

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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STATE HOUSE NEWS

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CRIMINAL JUSTICE REFORM

On December 6th, Genova Burns filed a complaint on behalf of NJAC with the New Jersey Council on Local Mandates. The complaint makes a compelling argument that Criminal Justice Reform imposes an unfunded mandate on county governments in violation of the State's constitution.

In general, the complaint asserts that the risk assessment and speedy trial components of the new law set to take effect in January of 2017 are forcing county governments to spend valuable taxpayer dollars without authorizing any other resources to fund the costly reforms. The complaint outlines in great detail the fact that county governments must make substantial capital improvements to court facilities; invest in state of the art information technology; and, hire new assistant prosecutors, investigators, sheriff officers, correction officers, and more to implement before the January deadline. In addition to presenting a convincing case on the merits, NJAC is seeking preliminary injunctive relief as county governments will suffer irreparable financial harm from complying with the law. However, the right to bail has been an integral part of the criminal justice system for decades, and may continue as such until the Council makes a final determination. We expect the Council to rule on the preliminary injunction shortly.

In general, the New Jersey Council on Local Mandates 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.

TRANSPORTATION FUNDING AND DELAY CLAIMS

NJAC has requested to meet with New Jersey Department of Transportation (DOT) Commissioner Richard Hammer to discuss the projected 2017 shortfall of Local Aid Allotments under the Transportation Trust Fund (TTF), and the growing list of delay claims filed by contractors against county governments because of this summer's shutdown of projects funded by the TTF.

As has been widely publicized, Governor Christie recently signed into law landmark legislation that reauthorizes the TTF with an 8 year \$2.0 billion per year capital program. The new law is also supposed to increase Local Aid allocations for counties and municipalities from \$190.0 million to \$400.0 million per year. NJAC is concerned that county governments across the State recently received their 2017 County Aid Allotment letters from the Department projecting the same level of funding or less than in 2016. As such, NJAC is requesting clarification from the Department on future funding as pursuant to the new law, Local Aid to counties and municipalities should theoretically double in 2017 through 2024.

NJAC is also concerned with the fact that several counties are now facing contractual delay claims resulting from the three month long shutdown of projects funded by the TTF. In light of the fact that these claims are directly related to the shutdown and not by an act or omission of a county governing body, NJAC is urging the Department to manage and settle such claims in a fair and equitable manner. In advance of our meeting with the Commissioner, NJAC is working with the New Jersey State Association of County Engineers (NJSACE) to accurately quantify the impact on county governments. We're also advocating for legislation that would require DOT to compensate counties and municipalities for contractual delay damages. **ASSEMBLY, No. 4114** (*Muoio D-15/Schaer D-36*) recently passed the General Assembly and is currently in the Senate Transportation Committee awaiting consideration along with the Senate companion version **SENATE, No. 2776** (*Cruz-Perez D-5/Diegnan D-18*). Finally, NJAC is also seeking guidance from the Commissioner on how the Department plans to administer the Local Freight Impact and Local Aid Infrastructure funds as summarized in the table below.

ALLOCATION	%	AMOUNT	COMMENT
County Local Aid Program	37.5%	\$150,000,000.00	Available as traditional County Aid
Municipal Local Aid Program	37.5%	\$150,000,000.00	Available as traditional Municipal Aid
Local Bridges Fund	11.0%	\$44,000,000.00	Available as Local Bridges Future Needs program monies
Local Freight Impact Fund	7.0%	\$28,000,000.00	Available as DOT Commissioner discretionary funding for freight travel
Local Aid Infrastructure Fund	7.0%	\$28,000,000.00	Available as traditional DOT Commissioner discretionary funding

ONLINE LEGAL NOTICES

It's unclear at this point if the Legislature will reconsider **SENATE, No. 2855/ASSEMBLY, No. 4429** (*Doherty R-23/Whelan D-2*)(*Prieto D-32/Bramnick R-20*) when it returns from its brief winter recess.

