

# Legislative Focus

4th Edition,  
Jan. 20, 2006

## Introduction

Legislative Focus is a notification primarily designed to communicate with APSCUF/CAP staff and its Legislative Committee in order to highlight relevant legislative priorities and note any changes in legislative action. The Legislative Focus will be used in conjunction with The Legislative Update for the Legislative Assembly.

Legislative Focus generally contains:

- A brief analysis of key legislative development during the past week;
- An update on any action of previously tracked legislation;
- A legislative schedule and listing of meetings for pertinent legislation;
- When necessary, a call for action when APSCUF member input is needed.

## Summary of Legislation

**House Bill 870, P.N. 993 (Herman):** Amends Title 71 (State Government) further providing for retention and reinstatement of service credits, election of membership and purchase of prior service. The bill adds provisions for school employees regarding the transfer and purchase of certain pension service credit from the independent retirement program to the Class AA. ***Referred to House State Government Committee on 3/14/2005***

*Informational Committee Meeting on December 14, 2005*

*Letter from State Government Committee Chairman stating, at this time, he would not bring the bill to a vote out of committee*

**House Resolution 177, P.N. 1280 (Armstrong):** Resolution establishing a select committee to examine the academic atmosphere and the degree to which faculty have the opportunity to instruct and students have the opportunity to learn in an environment conducive to the pursuit of knowledge and truth at State-related and State-owned colleges and universities and community colleges in this Commonwealth. ***Adopted, July 5, 2005 (111-87)***

*Informational meeting held in House Education on September 19, 2005*

*Hearing at Pitt Univ. on November 9-10, 2005*

*Hearing at Temple Univ. on January 9-10, 2006*

*Hearing scheduled for March at HACC*

*Hearing scheduled for May 2006*

*Final report due by November 30, 2006*

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**House Bill 239, P.N. 265 (Wansacz):** The Public School Collective Bargaining Act states that the adjustment or settlement of an impasse would be by neutral third-party resolution pursuant to the act. A representative would commence a successor collective bargaining agreement no later than January 5 of the year in which the collective bargaining agreement between the parties would expire. Both parties would submit to mediation by the bureau by February 28 if no collective bargaining agreement is reached between the parties. Mediation would continue for so long as the parties have not reached a collective bargaining agreement. If no collective bargaining agreement is reached by April 30, both parties would submit the impasse to neutral third-party resolution conducted by a three-member panel knowledgeable and qualified in the areas necessary to make a determination. The panel would begin hearings no later than July 5, and by August 31, the panel would make a final determination in writing. The final determination of a majority of the panel would be binding upon the public employer and the employee organization. Also, the legislation states that no school employee may strike or participate in a strike or similar interruption of government service. No public employer may conduct a lockout or similar interruption of government service. Any strike, lockout or interruption of government service prohibited by this section would constitute an actionable breach of duty to members of the public. ***Introduced and referred to House Education February 8, 2005***

*Discussed in Senate Democratic Policy Committee on April 27, 2005*

**House Bill 894, P.N. 2133 (Saylor):** Exempts retired teachers who return to school service from state-mandated professional development requirements if they work no more than 180 school days. Retirees who return to teaching for more than 180 days would be required to fulfill the state's continuing education requirements. HB 894 also requires the Department of Education (PDE) to provide access to its free, online professional development courses to all educators, not just those currently employed by a school entity. The bill also requires PDE to maintain all retirees' teaching certificates in active status. (Similar legislation – Senate Bill 390 – was passed by the Senate Education Committee on April 13). HB 894 was referred to the Senate Education Committee with first consideration on June 8, 2005. ***HB 894 was amended to delete language previously added by the House that permitted institutions of higher education to provide continuing professional development to their own faculty members who hold state teaching certificates.***

*Passed through both chambers with amendments, Set on House calendar Jan. 23, 2006*

**House Bill 564, P.N. 637 (Baker):** On June 7, the House Judiciary Committee passed legislation that allows colleges and universities to conduct criminal background checks of potential full-time faculty and staff and to use those records in making hiring decisions based on the institution's written policy for use of such information. House Bill 564 also allows colleges and universities to require job applicants to self-disclose criminal history information related to

sex offenses, misappropriation of funds and felony convictions. ***HB 564 has passed the House (194-0) June 28, 2005 and referred to Education in the Senate***

