

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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STATE HOUSE NEWS

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COURT FACILITIES AND CRIMINAL JUSTICE REFORM

As county governments continue to struggle with a restrictive property tax cap levy, a declining ratable base, and mounting unfunded State mandates, county leaders from across the State met on May 6th to identify realistic and achievable solutions for streamlining services and saving valuable taxpayer dollars dedicated to operating and maintaining county court facilities. More specifically, the recommendations and text below offer important and timely solutions that address the growing costs associated with implementing Criminal Justice Reform, providing enhanced court security, and operating and maintaining county court facilities.

1. Limit conducting an in-person risk assessment within 48 hours after a defendant's commitment to jail to normal business hours of operation on Mondays through Fridays.
2. Permit conducting a risk assessment within 48 hours after a defendant's commitment to jail by video conferencing on weekends and holidays. *(If D is arrested on Friday evening, D may receive a risk assessment by video conferencing on Saturday or Sunday, but would have to wait until Monday morning for an in-person risk assessment or Tuesday morning for an in-person risk assessment if Monday is Memorial Day.)*
3. Authorize the use of conducting a risk assessment within 48 hours after a defendant's commitment to jail by video conferencing at the county court facility or county jail.
4. Extend implementing Criminal Justice Reform until 2018 to permit for the use of the recommendations contained herein and for county governments to develop a clearer picture on the costs associated with implementing and administering Criminal Justice Reform.
5. Allocate State monies or establish a funding mechanism to offset the costs associated with implementing and administering the new law.
6. Require the Administrative Office of the Courts to appoint a representative from the county governing body to the Statewide Judiciary Security Committee and other similar bodies that issue directives funded by local property taxpayer dollars.

7. Permit the limited use of Class Two special law enforcement officers to provide security at county court facilities.
8. Authorize county governing bodies to share or regionalize court facilities similar to how several counties have begun sharing county jails.

Recommendations 1-4 would mitigate the costs associated with conducting a risk assessment as required under Criminal Justice Reform. Criminal Justice Reform will require the Judiciary, through its new Pretrial Services Unit, to prepare a risk assessment and recommendation on conditions of release for every eligible defendant issued a complaint warrant beginning on January 1, 2017. The Pretrial Services Unit must complete and present the risk assessment, by an automated Public Safety Assessment (PSA), to the Court within 48 hours after a defendant's commitment to jail. Please note that the Judiciary's stated goal is to complete and present the Public Safety Assessment with 24 hours. Although a laudable objective, this new procedure will force county court facilities to open on weekends, and will generate the following clear, substantial, and ongoing costs: to provide security at county court facilities on weekends, county sheriffs must hire new officers and pay overtime to current officers; to operate and maintain county court facilities on weekends, counties will incur additional maintenance and utility expenses; and, to accommodate additional staff of the Judiciary's new Pretrial Services Unit, county governing bodies must make costly improvements to existing court facilities.

Although the State is responsible for paying for the salaries of the Pretrial Services Unit with monies deposited in the 21st Century Justice Improvement Fund established pursuant to the law that enacted Criminal Justice Reform, county freeholder boards must pay for the operation, maintenance, and capital improvements of the county court facilities. County governing bodies are also mandated by State law to fund county sheriff and county prosecutor offices. In summary, the 21st Century Justice Improvement Fund, subsidized by an increase in various court fees, will provide: \$22.0 million for the development, maintenance, and administration of the statewide pretrial services program; \$10.0 million for the development, maintenance, and administration of the statewide digital e-court information system; and, \$10.0 million to Legal Services of New Jersey. Unfortunately, the Fund will not allocate monies to county governing bodies for the costs associated with implementing and administering Criminal Justice Reform.

Recommendation 5 would address the costs associated with conducting a speedier trial under Criminal Justice Reform instead of the governing body and county prosecutor agreeing to a consensual cap exception under N.J.S.A. 2A:158-7, which would place the burden on local property taxpayers. Criminal Justice Reform will also require that a speedy trial apply to an eligible defendant for whom a complaint warrant is issued, where the initial charge involved is an indictable or disorderly persons offense, and where the defendant is detained pursuant to a Public Safety Assessment (PSA). The new law will establish three separate speedy trial time standards, and will require county prosecutors to be ready for trial within two years of a defendant's commitment to

county jail or the defendant will be released on conditions set by the Court. Although well intentioned, this new process will produce the following significant and continuing expenses: to process eligible defendants pursuant to the newly established timeframes, county prosecutors must hire new assistant prosecutors, investigators, and administrative staff; and, to accommodate additional prosecutorial staff, county governing bodies must make expensive improvements to county buildings and grounds. As such, NJAC proposes the following: Support of **ASSEMBLY, NO. 3491 (Wimberly D-34)**, which would establish the “County Government Criminal Justice Reform Administration Fund” to modestly increase certain criminal and civil court fees and dedicate the increases to county governing bodies to implement the new law; and, an appropriation in State fiscal year 2017 of \$1.0 million per county dedicated for courtroom facility and security improvements necessary to implement and administer Criminal Justice Reform.

