

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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STATE HOUSE NEWS

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DIRECT DEPOSIT

After almost two years of advocacy by NJAC, we're very pleased announce that Governor Christie signed into law legislation that will authorize all local governments to pay its employees by direct deposit at the governing body's discretion saving valuable taxpayer dollars. NJAC has been advocating for the passage of this bill as one of our top legislative priorities as it will provide local county governments with a more cost-effective alternative for managing its day-to-day operations. Special thanks to Hudson County Administration Abe Antun and Monmouth County Administrator Teri O'Connor for developing this initiative several years ago; and, to Assemblyman Ruben Ramos and Senators Robert Gordon and Steve Oroho for their commitment and leadership in sponsoring this important and timely measure.

COUNTY AID ALLOCATIONS UNDER TRANSPORTATION TRUST FUND

On March 8th, NJAC sent a letter to New Jersey Department of Transportation (DOT) Commissioner Jim Simpson concerning the distribution of County Aid pursuant to P.L. 2012 c.13, which revised the New Jersey Transportation Trust Fund Authority Act (TTF).

In summary, this new law eliminated the Federal Aid Urban System (FAUS) minimum allotment from the County Aid distribution formula and will cause substantial losses in funding for the State's most urban counties. In fact, Bergen, Camden, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Passaic, and Union counties stand to lose over \$5.79 million per year in funding for much needed transportation infrastructure improvement projects. With this in mind, NJAC strongly supports the recommendations made by the New Jersey State Association of County Engineers (NJSACE) in their February 6, 2013 letter as a fair and equitable solution for all twenty-one counties as its proposes a \$12.5 million increase in annual County Aid allocations for a total of \$91.25 million per year through State fiscal year 2017. As has been well documented, county governments maintain over 6,792 centerline miles of roads, 13,584 lane miles of

roads, and 7014 total bridges that along with municipal roadways carry an estimated 55% of the State's traffic. Moreover, county governments have an annual need of \$86.0 million for resurfacing, \$277.0 million for bridges, \$84.0 million for construction and reconstruction, and \$67 million for design and contract administration for a total need of \$514.0 million per year. The current Transportation Trust Fund (TTF) allocates \$175.0 million per year as Local Aid with \$78.75 million each for counties and municipalities, with \$7.5 million in discretionary funding, and additional \$25.0 million for county bridges leaving county governments responsible for financing at least \$403.0 million of its total need through the collection of local property taxes. With these staggering numbers in mind, and at a time in which all counties are struggling to make ends meet, an increase in County Aid allocations to \$91.25 million will mitigate the reliance on the collection of local property taxes.

SHARING COUNTY TAX ADMINISTRATORS

On March 4th, NJAC testified in support of **SENATE, NO. 1694** (*Doherty R-Warren/Sweeney D-Gloucester*) before the Senate Community and Urban Affairs Committee. In summary, this legislation would permit counties to share county tax administrators and is one of NJAC's top legislative priorities.

Under current law, N.J.S.A. 54:3-7(b) requires the county board of taxation in each county to appoint a full time county tax administrator. The Governor appoints all tax board members with the advice and consent of the Senate, and the State Treasurer pays their salaries accordingly. However, counties must pay the salaries and wages of its county tax administrator at an average of \$96,461.00 per year, plus pension and health benefits. Counties must also pay for the salaries of all clerical assistants, and for the operation and maintenance of the offices for the entire tax board and administrator.

Several of our counties have expressed interest in sharing a county tax administrator as a meaningful cost saving measure, but have been advised that such an arrangement is prohibited by N.J.S.A. 54:3-7(b) as it again requires that counties employ their tax administrator on a full-time basis. At a time in which all local governments are struggling to make ends meet by reducing critical staff, essential services, and capital improvement projects, this outdated law imposes an unnecessary barrier to progressively sharing services. NJAC is also advocating for the Assembly Housing and Local Government Committee to consider the Assembly companion version **ASSEMBLY, NO. 2578** (*McKeon D-Essex/Quijano D- Union*) at one of its upcoming meetings.

