

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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STATE HOUSE NEWS

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TRANSPORTATION TRUST FUND

Notwithstanding earlier reports that Governor Murphy had signed into law **A-4011** (*Calabrese D-36/Wimberly D-35*)(*Sarlo D-36/Scutari D-22*), he is expected to do so early next week as the measure would reauthorize the Transportation Trust Fund (TTF), revise the gas tax calculation, and establish an annual fee for zero emission standards.

NJAC testified in support of the legislation before committees in both houses as the measure reestablishes a stable, dependable, and long-term source of constitutionally dedicated funding that will continue to ensure a safe and reliable network of roads and bridges across the Garden State. As a vital component of the TTF, Local Aid allocations to counties and municipalities provide critical property tax relief, promote economic growth and development, and protect the motoring public on local roads and bridges that carry the majority of the State's overall traffic.

Over the past seven years, county governments have invested valuable Local Aid dollars to maintain, rehabilitate, repair, and replace local roads and bridges across the State with *special thanks to the New Jersey State Association of County Engineers (NJSACE) for their help and patience in providing NJAC with data on inventory and cost projections*. As estimated by NJSACE, county governments face an annual need in 2024 of \$946.0 million to cover the operation and maintenance expenses of an estimated 7,140 bridges and 6,714 centerline miles of roads. Moreover, county governments must make substantial investments of \$3.86 billion over the next decade in necessary capital improvements to repair or replace bridges deemed structurally deficient and functionally obsolete.

In general, the legislation would extend the State's Annual Transportation Capital Program for 5 years from fiscal year 2025 through fiscal year 2029. The measure would authorize \$10.367 billion in capital program expenditures and allow for an average annual capital program of \$2.0 billion per year in years 1 - 2 with a 3% increase on the \$2.0 billion in years 3 - 5 as summarized in the "Transportation Trust Fund Authority" table below. Local Aid to counties and municipalities would remain flat at \$400.0 million per year in years 1 - 2, but would increase in years 3 - 5 as outlined in the "Local Aid Annual Allocations through FY 2029" table also below.

TRANSPORTATION TRUST FUND AUTHORITY APPROPRIATIONS

FISCAL YEAR	TOTAL APPROPRIATION
2205	\$2,000,000,000
2026	\$2,000,000,000
2027	\$2,060,000,000
2028	\$2,122,000,000
2029	\$2,185,000,000

LOCAL AID ANNUAL ALLOCATIONS THROUGH FY 2029

ALLOCATION	%	GENERAL DESCRIPTION	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
County Local ¹ Aid Program	37.5%	Traditional County Aid	\$150.0	\$150.0	\$165.0	\$180.5	\$196.25
Municipal Local ² Aid Program	37.5%	Traditional Municipal Aid	\$150.0	\$28.0	\$165.0	\$180.5	\$196.25
Local Bridges Fund	11.0%	Local Bridges Future Needs	\$44.0	\$44.0	\$44.0	\$44.0	\$44.0
Local Freight Impact Fund	7.0%	DOT Commissioner Freight Travel	\$28.0	\$28.0	\$28.0	\$28.0	\$28.0
Local Aid Infrastructure Fund	7.0%	DOT Commissioner Discretionary	\$28.0	\$28.0	\$28.0	\$28.0	\$28.0

1. Counties would receive an additional Local Aid set aside equal to 25% of the 3% increase in appropriations made to the TTF in fiscal years 2027 – 2029 as follows: \$15.0 million in FY 2027 ($\$2,000,000,000 * 3\% = \$2,060,000,000 - \$2,060,000,000 = \$60,000,000 * 25\% = \$15,000,000$ and so forth), \$30.5 million in FY 2028, and \$46.25 million in FY 2029.
2. Municipalities would receive an additional Local Aid set aside equal to 25% of the 3% increase in appropriations made to the TTF from fiscal years 2027 – 2029 as summarized above.
3. The Department of Transportation (DOT) and New Jersey Transit Corporation would each receive a set aside equal to 25% of the 3% increase in appropriations made to the Transportation Trust Fund Authority in fiscal years 2027 – 2029.

The legislation would impose an increase to the current gas tax of approximately 1.9 cents with a “True-Up” provision based on revenues generated as stipulated in the 2016 TTF law. In other words, the total gas tax imposed on motorists is contingent on the amount of the tax collected. Please note that the gas tax is comprised of two separate taxes on gasoline and diesel fuel that include the Motor Fuels Tax and the Petroleum Products Gross Receipts Tax with the current tax set at 42.3 cents for gasoline and 49.3 cents for diesel fuel through June 30, 2024. Finally, the new law would impose an annual fee of \$250.0 on zero emission vehicles with a \$10.0 increase to the initial fee every thereafter until 2028. After that time, the amount of the fee would be set at \$290.0.

