

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

TERI O'CONNOR
NJAC President
Monmouth County Administrator

JOHN G. DONNADIO, ESQ.
Executive Director

STATE HOUSE NEWS

May 20, 2022

END THE 911 FEE DIVERSION

As previously reported, NJAC is requesting that the State Legislature include \$21.0 million in funding for County 911 Centers in the Fiscal Year 2023 State Budget with a \$1.0 million grant made available for each county to maintain, upgrade, or regionalize its 911 system as the State of New Jersey has failed to provide any funding to counties for this purpose since 2009.

In addition to laying the groundwork for an imminent public safety crisis, the State's continued misallocation of 911 fees has imposed an inequitable system of double taxation on residents already burdened with paying the highest property tax bill in the land with no meaningful relief or structural reform in sight. With this in mind, NJAC is also urging members of congress to adopt the "Report and Recommendations" of the "Ending 911 Fee Diversion Now Strike Force (911 Strike Force) established by the Federal Communications Commission (FCC) as the State of New Jersey continues to reign as the worst offender of diverting 911 fees in the entire nation and is the only State in the nation that does not invest 911 fees into county and municipal 911 centers. You may review the "Report and Recommendations" of the 911 Strike Force in its entirety at www.fcc.gov.

For the record, county governments alone spent an estimated \$175.0 million over the last several years on capital improvements for facility upgrades, telephone systems, computer aided dispatch, location mapping technology, voice recording technology, data analytics, and Next Generation 911 upgrades. Counties also spend an estimated \$100.0 million per year on general operating expenses for salaries, staff training, system maintenance, and network security. Although the clear intent of the 2004 law that imposed a monthly telecommunication surcharge of .90 cents on every telephone line in the State was to build a cutting edge and fully funded 911 system with revenues collected from the surcharge, administrations on both sides of the aisle have instead diverted 90% of this funding to pay for general operating expenses in the Department of Law and Public Safety to the tune of \$1.5 billion.

For the reasons set forth above, NJAC is again requesting that the State Legislature support \$21.0 million in funding for County 911 Centers in the Fiscal Year 2023 State Budget with a \$1.0 million grant for each county to maintain, upgrade, or regionalize its 911 system with a precise, accurate, and reliable communication network.

CANNABIS USE BY OFF DUTY POLICE OFFICERS

NJAC recently sent letters to the Office of the Attorney General and legislative leadership on both sides of the aisle requesting guidance, clarification, and potential legislative relief to address the challenges county governments are facing in complying with the Attorney General's April 13, 2022 memorandum to "All Law Enforcement Chief Executive Officers" concerning the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (CREMMA).

As requested by our county counsels, personnel directors, and administrators from all 21 counties during a video conference on the matter earlier this month, NJAC is seeking guidance, clarification, and potential legislative relief on the following matters that remain unresolved and of concern, and of which will impact county correctional police officers, sheriff officers, law enforcement professionals employed by county prosecutors, county police officers, and more.

- The promulgation of a scientifically reliable and objective drug testing methodology when reasonable suspicion exists that an officer is under the influence of legal cannabis or unregulated marijuana while engaged in the performance their duties.
- The adoption of procedures for physical evaluations to determine an officer's state of impairment and whether the officer is under the influence of legal cannabis or unregulated marijuana while engaged in the performance of their duties.
- The use of, and whether funding exists for, the Workplace Impairment Recognition Expert (WIRE) as required under CREAMMA when an officer demonstrates observable signs that the officer is under the influence of legal cannabis or unregulated marijuana while engaged in the performance of their duties.

NJAC is also seeking guidance, clarification, and potential legislative relief on how county governments should interpret the inconsistencies between CREAMMA and the fact that federal law still classifies marijuana as a controlled dangerous substance and that the dispositive 2011 "Open Letter" to "All Federal Firearms Licensees" from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) prohibits any person who is an *"unlawful user of or addicted to any controlled dangerous substance ... from shipping, transporting, receiving or possessing firearms or ammunition."* The letter concludes *"... any person who uses or is addicted to marijuana, regardless of whether his or her State has passed legislation authorizing marijuana for medicinal purposes, is an unlawful user of or addicted to a controlled dangerous substance, and is prohibited by federal law from possessing firearms or ammunition."*

Given the unreconciled inconsistencies between CREAMMA and federal law and the aforementioned outstanding matters that will undoubtedly lead to costly litigation, NJAC submits that the State of New Jersey should hold harmless and provide a defense and indemnification to county governing bodies, and their officers, employees, and assigns, for any acts, omissions, or other criminal or civil liability arising out of or resulting from CREAMMA or the policies, procedures, and regulations adopted thereof.

SPENDING CAPS ON BOARDS OF ELECTIONS

On May 12th, NJAC testified before the Assembly State and Local Government Committee in opposition to **A-3823** (*Sumter D-35/Benson D-14*), which would in part, remove the staff salaries for county boards of elections from the 2.0% cap on expenditure increases as currently required under P.L. 2015, c.249.

