

January 19, 2018

RE: WEEKLY UPDATE

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Dear Mayor: **I.**

State Issues

a. Governor Phil Murphy and Lt. Governor Sheila Oliver Sworn into Office

On Tuesday, Governor Phil Murphy was sworn in to begin his service to the people of New Jersey. According to the official list, he became the 56th person to be so honored, and the 40th to have been given that office by popular election. Shortly before his inauguration, NJ Supreme Court Chief Justice Stu Rabner administered the oath to New Jersey's second Lieutenant Governor, former Assembly Speaker Sheila Oliver. [Please click here](#) for our January 16 letter for more.

b. Outgoing Governor Christie Takes action on Pending Bills

On January 15, his last full day in office, Governor Christie took action on 159 pending bills, signing 109 into law and vetoing 50 others. The League has taken a position on more than a dozen signed into law, each impacting significant elements of local government. To read more about bills from the 217th Legislative Session that have municipal interest and have been signed, please click [here](#) to review the League's recent blog.

Contact: Ciara Bradley, Legislative Administrator, Cbradley@njslom.org, 609-695-3481 x128.

c. Legalization of Marijuana

Governor Murphy has prioritized the legalization of recreational marijuana for adults and has indicated that he wants to advance enabling legislation as soon as is possible. While it appears more likely than not that such legislation will advance to his desk, it is not a foregone conclusion and there is public opposition to the initiative on both sides of the aisle (as well as support on both sides of the aisle.)

The issue poses a number of questions and concerns for municipal officials. As a result, League President Jim Cassella, Mayor of East Rutherford is chairing the League's Task Force on this issue. Clinton Mayor Janice Kovach, 3rd Vice President of the League, is the cochair. Mayor Cassella has directed the creation of four subcommittees to examine discrete issues, including:

- Land Use and Zoning;
- Public Safety and Law Enforcement;
- Quality of Life and Public Health; and Budget and Financial Impact.

Each of the subcommittees, with membership drawn largely from the League's Legislative Committee, has its own respective chairs and are meeting via conference call with the objective of reporting back to the Task Force with its own series of comments and recommendations. If you are interested in participating, please contact Mike Cerra at the contact information below.

We will report back to you in a timely fashion on the Task Force's recommendations.

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

d. 2% Interest Arbitration Cap

As you know, despite strong bipartisan, statewide support from municipal and county officials, the State Legislature failed to act before the December 31 sunset to extend the 2% cap on interest arbitration awards. We noted to you before that this is not without precedent as the cap was allowed to expire for approximately 10 weeks before it was renewed in June 2014. But this does mean that until the cap is renewed, any contracts that expire going forward are not subject to the 2% cap on interest arbitration.

The renewal of the cap remains the top legislative priority of the League, and we are working closely with our partners at the New Jersey Association of Counties, the New Jersey Conference of Mayors and in the business community to extend the cap permanently

As the new Legislature begins its work we will share with you in the upcoming days and weeks, sample resolutions and letters for Governor Murphy, Senate President Sweeney and Assembly Speaker Coughlin. **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.

e. Division Issues Local Finance Notice on Certification Unit Update

The Division of Local Government Services has issued [Local Finance Notice 2018-03](#) providing an update on the recently adopted regulations for Chief Financial Officers, Tax Collectors, Municipal Clerks, and Qualified Purchasing Agents. The notice also discusses temporary appointments, the use of shared service agreements to fill certain positions, and the statutory prohibition on leaving licensed officials otherwise eligible for tenure on holdover status. We would note that the Notice highlights that governing bodies are not permitted to keep a licensed municipal clerk, tax collector, or chief financial officer on indefinite holdover status. Governing bodies that fail to comply with an order from the Director to act on a position risk being subject to enforcement actions such as, but not necessarily limited to, personal fines.

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njslom.org, 609-695-3481 x112.

f. Executive Order Promoting Equal Pay, Gender Equity Signed

Shortly after his inauguration address, Governor Murphy signed his first Executive Order (EO-1) promoting equal pay and gender equity. EO-1 prohibits State agencies from asking job applicants for their past wage history, unless and until a conditional employment offer is made, or from investigating the history of the applicant's prior salaries. The order does not prevent a job applicant from volunteering information about compensation, but the applicant's refusal to volunteer such information cannot be considered in any employment decisions. EO-1, which takes effect February 1, applies only to State agencies. Governor Murphy noting that the State must set a "positive example for other employers to acknowledge and close the gender wage gap by prohibiting inquiry into the salary histories of prospective employees" urged the State Legislature to send legislation to his desk banning the practice statewide, pledging to sign it. Click [here](#) for the full text of the Executive Order.

