

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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STATE HOUSE NEWS

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2% CAP ON BINDING INTEREST ARBITRATION AWARDS

NJAC is continuing to urge members of the State Legislature to permanently extend the 2% cap on binding interest arbitration awards before the law sunsets on December 31st. County and municipal officials from across the State, and on both sides of the aisle, hail the cap as a critical tool for controlling personnel costs; negotiating reasonable successor contracts; and, avoiding arbitration awards granted by third party administrators who are not accountable to taxpayers.

For nearly a decade, the 2% cap on binding interest arbitration awards has kept public safety employee salaries and wages under control simply because parties have been closer to reaching an agreement from the onset of negotiations. For county governments alone, the cap has effectively managed the growth of over \$1.0 billion worth of public safety employee salaries since using interest arbitration as leverage for negotiating more lucrative contracts was no longer a viable option for collective bargaining units. In fact, the data contained in the report recently released by the Governor's appointees to the Police and Fire Public Interest Arbitration Task Force, demonstrates that the 2% cap has limited the use of interest arbitration, as originally intended under the law, to a procedure of last resort for when parties reach an impasse in negotiations.

Moreover, the 2% cap on binding interest arbitration awards has established clear parameters for negotiating reasonable successor contracts that preserved the collective bargaining process and took into consideration the separate 2% tax levy cap on overall local government spending. In addition to employee salaries, wages, and health benefits that comprise 50% of county operating budgets statewide, county governments face significant regulatory and statutory State mandates, which include implementing Criminal Justice Reform, operating 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. With this in mind, the 2% cap on binding interest arbitration awards has proven to be an effective resource that made it possible for county governments to live within their limited means.

Failure to permanently extend the 2% cap on binding interest arbitration awards will inequitably alter the collective bargaining process in favor of labor at the expense of taxpayers, and will lead to awards by arbitrators with no fiduciary duty to deliver essential services in a cost effective manner. NJAC recently conducted a comprehensive survey of county employee salaries, wages, and health benefits, which also presented the following question: “Faced with the expiration of Chapter 78 in 2015 and the 2% cap on binding interest arbitration awards, what cost saving measures will your county consider.” In addition to raising taxes by adopting a resolution to exceed the 2% tax levy cap, counties would consider mandating employee furloughs; privatizing certain services; forgoing raises for non-affiliated employees; and, reducing or eliminating non-mandated services such as transportation for the aged and disabled, meals on wheels, mental health and addiction services, and more.

Although NJAC commends the police, firefighters, correction officers, and sheriff officers that put their lives on the line every day to protect the communities in which they serve, we also recognize that our State, local governments, and property taxpayers are struggling to make ends meet. With this in mind, we will continue working with the New Jersey State League of Municipalities (NJSLOM), the New Jersey Conference of Mayors (NJCOM), the New Jersey Municipal Management Association (NJMMA), and the Government Finance Officers Association of New Jersey (GFOA) to permanently extend the 2% cap on binding interest arbitration awards.

POLICE AND FIRE PENSION CONTROLS

Despite Governor Christie’s conditionally veto of **ASSEMBLY NO. 99/SENATE, NO. 3040** (*Prieto D-32/Sumter D-35*)(*Sweeney D-3/Kean R-21*) in May, NJAC remains concerned with legislation that would transfer management of the Police and Firemen’s Retirement System (PFRS) to the Board of Trustees of PFRS as both gubernatorial candidates have indicated they support the measure in concept.

NJAC’s primary concern with this legislation is that it would vest the Board’s far reaching power with labor by a 7-5 majority and would enable the Board to enhance member benefits without the necessary safeguards to protect the system. As has been documented, taxpayers subsidize 70% of PFRS annual contributions while employees fund 30%. Taxpayers also assume the risk of loss in PFRS as a defined benefits plan, and counties and municipalities have met their pension obligations as employers. With this in mind, the PFRS Board of Trustees should be comprised of an equal number of labor and management representatives with one independent member for a total of 15 members. If the Legislature and next Governor fail to amend the measure accordingly, NJAC recommends: prohibiting the Board from enhancing member benefits until PFRS is funded at 80%; requiring employees to share in additional cost for PFRS pension contributions if the employer rate of contribution increases; defining base wage to mean salary, steps, guides, and longevity pay; and, establishing a mandatory retirement age that models the one used by the federal government.

In summary, the legislation in its current form would require at least 8 votes of the “authorized membership of the board to approve any enhancement or reduction of a member benefit, other than for the activation of the now suspended cost of living adjustment for retirees, or to approve any increase or decrease in the employee contribution rate that is more than what is recommended by the actuary for the system, and for the purpose of the annual funding requirements.” The bill would also vest control with the PFRS Board of Trustees, by simple majority vote, the power to invest or reinvest monies, and the power to purchase, sell, or exchange investments. Benefit enhancements that would in general require a vote of 8 members include: the process for the review, appeal, and applications for retirement; caps on creditable compensation; formulas for the calculation of final compensation; and the age at which a member may be eligible for special retirement. NJAC is working with NJSLOM, NJCOM, NJMMA, and GFOA on this important matter as well.

STATE AND LOCAL TAX DEDUCTIONS

The National Association of Counties (NACo) has been hard at work opposing Washington’s latest tax reform proposal to eliminate the state and local tax deductions (SALT), which since 1913 has allowed taxpayers to deduct state and local taxes paid from their federally taxable income. As property, income, and other state and local taxes are mandated by law, the deductibility of these taxes protects over 44 million middle-class taxpayers across the nation from being subjected to double taxation by the federal government.

