

# NEW JERSEY MUNICIPALITIES

New Jersey State League of Municipalities • [www.njslom.org](http://www.njslom.org) • February 2013



## Know Your Energy Options

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Plumstead Inks  
the First Municipal  
Aggregation Contract

Municipal Electric Service  
in Light of Hurricane Sandy

The Costs of Legislating  
Utility Infrastructure

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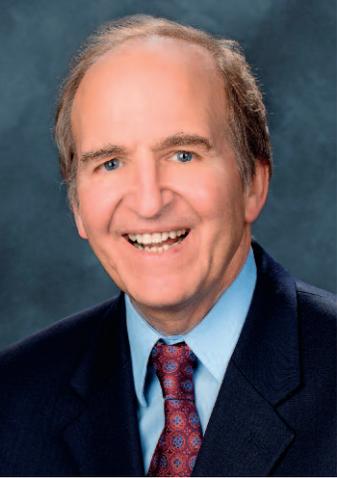
**Subscription Manager**  
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**Creative Director**  
Dawn Becan, White Eagle Printing Co.

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FROM 222 WEST STATE STREET  
BILL DRESSEL, LEAGUE EXECUTIVE DIRECTOR

# THE STATE OF PROPERTY TAX RELIEF

Last month, Governor Christie delivered his third State of the State message. Later this month, he will deliver his fourth budget proposal. Together with considerations of this November's elections, these two presentations will shape policy debates in Trenton for the rest of this year. Accordingly, this seems like a good time for some observations on the current state of our municipalities and their forthcoming budgets.

[ THE NEXT ADVANCE IN PROPERTY TAX RELIEF HAS TO INVOLVE ENDING THE STATE'S TAKING OF ENERGY TAX RECEIPTS AND CMPTRA FUNDS. ]

In 2011, property taxes increased by 2.4 percent. Obviously, local officials are doing all that they can to limit increases. They deserve credit for making the tough decisions in tough times. They have cut budgets, pursued savings, engaged in tough negotiations, reduced the workforce, shared services, cut spending, applied best practices, emptied reserve accounts and deferred investments.

They did this as property values declined, tax appeals increased, development and economic activity stalled, employment slumped and property tax relief funding was diverted to the State Budget.

That said, they could not have gotten down to 2.4 percent without the reforms enacted by the Governor and the Legislature. For things like the cap on arbitration awards and pensions and benefits reforms, the Governor and Legislative leaders deserve our thanks and recognition.

The 2 percent levy cap allows certain common sense exceptions. Hopefully, many of the 'Sandy' emergency costs will be off-set by FEMA reimbursements. However, the costs of health insurance and pension costs, as well as 'inside the cap' costs such as insurance premiums, utility bills and motor fuel, will continue to rise by much more than 2 percent.

In 2013, the municipal budget maker has to be concerned with all costs, whether outside the cap or not. So for the vast majority of municipalities that already do everything they legally can to control costs (including sharing services, reductions in force, negotiating give-backs, etc.) there are only three alternatives.

They can cut essential services. They can ask the voters, who are already facing their own financial concerns, to approve higher property taxes. Or they can be given the energy tax monies that were meant for property tax relief. That would give municipalities the income they need to meet their increasing costs, without asking voters to sacrifice financially or do without essential services.

The next advance in property tax relief has to involve ending the state's taking of Energy Tax Receipts and CMPTRA funds that are meant to be distributed to municipalities for property tax relief. ▲

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Energy Aggregation

# An Idea Whose Time Has Come

The New Jersey State League of Municipalities has been a leader in advocating policy and legislation to promote the production and importation of clean fuels, while recognizing the importance of renewable energy, energy efficiency and conservation. The League's goal is to improve air quality, reduce greenhouse gas emissions and save local government money, with the ultimate goal of improving the quality of health and life for New Jersey's residents.



By Joel L. Shain  
NJLM Utility Counsel;  
Shain, Schaffer &  
Rafanello, PC

One of its major accomplishments in this regard was the passage of energy aggregation legislation. The law enables municipalities to negotiate a bulk purchase of energy supply on behalf of its residents and businesses at prices lower than the average utility price.

The state's energy aggregation movement started 15 years ago, when Mayor Richard Pucci of Monroe Township, Middlesex County helped local governments realize that their involvement in the soon-to-be world of energy deregulation was no longer optional. His philosophy, which the League adopted, was clear: "Government, in the public interest, must allow consumers to form aggregation groups as numerous, broad and diverse as is reasonably possible. For, the more extensive and balanced the aggregation group, the more savings for consumers. Only with this market power can consumers, particularly residential consumers, have the requisite bargaining power to fairly contend in the deregulated marketplace."

With this in mind, the Monroe Township Pilot Program, with the approval of the Board of Public Utilities, was created. The township aggregated all electricity users—residential, commercial, industrial and governmental—into a buying group and went out to bid. A new supplier was chosen. Substantial savings were had. New Jersey became a leader in municipal aggregation. But, not for long.

In 1999, the misnamed "Electric Discount and Energy Competition Act," stifled competition and put an end to municipal aggregation. The act's 10 percent rate reduction, which initially shielded consumers from the true market cost of electricity, ultimately discouraged conservation and aggregation. Artificially low generation costs for incumbent companies kept internal markets closed to competition. Thus, the state's promise that municipalities would be able to pool their energy purchases for government facilities as well as for businesses and residents and save money for all involved proved to be bogus. With politics trumping common sense, the successful Monroe model was scrapped, and neither of the two methods for municipal aggregation included in the Act worked. The effort to legislatively protect the state's incumbent utilities from outside competition failed. And today only one is left standing.

In August 2003, the potential for municipal aggregation was restored, thanks to a new Administration and the efforts of the League to secure amendments to the act. Or, I should say, the tools were put in place to make it possible. The Act was amended and rules were adopted by the

BPU which pretty much mirrored the successful, but now defunct, Monroe Pilot.

Unfortunately, inertia and economic uncertainty took hold. No municipality moved forward. And, when the BPU established an auction for the purchase of electricity (representing the largest single aggregation of residents and businesses in the state) municipal aggregation became a distant memory.

THE SUPPLIER CHOSEN,  
CON EDISON RESOURCES,  
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(FOR THE AVERAGE RESIDENT),  
OVER THE CONTRACT PERIOD  
STARTING IN JANUARY 2013.

But, the idea did not die. Cooling America thru Local Leadership (Cooling America), a small 501(c)(3) non-profit organization which was established with the goal of working with local governments to help reduce greenhouse gas emissions, and to explore novel approaches for energy procurement, took up the cause of energy aggregation. Johnny Appleseed style, starting in late 2010, they visited municipalities touting the benefits of aggregation. They reminded local leaders that the risk was low: (1) municipalities only act as agents for the end users and are held harmless from any liability; (2) set-up costs are fully refunded by the new energy supplier; (3) the local utility retains responsibility for delivering the power, the metering, and the billing; (4) residents are free to opt out at any time for any reason; and, (5) the program is strictly regulated by the Board of Public Utilities.

But, the seeds did not bear fruit. There was the fear of being the first under the 2003 legislation. Why hasn't anyone else done it yet? There was fear of constituent retribution. If the power goes out, will I be blamed? But, with a pioneering spirit, Cooling America persisted.

In early 2011, this pioneering group arrived in Plumstead Township with their pitch for energy aggregation. They met with Peter Ylvisaker, the Executive Director, and other members of the local utility authority, who after careful analysis and study recommended the program to then Mayor Ronald S. Dancer and the Township Committee. Like Mayor Pucci before him, Mayor Dancer was not afraid to be the first to try something different to benefit his constituents.

Thereafter, Plumstead's aggregation went smoothly. A RFP was issued in the fall of 2011. The resulting contract, to Cooling America and its partner Gabel Associates, would help the municipality choose a Third Party Supplier, through competitive bidding.

Plumstead Township kept the public informed throughout the process. The program features were detailed in a mass mailing sent to all residential accounts and businesses and then discussed at a public meeting held by the municipality in May 2012. Participants at that meeting were generally aware of the possibility of procuring energy from a different supplier, but

appreciated the township's efforts to secure the best possible price by screening potential suppliers and aggregating the requirements of the community.

The supplier chosen, Con Edison Resources, provided a 14 percent savings (for the average resident), over the contract period starting in January 2013. At the end of a 30-day, "opt-out" period, 93 percent of eligible township residents were enrolled in the program.

Ed Weirsky, vice chair of the local authority, summed it up when he said, "Once we had completed our research, we could not come up with a single reason why the township should not create a Government Energy Aggregation program. We were confident the program would save our residents money, which in these times is especially important, and all of our administrative and professional costs would be reimbursed. The process was virtually seamless to implement and there is very little the Authority or Township have to do now that the program is established. Everything is the same as it was except the savings to Plumstead

residents in the cost of electricity. Our next goal is to see if we can attract other municipalities to join us in a regional effort to achieve even lower electric costs."

Laurie Wiegand-Jackson, who in 2003 served as the consultant to the Board of Public Utilities in the drafting of the Government Energy Aggregation Rules, and is now President of Utility Advantage, was "pleased to see that the program design was able to achieve its intended goal of widespread participation, ease of implementation and of course, energy cost savings. I hope that other municipalities will be encouraged to implement aggregations for the purchase of energy commodity and other energy services for their constituents to promote cleaner, greener cities across New Jersey."

Some say it's not good to be a pioneer—high death rate. But the pioneering days are done. Governmental aggregation works; it makes folks happy by saving them money without effort. And when you make your constituents happy—well, you know. So let's get to it—aggregate. ▲

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Promising Idea or Risky Enterprise?

# Considering Municipal Electric Service in Light of Sandy



By Edward J. McManimon, III  
NJLM Associate Counsel;  
Member, McManimon, Scotland  
& Baumann, LLC



**M**unicipalities have routinely provided water and wastewater service to their residents and property owners as part of their general operations. Many also similarly provide solid waste services. Public operation of these services is generally viewed as more efficient, less expensive and more reliable than privatization. In contrast, electricity is usually provided by an outside company.

The idea of municipalities providing electric service directly, rather than through a conventional, investor-owned utility, has resurfaced as a result of the often chaotic and inefficient response of the investor-owned utilities following Hurricane Sandy. The concept receives increased interest whenever various state or federal actions increase the potential for increased competition, as they have over the years.

## COULD NEWLY-FORMED MUNICIPAL ELECTRIC UTILITIES IMPROVE UPON THE SERVICE PROVIDED BY THE CURRENT PROVIDERS?

This article discusses the potential for municipalization, which involves a major investment by a municipality through bonding to acquire or construct various facilities to provide electricity to all customers located within its environs. Municipalization enables a municipality to sell the electricity it produces or buys to its residents and its industrial and commercial entities.

There are many legal, financial, procedural and policy issues involved in providing electric power at the municipal level. The laws involved include the Federal Energy Policy Act of 1992, the Federal Power Act, the New Jersey Public Utilities Municipally Owned Law, and the Local Budget Law. Other critical issues to consider relate to eminent domain, referendum requirements and various tax issues. In addition, it is important to consider the following practical issues.

First, New Jersey has only nine municipally owned electric utility systems and one rural electric cooperative. Only one of these (Vineland's) actually generates its own energy and

Municipalization enables a municipality to sell the electricity it produces or buys to its residents and its industrial and commercial entities.

