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"Judge blocks cuts to ACFD - Christie signs Atlantic City early-retirement bill for public safety workers." The Press of Atlantic City, August 26, 2017

"Christie signs Atlantic City early-retirement bill for public safety workers," Press of Atlantic City, August 26, 2017

RH/CL

P.L.2017, CHAPTER 232, *approved August 25, 2017*

Senate, No. 3311 (*Second Reprint*)

1 AN ACT ¹[**modifying an incentive program offered by a**
2 **municipality**] concerning early retirement incentives in
3 municipalities¹ in need of stabilization and recovery and
4 amending P.L.2016, c.4.
5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*
8

9 ¹1. Section 5 of P.L.2016, c.4 (C.52:27BBBB-5) is amended to
10 read as follows:

11 5. a. (1) Notwithstanding the provisions of any law, rule, or
12 regulation to the contrary, if the municipality in need of
13 stabilization and recovery fails to submit a plan, if the
14 commissioner has determined pursuant to subsection c. of section 4
15 of P.L.2016, c.4 (C.52:27BBBB-4) that the recovery plan is not
16 likely to achieve financial stability for the municipality in need of
17 stabilization and recovery, if the commissioner determines that the
18 municipality is not strictly complying with a recovery plan
19 approved by the commissioner pursuant to subsection c. of section 4
20 of P.L.2016, c.4 (C.52:27BBBB-4), or if the commissioner
21 determines that a recovery plan approved by the commissioner
22 pursuant to subsection c. of section 4 of P.L.2016, c.4
23 (C.52:27BBBB-4) is no longer likely to achieve financial stability,
24 the Local Finance Board may, in its exclusive discretion at any time
25 during which the municipality is deemed a municipality in need of
26 stabilization and recovery, assume and reallocate to, and vest
27 exclusively in the director any of the functions, powers, privileges,
28 and immunities of the governing body of that municipality set forth
29 in any statute, regulation, ordinance, resolution, charter, or contract
30 to which the municipality is a party that are, or may be,
31 substantially related to the fiscal condition or financial
32 rehabilitation and recovery of that municipality. The duration of
33 the transfer of the functions, powers, privileges, and immunities of
34 the governing body shall not exceed the duration of the time the
35 municipality is deemed a municipality in need of stabilization and
36 recovery.

37 (2) In the event the Local Finance Board assumes and
38 reallocates to the director any function, power, privilege, or
39 immunity of the governing body of a municipality in need of
40 stabilization and recovery set forth in a contract to which that

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 26, 2017.

²Senate floor amendments adopted June 29, 2017.

1 municipality is a party, the municipality shall remain the party to
2 the contract and neither the Local Finance Board nor the director
3 shall assume any contractual obligations or liability arising out of
4 that contract or be subject to any claim for breach of that contract or
5 any other claim related to that contract. Any actions or steps taken
6 by the director under P.L.2016, c.4 (C.52:27BBBB-1 et al.) shall be
7 deemed to be by, and on behalf of, the municipality in need of
8 stabilization.

9 (3) The authorities granted to the director by the Local Finance
10 Board pursuant to this section shall extend to any and all actions
11 that, in the exclusive discretion of the director, may help stabilize
12 the finances, restructure the debts, or assist in the financial
13 rehabilitation and recovery of the municipality in need of
14 stabilization and recovery. Notwithstanding the provisions of any
15 other law, rule, regulation, or contract to the contrary, the director
16 shall have the authority to take any steps to stabilize the finances,
17 restructure the debts, or assist in the financial rehabilitation and
18 recovery of the municipality in need of stabilization and recovery,
19 including, but not limited to:

20 (a) implementing governmental, administrative, and operational
21 efficiency and oversight measures;

22 (b) dissolving, terminating, transferring, abolishing, or
23 otherwise disposing of any municipal authority, board, commission,
24 or department, or any function thereof; provided, however, that no
25 such action shall be taken until adequate provision has been made
26 for the payment of the creditors or obligees of the entity to be
27 impacted unless otherwise permitted by law. This shall include the
28 power to take any steps required of the governing body under
29 applicable laws, including but not limited to the "municipal and
30 county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et
31 seq.), the "Local Authorities Fiscal Control Law," P.L.1983, c.313
32 (C.40A:5A-1 et seq.), the "Water Infrastructure Protection Act,"
33 P.L.2015, c.18 (C.58:30-1 et seq.), the "Local Redevelopment and
34 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and the
35 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
36 To the extent that the Local Finance Board or the director exercise
37 any powers under the "Local Authorities Fiscal Control Law,"
38 P.L.1983, c.313 (C.40A:5A-1 et seq.) with respect to any municipal
39 authority or municipal public utility in the municipality in need of
40 stabilization and recovery;

41 (c) vetoing the minutes of the governing body of the
42 municipality in need of stabilization and recovery, any board,
43 commission, or department of the municipality in need of
44 stabilization and recovery, and any independent board or authority
45 in the municipality in need of stabilization and recovery, including,
46 but not limited to, the housing authority, parking authority,
47 redevelopment authority, planning board, and zoning board of
48 adjustment. A true copy of the minutes of every meeting of the

1 governing body and any board, commission, department, or
2 independent board, or authority shall be delivered forthwith, by and
3 under the certification of the secretary thereof, to the director. No
4 action taken at the meeting shall have force or effect until 15
5 business days after a copy of the minutes have been so delivered to
6 the director, unless during this 15-day period the director shall
7 approve in writing the minutes or any part thereof, in which case
8 the action shall become effective upon approval. If, within that 15-
9 day period, the director returns a copy of the minutes with a veto of
10 any action taken by the governing body, board, commission,
11 department, or independent board or authority, or any member
12 thereof at the meeting, the action shall be null and void and of no
13 effect. The director may approve all or part of the action taken at a
14 meeting;

15 (d) controlling litigation and the municipality's legal affairs,
16 including, but not limited to, suing in the municipality's corporate
17 name; prosecuting, defending, and resolving litigation, arbitration,
18 disputes, and controversies; and retaining and directing municipal
19 corporation counsel and other special counsel as the director may
20 deem appropriate;

21 (e) selling, conveying, leasing, monetizing, or otherwise
22 disposing of any interest in any municipally-owned assets,
23 including but not limited to, any water, sewer, wastewater, and
24 storm water infrastructure, equipment or facilities, services, and in
25 any real property, including any improvements thereon; provided
26 that the director shall not sell, convey, lease, monetize, or otherwise
27 dispose of any municipally-owned water asset pursuant to an
28 agreement with a private entity until one year after the effective
29 date of P.L.2016, c.4 (C.52:27BBBB-4) to allow the municipality in
30 need of stabilization and recovery to maximize the value of that
31 asset;

32 (f) amending or terminating any existing contracts or
33 agreements, which shall not include bonds, notes, indentures, or
34 other similar financing instruments and documents to which the
35 municipality is a party, in accordance with the terms thereof; or
36 unilaterally amending or terminating any contracts or agreements
37 which shall not include bonds, notes, indentures, or other similar
38 financing instruments and documents to which the municipality is a
39 party, provided that the director determines that the unilateral
40 termination or amendment is reasonable and directly related to
41 stabilizing the finances or assisting with the fiscal rehabilitation and
42 recovery of the municipality in need of stabilization and recovery;

43 (g) unilaterally modifying, amending, or terminating any
44 collective negotiations agreements, except those related to school
45 districts, to which the municipality is a party, or unilaterally
46 modifying, amending, or terminating the terms and conditions of
47 employment during the term of any applicable collective
48 negotiations agreement, or both, provided that the director

1 determines that the modifications, amendments, or terminations are
2 reasonable and directly related to stabilizing the finances or
3 assisting with the fiscal rehabilitation and recovery of the
4 municipality in need of stabilization and recovery;

5 (h) acting as the sole agent in collective negotiations on behalf
6 of the municipality in need of stabilization and recovery;

7 (i) with respect to any expired collective negotiations
8 agreement to which the municipality in need of stabilization and
9 recovery is a party, unilaterally modifying wages, hours, or any
10 other terms and conditions of employment;

11 (j) unilaterally abolishing any non-elected positions in the
12 municipality in need of stabilization and recovery at any time. All
13 of the functions, powers, and duties of abolished positions shall be
14 exercised or delegated by the director; provided, however, that the
15 provisions of Title 11A, Civil Service, shall not apply to any
16 employment action under this paragraph;

17 (k) unilaterally appointing, transferring, or removing employees
18 of the municipality in need of stabilization and recovery, including,
19 but not limited to, department heads and division heads, as the case
20 may be, but excluding appointed officials who have obtained tenure
21 in office; provided, however, that the provisions of Title 11A, Civil
22 Service, shall not apply to any employment action under this
23 paragraph , and that the director shall not remove employees from a
24 public safety department unless the employees of the department
25 have been offered a retirement incentive plan, in writing, pursuant
26 to section 13 of P.L.2016, c.4 (C.52:27BBBB-11);

27 (l) acting as the appropriate authority, including, without
28 limitation, the appointing authority, for purposes of Title 40A of the
29 New Jersey Statutes;

30 (m) entering into any agreement with the county in which the
31 municipality in need of stabilization and recovery is located, any of
32 the other municipalities located in that county, or any
33 instrumentality of the State to share or consolidate municipal
34 services pursuant to any law applicable to consolidation or sharing
35 of services, including, without limitation, the "Uniform Shared
36 Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et al.)
37 and P.L.2015, c.279 (C.40A:14-90.1 et al.);

