Government Edition

In early June MCO reported on two bills (HB 4701 and HB 4702) introduced on behalf of the Snyder administration that call for a complete overhaul to the State Employee Retirement System. The specifics of this legislation are still being debated but the overwhelming consensus shows individual employees will stand to lose tens of thousands of dollars in future benefits as the state scrambles to shed $14.9B in unfunded liabilities.

The legislation states that any State Employee currently in the Defined Benefit (DB) system would keep their future health insurance (as promised) but would have to make a decision to begin “voluntarily” paying 4 percent of their salary into a Retiree pension fund starting October 1st, 2011. If an employee chooses not to pay the 4 percent, they would have their years of service and pension frozen and be immediately transferred to the Defined Contribution (DC) plan. To make matters worse, the bill mandates that after October 1st, overtime will no longer be counted for the purposes of calculating one’s pension.

For those currently in the DC plan the effects of this bill are devastating as it would remove any health care coverage upon retirement. Instead, those employees with less than 4 yrs. of service will receive a one-time payment of $2,000 into a Health Reimbursement Account (HRA) which they can access upon retirement to purchase their own health care and/or cover health care costs. Those with 4-10 yrs. would receive one-time payments into an HRA based on an actuarial calculation of today’s value of their earned retirement health care benefits and those with 10 or more years would get a slightly higher amount based on the same formula.

It should be noted that the bill provides access to these HRA’s only if the individual has attained 55yrs. of age with 30 yrs. of service or reaches 60 yrs. of age with 10 yrs. of service. If for any reason an employee separates from state employment without reaching this attainment date and fails to re-enter state employment within 5 years, the employee gets nothing in the form of retirement health care.

House and Senate Wrap up Budget

Governor Rick Snyder and Republican leaders of the House and Senate spent the last week of May wrapping up a final budget agreement that outlined specific targets for each State Department. As reported in the KYI, the DOC budget was lowered to $1.875B - $55M less than Snyder’s original budget recommendation - and includes dangerous proposals for staff and services.

The leadership also announced that higher than expected revenues would mean a $35M reduction in the total amount of concessions being sought from all state employees ($180M reduced to $145M). Under the original plan MCO was tagged with just over half of all concessions ($95M). MCO has now been informed the new concession target is $72M. Stay tuned to the website and weekly updates for more information.

Mound Saved from Budget Scare

Over the past few months MCO and members of the Mound Correctional Facility did everything they could to take the facility off the budget chopping block. During the final Conference Committee those efforts did not go unnoticed as the House and Senate agreed to fully fund Mound and remove its name from the closure savings list for 2012.

For those following this story, this all began on April 15th, 2011, with a surprise move by House Corrections Chair, Joseph Haveman, to usurp the Department of Corrections administrative powers and unilaterally choose Mound as a target for over $5.5 million in savings. The selection came so sudden that it caught fellow committee members, MCO and even the Department of Corrections off guard with Chair Haveman offering little to no explanation or data on why Mound was chosen.

Knowing the closure only existed in the House budget, MCO instantly began an aggressive campaign to educate legislative leaders, raise awareness and get information to the public in hopes that Mound could be saved during the reconciliation process where the House and Senate budget differences are worked out. Due in part to intensive lobbying, radio interviews, a personal meeting with MCO and Senate Corrections Chair John Proos, continuous member action via phone and email, an MCO Town Hall with key legislative allies and countless hours of dedication and perseverance by the men and women of the Mound Correctional Facility the campaign was a success!

Special Thanks to Mound President and MCO Board Member - Adam Douglas for all his hard work and effort fighting for NRF.

Major boilerplate changes to Corrections Budget

- Use of Closed Facilities - New language encourages the Department to sell, rent, or otherwise repurpose closed correctional facilities to create public/private partnerships. (Senate Sec. 237; House Sec. 238).
- Privatization of Special Alternative Incarceration Facility - requires Department to seek bids for privatization of SAC by January 15th, 2012.
- Privatization of Food Services and Prison Stores.
Arbitration Decision
FMLA REGULATIONS TRUMP CONTRACT LANGUAGE, AND UNION’S SECONDARY ARGUMENT IS BEYOND HIS PURVIEW
By: J. Martin Foldie, Esq. & Michael Dillon, Esq., Thomas M. Cooley Law School

Article 37 within the Collective Bargaining Agreement contains an Attendance Incentive Payment Program. This program allows for various payments to members based on their attendance throughout the year. Prior to August 26, 2009, members utilizing sick leave for a qualifying FMLA leave were not disqualified from receiving the incentive payment.

