



Civil Service Enforcement/Research Department

TO: Roger E. Benson
FROM: Thomas E. Cetrino and Susan Mitnick
DATE: April 3, 2005
RE: *Final Enacted SFY2005-06 Budget – Summary of Major Provisions and Status of PEF’s Budget Priorities*

The Legislature passed budget bills this week that enact most of the State budget and include final action on all of PEF’s budget priorities. According to the Legislature their enacted SFY2005-06 budget adds \$1.517 billion to the proposed SFY2005-06 Executive Budget. According to the Legislature, after adjusting for their rejection of \$181 million of the SFY2005-06 Executive Budget’s proposed taxes and fees, \$1.336 billion in spending was added.

Overall, PEF achieved the vast majority of its budget priorities. However, there are continuing discussions between the Legislature and the Governor that may lead to chapter amendments. The timing of this is uncertain. This could result in changes to the State Operations budgets of State agencies. In addition, some of the Legislature’s actions on PEF’s budget priorities can still be vetoed by the Governor and we are closely monitoring this situation. The following summarizes the Legislature’s final action as of today on each PEF budget priority.

Mental Health (S5564-E/A550-C & S3866/A6840)

PEF Position: If the Legislature approves the closure of Middletown PC on April 1, 2006 the plan to do so must include adequate provisions for State-operated community based services in the Middletown area and continuity of employment for affected State employees.

Legislature’s Action: The Legislature adopted the Executive’s proposal to close Middletown effective April 1, 2006 and to direct all the savings to State-operated community services. Pursuant to an agreement between PEF and the Governor’s office, substantial additional services will be provided to the mentally ill in Orange and Sullivan Counties. OMH has stated that “nobody from PEF should have to transfer to Rockland Psychiatric Center if they don’t want to.” PEF and the Legislature will need to be vigilant to ensure that OMH fully implements the agreement.

PEF Position: Reject the plan to merge the Office of Advocate for Persons with Disabilities and the Commission on Quality of Care for the Mentally Disabled.

Legislature's Action: The Legislature *approved the merger* but added language that provides for a separate Division of Advocacy and Outreach for Persons with Physical Disabilities within the new agency.

SUNY Hospitals/Higher Education, Education and Labor (S553-E/A554-C & S3667/A6841)

PEF position: Reject once again the proposal to authorize the SUNY Board of Trustees to transfer the SUNY hospitals to the private sector.

Legislature's Action: The Legislature **denied** the Governor's proposal.

PEF position: Reject once again the Governor's proposal to transfer the State Library, State Archives, and State Museum to a public benefit corporation the New York Institute on Cultural Education (NYICE).

Legislature's Action: The Legislature *denied* the Governor's proposal and restored full funding for State Library, State Archives, and State Museum in the State Education Department's (SED) budget. The funding that appears in Council on Arts' budget for NYICE is a "null" appropriation because the Legislature did not enact the legislation necessary for it to be spent.

PEF position: Reject the Governor's proposal to transfer most of the adult VESID program from the State Education Department (SED) to the Department of Labor (DOL).

Legislature's Action: The Legislature *denied* the Governor's proposal and completely restored the adult VESID budget to the SED budget. The funding that appears in DOL's budget for VESID is a "null" appropriation because the Legislature did not enact the legislation necessary for it to be spent

PEF position: Reject the Governor's proposal to cut SED's budget by \$2 million for "management efficiencies"; this could result in the loss of at least 20 positions in the Department.

Legislature's Action: The Legislature *denied* the Governor's proposal and restored \$2 million to SED's State Operations budget.

PEF position: Reject the Governor's proposal to merge the Workers Compensation Board into DOL.

Legislature's Action: The Legislature *rejected* the Governor's proposal and restored funding for a stand-alone WCB. The funding that appears in DOL's budget for the Workers Compensation Board is a "null" appropriation because the Legislature did not enact the legislation necessary for it to be spent.

PEF position: Reject the Governor's proposal to transfer the Welfare to Work program from DOL to the Office of Temporary and Disability Assistance (OTDA).

Legislature's Action: The Legislature *approved* the Governor's proposal.

