

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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STATE HOUSE NEWS

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COURT SECURITY PLAN 2015

NJAC is in the process of reviewing the “Administrative Determinations by the Supreme Court on the Report and Recommendations of the Statewide Judiciary Security Committee” issued April 21, 2015 to ascertain the Report’s impact on county resources, and whether the Report imposes an unfunded mandate on local governing bodies struggling to make ends meet.

NJAC will also consider filing a complaint with the State Council on Local Mandates established in 1996 pursuant to a constitutional amendment. The Council is responsible for resolving disputes on whether a law, rule, or regulation adopted after 1996 constitutes an unfunded mandate. In general, an unfunded mandate upon boards of education, municipalities, and counties is a law, rule, or regulation that does not authorize resources, other than the property tax, to offset additional direct expenditures required to implement said law, rule or regulation. Please note that the following categories of laws, rules, or regulations are not considered unfunded mandates: (1) those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements; (2) those which are imposed on both government and non-government entities in the same or substantially similar circumstance; (3) those which repeal, revise, or ease an existing requirement or mandate or which reapportion the costs of activities between boards of education, counties, and municipalities; (4) those which stem from failure to comply with previously enacted laws or rules or regulations issued pursuant to a law; and, (5) those which implement provisions of the Constitution.

Upon initial review, NJAC is concerned that the Report will likely require counties to expend additional resources to implement its recommendations that would, in part, require an audit of all vicinage ancillary facilities, prohibit probation reporting in unsecured ancillary facilities, and require the presence of a uniformed/armed sheriff’s officer at all civil commitment hearings. NJAC’s board of directors will discuss this matter in more detail as an agenda item at its next meeting on September 25th as NJAC has standing to file complaint with the State Council on Local Mandates pursuant to a 2010 law.

LAME DUCK LEGISLATIVE PRIORITIES

Electronic Fund Transfers - As a means to modernize the manner in which county governments may pay their bills, NJAC supports **ASSEMBLY, NO. 2925** (*Lagana D-38/O'Scanlon R-13*), which would authorize all local governing bodies to use electronic fund transfer technologies as the standardized form of payment to individuals and businesses.

In summary, this legislation would authorize local governing bodies to use electronic fund technologies such as wire transfers, electronic fund transfers (EFT), prepaid debit cards, and Automated Clearing House (ACH) payments. ACH and EFT are electronic networks for financial transactions that effectively process large volumes of credit and debit transactions. As has been well documented, the benefits of using these technologies include: reduced printing and processing costs, enhanced security, increased productivity, and improved cash management. Under current law, counties, municipalities, and other local units must make payments by issuing antiquated paper checks or electronic direct deposits under certain circumstances, but lack the authority to use more modern payment options. NJAC supports this important and timely initiative as it will provide local governing bodies with a wide range of contemporary payment alternatives that will streamline the bill paying process and save valuable taxpayer dollars. A-2925 passed the General Assembly by a vote of 71-5 on December 15th; and, **SENATE, NO. 1033** (*Weinberg D-38*) is currently in the Senate Budget and Appropriations Committee awaiting consideration.

Transportation Trust Fund - NJAC has long been an advocate for establishing a stable, dependable, and long-term source of dedicated funding for the State's Transportation Trust Fund (TTF); and, increasing Local Aid allocations to \$300.0 million.

As has been well documented, county governments spend approximately \$565.0 million each year to operate and maintain an estimated 7,140 bridges and more than 6,775 centerline miles of roads. However, the State's current Transportation Capital Program (TCP) only allocates \$165.0 million each year in Local Aid with \$78.75 million for counties and municipalities, \$25.0 million for county bridges, and \$7.5 million in discretionary funding leaving county governments responsible for financing \$453.75 million of its transportation need through the collection of local property taxes. As highlighted in the tables and footnotes below, county and municipal roads and bridges carry an estimated 53% of the State's overall traffic, yet inequitably receive only 12.3% of funding under the State's annual \$1.6 billion TCP. Moreover, the proportionate share of Local Aid relative to overall TCP increases has dramatically decreased by 56.7% since the inception of the TTF in 1985.

To compound matters, county governments must make substantial capital improvement investments as 281 (11.0%) of the 2,556 major bridges maintained by counties are classified as “Structurally Deficient” and in need of \$663.0 million worth of rehabilitation or replacement. A Structurally Deficient bridge is generally defined as a bridge or culvert rated in poor condition, its load carrying capacity is below current design standards, or if a waterway below frequently overtops the bridge. Moreover, 452 (17.7%) of the same 2,556 bridges are classified as “Functionally Obsolete” and in need of \$938.0 million worth of rehabilitation or replacement. A Functionally Obsolete bridge is generally defined as a bridge or culvert that is not Structurally Deficient, but its design is outdated. Finally, 2,941 of the 4584 (64.1%) minor bridges maintained by counties are in need of repair and 1,002 (21.9%) must be replaced at a cost of \$1.25 billion for a grand total of \$2.85 billion.

With these staggering numbers in mind, NJAC urges our State leaders to establish a stable, dependable, and long-term source of funding for vital transportation projects; and, to increase Local Aid allocations under the TTF as a means to mitigate the reliance on the collection of local property taxes, stimulate the economy and job growth, and ensure safe and reliable roads and bridges.

