NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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STATE HOUSE NEWS

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NJAC LEGISLATIVE POLICIES

On September 13th, NJAC's Board of Directors adopted the Association's top legislative polices for the 2020/2021 legislative session as recommended by county leaders from the across the State.

1. Permanently extend the 2.0% cap on binding interest arbitration awards.
2. Require interest arbitration awards to include a full financial impact statement.
3. Authorize class 2 special law enforcement officers to provide court security.
4. Provide funding for the regionalization of new and existing county 9-1-1 centers.
5. Authorize local governments to opt-out of civil service by referendum.
6. Permit counties to share county tax administrators.
7. Restrict businesses from abusing the Open Public Records Act.
8. Require medication assisted treatment facilities to notify counties of licensure.
9. Require county site plan approval of projects affecting county roads.
10. Equalize the bid, pay-to-play, and prevailing wage thresholds.
11. Provide grant funding for shared services and regionalization initiatives.
12. Reform employee health benefits to control personnel costs.
13. Protect the long-term viability of the State's pension systems.
14. Form a task force to study and recommend Code Blue best practices.
15. Prohibit the use of unfunded mandates by legislation, regulation, and directives.

All recommendations were subject to the following parameters: 1) Recommendations must be realistic and achievable. 2) Recommendations must benefit counties in a unified manner and enjoy bi-partisan support. 3) Recommendations must be specific and tangible, so that NJAC may accurately quantify any potential cost savings or other benefits. 4) Recommendations may include current initiatives, such as permanently extending the 2% cap on binding interest awards, providing funding for the regionalization of new and existing county 9-1-1 centers, and authorizing class 2 special law enforcement officers to provide court security. NJAC will draft position statements in support of each legislative policies and will share them with members of the new Legislature and the Governor in January of 2020. *Please also note that NJAC will continue to work with our county affiliates and professionals on advancing their legislative priorities as vital members of the Association.*

INTEREST ARBITRATION

NJAC is asking county officials to adopt the following resolution, which urges Governor Phil Murphy and the New Jersey State Legislature to enact legislation that will permanently extend the 2.0% cap on binding interest arbitration awards; and, to further require the Public Employment Relations Commission (PERC) to include in all arbitration awards: a full financial impact statement.

WHEREAS, the failure to permanently extend the 2.0% cap on binding interest arbitration awards has inequitably altered the collective bargaining process in favor of labor at the expense of property taxpayers as police and fire unions have been aggressively leveraging its expiration to win contracts that far exceed the 2.0% spending cap imposed on local governing bodies for nearly a decade; and,

WHEREAS, between 2011 and 2017, the 2.0% 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 as parties were closer to an agreement from the onset of negotiations; and,

WHEREAS, the 2.0% 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 2.0% spending cap; and,

WHEREAS, recent arbitration decisions, which do not readily disclose the total cost of the contract, underscore the vital need to restore the cap as at least one of the awards included annual salary increases that range from a minimum of 8.54% to a maximum of 20.54% when step increases are included with the widely reported annual raises of 2.0% to 2.25%; and,

WHEREAS, these substantial annual salary increases do not include longevity pay, employer pension contributions of which equal approximately 30.0% of the annual salary of a public safety sector employer, and an additional 20.0% to 35% in employer health benefit contributions; and,

WHEREAS, the equation is clear, failure to permanently extend the 2.0% cap on binding interest arbitration awards is unsustainable without increasing property taxes, reducing non-union staff, or eliminating essential services.

NOW, THEREFORE, BE IT RESOLVED that the "Board of Chosen Freeholders of …" does in fact, hereby urge Governor Phil Murphy and the New Jersey State Legislature to enact legislation that will permanently extend the 2.0% cap on binding interest arbitration awards that expired in 2017; and, to further require the Public Employment Relations Commission (PERC) to include in all arbitration awards: a full financial impact statement that summarizes the total cost of all awards in a clear, concise, and transparent manner.

