

Spending Cap Commission  
Wednesday, October 5, 2016  
Meeting Notes

**Attendees:**

Commission Co-Chairperson William Cibes, Commission Co-Chairperson Patricia Widlitz, Suzanne Bates (by telephone), Rep. Jeff Berger, Sen. Beth Bye, Sen. Steve Cassano, Rep. Christopher Davis, Tom Fiore, Sen. John Fonfara, Robert Frankel, Sen. Scott Frantz, Sen. Joan Hartley, Roberto Hunter, Sen. Rob Kane, Sen. Michael McLachlan, Lori Pelletier, Richard Porth, Ellen Shemitz, Bart Shuldman, Rep. Richard Smith, Rep. Jonathan Steinberg (by telephone), Ron Van Winkle, Rep. Toni Walker, Rep. Melissa Ziobron

**Staff:**

Susan Keane, Administrator

**Guests:**

Ben Barnes, Secretary, Office of Policy and Management

Josh Wojcik, Policy Director, Office of the State Comptroller

**Call to Order**

Chairperson Widlitz called the meeting to order at 11:07 am.

**Presentation by OPM Secretary Ben Barnes**

Secretary Barnes addressed the commission on issues related to the state's pension systems. (A copy of the Secretary Barnes' presentation is located on the commission's website.) Members discussed several issues with Secretary Barnes, including:

- rates of return on investments,
- discussions with SEBAC on pension system reforms
- considerations related to employee contributions toward pension costs
- the spending cap as a budgeting tool
- the treatment of federal funds and the implications on allowable cap growth,
- the treatment of other post-employment benefits
- expenditures shifted to bonding and whether they should be captured under the spending cap
- maintaining the current 2032 date for amortization of certain pension liabilities
- the treatment of the unfunded pension liabilities as evidences of indebtedness

## **Presentation by Josh Wojcik, Policy Director, Office of the State Comptroller**

Mr. Wojcik addressed the commission members on issues related to pension funding reform. (Mr. Wojcik's presentation can be found on the commission's website.)

Members discussed several issues with Mr. Wojcik, including:

- changes requiring negotiations between the state and SEBAC
- changes requiring actions by the retirement commissions
- the treatment of OPEB as a form of indebtedness
- investment return assumptions

## **Continued Discussion of General Budget Expenditures**

Chairperson Widlitz invited members to share their views on "other evidences of indebtedness".

Mr. Van Winkle stated that he would recommend and vote for including past service costs as an evidence of indebtedness. He remarked that the normal cost should remain under the spending cap.

Ms. Shemitz agreed with Mr. Van Winkle. She stated that there is consensus in the accounting/actuarial world that accrued unfunded liabilities need to be treated as debt. She added that the framing of the Constitutional amendment seems to dictate taking that approach.

Mr. Shuldman expressed his concern regarding the discussions related to the treatment of OPEB. He stated that while OPEB is a long-term liability, it is not classified as debt. He shared that he is worried that if the unfunded liabilities are considered evidences of indebtedness, OPEB may be treated similarly in the future. In addition, he stated that he would support a phase-in of payments on the unfunded liabilities so as not to have a dramatic effect on the spending cap.

Rep. Ziobron stated that she is intrigued with the proposal regarding a phase-in/graduated scale in order to get a handle on payments on the unfunded liabilities so as to lessen the adverse effect on funding core services. Further, she stated that she is opposed to the unfunded liabilities being outside the spending cap.

Chairperson Cibes reiterated his past comment that commission members believe that pension obligations need to be paid. He remarked that the question is how to best guarantee that they will be paid. He commented that since the 1995 agreement with SEBAC, wherein the means of amortization was changed from a level dollar amount to a level percentage of payroll, there has been continued difficulty in funding both the pension obligations and other expenditures of state government under the spending cap. Further, he stated that when the pension obligations are under the spending cap, there are many other spending pressures, and the pension obligations get "short shrift". He expressed the view that the unfunded liabilities will most likely continue to be budgeted and paid if they are not under the spending cap.

Chairperson Cibes then remarked that there is an effective limit on what can be paid for state expenditures, which is the amount of revenue that is available. In recent years, and now, it has been the primary restraint on spending. He shared that the balanced budget requirement of the amendment to the Constitution is now the primary limit on spending, not the spending cap.

