

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

JEFFREY DUBLIN
NJAC President
Hudson County Freeholder

JOHN G. DONNADIO
Executive Director

STATE HOUSE NEWS *November 27, 2013*

PROJECTED COST ESTIMATES

On December 10th, NJAC and officials from both Monmouth and Ocean counties will meet with Assemblyman David Rible (*R-Monmouth & Ocean*) to discuss **ASSEMBLY, NO. 4147** (*Greenwald D-Camden/Rible R-Monmouth & Ocean*), which 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.

NJAC and the New Jersey Association of County Purchasing Officials (NJACPO) are primarily concerned with the fact that this legislation would circumvent the intended purpose and cost benefits of competitive bidding as the bill would provide contractors with little incentive to submit proposals below projected cost estimates. This legislation would also increase the cost of doing business with local governments as preparing bid solicitations would become more complex. Depending on the size and scope of a construction project, counties may be required to hire professional consultants to prepare comprehensive cost estimates. Moreover, county employees may not be qualified to “attest” to the accuracy of such cost estimates further driving up project expenses; and, could face potential litigation if the reasonableness of the estimate is challenged in court.

NJAC and NJACPO are also concerned with the fact that this legislation would appear to eliminate the important flexibility local governments exercise under current law when making decisions concerning the acceptance or rejection of all bid proposals - including those that deal with the purchase of goods and services. Finally, NJAC and NJACPO submit that substantially increasing the guarantee required by a person on a contract for the erection, alteration, or repair of a public building, structure, facility or other improvement to real property would inequitably prohibit small businesses from competing for local public contracts. With this in mind, we respectfully urge you to consider this legislation’s long-term ramifications that would impose an undue burden on local governments already struggling to make ends meet.

INTEREST ARBITRATION REFORM

As we head into the lame-duck session and welcome a new Legislature, one of NJAC's top legislative priorities is to advocate for extending the 2.0% cap on interest arbitration awards that is set to expire in April of 2014. Over the past several weeks, NJAC has had the opportunity to meet with several legislators to discuss extending this deadline as maintaining the cap is critical to stabilizing property taxes and allowing counties to deliver essential services in a cost effective manner. As has been well documented, county governments dedicate approximately 50% of their overall budgets to salaries and wages; and, face a restrictive property tax cap levy where counties must prepare two comprehensive cap calculations and then use the more restrictive one.

Failure to extend the 2.0% cap on interest arbitration awards will force county governments throughout the State to further reduce or even eliminate crucial services, personnel, and long-overdue infrastructure improvement projects. Although we're cautiously optimistic that the Legislature and Administration will take action on this important and timely matter, the sunset provision was a key reform compromise for unions and others that initially opposed the measure. With this in mind, it's imperative that NJAC quantify any projected cost savings and other intangible benefits resulting from the cap. We recently met with the New Jersey State League of Municipalities to develop a plan of action for both the lame-duck session and thereafter; and, will pursue the following strategies:

1. Quantify cost savings by using data included in selected "Police and Fire" and "Public Sector" collective bargaining summary forms available on PERC's website. As opposed to summarizing the data for all 21 counties and approximately 162 collective bargaining units, we plan to use a random sampling of one county from the northern, central, and southern regions of the State, and from both sides of the aisle. Using this data, we plan to develop a comprehensive position statement to share with the Administration, Legislature, and Press.
2. Follow up with the Administration and legislative leadership to secure legislative sponsors for the lame-duck session and thereafter if necessary.
3. Using our position statement as a foundation, meet with editorial boards, develop letters to the editors, and distribute informative press releases.

As a more viable alternative to simply extending the 2.0% cap on interest arbitration awards, which would likely result in a second sunset provision, NJAC will also advocate to permanently link the 2.0% cap on interest arbitration awards to the 2.0% property tax cap levy as a fair and equitable solution. We also plan to discuss the impact of the levy cap and possible long-term solutions to further mitigate the reliance on the collection of local property taxes.

MEDICAID REIMBURSEMENT RATES

On November 25th, the Assembly Appropriations Committee favorably reported **SENATE, NO. 2241/ASSEMBLY NO.3409** (*Weinberg D-Bergen/Vitale D-Middlesex*)(*Schaer D-Bergen/Johnson D-Bergen*), which would prohibit Medicaid managed care organizations from reducing certain provider reimbursement rates without prior approval from the Department of Human Services (DHS).

