

New York State Public Employee Conference



Legislative Committee

2019 Annual Report

**Respectfully submitted,
Bing Markee, Committee Chair**

December 2019

2019 NYSPEC Legislative Committee Report

The 2019 Legislative Agenda, which was agreed to by NYSPEC's Board of Directors and Legislative Directors at the 2018 Annual Meeting in Hollywood Florida, was formalized and printed in the booklet distributed at NYSPEC's 42nd Annual Legislative Breakfast.

The text version of the 2019 Legislative Agenda is attached hereto, as Addendum A, for review and discussion in preparation of NYSPEC's 2020 Legislative Agenda. This attached version contains line numbering, for ease of use in the event that amendments are necessary.

Notice to NYSPEC's Directors and Legislative Directors containing the following language was sent by Chairman Meringolo on November 10, along with a copy of the text version of the 2019 Legislative Agenda: *"In preparation for discussion at convention of our 2020 legislative agenda, please review this now, or as soon as practicable, to determine whether you wish to propose any changes, additions, deletions, etc.; if you do want to propose changes/additions to the existing language, please prepare same in written form and submit to me in advance, if possible. This will minimize the discussion and time it takes to finalize our 2020 legislative agenda. Please keep in mind that from the completion of our convention, we have just a short period of time to get our 2020 Annual Legislative Breakfast booklet printed by February 4, 2020. As you know, changes not agreed to at the convention necessitate time consuming back-and-forth communication to facilitate final language all are comfortable with."* As of the date of this writing, no proposed changes, additions, deletions, etc. have been submitted per Chairman Meringolo's request.

Our 42nd Annual Legislative Breakfast, once again boasting record attendance, was held on Tuesday, February 5, and was a resounding success. From the perspective of the Legislative Committee, a highlight of this year's breakfast was the appearance and remarks by our former Legislative Committee Chair, the venerable Floyd Holloway.

The Legislative Committee met again twice in Albany during the remainder of the 2019 state legislative session. One meeting was held at noon on Tuesday, March 19, and the other at noon on Tuesday, May 21, both at *Amo La Bella* Restaurant. Our preferred meeting place, the Fort Orange Club, which had been chosen several years ago for the available parking and proved to be quite popular with our membership, was unavailable on both meeting dates this year; we are hopeful to be able to once again conduct our future meetings at that venue.

At our March meeting, we adopted a new policy requiring that requests for NYSPEC support or opposition memoranda be made by the Monday following Labor Day. By electronic mail in early September, Chairman Meringolo reminded all Directors and Legislative Directors of the new policy.

This year NYSPEC issued 10 legislative memoranda, three in opposition and seven in support.

Please note that the following synopses are not necessarily listed in any order of priority.

Opposition Memoranda

A memo was issued opposing S2126 (Krueger) / A1536 (Ortiz). This bill would “*amend the retirement and social security law, in relation to limitations on investments of public pension funds; and providing for the repeal of such provisions upon expiration thereof*”.

Comptroller DiNapoli attended our meeting on March 19 in Albany. He explained his position with respect to this “divestment” legislation, and requested an opposition memo from NYSPEC. Pursuant to a motion adopted at that meeting, Chairman Meringolo authorized issuance of the memo.

The legislation died in committee.

The senate version of the bill was substantially amended on November 22, and the assembly version to match on November 27. The legislation is now S2126-A / A1536-A. Presumably, as this report is being written prior to and pending the remarks of Comptroller DiNapoli at NYSPEC’s 2019 Annual Meeting, the amended version will be opposed by NYSPEC in the 2020 legislative session.

A memo was issued opposing S3577 (Rivera) / A5248 (Gottfried). This bill would “*amend the public health law and the state finance law, in relation to enacting the “New York health act” and to establishing New York Health*”.

The previous iteration (2018's S4840-A/A4738-A) of this legislation (by the same sponsors) was the topic of extensive debate at NYSPEC’s 2018 Annual Meeting. It must be noted here that, prior to our 2018 Annual Meeting, many of our member units that were also members of the NYC Municipal Labor Committee had recently been given assurances by the sponsors that the legislation would be amended in the 2019 legislative session, ostensibly to address some of the concerns raised by the unions. Because of those assurances, there were concerns raised by some NYSPEC member units at our meeting that they may wish to support the legislation going forward, and, as a result of our debate, the following language, developed by NYSPEC Co-Counsel Rich Mulvaney, was agreed to by the assembly and added to the *We Oppose* section of our 2019 Legislative Agenda: “*Any legislation which circumvents, converts, and/or nullifies hard-fought gains to health care coverage obtained through collective bargaining*”.

