

March 23, 2018

RE: WEEKLY ROUND-UP

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

Municipal Clerks: This correspondence includes a number of time-sensitive items. Please bring to the attention of the Mayor and Governing Members.

Dear Mayor:

I. State Issues

**a. URGENT Legislative Alert – Time Sensitive
S-5 & A-3671. PFRS Takeover Legislation**

Yesterday, the Assembly Appropriations Committee approved [A-3671](#), the PFRS Takeover bill. While approving the bill, however, both the Committee Chair and Vice-Chair alluded that the bill may be further amended before a final vote. The full Assembly will consider the bill and the full Senate will be considering the senate companion, [S-5](#) as well, this Monday, March 26.

For more on this legislation, which is opposed by the League, [please click here for the League's March 19 letter.](#) These bills are scheduled for final votes on Monday and could be on the Governor's desk as early as Tuesday. Please contact your Legislators and tell them that property taxpayers should be on equal footing with representatives of the public safety unions and that this legislation needs additional safeguards. It is also important to note that Local employers are contributing the equivalent of 27.35% of the employee's salary to the pension fund. It has been argued that of that amount, only 8.5% is for the "normal contribution" and the remaining 18.85% is the unfunded liability. According to the New Jersey Division of Pensions and Benefits, the unfunded liability "can either be generated or increased in a number of ways, including enhancements to the pension benefits payable or the occurrence of actuarial losses." (See [link](#)). In other words, the 18.85% figure is not solely, as some believe, due to the "pension holidays" but other contributing factors as well, including the enhancement of benefits for employees.

Call on your Legislators and urge them **to oppose S-5 and A-3671, until it is amended to add the necessary safeguards advocated by the League, the Conference of Mayors, and the Association of Counties.**

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. CY 2018/SFY2019 State Aid Remains Flat

The Division of Local Government Services has issued [Local Finance Notice 2018-11](#) noting that no municipality will receive less total State formula aid in CY18/SFY19 than it received last year. The CY 2018/SFY 19 Aid Certification for each municipality are available [here](#). The State will announce the final aid payment schedule in July, prior to the August 1 payment.

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

c. Attorney General Issues Two New Law Enforcement Directives—

On Tuesday, the NJ Attorney General's office issued [two Law Enforcement Directives](#), Directive No. 2018-2 and Directive No. 2018-3. Both create new requirements for municipal police forces and have broad municipal implications.

Directive No. 2018-2 mandates statewide random drug testing of all law enforcement officers at least twice per year, with at least one round of random testing in 2018. For each round, at least 10% of the total number of police officers must be randomly tested. The random drug testing must conform to the current Attorney General testing policy procedures, including a notice to all law enforcement officers of the testing policy and potential implications of positive test results.

Every law enforcement agency within the state must develop and implement a random drug testing policy in accordance with requirements outlined within the Directive. Or, as the case may be, revise current agency policy on random drug testing to be in compliance with the Directive's requirements.

The Directive became effective immediately and requires all law enforcement agencies to adopt and/or amend their policies to conform with Directive No. 2018-2 within 30 days.

Directive No. 2018-3 requires law enforcement agencies statewide to implement and adopt and/or revise their early warning system policy to be consistent with the Directive's mandates. An early warning system is a management tool which is used to help detect patterns and trends in police conduct before the conduct escalates so that remedial action can be taken before a problematic officer becomes a risk to the public, to the agency, and to other officers.

Directive No. 2018-3 set specific performance indicators which should be included within any agency's early warning system, however, certain deviation from these indicators may be permissible. The Directive sets a minimum wherein, if three separate instances of performance indicators occur within any twelve-month period, then that the offending officer must have remedial action taken against them. The Directive also outlines what kind of remedial actions should be available including amongst others; training, counseling, and fitness-for-duty examinations.

The Directive became effective immediately and requires all law enforcement agencies to adopt and/or amend their policies to conform with Directive No. 2018-3 within 60 days.

You should review both of these Directives carefully with your municipal attorney, labor attorney, and your chief of police to ensure compliance with the new requirements.

