

# NEW JERSEY ASSOCIATION OF COUNTIES

*County Government with a Unified Voice!*

M. CLAIRE FRENCH  
NJAC President  
Monmouth County Clerk

JOHN G. DONNADIO  
Executive Director

## STATE HOUSE NEWS

*April 4, 2014*

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### INTEREST ARBITRATION

As of this writing, the General Assembly has no immediate plans to consider Governor Chris Christie's conditional veto of S-1869/A-3067, which would extend the 2% cap on binding interest arbitration awards through December 31, 2017. As a direct result, the Public Employment Relations Commission (PERC) reported 74 new filings for interest arbitration since March 27<sup>th</sup> as compared to 28 filings in all of 2013. NJAC commends Governor Chris Christie and Senate President Steve Sweeney for their leadership in collaborating on the conditional veto that addressed our concerns with the bill as introduced and of which are summarized below.

- Eliminate the "One Bite of the Apple" provision;
- Prohibit arbitrators from including employee health benefit and workforce reduction cost savings when rendering awards; and,
- Maintain the random selection of arbitrators

*ONE BITE OF THE APPLE* - NJAC was primarily concerned with the fact that the legislation as introduced would have left in effect the "One Bite of the Apple" provision, which restricts local governing bodies to utilize the cap only once. As county governments face a restrictive 2% property tax cap levy where they must prepare budgets pursuant to two comprehensive cap calculations and then use the more restrictive one, this provision would have rendered the legislation with little value as 88% of all public safety employment contracts have already been subject to the 2% restriction.

*HEALTH BENEFIT SAVINGS* - NJAC was also concerned that the legislation as introduced would have authorized an arbitrator to consider cost savings realized by a public employer for increased employee contributions toward health and medical insurance premiums and a workforce reduction under certain circumstances when rendering an award that may include base salary increases between 2% and 3%. As county governments dedicate up to 35% of their overall budgets to public safety employee salaries and wages, this provision would have

forced county governments to further reduce or eliminate essential services and critical non-public safety personnel.

*RANDOM SELECTION OF ARBITRATORS* - NJAC was finally concerned that the legislation as introduced would have diluted the random selection of arbitrators by requiring that each party submit three names of arbitrators from a special panel. If none of the names submitted by each party are the same, the Public Employment Relations Commission shall randomly select an arbitrator from its special panel of arbitrators. NJAC strongly supported the 2010 reforms in part, because they included the random selection of arbitrators; and, submits that the past three years have produced objective third party decisions, which have benefited property taxpayers throughout the State.

Importantly note that NJAC's Board of Directors has the utmost respect and admiration for the police, firefighters, corrections officers, and sheriffs' officers that put their lives on the line every day to protect the communities in which they serve, it also recognizes the unprecedented economic times our State, local governments, and taxpayers are struggling through. As an organization that advocates on behalf of a true regional form of government and long-time supporter of shared services and consolidation where feasible, NJAC chooses to be part of the solution. With this in mind, NJAC supported the 2010 reduction to the property tax cap levy, provided it was accompanied by civil service reform, pension and health benefits reform; and, perhaps most importantly, a 2% cap on binding interest arbitration awards - as county governments dedicate a substantial portion of their overall operating budgets for employee salaries, wages, and health benefits.

In addition to these substantial personnel costs, county governments face a restrictive 2% property tax cap levy where they must prepare budgets pursuant to two comprehensive cap calculations and then use the more restrictive one. To make matters more difficult for local governing bodies, the struggling real estate market caused a dramatic decrease in the State's ratable tax base and corresponding decline in taxable revenue. Counties also face significant regulatory and statutory State mandates, which include operating county judicial and prosecutorial facilities, providing courthouse security, housing inmates in county jails, delivering health and human service programs, maintaining county roads and bridges, funding county colleges and vocational-technical schools, conducting primary and general elections, and much more.

