

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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STATE HOUSE NEWS

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ELECTRONIC BOND ORDINANCES

On September 21st, the Senate Community and Urban Affairs Committee favorably reported **SENATE, No. 818** (*Lagana D-38*), which would permit the transmittal of certain proposed bond ordinances by electronic mail.

Along the lines of similar NJAC legislative initiatives that were signed into law such as authorizing local governing bodies to pay employees by direct deposit and their bills by electronic fund transfer technologies, NJAC supports this important and timely legislation as it would streamline and modernize the antiquated bond notification process. Under current law, a board of chosen freeholders in a charter county (Atlantic, Bergen, Essex, Hudson, Mercer, and Union) must provide, by regular mail within one week prior to the date of a hearing on a proposed bond ordinance, a copy of the proposed ordinance to the clerk of each municipality within the county. As ordinances typically range from 10 to 25 pages with anywhere from 15 to 70 municipalities located within the above counties, this legislation would save valuable time, resources, and property taxpayer dollars. S-818 is on the Second Reading in the Senate and the companion version **ASSEMBLY, No. 2284** (*Mazzeo D-2/Armato D-2*) is in the Assembly State and Local Government Committee awaiting consideration. Special thanks to Atlantic County Clerk of the Board Sonya Harris for coming up with the idea and to the sponsors for their leadership in introducing the measure on NJAC's behalf.

COVID-19 WORKERS COMPENSATION CLAIMS

On September 14th, Governor Murphy signed into law **SENATE, No. 2380** (*Sweeney D-3/Scutari D-22*)(*Giblin D-34/Burzichelli D-3*), which creates a rebuttable presumption concerning COVID-19 employee benefits under certain circumstances.

In summary, this new law establishes a rebuttable presumption that if health care workers, public safety workers, or other essential employees contract coronavirus, the virus would be considered work-related and fully compensable for the purpose of workers' compensation benefits and other employment benefits provided for work-related injuries and illnesses. The law defines an essential employee as an employee in

the public or private sector, who during a state of emergency: is a public safety worker or first responder, including any fire, police or other emergency responders; is involved in providing medical and other healthcare services, emergency transportation, social services, and other care services, including services provided in health care facilities, residential facilities, or homes; performs functions which involve physical proximity to members of the public and are essential to the public's health, safety, and welfare, including transportation services, hotel and other residential services, financial services, and the production, preparation, storage, sale, and distribution of essential goods such as food, beverages, medicine, fuel, and supplies for conducting essential business and work at home; or, is any other employee deemed an essential employee by the public authority declaring the state of emergency. NJAC is generally concerned that this new law will ultimately increase county expenditures because it shifts the burden of proof from workers to employers in workers compensation cases, which in turn, will most certainly increase the number of claims for benefits filed by employees.

RETIRED PUBLIC EMPLOYEES

On September 24th, both houses passed and sent to the Governor **ASSEMBLY, No. 3914** (*Taliaferro D-3/Moen D-5*)(*Greenstein D-14/Bucco R-25*), which would provide employment, retention, and benefits, during the COVID-19 public health crisis for certain public employees.

In part, this legislation would provide for the temporary employment of former public employees who retired from the Public Employees' Retirement System (PERS), the Police and Firemen's Retirement System (PFRS), and the State Police Retirement System (SPRS), during the COVID-19 public health emergency or State of Emergency declared by the Governor under Executive Order No. 103 of 2020. The bill would permit a public employee to be eligible for participation in the State Health Benefits Program (SHBP) immediately upon hire, provided such person is, or was hired, as a new employee on or after February 3, 2020 to provide services needed because of the COVID-19 pandemic. During the COVID-19 public health emergency or State of Emergency declared by the Governor under Executive Order No. 103 of 2020, the bill would further remove the limit on the number of Class Two special law enforcement officers that may be employed by a local governing body. As such, any person who has completed a training course commonly referred to as the Alternate Route Training (ART) would be eligible for appointment as a Class Two special law enforcement officer by a local governing body for such time as the current public health emergency or State of Emergency remains in effect. NJAC is generally supportive of the measure as it provides counties and municipalities with the flexibility to hire from an expanded pool of candidates at time when local governing bodies are struggling to provide services with limited resources in terms of employee availability and scheduling. Governor Murphy is expected to sign this legislation into law.

