

January 5, 2018

RE: WEEKLY UPDATE

- I. State Issues
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Dear Mayor:

Passing of Gov. Brendan Byrne

Governor Brendan Byrne passed away Thursday, January 4, age 93. He was the father of seven and is survived by his wife Ruthie. For many decades Governor Byrne contributed actively to panels and events during the Annual League Conference and Governor Byrne told me personally of his affection for the League, the Annual Conference and the officials he met year in and year out to engage on the important issues facing New Jersey. He came to this affection through his father Francis who served as a local government official. Brendan Byrne gave generously of his time and wisdom to benefit the thousands of local officials he engaged over so many years and his warm counsel will remain part of the fabric of New Jersey government.

I. State Issues

a. 2% Interest Arbitration Cap Update, Moody's Weighs In

As of January 1, 2018, the 2% cap on interest arbitration awards has lapsed, at least temporarily, because the State Legislature has failed to take the necessary action to extend this important tool to contain property tax increases. This is not without precedent, as the cap lapsed at the end of March 2014 and was then extended in June 2014 with a retroactive enactment to ensure continuity.

Yesterday, Moody's Investor Services issues a brief report titled, "**Sunset of arbitration cap is credit negative for local government.**" While the rating agency did not downgrade any credit rating for any local government, the report indicated that "*Given that salary costs are among the largest of municipal expenditures, the cost implications are obvious and considerable.*"

Later the report stated, "*...The effect of this is, in most cases, unlikely to be rapid, but ultimately, the loss of the arbitration cap is likely to cause the sector's credit quality to deteriorate.*"

The Moody's report follows [similar concerns articulated by Fitch Ratings last week](#).

[On Wednesday](#) we indicated to you that we expected Assemblyman Declan O'Scanlon to make a motion to bring his bill, [A-2123](#), to the floor. Because of the storm yesterday, the Assembly voting session was canceled and that motion will instead be made on Monday. While we expect

that motion to be tabled, to do so will require a recorded vote. The League will provide you with the vote tally.

Here's what you can do in the meanwhile.

- We urge you to contact your Assembly representatives and ask them to support Assemblyman O'Scanlon's motion on January 8 and if brought to the floor, vote in favor of [A-2123](#); To find your representative and their contact information [please click here](#).
- [Contact the office of Governor-elect Murphy](#) and ask for him to support the extension as well. Please identify yourself, your municipality and note the concerns raised by the rating agencies and how it could impact your municipality and your residents.

In doing so, you may want to make the following points.

- The 2% levy cap is permanent; the 2% levy cap without the 2% interest arbitration cap is not sustainable and will inevitably lead to reductions in other important services (including reductions in force), property tax increases or a combination of both.
- The existing statute which establishes the 9 points that arbitrators are to consider predates the 2% cap and was ineffective in curtailing property tax increases, which was one of the reasons why the 2% interest arbitration cap was implemented in the first place.
- The IA cap has worked, and according to the data provided in the September report by the Governor's appointees to the Interest Arbitration Task Force, has resulted in over \$530 million in savings to property taxpayers; the results and data provided in the September report have not been countered nor has there been any attempt to respond from union leadership.
- Property taxes remain the #1 concern for our taxpayers and the IA cap has proven to be an effective tool to contain property tax increases.

Resources:

- [Please click here](#) for the League's 2% IA cap page.
- [Please click here](#) for the League's Town Crier blog post on this issue.

Contacts:

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

b. New Animal Cruelty Enforcement Bills Near Final Passage

We anticipate Assembly action on companion bills ([S-3558/A-5231](#)), which will revise the way animal cruelty law is enforced in the State. The proposal has already been approved by the State Senate.

Under these bills, humane law enforcement powers will be transferred from the New Jersey Society for the Prevention of Cruelty to Animals (NJSPCA) to the county prosecutor in each county. Under this initiative, every municipality with a police department will be required to appoint at least one municipal humane law enforcement officer.

An animal control officer or police officer may be appointed to serve concurrently as a municipal humane law enforcement officer, and a municipal humane law enforcement officer may be appointed concurrently by more than one municipality.

