

# NEW JERSEY ASSOCIATION OF COUNTIES

*County Government with a Unified Voice!*

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## STATE HOUSE NEWS

*May 17, 2019*

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### **BINDING INTEREST ARBITRATION**

As predicted, the failure to permanently extend the 2% cap on binding interest arbitration awards in December of 2017 has inequitably altered the collective bargaining process in favor of labor and at the expense of property taxpayers.

In fact, county and municipal officials from across the State, and on both sides of the aisle, are once again urging State leaders to permanently extend the 2% cap on binding interest arbitration awards as police and fire unions have been aggressively leveraging its expiration to win contracts in excess of 50% of the 2% spending cap imposed on local governing bodies for nearly a decade. As has been well documented, the 2% cap on binding interest arbitration awards allowed local governments to live within their limited means and kept public safety employee salaries and wages under control, simply because parties were closer to reaching an agreement from the onset of negotiations. Moreover, the 2% cap on binding interest arbitration awards established clear parameters for negotiating reasonable successor contracts that preserved the collective bargaining process and took into consideration the separate and permanent 2% spending cap. The equation is clear, failure to renew and permanently extend the 2% cap on binding interest arbitration awards is unsustainable without increasing property taxes or eliminating essential services.

Moody's Investors Services, Fitch Ratings, and Standard and Poor's all agree and have issued stern warnings about allowing the cap's expiration. Of note, Moody's submitted *"that salary costs are among the largest of municipal expenditures, the cost implications are obvious and considerable,"* and that *"the effect of this is, in most cases, unlikely to be rapid, but ultimately, the loss of the arbitration cap is likely to cause the public sector's credit quality to deteriorate."* Fitch Ratings concluded that *"the arbitration cap is beneficial to local government credit quality as it helps to align revenue and spending measures and supports structural balance in the context of statutory caps on property tax growth."* Additionally, a broad-based coalition of public and private sector organizations support efforts to permanently extend the cap of which you may review at [https://nj-njslom.civicplus.com/DocumentCenter/View/6276/2017-Final-IA\\_Coalition-Letter-PDF](https://nj-njslom.civicplus.com/DocumentCenter/View/6276/2017-Final-IA_Coalition-Letter-PDF). In the meantime, NJAC and our partners plan to hold strategy sessions for local governing bodies on how to effectively navigate the unlevel playing field created by the failure of State leaders to act accordingly. Stay tuned for additional details.

## CODE RED ALERTS

On May 16th, NJAC testified before the Assembly Human Services Committee to express our concerns with **ASSEMBLY, No. 4566** (*Vainieri Huttle D-37*), which would require counties to establish Code Red alert plans to shelter at-risk individuals during hot weather conditions.

Although NJAC commends Assemblywoman Vainieri Huttle for her efforts to provide comfort for the homeless during severe weather events, this legislation does not contain a funding mechanism or State appropriation to offset the costs associated with providing transportation services, community outreach, or cooling centers as required under the bill. Moreover, the legislation is vague and ambiguous on which agencies are ultimately responsible for providing the mandated services, which has led to confusion among counties, municipalities, social service agencies, and non-profit organizations with implementing the similar 2017 law that now requires counties to issue Code Blue alerts during cold weather conditions. Since that time, county governments across the State have been struggling to implement the new law.

Under the leadership of Senator Troy Singleton (*D-7*) and Assemblywoman Pintor Marin (*D-29*), Governor Murphy recently signed into law A-4177, which authorizes county governments to increase the homelessness housing fund surcharge from \$3.00 to \$5.00 and to use the \$2.00 increase to support emergency shelter for homeless services provided during Code Blue alerts. NJAC supported this important and timely initiative as one of our top legislative priorities as it should help freeholder boards provide adequate shelter for homeless individuals during inclement weather without affecting existing programs that support permanent housing and self-sufficiency. A-4566 would add additional complexities to the 2017 law that would make issuing Code Red and Blue alerts even more costly and difficult to implement, manage, and sustain.

