

# NEW JERSEY ASSOCIATION OF COUNTIES

*County Government with a Unified Voice!*

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## STATE HOUSE NEWS

*February 26, 2021*

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### IN-PERSON EARLY VOTING

On March 1st, both houses are expected to pass **ASSEMBLY, No 4830/SENATE, No. 3203** (*Zwicker D-16/Danielsen D-17*)(*Gill D-34/Greenstein D-14*), which would require in-person early voting for certain elections. Although NJAC appreciates the fact that this legislation takes into consideration the State's constitutional prohibition against unfunded mandates and includes a reimbursement mechanism to address some of the in-person early voting expenses as required under the bill, the Association is concerned with the legislation's \$2.0 million appropriation as the figure is primarily dedicated for "printing on demand ballot and elections system" but does not address the substantial costs associated with purchasing new voting machines, E-poll books, and more.

NJAC is working with our election officials on collecting data from all 21 counties, but in the meantime, Passaic County is reporting that this legislation would cost Passaic County property taxpayers a minimum of \$8.0 million simply for the purchase of new voting machines and E-poll books. In general, this legislation would force at least 15 counties across the State to procure similar voting equipment at a time when all local governing bodies are struggling with the extraordinary costs and revenue shortfalls imposed by the ongoing COVID-19 public health crisis. In addition to the above capital expenditures, this bill would force all counties to invest in new technology necessary to operate early voting centers, communicate with election officials, and protect the integrity of voter information. The measure would further force county governments to incur long-term operational expenses for new hires and overtime costs at new voting centers and for the storage and maintenance of additional voting equipment.

Although it appears that Governor Murphy has allocated \$20.0 million in the Fiscal Year 2022 State Budget to address in-person early voting expenses, that figure will undoubtedly fall far short of what it will ultimately cost to implement. In addition to NJAC's forthcoming fiscal analysis, the Office of Legislative Services (OLS) concluded in a "Fiscal Estimate" dated February 24th that *"first year equipment costs of this bill would be between \$4.6 million and \$8 million for optical-scan voting machines with ballot on demand printers or up to \$23 million to purchase other voting machines, up to \$20.5 million in start-up costs for electronic poll books, Statewide Voter Registration System*

*Interface, ADA-compliant ballot marking devices, and privacy booths. In addition, depending on the type and number of elections in a year, the State would incur between \$400,000 and \$1.8 million in State reimbursement of the county and municipal early voting operational costs."* In other words, OLS is projecting that in-person early voting will cost more than double what the Governor has allocated. With this in mind, NJAC submits that A-4830/S-3203 may constitute an unfunded State mandate in violation of the Constitution as the New Jersey Council on Local Mandates has previously ruled that an underfunded mandate constitutes an unfunded mandate under certain circumstances. Stay tuned for additional details as NJAC plans to advocate for additional funding during the legislative budget process, and special thanks to Hunterdon County Clerk Mary Melfi, Somerset County Clerk Steve Peter, Atlantic County Superintendent of Elections Maureen Bugdon, and Passaic County Superintendent of Elections Shona Mack-Pollock for their steadfast advocacy.

#### **POLICE AND FIRE BENEFIT ENHANCEMENTS**

March 1st is shaping up to be not such a great day for property taxpayers as both houses are expected to pass **SENATE, No. 1017/ASSEMBLY No. 2562** (*Gopal D-11/Lagana D-38*)(*DeAngelo D-14/Dancer R-12*), which would provide for an additional category of service retirement for a member of the Police and Firemen's Retirement System (PFRS). NJAC joined the New Jersey State League of Municipalities (NJLM) and the Government Finance Officers Association of New Jersey (GFOA) in opposing this bill for the following reasons:

- This legislation will enhance member benefits.
- This legislation will accelerate pension payments to members.
- This legislation will increase the unfunded accrued liability of PFRS.

Under S-1017/A-2562, a member of PFRS who is enrolled before or after the effective date of this bill may retire, regardless of age, upon attaining 20 or more years of service credit and receive a retirement allowance equal to 50 percent of the member's final compensation. As such, a police officer hired at the age of 20 could retire at the age of 40. Conservatively assuming this police officer retires as a patrolman at a salary of \$120,000.00 per year and lives until the age of 80, taxpayers would be responsible for paying this police officer in retirement \$2,400,000.00 ( $\$120,000.00/50\% = \$60,000.00 * 40 \text{ years}$ ) with \$300,000.00 in accelerated payments by taking retirement 5 years earlier than required under current law.

At a time in which the Legislature should be focusing on how to relieve the ever-growing burden on the State's beleaguered taxpayers and businesses while protecting the long-term health and viability of the pension systems, this legislation imposes a new and untimely liability. Even more so, given the fact that the Division of Pension and, Benefits in the State Department of Treasury recently released the 2021 local government

employer billing statements with double digit increases. For the record, county and municipal governments as employers will finance nearly 75% of the total contributions made to PFRS in 2021 at a staggering \$1.0 billion. It's also worth noting that statutory law caps employee contributions at 10% of an employee's annual salary, while employer contributions are based on actuarial assumptions that will equal approximately 33% of an employee's annual salary in 2021. Moreover, as a defined benefits plan, property taxpayers bear the risk of loss for poor investments, a decline in the stock market, a decrease in the assumed rate of return for long-term investments as was the case in 2020, and benefit enhancements as is the case under this legislation.

