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Good afternoon, Chairman O'Connell and members of the Committee. I am Kareen Masters, Personnel Officer, with the Department of Human Resources. I am here today to express the department's concerns regarding Senate Bill 331.

With regard to Section 2, we do not concur there is a need to amend statute to grant the Employee-Management Committee (EMC) the authority to issue subpoenas. One of the primary purposes of the Employee-Management Committee is to serve as the final level of appeal in an administrative process designed to resolve grievances at the lowest supervisory level possible. Grievances typically concern such issues as the receipt of a written reprimand, performance evaluations, working hours, or the interpretation of a regulation. State personnel regulations already provide that it is the responsibility of each party to arrange for the appearance of all necessary witnesses and that the committee may request additional witnesses or information as it deems necessary. State personnel regulations also provide that paid administrative leave shall be granted for testimony before the EMC provided leave is requested at least two weeks in advance, unless impractical, and provided the employee's absence will not result in undue hardship to agency operations or adversely impact services to clients or the public.

Finally, we have concerns regarding the potential for an employee to request a subpoena of records that would otherwise not be available to an employee due to confidentiality requirements. There are also concerns regarding additional costs for which no funding is provided should the EMC assign travel and per diem costs to the agency.

With regard to Section 4, we believe that management has the responsibility to complete a thorough and timely investigation of infractions that could lead to disciplinary action and believe we should be able to speak freely with any employee when the need arises. We also share the concerns previously expressed regarding the delay of an administrative investigation until a criminal matter involving the same act is resolved. Such a requirement also has the potential to adversely impact areas such as the care and safety of clients whose well-being is our responsibility.

I understand from the testimony Monday, that Section 5 and Section 6 are being revised and will reserve comment on those sections pending the amendment.

With regard to Section 7, we agree with the provisions of subsection 3 which would prohibit additional comments regarding an employee's performance being added to his personnel file without his knowledge. We believe, however, that the appointing authority should retain the right to provide input into an employee's performance evaluation including making changes, if necessary.

With regard to Section 8, we do not agree with adding arbitration as a duplicate avenue of appeal for grievances. This could result in inconsistency among decisions based on two different forums hearing the same issue. It is also noted that an employee but not the agency has been provided the option to request arbitration. Again, there is the potential for additional costs to the agency in the event the arbitrator assigns liability for the expenses associated with arbitration to the agency and no funding has been provided in the bill.

With regard to Section 9, we do not believe the best interest of the public is served by delaying the implementation of the highest levels of disciplinary action until such time as a hearing officer has heard an appeal of a disciplinary action and rendered a decision. The most serious impact, of course, would be if a termination could not proceed until after a hearing. An employee whose misconduct was serious enough to warrant termination would continue to be paid and the agency would be hampered in carrying out its duty to seek a replacement employee capable of successfully performing the responsibilities of the position.

State personnel regulations already provide for a pre-disciplinary hearing to be conducted by the appointing authority or his designee prior to implementing discipline. As Director Greene testified Monday, the majority of disciplinary actions are upheld by the hearing officers so this process seems to be working.

Thank you for the opportunity to provide comments on S.B. 331.

