was included in their respective contracts at the time of retirement. See *Butler*, 289 Mich.App at 672.

Plaintiffs suggest that their right to the specific health care benefits included in their CBAs and contracts continued indefinitely after retirement, regardless of whether the explicit terms of the contract indicated that the parties intended those benefits to continue after the agreements’ expiration. Such a position is inconsistent with ordinary principles of contract law.

In *M & G Polymers USA, LLC v. Tackett*, 574 U.S. —; 135 S Ct 926; 190 L.Ed.2d 809 (2015) the United States Supreme Court rejected the Sixth Circuit’s decision in *UAW v. Yard-Man, Inc*, 716 F.2d 1476 (CA 6, 1983), which held that in the absence of contrary extrinsic evidence, courts should presume that retiree benefits provided in a CBA are guaranteed for the lifetime of any employee who retires under the CBA. The *Yard-Man* court “inferred that parties would not leave retiree benefits to the contingencies of future negotiations, and that retiree benefits generally last as long as the recipient remains a retiree ... [which] ‘outweigh[ed] any contrary implications derived from a routine duration clause terminating the agreement generally.’ ” *Tackett*, 574 U.S. at —, quoting *Yard-Man*, 716 F.2d at 1482–1483 (second alteration in original). Thus, although the *Yard-Man* court recognized that “traditional rules of contractual interpretation require a clear manifestation of intent before conferring a benefit or obligation,” the duration of the conferred benefit was not subject to this conventional restraint. *Tackett*, 574 U.S. at — (citation and quotation marks omitted).

In *Tackett*, the Supreme Court overruled *Yard-Man*, holding that a presumption of lifetime vesting of retirement benefits violates traditional rules of contract interpretation. The Supreme Court

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explained that under traditional contract interpretation principles, courts should not construe ambiguous writing to create lifetime promises and that generally, “ ‘contractual obligations will cease, in the ordinary course, upon termination of the bargaining agreement.’ ” *Tackett*, 574 U.S. at —, quoting *Litton Fin Printing Div, Litton Business Sys, Inc v. NLRB*, 501 U.S. 190, 207; 111 S Ct 2215; 115 L.Ed.2d 177 (1991). The Supreme Court noted that traditional contract principles do not “preclude the conclusion that the parties intended to vest lifetime benefits for retirees” because “a collective-bargaining agreement [may] provid[e] in explicit terms that certain benefits continue after the agreement’s expiration.” *Tackett*, 574 U.S. at — (citation and quotation marks omitted; alterations in original). However, “when a contract is silent as to the duration of retiree benefits, a court may not infer that the parties intended those benefits to vest for life.” *Id.* at —. We conclude that the Supreme Court’s reasoning in *Tackett* is consistent with Michigan’s contract jurisprudence regarding CBAs, which applies with equal force in both the public and private sectors in this regard. As our Supreme Court has explained:

The foundational principle of our contract jurisprudence is that parties must be able to rely on their agreements. This principle applies no less strongly to collective bargaining agreements: when parties to a collective bargaining agreement bargain about a subject and memorialize the results of their negotiation in a collective bargaining agreement, they create a set of enforceable rules—a new code of conduct for themselves—on that subject. A party to the collective bargaining agreement has a right to rely on the agreement as the statement of its obligations on any topic covered by the agreement. [*AFSCME Council 25*, 494 Mich. at 80 (quotation marks and citations omitted).]

The task, then, is to examine each of the CBAs and personal contracts in effect at the time of retirement for the respective class members, and to determine whether the language of the provisions governing retiree health care benefits indicates that the parties intended the same benefits to continue after expiration of the agreements, or whether the benefits terminated upon expiration of the agreements, such that defendant was permitted to alter the benefits under future contracts. See *Butler*, 289 Mich.App at 672. Below, plaintiffs attached excerpts of 33 CBAs and six purported personal contracts to their response to defendant’s motion for summary disposition. The trial court did not address any of these agreements when issuing its decision granting summary disposition to defendant, instead ruling that alteration of health insurance benefits was appropriate as a matter of law so long as the alterations were reasonable. At the time, the members of the class had not been identified. In fact, they were only recently identified in an order from the trial court dated July 27, 2015, following the remand from this Court.

There is currently no evidence before us indicating what contracts apply to which class members based on each member’s retirement date, whether all the relevant CBAs are included in the record, or whether additional provisions in the CBAs beyond the excerpts included below are necessary to properly interpret the relevant contractual provisions. Accordingly, the lower court record has

Harper Woods Retirees Ass'n v. City of Harper Woods, — N.W.2d — (2015)
2015 L.R.M. (BNA) 192,274

not been sufficiently developed to permit this Court to engage in an independent review of the obligations contained in each of the agreements. Therefore, we remand this case to the trial court for further proceedings consistent with this opinion.

On remand, we instruct the trial court to determine what contracts apply to which individual class members, and then to apply ordinary contract principles to determine whether the parties intended the retiree health care benefits identified in each respective agreement to survive the expiration of the CBA, or whether the retirees' rights to the specifically identified health care benefits terminated upon expiration of the agreement, such that defendant was permitted to alter the benefits under future contracts .⁶

⁶ We emphasize that the outcome, i.e., whether or not a retiree's right to specific health insurance coverage extends beyond the expiration of the agreement under which they retired, may not be the same for each CBA and personal contract. Rather, the outcome must be dictated by applying traditional principles of contract interpretation to the language of each respective agreement.

IV. UNPRESERVED CLAIMS

Finally, plaintiffs argue that the trial court erred in granting summary disposition because a question of fact existed regarding whether defendant was in a state of financial crisis at the time it altered plaintiffs' health insurance coverage. The lower court did not address this issue in deciding defendant's motion for summary disposition, rendering it unpreserved. *Hines v. Volkswagen of America, Inc.*, 265 Mich.App 432, 443; 695 NW2d 84 (2005). The reason why a breaching party failed to fulfill its contractual obligations is not an element in a breach of contract claim. *Miller-Davis Co v. Ahrens Constr, Inc.*, 495 Mich. 161, 178; 848 NW2d 95 (2014). Because defendant's financial status is irrelevant to whether it breached its contractual duties, we choose not to address the parties' arguments regarding this issue on appeal.

Plaintiffs further argue that defendant violated city ordinances by altering retirees' health benefits. However, this issue was not raised in plaintiffs' statement of the questions presented. Issues not specifically raised in an appellant's statement of questions presented are not properly presented to this Court. *Grand Rapids Employees Indep Union v. Grand Rapids*, 235 Mich.App 398, 409–410; 597 NW2d 284 (1999). Accordingly, we also decline to address this issue.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

All Citations

Harper Woods Retirees Ass'n v. City of Harper Woods, --- N.W.2d --- (2015)

2015 L.R.R.M. (BNA) 192,274

--- N.W.2d ---, 2015 WL 5737812, 2015 L.R.R.M. (BNA) 192,274

End of Document

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EXHIBIT #11

Commission sends health care changes back to committee

Eric D. Lawrence, Detroit Free Press 1:31 p.m. EDT March 17, 2016



(Photo: Eric D. Lawrence)

A plan that would boost the health care costs for some Wayne County retirees met a delay today when the county commission sent it back to a committee without any discussion.

The move followed a news release issued by retiree organizations urging commissioners to vote no as well as an outpouring of union members and others attending today's commission meeting. The move came on a 14-0 vote. Commissioner Martha Scott, D-Highland Park, was absent.

The board had previously met as a committee of the whole and opted, on a 9-4 vote, to move the measure to the full board without recommendation. The plan would have boosted costs for those retirees currently

receiving county-provided health care.

The administration of County Executive Warren Evans had sought the increase in the health care contributions of the 1,204 so-called "mirror retirees" to match those of the 3,214 active employees. It would change their contribution level from about 10% to about 25%, which officials said equates to about an additional \$100 per month. Those retirees filed a federal lawsuit (<http://www.freep.com/story/news/local/michigan/wayne/2016/02/16/wayne-county-retirees-sue-stop-healthcare-changes/80478494/>) last month in an effort to prevent the change. The term "mirror retirees" is based on the group of retirees that is supposed to get the same type of benefits as active employees.

Today's news release pointed to the extra cost the plan would put on retirees.

"Under the Evans plan, county employees who retired after January of 2007, would have their medical insurance premiums increased from 10% to 25% of the cost of medical and prescription drug coverage; a first dollar deductible of up to \$2,600.00 for a family plan, which has to be paid by the retiree, before any insurance would take effect ... the Evans proposal also calls for the elimination of the guaranteed 10% retiree contribution to the medical insurance premiums, which was in effect on the date of their retirement, as provided for in their Labor Agreements, which has been in effect for the past eight years," the release said, noting that active employees but not the retirees are to receive a \$1,300 payment toward the extra cost.

"This action by Evans has been characterized as being unconscionable and punitive; retirees will be paying more for the same medical benefits received by county workers," the release said.



DETROIT FREE PRESS

Evans touts savings from retiree health care changes

(<http://www.freep.com/story/news/local/michigan/wayne/2016/02/02/wayne-county-retiree-health-care-liability-reduced/79687266/>)

Commission Vice-Chair Pro Tempore Jewel Ware, D-Detroit, made the motion to send the issue back to committee. After the meeting, she said she had asked for but had not received income information related to the retirees, and other commissioners were also seeking additional information.

"Probably when we get all our facts together (we'll) be in a better position to vote," she said.

Deputy County Executive Richard Kaufman said at the committee meeting that the retirees should at least pay what the active employees pay.

"We believe it promotes fairness and fiscal responsibility to do this," Kaufman said, reiterating the administration's call for "shared sacrifice."

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Commission sends health care changes back to committee

<http://www.freep.com/story/news/local/michigan/wayne/2016/03/17/...>

Other county retirees already face a changed health care landscape because they were shifted to a stipend program in lieu of county-provided health care, which those retirees said cost them substantially more than previously. The county is operating under a consent agreement with the state because of its financial situation. The administration said the proposed retiree health care changes would save the county \$70.6 million in accrued liabilities over the next 25 or 30 years.

- Commissioner Diana Webb, D-Livonia, however, criticized at the earlier meeting calls from the administration for shared sacrifice, noting that a number of Evans appointees make more than \$100,000 per year.

"I don't think it's fair or shared," she said.

Commissioner Joseph Palamara, D-Grosse Ile Township, said both sides of the issue have logical arguments. Palamara previously said that other retirees have already been asked to sacrifice even more and that asking the mirror retirees to pay an extra \$100 a month is not unreasonable.

"We get it. These people want to do the right thing and (finding) out the absolute best thing is going to take some time to figure out," Palamara said today.

