

NJAC LEGISLATIVE UPDATE

Board of Directors Meeting

March 12, 2010

The Board of Directors should be prepared to discuss the following matters:

1. SENATE, NOS. 2, 3, & 4 (*Scutari D-1/O'Toole R-4/Whelan D-2/Doherty R-23/Buono D-18*), which reform the State's public employee and health benefits systems; and SENATE CONCURRENT RESOLUTION, NO. 1 (*Sweeney D-3/Kean R-21*), which amends the State Constitution to require contributions by the State and its political subdivisions to the State-administered pension systems;
2. ASSEMBLY, NO 2115 (*Moriarty D-4*), which prohibits employees of certain organizations, such as NJAC, from enrolling in State-administered retirement systems or health-care plans; and
3. The State's FY 2011 budget and its impact on county governments. Governor Chris Christie will give his first budget address on March 16, 2011 at which time we'll have a much clearer picture of the role county governments must play moving forward.

1. PENSION REFORM BILLS

On February 22, 2010 the Senate unanimously passed SENATE, NOS. 2, 3, & 4 by a vote of 36-0; and referred the package to the Assembly Appropriations Committee for consideration. The Committee held the package for discussion purposes only on March 4, 2010, but took no further action. *The Committee may consider the matter on March 11, 2010*, but faces significant opposition from the New Jersey Education Association (NJEA), the Police Benevolent Association (PBA), the Communications Workers Association (CWA), and other like organizations. The New Jersey Business and Industry Association (BIA), the New Jersey State Chamber of Commerce (NJSCC), the New Jersey State League of Municipalities (NJSLM), and the New Jersey School Boards Association (NJSBA) support the legislation in general.

On March 1, 2010, the Senate State Government Committee, Wagering, Tourism and Historic Preservation Committee held a public hearing to discuss SCR-1, but took no further action. The General Assembly has yet to take up the matter. In general, the unions collectively oppose the measure as it does not require the State to fully fund the pension systems until 2017 – *see below for details*. However, the various business trade associations support the measure in concept as much needed pension reform. The NJSM has not taken a position at this time as property taxes would likely skyrocket if local governments were required to make 100% of its pension contributions. However, making such contributions is the fiscally prudent course of action.

SENATE, NO. 2 (*Scutari D-22/O'Toole R-40*) makes various changes to the pension system by implementing several recommendations of the Joint Legislative Committee on Public Employee Benefits Reform set forth in its final report dated December 1, 2006. In summary, this legislation:

Sections 1-7:

These sections shift the basis for membership in the Teachers' Pension and Annuity Fund (TPAF) and the PERS from the amount of compensation to the number of hours worked weekly. After the bill's effective date, any person in public employment for which the hours of work are fixed at fewer than 35 per week for State employees, or 32 per week for political subdivision employees, is ineligible to become a new member of PERS and at fewer than 32 hours per week is ineligible to become a new member of TPAF. When determining eligibility, hours during which a person does not work due to the person's participation in a voluntary or mandatory furlough program will not be deducted in determining if a person's hours of work are fixed at fewer than 35 or 32 per week, as appropriate, for the purpose of eligibility.

Persons ineligible for TPAF or PERS because the hours of work are fewer than required for PERS or TPAF membership may be eligible for enrollment in the Defined Contribution Retirement Program (DCRP), whose membership compensation threshold the bill increases to \$5,000 from \$1,500

Sections 8-13:

In 2001, legislation enhanced the PERS and TPAF benefits for members and retirees by 9 percent with a change of the multiplier from 1/60 to 1/55. Veterans and disability benefits were similarly enhanced. These sections return the multiplier for PERS and TPAF members to 1/60 and the other benefits to their pre-2001 level for persons who become members of PERS or TPAF after the bill is enacted, except that it would not apply to veterans and disability benefits.

