

3

**Testimony of
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President**

**The New York State Public Employees
Federation**

**To The
Assembly Ways and Means and
Senate Finance Committees**

**WORKFORCE HEARING
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Chairman Farrell, Chairman DeFrancisco, committee members and distinguished guests, I want to thank you for allowing me the time to speak to you on behalf of the people who provide critical services to the residents of New York State.

I am Susan Kent, President of the New York State Public Employees Federation. Our 54,000 strong union is made up of the professional, scientific and technical experts who serve the residents of this State.

We have a lot of pride in the work that our members do, because we know they are the best qualified for their jobs.

The good news in this year's budget is that our economy is beginning to show signs of recovery and tax revenue is expected to increase by more than 6% this fiscal year. In fact, just this past Tuesday the Governor, at an address to our Brothers and Sisters in Labor, touted the strength of the economy in calling for a higher minimum wage.

We at PEF could not agree more!

Yet sadly, however, the Governor's proposed budget does not reflect the sentiments he espoused just a few days ago. His budget maintains a self-imposed austerity program that continues to underfund state agencies and the vital services they provide to New Yorkers every day. In addition, the Governor proposes more policies that undermine the civil service system and he continues to expand privatization schemes at every turn.

The Governor's budget continues to reward the rich and powerful with millions in corporate welfare while leaving the most vulnerable, the disabled and mentally ill, at the mercy of an underfunded and overwhelmed public and private sector providers where too many fall through the cracks and end up in costlier and less suitable places like emergency rooms and jail cells.

Let me highlight several areas of this year's budget that diminish public services to your constituents and our hard working members.

DESIGN -BUILD

As you are aware, the Executive budget seeks legislation that would make design-build procurement permanent in New York State. The Public Employees Federation is vigorously opposed to this proposed legislation for a number of reasons.

First, the professional staff employed by NYS agencies is the most competent and cost-effective solution to most of New York State's design needs. Multiple studies have shown that consultant engineers are more costly than in-house engineers. In fact, our research shows that consultant engineers cost about 87 percent more than in-house engineers. Yet, staffing levels at the New York State Department of Transportation are at historic lows. PEF represented engineering positions have been reduced by almost 19 percent since 2008 and over 31 percent since 2000.

Unfortunately, the design-build legislation would effectively remove these cost-effective employees from the playing field as members only design and inspect, but do not build. New York State can save real money and get greater value out of the dwindling transportation dollars by doing more engineering work in-house and decreasing its reliance on costly consultants. Any legislation that increases the state's reliance on costly consultants is misguided.

Second, while cost is the primary issue, we also oppose design-build for other reasons. We believe that design-build introduces more subjectivity into the contract award process, reduces competition, and may decrease objective oversight of projects. New York State's competitive bidding laws have guaranteed taxpayers the best price on public works construction projects and

helped maintain public trust and confidence in the awarding of public works contracts. However, design-build represents a shift away from the lowest bid to a more subjective "best value". Best value bids have a number of subjective criteria of which cost is only one element.

Additionally, design-build reduces competition because fewer companies are capable of performing both the design and build aspects of the contract, thus the ability to compete for projects is consolidated in the hands of a few large enterprises. The fact, that design-build projects are inspected by consultants hired by the design builder means there is less independent oversight of the project.

Third, the mythology surrounding design-build procurement appears to give it magical qualities. Proponents will say, unequivocally, that design-build saves money, that design-build allows construction to be completed faster, that design-build unlocks the creativity and innovation of the private sector.

Design-build is magical in the sense that these statements are never challenged. Design-build is magical because it allows leaders to claim huge savings without ever providing evidence of those savings. For example, even before it was sufficiently funded, before a single penny was spent, and even though the final cost will not be tallied for several years, the Governor has claimed that design-build has saved at least \$1.5 billion dollars! Think about it for a moment. \$1.5 billion dollars in savings has been claimed simply by stating that the procurement process chosen was design-build!! Is there any way to verify this claim? No, there is not. The claim is based solely on the fact that the winning bid was lower than *estimated costs*. Is it possible that a design-bid-build procurement would have also saved as much or more? Absolutely. However we will never know because the only bids that were submitted were design-build. D-O-T has laid claim to another \$74.8 million in savings from nine design-build projects simply because the costs were below

estimates. Again, since only design-build bids were submitted, we will never know if a design-bid-build contract would have saved money.

