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December 6, 2019

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Municipal Clerks: Please forward to your Mayor, Governing Body and Department Heads.

I. State Issues

a. Legislation for Limited School CAP Exception Advances

On Thursday, the Senate Budget and Appropriations Committee advanced S-4289 which would provide a limited cap exception for districts that realized reduced state school funding under changes made by [PL 2018, c.67](#). The bill is sponsored by Senate President Sweeney.

A copy of the bill is not yet available, but Committee Chair, Senator Paul Sarlo indicated that about 40 districts would realize the cap exception.

Governor Murphy expressed concerns with the legislation, but it is expected to advance for a floor vote in the Senate. To date there is no Assembly companion.

Contact: Michael F. Cerra, Assistant Executive Director, mcerra@njlm.org, 609-695-3481 x120.

b. Public Hearing on Ballot Measure to Legalize Cannabis Scheduled

On December 12, the Assembly Oversight, Reform and Federal Relations Committee will hold a public hearing on [ACR-840](#), legislation authorizing a 2020 public question on legalizing adult use of recreational cannabis. The ballot question includes language that if authorized by the Legislature a municipality may pass a local ordinance to charge a local

tax on cannabis products.

After the public hearing, the earliest both the full Assembly and Senate (SCR-183) can consider the legislation is December 16. If they are unable to get 3/5 majority vote but still a majority of votes, the legislature must consider the legislation again during the next legislative session. It is anticipated that the ACR-840/SCR-183 will receive a majority vote this term and that the legislation will be considered again in the next legislative session in time to appear on the 2020 general election ballot.

Contact: Michael F. Cerra, Assistant Executive Director, mcerra@njlm.org, 609-695-3481 x120.

c. BPU Introduces Grant Program to Help Municipalities Purchase Electric Vehicles

Last week the NJ Board of Public Utilities (BPU) [announced a grant program](#) aimed at helping local governments with statewide efforts to transition to clean energy. The 'Clean Fleet Electric Vehicle Incentive Program' allows a local government applicant to apply for a maximum of two eligible electric vehicles and one dual-port level 2 charging station. Incentives include a \$4,000 grant towards the purchase of a electric vehicle, or \$1,500 toward the purchase of the charging station.

The application deadline for the program is April 15, 2020, or until all of the funding is awarded. Grants will be awarded on a rolling basis, with priority given to applications which meet certain criteria. For more information please visit the BPU [website](#) to review Clean Fleet Electric Vehicle Incentive Program Application.

Contact: Frank Marshall, Esq., League Staff Attorney, fmarshall@njlm.org, 609-695-3481 x137.

d. Attorney General Issues Directive on Law Enforcement Interactions with Transgender Individuals

Recently, NJ Attorney General Gurbir Grewal issued [Attorney General Law Enforcement Directive No. 2019-3](#), which provides guidance on how all law enforcement personnel across the state should interact with transgender individuals. The Directive covers topics such as respectful communication, how searches should be conducted, transportation, detention in police stations, and access to medication when law enforcement interacts with transgender individuals.

The Directive also tasks the Division of Criminal Justice with developing a training program to explain the requirements of the Directive, and requires all state, county, and local law enforcement agencies to provide the training to all officers before June 1, 2020. In addition, the Directive requires all state, county, and local law enforcement agencies to, before June 1, 2020, adopt and/or revise their existing policies and practices to be in compliance with the Directive.

You should consult with your chief of police or public safety director as well as your attorney for more information on this Directive and how you can work with your law enforcement officials to implement the new requirements outlined in AG Directive 2019-3.

Contact: Frank Marshall, Esq., League Staff Attorney, fmarshall@njlm.org, 609-695-3481 x137.

e. State Appealing Dismissal of Lawsuit Challenging SALT Deduction Cap

As you may be well aware, earlier this year four states including New Jersey brought a lawsuit in Federal District Court challenging the cap on the federal income tax deduction for state and local taxes (SALT). In September this lawsuit was dismissed with the court saying the federal government has the exhaustive power to impose and collect income taxes and that the state can enact their own tax policies as they wish. Attorney General Gurbir Grewal is now [appealing](#) the dismissal of this lawsuit.

This is not the only action taken by the State and the Attorney General seeking to mitigate the impact of the SALT deduction cap on New Jersey residents. A separate lawsuit has been filed against the Internal Revenue Service (IRS) seeking to invalidate IRS rules that prevent New Jersey residents from obtaining full federal charitable contribution deduction when they contribute to local governments and receive tax credits in return.

We will continue to keep our members updated on these lawsuits and other efforts taken to mitigate the impact of the SALT deduction cap.