Sections 7, 14-19, and 22-23:

These sections impose a maximum compensation upon which contributions will be made for PFRS and State Police Retirement System (SPRS) purposes for police officers, firefighters, and State Police officers who become members of those systems on or after the bill's effective date. The maximum amount will be the amount of base salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the federal Insurance Contributions Act. For 2010, that amount is \$106,800. Under the bill, a new member for whom this annual maximum will be reached in any year will become a participant of the DCRP with regard to the remaining compensation, unless the member irrevocably elects to waive the participation. For the amount of compensation over the maximum compensation, 5.5 percent will be deducted as a contribution for the purposes of the DCRP. When a PFRS or SPRS member also becomes a participant in the DCRP, the life insurance and disability benefit provisions of that program will be available for that participant.

Sections 20-23:

These sections change the definition of compensation to be used to calculate retirement benefits for members of the PERS, TPAF, PFRS, and SPRS, who become members after the bill's effective date, as well as to calculate, in certain cases, pension benefits for surviving family members, when available, and death benefit payments to beneficiaries.

The bill provides that a member of the TPAF or PERS who is enrolled in the retirement system after the enactment date, would have the member's retirement allowance calculated using the average annual compensation for the last five years of service, or for any five fiscal years of membership providing the largest possible benefit to the member or the member's beneficiary. A member enrolled in the systems before the effective date would continue to have the member's allowance calculated in the manner provided by existing law using the average annual compensation for the last three years of service or for any three fiscal years of membership providing the largest possible benefit to the member or the member's beneficiary.

The bill also changes the provisions of the PFRS and SPRS to provide that a member who is enrolled in one of these retirement systems after the effective date would have the member's retirement allowance calculated using the average annual compensation received by the member during any three fiscal years of membership providing the largest possible benefit. A member of the system before the effective date would continue to have the member's allowance calculated in the manner provided by existing law using the compensation in the final year of service.

The bill would affect the calculation of a family member's pension benefit, when such a benefit is available, and the amount of a death benefit to a beneficiary whenever current law provides for the use of final compensation or final salary, as those terms are redefined by the bill, for the purpose of that calculation. In some instances, the current law provides that the calculations for benefits be based on the compensation or salary received in the last year of service or at the time of death; in these instances, there would be no change as a result of this bill.

Sections 24-28:

For the purposes of the PERS and the TPAF, these sections provide that a person would be eligible for membership in the retirement system based upon only one position and requires the retirement system to designate the position providing the higher or highest compensation for the person with such concurrent positions as the basis for eligibility for membership and the compensation base for contributions and pensions calculations. A member who leaves a designated position or acquires a different or additional position will receive a new designation by the retirement system, if appropriate. These provisions will not apply to a person who, on the effective date of the bill, is a member of the retirement system and holds more than one office, position, or employment covered by the retirement system with one or more employers, while the member continues to hold without a break in service more than one of those offices, positions, or employment. Under the bill, contributions would be deducted only from the member's

compensation for the position designated, and for the purpose of calculating the member's retirement benefit, only that compensation would be considered. Service in a position other than the one designated will not be deemed creditable service for the purposes of the retirement system.

Section 29:

This section would remove public employees who become members after the bill's effective date of the TPAF, the Judicial Retirement System (JRS), the Prison Officers' Pension Fund, the PERS, the Consolidated Police and Firemen's Pension Fund, the PFRS, and the SPRS from the law that provides vested members with a non-forfeitable right to receive benefits, as provided under the laws governing the retirement system or fund, upon the attainment of five years of service credit in the retirement system or fund.

Section 30:

This section permits a person who commences service in a position that makes the person eligible to be a member of the TPAF, the JRS, the PERS, the PFRS, or the SPRS, or a person already enrolled but with less than 10 years of service credit, to choose either to be enrolled in the relevant retirement system or enrolled in the DCRP established pursuant to N.J.S.A.43:15C-1 et al. with regard to that particular position by irrevocably waiving all rights and benefits which would otherwise be provided by the relevant retirement system.