In summary, A-4566 would require a county office of emergency management, or other appropriate county office, agency, or department, to coordinate with municipal emergency management coordinators in municipalities with a documented homeless population of at least 10 persons, to develop consistent Code Red alert plans throughout the county that provide emergency cooling centers during implementation of a Code Red alert. The bill would make the county emergency management coordinator responsible for monitoring National Weather Service weather forecasts; and, would require issuance of a Code Red alert if: the heat index is forecast to reach 95 degrees Fahrenheit to 99 degrees Fahrenheit for at least two consecutive days; or the temperatures will reach 100 degrees Fahrenheit to 104 degrees Fahrenheit for any length of time.

The issuance of an alert would trigger implementation of the county Code Red alert plan, which would include emergency cooling centers for at-risk individuals. These cooling centers may be provided by designated volunteer organizations that would receive planning support from the county but operate autonomously in response to

an alert. The bill would define an at-risk individual as an individual living outdoors or in poorly insulated settings who is at risk for weather-related exposure and possible death. The bill also would amend current law to ensure the plans throughout the county include communication and outreach to at-risk individuals, as well as transportation during the implementation of a Code Blue or Code Red alert plan. The Committee Second Referenced A-4566 to the Assembly Appropriations Committee for consideration, and the companion version **SENATE, No. 3121** (*Greenstein D-14*) is currently in the Senate Health, Human Services, and Senior Citizens Committee Services Committee awaiting consideration.

#### **STATUTE OF LIMITATIONS**

On May 13<sup>th</sup>, Governor Murphy signed into law **No. 477** (*Vitale D-19/Scutari D-22*), which eliminates the statute of limitations in certain civil actions for sexual abuse and expands the categories of defendants liable in such actions. In light of the concerns of NJAC, the New Jersey State League of Municipalities (NJLM), and the New Jersey School Boards Association (NJSBA) that this legislation would eliminate the safeguards provided local governing bodies under the New Jersey Tort Claims Act (TCA) as all lawsuits are defended with limited property taxpayer dollars, we appreciate the Governor including the language below at the bill signing.

“I am also signing the bill based on a commitment from the bill’s sponsors to introduce and swiftly pass a bill that will correct an error in the section of the bill relating to the liability of public entities. This section inadvertently fails to establish a standard of proof for cases involving claims filed against public entities. If unaddressed, the lack of clarity would create uncertainty and likely lead to additional litigation. I have received assurances that the Legislature will correct this omission by clarifying that public entities should be held to the same standard of liability that is applied to religious and nonprofit organizations. Applying a different standard would be unjustified. “

As such, Senators Joe Vitale (*D-1*) and Nicholas Scutari (*D-22*) and Assemblywoman Annette Quijano (*D-22*) introduced **SENATE, No. 3739/ASSEMBLY, No. 5392**, which would establish new liability standards in sexual abuse lawsuits filed against public entities and public employees. In general, the measure would establish standards that would be identical to the liability standards applied to non-profit organizations, and their officers, employees and other agents, based on the immunity granted to such organizations and agents under the Charitable Immunity Act. Under the bill, a public entity or public employee could be held liable for the willful, wanton or grossly negligent acts resulting in a sexual assault, any other crime of a sexual nature, a prohibited sexual act or sexual abuse being committed against a person. Additionally, a public entity could be held liable for a claim that its negligent hiring, supervision or retention of any public employee resulted in any such form of sexual abuse being committed against a minor under the age of 18 years.

The bill would take effect on December 1, 2019, the same effective date as S-477, which creates new, extended statute of limitations periods for civil actions by child and adult victims of sexual abuse and establishes a two-year window during which actions may be commenced even though they would otherwise be time-barred, even after using the appropriate new, extended statute of limitations period. S-3739/A-5392 would require that that once lawsuits commence against public entities and public employers beginning on December 1, 2019, these suits, and any suits previously filed that have not yet been finally adjudicated or dismissed, would be subject to the new, extended statute of limitations, and lawsuits could, if otherwise time-barred, be brought during the two-year window. The Assembly Judiciary is considering A-5392 on May 20<sup>th</sup>, and S-3739 is currently in the Senate Judiciary Committee awaiting consideration. *Please note that S-477 and S-3739/A-5392 present several complex legal challenges, and we recommend county counsels to review both measures in their entirety as this summary provides a condensed version of the matter.*

#### **TICK CONTROL ACTIVITIES**

Also on May 16<sup>th</sup>, the Assembly Agriculture and Natural Resources Committee favorably reported **ASSEMBLY, No. 5160** (*Houghtaling D-11/Dancer D-12*), which would require the Department of Agriculture to establish a pilot program that would award grants to counties and municipalities to study and develop methods of tick control.

