

July 7, 2017

RE: WEEKLY UPDATE

- I. State Policy Issues
- II. Federal Policy Issues
- III. Annual League Conference IV. Also of Interest Dear Mayor:

I. State Policy Issues

a. State Budget Finally Finalized

As you know by now, after the three day shutdown, State leaders agreed to, and the Legislature passed, the State's FY '18 Appropriations Act, which was signed by the Governor as Chapter 99, P.L. 2017. [Please click here for the League's July 6 Dear Mayor](#) letter for more.

Contacts: Jon Moran, Sr. Legislative Analyst, jmoran@njslom.org, 609-695-3481 x121.
Michael Cerra, Assistant Executive Director, mcerra@njslom.org, 609-695-3481 x120.

b. Bills on the Governor's Desk

We call your attention to two bills **supported** by the League, which have passed both Houses and now await the Governor's action.

- [A-222/S-2171](#), the "New Jersey Library Construction Bond Act." This legislation would authorize, upon voter approval, the issuance of \$125,000,000 in general obligation bonds to finance capital projects at public libraries and appropriates \$5,000. If approved by the voters, this will provide funding for the much needed construction, reconstruction, development, extension, improvement and furnishing of New Jersey's public libraries. Specifically, for any approved project financed by bond proceeds, the grant award will support 50% of the cost of the project, and the appropriate local governing entity in the area served by the public library will support 50% of the cost of the project.

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

- [A-4587/S-2574](#), imposes State sales and use tax and hotel and motel occupancy fee on transient accommodations; and, authorizes various municipal taxes and fees on transient accommodations. When the current relevant statutes were adopted, the concept of a "sharing economy" was certainly not contemplated. In this new era of sharing economies, transient accommodations are becoming more common place, but are not subject to the same various sales and use taxes as hotels and motels. As a result transient accommodations are potentially receiving an unfair competitive advantage over traditional hotels and motels. It is the League's contention that this is not a new tax, but rather the logical extension of the existing statutes. A-4587 provides tax parity in the accommodation market place by taking into account the sharing economies and

appropriately provides additional revenues for municipalities. Further, we note that the major player in the industry, AirBnB, also supports this legislation.

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

Please contact the Governor's office (609-292-6000 or by [clicking here](#)) and ask him to sign these two bills into law.

c. State Public Defender Steps In to Relieve Recent Burdens on Municipal Public Defenders

In late February of this year the [League reached out](#) to Acting Administrative Director of the New Jersey Courts, Hon. Glenn A. Grant, J.A.D., to express our concerns with new burdens placed on municipal public defenders as an unintended result of bail reform.

In a recent [reply from Judge Grant](#), he informed the League that State Public Defender Krakora has committed resources from the State Office of Public Defender to help alleviate some of those burdens on Municipal Public Defenders.

To read more about this issue please see our recent Town Crier blog post, [here](#). Please pass this information along to your Municipal Public Defender and anyone else that should be alerted.

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

d. Appellate Court Rules in Favor of Rahway SID

On July 3, 2017 the NJ Superior Court, Appellate Division issued its unpublished opinion in [Friends of Rahway Business, LLC v. Rahway Municipal Council and City of Rahway](#), a case in which the League participated in as Amicus. This case dealt with various issues concerning Rahway's, Special Improvement District (SID) and more generally the interpretation of the statute authorizing SIDs.

This case made its way to the Appellate Division after Rahway appealed the lower court's decision which invalidated the City's SID ordinance. The lower court's decision interpreted the SID statute in a way that would severely limit how municipalities could design SIDs. The Appellate Division, however, overruled the lower court's decision and properly interpreted the SID statute to grant municipalities the authority the state legislature intended.

In short, the Appellate Court clarified the SID statute and found the following:

- A municipal-wide SID is permitted, provided a municipality can support such a creation of a SID with the specific findings necessary to adopt a SID ordinance.
- A SID may be noncontiguous.
- A SID does not need to be limited to a traditional "downtown business district."

- A SID may exclude non-commercial properties but it is not required to. Meaning, a SID may include residential properties if the municipality so determines it necessary.

The Appellate Court's decision is certainly a victory for municipalities statewide; however, questions regarding SIDs still remain. For Rahway, an additional step remains before its SID ordinance is validated as the case was sent back to the lower court to determine if the City met its requirement to support the creation of the SID with specific findings. While certainly not as consequential as this recent decision, the remaining issue and the ruling that comes from it could potentially have an impact on municipalities statewide. This is because a ruling on this issue will provide a better understanding of what findings a municipality must produce in order to properly support the creation of a SID.

You should review this case with your municipal attorney for additional information on how this recent decision will impact your municipality.

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

e. *Kean* Ruling to be Reviewed by NJ Supreme Court – League to Join as Amicus

Earlier this year we alerted you to the Appellate Division ruling in [Kean Federation of Teachers v. Morell, Kean University's Board of Trustees](#). As you may recall, this ruling substantially expanded the requirements for when a public body must send Rice notices and caused public bodies to review whether or not they were making their meeting minutes “promptly available” as required under OPMA. This ruling has caused a great amount of concern for many municipalities as it has caused confusion and created additional burdens.

