

NEW JERSEY

# MUNICIPALITIES

New Jersey State League of Municipalities • [www.njslom.org](http://www.njslom.org) • April 2013

## Sandy's Costs & Effects

- 
- Making the Case for EMS Volunteers
  - Tapping the Power of Environmental Commissions
  - A Look at Recent Civil Service Reforms
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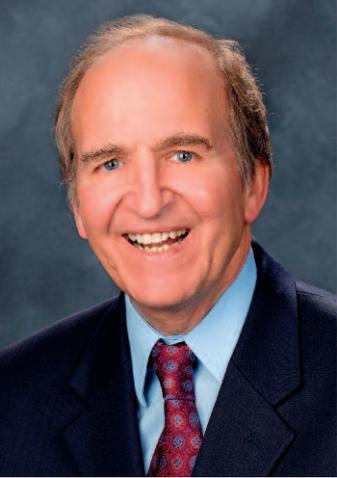
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FROM 222 WEST STATE STREET  
BILL DRESSEL, LEAGUE EXECUTIVE DIRECTOR

# AFFORDABLE HOUSING PROMISES TO RE-EMERGE

**W**e are months, possibly weeks, possibly days away from two significant Supreme Court rulings that will help drive the state's affordable housing policy for the foreseeable future.

[ OUR HOPE IS THAT THE COURT UPHOLDS GROWTH SHARE AS A VIABLE MECHANISM TO COMPLY WITH THE FAIR HOUSING ACT. ]

The first case dates back to the adoption of COAH's "3rd round" regulations, which were strenuously opposed by the League and most of the communities involved in the COAH process. The key issue before the Court is whether "growth share" is a constitutional mechanism to comply with the Fair Housing Act.

Second, the Court heard the appeal of the lower court ruling overturning the Governor's Administrative Order abolishing COAH. The League is not directly involved in this second case, but is *amicus* in a related ruling that prevented the state from seizing the affordable housing trust funds.

This case stemmed from the Governor's Administrative Order that abolished COAH and reassigned its duties and responsibilities to the Department of Community Affairs. The Fair Share Housing Center challenged the Order, arguing that the Governor does not have the authority under existing law to abolish an agency created by the Legislature. The key issue appears to be COAH's status as an agency, "...in, but not of..." the Department of Community Affairs.

The League is party in a third case, which is currently before the Appellate Division, regarding the state's attempts to seize the municipal affordable housing trust funds. This case is still being briefed and arguments could be held in the late spring. The state is currently prohibited from any attempted seizure of the municipal housing trust funds. An August 10 order that restrained the state in its efforts to seize the local trust funds remains in effect.

Regardless of what the Court decides, we should expect affordable housing to return to the legislative arena soon as the suspension of the 2.5 percent fee on non-residential development, which is intended to assist municipalities to meet their housing obligations, expires on June 30, 2013.

Against the backdrop of an election year, it is impossible to forecast what will happen and when. Our hope is that the Court upholds growth share as a viable mechanism to comply with the Fair Housing Act. Further we hope that the Legislature, Administration and municipalities can then agree and advance a rational housing policy that includes no further financial mandates on our taxpayers and is achievable and sustainable for municipalities. ▲

# NEW JERSEY MUNICIPALITIES



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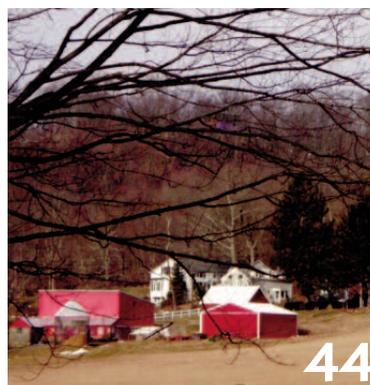
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OPEN SPACE PRESERVATION

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How Sandy will  
**Impact Our Economy**

**H**urricane Sandy imposed enormous damage on New Jersey, harshly and significantly affecting the lives and livelihoods of millions of people. It was a deadly, dangerous, and highly destructive storm. The individual hardships and economic losses to people, businesses, and local and state governments were extensive and severe. These impacts will continue to affect the state for some time, even as significant rebuilding and restoration activity occurs.

By Joseph Seneca, University Professor;  
 Nancy Mantell, Director; Rutgers  
 Economic Advisory Service;  
 Michael Lahr, Associate Research Professor  
 & Will Irving, Research Associate;  
 Edward J. Bloustein School of Planning  
 and Public Policy, Rutgers University

Following the storm, a team of researchers at the Edward J. Bloustein School of Planning and Public Policy of Rutgers University made an early effort to assess the economic and fiscal impacts on New Jersey. This essay summarizes that study and describes subsequent storm-related developments that are likely to further affect the state's economy.

**Economic Effects** The storm has caused economic losses in two areas. The first is the damage done to the stock of capital assets in the state. These assets include private capital such as residential housing and its contents, business structures, inventories, and utility infrastructure. Also damaged were public capital, including roads, water systems, bridges, parks and recreation areas. The owners of these assets may be compensated for these losses in time, but typically only partially, by payments from private insurance, FEMA, and special federal and state aid. Any uncompensated losses will be borne by private owners and the public sector. These constitute significant and real losses in asset values.

The second area of damage affects local governments. It results from the changes in property values, building codes, flood zone maps, and assessments as a result of the storm. The scale, timing, and type of rebuilding will also affect property values and the property tax base in complex ways in the affected municipalities.

**Measuring the Losses** As an example of the losses in economic activity, Table 1 provides data on initial unemployment claims in New Jersey for the five weeks immediately after the storm. When compared with the four-week pre-storm average, initial claims were approximately 100,000 higher in the month following Hurricane Sandy. The lost income, spending, and output as a result of this unemployment had negative impacts throughout the state's economy.

**Post-Sandy Initial Unemployment Claims in New Jersey (Table 1)**

<b>Post-Sandy Initial Claims</b>		
<b>Filed week ended</b>	<b>Reflecting Week Ended</b>	<b>Claims</b>
<b>11/10/2012</b>	11/3/2012	46,129
<b>11/17/2012</b>	11/10/2012	45,631
<b>11/24/2012</b>	11/17/2012	21,665
<b>12/1/2012</b>	11/24/2012	23,856
<b>12/8/2012</b>	12/1/2012	19,887

<b>Compared to Pre-Sandy 4-Week Average</b>	
<b>Pre-Sandy 4-Week Average</b>	<b>10,925</b>
<b>Five-Week Excess Over Pre-Sandy Average</b>	<b>102,543</b>

Source: U.S. Dept. of Labor, Employment and Training Administration.

The Rutgers research team estimated that the state lost a full week's output for two-thirds of state's gross domestic product and that it took another two weeks to recover

TO ENJOY THE GREATEST ECONOMIC  
 BOOST, THE STATE MUST SPEND ITS  
 SHARE OF THE FEDERAL RESTORATION  
 MONEY WELL AND EFFECTIVELY.

These damages to the capital stock reduce the flow of economic activity—jobs are lost, output is not produced, income is not earned and spent, sales are diminished, electric and gas service is not available, and individual and business taxes are not incurred and not paid. The losses occur for varying periods of time depending on the level and location of the disruptions and the number and type of households and businesses affected. These losses are subsequently measured in declines in standard economic data series such as employment, incomes, tax revenues, sales, and gross state product.

full output production. This loss totaled \$11.66 billion in the fourth quarter of 2012. We also assumed that there will be a loss of \$950 million in tourism economic activity in the third quarter of 2013 due to disruptions in the shore communities.

Using the Bloustein School's R/ECON™ forecasting model, we estimated the negative impacts on the state's economy of the losses in economic flows described above. The results appear in Table 2 and indicate that in the absence of offsetting rebuilding expenditures, state GDP is nearly \$12 billion lower than a baseline forecast (with no storm) in the fourth quarter of 2012.

**Table 2**  
**Economic Damages from Hurricane Sandy**  
**in New Jersey in Q4 2012**  
**(relative to baseline forecast)**

Gross State Product	-\$11.879 billion
Workplace Employment	-7,300 jobs
Personal Income	-\$1.186 billion
State Tax Revenues	-\$108.5 million

Employment would fall by 7,300 jobs, personal income would be lower by \$1.2 billion, and state tax revenues would be reduced by \$108.5 million. The negative impacts would persist for three years and the total losses would increase, although by smaller amounts each year.

However, this only accounts for the down side in the abstract absence of restoration spending. The rebuilding efforts will offset a significant amount of these losses.

**CAPITAL LOSSES TO HOMEOWNERS,  
BUSINESSES, AND THE PUBLIC  
INFRASTRUCTURE ARE NOT LIKELY TO BE  
FULLY OFFSET BY COMPENSATION.**

**Offsetting Economic Increases** The significant expenditures on emergency response and then subsequent restoration and rebuilding spending by both the private and public sectors generates increases in economic activity. This spending creates jobs, incomes and tax revenues, and acts to offset the negative impacts on economic flows.

In our study, we used an estimate of the expenditures on rebuilding and restoration and analyzed the impacts. The study drew upon an estimate of the storm damages done by the Governor's Office. We adjusted those estimates to reflect damages to the capital stock of approximately \$25.4

billion and developed a time path of expenditures over a three year period.

The resulting net impacts on the economy of both the storm and the offsetting restoration expenditures in the fourth quarter of 2012 are given in Table 3. When these expenditures are taken into account, the outlook is improved.

**Table 3**  
**Net Economic Impacts of Hurricane Sandy**  
**for New Jersey in Q4 2012**  
**(relative to baseline forecast)**

Gross State Product	-\$7.054 billion
Workplace Employment	-4,200 jobs
Personal Income	-\$1.031 billion
State Tax Revenues	-\$77.7 million

State GDP is \$7.1 billion lower in the fourth quarter of 2012; significantly less than the nearly \$12 billion loss without recovery spending. This lower loss is attributable to the positive impacts of the rebuilding expenditures. Net positive effects on GDP occur over the next three years as the offsetting gains from rebuilding expenditures outweigh any lingering negative impacts of the storm. Similar patterns emerge for employment, income, and state taxes.

**Implications** The scale and timing of these recovery expenditures will play a key role in determining the storms effects on New Jersey's economy. When the original analysis was done, it was uncertain whether significant federal aid would be forthcoming. The subsequent approval of the aid was a major victory for the states affected. It is a vital component in allowing New Jersey's economy to recover. To obtain the greatest economic boost, the state must spend its share of the federal restoration money well and effectively.

While the federal funds are highly important and necessary, the harsh impacts of the storm on people, on their homes, and their livelihoods are real and continuing for many New Jerseyans. Capital losses to homeowners, businesses, and the public infrastructure are not likely to be fully offset by compensation. This will result in losses in value to some owners and to the public sector.

Finally, the likelihood of future storms and other weather extreme events, increasing in frequency and intensity as global warming continues, requires wise public and private decisions to plan, adapt, and mitigate going forward. This will reduce the amount of future damages to life and property even as the state rebuilds and recovers. ▲

For more information see Mantell et al., *The Economic and Fiscal Impacts of Hurricane Sandy in New Jersey: A Macroeconomic Analysis*, Rutgers Regional Report #34, January 2013, Rutgers University at <http://policy.rutgers.edu/reports/rrr/RRR34jan13.pdf>.

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**Building On  
Common Ground**



# Making the Case for EMS Volunteers



By Chuck Chiarello  
Member, Buena Vista Township  
Committee; NJLM Past President  
& Howard Meyer, President, New Jersey  
State First Aid Council

**F**or more than a few local New Jersey governing bodies, there is no need to imagine how their municipalities would fare if catastrophe ever came knocking. That's because they lived it when Superstorm Sandy tore down their doors—and in some cases, entire buildings—in October 2012.

As we watched the storm approach the Jersey Shore on television; municipal, county and state responders throughout the region attempted to prepare their communities for the worst. They remained at the ready as Sandy bore down on us all, and were on hand to help sort through the devastation that followed.

And through all the preparations, the onslaught and the weeks following the disaster, New Jersey's tens of thousands of emergency medical services (EMS) volunteers were in the thick of it. Instead of hunkering down with their families during the storm, many volunteers remained at their squad buildings to answer 911 calls. Afterward, the volunteers' services were invaluable in helping their neighbors begin to recover.

Many of these same volunteers led donation drives for basic necessities and distributed supplies to those in need. And, at times, they also dug into their own pockets to supply what was needed. Some squads donated money and even gave used ambulances to other volunteer squads whose buildings and equipment were lost to Sandy's wrath. Sandy's destruction left more than a few squad members homeless, yet these dedicated EMS volunteers continued to help their neighbors.

New Jersey's EMS volunteers answer hundreds of thousands of calls and donate millions of man hours annually. The 83-year-old nonprofit New Jersey State First Aid Council (NJSFAC) represents more than 20,000 EMS volunteers affiliated with more than 300 first aid and rescue squads throughout the state. In 2010, NJSFAC volunteers spent 3 million hours answering 355,000 calls, saving New Jerseyans—and their insurance companies—\$225 million.



In 2010, NJSFAC volunteers spent 3 million hours answering 355,000 calls, saving New Jerseyans—and their insurance companies—\$225 million.

New Jersey municipalities have long appreciated and depended on the daily services EMS volunteers provide. When “surge” events occur, such as Hurricane Sandy, floods, blizzards and 9/11, they appreciate the services of their volunteer anew.

Not only are these volunteers skilled, well trained and living among us, but they are eager and willing to help whenever needed. Even if there were enough paid basic life support (BLS) responders to cover all the daily and surge-event needs for each New Jersey community—and there are not—imagine how much their services would have cost municipalities before, during and after Sandy alone! Imagine adding those overtime costs to the already prohibitive clean-up and rebuilding costs. Where would municipalities get the money? By increasing taxes on residents who no longer have homes due to Sandy’s destruction?



Our EMS volunteers face several dire issues that, if not addressed in timely and meaningful fashion, will greatly and negatively impact every resident and visitor in the state.

## UNFORTUNATELY, SOME IN THE GARDEN STATE NEED TO BE REMINDED OF HOW LUCKY THEY ARE TO HAVE THIS VOLUNTEER ARMY AT THEIR BECK AND CALL.

Unfortunately, some in the Garden State need to be reminded of how lucky they are to have this volunteer army at their beck and call. The ongoing assaults on New Jersey’s EMS volunteers are puzzling and troubling.

Our EMS volunteers face several dire issues that, if not addressed in a timely and meaningful fashion, will greatly and negatively impact every resident and visitor in the state.

**EMT Training Fund** Former Governor Jon Corzine’s 2009 raid of \$4 million from the EMT Training Fund was a huge blow to the volunteer EMS community, and at the heart of much of its woeful financial situation today. It has negatively impacted volunteer recruitment and retention efforts, and disheartened many long-time

volunteers who must now pay out of pocket for mandatory training and recertification classes.

Established in 1992, the EMT Training Fund was created to offset the cost of training EMS volunteers, and to help support and grow their ranks. In helping pay for new EMT training and recertification costs for existing EMTs, the state not only encouraged volunteerism and community spirit,

but also helped residents of smaller communities defray the huge tax burden’s that come with paid EMS services. The fund is financed by a 50-cent surcharge on tickets for moving violations issued in New Jersey and involves no taxpayer dollars. Now functionally bankrupt, the fund is a critical preparedness and retention tool for EMS agencies throughout the state. A tool we no longer have.

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The fund is the only source for training dollars. Due to severely limited available funding since Corzine's raid, EMTs who remain undeterred must pay hundreds, sometimes thousands of dollars of their own money to continue the privilege of volunteering in their communities.

WITHOUT ITS CURRENT,  
STRONG VOLUNTEER EMS  
BASE, NEW JERSEY  
WOULD BE UNABLE TO  
RESPOND APPROPRIATELY  
TO DISASTERS.

**Recruitment and Retention** No doubt the financial hit on the EMT Training Fund has contributed to the decrease in the number of volunteer EMTs in New Jersey.

Economic downturns during the last several decades also have forced more and more Garden State residents to work multiple jobs to make ends meet. For many, the time they would like to spend volunteering on the local ambulance squad must now be spent at a second or third job—or job hunting for those unlucky enough to be unemployed or underemployed.

