

Slow Down, Legislators Tell Cuomo on Tier 6

By MARK TOOR | Posted: Monday, January 30, 2012 5:00 pm

State lawmakers at a legislative hearing on workforce aspects of the budget last week showed a distinct lack of enthusiasm for Governor Cuomo's proposed new pension tier for city and state public employees. Some called for the proposal to be detached from the budget and undergo public hearings.

Sen. Diane Savino said legislators believe that questions about the Tier 6 plan—which raises the retirement age, increases employee contributions, lowers the multiplier by which the pension benefit is calculated, excludes overtime from pensionable income, and, for the first time, allows employees to choose a 401(k) rather than the defined-benefit plan—can't be settled by the time the budget is due April 1.

Not Enough Consultation?

“While you may be confident that you could accomplish it talking amongst yourselves, you're not going to get anywhere,” she told state Budget Director Robert L. Megna. “There are so many people that have not yet been consulted on this, particularly the leaders of the municipal unions in the City of New York.”

Mr. Megna waffled when Senator Savino asked whether unions had any input. “I think we have tried to reach out to the labor groups on both the state and the city side but I couldn't tell you, Senator. I'd have to get back to you on the exact conversations that have taken place,” he said.

Fran Turner, legislative and political-action director for the Civil Service Employees Association, was asked the same question when she testified later. “We did not discuss it,” she said.

'Shouldn't Be Part of Budget'

Darcy Wells, a spokeswoman for the Public Employees Federation, endorsed the idea of hearings. “We support an open discussion on Tier 6,” she said in an e-mail. “We are opposed to Tier 6, and taxpayers should have a better understanding of what is at stake. A public hearing or hearings would help do that. It should not be part of the budget.”

But to Stephen Madarasz, a spokesman for the Civil Service Employees Association, holding hearings would be like putting lipstick on a pig. “It's a bad idea overall, so whether you package it in the budget or as a separate piece of legislation it's still a bad deal,” he said in an interview. “We think the Governor shouldn't have put it forward, period.”

A day after the hearing, Mr. Cuomo made clear he wouldn't be deterred. He pointed to a Marist

Poll released last week that showed nearly 70 percent of voters favor both making public employees pay more toward their pensions and giving them a 401(k) option. The poll also found 55 percent favor raising the retirement age from 62 to 65.

He attacked Senator Savino for complaining that unions hadn't participated in developing his plan, saying it sounded to him like she said, "I don't want to have to do it unless CSEA tells me it's OK; I don't want to have to do it unless PEF tells me it's OK." And then I would say back to the Senator who scolded my Budget Director, 'Who do you represent, the people of the state or the labor unions?'"

Fears a Cuomo Power-Grab

Sen. Liz Kruger pointed out another potential problem in Mr. Cuomo's proposed budget: a clause that allows the Governor or his commissioners to decide what facilities to close and to move money around between programs without legislative approval. "I have a great fear that this paragraph actually goes far, far beyond even the court-case interpretation of the constitutional authority of the Legislature vs. the executive," she said.

In yet another issue involving Cuomo-administration powers, Sen. Savino questioned portions of the budget that Mr. Megna said would allow "more-flexible movement across agencies," including hiring outside of the civil-service system. "I hope 'flexibility' doesn't mean circumventing civil-service lists and civil-service rules," she said. "...We don't need to reopen Tammany Hall."

PEF Vice President Joe Fox testified that the proposals would "shred the merit-and-fitness system that protects fairness and high standards" and "throw open the door to cronyism, patronage and unrestrained waste."

Limiting Outside Input

These proposals and the way the Tier 6 plan was developed follow the standard operating style Mr. Cuomo honed in his first year in office and demonstrated most recently with his income-tax-bracket revisions. Despite a professed desire for transparency, he has developed policy with small groups of aides and legislators, then presented the result to the public as a done deal. Interest groups, taxpayers and other stakeholders—even the majority of lawmakers—have little or no input.

In their questioning of Mr. Megna, legislators lined up against Tier 6. Peter J. Abbate, the chair of the Assembly Committee on Government Employees, said that under the proposal, a \$50,000-a-year employee could retire after 30 years with a pension of just \$2,000 a month. "That's something very frightening," he said.

Other legislators pointed out that the length of service required before an employee is vested—or

earns the right to receive pension benefits—had risen as new pension tiers were added, from five years to 10 years under Tier 5 and now 12 years under the Tier 6 plan. “That’s absurd right there,” said Assemblyman Michael G. DenDekker.

He also objected to the provision excluding overtime from pension calculations, noting that much of the overtime employees work is required. “You can’t force people to do the work and tell them it’s not pensionable,” he said. “That’s not fair.”

Sees 401(k) As a Crapshoot

The 401(k) option was criticized by Sen. Bill Perkins, one of those who called for hearings. “I don’t think this 401(k) approach has been successful,” he said. “People lose their money.”

“We’re going to wind up with seniors who are going to wind up on assistance programs—food stamps, HEAP [the Federal Home Energy Assistance Program],” said Senator Savino. She also made clear that Tier 6, which would apply only to employees hired after it is passed, wouldn’t save a penny for the state or municipalities this year.

Legislators and union leaders said the plan would force employees to choose the less-reliable 401(k) option over the defined-benefit pension because the 401(k) requires a smaller contribution, and workers starting their careers at \$28,000 need every penny.

Mr. Megna’s answers indicated that some aspects of the proposal had not been thought out or were still up in the air. Senator Savino asked him how cops or firefighters who were injured in the line of duty would be protected if they were signed up for 401(k)s. Mr. Megna said he was not familiar with the details.

“Who designed the plan if you’re not familiar with it?” she inquired.

Uninformed About ‘Uniformed’

Mr. Megna responded that he was familiar with other details, just not those aspects. But at the start of the hearing, he was unable to answer questions from Sen. Martin J. Golden about how the retirement plan would treat uniformed workers. Mr. Golden had asked whether the state was heading toward having a 65-year-old rescue worker carrying 80 pounds of equipment up the stairs.

The Budget Director also was unable to answer Senator Perkins’s question about what state pension systems New York had looked to for comparisons.