

# NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice

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## STATE HOUSE NEWS

November 30, 2011

### STATE MEDICAL EXAMINER ACT

On December 1<sup>st</sup> the Assembly Appropriations Committee plans to consider **ASSEMBLY, NO. 3480** (*Vainieri Huttie D-37*) which would revise the "State Medical Examiners Act." NJAC has been working with the New Jersey Funeral Directors Association (NJSFDA) and sponsors over the past several months on a legislative compromise; and, were happy to report that other than the language contained in section 7.e, they've agreed in principal to accept the rest of our proposed amendments. They've also promised to provide us with new language before Thursday' committee meeting that should make the above-noted section more palatable. The Senate version of this legislation **SENATE, NO. 2395** (*Vitale D-19/Bateman R-16*) is currently in the Senate Budget and Appropriations Committee awaiting consideration.

*Please note that NJAC's comments are enclosed in borders; and, that new matter is underlined while deleted material is in [brackets].*

7. (New section) The Chief State Medical Examiner shall have the following general duties, functions, powers, and responsibilities:

a. The Chief State Medical Examiner shall have the authority to enforce the provisions of this act.

b. The Chief State Medical Examiner shall, to the best of his ability, ensure that the medical examiner system is adequately equipped and staffed to effectively deliver medicolegal death investigation services throughout the State, for which purpose the Chief State Medical Examiner shall:

(1) establish standards of funding for the operations and staffing of the Office of the Chief State Medical Examiner;

(2) establish advisory standards of funding for the operations, staffing, capital equipment, laboratories, and facilities of the county and intercounty medical examiner offices;

(3) oversee the deployment of State funds designated for the medical examiner system;

[(4) oversee the operations of the county and intercounty medical examiner offices;]

[(5) make recommendations for the use of funding by the county and intercounty medical examiner offices;]

Adding the word advisory in section (2) and removing sections (4) and (5) seems to address our concerns that complying with new standards for funding operations, staffing, capital equipment, etc. create unfunded mandates similar to the one imposed by the "Court Securitization Act." Although the Act through regulations and directives attempted to create a uniform standard for county judicial and prosecutorial facilities, it significantly increased the costs associated with the operation and maintenance of such facilities. Additionally, removing sections (4) and (5) addresses our concerns that counties are responsible for paying for the salaries, equipment, facilities and other expenses incurred by the county medical examiner officers through the collection of the county general purpose tax and should retain jurisdiction to oversee operations.

[(6)] (4) maintain and supervise the New Jersey State Medical Examiner Toxicology Laboratory as set forth in this act; and

[(7)] (5) have the authority to apply for and accept funds, including grants and awarded federal appropriations, for the improvement of the system of medicolegal death investigation services.

c. The Chief State Medical Examiner shall:

(1) appoint such persons to the position of Deputy Chief State Medical Examiner, and such other employees, as may be needed for the Office of the Chief State Medical Examiner to meet its responsibilities, and prescribe their duties;

(2) pursuant to the provisions of this act, provide advice concerning the appointment, by the governing body of a county or counties, of county or intercounty medical examiners to conduct medicolegal death investigations within the jurisdiction in which they may be appointed to serve;

(3) provide advice [and consent] to the governing body of two or more counties seeking to maintain an intercounty medical examiner office, in accordance with the provisions of this act;

Removing “and consent” from the legislation addresses our concern that county governments have proven to be leaders in regionalization, shared services, and consolidation where feasible; and, should retain the autonomy to enter into such agreements without the imposition of an unnecessary level of bureaucracy.

(4) establish minimum training and experiential requirements of eligibility for those persons appointed as Deputy Chief State Medical Examiner or as a county or intercounty medical examiner, in addition to the other qualifications set forth in this act; and

(5) retain direct supervisory power over all operations and personnel employed by the Office of the Chief State Medical Examiner [and all county or intercounty, and all assistant county or intercounty, medical examiners.];

(6) have general supervision over all county and intercounty medical examiners; and

(7) provide professional oversight concerning the operations of the county and intercounty medical examiners offices as it relates to the conduct of medicolegal death investigations and the performance of autopsies.

