

# Legislative Alert

11th Edition,  
March 29, 2007

## Introduction

The following legislation reflects issues of importance for APSCUF. Please use this guide to review the legislation and contact your legislator with the bills that most concern you.

Please contact Laura Statler at [lstatler@apscuf.org](mailto:lstatler@apscuf.org) or (717) 236-7486 ext 3026 for additional information about these bills, sample letters and/or talking points.

## Summary of Legislation important to APSCUF

Contents of Legislation:

- 1) College Articulation System legislation
- 2) SERS/TIAA Pension Credit Transfer
- 3) Academic Freedom
- 4) TABOR
- 5) Anti-Strike Legislation
- 6) Background checks
- 7) Performance Funding
- 8) COLA
- 9) Higher Education Equal Opportunity Program
- 10) Independent Higher Education & Community Financing Program

Transcripts

- 1) Pennsylvania State System of Higher Education House Appropriations Hearing
- 2) Pennsylvania State System of Higher Education Senate Appropriations Hearing
- 3) SERS and PSERS Appropriations Hearing

### **1) College Articulation System legislation-Provide for transfers of credits between institutions of higher education (Articulation legislation)**

The **Transfer and Articulation Oversight Committee**, created by Act 114 of 2006, tasked with identifying foundation courses that can be universally transferred between public institutions of higher education when students move from one college to another, is working to develop equivalency standards for foundation courses. The approved course equivalency standards are in six areas: Mathematics, Natural Sciences, English and Humanities, Behavioral

Sciences, English Composition and Public Speaking. The committee will soon be seeking faculty involvement on this issue. For more information, contact PDE at (717) 787-5041.

At this stage, APSCUF is monitoring this committee and making sure in the next step of committee action, faculty involvement is ensured. The Transfer and Articulation Oversight Committee last met on February 7 to approve specific course titles that typically serve as foundation-level courses across the disciplinary areas. Additionally, chairs of the group's five subcommittees also were to make recommendations as to how best engage faculty in the course review process.

## **2) SERS/TIAA-CREF Pension Credit Transfer**

### Overview of previous legislation HB 870, SB 989 and other options

On February 10, the Ad Hoc Committee on Retirement Security (formally the Local Retirement Chair Coalition-after approval of Legislative Assembly) met again to continue these option discussions and to prepare for a more formal State APSCUF survey to be circulated to members. This survey will provide detailed responses and feedback regarding these options because APSCUF does not wish to divide the faculty on this issue, though compromise must already occur due to the need to decrease the unfunded liability. This survey will be sent out after training has been done for staff in April for the survey software.

Two legislative proposals are currently being looked at for potential pension credit transfer legislation. One proposal would provide a faculty member with an opportunity for a one-time “buy in” from their Independent Retirement Program into the State Employee Retirement System. The “buy in” could take place at any point in a faculty member’s career. This type of legislation was passed in Florida in 2002. This legislation would need an actuarial note attached to it when being introduced, though, to see if it would be feasible for members. Concern is that the cost to transfer would be too much.

Whatever is proposed, the legislation has to be revenue neutral for it to pass. House Bill 870 and Senate Bill 989 was originally thought by APSCUF and legislators to be revenue neutral, but after the actuarial analysis, there turned out to be a cost that legislators would not be willing to vote for.

### **Below, the following legislation would create an Optional Retirement Program for Public School and State Employees. APSCUF opposes this legislation**

**House Bill 385, P.N. 449 (Petri):** Amends Title 24 (Education) further providing for definitions and for mandatory and optional membership; and providing for

the Public School Employees' Optional Retirement Program. The "Public School Employees' Optional Retirement Program" is defined as the alternative defined contribution retirement program established under Ch. 85 Subchapter D (relating to Public School Employees' Retirement Program). The bill states that employees categorized under this provision would not have the right to elect membership in the system. Under this program, retirement benefits would be provided for qualified employees who elect to participate in the program in lieu of membership in the system. The benefits for the program would come from participant-directed investments, in accordance with IRC 401(a). The powers and responsibilities of the Board in the administration of the program are further provided for under the bill. ***Introduced and referred to House Finance Committee, February 13, 2007.***

**House Bill 386, P.N. 450 (Petri):** Amends Title 71 (State Government) creating the State Employees' Optional Retirement Program, an alternative defined contribution retirement program under which retirement benefits will be provided for qualified employees who elect to participate in the program in lieu of membership in the system. The bill provides for the powers and duties of the board, investments and contributions. ***Introduced and referred to House Finance Committee, February 13, 2007.***

### **3) Academic Freedom**

The PA House Select Committee on Academic Freedom met on November 21, 2006 to vote on a final report. The Committee found no problems with academic freedom in Pennsylvania higher education and no need to restrict the free exchange of ideas on college campuses. The committee voted to reject legislation and other efforts to institute either the "Academic Bill of Rights" or similar restrictions. The report passed unanimously and states in its findings that "based on the testimony provided at the four public hearings, the Select Committee came to a general consensus that legislation was not necessary and that academic freedom violations are rare.

The committee, at the last minute, changed its original report to one more favorable to APSCUF and other parties involved. It included recommendations that APSCUF had approved and also took out the language placed in by the sponsor of the legislation, Representative Gib Armstrong, who handpicked controversial pieces of testimony. The final report represents a compromise between Republican and Democratic members of the Committee who did not reach consensus on a first draft that included a summary of the testimony gathered at the Select Committee's public hearings. Rather, the compromise version of the report includes an appendix of member remarks that will contain the summary of testimony under remarks submitted by Rep. Gibson Armstrong.

Though no legislative activity has spurred in Pennsylvania since the conclusion of the final report, many states are still fighting threats to academic freedom. Please stay alert on this topic.

#### **4) TABOR**

Senate Republicans unveiled legislation late January to make another go at a constitutional amendment to limit state spending growth. The proposal also would require that 75 percent of any budget surplus be returned to taxpayers, and that 25 percent be placed in the Rainy Day Fund. But the measure could face some tough going in the state Legislature. Similar measures stalled last session, when both legislative chambers were controlled by Republicans. Now Senate Republicans must contend with a Democratic majority in the House of Representatives.

The Taxpayer Protection Act bill, when introduced, could be enacted this year, while the constitutional amendment must be approved by the Legislature in two successive sessions and be approved by the voters as well. Some Senate Republicans are anxious to get this legislation introduced.

*Tabor legislation has not been introduced to a committee yet.*

#### **5) Anti-Strike Legislation**

Mellow's plan below, Senate Bill 20, would set into law an eight-month negotiating timeline. If the teachers' union or the school board fails to resolve their contract differences through a variety of means-including an impartial arbitration panel — each side would submit a "last best offer" to the county's President Common Pleas Judge. The judge would then be required to select one of the two last best offers. The judge's decision would be final and binding.

Mellow's plan is similar to a law in Connecticut. Based on experience from that state, only 10 percent of impasses reach arbitration and only 2 percent of all contract disputes go the entire way through the process.

**Senate Bill 20, P.N. 144 (Mellow):** The Collective Bargaining Dispute Resolution Act states that the settlement of an impasse in collective bargaining between an employee organization and a public employer would be by collective bargaining

dispute resolution pursuant to this act. The bill provides for a collective bargaining timeline, panel selection and costs of resolution. The bill states collective bargaining dispute resolution would be limited to those issues which may be bargained under the Public Employee Relation Act and which are not agreed to in writing prior to the start of collective bargaining dispute resolution process. The decision of the president judge would be final and binding on the public employer and the employee organization, and no appeal of a determination would be allowed to any court. The bill also states that no school employee may strike or participate in a strike or similar interruption of government service. Also, no public employer may conduct a lockout or similar interruption of government service. Additionally, any strike, lockout or interruption of government service prohibited by this section would constitute an actionable breach of duty to members of the public. Lastly, Article XI-A of the Public School Code is repealed. ***Introduced and referred to Senate Labor and Industry March 5, 2007***

## **6) Background checks**

**House Bill 145, P.N. 171 (Baker):** The College and University Criminal History Background Investigation Act states that an institution of higher education may conduct a criminal history background investigation prior to hiring an individual for a full-time faculty or staff position. The bill also states that when an administrator of an institution of higher education is in receipt of information which is part of a final candidate's criminal history record information file, the administrator may use that information for the purpose of deciding whether to hire the candidate as a faculty member or staff member. Lastly, an institution of higher education may require an individual offered employment as a full-time faculty member or staff member to self-disclose certain criminal history information on a self-disclosure form.  
***Introduced and referred to House Judiciary January 31, 2007***  
***\*\*Legislation is similar to HB 564 that passed the House 194/0 in June 2005 but failed to come up for a vote in the Senate.***

## **7) Performance Funding**

This issue is getting more attention from the state legislature after the budget hearings.

