



New Jersey Association of Counties

Celeste Carpiano
Executive Director

MEMORANDUM

TO: Assembly State Government Committee

FROM: John G. Donnadio, Deputy Executive Director

RE: ASSEMBLY, NO. 559 (*Cryan/Chivukula*)

DATE: June 14, 2010

Please be advised that the New Jersey Association of Counties (NJAC) supports the proposed Committee Amendments to A-559, which decreases certain public document copy fees to \$0.10 per letter size page and \$0.15 per legal size page.

The Association supports these critical amendments as they clarify the conflicting language contained under existing law in N.J.S.A. 47:1A-5(b), which led to a costly class action lawsuit against Hudson, Sussex, and Hunterdon counties; and of which the court struggled to interpret in Smith v. Hudson County Register, 411 N.J. Super. 538 (App. Div 2010).

Nonetheless, the court held that beginning on July 1, 2010, unless the State Legislature amends the Open Public Records Act (OPRA) to specify otherwise or some other statute or regulation applies, public agencies must charge requestors of government records no more than the reasonably approximated "Actual Costs" of copying such records. The court further concluded that because of the fiscal and administrative burdens on counties and other governmental agencies that are likely to result from this holding, its decision is prospective only pending the above noted legislative action.

With this in mind, NJAC submits that the proposed Committee Amendments provide the much-needed uniformity and predictability in the law, and should prevent further litigation against local governing bodies. As time is of the essence, NJAC urges the Committee to favorably report these amendments at this time. Thank you for your time and consideration, and please do not hesitate to contact me (609) 394-3467 with any questions or concerns.

cc: Honorable Joseph Cryan
Honorable Upendra Chivukula