Given these facts, we urge the legislature to cast a critical eye towards design-build. Before this legislation is renewed or expanded, the public and the legislature should know if design-build procurement truly provides savings and/or advantages to the public. To this end, we believe the legislature should demand that an independent-objective study be performed to review New York's *actual experience* with design build procurement. The results of this study should be made public at least six months prior to any extension or expansion of this legislation.

SAVE SUNY HOSPITALS

When it comes to health care, our public teaching hospitals are vital resources for the community. Yet once again, they are being targeted by the Governor in this budget proposal. Let me begin by taking this opportunity to sincerely thank the Assembly and the Senate for including \$18.6 million in essential funding for SUNY Health Centers last year. In fact, our public hospitals have been losing State support since at least fiscal year 2007-08.

Keeping our teaching hospitals public is absolutely essential for the communities they serve and health care workers they employ and educate. SUNY hospitals are hallmarks of excellence and provide vital medical education, research and essential health care services to their communities. For example, SUNY hospitals provide a wide variety of services including a number of specialty care services such as burn units, trauma care units and stroke centers.

SUNY Downstate in particular serves more than a quarter million patients a year and has 75 community outreach programs. Additionally, more New York City physicians have trained at Downstate than at any other medical school. SUNY Downstate serves a patient mix that is heavily dependent on Medicaid and

Medicare reimbursement. At a time when health care is in transition in New York State and in New York City, now would be the worst time to cut this critical funding to SUNY hospitals.

Though the Governor proposes \$700 million for “Brooklyn Health Care”, details of the plan are not clear. What is clear is this proposal grants sweeping authority to the Commissioner of Health by authorizing the Commissioner to have sole discretion in awarding no-bid grants funded by the \$700 million appropriation. The lack of transparency and details of this proposal makes it suspect and we therefore believe it should not be included in the final state budget in its current form.

We agree that health care in Brooklyn is changing and we have worked together to adjust to these changes; however, it is vital that Brooklyn continue to be served by SUNY Downstate which caters to an incredibly diverse and needy community while providing medical education for a new generation of skilled doctors, nurses and other health care professionals.

That is why last year, we urged support for the “Brooklyn Hospitals Safety Net Plan.” This proposal, based on the recommendations from organized labor’s plan to stop the Governor’s attempt to dismantle SUNY safety net hospitals, creates a health care safety net system to improve services for the under-insured, uninsured and the underserved. Additionally, it will create jobs in ambulatory care settings to move Brooklyn health care services to the forefront by bringing health care services to the community away from costly inpatient hospitalization. We continue to believe this is a far better approach than the otherwise unspecified proposal in the Governor’s budget. No matter what, a time when health care is in transition in New York State and in New York City, would be the worst time to cut this critical funding to SUNY hospitals.

Finally, we remain vehemently opposed to the Governor’s proposal to allow private equity investments into New York State’s health care system. His

proposed demonstration program will open the door to privatization of public hospitals and undermine the entire health care system.

We thank you for your support last year in restoring cuts to SUNY hospitals and rejecting language that would have opened the door to private investments into the public hospitals. We urge you to do both again this year and keep our public hospitals public.

Roswell Park Cancer Institute

In addition to funding cuts to SUNY hospitals, the Roswell Park Cancer Institute is also being targeted by the Governor with a devastating \$15.5 million cut. This world-renowned institution is the first cancer treatment center in the United States and employs over 3,000 workers. It has grown significantly and is currently in transition as well. This cut would drastically affect and delay its ability to become more independent from the State, as the Governor continues to insist is the ultimate goal. We therefore urge the Legislature to restore funding to this critical cancer care institution.

Juvenile Justice Reform

The Governor's "Raise the Age" proposal for juveniles aged 16 and 17 years old is a welcome reform to juvenile justice. We agree children do not belong in adult jails and prisons and applaud the work of the Commission on Youth, Public Safety and Justice for its work in developing the recommendations outlined in the Governor's proposed budget.

