



New York State Public Employee Conference

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~ nyspec.org ~

~ 2023 LEGISLATIVE AGENDA ~

Priority Legislation – Printed in Blue Text

Ongoing Initiatives / Legislation We Support – Printed in Green Text

Legislation We Oppose – Printed in Red Text

Issues Under Study – Printed in Orange Text

~ 2023 PRIORITY LEGISLATION ~

Tier / Pension Equity

A comprehensive package of items serving to equalize the pension benefits impacting public employees must be attained in the 2023 state legislative session. Disparities among the myriad pension plans that our members are enrolled in, oftentimes within the same job specification, must be addressed. Maintaining and improving the basic benefit of public employment, a decent defined benefit pension plan, has always been – and remains – a priority for NYSPEC. Because recent nefarious and draconic modifications to public employee pensions have created a climate within which recruitment and retention of qualified individuals is exacerbated to unprecedented levels, NYSPEC elevates this long-standing priority to the top of the priority list for 2023.

COVID-19 Coronavirus

Legislation providing protection for public employees from short- and long-term physical and/or mental effects from the COVID-19 Coronavirus (“COVID”) and its variants, including presumptive disability for COVID-related illnesses/diseases must be enacted.

Fiscal Notes

The ability to obtain fiscal notes with respect to pension legislation affecting NYC employees must be addressed.

HALT

We oppose any legislation involving restrictions on disciplinary segregation, or any form of **H**umane **A**lternatives to **L**ong-**T**erm Solitary Confinement Act (“HALT”) reform that would place Department of Correction employees at increased risk of injury.

Accountability and Resources for Real Criminal Justice Reform

Any and every proposal to provide the resources necessary to build a path for success for all individuals charged, convicted and sentenced to imprisonment or community supervision. However, the path for success requires those individuals convicted and sentenced for crimes to abide by the previously established rules for re-entry into the community.

Legislation to reform the current parole process must maintain as a central mission that parolees are ultimately responsible for their own success and that parole officers have a responsibility to keep communities safe from individuals who are knowingly and willfully violating the agreed upon terms and conditions of their release from incarceration.

Eliminating the potential for sanctions against parolees for violating the terms of their parole hurts the rehabilitation process, reinforces negative behaviors and potentially puts the community at risk. It is inappropriate and harmful to the rehabilitation process for parolees to be relieved of responsibility for violating the conditions of their release, including consuming illegal drugs, consuming alcohol, reporting their residence, changes in their residency, etc. to their parole officers.

Parole officers serve to guide, support and help parolees transition back to society and to protect the public during this transition process. The overarching goal of parole officers is to help parolees safely and successfully reintegrate back into the community.

Real Parole Reform Needs to Provide Resources and Protect Communities.

Instead of removing the parolee's responsibility for success, the state needs to build a process with the appropriate resources, oversight and support necessary to help parolees succeed over the long-term. NYS PEC believes that the best path to success includes the following elements:

- **Adequate Staffing:** The state has reduced the number of parole officers. This fact coupled with "compassionate" release and the release of other low-level offenders has increased parole officer caseloads exponentially. Expand the number of parole officers to reduce the overall caseloads so parole officers can actually manage and help clients succeed in their communities
- **Real Support for Parolees:** Provide resources for state and local governments to provide education and job training, health care and social services support (i.e., child care, food, housing, etc.) so parolees have a chance for success.
- **Accountability and Responsibility:** If the state is able to provide adequate staffing and appropriate social and other supports, then parolees need to be held accountable for violating the terms and conditions that they agreed to as a condition of parole.

Retiree Health Insurance

We oppose any diminishment of health insurance benefits for retired public employees.

Retired Peace Officers Firearms Carry Inclusion

Pursuant to the 2022 change in the law regarding those retired police officers permitted to carry their licensed firearms in "sensitive locations", the new law failed to include those retired officers designated as Peace Officers under Criminal Procedure Law section 2.10. The exclusion of such Peace Officers has resulted in the preclusion of qualified former law enforcers who are not retired police officers from entering sensitive locations with their authorized weapons. Such an ambiguity should be corrected by adding those law enforcers designated as retired Peace Officers to the exemption language as defined in Penal Law section 265.01-E (3).

