

February 9, 2018

**RE: WEEKLY UPDATE**

- I. State Issues
- II. Federal Issues
- III. League Conference Follow up
- IV. Also of Interest

Dear Mayor:

**I. State Issues**

**a. URGENT: Immediate Action Needed  
PFRS Takeover Legislation Advances**

On Monday, the Senate Budget and Appropriations Committee advanced [S-5](#), which transfers the management of the Police and Fire Retirement System (PFRS) to a Board of Trustees. This legislation would disproportionately shift control of the PFRS, from balanced labor-management control, to a union-dominated (7-5) decision-making structure. The PFRS is not like a 401K. Rather, it is a defined benefit program.

This bill now can be scheduled for a final vote in the Senate, which will meet again on February 26.

Funded entirely by property taxpayer dollars, municipal and county governments will spend an estimated \$913.0 million in 2018 to subsidize the PFRS, while PFRS members will contribute approximately \$334.0 million to the defined benefit plan. In other words, property taxpayers will finance over 73.0% of PFRS in 2018, while PFRS members will pay 27.0%.

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 a disproportionate amount of the risk. The League and the NJ Association of Counties proposed changes to the legislation to provide critical taxpayer protections, but the Committee advanced the bill without any such amendments.

S-5 gives the labor-management board, at its discretion, and at such time and manner as it determines the ability to:

- Enhance any benefit set forth in N.J.S.A. 43:16A-1 et seq.; and
- Modify any such benefit as an alternative to an increase in the member contribution rate; and
- Reinstate, when appropriate, such reduced benefit to the statutory level without an additional contribution by the member.

Given the Legislature's inaction on extending the 2% cap on binding interest arbitration awards, the sun setting of employee health benefit controls implemented under Chapter 78, the restricting of SALT deductions on federal income taxes, and the long-term ramifications of enacting this legislation without the recommended safeguards, municipal and county leaders are facing a perfect storm of uncontrollable property tax growth and substantial service cuts.

**WHAT YOU CAN DO:**

**Communicate your concerns immediately with the Governor's Office, Legislative Leaders and your Legislators. Ask them to oppose S-5 in its current form. Ask them to support the amendments advanced by the League and the Association of Counties.**

**The Office of Governor Phil Murphy**  
609-292-6000

**The Hon. Steve Sweeney**  
Senate President  
(856) 251-9801, SenSweeney@njleg.org

**The Hon. Craig Coughlin**  
Speaker, NJ General Assembly  
(732) 855-7441, AsmCoughlin@njleg.org

Your State Senator and Assembly representative <http://www.njleg.state.nj.us/members/legsearch.asp>

**For more on this bill, <https://t.co/jUoR5GqyWR>**

**Staff Contacts:**

- Michael F. Cerra, Assistant Executive Director, [mcerra@njslom.org](mailto:mcerra@njslom.org) or 609-695-3481 x120
- Lori Buckelew, Senior Legislative Analyst, [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org), 609-695-3481 x112.

**b. Interest Arbitration Cap Update**

Legislation Introduced to Extend IA Cap & Important PERC Ruling

Yesterday, Senator O'Scanlon and Assemblywomen DeCroce and Schepisi introduced legislation to permanently extend the 2% Interest Arbitration cap on police and fire contracts. In addition to making the 2% interest arbitration cap permanent, S-1858/A-3378 would:

- Give arbitrators 90 days to render a decision
- Maintain the 14 day deadline to file an appeal and 60 day period for a final PERC decision
- Maintain the \$10,000 cap on arbitrator's compensation
- Continue to compound the 2% cap each year over the length of the contract
- Continue to include the cost of increments previously negotiated, such as steps and longevity pay, when determining base salaries
- Require contracts to be posted on the municipal website at least 10 days prior to the execution of the contract
- Void final agreements not filed with Public Employment Relations Commission (PERC) or do not contain a cost summary
- Abolish the "dynamic status quo" step increases after a contract has expired

The League supports S-1858/A-3378 and would urge you to reach out to your Senator and Assembly representatives asking them to support this much needed legislation.

**Please take action** and consider adopting the sample resolution ([click here for word](#) or [click here for pdf](#)) expressing your support of the permanent extension of the 2% Interest Arbitration cap.

In addition, on January 24, 2018 PERC issued a ruling that a PBA collective bargaining agreement, with an expiration date of December 31, 2017, falls under the 2% interest arbitration cap. It is anticipated that the PBA and FMBA will appeal this ruling.

In *Bergen County Sheriff's Office & PBA Local 49, Docket No. IA-2018-012*, the PBA raised several issues, including an argument that the 2% hard cap would not apply to the parties' successor agreement. The contract in question was from January 1, 2014 to December 31, 2017. PERC ruled that there is "no hard cap after December 31, 2017 except for parties whose CNAs expired on or before that date and for whom a final settlement has not been reached". PERC also noted that this has been the agency's interpretation of the statute since July 10, 2014, and directed the parties to the first two questions on their [FAQ](#).

**Contacts:**

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**c. Bill to Clarify Certain Volunteer Position Do Not Impact Retirement Benefits**

On Thursday, February 8 Assembly Law and Public Safety unanimously passed [A-1627](#), which would permit a person with a pre-existing volunteer relationship as a firefighter, first aid worker, rescue squad worker, or emergency medical technician with their employer to retire from service covered by PERS or PFRS and continues to serve that employer as a volunteer. As a result of the Division of Pension and Benefits [guidance](#) on, "bona fide severance of employment" the League **supports** this much needed legislation.

While well intended the Division of Pensions has created an unintended consequence which, if not changed, will impact every public employee who volunteers in the state and will not only drive up property taxes, but would also reduce the quality and level of essential public services.