38 (n) procuring any goods, services, commodities, information
39 technology, software, hardware, or other items on behalf of the
40 municipality in need of stabilization and recovery, in accordance
41 with either the "Local Public Contracts Law," P.L.1971, c.198
42 (C.40A:11-1 et seq.), or procurement laws applicable to the State, at
43 the discretion of the director;

44 (o) retaining any professionals on behalf of the municipality in
45 need of stabilization and recovery, and directing the work of
46 professionals or any professionals previously retained by the
47 municipality in need of stabilization and recovery, in accordance
48 with either the "Local Public Contracts Law," P.L.1971, c.198

- 1 (C.40A:11-1 et seq.) or procurement laws applicable to the State, at
2 the discretion of the director;
- 3 (p) retaining bond counsel, adopting bond ordinances to the
4 extent necessary, making appropriate bond applications, and taking
5 any other steps necessary to restructure and adjust debt, on behalf of
6 the municipality in need of stabilization and recovery;
- 7 (q) exercising on behalf of the municipality in need of
8 stabilization and recovery any authority granted to a municipality
9 pursuant to the "Local Redevelopment and Housing Law,"
10 P.L.1992, c.79 (C.40A:12A-1 et al.) when the director deems it
11 necessary or appropriate to help stabilize the finances, restructure
12 the debts, or assist with the financial rehabilitation and recovery of
13 the municipality in need of stabilization and recovery;
- 14 (r) exercising on behalf of the municipality in need of
15 stabilization and recovery any authority granted to a municipality
16 pursuant to the "Redevelopment Area Bond Financing Law,"
17 P.L.2001, c.310 (C.40A:12A-64 et seq.) when the director deems it
18 necessary or appropriate to help stabilize the finances, restructure
19 the debts, or assist with the financial rehabilitation and recovery of
20 the municipality in need of stabilization and recovery;
- 21 (s) exercising on behalf of the municipality in need of
22 stabilization and recovery any authority granted to a municipality
23 pursuant to the "Long Term Tax Exemption Law," P.L.1991, c.431
24 (C.40A:20-1 et seq.) when the director deems it necessary or
25 appropriate to help stabilize the finances, restructure the debts, or
26 assist the financial rehabilitation and recovery of the municipality in
27 need of stabilization and recovery;
- 28 (t) authorizing and filing, on behalf of the municipality in need
29 of stabilization and recovery, subject only to the written approval of
30 the majority of the members of the legislative Joint Budget
31 Oversight Committee, a petition and other pleadings and papers
32 with any United States court or federal bankruptcy court for the
33 purpose of effecting a plan of readjustment or composition of debts
34 as set forth in R.S.52:27-40 et seq., and taking any other and further
35 actions necessary or appropriate in connection with any case or
36 proceeding; and
- 37 (u) negotiating and executing any contracts, agreements, or
38 other documents on behalf of the municipality in need of
39 stabilization and recovery as may be necessary or appropriate to
40 effectuate any of the actions or steps specifically identified in
41 P.L.2016, c.4 (C.52:27BBBB-et al.) or that may otherwise, as the
42 director deems necessary or appropriate, help stabilize the finances,
43 restructure the debts, or assist with the financial rehabilitation and
44 recovery of the municipality in need of stabilization and recovery.
- 45 (4) Subject to subsection b. of section 11 of P.L.2016, c.4
46 (C.52:27BBBB-9), the Local Finance Board may authorize the
47 director to take any action authorized to be taken under the "Local
48 Bond Law," N.J.S.40A:2-1 et seq., and the "Municipal Qualified

1 Bond Act," P.L.1976, c.38 (C.40A:3-1 et seq.) by a governing body
2 of a local unit.

3 (5) The provisions of P.L.1941, c.100 (C.34:13A-1 et seq.), and
4 regulations promulgated thereunder, shall in no way infringe on the
5 authority of the Local Finance Board or the director set forth in this
6 section or any actions taken by the director pursuant to this section.

7 (6) Any function, power, privilege, or immunity of the
8 municipal governing body that is not assumed by the Local Finance
9 Board and reallocated to and vested exclusively in the director
10 pursuant to this section shall remain allocated to and vested in that
11 governing body unless and until such time as the function, power,
12 privilege, immunity, or duty may be allocated to and vested
13 exclusively in the Local Finance Board or the director pursuant to
14 this section. The Local Finance Board or the director may exercise
15 any power implied or incidental to a power that has been
16 specifically allocated.

17 b. (1) Notwithstanding the provisions of any law, rule, or
18 regulation to the contrary, including any requirements set forth in
19 R.S.40:49-1 et seq., the "Senator Byron M. Baer Open Public
20 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), or R.S.52:27-41,
21 the director shall have the exclusive authority to pass, adopt, repeal,
22 or amend any ordinance or resolution of the municipality in need of
23 stabilization and recovery, modify any meeting agenda of the
24 governing body of the municipality in need of stabilization and
25 recovery, and negotiate, enter into, amend, or terminate any contract
26 or agreement, on behalf of the municipality in need of stabilization
27 and recovery, provided that the director deems the action necessary
28 or appropriate to help stabilize the finances, restructure the debts, or
29 assist with the financial rehabilitation and recovery of the
30 municipality in need of stabilization and recovery.

31 (2) When exercising powers under this section, the director
32 shall, to the extent practicable, comply with all notice, hearing, and
33 other requirements to which the municipality in need of
34 stabilization and recovery is generally subject, but in no instance
35 shall the director be deemed a "public body" pursuant to the
36 "Senator Byron M. Baer Open Public Meetings Act," P.L.1975,
37 c.231 (C.10:4-6 et seq.).

38 (3) The director may issue to the appropriate elected and
39 appointed officials and employees, agents, and contractors of a
40 municipality in need of stabilization and recovery the orders that the
41 director deems appropriate to stabilize the finances, restructure the
42 debts, or assist the financial rehabilitation and recovery of the
43 municipality in need of stabilization and recovery pursuant to the
44 authority granted by the Local Finance Board pursuant to this
45 section. Any order by the director shall be binding on the
46 appropriate elected and appointed officials and employees, agents,
47 and contractors of a municipality in need of stabilization and

1 recovery and may be enforced as other orders of the director are
2 enforced under general law.¹

3 (cf: P.L.2016, c.4, s.5)

4

5 ¹**[1.] 2.**¹ Section 13 of P.L.2016, c.4 (C.52:27BBBB-11) is
6 amended to read as follows:

7 13. a. In order to achieve financial stability, a municipality in
8 need of stabilization and recovery, as determined by the
9 commissioner pursuant to subsection a. of section 4 of P.L.2016, c.4
10 (C.52:27BBBB-4), may offer and implement an incentive program
11 for retirement or termination of employment after approval of such
12 incentive program by the director. The program shall be limited to
13 full-time employees in any department, office, section, or other
14 organizational component of the municipality in need of
15 stabilization and recovery to achieve financial stability. The
16 incentive program may include one or more of the following:

17 (1) cash payments or the purchase of annuities;

18 (2) employer contributions to an approved employee deferred
19 compensation program to the extent permitted by federal law;

20 (3) payment by the municipality for continuation of health
21 benefits coverage after retirement for not more than five years or
22 until the employee attains the age of eligibility for Medicare,
23 whichever occurs first;

24 (4) payment by the municipality for health benefits coverage
25 after retirement under the "New Jersey State Health Benefits
26 Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), or under
27 group insurance contracts pursuant to N.J.S.40A:10-23, for
28 employees and dependents in accordance with the law and rules
29 governing the State Health Benefits Program or the law governing
30 such group insurance contracts, as the case may be, for employees
31 who fail to meet the service requirement for payment for such
32 coverage after retirement by no more than five years, but who are
33 otherwise eligible for employer payment for health benefits
34 coverage after retirement; or

35 (5) additional service credit for employees who are members of
36 the Public Employees' Retirement System of New Jersey, pursuant
37 to P.L.1954, c.84 (C.43:15A-1 et seq.) or the Police and Firemen's
38 Retirement System of New Jersey, pursuant to P.L.1944, c.255
39 (C.43:16A-1 et seq.), or a municipal retirement system created
40 under P.L.1954, c.218 (C.43:13-22.3 et seq.) or P.L.1964, c.275
41 (C.43:13-22.50 et seq.), as provided in this section.

