

# NEW JERSEY ASSOCIATION OF COUNTIES

*County Government with a Unified Voice!*

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## STATE HOUSE NEWS

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### **SUBSTANTIAL EXPANSION OF POWER FOR PUBLIC SECTOR LABOR UNIONS**

With the lame-duck session underway and the Legislature likely to reconsider the measure, NJAC is urging all 21 counties in the State to adopt resolutions in opposition to **S-3810** (*Sweeney D-3/Addiego D-8*) and **A-5862** (*Armato D-2/Quijano D-20*) as this legislation would substantially expand the power of public sector labor unions to negotiate previously non-negotiable items at the expense of local governing bodies and property taxpayers across the State.

Proponents of this sweeping reform, which would ultimately eliminate well-established parameters in public sector negotiations, contend that amendments made to S-3810 and A-5862 would make the measure permissive; and would therefore, create an exemption for county and municipal governments. We strongly disagree with this disingenuous categorization of "permissive issues of negotiations." In fact, the amendments simply make a distinction without a difference in terms of what could be negotiable and how the "Responsible Collective Negotiations Act" would substantially expand the already far-reaching power and influence of the public sector labor unions. Additionally, the long-term consequences of this legislation would be enormous and would unravel 50 years of clearly defined standards promulgated by statutory law, the courts, and the Public Employees Relations Commission (PERC). Currently, permissive issues of negotiations only exist in the context of police and fire; remain in effect during the term of an agreement; and are subject to arbitration. As such, this legislation would: expand the category of permissive issues of negotiations to include all collective bargaining units; eliminate the category's temporary nature; and, subject previously non-negotiable items to arbitration.

Moreover, this legislation would ignore the multilayered and unparalleled protections already afforded public sector workers in the State of New Jersey by the Civil Service Commission (CSC), PERC, the "Workplace Democracy Enhancement Act," the collective bargaining process, and more. The Association is also concerned that this legislation would: create a binding arbitration process in a manner that is not entirely clear, and of which would lead to costly litigation; abolish the last best offer as a critical management tool; provide broad privileged communication protections, with no exceptions, for labor but no such protections for management; create a disincentive for labor to negotiate

what controls remain in place when an existing contract expires, and the parties have failed to reach an agreement on a successor contract; redirect the burden of proof to management in grievance procedures subject to binding arbitration even where labor is the moving party; and, impose a significant administrative burden on human resource departments across the State by requiring management to share detailed information on non-union members with union representatives and by expanding the date certain when employees may opt-out of a collective bargaining unit under the "Workplace Democracy Enhancement Act."

For the reasons set forth above, NJAC stands with the following organizations, which represent county and municipal elected officials and public professionals from across the State and on both sides of the aisle, in strong opposition to this far reaching legislation: the New Jersey State League of Municipalities (NJLM), the New Jersey Conference of Mayors (NJCM), the New Jersey Municipal Management Association (NJMMA), the Government Finance Officers Association of New Jersey (GFOA), the New Jersey Association of County Finance Officers (NJACFO), and the New Jersey Association of County Administrators (NJACA). Please also note that the Administrative Office of Courts (AOC), the New Jersey Association of State Colleges and Universities (NJASCU), and Rutgers University also oppose the measure. As noted above, NJAC is urging all 21 counties in the State to adopt the following resolution:

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A RESOLUTION, opposing S-3810 and A-5862 as this legislation would substantially expand the power and influence of public sector labor unions in collective bargaining negotiations with county and municipal governments across the State.

WHEREAS, this legislation would empower organized labor to negotiate previously non-negotiable items such as performance evaluations, transfers, assignments, disciplinary procedures, and more; and,

WHEREAS, this legislation would ignore the fact that local governing bodies negotiate with property taxpayer dollars and the public's vested interest in limiting the scope of labor negotiations; and,

WHEREAS, this legislation would eliminate long-established precedent in public sector labor negotiations by creating permissive issues of negotiations that would broaden the category to include all collective bargaining units, eliminate the category's temporary nature, and subject previously non-negotiable items to binding arbitration; and,

WHEREAS, this legislation would provide broad privileged communication protections in legal matters, with no exceptions, for labor but no such protections for management; and,

WHEREAS, this legislation would create a disincentive for labor to negotiate what controls remain in place when an existing contract

expires and where the parties have failed to reach an agreement on a successor contract; and,

WHEREAS, this legislation would place the burden of proof on management in grievance proceedings subject to binding arbitration even where labor is the moving party; and,

WHEREAS, this legislation would impose a significant administrative burden on human resource departments by requiring management to share detailed information on non-union members with union representatives and by expanding the date certain when employees may opt-out of a collective bargaining unit under the "Workplace Democracy Enhancement Act."