TRANSPORTATION FUNDING FOR THE AGED AND DISABLED

On September 24th, the General Assembly passed **SENATE, No. 2400** (*Sweeney D-3/Brown R-2*)(*Greenwald D-6*), which would provide for temporary modifications to the payment and use of certain casino gaming taxes and fees due to the COVID-19 public health crisis.

Thank you to Senate President Sweeny as the bill's sponsor for addressing NJAC's initial concerns with the measure as introduced, and to NJ COST of their steadfast advocacy. Of significance to county paratransit services, the legislation as amended would require appropriations for State Fiscal Year 2021 from the Casino Revenue Fund for the Senior Citizens and Disabled Residents Transportation Assistance Program (SCDRTAP) to be given priority consideration to ensure that the program receives an amount equal to the amount received in State Fiscal Year 2019. NJAC is grateful for the changes as they would guarantee critical funding for county paratransit services that provide life sustaining transportation for senior citizens, persons with disabilities, veterans, and dialysis patients. Although the types of transportation services may vary somewhat from county-to-county, the list below provides a general, but not exhaustive, summary of the rides available to the State's most vulnerable population: medical appointments for hemodialysis; chemotherapy; radiation and physical and mental therapies; employment and educational training opportunities; veteran services; recreational activities; meals on wheels; and visitation to loved ones in nursing homes and hospitals. Earlier this month, the Assembly Budget Committee further amended the bill as passed by the Sente in June before passing the measure yesterday. The Senate is expected to concur with the changes and send the bill to the Governor for his signature.

SUBCONTRACTING AGREEMENTS

On September 11th, Governor Murphy signed into law **ASSEMBLY, No. 4140** (*Freiman D-16/Lopez*) (*Bucco R-25/Singleton D-7*), which prohibits public school districts and institutions of higher education from using subcontracting agreements that may affect employees in a collective bargaining unit under certain circumstances.

Along with a broad-based coalition led by the New Jersey School Boards Association (NJSBA), NJAC respectfully opposes the new law as it effectively prohibits the use of subcontracting agreements used by public school districts and institutions of higher education. Although the measure may not directly impact county governing bodies, it now prevents the use of subcontracting agreements by county special services school districts and county colleges. As has been well documented, county governments provide substantial funding for county colleges and transportation services for county special services school districts and local government bodies across the State save valuable property taxpayer dollars, without impacting the level of service provided, by using subcontracting or privatization agreements for the delivery of food services, custodial services, transportation services, and much more. As counties, municipalities, and school districts struggle to make ends meet, and will so for the foreseeable future,

this law eliminates the use of a viable option for the delivery of services in a cost effective and efficient manner.

In general, the new law prohibits an employer from entering into a subcontracting agreement which may affect the employment of any employees in a collective bargaining unit under any circumstances during the term of an existing collective bargaining agreement covering the employees. The measure defines "employer" to include any local or regional school district, educational services commission, jointure commission, county special services school district, county college, or board or commission under the authority of the Commissioner of Education or the State Board of Education. The measure permits an employer to enter into a subcontracting agreement for a period following the term of a current collective bargaining agreement only if the employer: provides notice to both the majority representative of employees in each collective bargaining unit and to the Public Employment Relations Commission at least 90 days prior to any effort by the employer to seek the subcontracting agreement; and, offers the majority representative the opportunity to meet and discuss the decision to subcontract and negotiate over its impact. The employer's duty to negotiate over the impact of the subcontracting would not preclude the employer's right to subcontract should no successor agreement exist.

The law will also make all actions of an employer regarding subcontracting, except for those expressly required or prohibited by the bill, mandatory subjects of negotiations. Each employee replaced or displaced because of a subcontracting agreement will retain all previously acquired seniority and would have recall rights when the subcontracting terminates. The law further provides that an employer who violates the act has committed an unfair practice and may be subject to an unfair practice charge with the Public Employment Relations Commission, under which the employee may be entitled to a remedy including, but not limited to: reinstatement, back pay, back benefits, back emoluments, tenure and seniority credit, and attorney's fees.

