



NYS Public Employees Federation, ALF-CIO

Wayne Spence, President

Workforce Development Joint Legislative Budget Hearing

2020-2021 Executive Budget Proposal

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Patrick Lyons, PEF Director of Legislation



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Good afternoon Chairpersons Krueger, Weinstein, Gounardes, Abbate and other committee members. My name is Patrick Lyons and I am the Director of Legislation for the Public Employees Federation (PEF). I want to thank you for the opportunity to speak to you on behalf of our 52,000 members about the potential impact of the Executive Budget if adopted without modification. Our union is made up of professional, scientific and technical experts who provide critical services to the residents and taxpayers of New York State. Among countless other things, our members work to provide services to New Yorkers who are elderly, sick or infirmed, to ensure the state's roads and bridges are safe and secure, to help and rehabilitate those who have violated the law and to provide safety net services for at-risk youth. Our members take a great deal of pride in the work that we do, because they are the most qualified people to do the job and because they care.

#### **STAFFING LEVELS**

Unfortunately, these amazing professionals feel underappreciated, undervalued, understaffed, and over-worked due to years of chronic underfunding and understaffing in the state agencies. While our members are dedicated professionals who love their jobs, they are suffering from low morale in virtually all agencies and all fields. We believe this is a result of the state's continued reliance on expensive consultants to do the work our highly trained and qualified members should be doing and the continued erosion of the civil service system under which we are supposed to be operating.

This budget continues the disturbing trend of using private for- and not-for-profit entities to do the work once done by the state's highly qualified and competent workforce. While OITS, OMH, OPWDD, and DOT remain the top offenders, many other state agencies continue to outsource services and jobs without ever demonstrating need, reduced costs, expedited timelines

or improved outcomes. We believe that the state workforce and the PEF members contained therein are best suited to deliver public services to the residents and taxpayers of this state. Continuing to divert services and resources to private entities at the expense of the state's most at-risk residents, who are dependent upon the State for services, is detrimental to clients, state workers and taxpayers.

This year, the Executive Budget proposes another decrease in the number of state workers. More than 1,000 positions are targeted for elimination this year. The majority of positions are cut from the Office of Children and Family Services (-63), the Department of Corrections and Community Supervision (-1,247) and Office of Mental Health (-105). While the Executive Budget does propose increased staffing in certain other agencies to address "emerging programmatic priorities," staffing reductions in OCFS, DOCCS and OMH will directly result in decreased services for New York's most at-risk residents. The use of costly consultants is also proposed to increase by \$63 million in the 2020-21 budget. While the Governor recommends a reduction of 123 FTEs in the consultant service contracts, New York State will spend more than \$1 billion on more than 8,200 consultants. We believe those taxpayer dollars should be invested in the state workforce. We would be thrilled to receive even half of what has been earmarked for consultants.

The continued use of outside consultants is costing the state the opportunity to enhance its internal professional capacity over the long-term in order to achieve budgetary savings, improve services and increase workforce morale. PEF members can and do provide the professional services needed by New Yorkers at a more reasonable cost than independent for-profit corporate employees.

## **CLOSURE OF FACILITIES**

The Governor has again offered the short-sighted proposal of closing several state facilities to help balance this year's budget. We ask that you reject these closures until such time that a tangible transition plan is available for review and consideration.

### **Department of Corrections and Community Supervision:**

The Executive proposes to achieve more than \$230 million in savings by closing an unspecified number of state prisons with only 90 days notice. This proposal would result in the elimination of more than 1,200 positions. Under this proposal, the Executive would maintain sole authority to unilaterally close one or more state prisons anywhere in the state. There are no provisions detailing with what would happen to the inmates within those facilities, nor to the continuation of the health, education and other services necessary for the rehabilitation or personal maintenance of those inmates.

### **The Youth Leadership Academy in Delaware County:**

The Executive also proposes closure of the Youth Leadership Academy limited secure facility in Delaware County in 2021. This facility serves male at-risk youth who are placed with the OCFS by the family court. The program provides a full array of counseling, education, vocational training, health care; mental health and other services to ensure that these most at-risk youth have the support necessary to lead productive lives. This is exactly the type of program that should be receiving additional state support and expanded access for New York's most vulnerable youth.