As these changes go into effect, it is essential that there is capacity throughout the state for 16 and 17 year olds who will be committed to facilities under the jurisdiction of the New York State Office of Children and Family Services (OCFS) while awaiting trial or as part of their sentence that would today place them in adult jails or prisons.

PEF is seriously concerned with the implementation of "Raise the Age" in light of the failure to adequately prepare for the implementation of the "Close to Home" initiative which expanded too rapidly when the capacity of community-based youth programs for juvenile delinquents was not in place. Too many private providers in both Close to Home and upstate programs were inexperienced, understaffed and overwhelmed in delivering services to these youth. Since its implementation, reports of more and more teens leaving private facilities on their own, getting into trouble and the making bad choices made matters worse for the children seeking to overcome their challenges.

When 16 and 17 year olds are committed to the care of OCFS, secured OCFS facilities must be operated by OCFS and not privatized. We at PEF implore you to ensure the safety of not only the public but of the youth who will one day be placed into the care of OCFS. The commitment to these youth should be comprehensive and not one-sided.

Additionally, the Governor is proposing to continue and expand on OCFS contracting out to BOCES to provide educational services, including a new pilot program at OMH. PEF remains opposed to this plan because it not only replaces professional educators at OCFS and OMH, but it undermines the quality of education provided to youth with the greatest needs. Outside agency contractors such as BOCES are not part of the comprehensive services provided to these youth, and new, incoming older youth under "Raise the Age" will undoubtedly be further disadvantaged in their education by the plan to contract with BOCES.

We therefore cannot urge you enough to make sure that any change in the juvenile justice system that would begin sending 16 and 17 year olds to facilities under the authority of OCFS makes clear that such facilities will be public facilities fully staffed and supported prior to any change in the law. All aspects of the Raise the Age initiative, including education services, need careful review and consideration before any implementation takes affect.

EROSION OF CIVIL SERVICE

PEF continues to be outraged at the Governor's continued use and expansion of the so-called "Empire State Fellows". Last April we officially objected to the Civil Service Commission about this inappropriate circumvention of the Civil Service Law. It is political patronage at its worst and when the Governor emphasizes Ethics Reform in Albany, he can start by scrapping the illegal hiring of non-competitive employees for the Fellow's Program and get back to merit-based hiring provided for by the Civil Service Law. If not, let me be clear: PEF is committed to challenging this program in the courts because it subverts the Civil Service Law and makes a mockery of the merit system the Civil Service Law is intended to uphold.

In addition to the Fellows Program, the Governor is also proposing another circumvention of Civil Service Law by allowing the Office of Information and Technology Services (OITS) and the Department of Health to hire 600 temporary positions (300 per department) that would be eligible to work for up to five years. In addition, this proposal would allow these employees to compete in promotional examinations after two years on the job. These positions would also be reachable on civil service lists and allows for reclassification of competitive positions being transferred to OITS. In addition, the Governor's proposal for OITS employees makes available up to \$1,000,000 for the payment of one-time bonuses for eligible employees. Because this proposal would make available bonus payments outside of the bargaining process which negotiates all forms of compensation as part of the labor contract, PEF opposes this provision in its current form.

In short, these proposals to add hundreds of non-competitive positions is an insult to the hard working men and women in public service who have attained their jobs and their promotions in a fair, competitive and transparent manner - as is why the Civil Service system exists. This proposal does an end-run around Civil Service Law, and prevents promotional opportunities for PEF members who earned the right to compete for promotions.

SHARED SERVICES

The Governor's proposal for the Department of Transportation and the Thruway Authority to share services blurs the lines of these two very different entities. The Thruway Authority is not a State Agency but like all public authorities, is in fact its own municipality. The proposal lacks very important details which must be deliberated in an open and transparent process.

PEF urges the Legislature to reject this proposal and all of the Governor's proposals that circumvent the Civil Service Law. At the same time, we urge additional funding for our state agencies experiencing the most need of additional staffing.