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The TEC 2013 Keynote Address will be presented by the Port Authority of New York and New Jersey Department of Technology Services. The speaker will be addressing the challenges of managing sophisticated technical solutions to difficult operations problems throughout a diverse organization.

Last year there were 125 attendees, 13 educational forums and 35 vendors to network with. Four contact hours of IT CEUs have been applied for with the Division of Local Government Services!

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capacity on a large scale, although others have installed or are considering installation of generation at some level to help provide access to alternate power sources.

Many of the economic incentives that enabled municipalities to set up electric utilities have disappeared. Any new electric utilities, whether public or private, would no longer be exempt from state sales and use taxes. They would also be subject to the Electric Discount and Energy Competition Act (EDECA) and face issues involving compliance and customer choice.

The cost to acquire existing, private-investor owned distribution systems would likely be significant or even prohibitive. The issues involved in using eminent domain are unclear and any effort in this area would likely be met with significant legal resistance from the utility companies.

Another key consideration is the reliability of service. Could newly-formed municipal electric utilities improve upon the service provided by the current providers? Residents of municipalities with their own electric utilities experi-

enced a briefer loss of power after Sandy and last year's storms than private ratepayers in neighboring communities.

Even though some of the New Jersey municipally-owned electric utilities suffered similar damage to those that took the investor-owned utilities off line following the hurricane, most (if not all) were much more efficient at fixing the problems and restoring electricity—including those in the hard-hit boroughs of Lavallette and Seaside Heights.

Lavallette's system was repaired and transmission service from the grid restored by JCP&L on November 8. Lavallette Borough began offering service to its customers soon thereafter. The flood lights that have long shone on Lavallette's water tower were back on and served as symbol of hope for the barrier island.

Seaside Heights had recently installed nearly enough generation to service the borough during the off-season. They started the generators soon after the storm and provided service to essential municipal facilities. Like Lavallette, Seaside Heights used crews from

other municipal electric systems from as far away as Alabama to repair and actually improve their own system. JCP&L restored transmission service to Seaside Heights and service was made available to its customers.

In addition, operating a municipal electric utility would require significant expertise and experience. New Jersey's nine local municipal electric utilities and one electric cooperative have a lot of experience. It is possible that a shared services agreement could help to provide the necessary expertise to create and operate a new municipal utility service.

Municipalities, despite the technical, legal and tax obstacles, should be able to provide electric service in a less expensive manner than investor-owned utilities. Municipal utilities have access to cheaper interest rates that would make the purchase and future maintenance of an electric utility system less expensive. Any new municipal electric utilities would purchase electricity from wholesale suppliers within the regional grid system for resale to their residents.

Pending legislation, which has the support of the Public Power Association of New Jersey and the existing municipal utilities, would essentially provide for a statewide energy supply company. This entity would enable local municipal utilities to access the competitive market on a daily basis.

Recent legislation, designed to improve the performance of private electric companies, may quiet the calls for municipal utilities by increasing consumer confidence. The proposal would force the investor-owned utilities to:

- fortify substations and switching stations to make them more immune to storm damage;
- create redundant technology and access to alternate sources of power;
- install smart meters that alert the utilities to power outages; and,
- implement a comprehensive tree pruning and removal program.

However, you can be sure that the costs of these reforms will be added to the rate charged by the investor-owned utilities. ▲

For a more comprehensive analysis of the issues referred to above, please contact Edward J. McManimon, III at [emcmanimon@msbnj.com](mailto:emcmanimon@msbnj.com).

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## Beach Tags Provide Accountability and Statewide Funding



By Edward J. Mahaney, Jr.  
Mayor, Cape May City

Cape May City stands united with coastal communities in opposing Senate Bill 2368, which would require any New Jersey municipality accepting state or federal aid for rebuilding beaches to provide beach and restroom access for free. This usurps local government's authority to institute user fees which ensure that participants of a specific municipal service/program provide necessary financial support to cover relevant costs incurred.

Fee-based operations offer a town the legal and functional capability to demonstrate two major initiatives emphasized by the Christie Administration: open and transparent government and fiscal/operational accountability to local taxpayers. User fee-generated programs/services ensure that the cost burden for a particular activity, including recreational beach and bathing services, would not fall on the non-participating taxpayers through the annual municipal budget and related capital improvement budget.

Cape May exemplifies the "best practices" approach in its beach tag program by creating a self-liquidating Beach Utility. This utility generates \$2 million annually from the sale of daily, three-day, weekly, and seasonal beach tags. These tag offerings demonstrate our genuine intent to meet the beach-related needs of our permanent and seasonal residents as well as visitors. This also insures that tag prices are fair and affordable for purchasers from all socioeconomic levels, while providing sufficient revenue to cover beach-related operational costs. While Cape May initiated beach tags in 1977, only in the past decade has annual revenue matched costs so that the burden of subsidizing beach operations has been lifted off local taxpayers.

Cape May expends nearly \$2 million per year to maintain 2.3 miles of beach front, plus the local financial share of our two long-term, periodic beach replenishment projects with the U.S. Army Corps of Engineers and New Jersey Department of Environmental Protection. These projects

are focused on navigational, shoreline protection, and ecosystem restoration missions. The provision of recreational bathing beaches is a secondary benefit. Cape May would still be obligated to pay its local financial share for each beach replenishment project.

Cost centers for maintaining/operating our beaches also include the following: lifeguarding services; rescue boats; beach rescue vehicles; capital improvement projects and maintenance; beach cleaning; maintenance and restroom cleaning; and water for restrooms, showers, and water fountains. Related costs are capital improvement projects and maintenance for ADA compliance; debt service; insurances; trash/recycling services/fees; police and rescue services; state-mandated lifeguard pension program; and legal and audit services. All expenses attributed to these approved cost centers are paid by beach tag revenue. There is no such entity as "free beaches;" someone has to pay for these ongoing costs.

Under S-2368, all beach maintenance/operations costs and the municipal share of beach replenishment costs would be borne by the local taxpayers, and not by the approximately 200,000 tag holders who annually use Cape May beaches. This legislation would result in the elimination of only \$275,000 in beach tag employees' salaries/wages from the nearly \$2 million in Beach Utility expenses. This legislation would cause an 8 cent tax rate increase on Cape May City property owners. Cape May could not incorporate this remaining \$1.7 million in beach-related expenses within our Current Fund Budget while still remaining adherent to the state-mandated 2 percent tax levy cap.

The outcome would be major reductions in programs/services, including public safety. The effectiveness, efficiency, and accountability of the city's Beach Utility would be destroyed. The retired senior citizens and college/high school students who comprise our 70 beach taggers are seasonal, minimum wage workers who receive no fringe benefits and need this income to meet their living and

THERE IS NO SUCH  
ENTITY AS "FREE BEACHES;"  
SOMEONE HAS TO  
PAY FOR THESE  
ONGOING COSTS.

education expenses.

This legislation is a direct attack on public health, safety and welfare, and prevents a community from remaining affordable so that there is economic sustainability on a year round basis for the people who live, work, and visit Cape May.

ONLY IN THE PAST  
DECADE HAS BEACH TAG  
REVENUE MATCHED COSTS  
SO THAT THE BURDEN OF  
SUBSIDIZING BEACH OPER-  
ATIONS HAS BEEN LIFTED  
OFF LOCAL TAXPAYERS.

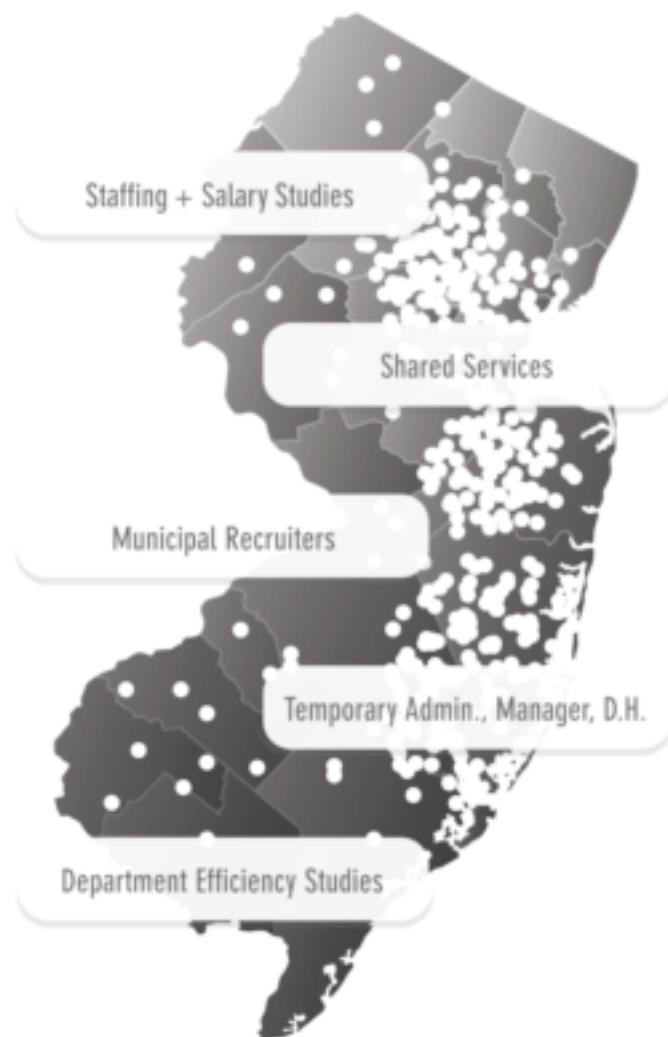
In addition, enactment will undermine Cape May County's \$5.1 billion tourism economy. This "economic engine" generates \$482 million in fees/taxes annually for state government which then distributes this revenue for vital programs and services provided by public/private agencies throughout the Garden State. This legislation will cause disastrous revenue shortfalls immediately in the State Budget which will imperil the financial solvency of all levels of government statewide.

Cape May's clean, safe and maintained beaches are universally revered, and are the major factor in attracting visitors. Removing this allure would be as devastating economically to the entire state as the physical damage caused by Hurricane Sandy was for our coastal communities.

In Sandy's aftermath, let's focus on restoring affected families and towns to their normal quality of life as cooperatively, compassionately and efficiently as possible. We should strive to retain the millions of tourists and their related tourism spending in the coming rebuilding years to aid in our recovery and to maintain New Jersey's economic stability. ▲

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# Consider Cost When Making Utility Infrastructure Decisions



By Stefanie A. Brand  
Director, Division of  
Rate Counsel

**M**any citizens and their state and municipal representatives are asking where we go from here to address utility infrastructure and vulnerabilities following the devastation caused by Hurricane Sandy. As the Director of the Division of Rate Counsel, which represents and protects the interest of utility consumers such as residents, small business customers, small and large industrial customers, schools, libraries and other institutions, I am often asked what we can do to avoid the extensive and long-lasting outages that seem to be happening more and more frequently.

My response is to strongly urge that we not rush to institute measures before we know if they will have a positive effect and how much they will cost. It is important to

remember that every measure we consider comes at a cost and that cost will be borne by the same people who suffered from the outages that resulted from Sandy.

It is also important to remember that Sandy truly was a historic storm. When storms like Sandy occur, there will be outages. We can't create an expectation that we can avoid power outages or incur only brief interruptions in the wake of a storm like Sandy by simply implement certain measures. By far, the worst possible outcome would be to go on a spending spree, adding significantly to rates, and then have another storm of that magnitude and find ourselves again with lengthy and wide-spread outages.

