

# NEW JERSEY ASSOCIATION OF COUNTIES

*County Government with a Unified Voice!*

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## STATE HOUSE NEWS

*December 23, 2021*

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### DANIEL'S LAW

On December 20th, the General Assembly passed **A-6171** (*Quijano D-20/Lopez D-19*), which would create the Office of Information Privacy, and would upon request, require the redaction of the home addresses and telephone numbers of judges, prosecutors, and law enforcement officers pursuant to Daniel's Law signed into law by Governor Murphy in 2020. As recommended by our county counsels, this legislation would create an "opt-in system" as a more effective way for county governments to implement the 2020 law named in honor of Daniel Anderl, the late son U.S. District Court Judge Esther Salas, who was tragically shot and killed in his home by an assailant that compiled personal information about his mom.

In general, this legislation would create the Office of Information Privacy (OIP) in the Department of Community Affairs (DCA), OIP would be led by a Director appointed by the Commissioner of DCA, who would establish a secure portal through which an authorized person may submit, withdraw, or revoke a request for the redaction or nondisclosure of a covered person's home address from certain records and Internet postings. A person must submit a request through the portal and be approved by the Director in order for an address to be subject to redaction or nondisclosure. Under the bill, a "covered person" would be an active, formerly active, or retired judicial officer, prosecutor, or law enforcement officer, and any immediate family member residing in the same household. An "immediate family member" would include any family member related by blood or by law to judicial officer, prosecutor, or law enforcement officer and who lives in the same residence. An immediate family member who no longer resides with the judicial officer, prosecutor, or law enforcement officer must notify the office within 30 days of that occurrence.

The bill would also require the Director to establish a process by which a person or entity may request receipt of an unredacted record and a process for evaluating any other exceptions to the requirement for redaction or nondisclosure under the bill. The measure would require any person seeking redaction or nondisclosure to acknowledge in writing that the person understands that certain rights, duties, and obligations are affected as a result of the request, which would include: the receipt of certain notices from non-governmental entities under the Municipal Land Use Law; the signing of candidate petitions; eligibility for election to public office, or the appointment to certain public positions; the sale or purchase of a home or other property, and the recordation or notice of any encumbrances on real or other property; the

ability to be notified of any class action suit or settlement; and, any other legal, promotional, or official notice which would otherwise be provided.

Under the bill, unredacted voter records may only be provided to candidates, chairpersons of the county or municipal political party committees, or any other person serving as an elections' challenger. Documents affecting title to real property may instead include redactions of names or other information, as determined by the Director of the Division of Taxation, and may only be provided as unredacted to title insurance companies and agents, approved attorneys, mortgage guarantee insurance companies, registered title search business entities, which are newly defined in the bill, real estate brokers and salespersons, and any person making or receiving an offer for the purchase of property. Unredacted addresses may also be provided to labor unions, government agency vendors and contractors, and upon court orders.

The following documents would not be subject to redaction: business filings, candidate petitions; records evidencing encumbrances on real or other property, and unclaimed property, and, when viewed in person, property tax assessment lists and the indexes of recorded documents maintained by county recording officers. Records that are very old or for other reasons can only be viewed in person may be left unredacted, but the government records custodian must make every effort to hide a protected address when allowing an individual to view the record. As defined in the bill, a title search business entity means any person or entity organized under the laws of this State or another state for the primary purpose of determining the existence of any lien, lawsuit, lease, easement, mortgage or other encumbrance or restriction, or ownership interest, on any property and regularly conducts business with any title insurance company or title insurance agent. The bill would require title search business entities to register with and be subject to regulation by the Department of Banking and Insurance. The business entities will also register with the Division of Revenue and Enterprise Services in the Department of the Treasury, or the county clerk, as appropriate.

The bill would prohibit State and local government agencies from knowingly posting protected home addresses on the internet 31 days or more after an address is granted protection by the Office of Information Privacy, unless the agency receives written permission otherwise. Public agencies are also to redact or cease disclosing protected information in records within 30 days of approval of a request by the Office of Information Privacy. The companion version in the **SENATE S-4219** (*Cyran D-20/Pou D-35*) is currently in the Senate Judiciary Committee awaiting consideration. The measure would take effect immediately and be retroactive to December 10, 2021. Both houses are expected to pass the legislation and Governor Murphy is expected to sign it into law next month.

#### **HIRING COUNTY CORRECTIONAL POLICE AND SHERIFF OFFICERS**

Also on December 20th, the Senate amended and passed **S-4009** (*Bucco R-25/Sweeney D-3*), which would permit an exemption from the civil service examination for entry level sheriff officers and county correctional police officers.

The New Jersey Association of Counties (NJAC) and the New Jersey County Jail Wardens Association (NJCJWA) strongly support this initiative as one of our top legislative priorities along with **S-3672/A-6009** (*Singleton D-7*)(*Moen D-5*). For corrections, this legislation would require the Civil Service Commission (CSC) to exempt from the civil service examination, any person for an entry-level county correctional police officer position provided the person successfully completes a full basic training course at a school authorized by the New Jersey Police Training Commission. The measure would further permit a county correctional facility to hire a person exempt from the requirement to take the examination for an entry-level county correctional police officer position if the county governing body adopts a resolution authorizing the hiring and enacts both conflict of interest and nepotism policies accordingly.