42 b. No later than six months prior to the date on which a
43 proposed incentive program is to begin, the municipality shall
44 submit detailed information concerning the incentive program to the
45 director, in a form and manner prescribed by the director, which
46 shall include the following:

- 1 (1) the governmental services affected by the plan adopted by
2 the municipality pursuant to subsection b. of section 4 of P.L.2016,
3 c.4 (C.52:27BBBB-4);
 - 4 (2) the departments, offices, sections, and other organizational
5 components of the municipality to be affected, and a list of the
6 employees thereof;
 - 7 (3) the incentives to be offered;
 - 8 (4) the estimated number of employees who will retire or
9 terminate employment under the incentive program;
 - 10 (5) fiscal information sufficient to demonstrate that the
11 incentive program in conjunction with the plan adopted by the
12 municipality pursuant to subsection b. of section 4 of P.L.2016, c.4
13 (C.52:27BBBB-4) will result in a reduction for the municipality in
14 the number of employees providing the affected governmental
15 services, including information on the number of employees by
16 which the municipality will reduce employment for a period of at
17 least five years;
 - 18 (6) fiscal information sufficient to demonstrate that, taking into
19 consideration the costs of the incentive program, the plan adopted
20 by the municipality pursuant to subsection b. of section 4 of
21 P.L.2016, c.4 (C.52:27BBBB-4) will result in a reduction in the cost
22 of providing the affected governmental services for the
23 municipality;
 - 24 (7) information on the fiscal stability of the municipality
25 sufficient to demonstrate that the municipality will be able to pay
26 the costs for the incentive program which will result in net savings
27 and shall not necessitate any increase in property taxes for the
28 municipality;
 - 29 (8) information sufficient to demonstrate that the municipality
30 will continue to provide the affected governmental services without
31 the number of employees that are expected to take the incentive;
32 and
 - 33 (9) any other information which the director may require.
- 34 c. The director may, for good cause, permit a municipality to
35 submit information without complying with the time period for
36 submission of information or which does not conform to the
37 specific informational requirements of this section.
- 38 d. The director shall provide to the Director of the Division of
39 Pensions and Benefits in the Department of the Treasury sufficient
40 information relating to the incentive program so that the Director of
41 the Division of Pensions and Benefits may provide to the director:
- 42 (1) an estimate of the anticipated liability of the affected
43 retirement systems;
 - 44 (2) a determination of whether the incentive program is
45 reasonably calculated to produce a reduction in the number of
46 employees of the municipality; and

1 (3) taking into consideration the liability for the incentive
2 program, an estimate of the net savings in the employment costs to
3 provide the affected governmental services.

4 e. In order to make the calculation required by paragraph (2) of
5 subsection d. of this section, the Director of the Division of
6 Pensions and Benefits in the Department of the Treasury shall
7 submit the proposed incentive program to the actuary of each
8 retirement system which would be affected by the incentive
9 program. Each actuary shall estimate the additional liability to the
10 retirement system for the incentive program, including the liability
11 for the additional service credit and the earlier retirement of
12 employees under the incentive program. Each actuary shall provide
13 the Director of the Division of Pensions and Benefits with an
14 opinion on whether the incentive program is reasonably calculated
15 to produce a reduction in the number of employees of the
16 municipality providing the affected governmental services, and a
17 net savings, taking into consideration the liability for the incentive
18 program, in the employment costs to provide the affected
19 governmental services. The State shall conduct the actuarial work
20 required by this subsection at no charge to the municipality.

21 f. If the incentive program includes the provision of additional
22 service credit under State retirement systems for eligible
23 employees, the beginning and ending dates for the incentive
24 program and the time period during which the eligible employees
25 will have to elect to participate in the incentive program shall be
26 subject to approval by the Director of the Division of Pensions and
27 Benefits in the Department of the Treasury.

28 g. If the director determines that the incentive program will
29 result in the municipality continuing to provide the affected
30 governmental services with fewer employees and at a lower cost,
31 and that the incentive program will result in net savings and will not
32 necessitate any increase in local property taxes for the municipality,
33 the director shall approve the incentive program for
34 implementation.

35 h. For employees who are members of the Police and Firemen's
36 Retirement System of New Jersey, pursuant to P.L.1944, c.255
37 (C.43:16A-1 et seq.), an incentive program for retirement may
38 provide additional months of service credit for an employee who
39 has 20 or more years of service credit on the last day for retirement
40 under the incentive program, so that the employee shall have an
41 aggregate amount of service credit under the retirement system of
42 no more than 30 years on the effective date of retirement. In no
43 case shall more than 60 months of additional service credit be
44 provided under the incentive program.

45 i. For employees who are members of the Public Employees'
46 Retirement System of New Jersey, pursuant to P.L.1954, c.84
47 (C.43:15A-1 et seq.), or a municipal retirement system, an incentive
48 program for retirement may provide not more than 60 additional

1 months of service credit for an employee who has 20 or more years
2 of service credit on the last day for retirement under the incentive
3 program.

4 j. An incentive program may require one or more of the
5 following criteria: a minimum number of years of service credit in a
6 retirement system, a minimum number of years of service with the
7 municipality, or a minimum age for eligibility to participate in the
8 program.

9 k. An employee who receives an incentive benefit for
10 retirement or termination of employment under this section shall
11 forfeit any tenure, civil service, or other employment right for
12 continued employment or for return to employment based upon the
13 employment for which the employee receives the incentive benefit.

14 l. When the needs of the municipality require the continuation
15 in service of an employee who elects to retire and receive an
16 incentive benefit under this section, the effective retirement date of
17 the employee may be delayed, with the approval of the governing
18 body of the municipality and the agreement of the employee, until
19 the first day of any month not later than the twelfth month after the
20 last date for retirement under the incentive program. If an
21 employee whose retirement is delayed under this subsection dies
22 before the retirement becomes effective, the retirement shall be
23 effective on the first day of the month after the date of death of the
24 employee, unless the employee's beneficiary for retirement benefits
25 requests in writing to the board of trustees of the retirement system
26 that benefits payable for death in active service be paid on behalf of
27 the employee.

28 m. An employee retiring with an incentive benefit under this
29 section who has not paid the full amount of a loan from the
30 retirement system by the effective date of retirement may repay the
31 loan through deductions from the monthly retirement benefits in the
32 same monthly amount which was deducted from the member's
33 compensation immediately preceding retirement, until the balance
34 of the amount borrowed with interest at the statutory rate is repaid.
35 If the retiree dies before the outstanding balance of the loan and
36 interest is repaid, the remaining balance shall be repaid as provided
37 in the laws governing the retirement system for repayment of loans.

38 n. Notwithstanding the provisions of the laws governing the
39 retirement system, an employee purchasing service credit to qualify
40 for a benefit under this section may, for each affected retirement
41 system, purchase a portion of the service credit which the employee
42 is eligible to purchase.

43 o. If the incentive program is approved and implemented, the
44 actuary to the affected retirement system shall determine the full
45 amount of the liability of the retirement system for the incentive
46 program including the liability for the additional service credit and
47 the earlier retirement of employees under the incentive program in
48 accordance with the assumptions used by the retirement system to

1 determine the full liabilities of the system. The municipality shall
2 pay the amount of the liability determined by the actuary to the
3 retirement system in a lump sum or through annual installment
4 payments **【with regular interest at the rate used by the retirement**
5 **system to determine liabilities and to estimate investment return】**
6 **¹【without interest,】² without interest,²** for a period approved by
7 the Director of the Division of Pensions and Benefits in the
8 Department of the Treasury which shall not exceed **【15】 10** years.
9 The municipality shall pay the cost for the actuarial work to
10 determine the full liability of the retirement system if the incentive
11 program is approved and implemented. If the municipality does not
12 make payments for the liability, the cost of the actuarial work, and
13 administrative expenses in a timely manner, the municipality shall
14 be subject to interest and penalties on the payments on the same
15 basis provided for late payment of employer contributions to the
16 retirement system under the laws and rules governing the retirement
17 system.

18 p. The Director of the Division of Pensions and Benefits in the
19 Department of the Treasury shall provide the municipality with
20 information on the estimated liability for the proposed incentive
21 program, and actual liability if the program is approved and
22 implemented. If the program provides additional service credit to
23 employees under the Public Employees' Retirement System of New
24 Jersey, pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), or the
25 Police and Firemen's Retirement System of New Jersey, pursuant to
26 P.L.1944, c.255 (C.43:16A-1 et seq.), the director shall provide the
27 eligible employees of the municipality with information on the
28 benefits they would receive under the incentive program, and other
29 appropriate assistance, to enable employees to decide whether to
30 accept the incentive benefit and retire from the retirement systems if
31 they accept the incentive benefit.

32 q. The powers, duties, and responsibilities related to retirement
33 systems under this section for municipal retirement systems shall be
34 exercised and performed by the governing bodies of the retirement
35 systems.

36 r. Prior to the beginning date of the incentive program,
37 appropriate representatives of the governing body of the
38 municipality which implements an incentive program pursuant to
39 this section shall meet and consult with the majority representative
40 of the bargaining unit or units which include the employees of the
41 municipality who would be eligible for the incentive program.

42 s. For a period of five years after the last date for retirement or
43 termination of employment under an incentive program
44 implemented pursuant to this section, the employment level of the
45 municipality for the provision of governmental services previously
46 performed by employees that participated in the incentive program
47 shall not, without the approval of the director, exceed the
48 employment level specified in the incentive program approved by

1 the director. The director may approve an increase in the
2 employment level to provide the affected governmental services if
3 the director determines that:

4 (1) changes in local conditions such as increased residential or
5 commercial development, increased population, or other changes,
6 have created an increased need or demand for the affected
7 governmental services; and

8 (2) an increase in the employment level for the affected
9 governmental services is warranted and will provide for the delivery
10 of governmental services in an effective and cost efficient manner.
11 The municipality shall submit annual reports to the director for five
12 years after the last date for retirement or termination of employment
13 under an incentive program implemented pursuant to this section, in
14 the form and manner required by the director, concerning the
15 number of employees and the employment costs to provide the
16 affected governmental services.

17 t. If the municipality exceeds the employment levels under
18 subsection s. of this section, it shall be required by the director to
19 reimburse the Division of Pensions and Benefits in the Department
20 of the Treasury for the costs of the actuarial work performed for the
21 municipality pursuant to subsection e. of this section, as determined
22 by the director of that division.

23 (cf: P.L.2016, c.4, s.13)

24

25 ¹**[2.] 3.**¹ This act shall take effect immediately.