PEF position: Reject the Governor's proposal to abolish the Hazard Abatement Board.

Legislature's Action: The Legislature *denied* the Governor's proposal and fully restored funding (\$430,000) for the Capital Abatement program in DOL's Local Assistance budget.

PEF position: Reject the Governor's proposal to merge several licensing and inspection programs within DOL into a new Worker Protection License Unit

Legislature's Action: The Legislature *denied* the Governor's proposal.

PEF position: Reject the increased fees and more extensive reporting requirements that are part of the Governor's proposal to merge the Public Employment Relations Board and the Employment Relations Board into a new State Labor Relations Board.

Legislature's Action: The Legislature *denied* the Governor's proposal to merge the Boards as well as the proposed fee structure and reporting requirements. They also completely restored the stand-alone appropriations for the separate boards to their enacted SFY2004-05 appropriations. The stand-alone appropriation for the State Labor Relations Board is a "null" appropriation because the Legislature did not enact the legislation necessary for it to be spent.

Transportation (S555-E/A555-C & S3669/A6843 (language) & S3670/A6844 (Bond Act & more language))

PEF position: Reject the proposed Art. VII legislation which would implement "Design Build" and "Transportation Facility Development Partnership" programs because it will increase DOT's dependency on more costly consultant engineers, expand the use of no-bid contracts and limit public oversight of the State program to maintain and expand the State's transportation infrastructure.

Legislature's Action: The Legislature *rejected both proposals*. Both houses agreed to place a \$2.9 billion Transportation Bond Act on the ballot in November. The Bond act would spend \$1.45 billion for DOT capital projects and \$1.45 billion for MTA capital projects. It is expected that additional details of the Bond Act will be agreed to after the State budget is enacted. PEF will continue to advocate for an increase in the number of State employee engineers as part of the Bond Act negotiations.

Criminal Justice (S550-E/A550-C & S3666/A6840)

PEF Position: Oppose the planned closures of Fulton, Camp Pharsalia, and Camp McGregor correctional facilities which will result in the loss of 274 jobs.

Legislature's Action: The Legislature *restored \$22.4 million* to continue the full operation of Camps McGregor (\$6 million) and Pharsalia (\$7 million), the Fulton work release facility (\$6.7 million) as well as the Watertown (\$400,000) and Greene (\$500,000) Special Housing Units and the Groveland Annex (\$1.8 million).

PEF Position: Reject the proposed reductions of 47 field parole staff positions in the Division of Parole

Legislature's Action: The Legislature *restored \$2.1 million* to fund 47 full-time positions within the Division of Parole as well as \$200,000 to the Division's budget because it rejected the Executive's proposal to extend the time period parole violation warrants for out-of-State-parolees must be effectuated.

PEF Position: Deny the Governor’s proposal to merge the Division of Probation and Correctional Alternatives into the Division of Criminal Justice Services.

Legislature’s Action: The Legislature *denied the proposed merger* and restored \$1,888,000 in a stand-alone appropriation to the Division of Probation and Correctional Alternatives budget so it can continue to function as an independent agency. The restored funding is the same State Operations appropriation the agency received in SFY2004-05 which the Legislature believes is enough to support the 28 positions that were going to be transferred to DCJS in SFY2005-06. The funding that appears in DCJS’ budget for DPCA (which is part of the personal and non-personal service appropriations in the DCJS Administration program) is a “null” appropriation because the Legislature did not enact the legislation necessary for it to be spent.

Juvenile Justice (S553-E/A554-C & S3667/A6841)

PEF Position: Oppose the Governor’s proposal to close 115 beds in Office of Children and Family Services which will result in the loss of 98 jobs in the Youth Facilities program

Legislature’s Action: The Legislature *accepted* the Executive’s proposal to reduce beds and positions.

Economic Development and Agriculture (S555-E/A555-C & S3669/A6843)

PEF position: Reject the Governor’s proposal to establish a program of risk-based inspections of retail food stores, pet dealers and breeders replacing the current annual inspection program. This will reduce the number of overall inspections of retail food stores by the Department of Agriculture & Markets (A&M). In SFY2005-06 A&M will lose 21 positions in their consumer food services program.