On January 22, Chairman Meringolo, Recording Secretary Rich Wells, and Co-Chair Dan Levler attended a symposium at the University Club in Albany sponsored by the *Empire Center for Public Policy* during which the sponsors again could not definitively answer (a direct question by Rich Wells) how they intended to pay for the legislation.

The 2019 version of the legislation was introduced on February 8 in the assembly, and February 11 in the senate. While there were changes from the previous iteration(s) of the legislation, there were no substantive differences to the issues of concern to unions. At our meeting in Albany on March 19, the issue was discussed at length, and pursuant to a motion adopted at that meeting, Chairman Meringolo authorized issuance of an opposition memo to the legislation.

The bill died in committee, and is currently the subject of numerous joint senate and assembly hearings being conducted around the state. All indications are that we will be re-visiting this issue in 2020.

A memo was issued opposing S1623 (Sepulveda) / A2500 (Aubry). This bill would “*amend the correction law, in relation to restricting the use of segregated confinement and creating alternative therapeutic and rehabilitative confinement options*”.

Less than one week before the scheduled close of the 2019 legislative session, the New York State Correctional Officers & Police Benevolent Association (NYSCOPBA) received credible information that this legislation had gained momentum and would be fast-tracked to passage. Fearing for the safety of their members and those incarcerated individuals in state prisons’ general populations who may be vulnerable should this dangerous legislation be enacted, NYSCOPBA sought an opposition memo from NYSPEC in the belief that our input might help forestall passage. With just a few days left in the scheduled session, an executive decision was made to promptly issue the opposition memo based upon the long-standing language under the heading, “*Ensure Safe Work Environment*” in the *Ongoing Initiatives* section of our legislative agenda.

Thankfully, efforts to block passage were successful, and the legislation died in committee.

Support Memoranda

A memo was issued supporting A4432 (Abbate) / S3675 (Gounardes). This bill would “*amend the retirement and social security law, in relation to accidental disability retirement for uniformed court officers and peace officers employed in the unified court system*”.

This bill has been in for several years, and has suffered repeated vetoes by the governor with the incongruous argument that it represents an “*enhanced retirement benefit*”. Further, by lumping the veto of this measure with a “*package*” of other pension bills, the governor asserts that it would “*impose a substantial and unplanned burden on New York State taxpayers*”. The fact of the matter here is that this is clearly more a “*disability*” benefit than a “*retirement*” benefit; moreover, the professional opinion of the actuary indicated in the fiscal note that “*The exact number of members who could be affected ... cannot be readily determined*” adding the following crucial language: “*In all likelihood, very few members would be affected.*” (Emphasis mine.)

As an added incentive to the governor to chapter this bill, the Chief Administrative Judge of the State of New York, Lawrence K. Marks, has formally supported enactment of this legislation this year.

As of this writing, this measure has not been transmitted for action. We are hopeful that he will consider this separate and apart from other pension-related bills, and recognize that it represents a fair and equitable benefit for potentially very few dedicated public employees and their families who may ever need it.

A memo was issued supporting A5821-A (Abbate) / S4083 (Gounardes). This bill would *“amend the town law, in relation to the employer's ability to suspend a police officer without pay pending disciplinary charges”*.

Civil Service Law §75 is applicable to the vast majority of public employees in New York State, including police officers. It has a requirement that they cannot be suspended without pay for more than 30 days pending disciplinary charges. Village Law contains the same time requirement. Because town law contains no such requirement, police officers employed by towns can be suspended – without pay – *indefinitely*, causing extreme financial hardship for them and their families. Oftentimes, town police departments use this tactic indiscriminately and with punitive intent.

This bill was introduced for the first time since it suffered its last veto five years ago. The governor wrote in the veto message then that enactment would *“constrain the ability of a town police department to effectively manage its workforce when allegations of misconduct arise.”* We believe that the legal maxim of “justice delayed is justice denied” dictates timeliness in due process, and that 30 days clearly constitutes a sufficient time frame for any employer, who controls the disciplinary process, to bring charges or re-instate the officer, and we urge the governor to re-consider his prior position in the interest of fairness.

