BETH E. TIMBERMAN
NJAC President
Salem County Freeholder

JOHN G. DONNADIO
Executive Director

LEGISLATIVE UPDATE

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1. HEALTH BENEFITS REFORM

As has been documented, county governments dedicate approximately 50% of their overall budgets to salaries, wages, and health benefits; and, effectively controlling healthcare costs remains a major goal for all local governing bodies. County governments have developed innovative healthcare cost saving measures over the years such as increasing employee awareness of generic prescription programs, providing incentives to waive duplicate coverage, and encouraging new employees to choose less expensive point of service plans over the more costly traditional ones. With the intent to lessen the burden of ever increasing healthcare costs, Senate President Steve Sweeney and Senator Jennifer Beck recently introduced **SENATE, NO. 2718**, which establishes certain criteria for all public employee health care benefits plans and a premium-based employee contributions formula.

For the State Health Benefits Program and the School Employees' Health Benefits Program, the bill requires that public employees receiving health care benefits coverage through employment with the State of New Jersey or with an employer participating in either program, and employed on, and after, the bill's effective date, must contribute toward their employer's cost of providing health care benefits coverage under the programs. The bill requires that the amount to be paid by each public employee through withholding from his or her pay, salary or other compensation will be calculated at a percentage of the premium for the level of coverage selected by the employee as follows:

Current Employee - Single Coverage Phase In

Salary	Year 1	Year 2	Year 3	Year 4
$0-$29,999	6%	8%	10%	12%
$30,000-$49,999	10%	12%	14%	16%
$50,000-$74,999	13%	15%	17%	19%
$75,000-$99,999	18%	21%	24%	27%
$100,000 +	21%	24%	27%	30%

Current Employee - All Other Coverage Phase In

Salary	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
$0-$29,999	2%	3%	4%	6%	8%	10%	12%
$30,000-$49,999	4%	6%	8%	10%	12%	14%	16%
$50,000-$74,999	7%	9%	11%	13%	15%	17%	19%
$75,000-$99,999	9%	12%	15%	18%	21%	24%	27%
$100,000 +	12%	15%	18%	21%	24%	27%	30%

New Employee Rate

Salary	Rate
$0-$29,999	12%
$30,000-$49,999	16%
$50,000-$74,999	19%
$75,000-$99,999	27%
$100,000 +	30%

The bill also establishes *identical* health care benefits coverage criteria, and requires *identical* contributions toward the employer's cost of providing health care benefits coverage, with respect to the full-time employees of local unit employers that are boards of education, counties, municipalities, and any agency, instrumentality, authority, fire district or other entity created by a county or municipality that do not participate in the State Health Benefits Program or the School Employees' Health Benefits Program. "Full-time employee" is defined as an employee who meets the local unit's minimum hours required for full-time status, provided that it is at least 25 hours per week, or more if required by contract or resolution. Employment must also be for 12 months per year except for employees whose usual work schedule is 10 months per year, which is the standard school year

The same provisions regarding contributions to health care benefits coverage in retirement would apply to retirees of local units; however, the contribution would be based on the amount of retirement allowance rather than pay, salary or other compensation. *This requirement excludes employees who have 25 or more years of service credit in a State or locally administered retirement system on the effective date of the bill and for whom the employer has obligated to pay, in full or in part, health care benefits in retirement prior to the effective date.*

Retiree - Single Coverage Phase In

Retirement Allowance	Year 1	Year 2	Year 3	Year 4
$0-$29,999	6%	8%	10%	12%
$30,000-$49,999	10%	12%	14%	16%
$50,000-$74,999	13%	15%	17%	19%
$75,000-$99,999	18%	21%	24%	27%
$100,000 +	21%	24%	27%	30%

Retire - All Other Coverage Phase In.

