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December 10, 2021

Legislative Alert: A-5862, Responsible Collective Negotiations Bill Before Committee on Monday

Dear Mayor:

On Monday, the Assembly Labor Committee will consider [A-5862](#), the “Responsible Collective Negotiations Act” (Senate companion is S-3810). This legislation would substantially expand the power and influence of the public sector labor unions to negotiate previously non-negotiable items. We understand that there may be amendments made to the bill in committee but after reviewing the draft proposed amendments, the League continues to strongly oppose the passage of this legislation and respectfully request you reach out to your Senators and Assembly Representatives expressing opposition to the bill.

Although the proposed amendments would appear to remove municipal and county governments from being subjected to negotiating previously non-negotiable items, they do not. Instead, the proposed amendments would alter the test for what is a negotiable subject by requiring that a subject is in fact negotiable unless the negotiated agreement would prevent the government from carrying out its statutory mission. In other words, everything could be on the table. For example, during the COVID-19 public health crisis, municipalities and counties implemented various safety protocols, transferred staff, closed facilities, and deemed certain employees as essential. Under the proposed amendments, these matters, and more, would be subject to negotiations.

In addition under the proposed amendments municipalities and counties would have to adhere to the following provisions of the bill:

- Permits parties to submit disputes to Public Employee Relations Commission (PERC) regardless if a matter is within the scope of collective negotiations (Section 4c, of the proposed amendments).

- Grievance procedures must provide for binding arbitration as the means for resolving disputes over the application, interpretation or violation of the terms of a collective negotiations agreement (Section 4d, of the proposed amendments).
- Prohibits a public employer from unilaterally imposing, modifying, amending, deleting or altering any mandatorily negotiable terms and conditions of employment that are not in the collective negotiations agreement, without the specific written agreement of the majority representative. (Section 4f, of the proposed amendments).
- Following contract expiration, absent express language in a collective negotiations agreement providing that a specific term of the agreement will not continue after the expiration of the agreement, all terms and conditions, including but not limited to the payment of salary increments, remain in effect after expiration until the parties reach an agreement on a successor agreement (Section 4f, of the proposed amendments).

Moreover, expressly requiring the State as an employer to negotiate previously non-negotiation items as "permissive issues of negotiations" would unravel 50 years of clearly defined standards and establish a precedent for the Public Employees Relations Commission (PERC) and courts to consider when reviewing county and municipal matters.

Please also note that our initial concerns with the rest of the bill remain the same. This legislation would ignore the multilayered and unparalleled protections already afforded public sector workers in the State of New Jersey by the Civil Service Commission (CSC), PERC, the "Workplace Democracy Enhancement Act," the collective bargaining process, and more.

We are further concerned that this legislation would: create a binding arbitration process in a manner that is not entirely clear, and of that would:

- Lead to costly litigation;
- Abolish the last best offer as a critical management tool;
- Provide certain privileged communication protections for labor but no such protections for management; and
- Create a disincentive for labor to negotiate what controls remain in place when an existing contract expires and the parties have failed to reach an agreement on a successor contract.

We continue to work with the New Jersey Conference of Mayors (NJCM), New Jersey Association of Counties (NJAC), the New Jersey Municipal Management Association (NJMMA), the Government Finance Officers Association (GFOA), the New Jersey Association of County Finance Officers (NJACFO), and the New Jersey Association of County Administrators (NJACA) in strong opposition to this legislation. The Administrative Office of Courts (AOC), the New Jersey Association of State Colleges and Universities (NJASCU), and Rutgers University also oppose the measure.

Please take immediate action and reach out to your Assembly representatives and State Senator and ask them to OPPOSE A5862 and S3810.



New Jersey State League of Municipalities

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