

MICHIGAN CIVIL SERVICE COMMISSION
Public Meeting
August 23, 2021

Present: Janet McClelland, Chair
Jase Bolger, Commissioner
Nick Ciaramitaro, Commissioner
Jeff Steffel, Commissioner
Janine M. Winters, State Personnel Director

1. CALL TO ORDER

The meeting of the Michigan Civil Service Commission (Commission) was opened by Chair McClelland at 10:03 a.m. The meeting was held in person as well as livestreamed.

Approval of Minutes

Chair McClelland requested a motion to approve the minutes of the December 16, 2020 meeting. On motion duly made and supported, the minutes of the December 16, 2020 meeting were approved with Commissioner Ciaramitaro abstaining.

2. AMENDMENTS TO AGENDA

There were no amendments to the agenda.

3. INFORMATIONAL REPORTS

State Personnel Director's Report

The director reported that nine unclassified positions were established and ten unclassified positions were abolished across six departments. Details on the positions, departments, and titles are in the report.

Since the last meeting, notice was given in SPDOC 21-01 of amendments to regulation 5.10, effective May 16, 2021.

4. UNFINISHED BUSINESS

There was no unfinished business.

5. NEW BUSINESS

A. Election of Officers

On motion duly made and supported, Janet McClelland was unanimously elected chair and Jase Bolger was unanimously elected vice-chair.

B. Tribute to James Barrett

On motion duly made and supported, Item 5-B, Tribute to James Barrett was unanimously approved.

C. Certification of FY 20 Aggregate Payroll

General Counsel John Gnodtke summarized that under the state's constitution, the commission must annually certify the amount of the aggregate payroll for the classified payroll to determine the amount of its constitutionally guaranteed appropriation. Since the commission's last meeting, the books have closed for last fiscal year, which allows certification of the final amount listed in Resolution 5-C.

On motion duly made and supported, Resolution 5-C was unanimously approved.

D. Amendments to Standardized Travel Regulations and Pilot Travel Program (Interim Approval Granted)

General Counsel John Gnodtke summarized that interim approval was previously approved at the request of DTMB, Vehicle and Travel Services for amendments to the standardized travel regulations. The amendments address the definition of work locations given the increased use of remote work and specifically authorize pilot programs. Interim approval was also granted for a pilot program for EGLE involving processing meal reimbursements to which the DTMB director has also agreed.

On motion duly made and supported, Agenda Item 5-D was unanimously approved.

E. Amendments to Rules 2-7, 3-1, 3-2, 3-3, 3-8, and 9-1

General Counsel John Gnodtke explained that the Commission has provided forms of veterans' preference since the 1940s. As referenced in SPDOC 21-03, the governor has requested that the commission consider expanding its program to allow use of preference for promotions, by military retirees, by servicemembers scheduled to discharge soon, and in multiple forms in a hiring process if applicable. Staff also identified an additional reform that could be adopted to modernize one form of preference that became dead letter once the Commission stopped maintaining registers and applicant pools in the 1990s. The proposed rule changes that were circulated would make these enhancements plus other housekeeping changes to eliminate related outdated references in the rules. Staff recommends that any approval of the rules be effective the beginning of the next pay period on September 5, 2021, to allow time to update affected regulations and modify internal procedures for the changes in the operation of veterans' preference processing.

Commissioner Ciaramitaro asked to separate the amendments into two motions. On motion duly made and supported, amendments to Rules 2-7, 3-8, and 9-1 were unanimously approved with an effective date of September 5, 2021.

Commissioner Ciaramitaro then moved to delay consideration of Rules 3-1, 3-2, and 3-3 to allow additional time to research. He indicated that if the outdated language had been around for decades a delay of a few months should not be a problem. After brief discussion of the need to evaluate the severability of the changes across the six rules being considered and the withdrawal of the motion, the motion was withdrawn.

On motion duly made and supported, amendments to Rules 3-1, 3-2, and 3-3 were then approved by a vote of three to one, with Commissioner Ciaramitaro voting No.

F. Amendments to Bylaws

General Counsel John Gnodtke summarized Commissioner Ciaramitaro's proposed amending of § 5.1 of the commission's bylaws, which addresses the normal order of

business for commission meetings. The proposal would add another period of public comment after the call to order and approval of the agenda.