Retirement Allowance	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
$0-$29,999	2%	3%	4%	6%	8%	10%	12%
$30,000-$49,999	4%	6%	8%	10%	12%	14%	16%
$50,000-$74,999	7%	9%	11%	13%	15%	17%	19%
$75,000-$99,999	9%	12%	15%	18%	21%	24%	27%
$100,000 +	12%	15%	18%	21%	24%	27%	30%

The bill also requires: employers to promote the use of generic drugs by employees and their dependents; that employees participate in annual personal health appraisals, and health and wellness plans; and, the creation of premium incentive programs to ensure that employees will receive financial incentives when they, and their dependents, maintain a healthy lifestyle.

In addition, the bill also requires that each school board or local unit employer must create an Employee Benefits Quality, Cost and Delivery Committee in order to develop the components of its health care benefits coverage for employees. The members of the committee would include local officials and union representatives, and is required to work cooperatively in evaluating health care benefits vendors and options for employee health care benefits coverage. The committee is required to design and develop the options for employee health care benefits coverage and to select the vendors best able to provide that coverage at the lowest cost to the employer, in accordance with applicable contracting laws. The committee must also negotiate contracts for health care benefits coverage with the selected vendors on behalf of the employer and recommend contracts for approval by the local unit, in accordance with applicable contracting laws. The committee must also devise strategies for continued safety, health and wellness of the employer's workforce.

Finally, every local unit employer offering health care benefits coverage to its employees must annually validate the eligibility of each full-time employee's dependents covered under the employee's health care benefits coverage to ensure that only eligible dependents are properly enrolled.

NJAC Recommendations

1. With respect to local government employers establishing an Employee Benefits Quality Cost and Delivery Committee, labor union and bargaining group representation should be limited to four or five members. As currently drafted, this legislation requires the committee to consist of "one member of each labor union," which would lead to an unworkable 30 committee members in some counties.

2. With respect to conducting annual Dependent Audits, such audits should be conducted every other year to mitigate potential administrative costs.

3. With respect to requiring employees to participate in annual health appraisals and wellness plans, and developing financial incentives for employees, NJAC is concerned with the costs associated with the implementation of these initiatives and respectfully requests that such programs are left to the discretion of local governing bodies.

2. Pension Reform

Other than reaching a consensus on requiring the State to meet its pension obligation and increasing the retirement age to 65, NJAC's Legislative Affairs Committee did not reach that same accord with respect to employee contributions, benefit calculations, the final calculations formula, and the impact on retirees. After reviewing proposals to reform the pension system contained in **SENATE, NO.** 2696 *(Sweeney D-3)* and **ASSEMBLY, NO. 3796** *(O'Scanlon R-12),* and speaking with several county counsels, administrators and others with subject matter expert knowledge, too many questions remain concerning the legislations' overall impact. Unlike healthcare reform, the Committee is not convinced that NJAC should take an active role in advocating for pension reform as it's unlikely to provide county governments with some much need fiscal relief. *Please note that several committee members raised the issue of whether NJAC should advocate for separating the State and local pension systems as local governments have fulfilled their pension obligations while the State has fallen short. In fact, the total* *unfunded liability for the pension systems in FY 2012 is 56% for the State and 70% for local governments.*

In the spirit of non-partisanship, the pension reform concepts below are referred to as options instead of by bill number.

EMPLOYEE CONTRIBUTIONS

Option A - Requires all public employees enrolled in the Teachers' Pension and Annuity Fund (TPAF), the Public Employee's Retirement System (PERS), the State Police Retirement System (SPRS), and Judicial Retirement System (JRS) to contribute 8.5% of their salaries toward their pensions. These additional contributions will not be used to offset required employer contributions.

Option B – Makes changes to the members of the boards of trustees of the retirement systems; and, empowers the boards to assume the functions, powers, and duties of the Division of Investment – including the authority to adjust contribution rates of employees under certain circumstances.

