

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

JONATHAN L. YOUNG
NJAC President
Camden County Commissioner

JOHN G. DONNADIO, ESQ.
Executive Director

STATE HOUSE NEWS

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PFRS BENEFIT ENHANCEMENT

On March 20th, NJAC, the New Jersey State League of Municipalities (NJLM), and the Government Finance Officers Association of New Jersey (GFOA) testified in opposition to **S-3090/A-4498** (*Gopal D-11/Lagana D-38/DeAngelo D014*) before the Senate Budget and Appropriations and Assembly State and Local Government committees. In summary, this legislation would provide for a retirement allowance after 20 years of service regardless of age for members of the Police and Firemen's Retirement System (PFRS).

NJAC is primarily concerned with the facts that this legislation would enhance member benefits, accelerate pension payments to members, and increase the unfunded liability of PFRS. Under the bill, 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 25 could retire at the age of 45. Conservatively assuming the officer retires 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 \$2,100,000.00 ($\$120,000.00/50\% = \$60,000.00 * 35 \text{ years}$) with \$300,000.00 in accelerated payments by taking retirement 5 years earlier.

Moreover, local governments would be responsible for hiring a new officer with additional salary, pension, health, and other fringe benefit expenses at an initial cost of over \$105,000.00 per year with a \$60,000.00 per year starting salary, \$21,900.00 in employer pension obligations ($\$60,000.00 * 36.5\% \text{ Employer Pension Obligation Rate}$), \$19,500.00 in health benefit expenses ($\$30,000 \text{ cost of healthcare plan} * 65\% \text{ typical employer obligation}$), and \$5,000.00 in miscellaneous fringe benefits. Importantly note that this starting salary will increase dramatically in year 2 and every year thereafter as the officer progresses through the steps, guides, longevity pay, and annual salary increases.

At a time in which local government employers are once again facing double digit pension employer contribution rate increases for both PFRS and the Public Employees Retirement System (PERS), despite meeting their pension obligations as employers for more than a decade, State leaders should instead be focusing on how to relieve this ever-growing fiscal burden that

ultimately falls on beleaguered property taxpayers. For these reasons, NJAC opposes S-3090/A-4498 and urges the Legislature to conduct a comprehensive Fiscal Note on the measure to determine its overall impact on the long-term health and viability of the pension system. The Fiscal Note should also include a separate cost-benefit analysis on the financial ramifications of hiring a new officer to replace the retiring. Despite our concerns, both committees passed the measure without a Fiscal Note with the entire Senate passing S-3090 later in the day. The Assembly Appropriation Committee favorably reported A-4498 on March 23rd and the measure is now on Second Reading in the General Assembly.

RECLAIMED ASPHALT

Also on March 20th, NJAC testified before the Assembly Oversight, Reform, and Federal Relations Committee with concerns about **A-4797** (*Karabinchak D-18/Benson D-14*), which would increase the percentage of reclaimed asphalt pavement (RAP) that may be used for local road projects.

NJAC and the New Jersey State Association of County Engineers (NJSACE) are primarily concerned with the quality of the product and have met with the New Jersey Asphalt and Pavement Association (NJAPA) on several occasions to work on a compromise where the legislation would include a product warranty, a performance bond, testing, or best practices. In general, current law requires counties and municipalities receiving State funds for transportation projects to permit, for public highways under their jurisdiction, the use of a maximum of 25% of RAP, by weight, for base and intermediate pavement courses and the use of a maximum of 15% of RAP, by weight, for surface pavement courses. This bill would increase, to 50%, the maximum amount of RAP that can be used for base and intermediate pavement courses, and to 35%, the maximum amount of RAP that can be used in surface pavement courses, for these purposes.

The bill would also require local contracting units, at a minimum, when entering into a contract for a local road project, to allow the contracted party to use up to 50% RAP, by weight, for base and intermediate pavement courses, and up to 35% RAP, by weight, for surface pavement courses. However, nothing would prohibit a local contracting unit, in its discretion, from entering into a contract that authorizes RAP to be used at higher percentage rates, for a local road project, than the maximum rates required under the bill. The bill defines a “local road project” to mean a transportation infrastructure project that is authorized by a county or municipality and involves the construction, repair, renovation, restoration, replacement, or extension of a highway which is owned, controlled, or maintained by the county or municipality. **A-4797** is on Second Reading in the General Assembly and the companion version **S-3255** (*Diegnan D-18/Oroho R-24*) is currently in the Senate Environment and Energy Committee awaiting consideration. NJAC is optimistic that the Association, NJSACE, and NJAPA will ultimately reach a workable compromise on the matter.