## DESIGN-BUILD EXPANSION AND EXTENSION

Once again, the Executive Budget includes a proposal to expand and extend design-build in New York State, a process that PEF opposes for several reasons. The design-build project delivery system allows a single entity to be responsible for the design, construction and inspection of a single project. The design-build delivery system is a dangerous concept where time is money and the bottom line is the only line that matters. PEF represents some of the most qualified and talented transportation engineers in the state. As a result of the extensive use of unregulated consultants, their skills and talents are underutilized and the state is slowly losing its ability to provide these services in-house. Having an owner retain a single entity that is responsible for providing both the design and construction of a project is risky as demonstrated by the “Big Dig” disaster in Massachusetts.

While it has been alleged that the design-build process allows projects to happen faster and cheaper, no one has offered any evidence to back these claims. The professional staff employed by state agencies are the most competent and cost-effective solution to most of the state’s needs. This remains true in spite of the loss of several hundred state engineers over the last decade.

This year’s Executive Budget proposal seeks to expand the number of agencies authorized to enter into design-build agreements, expands the types of projects available for design-build to include building and appurtenant structures AND it makes the program permanent.

Over the past several years, we have communicated our ongoing concerns around the practice of design-build.

Unfortunately, our concerns continue to be affirmed as issues with design-build come to light across the country, as well as here in New York State. The issues around the “Big Dig” in Massachusetts have been well documented. Now, the Attorney General is investigating a complaint regarding the failure of certain bolts on the Mario Cuomo Bridge. We are awaiting the outcome of the Attorney General’s investigation regarding a potential cover up by the contractors that was effectuated to ensure construction was not delayed despite knowledge that new bolts were potentially flawed. This information only came about as the result of a whistleblower. We believe that if state employees were inspecting the work, the use of substandard bolts, the potential cover up and the push for an on-time completion would not have happened.

Any implied advantage realized by the design-build process will quickly be offset by costly procurement processes, increased need for upfront owner input, decreased owner control and increased construction risk. The lack of oversight, control and increased risk realized in these most recent revelations clearly show that design-build is not appropriate for New York. The Mario Cuomo Bridge issue offers us all a glimpse into the types of completely avoidable disasters that are just waiting to happen.

Recently enacted legislation applicable to the City of New York effectuates taxpayer protections as part of the design-build process by requiring city engineers on-site to inspect and approve projects being developed by private contractors. New York State should be leading the way in protecting the public’s safety and financial interests by utilizing existing and new engineering staff to oversee these types of projects.

We ask that you please say no to this expansion of design-build and recognize that your state workforce already includes some of the best transportation engineers around – PEF

members – whose engineering skills and talents are being under-utilized by New York State.

This program should be allowed to expire at the end of March.

## **SUNY HOSPITALS**

When it comes to health care, our public teaching hospitals are vital resources for the community. The three SUNY hospitals (Downstate, Upstate, Stony Brook) provide vital medical education, research and essential health care services to their communities and specialty care services such as burn and trauma care units and stroke centers. They are especially important to the underserved populations in the communities where they are located.

We thank you for your support in the past by restoring cuts to SUNY hospitals and rejecting language that would have opened the door to private investments in public hospitals. We appreciate your continued support for these incredible institutions and for the communities and people that they serve.

The Governor has once again proposed to eliminate the subsidy for the hospitals. We are asking that the \$87 million dollar subsidy, which had been in place for several years, be restored.

We are pleased that the Governor has included Disproportionate Share Hospital (DSH) payments to the SUNY hospitals in this year's proposal. And, while this will go a long way to meeting the overall needs of these institutions, more funding is needed.

## **OFFICE OF MENTAL HEALTH AND OFFICE FOR THE PEOPLE WITH DEVELOPMENTAL DISABILITIES DOWNSIZING**

New York State's behavioral health care services have been facing mandated community-based transitions that PEF continues to believe lack a clear plan for implementation and the safe-guards necessary to ensure the continuity of quality services required for the appropriate care of these at-risk individuals. This transition has been set into motion without the

necessary resources in place to ensure that individuals released into these new settings will receive the same or higher level of care and treatment that the State has historically provided. We are concerned with the adverse impact on continuity of care for those served every day by our members. Currently, PEF represents thousands of members working at OPWDD and OMH. Unfortunately, the state continues to push services for these individuals out into the community.

