



# **Retired Public Employees Association, Inc.**

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Stanley Winter, President Michael B. Fitzgerald, Executive Director

**Testimony of Stanley Winter, President**

**Retired Public Employees Association, Inc.**

**Joint Public Hearing of the Senate Finance and  
Assembly Ways and Means Committees**

**2010-2011 Executive Budget Proposal**  
February 10, 2010



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Chairmen Kruger and Farrell. Members of the Senate Finance and Assembly Ways and Means Committees, fellow Public Servants and fellow taxpayers.

My name is Stanley Winter and as President of the over 40,000 members of the Retired Public Employees Association (RPEA), I am testifying today in strong opposition to the Executive Budget proposal that would make Medicare eligible retirees pay extra health insurance premiums.

In addition, I wish to comment on the proposal to establish an Employee Retirement System Board of Trustees.

RPEA is a not-for-profit membership corporation organized 40 years ago to promote and protect the interests of retired State and municipal employees. RPEA's members include retired State employees; retired employees of local governments; and retirees of New York State public authorities and their spouses. They are the retired nurses, office workers, labor and health inspectors, bus drivers, correction officers, engineers, janitors, snow plow operators and civil servants of countless job descriptions who make government work in this State. These public employees give a lifetime of public service and are promised secure retirement benefits in exchange for that public service.

A majority of RPEA's members (both retirees and spouses) participate in the New York State Health Insurance Plan (NYSHIP). These members must be enrolled in Medicare Parts A and B when eligible because Civil Service Law, §167-a permits the State to exclude from NYSHIP benefits, those Medicare benefits to which Medicare eligible retirees are entitled.

By excluding these Medicare benefits to retired public employees and their spouses, NYSHIP saves a substantial portion of health insurance coverage that it does not otherwise have to provide. NYSHIP saves millions of dollars by taking advantage of this overlapping federal coverage. Such retirees enrolled in Medicare Parts A and B retain NYSHIP limited benefits as secondary coverage only. Nevertheless, Medicare eligible retirees pay the same NYSHIP premiums as non-Medicare eligible participants and active employees. Yes, that's correct, they pay the same premium to NYSHIP, but they must accept most of their health care under the Medicare system!

Contrary to what one might read in media reports, these retirees are not getting a free ride.

Part B Medicare coverage requires the recipient to pay an additional separate monthly premium to the federal government. This monthly premium ranges from \$96.40 for a lower income individual, that's \$96.40 each for a retiree and spouse to \$353.60 for a higher income married couple. These Medicare enrollees, who are only secondarily covered with limited benefits by NYSHIP, are entitled to have the additional Medicare Part B premiums they pay reimbursed by their former employers under the provisions of Civil Service Law, §167-a. Since Medicare eligible retirees pay the same premiums for their NYSHIP health insurance coverage, paying premiums for overlapping Medicare coverage is clearly an additional cost for the privilege of receiving limited benefits.

No matter how the Executive Budget Proposal proposes to take the cost of these Medicare Part B premiums and "blend," "fold-in," "require contribution" or "chargeback" that cost to the entire cost of providing health benefits to retirees or to the entire pool of NYSHIP participants, the result will be to increase the NYSHIP premium cost to retirees. The bottom line is that retirees over the age of 65 would be paying an additional cost or "Tax" out of their fixed retirement income. Retirees of the Employees

Retirement System that average less than \$18,000 annually according to the latest Comprehensive Financial Annual Report for the Retirement System issued by the Comptroller---

These are NOT the very small percentage of retirees with \$100K plus pensions !!!

The actual language of the Article VII proposal is even more troubling. This amendment would allow almost any adjustment "as necessary" to retiree NYSHIP premium contributions to offset the Medicare Part B premium costs. As written, it would allow unfettered discretion by the administration to charge Part B premiums back to all retirees, Medicare eligible retirees or Medicare eligible active employees or all participants in the NYSHIP program! According to the memorandum in support of the bill language, it appears that the cost of the additional premiums would be shared by all. However, nothing in the proposed amendment would limit what could be adjusted "as necessary." In other words, the 10 or 25 % increases mentioned in some media reports could foreseeably become 100% AS NECESSARY. The Governor's Budget Message, describing this proposal, makes no reference to charging the cost to anyone other than Medicare eligibles.