We must strike a proper balance as we look for solutions. I encourage everyone to focus on what measures we can

take that will be cost-effective and will help with restoration and outage minimization. We have to look at what ratepayers can truly afford. And we have to make sure that the utilities are spending the funds collected for reliability on reliability; that they are complying with the Board of Public Utilities' (BPU) tree-trimming and reliability regulations, and that they are sharing in the responsibility of trying to address what appear to be more frequent major storms.

Some may not realize it, but utility rates already include funds to allow the utilities to respond to storms. For most of the utilities, three to five year averages are used to determine the appropriate amount of potential storm related costs that are built into rates. Outliers like Sandy would not be included in those calculations, but reasonable and prudent storm restoration costs are recoverable by the utilities when they come in for a rate case. Also included in rates is a certain amount of spending for maintaining reliability. That number would be based on the amount spent during the "test year" used in the utility's last rate case. It is the utility's obligation to spend that money in order to



We can't create an expectation that we can avoid power outages or incur only brief interruptions in the wake of a storm like Sandy by simply implementing certain measures.



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PHOTOS: STRUXURE<sup>®</sup> Recycled Structural Composite Boardwalk installed in DuPage Forest Preserve near West Chicago, Illinois.

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maintain “safe, adequate and proper service,” and to comply with the minimum reliability requirements that are set forth in BPU’s regulations.

In addition to the amounts that ratepayers pay in base rates, over the last several years, ratepayers have been paying additional funds to allow most utilities to accelerate their infrastructure spending. As part of the economic stimulus programs instituted in 2009, the electric companies have been granted over \$600 million to accelerate infrastructure spending. During that same time period, the gas companies were approved to spend \$800 million to accelerate infrastructure improvements to prevent leaks.

Thus, it may be that ratepayers are currently paying enough for reliability and infrastructure upgrades. We should first take a closer look at what we are already spending and whether it could be spent differently to address frequent and long-lasting outages. Before allowing utilities to go on a spending spree, which they will happily do since they earn on those investments, we should first figure out

where the money we are already giving them is going. It may be that more needs to be poured back into the business rather than being paid out in dividends to shareholders.

WE SHOULD FIRST  
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We also need to reject suggestions that the utilities should obtain recovery of their costs outside of a rate case. It is only in a rate case that our office and the BPU get a comprehensive look at the utility’s finances. We look at what they are spending on infrastructure and reliability, and what they are earning and paying in dividends. We look at how they have been performing when it comes to reliability and customer service. If they are seeking an increase, as two of our electric utilities currently are, we look at whether they deserve one and whether there are cost savings in other areas to offset any cost increases. Now is not the time to cut back on this process—indeed, more scrutiny may be in order.

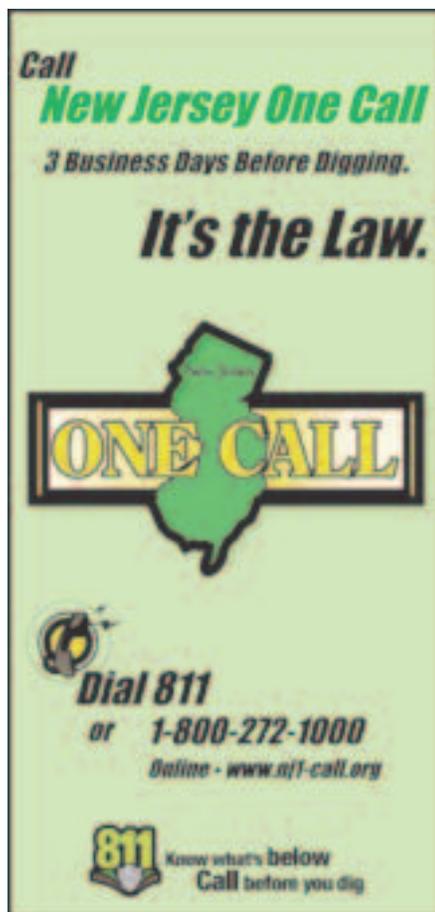
We also need to look at the standards that are already in place to make sure they are strict enough and that they are enforced. The BPU has regulations setting minimum reliability standards based on industry metrics that measure the number of outages and their duration. Those standards were modified in 2008 to use the utility’s own five year average to determine whether they have met the reliability standards. If a utility performed poorly over those five years, this modification had the effect of making the standards for some companies less rigorous. Those standards should be revisited to see if they should be made more rigorous.

There are also vegetation management regulations. Those regulations should be enhanced and strictly enforced. Penalties for non-compliance with both the reliability and vegetation management regulations are woefully low. Rate Counsel supports recent efforts to enhance those penalties. We would also support enhancing the ability of BPU to perform inspections or otherwise verify the utilities’ compliance with these regulations.

The emphasis has to be on cost-effectiveness. There are many possible measures that could be cost-effective, such as taking measures to prevent flooding at substations or reroute power if a substation goes out. Others, however, such as advanced meters, may provide more information to utilities but do not pay for themselves when the cost is compared to the benefit. These meters are very expensive, do not contribute to restoration or reliability, and provide savings only in the form of lost jobs for meter readers. They are quite lucrative for the utilities, however, as they will fully recover the costs from ratepayers, earn on this physical plant for the life of the meter, and continue to recover for the fully functional meters they are replacing. Moreover, if we spend the money on advanced meters, there will be less to go around for other cost-effective measures to make the grid “smarter” on the utility side of the meter.

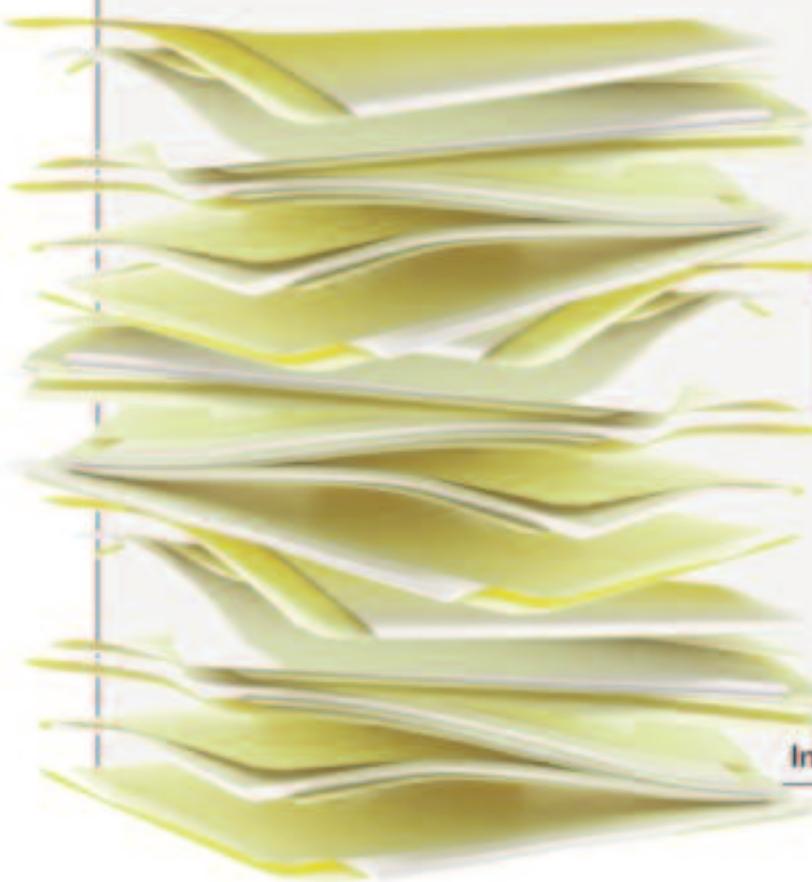
Undergrounding of power systems is also not a viable solution. The expense is astronomical. I have heard figures of \$1 million—\$2 million per linear mile. The impact on ratepayers’ bills of trying any significant level of undergrounding would be suffocating to our state’s economy. At the same time, undergrounding does not ensure that outages will not occur or be long-lasting. When an underground system floods, it may take even longer to restore than an above-ground system.

So let’s tread carefully and avoid the temptation to try to spend our way out of these problems. It’s not likely to work, and would increase the burden on ratepayers who are already struggling to pay for the damage caused by this devastating storm. Let’s not victimize the ratepayers of this state a second time by sharply increasing their utility bills without necessarily addressing the underlying problem. ▲



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Sister Cities Casalgrande and Asbury Park

# Sharing a Commitment to Economic Growth and Our Citizens



By Ed Johnson  
Mayor, Asbury Park

The letter arrived in May 2011 from Mayor Andrea Rossi of the Comune di Casalgrande, Italy inquiring about a cultural exchange between Casalgrande and Asbury Park. I couldn't have known that a letter, from out of the blue, would lead to a joint vision of a Sister City relationship that would yield great benefits for both municipalities.

As a seaside town of approximately 18,000 residents, Asbury Park has a rich history and a growing future as a regional destination at the Jersey Shore. Casalgrande, Italy is a similar-sized municipality in the countryside of Reggio

Emilia close to Milan and Bologna. Our two municipalities are very different, and yet we both work to deliver municipal services efficiently and to promote economic growth. Both cities also serve as tourist destinations.

For several months, Casalgrande and Asbury Park officials exchanged letters and e-mail. We discovered areas of interest on both sides that would form the foundation of the new and growing relationship. Musical heritage, cultural exchange and the municipal-resident relationship were areas where we hoped to collaborate and learn from one another.



Mayor Ed Johnson, Susan Pellegrini, Deputy Mayor Stefano Giovannini (Casalgrande City Council), Maurizio Lucenti (Casalgrande City Council Minister of Environment & Business) and several Casalgrande Padana officials take a tour of the Casalgrande Padana tile works.

**Casalgrande's Visit** Finally in late Fall 2011, it was announced that Mayor Andrea Rossi and a delegation from Casalgrande, Italy would visit Asbury Park in January 2012. Their visit would center around The Light of Day Concert with visits to New York City and within Asbury Park focusing on musical heritage, community events and a personal meeting with the Mayor and City Council of Asbury Park.

CASALGRANDE,  
LIKE ASBURY PARK,  
IS PROUD OF ITS HISTORY  
AND COMMITTED TO  
ITS CONTINUED GROWTH  
AND THE WELL-BEING  
OF ITS CITIZENS.

Mayor Rossi's visit to the area, over the Martin Luther King weekend and following week, was well received. The group visited the Bruce Springsteen Exhibit at Monmouth University and attended local Asbury Park musical events. Despite the cold weather, these visits demonstrated Asbury Park's rich cultural life and its importance to the economy of the Jersey Shore.

The Casalgrande delegation returned to Italy with a new sense of the role that the arts and musical heritage plays in Asbury Park. We agreed to continue our relationship and promised to consider sending a delegation to Casalgrande.



The climax of the Asbury Park delegation's visit to Casalgrande was attending the Italia Loves Emilia Earthquake Relief Concert at Campovolo. The event featured 14 of Italy's most famous artists and the surprise artist Jeff Beck. An estimated 190,000 people attended performances held on a stage three-times the size of Asbury Park's Bamboozle Concert stage.

