



The Organization of New York State Management Confidential Employees

Over 45 Years of Outstanding Management Committed to Excellence

OMCE TESTIMONY

JOINT LEGISLATIVE BUDGET HEARING ON WORKFORCE DEVELOPMENT

MARCH 1, 2023

On behalf of the members of the Organization of NYS Management/Confidential Employees (OMCE), I thank you for the opportunity to present our views on Governor Hochul's Executive Budget proposals related to the State workforce.

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

Management/Confidential employees, by State Law, are unable to join a union or engage in collective bargaining, and therefore they are not protected by a contract. As a result, they are frequently treated differently than their union represented co-workers - to their disadvantage.

In light of this, OMCE was formed to serve the 10,000+ M/C employees working for New York State, to protect their rights, be their advocate and be their collective voice. Our rich experience in employee relations and advocacy recommends OMCE as a partner to work with the administration as it explores and implements needed improvements to existing Civil Service and human resources systems. In this role, we come to you today to speak on behalf of M/Cs, and to offer the following comments and suggestions regarding government workforce proposals in the Budget.

First, let me note that the majority of M/C's are 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 same titles as their PEF and CSEA colleagues, differentiated from them only by the need for those working in areas such as human resources, labor relations, negotiations, and budgeting, and for those working in a confidential position to managers in these fields, which requires them to be designated M/C. Most are in graded positions from 6 to M-6, not the high-level appointees some imagine. Further, our members are all too familiar with workforce shortages that are exacerbated by retirement trends and the resulting need to attract and retain new employees. Therefore, we welcome positive changes to the State's Civil Service system as it pertains to recruitment and selection as well as compensation.

COMPENSATIONS PLANS

Despite the age of the current compensation plan, there are many benefits to the grade allocation system in place. These include:

- Planned incremental salary advancement linked to years of satisfactory job performance;
- Formal transfer mechanisms between titles in similar grades that allow for career advancement and additional career opportunities;
- Reduced opportunity for favoritism and
- Established and deliberate processes to strategically increase salaries based upon geographic or occupational hiring difficulties.

Any proposed change in the compensation plan should avoid reducing current employee salaries and anticipated or scheduled increases in employee salaries; include meaningful cost of living adjustments for metropolitan regions of the State; and improve distinctions in salaries between employees and their supervisors and managers. OMCE would also support **expansion of overtime eligibility** beyond the grade limits established by the NYS Division of the Budget in 1969.

We caution that a compensation system that attempts to match private sector trends may cause challenges in administration and budgeting. For example, the impact of inflation on wage increases for in-demand occupations can outpace the State's ability to pay and may also result in the private sector simply raising their salaries to compete with us.

Pay Equity

OMCE notes that a statewide pay equity study was conducted during the Mario Cuomo administration. It resulted in the upward adjustment in compensation for scores of titles that were filled predominantly by protected classes. OMCE cautions that any future pay equity studies must also consider maintaining salary distinctions between entry-level titles and supervisory and managerial titles. It is also critical that such studies address distinctions in pay and benefits between union-represented and non-represented M/C titles to ensure that stark disincentives to joining management ranks are eliminated. Candidates should be confident in knowing that pay, benefits, overtime and job protection advantages offered at the beginning of one's career will be continued as they advance in their State career.

Retirement Equity

While pay equity is vital, it is equally important that the State address retirement equity among its employees. OMCE would support legislation to equalize treatment in how State pension benefits are calculated across titles and occupations. All too often pension benefit calculations benefit those in security and law enforcement titles. We believe that ALL employees, regardless of pay level or occupation, should be on an equal footing when pension benefits are calculated. To pursue pay equity alone fails to

address the increasing gap in retirement equity that has been identified in numerous studies.

DIVERSITY IN HIRING AND EMPLOYMENT

Increasing diversity can be achieved without ignoring the merit system by:

- Allowing for expanded remote working arrangements where feasible;
- Filling positions that would typically be stationed in the Capital Region in metropolitan areas instead, allowing technology to bridge the distance between locations;
- Employing technology to expedite all aspects of hiring processes;
- Cultivating closer relationships between State HR offices with schools and colleges to attract graduates; and
- Reconsidering title minimum qualifications that over-value academic credentials and thereby serve as a bar to employment opportunity while discounting valuable candidate experience and aptitude.

