



*New Jersey Association of School Administrators*  
*Ensuring Effective Education Throughout New Jersey*



On Friday, May 25, 2012, Mercer County Superior Court Judge Douglas Hurd issued a decision dismissing the plaintiffs' Cross-Motion for Summary Judgment in the matter of *Berg v. Christie*. That case was originally filed by a group of retired Deputy Attorneys General against the state.

The group including NJASA, NJEA, CWA, NJPSA and other employee groups and individuals, filed a motion to intervene in this case, and were ultimately granted intervenor status. That means that the education and other employee groups were permitted to brief the issues related to the loss of the COLA, and present arguments on those issues. Judge Hurd appeared to acknowledge that non-forfeitable rights to the pension and future COLAs have been created for pension fund members, but he ruled those rights did not outweigh the Legislature's need to be able to appropriate money to fund the pensions. We, along with our partners in this case, believe the Judge's analysis was fundamentally flawed.

Judge Hurd issued an oral decision, and we are not anticipating any written decision will be provided. Though a transcript of the Judge's statements from the bench has been ordered, we do not currently have a decision from which we can provide exact quotes, or conduct more specific analysis. We anticipate that we will receive a transcript of the proceedings within a few weeks. Once the transcript is received, the numerous parties, through their attorneys, will be able to conduct a more thorough analysis and determine when and how an appeal may be taken.

In the meantime, it is important to note that the remainder of the challenges brought by NJASA and the other organizations will continue in a separate case. That action includes a request for relief from the statutory and constitutional violations that resulted in the impairment of the retiree medical benefits, and increased contribution rates for active employees.

Notwithstanding the above, we do not believe that these complex issues will be resolved quickly. Members should be prepared for these cases to take years, not months, before appeals are completed and decisions are final.