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Attorney(s) for Defendant

STATE OF NEW JERSEY,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION-CRIMINAL PART
	:	CAPE MAY COUNTY
Plaintiff	:	
	:	
v.	:	
	:	
ERNEST V. TROIANO, et al.,	:	Case No. CPM-22-000535
	:	Indictment No.: 23-07-00109-S
	:	
Defendants.	:	
	:	Criminal Action
	:	NOTICE OF MOTION IN
	:	LIMINE

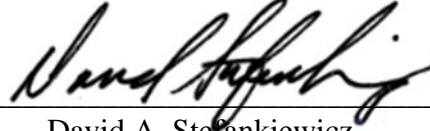
TO: Brian Uzdavinis, DAG
Division of Criminal Justice
25 Market Street, P.O. Box 085
Trenton, NJ 08625
Filed Via NJ E-Courts

PLEASE TAKE NOTICE that on Monday, March 3, 2025 at 9:00 a.m., or on such other date and time as may be set by the Court, the undersigned, David A. Stefankiewicz. Esquire of Stefankiewicz Law, attorney(s) for Defendant, Steven Mikulski, shall make application before the above-named Court for an Order barring certain evidence and argument from being introduced by the State at trial, with such evidence and argument being more specifically described in the accompanying Letter Brief; and for such other relief as the Court may deem appropriate under the circumstances.

Reliance shall be placed upon the Defendant’s Letter Brief dated January 6, 2025 included in the moving papers.

A form of order is also included in the moving papers.

Dated: December 6, 2025

A handwritten signature in black ink, appearing to read "David Stefankiewicz", written over a horizontal line.

David A. Stefankiewicz
Attorney for Defendant

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ID 033981985
Attorney for Defendant

		: SUPERIOR COURT OF NEW JERSEY
STATE OF NEW JERSEY,	:	: LAW DIVISION – CRIMINAL PART
	:	:
Plaintiff,	:	:
	:	: CAPE MAY COUNTY
	:	:
V.	:	:
	:	: CASE NO.: CPM-22-000535
STEVEN MIKULSKI,	:	: Ind. No.: 23-07-00109-I
Defendant.	:	:
	:	ORDER
	:	:

THIS MATTER, having come before the Court on pre-trial motion in limine to exclude certain evidence and argument by David A. Stefankiewicz, Esq., attorney for defendant, Steven Mikulski; and Brian Uzdavinis, Deputy Attorney General, appearing for the State of New Jersey; and the Court having considered the submissions and arguments of counsel; and for good cause shown;

IT IS on this ___ day of _____, 2025 **ORDERED** and **ADJUDGED** that the Defendant’s motion in limine be and hereby is **GRANTED** in its entirety.

Bernard E. DeLury, P.J. Cr.

STEFANKIEWICZ LAW

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January 6, 2025

Hon. Bernard E. DeLury, Jr., P.J.Cr.
Superior Court of New Jersey
Atlantic/Cape May County
Law Division-Criminal Part
4997 Unami Boulevard
Mays Landing, NJ 08233

RE: State v. Earnest. V. Troiano, Jr., et al
Indictment No.: 23-7-00109-S

Dear Judge DeLury:

Pursuant to the October 18, 2024 Trial Order, please accept this letter brief on behalf of the defendant, Steven Mikulski (hereinafter, “Mikulski”), in connection with his motion in limine to preclude the State from presenting certain evidence and arguments at trial, as will be more specifically described herein. The jury trial is scheduled to begin on March 3, 2025.

Preliminary Statement

Under Indictment No. 23-7-00109-S, the defendant, Steven Mikulski (hereinafter, “Mikulski”) is charged with Official Misconduct in violation of N.J.S.A. 2C: 30-2 (2nd degree) (Count III); Theft by Unlawful Taking in violation of N.J.S.A. 2C: 20-3 (2nd degree) (Count VI); Tampering with Public Records in violation of N.J.S.A. 2C: 28-7a(2) (3rd degree) (Count IX); and Falsifying or Tampering with Records in violation of N.J.S.A. 2C: 2C: 21-4a (4th degree) (Count XII). (See copy of Indictment attached hereto as Exhibit A.) Mikulski is charged in his capacity as an elected official, namely as a commissioner in the City of Wildwood. (A copy of the Indictment is attached hereto as **Exhibit A.**)

According to the relevant statute, N.J.S.A. 40: 52: 14-17.6(c)(2), in order to qualify for State Health Benefits, an elected official must be a “full-time” employee “whose hours of work are fixed at 35 hours per week.” Shortly after the legislation was enacted in 2010, and in accordance with the new statutory mandates, the City of Wildwood officially designated city commissioners as “full-time” employees, and fixed their hours at 35 per week. Wildwood’s policy has not changed. Mikulski satisfies the requirements of the statute, in that he is designated by the city as a “full-time” employee, with his hours being fixed at 35 per week. The controversy arises because the statute does not prescribe how, where, or when the hours must be worked. As importantly, the statute does not define what activities constitute “work” by an elected official, or how the hours are to be tracked. Apparently, the State believes Mikulski did not actually “work” 35 hours per week in his capacity as commissioner. Accordingly, the sole issue for the jury to determine is whether or not Mikulski worked the requisite hours.

