

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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STATE HOUSE NEWS

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PROJECTED COST ESTIMATES

Special thanks to Ocean County Administrator Carl Block, Ocean County Purchasing Official Ralph Patterson, Ocean County Engineer Frank Scarantino, and Monmouth County Purchasing Official Gerri Popkin for taking the time out of their busy schedules to meet on December 10th with Assemblyman David Rible to discuss our concerns with **ASSEMBLY, NO. 4147** (*Greenwald D-Camden/Rible R-Monmouth & Ocean*). In summary, this legislation would require certain contract bid advertisements to contain certified cost estimate ranges, would specify the grounds for the rejection of all bids, and would require a 50% guaranty on bids. On December 9th, NJAC also met with representatives from the NJ State League of Municipalities, the NJ School Boards Association, the NJ Council of County Colleges, and the Building Contractors Association of NJ (BCA) to discuss the latter's support of the measure.

BCA submitted that the intent of this legislation is to weed out the "bad actors" by increasing the "guarantee required by a person bidding on a contract for the erection, alteration, or repair of a public building, structure, facility or other improvement to real property, the total price of which exceeds \$100,000.00, in the amount of 50% of the bid." Our concern with this requirement is that it would inequitably prohibit small businesses from competing for local public contracts. We suggested that BCA consider amending the bill to allow a local governing body to consider the prior negative experience of another local governing body when awarding contracts as a more effective strategy for weeding out "bad actors." In general, current law restricts the use of prior negative experience to the respective governing body. In other words, Somerset County may only consider its prior negative experience with ACME Construction when awarding a contract, but not Hunterdon County's or Hillsborough's prior negative experience with ACME. Importantly note however, that current law authorizes a school district to consider the prior negative experience of another school district under certain circumstances.

Moving forward, BCA intends to limit the bill to construction projects in excess of \$500,000.00 and noted that including goods and services was a drafting error. This is good news as we were initially concerned with the fact that this legislation as introduced would have eliminated the important flexibility local governments exercise when making decisions concerning the acceptance or rejection of all bid proposals. The not so good news is that we did not come to terms with our primary concern that this legislation would circumvent the intended purpose and cost benefits of competitive bidding as the measure would provide contractors with little incentive to submit proposals below projected cost estimates. BCA suggested that they may consider raising the \$500,000.00 threshold on construction projects, but did not provide a number nor did we agree to one. Although we very much appreciate BCA's effort to meet with us to discuss a possible compromise, our concerns remain with this legislation's long-term ramifications that would impose an undue burden on local governments already struggling to make ends meet.

STATE HEALTH BENEFITS PROGRAM

On December 19th, the General Assembly concurred with the amendments contained in Governor Christie's Conditional Veto of **ASSEMBLY, NO. 1273** (*Coughlin D-19/O'Donnell D-31*), which would require the State Health Benefits Program (SHBP) to provide certain information to participating public employers. In summary, the Conditional Veto would require joint insurance funds to provide the same information and in the same manner as the SHBP, would require all claims data to be provided in a manner consistent with the federal Health Insurance Portability and Accountability Act (HIPAA), and would extend the timeframe for providing such data to 60 days. Although NJAC supported the measure as introduced, the Conditional Veto is reasonable and we encouraged the Legislature to concur with the changes. Counties that currently participate in the SHBP have long objected to the fact that claims experience and loss report data are not made readily available by the SHBP. These counties currently include Atlantic, Camden, Gloucester, Hudson, Mercer, Ocean, Salem, Sussex, and Warren. Moreover, the SHBP forces counties to pay for this critical information typically provided at no charge and in a timely manner by private health insurance plans. The bill now heads to the Senate, which is also expected to concur with the Conditional Veto. Once the measure passes both houses, Governor Christie has 10 days to sign it into law.

STATE TRANSPORTATION INFRASTRUCTURE BANK

On December 5th, the Senate Budget and Appropriations Committee amended **SENATE, NO. 2143** (*Gordon D-Bergen/Norcross D-Camden*) to include the following language: "nothing in this amendatory and supplementary Act shall decrease,

diminish, lessen or otherwise reduce allocations made to counties and municipalities pursuant to C.27:1B-25 et seq.” NJAC advocated for including this language to make it identical to **ASSEMBLY, NO. 3177** (*Singleton D-Burlington/Wisniewski D-Middlesex*), and to protect Local Aid allocations under the Transportation Trust Fund (TTF).

In summary, this legislation would establish a State Transportation Infrastructure Bank within the New Jersey Environmental Infrastructure Trust. In summary, the Trust would issue bonds in maturities of up to 30 years for all types of capital improvement projects; and, would create an interim financing program for transportation projects matching the existing interim financing program for environmental projects. The intent of the legislation is to encourage private/public partnerships whereby monies in the State Transportation Infrastructure Bank would be loaned or used to provide other financial assistance to public or private entities for planning, acquisition, engineering, construction, reconstruction, repair, and rehabilitation of a transportation project. Both bills are on Second Reading in each house.

LAW SUIT REPORTING

On December 19th, the Senate passed by a vote of 36-0 **SENATE, NO. 1400** (*Rice D-Essex*), which would require local governments to provide the Director of Division of Local Government Services with a report concerning lawsuits to which it is a party.

Last legislative session, NJAC testified before the Senate Community and Urban Affairs Committee that this legislation would impose an undue burden on local governments as it could potentially condition approval of a local government’s budget on a frivolous lawsuit or nominal legal action. As a result of this testimony and input from county counsels, Senator Rice amended the legislation to establish a minimum reporting threshold for such law suits in which the governing body expects to expend more than \$50,000.00 in legal fees and settlement costs. This figure is similar to the amount already used in annual audit reports submitted to the Division of Local Government Services. Senator Rice also agreed to amend the legislation to exempt reporting cases where a lawsuit is covered by insurance as a governing body is unlikely to maintain detailed information on whether it will reach the \$50,000.00 threshold. On November 18th, the Senate further amended the bill on the Floor to clarify that the measure would not apply to an insurance fund or joint insurance fund. A companion version of this legislation does not exist in the General Assembly at this time. In light of the above-noted changes, NJAC no longer opposes the measure, but will continue to monitor the bill accordingly.

NJAC REORGANIZATION MEETING

Don't miss NJAC's reorganization meeting and swearing-in ceremony on January 28, 2014 where Monmouth County Clerk Claire French will become our 73rd President. The reorganization meeting begins at 10:00 a.m. in Committee Room 4 of the State House Annex followed by the swearing-in ceremony at 11:00 a.m. in the Senate Chambers of the State House. Following the ceremony, students from the Monmouth County Vocational School-Culinary Education Center will provide lunch to guests at the New Jersey State Museum.

STATE HOUSE TRIVIA - CHRISTMAS EDITION

Did you know that the first New Year's Eve ball drop in Times Square happened in 1907?

"There are three stages of man: he believes in Santa Claus; he doesn't believe in Santa Clause; He is Santa Claus." Bob Phillips

