

# NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice

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## LEGISLATIVE UPDATE

February 22, 2011

### 1. RESIDENCY REQUIREMENTS

On February 17<sup>th</sup> both houses of the Legislature concurred with Governor Christie's conditional veto OF **SENATE, NO. 1730/ASSEMBLY, NO. 2478** (*Norcross D-5/O'Toole R-40*)(*Moriarty D-4/Riley D-3*), which imposes residency requirements on certain public employees. The Governor conditionally vetoed the legislation to expand the proposed three-member hardship committee to five members; and to extend the bill's effective date until the first day after the fourth month of enactment. The Governor now has ten days to sign the measure into law.

In summary, this legislation requires public employees to obtain a principal residence in New Jersey within one year of beginning their public service. This residency requirement does not apply to public employees employed on the bill's effective date that do not maintain a principal residence in the State while holding employment without a break in public service of greater than seven days. The residency requirement does not apply to individuals whose position requires the employee to spend the majority of working hours outside of the State, or to certain faculty and administrative staff of State colleges, universities, and higher educational institutions. In addition, the bill provides that any person may request a residency exemption based on a critical need or hardship from a five-member committee established to consider applications for such exemptions.

### 2. LAW SUIT REPORTING

**SENATE, NO. 1248/ASSEMBLY, NO. 2900** (*Rice D-28*)(*Coutinho D-29*), 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 advocated for amendments to establish a minimum reporting threshold for such law suits in which the governing body expects to expend more than \$50,000 in legal fees or settlement costs. The Legislature amended the legislation accordingly and further limited the reporting requirements to include lawsuits where a local government understands that such a lawsuit may not be

covered by liability insurance. S-1248/A-2900 passed both houses on November 22, 2010. Governor Christie conditionally vetoed the measure on January 6<sup>th</sup>; and both houses concurred with the Governor's veto on February 17, 2011 to extend the bill's effective date until the first full fiscal year following enactment.

### 3. LEGAL NOTICES ON WEBSITES

On February 3<sup>rd</sup> NJAC testified before the Assembly Commerce and Economic Development Committee in support of **ASSEMBLY, NO. 2082** (*Bramnick R-21/Countinho D-29*), which permits the publication of legal notices by governments and individuals on an official government website instead of a newspaper. NJAC supports the legislation as it will provide county governments with the option of either publishing legal notices in a newspaper as required under current law or posting such notices on its official county website if such a strategy proves cost effective. Pursuant to a broad-base survey completed by our county administrators, finance officers, and purchasing officials, county governments spent approximately \$1.2 million on publishing mandated legal notices in various newspaper publications in 2009. The Committee favorably reported the bill, which is now on Second Reading in the General Assembly. The Senate companion version S-2072(*Stack D 33*) is on Second Reading in the Upper House as well.

### 4. CURB REPAIR

On February 7<sup>th</sup> NJAC testified before the Senate Transportation Committee to request amendments to **SENATE, NO. 2450** (*O'Toole R-40*), which requires counties to fix curbs and surrounding areas when damaged during county road projects. In summary, current law requires counties to maintain county roadways inside the curbs, and municipalities or private owners to maintain the curbs and surrounding areas. In general, statewide county practice is to repair any curb damage caused directly by the county or its subcontractors during county road projects. NJAC testified that the legislation as introduced requires counties to maintain the curbs in addition to the roadways; and, does not take into consideration the age, condition, or neglect in maintaining curbs or surrounding areas by municipalities or private owners. Although NJAC appreciates the fact that Senator O'Toole and the Committee amended the legislation to remove a county's "maintenance" responsibilities, we are still concerned that the legislation does not address our latter concern. S-2450 is now on Second Reading in the Senate; and its companion version **ASSEMBLY, NO. 3522** (*Rumana R-40*) is currently in the Assembly Transportation and Public Works Committee awaiting consideration.

