OMCE Testimony
Joint Legislative Budget Hearing on Workforce Development
February 2, 2021

On behalf of the members of the Organization of NYS Management/Confidential Employees (OMCE), I thank you for the opportunity to appear before you to discuss our concerns with Governor Cuomo's Executive Budget proposals related to the State workforce.

Management/Confidential employees constitute over 10,000 active employees and tens of thousands of retirees that have given their careers to State of New York. Management/Confidential employees, by State law, are unable to join a union for collective bargaining. As such OMCE is their advocate, their representative, and their voice here today.

Please note that "M/C" employees are often characterized as only high-level appointees; that is NOT correct. The majority are career civil servants who obtained their positions through competitive examination and who work alongside their union-represented co-workers in institutions, facilities, and agencies. M/C employees often share the very same titles with their PEF and CSEA brothers and sisters.

While there are several areas of the Budget that concern us, there is a single, common thread that runs through each of these concerns; namely the need for fair and equitable treatment of Management/Confidential employees and retirees.

<u>Equal Treatment in Pay:</u>

The highest priority for Management/Confidential employees is to be treated with the same dignity afforded their union counterparts in matters of salary. We all understand and appreciate shared sacrifice in the wake of the COVID-19 pandemic and that means, to any objective party, that EVERYONE shares in belt-tightening until the fiscal climate improves. Salary Increase Deferrals from 2020 impacted all employees, unionized and non-unionized. M/C employees were not, however, treated fairly or equitably. While the 2% promised general salary increases for both union and M/C employees were withheld, tens of thousands of union employees received their longevity payments <u>and</u> their performance advances. But not a single M/C employee received a longevity payment or a performance advance! Why is this a problem?

- Longevity payments are given to unionized employees at all salary grade levels, from Grade 1 through 37; for M/Cs they are paid only to those in Grades 1 through 17. For M/C employees, these are the clerical, secretarial and administrative support jobs that are predominantly held by female employees. This withholding, either intentionally or not, shamefully targeted working women: sisters, mothers, and wives.

- Performance Advances are scheduled incremental increases from a starting salary that lead to the top of an employee's grade level. It is a promise that with satisfactory performance, an employee is granted a modest increase to reflect their advancement in job skills and abilities. These advances are short-lived and stop after six years. Appointees do not obtain these payments; these modest payments are made to career civil servants.

Together this action again puts M/C employees on a slippery slope to inequitable compensation. You cannot eliminate a $15 billion budget deficit on the backs of the few thousand working women and men denied their longevity payments or their performance advances. Keep in mind that M/Cs only constitute 6% of the State workforce! The negative impact on the dignity and morale of these employees who have been yet again singled out for disparate treatment is an injustice.

The impact of disparate treatment in matters of salary extends beyond M/Cs being "left behind" for their April 2020 longevity payments and performance advances. Longevity payments routinely given to TENS of THOUSANDS of unionized State employees are NOT extended to M/C employees between Grades 18 and 37. Creation of longevity payments for M/C employees grade 18 and above would resolve that glaring disparity. Every year the Civil Service Workforce Report clearly demonstrates the salary compression between M/C employees and their subordinates. A simple solution is to implement the very same longevity pay program currently applied to CSEA and PEF employees to their M/C co-workers.

We ask that you right these wrongs by:

A) Having these modest longevity payments and performance advances from April 2020 paid immediately and retroactively,
B) Insisting that the Administration also pay promised April 2021 longevities and performance advances, and
C) Passing legislation that guarantees that general salary increases, longevity payments, and performance advances made to unionized employees are equally made to M/C employees!

Equal Treatment in Retirement:

In 2018 M/C employees still on the payroll received the last 1% of the 7% salary increases withheld in 2009 & 2010 (2% increases had been paid in 2015, 2016, and 2017). Legislative support of providing some measure of fairness to M/C employees was appreciated. While M/C employees who were still working received the cumulative 7% payment, M/C's who retired between 2009 and 2017 have received none or only a portion of the 7% salary increase that was withheld in 2009 and 2010, depending on the timing of their retirement.

We believe these retirees have been treated unfairly and over the years we have presented a number of different proposals to provide them some relief. Please remember: these retirees are negatively impacted in the following ways:

- Permanently lost wages, which in turn resulted in:
- Permanently reduced State Pensions,
- Permanently reduced federal Social Security benefits, and
- Reduced cash value of sick leave used to pay for health insurance in retirement.

As a matter of fairness, we ask that our retirees receive the modest payments that we propose (S.2866). These payments represent only a fraction of the losses that the retirees have incurred:

1) Each M/C retiree whose 2009 & 2010 salary increase was withheld shall receive a $70 dollar per month rebate for every month of withholdings from April 1, 2009 until the date of retirement or 3/31/2015, not to exceed $5000
– OR –

2) Any M/C retiree who retired between April 1, 2015 & June 30, 2017 whose salary increase for 2009 & 2010 was withheld shall receive $5000 less any parity salary increases received during the specified time period.

Equal Treatment in Benefits

Since January 1986 only M/C employees have been mandated to join the Income Protection Plan (IPP) in place of earning sick leave accruals comparable to other State employees. IPP is a short and long-term disability income program. As a result, M/C employees earn eight days of sick leave per year rather than the 13 sick days of most State employees. Over the course of a 30-year career, that accounts for 150 FEWER days of sick leave to use for personal illness and for illness of children and other dependents. This also results in a reduction in the sick leave cash value retiring M/C employees can apply to retiree health insurance premiums AND reduces the value of unused sick leave that is added to the final calculation of a retiree's pension.

The State should allow M/C employees to "opt-out" of IPP coverage if they so choose and be restored to the full 13 days of annual sick leave earned by their union counterparts.

Protection of Benefits

This year again the Governor is proposing several measures that would negatively impact M/C retirees along with other state retirees. These proposals are:

- Implementation of a Differential Health Care Premium Contributions for new civilian hires at retirement based on years of service;
- Elimination of the Medicare Part B Income Related Monthly Adjustment Amounts (IRMAA) for High Income State Retirees;
- Capping State Reimbursement of the Medicare Part B Standard Premium for State Retirees at Current Levels.

We opposed these proposals in past years and the Legislature rejected them. We oppose the proposals this year and urge you to again reject them as they increase health care costs for current retirees living on fixed State pensions and impose even heavier costs on future retirees. You cannot in good conscience ask retirees to change their finances in mid-retirement to balance the budget!

Workforce Enhancements

The challenges brought about by the COVID-19 pandemic have changed the world of work and the State must respond accordingly by ensuring the safety of the workforce while recognizing the flexibility required by working families.

Leave Due to Exposure to COVID-19

COVID-19 can be present in any workplace, but it is especially problematic in institutional and facility settings. Employees are subject to exposure and infection by the COVID-19 virus as they interact with individuals in the routine course of their work. The State cannot, in good conscience, continue to ask employees to risk their lives at work (and potentially that of their families at home) without providing the protection of adequate and reimbursed sick leave accruals during the most challenging public health emergency of a century.

Workplace Safety

The State must enforce strict protocols of safety in the workplace by ensuring that all protective measures are followed in order that employees can return to work with confidence. The State should ensure that all air filtration, work site reconfiguration, availability of Personal Protective Equipment (PPEs), and disinfection efforts required of private sector employers are also implemented in all public sector settings.

Flexible Work Schedules

The State must creatively structure alternative work schedules to reduce the number of employees at work at any one time to meet accepted social distancing guidelines in the workplace and reduce the need for urban commuting via public transportation during high congestion periods.

Telecommuting

The State must expand and permanently adopt its telecommuting program in order to address not only ongoing pandemic issues, but to bring the State in line with progressive employers who have expanded remote work options for employees who can effectively work from home. We can reduce the need for costly office space leases, reduce our carbon footprint, alleviate rush hour traffic, reduce exposure to COVID-19, and improve the competitive footing of the State as an employer of choice.

Attachment: 2020 NYS Workforce Management Report M/C Employees pages 9-11.

Managerial/Confidential (M/C) Employees

Managerial/Confidential (M/C) employees are not represented by a union and are found at all levels of the workforce—from Salary Grade 6 to M-8. Positions are designated Managerial if they: participate in the formulation of policy, participate in collective bargaining negotiations, or have a major role in the administration of negotiated agreements or personnel administration. Confidential designation applies only to those working in a confidential capacity to managerial individuals in personnel or labor relations, but not to those who formulate policy.

Key facts about the M/C workforce:

- 10,317 M/C employees represent 6.7% of the State workforce.

