

# NEW JERSEY ASSOCIATION OF COUNTIES

*County Government with a Unified Voice!*

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## STATE HOUSE NEWS

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### SOURCE SEPARATION EXEMPTIONS

NJAC's Legislative Affairs Committee is in the process of reviewing **SENATE, NO. 2528** (*Smith D-Middlesex*), which would provide an exemption for commercial and institutional solid waste generators from source separation requirements of municipal recycling ordinances if recyclable materials are otherwise recycled pursuant to certain conditions and requirements. This bill is currently in the Senate Environment and Energy Committee awaiting consideration. Assemblywoman Grace Spencer (*D-Essex*) introduced the companion version in the General Assembly as **ASSEMBLY, NO. 3897**, which is currently in the Assembly Environment and Solid Waste Committee awaiting consideration as well.

Under current law, the governing body of a municipality may exempt persons occupying commercial and institutional premises within its boundaries from source separation requirements if such persons have otherwise provided for the recycling of recyclable materials designated in the district recycling plan from solid waste generated at those premises. This bill would authorize an additional exemption for source separation requirements of persons occupying commercial or institutional premises provided that: the commercial or institutional solid waste generator otherwise provides for the processing of the eligible commercial or institutional waste at a certified materials recovery facility; and the commercial or institutional solid waste generator annually provides written documentation to the municipality of the total number of tons recycled from the eligible commercial or institutional waste.

The Association of New Jersey Recyclers (ANJR) opposes this legislation as mandatory source separation is the foundation for effective recycling in New Jersey. ANJR contends that mixing garbage with recyclables and then extracting those recyclables from the waste produces a lower quality material. ANJR further contends that the bill would ultimately divert recyclable materials from established recycling facilities that have invested millions of dollars in equipment and infrastructure. ANJR submits that this legislation would negatively impact solid waste flow control currently utilized in some capacity by 13 of 21 counties

*(Atlantic, Burlington, Cape May, Cumberland, Hudson, Middlesex, Monmouth, Morris, Ocean, Somerset, Sussex, Union, and Warren).* In a nutshell, solid waste flow controls authorize local governments to designate the places where municipal solid waste is taken for processing, treatment, or disposal.

As of this writing, the Morris County Utilities Authority (MUA) and the Cape May County Municipal Utilities Authority (CMCUA) have sent letters to the sponsors opposing this legislation for the reasons set forth above; and, the Board of Chosen Freeholders in Ocean County have adopted a resolution opposing the measure as well. Although NJAC's Legislative Affairs Committee is still in the process of reviewing this legislation, NJAC recommends opposing the measure as it would negatively impact the recycling operations of counties that have invested substantial capital, infrastructure, and other resources in designating county agencies or utility authorities to achieve recycling goals consistent with the State's mandated requirements.

#### **SUBCONTRACTING AGREEMENTS AND COUNTYWIDE PURCHASING**

On March 18<sup>th</sup>, the Senate passed **SENATE, NO. 1191** (*Lesniak D-Union/Sarlo D-Bergen*) by a vote of 22-15; and, on April 4<sup>th</sup> Assemblyman Vincent Prieto (*D-Hudson*) introduced the companion version in the General Assembly as **ASSEMBLY, NO. 3960**. Both bills are currently in the Assembly Education Committee awaiting consideration.

*Subcontracting Agreements* - Although this provision may not apply directly to county governing bodies, it would significantly inhibit the use of subcontracting agreements by county special services school districts and county colleges. As the Committee is well aware, county governments provide substantial funding for county colleges that has increased over the years while State funding has decreased. County governments also provide funding and transportation services for county special services school districts. As has been well documented, local governments save millions of valuable taxpayer dollars, without impacting the level of service provided, by using subcontracting or privatizing agreements for the delivery of food services, custodial services, transportation services, and much more. As local governments continue struggling to make ends meet by reducing or eliminating critical staff, essential services, and capital improvement projects, the use of subcontracting agreements must remain a viable option.

*Countywide Purchasing Systems* - NJAC also has some concerns with establishing a countywide purchasing system by a county that employs a qualified purchasing agent; and, would require participation by all school districts located within the county. Although NJAC applauds the sponsors for their efforts to promote shared services and consolidation through cooperative purchasing; and,

appreciates the fact that the measure is permissive for county governing bodies, we're concerned with the unintended consequences this legislation would impose on county procurement operations. Moreover, NJAC respectfully opposes the use of an employee protection plan as outlined in the legislation as 20 of the State's 21 counties follow Civil Service layoff procedures. NJAC has long advocated for repealing terminal leave payments as a means to compensate employees separated from employment due to a consolidation or shared services agreement under the "Uniform Shared Services and Consolidation Act." These statutorily imposed severance payments serve as a financial disincentive and significant impediment for local governments working to streamline costs and save valuable taxpayer dollars.