BENEFIT CALCULATIONS

Option A – Adjusts the benefit calculation for future service of PERS members to N/65 (Years of Service/65) from the current N/55 and rescinds the 9.0% benefit increase for all future earned credit in the pension system. *We need to review this option closer as its application is uncertain.*

Option B – Adjusts the benefit calculation for future service of PERS members to N/60 for service credited on and after the bill's effective date. PERS members may continue to use the N/55 calculation provided such members contribute an additional amount to the system representing the additional benefit as determined by the PERS Board of Trustees.

FINAL COMPENSATION FORMULA

Option A – Changes the final compensation to mean the average annual compensation for service for which contributions are made during any five fiscal years of membership providing the largest possible benefit to the member instead of three years. However, members with more than 25 years of service credit or those who have attained the age of 60 on the 120th day after the bill's effective date retain the three year average.

GENERAL IMPACT ON RETIREES

Option A – Eliminates automatic cost of living adjustments for all current and future retirees.

Option B – Eliminates automatic cost of living adjustments for future retirees with five years of service credit or less. Adjustments may continue for members with five years of service credit or more provided such members contribute an additional amount to the system representing the additional benefit as determined by the PERS Board of Trustees.

NOTES

1. The total unfunded liability for New Jersey's current pension system is $54.0 billion ($37.0 billion for the State and $14.0 billion for local governments) and is expected to grow to $183.0 billion or 13.0 billion annually by 2041 without structural reform and necessary state and local government contributions.

2. Senate President Sweeney has been advocating for the State to meet its statutory pension obligation that it has long ignored; and, during his budget address, Governor Christies pledged to meet this obligation with a $504 million dollar pension payment for fiscal year 2012.

3. Although PFRS members currently contribute 8.5% of their salaries toward their pensions for much richer plans, police and firefighters are not eligible for social security benefits for the years worked as a police officer or firefighter.

3. EXECUTIVE COUNTY SUPERINTENDENT OF SCHOOLS

Our county administrators and finance officers recently completed a survey concerning the costs associated with the executive county superintendent of schools. N.J.S.A. 18:7-10 requires counties to pay for clerical staff salaries, furniture and office supplies, printing expenses, and travel related expenses of the executive county superintendents of schools.

Several legislators have publicly noted that they plan to introduce legislation that would eliminate the office as it has created an unnecessary level of bureaucracy. In anticipation of possible legislation and our advocacy, this broad based survey asked, "approximately how much money did the county spend on the executive county superintendent of schools in 2010?" Please find the results listed below.

COUNTY	CLERICAL SALARY	OFFICE SUPPLIES	PRINTING EXPENSES	TRAVEL EXPENSES	TOTALS
Atlantic	$ 562,364.00	$ 20,917.00	$ 1,071.00	$ 0	$ 584,352.00
Cape May	$ 156,112.00	$ 14,874.00	Central	$ 500.00	$ 171,486.00
Cumberland	$ 209,000.00	$ 11,763.00	$ 1,800.00	$ 4,250.00	$ 226,813.00
Essex	$ 368,556.00	$ 10,646.00	Central	$ 1,270.00	$ 380,472.00
Gloucester	$ 660,359.18	$ 10,410.00	$ 290.00	$ 376.00	$ 671,435.18
Hudson	$ 200,538.00	$ 14,725.00	$ 1,800.00	$ 4,000.00	$ 221,063.00
Mercer	$ 213,555.00	$ 1,350.00	Central	$ 1,174.00	$ 216,079.00
Middlesex	$ 322,230.00	$ 1,245.00	$ 3,200.00	$ 5,500.00	$ 332,175.00
Morris	$ 188,595.00	$ 9,400.00	$ 4,000.00	$ 2,000.00	$ 203,995.00
Ocean	$ 404,184.00	$ 7,895.00	Central	$ 0	$ 412,079.00
Passaic	$ 481,000.00	$ 24,626.00	$ 1,900.00	$ 2,500.00	$ 510,026.00
Somerset	$ 201,194.00	$ 16,294.00	$ 1,222.00	$ 2,285.00	$ 220,995.00
Sussex	$ 113,076.00	$ 8,860.00	Central	$ 2,312.00	$ 124,248.00
Union	$ 298,331.00	$ 10,466.00	Central	$ 82.00	$ 308,879.00
Warren	$ 90,965.00	$ 9,125.00	$ 50.00	$ 0	$ 100,140.00
TOTALS	**$ 4,470,059.18**	**$172,596.00**	**$15,333.00**	**$26,249.00**	**$ 4,684,237.18**

Please note the following:

1. 15 out of 21 counties responded to this survey.