BE IT FURTHER RESOLVED that certified copies of this Resolution are forwarded to the Governor of the State of New Jersey Phil Murphy, the President of the New Jersey State Senate Stephen M. Sweeney, the Speaker of the General Assembly Craig J. Coughlin, and the New Jersey Association of Counties (NJAC).

PATH-TO-PROGRESS

NJAC, the New Jersey State League of Municipalities (NJLM), and the Government Finance Officers Association of New Jersey (GFOA) recently met with leadership in the Senate Majority office to discuss the following legislation contained in the Senate President's Path-to-Progress initiative.

- **SENATE, NO. 3760** *(Ruiz D-29/Singleton D-7),* which would require municipalities, counties, school districts, and local authorities to regularly meet to discuss shared service agreements. Given our collective concerns that this legislation would force elected officials to meet multiple times each year to discuss shared services and would penalize municipalities by withholding 5% of their State aid for failing to comply, we recommended incorporating S-3760 into **SENATE, NO. 3764** *(Andrzejczak D-1/Bucco R-25),* which would require counties to appoint a shared services coordinator and would appropriate $2.0 to fund the appointments. Instead of requiring multiple meetings subject to the Open Public Meetings Act, we recommended to require a county shared services coordinator, as part of their job description, to meet with municipal and school officials on a regular basis. We also recommended to include in any grant funding, those counties with existing shared services coordinators. S-3760 is on Second Reading and S-3764 is currently in the Senate Budget and Appropriations Committee awaiting consideration.

- **SENATE NO. 3762** *(Sweeney D-3/O'Scanlon R-13),* which would concern the assessment of real property. This legislation would allow counties to adopt the provisions of the "Property Tax Assessment Reform Act" of 2009, which was previously limited to a pilot program in Gloucester County. Although the measure is permissive and would allow counties to voluntarily make changes to the assessment of real property, the bill would appear to limit reform to a certain model that may not sense for all governing bodies. As such, we recommended to authorize each county to establish a property tax assessment program that meets the needs of the respective county, municipalities within the county, and property taxpayers. We also recommended to include an appropriation to offset any costs associated with implementation. S-3762 is currently in the Senate Budget and Appropriations Committee awaiting consideration.

- **SENATE, NO. 3767** *(Sarlo D-36/Thompson R-12),* which would establish a pilot program to permit the use of generally accepted accounting principles in certain county and municipal annual financial statements. Although the measure is permissive, finance officers across the State see no tangible benefit in making the transition that would require retraining and a system-wide change for the sake of change. GFOA submits that our concerns were duly noted; and, S-3767 is currently on Second Reading in the Senate.

- **SENATE, NO. 3768** *(Singleton D-7/Bateman R-16),* which would require shared service agreements to include, in addition to what's already required under current law: performance evaluation criteria, procedures for determining fee adjustments, alternative dispute resolution procedures, and exit procedures to govern dissolution agreements. GFOA does not support this legislation as it would make entering into a shared service agreement more difficult as opposed to streamlining the already cumbersome process. S-3768 is currently on Second Reading in the General Assembly.

LANDFILL GAS TO ENERGY FACILITIES

NJAC is asking the Legislature to take no action on Governor Murphy's conditional veto of **ASSEMBLY, NO. 3726** *(Kennedy D22)(Smith D-17/Bateman R-16)*, which would require large food waste generators to separate and recycle food waste under certain circumstances.

After nearly five years of advocacy, in February of 2018, the Senate Environment and Energy Committee recognized the need to hold harmless and exempt existing landfill gas to energy facilities (LGTE) that committed considerable public resources to cutting edge recycling and solid waste management activities and amended the bill accordingly. Last minute amendments to the bill approved by the Legislature in June of 2019 provided similar protections to resource recovery facilities that utilize certain anaerobic digestors. Although NJAC has not taken a position on the latter changes, environmentalists strongly oppose the last-minute exemption but have remained neutral on the LGTE exemption.