Contact Eric D. Lawrence: elawrence@freepress.com. Follow him on Twitter: @ericdlawrence.

Read or Share this story: <http://on.freep.com/1pqE6qv>



EXHIBIT #12

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**WAYNE COUNTY RETIREES' ASSOCIATION, INC.;
AFSCME SUBCHAPTER 38; EUGENE WRIGHT,
ANTHONY CECE, DOUGLAS WADLIN, CHARLES BONZA,
EVELYN GLANTON, MARGY BISHOP, BEVERLY BRODEN,
PAUL PENERACKL, AND KIM SMITH, On behalf of
themselves and all others similarly situated,
Plaintiffs,**

V.

**CIVIL ACTION
NO. 16-10546
HON. JUDITH LEVY**

**CHARTER COUNTY OF WAYNE, and WARREN EVANS,
Individually and in his official capacity of
Wayne County Executive, and Ex-Official Member
of the Wayne County Employees Retirement System,
and GARY WORONCHAK, Individually and in his
official capacity as Chairman of the Wayne County
Commission, and Ex-Official Member of the Wayne
County Employees Retirement Commission, WAYNE
COUNTY EMPLOYEES RETIREMENT SYSTEM AND ITS TRUSTEES;
TINA TURNER, in her official capacity as Chairman of the Wayne County
Employees Retirement Commission, DENNIS MARTIN, in his official
capacity as Trustee for the Wayne County Employee Retirement Commission,
HENRY WILSON, in his official capacity as Trustee for the Wayne
County Employee Retirement Commission, HUGH S. MACDONALD,
in his official capacity of Trustee of the Wayne County Employee
Retirement Commission, ELIZABETH MISURACA, in her official
capacity as Trustee of the Wayne County Employee Retirement
Commission, joint and severally,
Defendants.**

Declaration of Margy A. Bishop

I, Margy A. Bishop, declare as follows:

The following facts are within my personal knowledge and, if called to testify, I could and would competently testify thereto.

- 1) I retired from Wayne County on December 1, 2008, pursuant to my collective bargaining agreement I was entitled to medical and prescription benefits; I elected to remain covered by Blue Cross Blue Shield of Michigan.**
- 2) I am currently 71 years of age, I am a Medicare recipient and I have supplemental medical insurance with Blue Cross Blue Shield provided by Wayne County.**
- 3) Prior to January 1, 2015 my deductible for prescription drugs were \$5.00, \$10.00 and \$20.00. My total out of pocket expense for prescription drugs in 2015 was \$822.32.**
- 4) My monthly retirement allowance from Wayne County is \$657.00 and my high deductible health care plan annual deductible is equivalent to one month retirement benefits.**
- 5) On a annual basis I have a minimum of one heart stress test, one EKG, one ECHO test, one colonoscopy and one MRI. These tests are necessitated due to the fact I suffered a heart attack, I have a family history of colon cancer and I am treated for reoccurrence breast cancer.**
- 6) The implementation of the changes in my medical insurance has caused me great stress and I do not feel that I will live long enough to see my grandchildren attend college.**

I declare under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 6th day of April, 2016 in Dearborn Heights, Michigan.


Margy A. Bishop

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

WAYNE COUNTY RETIREES' ASSOCIATION, INC.;
AFSCME SUBCHAPTER 38; EUGENE WRIGHT,
ANTHONY CECE, DOUGLAS WADLIN, CHARLES BONZA,
EVELYN GLANTON, MARGY BISHOP, BEVERLY BRODEN,
PAUL PENERACKL, AND KIM SMITH , On behalf of
themselves and all others similarly situated,
Plaintiffs,

V.

**CIVIL ACTION
NO. 16-10546
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CHARTER COUNTY OF WAYNE, and WARREN EVANS,
Individually and in his official capacity of
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Commission, and Ex-Official Member of the Wayne
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COUNTY EMPLOYEES RETIREMENT SYSTEM AND ITS TRUSTEES;
TINA TURNER, in her official capacity as Chairman of the Wayne County
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capacity as Trustee for the Wayne County Employee Retirement Commission,
HENRY WILSON, in his official capacity as Trustee for the Wayne
County Employee Retirement Commission, HUGH S. MACDONALD,
in his official capacity of Trustee of the Wayne County Employee
Retirement Commission, ELIZABETH MISURACA, in her official
capacity as Trustee of the Wayne County Employee Retirement
Commission, joint and severally,
Defendants.

Declaration of Marsha D. Dotson

The following facts are within my personal knowledge and, if called to testify, I could and would competently testify thereto.

- 1) I retired from Wayne County on August 1, 2014 due to severe medical problems.**
- 2) In 2014 I suffered a heart attack, was in a coma for three weeks and confined to the hospital for a period of four weeks.**
- 3) I am 63 years of age, and I am not eligible for Medicare. My medical benefits are provided through Wayne County and I have a Blue Cross Blue Shield insurance policy.**
- 4) My total combined income consisting of Social Security Disability and retirement from Wayne County totals approximately \$2,400.00 per month.**
- 5) Because of my heart condition, I am unable to be gainfully employed and this employment decisions was made by the Social Security Administration.**
- 6) When I retired from Wayne County, I was promised certain medical and prescription benefits; the High Deductible Healthcare Plan was not an option which I selected as my retirement medical benefit plan.**
- 7) My fixed monthly expenses are approximately \$1,600.00 per month; this amount does not include any increase in the premium for my medical benefits.**
- 8) The changes in my health care benefits by Wayne County, has caused a great deal of stress, I constantly worry that I will have another heart attack and will be once again be hospitalized or worse. I was not planning on retiring until I became Medicare eligible at age 65.**

I declare, under penalty of perjury, that the foregoing is true and correct to the best of knowledge, information and belief.

Executed this 5th day of April 2016, Dearborn Michigan


Marsha D. Dotson
Marsha D. Dotson

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**WAYNE COUNTY RETIREES' ASSOCIATION, INC.;
AFSCME SUBCHAPTER 38; EUGENE WRIGHT,
ANTHONY CECE, DOUGLAS WADLIN, CHARLES BONZA,
EVELYN GLANTON, MARGY BISHOP, BEVERLY BRODEN,
PAUL PENERACKL, AND KIM SMITH, On behalf of
themselves and all others similarly situated,
Plaintiffs,**

V.

**CIVIL ACTION
NO. 16-10546
HON. JUDITH LEVY**

**CHARTER COUNTY OF WAYNE, and WARREN EVANS,
Individually and in his official capacity of
Wayne County Executive, and Ex-Official Member
of the Wayne County Employees Retirement System,
and GARY WORONCHAK, Individually and in his
official capacity as Chairman of the Wayne County
Commission, and Ex-Official Member of the Wayne
County Employees Retirement Commission, WAYNE
COUNTY EMPLOYEES RETIREMENT SYSTEM AND ITS TRUSTEES;
TINA TURNER, in her official capacity as Chairman of the Wayne County
Employees Retirement Commission, DENNIS MARTIN, in his official
capacity as Trustee for the Wayne County Employee Retirement Commission,
HENRY WILSON, in his official capacity as Trustee for the Wayne
County Employee Retirement Commission, HUGH S. MACDONALD,
in his official capacity of Trustee of the Wayne County Employee
Retirement Commission, ELIZABETH MISURACA, in her official
capacity as Trustee of the Wayne County Employee Retirement
Commission, joint and severally,
Defendants.**

Declaration of Patrick Flannery

I, Patrick Flannery, declare as follows:

The following facts are within my personal knowledge and, if called to testify, I could and would competently testify thereto.

My name is Patrick Flannery. I am retired from the Wayne County Sheriff's Department and as of this writing, I am 65 years old.

Up until January 1, 2016 I had County paid Blue Cross Prescription coverage as part of my status as a "mirror" retiree. My coverage per the contract gave me the same coverage as an active employee. Up until July of 2015, I had Blue Cross for medical and prescriptions, but per contract, that coverage ended when I became eligible for Medicare and I was given a Blue Cross prescription card.

On March 4, 2016, I received letters from both Blue Cross and Express Scripts. Blue Cross advised me that my coverage under their plan had been terminated, effective January 1, 2016, 3 months prior to the date of the letter (SEE: Attachment 1). The communication from Express Scripts advised that I was now covered under their plan (SEE: Attachment 2). Both letters were dated March 2, 2016.

A few weeks after receiving these notices, I received a booklet of over 120 pages that lists the drugs covered under the Express Scripts plan. Their supply terms are vastly different from Blue Cross's. Some medications are to be supplied only by mail, others require my physician to get prior authorization before even writing a prescription. They also have a proviso that states, "ST: Step Therapy, In some cases, the plan requires you to first try a certain drug to treat your medical condition before we will cover another drug for that condition". In short, this pharmacy distributor is interfering with my physician's ability to treat and prescribe medications.

The cost of the medications that Express Scripts provides is also much higher. I needed a refill on a prescription cream prescribed by my podiatrist. When I first filled the prescription, the cost of my co-pay was \$10.00. After providing my pharmacy with my new coverage, the co-pay had jumped to \$83.21 (SEE: Attachment 3). Additionally, since my coverage had been changed without my knowledge in January and I originally received this and other medications in

February. I will be liable to reimburse Express Scripts for the difference between their cost and what I paid. If any of the medications are not covered by them, I will have to reimburse them the entire cost.

I was hired as a Deputy with the Wayne County Sheriff's Department in July of 1980. I worked from that time until September of 1981, when a suit between Sheriff Lucas and the Wayne County Board of Commissioners was decided against Sheriff Lucas. The judge in that case had advised that all working past March 1981 were "working at their own peril", but Sheriff Lucas and the Deputy's Union were confident they would prevail as past precedent supported their position. So, I worked an additional 6 months without pay until the court decision came down against the Sheriff.

I was recalled in May, 1983 as a "new" employee. Since I didn't have a full year as a deputy as the free work I did wasn't counted, I started at the bottom again. I then worked as a non-sworn deputy until I was sent to the Detroit Police Academy in January of 1984, graduating in May 1984. I worked as a sworn deputy from that point on. I retired in April of 2010.

Prior to being hired by Wayne County, I worked 8 years as a medic with the Detroit Fire Department, Emergency Medical Service Division. Due to the strenuous nature of the work performed while working on both E.M.S. and later the Sheriff's Department, I sustained various injuries that have left me with some debilitation and may require surgical repair at a later date. I have had 2 laminectomies to my lower back where the damaged disks were removed from 2 vertebrae. The surgeries were 2 years apart and originally left me with numbness in my right foot. That numbness has now increased and has spread to my left foot. According to my neurosurgeon, my upper spine from C-2 down into my thorax is fused. As a result, I have lost the ability to turn my head more than 45 degrees in either direction; normal being 90 degrees and have numbness in both hands due to the spinal nerves in that area being compressed. The neurosurgeon has advised me that surgical remediation will be necessary if I have further loss of function. According to my orthopedist I will also need knee replacement surgery to my right knee due to repetitive on the job injuries. .