26

27

28

29

30 Requires early retirement incentive offer before public safety
31 department layoffs in municipalities in need of stabilization and
32 recovery.

SENATE, No. 3311

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED JUNE 12, 2017

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Modifies incentive program offered by municipality in need of stabilization and recovery.

CURRENT VERSION OF TEXT

As introduced.



S3311 SWEENEY

2

1 AN ACT modifying an incentive program offered by a municipality
2 in need of stabilization and recovery and amending
3 P.L.2016, c.4.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 13 of P.L.2016, c.4 (C.52:27BBBB-11) is amended
9 to read as follows:

10 13. a. In order to achieve financial stability, a municipality in
11 need of stabilization and recovery, as determined by the
12 commissioner pursuant to subsection a. of section 4 of P.L.2016, c.4
13 (C.52:27BBBB-4), may offer and implement an incentive program
14 for retirement or termination of employment after approval of such
15 incentive program by the director. The program shall be limited to
16 full-time employees in any department, office, section, or other
17 organizational component of the municipality in need of
18 stabilization and recovery to achieve financial stability. The
19 incentive program may include one or more of the following:

20 (1) cash payments or the purchase of annuities;

21 (2) employer contributions to an approved employee deferred
22 compensation program to the extent permitted by federal law;

23 (3) payment by the municipality for continuation of health
24 benefits coverage after retirement for not more than five years or
25 until the employee attains the age of eligibility for Medicare,
26 whichever occurs first;

27 (4) payment by the municipality for health benefits coverage
28 after retirement under the "New Jersey State Health Benefits
29 Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), or under
30 group insurance contracts pursuant to N.J.S.40A:10-23, for
31 employees and dependents in accordance with the law and rules
32 governing the State Health Benefits Program or the law governing
33 such group insurance contracts, as the case may be, for employees
34 who fail to meet the service requirement for payment for such
35 coverage after retirement by no more than five years, but who are
36 otherwise eligible for employer payment for health benefits
37 coverage after retirement; or

38 (5) additional service credit for employees who are members of
39 the Public Employees' Retirement System of New Jersey, pursuant
40 to P.L.1954, c.84 (C.43:15A-1 et seq.) or the Police and Firemen's
41 Retirement System of New Jersey, pursuant to P.L.1944, c.255
42 (C.43:16A-1 et seq.), or a municipal retirement system created
43 under P.L.1954, c.218 (C.43:13-22.3 et seq.) or P.L.1964, c.275
44 (C.43:13-22.50 et seq.), as provided in this section.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 b. No later than six months prior to the date on which a
2 proposed incentive program is to begin, the municipality shall
3 submit detailed information concerning the incentive program to the
4 director, in a form and manner prescribed by the director, which
5 shall include the following:

6 (1) the governmental services affected by the plan adopted by
7 the municipality pursuant to subsection b. of section 4 of P.L.2016,
8 c.4 (C.52:27BBBB-4);

9 (2) the departments, offices, sections, and other organizational
10 components of the municipality to be affected, and a list of the
11 employees thereof;

12 (3) the incentives to be offered;

13 (4) the estimated number of employees who will retire or
14 terminate employment under the incentive program;

15 (5) fiscal information sufficient to demonstrate that the
16 incentive program in conjunction with the plan adopted by the
17 municipality pursuant to subsection b. of section 4 of P.L.2016, c.4
18 (C.52:27BBBB-4) will result in a reduction for the municipality in
19 the number of employees providing the affected governmental
20 services, including information on the number of employees by
21 which the municipality will reduce employment for a period of at
22 least five years;

23 (6) fiscal information sufficient to demonstrate that, taking into
24 consideration the costs of the incentive program, the plan adopted
25 by the municipality pursuant to subsection b. of section 4 of
26 P.L.2016, c.4 (C.52:27BBBB-4) will result in a reduction in the cost
27 of providing the affected governmental services for the
28 municipality;

29 (7) information on the fiscal stability of the municipality
30 sufficient to demonstrate that the municipality will be able to pay
31 the costs for the incentive program which will result in net savings
32 and shall not necessitate any increase in property taxes for the
33 municipality;

34 (8) information sufficient to demonstrate that the municipality
35 will continue to provide the affected governmental services without
36 the number of employees that are expected to take the incentive;
37 and

38 (9) any other information which the director may require.

39 c. The director may, for good cause, permit a municipality to
40 submit information without complying with the time period for
41 submission of information or which does not conform to the
42 specific informational requirements of this section.

43 d. The director shall provide to the Director of the Division of
44 Pensions and Benefits in the Department of the Treasury sufficient
45 information relating to the incentive program so that the Director of
46 the Division of Pensions and Benefits may provide to the director:

47 (1) an estimate of the anticipated liability of the affected
48 retirement systems;

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1 (2) a determination of whether the incentive program is
2 reasonably calculated to produce a reduction in the number of
3 employees of the municipality; and

4 (3) taking into consideration the liability for the incentive
5 program, an estimate of the net savings in the employment costs to
6 provide the affected governmental services.

7 e. In order to make the calculation required by paragraph (2) of
8 subsection d. of this section, the Director of the Division of
9 Pensions and Benefits in the Department of the Treasury shall
10 submit the proposed incentive program to the actuary of each
11 retirement system which would be affected by the incentive
12 program. Each actuary shall estimate the additional liability to the
13 retirement system for the incentive program, including the liability
14 for the additional service credit and the earlier retirement of
15 employees under the incentive program. Each actuary shall provide
16 the Director of the Division of Pensions and Benefits with an
17 opinion on whether the incentive program is reasonably calculated
18 to produce a reduction in the number of employees of the
19 municipality providing the affected governmental services, and a
20 net savings, taking into consideration the liability for the incentive
21 program, in the employment costs to provide the affected
22 governmental services. The State shall conduct the actuarial work
23 required by this subsection at no charge to the municipality.

24 f. If the incentive program includes the provision of additional
25 service credit under State retirement systems for eligible
26 employees, the beginning and ending dates for the incentive
27 program and the time period during which the eligible employees
28 will have to elect to participate in the incentive program shall be
29 subject to approval by the Director of the Division of Pensions and
30 Benefits in the Department of the Treasury.

31 g. If the director determines that the incentive program will
32 result in the municipality continuing to provide the affected
33 governmental services with fewer employees and at a lower cost,
34 and that the incentive program will result in net savings and will not
35 necessitate any increase in local property taxes for the municipality,
36 the director shall approve the incentive program for
37 implementation.

38 h. For employees who are members of the Police and Firemen's
39 Retirement System of New Jersey, pursuant to P.L.1944, c.255
40 (C.43:16A-1 et seq.), an incentive program for retirement may
41 provide additional months of service credit for an employee who
42 has 20 or more years of service credit on the last day for retirement
43 under the incentive program, so that the employee shall have an
44 aggregate amount of service credit under the retirement system of
45 no more than 30 years on the effective date of retirement. In no
46 case shall more than 60 months of additional service credit be
47 provided under the incentive program.

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1 i. For employees who are members of the Public Employees'
2 Retirement System of New Jersey, pursuant to P.L.1954, c.84
3 (C.43:15A-1 et seq.), or a municipal retirement system, an incentive
4 program for retirement may provide not more than 60 additional
5 months of service credit for an employee who has 20 or more years
6 of service credit on the last day for retirement under the incentive
7 program.

8 j. An incentive program may require one or more of the
9 following criteria: a minimum number of years of service credit in a
10 retirement system, a minimum number of years of service with the
11 municipality, or a minimum age for eligibility to participate in the
12 program.

13 k. An employee who receives an incentive benefit for
14 retirement or termination of employment under this section shall
15 forfeit any tenure, civil service, or other employment right for
16 continued employment or for return to employment based upon the
17 employment for which the employee receives the incentive benefit.

18 l. When the needs of the municipality require the continuation
19 in service of an employee who elects to retire and receive an
20 incentive benefit under this section, the effective retirement date of
21 the employee may be delayed, with the approval of the governing
22 body of the municipality and the agreement of the employee, until
23 the first day of any month not later than the twelfth month after the
24 last date for retirement under the incentive program. If an
25 employee whose retirement is delayed under this subsection dies
26 before the retirement becomes effective, the retirement shall be
27 effective on the first day of the month after the date of death of the
28 employee, unless the employee's beneficiary for retirement benefits
29 requests in writing to the board of trustees of the retirement system
30 that benefits payable for death in active service be paid on behalf of
31 the employee.

32 m. An employee retiring with an incentive benefit under this
33 section who has not paid the full amount of a loan from the
34 retirement system by the effective date of retirement may repay the
35 loan through deductions from the monthly retirement benefits in the
36 same monthly amount which was deducted from the member's
37 compensation immediately preceding retirement, until the balance
38 of the amount borrowed with interest at the statutory rate is repaid.
39 If the retiree dies before the outstanding balance of the loan and
40 interest is repaid, the remaining balance shall be repaid as provided
41 in the laws governing the retirement system for repayment of loans.

42 n. Notwithstanding the provisions of the laws governing the
43 retirement system, an employee purchasing service credit to qualify
44 for a benefit under this section may, for each affected retirement
45 system, purchase a portion of the service credit which the employee
46 is eligible to purchase.