We thank the sponsors Assembly representatives Schepisi, Bucco, Auth, Danielsen, and DiMaio. The bill now awaits consideration by the full Assembly. Please contact your Assembly representative and urge them to support A-1627.

This legislation passed both Houses last session but was pocket vetoed by Governor Christie. We are hopeful that Governor Murphy will act on the bill.

**Contact:** Lori Buckelew, Senior Legislative Analyst, 609-695-3481 x112 or [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org)

**d. State Continues to Look for Ways Lessen Impact of Federal Cap on SALT Deduction**

As we have previously addressed, the new Federal tax law includes a \$10,000 cap on the State and Local Tax ("SALT") deduction. This cap is expected to have a negative impact on states with higher than average property taxes, such as New Jersey.

Recently, Governor Murphy announced efforts being taken at the state level to lessen the negative impact the new Federal tax law would have on New Jersey. First, the Governor announced that NJ would be joining Connecticut and New York in filing a lawsuit which would seek to have the new tax law declared void as being unconstitutional. Court paperwork has yet to be filed so it is unclear what constitutional claims will be made on, but many expect it to be grounded in a theory of disparate treatment of states based on their perceived political leanings.

In addition to this, the Governor once again issued a call to the state legislature to pass a bill that would give municipalities the ability to set up funds which would allow homeowners to give a charitable contribution and in return would receive a credit towards their property taxes. This type of bill would be a crucial step in implementing the workaround previously endorsed by Murphy. While this may help clear the path at the state level it may still hit a roadblock with federal authorities as multiple sources at the Treasury and the IRS have cast doubt on such plan complying with federal tax law.

**Contact:** Frank Marshall, Esq., League Staff Attorney, [FMarshall@njslom.org](mailto:FMarshall@njslom.org) or 609-695-3481 x137.

## **II. Federal Issues**

### **a. Two Year Federal Budget Enacted**

Just hours ago, and just hours after the last continuing resolution expired, the House passed, and the President signed, a budget deal put together by a bipartisan group of U.S. Senators, under the watchful eyes of Senate Majority Leader Mitch McConnell and Senate Minority Leader Chuck Schumer. The new budget will increase federal spending by \$300 billion, over the next two years. Slightly less than half, including \$20 billion for infrastructure, will be dedicated to domestic priorities.

Specific program-by-program spending priorities still need to be settled, first, by Senate and House appropriators, and then, by both Houses. *Today's action gives them a March 23 'shut-down' deadline, by which specific, programmatic spending must be authorized for all Federal Departments and agencies.* As a result, State budget makers will still be dealing with some uncertainties.

The new budget does dedicate \$90 billion to disaster relief, earmarking more than \$23 billion for the Federal Emergency Management Agency's (FEMA) primary fund for recovery and repair programs. Those funds were exhausted last year, as a result of record-breaking hurricanes and wildfires. It also provides an additional \$28 billion for block grants to rebuild housing and essential infrastructure. Another \$7 billion will go to Puerto Rico and the U.S. Virgin Islands, of that, Puerto Rico will receive \$2 billion to rebuild its power grid, which is operating at just 80 percent of capacity nearly five months after Maria. Several major health programs are also funded. The Community Health Center Fund, which serves more than 27 million mostly low-income Americans, was reauthorized for four years. Funding for the Children's Health Insurance Program (CHIP), which serves over 9 million low-income children and pregnant women, has been extended for ten years. And the federal program that provides home visiting services to at-risk mothers-to-be and new moms was reauthorized for five years.

The new budget sets aside \$6 billion, over two years, to address the opioid crisis and mental health. But that amount is small, in comparison to what state and local governments are annually spending on the epidemic.

The new \$20 billion in infrastructure funds, to be appropriated over two years, will go for existing projects for water and energy infrastructure, as well as expanding broadband to rural regions and improving surface transportation. This represents only one-fifth of the \$200 billion, over ten years, promised by the Administration. This investment is supposed to be used to prime the pump for another \$1.3 trillion in private, state and local infrastructure spending.

With regards to the municipal bond markets, the deal does provide a measure of assurance. For one, the deal lifts the federal debt limit, until March of 2019, putting it past the mid-term elections. Language in the budget also suspends the mandatory funding cuts, which were imposed by sequestration in 2011. In past years, sequestration has trimmed the federal subsidy payments made to issuers of Build America

Bonds. Those cuts had, on occasion, forced state and local governments to fill the void, in some cases, at a cost of millions.

**Contact:** Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481 x121.

### **III. League Conference Follow- Up**

#### **a. Claim Your CEUs from the Annual Conference**

Attention Municipal Officials! Do Not Forget to Claim Your CEUs from the 2017 NJLM Annual Conference! Please click on the following link to claim your credits: [www.njslom.org/confceu](http://www.njslom.org/confceu).

#### **b. The Conference App is Still Available!**

Misplaced your printed Session or Exhibitor Program Guide? The app can still be downloaded in your app store to reference session details or view contact information for participating consultants and exhibitors. The app will be available for download through the end of this calendar year and remains available for accessing on your device as long as it is installed.

#### **c. Exhibits at the Annual Conference**

Don't forget to follow up with the exhibitors you met during the Annual Conference! They're available to answer your questions and provide solutions to your town's issues. The full listing with contact information is available on the interactive floor plan and the mobile app.

### **IV. Also of Interest**

#### **a. LEAD Marijuana Symposium**

Law Enforcement Against Drugs (LEAD) is holding a marijuana symposium in conjunction with its annual conference March 18-20 in Atlantic City.

It will take an agnostic look at marijuana, legal or not; including national and international presenters in the fields of health, law and policy.

For details, [click here](#).

Sincerely,

Michael J. Darcy, CAE  
Executive Director