In summary, this legislation would require the Department to establish a grant application process as well as the terms and conditions for awarding grants. Each recipient of a grant would be required to report to the Department on the status of its tick control program. After two years, the Department would be required to issue a report to the Legislature about the effectiveness of the pilot program, which would then expire. Importantly, the measure would appropriate \$250,000.00 to administer the program and to award grants accordingly. NJAC supports this initiative and thanks the sponsors for taking the time to meet with us to address this issue and prior legislation that would have added tick control duties to the responsibilities of State and county mosquito control commissions, and of which resulted in the sponsors introducing A-5160.

Under current law, counties must conduct comprehensive mosquito control activities, which may include source control, trap setting, water management, surveillance, brush cleaning, public education, and the use of other vector control techniques. However, managing the growing tick population is much more difficult than controlling the mosquito population as there's no consensus among subject matter experts on how to effectively eradicate the pests, ticks thrive in a variety of habitats, and many of the currently used pesticides are also harmful to the bugs we like such as bumble bees and butterflies. A-5160 is on Second Reading in the General Assembly, but the measure has no companion version in the Senate.

## **SOURCE SEPARATION OF FOOD WASTE**

May 16<sup>th</sup> was a busy day as the Assembly Science, Innovation, and Technology Committee favorably amended and reported **ASSEMBLY, No. 3726** (*Gusciora D-15/Kennedy D-22*) to make it identical to **SENATE, No. 1206**, which would mandate the source separation of food waste from other streams of waste.

The Committee amended the measure to hold harmless and exempt existing landfill gas to energy facilities: a long-term goal of the Association. As amended, the measure 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, 2020, every large food waste generator that is located within 25 road miles of an authorized food waste recycling facility and that generates an average projected volume of 104 or more tons per year of food waste would be required to: source separate its food waste from other solid waste; and send that source separated food waste to an authorized food waste recycling facility that has available capacity and will accept it. Beginning January 1, 2023, 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.

If a large food waste generator is not located within 25 road miles of an authorized food waste 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 in compliance with the bill if the generator: (1) performs enclosed, on-site composting or anaerobic or aerobic digestion of its source separate food waste; (2) recycles food waste using an alternative authorized food waste recycling method. Moreover, the bill would authorize a large food waste generator to petition the Department of Environmental Protection (DEP) for a waiver of the recycling requirement if the transportation cost together with the fee for recycling is at least 10 percent more than the transportation costs and disposal fee for noncontract commercial solid waste disposal. The bill would further provide that a large food waste generator would be deemed in compliance with the bill if it sends its food waste for final disposal to a sanitary landfill facility that delivers the landfill gas to a gas-to-energy facility as fuel for the generation of electricity.

The measure would require the DEP to adopt regulations concerning: recordkeeping and reporting requirements for large food waste generators and authorized food waste recycling centers; guidelines and procedures for businesses; a list of food waste products that must be source separated and recycled pursuant to the bill; standards for the enclosed on-site composting or anaerobic or aerobic digestion of source separated food waste, including requirements for energy production and other sustainable uses of the byproducts of recycled food waste; and a list of actions businesses may take to reduce the amount of food waste they generate to a level below the threshold amounts established in the bill. A-3726 is currently in the Assembly Appropriations Committee awaiting consideration, and S-1206 is Senate Budget and Appropriations Committee.