Regarding a method of paying off the past service liabilities, Chairperson Cibes stated that the Governor, legislature and SEBAC need to agree on a method that will make such payments tolerable within the budget. He stated that the spending cap commission should not tie the hands of the parties in trying to work out a method. Further, he stated that putting the past service liabilities under the cap would make it nearly impossible for the parties to develop a solution.

In speaking to the suggestion of a phase-in of payments on the unfunded liabilities, Chairperson Cibes remarked that the issue would be best left to the negotiation process between the administration and SEBAC, rather than the commission trying to integrate a process into a definition of what comes under the spending cap. He suggested that the commission recognize the past service liability as a form of debt, as it is recognized by Moody's. Chairperson Cibes stated that he supports Mr. Van Winkle's recommendation. With regard to OPEB, Chairperson Cibes remarked that he does not believe the state is at a stage where it needs to consider how to treat OPEB. He offered that as long as OPEB is under the spending cap, there is pressure for policymakers to deal with it and not turn it into a long-term obligation. He stated he would not support taking OPEB outside the spending cap.

Mr. Hunter commented that he thinks the treatment of the unfunded liabilities is a grey area. He discussed the consequences that have occurred as a result of agreements made in the past. He spoke of the expectations voters had in the spending cap providing fiscal discipline. He stated that the commission needs to make a clear recommendation regarding the treatment of unfunded liabilities. While he sees that some could consider the unfunded liabilities to be debt, he believes that they should be under the spending cap to fulfill the covenant made with the voters. Mr. Hunter suggested that flexibility could be built into the language to mitigate the crowding out of other expenditures. He offered as an example language that would state that budget expenditures shall specifically include expenditures for unfunded pension obligations, but suggested that some kind of limitations be included that would insulate the balance of the budget from being impacted for a period of years or for a certain level. He shared his opinion that in the end it will be beyond the commission to give a definition of budget expenditures; however, he believes the commission can make recommendations on how the definition might be crafted that would enable the definition to get the state back on a path of fiscal discipline.

Ms. Shemitz discussed the definition of debt, offering the view that debt is considered an obligation that is incurred because expenses are not paid on a real time basis. She remarked that she does not see that the failure to pay the pension obligations in real time prevents it from going from a present obligation to a debt. Further, she commented that

the treatment of the unfunded liabilities as debt is consistent with any other long-term obligation.

Ms. Shemitz and Mr. Hunter discussed the current spending cap language and further discussed the treatment of debt.

Sen. McLachlan spoke to the challenges involved in the commission's process. He shared that the legislative members of the panel understand the long process that lies ahead in getting legislation passed. He expressed his concern that while he supports the good intentions and the suggested restrictions suggested by fellow commission members, those recommendations would not have the support of a super majority of legislators in each chamber. Sen. McLachlan suggested that the commission consider an alternative option that all previous, unfunded pension obligations be outside the spending and that the current costs must be under the spending cap. He remarked that while he does not like the idea of the exception, he thinks it could be the "best case scenario" for passage in the legislature.

Chairperson Cibes confirmed that he shared Sen. McLachlan's position.

Mr. Van Winkle thanked Sen. McLachlan for his recommendation, as he, too, would like to see the commission issue a recommendation that can win passage. He suggested that perhaps the commission should recommend that past services costs be the only form of indebtedness excluded from the cap. He stated his support for keeping the normal costs under the spending cap. In addition, he stated the need for specific language that makes the commission's intent clear.

Mr. Shuldman stated that he is not concerned with getting a super majority in the legislature. He stated his opinion that the commission should say what it truly believes should be done by the state to fix its financial situation. Further, he remarked that from 1991 to 2015 the pension costs were under the spending cap and everyone understood that to be so. He expressed his disappointment with Sen. McLachlan's proposal.

Sen. McLachlan replied that he supports Mr. Shuldman's views. He explained that he offered the proposal in order to give commission members a pragmatic point of view regarding the legislative process and dynamics.

Chairperson Widlitz reminded members that the Attorney General has ruled that without definitions for the Constitutional amendment, the state has no spending cap in effect. She stated her support for Sen. McLachlan's suggestion, and agreed that it could provide the compromise needed to get legislative approval. In addition, she spoke to the enormity of the pension liabilities and their impact on funding critical services. Further, she stated that putting the unfunded liabilities outside the spending cap will allow for flexibility to pay down the liabilities at a higher rate during better economic times.

Ms. Pelletier spoke to the challenges of getting legislation passed. She agreed with

Sen. McLachlan's suggestion. In addition, she remarked that pension obligations should not be put up against vital state services.

