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**May 14, 2018**

**Municipal Clerks: Please forward to Mayor, Manager/Administrator, Attorney, and Police Chief/Director.**

## **Confusion Surrounds Misinterpretation of New Animal Cruelty Enforcement Law**

On January 16 of this year, former Governor Christie signed into law a bill that enacted major reforms, designed to improve enforcement of the State's animal welfare and animal cruelty statutes. In response to reports of improprieties, the law eliminates the enforcement authority of the New Jersey Society for the Prevention of Cruelty to Animals. Instead, the law implements a joint municipal-county system.

Please review the statute to make sure that your municipality is not being asked to do more than the statute, Chapter 331 of the Public Laws of 2017 requires. Also, please consult your municipal attorney regarding your responsibilities.

For now, you should be aware of the following.

Section 25 of the law requires the governing body of any municipality that has a police department to 'submit at least one applicant for designation as a municipal humane law enforcement officer.' The governing body's application should go to your municipality's chief law enforcement officer, or, in the absence of same, to the Superintendent of the New Jersey State Police. That officer will conduct a background check and either approve or reject the applicant. That Section, further, states:

*The governing body of a municipality may designate as a municipal humane law enforcement officer any qualified individual. An animal control officer or a police officer may serve concurrently as a municipal humane law enforcement officer, so long as the officer is able to effectively carry out the duties and responsibilities required of each position held.*

*d. (1) The governing body of a municipality with a full time municipal police department may authorize a municipal humane law enforcement officer to possess, carry, and use a firearm while enforcing the laws and ordinances enacted for the protection of animals, if the officer:*

*(a) has satisfactorily completed a firearms training course as defined in subsection j. of N.J.S.2C:39-6 and approved by the Police Training Commission; and (b) twice annually qualifies in the use of a revolver or similar weapon.*

*(2) A municipal humane law enforcement officer authorized to possess, carry, and use a firearm pursuant to this subsection shall be subject to the supervision of the chief law enforcement officer of the municipality.*

Section 4 of the law also asserts the governing body's right to authorize a certified animal control officer to 'serve concurrently as a municipal humane law enforcement officer.' Additionally, Section 26 of the act permits a municipal humane law enforcement officer to be designated concurrently by more than one municipality, provided that the officer is able to effectively carry out the duties required of each designation, but excepting a municipal police officer who also serves as the municipal humane law enforcement officer from concurrently serving in that capacity in more than one municipality. And, we see nothing in the act that would otherwise prevent a municipality from entering into a shared services agreement with a neighboring municipality for such an officer.

Other sections of the new law require the Police Training Commission to develop a program of instruction for newly appointed municipal humane enforcement officer, which would need to be completed within one year of appointment. The Police Chief of the municipality can request a waiver from all or parts of the training requirements for an appointee who has already completed 'substantially equivalent' training.

If a violation of the act is brought to Superior Court by a county prosecutor by a municipal animal control officer or a municipal humane enforcement officer, Section 22 provides '... the fines, penalties, or moneys collected shall be paid as follows: one half to the municipality in which the violation occurred; and one half to the county to be used for the purpose of protecting animals in the county.' If the violation is brought to municipal court, which has a municipal humane enforcement officer, all fines and penalties will be paid to the municipality. If the violation is brought to the municipal court, in a municipality that does not have such an officer, the proceeds will be evenly divided between the municipality and the county. Finally, the Section provides that:


*Any fines, penalties, or moneys paid to a municipality pursuant to subsection b. of this section shall be allocated by the municipality to defray the cost of: (1) enforcement of animal control, animal welfare, and animal cruelty laws and ordinances within the municipality; and (2) the training therefor required of certified animal control officers and municipal humane law enforcement officers pursuant to law or other animal enforcement related training authorized by law for municipal employees.*

To be clear, a municipality still needs to appoint an animal control officer. The new law doesn't change that. It requires the appointment of a humane enforcement officer, also. But one individual can hold both offices.

Again, please review the new law with your Municipal Attorney. And please let us know if it poses any problems in your municipality, so that we can petition the Legislature if remedial action is required.

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