Commission Ciaramitaro expressed concern that the public is not allowed to speak on an agenda item until after it is codified. Chair McClelland explained that the public is historically allowed to speak before individual voting takes place. Discussion occurred about evaluating potential amendments to the bylaws to formalize that customary practice. Commissioner Ciaramitaro then withdrew the motion to amend the bylaws.

G. Letters of Understanding (Interim Approval Granted)

- 1. Attendance Incentive Pilot Extension (AFSCME)**
- 2. Sick Leave for 2021 COVID-19 Vaccine Pilot (AFSCME; MCO; MSEA; SEIU 517M HSS, S&E, and Tech; UAW)**
- 3. MDOC RN Retention Bonus Pilot (UAW)**

General Counsel John Gnodtke summarized that interim approval was previously granted to nine letters of understanding involving extending a pilot attendance incentive program, a sick leave grant for vaccination, and an RN retention bonus pilot for MDOC. Staff has identified no prohibited subjects of bargaining implicated.

On motion duly made and supported, Agenda Items 5-G(1-3) were unanimously approved.

6. PUBLIC COMMENT

Roderick Jackson, President of SEIU 517M addressed the commission regarding union recertifications. Mr. Jackson thanked the commission for signing previous contracts and explained that he is working hard to get things changed in bargaining again. He explained his concern that the commission's agenda has been to destroy state unions, which speak for employees when they cannot speak for themselves. Mr. Jackson questioned the decision to make workers sign up each year. Employees already had the right to not sign up. He believes that this can cause members to lack confidence in unions. It is not fair for the commission to take away rights. Mr. Jackson committed to ensuring that everybody gets signed up again, and even those who didn't before, will now. Mr. Jackson expressed his love of working for the state and pledged to do everything that he can to be sure that our union fights for us at all times.

ADJOURNMENT

There being no further items for Commission approval or public comments, Chair McClelland called for a motion to adjourn. On motion duly made and supported, the meeting was adjourned at 10:30 a.m.

These minutes will become final upon approval by the Civil Service Commission.

MICHIGAN CIVIL SERVICE COMMISSION
Public Meeting
December 15, 2021

Present: Janet McClelland, Chair
Jase Bolger, Commissioner
Nick Ciaramitaro, Commissioner
Jeff Steffel, Commissioner
John Gnodtke, State Personnel Director

1. CALL TO ORDER

The meeting of the Michigan Civil Service Commission (Commission) was opened by Chair McClelland at 10:01 a.m.

Approval of Minutes

Chair McClelland requested a motion to approve the minutes of the August 23, 2021 meeting. On motion duly made and supported, the minutes of the August 23, 2021 meeting were approved.

2. AMENDMENTS TO AGENDA

State Personnel Director John Gnodtke requested amending agenda Item 4.G.6 to substitute reviewing a voluntary SEIU Technical Unit agreement for reviewing Impasse Panel 2021-01.

A motion was made and duly supported to amend agenda item 4.G.6.

3. INFORMATIONAL REPORTS

State Personnel Director's Report

The director reported that three unclassified positions were established across three departments. Details on the positions, departments, and titles are in the written report.

Since the last meeting, notice was given in SPDOC 21-04 of amendments to regulation 1.04, 2.07, 2.10, 3.04, 3.06, 3.07, 3.09, 3.10, 8.02, and rescission of regulations 2.08, 3.05, and 3.11 effective September 5, 2021.

4. NEW BUSINESS

A. Tribute to Janine Winters

Chair McClelland indicated that Jan Winters retired from the Commission last month. She indicated that it has been a privilege working closely with Jan and commented on Jan's smartness, being one of the hardest working people she has ever known, tenacity, and loyalty to every individual and every organization that she has worked for. She congratulated and thanked Jan for all that she has done for the state and the Commission.

Jan thanked the chair for her remarks. She mentioned the many interesting and challenging things she has been a part of with wonderful and talented colleagues throughout the years. She thanked the commissioners for the opportunity to serve as director and for the confidence and support she has received over the years. Jan reiterated that the Commission is in great hands and that the work done in terms of HR systems and innovations across state government will continue in full force.

