

2

Since 1910



New York's LEADING Union

Testimony on 2012-13 Executive Budget Proposal Workforce Issues

Presented Before:

**New York State Senate Finance Committee
Chair, Senator John DeFrancisco**

&

**New York State Assembly Ways and Means Committee
Chair, Assemblyman Herman D. Farrell, Jr.**

**Wednesday, January 25, 2012
Legislative Office Building
Albany, NY**

**Testimony presented by
Francine Turner
Director, Legislative and Political Action Department**

My name is Fran Turner and I am the Director of the Legislative and Political Action Department for the Civil Service Employees Association (CSEA). Thank you to Chairman DeFrancisco, Chairman Farrell, members of the Senate and Assembly for allowing CSEA this opportunity to express our deep concerns regarding Governor Cuomo's proposed FY2012-13 Executive Budget and the impact that it will have on our membership statewide.

CSEA represents over 300,000 public and private employees and retirees across the state. We represent state, county, city, town, village and school district employees who provide almost every public service that you can imagine. CSEA members are dedicated to doing the best work possible and adding value to their communities on and off the job. These employees go to work every day to get a job done that benefits the members of their community. However, the past few years has seen a drastic increase in the animosity towards these civil servants. People claim they make too much money, even though the average CSEA state represented employee makes less than \$40,000 and local government employees an average of \$30,000. People are constantly attacking the pensions that they receive once they retiree, even though the average pension received by a CSEA retiree is less than \$15,000.

This budget presents us with a choice. We can either take the route presented, which would be to further vilify public employees, eliminate any semblance of retirement security, privatize jobs, and make the services all New Yorkers rely on harder to get. Or, we can embrace our commitment to good jobs with good wages and benefits. We can be proud of the fact that we allow retirees to earn a decent pension so they do not have to spend their golden years in poverty. This is what this budget is about. I hope you will choose the route that allows us to continue to be the Empire State.

Pension Reform

"This fundamental reform of the public sector pension system -- achieves what the private sector has been doing for years -- namely, having employees contribute a fair share towards their pensions."

-Lt. Governor Robert Duffy, Former Mayor of Rochester, speaking in reference to passage of Tier V in 2009

Pension reform is not a new concept. With much fanfare from business and government leaders, New York State enacted a new pension tier just two years ago. In fact, former Rochester mayor Robert Duffy, now the Lieutenant Governor, cheered this

change by saying that public employees are now paying their fair share. At the time, the Governor and legislative leaders said that this new pension tier would save \$35 billion over 30 years. Unfortunately, however, it seems as if many have already forgotten about the changes made. This new tier included an increased minimum retirement age for all new public employees, doubled the years of service required to vest, required employees to contribute to their pensions for their entire career and capped the amount of overtime that can be considered in the calculation of pension benefits. These changes were not easy to get done but they happened and as more employees enter public service, the savings will only increase.

Despite these reforms, Governor Cuomo proposes to slash pension benefits for future retirees through the creation of a Tier VI. The new tier would apply to employees hired after April 1, 2012. It would raise the minimum retirement age from 62 to 65, increase employee contributions based on a person's salary, increase vesting time from 10 to 12 years, exclude all overtime from a person's final average salary, and base a pension on the final average salary for five years, rather than the current three. There is also a provision for sharing the risk and the reward based on the employer contribution. If the employer contribution rate exceeds 7% in any given year, the amount by which it exceeds 7% would be paid for equally by the employer and the employee. For example, if the employer contribution rate went to 9% in 2013, the employer would pay an additional 1% and the employee would pay an additional 1%. If the employer rate goes below 4% the employee contribution would be reduced by one half of the difference of 4% and the new employer rate.

Governor Cuomo would lead you to believe that it is an option to enroll into a 401(k) retirement plan rather than a defined benefit pension. In reality, the Executive proposal would force new public employees into the defined contribution plan by offering an alternative that is woefully inadequate to other pension plans offered by New York State. In addition to the reduced benefits, the 401(k) retirement plan offers what seems to be an attractive option for lower paid public employees. This option does not require employees to contribute anything to their 401(k) which can be appealing when every dollar counts. Many employees, especially those just starting in public service, are riddled with student loans, car payments, housing expenses and are at the bottom of the

pay scale. Factor in that newly hired employees do not receive a full paycheck for the first twelve weeks in state service creates an incentive for public employees to be misled in the 401(k) retirement option.