Legislature’s Action: The Legislature *rejected* the Governor’s proposal and restored \$1.1 million for additional services and expenses related to the inspection of food handling facilities and \$300,000 for additional services and expenses related to the inspection of pet dealers. These actions provide adequate funding to restore the 21 inspector positions.

PEF position: Reject the Governor’s proposal to make the Urban Development Corporation loan powers permanent.

Legislature’s Action: The Legislature *rejected* the Governor’s proposal and, instead, extended UDC’s loan powers by one year.

Pension Issues (S3666/A6840)

PEF position: Reject the Governor’s proposals to delay actuarial changes made by the Comptroller and subject them to an independent review and public comment, thereby deferring part of the State’s contribution to the pension fund.

Legislature’s Action: The Legislature rejected the Governor’s proposal and instead allow the State to amortize a portion of its 2005-06 employer contribution.

Revenues (S3671/A6845)

PEF position: Reject the proposal to accelerate the phase-out of the income tax surcharge on high-income taxpayers.

Legislature's Action: The Legislature *rejected* the proposed acceleration.

PEF position: Stop corporate tax avoidance schemes that enable large multinational corporations to avoid paying their fair share of New York taxes.

Legislature's Action: It does not appear that either House took steps toward reducing corporate tax avoidance. They did enact a single sales tax factor starting in 2006. Under this proposal the share of corporations' total profit that New York would tax would be based solely on the share of total sales occurring in New York. This "sales only" system will benefit large corporations who will continue to make extensive use of public services funded by the people of the State while further reducing their already small tax liability.

Major Changes In Addition to Actions Taken on PEF's Budget Priorities that are Contained in the SFY2005-06 enacted Budget(Note: all changes discussed are from the proposed SFY2005-06 Executive Budget appropriations)

PUBLIC PROTECTION AND GENERAL GOVERNMENT (S550-E/A550-C; S3666/A6840)

The enacted budget passed by the Legislature made the following changes to the Executive Budget:

Department of Correctional Services

- Adds new language which directs the Commissioner of DOCS to provide an annual report to the Legislature which contains detailed information related to the staffing of DOCS facilities.
- Adds new language which requires one year prior notice to local governments and employee labor organizations of any closure of a correctional facility or a substantial reduction in services at a correctional facility. It also requires the department to take certain actions prior to such closure pursuant to an adaptive reuse plan. This provision is in Part S of S3667/A6841.

Audit and Control

- Adds \$2.9 million in the Local Government Services and Economic Development Program for audits of school districts, BOCEs and charter schools.

Department of Civil Service

- Reduces the nonpersonal service appropriation in the Administration and Information Management Program by \$2 million to reflect a reduction in the funding for moving expenses from offices in the State Campus to the A.E. Smith building.

Office of General Services

- Reduces the nonpersonal service appropriation in the Executive Direction Program, Internal Service Fund, by \$110 million, reflecting the denial by the Legislature of the Executive's proposal to purchase electricity in bulk for State agencies.

Department of Law

- Adds \$4.2 million to the personal service appropriation in the Administration program reflecting negotiated salary increases and \$1 million to the nonpersonal service appropriation for the same program.
- Adds a \$3.5 million maintenance undistributed appropriation in the Administration Program for a document management system.

Division of Military and Naval Affairs

- Reduces the nonpersonal service appropriation in the Administration Program by \$50,000. According to Senate analysis this reflects a spending re-estimate.
- Adds a \$450,000 nonpersonal service appropriation in the Special Services Program for the purchase of marine security patrol boats to be stationed at nuclear power facilities.

Division of State Police

- Adds a \$1 million maintenance undistributed appropriation to the Criminal Investigation Program to reflect rejection of the Article VII proposal to use “Aggregate Weight” standard for lab analysis of illegal drug evidence.
- Adds a \$1.2 million maintenance undistributed appropriation to the Patrol Activities Program for continuation of 16 positions for “Special Troopers” for security at the State Capital and Empire State Plaza for another year.