In addition, this bill would permit a person commencing service, or with less than 10 years of service credit, to choose to withdraw entirely from enrollment in any State-administered retirement system. In this regard, the bill exceeds the recommendation, but serves the recommendation's goal by providing a person with the flexibility to choose a course most consistent with his or her personal situation and financial goals while also reducing the costs to public employers.

Section 31:

This section closes the Prosecutors Part of the PERS to new members. The Prosecutors Part was added to PERS in 2001. With the enactment of this bill, all prosecutors taking office after the bill's effective date will be enrolled in the "regular" PERS system, except that a county prosecutor who is appointed by the Governor with the advice and consent of the Senate will be enrolled in the DCRP. "Prosecutor" is defined in the law as a county prosecutor, first assistant prosecutor or assistant prosecutor; the Director of the Division of Criminal Justice in the Department of Law and Public Safety; an assistant director, deputy director, assistant attorney general or deputy attorney general in that department and assigned to that division; or a criminal investigator in the Division of Criminal Justice in the Department of Law and Public Safety who is not eligible for enrollment in the PFRS.

Section 32-34:

These sections eliminate the provision in the PFRS that would permit a member of the PFRS to retire, at any age after 25 years of service credit, on a special retirement allowance of 70 percent of final compensation after the retirement system reaches a funded level of 104 percent.

Sections 35-38:

These sections provide that, with regard to any provision of this bill made applicable to a person who becomes a member of a State-administered retirement system on or after the bill's effective date, that provision would not apply to a person who at the time of enrollment in the retirement system on or after that effective date transfers service credit, as permitted, from another State-administered retirement system or fund of which the person was a member immediately prior to the effective and continuously thereafter, but would apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after that effective date after becoming employed again in a position that makes the person eligible to be a member of the retirement system. These sections are in line with recent prior enactments in this regard

Section 39:

This section of the bill requires the State, beginning July 1, 2011, to make in full the annual employer's contribution, as computed by the actuaries, to the TPAF, the JRS, the Prison Officers' Pension Fund, the PERS, the Consolidated Police and Firemen's Pension Fund, the PFRS, and the SPRS. The State would be in compliance with this requirement provided the State makes a payment, to each State-administered retirement system or fund, of at least 1/7th of the full contribution, as computed by the actuaries, in the State fiscal year commencing July 1, 2011 and makes a payment in each subsequent fiscal year that increases by at least an additional 1/7th until payment of the full contribution is made in the eighth fiscal year and thereafter. This phase-in is for the purpose of allowing the State to make gradual adjustments to the annual appropriations act.

SENATE, NO. 3 (*Doherty R-23/Whelan D-2*) makes various changes to the State Health Benefits Program (SHBP) and School Employees Health Benefits Program (SEHBP) concerning eligibility, cost sharing, choice of plan, application of benefit change, waiver of coverage, and multiple coverage. In summary, this legislation:

Sections 1 through 6:

These sections require, after the bill's effective date and the expiration of any applicable binding collective negotiations agreement, that active employees of the State, local governments, and boards of education will contribute 1.5 percent of base salary toward the cost of health care coverage under the SHBP and the SEHBP. Employees of the State, local governments, and board of educations who become a member of a State or locally-administered retirement system on or after the bill's effective date would be required to

pay in retirement 1.5 percent of their pension benefit toward the cost of health care coverage under the SHBP and the SEHBP. For State and local government employees and retirees and for board of education employees, this amount will be in addition to any other amount that maybe required through the collective negotiations process for employees with a majority representative for collective negotiations and, for those without such a representative, through the application of the terms of a collective negotiations agreement upon them. The contribution required for new State employees in retirement will not be waived for a retiree who participates in the New Jersey Retirees' Wellness Program.

Section 7:

This section provides local governments, including local boards of education, with the ability to limit, through collective negotiations agreements with their active employees, the choice of plans offered by the SHBP or the SEHBP.