### **WHY THE INDICATORS RECEIVE FAILING MARKS**

- The System sets goals that effectively pit schools against each other.
- It is possible for universities to improve 100% in a year, but still lose money because they have not met the State System goals.

- The amount of money any of the universities receive is not based on performance alone; the way the amount of money is calculated is highly dependent on the number of other schools who are in the same category.
- Because of the way the funding is calculated, it is feasible for a school to “improve” from “meet” to “exceed,” but still lose performance money.
- Universities cannot focus their goals to meet their financial needs because they do not know how much funding will be available in each category.
- There are many more problems, but the most important problem is this: If schools do not meet their goals, then that is a problem with the managers. It is not clear why students attending schools that do not meet their goals should be the ones to suffer the consequences.

“Why should students have less money spent on their educations because the managers did not do their jobs properly or because the Board of Governors selected some arbitrary goals?” Heilman asked.

“These performance indicators as currently configured are fundamentally unfair to the universities and the students. Their existence in the current form should be eliminated.”

## **8) Retirement Legislation**

### **A. COLA**

APSCURF established a COLA coalition to make COLA efforts a reality. The coalition has met several times to work with the Governor’s office and legislators to push for a COLA.

The retiree coalition also met with legislators directly involved in the Appropriations committee to request COLA support. We will also be educating freshmen legislators about the importance of COLAs and looking for legislators that desire to spearhead the COLA effort.

Below is legislation to assist with COLA efforts:

**House Bill 350, P.N. 400 (Reed):** Amends Titles 24 (Education) and 71 (State Government) providing for special supplemental annuities for certain annuitants by stating that commencing with the first monthly annuity payment after the actuary the system certifies that sufficient reserves exist in the fund to allow for payment of the special supplemental annuities, any eligible benefit recipient would be entitled to receive an additional monthly supplemental annuity from the system. The amount of the special supplemental annuity

would equal 5% of the monthly annuity payment and there would be four additional 5% increases, one in each of the next four years. The payment would be made automatically. Lastly, the bill states that no special supplemental annuity would be payable to the beneficiary or survivor annuitant of a member who died before December 31, 2007. ***Introduced and referred to House Finance Committee, February 9, 2007.***

**Senate Bill 411, P.N. 596 (Kasunic):** Amends Titles 24 (Education) and 71 (State Government) providing for permanent cost-of-living increases for retirees. ***Introduced and referred to House Finance Committee, March 19, 2007.***

## **B. INCREASE IN EMPLOYER CONTRIBUTION RATE**

**House Bill 126, P.N. 152 (Godshall):** Amends Titles 24 (Education) and 71 (State Government) further providing for employer contribution rates on behalf of active members. The bill states that for members of PSERS the premium assistance contribution rate would not be less than 7% plus the premium assistance contribution rate for the fiscal year beginning July 1, 2007. The rate would not be less than the employer normal contribution rate plus the premium assistance contribution rate for the fiscal year beginning July 1, 2008 and each year thereafter. The bill also states that for SERS members the total employer contribution rate would not be less than: 5% for the fiscal year beginning July 1, 2007, 6% for the fiscal year beginning July 1, 2008, and the employer normal contribution rate for the fiscal year beginning July 1, 2009, and thereafter. ***Introduced and referred to House State Government Committee, January 31, 2007.***

*Discussed in House Appropriations hearing, March 5, 2007*

**House Bill 475, P.N. 585 (Nickol):** Amends Titles 24 (Education) and 71 (State Government) further providing for the employer contribution rates on behalf of active members. The bill amends Title 24 further providing for the employer contribution rates on behalf of active members by revising the total contribution rate so that it cannot be less than 4% plus the premium assistance contribution rate for fiscal year beginning July 1, 2004; 7% plus the premium assistance contribution rate for the fiscal year beginning July 1, 2007; and the employer normal contribution rate plus the premium assistance contribution rate for the fiscal year beginning July 1, 2008, and every year thereafter. Title 71 is amended to provide for the Commonwealth and other employer contribution rates on behalf of active members by revising the total contribution rate so that it will not be less than 5% for the fiscal year beginning July 1, 2007; 6% for the fiscal year beginning July 1, 2008; and the employer normal contribution rate for the fiscal year beginning July 1, 2009, and every year thereafter. ***Introduced and referred to House Finance Committee, March 6, 2007.***

**House Bill 876, P.N. 1031 (D Evans):** Amends Title 71 (State Government) further providing for the employer contribution rate by adding that the employer contribution rate on behalf of active members cannot be less than 4%. *Introduced and referred to House Finance Committee, March 22, 2007.*

### C. 30 AND OUT

**Senate Bill 130, P.N. 175 (Mellow):** Amends Title 24 (Education) and 71 (State Government) providing for retirement eligibility after 30 years of service. *Introduced and referred to Senate Finance Committee, March 5, 2007*

**Senate Bill 228, P.N. 265 (Greenleaf):** Amends Titles 24 (Education) and 71 (State Government) further providing for eligibility for limited early retirement. The legislation states that any member who, during the period of time from April 1, 2007, through June 30, 2007 has credit for at least 30 eligibility points, terminates school service and files an application for an annuity with an effective date of retirement not later than July 1, 2007, would be entitled to receive a maximum single life annuity calculated without any reduction by virtue of an effective date of retirement which is under the superannuation age. Additionally, any member who, during the period of time from April 1, 2008, through June 30, 2008 has credit for at least 30 eligibility points, terminates school service and files an application for an annuity with an effective date of retirement not later than July 1, 2008, would be entitled to receive a maximum single life annuity without any reduction by virtue of an effective date of retirement which is under the superannuation age. Lastly, any eligible member who, during the period of time from July 1, 1999, through June 30, 2008 has credit for at least 30 eligibility points, terminates State service and files an application for an annuity with an effective date of retirement not later than July 1, 2008, would be entitled to receive a maximum single life annuity without any reduction by virtue of an effective date of retirement which is under the superannuation age.

*Introduced and referred to Senate Finance Committee, March 7, 2007*

### **9) Higher Education Equal Opportunity Program**

**Senate Bill 411, P.N. 458 (Browne):** Amends the Higher Education Equal Opportunity Act further providing for the Higher Education Equal Opportunity Program by adding that programs for which grants may be awarded include tutorial services, tuition and textbook assistance, child care assistance, additional staff for programs or discretionary funds to supplement financial aid on a case-by-case basis.

*Introduced and referred to Senate Education Committee, March 13, 2007*

## **10) Independent Higher Education & Community Financing Program**

**Senate Bill 664, P.N. 714 (Erickson):** The Independent Higher Education and Community Financing Act establishes the Independent Higher Education and Community Financing Program to assist independent institutions of higher education in capital projects related to community and economic development projects. The General Assembly would appropriate funds necessary to pay for 50% of the debt service on bonds issued by the authority under this act.  
*Introduced and referred to Senate Education Committee, March 22, 2007*

### **2007 Spring Session**

#### **2007 HOUSE Spring Session Schedule**

Jan 2, 16(nv), 17(nv), 22(nv), 23(nv), 24(nv), 29, 30, 31(nv)  
Feb 5, 6, 7, 12, 13, 14(nv)  
March 12, 13, 14, 19, 20, 21  
April 16, 17, 18, 23, 24, 25, 30(nv)  
May 7, 8, 21, 22, 23  
June 4, 5, 6, 11, 12, 13, 18, 19, 20, 25 26, 27, 28, 29 ,30

#### **2007 SENATE Spring Session Schedule**

Jan 2, 16, 17, 22, 23, 24, 29, 30, 31  
Feb 5, 6, 7, 12, 13  
March 12, 13, 14, 19, 20, 21, 26, 27, 28  
April 16, 17, 18, 23, 24, 25, 30  
May 1, 2, 7, 8, 21, 22  
June 4, 5, 6, 11, 12, 13, 18, 19, 20, 25 26, 27, 28, 29

**(nv)=non-voting**

### **The Governor's Budget Proposal**

Under Governor Rendell's 07-08 fiscal year budget proposal, community colleges would receive a 3% increase for operating costs and a 6% increase for capital. Funding for the Pennsylvania State System of Higher Education would rise by 3.5% and state-related universities would see a 2% increase. Student financial aid would be flat-funded in the Pennsylvania Higher Education Assistance Agency's (PHEAA) budget, however, the Administration wants to have PHEAA earnings tapped to increase funding for the state grant program.

# Transcript of the House and Senate PA SSHE Hearings.

## House Appropriations

HARRISBURG - (2/21/07, 10:00 a.m., Room 140, Main Capitol)

The **House Appropriations Committee** held a budget hearing with the State System of Higher Education (PASSHE).