By this motion, the defense seeks to preclude the State from presenting evidence, and argument, that is not relevant to the material issues in the case or is otherwise inadmissible. “Relevant evidence” is evidence having a tendency to prove or disprove any fact of consequence to the determination of the action. N.J.R.E. 401. The defense also seeks to exclude evidence of marginal relevance, where its probative value is substantially outweighed by the risk of undue prejudice, jury confusion, or misleading the jury, as well as evidence that is unduly time-consuming, cumulative or violative of these limitations. See N.J.R.E. 403.

Of course, this is a preliminary motion. The defense is not yet in receipt of the State’s witness list, and may not be precisely anticipating the State’s proofs and arguments against Mikulski. However, in 2023, the State made two extremely dense grand jury presentations in pursuit of indicting Mikulski. Much of the grand jury presentation(s) contained evidence that was

either irrelevant to the charges, or was otherwise unduly prejudicial, confusing, or misleading. Presumably, the State intends to introduce this evidence, or some of it, at trial. Consequently, the focus of the instant motion will be on this evidence or the arguments that derive therefrom.

Background

It is undisputed that only five officials have been elected to the position of Commissioner in the City of Wildwood since the enactment of the legislation in 2010 which defined a “full-time” official as one who works 35 hours per week for the purposes of qualifying for state health benefits, including Mikulski. See, N.J.S.A. 40: 52-14.6(c)(2). Four of the five, including Mikulski, obtained state health benefits. (The sole commissioner who did not acquire state health benefits through Wildwood did so through another government job.) To reiterate, the statute does not prescribe how, where, or when the work must be performed, what constitutes work, or how hours are to be tracked for the purposes of eligibility. This is puzzling, considering virtually all elected officials in New Jersey are salaried and do not have a set schedule, nor do they typically clock in or out. In fact, in an official publication, the State publicly acknowledged that local governing units required guidance and clarification in order to comply with the law.

The New Jersey Division of Local Government Services (“DLGS”) was responsible for providing guidance to local officials on the implementation of the new law. On May 17, 2010 the DLGS issued Local Finance Notice (“LFN”) 2010-12. (The pertinent pages of the LFN are attached hereto as **Exhibit B**.) When LFN 2010-12 was issued it was anticipated that the question of how to calculate “work hours” in order to determine “full-time” employment, including the impact on elected officials, would be addressed by the State Health Benefits Commission. The LFN provided, **“The State Health Benefits Commission will soon provide guidance about the meaning of “full-time” and certification of time worked for elected officials.”** Pending

guidance from the State Health Benefits Commission, the LFN explained as follows:

The law appears intended to limit SHBP benefits to elected and appointed individuals to those whose primary employment (i.e., 35 hours/week) is their government position. **This is a new concept and raises questions, especially regarding elected officials, concerning how the 35 hours minimum is calculated; what activities count as “work hours.”**

The State Health Benefits Commission will need to address the multitude of different circumstances presented by the requirement. **As the law is new, the Commission will address the issue in the near future. In the meantime, local officials should review the law with their legal advisors, and if decisions need to be made in advance of Commission Guidance, carefully consider the law and its intent to make reasonable decisions.** (Emphasis added)

Contrary to the LFN, no guidance whatsoever was ever provided, so municipal units were left to their own devices on how to administer the law. According to the LFN, elected officials need only make “reasonable decisions” regarding health benefits. Consequently, in absence of guidance, the new legislation created nothing more than an “honor system” for elected officials to follow in terms of the 35-hour requirement. Stated otherwise, the statute left it up to the elected officials and, to some extent municipalities, to determine qualification for the health benefits.

Shortly after the passage of the amended law, and almost a decade before Mikulski took office, Wildwood enacted two Resolutions which addressed the circumstances presented by the statutory requirements. On June 8, 2011 Wildwood adopted Resolution 227-6-11. This Resolution provided, in pertinent part, that, “each member of the Board of Commissioners of the City of Wildwood is hereby considered a full-time employee and works a minimum of thirty-five hours per week for the City of Wildwood.” (See **Exhibit C** attached.) On that same date, Wildwood also enacted Resolution 226-6-11, which indicated that in order to qualify for State Health Benefits an elected official would have to work an average of 35 hours per week. (See **Exhibit D** attached.)

Like the statute itself, these Resolutions did shed any light on what kind of labor qualified as “work” or how the hours should be calculated or tracked. Thus, the elected officials remained on the “honor system” in connection with the determination of whether or not they qualified for the health benefits. To reiterate, elected officials were merely required to use reasonable judgment in connection with health benefits. That was the case when Mikulski took office, and remains the case. These circumstances frame the defense motion.