PUBLICATION OF ORDINANCES

On March 7th, NJAC testified in support of **ASEMBLY, NO. 3725/SENATE, NO. 316** (*Whelan D-Atlantic*)(*Burzichelli D-Burzichelli*) before the Assembly Housing and Local Government Committee. In summary, this legislation would permit certain county boards of chosen freeholders to publish notices of proposed or amended ordinances by title and summary.

NJAC has also adopted this important and timely initiative as one of our top legislative priorities as it could save significant taxpayer dollars for county governments established pursuant to the "Optional County Charter Law." These counties include Atlantic, Bergen, Essex, Hudson, Mercer, and Union. Although current law under N.J.S.A. 40:49-2 authorizes municipalities to publish ordinances in a newspaper in their entirety or by title and summary, N.J.S.A. 41A-1-101 mandates charter counties to publish ordinances in their entirety at a substantially higher cost. Please note that except for certain bond, capital expenditure, or health ordinances as required by specific statute, non-charter counties typically adopt resolutions at a much lower cost to publish. The measure is now on Second Reading the in General Assembly and we're optimistic that it will make its way to the Governor's Desk.

LAW SUIT REPORTING

On March 4th, the Senate Community and Urban Affairs Committee also reported **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. 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.

SUBCONTRACTING AGREEMENTS AND COUNTYWIDE PURCHASING

On March 4th, the Senate Budget and Appropriations combined legislation that would effectively prohibit the use of subcontracting agreements entered into by public school districts and higher education institutions; and, would permit the establishment of a county-wide purchasing system by a county that employs a qualified purchasing agent. **SENATE NO. 1191** (*Lesniak D-Union/Sarlo D-Bergen*) is now on Second Reading in the General Assembly. NJAC submitted to the Committee the following written testimony.

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 county-wide 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.

As the Committee is well aware, the "Local Public Contracts Law" under Title 40A of the Revised Statutes governs the purchase of goods and services for counties and municipalities, and Title 18 regulates such purchases for school districts. Several differences exist between the two purchasing laws and it's unclear at this point as to which statute would control. To further complicate matters, neither law defines the term "best value at the lowest cost acquisition policy." However, current public contract bidding laws prohibit the use of such

a practice as defined in the bill. Please note that several counties publicly bid for food services, where contracts are awarded to the lowest responsive and responsible bidder; and, that Title 40A requires counties to publicly bid for custodial services.

We are also concerned with the fact that county purchasing officials do not retain the necessary subject matter expertise or available resources to acquire food and custodial services on behalf of school districts; and as a result, would be forced to hire costly consultants to navigate the complex procurement process. In addition, this legislation does not appear to provide guidance on which professional or governing body would be responsible for administering food and custodial services contracts - a timely and comprehensive endeavor. We also believe that requiring the county clerk of a county that establishes a county-wide cooperative purchasing system to provide notice as prescribed under the bill creates an unnecessary level of bureaucracy as county purchasing officials typically handle procurement notices. We would also need clarification on whether "county clerk" means clerk of the board of the chosen freeholders or the elected county clerk.

Finally, 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. Moreover, 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. Despite our concerns with this legislation, NJAC is a strong advocate of shared services and consolidation where feasible and looks forward to working with the sponsors on developing a separate "Countywide Purchasing" bill that preserve's the measure's original intent, but makes its implementation more practical for local governments.

EARLY VOTING

On March 4th, NJAC's Legislative Director Allen Weston testified before the Senate Budget and Appropriations Committee in opposition to **SENATE, NO. 2364** (*Gill D-Essex*). In summary, this legislation would establish an early voting procedure that would allow registered voters to vote in person at a designated polling station beginning on the 15th 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. S-2364 is on Second Reading in the Senate; and, a similar version of the bill **ASSEMBLY, NO. 3553** (*Wisniewski D-Middlesex/Oliver D-Essex*) is on Second Reading in the General Assembly. Importantly note that 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.

“Success is the ability to go from failure to failure without losing your enthusiasm.”
Winston Churchill