Local Pension Systems - NJAC is encouraging all twenty-one counties to adopt its model resolution urging State leaders to protect local property taxpayers and governing bodies by preserving the structure and integrity of the fiscally solvent local pension systems. As of this writing, Cumberland, Gloucester, Hudson, Middlesex, Ocean, and Warren counties have adopted similar resolutions with additional counties expected to do the same in the fall.

NJAC is primarily concerned with the Commission’s recommendation to adopt a unified State/local approach to benefits funding as the local Public Employees Retirement System (PERS) and the local Police and Fire Retirement System (PFRS) are actuarially sound as counties and municipalities have made full employer contributions as required under the law for over a decade. In fact, the local Public Employees Retirement System (PERS) is currently funded at 73.9% and the local Police and Fire Retirement System (PFRS) is currently funded at 76.9% according to the latest valuation reports. Moreover, the local pension systems are well funded and solvent. Based again on the latest valuation reports, the local pension systems hold combined actuarial valued assets of approximately \$42.0 billion with estimated retirement allowances due of \$3.0 billion. Although NJAC recognizes that the State must take meaningful steps to make the State government funded pension systems more affordable for taxpayers and sustainable for members, NJAC objects to any initiative that would affect, alter, or integrate the local pension systems as counties and municipalities have met their obligations as employers and the local pension systems are fiscally sound as a result.

LEGISLATIVE INITIATIVES AND PRIORITIES 2016/17 SESSION

With the 2014/15 legislative session coming to a close in early January, NJAC is in the process of establishing its short-term legislative initiatives and long-term legislative priorities for the 2016/17 legislative session. Please let us know if you would like to join NJAC's Legislative Affairs Committee scheduled to meet at 10:00 a.m. on September 11th at NJAC's office in Trenton. The Committee will meet to review potential initiatives submitted by county officials throughout the State and will make recommendations for adoption by NJAC's board of directors at the board's meeting on September 25th. For the September 11th meeting, all county officials are encouraged to join us and share their recommendations for NJAC's short-term legislative initiatives subject to the following criteria:

1. Recommendations should help county governments deliver services effectively and efficiently while enhancing the level of service provided.
2. Recommendations should be realistic and achievable within the two year legislative cycle.
3. Recommendations should be specific and tangible, so that we may accurately quantify any potential cost savings or other benefits.
4. Recommendations should benefit counties throughout the State and enjoy bi-partisan support.

Some examples of successful NJAC short-term legislative initiatives from the 2014/15 session include a recommendation by Sussex County to enact legislation that would authorize counties to establish a mosquito control reserve fund, and one by Cape May County to eliminate the claimant certification process. The Sussex County initiative was signed into law earlier this year; and, the one from Cape May has evolved into NJAC supporting legislation that would permit counties to pay their bills through Electronic Fund Transfers (EFTs), and of which has passed the General Assembly. Although somewhat easier to identify, NJAC's long-term legislative priorities will prove more difficult to accomplish and are subject to the following criteria:

1. Recommendations should offer a viable and substantive solution for a long-standing issue that has had a negative impact on county operations.
2. Recommendations should benefit counties throughout the State and enjoy bi-partisan support

Some examples of successful NJAC long-term legislative priorities from the 2014/15 legislative session include an NJAC board of directors' recommendation to advocate for legislation that would extend the 2% cap on interest arbitration awards, and another that would increase Local Aid allocations under the Transportation Trust Fund (TTF). The former was signed into law earlier this legislative session, and both Senate President Steve Sweeney and Speaker of the General Assembly Vincent Prieto have called for increasing Local Aid.

OPEN PUBLIC MEETINGS AND RECORDS

Senate Majority Leader Loretta Weinberg (D-37) recently sent county and municipal officials across the State a letter concerning her legislation that would make changes to the Open Public Meetings Act (OPMA) and Open Public Records Act (OPRA). NJAC would like to thank Senator Weinberg for taking the time to meet with us on several occasions to discuss our concerns with the bills.

As you may recall, the Senate Budget and Appropriations Committee was set to consider **SENATE, NOS. 781 & 782** (*Weinberg D-37/Pennacchio R-26*) in June, but ultimately did not release the bills from Committee. The companion versions **ASSEMBLY, NO. 2900** (*Johnson D-37/Lagana D-38*) and **ASSEMBLY, NO. 2763** (*Johnson D-37*) are currently in the Assembly State and Local Government awaiting consideration. NJAC is a proponent of transparency and openness in government; and, supports several of the provisions contained in this legislation including the ones that would authorize local governing bodies to charge fees to commercial entities under certain circumstances and permit the use of emails and websites to convey public documents. Additionally, NJAC would not object to the following amendments to the bills as originally introduced:

1. *Subcommittees* - Amend the definition of “meeting” under the Open Public Meetings Act (OPMA) to include subcommittees where the public body has determined that the meetings of that subcommittee are open to the public. Such meetings would require adequate meeting notice, but meeting minutes would be limited to written or oral reports to the public body each quarter that the subcommittee has held a meeting or has taken any action.
2. *Public Comment* - Authorize public bodies to develop and adopt written policies concerning the public comment period under OPMA.
3. *Meeting Minutes* - Remove language from the original OPMA legislation that would have required a public body to keep meeting minutes that contain “each member’s stated reasons, if any, for his or her action or vote.”
4. *Liability* - Raise the liability standard for violations of OPRA contained in the original legislation as “grossly negligent by having denied access or is found to have willfully denied access” to “knowingly and willfully having denied access or has been grossly negligent in denying access. In general, individuals who are found to have knowingly and willingly violated OPRA under the totality of the circumstances must pay the associated fines and penalties on their own. However, a public entity may pay the fines and penalties for individuals who are found to have been grossly negligent in denying access.

NJAC needs additional clarification on the following matters:

1. *Agenda* – The OPMA legislation would expand the definition of “agenda” to mean the list of all items of business to be discussed or voted on at a public meeting; and, include each individual item to be discussed or acted upon, a brief description, and must identify the names of the parties to and approximate dollar amounts of any contracts, including employment contracts, to be discussed or acted upon.
2. *Closed Sessions* - The OPMA legislation would revise certain requirements for closed sessions by excluding, in part, “consultation with legal counsel concerning the legal rights and duties of the public body with regard to current litigation or litigation likely to be filed in connection with any executed contract which the public body is, or is likely to become, a party to an action.

NJAC looks forward to working with the sponsors and advocates to address our remaining concerns, which include the awarding of attorneys’ fees under the OPMA legislation and the process for redacting information under the OPRA legislation. Additionally, NJAC submits that both measures in their entirety should apply to members of the State Legislature.

ELECTRONIC WASTE RECYCLING

On June 15th and July 20th, NJAC testified before the Senate Environment and Energy Committee in support of **SENATE, NO. 2973** (*Smith D-17/Bateman R-16*), which would make certain changes to the State's electronic waste recycling laws.

In summary, this legislation would require manufacturers to provide for the collection, transportation, and recycling of its “Market Share” in weight of all covered electronics collected in a program year. This requirement would replace the current law's mandate that each manufacturer provide for the collection, transportation, and recycling of its "Return Share in Weight" as estimated by the Department of Environmental Protection (DEP). NJAC supports this important and timely measure to assure that manufacturers continue providing free and convenient electronic waste recycling programs as recycling vendors are poised to cease operations in the State by the end of the year if the current process isn't modified, which would in turn force counties to either absorb electronic waste recycling costs or eliminate the popular programs entirely. NJAC also supports amendments to this legislation proposed by the Association of New Jersey Household Hazardous Waste Coordinators (ANJR) concerning broken cathode ray tubes, and the removal of language under N.J.S.A. 13:1E-99.106 that currently authorizes recycling vendors to charge fees to schools or local governments for the collection, transportation, or recycling of covered electronic devices.

MONEY MARKET FUNDS

NJAC recently sent a letter to Senator Corey Booker respectfully requesting the Senator to co-sponsor **S.1802** (*Toomey R-PA*), which would establish the “Consumer Financial Choice and Capital Markets Protection Act of 2015.”

NJAC supports S.1802 as recent changes made by the Securities and Exchange Commission (SEC) to the structure of money market funds will substantially impair county governments’ ability to manage cash reserves and obtain low-cost financing for critical infrastructure projects. NJAC is particularly concerned with the fact that SEC rule changes in 2014 forced money market funds to abandon their stable \$1.00 per-share price and instead "float" net asset values (NAV). NJAC is also concerned that the new rules impose penalties and early redemption fees for the pre-mature withdrawal of funds to meet liquidity needs. Money market funds have proven to be a vital cash management tool for county governments, which until the SEC’s untimely rule changes, relied on the stability of managing cash with a consistent principal value. Moreover, county governments counted on the convenience and simplicity that a stable NAV provided for accounting, recordkeeping, and the tax treatment of cash balances.

The dangers of a floating NAV are clear and will undoubtedly lead to increase costs for county governments across New Jersey and the nation. Money market funds hold more than half of the short-term debt that finances vital public projects such as roads, bridges, airports, water and sewage treatment facilities, hospitals, and low-income housing. Without such financing, local governments may be forced to limit projects, spend more on financing, or increase taxes. Moreover, a floating NAV will force county governments to use bank products that have historically paid lower yields or are much less secure. A floating NAV will also undermine local economies as money market funds hold more than one-third of the commercial paper that businesses use to finance payrolls and inventories. The flight of investors in the wake of a floating NAV will disrupt the supply of short-term credit that employers need to operate.

UPCOMING NJAC EVENTS

Don’t miss NJAC’s next board of directors meeting scheduled for 9:30 a.m. on September 25th in Committee Room 4 of the State House Annex in Trenton.

STATE HOUSE TRIVIA

Did you know that the “Dog Days of Summer” occur between July 3rd and August 11th each year when the Dog Star, Sirius, rises in close conjunction with the sun?

“Summer is a promissory note signed in June. Its long days spent and gone before you know it, and due to be repaid in January.” Hal Borland