47 o. If the incentive program is approved and implemented, the
48 actuary to the affected retirement system shall determine the full

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1 amount of the liability of the retirement system for the incentive
2 program including the liability for the additional service credit and
3 the earlier retirement of employees under the incentive program in
4 accordance with the assumptions used by the retirement system to
5 determine the full liabilities of the system. The municipality shall
6 pay the amount of the liability determined by the actuary to the
7 retirement system in a lump sum or through annual installment
8 payments **【with regular interest at the rate used by the retirement**
9 **system to determine liabilities and to estimate investment return】**
10 without interest, for a period approved by the Director of the
11 Division of Pensions and Benefits in the Department of the
12 Treasury which shall not exceed **【15】 10** years. The municipality
13 shall pay the cost for the actuarial work to determine the full
14 liability of the retirement system if the incentive program is
15 approved and implemented. If the municipality does not make
16 payments for the liability, the cost of the actuarial work, and
17 administrative expenses in a timely manner, the municipality shall
18 be subject to interest and penalties on the payments on the same
19 basis provided for late payment of employer contributions to the
20 retirement system under the laws and rules governing the retirement
21 system.

22 p. The Director of the Division of Pensions and Benefits in the
23 Department of the Treasury shall provide the municipality with
24 information on the estimated liability for the proposed incentive
25 program, and actual liability if the program is approved and
26 implemented. If the program provides additional service credit to
27 employees under the Public Employees' Retirement System of New
28 Jersey, pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), or the
29 Police and Firemen's Retirement System of New Jersey, pursuant to
30 P.L.1944, c.255 (C.43:16A-1 et seq.), the director shall provide the
31 eligible employees of the municipality with information on the
32 benefits they would receive under the incentive program, and other
33 appropriate assistance, to enable employees to decide whether to
34 accept the incentive benefit and retire from the retirement systems if
35 they accept the incentive benefit.

36 q. The powers, duties, and responsibilities related to retirement
37 systems under this section for municipal retirement systems shall be
38 exercised and performed by the governing bodies of the retirement
39 systems.

40 r. Prior to the beginning date of the incentive program,
41 appropriate representatives of the governing body of the
42 municipality which implements an incentive program pursuant to
43 this section shall meet and consult with the majority representative
44 of the bargaining unit or units which include the employees of the
45 municipality who would be eligible for the incentive program.

46 s. For a period of five years after the last date for retirement or
47 termination of employment under an incentive program
48 implemented pursuant to this section, the employment level of the

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7

1 municipality for the provision of governmental services previously
2 performed by employees that participated in the incentive program
3 shall not, without the approval of the director, exceed the
4 employment level specified in the incentive program approved by
5 the director. The director may approve an increase in the
6 employment level to provide the affected governmental services if
7 the director determines that:

8 (1) changes in local conditions such as increased residential or
9 commercial development, increased population, or other changes,
10 have created an increased need or demand for the affected
11 governmental services; and

12 (2) an increase in the employment level for the affected
13 governmental services is warranted and will provide for the delivery
14 of governmental services in an effective and cost efficient manner.
15 The municipality shall submit annual reports to the director for five
16 years after the last date for retirement or termination of employment
17 under an incentive program implemented pursuant to this section, in
18 the form and manner required by the director, concerning the
19 number of employees and the employment costs to provide the
20 affected governmental services.

21 t. If the municipality exceeds the employment levels under
22 subsection s. of this section, it shall be required by the director to
23 reimburse the Division of Pensions and Benefits in the Department
24 of the Treasury for the costs of the actuarial work performed for the
25 municipality pursuant to subsection e. of this section, as determined
26 by the director of that division.

27 (cf: P.L.2016, c.4, s.13)

28

29 2. This act shall take effect immediately.

30

31

32

STATEMENT

33

34 This bill amends existing law to provide that a municipality in
35 need of stabilization and recovery that offers its employees a
36 retirement incentive program will not pay interest on the amount of
37 its liability to the retirement system and to reduce from 15 years to
38 10 years the maximum allowable period over which the
39 municipality may pay the liability to the retirement system.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3311

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3311, with committee amendments.

As amended, this bill requires the State, acting in its oversight capacity with respect to municipalities in need of stabilization and recovery, to offer early retirement incentive programs (ERI), in writing, to public safety department employees prior to those employees being subject to a layoff plan.

The bill removes provisions of current law that require a municipality is not required to pay interest on the amount of its liability to the retirement system that it elects to pay through annual installment payments as a result of a retirement incentive program, and also reduces from 15 years to 10 years the maximum allowable period over which the municipality must pay the liability to the retirement system.

COMMITTEE AMENDMENTS:

The amendments require the State, acting in its oversight capacity with respect to municipalities in need of stabilization and recovery, to offer early retirement incentive programs, in writing, to public safety department employees prior to those employees being subject to a layoff plan.

The amendments also eliminate provisions included in the introduced version of the bill that would have provided for a municipality to pay the amount of its liability to the retirement system through annual installment payments without interest.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates the changes provided by the bill will not impact municipal finances. A municipality in need of stabilization and recovery (currently only the City of Atlantic City) is not required to offer its employees a retirement incentive program. The State's authority to layoff municipal employees is discretionary.

Any fiscal impacts will be affected by State and municipal government decisions to layoff public safety employees and by the terms of any retirement incentive program offered to those employees.

The total costs of an ERI and the amount of salary savings achieved through an incentive program will be driven by the number of employees who participate in the ERI and the types of benefits offered to eligible employees. The recovery act requires an ERI to generate a net savings to the municipality, without necessitating a property tax increase, while allowing a municipality to provide the affected governmental services at a lower cost. Based on this statutory requirement, an ERI would result in a reduction in municipal expenditures. However, the OLS does not have sufficient data to compare the net fiscal impact of an ERI to the costs associated with the net fiscal impact of employee layoffs.

Pension systems are supported by three sources of revenue: employer contributions, employee contributions, and investment earnings. Employer contribution levels and investment earnings projections are based on actuarial experience studies of the employment tenure of persons enrolled in the pension system. Although the removal of accrued interest from the ERI liability calculation will reduce the overall cost of the incentive program and the amount Atlantic City may have to pay back to the Police and Firemen's Retirement System (PFRS), it will create an unfunded liability for the entire pension system. Presumably this liability will have to be covered by increased contributions to PFRS made by all system members.

STATEMENT TO
[First Reprint]
SENATE, No. 3311

with Senate Floor Amendments
(Proposed by Senator SWEENEY)

ADOPTED: JUNE 29, 2017

This floor amendment provides for a municipality in need of stabilization and recovery to pay the amount of its early retirement incentive program liability to the retirement system through annual installment payments without interest.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 3311

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: AUGUST 16, 2017

SUMMARY

- Synopsis:** Requires early retirement incentive offer before public safety department layoffs in municipalities in need of stabilization and recovery.
- Type of Impact:** Indeterminate impact on municipal costs.
- Agencies Affected:** Departments of Community Affairs and the Treasury and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Cost	Indeterminate Impact – See comments below		

- The Office of Legislative Services (OLS) estimates that the enactment of Senate Bill No. 3311 (2R) will not, by itself, affect municipal finances. Any fiscal impacts will be driven by State and municipal government decisions to lay off public safety employees and by the terms of any retirement incentive program offered to those employees.
- The OLS does not have sufficient data to compare the fiscal impact of employee layoffs to the fiscal impact of an early retirement incentive program (ERI).
- Allowing the City of Atlantic City to repay ERI liabilities without interest will lower the cost of an incentive program while creating an unfunded liability in the Police and Firemen’s Retirement System (PFRS). This liability would have to be covered through increased contributions made by system members.

BILL DESCRIPTION

Senate Bill No. 3311 (2R) requires the State, acting pursuant to the “Municipal Stabilization and Recovery Act,” P.L.2016, c.4 (C.52:27BBBB-1 et seq.) (“recovery act”), to offer an early retirement incentive (ERI) program to public safety department employees in a municipality in

need of stabilization and recovery prior to subjecting those employees to a layoff plan. Current law permits the Local Finance Board (LFB) to authorize the Director of the Division of Local Government Services (DLGS) to appoint, transfer, or remove employees of a municipality in need of stabilization and recovery, excluding appointed officials who have obtained tenure in office. The provisions of Title 11A, Civil Service, of the New Jersey Statutes, do not apply to actions taken by the DLGS pursuant to the recovery act.

A municipality in need of stabilization and recovery may offer and implement an ERI in order to achieve financial stability and reduce its employee head count. Any liability to a pension system affected by an ERI must be repaid by the municipality, with interest, over a maximum term of 15 years. The bill allows a municipality in need of stabilization and recovery to pay the full liability of an early retirement incentive program to the affected retirement system, without interest, over a maximum term of 10 years.

The only municipality under State control pursuant to the recovery act is the City of Atlantic City. On June 6, 2016, the Commissioner of Community Affairs determined that the City of Atlantic City constituted a municipality in need of stabilization and recovery. The commissioner's determination was based on a review of the city's property tax ratable base and outstanding debt portfolio. Atlantic City's proposed recovery plan was rejected by the commissioner on November 1, 2016. On November 9, 2016, the LFB adopted a resolution granting the DLGS broad authority to manage Atlantic City's municipal affairs in accordance with section 5 of P.L.2016. c.4 (C.52:27BBBB-5).

