

# Legislative Alert

9th Edition,  
January 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. 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 PA 2005-06 Legislative Session

According to the General Assembly's website, the grand total of general acts approved in the 2005-06 legislative session was 228 in regular session and one in special session. Another 79 general appropriations acts were also approved in the two-year session, for a grand total of 308 bills signed into law.

## Summary of PA 2006 State Election

**State Senate:** Republican control with 21 Democrats 29 Republicans

**State House:** Slight Democratic majority with 102 Democrats and 101 Republicans

**Incoming legislators:** 55 freshmen - 45 men and 10 women, 28 Republicans and 27 Democrats.

**Endorsed members:** 109 of 142 APSCUF-endorsed candidates won re-election. 15 of these members are freshmen legislators.

**APSCUF represents both chambers** with Andy Dinniman (D-19) in the Senate and Duane Milne (R-167) in the House

**Leadership in the House:** Republican Speaker (Dennis O'Brien), Democratic Deputy Speaker (Josh Shapiro) and Republican Speaker Emeritus (John Perzel).

Democratic Majority Leader (Bill DeWeese) and Republican Minority Leader (Sam Smith)

**Leadership in the Senate:** Republican President Pro Tempore (Joe Scarnati) and Republican Majority Leader (Dominic Pileggi)

**ATTACHMENT: Legislator list with Committee assignments important to APSCUF**

## **Summary of Legislation important to APSCUF**

Contents of Legislation:

- 1) College Articulation System legislation
- 2) SERS/TIAA Pension Credit Transfer
- 3) Academic Freedom
- 4) COLA
- 5) TABOR
- 6) Background checks

### **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.

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

### **Overview of HB 870, SB 989 and other options**

On February 10, the Ad Hoc Committee on Retirement Security (formally the Local Retirement Chair Coalition-pending 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 would 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 (pending Legislative Assembly formulation approval) 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.

Today we are seeing a trend for state and federal government to move in the direction private business has done and trade defined benefit plans for defined contribution plans. For public employees, this must be done carefully, for they are not under the same structure as private employees. If state governments wish to promote defined contribution plans, they must DB-ize them for public employees, which would include raising the ECR, because defined benefit plans outperform defined contribution plans. The legislature is not looking at this time to enhance benefits of pension systems, but instead is focusing on efforts to reduce the unfunded liability to account for the vast shortfall in the systems. The Senate acknowledged this legislation would be very difficult to pass in this environment and stated that its best chance would have been immediately after the change in the vesting period and the increase in the multiplier. Also, according to an audit by Auditor General Jack Wagner, these benefits passed in 2001 might have to be revoked.

*Auditor General Jack Wagner released performance audits of the State Employee' Retirement System (SERS) and the Public School Employee's Retirement System (PSERS). The reviews found that "neither plan was fully funded at the end of last year". Assets for both pension funds declined from being more than 100% funded in 2002 "because of stock market losses and a 2001 decision by the General Assembly to increase employee retirement benefits while not addressing employer contributions". If action is not taken, the plans' current \$11 billion shortfall (with PSERS accounting for about \$9 billion of the shortfall) will begin to grow by 2012 when significant retirements are expected. The Auditor General recommends five steps the Governor and General Assembly should consider: 1) impose a moratorium on adding new retirement benefits until the pension funds' shortfalls are fixed; 2) return the vesting period to 10 years, from five years, for new hires; 3) identify other sources of revenue to help fund pension costs; 4) establish a rainy day fund that would make contributions to the pension funds during years of budget surpluses; and, 5) enact legislation that requires the Commonwealth to make annual contributions to SERS beyond 2007. The reviews also found that both funds are "managed effectively and professionally" and make some suggestions for improving administration. Copies of each audit are available at [www.auditorgen.state.pa.us/](http://www.auditorgen.state.pa.us/).*

APSCUF plans to re-introduce legislation similar to HB 870/SB 989 in the new biennium. For any new legislation to be considered, it must take into account the issues that were brought out in the HB 870 Committee meeting.

### **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) 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 has established a time-line of events to make COLA 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.

At this point, the retiree coalition will be meeting 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.