Eliminating Civil Service Barriers to Hiring and Retention

Any amendments to the Civil Service Law that allow agencies to continuously recruit for in-demand titles, add to the pool of qualified candidates at more regular intervals, and create a more efficient and modernized exam process, must still preserve the constitutional requirements of merit and fitness in employment. Difficulty to recruit for a position, for example, is not grounds to remove a position from the competitive examination process. The Civil Service Law requires that positions can **only** be removed from the competitive class when and where there is justification that a position or positions are impracticable to examine for competitively.

We urge this administration to avoid expanding non-competitive jurisdictional classifications that do not meet these requirements. Although such may be easier for agencies, it seriously erodes the merit system on which our New York's civil service system is based.

A strong alternative is to support the Department of Civil Service with improvements in technology that allow faster testing and scoring and provide the staff necessary to produce lists quickly and efficiently. Continuous recruitment examinations, expansion of electronic evaluations of training and experience as an alternative to paper examinations, and demystifying the recruitment and selection process so that candidates do not need assistance to navigate the Civil Service system any more than they need assistance to find a job in the private sector, will further improve hiring speed for agencies.

Recruitment

We agree that a "Public Service Matters" marketing campaign may be helpful, and commend any and all efforts to boost the health care and nursing workforce.

However, we are less certain of the value provided by establishing “Centers for Careers in Government” across New York State. The Department of Civil Service attempted to implement similar regional efforts in the past; these did not prove successful in the long run. And now that we have extensive digital tools at hand such regional offices may be less relevant than they once might have been.

Alternatively, resources could be provided to agencies to allow them to focus their recruitment efforts on the jobs that they need to fill in the communities they serve.

The Department of Labor could be equipped to direct job seekers to State government positions and its staff trained accordingly.

Rather than staff a civil service employee in each DOL regional office, we suggest that DOL regional offices provide video access to Civil Service staff as needed. This is preferable, because DOL can reach out to the staff most knowledgeable in the subject in question. For example, if questions concern technology jobs, the unit that works with technology jobs would be ready with the best information available in that field, thus creating an efficient, valuable, and cost-saving partnership.

EXPANDING ACCESS TO PAID PARENTAL LEAVE

We support the proposal to expand 12 weeks of fully paid parental leave to use for bonding with a newborn, fostered, or adopted child to all State employees and are pleased to learn that the Governor directed the Office of Employee Relations to institute this policy for all unrepresented (M/C) employees as soon as possible.

HEALTHCARE AND MENTAL HYGIENE WORKER BONUS

OMCE supports the continuation of this program for eligible M/C employees participating with providing direct care services.

ETHICS AND SEXUAL HARASSMENT TRAINING

OMCE supports ethics and sexual harassment training and agrees that in-person learning is the preferable methodology. However, since there are many thousands of employees to be trained and limited resources to conduct the training, OMCE suggests that until it can be implemented, an online training package should be utilized.

EQUAL TREATMENT IN COMPENSATION

The highest priority for M/C employees is to be treated with the same sense of value, worth, and respect afforded their union counterparts in matters of salary and benefits, but this is not happening: Some examples:

- 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.

However, more burdens were placed on MCs than were placed on union represented employees.

- Longevity payments are given to unionized employees at **all salary grade levels**, from Grade 1 through 37. M/Cs receive longevity payments only for Grades 1 through 17.
- Performance Advances are scheduled incremental increases over the first six years of service to reflect advancement in job skills and abilities. It is a promise that with satisfactory performance, an employee's salary will grow within the grade's salary range. To withhold these advances from M/Cs but pay them to union-represented employees is neither fair nor equitable.
- Every year the Civil Service Workforce Report clearly demonstrates the salary compression between M/C employees and their subordinates, causing numerous and damaging consequences to the efficient management and provision of services to our NYS citizens.

Together these actions contribute to the inequitable compensation of M/C employees compared to their union-represented co-workers.