Single Payer Healthcare (New York Health Act)

We oppose any legislation which circumvents, converts, and/or nullifies *hard-fought* gains to health care coverage obtained through collective bargaining

**NOTE: THE ISSUES OUTLINED BELOW ARE NOT
NECESSARILY LISTED IN ANY ORDER OF PRIORITY.**

~ ONGOING INITIATIVES ~

Pension Systems Protection

The state, police, fire and local retirement systems were designed to provide security for public employees in retirement. Pension contributions are made by employers *in lieu of salary and other negotiated benefits*. The reserves in the pension systems belong to the public employees and should not be used for any purpose other than retiree benefits.

Early Retirement Without Reduction of Service

Periodically, state and local governments encourage employees to retire early. Incentives may be targeted to certain areas of the workforce or titles. However, eliminating positions from the public service can cause unacceptable cuts in services, and even burden the remaining workforce. Further elimination of titles must not negatively impact on the level of service provided.

Benefit Improvements for Survivors of Workers Killed in the Line of Duty

It is necessary to provide adequately for families of public employees who die in the line of duty. It should be the policy of the state to upgrade public employees who die in the line of duty to the top-step salary.

Ensure Safe Work Environment

Ensure that the public employee workforce has the tools needed to prevent occupational illness in any future, risky work environment. In spite of state, county and municipal budget constraints, public employers must continue to ensure a safe workplace. Every effort must be made to promote compliance with health and safety measures to ensure employer policies provide a safe working environment, and that all equipment meets the necessary standards.

Progressive Methods of Taxation

Public services are the foundation upon which commerce, industry and a civil society are built. Public employees at every level of government are citizens who provide these essential services. They must be guaranteed compensation, benefits and pensions that will allow them to live with dignity in their communities, and help them sustain the state and local economy. Maintaining these public services is the responsibility of every citizen, business and institution. Those who benefit most from the prosperity that public services provide have a greater responsibility to sustain public services. Therefore, the New York State Public Employee Conference supports progressive methods of taxation that put the responsibility of paying taxes on citizens, businesses and institutions who benefit most from this prosperity and have a greater ability to pay.

Improvements to the 9/11 Presumptive Disability Legislation

While the passage and signing of the 9/11 Presumptive Disability laws was indeed laudable, we all are aware that the existing legislation is imperfect. The 9/11 Governor's Worker Protection Task Force has made recommendations for improving the existing legislation. However, the Task Force has not met in quite some time; it must resume meeting soon and regularly. We continue to support efforts to obtain funding, federal or otherwise, to address any 9/11-related issues. The time limit for applications for benefits from, and the sunset of the 9/11 Presumptive laws, must be eliminated.

Extenders

Any temporary legislation that provides benefits to public employees should be passed.

~ WE SUPPORT ~

Workers' Compensation Reform

The Workers' Compensation system increasingly adds complex and burdensome procedures. This does not meet the needs of the New York State workforce. It delays access to proper medical treatment and diagnostic testing. Many workers are not restored to health quickly enough to return to the work force within one year from date of lost time. This leads municipalities to increase usage of Civil Service Law §71, which allows them to terminate employees who have been absent from work for a one-year period. In recognition of these ongoing concerns, we support the following:

1. Any bill that calls for immediate initial hearing, before a Workers' Compensation Board Hearing Officer, from a request by an injured worker and/or their representative. Procedural hurdles on all parties serve to exacerbate delays in treatment and healing.
2. Any bill that expands the time frame a municipality can medically-separate a public employee under Civil Service Law §71 from one year to two years. Delays in medical testing and treatment extends healing time, resulting in the inability of injured workers to return to work within one year.
3. Any bill that creates a presumption of permanent total disability for those claimants who are found eligible for Social Security Disability benefits. Workers who are deemed incapable of substantial gainful-activity by the federal government should be afforded an in-kind presumption under New York's Workers' Compensation law.
4. Any bill that requires Workers' Compensation insurance carriers to respond to requests for prescriptions, diagnostic testing, surgery and/or any health care treatment within five business days of such request. Failure to timely respond will deem the request authorized.