NOW, THEREFORE, BE IT RESOLVED, that the New Jersey Association of Counties does in fact hereby oppose S-3810 and A-5862 as this legislation would substantially expand the power and influence of public sector labor unions in collective bargaining negotiations with county and municipal governments across the State.

BE IT FURTHER, RESOLVED, that certified copies of this Resolution shall be forwarded to Governor Phil Murphy, Senate President Stephen M. Sweeney, Speaker of the General Assembly Craig Coughlin, and the clerks of the boards of county commissioners in all twenty-one counties.

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

On November 8th, Governor Murphy conditionally vetoed **S-2953** (*Sweeney D-3/Cunningham D-31*), which in part, would authorize 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. Governor Murphy made the following statement and recommended changes:

*"...Both DOC and the Department of Human Services ("DHS") have raised serious concerns about supplying inmates with more than a two-week supply of prescription medication. The days and weeks following release from incarceration are a particularly high-risk period for overdose death. A study in Washington State found that, in the two weeks following their release, people who had been incarcerated in State prisons were 129 times more likely to die from an overdose when compared to the general public. Another recent study*

*published in the American Journal of Public Health determined that former inmates are 40 times more likely to die from an opioid overdose within two weeks of release....*

*The bill's language requiring DOC and county correctional facilities to provide Medicaid, SNAP, and WFNJ benefits cards to inmates upon release is also unworkable, as neither DOC nor the county facilities govern these programs and therefore cannot issue the cards. Instead, pursuant to P.L.2020, c.45, DOC assists inmates with applying for Medicaid, SNAP, and WFNJ benefits and qualifying inmates are provided a confirmation number in their release packet. Importantly, the bill fails to recognize that eligible individuals are prohibited from enrolling in Medicaid, WFNJ, and SNAP until they are no longer incarcerated.*

*For individuals whose enrollment in Medicaid was paused during incarceration, the process is relatively seamless, as Medicaid can simply reenroll them, provided they remain eligible. For inmates not previously enrolled in Medicaid, DOC works with the inmate and DHS during the 30 days prior to release to process the application, so that eligibility can be established and suspended until the inmate is released from incarceration. In the case of SNAP and WFNJ, the DOC assists individuals with the "One-App" application prior to release as part of an inmate's release plan. I have been advised by DHS that New Jersey is one of a handful of states that has secured a federal waiver to allow individuals who are incarcerated to apply for SNAP from prison during the 30 days prior to release.*

*In addition, the DHS's recently updated application system enables county welfare agencies and boards of social services to more readily identify inmate applications so that agencies can process these applications and coordinate enrollment with dates of release. I am therefore recommending several revisions to address these, and other related concerns. For example, I propose revising the bill's modifications to the prescription drug requirement to retain the two-week supply of prescription medication, while also allowing for a two-week prescription order with two additional refills, to the extent consistent with clinical guidelines. I am also recommending modifying the provisions related to reentry organizations to eliminate arbitrary restrictions on the reentry organizations that an inmate can use to establish residency, and to require an inmate's consent prior to using a reentry organization as the inmate's residential address.*

*Recognizing that consent is meaningless unless each inmate is made aware of the opportunity, my recommendations also require the DOC and the county correctional facilities to ensure that all State inmates and all county inmates incarcerated for 90 days or longer are educated on their ability to select a reentry organization as a residential address in the course of the benefits application process. I am also recommending revisions that will require the Commissioner to*

*assist inmates in obtaining their birth certificates at least 180 days prior to release, rather than requiring the Commissioner to provide the birth certificate no later than 60 days prior to release, as required in the bill. This will ensure that there is sufficient lead time for DOC to help secure the birth certificate prior to an inmate's date of release without creating opportunities for the document to be lost or stolen if the birth certificate is actually provided to the inmate two months prior to release."*

The Senate is likely to concur with the Governor's conditional veto during the lame-duck session; and 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.

### **PERS PROSECUTORS PART BENEFIT ENHANCEMENTS**

On September 24th, Governor Murphy signed **SENATE, NO. 3114** (*Greenstein D-14*) (*DeAngelo D-14/Mukherji D-33*) into law as P.L. 2021, c.226, which now allows members of the Public Employees Retirement System (PERS) Prosecutors Part to purchase PERS credit in the Part under certain circumstances.