In July 2012, we received a formal letter of invitation from Mayor Rossi to visit Casalgrande during their annual September Fair, September 19 through 26. With enthusiasm and high hopes, we accepted the invitation. Our delegation included myself, Susan Pellegrini (director of The Asbury Park Musical Heritage Foundation) and Tom Kubacz (a video documentarian).

**Our Trip to Casalgrande** We received an overwhelming welcome from the gracious people of Casalgrande. Mayor Rossi and his staff put together an extensive schedule of local and regional meetings and cultural visits. During our six-day visit we visited industries,

schools and small businesses. We also attended cultural center and community events and spent time meeting with regional and municipal officials.

**Public-Private Partnerships** Casalgrande's main industry and employer is ceramic tile production. During a visit to the largest producer, Casalgrande Padana, we toured the production facility and observed the tile-making process from start to finish.

The plant featured both innovative robotic systems and the age-old process of hands-on quality control in a 24/7 production cycle.

We also learned how the industry has worked with the municipal govern-



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Casalgrande Mayor Andrea Rossi, Susan Pellegrini, Sara DiAntonio (Mayor Rossi's Assistant) and Asbury Park Mayor Ed Johnson tour an elementary school in Casalgrande, Italy during a cultural exchange trip.

ment to foster economic development and to sponsor educational, cultural and community events and build facilities (such as a new community theater).

Our sister city takes a similar approach to ours when it comes to developing

public-private partnerships. We've both discovered that such cooperation is an essential response to the challenging economic situation on the municipal level. Later in our schedule we attended the Ceramic Exhibition,

*Cersaie 2012* in Bologna, a major international exhibition for ceramic producers (attended by over 1,000 exhibitors and 84,000 people).

We also visited *Museo Ferrari* which housed a historical collection of Ferrari Race & Motor Cars, which are built and tested in the area.

**Conservation** The implementation of innovative technology and the importance of conservation were evident from the moment of our arrival in Casalgrande. Beginning with our trip from Milan Malpensa Airport, we noted the abundance of small, fuel efficient cars. Our guide, Councilmember Alberto Lodi discussed the benefits of dual engine vehicles and alternative fuels which, in his case, provided a 60 percent savings in fuel costs.

**Education** Our visit to the local school system provided us with a unique view of both public and parochial educational programs. I was surprised to discover that although the school system received state and municipal funding, in some cases the children's families provided a contribution toward tuition or for meals based on family income and the number of children.

In addition, their public schools included a child care component for infants. Casalgrande's elementary schools provide early morning care and afterschool programs to meet the needs of working parents.

**The Food Industry** One of the most fascinating aspects of our trip was visiting the makers of agricultural and food products. We went to Acetaia Dodi, and learned about the decades-long process of making "gold level" balsamic vinegar. Their small family house not only served as their production facility, but also hid innocent civilians during World War II.

Our next visit was to Molinazza, a local producer of *parmigiano* cheese. Finally, we went to a local family vineyard and winery: Azienda Agricola Reggiana. All of our visits emphasized the important role that inter-generational, family-owned businesses continue to play in the local economy.

**Tourism** Our cultural visits took us from the local Casalgrande Castle to the cultural centers of Florence and Bologna. At Casalgrande Castle we saw how the site incorporated mixed-use development. Portions of the Castle were



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subdivided into private residences under strict preservation guidelines. The municipality also retained a portion of the Castle for ceremonial town meetings, events and weddings.

OUR VISIT TO CASALGRANDE WAS ONE OF THE MOST PRODUCTIVE EXPERIENCES I'VE HAD AS MAYOR.

In Florence and Bologna, we observed the impact of tourism on regional destinations. We learned about the composition and layout of Italian shopping districts and the operation of municipal services such as sanitation, public transportation, traffic control, parking, and public safety. In Florence, our extensive walking tour included a visit to the City Hall, which dates to the 14<sup>th</sup> Century!



We were surprised when Casalgrande officials announced our visit during an awards ceremony at the Senior Center and at a Flag Throwing Demonstration in the City Square, in which we participated.

In Bologna, one of the most moving sites was a picture collage of those captured and executed for their role in the resistance movement during World War II. From adults to children,

the pictures told the story of those who did not quietly sit by as atrocities occurred. Many of them paid the ultimate price for standing up for what they believed.

An advertisement for Xtel. The top left features the Xtel logo with the tagline 'Voice • Internet • Data • Cloud'. The top right has a QR code with the text 'Visit our website!'. The center of the ad shows a man in a light-colored shirt and striped tie smiling, with a blurred crowd of people in business attire behind him. At the bottom left, there is a Twitter icon and the text 'Follow us on Twitter @xtelcom'. The bottom section has a black background with white text: 'Xtel's Hosted PBX is the right decision.' followed by a paragraph: 'Replacing outdated legacy phone systems with Hosted PBX technology allows government entities of all types and sizes to provide better constituent services without a large capital purchase. Our end-to-end solution offers the cost savings and productivity benefits of cloud technology on a trusted facilities-based infrastructure.' At the very bottom, in small white text, is the contact information: 'Xtel Communications, Inc. | 401 Route 73 North | Building 10, Suite 106 | Marlton, NJ 08053 | 800.438.9835 | www.xtel.net | info@xtel.net'

**Music and Culture** One of the most exciting components of our trip was participating in civic, cultural and musical events. The Annual September Fair included a carnival, musical performances, classic car displays and craft vendors. We were surprised when Casalgrande officials announced our visit during an awards ceremony at the Senior Center and at a Flag Throwing Demonstration in the City Square, in which we participated.

On the final night of the festival, before the closing fireworks show, we visited the Barricada Café—Casalgrande's equivalent to The Stone Pony in Asbury Park. We met the owner, Giovanni Scarabelli, an ardent Bruce Springsteen fan who has even named his son Bruce after Springsteen. Underway was a special celebration of Bruce Springsteen's birthday. The crowd was full of Springsteen, Stone Pony and Asbury Park fans who gave us a "rock star" welcome.

The climax of our visit was attending the Italia Loves Emilia Earthquake Relief Concert at Campovolo. The

event featured 14 of Italy's most famous artists and a surprise performance by Jeff Beck. An estimated 190,000 people attended performances held on a stage three times the size of our Bamboozle Concert stage. The event was an amazing display of organization, crowd management and music. It showed the heart of the Italian People.

Each day of our trip, Mayor's Assistant Sara Di Antonio and a member of the Casalgrande City Council served as our official escort. In Casalgrande, councilmembers are assigned a specific area of expertise: such as Health; Public Works, Industry and Urban Quality; Culture and Schools; Environment; Budget and Public Relations; and Infrastructure and Public Works. Each member of the council took time out to talk with us, even though they all (except for the Mayor and his assistant) held fulltime jobs in addition to their municipal duties.

On our final evening, Mayor Rossi presented each member of the Asbury Park Delegation with a formal letter

of friendship and an historical photograph of the Casalgrande City Hall. Our delegation presented the Mayor and City Council with official proclamations from Governor Chris Christie and a Joint Legislative Resolution of the New Jersey State Legislature. We also extended an invitation for the Mayor and his delegation to visit Asbury Park again in 2013.

Our visit to Casalgrande was one of the most productive experiences I've had as mayor. While separated by thousands of miles and an ocean, we found a community that shared many of the same hopes, challenges and aspirations. We met individuals who, like us, were dedicated to making a positive difference during these difficult economic times.

Most of all we came to know a community. Casalgrande, like Asbury Park, is proud of its history and committed to its continued growth and the well-being of its citizens. We share the will to create a better city and a better life for our people and for the generations to come. ▲

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## Let's Make a Wise Response to Climate Change

By Rush Holt  
Congressman, 12th District  
(Democrat)

In recent years New Jersey has experienced unprecedented floods, winds, rains, and tidal surges, most recently during Hurricane Sandy. We should expect these superstorms to be the new normal, even if climate change skeptics claim otherwise. The next storm is coming, and it will differ from Sandy only in its details.

But, although Sandy-like storms will inevitably strike in the future, we need not condemn ourselves to a future of Sandy-like misery. After all, a hurricane's impact is determined not only by the speed of its winds or the fury of its rains but also by the strength of the infrastructure it strikes. New Jersey must build a stronger, more resilient infrastructure that is better suited to tomorrow's recurring superstorms—the new normal.

Response to Sandy means more than tending to the needs of the people harmed and displaced. It means making significant investments in power engineering, transportation engineering, rail engineering, wireless engineering, shoreline engineering, river flood control engineering, and residential planning. These actions should be taken in addition to conducting proper disaster planning and taking aggressive steps to bring climate change under control.

What will this "new normal agenda" entail in nuts-and-bolts terms? It will mean, for example, investing in beach replenishment projects.

Long Beach Barrier Island in New York provides a dramatic illustration of the value of such investments. Several years ago, three of the island's four communities approved an Army Corps of Engineers plan to construct new dunes and elevate beaches to hold back floodwaters—but the city of Long Beach balked at paying its \$7 million share of the bill. The result: Long Beach alone suffered catastrophic flooding in Hurricane Sandy, incurring an estimated \$200 million in damage.

Here in New Jersey, only about half of our developed coastline has undergone beach replenishment. Congress should act quickly to protect our remaining shores—a need that I highlighted by increasing the flood protection portion of the Corps of Engineers' 2013 budget.

We should also invest in making our region's power grid more resilient. Hurricane Sandy knocked out power to about 2.6 million New Jersey homes, largely by damaging tree limbs that tore power lines to the ground. Many of these outages could have been prevented if utility companies and local governments had invested more heavily in the day-to-day work of tree trimming. A more permanent

solution would be to bury major power lines safely underground. This could be expensive, to be sure: the U.S. Energy Information Administration estimates that underground lines can cost five to ten times more than overhead lines. Yet in an era of increasingly frequent superstorms, burying at least the primary power lines in densely populated areas may be a wise move.

We should also invest in technology that would enable New Jersey utility companies to respond more effectively to power outages. I received many calls, for instance, from constituents who were angry that their homes still lacked electricity days after their neighbors' power had been restored. In many cases, I discovered that their utility company had fixed a major power line or substation but had no information about power to individual homes served by it. "Smart grid" technology, such as meters that communicate with the power company, could prevent this problem by enabling utilities to determine energy usage at the household level in real time.

Further, we should consider requiring cell towers to maintain at least a two-week backup power supply, which would ensure that residents can call for emergency assistance during major storms. We should consider requiring gas stations along hurricane evacuation routes to maintain on-site generators, or at least have the capability to install generators as necessary, to ensure that they can continue pumping fuel. And we should provide the necessary resources to community institutions, such as local libraries, so that they can serve as emergency shelters.

Will these investments be costly? Yes. But as Sandy's \$83 billion price tag has emphasized, society will bear the costs of climate change, one way or another. That price tag was racked up day by day over the past century, as generations of humans burned vast amounts of fossil fuels without proper regard for the future. The risks of climate change and the costs have accumulated over the decades as CO<sub>2</sub> has accumulated in the atmosphere.

Now our debts are coming due. We would do far better to pay the price today by investing in more resilient infrastructure—and, in the process, creating much-needed construction jobs in this still-weak economy—and by investing in sustainable, non-fossil energy sources, rather than being faced with human suffering from each new superstorm, each new crop failure, or each climate-induced deadly public health crisis.