Under current law, animal control officers may be empowered by a municipality to enforce, investigate, and sign complaints concerning any violation of the animal cruelty laws of the State or ordinances of the municipality, and to act as an officer for the detection, apprehension, and arrest of offenders against the animal welfare and animal cruelty laws of the State and ordinances of the municipality. This legislation instead grants those powers to the municipal humane law enforcement officer(s), who may be authorized, by the municipality, to use a firearm in the furtherance of the officer's duties, if the officer meets Police Training Commission educational and firearms qualifications requirements.

The fines and penalties attached to any violations of animal cruelty laws would be split, on a 50/50 basis, between the municipality and the county.

A fiscal analysis by the Office of Legislative Services was unable to quantify the costs and benefits of this arrangement. Accordingly, the League has contacted the sponsors and all members of the Legislature.

In our view, the primary concern is cost uncertainty. [S-3558/A-5231](#) require a new designation, associated training and retraining and other necessary administrative costs. These costs are indeterminate, as are the potential revenues. Thus, while we agree that some degree of reform is appropriate and necessary, we cannot support this bill in its current form. We would gladly reevaluate and reconsider if the bill were to include an appropriation or be amended so that the designation of the municipal humane law enforcement officer is permissive.

c. Appellate Court Issues OPRA Ruling

Recently, in an unpublished opinion, the Appellate Division ruled that OPRA does not require the unredacted disclosure of employee resumes, notwithstanding the existence of Executive Order 26 (McGreevey).

In [Scheeler v. NJ Dept. of Children and Families](#) an OPRA request was made to a state agency for the resumes submitted during the hiring process of current employees. In response, the requestor was provided with copies of resumes which redacted the employee's home address,

phone number, hobbies and clubs, and certain other personal information. The redactions were made under the authority of the OPRA law which exempts personnel files from disclosure, unless they are required to be disclosed by another law.

The requestor argued that Executive Order 26 (“EO 26”) which requires that the, “resumes of successful candidates shall be disclosed once the successful candidate is hired” was effectively “another law” which requires full disclosure of employee resumes without any redactions. The court rejected this argument, finding that given the heightened concern with privacy for personnel records, as evidenced by an entire chapter dedicated to such in the OPRA law, an executive order alone could not circumvent the clearly discernible legislative intent.

Because this decision was released as unpublished, the precedential value is limited. However, this decision is in line with another court ruling regarding the authority of executive orders to override OPRA legislation. You are encouraged to review this decision with your municipal attorney and clerk or other records custodian.

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

II. Federal Issues

a. Administration Recants Gateway Commitment Reasoning Threatens Meaningful Infrastructure Plan

In an alarming letter to New York and New Jersey officials, sent on Friday, December 29, the Deputy Administrator of the U.S. Federal Transit Administration (FTA), Jane Williams, recanted on previous Federal commitments to provide half of the funding needed to begin the modernization of vital rail infrastructure directly linking the two states and providing vital service to states and communities up and down the East Coast.

Focusing on the 50/50 Gateway funding agreement between the U.S. Department of Transportation (USDOT), on the one hand, and New York and New Jersey, on the other, the letter reads, “There is no such agreement. . . . We consider it unhelpful to reference a non-existent ‘agreement’ rather than directly address the responsibility for funding a local project where nine out of 10 passengers are local transit riders.”

The agreement, in fact, was established in 2015, under the Obama Administration. Just this past September, a meeting was held in the White House (referenced in our [September 8, 2017, Weekly Update](#)) that included the President, officials from the USDOT, Senator Cory Booker, the Governors of New Jersey and New York and several members of each State’s Congressional Delegation. At that time, attendees described the meeting as “productive, but inconclusive.”

As alarming as this development is to the vital Gateway Project, even more dire is the suggestion that the Administration might regard any transportation projects that would facilitate safe and

efficient transit within a single state, or between two states, as a ‘local’ responsibility and, therefore, ineligible for any Federal funding.

Similarly, by implication, it seems that this Administration is set to consider federal loans, which will be satisfied by state and local taxpayers, as federal funding. That confusion, if applied to other federal loan programs, will render the federal role, in the long-standing federal-state-local partnership of citizen service, essentially meaningless.

Please contact the White House on this major development, which threatens any hope for a meaningful federal infrastructure program. The phone number for comments is 202-456-1111 and the e-mail address is president@whitehouse.gov.

