

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice

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STATE HOUSE NEWS

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WASTEWATER MANAGEMENT

Both houses passed **SENATE, NO 3156** (*Smith D-17/Oroho R-24*), which would provide that wastewater service area designations and sewer service area designations remain in effect and not be withdrawn for a period of 180 days after its enactment, or such longer time that the Commissioner of Environmental Protection (“commissioner”) may determine. However, the extension period would not exceed two years, as this amended bill would expire, in its entirety, two years after its date of enactment. Governor Christie is expected to sign the measure into law.

Under the Department of Environmental Protection’s (“department”) current Water Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq., adopted effective July 7, 2008, wastewater management planning agencies were required to submit a wastewater management plan to the department by April 7, 2009. This deadline was extended until April 7, 2011 by Administrative Order 2010-03, issued by the commissioner, dated March 24, 2010. The department’s rules and regulations also provide that, if a wastewater management planning agency fails to submit a wastewater management plan in compliance with the deadline, wastewater service areas in wastewater management plans, and sewer service areas in water quality management plans where no wastewater management plan has been prepared, must be withdrawn. The amended bill would prevent that withdrawal during the extension period, as noted above.

The amended bill would also require wastewater management planning agencies to prepare and submit to the department, within 180 days after the enactment of this bill or such longer time as the commissioner may determine, at least that portion of a wastewater management plan designating a sewer service area. The amended bill also authorizes the department, in consultation with the applicable wastewater management planning agency, to approve the inclusion of land within a sewer service area, notwithstanding that existing treatment works may not currently have the assured capacity to treat wastewater from such land without infrastructure improvements or permit modifications. The amended bill would also provide that if a wastewater management planning agency submits

only that portion of the wastewater management plan that provides for the designation of a sewer service area, the remaining lands shall be eligible for the installation of individual subsurface sewage disposal facilities in a manner provided for in the bill. The amended bill would also establish various procedures, including timeframes and a net environmental benefit analysis, for the department's review of certain site specific amendments and revisions to wastewater management plans and water quality management plans. The committee amended the bill to change the bill's expiration date from three to two years after the bill's date of enactment.

NJAC PENSION AND HEALTH BENEFITS

Both houses passed **SENATE, NO. 2100** (*Sweeney D-3*), which would prohibit new employees of certain organizations, such as NJAC, the New Jersey State League of Municipalities, and the New Jersey School Boards Association, from enrolling in the Public Employee Retirement System (PERS) and State Health Benefits Plan (SHBP). Governor Christie is expected to sign the measure into law. NJAC supports this Legislation as it only applies to new employees; and, worked with the General Assembly to make its version consistent with the one introduced by the Senate President that ultimately passed both houses.

BLUE ACRES PROJECTS

On January 5th Governor Christie signed into Law **SENATE, NO. 3078** (*Gordon D-38/Bateman R-16*) as P.L. 2011 C.173; and of which now allows 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." Previous law authorize counties to establish "County Open Space, Recreation, Farmland, and Historic Preservation Trust Funds." This new law revises the names of open space trust funds to include floodplain protection." Governor.

In summary, the new law 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. NJAC supports this measure as a solution for providing some measure of relief to those areas impacted by repeated flooding.

INTEREST EARNED ON RETAINED PAYMENTS

Both houses passed **SENATE, NO. 317** (*Codey D-27*), which would require contracting units to credit contractors with interest earned on certain retained payments that are released to the contractor upon completion of a project. It's unclear at this point if Governor Christie plans to sign the measure into law.

Current law provides that the contracting units may retain interest earned on the retained two percent of payments paid to the contractor. This bill would provide that the interest on such withheld payments should be paid to the contractor upon completion of a project. The bill would also provide that, upon the contractor's application, the contracting unit or board of education would be required to release to the contractor a subcontractor's proportionate share of the amount withheld, upon acceptance by the project's architect or construction manager of the subcontractor's completed portion of the entire project. Under current law, the contractor has to wait until completion of the entire project before release of the retained funds for the completed work of one of its subcontractors.

DEED SOLICITORS

Both houses passed **SENATE, NO. 2459** (*Turner D-15*), which would require deed solicitors to register with the Division of Consumer Affairs. Governor Christie is expected to sign the measure into law.

NJAC supports this important and timely legislation as it will serve to protect consumers from companies that mislead them into overpaying for mortgage, deed, and other documents readily available through the offices of the county clerks and registers of deeds. These companies often charge up to 700% of what it would cost consumers to obtain the same information at their respective county offices. Although several counties have already issued public warnings to residents, this legislation would effectively end this deceptive business practice. One recent example is a solicitation from a national deed service company that offered to provide a consumer with a deed copy for \$79.50 that the consumer could obtain at the county for as little as \$5.00.