**House Bill 1706, P.N. 2235) (Shapiro):** Creates an articulation system among the state's 14 community colleges, 14 state-owned universities and four state-related universities. Students who transfer among those colleges and universities would be assured that their credits would count toward graduation. Shapiro's legislation would benefit more than 400,000 college students - 150,000 community college students, 106,000 students at state universities and more than 150,000 at state-related universities - Penn State, Temple, Lincoln and Pittsburgh. Shapiro's legislation is a central component of Gov. Rendell's work-force development initiatives. The initiatives, including the \$101 million Job Ready Pennsylvania, target the needs of employers and deliver focused training and education to the work force. The goal is to ensure that residents are better prepared, better educated and better able to meet the challenges and opportunities of today's marketplace. Under Shapiro's bill, colleges and universities would have one year to develop a system of credit sharing. If the articulation system was not in place after a year, the state Department of Education would implement the guidelines. In addition to statewide articulation agreements, several other reforms would help accelerate students' progression toward a degree. Among them: a statewide course numbering system, a common calendar and common prerequisites for all bachelor's degree programs. ***Referred to Education, June 20, 2005***

**House Bill 481, P.N. 520) (Pistella):** The Older Adults Education Act would establish the Older Adult Postsecondary Educational Gratuity Program. Any older adult is eligible to participate in the program. The program benefits include a community college or a State-owned or State-related institution would waive all tuition for an older adult pursuing a course of interest who is enrolled on a space-available and audit basis, while the older adult enrollee would pay all applicable registration and course fees established by the respective governing boards of community colleges for PA residents, the Board of Governors of the State System of Higher Education for PA residents or the respective governing bodies of the State-related institutions.

***Referred to Education, February 14, 2005***

**House Bill 2087, P.N. 3152) (Allen):** The Taxpayer Fairness Act states that total state spending in any fiscal year would not exceed the "appropriation limit", which is defined as the total amount approved by the governor plus the total amount of preferred and nonpreferred appropriations made by the General Assembly during the fiscal year immediately prior to the budget year under consideration, adjusted by the lesser of: the average percentage change in personal income in PA or the average percentage change in inflation plus the average percentage change in state population. The appropriations limit may be

exceeded for the following: (1) to respond to a presidentially declared emergency if approved by a majority of members of each chamber of the General Assembly, (2) to respond to a gubernatorially declared emergency if approved by three-fifths of members of each chamber of the General Assembly or (3) in other situations if approved by three-fifths of members of each chamber of the General Assembly. The bill also states that for any fiscal year in which the governor certifies that a surplus exists in the General Fund, 35% of that surplus would be deposited into the Budget Stabilization Reserve Fund and 65% of the surplus would be into the Taxpayer Fairness Fund. Additionally, for any fiscal year in which the balance in the Budget Stabilization Reserve Fund equals or exceeds 7.5% of the total of all General Fund appropriations in the preceding fiscal year, 100% of the surplus would be deposited into the Taxpayer Fairness Fund. The bill states that money in the Taxpayer Fairness Fund would be distributed to taxpayers who have liability for the State Personal Income Tax, through a temporary reduction in the rate of the tax. Lastly, Section 1702-A of the Fiscal Code would be repealed. (Prior Printer Number: 2872, 2886, 3037, 3117) ***Passed both chambers & in House Rules as amended on Nov. 22, 2005***  
*Hearing by the House Democratic Policy Committee on November 14, 2005*

**House Bill 2067, P.N. 2917 (Allen):** Joint Resolution proposing integrated and distinct amendments to the PA Constitution further providing for legislative power by adding that in any fiscal year, the General Assembly may not increase total General Fund appropriations above the amount of total General Fund appropriations authorized for the preceding calendar year by a percentage which exceeds the average percentage increase over the immediately preceding three fiscal years in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics unless a referendum stating the amount and duration of the increase is approved by a majority of the electors voting on the referendum. This limitation would not apply to any of the following: (1) an appropriation which, as a result of a requirement of Federal law, is made for a new program or service or for an increase in the level of service for an existing program beyond the existing level of service; (2) an appropriation which, as a result of a requirement of a Federal or State court order which has become final, is made for a new program or service or for an increase in the level of service for an existing program beyond the existing level of service; (3) an appropriation providing for the Commonwealth's share of payments for pension obligations as provided by law; (4) an appropriation for the repayment of interest and principal of all debt incurred by or on behalf of the Commonwealth; or (5) An appropriation in response to a Presidential or gubernatorial declaration of an emergency or major disaster in any part of this Commonwealth and which is approved by three-fifths of the members elected to each House of the General Assembly. (Prior Printer Number: 2843)  
***Set for House calendar on January 24, 2006***

**Senate Bill 836, P.N. 1080 (White, M.J.)** Amends the Administrative Code, eliminating authority for the fair share fee for employees of Commonwealth entities; and relieving certain employee organizations of certain duties and obligations. *Introduced and referred to Senate Labor and Industry, July 25, 2005*

