

Joint Legislative Budget Hearing

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**Workforce Issues**

Remarks by:

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Thank you for the opportunity to speak to you about this year's proposed budget and the number one workforce issue -pay equity, and the lack thereof for the state's Management/Confidential (M/C) employees. I am Barbara Zaron, President and with me today is Joe Sano, Executive Director of OMCE, the Organization of NYS Management Confidential Employees, part of OPEIU Local 153, AFL-CIO. We are the labor organization that represents the interests of the state M/Cs.

In April 2009 and 2010, the Paterson Administration withheld the 3% and 4% respectively across-the-board raises for employees of New York State designated as management/confidential employees.

The original pay withholding actions were taken by the Paterson Administration; however, the Cuomo Administration has taken no action in either last year's enacted or this year's proposed budget to rectify this destruction of the compensation system for M/C employees. As a matter of fact, the problem has been exacerbated. This, despite CSL §115, which espouses the policy of the state as equal pay for equal work. Pay fairness, pay equity and pay parity for M/Cs will continue to be OMCE's top priority in dealing with this Administration.

As you have heard the State workforce is shrinking and the ranks of M/Cs in the Executive Branch, Law and Comptrollers' offices now number less than 9000. M/Cs are mostly part of the classified civil service in the competitive and non-competitive class who serve each and every administration. A growing percentage of M/Cs are exempt political appointees.

Approximately 70% of those serving in positions designated M/C Grades 18 and below are women and other minority groups. You are probably more familiar with their titles - Keyboard Specialist, Secretary I and II, Budget Examiner, Payroll and Personnel Clerks, Senior Personnel Administrator - to name the most populated titles.

Many of those same titles are also designated into other bargaining units. While the duties and responsibilities for the positions are comparable, there exists a salary gap. An M/C Secretary II at Job Rate/Top of Scale for ten (10) years or more makes \$53,366 and the CSEA represented secretary makes \$55,455. The gap increases as one climbs the ladder of salary grades for the three major units of state employees. Over 60% of the treatment team leader positions at OMH/OPWDD are filled by women and other minorities. These first line managers, in addition to their significant client based responsibilities, also direct PEF represented team members who earn \$8400 to \$10,900 more than their team leader.

A "green ceiling" has been created. It stifles the recruitment, hiring and retention of women and minority candidates for state M/C jobs. This "green ceiling" is the artificial salary limitation placed on M/C positions by the Division of the Budget.

Women and minority candidates find that because of the artificial manipulation of the compensation system, a promotion to a managerial position often means a cut in pay.

It has become common practice that M/C supervisors are making less money than their subordinates. Not through the statutory process of grade assignment by Civil Service's Classification and Compensation Division but through the actions of Division of the Budget.

The proposed Executive Budget Article 7 bill calls for some sweeping statutory changes to Civil Service Law.

While expressing the need for increased flexibility in hiring for promotional positions a cogent point is missed There is a 7% + gap in the wages paid to the M/C workforce when compared to their fellow workers in similar graded titles in other bargaining units. This disincentive was not caused by inflexible hiring rules or laws but rather it remains the product of meddling with the classification and compensation system.

Internal and external candidates will continue to reject M/C positions where they will ultimately be losing compensation and benefits to take the position. This fact can not be overlooked any longer.

While expressing the need for increased diversity and recruitment for our workforce and our M/C ranks why would any minority or woman candidate leave a CSEA or PEF represented position and take an M/C position? They would not and they are not! Changing the merit system to achieve increased flexibility is not the balm that will soothe this injury. In fact, M/Cs have already retreated to previously held CSEA or PEF represented jobs or are in the process of doing so. We have lost and will continue to lose the gains made in recruiting women and minorities into leadership roles!

Let me summarize:

There is no monetary incentive for candidates to seek promotion, nor for incumbents to stay in an M/C position. Succession planning is a cruel hoax.

Civil Service Law §115 defines state policy as equal pay for equal work and carries a guarantee that pay injustice must be addressed. Chapter 10 of the Laws of 2008 put forth and signed into law provided the funding for comparable compensation for all M/Cs. That promise has been broken.

Chapter 491 of the Laws of 2011- the M/C Pay Bill for 2011-2015 institutionalizes a lower salary schedule for M/C employees than for CSEA and PEF represented employees continuing the disparate and discriminatory treatment of M/Cs.

