

The State PBA and Pension Reform

“In Defense of a Sacred Trust”

A Sacred Trust under attack

A pension is more than a retirement allowance for law enforcement officers in New Jersey. Our pensions are a promise offered to us by government that reflects the uniqueness of law enforcement and an understanding that our sacrifices to our communities sometimes ends with an officer's death or serious injury. None other than Governor Christie called PFRS a “sacred trust” before the 2009 election. Yet, the lessons of the last few years are a disheartening example of government's repeated breaking of that trust.

The recent letter to the editor on pension reforms from Mt. Olive Sgt. Michael Pocquat has yielded many questions to the State PBA about where we stand on a number of issues relating to the pension system, pension reform and the incorrect attacks by politicians on the benefits and funding of PFRS. Sgt. Pocquat should certainly be commended for concisely expressing the concerns of countless officers about the past and current attacks on PFRS. However, his passion on the issue mirrors the public and private efforts of the New Jersey State PBA dating back for several years to defend our pensions and the promise that government made to us.

There has been no issue on which the State PBA has been more active or more passionately protective than the pension system. Unfortunately, with the constant attacks today on law enforcement benefits, collective bargaining issues and multiples assaults on our pension, it is easy to lose sight of years of efforts to combat Trenton's misdirection on who exactly is to blame for the current health of PFRS.

The Murphy Commission

The battle over the future of PFRS is not recent, nor is the PBA's public activity on the subject. In 2004, Acting Governor Richard Codey appointed a Commission to study the costs, liabilities and levels of benefits offered to public employees and to examine ways to reduce growing deficits in the pension systems. The Murphy Commission, as it came to be called, was comprised of business leaders and health care consultants and they held a series of public hearings to make recommendations for the future of the State's pension funds. The State PBA took the Commission seriously and met with Chairman Murphy and members of the Commission on several occasions. In addition, the State PBA also advised legislators that blaming law enforcement officers for the funding errors of government was irresponsible and our efforts to address pension reform issues became centered on that key theme.

The record of the debate (www.state.nj.us/benefitsreview/final_report.pdf) in which the State PBA argued on July 7, 2004 and August 2, 2004 against pension deferrals and defended PFRS from cuts is only part of the story. The final report recommended little changes to PFRS

and the panel concluded, “The State (and by extension local government) must meet its financial obligation by fulfilling its duty to fund the pension system.” This was a major admission by a State appointed Task Force and government, not its employees, were noted as the root cause of benefit costs at that time. Chairman Murphy met with the State PBA following the release of the report to thank us for the detailed and honest testimony we provided. State PBA members were briefed repeatedly on PBA activity with the Murphy Commission as a review of the 2004 Minutes to the Board of Delegates shows. In fact, at that time State PBA Executive Vice President, now President, Anthony Wieners warned members that the Murphy Commission was not going to be the end of the fight.

Joint Committee on Public Employee Benefit Reform

President Wieners warning was correct and the State PBA maintained vigilance in Trenton at the start of the Corzine Administration. In 2006, the battle against public employee benefits continued with the establishment of the Joint Legislative Committee on Public Employee Benefit Reform on July 28, 2006. A significant amount of discussions ensued with the six Legislative members of the Joint Committee. The State PBA wrote numerous letters to the editor (highlighted by one that criticized the League of Municipalities for disseminating misinformation about PFRS and for using pension deferral money’s for wasteful purposes). The State PBA gave testimony on September 16, 2006 and again on October 12, 2006. The State PBA argument from the Murphy Commission was again reiterated:

“I think that you know, and the Committee knows, from our conversations here in Committee as well as in private, that police and firefighters very carefully guarded their pension system from abuses over the years. We’ve opposed legislation that would add unnecessary parts to it, or wasteful parts to it. We’ve never stopped paying our -- highest in the nation -- pension contribution of 8.5 percent.... We believe -- and as the Murphy Commission stated, and we hope that this commission will state as well -- that it was the lack of contributions to the system, not the pension benefits offered to the members in it, that caused the underfunding of the system over the last several years.” (Rob Nixon, State PBA Lobbyist, October 12, 2006, Joint Committee on Public Employee Benefit Reform Hearing)

At the end of his testimony to the Joint Committee, State PBA lobbyist Rob Nixon said:

“[P]olice officers and firefighters are public employees who are compensated and provided benefits not necessarily for what they do, but for what they may be asked to do.”