PEF asks the Legislature to delay any further outsourcing of these services until a more comprehensive plan is developed that ensures that all individuals will have access to the appropriate quality of care and services needed. This would include ending diminishing clinical resources and unsafe placements and discharges of those who are in the greatest need of our state services.

#### **ROSWELL PARK CANCER INSTITUTE**

The Executive proposes to reduce state support for the Roswell Park Cancer Institute by \$13,390,000. Roswell Park conducts clinical research on cancer and it is the only comprehensive cancer center in upstate New York. PEF urges the restoration of funding for this critical institution in upstate New York.

#### **JUSTICE CENTER**

The Justice Center oversees cases of abuse and neglect in state operated, licensed or certified programs and facilities in agencies that care for individuals with developmental disabilities, mental illness, substance abuse disorders and children in residential facilities.

While progress has been made, the Justice Center continues to be a source of concern for health care professionals in this field. Clients use the threat of the Justice Center to manipulate their caregivers. Nurses who become subjected to Justice Center investigations often leave for nursing positions outside of state service. They fear that if they are found guilty, their licenses

will be in jeopardy and their names will be on the list prohibiting them from working with children or vulnerable clients.

We believe more training is needed, both by Justice Center staff – some of whom are represented by PEF – and to the agencies so that PEF members can continue to meet the needs of individuals in the care of these agencies without running afoul of the Justice Center.

## **DOCCS**

The Department of Corrections and Community Supervision (DOCCS) operates 52 facilities that house 44,500 inmates and is responsible for more than 35,000 parolees. The Executive Budget calls for a decrease of 1,247 employees, which is attributable to the Executive's proposal to close one or more prisons over the next year.

Despite the fact that over the past 15 years the staffing ratio of inmates to uniformed staff within facilities has been reduced consistently with the decline of the inmate population, there has been an increase in violence within the facilities. Since 2013, there has been an approximately 51 percent increase statewide in assaults on staff in State prisons and an increase of 52 percent in assaults on inmates (DOCCS Fact Sheet, Jan. 1, 2019). This trend in more violence clearly indicates the need for additional highly trained staff.

We ask that you continue to provide additional resources for staff and training necessary to improve safety for inmates and staff alike.

DOCCS, as with every other state agency, suffers from recruitment and retention problems for licensed professionals such as nurses, doctors, pharmacists and nurse practitioners, within its facilities. A DOCCS staffing report from October 2017 shows the average nursing vacancy rate is now nearly 20% statewide. Individually, Sing Sing is facing a 75% vacancy rate.

The DOCCS report goes on to say that though recruitment is ongoing, the continuing and widening gap between DOCCS nursing salaries and community salaries continues to make recruiting and retaining quality nurses nearly impossible. This results in frequent scheduling and assignment changes, as well as a high volume of voluntary and mandatory overtime (DOCCS is the worst violator of the "No Mandatory Overtime" law). Low salaries coupled with Tier 6 retirement makes it very difficult to incentivize nurses to come to, or remain in state employment. Contracting out for these services is a very costly short-term solution that is not sustainable.

It's time that we invest in nursing titles in New York State and begin to look at increasing the base pay of a nurse from a Grade 16 to a Grade 18 to help in the recruitment and retention of qualified nurses.

While we were successful in getting some geographic pay increases where the shortages are considered critical, we need to do more to solve the problem. Let's invest in our nurses!

Parole Officers provide critical oversight and other services for the parolees under their supervision. They represent a critical link in the success of the rehabilitation and mainstreaming process. Unfortunately, parole officers are also an understaffed area within DOCCS. We believe that this problem will be exacerbated in the coming years, especially if programs such as the Geriatric Parole reform are put into place. We simply cannot ask our overworked and short-staffed Parole Officers to continue to accept increases in their caseloads. We need to make an investment in more Parole Officers, especially if we expect to have more parolees. It just makes good sense from a planning perspective.

## **ESTABLISH JAIL-BASED RESTORATION PROGRAMS FOR CERTAIN DEFENDANTS**

The Executive budget proposal also authorizes providing mental health restoration services to inmates who are in jail awaiting trial. While this concept may be well-intentioned, secure detention facilities are the not appropriate settings to provide direct or meaningful mental health services to individuals suffering from severe mental illness. The current practice of treating defendants who are deemed incompetent to stand trial at a separate OMH inpatient psychiatric hospital is the best and most effective way to deliver these important services.

