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Governor Issues Conditional Veto on S-5

Earlier today Governor Murphy [conditionally vetoed](#) S-5, which would transfer the management of the Police and Fire Retirement System (PFRS) to a Board of Trustees comprised of Labor and Management representatives. In his veto message, Governor Murphy noted that “unlike the State, New Jersey counties and municipalities have only rarely failed to make their full annual employer contribution when required to do so.” The Governor further noted that he is confident that his recommended changes “strike an appropriate balance by both empowering the new board with management of PFRS while continuing to protect the stability of the State’s pension funds, the expectations of PFRS members and, ultimately, the financial interests of the taxpayers of this State.”

The League and Association of Counties opposed S-5 based on the lack of adequate protections and safeguards for property taxpayers.

The Governor’s conditional veto improves the original legislation, adding taxpayer protections and safeguards. The League advocated for additional safeguards and protections, including a balanced board between labor and management, which are not included. But we do appreciate that the Governor understood our concerns and included safeguards, which did not currently exist in either S-5 or the current pension system.

The conditional veto:

- Continues to have the rate of return determined by the State Treasurer, instead of the Board of Trustees;
- Requires at least eight (8) votes of the 12-member board for any change in benefits;
- Prohibits any enhancement or reduction of benefits, including cost of living adjustments and changes to employee contribution rates, unless an actuary certifies that it does not increase employer contribution in the current year, and that such a change will not impact the long term viability of the fund;
- Requires a majority of the authorized membership for a quorum;
- Removes the language permitting the actuary to be an employee of the Board of Trustees;

- Requires the actuary to be a fellow with the Society of Actuaries and an active member of the American Academy of Actuaries;
- Removes the Board of Trustees' authority to investment and reinvest the fund's monies, as the power remains with the State Investment Council and Division of Investments;
- Gives the Board of Trustees the authority to formulate and establish, amend, modify, or repeal policies that will govern the methods, practices, and procedures for investments, reinvestments, purchase, sale, or exchange of transactions that the State Investment Council would follow for the PFRS fund;
- Gives the Board of Trustees the authority to review and approve agreements which may be necessary and convenient for investment management;
- Gives the Board of Trustees the authority to inspect and audit the respective PFRS accounts and funds administered by the Division of Investments. (Trustees are also permitted to take appropriate action as necessary to effectuate the long term viability of the system.);
- The State retains 100% control over the Common Pension Fund L, which is the fund that includes the revenue from the State Lottery transfer;
- The Executive Director serves without a term and may be removed upon notice and public hearing by a majority vote of the Board of Trustees;
- Requires the Executive Director to act as a fiduciary to the retirement system and on behalf on the interest of the beneficiaries of the system;
- Prohibits the Executive Director and Chief Investment Officer from being engaged in any other profession or occupation;
- Changes the duties of the Chief Investment Officer to develop investment methods, practices and approaches and to coordinate with the Investment Committee;
- Expands the qualification requirements of the Chief Investment Officer to include experience in direct management, analysis, supervision or investment of assets;
- Requires a majority of the Investment Committee members to be qualified by training, experience or long term interest in the direct management, analysis, supervision or investment of assets. (Can be supplemented by academic training or practical experience in the fields of economics, business, law, finance, or actuarial science.);
- State Treasurer remains the custodian of the funds;
- Removes the mandated employer quarterly pension fund payments;
- Removes the withholding of any property tax relief payments for non-payment of pension payments; and
- Removes the Police and Fire Retirement System representatives from the State Investment Council.

Taxpayers will still be responsible for any fund shortfall if the investments returns are poor. Safeguards have been put into places, which have not previously existed, to ensure that benefits are not enhanced at the expense of taxpayers. The conditional veto requires an independent actuary certify that any benefit enhancement does not result in increased employer contributions and that such a change will not impact the long term viability of the fund.

The conditional veto has been returned to the Senate, which is the house of origin. From there, the Senate is likely to consider accepting the Governor's recommendations. If the Senate and Assembly both accept the recommendations in the conditional veto, the bill is returned to the Governor for his consideration and signature. The earliest the conditional veto can be considered by the Senate is June 7.

The fiscal perfect storm local governments are facing has dissipated a little with the conditional veto of S-5, but on the horizon is the continued expiration of the 2% Interest Arbitration cap, the underfunding of property tax relief and the impact of federal tax changes regarding the state and local government tax deductions.

We call upon the Legislature and Administration to act immediately to renew the interest arbitration cap while we await the recommendations of the legislative committee to address the local property tax structure.

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