HEALTH AND MENTAL HYGIENE (S554-E./A. 554-C; S3668/A6842; S3687/A6847 & S3688/A6848)

The enacted budget passed by the Legislature made the following changes to the Executive Budget:

Department of Health

- Reduces General Fund nonpersonal service appropriations by \$4.8 million in the following programs:
 - Administration and Executive Direction, reduced \$357,371
 - AIDS Institute, reduced \$142,712
 - Center for Environmental Health, reduced \$50,899
 - Health Care Finance, reduced \$21,311
 - Health Care Standards and Surveillance, reduced \$1,198,109
 - Office of Managed Care, reduced \$113,807
 - Medicaid Management Information System, reduced \$1,945,437
 - Office of Medicaid Management, reduced \$105,109
 - Medicaid Audit and Fraud Prevention, reduced \$96,884
 - Wadsworth Center for Laboratories and Research, reduced \$755,573
- Reduces the Center for Community Health Program by \$570,000 in personal service and \$30,000 in nonpersonal service. This is funding that was added by the Executive in the

30 day amendments and according to DOB was “to accommodate administrative costs for the nutrition program.”

- Increases the offset within the maintenance undistributed appropriations for the Quality of Care Account by \$15 million.

Department of Aging

- Adds a \$250,000 maintenance undistributed appropriation to the Administration and Grants Program for Senior’s Single Intake Point Technology Solutions

Office of Mental Health

- Reduces the nonpersonal service appropriation in the Adult Services program by \$1 million.
- Adds \$400,000 to the Research in Mental Illness Program to fill 4 research scientist positions at Nathan Kline Institute.

Office of Mental Retardation and Developmental Disabilities

- Reduces the nonpersonal service appropriation in the Institutional Services Program by \$600,000.
- Increases the offset from the Patient Income Account by \$4 million.

EDUCATION, LABOR AND FAMILY ASSISTANCE (S553-E/A553-C; S3667/A6481)

The enacted budget passed by the Legislature made the following changes to the Executive Budget:

State Education Department

- The Legislature denies the \$2 million in savings through “Management Efficiencies” proposed by the Governor by adding a \$2 million appropriation.
- The Legislature adds \$2.5 million from the General Fund for tenured teacher hearings. The Executive had proposed to eliminate General Fund support (\$2.1 million in 2004-05), but had proposed a \$3.15 million appropriation in Special Revenue – Other funds through shifting the costs of these hearings to school districts. The Legislature let stand the proposed \$3.15 million appropriation, resulting in a total of \$5.65 for tenured teacher hearings. We believe the \$3.15 million appropriation is a “dry” appropriation because the Legislature did not enact the legislation necessary for the money to be raised and expended.

Office of Children and Family Services

- Nonpersonal service appropriation *reductions* of \$325,000 *each* in the Administration Program, Family and Children Services Program, Systems Support Program, and Youth Facilities Services Program

- A \$2 million reduction in the maintenance undistributed appropriation in Support Services for the statewide automated child welfare information system.

Office of Temporary and Disability Assistance

- Decreases State Operations appropriations by \$6.4 million, or 1.5%, from \$431.6 million to \$425.2 million. This reduction comes entirely from two appropriations within the Systems Support and Informational Services program for the welfare management system:
 - a \$1.4 million reduction in the maintenance undistributed appropriation from \$61.9 million to \$60.5 million
 - a \$5 million reduction from \$30 million to \$25 million in Special Revenue – Federal funds.

State University of New York

- Denies the proposed tuition increase that the Executive Budget assumed. To maintain SUNY, the Legislature then increased the General Fund support from \$120.4 million to \$212.2 million, and reduced the tuition offset from \$1,099.1 million to \$1,014.8. The net change in support level is \$84.3 million less in tuition, countered by \$91.8 million more in General Fund support.

