

**Second Class Township Lacks Authority to
Provide Health Insurance to Retired Employees**

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In White Deer Township v. Napp, 874 A.2d 1258 (Pa. Commw. 2005), the Commonwealth Court held that the Board of Supervisors of a Second Class Township exceeded its authority when it adopted a resolution providing post-retirement health benefits to employees with more than twenty years of service. The case was brought on behalf of White Deer Township because a former Board of Supervisors had adopted a resolution that White Deer Township would begin providing post-retirement health benefits to employees. (All of the elected Supervisors had also been employees).

The retired former Supervisors argued, among other things, that it was within their power to provide post-retirement health care benefits and that the time for objections had expired because more than thirty days had passed since the resolution was adopted. The retired Supervisors also argued that in Fairview Township v. Fairview Township Police Association, 795 A.2d 463 (Pa. Commw. 2002), the Commonwealth Court had held that the word “employees” in the Second Class Township Code, when read in conjunction with Act 111, included both current employees and retirees. The Supervisors argued that the interpretation of the word “employees” in the Fairview case should prevail: Since the Court interpreted that word to include retirees in the union context, it should also include non-union retirees.

The Commonwealth Court rejected this argument. It held that the plain language of the Second Class Township Code states that, “supervisors while in office or while in the employ of the township may be eligible for inclusion in township-paid insurance plans.” 606(c). The Court distinguished this case from Fairview because this case only called for an interpretation of the Second Class Township Code whereas Fairview drew its holding from an interpretation of the Second Class Township Code as it relates to Act 111.

It is worth noting that the Court did not state clearly the basis on which it was distinguishing between union and non-union employees, other than to say that the Second Class Township Code must be read in conjunction with Act 111 in certain situations. It should also be noted that the holding in this case was specific to the Second Class Township Code and it is not clear how the Court would interpret the same question for other types of municipalities.