



THE NEW YORK STATE PUBLIC EMPLOYEES FEDERATION

Testimony to the Senate Civil Service and Pension
Committee

on “Retention and Recruitment for Civil Service Jobs in New York
State, the New York State Pension fund, Pensions and Civil Service
Benefits”

October 11, 2023
Wayne Spence, President

Good morning Chairman Jackson and other honorable members of the Senate. My name is Wayne Spence and I am the president of the 50,000-member strong New York State Public Employees Federation (PEF). I want to thank you for the opportunity to speak to you today about recruitment of public employees, pensions and civil service benefits. Our union is composed of professional, scientific and technical experts who provide critical services to the residents and taxpayers of New York State. Serving as the state's frontline essential workers during the COVID-19 pandemic, my members have risked their lives and those of their families to maintain the continuity and quality of services to New York's most vulnerable citizens. PEF members take a great deal of pride in the services they provide to clients because they are professionals and they care about the welfare of their fellow New Yorkers.

HIRING ISSUES

Staffing Problem Persists:

The staffing and service delivery challenges facing the state are not new, but these challenges are much more profound. As the Governor has stated, New York state is down 12,500 staff. The challenge is that the state is not a competitive employer in the current market environment and it has difficulty attracting and retaining talent. Lower starting salaries, the lag payroll system, the lack of promotional opportunities, high overtime, workplace culture and the inferior Tier 6 pension plan are all contributing factors to these challenges.

A report issued by Comptroller Tom DiNapoli in May found that in calendar year 2022, 22.2 million hours of overtime were worked by state employees, at a cost of \$1.36 billion. DiNapoli noted, "overtime is not a long-term substitute for proper staffing levels. State agencies should ensure that overtime use is justified and that employees are not pushed to the point of burning out."¹ The Comptroller highlighted that in 2021, the level of attrition in the state workforce was the highest in more than 10 years with 16,858 people leaving the workforce. We are seeing the burnout that the Comptroller mentioned. We hear about employees mandated to work overtime during their first week on the job. Others are presented with the challenge of finding child care after hours because there is no one else to care for the patients they serve, so they lose family time to stay at work.

¹ See also, "New York State Agency Use of Overtime and State Workforce Trends, 2013 – 2022;" <https://www.osc.state.ny.us/files/reports/pdf/cy2022-overtime-report.pdf>

Three agencies account for more than 2/3 of the overtime hours—the Office for People with Developmental Disabilities (OPWDD), Office of Mental Health (OMH) and the Department of Corrections and Community Supervision (DOCCS). Poor staffing affects access to services and the quality of those services. It also diminishes the ability of the state to oversee and regulate the private companies who provide services on behalf of the state.

In the end, the state of New York cannot hope to adequately enforce its labor laws, regulate its industries, collect its taxes, protect its environment, care for its elderly and infirm, protect the public or maintain safe roads and bridges when the state workforce is so dramatically understaffed. Absent the oversight and regulation PEF members provide, bad employers will continue to steal wages and benefits from workers, polluters will continue to destroy our environment, the developmentally disabled will continue to be displaced from their residences and unscrupulous individuals and business owners will continue to skirt paying their fair share of taxes.

PEF urges all our elected representatives to support us as we work to secure adequate funding and staffing to support the efficient and effective operation of state government for the benefit of all New Yorkers.

Department of Civil Service:

One of the biggest problems with recruiting for Civil Service positions is the lack of testing, which has a direct correlation with the lack of staff at the Department of Civil Service itself. In 2001, Civil Service had a staff of 683. At the beginning of this budget year, that number was no more than 357—nearly a 50 % reduction in 20 years! While we applaud Governor Hochul’s proposal to hire an additional 108 staff there, that is just the beginning. While we must ensure that these 108 positions allocated in the budget are filled as soon as possible, we also need to return to the staffing levels from 20 years ago if we want to see a successful program of recruiting and retaining state employees.

This staff is needed not only to help ensure that more tests are administered, but to modernize the tests and the way in which they are administered. Individuals will be needed to run the 12 new computerized testing centers that were created as part of last year’s budget. PEF has estimated that 54 new staff will result in 432 additional exams and 43,200 tests taken. PEF also believes that priority for additional testing should be focused on underserved areas of the state, particularly New York City, the southern tier and the north country.

Staff is also needed to expedite the hiring process, which is often cited as a reason potential employees choose private employment over state service. Often, job seekers can interview, be offered and start a new position in the private sector in less time than the state can on-board a new recruit for the state.

PEF is very pleased that the Governor advanced and that the Legislature approved a proposal to examine the civil service pay structure as part of the 2023-24 state budget. This is long overdue and must be a top priority

for this administration. PEF believes that every state title requires an increase of at least two grades in order to keep pace with inflation and the salaries for professionals in the private sector. Additional resources, including Civil Service staff, are required to examine all of the titles and pay grades for state employees.