CSEA has no hesitation in saying that the proposal for a new public employee pension tier is an assault on the middle class. It will provide no short-term savings to the State or localities and would only mean that working people would have to work longer, pay more and benefit less. Simply put, the Tier VI provisions would be onerous on working people and undermine retirement security for thousands of New Yorkers. Governor Cuomo insists that pensions are not a lifetime legacy. He claims that Tier VI doesn't impact any current employees and this proposal would affect future workers that aren't hired yet, what he terms the "unborn." CSEA disagrees with Governor Cuomo. We believe that a solid source of retirement security after a career in public employment should be something that New York should pride itself in. When Governor Cuomo talks about the "unborn," he is talking about our children and grandchildren. Governor Cuomo may be satisfied with allowing Wall Street to gamble with their retirement but we are not.

A secure retirement is slipping away from American workers. More than half are at risk of not being able to maintain their standard of living in retirement and the average 401(k) account is worth only \$75,000. Not coincidentally, this retirement insecurity comes at a time when the number of people with defined benefit pensions is declining. We are facing a ticking time bomb in this country. Contrary to what many say, it is not public employee pension funds. It is the fact that when baby boomers retire, with minimal 401(k) savings and fewer and fewer with a defined benefit pension, retirees are going to run out of money. A \$75,000 401(k) balance can only last so long before the money is just gone. When this happens, where will retirees eat, live, and get the basic necessities just to live everyday? The National Institute on Retirement Security showed that spending on public assistance for the elderly would be about 40% higher without defined benefit pensions. In other words, taxpayers are going to end up paying for Governor Cuomo's proposal in the long run.

Governor Cuomo's budget presentation attempted to persuade you to believe that the state needs to switch to a defined contribution retirement plan to mirror the changes we have seen in the private sector. This is a false choice. As Comptroller Thomas

DiNapoli recently said, 401(k)s were never intended to take the place of pensions. They were meant to supplement pensions and Social Security, not be used as the primary means of income for retirement. Defined benefit pensions work and New York is proof of that. Public pensions in New York result in an estimated \$6.5 billion in spending, \$9.5 billion in economic activity, and \$1.3 billion in property taxes paid annually. They allow individuals to know that they will have a basic level of retirement security, regardless of whether the stock market reaches new peaks, or sinks to the lowest valleys. A 401(k) does not guarantee that. As we have seen during the Great Recession, 401(k)s only benefit people who happen to be able to retire at the right time. People who could not retire pre-2008 have seen their investment accounts plummet, thus pushing retirement off for years, if not forever.

The 90 years that the state has been providing pension benefits demonstrate that the system works. Pensions are long-term vehicles that should not be overhauled with every change in the political wind. Supporters of a new pension tier argue that the pension system is unsustainable. What is unsustainable is a society where each generation of middle class workers retires with less financial security than the one before. We urge you to stand up for retirement security for all New Yorkers and reject this proposal.

State Operations

Governor Cuomo's budget fundamentally alters the way the state will deliver public services to New Yorkers. While CSEA had hoped for more thoughtful and specific proposals on how the state can improve delivering services, the budget embraces the theory that the privatization of public services will solve the state's problems. The budget proposal would allow more flexibility for private entities to takeover various public functions and facilities. The Governor and his Commissioners would be allowed to do this with little to no compliance with state finance laws. Their power to utilize private contractors would be unfettered and legislative oversight would be minimal. Although it is evident that the Governor wishes you to relinquish your legislative duties, CSEA is urging you to maintain your oversight role for state agencies to ensure that state services are maintained at the highest standard.

While CSEA understands that improvements must be made to ease the cost related to state operations, we believe that the privatization attempts proposed in this budget will make a bad situation worse. These entities will be ill equipped to handle the responsibility and level of services necessary and will strip down the quality of programs currently provided to the public.