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concludes that the enactment of Senate Bill No. 3311 (2R) would have an indeterminate impact on municipal finances. The total costs of an ERI and the amount of salary savings achieved through an incentive program will be driven by the number of employees who participate in the ERI and the types of benefits offered to eligible employees. The recovery act requires an ERI to generate a net savings to the municipality, without necessitating a property tax increase, while allowing a municipality to provide the affected governmental services at a lower cost. Based on this statutory requirement, an ERI would result in a reduction in municipal expenditures. However, the OLS does not have sufficient data to compare the net fiscal impact of an ERI to the costs associated with the net fiscal impact of employee layoffs.

Pension systems are supported by three sources of revenue: employer contributions, employee contributions, and investment earnings. Employer contribution levels and investment earnings projections are based on actuarial experience studies of the employment tenure of persons enrolled in the pension system. Although the removal of accrued interest from the ERI liability calculation will reduce the overall cost of the incentive program and the amount Atlantic City may have to pay back to the Police and Firemen's Retirement System (PFRS), it will create an unfunded liability for the entire pension system. Presumably this liability will have to be covered by increased contributions to PFRS made by all system members.

Information available through Atlantic City's Five-Year Recovery Plan indicates that it evaluated the potential fiscal impact of an ERI. In the Five-Year Recovery Plan, Atlantic City reported that it issued an initial ERI offer to employees on October 6, 2016. Eligible employees were required to have at least 20 years of service credit as of the effective date of the ERI program. The city offered two benefit enhancement options. Employees could elect to receive up to 60 months of pension service credit (capped at 30 years of total service credit) and up to 90% of their terminal leave payment, provided the member's balance did not exceed \$15,000. Terminal leave payments were reduced by an additional 10% for each year of pension service credit awarded to the employee through the ERI. As an alternative to the pension enhancement, members with 25 or more years of service credit could opt to receive a lump sum payment equal to three years of current salary and the full terminal leave payout.

Responses to the ERI offer were due October 17, 2016. Atlantic City received 190 ERI applications from eligible employees. Of those employees, 125 PFRS employees opted for the pension enhancement while 3 selected the salary incentive. Atlantic City did not further advance an ERI proposal for PFRS employees. The Five-Year Recovery Plan noted that the projected costs of the enhanced pension benefits offered through the ERI were greater than the estimated salary savings that would accrue to the city. Atlantic City did express a willingness to rework the ERI program design for PFRS members and extend a revised program offer. The Five-Year Recovery did not include any detailed information regarding the total cost of an ERI for PFRS employees and did not count any savings from a PFRS ERI towards the closure of Atlantic City's projected budget deficit. The Five-Year Recovery Plan was rejected by the Commissioner of Community Affairs on November 7, 2016 and an ERI has not yet been implemented.

Information regarding the amount of savings that would accrue to Atlantic City if it chose not to fill any of the police and fire positions vacated by employees that participate in an ERI is not available. The city has expressed an intent to fill some of those positions. Page 55 of the Five-Year Recovery Plan states, "Given the critical nature of public safety positions, significantly more backfill is required than for civilians, with savings coming largely from the difference in pay between long-tenured employees and new hires." In response to a Fiscal Year 2018 OLS Discussion Point, the Department of Community Affairs indicated that its restructuring plan for the Atlantic City's Police and Fire Departments includes new constraints on salaries and benefits. Presumably, the cost of any new employees (salaries, wages, and benefits) will offset a portion of the savings achieved by Atlantic City through an ERI.

Employees who choose to participate in an incentive program remain entitled to receive any amounts owed to them for accumulated absence liabilities (unused sick and vacation time). These amounts are usually owed to an employee upon retirement or separation from employment and determined in accordance with contractual provisions and State and municipal policies. According to Atlantic City's "2017 Municipal User-Friendly Budget," the city has an accumulated absence liability of approximately \$27.7 million, with approximately 80 percent of that amount owed to police officers and firefighters. As of December 31, 2016, Atlantic City has set aside \$4.468 million in its accumulated absence liability reserve fund.

Background: The Recovery Act & Employee Retirement Incentive Programs

The recovery act authorizes Atlantic City to offer and implement an incentive program for retirement or termination of employment (or early retirement incentive ("ERI")). An ERI is intended to allow municipalities to reduce employment costs while maintaining appropriate service levels. At a minimum, eligibility is limited to full-time employees in any department, office, section, or other organizational component of the municipality. Atlantic City may require employees to have a minimum number of years of service credit in a retirement system, a minimum number of years of service with the municipality, or a minimum age for eligibility to

participate in the ERI. Atlantic City may offer employees five different incentives: (1) cash payments or the purchase of annuities; (2) employer contributions to deferred compensation plan; (3) employer-paid continuation of health benefits coverage for a limited period of time, up to five years; (4) employer-paid health benefits coverage after retirement for employees and dependents under the State Health Benefits Program (SHBP) or a local government employer's private carrier plan, notwithstanding that the employee does not meet the service requirement to be eligible for such paid coverage; or (5) up to five years of additional service credit in State, county, or municipal retirement systems.

An incentive program must be approved by the DLGS. Atlantic City must provide fiscal information sufficient to demonstrate that, taking into consideration the costs of the program, the plan will result in a reduction in municipal costs and that the municipality will be able to pay the costs of the program, without increasing property taxes. The recovery act requires the Director of the Division of Pensions and Benefits in the Department of the Treasury to estimate the additional liability for each retirement system, including the liability for additional service credit and early retirement of employees, affected by the ERI. The actuary for each retirement system is required to provide an opinion on whether the incentive program is reasonably calculated to produce a reduction in the number of city employees providing the affected governmental services and a net savings in the cost of providing those services. The actuaries are required to consider the cost of the liabilities created by the ERI when making their determination.

The DLGS is required to approve an ERI if the proposed incentive program will allow a municipality to continue to provide the affected governmental services with fewer employees and at a lower cost, will result in a net savings to the municipality, and will not necessitate an increase in property taxes. Atlantic City is required to pay the full cost of the ERI, as determined by the actuary, as either a lump sum or through annual installment payments with regular interest at the rate used by the retirement system to determine liabilities and to estimate investment returns, for a period approved by the Director of the Division of Pensions and Benefits, which shall not exceed 15 years. The city would also be prohibited from increasing the number of employees to provide the affected governmental services for five years without approval of the DLGS. If Atlantic City violates the employment restriction, it would be required to reimburse the State for the costs of the actuarial work provided by the Division of Pensions and Benefits.

Section: Local Government

*Analyst: Scott A. Brodsky
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 4840

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MAY 18, 2017

Sponsored by:

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

SYNOPSIS

Requires early retirement incentive offer before public safety department layoffs in municipalities in need of stabilization and recovery.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning early retirement incentives in municipalities in
2 need of stabilization and recovery and amending P.L.2016, c.4.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 5 of P.L.2016, c.4 (C.52:27BBBB-5) is amended to
8 read as follows:

9 5. a. (1) Notwithstanding the provisions of any law, rule, or
10 regulation to the contrary, if the municipality in need of
11 stabilization and recovery fails to submit a plan, if the
12 commissioner has determined pursuant to subsection c. of section 4
13 of P.L.2016, c.4 (C.52:27BBBB-4) that the recovery plan is not
14 likely to achieve financial stability for the municipality in need of
15 stabilization and recovery, if the commissioner determines that the
16 municipality is not strictly complying with a recovery plan
17 approved by the commissioner pursuant to subsection c. of section 4
18 of P.L.2016, c.4 (C.52:27BBBB-4), or if the commissioner
19 determines that a recovery plan approved by the commissioner
20 pursuant to subsection c. of section 4 of P.L.2016, c.4
21 (C.52:27BBBB-4) is no longer likely to achieve financial stability,
22 the Local Finance Board may, in its exclusive discretion at any time
23 during which the municipality is deemed a municipality in need of
24 stabilization and recovery, assume and reallocate to, and vest
25 exclusively in the director any of the functions, powers, privileges,
26 and immunities of the governing body of that municipality set forth
27 in any statute, regulation, ordinance, resolution, charter, or contract
28 to which the municipality is a party that are, or may be,
29 substantially related to the fiscal condition or financial
30 rehabilitation and recovery of that municipality. The duration of
31 the transfer of the functions, powers, privileges, and immunities of
32 the governing body shall not exceed the duration of the time the
33 municipality is deemed a municipality in need of stabilization and
34 recovery.

35 (2) In the event the Local Finance Board assumes and
36 reallocates to the director any function, power, privilege, or
37 immunity of the governing body of a municipality in need of
38 stabilization and recovery set forth in a contract to which that
39 municipality is a party, the municipality shall remain the party to
40 the contract and neither the Local Finance Board nor the director
41 shall assume any contractual obligations or liability arising out of
42 that contract or be subject to any claim for breach of that contract or
43 any other claim related to that contract. Any actions or steps taken
44 by the director under P.L.2016, c.4 (C.52:27BBBB-1 et al.) shall be

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 deemed to be by, and on behalf of, the municipality in need of
2 stabilization.