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njslom.org, 609-695-3481 x112.

g. Executive Orders Tightening Gift Rules for Governor Signed

On Wednesday, Governor Murphy issued [Executive Order No. 2](#) and [2A](#) ("EO-2" & "EO-2A") which outlines ethics and financial disclosure standards for the new administration. The main difference between EO-2 and similar Executive Orders, signed by prior Governors, is the disclosure requirement of gifts to the Governor from those he has met, since January 16, 2015.

Generally, gifts received by the Governor are required to be disclosed only if they meet a certain threshold, which is tied to the Foreign Gift and Decorations Act, currently set at \$390. EO-2A, however, requires full disclosure of all gifts, even those valued below the current threshold, if those gifts are from someone the Governor has met, since January 16, 2015.

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

h. NJBPU Clarifies Their Role in Regulating Competitive Local Exchange Carriers

Last week the New Jersey Board of Public Utilities ("BPU") released a set of Frequently Asked Questions ("FAQ") regarding the extent of their jurisdiction and interrelationship with Competitive Local Exchange Carriers ("CLEC") and local approvals. These FAQs were issued in response to continued questions from municipal officials, wireless providers, and CLECs regarding the placement of wireless facilities and necessary approvals.

The FAQs clarified that the BPU does not maintain jurisdiction over wireless services which CLECs may also happen to provide. It clarifies that a CLEC who seeks to site wireless structures within the municipal rights-of-way must meet all municipal zoning and permitting requirements.

While these FAQs help, for now, to clarify a confusing issue this topic will continue to develop, both at the state and federal level. With the recent change in the State's administration, further guidance on this topic can be expected.

To view these FAQs please click, [here](#). For additional information on this issue, please see the League's whitepaper: [Wireless Systems in the Right of Way - What You Need to Know](#).

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

i. Division Issues Guidance on Levy Cap Referendums

The Division of Local Government Services has issued [Local Finance Notice 2018-01](#) providing specific instruction and direction to municipalities considering holding a public referendum on exceeding the 2% Levy Cap or the 2.5% Appropriation Cap. If your municipality is considering a public referendum we suggest that you review this Local Finance Notice with your professional staff. We would like to highlight the following:

- The first deadline, the display ad publication, is
 - February 20 if the election is to be held the same day as Type II School Board Elections (April 17), regardless if a school board election is held.
 - March 13 if the election is to be held the same day as non-partisan elections (May 8).
 - If there is no non-partisan elections taking place this year, the municipality should hold the election on April 17.
 - State Fiscal Year municipalities' referendums will be at the November General Election.
- Publication of the display ad does not bind the municipality to hold an election. Due to time constraints, if a governing body is considering, but has not made a final decision, on holding a referendum they should publish the notice to ensure that they do not lose the opportunity to hold the referendum. If you publish the notice but cancel the referendum the governing body must adopt a resolution and publish a legal notice.
- The Municipal Budget must be introduced March 28 for a April election and April 18 for May election.
- Request for narrative explanatory statements for the public question must be received by the Division by the closed of business on March 20 for April election and April 6 for a May election. For the public question, the Division will not approve narratives that discuss action items (other than in general terms) that the municipality intends to take as a result of the referendum failing.
- Referendums must be approved by 50% plus one of the votes cast to pass. If the vote is less, the question fails.
- Referendum costs are only excluded from the cap if the public question passes and the costs were built into the amount proposed for the referendum.
- If the referendum fails, the referendum cost must be absorbed in the budget within the levy cap.

- Final budget for municipalities conducting April referendum must be adopted by May 18 and May referendum must be adopted by June 1.

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njslom.org, 609-695-3481 x112.

j. Division Issues Guidance on LOSAP Annual CPI Adjustment

The Division of Local Government Services has issued Local Finance Notice 2018-02 providing general information regarding the Length of Service Awards Program (LOSAP) along with the annual cost of living adjustment to the maximum award amounts. The increase in the CY 2017 CPI Adjustments, for use in CY 2018, is 0.8% for municipal programs and 2.1% for fire districts. For more information please click [here](#) for Local Finance Notice 2018-02.

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njslom.org, 609-695-3481 x112.

II. Federal Issues

a. Federal Shut-Down Looms (Again)

Facing a deadline of midnight, tonight, it seems the best that can be expected from Washington is another Continuing Resolution, freezing most Federal spending and programs at FY 2017 levels. Failure to reach agreement on even that would result in the worst that can happen – a shut-down of all but vital services.