Under current law, a person must pass the civil service examination prior to becoming eligible for employment as an entry-level county correctional police officer. NJAC and NJCJWA support this important and timely initiative as it would streamline an antiquated hiring process that has created double digit job vacancy rates at county correctional facilities across the State. In addition to placing county correctional police officers in harm's way as they must work longer hours or face being short staffed, the CSC's outdated hiring process forces county jails into paying substantial overtime costs at an estimated \$23.5 million in 2019 alone.

For sheriffs, the bill would provide that a sheriff's investigator in a sheriff's department would be eligible for transfer to a sheriff's officer position in that same department provided that: the investigator has completed at least one year in the position of sheriff's investigator in that sheriff's department or has served at least one year as a police officer or sheriff's officer in a municipal or county police or sheriff's department in this State; and, the sheriff's investigator is not over 35 years of age at the time of the initial appointment. The measure would take effect six months following enactment, except that the CSC may take anticipatory administrative actions in advance of its implementation. S-4009 is currently in the Assembly State and Local Government Committee awaiting consideration on January 6th.

#### **COUNCIL ON LOCAL MANDATES**

At committee hearings last week, NJAC joined the New Jersey School Boards Association (NJSBA) and the New Jersey State League of Municipalities in opposition to **S-4248/A-6217** (*Sweeney D-3*)(*Coughlin D-19*), which would provide that local public employee health care plans or programs are not unfunded mandates.

Established pursuant to a constitutional amendment in 1996, the New Jersey Council on Local Mandates (COLM) is independent of the executive, legislative, and judicial branches of state government and has the exclusive authority to determine that a state law, rule, or regulation imposes an unconstitutional unfunded mandate on boards of education, municipalities, and counties. As the Association has long avowed, the COLM provides local governing bodies with the only layer of autonomous protection against all levels of state government from imposing costly unfunded mandates on the state's beleaguered property taxpayers.

Unfortunately, this legislation would dilute the authority, autonomy, and integrity of the COLM by circumventing the constitution and providing an additional exemption to the already wide range of exclusions established by the constitution. In fact, local governing bodies must overcome a rigorous legal process to prove that a law, rule, or regulation imposes an unfunded mandate of which in general includes: demonstrating the imposition of a new mandate; establishing that the new mandate requires the use of direct expenditures; further demonstrating that the new mandate does not authorize resources other than property taxes to offset direct expenditures; and as noted above, overcoming a strenuous list of exemptions deferential to state government.

In a memorandum to members of the State Legislature, the COLM agreed with our interpretation as follows: *"A-6217 and its identical companion bill S-4248 are patently unconstitutional. They will not withstand the judicial challenge that will follow should this legislation be enacted. Both bills are in direct conflict with Article VIII, Section II, paragraph 5C of the New Jersey State Constitution. We urge you to strongly oppose these bills. The only constitutional way to achieve the objectives of these bills - establishing a new category of laws which are not unfunded mandates - is to adopt and then submit a proposed amendment to the New Jersey Constitution to the voters for their approval or rejection. Simply amending the list of exemptions found in the Local Mandates Law, which merely duplicates the list of exemptions stated in the Constitution, will result in these bills running afoul of the Constitution."* Although the measure moved through committees last week and is on Second Reading in both houses, it does not appear as if the Legislature will send the bill to the Governor in its current form.

## **SNOW-PLOW OPERATORS**

On December 3rd, the Senate Transportation Committee was set to consider, but held, **S-2070** (*Beach D-6/Bucco R-25*), which would prohibit snow-plow operators from depositing snow in front of certain access points used by persons with disabilities.

Although we certainly commend the sponsors for the measure's laudable intentions, we're projecting that the removal of snow in front of certain access ramps, curb cuts, special parking spaces, and other improvements as called for under the bill would cost county governments an estimated \$28.0 million per year to implement based on data collected in 2016. At that time, Sussex County for example, projected that it would cost the County approximately \$1.4 million to manually remove accumulated snow from its 226 handicapped curb ramps. (*226 ramps \* \$200.00 per ramp \* 30 storms per year = \$1.4 million*), while Mercer County estimated it would cost the County approximately \$852,000.00 for each snow event with 2-3 inches or more of accumulated snow. Please note the NJACRS is projecting that these costs would be significantly higher in 2022 given the well-documented labor shortage, inflation, and other variable costs.

Additionally, county public works departments are charged with making sure that county roadways are free of ice and snow in a timely fashion following significant weather events, so that the motoring public may travel safely and reliably, and so that first responders may quickly access roads during emergency situations. Unfortunately, it appears that the requirements

under S-2070 would make these critical objectives, and statutory requirement to plow snow “curb to curb” from roadways pursuant to N.J.S.A. 27:16-8, difficult to accomplish in an efficient and effective manner. The companion version in the General Assembly **A-3494** (*Vainieri Huttle D-37/Swain D-38*) is currently in the Assembly Human Services Committee. Special thanks to Chris Markley as President of the New Association of County Road Supervisors (NJACRS) and Senator Beach for taking the time to discuss the long-term fiscal and practical consequences of implementing this legislation.

