To: **CSR-MI Board**
From: **Todd Tennis, Cara Dobie and Courtney VanCamp**
Date: **July 14, 2023**
RE: **Legislative Update**

Just over two weeks ago, the Michigan Legislature completed work on the Fiscal Year 2023-4 state budget. This process began in February when Governor Whitmer issued her budget proposal, and ended on June 28 when the House and Senate sent their final budget bills to the Governor for her approval. The Governor has not yet signed the budget, but she is expected to do so soon. While the Governor could conceivably issue line-item vetoes to the budget, because the House and Senate are led by the Governor's political party, it is not expected that many line-item vetoes will occur – if any.

Before recessing for the summer, the House and Senate also passed a series of bills undoing several anti-public worker bills enacted a decade ago under former Governor Snyder. Among these is House Bill 4044 which will repeal a law that greatly hampers public employee collective bargaining rights. These bills are expected to be signed by the Governor and will take effect in early 2024.

After completing the budget, the Legislature went into recess for the summer and is expected to return to full session in September. See below for more details on the final budget and other issues impacting state workers.

FY 23-4 Budget Includes Funding Increases for Most State Departments

With a large budget surplus going into the next fiscal year, it was no surprise that the Michigan Legislature increased state funding for state and local governments in several areas. While some funds were sent to the Rainy Day Fund to prepare for possible future budget shortfalls ($100 million); and additional funds were also used to pay down pension debts in state operated retirement systems (nearly $1 billion), the bulk of the state budget surplus and remaining federal funds from the American Rescue Project Act were allocated to support state programs and local programs.

Much of the new funding comes via new one-time grants for specific projects or programs. In addition, the overall numbers are skewed due to the elimination of several one-time appropriations from the current budget year. However, most departments will see an increase in their operating budgets which is best reflected not in their overall appropriation, but rather in their increase or decrease in FTEs. Below are highlights for several departments:

Agriculture and Rural Development: Increase of 13 FTEs

Attorney General: Increase of 62 FTEs, 27 of which are in the Consumer Protection Case Support Unit

Civil Rights: Increase of 51 FTEs, 34 of which are in the Complaint, Investigation and Enforcement Unit

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Corrections: Reduction of 427 FTEs stemming from the closure of the Michigan Reformatory and the south side of Gus Harrison Correctional Facility; increase of 119 FTEs across remainder of department

Department of Education: Increase of 13 FTEs

Environment, Great Lakes and Energy: Increase of 100 FTEs, 44 of which will be new permitting staff

Health and Human Services: Increase of 171 FTEs

Insurance and Financial Services: Increase of 4 FTEs

Judiciary: Increase of 61 FTEs

Labor and Economic Opportunity: Increase of 55 FTEs

Licensing and Regulatory Affairs: Increase of 14 FTEs

Military and Veterans Affairs: Reduction of 22 FTEs due to reduced staffing needs at Grand Rapids Veterans Home; Increase of 19 FTEs elsewhere in department

Natural Resources: Increase of 136 FTEs

State: Increase of 33 FTEs

State Police: Increase of 75 FTEs

Technology, Management and Budget: Increase of 53 FTEs

Transportation: Increase of 168 FTEs

Treasury: Increase of 35 FTEs

Legislature Votes to Repeal Anti-Worker Laws

In 2012, in addition to passing a law making Michigan a Right to Work state, several amendments were also passed to the Public Employee Relations Act designed at reducing wages and benefits for public employees. While state workers are governed by the Civil Service Commission and Civil Service Rules, and supervisory personnel do not have collective bargaining rights, MAGE members are nonetheless indirectly impacted by efforts to reduce collective bargaining power of public employees. On June 28, the Legislature completed work on reversing a portion of these anti-public employee laws.

Of interest to all public employees is House Bill 4044, sponsored by Representative Matt Koleszar (D-Plymouth), which repeals a law that disallows pay increases for unionized public employees during times when a contract has expired. By allowing public employers to simply wait out public sector unions by allowing contracts to expire, workers are subject to massive pressure to cave to management's demands. Passage of HB 4044 will restore balance to public sector collective bargaining rights.