My family has a history of cancer, hypertension and congestive heart failure. At this time, I am not inflicted with those conditions, but with this family history, any or all is a strong possibility.

I declare under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 5th day of April, 2016 in Detroit, Michigan.



Patrick Flannery



ATTACHMENT 1

**Notice to Confirm Voluntary Disenrollment Identified Through Transaction
Reply Report**

03/04/2016

**Mr. Patrick Flannery
1550 Cherboneau Pl #128
Detroit MI 48207**

Dear Mr. Patrick Flannery:

This is to confirm your disenrollment from Prescription Blue™ Group PDP. Beginning 01/01/2016, Prescription Blue Group PDP won't cover your prescription drugs.

What should I do now?

If you have already enrolled in another Medicare Prescription Drug Plan (or a Medicare Advantage Plan with prescription drug coverage), you should get confirmation of your enrollment from your new Plan. If you haven't enrolled in another Medicare Plan, you should consider enrolling in one. If you don't enroll in a new Plan at this time, or you don't have or get creditable prescription drug coverage (as good as Medicare's), you may have to pay a late enrollment penalty if you enroll in Medicare prescription drug coverage in the future.

If you have questions about your group's enrollment period, contact your employer or union's benefit administrator. Employer-sponsored PDP plans are not required to comply with the Medicare annual coordinated election period. Thus, employer/union group PDPs may have different annual open enrollment periods.

If you qualify for extra-help with your prescription drug costs you may enroll in, or disenroll from, a plan at any time. If you lose this extra help during the year, your opportunity to make a change continues for two months after you are notified that you no longer qualify for extra help.

**Prescription Blue is a PDP plan with a Medicare contract.
Enrollment in Prescription Blue depends on contract renewal.**

S5584_Grp_E10aNotcVolDisnrTRR FVNR 0213

What is extra help?

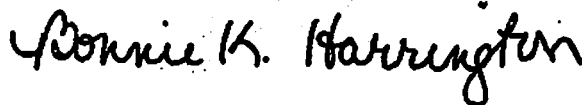
People with limited incomes may qualify for extra help to pay for their prescription drug costs. If you qualify, Medicare could pay a percentage of your drug costs including monthly prescription drug premiums, annual deductibles, and co-insurance. Additionally, those who qualify won't have a coverage gap or a late enrollment penalty. Many people qualify for these savings and don't even know it. For more information about this extra help, contact your local Social Security office, or call Social Security at 1-800-772-1213, Monday through Friday from 7 a.m. to 7 p.m. TTY users should call 1-800-325-0778. You can also apply for extra help online at www.socialsecurity.gov/prescriptionhelp.

Where can I get more information?

For information about the Medicare plans available in your area, call 1-800-MEDICARE (1-800-633-4227), 24 hours per day, 7 days per week. TTY users should call 1-877-486-2048.

If you think you didn't disenroll from Prescription Blue Group PDP and you want to stay a member of our plan, please call us right away, Monday through Friday at 1-866-684-8216, from 8:30 a.m. to 5:00 p.m. so we can make sure you stay a member of Prescription Blue Group PDP. Medicare gives you only 30 days from the date of this letter to contact us. TTY users should call 711.

Sincerely,



Bonnie Harrington
Director, Medicare Advantage Operations
Blue Cross Blue Shield of Michigan

March 2, 2016

0347764003291/6032/BXMA/Cyc19265/12016-03-01/E2E/E2E16/11
BXM50501// //FXS000013176940

2016032049 - 903 CID PCM-MEXL

PATRICK J. FLANNERY
1550 Cherboneau Pl Apt 128
Detroit, MI 48207



EXPRESS SCRIPTS®
Medicare (PDP)

Express Scripts Medicare® (PDP)

RxBIN: 610014
RXPCN: MEDDPRIME
RxGrp: BXMA
Issuer: 9151014609
(80840)
ID No.: EE000142678

MedicareRx
Prescription Drug Coverage

This is your temporary member ID card

Dear **PATRICK J. FLANNERY:**

Your former employer or retiree group has requested enrollment on your behalf in **Express Scripts Medicare® (PDP)** for Express Scripts Medicare. Express Scripts Medicare is currently processing your enrollment, which must be approved by the Centers for Medicare & Medicaid Services (CMS). If approved, your new prescription drug benefit will be effective as of 01/01/2016.

A Welcome Kit with your new member ID card will be mailed to you if your enrollment is approved by CMS. If you need to fill a prescription before you receive your final member ID card, you may present this letter to your pharmacist beginning 01/01/2016.

If you fill prescriptions and Medicare does not approve your enrollment, you may owe money back to Express Scripts Medicare. If you do owe us money, we will let you know how much.

We are here to help when you need it

If you have any questions, please call Express Scripts Medicare Customer Service toll-free at **1.888.345.2560**. Customer Service is available 24 hours a day, 7 days a week. TTY users should call **1.800.716.3231**.

Please see the back of this letter for important information to share with your pharmacist.

Thank you.

001010000000000000000000



E2E16BX

20160320438230969 - BXMA - 612351

LTR_MPD_EXL_E2E16_BXMA_1_000

Important information for the pharmacist

As of 01/01/2016, this member's prescription drug benefit will be administered by Express Scripts Medicare. To simplify your prescription processing, please follow the steps listed below. If you have any questions while processing the claim, please contact our Pharmacy Services Help Desk at 1.800.922.1557.


Please follow the action steps listed below to process the claim.

- Step 1** Enter Issuer #
- Step 2** Enter Bin #
- Step 3** Enter Processor Control
- Step 4** Enter Rx Group #
- Step 5** Enter Member ID #

**Express Scripts Medicare (PDP) is a prescription drug plan with a Medicare contract.
Enrollment in Express Scripts Medicare depends on contract renewal.**

Attachment 3

RECEIPT	FLANNERY, PATRICK		COSTCO PHARMACY 248-616-0064		ECONAZOLE NITRATE 1% CREAM	
	1550 CHARBONEAU PLACE #128 DETROIT MI 48207 313-259-5875		30650 STEPHENSON HWY MADISON HEIGHTS MI 48071 Whse# 393		NDC: 51672-1303-08 # 85	
	07/19/1950				Mfr: TARO	
	13065PAID/MEDCO M \$10.00 FL				Days Supply: 30 UIC: \$298.08 May be refilled 4 times of 85 before 2/01/2017	
	10 00 0393 1367954 0000 01917564 00001000				13065PAID/MEDCO MED-D PRI	
		\$10.00		Secondary: 0.00 Tertiary: 0.00		
		RX 1367954 N		Prescriber: GREGORY, PETER		
		02/02/2016		AUTH# WQQLDE7		


RECEIPT		COSTCO PHARMACY
	DEPARTMENT	
	Pharmacist's Note:	

COSTCO PHARMACY

DEPARTMENT

- ◆ We care for your health. RX#1367954 N
02/02/2016 UIC: \$2
- ◆ Our Pharmacists are available to assist and counsel you about your medications. Please feel free to personally call our Pharmacists. DR. GREGORY, PETER
ECONAZOLE NITRATIONS. # 85
PAID/MEDCO MED-D
- ◆ We carry the highest quality of generics available. Ask our Pharmacist about cost-saving generics.

RECEIPT	FLANNERY, PATRICK		COSTCO PHARMACY 248-616-0064		ECONAZOLE NITRATE 1% CREAM	
	1550 CHARBONEAU PLACE #128 DETROIT MI 48207 313-259-5875		30650 STEPHENSON HWY MADISON HEIGHTS MI 48071 Whse# 393		NDC: 51672-1303-08 # 85	
	07/19/1950				Mfr: TARO	
	13065PAID/MEDCO M \$83.21 FL				Days Supply: 30 UIC: \$298.08 May be refilled 3 times of 85 before 2/01/2017	
	10 00 0393 1367954 0001 01934045 00003321				13065PAID/MEDCO MED-D PRI	
		\$83.21		Secondary: 0.00 Tertiary: 0.00		
		RX 1367954 R		Prescriber: GREGORY, PETER		
		03/15/2016		AUTH# SFXTWJ3		

RECEIPT		COSTCO PHARMACY
	DEPARTMENT	
	Pharmacist's Note:	

☐ *RX. CII ☐ *RX. MIX
☐ *RX. OWE ☐ *RX. BULK

COSTCO PHARMACY

DEPARTMENT

- ◆ We care for your health. RX#1367954 R
03/15/2016 UIC: \$2
- ◆ Our Pharmacists are available to assist and counsel you about your medications. Please feel free to personally call our Pharmacists. DR. GREGORY, PETER
ECONAZOLE NITRATIONS. # 85
PAID/MEDCO
- ◆ We carry the highest quality of generics available. Ask our Pharmacist about cost-saving generics.
- ◆ Be sure to store all medication out of the reach of children.

EXHIBIT #13

EXHIBIT #13

AFSCME CBA TO BE PROVIDED

EXHIBIT #14



Warren C. Evans
Wayne County Executive

December 16, 2015

RE: Wayne County's 2015 Year in Review

Dear County Employees and Elected Leaders,

The year 2015 marked a time of significant change for Wayne County. As you know, the Administration dedicated a great deal of our effort and attention to stabilizing the County's finances and creating pathways for the County to thrive in the future.

We have made significant progress with our finances. Some of our successes include eliminating 93% of our structural deficit and eliminating our accumulated deficit. It is this type of progress that helps us secure the County's successful future.

We have also invested much thought and planning into how to best serve our communities. The new Department of Health, Veterans and Community Wellness is a good example of how we have focused on better meeting the needs of our residents. By changing the way we deliver service and creating innovative ways to engage with residents and businesses, we have already begun to positively impact our communities.

While there is more work to do, I am happy to say that with your help, the County is on the right track with its finances and delivering quality service.

We wanted you to have a look at what your work has helped the County achieve this year. The documents that accompany this letter provide a recap of 2015 and also highlight some of the programs and initiatives that we will focus on in 2016.

I appreciate the contributions that you have made on behalf of the County. As we head into the holiday season, I send my best wishes to you all and look forward to another rewarding year for the County.

Sincerely,

A handwritten signature in black ink, appearing to read "Warren C. Evans".