#### **POLL WORKER COMPENSATION**

On December 2nd, the General Assembly amended and unanimously passed **S-598** (*Beach D-6/Cryan D-20*)(*Rooney R-40/Karabinchak D-18*), which would increase the compensation of election workers from \$200 per day to \$300 per day. Additionally, the measure would increase the maximum hourly rate for election workers serving at a school board election from \$14.29 to \$19.94 and would authorize counties to provide an election worker training program for district board members. Importantly, the measure would appropriate from the State General Fund to the Department of State the sum of \$7.0 million to reimburse the counties for the costs of implementing the bill. Under current law, election workers are paid \$200 per day for primary, general, and special elections. In general, the State is required to reimburse counties \$125 of the payment to election workers while the counties account for the balance. The bill would increase the State’s reimbursement to counties to \$225 while keeping the counties balance due at \$75 for a total of \$300. The Senate is expected to pass the measure next month and send it to the Governor for his signature.

#### **BONDING FOR ENVIRONMENTALLY FRIENDLY PASSENGER CARS**

On December 20th, the General Assembly passed **A-2208** (*McKeon D-27/Kennedy D-22*), which would permit counties and municipalities to issue bonds to acquire certain environmentally friendly passenger cars and station wagons.

Under current law, counties and municipalities may only issue bonds to finance certain projects having a period of usefulness of at least five years. Additionally, the Local Bond Law excludes passenger cars and station wagons from the category of newly purchased automotive vehicles that are deemed to have a maximum period of usefulness of five years. In short, this bill would amend this exclusion in the Local Bond Law in order to allow permit counties and municipalities to bond for passenger cars and station wagons that are solely fueled by a battery or equivalent energy storage device charged from an electricity supply external to the vehicle or by a renewable power source. Other passenger cars and station wagons would continue to be excluded. NJAC supports the initiative as it frees up limited resources that local governing bodies may utilize to manage their affairs in a more flexible and efficient manner. The companion version in the Senate **S-3586** (*Greenstein D-14*) is currently awaiting consideration in the Senate Community and Urban Affairs Committee, which will meet for the last time this legislative session on January 6th with the last voting sessions set for January 10th.

## **INMATE RE-ENTRY SERVICES - UPDATE**

After several years of hard work with our county jail wardens, welfare directors, and other stakeholders, Governor Murphy signed into law on December 21st, **S-2953** (*Sweeney D-3/Cunningham D-31*), which in part, now authorizes each county to hire a county reentry coordinator responsible for helping inmates, upon release from a county jail after being incarcerated for 90 days or longer, navigate the broad spectrum of services available under the bill. As previously noted, the fiscal year 2022 State budget includes an appropriation of \$2.1 million in grant funding for each county to hire a reentry coordinator. Also pursuant to S-2953, the budget includes grant funding for counties to support inmates, upon release from a county jail after being incarcerated for 90 days or longer, with Medication Assisted Treatment (MAT) services and a supply of medication to individuals struggling with opioid addiction and other medical issues. Once again, special thanks to the New Jersey County Jail Wardens Association (NJCJWA) and the County Welfare Directors Association of New Jersey (CWDANJ) for their hard work, help, and patience on this matter. Finally, thank you to Senate President Sweeney and Governor Murphy for taking the time work with us on implementing a new law that provides inmates with much needed services while allowing county jails to operate safely and effectively.

**UPCOMING NJAC EVENTS:** Please make sure to join us at 11:00 a.m. on January 28th in the Senate Chambers of the State House in Trenton where we'll swear-in Monmouth County Administrator Teri O'Connor as the Association's next President.

### **THE 12 DAYS OF CHRISTMAS AT MY HOUSE**

*Twelve very bad words hanging Christmas lights.*

*Eleven shots of Fire Ball by Uncle Marc.*

*Ten stink eyes by Mrs. Donnadio because Uncle Marc had eleven shots of Fire Ball.*

*Nine too many presents for everyone.*

*Eight more very bad words trimming the Christmas tree.*

*Seven even worse words making sure the plastic Santas in the front yard stop falling over.*

*Six dishes of fish instead of seven and I don't know why.*

*Five more shots of Fireball by Uncle Marc.*

*Four incredibly thoughtful presents purchased with Kohl's bucks for Mrs. Donnadio that she's returning the day after Christmas.*

*Three new Christmas break girlfriends that the boys are prohibited from having in the basement with the door shut and lights off while their mother is home.*

*Two times I lost cell service wishing my mother-in-law a Merry Christmas.*

*One day before Christmas and I haven't been to Kohl's yet.*

"What I don't like about office Christmas parties is looking for a new job the next day." Phyllis Diller