

NEW YORK'S DOUBLE STANDARD

How public employee pay and benefits have outpaced the private sector—and unique state laws are widening the gap

A report from Unshackle Upstate

Higher salaries, richer benefits, plus a legal guarantee to keep both going up.

In New York, "good enough for government work" equals a formula that is financially unsustainable.

For much of the 20th century, public employees and the taxpayers who provide their salaries had a general understanding. Government jobs paid a little less than those in the private sector. But, recognizing the importance of public employees' work—as teachers, police officers, firefighters and providers of other services—their fringe benefits would be a little better.

In the 21st century, that rule of thumb no longer applies, to the advantage of public employees.

- **Nationally, state and local employees on average make 133 percent of the pay of private-sector workers.¹**
- **Fringe benefits remain far more generous for state and local workers, at 168 percent of the private sector average nationally.**

Recently, public employees in many states—including Connecticut, Florida, Massachusetts, Nevada, Ohio and Oregon—have accepted pay or benefit reductions, helping taxpayers to cope with the worst economic downturn in 80 years. These unionized workers, like many of their counterparts in private industry, have negotiated to support the financial survival of their employers in challenging times.

No contract? No problem!

In New York, however, public employees have less incentive to face economic reality. Two laws unique to our state—the Taylor Law and the Triborough Amendment—guarantee public employees that their pay and benefits will increase without interruption, even if their contracts have expired. Since there's no cost to employees for working without a contract—except the chance at a better deal—there's little incentive to negotiate.

In addition, they are protected by an unwritten law of state politics. The issue of public employee compensation is a third rail, deadly to elected officials who dare touch it. That remains true even though the state is facing a financial crisis, and employee compensation represents well over two-thirds of all government spending.

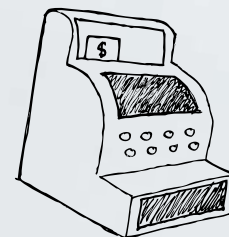
This report examines the disparities and suggests simple changes that would reduce the double standard—by fixing the Taylor Law to bring New York in line with other states, and providing retirement benefits to new employees that more closely match the private sector.

If we fail to make these changes, the guarantee of rising compensation for public employees becomes a guarantee that New Yorkers—who already pay the highest state and local taxes in the nation—will keep paying more.

Benefits by the numbers

408 DAYS

Potential paid time off for police officers in Harrison, New York (up to 365 sick days in one year, plus vacation and holidays)

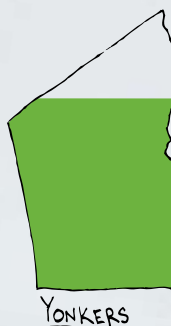


\$486

Cost per every state resident of public employee pensions in 2007—highest in the nation

\$12,500

Annual contribution to health insurance for teachers in Buffalo, a district like many in New York that pays 100 percent of family coverage.



73%

Portion of the Yonkers city services budget used to pay employee salaries and benefits

1

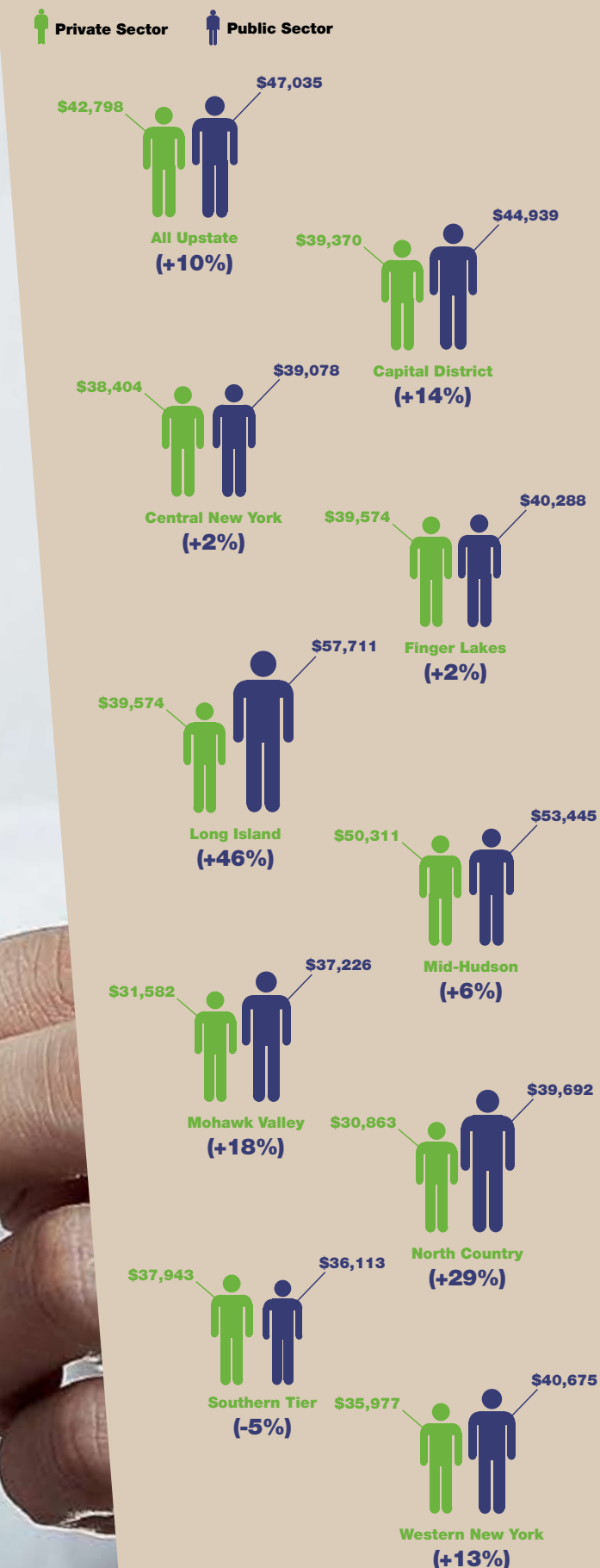
Number of states that pay higher government wages and salaries per capita. New York is 44 percent higher than the average of the other 49 states, and is second only to Alaska.³



