



## MICHIGAN HOUSE REPUBLICANS

P.O. BOX 30014 | LANSING, MICHIGAN 48909-7514 | WWW.GOPHOUSE.COM

FOR IMMEDIATE RELEASE  
Contact: Christina Guenthner, (517) 373-0625

May 19, 2016

# Speaker Cotter, Rep. Lauwers introduce civil service reform

Speaker of the House Kevin Cotter and state Rep. Dan Lauwers today announced a plan to reform Michigan's civil service system and give directors of state departments the ability to discipline or remove dangerous government bureaucrats.

"This is a common-sense reform to create better government for the people of Michigan," said Speaker Cotter, R-Mt. Pleasant. "All too often, department officials see bad employee behavior and yet they cannot do anything to stop it. They are handcuffed by outdated rules and miles of red tape. No one else in this state has a job for life with no accountability and zero standards, and the people we trust to inspect our food, handle our health care and test our water systems should not have one either.

"Michigan's hard-working taxpayers deserve a smarter system that rewards good employees and promotes better performance."

Rep. Lauwers, R-Brockway Township, echoed his sentiment.

(MORE)

“When poor performance from apathetic state workers has a negative impact on the public, the state should be able to take action and discipline the people who are responsible as quickly as possible,” Rep. Lauwers said.

“The investigation into the Flint water crisis revealed extensive misconduct by employees with the Michigan Department of Environmental Quality, but current civil service rules prevented the MDEQ from taking action against them. These employees remained on the state payroll for months before they were officially charged.

“The situation in Flint serves as just one example, however. Too often, the convoluted system of civil service rules offers bureaucrats a job for life without any accountability. Employees from all state departments need to be held to a higher standard. Their job is to serve the public, not themselves.”

The legislative package – one bill and one resolution to amend the Michigan Constitution – would give departments the ability to discipline or dismiss any employee who negatively impacts the department’s ability to accomplish its duties in a fair, timely, equitable and transparent manner. The legislation also defines the process an employee would take to file a grievance with the Civil Service Commission.

“These revisions are long overdue and will give us a better and more responsive government,” Rep. Lauwers said.

(MORE)

Because the legislation proposes a state constitutional amendment, approval is needed from two-thirds of the members in both the House and Senate. The measure would then be placed on the ballot for the public's consideration.

House Bill 5677 and House Joint Resolution MM have been introduced and later today will be referred to a committee for consideration.

#####

# REFORMING CIVIL SERVICE TO IMPROVE STATE GOVERNMENT

## **BACKGROUND:**

The Michigan Civil Service Act was enacted in 1937. At the time, civil service protection was needed because hiring and firing of state employees focused entirely on political allegiances. Agencies created positions without rational relationships to structure, purpose or expectations of job performance. Fair Labor laws had yet to be enacted nationally, and the standard workweek and minimum wage were only beginning to be contemplated.

The act was short-lived. In 1939, the Legislature voted to remove nearly all positions from the civil service system. The citizens rejected this change and in 1940 successfully amended the Michigan Constitution of 1908 to create the framework for the constitutionally protected civil service commission as we know it today.

In 1961, the state Constitutional Convention expanded the number of exempt positions in both the governor's office and in each department, and gave the Legislature the ability to reject compensation increases by a two-thirds vote.

The Michigan Civil Service Act was the first attempt to rectify issues related to pay inequity, inept employees, political cronyism, and a lack of any rational classification of agency positions. But it also has the stated goal of "attracting and retaining officers and employees of character and capacity" and "increas(ing) the efficiency of the governmental departments and agencies." Those tenets hold true today and should be the focus of our reforms.

Currently, individual departments are struggling to address personnel issues internally. They lack the managerial flexibility to promote, demote, or remove employees and they lack the ability to establish their own individual hiring and firing protocols. In order to allow individual departments flexibility to discipline or remove employees for conduct that impacts a department's statutory duties, protect the health and welfare of our citizens, and to attract and retain qualified employees, comprehensive civil service reforms ought to be pursued.

## **Amending the State Constitution:**

One way to amend the State Constitution is for the Legislature to approve an amendment by a two-thirds vote. After passage, the proposed amendment is placed on the ballot for the next general election or a special election. However, the election must be at least 60 days after passage of the resolution. Joint Resolutions do not require action by the governor.

If the item is successfully placed on the ballot and approved by a majority of voters, the proposal is integrated into the State Constitution 45 days after the date of the approving election. Since the adoption of the State Constitution in 1963, the Legislature has passed 44 constitutional amendment proposals through joint resolutions. Voters have approved 22 of these proposals and rejected 22 of them.

