

APPENDIX



New Jersey Business & Industry Association

Melanie Willoughby
Chief Government Affairs
Officer

TO: Members of the Assembly Judiciary Committee

Frank Robinson
Vice President
Grassroots & Government
Affairs

FROM: Melanie Willoughby, Chief Government Affairs Officer, New Jersey Business and Industry Association

Mary Beaumont
Vice President
Health & Legal Affairs

DATE: June 20, 2016

Sara Bluhm
Vice President
Environment & Energy

RE: *Assembly Concurrent Resolution 109 (Prieto, Jimenez, Giblin, Caputo) Constitutional Amendment on Pension Payment*

Andrew Musick
Director of Taxation &
Economic Development

Nicol Nicola
Director
Economic Research

The New Jersey Business & Industry Association which represents 20,000 member companies, who employ 1.2 million people, respectfully opposes ACR109 which calls for a constitutional amendment mandating the state make its annual required pension payment.

Tyler Seville
Director
Technology & Workforce
Development

This proposed constitutional amendment is a profound game changer. If our constitution is amended to require annual pension payments, which would stretch into the billions of dollars (estimated to be between \$3B and \$5B), it would create an annual budget crisis that pales in comparison to anything we have seen before.

Michael Wallace
Director
Employment, Labor &
Federal Affairs

Constitutionally requiring pension payments on a quarterly basis would change the state's business model. Under this amendment the state would be required to make pension payments before any other fiscal obligation it has. The pension payment would become a super priority taking precedence over education, healthcare and public safety.

The amendment would tie the hands of future Governors and Legislatures. Each year when proposing and enacting a budget our lawmakers are challenged to balance competing priorities against available revenues and determine the programs that should be funded and at what level. This proposal would make an already difficult process far more challenging.

This amendment will require a super priority for the benefit of about 10% of our State's residents to the detriment of everyone else when the state falls short on resources to make its required pension payment. When, not if, that occurs the only remaining alternative will be to raise taxes to generate the revenue. We say the "only alternative" because the other option—cutting programs—has proven over the years to be a very elusive goal. In particular, we would be facing a reduction in safety net programs. And, given the funding issues that many of these programs already face, the state would be hard pressed to make any further cuts, thus leaving significant tax increases as the only option.

We anticipate that raising the revenue needed will start with the millionaire's tax (which is a tax on small business) and the Corporate Business tax surcharge. Both have been proposed in the past. However, these two tax increases alone would only generate a little more than \$1 billion, far short of the \$3-5 billion, or more, that would be required. As a result we would be facing significant income and sales tax increases on all New Jersey residents to make the payment.

New Jersey already has the highest taxes in the nation. In fact, when you average New Jersey's four main taxes- income, property, sales tax and the corporate business tax, and benchmark that

Against every other state in the nation and the District of Columbia, New Jersey comes out dead last – 51st.

Our cost of living is already untenable and is driving significant tax revenue from the state. In 2013 alone, New Jersey experienced an outflow of over \$3B in net adjusted gross income. How does that stack up nationally? Using GDP as the standard New Jersey again ranks dead last among all states and the District of Columbia with a net income outflow as a percentage of GDP of –0 .55 percent. New Jersey's residents and its economy simply cannot afford this pension amendment.

Proponents suggest that annual revenue growth will keep up with the added expense. They are right only if revenue continues to grow every year at a substantial pace. However, growth is not guaranteed and in fact we are now seeing a revenue shortfall that is causing deficits in both the FY 16 and FY 17 budgets.

Further, there is no flexibility provided with a constitutional amendment to allow for a change in course should there be a recession or another Super Storm Sandy. And, we should not be so quick to forget that our state is just now recovering from the recession, in some ways still lagging the nation. Now is not the time to be constitutionally committing any part of our budget for any one mandated purpose. Instead what New Jersey needs is a comprehensive and practical solution to the pension crisis and health care reform.