PUBLIC RECORDS

On March 11th, NJAC testified before the Senate Budget and Appropriations Committee in support of **S-2930** (*Sarlo D-36*), which would make various changes to the Open Public Records Act (OPRA). That same day, the Assembly State and Local Government Committee considered the companion version **A-4045** (*Danielsen D-17/Flynn R-15*). Although both committees favorably reported the measure as introduced, the sponsors and legislative leadership intend to make additional changes to address concerns raised by the press, citizens, and other stakeholders.

In the meantime, NJAC will continue to support efforts to streamline and modernize the open public records process by supporting legislation that would encourage public entities to digitize documents and make searchable online, records such as contracts, resolutions, meeting minutes, agendas, and more. The public and press would then have the ability to access databases online from their own devices or with computers located in public libraries. Importantly, if a public record is readily accessible on a publicly available website, any request should be deemed fulfilled upon notification by the custodian to the requestor of the availability and location on the website of the requested information. This process would save valuable time and resources, and is long overdue.

NJAC also applauds efforts to rein in OPRA requests made by commercial entities that take advantage of the open public records process to generate profits. Depending on the size and population of the county, custodians of records for boards of county commissioners conservatively process between 250 to 3000 record requests each year with an estimated 50% of those requests made for commercial purposes. Please note pursuant to a more recent survey conducted by NJAC, these figures are significantly higher with additional details to follow, and may not include requests made directly to county constitutional officers (*county clerks, sheriffs, surrogates, registers of deeds and mortgages, and prosecutors*) or independent autonomous agencies funded by boards of county commissioners (*board of social services, boards of elections, and more*). Given that a single document request may take up to 10 hours or more to process, and may require the attention of multiple departments to ensure that the response is in accordance with the law, county officials have long struggled with limited staff and resources to process overly burdensome requests made for commercial purposes.

In the case of an OPRA challenge filed in Superior Court or before the Government Records Council (GRC), NJAC submits that attorney's fees should be awarded to the prevailing party at a judge's discretion as some firms may charge up to \$500 per hour to litigate a matter where the custodian of record did not act willfully or wantonly in denying a request. Moreover, attorney's fees should be capped at the rate a public entity pays outside counsel to mitigate the cost to property taxpayers. NJAC further submits that the law should not incentivize attorneys to base an entire practice on exploiting OPRA violations as certain law firms have business arrangements wherein

identical OPRA requests are simultaneously made to all 21 counties and 500 plus municipalities by outside agencies for the sole purpose of catching a mistake and filing a lawsuit for the recovery of attorney's fees.

With respect to **S-2930/A-4035** as introduced, NJAC appreciates that the measure would provide the Association with appointments to the Police Access Improvement Task Force charged with investigating existing statutes governing public access to police records and making recommendations to improve the process accordingly. County sheriffs, prosecutors, jail wardens, and police departments are an integral component of the county government system and NJAC looks forward to working with the Attorney General. Lastly, NJAC is grateful that the measure would include funding to assist local governments with digitizing public records and strengthen the GRC with much needed staff and resources.

CAP CALCULATIONS

On March 18th, both houses passed **S-2969** (*Sarlo D-36/Ruiz D-29*)(*Pintor Marin D-29*), which would provide counties with discretion related to the retirement of county debt service and the amount that may be raised under the property tax cap levy.

In general, this legislation would provide that a county in preparing its budget under either of the local budget cap laws may add to its adjusted tax levy the greater of the banked property taxing authority under the two. Additionally, the bill would stipulate that after a county had made the determination to prepare its budget under the 1977 Cap Law, the county's maximum permissible tax levy for that local budget years would not be reduced by the amount of the difference in appropriations for debt service between the two local budget years. The measure would further provide that a county may add to its adjusted tax levy the greater of the amount authorized pursuant to the amount of the difference between the maximum allowable amount to be raised and the actual amount to be raised by the county purpose tax accumulated for both the 1977 and 2010 cap laws.