The 2% cap on binding interest arbitration awards has leveled the playing field in negotiations between collective bargaining units and local governing bodies. Prior to the 2% cap, arbitrators routinely awarded contracts with increases that ranged from 15% to as high as 55% in some counties. These awards took into

consideration base salary, step increments, and longevity pay all of which are now included under the cap. In addition to effectively controlling personnel costs, the cap on interest arbitration awards has been a critical tool for negotiating reasonable successor contracts as parties are closer to reaching an agreement from the onset of negotiations avoiding further legal and administrative costs.

In light of these very complex and demanding factors, local governing bodies are finding it difficult to make ends meet while providing often mandated services in a cost effective manner. As such, we're concerned that failure to extend the 2% cap on binding interest arbitration awards will cause arbitrators to once again award generous contracts that will force county governments throughout the State to further reduce or even eliminate essential services, critical personnel, and long-overdue infrastructure improvement projects. *With this in mind, NJAC urges you to contact Speaker Vincent Prieto at (201) 770-1303 or by email at [AsmPrieto@njleg.org](mailto:AsmPrieto@njleg.org) to let him know that county governments support the conditional veto of legislation that would extend the 2% cap on binding interest arbitration awards through December 31, 2017.*

#### **PRE-ADJUDICATED INMATES**

On February 28<sup>th</sup>, NJAC and the New Jersey County Jail Wardens Association (NJCJWA) held a productive meeting with the Director of Medicaid Services concerning the extension of the 24-hour hospital stay exception<sup>1</sup> to pre-adjudicated inmates housed in county jails. NJAC and NJCJWA had requested the meeting with the Director for the following reasons.

1. County governing bodies across the State will recognize substantial cost savings on inmate medical expenses.
2. County welfare agencies and boards of social services will experience negligible increases in new caseloads.
3. The federal government will pay 100% of the medical expenses for eligible applicants for up to three years and 90% thereafter.
4. Fourteen states currently authorize the 24-hour hospital stay exception and make no distinction between pre-adjudicated and convicted inmates.

As has been well documented, pre-adjudicated inmates housed in county jails make up approximately 90% of the statewide county prison population, and including them under the exception would yield significant cost savings for county governments struggling to make ends meet. In fact, pursuant to a random sampling of pre-adjudicated inmates housed in county jails conducted by NJCJWA, Cape May, Hudson, Passaic, and Essex counties would save an estimated \$4.5 million per year in inmate medical expenses. Please note that this

figure does not include potential cost savings recognized by newly eligible applicants under Medicaid expansion. Although these cost savings are substantial, the NJCJWA random sampling also demonstrates that the caseload for county welfare agencies and boards of social services would marginally increase an average of 49 new cases per month for the four counties in question.

Additionally, fourteen states currently authorize the 24-hour hospital stay exception without making a distinction between convicted and pre-adjudicated inmates housed in county jails. These states include: Arkansas, California, Colorado, Delaware, Louisiana, Michigan, Mississippi, Nebraska, New York, North Carolina, Oklahoma, Pennsylvania, and Washington. Moreover, federal regulations do not classify inmates as pre-adjudicated or convicted, and simply define an "Inmate of a public institution as a person who is living in a public institution" *Definitions Relating to Institutional Status 42 CFR 435.1009*. This same citation also outlines the 24-hour hospital stay exception referenced throughout this memorandum. Importantly note that as a means to streamline the administrative process, the above counties strongly recommend establishing a system that authorizes counties to bill Medicaid directly; and, suspending as opposed to terminating inmate benefits upon incarceration

Although the meeting was in fact productive and the Department is on board with including pre-adjudicated inmates housed in county jails under the 24-hour hospital stay exception, it will take some time before the State has the capacity to implement the initiative. The Department is also on board with suspending as opposed to terminating inmate benefits upon incarceration; however, this too will take some time as the State's new automated eligibility system may not be fully operational for approximately 12 months. NJAC, NJCJWA, and the Director plan on meeting again in June to discuss inmate timelines, a possible pilot program, and additional best practices for implementing an efficient process.

1. Federal regulations generally prohibit Medicaid coverage for care provided to incarcerated individuals. However, a 1997 ruling provides an exception for Medicaid eligible inmates who become inpatients of a hospital or nursing home upon the recommendation of a physician; and, then receive room, board, and professional services in the hospital or nursing home for a 24-hour period or longer.