*This op ed originally appeared in the Trenton Times on December 20, 2012. ▲*

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# 5k Race Promotes Health and Honors Fallen Police Officer



By Laura O'Reilly-Stanzilis  
Director of Health and Wellness, Easter Seals  
New Jersey; Volunteer, Mount Arlington  
Mayor's Wellness Committee, Mount Arlington  
Board of Health and New Jersey Local  
Boards of Health Association

Clear skies and the memory of one of Mount Arlington's finest brought 198 runners and walkers to the First Officer Joseph Wargo Memorial 5k on October 6th, 2012. Officer Wargo was killed in the line of duty by an allegedly intoxicated driver on October 16, 2011.

The day started with Mayor Arthur Ondish and Chief of Police Keith Licata leading a memorial service attended by runners, community members and the Wargo family. Hearts were full and the mood was respectful as Chief Licata presented the late officer's wife Amy with flowers.

As the runners got on their marks and the race start was signaled the event took on a new energy of excitement and accomplishment.

The run raised \$8,400 for DARE New Jersey. DARE CEO Nicholas DeMauro attended the event and spoke with fervor of Wargo's dedication to Mount Arlington's DARE program.

They say it takes a whole village. Our town, 5k Coordinator and race volunteers not only rose to the occasion, they exceeded our expectations. The Mayor and Council, Borough Administrator, DPW, Recreation Commission, Fire Squad and Public School supported our efforts throughout the preceding months and on race day.

"This was a wonderful way to honor our fallen officer and use this tragic event as the way to begin a committee focused on a very positive purpose," said Mount Arlington

Mayor and League Immediate Past President Arthur Ondish. "Officer Wargo would be proud, I am sure. I am a firm believer that there is a positive lurking in every negative. I am proud of this committee and the energy that has been harnessed. We are a great community and this committee will only make us stronger and healthier."

Chief of Police Keith Licata and the Police Department were the heart and soul of the race. Once the chief got involved we knew it would be a success. Chief Licata said, "The 5k Run was a terrific event to honor [Officer Wargo]

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MAYORS WELLNESS CAMPAIGN  
IN AN EFFORT TO MAKE NUTRITION  
AND PHYSICAL ACTIVITY A REGULAR  
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Clear skies and the memory of one of Mount Arlington's finest brought 198 runners and walkers to the First Officer Joseph Wargo Memorial 5k on October 6th, 2012.

because it brought together two important aspects of his life; physical fitness and looking out for the youth of the community. A significant amount of support today was shown for his family and funds were raised for the DARE program."

When people are emotionally invested they will move mountains to make things happen. There wasn't a shred of doubt that we would not only pull off our first event, but that it was going to be a day to remember.

**Starting a Wellness Committee** In 2010 Mount Arlington signed the pledge to be part of the Mayors Wellness Campaign. Mayor Arthur Ondish, who was familiar with my background in wellness, asked if I would be interested in getting the Mayors Wellness Committee off the ground.

As a "committee of one" I was not sure how to get things moving until last November when I attended the League of Municipalities Conference as a guest of my husband, councilman Michael Stanzilis. I attended seminars and met dynamic people from towns with successful Mayor's Wellness Committees. My biggest takeaway from



Mount Arlington Mayor Arthur Ondish speaks to the crowd at the pre-race Memorial Service. (Photo by Mark Miller Studios)



Mount Arlington Chief of Police Keith Licata leads a moment of silence at the First Officer Joseph Wargo Memorial 5k on October 6th, 2012 in Mount Arlington Township.

the conference was simple: more hands make less work.

I recruited members from the community, starting with my neighbor Leann Phil, as I saw her jogging by my home. Marie Rotondella, a longtime colleague in the fitness industry came on board as soon as she was asked. The physical education teachers from the public school and members from the senior club and recreation committee

enthusiastically agreed to participate. Our Health Officer, Frank Wilpert (who has reaped the benefits of his own lifestyle makeover), supports the efforts of the Mayor's Wellness Committee and introduced me to our Public Health Nurse, Helen Giles. I made recommendations to Mayor Ondish and the new members were appointed.

At our first meeting, Ms. Phil said she wanted to do a 5k and volunteered to

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be the coordinator. Her enthusiasm and confidence excited us all, and the idea was put into motion. Giving ourselves several months lead time, Leann and I met on a regular basis. Once we had created a plan, Chief Licata and Borough Administrator Carolyn Rinaldi met with Ms. Phil on a regular basis to work out the details.

To encourage community involvement we decided that the event should be a fundraiser, but we had not identified any recipient. Since Officer Wargo passed away almost a year to the date of the race, we chose to use it to honor his memory. The following week during my son's fifth grade DARE graduation I saw Nick DeMauro present Amy Wargo with an award in recognition of her husband's service to the DARE program. It became obvious that we should donate the funds to DARE. When Chief Licata approached Mrs. Wargo with the idea, she agreed and a new dimension was added to our mission.

**Building Healthy Communities** With our first successful event behind us, we are planning our next endeavor, which will involve the Wellness Com-

mittee and the Department of Health.

As a member of both the Board of Health and the Wellness Committee I see an opportunity to be proactive and provide wellness counseling and healthy lifestyle strategies to community members. Obesity related illnesses, including type 2 diabetes, can be prevented with regular physical activity and nutritious food. Changing habits, one person at a time, can make a huge difference in creating healthier towns. If mom and dad start eating healthier and getting exercise, their children are likely to do the same.

New health threats call for new action. I recently spoke with New Jersey Local Board of Health Association President John Saccenti and Mayors Wellness Director Melissa Kostinas about the importance of getting the word out to local boards of health that 'health' and 'wellness' programs can help to address the issue of preventable diseases. We hope to introduce more Health Officers to the Mayors Wellness Campaign in an effort to make nutrition and physical activity a regular part of community agendas.

**Support For Volunteers** The best volunteers are those who are passionate about what they are doing. Volunteers have families and jobs and are giving their time because they believe that their work is making a difference. I encourage all mayors and council members to seek out members of their community who have a passion for health and wellness and ask them to be part of a wellness committee. A Council Liaison is a person who can guide the committee through the political system and involve the town administration in the committee's mission.

Mount Arlington is committed to educating and encouraging community members to eat better foods and be physically active. A change in lifestyle can slow or prevent the onset of chronic illnesses and reduce the need for medications and medical treatments. Along with improving the quality of life for our citizens, healthy eating and regular exercise can also reduce the strain on our overburdened and expensive healthcare system. Let's do our part in this effort by building healthier communities. ▲

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## Recommendations for an Emergency Radio System

# Radio Comes to the Rescue in North Plainfield



By Michael Giordano, Jr., Mayor  
& Rich Phoenix, Borough Clerk,  
North Plainfield Borough

In North Plainfield, residents set aside their silenced computers and smart phones, after Hurricane Sandy effectively cut the cord to the worldwide web. Instead, people in the know broke out their old transistor radios, which still worked admirably or got in their cars, and tuned to 1630 AM.

North Plainfield is unusual for a town of its size—we maintain and operate a federally-licensed “Travelers Information Station” (TIS) which is able to function on less current than a couple of incandescent lamps. The AM station 1630 made it possible for us to provide updates of local emergency information at the height of the storm and throughout the power outage.

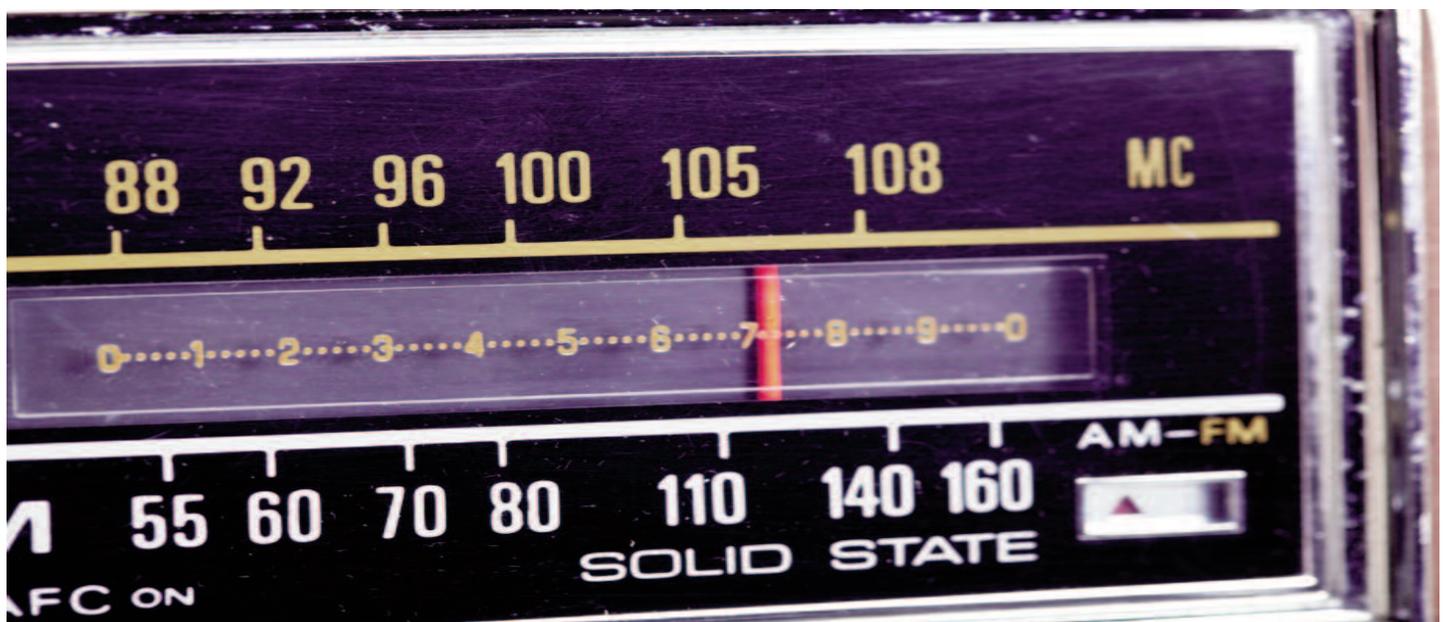
Typically, our emergency station alternated messages between the local and the national weather station in New York City. At the height of Sandy, VHF weather reception from NYC deteriorated very badly. At that juncture, the station’s message queue was adjusted to carry local announcements only. It became a pure “barker” of local information in continuous two-minute parcels of carefully written, direct announcements of where-to-go/where-not-to-go/what was open/emergency phone numbers and the like. We also provided information on shelters and feed-

ing, charging and warming centers in town. On election day, we added the polling locations and district numbers to the message.

The announcements ran on a continuous basis with updates as appropriate. At times, we were updated the message three and four times a day, to reflect changing conditions. The radio station was kept alive day and night via a single Honda generator. Borough personnel from the Department of Public Works and the Fire and Police Departments refueled the generator periodically on a round-robin basis. The changeover to generator power was implemented by the Clerk and Fire Department at the Department of Public Works garage at the height of the storm.

The AM radio transmitter, its memory unit, weather receiver and antenna network are located away from the fray, in a securely wall-mounted aluminum box at the DPW garage. The fire department provided the generator and heavy-duty extension cord so that the generator could be situated in a gated outdoor yard, preventing carbon monoxide infiltration.

Our town clerk, a federally-licensed radiotelephone operator, re-wired the transmitter from commercial to dedicated generator power. Further, he babysat the generator and



transmitter for better than three hours in the (very dark and drafty) garage at the height of Sandy to assure that the broadcast was reliable and stable. He was on hand (alone) with his crank radio and somewhat dodgy personal cell phone that had to be taken outside into the wind and rain to capture an adequate signal.