To this day that has been the public message of the State PBA regarding pension reform proposals – that deferrals and underfunding by government is the single most significant factor in the current health of the pension system today and that law enforcement officers should not be considered “the average public employee”.

2007 (Pension Reform 1)

The report of the Joint Committee led to several months of debate behind the scenes and multiple meetings with legislative leaders and Governor Corzine. The minutes to State PBA meetings during this period are full of specific examples of the PBA activity during the period between August 2006 and May 2007. The introduction of legislation to implement the 41 pension reform proposals offered by the Joint Committee began on December 4, 2006 with the introduction of Senate Bill 40 (Codey) which was ultimately withdrawn. That bill was replaced with Senate Bill 8/Assembly Bill 16 (Codey/Pou) on December 11, 2006, which never moved, followed by the introduction of Senate Bill 16 (Codey) on January 9, 2007. The starts and stops on the introduction of the implementation bills relates to significant internal meetings with legislators and staff about the impact the proposals would have on current employee/retiree benefits and collective bargaining.

Ultimately, legislation was introduced on January 22, 2007 (Senate Bill 17/Assembly Bill 21 (Codey/Pou) to adopt a series of pension and benefit changes recommended in the Joint Committee report. Following numerous meetings with Governor Corzine, bill sponsors and legislative leaders, the bill that would pass the Legislature would have very little impact on PFRS members. Attempts to eliminate the “70/75” benefit was dropped from the bill, an end to negotiating sick leave payouts was drafted to impact non-union employees, a cap of pensionable salary was rejected and PFRS pension benefits were left alone. The State PBA held daily meetings to lobby sponsors and the Governor inside the State House leading up to the vote by seeking one on one meetings and personal commitments to preserve PFRS benefits. That activity yielded a “pension reform law” that was not unreasonable.

In fact, the State PBA argument that we had “paid our fair share” into the pension system and had prevented unfunded enhancements was recognized when the Legislature passed Senate Bill 1962 in 2008. The law increased the retirement age and pension calculation for PERS and TPAF members but PFRS was left out of the legislation. Senator Sweeney, a sponsor of the law, even commended PBA members for doing what is right is funding the pension system during his defense of why PFRS was not included in the bill (a recording of this speech was played at the June 2008 PBA Delegates meeting).

“They Saved, We Suffer”

But the wave of anti-public employee rhetoric didn’t end with the enactment of S17 and the abuse of PFRS assets continued into 2008. The League of Municipalities went on a public relations offensive in 2008 complaining that PFRS was draining local taxpayers and that they needed financial relief that S17 didn’t provide. The State PBA responded with a media offensive of our own. On April 18, 2008, the State PBA published an article entitled “They Saved, We Suffer” which outlines the failures of government to fund the pension system since the Whitman Administration. The document was sent to the media, shared with all PBA Delegates, placed on the State PBA website and was distributed to other web forums where it can still be found today. The analysis outlines all of the attempts of the Legislature and local governments to funnel PFRS assets into their coffers for their own use and it attacked local government leaders from trying to shift the blame:

“Local governments are quick to blame rising taxes on police salaries and pension costs but more than half of a property tax bill is collected for use by school districts to fund education NOT local government services. *However, considering that local governments skipped nearly \$1 billion in pension contributions from 2000-2008, taxpayers should be even more concerned with where this money was spent while their taxes were rising.*

If the money was not used for direct local property tax relief, then what was it used for?” (They Saved, We Suffer”, State PBA Pension System Funding analysis, April 18, 2008).

The document concludes with the following swipe at those who choose to blame the employee for the failures of their employers:

“After nearly a decade of fiscal irresponsibility it is therefore unconscionable for local governments to call for layoffs of law enforcement officers. Elected officials at the local level need to be held accountable for the billion dollars siphoned away from the pension system. They asked for the break in pension payments. They chose to spend the money while taxes went up. When finally presented the bill for what they owe the system, local governments have decided to blame law enforcement for their tax problems. After ten years and many wasted opportunities to cut taxes, local governments have no one to blame but themselves for their current budget problems.”