3 (3) The authorities granted to the director by the Local Finance
4 Board pursuant to this section shall extend to any and all actions
5 that, in the exclusive discretion of the director, may help stabilize
6 the finances, restructure the debts, or assist in the financial
7 rehabilitation and recovery of the municipality in need of
8 stabilization and recovery. Notwithstanding the provisions of any
9 other law, rule, regulation, or contract to the contrary, the director
10 shall have the authority to take any steps to stabilize the finances,
11 restructure the debts, or assist in the financial rehabilitation and
12 recovery of the municipality in need of stabilization and recovery,
13 including, but not limited to:

14 (a) implementing governmental, administrative, and operational
15 efficiency and oversight measures;

16 (b) dissolving, terminating, transferring, abolishing, or
17 otherwise disposing of any municipal authority, board, commission,
18 or department, or any function thereof; provided, however, that no
19 such action shall be taken until adequate provision has been made
20 for the payment of the creditors or obligees of the entity to be
21 impacted unless otherwise permitted by law. This shall include the
22 power to take any steps required of the governing body under
23 applicable laws, including but not limited to the "municipal and
24 county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et
25 seq.), the "Local Authorities Fiscal Control Law," P.L.1983, c.313
26 (C.40A:5A-1 et seq.), the "Water Infrastructure Protection Act,"
27 P.L.2015, c.18 (C.58:30-1 et seq.), the "Local Redevelopment and
28 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and the
29 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
30 To the extent that the Local Finance Board or the director exercise
31 any powers under the "Local Authorities Fiscal Control Law,"
32 P.L.1983, c.313 (C.40A:5A-1 et seq.) with respect to any municipal
33 authority or municipal public utility in the municipality in need of
34 stabilization and recovery;

35 (c) vetoing the minutes of the governing body of the
36 municipality in need of stabilization and recovery, any board,
37 commission, or department of the municipality in need of
38 stabilization and recovery, and any independent board or authority
39 in the municipality in need of stabilization and recovery, including,
40 but not limited to, the housing authority, parking authority,
41 redevelopment authority, planning board, and zoning board of
42 adjustment. A true copy of the minutes of every meeting of the
43 governing body and any board, commission, department, or
44 independent board, or authority shall be delivered forthwith, by and
45 under the certification of the secretary thereof, to the director. No
46 action taken at the meeting shall have force or effect until 15
47 business days after a copy of the minutes have been so delivered to
48 the director, unless during this 15-day period the director shall

1 approve in writing the minutes or any part thereof, in which case
2 the action shall become effective upon approval. If, within that 15-
3 day period, the director returns a copy of the minutes with a veto of
4 any action taken by the governing body, board, commission,
5 department, or independent board or authority, or any member
6 thereof at the meeting, the action shall be null and void and of no
7 effect. The director may approve all or part of the action taken at a
8 meeting;

9 (d) controlling litigation and the municipality's legal affairs,
10 including, but not limited to, suing in the municipality's corporate
11 name; prosecuting, defending, and resolving litigation, arbitration,
12 disputes, and controversies; and retaining and directing municipal
13 corporation counsel and other special counsel as the director may
14 deem appropriate;

15 (e) selling, conveying, leasing, monetizing, or otherwise
16 disposing of any interest in any municipally-owned assets,
17 including but not limited to, any water, sewer, wastewater, and
18 storm water infrastructure, equipment or facilities, services, and in
19 any real property, including any improvements thereon; provided
20 that the director shall not sell, convey, lease, monetize, or otherwise
21 dispose of any municipally-owned water asset pursuant to an
22 agreement with a private entity until one year after the effective
23 date of P.L.2016, c.4 (C.52:27BBB-4) to allow the municipality in
24 need of stabilization and recovery to maximize the value of that
25 asset;

26 (f) amending or terminating any existing contracts or
27 agreements, which shall not include bonds, notes, indentures, or
28 other similar financing instruments and documents to which the
29 municipality is a party, in accordance with the terms thereof; or
30 unilaterally amending or terminating any contracts or agreements
31 which shall not include bonds, notes, indentures, or other similar
32 financing instruments and documents to which the municipality is a
33 party, provided that the director determines that the unilateral
34 termination or amendment is reasonable and directly related to
35 stabilizing the finances or assisting with the fiscal rehabilitation and
36 recovery of the municipality in need of stabilization and recovery;

37 (g) unilaterally modifying, amending, or terminating any
38 collective negotiations agreements, except those related to school
39 districts, to which the municipality is a party, or unilaterally
40 modifying, amending, or terminating the terms and conditions of
41 employment during the term of any applicable collective
42 negotiations agreement, or both, provided that the director
43 determines that the modifications, amendments, or terminations are
44 reasonable and directly related to stabilizing the finances or
45 assisting with the fiscal rehabilitation and recovery of the
46 municipality in need of stabilization and recovery;

47 (h) acting as the sole agent in collective negotiations on behalf
48 of the municipality in need of stabilization and recovery;

1 (i) with respect to any expired collective negotiations
2 agreement to which the municipality in need of stabilization and
3 recovery is a party, unilaterally modifying wages, hours, or any
4 other terms and conditions of employment;

5 (j) unilaterally abolishing any non-elected positions in the
6 municipality in need of stabilization and recovery at any time. All
7 of the functions, powers, and duties of abolished positions shall be
8 exercised or delegated by the director; provided, however, that the
9 provisions of Title 11A, Civil Service, shall not apply to any
10 employment action under this paragraph;

11 (k) unilaterally appointing, transferring, or removing employees
12 of the municipality in need of stabilization and recovery, including,
13 but not limited to, department heads and division heads, as the case
14 may be, but excluding appointed officials who have obtained tenure
15 in office; provided, however, that the provisions of Title 11A, Civil
16 Service, shall not apply to any employment action under this
17 paragraph, and that the director shall not remove employees from a
18 public safety department unless the employees of the department
19 have been offered a retirement incentive plan, in writing, pursuant
20 to section 13 of P.L.2016, c.4 (C.52:27BBBB-11);

21 (l) acting as the appropriate authority, including, without
22 limitation, the appointing authority, for purposes of Title 40A of the
23 New Jersey Statutes;

24 (m) entering into any agreement with the county in which the
25 municipality in need of stabilization and recovery is located, any of
26 the other municipalities located in that county, or any
27 instrumentality of the State to share or consolidate municipal
28 services pursuant to any law applicable to consolidation or sharing
29 of services, including, without limitation, the "Uniform Shared
30 Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et al.)
31 and P.L.2015, c.279 (C.40A:14-90.1 et al.);

32 (n) procuring any goods, services, commodities, information
33 technology, software, hardware, or other items on behalf of the
34 municipality in need of stabilization and recovery, in accordance
35 with either the "Local Public Contracts Law," P.L.1971, c.198
36 (C.40A:11-1 et seq.), or procurement laws applicable to the State, at
37 the discretion of the director;

38 (o) retaining any professionals on behalf of the municipality in
39 need of stabilization and recovery, and directing the work of
40 professionals or any professionals previously retained by the
41 municipality in need of stabilization and recovery, in accordance
42 with either the "Local Public Contracts Law," P.L.1971, c.198
43 (C.40A:11-1 et seq.) or procurement laws applicable to the State, at
44 the discretion of the director;

45 (p) retaining bond counsel, adopting bond ordinances to the
46 extent necessary, making appropriate bond applications, and taking
47 any other steps necessary to restructure and adjust debt, on behalf of
48 the municipality in need of stabilization and recovery;

1 (q) exercising on behalf of the municipality in need of
2 stabilization and recovery any authority granted to a municipality
3 pursuant to the "Local Redevelopment and Housing Law,"
4 P.L.1992, c.79 (C.40A:12A-1 et al.) when the director deems it
5 necessary or appropriate to help stabilize the finances, restructure
6 the debts, or assist with the financial rehabilitation and recovery of
7 the municipality in need of stabilization and recovery;

8 (r) exercising on behalf of the municipality in need of
9 stabilization and recovery any authority granted to a municipality
10 pursuant to the "Redevelopment Area Bond Financing Law,"
11 P.L.2001, c.310 (C.40A:12A-64 et seq.) when the director deems it
12 necessary or appropriate to help stabilize the finances, restructure
13 the debts, or assist with the financial rehabilitation and recovery of
14 the municipality in need of stabilization and recovery;

15 (s) exercising on behalf of the municipality in need of
16 stabilization and recovery any authority granted to a municipality
17 pursuant to the "Long Term Tax Exemption Law," P.L.1991, c.431
18 (C.40A:20-1 et seq.) when the director deems it necessary or
19 appropriate to help stabilize the finances, restructure the debts, or
20 assist the financial rehabilitation and recovery of the municipality in
21 need of stabilization and recovery;

22 (t) authorizing and filing, on behalf of the municipality in need
23 of stabilization and recovery, subject only to the written approval of
24 the majority of the members of the legislative Joint Budget
25 Oversight Committee, a petition and other pleadings and papers
26 with any United States court or federal bankruptcy court for the
27 purpose of effecting a plan of readjustment or composition of debts
28 as set forth in R.S.52:27-40 et seq., and taking any other and further
29 actions necessary or appropriate in connection with any case or
30 proceeding; and

31 (u) negotiating and executing any contracts, agreements, or
32 other documents on behalf of the municipality in need of
33 stabilization and recovery as may be necessary or appropriate to
34 effectuate any of the actions or steps specifically identified in
35 P.L.2016, c.4 (C.52:27BBBB-et al.) or that may otherwise, as the
36 director deems necessary or appropriate, help stabilize the finances,
37 restructure the debts, or assist with the financial rehabilitation and
38 recovery of the municipality in need of stabilization and recovery.

39 (4) Subject to subsection b. of section 11 of P.L.2016, c.4
40 (C.52:27BBBB-9), the Local Finance Board may authorize the
41 director to take any action authorized to be taken under the "Local
42 Bond Law," N.J.S.40A:2-1 et seq., and the "Municipal Qualified
43 Bond Act," P.L.1976, c.38 (C.40A:3-1 et seq.) by a governing body
44 of a local unit.

