

NJAC LEGISLATIVE UPDATE

Board of Directors

January 25, 2011

INTEREST ARBITRATION WORK SHOP

February 11, 2011

10:00 A.M. – 12:00 P.M.

BURLINGTON COUNTY INSTITUTE OF TECHNOLOGY

The Atrium

695 Woodlane Road

Westhampton, New Jersey

Featured speakers include: NJAC Labor Counsel Brian Kronick from the law firm of Genova, Burns, and Vernoia; NJAC business associate Steve Wielkocz from the accounting firm Ferraioli, Wielkocz, Cerullo, & Cuvo; and a representative from the Public Employees Relations Commission (PERC).

Topics Include: new PERC rules and regulations; the random selection of arbitrators; expedited powers; expedited appeals; how to litigate cases under the rocket docket; and base salary and cap applicability issues.

There is no charge to county officials for this event.

2. PENSION AND HEALTH BENEFITS REFORM

As you know, during his January 11, 2011 State of the State Address, Governor Chris Christie once again called for pension and health benefits reform, some of which includes:

- Increasing the retirement age to 65;
- Rolling back the 9.0% increase for future service;
- Increasing employee pension contributions to a uniform 8.5%; and
- Requiring employees to pay a percentage of their healthcare premium instead of their base salary.

We have also learned that leadership in both houses of the Legislature will introduce a pension and health benefits package of bills very shortly, and have promised to share specific details as soon as they become available. We'll make sure to keep you posted; and will be forming a Pension and Health Benefits Review Task Force, so that NJAC is prepared to tackle this issue in a proactive manner.

2. CAP CALCULATIONS

As you know, the new property tax cap law imposes a 2.0% statutory cap on local government spending, with certain cap exceptions for capital expenditures; debt service; pension contributions in excess of 2.0%; increases in health care costs in excess of 2.0%, but not greater than the percentage increase of the State Health Benefits Program (SHBP); and extraordinary costs incurred by a local unit directly related to a declared emergency. The new law also eliminates waivers; provides that local governments may only exceed the 2.0% cap levy restriction by a local cap override approved by a majority of the voters; and authorizes the use of cap banking.

However, this new law did not amend the "1977 Cap Law," which requires county governments to formulate two separate property tax cap levy calculations and then use the more restrictive one. For the past several months, we have been advocating for the Legislature to repeal the "1977 Cap Law" as it's contrary to the Legislature's intent to limit cap exceptions, imposes an undue burden on county governments to calculate, and does not contain an exception for pension contributions. The latter of which is making it next to impossible for counties to make ends meet. Our efforts may be paying off as we've had several conversations this week with partisan staff, so we encourage you to speak with your legislators about this significant issue as soon as possible.

3. CIVIL SERVICE REFORM - WORK GROUP DISCUSSIONS AND ACTION

As you know, we have been working for several months with Assemblywoman Linda Stender and Senate President Steve Sweeney on advocating for legislation to streamline the current civil service bureaucracy. As you may recall, our recommendations include: extending temporary seasonal employee appointments to ten months; expanding the working test period to six months; extending the time frame for disciplinary review appeals to 15 days; authorizing reconciliation plans; modifying special reemployment lists; modifying individual transfers; eliminating bumping rights, and altering the open competitive process.

On December 13, 2010 both houses passed SENATE, NO. 2391/ASSEMBLY, NO. 3590 (*Sweeney D-3/Stender D-22*), which permits collective bargaining on certain matters covered by civil service; and incorporates many of our recommendations as it also extends the working test period and time frame for hiring certain temporary seasonal employees, and creates a title reduction task force. NJAC supports this legislation as an important step toward streamlining the antiquated civil service system; and thanks both Senator Sweeney and Assemblywoman Stender for taking the time to discuss this issue in detail with our county officials over the past several months. It does not appear as if Governor Christie will sign this measure into law at this point, and may very likely issue a conditional veto authorizing local governments to opt out of civil service under certain circumstances.

4. ADDITIONAL LEGISLATION

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, 2011. Governor Christie conditionally vetoed the measure on January 6, 2011 and the Senate unanimously concurred with the Governor's conditional veto on January 11, 2011. The General Assembly is expected to concur with the amendments, which extend the bill's effective date until the first full fiscal year following enactment.

SENATE, NO. 2220/ASSEMBLY, NO. 3211 (*Sarlo D-36*)(*Casagrande R-12*), which limits unused sick leave pay and vacation leave carry-forward for school and local employees. NJAC has not taken a position on this bill at this time, but its board of directors will consider the matter at its next regularly scheduled meeting.

In summary, this bill amends current law to make applicable for all current and future officers and employees of boards of education and local governments the limit of \$15,000 for the payment of supplemental compensation at retirement for accumulated unused sick leave, and the limit on the carrying forward of vacation leave for one year only. Current officers and employees will be permitted to retain any supplemental compensation for unused sick leave, or to carry forward any vacation leave, already accrued as of the bill's effective date. In addition, the bill amends a section of law that permits local units to adopt an ordinance authorizing special emergency appropriations for contractually required severance liabilities resulting from the layoff or retirement of employees by removing the condition that this occur only when the total liability is in excess of 10 per cent of the amount to be raised by taxes for municipal purposes in the fiscal year in which the layoffs or retirements take place. The bill goes on to provide that such liabilities are to be paid without interest and, at the sole discretion of the local unit, may be paid in equal annual installments over a period not to exceed 10 years. Finally, the bill imposes limits on the use of sick leave by a State, local, or board of education employee in the twelve months before retirement. This provision applies to employees who commence employment with an individual employer on or after the bill's effective date. Specifically, the bill prohibits the use of six or more consecutive days of accumulated sick leave, without medical necessity verified in writing by a

physician, by an officer or employee in the twelve months prior to retirement in anticipation of that retirement. The bill would not be deemed to impair the obligation of a collective negotiations agreement or individual contract of employment with relevant provisions in effect on the bill's effective date.

Governor Christie conditionally vetoed this measure on December 9, 2011 to: suspend supplemental compensation for any employee under indictment for a crime that involves or touches his or her public office, and mandate the forfeiture of any supplemental compensation if convicted; phase out the practice of distributing cash payouts for sick days by prohibiting supplemental compensation for sick days that accumulate after the effective date of the legislation for all state, local government and school district employees; require that sick days accrued prior to the effective date of this legislation be used before those days accrued after the effective date; expand to all current employees at any point during their employment, not just hires after the effective date of the bill in the twelve months before retirement, the requirement that a physician provide written verification for use of six or more consecutive sick days.

ASSEMBLY, NO. 3204/SENATE, NO. 2208 (*Burzichelli/McKeon*)(*Sarlo*), which provides certain organizations, such as NJAC, with standing to file complaints with the Council on Local Mandates. NJAC supported this important and timely piece of legislation, which Governor Christie signed into law as P.L. 2010, C.106 on December 23, 2010.