2. Clerical Salary means "Compensation for Clerical Assistants."

3. Office Supplies means "Furniture, Equipment, and Office Supplies."

4. Gloucester and Salem counties included fringe benefit information under "Compensation for Clerical Assistants" in the survey.

5. Printing expenses listed as "Central" means that such expenses are budgeted through central office.

4. CAP CALCULATIONS

County governments *must* prepare their budgets pursuant to both the "1977 Cap Law" and the "2010 Cap Law," and then use the more restrictive one as its cap calculation for 2011.

The "2010 Cap Law" imposes a 2.0% 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 for three years.

The "1977 Cap Law" imposes a cap of either 2.5% or the Cost of Living Adjustment (COLA), which ever is less, of the previous year's county tax levy. Please note that the Cost of Living Adjustment (COLA) rate for FY 2011 is 2.0%; and as such, counties must use this figure in their calculations. Although this cap restriction contains certain cap exceptions for capital expenditures; debt service; emergency appropriations; and several others, it does not contain an exception for pension contributions and limits the exception for health expenses for such expenses incurred over 4.0%. Additionally, the use of cap banking is restricted to two years.

- The formulation of two complex; yet significantly different cap calculations, imposes an undue burden on county governments that other local governments do not endure.
- County governments exercise little control over pension expenditures as such employer contributions are dictated by the Division of Pension and Benefits.
- Pension expenditures are becoming increasingly more difficult to manage at the local level; and, both the Administration and Legislature recognized this challenge by including pension contributions in excess of 2.0% as an exception under the "2010 Cap Law."
- Salary, wages, and health benefits make up to 50% of a county government's overall operating budget with seemingly no end in sight to annual double digit increases in health care costs.

All twenty-one counties and the New Jersey Association of Counties (NJAC) urge the Administration and Legislature repeal the "1977 Cap Law" as it's contrary to leaderships' intent to limit cap exceptions and streamline the cap calculation process; imposes an undue burden on county governments to formulate two separate and distinct cap calculations; does not contain a necessary exception for pension contributions; and limits the exception for ever increasing health care costs. Although a repeal of the "1977 Cap Law" is the most effective method for providing some much-needed clarity under the "Local Budget Law," the Administration and Legislature may also consider amending the law to provide uniformity with the "2010 Cap Law" with respect to pension and health benefits as cap exceptions.

As an organization that represents the only true regional form of government in the State of New Jersey, NJAC is proud of the innovative programs and initiatives taken by our county governments to save valuable taxpayer dollars. As has been well documented, county governments provide cooperative purchasing, 9-1-1 communications and emergency dispatch, public health, animal control, and juvenile detention services on behalf of constituent municipalities and neighboring communities. Moreover, county governments have taken the lead on holding the line on salary increases and have implemented successful health care cost containment measures. In light of these progressive reforms, statewide county budgets actually decreased by 2.1% from $5,983,989,398.00 in 2009 to $5,857,855,483.00 in 2010.

Despite our commitment to delivering often mandated services in a cost effective and efficient manner, failure to repeal or amend the "1977 Cap Law" will force county governments to eliminate essential services and personnel, and drastically reduce improvements to county facilities, roads, and bridges.

5. Residency Requirements

On February 17th the Senate 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 General Assembly is expected to concur with the conditional veto as well.

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.

6. 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 6th; 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.

7. LEGAL NOTICES ON WEBSITES

On February 3rd 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.

8. CURB REPAIR

On February 7th 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.