Instead of celebrating our EMS volunteers and supporting recruitment and retention efforts, some in Trenton have been trying to replace our volunteers with paid, county-based EMS monopolies. This change would cost taxpayers tens of millions of dollars. They have launched misleading attacks meant to discredit volunteers. The jobs-bill legislation they pushed, which Governor Christie wisely vetoed in January 2012, would have increased bureaucracy, red tape, unfunded mandates and costs for volunteers and municipalities. The vetoed bill would have discouraged volunteers, leaving many municipalities throughout New Jersey without close, affordable EMS coverage on a daily

basis, much less during catastrophes.

Those same naysayers resurrected the vetoed legislation later in 2012 in the form of S1650/A2463. This bill failed to address Governor Christie's veto items and didn't provide fiscal information regarding the cost of implementing mandates. No review has been performed on the fiscal and operational impacts to volunteerism, property taxes, municipal costs, the state budget, background checks or the licensure-versus-certification debate.

**Revised EMT Education Requirements**

As if this weren't enough, last year the state unveiled revised EMT curriculum standards that double the required initial training hours from 120 to 240. This change requires even more time and money—up to \$1,500—out of pocket from volunteers who simply want to help their neighbors. The revised EMT curriculum was implemented without sufficient review of its impact on recruitment and training of new volunteer EMTs, and with no consideration given to where the money for the increased requirements will come from. The money is the real issue right now but another problem is that the course is too long (according to the federal guidelines) and too inflexible, especially with respect to allowing students to make up for missed classes.

New Jersey's EMS volunteers are facing an ever more treacherous sea of icebergs. Each challenge is much more involved and deserves more discussion than the space limitations this article allowed.

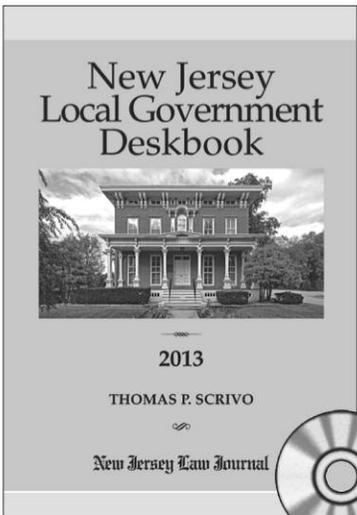
Suffice it to say the loss of EMT volunteers is a potential crisis for our state. Officials of New Jersey's Office of Homeland Security and Preparedness have stated publicly that without its current, strong volunteer EMS base, New Jersey would be unable to respond appropriately to disasters.

For many of us, the daily health of our town folk—physically and financially—depends greatly on the strength in numbers of our volunteer EMS base. And the same goes for the state's population in general. Let's address this issue now, before another catastrophe strikes. ▲

Howard Meyer of New Providence has been an EMS volunteer for more than four decades, an EMS instructor for much of that time, and a longtime member of the Berkeley Heights Volunteer Rescue Squad.

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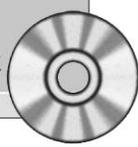
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## Thanks to an Outpouring of Support, We're Making a Comeback

In the early morning hours of October 30, 2012 things went somewhere where I've never been. Sandy was already upon us, evacuations had been ordered 48 hours prior, and yet some decided to stick it out. Water was pouring into the one-half square mile Borough of Ocean Gate from the Toms River and the Barnegat Bay.

And it rose for hours on end. In some places it didn't begin to recede until days later. And, when the water finally drained from our streets and homes—the reality of the devastation was all too evident. Over the next few days, people struggled to get to their homes to see what exactly was left.

As in many places along the Jersey Shore, the damage was truly unbelievable. People's whole lives were out on their front lawns, driveways, and on the streets. And in some cases generations of family belongings were gone.

Ocean Gate was for many years a summer town where people came in on the train from Philadelphia to spend the summer months together. This coming August the Borough will be celebrating its 95th birthday. So, after seeing all of this devastation, I felt compelled to act and act quickly.

I knew deep down that there was no way that the Borough, nor its private sanitation hauler would be able to remove the seemingly endless mounds of debris. By the Saturday after the storm, the debris hauler was in town and working. Volunteers came from all over New Jersey; and some from as far as North Carolina and Florida. And they all came to help. The cleanup help was tremendous and for the most part all went well. Approximately 10 days later the debris was gone. All of their personal belongings and memories were sitting in a huge pile on the borough's ball field. Days later everything went to a landfill.

Once homeowners and businesses had cleaned out what they could, the looming question was, where do we go from here?

Soon after people were being comforted by the American Red Cross, local church groups, local volunteer groups, and others. The outpouring of kindness and support that so very many people and organizations gave to my residents just blew my mind.

I held a meeting for all residents on a Sunday afternoon to explain what help was available to them and how the borough was proceeding with the restoring and rebuilding process. The meeting room had never been so crowded and I believe most left with a bit of hope. But things are nowhere near normal. That's going to take quite some time.

Throughout all of this devastation, I had to deal with my own personal home and loss as well. I had to step up to ensure the safety and comfort of the residents of Ocean Gate. I took a two week leave of absence from my full time job, without pay, to deal with all of this.

Paul J. Kennedy  
Mayor, Borough of Ocean Gate



My family was put out of our home for nearly two weeks—not all that bad, considering. But trying to explain this to my 13 year old daughter wasn't easy. Now we are back home, and more fortunate than some. However, we are still struggling to get it back to the way it was.

The day in, day out negotiations with FEMA, insurance companies, and other storm related business continues to drag on. We all longed to return to the simple, day to day routine.

On the night of the 12/12/12 Hurricane Sandy Relief Concert in Madison Square Gardens, I was home sick with the flu. As I watched, and spotted numerous Ocean County citizens on the live broadcast, I learned that the event had already raised \$52 million. I was inspired to try to get some of this grant money to help my residents.

That night I sent the first of many e-mails to the Robin Hood Foundation. After sending repeated e-mails over the next two weeks, I finally received a response! I completed the questionnaire that featured a disclaimer in 16 point type. The bottom line was "don't expect much, many areas were devastated by Sandy."

Despite this, I soon got a call from the foundation. After weeks of additional emails, conference calls, and information requests; the administrators made a site visit. That day I believe the people from the Robin Hood Foundation fell in love with our little community of 2,000. They knew that they could make a difference.

Several weeks ago they called to offer us a \$300,000 grant. The money would be used, primarily, to make it possible for residents to return to their homes. The foundation grant came with strict requirements.

One major requirement was that we designate a non profit organization that could help our citizens compete the aid applications. The non profit would also do research and distribute the grant money.

I chose a local non profit Hometown Heroes, which is based in Toms River. They have agreed to handle everything for this project. The main objective is to bring people home. That means doing whatever it takes, despite all the different situations. In some cases the furnace must be repaired or a hot water heater must be replaced. For others, the utility bill needs to be paid. All of the grant money goes to Hometown Heroes, and then to the proper contractor, utility company, etc. The money is never paid directly to a homeowner. They must apply at [njhometownheroes.org](http://njhometownheroes.org) or by calling 732-473-9400. The Borough of Ocean Gate has nothing to do with the funding and its process at all.

In just over four months our town is making a comeback. I truly believe that our community will be stronger than ever. We owe a debt of gratitude to so many. We are especially grateful for the generosity of the Robin Hood Foundation and Hometown Heroes. ▲

## Financial Incentives for Energy Efficiency



## In Our City

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Recover, restore, and rebuild after Hurricane Sandy. Visit [NJCleanEnergy.com/SANDY](http://NJCleanEnergy.com/SANDY) to learn about enhanced incentives for homeowners, government officials and business owners.



# Tapping the Power of Local Environmental Commissions



By Thomas Hannen, Jr.  
Mayor, Cranford Township

New Jersey municipalities have been reaping the benefits of having local environmental commissions for over 40 years. Environmental commissions can help towns accomplish more with less and enhance the quality of life while protecting natural resources.

Cranford's Environmental Commission, an advisory board established by ordinance, has been serving the community as a member of the municipal team for over 40 years. Its volunteer commissioners are a valuable source of knowledge, ideas and manpower. They have accomplished a great deal over the years at little or no cost to the municipality.

They have proposed and implemented programs that help the town solve problems, save money and constantly evolve as a community that our residents are proud to call home.

Their efforts on stormwater issues are just one example of this. As in many New Jersey towns, flooding and stormwater control have become our most urgent environmental issue. Hurricane Irene in 2011 dramatized the daunting potential of poorly managed stormwater and flooding to destroy property and jeopardize health and safety.

The Rahway River snakes through Cranford for about five miles after passing through 10 upstream municipalities, and while the river has always been a source of pride and enjoyment for us, when it floods it causes enormous destruction. Irene racked up \$16.5 million in damages to Cranford homes and businesses, \$4 million in repairs to our schools plus the expense of hauling away over 70,000 tons of household debris.



The Cranford Environmental Commission is a unifying force in our community. They educate and encourage our residents and businesses to behave in ways that foster clean air and water and a robust natural environment.

CRAFORD'S ENVIRONMENTAL  
COMMISSION HAS  
ACCOMPLISHED A GREAT  
DEAL OVER THE YEARS AT  
LITTLE OR NO COST TO  
THE MUNICIPALITY.

## Exploring Solutions to Expensive Problems

Cranford joined nine other municipalities in our region in 2011 to form the Mayor's Council on the Rahway River Watershed. Our Environmental Commission led the way in identifying practical solutions to mitigate flooding in Cranford. They proposed over a dozen stormwater management goals and ideas, and helped marshal public support for ordinance and operations changes aimed at reducing problems. Our Environmental Commission also works with our Planning Board to review the environmental impacts of development proposals and suggest ways to reduce adverse effects.

The Commission also educates residents about how to address stormwater issues in their own backyards. Last year, the Commission produced and distributed a leaflet explaining the impact



Pictured at the Cranford Township Environmental Commission's table are Commission members John Hrebinand and Ron Margulis.

of stormwater runoff and how to manage it. They also presented a workshop on how to build and install rain barrels, which reduce the volume of runoff and provide residents with free water for lawn watering and car washing.

**Green Savings** Our Commission's efforts have also reduced the township's costs. For example, the Commis-

sion encouraged the township to participate in the Union County Improvement Authority's Renewable Energy Program. This led to the installation of solar panels on our Library and Community Center that have reduced our town's energy costs. The Commission also went after a grant from the Board of Public Utilities Local Govern-

ment Energy Audit Program. As a result of the audit, we were able to implement energy-saving upgrades to our Community Center.

Green building offers the potential to save money while benefiting the planet. At the encouragement of our Environmental Commission, in 2005 we became the first municipality in New Jersey to enact an ordinance requiring the Leadership in Energy and Environmental Design (LEED) rating system for construction of municipally-funded facilities and the application of LEED-ED principles to existing buildings. The Commission also prompted us to establish a Green Building Density Incentive Program for redevelopment projects.

**A Unifying Force** The Environmental Commission is a unifying force in our community. The educate and encourage our residents and businesses to behave in ways that foster clean air and water and a robust natural environment. Members of the Commission started a Green Business Recognition program that has already certified over 25 local businesses for actions that benefit the environment while being economically beneficial.

The Environmental Commission's web site—My Green Cranford—has

## Environmental Commission Chair Wins Governor's Award



ANJEC Trustee and Berkeley Heights Environmental Commission Chair Leonard Berkowitz (right) won the 2012 Governor's Environmental Excellence Award for Environmental Stewardship. DEP Commissioner Bob Martin (left) presented the award.

**A**NJEC Trustee and Berkeley Heights Environmental Commission Chair Leonard Berkowitz won the 2012 Governor's Environmental Excellence Award for Environmental Stewardship. Under his leadership over the past 12 years, the Commission conducted energy audits of municipal buildings and worked with the Administration to install energy-efficient lighting and encourage energy-saving behaviors through the Township's policy manual.

The Commission also established benchmarks for a municipal carbon footprint; performed a study that quantified the economic benefit of tree canopy to the township, installed anti-idling signs in identified problem areas; inventoried land conservation easements and sent letters reminding homeowners of their obligation to preserve easements.

successfully created a sense of pride among residents for our commitment to sustainability. Designed and maintained by a volunteer, the site went online in 2009 and now gets about 8,500 visitors per month. The site only costs \$141 per year. It's a virtual meeting place where people can:

- see beautiful pictures of our town's natural places by a local photographer;
- learn about upcoming events,
- get money-saving tips that also help to protect natural resources and reduce greenhouse gas emissions;
- take the Energy Star pledge to conserve energy,
- find information about the environment in Cranford; and,
- see which local companies are doing business in a green way.

Our Environmental Commission is a vital part of the fabric of community life in Cranford. We are a healthier, more livable community because of its efforts. ▲

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## A Community Asset that Pays Off

By Sandy Batty  
Executive Director, ANJEC



The story of Cranford's Environmental Commission, a member of the Association of New Jersey Environmental Commissions for over 25 years, is just one example the positive impact these boards can have on their communities.

Hundreds of other environmental commissions in New Jersey municipalities are working to promote a healthy environment while maintaining community character. Their projects range from educating residents about recycling, to organizing stream cleanups, restoring wildlife habitat, planning for pedestrian and bike pathways, conserving water and energy, creating parkland, and planting trees.

As established by state statute (NJSA 40:56A) in 1968, an environmental commission serves in an advisory capacity and its responsibilities can include:

- developing an environmental resource inventory that becomes a guiding document in protecting sensitive environmental features like streams, wetlands and flood plains;
- advising the planning board in the site plan and subdivision review process to facilitate sound decisions that lessen or avoid environmental impacts;
- creating an Open Space and Recreation Plan that helps the town qualify for state Green Acres funding and invest its local open space funds wisely; and,
- organizing volunteers to take on environmental projects like recycling, tree inventories, stream bank restoration, and wetland monitoring initiatives.

Environmental commissions help their towns realize significant environmental, aesthetic, economic and social

benefits. Thanks to the commissioners' environmental expertise and their ability to attract grant funds, towns can accomplish more while spending less on professionals and consultants to draft ordinances, conduct studies and inventories, create plans and manage projects. Commissions also can help save tax dollars by preventing pollution and environmental health problems before they occur.

ENVIRONMENTAL  
COMMISSIONS HELP  
THEIR TOWNS  
REALIZE SIGNIFICANT  
ENVIRONMENTAL,  
AESTHETIC, ECONOMIC  
AND SOCIAL BENEFITS.

**Let us help!** ANJEC has learned much from environmental commissions in the 40 years since the state law enabled them. We are able to share this experience with towns across the state, supplying courses and workshops, answers to questions, sample ordinances and plans, and practical publications.

If your municipality is interested in starting an environmental commission or revitalizing the one you have, please contact ANJEC at 973-539-7547. As a statewide nonprofit providing training and support to local environmental commissions, we are eager to help you fully realize the power of an environmental commission in your community. ▲

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Identifying, Securing, and Leveraging Resources

# How Woodbine Builds Success upon Success



By William Pikolycky  
Mayor, Woodbine

**L**ike most municipalities, Woodbine has been challenged to identify and secure the financial resources needed to carry out capital projects. In some instances, phasing in a project and, therefore, lessening the annual fiscal impact, may be an acceptable model to follow. With material and construction costs the most competitive in recent years, advancing a multi-year project as a single contract could prove to be an economically-feasible alternative that also allows towns to take advantage of historically low municipal bond rates.

Notwithstanding the intensely competitive construction and equipment market and advantageous public/private financing, a declining ratable base and continued economic uncertainty have made municipalities and counties more likely to defer capital expenditures that could result in an increase in taxes.

The Borough of Woodbine has been able to carry out a number of capital projects, which are part of its overall community and economic revitalization agenda, without incurring extraordinary debt or tax increases. These include major capital projects at Woodbine Elementary School; the Washington Avenue Streetscape Program; an addition to the Woodbine Community Center; major sewer and water infrastructure improvements; fire and emergency management facilities and equipment upgrades; and numerous neighborhood revitalization strategies.

All of these projects have involved at least two, and in many cases multiple, grant resources. In following this approach, the Borough has taken deliberate steps to define and quantify the overall project scope, develop a preliminary cost estimate, and focus on potential partners/participants. In this way, a prospective grantor agency, which may not have available all of the funding required to carry out the project, can be reasonably confident that the project has been thought out in sufficient detail. This assurance makes it possible to implement the projects in phases as funds become available. It also reassures creditors that the expectation



The Borough of Woodbine has been able to carry out a number of capital projects, which are part of its overall community and economic revitalization agenda, without incurring extraordinary debt or tax increases.

of additional funding from other sources is realistic and attainable. This creates an opportunity for the project leveraging "perfect storm."

