

INSIGHT



PUBLISHED BY THE PROBATION ASSOCIATION OF NEW JERSEY
OFFICE ADDRESS: 2409 PAYNTERS ROAD • WALL, NJ 08736

ISSN 1065-7800

JUNE 2014

WWW.PANJ.ORG

PANJ SUES STATE OF NEW JERSEY FOR 2014 PENSION FUNDS

By Daniel J. Zirrith, Esq.

On May 20, 2014, Governor Chris Christie announced his plan to take \$2.43 billion meant for the pension system, in order to balance the State budget. More specifically, Governor Christie announced that he would significantly reduce two payments intended to strengthen the pension system and instead use the funds to cover unexpected revenue shortfalls in his budgets. Governor Christie stated that he would take approximately \$900 million through an Executive Order he signed on May 20, 2014. The other \$1.5 billion would be taken next year, if the Legislature approves the Governor's plan. Prior to the Governor's new plan, the pension system already faced \$52 billion in unfunded liabilities.

However, when the Legislature passed new pension legislation in 2011, it expressly provided for legal action to be brought by a member of any State-operated public employee retirement system or fund to enforce a contractual right to proper funding of the retirement systems or funds, as set forth in Section 28 of P.L. 2011, c.78, §26, N.J.S.A. 43:3C-9.5(c)(1) and (2).

Several public employee labor unions, including the State Troopers Fraternal Association of New Jersey, the New Jersey Police Benevolent Association, the New Jersey Education Association, as well as the Probation Association of New Jersey, Professional Case-Related Unit ("PANJ-PCR") and Probation Association of New Jersey, Professional Supervisors Union ("PANJ-PSU"), have filed lawsuits in the Superior Court of New Jersey to enforce the contractual right of their members to the annual unfunded liability contribution to the State pension systems, including the Public Employees Retirement System ("PERS").

The lawsuits by the various unions have been filed against the State of New Jersey, Christopher J. Christie, as Governor of the State of New Jersey, the New Jersey Department of the Treasury and Andrew P. Sidamon-Eristoff, the Treasurer of the State of New Jersey. In addition to filing the lawsuits to require that the pension system be funded as previously planned, certain of the Plaintiff labor unions have filed an Order to Show Cause, seeking immediate relief from the Court, requiring the Defendants to make the required annual contributions to fully fund the pensions of the Plaintiffs for the fiscal year 2014. On June 25, 2014, Assignment Judge Mary C. Jacobson, AJSC will hear oral argument from the parties on the unions' request for immediate relief.

PERS is a "defined benefit" plan, which is a plan through which retirees are paid a specific benefit based primarily on their final average salary and years of service. PERS is obligated to pay pension benefits when due, and for the remainder of the life of the participants and/or beneficiaries. As of July 1, 2012, there were approximately 280,158 active employees in PERS. As of July 1, 2012, there were approximately 153,625 retirees in PERS.

PERS is funded by contributions from both employees and employers. Employee contributions are set by statute as a percentage of salary. All employee contributions have been made each year in full. The State and other employers' contribution obligations are determined after the employees' contributions are made and the more the employees contribute, the more the State and other contributing employers' obligations to contribute are reduced.

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In order to be able pay benefits, the pension system operates on an actuarial reserve basis, meaning that based upon a series of actuarial assumptions and calculations, an amount is contributed each year for each participant, which, with the investment earnings on each contribution, will be sufficient upon a member's retirement to pay the monthly benefit for the remainder of that member's life, and of the member's spouse in the event that option is chosen. If contributions are not made in any given year, and for any significant period of time, the loss of contributions and return on investments dramatically increases the amount of future contributions necessary each year, until ultimately reaching a point at which the system can no longer pay benefits. Accordingly, if the Governor's recent actions and future plans are not reversed, the public employee pension systems will be at risk of becoming insolvent. For this reason, PANJ has filed suit against the State, the Governor and the Treasurer seeking a declaratory judgment that their actions have violated the law and requesting that the Court require that the planned payments be made to the pension system. PANJ will continue to keep you apprised of the status of this litigation.

Update On Acting Appointment Arbitration

By Ellen Cribbin, First Vice President, Line Staff

As many of you may be aware, from the last edition of the Insight, the Acting Appointment arbitration award out of Monmouth was appealed by the Judiciary. On May 14th PANJ was in Court in Mercer County in front of Judge Innis, the Presiding Judge in Civil. The Judiciary argued to vacate the arbitration award because their belief is that the arbitrator ruled outside of the Collective Bargaining Agreement, and that the award violates public policy. PANJ gave an oral argument on why the arbitration award should be confirmed. Both parties ahead of the hearing date submitted briefs in support of their arguments. Judge Innis called both parties back two weeks later to read his decision on the Judiciary's application.