Ms. Shemitz thanked Sen. McLachlan and stated that she found his proposal to be a reasonable way to move forward.

Mr. Porth stated that he found Sen. McLachlan's proposal to be a recommendation that can work. He remarked that he believes the proposal can be implemented over time in a way that does not break the social contract.

Mr. Shuldman restated his support for keeping pension obligations under the spending cap.

In response to Mr. Hunter's request for clarification of the proposal, Sen. McLachlan stated that he was making a pragmatic, political observation, and was not tying his suggestion to any current statutory language. He stated that while he believes that the commission should stay as close to the current Constitutional amendment language as possible, he does not think that will pass.

Ms. Shemitz sought clarification from Sen. McLachlan regarding his proposal. She stated that it was her understanding that while it was Sen. McLachlan's preference to include all accrued unfunded liabilities that exist now or are incurred later, he would recommend to exclude the accrued unfunded liability that exist as of this date and include any liabilities incurred due to failure to pay future current costs.

Sen. McLachlan stated that he believes that approach would be the ultimate product that could win legislative approval.

Chairperson Widlitz suggested that members bring recommendations/proposals to the next meeting in writing for review and discussion. She added that she and Chairperson Cibes will meet to draft a proposal that they believe encompasses what has been discussed at this meeting.

### **Discussion of Aid to Distressed Municipalities**

Ms. Shemitz spoke of her concerns regarding the lack of definition for how the calculations regarding distressed municipalities are currently made, and that it appears that the process puts a number over the intent. She remarked that a definition should be developed on a real time basis each year of each biennium. She believes that sticking to a number is not consistent with the intent of protecting the state's ability to invest in distressed municipalities. Ms. Shemitz spoke of the importance of making investments in the long-term well-being of children and families in distressed communities. She expressed the hope that, should the commission determine that aid to distressed municipalities continue to be an exclusion, that a recommendation be made regarding a definition of what is deemed to be distressed. She offered that she has a number of ideas on how to do that.

Chairperson Cibes remarked that the statutory language regarding aid to distressed municipalities is tied to grants that were in place in 1991. He shared that he does not think that current issues should be tied to 1991, as some of those grants no longer exist or are out of date, and other grants have been developed that have been contorted or distorted in such a way as to provide money to distressed municipalities. He stated that he does not think the exclusion should be limited to those grants that were in place in 1991.

With respect to the definition of distressed municipality, he stated that he would not favor such a definition being in the spending cap. He believes the definition is a matter for the legislature to redefine.

Chairperson Cibes then discussed the property tax and its impact on distressed municipalities. He remarked that the legislature should be looking at ways to ameliorate the regressiveness of the property tax, as well as ways to eliminate the gross differences in property taxes throughout the state. Further, he stated that the legislature ought to be looking at new ways to define assistance to distressed municipalities that respond to current conditions. He pointed to the study done by the New England Public Policy Center, in conjunction with the Program Review and Investigations Committee, that showed the gap between the capacity of towns to fund their non-educational spending and the objective factors that create a need to fund those costs. He stated that the legislature needs to take those things into consideration as they define aid to distressed municipalities in the future.

Chairperson Cibes offered the following recommendations: 1) eliminate the language that refers to grants in place in 1991, and 2) continue to exempt aid to distressed municipalities. He added that the commission should recognize that the definition of a distressed municipality should remain as statutory language within the purview of the legislature.

Mr. Shuldman expressed his opposition to Chairperson Cibes' recommendations. He spoke of his objection to people living in towns that have taken care of their finances being asked to pay for the mismanagement of finances in other communities. He stated that if aid to distressed municipalities is not currently in the Constitutional amendment, he does not think it is up to the commission to rewrite the language of the Constitutional amendment.

Mr. Fiore reminded members that distressed municipalities are determined by statute and that the list is compiled and updated annually by the Department of Economic and Community Development.

Ms. Pelletier stated that she disagreed with Mr. Shuldman's position. She spoke of the need for recognition that all towns in the state are interconnected.

Mr. Van Winkle spoke of the need for a tight definition of distressed municipalities.

**Next Meeting Date**

Chairperson Widlitz announced that the next public hearing would be held on Thursday, October 13 from 4 to 7 pm in the City Council Chambers at Bridgeport City Hall. She announced that the next commission meeting will be held on Monday, October 17.

**Adjournment**

Seeing no further discussion, Chairperson Widlitz adjourned the meeting at 3:36 pm.

Respectfully submitted,

Susan Keane