Although the Association understands that pursuant to N.J.S.A. 43:15A-161 the "*State is liable for any increased pension costs to a county as a result of the enrollment of prosecutors, first assistant prosecutors, and assistant prosecutors in the Prosecutors Part,*" NJAC remains opposed to the new law it provides enhanced benefits upon retirement to county prosecutors and assistant county prosecutors ultimately at the expense of property taxpayers. Since the Prosecutors Part is 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, the decision of State leaders to shortchange or forgo required pension payments as has been the case for nearly three decades, and provide benefit enhancements as is the case under this new law.

Moreover, the new law will force county governments to replace retirees at a greater frequency and cost as the Prosecutors Part allows members to retire at the age of 55 with any number of years of service credit and generally awards 50% of final compensation with 20 or more years of service credit based solely on the last 12 months of employment. Although the Association appreciates the difficulty county prosecutors face in retaining experienced attorneys and the fact that this legislation would require members to purchase service credit at their own expense, NJAC is concerned that the measure would increase employer contributions upon a member's retirement; and as a result, would place an additional and untimely burden on the worst publicly funded pension system in the nation. The new law takes effect immediately.

## ALTERNATE PROPERTY OWNER INSPECTION PROCESS

On November 18th, Governor Murphy conditionally vetoed **A-4850** (*Karabincak D-18/Freiman D-16*)(*Diegnan D-18*), which would establish an alternate inspection process for property owners willing to pay a premium fee to expedite inspections.

In general, this legislation would authorize a property owner to retain a private agency to perform construction code inspections if the local code enforcing agency is unable to complete an inspection within three business days of the time the owner requests the inspection to be performed. Under the bill, an applicant for a construction permit may opt to pay a premium fee to have inspections under the permit performed on an expedited basis, within two calendar days of the time requested for an inspection. The premium fee would be \$100 per inspection unless the municipality establishes an alternative price, or a variety of alternative prices depending on application size and other relevant factors. The bill would allow an applicant to exercise this option at the time of submitting an application for a construction permit. The bill would provide that regardless of whether the local enforcing agency or a private inspection agency are conducting expedited inspections, the enforcing agency would retain the power and responsibility over issuance of the certificate of occupancy for the construction project. Governor made the following statement and recommended changes:

*"... I am concerned that allowing expedited inspections in exchange for an additional fee could create a two-track system that moves smaller developers and homeowners to the back of the line in favor of those who can pay a premium. And, while I am certain this was not the intent of the bill's sponsors, granting private entities broad discretion to conduct construction inspections when local agencies do not meet their deadlines creates an appearance of bias in favor of those who can afford private inspections...."*

*Nevertheless, I agree that it is necessary for all of us in government and in the real estate industry to continue thinking creatively about how to make sure projects proceed quickly, equitably, and safely. The Department of Environmental Protection's Licensed Site Remediation Professional ("LSRP") program has shown how private entities can "step into the shoes" of a government agency to speed along important work related to health and safety when it comes to the remediation of contaminated sites. The program enables LSRPs to take responsibility for oversight of the environmental investigation and cleanup of contaminated sites and has led to the greatest amount of contaminated site cleanups over the shortest period in the State's history, with thousands of known contaminated sites having been remediated since the program was established in 2007. Additionally, current law permits municipalities to*

*contract with private inspection agencies to assist with UCC enforcement in some circumstances.*

*Accordingly, I am recommending revisions to Assembly Bill No. 4850 to require DCA to study whether there is a similar role for private entities to play in the construction inspection and permitting process. As part of its study, DCA should consider the degree to which inspection efficiencies can be achieved by consolidation of local agencies and through the sharing of services. DCA also should consult with the Department of Labor and Workforce Development on ideas for cultivating the next generation of code officials. In addition, I am recommending amendments to require local agencies to notify DCA immediately upon determining that they will be unable to meet the bill's requirement to conduct inspections within three business days of an owner's requested inspection date. Failure to provide the required notification will subject local agencies to DCA's existing authority to take remedial action against agencies that do not comply with DCA's laws or regulations. This amendment will enable DCA to quickly begin working with the local agency to help it operate more efficiently."*

It's unclear at this time if the Legislature will concur with the Governor's conditional veto of the measure.

#### **PUBLIC UTILITY NOTICE**

On November 8th, Governor Murphy signed into law **A-2101** (*Swain D-38/Tully D-38*) (*Lagan D-38/Greensteien D-14*) as P.L. 2021, c.263, which requires public utilities and local governments to provide notice prior to initiating certain infrastructure projects.

In summary, this new law requires 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 to 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 new law further requires 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 its intended to foster communication and collaboration between local governing bodies and public utilities. The new law takes effect immediately.