The Judge did state that arbitration awards can only be overturned if there is evidence of corruption and/or bias, if an arbitrator exceeds his power, or commits misconduct. The Judge stated on the record that he believed the arbitrator had a clear understanding of the issue that was presented, that the Judiciary did not demonstrate a reason why the award should be vacated, and the public policy argument is without merit due to re-assignments within the Collective Bargaining Agreement. Judge Innis did confirm our arbitration award! Not only did the Judge confirm the award but he also ordered the Judiciary to pay attorney's fees associated with this filing. This is a great win for PANJ. The Judiciary does have the opportunity to appeal the Judge's decision, which they need to do within 45 days of the decision.

Since the decision was issued four more Locals have filed grievances for the same issue; Ocean, Morris, Burlington and Union. All of those grievances are at different steps of the grievance process.

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Lynne Taylor, Somerset
Nicholas Briscuso, Monmouth

Region 3
A. Francis Nunan, Cape May
Susan Lively, Cumberland
Greg Wolf, Salem

A Message From The President

Brothers and Sisters,

As this Insight edition is being published, PANJ is very busy in defending its members' futures on many fronts. I am very confident in the leadership of PANJ and its ability to see our way through this storm. Especially, the respective First Vice Presidents of both Units.

PANJ has been faced with a number of hurdles since January. They include failure to pay increments, continuing to negotiate a fair contract through mediation and entering into fact finding. Legislatively PANJ is working on a Sick Leave Injury Bill, Recidivism Bill (Judiciary would have to keep statistics), Bail Reform with the supervision aspect performed by Probation Officers, and the Transfer Bill. However, our biggest obstacle that we face is the funding of the pension system. PANJ has filed a lawsuit on behalf of members in both Units to fund the system. By failing to fund the pension system in accordance with Chapter 78, as legislatively enacted, the two billion plus dollars that will not be contributed in the next two years will result in a five billion plus additional deficit over five years. This is in addition to the current deficit in the pension system.

I am very proud of our members for being united during this period. PANJ is cognizant of the economic pressures that are faced by our members and their families. PANJ will continue to defend its members in all arenas.

What is happening in New Jersey and across the country is divide and conquer. You have public officials and others telling you there is a divide between union members and their leadership. Who does that serve? Only those who have created the illusion. It is simply not true and we thank our members for their support.

Have a safe summer!

In Solidarity,

Dwight Covalleskie

Dwight Covalleskie
President



A Message From The Editor

Brothers and Sisters,

Summer is upon us and so is the June 2014 Edition of the Insight. This issue is full of updates on the struggles we are facing on a daily basis. These are difficult times, not only for our members but for all public employees in New Jersey as well as other States. We must remain **united** in purpose and goal, both Line Staff and Supervisors, PANJ and our fellow Unions. That is the only way we will weather these storms and ultimately prevail against the hypocrisy and tyranny. There are, however, rays of light in the current darkness. We need only look at such things as the Acting Appointment Arbitration Award Appeal (please read the article above) out of my home County of Monmouth to find a major victory, and hopefully a glimpse of others yet to come! Thank you for your continued support.

In Solidarity,

Nick Briscuso

Nick Briscuso
Editor

Ad Hoc Update

By Stuart Martinsen, Financial Secretary

The PANJ meeting with the Chief Justice's Probation Ad Hoc Committee was held at the AOC on April 2, 2014. This meeting began the third year of the committee's formation. Present at this meeting from PANJ were: President Dwight Covaleskie; First V.P. Ellen Cribbin; Supervisor's First V.P. Gavin Cummings; Northern Reg. Supervisor's V.P. Don DeHart; Legal Counsel Daniel Zirrih Esq. and this writer. Committee members included the Chair, Judge Yolanda Ciccone, A.J.S.C.; Elizabeth Domingo, Assistant Director of Probation Services; John Pizarro, Chief of Adult Probation Services; Deidre Naughton, AOC Director of Professional and Governmental Services and Erin Catalfamo (staff) also of the AOC.

As mentioned in previous Insight articles, the purpose for the formation of this committee by Judge Grant and Chief Justice Rabner, was to foster improved and direct communication between PANJ and the AOC in order to address mutual labor, safety and workplace concerns.