DISTRICT	REPRESENTATIVE	PERCENTAGE OF TAXPAYERS CLAIMING SALT	TOTAL NUMBER OF TAX FILERS	TOTAL NUMBER OF SALT DEDUCTIONS	TOTAL SALT DEDUCTION	AVERAGE SALT DEDUCTION
1	Norcross	42.08%	265,967	111,913	\$1,420,412,000	\$12,692
2	LoBiondo	37.73%	642,653	242,483	\$2,769,702,000	\$11,422
3	MacArthur	42.62%	167,853	61,533	\$857,484,000	\$11,987
4	Smith	44.57%	339,667	151,395	\$2,560,350,000	\$16,912
5	Gottheimer	42.60%	298,525	127,158	\$2,356,852,000	\$18,535
6	Pallone	44.22%	360,340	159,325	\$2,633,856,000	\$16,531
7	Lance	46.22%	459,890	212,570	\$4,522,686,800	\$21,276
8	Sires	37.79%	420,917	159,057	\$3,255,042,300	\$20,465
9	Pascrell	37.15%	344,027	127,827	\$2,386,285,700	\$18,668
10	Payne	32.93%	267,417	88,063	\$1,669,658,300	\$18,960
11	Frelinghuysen	41.82%	335,878	140,473	\$2,826,817,700	\$20,124
12	Watson-Coleman	42.96%	439,328	188,723	\$3,335,498,300	\$17,674
	TOTALS	41.00%	4,342,462	1,770,520	\$30,594,645,100	\$17,103.83

For New Jersey residents who pay the highest property taxes in the nation with an average property tax bill of approximately \$8,500.00, the impact would be devastating. As compiled in the above table by the “Americans Against Double Taxation Coalition,” 41% or 1,770,520 New Jersey residents claim the SALT deduction and would endure a tax increase of over \$30.5 billion without it. With this in mind, NJAC strongly opposes eliminating SALT as the action would impose an onerous double tax on middle-class residents, and cause irreparable harm to the State’s housing market and ratable base.

DIFFERING SITE CONDITIONS

NJAC is in the process of reviewing **ASSEMBLY, No. 5071/SENATE, No. 3409** (*Vainieri-Huttle D-37*)(*Gordan D-38*) with our county purchasing officials and engineers as we expect the Legislature to consider the measure during the fast approaching lame-duck session.

In summary, the measure would establish standardized changed condition clauses for construction contracts awarded under the "Local Public Contracts Law." The bill would require that these clauses be included in local public construction contracts, and would further provide that they apply even if they are not expressly included in such a contract. The specific clauses required by the bill would cover differing site conditions, suspensions of contract work, changes in the character of the contract work, and changes in the amount of work to be performed by a contractor. This bill would also establish a standard process for the handling of changed conditions on local public construction projects.

Under the bill, a contractor that encounters differing site conditions in the performance of a contract would be required to promptly notify the contracting unit of the conditions. The bill defines differing site conditions as conditions at a contract work site that are subsurface or otherwise concealed, and that either differ materially from those indicated in the contract documents or are of such an unusual nature that they differ materially from those ordinarily encountered and generally recognized as inherent in the work of the character provided for in the contract. After receipt of a differing conditions notice, the contracting unit would have to investigate the conditions and issue directions on how to proceed. Based on those directions, the contract price and completion date may be adjusted. If the contracting unit disagrees that differing site conditions exist, the contractor would have to continue to perform the contract, but would have the right to pursue a claim for additional compensation or time.

With respect to suspensions of contract work of more than 10 days and material changes in the character of the contract work, the bill's provisions are similar to those for differing site conditions. More specifically, under these clauses, the contractor must first notify the contracting unit of the issue, the contracting unit must then evaluate and respond, a possible adjustment of the contract price or timeframe may then be made, and if the contracting unit determines that the contractor is not entitled to additional compensation or time, the contractor may pursue a claim. The bill's change in quantity provisions authorize the contracting unit to increase or decrease the quantity of work to be performed by the contractor and provide how the contract price is to be adjusted depending on whether the quantity change qualifies as a major or minor. For a minor quantity change, the contracting unit is required to make payment for the quantity of the pay item performed at the bid price for the pay item. For a major quantity change, the contracting unit and contractor may renegotiate the price, but if agreement is not reached the bill provides that payment be made for actual costs plus an additional 10% for overhead and an additional 10% for profit.

UPCOMING NJAC EVENTS

If you haven't done so already, please make sure to register for NJAC's December 8th Summit on the Opioid Crisis and Resources for Recovery. We've put together two terrific panel discussions where law enforcement authorities, and parent advocates will examine the epidemic and present viable strategies for combating this public health crisis. Additionally, addiction and recovery professionals, mental health providers, and other subject matter experts will discuss resources for recovery and recommend new approaches for providing vital support to those in need. Although we're waiving the registration fee for State, county, and other local officials, you **MUST** register for the event by visiting our website at www.njac.org.

STATE HOUSE TRIVIA: *Did you know* that between 1955 and 1962 Fats Domino, who died on Thursday at the age of 89, had 59 songs hit the Billboard Top 100 including Ain't That a Shame, I Want to Walk You Home, Blue Monday, and Blueberry Hill?

"Well, I don't know if I started it (Rock 'n' Roll), but I don't remember anyone else before me playing that kind of stuff." - Fats Domino