As has been well documented, Atlantic, Burlington, Cape May, Cumberland, Middlesex, Ocean, Monmouth, Salem, and Sussex counties have invested substantial taxpayer dollars into state of the art 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 the Governor's conditional veto would ultimately divert critical volumes of decomposing organic food waste from county LGTE facilities and adversely affect the quality and quantity of the gas relied upon – jeopardizing their economic viability. As such, NJAC is asking the Legislature to take no action on the conditional veto of A-3726 as it would cause irreparable harm to county LGTE facilities that have dedicated valuable property taxpayer dollars to cutting edge energy producing, recycling, and solid waste management activities. If the Legislature takes no action on the measure, the bill will expire at the end of this legislative session.

PHARMACY BENEFIT MANAGERS

NJAC is also asking the Legislature to take no action on Governor Murphy's conditional veto of **ASSEMBLY, NO. 3717** *(Mukherji D-33/Downey D-11)(Greenstein D-14/Gopal D-11),* which would prohibit pharmacy benefit managers from making certain retroactive reductions in claim payments to pharmacies and would further require pharmacy benefit managers to disclose certain product information.

NJAC is primarily concerned that A-3717 would result in higher health benefit costs for self-insured local government health plans that offer pharmacy benefits to members. Although the conditional veto would generally exempt Medicaid from its' requirements and the legislation as amended earlier in the legislative process would exempt the State Health Benefits Plan (SHBP), the School Employees Health Benefits Plan (SEHBP), and self-funded health care plans governed by the Employee Retirement Income Security Act (ERISA), A-3137 would not provide the same level of protection to local governing bodies that maintain cost-effective self-insured plans, which provide premium health benefits to public workers across the State. Since most county governments offer employee health benefits coverage through self-insured plans, the seemingly arbitrary exclusion of such plans would place an inequitable financial burden on these counties and their employees.

In general, the bill would prohibit pharmacy benefit managers from retroactively reducing payment on a properly filed claim for payment by a pharmacy. These retroactive reductions in payment are often referred to as direct and indirect remuneration (DIR) fees. Since these fees are commonly applied retroactively, and in many cases months after the claim is made, this process makes it difficult for pharmacies to operate with predictable revenues. More specifically, the bill would provide that, after the date of receipt of a claim for payment made by a pharmacy, a pharmacy benefits manager may not retroactively reduce payment on the claim, either directly or indirectly, through aggregated effective rate, direct or indirect remuneration, quality assurance program, or otherwise, except if the claim is found not to be a clean claim during the course of a routine audit performed pursuant to an agreement between the pharmacy benefits manager and the pharmacy. Under the bill, when a pharmacy adjudicates a claim at the point of sale, the reimbursement amount provided to the pharmacy by the pharmacy benefits manager would constitute a final reimbursement amount.

PLUG PENSION HOLE BY CURBING TRADITIONAL PLAN? IT MAY NOT BE BEST STRATEGY
Samantha Marcus, NJ Advanced Media, September 9, 2019

In the waning days of his administration, Gov. Chris Christie left his successor Phil Murphy a parting gift, of sorts. For years, New Jersey had assumed its public pension fund would make more money on its investments than it could realistically expect. So, Christie went ahead and changed it. Without notice, the outgoing governor cut how much the pension system should expect to earn on investments from 7.65 percent to 7 percent a year. Doesn't seem like much, right? But Christie's sudden move — and Murphy's reaction to it — set into motion a complex and controversial budget quagmire that will soon become a ticking $1.2 billion time bomb for New Jersey. When it will explode: 2022 (the year after the next gubernatorial election). At stake: Benefits to nearly 800,000 active and retired state and local workers. A likely result: Your state taxes could go up. And how the state will manage to pay the bill when it comes due remains to be seen.

Midway through December 2017, about a month before Christie left office, the trustee boards overseeing the various state and local pension funds were summoned to adopt their annual audit reports, months earlier than they would typically meet. There, they learned Christie's administration had tweaked what's called the assumed rate of return — how much money the pension system expects to get from its investments — one final time. The change was praised by the pension fund actuaries, who say expecting a 7 percent return on investments is closer to what other large funds can reasonably figure they'll get over the long term. But there's an impact to all of this, which means the decision sent ripples through the pension system. When you assume you'll reap more from investments, it makes the pension funds look healthier than they really are, even if it isn't realistic. When you expect less, the system looks less healthy.