In the past decade alone, Woodbine has generated over \$20.8 million in regional, state and federal funding for 15 major community and economic development projects. The money has come from 49 funding sources. The borough's local share/capital outlay for these projects has represented less than 5 percent of the total capital project cost. In most instances, other public funds have been used in lieu of municipal matching funds.

The practical realities of dwindling public resources at the regional, state and federal level militate against luxury or purely discretionary projects. Instead, in order to attract public dollars and leverage other public resources, a clear need and the ability to meet a particular funding source's competitive criteria is critical. Equally important, is having what is called the "readiness to proceed." This means giving the proper consideration to permits, site control, public consensus, and other factors. The municipality must provide compelling evidence to prospective grantors that

their award will yield a significant return on investment in terms of timely implementation of the project and, whenever possible, the leveraging of other public or in some instances private funding.

THE BOROUGH  
HAS TAKEN DELIBERATE  
STEPS TO DEFINE AND  
QUANTIFY THE OVERALL  
PROJECT SCOPE, DEVELOP  
A PRELIMINARY COST  
ESTIMATE, AND FOCUS  
ON POTENTIAL  
PARTNERS/PARTICIPANTS.

To say that the process of identifying, securing, and leveraging resources is a

work in process is an understatement. Woodbine's professional team, including grants and strategic planning consultant Triad Associates, is constantly working with the Mayor's office to focus resources on needs. Developing projects in the broader context of what is currently available and may become available in the future boosts our chances of securing grant funding. This approach has a greater likelihood of success—as opposed to one-shot, one-source approaches or the costly public financing alternative.

This is not to say that a municipality should take an all or nothing approach to its capital programming. In fact, larger scale projects can and perhaps should be implemented in phases whenever possible. In this way, a community may be able to (1) attract funding (by picking the 'lower hanging fruit'), (2) carry out successfully an initial phase (thus demonstrating performance), and then (3) leverage that positive outcome by attracting and leveraging other funding for additional phases of the project. This will create a higher level of confidence for public funding and build success upon success. ▲

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# Washington Watch



## The Sandy "Team Effort" Continues

By Rodney Frelinghuysen  
Congressman, Eleventh District  
(Republican)

It started as a simple tropical wave that blew off the west coast of Africa on October 11, 2012. But before it finally dissolved into a Canadian low pressure system over 20 days later, the storm that became known as "Sandy" left a path of destruction across at least seven countries and 15 of our United States.

New Jersey found itself in the crosshairs when the eye of the storm crashed ashore near Brigantine on October 29. Since then, meteorologists, scientists and weather geeks have debated whether Sandy was a "hurricane," a "super-storm" or a "post-tropical" cyclone when it made landfall.

But for those of us in its path, the official designation means little. All we knew as the clouds cleared, the ocean surge subsided and the winds diminished is that we were left to pick up the pieces, recover and rebuild.

In New Jersey, New York and Connecticut, many estimates put the price-tag of the damage in the neighborhood at \$100 billion. The destruction was staggering:

- 346,000 households were destroyed or damaged in New Jersey alone;
- 2.4 million utility customers in New Jersey lost power, many for over two weeks;
- roughly 190,000 New Jersey businesses were affected;
- highways were washed out and New Jersey Transit was crippled.

Our costs in New Jersey—to state and municipal governments, to businesses large and small, to hospitals and nursing homes, to transit, to individual families—go far beyond this brief accounting.

While Governors Christie and Cuomo originally sought \$80 billion in assistance, President Obama's official request was approximately \$60 billion. The Administration said they had scrubbed the proposals from our Governors and tried to narrow it down to the most essential and most immediate needs.

It was not an exorbitant figure. In November, our delegation and our Governor started fighting tooth and nail to get this recovery package through Congress.

Why? First, many of my colleagues come from districts located far from Sandy's path and the TV networks and cable outlets had turned their cameras elsewhere. For many, Sandy's devastation was "out of sight and out of mind."

Second, bad memories of the Katrina recovery linger (10,000 unused mobile home trailers, truckloads of ice wandering from state to state, expensive cruise ships housing evacuees and relief workers, etc.).

And third, Washington was distracted by negotiations over federal spending cuts and pending and potentially record-setting tax increases—the so-called fiscal cliff.

But the assistance was needed and needed now! The veterans of other hurricanes and catastrophes, elected officials and businessmen and women alike, warned us that a long-term, stable recovery required an injection of resources at the earliest possible date.

So we went to work.

The measures that House Appropriations Chairman Hal Rogers (KY) and I brought to the House floor stripped all the "earmarks," special interest "carve-outs" or wasteful authorizing language that had been approved by the Senate. For example, we rebuffed efforts to allow funding for a fisheries crisis in Alaska and wildfire mitigation in Colorado.

And then our team—the bipartisan New Jersey and New York Congressional Delegations and Governors Christie and Cuomo—fought a multi-front campaign to ensure support from enough Republican House members, approximately 15-18, to ensure passage of both my \$33 billion Frelinghuysen Amendment and the final package.

For my part, I reminded my colleagues of the proud tradition of the Congress. Whenever a crisis or natural disaster has hit any part of the nation, the House and the Senate have responded to help their fellow Americans.

Several hundred telephone calls, personal conversations, impromptu huddles and strategy sessions later, on January 15 the House essentially completed our \$60 billion emergency assistance measure for the President's signature.

It was a team effort. Congressmen and women from across-the aisle and across state borders pulled together for a common goal. While I was proud to lead this coalition, my hat is off to Governor Chris Christie, who displayed resolute leadership throughout this process.

And our Governor will continue to play a major role in the months ahead. Back in February, he signed an executive order to track billions of dollars in federal Sandy aid that will flow through the state. New Jersey Comptroller Matthew Boxer will independently review the awarding of contracts, and launch a website for the public to see how the federal funds are being administered.

Governor Christie and I are determined to avoid the mistakes made during the Hurricane Katrina recovery. We will protect the taxpayers with rigorous oversight, audits and studies to make sure dollars are not wasted. ▲

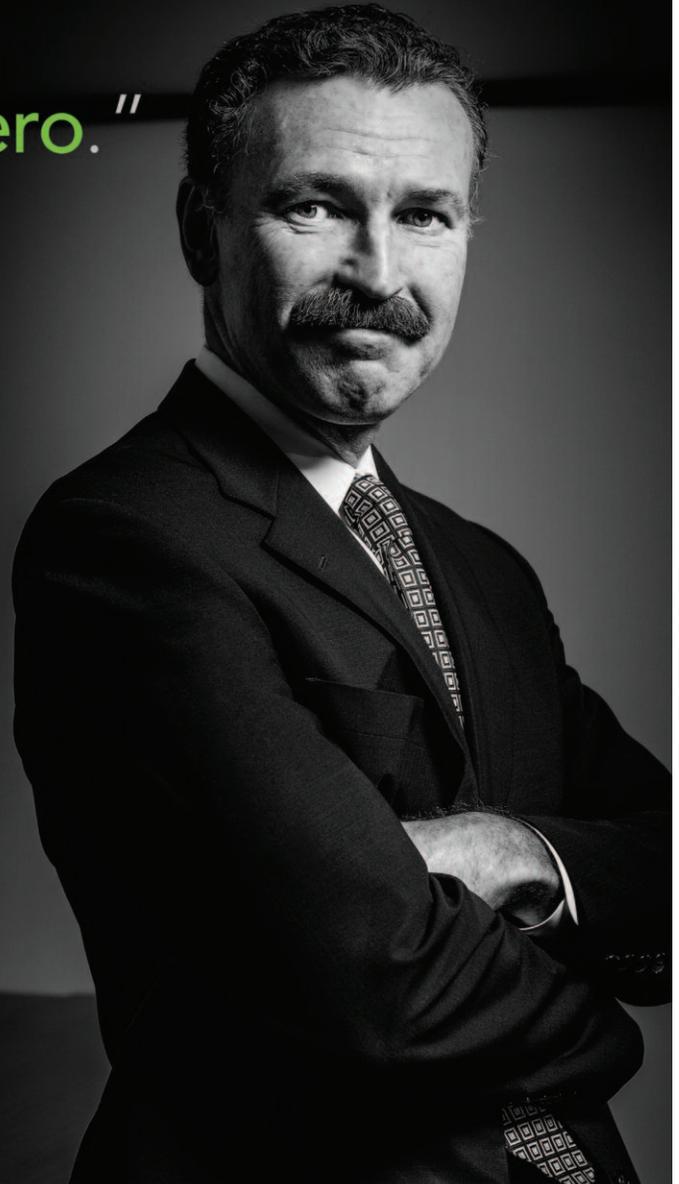


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Civil Service Reform

# Recent Changes Ease Restrictions on Hiring and Promotion



By Robert M. Czech  
Chair/CEO, New Jersey  
Civil Service Commission

**T**he Christie administration's commitment to civil service reform reached another milestone in January, as the ongoing title reduction effort passed one third of its goal.

From a total of 7,430 titles in state and local service at the beginning of the effort in March, 2010, the tally was at 5,053 as of February 6.

The commission has also reallocated titles from the competitive to non-competitive service, offering decision makers greater flexibility in hiring and promotional decisions. The process began in October with the reclassification of 56 titles. The latest action by the Commission earlier this month brought the total to 154—more than twice the initial target,

with the process to continue throughout Fiscal Year 2013.

The significance of this cannot be underestimated. Nearly every administration comes into office with a promise of streamlining government, cutting costs, and freeing managers to manage. But too often the cutting consists of letting a few positions remain open through attrition or 'eliminating' a department by shifting its titles to other agencies.

Instead of these cosmetic approaches, the current administration worked with hiring authorities to find the similarities, rather than the minor differences, between like jobs. This in turn became the basis for a systematic review and consolidation of titles that freed managers from the restraints of highly-specialized job 'silos.'



A systematic review and consolidation of titles has freed managers from the restraints of highly-specialized job 'silos.'

Similarly, the Commission, when appropriate and consistent with our rules, has shifted titles from the competitive to the non-competitive service, reducing the time and red tape involved in hiring and promoting.

Previously, if a title was classified as competitive, the hiring authority would have requested a posting for the position. A job announcement would be issued, and applications received and reviewed by the CSC to determine eligibility based on the requirements of the title. In some cases, it would have been necessary to schedule, administer, and score a test before an eligible list was issued—a process that could take anywhere from four to six months.

By moving the titles to the non-competitive classification, the hiring authority can simply post the job and accept resumes plus supporting documents such as licenses and certifications. This theoretically can reduce the process to fill the job vacancy to the amount of time it takes to gather the applications and interview candidates.

The next phase of the reform is job banding. At its meeting in early February, the Civil Service Commission proposed a new rule and amendments that would allow job banding in certain titles. Although we have initiated and piloted it at the state level, we will make it available to local governments in the near future after the rule has been implemented.

Job banding is a competency-based human resource process that groups similar job titles together to form career bands. Advancements are based on a multifaceted approach including the organization's strategic staffing plan, attainment of certain competencies by employees, and a structured internal selection process. The state Judiciary has used a successful job banding methodology for many years, and a pilot program for four title series is in effect at the Civil Service Commission and the Department of the Treasury.

Banding is a key component of the consolidation effort. At one time the system required a candidate to take a test to move up to the next level of responsibility in a position, or to move to an equivalent job in another department. We've found that it is

less expensive and time-consuming to base the decisions on acquired skills and experience instead of a standard exam.

Employees benefit through increased mobility and opportunity, and the chance to acquire and demonstrate higher-level competencies. Management enjoys greater flexibility in deploying and promoting employees, and can better align productive and creative workers to tasks. And the organization reaps the rewards of

increased productivity, efficiency, and enhanced responsiveness to changes in the workplace and society at large.

We are just over three years into the Christie administration's efforts to reform New Jersey's Civil Service system. While these efforts are not the most high profile or headline-grabbing, they are far-reaching and long-lasting. Most important, we hope they are giving you the tools and flexibility you need to best serve your constituents. ▲



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# The League Weighs In on the State Budget



By Janice S. Mironov  
NJLM President; Mayor,  
East Windsor Township



League President and Mayor of East Windsor Township Janice S. Mironov presents the League's testimony on the state budget to the Senate Budget and Appropriations Committee on March 5 in Trenton.

*League President Janice S. Mironov presented the following testimony on the state budget before the Senate Budget and Appropriations Committee on Tuesday, March 5. She presented similar testimony to the Assembly Budget Committee on March 12.*

**T**hank you for this opportunity to speak before the Committee on the Governor's proposed budget and to present some comments for consideration.

Keeping property tax increases down to 2.4 percent and 1.4 percent over the past two years would not have been possible without real reforms enacted by the Governor and the Legislature. For things like the 2 percent cap on arbitration awards and pensions and benefits reforms, the Governor and Legislative leaders deserve our thanks and recognition. It took political courage to advance those reforms. Last year's increase in school aid was also welcome.

Mayors working with local governing bodies all around the state also deserve credit for making the tough decisions in tough times. We have pruned budgets, pursued savings, engaged in tough negotiations, reduced the workforce, shared services, cut spending, applied best practices,

THE TIME HAS COME TO RESTORE  
TO LOCAL BUDGETS THE MILLIONS  
IN PROPERTY TAX RELIEF THAT  
HAVE BEEN ANNUALLY DIVERTED  
TO MEET STATE NEEDS.

emptied reserve accounts and deferred investments. We did this as property values declined, tax appeals increased, development and economic activity stalled, employment slumped and property tax relief funding was diverted to the state budget.

Operating under the 2 percent levy cap, municipalities are allowed certain common sense exceptions. Hopefully, many of the 'Sandy' emergency costs will be off-set through FEMA reimbursements. But pension costs, as well

as 'inside the cap' costs like insurance premiums, utility bills, reserves for uncollected taxes, funding of tax appeals and motor fuels, continue to rise by much more than 2 percent. Likewise, the costs of state mandates continue to add up.

For example, the Public Employment Relations Commission (PERC) has, for years, required municipalities to supply PERC with copies of labor agreements. Now PERC is also requiring a certification of the budget impact of the terms of the contracts. The certifications should be signed by the Chief Financial Officer or, in some municipalities, by the municipal auditor. This will most likely result in an added fee to the town. In 2013, as in every year, the municipal budget maker has to be concerned with all costs, whether inside the cap or not. So for the vast majority of municipalities that do everything they legally can to control costs there are only three alternatives.

They can cut essential services. They can ask the voters, already facing their own family financial concerns, to approve higher property taxes. Or they can be given the Energy Receipts specifically meant for property tax relief. That would give municipalities more of the resources they need to meet constantly increasing costs, without asking voters to sacrifice either financially or in terms of effective municipal services.

Fair-minded people now recognize that the next advance in property tax relief has to involve ending the state's taking of Energy Tax Receipts and CMPTRA funds that are meant to be distributed to municipalities for property tax relief. I want to personally thank you, Chairman Sarlo, for your leadership on this important property tax relief issue. And I want to thank State Legislators from both sides of the aisle who supported S-1900, last year.

This year again, respectfully, we ask the members of this committee to, at least, begin to restore the \$331 million that was diverted from these property tax relief programs to meet State needs in FY 2009, 2010 and 2011. New Jersey property taxpayers have already waited too long for the return of these resources. The time has come to restore to local budgets the millions in property tax relief that have been annually diverted to meet state needs.

In addition to your work on the budget, and for a permanent solution to the problems created by the state's use of municipal Energy Receipts, we urge you to support Senate Bill S-1923. This bill would require the payment of energy receipts directly to municipalities. This would assure local property taxpayers compensation for hosting transmission facilities and lines that allow gas and electric energy corporations to serve customers and conduct

business in our Garden State. The League of Municipalities salutes the sponsors for listening to the Mayors in their districts and all around New Jersey and for advancing this legislation.

Recognizing the contributions made by our volunteer first responders and the sacrifices they make to serve their fellow citizens, we thank the Governor for proposing a 35 percent increase in funding for volunteer emergency medical services training. The funding for

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League President and Mayor of East Windsor Township Janice S. Mironov presents testimony before the Assembly Budget Committee on March 12 in Trenton.

the program comes from a dedication of 50 cents from municipal court costs resulting from motor vehicle violations. Since 2010, funding has been limited and reimbursements only available for initial training.

