

# Protect Our Jobs, a Proposed Constitutional Amendment Fact Sheet

by Mary Pollock, Michigan SERA Legislative Representative  
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At its May 4, 2012 meeting in Lansing, the Michigan SERA Coordinating Council composed of delegates from SERA chapters around the state endorsed the campaign to put a constitutional amendment on the ballot guaranteeing collective bargaining rights similar to that which the state police troopers and sergeants achieved through a constitutional amendment in 1978. The Council heard from Erin Butler, the Mid-Michigan field representative of the Protect Our Jobs campaign, and Larry Schneider, attorney for the Michigan State Police Troopers Association, before voting overwhelmingly to endorse it.

The proposed amendment includes the right to bargain retirement and pensions for future state employee retirees. It will not provide for bargaining over current state retiree pensions and benefits. However, should the health care benefits of current state retirees be threatened with change, the state employee unions would likely speak up to protect them because it would be protecting the future benefits of their own active members. The POJ ballot proposal thus enlists more advocates for protecting our pensions and benefits.

This paper intends to:

- \*\* explain the proposed [Protect Our Jobs Constitutional Amendment](#)
- \*\* discuss the role SERA can play
- \*\* give the reader resources for further action.

## ABOUT THE PROPOSAL

**Guaranteeing the right to bargain** – Generally the right to collective bargaining derives from federal and state statutes. Over 80 bills have been introduced in the Michigan Legislature since January 2011 limiting unionization rights in Michigan or setting back employee rights such as workers' compensation or unemployment insurance benefits. Twenty-five of these measures have been signed into law. See the list at the [Michigan AFL-CIO Web site](#).

The proposed Protect Our Jobs constitutional amendment would create a constitutional right to collective bargaining in Michigan's Constitution for both public and private sector employees. It would roll back anti-union measures already adopted by the Legislature if in conflict with the amendment. Nearly 323,000 valid signatures will be needed by July 9, 2012 to get the POJ amendment on the November 6, 2012 ballot for a vote of the electorate.

**Right to bargain for state employees** – Under Article XI, Section 5 of the Michigan Constitution, the Civil Service Commission has authority over the collective bargaining system for state employees other than state police troopers and sergeants. The economic portion of a Civil Service Commission approved collective bargaining agreement is transmitted to the Governor for inclusion in the executive budget proposal for the Legislature's consideration. The Legislature has 60 days to disapprove the compensation proposal by 2/3 vote.

The POJ proposal contains a provision to assure constitutionally-protected collective bargaining

rights for all classified state employees using language very similar to the provision for collective bargaining rights for state police troopers and sergeants gained through a constitutional amendment in 1978.

The proposed paragraph that would be added to Article XI, Section 5 of the Michigan Constitution and states:

*Classified state civil service employees shall, through their exclusive representative, have the right to bargain collectively with their employer concerning conditions of their employment, compensation, hours, working conditions, retirement, pensions, and other aspects of employment except promotions, which will be determined by competitive examination and performance on the basis of merit, efficiency and fitness. (Emphasis added.)*

**Right to bargain retirement benefits** - Important to state employee retirees and Michigan SERA is that the proposed amendment includes the right to bargain retirement benefits and pensions.

In a 1981 Opinion, Attorney General Frank Kelley affirmed that the Michigan State Police Troopers Association (MSPTA) and the State Employer could negotiate modifications in the pension plan such as different contributions or benefits. If the Legislature did not reject the modifications by a 2/3 vote of both houses, the modifications would go into effect. In practice, bargained modifications to the pension plan for MSPTA members are subsequently put into the state police troopers' retirement statute so that supervisory, managerial, and confidential employees in the state police retirement system have the benefit of the same modifications. See the [State Police Retirement Act](#).

The current collective bargaining agreement for the MSPTA contains a [13-page article](#) on the pension plan. The bargaining agreements with all other state employee unions contain no article on retirement. If the POJ Amendment were to make the ballot and be approved by voters, it would mean that all other state employee unions could bargain over future retirement issues in a manner similar to the MSPTA.

