

SENATE BILL NO. 1940

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1940 with my recommendations for reconsideration.

This bill requires that the monetary equivalent of any wage or benefit concession agreed to by a collective bargaining unit be used by the school district to offset any reduction in force initiated for economic reasons. However, as drafted, this legislation goes well beyond its stated intent and would likely discourage precisely the kind of job saving concessions it is intended to promote.

Last year, in the midst of an unprecedented financial crisis, this Administration was called upon to take action and impose many difficult spending cuts to close a \$10.7 billion budget gap. While state funding for school districts actually increased in the FY11 budget, given the loss of one-shot federal "stimulus" funds appropriated for school aid by Governor Corzine and the legislature the year before, overall funding to school districts declined in FY11.

In an effort to help ameliorate the impact of those spending reductions, and to prevent layoffs, this Administration asked school districts and local teachers' bargaining units to share in the sacrifice by agreeing to a one-year pay freeze and to contribute 1.5% of their salary toward the cost of their health insurance. If these actions had been taken, the total education spending reduction would have been almost entirely offset and teacher layoffs could have been avoided.

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While some districts and local units agreed to these cost savings, a number of local unions objected, claiming that these concessions could not be made under the current law. While that assertion is disputed by this Administration, we support any effort by the legislature to clarify the law so that more local units will feel comfortable participating in the shared sacrifice that is needed to restore this State's fiscal health.

While I commend the sponsors for attempting to facilitate the preservation of school employee positions during this difficult economic time, I am concerned that this bill, as currently written, goes well beyond the situation which the sponsors were attempting to address. Unlike the situation facing the State which prompted this legislation, this bill is not limited to a one-year concession in the middle of a collective bargaining agreement for the sole purpose of preventing layoffs due to a fiscal crisis. Instead, as written, the bill would also apply to the period when "a successor agreement is being negotiated." Applying the provisions of this bill to the negotiation of a collective bargaining agreement would substantially change the dynamics of collective bargaining and effectively restrict a school district's ability to reduce its workforce at any time without the bargaining unit's consent.

I am also concerned that this bill will produce several other adverse consequences. For example, this bill could be interpreted to require school boards to negotiate with collective bargaining units any time the district looks to reduce staff, even when the district has identified a justifiable need to do so for non-economic reasons, such as decreased student enrollment. In addition, the bill does not address what occurs when a collective bargaining unit and a school board do not agree on the value of the concessions or the

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number or types of positions to be maintained. Moreover, the bill does not address the length of time that a school board would be required to maintain a position preserved by a concession. Rather than encouraging shared sacrifice and cooperation, this lack of clarity will likely breed disputes and legal challenges, ultimately discouraging the shared sacrifice needed to address our fiscal challenges.

Despite these concerns, I recognize that in these particularly challenging times there is a need to encourage and support teachers and other school employees to make sacrifices in order to help preserve teaching positions, maintain school programs, and support the overall education of our students. School employees who admirably choose to make a sacrifice should feel assured that any savings achieved through their concessions will only be used for the agreed-upon purpose of maintaining other positions.

Therefore, I am returning this legislation with my recommendations that will advance the original intent of the bill and prevent any unintended consequences.

Accordingly, I herewith return Senate Bill No. 1940 and recommend that it be amended as follows:

Page 2, Section 1, Line 11: Delete "or other good cause"

Page 2, Section 1, Line 13: After "concession" insert "for the purpose of maintaining bargaining unit staff member positions"

Page 2, Section 1, Lines 15-16: Delete "or continues in effect by operation of law while a successor agreement is being negotiated,"

Page 2, Section 1, Line 19: After "positions" insert "for that school year. A board of education shall have the discretion to determine the staff member positions that will be

maintained by the wage or benefit concessions agreed upon pursuant to this act. The determination by a board of education of the number or types of positions to be maintained shall not be subject to appeal, arbitration, mediation or any administrative or judicial proceeding. Nothing in this act shall be construed to require a collective bargaining unit or board of education to negotiate wage or benefit concessions. "

Respectfully,  
/s/ Chris Christie  
Governor

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Attest:  
/s/ Jeffrey S. Chiesa  
Chief Counsel to the Governor