We thank the Governor for this proposal, which will increase the training reimbursement for new volunteers from \$550 to \$750. And we further thank our emergency first responders,

especially our volunteers, for all they do – not only in terms of urgent care, but also for the property tax relief they provide by their selfless service.

We are concerned with a proposed diversion of \$21 million from the State Recycling Fund to the General Fund. A \$3.00 per ton tax is levied on the owner or operator of every solid waste facility as well as on solid waste collectors that transport solid waste for

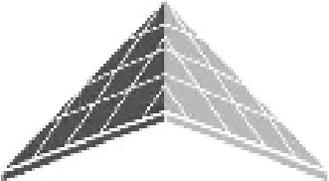
out-of-state disposal provides the funding for this program. The statute specifies that no less than 60 percent of the proceeds must be returned as tonnage grants to municipalities and counties. Respectfully, we ask the Committee to review that proposed diversion to make certain that our recycling programs get all the support they deserve.

In addition to other programs that the Administration has identified as priorities, the Governor indicated his support for limiting the ability of municipal officials, and only municipal officials we note, to implement user fees to fund certain services. A user fee is a sum of money paid by individuals who choose to access a service or facility. Examples of user fees include highway tolls, parking charges and State Park entry fees. With user fees, an individual directly pays for something he or she wants and uses what has been paid for. Overly broad limitations on future user fees could, for example, force a municipality to fund a new youth recreation program within the cap. That requirement would pit funding for a new soccer league against other spending priorities, which might keep a governing body from establishing a valuable service. Overly broad limitations could discourage a municipality from offering to pick up bulk items for disposal, for a reasonable fee, or require cap reductions for revenue derived from newly metered parking in a shopping district.

Instead of limitations on local budget options like user fees, we urge state policy makers to prioritize relief from the civil service requirements that often prevent shared services, and to advance other tools, like an extension of the 2 percent limit on arbitration awards, which is set to sunset next year. These initiatives would help local officials to continue to provide vital services, more efficiently and economically.

Finally, we appreciate the Governor's proposal regarding the establishment of a \$40 million "Sandy contingency fund," to cover recovery costs not funded by the federal government. We intend to comment on that further, once the details of that program are available.

As you continue to review the Governor's proposal and prepare for the introduction of the Appropriations Act, please feel free to contact me for any assistance. ▲



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# Under the Gold Dome

## Crafting an 'Election Year' Budget



By Darryl Isherwood

It's budget season in Trenton and by the time this hits your desk the wheeling and dealing over the annual spending plan will no doubt be in full swing.

But this year budget season is amped up by another Trenton ritual, gubernatorial election season. That's right folks, as they do once every four years, state lawmakers will attempt to craft a budget even as the governor's chair and every seat in the Legislature is up for grabs.

So what's in the budget the governor unveiled in late February? Everything and nothing.

The \$32.9 billion spending plan introduced by Governor Chris Christie is comprehensive in that it has a little something for everyone. Municipal Aid remained flat while school aid was boosted by a little under \$100 million. And while most of you reading this column know from experience that flat aid isn't good, you also know some of the alternatives are far worse.

The budget also fulfills a promise Christie made two years ago with the passage of the pension and health benefits overhaul by allocating nearly \$1.7 billion to the pension fund. While the amount is far off the amount actuaries say we should be funding, it's still the largest contribution from the state in at least the past 20 years.

And while the plan uses more than \$1 billion in one-shot revenues, (about 3 percent of the budget) that number is far below the approximately \$3.75 billion allocated in former Governor Jon Corzine's last budget. It is even a reduction from last year when the number was about \$1.25 billion.

The revenue estimate of \$32.8 billion relies on revenue growth of 4.9 percent, a far cry from the overly ambitious growth of more than 7 percent the governor factored into last year's plan.

And the budget also continues the business tax cuts Christie instituted two years ago, this year totaling \$539 million.

Among the most noteworthy additions to the plan is the proposal to take the money offered by the Obama Administration to increase the ranks of Medicaid recipients in the

state. The proposal is a controversial one among Republican governors, some of whom have rejected the feds' offer in order to repudiate Obamacare.

The plan will save the state about \$227 million.

On the day the budget was introduced, reporters used several adjectives to describe it, including a "maintenance" budget, "non-controversial" and "middle of the road."

In short, the budget leaves few openings for a clean shot from Christie's opponent in the November election, State Senator Barbara Buono.

That doesn't mean there are no pressure points and no levers for Buono to pull, but as one Democratic operative said of the governor's budget address: "The budget's out, let's get back to guns."

Among the most controversial portions of the budget—at least from Buono's perspective—is the plan to push the annual Homestead Tax Credit into August, pushing it out of the current fiscal year. The \$400 million dollar delay means it will be more than a year between checks—or more accurately credits—for New Jersey taxpayers.

And the one shot revenues may also provide some fodder for the Buono campaign.

Quietly added to the revenue projections is about \$152 million in clean energy funds—money that is paid by utility users that is meant to give resi-

dents an incentive to buy energy-efficient appliances and weatherize their homes.

This is the third year Christie has siphoned money from the system and Buono's press shop made a minor issue of it the day the budget was announced.

But where does a Democratic gubernatorial candidate turn on a budget that increases payments to the state run pension fund, increases school funding, expands Medicaid and cuts one-shot revenues?

Might be that the best place to turn is back to guns. ▲

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AND "MIDDLE OF  
THE ROAD."

Darryl Isherwood is the editor of PolitickerNJ, and its sister site State Street Wire. He has over a decade of experience as a reporter and has covered politics and government for news outlets in four states.



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# Hillsborough Reaches Out for Recovery Funds



By Frank DelCore  
Mayor, Hillsborough Township

In the days following super storm Sandy, municipalities across the State of New Jersey were faced with the daunting task of a clean-up and restoration of epic proportions.

Tapping into resources from the state and national government was instrumental in the clean-up effort of our Hillsborough community.

Hillsborough Township was one of the municipalities within Somerset County that took the initiative to apply for and ultimately received national assistance through three programs:

- FEMA, the Federal Emergency Management Agency;
- a \$15.6 million National Emergency Grant obtained by the state Department of Labor and Workforce Development; and
- the New Jersey State Youth Corps.

It was a collaborative effort on behalf of our township, Somerset County, the Department of Labor and the Christie Administration to secure both the local and national resources.

FEMA was one of the first organizations to arrive on the scene in Hillsborough. Shortly after the storm, a team of Iron Wood Hotshots from Arizona descended upon the township for six days with their chainsaws in hand to clear fallen and uprooted trees throughout the area.

In the days immediately following the storm, Hillsborough Administrator Anthony Ferrera also worked to secure assistance through the state Labor Department, which provided members of its Youth Corps program for a myriad of tasks. Their efforts were part of the \$15.6 million National Emergency Grant to help communities throughout New Jersey in their clean-up and recovery efforts.



Pictured with workers from the National Emergency Grant at a roadside clean-up site in Hillsboro Township are (first row, left to right) Hillsborough Deputy Mayor Doug Tomson; Somerset County Freeholder Director Peter Palmer; Hillsborough Mayor Frank DelCore; (second row, left to right) Hillsborough Township Committeewoman Gloria McCauley; Principal Director—Planning & Program Unit Somerset County Office of Youth Services Christine Henderson Rose; Hillsborough Administrator Anthony Ferrera; Department of Labor and Workforce Development Commissioner Harold J. Wirths.

National Emergency Grants are part of the United States Secretary of Labor's discretionary fund and are awarded based on a state's ability to meet specific guidelines. These grants can be used by approved municipalities, county governments and state agencies to assist with clean-up and humanitarian work resulting from a disaster.

**HILLSBOROUGH  
TOWNSHIP RECEIVED  
MUCH NEEDED RESOURCES  
AFTER THE STORM AND  
UNEMPLOYED INDIVIDUALS  
WERE ABLE TO SECURE  
THOSE TEMPORARY  
POSITIONS.**

The \$15.6 million grant obtained by the Christie Administration just days after Sandy hit is providing temporary employment for individuals on clean-up, demolition, repair, renovation and reconstruction projects at public structures, facilities and lands. Additional temporary jobs may also be created for those working on projects that provide food, clothing, shelter and other humanitarian assistance for disaster victims.

In Somerset County, the recruiting and screening of potential workers under the grant was done by the Greater Raritan Workforce Investment Board, an arm of the county administration. They, in turn, worked with individual municipalities, such as ours, to apply for the grant funds.

Hillsborough had to identify relief, restoration and clean-up projects and determine how to deploy the workers to be hired under the grant. It was the Greater Raritan One Stop Career Center, operated by the Workforce Investment Board, who handled the recruiting, screening and hiring of the employees who were eventually enlisted by communities such as Hillsborough.

It was a win-win for everyone. Hillsborough Township received much needed resources after the storm and unemployed individuals were able to secure those temporary positions.

By early December, temporary workers were brought in to assist with the hard work already begun by the Hillsborough Department of Public Works and the Parks Department. Hillsborough's share of the National Emer-

gency Grant enabled the township to enlist 11 workers to cleanup public lands in the 54-square-mile township.

Hillsborough is still using these individuals as the weather permits.

The grant program was open to people who were unemployed as a direct result of the storm or who were among New Jersey's long-term unemployed and no longer received unemployment benefits. Individuals who



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met the requirements were given temporary assignments throughout Somerset County.

THE COMMISSIONER  
CHOSE HILLSBOROUGH  
TOWNSHIP AS AN  
AREA TO TOUR IN THE  
ONGOING SANDY  
RECOVERY EFFORTS IN  
NEW JERSEY IN LARGE  
PART DUE TO OUR  
PARTICIPATION IN  
THE DEPARTMENT OF  
LABOR PROGRAMS.

Hillsborough also benefited from the efforts of members of New Jersey

Youth Corps following the storm. The group is one of the largest youth service and conservation corps in the United States. The Youth Corps is a year-round voluntary program, funded and managed through the state Labor Department, which engages young adults, ages 16 through 25, in fulltime community service, training and educational activities.

Guided by a staff of people who serve as mentors and role models, the teams or "crews" perform a wide range of public service projects. In the process of their community work, the Youth Corps members receive educational development, obtain support services, find personal and career counseling, and learn employment and life skills.

In Hillsborough, the crews assisted senior and disabled residents with debris removal.

We consider ourselves fortunate to have had the numerous resources available to our community.

On Thursday, January 24, 2013, Hillsborough Township hosted Labor Commissioner Harold J. Wirths. I joined

him to tour some of the worksites within our community that were being addressed by the crews.

As of this writing, 512 requests for clean-up assistance have been addressed within the township by the NEG workers and Youth Corps in conjunction with Hillsborough's Department of Public Works. As of the time we went to press with this article, 30,000 cubic yards of storm debris had been collected.

The FEMA crew that was initially deployed cleared 94 hazardous trees (leaning, blocking pathways, etc.). The trees, which ranged from 20 to 80 feet in height, were cut into manageable sections for further cleanup.

The Commissioner chose Hillsborough Township as an area to tour in the ongoing Sandy recovery efforts in New Jersey in large part due to our participation in the Department of Labor programs. The January 24 tour included a visit to our debris facility and a stop at a rural location where the National Emergency Grant workers had recently been working. ▲

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# Lights, Camera... Atlantic City Action



By Lorenzo Langford  
Mayor, Atlantic City  
& Tom Meyers, Executive Director,  
Fort Lee Film Commission

**T**his past year members of the Fort Lee Film Commission in Fort Lee, the first American film town, reached out to the Mayor's office in Atlantic City with an idea to reenergize an industry born in New Jersey under the aegis of Thomas Edison, the American film industry.

We traveled to Atlantic City, not to gamble but to promote film and television production. Reviving film and television production there is a bit of a gamble—but well worth the risk. Since the expiration of the tax credit for film & TV production in New Jersey a few years ago we at the Fort Lee Film Commission have been asking state legislators to revisit the idea of a statewide tax credit for this native New Jersey industry, as we had in the past. However, there has been no reinstatement to date so we've decided to chart a new course.

The goal of the Fort Lee Film Commission is to work with the New Jersey Motion Picture and TV Commission, the Directors Guild of America, production companies and studios in an effort to bring production back to the Garden State. The suspension of the tax credit has made the situation desperate and at this point we need to find an innovative way to restore some element of an incentive.

On October 13, 2011 at the Directors Guild of America Theater in New York City, Academy Award-winning director Martin Scorsese presented the first woman director in cinema history, Alice Guy Blache of Solax Studio in Fort Lee, posthumously, with a Special DGA Directorial Lifetime Achievement Award. Earlier that same week, the Fort Lee Film Commission arranged a press conference near Madame Blache's Solax Studio in order to lobby for passage of a tax credit for film and TV production. We hosted



Members of the Fort Lee Film Commission have been working with Atlantic City for the past year to establish the Atlantic City Mayor's Office for Film and Television.

local state legislators as well as industry professionals and local business leaders. What we attempted to do was to gain support for the idea that the film and TV industry needs to be treated like any other New Jersey business that receives tax credits.

The American film industry was born in New Jersey in the laboratory of Thomas Edison in West Orange. Edison built the first movie studio in America in West Orange in 1893. Fort Lee became the birthplace of the American film industry when studio after studio was built in the borough from 1910 through World War I. Universal Studio and Fox Studio were born in Fort Lee, in addition to Blache's Solax Studio.

**A FILM STUDIO  
WOULD INCREASE  
TOURISM AND BRING  
MORE VISITORS FROM  
AROUND THE WORLD  
TO ATLANTIC CITY'S  
BEACHES AND WORLD-  
FAMOUS BOARDWALK.**

We have had no steady film or TV shoots in Fort Lee since the suspension of the tax credit. *Law & Order SVU* closed down their North Bergen studio and moved to Manhattan as soon as the tax credit was suspended. Up until 2010, the show did multiple location shoots in Fort Lee. Every time this NBC Universal program came to town they pumped thousands of dollars into our economy through rentals of locations such as restaurants, businesses and homes; use of local restaurants and caterers to feed the crews and a hundred other purchases in the local community that benefited small businesses.

The Record newspaper came out in favor of reinstating the tax credit for film and TV production saying, in a 2011 editorial, "The film industry was born in Fort Lee. The state should be doing everything it can to bring some of it back. While major film studios



The NBC Universal hit show *Law & Order SVU* makes a shoot on location in Monument Park in Fort Lee. *Law & Order SVU* closed down their North Bergen studio and moved to Manhattan as soon as the tax credit was suspended. (Photo courtesy of the Donna Brennan of the Fort Lee Film Commission.)

have been developed in the outer boroughs of New York City, the same has not occurred in New Jersey. There is no excuse."

We agree and offer a suggestion that should please all parties. We have been working with Atlantic City for the past year to establish a film com-

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mission in this legendary American resort city. Mayor Lorenzo Langford and the city council have established the Atlantic City Mayor's Office for Film and Television. The appointed members include representatives of the Atlantic City Alliance as well as others with an understanding of both the history and business of filmmaking in New Jersey.

The Alliance's first endeavor is to reach out to state legislators and the Governor to explore the possibility of creating an isolated New Jersey tax credit for film and TV production in Atlantic City. This credit would only be offered for productions in Atlantic City and it would be large enough to compete with the current tax credit offered by the State of New York. Think of the film and TV industry as a part of the revitalization of Atlantic City. With a tax credit of 35-40 percent for the five year life of the credit, the state would attract location production. In addition, and more importantly, we'd see the creation of permanent studio space in Atlantic City.

A film studio would increase tourism and bring more visitors from around the world to Atlantic City's beaches



Alice Guy Blache, the first woman filmmaker in cinema history, at work in her Solax Studio in Fort Lee circa 1912. (Photo courtesy of the Fort Lee Film Commission.)

and world-famous boardwalk. It would also offer a new customer base for the casinos.

HBO's acclaimed series *Boardwalk Empire* shoots in New York. This production should be shooting in New Jersey. With a little luck and a roll of the

dice, we might be able to call Atlantic City once again the Boardwalk Empire of America. ▲

Tom Meyers is a fourth generation resident of Fort Lee and the founder and Executive Director of the Fort Lee Film Commission.