Of those in the retirement system (9,712):

- 53% are 50 or older;
- 35% are 55 or older;
- 14% are 61 (the average retirement age) or older, and
- 29% will be eligible to retire (with full benefits) in five years.

The Management Cohort:

The most crucial employees in the M/C cohort are the 3,844 senior career managers in State service who serve in Salary Grades M-1 through M-8. The average age of the State's managers at the M-1 through M-8 levels is 53, and these managers have, on average, 22 years of service. This group of employees is seven years older than the average State employee. In addition, the group behind them (SG 18-23), which would normally be expected to take their place, has an average age of 48.

While it is impossible to predict with certainty when a given employee will retire, when looking at the workforce as a whole, age and length of service are reliable predictors. At age 55 with 30 years of service, employees are eligible to retire without penalty. In addition, the average age at which employees retire is 61. Because the average length of service at retirement is less than 30 years, age alone can be a relatively accurate predictor of retirement.

The M-1 through M-8 group has 3,844 employees in the retirement system:

- 692 are managers who are already 55 or older with 30 or more years of service.
- 480 are managers who are between 50 and 54 with 25 or more years of service.
- 1,502 managers, or 29% of the M-1 through M-8 workforce, will be eligible to retire within the next five years.
- 581 of the managers are 61 years of age or older. They represent 15% of the M-1 through M-8 workforce in the retirement system.

MC Employees Enrolled in ERS by Age and Retirement Service Credit SG M-1 through M-8 as of January 2020

Age	Total Number	Years of Service 0-24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40 & over
47.9 years & under	1,124	1,097	18	7	0	1	1	0	0	0	0	0	0	0	0	0	0	0
48.0 - 48.9 years	133	103	14	11	3	1	1	0	0	0	0	0	0	0	0	0	0	0
49.0 - 49.9 years	129	89	17	12	5	3	2	0	1	0	0	0	0	0	0	0	0	0
50.0 - 50.9 years	153	91	8	23	11	9	2	7	2	0	0	0	0	0	0	0	0	0
51.0 - 51.9 years	140	74	10	13	9	5	13	9	0	3	4	0	0	0	0	0	0	0
52.0 - 52.9 years	184	88	14	10	12	13	18	18	7	1	3	0	0	0	0	0	0	0
53.0 - 53.9 years	180	67	11	14	9	7	23	20	10	7	7	5	0	0	0	0	0	0
54.0 - 54.9 years	212	69	10	10	13	11	20	23	17	18	10	6	4	0	1	0	0	0
55.0 - 55.9 years	203	68	10	6	10	9	18	14	14	20	12	8	6	6	2	0	0	0
56.0 - 56.9 years	175	53	4	5	10	16	20	8	11	15	12	11	6	1	1	2	0	0
57.0 - 57.9 years	174	58	2	9	8	10	16	9	10	8	11	12	8	5	3	4	1	0
58.0 - 58.9 years	171	56	6	11	4	7	8	12	8	10	9	16	9	6	4	3	2	0
59.0 - 59.9 years	135	42	6	7	3	5	10	8	7	8	4	5	13	9	5	1	2	0
60.0 - 60.9 years	113	36	4	4	6	3	6	9	10	4	4	4	7	3	3	8	0	2
61.0 - 61.9 years	122	34	5	2	4	6	7	6	7	1	13	6	6	3	6	8	2	6
62.0 - 62.9 years	82	22	3	5	2	2	1	4	1	6	5	9	5	3	1	4	2	7
63.0 years & over	377	161	12	11	9	2	16	9	13	19	16	10	10	14	7	13	8	47
Unknown Age	37	31	1	1	0	1	0	1	0	0	0	0	1	0	0	0	0	1
Total	**3,844**	**2,239**	**155**	**161**	**118**	**111**	**182**	**157**	**118**	**120**	**110**	**92**	**75**	**50**	**33**	**43**	**17**	**63**

MC Employees Enrolled in ERS by Age and Retirement Service Credit as of January 2020

