



NOVEMBER  
2002  
BALLOT PROPOSAL 02-3

An Overview

Prepared by  
Jessica Runnels,  
Fiscal Analyst

September 2002

Gary S. Olson, Director

Phone (517) 373-2768  
TDD (517) 373-0543

[www.senate.michigan.gov/sfa/](http://www.senate.michigan.gov/sfa/)



On November 5, 2002, electors in Michigan will decide whether the collective bargaining process for State employees should change through an amendment to Article XI, Section 5 of the Michigan Constitution of 1963, which established the Civil Service Commission. If approved by the voters, Proposal 02-3 will provide that: State classified employees have a constitutional right to bargain collectively with the State; the State will bargain in good faith; the agreement reached between the State Employer and the bargaining representative will be binding; and the bargaining representative will have the right to submit any unresolved disputes to binding arbitration 30 days after bargaining begins.

Currently, compensation of State classified employees is determined by the Civil Service Commission, which is appointed by the Governor. Under conditions set by the Commission, an agreement is collectively bargained between union bargaining representatives and the State, represented by the Office of the State Employer. If the parties cannot reach an agreement, the Commission assigns an impasse panel to resolve outstanding issues. The agreement then is presented for approval to the Commission, which may modify the agreement before approval. In certain circumstances, the Commission may amend the collective bargaining agreements after approving them. The Civil Service Commission also sets the compensation rates for nonexclusively represented classified employees.

The Legislature has the constitutional authority to reduce or reject by a two-thirds vote of each house the increases in compensation rates provided in the agreements. Previously, one unsuccessful attempt was made to exercise this authority.

### **Proposal 02-3**

Proposal 02-3 is the result of a petition circulated among electors for qualifying signatures. The following language will appear on the ballot:

#### ***PROPOSAL 02-3***

#### ***A PROPOSAL TO AMEND THE STATE CONSTITUTION TO GRANT STATE CLASSIFIED EMPLOYEES THE CONSTITUTIONAL RIGHT TO COLLECTIVE BARGAINING WITH BINDING ARBITRATION***

*The proposed constitutional amendment would:*

- *Grant state classified employees, in appropriate bargaining units determined by the Civil Service Commission, the right to elect bargaining representatives for the purpose of collective bargaining with the state employer.*
- *Require the state to bargain in good faith for the purpose of reaching a binding collective bargaining agreement with any elected bargaining representatives over wages, hours, pensions and other terms and conditions of employment.*
- *Extend the bargaining representative the right to submit any unresolved disputes over the terms of a collective bargaining agreement to binding arbitration 30 days after the commencement of bargaining.*

*Should the proposal be adopted?*

### **Discussion**

If a majority of the electors voting on Proposal 02-3 cast "yes" votes, it will extend collective bargaining rights to all State classified employees, including those not currently represented by a labor union. The Proposal also will remove the ability of the Legislature to reject or reduce the compensation rates in the collectively bargained contracts, and will take the Civil Service Commission out of the collective bargaining process. Under Proposal 02-3, the agreement reached between the bargaining representatives and the Office of the State Employer will be binding. The Civil Service Commission

will not be able to amend the agreement at any time, and the Commission's approval of the agreement will not be required. Unresolved disputes will be referred to binding arbitration instead of an impasse panel. The single arbitrator will be chosen with the assistance of the Michigan Employment Relations Commission through the process established in Public Act 312 of 1969 for public police and fire departments.

The petition language is modeled on the constitutional section for State Police Troopers and Sergeants. Proposal 02-3 provides for a similar negotiation and arbitration process, with a few variations. One of the differences is that the Proposal mandates the State to bargain in good faith. Good faith means that a party must tell the truth and may not deceive or mislead the other party, must meet at reasonable times and places, and must negotiate over terms and conditions of employment. Civil Service Rule 6-2.1(b) requires both negotiating parties to bargain in good faith.

Another difference between the Proposal and the constitutional section for State Police Troopers and Sergeants involves the specification of what issues the collective bargaining agreement may address. The constitutional language for the State Police Troopers and Sergeants prohibits negotiations on the issue of promotions. Proposal 02-3 does not specifically exclude any issue from collective bargaining for State classified employees. Civil Service Rules currently prohibit bargaining for State classified employees on the classification and grade assignments of positions, disbursements for personal services outside the classified service (subcontracting), the collective bargaining process, and Civil Service Rules. It is unclear what role Civil Service Rules will have if the Proposal is adopted.

### **Fiscal Impact**

If approved, Proposal 02-3 will not affect the State budget until fiscal year (FY) 2004-05, when the current agreements begin to expire. The current collective bargaining agreements are three-year contracts effective through FY 2003-04 or 2004-05. Since the Proposal provides guidance for the collective bargaining process, not the actual agreement, the current labor agreements will not need to be renegotiated if Proposal 02-3 is approved.

The fiscal impact of Proposal 02-3 depends entirely upon the outcome of collective bargaining negotiations. The Proposal could save the State money, could have no impact on the State budget, or could cost the State hundreds of millions of dollars. Over the past 22 years, the compensation rate increases for State Police Troopers and Sergeants have averaged 1% to 2% more than the increases for all other State employees. The Office of the State Employer estimates that the State incurs an additional \$30 million in compensation costs for a 1% pay increase to State classified employees. If approval of Proposal 02-3 led to a similar 1% to 2% increase in compensation rates for State classified employees, the Proposal could result in approximately \$30 million to \$60 million in additional expenditures each fiscal year.

Also, an agreement reached through binding arbitration often results in retroactive pay for the employees at the time the arbitrator's decision is made. In the 22 years the State Police have had collective bargaining rights, two contracts covering a total of six fiscal years have been referred to binding arbitration, which resulted in a delay of a few years for a final agreement. If Proposal 02-3 is approved, to avoid a sudden large expense for retroactive salaries, the State may decide to put aside sufficient funding annually in anticipation of the arbitrator's decision. The State might realize revenue from the interest earned on any funds the State decides to reserve while the agreement is in binding arbitration.

Additionally, if an agreement is referred to binding arbitration, each party might incur expenses totaling a few hundred thousand dollars for the arbitration proceedings. Costs for arbitration include legal representation throughout the two- to three-year process, 10 to 20 arbitration hearings, and meeting facilities. Supplemental appropriations would be necessary for expenses related to the arbitration proceedings, and, if required by the final agreements, for compensation increases above any amounts reserved for that purpose.

## **Implementation**

Article XII, Section 2 of the Michigan Constitution provides that amendments may be proposed to the Constitution by petition of the registered electors. If a proposed amendment is approved by a majority of the electors voting on it, the amendment will become part of the Constitution at the end of 45 days after the date of the election. Thus, if Proposal 02-3 is approved, it will take effect on December 21, 2002.