Public employees and officers; state; constitutional authority for heads of principal departments to discipline employees; provide in cases of conduct negatively affecting departmental duties.  
Public employees and officers: state; Constitutional amendments: state; Labor: civil service employment

A joint resolution proposing an amendment to the state constitution of 1963, by amending section 48 of article IV and section 5 of article XI, to grant the heads of principal departments the authority to discipline or dismiss employees in the state classified civil service for conduct that directly and negatively impacts the department's ability to accomplish its statutory duties in a fair, timely, equitable, and transparent manner and to provide for appeals.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to grant the heads of principal departments the authority to discipline or dismiss employees in the state classified civil service for conduct that directly and negatively



impacts the department's ability to accomplish its statutory duties in a fair, timely, equitable, and transparent manner and to provide for appeals, is proposed, agreed to, and submitted to the people of the state:

1

## ARTICLE IV

2

3

4

5

6

7

8

9

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except **THAT FOR those in the state classified civil service, IT MAY ENACT LAWS ONLY AS TO GRIEVANCE PROCEDURES FOR AN APPEAL TO THE CIVIL SERVICE COMMISSION FOLLOWING DISCIPLINE OR DISMISSAL BY THE HEAD OF A PRINCIPAL DEPARTMENT FOR CONDUCT THAT DIRECTLY AND NEGATIVELY IMPACTS THE DEPARTMENT'S ABILITY TO ACCOMPLISH ITS STATUTORY DUTIES IN A FAIR, TIMELY, EQUITABLE, AND TRANSPARENT MANNER.**

10

## ARTICLE XI

11

12

13

14

15

16

17

18

19

20

21

22

23

Sec. 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, 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.



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

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

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

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



1 provided by law for Public Police and Fire Departments.

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

7 NOTWITHSTANDING THE POWERS GRANTED TO THE CIVIL SERVICE  
8 COMMISSION, THE HEAD OF A PRINCIPAL DEPARTMENT MAY DISCIPLINE OR  
9 DISMISS AN EMPLOYEE IN THE STATE CLASSIFIED SERVICE FOR CONDUCT  
10 THAT DIRECTLY AND NEGATIVELY IMPACTS THE DEPARTMENT'S ABILITY TO  
11 ACCOMPLISH ITS STATUTORY DUTIES IN A FAIR, TIMELY, EQUITABLE, AND  
12 TRANSPARENT MANNER. AN EMPLOYEE WHO CONSIDERS HIMSELF OR HERSELF  
13 AGGRIEVED BY THAT DISCIPLINE OR DISMISSAL HAS A RIGHT OF APPEAL TO  
14 THE COMMISSION THROUGH GRIEVANCE PROCEDURES ESTABLISHED BY LAW. THE  
15 CIVIL SERVICE COMMISSION MAY REVERSE THE DISCIPLINE OR DISMISSAL OF  
16 AN EMPLOYEE UNDER THIS PARAGRAPH IF THE DEPARTMENT HEAD'S DECISION  
17 WAS ARBITRARY OR CAPRICIOUS.

18 Increases in rates of compensation authorized by the  
19 commission may be effective only at the start of a fiscal year and  
20 shall require prior notice to the governor, who shall transmit such  
21 increases to the legislature as part of his budget. The legislature  
22 may, by a majority vote of the members elected to and serving in  
23 each house, waive the notice and permit increases in rates of  
24 compensation to be effective at a time other than the start of a  
25 fiscal year. Within 60 calendar days following such transmission,  
26 the legislature may, by a two-thirds vote of the members elected to  
27 and serving in each house, reject or reduce increases in rates of





1 compensation authorized by the commission. Any reduction ordered by  
2 the legislature shall apply uniformly to all classes of employees  
3 affected by the increases and shall not adjust pay differentials  
4 already established by the civil service commission. The  
5 legislature may not reduce rates of compensation below those in  
6 effect at the time of the transmission of increases authorized by  
7 the commission.

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

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

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

26 The commission shall furnish reports of expenditures, at least  
27 annually, to the governor and the legislature and shall be subject



1 to annual audit as provided by law.

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

8 Resolved further, That the foregoing amendment shall be  
9 submitted to the people of the state at the next general election  
10 in the manner provided by law.



Public employees and officers; state; civil service review of departmental dismissal or discipline; provide for grievance procedures.  
Public employees and officers: state; Labor: civil service employment

A bill to provide a grievance procedure for state civil servants; to provide powers and responsibilities for state departments, agencies, and officers; and to provide a right of appeal.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "grievance procedure act".

3           Sec. 2. As used in this act:

4           (a) "Civil service commission" or "commission" means the  
5 commission created in section 5 of article XI of the state  
6 constitution of 1963.

7           (b) "Employee" means an employee in the classified state civil



1 service as described in section 5 of article XI of the state  
2 constitution of 1963.