Members in Attendance included Chairman Dwight Evans (D-Philadelphia), Minority Chairman Mario Civera (R-Delaware) and Representatives Mario Scavello (R-Monroe), Fred McIlhattan (R-Clarion), Steven Cappelli (R- Lycoming), Kathy Manderino (D-Philadelphia), Scott Petri (R-Bucks), Scott Conklin (D-Centre), Cherelle Parker (D-Philadelphia), Jake Wheatley (D- Allegheny), Bryan Lentz (D-Delaware), Dante Santoni (D-Berks), John Siptroth (D-Monroe), Stephen Barrar (R-Delaware), Joe Petrarca (D- Westmoreland), Jewell Williams (D-Philadelphia), Gordon Denlinger (R- Lancaster), Joe Preston (D-Allegheny), Mike McGeehan (D-Philadelphia), Sean Ramaley (D-Beaver), and William Keller (D-Philadelphia).

Having already submitted [written testimony](#) to the committee, Dr. Judy Hample, Chancellor of the PASSHE immediately took questions from members.

Rep. Scavello observed that with regards to performance funding, some smaller schools seem to be underachieving compared to larger ones. Dr. Hample defended the plan as having accounted for positive system-wide and individual results and contended Rep. Scavello's comment about the lack of success of smaller schools is not totally accurate. She explained the accountability program assigns funding in three different ways - by comparing an institution's current performance to its historical success, to peer institutions, and to system-wide target levels. Dr. Hample concluded the calculation is based on a per-student basis and adjusted for institution size. Rep. Scavello inquired if schools are hurt by being compared to their own historical successes. Dr. Hample replied an institution's target becomes higher every year, and argued competition against one's own performance is valid, citing a 6% increase in 4-year graduation rates over the last five years for schools in the system. Rep. Scavello asked about the economic development universities can engender in

communities. Dr. Hample noted the State System has requested a one-time line item sum for seed money for universities to initiate new community projects in their localities.

Rep. Wheatley noted he is disturbed by the number and demographic makeup of students who do not graduate within four years. He pointed out African-American and Latino students have particularly bad graduation rates, and asked what is being done to support students who stay longer than four years. Dr. Hample stated that over the past five years, the percentage of minority students has doubled, and explained PASSHE emphasizes the four year graduation rate standard because it reduces the cost for students, even though other systems calculate the rate over a six-year period. She pointed out institutions are strengthening their remedial programs and stressing closer advising to help students get up to speed. Rep. Wheatley suggested it should be investigated whether money is being spent wisely to ensure students are leaving high school properly prepared for higher education. He asked if minority professors are tracked in the State System. Dr. Hample explained most institutions have a policy of not hiring alumni immediately after graduation. She noted about 15% of faculty in the State System are of color, but acknowledged that discounting faculty at Cheyney University that figure drops to 12%. She remarked that since overall faculty hiring hasn't increased, the ability to diversify is limited to replacement hirings only. Rep. Wheatley asked what is being done to ensure teachers graduating from State System campuses have the skills they need to teach successfully. Dr. Hample explained teacher preparation is a source of pride because there are a number of successful programs in effect, including a series of pilots in Philadelphia that encourage graduates to work in urban areas. She cited the Urban Academy in Philadelphia, which alone has accounted for 150 teachers working in the local school district.

Rep. Petri vocalized concern for the number and quality of science students in the State System, particularly those concentrating in life sciences. He asked if there are trends in the system regarding researchers, what retention rates are for such majors, and what strategies exist to produce more and keep them in-state. Dr. Hample stated science is a "burgeoning field," with more than 17,500 science and technologies majors out of 95,000 total students, a total that is up 17% since 2000. She stated the largest producers of science and technology majors are Westchester, Slippery Rock and Millersville Universities. Dr. Hample cited a National Science Foundation program that has allowed institutions to work directly with high school math and science teachers as something that has meant more to improving performance than anything else. In reference to retaining teachers, Dr. Hample explained the problem is students are scared of having to repay their tuition balance if they leave the state, and stated she would enjoy the opportunity to discuss other ways to entice graduates to remain in PA. Rep. Petri asked how important the \$500,000 appropriation for technology transfer is to the system. Dr. Hample explained the money is very

important, as PASSHE is involved in technology transfer to a large degree, and a lot of the involvement is related to patent applications which are immediately useful in the state.

Rep. McGeehan reported PA has the "shameful distinction" of having the most campus fire deaths of any state in the nation, and asked how campus safety is being handled, both from a fire safety and crime prevention standpoint. Dr. Hample asserted the State System has done a "great deal" to improve fire safety, but pointed out part of the problem is that only one-third of all students live on campus, while others live in the surrounding boroughs. She stated as far as crime goes, State System institutions experience "exceptionally low" levels, with the largest issues generally being cases of larceny. She expressed confidence in the institutions' ability to keep crime in check.

Rep. Ramaley asked what the impact of no additional funding to PHEAA will have on students, and what percentage of graduates remain in PA to work. Dr. Hample stated that over the last ten years, 79-81% of students have remained in-state. She explained it is too soon to tell the impact of the PHEAA issue. She noted the State System has historically received 19% of PHEAA's funds, and the plan approved for the upcoming fall was locked in at 20%. She commented she is under the impression PHEAA has been asked to use other resources to help students, and noted the State System currently has 32,000 students receiving aid.

Rep. Keller asked the importance of Key 93 funding. Dr. Hample commented it is "critical for the State System." She explained the funds are used to pay for deferred maintenance costs, and went on, describing how the money comes from the Real Estate Transfer Tax. She explained that in the previous budget, last minute changes in the tax code removed protective language and eliminated much of the money that was expected. Dr. Hample remarked she believed the changes were inadvertent and expects them to be fixed so that the State System isn't faced with a \$12 million shortfall.

Rep. Cappelli asked for clarification that no assumption of a tuition increase has been made for the upcoming year, and asserted there should be that expectation as a result of the Governor's proposed budget. Dr. Hample stated there is an assumed tuition increase of 1% because of eight separate ongoing labor contract negotiations whose costs couldn't be projected. She stated she is optimistic PASSHE can obtain 6% funding from the state, but warned if that figure is not achieved, the Board of Governors will be faced with the dilemma of raising tuition versus cutting budgets. Rep. Cappelli pointed out the labor negotiations are a critical component, in particular the APSCUF contract. Dr. Hample voiced optimism that all negotiations will be settled before July.

Rep. Manderino inquired if the 6% request does not assume an increase in salaries. Dr. Hample confirmed the request does not assume an increase for upcoming contracts, but does include provisions for salary increases that were already planned this year. Rep. Manderino remarked it is unrealistic to expect that even if the 6% funding target is achieved that tuition will not increase more than 1%. Dr. Hample agreed, stating PASSHE officials never believed tuition would increase by only 1%, but are confident any increase will remain less than 10%. Rep. Manderino asked if 3% - the "going rate" of salary increases for public employees - is projected, what it will mean in terms of tuition hikes for students. Dr. Hample stated a number of scenarios have been run, and extrapolations of \$35 million in the first year of the contract for salaries will result in a 6% tuition increase.

Rep. McIlhattan asked what percentage of the PASSHE budget is reserved for personnel. Dr. Hample answered 73% of the budget is appropriated to personnel costs, down from 79% five years ago. Rep. McIlhattan asked about the predicted drop-off of students in 2012, and what implications it has for the graduation pool. Dr. Hample explained that demographic projections for high school graduates have revealed there will be fewer and fewer graduates every year beginning in 2008, and decreasing precipitously in 2012. She noted it is expected to have the greatest impact in Western PA, but added the State System has already begun efforts to mitigate the inevitable effect on state-supported universities, including increasing the percentage limit of out of state students from 10 to 15%. Rep. McIlhattan wondered what PASSHE would think if Clarion University sought a Borough Support Fee of \$5 per semester from students. Dr. Hample pointed out possible problems with the legality of such a scheme.

Rep. Parker asked how students at PASSHE institutions are comparing on praxis and other standardized tests to students at private and other schools. Dr. Hample stated PASSHE universities produce 42% of the K-12 teachers in PA, and while five years ago students scored poorly, they now enjoy a 95% pass rate on the praxis. She noted that Cheyney University recently had a 100% pass rate of teaching students.

*Mike Howells*

### [Senate Appropriations](#)

---

HARRISBURG - (2/26/07, 3:15 p.m., Hearing Room 1, North Office Building)

The **Senate Appropriations Committee** held a budget hearing with the PA State System of Higher Education (PASSHE).