## **COUNTY MOSQUITO CONTROL RESERVES**

NJAC is pleased to report that Assembly Budget Chair Gary Schaer has agreed to join Senator Jeff Van Drew in introducing legislation that would authorize a county, by resolution, to establish a mosquito control reserve. NJAC's Board of Directors unanimously adopted this initiative as one of our top legislative priorities as it will help county governments throughout the State deliver

services more effectively and efficiently while enhancing the level of service provided.

Current law requires counties to conduct comprehensive mosquito control activities that may include source control, trap setting, water management, surveillance, brush cleaning, public education, and the use of other critical vector control techniques. As the State continues to endure extended periods of heat, humidity, and rainfall, it's becoming increasingly more difficult for mosquito control officials to accurately predict mosquito populations. In fact, several counties recently issued emergency bonds as prescribed by N.J.S.A. 26:9-28 as they did not anticipate the surging mosquito population and substantial costs associated with eradicating mosquitoes and the potential diseases they carry and transmit.

With this mind, authorizing a county to establish a mosquito control reserve, similar to a snow removal reserve N.J.S.A. 40A:4-62.1, would stabilize the mosquito control budgeting process and enhance fiscal planning for mosquito control activities. Moreover, a mosquito control reserve would streamline the process for using emergency monies by eliminating the need to issue an overly burdensome bond that a county must provide in full as a deferred change in the next budget year N.J.S.A. 40A:4-47. NJAC recommends using the language contained on the following page to amend or supplement various sections of statutory law, so that all twenty-one counties may benefit from the use of a mosquito control reserve. These sections may include, but are not limited to the "Local Budget law" at N.J.S.A. 40A:4-62.1, which may capture all twenty-one counties; the "Optional County Charter Law" N.J.S.A. 40:41A-1 et seq., which would capture Atlantic, Bergen, Essex, Hudson, Mercer, and Union counties; and, the "County Extermination Law" N.J.S.A. 26:9-13 et seq., which would capture those counties with independent mosquito control commissions and include Middlesex, Morris, Ocean, and Warren counties.

NJAC recommends using the following language: "A local unit may, by resolution, establish a mosquito control reserve. Unexpended balances budgeted annually for mosquito control activities may be lapsed into the reserve. Upon passage of a resolution of the governing body, funds in the reserve may be used for any purpose related to mosquito control by a county after current budget appropriations for that purpose have been expended. The Local Finance Board is authorized to adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) in order to effectuate the purposes of this section."

## **URBAN ENTERPRISE ZONES**

Although not necessarily a county specific issue, NJAC is in the process of reviewing Governor Chris Christie's budget proposal to reform the Urban Enterprise Zone (UEZ) program so that businesses pay the same 3.5% sales tax as retail customers. Current law provides a sales and use tax exemption for sales to qualified businesses for the exclusive use or consumption of such business within an enterprise zone. This policy change would impact 32 zones in 37 municipalities within 16 counties throughout the State.

### **NJAC'S ANNUAL CELEBRATION OF COUNTY GOVERNMENT**

NJAC conference registration, hosting opportunities, and the action packed schedule of events are now available online at [www.njac.org](http://www.njac.org). Don't miss the opportunity to be a part of our 64<sup>th</sup> annual celebration of county government scheduled to take place from May 7<sup>th</sup> through May 9<sup>th</sup> at Caesar's in Atlantic City and includes: the nation's only county vocational-technical school cook-off challenge; all major events and workshops hosted in the main exhibit hall; informative workshops approved for continuing education credits; a timely legislative leadership panel discussion and county awards presentation; and, unique networking opportunities to share resources and ideas.

### **STATE HOUSE TRIVIA**

*Did you know* that on June 19<sup>th</sup> 1846, the first officially recorded and organized baseball game was played in Hoboken's Elysian Fields with the New York Base Ball Club defeating the Knickerbockers 23-1?

*"To be able to leader others, one must be willing to go forward alone." Harry Truman*