In general, county governments must prepare their budgets pursuant to the 1977 Cap Law and the 2010 Cap Law and then use the more restrictive one as its cap calculation. In general, the "2010 Cap Law" imposes a 2.0% cap on local government spending, with certain cap exceptions for capital expenditures; debt service; pension contributions in excess of 2.0%; increases in health care costs in excess of 2.0%, but not greater than the percentage increase of the State Health Benefits Program (SHBP); and extraordinary costs incurred by a local unit directly related to a declared emergency. This law also eliminates waivers; provides that local governments may only exceed the 2.0% cap levy restriction by a local cap override approved by a majority of the voters; and authorizes the use of cap banking for three years. The "1977 Cap Law" imposes a cap of either 2.5% or the Cost-of-Living Adjustment (COLA), whichever is less, of the previous year's county tax levy. Although this cap restriction contains certain cap

exceptions for capital expenditures; debt service; emergency appropriations; and several others, it does not contain an exception for pension contributions and limits the exception for health expenses for such expenses incurred over 4.0%. Additionally, the use of cap banking is restricted to two years.

NJAC has long argued that the formulation of two complex, yet significantly different cap calculations, imposes an undue burden on county governments, which exercise little control over pension expenditures, the increase in the costs of goods and services, State mandates, and much more. Please note that after the 2010 Cap Law was signed into law and inadvertently kept the 1977 Cap Law, NJAC advocated for the Department of Community Affairs (DCA) to reconsider its decision to require that counties formulate two cap calculations. Although a repeal of the 1977 Cap Law would be the best-case scenario, this legislation would certainly help as it would provide counties with the flexibility to responsibly retire debt without a resulting decrease in the amount that could be raised through property taxes the following year as the current practice seems to serve as a disincentive for counties to eliminate existing debt. Governor Murphy is expected to sign the bill into law.

FY 25 BUDGET TESTIMONY

On March 20th, NJAC testified before the Assembly Budget Committee concerning Governor Murphy's Fiscal Year 2025 State Budget. As summarized below, NJAC noted its support to fully fund the State's retirement systems, increase monies for county 911 centers, support county reentry coordinators, and restore State Aid to community colleges as summarized below. *NJAC also plans to advocate for funding to help offset the costs associated with purchasing, storing, and upgrading body worn cameras for law enforcement officers and establishing temporary housing shelters for individuals struggling with homelessness.*

- **LOCAL PENSION OBLIGATIONS:** NJAC supports Governor Murphy's commitment to making full contributions to the State's pension systems of \$7.1 billion in this year's budget as it would help preserve the long-term health, viability, and solvency of the retirement systems. As a result, in part, of this being the fourth consecutive year of fully funding the pension systems, local government employers will not face double digit increases in total pension contributions for the first time in several years.
- **911 FUNDING:** Although NJAC appreciates the fact that for third consecutive year, the budget includes \$10.0 million in funding for "Public Safety Answering Upgrades and Consolidation," NJAC is urging the Legislature to include \$21.0 million in funding to county 911 centers with a \$1.0 million grant being made available for each county to regionalize, upgrade, or maintain its 911 system with a precise, accurate, and reliable communication network.

- COUNTY REENTRY COORDINATORS: NJAC supports the budget’s continued commitment to grant funding of \$2.1 million, or \$100,000 per county, for each county to hire a re-entry coordinator responsible for helping inmates navigate the broad spectrum of services available upon release from a county jail such as reentry and rehabilitative programs, substance abuse initiatives, housing alternatives, food security, job training, and much more.
- COMMUNITY COLLEGES: NJAC encourages the Legislature to restore the historic investment of \$169.0 million included in last year’s budget as it helped offset significant increases in operating costs faced by the State’s 18 community colleges. Although county governments remain committed to supporting community colleges provide residents with an affordable and quality education while building a skilled workforce, the proposed \$20.0 million reduction in this year’s budget would carry long-term consequences for students, their families, and property taxpayers.

UPCOMING NJAC EVENTS: Don’t miss NJAC’s Annual Celebration of County Government set for 5/1 – 5/2 at Caesar’s in Atlantic Cit with additional details about registration and the action-packed schedule of events at www.njac.org.

The top 15 TV shows of all time for you to binge watch this soggy Saturday on Netflix, Hulu, Steampix, Tubi, Pluto, You Tube, HBO, Showtime, Cinemax, Disney, Starz, Amazon Prime, FreeVee, Max, Paramount Plus, or wherever, but only if you remember your password, pay a small fee, and can find the clicker.

15. Kolchak: The Night Stalker
14. Good Times
13. Lost in Space
12. The Love Boat
11. Starsky & Hutch
10. Deadwood
9. The X-Files
8. The Carol Burnet Show
7. Married with Children
6. The Rifleman
5. All in the Family
4. Gun Smoke
3. The Sopranos
2. Star Trek
1. The Twilight Zone

“A dream doesn't become reality through magic; it takes sweat, determination and hard work.” Colin Powell