5. Any bill that clarifies the 2017 amendment to WCL §15(3)(w) to allow carriers and self-insured employers to take a credit for benefits paid to a claimant against a future Permanent Partial disability cap only after 130 weeks of partial disability payments have been made.

Cost of Living Adjustment (COLA)

The New York State Public Employee Conference applauds the efforts of our elected officials in providing a permanent Cost of Living Adjustment for our retirees. However, we submit that further legislation is needed to make improvements. We seek legislation to grant a “Catch-up” for all those individuals who retired prior to 1966. Spouses of deceased retirees currently receive 50%. That should be increased to 100%. The cap should also be increased from \$18,000 to \$25,000, and eligibility should be changed from age 62 and retired for five years, to age 55 and retired for five years.

Pension Re-Openers

Remedial action is needed, since many public servants have been wrongfully denied their rightful retirement benefits. Such denial causes unreasonable hardships as retirees progress further into their retirement years. NYSPEC seeks legislation that will revive the cause of action for those members who took the necessary steps to qualify for retroactive membership, but were denied, and failed to bring action within the time allowed by law, or whose case was dismissed without prejudice or not decided upon the merits.

Ensuring Safe Nurse Staffing

Enactment of legislation is urgently needed to ensure that patients receive quality health care services. Research studies and consumer satisfaction polls clearly show a relationship between RN staffing and quality of care. New York’s workforce is entitled to the best health care services, and that must include an optimal nurse-to-patient ratio. Minimum safe staffing levels must be regulated to protect the public from harm. Requiring safe staffing would prohibit employers from using mandatory overtime as a nurse staffing solution other than in defined emergencies.

Minimum Staffing Levels

In 2021, New York State recognized the importance of minimum staffing for nurses in general hospitals and nursing homes to ensure that patients receive quality health care services by enactment of laws that create compliance committees.

Recent developments in the correctional services have highlighted the need for minimum staffing levels in jails and prisons to ensure the safety of staff and the incarcerated persons in their charge. Compulsory overtime to cover staffing shortages – regardless of whether these shortages are short-term resulting from

exigent circumstances, or long-term resulting from poor budgetary decisions – is dangerous at the very least. A mayoral decision to not hire correction officers, and then to force existing staff to work 24-hour shifts during a public health emergency, is sheer incompetence.

The time has come to examine staffing levels, not only in the correctional services, but in all areas of public employee responsibility, as is being done for the nurse-to-patient ratios in general hospitals and nursing homes. Enactment of legislation which would prohibit employers from using compulsory overtime as a staffing solution (other than in defined emergencies) is needed. Additionally, legislation establishing compliance committees relative to all first responder / front line job specifications is urgent, and these committees must each include rank-and-file public employee union representatives.

Military Buyback for Veterans

Certain current public employees enjoy the ability to purchase retirement service credit for time spent serving in the military. We sincerely thank the legislature and the governor for the enactment of Chapter 41 of 2016, which significantly increased the pool of public employees who are eligible for the benefit. However, those who have retired from public service, as well as those who have not yet vested in their retirement system, should also be afforded this opportunity as a result of their selfless service to their country during which time they were unable to accrue service credit.

Competitive Exams for Appointments and Promotions

For more than a century, the public's confidence in our democratic form of government has been reinforced when only the most qualified candidates having an equal opportunity to compete are appointed and promoted objectively to the public service. New York State's Constitution Article V, Section 6 requires that appointments and promotions to the public service be made in accordance with merit and fitness and: "as far as practicable, by examination which, as practicable, shall be competitive; ..."

History has shown and we strongly believe that competitive examinations are practicable. Therefore, NYSPEC supports the enforcement of this enduring constitutional provision as the cornerstone for the selection of qualified individuals in the public service. Furthermore, we oppose any attempts to circumvent, diminish, or undermine the full enforcement of Civil Service Law.