Please keep in mind that M/Cs only constitute 6% of the State workforce, and monies "saved" by withholding salary increases, performance advances, and longevity payments do not significantly impact the State budget, but the negative impact on the dignity and morale of M/C employees who have been yet again singled out for disparate treatment cannot, in conscience, be justified.

The first steps to rectifying this is to:

- A. Implement the same longevity pay program currently applied to CSEA and PEF represented employees to their M/C co-workers.
- B. Desist from withholding salary increases and other benefits to M/C's when such is not withheld from union-represented employees.
- C. Pass legislation introduced this year, that guarantees that general salary increases, longevity payments, and performance advances made to unionized employees are concurrently and equally made to M/C employees –**S2395 / A3766**.

MC RETIREES

Throughout 2015 to 2018 M/C employees still on the payroll received the 7% salary increases withheld from them in 2009 and 2010. M/C's who retired between 2009 and 2017 received none or only some portion of the 7% salary increase that was withheld in 2009 and 2010, depending on the timing of their retirement.

Please note, these retirees are negatively impacted in the following ways:

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

These retirees have been treated unfairly, and since 2010, we have presented a number of different proposals to provide them some relief.

This year, we are introducing legislation to provide these retirees with a modest payment as follows:

Each M/C retiree whose 2009 and 2010 salary increase was withheld shall receive a \$70 per month rebate for every month of withholdings from April 1, 2009, until the date of retirement or March 31, 2015, not to exceed \$5,000. The approximate cost is estimated at \$8 million. **We request that these provisions for retirees be included in the State Budget.**

Please note that these payments represent only a fraction of the losses that these retirees incurred. Bill numbers for this legislation will be provided as soon as they are available.

EQUAL TREATMENT IN BENEFITS

Since January 1986 only M/C employees have been mandated to join the Income Protection Plan (IPP), a short and long-term disability income program, in place of earning sick leave accruals comparable to other State employees. As a result, M/C employees earn eight days of sick leave per year rather than the 13 sick days of most other State employees. Over the course of a 30-year career, M/Cs receive 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.

OMCE supports a plan that would allow M/C employees to have a choice between IPP coverage or the 13 days of annual sick leave earned by their union-represented co-workers, and we ask your support to make this happen.

WORKFORCE ENHANCEMENTS

The challenges brought about by the COVID-19 pandemic have changed the world of work, and whether it is COVID or something new, it is clear that we must be better prepared.

OMCE would support the State in responding accordingly by ensuring the safety of the workforce while recognizing the flexibility required by working families as follows:

- To keep our employees and citizens safe, buildings in which they work and visit should have appropriate air filtration, work site reconfiguration to provide distancing, and institution of effective and regular disinfection protocols.
- Flexible work schedules can reduce the number of employees in the workplace at any one time to further improve the ability to meet distancing guidelines.
- Telecommuting will address not only ongoing pandemic issues, including allowing employees to work from home when under quarantine, but also brings us more in line with progressive employers who have expanded remote work options for employees who can effectively work from home. It will also reduce the need for office space, reduce our carbon footprint, alleviate rush hour traffic, and improve the competitive footing of the State as an employer of choice.
- Currently each agency may produce their own policy on these options, and appropriately so, as agencies have diverse needs in this regard. However, it is important to ensure that our employees are treated fairly and equitably both within an agency and between agencies, to the greatest extent possible. “Just say no” was coined for drug use; it should not be used just because change is undesired or deemed too difficult. Agencies should be able to justify the policies they develop with cogent reasoning to support them.

In conclusion, M/C employees constitute over 10,000 active employees and thousands of retirees who have spent their careers in service to the State of New York. They deserve to be treated at least as well as their union-represented counterparts, and not be singled out for disparate treatment just because they do not and cannot have a contract to protect them. Instead, there is a greater need to protect our valuable M/C employees and to consider the needs of M/C retirees. Not only because it is fair, it is the right thing to do. And note that all of our suggestions can improve recruitment by showing job seekers that we are a fair and desirable employer.

We appreciate the Governor’s commitment to revitalizing the State workforce. We thank you, our Senators and Assemblypersons, for considering our concerns, and we look forward to being your partner in this process.

Barbara Zaron
President

Attachments (2)