## THE AM STATION 1630 MADE IT POSSIBLE FOR US TO PROVIDE UPDATES OF LOCAL EMERGENCY INFORMATION AT THE HEIGHT OF THE STORM AND THROUGHOUT THE POWER OUTAGE.

As a result of these efforts, the borough's phone system never actually failed. AM 1630 can be programmed via a hard-wired telephone line from anywhere in the world with the proper set of codes. There have been occasions when the Clerk programmed the station via cell from a remote location without a problem. By a bit of good fortune, the garage provides a highly-efficient antenna installation that allows the AM signal to blanket North Plainfield as none other. Better still—the antenna is exceedingly low profile, which minimizes its vulnerability to high winds and icing. Despite Sandy's fierce winds, the antenna was never compromised. (It's the size of a simple ground plane CB antenna without radials.)

The station runs a spartan 10 watts, which is 1/100th the power of WCTC in New Brunswick, 1/5,000th the power of WABC. On a good car radio, you can hear our station clearly into our neighboring towns of Watchung, Scotch Plains, Plainfield and Green Brook.

To achieve best results with this unique kind of station, there are key parameters to observe. You are living

with Part 90 of the Federal Communications Commission rules and regulations. These are to be taken most seriously. Violate them, and you could be in line for a hefty fine. If your municipal attorney is not familiar with broadcast law, be sure to consult someone who is, such as a seasoned, licensed radio amateur. There are strict requirements as to program content and legal over-the-air station identification.

In real world terms, you should be concerned about content-content-content—just like in real estate, where "location-location-location" is key. Everything broadcast by your station should be current and germane to conditions in your town. Outdated information will damage your town's image as a source of vital information.

Sandy has demonstrated the vulnerability of modern wireless communications systems. The internet failed in homes throughout the North Plainfield Borough and in the municipal building. Heroic efforts by the Police Chief included the emergency installation of Verizon WiFi internet connectivity in the municipal building at the height of the event. We are a highly reliable, sophisticated public entity with excellent resources and trained personnel. Residents that could sustain reliable connectivity with "new" media, such as computers, smartphones, even cell

phones, were rare. Although the internet and all of the "new" technologies seem to be everyone's darlings, they remain highly vulnerable.

For those who oppose cell towers for aesthetic reasons, Sandy was a practical lesson. Cell services were weakened and failed in many cases when hybrid hard-wired phone connections winked out. "Hybrid" is meant to include any sort of "wired" telephone service reliant on commercial power, such as fibre-optic technology. The phones go out and stay out with the lights. In contrast, there were persistent reports from individuals who had maintained their old copper-wired telephone service and could call out and receive calls.

Television was vulnerable and useless. Those relying on cable and satellite had no reception. All such services require commercial or generator power to operate.

The simple, AM radio proved most effective during this emergency.

Even in the current James Bond Skyfall film, there is a key moment when 007 hauls out a little piece of electronics and addresses his perplexed pursuers with the simple word, "radio" as his helicopter-borne rescuers heave into view! Radio is still basic and affordable, and a TIS station is a valuable part of your town's safety contract with its residents. ▲

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# MAKE YOUR VOICE HEARD IN TRENTON AND BEYOND

*YOUR ROLE IN INFLUENCING THE LEGISLATIVE PROCESS*



*Editor's Note:* The League Legislative Staff has prepared the following special guide to advocacy for this edition of *Legislative Update*.

Your citizens' depend on you to represent their interests. And, as a member of the League of Municipalities, you also represent men and women who similarly serve, all around our Garden State. Through your efforts and commitment, you help to make both your municipality and the League effective advocates for both present and future of New Jerseyans.

In each two year term, approximately 10,000 bills and resolutions are introduced in the state Legislature. Typically around 500 of those bills become laws that will affect your town as well as New Jersey's other 564 municipalities. The debate in the legislative halls in Trenton, consequently, is of major importance to you. The League Legislative program exists to help you shape the laws that will affect your community and our state.

To make an impact on those vital decisions, local officials must know how the process works, how the League speaks for local interests, and how they can help.

At times, you may disagree with the proposals of your state Legislators. Different people with different personalities and different backgrounds will inevitably see things from different perspectives. This will produce different conclusions on various issues. And that can lead to one of two things—conflict or communication.

The League seeks to speak, clearly and forcefully. We also need to think, honestly and objectively, about the legislative proposals before us. Finally, we need to listen, with care and compassion, to our peers in other municipalities,

to our state leaders and to others who will be affected by the bills proposed.

Many of you communicate directly with your own elected state representatives. The League's legislative team does all it can to keep you informed about proposals put forward by all our state's 40 Senators and 80 Assembly Members, as well as by the Governor's Administration. The team also communicates the views of local officials to key policy makers based on the determinations of the League's Legislative Committee.

In this article, we will go over how the legislative process works. We will also share ideas on how you can participate in the ongoing campaign of the New Jersey State League of Municipalities to defeat bad legislation and to encourage effective legislation.

**The League's Legislative Team** The League has six staff members who are registered Legislative Agents. They are Senior Legislative Analysts Lori Buckelew, Michael Cerra and Jon Moran, Staff Attorney Matthew Weng, Assistant Executive Director Michael Darcy and Executive Director Bill Dressel. They monitor the weekly meetings of Assembly and Senate Committees and provide the Committee Members with background on the League's position on the bills under their consideration.

Our legislative team is committed to listening to you. They meet you at the League Conference and other events, they attend your county league sessions. They answer your phone calls, e-mails and letters. They receive the resolutions you adopt. Also, they follow the news to learn of your concerns and opinions. Finally, they follow the results of the surveys they send to you periodically on key issues.

The more they listen and observe, the more prepared they are to recognize proposed legislation that may present a problem or an opportunity for municipal leaders.

Back at the office, they review lists of bills, recently introduced or amended. They flag those most likely to affect local government. They pull copies of those bills for more thorough analysis. Based on that analysis, they prepare an agenda of bills to take before the League Legislative Committee.

That Committee is composed of over 100 local officials, many of whom face the same challenges you do. In fact, if you can spare one work day a month, eight or nine months a year, you are welcome to join the Legislative Committee (call NJLM Executive Director Bill Dressel at 609-695-3481 Ext. 122 to get involved).

Its members assist their colleagues from all around our state and serve on one of our four Subcommittees—Taxation and Finance, Pensions and Elections, Land Use, Environment and Community Development or General Legislation. Each subcommittee has an agenda of between 10 and 15 bills, which they study, discuss and voted on. When the members next convene as the Committee of the Whole, they take final action on the subcommittee recommendations.

After the meetings, your League legislative team returns to Trenton. Based on the Committee's debates and action, they draft position letters on the various bills. These are sent to sponsors and to any Legislators who could be asked to vote on the proposals.

The Committees actions are also summarized and published in our *Legislative Bulletin*, which enjoys broad circulation among municipal officials, state Legislators and Executive Branch Officers. Finally, the legislative team reports on several of them in the "Legislative Update" column, a regular feature of the League's award-winning magazine *New Jersey Municipalities*.

Many bills die, each session, with never a debate in any of the various Committees of the New Jersey State Senate and House of Assembly. But more receive attention in those forums, which represent the best of representative democracy in our Garden State.

In committee Legislators who have become experts in their committee jurisdictions—Judiciary, Law and Pub-

lic Safety, Transportation, Local Government, Budget and Appropriations, Insurance, Education, Environment, etc.—listen to arguments for and against passage of scores of proposals. And whenever they consider a bill on which the League has a position, your League Legislative team will let them know about it. They'll tell them what your position is and why you've taken that position. And often enough, it makes a difference.

THE LEAGUE IS  
YOUR ORGANIZATION.  
IT SPEAKS ON YOUR  
BEHALF AND TO BE  
EFFECTIVE IT NEEDS  
FOR YOU TO TAKE  
AN ACTIVE PART.

That, in a nutshell, is how the League of Municipalities works to share information from the local level with those at the state level of government. But, we also transmits the signals we receive from the state back to you.

The *Legislative Bulletin* and the "Legislative Update" column in the magazine have already been mentioned. Both serve the important purpose of letting you know about proposed state policies. But when your help is needed on a deadline, the members of the League Legislative Action team rely on their "Legislative Alert" letters and the recently inaugurated "Legislative e-Line." They use these tools most often when a particularly good bill needs a push and when an especially bad bill seems ripe for passage. At other times, we use these tools to inform you of the nature and consequences of new laws or regulations.

So, there we are. Through the League, municipal New Jersey makes its voice heard in our State Capital. Through the League, what's being said and done in the Capital City is broadcast to you.

So, what do you do with the information you get from the League? How do you put it to its highest and best use?

To help answer those questions, take a look at the chart in this article. It shows the stages a bill may have to go through to become law.

**The Legislative Process** First, a bill is introduced by one (or several) members



Members of the League Legislative team (l to r) Bill Dressel, Executive Director; Matthew Weng, Esq., Staff Attorney; and League Senior Legislative Analysts Michael Cerra, Lori Buckelew and Jon Moran pose on the balcony of the Senate Chambers.

of the state Senate or the General Assembly. Once it is assigned a number and given first reading, in most cases, the presiding officer of the House of origin (the Assembly Speaker or the Senate President) refers it to a Committee for detailed consideration.

This decision is crucial, because the Committee Chair will decide if the bill will even be considered. He or she cannot assure its passage. But, he or she can assure its demise. So, if the presiding officer wants to see a bill passed, he or she will refer it to a "friendly" Committee. If not...well; you get the picture.