## **POLITICIANS COULD PUNT TO VOTERS ON HOW TO PUT NJ'S FISCAL HOUSE IN ORDER**

*John Reitmeyer, NJ Spotlight, May 17, 2019*

Under a plan unveiled yesterday by Senate President Steve Sweeney (D-Gloucester), a series of proposed public-worker benefits cuts that are designed to free up cash for other items and also ease the burden on local property-tax bills would be put before voters in the form of proposed constitutional amendments, as early as this year. Sweeney said he's introducing the ballot questions — which would change both healthcare and pension benefits for thousands of workers — sometime today. And to add another wrinkle, the same proposals were introduced as legislation yesterday. That sets the stage for a potential compromise with Gov. Phil Murphy, a fellow Democrat who has strongly opposed making any public-worker benefits cuts. But it also puts on the table the direct threat of using the ballot questions to simply go around the governor. “The time to act really is now, and we're not going to be stonewalled by an administration either,” Sweeney said during a news conference yesterday in Trenton.

All of the proposals were originally part of the “Path to Progress” report issued by a nonpartisan group of fiscal-policy experts that Sweeney assembled last year in the wake of a series of federal tax-policy changes enacted in 2017. Murphy says he'll look for ‘common ground’ Murphy issued a statement yesterday in response to Sweeney's announcement stressing the need for a balance of spending cuts and tax increases to address the state's fiscal challenges, including an unfunded pension liability that tops \$100 billion by some calculations. “I will carefully review the bills introduced today to see where we can find common ground, but the bottom line is that savings alone will not help us meet the entirety of our obligations,” Murphy said.

Meanwhile, the formal introduction of the new proposals drew praise yesterday from business-lobbying groups who've long supported benefits reform. And they were loudly opposed by unions representing the public workers who would be directly impacted. While Sweeney has been touting the pension and healthcare cuts for nearly a year, Murphy has favored a proposed millionaire's tax to help cover the rising cost of worker benefits. Though popular with voters and embedded into his \$38.9 billion budget proposal for the coming fiscal year, the governor's tax on the wealthy has been a nonstarter for both Sweeney and Assembly Speaker Craig Coughlin (D-Middlesex). Time is running out for legislative action. With a little over a month left before June 30, when the next state budget must be enacted, there's little time to advance all of the proposals unveiled by Sweeney yesterday. The broader package of reform bills also includes measures seeking to encourage consolidation among local school districts and municipal governments.

Among the most complicated elements of Sweeney's benefits-reform proposal is a plan to radically alter retirement benefits for thousands of new workers and those with less than five years on the job. While police officers, firefighters and judges wouldn't be impacted, teachers and other government workers would receive a traditional, “defined-benefits” pension on only up to \$40,000 of salary. For any additional earnings,

the affected workers would be enrolled in a hybrid “cash-balance” savings plan that would not require a matching contribution from the state. That savings plan would guarantee a 4-percent annual return for workers and offer a chance to do better based on how general pension-fund investments perform. The same proposal would also move back the retirement age for the same group of workers from 65 to 67, and change investment-return assumptions and the amortization schedule for the broader pension system, one of the worst-funded state-retirement plans in the country.

Based on actuarial estimates distributed yesterday, Sweeney assumes his plan would save the state \$17.1 billion over 30 years, and local governments another \$7.5 billion over the same period. “A new pension plan is just common sense,” said Sweeney. But union leader Hetty Rosenstein, state director of the Communications Workers of America, called the proposal “shameful” while speaking to reporters yesterday moments after Sweeney’s announcement. She said the pension reforms target worker groups that are predominantly “women and people of color” while sparing those dominated by white men.

“I think it is designed to (pit) the public versus public-sector workers, and that is shameful,” she said. The proposed healthcare changes could save another \$1 billion or more annually, in part by moving workers at all levels of government in New Jersey from what would be considered “platinum” level coverage under the federal Affordable Care Act to “gold” coverage. The precious-metal classifications generally connote how much of the cost of coverage is picked up by the patient, with platinum-level coverage leaving 10 percent or less to the patient and gold level leaving 20 percent.