Zero

Number of states besides New York that legally require public employers to continue paying wage and benefit increases in the absence of a contract.

Higher salaries than the private sector⁴
Across Upstate New York, salaries for state and local government employees are 10 percent higher than the private-sector average. Unlike the BLS data cited earlier, this chart compares only full-time employees.



¹ "Employer Costs for Employee Compensation" News Release, Bureau of Labor Statistics, March 12, 2009

² News clips available on www.unshackleupstate.org

³ "Government Efficiency: The Case for Local Control," Association of Towns of the State of New York, May 2008.

⁴ Data from the Quarterly Census of Employment and Wages (private sector) and American Community Survey (public sector).

Analysis first completed by the Empire Center for New York State Policy in 2006. Updated by the Center for Governmental Research with 2007 data.

Double-standard benefits

As workers in the private sector pay more for their health care and retirement, benefits for public employees keep getting richer.

The pay difference between private and public employees has been fairly constant for the past seven years. The benefit gap has been widening, as private-sector employees shoulder more of their health-care and retirement expenses. From 2002–2008, state and local employees have received \$1.17 in new benefits for every \$1 an hour pay increase, compared to 58 cents for private-sector workers.⁵

Less-generous health benefits could save hundreds of millions

For example, the average 2008 contribution by private employers toward health insurance premiums nationally was between 71 percent (toward a family plan) and 81 percent (toward individual coverage).⁶ The employer contribution is a little lower in Upstate New York. A recent survey of Rochester-area employers reported average health-plan contributions of 67 percent (family) and 75 percent (individual).⁷

New York taxpayers are much more generous in funding health care for public employees. Consider Monroe County—a microcosm of Upstate which includes the city of Rochester, as well as suburban towns and rural villages. A review of the 94 union contracts covering local-government and school employees found the following:⁸

- School districts pay 92 percent of employee health premiums on average.
- Local governments pay 91 percent on average, with several towns paying 100 percent.
- Every school district and all towns but one (Sweden) exceeds the national average for employer health contributions.

Monroe County taxpayers would save more than \$40 million annually if schools and local governments matched the national average of employer contributions. Across the 57 counties of Upstate New York, the projected savings would be measured in the hundreds of millions of dollars each year.

The problem with pensions: New York can't afford them

In 2008, just 20 percent of all private-sector workers had a traditional defined-benefit pension, where the employer guarantees retirement income.⁹ For the first time, the majority of Fortune 100 companies this year are offering new salaried employees only one retirement option—a 401(k) or similar defined-contribution plan, where the employee assumes the risk of investment.¹⁰

In New York, traditional pensions remain the norm for virtually all public employees. Teachers and other public employees can retire as early as age 55, with a guaranteed income of at least 60 percent of their final average salaries. Our state leads the nation in per capita contributions to public employee retirement, and was one of a handful of states to reduce employee contributions in the past decade, when the stock market was performing well.¹¹

Pensions place a crushing burden on taxpayers, especially as investment income drops. Contributions by every level of government have increased tenfold in the past decade, from \$991 million in 2000 to \$10.1 billion in 2009.¹² A July 2009 analysis from the state comptroller predicted that local governments outside New York City will be forced to triple their contributions to public pensions over the next six years.¹³