The legislature has a fiduciary responsibility to show New Jersey taxpayers specifically how this proposal would be funded, not just now, but into the future.

Thank you for your consideration of our comments.

Overall Tax Burden: State by State Ranking¹

Net Inflow as a % of GDP Rank	State Name	Average of tax rankings ²	Rank
15	Wyoming	3.8	1
35	Louisiana	8.0	2
22	Alabama	9.3	3
14	South Dakota	13.5	4
19	Hawaii	13.5	5
3	South Carolina	14.3	6
8	Colorado	14.8	7
47	District of Columbia	15.5	8
5	Arizona	16.3	9
20	Georgia	16.3	10
2	Nevada	17.3	11
13	Washington	17.3	12
6	Montana	18.0	13
27	Missouri	18.3	14
40	New Mexico	18.3	15
1	Florida	19.3	16
24	Oklahoma	19.5	17
49	Alaska	19.5	18
16	Utah	19.8	19
30	West Virginia	19.8	20
4	Idaho	21.0	21
9	Texas	21.5	22
36	Ohio	23.0	23
32	Kentucky	23.5	24
17	Delaware	24.0	25
37	Mississippi	24.0	26
12	North Carolina	24.3	27
7	Oregon	24.5	28
42	Virginia	24.5	29
31	Michigan	24.8	30
25	Arkansas	26.3	31
10	New Hampshire	26.8	32
11	Tennessee	27.0	33
21	North Dakota	28.0	34
28	Indiana	30.0	35
39	Pennsylvania	30.3	36
38	Nebraska	31.3	37
26	Kansas	31.8	38
29	Iowa	32.0	39
18	Maine	32.8	40
45	Maryland	32.8	41
44	Vermont	34.5	42
46	New York	34.5	43
34	Wisconsin	35.0	44
41	Rhode Island	35.8	45
23	California	39.0	46
33	Massachusetts	41.0	47
43	Minnesota	41.0	48
48	Connecticut	42.5	49
50	Illinois	43.0	50
51	New Jersey	45.5	51

