

Democracy Rising PA

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The Pay Raise of 2005 – a Continuing Scandal

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Tomorrow, July 7, marks the fifth anniversary of the Pay Raise of 2005, a date which will live in political infamy.

I have to confess that I don't know where I live any more. Republicans are increasing taxes. Democrats are cutting programs.

But that's because neither party really stands for much that benefits the citizens of PA. Republicans and Democrats alike stand for expanding the size and cost of government with not one but two new and completely unnecessary agencies of the bureaucracy. Democrats and Republicans alike stand for unbridled self-indulgence and their own expanding waste-lines while telling those who pay their salaries to suck it in and do without.

And as they undermine the foundations of families and communities everywhere, they feather their own nests with WAMs in excess of \$120 million and capital projects in the hundreds of millions, not out of stimulus envy but as re-election insurance at taxpayer expense, a practice for which some of their colleagues are now in jail.

This commemoration of the Pay Raise of 2005 compels me to recall the seven ways in which the pay raise was scandalous.

1. The Pay Raise of 2005 literally was an act of theft. Lawmakers, judges and the governor took our money for themselves without our knowledge or consent. That's a classic definition of theft.
2. The pay raise was negotiated secretly by the leaders of all three branches of government for a year before its enactment. This was quite a feat, especially since during that year the Supreme Court held secret regional meetings with local judges and district justices updating them on their progress. Ask your local judge or DJ about these meetings. See what they're willing to tell you, and think about whether their continued silence amounts to a continuing cover-up.

3. The lack of public notice violated the Constitution's requirement that citizens have the right to know what their legislature is contemplating in time to support it or oppose it. Yet not one word, literally, of the Pay Raise of 2005 was considered on three different days in either the House or Senate. The legislation itself was unavailable to citizens before its passage since this theft, like so many others, occurred at 2:00 a.m.
4. The pay raise also violated the original purpose rule (Article III, Section 1), which prohibits a bill from being amended to change its original purpose. Not one word of the original purpose of the bill survived. In consumer law this is called bait and switch. It is illegal. But thanks to our state Supreme Court, a bunch of unindicted co-conspirators if there ever were any, bait and switch is legally alive in our General Assembly.
5. Speaking of our truly awful Supreme Court, its ruling on the lawsuit against the Pay Raise of 2005 is one of the worst in American jurisprudential history. After casing the public treasury in secret for so long, the court couldn't force itself to obey the Constitution, give back the money, and try to get a raise the honest way. Instead, its ruling marked only the second time in American history that a court refused to honor a clause in the law that required it to find all of the law unconstitutional if it found any part of it to be unconstitutional. The court's opinion even misrepresented the truth, citing a law review article in support of its decision when the article said exactly the opposite of what the court claimed.
6. The Pay Raise of 2005 tied state officials' salaries to those of their federal counterparts. This deprived PA citizens of the right to decide what to pay their own public officials.
7. Historians who want to examine the debate about the Pay Raise of 2005 will find no debate or even discussion on the official record of the House or Senate journals. Once the deal was done, both those who voted for it and those who voted against it filed into their respective chambers and voted in silence. No thief or accomplice wants to leave fingerprints, and there are none.

Ironically, had lawmakers taken the advice of integrity advocates five years ago, they would be one year away at most from their second pay raise since 2005. The advice was to create an independent commission to recommend salaries for public officials, subject to an up-or-down vote by lawmakers without amendment. The commission would recommend new salary levels for one branch each year, meaning that salaries would never be more than three years behind what a free market would provide.

Most recently the process of adopting the budget simply undid everything incumbents bragged about doing in 2007. There was nothing transparent about it. It required suspending rules that were intended to make the process accountable. And it's fundamentally dishonest, relying on revenue that can only be accurately described as fictitious.

I fully expect people to ask, "What did the past five years really accomplish? And why should we think the next five years will be any better?"

The most important improvement of the past five years has nothing to do with the legislature but with the citizens. When you look at public opinion, the idea of a Constitution convention has taken hold. Five years ago, fewer than one-fourth of citizens thought it was necessary. Today, more than three-fourths do. And then there's the 28th Statewide Investigating Grand Jury. All of this speaks volumes, but it still hasn't spoken loudly enough for incumbents to hear.

That brings us to hope for the future. Citizens need a megaphone, and the only one loud enough to do the job is the governor. But a strong voice begins with good posture, and it's not yet clear that either candidate is interested in finding the gubernatorial backbone that the past few governors have misplaced when dealing with the legislature.

While only time will truly tell, we will continue to push an integrity agenda. Today we're sending our gubernatorial questionnaire to Tom Corbett and Dan Onorato. It asks a dozen questions in three categories: the grand jury's recommendations, WAMs and the legislature's \$180 million – soon to be more than \$200 million – surplus.

Perhaps the most important question is whether either or both candidates will declare now their intention to call a Special Session on Public Integrity on their first day as governor. This simple act would put the legislature on notice, perhaps prompting them to do something of value before the new governor arrives. In any event, it is a promise that is useful because every citizen can hold the new governor accountable for keeping it. Either he does it, or not.

Without a Constitution convention in PA, our future as citizens is not our own. We have become a people of the government, by the government and for the government. Until integrity is welcome in this building, those who work here will remind us regularly how little they really care about democracy, honesty, common decency and the people whose money makes their lives so comfortable.

We citizens still have the power to change all this. The question, as always, is whether we will.