The change would be made either through legislation or constitutional amendment, and Sweeney said any ballot question would also require healthcare savings at the local level to be returned to property taxpayers. “We’ll be in line with many states that have gold healthcare plans now,” Sweeney said. Meanwhile, to achieve more savings, Sweeney is also backing legislation that would disband the School Employees Health Benefits Program and move those currently enrolled in that benefits system into the generally cheaper State Health Benefits Program.

Other education-spending proposals would require consolidation of non-K-12 school districts and shift some the cost of funding what’s known as “extraordinary” special education onto the state. A statement issued by Marie Blistan, head of the state’s largest teachers’ union, said New Jersey Education Association officials were still reviewing the bills introduced yesterday. But she also said teachers should not be “scapegoated” as the state struggles with fiscal challenges largely created by its long history of underfunding the pension system. “It is time for New Jersey to prioritize the interests of middle-class families over millionaires,” Blistan said.

Among other bills unveiled yesterday as part of the same reform package are those that would generate municipal and county government savings by capping payments for unused sick time and by establishing a permanent commission to review savings

opportunities and make regular recommendations to the Legislature. Murphy has been backing an approach that involves negotiating cost-savings measures directly with unions such as the CWA and NJEA while also relying on revenue from the millionaire's tax and other tax-policy changes to boost state revenues. Murphy's FY2020 budget proposal counts on \$1.1 billion in spending cuts. And the latest revenue projections from the Department of Treasury assumes \$536 million would be generated by applying the top-end rate of 10.75 percent on earnings between \$1 million and \$5 million, now only in place for incomes of more than \$5 million. That added-revenue projection is nearly the same figure as the annual savings estimate from Sweeney's hybrid pension proposal.

"My budget is about putting New Jersey on a new trajectory for the long term, and I am committed to working with the Legislature to do just that," Murphy said.

The last time the Democratic-controlled Legislature enacted major public-worker benefits changes was 2011, when Republican Chris Christie was in office. Those changes, which likewise curbed healthcare and pension benefits, created a rift in the Democratic Party, especially in the Assembly. Asked whether he's concerned about the new proposals upsetting party unity just as the Assembly is up for re-election this year, Sweeney — who was flanked by two Republican lawmakers yesterday but none from his own party — responded by talking about the appeal that potential cost savings could have with voters. "Everyone's weary of property taxes," Sweeney said. "This is an opportunity to run for election (saying) we're cutting property taxes — cutting them for real."

#### **ANNUAL CELEBRATION OF COUNTY GOVERNMENT HIGHLIGHTS**

Thank you to everyone who joined NJAC for an outstanding 69<sup>th</sup> annual celebration of county government where our numbers were at an all-time high. Believe it or not, we're already planning on how to make next year's celebration even better, so please take a moment to share with us your thoughts and suggestions that we'll discuss with our conference committee within the next week or so. In the meantime, please join me in congratulating our 2019 award winners:

#### **MAURICE FITZGIBBONS FREEHOLDER OF THE YEAR AWARD**

Gloucester County Freeholder Heather Simmons

#### **COUNTY SERVICE AWARDS**

Camden County Jail Warden Karen Taylor

Hunterdon County Counsel Shana Taylor

Monmouth County Public Health Coordinator Chris Merkel

Ocean County Deputy County Administrator Mike Fiure



**FREEHOLDER HALL OF FAME CLASS OF 2019**

Camden County Freeholder Edward T. McDonnell  
Camden County Freeholder Jeffrey L. Nash  
Cape May County Freeholder Gerald M. Thornton  
Essex County Freeholder Patricia Sebold  
Gloucester County Freeholder Robert M. Damminger  
Hudson County Freeholder William O’Dea  
Hudson County Freeholder Albert J. Cifelli  
Mercer County Freeholder Ann M. Cannon  
Mercer County Freeholder Lucylle R. S. Walter  
Morris County Freeholder Douglas R. Cabana  
Ocean County Freeholder John P. Kelly  
Ocean County Freeholder Joseph H. Vicari  
Union County Freeholder Alexander Mirabella.