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

d. Paid Sick Leave

[In our March 16 letter](#), we advised that the League joined in testimony with the Association of Counties (NJAC) and School Boards Association (NJSBA) before the Assembly Labor Committee seeking amendments to [A-1827](#), which would mandate employers provide earned sick leave to employees. The joint testimony, while appreciating the legislative intent of the bill, expressed concern that the legislation would provide additional benefits to public employees already protected by generous leave policies through collective bargaining agreements, statutory law, and past practices. Further, paid sick leave is a collectively bargained item in labor negotiations and practice is that non-affiliated and at-will employees receive the same benefits package. For these reasons, the League, NJAC, and NJSBA recommended that the legislation should exempt local government employers.

Yesterday the Assembly Appropriations Committee further amended the bill to include this definition, for the purposes of this Act, of employee (please note that new language is underlined and language in brackets is deleted):

"Employee" means an individual engaged in service to an employer in the business of the employer for compensation. "Employee" does not include an employee performing service in the construction industry that is under contract pursuant to a collective bargaining agreement, or a per diem ¹[hospital] health care¹ employee¹, or a public employee who is provided with sick leave with full pay pursuant to any other law, rule, or regulation of this State¹

This new language, coupled with the fact that the bill does not define a local government employee, it would seem the Legislature intends to include a local government employee exemption. We believe, however, that the language in the bill could be clearer and so we will continue to ask for additional clarifying language.

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

e. Workplace Democracy Enhancement Act

The League joined by its partners with the Association of Counties, School Boards Association, and the Association of State Colleges and Universities testified in opposition on Monday before the Assembly Labor Committee to [A-3686](#), the "Workplace Democracy Act." Our testimony focused that this preemptive proposal, in anticipation of the U.S. Supreme Court ruling in Janus v. AFSCME, was premature, unnecessary and over-reaching. We 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. By mandating minimum requirements the bill does not consider the potential disruption to the day-to-day operations of our respective members, particularly if the relationship between management and the union is contentious. These are issues that have been successfully negotiated during the collective bargaining process. In fact, currently, N.J.S.A. 34:13A-5.4 provides appropriate protections regarding union activities.

We are also concerned with the new procedures established in S-2137/A-3868, such as providing detailed contact information to the unions on all employees, regardless if they are members of the union, or not. We are further concerned that management will be used to assist unions in the recruiting/retaining of their members, which is inconsistent with the labor-management dynamic.

Additionally, we believe that this bill will unintentionally create taxpayer-funded data mining and access that could violate public employees' privacy and First Amendment rights. Typically the detailed information employers will be required to provide unions on their employees in the legislation is information a person provides an organization once they join, not beforehand, and certainly not by a third party, in this case, their employer.

While the committee released the bill, it was apparent that our concerns and objections resonated with some Committee members. As this correspondence is being delivered, neither A-3686 nor its Senate companion S-2137 have been scheduled for upcoming floor votes. This could, however, change by Monday. The League will continue to monitor these developments and its opposition to these bills.

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.

f. Assembly UEZ Extension Bill Primed for Passage

On Thursday, the Assembly Appropriations Committee released A-3549, sponsored by Assemblywoman Eliana Pintor Marin.

The bill would extend the duration of all Urban Enterprise Zones (UEZs) for 10 years, starting 90 days after the bill is enacted. This extension will reactivate the five UEZs that expired at the end of 2016. These zones are located in Bridgeton, Camden, Newark, Plainfield and Trenton.

Municipalities that host UEZs have higher than average unemployment rates, lower than average per capita and household incomes, and the vast majority are also home to high percentages of tax exempt properties. The UEZ Program offers incentives to participating businesses, designed to encourage business growth, provide jobs, and stimulate local economies. To qualify for these advantages, a business must agree that 25 percent of its workforce will include either local residents, or State residents who have been unemployed for at least a year, or both.

The Committee also released A-3551, which requires the New Jersey Urban Enterprise Zone (UEZ) Authority to undertake a review and analysis of the UEZ program and report the authority's findings and recommendations to the Governor and the Legislature no later than 24 months after the effective date of the bill.

Both bills, which we support, will next be considered by full Assembly, at the Speaker's discretion.

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

II. Federal Issues

a. Looks like Feds Avert Shut-down (Again). Gateway Funding Possible.

It seems that Congress and the Administration have a deal to fund Federal agencies and programs for the balance of the current Fiscal Year, which will end on September 30. The \$1.3 trillion Omnibus Appropriations Bill has cleared the House and the Senate. The Administration had previously agreed to it, as well.

