



Probation Association of New Jersey

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An affiliate of the American Probation and Parole Association

United Professional Center, Unit 2-20

617 Union Avenue, Brielle, NJ 08730

Phone (732) 223-1799 Fax (732) 223-8363

Website: www.panj.org

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TO: ALL PANJ MEMBERS
FROM: GEORGE P. CHRISTIE, PRESIDENT
DATE: June 1, 2012
RE: IMMEDIATE DELAY OF INCREASING PENSIONS
ANNUALLY BY COST OF LIVING ALLOWANCE
(COLA) UNTIL CONDITIONS ARE MET IN NEW LAW

PANJ is a plaintiff in a lawsuit challenging the legality of the provisions of a new law (Chapter 78) which eliminates the annual payment of Cost of Living Allowance (COLA). This effectively reduces annual pension increases for current retirees who qualify for the COLA payment. PANJ members are enrolled in the Public Employees' Retirement System (PERS). Chapter 78 is also applicable to other pension systems such as TPAF (for teachers) and PFRS (for police and fire), and therefore is applicable to huge numbers of current retirees. This means that when current and retired PERS members, prior to adoption of Chapter 78, will not receive a COLA when they should have been entitled to it

The COLA is supposed to be reinstated when PERS is "adequately funded" and after that, when a committee determines that the reinstatement should take place. Our lawsuit on the COLA was determined on May 25, 2012 as a result of Motions for Summary Judgment and to Dismiss, was heard by the Superior Court Judge in the Law Division, the Honorable Douglas Hurd. The litigation is brought by most, if not all, public sector labor organizations as well as many individuals including a number of retired attorneys in the Attorney General's office.

The oral determination of Judge Hurd (there will be no written opinion) with respect to current retirees the Legislature had the right not to provide funds for the COLA increases and that the extensive challenges to the legality of the COLA limitation were rejected. The matter will now be appealed by PANJ and others participating to the Appellate Division of the Superior Court, a process which would result in a determination there in about five months. It is possible because of the important nature of this issue that it could be moved to the New Jersey Supreme Court, before the Appellate Division decision.

There are other significant challenges brought by the lawsuit outside of the scope of the COLA issue. For instance, there is a pending challenge with respect to certain employees, who have less than 20 years of service when Chapter 78 was adopted being required to make contributions from their pension payments upon retirement to the cost of health insurance coverage which over time could be a large percentage of the premium.

Another significant challenge made by PANJ is pending in the Burlington Vicinage, which seeks to declare unconstitutional and illegal the requirement that after a contract expires (in our case on June 20, 2012) payments for health benefits may over four years equal 35% of the premium as to those earning \$110,000 or more (35% law). The percentage is less for those who earn less. There will be more information on this pending litigation shortly. Accordingly, the 1 ½% of salary currently paid for health benefits may be increased beginning July 1.

The specifics on this, as noted above, will be provided soon but the important item is that this law is being challenged in the Burlington Vicinage by PANJ and others. That decision is being deferred until New Jersey's Supreme Court renders a decision in the matter brought by a Superior Court Judge known as the "DePascale Case" which determined that Superior Court Judges are exempt from that payment. The appeal of that matter made by the Attorney General (the State of New Jersey) should be determined by the Supreme Court in the next couple of weeks.

Unless the 35% law results in a successful legal challenge there will be deductions in pay using the current State Health Benefits cost of about \$21,000 annually over a 4 year period totaling about \$7,350 for those earning \$110,000 or more. This amount will increase when premiums increase. Beginning July 1, 2012, the changes go into effect with increases on July 1, 2013, July1, 2014 and July1, 2015.

On www.panj.org is a chart under the heading of Legislation, FAQ health benefits and pension reform under Chapter 78, for contribution percentages based on your salary, which was previously disseminated.