## 5) 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.

Senator Bob Regola, R-Westmoreland is prime sponsor of the Taxpayer Protection Act bill and constitutional amendment, said his proposal would limit state spending to the average inflation rate plus the average percentage change in state population over the three preceding years.

The Taxpayer Protection Act bill 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.

## Legislation Introduced

**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.***

## **Legislation Enacted**

Governor Rendell signed into law Act 148 (Senate Bill 592) which allows the Pennsylvania School Employees' Retirement System (PSERS) to keep some investment information confidential for certain periods of time. The bill took effect upon receiving the Governor's signature.

**Senate Bill 592, P.N. 2044 (Armstrong):** Amends Title 24 (Education) defining "alternative investment" as an investment in a private equity fund, private debt fund, venture fund, real estate fund, hedge fund or absolute return fund and defining "alternative investment vehicle" as a limited partnership, limited liability company or any other legal vehicle for authorized investments under Section 8521(I) (relating to management of fund and accounts) through which the system makes an alternative investment. The bill further provides that any record, material or data received by the Public School Employees Retirement Board or its employees, investment professionals or agents relating to an investment would not constitute a public record subject to public inspection under the Right to Know Law, if, in the reasonable judgment of the Board, the inspection would: in the case of an alternative investment or alternative investment vehicle, involve the release of sensitive investment or financial information relating to the investment or vehicle which the fund was able to obtain only upon agreeing to maintain its confidentiality; cause substantial competitive harm to the person from whom sensitive investment or financial information relating to the investment was received; or have a substantial detrimental impact on the value of an investment to acquired, held or disposed by the fund, or would cause a breach of the standard of care or fiduciary duty. The legislation also provides for when the sensitive investment or financial information would constitute a public record subject to public inspection under the Right to Know Law.

***Introduced and referred to Senate Finance April 4, 2005.***

*Passed in Senate 38 to 12 on October 17, 2006*

*Referred to House Appropriations October 23, 2006*

*Final Passage in House 195 to 0 October 24, 2006*

## **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**

## **MEETINGS**

The Pennsylvania House and Senate Appropriations Committees have announced their **FY 2007-2008 Budget Hearing** schedules. Education-related hearings will be held as follows:

### **Senate Budget Hearings**

Monday, February 26, 2007 - PA State System of Higher Education - 3:00 p.m.

Tuesday, February 27, 2007 - State-related Universities - 2:45 p.m.

Thursday, March 1, 2007 - Community Colleges - 1:15 p.m.

Monday, March 5, 2007 - Pennsylvania Department of Education - 1:15 p.m.

*\* All Senate Budget hearings will be held in Hearing Room 1 of the North Office Building*

### **House Budget Hearings**

Wednesday, February 21, 2007 - PA State System of Higher Education - 10:00 a.m.

Monday, February 26, 2007 - PA Higher Education Assistance Agency - 9:00 a.m.

Monday, February 26, 2007 - University of Pennsylvania - 10:30 a.m.

Tuesday, February 27, 2007 - State-related Universities - 9:00 a.m.

Thursday, March 1, 2007 - Pennsylvania Department of Education - 10:00 a.m.

Monday, March 5, 2007 - PA School Employees' Retirement System & PA State Employees' Retirement System - 9:00 a.m.

*\*All House Budget hearings will be held in Room 140, Main Capitol Building*

## **OTHER ANNOUNCEMENTS**

### **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.

## **Minimum wage**

The Minimum wage increase for Pennsylvania's minimum wage earners is coming on Jan. 1, 2007. The commonwealth's new minimum wage law, signed by Gov. Ed Rendell as Act 112 of 2006, will increase the current federal minimum wage of \$5.15 to \$6.25 an hour in January, then set it at \$7.15 an hour on July 1. The January increases will be the first increase to the state's minimum wage since 1988.

## **Reform**

Have a suggestion of reform for the Pennsylvania legislature? Two email addresses have been set up to receive comments from the public, [reform@pahouse.net](mailto:reform@pahouse.net) and [reform@speakerobrien.com](mailto:reform@speakerobrien.com), and so far the commission has received over 200 emails regarding rules changes alone. All the comments will be distributed to the members of the Speaker's Commission on Legislative Reform. Please use these emails if you would like to send in suggestions on legislative reform.