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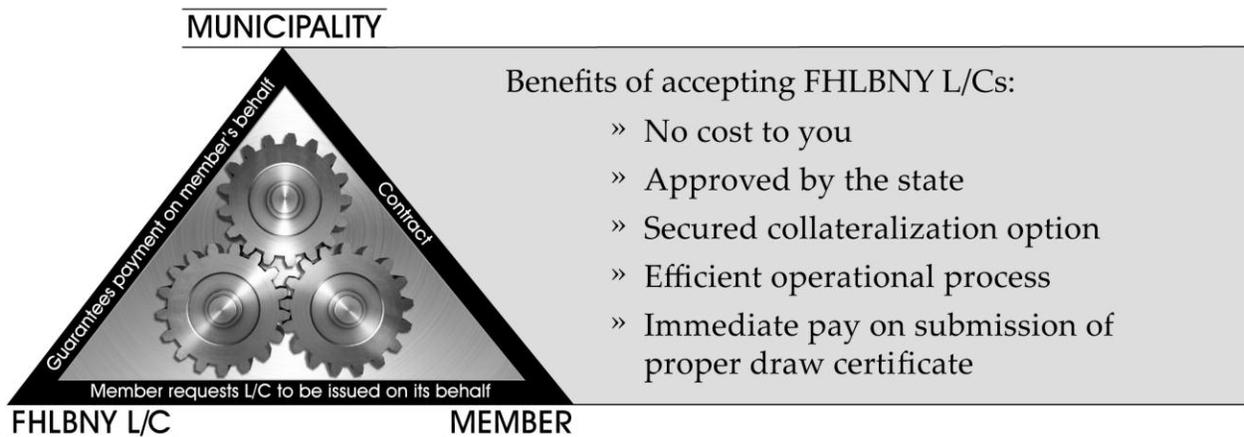
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# Legislative Update



By NJLM Senior Legislative Analysts  
Lori Buckelew, Michael F. Cerra, Jon R. Moran,  
and NJLM Staff Attorney Matthew Weng, Esq.

## LEAGUE WELCOMES BILL REGULATING LOCAL LOBBYING

The League of Municipalities welcomes the introduction of S-2585, which would impose registration and reporting requirements on those who lobby local governments and those who hire them.

Modeled on New Jersey laws regulating lobbying at the state level, this legislation would ensure that local officials have access to information about those who will try to influence their decisions. That will allow local public servants to make better decisions on important public policy matters. It will also provide citizens with the assurance that their elected and appointed officials will not be inappropriately influenced in their official actions.

This legislation should guard against public corruption and promote greater confidence in the integrity of local government institutions. We salute the sponsor for his leadership on this.

The League of Municipalities supports S-2585. The bill was approved by the Senate State Government Committee and has been advanced to the Senate Budget and Appropriations Committee. Companion measures, A-3879 and A-3882 await action in the Assembly.—JRM

## FEE SUSPENSION FOR STORM DISPLACED INDIVIDUALS

A-3567 would suspend, for six months, the collection of fees charged by a municipality and Department of Community Affairs (DCA) for certificates of inspection, certificates of occupancy, continuing certificates of occupancy or other documentary code enforcement certificates, such as those for smoke and carbon monoxide detectors. This suspension would only apply to dwellings units rented by a person identified by FEMA as an individual who was displaced from their primary residency as a result of Hurricane Sandy.

A-3567 would permit the municipality and DCA to continue to charge the fees that would have been collected and remit an accounting of the fees to the State Treasurer. The State Treasurer would be able to determine the amount of funds to be apportioned to the municipality or DCA to cover the uncollected fees charged during the period of suspension. However, the bill does not provide an appropriation to cover the lost of revenue.

While we appreciate the intent of the bill, we must oppose any bill that is an unfunded mandate. A-3567 permits the State Treasurer to reimburse municipalities for the loss of revenue but does not provide an appropriation.

A-3567, sponsored by Assemblymen Wolfe and McGuckin, is awaiting consideration by Assembly Housing and Local Government Committee. The companion bill, S-2415, sponsored by Senator Holzapfel, is awaiting consideration by Senate Community and Urban Affairs Committee.—LB

**LEAGUE OPPOSES EARLY VOTING REQUIREMENT** The League opposes A-3553, introduced by Assemblyman Wisniewski, and S-2364, introduced by Senator Gill, which would require the availability of early voting for certain elections.

This bill would require for each primary and general election a public facility, including potentially municipal buildings, be open for early voting starting fifteen days before the election. These locations will be spread throughout the county at either 3, 5, or 7 locations, depending on the size of the county, geographically located in high concentrations of population. The county board must designate a total of five public locations for early voting if the number of registered voters in the county is at least 150,000 but less than 300,000, and must designate a total of seven public locations for early voting if the number of registered voters in the county is 300,000 or more. The early polling locations must be open Monday through Saturday 10:00 a.m. to 8:00 p.m. and on Sunday from 10:00 a.m. to 6:00 p.m. Any voter in line at the time of closing must be permitted to vote.

As a result, in some towns, this could mean that the municipal building, community center, or other frequently used public building be open and staffed by poll workers during the early voting time. Use of these buildings for early voting would likely conflict with if not push out other important uses for these buildings. A municipality may need to reschedule things like council meetings, meetings of land use boards, or municipal court dates, causing inconvenience for the taxpayers of the municipality.

The bill also requires retraining of poll workers and dramatically increased hours, as well as chain of custody requirements to protect the voting process. Currently, it is

very difficult to find poll workers for the Primary and General election. A 2007 report by the Pew Research Center indentified numerous issues with the recruitment, training, and compensation for poll workers. This bill would only add to the problem by requiring the increase in the hours for poll workers.

We are also extremely concerned about the costs associated with the provisions of A-3553 and S-2364. A municipality could incur increased costs transporting election materials to and from such polling places every day for two weeks, rescheduling meetings to accommodate the use of public buildings, and paying over time to municipal employees forced to work extended hours and weekends. For example, the municipal clerk is required by law to be in office during polling hours. This bill would require the clerk to be in office 66 hours a week for two weeks.

Although this bill contains a provision for reimbursement for any additional costs as well as an appropriation, we remain concerned by the language. The appropriation does not outline a specific amount, only that which the State Treasurer and the Director of the Division of Budget and Accounting deem necessary. The Office of Legislative Services estimates that these bills would cost \$22.8 million. We question what would happen if the appropriation proves insufficient. In addition, the bill does not make clear who determines if a reimbursement request submitted by a municipality is related to the new early voting rules. The bill does not outline the procedure for a municipality whose reimbursement request is denied.

The League strongly believes this bill would cause an unnecessary upheaval to the voting process in municipalities in New Jersey. Although a few states had issues with long lines and disenfranchised voters in the 2012 Presidential election, New Jersey performed quite well, even in light of Hurricane Sandy. Further, New Jersey already has a form of early voting, in that voters may request and cast absentee ballots without an excuse. Any voter may request an absentee ballot be sent to their home, or they may go in person to county locations and obtain a bal-

lot there. This system has worked well for a number of years.

A-3553 and S-2364 unnecessarily introduce a new, complex, and potentially expensive process. We currently have a process the permits voters every opportunity to vote and participate in the democratic process.—MW

**GREEN ENERGY PLACEMENT SHOULD REFLECT PLANNING PRIORITIES** The League supports A-3218, which modifies the definition of “inherently ben-

eficial use” to discourage the siting of wind and solar energy facilities on agricultural land and open space.

Under a 2009 law, applications for alternate energy projects are considered “inherently beneficial,” that is such applications presumptively satisfy the positive criteria under the Municipal Land Use Law (MLUL). The League takes the position that the current law works against local and state goals, given the extensive availability of other appropriate locations (such as rooftops,



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parking lots, landfills, and permitted use zones). We also believe that the current law promotes projects contrary to municipal and state plans, priorities and the best use of public funds.

This legislation amends the MLUL to limit the inherently beneficial criteria, "so long as the wind, solar or photovoltaic energy facility or structure is located on or above a parking lot, rooftop, or any brownfield, and not within agricultural land or open space."

The proposed changes in A-3218 are consistent with the State's Energy Master Plan, which promotes the development of "green" energy appropriately. A-3218 is also consistent with long-standing state policies, including the basic principles of the State Plan and the preservation of farmland and open space. It is also consistent with local planning priorities, particularly for municipalities who have zoned to accommodate

both the preservation of farmland and open space and renewable energy sites where appropriate.

A-3218 is sponsored by Assemblywoman Alison Littell McHose and is referenced to the Assembly Housing and Local Government Committee.—MFC

**LEAGUE REJECTS EFFORT TO PENALIZE BEACH MUNICIPALITIES** The League of Municipalities opposes S-2368, which would require municipalities that accept federal or state beach replenishment funding to provide free beaches and public toilet facilities.

A basic understanding of economic fundamentals includes the recognition that there really is no such thing as a free lunch. If visitors to our shore municipalities expect to find the sands and waters to be both clean and safe, they know that there can be no free beaches, either.

Beyond beach replenishment, there are costs involved in operating a beach. A municipality must fund beach maintenance, beach sanitation, lifeguards, beach policing, beach related emergency medical services, as well as carry liability insurance and the costs to defend themselves in lawsuits. Further, a host municipality must also bear costs related to off-beach sanitation and public safety, road maintenance, traffic and pedestrian safety and parking facilities. In order for New Jersey state government and businesses to enjoy the benefits derived from our vibrant tourism industry, these costs will need to be covered either by general tax revenues or by reasonable user fees.

A user fee is a sum of money paid by individuals who choose to access a service or facility. Examples of user fees include highway tolls, parking charges and State Park entry fees. With user fees, the individual directly pays for something he or she wants and uses what has been paid for. In contrast, taxes must be paid and do not necessarily support a specific service or facility that an individual actually uses or benefits from.

New Jersey beaches are, mile for mile and square foot for square foot, among the most heavily used natural treasures anywhere. They are the heart and soul of our tourism industry. The minimal fees that are charged for beach access help the host municipalities to fund these services.

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New Jersey State League of Municipalities

The diversion of municipal Energy Receipts funding to close gaps in state budgets and the economic downturn have already forced municipalities into painful budgetary decisions. The loss of beach fee revenue will aggravate the situation for municipalities struggling to recover from the devastation of Sandy.

For all the above reasons, the League strongly opposes this ill-conceived initiative.

The bill awaits consideration in the Senate Environment and Energy Committee.—JRM

**BILL HOLDS DEVELOPERS RESPONSIBLE FOR PROFESSIONAL SERVICES** The League supports A-3411 as it provides an avenue for municipalities to recoup revenue. The bill will ensure that developers, and not taxpayers, are responsible for the costs of development applications.

A-3411 permits a municipality or any affected professional to recover unpaid escrow balances and accrued interest in court 60 days after the disposition of the application, if the applicant has

not appealed the decision to the County Construction board.

N.J.S.A. 40:55D-53.2a permits an applicant to file an appeal of professional services fees within 45 days from the receipt of the informational copy of the professional's voucher. If the professional does not provide an informational copy of the voucher, the applicant then has 60 days from receipt of the municipal statement of activity against the deposit or escrow account to file an appeal. The statute also permits an applicant to file an appeal for an ongoing series of charges by a professional during a period not exceeding 6 months to demonstrate that they represent a pattern of excessive or inaccurate charges. A-3411 would also prohibit applicants from appealing the professional service fees after the dates established in N.J.S.A. 40:55D-53.2a.

Finally, A-3411 requires that the prevailing party be awarded attorney fees and establishes the attorney's hourly rate at \$300 per hour. This rate will be adjusted annually at 5 percent.

When establishing the escrow for a project, municipalities will estimate the cost associated with a particular development application. Sometimes, the cost of these services exceeds the amount of funds in escrow and the developer refuses to pay the difference. The developer's default leaves either the taxpayers to pay the difference or the professionals to absorb it as a loss. Many times, a lawsuit is impractical because the cost of litigation outweighs the amount of the default.

The League supports A-3411 as it provides an avenue for municipalities to recoup revenue.

A-3567, sponsored by Assemblyman Carroll, is awaiting consideration by Assembly Housing and Local Government Committee.—LB

**BILL WOULD REQUIRE TIMELY UTILITY DISRUPTION NOTICE** The League supports A-3475, which would require utilities to provide timely notice of service disruptions to emergency management coordinators and local elected officials.

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Specifically, the utility must, within 24 hours of a major catastrophic event, report information pertaining to service interruptions to the State Office of Emergency Management (OEM) and, upon request, to the mayor (or chief executive, depending upon the form of government) and governing body of each affected municipality, and to the governing body of each affected county. The report must include: (1) the cause of the interruption; (2) the estimated time of resumption of service; and (3) any health and safety advisories, including boil water advisories. The provider must, within 24 hours of a major catastrophic event, provide to OEM a report that includes information on the utility's work to restore interrupted service, including plans for ongoing work in each affected municipality; and factors which may hinder or delay restoration of service.

In addition, the bill directs that, upon submission of each report, the utility must relay the information contained in the report, and any other

information it deems appropriate, through posting on its website, and by audio message on a 24-hour toll-free telephone service maintained by the utility. A utility is also required to provide daily updates to the mayor and governing body of each affected municipality and the governing body of each affected county of any new information.

Compliance with the requirements of this bill will provide local officials with the information they need to best protect the health, safety and other interests of their citizens in times of crisis.

We thank the sponsors for their leadership. We support A-3475, which currently awaits action in the Assembly Telecommunications and Utilities Committee.—JRM

**PROPOSED LAW WILL SPUR REDEVELOPMENT** The League supports companion legislation, S-2447 and A-3615, which is intended to help municipalities promote redevelopment. Specifically, this legislation codifies recent case law on redevelop-

ment and eminent domain. The bill also authorizes municipalities that intend to implement redevelopment initiatives without using eminent domain to do so, while also taking advantage of the other tools available under the Local Redevelopment and Housing Law.

The long-term effects of recent cases involving redevelopment and eminent domain, coupled with the recession inhibited redevelopment efforts throughout the state. Essentially, this legislation allows a local government to designate at the beginning of the process that no property would be subject to eminent domain while retaining all the other tools under the Local Redevelopment and Housing Law. These changes should provide a significant boost for redevelopment throughout the state.

A-3615 is sponsored by Assemblyman Coutinho and referenced to the Assembly Commerce and Economic Development Committee. Its companion, S-2477, is sponsored by Senators Van Drew and Rice and referenced to

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the Senate Community and Urban Affairs Committee.—MFC

#### LEAGUE FAVORS ALLOWING STANDARD ELECTRONIC FUNDS TRANSFER

A-3562 would permit the modernization for the form of disbursement for certain state and local government payments. Specifically, as amended, A-3562 would permit a governing body to adopt a policy by ordinance to pay claims through the use of one or more standard electronic fund transfer technologies instead of the use of signed checks. The bill defines "standard electronic fund transfer technologies" to include, but not limited to, wire transfers, automated clearing house (ACH) transactions and debit cards.

The ordinance must explicitly list the forms of standard electronic fund transfer technologies that may be used by the local unit. The ordinance may also limit the circumstances when electronic fund transfer may be used.

The Chief Financial Officer will be responsible for the oversight and administration of the disbursement

policy of the program. The Chief Financial Officer will be required to document and implement internal controls sufficient to ensure safe and proper use of the system and mitigate the potential for fraud and abuse.

The League supports the amended A-3562 as it provides municipalities with the ability to choose to use contemporary payment procedures.

A-3562, sponsored by Assemblymen Ramos, O'Scanlon, Caputo and Assemblywoman Wagner and Jimenez, is awaiting a second reading before the Assembly.—LB

#### LEAGUE LAUDS STREETLIGHT REPAIR AND INSTALLATION BILL

The League supports companion bills A-3564/S-2371. The bills would require an electric utility to repair a street light owned or operated by that utility within 72 hours, after notice is provided to the utility by the chief law enforcement officer of the municipality where the street light outage has occurred. The bill also requires a utility to install a street light on an exist-

ing pole owned by the utility within 90 days after notice is provided to the utility by the chief law enforcement officer of a municipality where the street light installation notification or request has occurred, provided that the chief law enforcement officer of that municipality first determines that a street light needs to be installed on that pole.

The bills provide a reasonable exemption to the time period requirements if the utility experiences an emergency situation or major catastrophic event, within the time period of the request. The bills also provide that any utility that violates the provisions of the bill shall be liable for a civil administrative penalty of \$50 per day for each violation.