In summary, this legislation would authorize a government agency to publish legal notices electronically where current law requires the agency to publish the notices in newspapers. For a government agency to publish legal notices electronically and not in newspapers, the measure would require the government agency to publish all legal notices on its official website and in newspapers for a three month period, and to provide notice both on its official website and in newspapers that the agency plans to publish legal notices electronically in the future. The legislation would also require the government agency to create a notice website for storing all electronically published legal notices; and, to designate officials responsible for maintaining electronic publications, who shall serve as contact persons for managing the process and reviewing complaints.

NJAC, the New Jersey State League of Municipalities, the New Jersey School Boards Association, and the New Jersey Conference of Mayors jointly support the measure as an innovative resource to help deliver essential services in a cost effective manner. As local governing bodies continue to struggle with a restrictive property tax cap, a declining ratable base, and both underfunded and unfunded State mandates, this permissive legislation would streamline an antiquated process and replace it with a more contemporary method for advertising legal notices that may save valuable taxpayer dollars. In general, current law requires local purchasing officials, clerks, planning departments, improvement authorities, and several others to publish onerous legal notices in various newspaper publications. Such notices typically include contract awards, contract addendums, various legal notices, meeting notices, RFP and RFQ notices, election notices, and more. Public officials have long decried that publishing these voluminous documents in newspapers is costly, time consuming, and outdated.

CODE BLUE ALERTS

On December 19th, the General Assembly passed by a vote of 63-9-5 **ASSEMBLY, No. 815** (*Land D-1/Andrzejczak D-1*), which would require county office of emergency management coordinators to establish a Code Blue program for at-risk individuals who require shelter during severe weather events.

In summary, this legislation would require county office of emergency management coordinators to develop, in collaboration with municipal emergency management coordinators in municipalities with a documented homeless population of at least 10 persons and located within the county's borders, a Code Blue program that includes the use of emergency warming centers during implementation of the plan. The measure

would make county office of emergency management coordinators responsible for monitoring National Weather Service weather forecasts; and, would require issuing a Code Blue alert if temperatures will reach 25 degrees Fahrenheit or lower without precipitation; b) 32 degrees Fahrenheit or lower with precipitation; or the National Weather Service wind chill temperature will be 0 degrees Fahrenheit or less for a period of two hours or more. The bill defines at-risk individuals as persons living outdoors or in poorly insulated settings, who are at risk for weather-related exposure and possible death. Warming centers may be provided by designated volunteer organizations, which would receive planning and support from the county, but would operate autonomously in response to an alert. The measure would also extend “Good Samaritan” protections from civil liability to such designated volunteer organizations under certain circumstances, but not to any governing body.

Although NJAC commends assemblymen Land and Andrzejczak for recognizing the need to provide adequate shelter for at-risk individuals during inclement weather and for working with us on making this legislation more palatable for county governments to implement, we remain concerned that the measure still mandates county emergency management coordinators to establish Code Blue plans, holds harmless from liability certain nonprofit organizations when working with at-risk individuals, and places responsibility for establishing Code Blue plans in a county agency with limited resources and experience in dealing with at risk individuals. With this in mind, NJAC proposes further amending the legislation to instead authorize a county governing body to establish a Code Blue program by designating the appropriate county agency accordingly, and to hold accountable the volunteer organizations for any negligent acts or omissions related to the issuance of a Code Blue alert. The companion version of this legislation **SENATE, No. 1088** (*Van Drew D-1/Kean R-21*) is currently in the Senate Budget and Appropriations Committee awaiting consideration, and the sponsors have agreed to work with us on possible amendments before moving the measure forward.

ELEVATED BLOOD LEVELS

Also on December 19th, both houses passed **SENATE, No. 1830/ASSEMBLY, No. 3411** (*Rice D-28/Vitale D-19*)(*Muio D-15/Benson D-14*), which would require the New Jersey Department of Health (DOH) to revise regulations concerning elevated blood lead levels in children to make the regulations consistent with the latest recommendations of the Centers for Disease Control and Prevention (CDC).