This meeting held on April 2, 2014 first addressed PANJ's concerns over Directive 14-06 concerning the usage of radios and cell phones as a means of communication in the field. It was reported to PANJ that the Probation Conference of Chief Probation Officer's recommended that police radios are effective for immediate and emergency communications. Also, cell phones should primarily be used for regular business calls to a supervisor, etc.

Assistant Director Domingo reported that \$600,000 is needed to cover the costs of basic radio purchases and related equipment for each vicinage. The AOC attempted to obtain grants to cover these costs, but these requests were denied. PANJ President Dwight Covaleskie suggested contacting the Nation Institute for Corrections for financial assistance in this area.

Judge Ciccone indicated she would also speak with Judge Grant to look at other forms of funding. It was also indicated that several vicinages such as Passaic, Mercer and Ocean, already use police radios in the field. PANJ Supervisor's First V.P. Gavin Cummings advised that supervisors do work from home during off hours monitoring Officers in the field so radios may not be the best option in these cases, thus the need for cell phone communication as well.

Also, PANJ Northern Reg. Supervisor's V.P. Don DeHart asked if Officers could share field itinerary with law enforcement and Ms. Domingo advised that they can share this information as it is specific to their work. Judge Ciccone pointed out that addresses are not confidential and she suggested adding this topic to the Tac-Pro training module.

Further, Ms. Domingo reported that Family Officers would soon be included in the Tac-Pro training modules. Mr. DeHart pointed out there has been discussion on having all officers complete Tac-Pro even those that do not go in the field. However, Ms. Domingo stated that Tac-Pro is geared towards field Officers with active caseloads.

Ms. Domingo additionally advised that a recent survey on bullet proof vests was going to be needed for the next three years and that in September the first round of vests will be ordered. There is also the intention to purchase lighter vests for Officers' usage in the field. A field vest usage video has also been completed as per Ms. Domingo and will be rolled out shortly.

Concerning warrantless search trainings, Chief Pizarro advised that the Chief Probation Officer's conference has endorsed the outline for this training and this will be further reviewed. Ms. Domingo stated that this process could be completed shortly and scheduled for presentation in September of this year. This one day training will consist of a classroom component and hands on exercise which will lead to a certification. PANJ expressed concerns that not all vicinages will implement the searches and that there is greater exposure for safety incidents in the field.

Furthermore, the study of recidivism rates by probationers was addressed by PANJ with the committee. PANJ indicated that recent legislation was introduced that was endorsed by PANJ under A-2417 which calls for the AOC to capture and analyze offender recidivism. Both Ms. Domingo and Mr. Pizarro expressed support for this legislation and the need the AOC has for financial assistance in accomplishing this task. It was agreed that both PANJ and the AOC would work together to get this legislation passed. Judge Ciccone also stated she would contact the AOC about producing a reliable recidivism report in the meantime.

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...Cont'd Ad Hoc Update

The purpose and direction of the Ad Hoc Committee was also discussed by PANJ with the committee members present. Judge Ciccone re-stated that the committee's purpose was to address the improvement of labor and safety relations between PANJ and the Judiciary. PANJ indicated that there was a strong need to continue this dialogue.

PANJ wishes to advise the reader here that the next Ad Hoc Committee meeting has been scheduled for July 22, 2014. If any PANJ member is interested in suggesting other topics for discussion or review by the Ad Hoc Committee, please contact the PANJ office with your ideas at panj1@optimum.net.

Legislative Update, June 2014

By Gerry Gibbs and Jeanette Hoffman, Capital Impact Group

BUDGET UPDATE

Governor Christie Announces Plans to Reduce Funding to State Pension System

In response to an anticipated \$807 million budget deficit, Governor Chris Christie recently announced he intends to reduce scheduled payments to the state's pension system for public workers by \$2.4 billion over the next two years.

Probation Association of New Jersey (PANJ) President Dwight Covaleskie expressed outrage over the Governor's proposed pension cuts.

"Cutting pension funding is a short-term gimmick that will only dig our state into deeper debt and instability," said Covaleskie. "As a result of past governors in both parties skipping billions of dollars in payments, our state pension system remains underfunded and unstable. It is simply unfair that our hard-earned retirement benefits are at risk due to the fiscal mismanagement of political leaders."

The state Legislature has until June 30th to present their spending plan for Fiscal Year 2015 to the Governor. Legislative leaders, including Senate President Steve Sweeney and Assembly Speaker Vincent Prieto, have said they will not support a budget that includes the Governor's drastic pension cuts.

