



Local 1000 AFSCME, AFL - CIO

cseany.org

Testimony on the FY 2019-20

Executive Budget Proposal

Workforce Development

Presented Before:

New York State Senate Finance Committee

Chair, Senator Liz Krueger

&

New York State Assembly Ways and Means Committee

Chair, Assemblywoman Helene Weinstein

Monday, February 4, 2019

Albany, NY

Testimony Presented by:

Fran Turner, Director

Legislative & Political Action

Introduction

I would like to start by thanking Chairwoman Krueger, Chairwoman Weinstein, and members of the Senate and Assembly for the opportunity for CSEA to comment on Governor Cuomo's FY 2019-20 Executive Budget proposal.

CSEA proudly represents 300,000 public and private sector employees and retirees across the state. CSEA members care for the developmentally disabled and mentally ill, protect our children, plow our roads, work in our schools, and provide countless other state and local government services. Our members take pride in what they do, and they never quit on their work, on each other, or on their communities.

In many ways, the Executive Budget proposal represents a step forward.

The budget includes proposals for important protections for working men and women and proposals for much needed revenue. For the first time in a number of years, the budget does not include any proposed cuts to State-operated services for the mentally ill and developmentally disabled.

However, the budget presents us with many challenges. Local government funding is threatened. Retirees are facing significant cost increases. Years of underfunding and the diminishment of the State workforce have led to structural problems, including the inability to recruit and retain employees.

I look forward to working with the Governor and legislature to move forward with the good parts of this budget while also addressing the very real concerns we have with aspects of this proposal. Together, we can move our state forward and advance the prosperity of all New Yorkers.

The Workforce

The Executive Budget continues a multi-year trend of flat budgets for many areas of state funding outside of education and health care.

This continued insistence on capping spending regardless of the needs of state agencies has led to a clear lack of funding and staffing at certain agencies. As laid out in the Executive Budget Briefing Book, the state workforce under Executive control has declined by 7,400 positions (-5.8%) under the current administration. The State can't even hire enough people to keep up with attrition at many agencies.

This lack of investment in the State workforce has had significant repercussions.

Recruitment and Retention

The clear lack of investment in the workforce in State agencies has resulted in serious damage to the State's ability to recruit and retain a talented workforce.

The work done by State employees is not easy work. Direct care workers within human service agencies work with some of the most vulnerable citizens of our state. Many of these clients require twenty-four-hour care, intensive supports, and specialized services. Unfortunately, the lack of investments in these agencies has created severe staff shortages throughout the state. Agencies are left to provide only barebones services and minimum staffing, which deprives clients of participating in enrichment programs such as visiting parks or attending social events.

To be fair to the Office for People with Developmental Disabilities (OPWDD), issues with recruitment aren't always because of a lack of effort. OPWDD has done "boot camps" across the state where the Department of Civil Service would go to a site so that all required tests and evaluations could be done in one location to speed up the process of bringing a newly hired employee on board. Unfortunately, while the need for additional staff is clear, the state has failed to make these jobs more appealing and valuable to potential employees.

The implementation of two new pension tiers over the last decade, coupled with extreme levels of mandatory overtime and the invasive and constant eye of the Justice Center has led many people with an interest in working in this field to look elsewhere for employment. When the options are dealing with these constraints or making \$15 per hour, knowing when you will leave work each day, and with no oversight body analyzing your every action, it is understandable why a person would choose not to go into the human services field. If the state, which takes care of the most difficult and complex clients, has trouble recruiting and retaining workers in this field, how can we expect voluntary agencies with fewer resources to be successful?

Something must change. It is time for the State to make investments in human service jobs that allow it to recruit and retain a talented and professional workforce. Clearly the State needs to invest in the development of its workforce to address this growing problem.

