



**Testimony, Workforce Development Joint Legislative Public Hearing  
On the 2017-18 Executive Budget Proposal**

**By:**

**NYS Public Employees Federation President Wayne Spence**



Chairs, committee members and distinguished guests: my name is Wayne Spence and I am the President of the Public Employees Federation. Before I begin my testimony, I want to thank you for the opportunity to speak with you today on behalf our 54,000 members – the people who provide critical services to the residents of New York State. We take a lot of pride in the work our members do because we know they are the best qualified for the jobs.

Although the Executive Budget contains no planned layoffs and no newly announced state facility closures, it contains proposals that circumvent Civil Service Law and prevent promotional opportunities for many titles that PEF represents. What is concerning to us, and should be to you too, is the State's continued reliance on consultants to do the work our highly trained and qualified members should be doing.

I will be highlighting for you several areas in this year's budget proposal that, if enacted, diminish public services to your constituents and cause potential harm to the hardworking PEF members through either underfunding or increased use of expensive consultant work.

#### **OFFICE OF INFORMATION TECHNOLOGY SERVICES (OITS):**

In 1883, New York became the first state to establish a Civil Service system. As mandated by the State Constitution, this system was created to make sure that government jobs were given to individuals based on their "merit" and "fitness" for a position, rather than based on who they know. New York is setting a very dangerous pattern of not providing civil service exams for either employment or promotional opportunities.

In two short years the OITS has lost 3.5% of its state workforce, and this year's Executive budget proposes the elimination of an additional 179 positions through attrition. However, the number of consultants employed by OITS has grown in excess of five times, going from 159 to 808 – despite the fact that consultants cost an estimated sixty (60) percent more than comparable state employees (including benefits).

The current proposal calls for allowing 250 people to enter high level positions within the ITS state workforce, without ever taking a New York State Civil Service exam. Selective tailoring of employment must be stopped and investment in New York State employee training needs to be resurrected.

What message is being sent to the existing state workforce, who have been waiting for proper training and looking forward to taking promotional exams that are never given? If you calculate employee morale as an asset, selective insourcing creates negative benefits and needs to be ended as a practice.

*Please consider the following:*

- The help desk's private contract with IBM, notes that the service is part of the Innovation Center initiative in Buffalo. Basically, New York State transferred a call center function from the Albany public sector to the Buffalo private sector. OITS states they've hired 134 help desk support specialists in Buffalo, but there are reports of calls being answered in Colorado.
- PEF has expressed our concerns about the implementation of the Selective Certification Examinations several times.
- The Selective Certification process, although premised on identifying the critical activities and key qualifications necessary for a specific *position*, in actuality, it is based on creating specific positions for specific *individuals*.
- The implementation of centralized help desk services has crippled the ability of employees to provide help desk services and PEF members believe that they have been set up to fail by management, whose solution is to privatize these services.
- NYS spent millions of tax dollars on a private consultant who advised them to create the Office of Information Technology to consolidate services and save money.

Let me ask you this question. When you, as legislators, allow the outsourcing of existing public sector tasks, can that honestly be counted as creating new jobs in the private sector?

### **DESIGN BUILD / DOT:**

Once again, the Executive budget includes a proposal to expand design-build in New York State, a process that PEF opposes for several reasons. The professional staff employed by New York State agencies is the most competent and cost-effective solution to most of the State's design and inspection needs. This is in spite of the loss of hundreds of state engineers over the last few years.

The design-build delivery system is a dangerous concept where time is money. PEF represents some of the best transportation engineers in New York State. As a result of

consultant hiring, their skills and talents are underutilized. Having an owner retaining a single entity that is responsible for providing both the design and construction of a project is risky as demonstrated by the “*Big Dig*” disaster in Massachusetts.

Without proper State oversight, design-build allows for opportunities to skimp on critical component materials. As a consequence, to save money, concrete that is supposed to last twenty-years may only last five years or the proper amount of reinforcement steel (rebar) to ensure project longevity can be overlooked when no one is watching. Do you really want the person tasked with building the project also inspecting the project?

Any implied advantage realized by the design-build process will quickly be offset by costly procurement processes, increased need for upfront owner input, decreased owner control, and increased construction risk. The lack of control, and increased construction risks, demonstrates that design-build projects are not appropriate for New York State. Do we as citizens really get the best value when a company submits the lowest bid to build a bridge or project the fastest? Design-Build combined with less oversight by PEF engineers is a disaster waiting to happen. Any proposed legislation that increases the state’s reliance on costly consultants is misguided and we urge you to cast a critical eye towards legislation that expands the use of design-build contracts. *PEF maintains that we can save money and get greater value out of dwindling transportation dollars by doing more engineering work in-house and decreasing reliance on consultants or design-build.*

The Special Duty to Assignment compensation was implemented as a result of an in-depth risk assessment made by state agencies that recognized the inherent vulnerability and danger of employees working in close proximity to active vehicle traffic on New York’s busy highways and roads. As a result of the 2012 “Drivers First Initiative”, which prioritizes the convenience of motorists, PEF members must now work in conditions that make it more difficult to lower speed limits in work zones, increases the use of night time road construction, and makes less use of positive concrete barriers and buffer lanes. This doesn’t include the most dangerous and new phenomena of motorist’s texting while driving.

