

HJR MM

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HB 5677

Thank you Mr. Chairman. For the record my name is Nick Ciaramitaro and I am Director of Legislation and Public Policy for both Michigan AFSCME Council 25 and the Michigan State Employees Association, an independent AFSCME local. Together, these two groups represent about 7000 state civil service employees.

AFSCME opposes the proposal before you for three fundamental reasons. I briefly addressed those before running out of time at the Committee meeting last week and, as promised am now submitting further evidence in written testimony for the record. Our research on the matter is ongoing and we will continue to provide information as it becomes available throughout the process.

This proposal is a thinly veiled attempt to deflect blame for poor policy decisions made by State Policy makers (elected officials and appointees) that have resulted in numerous problems in various departments and local units of government by scapegoating those workers whose job it is to implement decisions made by policy makers. Our members implement decisions made by Department heads – not the other way around. And Department Heads can be dismissed by the Governor at will.

Second, the proposal as written would create vague standards that would allow for a return to a patronage system that has been rejected for more than eighty years. The “just cause” definition is subjective and open to any number of interpretations and the review process is subject to exorbitant costs to an employee and an equally vague and difficult standard of review. The “arbitrary and capricious” standard would prevent any meaningful review of a discipline or discharge decision by a department director. The process presented allows a department director appointed by a governor to interpret the mission of his/her department and then have that decision reviewed using an almost impossible standard by a group of four individuals appointed by the governor. Four individuals who have now gone on record as critical of the proposal and who have refuted the basic premises calling for a constitutional amendment by the Speaker of the House.

Finally, the proposal is based on a premise that is simply not based in fact. Discipline and removal of incompetent employees is not unduly restrictive in our civil service system. If it were, we would be here looking for changes as well. AFSCME has advocated for transparency and accountability at all levels of use of state money. It is in our best interest not only as state and local employees but also as citizens and taxpayers. Civil service employees are both union and non-union with the largest number not represented by a union. Those covered by a collective bargaining agreement have various definitions of just cause in their contracts and generally those contracts spell out a grievance procedure. The non-represented employees are subject to civil service rules and procedures adopted by a four-member unpaid commission appointed by the governor for staggered terms. Further, civil servants now make up only about half of the work force paid by state tax dollars due to the excessive use of outsourcing where there is little or no accountability and transparency.

We share the goal of making our workforce as competent and responsible as possible. But we note that policy decisions that have ignored recommendations from the workforce – even with a contractual commitment on the part of the State Employer to consider employee recommendations. This proposal attempts to blame failed service delivery models and that would only be reinforced by this proposal.

Is it too difficult to fire an employee that fails to do his or her job? We have seen no evidence of that conclusion and the bipartisan Civil Service Commission has now refuted that argument. The Commission has even refuted the few examples the proponents offered to back up their claim.

But it is very easy to fire hard working, competent, experienced civil servants. Just look at the disastrous effect of decisions by the Administration to fire 170 workers at the Grand Rapid Home for the Veterans and replace them with poorly trained, inexperienced care aides. Look at the decision of the former department director at the Department of Corrections to fire 300 qualified, hardworking experienced food service workers at the Department of Corrections with poorly trained workers generating serious security concerns endangering the remaining civil servants in our prisons. These issues are well documented and have been verified by the findings of your own Legislative Auditor General.

The disasters in Flint and DPS are the results of policy decision made by non-civil service Emergency Managers appointed by the Governor and recommended by policy decisions made by non-civil service policy makers at the highest levels of the Department of Environmental Quality. Emergency Managers appointed under a law adopted by the Legislature have virtually unlimited control over local elected officials and, yes, allows them to ignore and supersede recommendations and findings of local civil servants. Yet, while this proposal would deny reimbursement to civil servants for legal defenses brought even by those ultimately exonerated, Michigan's Emergency Manager law provides for full coverage of all legal costs for both civil and criminal actions brought against an Emergency Manager even if that Emergency Manager is later found guilty of wrong doing in a court of law.

Michigan's Civil Service system was brought into existence repeatedly by vote of the people of the State. Methods of evading laws adopted through the initiative process were circumvented by Governors and Legislators of both political parties bent on maintaining patronage perks until the people of the State finally enshrined the system in the State Constitution in 1940. That system was strengthened in the 1963 Constitution, again adopted directly by the people of the State of Michigan. It was not designed, nor has it been used to protect incompetent, "dangerous" or "apathetic" civil servants nor is there any evidence that it has had that affect. Rather, it was designed and has been effective in avoiding partisan political manipulation of the state workforce. Please do not attempt to besmirch that system or your own reputations by using our state workers as scape goats for mistaken policies adopted by elected and appointed officials and risk a return to a patronage system wrought with the dangers of corruption all such systems have demonstrated in the past.

Thank you for your consideration.

Two questions came up during my testimony that I believe deserve a further response. One from Vice-Chairman Tedder indicated that the percentage of private sector employees fired was higher than state employees. While I am not aware of the source of his statistics (nor am I certain that a stable workforce is necessarily a bad thing) it occurred to me that there are two additional considerations that must be taken into account. First, civil servants are required to prove their ability to perform the job they seek before employment through civil service exams. While there may be comparable efforts in the private sector for some positions, those screening efforts are not universal. Secondly, most private sector workers in Michigan are "at will" employees not subject to just cause requirements for discharge. Neither current law nor the proposal before you would go to that length.

The other question raised I believe by Rep. Iden asked if I thought state civil servants should do their jobs. I do and they do. In fact, most civil servants do MORE than their jobs if you take into account the hours of mandated overtime in many of our 24/7 facilities such as state psychiatric hospitals and the excessive caseloads in the DHHS. He then went on to cite very misleading wage comparisons between public and private sector workers. The amount cited for private sector workers included wages only

while the amount cited for public sector workers included both wages and benefits. But more importantly the figures he cited have been discredited by studies done for the Michigan House of Representatives noting that if you adjust for educational attainment levels (i.e. you compare college graduates to college graduates and high school graduates to high school graduates) you get a very different picture with state wages lagging behind the public sector particularly at the higher education levels.

Amending the Constitution is serious business and should not be moved upon without careful study and diligence. I would hope the committee would keep that in mind.