



**STATE OF NEW JERSEY
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May 26, 2010

MEMORANDUM

TO: Commissioners

FROM: Ira W. Mintz
General Counsel

SUBJECT: Supplemental Report on Developments in the Counsel's Office Since March 18, 2010

Other Cases

In New Jersey State Firefighters Mutual Benevolent Ass'n v. State of New Jersey, MER-L-1004 (May 21, 2010), a Superior Court Judge in Mercer County denied an application for interim relief and temporary restraints in a challenge to P.L. 2010, c. 2 as it relates to pending interest arbitration proceedings. Among other things, Chapter 2 requires employees to contribute 1.5% of base salary toward the cost of health care coverage. The plaintiff police and fire unions raised a number of constitutional and statutory claims that implementation during the pending arbitration proceedings is improper. The Court found that the presumption of validity accorded legislative enactments, coupled with plaintiffs' failure to successfully identify any clear constitutional violations, resulted in the failure by plaintiffs to satisfy a significant requirement for interim relief, demonstrating a reasonable likelihood of success on the merits. The Court rejected arguments that the statute violated Article I, Paragraph 19 of the New Jersey Constitution, the New Jersey Employer-Employee Relations Act, Article IV, Section 7, Paragraph 9 of the New Jersey Constitution's prohibition on special legislation, the impairment of the obligation of contract clauses of the United States and New Jersey Constitutions, the void for vagueness doctrine, the Equal Protection Clauses of the United States and New Jersey Constitutions, Article VIII, Section 1, Paragraph 7 of the New Jersey Constitution's tax levy fund

clause, Article IV, Section VI, Paragraph 1 of the New Jersey Constitution's revenue clause, the taking clause of the Fifth Amendment of the United States Constitution, and the Due Process Clause of the 5th and 14th Amendments of the United States Constitution. The Court also found that the plaintiffs failed to demonstrate irreparable harm.