More often than not, the Committee eventually schedules the bill for

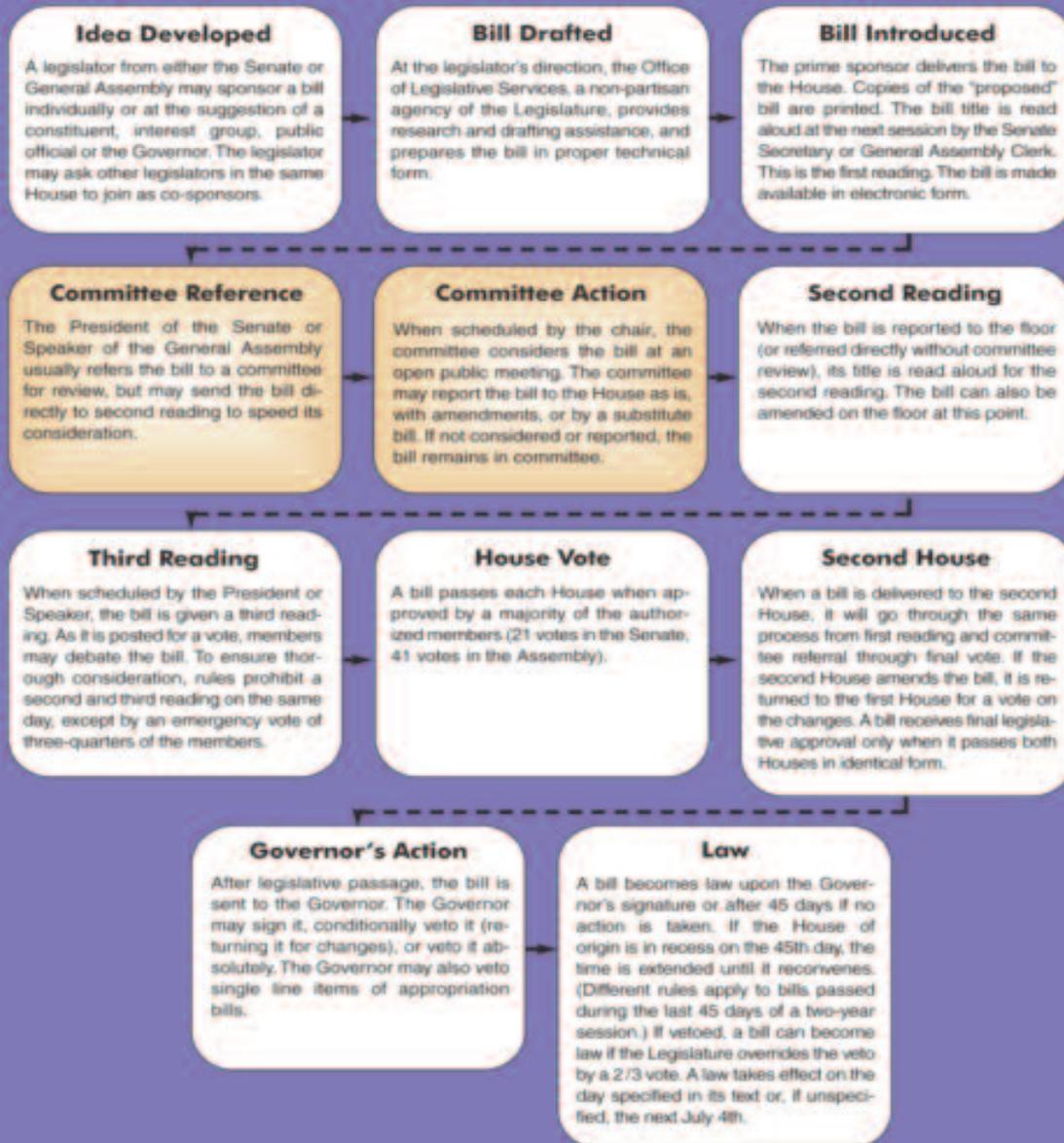
consideration. With several Committees considering multiple bills simultaneously, it's not always possible for the League's team of four Legislative Agents to cover them all. But usually, and always for the most important bills, they'll be there. When they can't be present for the Committee hearing, they provide each member of the Committee a letter that describes the League's position. Additional copies are sent to be distributed prior to any vote.

Members of the NJLM legislative team often attend Committee hearings with elected and appointed municipal officials from around the state. These local leaders volunteer to testify on

matters about which they feel strongly. The League keeps track of the issues of greatest concern to these individuals, so that we can let them know when there is a hearing or vote scheduled on the bills that interest them.

Much of the work of influencing legislation takes place at these meetings. Obviously, at the Committee stage a good bill can be defeated or a bad bill can be released. But if the League lacks vigilance, a good bill can also be amended to make it less good, or even bad. And a bad bill can be amended to make it even worse. That's why our Legislative staff members need to be there and that's why local officials with a personal interest

## How Committees Work Within the Legislative Process



Courtesy of NJ Office of Legislative Services.



NJLM Senior Legislative Analyst Michael Cerra and League President and Mayor of East Windsor Township Janice S. Mironov pose with State Senator Linda R. Greenstein.

so often come to join them. With the League present to argue the local perspective, we've often managed to win beneficial amendments to bills that otherwise would have severely hampered municipal efforts to deliver vital and life-enhancing services effectively, efficiently and economically.

But not all of you can come to Trenton. And none of you are expected to be there all the time. But still, there is a way to affect the outcome of these Committee deliberations.

On short notice, League staff can send an e-mail to you and your colleagues on impending Committee consideration of important bills. You, in turn, can phone your legislators to communicate the League's position and your own concerns—pro or con—on a particular bill. Time and again, local officials have been highly effective in promoting and protecting municipal interests in the Legislative arena.

As you can see in the chart, a bill can be considered in multiple committees and pass in the opposite House. Finally, it must survive until it becomes law, is signed by the Governor or is vetoed, conditionally vetoed and or survives an override vote.

It is a long and challenging process. But because of that, it gives interested parties plenty of opportunities to communicate their opinions and influence the outcome. We urge you to seize those opportunities. We urge you to get involved in the debates. Your participation is the key to better

public policies for the citizens of our 565 municipalities.

**Your Role** The League is your League. It speaks on your behalf, and to be effective, it needs you to take an active part. Here are some of the things you can do to help the League help you.

- ◆ Read your Legislative Bulletin and file it for future reference.
- ◆ Establish a dialogue with your own senator and assembly members.
- ◆ Talk with them or write to them about the bills that will be good and bad for your town.

- ◆ Strongly oppose bills, which:
  - Mandate new or increased services at the local level without providing state funding to support them.
  - Decrease local tax revenue sources. For example, granting additional exemptions from the local property tax, decreasing state aid programs to municipalities, mandating local policies that should be determined at the local level.
- ◆ Don't forget that you are part of the League. When you receive a special alert, follow through on it. If you do not, you may have to live with the consequences.
- ◆ When you receive notice of a hearing in Trenton, try to have some official in your community come to Trenton to testify.
- ◆ And most importantly, try to enlist the help of your citizens. As taxpayers, they are the ones who will bear the burden of costly programs mandated by the state. Encourage them to support the League position.

Remember, what happens in Trenton has a very direct bearing on your town and your programs and on your ability to serve your citizens. It is vitally important that the Legislature and the Governor be kept informed of the local viewpoint. There is a lot to be done. Work with your League and through your League, so we can get the job done together. ▲

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Project Medicine Drop

# Municipalities Join the Fight Against Prescription Drug Abuse



By Jeffrey S. Chiesa  
Attorney General

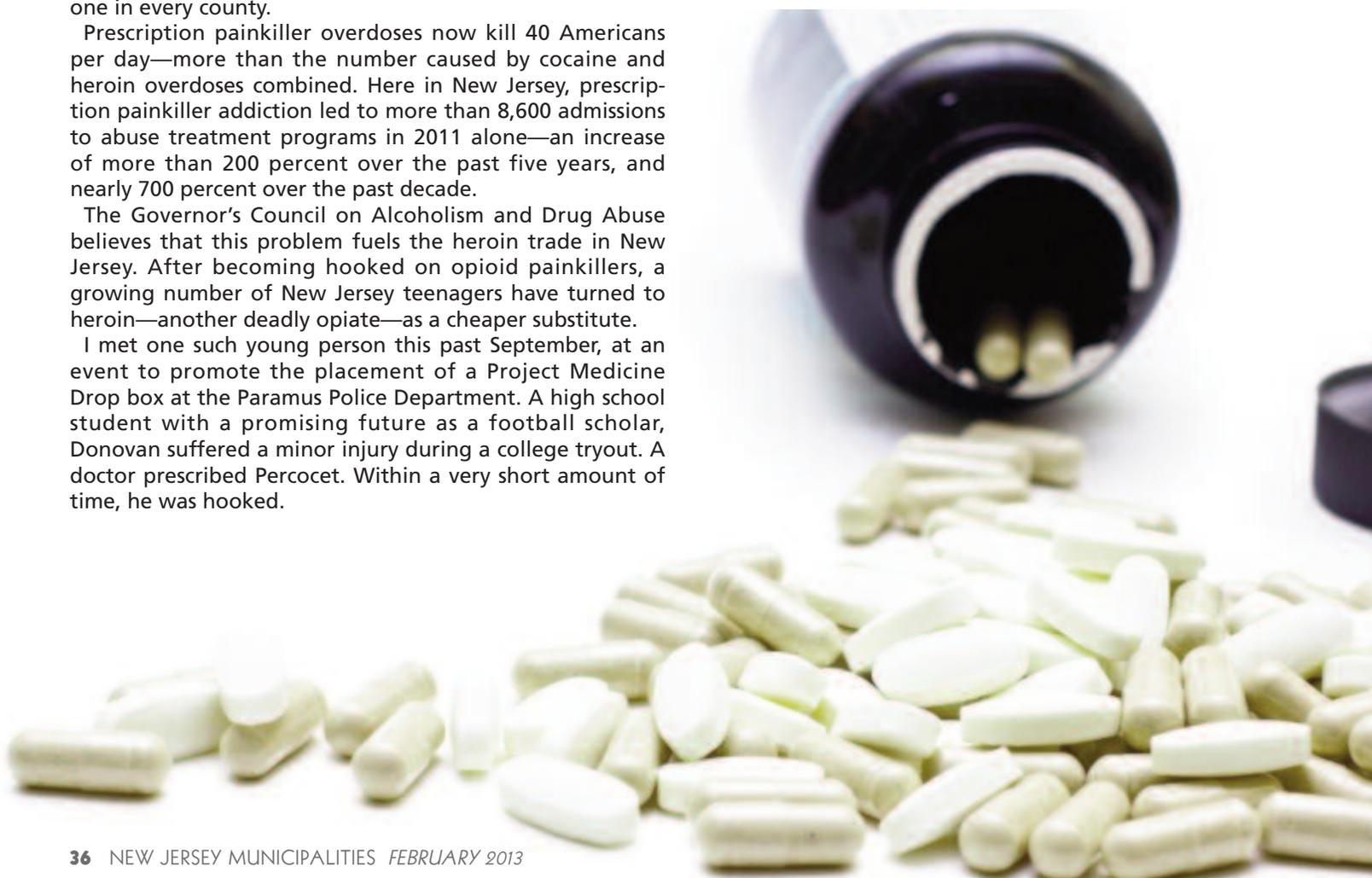
**D**uring the coming weeks, approximately 15 municipal and county law enforcement agencies will join the Office of the Attorney General to announce their adoption of "Project Medicine Drop," a component of the state's effort to halt the growing epidemic of prescription painkiller abuse. These new partnerships bring the total number of Project Medicine Drop locations to 42 across New Jersey, including at least one in every county.

Prescription painkiller overdoses now kill 40 Americans per day—more than the number caused by cocaine and heroin overdoses combined. Here in New Jersey, prescription painkiller addiction led to more than 8,600 admissions to abuse treatment programs in 2011 alone—an increase of more than 200 percent over the past five years, and nearly 700 percent over the past decade.

The Governor's Council on Alcoholism and Drug Abuse believes that this problem fuels the heroin trade in New Jersey. After becoming hooked on opioid painkillers, a growing number of New Jersey teenagers have turned to heroin—another deadly opiate—as a cheaper substitute.

I met one such young person this past September, at an event to promote the placement of a Project Medicine Drop box at the Paramus Police Department. A high school student with a promising future as a football scholar, Donovan suffered a minor injury during a college tryout. A doctor prescribed Percocet. Within a very short amount of time, he was hooked.

When the doctor stopped prescribing this drug, Donovan turned to stealing painkillers from his grandfather's medicine cabinet, and later to buying prescription drugs from a dealer. Oxycodone costs \$1,500 for a two-day supply on the street, while heroin cost \$5 a bag. Like many other addicted teenagers in New Jersey, he made an economic decision that eventually resulted in a near-fatal heroin overdose.



Now 21, Donovan told me how he survived the overdose and found the will to take control of his life. Now in recovery, he has decided to become a counselor and help others overcome addiction. This brave young man's story starkly shows that prescription painkiller addiction can strike any family and any community. It is as much a problem of the suburbs as it is of urban areas.