## 5. COOPERATIVE PURCHASING

**ASSEMBLY, NO. 2786** (*Greenwald D-6*), which permits local units to participate in cooperative purchasing agreements through the use of a nationally-recognized and accepted cooperative purchasing agreement that has been developed utilizing a competitive bidding process by another contracting unit within the State, or within any other state, when available. The General Assembly passed this legislation by a vote of 78 - 1 on February 17<sup>th</sup>; and, Senators Beach and Gordon proposed for introduction **SENATE, NO. 2721** (*Beach D-6/Gordon D38*) on the 17<sup>th</sup> as well. NJAC supports this legislation as it's permissive and promotes shared services through cooperative purchasing.

## 6. DOT CONTRACTS

On February 17<sup>th</sup> both houses passed **Senate, NO. 2180/ASSEMBLY, NO. 3094** (*Vitale D-19*)(*Coughlin D-19/Wisniewski D-19*), which permits the Department of Transportation to contract with counties or municipalities to work on highways to prevent public hazards on highways. In summary, this bill provides that the Commissioner of Transportation may enter into a contract or agreement with a county or municipality for snow removal, grass mowing, tree pruning, landscaping, repair, or routine maintenance of State highways and adjacent shoulders, right of ways, and other areas without advertisement for bids, if the scope of the work required does not contemplate the award of a contract by the county or municipality to an outside contractor, or if the commissioner determines the work to be performed is immediately necessary for the prevention of a public hazard. The bill also requires the commissioner to establish reasonable rates for work performed by a county or municipality without a contract or agreement, for work that is immediately necessary for the prevention of a public hazard. Currently, the commissioner may only contract with a county or municipality for road maintenance, when the scope of the work required does not contemplate the award of a contract by the county or municipality to an outside contractor. Governor Christie is expected to sign this measure into law.

## 7. RULE MAKING CHANGES

On February 17<sup>th</sup> both houses passed **SENATE, NO. 2013/ASSEMBLY, NO. 2721** (*Whelan D-2*)(*O'Toole R-40*), which change the five year chapter expiration date for rules to seven years, and changes the procedures for the re-adoption of rule. Under the bill, the change in the chapter expiration date from five years to seven years applies to all current rules in effect on the date of enactment of this bill into law and to all rules adopted on or after the date of enactment of this bill into law,

unless a sooner expiration date has been established for a particular rule. In addition, the bill establishes a new procedure for a State agency to follow when readopting rules without changes, or with technical changes only as approved by the Office of Administrative Law (OAL). As used in the bill, "technical changes" means changes to: correct spelling, grammar and punctuation; correct codification; update contact information; or correct cross-references.

Under this new procedure, a State agency files a public notice with the OAL for publication in the New Jersey Register at least 30 days prior to the expiration date of the rule. Upon receipt of a public notice from a State agency announcing the agency's intent to readopt an expiring rule without changes, or with technical changes only, the OAL publishes that notice in the New Jersey Register and notes the new expiration date for the rule in the New Jersey Administrative Code. The re-adoption of a rule with substantive changes (i.e., any changes that do not meet the definition of "technical change") still needs to follow the procedures set forth in current law. This bill also provides that the Governor may, upon the request of an agency head, within five days after the expiration of a rule, restore the effectiveness of an expired rule as of its expiration date, for a period to be specified by the Governor, in order to effect the re-adoption of the rule. Governor Christie is expected to sign the measure into law.

#### 8. MAIL-IN BALLOTS

On February 17<sup>th</sup> both houses passed **SENATE, NO. 923/ASSEMBLY, NO. 2545** (*Whelan D-2*)(*O'Toole R-40*), which changes the date for the transmission of certain mail-in ballots from the 40<sup>th</sup> to the 45<sup>th</sup> day before an election. In summary, this legislation revises the State's election laws to conform to the federal "Military and Overseas Voter Empowerment (MOVE) Act" by requiring mail-in ballots to be mailed 45 days before an election. Governor Christie is expected to sign this measure into law.

#### 9. NACO ALERT - COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING (CDBG)

The National Association of Counties (NACO) has informed us that Congress may reduce CDBG funding by nearly 62%. New Jersey counties received approximately \$47.5 million in federal funding in 2010 for important social services and projects that would be reduced or eliminated under the proposed cuts contained in the House version of the Continuing Resolution for FY 2011.