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April 13, 2018

- I. State Issues
- II. League Conference Follow-up
- III. Also of Interest

I. State Issues

a. Bill to Transfer of PFRS to a Labor-Management Board on Governor's Desk

As we previously reported [S-5/A-3671](#), which transfers the management of Police and Fire Retirement System (PFRS) to a Board of Trustees of PFRS, has passed both houses and now awaits consideration by Governor Murphy. Governor Murphy has until on or about May 10 to act on this bill. Thus, time is of the essence.

Please, call the Governor at 609-292-6000 expressing opposition to this bill until it is amended to add the necessary safeguards advocated by the League, the Conference of Mayors (NJCM), and the Association of Counties (NJAC).

For more information please see our [March 29 alert](#).

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b. Bills on Governor's Desk

After yesterday's Assembly and Senate Voting Session, the following bills of interest are on the Governor's desk for his consideration. We ask that you reach out to the Governor's office expressing your position.

[A-3686/S-2137](#), "Workplace Democracy Enhancement Act." This legislation, which we **oppose**, would impose mandatory requirements on public employers to ensure that public unions are able to carry out their statutory duties by having access to and the ability to communicate with, their

public employee members. The League, joined by its partners the Association of Counties, School Boards Association, and the Association of State Colleges and Universities, are concerned that many provisions of the bill, such as access to employees provided to unions, and meeting with union officials and their members, intrude into the collective bargaining process. In addition, we are concerned that new procedures required by A-3686/S-2137, such as providing detailed contact information to the unions on all employees, whether they are members of the union, or not, is not only inconsistent with the labor-management dynamic but unintentionally creates a taxpayer-funded data mining and access that could violate public employees' privacy and First Amendment rights. For more, please click [here](#).

[S-846/A-1320](#), Reinstates and extends duration of certain UEZs; requires DCA to study UEZ program and report recommendations to the Legislature. This amended legislation, which we **support**, would reactivate the Urban Enterprise Zone (UEZ) program in those municipalities where it expired at the end of 2016. S-846/A-1320 also directs the Department of Community Affairs to conduct or contract for a study of the Urban Enterprise Zone program. The results of the study would need to be delivered to the Legislature, with a year of the bill's enactment. It would include recommendations regarding the continuation, modification, or replacement of the program. For more, please click [here](#).

[A-3122/S-871](#), Allows certain joint insurance funds to make certain investments and to form certain investment programs; authorizes school districts and local units of government to deposit public funds into multiple federally-insured accounts. This legislation, which we **support**, implements League Conference Resolution 2016-08 by permitting both local unit and board of education joint insurance funds (JIFs) to invest in bonds of any governmental entity established under State law, or of any federal agencies or government corporations. It will also permit the local unit and board of education JIFs to amend their respective risk management plans to form joint cash management and investment programs. For more, please click [here](#).

[A-2039/S-485](#), "Out-of-network Consumer Protection, Transparency, Cost Containment and Accountability Act." The legislation, which we **support**, reforms various aspects of the healthcare delivery system in New Jersey to increase transparency in pricing for health care services, enhance consumer protections, create an arbitration system to resolve certain healthcare billing disputes, contain rising costs associated with out-of-network health care services, and measure success with regard to these goals.

[A-1827/S-2171](#), Concerns earned sick leave to employees. The bill requires employers to provide earned sick leave to employees that they employ in the State. The bill was amended to exclude public employers who provide sick leave with full payment pursuant to any other law, rule or regulation of this State. For more, please click [here](#).

[A-3382/S-1971](#), Permits taxpayers to make dedicated prepayment toward anticipated property taxes. The Assembly and Senate accepted the Governor's conditional veto and the Governor now has 10 days to act on the bill. For more, please click [here](#).

[S-1893/A-3499](#), Authorizes municipality, county, or school district to establish one or more charitable funds for specific purposes; permits property tax credit for certain donations.

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c. Bill to Allow Continued Volunteer Service Approved by Assembly

Yesterday in Trenton, the General Assembly approved the following legislation, which would advance municipal interests and is supported by the League. The bill is a result of League Conference Resolution 2014-05. We thank Assemblywoman Holly Schepisi and Assemblyman Anthony Bucco for sponsoring this initiative. Please urge your State Senator to support this bill.

A-1627 (There is no Senate companion to this bill.) permits a person, with a pre-existing volunteer relationship as a firefighter, rescue squad worker, or emergency medical technicians with their employer, to retire from service covered by PERS or PFRS and continue to serve that employer as a volunteer.

This bill responds to a 2014 Division of Pensions ruling, which requires retiring employees to terminate any relationship with a municipality—including service as a volunteer emergency responder—in order to collect pension benefits. This Division of Pensions ruling, if not changed, will impact every public employee who volunteers in the state and will not only drive up property taxes but would also reduce the quality and level of essential public services.

The Assembly's 72-0 approval of this League priority sends the bill to the Senate. Please urge your State Senator to support this legislation, which will allow our highly valued volunteers to continue to serve their communities, without putting earned pension benefits in jeopardy.

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

d. Concerns with Governor's Energy Tax Proposal Aired

On Monday, League President Mayor Jim Cassella of East Rutherford testified before the Assembly Budget Committee. Mayor Cassella's testimony explained the municipal impact of the Governor's FY 2019 budget proposals to State budget makers. Much of Mayor Cassella's testimony focused on Energy Tax Receipts Property Tax Relief funding. On Tuesday and Wednesday, State Treasurer Elizabeth Maher Muoio testified on the proposal before the Senate and Assembly budget-writing committees.

When discussing the State budget with your legislators, please make certain that they understand our concerns with the Governor's Energy Tax Receipts (ETR) proposal. As the Treasurer emphasized, this change will not reduce municipal property tax relief funding in 2018. But, the change raises serious concerns about future ETR funding.

The Energy Tax, in one form or another, has been a reliable and significant source of non-property tax revenue for local governments for over a century. Though often underfunded, the 1997 reforms set a floor, below which the fund wouldn't sink. Pursuant to those reforms, sales taxes on energy utility bills and corporate taxes on energy utilities are collected by the State and placed in a dedicated, off-budget Energy Tax 'lockbox.' At least \$788.5 million of the funds are dedicated and must be distributed to New Jersey municipalities for property tax relief.

At the League's insistence, Chapter 167 of the Public Laws of 1997, which established the ETR 'lockbox,' also includes the so-called 'poison pill' provisions that assure annual distributions of sufficient funds. Those provisions would prevent the State from collecting most corporate taxes, should the State ever fail to distribute the statutory minimum in any year.

At that time, we fought for those safeguards, because Governors and Legislators of both parties, over many years, had used their discretion to retain revenues meant for municipal purposes, in order to fund State level priorities. The Governor's budget proposes the elimination of the 'lock box' and the redirection of sales taxes on energy bills and corporate taxes on energy utilities into the State's General Fund. This would give State budget makers broad discretion concerning the use of the funds. Instead, the proposal would shift ETR funding to an annual budget line-item appropriation, with the funding provided through the State Income Tax.

Income Tax proceeds are constitutionally dedicated to property tax relief, in general. But the specific property tax relief uses of the funds can vary from year to year.

From the State Treasurer's perspective, this change amounts to an 'accounting shift.' While aid remains flat this year, the elimination of the "lock box" poses a serious concern for taxpayers going forward, as it would allow the state to effectively reduce property tax relief funding in future years. From our perspective, that is an unacceptable outcome.

As Mayor Cassella stated, "While, for this year, the Governor intends to replace the dedicated funds with other revenues; we need assurances that we will be able to count on funding, in the future. On behalf of our property taxpayers, we will strongly oppose any proposal that changes the Energy Tax Receipts Property Tax Relief Fund from a dedicated source of revenues, which the state can only reduce at some risk to its own revenues, to another discretionary aid program, which the state can cut, in future years, to meet some other priority."

We want to thank State Senator Patrick Diegnan, Assemblyman John DiMaio, and Assemblywoman Nancy Munoz, who each raised concerns with the proposal. In response to a question from Assemblywoman Munoz, Treasurer Muoio indicated that the poison pill will remain in place, pursuant to language to be included in the State budget.

Again, when discussing the State budget with your legislators, please make certain that they understand our concerns with the Governor's Energy Tax Receipts (ETR) proposal.

For more on the history of the energy tax relief funding, [please click here for the recently revised League white paper.](#)

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

e. Opportunity Zones Approved

Earlier this week, Governor Murphy [announced](#) that the United States Department of Treasury approved his 169 recommended Opportunity Zone designations. The recent bi-partisan federal legislation, which was sponsored by Senators Booker and Scott and Congressmen Tiberi and Kind, provides tax advantages to investors who reinvest capital gains into recognized "Opportunity Zones." We thank Senator Booker for his astute navigation in delivering this much welcomed economic incentive.

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

f. Draft Settlement Agreements Exempt from OPRA Disclosure

Yesterday, the Appellate Division issued an unpublished opinion addressing disclosure of settlement negotiation records under OPRA. In [Libertarians for Transparent Government v.](#)

[William Paterson University](#), the court ruled that an unsigned settlement agreement which remains subject to revisions and negotiations is exempt from disclosure under OPRA. Because this decision is unpublished, its precedential value is limited, however, the principles of the ruling are sound. You should review this case with your municipal attorney and records custodian for more information on how it impacts your municipality.

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

g. Dunbar v. Twp. of Franklin

On Monday, the NJ Supreme Court heard oral arguments in [Dunbar Homes, Inc. v. Township of Franklin](#), a case which the League has joined as amicus curiae. In short, this case deals with the Municipal Land Use Law's (MLUL), "Time of Application Rule," which is used to determine what municipal ordinances govern a land use development application. As the name denotes, this provision of the MLUL provides that the ordinances effective at the time of application are those which the development application must adhere to.

Specifically under review in the Dunbar case is when is an application complete, thus triggering the time of application rule? The Appellate Division, finding the language of the MLUL unambiguous, sided with the municipality and ruled that the time of application rule is only triggered once an application for development is complete, and an application for development is not complete until all documents required by municipal ordinance have been submitted. The developer argued that the time of application rule could be triggered when the application is submitted with substantially all the required items regardless if all required documents are submitted.

Now that oral arguments have been heard, the Supreme Court will review the Appellate Division's decision and issue a final ruling. There is no definitive date for when this ruling will be issued but it is anticipated to be sometime in mid-to-late summer. We will keep our members updated on any developments in this important matter.

We would like to thank League Associate Counsel Clifford Gibbons, Esq., who represented the League, for his outstanding work on this matter.

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

h. Executive Order on Guns Used in Crimes

Governor Murphy issued [Executive Order 21](#) calling on the Department of Law and Public Safety to consider "all reasonable efforts" to make public regular reports on "key information" related to guns used in the commission of crimes in New Jersey. In response, NJ Attorney General Grewal announced that the State Police will release monthly reports on gun crimes in New Jersey. The reports will include the offense committed, the type of gun used, the number of gun-shot victims, and the municipality where the offense occurred. The information will be posted on both the Department of Law and Public Safety and New Jersey State Police websites.

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II. League Conference Follow- Up

a. Claim Your CEUs from the Annual Conference

Attention Municipal Officials! Do Not Forget to Claim Your CEUs from the 2017 NJLM Annual Conference! Please click on the following link to claim your credits: <http://www.njslom.org/339/Continuing-Education-Unit-CEU-Tracking-S>

b. Exhibits at the Annual Conference

Do you know a vendor that would be a good fit for the Annual Conference? If so, ask them about being an exhibitor or have them contact Kristin Lawrence, Exhibit Manager at 609-695-3481 x125 or klawrence@njslom.org. Information is also available on njslom.org/exhibit

III. Also of Interest

a. League New Website Announcement

In case you missed it, the League recently launched a completely redesigned website; a project NJLM staff has been working on for nine months. Our web address remains the same, www.njslom.org, but the site has a completely different look and interface, which will improve user convenience. Some of the many new features of the site include:

- Subscription options for tailored alerts (for instance, users can subscribe to receive alerts when the job/RFP page is updated, or to receive emails each time a seminar is added to the seminar calendar). [Click here](#) to subscribe to alerts.
- Improved and responsive search function.
- A rotating photo banner atop each webpage: with photos highlighting the state's many great features and locations, and currently featuring our recent Show Off Your City contest winner Verona Township!
- A site map and quick links to aid site navigation.

We hope that the new site improves your experience navigating the League's website!



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