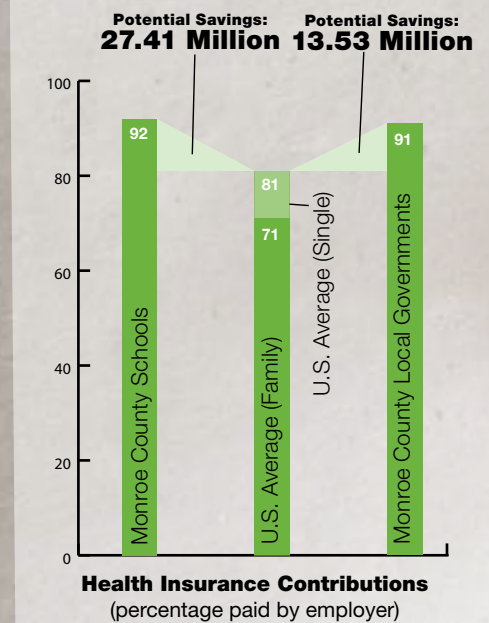
The trouble with time off: Higher payouts to more personnel

An average 10-year employee in the private sector receives about 39 days of paid time off per year—18 vacation days, 9 sick days, 9 holidays, and 3 personal days.¹⁴ Public employees receive more. The Monroe County analysis found that all 94 union contracts exceeded these standards, with median time-off allocations ranging 20 to 60 percent higher.

All employees need time off to maintain their personal well-being and job satisfaction. For employers, however, paid time off creates two kinds of liability. From a workforce perspective, they need a larger staff to ensure coverage. Financially, in many cases, they must be prepared to pay employees for the value of unused time off when the employee leaves or retires.

Overly healthy benefits

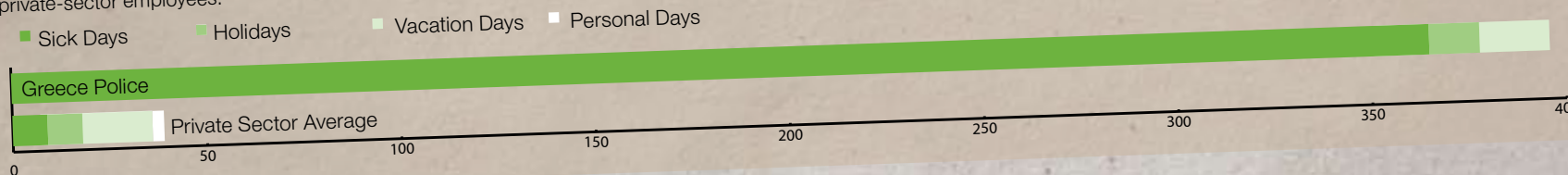
If health insurance contributions for public employees matched national averages, Monroe County alone would save more than \$40 million annually.



Blue flu turns green:

Police in Greece get 365 sick days

Some public employees receive so much time off that they can be paid well over a year for not working. In Greece, New York, for example, police officers and managers are eligible for 183 days of paid sick leave from their first day on the job, and 365 days after five years. Combined with 18 vacation days and 13 holidays, this creates a time-off bank more than 10 times the average for private-sector employees.



Rich pensions = poor taxpayers

Per capita contributions to public employee retirement systems for 2006-07.¹⁵

1. New York \$486
2. Alaska \$467
3. Rhode Island \$416
4. Nevada \$410
5. California \$381



⁵ "Employer Costs for Employee Compensation" News Release, Bureau of Labor Statistics, March 12, 2009

⁶ "Employer Benefits in the United States," March 2008, Bureau of Labor Statistics

⁷ Health Benefits Survey, Rochester Business Alliance, 2008, www.rochesterbusinessalliance.com

⁸ "Public vs. Private Sector Employee Benefits: A Summary Analysis of School and Local Government Union Contracts in Monroe County," Center for Governmental Research, May 2009, www.unshackleupstate.org or www.cgr.org

⁹ "Program Perspectives on Retirement Benefits," Bureau of Labor Statistics, March 2009, http://www.bls.gov

¹⁰ Watson Wyatt survey quoted in "Company pensions are out on a limb," USA Today, May 22, 2009

¹¹ U.S. Census data reported in "Weight of public pensions growing," Rochester Democrat and Chronicle, Jan. 25, 2009

¹² "The pension bomb goes boom," Empire Center for State Policy, July 8, 2009

¹³ State comptroller's analysis reported in "Pension costs for local governments may triple," The New York Times, July 8, 2009

¹⁴ "Employers' Time-off and Disability Programs," 2004 Survey Report, Marsh Mercer Human Resource Consulting

¹⁵ U.S. Census data reported in "Weight of public pensions growing," Rochester Democrat and Chronicle, Jan. 25, 2009

Why negotiate?