## **BONDING FOR ALTERNATIVE FUEL VEHICLES**

Also, on November 8th, Governor Murphy signed into law **S-1010** (*Lagana D-38/Turner D-15*)(*Swain D-38/Johnson D-37*) as P.L. 2021, c.267, which permits counties and municipalities to issue bonds to acquire alternative fuel automotive vehicles. In brief, this new law amends the Local Bond Law to authorize the acquisition of any newly purchased alternative fuel automotive vehicle, including but not limited to electric vehicles, plug-in hybrid vehicles, hydrogen fuel cell vehicles, natural gas vehicles, and propane vehicles. The law defines an “alternative fuel automotive vehicle” as any passenger car, station wagon, or other motor vehicle that is not solely propelled by gasoline or diesel fuel. Previously, the Local Bond Law prohibited counties and municipalities from issuing bonds to finance the acquisition of passenger cars and station wagons, regardless of whether these vehicles were powered by alternative fuel sources. The new law takes effect immediately.

## **TEMPERATURES IN HEALTH CARE FACILITIES**

On November 8th, Governor Murphy also signed into law **S-537** (*Codey D-27/McKeon D-27*)/*Verrelli D-15*), which establishes certain minimum and maximum temperatures in rooming and boarding houses, dementia care homes, and certain nursing homes and residential healthcare facilities. In general, this new law requires that the temperature within rooming and boarding houses, dementia care homes, nursing homes, and residential healthcare facilities be maintained within a range of 65 through 81 degrees Fahrenheit. This standard would not apply to nursing homes or residential healthcare facilities that are owned by a licensed healthcare facility and licensed by the Department of Health (DOH), and of which comply applicable federal regulations. The new law limits the temperature requirements to areas used by residents or patients. Additionally, the temperature requirements do not apply to rooms designated for activities requiring physical exertion, or rooms where residents can individually control the temperature in their own living quarters. This new law takes effect immediately.

## **ORDINANCE NOTIFICATIONS**

On October 27th, Governor Murphy signed into law **S-818** (*Mazzeo D-2/Armato D-2*)(*Lagana D-38/Pou D-35*) as P.L. 2021, c.255, which now permits the transmittal of certain county ordinances by email instead of regular mail.

Special thanks to Atlantic County Clerk of the Board of County Commissioners Sonya Harris for coming up with the terrific Idea during a clerk of the board meeting, and to Senator Joseph Lagana and Assembly Vincent Mazzeo, for their leadership in sponsoring the measure on NJAC's behalf. NJAC advocated for the passage of this legislation as it streamlines the antiquated bond notification process in charter counties (*Atlantic, Bergen, Essex, Hudson, Mercer, and Union*). Prior law required these counties to

provide, by regular mail and 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 between 10 to 25 pages long with anywhere from 15 to 70 municipalities located within the above counties, this new law will save valuable time, resources, and taxpayer dollars. Please note that the regular mail ordinance notification process never applied to charter counties. The new law takes effect immediately.

**UPCOMING NJAC EVENTS:** Don't forget to register for NJAC's important and timely Summit on Natural Disaster Response and Recovery set for December 10th at the Trenton Country Club. Registration is free for public officials, but space is limited, so make sure to visit our website at [www.njac.org](http://www.njac.org) for additional details.

#### **TOP 10 BEST THANKSGIVING FOODS EVER**

- 10) Real Cranberry sauce
- 9) Sauteed mushrooms and onions
- 8) Lumpy brown gravy
- 7) Fluffy banana cream pie
- 6) Turkey drumsticks with crispy skin
- 5) Garlic mashed potatoes
- 4) Toasted buttermilk biscuits
- 3) Homemade Manicotti
- 2) Stuffing with chorizo sausage
- 1) Antipasto platter with sopressata, prosciutto, pepperoni, wet mozzarella, provolone, asiago, roasted peppers, olives, and green stuffed peppers with provolone and prosciutto

**DISHONORABLE MENTION TERRIBLE THANKSGIVING FOODS:** Yams, sweet potatoes, creamed corn, creamed string beans, any roasted green vegetable, pecan pie, and my Uncle Joe's stuffing in 1986 that gave me food poisoning for 72 brutal hours.

**BONUS SECTION ON THINGS TO AVOID AT ALL COSTS ON THE DAY AFTER THANKSGIVING:** Decorating the entire house for Christmas way too early; playing cards or board games or spending any additional time with family members that may have slept over and stayed just a minute too long even though you really do love them most of the time but so much more when they're not home; and, sharing your opinion that it should not have taken until the end of the awful Christmas Hallmark movie for these ridiculous people to hook up already.

*"Thanksgiving is the day that men start getting into shape to play Santa Clause." Melanie White*