¹ Naroff Economic Advisors; Econsult Solutions; NJBIA

² Includes Property, Income, Sales and Corporate Taxes

Outmigration: State by State Comparison¹

Net Inflow as a % of GDP Rank	State	Inheritance Tax	Property Tax Rank (1=highest tax rate)	Income Tax per capita Rank (1=highest tax rate)	State Sales Tax Rank (1=highest tax rate)	Corporate Income Tax Rank (1=highest tax rate)	Net Inflow (\$000)	Net Inflow as a % of GDP
1	Florida	None	30	1	27	19	\$10,677,210	1.27%
2	Nevada	None	23	1	44	1	\$1,425,836	1.08%
3	South Carolina	None	7	16	27	7	\$1,669,002	0.88%
4	Idaho	None	13	20	27	24	\$265,451	0.42%
5	Arizona	None	16	10	23	16	\$1,145,792	0.40%
6	Montana	None	15	28	1	28	\$162,129	0.37%
7	Oregon	None	29	47	1	21	\$692,854	0.32%
8	Colorado	None	9	29	6	15	\$947,352	0.31%
9	Texas	None	46	1	38	1	\$4,928,125	0.30%
10	New Hampshire	None	48	9	1	49	\$206,967	0.29%
11	Tennessee	None	14	8	46	40	\$861,786	0.29%
12	North Carolina	None	20	36	16	25	\$1,259,750	0.26%
13	Washington	None	25	1	42	1	\$940,556	0.22%
14	South Dakota	None	35	1	7	11	\$81,979	0.18%
15	Wyoming	None	6	1	7	1	\$68,021	0.15%
16	Utah	None	12	27	26	14	\$199,205	0.14%
17	Delaware	None	5	44	1	46	\$61,587	0.10%
18	Maine	None	34	37	21	39	\$52,495	0.09%
19	Hawaii	None	1	38	7	8	\$68,764	0.09%
20	Georgia	None	24	25	7	9	\$303,112	0.06%
21	North Dakota	None	33	14	17	48	\$11,863	0.02%
22	Alabama	None	2	15	7	13	-\$38,135	-0.02%
23	California	None	18	45	51	42	-\$781,619	-0.03%
24	Oklahoma	None	21	19	15	23	-\$66,133	-0.04%
25	Arkansas	None	8	24	42	31	-\$65,271	-0.05%
26	Kansas	None	36	34	37	20	-\$160,051	-0.11%
27	Missouri	None	27	26	14	6	-\$320,204	-0.11%
28	Indiana	None	22	18	46	34	-\$390,273	-0.12%
29	Iowa	0%-15%	37	32	27	32	-\$230,784	-0.14%
30	West Virginia	None	4	30	27	18	-\$112,953	-0.15%
31	Michigan	None	43	17	27	12	-\$705,556	-0.16%
32	Kentucky	0%-16%	17	23	27	27	-\$309,420	-0.16%
33	Massachusetts	None	31	48	38	47	-\$782,878	-0.17%
34	Wisconsin	None	47	39	17	37	-\$509,124	-0.17%
35	Louisiana	None	3	12	7	10	-\$473,387	-0.19%
36	Ohio	None	42	21	24	5	-\$1,101,562	-0.19%
37	Mississippi	None	10	11	46	29	-\$214,152	-0.20%
38	Nebraska	1%-18%	45	33	21	26	-\$229,409	-0.20%
39	Pennsylvania	0%-15%	39	22	27	33	-\$1,458,058	-0.22%
40	New Mexico	None	11	13	19	30	-\$242,599	-0.26%
41	Rhode Island	None	40	35	46	22	-\$153,075	-0.28%
42	Virginia	None	19	42	20	17	-\$1,362,141	-0.29%

¹ Naroff Economic Advisors; Econsult Solutions; NJBIA

43	Minnesota	None	32	46	45	41	-\$936,319	-0.30%
44	Vermont	None	44	31	27	36	-\$95,302	-0.32%
45	Maryland	0%-10%	28	41	27	35	-\$1,215,899	-0.35%
46	New York	None	38	49	7	44	-\$5,166,442	-0.37%
	District of							
47	Columbia	None	7	NA	24	NA	-\$467,096	-0.40%
48	Connecticut	None	41	50	41	38	-\$1,061,109	-0.42%
49	Alaska	None	26	1	1	50	-\$257,304	-0.45%
50	Illinois	None	49	40	38	45	-\$4,089,587	-0.55%
51	New Jersey	0%-16%	50	43	46	43	-\$3,037,220	-0.55%

ACR-109

“Proposes constitutional amendment to require payments by State to State-administered retirement systems and establish in Constitution right of public employees to pension benefit; provides for enforcement of funding obligations and benefit rights.”

The New Jersey Education Association supports ACR-109 (Prieto, Jimenez, Giblin, Caputo). This resolution would put a ballot question before voters on whether to amend the New Jersey Constitution to:

- Require a responsible funding schedule that makes full actuarially required payments by 2022;
- Mandate the state to make its pension payments on a quarterly basis;
- Protect the right of vested public employees to their earned pension benefits; and
- Provide that pension funding obligations would be enforceable in court.

School employees and other public employees have committed their lives to public service with the expectation that the pension they paid into from day one would be available to them upon their retirement. Unfortunately, the dream of a secure retirement has been continually threatened by the state’s failure to put in the appropriate level of its share of pension system funding. For over a decade, the state has failed to make the actuarially required payments into our state pension systems. This has created a looming crisis, whereby actuaries predict bankruptcy of the Teachers’ Pension Annuity Fund (TPAF) as early as 2027.