More specifically, the measure would lower the threshold for an “actionable response” by local boards of health, from greater than or equal to 10 micrograms per deciliter, to greater than or equal to 5 micrograms per deciliter. While an admirable goal, NJAC is concerned that this change would significantly increase the caseload for local boards of health without providing any additional funding to offset the increased workload and operating costs. Current practice dictates that once a child’s elevated blood lead level is confirmed, local boards of health must undertake a “responsive action” consisting of

individual case management with a public health nurse and a detailed environmental assessment. DOH records indicate that in 2014, 837 children were found to be in need of a responsive action under the current standard. NJAC projects that this legislation would increase the current caseload to over 5,000, which would require local boards of health to hire and train additional staff, and purchase new environmental testing equipment to meet demand.

The Office of Legislative Services (OLS) estimates that this legislation would increase statewide operating costs for local boards of health by as much as \$10.0 million or more annually. Despite the projected increase, the measure does not provide a State appropriation or funding mechanism to offset the costs associated with its implementation. Additionally, while DOH budgeted a modest \$2.3 million in FY17 to facilitate case management and lead intervention, that funding did not increase from FY16 and does not factor the increases associated with implementing this bill. As such, NJAC is now urging Governor Christie to address this critical funding gap with an appropriation that would increase existing grant monies available to local boards of health. Special thanks to Monmouth County Regional Health Commission Health Officer David Henry and Mouny County Department of Health Coordinator Christopher Merkel for taking the time out of their busy schedules to testify before the Assembly Appropriations Committee on December 15th concerning this matter.

PENSION BENEFITS

On December 15th, Governor Christie signed into law legislation that requires the State to make its required contributions to the State-administered defined benefit retirement systems each State fiscal year on a quarterly basis on the following schedule: at least 25 percent by September 30, at least 50 percent by December 31, at least 75 percent by March 31, and at least 100 percent by June 30.

The State-administered defined benefit retirement systems include the Teachers' Pension and Annuity Fund, the Judicial Retirement System, the Prison Officers' Pension Fund, the Public Employees' Retirement System, the Consolidated Police and Firemen's Pension Fund, the Police and Firemen's Retirement System, and the State Police Retirement System. The quarterly payment requirement will commence in State fiscal year 2018, which starts July 1, 2017. The local components of the pension system funded by local property taxpayer dollars were not included in this legislation. As has been well documented, the local components of pension system are solvent and actuarially sound as counties and municipalities have met their obligations as employers as required under the law for over a decade. With this in mind, and in light of the State's looming pension crisis, NJAC is encouraged by the new law, but would object to any reforms that would affect, alter, or integrate the local components of the pension system with that of the State's.

UPCOMING EVENTS

Please let us know if you're interested in serving on NJAC's Conference Committee as we begin planning for our 67th annual celebration of county government set for May 10th through May 12th at Caesars in Atlantic City. The Committee is hosting a kick-off meeting at 10:00 a.m. on January 20th at NJAC's office located at 150 West State Street in Trenton. And don't miss NJAC's Reorganization Meeting scheduled for 11:00 a.m. on January 27th in the Senate Chambers of the State House where Gloucester County Freeholder Heather Simmons will become our 76th President.

THE 12 DAYS OF CHRISTMAS AT MY HOUSE

12 expletives hanging Christmas lights on my roof in the freezing cold
11 shots of Fire Ball by Uncle Marc at our Christmas Eve party
10 dirty looks by Mrs. Donnadio because Uncle Marc had 11 shots of Fire Ball
9 too many presents for each spoiled rotten kid
8 more expletives making sure the real Christmas tree is straight
7 times the power went out because there's too many lights hung on the Christmas tree
6 dishes of fish on Christmas Eve instead of 7 and I don't know why
5 more shots of Fire Ball by Uncle Marc
4 crummy presents that I bought with Kohl's bucks that Mrs. Donnadio will return
3 pounds of braised short ribs stolen by the damn dog
2 times I lost cell service while speaking to my mother-in-law on Christmas morning
1 day before Christmas and I haven't been to Kohl's yet

*"Uh oh," six year old Anthony Donnadio
as he watched the freshly cut and fully decorated Christmas tree crash onto the living
room floor after ramming his tricycle into it at full speed.*