SOIL CONTAMINATION

Both houses passed **SENATE, NO. 3007** (*Bateman R-16/Gordon D-38*) which would require plans, specifications, and bid proposal documents for certain local public contracts to address soil contamination. Governor Christie is expected to sign the measure into law.

Under this bill, any plans, specifications, and bid proposal documents for such projects that involve the removal of soil from the site would be required to include a statement provided by a laboratory using sampling methods approved by the Department of Environmental Protection specifying the level of contamination of the soil that has been found at the site of the project. In the alternative, a line item allowance would be authorized, which must be a good faith effort on the part of the contracting unit to reasonably estimate the total cost of testing the soil and, if found to be contaminated, the cost of disposal of the contaminated soil.

CENTRAL MUNICIPAL COURT

Both houses passed **SENATE, NO. 516** (*Weinberg D-37/Stack D-33*), which would authorize a central municipal court to hear cases brought by the county office of consumer affairs. A central municipal court is a type of municipal court that has been established by a county pursuant to the requirements set out in N.J.S.2B:12-1. Currently, only Bergen County meets these requirements and has established a central municipal court. Governor Christie is expected to sign the measure into law.

ZERO INTEREST LOANS

Both houses passed Senate, No. 2278 (Vitale D-19/Whelan D-2), which would authorize the New Jersey Economic Development Authority to provide a no-interest loan, from the Hazardous Discharge Site Remediation Fund, to a municipality, county or redevelopment entity for up to 25 percent of the cost of a remedial action in a brownfield development area. The bill would authorize the term of the loan for a period not to exceed 10 years.

The bill would change the order of priority for awards of financial assistance and grants from the fund and would add new priority categories. The bill provides that sites that are owned by a municipality in a brownfield development area where the developer is a public entity would be given second priority for funding, other sites in brownfield development areas would be given third priority, and sites that have previously been awarded a grant or loan from the remediation fund that require additional funding would be given fourth priority. The bill would change the funding priority from second to fifth priority, those sites in areas designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), designated centers, or areas receiving plan endorsement as designated pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.), and sites that the Brownfields Redevelopment Task Force determines are of immediate economic development potential.

STATE MEDICAL EXAMINER ACT

Both the Senate and General Assembly originally included **SENATE, NO. 2395** (*Vitale D-18/Bateman D-16*) on the board list for January 9th. However, neither house voted on the measure as concerns remain about the Legislation's overall impact on county governments. S-2395 would revise the State Medical Examiner Act; and, we expect the Legislature to readdress this issue over the next several weeks.

NJAC is initially concerned with the fact that this legislation would empower the new Chief State Medical Examiner to directly supervise county operated medical examiner offices in Atlantic, Bergen, Burlington, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Sussex, Union, and Warren counties. The new Medical Examiner would also maintain this authority over Gloucester County, which provides medical examiner services on behalf of Camden and Salem counties. Please note that the Northern Regional Medical Examiner Office operated by the State of New Jersey provides medical examiner services for Essex, Hudson, Passaic, and Somerset counties; and, that the Southern Regional Medical Examiner Office, also operated by the State of New Jersey, provides medical examiner services for Cape May and Cumberland counties.

As counties are responsible for paying for the salaries, equipment, facilities and other expenses incurred by the county medical examiner offices through the collection of the county general purpose tax, counties should retain jurisdiction to oversee the operations of the county medical examiner offices accordingly. Our general concern is that this legislation would implement a dysfunctional operational structure similar to that of the county prosecutors offices, where the Governor appoints all county prosecutors with the advice and consent of the Senate; the State's Attorney General supersedes any actions taken by a county prosecutor in all law enforcement matters; and where county governments exercise little control over the fiscal or administrative functions. If this legislation does in fact require the Chief State Medical Examiner to exercise direct supervisory power over the county medical examiner offices, then the Department of Health and Senior Services should assume the costs associated with the operation and maintenance of the offices accordingly.

NJAC is also concerned that this legislation would impose additional and untimely costs on county governments by requiring them to comply with new standards for funding operations, staffing, and equipment. At a time in which all local governments are struggling to make ends meet by reducing critical staff, essential services, and capital improvement projects, county officials will find it very difficult to allocate the necessary resources to comply with new standards. These unfunded mandates would be similar to the ones imposed by the "Court

Securitization Act.” Although the Act through regulations and directives attempted to create a uniform standard for security at county judicial and prosecutorial facilities, it significantly increased the costs associated with the operation and maintenance of such facilities.

Finally, NJAC is concerned that this legislation would create an unnecessary level of bureaucracy and barrier to shared services by engaging the Chief State Medical Examiner in the hiring and firing of all county medical examiners, and in the approval of intercounty medical examiner office agreements. 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. 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, the decision making authority of elected body should not be subject to the approval of an appointed state employee. Finally, in light of the fact that counties are responsible for funding and maintaining county medical examiner offices, they should retain the discretion to hire and fire county medical examiners.

“The way to get things done is to quit talking and get doing.” Walt Disney