The Legislature also passed several bills pertaining to public school employees. House Bills 4354, 4356 and 4357, sponsored by Representatives Regina Weiss (D-Oak Park), Brenda Carter (D-Pontiac) and Rachel Hood (D-Grand Rapids), greatly expand the ability of public school workers to collectively bargain by repealing several sections of PERA that listed several issues as prohibited subjects of bargaining. These items barred negotiations in areas such as classroom placement, layoff and recall procedures, discipline and evaluations. The bills also repealed a section that made privatization a prohibited subject of bargaining for non-instructional employees.

Another major win for public school unions was House Bill 4233, sponsored by Representative Jaime Churches (D-Wyandotte). This bill repeals a prohibition on school employees being able to use payroll deduction to pay their union dues. HB 4233 was the only bill in the PERA package that received a single Republican "yes" vote when Senator Ed McBroom (R-Vulcan) joined a united Democratic caucus to pass the bill.

Still to come are more efforts to undo anti-pubic worker laws passed over the past decade. These include a repeal of the so-called "80/20" law that mandates public employees must pay at least 20% of their health care costs regardless of other concessions they may have made. We expect the Legislature to take up more legislation along these lines when they return to session in September.

Discussions Underway to Address State Employee Retirement Options

In 1996, the Michigan Legislature voted to close the Michigan State Employees Retirement System for future state workers. MSERS was a Defined Benefit pension system that provided a guaranteed income to state retirees based on their years of service and final compensation. Starting in March of 1997, newly hired state workers were placed into a Defined Contribution system that provides more flexibility but does not guarantee any retirement income.

Over the last 26 years since MSERS was closed, nearly all active employees in the old system have retired. During that time, the system went from being over 100% funded in 1997 to being approximately 65% funded today. The state is not only paying a higher percentage of payroll to members of the Defined Contribution plan than they had been to MSERS members in 1996, the state also has to pay for the unfunded liabilities that have accumulated since MSERS was closed. Moreover, the retirement benefit for those in the defined contribution plan is significantly poorer on average than the benefit received under MSERS.

Due to all of these factors, various state employee unions have been exploring options to reopen MSERS to current and future state employees. Studies show that not only is MSERS a more robust retirement benefit for members, it is also less expensive to the state provided the unfunded liability is addressed. Because the state must pay for the current pension even if current employees remain in the defined contribution system, it can be argued that a better option would be to restore MSERS which is less expensive to the state and provides a more secure retirement benefit.

As we reported at the last CSR-MI meeting, some efforts to allow certain state workers access to a defined benefit plan are already being discussed in the Michigan Legislature. Bills that would allow corrections officers, conservation officers and capitol security officers to enroll in the State Police Retirement System received a hearing in the Senate Labor Committee in May. Those bills have yet to move forward, but momentum is beginning to build to allow state workers an opportunity to access a traditional pension program rather than the 401(k)-style program they have been offered since 1997.

On the public school side, Representative Koleszar (D-Plymouth) introduced HB 4752 aimed at once again altering the rules for how MPSERS retirees may return to work without suspending their pension benefits. Current law allows a MPSERS member to return to work as long as they have been retired for at least 9 months. HB 4752 would allow a MPSERS member to return to work almost immediately after retirement provided that they do not earn more than $10,100. However, once they reach the 9 month retirement date, that $10,100 cap is lifted.

The bill passed the House by a large margin mainly on the hope that the change will help alleviate the shortage in school employees. However, discussion surrounding the bill also raised the issue of how major changes to MPSERS over the past 13 years have contributed to that same shortage. Conversations among school unions and management organizations have revealed support for, at the very least, making major improvements to the current “Pension Plus 2” plan offered to new public school employees. There could be support from both labor and management to return to the full Defined Contribution Member Investment Plan last offered to new hires in 2010.

Restoring lost retirement plans will not be an easy task, but at least it is now possible with the current makeup of the Michigan Legislature. However, after seeing how difficult just undoing restrictions on collective bargaining was to achieve in June, it is clear that pro-pension advocates have a great deal of work to do educating the new Legislative leadership in Lansing.