Chair McClelland indicated that a Tribute to Janine Winters had been drafted. On motion duly made and supported, Item 4.A., Tribute to Janine Winters was unanimously approved.

B. Amendments to Bylaws

State Personnel Director Gnodtke summarized that at the commission's last meeting, potential amendments to the bylaws were raised. Following those discussions, staff prepared draft amendments to memorialize a longstanding commission practice of allowing public comment before final votes on agenda items during the business portion of the commission's public meetings in addition to the general public-comment section after the business portion of the commission's meeting.

On motion duly made and supported, Item 4.B., Amendments to Bylaws was unanimously approved.

C. MCSC Budget Resolutions

Amy Pung, Director of the Office of Financial and Administrative Services presented information on the FY21 Aggregate Payroll Certification and FY23 Commission Budget. She noted that the total aggregate payroll is \$6,025,529,514. That is a 2.25% increase from last year. The certified aggregate payroll numbers are not finalized. If there are changes, she will notify the director for any interim approval for a modified certification before the next commission meeting.

Commissioner Ciaramitaro asked for clarification of comparisons between the new budget and the FY 21 budget. Pung indicated that the new budget is a continuation budget. Any detailing of specific items at this point would be projections and similar to past figures because of uncertainty with what will happen in FY 23.

On motions duly made and supported, Resolutions 4.C.1. and 4.C.2. were unanimously approved.

D. Amendments to Rule 5-10

Acting General Counsel Nick Kechkaylo explained proposed amendments to Rule 5-10. During the most recent round of collective bargaining, the Office of the State Employer agreed to additions to the compensation plan for exclusively represented employees of a new paid holiday and paid funeral leave. The OSE has requested similar changes for nonexclusively represented employees. Proposed amendments to rule 5-10 were circulated late last month that would (1) allow an additional state holiday each year and (2) allow eight hours of paid funeral leave for employees to attend the funeral or memorial service for a parent, spouse, child, or sibling. These proposed amendments would take effect January 1, 2022. Notice of these rule amendments was circulated just over two weeks ago, so a motion agreeing to waive the normal 28-day notice requirements and adopting the amendments was required.

On motion duly made and supported, Agenda Item 4.D. was unanimously approved.

E. Coordinated Compensation Panel Recommendation

Acting General Counsel Kechkaylo summarized the Coordinated Compensation Panel recommendation for NERE pay rates for FY 2023. The panel recommended the same 5% increase effective October 1, 2022, that is in voluntary agreements reached during recent bargaining and is consistent with the OSE's proposal. Two limited-recognition organizations

concurred with the OSE's proposal, but MAGE sought a higher base-pay increase for all NEREs, additional special base-pay increases for RN Managers, Physician Managers, and for NEREs supervising Security Unit employees, and an attendance incentive pilot program for RN Managers. The panel did not recommend adopting MAGE's proposals. The panel recommended several tweaks to insurance programs from 2023 as detailed in its recommendation. The panel also recommended eliminating the Catastrophic Health Plan option from 2023. These recommendations on insurance programs are consistent with the voluntary agreements reached during bargaining. The panel also recommended \$200,000 in funding for the NERE professional development fund as proposed by the OSE.

Commissioner Bolger thanked staff for sharing information on recent increases for state employees. He noted that there were four years in the last decade or so with raises of 1% or less and eight years with 2% or less. In comparing inflation and adding the raises up in that period, they both amounted to about 19%, which would lead him to vote to approve the recommendation.

Peter Neu, Michigan Association of Governmental Employees (MAGE) addressed the commission to reiterate many of the concerns raised by MAGE during the CCP hearing. He stated that past deficits have resulted in failure to provide adequate resources for NEREs that result in retention and recruitment problems, but this year the economic prospects are different with a nearly \$5 billion surplus. Neu emphasized inflationary pressures and increased housing costs. MAGE also sought a 2% lump sum to send messages to managers that their professional services are highly valued and address pay compression issues. Neu also summarized special pay requests for specific classes and work settings and a request to extend a pilot retention program that applied to correctional employees.