Testimony of [REDACTED]

During its lengthy grand jury presentations on February 23, 2023; March 10, 2023; and July 31, 2023, the State introduced testimony that Commissioner [REDACTED] and former Commissioner [REDACTED] only worked about 15 hours per week in their elected positions. Both admittedly had other full-time jobs. The State introduced this evidence to imply that the position of commissioner was not a full-time job, and did not require a 35-hour week, and also to support its position that Mikulski did not work 35 hours per week. Of course, neither [REDACTED] nor [REDACTED] said that Mikulski (or any other commissioner for that matter), did not work 35 hours per week. The number of hours any commissioner works depends entirely upon that commissioner’s duties, management style, individual work ethic, and other factors. The fact that [REDACTED] and [REDACTED] did not work 35 hours per week has no relevance whatsoever to the issue of whether Mikulski worked 35 hours per week. Their circumstances, responsibilities, management style, and work ethic were entirely different from Mikulski’s. Moreover, their perception of whether the position is a “part-time” or “full-time” job is irrelevant to the issue of whether or not Mikulski worked the requisite number of hours to qualify for state health benefits.

The proffered evidence is not only irrelevant but it also poses significant risks of undue prejudice, confusion, misleading the jury, and wasting time. It will necessitate diverting this jury

trial into a mini-trial wherein I will be called upon to compare and contrast Mikulski's circumstances with those of [REDACTED] and [REDACTED] during their tenures. This trial should not be an exercise of deciding who is the more dedicated public servant of the three, or who had the more reasonable management style.

For these reasons, any testimony from [REDACTED] and/or [REDACTED] concerning the number of hours they worked, or whether they considered the position to be full-time or part-time, must be excluded, as it has no tendency in reason to prove whether or not Mikulski worked the requisite 35 hours per week. Moreover, it is unduly prejudicial, confusing, misleading, and time consuming.

Sick, Personal & Vacation Days

During the grand jury presentations, the State repeatedly proffered testimony that the commissioners do not receive sick days, personal days, or vacation days, to imply that because they do not receive these remunerations their positions must, therefore, be part-time and not full-time for the purposes of state health benefits. This evidence is highly confusing and misleading, as city commissioners' receipt of these benefits is entirely unrelated to the number of hours they work or the determination of their status as full-time employees or eligibility for state health benefits. Accruing sick days, personal days, or vacation days is neither a requirement for enrollment in the State Health Benefits Plan nor a factor that differentiates part-time and full-time employees under Wildwood's regulations and policies. Therefore, this evidence is not relevant to any issue of material consequence in this trial. Additionally, what little probative value it may have will be substantially outweighed by the risk of undue prejudice, and confusion of the issues. Therefor, such evidence must be excluded.

Opinion Testimony as to Full or Part-Time Status

Again, during the overelaborate grand jury presentations, the State introduced evidence

that the commissioners are “part-time” positions, and the concept that they’ve “always been considered part-time.” While this was primarily through the testimony of confidential assistant, ██████████, the State attributed this proffer to about a half a dozen other employees, none of whom had any personal knowledge of Mikulski’s schedule or work habits. First, this proffered testimony is simply wrong, as the aforementioned Resolutions, which were passed about a decade before Mikulski took office, clearly define the position of commissioner as “full-time.” Second, subsequent to the passage of the new law restricting health benefits to full-time employees, every elected official in Wildwood, except ██████████, received state health benefits, which are only conferred upon “full-time” officials. Third, and most importantly, personal opinions expressed by witnesses as to whether or not the position of commissioner (i.e., Mikulski) was classified as part-time or full-time by the city are wholly irrelevant, since only the **actual** classification and the number of hours worked are germane to the determination of whether Mikulski qualified for health benefits. Consequently, the personal opinions of the proffered witnesses must be excluded.

Improper Expert Opinion by Investigator

The State introduced improper “expert testimony” before the grand jury through Detective ██████████ of the NJSP, who is expected to be a witness in the trial. The Prosecutor improperly elicited expert opinion testimony from Det. ██████████ (without qualifying her as such) on the ultimate issue of whether or not Mikulski worked 35 hours per week:

Prosecutor: Q. Based on your investigation, the evidence you obtained, and the evidence we’ve discussed here today, particularly Mikulski’s self-reported time sheets, was Mikulski a full-time employee, as defined by the statute and in the city attorney’s memo we just discussed, a full-time employee, being one whose hours are fixed at 35 hours per week in his capacity as commissioner?

Det. ██████████: A. No.

Prosecutor: Q. No as in he did not appear to be based on your investigation and all evidence that you were able to accumulate?

Det. [REDACTED]: A. Yes. (Page 94 of the March 10, 2023 Transcript.)

