

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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STATE HOUSE NEWS

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On December 10th, the Senate Budget and Appropriations Committee considered a package of county governance bills that would provide governing bodies across the State with vital tools and resources to more effectively and efficiently manage valuable property taxpayer dollars. Special thanks to Passaic County Administrator Anthony DeNova, Gloucester County Deputy County Administrator Gerald White, and Gloucester County Finance Officer Tracey Giordano for taking the time out of their busy schedules to support NJAC and the package of bills at the committee hearing.

CAP ON COUNTY ENTITY BUDGETS

SENATE, NO. 3168 (*Sweeney D-3/O'Toole R-40*) as introduced would impose a 2.0% limit on the annual increases in the portion of the county budget that is paid for by the county property tax levy on county boards of taxation, county boards of elections, registers of deeds and mortgages, county clerks, and county sheriffs.

In summary, this bill would require that in the preparation of the portion of a budget request to be raised by property taxation, county entities shall limit any increase in that portion of its budget request to 2.0% of the previous year's budget request or the cost of living adjustment, whichever is less. Under the bill, a budget request submitted to a county governing body must be separated into two components: the amount to be raised by property taxation, and the amount to be funded entirely through federal or State funds, or fees raised by the county entity. The bill would also require county assignment judges to take the county's property tax levy cap into consideration upon a request from the county prosecutor for additional funding under N.J.S.A. 2A:158-7, which is the section of statutory law that requires "all necessary expenses incurred by the prosecutor for each county in the detection, arrest, indictment, and conviction of offenders against the laws shall, upon being certified to by the prosecutor, and approved, under his hand, by a judge of the Superior Court, be paid by the county treasurer whenever the same shall be approved by the board of chosen freeholders of such county." NJAC supports this legislation as it would allow board of chosen freeholders to more effectively manage the budgets of independent autonomous

State and county entities that have specific statutory functions and duties, but are funded entirely or in part through property taxpayer dollars and not specifically restricted by the 2.0% property tax cap levy.

NJAC supports this measure as boards of chosen freeholders have long struggled with the fact that State statutes place restrictions on the ability of freeholder boards to control operations by granting independent autonomous State and county entities with broad decision making authority that limits the ability of counties to effectively plan and manage fiscal operations. In fact, these entities may make policy and budgetary decisions without input or guidance from freeholder boards, yet are funded entirely or in part by local property taxpayer dollars. In summary, county-appointed statutory boards may include boards of social services, park commissions, and planning boards; state-appointed boards may include boards of taxation, boards of elections, and county superintendents of schools; elected officials that include county clerks, sheriffs, and surrogates; education boards; independent authorities; and several other county agencies, all of which comprise the county government system.

Boards of chosen freeholders face additional challenges with managing county prosecutors as constitutional officers appointed by the Governor with the advice and consent of the Senate. County prosecutors serve as the chief law enforcement officers in their respective counties, but are subject to the supervision of the State's Attorney General in any criminal investigation, action, or law enforcement proceeding. Despite the lack of appointive or law enforcement control, New Jersey Statutes mandate that county governments pay for the operation, maintenance, litigation, and capital expenses of the county prosecutorial offices and facilities. Moreover, county prosecutors may file with the court an In re Bigley, 55 N.J. 53 (1969) application to challenge a county government's decision on its budget. This inherently inequitable organizational structure leaves county governments with little control over the fiscal, personnel, or operational policies of county prosecutors.

The Constitutional Officers Association of New Jersey (COANJ) and the New Jersey Association of County Election Officials oppose this bill; and, the Committee amended and favorably reported the measure to address some of their concerns. In summary, the amendments would provide a 2.0% budget cap exception for certain election expenses and eliminated the Cost of Living Adjustment (COLA) alternative. The amendments also changed the effective date of the Act to January 1, 2017. S-3168 is now on Second Reading in the Senate, and the counterpart in the General Assembly, **ASSEMBLY, NO. 4769** (*Burzichelli D-3*) is currently in the Assembly State and Local Government Committee awaiting consideration.

