

Legislative Update

Lori Buckelew, Deputy Executive Director and Director of Government Affairs;
Paul A. Penna, Senior Legislative Analyst,
Andrew LaFevre, Legislative Analyst;
Frank Marshall Esq., Associate General Counsel

End of Legislative Term Recap

Over the course of the last two years comprising the 219th Legislative Session, the League's Legislative team tracked 2,835 out of the 11,427 bills introduced. Of those tracked bills, 734 were sent to Governor Murphy of which he signed 670 into law. The League supported 26 of these new laws and opposed 16.

Highlights of the past legislative term included:

OPRA/OPMA

For more than 10 years, Senator Weinberg has pushed legislation to reform the Open Public Records Act (OPRA) and Open Public Meetings Act (OPMA). While the bills have varied over the years and there were elements in each that provided common-sense reforms, the League remained steadfast in opposition because the bills: (1) did not address the expenses municipalities incur under OPRA; (2) continued to provide for mandatory prevailing attorney fees in OPRA, and expanded this practice to OPMA; (3) expanded the definition of "government record" to include documents "required by law to be made, maintained, or kept on file"; (4) required subcommittees to comply with certain provisions of OPMA; and (5) continued the exemption of the legislature from the provisions of both OPRA and OPMA. Over this same period of time, the League has lobbied for common-sense reforms and the need for a study commission.

Status: OPRA/OPMA bills were released from Senate committees over the years, however, the bills never made it to the Senate floor. In addition, the bills never had a committee hearing in the Assembly.

Cannabis

During the legalization of adult recreational use cannabis, the League never took a position on the issue. However, we formed a coalition with the New Jersey Urban Mayors Association and the New Jersey Conference of Mayors to ensure that municipal interests were protected. These efforts proved successful.

The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (CREAMM), adopted in February 2021, included several provisions

strengthening municipal control over the rollout of cannabis operations within local communities. Regulations adopted by the Cannabis Regulatory Commission later that year reiterated the idea that municipalities would have a strong position in determining the extent to which the cannabis industry can operate within municipal boundaries.

Through our efforts, each municipality alone has the ability to decide whether or not it wishes to have cannabis operation in the community. Municipalities that do wish to welcome the cannabis industry have the authority to determine the number and types of cannabis license holders that can operate within their borders. Further, municipalities may set up their own licensing requirements, and are able to levy and collect a local tax on cannabis sales.

Status: The League continues to be a resource for municipalities, and continues to protect municipal interests as further regulations are adopted.

Responsible Collective Negotiations Act

In the spring 2021 and through the end of the legislative term, legislation that was touted as addressing some issues with the 2018 "Workplace Democracy Enhancement Act" would have greatly expanded the power and influence of public sector labor unions to negotiate previously non-negotiable items.

This legislation would have altered the test for what is a negotiable subject by requiring that a subject is in fact negotiable unless the negotiated agreement would prevent the government from carrying out its statutory mission. In other words, everything would have been on the table. For example, the various safety protocols, staff transfers, closed facilities, and deeming certain employees essential during COVID would be subject to negotiations. By requiring an employer to negotiate previously non-negotiation items, the legislation would have unraveled 50 years of clearly defined standards that established a precedent for PERC and courts to consider when reviewing county and municipal matters. The League partnered with the New Jersey Association of Counties and New Jersey Municipal Managers Association in opposing this legislation.

Over the course of the legislative process, the bill was amended several times. Ultimately, the Governor signed into law a bill that expands the scope of negotiations for the State as an

employer, but not for municipalities, counties, and certain others. Although we remain concerned about the precedent the measure may establish and potential litigation as the new law creates two separate standards for negotiations, the law as ultimately adopted explicitly removes municipalities and counties and further eliminated conflicting language that would have established a new test for determining what would constitute a negotiable item.

Status: Signed into law on January 18, 2022 as P.L. 2021, c. 411, however the expansion of the scope of negotiations applies only to the State as an employer.

