Testimony on the FY 2017-18 Executive Budget Proposal

Workforce Development

Presented Before:
New York State Senate Finance Committee
Chair, Senator Catharine Young

&

New York State Assembly Ways and Means Committee
Chair, Assemblyman Herman D. Farrell, Jr.

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Introduction

I would like to start by thanking Chairwoman Young, Chairman Farrell, and members of the Senate and Assembly for the opportunity for CSEA to comment on the FY 2017-18 Executive Budget proposal.

CSEA proudly represents 300,000 public and private sector employees and retirees across the state. CSEA members care for the developmentally disabled and mentally ill, protect our children, plow our roads, and provide countless other state and local government services. Our members take pride in the work they do and in their place in their communities.

Mario Cuomo once said, “We must get the American public to look past the glitter, beyond the showmanship, to the reality, the hard substance of things. And we'll do it not so much with speeches that sound good as with speeches that are good and sound; not so much with speeches that will bring people to their feet as with speeches that will bring people to their senses.”

Unfortunately, the hard substance of things is that we have seen the same thing for years from this administration’s budget proposals. There are always speeches that sound good while in reality our state has ignored the needs of working people, the middle class, and thousands of families in need that don’t have a voice.

Every year I come before this body and speak to the differences between the public promises made in the Executive Budget proposal and the lack of concern for the most vulnerable New Yorkers.

Quite frankly, I am tired of having to make these same arguments.

It shouldn’t be controversial to say that persons with developmental disabilities and their families deserve the State services that have traditionally been available to them.

It shouldn’t be controversial to say that direct care workers shouldn’t have to work 12 days in a row, 16 hours a day, to provide services that people need.

It shouldn’t be controversial to say that hard working New Yorkers deserve dignity and security in retirement, that local governments should control their own finances, and that the middle class shouldn’t suffer while burdens are eased on the wealthy.

But apparently these things are controversial when they do not fit into a carefully manicured narrative on the direction of the state.

I urge the legislature to take into consideration the true needs of the people of this state instead of the showmanship.

Office for People with Developmental Disabilities (OPWDD)

Year after year, we see the same approach to OPWDD's budget.

CSEA has always been a willing partner in the appropriate transition of OPWDD's system of care from large institutions to community-based settings. Unfortunately, this transition has left thousands without care and with nowhere left to turn.

As the transition to community-based services has accelerated, the State workforce has been stretched beyond its limits. Extreme overtime and on-the-job injuries have taken their toll on the workforce and the clients they serve.

Based on the latest information provided to CSEA by OPWDD, there are 11,000 families waiting for some type of services. While OPWDD now disputes this claim, they have not provided any convincing evidence otherwise. It is not acceptable that an individual must be in crisis to receive the services he or she needs and deserves

Clients served by OPWDD deserve to be taken care of by a well trained workforce that they know and trust. It is time for the State to show a true commitment to provide care for all of New York's citizens who need it and allocate the resources to make sure individuals are safe and well cared for.

Instead, the Executive once again proposes a budget that holds State agencies to an arbitrarily imposed two percent spending cap. This freeze of agency budgets has resulted in the loss of at least 10,000 state workers (8.4% of the state agency workforce) since 2011, and the loss of even more positions through attrition is proposed in the 2017-18 budget. The Budget proposes the elimination of 253 full time equivalent (FTE) employees within OPWDD, rather than recognizing the structural staffing deficit within the agency.

According to a report by Comptroller DiNapoli, OPWDD lost 4,341 state employees (17.5% of its workforce) between 2007 and 2015. OPWDD employees worked the most overtime in terms of total hours, share of employees working overtime, and overtime as share of agency pay in 2015.

These numbers do not even take into account the per diem and part time employees that have exploded at the agency in recent years, who do not work overtime but instead work “extra time” that is not captured in overtime calculations.

The numbers become even more dramatic when looked at on a closer level.

Over 23 pay periods between FY2016 and FY2017, 2154 employees worked seven or more days in a row, with an average 12 consecutive days worked. Over that same time frame, over 7,000 employees worked more than 16 hours at a time, with an average work span of 17.85 hours.

The Executive Budget proposal does nothing to help bring down these extraordinary levels of overtime for OPWDD employees who, at this point, just want to go home. They miss being able to pick their kids up at school or spend time with their spouse. These are dedicated employees that are providing an essential service to the State who are being mandated to stay away from their families.