CLASS TWO SPECIAL LAW ENFORCEMENT OFFICERS

SENATE, NO. 2200 (*Holzapfel R-10/Barnes D-18*) would authorize all county sheriffs to appoint Class Two special law enforcement officers to conduct court security under the direction of county assignment judges. Under current law, only counties with police departments (Bergen, Camden, and Union) and municipalities may appoint Class Two police officers. S-2220 is currently in the Senate Law and Public Safety Committee awaiting consideration. NJAC supports this legislation as it would allow counties to save valuable taxpayer dollars by permitting the use of Class Two law enforcement officers to provide courthouse security on a part-time basis and without paying pension or health benefits. This measure is particularly important in the wake of the Administrative Office of the Courts (AOC) recent directive that mandates enhanced courthouse security, and with the new bail and speedy trial law set to take place in 2016 in Camden, Morris, Passaic, and Sussex counties and all remaining counties in 2017.

NJAC recently conducted a survey of the four pilot counties to estimate the costs associated with implementing bail reform and the speedy trial law. The initial results project that the four counties will spend between \$6.0-\$7.0 million in court facility improvements and additional staff for county prosecutors and sheriffs. These costs do not include utility and maintenance expenses counties will incur to keep judicial and prosecutorial facilities open on weekends to comply with the new law's requirement that arrestees must be processed within 48 hours of commitment to jail. Cape May projects these costs at \$175,000 per year and NJAC plans to collect and summarize similar data from all twenty-one counties. The PBA strongly opposes this bill; and, the Committee held the measure based on their concerns. The companion bill in the General Assembly **ASSEMBLY, NO. 3251** (*Fiocchi R-1*) is currently in the Assembly Law and Public Safety Committee awaiting consideration.

LONG TERM PROPERTY TAX ABATEMENTS

SENATE, NO. 3019 (*Sweeney D-3/Stack D-33*) would require the filing of financial agreements for long term tax exemptions with county finance officers and county counsels, and would require quarterly payments to counties for their share of payments in lieu of taxes (PILOT). This legislation would require municipalities to notify counties of financial agreements for long term property tax abatements awarded to redevelopment entities under the "Long Term Tax Exemption Law." Such financial agreements are executed between a municipality and a redevelopment entity to promote economic growth and development under a designated redevelopment plan, and may include PILOT monies. Although current law requires municipalities to pay counties 5% of the negotiated PILOT

amount, the law does not require municipalities to notify counties of these agreements. Consequently, counties are unaware of most PILOT initiatives and have resorted to filing Open Public Records Act (OPRA) requests, relying on municipal audits and newspaper articles, or reviewing municipal budgets to obtain this critical information that should be made readily available. S-3019 is currently in the Senate Budget and Appropriations Committee awaiting consideration.

NJAC supports this legislation as it would fairly and equitably allocate taxpayer dollars as county governments continue to play a greater role in shared services and providing traditional municipal services. As the Committee is well aware, county governments must provide the following essential services on a daily basis: administering the State's social service programs; maintaining and operating the county jails, court and juvenile detention facilities, expansive park systems, and virtually every bridge in the State; funding the county colleges, county vocational-technical schools, and offices of the county prosecutor; managing elections and vital statistics; probating wills; promoting economic development and job growth; providing transportation services for the aged and disabled; regulating consumer affairs; handling solid waste and recycling activities; and, much more.

Moreover, towns across New Jersey are looking to county governments for leadership and relief. In addition to delivering the scope of services highlighted above, county government has evolved over the past decade into providing traditional municipal functions at a significant cost savings for local property taxpayers while enhancing the level of service provided. Some of these former municipal functions include: cooperative purchasing, 911 dispatch, animal control, public health, tax assessor, electronic waste recycling, public works, wastewater management, vehicle maintenance, EMS, police, and much more. In fact, Burlington and Gloucester counties alone will save their property taxpayers approximately \$50.0 million in 2015 by delivering many of these time-honored municipal services at the regional level. These substantial savings and creativity in governing in a cost-effective manner is a story being told in all 21 counties.

The New Jersey State League of Municipalities (NJSLOM) requested reasonable amendments to the measure; and, the Committee amended and favorably reported the bill to address their concerns. In summary, the amendments would require a municipality to forward a certified copy of the ordinance and financial agreement approving the tax exemption to a county within 10 calendar days following final adoption of the latter. S-3019 is now on Second Reading in the Senate, and the counterpart in the General Assembly, **ASSEMBLY, NO. 4771** (*Burzichelli D-3/Muoio D-15*) is currently in the Assembly State and Local Government Committee.