While it will take a while to analyze all the spending in the Omnibus, broadly speaking, the bill will increase defense spending by \$78 billion and domestic spending by \$52 billion. Among the specifics, \$380 million will be channeled through the Federal Election Assistance Commission, to be distributed as grants to state governments for enhanced electoral cyber-security measures to help protect the integrity of future votes. Likewise, the FBI will receive \$300 million for counter-intelligence work designed to thwart ballot-related hacking.

Of particular importance to our State, the Omnibus includes \$540 million that could be used to advance the Gateway project. The Governors of New Jersey and New York have agreed to provide half of the funding needed to build this vital project, contingent on the Federal Government's promise to fund the balance. The cost of building two new tunnels to connect rail traffic between the two States is \$13 billion. The total costs of a complete Gateway Project would be \$30 billion. The inclusion of the \$540 million in the pending legislation does not guarantee that it would go towards the Federal share, but it makes that a possibility.

A preliminary analysis by our colleagues at the National League of Cities (NLC) notes that the bill maintains or increases funding for key programs that municipalities use to fund infrastructure, economic

development, and public safety, among others. The bill comes after more than 1,000 local leaders, including Elizabeth Mayor J. Christian Bollwage, lobbied Congress over the past year to save Community Development Block Grants (CDBG), TIGER grants, workforce development and education programs, and energy efficiency and renewable energy programs.

The bill also includes additional funding for water infrastructure through the U.S. Environmental Protection Agency, including for lead testing and lead reduction in schools, which has been an NLC priority. Further, the bill will reauthorize the [Brownfields Redevelopment Program](#), expand Low-Income Housing Tax Credits to make up for losses in affordable housing stemming from tax reform, and extend the National Flood Insurance Program until July 31, 2018.

For specific funding level changes, please [click here](#). Selected provisions of the bill include:

CDBG: First meaningful increase since 2010, from \$3 billion to \$3.3 billion

Transportation Investment Generating Economic Recovery (TIGER): Increased by \$1 billion

Airport Discretionary Grants Targeting Small and Rural Airports: Increased by \$1 billion

Clean Water and Drinking Water State Revolving Loan Funds: Increased by \$300 million each

Transit Infrastructure Grants: Increased by \$834 million (including \$400 million to help communities modernize their bus systems and \$400 million for capital assistance to transit systems)

Rural Broadband Infrastructure: \$600 million in new funds

State and Local Law Enforcement Grants: Increased by \$1.2 billion for a total of \$2.9 billion in 2018. This includes a total of \$446.5 million, an increase of \$299.5 million more than fiscal year 2017, in DOJ grant funding to help State and local communities respond to the opioid crisis.

State Opioid Response Grants: \$1 billion in new funding for grants to states to address the opioid crisis (this funding is in addition to the \$500 million provided in the 21st Century Cures Act)

National Pre-disaster Mitigation Fund: Pre-disaster mitigation funding increased from \$149 million to \$249 million to build infrastructure that prevents loss of life and mitigates risks, reduces damage from future disasters, and lowers flood insurance premiums.

HUD-VA Supportive Housing (HUD-VASH) Vouchers: Increase funding of \$40 million for new vouchers, while also protecting VA resources providing case management for homeless veterans.

We are grateful to the entire New Jersey Congressional delegation for their support for this provision. And special thanks go to Congressman Rodney Frelinghuysen, who is Chairman of the House Appropriations Committee, for his key advocacy.

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

III. 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: www.njslom.org/confceu.

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

IV. Also of Interest

a. Review and Consider Alternatives to the State Health Benefits Plan

New Jersey-based Association for Corporate Health Risk Management (ACHRM) is offering a free one-hour webinar April 4th 11:00 AM-Noon and follow-on Regional Collaborative Roundtables. Providing civic leaders with an overview of New Jersey's high-cost medical procedures and offering case studies and strategies to reduce these costs, the objective will be to organize roundtables throughout the state where local officials can collaborate and develop new strategies.

For more information and registration visit www.achrm.org or contact: Bill Lacy @ wlacy@achrm.org or 856-979-2067.

Sincerely,

Michael J. Darcy, CAE
Executive Director