Office of Children and Family Services (OCFS)

The Governor's FY2012-13 budget proposal continues on the path to privatize juvenile justice in New York. The Governor proposes to grant the City of New York jurisdiction to take over operation of the juvenile detention system for youths from the city. Due to this, the Governor is proposing the elimination of 324 beds in OCFS facilities in order to transfer this operation to private providers in the City of New York. This would result in the layoffs of 126 OCFS employees, almost all of whom will be front line workers who are in contact with youths on a daily basis. While the affected OCFS facilities are not named, the one year notification law for OCFS closures is notwithstanding for one year after the City of New York's plan is approved by OCFS.

Granting New York City jurisdiction to operate their own juvenile detention facilities will create grave public safety issues. New York City is ill equipped to handle juvenile detention, especially those of youths who will be coming from limited-secure facilities. The City will be forced to have voluntary agencies handle this work, who have not been proven to be as successful as many claim. Unfortunately, these experiments have yielded tragic results in recent years, including the death of a worker from a voluntary agency in Western New York as well as a police officer in Rochester, New York. For these reasons alone you should reject New York City's proposal to take over their juvenile justice system.

The recent incidents at Taberg Residential Center in Oneida County, where 18 staff members suffered injuries, including three broken bones, a concussion and a dislocated shoulder, are another alarming reality that CSEA has warned about for years. To cover for their fallen co-workers and provide the round-the-clock supervision residents require, the remaining aides must work double shifts, making their physically and emotionally draining jobs even more stressful and more dangerous.

CSEA wants to work cooperatively to create a juvenile justice system that will serve everyone better but CSEA will not stand by idly while proposals that will compromise public safety and put youths and staff in OCFS facilities at risk are discussed. We do however look forward to working with you throughout budget negotiations to ensure a better system of juvenile justice that focuses on helping the young people turn their lives around and become productive members of society. We cannot afford to continue policies that compromise public safety and put youths and staff at risk. We need a commitment to provide the leadership and resources necessary to ensure the safety and well being of youths, staff and the community.

Office for People with Developmental Disabilities

CSEA has a proud history of working in partnership with the State to improve care for people with developmental disabilities and CSEA members remain committed to that goal. In mental health clinics and facilities serving the mentally ill and developmentally disabled, it is the CSEA members who provide direct care to those in need. As the union that represents 18,000 direct care workers, we are adamantly opposed to any restructuring of OPWDD that will result in the privatization of services. These employees are some of the most caring and dedicated professionals you will ever meet. We all want better care for people with developmental disabilities. That starts with recognizing that the system's greatest assets are those thousands of individual employees who go to work and provide care to our state's most vulnerable residents.

OPWDD facilities play an important role in the treatment and rehabilitation of clients with developmental disabilities. These facilities require staffing twenty-four hours a day. Due to this, most employees are forced to work endless mandatory double shifts without vacations and with no hope of relief. CSEA supports limits on the amount of excessive overtime workers face routinely in OPWDD. However, capping overtime should be done in a correct manner by hiring more state staff so that excessive overtime becomes unnecessary. We need to ensure that the services that are relied on are still delivered. The state should have a commitment to its state workforce including filling vacant positions

Recruitment within OPWDD is difficult enough. Salaries are low, most employees are mandated to work overtime due to severe staffing shortages, and morale is non-existent for many employees. However, what draws many employees to these jobs, besides their dedication to caring for those who have no other caretakers, is the knowledge that they will receive a decent pension, quality health care, and other benefits. Even with this benefits package, it is difficult to always recruit the number of employees needed. CSEA is very concerned that if OPWDD services are privatized the quality of care will suffer due to the fact that these private entities, most of which pay salaries that are less than what the state offers and nothing even close to the benefits package, will fair no better in recruitment of caregivers. It is one thing to try to cut costs to save the state money, but it should not be done at the expense of the care of these clients.

Governor Cuomo's budget gives the Commissioner of the Office for People with Developmental Disabilities too much power over the way the agency will deliver services in the future. We must ensure that those with mental illness and developmental disabilities have access to the care they need and deserve. However, giving the Commissioner broad powers to unilaterally determine the organization and administration of the Office for People with Developmental Disabilities and its facilities with no oversight is dangerous to this process.