Section 8:

This section requires that changes in the provision of health care benefits through the SHBP and the SEHBP that are included in collective negotiations agreements between the State and its employees be applied to local government employees including school employees at the same time and in the same manner as to State employees.

Section 9 and 10:

These sections provide that, after the bill's effective date, enrollment in the SHBP will be limited to a person who: 1) is a full-time appointive or elective officer of the State or local government whose hours of work are fixed at 35 or more per week, a full-time employee of the State, or a full-time employee of an employer other than the State whose hours of work are fixed by the governing body at not less than 25 per week; or 2) an appointive or elective officer, an employee of the State, or an employee of an employer other than the State who has or is eligible for health benefits coverage in SHBP on that effective date and continuously thereafter. The bill similarly limits enrollment in the SEHBP to persons employed full-time whose hours of work are fixed by the governing body at not less than 25 per week.

Section 11:

This section incorporates a recommendation of the Joint Legislative Committee on Public Employee Benefits Reform that was partly implemented by the enactment of P.L.2007, c.92 and P.L.2008, c.89. This bill implements the recommendation that the waiver incentive be set at 25% of the amount saved by the employer and goes further to cap the amount at \$5,000. This will apply to waivers filed after the bill's effective date.

Section 12:

This section prohibits multiple coverage in the SHBP and the SEHBP in accordance with the rules and regulations promulgated by the State Health Benefits Commission and the School Employees' Health Benefits Commission.

Sections 13 to 18:

These sections makes changes that would affect those public employees who do not receive health care benefits coverage by the SHBP or the SEHBP. Specifically, the bill requires employees of a local board of education, a county, a municipality, and a county college to pay 1.5 percent of their base salary for the health care benefits coverage provided by their employers, notwithstanding any other amount that may be required additionally by contract with such employers. The bill also requires a local employee who becomes a member of a State or locally administered retirement system on or after the bill's effective date to pay in retirement 1.5 percent of their monthly allowance, including cost of living adjustments, for health care benefits coverage. The bill, as amended, changes the health care benefits waiver amount for employees of a county, municipality or county college from 50% to 25%, or \$5,000, whichever is less, of the amount saved by the employer because of the employee's waiver of such coverage.

COMMITTEE AMENDMENTS

The committee amended the bill to: 1) require employees of a local board of education, a county, a municipality, and a county college to pay 1.5 percent of their base salary for the health care benefits coverage provided by their employers, notwithstanding any other amount that may be required additionally by contract with such employers; 2) require a local employee who becomes a member of a State or locally administered retirement system on or after the bill's effective date to pay in retirement 1.5 percent of their monthly allowance, including cost of living adjustments, for health care benefits coverage; and 3) changes the health care benefits waiver amount for employees of a county, municipality or county college from 50% to 25%, or \$5,000, whichever is less, of the amount saved by the employer because of the employee's waiver of such coverage. These changes would affect those public employees who do not receive health care benefits coverage by the SHBP or the SEHBP.

SENATE, NO. 4 (*O'Toole R-40/Buono D-18*) makes various various changes concerning payments to public employees for unused sick leave, sick leave for injury while in State service, and accidental and ordinary disability retirement for members of the Public Employees' Retirement System (PERS) and the Teachers Pension and Annuity Fund (TPAF). The bill also limits to one year the amount of vacation leave that certain local government and school district officers and employees would be permitted to carry forward, under most circumstances.

Sections 1, 2 and 3:

These section provide that supplemental compensation for accumulated unused sick leave payable to any local government or school district officer or employee cannot exceed \$15,000 and can only be paid at the time the officer or employee retires. This restriction would apply only to officers and employees who commence service with a local government or a school district on or after the bill's effective date.

Current law limits to \$15,000 the maximum amount that may be paid to a State employee for accumulated unused sick leave when the employee retires. There is, however, currently no such limit with regard to local government and to school district officers or employees, except with regard to certain high level local government and school district officers.