At trial, the State must be barred from presenting this testimony, as it constitutes and opinion on the ultimate issue in the case. The determination of whether Mikulski worked 35 hours per week for the purposes of state health benefits is solely a decision the jury will be called upon to make. Our Courts have eschewed expert testimony on the ultimate issue in the context of jury trials even from properly qualified experts involving issues that are beyond the ken of lay jurists, none of which is present here. See State v. Cain, 224 N.J. 410 (2016) and State v. Simms, 224 N.J. 393 (2016); N.J.R.E. 702. As recognized by our courts, such opinion testimony from a police officer has a significant impact on a fact finder's deliberations, especially when determining guilt or innocence. In the case at hand, the jury is fully capable of evaluating the evidence to determine whether Mikulski worked 35 hours per week as a commissioner, without the need for any improperly offered expert opinion. Allowing the prosecutor to present the detective as an expert to assert that Mikulski did not qualify for health benefits would be highly prejudicial and improper. By testifying that he did not work 35 hours per week is tantamount to doing that. It is also tantamount to telling the jury he is guilty. Putting aside the issue of whether Det. [REDACTED] could be qualified as an expert, and I don't see how she could be, the larger problem with such testimony is that the subject matter is certainly **not** the proper subject of expert testimony. The proffered opinion is simply not beyond the ken of a lay person and, therefore, is not admissible. See N.J.R.E. 702. Consequently, the State must be precluded from offering such testimony as it would be unduly prejudicial to the defendant.

Mikulski's Primary Employment as Restaurateur

The State must also be prohibited from arguing that the defendant's ownership of a

luncheonette indicates that his role as a commissioner is not his primary employment or prevents him from working 35 hours per week. During the grand jury proceedings, the State argued that, because he owned a restaurant, he could not be a full-time commissioner devoting 35 hours per week in that role. Ordinarily, the fact that he owns a business could be marginally relevant to proposition that he's less available to put in time as a commissioner, and thus makes it more difficult to devote 35 hours per week to that position. However, in this case, the State has no evidence that anything Mikulski did in connection with the restaurant compromised his ability to work full-time as a commissioner. The State's reliance on Mikulski's restaurant ownership, without additional relevant evidence, amounts to throwing mud against the wall at trial, in the hope that some of it sticks, in an unfounded attempt to sway the jury. Unless the State has some actual proof that his restaurant ownership compromised his ability to put in time as a commissioner, this subject matter must be declared off limits during the State's case.

What Constitutes Work

Finally, the State must be barred from arguing that the defendant's activities outside of City Hall – such as constituent services, on-call responsibilities, off-site meetings, town hall events, civic events, business openings, parades, festivals, inspections, after-hour departmental work, responding to citizen complaints and inquiries, investigating code violations and similar community-focused tasks – do not qualify as “work” under the legislation mandating a 35-hour work week. The statute places no restrictions on the type of work that counts toward the 35 hour per week requirement; therefore, the State must not be permitted to impose such limitations at trial. Such argument will be unduly confusing to the jury, and highly prejudicial to the defendant.

Further, in this case, the involved statute is being used penally against the defendant. To the extent the statute lacks clarity, particularly in absence of the guidance that was supposed to be

provided by the State Health Benefits Commission, the statute must be strictly construed in favor of the defendant. See, e.g., State v. Froland, 193 N.J. 186, 201 (2007) State v. White, 98 N.J. 122, 131 (1984); N.J.S.A. 2C: 1-2(a). The Court has reiterated the common law principle that an ambiguity cannot inure to the benefit of the State. State v. Alexander, 136 N.J. 563, 573 (1994). Under these circumstances, permitting the State to critique the nature of the labor and effort on the part of Mikulski which constitutes “work” under the statute would not only be contrary to law, it would also be highly prejudicial, confusing, and misleading. The State must be prohibited from arguing that the statute disqualifies any undertakings which occur outside of City Hall, from being the kind of work intended to count toward the 35-hour requirement.


Conclusion

In this trial, certain evidence and arguments proffered by the State must be excluded, because they are either irrelevant to the issue of whether the defendant worked the requisite hours to qualify for state health benefits, or because their relevance is substantially outweighed by the risk of undue prejudice, confusion, misleading the jury, or be a waste of time. Testimony from other commissioners as to the number of hours they worked must be excluded because it is not probative of the number of hours the defendant worked. Eliciting testimony that the commissioners did not receive personal days, sick days, or vacation is unduly prejudicial and confusing because there is no correlation between receiving or not receiving these benefits, and working full-time. Any witness’s opinion as to whether or not the position of commissioner was a full-time or part-time position must be excluded as irrelevant, as the City’s Resolution(s) designate the position as “full-time” and fixed the hours at a minimum of 35 hours per week. The State’s lead investigator must be prohibited from rendering an opinion as to the ultimate issue in the case, namely, whether or not the defendant worked 35 hours per week or was otherwise qualified to receive state health

benefits. Any reference to the defendant owning a restaurant is irrelevant, in absence of any evidence that this interfered with his ability to work as a full-time commissioner. The State must be prohibited from arguing that certain job-related activities performed by Mikulski outside of city hall did not constitute “work” as that term is intended by the statute, in absence of any qualifying statutory language, or any guidance from appropriate state officials or agencies as to the meaning of the term.

For these reasons, the defense motion must be granted.

Respectfully yours,

A handwritten signature in black ink, appearing to read "David A. Stefankiewicz". The signature is written in a cursive, flowing style.