This same message was reiterated in a letter to the editor to the New York Times written by State PBA President Wieners on July 2, 2008 in follow up to an Op-Ed piece that criticized the cost of pensions in NJ. The letter again summarizes the themes well known to all PBA members – that we pay and have always paid our pension contributions, that government chose to skip their payments and to siphon off pension funds and that law enforcement officers are “not the average public employee” and therefore deserve the benefits offered to them.

Pension Deferrals opposed, again and again

Perhaps the greatest negative impact to the health of the PFRS is not member benefits but the lack of State and local government contributions provided to the pension fund. Unfortunately, the past Legislature’s continued to make the same mistakes over and over despite warnings from the PBA about the potential consequences. Since 1997 there have been 5 major funding changes to the PFRS (1997, 2000, 2001, 2003 and 2009) that deferred billions of dollars in government pension payments. Fighting against pension deferrals had been the State PBA’s top priority prior to the Christie Administration. In fact, a simple Google search of “State PBA and pension deferrals” alone turns up pages of testimony, newspaper quotes and research studies from the State PBA.

The most recent fight against deferrals occurred in 2009 when we successfully defeated Senate Bill 7/Assembly Bill 3688 (with the State FOP choosing not to testify during crucial

Senate debates on December 18, 2008 – www.njleg.state.nj.us, archived hearings) only to watch the Legislature pass Senate Bill 21/Assembly Bill 3868 in a matter of a week from introduction to law on March 17, 2009.

State PBA President Wieners was quoted often in the media during that debate where he compared pension deferrals with paying your AMEX bill with the VISA card. PBA Delegates were routinely briefed during this period. But our message has remained the same – the towns were given a break from making contributions by the Legislature over our opposition and they can't be allowed to blame PFRS members for the problems in system funding now.

2010 (Pension Reform 2)

Unfortunately, even following considerable expert testimony by the State PBA on the need to fund the pension system, and after repeated warnings that the fight was far from over, the election of Chris Christie as Governor has changed the landscape for PFRS benefits dramatically.

After initially pledging during his campaign for Governor that **“The notion that I would eliminate, change, or alter your pension is not only a lie, but cannot be further from the truth. Your pension and benefits will be protected when I am elected Governor.”** (Chris Christie Open Letter to law enforcement, Christie for Governor Campaign). Candidate Christie went on in his letter to claim: **“It (pensions) is a sacred trust. Nothing will change for the pensions of current officers, future officers or retirees in a Christie Administration.”** State PBA President Wieners wrote to the Governor-elect Christie on November 4, 2009 offering to work with his Administration to implement his promise to PFRS members about protecting PFRS.

It didn't take long for that campaign promise to be broken. The Governor announced almost immediately upon taking office that pension reform, including for PFRS, would be a major goal for him. Unlike other public employee groups, the State PBA initially offered a number of pension reform proposals to eliminate waste and fraud in the system (ie: reform disability pensions and end the practice of collecting a pension and accepting political appointments in law enforcement positions). Proposals for PBA pension reform that would save millions without hurting current or future retirees were distributed between January and March of 2010 to Republican and Democratic leaders. However, it became clear with the introduction of Senate Bill 2 (pensions) and Senate Bill 3 (health benefits) that there was little interest in Trenton with working on alternatives to these proposals.

On February 16, 2010 the State PBA sent a memo outlining opposition to Senate Bill 2 and 3 along with our alternatives to members of the Senate State Government Committee who were to hear the legislation on February 18, 2010. At that hearing, State PBA President gave testimony opposing the legislation, reiterating that government and not employees are to blame for pension funding issues and offering our alternatives to the legislation. President Wieners' testimony before the Committee concluded in his publicly ripping up the Governor's campaign letter to cops where he promised no changes to PFRS if elected. This act was featured on NJN, in the State's newspapers and is repeatedly used as file footage of President Wieners by the Star

Ledger in articles to this day. Similar testimony was offered to the Assembly Appropriations Committee on March 18, 2010.

In the midst of this debate, the PFRS Board of Trustees held a public hearing on February 25, 2010 to consider the PFRS actuary report. PBA members on the PFRS Board grilled the actuary for proof of any savings to the system from S2 and, when none could be pointed to, the Board wrote to Legislative leaders to request that S2 be held for further study. The State PBA attended the meeting and distributed to the media a 12 page analysis entitled “Pension Deferrals and PFRS: How a Decade of underfunding threatens the health of the pension system”, a copy of which can be found on the State PBA website (www.njspba.com/downloads). In his press release accompanying the analysis, State PBA President Wieners said, “The fact that our pension system is underfunded is an obvious result of the failed fiscal practices of this State for nearly a decade.”

