



Local 1000 AFSCME, AFL - CIO

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**Summary of the Enacted  
New York State Budget  
for  
Fiscal Year 2018-19**

# EXECUTIVE SUMMARY

Governor Cuomo and lawmakers have agreed to a \$168.3 billion budget for fiscal year 2018-19 before the April 1 deadline.

Many of CSEA's concerns with the Executive Budget proposal were addressed in a positive way in the enacted budget. This includes removing language allowing the Office of Mental Health to close up to 400 beds, rejecting the closure of Ella McQueen with only 30-days notice, rejecting increased retiree health care costs, and providing additional resources in several areas including child care, community colleges, and SUNY hospitals.

Importantly, the budget also makes changes to the Taylor Law that will help CSEA members as we prepare for the upcoming decision in the Janus v AFSCME U.S. Supreme Court case. This is a major win for CSEA and shows the power and strength of our union.

The enacted budget also includes several proposals meant to mitigate the negative impacts of federal tax reform on New Yorkers, increases school aid by approximately \$1 billion, raises \$100 million through an opioid "stewardship" payment on manufacturers and distributors, increases resources to the MTA, and creates a new optional retirement program for private-sector employees.

The following is a summary of the enacted budget's impact on areas of importance to CSEA members.

More information on CSEA's work throughout the budget process can be found on our website.

# ADDRESSING JANUS V AFSCME

The enacted budget includes significant changes to the Taylor Law in an effort to help fortify unions against the impending implications of Janus v. AFSCME. CSEA is strongly supportive of these changes.

## **Duty of Fair Representation Limited**

The most important change to the Taylor Law relates to the Duty of Fair Representation.

As we prepare for the likelihood that the Supreme Court is going to allow non-members to benefit from union representation without having to contribute, this is a big win for us.

The new legislation provides that public employee unions will not have to provide representation to non-members in any disciplinary cases as well as any legal, economic, or job related services beyond those provided in the collective bargaining agreement.

## **New Employee Information Within 30 Days**

The new legislation also states that public employers must notify an employee organization of new employees, and provide the following, within 30 days of employment:

- Name;
- Address;
- Job title;
- Employing agency department or other operating unit; and
- Work location.

Public employers must also allow a duly appointed representative to meet with new employees at the worksite during work time for a reasonable amount of time without requiring employees to charge leave time. Additionally, employee organizations are now permitted to use electronic membership cards.

## **Members Returning from Leave to Stay Members**

One other significant change to the Taylor Law addresses the "churn" problem that has occurred when members have gone out on voluntary or involuntary leave and been reinstated as agency fee payers upon their return. Now, when members return to the same employer after voluntary or involuntary leave within one year, they will be automatically reinstated as members.

These changes to the Taylor Law are a significant victory in our ongoing effort to ensure our union stays strong regardless of the outcome of Janus v. AFSCME.

# STATE OPERATIONS

## Office of Mental Health (OMH)

The enacted budget removes all references to reductions of inpatient beds. However, an agreement was reached between the Legislature and the Executive that states:

- All inpatient OMH facilities that were at risk of closing will remain open for the coming fiscal year
- OMH will not take steps in the coming fiscal year to deny admissions to inpatient facilities
- OMH will provide monthly updates on the inpatient census at each OMH facility
- All sex offenders at Buffalo Psychiatric Center will be transferred prior to the potential opening of any new children's facility on that campus.
- OMH commits to maintain appropriate levels of available inpatient beds.

## Office for People with Developmental Disabilities (OPWDD)

The enacted budget expands from 45 to 90 days the length of time that OPWDD must give prior to closing a Individualized Residential Alternative (IRA) facility.

The budget funds the OPWDD community based care pilot programs for an additional year.

In addition, the enacted budget funds a new program that will transfer patients released from an inpatient OMH hospital who are in need of OPWDD services to a state-operated program on the the Bernard Fineson campus.