ACR-109 is designed to guarantee fiscal discipline so that the State of New Jersey carries out what it is obligated to do and in a manner that is least onerous on current and future taxpayers. Simply by moving to quarterly pension payments, without increasing its contribution at all, the state will save nearly \$13 billion over the next 30 years. This is accomplished because the Division of Pensions will have the ability to invest pension funds throughout the year, rather than at the end of a fiscal year. From those earlier investments, the pension funds can generate \$8.5 billion in additional investment income, while cutting the unfunded liability by \$4.9 billion.

NJEA recognizes that the required funding schedule will not be easy, but it is one that lawmakers on both sides of the aisle have previously supported, and it will work.

Public employees have done their part. They have never missed a pension payment. Since 2011, they have contributed more toward their pensions, from 5.5 percent of salary to over 7 percent. They have seen take home pay greatly reduced as a result of health care premium sharing. New employees are earning greatly reduced benefits and retirees have seen their cost of living adjustment eliminated.

ACR-109 will ensure that the state does its part and future legislatures and governors meet their obligation to state pension systems. This amendment is simply about following the law. It is about fiscal responsibility. It is about fair treatment of the men and women who have done their part to stabilize the pension system and who just want the state to do what it agreed it would do.

NJEA urges you to support ACR-109.

GGS/BSB/ies

06/20/2016



**NJPSA Testimony on ACR-109/SCR-2 (Prieto/Sweeney,
Before the Assembly Judiciary Committee
June 20, 2016**

Thank you for the opportunity to express the **strong support** of the over 8,500 active and retired members of the NJ Principals and Supervisors Association for ACR-109/SCR-2, legislation addressing the State's legal, moral and fiscal obligations to fund public employee pensions in New Jersey.

Our members are career public employees who have dedicated their professional lives to leading our public schools and educating the students of New Jersey. They are also members of the Teachers' Pension and Annuity Fund (TPAF). They have earned their pensions and made their required pension contributions on time and in full throughout their professional careers.

Today, we are here to add our voice of support, along with our colleagues throughout the public sector, to a solid, long-term solution to the chronic underfunding, and in some fiscal years, the total lack of state funding of public employee pensions, across the past two decades. Despite significant reforms on the elements of the public pensions systems available to current and future employees, the State of New Jersey has consistently failed to meet its fiscal obligations to support public employee pensions. Public employees have exclusively borne the burden of pension reform through increases in retirement age and employee pension contribution rates, restrictions on enrollment eligibility, limitations on the pensionability of critical income (social security wage cap), the loss of cost of living adjustments, and the development of a five tiered retirement system. Yet, we continue to work hard to provide services to the public in hopes that our commitment will result in a secure retirement even when the State, including the New Jersey Supreme Court, has let us down.

Today, we thank Assembly Speaker Prieto, Senate President Sweeney, the many bill co-sponsors and the members of this committee for your collective leadership in ending this dysfunctional cycle. We applaud your efforts to protect the interests of both public sector employees and New Jersey taxpayers alike. ACR-109/SCR-2 recognizes that public employee pensions are a form of deferred compensation for services rendered and that the State must honor its obligations under law. It does not, as many have claimed, increase public employee pensions or compensation, but in fact, will save taxpayer's significant costs through its provisions.

It establishes, through a constitutional amendment with voter approval, a return to a phased- in payment schedule which balances public employee pension obligations with other critical state needs. Significantly, the legislation also makes this payment schedule enforceable in our courts. Further, the legislation promotes growth in the investment arm of public pension funding, through a system of quarterly payments on an annual basis, which will lead to a deeper pool for investments returns and ultimately savings to state taxpayers. Most importantly, it firmly and responsibly addresses a major fiscal obligation of the state which will lead to future fiscal stability, positive credit ratings and the avoidance of a future shifting of this financial burden to our children.

For these reasons, the NJ Principals and Supervisors Association urges this Committee to support ACR-109/SCR-2 today. Thank you for your support of our members and all of the hardworking public employees in New Jersey.




What's Good For Business.