**Senate Bill 989, P.N. 1326 (Gordner)** Amends Title 71 (State Government) further providing for retention and reinstatement of service credits, election of membership and purchase of prior service. The bill states that any school employee who has elected membership in an independent retirement program would be eligible to elect to terminate membership in the program and elect membership in Class AA of the system. Also, a school employee who is eligible to elect membership in Class AA of the system, who is employed in a tenured or nontenured position must make the election within 180 days of being granted the tenured position. The bill states that any school employee who has elected membership in Class AA of the system would be eligible to obtain retirement credit for prior uncredited service in the independent retirement program, provided that the State does not incur any liability for the funding of the annuities attributable to the prior, uncredited independent retirement program service. The school employee would be entitled to have any prior service in the independent retirement program transferred to the system and deemed to be State service for all purposes under this part. The bill states that in no event would an independent retirement program service be creditable if the school employee has received retirement benefits on account thereof. Lastly, any independent retirement program which interferes or does not cooperate, by its action or inaction, with any school employee's attempt to exercise an election under this subsection may not be approved to serve as an independent retirement program for a period of five years following the determination by the board of such interference or non-cooperation.

*Introduced and referred to Senate Finance, November 14, 2005*

**Senate Bill 910, P.N. 1308 (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, November 1, 2005***

*Public Hearing on January 9, 2006*

**Senate Bill 4, P.N. 1263 (Brightbill)** The Taxpayer Fairness Act states the total spending by the Commonwealth in any fiscal year may not exceed the appropriation limit as set forth in this act. The bill provides for exceptions, but in no case would the excess spending authorized be included in the computation base of the spending limit for any subsequent fiscal year. The bill states that for any fiscal year in which there is a surplus in the General Fund, 50% of that surplus would be deposited by the end of the next succeeding quarter into the Budget Stabilization Reserve Fund, and 50% of the surplus would be deposited by the end of the next succeeding quarter into the newly created Taxpayer Fairness Fund. Also, for any fiscal year in which the balance in the Budget Stabilization Reserve Fund equals or exceeds 10% of the total of all General Fund appropriations, 100% of the surplus would be deposited into the Taxpayer Fairness Fund. The bill states that money in the Taxpayer Fairness Fund would be distributed to taxpayers who have liability for the Personal Income tax through a temporary reduction in the rate of the tax. The reduction amount would be established by the General Assembly to be effective for January 1 through December 31 of the upcoming calendar year. Lastly, the General Assembly may at any time provide additional amounts as an appropriation to the Budget Stabilization Reserve Fund. (Prior Printer Number: 842) ***Passed in Senate and referred to House Appropriations Oct. 31, 2005***

*House Democratic Policy Committee hearing on November 14, 2005*

**Senate Bill 884, P.N. 1264 (Brightbill)** Joint Resolution proposing an amendment to the PA Constitution providing for spending limitations on the State and for disposition of surplus funds by adding that all General Fund appropriations made by the General Assembly in any fiscal year may not exceed the appropriation limit. The appropriation limit would be the total of all General Fund appropriations during the fiscal year prior to the budget year under consideration, adjusted by the lesser of: the average percentage change in personal income in PA for the three preceding calendar years or the average percentage change in inflation for the three preceding calendar years plus the average percentage change in State population for the three preceding years as reported by the annual Federal census estimates. The appropriation limit may be exceeded in any fiscal year for the following: (1) to respond to Presidential declaration of emergency if the General Assembly approves by an affirmative vote of a majority of the members elected to each house of the General Assembly; (2) to respond to a gubernatorial declaration of emergency if the Governor so requests and the General Assembly approves by an affirmative vote of three-fifths of the members elected to each house of the General

Assembly; or (3) in other situations if the Governor so requests and the General Assembly approves by an affirmative vote of two-thirds of the members elected to each house of the General Assembly. The bill also states that for any fiscal year in which the Governor certifies that a surplus exists in the General Fund, 50% of that surplus would be deposited into a Budget Stabilization Reserve Fund; and 50% of that surplus would be deposited into a separate fund for tax relief purposes. Lastly, for any fiscal year in which the balance in the Budget Stabilization Reserve Fund equals or exceeds 10% of the total of all General Fund appropriations, 100% of the surplus would be deposited into the fund for tax relief purposes. (Prior Printer Number: 1169) ***Passed in Senate and referred to House Appropriations October 31, 2005***

*House Democratic Policy Committee hearing on November 14, 2005*

## **2006 HOUSE Spring Special Session Schedule**

January 3 (non-voting), 23 (non-voting), 24, 25, 30, 31

February 1, 6, 7, 8, 13, 14, 15 (non-voting)

March 6, 7, 8 (non-voting), 13, 14, 15, 20 (non-voting)