CYBER SECURITY INCIDENTS

On March 13th, Governor Murphy signed into law **S-297** (*Greenstein D-14/Madden D-4*)(*Murphy D-7/Benson D-14*) as P.L. 2023, c.19 of which now requires public agencies and government contractors in the State to report cybersecurity incidents to the New Jersey Office of Homeland Security and Preparedness (OHSP).

In summary, the new law requires public agencies and government contractors to report within 72 hours to OHSP when a public agency or government contractor reasonably believes that a cybersecurity incident has occurred. Under the law, the Director of OHSP must establish cyber incident reporting capabilities to facilitate submission of timely, secure, and confidential cybersecurity notifications from public agencies, government contractors, and private entities. The law further provides that any cybersecurity incident notification submitted to OHSP is confidential and exempt from the provisions of the law under the Open Public Records Act (OPRA), as well as from evidentiary and subpoena purposes except legislative subpoenas. OHSP must also develop privacy and protection procedures, which are to be based on procedures outlined in the federal Cybersecurity Information Sharing Act of 2015.

The new law further requires OHSP to submit an annual report to the Governor and the Legislature which is to include, at a minimum, information on the number of notifications received and a description of the cybersecurity incident types and associated mitigating measures taken during the one-year period preceding the publication of the report; the categories of public agencies and government contractors that submitted cybersecurity reports; and any other information required in the submission of a cybersecurity incident notification, noting any changes from the report published in the previous year. P.L. 2023, c.19 takes effect immediately.

FINANCIAL DISCLOSURE FORMS

On March 20th, both houses amended **S-3363/A-4889** (*Scutari D-22/Pou D-35*)(*Coughlin D-19/DiMaio R-23*), which would remove the requirement that government officers disclose their addresses under certain circumstances.

In summary, this bill would remove the requirement that local government officers disclose in their financial disclosure statements, the address of their principal and secondary residences where the officer and their immediate family reside and where the officer or a member of the officer's immediate family hold an interest. More specifically, the measure would instead require that year *"all financial disclosure statements filed pursuant to P.L.1991, c.29 shall include the following information which shall specify, where applicable, the name and address of each source and the local government officer's job title, except that where a specified address would be the address, lot, or block number of the local government officer's home or principal residence or a secondary residence where the local government officer or their*

immediate family, as defined in P.L.2021, c.371 (C.47:1B-1 et seq.), may also reside, a brief description, including the county and municipality where located, of the source shall be included in lieu of the address.”

The bill would further provide that for filings due by April 30, 2023, the Local Finance Board may extend the deadline by up to 60 days if necessary to allow for its implementation. S-3363/A-4889 is on Second Reading in both houses, which are expected to pass the measure any minute and of which the Governor expected to sign into law.

OPIOID SETTLEMENT FUNDS

On March 17th, Governor Murphy signed into law **S-783** (*Singleton D-7/Beach D-6*)(*Benson D-14/Verelli*) D-15 as P.L. 2019, c.25 of which establishes a fund and requirements for spending opioid settlement monies to support substance use disorder prevention and treatment programs.

In general, the new law establishes a dedicated, non-lapsing fund, to be known as the “Opioid Recovery and Remediation Fund” and requires the State Treasurer to deposit into the Fund the State’s share of monies received from the national opioid settlements. *Importantly note that monies paid to counties or municipalities will not be considered as part of the State’s share.* The new law requires that Fund monies may only be used *for certain purposes such as* paying attorneys’ fee and related litigation expenses; providing treatment to people with opioid use disorder and occurring mental health conditions; providing recovery support; engaging in opioid use prevention efforts; assisting with transition from the criminal justice system; providing services specific to pregnant people and parents who have an opioid use disorder; promoting appropriate prescribing practices for opioids; working to prevent and reduce opioid overdose deaths; training law enforcement; promoting wellness for first responders; supporting initiatives to abate the opioid epidemic; certain administrative expenses; and, supporting any strategies as may be required under an opioid litigation resolution.

The new law designates the Department of Human Services (DHS) as the lead agency for the State for the purpose of directing the disbursement, allocation, monitoring, and use of the State’s share of opioid litigation resolution monies. DHS will have the authority to promulgate emergency rules and regulations as are necessary and must disburse monies from the Fund in consultation with the Opioid Recovery and Remediation Advisory Council established under the law, with an emphasis on supporting programs and strategies that are evidence-based or evidence-informed and with consideration given to providing equitable access for underserved communities. The disbursement and use of the funds will be subject to any terms and conditions in the opioid litigation resolution that resulted in the State receiving the funds, as well as any applicable agreements entered into with counties and municipalities concerning the use of opioid litigation resolution funds. Moneys in the fund may be transferred to other State departments, as directed by the Commissioner of Human Services, subject to the approval of the Director of Budget and Accounting.