Warren C. Evans
County Executive

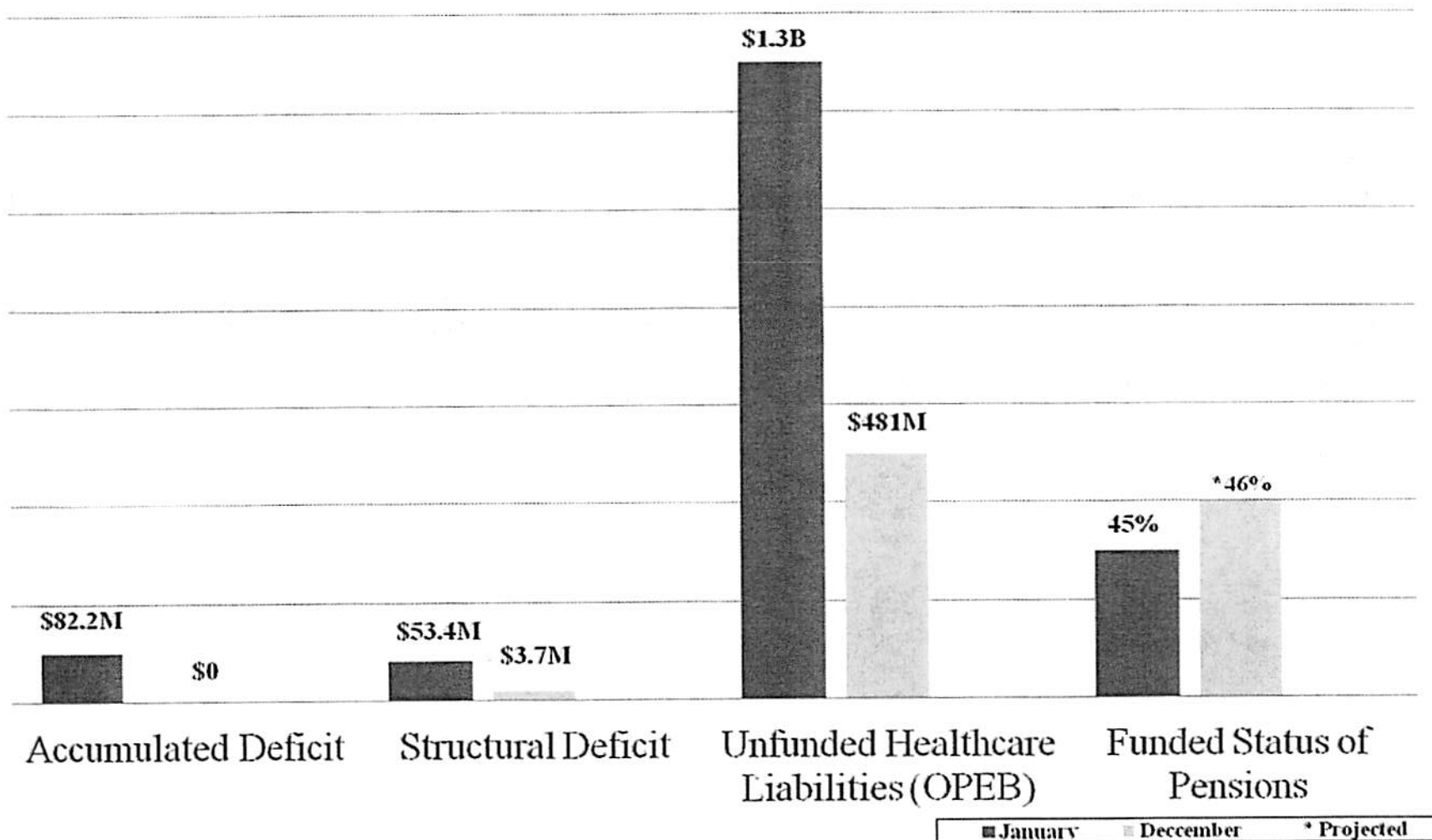
EXECUTIVE OFFICE

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Wayne County Financial Review 1/1/15 to 12/31/15





2015 Operations and Department Efficiency Improvements

- Consolidation of departments and divisions to form the Department of Health, Veterans and Community Wellness (DHVCW)
- Centralization of DHVCW operations teams for finance, personnel and contract management and a "no wrong door" process for direct referrals between six DHVCW divisions was established
- Elimination of the top-heavy and ineffective Economic Development Growth Engine (EDGE)
- Consolidation of office space and closure of underutilized County buildings
- Reduction of Executive appointees by nearly 8% (from 144 to 133)

Future Projects to Improve Operations & Efficient Delivery of Service

- The reorganization of the deactivated Wayne County Land Bank Authority and introduction of new programming for the revamped authority
- Plans to solve the County's jail situation and fund the underfunded pension system
- A revitalized approach to the distribution of Community Development Block Grant (CDBG) funds with a focus on community wellness
- New strategies to reduce security costs in the Circuit and Probate Courts as well as for jail medical and electronic monitoring
- A state of the art procurement system centered around strategic sourcing that is measured by key performance indicators designed to save the County millions
- Initiatives by the Department of Health, Veterans and Community Wellness (DHVCW) to provide direct client services at satellite locations within communities and expand primary care services through the County's Federally qualified Health Centers
- Initiatives by the Department of Public Services: 13 Capital road improvement projects, ongoing parks programming, improving the County's permitting process and aligning regulatory requirements with the needs of businesses



FOR IMMEDIATE RELEASE

December 2015

COUNTY EXECUTIVE WARREN C. EVANS REVIVES WAYNE COUNTY FINANCES

93% of Structural Deficit Eliminated, Accumulated Deficit Gone

Tough Decisions Lay Foundation for Wayne County to Thrive in Future

Evans Administration Paves Way for Sweeping Changes to Service Delivery

DETROIT – Wayne County's financial health has significantly improved since January and the prognosis calls for a full recovery by the middle of 2016 because of Wayne County Executive Warren C. Evans' sound decision making and decisive action toward implementing his Recovery Plan.

To date, the County's unfunded healthcare liabilities have been reduced by almost \$1 billion. Future pension liabilities have been reduced by nearly \$126 million and the structural deficit has been reduced by 93%. Projections also show that the \$82.2 million accumulated deficit is eliminated, pending an independent audit.

2015 brought tremendous change to Wayne County as Executive Evans entered his new role, aligning actions with words. Recognizing that Wayne County's success required more than a changing of the guard, Executive Evans began to reengineer the County to better serve each of its stakeholders. That process began with the most talked about and the most concerning obstacle facing the home of 43 communities; its finances. The Evans Administration has put the County's finances on the right track, and did so while not losing sight of the importance of delivering quality services.

"Our actions this year have been swift and impactful," said Executive Evans. "The substantial progress we have made, particularly regarding our finances, has been possible because of innovative ideas from my team, the cooperative relationship we have established with the County Commission and the support of other leaders across Wayne County. There is still plenty of work to be done, but our accomplishments of 2015 are the foundation we must build on over the next few years."

Looking Ahead to 2016

Next year requires a focus on continuous and deliberate action toward adequately funding the underfunded pension system, solving the County's jail situation and several other programs or initiatives that include:

- The reorganization of the deactivated Wayne County Land Bank Authority and introduction of new programming for the revamped authority;
- A revitalized approach to the distribution of Community Development Block Grant (CDBG) funds with a focus on community wellness and strategic coordination;
- A state of the art procurement system centered around strategic sourcing that is measured by key performance indicators designed to save the County millions;
- Initiatives by the Department of Health, Veterans and Community Wellness (DHVCW) to provide direct client services at satellite locations within communities and expand primary care services through the County's Federally Qualified Health Centers; and
- Initiatives by the Department of Public Services to make improvements to the permitting process and align Wayne County's regulatory requirements with the needs of businesses.

The County's Financial Recovery

On day one, Executive Evans knew the County's finances were in bad shape, but the significant depth of the financial hole came after the County Executive enlisted credible third-party auditors to help assess the situation. The grim numbers would profoundly dictate the seriousness and speed for which change needed to happen.

"The results showed the hole was deeper than originally anticipated," said Deputy County Executive Richard Kaufman. "With CEO Evans leading the way, every executive appointee accepted a five-percent wage reduction, a spending freeze was implemented and we developed the Recovery Plan, which served as our roadmap to financial solvency."

With the structural deficit, significantly underfunded pension system, and long-term liabilities, the County was headed down a dangerous path of insolvency. If this continued, in just five years the accumulated deficit was projected to grow to \$171 million.

Using the Recovery Plan, the County made remarkable progress, which included: renegotiating contracts with care management organizations and the Wayne County Circuit Court, consolidating departments and settling the landmark MacDonald lawsuit. After about six months, the County realized \$23 million in savings, but even tougher decisions were required to eliminate the County's structural deficit.

"Good-faith negotiations on expired union contracts were already underway, and at this point we had 45 bargaining sessions and spent around 1,500 hours preparing, developing and negotiating agreements; but no end was in sight," said Tony Saunders, Wayne County's Chief Restructuring Officer. "Executive Evans next step was bold, deliberate, and in many circles unpopular. He made the tough decision that no one else would have made to get Wayne County into financial recovery."

On June 17, Executive Evans requested Governor Rick Snyder perform a financial review of Wayne County. Subsequent to the States' declaration of a financial emergency, the Wayne County Commission agreed a Consent Agreement was the best course of action. By September 17, Executive Evans and his team secured renegotiated Collective Bargaining Agreements with the majority of the County's unions that were approved by the Wayne County Commission on October 1, 2015.

"With the measures we have taken, 93% of the structural deficit is eliminated and I expect that by the middle of next year we will have managed our way out of this financial emergency," said Executive Evans. "Our efforts during this first year were dedicated to restoring fiscal stability and laying the foundation for the County to thrive for years to come."

Operational Efficiency Creates Stronger Service Delivery

Executive Evans' Recovery Plan was about more than balancing the books. It called for creating operational efficiencies - stating that the County must engage in continuous improvement of its operations, perform its mandated functions well and better serve its citizens.

Early in the year, Executive Evans assembled a team to investigate department operations and identify opportunities to improve efficiencies and enhance the quality and level of services delivered to County residents. The end product was an Executive Reorganization Plan, which was unanimously approved by the Wayne County Commission. The Plan called for the consolidation of departments and paved the way for sweeping changes in how the County provides services to its residents.

"For a while, government in Wayne County was broken, and unfortunately the status quo was the acceptable norm, but this year my team and I were on a mission to change the trajectory of County government one department at a time," said Executive Evans.

Two major components of the Reorganization Plan included consolidation of departments and divisions to form the Department of Health, Veterans and Community Wellness (DHVCW) and eliminate the top-heavy and ineffective Economic Development Growth Engine (EDGE) program.