April 3, 4, 5, 10 (non-voting), 24, 25, 26

May 1, 2, 3, 8 (non-voting), 22, 23, 24

June 5, 6, 7, 12, 13, 14, 19, 20, 21, 26, 27, 28, 29, 30

## **2006 SENATE Spring Special Session Schedule**

January 3, 4 (non-voting), 23, 24, 25, 30, 31

February 1, 6, 7, 8, 13, 14, 15

March 13, 14, 15, 20, 21, 22, 27, 28, 29

April 3, 4, 5, 17, 18, 19, 24, 25, 26

May 1, 2, 3, 22, 23, 24

June 5, 6, 7, 12, 13, 14, 19, 20, 21, 22 (non-voting), 26, 27, 28, 29, 30

## COLA COALITION LEGISLATION

Over the past 30 years, the Pennsylvania General Assembly has granted eight Cost-of-Living Adjustments (COLAS). Generally, the amount of the COLA has been determined by a formula which accounts for years of service, years in retirement and the increase in inflation since the previous COLA. COLAs are not provided to beneficiaries or survivors. The beneficiary is entitled to receive only the COLA(s) the state retiree was receiving prior to his/her death. As a result of the restrictive interpretation of Section 26 Article III (Legislation) of the Pennsylvania Constitution, survivor benefit recipients were precluded from receiving postretirement adjustments. In 1981, a Constitutional amendment was proposed to permit increases in the retirement allowances or pensions payable to survivor benefit recipients, but it was defeated in the statewide referendum.

Like some other states, Pennsylvania has enacted ad hoc COLAs. These have generally come at intervals of four or five years. Most states use some variant of an automatic COLA based on the Consumer Price Index, modified in a variety of ways to reduce the cost. While expensive, automatic COLAs can be funded on a normal cost basis.

A summary of COLA legislation for the 2005-2006 legislative session is provided below.

<b>COLA legislation -- Session 2005-2006</b>			
<b>Bill</b>	<b>Sponsor/Co-Sponsors</b>	<b>Status/Last Action</b>	<b>Summary</b>
House Bill 131	Rep. Peter Daley (71 co-sponsors)	In House State Government Committee, discussed in public hearing on 4/19/05	Providing for an annual living adjustment to annuitants of SERS
House Bill 1220	Rep. Lynn Herman (97 co-sponsors)	Referred to House State Government Committee, 3/30/05	Mandating annual COLA for all superannuation and disability annuitants determined by the PERC for respective systems, effective July 1, 2006, and thereafter.
*House Bill 1777	Rep. Lynn Herman (74 co-sponsors)	Referred to House State Government Committee, 6/25/05 & discussed in PERC meeting 10/8/05	Joint Resolution proposing amendment to the Pennsylvania Constitution, authorizing the General Assembly to provide certain benefit or pension
Senate Bill 312	Senator Mike Stack (11 co-sponsors)	Referred to Senate Finance Committee, 2/15/05	Beginning July 1, 2006, and annually thereafter, providing for an annual cost-of-living adjustment to all active PSERS and SERS employees based on an increase in the Consumer Price Index.

Senate Bill 615	Senator Rich Kasunic (17 co-sponsors)	Referred to Senate Finance Committee, 4/4/05	Beginning July 1, 2006, mandating payment of COLAs to all eligible members of PSERS and SERPS. The bill also provides for the increase in the COLA rate, requiring paying back the additional liabilities from the COLAs over a period of 20 years increasing 1% per year.
House Resolution 161	Rep. Jim Wansacz (36 co-sponsors)	Adopted 9/27/05	Resolution directing the study the feasibility of providing State pre-retirement assistance to surviving spouses of SERS members who participated in the Public Employee Health Plan through PEBTF.
House Bill 2339	Rep. Lynn Herman (98 co-sponsors)	Introduced and referred to House State Government Committee 1/3/06	Provides for supplemental annuities commencing in 2007. Starting with January 1, 2007, any eligible benefit recipient who is entitled to receive a monthly supplement from the system.
House Bill 130	Rep. Peter Daley (66 co-sponsors)	Re-referred to the House State Government Committee; discussed in House Finance Committee hearing 6/14/05	Provides for a special retirement period beginning March 1, 2006 and ending March 31, 2006 for members who have either 30 eligibility points or a combination of age and eligibility points that terminates school service. Members who file an application with an effect date of March 1, 2006, not later than July 1, 2006, under the same criteria will apply during March 1, 2006 to March 31, 2007.

\*Surviving Spouse legislation—to provide this COLA, it requires the amendment of the PA State Constitution as Section 26 of Article III prohibits enactment of legislation “giving extra

compensation to any public officer, servant, or employee after services shall have been rendered.” In 1955, an amendment to the Constitution was passed that granted increases in retirement allowances or pensions for members of PA public employee retirement or pension systems after the termination of the services. Since then, numerous statutes have been enacted granting these ad hoc post retirement adjustments. None of these, however, permitted an increase in the benefits paid to the survivors of the deceased recipients because the Constitution prohibits it.