



# 2009 STATE LEGISLATIVE AGENDA



*The New York State Public Employees Federation represents more than 59,000 professional, scientific and technical workers, most of whom work in state government agencies throughout New York. PEF is the second largest state-employee union in the state, and is affiliated with both the American Federation of Teachers and the Service Employees International Union.*

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January 1, 2009

To Governor David Paterson and Members of the Legislature:

I am pleased to transmit the 2009 Legislative Agenda of the Public Employees Federation. PEF represents 59,000 professional, scientific and technical employees in state government as well as other government and nonprofit employees. Day in and day out and in times of crisis, our members provide the vital services the citizens of New York State depend on, such as: caring for the State's mentally ill and developmentally disabled; designing the state's roads and bridges; protecting our environment; protecting public health; and staffing hospitals and nursing homes.

The legislative priorities advocated for in this Agenda are based upon our members' experience as employees who provide vital services to the people of New York State. Our goals are to improve the delivery and quality of services to the people of New York State, and improve the working lives of our members. The items in this document are grouped into six broad categories:

Ensuring Quality Services,  
Protecting Employee Rights,  
Maintaining a Stable Public Workforce,  
Reforming NYS Labor Law,  
Improving Working Conditions and Benefits, and  
Providing a Well-Deserved Retirement.

With your support, we can maintain quality public services and protect our most vulnerable citizens. PEF is looking forward to working with leaders such as you to continue to improve the working conditions of PEF members and raise the quality of the vital and essential services we provide to all New Yorkers.

We thank you for your commitment to public service during the last legislative session, and urge your support for these positions in your legislative deliberations during the 2009 legislative session.

Sincerely,

Kenneth Brynien  
President

# ENSURING QUALITY SERVICES

PEF believes that the State of New York should provide for the general welfare of all of its citizens, and that it has an obligation to provide the highest quality of service, especially to those most in need. The quality of the state's public workforce is second to none, and if given the authority and the means, it can provide that high quality of service which the citizens of the state are entitled to receive.

PEF seeks to have sufficient funds included in the state budget, utilizing both state and federal resources, in a timely manner, to guarantee that all public services are delivered effectively, efficiently and at the highest level of quality, within a strong regulatory network with strict standards of accountability. To this end, we will strive to ensure that standards of care and service remain high and that staffing levels in all agencies are sufficient to meet those high standards. This includes improving nurse/patient, teacher/student and clinician/client ratios as well as maintaining staffing levels at facilities engaged in integrated research. In particular, PEF opposes reductions in clinical staffing levels at OMRDD and OMH, which would result in many of the state's most needy citizens receiving inadequate levels of care. PEF also opposes the use of the Evidence-Based Community Initiative by OCFS as a lower quality alternative to state-run juvenile facilities.

In order to maintain a competitive workforce of qualified, skilled professionals, the state must continuously maintain and improve the skills and knowledge of employees through well thought out workforce planning and professional development programs.

Professionals should be given the full authority they need to perform their jobs. Enforcement personnel in various agencies, such as Tax and Finance, Parole, and DEC, need to be able to do their jobs with their authority fully acknowledged by both the state and all local authorities. When licensed services are needed, such as nursing or any other services, only licensed professionals should provide those services. When hiring, transferring or promoting employees in the competitive class, appropriate eligible lists should be used; no one should be given a permanent position without passing the appropriate civil service exam, nor should a provisional appointment be given to a person who failed the exam for that position. The "rule of three" should apply, and when a list is established for a position held by a provisional employee, an appointment must be made from the list. Minimum competency standards should be set for all exempt and non-competitive class positions.

Finally, PEF is opposed to the use of per diem contract employees, and to the privatization of government services. This includes, but is not limited to, attempts to reduce the level of state employee participation in the provision of employment services in one-stop centers, as well as any reduction in state-provided mental health and children's services. In the vast majority of cases, public employees can do the job safer, cheaper, quicker and better. Instead, PEF will advocate for legislative or administrative flexibility in those situations where privatization is being considered, to enable state agencies to make the changes necessary to remain competitive with outside contractors.

## BILLS



*Bills that PEF supports that have not yet been adopted.*

- Requires safe staffing ratios for health facilities
- Requires hospitals to disclose ration of RNs to patients, staffing practices, etc.
- Improves quality of nursing care in OMH/OMRDD facilities, limits use of unlicensed personnel
- Requires criminal background checks for state contractors
- Provides for licenses of rehabilitation counselors
- Provides for licensing of geologists
- Makes information available about educational options for deaf and blind children

# PROTECTING EMPLOYEE RIGHTS

PEF believes that all employees of the State of New York have the right to be treated with respect, dignity and fairness. They have the right to a workplace free of aggression, harassment, discrimination, random drug testing, and unwarranted discipline. They have a right to expect their employer to respect their privacy, the confidentiality of information concerning them, and their due process rights. PEF supports legislation to prohibit State agencies from using Section 61 of the Public Officers Law to issue subpoenas to persons or entities who are not State employees.