Recommendations 6 – 7 would provide county governing bodies with a seat at the table before the judiciary considers implementing costly initiatives, and would also help to control the costs associated with providing courthouse security. Separate, but related to Criminal Justice Reform, the Administrative Office of the Courts issued the “Administrative Determinations by the Supreme Court on the Report and Recommendations of the Statewide Judiciary Security Committee” on April 21, 2015. Some of these recommendations include: *Recommendation #A.1.*, which requires an audit of all vicinage ancillary facilities and imposes a deadline for compliance; *Recommendation #A.2.*, which prohibits probation reporting in unsecured ancillary facilities; *Recommendation #A.3.*, which requires a security audit of Supreme, Appellate, and tax court off-site locations; *Recommendation #C.1.*, which requires the presence of an armed sheriff’s officer in every courtroom; and, *Recommendation #C.2.*, which requires the presence of a sheriff’s officer or armed special law enforcement officer in the room of every hearing officer proceeding. An additional recommendation for courthouse facilities includes *Recommendation #1.*, which requires the presence of a uniformed/armed sheriff’s officer at all civil commitment hearings. At its board of directors meeting in June, NJAC will decide whether to file a complaint with the New Jersey Council on Local Mandates to address our concerns with the costs associated with implementing the enhanced security measures called for under the directive.

Special thanks to the following leaders for participating in the May 6th meeting: *Hunterdon County Freeholder John King, Warren County Freeholder Ed Smith, Union County Freeholder Vernell Wright, Salem County Freeholder Douglas Painter, Burlington County Administrator Eve Cullinan, Hunterdon County Chief of Staff George Wagner, Ocean County Deputy County Administrator Mike Fiure, Ocean County Finance Officer Julie Tarrant, Mercer County Jail Warden Charles Ellis, Ocean County Jail Warden Sandra Mueller, Union County Director of Human Resources Frank Guzzo, Burlington County Management Specialist Todd Wirth, DiGroup Architecture Chief Marketing Officer Emily Hammer, NJSLOM Counsel Ed Purcell, and NJ DLGS Legislative Liaison Jason Martucci (Ex-Officio).*

LEAD ABATEMENT

Special thanks to Theresa Ruane, Christopher Merkel, and Kate Andrews with the Monmouth County Department of Health, who joined NJAC on May 12th to meet with Assemblywoman Elizabeth Maher Muoio, and to testify before the Assembly Health and Senior Services Committee on **ASSEMBLY, No. 3411** (*Muoio D-15/Benson D-14*).

In summary, this legislation would require the Department of Health (DOH) to make its regulations consistent with the latest recommendations from the Centers for Disease Control (CDC) for elevated blood levels in children. More specifically, the bill would lower the threshold for an “actionable response” by local boards of health, from greater than or equal to ten micrograms per deciliter, to greater than or equal to five micrograms per deciliter. Although certainly an admirable goal, NJAC is concerned that this legislation would significantly increase the caseload burden for local boards of health without providing sufficient funding to offset costs.

In general, once a child’s elevated blood lead level is confirmed, local boards of health are required to undertake a “responsive action” consisting of detailed environmental assessments and individual case management by a public health nurse. DOH records indicate that in 2014, 837 children were found to be in need of a responsive action under the current standard. This legislation would increase that number by more than six-fold, which would require local boards of health to hire additional staff, and to acquire additional environmental testing equipment to meet demand.

The Office of Legislative Services (OLS) has estimated that A-3411 would increase state-wide costs for local boards of health by up to \$10.0 million annually. Despite the estimated increase, the bill does not contain an appropriation or funding mechanism to offset the costs associated with its implementation. Additionally, while DOH has budgeted 2.3 million in FY17 to facilitate case management and lead intervention, that funding level is flat from FY16 and does not account for the anticipated increases under A-3411. With this mind, NJAC is respectfully requesting that the measure contain an appropriation in the form of an increase in available grant monies to local health boards from DOH. The Committee Second Referenced A-3411 to the Assembly Appropriations Committee for consideration; and, the Senate passed **SENATE, No. 1831** (*Rice D-28/Vitale D-18*) on March 14th by a vote of 37-2.

RECYCLING OF FOOD WASTE

On April 20th, NJAC and several stakeholders met with Senator Bob Smith (*D17*), as the sponsor of **Senate, No. 771** and Chair of the Senate Environment and Energy Committee, to discuss potential changes to the measure that would make the legislation more palatable for county governments that have committed considerable resources to cutting edge recycling and solid waste management activities.

In summary, the bill as introduced would require certain generators of solid waste to separate and recycle food waste, and amend the definition of “Class I renewable energy.” More specifically, beginning January 1, 2017, every large food waste generator that is located within 35 miles of an authorized recycling facility and that generates an average projected volume of 104 or more tons per year of food waste would be required to: (1) source separate that food waste; and (2) send the source separated food waste to an authorized recycling facility that has available capacity and will accept it. Beginning January 1, 2020, large food waste generators that produce an average projected volume of 52 or more tons per year of food waste would have to comply with these requirements.

