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MEMORANDUM

TO: PFANJ MEMBERS

FROM: JAMES M. METS, ESQ.

RE: Challenges to P.L. 2010, c. 2 and P.L. 2011, c. 78

DATE: January 9, 2013

1. Teamsters Local 97 and PFANJ v. State, Docket No.: A-003274-10T4.

This lawsuit challenges the implementation of the 1.5% health benefits contribution pursuant to P.L. 2010, c. 2. The case is currently pending before the Appellate Division. Our initial appellate briefs were filed in April 2011, the State's opposition was filed in January 2012 and our reply brief was filed in February 2012. The Appellate Division has not yet set a date for oral argument.

2. Berg and NJEA v. State, A-005973-11T1, A-006002-11T1 (Consolidated).

The Union Plaintiffs in this matter joined in an existing action initially brought November 11, 2011. The initial action was brought on behalf of 26 retired government attorneys that were receiving COLAs. On May 25, 2012, Judge Hurd granted summary judgment to

defendants. An amended order was entered on June 20, 2012, and the matter was appealed to the Appellate Division.

In this case, Plaintiffs argue that public employees' rights to pension benefits are "non-forfeitable." Thus, the Plaintiffs have a protected interest in COLAs. Further, the State has been underfunding and raiding public pension funds since 1995.

Due to Hurricane Sandy, Plaintiffs have sought an extension to file their Appellate Briefs to January 16, 2013.

3. New Jersey Education Association v. State, MER-L-771-12.

This matter was initially filed in April 2011 and challenges P.L. 2011, c. 78, specifically the increases in employee pension contributions, COLAs, the State's failure to fund the several pension systems, the establishment of pension committees, and retirement health benefits contributions. The COLA issues were subsequently merged with Berg. The Court stayed this matter pending Judge Hurd's decision in Berg, and the stay was lifted on August 8, 2012. The complaint filed in this matter relies heavily on the Contracts Clause, which Plaintiff's allege bars the imposition of cost increases for currently employed and retired individuals.

On October 5, 2012, the State filed a motion to dismiss the action. Plaintiffs filed opposition to the State's motion on December 17, 2012. This motion is still pending before the Superior Court of New Jersey, Mercer County, Law Division.