The newly created Department of Health Veterans and Community Wellness generated immediate efficiencies. The operations teams for finance, personnel and contract management were centralized, underutilized buildings were closed and office space was consolidated, and a "no wrong door" process for direct referrals between six DHVCW divisions was established. This paved the way for sweeping enhancements in how the County provides health and human services to Wayne County residents. Results from 2015 include:

- 15% increase in the number of clients receiving Women, Infant, and Children's (WIC) services.
- 200,000 new clients as a result of MSU Extension and Community Development programs being brought into the Wellness Division. A leaner juvenile correctional care system that reduced the cost of caring for young offenders by \$3 million dollars while maintaining an outcome based standards of care.
- A new federally qualified health center at the health department in Wayne to open its doors in January, serving more than 112,000 residents in underserved, high needs and low income communities.

"The achievements made this year in program delivery and strategic planning exceeded our expectations," said Genelle Allen, the Assistant Wayne County Executive who oversees the activities of the DHVCW. "The New Year will bring a continued focus on improving department operations along with new and improved initiatives to better serve our Wayne County communities."

Economic Development Done Differently

The Executive Reorganization Plan also created a pathway to generate real economic development. Executive Evans and his team set out to change the paradigm of how Wayne County approaches economic development with its 43 communities.

"Economic development prior to the Evans' Administration relied heavily on big-ticket projects that generated plenty of headlines, but yielded very few results," said June Lee, the Assistant County Executive who oversees economic development activities. "We realize that good government begins with listening to and hearing the needs of our communities. This is why we have elected to engage our cities and townships to fully understand their economic development goals."

In an effort to pick up the pieces of the previous administration's failed deals and help communities achieve their economic development goals in 2015, Executive Evans and his team provided support to several projects that included:

- In June 2015, the Wayne County Economic Development Corporation negotiated a Purchase agreement with Paul's Real Estate Investment, LLC to purchase more than 200 acres of County-owned land located in Huron Township, which will be developed into a warehouse distribution center, office space, restaurants, lodging, and retail options. The sale netted the County more than \$3 million.
- The more lean and efficient Brownfield Redevelopment Authority approved 16 new projects in communities such as Romulus, Detroit, and Highland Park. Collectively, these projects will reduce blight, create approximately 225 temporary jobs and more than 160 permanent jobs, return businesses to the tax rolls, and spur other development in the community.
- Avenue of Fashion Business District Lighting Project - Executive Evans provided a \$106,000 grant from the Wayne County Economic Development Corp. to the Avenue of Fashion Business Association and University Commons to install 160 LED lights along the front and rear of businesses and in parking lots located on Livernois in northwest Detroit. The new lights provide a safe and enjoyable environment.

Prioritizing Public Safety

As a former prosecutor and sheriff, Executive Evans holds a strong belief that public safety is a quality of life issue for any community. During campaign stops, he vowed to find resources beyond the General Fund to help appropriately fund Wayne County's law enforcement agencies. Executive Evans has taken his commitment further by forging unprecedented working relationships with Prosecutor Kym Worthy and Sheriff Benny Napoleon.

Earlier this year, Sheriff Napoleon praised the Evans Administration for creating a collaborative working relationship with his office, which he viewed as a welcome relief after years of financial squabbles with the previous Administration.

"This year, for the first time in my memory, the County Executive and his team worked with us to establish a realistic budget, one that actually recognizes the true costs of inmate incarceration and the necessity of duties which my staff must perform," Sheriff Napoleon said in July.

By working together and without sacrificing services the County Executive and Sheriff were able to reduce the Sheriff Department budget by \$12.5 million in 2016, through legacy cost savings and management improvements.

As Executive Evans was working on the 2015-2016 budget, the Prosecutor offered her support by stating, "I am confident that the CEO and I will continue to work collaboratively to bring my office where it needs to be to be able to deliver justice in a more timely, efficient, and just way."

Just five months later, Executive Evans stepped-up his support of Prosecutor Worthy by allocating \$1 million more dollars to the prosecutor's budget to fund the investigation of backlogged rape kits. He also provided 5,000 square feet of office space in the Guardian Building to house investigators, prosecutors and other sexual assault kit task force members.

Prosecutor Worthy stated during the announcement that the funding and office space committed by Executive Evans, "...shows, in a very tangible and significant way, that the victims whose rape kits were abandoned, do matter..."

Linking Communities with Parks and Roads

Two primary responsibilities of Wayne County government are to maintain 739 center lane miles of primary roads and other infrastructure for motorists and to provide children and families with fun and educational recreation programs at safe and clean parks.

In 2015, the Wayne County Parks system hosted 515 activities and programs across the 40 parks and facilities it operates. As of December 1, it is estimated that more than 200,000 Wayne County residents and visitors participated in events and activities hosted by the Parks Division.

"Wayne County is home to beautiful, well maintained parks that are available year-round to anyone who would like to enjoy them," said Executive Evans. "My Administration is committed to maintaining the parks and enhancing the experience for visitors. As the renewal of the Wayne County Parks Millage approaches next year we hope residents agree with us that our parks and recreational programs are assets worth the investment."

As state and federal funding for roads were stretched thin this year, Executive Evans and his team from the Department of Public Services (DPS), worked closely with local communities to prioritize road repair and maintenance projects.

In 2015, the County's DPS repaired 222,633 pot holes using 6,679 tons of cold patch and made 42.4 lane miles of capital improvements across 15 different Wayne County communities: Hamtramck, Brownstown Township, Dearborn Heights, Detroit, Dearborn, Southgate, Taylor, Belleville, Van Buren Township, Canton, Plymouth Township, Canton Township, Trenton, Livonia and Redford Township.

Connecting with Wayne County Residents

Over the course of the first year in office, Executive Evans emphasized to his team that the people of Wayne County are better served when they can directly connect with members of his Administration.

Executive Evans led by example in early 2015 when he traveled around the County delivering the annual State of the County address. It continued throughout the year as he and his staff engaged in several initiatives to support community organizations, non-profits and people in need.

"We are positively impacting communities through stakeholder engagement," said Executive Evans. "The dialogue we have been able to initiate with residents and community leaders has allowed us to begin to rebuild Wayne County's credibility and restore the trust people have in County government.

Initiatives and programs the Evans Administration took part in during 2015 included:

- In an effort to promote peace and unity in the community, Executive Evans and his team participated in the Silence the Violence parade hosted by the Church of Messiah.
- **Wayne County Executive Inaugural Thanksgiving Turkey Give-Away**, this initiative helped deserving families in Wayne County lessen the financial obligation during the Thanksgiving season by providing the traditional main dish for Thanksgiving dinner.
- Executive Evans participated in the **Father's Day Picnic** where he presented Father of the Year awards and spoke about the importance of fatherhood.
- As part of the **Arise Detroit Adopt a School** program, Executive Evans and his team adopted Bagley Elementary School and spent the day gardening, cleaning, and beautifying the school.
- Executive Evans, the Wayne Metro Community Action Agency and The Heat and Warmth Fund (THAW) partnered to bring stability to the lives of two families while supporting the growth of the city of Inkster. The County provided two rehabilitated homes to THAW, which will be awarded to deserving families through an essay contest in December 2015.
- As a show of appreciation for the sacrifice and dedication of Wayne County Veterans, the Wayne County Veteran Services Division of the Department of Health, Veterans and Community Wellness in partnership with the National Faith Homebuyers and the Detroit Pistons Hoops for Troops partnered to award a mortgage-free home to a military family.

- On September 12, Executive Evans and the First Ladies of Wayne County led the inaugural Prayer Walk, which involved more than 15 churches from across Wayne County. The walk was dedicated to taking prayer into the streets to end violence, nurture and develop our children, strengthen relationships in our families and communities and to strengthen leaders.
- With the roll out of open enrollment in November for health coverage under the Affordable Care Act (ACA), Executive Evans, Wayne County and Detroit Health Officers along with the regional director of Health and Human Services announced the County's plan to assist residents with health coverage enrollment through the market exchange. The County hosted two events, one in the City of Detroit and a second in the City of Taylor.

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EXHIBIT #15



Charter County of Wayne, Michigan
HEALTH AND WELFARE
BENEFIT PLAN

Wayne County
HEALTH AND WELFARE BENEFIT PLAN

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4. The employee shall be responsible for providing appropriate notice to Risk Management, within the specified time period or within a reasonable time if no time period is specified, all information necessary for enrollment or changes in enrollment for the employee and his/her qualified dependents.

H. Coordination of Benefits

1. The Employer shall provide only one (1) health care benefit option per employee or dependent. This applies to all coverages (i.e., medical, dental, and vision / optical) provided by the Employer regardless of the source of coverage. An employee who is also the qualified dependent of another active or retired employee of the Employer may not be covered under more than one (1) Employer-sponsored health benefit plan. An employee or retiree married to another employee or retiree covered under this Benefit Plan may elect coverage separate from his/her spouse. In this case that married employees elect separate coverage, however, the eligible dependents will only be covered under one plan, not both.
2. The Employer shall coordinate all health care benefits with the insurance carriers of the employee's covered dependents and/or with Medicare. Employees are required to provide Risk Management with current information regarding changes in marital, employment and insurance status including Medicare eligibility and enrollment information.
3. Coordination of benefits under self-funded plans will be conducted under the policy known as "Pursue and Pay."

I. Continuation of Benefits

1. An employee leaving employment with the Employer shall not be entitled to continuation of benefits for him/herself or his/her dependents other than provided under the Consolidated Omnibus Budget Reconciliation Act of 1996 (COBRA) beyond the first of the month following separation of service with the Employer.
2. In the event of the accidental death of an employee resulting from the performance of his/her duties, the Employer shall provide, health benefits for surviving legal dependents if the employee was entitled to the health benefits at the time of death and will continue for up to three (3) years at the Employer's expense under the provisions of COBRA.
 - a. Surviving dependents shall be defined as the employee's spouse who was legally residing with the employee at the time of death and the employee's legally dependent children. Coverage for the eligible spouse will continue until remarriage.
 - b. An employee's legal dependents will be determined eligible for these benefits only if survivors qualify for Workers' Compensation as a result of the employee's accidental death.

SECTION 4. POST-RETIREMENT HEALTH CARE

- A. Active employees, hired on or before the effective date of this Benefit Plan, eligible for health care benefits upon retirement will be required to make bi-weekly contributions on a pre-tax basis, in accordance with the terms and conditions set forth by the IRS, to be used to offset the cost of post-retirement health care benefits.
 1. Employees will be subject to participation in an aggregated / pooled employee benefit account managed by the Employer.
 2. The amount of the contribution and terms for investment of funds will be set in accordance with the terms and conditions provided in each employee's applicable collective bargaining agreement or other labor agreement.

