

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 fast approaching 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 amended version simply makes a distinction without a difference from the original one 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 practical consequences of permissive issues of negotiations would be enormous and would undoubtedly 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. In summary, 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:

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.

GARDEN STATE C-PACE PROGRAM

On August 24th, Governor Murphy signed into law **A-2374** (*Mukherji D-33/Pinkin D-18*)/(*Smith D-17/Bateman D-16*) as P.L. 2021, c.201, which requires the New Jersey Economic Development Authority (EDA) to establish a Garden State C-PACE program to facilitate the financing of C-PACE projects.

In general, the new law requires the EDA, as part of the Garden State C-PACE program, to develop uniform assessment documents and program guidelines for the financing of C-PACE projects to be undertaken by property owners as local improvements and the provision by ordinance for a C-PACE assessment to be imposed on properties, if the owner of a property requests the C-PACE assessment to undertake and finance a C-PACE project. The C-PACE assessment would be used to repay the financing for the C-PACE project and would constitute a single, continuous first lien on the property. It would be treated as a municipal lien for all purposes of law. C-PACE projects on an individual property subject to the same C-PACE assessment agreement collectively would constitute a separate local improvement and would be assessed separately to the property owner who benefitted. As defined in the new law, C-PACE" is the acronym for the term commercial property assessed clean energy and means the acquisition, construction, capital lease, installation, or modification of an energy efficiency improvement, renewable energy. The new law further permits a county and an authorized municipality to adopt an ordinance to establish a local C-PACE program to facilitate the financing of C-PACE projects in that county or municipality.

The measure also authorizes the EDA to charge a county or authorized municipality a fee to review a proposed local C-PACE program ordinance or program guidelines, and

authorizes the EDA and participating municipalities to charge property owners a fee for the review of an application for a C-PACE project. In addition, a participating municipality may charge a property owner an annual fee for the billing, collecting, and remitting of the installment payments on the C-PACE assessment. Within 270 days after the bill is enacted into law, the EDA must establish the Garden State C-PACE program by publishing on its Internet website: uniform assessment documents; a model opt-in ordinance; program guidelines; (4) the process by which a county or an authorized municipality may apply approval of a local C-PACE program ordinance.

NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST

Additionally, on August 24th, Governor Murphy signed into law **A-5819** (*Freiman D-6/Speight D-29*)(*Gopal D-11/Greenstein D-14*) as P.L. 2021, c. 206, which authorizes the New Jersey Infrastructure Bank (NJIB) to provide loans with an interest rate at or below the prevailing market rate to local governing bodies for up to the total costs of 18 eligible transportation projections.

The measure also permits NJIB to use any loan repayments received to date, and the amounts for capitalized interest, bond issuance expenses and related amounts, to fund the State Fiscal Year 2022 New Jersey Transportation Infrastructure Financing Program (NJTIB). In general, the NJIB, in partnership with the Department of Transportation, has provides low-cost NJTIB loans for the construction of critical transportation infrastructure projects with the mission of reducing the cost of financing for New Jersey counties and municipalities and making possible responsible and sustainable economic development. NJAC generally supported the legislation it will make available an additional funding mechanism to finance capital projects for public highways, approach roadways, ramps, signal systems, roadbeds, transit lanes or rights of way, pedestrian walkways and bridges connecting to passenger stations and servicing facilities, bridges, grade crossings and more.

COUNTY BOARD OF ELECTIONS

August 24th was a busy day as Governor Murphy also signed into law **A-5816** (*Tully D-38/Swan D-38*)(*Lagana D-38*) as P.L. 2021, c. 205 , which allows county boards of elections to expand their staff and appoint a director, clerk, and office employees at their discretion, subject to the county's budgetary requirements and approval by the board of county commissioners. NJAC did not take a position on this legislation in light of N.J.S.A. 40A:45-45.b, which in general, imposes a 2.0% cap on the budgets of all county entities within the county government system. As you may recall, the 2017 cap within the cap law requires that in the preparation of the portion of a budget request to be raised by property taxation, county entities must limit any increase in that portion of its budget request to 2.0% of the previous year's budget request or the cost-of -living adjustment. Additionally, a budget request submitted to a county governing body must

be separated into two components: the amount to be raised by property taxation, and the amount to be funded entirely through federal or State funds, or fees raised by the county entity. The new law takes effect immediately and just in time for the upcoming General Election, which includes in-person voting on Election Day, in-person early voting before Election Day, voting by mail, and provisional ballot voting if necessary.

UPCOMING NJAC EVENTS: It's never too late to visit our website at www.njac.org for registration and other important details about our outstanding annual celebration of county government set for October 12th through October 14th at Caesars in Atlantic City.

THE TOP 9 BEST THINGS TO APPRECIATE THIS FALL

9. Picking far too many apples and a super large ugly pumpkin
8. Closing the @*%! pool that no one used all summer
7. Saving money on cheaper electric and water bills
6. Sneaking into and getting lost in a giant corn maze
5. Catching a high school football game on a Friday night
4. Visiting a new haunted place each weekend until Halloween
3. Jumping into a giant pile of leaves that someone else raked
2. Ignoring the lawn, bushes, and other growing things
1. Sending all kids back to school for in-person learning

"Inaction breeds doubt and fear. Action breeds confidence and courage. If you want to conquer fear, do not sit home, and think about it. Go out and get busy." Dale Carnegie