The Governor's Budget Message also makes the statement that certain actions, including this Medicare premium tax, "...do not require union negotiation to reduce fringe benefit costs..." It appears that the administration is ready to implement this measure as soon as the language in Civil Service, §167-a is amended in this Budget cycle. It is a well established principle that retirees have no collective bargaining rights, and we must rely on you, the Legislature, to protect those already retired, especially our health insurance benefits. For at least eight continuous years, the Legislature has adopted legislation to protect the health care benefits of retirees from being diminished to a level below the benefits of active employees. We thank you and your colleagues for taking such actions. But, for every one of those eight straight years, Governors of both political parties have vetoed your legislation.

In the last veto message, Governor Paterson promised and did convene a Task Force on Public Retiree Health Care Insurance to develop ways to improve the access to and affordability of health care insurance to all public employee retirees. It should be noted at this point, only after being pushed into it by a Task Force proposed by your honorable bodies which he later vetoed. The proposed budget does not give that process a chance to work. I am a member of that Task Force as the only representative of retired public employees. Hopefully, the Task Force will recommend ways that the protection legislation can be written to make it a reality. At the very least, all retired public employees should receive the same health insurance protection as was permanently granted to retired employees of school districts as accomplished in the Tier V legislation signed into law in December.

Pending the work of the Governor's Task Force, RPEA's members are disappointed to learn that the Governor has now proposed this "Medicare Tax" on retired public servants over the age of 65 years. We are not surprised, however, because this is the third time that this proposal has been attempted.

It was first attempted in 2006 by administrative fiat. A decision of the Appellate Division firmly told the State that Civil Service Law, §167-a could not be overruled by administrative regulation as the Legislature clearly intended that Medicare premiums be fully reimbursed. Then, this proposal was placed in last year's Public Protection and Government Article VII bill and thankfully, was removed in final budget passage. On behalf of not just the membership of RPEA, but all Medicare enrollees who have earned their health insurance benefits in public service, please do not create the precedent that their health care costs are in double jeopardy!

RPEA also wishes to express its deep concern over the proposed Employee Retirement System Board of Trustees that the Governor included in his Ethics Reform Bill as part of the Executive Budget presentation. It creates a five member Board, appointed by an "independent ethics commission," to assume the fiduciary responsibility for the Common Retirement Funds, currently held by the State Comptroller. Although it not part of the State Budget submission, Attorney General Andrew Cuomo also has proposed the creation of a similar board to oversee the Retirement Fund. This idea is a recipe for disaster.

We agree with State Comptroller DiNapoli that an appointed board would create the risk that money could be diverted away from the needs of retirees. One might ask how a Board would create such a risk? We only have to look at the boards that run other retirement systems across the country with a similar make up of appointed members. An alarming number of these systems are seriously under funded and facing bankruptcy. A Wisconsin legislative study of 87 public retiree systems found that the New York State and Local Government System was fully funded and one of the most secure.

As an old adage says, "If it ain't broke, don't fix it."

Even in New York City, a Board run system, benefits have been put in jeopardy by underfunding. Why is this happening compared to the New York State retirement funds? Sure, bad investment decisions by these other systems may be a reason, as are a number of other local issues, but in many cases the answer is simple. Appointed boards have used these funds for their own agendas or to resolve large budget deficits and other fiscal issues.

One only needs to look to a pension system crisis in New Jersey where funds were diverted to other areas and to CALPERS, the California pension system and the largest in the country, where two Board members are under investigation for illegal activities related to pension fund investments.

State Comptroller DiNapoli has instituted strict measures to guard against pension system abuses that have been recently discovered. He has banned the use of "placement agents" and adopted increased reporting and transparency with respect to Retirement Fund investments. These reforms have been embodied in regulation. As sole fiduciary, RPEA members know that the State Comptroller, and not an amorphous board, is accountable to them for the security of their retirement benefits.

Thank you for allowing me the opportunity to present the views of RPEA's members in this testimony. We thank the members of the Legislature for safeguarding our pension and health benefits in the past and hope that you will continue to do so in this difficult budget year.

You are not only our last line of defense....you are our *only* line of defense.

Stanley Winter  
February 10, 2010