Removing the language bracketed in section (5) addresses our similar concerns as noted above; and, our position that if the Chief State Medical Examiner is to retain supervisory power over the personnel employed by a county medical examiner’s office, then the Department of Health and Senior Services should assume the costs associated with the operation and maintenance of the county examiners offices accordingly. Sections (6) and (7) seem overly broad and ambiguous and may need additional clarification.

d. The Chief State Medical Examiner, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations as necessary to effectuate the provisions of this act, including, but not limited to, establishing:

(1) uniform procedures for conducting medicolegal death investigations as determined to be necessary to determine identity, cause of death, and manner of death, and to resolve any issues or potential issues of public health and legal concern;

(2) minimum performance and operating standards for the Office of the Chief State Medical Examiner and each county or intercounty medical examiner office; and

(3) standards of professional conduct to be followed by the personnel of the Office of the Chief State Medical Examiner and the personnel of county and intercounty medical examiner offices.

[e. The Chief State Medical Examiner shall have direct supervision and oversight of any medical examiner facility operating under the jurisdiction of this State.]

Removing section e. addresses many of the same concerns raised above and the our position that if the State does not have the financial resources to provide funding for the county medical examiner offices, then the State should be held responsible for assuming all litigation expenses arising out of the direct supervision and oversight of the county medical examiner offices and facilities.

[f.] e. The Chief State Medical Examiner is authorized to intervene in, and to assume control over, any ongoing medicolegal death investigation taking place in the State, at any time and at his discretion, regardless of whether the Chief State Medical Examiner has received permission from, or a request for intervention by, the county or intercounty medical examiner performing the investigation.

9. (New section) a. The governing body of a county shall establish and maintain an office of the county medical examiner, except as otherwise provided in this section.

b. (1) The governing body of a county or the governing bodies of multiple counties shall seek the advice of the Chief State Medical Examiner concerning the appointment of a county medical examiner or intercounty medical examiner, respectively, by forwarding its nomination for county medical examiner or their nomination for intercounty medical examiner to the Chief State Medical Examiner for review [and approval].

Removing the language “and approval” in section 9.b. addresses our concerns that county governments should seek the advice and counsel of the Chief State Medical Examiner concerning appointments, but retain the discretion to hire qualified candidates as the governing body responsible for funding the operation and position. *Please note that current law N.J.S.A. 52:17B-80 affords the State Medical Examiner general supervision over the administration of the “State Medical Examiner Act.”*

(2) Two or more counties may jointly establish and maintain a medical examiner office[, in a manner to be prescribed by the Chief State Medical Examiner, as provided in this subsection:] on a cooperative or regional

basis, known as an intercounty medical examiner office. The governing bodies of counties seeking to jointly maintain an intercounty medical examiner office shall solicit the advice of the Chief State Medical Examiner concerning such an arrangement before doing so.

Removing the language in [brackets] addresses our concerns that as the only true regional form of government in the State, county governments have led the way in creating innovative shared service initiatives that deliver essential services in a more cost effective manner while saving valuable taxpayer dollars.

[(a) The governing bodies of two or more counties seeking to jointly maintain an intercounty medical examiner office on a cooperative or regional basis shall seek the advice of the Chief State Medical Examiner concerning, and shall obtain his written consent to enter into, such an arrangement before doing so.

(b) If the Chief State Medical Examiner does not consent to the arrangement, he shall give written notice to the county governing bodies that requested consent to do so and explain why the request was denied.

(c) If the Chief State Medical Examiner consents to the arrangement, the applicable county governing bodies shall forward their joint nomination for intercounty medical examiner to the Chief State Medical Examiner for his advice concerning the appointment.]