## Office of Children & Family Services (OCFS)

### Closure of the Ella McQueen Reception Center

The enacted budget rejects language to allow for the closure of the Ella McQueen Reception Center with only 30 days notice, as proposed by the Governor, and restores \$5.3 million to continue its operation. If the state intends to close this facility they must do so with the statutorily required one-year notice.

### Raise the Age

The budget provides \$50 million to OCFS for capital costs relating to raising the age of criminal responsibility. Additionally, \$100 million is provided for local governments for costs associated with the program, including hiring additional county probation officers.

## **Office of Alcoholism and Substance Abuse Services (OASAS)**

The budget creates a new Office of the Independent Substance Use Disorder and Mental Health Ombudsman that will investigate and resolve complaints relating to insurance coverage for substance use disorder and mental health care.

The budget creates a \$100 million opioid stewardship program to help pay for opioid prevention, treatment, and recovery services. Manufacturers and distributors of opioids will be responsible for paying a portion of the \$100 million based upon their market share. The cost of the program can not be passed to a purchaser or consumer.

## **Department of Corrections and Community Supervision (DOCCS)**

The final budget rejects the Executive's proposal to overhaul the disciplinary process for DOCCS employees.

## **Hospitals & Health Care Funding**

The enacted budget continues to fund the three SUNY Hospitals with \$92 million in federal funding. In addition, the budget appropriates \$78.6 million in bonding authority for capital improvements to the hospitals.

The enacted budget includes \$50 million for enhanced safety-net hospitals, an increase of \$30 million from last year. This funding targets hospitals that: 1) serve primarily Medicaid and uninsured patients, and 2) hospitals that are either a critical access or sole community hospitals.

In addition, \$20 million is appropriated for Critical Access Hospitals, which includes Lewis County General Hospital.

Roswell Park Comprehensive Cancer Center will receive \$102.6 million in state funding this year, the same level as last year. However, funding is split evenly between a general state subsidy and capital funding. In previous years the operating subsidy accounted for a larger percentage of the funding.

The budget provides \$600 million in capital funding for a new Wadsworth Laboratory in the Capital Region. The location and specifics of a new facility are still unknown.

# **State University of New York (SUNY)**

## **Community Colleges**

The final budget provides \$12 million more than the Executive proposal for operating assistance to SUNY community colleges. This is a slight reduction from 2017-18 levels, but restores almost all of the proposed reduction caused by a decrease in enrollment.

## **Excelsior Scholarship**

The budget provides up to \$118.4 million for year two of the Excelsior Scholarship program.

## **Office of Court Administration**

The enacted budget adds an additional Supreme Court Justice to each of the 9th, 10th, 11th, 12th, and 13th districts. These justices will be elected in November 2018 and will take office on January 1, 2019.

## **Division of Budget Superpowers**

The enacted budget includes two provisions that grant the Division of the Budget (DOB) authority to make mid-year cuts to the budget.

Under these proposals:

- If federal funding for Medicaid is reduced by \$850 million or more, the Division of Budget will prepare a plan to reduce appropriations and disbursements equally to the programs affected by the reduction. The legislature has 90 days to establish their own plan or else DOB's plan goes into effect.
- If federal aid excluding Medicaid is cut by \$850 million or more, the same type of reduction plan would go into effect.

## **Retiree Issues**

The budget rejects all changes to health insurance for public sector retirees, including proposals that would have capped Medicare Part B premium reimbursements and eliminate IRMAA reimbursements.

# LOCAL GOVERNMENTS

## Shared Services Panels

The final budget provides for a three year extension of county-wide shared service panels instead of the permanent extender proposed in the Executive Budget.

The budget also provides \$225 million for a state match of savings realized through shared service panels.

## Expanding Shared Services

The final budget allows all towns to share town justices, but rejects the Executive proposal to allow a county to take over local planning and zoning functions. Previously towns had to be contiguous to one another in order to share a justice.