**PETER PALMER BUSINESS ASSOCIATE OF THE YEAR AWARD**

SHI International Corporation

The 8<sup>th</sup> Annual County Vocational-Technical School Cook-Off Challenge once again stole the show as culinary art students from Bergen, Cumberland, Essex, Hudson, Mercer, Monmouth, Morris, Ocean, Passaic, Sussex, and Union counties competed for titles in taste, creativity, and food presentation. Check out the winners and their incredible dishes on the following pages.

**PEOPLE’S CHOICE AWARD**

Gold Medal - \$1000.00 Scholarship

Cumberland County Technical Education Center

*Beef Brisket served in a crispy corn tortilla with jalapeno relish and avocado crema*

Silver Medal - \$500.00 Scholarship

Bergen County Technical Schools – Paramus Campus

*Mayan Rice Ball served with braised pork, spicy sauce, & pickled red onions*

Bronze Medal - \$250.00 Scholarship

Passaic County Technical Institute

*Short Rib Voulevant*

**NJAC JUDGES TASTE**

Gold Medal

Ocean County Vocational Technical School – Brick Center

*Miniature Ramen Bowl*

Silver Medal

Cumberland County Technical Education Center

*Beef Brisket served in a crispy corn tortilla with jalapeno relish and avocado crema*

Bronze Medal

Bergen County Technical Schools – Paramus Campus

*Mayan Rice Ball served with braised pork, spicy sauce, & pickled red onions*

**NJAC JUDGES STATION DISPLAY**

Gold Medal

Sussex County Technical School

Silver Medal

Passaic County Technical Institute

Bronze Medal

Essex County Schools of Technology – West Caldwell Campus

**PROFESSIONAL CHEFS TASTE**

Gold Medal

Union County Vocational-Technical Schools

*Shrimp Ceviche served on sweet potato polenta with leche de tiger*

Silver Medal

Bergen County Technical Schools – Paramus Campus

*Mayan Rice Ball served with braised pork, spicy sauce, & pickled red onions*

Bronze Medal

Cumberland County Technical Education Center

*Beef Brisket served in a crispy corn tortilla with jalapeno relish and avocado crema*

**PROFESSIONAL CHEFS FOOD PRESENTATION**

Gold Medal

Sussex County Technical School

Silver Medal

Union County Vocational-Technical Schools

Bronze Medal

Hudson County Schools of Technology -High Tech High

Additional outstanding dishes included: Essex County Schools of Technology – West Caldwell Campus *serving Broad Street Pork Italian Bite nestle in Philly fry onion nest & served with broccoli rabe*; Hudson County Schools of Technology – High Tech High *serving Hive Tech Honey Siracha Glazed Duck*; Mercer County Technical Schools *serving Hirata Buns*; Monmouth County Vocational Education Center *serving Avocado Toast with Tuna Poke & Lobster*; Morris County Vocational School District *serving Duck Rilette*; and, Sussex County Technical School *serving Braised Easter Quail Roulade on a wild rice cake with port wine reduction*.

And special thanks to the Harmonious Hoots Union County College, my alma mater, for performing *They that Wait; More than I can Bear; and Golden*; and, to Essex County's Donald Payne School of Technology for performing *How Deep is your Love; Elijah Rock; and, If every I Fail*. They were fantastic and I could have listened to them sing all night. Our new segment of Pasta and Politics but no Pasta with host Nick Acocella, Atlantic County Executive Dennis Levinson, Monmouth County Freeholder Director Thomas Arnone, Camden County Freeholder Jonathan Young, and NJAC President and Essex County Freeholder President Brendan Gill was outstanding and we plan to make it an annual event with Nick interviewing new county leaders each year.

#### **UPCOMING NJAC EVENTS**

Please join us for NJAC's next Board of Directors meeting set for 9:30 a.m. on June 28<sup>th</sup> in Committee Room 4 of the State House Annex in Trenton.

**STATE HOUSE TRIVIA:** In addition to Cinco de Mayo, Mother's Day, and Memorial Day, did you know that May is also home to School Principals Day, World Tuna Day, Root Canal Awareness Week, No Socks Day, Dance Like a Chicken Day, and the Slugs Return from Capistrano Day?

*"If the highest aim of a captain were to preserve his ship, he would keep it in port forever." - Thomas Aquinas*