Independent Hearing Officer

Recent decisions from the Court of Appeals have nullified the employee's ability to receive a fair and objective hearing during disciplinary processes. This stands in direct contrast to basic American jurisprudence. NYSPEC advocates new

legislation to require the appointment of an independent hearing officer for those cases in which an employee faces dismissal. Every employee should have the right to a fair and neutral hearing officer when his/her career is threatened. This longstanding inequality should be corrected.

Permanent Heart Bill

Several decades ago, the “heart bill” was passed as a temporary law to provide police officers and firefighters assistance in the event their employment was disrupted as a result of heart disease. Physical evidence clearly indicates that not only police officers and firefighters, but other public employees, because of the pressure and stress of their jobs, suffer heart disease at a higher rate than the general public, and the Legislature has acknowledged this with the addition of correction officers, EMTs, sanitation workers and court officers to the heart bill. The time has come to make the heart bill permanent, and to include other classifications that are similarly situated.

Heart Bill Clarification

Clarifies presumptions pertaining to heart-related disabilities or deaths suffered by members of the New York State and Local Police and Fire Retirement System, and the New York State and Local Employees’ Retirement System. Maintains that a presumption exists that the injury was incurred in the performance of the victim’s duties and was the natural and proximate result of an accident.

Revision of the Taylor Law

The underlying tenet of the Taylor Law is that all parties are to negotiate in good faith. Dragging out contract negotiations, sometimes for many years after the expiration of a contract, is financially harmful to public employees and their families. It also can cause severely low morale. Currently the law is weighted heavily in favor of the employer, providing a no-strike clause with severe financial penalties and loss of dues check off. The sections of the Taylor Law that protect employees’ rights must remain intact.

Protection for union officials who speak out on behalf of their members, regardless of the severity of their statements with respect to elected or appointed officials, must be included.

Statewide Variable Supplements Fund

We seek to introduce and promote legislation that will provide all members who are employed by state and local governments, and who are members of a public retirement system who retire from service, with a benefit that is comparable to the so-called “Variable Supplements Fund” that is received by certain uniformed forces of the City of New York.

Pensions Guarantee

Pensions for public employees must be guaranteed.

- No future diminution of sufficient funding and no “raids” on pension systems’ funds for any reasons should be allowed. The current climate of elimination or diminishment of pensions in the private sector is deplorable, and can be blamed solely on the insufficient funding and poor management of those private pension plans. NYSPEC needs the help of the Legislature in monitoring and ensuring these guarantees, and supports efforts to expand Martin Act protections to public employee and private sector union systems. This bill “Authorizes a public retirement system, as defined in Section 501 of the Retirement and Social Security Law, mutual fund, or other institutional investor to bring actions for damages sustained due to the commission of certain prohibited and criminal acts in violation of the Martin Act (Fraudulent Practice in Respect to Stocks, Bonds and Other Securities).”
- Once a public employee has vested rights in a pension system, that pension must be guaranteed.

“211” Waivers

Waivers for continuing employment of public employees in the public sector should be treated in a fashion that addresses the needs of the specific employment situation, and does not inhibit advancement from within.

Fiscal Notes

The ability to obtain fiscal notes with respect to pension legislation affecting NYC employees must be addressed.

COBRA

All public employees’ survivors should be permitted to purchase COBRA at the same rates as the survivors of Uniformed Services’ employees.

Upholding PERB and OCB Decisions

Employers must be required to abide by the New York State Public Employment Relations Board (PERB) and the New York City Office of Collective Bargaining (OCB) decisions regardless of their claims with respect to ability to pay.

Limitation on Disciplinary Suspension of Public Employees

Employees are suspended for long stretches of time prior to being afforded the ability to defend themselves in a disciplinary hearing. Long periods of suspension prior to a hearing act as a prejudged disciplinary sentence that places untenable financial burdens on the employee, while giving the employer no incentive to expedite a fair disciplinary process. The Public Employee Conference strongly

advocates legislation to limit the amount of time an employee is suspended prior to a fair disciplinary hearing.

Ensure Adequate Supervisory Staffing for Emergency Services

Enactment of legislation is urgently needed to ensure that all public employers provide adequate staffing levels of supervision for emergency services such as police, fire, EMS, and TBTA for the purpose of maintaining span of control during emergencies and the daily operations of emergency services.

