



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

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Dated: July 31, 2012

ORDER NO. S-224 (Order S-207 Modified)

RE: Michigan Association of Police; Pontiac Police and Fire Dispatchers Association; Michigan Association of Public Employees; Technical, Professional, and Office Workers Association of Michigan; Pontiac Municipal Employees Association; Pontiac Police Officers Association; Pontiac Police and Supervisors Association; Local 530 Utility Workers; Contract Provision Termination, Retiree Health Care

**TO: Sherikia Hawkins, City Clerk
Cathy Square, Human Resources Director**

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

Unlike with the other bargaining units currently active in the City, I have been unable to negotiate any changes to any collective bargaining agreement to allow for termination of those sections of the Collective Bargaining Agreement with the respective unions listed above concerning health insurance, dental insurance, life insurance, disability insurance, optical insurance, and hearing insurance for the retirees because these unions no longer exist at the local level and as such do not represent any active employees.

On April 17, 2012, I requested that the State Treasurer concur in my determination under Section 19(k) of the Local Government and School District Fiscal Accountability Act, Public Act 4 of 2011 (Act) to allow termination of those sections of the Collective Bargaining Agreement with the unions listed above concerning health insurance, dental insurance, life insurance, disability insurance, optical insurance, and hearing insurance for the retirees due to the nonexistence of the above listed unions (at least at the local level).

As stated in the April 17, 2012 correspondence to the State Treasurer, in my sole discretion and judgment, and due to the nonexistence of the above listed unions (at least at the local level), a prompt and satisfactory resolution of outstanding issues is unlikely to be obtained. Therefore, I determined that the four conditions of Section 19(k) of the Act had been satisfied.

On April 24, 2012, the State Treasurer concurred with my determination and made his separate determination (see attached) that the four conditions of Section 19(k) of the Act had been satisfied.

It is hereby ordered:

- I. By operation of law, as provided in Section 19(k) of the Act, pursuant to the determinations made by me and the State Treasurer, the provisions set forth below (A through E) shall be incorporated into the above listed Collective Bargaining Agreements between the City and those unions concerning only retirees* to the extent the retirees are eligible and currently receive the benefits of health insurance. Any provision of any Collective Bargaining Agreement that is inconsistent with provisions A through E below shall be considered null and void.

Healthcare

- A. The City shall provide all pre-age 65 retirees with healthcare insurance in the form of Humana PPO - 08 Plan or a comparable plan with another carrier. The Medicare aged retirees will be provided one Medicare Advantage Plan, Plan G with \$10/\$20/\$40/\$40 RX. (Provision retained from previous Order.)
- B. It is mandatory for current and future retirees to enroll in Medicare upon reaching eligible age. The retirees may, at the City's discretion, be required to participate in a Medicare Advantage plan. (Provision retained from previous Order.)

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

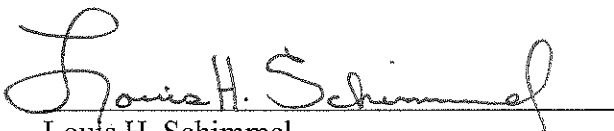
- C. The City will not pay any Medicare Part B premium. (Provision retained from previous Order.)
- D. Current pre-65 age retirees shall pay by deduction from their pension checks or by direct payment to the City, the amount above the "hard-cap" (as defined in Public Act 152 of 2011), or twenty percent (20%) of the annual rates, whichever is higher, to be effective July 1, 2012. Where a retiree and their spouse are both retired employees entitled to healthcare insurance from the City they may pay two single coverage amounts where that amount is less than two-person coverage."**
- ~~E. The City shall be permitted to modify the existing health insurance coverage for pre-65 age (non-Medicare) retirees, including the authorization to use any type of plan (PPO, EPO, HMO, etc.), provided by any carrier (BC/BSM, HAP, Humana, Aetna, etc.) and use any plan design (HAS, HRA, fully-insured, self-funded, etc.), to be effective July 1, 2012.~~

- II. The Human Resources Director is directed to take all steps necessary to advise the retirees and the various insurance providers of the changes in coverage.

The Order shall have immediate effect.

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

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



Louis H. Schimmel
City of Pontiac
Emergency Manager

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