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June 29, 2018

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I. State Issues

a. State Budget Update

We are now less than 48 hours away from the midnight, June 30, deadline for the adoption of a balanced state budget. Without a balanced budget in place, a State shutdown could ensue for the second consecutive year.

As this is being sent (Friday morning), the Governor and the Legislative Leadership (Senate President Sweeney and Assembly Speaker Coughlin) remain far enough apart that a State shutdown is a distinct possibility.

By now you have undoubtedly read press accounts regarding the issues on the table. To summarize, the Senate and Assembly passed a fiscal year (FY) 2019 budget which relied upon an increase in the Corporation Business Tax (CBT) to provide the revenue for additional spending. The Governor remains committed to a millionaire's tax and returning the state sales tax to 7%. The Governor offered a compromise, which was essentially a reduced CBT increase, reduced millionaire's tax and phase-in on the sales tax increase. The Legislature countered with a proposal to increase the real estate transfer fee on transactions greater than \$1 million and the extension of a tax on seasonal, primarily shore rentals. Yesterday, the Governor was highly critical of the proposed tax on rentals, calling it a tax on the middle class. Thus, while the two sides appear to be moving closer on their respective revenue projections and estimates, substantive differences appear to remain over how to fund portions of the state FY 2019 budget.

To date, the FY 2019 budget language keeps the energy tax receipts (ETR) off-budget, as the League requested.

Negotiations continue and a deal could be struck and in place before tomorrow night. But in the event of a State shutdown, the League will provide you with updates in as timely a fashion as possible. Please also monitor the League website (www.njslom.org) and social media feeds on Twitter, Facebook, and LinkedIn.

Also in the event of a shutdown, the League will push out through these same channels reminders that even when there is a state shutdown, municipal governments continue their work and municipal beaches and parks are open for business. We would suggest you also communicate that message to your residents and if you use social media, please repost or share any such reminders we push out.

Contact: Michael F. Cerra, Assistant Executive Director, mcerra@njslom.org, 609-695-3481, Ext. 120.

b. Charitable Trust Law Effective July 3

Taking effect on July 3, [P.L. 2018, c. 11](#), permits municipalities, counties, and school districts to establish one or more charitable funds, each for a specific public purpose, and permits property tax credits in association with certain donations. However, for practical purposes, the Division of Local Government Services must first adopt regulations before a municipality can implement such charitable funds. (For more on the law, please see our [blog post](#).)

In preparation for the law, the Division has been drafting regulations and working with stakeholders, including the League. We anticipate that the rules will be adopted using the special adoption procedure provided for in P.L. 2018, c.11, which would make them effective upon filing with the Office Administrative Law (OAL), with a 60-day comment period that starts with an appearance in Register.

It is anticipated that the Division will issue a Local Finance Notice providing further technical guidance on the new law. We will continue to keep you posted.

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njslom.org, 609-695-3481, Ext. 112.

c. Legal Update

i. Janus Decision: SCOTUS Ruling Restricts Public Sector Unions' Power to Collect Fees

On Wednesday, the Supreme Court of the United States (SCOTUS) issued its ruling in [Janus v. AFSCME Council 31](#). This highly anticipated case involved a challenge to the ability of public sector unions to force nonmember government workers to pay agency fees. In a 5-4 decision, the Court ruled that "States and public-sector unions may no longer extract agency fees from nonconsenting employees" reasoning that such a scheme "violates the free speech rights of nonmembers by compelling them to subsidize private speech on matters of substantial public concern."

For a more detailed analysis on this ruling including the municipal impact and the potential for conflict with the recently enacted Workforce Democracy Enhancement Act, please see the League's recent [blog post](#). In addition, you may find the analysis written by League Labor Relations Counsel, Joseph Hannon, Esq., and Jennifer Roselle and Ryann Aaron

from the Genova Burns law firm informative. This can be read at the firms' [website](#).

Contact: Frank Marshall, Esq., League Staff Attorney, FMarshall@njslom.org, 609-695-3481, Ext. 137.

ii. SCOTUS Issues Sales Tax Ruling Which Could Benefit NJ and Property Tax, Payers

Last week the Supreme Court of the United States ("SCOTUS") released its opinion in, [South Dakota v. Wayfair Inc.](#), which addresses a state's authority to require internet retailers to collect sales tax. The Court ruled that the proliferation of internet retailers has changed the nature of commerce. And, that this change has resulted in the Court's own precedent, which required a retailer to have a physical presence in a state before it could be subject to sale tax collection requirements, to now be obsolete.