### **EARLY VOTING**

On March 21<sup>st</sup> both houses passed and sent to the Governor's Desk **SENATE, NO. 2364/ASSEMBLY, NO. 3553** (*Gill D-Essex*)(*Wisniewski D-Middlesex/Oliver D-Essex*), which would establish an early voting procedure that would allow registered voters to vote in person at a designated polling station beginning on the 15<sup>th</sup> day before each primary and general election and ending on the second day before each election. Although the measure contains language that attempts to address its potential fiscal impact on local governing bodies, NJAC is concerned that this language circumvents the State's prohibition against unfunded mandates. As such, counties would face an annual budget battle for limited State resources that would undoubtedly force counties to ultimately fund early voting operations. It is unlikely that Governor Christie will sign the measure into law as both the State Treasurer and Office of Legislative Services concur that early voting will cost the State approximately \$46.0 million in fiscal year 2014, and \$20.4 million in fiscal years 2015 and 2016.

### **COUNTY OPERATED NURSING HOMES IMPACT STATEMENT 2013**

As county operated nursing homes begin preparing for Managed Long Term Care (MLTC) and the anticipated loss of additional Medicaid funding, county governments across the State are struggling to find the resources necessary to maintain a consistent level of quality care residents deserve.

As has been well documented, county operated nursing homes provide a safety net of care for low income patients with medical conditions that typically prevent their admission to privately owned nursing homes. In fact, 79% of the estimated 3500 patients that currently reside in county operated nursing are classified as Medicaid patients without the necessary resources to afford health insurance on their own. Unlike most privately owned nursing homes that carry a much higher percentage of private pay patients, county operated nursing homes maintain an average of 11% of its population in this capacity.

Importantly, the core mission of county operated nursing homes is to provide a high standard of patient care to residents and their families. To achieve this objective and make readily available an essential community service, county operated nursing homes retain a qualified staff that offers a continuity of care as dedicated public servants. Moreover, county operating nursing homes maintain a higher than average rate of nursing hours per patient; offer comprehensive rehabilitation programs typically unavailable at private pay facilities; and, provide progressive treatment initiatives with new technologies. Most notably however, county operated nursing homes are committed to providing a valuable and much needed public service.

With this in mind, county facilities are concerned with the fiscal realities of MLTC and the anticipated loss of additional Medicaid funding. As noted in County Nursing Homes of New Jersey's (CNHNJ) 2012 "County Impact Statement," recent State Medicaid cuts hit county governments disproportionately hard as counties lost a projected \$12.0 million in anticipated revenue during fiscal year 2012 and an additional \$1.6 million in "Bed Hold" payments for a total of \$13.6 million. As a result of these devastating cuts, Burlington, Cumberland, and Sussex counties sold their facilities. The remaining facilities operated by Atlantic, Bergen, Camden, Cape May, Gloucester, Middlesex, Monmouth, Morris, Passaic, Union, and Warren counties have been forced to reduce, privatize, or eliminate critical housekeeping, food, social, and other necessary services simply to make ends meet.

To further complicate matters, county operated nursing homes must begin negotiating Medicaid reimbursement rates with managed care organizations or other healthcare payors when MLTC begins sometime in 2014. Not only will these negotiated rates result in lower Medicaid payments, but funding for County Peer Grouping will terminate once MLTC begins. The State and federal governments developed funding for Peer Grouping to help counties reduce civil service, collective bargaining, and pension and health benefit operating expenses; and, to provide funding for community and home based programs. Once this mechanism is eliminated, counties will be forced to reduce or terminate essential programs such as meal on wheels, adult protective services, and transportation services for the aged and disabled.

Although CNHNJ appreciates that the State "froze" Medicaid reimbursement rates in fiscal year 2013 and plans to do the same in fiscal year 2014, county officials also face a restrictive property tax cap levy and are at a loss to find the resources necessary to maintain a consistent level of quality care residents deserve. As boards of chosen freeholders across State struggle with finding a balance between what is fair to taxpayers and what is right for its senior and disabled population, CNHNJ expects additional counties to sell their nursing

homes by the end of the year. CNHNJ is committed to making a positive difference for the aged and disabled by helping county operated nursing homes run more efficiently and effectively. CNHNJ is further committed to protecting limited Medicaid dollars, sharing resources and ideas, and advocating for essential legislation, regulations, and policy directives.

#### **SEX OFFENDER REGISTRATION INFORMATION**

On April 1<sup>st</sup> Governor Christie signed into law as P.L. 2013, c.38 **ASEMBLY, NO. 2131/SENATE, NO. 1946** (*Burzichelli D-Gloucester/Fuentes D-Camden*)(*Greenstein D-Mercer*), which authorizes the release of sex offender registration information to the Department of Human Services and county welfare agencies.

NJAC and the County Welfare Directors Association of New Jersey support this legislation as it would make certain sex offender registration information available to county welfare agencies for the purpose of appropriately placing homeless families in emergency shelters. Current law requires county prosecutors to assess a sex offender's risk of re-offense and categorize the offender as low risk (Tier 1), moderate risk (Tier II), or high risk (Tier III). The records and files containing the information and documentation used to make this assessment are available only to law enforcement agencies and the Division of Youth and Family Services in the Department of Children and Families.

*"Do not follow where the path may lead. Go instead where there is no path and leave a trail." Harold R. McAlindon*

