

August 4, 2017

RE: WEEKLY UPDATE

- I. State Issues
- II. Federal Issues
- III. 102nd Annual League Conference IV. Also of Interest

Dear Mayor:

Here's a recap of recent developments here in Trenton and in DC.

I. State Issues

a. CY 2017/SFY 2018 Best Practices Checklist Issued

On August 1, the Division of Local Government Services issued the CY 2017/SFY 2018 Best Practices Checklist. [Local Finance Notice 2017-14](#) provides guidance on this year's process. Calendar Year municipalities must submit their Best Practices checklist by Friday, October 20, 2017. State Fiscal Year municipalities will have until Friday, April 6, 2018. For more information please click [here](#).

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b. NJ Supreme Court Issues 2 Opinions of Interest

“Dynamic Status Quo”

On August 2, 2017, the New Jersey Supreme Court issued its opinion on, In the Matter of County of Atlantic; In the Matter of Township of Bridgewater (077447) (A-98/99/100-15), a case in which the League participated in as amicus. This case deals with collective negotiation agreements (“CNA”) and more specifically the continuation of certain contractual terms within the CNA after the expiration of the agreement under the dynamic status quo doctrine. The Court agreed with the Appellate Division judgment that the local governments should have made the incremental pay increases as outlined in the expired CNA during the negotiation period, but did not make their judgment based on the dynamic status quo doctrine. Instead, the Court relied on contract theory to determine that the local governments should have made the incremental pay increase and thus avoided addressing the larger issue of PERC’s application of the dynamic status quo doctrine.

For more, [please click here for the League’s August 3 Town Crier blog post](#).

Declaratory Judgments and Privacy Concerns in Regards to OPRA

On August 3, the New Jersey Supreme Court issued its opinion on, [In the Matter of New Jersey State Fireman's Association Obligation to Provide Relief Applications Under the Open Public Records Act \(A-68-15\)\(077097\)](#). In this case the Court ruled on issues involving OPRA and a public entity's refusal to provide disclosure based on privacy concerns.

First, the Court ruled that when a public entity denies a request under OPRA, that entity could not then seek a declaratory judgment from the courts affirming that denial. Second, the Court overturned the Appellate Division's ruling and found that because of privacy concerns the Fireman's association did not need to disclose financial relief checks and the financial relief application of an individual ex-firefighter.

This ruling can be seen as a departure from many recently rulings which allowed for broad disclosure of records and instead relied on heightened consideration of privacy concerns to prevent the release of certain documents.

For more, please click [here](#) for the League's August 4 Town Crier blog post.

You should review these recent cases with your attorney for more information on how the rulings may impact your municipality.

Contact: Frank Marshal, Esq., League Staff Attorney, fmarshall@njslom.org or 609-695-3481 x137.

c. Proposed Rulemaking

We would like to alert you to a few new rules and amendments being proposed by various state agencies. The League is in the process of working with stakeholders in reviewing the proposed rules and will be providing an analysis of the potential municipal impact. We encourage you to review these proposed rules and if you have any comments or concerns which you would like to bring to our attention please feel free to contact us. After our review and with feedback from our members we anticipate submitting comments on these proposed rules and amendments.

[N.J.A.C. 2:24-2.3\(a\), 2.4, 4.2, 5.1 \(Proposed Amendments\)](#)

[N.J.A.C. 2:24-7 \(Proposed New Rule\) – Disease of Bees](#)

The rules proposed by the State Board of Agriculture have not yet been published in the NJ Register but are available for review in their pre-publication form. These rules seek to implement the Board's exclusive authority to regulate beekeeping within the State. Specifically, these rules seek to define certain industry terms and set standards governing the breeding and keeping of bees within the state. These rules are of particular importance to municipalities as local units must adopt the rules by specific reference in order for the local unit to enforce them.

[Repeals and New Rules, N.J.A.C. 5:30-9A.4 and 9A.6 / Amendments, N.J.A.C. 5:30-9A.1, 9A.2, 9A.3, 9A.5, and 9A.7 and 5:31-4.1 and 4.2 / Repeal, N.J.A.C. 5:30-9A.8 – Electronic Disbursements and Claimant Certification](#)

The Local Finance Board seeks to expand the current use of procurement cards to include the authorized use of standard electronic funds transfer technologies. The proposed new set forth standards which must be followed for the use of procurement cards and also requires municipalities and other entities to develop a policy for their use.

[N.J.A.C. 5:30-18](#) – *Employee Compensation Disclosure* With this new rule proposed by the Local Finance Board the Board seeks to use its statutory authority to implement a 2007 law and create an employee compensation disclosure form to be used when a municipality seeks to ratify a collective negotiated agreement or an individual employment contract. The purpose of the form is to provide a comparison of the employee’s salary, year over year in order to keep the public better informed of salary decisions.

[N.J.A.C. 5:33-1.1](#) – *Electronic Tax Lien Sales*

- The Division of Local Government Services has proposed new rules concerning the electronic sale of delinquent tax liens and municipal charges. The proposed rule seeks to expand the current pilot program and includes some changes to the procedures and parameters currently in place for the sale of these liens via the internet.

[Amendments, N.J.A.C. 16:41C](#) – *Roadside Sign Control and Outdoor Advertising*

The Department of Transportation seeks to amend the rules concerning outdoor advertisement. The proposed amendments would put limitations on the types and manner in which signs could appear bike share stations. The proposed amendment would include charging a permitting fee to municipalities before the posting of a sign on a bike share station.

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d. TAKE ACTION: 2% Interest Arbitration Cap to Expire At End of Year

In June 2014, the Legislature unanimously approved and the Governor enacted an extension on the 2% cap on Interest Arbitration awards. That extension is set to expire on December 31, 2017. While the 2% property tax levy cap will continue, the cap on Interest Arbitration awards will expire on the same day that the final report and recommendations of the Police and Fire Public Interest Arbitration Impact Task Force is due, unless the Legislature and Governor act.

The temporary 2% cap on police and fire arbitration contract awards has been an effective tool to control increasing salary costs and provide a solution to assist local governments in keeping

property taxes down and cost under control. However, we recognize that this change in arbitration reform needs a longer time to mature in order to see the benefits of the legislation and its actual impact on the cost of local government budgets and the impact on taxpayers.

We urge you to pass a resolution ([pdf](#)) urging the State Legislature and Governor to extend the 2% cap on Police and Fire Arbitration Contract Awards for an additional five years, at which time the Legislature will have hard data to examine and then make a final decision as to whether this law should be made permanent.

If the cap on interest arbitration expires, while the 2% property tax levy cap remains in effect, municipalities will be forced to reduce or eliminate municipal services in order to fund interest arbitration awards.

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II. Federal Issues

a. August Recess Action Needed of Federal Budget Package

With both Houses of Congress in recess, now is the time to urge your federal legislators to consider the need to address local funding priorities. You can read more about the status of House and Senate actions on the Nation's FY '18 budget in our [August 2 Update](#).

When Congress reconvenes in September, they will have one month to complete negotiations on a common budget and approve all twelve spending bills. If consensus cannot be reached by the September 31st deadline, Congress must begin passing Continuing Resolutions to keep the federal government funded and operating or the federal government will shut down.

Please contact Senators Menendez and Booker and your local Representative to support FederalLocal partnership programs and priorities. Our citizens are best served when all their elected representatives at all levels of government work together to protect their rights and interests.

The National League of Cities (NLC) has posted some excellent analyses of the process and proposals advanced to date. The [FY '18 federal budget tracker](#) page also includes a link to the NLC #FightTheCuts strategy outline. Finally, it provides a link to a detailed comparison of programmatic funding included in the Administration's proposal, the House Appropriations bills, and the Senate's Appropriations bills.

Contact: Jon Moran, Sr. Legislative Analyst, jmoran@njslom.org or 609-695-3481 x121.

b. Federal Debt Ceiling Deadline Is Coming

Six weeks ago, U.S. Secretary of the Treasurer Steve Mnuchin called on Congress to raise the Federal debt ceiling before leaving for the August recess. He has stated that action is absolutely essential before September 29. As things now stand, Congress will have 12 working days to act, when Members return to Washington.

The Secretary favors a ‘clean’ debt limit bill, with no strings attached. Office of Management and Budget Director Mick Mulvaney, however, has expressed his opinion that any extension of the limit must be accompanied by spending cuts.

Absent an agreement on this, the U.S. would be unable to borrow, which would preclude the timely payment of all its obligations. That, experts contend, could cripple market confidence in the Government’s ‘full faith and credit’ and disrupt the economy, at home and abroad. Secretary Mnuchin last week warned Congress that the two most recent debt-limit fights on Capitol Hill (in 2011 and 2013) had raised yields on Treasury securities ahead of the expected date of default, thereby costing the nation’s taxpayers about \$260 million in 2011 and \$230 million in 2013, according to research released by the Federal Reserve this year.

Please contact your representatives and urge timely action on this.

Contact: Jon Moran, Sr. Legislative Analyst, jmoran@njslom.org or 609-695-3481 x121.

c. Federal Tax Reform Outlined and Details to Be Determined

The Administration, which has been working with key Congressional leaders, hopes to see a tax reform proposal pass the House in October, with Senate action to follow in November. Broad outlines, which have been announced, call for lower individual and corporate tax rates and the elimination of most allowable deductions.

Actual rates have not yet been announced, as discussions between the White House, the Senate Majority Leader, the Speaker and the Chairs of the respective House and Senate Committees continue. Nor has a definitive list of deductions been provided.

The goal is to eliminate many tax breaks, in order to simplify the tax code and to help pay for lowering tax rates. Announced principles call for a significantly increased the standard deduction, allowing deductions for mortgage interest, charitable giving and tax benefits for retirement savings, while doing away with other itemized deductions.

Negotiators have stated that they want to do away with the deduction for state and local taxes. But they not yet commented on the deduction for interest earned on municipal bonds.

The tax code is incredibly complex and every one of its provisions was enacted for a reason. While some of those reasons may no longer serve the public’s interest, others remain fair and effective tools that promote the general welfare.

The state and local tax deduction was one of six deductions in the original tax code in 1913. The principal that no government should tax another strikes at the heart of federalism and any reversal would be an overreach by the federal government. This preemption would result in a double taxation and increase the constraints of local budgets due to a lack of revenue.

Municipal bonds are the primary tool used by state and local governments to build and maintain infrastructure. This efficient financing tool gives localities the flexibility to spend on projects that are needed. In the past decade, state and local governments have financed \$3.8 trillion in infrastructure through municipal bonds. The tax exemption reduces the issuance cost and affords local leaders the flexibility to finance public capital improvements and infrastructure projects.

Since the last comprehensive tax reform in 1986, the tax code has become increasingly complex and the need for streamlining is apparent. While we appreciate the need for reform, revenue neutrality should not be accomplished by preempting state and local governments taxing authority. Any effort that includes cutting these vital tools is short sighted and would undermine the ability to meet the needs of the citizens local officials are sworn to serve.

Please contact Senators Menendez and Booker and your Congresswoman or Congressman and urge them to protect these vital provisions.

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III. 102nd Annual League Conference

a. Don't Use Unauthorized Hotel Reservation Services

Every year there are unauthorized firms soliciting housing and hotel reservations from attendees at the Annual League Conference. We assure you that the only firm authorized to handle our conference housing reservations is A.C. Central Reservations. This information is on the top of the official conference housing form sent to all municipal clerks and posted on our web site: <https://nj-njslom.civicplus.com/302/2017-Conference>

b. Plan Now for November: Exhibit Highlights

The Exhibit Hall at the League's Annual Conference offers a wide variety of services and products. Each day at the conference, take the opportunity to enjoy the exhibit floor by stopping in for a nice lunch and visits to the booths for every municipal need, concern, and interest.

Begin to make your list of exhibitors to visit including current favorites and the 62 new exhibiting companies—or contact them now! Plan today by visiting our interactive map at <https://shows.map-dynamics.com/NJLM2017/>

IV. Also of Interest

a. Innovation in Governance Recognition Program

The New Jersey Department of Community Affairs and the New Jersey League of Municipalities will again acknowledge and promote Innovation in Governance through our annual recognition program. This is a great opportunity to showcase innovative solutions to any problems that have cropped up – either suddenly or over time – in your municipality. It can also be an opportunity to let your peers in on innovations that prevented problems from even arising.

This year, the Innovation in Governance Awards Committee is looking for any original approaches in public administration undertaken by a Garden State municipality during the past 16 months – from the beginning of June 2016 to September 30, 2017. Any innovation in any department or program will be considered for recognition.

This program was established to highlight exemplary local government activities that exhibit creative and practical approaches to local problems and concerns. We will share the winning entries with municipal leaders at the 102nd Annual League of Municipalities Conference Mayors' Luncheon on Wednesday, November 15, 2017 at the Sheraton in Atlantic City, and in the December issue of our magazine, New Jersey Municipalities.

The application can be accessed by clicking on either of the links below:

- League of Municipalities website – [2017 Innovation Application](#)
- Department of Community Affairs website – [Innovation Application and Letter](#)

The nomination deadline for this program is October 2. Accordingly, we encourage you to forward this information to the appropriate people in your municipality today, giving them ample time to meet our deadline.

Contact: Ciara Bradley, Legislative Administrator, cbradley@njslom.org , 609-695-3481 x128.

b. Free Event! Creating Healthy and Inclusive Communities

Inclusive communities provide individuals with disabilities equal access and opportunities for healthy living. Inclusive Health goals include achieving policy and systems implementation, as well as environmental changes that increase access to physical activity and a healthy lifestyle.

Program highlights include: Inspirational conversations and information about resources and funding through Inclusive Health. This event is sponsored by NJ Dept. of Health, NJ Dept. of Human Services, and America Walks.

Date: Friday, October 13, 2017

Time: 9:00am-3:30pm

Location: RWJ Fitness & Wellness Center, 31100 Quakerbridge Rd., Hamilton, NJ

For details contact: Peri.Nearon@doh.nj.gov

c. Free Training to Keep Municipalities in Compliance with the National Flood Insurance Program

In order to remain in good standing with the FEMA National Flood Insurance Program (NFIP), your community needs to continue to enforce your Local Flood Damage Prevention Ordinance. Information on the free training program and scheduling can be obtained at <http://www.njafm.org/cfm> and <http://www.njafm.org/resources/Documents/FPMTraining/Schedule%20-%20Floodplain%20Training.pdf>. The free training program will be available in all 21 counties.

For additional information on the training, contact James Watt, Division of Dam Safety and Flood Control at 609-292-2296 or James.Watt@dep.nj.gov

d. Nominations Being Accepted For Annual Recycling Awards Program

The Department of Environmental Protection (DEP) announced that it will begin accepting nominations for the Annual Recycling Awards Program. The award program's goal is to recognize, "excellence in recycling in order to highlight program successes achieved by agencies, businesses, individuals, and others in keeping New Jersey communities clean and healthy." Past award recipients in the government category include; Gloucester Township – 2015, Township of Woodbridge – 2014, and Nutley Township – 2013.

Nominations are due August 11, 2017, with awardees to be notified in September and then honored at the Associations of New Jersey Recyclers Symposium and Awards Luncheon on October 18, 2017. To view the press release, please click [here](#). The nomination packet can be found [here](#).

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Sincerely,

Michael F. Cerra
Assistant Executive Director