Possible ideas within workforce development include:

- **Growth Opportunities:** Direct care employees should be given the opportunity to progress through the ranks of State service as they develop professionally. Such opportunities would encourage employees to continue their public service instead of seeking employment elsewhere when it feels as if they have hit a ceiling. The State is facing a significant shortage of Licensed Practical Nurses (LPNs) at Office of Mental Health (OMH) and OPWDD facilities. However, they do not do an adequate job of providing opportunities for existing staff to become trained and certified in this field. This can be a significant problem, as there must be at least one LPN per ward for every shift at an OMH facility, and there must be an LPN

available for every group home within OPWDD. Failure to meet these standards could lead to Medicaid eligibility being jeopardized.

- **Education:** The State should invest in programs that further educational opportunities for its workforce. The State should create and offer new certifications and degree opportunities to professionalize its workforce. This can be done through new scholarship opportunities and through existing programs such as the CSEA Work Institute, CSEA/NYS Partnership, or opportunities through SUNY Empire State College. There are existing funding streams for workforce development funds and grants that should be tapped into for the benefit of State employees. Further, more opportunities should be offered for employees during work hours so they can take advantage of these programs without further stressing their work-life balance. Offering these programs will encourage employees to advance their skill sets which benefits both the client, the state, and the employee themselves.
- **Compensation:** While not a panacea, the State must address the pay received by direct care employees. It used to be that employees took a job with the State knowing that they would receive less in pay but would receive a good pension and health care benefits. However, this has changed. The recently enacted changes to pension plans are not as comprehensive as previous tiers and require many employees to contribute more for a longer period before they can retire. In addition, the cost of health benefits has also increased for employees. The current compensation structure will not be able to recruit or retain the workforce needed to provide the care that clients need and deserve. The compensation paid to these workers should match the difficulty of their jobs.

Again, we do not believe that there is a silver bullet to solve the recruitment and retention issue within the State workforce. However, we believe that it is well past due to review the current system and make changes that will keep employees from leaving state service and encourage more to enter.

Office of Mental Health (OMH)

After passage of the FY2019 state budget, an agreement between OMH, Division of Budget, Senate and Assembly required OMH to provide monthly reports detailing the census of each state-operated psychiatric hospital, including the number of admissions and discharges and out of catchment area placements. This data is critical in ensuring that OMH is funding a proper number of beds and staff at each hospital.

An out of catchment placement occurs when a patient attempts to enter a state-operated psychiatric hospital for treatment but is turned away and placed in a different hospital. These placements occur when OMH has failed to fund an adequate number of beds or

when they allow staff levels to dwindle to levels that cannot legally allow for additional patients.

After analyzing data from April 2018 to October 2018, the most recent data available, CSEA found a total of 67 out of catchment area placements. Of this total, 55 are placements for children. This high number is disturbing and indicates that OMH is failing to ensure proper and adequate access to inpatient mental health care at its hospitals.

When a person needs inpatient mental health services, they should be able to go to the closest facility. However, as shown by these reports, children and adults are routinely turned away and sent hours from their homes to receive treatment. The agreement requiring these reports contained a commitment from OMH to maintain appropriate levels of inpatient beds and to provide sufficient staff and funding when the census exceeds funded capacity. Based on this data it appears that they are not honoring this commitment.

An analysis of the data found that on numerous occasions an inpatient facility was not at capacity during a month, leading to the conclusion that these facilities were under staffed and could not take in additional patients due to staffing shortages. For example, a building at Hutchings Psychiatric Center in Syracuse has been closed due to a shortage of registered nurses.

This relates directly back to the State's problem of recruiting and retaining employees.

It is unacceptable that a family from Syracuse would have to send their child to a facility in Buffalo because of a staff shortage. The necessity of caring for children at facilities hundreds of miles away from their homes highlights the need for proper state investment in its workforce. By properly staffing facilities, these children would be closer to home and closer to their families.

While out of catchment placements are not ideal, services end up being provided in at least some capacity. For many individuals in need, care is never accessible. County jails have become de-facto treatment centers of last resort and many people, including those that are homeless, never have the opportunity to receive even a basic level of care. Our state must do better.