We salute the sponsors for their leadership on this important public safety policy. S-2371 has been referred to the Senate Economic Growth Committee; while A-3564 awaits action in the Assembly Telecommunications and Utilities Committee.—JRM ▲



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# Open Space Preservation Funding Is Running Dry



By Eileen Swan, Policy Manager,  
New Jersey Conservation Foundation;  
former Committeewoman and  
Mayor, Lebanon Township  
& Art Ondish, Mayor, Mount Arlington  
Township; NJLM Immediate Past President

**M**unicipalities across New Jersey have long been the beneficiaries of state funding for open space, farmland and historic preservation. Millions of dollars have been leveraged and invested in urban, suburban and rural communities from the Shore to the Highlands to create parks, protect wetlands and wildlife habitat, preserve farmland and protect our historic treasures.

These investments make our communities places where people want to live, work and raise families. They bolster our local economies and provide critical services that help protect our drinking water supply, mitigate flooding, and control the cost of municipal services.

Unfortunately, state funding for Green Acres, Blue Acres, Farmland Preservation and Historic Preservation has virtually run out.

Funds from a 2009 voter-approved bond issue that provided \$400 million for these programs have been allocated, with no new money in the pipeline.

Recognizing that this could mean no more matching funds for local preservation projects. The League adopted a resolution in December expressing support for the establishment of a long-term, dedicated source of state funding for the preservation and stewardship of open space, parks, farmland and historic sites in New Jersey. This policy objective has been identified by League President and Mayor of East Windsor Township Janice S. Mironov has a top legislative priority for the League.

At least 10 counties and a significant number of municipalities to date have passed similar resolutions, underscoring the important role these programs play in bringing local projects to fruition.



The owner of this farm, Paulette Nagie, is 106 years old and will turn 107 on March 23 of this year. Her farm was preserved in 2003 for \$713,000—of which more than half was paid through the state Farmland Preservation program, with the remainder funded by Hunterdon County and Lebanon Township.

Here are just a few examples from Mt. Arlington in Morris County and Lebanon Township in Hunterdon County of the benefits that Green Acres and Farmland Preservation provide to local preservation efforts.

- **Crystal Springs Park** This 53-acre property was protected through a partnership with the New Jersey Water Supply Authority (NJWSA), the County of Hunterdon, Lebanon Township, Hunterdon Land Trust Alliance, Washington Township Land Trust of Morris County and Green Acres. The Green Acres program allocated more than \$866,000 toward the protection of the \$2.27 million property. The property contains highly developable agricultural fields, beautiful forests, ponds and the headwaters to the Spruce Run Reservoir, which provides drinking water to residents in Hunterdon, Mercer, Middlesex, Morris, Somerset and Union counties. In addition, the parcel was a critical addition and connector to a network of protected lands straddling the Hunterdon/ Morris county border that totals more than 1,000 acres.
- **Mt. Arlington Public Beach Park** Over the past several years, Mt. Arlington Public Beach Park on Lake Hopatcong has undergone a \$639,000 rehabilitation and renovation to make the lake more accessible to the community. Restoration of the dock and beach along with flood control improvements and construction of amenities such as game courts, picnic areas, and restrooms have significantly increased the allure of the park. Of the \$639,000, \$341,000 was funded by the state's Green Acres program.
- **Nagie Farm** As you leave Morris County and enter Hunterdon County along Route 513, there is an old white church with a steeple. Stretching up the hill behind the church is a beautifully positioned 68-acre farm owned by Paulette Nagie. The farm was preserved in 2003 for \$713,000—of which more than half was paid through the state Farmland Preservation program, with the remainder funding by Hunterdon County and Lebanon Township.

There are thousands of projects like these across New Jersey that without

support from the state may have never come to pass. And now with funding running dry, we are at a critical crossroads.

New Jersey still has approximately one million acres—or 20 percent of the state—that remains unprotected and developable. This includes an additional 350,000 acres of farmland that need to be preserved in order to maintain a viable agriculture industry, the state's third largest.

As the first state predicted to reach build-out by mid-century, we need to invest \$200 million per year for the next several decades to meet our preservation goals.

In February, the Senate Environment and Energy Committee held a hearing on three separate bills that through different mechanisms—including a water-user fee, a bond and a sales tax dedication—would provide varying levels of funding for Green Acres, Blue Acres, Farmland Preservation and Historic Preservation programs.

For a bit of historical context, the 1998 Garden State Preservation Trust Act dedicated \$98 million in sales-tax

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revenues in combination with bonding that generated \$200 million annually for open space, farmland and historic preservation. It is the state's most successful preservation initiative to date, and hailed as a national model. The Garden State Preservation Trust also enjoyed broad, bipartisan support, which is essential to the success of any new initiative.

Dedicating these funds is a wise and necessary investment.

Consider that a report released recently by the Outdoor Industry Association found that outdoor recreation in New Jersey generates \$17.8 billion in consumer spending, \$6.1 billion in wages and salaries, and \$1.3 billion in state and local tax revenue annually.

Also consider that food and agriculture is New Jersey's third largest industry. In 2011, the state's more than 10,000 farms generated \$1.1 billion, according to the New Jersey Department of Agriculture.

But protecting our open space and farmland is not just good for our economy, it is also necessary to protect our

drinking water supply, preserve and restore lands that provide buffers against flood and storm damage, and ensure that all New Jerseyans have access to quality parks and historic sites.

UNFORTUNATELY,  
STATE FUNDING FOR  
GREEN ACRES,  
BLUE ACRES, FARMLAND  
PRESERVATION AND  
HISTORIC PRESERVATION  
HAS VIRTUALLY RUN OUT.

New Jersey voters agree. A survey of 600 registered voters commissioned last year by the New Jersey Keep It Green Coalition found that 77 percent

support dedicating \$200 million annually in sales tax revenues for conservation and stewardship.

As the debate over funding options plays out in Trenton over the weeks and months ahead, it is important for local and county governments to stay engaged in order to continue the vital partnership with the state and protect the quality of life in our communities.

The League has sent the resolution calling for a sustainable funding source for open space to all municipalities as a model for adoption. Municipal governments need to have their voices heard so that we can continue to keep the garden in the Garden State. ▲

Eileen Swan served as a committeewoman and Mayor in Lebanon Township for six years and led the municipal efforts to preserve open space and farmland. She was the first Mayor to partner with the New Jersey Water Supply Authority to preserve lands in the watersheds that supply water to the Spruce Run Reservoir.

Art Ondish began his service with the Mount Arlington government as a councilman in 1997. He is a former chairman of the Lake Hopatcong Commission.



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# Lawrence Contracts Out 911 Dispatch Services



By James S. Kownacki, Mayor;  
Richard Krawczun, Township  
Manager/CFO  
& Daniel Posluszny, Chief of Police;  
Lawrence Township (Mercer)

**M**unicipal government officials have been seeking new ways to provide services to their residents at a reduced cost and at the level that returns value to taxpayers. This effort gives rise to the question: what are the core functions of municipal government? The answer is not always precise. The answer is influenced by what municipal governments are mandated to provide and the requirements of our residents. Often the answer is that one size does not fit all.

However, in most communities, public safety services are at the top of the list of essential services. If one were to concur with this assessment, then the next step is to consider whether there are alternatives to providing public safety services either in portions or in their entirety. The same principal can be applied to all municipal services.

In Lawrence Township (Mercer) we are committed to providing public safety services in a safe and cost effective manner. In our calculations, safety has always been our first priority, rather than costs. Therefore, when we discovered that we could save money without compromising quality, we decided to have our 911 emergency dispatch

services provided by a private firm. On January 22, 2013 a competitive contract was awarded by the Township Council to iXP Corporation of Cranbury, New Jersey.

Many have asked us why Lawrence Township chose this alternative, instead of opting for a shared service or regional service for dispatch. Currently, our fire dispatch is regionalized (provided by Mercer County). Our emergency medical dispatch responsibilities are managed by LifeCom, a regional service administered by Capital Health Systems. That left our personnel only providing police dispatch duties.

In 2008, Lawrence performed a study (funded by the New Jersey Department of Community Affairs) of the feasibility of consolidating emergency dispatch functions among four towns in Mercer County. The study concluded that the consolidation would work. The next step was to perform another state-funded study into the physical needs of a larger communication center at the Lawrence Township Police Headquarters. We discovered that grant funds were no longer available for the expansion. From 2008 until the fall of 2012 the various efforts of the four participating municipalities to create a shared dispatch operation were unsuccessful.



Once Lawrence Township officials discovered that the town could save money without compromising quality, they decided to have the 911 emergency dispatch services provided by a private firm.

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Yet another study, concluded in June of 2011 by Matrix Consulting of the entire Police Department, gave us helpful information on the volume and times of calls handled by our emergency dispatch center. The data collected enabled us to analyze our community's dispatch needs and to prepare accurate bid specifications for vendors. The Township Administration and command officers of the Lawrence Township Police Department were concerned about structuring a public bid that would generate a viable bidder, based on quality as well as price.

Lawrence Township took advantage of competitive contracting as permitted by the New Jersey Public Contracts Law, specifically N.J.S.A. 40A:11-4.1 k, which permits the Director of the Division of Local Government Services to authorize the use of competitive contracting when a service is not statutorily enumerated. Competitive contracting is used in place of public bidding when a contract award is not made solely on price. Once our request was granted, the next step was approval by resolution of the governing body to use competitive contracting to procure 911 emergency dispatch services.

The Lawrence Township Council made a full examination of the possible outcomes from this action before granting their approval. They considered issues of resident safety, police officer safety, response times, the

effect on dispatch employees, and economics. They would need to wait until after the bids were received to weigh the merits of each proposal against the current operations.

The development of the specifications was quite a concerted endeavor. Not having completed such a document for dispatch services previously and not having another New Jersey municipality with which to consult, the specification development took a great deal of time and discussion.

The Lawrence Township Police Department is a Public Safety Answering Point (PSAP). The specifications noted that the "communications center handles all police, fire and ambulance calls for service via 9-1-1 and regular telephone line. Additionally, the communication center of the Lawrence Township Police Department is the primary calling center for the police department and handles telephone calls for other bureaus in the department as well as answering general questions of the public." The specifications also included 18 examples of work by dispatch personnel. We also required bidders to have experience in providing this service, although not necessarily in New Jersey.

One bid was submitted by iXP Corporation for the providing of 911 emergency dispatch services for a maximum period of five years. iXP is responsible for the hiring, training and supervision

of personnel. The arrangement also specifies that our police shift supervisor will be in charge of all police/dispatching functions. Lawrence Township will continue to own and maintain the dispatching technology infrastructure. The bid specifications and proposal were prepared in a way that will enable the service to become a revenue center for our township by providing dispatch services to other municipalities.

Once we determined that our vendor met the operational requirements, we did a cost comparison with our "in house" service. The analysis examined the vendor cost for the five year contract period versus the fully-staffed dispatch center provided by township employees. The center was not fully staffed but the comparison ignored current staffing and weighed the proposals with all positions filled.

To our surprise the cost of the proposal for private employees versus the cost of township employees revealed that the current operation was less expensive. However, further analysis revealed two areas where the use of public employees increased costs. The first was that the use of municipal employees would result in mandatory overtime in accordance with the Fair Labor Standards Act. The second, more significant, finding was that our use of police officers to "backfill" dispatcher absences in effect took up the time of one and a half officers. With the private service, we would no longer need to rely on police officers to staff the dispatch center. Instead, their time could be allocated for police functions. In other words, switching to the private 911 service would add one and one-half police officers at no additional cost to taxpayers. This was significant because, since 2008, the ranks of uniformed officers in Lawrence Township have decreased by 12 positions.

A new paradigm of municipal service priorities is before all public officials. We are keenly aware that we must provide services at a cost that provides value to taxpayers. However, municipal officials are not always given complete latitude on the full scope of services. Innovation may present some risk which must be weighed against the risk of inaction. The decision to privatize police dispatching services in Lawrence Township was a bit of both. ▲

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David vs Goliath

# Raritan Wages a Battle Over an OPRA Request



By Jo-Ann Liptak  
Mayor, Raritan Borough;  
Member, NJLM  
Executive Board

**T**his is the age old story of David and Goliath replayed with a modern twist.

Goliath is the Gannett Satellite Information network, Inc. d/b/a Gannett New Jersey/Courier News and David is the small (pop. 6900) Borough of Raritan in Somerset County.

In July 2009, Gannett New Jersey submitted an Open Public Records Act (OPRA) request for the master payroll list of all employees paid in 2008 showing: last name, first name, department, hire date, job title, base pay at the end of 2008, total overtime pay for 2008 and total pay for 2008. The list should include all employees who received a W-2 statement.

Gannett asked that the information requested be provided in a digital, non-PDF (Portable Document Format) form. We honored the OPRA request but submitted to Gannett that we did not have the information in the form they requested.

We forwarded Gannett's request to our outside payroll service, Action Data Services (ADS), which maintains and services our payroll. ADS replied that, in order for them to provide the requested non-PDF form, the project would take a minimum of four hours of work at a rate of \$275.00 per hour; totaling \$1,100.00. Raritan forwarded this information to Gannett, who, in turn, suspended the OPRA request in July 2009.

In October 2009, Gannett renewed its request, demanding the payroll information in non-PDF format and Raritan offered Gannett immediate physical access to the records requested and continued to advise Gannett of the \$1,100.00 conversion fee. Gannett "declined Raritan's invitation to review payroll records in hard copy form" and "also declined to pay" the quoted \$1,100.00 to convert the records from "PDF" to "non-PDF" format. Gannett apparently preferred to have the records in non-PDF electronic format so that it could more readily analyze and reorganize the data contained within.

In the meantime, our staff redacted all personal information such as social security numbers, addresses, home phone numbers, alimony payments, child support payments, etc. from the hard copy forms and submitted them to Gannett.

The Borough of Raritan and Gannett appeared before Judge Yolanda Ciccone in Somerset County Superior Court in November 2009 and Gannett's action was dismissed. Gannett filed a Motion for Reconsideration of the Court's Order and written Opinion.

In December 2009, the court denied Gannett's Order to Show cause but did not dismiss Gannett's complaint in its entirety, leaving open the possibility that the newspaper could obtain a more favorable outcome in the litigation following additional discovery.

Gannett then appealed to the Appellate Division, which on February 10, 2011 dismissed Gannett's appeal without prejudice and remanded the case back to the trial court after finding that significant factual

In this story Goliath is the Gannett Satellite Information network, Inc. d/b/a Gannett New Jersey/Courier News and David is the small (Pop. 6900) Borough of Raritan in Somerset County.

and legal issues remained to be decided, including “whether or not the conversion fee is necessary, and whether other practical impediments such as redaction are present.”

On April 3 and 4, 2012 the Superior Court, again with Judge Ciccone presiding, held a hearing to determine if Gannett made a specific request for identifiable government records and whether that request was denied.

On August 15, 2012, Judge Ciccone issued her opinion and order. The court found that during the payroll process, the payroll service created and maintained certain computer files. These computer files were unintelligible, but, did these non-PDF computerized files constitute “government records?” In its opinion the Court stated that a record need not be “intelligible” to be a public record subject to production, and that the files requested should have been provided to Gannett.

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The Court, however, did not address Gannett’s issues of redaction or the costs associated with converting the files requested into a readable format.

The New Jersey State League of Municipalities was helpful to Raritan Borough and came on as co-counsel during the April 2012 trial in Somerset County Superior Court. However, due to budgetary limitations, the League was not able to continue with their financial support.

Fast forward to January 2013 and Gannett has now submitted another action to the court against the

Borough asking the court to permit the disclosure of social security numbers of those employees included in the original action thereby making the redactions that ADS would have made and the subsequent charge of \$1,100.00 moot.

Be clear that the Open Public Records Act distinctly provides and explicitly requires all public agencies: municipalities, counties, state departments, etc. to comply with the safe-

guard of private information and to shield the New Jersey taxpayers from bearing the costs to transform, convert, or adapt data for the convenient use of the requestor, who in this case is a financially prosperous, private, for-profit business.

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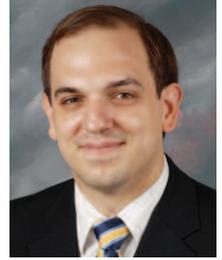
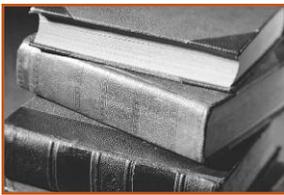
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## Regulating BYOB Restaurants and Residency Requirements for Elected Officials

By Matthew Weng, Esq.  
NJLM Staff Attorney

**Q** We are looking to enact a bring your own bottle (BYOB) ordinance in town to allow restaurant patrons to drink beer and wine that they bring themselves. We'd like to be able to exercise some control over BYOB in town, such as regulating hours, etc. What should we know about the process?

