

# HOUSE BILL No. 5677

May 19, 2016, Introduced by Rep. Lauwers and referred to the Committee on Workforce and Talent Development.

A bill to provide a grievance procedure for state civil servants; to provide powers and responsibilities for state departments, agencies, and officers; and to provide a right of appeal.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "grievance procedure act".

3           Sec. 2. As used in this act:

4           (a) "Civil service commission" or "commission" means the  
5 commission created in section 5 of article XI of the state  
6 constitution of 1963.

7           (b) "Employee" means an employee in the classified state civil

1 service as described in section 5 of article XI of the state  
2 constitution of 1963.

3 (c) "Grievance" means an appeal authorized under section 3.

4 (d) "Just cause" means conduct that directly and negatively  
5 impacts the department's ability to accomplish its statutory duties  
6 in a fair, timely, equitable, and transparent manner.

7 Sec. 3. An employee may file a grievance for an appeal to the  
8 civil service commission following discipline or dismissal by the  
9 head of a principal department for conduct that the employee  
10 believes does not constitute just cause.

11 Sec. 4. (1) A grievance must be signed and filed in writing  
12 within 14 calendar days after the employee knew of or, in the  
13 exercise of reasonable diligence, should have known of the  
14 circumstances giving rise to the grievance.

15 (2) Unless the grievant elects review by the full commission,  
16 a hearing officer or designated agent of the commission may hear  
17 the grievance.

18 (3) The grievant and the principal department shall share the  
19 cost of the review equally.

20 (4) The commission shall not award attorney fees, witness  
21 fees, costs, or other expenses.

22 (5) The commission shall not award interest on any monetary  
23 award.

24 (6) The commission shall not award damages to a grievant in a  
25 limited-term appointment for any period after the expiration date  
26 of the grievant's term of appointment.

1           (7) The commission may award back pay, but the back-pay award  
2 is limited to pay for regularly scheduled hours and holidays for  
3 which the employee normally would have been paid. A back-pay award  
4 must not include any other pay premium, such as overtime, on-call,  
5 callback, explosives duty, out-of-state location, or emergency  
6 response premium. A back-pay award is subject to all of the  
7 following deductions:

8           (a) Earnings in other employment or self-employment, except  
9 previously approved supplemental employment.

10           (b) Benefits received from employer contributory income  
11 protection insurance.

12           (c) Benefits received under worker's compensation,  
13 unemployment compensation, social security, or social welfare  
14 programs.

15           (8) The civil service commission may award sick and annual  
16 leave credit that would normally have accrued during the period of  
17 vacated discipline or dismissal.

18           (9) The civil service commission may award seniority credit  
19 and longevity compensation that would normally have accrued during  
20 a period of vacated discipline or dismissal. Any such seniority  
21 credit shall not be used for classification or qualification  
22 purposes.

23           Sec. 5. (1) For the commission to consider a grievance, the  
24 grievant must allege that he or she was dismissed or disciplined by  
25 the head of a principal department without just cause.

26           (2) The civil service commission shall not consider a  
27 grievance based on any of the following:

1 (a) The failure to renew or extend the employee's appointment  
2 under a limited-term contract.

3 (b) The failure to renew or extend the term of a limited-term  
4 position.

5 (c) A nondisciplinary lateral job change.

6 (d) An appointment decision arising out of the selection,  
7 appointment, or certification of a candidate for a position.

8 Sec. 6. (1) The civil service commission shall consider a  
9 grievance and issue a written grievance decision setting forth  
10 findings of fact, conclusions of law, and any remedial orders. If  
11 the commission fails to issue a decision on the grievance within 28  
12 calendar days, the grievance is considered to be administratively  
13 denied.

14 (2) The civil service commission shall reverse the discipline  
15 or dismissal that caused the grievance only if the head of the  
16 department acted arbitrarily and capriciously in determining that  
17 the employee's conduct was just cause for discipline or dismissal.

18 (3) The grievance decision of the civil service commission or  
19 an administrative denial is binding unless the grievant files a  
20 timely appeal, as authorized in this act.

21 Sec. 7. (1) A grievance decision or administrative denial is  
22 final and binding on the parties 28 calendar days after the date  
23 the decision is issued, unless either of the following applies:

24 (a) The decision provides for a later effective date.

25 (b) Either party files a further appeal to the circuit court  
26 within 27 calendar days after the date the written decision is  
27 issued or the grievance is administratively denied. Upon filing of

1 an appeal and subject to subsection (2), the effective date of the  
2 decision is automatically stayed pending further order.

3 (2) If a written grievance decision of the civil service  
4 commission orders a principal department to reinstate a grievant  
5 who has been dismissed, the principal department, as a condition of  
6 further appeal, shall either reinstate the grievant or restore the  
7 grievant's base pay and medical, dental, and vision group  
8 insurance. The principal department shall continue the  
9 reinstatement or payment of base pay and benefits while the further  
10 appeal is pending.

11 Enacting section 1. This act does not take effect unless  
12 Senate Joint Resolution \_\_\_\_\_ or House Joint Resolution MM (request no.  
13 05825'16) of the 98th Legislature becomes a part of  
14 the state constitution of 1963 as provided in section 1 of article  
15 XII of the state constitution of 1963.