3. Employees may elect to permanently waive any rights to post-retirement health benefits. Once waived, the employee shall not be allowed to regain retirement health benefits at any time during the employee's term of continuous service.

B. Employees hired on or after the effective date of this Benefit Plan shall not be eligible for retirement health care benefits.

1. Employees may elect to participate in a Employee Health Care Benefit Trust (Trust) established by the Employer.
2. The Employer will contribute matching funds into the Trust up to \$1,000 per year.
3. Employees shall not be entitled to receive the Employer-matched funds until such time as the employee becomes eligible for retirement health care benefits according to the provisions of the Wayne County Retirement Ordinance. If the employee fails to become eligible for retirement health benefits, the employee will forfeit the matching funds back to the Employer.

SECTION 5. LIFE INSURANCE

- A. The Employer shall provide, at its expense, for each eligible active employee, group life insurance with volumes set in accordance with the terms and conditions provided in each employee's applicable collective bargaining agreement or other labor agreement; and for each eligible retired employee, group life insurance with a volume of five thousand (\$5,000).
- B. The Employer may make supplemental life insurance available for purchase by employees. The life insurance carrier shall determine the amount of the supplemental life insurance available for any individual and the life insurance policy provisions.

SECTION 6. WORKERS' COMPENSATION

- A. The Employer shall comply with the provisions of the Michigan Workers' Compensation Act.
- B. The Employer may assign job duties to an employee who is receiving workers' compensation benefits that are within the physical ability of the employee to perform.
- C. **Restricted Duty Positions**
 1. The Employer may utilize positions for restricted duty assignments for employees receiving workers' compensation benefits.
 - a. **Temporary Restrictions:** The Employer may provide transitional work assignments to enable employees with temporary duty restrictions to return to work immediately. The Employer will make every effort to reassign work among other employees to accommodate an employee with temporary restrictions.
 - b. **Permanent Restrictions:** The Employer may place an employee with permanent restrictions into a permanent position consistent with the employee's restrictions. If it is not possible to place an employee with permanent restrictions into a permanent position, the Employer will make every effort to place the employee in a restricted duty assignment. The Employer will make every effort to place an employee into a temporary part-time position whenever such a position would be consistent with the employee's restrictions.

- B. Benefit Effective and Termination Dates:** The effective and termination dates specified below shall apply to all health benefits, life insurance and supplemental life insurance benefits and all flexible spending accounts.
1. Unless otherwise specified, all benefits shall become effective on the first day of the month following date of hire, rehire, transfer into an eligible job classification, or return from leave of absence where benefits were suspended assuming the employee has submitted the appropriate enrollment forms and documentation in a timely manner.
 2. Subject to various provisions of labor agreements including but not limited to, continuation of medical coverage while on workers' compensation, long-term disability, approved leave due to illness, upon the accidental death of an employee, and eligibility for retiree health and life insurance benefits, all benefits shall be terminated on the last day of the month following a voluntary or involuntary termination of employment, retirement, death, a paid or unpaid leave of absence(s), commencement of a disability or layoff.
- C. Labor Agreements Provisions:** Unless otherwise specified by the applicable collective bargaining agreements or benefit plans, the provisions of this Benefit Plan, as described in the sections below, shall apply to all active and retired employees of the Employer.
- D. Insurance Carrier and Third-Party Administrator Policy Provisions:** Benefits paid under insurance programs or self-funded programs shall be subject to the policy provisions of the insurance carriers or third-party administrative service organizations (TPAs) selected to insure or provide administrative claims service for the various plans.
- E. Choice of Insurance Carriers and Third-Party Administrators:** The present choice of insurance carriers and TPAs does not obligate nor limit the Employer to provide insurance or self-insurance programs with these organizations. The employer reserves the right to select insurance carriers and TPAs for any and all programs cited in this Benefit Plan at its discretion and in accordance with the Wayne County Purchasing Ordinance.

SECTION 3. HEALTH BENEFITS

- A. Hospital and Physician Benefits:** Eligible employees may choose from any of the available health benefit plans outlined below.
1. **PPO Plan Option**
 - a. The Employer may provide hospital and physician benefits for each eligible employee and their qualified dependents in a PPO plan option of the Employer's choice with minimum benefit levels as described in Appendix A.
 - b. **Employee Contribution Toward Health Plan Cost**
 - i. Active employees enrolled in this PPO plan option will be required to pay a percentage of the applicable monthly illustrative rate or premium according to the schedule below.

Annual Gross Salary Based On:	Percentage of Monthly Rate or Premium To Be Contributed by Employee
Less than \$25,000	10%
\$25,001 - \$50,000	15%
\$50,001 - \$75,000	20%
More than \$75,000	25%

- ii. The illustrative rates or premiums to be used as a basis for this computation will be those provided by the plan TPA or insurance carrier and published annually for the purpose of the annual policy rate renewal. Rates will become effective on the October first of each year.
- iii. Calculation of gross regular and overtime pay earnings will be calculated based on twelve (12) months of earnings for each employee beginning with the pay period that includes July first of the previous year.
- iv. Contributions will be deducted monthly on a pre-tax basis out of the first two (2) pays of each month in equal amounts. Changes in enrollment resulting in a change in the amount of the contribution and deduction will commence with the first pay of the month following the effective date of the event causing the change or the next pay after notice is given to Risk Management of the change, whichever is later.
- v. The Employer shall implement a premium-recovery Section 125 plan for providing a pre-tax benefit for active employees contributing towards the monthly cost of health care benefits.

2. HMO Plan Option

- a. The Employer may provide hospital and physician benefits for each eligible employee and their qualified dependents in an HMO plan option of the Employer's choice with minimum benefit levels as described in Appendix B.
- b. **Employee Contribution Toward Health Plan Cost:** Active employees enrolled in this HMO plan option will be required to pay a percentage of the applicable monthly premium according to the schedule below and in accordance with the terms and procedures outlined in Section 3(A)(1)(b)(ii) through (v).

Annual Gross Earnings Based on Regular + Overtime Pay	Percent of Monthly Rate/Premium To Be Contributed by Employee
Less than \$25,000	10%
\$25,001 - \$50,000	15%
\$50,001 - \$75,000	20%
More than \$75,000	25%

3. Traditional Plan Option

- a. The Employer may provide a Traditional Indemnity plan options for each eligible employee and their qualified dependents in a traditional indemnity plan of the Employer's choice with benefit levels as described in Appendix C.
- b. **Employee Contribution Toward Health Plan Cost:** Active employees enrolled in the Traditional Plan Option as described in Section 3(A)(3)(a) above will be required to contribute a percentage of the average applicable monthly premium of the health plan options described in Section 3(A)(1)(a) and Section 3(A)(2)(a) according to the schedule provided in Section 3(A)(1)(b) plus the monthly rate difference between the average cost of those plans and the Traditional plan. Contributions will be taken in accordance with the terms and procedures outlined in Section 3(A)(1)(b)(ii) through (v).

B. Prescription Drug Benefits

1. Unless otherwise specified in this Benefit Plan, the Employer shall provide a prescription drug benefit as described in Appendix D to eligible employees and their qualified dependents that have elected medical benefits in any plan described in Section 3 (A).
2. **Employee Contribution Toward Prescription Drug Plan Cost:** Active employees enrolled in prescription drug plan option described in Section 3(B)(1) above will be required to pay a percentage of the applicable monthly illustrative rate or premium according to the same employee contribution schedule and terms outlined in Section 3(A)(1)(b)(ii) through (v) for the medical plan in which the employee elects to enroll. Monthly contributions will be deducted in equal amounts from the first two (2) pays of each month.

C. Dental Benefits: The Employer may provide the following dental plan options that include Class I (diagnostic and preventative services), II (restorative services), III (specialty services including endodontic, prosthodontic, and periodontic services) and IV (orthodontic services) dental benefits for each eligible active employee and their qualified dependents.

1. **Traditional Indemnity Dental Plan Option:** The Employer may provide a Traditional Indemnity dental plan options as described in Appendix E.
2. **Dental Maintenance Organization (DMO) Dental Plan Option:** The Employer may provide a DMO dental plan options as described in Appendix F.
3. **Alternate Dental Plan:** The Employer, at its discretion, may provide a dental PPO plan option to be offered to employees.

D. Vision Benefits

1. Optical Reimbursement Program

- a. The Employer may provide, at its expense, optical reimbursement benefits up to a maximum amount every two (2) years for each eligible employee and each of their qualified dependents. The maximum amount for each active employee shall be one hundred seventy-five dollars (\$175.00) and the maximum amount for each retired employee shall be seventy-five dollars (\$75.00). Retired employees and their legal dependents shall not be entitled to additional \$75 reimbursements when changing status from an active employee to a retiree.
 - b. Benefits shall be limited to prescription lenses, including contact lenses, eyeglass frames and vision examinations by licensed optometrists, opticians and ophthalmologists. Eligible employees and their qualified dependents may obtain optical services from any licensed optometrist, optician or ophthalmologist.
 - c. The optical reimbursement benefit amount will be restored on December first of every odd numbered year.
 - d. To receive reimbursement for optical services, the employee must submit to Risk Management a completed Optical Reimbursement Form with a paid receipt. The receipt must clearly indicate what items and services were purchased.
2. **Alternative Vision Plan:** The Employer reserves the right to replace the optical reimbursement program with an insured or self-insured plan administered through an insurance carrier or TPA at its discretion. If implemented, benefit limits under the alternate plan shall match or exceed those described in Section 3(D)(1) above.

- E. Reduction in Health Benefits Programs:** All eligible employees may choose to enroll in the Health Benefit Opt-Out Program instead of the medical coverage provided in Section 3 (A)(1) or its alternatives and prescription drug coverage in provided in Section 3 (B)(1), or waive Employer-sponsored health benefits.