As of this writing, this measure has not been transmitted to the governor for action.

A memo was issued supporting A5940 (Abbate) / S3659 (Gounardes). This bill would *“amend the retirement and social security law, in relation to eligibility for retirement benefits for certain members of the unified court system”*.

This bill would allow any Tier 6 member who is a uniformed court officer or peace officer employed by the Unified Court System to retire without early age reduction upon attaining 30 years of creditable service and age 55. It will also reduce the normal retirement age from 63 to 62, and lessen the reductions in benefits for those who retire prior to normal retirement age.

This measure would correct an inequity by allowing uniformed court officers or peace officers

employed by the unified court system into the age 55 retirement laws already in place for other, similar employees.

Notwithstanding the fact that it is not always the case in reality, it is, nonetheless, always a goal of public employee labor unions to achieve one of their main foundational tenets, which dictates that members within a particular job specification should enjoy the same benefits.

As of this writing, this measure has not been transmitted to the governor for action.

A memo was issued supporting S456-B (Benjamin) / A1047-B (Simotas). This bill would *“amend the civil service law, in relation to a fair, non-biased compensation structure”*.

This bill, which has passed both houses for the first time this year, would provide public employees the same rights as private employees to bring private rights of action in state courts for recompense if they believe they are being discriminated against with respect to compensation as compared to similarly situated employees for equal pay for equal work.

As of this writing, this measure has not been transmitted to the governor for action.

A memo was issued supporting S3813 (Kaplan) / A5820 (Abbate). This bill would *“amend the retirement and social security law, in relation to providing accidental disability retirement benefits for chief fire marshals, assistant chief fire marshals, division supervising fire marshals, supervising fire marshals, fire marshals and fire marshal trainees in Nassau county”*.

This bill would provide appropriate protection for Nassau County Fire Marshals and their families in the event of a serious on-the-job disablement. It also will rectify the imbalance in protection that currently exists between the Fire Marshals and other law enforcement officers who perform the same or similar duties. The governor vetoed this bill last year, lumping it together with other bills he labeled “pension enhancements” that would cost millions of dollars if enacted. The fact of the matter is that the incidence rate for potentially affected members of the service is very low, and the nominal cost for such a benefit itself justifies enactment of this legislation.

As of this writing, this measure has not been transmitted to the governor for action. We are hopeful with this legislation as well that the governor will recognize this as a disability benefit and consider this bill separate from others that he believes are pension enhancements.

A memo was issued supporting S6436 (Montgomery) / A7748 (Rosenthal). This bill would "amend the civil service law, in relation to equal pay for similar work protections for protected classes".

This legislation would ensure the principle of fair and equal pay for public sector employees for substantially similar work in terms of skill, effort, responsibility and working conditions for those with status in a “protected class.” for which a definition exists in the bill. Further, it would provide that public employees with status in one or more protected classes would not be paid a wage less than public employees with status within the same or different protected class or classes in the “same establishment,” for which a definition also exists in the bill.

As of this writing, this measure has not been transmitted to the governor for action

A memo was issued supporting S6367 (Gounardes) / A7920-C (Abbate). This bill would *“amend chapter 504 of the laws of 2009 amending the retirement and social security law and other laws relating to establishing police and fire retirement provisions, in relation to a special retirement plan for certain members of the New York state and local police and fire retirement system.”*

Tier II for police and fire in the state system was enacted for two years commencing in July 1973, and subsequently was extended (for more than 35 years!) every two years until June 30, 2009, when then-Governor Paterson unexpectedly (even, surprisingly, to the sponsors, our labor champions Assemblyman Peter Abbate and Senator Diane Savino) chose to veto the extender bill. After extensive negotiations and deliberations, a new Tier V was enacted, to begin on January 10, 2010, effectively creating a “bubble” period of time during which new hires were placed in Tier III. Commonly referred to among law enforcement advocates as the “bubble” bill, this legislation would provide the ability for police and fire members who were hired during the bubble period to be placed in Tier II if their respective bargaining unit had a labor contract in place which included the Tier II plan.

As of this writing, this measure has not been transmitted to the governor for action.

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(See Addendum A, attached ...)