Members in attendance included Chairman Gib Armstrong (R-Lancaster) and Senators Roger Madigan (R-Bradford), Michael Waugh (R-York), Pat Vance (R-

Cumberland), John Rafferty (R-Montgomery), Gerald LaValle (D-Beaver), Pat Browne (R-Lehigh), Sean Logan (D-Allegheny), Barry Stout (D-Washington), Robert Tomlinson (R-Bucks), Mary Jo White (R-Venango), Raphael Musto (D-Luzerne), Jim Rhoades (R-Schuylkill) and Vincent Hughes (D-Philadelphia), who while not a member of the committee, was invited to participate due to his status as a member of the Board.

Seated before the committee, Dr. Judy Hample, Chancellor of the PASSHE briefly summarized the recent work of the State System before taking questions from members.

Senator Rhoades began by asking Dr. Hample if, given the Governor's proposed budget, tuition costs are expected to increase. Dr. Hample acknowledged the State System currently has planned for a 1% tuition increase, but has not yet concluded contract negotiations with a number of labor unions, whose inevitable expenses will necessitate a greater increase. Senator Rhoades asked if Dr. Hample could predict what that rate might be. Dr. Hample posited if compelled to achieve a balance with the governor's proposal, the increase would have to be an additional 2.5%, totaling an aggregate sum of 3.5%. She continued, describing a number of cost-saving initiatives undertaken by PASSHE over the years, including the adoption of ESCO energy standards by universities in the system, resulting in a savings of \$10 million per year. Senator Rhoades cited the Realty Transfer Tax appropriation, which was cut in last year's budget, and asked what the repercussions will be for PASSHE if the cut is not rescinded. Dr. Hample stated the System has a \$600 million deferred maintenance backlog, and asserted the change resulted in the reception of \$4 million instead of \$16 million in funds, a shortfall that will have a "significant impact" on the institutions' ability to pay their deferred maintenance expenses. Senator Rhoades asked if the issue has been raised with the Governor's Administration. Dr. Hample confirmed she has spoken with representatives from the Governor's Budget Office and has been told it was an inadvertent adjustment.

Senator Rhoades asked how the articulation agreement set out in Act 114 of 2006 has been working. Dr. Hample reported the program has been working "very well", and pointed out that the transfer rate from community colleges to PASSHE schools has more than doubled. Senator Rhoades inquired if the influx of students is putting a strain on the System. Dr. Hample noted more students at the junior and senior levels are expected, but qualified by saying the addition is welcome and should be considered a plus. Senator Rhoades wondered if Dr. Hample has given any thought to adopting professional schools into the System. The Chancellor explained she has begun conversations with officials on the matter. Senator Rhoades asked if the Governor's proposed level of funding for PASSHE has taken into consideration the System's settlement with AFSCME. Dr. Hample confirmed the \$7.5 million AFSCME settlement was not built into the budget.

Senator Musto referred to a vote by the Board of Directors which reduced the minimum number of credits required for a bachelor's degree from 168 to 120, and asked if that has improved graduates rates while possibly damaging the integrity of the degree. Dr. Hample stated the change has had a significant impact on graduation rates, but pointed out the first class to graduate under the new policy is not due until the spring. She stated the system-wide four-year graduation rate has increased by 6% over the last five years, and offered her personal belief that the "curriculum overhaul" has eliminated unnecessary requirements without leaving gaps in the overall education of a student. Senator Musto asked for clarification that there is no significant decrease or loss of quality in a bachelor's degree acquired from a System school. Dr. Hample asserted there is not, and remarked a portion of students still complete more than 120 credits. She emphasized the "driving force" behind the change was to save students money by shortening the time needed to acquire a degree. Dr. Hample stated the average four-year graduation rate is currently 32%, with some institutions approaching the 50% mark.

Senator Musto commented many students graduate only after a period of five or six years, and wondered how that condition could be improved. Dr. Hample pointed out that public schools nationwide generally calculate their graduation rate based on a six-year time frame, and commented part of the pressure in PA stems from the large presence of private schools, who emphasize the four-year rate. She stated with regards to retention, the System is not where she wants it to be, but progress is being made.

Senator Browne alluded to the performance benchmarks system, and inquired what targets are expected for this year. Dr. Hample described the performance funding program, noting the three categories by which success is judged and funds distributed - historical performance, peer group comparison, and system-wide performance targets. Senator Browne asked if institutions have an understanding of the consequences of meeting versus not meeting targets. Dr. Hample commented institutions realize the percentage of fund dispersion is dynamic. Senator Browne followed up on the issue, asking if a larger percentage of overall funding being distributed according to performance would be welcomed. Dr. Hample stated that would be a "good way to go," noting the "dramatic results" seen already.

Referencing increasing numbers of cases in which students attending community colleges for two years transfer to complete their degree at a PASSHE institution, Senator Browne asked what effect this trend will have on system schools in the next two-to-five years. Dr. Hample acknowledged her organization's close working relationship with community colleges, and declared anything that can be done to stimulate greater utilization of the community college network would be beneficial to the state.

Citing the current 109,000 total enrollment figure for PASSHE institutions, Senator Stout raised the issue of the matriculation falloff predicted in coming years, particularly for western PA. Dr. Hample confirmed that beginning in 2008, fewer high school graduates are predicted throughout the state, with the most significant effects being seen across the western counties. She stated universities are already looking at addressing the issue by increasing out of state student recruitment and dual enrollment programs. She warned that while preventative measures are underway, there is no "panacea" for the problem.

Senator Stout referred to a number of TV ads from PASSHE schools currently airing, and asked how they are paid for and if they are effective. Dr. Hample explained universities use a variety of different funding sources, from foundations to tuition, but could not comment on the success of any particular ongoing campaigns. Senator Stout remarked one of the most worrying industry shortages in the state at the moment is in the nursing and medical personnel field. Dr. Hample boasted the State System has "stepped up to the plate" over the issue, with 12 out of the 14 schools offering a nursing program, producing more than double the number of nurses from 2002. She asserted that currently, all 12 programs are "maxed out."

Raising the issue of faculty development, Senator Rafferty asked if the universities have programs that allow personnel to keep up with changing technologies and teaching methods. Dr. Hample spoke of two such methods - the Continuing Certification Program, and faculty development programs funded as part of the faculty union's labor agreement. Senator Rafferty asked if faculty are encouraged to engage in research and scholarly publications. Dr. Hample replied tenure regulations speak generally to that, but noted individual institutions also draw up specific requirements for their staff. Senator Rafferty inquired if students are allowed to buy textbooks written by their professors. Dr. Hample could think of no explicit prohibition, but admitted she would have to find verification. Senator Rafferty further queried if professors take sabbaticals to work on publications and research. Dr. Hample remarked some take leaves of absence, while others do not.

Chairman Armstrong interjected, wondering if the state receives anything from books or other works published by professors employed at a PASSHE institution. Dr. Hample explained such issues are the purview of intellectual property directives, but explained for the institution to receive anything, a project must exceed \$40,000 and the school have made a prior agreement with the professor that work is being done. She continued, stating "part of what we expect faculty to do is engage in scholarly work." Chairman Armstrong asked for clarification that "nothing is received" if the project does not exceed \$40,000 or a prior agreement not made. Dr. Hample offered her opinion that it is a "matter of perspective", and suggested "we do get something back." She

asserted students gain valuable experience working with real faculty both in the classroom and in research capacities.

Senator LaValle confirmed his understanding of the four-year graduation rate, and asked what the five- and six-year rates are. Dr. Hample stated the six-year graduation rate is 54%, and speculated the five-year rate is somewhere between 32% and 54%. She opined one of the problems in PA is the lack of any sort of database that can track students after they leave a PASSHE institution. She explained a student can leave and come back three years later, or transfer to another college or university in PA, and there is no way of tracking that individual's progress. Senator LaValle wondered what a school does if a student is having academic difficulties. Dr. Hample stated PASSHE universities offer very strong orientation and remedial programs, and remarked the majority of students not returning for their sophomore year are not returning for academic reasons. She couldn't say if it was because of work or a lack of preparedness, but asserted the schools are working hard to help students, and engage in "intrusive advising" to reach out to students on a personal basis.

Raising the issue of the PASSHE's 6% budget request versus the Governor's proposed 3.5% level of funding, Senator LaValle inquired if it is possible to project the increase of employee salaries and benefits for the upcoming year. Dr. Hample remarked 4,000 AFSCME employees have been confirmed, while the salaries of 8,000 other employees distributed among seven labor unions remain unresolved. She admitted she is reticent to extrapolate any figures at this point.

Senator Vance asked if schools have any latitude in spending funds allocated via performance funding. Dr. Hample stated for two consecutive years, an institution is required to spend a percentage of the money on academic accreditation. She pointed out that since the conception of performance funding, the percent of accredited programs in the system has risen from 52% to 70%. Senator Vance asked if the labor unions pay their own health care. Dr. Hample explained they pay 10% of their premium, but noted there is a proposal on the table at current negotiations that would increase that to 30% over the life of the contract.