This overtime has also put immense stress on the workforce and put employees at risk. Workers are getting injured at extremely high rates, causing even more stress on the workers who have to cover for any lost time. OPWDD workers have a lost time rate that is 2.5 times the state average and 3.6 times the national average.[1]

Injuries are an especially large problem within OPWDD and OMH. These two agencies alone made up for more than half of all lost work days and 40% of all compensable incidents in all of New York’s Executive Branch agencies in FY 2014/15. At OPWDD, 17.1 out of every 100 employees was hurt on the job, while in OMH that number was 17.6 out of 100. Injuries at OMH and OPWDD accounted for 42% of all direct costs from on-the-job injuries to the State. [2]

Quality of care should be a top priority for our State’s most vulnerable. Investments into the dedicated OPWDD workforce would go a long way to advancing that goal.

Care Pilots

The legislature has been a strong partner in advocating for the needs of this community, but we have seen that even when monies are appropriated they are not always let out the door by the Executive. This has especially been the case in regard to CSEA’s pilot programs developed in concert with OPWDD.

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[1] New York State Department of Civil Service / U.S. Department of Labor
[2] New York State Department of Civil Service

CSEA worked cooperatively with OPWDD to create these pilot care programs in 2015 that utilize the state workforce for community based care. The services provided by these pilots include community habilitation, in-home respite, pathways to employment, supported employment, and community pre-vocational. These programs have been extraordinarily successful, but budgeted amounts have not been disbursed and these new ways of delivering State services are not presented as an option at the front door.

CSEA is willing to work with the State as much as possible to transition workers into community-based settings, but the commitment to providing better care needs to come from all parties.

Office of Mental Health

OPWDD isn't the only state agency that has been facing significant cuts in state support, as services provided by the Office of Mental Health are also transitioning to community-based services.

The Executive Budget proposes a reduction of the OMH workforce by another 353 FTEs and the elimination of 240 State-operated beds. This is at the same time that 85 state-operated outpatient clinics will be "transformed," which likely means that many of these facilities will be closed.

The Executive continues to claim that these beds should be taken down because they are empty. These beds are empty because the front doors of OMH facilities have been locked shut, and people are being denied the quality treatment that they need.

The proposed solution for this burgeoning lack of services is the creation of 280 new community-based beds to be operated by not-for-profit providers.

Reinvestment in community services has been promised for decades, but never seems to appear as promised. It seems that the state's model of transitioning care in both OMH and OPWDD is to move care from an intentionally diminished state workforce to the not-for-profit sector that is becoming increasingly overworked and underpaid.

Once again, this reduction of staff does not mean that services do not need to be provided. Nearly 35% of all OMH staff were working overtime in 2015, while OMH workers had a lost time rate due to injury 1.6 times the state average and 2.3 times the national average.[3]

Even worse, fewer and fewer persons in need of treatment are getting the help that they need. According to a Treatment Advocacy Center report, U.S. prisons and jails housed over 356,000 inmates with severe mental illness in 2012 - 10 times the number of mentally ill patients in state psychiatric hospitals in the same year.

The need for continued services for the mentally ill is abundantly clear. Unfortunately, New York continues to move forward transitioning services in a way that leaves people falling through the cracks and local governments struggling to pick up the pieces.

The State has not provided any details as to where State-operated beds will be brought down. Without knowing where the beds are coming from, how can there be a plan in place for a reinvestment in appropriate community services? The answer is that there is no plan. This is just another example of the State shifting its responsibilities to local governments while at the same time blaming those same governments for an abundance of local services that need to be consolidated.

[3] Office of the State Comptroller, New York State Department of Civil Service, U.S. Department of Labor

Local Governments

The state has continued to force more and more responsibilities on local governments, while at the same time reducing the resources available to them.

If the Governor's management of his state agencies tells us anything, it is that he should not be given more authority to control local governments and the services they provide. Local leaders have been put into office by the voters to determine the best course of action for their municipality. Like the state agencies, local governments can no longer do more with less.

Once again ignoring this fact, Governor Cuomo continues try and force local governments to share services and find tax savings by exaggerating the number of local governments and the burdens they place on taxpayers. The Governor is attempting to force the elimination of local identity and local services by tying Aid and Incentives to Municipalities (AIM) funding to this new scheme.

Facing frozen state aid, an overly restrictive property tax cap (currently 0.68%), and increased cost shifting from the State, local governments have already been forced to find efficiencies and share services as much as possible in order to survive. The State has dumped tens of millions of dollars into a variety of programs attempting to incentivize consolidations and shared services in recent years. Undoubtedly, this money would be put to better use by using it for identified needs and an increase to AIM, which has been held flat since 2011-12.

Furthermore, voters have proven time and again that they prefer local control of their public services. This was shown most recently by the Village of Depew in Erie County, where voters voted almost three-to-one against the dissolution of their village.

The state should properly fund local governments and state programs to help localities survive instead of threatening them and forcing unwanted and unneeded changes.

Collective Bargaining and Retiree Health Insurance

The 2017-18 Executive Budget reintroduces several proposals that show a clear disrespect for the collective bargaining process and protecting our retirees.