In recognition of the increased inherent dangers, New York did institute the “move over” law and has substantially increased the hazardous duty and expanded duty compensation for law enforcement personnel that work alongside PEF DOT employees. Unfortunately, the PEF Special Duty to Assignment compensation has remained stagnant since 2003. Our members are exposed to speeding cars and trucks that weigh tons, equipped with

only hard hats, reflective vests and steel-toed boots. PEF is requesting that you take Special Duty Assignment into consideration as you deliberate funding projects.

### **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 with a proposal in the budget to reduce state support for SUNY's three teaching hospitals by 18.6 million dollars. SUNY hospitals are hallmarks of excellence and provide vital medical education, research and essential health care services to their communities. *We thank you for your support in the past by restoring cuts to SUNY hospitals and rejecting language that would have opened the door to private investments in public hospitals.* It's a shame that with each budget we have to urge you to do the same thing year after year to keep our public hospitals public.

### **OFFICE OF MENTAL HEALTH (OMH) & OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES (OPWDD) – DOWNSIZING:**

The budget also includes proposals that would reduce the number of state-operated inpatient psychiatric beds by 150 adult, children's and/or forensic beds without the legal one year notification requirement. The transition to community-based care cannot be set into motion until the community has the resources in place to ensure that individuals released into their care will receive the same or higher quality standards of treatment that the State currently provides.

New York State's behavioral health care services have been facing mandated community-based transitions that PEF believes lack clarity. We are concerned with the adverse impact on continuity of care for those served every day by our members. Currently, PEF represents thousands of members working at OPWDD and OMH. Unfortunately, the State continues to push services for these individuals out into the community. The State budgets OPWDD for the loss of 253 positions through attrition and OMH plans another reduction of 353 positions to be eliminated through attrition.

The underlying theme for the past few years has been the continued diminishment of public services available for those with developmental disabilities and behavioral health needs. OPWDD closed Broome Developmental Center in March 2016 and Bernard Fineson Developmental Center is slated for closure on March 31, 2017.

*PEF asks the legislature to delay any closures until a comprehensive plan is developed that ensures that all individuals will have access to the appropriate quality care and services needed.* This would include bringing to a halt the diminishing clinical resources and unsafe placements and discharges of those who are in the greatest need of our state services.

*PEF asks that you strongly reconsider the planned transfer of children's inpatient services from Western New York Children's Psychiatric Center – located on a campus in the suburban West Seneca campus to the Buffalo Psychiatric Center.*

The WNYCPC is a true center for excellence serving children and teenagers in 19 western New York counties. WNYCPC has proven to have quality care witnessed by its low re-admission rates.

#### **Justice Center for the Protection of People with Special Needs (Justice Center):**

The Justice Center oversees cases of abuse and neglect in state operated, licensed or certified programs and facilities in agencies that care for individuals with developmental disabilities, mental illness, substance abuse disorders and children in residential facilities.

The Justice Center has had a negative impact on health care professionals in this field. Clients use the threat of Justice Center charges to manipulate their caregivers. Nurses who become subjects of a Justice Center interrogation and investigation leave for nursing positions outside of State service. They fear that if they are found guilty, their licenses will be jeopardized and their names will be on the list prohibiting them from working with children or vulnerable clients.

Specifically, the money that is squandered while investigating baseless claims which tend to be so absurd, there is no way they could be accurate. The amount of stress placed on PEF members and the waste of taxpayer's money attached to investigating these cases is indefensible, particularly because the investigations usually turn out to be nothing more than a vehicle for continued harassment of the PEF represented employees at the agencies that fall under the jurisdiction of the Justice Center.

*There has been inadequate training and support provided to the Justice Center to the PEF represented workforce to meet the requirements under the new law. These agencies are in need of workforce training, recruitment, retention and other resources*

*to continue to meet the needs of individuals with mental illnesses without running afoul of the Justice Center.*

## **DOCCS**

The Department of Corrections and Community Supervision (DOCCS) operates 54 facilities that house 51,500 inmates and is responsible for 36,000 parolees.

The Executive Budget provides for an increase of 126 fulltime employees, but this staffing change is attributed to an increase of 165 FTEs as a result of the second round of security staffing reviews and a decrease of 39 FTEs related to a change in the Maximum Security Visitation Schedule.