Coronavirus Relief Bonds (CARB) Bill

The League worked with the Government Finance Officers Association and a group of financial planners to pass legislation that permits municipalities and counties to issue bonds for the loss of revenue and/or unanticipated expenses directly attributable to the COVID-19 pandemic. The bill was conditionally vetoed by the Governor to address some of the concerns raised by the Division of Local Government Services. After lengthy discussions, and the Division's proposed guidance, our initial concerns with the conditional vetoed were addressed.

Status: Signed into law on August 31, 2020 as P.L. 2020, c. 74

Shared Service Legislation

Since 2010, then-Senate President Sweeney advanced legislation that would have driven shared services. The legislation would, on the one hand, allow the voters to express their opinion on a shared service proposed by the Local Unit Alignment, Reorganization and Consolidation Commission (LUARCC); but on the other hand, if the voters rejected such proposal, the municipality's state aid would be reduced by the proposed savings from the shared service agreement. Over the years, the legislation included provisions that addressed longstanding civil service hurdles to shared services and at other times added additional hurdles that would make shared services an even greater challenge for civil service towns. In its lifetime, the

bill had passed the Senate but never had an Assembly Committee hearing.

Status: Assemblywoman Lampitt and Assemblyman Moriarty have introduced the legislation in the new legislative term.

Small Cell/5G

Over the last two legislative sessions, efforts have been made by telecommunications providers to erode local control over the use of rights-of-way to allow them unregulated and unmonitored access to this public asset to deploy small cell and 5G nodes. Bills such as A-1116/S-2674 were advancing quickly in the most recent legislative session but ultimately were never approved by both houses.

It is anticipated that similar bills limiting municipal oversight of the rights-of-way will continue to be pursued; however based on trends in the industry and with legislation across the country, it is likely that there will not be such a strong push for a sweeping bill like we

have seen in the past. Instead, we are seeing efforts from the telecommunications industry to push for more piecemeal legislation, and also seeing them attempting to persuade individual local governments to provide them the type of access they desire, much to the detriment of the localities.

An example of this alternative legislation is S-4082/A-3165, which was introduced last year and would provide that applications for the collocation of wireless equipment be processed administratively as a permit rather than an application for development. This change would mean that applications for collocating wireless equipment would be subject to a much shorter timeframe for review, 30-days as provided for in the bill, than what is currently allowed under federal and state law. This is of particular concerns for municipal officials as the proliferation of small cell technology has shown that permit

NJLM New Jersey State League of Municipalities

Compare salaries for over 40 municipal positions.

This digital dataset includes information in a Microsoft Excel Spreadsheet, and includes salaries for 2021 and 2020.

View the full list of positions and municipalities included in this report on the League's website.

@www.njlm.org/salaryreport

Order your copy today!

Municipal Salary Report - Published 12/2021

applications for wireless equipment come in batches, requiring review of a large number of applications in a shorter amount of time.

A-3165 was unanimously passed in the Assembly but its Senate companion, S-4082, never made it to a full vote in the Senate.

On a related note, the Governor

signed into law A-850, establishing a 19-member commission that will evaluate impediments of access to broadband service within the state, with a special focus on the feasibility and proliferation of community broadband networks. The League supported this legislation and hopes the Commission's findings will lead to policy changes and an

increase in resources allocated to help assist those currently without adequate access to fast and affordable broadband internet access.

While the League continues to monitor legislation, we encourage our members to review their own specific ordinances to ensure they maintain the proper control over their rights-of-way. The League has a number of resources available for our members to ensure they retain control over their local rights-of-way.

Status: The League continues to monitor for potential legislation and to be a resource for municipalities. A-1116 was reintroduced in the new legislative session as A-471, S-2674 was reintroduced as S-1487. A-3165 and S-4082 have not yet been reintroduced in the new legislative session.