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

III. League Conference Follow- Up

a. Claim Your CEU’s from the Annual Conference

Attention Municipal Officials! Do Not Forget to Claim Your CEU’s from the 2017 NJLM Annual Conference! Please click on the following link to claim your credits:
www.njslom.org/confceu.

b. The Conference App is Still Available!

Misplaced your printed Session or Exhibitor Program Guide? The app can still be downloaded in your app store to reference session details or view contact information for participating consultants and exhibitors. The app will be available for download through the end of this calendar year and remains available for accessing on your device as long as it is installed.

c. Exhibits at the Annual Conference

Don’t forget to follow up with the exhibitors you met during the Annual Conference! They’re available to answer your questions and provide solutions to your town’s issues. The full listing with contact information is available on the interactive floor plan and the mobile app.

IV. Also of Interest

a. Commemorative Event

On behalf of the New Jersey Martin Luther King Jr. Commemorative Commission we are sharing this information with you!

There will be a commemorative event on Monday, January 15 from 3PM to 5PM at the State Museum Auditorium, 205 West State Street, Trenton. The focus will be on restorative justice;

there will also be a special memorial for Ms. Edith Savage-Jennings, a founding member of the NJ Dr. Martin Luther King Jr, Commemorative Commission.

Admission is free. Please call for details: 609-633-9627.

Happy New Year to you all. Thank you to those who will be leaving public service and we welcome those who will be sworn into office for their newly appointed positions in 2018. The League looks forward to working with you to advance the interests of local governments and our taxpayers.

b. 2018 New Jersey Planning Conference (Elected Official Discounts)

The American Planning Association, NJ Chapter (APA-NJ) is offering discounts on registrations to local elected officials to attend the 2018 New Jersey Planning Conference, which will be held on January 25-26 at the Hyatt Regency in New Brunswick. Single-day passes are available. Topics will include economic development, fiscal impact analysis, tax abatements, market and affordable housing, public health, transportation, complete streets, climate change, resiliency, the environment, historic preservation, sustainability, master plans, zoning codes, creative placemaking, urban design, regional planning, partnerships, and more. The conference will feature 50 sessions and 200 presenters and will include the luncheon keynote speakers Lt. Governor-Elect Sheila Oliver, Dr. James Hughes, and one of the world's leading urbanists, Richard Florida.

To learn more please visit: <https://njplanningconference.org>. Special discounted rates for elected officials are posted on the registration page.

c. Alert From the NJ Department of Agriculture – Invasive Insect and Christmas Trees

The New Jersey Department of Agriculture, Division of Plant Industry requests that municipalities chip Christmas trees that are collected after the Holiday season to reduce any risk of movement of Spotted Lanternfly (SLF) egg masses. During the Holiday season, there are numerous shipments of Christmas trees into New Jersey from Pennsylvania and various other states. The Spotted lanternfly was discovered in Pennsylvania in 2014 which initiated a quarantine to restrict the movement of this invasive agricultural insect to other counties and states. Pennsylvania Christmas tree growers shipping their commodities out of the SLF quarantine zone currently follow compliance guidelines issued by the Pennsylvania Department of Agriculture. So far, there has been no observed occurrence of SLF egg masses being found on cut Christmas trees.

The Spotted Lanternfly, *Lycorma delicatula*, is a planthopper that is native to China. It feeds on many hosts and is considered an economic pest of grapes and other agricultural crops in its native range. Nymphs feed on a variety of hosts, but adults prefer the tree of heaven, *Ailanthus altissima* for feeding and oviposition and subsequent overwintering, which occurs in the egg

stage. The insect naturally disperses slowly but is a prolific hitchhiker and its propensity for laying egg masses on flat surfaces. To learn more about the SLF please click [here](#).

As of November 2, 2017, SLFhas been detected within 13 Pennsylvania counties: Berks, Bucks, Carbon, Chester, Cumberland, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Philadelphia, and Schuylkill. To date, this insect has spread to Delaware and portions of New York state.

Please pass this information along to your public works department or any other department that should be made aware of this important issue.

Sincerely,

Michael J. Darcy, CAE
Executive Director