On January 16, 2009, the U.S. Department of Labor changed the FMLA regulations. The change allowed an employer to disqualify members that utilized a qualifying FMLA leave from receiving attendance bonuses. However, there was an exception. Under the new regulations, an employer could not deny the bonus for qualifying FMLA leave if members on an “equivalent leave status” were awarded the attendance bonus.

On August 26, 2009, the Department notified MCO that it would follow the U.S. Department of Labor’s changes to the regulations. On September 11, 2009, MCO filed an et al grievance contending the Employer was in breach of the contract. The grievance worked its way through the grievance procedure to arbitration.

It was MCO’s position that the negotiated language trumped the amended Regulations of 2009. Moreover, because of the “exception”, MCO believed that it was disparate treatment to pay awards to persons using bereavement leave and not a FMLA qualifying condition. MCO regards bereavement leave as an “equivalent leave status” as FMLA leave.

On December 6, 2010, Arbitrator Gravelle ruled against MCO when he found that there was not a contractual violation.

As it relates to MCO’s argument concerning the “exception clause” within the Regulation itself, the Arbitrator refused to rule on the argument. Arbitrator Gravelle opined that he was barred from rendering a decision on the Regulation argument because of contractual language.

After Arbitrator Gravelle ruled, MCO took the time to research the issue regarding the amended regulation. It is MCO’s position that some members may have individual rights to pursue potential disputes with the U.S. Department of Labor under the amended FMLA regulations. If you believe you may have been adversely affected, you are encouraged to consult an attorney for protection of your individual rights.

SAI Future Grim.
For several years various groups in the legislature have tried to eliminate the SAI boot camp but despite their best efforts, had proven relatively unsuccessful... until this year. Under the Conference Report released, Tuesday May 23rd, the MDOC will be required to release an RFP (request for proposal) seeking bids for privatization of SAI by January 1, 2012. Extensive lobbying by MCO that the boot camp was a model of efficiency, had always been cost effective, reduced recidivism and diverted felons from prison fell on deaf ears as the overarching Republican agenda set its sights on $1,000,000 in savings and a way to privatize the first of Michigan’s Prison facilities.

MCO and SAI staff sent emails, letters, made phone calls, held one-on-one lobby visits and raised general awareness with the media and public on the value SAI provides to the State of Michigan. Nonetheless, the ruling party has chosen to ignore the facts, ignore our warning about private prisons and ignore the community that depends on the prison labor and services.

A long time friend and advocate of MCO, Senator Glenn Anderson (D-Westland) was one of the few Corrections Committee Members to stand up in defense of the program during Senate session, saying: “I rise today to speak against the Michigan Department of Corrections budget. I will be voting against it because it is a perfect example of the shortsighted mindset that privatization is the cure for all the state’s financial woes. I fail to see how laying off workers and privatizing prison services are sound decisions, especially when privatization as a whole rarely proves as economically viable as my colleagues across the aisle like to believe. These proposals are very unwise for food service, the prison store, and most concerning of all, for the operation of what we call the boot camp, or the Special Alternative Incarceration program near Chelsea.”

MCO will continue to track the privatization RFP but Republicans seem poised to make good on their promise and stick by their plan to find a private vendor by January 1st.

Six months ago MCO embarked on a ground-breaking campaign to raise awareness about the fundamental imbalance of power in Michigan and the devastating impact it is having on working families.

Joined with coalition partners throughout the state, our campaign focuses on policies that lead to more and better jobs, building support for the vital services delivered by State workers, on defending our pensions, and demanding that corporations pay their fair share of taxes and invest in good jobs in our communities.

To date, MCO’s membership has responded by getting involved at every level of state government and declaring in a unified voice that the anti-worker, anti-middle class agenda of Gov. Snyder will not be tolerated.

To date, MCO’s membership has responded by getting involved at every level of state government and declaring in a unified voice that the anti-worker, anti-middle class agenda of Gov. Snyder will not be tolerated.

MCO does not accept paid advertising in the MCO Report. No one is authorized to solicit advertising for the MCO Report in the name of MCO or SEIU Local 526M. To send e-mail to an MCO staff member, type his or her first name followed by: @mco-seiu.org.

If you have changed your address, phone number, or e-mail, please inform MCO immediately at 1-800-451-4875 (phone), 1-800-327-5266 (fax), or complete the online form on our website.

Editor - Sacha Crowley