DOWNSIZING AND PRIVATIZATION

In addition to the Governor's apparent desire to restore the old political patronage system by circumventing the Civil Service Law at every turn, the governor also proposes to downsize and privatize the workforce.

OASAS

At the Office of Alcoholism and Substance Abuse Services (OASAS) the Governor is proposing to reduce 26 staffing positions at Addiction Treatment Centers or ATCs and shifting nearly \$1 million to private, community-based providers. OASAS Addiction Treatment Centers serve a disproportionate uninsured and disabled population. While the state struggles with a devastating heroin epidemic, closing these vital services will only make the matter far worse. Admissions for opiate addiction in New York State have increased 136% statewide and much higher in New York City and Long Island. I cannot think of a worse time to cut investments in the ATCs, especially those serving New York

City. The continued privatization of ATC's in the middle of a heroin epidemic is simply short-sighted and dangerous.

OMH

At the Office of Mental Health, the Executive Budget continues to downsize and close inpatient psychiatric beds at OMH facilities. At a time when there are more people with mental illnesses in jails and prisons than there are in psychiatric hospitals, it is unconscionable to continue closing inpatient facilities.

Community based treatment is clearly not getting the job done. It is immoral to allow the mentally ill to suffer and be punished twice by a system that cannot handle their care in the community and then punishes them for the crimes they commit because of their untreated mental illness by housing them in jails and prisons.

The answer in large part is more, not less, intensive mental health care treatment programs like those offered by OMH facilities including inpatient beds. The loss of psychiatric hospital beds has been shown to result in the use of local hospitals and emergency rooms for mental health care ... taking up valuable emergency room beds and causing lengthy waiting time for medical emergency cases. We maintain that patients and their families will suffer geographic hardships when community hospitals are closed. For the mentally ill, "Close to Home" simply does not apply.

While the Governor includes in his budget \$7.5 million in community reinvestment for 2016 for the authorization to close up to 399 inpatient OMH beds, we are grateful to the Senate and the Assembly for requiring last year any savings from the closing of inpatient psychiatric facilities be reinvested into community based health care services prior to the commencement of the closing of these facilities; however, the Governor also agreed with the Senate and the Assembly to a number of conditions including the formation of a

workgroup with union representatives and other stakeholders to put together a long term plan on how we will provide mental health and developmental disability services in the future. To date, PEF has not been asked to participate in any work group to devise a long term for mental health care as agreed to by the Governor. We urge your support in ensuring the Governor lives up to his agreement from last year, so that all of us, my members who are the experts in the field, have an opportunity to shape the future of mental health care services in New York State.

OPWDD

The Executive budget proposes to continue the downsizing of the Office for People with Developmental Disabilities with the scheduled closures of the Brooklyn Developmental Center and the Broome Developmental Center. The result is the loss of vital public services to the most vulnerable populations. It promotes privatization and shifts financial and programmatic responsibility from the State.

To address this and the continued move to privatize OPWDD facilities, we at PEF urge the legislature to enact legislation requiring oversight and review of the Governor's ongoing transition plan to ensure that vital services are provided by highly trained professionals like those PEF members who work every day to care for the most vulnerable members in our society.

Conclusion

We chose to just highlight a few agencies today, but there are many others that are being underfunded and understaffed. And according to the proposed budget, the state workforce remains at 180,000 down almost 20,000 state employees since 2009. Though public employees at both state and local governments saw steep reductions in numbers resulting from the Great

Recession, state employees saw the largest cuts. And while the economy continues to grow and improve, it makes no sense to leave these agencies and localities starving for the necessary staff and resources.

In addition, state overtime expenses at state agencies increased by 8.2% to \$661 million in 2014, according to the State Comptroller. The over-reliance on overtime, now at an all time high, clearly demonstrates the need to reinvest in the state full-time workforce.

We believe, and I think you share this belief, that abolishing qualified public service is not the solution.

The public interest is best served by state agencies that are fully staffed with public servants. So, we are asking that public interest be served by public workers... not those committed solely to private profit.

I appreciate your time and the opportunity to address you today.

Thank you.