1. Health Benefit Opt-Out Program

- a. Eligible employees who are covered by other health insurance and provide proof of other coverage may choose to opt-out of all medical and prescription drug coverage provided by the Employer. "Other health insurance" means another employer-sponsored plan of group health insurance that provides primary medical coverage to the employee as a spouse of an active employee of another employer or as a retiree of another employer. An employee married to another employee also working for the Employer is not eligible to participate in the Health Benefit Opt-Out Program.
- b. Employees who elect and are eligible to opt out of medical benefits shall receive a cash rebate equal to 15% of the average annual premium at the applicable coverage tier of the medical plans as described in Section 3(A)(3)(a) and (b). All rules regarding dependent eligibility shall apply.
- c. An employee who wishes to opt-out shall certify to the Employer in writing that he or she is covered by other health insurance. The notice shall include the name of the group health plan, the name of the other employee, in what capacity the employee is covered, and the name of the insurer or payer of the other plan. The Employer's coverage shall terminate as of the end of the month following receipt of the notice.
- d. Once elected in writing by the employee, the opt-out is irrevocable until the next health insurance open enrollment unless the other health coverage is lost.
- e. An employee who loses the other health insurance must certify in writing of the reason why coverage was lost. If an employee is eligible to re-elect Employer coverage due to the loss of other coverage, the employee will automatically be placed in the medical plan of the Employer's choice until the next open enrollment period, unless otherwise agreed by the parties. Following re-enrollment, coverage provided by the Employer shall be effective on the first day of the month following notice.
- f. Notice is considered received by the Employer upon receipt by Risk Management of the appropriate written notice on a form authorized for this purpose by Risk Management.
- g. Employees electing to enroll in the Health Benefit Opt-Out Program will receive the cash rebate paid in arrears. The benefit will be paid as a taxable earning in the first pay after October first after having opted out of benefits through September of each year. The gross opt-out earning will be equal to the full rebate amount specified above or the prorated share of the same representing the number of months since October first of the previous year that the employee was eligible for health benefits if less than twelve (12) months.
- h. The implementation of the Health Benefit Opt-Out Program shall be at the sole discretion of the Employer.

2. Waiver of Health Benefits

- a. An employee who is not otherwise qualified to opt out of medical benefits, as described in Section 3 (E)(1) above, may elect to waive these benefits. There shall be no cash rebate given for waiving medical benefits in this case.
- b. An employee may choose to waive dental and/or vision / optical benefits for him/herself and his/her dependents. There shall be no cash rebate given for waiving dental or vision/optical benefits.

- c. Employees that elect to waive medical and/or dental benefits must wait until the next health insurance open enrollment period to enroll themselves and their eligible dependents into an available plan(s). An employee may choose to begin using optical reimbursement benefits at any time in accordance with the Section 3 (E) above.

F. Eligible Dependents

1. Spouses

a. Legal Spouses

- i. Legally married employees, as defined by the laws of the State of Michigan, shall be entitled to enroll their spouses on the plan(s) of participation. The employee shall provide proof of marriage to the Employer.
- ii. Spouses who are eligible for primary medical coverage through another employer shall not be eligible for primary coverage through Wayne County.

b. Divorce / Ex-Spouses

- i. The ex-spouses of legally divorced employees shall not be entitled to continuation of benefits other than those benefits required under the Consolidated Omnibus Budget Reconciliation Act of 1996 (COBRA) beyond the first of the month following the date of the divorce.
- ii. Failure by the employee to remove an ex-spouse within sixty (60) days of divorce from the employee's health plan by providing appropriate documentation to the Employer will result in disciplinary action up to and including termination. Reasonable premiums, fees and/or claim costs incurred due to this failure will be deducted from the employee's pay by whatever means available to the Employer.

2. Dependent Children

- a. Dependent children may be covered under the employee's plan(s) of participation until the end of the year in which they have reached age nineteen (19). Dependent children are defined as children by birth, adoption, marriage, guardianship or court order. The employee shall provide proof of dependent status to the Employer.
- b. **Disabled Children:** Permanently disabled/handicapped dependent children over the age of nineteen (19) will be covered, so long as the child meets the terms and conditions of Public Act 275 of 1966 and any other applicable Federal or State statute, and as long as the employee remains eligible for health benefits. It is the employee's responsibility to notify Risk Management of the child's disability before the end of the year in which the child reaches the age of twenty-five (25). Proof of permanent disability from a licensed physician shall be required.
- c. **Children Aged 19 to 24:** Dependent children between the ages of nineteen (19) and twenty-four (24), inclusive, who are still the employee's legal dependents may remain enrolled until the end of the year in which they reach the age of twenty-five (25) only if the employee certifies annually the child's dependent status by notarized affidavit or other means as may be requested by the Employer.
 - i. **Full-Time Students:** If the child is a full-time student, actively enrolled in college, university or technical school and provides appropriate documentation from the school's registrar's office or an agent thereof verifying full-time attendance, that child's enrollment will be covered without additional charge to the employee.

- ii. **Not Full-Time Students:** If the dependent child is not a full-time student, the dependent may continue coverage with a contribution from the employee of one hundred dollars (\$100.00) per month on a pre-tax basis paid by payroll deduction. The contribution will be deducted in equal amounts from the first two (2) pays of each month.
- d. **Children Over Age 25:** Dependent children over the age of twenty-five (25) may be covered under the employee's plan(s) of participation as "sponsored dependents" if that child meets the requirements as set forth in Section 3 (G)(3) below.
- e. **Failure by the employee to remove a dependent that becomes ineligible for coverage from the employee's health plan within sixty (60) days of the event causing ineligibility by providing appropriate documentation to the Employer will result in disciplinary action up to and including termination. Reasonable premiums, fees and/or claim costs incurred due to this failure will be deducted from the employee's pay by whatever means available to the Employer.**

3. Sponsored Dependents

- a. **An employee may cover legal dependents, other than those described in Section 3 (G)(1) and (2) above, as sponsored dependents under the employee's medical plan. To be considered for enrollment as a sponsored dependent, the dependent must also have been claimed as a dependent on the employee's most recent federal income tax return, proof of which must be provided upon enrollment of the sponsored dependent and every year thereafter while enrolled.**
- b. **Sponsored dependents shall not be covered for master medical, dental or vision / optical benefits.**
- c. **Employee's covering sponsored dependents shall be responsible for one hundred percent (100%) of the monthly cost for this continued coverage. The cost for this coverage will be determined on a sound actuarial basis, consistently applied, using a per-covered-sponsored-dependent approach. The monthly premium cost will be assessed as a payroll deduction.**

G. Enrollment

1. New Hires

- a. **All new employees and their eligible dependents, with or without prior service with the Employer, shall be enrolled in the plan(s) of the Employer's choice for at least one (1) year. Participation will begin the first of the month following the effective date of active service and will continue for at least one (1) year.**
 - b. **Employees may, after one year in the mandatory plan and during the next available open enrollment period following one (1) year, choose among the various health insurance plans offered by the Employer.**
- 2. Newly-Acquired Dependents:** Dependents of eligible employees not in existence or not eligible at the time of hire/rehire, such as a new spouse or child, must be enrolled within thirty (30) days of becoming eligible dependents.
- 3. Open Enrollment:** An open enrollment for health benefits will be held once each year, during the last quarter of the fiscal year, to allow employees to elect from the available health plans offered by the Employer and to enroll dependents in the employee's plan(s) of participation that were not previously enrolled. Changes made during the open enrollment period shall be effective on the first day of the fiscal year.

EXHIBIT #16

PART II. INSURANCE PROGRAMS

COUNTY HEALTH AND WELFARE BENEFIT PLAN

Except where inconsistent with the express provisions of this Benefit Plan, the *Wayne County Health and Welfare Benefit Plan Effective December 1, 2006* is hereby incorporated by reference. The information provided in this section describes the essential features of the insurance programs in general terms. It is not intended to be a full description of these programs. Employees should refer to the *Wayne County Health and Welfare Benefit Plan* for more complete information.

Except where otherwise provided in this plan, all benefits shall become effective on the first day of the month following the date of hire, rehire or transfer into a position covered under this plan.

All employees must provide the Employee Benefit Division with current information as to changes in marital, dependent, or insurance status, along with current contact information.

(A.) MEDICAL BENEFITS (See Section 3A of the Health & Welfare Benefit Plan)

1. The County shall provide a medical insurance plan to each full-time, active employee and their eligible dependents. Eligible employees may elect from any available PPO, HMO or Traditional Indemnity plan.
2. Effective upon execution of this Benefit Plan, employees enrolled in a medical plan shall be required to contribute toward the cost of the plan as an annual rate as follows:
 - a. Employees enrolled in a PPO or HMO medical plan shall be required to pay \$936.00 per year.
 - b. Employees enrolled in the Traditional Indemnity plan shall be required to pay \$2,787.20 per year.
3. All contributions shall be deducted bi-weekly twice a month on a pre-tax basis.
4. Effective October first of each year, this rate shall be increased / decreased at the same rate at which reported monthly illustrative rates and/or premiums for medical plans increase or decrease, not to exceed ten percent (10%) over the previous plan year's contribution rate for the specified plan.

B.***PRESCRIPTION DRUG BENEFITS (See Section 3B of the Health & Welfare Benefit Plan)***

1. The County shall provide a prescription drug insurance plan to each full-time, active employee and their eligible dependents.
2. Effective upon execution of this Benefit Plan, employees enrolled in a prescription drug plan shall be required to contribute toward the cost of the plan on an annual basis at the rate of \$208.00 per year.
3. Contributions shall be deducted as described in Part II (A)(3) and subject to change as described in Part II (A)(4) above.

C.***VISION BENEFITS (See Section 3D of the Health & Welfare Benefit Plan)***

1. The County shall provide vision insurance coverage to each full-time, active employee and their eligible dependents.
2. Vision exams shall be covered under the employee's medical plan once every twenty-four (24) months with a \$10.00 copay.
3. Frames, lenses or contact lenses shall be covered under a vision benefit plan provided through Heritage Vision Plan once every twenty-four (24) months as follows:

Vision Care Services	Heritage In-Network Coverage	Out-of-Network Coverage
Frames:	\$75 Retail Allowance	Reimbursed up to \$30
Standard Lenses (one only): <ul style="list-style-type: none"> • Single Vision • Bifocal • Trifocal • Lenticular 	<ul style="list-style-type: none"> • Covered 100% • Covered 100% • Covered 100% • Covered 100% 	<ul style="list-style-type: none"> • Reimbursed up to \$35 • Reimbursed up to \$45 • Reimbursed up to \$55 • Reimbursed up to \$80
Lens Options: <ul style="list-style-type: none"> • Solid Tint • Other Lens Options 	<ul style="list-style-type: none"> • Covered 100% • 20% Preferred Pricing Discount 	<ul style="list-style-type: none"> • Not covered • Not covered
Contact Lenses: <ul style="list-style-type: none"> • Cosmelle (includes disposable) • Medically Necessary 	<ul style="list-style-type: none"> • \$100 Retail Allowance • Covered 100% 	<ul style="list-style-type: none"> • Reimbursed up to \$65 • Reimbursed up to \$200

8. **Disability Retirement Application**

The employer shall have the authority to file an application for disability retirement on behalf of any employee permanently or indefinitely disabled.

9. **Retirement Ordinance**

All provisions of the Wayne County Retirement Ordinance as amended shall be applicable if not inconsistent with the terms of the Plan.