At this writing, Congressional leaders are still wrestling with several contentious issues. These include: a resolution of the Deferred Action on Childhood Arrivals (DACA) matter, which is an important condition for winning support of many Democrats to any agreement; increased defense spending, without which the proposal would lose the support of the House Freedom Caucus; and inclusion of funding for the Children’s Health Insurance Program (CHIP) in any Continuing Resolution, which, on Thursday, drew the opposition of the President, who tweeted that CHIP funding should wait for ‘a long term solution, not a 30 day, or short term, extension!’

Hours after that tweet, however, the White House announced that the President supports the latest House Republican Continuing Resolution proposal, which includes a six-year CHIP extension, and which pushes the next deadline for action out to four weeks from today.

As noted in previous Weekly Updates, CHIP sunset on September 30, 2017. Funding for the program was, however, including the last two Continuing Resolutions, for States that were running out of money. (New Jersey officials have stated that our State’s program is fully funded for the current NJ Fiscal Year, which will end on June 30.)

Pursuant to the current President's September 2017, Executive Order, DACA is scheduled to end on March 5, unless Congress or the President decides to extend the program's protections. According to press reports, based on various studies, this could cost New Jersey an estimated \$1.5 billion in annual GDP, since around 19,161, of the 22,000 residents who have DACA protections, are working and pay taxes and have purchasing power. Further, State and local tax revenues could drop by an estimated \$21 million, if those young workers are required to leave.

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

b. SCOTUS to Hear Internet Sales Tax Case

Last week the U.S. Supreme Court ("SCOTUS") agreed to hear the case of, [South Dakota v. Wayfair Inc.](#) This case deals with a state's authority to require internet retailers to collect sales tax. It has the potential to have a major impact on states and depending on the Court's ruling, could lead to an increase in sales tax revenue going into state coffers.

Under current law, states can require internet retailers to collect sales tax only if that retailer has a physical presence within the state. This limitation on the ability to require sales tax collection by internet retailers in conjunction with the increase in purchases from online retailers has resulted in a decrease in sales tax revenue. Legally, in New Jersey, whenever one purchases goods from online or outside of the state and doesn't pay, or underpays, sales tax they are required to then pay to the state a use tax based on the costs of those goods. However, collection and enforcement of the use tax is very difficult, as many individuals are simply unaware of their obligation or may even intentionally forego payment. A 2011 report by the Rutgers Edward J. Bloustein School of Planning and Public Policy, estimates that, in New Jersey alone, anywhere between \$52 million to \$171 million were foregone in 2009 due to internet purchases of goods and services from out-of-state internet vendors.

Aside from the more general benefits of increased state revenues, an increase in sales and use tax revenue would have a direct impact on New Jersey property taxpayers. This is because of a percentage of the revenues from sales tax are constitutionally required to be appropriated to the Property Tax Relief Fund. A favorable ruling by SCOTUS would put brick-and-mortar retailers on a level playing field as online retailers and could also lead to increased state revenues. The League will keep you updated on this case as it develops.

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

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. 2018 Campaign Contribution Notice

At the Department of State's request, please see the 2018 Campaign Contribution Notice [here](#). It is important that this notice come to the attention of each municipal clerk.

V. Also of Interest

a. Mayors' Climate Summit

Mayors and community leaders across New Jersey have taken up the challenge. Learn what we must achieve locally, and understand the specific steps to take today to succeed. It is vital for our mayors and communities to take a leading role in preserving the environment and protecting the public health of our citizens. Three panels of experts, resource organizations, and local leaders discussing a pathway forward to enable New Jersey to succeed in meeting the challenges presented by climate change. This event is hosted by Mayor Phil Kramer of Franklin Township, Mayor Bruce A. Harris of Chatham Borough, and brought to you by NJ League of Conservation Voters Education Fund, Rutgers University Bloustein School of Planning & Public Policy, and Sustainable Jersey. **Please note that an early bird registration fee of \$10 is available to anyone who signs up before January 27.** After this, the cost to attend will be \$25. [Visit this page to register and see a full schedule and list of speakers.](#)

When: February 03, 2018 - 9:00 am to 1:30 pm

Where: Rutgers University Bloustein School of Planning & Public Policy
33 Livingston Ave, New Brunswick, NJ 08901

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 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. New Good Neighbor Nominations

New Jersey Business and Industry Association have opened the nomination process for their Annual New Good Neighbor Awards. It celebrates economic development in the state by spotlighting new and renovated properties. It's a great way for municipalities to promote their economic development projects at no cost. The nomination process is open until 2/5. Click for details. <https://www.njbja.org/event-details/njbja-events/awards/2018-new-good-neighbor-nomination/>.

If you have any questions, contact Vincent Schweikert at NJBIA: 973-852-6230 Sincerely,

Michael J. Darcy, CAE
Executive Director