More specifically, the bill would prohibit a health maintenance organization (HMO) that contracts with DHS to provide benefits under a managed care plan to persons eligible under the “New Jersey Medical Assistance and Health Services Act” from reducing reimbursement rates without obtaining prior written approval from the DHS Commissioner. The bill would require an HMO to demonstrate that it has taken all appropriate actions to reduce the costs of providing benefits to eligible recipients covered by the plan. Moreover, the HMO must demonstrate that the proposed reduction in reimbursement rates would not adversely impact the quality and accessibility of health care services provided to eligible recipients covered by the plan. The bill would further require the Division of Medical Assistance and Health Services to conduct public hearings on the proposed reductions within 30 days. The bill would take effect immediately; and, would apply to active pre-existing contracts that HMOs have entered into with DHS.

NJAC supports this important and timely legislation as it would provide an extra layer of protection against the unilateral reduction of Medicaid reimbursement rates to service providers. As Managed Long Term Care is scheduled to begin for all Medicaid patients on July 1, 2014, this legislation would also provide some level of stability and predictability for healthcare providers in negotiating Medicaid reimbursement rates with managed care organizations. Moreover, the application process and public hearing requirement would improve the transparency of the rate setting process. This legislation is on Second Reading in the General Assembly after passing the Senate by a vote of 32-5 on November 29, 2012. Despite the bipartisan support in the Legislature, it does not appear as if the Administration supports the measure citing potential administrative, operating, and consulting costs the State would incur.

STATE TRANSPORTATION INFRASTRUCTURE BANK

On December 5th, the Senate Budget and Appropriations Committee will consider **SENATE, NO. 2143** (*Gordon D-Bergen/Norcross D-Camden*), which would establish a State Transportation Infrastructure Bank within the New Jersey Environmental Infrastructure Trust.

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.

NJAC plans on contacting Senators Gordon and Norcross to respectfully request that they amend the bill to protect current Local Aid allocations under the Transportation Trust Fund (TTF) as is the case with the companion version in the General Assembly under **ASSEMBLY, NO. 3177** (*Singleton D-Burlington/Wisniewski D-Middlesex*). On January 17th, the Assembly Transportation, Public Works, and Independent Authorities Committee amended the legislation to provide that “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.” A-3177 is currently on Second Reading in the General Assembly.

RESPONSIBLE BIDDERS

On November 18th, the Senate amended by a vote of 29-0 **SENATE, NO. 2604** (*Norcross D-Camden/Oroho R-Sussex*), which concerns the registration of contractors and sets forth the criteria for responsible bidders in public work. IN

In summary, this legislation would require any contractor or subcontractor who registers to contract for public work pursuant to the “Public Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.) to demonstrate that it is a responsible bidder by complying with all of the requirements of section 5 of P.L.1999, c.238 (C.34:11-56.52). The bill amends that section to add to those requirements a requirement to submit, as part of the registration, a certification, with documentation satisfactory to the commissioner, that the contractor or subcontractor: Has all valid and effective licenses, registrations or certificates

required by federal, State, county or local law including, but not limited to licenses, registrations or certifications required to do business in the State of New Jersey and perform the work it seeks to perform; Has not been debarred by a federal or State government agency or authority in the past three years; Has not had any type of business, contracting or trade license, registration or other certificate suspended or revoked in the past year; Has not been convicted of any crime relating to the construction business; and, Has not, in any of the three most recent calendar years, been determined to have a total of three or more knowing and willful violations of State wage, benefits and tax laws occurring on two or more public contracts.

The bill would require every contract subject to State prevailing wage requirements to require each worker employed under the contract to be enrolled in, or have completed, a registered apprenticeship, unless the contractor or subcontractor certifies that the worker is paid not less than the journey worker wage rate. The bill would also provide that nothing in the bill, or any other law of this State, shall be construed as preventing any political subdivision of the State from setting standards, criteria or requirements for the qualifications of contractors bidding for public work with the political subdivision which equal or exceed the standards, criteria or requirements of the bill or any other State law, including, but not limited to, standards concerning technical qualifications, competency, experience, adequacy of resources, including equipment, facilities, finances and personnel and the qualifications and provisions for training of the personnel, and having a satisfactory record regarding past project performance, safety, and business integrity and compliance with laws applicable to its contracting business, including, but not limited to, licensing laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, and environmental laws.