RECRUITMENT/RETENTION EFFORTS

Student Loan Forgiveness:

We thank Governor Hochul and the Legislature for recent efforts to attract and retain state staff through specific programming like the Healthcare Worker Bonus program, Nurses Across New York program and making Civil Service exams free through the end of 2025. But we need to do even more. One area that has been identified by PEF is a state-run student loan forgiveness program. Many of PEF's members are required to have a 4-year college degree or higher. Having student loan forgiveness for state employees is yet another recruitment and retention tool we believe the state should consider. While there is federal public employee loan forgiveness, a state program could be designed by the Legislature to ensure that more potential candidates choose state service and incentivize staying with the state for a specific period of time. The amount of forgiveness could be based on the employees' total owed or the number of years of state service. The options are plentiful.

Targeted Programs at Specific Agencies:

We believe that some of the state agencies with the most egregious staffing issues should be given additional funding for targeted recruiting programs. One specific example is the OPWDD. The agency has closed more than 130 residential treatment homes, with lack of staff as one of the reasons cited for the closings. If the need for services is there, the state should not be closing facilities due to a lack of staff. PEF suggests a budget of \$15 million for OPWDD and other agencies in dire need of staff to have additional recruiting resources.

BUILDING A CULTURE OF RESPECT AND COLLABORATION

Anti-Bullying:

We are very thankful to have such excellent leadership in the State Legislature and Governor Hochul has certainly set a new, more respectful tone with her state agencies and her employees. However, like all large and diverse operations, there remain certain staff – administrative, professionals and supervisory – who conduct themselves unprofessionally in the workplace. To that end, we continue to field issues and concerns from members, especially our nurses and health care professionals, who are concerned about the state's work culture.

We are not indicating that this is a widespread issue, but it is something that requires further consideration and action. PEF has worked with the Legislature to introduce legislation to codify actions in the workplace that constitute “bullying” and “abusive conduct” and this legislation would require all state employees receive training to identify such conduct with the hope of preventing it in the workplace and empowering all employees to seek redress from such circumstances (S.3065-A by Senator Ramos/A.1202-B by Assemblywoman Joyner). We hope that you will join with us in support of this legislation and pass it in the upcoming session so that the state can be a model employer for all, so that we can educate all workers on what constitutes inappropriate conduct at the workplace and so we can re-build a culture of mutual respect and support across all the agencies as we collectively conduct the people’s business and deliver the services New Yorkers need.

END LAG PAYROLL SYSTEM

The state’s lag payroll system – established decades ago to help New York balance its budget – is also a major impediment to hiring new staff. All new hires have a two-pay period delay for their first paycheck, plus they are subject to an additional withholding equivalent to one day's pay in each of the appointee's first five pay periods. Only after the end of the fifth payroll period will the employee’s payroll revert to the regular 100% pay rate where employees will receive their full paychecks.

There are simply very few potential new employees, especially those fresh out of college with student loan debt, who can afford to wait 5 weeks before getting their first full paycheck. The lag payroll system should be suspended immediately for new hires.

PENSION EQUITY AND FAIRNESS

Fix Tiers 5 and 6:

A wise state Senator once famously said, “Tier 6 sucks.” We agree wholeheartedly with that sentiment. It is probably the subject that members bring up most often when discussing their concerns with state service. PEF thanks you for the great lengths you have gone to begin reforming Tier 6—successfully reducing the vesting period from 10 to 5 years and temporarily excluding overtime compensation from the calculation of employee contributions under Tier 6.

At the just concluded Great New York State Fair, PEF had a booth and discussed the need to “Fix Tier 6” with interested individuals—members, families and the general public. Over 5,000 people took time to sign a letter to you and other lawmakers asking for the needed changes to Tier 6.

We implore you to continue the process of correcting the pension problem by supporting your legislation (S.5487 by Sen. Jackson)/A.6856 by Asm. Pheffer-Amato) to standardize the mandatory employee contribution at 3% for all Tiers. Currently, experienced Tier 6 workers pay more to the plan when they earn promotions or contract increases. This change would remove a disincentive for individuals to become long-term public employees and provide our agencies the trained and experienced civil servants the state so desperately needs.

We would also like to return to the benefit of being able to retire penalty free at age 55 with 30 years of service for members in Tiers 5 and 6, not having to wait until age 62 or 63, respectively. This is probably the second most discussed change that members believe needs to be made to Tier 5 and 6 plans.

Another change that is desperately needed is to return to the 2% of Final Average Salary (FAS) for those who work 20 or more years in Tier 6 when determining the service retirement benefit. This is another rollback that serves to discourage people from joining or remaining in state service.

As current state employees continue to work record levels of overtime, that overtime pay should be permanently excluded from employee retirement contribution calculations. Workers should not be penalized by paying more into their retirement for keeping the state and its services up and running.

The final change we are seeking is returning the FAS back to the highest three consecutive years, instead of the highest five consecutive years. Again, this only deters potential employees from joining the state workforce.

Retiree Health Care:

Another area of concern for our members and retirees is the potential diminishment of health care benefits after retirement. One way that this can be addressed is by passing legislation like S.4191-A (Lanza)/A.4989-A (Weprin) that would prohibit state or local governments from reducing the health care benefits being received by retirees 30 days after the law goes into effect. This reassurance would ease the mind of our current retirees and active members who are considering retirement in the near future.

Thank you for the opportunity to share our concerns with you. We look forward to working with you to ensure that New York makes employment with the state not only competitive with the private sector, but also desirable and something that can once again be considered an honorable career path.

Respectfully Submitted,

Wayne Spence
President, New York State Public Employees Federation