



**From:** NJLM - Municipal Clerks [mailto:njlm-clerks@cityconnections.com]  
**Sent:** Tuesday, December 15, 2009 4:11 PM  
**To:** Lashway, Lisa  
**Subject:** Two Issues

**LEAGUE ALERT**

Municipal Clerk: Please forward to Mayor and Governing Body.

December 15, 2009

**Re: I Public Intoxication Ordinances**

**Re: II S-3136/A-4362 - Reduces Required  
Local Employer Contributions to  
PERS and PFRS for State Fiscal Year  
2010**

**Re: I. Public Intoxication Ordinances**

Dear Mayors:

There has recently been some confusion as to the status of public intoxication ordinances many of your towns may have. I hope this letter will provide some clarity to the issue.

N.J.S.A. 40:48-1 does give a municipality the power to “prevent vice, drunkenness, and immorality.” That statute is the source of authority for towns to pass ordinances outlawing public drunkenness.

However, in 1977, the State Legislature passed the Alcohol Treatment and Rehabilitation Act (ATRA) at N.J.S.A. 26:2B-1-39. N.J.S.A. 26:2B-26 specifically states that: “No county, municipality, or other political subdivision of the State shall adopt any law, ordinance, bylaw, resolution or regulation having the force of law a. rendering public intoxication or being found in any place in an intoxicated condition an offense, a violation or the subject of criminal or civil penalties or sanctions of any kind; b. inconsistent with the provisions and policies of this act.”

There are currently lawsuits against towns that still have public intoxication laws within their ordinances. While the outcome of such cases have yet to be determined, it seems clear that N.J.S.A. 26:2B-26 decriminalized public intoxication. Towns that still have such ordinances on their books should

repeal them, or at the very least suspend enforcement of them until the Courts of the state make a final determination.

For further information contact Matthew Weng at (609) 695-3481 ext. 137.

Very truly yours,

William G. Dressel, Jr.  
Executive Director

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**Re: II. S-3136/A-4362 - Reduces Required Local Employer Contributions to PERS and PFRS for State Fiscal Year 2010**

Dear Mayor:

During Thursday's Senate session, Senator Cunningham introduced S-3136, a Pension Payment Deferral bill and was referred to the Senate Budget and Appropriations Committee. This permissive bill would allow municipalities to pay 50% of PERS and PFRS payments due in State fiscal year 2010.

If a municipality elects to pay 100% of their PERS and PFRS payment, they will be credited with the full payment and such amounts will not be included in their unfunded liability. For municipalities that chose to pay the reduce rate their unfunded liability will be paid in level annual payments over a 15 year period beginning with payments due in the State Fiscal Year ending June 30, 2013. The repayment will be adjusted by the rate of return on the actuarial value of assets.

The Pension Payment Deferral plan has in the past been touted as a short-term property tax relief initiative for municipalities facing ballooning public employee pension liabilities and an economy in peril. Its purpose is to keep property taxes down and prevent service cutbacks and possible lay-offs.

The Assembly companion is A-4362, but it is not yet assigned to a Committee.

Please contact your State Senator and Assembly representatives to communicate the absolute need for the option to defer pension payments, if all municipalities are to continue to be able to deliver essential public services to their citizens, at a time when we are all seeing daily reports of foreclosures, job losses and business failures for both large and small employers.

For more information, please contact Jon Moran at 609-695-3481 x121.

Very truly yours,

William G. Dressel, Jr.  
Executive Director

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