Dr. Vijaya Mamidipaka detailed a history of different pay treatment for physicians and psychiatrists in the classified service with Physician Managers not receiving as favorable treatment. She indicated that the recent inclusion of the managers in pay for performance should not be a reason to not consider the requested raise. Mamidipaka emphasized the critical nature of the work and the need for that to be acknowledged with appropriate pay. She also questioned vacancy statistics referenced in the CCP recommendation.

In response to questions from Commissioner Ciaramitaro, Director Gnodtke clarified that, after the CCP hearing, the MDHHS has also used critical position pay premium to further increase the base salary for Physician Managers as the CCP panel suggested might be considered.

On motion duly made and supported, Agenda Item 4.E. was unanimously approved.

F. Unclassified Pay Recommendation

Acting General Counsel Kechkaylo indicated that article XI, § 5 of the state constitution requires the commission to make a non-binding recommendation on unclassified pay. Consistent with previous years, resolution 4.F. would recommend potential increases up to the amounts authorized for classified employees, which in this case would be 5%.

On motion duly made and supported, Resolution 4.F. was unanimously approved.

G. CBA Resolutions

Acting General Counsel Kechkaylo explained Items 4.G.1 through 6 are resolutions adopting six voluntary agreements ratified by members of seven bargaining units. Staff has

reviewed the agreements and found no provisions implicating prohibited subjects of bargaining. The resolutions include language extending current secondary agreements during bargaining on successor agreements. The resolutions also include language memorializing the commission's retention of rights under the rules and regulations relating to collective bargaining agreements, including procedures over determining that an approved provision has been applied or interpreted to implicate a prohibited subject of bargaining. Item 4.G.7 is a resolution slightly modifying the voluntary agreement ratified by members represented by the UAW. Staff has reviewed the agreement and identified one new provision implicating a prohibited subject of bargaining. The letter of understanding under Article 39, Section L, entitled "Additional Leave Bank," would result in state subsidization of union leave in violation of rules 6-3.2(b)(5) and 6-3.9(c)(5). Rule 6-10.3(c) requires the commission reject any provision implicating a prohibited subject. The resolution would not approve the LOU but would accept and adopt the remainder of the proposed collective bargaining agreement for UAW represented employees.

UAW Local 6000 President Ed Mitchell indicated that the letter of understand was negotiated in good faith with the Office of the State Employer. He could not find any conflict with a prohibited subject because annual leave belongs to employees and employees should be able to do whatever they want with their annual leave. If employees want to donate those hours, this gives them an opportunity to do so. The annual leave would be converted to cash, so it would not be something that the state would be paying. It would be cash contributed as state employees to a fund to be used in accordance with what the union wanted. The state would not do or pay anything.

Anthony McNeill, chief negotiator for the UAW on this contract, stated that the civil service rules allow the use of annual leave for union business. The LOU would allow use of annual leave by converting it to money in a bank without being a prohibited subject of bargaining.

Chair McClelland asked for clarification of how the LOU implicated a prohibited subject. Director Gnodtke indicated that a primary stated concern for the 2017 rule reforms was over state subsidization of union activities and the need for authority for subsidization to be under civil service rules or regulation instead of from collective bargaining agreements. The LOU would inappropriately authorize and create a bank under the contract rather than under the rules and regulations. Currently, the commission authorizes subsidization under its rules and regulations for payroll dues deductions, for paid leave for one full-time officer per union, and for paid union absences for bargaining, impasse, grievance conferences, arbitrations, and labor-management meetings as established in primary agreements. There is no authorization under the rules or regulations for annual-leave donation to a bank to pay for union activities.

To implement the LOU would require significant staff time to reprogram the state's HR and payroll systems. The LOU has few details, but if it is to function as other annual leave banks do, presumably it would require significant staff time by HR offices and the Office of the State Employer to approve and make manual adjustments. If it is to create a liquidated value for donations, there will also need to be accounting to ensure that those balances are kept appropriately. Under the system of bargaining established in the rules, authorization for such subsidization must flow from rules or regulations instead of under a contract.