Governor Cuomo has once again proposed an illegal increase in New York State Health Insurance Program (NYSHIP) premium contributions for all people who retire from the state on or after October 1, 2017 with less than 30 years of service. This proposal is clearly an attempt to change the terms and conditions of employment of active state employees, a mandatory subject of collective bargaining. This proposal should be taken out of the budget immediately because it is a clear violation of the Taylor Law.

The Governor takes a second swing at retirees by proposing to cap the state's reimbursement of Medicare Part B premiums for NYSHIP retirees and ignoring future increases in the premium rate. The proposal would further harm retirees by completely eliminating the state's reimbursement of the Income Related Monthly Adjustment Amounts (IRMAA) for higher income retirees.

CSEA strongly opposes these proposals and the attempt to seek savings from retirees instead of other misguided spending.

Additionally, the Governor has again proposed that the terms of a collective bargaining agreement for public employees be made available to the public before union members or the appropriate legislative body have a chance to ratify the contract. This provision is nothing more than an attack on public employees. It will do nothing but create animosity and hostility toward public employees. Legislation like this, whose only goal is to divide and anger the citizenry, has no place in our state.

Office of Children and Family Services (OCFS)

OCFS is another agency where worker injuries have become a significant problem.

These issues were put on display just this past weekend as a CSEA member working as youth development aide at Brookwood Secure Center was brutally attacked by a youth in their care. The employee required 20 stitches and will now miss time, forcing more overtime for other employees.

No one should be afraid for their safety while working for a public good. Employees need to be protected, and agencies must be provided with proper staffing levels to avoid these incidents in the future.

Raise the Age

The Executive Budget proposes to raise the age of criminal responsibility from 16 to 18 years of age. CSEA supports this proposal in concept, however proper implementation is paramount in order for the policy to be done correctly.

Proper Probation Funding

County probation departments are already understaffed due to lack of proper state funding. Their caseloads continue to increase as the state continues to divert people from state prison to community based services. State law requires probation officers to be responsible for monitoring not only those placed on probation, but also for monitoring sex offenders, individuals convicted of certain driving while intoxicated crimes, and youths who are placed on probation instead of being sent to an OCFS facility.

Under the “Raise the Age” proposal, county probation officers will be responsible for assessing all youths who enter the criminal justice system. Some have estimated that probation officers will have to perform an assessment on over 20,000 youths who have been arrested. When combined with their already high caseloads, this will not be sustainable with the existing workforce. It is clear that additional probation officers will have to be hired. However, due to financial limitations put on local governments, this cannot happen without adequate financial commitments from the state.

While the budget says that the state will pay for the local government costs of this population, there are no guarantees that this funding will not be decreased in future years. Without guaranteeing future funding, this could simply become yet another unfunded mandate on counties.

OCFS Facilities

Under this program, 16 and 17 year olds that commit crimes that would normally put them at risk of being sent to a Department of Corrections and Community Supervision (DOCCS) facility will be placed in facilities for youths operated by OCFS. CSEA firmly believes that if a 16 or 17 year old is convicted of a crime under this program they must be sent to a secure OCFS facility that is staffed by OCFS employees.

Child Care

CSEA represents more than 10,000 registered, licensed group, and enrolled legally-exempt family child care providers in 57 counties outside New York City. Family child care is the most flexible and affordable child care option for working families. It is often the best and sometimes the only option for parents needing non-traditional hours and flexible care in order to work jobs with late night or irregular hours.

This budget has raised concerns due to the lack of funding appropriated to implement the recently renewed Child Care and Development Block Grant (CCDBG). It is expected that the additional costs will be passed on to providers and counties.

Without additional funding, counties will have to cut available child care slots. This will cause thousands of families across New York to lose child care assistance on which they rely to look for and maintain employment. New York, like other states across the country, already serves just a fraction of the children and families eligible for child care assistance. If state funding does not increase, things will get worse. The loss of subsidy slots will cause many parents who can not afford to pay the market price of child care to find care in the underground market, where providers do not comply with state or federal health and safety laws.

Economic Development

It appears that the Cuomo administration has finally gotten on board with what the rest of the state has known for years - that START-UP NY is a supremely flawed program that did not live up to its billing as a massive job creator. In fact, START-UP had created only 408 jobs through its first two years.

Unfortunately, the administration has decided to double down on its mistake instead of admit its failure and move forward with a better plan.

The Executive Budget proposes rebranding START-UP NY as the “Excelsior Business Program.”

Rather than increase accountability for companies and demanding more job creation, the proposed legislation would eliminate all pretense that the program isn’t simply a handout to preferred companies.

