

## NJAC LEGISLATIVE UPDATE

JUNE 29, 2010

---

### 1. THE BUDGET

**SENATE, NO. 3000/ASSEMBLY, NO. 3000** (*Bucco R-25/O'Toole R-40*)(*Malone R-30/O'Scanlon R-12*), which appropriates \$28,364,422,000 in State funds and \$13,204,231,842 in federal funds for the State budget for fiscal year 2010-2011. S-3000 passed the Senate by a vote of 21-19 and A-3000 passed the General Assembly by a vote of 41-37. Governor Christie signed the measure into law earlier this Afternoon.

### 2. PROPERTY TAX CAP LEVY RESTRICTIONS

**SENATE, NO. 29/ASSEMBLY, NO. 3065** (*Sweeney D-3/McKeon D-27*), which reduces the school district, county, and municipal property tax cap levy from 4% to 2.9% and permits unused school district, county, and municipal increases to be banked for three succeeding years. The bill also establishes the tax levy cap as the permanent mechanism for the calculation of the maximum allowable increase in the tax levy for local units and school districts that may occur between budget years. Under existing law, the 2007 tax levy cap law is scheduled to expire June 30, 2012.

Although the bill maintains existing cap exceptions for debt service, pension, and certain healthcare expenses, it eliminates the use of cap waivers for capital lease payments, energy costs, certain insurance expenses, non recurring general fund revenue or surplus, and certain mandated services. Only Cap waivers related to the provision of government services that the Local Finance Board deems essential to protect the public health, safety, or welfare remain. The bill also eliminates the ability of a local unit or a school district to submit a separate public question to the voters to authorize the raising of additional taxes.

NJAC testified at the Senate Budget and Appropriations and Assembly Budget committees as follows:

“The New Jersey Association of Counties (NJAC) recognizes the unprecedented economic times our State, local governments, and taxpayers are struggling through; and as an organization that advocates on behalf of a true regional form of government and a long-time supporter of shared services and consolidation where feasible, chooses to be part of the solution. With this in mind, NJAC supports a reduction to the property tax cap levy, provided it includes cap banking and certain cap exceptions, and provided that such a cap reduction is supported by

meaningful collective bargaining reform, civil service reform, and pension and health benefits reform.”

*Please note that I've attached a copy of NJAC's position statement for your review as well.*

The Senate passed S-29 by a vote of 23-17, and the General Assembly passed A-3065 by a vote of 44-33-1. It's unclear what action the Governor plans to take on the legislation at this time. However, he has ordered a Special Joint Session of the Legislature on July 1, 2010 to immediately address his package of reform bills designed to provide local governments with the necessary tools to manage their budgets more effectively without raising property taxes. Some of these tools include: a constitutional 2.5% property tax cap levy restriction on local government spending, collective bargaining reform, civil service reform, and additional pension reform. Stay tuned.

### 3. PUBLIC COPY FEES

**SENATE, NO. 1212/ASSEMBLY, NO. 559** (*Weinberg D-37*)(*Cryan D-20*), which decreases certain public document copy fees to \$0.05 per letter size page and \$0.07 per legal size page. NJAC and the Constitutional Officers Association of New Jersey (COANJ) worked together on advocating for amendments to clarify the language contained under existing law, 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). In a nutshell, we advocated for a change in the statute from “shall be up to” \$0.10 per letter size page and \$0.15 per legal size page, to “shall be” \$0.10 and \$0.15 respectively.

This simple amendment would have provided some much needed uniformity and clarity in the law. As you know the court held in Smith that 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.

Although the sponsors ultimately agreed to include our “shall be” language and other less significant changes, they also decided to reduce the fee structure to \$0.05 and \$0.07 respectively. Despite our objections, they also decided to include language concerning “electronic records” at the last minute. For the reasons highlighted below we met with the Governor’s Counsel late last week to request a conditional veto of this language:

- County officials have long been opposed to providing land title recordation data to private entities who in turn sell the information;

- The “electronic records” language that was added last week could open the door for such resellers to receive this information in volume at the cost of a disk;
- The purpose of the copy fee bill was intended to deal with charging the appropriate cost for copies and not to deal with large data files; and
- Most importantly, the word “access” in the new language could be interpreted to allow these vendors “direct” access to county computer systems or indexes, which contain proprietary information such as dates of birth and social security numbers of homeowners that record deeds and mortgages with our county clerks. Without some important procedural safeguards in place, this language would seem to allow for the manipulation of large volumes of data and compromise the privacy and security of residents.

Both houses unanimously passed this legislation late last night, and it’s on the Governor’ Desk awaiting his signature or conditional veto. I’ll make sure to keep you posted.

#### 4. FREEHOLDER VETO POWER OVER AUTHORITIES

**SENATE, NO. 763/ASSEMBLY NO. 2078** (*Sweeney D-3/Norcross D-5*)(*Cryan D-20/Burzichelli D-31*), which authorizes directors of boards of chosen freeholders to exercise veto powers over the proposed actions of county authorities. NJAC supports this legislation as it provides non-optional charter counties with the same veto power granted to county executives. The Senate passed this legislation on May 20<sup>th</sup> by a vote of 38-0, and the General Assembly passed it last night by a vote of 77-1. Governor Christie is expected to sign the bill into law.

#### 5. REPORTING LEGAL FEES

**SENATE, NO. 1248** (*Rice D-28*), which requires local governments to provide the Director of the Division of Local Government Services with a report concerning law suits to which it is a party before budget approval. NJAC testified before the Senate Community and Urban Affairs Committee on May 10<sup>th</sup> that it was concerned with the fact that this legislation imposes an undue burden on local governments at a time in which resources are limited and officials are struggling to provide essential services in a cost effective manner. NJAC also noted that it was concerned with the fact that this legislation conditions approval of a local government’s budget on what could be a frivolous lawsuit or nominal legal action. As a result of this testimony and input from county counsels, Senator Rice amended S-1248 on floor of the Senate yesterday to establish a minimum reporting threshold for such law suits in which the governing body expects to expend more than \$50,000 in legal fess or settlement costs. This number is similar to that already used in the annual audit reports submitted to the Division of Local Government Services. The Senate passed S-1248 by a vote of 38-1 and its version

in the General Assembly A-2900 (Coutinho D-29) is currently in the Assembly Housing and Local Government Committee awaiting consideration.

#### 6. ELECTRONIC WASTE

**SENATE, NO. 1977** (*Smith D-17/Bateman R-16*), which revises the “Electronic Waste Management Act.” In light of NJAC’s concerns that the New Jersey Department of Environmental Protection (DEP) reduced funding for the County Environment Health Act (CEHA) by \$500,000 in Fiscal Year 2010, the Senate Environment and Energy Committee amended this legislation on June 3<sup>rd</sup> to authorize counties, and other certified local health agencies, to enforce the provisions of the Act if they so choose. The bill as introduced would have required such enforcement and imposed an unfunded mandate. The Senate passed S-1977 by a vote of 30-9, and its counterpart in the General Assembly A-2836 (*Gusciora D-15/McKeon D-27*) appears stuck in the Assembly Appropriations Committee.

Please contact the Association’s Deputy Executive Director John G. Donnadio at (609) 394-3467 with any questions or concerns.