New York laws maintain pay and benefit increases for public employees, with or without a contract.

New York governments have the right to negotiate pay and benefits as part of union contracts. But two unique laws give the unions little motivation to compromise.

- **The Taylor Law, first enacted in 1967, makes the entire compensation package—including fringe benefits—“mandatorily negotiable,” which means that benefits are not subject to change unless both sides agree.**
- **The Triborough Amendment, adopted in 1982, preserves all terms and conditions after a contract expires—including all benefits and annual step increases to salaries—even if the employees refuse to negotiate.**

Most public employees receive step pay increases based on seniority, along with cost-of-living adjustments. Teacher salary schedules typically include 20 to 30 pay steps on each of at least four “lanes” for teachers with bachelor’s degrees, master’s degrees, master’s plus 30 graduate course credits, and master’s plus 60 credits.¹⁶ In theory, a beginning teacher could have a 30-year career, enjoying annual pay increases, without ever having an approved contract.

The intent of Taylor and Triborough was to ensure that members of public employee unions—who aren’t allowed to go on strike—are protected against unfair employer leverage in negotiations. In practice, they insulate New York employees from the market forces affecting private-sector compensation, as well as public-sector employees in other states. Here public employees have a legal guarantee—it makes the status quo a floor for collective bargaining, with nowhere for pay and benefits to go but up.

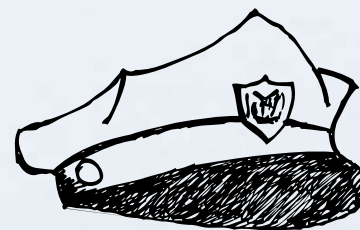


What the buttons don't say: Raises and benefits are intact

It's not uncommon in New York State to see schoolteachers work for months or even years without ratifying a new contract. Most people are likely to assume that their pay and benefits are frozen until they settle on new terms with school administrators.

Thanks to the unique protections of the Taylor Law and Triborough Amendment, however, teachers and other public employees make out just fine with or without a contract. In typical district on Long Island,¹⁶ teachers with a master's degree earn \$72,491 in their 10th year on the job. In the 11th year, their pay is \$75,171—a 3.7 percent increase—even if they fail to ratify a contract. Increases in health insurance coverage, pensions and time off also continue indefinitely under terms of the previous contract, which gives school administrators little leverage in negotiations.

Public employees deserve the fairest compensation we can afford



Public employees teach our children, protect us from crime or fire and provide dozens of essential government services. Most work hard, many in dangerous jobs. They deserve to be fairly compensated for that work.

The problem illustrated in this report is that “fairness,” as defined decades ago by the Taylor Law and Triborough Amendment, creates a double standard.

In the real world, economic forces have changed the level of benefits that employees expect to receive. Pensions have largely been replaced by defined-contribution plans to help businesses compete. Employers pay a lower percentage of health insurance premiums, or sponsor different plans, to cope with rising costs. Pay increases may be deferred during an economic downturn.

These real-world changes affect managers and workers, union and non-union. They affect public employees in other states.

But in New York State alone, the law essentially guarantees that pay and benefits will only go up. In hard economic times, public employees can simply not negotiate and keep the increases of their current contracts in place.

Two changes could eliminate the double standard and help to save state finances.

1. Fix the Taylor Law and Triborough Amendment by freezing salary and benefit levels to the last in-contract year for public employees. This is standard practice in other states and other union contracts. It holds employers (taxpayers) harmless from cost increases outside of newly negotiated contracts, while maintaining benefits in the original spirit of the Triborough Amendment.

2. Create a new Tier 5 in the retirement system for newly hired employees, shifting from a defined-benefit pension to a defined-contribution approach. This would match the national shift in retirement planning, while maintaining the public’s commitment to workers under the current system.

Legally, these changes are relatively simple. Politically, they are difficult. State leaders will have to take on the powerful public-employee unions who benefit most from the current system.

Financially, they are essential. The state faces annual budget deficits of many billions of dollars each year. Virtually every Upstate community is also hurting financially. Since labor costs account for roughly 75 percent of government spending, the choice becomes clear.

Change the double standard that protects public-employee benefits we can no longer afford. Or consign our state and local governments to economic collapse.



*New York's Double Standard:
Time to End It!*

State lawmakers won't change the double standard until New Yorkers demand it, in numbers that make them pay attention. For a quick and easy way to make your voice heard, go to UnshackleUpstate.com and click on Send a Message to Albany.

About Unshackle Upstate

Unshackle Upstate is a bipartisan coalition of over 70 business and trade organizations representing upwards of 45,000 companies and employing more than 1 million people. We hail from across Upstate New York with one goal: To achieve reforms in Albany that make Upstate a stronger place to do business.

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