Temporary and Seasonal Employees

While state agencies have been unable to hire additional permanent employees due to budget constraints and lack of adequate recruitment, they have been forced to turn to an overreliance on Temporary and Seasonal employees. Many of these employees end up working in positions that are neither temporary nor seasonal. In fact, many of them have been in "temporary" or "seasonal" jobs for years.

The State has converted some of these employees to permanent positions, but there is still much more work to be done. Specifically, the State should continue to convert to

permanent status all temporary and seasonal employees in all agencies who are employed for durations that are neither temporary or seasonal. Secondly, the state should immediately discontinue the practice of employing temporary and seasonal employees for durations that exceed limits established under Civil Service Law.

Responding to Janus v AFSCME

New York has led the way in responding to the U.S. Supreme Court's attack on public sector employees in its decision in *Janus v AFSCME*.

The enacted 2018-19 budget included important protections for public employees. After the Court's decision in June, Governor Cuomo issued an Executive Order to protect the personal information of State employees from being released to outside groups that were seeking to harass and intimidate union members into leaving their union.

Now, the Governor is proposing to extend these crucial protections to all public employees in the state of New York. The Executive Budget would make it an improper practice for a public employer to disclose the home address, personal telephone number, cell phone number, or personal email address of a public employee.

CSEA strongly supports this proposal.

Publishing Unratified Collective Bargaining Agreements

In a complete contradiction to the aforementioned privacy provisions, the budget also contains a proposal to mandate the public disclosure of tentative public employee contracts before employees have even voted on them.

CSEA strongly opposes this provision. Legislation like this, whose only goal is to divide and anger the citizenry, has no place in our state. CSEA urges the legislature and Executive to reject this proposal in the final budget.

Retiree Health Insurance

The Executive Budget proposes three policy changes that would drastically increase the health insurance costs of current and future retired public employees.

First, the Budget proposes to create a Tier 2 health insurance contribution for any person hired by the state on or after April 1, 2019. Secondly, the Budget would cap the reimbursement for Medicare Part B premiums for public employees or retirees enrolled in the New York State Health Insurance Plan (NYSHIP) at \$135.50. Lastly, the Budget would eliminate the reimbursement to NYSHIP retirees for the Income Related Monthly Adjustments Amounts (IRMAA) supplemental premium effective January 1, 2020.

Each one of these proposals would have a negative impact on retired New Yorkers across our state. Retirees have much less flexibility to absorb cost increases than others. With

the costs of prescription drugs, groceries, energy and other everyday items constantly on the rise, their budgets are already being stretched to their limits. For those living on a fixed income, any changes in out-of-pocket expenses for health care can substantially impact their budgets and financial well-being.

These proposals would only make the State's recruitment and retention problems that much worse if potential employees see that the State is trying to balance the budget on the backs of its retirees. On top of that, these proposals are fundamentally unfair to retirees who dedicated their working lives to public service.

The legislature has rightly rejected these proposals for the past several years. CSEA asks that these proposals again be rejected in the final budget agreement.

State University of New York (SUNY) Hospitals

The Budget proposes to eliminate the State operating subsidy to the three SUNY Health Science Centers at Stony Brook, Downstate (Brooklyn), and Upstate (Syracuse).

The CSEA strongly opposes this elimination.

The three SUNY hospitals routinely provide care to the indigent, poor, and uninsured. This cut is unacceptable and will not help these safety-net hospitals fulfill their mission. This subsidy must be restored in full in the final budget.

The SUNY Health Science Centers play a critical role in the delivery of health care in New York State. These public hospitals provide desperately needed care to indigent populations, offer services not available at private hospitals, and serve a fundamental academic mission.

With all the rhetoric from the Executive this year focusing on how we need to fight back against Washington's attacks on New York, it is unconscionable that the State would walk away from its responsibility to provide funding for major public providers of healthcare.

Local Governments

Elimination of AIM Payments to Towns and Villages

The Budget proposes to drastically cut state aid to local governments by eliminating Aid and Incentives to Municipalities (AIM) payments to 90% of towns and villages. The CSEA strongly opposes this proposal.