Restoration of Urban Enterprise Zone

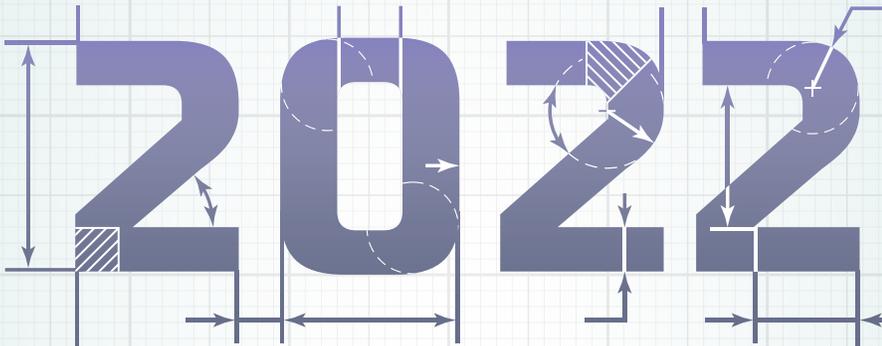
Since the reduction in scope of the Urban Enterprise Zone (UEZ) law a decade ago, the League worked to enact legislation that restores and revises the program. After much advocating for it, a measure was signed to continue the UEZ program. There are 32 UEZ zones in 37 municipalities and 7,267 certified UEZ businesses. The reduced sales tax to the consumer and exemption for construction materials and goods remains in the program. The changes made in this legislation to the Urban Enterprise Zone program include creating new permitted spending categories including loans, grants, and public safety; requires municipalities to update zone development plans; appropriates \$42.5 million for zone assistance funds for FY 22; creates a \$100,000 limit cap on larger businesses; and alters the method of tax distribution to UEZs.

The new formula applies a 50% weight to each UEZ municipality's Municipal Revitalization Index Distress Score, the average number of unemployed persons in each UEZ municipality and number of commercial and industrial parcels located in each UEZ municipality, and would apply a 50% weight to the gross taxable sales in the municipality subject to reduced sales tax.

Municipal Officials

Do you work with an exceptional vendor that has helped your municipality?

NJLM Conference • 107th Annual



Building for Tomorrow

November 15-17 • Atlantic City #njleague

Invite them to exhibit at the NJLM Annual Conference!

www.njlm.org/exhibit

Contact: Kristin Lawrence | Director, Conference Business Development
klawrence@njlm.org | 609-695-3481 x125

The League thanks Elizabeth Mayor and League Past President Chris Bollwage and the New Jersey Urban Mayors Association for their tireless advocacy to accomplish this goal.

Status: Signed into law on August 17, 2021 as P.L.2021, c.197.

Hospital Property Tax Bill

In 2015 a New Jersey tax court decision examined the property tax exemption status for a large not-for-profit hospital. After reviewing the modern-day business practices of the hospital, the tax court determined that the hospital's property tax exemption status was highly questionable. While the parties in the matter were able to come to a settlement agreement, the decision resulted in many municipalities hosting not-for-profit hospitals to begin challenging the exemption status of these properties. This in turn led the industry to push for legislation to protect their non-profit exemption status, despite modern business practices allowing them to operate more like a for profit entity.

For years, the League negotiated with industry representatives, attempting to come up with collaborative solution; however, at the urging of the industry legislators pushed ahead with legislation that would allow these facilities to avoid paying their fair share of property taxes. Then, in February 2021 despite the League's continued opposition, the legislature passed and Governor Murphy signed into law P.L.2021, c.17.

This new law undermines the ability of a municipality to

challenge a not-for-profit hospitals' tax exempt status. The law does require not-for-profit hospitals to make a community service payment to the host community, however this payment is far below what would likely be collected as property tax, if these facilities were treated equally.

Shortly after adoption of P.L.2021, c.17, a number of host municipalities filed suit, challenging the new law based on a violation of the New Jersey Constitution's tax uniformity clause. These lawsuits are still pending and the League is monitoring their progress.

Status: Signed into law on February 22, 2021 as P.L. 2021, c. 17.

Hospital Wrap-Around Services

Early in the last legislative session legislation (S-1676/A-3326) was introduced that would allow hospitals to construct housing and provide wrap-around services for individuals who are homeless or housing insecure. While the League supports efforts aimed at providing health care and housing to those in need, we opposed provisions of the legislation that would deem such housing as a permitted use in all residential and nonresidential districts within a municipality, thereby completely exempting such housing from local zoning requirements.