Despite the fact that over the past 15 years the staffing ratio of inmates to uniformed staff within the facilities has been reduced consistently with the decline in the inmate population, there has been an increase in violence within these facilities. Since 2010, there has been an approximately 14.5 percent increase statewide in assaults on staff in NYS prisons, and a 74 percent increase in assaults on inmates. (DOCCS Fact Sheet, Jan. 1, 2017). So, while the statewide Officer to inmate ratios may have remained consistent; this trend in workplace violence clearly indicates the need for additional highly trained staff. *PEF believes there is a need for additional training for current staff and the hiring of trained staff necessary to combat the increased workplace violence and to improve the safety for both staff and inmates.*

DOCCS, as with every agency in the state, suffers from recruitment and retention problems of licensed professionals such as nurses, doctors, pharmacists, and nurse practitioners within its facilities. The nurse vacancy rate has increased from 10 percent in January 2015 to approximately 16 percent in November 2016 -- an increase of nearly 6 percent in less than one year-- and this situation isn't improving. These medical professionals provide vital health care 24-hours a day, every day for all of the inmates in the facility and any staff person who is injured or have medical emergencies at work. These vacancies are attributed to salary disparities between what is offered by New York State compared to similar jobs in the community, resulting in the inability to attract and maintain a sufficient number of staff. Salary disparities are further exacerbated by the hazardous workplace conditions for these professionals.



*I would like to say at this point that it is imperative that we begin to take a look at increasing the base pay of a nurse from a Grade 16 to a Grade 18 to help in the recruitment and retention of qualified nurses. With Tier 6 in place and low salaries, there is no incentive for qualified nurses to come to the state for employment or remain with the state.*

Recruitment and retention problems result in frequent scheduling and assignment changes as well as a high volume of voluntary and mandatory overtime. DOCCS has the highest No Mandatory Overtime Violations of all state agencies, including the three SUNY Hospitals. Medical professionals at DOCCS facilities are undervalued and needlessly overworked.

### **Parole Officers**

In addition, to the staffing levels within the DOCCS facilities, we are just as concerned about the understaffing of parole officers.

You cannot help but see evidence of the need for an adequate level of parole officers when you pick up any newspaper today. One newspaper reported that there are 33 officers monitoring 1800 parolees in Monroe County. However, that story only shines a brighter light on worse ratios, such as those occurring within the downstate region of this state. *So, we believe there needs to be more trained boots on the ground day-to-day supervising parolees.*

This budget includes a "Correction Reform Bill", which would allow the Department of Corrections and Community Supervision (DOCCS) Commissioner to set conditions of parole in many instances and would establish earned reductions during post-release supervision and would change non-violent prison sentences.

This bill, which vests too much power with the Commissioner of DOCCS, will shorten periods of incarceration, decrease necessary periods of post-release supervision and reduce the number of Parole Officers. Furthermore, the bill dramatically reduces the authority of the Parole Board and removes the checks and balances that were put in place when the Department of Correctional Services merged with the Division of Parole. Increasing the power of the DOCCS Commissioner at the expense of the independent Parole Board will jeopardize public safety.

## HEALTH CARE PREMIUM CHANGE

I will conclude with just a few remarks about a budget proposal that would implement differential health care premiums for retirees based on years of service. We are very concerned about this proposal and view it as a retirement incentive – a negative incentive - but an incentive just the same. We believe this could result in some state employees rushing to retire before the proposed October 2017 implementation date, to avoid higher health insurance costs. This would further decimate an already depleted workforce. *We urge you to take a careful look at this proposal and imagine the ramifications of a workforce suddenly and quickly being pared even further because employees are being forced to retire earlier than they had planned to avoid higher health insurance costs during retirement.*

While I chose to highlight only a few agencies and issues today, there are many other agencies that remain understaffed and underfunded. Please keep in mind, that overtime expenses at some state agencies continue to grow and the over reliance on overtime demonstrates the need to reinvest in the state workforce. It is not a coincidence the public interest is best served by state agencies that are fully staffed with public employees.

I agree with the Governor when he made the statement on November 12, 2016, “So let me be absolutely clear: If anyone feels that they are under attack, I want them to know that the state of New York – the state that has the Statue of Liberty in its harbor – is their refuge.”...“It’s the very core of what we believe and who we are. But it’s not just what we say, we passed laws that reflect it, and we will continue to do so, no matter what happens...” (Lam 2016).

*By bringing to an end the practice of outsourcing, eliminating selective certification and providing timely promotional exams, PEF is seeking such a refuge in the great State of New York*

Thank you for your time and the opportunity to speak with you today.

### Reference

Lam, K. (November 12, 2016). Cuomo offers New York as refuge for people who feel ‘under attack’ during Trump’s presidency. Retrieved from <http://pix11.com/2016/11/12/cuomo-offers-new-york-as-refuge-for-people-who-feel-under-attack-in-trumps-presidency/>