Finally, the bill clarifies that contractor registration requirements of the “Public Works Contractor Registration Act” apply to any contractor bidding for any work in which workers are required to be paid prevailing wage rates set pursuant to the State’s prevailing wage law, P.L.1963, c.150 (C.34:11-56.25 et seq.), whether they are required to pay those rates by the prevailing wage law or by any other law. The Senate amended the measure to require certification by a contractor that the contractor has not been convicted of a crime apply only to crimes of the first, second and third degrees and other crimes which would disqualify the contractor from being pre-qualified by the Division of Property Management and Construction. S-2604 is on Second Reading in the General Assembly as is the companion version **ASSEMBLY, NO. 3359** (*Singleton D-Bergen/Riley D-Cumberland, Gloucester, Salem*). Both houses are expected to pass the measure during the lame-duck session, but it’s unclear if Governor Christie will sign the bill into law at this time.

NACO UPDATE ON FEDERAL-STATE-LOCAL PARTNERSHIP FOR MEDICAID

The National Association of Counties (NACo) is urging members of congress to support the federal-state-local partnership structure for financing and delivering Medicaid services and to oppose any measure that would further shift federal and state Medicaid costs to counties including cuts, caps, block grants and new limits on counties' ability to raise the non-federal match or receive supplemental payments. This will enable counties to continue to maintain their local health care safety-net systems with a balanced mix of federal, state and local resources, while adjusting to a rapidly changing health care environment.

Authorized under Title XIX of the Social Security Act, Medicaid is a means-tested entitlement program administered by the states which provides health and long-term care insurance to about 56 million low-income children, families, seniors and persons with disabilities at a total cost of over \$427 billion. Medicaid is financed by both the federal and state governments based on the federal medical assistance percentage (FMAP), which is individually calculated for each state. Counties are required to provide health care for low income, uninsured or underinsured residents in 32 states. There are 964 county hospitals and 647 county nursing homes serving Medicaid beneficiaries in communities nationwide. Additionally, counties put up part of the non-federal match for Medicaid in 21 states. Deficit reduction measures that reduce the federal financial contribution to Medicaid puts counties at risk for absorbing shifted costs by raising local taxes or cutting other local budget line items since counties are often required by state law to provide health care services for vulnerable populations. Under the Affordable Care Act (ACA), states will have the option to expand Medicaid coverage for all non-elderly adults with incomes below 133 percent of the federal poverty level beginning in 2014. The ACA offers 100 percent federal funding to cover the expansion population for 2014 through 2016, ramping down to 90 percent in 2020 and the years thereafter. Medicaid expansion will reduce counties' costs for providing often mandatory care to low income, uninsured or underinsured residents.

NACo points out that Medicaid's average cost per beneficiary is significantly lower than private insurance, even with its comprehensive benefits and lower cost-sharing. Counties have made the most of Medicaid's flexibility by leveraging local funds to construct systems of care for populations that private insurance does not cover. New limits on counties' ability to receive supplemental payments or raise the non-federal match through certified public expenditures (CPEs) and intergovernmental transfers (IGTs) would severely compromise the local health care safety-net. According to the Congressional Budget Office, the House FY2013 budget resolution block grant would have cut \$770 billion over ten years and would have caused states either to increase health care spending to

make up for the federal cut or to reduce access to care for beneficiaries. Either option would shift costs to county taxpayers and reduce county capacity to provide health care services – including those mandated by state law. Finally, caps do not account for long-term trends like the aging population and rising health care costs that are projected to drive higher federal entitlement spending in the coming years. Complying with a cap designed to reduce the deficit significantly would require significant cuts to the federal contribution, making states, and ultimately counties, absorb the cost shift.

NJAC SUMMIT ON THE AFFORDABLE CARE ACT

If you haven't done so already, please make sure to sign up for our "Summit on the Affordable Care Act" as part of our December 13th year-end conference hosted at the conveniently located Trenton Country Club in Mercer County.

Don't miss this unique opportunity to hear State, federal, and healthcare industry experts discuss county governments' unique role under the ACA as both an employer and conveyor of essential human services programs. We've put together two terrific panel discussions for an informative and educational half-day event. Please take a moment to visit our website at www.njac.org for important details about the agenda, registration, NJAC's Board of Directors meeting, the panel discussions, luncheon, and networking.

STATE HOUSE TRIVIA

Did you know that the boardwalk in Atlantic City is the largest boardwalk in the world at four miles long and that it was America's first boardwalk when it opened on June 26, 1870?

"A true leader has the confidence to stand alone, the courage to make tough decisions, and the compassion to listen to the needs of others. He does not set out to be a leader, but becomes one by the equality of his actions and the integrity of his intent." General Douglas MacArthur