**A** BYOB is governed by state statute. N.J.S.A. 2C:33-27 sets out the statewide rules restaurants that do not possess a liquor license must follow to permit their patrons to consume beer or wine they brought themselves.

First, it should be noted that since this is a state statute which permits BYOB, no municipal ordinance is necessary. An ordinance is only needed if a municipality wishes to prohibit BYOB altogether. Otherwise, BYOB is the default, unless the restaurant owner or management prohibits it. A municipality may also "prohibit BYOB in 'commercial' unlicensed premises other than exempt restaurants."

Facilities that choose to permit BYOB can only allow patrons to bring wine or a malt beverage, cannot charge a cover or a service fee related to the BYOB, and cannot advertise that they offer BYOB. They must follow all applicable liquor laws. Violating any of these provisions is a disorderly persons offense and can result in the restaurant losing their ability to offer BYOB.

Because BYOB is subject to state statute, the Appellate Division has found that any attempt to further regulate BYOB on the municipal level is preempted. The court stated:

"[I]n those places where a municipality opts to permit BYOB, it may not regulate the practice. The Legislature has regulated BYOB as it deems appropriate in N.J.S.A. 2C:33-27a(1)-(3), 241 and N.J.S.A. 2C:33-27b reserves nothing more than a municipal right to prohibit BYOB. Under Meyer, Crawley and N.J.S.A. 2C:1-5d, because N.J.S.A. 2C:33-27b does not reserve a municipality's right to regulate BYOB, any ordinance that does so is preempted because that right is excluded from the Legislature's grant of municipal authority."

**Q** I am interested in how municipal residency requirements apply to situations like a natural disaster. For example, Hurricane Sandy destroyed many homes in several shore towns. What would happen if a local elected official is displaced by a storm?

**A** Here are the statutes in question: N.J.S.A. 40A:9-1.11d. "Resident" means a person having, within the territorial limits of the local unit, a place of abode, which has not been adopted for any mere special or temporary purpose, but is his ordinary and permanent domicile.

N.J.S.A. 40A:9-1.12. Local elective office; residency requirement; vacancy upon cessation of residency

No person shall be a candidate for, nor hold, any local elective office unless he is a resident of the local unit to which the office pertains. If any person nominated for, or holding, any local elective office shall cease to be a resident of the local unit to which the office pertains, the nomination or office, as the case may be, shall be vacant, and shall be filled in the manner prescribed by law.

Only one case is close to being on point. In *Borden v. Lafferty*, a Law Division case (meaning it has limited value as precedent) from 1989, the court talked about things like intent and substantial residential roots:

Physically, the Laffertys were in Pennington but the parts of them that count, their hearts and their heads, were in Bordentown. It is there that they became domiciled on May 2, 1988...The Legislature cannot have intended so narrow a reading of the residency law that it denies the candidacies of persons having bona fide and substantial residential roots in a community."

Again, because this is a Law Division case it does not have statewide precedent. There is, as far as I know, no hard and fast exception to this law for elected officials displaced by emergencies. ▲

*This column is for informational purposes only, and is not intended as legal advice.*

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# A Year to Remember



By Sheila Oliver  
Assembly Speaker

Last year was certainly one all of us won't soon forget. Hurricane Sandy left a terrible and lasting imprint on our state, one that has and will continue to dominate the attention of many of our local officials. Rebuilding New Jersey will be a continuous challenge in the months—even years—ahead, but the Assembly will always be there to do what needs to be done to make this process easy and successful.

That was a promise the Assembly made as it toured the damage late last year in Ocean, Middlesex and Monmouth counties. And it's a promise we will keep.

Seeing the devastation really hit home. It's one thing to see it on the news. It's entirely another thing to see firsthand the challenge our state faces as we move toward rebuilding. This was a valuable experience Assembly members will remember as we move toward helping our residents and businesses recover. I want to especially thank the many mayors who advised us on what needs to be done to rebuild their municipalities.

One top concern is making sure this is done right. We cannot afford to waste precious money and resources when it comes to rebuilding. Quite simply, the enormous taxpayer investment being placed in a recovery process of this magnitude requires extreme circumspection. In some cases, whole communities must be rebuilt. The effort requires accountability and transparency to ensure that these funds are being spent as they were intended. Homes and people's very livelihoods depend on it and our residents deserve nothing less.

Integrity monitors were used by Mayor Giuliani during the post-9/11 recovery period. Their efforts prevented millions of dollars in waste, fraud or misuse. That kind of oversight is exactly what we need in New Jersey. We hope and look forward to working cooperatively with Governor Christie on this important legislation, because it is the taxpayers of New Jersey and the country that will benefit in the end.

We must have proper safeguards in place, including integrity monitors to oversee spending of Sandy recovery funds. Ultimately, our goal is to ensure that the rebuilding of our state will be done in the most efficient, effective and timely manner.

But while the complexity of rebuilding New Jersey after Sandy will demand much attention, it's not the only issue facing our state.

The state budget remains a major concern, especially for mayors and local officials. It remains to be seen how the fiscal year will play out, but nonpartisan budget experts—who have been more accurate than the executive branch—have warned us that a \$2 billion shortfall in the current fiscal year is possible by June 30. That is a major concern for mayors and municipal officials who rely on state aid to fund their services and control property taxes.

It's difficult to say how the current fiscal year will end, nor what the state budget for next fiscal year will look like, but I can assure you that the Assembly will do everything it can to protect municipal aid. When Governor Christie's property tax relief cuts are included, property taxes have risen a net 20 percent in our state. That is an unacceptable burden placed upon homeowners. And, a burden that you are all too well aware of as mayors and local officials.

Another challenge is the state of our economy. New Jersey ranks 47th in the nation in economic growth. New Jersey ranks 45th in the nation in personal income growth, and our state's poverty rate has increased to 11.4 percent. As of January, New Jersey had the nation's 2nd highest foreclosure rate, with 7.7 percent of the state's homes in foreclosure (and Governor Christie has been slow to spend foreclosure relief money).

At the same time, our state's hard-working commuters have faced steep toll and fare increases.

All of these worries impact our municipalities directly, and that's why the Assembly has been on the forefront of legislative efforts to create jobs, spark economic development, reform affordable housing, provide foreclosure relief and lift residents out of poverty by increasing the minimum wage and restoring the Earned Income Tax Credit.

Unfortunately, the governor has not stood with us.

For instance, increased crime and senseless violence continues to plague many of our communities, as funding cuts by the Christie Administration have forced unprecedented layoffs of law enforcement. New Jersey just saw its highest crime rate increase since 2008. That increase came amid the loss of 1,426 municipal police officers, a 6 percent decrease that followed Governor Christie's state aid cuts.

When Democrats tried to counter some of this loss with a new \$50 million municipal public safety aid program, the governor waved his red pen and rejected this responsible investment in New Jersey's communities.

And when the Assembly passed legislation to ensure the state fulfilled its commitment to send energy tax receipts funding to municipalities, the governor vetoed the bill.

We have a litany of issues to tackle, but if recent months have shown us anything, it's that we have what it takes to overcome all these challenges.

The Assembly is committed to rebuilding after Sandy, but also to reviving the state's economy and making New Jersey more affordable for the middle-class and poor, an accomplishment that would only strengthen our towns.

Now the governor must finally join us in this effort so that everyone gets a chance to get ahead in our state. ▲

---

Speaker Oliver is a Democrat who represents the 34th Legislative District in Essex and Passaic counties.

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# Cooperation Is the Key to Recovery



By Jon Bramnick  
Assembly Republican Leader

In November, a bipartisan group of Assembly members toured areas along the Ocean County coastline to view the damage Superstorm Sandy did to residents and businesses along the barrier island.

Three weeks later, Speaker Oliver and I visited sections of Monmouth and Middlesex counties that had experienced severe flooding and faced the same dilemma: whether to rebuild or relocate.

Legislators on both sides of the aisle shared a common purpose. These communities are in dire need of assistance and the federal government must do all it can to help.

The storm's impact on our way of life and our economy is far reaching. Damage in New Jersey is estimated at \$36.9 billion. The loss of a house, a business and employment has a personal effect and an economic impact. The resulting loss of municipal revenue is a serious problem.

The Legislature is committed to the recovery effort and wants to ensure that municipalities receive the necessary guidance and support to rebuild.

We learned much about vulnerabilities in our infrastructure. We must now develop and follow a comprehensive recovery plan that prioritizes critical infrastructure projects. One of our goals will be to substantially reduce the exposure of our towns, residents and businesses to future storm damage.

Working with the electric and water utility companies must also be a priority.

During the past two years, our state has been devastated by several major storms. State legislators and county and town officials continue to be concerned with the utilities' response to power outages.

At the forefront of any disaster is the need for an accurate and steady flow of information. The public must have timely updates that assist in prioritizing those areas most in need of attention. Families and businesses must be able to develop a plan based on how long their power will be out.

The "Reliability, Preparedness, and Storm Response Act of 2012" (A-3255) will help achieve those goals. The bill requires utilities to improve their performance and communications during prolonged outages.

It also imposes large fines against utilities that do not comply. Those fines cannot be passed onto ratepayers. It also requires electric utilities to submit plans to the BPU to mitigate flooding of substations within flood zones. Substations are an integral component in keeping electricity flowing.

Municipalities across the state are dealing with many challenges that require an open dialogue with legislators. Many towns are facing budget and property tax challenges that make it difficult for revenues to match expenses.

Three years ago, we turned a new page to help contain soaring property taxes and government spending. The Legislature passed a property tax cap, arbitration reform and pension and healthcare benefits reforms.

Our work is not done. The Legislature must finish the job. No one has all the answers to every issue facing our municipalities and taxpayers. It is incumbent upon us to work together towards practical, common-sense solutions.

For local government leaders to win the battle of escalating costs, they must be given the necessary means to control spiraling expenses.

THE LEGISLATURE IS COMMITTED  
TO THE RECOVERY EFFORT AND WANTS  
TO ENSURE THAT MUNICIPALITIES  
RECEIVE THE NECESSARY GUIDANCE  
AND SUPPORT TO REBUILD.

For example, the statewide liability for property taxpayers for accumulated unused sick and vacation time for public employees is estimated at nearly \$900 million. There is legislation in the Assembly, sponsored by 23 Republicans that would eliminate this perk, which taxpayers cannot afford. Assembly Bill 2495 represents significant reform that will help taxpayers and towns.

Another important tool that can help municipalities (as well as counties and school districts) is the ability to opt out of civil service. This reasonable and fair approach would encourage the shared services concept the Legislature has been advocating for three years. Our caucus introduced legislation that would give local officials this common sense tool in the previous legislative session (A-2954) and in the current one (A-1039).

Over the last three years, taxpayers and municipalities have benefitted as the Legislature worked with Governor Christie in a bipartisan manner on the issues that are most important. People want a more affordable state to live in. We have proven we can reverse course when past policies have failed. Assembly Republicans recognize that taxpayers and businesses are depending on us to fix problems by working together. ▲

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# Labor Relations News & Views

## More Interest Arbitration Reform May Be on the Way



By Joseph M. Hannon, Esq.  
NJLM Labor Counsel;  
Partner, Genova Burns Giantomasi & Webster

On January 1, 2011, the Interest Arbitration Reform Law P.L. 2010, c. 105, also known as the "Rocket Docket," took effect. The legislation was designed to facilitate a more efficient collective negotiation process between public employers and police and fire unions and alleviate the escalating costs associated with public safety and personnel. This article continues our analysis the impact of the legislation and its imminent sunset on April 1, 2014, as well as proposed legislation that may affect the interest arbitration process.

To review, the legislation mandates a 2 percent cap for base salaries in connection with interest arbitration awards for collective negotiations agreements that expire between January 1, 2011 and April 14, 2014. This reform prohibits an arbitrator from awarding increases on base salary items per year by more than 2 percent of the amount the employer spent on such items in the preceding year before the collective negotiations agreement expired.

The legislation permits an arbitrator to distribute the award in unequal annual percentages throughout the agreement, so long as the aggregate value of the entire award does not average more than 2 percent in a given year. The 2 percent cap provision is scheduled to sunset on April 1, 2014.

The 2 percent cap encourages parties to reach a voluntary agreement or use mediation and fact finding rather than file for interest arbitration. The most recently issued Public Employment Relations Commission Salary Increase Analysis reports an average salary increase of 1.83 percent for the ten reported voluntary settlements from January 1, 2012 to April 30, 2012. Comparatively, the salary increase of reported voluntary settlements averaged 2.65 percent in 2010 and 3.6 percent in 2009.

Similarly, the average salary increase of cap applicable awards (agreements that expired after January 1, 2011) and non-cap applicable awards (agreements that expired prior to January 1, 2011) have fallen. From January 1, 2012 to April 30, 2012, the nine total awards issued increased salaries by 1.82 percent. Six of the nine awards were not subject to the 2 percent cap, thereby skewing the overall salary increase average. Of the three awards that were cap applicable from January 1, 2012 to April 30, 2012, salaries

were increased by only 1.52 percent. Our calculation of the nine cap-applicable awards issued from January 1, 2012 through December 31, 2012 produced an average salary increase of 1.70 percent.

According to the 2012 Annual Report of the Police and Fire Public Interest Arbitration (Task Force Report), the Commission received only 23 new interest arbitration petitions in 2011 after the legislation took effect, a staggering decline from 121 filings in 2010. The legislation's new procedural and substantive requirements contributed to the drop in new filings in 2011. The 2013 Task Force Report is scheduled to be issued on April 1, 2013.

The number of interest arbitration appeals has dramatically increased since the legislation took effect. The number of appeals rose from five appeals in 2009 to 15 appeals in 2010 and 17 appeals in 2011. In 2012, a total of 13 appeals were filed. The majority of appeals were filed by public employers. The rise in the number of appeals in recent years can be contributed to the legislation's rigid timeframe of seven days to file an appeal. Further, a public employer has minimal downside filing an appeal that could later be withdrawn.

Assemblyman Declan J. O'Scanlon Jr. sponsored Assembly Bill No. A2113 to relax the rigid timeframes set forth in

the Rocket Docket legislation. First, Assembly Bill No. A2113 proposes that the time limit for an arbitrator to render an award should be relaxed from 45 days to 90 days. A process that once took close to two years from start to finish has been condensed to a mere 45 day period. The interest arbitration process is an intensive process. However, the legislation's timeframes do not provide flexibility for unanticipated events that may arise after the assignment of the arbitrator. The proposal of a 90 day time limit for an arbitrator to issue an interest arbitration decision will likely benefit public employers, unions and arbitrators by providing the parties with more time to focus on key issues as well as the ability to explore the possibility of voluntary resolution without undue delay to the process.

Second, Assembly Bill No. 2113 proposes to extend the timeframe for an aggrieved party to file an appeal to the Commission from seven days to 14 days following the receipt of an arbitrator's award. The decision to file an

OVERALL,  
THE INTEREST  
ARBITRATION  
REFORM LAW HAS  
BEEN A SUCCESS  
FOR PUBLIC EMPLOYERS.

appeal is made by a public body that typically does not meet on a weekly basis. Although the legislation provides that an award must be issued within 45 days of the filing, meetings cannot be planned in advance because an award is not always issued on the 45th day. Under the current timeframe, a public body is often forced to call an emergency meeting to decide whether to file an appeal. An extension of the time to file an appeal will permit a public body to analyze an award and decide whether to appeal without having to call a special emergency meeting.

Once a public body decides to proceed with an appeal, an extension from seven to 14 days will allow labor counsel more time to analyze the award and draft an appeal brief to the Commission. This should result in fewer appeals because many appeals are filed simply to preserve the ability to appeal due to the short timeframe currently in place. In short, if a party does not file, the right to file is lost.