Employees have the right to expect that the Civil Service rules which affect hiring, promotions, layoffs, transfers and other aspects of holding state employment will be fair, supportive of the merit system, and open to public scrutiny. They have a right to not lose their employment without just cause, and to be able to seek employment elsewhere without being restricted by the Ethics provision of the Public Officers Law. State employees also have the right to hold a second job during hours they are not working for the state, as long as no conflict of interest occurs.

PEF would support changes to the Civil Service rules that would make testing and scoring of exams fairer and freer from potential manipulation. Test results should be reported quickly and the review process should be expanded. All hiring and promotions should be made from the appropriate Civil Service lists.

When a reduction in workforce is contemplated, the appropriate transfer mechanisms should be utilized, and employees should be placed in positions based on seniority of permanent state service. Involuntary reassignment of a permanent employee should not be made if there are less senior or provisional employees in comparable positions at that same worksite. If an involuntary reassignment is made, the affected employee must be personally notified and given sufficient notice to put their personal affairs in order and to allow for a smooth transition of workload. Employees who refuse such reassignment shall have the same rights as employees who are laid off.

Finally, when an employee faces legal charges stemming from the performance of his/her duties, the state should support that employee by providing any needed legal defense. If removed from employment and subsequently reinstated by court order, the employee should be made whole. In particular, health care workers need to be free from reprisal if they fail to carry out instructions which they believe would jeopardize their patients or their licenses, or if they report violations to a government agency.

## BILLS



*Bills that PEF supports that have not yet been adopted.*

- Amends Civil Service Law to provide safeguards in reassignments of employees to locations other than their normal worksite
- Transfers under Civil Service Law 52.6 or 70.1 cannot be made if a valid civil service list or roster exists
- Grants employees of OMH the same immunity from civil lawsuits presently given to DOCS employees
- Waives “sovereign immunity” allowing lawsuits against the state to enforce the Americans with Disabilities Act
- Amends Civil Service Law to prohibit zone scoring exams

# MAINTAINING A STABLE PUBLIC WORKFORCE

PEF believes that maintaining a stable public workforce will ensure the provision of high quality services to the state's citizens. A stable workforce provides continuity of service and longevity of experience. While changes in the size and composition of the workforce always occur, proper management of these changes will result in fewer disruptions in the services being provided.

PEF is opposed to contracting-out of work that state employees could be performing. However, since the state does engage in this practice, it shall be regulated by requiring a cost/benefit analysis and a review of the contractor's qualifications and track record prior to the signing of the contract. Prevailing wages shall be paid by all contractors to their employees, and the state shall compensate its employees with salaries and per diems no less than contracted employees are paid for the same work. In high-cost areas of the state, state workers' salaries need to be adjusted to compensate for the cost of living.

In the event an employee will be the victim of a layoff, ample personal notice shall be given to allow for the smooth transition of workload and a better prospect for re-employment. In addition, an extension of the validity of all Civil Service lists beyond the four year limitation, and a restriction against using transfers in non-layoff situations to circumvent these lists, would ensure that both current and former employees remain eligible for future positions, as would forbidding provisional appointments within six months of the expiration of a list if a prior need existed.

Finally, PEF opposes in principle the use of public authorities, public benefit corporations or other quasi-public agencies. The use of these structures to administer state or federal funds dilutes the level of public oversight, circumvents the use of merit system standards, and reduces the stability of the public workforce. This can, in turn, affect the quality of the work being performed. Instead, PEF will advocate for legislative or administrative flexibility in those situations where these structures are being considered, to enable state agencies to make the changes necessary to maintain or improve the services that they currently provide.

In the event these so-called "shadow agencies" are created, they shall be subject to the same legislative and fiscal oversight as any state agency, and they shall not take over the responsibilities of a department of state government without legislative approval. Such "shadow agencies" shall not give positions to state employees as a means to circumvent Civil Service eligible lists, nor shall their employees supervise state employees. Finally, all new employees of these "shadow agencies" shall be deemed to be in the classified Civil Service and subject to the provisions of Civil Service Law.

## BILLS



*Bills that PEF supports that have not yet been adopted.*

- Controls expansion of shadow agencies, requires annual budget filings with Legislature which are available under FOIL
- OMRDD twelve-month notification when agency plans to close or significantly downsize a facility
- Public Authority Reform
- Reform the tax system to insure that the wealthy pay their fair share

# REFORMING NYS LABOR LAW

PEF believes that the intention of state labor laws is to provide direction to both management and labor as to their respective rights and responsibilities. However, certain reforms are needed to promote responsiveness with regard to collective bargaining negotiations. These reforms include the passage of binding arbitration legislation, the setting of time limits regarding the resolution of contract impasses and improper practice charges, and the right of public employees to strike. In addition, injunctive relief should be expanded to include all improper practice charges, and all pay differentials should be considered collective bargaining issues. The recognition in law that equal work deserves equal pay would also aid the Department of Civil Service in making its salary grade determinations.