Voicing concerns from constituents in the medical community, Senator Vance asked if nursing courses are offered online at PASSHE institutions. Dr. Hample confirmed nursing courses are offered online. Senator Vance inquired what causes the undergraduate experience for so many to be drawn out longer than four years. Dr. Hample suggested a number of reasons, including job constraints, money, and homesickness among others. Senator Vance asked if a lack of class availability could possibly be contributing to the problem. Dr. Hample emphasized the work of staff and faculty alleviate that issue, but admitted there will always be some course a student needs to take in order to graduate.

Senator Logan cited a figure of 1.7% he saw somewhere in the budget request regarding the fulfillment of union contracts. Dr. Hample explained that statistic is related to the faculty contract settlement for the current fiscal year. Senator Logan asked if Dr. Hample could provide the salary increase for administrative employees. She replied that a 6% merit pool was set aside for managers, of whom there are 1,200 in the system. She clarified managers do not receive general pay increases or annual raises, and are only eligible for funds in the merit pool. Senator Logan asked if there is another level above management. Dr. Hample stated there are only categories of managers, and noted she herself, along with the Board of Governors constitute a subcategory of the management class, and therefore are also only eligible for merit raises. Dr. Hample acknowledged that while there is no salary increase budgeted for fiscal year 2007-2008, that does not mean executive raises cannot come at the expense of other areas, the decisions about which will be made in July.

Senator Logan inquired about the fees related to books and other college costs. Dr. Hample explained each university sets its own fee structure, which can range from \$375 to nearly \$950 per student, depending on the institution. Senator Logan asked what the average family income of a PASSHE student is. Dr. Hample could not provide any figures, but assured the Senator she would provide him with statistics on PHEAA applicants. Dr. Hample continued speaking about PHEAA, noting funding has remained "pretty consistent."

Senator Waugh observed the system devotes roughly 75% of its funding to salary and benefit packages, and remarked it also faces the challenge of competing with institutions around the world for faculty. He asked if bidding wars take place between institutions within the system for personnel. Dr. Hample explained all 14 schools compete nationally and internationally, but not so much with each other. She referred to the fact there is only one faculty union - APSCUF - so there is no reason to compete internally.

Concerned by rising tuition, Senator Madigan asked if the cost of education is out-pricing college for many potential students. Dr. Hample agreed with this assessment, but pointed out application submissions are still increasing significantly. Senator Madigan asked if the 10% limit for out of state students is an average or a hard cap. Dr. Hample noted there are exceptions, particularly Mansfield University, which has 24.5% of its students hailing from outside Pennsylvania. Senator Madigan inquired if various schools in the system are looking at the expansion of fields relative to the demands of their local communities. Dr. Hample confirmed several unique programs geared to respective localities are underway at various institutions. Senator Madigan alluded to a previous statement by the Chancellor regarding the higher emphasis placed on four-year graduation rates at private institutions, and asked if it is due to the much higher tuition costs. Dr. Hample theorized that

with a higher cost comes greater motivation - both real and perceived - to succeed as quickly as possible.

Senator Madigan formulated a scenario in which a student drops out after a year to raise money to be able to afford a second year, and asked if that student would be "lost" due to the lack of a tracking database. Dr. Hample clarified her earlier statement, explaining students that come back to their school after time off are kept in the system, and only students who go elsewhere are not tracked.

Senator Tomlinson asked if PASSHE would appreciate more PHEAA funding. Dr. Hample replied the system can always do with more money, and characterized PHEAA as one of the "stronger programs" in the state, without which many students wouldn't be able to afford higher education at all. Senator Tomlinson inquired if there is an index available that would be able to help the committee determine "bang for the buck" regarding increased funding versus tuition cost. Dr. Hample stated that in terms of "corrective effect", direct appropriation to the system is the best way to control tuition costs. She added that for perspective, every 1% increase in tuition accrues \$7.5 million overall.

With regard to the realty transfer tax, Senator White asked if PASSHE has been assured the funding level will be returned to its prior state. Dr. Hample stated she has "been assured every effort will be made" to correct the problem. When asked what would happen if the funds are not received, Dr. Hample declared the system will be faced with an unanticipated deferred maintenance shortfall of \$12 million. Senator White asked if any masters programs for nursing are offered online. The Chancellor noted two universities offer masters programs over the Internet.

Senator White alluded to the Spellings Commission Report on Higher Education, a report released in 2006 that among other things recommended increased individual accountability for colleges and universities, and asked for Dr. Hample's thoughts on the document. The Chancellor stated she believes the state system is "way out ahead" with regard to the accounting of performance results, but was careful to point out PASSHE is more attuned to overall results while the Spellings Report focuses more on transparency and student learning results. She offered her opinion that the Spellings Commission Report will be the basis for higher education policy for "years to come." Senator White observed Dr. Hample was quoted as advocating tests for high school seniors to gauge both their college readiness and their school's accountability. Dr. Hample explained she co-chaired the Governor's Commission on College and Career Success, and among the commission's twelve final recommendations, advised a version of the praxis exam, and also end- of-course exams that would allow students to demonstrate proficiency. Additionally, she went on, the commission recommended the creation of a centralized database to record the academic progress of students over their entire educational career. Senator White

concluded her questioning by thanking the Chancellor for adopting the Center for Environmental Education from the Department of Education.

Chairman Armstrong asked if it would be possible for a professor to be employed simultaneously at Shippensburg and Gettysburg Colleges. Dr. Hample replied it is conceivable because there is nothing in the rules against it. The Chairman contended that between classes and office hours, a professor is only required to be available 90 days out of a year. Dr. Hample characterized those as "assigned" loads, and asserted there is "more to it than that," referring to "unassigned" loads such as thesis committees and other campus duties. Chairman Armstrong asked if a professor's office must be located on campus. Dr. Hample confirmed an office must be on campus. Chairman Armstrong inquired what would happen if a professor "cut" 20% of his classes. Dr. Hample replied the system doesn't police its faculty, but if it was brought to the attention of an administrator, appropriate actions would be taken. Chairman Armstrong remarked that in his office, Dr. Hample had suggested there was nothing that could be done. The Chancellor asked for a list of offending professors so an investigation can be undertaken.

Referring to student internships, Chairman Armstrong asked how such duties are administered. Dr. Hample explained professors oversee students with internship assignments. Chairman Armstrong related stories he has heard from students regarding cheating during computer-based exams, and asserted the tests should be monitored to prevent such actions. Dr. Hample stated all universities in the system have policies dealing with cheating, and added all tests are monitored. The Chairman asked if most pensions are maintained through TIAA-CREF. Dr. Hample stated 50% of pensions are administered that way. Chairman Armstrong inquired if there suggestion boxes on PASSHE campuses so students can submit ideas and comments. Dr. Hample stated some do, but could not say for certain if that is true for every institution.

Chairman Armstrong raised the issue of fraud and waste, and relayed an anecdote he received from a faculty member, in which a case of suspected fraud the professor had brought to his superior had been largely ignored, with the professor being advised to go straight to the Attorney General. Dr. Hample remarked there is a "huge difference" between fraud and waste, and stated anyone who suspects fraud should go directly to the university president. Chairman Armstrong moved to the issue of faculty evaluation, stating there is no way for students to find out about professors who perhaps shouldn't be teaching. Dr. Hample pointed out students participate in the evaluation process. Chairman Armstrong remarked freshman students "just in the door" have no real way of knowing professors of quality from those who lack it. Dr. Hample asserted she believes strongly in peer feedback, and asserted students are not in a position to determine if a professor is retained, promoted or given

tenure. Chairman Armstrong rejoined that students can tell if a professor is good or bad.

On the subject of performance-based funding, Chairman Armstrong took issue with foreign PhDs joining a faculty and teaching in the classroom despite being difficult for undergraduates to understand. He remarked those international instructors who are hard to understand make it tough for students who are being exposed to potentially new and complicated subject matter. Dr. Hample asserted the ability of a faculty member to communicate is carefully considered when hiring international professors. Chairman Armstrong asked about the system's job placement record. Dr. Hample remarked 87% of students graduating from the system get their first job in a field related to their major, and theorized much of the remaining total are education majors who decide not to teach.

Chairman Armstrong continued, raising the issue of a school's monopoly on selling books. He related stories of students paying \$300-400 on books per semester, and wondered why the texts are so much. Dr. Hample contended there is a "knowledge explosion" going on, and stated it is important to be "up to the minute" with the newest books. She characterized textbooks as an "essential component" of education. Chairman Armstrong asserted history books aren't changing, and suggested a two or three year minimum on book reissuing should be investigated.