Although the Committee amended the bill to limit the time in which a member may take advantage of the early retirement benefit to two years after the measure is signed into law, NJAC remains opposed for the reasons set forth above. Moreover, we have no doubt that the proponents of the bill will pursue eliminating the two-year restriction once it expires. Unfortunately, Governor Murphy is likely to sign the legislation into law.

#### **SHARING COUNTY TAX ADMINISTRATORS**

On February 22nd, the Assembly State and Local Government Committee favorable reported **SENATE, NO. 446/ASSEMBLY, NO. 4992** (*Doherty R-23/Sweeney D-3*)(*Schaer D-36/Mazzeo D-2*), which would permit counties to share county tax administrators under certain circumstances.

NJAC adopted this initiative as one of our top legislative priorities because it would eliminate an antiquated law, among many, that has created a significant barrier to sharing services as current law requires a county board of taxation in each county to appoint a full-time county tax administrator. In general, the Governor is responsible for appointing all county tax board commission members, with the advice and consent of the Senate, and that the State Treasurer must pay their salaries accordingly. However, each county must pay for the salary, pension, health, and other fringe benefits of its county tax administrator, who is appointed by the County's board of taxation. County governing bodies must also pay for the salaries, pension, health, and other fringe benefits of all clerical assistants and for the operation and maintenance of the offices for the entire board of taxation and administrator.

In summary, this bill would permit two or more adjoining counties to enter into an agreement to share a county tax administrator and clerical assistants under the "Uniformed Shared Services and Consolidation Act" and would further allow the parties to fix an annual salary commensurate with the combined population of the participating counties and consistent with the minimum salary requirements under applicable law. As county governments across the State continue to lead the way in providing essential services in a cost-effective manner as the State's only true regional form of government, current law unfortunately prohibits sharing county tax administrators as a meaningful

cost saving measure. At a time in which all local governments are struggling to make ends meet, this outdated level of bureaucracy imposes an unnecessary barrier to progressively sharing resources and services. S-446/A-4992 is currently on 2nd Reading in the General Assembly having previously passed the Senate.

### **DANIEL'S LAW**

On February 22nd, Governor Murphy signed into law as P.L. 2021, c. 24 **SENATE, No. 3453** (*Cryan D-20/Scutari D-21*)(*Quijano D-20/Lopez D-19*), which extends the effective date of "Daniel's Law" under certain circumstances.

In summary, this new law extends to December 10, 2021 the effective date of "Daniel's Law" for any formerly active, or retired judicial officer or prosecutor. In general, Daniel's Law prohibits the disclosure by both governmental entities and private parties, of the home addresses of any active, formerly active, or retired federal, State, county, or municipal judicial officer, prosecutor, or law enforcement officer. Please note that the extension *"does not change the effective date of the section of law permitting any active, formerly active, or retired judicial officer or prosecutor, or their immediate family member, whose home address or unpublished home telephone number is disclosed or re-disclosed on the Internet, or otherwise made available, by any person, business, or association to request removal or redaction of that information."* Additionally, the provisions applicable to law enforcement officers will still take effect 18 months after the effective date applicable to the provisions governing judges and prosecutors. Special thanks to our county counsels for their outreach to the Administration, Attorney General, and Government Records Council and for their recommendations on how to implement Daniel's Law more effectively while preserving its good intent. We'll make sure to share those recommendations shortly.

### **PUBLIC UTILITY NOTICE**

On February 22nd, the Assembly Appropriations Committee favorably reported **ASSEMBLY, No. 2101/SENATE, No. 828** (*Swain D-38/Tully D-38*) (*Lagan D-38/Greensteien D-14*), which would require public utilities and local governing bodies to provide notice prior to initiating certain infrastructure projects.

In summary, this legislation would require public utilities and local governing bodies regulated by the Board of Public Utilities to notify each other within 180 days of the start of an infrastructure project. The notice must include a summary of the purpose and scope of the infrastructure project, the infrastructure project schedule, and a map of the infrastructure project location. Additionally, within 60 days of the receipt of the required notice, the public utility, local unit, and local utility would be required examine any underground utility facility within the borders of the infrastructure project to the extent feasible and notify each other whether an underground utility facility needs repair or replacement and if any of them intend to undertake an infrastructure project

within the scope of the other's infrastructure project. The bill would further require the public utility, local unit, and local utility to coordinate to provide timely notification of any changes to their respective project plans or schedule and, when feasible, to jointly establish a timeframe for scheduled work. NJAC generally supports the measure as the bill is intended to foster communication and collaboration between local governing bodies and public utilities. A-2101/S-828 is currently on 2nd Reading in the General Assembly having previously passed the Senate.

**UPCOMING NJAC EVENTS:** Make sure to visit our website at [www.njac.org](http://www.njac.org) for details about our outstanding spring series of virtual workshops on vaccine distribution, federal funding, mandatory COVID-19 vaccination and testing, medication assisted treatment, election challenges, mental health resources, and foreclosure sales.

**DID YOU KNOW** that Sussex County is home to the State's only volcanic site where the Beemerville volcano was active nearly 440 million years ago?

*"Gold medals aren't really made of gold. They're made of sweat, determination, and a hard-to-find alloy called guts." Dan Gable.*