3 (c) "Grievance" means an appeal authorized under section 3.

4 (d) "Just cause" means conduct that directly and negatively  
5 impacts the department's ability to accomplish its statutory duties  
6 in a fair, timely, equitable, and transparent manner.

7 Sec. 3. An employee may file a grievance for an appeal to the  
8 civil service commission following discipline or dismissal by the  
9 head of a principal department for conduct that the employee  
10 believes does not constitute just cause.

11 Sec. 4. (1) A grievance must be signed and filed in writing  
12 within 14 calendar days after the employee knew of or, in the  
13 exercise of reasonable diligence, should have known of the  
14 circumstances giving rise to the grievance.

15 (2) Unless the grievant elects review by the full commission,  
16 a hearing officer or designated agent of the commission may hear  
17 the grievance.

18 (3) The grievant and the principal department shall share the  
19 cost of the review equally.

20 (4) The commission shall not award attorney fees, witness  
21 fees, costs, or other expenses.

22 (5) The commission shall not award interest on any monetary  
23 award.

24 (6) The commission shall not award damages to a grievant in a  
25 limited-term appointment for any period after the expiration date  
26 of the grievant's term of appointment.



1           (7) The commission may award back pay, but the back-pay award  
2 is limited to pay for regularly scheduled hours and holidays for  
3 which the employee normally would have been paid. A back-pay award  
4 must not include any other pay premium, such as overtime, on-call,  
5 callback, explosives duty, out-of-state location, or emergency  
6 response premium. A back-pay award is subject to all of the  
7 following deductions:

8           (a) Earnings in other employment or self-employment, except  
9 previously approved supplemental employment.

10           (b) Benefits received from employer contributory income  
11 protection insurance.

12           (c) Benefits received under worker's compensation,  
13 unemployment compensation, social security, or social welfare  
14 programs.

15           (8) The civil service commission may award sick and annual  
16 leave credit that would normally have accrued during the period of  
17 vacated discipline or dismissal.

18           (9) The civil service commission may award seniority credit  
19 and longevity compensation that would normally have accrued during  
20 a period of vacated discipline or dismissal. Any such seniority  
21 credit shall not be used for classification or qualification  
22 purposes.

23           Sec. 5. (1) For the commission to consider a grievance, the  
24 grievant must allege that he or she was dismissed or disciplined by  
25 the head of a principal department without just cause.

26           (2) The civil service commission shall not consider a  
27 grievance based on any of the following:



1 (a) The failure to renew or extend the employee's appointment  
2 under a limited-term contract.

3 (b) The failure to renew or extend the term of a limited-term  
4 position.

5 (c) A nondisciplinary lateral job change.

6 (d) An appointment decision arising out of the selection,  
7 appointment, or certification of a candidate for a position.

8 Sec. 6. (1) The civil service commission shall consider a  
9 grievance and issue a written grievance decision setting forth  
10 findings of fact, conclusions of law, and any remedial orders. If  
11 the commission fails to issue a decision on the grievance within 28  
12 calendar days, the grievance is considered to be administratively  
13 denied.

14 (2) The civil service commission shall reverse the discipline  
15 or dismissal that caused the grievance only if the head of the  
16 department acted arbitrarily and capriciously in determining that  
17 the employee's conduct was just cause for discipline or dismissal.

18 (3) The grievance decision of the civil service commission or  
19 an administrative denial is binding unless the grievant files a  
20 timely appeal, as authorized in this act.

21 Sec. 7. (1) A grievance decision or administrative denial is  
22 final and binding on the parties 28 calendar days after the date  
23 the decision is issued, unless either of the following applies:

24 (a) The decision provides for a later effective date.

25 (b) Either party files a further appeal to the circuit court  
26 within 27 calendar days after the date the written decision is  
27 issued or the grievance is administratively denied. Upon filing of



1 an appeal and subject to subsection (2), the effective date of the  
2 decision is automatically stayed pending further order.

3 (2) If a written grievance decision of the civil service  
4 commission orders a principal department to reinstate a grievant  
5 who has been dismissed, the principal department, as a condition of  
6 further appeal, shall either reinstate the grievant or restore the  
7 grievant's base pay and medical, dental, and vision group  
8 insurance. The principal department shall continue the  
9 reinstatement or payment of base pay and benefits while the further  
10 appeal is pending.

11 Enacting section 1. This act does not take effect unless  
12 Senate Joint Resolution \_\_\_\_ or House Joint Resolution \_\_\_\_  
13 (request no. 05825'16) of the 98th Legislature becomes a part of  
14 the state constitution of 1963 as provided in section 1 of article  
15 XII of the state constitution of 1963.