In addition, CSEA is alarmed to hear of a policy shift occurring within OPWDD dealing with the treatment of sexual offenders currently under the supervision of OPWDD. OPWDD provides several programs at different levels of structure and security that serve individuals with sexual behavior problems. They have been found incompetent to stand trial or not criminally responsible for their actions due to mental retardation. Some are not officially charged with criminal behaviors but demonstrate such dangerous or violent actions that they require a specialized secure residential setting. This program has a very intensive sexual offender treatment program and is highly staffed. CSEA has been informed that some of these services will be shifted to community group homes. We understand that the state is required to serve these clients in the least restrictive setting, however, these clients have a history of extreme sexual behaviors. These clients should not be put back in the community without first studying the ramifications on public safety.

Office of Mental Health

Mental Health is one area where CSEA is deeply concerned about the Governor's budget proposal. The constant cutbacks in OMH over the past years have left staffing levels in existing facilities at dangerously low levels. OMH employees across the state face personal, one on one situation with patients, some of whom come directly off the street and who often have emotional and behavioral problems that they are unable to control. The patients left in OMH facilities are now the hardest to serve and are most often younger males with a history of violence and, many times, substance abuse problems. These clients need intensive supervision to receive the care they need, while the employees need extra support and security while working. We are concerned that some of his proposals go too far.

The Governor's budget proposes the closure of the Kingsboro Psychiatric Center in Brooklyn. Further, the budget proposes to notwithstanding current law that requires OMH to provide one year of notice prior to the closure, consolidation, or reduction in services at an OMH hospital.

CSEA opposes the closure of Kingsboro Psychiatric Center. Kingsboro is the only mental health hospital in Brooklyn. This hospital serves a population that is predominantly minority – 72% of its surrounding population is African-American and 12% is Hispanic. Closing this facility will eliminate a needed safety net hospital serving a population that already has problems with access to quality health care. Further, its closure would force patients to be moved to Southbeach Psychiatric Center on Staten Island. It is interesting to note that this Southbeach Psychiatric Center is already operating near capacity. In fact, according to a report released by the New York State Comptroller yesterday, South Beach Psychiatric Center spent over five million dollars in overtime last year. What is more telling is that Kingsboro spent over five and a half million in overtime earning during the same time period. According to the Governor's proposal, OMH would close a hospital already working at capacity with millions in overtime and place it in another hospital that is in a very similar situation. This does not make sense.

CSEA also opposes granting the Commissioner of OMH the authority to close facilities at will, thus negating the one-year notification requirements contained in § 7.16

of the Mental Hygiene law. As written, the notice is notwithstanding in perpetuity. The one-year notification law was put in place for a reason. It helps patients and their families prepare for new medical care, it allows employees to find a new job, and it allows the surrounding area the time to adapt to the loss of a contributor to its local economy. By notwithstanding the law without an expiration date, the notification will never come back.

Making problems worse is the fact that employees in these facilities are now working more hours, overtime and varying shifts than ever before. We now have significantly fewer employees working and serving clients who need the most intensive care. This has created a situation where assaults and violence against employees is commonplace and individuals who need special care are not receiving it. The state's neglect for the needs of the mentally ill and the employees who care for them must end now.

State University of New York

After last year's budget, the Medicaid Redesign Team (MRT) created workgroups to tackle various issues within Medicaid. One, the *Health Systems Redesign: Brooklyn Work Group*, examined at health care access issues specifically in Brooklyn. CSEA represents members at SUNY Downstate, which was a target of this workgroup. One recommendation from this group is to close inpatient services at SUNY Downstate hospital and move them to Long Island College Hospital. SUNY serves a dual role in Brooklyn – one is as an economic engine and the other is as a source of critical health care for a minority community.

SUNY Downstate has 4,800 employees, making it the sixth largest employer in the borough. Studies have shown that for every \$1 the state invests SUNY Downstate returns more than \$12 to the local economy. In fact, the total economic impact on New York State is nearly \$630 million. The closing of this facility would drain hundreds of millions of dollars from the New York economy and add to our already high unemployment rate.

