

March 30, 2017

Re: Legislative Alert

I. PRFS Legislation Update, S-3040 II.
Court Counterclaim Fees

Dear Mayor:

I. PRFS Legislation Update, S-3040

A bill ([A-99/S-3040](#)) that could lead to dramatic property tax increases or drastic cuts to vital services is now on the Governor's desk. This legislation would fundamentally shift control of the Police and Fire Retirement System (PFRS) from balanced labor-management control to a union dominated (7-5) decision making structure. In its current form, the bill will allow public safety union members and retirees to enhance their own benefits; while forcing their public employers and New Jersey taxpayers to assume the risk.

The League, along with the NJ Conference of Mayors and the NJ Association of Counties oppose the bill for the reasons outlined below. **We urge you to contact the Governor's Office at 609-292-6000 and ask for an either an absolute veto or, in the alternative, a conditional veto to address these concerns and provide safeguards protecting the interests of taxpayers.**

Our issues with [/S-3040/A-99](#):

The bill creates a system where taxpayers are responsible for funding 70% of the system, but are a minority on the board which governs decisions.

As a result those in control of the system contribute just 30%.

- PFRS is a defined benefit plan. Retirement pay is calculated on a formula, using factors like length of employment and salary history; not on the return of the funds' investments, like a 401K.
- Any shortfall in a return from investments, the employers (in this case municipalities, counties and their property taxpayers) must make up the difference.
- Public safety unions would have control of the over \$23 billion pension system with the ability to
 - determine investments, ○ enhance any benefits,
 - modify any benefit as an alternative to increasing a member's contribution rate or ○ reinstate cost of living adjustments for existing retiree benefits.

- Employers with a minority seat at the table will have an uphill battle in preventing runaway costs that will ultimately be passed on to the taxpayers.

Since employers have the great risk the board should comprise an equal number of labor and management representatives, with one independent member for an uneven number of members. Instead of the 12 member Board of Trustees with 7 labor representatives and 5 management representatives as proposed in /S-3040/A-99.

If the board composition is to remain in favor of labor, then we strongly believe that the plan be changed from defined benefit to a defined contribution plan, with a flat contribution rate from the employer property taxpayers. Otherwise, a system will be created that provides public safety unions with control, but with little risk. This is a concerning prospect for taxpayers.

Ultimately, the League shares the same objective as the public safety unions, that is, to secure the local PFRS system. But, the system created in A-99/S-3040 does not provide adequate safeguards for New Jersey's property taxpayers.

Please contact the Governor's Office at (609) 292-6000 today.

II. Court Counterclaim Fees

In response to concerns raised by the League and the State Bar Association regarding the conflict in charging municipalities for filing fees in the Tax Court, the New Jersey Supreme Court recently adopted amendments to Rule 1:43 to eliminate them for counterclaims and responsive pleadings.

Thus, effective March 7, 2017, taxing entities are no longer subject to filing fees for counterclaims in the tax court. Fees collected since Nov. 17, 2014, from taxing districts for filing counterclaims in both small claims and non-small claims matters will be refunded to the taxing districts.

[Please click here for a copy of the order.](#) We thank our former staff attorney, Ed Purcell, Esq. and associate legal counsel, Martin Allen, Esq. of DiFrancesco Bateman for first bringing this to our attention.

Sincerely,

Michael J. Darcy, CAE
Executive Director

Posted 3/30/17