



Talking Points 2011

The following are talking points on issues impacting the state workforce that may be raised by legislators in lobby visits or other interactions such as with the media. If you require further information, please contact the PEF Legislative Department at (518) 432-4003.

General

- The State workforce including salary and benefits accounts for just 13.6 percent of the state budget.
- New York state ranks 44th in state employees per capita.
- There are 11,500 fewer state employees in agencies under the governor's control than in 2008 when the state's fiscal crisis began.
- New York State employee compensation (wages and benefits) when adjusted for education and experience are comparable or lower than similar jobs in the private sector. For example the average total compensation of a NY state employee computer programmer is 6 percent less than the average total compensation of a NY private sector computer programmer.
- Since 2008 there has been no increase in the state operations budgets of executive agencies.

Why PEF Opposes Layoffs

- Public sector layoffs are also private sector job-killers. Public employees shop in local stores, use private services, and contribute to charities and not-for-profits. The elimination of public employee jobs takes money out of the economy.
- Proposed layoffs wrongly focus on the state workforce, rather than greater waste in government such as: public authorities that operate in the shadows; the state's use of costly consultants; or billions of dollars on corporate welfare that fails to produce jobs.
- The state workforce is already lean. Since 1990 the state workforce has declined by 34,000 positions.

Why PEF Opposes a "Pay Freeze"

- The current labor contract between PEF and the state expires on March 31 of this year. Issues of pay must be negotiated in the collective bargaining process between the unions and the state. It would be improper and a very bad precedent for the legislature to pre-empt those negotiations. PEF is willing to work cooperatively with Governor Cuomo to negotiate an agreement that is fair to state workers and helps balance the budget. State workers did not cause the budget deficit – state

workers pay and benefits are only 13.6% of state spending. We are willing to help solve the state's financial problem, but not to bear the entire burden.

Why PEF Opposes the Repeal of the Triborough Amendment

- Unlike unionized employees in the private sector, public employees are prohibited from striking. While protecting the public's interest, the no strike provision also gives public employers the ultimate advantage during contract negotiations.
- Recognizing the detrimental impact of the no strike clause on a union's ability to negotiate in a fair environment, the law was amended in 1982 to codify the Public Employment Relations Board's long held doctrine requiring public employers to continue the terms of the expiring contract until a new agreement is reached. This tradeoff restores some degree of fairness to the bargaining relationship.
- Eliminating the Triborough Amendment would radically alter the collective bargaining process, tilting the negotiating table further in favor of public employers.
- Eliminating Triborough would undermine collective bargaining; contract negotiations would break down leading to conflict.
- Proponents of repealing the Triborough Amendment argue that it is necessary for fairness. If that's the goal than its repeal must be accompanied by an amendment allowing public employees to strike.

Why PEF Supports a Defined Benefit Pension

- New York's pension plan works. Unlike some other states and many private plans, the public pension funds in New York are fully funded and have been protected from financial manipulations that have led to problems in other pension funds.
- Pensions are not overly generous. The average pension benefit payment for a NYSLERS retiree in 2010 was \$18,300 and the median pension was \$13,531.
- The state pension has been recognized as the "nationwide pension leader" by *Governing Magazine*. Also, the Pew Center, an independent national good government research center, and *Institutional Investor* magazine cite New York's pension fund as one of the strongest in the country.
- The increased pension contribution rates currently paid by public employers are due to the stock market crash caused by corporate greed and malfeasance and low contribution rates by public employers for most of the last 20 years. Since 1990 the average public employer contribution rate to the Employee Retirement System was 4 percent in 11 of those years it was less than 2 percent and in 7 of those years it was less than 1 percent. If public employers contributed 4 percent in the years when they paid less than 4 percent the contribution rate would be closer to 4 percent than the higher contribution rates they now pay. Tier V and an improving stock market will reduce those contribution rates.
- State and local pension funds in New York and other states paid a total of \$17 billion in benefits to New York residents in 2006 (most recent data available). Retirees' expenditures from these benefits supported a total of \$24 billion in total economic output supporting 137,000 jobs in the state.

PEF's position on Overtime Abuse in Pension System

- The state has already enacted controls to prevent pension padding through excessive overtime:
 - Under Tier 5 in Employees' Retirement System (ERS) the amount of overtime which can be applied to final average salary is capped at \$15,000 per year. There's an inflation factor to raise the cap over time.
 - Also under Tiers 3-5 in ERS there is a cap on final average salary increases. No one year included in the FAS can increase by more than 10 percent above the average of the two prior years. In Tier 2 the cap is 20 percent.
- The surest way to reduce overtime is to ensure proper staffing. As the state workforce continues to be slashed, remaining employees must perform more functions leading to more overtime. This is a management problem – it is not the workers' fault.

Why PEF opposes a Pension Board of Trustees

- There is simply no evidence that a board of trustees equates to higher returns on investment. In fact to the contrary, in both the short term and the long term, the state pension fund with its sole-trustee has consistently outperformed the New York City funds, which are governed by boards.
- A single elected official directly answerable to the public is the ultimate in accountability. If the pension fund underperforms, members of the retirement system know who is responsible and can have a voice in changing its direction through the electoral process. An unelected board of political appointees would be insulated from direct responsibility for their decisions and fund returns.
- As an independent elected official, the Comptroller does not report to the Governor, Senate, or Assembly. In the past when policy was created through the legislative process which jeopardized the security of the pension system, the Comptroller as sole-trustee has stood up and defended the fund and its members through the courts and in the press. The situation would likely be quite different if members of the board are appointed by the same Governor and Legislature which formulate state policy.