Year after year, the state has asked municipalities to do more with less. Cost shifting from the state to localities has increased; AIM funding has not been increased since 2011-12; and an overly restrictive property tax cap held budgets close to zero growth for years.

Through all of this, municipalities had to do everything they could to survive. Local governments found efficiencies, cut costs, shared or eliminated services, and submitted to the limitations imposed by the property tax cap.

Despite having done everything that was asked of them and more, the Executive Budget proposes to pull the rug out from under our towns and villages.

While \$59 million might not seem like much in the context of a \$176 billion budget, these cuts would be absolutely devastating to the impacted local governments. The elimination of AIM payments will leave municipalities with only three options to balance their budgets. 1) Cut jobs; 2) Cut services; or 3) Raise taxes.

At a time when there is much focus on protecting taxpayers from the impacts of federal tax reform and making the property tax cap permanent, the proposed elimination of AIM funding to towns and villages is unjustifiable and unwarranted. Eliminating state aid will only force more reliance on local tax collections or result in the elimination of jobs and services that our communities depend on.

The legislature should reject these cuts and restore AIM funding to all towns and villages.

Permanent Property Tax Cap

To make matters worse for local governments, the Budget proposes to permanently extend the property tax cap.

While often referred to as a two percent cap, the reality is that the cap has been essentially flat since its inception. This has meant that local governments have been unable to raise enough revenue to cover cost increases in energy, health care, or materials and supplies, all costs that are outside of a local government's control. This one size fits all solution is unfair and impractical if we want our local governments to be able to continue to function and provide the services that residents want and need.

CSEA is fundamentally opposed to the permanent extension of the property tax cap as it is currently structured.

Child Care

CSEA represents more than 10,000 registered, licensed group, and enrolled legally exempt family child care providers in 57 counties outside New York City. Family child care is the most flexible and affordable child care option for working families. It is often the best and sometimes the only option for parents needing non-traditional hours and flexible care to work jobs with late night or irregular hours.

The budget proposes an additional \$26 million over FY19 funding levels, including \$9 million in additional federal child care funds. While additional funding is always a positive, proposed funding levels do not come close to ensuring that all working parents have access to affordable and safe child care. We strongly encourage the legislature to increase funding in the enacted budget.

Revenue

Internet Sales Tax

With uncertainty over federal funding and state budget deficits increasing, it is critical that New York find ways to smooth out this potential loss of revenue while protecting residents and the services they depend on.

The current patchwork system of collecting sales tax revenues from online sellers with a nexus in New York, but not collecting them from other marketplaces, has deprived the State and local governments of funding that they should have been collecting for years. As more and more consumer spending moves online, it is critical that state law is updated to meet the needs of this new reality to ensure the continuity of sales tax collections. Further, creating a uniform policy will not only streamline online collections, but will level the playing field for small businesses in our communities as well.

This proposal is especially important to our local governments. Expanding the collection of online sales taxes would provide our local governments with an additional source of revenue without costing the state or other programs anything.

Millionaire's Tax

While CSEA would support changes to the "Millionaire's Tax" that would create an even more progressive system, we do support the continuation of the existing tax in this budget. Allowing this tax to expire would cost the state over \$700 million this year, and much more in future years.

As our nation and state has recovered from the Great Recession, the wealthiest among us have gained the most. The federal tax reform that went into effect for tax year 2018 only exacerbated the gap between the top 1% and the rest of us.

Asking the wealthiest New Yorkers to pay their fair share will help to protect the services our communities depend on every day.

Public Financing of Elections

While underfunding local governments and state agencies, the Budget would establish a system of matching public funds for campaign contributions that could cost the state over \$200 million.

The CSEA is strongly opposed to any legislation that would establish public financing for political campaigns in New York State. Our state has much greater needs to finance than more dinner-time robo calls and television commercials.