That all figures into the calculations that determine how much money state and local governments will need to pay for benefits to nearly 800,000 active and retired workers. In short, expecting less in investments means governments would have to pay more to keep the pension system afloat. Christie's move would have cost local governments, which by law have to pay the full contribution recommended by actuaries, an additional $422.5 million in Murphy's first year, according to an NJ Advance Media analysis. And it would have increased the state's actuarially recommended pension contribution by $390.3 million that year. Christie's last-minute move would have had Murphy foot that bill in his first budget.

While Christie's parting gift was a surprise, Murphy's reaction was no shocker. Declaring that Christie's fix placed an "undo stress" on the governments that would have to find more than $800 million in extra cash, Murphy reversed Christie's order.
Christie's move from 7.65 percent to 7 percent was done "precipitously," state Treasurer Elizabeth Muoio said at the time. Instead, the Murphy administration announced it would embark on a more responsible path to 7 percent. A Treasury Department spokesman, William Skaggs, said in a statement that Murphy's administration "has made it abundantly clear, when it comes to the state's pension responsibilities, the days of 'kicking the can down the road' are over."

"Phasing down the assumed rate of return over several years will ease the impact on local government budgets as contribution requirements increase over time," he said, adding that Murphy is sending a "clear signal that the old way of doing business is over." The rate was cut to 7.5 percent for Murphy's first budget year, and after a phase-in, won't drop to Christie's suggested 7 percent until the fiscal year 2023 budget that is passed in June 2022, the first one after the next governor's election. From the state budget that will be enacted by July 2021 to the one that will take effect in July 2022, the rate will decrease from 7.3 percent to 7.0 percent. That's considered a big dip for just one year.

And there's a double-whammy that year. It's also the same budget that is supposed to finally make the state's first full recommended pension contribution after governors and lawmakers shortchanged the system for decades. All together, the payment will be about $6.6 billion, a year-over-year increase of more than $1.2 billion. The time bomb will detonate. State Sen. Declan O'Scanlon, R-Monmouth, said the state is in store for a "devastating fiscal hit." He accused Murphy of "blatant political manipulation of our pension system that should outrage the very unions the governor continuously panders to and that continuously bow down to him." Christie's move, he said, "regardless of the political motivation ... was sound policy because that's a more realistic rate of return." Murphy's solution "is a blatant way to kick the can down the road, the cost of which is the soundness of our pension," he added.

Senate President Stephen Sweeney, D-Gloucester, says New Jersey can't afford it. "Christie lowered it to 7 percent when he was walking out the door, which created an enormous liability," Sweeney said. "So they said we're going to restructure it to put it back to 7.5 and we'll bring it down over a period of time. But they're doing it at a time when we really can't afford them to do that." "Doing structural reforms to the pension would probably make it better, but you see how far we're getting with that right now," he added. So, how will the state pay that bill when it comes due? Sweeney, a Democrat who's pushed for big changes to public workers' retirement benefits, says Murphy's action appears to set the stage for a tax increase. "I think it's great to reduce the assumption rate, but by increasing the liability at the same time when you don't have the ability to pay and you're refusing to do structural reforms, you're already ... putting yourself in another hole for a tax increase, and saying you have to because of the pension system," he said.

In a statement, a spokeswoman for the state treasurer said Murphy's administration also is "acutely aware of our growing fiscal needs, particularly our pension costs as we continue down the path to the full actuarially recommended contribution." That's one reason why the governor is pushing to grow the economy, find budget savings and increase such taxes as the millionaires tax, spokeswoman Jennifer Sciortino said.
What does she mean by economic growth? Each year, state finances benefit from some degree of growth in the economy. This year, Murphy's administration is projecting 3.5 percent growth in tax revenues. That's more money the state will take in from corporations, gross income taxes, sales taxes and other revenue sources.

