

grievances. This has led to concerns that in certain cases, such as reclassification decisions where the appointing authority does not agree with the decision made by the Department of Personnel, it is the Department of Personnel, not the appointing authority, who should defend that decision in a grievance. Senate Bill 516 is an attempt to address this concern.

I agree that under certain circumstances, the Department of Personnel should represent itself in grievances before the Office of Administrative Hearings. However, Senate Bill 516 is a poorly crafted effort to achieve this goal and I believe the bill will create more problems than it will solve. In short, the legislation is ambiguous, overly broad and could be construed to apply retroactively.

Senate Bill 516 is ambiguous because it does not address how or when the Department of Personnel is to be made a party in a grievance. Presently, State personnel law sets out a three step grievance procedure in which parties are encouraged to resolve grievances at the lowest level possible. The bill does not address how the Department of Personnel would fit into this statutory scheme and does not define the decision making authority of the Department relative to the appointing authority, when both are named in a grievance.

In addition, the uncodified language in Senate Bill 516 is so broad that the Department of Personnel conceivably could be made a party in almost every employer-employee dispute. The language states that the Department may be a party to a grievance for any Departmental "action or lack of action." This means that the promulgation of regulations, enforcement of an executive order, or a decision not to take a certain course of action could allow the Office of Administrative Hearings to make the Department of Personnel a party in an employee grievance. Such a consequence goes well beyond the intent of Senate Bill 516.

Finally, the uncodified language in Senate Bill 516 also could be construed to apply retroactively, on the grounds that the bill "is intended to clarify" the procedures of the grievance statutes. This would result in an onslaught of grievances being thrust upon the Department of Personnel and is inconsistent with the normal practice of making changes to State personnel policies prospective only.

While I cannot support Senate Bill 516 in its present form, I remain sympathetic to the argument that the Department of Personnel should defend its actions in a grievance, especially when the employee's appointing authority disagrees with the Department's decision. Therefore, I will issue an executive order that will allow employees, under limited circumstances, to name the Department of Personnel as a party in employee grievances.

For the above reasons, I have vetoed Senate Bill 516.

Sincerely,
William Donald Schaefer
Governor

Senate Bill No. 516

AN ACT concerning