After passing in both houses, the measure was sent to Governor Murphy in March of 2021. In May of 2021 the Governor conditionally vetoed the bill, and requested amendments seeking clarifying language related to affordable housing credits

VENDORS: WANT TO REACH THE MUNICIPAL MARKET?

NJLM's magazine puts your company name in the hands of local government decision makers across the state.

REACH A UNIQUE NICHE AUDIENCE

92%

of NJ Municipalities' readers are currently involved in local government.

GENERATE QUALITY LEADS

6,355
subscribers

ESTABLISH BRAND AWARENESS

70%
of readers have subscribed for 10 years or longer.

NEW JERSEY
STRAIGHT AHEAD

NJLM New Jersey State League of Municipalities

nj municipalities
Official Publication of the New Jersey State League of Municipalities

Contact: Tasneem Kapadia, Advertising Coordinator, 609-695-3481, ext. 121 • tkapadia@njlm.org

Legislative Update

and identifying eligibility standards for those to qualify for the housing. The conditional veto did not address League concerns regarding zoning. Ultimately, both legislative houses concurred with the Governor's recommendations and the bill was signed by the Governor on June 30, 2021.

Status: Signed into law on June 30, 2021 as P.L.2021, c.134.

Civil Service Opt-Out

Legislation that would have permitted municipalities with populations under 2,500 to withdraw from civil service by ordinance unanimously passed the Senate and was released from the Assembly State and Local Government Committee. The bill failed to get a second reading in the Assembly. While the legislation would only apply to 9 of the 194 Civil Service municipalities, the League viewed the bill as the first step toward giving Civil Service municipalities a decision on how to manage personnel issues. Municipalities are permitted to change their name, their form of government, and their borders. Municipalities can even consolidate with neighboring communities, but they cannot change a decision made in some cases over 100 years ago—a decision that was made prior to today's federal and state labor laws.

Status: Senator Cruz-Perez has introduced the legislation (S-517) in the new legislative term.

PILOT Legislation

Over the legislative term there were several pieces of legislation which would have changed PILOT agreements. The legislative proposals included the requirement to share PILOT revenue with school districts, either percentage based on levy percentage or flat fee and subjecting PILOT projects to the Prevailing Wage laws. The League was part of a broad based coalition, including the New Jersey Conference of Mayors, New Jersey Urban Mayors Association, and NJ Builders, expressing strong opposition to such proposals.

Status: As of this writing, no new legislation has been introduced.

Expanding 20 and Out for Police and Fire

The League of Municipalities joined with the New Jersey Association of Counties and Government Finance Officers Association of New Jersey in opposing legislation that permits a Police and Fire Retirement System (PFRS) employee who was enrolled before or after April 19, 2021 to retire, regardless of age, upon attaining 20 or more years of service credit and allows that employee to receive a retirement allowance equal to 50% of the member's final compensation. The public safety unions supported the bill as it clarified the Division of Pensions interpretation of a 2000 law that permitted PFRS members who were already enrolled to retire at any age with 50% of their final compensation upon attaining 20 years of service. Any member who enrolled in the retirement system after Jan. 18, 2000, was not eligible for this benefit. The bill was amended to limit to a two-year period during which a PFRS member may retire to receive this benefit.

Status: The amended bill was signed into law on April 19, 2021 as P.L. 2021, c. 52 and the benefit will sunset in 2023.

Dog Ownership Bill

The Assembly Agriculture Committee considered the "Responsible Dog Ownership Act," which provides for the protection of the public, especially children, from unrestrained dogs. It requires the establishment of leashing and fencing requirements to be implemented by municipalities throughout the state. It also amended the State's vicious dog law to clarify enforcement of that law and establish new criminal offenses involving dog attacks and criminal liability for owners of the dogs involved.

While a laudable goal, there were a number of implementation and enforcement challenges that made the proposal unworkable. While we worked with the sponsors and they were amenable to our suggestions, there were too many variables to permit the League's support.

Status: A-2401 was favorably reported from the Assembly Agriculture Committee last June but advanced no further.

Warehouse Bill

S-3688, introduced last year by then-Senate President Sweeney, aimed to provide for a regional economic and land use impact report, and established a review process related to the development of certain large warehouses. The measure would have also required property tax reassessment under certain circumstances.