David A. Stefankiewicz

DAS/pes

cc: Brain Uzdavinis, DAG
S. Mikulski

EXHIBIT "A"

FILED

JUL 31 2023

State Grand Jury Judge

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CRIMINAL

State Grand Jury
Number SGJ789-23-5-S
Superior Court
Docket Number 23-07-00109-S

STATE OF NEW JERSEY)
v.) SUPERSEDING INDICTMENT
ERNEST V. TROIANO JR.,)
PETER J. BYRON, and)
STEVEN E. MIKULSKI)
)

The Grand Jurors of and for the State of New Jersey, upon
their oaths, present that:

COUNT ONE

(Official Misconduct - Second Degree)

ERNEST V. TROIANO JR.

between on or about July 1, 2011 and on or about December 31,
2019, in the City of Wildwood, in the County of Cape May,
elsewhere, and within the jurisdiction of this Court, as a
public servant, acting with the purpose to obtain a nonpecuniary
benefit for himself or another or to injure or to deprive
another of a benefit, did commit one or more acts relating to
his office but constituting an unauthorized exercise of his
official functions, knowing that such act was unauthorized or

that he was committing it in an unauthorized manner, or did knowingly refrain from performing a duty imposed upon him by law or clearly inherent in the nature of his office, that is, the said ERNEST V. TROIANO JR., then and there being a public servant, that is, a Commissioner and Mayor of the City of Wildwood, having thereby the official functions and duties, among others, to refrain from engaging in certain activities, including dishonesty, fraud, deceit, misrepresentation, or criminal or unlawful activity of any kind, to conduct himself in an appropriate and professional manner during the course of performing his public duties, to perform his duties in a legal and proper manner, to display good faith, honesty and integrity, and to be impervious to corrupting influences, did knowingly: use his official position as Commissioner and Mayor of the City of Wildwood to unlawfully access and obtain healthcare coverage, to which he as a non-full-time employee was not entitled, through the State Health Benefits Program (SHBP); and certify and submit biweekly timesheets falsely documenting his actual official hours of work, with purpose to obtain a benefit, to wit, SHBP healthcare coverage, for himself or another person, whose identity is known to the grand jurors but who is not named herein, contrary to the provisions of N.J.S.A. 2C:30-2, and against the peace of this State, the government and dignity of the same.

COUNT TWO

(Official Misconduct - Second Degree)

PETER J. BYRON

between on or about July 1, 2011 and on or about August 1, 2022, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, as a public servant, acting with the purpose to obtain a nonpecuniary benefit for himself or another or to injure or to deprive another of a benefit, did commit one or more acts relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act was unauthorized or that he was committing it in an unauthorized manner, or did knowingly refrain from performing a duty imposed upon him by law or clearly inherent in the nature of his office, that is, the said PETER J. BYRON, then and there being a public servant, that is, a Commissioner and Mayor of the City of Wildwood, having thereby the official functions and duties, among others, to refrain from engaging in certain activities, including dishonesty, fraud, deceit, misrepresentation, or criminal or unlawful activity of any kind, to conduct himself in an appropriate and professional manner during the course of performing his public duties, to perform his duties in a legal and proper manner, to display good faith, honesty and integrity, and to be impervious to corrupting influences, did knowingly: use his official position as

Commissioner and Mayor of the City of Wildwood to unlawfully access and obtain healthcare coverage, to which he as a non-full-time employee was not entitled, through the State Health Benefits Program (SHBP); and certify and submit biweekly timesheets falsely documenting his actual official hours of work, with purpose to obtain a benefit, to wit, SHBP healthcare coverage, for himself or another person, whose identity is known to the grand jurors but who is not named herein, contrary to the provisions of N.J.S.A. 2C:30-2, and against the peace of this State, the government and dignity of the same.

COUNT THREE

(Official Misconduct - Second Degree)

STEVEN E. MIKULSKI

between on or about July 1, 2020 and on or about August 1, 2022, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, as a public servant, acting with the purpose to obtain a nonpecuniary benefit for himself or another or to injure or to deprive another of a benefit, did commit one or more acts relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act was unauthorized or that he was committing it in an unauthorized manner, or did knowingly refrain from performing a duty imposed upon him by law or clearly inherent in the nature of his office, that is, the said STEVEN E. MIKULSKI, then and there being a public servant, that is, a Commissioner of the City of Wildwood, having thereby the official functions and duties, among others, to refrain from engaging in certain activities, including dishonesty, fraud, deceit, misrepresentation, or criminal or unlawful activity of any kind, to conduct himself in an appropriate and professional manner during the course of performing his public duties, to perform his duties in a legal and proper manner, to display good faith, honesty and integrity, and to be impervious to corrupting influences, did knowingly: use his official position as

Commissioner of the City of Wildwood to unlawfully access and obtain healthcare coverage, to which he as a non-full-time employee was not entitled, through the State Health Benefits Program (SHBP); and sign and submit to the City of Wildwood a "Payroll Status Change Report" and a "Health Benefits Enrollment and/or Change Form" falsely identifying himself as a full-time employee, with purpose to obtain a benefit, to wit, SHBP healthcare coverage, for himself or another person, whose identity is known to the grand jurors but who is not named herein, contrary to the provisions of N.J.S.A. 2C:30-2, and against the peace of this State, the government and dignity of the same.