Additionally, 14 unions have announced they are filing lawsuits seeking to stop the Governor from cutting funds to the state pension system. PANJ is working with our legal representatives in determining the best course of action regarding this issue.

State Legislature Considers Bail Reform Measures

Several bail reform measures are pending in the state Legislature, and PANJ is working with our state lawmakers to underscore the important role Probation Officers play in our community supervision system.

Governor Christie and legislative leaders have proposed denying bail to violent offenders. Other key proposals of bail reform include:

- Mandating a system of non-monetary release options;
- Establishing a comprehensive pretrial services agency within each county to monitor and counsel those awaiting trial;
- Requiring arrestees to undergo a risk assessment before their initial bail hearing in order for the court to make individualized determinations of what, or if, monetary bail is appropriate;
- Eliminating private financial incentives to set high bail amounts by prohibiting the operation of commercial bail bonding companies in the state.

PANJ looks forward to working with our state and local officials in making our streets safer through comprehensive bail reform, as well as addressing the discrepancies in our state's community supervision system.

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...Cont'd Legislative Update

LEGISLATIVE TRACKER

PANJ Supports Legislation to Create Compensation Program for Injured Probation Officers

A-850, 2014: Establishes compensation program for certain injured probation officers.

At the request of PANJ leadership, Assembly Law and Public Safety Chairman Charles Mainor recently introduced legislation to establish a compensation program for Probation Officers who suffer bodily injury as the result of an assault by a probationer under their care or supervision.

Under the provisions of the bill, an injured Probation Officer would be entitled to his or her salary until their workmen's compensation payments begin. Once their workmen's compensation payments begin, the injured Officers would be entitled to regular supplemental payments from their employer. The amount of these payments would be sufficient, when added to the injured officer's workmen's compensation, to equal his or her net wages at the time of the injury. These supplemental payments are to continue as long as the Officer remains a State Probation Officer and continues to receive workmen's compensation for the injury.

PANJ looks forward to working with Chairman Mainor in advancing this important legislation.

PANJ Backs Legislation to Require AOC to Record Recidivism Rates of Probationers

A2417, 2014: Directs the collection of recidivism data for adults sentenced to a period of probation.

New legislation sponsored by Assemblyman Ronald Dancer would require the Administrative Office of the Courts to establish a program to record and analyze recidivism rates for adults sentenced to a period of Probation. The purpose of this provision is to measure the effectiveness of the State's Probation rehabilitation initiatives and programs. The bill is modeled on a similar program established in 2009 to record and analyze recidivism rates for adult and juvenile inmates released from incarceration.

PANJ strongly supports this legislation as an important measure in analyzing the effectiveness of the community supervision system and, in turn, ensuring our Officers have the tools and training they need to safely and effectively perform their jobs.

72nd Annual PANJ EF Conference

By Deneen Hohman, Conference Chair

It's that time of year to start planning the Annual Conference training getaway! The conference dates are November 23rd through the 25th, so block out those dates on your calendars! The Conference Committee has been working very hard to put it all together for you this year. We are once again at BALLY's Hotel & Casino in Atlantic City. This year's theme is "Embracing Change, Beating the Odds & Achieving Positive Outcomes", with a casino motif for the events.

The training committee has scheduled sessions that will provide **EVERYONE** with valuable information and insight to help with our daily tasks. Remember that, no matter where you work, at any time you could be reassigned to another division. Please go to the PANJ website (www.panj.org) to check out all the sessions being offered and their descriptions.

The Registration forms this year have been revised and are available on the PANJ website. Please make sure to review everything on the form before sending it in.

The PANJ website has all the Scholarship applications along with the PANJ Awards nomination information. Start thinking now of which co-workers have stood out from all the rest.

If you know of a business who would like to place an Ad in the Program Booklet, be an Exhibitor or a Sponsor; please visit the PANJ website and click on the Conference tab for all the information and forms.

We will be continuing with the "Give Back to the Community" by collecting non-perishable items for the FOOD BANK. Many thanks to everyone who participated last year. We were able to collect over 190 pounds of food items! Let's see if we can reach 200 this year!

Have a fantastic Summer!

We hope to see everyone in the Fall!

Probation Association of New Jersey Education Fund, Inc.
72nd Annual Conference

**Embracing Change,
Beating the Odds &
Achieving Positive Outcomes**

Bally's Hotel & Casino - November 23-25, 2014
For more information visit www.panj.org



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