

**To: CSR Board**  
**From: Todd Tennis, Cara Dobie and Courtney VanCamp**  
**Date: March 24, 2023**  
**RE: Legislative Update**

From one point of view, it has been a slow start to the 2023-4 Legislative session. Many House and Senate committees are only now beginning to take up legislation, and the House and Senate have missed several session days due to weather, illnesses, and a tragedy at Michigan State University. On the other hand, the Michigan Legislature has already sent several bills to the Governor's desk, including a supplemental bill which marked the first time a bill became a public act in the first month of a session since 1947. The Governor delivered her State of the State address in late January and presented her budget proposal in early February, and the Legislature has continuously increased its pace of passing large packages of legislation since then.

The Legislature identified six top priorities when session began: repealing the so-called "Pension Tax"; increasing the Earned Income Tax Credit; expanding civil rights protections to the LGBTQ+ community; repealing the 1931 state law restricting reproductive freedom; reenacting the Michigan Prevailing Wage Law; and repealing the so-called "Right to Work" law that suppresses workers' rights. They also added a new priority – firearms safety legislation – after the tragic mass shooting that occurred at Michigan State University. They are on track to pass all of these priorities before the spring recess.

## **Bills Reopening Pension Access for Some State Workers Introduced in State Senate**

Two separate packages of bills aimed at allowing certain state workers to opt into the State Police Retirement System. Senate Bill 156 and Senate Bill 157 – sponsored by Senator Santana (D-Detroit) and Senator McBroom (R-Vulcan), respectively – would allow corrections officers to transfer into the Michigan State Police Retirement System. Senate Bill 165 and Senate Bill 166 – sponsored by Senator Cherry (D-Flint) and Senator McDonald-Rivet (D-Bay City), respectively – are similar but also extend to other state workers including conservation officers, capitol security officers, and some other classifications that relate to law enforcement. Unfortunately, we cannot provide full details on these bills at the moment because the Michigan Legislative website is not functioning. We will provide drafts of the bills as soon as they are available.

While these bills are a step in the right direction, they leave the majority of state workers trapped in a low-benefit defined contribution plan that has been shown to provide insufficient support for a secure retirement. CSR-MI has been working to craft a plan to provide better retirement options to all state workers similar to the hybrid pension plans currently administered by the state for state police officers or public school employees. If properly administered, a hybrid pension option for state workers would greatly increase the likelihood of a secure retirement for state employees while keeping additional state costs to a minimum.

We expect Senate Bills 165 and 166 to receive a hearing in the Senate Labor Committee as early as April.

## **Right to Work (for less) Laws on Verge of Repeal, but of Little Benefit to Public Employees**

Ten years ago, the Michigan Legislature enacted legislation that allows members of a collective bargaining unit to enjoy the benefits of a union contract without having to pay for any share of the work that goes into crafting and enforcing it. The so-called “Right to Work” law was touted as a way to protect the rights of workers on the job, but in practice only diminishes the collective bargaining power of unions to the detriment of all workers in Michigan. One of the top priorities of the new Democratic-led majorities in the Michigan House and Senate was to overturn these unfair laws, and the Michigan Legislature has sent bills to the Governor that would do just that. We expect Governor Whitmer to sign them any day now.

Unfortunately, thanks to a decision by the increasingly politicized U.S. Supreme Court, the benefits of these bills expanding worker freedom will not extend to public sector employees. In 2018, the Supreme Court ruled in the *Janus v. AFSCME* case that public sector unions could not compel non-members to pay their share of the cost of collective bargaining. Therefore, the impact of the so-called Right to Work law will continue in Michigan for public sector workers despite the repeal of the state RTW law.

Proponents of these anti-union laws frequently misstate their impact, claiming falsely that without a RTW law workers are forced to join a union. This is not at all the case. Going forward, even in the private sector in Michigan, workers will never be required to join a union to keep their job. However, if they work for a unionized employer and enjoy the benefits of a union contract (which must by federal law extend to union members and non-members alike), they will have to pay a portion of union dues that go to pay for the benefits the non-member receives.

For example, a worker at General Motors who is in a UAW bargaining unit does not have to join the UAW as a member. But, since the union is mandated by law to represent that worker in a disciplinary hearing; or provide the worker with assistance in filing a grievance against the employer (among other services), the non-member will now have to pay a percentage of union dues that support those services. The non-member will never have to pay for any non-collective bargaining expenses that the union may have (e.g. political activity, charitable giving, social events, etc.), but they also will not be able to participate in union elections or contract ratification votes.

Because of the *Janus* decision, however, repeal of Michigan’s RTW law for public sector employees is solely aspirational. If, one day, the U.S. Supreme Court overturns the *Janus* decision, the impact of RTW will automatically end for public sector workers in Michigan. Sadly, that day could be a way off.

## **Retirement Tax Issue Gets Connected to Larger Package**

One of the issues most observers predicted would receive bipartisan support going into this year was a repeal of the so-called “Pension Tax” that was enacted early in the administration of former Governor Rick Snyder. Many politicians on both sides of the aisle had campaigned on it, including Governor Whitmer herself. The very first bill introduced in both the House and Senate this year (HB 4001 and SB 1) addressed the issue, and they each passed with at least some bipartisan support. However, after HB 4001 passed the House, there was a decision by Democratic leaders in both chambers to combine the issue with other priorities, such as the increase to the Earned Income Tax Credit and a deposit into the

Strategic Outreach and Attraction Reserve fund (SOAR). They also added in a one-time \$180 tax credit for each household to sweeten the deal.

Republicans balked, however, when it became clear that the total package would prevent the state from tripping a trigger that would provide an automatic rollback in the Michigan Income Tax from 4.25% to 4.05%. Democrats were able to pass the amended version of HB 4001 on a party-line 20-18 vote in the Senate. The bill seemed like it might fail in the House due to opposition from a lone Democrat, Rep. Dylan Wegela (D-Inkster). Rep. Wegela refused to support the economic development funds in the bill and called it “corporate welfare.” The bill finally passed when Republican Rep. Mike Mueller (R-Grand Blanc) crossed the aisle to provide the bare minimum votes needed to pass. Rep. Mueller stated that he had made a promise to his constituents to repeal the retirement tax, and he would not break that promise despite massive pressure from his own party.

The last hurdle to HB 4001 was whether it would be granted Immediate Effect by the Senate. Democrats attempted both carrot and stick approaches to entice six Senate Republicans to vote so the bill would take effect this year rather than 2024, but to no avail. The bill was sent to Governor Whitmer’s desk without the Immediate Effect designation, which means that none of the tax relief included will take effect until next year unless further extraordinary measures are taken such as the Legislature adjourning for the year in May or June. Chances of that happening are slim, but not zero.