The new law establishes the Opioid Recovery and Remediation Advisory Council, which will be advisory in nature and will be responsible for reviewing proposals, data, and analyses and engaging with stakeholders and community members to develop and provide recommendations on the allocation and distribution of opioid litigation resolution proceeds. In carrying out this purpose, the council will gather and evaluate data concerning access to substance use disorder prevention and treatment programs and recovery services and solicit feedback from stakeholders, local providers, advocates, individuals with lived experience with opioid use disorders, the academic community, and other experts and members of the public regarding the services needed to prevent and treat substance use disorders across the State. The council will also be responsible for reviewing and evaluating recommendations submitted by the public. The Council will include the Commissioner of DHS, the Commissioner of the Department of Health, the Commissioner of Children and Families, and Attorney General. The Council will also include at least 10 public members as appointed by the Governor.

To the extent permissible under the terms of a national opioid settlement, the Council will not be required to, and may refrain from, making recommendations for expenditures that will primarily benefit counties or municipalities that were eligible to participate in opioid litigation but did not participate in the resolution of the litigation; however, the council will retain the discretion to recommend any expenditures it deems appropriate. The council may, but will not be required to, provide information and general recommendations to counties and municipalities concerning the expenditure of the share of proceeds from national opioid litigation resolutions allocated to those counties and municipalities, and may coordinate with any similarly situated county advisory council as the chairperson deems appropriate. The council will expire 180 days after the all proceeds from opioid litigation resolutions are expended and DHS issues its final report concerning the use of opioid settlement funds.

The Attorney General, in consultation with the Commissioner of DHS, will be authorized to enter into agreements with counties and municipalities concerning the allocation and expenditure of moneys allocated to the State and its counties and municipalities resulting from the resolution of opioid litigation. *A county that directly receives moneys as a result of a national opioid litigation resolution will be required to establish an advisory council to provide input, advice, and recommendations on the disbursement and allocation of the moneys, and may, at the request of a municipality that received opioid litigation resolution funds, provide recommendations to the municipality concerning the disbursement of the funds.* Each county advisory council will, at a minimum, consist of a member possessing expertise in substance use disorder treatment or prevention, a member representing a provider of behavioral health or substance use disorder treatment in the community, a member with personal experience with substance use and substance use disorder issues, the county prosecutor or the county prosecutor's designee, and an individual authorized to appropriate funds on behalf of the governing body of the county or such individual's designee. A county advisory council may include any additional members as the county deems necessary and appropriate.

No later than 180 days after all proceeds from national opioid litigation resolutions have been expended, the new law requires DHS to issue a final report to the Governor and the Legislature concerning the State's expenditure of opioid litigation resolution proceeds, including: the amounts allocated; descriptions of the programs funded using the proceeds; community providers participating in funded programs; program outcomes; overall outcomes resulting from the expenditure of the proceeds, including changes in substance use disorder rates, overdose deaths, participation in substance use disorder treatment and recovery programs, successful treatment outcomes, outcomes involving dual diagnoses involving substance use disorders in combination with other behavioral health conditions, and expansion of substance use disorder and other behavioral health care provider and treatment capacity; and such other information and data as the DHS deems necessary to fully evaluate the use of opioid litigation resolution funds. DHS will be required to post the information and reports required under the bill on its Internet website. This new law takes effect immediately.

UPCOMING NJAC EVENTS: Don't miss NJAC's Annual Celebration of County Government set for May 3rd through May 5th at Caesar's in Atlantic City. Please visit our website at www.njac.org for additional details and the action-packed schedule of events.

BEST PLACES TO VISIT THIS SPRING IN ALL 21 COUNTIES

North Brigantine State Natural Area in Atlantic County
Campgaw Mountain in Bergen County
Columbus Farmers Market in Burlington County
USS New Jersey Battleship in Camden County
Cape May County Zoo in Cape May County
Delsea Drive-in Theater in Cumberland County
Branch Brook Park in Essex County
Bridgeport Motor Sports Park in Gloucester County
Hudson River Waterfront Walkway in Hudson County
D & R Canal between Frenchtown and Lambertville in Hunterdon County
Grounds for Sculpture Mercer County
Rutgers Gardens in Middlesex County
Monmouth Park Racetrack in Monmouth County
Morristown National Historic Park in Morris County
Barnegat Lighthouse in Ocean County
Great Falls in Passaic County
Cow Town Rodeo in Salem County
Duke Farms in Somerset County
Monument Trail in Sussex County
Watchung Reservation in Union County
Lakota Wolf Preserve in Warren County

"Our greatest weakness lies in giving up. The most certain way to succeed is always to try one more time." Thomas A. Edison