Further information on this decision and the potential municipal impact can be found by reviewing the League's recent [blog post](#).

Contact: Frank Marshall, Esq., League Staff Attorney, FMarshall@njslom.org, 609-695-3481, Ext. 137.

iii. State High Court Rules Appeal of Zoning Permit a Substantive Right; Must Be Heard By Zoning Board

The League would like to alert our members to a recent State Supreme Court ruling that will undoubtedly impact how municipal zoning boards handle appeals of zoning permits. Earlier this week, the NJ Supreme Court issued its decision [Mary Harz v. Borough of Spring Lake](#), which dealt with issues surrounding the right to appeal zoning decisions by interest parties and the NJ Civil Rights Act.

In this case, the Court ruled that an interested party has the statutory right for an appeal to be heard before the zoning board and that this is a substantive right, the violation of which is subject to the remedies afforded within the Civil Rights Act. While these rights and the possibility for a civil rights violation were found to exist, the Court refused to require an appeal hearing when the complaint from the concerned party has already been addressed by the zoning officer or other municipal official. This overturned the contrasting decision from the Appellate Division which would have seemingly provided a right to a board hearing regardless of the underlying matter becoming moot. The Court's common sense ruling provides a more efficient framework for dealing with appeals of zoning decisions.

To read more about the Court's decision please see the League's recent [blog posting](#).

Contact: Frank Marshall, Esq., League Staff Attorney, FMarshall@njslom.org, 609-695-3481, Ext. 137.

d. Animal Cruelty Enforcement

On June 25, both houses passed and sent to the Governor [A-4225/S-2689](#), which would change the effective date of P.L. 2017 c.331 regarding the animal cruelty statutes.

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. This bill delays the effective date of portions of that law from August 1, 2018 to February 1, 2019.

If you recall we previously provided you with a clarification of the law in a [May 14 communication](#). The Governor now has 45 days from June 25 to act on the bill. In the event that he signs the bill into law, the League will provide you with a summary of the new provisions.

For a summary of the bill, [review the statement of the Assembly budget committee](#).

Contact: Michael F. Cerra, Assistant Executive Director, mcerra@njslom.org, 609-695-3481, Ext. 120

II. League Conference

a. Unauthorized Hotel Reservation Services

Every year there are unauthorized firms soliciting housing and hotel reservations from attendees at the 103rd Annual League Conference. We assure you that the only firm authorized to handle our conference housing reservations is AC Central Reservations. This information is on the top of the official conference housing form sent to all municipal clerks and posted on our [website](#).

Using unauthorized reservation services creates real problems for you and the conference as a whole. You cannot be assured your credit card information is secure and your room reservation may not actually be made. Using unauthorized services means your room will not be part of the official conference housing block so you won't get emergency housing information (which happened in both 2011 and 2012), nor will there be adequate shuttle bus services to your hotel.

As always, the League is available to answer your questions on any aspect of the annual conference and we strive to make your participation both enjoyable and highly productive.

Contact: Michael J. Darcy, CAE, Executive Director, mdarcy@njslom.org, 609-695-3481, Ext. 116.

b. Exhibits at the Annual Conference

Do you know a vendor that would be a good fit for the Annual Conference? If so, ask them about being an exhibitor or have them contact Kristin Lawrence, Exhibit Manager at 609-695-3481, Ext. 125, or klawrence@njslom.org. Information is also available at the League's website, njslom.org/exhibit.

III. Also of Interest

a. League Accepting Applications for Innovation in Governance Program

The New Jersey Department of Community Affairs (DCA) 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.

Visit our awards page to see previous years of impressive ideas created by our winning municipalities, as well as the full invitation and application to this year's [program](#).

Contact: Ciara Bradley, Legislative Administrator, CBradley@njslom.org, 609-695-3481, Ext. 128.

b. Updated Mayors Wellness Campaign Toolkit

The new and improved Mayors Wellness Campaign (MWC) toolkit is geared to help mayors and community organizations address their unique local health needs. The toolkit contains an introductory video, and nearly 30 evidence-based, step-by-step, cost-effective program ideas in four main categories: physical health and nutrition, environment and health, education and health, and arts and health. Users can filter their search by the age of the population they wish to serve, and by the season. View the MWC at-a-glance program guide to help determine which program is best for your community. Check out the [new MWC toolkit here!](#)

Questions about the toolkit or how to join the MWC? Contact Tyla Housman at THousman@njhcqi.org or 609-452-5980.



New Jersey State League of Municipalities

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