Contact: Frank Marshall, Esq., League Staff Attorney, fmarshall@njlm.org, 609-695-3481 x137.

f. Verizon Seeks to Block League Participation in Local Taxation Case. We Respond.

On November 8, Verizon asked the Appellate Division to bar the League of Municipalities from appearing, as a Friend of the Court (Amicus), in litigation, through which the telecommunications giant seeks to exempt itself, in one town after another, from Business Personal Property Taxes (BPPT).

The dispute began in 2008, when Verizon informed a handful of municipalities that it had decided to exempt itself from payment of taxes on all of the cables and electronic equipment it houses in local switching stations. In the years that followed, similar decisions by Verizon have led to cases affecting taxpayers in hundreds of other New Jersey municipalities.

Earlier this year, Hopewell Borough in Mercer County prevailed over Verizon in a Tax Court case involving the corporation's claimed exemption for 2008. It took one municipality ten years to ensure that Verizon would pay its 2008 taxes. Further litigation will be needed for Hopewell to secure BPPT payments for each subsequent year in which the exemption was claimed. Every other municipality faces the same prospect of costly annual tax court filings, which, as we have seen, can drag on for over a decade. But even that might not end the problem, as Verizon has appealed the final Tax Court decision, forcing Hopewell Borough to put even more time and treasure into the fight.

The League had participated as an Amicus in the Tax Court case. We successfully petitioned the Appellate Division for the opportunity to participate in Verizon's appeal, not only on Hopewell's behalf, but on behalf of all municipalities – many of them smaller

communities – that have been, or will be, adversely affected by Verizon’s unilateral decision to exempt itself from BPPTs.

On November 18, on behalf of the League’s member municipalities, League Public Utility Counsel Joel Shain, along with Gregory Pasquale and Xiaosong Li, all of Shain Schaffer PC, filed our response. Our brief cites 52 legal precedents, two State laws, and four other authorities, supporting our right to appear in Verizon’s appeal. Referring to the corporation’s effort to bar League participation, the Brief reads, in part:

This is a wasteful, unnecessary and time consuming abuse of motion practice by Verizon and its attorneys, and should not be countenanced by this Court. Verizon’s continuous bullying of small municipalities that do not have the manpower, money or ability to defend themselves must be halted by this Court. The Motion to Strike the League’s Amicus Brief must be denied.

On Thursday, December 5, Judge Messano denied Verizon’s Motion.

We thank our Public Utility Counsel Joel Shain and his associates for their professional and passionate efforts on behalf of New Jersey municipalities. We will keep you posted.

Contacts:

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- Jon Moran, Senior Legislative Analyst, jmoran@njlm.org, 609-695-3481 x121.

II. Federal Issue

a. Another Extension and a Breakthrough on Federal Budget

The President recently signed into law another short term extension of the federal fiscal funding to avert another shutdown of the federal government. The latest deadline will now be December 20th, leaving time to try to reach consensus on the \$1.37 trillion FY2020 fiscal year, which began on October 1.

Further, it appears that House Appropriation Committee Chair Nita Lowey and her counterpart, Senate Appropriations Committee Chair Richard Shelby, have agreed on the top-line numbers (or 302(b) figures), which set the upper limit for each of the 12 annual programmatic appropriations bills. The respective Chairs are pressing to pass each of the 12 annual appropriations bills by the new December 20 deadline. The agreement on the respective subcommittee allocations adheres to the defense and nondefense caps, agreed to as part of a two-year budget deal announced last July. Pursuant to that agreement, overall defense spending will be \$738 billion for FY2020, while nondefense spending is pegged at \$632 billion.

That agreement, however, may break down in our Nation’s Capital. We will keep you posted.

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

III. Annual League Conference

a. Claim Your CEU's from the 2019 League Conference

Attention Municipal Officials! Do Not Forget to Claim Your CEU's from the 2019 NJLM Annual Conference! Visit the [Conference Tracking page](#) to claim your credits.

IV. Also of Interest

a. New Jersey Mayors' 2020 Legislative Priorities Survey

The League's Legislative team is your link to policy makers in Trenton. As your municipality's primary policy decision maker, your opinions on these issues is crucial to our efforts to represent you in the State Capital.

In his first act as League President, Hardwick Committeeman Jim Perry has directed the League to survey the State's mayors to identify their 5 legislative priorities going forward. President Perry intends to prioritize these top issues to develop consensus policy recommendations for presentation to State policy makers.

Please take the time to [complete this very brief survey](#).



New Jersey State League of Municipalities

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