Age	Total Number	Years of Service 0-24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40 & over
47.9 years & under	3,815	3,773	29	11	0	1	1	0	0	0	0	0	0	0	0	0	0	0
48.0 - 48.9 years	296	240	24	18	6	4	4	0	0	0	0	0	0	0	0	0	0	0
49.0 - 49.9 years	283	220	22	15	9	4	6	5	2	0	0	0	0	0	0	0	0	0
50.0 - 50.9 years	330	220	20	30	20	19	4	9	6	2	0	0	0	0	0	0	0	0
51.0 - 51.9 years	339	201	16	20	20	16	24	16	5	15	6	0	0	0	0	0	0	0
52.0 - 52.9 years	344	183	20	16	20	15	24	27	12	10	12	5	0	0	0	0	0	0
53.0 - 53.9 years	377	170	18	25	22	15	29	28	20	17	20	10	3	0	0	0	0	0
54.0 - 54.9 years	421	183	16	18	17	19	28	32	27	26	23	12	13	6	1	0	0	0
55.0 - 55.9 years	419	167	17	16	20	17	31	27	24	34	19	15	16	11	5	0	0	0
56.0 - 56.9 years	358	143	9	13	18	22	29	13	22	24	18	18	8	8	6	7	0	0
57.0 - 57.9 years	341	131	8	14	15	15	27	16	13	16	19	18	18	12	8	9	2	0
58.0 - 58.9 years	340	148	14	15	8	10	17	17	12	18	12	21	12	16	10	5	3	2
59.0 - 59.9 years	295	126	15	11	6	13	18	12	10	14	9	9	17	15	6	9	5	0
60.0 - 60.9 years	287	123	9	14	12	10	8	15	15	9	9	13	13	10	6	12	2	7
61.0 - 61.9 years	244	93	11	6	7	14	11	12	19	3	15	13	8	4	7	9	5	7
62.0 - 62.9 years	185	75	4	13	6	2	5	6	6	9	6	12	9	3	4	8	2	15
63.0 years & over	903	446	30	26	18	8	29	19	26	33	35	24	20	28	24	26	26	85
Unknown Age	135	124	1	1	0	1	1	2	0	0	1	0	3	0	0	0	0	1
Total	**9,712**	**6,766**	**283**	**282**	**224**	**205**	**296**	**256**	**219**	**230**	**204**	**170**	**140**	**113**	**77**	**85**	**45**	**117**

The Manager Pipeline

The average age and length of service of the managerial cohort are slightly higher than those of the State workforce in general. This is not unexpected because it takes time and experience to ascend through the management ranks. Typically, there is a "second" employee working behind those in the managerial levels preparing to move up the career ladder. However, as the baby boomer generation continues to exit the workforce, this is no longer the case in New York State government.

MC Employees by Salary Grade
Average Age and Length of Service (LOS)
as of January 2020

SG	Number of Employees	Average Age	Average Length of Service
06	9	50.97	15.08
09	37	44.94	11.46
10	1	33.40	14.58
11	175	48.10	16.21
12	4	46.15	11.88
13	49	50.41	16.12
14	93	49.94	17.38
15	456	52.10	22.16
16	13	56.33	21.32
17	18	51.20	21.21
18	914	43.11	11.59
20	20	51.65	14.87
21	47	50.44	23.01
22	8	46.08	11.14
23	819	48.34	18.74
27	1	36.26	12.60
61	1,087	50.61	20.21
62	675	50.52	20.76
63	858	52.65	23.00
64	785	53.05	23.33
65	326	54.40	24.60
66	189	54.80	24.70
67	31	54.55	22.20
68	198	57.35	18.67
NS	3,312	47.55	11.59
OS	192	58.79	15.67
Total	**10,317**	**49.62**	**17.11**

Lower level staff in titles allocated to Grade 18-23, designated M/C or Professional Scientific & Technical (represented by the Public Employees Federation), constitute the largest pool of candidates for the M-1 through M-8 positions. While not all employees are eligible for promotion to a given position because of specific minimum qualifications, this is the main candidate pool from which vacant managerial positions will be filled. Even assuming a decrease in the total number of managers classified in each agency, there is still a very real shortage of candidates for management positions within New York State government.

The average age of those in M/C grades 18 to 23 is 48. Accordingly, the average age of those who would be expected to move up into managerial positions is very close to the age of those they would succeed. Given that employees usually advance one M grade at a time, it would seem that those not yet in the M grades may not have time to advance beyond the lower M grades before they too are retirement eligible.

In addition, there may not be enough employees in the lower management levels to take over for those leaving at the higher levels prior to reaching retirement age. For example, 675 workers are at the M-3 level with an average age of 53. Similarly, 858 employees are at the M-2 level, with an average age of 51.

The high average age (36) of new hires and M/C employees could cause a shortage of future managers to fill State positions.