Fortunately, the NJ Supreme Court has agreed to hear the case and has granted permission for the League to participate as Amicus. Oral arguments have not yet been scheduled.

We will keep you updated and provide you with further information on this matter as it becomes available.

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

II. Federal Policy Issues

a. Senators Menendez and Booker Sponsor S-1368 Flood Insurance Reauthorization

Senator Robert Menendez, joined by Senator Cory Booker, has introduced [S-1368, the Sustainable, Affordable, Fair and Efficient \(SAFE\) National Flood Insurance Reauthorization Act of 2017](#). This legislation addresses a need that the League of Municipalities formally recognized at our Annual Conference, just last November. That need found expression when

Resolution 2016-01 was unanimously adopted by representatives of our 565 member municipalities. The bill has bipartisan support and co-sponsorship.

Absent passage of the reforms found in S-1368, the continued rate increases, inconsiderate of a property owner's ability to pay, will have a devastating impact on families and a negative effect on municipalities nationwide. That impact will be felt by real estate markets, banks and mortgage companies, elderly citizens living on fixed income, and policyholders, who built their communities with faith in the National Flood Insurance Program, as it was administered at the time.

We have thanked the Senators on behalf of New Jersey municipal officials, and offered to assist them in moving this bill. You, on behalf of your local property owners, might want to do so, as well.

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

Gateway Worries

Please contact Federal officials on a matter of extreme importance to our State.

New Jersey's rail links to New York and Pennsylvania are vital to our State's economic vitality. In fact, they are essential linchpins to our Nation's economic vitality. Any diversion of rail riders to our State's highways will, inevitably, cause increased traffic congestion, and intensified wear and tear, on our roads, and slow the flow of commerce up and down the Northeast corridor.

The Gateway Project would repair and improve New Jersey's crucial rail link to New York. It is vital to the economy, the quality of life and the future of New Jersey. Imagine the impact on our State's economy, the traffic impact on our roads, the devastating impact on the quality of life and the impact on property values, if our rail link with midtown Manhattan were to be severed. After assessing the strains that the passage of time, intense usage and Sandy have placed on the infrastructure, Amtrak CEO Joseph Boardman announced that, in less than 20 years, one or both of the 107-year old tunnels would have to be shut down. The cost of doing nothing will far exceed the cost of the project.

We were relieved when, in 2015, the U.S. Department of Transportation joined Governors Christie and Cuomo, Senator Cory Booker and New York's Senator Charles Schumer to create a development corporation to oversee the project. At that time, Federal officials were committed to funding at least half of the estimated \$20 billion that will be needed to complete the Gateway tunnel project. The project would allow continued rail traffic between Newark and Mid-town Manhattan during badly needed repairs on the existing, 107 year-old concrete and steel tubes. Ultimately, the project, which was slated for completion by 2030, would double capacity under the Hudson River.

Last Friday, however, the U.S. Department of Transportation's acting general counsel sent a letter to the Gateway Program Development Corporation saying that a federal transportation department official would no longer serve on the board alongside representatives from Amtrak and the Port Authority of New York and New Jersey. The US DOT official stated, "It is not DOT's standard practice to serve in such a capacity on other local transportation projects." This raises concerns about the Federal government's commitment to the project. Please contact your representatives in Washington to express your support for timely investment on this linchpin project. Respectfully, urge them to stand together on this matter.

III. Annual League Conference

a. Don't Use Unauthorized Hotel Reservation Services

Every year there are unauthorized firms soliciting housing and hotel reservations from attendees at the Annual League Conference. We assure you that the only firm authorized to handle our conference housing reservations is A.C. Central Reservations. This information is on the top of the official conference housing form sent to all municipal clerks and posted on our web site: <http://nj-njslom.civicplus.com/302/2017-Conference>

IV. Also of Interest

a. Free Webinar Offered by the State and Local Legal Center

On July 13, 2017, the State and Local Legal Center will be offering a free webinar which will discuss cases of interest to states and local governments. Included in this discussion will be the First Amendment and police cases, amongst others, which appeared on the U.S. Supreme Court's docket this term.

This is an excellent chance for you to learn about some of the recent U.S. Supreme Court cases which are likely to impact your municipality. To register for this webinar please click [here](#). **b.**

July Grants Posted

The League's July grants page has been posted and includes links to several federal funding opportunities. [Click here](#) to visit the Grant Resource Center.

The League's Grant Resource Center features links and resources to assist municipalities in their grant search.

Looking for a database of grants? Through a partnership with GrantStation, League members may sign up for a discounted membership to use their funding databases. Reserve through NJLM for up to 85% off! [Click here](#) for more information.

Contact: Taran Samhammer, Advertising Manager, tsamhammer@njslom.org or 609-695-3481 x124.

Sincerely,

Michael J. Darcy, CAE
Executive Director