Sections 4 and 5:

These section provide that local government and school district officers and employees would be allowed to carry forward vacation leave for only one successive year, except that vacation leave that could not be used because of an emergency declared by the Governor would accumulate subject to certain limits. This restriction would apply only to officers and employees who commence service with a local government or a school district on or after the bill's effective date and only after the expiration of a current contract applicable to such officer or employee

Current law limits vacation leave carry forward for State employees and employees of local governments that have adopted civil service. There is, however, currently no such limit with regard to other local government and to school district officers or employees, except with regard to certain high level local government and school district officers.

Section 6:

This section terminates the sick leave injury program for State employees who are injured or who become ill directly as a result of State employment after the bill's effective date, which is 60 days after enactment or after the expiration of current collective negotiations agreements.

Sections 7-11:

These sections eliminate accidental and ordinary disability retirement for members of the TPAF and PERS who become enrolled in the retirement system on or after this bill's effective date. Instead, members of each system enrolled after that date will be eligible for disability insurance coverage similar to that provided by the State currently to individuals enrolled in the Defined Contribution Retirement Program.

Section 12 and 13:

These sections provide that, with regard to any provision of this bill concerning disability retirement in the PERS and the TPAF made applicable to a person who becomes a member of a State-administered retirement system on or after the bill's effective date, that provision would not apply to a person who at the time of enrollment in the retirement system on or after that effective date transfers service credit, as permitted, from another State-administered retirement system or fund of which the person was a member immediately prior to the effective date and continuously thereafter, but would apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after that effective date after becoming employed again in a position that makes the person eligible to be a member of the retirement system. These sections are in line with recent prior enactments in this regard.

SENATE CONCURRENT RESOLUTION, NO. 1 (*Sweeny D-3/Kean R-21*), which proposes to amend the State Constitution to require the State and its political subdivisions to pay each year the full amount of the contribution required to be made to any defined pension plan operated by the State for public employees. In summary, this resolution:

Proposes to amend Article VIII, Section II of the New Jersey Constitution by requiring the State and each political subdivision to pay each year, beginning July 1, 2011, the full amount of the contribution it is required to pay to any pension plan operated by the State for public employees. Please note that this resolution permits the State, for the first seven years, to phase in this requirement, for the payments it is required to make, by paying at least 1/7th of the contribution in the first year with the payments increasing by at least an additional 1/7th each year thereafter.

2. GOVERNMENT LOBBYING ORGANIZATIONS BARRED FROM PENSION

ASSEMBLY, NO. 2115 (*Moriarty D-4*), which prohibits employees of certain organizations from enrolling in the State-administered retirement systems or health care plans. This legislation is currently in the Assembly State Government Committee awaiting consideration. There is no version of this legislation in the Senate at this time. Please note that the NJEA opposes the bill in its current form as it also prohibits certain TPAF and PERS members from receiving service credit while on leave with a labor organization. In summary, this legislation:

Eliminates the eligibility for enrollment in any State-administered retirement system for newly hired officers and employees of NJAC, NJSJM, and NJSBA. The bill also eliminates pension enrollment for employees of those organizations who have less than five years of service credit. Additionally, the legislation eliminates, within 18 months, the eligibility of all such officers and employees for health care benefits coverage through the State Health Benefits Program or through any health care benefits plan provided by the State or a political subdivision.

FY 2011 STATE BUDGET

As noted above, we'll have a much clearer picture of the State's FY 2011 budget and its impact on county governments following the Governor's budget address next week. However, it's very likely that we'll see significant reductions in municipal and school aide, and up to 15% across the board reductions for all State departments.

At a minimum, these reductions will most likely impact the Share Available Resources Efficiently Program (SHARE) in the Department of Community Affairs, which as you know, provides financial assistance to local governments to study and implement a wide variety of shared services; and the base line funding for the County Environment Health Act (CEHA), which empowers county health departments to enforce State environmental laws and enhance pollution control efforts.