Headquarters: 61 South Paramus Road • Mack-Call Centre IV • Paramus, New Jersey 07652
Tel: 201-368-2100 • Fax: 201-368-3438 • www.cianj.org

Trenton Office: 222 West State Street • Suite 212 • Trenton, NJ 08608 • Tel: 609-695-5900

Memorandum

To: Members of the Assembly Judiciary Committee

From:  Anthony Russo, EVP - Government Affairs & Communications
Commerce and Industry Association of New Jersey

Date: June 20, 2016

Subject: ACR #109 (Pension Payment Ballot Question)

Good morning Chairman McKeon and members of the committee. My name is Anthony Russo. I am the Executive Vice President of Government Affairs and Communications for the Commerce and Industry Association of New Jersey (CIANJ). The CIANJ is a statewide business advocacy group, with offices in Paramus and Trenton, representing more than 900 members from virtually every business sector (manufacturing, hospitality, financial, insurance, academia, healthcare, etc.).

CIANJ is **opposed** to ACR #109 because we believe this approach to funding our pension system will have deleterious effects on New Jersey's economy in years to come and will force future governors and members of the legislature to cut spending to critical programs and/or raise taxes should revenues fall short. Amending our State Constitution to mandate annual pension payments, regardless of economic conditions, is a recipe for disaster and will only deter private investment from coming to New Jersey. It will create a fiscal cliff that will be unavoidable. This is unacceptable and bad public policy for New Jersey.

No one argues the importance of keeping our pension system solvent and viable but this approach is not the solution. These are complex matters requiring complex solutions. We should not circumvent the debate and dialogue that is so important each year when budgets discussions begin. It is through this debate and dialogue that compromise is reached and balanced budgets passed.

Furthermore, we must recognize that in its current form, our pension system is not sustainable. Further reforms are needed. By some accounts, our unfunded liabilities exceed **\$80 billion**. The numbers are staggering and will likely increase in the years ahead. No one can predict with any confidence what will happen with our economy but what we cannot do is further burden our citizens and businesses with new taxes. By mandating these payments, regardless of what the exposure may be, is not sound fiscal policy.

Lastly, when so many voters are disengaged and apathetic to politics, as evidenced by the historic low voter turnout in recent elections, is the use of the ballot box the right approach to govern? When only 20% of New Jersey's estimated 5 million voters actually vote, are we really reaching a consensus of the people? Until voters are engaged, we should be weary of using ballot questions as a means of governing.

Thank you for the opportunity to testify. I can be reached at arusso@cianj.org or 908-415-4597 with any questions.

New Jersey's business advocate for over 87 years

8x



**Statement of
Christina M. Renna, Vice President, Chamber of Commerce Southern New Jersey
Before the Assembly Judiciary Committee – Public Hearing
On ACR-109 (Prieto/Jimenez)
Monday, June 20, 2016**

The Chamber of Commerce Southern New Jersey respectfully opposes **ACR-109 (Prieto/Jimenez)**, which proposes a constitutional amendment to require quarterly payments by the State to State-administered retirement systems and establishes in New Jersey's Constitution the right of public employees to pension benefits. We appreciate the opportunity to share our thoughts on this constitutional amendment at today's public hearing.

Proponents of this constitutional amendment claim that **ACR-109 (Prieto/Jimenez)** is a "pragmatic solution to a two-fold problem – fulfilling our commitment to public employees and re-establishing financial stability and long-term solvency for our state." However, the CCSNJ believes that this precedent setting proposal essentially chooses one form of state spending – in this case pension payment for public employees – *over all other state spending* including funding for property tax relief, public education, hospital funding, and spending to protect our State's citizens.

According to the Office of Legislative Services (OLS), if this constitutional amendment is passed pension expenditures in the first six months of the fiscal year will likely result in increased borrowing for cash flow; and OLS predicts that the full pension payment will reach \$5.5 billion in FY 2023. As a result, passage of this constitutional amendment would undoubtedly lead to massive service reductions and/or tremendous tax hikes across the board – in order to meet what will be a Constitutionally-mandated payment to the public worker pension funds.