The economics of our times have been used as an excuse to stifle the M/C compensation system. The Division of the Budget and the agencies possess many tools to manage the size and cost of the workforce. By April 2014, M/C employees will have five years of 0% across-the-board raises. Step increases (performance advances) are not automatically paid and are often withheld for the M/C workforce while others are automatically paid.

No one in state service will have given more. M/Cs have had the health insurance cost increases and participation in the deficit reduction leave program imposed on them, and are scheduled to receive salary increases in 2014 and 2015 similar to those guaranteed to CSEA and PEF. Regardless, M/C employees will still be an average of 7% behind their co-workers and perhaps even more if step raises or if statutorily provided increases are again withheld and the already withheld across the board increases are not restored.

OMCE remains committed to resolving the M/C pay equity issue. We grasp the economic condition of the state and nation. We also know that M/Cs have been forced to shoulder a higher degree of financial sacrifice than any other group of state employees!

Mayor Bloomberg and Massachusetts Governor Deval Patrick, in 2009 and 2011 respectively, lifted the “green ceiling” hanging over their M/C staffs. Equitable pay systems were restored and all could once again compete for advancement with the

knowledge that a system of fair pay was restored. And we note that the Senate Republican leadership recently approved across the board increases for its management/confidential employees.

There is no question that M/C employees are totally demoralized. The Governor speaks about opportunities and advancement in a reinvented state government. These opportunities do not exist in the real world of state employment. It is a cruel dilemma to ask dedicated exceptional candidates to take advancement in their field with the knowledge that the new position has been artificially and arbitrarily devalued. This is not a private sector model but it is the way we treat the M/Cs of NYS.

We can re-invent, re-imagine and shuffle the deck of state agencies all we want, yet all state employees understand that advancement or promotion to an M/C job comes with a price most cannot afford to pay.

OMCE will propose legislation to create an M/C Salary Commission (I've attached a draft) that will periodically meet to set the compensation and benefits for those designated M/C including agency commissioners. Such a commission, modeled after the successful Judicial Salary Commission, could re-establish a fair and just M/C compensation system, free of manipulation, mindful of the economy, responsive to the needs of all while restoring fairness, equity and resulting in renewed opportunities in a broken system. I ask you for your support for such a salary commission and assistance on behalf of your constituents in fixing the broken system!

On our initial global review of the budget, it appeared that some of the Governor's proposals re: agency mergers and consolidations were either positive or neutral as far as impact on the workforce and service provision. However, as more detailed review and analysis is taking place, it is clear that many of these proposals would have serious negative consequences on the workforce and on the provision of services as well as giving unfettered authority to the Executive.

Some examples are:

The bill would suspend the 12 month notice for OMH facility closures or ward closures/reductions and replace it with a 30-60 day notice. The bill also proposes closure of Kingsboro Psychiatric Center and gives the authority to the Commissioner of OMH to close or reduce services at other OMH psych centers.

These provisions would reverse the policy of giving affected communities time to plan for re-use of the closed facilities - how does this comport with economic development planning - and would use a time frame that would barely allow the layoff process to be properly implemented and would leave you, the legislators, out of the equation for what programs and services are offered in the communities you represent.

The proposals to consolidate functions such as procurement, real estate management, and IT at OGS make sense; these programs used to be core responsibilities of OGS years ago and the agency performed them well.

On the other hand, putting human resources and finance at the Office of General Services (OGS) makes no sense - the Governor proposes merging Civil Service and Office of Employee Relations which may make sense and designating it as the Department of Workforce Management, which is Human Resources. This is the agency that should have the human

resources function under its jurisdiction and OGS has no particular expertise in Human Resources.

We don't have a specific recommendation re: the finance function but the finance system overhaul has been a joint effort of the Division of the Budget and Office of the State Comptroller.

Based on recent events, the business models being used as examples by the state are not necessarily ones that should be emulated.

The Quality Management movement, so popular years ago may be a better approach since it focused on employee participation in planning and designing changes.

We urge the legislature to reject any provisions that don't include legislative oversight of major governmental changes.

Our written testimony addresses a number of other issues presented in the Governor's proposed budget and provides questions that need to be answered so that specific detailed information is available before you act on this. We also hope to meet with you individually to discuss these issues.

Attachments:

- A) Effects of M/C Pay Withholding 2011-2012
- B) Proposed Draft Legislation - M/C Salary Commission
- C) "Who Is a Management/Confidential Employee"
- D) Civil Service Law Changes