State agencies have been operating under flat budgets for years. There is an acute lack of services for persons with mental illness and developmental disabilities. State aid to local governments has not increased since 2011-12, and is facing cuts in this year's budget. Uncertainty about the continuance of federal funding to a variety of programs is at its highest point in years. Schools and libraries have unmet needs. Child protective service employees have dangerously high caseloads. Access to subsidized child care has become harder to find. Roads, bridges, and other infrastructure are in vital need of maintenance and repair. The citizens of New York would see a much more significant benefit from investment in any of these areas than in more politicking.

Further, public financing has not proven to be an effective tool to root out corruption in campaigns. In fact, New York City's public financing system has shown the potential for candidates to game the system, secure matching public funds and then use those funds for inappropriate personal expenses rather than for their intended purpose.

While leveling the playing field for political campaigns is a laudable goal, this bill represents a misguided effort. Our state is currently facing too many issues that impact its citizens to risk taxpayer money on funding partisan political campaigns.

For these reasons, I urge you to reject the inclusion of a system of public financing of political campaigns in any final budget agreement.

Procurement and Oversight

Design-build

CSEA strongly opposes the Executive Budget proposal to make design-build permanent, expand design-build authorization to the Dormitory Authority, the Urban Development Corporation, the Office of General Services, the Department of Health, and the New York State Olympic Regional Development Authority, and to expand the types of projects where a design-build contract could be used.

CSEA has long held that certain conditions should be met in order for design-build proposals to move forward. These include requiring specific legislation on a project-by-project basis, language protecting existing collective bargaining agreements, and

protecting public sector jobs, including ensuring continued public operation and maintenance of assets.

The 2017-18 State Budget, and all subsequent design-build authorization, has set a precedent for extending design-build authority by specifying what projects and entities would be given design-build authority, providing language to protect public sector jobs and existing collective bargaining agreements, and ensuring that public employees continue to be responsible for the maintenance and operations of such construction projects.

CSEA strongly opposes the design-build proposal as written and urges the legislature to retain its authority to approve design-build authority on a project-by-project basis. Most importantly, any extension of design-build authority must contain protection language for public employees.

Separation of Powers

The CSEA strongly opposes the Executive Budget proposals for wide-ranging authority for the Division of the Budget (DOB) to adjust budget appropriations mid-year.

Most concerning is a provision that would allow DOB to institute uniform, across-the-board cuts to state operations and local assistance in the event that projections for tax receipts are at least \$500 million lower than projected in the Executive Budget. School aid, Medicaid, CUNY colleges, and several additional programs would be exempted from the cuts, meaning that State operations and local governments would be entirely responsible for a cut of up to three percent. This provision was also proposed in the FY2018-19 Executive Budget but was rejected by the legislature. If it had been included, this provision likely would have gone into effect, as personal income tax collections were substantially lower than expected. This would have resulted in across the board cuts to appropriations with zero legislative input.

While two additional provisions that would allow for unilateral cuts upon federal reductions to Medicaid or non-Medicaid support were included in last year's budget, the legislature should reject this Executive overreach of budget authority. It is entirely unreasonable that state agencies and local governments would be made to go through another fiscal year with this budget axe hanging over their head.

CSEA opposes all language that allows the Governor to move, transfer, reduce, or change appropriations without legislative consent, and opposes unilateral authority for DOB to reduce appropriations mid-year. There is enough uncertainty in this budget from the federal government. There is no need for the state to add more chaos to the mix by allowing mid-year reductions.

Finally, CSEA opposes the inclusion of language tying appropriations to the enactment of certain legislative proposals contained within Article VII bills. The funding of the

government should not be held hostage to specific policy demands made by the Executive.

Conclusion

I would again like to thank the Chairs and members of the Senate and Assembly for allowing me the opportunity to speak here today.

The Executive Budget proposal represents a good first step. I look forward to working with the legislature to improve upon this initial proposal to address the needs of all working New Yorkers and retirees.

On behalf of 300,000 active and retired, public and private sector employees across New York State, thank you for this opportunity and I look forward to working with you.