Under the bill, if a large food waste generator is not located within 35 miles of an authorized recycling facility, or the facility will not accept the generator’s food waste, the generator may send the food waste for final disposal at a solid waste management facility. In addition, a large food waste generator would be deemed to be in compliance with the bill if the generator: (1) performs enclosed, on-site composting or anaerobic digestion of its source separated food waste; or (2) sends its solid waste to a facility that source separates food waste and provides for the recycling of that food waste and the proper recycling or disposal of the remainder of the solid waste.

Atlantic, Burlington, Cape May, Cumberland, Gloucester, Middlesex, Ocean, Monmouth, Salem, and Warren counties have invested substantial taxpayer dollars into state of the art Landfill Gas to Energy (LGTE) facilities that utilize methane gas produced from decomposing organic food waste to generate renewable Class One electricity under the “Electric Discount and Energy Competition Act.” NJAC is concerned that mandating the source separation of food waste from other streams of waste would divert large volumes of critical material from these facilities, which in turn, would adversely affect the quantity and quality of gas relied upon by LGTE facilities, and jeopardize their economic viability.

The LGTE process eliminates harmful methane gas from the environment, and food waste decomposes quickly leaving valuable landfill space for other matter. Importantly, county governments have invested substantial taxpayer dollars on the development and implementation of comprehensive solid waste management plans that serve their communities well, and should retain the autonomy to manage food waste in a manner consistent with their respective solid waste management systems. NJAC would like to thank Senator Smith for taking the time to meet with stakeholders, and we’re optimistic that the final version of the legislation will incorporate recommendations to exempt certain county facilities. S-771 is currently in the Senate Environment and Energy Committee; and, the companion version **ASSEMBLY, No. 2417** (*Eustace D-38/Zwicker D16*) is currently in the Assembly Environment and Solid Waste Committee awaiting consideration.

PRESCRIPTION MEDICATIONS FOR INMATES

On May 9th, the Senate passed by a vote of 37-1 **SENATE, No. 384** (*Barnes D-18/Greenstein D-14*), which as introduced would have required correctional facilities to provide inmates with prescription medication that was prescribed for chronic conditions existing prior to incarceration.

NJAC and the New Jersey County Jail Wardens Association would like to thank then Senator, and now Superior Court Justice Peter Barnes, for addressing several of our concerns with this legislation during a Senate Law and Public Safety Committee hearing earlier this year. In summary, the Committee amended the legislation to authorize county correctional facilities to administer generic prescription drugs “to the extent possible” as is the current practice. Although difficult to quantify, the amendment retains an effective cost containment strategy used by correctional facilities throughout the State. The Committee also amended the measure to provide correctional facilities with the continued discretion to administer synthetic opioids such as Methadone, Suboxone, and Buprenorphine as drug addiction detoxifiers as follows: “the requirement to administer medication pursuant to this section shall not apply to synthetic opioid drug addiction detoxifiers, unless the facility employees a medical professional who is trained to administer this type of medication.”

Most county Most county correctional facilities do not recognize prescriptions for synthetic opioids as drug addiction detoxifiers unless the prisoner is an expectant mother or the prescription is otherwise medically necessary to keep a prisoner alive. Please note that in order to prescribe and dispense Methadone, a facility must apply for State and federal licensure and a physician must have appropriate training, certification, and experience. In order to prescribe Suboxone, a physician must complete training, register, and receive a special license from the federal Drug Enforcement Agency (DEA). Additionally, treatment with Suboxone is expensive and should include comprehensive drug and psychosocial counseling and monitoring. S-384 is currently in the Assembly Law and Public Safety Committee along with its companion version **ASSEMBLY, No. 3470** (*Johnson D-37*) awaiting consideration.

FIVE PERCENT DOWN

Also on May 12th, NJAC noted its support before the Assembly Housing and Community Development Committee of **ASSEMBLY, No. 1640** (*Schaer D-36/Sumter D-35*), which would eliminate the five percent down payment requirement for bond ordinances approved by counties and municipalities.

More specifically, the measure would make permissive the down payment requirement for counties and municipalities to issue bonds. Under current law, most bond ordinances require an appropriation of at least five percent of the amount of the authorized obligation for final adoption of the bond ordinance. NJAC supports this

legislation as it would free up valuable resources that county governments may utilize to manage their affairs in a more flexible and efficient manner. Additionally, the measure would serve to streamline the current local bond issuance process as the Local Finance Board often waives the five percent down payment requirement. The Committee favorably reported the bill, which is now on Second Reading in the General Assembly. We believe the Senate will introduce a companion version shortly.

ANNUAL CELEBRATION OF COUNTY GOVERNMENT

Although exhibit space is sold out and we're expecting more county officials than ever and by far, it's not too later to register for NJAC's 66th annual celebration of county government from May 18th through May 20th at Caesar's in Atlantic City. Please visit our website at www.njac.org for additional details.

STATE HOUSE TRIVIA

Did you know Friggatriskaidekaphobia is the fear of Friday the 13th that afflicts nearly 20.0 million Americans?

“Let us not seek the Republican answer or the Democratic answer, but the right answer. Let us not seek to fix blame for the past. Let us accept our own responsibility for the future.” - John F. Kennedy