There should be little question about the PBA’s role in this fight. From the outset, the State PBA took a leadership role in countering the proposal that PFRS “benefits” rather than its funding source were in need of change. Testimony and lobbying opportunities aside, the State PBA ran full page newspaper advertisements in the State’s major newspapers on February 28, 2010 that contains most, if not all, of the comments listed by Sgt. Pacquat in his recent letter to the editor. The following is the ad (which is also posted inside the State PBA office for member distribution):

New Jersey State PBA



Anthony F. Wieners, President

New Jersey State FMBA



William Lavin, President

As public safety officers we have taken an oath to protect the public and many of our members have made the ultimate sacrifice in service to the people of the State. We work nights, weekends and holidays 365 days a year in every conceivable condition and facing dangerous and unknown circumstances. We take our responsibilities seriously and we know our service is appreciated by the public.

Now it seems that political expediency, and not facts, have taken over the debate on pensions and benefits for our law enforcement officers and firefighters. The Governor, Legislature and the media would have you believe that our pension system (PFRS) is broken and needs drastic changes. They aren't telling you the whole story:

THE REAL TRUTH ABOUT Police and Fire PENSIONS

On the campaign trail, Governor Christie told cops their pensions were a “sacred trust” but now he and other politicians are attempting to break the promises made to our members without working together with us to achieve effective reforms that save money now!

Law enforcement officers and firefighters pay 8.5% of their pay toward their pension. This is the highest contribution for any public employee in NJ. Our members have never stopped paying toward their pensions, when government and other employees did, and we have acted responsibly toward funding the benefits we receive.

The real problem in pension funding comes directly from the failure of government to make its legal contributions and two independent Committees have proved it (Murphy Commission Recommendations (2005)/Joint Committee on Public Employee Benefit Reform, Executive Summary (2006). In fact, from 1997 to today, State and local governments skipped over 200 consecutive payments amounting to nearly \$2 billion in contributions to our pensions.

The State PBA and State FMBA strongly opposed governments pension deferrals for a decade but the State ignored our warnings that it would underfund pensions and now today government seeks to blame us for their reckless fiscal mismanagement!

The skipped pension payments were supposed to be used toward property tax relief but the PBA and FMBA can find no example in New Jersey where property taxes went down because of skipped pension payments. PBA and FMBA members are property taxpayers too. Did your taxes go down because ours didn't!

Legislation has been proposed to mandate health care contributions but did you know that over 100 police and fire contracts already require an employee contribution toward health benefits?

Hundreds of police and firefighters retire WITHOUT employer paid health benefits today and must enroll in a program where they pay 20% of the cost for their health care. No other public employee shares that expense!

The proposed pension legislation seeks to cut our benefits but it does nothing to end the practice of providing health benefits and pensions to political appointees and elected officials. (Source, Senate Bill 3)

Law enforcement officers and firefighters can't cheat the system like political appointees and politicians have for years. We can't get two PFRS pensions like politicians in PERS do, we can't tack jobs on to increase our pensions and we don't apply overtime to our pensions.

The State PBA and State FMBA have proposed real reforms that will save millions of dollars TODAY and we ask that the General Assembly and Governor work with us moving forward.

Now is the time for government to do what is responsible, not try to make police and firefighters an imaginary enemy.

Legislators still tell us that police and firefighters are not the average public employee and that we should be thanked for protecting our pensions.

Our pension system is reasonable, affordable and fair.

We strive to do what is right and to be honest.

Isn't it time government did the same thing?

**END THE BLAME GAME.
ATTACK THE REAL PROBLEMS.
STOP CORRUPTION IN THE PENSION SYSTEM.
FUND OUR PENSIONS.**

Paid for by the New Jersey State Policemen's Benevolent Association and the New Jersey State Firemen's Mutual Benevolent Association

The PBA joined with the FMBA shortly thereafter on an additional full page on the subject.