Ensure Adequate Supervisory Staffing for Emergency Personnel

Enactment of legislation is urgently needed to ensure that all public employers provide adequate staffing levels of supervision for all emergency personnel acting in support of emergency services for the purpose of maintaining span of control during emergencies and the daily operations in support of emergency services.

Additional and Permanent Funding

Inclusion in the New York State budget of increased and permanent funding for the City University of New York School of Labor and Urban Studies until it is fully funded.

Mandatory Consecutive Sentencing

Enactment of legislation is needed which would require mandatory consecutive sentencing for any individual who, while in custody of the police, the courts, or corrections, and is a defendant in a criminal case, commits a violent act such as assault, whether physical or sexual, against any police, court, or correctional personnel. If charged with that crime and found guilty, that individual must be sentenced consecutively and not concurrent to any sentence they are already serving or are sentenced to.

~ WE OPPOSE ~

- Any Reduction in Pension Benefits for Public Employees
- Any Legislative Attempt to Undermine Collective Bargaining and the Existing Binding Arbitration Process
- Residency Requirements and/or Credits for Public Employees
- Inappropriate Consolidation of Services

- Privatization – We oppose the corruption and loss of jobs caused by privatization
- Any Attempt to Re-Introduce a Residency Tax on Employees of the City of New York
- Any Commuter Tax on Employees of the City of New York, including the “1127” Tax
- Contract Impairment - We oppose the impairment of collectively bargained contracts by state and local authorities and/or any legislative or regulatory attempts to grant state control boards the authority to unilaterally modify such agreements. Unions and their members have made great strides and sacrifices to secure fair and reasonable rights and benefits through good faith collective negotiations and agreements with public employers, consistent with applicable law, and the contracts entered into compensate public employees for their invaluable service for their invaluable service and sacrifice. The state, its agencies, and local governments cannot be allowed to reverse fairly bargained-for compensation and other contractual benefits out of political expedience
- Any Executive, Legislative, or Administrative action(s) that practically impact collectively bargained rights, privileges, or benefits, such as consolidations or mergers of service. Any such impact must be mandatorily bargained
- Any action or authority to draw down rainy day funds in order to supplement General Fund obligations
- Any employer mandate requiring employees to work “temporary assignments” without appropriate compensation, including overtime commensurate with the work title
- Any employer mandate that skirts their duty to collectively bargain any issue
- Any action or authority to draw down rainy day funds in order to supplement General Fund obligations

~ISSUES UNDER STUDY~

- Defined benefit pension plans for private sector employees implemented and administered by comptroller

- State budget implications
- Legislation that will provide criminal sanctions against anyone who assaults public employees during the performance of their duties
- Deferred Retirement Option Plans (DROP)
- Health care reforms
- Partial Lump Sum Option Plans (PLOP)
- Any proposed changes to laws, policies or regulations that have potential to provide additional revenue streams to the state budget, i.e., gas drilling, casino gambling, mixed martial arts, etc., with any revenue generated and dedicated in the budget to specific programs such as education, healthcare, etc., should be scrutinized as to how it affects all public employees
- As publicly pronounced in the Governor's "Reforming the Energy Vision Plan" of 2015, the state's initiative to transition from coal-fired energy plants to alternative energy sources such as wind and solar, as well as the implementation of new technologies, will impact many unionized public sector employees. We stand committed to maintaining the high performance standards of public employees, and the requisite compensation and benefits they have bargained for, and oppose any transition to a low-wage, non-union workforce as part of the state's plan
- Impact of emerging technology on current and future public employees
- Analysis of program(s) under consideration by the State Comptroller which will allow public employers to pre-fund healthcare obligations
- In the wake of Janus v. AFSCME, the most recent attack on union rights by Right to Work zealots, the Public Employee Conference endorses changes to the New York State's Taylor Law as well as other legislation to ensure that the state's public policy remains that Agency Shop and dues check-off are embedded in the state's mantra of maintaining labor peace
- Legalization of marijuana as it affects public employees

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