## **CENTRALIZE MEDICAL CANNABIS SUPERVISION**

The Executive Budget proposes a new cannabis regulatory framework administered by a newly established Office of Cannabis Management (OCM). This office will be charged with centralizing all licensing, enforcement and economic development functions. The OCM will administer all licensing, production, and distribution of cannabis products in the adult-use, industrial, and medical cannabis markets. The OCM will also supervise the continued expansion of the current medical cannabis program and evaluate potential reforms to expand patient access and affordability and identify potential research opportunities with medical cannabis providers, health care providers, and medical insurers. The Executive proposes to add 191 staff to administer the Office. PEF already represents the state's medical marijuana inspectors. Should the Legislature agree to support this proposal, PEF urges the legislature to ensure that these new employees are selected through existing Civil Service processes, that they maintain the same rights, benefits and privileges consistent with the organized workforce and that these new staff be designated in titles covered by the PEF bargaining unit.

## **CHANGES IN HEALTH INSURANCE COVERAGE**

The Governor has once again proposed to balance the budget, in part, on the backs of state workers and retirees. Specifically, the Governor wants to cap the Medicare Part B reimbursements at the current rate and is proposing to hold retirees hostage by linking any future increases to budget negotiations. He has also proposed to end the Income Related Monthly Adjustment Amounts (IRMAA) completely for higher income retirees.

The most troubling retiree proposal is to create a new sliding scale of retiree health care costs for any new state employees hired after October 1, 2020. This, compounded with the Tier 6 retirement benefits, will only further harm recruitment efforts for state workers. All three of these bad proposals need to be rejected.

## **COST-BENEFIT LEGISLATION**

We urge you to consider including cost-benefit legislation as part of this year's budgetary process to insure that the interests of taxpayers are represented prior to the state enters into contracts for consultant services with outside entities. While we recognize the Executive has vetoed cost-benefit legislation on several occasions, these types of analyses are the baseline for any operation seeking to add, modify or otherwise change its service delivery capacity or model. As previously detailed, it is in the state's long term financial interest and well-being to maintain and expand the services delivered by its existing workforce. The state should not engage in the contracting out of state services that can be completed and maintained by the existing workforce or otherwise handled by providing enhanced training and professional development opportunities for existing workers. The current practice wastes state tax dollars that could be dedicated to maintaining or expanding core services and it is demoralizing for state workers who want to be utilized for these purposes.

## REVENUES

The 2020-21 Executive Budget proposal effectuates various program and service cuts to balance a projected \$6.1 billion deficit. These program and service cuts will disproportionately impact the state's most at-risk residents.

As we have stated, we believe that reducing the number of outside contracts and consultants will save the state tens of millions of dollars that can be used to maintain and even expand current services. However, we also believe that any final budget must provide some other ways to increase state revenues so that the state can continue to deliver the services that so many New Yorkers need. Multiple options have been advanced to increase income and other taxes on the state's most affluent individuals so that everyone can share in the sacrifice to close this year's budget gap. We encourage you to consider and advance one or more of these proposals so that closing the \$6.1 billion gap is not achieved solely by cutting the programs and services needed by our most vulnerable residents.

## CONCLUSION

New York State maintains the most qualified, highest caliber state workforce in the nation. Unfortunately, the Governor – the state's chief employer – continues to undermine his own workforce by proposing plans to privatize services, contract out for services, and eliminate promised health care benefits.

I hope you will agree that we need, and the citizens of New York State deserve, an investment in the professionals that serve our state.

We ask that there be an investment in a fully staffed and fully trained state workforce and a decreased reliance on costly consultant employees.

We ask that recruitment and retention issues are properly addressed so that the hard working members I represent are relieved of the stress of mandatory overtime and the scheduling issues that cause havoc in their lives.

We believe, and I think you share this belief, that abolishing qualified public service is not the solution.

The public interest is best served by state agencies that are fully staffed with public servants. So, we are asking that public interest be served by public workers... not those committed solely to private profit.

I appreciate your time and the opportunity to address you today. Thank you.