Updates were e-mailed to Delegates and Presidents on February 7 and 9, 2010 advising them of the proposed pension reform changes and an action alert was also e-mailed to Presidents and Delegates asking them and their members to call their legislators to vote No on S2. On February 18, 2010 the State PBA also developed a sample letter for members to send legislators opposing S2 and S3. Summaries of the legislation were posted on the State PBA website for members to review as well. The State PBA urged its members to visit with legislators to remind them that PFRS members make the highest pension contributions in the State, have never stopped paying and that PFRS benefits are provided to reflect the potentially deadly work of law enforcement.

The Legislature, sensing voter resentment of public employee benefits, worked closely with the Governor to pass S2 and S3 quickly. The enactment of pension reform was the first bill Governor Christie signed into law. The State PBA sued to block implementation of S3 (health care contribution and changes) and that case is currently being argued in Superior Court.

Pension Reform 3 in 2011?

It would be impossible to list the hundreds of legislator meetings, debates, media interviews or Committee testimony that the State PBA has engaged in on the issue of pension reform over the last several years. But what is clear is that the battle to eliminate pensions for public employees and retirees is far from over. Governor Christie stated when S2 was passed that it was a “good start” that didn’t go far enough and he has proposed more dramatic changes to PFRS, PERS and TPAF that are expected to be debated in early 2011.

At the 2010 Annual State PBA Convention, State PBA Director of Government Affairs Rob Nixon, outlined what the Governor has proposed for PFRS in 2011. The Governor’s pension reform proposals include reducing PFRS pensions to 60% at 25 years of service and 65% at 30 years of service for any PFRS member with less than 25 years in the system, the elimination of COLA, changing calculation for pension benefits to 3 highest years rather than final year of service and restrictions on earnings while on disability pensions. The State PBA has been actively engaged in advance of this proposal. The State PBA will again propose changes to waste and fraud in the pension system and are working with national pension fund experts and key leaders in Trenton to propose a plan to protect PFRS from the unfunded liabilities of the other pension systems.

No bills have been introduced as of this date nor have there been any announcements of “compromises” between the Governor and Legislature on the topic. But what is certain is that the State PBA is already engaged, as it has been, in the fight to prevent further erosion of PFRS benefits and to argue the truth about what happened to a once strong and overfunded pension system.

Where do we go from here?

Governor Christie called pensions a “sacred trust” and he was correct. There is no such thing in New Jersey as a “safe town” and the pressures on law enforcement officers will only increase in 2011 as layoffs and funding pressures reduce manpower. PBA members and most in the public know that law enforcement officers experience the worst of society and face its greatest threats. Pensions and benefits are therefore offered to law enforcement to reflect that and for performing government’s number one obligation, the safety and security of its people and their liberties, while risking their lives in the service of others. There is a special bond that ties law enforcement officers with their communities and the “sacred trust” promised by a pension should not be broken by government as an easy way out of restoring the integrity of the pension system.

No one can argue that there is not real need for reform within the state pension systems. Unfortunately, as this review has shown, those who have been entrusted with the responsibility to fund and protect the system, namely state government, have betrayed us. However, PFRS members are very fortunate to be in a system that is among the best financed and managed of the seven state funds. Our pension trustees have done an admirable job within their scope of influence. Additionally, last year’s investments surpassed expectations. Building on the positive aspects of PFRS, the State PBA will again be making recommendations to legislators to reform, restructure and continue our current pension plan and obligations to our retirees.

Of paramount importance in the solution for success is membership involvement. Members must educate themselves, participate in their unions meetings, attend training seminars and read the information disseminated by their unions. This is an ever evolving situation and union representatives must be vigilant in their efforts to inform the members in a timely manner. 2011 will be a year of great change with legislative redistricting and elections coming in November to cap off additional attacks on our pensions and benefits. Although we are well into the battle, now is the time to rededicate ourselves to a long and balanced, accurately focused effort to stop the “change for the sake of political reward” and endorse change to improve and save our pension system.

Those searching for a single answer or quick fix will be very disappointed. Today’s challenges are a result of a decade of failure of government to support our pensions yet only government can solve this crisis. Focus must remain on the subject and members should not be distracted by the political theater that has overtaken the media. Our pension system can be retooled, funded and maintained at a cost that is affordable to the taxpayers of New Jersey and responsible to our current and future retirees. It will remain the responsibility of the State PBA and its members to pursue an honest, forceful and fact-driven discussion in the political environment that has presented itself.