COUNTY ADMINISTRATIVE CODE

SENATE, NO. 3170 (*Pou D-35/Bateman R-16*) would require the county superintendent of elections to operate pursuant to the county's administrative code. NJAC supports this legislation as it would promote uniform budgeting, accounting, purchasing, personnel, and data processing controls between governing bodies and the superintendents of elections. Additionally, such uniform controls would help counties mitigate potential legal expenses as governing bodies are generally responsible for assuming all litigation expenses incurred by superintendents of elections and all other independent autonomous county agencies and entities.

As has been well documented, the Passaic County Superintendent of Elections recently negotiated raises up to 13% for 21 county employees. The negotiation also included a 5% merit pay bonus and froze employee contributions for health benefits at current levels despite nearly double digit employer increases. As is the case with county prosecutors, superintendents of elections are appointed by the Governor, but State statutes mandate county governments pay for operation, maintenance, capital, and staff expenses. The Passaic County Board of Chosen Freeholders filed an injunction to prevent the collective bargaining agreement from taking effect as it violated the intent of the 2% property tax levy cap. This costly litigation demonstrates how an independent autonomous agency funded by local property taxpayer dollars may make budgetary decisions with long-term ramifications and without the governing body's input.

The New Jersey Association of Election Officials opposes this bill. However, the Committee amended the measure to implement tighter budgetary controls for governing bodies. In summary, the amendments would require county governments to review and approve the salaries that superintendents of elections determine shall be paid to each person appointed by a superintendent. S-3170 is now on Second Reading in the Senate; and, **ASSEMBLY, NO. 4768** (*Burzichelli D-3*) is currently in the Assembly State and Local Government Committee awaiting consideration.

COURT SECURITY FUNDING

SENATE, NO. 663 (*Pou D-35*) would establish the "Court Security Enhancement Fund," and would finance the Fund by increasing certain court fees, assessments, and penalties. In summary, this measure would dedicate monies from the Fund to help counties and municipalities operate and maintain safe and secure court facilities. The bill would require that until such time that the AOC determined that all local government units have achieved certain court security standards, counties and municipalities may apply to the AOC on an annual basis for grants

as supplemental funding for the procurement of security equipment and security-related structural modifications. Once the AOC determines that court security standards are maintained, monies from the Fund may be used to offset local funding for enhancement and maintenance of security at court facilities including, but not limited to: salaries of armed security officers; salaries of technicians to operate court security equipment; training for local officials and personnel on issues of court security; the development and coordination of emergency and disaster response protocols related to the operation of the court, and other security items as approved by the AOC. NJAC supports this legislation as it would dedicate a stable source of revenue to offset the significant and growing costs associated with providing courthouse security, and with implementing the new bail and speedy trial law as highlighted above.

The Administrative Office of the Courts (AOC) estimates that this legislation would generate approximately \$20.0 in revenue for local court security purposes. The Committee favorably reported S-633, which is now on Second Reading in the Senate. The companion version in the General Assembly, **ASSEMBLY, NO. 4845** (*Wimberly D-35*) is in the Assembly Judiciary Committee awaiting consideration.

COUNTY HOTEL FEES

SENATE, NO. 3169 (*Weinberg D37*) would authorize counties to impose a hotel tax of 1.0% on room occupancy by adopting a resolution or ordinance as necessary. The tax imposed by a county resolution or ordinance would be in addition to any other tax or fee imposed by statute or municipal ordinance or resolution. The bill would require that revenue generated by a county hotel tax must be used exclusively by the county for the purposes of reducing the amount the county is required to raise by the property tax levy. Current law authorizes Atlantic City, Jersey City, Newark, and the Wildwoods to impose local taxes or fees on hotel and motel occupancies.

NJAC supports this legislation as it would provide counties with the autonomy to generate a supplemental source of revenue intended to reduce the reliance on the collection of local property taxes. Several advocacy groups that represent the business and hotel industry oppose the measure that the Committee favorably reported along partisan lines with Senator Jeff Van Drew (D-1) also in opposition to the bill. S-3169 is on now Second Reading in the Senate; and, **ASSEMBLY, NO. 4772** (*Burzichelli D-3*) is currently in the Assembly State and Local Government Committee awaiting consideration.

