

A proposal to amend the State Constitution to establish the Michigan Quality Home Care Council and provide collective bargaining for in-home care workers. (Proposal provided under an initiative petition filed with the Secretary of State on July 9, 2012.)

The proposal would a new Section 31 to Article 5 of the State Constitution and amend existing Section 5 of Article 11 to read as follows:

Section 31. (1) State programs to assist elderly persons and persons with disabilities by financing, in whole or in part, in-home personal care services, shall afford to program participants who are able to do so the option to hire and direct individual providers of such services.

(2) There is hereby established a Michigan Quality Home Care Council whose purpose shall be to facilitate participants' ability to more effectively exercise that option, including by improving the availability, reliability and skills of the individual provider workforce. Council duties and functions shall include:

- a) Providing training opportunities for providers, to improve provider skills, and for participants, to facilitate their ability to hire and manage providers;
- b) Providing for a registry that may refer qualified providers who have had appropriate background checks for employment, however participants shall retain the right to hire providers not referred from the registry;
- c) Ensuring that financial management services are available to participants to facilitate their ability to employ providers, to ensure compliance with applicable laws, and to make appropriate employment-related payroll deductions;
- d) Setting compensation standards, subject to appropriations by the Legislature, and other terms and conditions for the employment of individual providers by program participants; and
- e) Other related duties and functions, not inconsistent with the foregoing, as assigned to the Council by law or as necessary or convenient to implement the purposes of this Section.

(3) The Council shall be governed by a board of eleven (11) members, including:

- a) Nine individuals appointed by the Governor with expertise regarding participant needs, no fewer than seven of whom shall be current or former program participants, participant representatives, or participant advocates; however such positions shall initially be filled by those similarly qualified members of the Michigan Quality Community Care Council board who last filled those positions prior to the passage of this Section. Upon expiration of each such initial member's term of appointment, the position to be filled under this paragraph shall have a term of four years;
- b) Serving as Chair, the Director of the Department of Community Health, or of the successor executive department principally responsible for administering

State medical assistance programs providing services governed by this Section, or his designee; and

- c) The Director of the Department of Human Services, or of such successor executive department, as the Governor determines has responsibilities relating to State programs providing services governed by this Section, or his designee.

(4) The Council shall be a public body within the Executive Branch, with the normal powers, duties, rights and responsibilities, including regarding contracting, acquiring and disposing of property, and adopting rules. The Council may accept gifts, grants, bequests, or assets from any source, expend such funds, and accept assistance from other governmental agencies, to effectuate its purposes. The Council shall assume and succeed to the authorities, duties and obligations of the Michigan Quality Community Care Council to the extent consistent with this Section, including any obligations to recognize provider representatives and to honor any unexpired agreements (to the extent of a term not to exceed 3 years) with such representatives, as last incurred or entered into by that Council prior to the adoption of this Section.

(5) Consistent with this Section, participant-employed providers governed by this Section shall have the same rights relating to collective bargaining with the Council as are otherwise provided by law to public employees not within the classified civil service relating to their public employers, and the Council shall be governed by such collective bargaining arrangements, to be enforced by the appropriate labor relations agency. But such providers shall not, as a consequence of this Section, be considered public or State employees for any other purpose, nor be entitled to any other legal benefit reserved to such employees. Collective bargaining under this Section shall not deprive participants of their right to select, supervise, train and direct, or terminate, an individual provider. Such providers shall not have the right to strike.

(6) Nothing in this Section shall be construed in a manner that conflicts with a state's obligations under Medicaid. The Department of Community Health or other responsible agency shall cooperate with the Council, including by providing assistance as necessary or convenient to implement the provisions of this Section.

(The proposal would also amend Section 5 of Article 11 of the State Constitution. The proposed addition to Section 5 of Article 11 is indicated in italics.)

Section 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, *in-home personal care providers subject to the authority of the*

*Michigan Quality Home Care Council*, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

State Police Troopers and Sergeants shall, through their elected representative designated by 50% of such troopers and sergeants, have the right to bargain collectively with their employer concerning conditions of their employment, compensation, hours, working conditions, retirement, pensions, and other aspects of employment except promotions which will be determined by competitive examination and performance on the basis of merit, efficiency and fitness; and they shall have the right 30 days after commencement of such bargaining to submit any unresolved disputes to binding arbitration for the resolution thereof the same as now provided by law for Public Police and Fire Departments.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a

two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition or creation of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.