10. **Employee Health Care Benefit Trust**

Unless otherwise provided and regardless of the Retirement Plan, all employees hired, rehired, re-employed and reinstated on or after the date established in Part VIII of this Executive Benefit Plan will not receive nor be eligible for Employer-sponsored insurance and health care benefits upon retirement. However, these employees will be eligible to participate in an Employee Health Care Benefit Trust in accordance with Part III, sec. (C)(1) and the terms and conditions outlined in the Wayne County Health and Welfare Benefit Plan. Employees participating in the Employee Health Care Benefit Trust who retire from County employment may elect to purchase post-retirement health care insurance from the County at full rate cost, or purchase such insurance from a provider other than that provided by the County.

11. **Purchase of additional years of service**

Beginning the date established in Part VIII of this Executive Benefit Plan, and for no more than one hundred and eighty (180) calendar days thereafter, employees in Retirement Plans 1, 2, 3 & 5 may purchase up to two (2) years of credited service toward retirement eligibility at total actuarial cost.

C. EMPLOYEE HEALTH CARE BENEFIT TRUST

I. **Post-Retirement Health Care Benefits**

- a. Except as otherwise provided, employees hired on or after the date established in Part VIII of this Executive Benefit Plan shall not receive nor be eligible for Employer-sponsored insurance or health care benefits upon retirement.
- b. Employees hired on or after the date established in Part VIII of this Executive Benefit Plan shall be eligible to participate in the Employee Health Care Benefit Trust ("Trust") established by the Employer.

- c. **Employees who elect to participate in the Trust will be required to make contributions in the amount of two percent (2%) of their base wage rate to fund the Trust. Contributions will be made in the form of bi-weekly payroll deduction, as specified in the *Wayne County Health and Welfare Benefit Plan*, and employees will otherwise be subject the terms and conditions outlined therein.**
- d. **The Employer will also contribute five percent (5%) of the employee's base wage rate to the Trust in accordance with the terms of the *Wayne County Health and Welfare Benefit Plan*.**
- e. **Fund distributions from the Trust will be subject to all applicable Internal Revenue Service rules and regulations.**

2. Permanent Waiver of Post-Retirement Health Care Benefits

- a. **Employees hired prior to the date of publication of this Executive Benefit Plan may elect to permanently relinquish their current or future eligibility to receive post-retirement insurance and health care benefits from the County.**
- b. **Employees electing to permanently waive post-retirement health care benefits under this Article may elect to participate in the Employee Health Care Benefit Trust as described in Part III, sec. (C)(1) above.**
- c. **Effective October 1, 2017, employees who have been enrolled in the Employee Health Care Benefit Trust for at least ten (10) years may elect to withdraw from the Trust and become eligible for Employer-sponsored post-retirement medical benefits available to employees hired prior to the date established in Part VIII of this Executive Benefit Plan. Employees electing to withdraw from the Trust to become eligible for Employer-sponsored post-retirement medical benefits under this subsection shall be entitled to return of the employee's full contribution into the Trust for the entire period of participation plus any interest accrued on the employee's contributions as established by the trustees of the Trust. In this case, the Employer's contributions shall be forfeited back to the Employer.**

Election to withdraw from the Trust shall be made in writing to the Director of Benefit Administration within ninety (90) days prior to the employee's completion of his or her tenth year of participation in the Trust. An employee's election to withdraw from participation in the Trust shall be irrevocable. Employees failing to make an election to withdraw from the Trust within the prescribed time period shall remain as participants in the Trust and shall not be allowed to withdraw for the remainder of their continuous employment with the County.

EXHIBIT #17

Wayne County wrangles over retirement board

Eric D. Lawrence, Detroit Free Press 9:51 p.m. EST February 17, 2016



(Photo: Eric D. Lawrence/Detroit Free Press)

Wayne County commissioners have rejected an appointment by County Executive Warren Evans to the county's retirement board.

The 10-2 vote during a committee meeting — three commissioners were absent — came following a confusing debate over an administration attempt to reorganize the board from eight members to 10 and raised questions about the legitimacy of the board overseeing the county's pension system.

The change would shift the balance of power on the board, with more members appointed by Evans and fewer elected by employees and retirees.

The debate also comes as retirees have filed a federal lawsuit challenging the board changes as well as the imposition of health care cuts for an estimated 1,500 retirees.



DETROIT FREE PRESS

Wayne County retirees sue to stop healthcare changes

<http://www.freep.com/story/news/local/michigan/wayne/2016/02/16/wayne-county-retirees-sue-stop-healthcare-changes/80478494/>

The administration's office of corporation counsel sent a letter to the retirement board last week saying that the board had lost authority to act after Oct. 1 when new union contracts were ratified. But Commission Chair Gary Woronchak, D-Dearborn, an ex-officio member of the retirement board, noted that Evans' own designee to the board had been at board meetings and voted since October and that the letter, which he said was an attempt to stop legal action by the board, had opened up a "huge can of worms."

Attorneys representing the retirement board said the county would need to ask voters to approve changes to the county charter in order to reorganize the board, a position rejected by the administration.

Deputy County Executive Richard Kaufman acknowledged that the administration had not planned adequately for the transition to a new retirement board last year.

"That was a mistake," he said, noting that officials did not believe that the issue would be controversial after changes to the board were approved in collective bargaining agreements.

He urged the commission to approve the appointment and noted that Evans has already made two other appointments to the board that do not require commission approval.

"There is no dispute that the new board ... will represent the active employees of this county," Kaufman said.

But those on the other side argued that the new board would not represent retirees and nonunion employees, setting up a potential issue.

Commissioner Glenn Anderson, D-Westland, said the entire situation reflects how the administration operates, "to charge forward and leave the details for later."



DETROIT FREE PRESS

Evans: County shouldn't be toxic waste dump

<http://www.freep.com/story/news/local/michigan/wayne/2016/02/10/evans-county-opposes-more-toxic-waste-landfill/80181272/>

The issue is referenced in a lawsuit filed Monday as a class action in U.S. District Court, which also seeks to stop health care changes. Groups hoping to represent an estimated 1,500 Wayne County retirees have sued in an attempt to stop the county from imposing health care changes that they say would cost them potentially thousands of dollars per year.

Jim Akhtar, an Onsted-based attorney representing the retirees, says the county is planning to impose the changes March 1 without notifying the retirees, who he noted are on fixed incomes.

"It's really unbelievably callous to do that to people and not tell them about it," Akhtar said.

Those changes would raise the retiree medical insurance premium from 10% to 25% and institute a deductible of up to \$2,600 for a family.

Evans, Woronchak and others involved with the retirement system were also named as defendants.

In response to a request for comment, James Canning, a spokesman for Evans, said, "We have reviewed the complaint and we are confident this case lacks merit."

Evans earlier this month touted a 64% reduction in retiree health care liabilities, from \$1.3 billion in 2014 to \$471 million in 2015. Those affected by the cuts, however, have said they are being forced to shoulder the costs of poor decisions made by county leaders.

Part of the reduction resulted from the settlement of a lawsuit that has allowed the county to institute a stipend in place of employer-provided health care for other retirees. As part of the health care changes instituted in the county in recent months, retiree health care has also been eliminated going forward.



DETROIT FREE PRESS

Failed Wayne Co. horse track tied to new casino plan

(<http://www.freep.com/story/money/business/michigan/2016/02/13/failed-horse-track-tied-casino-plan/79762430/>)

Contact Eric D. Lawrence: elawrence@freepress.com. Follow him on Twitter: [@_ericdlawrence](#).

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EXHIBIT #18

PUBLIC EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT (EXCERPT)
Act 314 of 1965

38.1132 Short title; meanings of words and phrases.

Sec. 12. (1) This act shall be known and may be cited as the "public employee retirement system investment act".

(2) For the purposes of this act, the words and phrases defined in sections 12a to 12f have the meanings ascribed to them in those sections.

History: Add. 1982, Act 55, Imd. Eff. Apr. 6, 1982; Am. 1988, Act 127, Imd. Eff. May 24, 1988; Am. 1996, Act 485, Imd. Eff. Dec. 27, 1996.

PUBLIC EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT (EXCERPT)
Act 314 of 1965

38.1141 Removal of member of board or body.

Sec. 21. (1) Subject to this section, the governing board vested with the general administration, management, and operation of a system or other decision-making body that is responsible for implementation and supervision of a system may remove a member of the board or body as provided in subsection (2) by any of the following:

(a) A unanimous vote of all of the members of the board or body, other than the member who is the subject of the vote for removal.

(b) An order of a circuit court with jurisdiction entered in an appropriate action authorized by a majority vote of the members of the board or body.

(c) The process for the removal of a member of the board or body that is contained in the system's plan provisions if that process is less restrictive than either process provided for in subdivision (a) or (b).

(2) The governing board vested with the general administration, management, and operation of a system or other decision-making body that is responsible for implementation and supervision of a system shall give notice and hold a hearing on the removal of a member of that board or body for any of the following reasons:

(a) For an elected member of the board or body, upon receipt of a petition requesting the removal of the member, which petition is signed by 2/3 of the individuals eligible to vote in the election of the member of the board or body.

(b) The member is legally incapacitated from executing his or her duties as a member of the board or body and neglects to perform those duties.

(c) The member has committed a material breach of the system provisions or system policies or procedures and the removal of the member is in the interests of the system or the interest of its participants or participants' beneficiaries.

(d) The member is convicted of a violation of law and the removal of the member is in the interests of the system or the interest of its participants or participants' beneficiaries.

(3) Upon the removal of a member of a board or body under this section before expiration of the member's term, a new successor member shall fill the vacancy as follows:

(a) For an elected member of the board or body, by election in the same manner as the removed member for the remainder of that term of office.

(b) For an appointed member of the board or body, by appointment by the appointing authority of the removed member for the remainder of that term of office.

(c) For an ex officio member serving by virtue of his or her office, by appointment by the governing body of the political subdivision sponsoring the system until the time that a new individual is elected or appointed to the office from which the removed member served as a member.

(4) An individual who is removed from office as a member of a board or body under this section may appeal the removal to the circuit court with jurisdiction if the removal is by the board or body or, if the removal is by the circuit court, to the appropriate court with jurisdiction. A successor member of a board or body may be elected or appointed during the pendency of an appeal of a removed member under this subsection until the appeal is withdrawn or there is a final judgment in the matter.

(5) If, upon an appeal under subsection (4), the court finds that the petition for removal of the member was filed in bad faith and that removal is contrary to the interests of the system or the interest of its participants or participants' beneficiaries, the court may order that the individuals seeking the removal of the member pay all or a portion of the costs of the proceedings, including reasonable attorney fees.

History: Add. 2012, Act 347, Eff. Mar. 28, 2013.