Companies would be required to create only a single job over five years to earn tax-free status for a decade, and if they can create five jobs will even get a refundable tax credit. Companies that create five jobs will literally be paid to operate in New York, using public infrastructure for free while their employees also pay no income taxes.

Our state should be investing in local economies in a way that will have a real impact on middle class workers instead of allowing a handful of chosen companies to reap enormous benefits without creating any economic development.

Procurement and Oversight

The Executive Budget includes a host of procurement reforms and the creation and/or expansion of oversight powers within state agencies and local governments.

What all of these proposals overlook is the fact that the State Attorney General and State Comptroller once had oversight of many of these areas. These officials already have staff in place that can handle these responsibilities in a truly independent manner, rather than entrusting the Executive with even more responsibility over all levels of government.

CSEA’s position is that the State Comptroller and State Attorney General should be given back their oversight of procurement and contracting to restore independent oversight over state government instead of another power vested within the Executive.

Further, the budget proposes a major expansion of design-build contracts.

Design-build is a method of project delivery where one entity works under a single contract to design and construct a capital asset. Currently, only five state agencies/authorities have the authority to enter into design-build contracts.The Executive Budget proposes expanding design-build authorization to all agencies, authorities, and counties outside of New York City and would expand the types of projects where a design-build contract could be used.

CSEA has long held that certain conditions should be met in order for design-build proposals move forward. These include requiring specific legislation on a project-by-project basis, language protecting existing collective bargaining agreements, and protecting public sector jobs, including ensuring continued public operation and maintenance of assets.

CSEA strongly opposes the design-build proposal as written.

Revenue

The lives of many New Yorkers were changed dramatically when unregulated misconduct by major banking institutions led to the collapse of the U.S. housing market in 2007, setting off the greatest economic downturn since World War II.

By the time the Great Recession hit our state, inequality had already been on the rise for decades. The Great Recession just made things worse. From July 2008 through December 2009, New York lost 316,000 jobs and unemployment remained above 8% from February 2009 until March 2013. Tens of thousands of state and local government workers lost their jobs and families saw their retirement security weaken as stock markets reeled.

More and more, wealth and income was being concentrated in the hands of corporate CEOs and the wealthy. New York had the most unbalanced economy in the country, and things were only getting worse.

So in 2009, CSEA joined other groups in calling for a tax on the wealthy to change the rules and make the economy work for all families. The new, progressive tax structure created in the 2009-10 budget established a “Millionaire’s Tax” with a top tax rate of 8.97% that raised an additional $5 billion per year that our state desperately needed.

Unfortunately, the impact of the Millionaire’s Tax was blunted two years later when Governor Cuomo called the legislature to Albany for a special session in December 2011. The more progressive tax brackets established in 2009 were allowed to expire and a new structure was put into place, lowering the top rate to 8.82%. These changes cost the state $2.6 billion annually compared to 2009 rates. The new rates were renewed in the 2013-14 budget.

While the Great Recession hurt families at all income levels, its impact was by no means equal. Working families have not witnessed the recovery experienced by the top 1%, as the bottom 99% of earners actually saw their incomes decrease from 2009-2012. When income growth is calculated from 1979 through 2012, the top 1%s share rises to 82.7% of all growth.

Our economy simply isn’t working for all New Yorkers anymore. While there continues to be funding for Cuomo administration priorities like gondola rides and tax giveaways, State agencies are already operating at the margins with an arbitrary 2% spending cap and there is less and less funding for the services that our communities truly count on.

CSEA supports a true “Millionaire’s Tax” that will help to ensure that the wealthy pay their fair share while protecting the services that working people and the middle class depend on every day.

Separation of Powers

Our State Constitution declares that the legislative power in New York is vested in the Senate and Assembly.

The power given to the Executive and the Division of the Budget in the proposed appropriation bills is a broad overreach. The legislature has an obligation to reject this expansion of the Executive and maintain its status as a co-equal branch of government.

CSEA opposes all language that allows the Governor to move, transfer, reduce, or change appropriations without legislative consent.

Conclusion

I would again like to thank the Chairs and members of the Senate and the Assembly for allowing me the opportunity to speak here today.

While this Executive Budget proposal includes plenty of glitter and showmanship, it is severely lacking in hard substance. I look forward to working with all of you to finalize a budget that will actually improve the lives of working people, retirees, and all of the middle class.

On behalf of 300,000 active and retired, public and private employees across New York State, I hope that you will join us to stand as a united voice for the needs of all New Yorkers, strong communities, and vital public services.

Thank you.

Addenda

The following have been attached to this testimony for your reference:

- ❑ Comptroller DiNapoli's report on State Agency Use of Overtime (2015 data)
- ❑ OPWDD extreme overtime reports
- ❑ Article detailing the impact of overtime on an OPWDD worker