In short, this legislation sought to create a mechanism that would have required input from neighboring municipalities whenever a municipality received an application for development of any warehouse. While the League did not take a position on the bill, we raised a number of concerns with the concepts laid out within, our goal being to balance both the concerns of involved parties and to protect the concept of home rule.

Status: This bill was released out of committee but never went to the full senate for a vote. No similar bill has been reintroduced new legislative session but efforts continue within the administration, to address issues and provide solutions with "warehouse sprawl." The League is actively participating in these conversations with the administration and continues to be an advocate for all our members.

Daniel's Law Implementation

In 2020, Governor Murphy signed P.L. 2020, c. 125, known as Daniel's Law, prohibiting disclosure of active, formerly active, and retired judicial officers, prosecutors, and law enforcement officers' home address, both primary and secondary. The well-intended law is fraught with implementation challenges. To address those challenges, clean-up legislation was introduced and signed into law that would create an Office of Information Privacy to streamline the process of implementing Daniel's Law.

The Office would establish a secure portal for those covered under Daniel's Law to submit or revoke a request for the redaction or nondisclosure of their home address. In order to have their home addresses redacted under Daniel's Law, a

person would have to submit a request to the Office of Information of Privacy through a secure portal. A public agency would be required to redact or cease to disclose the home address no later than 30 days following the approval from the Office of Information Privacy. P.L. 2021, c.371 includes a list of exceptions to the requirement to redact and the prohibition against disclosure of home addresses.

The League was part of focus group discussions on how to implement Daniel’s Law and worked with the sponsors to ensure local concerns were addressed.

Status: Waiting for Department of Community Affairs to appoint the Director of the Office of Information Privacy. P.L.2021, c.137 took effect January 12, 2022 and applied retroactively to December 10, 2021. However, compliance with provisions of Daniel’s Law and the recent amendments are not required until next year, January 13, 2023.

Expedited Construction Permits

Last session, both houses passed S-3095/A-4850 sending the measure to Governor Murphy for his action. The League opposed this measure which sought to establish an expedited construction inspection program that would allow able and willing property owners to pay an additional fee to jump the inspection line and receive an inspection within two days rather than three as currently provided for.

While S-3095/A-4850 ostensibly provided a mechanism for expedited inspections, the more likely unintended consequence of the bill would have been a complete shift in inspections being performed by municipal officials to third-party entities. This would be a tectonic shift in the nature and function of construction inspections and is something that needs far more consideration and discussion with a host of impacted stakeholders.

Further, language within S-3095/A-4850 would have made the municipal building department a transaction agent for third-party inspection entities—with enforcing agencies acting as a middleman for the collection of fees from applicants only to be turned over to the third-party inspection entities. This comes at an administrative cost to municipal building departments, for which the legislation provided no means to offset or recoup such costs.

Ultimately, Governor Murphy conditionally vetoed the bill, returning the measure to the legislature for them to take action to concur with his recommendations. The legislature failed to take action to consider the Governor’s conditional veto, and the measure was left, not proceeding to become law.

Status: Approved in both houses, S-3095/A-4850 was conditionally vetoed by the Governor and did not proceed to become law. A-4850 has been reintroduced in the new legislative session as A-573. 



 **New Jersey State League of Municipalities**

2022 MINI CONFERENCE

Earn CEU credits!

RATES
Member* \$115 per registrant
Non-Member \$130 per registrant
*Member rate applies to Municipalities, State, County, and Municipal Utilities & Authorities.

June 15, 2022
 8:30 a.m.-5:00 p.m.

Location:
 The Conference Center at Mercer, West Windsor

TO REGISTER:
 Visit: www.njlm.org/miniconf
 Download the registration form, complete, and fax it with your voucher to Sue DeLany at **609-695-0151**

SESSION TOPICS:

- Diversity
- Controlling Insurance in the COVID Age
- Veterans & Senior Citizen Tax Deductions
- Vacant Properties
- Effect of COVID on Municipal Finance & Budgets

...and more!

Questions?
 Contact Danielle Holland-Htut, dholland@njlm.org