## Local Government Funding

The budget once again flat-funds Aid and Incentives to Municipalities (AIM) at \$715 million. This funding has been held flat since 2011-12.

The budget includes \$100 million for expenses to local governments, including probation departments, related to the costs of raising the age of criminal responsibility.

The City of Albany is provided with an additional \$12 million in funding.

Funding for the Consolidated Highway Improvement Program (CHIPS) and Marchiselli programs are held flat from last year but the final budget restores \$65 million for extreme winter recovery funding that was not included in the Executive Budget proposal.

## Public Water Systems

The budget includes a voluntary program for the Department of Health to evaluate the feasibility of consolidating public water systems.

# EDUCATION

## School Aid

School aid is increased by roughly \$1 billion over last year's funding levels.

The enacted budget also includes new disclosure requirements for school districts. Starting in the 2018-19 school year, New York City schools and districts with at least four schools that receive at least 50% of their funding from the state must submit detailed financial reports to the Department of Education. By the 2020-21 school year, all school districts would be required to submit such reports. The reports would have to include a school-by-school funding breakdown, as well as an explanation of the methodology used to determine school-level funding.

## Libraries

The final budget increases public library funding by \$1 million for a total of \$96.6 million this fiscal year.

In addition, the final budget increases library construction aid by \$10 million for a total of \$34 million.

## Child Care

The enacted budget includes an additional \$136 million in funding, mostly due to increased federal assistance. Of this funding:

- \$17 million may be used for child care subsidies for low-income families
- \$80 million must be used to comply with various health and safety requirements contained in federal law
- the remainder of the \$136 million may be used to increase rates paid to child care providers.

# INFRASTRUCTURE

## Design-Build

The enacted budget authorizes design-build authority for three specific projects in New York City:

1. **Rikers Island** (construction or reconstruction of new or existing facilities to help close Rikers Island in a timely manner)
2. **New York City Housing Authority** (remediate issues within NYCHA properties). The budget also allows the Governor to issue a Executive Order to create an independent monitor for NYCHA.
3. **Brooklyn Queens Expressway** (NYS DOT must approve any plans prior to moving forward).

No additional authority for design-build is granted to State entities, nor is any extension of existing authority granted beyond April of 2019.

## Metropolitan Transportation Authority (MTA)

All revenues collected through the metropolitan commuter transportation mobility tax would be sent directly to the MTA, without passing through the state pursuant to an appropriation. The budget also clarifies that the State and City of New York will split the \$836 million capital and operating costs of the MTA.

The budget also establishes a surcharge on for-hire rides for each ride south of 96th Street in Manhattan. The surcharge would be \$2.50 for a taxi and \$2.75 for all other rides beginning on January 1, 2019. Revenues collected through this surcharge will be used to support the MTA.

The budget also allows for the installation of at least fifty bus lane monitoring cameras within the congestion zone. Any revenues generated by these cameras would also go to the MTA.

## OTHER ISSUES

### Secure Choice Savings Program

The enacted budget includes a new voluntary retirement savings fund for private sector employees that will be jointly administered by the Comptroller and the Department of Taxation and Finance. The program will be an option for employers who do not offer a retirement plan. It will operate like a Roth IRA and in accordance with Roth IRA contribution limits. The program will allow individuals to make contributions via payroll deductions. Contributions are made post-tax but the withdrawal of contributions can be made at any time without penalty and the withdrawal of earnings can begin tax and penalty free at the age of 59 ½.

## **Sexual Harassment**

The enacted budget includes provisions relating to sexual harassment that:

- Require a public employee who is subject to a final judgement of personal liability for intentional wrongdoing related to sexual harassment to reimburse any state agency or other government body that makes a payment to a plaintiff for an adjudicated award based on a claim of sexual harassment resulting in a final judgement;
- Prohibit employers with more than four employees from requiring mandatory arbitration clauses for any allegation of sexual harassment;
- Require all companies bidding on public work to have a written policy addressing sexual harassment prevention in its workplace;
- Prohibit employers from requiring a non-disclosure agreement in any settlement involving sexual harassment unless requested by the complainant.
- Require all employers to adopt a model sexual harassment prevention policy and provide annual training to employees.