During the 2014/2015 Legislative Session, NJAC worked with the Legislature on a package of county governance reform bills, which established important and timely resources that empowered county governments to manage property taxpayer dollars in a more effective and efficient manner. Prior to Chapter 249, boards of county commissioners struggled with the fact that State statutes placed impractical restrictions on the ability of boards of county commissioners to control operations by granting independent autonomous State and county entities with broad decision-making authority that limited the ability of boards of county commissioners to effectively plan and manage fiscal operations. In fact, these entities had the authority to make policy and budgetary decisions without input or guidance from boards of county commissioners despite being funded entirely, or in part, by local property taxpayer dollars. Chapter 249 now holds accountable these independent autonomous agencies, such as county boards of elections, to the similar 2.0% spending cap imposed on boards of county commissioners, municipalities, and school districts. Importantly note however, Chapter 249 also provides the flexibility to exceed the 2.0% cap by resolution as adopted by boards of county commissioners accordingly.

During its testimony, NJAC made it a point to note that the Association very much appreciates and commends the county election officials for their hard work and dedication during COVID-19 and in the face of significant and seemingly never-ending election reforms. However, any new election mandates and resulting workload imposed by the Legislature, Division of Elections, or State of New Jersey should be paid for by the State of New Jersey and not with property taxpayer dollars as would be permitted under this legislation as a means to circumvent the constitutional prohibition against unfunded State mandates. For these reasons, NJAC requested that the Committee remove any language that would eliminate the important fiscal checks and balances established under Chapter 249. Despite a well-reasoned, historically informative, and generally solid testimony, the Committee Second Referenced A-3823 to the Assembly Appropriations Committee for consideration by a vote of 3-2.

In addition to eliminating the 2% cap as noted above, this legislation would revise the voter roll and election worker training process, exempt election worker compensation from taxation, and require the Secretary of State to work with the Electronic Registration Information Center (ERIC) to improve the accuracy of the State's voter registration process and access for all eligible citizens. A companion version of A-3823 has not been introduced in the Senate as of this writing; and, the measure is part of a package of election reform bills considered and passed by the Assembly State Government on May 12th of which NJAC plans to review further for their operational impact and potential costs.

ELECTION REIMBURSEMENT

Also on May 12th, NJAC noted its support before the Assembly State and Local Government Committee for **A-2915** (*Dander R-12/Frieman D-16*), which would require the State to pay for to the costs incurred to conduct a new election if the State is at fault for errors during the initial election that requires the holding of a new election.

In summary, the legislation would require that if an election is invalidated by a judge of the Superior Court and the judge determines that the State is at fault for errors having occurred in that election, the State must reimburse the county or municipality, as appropriate, in which the election was held for the costs incurred by the county or municipality to conduct a new election. The bill would further provide that a county or municipality must be reimbursed upon the application for reimbursement by the governing body to the Secretary of State and with approval of the application by the Director of the Division of Budget and Accounting in the Department of the Treasury. NJAC commends the sponsors for their leadership in introducing this legislation in response to a recent decision by the Superior Court, which invalidated the election for a seat on the Town Council in Old Bridge due to an error in the Statewide Voter Registration System (SVRS) maintained by the Division of Elections. As the Division is ultimately responsible for the mishap, the State of New Jersey should be required to pay for conducting a new election. The Committee Second Referenced the measure to the Assembly Appropriations Committee for consideration; and, the companion version in the **SENATE S-2527** (*Diegnan D-18/Thompson R-12*) is currently in the Senate State Government, Wagering, and Historic Preservation Committee awaiting consideration.

SNAP ENROLLMENT

On May 12th, the Assembly Human Services Committee Second Referenced to the Assembly Appropriations Committee for consideration **A-2363** (*Stanley D-19/Mejia D-32*), which, would provide Supplemental Nutrition Assistance Program (SNAP) service provided at county boards of social services.

In general, the measure would require the Department of Human Services (DOH), to the maximum extent permissible under federal law, establish a training program for each employee of a county board of social services who assists individuals with the SNAP enrollment and recertification process. The purpose of the training would be to educate employees on current federal laws, regulations, and standards concerning SNAP, and standard best practices to comply with federal SNAP requirements. The bill would require DOH to review the training program and curriculum at least once every six months and to modify the training program as necessary. Participation in the training program would be mandatory for all employees of a county board of social services who assist individuals with the SNAP enrollment and recertification process. Each county board of social services would be responsible for ensuring that all required employees complete the training program, at least once in each calendar year.

The bill would also require DOH to publish county-level case tracking data on SNAP on its Internet website that includes, but is not limited to application approval rates, reasons for application denial, and average application approval time. Finally, the legislation would require DOH, to the maximum extent permissible under federal law, to establish a one-year pilot program that would conduct focused outreach efforts about eligibility for SNAP benefits and would provide application assistance to certain populations. The measure would specify that the purpose of this program is to increase enrollment among certain underserved populations of eligible participants in SNAP. These underserved populations would include, but are not limited to, college students, immigrants, and older adults. The Commissioner of DOH would select one county board of social services in each of the northern, central, and southern regions of the State to participate in the pilot program. NJAC is still in the process of reviewing the legislation as county boards of social services will likely incur new costs by ensuring that all required employees complete the SNAP training program as required under the bill. The companion version in Senate **S-2033** (*Pou D-35*) is currently in the Senate Health, Human Services, and Senior Citizens Committee awaiting consideration.

UPCOMING NJAC EVENTS: Make sure to mark your calendars for NJAC's virtual workshop set for 10:00 a.m. on July 6th where the Association is pleased to present "Revitalizing New Jersey's Infrastructure through the I-Bank." This event is free for public officials and stay tuned for additional details.

DID YOU KNOW that during the Revolutionary War more battles were fought in New Jersey than in any other State at 296 engagements?

*"Keep your face always toward the sunshine - and shadows will
fall behind you." Walt Whitman*