NJAC recently sent Speaker Vincent Prieto (D-32) a letter respectfully requesting that the General Assembly have the opportunity to consider this important and timely package of county governance bills during the lame-duck session.

TRANSPORTATION TRUST FUND

On December 17th, the Assembly Judiciary Committee favorably reported **ASSEMBLY CONCURRENT RESOLUTION NO. 1** (*Prieto D-32/Wisniewski D-19*), which would amend the State Constitution to dedicate all State revenues collected from the motor fuels tax and petroleum products gross receipts tax to the Transportation Trust Fund (TTF).

According to the Resolution's statement, it's anticipated that the current gas tax will generate \$541.0 million which is the amount generated by 10.5 cents per gallon on the sale of unleaded gasoline and 13.5 cents on the sale of diesel fuel. The current minimum dedication is 10.5 cents per gallon on the sale of unleaded gasoline and diesel fuel. This amendment dedicates the three cents of the existing motor fuels tax on diesel fuel that is not already dedicated. Under the amendment, the constitutional dedication from the petroleum products tax is equal to all of the revenues from the tax on the gross receipts of the sale of petroleum products. The current constitutional dedication from the tax on the gross receipts of petroleum products is a minimum of \$200 million per year. In State fiscal year 2016, it is anticipated that the current petroleum products tax will generate \$215 million. Importantly note that the amendment does not change the current gas tax or petroleum products tax. Constitutionally dedicating revenues from the gas tax and petroleum products tax to the trust fund ensures that the revenue is only used for transportation purposes.

NJAC commends Speaker Prieto and Assembly Transportation Committee Chairman Wisniewski for their vision and leadership in introducing a long-overdue ballot initiative that would amend the State's Constitution to dedicate all revenues collected from the motor fuels tax and petroleum gross receipts tax to the ailing Transportation Trust Fund (TTF). NJAC has long been an advocate for establishing a stable, dependable, and long-term source of constitutionally dedicated funding for the TTF, and strongly supports this important and timely measure. ACR-1 is now on Second Reading in the General Assembly, and the companion version in the Senate, **SENATE CONCURRENT RESOLUTION 190** (*Sacco D-32*) is currently in the Senate Transportation Committee awaiting consideration. In general, the State Constitution requires that the Legislature initiate the process for amending the Constitution by passing a concurrent resolution in both houses in identical form by a simple majority in two separate legislative sessions or by a supermajority vote at one session. Once passed, a simple majority of voters must approve the concurrent resolution in the form of a ballot question.

ELECTRONIC WASTE RECYCLING

Special thanks to Gloucester County Recycling and HSW Coordinator Monica Gismondi, Burlington County District Recycling Coordinator Ann Moore, and Ocean County Department of Solid Waste Management Director Ernest Kuhlwein for testifying with NJAC's Legislative Director Allen Weston in support of **ASSEMBLY, NO. 4763** (*McKeon D-27/Spencer D-29*) at the Assembly Appropriations Committee hearing on December 10th. The Committee favorably reported the bill that day, and the General Assembly passed the measure on December 17th by a vote of 46-18-1. The Senate companion version **SENATE, NO. 2973** (*Smith D-17/Bateman R-16*) is on Second Reading, and the full Senate is expected to consider and pass the bill at one of its upcoming voting sessions in January. It's unclear at this time if Governor Christie will sign the bill into law.

In summary, this legislation would make various changes to the State's electronic waste recycling laws as it would require each manufacturer of "covered electronic devices" to provide for the collection, transportation, and recycling of its market share in weight of all covered electronic devices 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).

The measure would further authorize DEP to adjust the market share in weight obligation based upon the total weight in pounds actually collected in each program year. The bill would change the definition of "consumer" to include State entities, school districts, and local government units; and, would include fax machines and printers in the definition of "covered electronic device." Additionally, the legislation would allow DEP to establish a statewide standard program to collect, transport, and recycle covered electronic devices. The bill would also require each manufacturer to provide for the convenient collection of covered electronic devices, especially used televisions in densely populated areas. The bill would streamline the DEP's planning and reporting requirements by requiring an annual report with a complete listing of all collection locations for covered electronic devices including televisions, the parties that operate them, the amount of material by weight collected at each site, and a complete listing of all recyclers that recycle covered electronic devices, together with the amount of material by weight recycled annually.