## **Pay Commission**

The budget establishes a new commission to examine pay raises for legislators, statewide elected officials, and heads of agencies. The commission must report by December 10, 2018, whether a pay raise for those positions should go into effect on 1/1/2019. The raise could be phased in over three years. Any pay raise phase-in or cost-of-living adjustment would be conditioned on the passage of an on-time budget. This commission would replace the existing pay commission only for this year.

## **Elections Reforms**

The enacted budget increases scrutiny of paid internet or digital advertisements. Internet and digital ads would be added to the definition of “political communication” in state law, subjecting them to additional oversight. Further, each platform (TV or radio station, internet site, etc.) would be responsible for verifying the registration of any person making an independent expenditure with the Board of Elections. Foreign nationals or governments would be prevented from making any independent expenditures in the state.

## **Economic Development**

The budget provides \$44.5 million that can be used to advertise for the START-UP NY program. This is a reduction from previous years, but consistent with the Executive Budget proposal.

# REVENUE

## Addressing Federal Tax Reform

In December, Congress passed tax reform legislation that had a significant impact on New Yorkers. The reform lowered tax rates and significantly increased the standard deduction, but also limited the ability of taxpayers to deduct their state and local taxes (SALT) from their federal income taxes. The loss of SALT deductions hits New Yorkers harder than many other states, and many New Yorkers will see a tax increase because of this.

Reducing the impact of this federal tax reform was a major part of this year's state budget.

The budget decouples certain state tax provisions from new federal tax law, including allowing taxpayers that take advantage of the new, higher, federal standard deduction to continue to itemize deductions on their State tax reform. If a person itemizes deductions on their state taxes, they will still be able to utilize the union dues tax deduction.

Two additional proposals are discussed in detail below. The intent of these reforms is to mitigate the loss of SALT deductions by lowering the federally taxable income of New Yorkers.

### Charitable donations

The budget creates a new State charitable gifts trust fund consisting of two accounts - the health charitable account and the elementary and secondary education charitable account.

The health account would be used to support primary, preventive, and inpatient health care, dental and vision care, hunger prevention and nutritional assistance, and other services with the goal of ensuring access to quality health care and other related services. The elementary and secondary education account would be used for the support of elementary and secondary education of children enrolled in public school districts.

Contributions made to these accounts would be eligible for an 85% State Personal Income Tax (PIT) credit.

The budget also provides that contributions made to Health Research, Inc., the State University of New York Impact Foundation, or the Research Foundation of the City University of New York would be eligible for the same 85% PIT credit, subject to a \$10 million aggregate credit cap for each.

Additionally, the budget authorizes school districts and local governments to create local charitable funds. The local government or school district could then pass a local law to allow for a property tax credit of up to 95% of contributions to the accounts. A municipality could provide a lower credit or establish a cap on the amount of the credit.

In theory, contributions to all of these charitable trusts should be eligible for a federal PIT credit. However, the Internal Revenue Service has not yet weighed in on whether arrangements like these new funds will be permitted.

### **Optional Employer Payroll Tax**

The budget establishes an optional payroll tax system where employers could decide to shift to an employer-paid payroll tax for employees earning over \$40,000 per year. This tax would phase in over three years, starting at 1.5% of wages over \$40,000 in 2019. The tax would be 5% when fully phased in. Employers cannot shift the tax to employees, and employees would be provided with a PIT credit in the amount of the tax paid by their employer.

By shifting from an income tax to a payroll tax, an employer could deduct the taxes paid from their federal tax liability while employees are held harmless from the new limitations.