Removing the language in [brackets] addresses our concerns that as the only true regional form of government in the State, county governments have led the way in creating innovative shared service initiatives that deliver essential services in a more cost effective manner while saving valuable taxpayer dollars. Moreover, removing this language addresses our concerns that the counties should not be required to obtain written consent from the Chief State Medical Examiner before executing a shared services agreement that would impose an additional impediment for counties to enter into such cost savings initiatives. Finally, it addresses our concerns that counties should retain the autonomy to enter into shared services agreements; and in general, that the decision making authority of an elected body should not be subject to the approval an appointed state employee.

c. The office of the county medical examiner shall be directed by a county medical examiner or, in the instances when counties jointly maintain an office on a cooperative or regional basis, an intercounty medical examiner, who shall be appointed by the governing body of the county or counties maintaining such an office, as applicable, in accordance with the provisions of subsection b. of

this section, for a term of five years and until a successor is appointed and has qualified; except that any person holding the office of county or intercounty medical examiner on the effective date of this act shall continue as county or intercounty medical examiner until the expiration of the term for which that person was appointed.

d. If the county governing body of a county or counties fails to appoint a county or intercounty medical examiner, as applicable, or if the office of the county or intercounty medical examiner becomes vacant upon the written request of an assignment judge of the Superior Court, or of the governing body of the county or counties that made the original appointment or nomination, the Chief State Medical Examiner shall designate a qualified representative to perform the duties of the office until a new county or intercounty medical examiner is certified. If the Chief State Medical Examiner assumes the duties of a county or intercounty medical examiner, the Chief State Medical Examiner shall have all the authority conferred by law upon a county or intercounty medical examiner and may appoint such assistants, aides, investigators, or other personnel as the Chief State Medical Examiner deems necessary. In that event, the treasurer of the county or counties, as the case may be, shall reimburse the Office of the Chief State Medical Examiner or its designated representative for all costs incurred in properly conducting death investigations on behalf of the county or counties and performing all other functions of the county or intercounty medical examiner.

e. The office of county or intercounty medical examiner shall have at least one New Jersey licensed physician certified in forensic pathology by the American Board of Pathology on staff, serving as either the county or intercounty medical examiner, or as the assistant county or assistant intercounty medical examiner. Any additional person appointed as a county or intercounty medical examiner or an assistant county or intercounty medical examiner shall not be required to be certified in forensic pathology by the American Board of Pathology.

f. Each county and intercounty medical examiner or assistant county and assistant intercounty medical examiner shall be: a licensed physician of recognized ability and in good standing in the State; be a graduate of a regularly chartered and legally constituted medical school or college; and possess such minimum training and experience requirements as are established by the Chief State Medical Examiner.

g. The county or intercounty medical examiner, subject to the approval of the governing body of the county or counties, may appoint and prescribe the duties of any assistant county or intercounty medical examiners and other

personnel as the county or intercounty medical examiner deems necessary for the proper performance of the duties of the office. An assistant county or assistant intercounty medical examiner shall meet the qualifications for that position as provided for in this section.

h. The salaries and expenses incurred by the office of the county or intercounty medical examiner shall be included in the annual budget of the county or counties served by that office, and the governing body of the county or counties shall fix the compensation to be paid to the county or intercounty medical examiner and assistant medical examiners and other personnel of the office. The board or boards of chosen freeholders shall provide suitable quarters and equipment necessary for the performance of the duties of the office of county medical examiners. <sup>NJAC</sup>[The governing body of the county or counties shall consult advisory standards adopted by the Chief State Medical Examiner with regard to funding for the staff, quarters, and equipment necessary for the performance of the duties of the office of the county or intercounty medical examiner. The budget for, and spending by, the office of the county or intercounty medical examiner shall: be subject to review by the Chief State Medical Examiner; be published and available to the public as part of the budget approved by the governing body of the county or counties; and include all direct and indirect costs associated with the operation of the medical examiner office.]<sup>NJAC</sup>

Requiring the Chief State Medical Examiner to in essence approve funding for county medical examiner offices will lead to costly litigation when disagreements arise on appropriate budget levels; and, do not take into consideration the fact that county governments face comprehensive property tax cap levy restrictions. As noted above, an appointed state employee should not have the power to dictate how an elected body spends valuable taxpayer dollars; and, complying with new standards for funding operations, staffing, capital equipment, etc. create unfunded mandates similar to the one imposed by the "Court Securitization Act." *Please note that current law N.J.S.A. 52:17B-83 requires counties to pay for the operation and maintenance of the county medical examiner offices.*

i. Each county and intercounty medical examiner shall ensure compliance with the rules and regulations adopted by the Chief State Medical Examiner.