Why PEF Supports the Elimination of Public Authorities

- Public authorities have expanded greatly over the years. Despite recent reforms, they still operate with relatively little oversight and public disclosure, although they expend billions of dollars in public funds. As a result they too often operate in costly and wasteful ways.
- In many cases, authorities duplicate the work of other agencies of the state government. In such cases, they should be folded into the statutory agencies.
- Because many authorities operate outside the civil service system, they are often used for political patronage. Twenty-seven percent of the public authority workforce makes \$100,000 or more a year compared to 4 percent of the state agency workforce
- The average wage including benefits of an employee in a public authority is 32 percent higher than that of the average state employee.

Why PEF Opposes the Repeal of the 12 Month Notice Laws

- Notice provisions do not prevent the Executive from closing facilities. They ensure that the implementation of closure decisions are thought-out with ample opportunity for uprooted service recipients, economically devastated communities, and families of employees who may lose their jobs to plan for the drastic impacts of closures.
- In unique cases, where immediate action is required, the governor has asked for and received special consideration from the legislature to close a facility notwithstanding the notice requirements. This is an appropriate check and balance on the governor's authority which the Legislature should not abdicate.
- Without a 12 month notice law, the Governor can unilaterally close facilities with no opportunity for legislators to advocate for their community's interests.

Why PEF Supports Reducing the State's Use of Consultant Contracts

- Each year the state wastes hundreds of millions of dollars on costly consultants when state employees can provide the same services at an equivalent or better quality for lower cost.
- The state should be prohibited from entering into contracts for services unless it has conducted a review to determine whether or not state employees can provide the same function for the same or lower cost.
- Studies by PEF, two State Comptrollers (one Republican, one Democrat) and the Fiscal Policy Institute all confirm that the state can save hundreds of millions of dollars by reducing consultant spending. If half of the state's consultants were replaced with state employees the state could save \$280 million annually.

Why PEF Opposes Tax Caps

- The current tax structure in NYS state is unfair.
- In the US the top 1 percent control 23.5 percent of income, this is in itself troubling. However, in New York income equality is more staggering. In New York the top 1 percent control 35 percent of income and in New York City the top 1 percent control a whopping 44 percent of income.
- Capping taxes does not eliminate the state's responsibilities, it just eliminates their funding.
- We can reduce taxes on the middle class, but only if the wealthiest start paying their fair share. The wealthiest one percent of NY taxpayers only pay 7.2 percent of their income in state and local taxes while the rest of us pay 10 percent to 12 percent.

Why PEF Opposes Spending Caps

- Arbitrary spending caps or a cap tied to inflation are not realistic in the context of the state's budget. State spending is affected by external economic factors and federal policy that can cause large increases or decreases in costs that are not directly proportional to the inflation rate.

- Artificial caps would potentially require the state to abandon critical functions that protect public safety and health.
- Spending caps seek to limit the authority of future Governors and Legislatures to fulfill their constitutional duties and are therefore legally dubious.
- Spending caps also do nothing to solve the underlying problem because they do nothing to actually reduce costs. Those who want to cut spending should come forward and say what they propose to cut, not hide behind a false promise of a cap.
- PEF has proposed concrete ways to cut state spending, such as adopting a plan to reduce the state's use of expensive consultants for professional services that can be done by state employees at much lower cost. Studies by PEF, the State Comptroller and the Fiscal Policy Institute all confirm the possibility that the state can save hundreds of millions of dollars by reducing consultant spending. Let's have a real cut in spending, not an empty promise.
- Learn from Colorado's mistake. In 1992 Colorado instituted a spending cap resulting in it becoming the next to last state in K-12 education rankings and the last in the nation in terms of providing health care to low income children. In 2005, Colorado voters decided to suspend the cap for five years, and voted it down again in 2010.

Budget Solutions

Cut Consultant Use.

Savings: \$280 million annually.

Reduce Overtime.

Savings: \$34 million annually by reducing overtime 60 percent by hiring entry-level state employees.

Stop the Tax Cuts for New York's Wealthy.

If New York State lets the income tax surcharge expire at the end of the calendar year a family making \$50,000 a year will have the same marginal tax rate as an individual who makes \$50 million a year.

Added Revenue: \$1 billion (\$4 billion annually)

Allow Wine Sales In Grocery Stores.

Added Revenue: \$93 million annually

Cut Corporate Welfare.

State spending on corporate welfare (Brownfields Tax Credits, Empire Zones Tax credits, Film Production Credits, Investment Tax Credits, Retail Enterprise Tax Credits, and many others) increased by 33 percent from SFY 2000 to SFY 2010, from \$4.044 billion to \$5.363 billion.

Savings: \$1.32 billion annually by cutting corporate welfare to SFY 2000 spending levels.

Cut Public Authorities.

Combining Authorities with state agencies that provide the same services could create organizational savings and economies of scale.

Savings: \$2.2 billion annually based on a 5 percent reduction through consolidation of operations and revenue streams of public authorities into state agencies.*

** Expenditures by self-reporting authorities for the most recently reported fiscal year totaled \$44 billion.*

Institute a Workplace Injury Reduction Program

Savings: \$45 million annually based on a 20 percent reduction resulting from comprehensive prevention efforts to address causes of the injuries.

Total Savings/Revenue: \$4.972 billion

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