COUNT FOUR

(Theft by Unlawful Taking - Second Degree)

ERNEST V. TROIANO JR.

between on or about July 1, 2011 and on or about December 31, 2019, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, knowingly did unlawfully take or exercise control over the movable property of the City of Wildwood and the New Jersey State Health Benefits Program (SHBP) with purpose to deprive the owner of the same, that is, the said ERNEST V. TROIANO JR. knowingly did unlawfully take or exercise unlawful control over health and medical benefits to which he was not entitled, in excess of \$75,000 paid on his behalf by the City of Wildwood and the SHBP, contrary to the provisions of N.J.S.A. 2C:20-3, and against the peace of this State, the government and dignity of the same.

COUNT FIVE

(Theft by Unlawful Taking - Second Degree)

PETER J. BYRON

between on or about July 1, 2011 and on or about August 1, 2022, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, knowingly did unlawfully take or exercise control over the movable property of the City of Wildwood and the New Jersey State Health Benefits Program (SHBP) with purpose to deprive the owner of the same, that is, the said PETER J. BYRON knowingly did unlawfully take or exercise unlawful control over health and medical benefits to which he was not entitled, in excess of \$75,000 paid on his behalf by the City of Wildwood and the SHBP, contrary to the provisions of N.J.S.A. 2C:20-3, and against the peace of this State, the government and dignity of the same.

COUNT SIX

(Theft by Unlawful Taking - Second Degree)

STEVEN E. MIKULSKI

between on or about July 1, 2020 and on or about August 1, 2022, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, knowingly did unlawfully take or exercise control over the movable property of the City of Wildwood and the New Jersey State Health Benefits Program (SHBP) with purpose to deprive the owner of the same, that is, the said STEVEN E. MIKULSKI knowingly did unlawfully take or exercise unlawful control over health and medical benefits to which he was not entitled, in excess of \$75,000 paid on his behalf by the City of Wildwood and the SHBP, contrary to the provisions of N.J.S.A. 2C:20-3, and against the peace of this State, the government and dignity of the same.

COUNT SEVEN

(Tampering with Public Records - Third Degree)

ERNEST V. TROIANO JR.

between on or about July 1, 2011 and on or about December 31, 2019, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, with purpose to defraud or injure, did make, present, offer for filing or use any record, document or thing knowing it to be false, and with the purpose that it be taken as a genuine part of information or records belonging to, or received or kept by, the government for information or record, or required by law to be kept by others for information of the government, that is, the said ERNEST V. TROIANO JR., as a Commissioner and Mayor of the City of Wildwood, with the purpose to defraud or injure, did make, present or use false statements in one or more timesheets submitted to the City of Wildwood for official timekeeping purposes, knowing the same to be false or contain false information, contrary to the provisions of N.J.S.A. 2C:28-7a(2), and against the peace of this State, the government and dignity of the same.

COUNT EIGHT

(Tampering with Public Records - Third Degree)

PETER J. BYRON

between on or about July 1, 2011 and on or about August 1, 2022, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, with purpose to defraud or injure, did make, present, offer for filing or use any record, document or thing knowing it to be false, and with the purpose that it be taken as a genuine part of information or records belonging to, or received or kept by, the government for information or record, or required by law to be kept by others for information of the government, that is, the said PETER J. BYRON, as a Commissioner and Mayor of the City of Wildwood, with the purpose to defraud or injure, did make, present or use false statements in one or more timesheets submitted to the City of Wildwood for official timekeeping purposes, knowing the same to be false or contain false information, contrary to the provisions of N.J.S.A. 2C:28-7a(2), and against the peace of this State, the government and dignity of the same.

COUNT NINE

(Tampering with Public Records - Third Degree)

STEVEN E. MIKULSKI

between on or about July 1, 2020 and on or about August 1, 2022, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, with purpose to defraud or injure, did make, present, offer for filing or use any record, document or thing knowing it to be false, and with the purpose that it be taken as a genuine part of information or records belonging to, or received or kept by, the government for information or record, or required by law to be kept by others for information of the government, that is, the said STEVEN E. MIKULSKI, as a Commissioner of the City of Wildwood, with the purpose to defraud or injure, did make, present or use false statements in a "Payroll Status Change Report" and a "Health Benefits Enrollment and/or Change Form" submitted to the City of Wildwood, knowing the same to be false or contain false information, contrary to the provisions of N.J.S.A. 2C:28-7a(2), and against the peace of this State, the government and dignity of the same.

COUNT TEN

(Falsifying or Tampering with Records - Fourth Degree)

ERNEST V. TROIANO JR.

between on or about July 1, 2011 and on or about December 31, 2019, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, with purpose to deceive another, did falsify one or more writings or records, that is, the said ERNEST V. TROIANO JR., with purpose to deceive or injure another or to conceal wrongdoing, did utter false statements in one or more timesheets submitted to the City of Wildwood for official timekeeping purposes, knowing the same to be false or contain false information, contrary to the provisions of N.J.S.A. 2C:21-4a, and against the peace of this State, the government and dignity of the same.

COUNT ELEVEN

(Falsifying or Tampering with Records - Fourth Degree)

PETER J. BYRON

between on or about July 1, 2011 and on or about August 1, 2022, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, with purpose to deceive another, did falsify one or more writings or records, that is, the said PETER J. BYRON, with purpose to deceive or injure another or to conceal wrongdoing, did utter false statements in one or more timesheets submitted to the City of Wildwood for official timekeeping purposes, knowing the same to be false or contain false information, contrary to the provisions of N.J.S.A. 2C:21-4a, and against the peace of this State, the government and dignity of the same.

COUNT TWELVE

(Falsifying or Tampering with Records - Fourth Degree)

STEVEN E. MIKULSKI

between on or about July 1, 2020 and on or about August 1, 2022, in the City of Wildwood, in the County of Cape May, elsewhere, and within the jurisdiction of this Court, with purpose to deceive another, did falsify one or more writings or records, that is, the said STEVEN E. MIKULSKI, with purpose to deceive or injure another or to conceal wrongdoing, did utter false statements in a "Payroll Status Change Report" and a "Health Benefits Enrollment and/or Change Form" submitted to the City of Wildwood, knowing the same to be false or contain false information, contrary to the provisions of N.J.S.A. 2C:21-4a, and against the peace of this State, the government and dignity of the same.



Thomas Eicher, Director
Office of Public Integrity and Accountability
Division of Criminal Justice

A TRUE BILL:

s/Roland Rupp

Foreperson

Dated: 7/31/2023

EXHIBIT "B"

new jersey
department of community affairs

people. places. progress

division of local government services

LFN 2010-12

May 18, 2010

Local Finance Notice

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Lori Grifa
Acting Commissioner

Marc Pfeiffer
Acting Director

Contact Information

Director's Office

V. 609.292.6613
F. 609.292.9073

Local Government Research

V. 609.292.6110
F. 609.292.9073

Financial Regulation and Assistance

V. 609.292.4806
F. 609.984.7388

Local Finance Board

V. 609.292.0479
F. 609.633.6243

Local Management Services

V. 609.292.7842
F. 609.633.6243

Authority Regulation

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The Impact of Chapter 2, P.L. 2010 on Local Unit Health Benefits Programs

Governor Christie recently signed into law Chapter 2, P.L. 2010. This new law changes various provisions of the State Health Benefits Program and the School Employees Health Benefits Program (together, SHBP). Certain of its provisions, but not all, also affect municipalities, counties, local authorities and districts, county colleges, and other local units that provide employee health benefits outside of the State Health Benefits Program. This includes local units that provide employee health benefits through an insurance fund, a joint health insurance fund or in any other manner.

Attached to this Notice is a Frequently Asked Questions (FAQs) document about the new law and its impact on both SHBP and non-SHBP participating local units. The answers provide general guidance for complying with c.2. While based on materials issued previously by the Division of Pensions and Benefits for SHBP participants, the FAQs have been revised to include guidance to non-SHBP local employers, as well as address additional implementation issues for all affected local employers. The full text of Chapter.2, P.L. 2010 is available online. You are encouraged to review it carefully in light of your specific circumstances.

The following highlights important elements of the law the FAQs address:

A. Minimum Employee Contribution for Medical Benefits

On May 21, 2010, or on the expiration of any applicable labor agreement in force on that date, all employees must contribute a minimum of 1.5% of current base salary towards their health benefits cost. This contribution is required of all employees who are members of any state or locally administered retirement system. This applies to all SBHP and non-SHBP local units.

B. Impact on Retirees

Chapter 2 is prospective regarding retirees. It does not affect current retirees or current employees who are already members of a state or locally administered retirement system. Employees who become members of a state or locally administered retirement system on or after May 21, 2010 will be required to pay 1.5% of their retirement allowance towards health benefits costs.

19. Does the reduced waiver incentive amount only apply to new employees?

The waiver maximum applies to all new employees and also to any existing employee who submits or renews a waiver on or after May 21, 2010.

20. What if an employee waives a portion of their benefits (i.e., waives health benefits but opts for prescription coverage only)? Are they still required to pay the full 1.5% contribution?

The legislative intent leads to a requirement that the full 1.5% should be deducted regardless of the employee's specific coverage. Under no circumstances should the 1.5% contribution exceed the cost of the selected coverage.

E. Employee Eligibility (SHBP Members Only)

General statutory principle: Effective May 21, 2010, to be eligible for health benefits coverage under the SHBP, full-time appointive or elective officers are considered an "employee." In this case, the law defines an employee as (P.L.2010, c.2, s.9):

(i) a full-time appointive or elective officer whose hours of work are fixed at 35 or more per week, a full-time employee of the State, or a full-time employee of an employer other than the State who appears on a regular payroll and receives a salary or wages for an average of the number of hours per week as prescribed by the governing body of the participating employer which number of hours worked shall be considered full-time, determined by resolution, and not less than 25,

Appointive or elective officials who were appointed or elected prior to May 21, 2010 do not need to meet the 35 hours per week minimum provided they remain in their elected or appointed position continuously after May 21, 2010.

Individuals who are reelected or appointed to the same position are considered to be continuously employed. A change in elected office is considered election to a new position, and they are subject to the minimum 35-hour workweek rule. If there is a break in service, such individuals are considered "newly" appointed or elected and subject to the 35 hour per week minimum.

A full-time employee of a SHBP participating local unit employer must now work a minimum of 25 hours per week (raised from the previous 20 hours per week minimum) to qualify for employer provided health benefits. (Source: P.L. 2010, c. 2, s.9)

The law appears intended to limit SHBP benefits to elected and appointed individuals to those whose primary employment (i.e., minimum 35 hours/week) is their government position. This is a new concept and raises questions, especially regarding elected officials, concerning how the 35 hours minimum is calculated; what activities count as "work hours."

The State Health Benefits Commission will need to address the multitude of different circumstances presented by the requirement. As the law is new, the Commission will address the issue in the near future. In the meantime, local officials should review the law with their legal advisors, and if decisions need to be made in advance of Commission guidance, carefully consider the law and its intent to make reasonable decisions.

EXHIBIT "C"

CITY OF WILDWOOD
Cape May County, New Jersey


RESOLUTION

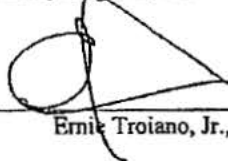
WHEREAS, N.J.S.A. 40:72-2 prescribes that the Board of Commissioners "shall have complete control over the affairs" of the municipality, and;

WHEREAS, N.J.S.A. 40:72-5 states that the "Board of Commissioners shall have the powers and duties to be performed by each department" and "shall prescribe the powers and duties of all officers and employees" in the municipality.

NOW, THEREFORE, be it resolved by the Board of Commissioners of the City of Wildwood, Cape May County, State of New Jersey, that each member of the Board of Commissioners of the City of Wildwood is hereby considered a full-time employee, and works a minimum thirty-five (35) hours per week for the City of Wildwood.


Peter Byron, Commissioner


Anthony Leonetti, Commissioner


Enik Troiano, Jr., Mayor

Resolution No.: 227-6-11

Offered by: Leonetti

Seconded by: Byron

I, Christopher H. Wood, City Clerk for the City of Wildwood, do hereby certify that the foregoing Resolution was adopted at the Regular Meeting of the Wildwood Board of Commissioners, held the 8th day of June, 2011 and in witness whereof I have hereunder set my hand and official seal on this date written.



CHRISTOPHER H. WOOD, CITY CLERK

EXHIBIT "D"

CITY OF WILDWOOD
Cape May County, New Jersey

RESOLUTION

Authorizing a change in the average number of hours of employment per week required for "full-time" status for participation in the State Health Benefits Program and/or School Employees' Health Benefits Program in accordance with N.J.S.A. 52:14-17.26 and N.J.S.A. 52:14-17.46.2.

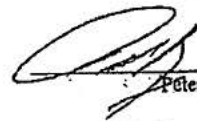
BE IT RESOLVED, by the Board of Commissioners of the City of Wildwood, County of Cape May and State of New Jersey, SHBP/SEHBP Number 92-0882-00, is a participating employer in the State Health Benefits Program and/or School Employees' Health benefits Program, hereby designates twenty-five (25) hours per week (average) as the minimum requirement for the full-time status in accordance with N.J.S.A. 52:14-17.26 and N.J.S.A. 52:14-17.46.2.

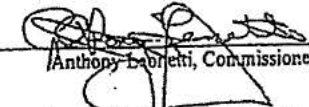
BE IT FURTHER RESOLVED, as of June 1, 2010, may not be less than twenty-five (25) hours per week for employees, or less than thirty-five (35) hours per week for elected or appointed officials.

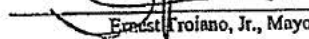
BE IT FURTHER RESOLVED,

- o ALL EMPLOYEES - We will inform employees currently enrolled in the State Health Benefits Program who do not work the minimum number of hours per week required to participate in the Program of this change and their termination from coverage. We will distribute COBRA notices to these employees and access the Employer Pensions and Benefits Information Connection (EPIC) and complete the online Transmittal of Deletions to terminate affected employees from coverage. We understand termination of coverage will occur thereafter in accordance with the statutes and regulations of the State Health Benefits Program.

BE IT FURTHER RESOLVED, this resolution shall take effect immediately and the change in full time hours shall be effective as of the date of the adoption of this Resolution, pursuant to the statutes and regulations.


Peter Byron, Commissioner


Anthony Labretti, Commissioner

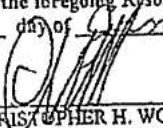

Ernest Troiano, Jr., Mayor

Resolution No. 226-6-11

Offered by: Leonette

Seconded by Byron

I, Christopher H. Wood, City Clerk for the City of Wildwood, do hereby certify that the foregoing Resolution was adopted at the Regular Meeting of the Wildwood Board of Commissioners, held the 8th day of June 2011 and in witness whereof I have hereunder set my hand and official seal on this date written.


CHRISTOPHER H. WOOD, CITY CLERK