The CCSNJ has been a leader in the call for public sector pension and health care benefits reforms since 2005 when we released the first of three *Board Council on Responsible Government Spending* reports. In this series of reports, the CCSNJ offered 100 recommendations to policymakers on reducing and controlling State government expenditures by adopting best business practices developed in the private sector. In its Phase II Report released in 2006, the CCSNJ examined the benefits received by public employees compared to the private sector. At the time, only two companies out of ten offered defined benefits plans. The Board Council's recommendation was to enroll public employees hired after July 1, 2007 into a defined contribution plan, and requiring elected and appointed officials to be enroll in a defined contribution plan. These defined contribution plans have proven successful in the private sector, providing employees with future retirement benefits while controlling the cost of retirement benefits for employers.

While the public employee benefits reforms promoted by Governor Christie and Senate President Sweeney have saved taxpayers tens of millions of dollars, more needs to be done to bring the cost of providing public employees health, retirement and other benefits under control. We continue the call to bring these benefits more in line with those received by private sector employees.

The CCSNJ believes that **ACR-109 (Prieto/Jimenez)** is not the solution to fully funding the State's pension obligation, and in the long run will cost all of the taxpayers of New Jersey to the benefit of a few.

Thank you for allowing us to provide our position on this proposed constitutional amendment. We urge you to vote "no" on **ACR-109 (Prieto/Jimenez)**.



CPAs Oppose Pension Amendment to NJ Constitution

6/20/2016 Testimony Before the Assembly Judiciary Committee, Jeffrey Kaszerman, NJ Society of CPAs,
Government Relations Director

Thank you Mr. Chairman and members of the Committee for allowing me to testify on ACR109 today. On behalf of the 15,000 members of the NJCPA, I want to let you know that we oppose this bill, both for the substance of the bill as well as for the fact that we don't believe that this type of issue should be included in the NJ Constitution.

The NJCPA is sympathetic to the situation now faced by public employees. But a constitutional amendment is not a responsible solution to this problem.

In effect, this bill will require the state to spend billions of additional dollars annually. By putting this change into the constitution, NJ will have to make huge payments each year regardless of economic conditions.

This is a very risky bet on NJ experiencing the higher economic growth necessary that would allow for making these payments. If that growth doesn't materialize, it means sharply higher taxes and/or draconian spending cuts to essential services. The recent announcement that the state faces a combined \$1 billion budget shortfall for this and the next fiscal year makes it even clearer that this legislation is potentially dangerous to the fiscal health of New Jersey.

Necessary spending on education and other key priorities should not be imperiled by putting the state into a fiscal straitjacket. We need a comprehensive and practical solution to the pension issue. A constitutional amendment is not the answer.

Pension funding should be part of the annual budget debate just like every other appropriation. The constitution is not the appropriate place to deal with it. A constitutional amendment would make it a super priority taking precedence over everything else. That is not in the best interest of NJ. We call on all interested parties to work together to forge a solution to the pension funding problem. We think that the 2015 report issued by the New Jersey Pension and Health Benefit Study Commission should be the starting point for discussions.

The reality is that everyone, including public employees, is going to have to make some sacrifices and work together if we are going to come up with a solution that doesn't destroy the state. That's the only approach that has worked for companies and other governments that have faced a similar situation.

Thank you for listening to the views of the NJCPA today.

vote no on acr109 on MOnDay

jeanpublic1@yahoo.com

Sent: Thursday, June 16, 2016 4:37 PM

To: OLSaideAJU

I am opposed to any constitutional amendment for pensions. I also believe that the assembly and senate should vote immediately to stop paying pensions to state employees. The taxpayers cannot afford to pay pensions anymore. They are not offered much in private industry anymore so to offer them for privileged state employees is treating them better than the taxpayers who pay their salaries. Why should state employees have better benefits than the taxpayers paying their salaries? I see no reason for an elite class like this. Vote no on this proposal on Monday.