

# Legislative Alert

10th Edition,  
March 21, 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. There is limited bill legislative activity at this time due to re-organizing efforts of the legislature and upcoming appropriations hearings.

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

### **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 least 30 credits earned from taking foundation-level courses will be accepted across the 28 participating institutions under the legislation. This "articulation agreement," which applies to the 14 State System of Higher Education

universities, and any of the 14 community colleges, is to take effect by June 30, 2007. State-related and independent institutions that wish to participate will be asked to sign an Interagency Agreement that holds them to the same standards, as well as the same benefits, of the 28 mandated institutions. They must sign up by February 28<sup>th</sup> to participate this year. The measure also calls for the development of a Web site to provide information on which college credits will transfer to any of the state s public colleges. AcademyOne, located in West Chester, PA, is the company that will be providing seamless and up-to-date information about course equivalencies via a website.

*Section 2020-A:* Makes funding for State System of Higher Education program initiatives contingent on all SSHE articulation agreements being made available on the System's web site. Historically, this language has been included in the state budget, but has been transferred to the school code this year.

At this stage, APSCUF is monitoring this committee and making sure in the next step of committee action, faculty involvement is ensured.

## **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. A presentation will be created for lobbying efforts that will provide the responses from this survey and information on the importance of both pension systems.

One option the Ad Hoc Committee on Retirement Security will also be considering is an increase in the employer contribution rate (ECR) paid to the independent retirement program. This has not increased to reflect the 25% increase in the value of the SERS benefit even though the Public Employee Retirement Commission recommended a rate increase in October of 1994 from 9.29% to 10.59%. Legislation was introduced in 1995 to solve this issue but failed to be enacted. The ECR has not been changed for the past 15 years. Before 1992, beginning in 1973, the rate was changed 13 times. If the Public Employee Retirement Commission would recommend a new rate accounting for the 2.5% multiplier increase in the SERS benefit, then they would most likely recommend an even higher employer contribution rate.

APSCUF would also recommend a cost study to compare the two systems and request an increase of the ECR for TIAA-CREF. Every five years, the state investigates and evaluates the SERS system and it should be done for ARPs as well. Other potential legislation would include a bill that would require parity between the two systems.

**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.

#### **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.

*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 (COLA) Legislation**

Many state workers and public employees are wondering about Pennsylvania government providing a Cost-of-Living-Adjustment (COLA), as it does historically every four or five years. APSCURF has been working on COLA efforts. APSCURF held a lobby day event on May 1, 2006, solely dedicated to COLA. During this important time, APSCUF became aware of the condition of the PA public pension system, as there is a \$1.9 billion unfunded liability in SERS that is predicted to increase as employer contributions spike. Before the 2006 election, the Auditor General of Pennsylvania came out with a report recommending that all SERS/PSERS enhancements should be placed on moratorium until the unfunded liability issue is dealt with. Other legislators lobbied indicated that legislation providing for an increase of the employer contribution rate to the retirement systems would need to be passed before a COLA could be considered. This legislation passed 195 to 0 in the House, but got stalled in the Senate after discussion in a committee hearing.

APSCURF established a time-line of events to make COLA efforts a reality. The first step occurred on December 5, 2006, when leaders of Pennsylvania's state

and public employee retiree organizations met at state APSCUF headquarters to join efforts on this fight.

The next priority took place on January 12, 2007, as APSCUF initiated a meeting with Governor Rendell's Office of the Budget and various leaders for state and public employee retirees. The main goal at this meeting was to ask the Governor to consider supporting COLA efforts in his budget and work on COLA efforts as similar pension issues are addressed. From the meeting, APSCUF found out that while the Governor most likely won't be publicly calling to set back previous pension enhancements for future employees, it does not look like the budget will have funds set aside 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 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 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.***

## **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.

## **Reform**

### **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;
- o Prohibit public service announcements and constituent outreach telemarketing in the 60 days preceding primary and general elections in even-numbered years.