Commissioner Ciaramitaro expressed his opposition to the 2017 reforms, which occurred before his appointment, and confirmed that the OSE had not provided additional information on the LOU that it has agreed to. He indicated that the LOU may require fleshing out but

that he did not want to hold up the rest of the agreement in the meantime. Commissioner Ciaramitaro stated his belief that it could remain open for ongoing negotiations. Director Gnodtke clarified that the parties could always agree to continue negotiations and submitting future LOUs for consideration by the commission but that it would be difficult to opine on hypotheticals' consistency with the 2017 reforms without concrete language.

Commissioner Bolger raised a separate issue regarding discipline and termination under contractual grievance processes and examples nationally or in Michigan where outside arbitrators order separated employees back and those employees subsequently have further conduct leading to liability. He asked for clarification of what options the commission had to look out for citizens and provide oversight over such situations.

Director Gnodtke explained that the rules that allow contractual grievance procedures, which all contracts include. Although there are some carve-outs in the rules over subjects that cannot be brought in the contractual grievance process, discipline is a proper subject of bargaining and something that is grieved under the contractual process. The commission retains the ability to establish prohibited subjects of bargaining and could revisit the issue of discharge cases and consider a rule to apply to future contracts.

Commissioner Steffel referenced a case he had learned of where an outside arbitrator modified discipline and that employee's later actions eventually cost the state several million dollars. He indicated that while the great majority of state employees do a good job there are isolated cases where people outside the system make modifications that results in significant damages and he would like staff to look into the issue.

Commissioner Ciaramitaro indicated his comfort with discussing potential problems but sought clarification that the motion before the commission was to ratify the seven contracts except for the single LOU. Chair McClelland confirmed asked staff to gather information to determine the extent of the problem. Commissioner Ciaramitaro similarly expressed interest in the specifics of cases and also expressed interest in receiving more information on pay-compression issues raised during the CCP discussion.

Director Gnodtke clarified that the commission currently had seven written resolutions 4.G.1. through 4.G.7 that the current motion would be voting to approve that did include, in the case of resolution 4.G.7. non-approval of the LOU for Article 39, Section L, Additional Leave Bank.

On motion duly made and supported, Resolutions 4.G.1. through 4.G.7. were unanimously approved.

H. Letters of Understanding

- 1. Alternative Work Schedule Overtime at D.J. Jacobetti Home for Veterans and MVHCT (AFSCME)**
- 2. Alternative Work Schedule Overtime at Caro Center and KPH (AFSCME)**
- 3. Security Unit Recruitment and Retention Pilot Program**

Acting General Counsel Kechkaylo summarized three letters of understanding, two of which address overtime pay for employees in the Institutional Unit with alternative work schedules at certain facilities, and one of which is a recruitment and retention program for Security Unit employees. Interim approval was previously granted for the two LOUs on overtime pay.

Staff has reviewed all three LOUs and identified no implicated prohibited subjects of bargaining.

On motion duly made and supported, Agenda Items 4.H.1. through 4.H.3. were unanimously approved.

I. Standardized Travel Regulations and Extension of EGLE Meal Reimbursement Pilot Travel Program (Interim Approval Granted)

Director Gnodtke explained that the commission and DTMB director jointly approve standardized travel regulations for state employees. Earlier this year, the commission approved a pilot program involving meal reimbursements for EGLE employees. The state personnel director granted interim approval to extend the pilot through March 2022. Additionally, the DTMB has requested a few minor changes to the standardized travel regulations to clarify existing practices, including allowing reliance on the distance between locations shown using online mapping tools.

On motion duly made and supported, Resolution 4.I. was unanimously approved.

J. Increased Minimum Compensation

Director Gnodtke explained that the commission is constitutionally charged with setting rates of compensation for classified employees. In recent years, Michigan's statutory minimum wage has increased several times. While Attorney General Opinion 5115 opined that the state's minimum wage act does not apply to the civil service, the commission has implemented equivalent increases to the minimum wage levels for the six state classifications in the civil service that have historically matched the minimum wage under state law. The minimum wage increase next year is from \$9.65 to \$9.87.

On motion duly made and supported, Resolution 4.H. was unanimously approved to implement such an increase.

5. PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

There being no further items for Commission approval or public comments, Chair McClelland called for a motion to adjourn. On motion duly made and supported, the meeting was adjourned at 11:08 a.m.

These minutes will become final upon approval by the Civil Service Commission.