TRANSPORTATION, ECONOMIC DEVELOPMENT & ENVIRONMENTAL CONSERVATION (S555-E/A555-C & S3669/A6843 (language) & S3670/A6844 (Bond Act & more language)

The enacted budget passed by the Legislature made the following changes to the Executive Budget:

New York State Foundation for Science, Technology and Innovation

- Creates a new public benefit corporation the New York State Foundation for Science, Technology and Innovation (Foundation)) to replace an existing State agency, the Office of Science, Technology, and Academic Research (NYSTAR). ***The transfer must occur no later than January 31, 2006 except under certain circumstances.*** PEF currently has seven members who work at NYSTAR.
- ***PEF opposed the creation of this new public benefit corporation, and will urge a gubernatorial veto or for him to change this proposal through negotiations with the Legislature that would preserve NYSTAR as a State agency.*** This proposal was not part of the original Governor's proposed budget, but emerged very late in the process as the Legislature conducted their conference committee process. When the Legislature indicated it was going to create this new Foundation, ***PEF secured language that ensures that all current and future employees will be considered public employees under civil service law and will maintain their civil service and collective bargaining rights and the current collective bargaining unit. New employees will be assigned to the***

appropriate collective bargaining unit. These provisions are similar to the provisions in the “shadow agency” legislation PEF has advocated.

- The Foundation will be governed by a 13 member board that will oversee all existing NYSTAR programs. In addition, the Foundation will develop and implement a new regional economic development partnership program. The program will certify up to ten regional economic development partners through an open Requests for Proposal process. Regional partnerships will be made up of local economic development organizations, research institutions, business representatives, and other local entities.
- The regional partnerships will provide grants and loans for business and facility projects that offer potential for significant growth through the incorporation of innovative businesses processes. While the Foundation will concentrate on the State’s high technology infrastructure, the regional development program will serve all economic sectors.
- According to the Legislature, it provides \$6 million in General Fund support and \$90 million in capital projects funding for regional economic development initiatives in SFY2005-06.

Department of Banking

- Decreases overall State Operations appropriations from \$83.5 million to \$83.2 million, through slight reductions in fringe benefits and indirect costs within the Administration Program.

Department of Environmental Conservation

Decreases overall State Operations appropriations from \$425.3 million to \$423.8 million, through the following:

- Reduces by \$1 million the \$3.6 million Special Revenue Other maintenance undistributed appropriation for the Conservation program (within the Fish, Wildlife, and Marine Resources Program). This \$1 million appropriation was for “services and expenses related to the regulation of wetlands.” We believe this is related to the Legislature’s rejection of the Governor’s proposal to create a new wetlands program with permit fees for wetlands smaller than 12.4 acres.
- Reduces from \$13.2 million to \$12.6 million the nonpersonal service appropriation for the Operations Program.
- It is important to note that the Legislature and Governor have not agreed on the use of \$150 million for the Environmental Protection Fund (EPF). The Governor has proposed additional purposes for the EPF that the Legislature did not approve. In order for the EPF to be spent in the manner that Legislature wants, the Governor must resubmit his EPF legislative proposal. Until that occurs there is no appropriation for the EPF in the budget enacted by the Legislature. The Legislature’s intent is to fund the EPF in a supplemental budget bill that is agreed to by the Governor. It is not expected that this dispute will affect the staffing levels at DEC but we will continue to closely monitor this situation.

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Insurance Department

- Decreases the overall State Operations budget from \$179.8 million to \$177.8 million, by reducing the maintenance undistributed appropriation for the Regulation program by \$2 million (from \$64,792,000 to \$62,792,000). This reduced appropriation is for the Traffic and Criminal Software project (to be suballocated to the Division for Criminal Justice Services). We believe this reflects the Legislature's denial of the Governor's proposal to allow work zone speed enforcement by automated cameras.
- **Conclusion**

We will continue to monitor and update you on the enacted SFY 2005-06 budget as the budget process continues. We expect chapter amendments and supplemental budgets to be enacted over the next several weeks and months. We will provide Executive Board members and Statewide Labor Management Chairs detailed spreadsheets with analysis for every State agency's budget *that was changed by the Legislature* by the end of next week. ***We will not send new spreadsheets if the Legislature made no change to your agency budget.*** Final spreadsheets for all State agencies will be posted on PEF's website under *Budgets SFY2005 Budget Information* no later than the week of April 12, 2006.