## **BILLS**



*Bills that PEF supports that have not yet been adopted.*

- Establishes binding arbitration for PS&T employees in contract negotiation impasse
- Simplifies and broadens the standard for granting injunctive relief in improper practice cases under Civil Service Law Section 209-a

# IMPROVING WORKING CONDITIONS AND BENEFITS

PEF believes that, while working conditions in state agencies are generally satisfactory, this is not consistently true from worksite to worksite. The state needs to continually monitor these conditions, and take remedial action to improve them when necessary using both state and federal resources. High on the list of priorities is ensuring that health and safety concerns are swiftly addressed. These can include ensuring that owned and leased buildings are properly built and maintained, asbestos hazards are abated, tight building syndrome precautions are taken, standards for indoor air quality are established and maintained, workplace violence is addressed through training, prevention and reporting, as well as ensuring employees can participate in agency health and safety committees. PEF supports legislation to promote safe patient handling in health care facilities.

Certain improvements to the benefits that employees receive would correct some injustices in the current system. These would include the removal of certain inequities in the workers' compensation rules, correcting the inconsistency in the assignment of hazardous duty pay in those agencies which already provide this pay and the elimination of discrimination against certain classes of veterans with regard to health insurance coverage.

PEF is willing to work with the legislature to draft bills correcting these injustices. In addition, injuries and illnesses sustained while performing one's job should be acknowledged by the state, and the employee should be made whole regarding medical or legal costs which may result. The state should do what it can to assist the employee in his/her recovery, as well as provide two full years for that recovery before pursuing termination. In addition, the state should continue full medical coverage for families of all reservists called to active duty.

Finally, state employees should be paid fair salaries that are at least equal to the average prevailing wage for their profession. PEF encourages legislation which would study prevailing wages for specific job titles, and then would increase the grade allocation of those titles with pay grades which are below the prevailing wage for that profession to the level of the prevailing wage.

## **BILLS**



*Bills that PEF supports that have not yet been adopted.*

- Increase penalties for assault on public employees
- Provides continued payment of salary and medical expenses to Parole Officers injured in the line of duty
- Requires OMH employees be accompanied by another worker when visiting houses/community settings with a risk of violence
- Requires safe patient handling procedures in health care facilities

# PROVIDING FOR A WELL-DESERVED RETIREMENT

PEF believes that all state employees deserve a secure retirement after giving decades of their life to serve the public good. However, inflation reduces the purchasing power of their state pensions every year. To combat this drain on a secure pension, several steps can be taken to give retirees the most money possible at retirement, as well as to allow them to reap additional benefit from the steady growth of the pension fund, to prevent any reduction in their health insurance benefits, and to ensure that all PS&T unit employees receive the same full range of retirement benefits.

The primary steps involve equalizing the benefits among the various retirement tiers, reducing or eliminating the penalties associated with early retirement, improving the annual permanent cost-of-living adjustment (COLA) to pensions by making it equal to the full Consumer Price Index (CPI) and applied to each retiree's full pension, and allowing all vacation leave accruals, sick leave accruals and overtime to be counted towards the pension calculation. Members in all pension tiers should be able to include 30 days of vacation pay in their final average salary.

PEF will advocate for legislation that corrects an inequity with regard to health insurance coverage for retired State employees. The legislation will allow employees who are vested with ten years of benefits eligible service but leave State service prior to retirement age to be able to defer their health insurance coverage eligibility and their sick leave credit to offset the cost of their health insurance until they retire.

Any other provision that would allow retirees to maximize their pension such as through transfer from other systems, the full crediting of military, Peace Corps and VISTA Service, increased disability and survivor benefits such as the elimination of the 50 percent reduction imposed on the pension COLA of survivors, the purchase of lost pension credits, the elimination of any limitation on retiree earnings, or the elimination of taxes on pension contributions, would be a step in the right direction, as would exploring ways to improve the state's deferred compensation program, establishing a retiree dental and optical benefit, creating a retiree pre-tax healthcare flexible spending account, and reopening a window to allow for additional tier reinstatement.

All Tier III and IV employees who made 3% contributions to the retirement system for more than ten years should receive two additional months of service credit for each year beyond the first ten years, upon retirement. PEF is strongly opposed to any plan to create a new Tier 5, or the creation of any more inequities in the pension system.

## BILLS



*Bills that PEF supports that have not yet been adopted.*

- Allows Tier 2, 3, and 4 members to retire without penalty at age 55 with 25 years of service
- Allows parole officers to retire at any age with 25 years of service
- Allows inclusion of up to 30 days vacation in final average salary for pension calculation of Tier 1 members hired after 4/1/72 and all Tier 2 members
- Grants additional pension service credit to Tier 3 and 4 members who have contributed for ten or more years
- Prohibits public employers from reducing health insurance benefits of retirees
- Allows peace officers in Department of Taxation and Finance to retire at any age with 25 years of service
- Corrects inequity in pension calculation for Tier 4 members with more than 30 years of service

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