The measure would require collection locations to report semiannually. The reports would include the total weight or volume of covered electronic devices collected, the date, time, and volume of covered electronic devices transported from the collection location, and the name and identifying information of the

authorized recycler transporting the covered electronic devices. Every authorized recycler would be required to identify the address of each collection location, and the total weight of covered electronic devices delivered or collected from each collection location, the weight of each type of covered electronic device collected from each collection location, the address of any facility where covered electronic devices are handled, and the disposition of all components of covered electronic devices. Each manufacturer would be required to report semiannually its progress towards achieving its market share in weight obligation.

The bill would further allow DEP to assess a per pound fee of \$0.50 multiplied by a manufacturer's market share in weight obligation for a manufacturer that fails to collect, transport, and recycle covered electronic devices under the law. Finally, the bill would establish the "Electronic Waste Management Fund" whereby all program revenues and penalties would be deposited in the fund for administration and enforcement and other costs of the program. NJAC supports this legislation as it would ensure that manufacturers provide free and convenient electronic waste recycling programs for all covered and collected electronic devices as county governments across the State are weighing whether to absorb electronic waste recycling costs or eliminate the popular programs entirely.

EARNED SICK LEAVE

On December 17th, the Senate passed by a vote of 22-17 **SENATE, NO. 785** (*Weinberg D-37*), which would require each employer to provide earned sick leave to each employee it employs in the State. NJAC recognizes that the intent of the legislation is to provide earned sick leave to employees who are not covered by collective bargaining agreements or existing sick leave policies, but is concerned that the measure would apply to public employees already covered by generous leave policies.

As has been well documented, 20 of the State's 21 counties currently participate in civil service, which requires employers to provide employees with a minimum of 15 paid sick leave days each year that accrue without limit. Additionally, paid sick leave is currently a negotiable item in labor negotiations; and, as a matter of general policy, sick leave provisions contained in collectively bargained agreements are extended to non-affiliated and at-will employees. As a result of these existing civil service requirements and collective bargaining agreements, county employees are already receive substantial sick leave compensation.

With this in mind, and, in order to avoid the potential for confusion and costly litigation resulting from the attempted reconciliation of multiple frameworks

governing paid sick leave, NJAC has urged the sponsors throughout the legislative process to exempt county governments from the measure. Such an exemption may be accomplished by using a definition of “employer” similar to that used in the Newark paid sick leave ordinance, which reads as follows:

“Employer” is as defined in N.J.S.A. 34:11-56a1(g) except that Employer does not include (a) the United States government; (b) the State or its political subdivisions or any office, department, agency, authority, institution, association, society, or any instrumentality of the State including the Legislature or Judiciary; or (c) the City of Newark.”

The companion version in the General Assembly, **ASSEMBLY NO. 2354** (*Lampitt D-6/Mukherji D-33*) is on Second Reading, but contains a provision that would authorize local governing bodies to enact earned sick leave policies more generous than the ones required by this legislation. S-785 contains a provision that would permit existing earned sick leave policies enacted in Newark and Jersey City to continue, but would prohibit local governments from adopting future policies. It’s unclear at this time if legislative leadership will reach a compromise on this issue, but Governor Christie will likely veto the measure if it reaches his Desk.

UPCOMING NJAC EVENTS

Please let us know if you’re interested in serving on NJAC’s conference committee as we begin planning for our 66th annual celebration of county government from May 18th through May 20th at Caesars in Atlantic City. The Committee is hosting a kick-off meeting at 10:00 a.m. on *January 22, 2015* at NJAC’s office located at 150 West State Street in Trenton. And make sure to join us for NJAC’s Reorganization Meeting scheduled for 11:00 a.m. on *January 29, 2016* in the Senate Chambers of the State House where Hunterdon County Freeholder John King will become our 75th President.

STATE HOUSE TRIVIA – CHRISTMAS EDITION

Did you know that Porky Pig’s Blue Christmas is the favorite Holiday song in the Donnadio household – well mine at least?

“They look OK Dad, but I think their house is awesome.” An uninspired Luke Donnadio pointing to our neighbors decorations after I spent 48 hours hanging Christmas lights.