**Current authority for state employee pensions and retirement benefits** - For non-state police employees, the Legislature and the Governor decide what is in the State Employees' Retirement Act that covers all non-state police state employees. Members of the public including employees, retirees, and their organizations may submit testimony at legislative hearings or contact legislators to express their view on any proposed changes, but ultimately the Legislature and the Governor have the sole power to determine the retirement plan. See the [State Employees' Retirement Act](#).

The proposed amendment includes the right to bargain retirement and pensions for future state employee retirees. It will not provide for bargaining over current state retiree pensions and benefits. However, should the health care benefits of current state retirees be threatened with change, the state employee unions would likely speak up to protect them because it would be protecting the future benefits of their own active members. The POJ ballot proposal thus enlists more advocates for protecting our pensions and benefits.

**Who supports the POJ proposal** – A coalition of unions is primarily backing the POJ proposal and may spend between \$10 and \$15 million dollars on the campaign it is reported. See the Web site at [www.protectourjobs.org](http://www.protectourjobs.org). The campaign has reached out to ally organizations like

SERA for additional aid and support.

**Who will oppose the POJ proposal** - The Governor has said that he considers proposals to pass Right To Work legislation and the Protect Our Jobs amendment to be divisive at a time when the Michigan economy is starting to recover and we want to attract more business to Michigan. However he has signed most anti-union legislation passed by the Legislature. The Michigan Chamber of Commerce has voted to oppose the POJ amendment.

## **NEXT STEPS**

Some Council delegates took Protect Our Jobs petitions to circulate for signatures of registered voters. Contact the campaign through [www.protectourjobs.org](http://www.protectourjobs.org), call 313-744-JOBS (313-744-5627) or write to Protect Our Jobs, 5859 W. Saginaw Hwy. #142, Lansing, MI 48917 for petitions or more information. SERA Chapter Presidents and Coordinating Council delegates have information about the regional field staff for the campaign also.

## **Protect Our Jobs Constitutional Amendment Language**

### **INITIATIVE PETITION AMENDMENT TO THE CONSTITUTION -**

The proposal would add a new Section 28 to Article I of the State Constitution, as follows:

- (1) The people shall have the rights to organize together to form, join or assist labor organizations, and to bargain collectively with a public or private employer through an exclusive representative of the employees' choosing, to the fullest extent not preempted by the laws of the United States.
- (2) As used in subsection (1), to bargain collectively is to perform the mutual obligation of the employer and the exclusive representative of the employees to negotiate in good faith regarding wages, hours, and other terms and conditions of employment and to execute and comply with any agreement reached; but this obligation does not compel either party to agree to a proposal or make a concession.
- (3) No existing or future law of the State or its political subdivisions shall abridge, impair or limit the foregoing rights; provided that the State may prohibit or restrict strikes by employees of the State and its political subdivisions. The legislature's exercise of its power to enact laws relative to the hours and conditions of employment shall not abridge, impair or limit the right to collectively bargain for wages, hours and other terms and conditions of employment that exceed minimum levels established by the legislature.
- (4) No existing or future law of the State or its political subdivisions shall impair, restrict or limit the negotiation and enforcement of any collectively bargained agreement with a public or private employer respecting financial support by employees of their collective bargaining representative according to the terms of that agreement.
- (5) For purposes of this Section, "employee" means a person who works for any employer for compensation, and "employer" means a person or entity employing one or more employees.

(6) This section and each part thereof shall be self executing. If any part of this section is found to be in conflict with or preempted by the United States Constitution or federal law, such part shall be severable from the remainder of this section, and such part and the remainder of this section shall be effective to the fullest extent that the United States Constitution and federal law permit.

The proposal would add the following to Article XI, Section 5 of the State Constitution:

Classified state civil service employees shall, through their exclusive representative, have the right to bargain collectively with their employer concerning conditions of their employment, compensation, hours, working conditions, retirement, pensions, and other aspects of employment except promotions, which will be determined by competitive examination and performance on the basis of merit, efficiency and fitness.