j. The Chief State Medical Examiner may remove a county or intercounty medical examiner from office for cause, as set forth in this act, pending a hearing and final resolution, and in consultation with the governing body of the county or counties that appointed the county or intercounty medical examiner, as applicable. The Chief State Medical Examiner shall provide written

notice of the removal to the governing body of the county or counties that appointed the county or intercounty medical examiner, as applicable, and to the county or intercounty medical examiner, immediately after making the removal official. A county or intercounty medical examiner removed under this provision shall be provided with notice of the charges against that person and afforded an opportunity for a hearing before an administrative law judge to contest the removal, which shall conform with the provisions applicable to such contested cases in this State as set forth in statute and regulation.

Adding the underlined language seems to address our initial concerns that since counties are responsible for hiring, paying, and maintaining the offices of the county medical examiners, then counties should be more engaged in any proceeding intended to remove them from office.

### **DIRECT DEPOSIT**

We're optimistic that the Assembly State Government Committee will consider **ASSEMBLY, NO. 3899** (*Ramos D- 33*) at its meeting on December 8<sup>th</sup>. NJAC has been advocating for the Committee to consider this legislation, which would authorize county governments to pay its employees by direct deposit as a more cost effective alternative for conducting business. As you may know, current law N.J.S.A. 34:11-4.2 requires local government employers to pay its employees by check, while N.J.S.A. 34:11-4.2a authorizes public employees to consent to receiving wages through direct deposit. The Senate version **SENATE, NO. 2833** (*Stack D-33*) is currently in the Senate State Government, Wagering, Tourism, and Historic Preservation Committee awaiting consideration.

### **BLUE ACRES PROJECTS**

On November 28<sup>th</sup> the Assembly Environment Committee favorably reported **ASSEMBLY, NO. 4267** (*Wagner D-38*), which would allow counties and municipalities to utilize county and open space trust funds for the additional purposes of purchasing flood prone properties, otherwise know as "Blue Acres Projects." Under current law, counties are authorized to establish "County Open Space, Recreation, Farmland, and Historic Preservation Trust Funds." This legislation would revise the names of these open space trust funds to include floodplain protection."

In summary, the bill defines "Blue Acres Project" to mean any project to acquire, for recreation and conservation purposes, lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage. It also includes the demolition of structures on, the removal of debris from, and the restoration of



those lands to a natural state or to a state useful for recreation and conservation purposes. A-4267 and the Senate companion version **SENATE, NO. 3078** (*Gordon*) are on Second Reading in both houses. NJAC supports this legislation as a solution for providing some measure of relief to those areas impacted by repeated flooding.

## **SUMMIT ON POLICE CONSOLIDATION**

We're very happy to report that over 100 guests from across the State have already registered for our event on Friday morning; and, we've included an advanced copy of the agenda for your review.

### **NJAC BOARD OF DIRECTORS MEETING**

8:30 a.m. – 9:30 a.m.

### **REGISTRATION & NETWORKING**

9:00 a.m. – 10:00 a.m.

*A continental breakfast will be available throughout the board meeting registration, and panel discussion.*

### **WELCOME REMARKS**

10:00 a.m. – 10:15 a.m.

### **PANEL DISCUSSION**

10:15 a.m. – 11:45 a.m.

*Moderated by NJTV's Michael Aron*

Panelists: Somerset County Freeholder Jack Ciattarelli  
Somerset County Prosecutor Geoffrey Soriano  
Camden County Freeholder Director Louis Cappelli, Jr.  
State PBA Director of Government Affairs Robert Nixon

### **QUESTION AND ANSWER SESSION**

11:45 a.m. – 12:00 p.m.

### **LUNCH SERVED**

12:00 p.m. – 12:30 p.m.

### **DCA COMMISSIONER LORI GRIFA AS KEYNOTE SPEAKER**

12:30 p.m. – 1:15 p.m.

*"The best executive is the one who has sense enough to pick good men to do what he wants done, and self restraint to keep from meddling with them while they do it."  
Theodore Roosevelt*