Senator Hughes asked if there is a comparison of tuition costs over the last ten years available. Dr. Hample stated that over the last six years, tuition at PASSHE institutions has risen 28%, which is significantly less than other entities. She elucidated, stating that at state-related institutions it has not been uncommon to see a doubling of the rate increase. She continued, noting that over the same time the number of students in the system has increased from 98,000 in 2001 to over 109,000 currently. She added State System schools are the place for disadvantaged students to go, as it that is part of the PASSHE's mission that she in particular embraces.

Senator Rhoades asked if surplus applications sent to individual PASSHE schools are sent on to other schools in the system, and suggested this might be a good way to offset the forecast decline in western PA matriculations. Dr. Hample explained there are confidentiality issues associated with applications, but stated that if an applicant is denied entrance at a particular PASSHE institution, the rejection letter includes referrals to other schools in the system.

Finally, Senator Rhoades commented on the "test-happy" state of higher education, and lamented the reason some education students don't end up as teachers is because they fail the praxis exam. Dr. Hample reported that five years ago the average praxis pass rate from PASSHE students was 85%, and

today stands at 95% and rising, which is above that of state related schools and the state average. Senator Rhoades commended the feat, and alluded to legislation he is planning to introduce that would allow anyone who fails the praxis to go back to school for remediation, and if they fail several more times, to switch majors and retake their degree at the expense of the institution. Dr. Hample observed she likes the first part of the idea, but would have to discuss the second part at further length.

Mike Howells

## **Legislative and PHEAA Reform Efforts**

### **State House approves reforms**

The state House this week adopted a host of rules changes based on public input and designed to make the House more open and accountable to the people of Pennsylvania.

The reforms are contained in a resolution (H.R. 108) introduced by Rep. Josh Shapiro, D-Montgomery, who served as co-chairman of the Speaker's Commission on Legislative Reform.

Highlights of H.R. 108 include new rules that:

- o Prevent votes after 11 p.m. unless in case of emergency and requiring approval of 75 percent of the House to suspend;
- o Require members to be in the House chamber to vote and repealing "Harrisburg legislative leave;"
- o Require a 24-hour waiting period on any vote on concurrence on a bill that has come from the Senate;
- o Require a 24-hour waiting period before a final vote on any bills amended on third consideration;
- o Make House expense reports and complete House payroll information available;
- o Eliminate private vehicle leasing (existing leases will continue for the term of the lease);
- o Require members to file for per diems and other reimbursement of expenses within 90 days of incurring the expense;
- o Require the posting of House floor votes, committee votes and hearing testimony online;
- o Prevent the Rules Committee from amending bills returned from the Senate on concurrence;
- o Ban members from forming nonprofit organizations whose primary purpose is to receive state funds at the direction of the member;
  - Prohibit public service announcements and constituent outreach telemarketing in the 60 days preceding primary and general elections in even-numbered years.

## **Rendell warns PHEAA to reform**

Tuesday, March 27, 2007

**BY JAN MURPHY**

**Of The Patriot-News**

Gov. Ed Rendell yesterday pounded a little harder on the state's student financial aid agency to make more changes beyond establishing a new travel reimbursement policy -- or else.

"Those changes are just the tip of the iceberg of what needs to be done," Rendell said at the Pennsylvania Press Club luncheon in Harrisburg yesterday. "Unless they make significant changes that may very well involve head rolling, I think the move to outsource [the Pennsylvania Higher Education Assistance Agency] is going to be almost inevitable."

He used the agency's 19-month fight against The Patriot-News, The Associated Press and WTAE-TV to keep records detailing its employee and board members' travel expenses as an example of why the state's open records law needs to be changed.

The expenses showed charges to the agency for such things as \$45,000 to charter a Lear jet, a \$3,900 hot air balloon ride and assorted spa treatments.

Rendell said he has agreed to give the PHEAA board's leadership team that took over last month time to implement some changes, but doesn't plan on giving them a long time.

"We have to change the culture," Rendell said. "Until they start thinking like a public agency, and understand that their duty is first and foremost not to themselves, not to the board members, but first and foremost to the college students of Pennsylvania and their families, no amount of voted changes will make a difference."

Sen. Sean Logan, D-Allegheny, the PHEAA board's vice chairman, said changing the travel policy to impose some stricter rules on acceptable expenses was the first step.

"He needs to give us a little bit of time," Logan said. "We're not going to make changes for the sake of making changes. We want to do it with real thought."

He said they are looking at a Rendell administration proposal to expand the state grant program for students, but said it was too early to discuss specifics. The agency wants to make sure it can afford the suggested change, he said.

Logan also said he is open to discussing other changes, but said Rendell has never directly requested the board's leaders to ask agency CEO Dick Willey to resign.

"That's not to say I would support that, because I think Dick has done a wonderful job," Logan said. "But the governor and I can have a conversation about it."

As for outsourcing the agency, Logan said he adamantly opposes selling PHEAA to a for-profit company whose interest is making money for shareholders instead of providing financial aid to Pennsylvania students.

In 2004, Sallie Mae, a for-profit student loan agency, offered to pay \$1 billion to take over PHEAA for five years. The offer was rejected outright by PHEAA's board but some lawmakers continue to ponder the idea, and so does Rendell.

"I still believe there is much work that has to be done at PHEAA," Rendell said at the press club. "But I want to commend the press that without that long hard battle, we would never have had the impetus to bring those changes about."

JAN MURPHY: 232-0668 or [jmurphy@patriot-news.com](mailto:jmurphy@patriot-news.com)

©2007 The Patriot-News  
© 2007 PennLive.com All Rights Reserved.

## **Senators Rafferty and Orié Introduce Legislation to Tighten PHEAA Board Practices - 3/22/2007**

Senators Rafferty and Orié Introduce Legislation to Tighten PHEAA Board Practices

(Harrisburg) - State Senator John Rafferty (R-Montgomery) and State Senator Jane C. Orié (R-Allegheny) today unveiled their legislative plan to restructure the current appointment, reporting, and accounting procedures of the Pennsylvania Higher Education Assistance Agency (PHEAA) Board.

This legislation will require PHEAA to contract with a third party accounting firm to conduct an annual forensic audit of the PHEAA Board which must be submitted to the House and Senate Finance Committees by April 1 of each year. PHEAA would also be required on that date to submit a report to the Senate and House Finance Committees which contains all expenses and revenues associated with the operations of the PHEAA Board.

This legislation also requires that all appointees to the PHEAA Board selected by the House and the Senate be approved by a majority vote in their respective chambers. It would prohibit standing legislators from serving more than 2 consecutive terms on the PHEAA Board.

"Our goal is to bring greater accountability and fiscal responsibility to PHEAA and ensure that funds are not spent in a wasteful or unnecessary manner," Rafferty said. "The recent stories of financial mismanagement and over-the-top spending have made it necessary for us to take a closer look at the Agency's fiscal bottom line."

Orie added that the legislation will ensure that PHEAA revenue is used for the purpose it was intended - to provide low-interest grants and loans to students.

"Lavish trips, tuxedos, and spa visits are not defensible expenses and should be stopped," Orie said. "This legislation will ensure that money is spent prudently and put PHEAA on notice that it has to be accountable to the Legislature and the citizens of Pennsylvania."

## **PHEAA Expense Reform is a Top Priority**

Thursday, March 22, 2007

*by Reps. Craig Dally (R-Northampton) and Jennifer L. Mann (D-Lehigh)*

In recent months, the media have reported on "lavish" expenses at the Pennsylvania Higher Education Assistance Agency (PHEAA) and the agency's resisting efforts to obtain financial and expense records.

PHEAA claims it must limit access to expense records on the premise that they contain trade secrets. Its chief competitor is Sallie Mae, the nation's largest student loan lender, which unsuccessfully sought to take over PHEAA in 2004. The courts recently, however, ruled that the records must be released.

As the newest state House members of the PHEAA Board of Directors, we are, of course, very concerned about what those records showed - substantial spending on questionable items and in some cases, arrogance, at the agency in the past.

A reform movement is sweeping through the state House and now must proceed to other government agencies.

Since its formation in 1964, PHEAA has done a remarkable job achieving its goal of improving access to higher education for students in Pennsylvania.

PHEAA administers the Pennsylvania state grant program for the Commonwealth of Pennsylvania, and serves as a coordinating body for other grant programs administered by other state agencies.

PHEAA also serves as one of several student loan guarantors in the United States for the Federal Family Education Loan Program (FFELP).

The agency also has a loan servicing operation for student loans that it owns and for lenders with whom they contract to service loans and manages more than \$84.5 billion in total assets.

PHEAA has experienced tremendous growth in the past several years through expansion of its lending operations and in developing relationships with other states, national financial institutions and colleges for loan servicing and guaranty services.

Through its earnings PHEAA has provided, in this year, \$72.5 million for state grants to students. PHEAA, through its foundations, will have funded over \$45 million in grants to nursing students by the end of the year. Its loan forgiveness program has been expanded for those serving in the armed forces giving \$2,500 loan forgiveness to over 6,500 Pennsylvanians serving in our military since the events of 9/11. In all, \$200 million has been provided to Pennsylvania's families each year in free student aid.

PHEAA only lends within Pennsylvania and can only service and guarantee loans outside Pennsylvania and does so under the AES name.

That being said, as board members we cannot tolerate some of the expenses that the agency has incurred as reported in the news media. While marketing activities are necessary for PHEAA to stay competitive, the abuses by some are inexcusable.

As members of the Audit Review Committee, we will attempt to strengthen the oversight powers of the committee to make sure management performs to standards that Pennsylvanians can accept.

We are encouraged that Rep. Bill Adolph (R-Delaware), an accountant and PHEAA's new board chairman, stated that it's time for the agency to tighten its belt and that he will not support any excesses. The PHEAA board has adopted new travel and expense policies which will be significantly tighter than those of the past.

As new PHEAA board members, we strongly support these new policies and we intend to make sure that PHEAA's resources are directed to the parents and students it is supposed to serve.

Rep. Craig Dally, a Republican, represents the 138th State House District in Northampton County. Rep. Jennifer Mann, a Democrat, represents the 132nd State House District in Allentown. Both were recently appointed to the PHEAA board of directors.

**Rep. Craig Dally**  
**138th District**  
**Pennsylvania House of Representatives**  
(717) 783-8573

**Rep. Jennifer Mann**  
**132nd District**  
**Pennsylvania House of Representatives**  
(717) 705-1869

## **Transcript of SERS and PSERS Appropriations Hearings.**

HARRISBURG - (3/5/07, 9:00 a.m., Room 140, Main Capitol)

The House Appropriations Committee held a budget hearing with the [State Employees' Retirement Commission](#) (SERS) and the Public School Employees' Retirement Commission (PSERS).

Members in attendance included Chairman Dwight Evans (D-Philadelphia), Minority Chairman Mario Civera (R-Delaware) and Representatives Fred McIlhattan (R-Clarion), Dave Reed (R-Indiana), Cherelle Parker (D-Philadelphia), Gordon Denlinger (R-Lancaster), Mario Scavello (R-Monroe), Scott Conklin (R-Centre), Ron Miller (R-York), Stephen Barrar (R-Delaware), Bill Keller (D-Philadelphia), Jake Wheatley (D-Allegheny), John Siptroth (D-Monroe), Brian Lentz (D-Delaware), Dante Santoni (D-Berks), Brian Ellis (R-Butler), Scott Petri (R-Bucks), Matt Smith (D-Allegheny), John Myers (D-Philadelphia), Craig Dally (R-Northampton), Dan Frankel (D-Allegheny), Dave Millard (R-Columbia), John Galloway (D-Bucks), Sean Ramaley (D-Beaver) and Daryl Metcalfe (R-Butler). Rep. Dave Levdansky (D-Allegheny) and Rep. Steve Nickol (R-York), Chairmen of the House Finance Committee, also attended the hearing.

Minority Chairman Civera led off the questions, asking if the Budget Secretary is receptive to proposals to increase the employer contribution rate. Eric Henry, Executive Director of SERS, noted he discussed that topic with the Budget Secretary just this weekend, and explained the Budget Office is budgeting employer contributions as if the floor will remain in effect. He noted that SERS

needs statutory authority to accept the higher rate. Henry offered two solutions in addition to simply extending the floor to avoid the projected spike in employer contribution rates to 15% in 2012, including a "fresh start" plan in which employer contributions are based on the normal cost (currently 8.4%) or phasing in an increase to the normal rate over several years, as proposed in [HB 126](#). Under the first proposal, he stated, the spike would be eliminated and \$4 billion in savings would be realized and under the second proposal it would peak at 12% instead of 15% and \$2 billion in savings would be realized. Henry remarked in considering whether to continue the floor or increasing employer contribution rates, the General Assembly needs to determine if it is preferable to save money in the long term or short term. Minority Chairman Civera asked what an appropriate timeframe for implementing a phased increase would be. Henry suggested the four-year timeline outlined in HB 126 would be adequate, noting that all three proposals are actuarially sound.

Rep. Wheatley asked how costs would be affected by an increase in the employer rate. Nicholas Maiale, Chairman of SERS, explained increasing employer contribution rates provides SERS with more revenue to invest. He stated that an increase of 1% provides an additional \$50 million. Henry added of that amount, about half is from the General Fund. He stated any action to increase contribution rates now will mitigate the projected spike in 2012. He remarked the "funding holiday" in the late 1990's is coming due. Jeffrey Clay, Executive Director of PSERS, explained PSERS is in a similar situation, but noted they are expecting a rate jump to 18% in 2012 despite the fact that their rate floor will not expire. He indicated PSERS would support increasing the employer contribution rate. Clay noted the state pays 52% of the contributions and local school districts pay the remaining 48%, therefore the burden of a rate increase would not be fully borne at the local level. Rep. Wheatley asked how much money has been saved. Clay replied almost \$2 billion, of which approximately half was saved at the local level.

Rep. Wheatley then asked for further information about the funding holiday and how the two organizations invest in hedge funds. Maiale explained during the raging bull market of the late 1990's, rates were based on actuary and were set at zero for a period, but during that time SERS was still paying out to retirees without regard for what the future would bring. Peter Gilbert, Chief Investment Officer at SERS, addressed the question regarding hedge funds, explaining they account for 30% of the program and are used as a tool of the program, not an asset allocation. He stated they have contributed to returns in excess of \$1 billion over the last four years.

Rep. McIlhatten noted an increase in the average basis points and asked if that increase is positive. Gilbert explained that refers to the fees paid to managers, and the increase indicates more is being paid to managers. He explained this is not necessarily negative because they are using more sophisticated strategies

and manager fees are tied to performance to align interests. He noted the returns reported as net of those fees. Rep. McIlhatten asked about the return on investment and was told it was 16.4% in 2006. He then asked about the difference between advisory fees and consultant fees. Gilbert explained advisory fees are paid to advisors managing the money and consultants are paid to advise SERS on all their assets.

**Rep. McIlhatten then asked about recommendations to provide a cost of living adjustment (COLA), noting that they can cause major problems. Henry explained COLAs drive up the cost of the plan. He stated contribution rates were declining in the 1990s due to the bull market, but at the same time COLAs were being enacted every four years, leading to a perception that COLAs are free and that they will continue to be enacted every four or five years. Henry stated if COLAs are enacted, the projected spike increases to 20%. He noted his role is to advise the General Assembly on the impact of such proposals, but he could not indicate whether the proposal is advisable. Henry noted more states offer an automatic COLA than don't. Rep. McIlhatten asked what percentage of members takes the lump sum payment to which he was told approximately 90%. He then asked if SERS is restricted in where it can invest. Maiale replied SERS has a prudent investment standard, meaning they may invest where it is fiduciarily responsible.**

Rep. Conklin explained counties and municipalities are required to look at their pension systems every five years and adjust rates accordingly. He questioned if the state should do the same. He also asked about the amount of money in the system in 2000 and currently. Clay explained both SERS and PSERS examine assumptions annually and do an actuarial evaluation every five years to determine where adjustments are needed. He stated PSERS had \$53.7 billion in 2000 and had \$61.9 billion at the end of 2006. He stated their ten-year return is 9.69%. Henry stated SERS has an average return of 10% over the last ten years, but still finds 8.5% to be an appropriate standard for the long-term. Regarding the municipal structure, Henry stated SERS conducts annual actuarial evaluations and has enacted reamortizations to allow markets to recover.

**Rep. Reed asked how the projected spike would be affected if the current 4% floor remains in effect. Henry didn't have that data with him, but noted HB 126 is projected to reduce the spike to 12%, so presumably with the 4% floor the spike would be between 12% and the current projected rate of 15%. Rep. Reed then asked how benefit enhancements such as COLAs or "30 and Out" proposals would affect the contribution rate. Clay stated if the typical COLA is enacted, the unfunded liability will increase \$2.2 billion and the contribution rate will increase 2.7%; with 30 and Out legislation, unfunded liability will increase \$980 million and the contribution rate will increase 1.6%. Henry stated 30 and Out legislation will increase the unfunded liability**

**by \$500 million and the contribution rate 1.3%-1.5%; a COLA will increase unfunded liability by \$1.1 billion and the contribution rate by 3%.**

Rep. Keller returned to the discussion on the county and municipal pension systems and further explained that municipalities are required to immediately increase or decrease contributions so they don't face future spikes. He questioned if this could be applied at the state level. Maiale remarked that is the fresh start proposal posited by Henry earlier in the meeting. He noted Senator Gib Armstrong (R-Lancaster) has introduced legislation providing for the fresh start. Clay cautioned PSERS would need to review the proposal to determine if it could lead to rate volatility. Rep. Keller opined this proposal should be looked into. He then asked why municipal pension systems are held to different standards. Clay hypothesized it may have to do with the scope size of the funds, explaining SERS and PSERS are much bigger and better able to diversify.