45 (5) The provisions of P.L.1941, c.100 (C.34:13A-1 et seq.), and
46 regulations promulgated thereunder, shall in no way infringe on the
47 authority of the Local Finance Board or the director set forth in this
48 section or any actions taken by the director pursuant to this section.

1 (6) Any function, power, privilege, or immunity of the
2 municipal governing body that is not assumed by the Local Finance
3 Board and reallocated to and vested exclusively in the director
4 pursuant to this section shall remain allocated to and vested in that
5 governing body unless and until such time as the function, power,
6 privilege, immunity, or duty may be allocated to and vested
7 exclusively in the Local Finance Board or the director pursuant to
8 this section. The Local Finance Board or the director may exercise
9 any power implied or incidental to a power that has been
10 specifically allocated.

11 b. (1) Notwithstanding the provisions of any law, rule, or
12 regulation to the contrary, including any requirements set forth in
13 R.S.40:49-1 et seq., the "Senator Byron M. Baer Open Public
14 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), or R.S.52:27-41,
15 the director shall have the exclusive authority to pass, adopt, repeal,
16 or amend any ordinance or resolution of the municipality in need of
17 stabilization and recovery, modify any meeting agenda of the
18 governing body of the municipality in need of stabilization and
19 recovery, and negotiate, enter into, amend, or terminate any contract
20 or agreement, on behalf of the municipality in need of stabilization
21 and recovery, provided that the director deems the action necessary
22 or appropriate to help stabilize the finances, restructure the debts, or
23 assist with the financial rehabilitation and recovery of the
24 municipality in need of stabilization and recovery.

25 (2) When exercising powers under this section, the director
26 shall, to the extent practicable, comply with all notice, hearing, and
27 other requirements to which the municipality in need of
28 stabilization and recovery is generally subject, but in no instance
29 shall the director be deemed a "public body" pursuant to the
30 "Senator Byron M. Baer Open Public Meetings Act," P.L.1975,
31 c.231 (C.10:4-6 et seq.).

32 (3) The director may issue to the appropriate elected and
33 appointed officials and employees, agents, and contractors of a
34 municipality in need of stabilization and recovery the orders that the
35 director deems appropriate to stabilize the finances, restructure the
36 debts, or assist the financial rehabilitation and recovery of the
37 municipality in need of stabilization and recovery pursuant to the
38 authority granted by the Local Finance Board pursuant to this
39 section. Any order by the director shall be binding on the
40 appropriate elected and appointed officials and employees, agents,
41 and contractors of a municipality in need of stabilization and
42 recovery and may be enforced as other orders of the director are
43 enforced under general law.

44 (cf: P.L.2016, c.4, s.5)

45

46 2. This act shall take effect immediately.

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STATEMENT

This bill would require that the State, acting in its oversight capacity with respect to municipalities in need of stabilization and recovery, offer early retirement incentive programs, in writing, to public safety department employees prior to those employees being subject to a layoff plan.

The City of Atlantic City has been under State control since 2016 pursuant to the authority granted to the Local Finance Board through the enactment of "Municipal Stabilization and Recovery Act," N.J.S.A.52:27BBBB-1 et seq. Since that time, the unions, which represent public safety employees, have made good faith attempts to negotiate with the State and reduce the size of its government while protecting the public health, safety, and welfare of Atlantic City residents and guests.

It is the sponsor's belief that massive layoffs with respect to Atlantic City's police and fire departments is a serious detriment to the public safety of the residents, workers, visitors, and businesses in Atlantic City. The sponsor believes that the appropriate rightsizing of Atlantic City's public safety departments can be accomplished through the offering of an early retirement incentive program to reduce the size of these departments, without jeopardizing public safety and existing federal grants, while alleviating long-term financial stress on Atlantic City's budget. The City is required to pay off the ERI costs, and could pay off the cost over 15 years with the approval of the Director of the Divisions of Pensions and Benefits.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 4840

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 2017

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 4840.

As amended by the committee, this bill would require that the State, acting in its oversight capacity with respect to municipalities in need of stabilization and recovery, must offer early retirement incentive (ERI) programs, in writing, to public safety department employees *prior to* those employees being subject to a layoff plan. The amended bill would also provide that a municipality would not pay interest on the amount of its liability to the retirement system, and would also reduce from 15 years to 10 years the maximum allowable period over which the municipality must pay the liability to the retirement system.

The City of Atlantic City has been under State control since 2016 pursuant to the authority granted to the Local Finance Board through the enactment of "Municipal Stabilization and Recovery Act," N.J.S.A.52:27BBBB-1 et seq. Since that time, the unions representing public safety employees have made good faith attempts to negotiate with the State and reduce the size of the city's government while protecting the public health, safety, and welfare of Atlantic City residents and guests.

Layoffs of employees in Atlantic City's police and fire departments may compromise the safety of the residents, workers, visitors, and businesses in Atlantic City. The appropriate "rightsizing" of Atlantic City's public safety departments may be accomplished through the offering of an ERI program to reduce the size of these departments, without jeopardizing public safety and existing federal grants, while alleviating long-term financial stress on Atlantic City's budget. Under the "Municipal Stabilization and Recovery Act," Atlantic City is required to pay all ERI costs, and could pay off the cost over 15 years with the approval of the Director of the Divisions of Pensions and Benefits.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that a municipality would not pay interest on the amount of its liability to the retirement system, and would also reduce from 15 years to 10 years the maximum allowable period over which the municipality must pay the liability to the retirement system.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4840

STATE OF NEW JERSEY

DATED: JUNE 26, 2017

The Assembly Budget Committee reports favorably Assembly Bill No. 4840 (1R).

This bill requires that the State, acting in its oversight capacity with respect to municipalities in need of stabilization and recovery, must offer early retirement incentive programs (ERI), in writing, to public safety department employees prior to those employees being subject to a layoff plan.

The bill provides that a municipality would not pay interest on the amount of its liability to the retirement system, and also reduces from 15 years to 10 years the maximum allowable period over which the municipality must pay the liability to the retirement system.

FISCAL IMPACT:

The enactment of Assembly Bill No. 4840 (1R) by itself, will not impact municipal finances. A municipality in need of stabilization and recovery (currently only the City of Atlantic City) is not required to offer its employees a retirement incentive program. The State's authority to layoff municipal employees is discretionary.

Any fiscal impacts will be affected by State and municipal government decisions to layoff public safety employees and by the terms any retirement incentive program offered to those employees. The total costs of an ERI and the amount of salary savings achieved through an incentive program will be driven by the number of employees who participate in the ERI and the types of benefits offered to eligible employees. The recovery act requires an ERI to generate a net savings to the municipality, without necessitating a property tax increase, while allowing a municipality to provide the affected governmental services at a lower cost. Based on this statutory requirement, an ERI would result in a reduction in municipal expenditures. However, the OLS does not have sufficient data to compare the net fiscal impact of an ERI to the costs associated with the net fiscal impact of employee layoffs.

Pension systems are supported by three sources of revenue: employer contributions, employee contributions, and investment earnings. Employer contribution levels and investment earnings projections are based on actuarial experience studies of the

employment tenure of persons enrolled in the pension system. Although the removal of accrued interest from the ERI liability calculation will reduce the overall cost of the incentive program and the amount Atlantic City may have to pay back to the Police and Firemen's Retirement System (PFRS), it will create an unfunded liability for the entire pension system. Presumably this liability will have to be covered by increased contributions to PFRS made by all system members.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 4840

with Assembly Floor Amendments
(Proposed by Assemblyman MAZZEO)

ADOPTED: JUNE 29, 2017

This floor amendment provides for a municipality in need of stabilization and recovery to pay the amount of its early retirement incentive program liability to the retirement system through annual installment payments without interest.

**GOVERNOR'S STATEMENT UPON SIGNING
SENATE BILL NO. 3311
(Second Reprint)**

Senate Bill No. 3311 (Second Reprint), which I have signed today, amends the Municipal Stabilization and Recovery Act, P.L.2016, c.4 ("Recovery Act"), that I signed into law on May 27, 2016. The Recovery Act provides the State with an array of tools to help stabilize designated municipalities in severe fiscal distress.

In November 2016, the State began overseeing Atlantic City pursuant to the Recovery Act. Since that time, Atlantic City has made great strides to secure its finances and its future: the overall property tax rate for 2017 dropped by 11.4 percent, all outstanding casino property tax appeals have been resolved, and significant investments are being made by third parties that promise to restore Atlantic City as a premiere tourist destination.

One of the many tools the Recovery Act provides to help stabilize a municipality's finances is the discretion to offer an early retirement incentive program ("ERI"). This bill requires an ERI to be offered before any public safety department personnel are removed. Specifically, this mandate applies only to police officers, firefighters, and first responders. Further, it applies only to individuals whose positions are eliminated pursuant to the Recovery Act. Absent those particular circumstances, the State may implement an ERI under the Recovery Act, but has no obligation to do so. Because the ERI requirement within this bill is limited in these ways, I have signed this bill.

Date: August 25, 2017

Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ James J. DiGiulio

Chief Counsel to the Governor

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Governor Christie Takes Action On Pending Legislation

Friday, August 25, 2017 Tags: [Bill Action](#)



BILL SIGNED:

S-3311/A-4840 (Sweeney/Mazzeo) – w/STATEMENT - Requires early retirement incentive offer before public safety department layoffs in municipalities in need of stabilization and recovery

Press Contact:
Brian Murray
609-777-2600

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