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## May 17, 2019

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

### I. State Issues

#### a. Recreational Marijuana Stalls

On Wednesday, Senate President Steve Sweeney announced that he would not post legislation again to legalize adult use marijuana for a floor vote. If you recall, the bills were posted on March 25 but did not garner enough votes for passage. Instead, the intention of Legislative Leadership is to advance a statewide ballot referendum in November 2020 and, in the short term, seek to advance an expansion of State's medical marijuana program and legislation dealing with expungement of existing marijuana related offenses.

Thus, our focus will now pivot for [S-10/A-10](#) and [S-3205/A-4498](#). In decoupling these bills, we anticipate amendments and will provide you with further analysis and comments in the upcoming days and weeks.

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#### b. Legislation Introduced to Implement Path to Progress Recommendations

Yesterday Senate President Sweeney and Senator Oroho held a press conference announcing a 27-bill package to implement some of the recommendations of the [Path to Progress Report](#). While we are currently reviewing the bills presented in the package, we would like to highlight that Senate President Sweeney announced his plans to move the

pension and health benefit reforms by end of June and noted that if the Governor does not sign the pension and health benefit legislation he is prepared to move forward with a public question amending the constitution to enact changes.

The proposed pension bill would establish a cash balance plans in PERS and TPAF for new employees and employees with less than five years of service. For those same employees, the legislation would increase retirement age to 67; move them into a hybrid pension plan in which employees will have a defined benefit pension on the first \$40,000 of salary and a cash balance plan that provides an interest credit of 75% of the State's rate of return or a minimum return of 4%, whichever is greater; details the distribution of funds when the employees retires or terminates employment after less than 10 years; and requires no employer contribution to the employees' cash balance plan.

The proposed health benefit reform bill would terminate the School Employee Health Benefit Plan (SEHBP) as of January 1, 2020 and shift employees to the State Health Benefits Plan (SHBP). Health plans offered would not be able to exceed an actuarial value of 80%. No plan offered by a public employer could provide greater benefits than the highest level provided under the SHBP. The bill would permit a local public entity and bargaining unit to renegotiate a collective bargaining agreement to account for these modifications.

In the upcoming days we will release a more detail analysis of the bills proposed as part of the package.

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**c. Committee Moves Bill to Restore Your Property Tax Relief Dollars**

On Monday, in Trenton, the Senate Community and Urban Affairs Committee advanced [S-51](#). The legislation has been a long-time League priority. It would, beginning next year, require the State to begin a phased-in restitution of the \$331 million, which has been annually diverted from dedicated municipal funding programs – the Energy Tax Receipts Property Tax Relief Fund (ETR) and the Consolidated Municipal Property Tax Relief Aid (CMPTRA) – for the past 12 years. During every year since the Great Recession, this funding has been used to address State budget concerns. S-51 would, incrementally, over the next five years, bring funding for all municipalities back to 2007 levels.

League Past President and Energy Tax Task Force Chair, Mayor Janice Mironov of East Windsor, testified on behalf of the League and of her colleagues in all New Jersey municipalities.

Our thanks to the bill's sponsors, Senators Troy Singleton and Declan O'Scanlon for their ongoing efforts to restore property tax relief funding that continues to be diverted to the State budget. Senator Singleton, who Chairs the Committee, has championed this initiative for the past several legislative sessions.

The League urged the Committee to consider one amendment to the bill. Section 1 would require any restored funding to be subtracted from the municipality's adjusted tax levy. The League requested that the bill be amended to delete the proposed requirement in Section 1, which would deny locally elected and locally responsive Mayors and municipal governing bodies the ability to determine the best use for the local property tax relief revenues that the bill would restore."

The bill will next be considered by the Senate Budget and Appropriations Committee. A companion bill, A-274, awaits action in the Assembly State and Local Government Committee.

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#### **d. Bill Mandating Sharing of PILOT Monies with Schools Advances**

On Monday, the Senate State Government Committee also advanced [S-59](#), which requires municipalities to share certain payments in lieu of taxes (PILOT) with counties and school districts, and informs counties and school districts of urban renewal applications. For residential projects the amount remitted to school(s) would be formula driven based on the number of school age children attending public school residing in the approved project multiple by the school district's budgetary base per pupil amount included in the "user friendly" plain language budget summary. For nonresidential projects or mixed-use projects, it would be 5% of the annual service charge. The bill does allow for in-kind contributions equal in value to 5% of the annual service charge.

S-59 also requires that the school(s) and county receive an informational copy of the project application to the municipality. The school(s) and county must also receive a copy of the recommendations submitted to the governing body. In turn, the school(s) and county will have 10 days to review the proposed project and make recommendations to the municipality. While the municipality is not required to accept the recommendations they must give "due consideration to the recommendations submitted by all interested parties."

Amendments to the bill would require the district to use any such funds to offset the levy.

In addition to the League testifying in opposition to the bill, Woodbridge Mayor John McCormac also presented testimony and his concerns with the legislation. The League opposes this bill as PILOTs remain a critical tool for economic development and the stated concern about education funding is overstated. We will continue to work with the sponsors to address our concerns.

S-59 now awaits consideration by the Senate Budget and Appropriations Committee.

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#### **e. Governor Signs Legislation Extending Civil Statute of Limitations for**

## Sexual Abuse Claims

On Monday, Governor Murphy signed into law [S-477](#), which extended the statute of limitations in civil actions for sexual abuse claims. The law creates a two-year window for parties to bring lawsuits based on sexual abuse that would be time-barred, even with the new statute of limitations, and expands the categories of potential defendants in civil actions.

The League is supportive of any measure that would allow survivors of sexual assault the ability to seek justice against individual perpetrators as well as those who knowingly and willfully enabled them. However, we raised concerns with language in the bill that creates a different standard of liability for municipalities and other government entities, than that which non-profit entities would be held to.

In a [statement](#) issued upon signing S-477, Governor Murphy addressed these concerns stating that his signature was based on a commitment from the sponsors to introduce and swiftly pass legislation correcting this flaw. That same day, legislators introduced S-3739/[A-5392](#) which seeks to rectify the flaw with S-477 concerning the standard of liability.

We are still reviewing S-3739/A-5392 to ensure that our concerns are addressed. We would like to thank Senators Joseph Vitale and Nicholas Scutari, and Assemblywoman Annette Quijano, the sponsors of this legislation, for listening to the League's concerns. We also commend these legislators for the efforts in this important matter.

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## f. Revised State Revenue Estimates Improve Budget's Outlook

On Tuesday and Wednesday of this week, the non-partisan Office of Legislative Services (OLS) and State Treasurer Elizabeth Maher Muoio presented revised revenue estimates for the State's current (FY '19) Fiscal Year and the State's upcoming (FY '20) Fiscal Year. With April's income taxes in the bank, and with the State's other revenue streams more fully accounted for, New Jersey's budget outlook is now brighter than it was, when the Governor presented his plan to the Legislature in March.

OLS now advises the Legislature to anticipate \$38.1 billion in the current year and \$38.7 billion for FY '20. The Treasurer expects the State to take in about the same amount as OLS forecasts for this year, and about \$39 Billion, for use in FY'20. That increases anticipated revenues, above the amounts incorporated into the Governor's March proposal, by \$377 million this year, and by \$240 million for next year.

For the purpose of forecasting, both OLS and the Treasurer base their estimates on the assumption that the Legislature will approve the Governor's proposed revenue enhancements, including the refined 'millionaires' tax.'

State law requires the deposit of 50% of revenue gains, above those that were anticipated when the State's FY '19 Appropriations Act was adopted (last July), into the Surplus Revenue (or 'Rainy Day') Fund. Treasurer Muoio expects to be able to credit \$317 million to that account, which is meant to guard the State against a recession or other budgetary emergency.

The Governor will also ask the Legislature to use \$250 million of the new-found funding, to adopt a one-year property tax relief program, to be delivered through refundable tax credits. Treasury expects over one million property taxpayers to benefit from the program.

Respected State government correspondent Colleen O'Dea recently noted in an *NJ Spotlight* report, "Municipal services account for about \$3 of every \$10 paid in property taxes. (The rest goes for schools and counties.) And while the Consumer Price Index has risen by 21% from mid-2007, total municipal aid is almost 11% less than 12 years ago."

An across the board increase in municipal property tax relief funding would, we believe, benefit all New Jersey property taxpayers.

We will keep you posted on other developments, as the State moves toward the June 30 budget adoption deadline.

**Contact:** Jon Moran, Senior Legislative Analyst, [jmoran@njlm.org](mailto:jmoran@njlm.org), 609-695-3481 x121.

### **g. NJ Dept. of Agriculture Adopts Beekeeping Rules**

Last week the New Jersey Department of Agriculture [adopted new rules](#) aimed at regulating beekeeping within the state. The League was a key stakeholder in developing these regulations, however, the standards fall short of providing adequate protections for the health, safety, and welfare of our communities.

You should review these adopted rules carefully as it allows for municipalities to become the enforcement agent. For more information on the rules including a brief overview of them, please see the League's recent [blog post](#).

**Contact:** Frank Marshall, Esq., League Staff Attorney, [FMarshall@njlm.org](mailto:FMarshall@njlm.org) or 609-695-3481 x137.

### **h. Committee Hears Testimony on Bill Concerning Property-Taxpayer Funded Subsidy to Hospitals**

Yesterday, the Assembly State and Local Government Committee took testimony from the public on [A-4013](#), a bill the League opposes. A-4013 seeks to address the ongoing issue of property tax exemptions for nonprofit hospitals with on-site for profit medical providers. The issue stems from a tax court decision which brought to light how the business model for modern hospitals does not comport with the original public policy reasons for exempting non-profit hospitals from property taxes.

While the League is supportive of a legislative solution to this issue, we do not believe that A-4013 provides a proper solution. As a threshold matter the bill sets up an unconstitutional tax exemption. Notwithstanding the constitutional issues, A-4013 poses other concerns as it attempts to create a Community Service Contribution (CSC) fee which would be paid by hospitals organized as non-profits in lieu of any property tax. The CSC fee is calculated based on the amount of licensed acute-care beds in a hospital which, based on industry trends, would mean the fee would be reduced each year as hospitals move away from these types of beds.

The contemplated CSC fee would be far smaller than any property tax bill which these hospitals would otherwise be subject to, effectively serving as a subsidy to an otherwise

profitable industry and paid for by all other property tax payers of host communities.

Further, A-4013 would preempt settlements and agreements some host municipalities have already made with hospitals in their communities. A-4013 would also seek to reimburse these hospitals for any payments they may have already made to municipalities under these agreements.

Since the Committee did not take an action on the bill, it will still need to be heard and moved out of committee before it can go to a vote before the legislature.

The League would like to thank all of those who have already contacted their legislators and who spoke at the Committee hearing yesterday opposing A-4013. We urge all our members, especially those hosting non-profit hospitals and those with current settlements to reach out to [your legislators](#) asking them to oppose A-4013.

**Contact:** Frank Marshall, Esq., League Staff Attorney, at [FMarshall@njlm.org](mailto:FMarshall@njlm.org) or 609-695-3481 x137.

## II. Federal Issues

### a. National Flood Insurance Extension Needed (Again)

On Tuesday, the United State House of Representatives advanced H.R. 2578 - the National Flood Insurance Program Extension Act of 2019. This bill, which would extend the life of the National Flood Insurance Program (NFIP) through September 30 of this year, now goes to the U.S. Senate.

Without enactment of this or some similar legislation, the NFIP is set to expire on May 31. Since NFIP originally was set to kick the bucket in September, 2017, the program has been kept alive with a series of short-term extensions. The inability of Congress to agree on substantive reforms has necessitated these actions.

We will keep you apprised of further developments as they occur.

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## III. Also of Interest

### a. Register Now for the One Day Mini Conference

**Friday, June 14, 2019**  
7:30 a.m. - 5:00 p.m.  
Conference Center at Mercer  
1200 Old Trenton Road  
West Windsor, NJ 08550

For more information on the Mini Conference including registration and credit details, please visit the [Mini Conference Website](#).

### b. League Publications: Read All About It

The League offers a wide variety of publications to provide extra insights on the hot topics in local government, from Newly Elected guidebooks to the latest editions on OPMA, License Fees, Salaries, and Local Public Contracts. For more information on the full publication list or to order volumes for your reference, see the [Publication Order Form](#).

### **c. Registration Now Open for the 2019 New Jersey Sustainability Summit**

**Friday, June 14<sup>th</sup> at Bell Works, Holmdel, NJ**

The New Jersey Sustainability Summit is an exceptional one-day forum, annually drawing more than 350 change-makers from across the political, private and public sectors. Participants will engage in thoughtful discussions, share best practices, hail the work that is currently being done in sustainability across the state, and identify areas for future regional collaboration. This year's Summit will be bigger and better than ever to celebrate Sustainable Jersey's 10<sup>th</sup> Anniversary! [Register and learn more](#)



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