As a safety net hospital, the hospital serves a geographic area that contains nearly one million people, 70% of whom are minorities. The hospital is home to eight different

intensive care units, several of which are not offered at other hospitals nearby. Nearly two-thirds of the hospital's inpatient discharges are of Medicare and Medicaid patients. With these facts in mind, the importance of the services SUNY Downstate provides, and who they primarily serve, is apparent. It is truly a safety-net hospital that serves a very vulnerable population and its closure would prove disastrous.

We agree that reform must happen to lower the cost of health care in the state. However, the wholesale elimination of critical health care services will only exacerbate current problems. The closure of inpatient services at SUNY will make it difficult for residents to obtain necessary medical treatments and will inevitably compromise the care for residents of Brooklyn. I ask you to strongly defend the safety net health care facilities in Brooklyn and oppose this closure.

Medicaid

In this budget, the Governor takes unprecedented steps to privatize the enrollment process of Medicaid services. The budget proposes that the Department of Health take over all Medicaid administrative responsibilities from local Social Service Districts by April 1, 2018. Further, and most worrisome, is the fact that the proposal goes so far as to give the Commissioner full authority to, "take any and all actions necessary to transfer responsibility for the administration of the medical assistance program from social service districts to the department." This language would not be included in this proposal unless the intent of the administration is to privatize much of the work currently being performed by employees in Social Service Districts. While federal law requires that the final eligibility determination be made by a public employee, this Commissioner could privatize all work leading up to that final action. As you may remember, the FY 2010-11 State Budget also required a state takeover of Medicaid administration. While we did not support this proposal either, it at least did not give one person full authority to take any action they wanted. That proposal set up a system where affected parties could have input in order to try to create a smooth transition.

What some may forget about proposals like this, where the state would takeover all county and New York City employees, is that these are employees in your communities. Whether it is employees in Onondaga or Bronx County, they contribute to

that local economy. By having these employees either move to Albany, or be taken over by a private contractor and put elsewhere in the state or country, your local community will be hurt by this proposal.

The privatization of these services is bad enough. However, this budget proposal goes even further by allowing the Commissioner to amend the terms of a contract that the state currently has with Maximus. A provision of the FY 2008-09 budget allowed DOH to issue a contract for enrollment services for Medicaid. This included operating a call center, mailing renewal paperwork, and other items to stop the churning of people off of Medicaid. The language contained in this proposal will allow the Commissioner to expand this contract without issuing a new request for proposal and without complying with state finance. We strongly urge you to not allow the erosion of critical state finance laws or to allow single source contracts.

CSEA opposes the state takeover of Medicaid administration from local social service districts, most especially when it appears that most of this work will be given to a private for-profit corporation. Past attempts to privatize social service work in Texas and Indiana has proven disastrous. Lost paperwork, inappropriate denials of qualified children, and a lack of quality service forced the Indiana state legislature to attempt to stop the use of a private vendor to manage its food stamp program. A University of Massachusetts Medical School study, in conjunction with COPC Inc., researched the strengths and weaknesses of the customer service center managed by Maximus for MassHealth. The study found that "On average, it takes two contacts with MassHealth to resolve an issue. 36% of issues are resolved in one contact--substantially lower than the 62% COPC Inc. benchmark for healthcare." There is no doubt that this is what will come to New York if the privatization of these services is allowed to take place.

Local governments want mandate relief however we do not believe mandate relief should include provisions that will make it harder for citizens to sign up for public programs. We ask that you oppose this power grab and retain what oversight you have over Medicaid administration.

Conclusion

I would again like to thank the Chairs and members of the Senate Finance Committee and the Assembly Ways & Means Committee for allowing me this opportunity to speak. On behalf of the members of CSEA and their families, I look forward to working with all of you again this year to enact a budget that protects the needs of all New Yorkers.

CSEA is here today because we care about this state and we are proud of the hard work that we perform in order for this state to work well. Unfortunately this budget undermines CSEA's ability to provide these services. Protecting and strengthening the rights and benefits of CSEA members will remain the priority issue for CSEA members throughout the budget process. We look forward to working with you on addressing the issues outlined here today as well as any others that may arise over the course of the next several months. Again, thank you for this opportunity to present our testimony.

On behalf of 300,000 active and retired, public and private employees across New York State, I hope you will join us in fighting this unfair budget and in making sure that we do not abandon those who need care in this state.