NURSING HOME STAFFING RATIOS

On September 24th, the General Assembly passed **SENATE NO. 2712** (*Jimenez D-32/Johnson D-37*) (*Stack D-33/Diegnan D-18*), which would establish minimum ratios for the number of certified nurse aides (CNAs) to the number of residents in nursing homes.

Currently, Atlantic, Cape May, Gloucester, and Passaic counties still operate nursing homes and have long struggled with CNA staffing shortages. Although these facilities certainly appreciate the intent of the legislation and have adopted innovative strategies to deal with the shortages such as using volunteers, changing shifts, and negotiating with LPN unions to conduct certain CNA activities, this legislation would require hiring a minimum of 9-11 new CNAs per facility at an estimated cost of \$400,000.00 - \$500,000.00 per year (*\$28,000.00 per year for the*

average CNA salary + \$14,000 per year for health, pension, and other fringe benefits). County nursing homes have also struggled to find the resources necessary to maintain a consistent level of quality care residents deserve and this legislation may force these counties to sell their nursing homes as boards of chosen freeholders continue to struggle with finding a balance between what is fair to taxpayers and what is right for the senior and disabled population.

Importantly note that because of Managed Long-Term Care and devastating cuts to Medicaid funding, 8 counties have sold their nursing homes since 2012, while the remaining have been forced to reduce, privatize, or eliminate critical housekeeping, food, social, and other necessary services simply to make ends meet. As has been well documented, county operated nursing homes provide a safety net of care for low income patients with medical conditions that typically prevent their admission to privately owned nursing homes. In fact, approximately 80% of patients that currently reside in county operated nursing are classified as Medicaid patients without the necessary resources to afford health insurance on their own.

Unlike most privately-owned nursing homes that carry a much higher percentage of private pay patients, county operated nursing homes maintain an average of 10% of its population in this capacity. Importantly, the core mission of county operated nursing homes is to provide a high standard of nursing care to residents and their families. To achieve this objective and make readily available an essential community service, county operated nursing homes retain qualified staff that offer a continuity of care as dedicated public servants. Moreover, county operating nursing homes maintain a higher than average rate of nursing hours per patient; offer comprehensive rehabilitation programs and provide progressive treatment initiatives with new technologies. Most notably, county operated nursing homes are committed to providing a valuable and much needed public service. Governor Murphy is expected to sign this measure into law.

WORK FIRST NEW JERSEY

On September 24th, the both houses passed and sent to the Governor **SENATE, NO. 2178 (Vitale D-19/Rice D-28)(Vainieri D-37/Reynolds-Jackson D-15)**, which repeals the family caps in the Work First New Jersey Program (WFNJ). In general, this legislation would repeal the section of WFNJ, which currently prohibits a household from gaining additional cash assistance benefits with the birth of child. WFNJ under the Temporary Assistance to Needy Families (TANF) program provides cash and other assistance to low income families with dependent children. The amount of monthly cash assistance provided to a household by the program is based on the household's size. However, current law prevents the amount of the grant from increasing as the result of the birth of a child, unless the child is born fewer than 10 months after applying for benefits or the birth of the child is a result of rape or incest. Governor Murphy is expected to sign the measure into law.

UPCOMING NJAC EVENTS

Please make sure to visit our website at www.njac.org for additional details about NJAC's outstanding lineup of virtual workshops for the fall of 2020 where we'll host (7) 60-minute long sessions focused on COVID-19 related matters such as emergency management, procurement, public health, human and social services, budgeting, labor, and general crisis management.

STATE HOUSE TRIVIA

Did you know that the heaviest pumpkin ever recorded weighed 2,624 pounds and was grown by a farmer in Belgium?

"The price of success is hard work, dedication to the job at hand, and the determination that whether we win or lose, we have applied the best of ourselves to the task at hand." Vince Lombardi