Rep. Scavello asked about pension obligation bonds. Maiale opined utilizing them "would be a terrible mistake", noting they did not work out well when tried in Philadelphia. Henry further explained typically the timing of pension obligation bonds has been bad and the sponsor is left with debt to service. He noted a unique aspect is that you can't determine if they're successful until they retire, which is a big gamble.

Rep. Scavello then asked if incentives should be provided to discourage members from taking the lump sum payment and how successful those that do take the payment are in investing elsewhere. Henry noted SERS has not studied the success of members investing elsewhere, and noted a number of members take the payment and roll it into a tax shelter, pay off debt or make a big purchase. He stated, overall retail investments typically underperform large institutionals. He concluded any benefit enhancement could incentivize members to stay, but could also raise the cost of the system.

Rep. Galloway asked if there are alternatives to increasing contribution rates or increasing investments to address the projected spike. He also asked what defines a "good investment". Clay responded a good investment is deemed to be any that has a return of more than the assumed rate of 8.5%, he noted PSERS also operates under the prudent investment standard. He noted increased funding of the system will increase returns. Alan Van Noord, Chief Investment Officer for PSERS, remarked PSERS looks at asset growth needed to meet needs and at a variety of investments to exceed the 8.5% return. He added they also look at risk to minimize the risk of the portfolio. Lastly, Rep. Galloway asked if 30 and Out legislation is beneficial. Clay replied a study by the Legislative Budget and Finance Committee, pursuant to [HR 299](#) of last session, calculated positive savings for schools, but a cost for the state. He stated the key is assumptions and accuracy of those assumptions.

Rep. Frankel asked about consolidating pension plans, noting there are thousands in PA and many are in distress. Henry noted there are 3,000 pension plans in PA and there was a proposal to start consolidation with the police systems. He stated a municipal system is currently in place, but participation is optional. He cautioned, however, if the General Assembly does decide to proceed with consolidation, SERS is not the proper place for that to occur because they do not have the proper infrastructure in place. Rep. Frankel suggested the legislature should look at making participation in the municipal system mandatory. He then asked if SERS or PSERS have looked at divestment issues. Henry stated SERS has looked at divestment relating to terrorism and Sudan, but the issue boils down to the fact that SERS is not equipped to handle national security or policy issues. He noted federal courts struck down divestment in Illinois because it was deemed a federal government issue. Clay concurred, noting that PSERS divested South Africa in the 1980's based on economics. He explained the rationale in the Illinois case was a preemption of the federal and foreign commerce clause and intrusion on the federal purview in international relations.

Rep. Denlinger asked about risk and investments in companies that have defaulted. Van Noord stated PSERS does not invest in any municipal bonds and does not know the default rate because it is so low it is regarded as insignificant. He stated managers have latitude in investing in lower than investment grade bonds, noting that the board keeps an eye on them and ensures the portfolio is well diversified. Gilbert added the key to managing risk is on a portfolio basis, remarking it is a given that something won't go well, but diversity allows the portfolio as a whole to do well and have consistent returns. Rep. Denlinger asked how risk is managed. Gilbert replied a total asset liability study is conducted every five years and the risk is reviewed annually. He noted various styles of asset managers are hired to ensure further diversity. Van Noord stated PSERS looks at the correlation between asset classes and managers to ensure they don't have total correlation.

Rep. Smith asked about the affect of a defined contribution plan on the employer contribution rate. Henry stressed that a defined contribution plan could only be implemented for new members, which means savings would be gradually realized over time. He noted in the TIAA-CREF defined contribution plan utilized by some agencies, the cost is higher than SERS' and there is the potential that the employer contribution rate would increase in the short-term because of the initially small employee base. He stated cost savings are complicated by the extent of benefits provided. Clay concurred, adding that members in defined contribution plans tend not to invest correctly and therefore are not as adequately prepared for retirement, which could result in them turning to other government programs, such as Medicaid.

Rep. Dally noted in the task force that met last summer, issues arose regarding benefit enhancements through salary spikes at the end of a career. He asked for comments on the possibility of capping lifetime benefits. Clay replied the code provides for watching salary spikes, but indicated that language could perhaps be strengthened. He stated ultimate benefit caps are already imposed by the IRS. Rep. Dally then asked about defined benefit plans and defined contribution plans, noting that the task force found that switching historically costs more for the employer and asked about contributions and the possibility for hybrids. Clay stated some states have hybrid plans, noting it would be more efficient if members could not choose where to invest. He stated members get the advantage of being in a large pool of assets, but invest too conservatively. Henry expressed concerns with commingling, noting there could be cash flow issues and liabilities would be subsidized.

Rep. Dally then asked if PSERS includes employees outside of school districts. Clay replied PSERS includes charter schools, community colleges, approved private schools, and some state universities.

**Rep. Barrar asked if non-school employees, such as the PA School Boards Association, pay in at the same rate as public schools. Clay replied non-school entities aren't subsidized, meaning the School Boards Association pays 100%. Rep. Barrar then asked about the affect of the lump payments and if assets must be sold to comply with payouts. Clay stated the payouts cost approximately \$1 billion annually and contributions are not sufficient to pay no matter what, so assets need to be sold. Rep. Barrar asked about stopping withdrawals with COLAs and 30 and Out. Clay replied the unfunded liability would go up substantially and noted that employee rates could only be increased if benefits are enhanced. Lastly, Rep. Barrar asked which sectors have performed well recently. Van Noord replied real estate investments (33%), private markets investments (27%) and international investments (27%) have performed well.**

Rep. Millard questioned if new hires affect contribution rates. Clay replied the formula is driven by years of service and salary, noting that if compensation increases that will drive liability higher.

Rep. Keller noted the Ottawa Teacher Investment Fund has invested in ports in Canada and is interested in bidding on the PA Turnpike. He asked if similar investments are being considered here. Van Noord replied PSERS looks at all asset classes, noting that infrastructure is a new asset class. He stated the Ontario retirement system is very active in infrastructure but no recommendation has been made to the PSERS board yet. He stated they are very long-lived assets in short-term structures and may not work out as well as anticipated. He reiterated PSERS is looking at the assets to determine if they fit the asset structure, adding the Ontario system is very different from PSERS and

there are a lot of issues. Gilbert concurred, noting SERS has no such direct investments and at this point it's not clear how the funds would benefit.

Rep. Nickol asked about the applicability of the fresh start plan. Henry replied the program would cost \$200 million in the first year, half of which would come from the General Fund and half from budgets of self-sustaining agencies. Clay noted PSERS has not looked at the plan, but estimated costs of \$300 million or more, which would be split between the state and school districts. Rep. Nickol noted that could have a major impact on the state budget and recommended a "feather in" approach, like that of HB 126. He asked when new rates would have to be implemented. Clay noted rates are set in April, but could be recalculated if enacted during budget time.

Rep. Nickol then remarked he heard about an employee that waited nine months for a final determination of benefits and asked why it took so long. Clay replied that issue is driven by the fact that a lot of data is reported late and PSERS is in the process of transferring to a new system, so fewer staff are assigned to work on benefits. He noted they are looking to hire ten more staff to help. Henry stated determinations take six to eight weeks to finalize, but in heavy periods that could stretch to ten weeks. He noted that oftentimes delays are due to employers not providing information quickly. He offered to look into the specific case referenced.

Rep. Nickol then asked how much money in payment of benefits is from employee contributions, employer contributions and earnings. Henry replied 10% is employee and employer contributions each, and the remaining 80% is from earnings. Clay stating 79% is from earnings, 13% from employees and 8% from employers.

Rep. Dally noted there is more shareholder activism today and asked how proxy votes are handled. Gilbert replied SERS votes proxies as an asset of the fund and has standard proxy policies in place. He noted that issues that may come up are referred to the investment office and discussed with the chairmen to determine a decision based on how to benefit the fund. Van Noord stated PSERS has a corporate governance committee that oversees proxy votes. He noted if an issue arises, it is discussed with the board. He noted the impact of class action recoveries, stating PSERS was involved in 130 last year, resulting in \$135 million and it takes them very seriously. Gilbert concurred.

*Kimberly Hess*