So natural economic growth will do some of the work. But spending all of that new tax revenue on pensions would leave no cash for new initiatives or the normal year-to-year increases in the cost of doing business. And that's if the economy keeps growing and tax revenues keep rising. Economists, however, are predicting the country could slip into a recession by 2020. Wall Street rating agencies are already warning that a downturn will put New Jersey's pension payment that year at risk. "We believe that the record national economic expansion has helped New Jersey achieve its current contribution percentage, but reaching full … funding might prove difficult if a recession intercedes between now and (fiscal year) 2023," S&P Global said in a July report.

There's a better way, Sweeney said. His proposals to reduce the cost of government in New Jersey — he calls it the Path to Progress — have gotten a lot of attention, mostly for the headline-grabbing reforms to public-worker retirement and health care benefits. But a much more technical and overlooked piece of his pension overhaul would change — again — the scheduled cuts to the assumed rate of return. He said a slower phase-in that would take an extra year to get to 7 percent can avoid the $1.2 billion cliff. "We could fix this without raising taxes if it was done in a better way," he said. "But they're looking at it just to put themselves in a position for tax increases because, I think, that's all this administration talks about is raising taxes."

NJ PUBLIC WORKER HEALTHCARE COSTS TO DECREASE NEXT YEAR

John Reitmeyer, NJ Spotlight, September 9, 2019

Health-insurance premium rates are on course to drop next year for many public workers in New Jersey, thanks to recent administrative changes that are now starting to impact the bottom line. But even with the lower rates — and anticipated savings for many taxpayers as a result — debate over the cost of employee benefits is expected to heat up in Trenton in the coming months. (State Department of Treasury officials did not provide any estimate on the projected taxpayer savings.) The new premium rates for 2020 were approved last week by the joint management and labor commissions that help administer health-insurance programs for employees of both local governments and school districts where the employees are insured through the state-level pools. Local governments and school districts also have the option of using private brokers to arrange employee insurance plans, and many choose to do so.

For active workers and retirees covered by the State Employees' Health Benefits Program, the rates for medical and prescription coverage are set to drop by a combined 3.8 percent next year, according to information released late last week by the Treasury. For all workers and retirees covered by the state School Employees' Health Benefits Program, rates will be dropping by a combined 2.3 percent. Gov. Phil Murphy touted the lower rates as evidence that fiscal policies enacted since he took office early last year are generating savings for taxpayers. (In New Jersey, employee healthcare costs are shared by both workers and their government employers.) But lawmakers who've pressed for more efficiencies in employee health-insurance offerings in recent years also took credit for the savings, and said they underscore their own calls for more drastic reform.

Not all employees of local governments and school districts participate in the state-level health-insurance programs, but those that do see their annual rates set by the joint labor and management boards that meet in Trenton. Local government employees are eligible to enroll in the State Employees' Health Benefits Program and school-district employees are eligible to enroll in the School Employees' Health Benefits Program. (More than half of local government employees are enrolled in the State Employees' Health Benefits Program, and roughly 30 percent of school-district employees are enrolled in the School Employees' Health Benefits Program.) Under the latest rates approved by those commissions, the medical and prescription rates for active school-district employees enrolled in the State Employees' Health Benefits Program are dropping by 4.3 percent. Rates are also remaining flat for local-government early retirees and Medicare retirees, yielding the combined 3.8 percent reduction.

Meanwhile, for active workers in the School Employees' Health Benefits Program, rates are dropping by 4.5 percent next year. Early retiree rates are also dropping, by 4.8 percent. But Medicare retiree rates will rise by 8.4 percent, yielding the combined 2.3 percent overall reduction. (Officials blamed the increase for Medicare retirees on a new federal tax required under the Affordable Care Act.) Among the administrative reforms credited with helping to generate the lower rates are the new way the state manages both prescriptions drug contracts and out-of-network services. They include incentivizing vendors to find savings, Treasury officials said. Efforts have also been made to improve state oversight of medical billing and insurance-enrollment practices and conduct audits to identify ineligible enrollees, they said.

"The fiscally responsible path we're putting New Jersey on — a dogged pursuit to lower the cost of healthcare, collaboration with our public-union partners, and bolstering our pension system — is the right one," Murphy said in a statement. "This is certainly good news for property taxpayers who have become accustomed to shouldering cost increases year after year," state Treasurer Elizabeth Maher Muoio. Senate President Steve Sweeney (D-Gloucester), in response to Treasury's announcement, also heaped praise on lawmakers like Sen. Paul Sarlo (D-Bergen) for helping to bring attention to the need to make the administrative changes to find savings. "The 4 percent average reductions in healthcare premiums for employees enrolled in the state health benefit plans in 2020 is just the first down payment on hundreds of millions of dollars in savings on prescription and medical payments that will be produced through the Pharmacy Benefits Manager and Third-Party Administrator programs' claims monitoring," Sweeney said. It's no surprise that Murphy and Sweeney viewed the savings in different ways as the two Democratic leaders have been locked in an ongoing debate about the cost of public-worker benefits for well over a year.

At the heart of their conflict is a strain on the state budget caused by an ongoing ramp-up in state pension contributions, which was set in motion by former Republican Gov. Chris Christie. The ramp-up is intended to address an unfunded pension liability that totals more than \$100 billion by some estimates. But unfunded healthcare costs for retirees are also a significant challenge for the state, and that liability is estimated at nearly \$100 billion. (The annual state budget is \$38.7 billion.) In the face of those fiscal challenges, Murphy, who took office in 2018, promised to re-establish a more cooperative relationship with public-worker unions after eight years of largely combative interactions between management and labor during Christie's tenure. Murphy believes labor and management can work together to find ways to make savings without drastically cutting benefits.

But Sweeney, a veteran Senate leader, has taken the position that more drastic reform is needed to keep employee healthcare and pension costs from taking up too big a share of the annual budget; pension costs alone are expected to rise well above \$4 billion when fiscal year 2021 begins next year. To help reduce spending on employee benefits, Sweeney is backing a series of reforms that were put forward last year by a team of fiscal-policy experts he convened; these were included in a report called the “Path to Progress.” One of the proposals calls for the establishment of a new hybrid retirement system for many new workers and those with less than five years of service that would see teachers and other government workers — but not police officers, firefighters and judges — receive a defined-benefit pension on only up to $40,000 of salary.

Other reforms backed by Sweeney would impact public-worker healthcare coverage, including a call to move workers from what would be considered “platinum” level coverage under the federal Affordable Care Act to “gold” level coverage. The classifications generally relate to how much of the cost of coverage is picked up by the patient, with platinum-level coverage leaving 10 percent to the patient and gold level leaving 20 percent. But Murphy has not embraced the benefits changes backed by Sweeney and has instead pointed to the ongoing savings that his administration has pursued by working cooperatively with unions like the Communications Workers of America and the New Jersey Education Association. The governor has also been pushing for higher taxes, including the establishment of a millionaires tax, to help the state afford a ramp-up to full funding of the annual pension contribution by fiscal 2023.

Just last week, Murphy threw his support behind a new healthcare proposal that’s gaining steam in the state Assembly that would ease healthcare costs for teachers, in part by linking their contributions to salaries instead of premiums. That plan, which would undo some changes that were championed by Christie in a controversial 2011 law known as Chapter 78, is opposed by Sweeney.

UPCOMING NJAC EVENTS

Make sure to visit our website at www.njac.org for additional details about the “New Jersey County Administrators Program” set for September 27th and October 4th. And, we hope you’ll join us on December 20th for our “Summit on the Suicide Crisis,” where we’ll examine the alarming increase in suicide rates among teenagers, adults, veterans, and law enforcement professionals. Registration is free for all public officials; however, space is limited, and you *must* register before the event.

STATE HOUSE TRIVIA: *Did you know* that the top five best things about the fall include: 5) hayrides 4) pumpkin picking 3) football and macaroni on Sundays 2) Halloween 1) back to school.

"Ability is what you’re capable of doing. Motivation determines what you do. Attitude determines how well you do it.” *Lou Holtz*