

May 13, 2019

SENATE BILL NO. 3369
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 3369 (First Reprint) with my recommendations for reconsideration.

I commend the sponsors of this legislation for their attention towards the issue of salary increases for elected officials. Given that elected officials receive salaries paid by taxpayers, additional scrutiny of their decisions with regard to salary increases is warranted.

Senate Bill No. 3369 (First Reprint) would prohibit local elected officials from receiving retroactive salary increases from December 1, 2018, onward. It would apply to officials holding elected positions in counties, municipalities, school districts, and any other political subdivisions of the State.

Under the New Jersey Constitution, State elected officials are not permitted to raise their salaries immediately, let alone retroactively. Article V, Section I, Paragraph 10 states that the salary of the Governor and Lieutenant Governor shall be fixed during the term for which they have been elected. Article IV, Section IV, Paragraph 8 states that a law increasing or decreasing salaries for members of the Legislature cannot go into effect until the legislative year following the next election for members of the General Assembly. The principle embodied in these provisions is that when elected officials raise compensation for the offices they hold, the electorate should have the ability to exercise its voice before such increases take effect. This principle runs counter to the notion that elected officials should be able to retroactively increase their compensation for services already rendered.

However, the courts of this State have long followed a general rule of statutory construction that favors prospective application of statutes. Laws are generally enacted to take effect after they are passed so that everyone is on notice as to their applicability. Retroactive laws can present issues of fundamental fairness when past actions that were once legal are now rendered unlawful.

The retroactive effect of Senate Bill No. 3369 (First Reprint) creates several challenges. For example, officials that received a retroactive salary increase since December 1, 2018, that affected their 2018 earnings would need to amend their 2018 taxes and pension contributions. There is a risk of litigation if these officials sue the State over the legality of the law's retroactive application. Additionally, Senate Bill No. 3369 (First Reprint) contains no provision delineating who or what will ensure that the applicable local elected officials return the payments they received due to a retroactive salary increase.

Prohibiting retroactive salary increases for local elected officials is sound policy, but applying such a policy retroactively creates legal uncertainty and practical difficulties.

Therefore, I herewith return Senate Bill No. 3369 (First Reprint) and recommend that it be amended as follows:

Page 2, Section 2, Lines 18-19: Delete " and shall be retroactive to December 1, 2018"

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor