

September 8, 2017

RE: WEEKLY UPDATE

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

Dear Mayor:

Here is a brief recap on issues of interest.

I. State Issues

a. OPRA/OPMA Update

At their June 29 meeting, the Senate Budget and Appropriations Committee amended and released **without recommendation**, [S-1045](#), which amends the Open Public Meetings Act, and [S-1046](#), which amends the Open Public Records Act. Unfortunately, the League and others were unable to testify in opposition to the bills at the June 29 hearing. While we did present detailed written comments on the bills, no verbal testimony was taken from anyone other than the bills sponsor. During her remarks, Senator Weinberg noted that she had sent a letter to all the Mayors in the State and only heard back from one Mayor expressing concerns with the proposed legislation. If you have not already done so, we strongly suggest that you contact Senator Weinberg expressing your concerns with the proposed legislation. For more please see our blog post [here](#).

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njslom.org, 609-695-3481 x112.

b. 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 costs 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.

For more, including links to recent editorials by the [Star-Ledger](#) and the [Courier News](#) on this issue, [please click here](#).

Contacts:

Michael Cerra, Assistant Executive Director, mcerra@njslom.org, 609-695-3481 x120;
Lori Buckelew, Senior Legislative Analyst, lbuckelew@njslom.org, 609-695-3481 x112.

II. Federal Issues

a. Congress and White House Agree to Short-term Pressure Relief Measure

We had previously reported on the number of serious issues requiring timely attention in Congress during the month of September. We believed that members of the House and Senate would have to devote long hours over many days to meet all those month's end deadlines, during the next few weeks. Boy, were we wrong.

Yesterday, just a day after compromise was reached at a bipartisan, bicameral White House meeting, the Senate passed, in a single bill, a three month **continuing resolution** that will allow the government to operate into December, an **increase in the debt limit** that will allow the government to continue to pay its bills into December, a **temporary extension of the National Flood Insurance Program**, and an appropriation of \$15 billion in **emergency hurricane and disaster recovery aid**.

Just this morning, the House, which had previously passed a disaster relief bill, concurred with the Senate today and sent the legislation to the President, who is expected to sign it into law.

This will give Congress three months to develop more (or less) permanent solutions to the four crises that were deferred by this action. We will do our best to keep you posted. **Contact:**

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

b. U.S. District Court Strikes Down Federal Overtime Rules

Recently, the U.S. District Court for the Eastern District of Texas issued a ruling that impacts New Jersey municipalities and businesses. In [State of Nevada, Et Al. v. United States Department of Labor](#) a group of states and national business groups challenged the Department of Labor's recently adopted regulations regarding overtime payment for certain salaried

employees. More specifically, at issue was whether or not the Department of Labor (“DOL”) was granted the authority under the Fair Labor Standards Act (“FLSA”) to create a rule which uses the amount of salary as a determining factor for when overtime payments must be made to employees.

Prior to being found unlawful, the 2016 regulations provided that employees could not qualify for the exemption to overtime payment requirements found in the FLSA, regardless of their duties, if they earned a salary less than \$47,476. The regulations also provided for an annual increase in the salary threshold used in determining overtime payment exceptions. Regulations in effect before 2016 determined exemptions to overtime payments based on a duties test and used a very low salary threshold merely as a means to filter out extreme circumstances where the overtime exemption would not apply.

The court found that the DOL did not have the authority to create a test for overtime payment eligibility that was based primarily on a salary threshold which effectively abandoned a duties test. The court was sure to clarify that while the DOL could use a salary level test when determining overtime pay exemptions, the salary set by the new regulations was far too high, thereby impermissibly supplanting an analysis of an employee’s job duties.

This ruling is beneficial to employers, including municipal employers, as the increase in the salary threshold for overtime payments would have likely meant an increase in municipal payroll obligations. Or in the alternative, taxpayers could have seen a reduction in government services as municipalities would have likely prohibited salaried employees from working longer hours that would have required overtime payments.

Due likely to a mixture of legal concerns over the 2016 regulations and differing political ideologies the DOL, under the new administration, is attempting to revisit the issue of overtime payments and other regulations under the FLSA. In revisiting these issues the DOL in late July posted a [request for information and public comment](#) regarding the current overtime exemptions.

You should review this ruling with your municipal attorney for more information on how the ruling will impact your municipality.

Contact: Frank Marshall, Esq. – League Staff Attorney, FMarshall@njslom.org, 609-695-3481 x137.

c. Gateway Project News

We report on a pair of developments this week. The first raised hopes for meaningful progress on the crucial Amtrak Gateway project. The second raised some concern.

The Gateway project will involve the improvement and repair of New Jersey’s essential rail link with midtown Manhattan. That link is vital to the economy, the quality of life and the future of New Jersey. Imagine the impact on our State’s economy, the traffic impact on our roads, the

devastating impact on the quality of life and the impact on property values, if our rail link with midtown Manhattan were to be severed. After assessing the strains that the passage of time, intense usage and Sandy have placed on the infrastructure, former Amtrak CEO Joseph Boardman announced that, in less than 20 years, one or both of the 107-year old tunnels would have to be shut down. The cost of doing nothing will far exceed the cost of the project.

On Wednesday, in the House of Representatives, an effort to divert \$900 million in Gateway funding to transportation improvements in other parts of the country, and to deficit reduction, was defeated, when the House voted, 159-260, against a motion to strip the funding from the U.S. Department of Transportation appropriation for the next Federal fiscal year.

We commend Congressman Rodney Frelinghuysen, who, as Chairman of the House Appropriations Committee, shepherded the bill to this point. And we thank Representatives Watson Coleman, Frelinghuysen, Gottheimer, Lance, LoBiondo, MacArthur, Norcross, Pallone, Pascrell, Payne, Sires and Smith for their votes against the proposed amendment.

Then, on Thursday, a meeting on the Gateway project's future was held in the White House. The Governors of New Jersey and New York, Senator Cory Booker and other members of the New Jersey and New York Congressional delegations met with the President and high ranking members of the White House staff to discuss the Administration's commitment to the project. Participants have been reported as describing the results of the meeting as 'inconclusive,' and as indicating that 'more work needs to be done' on securing specific federal commitments.

Following the meeting, an official White House statement said, "The expense of the program, which approaches \$30 billion, will require a strong partnership to deliver these nine projects in a cost-effective manner by streamlining the permitting process, using innovative procurement techniques, and being creative in the funding and financing of the program. The president and his administration remain committed to creating a robust infrastructure package that will modernize and transform our nation's infrastructure."

We will keep you advised of any further developments. For now, please thank your Congressperson for the work already done on this matter.

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

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: <http://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/>

c. NJLM 2017 Conference CEU List Has Been Posted!

The first version of Annual Conference CEU list has been posted. You can view this list by clicking the following link: <http://nj-njslom.civicplus.com/302/2017-Conference>

Please note, the Annual Conference CEU list is not final, please continue to check the conference page <http://nj-njslom.civicplus.com/302/2017-Conference> frequently for updates.

d. Don't Forget! CEU Tracking System Procedures for 102nd Annual NJLM Conference

Badge Scanners will be used to track CEU Credits and Attendance at the NJLM 102nd Annual Conference.

For Sessions that Have CEU credit Available

- All Attendees looking to earn credit must scan-in and scan-out of these qualifying sessions* to earn their CEU credits.
- Attendees will claim their certificates after the conference via the League website <http://nj-njslom.civicplus.com/300/Conference>

For more information or for a complete list of procedures please click the following link for <http://nj-njslom.civicplus.com/302/2017-Conference>

** Please note, the procedures described above only apply to educational sessions. **Business Meetings and vendor sessions are not included** in the scanning system*

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. Nominations Open for 2017 Great Places in New Jersey

Great Places in New Jersey, the flagship program of the New Jersey Chapter of the American Planning Association (APA-NJ), celebrates downtowns, streets, neighborhoods and public spaces of exemplary character, quality and planning. These places represent the gold standard in terms of having a true sense of place, cultural and historical interest, community involvement and a vision for tomorrow. They help their communities enjoy relative prosperity and a good quality of life. Since 2012, APA-NJ has designated 26 Great Places throughout New Jersey. Have one in mind? **Deadline for nominations is September 20th**. Learn more about the criteria for Great Places, past designees, and how you can nominate your place by visiting: GreatPlacesNJ.com.

c. League Professional Development Webinar

“OPRA Spotlight: The Lyndhurst Decision and Police Records”

Date: October 18, 2017 **Time:**
11:00a.m.-12:15p.m.

Location: Your Computer

The recent New Jersey Supreme Court decision in *North Jersey Media Group, Inc. v. Township of Lyndhurst* confirmed that most written records created during a criminal investigation are beyond the reach of Open Public Records Act requests, but the Court found that police Use of Force reports are subject to OPRA unless the government can show that disclosure would be “inimical to the public interest.” The Court’s reasoning has opened the door to arguments that police dash camera and body camera footage may be subject to OPRA based on the extent that the Attorney General’s Law Enforcement Directive 2015-1 constituted a “law” requiring that footage to be created. Even if courts continue to hold that police camera footage is not subject to OPRA, the Supreme Court’s Lyndhurst decision has opened the door wide open to common law “right to know” requests for police camera footage. This webinar will discuss the implications of this case, how to handle such a request, and what it means for Municipal Records Custodians with regards to these types of OPRA requests.

CEUs: CMFO/CCFO-1.5 Off Admin/Anc; CTC-1.5 Gen/Dec;CPWM-1.5 GOVT;RMC-1.5 Rec;QPA-1.5 Off Admin/Gen Duties; RPPO/RPPS-1.5 M/S

Link for Registration: <http://nj-njslom.civicplus.com/799/Seminar-and-Webinar-Handouts>

d. Hep. B Inoculation Reimbursement

Each municipality may receive up to \$5,000 in reimbursement for the cost of protecting its emergency medical technicians, firefighters and police officers against hepatitis B. **The deadline to apply for reimbursement is October 6.** For instructions please see the letter from the NJ Department of Health [here](#)

e. 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

f. Patriot Day Volunteer and Service Opportunities

September 11, 2017 is Patriot Day. Mayors can link their homepage to the website <https://www.nationalservice.gov/> and allow residents to find volunteer and service opportunities.

Sincerely,

Michael J. Darcy, CAE
Executive Director