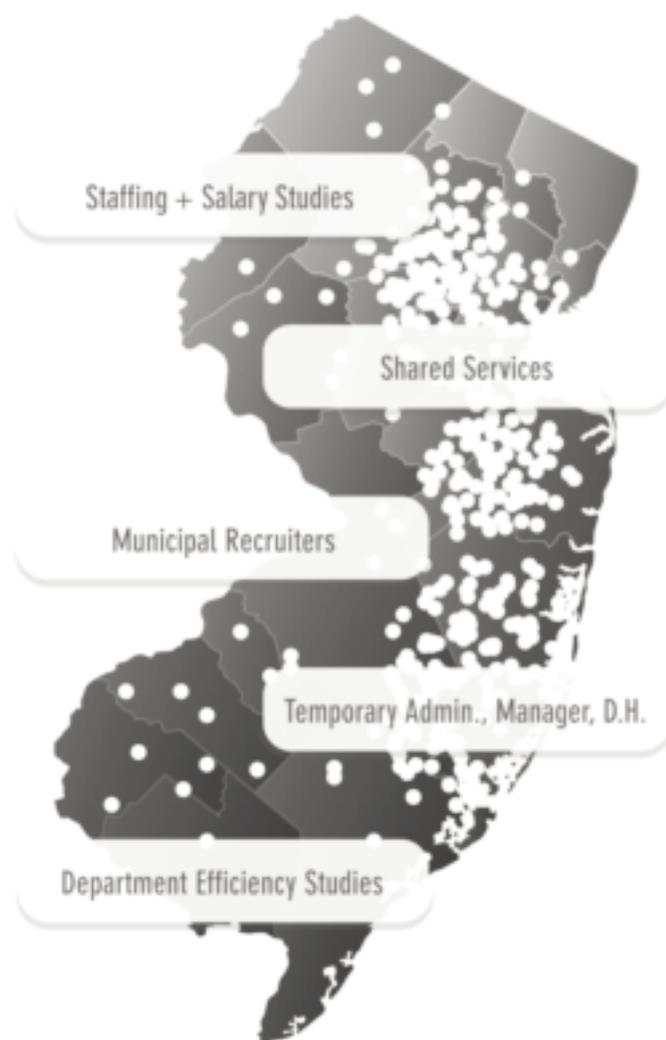
Lastly, the proposed legislation seeks to extend the timeframe for the Commission to issue a decision of an appeal from 30 days to 90 days. The Commission does not regularly convene on a weekly basis. Due to the legislation's timeframe, however, the Commission has been required to call special meetings in order to review appeals and draft decisions. Relaxing the timeframe to issue a decision would likely benefit all parties by granting the Commission more time to analyze an award and draft a decision.

Overall, the Interest Arbitration Reform Law has been a success for public employers. The 2 percent cap on base salaries has been vital to the legislation's success, leading to more voluntary agreements and less interest arbitration filings than before the legislation took effect. Despite its overall success, the 2 percent cap is currently set to sunset on April 1, 2014. Municipalities should take note of the legislation's profound impact on the collective negotiation process and be aware of the proposed legislation and its efforts to further strengthen the interest arbitration process in New Jersey. ▲

Phillip M. Rofsky, Esq., an associate at Genova Burns Giantomasi Webster LLC provided assistance with this article.

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# An Overview of the Council on Local Mandates



By Timothy Q. Karcher, Esq.  
Member and former Chair, New Jersey  
State Council on Local Mandates;  
Partner, Proskauer Rose LLP

**T**his year marks the 16th anniversary of the “State Mandate, State Pay” Amendment to the New Jersey Constitution, and the creation of the New Jersey State Council on Local Mandates.

Since its creation in 1996, the nine-member, bipartisan Council has issued 17 formal decisions. Each one addresses the question—has the “state” issued a “mandate” to a school board, county, or municipality without providing funding to pay the cost of implementing such mandate?

If the Council determines a mandate is unfunded, and the mandate does not fall within certain enumerated exceptions (described below), then the mandate ceases to be mandatory and expires. The Council’s decisions are political, not judicial, and are not subject to judicial review.

This article provides an overview of the Council, the concept of “State Mandate, State Pay,” and the Council’s history, from its creation in 1996 to the present. While this article summarizes certain provisions of the underlying law, it is not a substitute for the full texts of the Amendment, Council Statute, and the seventeen decisions issued by the Council. Readers are encouraged to review the full text of those documents, which are available on the Council’s website, at [www.state.nj.us/localmandates](http://www.state.nj.us/localmandates).

The Council’s website also contains a link to the Council’s Rules of Procedure, which explain the process for filing a Complaint with the Council and initiating a proceeding to have an unfunded mandate struck down. Recently, the Council has taken steps to make it easier to file a Complaint. The Council’s Rules of Procedure allow Complaints to be filed by e-mail.

**The State Mandate, State Pay Amendment** The “State Mandate, State Pay” Amendment to the New Jersey Constitution was approved by voters in the November 1995 general election, and became effective on December 7, 1995. See N.J. Const. art. VIII, § 2, ¶15 (hereinafter, the “Amendment”). (Coincidentally, 1995 also saw the enactment of the federal Unfunded Mandates Reform Act (UMRA), which was enacted to avoid imposing unfunded federal mandates on state, local, and tribal governments, or the private sector.)

The New Jersey Amendment directed the state Legislature to create the Council to “resolve any dispute” regarding whether a statute, rule, or regulation imposes an “unfunded mandate” on a board of education, county, or municipality as set forth in the Amendment. *Id.* at ¶15(b). If the Council determines there is such an unfunded mandate, the mandate shall “cease to be mandatory in its effect and expire.” *Id.* at ¶15(a).

**What is an Unfunded Mandate?** The Amendment defines an “unfunded mandate” as “any provision of a law... rule, or regulation” enacted or effective after certain specified dates in 1996, which imposes a mandate on boards of education, counties, or municipalities but which “does not authorize resources, other than the property tax, to offset the additional direct expenditures required for [its] implementation.” *Id.* It is important to note that the Amendment is prospective, not retroactive. Accordingly, unfunded mandates that were in place prior to 1996 (and there are many) are not subject to review by the Council.

While the Council may not review laws, rules, or regulations enacted prior to 1996, the definition of unfunded mandate is fairly broad. Because the definition includes “any provision” of a



Each decision of the Council on Local Mandates addresses the question has the “state” issued a “mandate” to a school board, county, or municipality without providing funding to pay the cost of implementing such mandate?

law, rule, or regulation, the Council is not constrained to solely look at formal rules and regulations. It has found mandates in, among other things, a memorandum directing compliance with a regulation (*IIMIO Atlantic County*, November 16, 2011) and a press release indicating a change in policy (*IIMIO Counties of Morris, Warren, Monmouth, and Middlesex*, October 31, 2006).

**Six Exemptions** The Amendment delineates six categories of laws, rules, or regulations that “shall not be considered unfunded mandates” even if they are otherwise mandates that are unfunded. *Id.* at ¶ 5(c).

The six exceptions generally protect rules or regulations that (1) are required to comply with federal laws or to meet eligibility standards for federal entitlements; (2) are imposed on both government and non-government entities in the same or substantially similar circumstances; (3) are enacted to repeal, revise, or ease an existing requirement or mandate; (4) stem from failure to comply with previously enacted laws or rules or regulations issued pursuant to a law; (5) implement the provisions of the New Jersey State Constitution; and (6) constitute laws enacted after a public hearing, held after public notice that unfunded mandates will be considered.

**The Council Statute** In response to the Amendment’s directive that “the Legislature shall create ... a Council on Local Mandates,” the Legislature enacted the Council’s implementing legislation, known as the Council Statute, which became effective May 8, 1996. See N.J.S.A. 52:13H-1 et seq.

The Council Statute provides extensive detail regarding Council operations, organization, and qualifications to serve as a Council member, and contains several important provisions related to the role of the Council in resolving unfunded mandate disputes.

The Council is made up of nine public members appointed as follows: four members appointed by the Governor; one by the President of the Senate; one by the Speaker of the General Assembly; one by the minority leader of the Senate; one by the minority leader of the General Assembly; and one by the Chief Justice of the New Jersey Supreme Court. At present, there are no vacancies on the Council.

The League recently published a detailed guide to Unfunded Mandates, prepared by Staff Attorney Matthew Weng. This book gives local officials access to the constitutional amendment and statute that prohibit certain local unfunded mandates. It also provides the procedural rules for practicing before the Council on Local Mandates as well as a summary of the Council’s 17 decisions.

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In 1997, the Council opened an office in Trenton and adopted a Plan of Organization, a Code of Ethics, and Rules of Procedure to govern the cases that would come before it.

The Council receives minimal funding from the state. While its initial legislative appropriation was \$350,000 for 1997, the Council has always received significantly less to run its operations. For the past three years, the state has appropriated only \$68,000 to fund the Council's operations. The Council currently has a single employee, and the nine Members of the Council do not receive a salary.

To limit expenses, the Council meets telephonically and conducts the majority of its business by electronic mail.

**The Decisions** The Council's seventeen decisions have further defined the structure, operations, and purpose of the Council.

After a Complaint is filed, the Council determines whether the Complaint satisfies certain threshold requirements. If it meets those requirements, the state is notified and given an opportunity to respond. In addition,

any group or individual may file a request with the Council to appear as *amicus curiae* and the Council welcomes the participation of such parties if it will assist the Council. In addition, the League may bring a compliant on behalf of two or more municipalities.

Typically, each decision is issued after notice and a hearing, at which oral argument is heard and evidence is presented. Because of the important nature of the disputes (and the impact such disputes may have on a municipal budget), the Council strives to issue its decision shortly after the hearing. While all decisions are made solely by the Council, the Council may consult with academia and other advisors.

In one of its earliest decisions, the Council described the scope of its unique function and authority under the State Constitution:

Like a court, the Council's deliberations begin only with the filing of a complaint. The Council considers evidence, hears testimony, and issues rulings. Although its jurisdiction is exclu-

sive, the Council is strictly limited to a single inquiry: whether a law or rule or regulation, or provision thereof, imposes an unfunded mandate. ...Although the scope of the Council's power is more limited than that of the coordinate branches of government, within its sphere the Council is supreme, as it derives its authority directly from the New Jersey Constitution and the people.

[I/M/O Complaints filed by the Highland Park Board of Education and the Borough of Highland Park ("Highland Park I"), issued August 5, 1999, at pages 7-8]

While it is likely that the very presence of the Council serves as a deterrent to the enactment of unfunded mandates, several unfunded mandates have nevertheless been issued, and more are likely to come. The Council does not actively seek out unfunded mandates to strike down. Instead, the Council is constrained to consider only those matters placed before it by parties seeking redress. ▲

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# Mayor's Book Club Participants Gather for Kick-off



(l to r) Bill Dressel, Treasurer, NJLM Education Foundation; Paul Gaffney, President, Monmouth University; Gerald Tarantolo, Mayor, Eatontown and League of Municipalities 3rd Vice President; William Walsh, Vice President for Governmental Affairs, United Water; Mark Jones, Vice President External Affairs, JCP&L; and Peter A. Eschbach, Director of Communications and External Affairs, NJ American Water pose following the Mayor's Book Club Kick-off event on February 4 at Monmouth University.

Six schools from Middlesex, Monmouth, and Ocean County were selected to participate in the Mayor's Book Club, a program of the NJLM Educational Foundation. They will join forces with mayors from their communities, Monmouth University School of Education Dean Lynn Romeo, faculty, administrators, and undergraduate teacher education candidates to promote engagement in reading and writing among first grade students. A kick-off event and luncheon was held on February 4 at Monmouth University to launch the program.

The following mayors and schools are participating in the Mayor's Book Club:

- Perth Amboy, Mayor Wilda Diaz (James J. Flynn Elementary School, teachers Darlene Albarran and Iris Gonzalez-Rolle)
- Old Bridge, Mayor Owen Henry (James McDivitt Elementary School, teachers Karen Fraser and Michelle George)
- Hazlet, Mayor David Tinker (Middle Road Elementary School, teachers Jo Ann Fortino and Jaime Scarfi)
- Eatontown, Mayor Gerald Tarantolo (Margaret L. Vetter School, teachers Jamie Johnson and Lara Neary)
- Point Pleasant, Mayor William Schroeder (Nellie F. Bennett Elementary School, teachers Barbara Kaklamanis and Melissa Miller)
- Brick, Mayor Stephen Acropolis (Drum Point Elementary School, teachers Kathy Keough and Cathy Popp)

The Mayor's Book Club is designed to support and enhance the literacy development of first graders. It was established four years ago by the NJLM Educational Foundation. The students participating in the program will read a total of eight books over a four-month period starting in January. They will have the opportunity to be read to by a special guest reader, their town's Mayor. Each student who participates in the program will receive a book at the conclusion of the program. In addition, the participating first grades in each school that have read at least 1,000 books will be given \$1,000 to spend on books for their classroom libraries.

Dean of Monmouth University School of Education Lynn Romeo said: "We are excited to partner with local mayors and community leaders on this important initiative to help develop strong literacy skills of young readers and prepare them to be successful in the 21st Century."

The sponsors of the Mayor's Book Club are Barnes and Noble, JCP&L, NJ American Water, NJ Natural Gas/NJ Natural Resources, and United Water. ▲

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## Former Clinton Mayor McGaheran Will Be Missed

**F**ormer Clinton Town Mayor Allie McGaheran passed away January 5 of a heart attack. Mrs. McGaheran, 85, was Clinton's first female mayor and served for five consecutive terms. She was a former teacher at Clinton Public School.

Mrs. McGaheran died the evening of the day of her husband's funeral, which she attended.

Current Mayor of Clinton Janice Kovach is calling on county officials to name the town's iconic iron truss bridge in honor of Allie and her husband Patrick McGaheran, who both made a tremendous contribution to the community.

Allie McGaheran worked to establish the North Branch of the Hunterdon County Library, which opened in town in 1999.

She was a Clinton Red Mill Museum trustee, president of the Women's Auxiliary of the Clinton Fire Department, first vice president of the Jennie Haver Scholarship Fund, town historian and a fire commissioner. ▲

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By Taran B. Samhammer  
Bureau Services & Research Coordinator,  
Bureau of Municipal Information

Last spring **Fort Lee's** Police Chief began cracking down on texting while walking. As with texting while driving, people are distracted when texting and this can lead to dangerous situations. People have walked into street signs, stumbled into traffic and fallen into fountains while texting. In 2008, over 1,000 people were injured in the United States while texting and walking. In 2012 between January and May, approximately 23 pedestrian accidents were reported in Fort Lee, including three fatalities. The department believes that the more distracted a person is, the more likely they are to jaywalk. Fort Lee first attempted to educate residents by handing out brochures, but police officers have since been instructed to hand out tickets to those not adhering to crosswalks and lights.



By signing up for a shop local card residents in **Marlboro** can save money on their property tax bill. Since September, when the program began, 1,200 residents have signed up and earned over \$10,000 in tax savings. Over 40 businesses are currently participating in the program. Shop Marlboro Property Tax Reward Cards have increased business for participating businesses. Card holders receive a percentage of the amount they spend as a credit towards their local tax bill. For example, if a store is offering a 20 percent rebate and a customer purchased \$200 in items, the customer will pay \$200 and the retailer will swipe their card adding a \$40 credit against their annual property tax bill (less third-party processing fees). Each merchant determines the size of the tax discount, and that amount is printed on the customer's receipt. When the Township issues their next property tax bills, the transactions will show up as a tax credit. This program is free to residents, and participants may check their balance online.



**Mercer County** launched a free recycling app to help residents remember pickup days. Using the "my-Waste" app, residents may set a reminder to alert them when it's recycling day. After downloading, residents select their township and recycling zone for their personalized schedule. The app also includes resources to help users properly recycle different household items and report problems using the report-a-problem feature. This feature allows users to take a picture of a problem and email it to the MCIA.

The goal of the app is to increase county participation in recycling. When more trash is recycled, the county saves money on trash tipping fees and conserves resources. The app will be updated throughout the year so that it remains current, and will also include information on special electronic and hazardous waste recycling days. The app is available on iPhone, iPad and Android devices.



**Manasquan** held a fundraising concert in January to benefit local hurricane restoration. The concert featured local pop, rock and jazz musicians. All proceeds from the \$25 tickets went to their restoration fund, because the musicians donated their time to help the cause. The concert was promoted on a local radio station and through the township's website and Facebook page. At the concert, donated goods and services were auctioned off to benefit the relief effort. The Borough of Manasquan Restoration Fund will restore local beaches and public facilities. In other Manasquan news, the borough hosted a Sandy Rebuilding Forum in January to discuss zoning changes, elevations, setback requirements and other pertinent information.



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