PRESCRIPTION PAINKILLER  
OVERDOSES NOW KILL  
40 AMERICANS  
PER DAY—MORE THAN  
THE NUMBER CAUSED BY  
COCAINE AND HEROIN  
OVERDOSES COMBINED.

The Office of the Attorney General, and our partners at the county and municipal levels, are fighting this epidemic through data- and intelligence-driven investigations, tough law enforcement action, and engagement with the medical and pharmacy communities.

Project Medicine Drop is an important part of our multi-tiered strategy. Through this initiative, the state installs "prescription drug drop boxes"—distinctively decorated, secure metal receptacles that resemble mailboxes—at police departments, sheriff's offices and State Police barracks across New Jersey.

Residents are invited to dispose of their unused prescription drugs, 24 hours a day, seven days a week, by visiting their nearest participating law enforcement agency and placing the unused drugs inside the box. The full list of locations, along with more information about this initiative, can be found at [www.NJConsumerAffairs.gov/meddrop](http://www.NJConsumerAffairs.gov/meddrop).

The boxes are provided free of charge by the Attorney General's the Division of Consumer Affairs. Two New Jersey businesses, Covanta Energy and Wheelabrator Gloucester



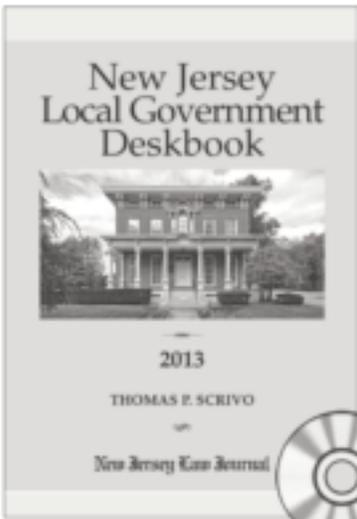
Attorney General Jeffrey S. Chiesa poses with Eileen McDowell and Vera Lopresti at the September 2012 inauguration of the Project Medicine Drop box at the Paramus Police Department. (Photo by Peter Ciamboli, New Jersey Division of Consumer Affairs)

County, have agreed to destroy the drugs at no cost to police departments, in a partnership endorsed by the Department of Environmental

Protection. The program thus creates no new cost to taxpayers or police, and a net benefit to the participating communities.

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## 2013 New Jersey Local Government Deskbook



Thomas P. Scrivo, Editor  
Beth Hinsdale-Pillar and  
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The program is inspired by the success of the U.S. Drug Enforcement Administration's National Drug Take Back Initiative, which offers single-day events during which the public is invited to drop off unwanted medications. Project Medicine Drop, however, enables consumers to dispose of unused medications in a safe and secure manner at any time throughout the year. It helps keep prescription drugs from falling into the hands of those who might make them available for abuse, and prevents them from being flushed into the water supply or thrown into the trash where they could contaminate the environment.

Residents have eagerly embraced the program, and dropped off approximately 4,000 pounds of medications at the first seven Project Medicine Drop locations established during the program's first 12 months.

If your municipality is not yet a Project Medicine Drop partner, I urge you to contact the Office of the Attorney General at 609-984-9498 and find out whether your police department

meets the requirements for creating a secure Project Medicine Drop.

We also urge municipalities to use their newsletters and post signs at police stations and other municipal buildings to help make residents aware of the program. Detailed advice for consumers, along with downloadable flyers and posters, can also be found at the Project Medicine Drop website.

THE BOXES ARE PROVIDED  
FREE OF CHARGE BY THE  
ATTORNEY GENERAL'S  
THE DIVISION OF  
CONSUMER AFFAIRS.

It's also important to:

- Speak with your children and grandchildren about prescription drug abuse.

- Keep the medications in your home safe and secure.
- Keep them in a single location, preferably a lockable cabinet or childproof box.
- Create a written inventory of your medicines, and update it every six months.
- Dispose of any unused or expired medication in a safe and secure manner, such as bringing it to your nearest Project Medicine Drop location.

The epidemic of prescription drug abuse and the problems to which it contributes, including increased crime and lost productivity, is not just a law enforcement problem.

Project Medicine Drop is based on the principle that everyone, including parents, grandparents and young people, has a role in curbing the diversion and abuse of prescription drugs. We need to start thinking differently about the drugs that are prescribed for pain—and the great dangers that come when those drugs are misused. ▲

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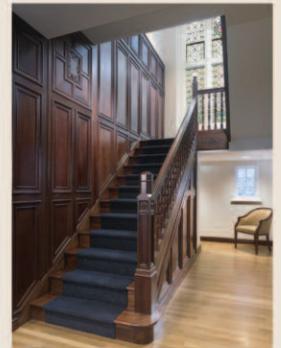


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Welcome to the New 'Green Scene'

# Sustainable Jersey Announces New Web Tools



By Donna Drewes  
Co-Director, Sustainable Jersey

**S**ustainability has become an important goal for New Jersey's local governments. Since 2009, the free certification and grant program Sustainable Jersey has helped communities move forward with environmental initiatives.

The benefits of achieving one of Sustainable Jersey's two certification levels (currently bronze and silver), go far beyond bragging rights. They include recognition and increased support for money saving, green initiatives. So far, 125 governmental bodies have been certified, while 378 others have registered in hopes of achieving certification.

A number of improvements and new features have been added to the Sustainable Jersey program. Last month, Sustainable Jersey launched a new website ([www.SustainableJersey.com](http://www.SustainableJersey.com)) to better inform towns about our grants, events and sustainability actions.

**New On-Line Grants Portal** How many times have you discarded a great idea for a community project because nobody knew where to look for grant funding?

With Sustainable Jersey's new grant portal you can search for grants and resources based on specific criteria, such as project needs or geographic location. The portal lists local, national and international grants and resources. In addition to performing a customized search, visitors can create a profile (based on their search preferences) that will enable the site to notify them of potential grant opportunities whenever they log in to the site.

**On-Line Calendar of Sustainability Events** The new site also includes a comprehensive calendar and listing of New Jersey sustainability events, webinars, workshops and networking sessions. The Sustainable Jersey calendar will include information on the many events that are being held across the state. We encourage you to visit our site to submit information on your green events for posting on the on-line calendar. After a review by Sustainable Jersey staff to make sure the event belongs in the listing, the event will be added to the public calendar.



**Searchable Map of Participating Communities** Do you want to know which towns from your county are participating in Sustainable Jersey? Would you like to see a description of each action that Woodbridge Township did in order to be certified with 765 points (the most of any participant)?

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The Sustainable Jersey website provides a searchable map with information on our participating towns, including contact information and a detailed profile. This information will help town leaders learn more about programs in other communities. For example: if your municipality is considering a wind ordinance, you can use our new site to create a list of all of the certified towns that have approved a wind ordinance. The same is true for other sustainability actions.

**New Menu of Sustainable Actions** Sustainable Jersey continues to expand the list of actions that are worth points toward certification. Each action on the Sustainable Jersey website provides guidance about who should be involved, costs, resources, and what to do. Actions range from Energy Audits, to Climate Action Plans and Community Gardens.

The actions are developed through a transparent, participatory process. Sustainable Jersey brings state agencies, universities, government and non-profit organizations, businesses, stakeholders and experts together to define standards and devise incentives for New Jersey municipalities.

Two new actions added in 2013 include the Direct Install action and the



Home Performance with Energy Star action. Residents and businesses are often unaware of the many things they can do to improve energy efficiency and reduce greenhouse gas emissions. Municipal governments can help by providing education and outreach about these topics; and, specifically, about New Jersey's Clean Energy Programs that provide financial incentives and rebates to residents and businesses that implement energy saving activities.

Created specifically for existing small to medium-sized facilities, Direct Install is a turnkey solution that makes it easy and affordable for individuals and small business owners to upgrade to higher efficiency equipment. The Home Performance with ENERGY STAR program offers reduced cost household energy assessments, cash rebates and loans for homeowners to implement energy upgrades.

Sustainable Jersey participating towns will earn points for doing the promotion and additional points for meeting a designated adoption percentage for

the municipality. For example, towns can now get 20 points if they establish a municipally-endorsed home energy audit program that identifies a single Home Performance with ENERGY STAR auditor through a competitive Request for Proposal bidding process.

**Going for Gold** Our staff is currently looking to raise the bar for certified municipalities by creating a gold level of certification.

Many of the actions to earn points toward certification relate to best practices. The new certification level will be designed to encourage progress towards sustainability with goals, indicators and targets for specific issue areas. By rewarding 'real world' sustainable outcomes, Sustainable Jersey hopes to rally all of New Jersey to further sustainability efforts.

Take a moment today to visit our new website. You may find funding opportunities, identify new partners and receive the information to expand your efforts on behalf of your citizens and our environment. ▲



# *Under the Gold Dome*

## *A Stalemate Awaits New Jersey Supreme Court Nominees*

By Darryl Isherwood



**W**hen Governor Chris Christie introduced his two newest nominees to the state Supreme Court late last year, he made a point of telling members of the press he was doing so under an air of compromise.

The men, BPU President Robert Hanna and Superior Court Judge David Bauman, gave Democrats everything they wanted, according to Governor Christie. Bauman, a Japanese-American, represented the diversity Democrats demanded, while Hanna boasted an unaffiliated voter registration that would not upset the delicate partisan balance on the court.

"I don't really know what more they can ask for at this point," Christie said at a December press conference introducing the two men, his second pair of nominees to the two vacant seats.

But days after the governor introduced his nominees, more than 50 progressive groups answered that question, coming out swinging with a letter to Senators slamming the governor's choices as yet again wrong for the court.

The letter—which was signed by representatives of the AFL-CIO, the NJEA, the NAACP and the Latino Action Network and dozens of others—may spell the end of the new nominations.

So what gives? Why do progressives oppose two men Christie said offered them everything they wanted?

That answer depends on who you talk to.

In their letter, the progressive groups decried the lack of diversity on the court.

Upon taking office, one of the first moves Christie made was to refuse the re-nomination of Justice John Wallace, the court's only black judge.

The move, which Christie said at the time was his first salvo in an attempt to remake an "activist court," was loudly opposed by Democrats and minorities alike. The subsequent resignation of Justice Roberto Rivera-Soto left the court without a single minority.

Though Bauman is Japanese-American, the court would remain without a representative of either of the state's largest minority groups.

"Such a court would send a clear message to litigants and the community at large: the most important decisions in New Jersey need not be made with people from all backgrounds at the table," the letter from the groups said.

The letter also took aim at the partisanship of the two men. Bauman and Hanna would give the court a make-up of four Republicans, two Democrats and two unaffiliated

justices. But a long dispute over Justice Jaynee LaVecchia's partisan leanings has left Christie and Democrats at a stalemate. Like Hanna, LaVecchia is unaffiliated, however, she worked for two Republican administrations, leading Democrats to believe she is part of the GOP. Adding another Republican to the court would upset the long held practice of maintaining an evenly balanced court made up of three members of one party and four from the other, Democrats say.

But Christie and his Republican allies have a different take on the Democrats' attacks on the governor's nominees.

The issue of partisan balance is smoke and mirrors, Christie has said; and regardless of LaVecchia's work history, she has always maintained an unaffiliated voter registration.

The same holds for the diversity issue.

Early last year, the governor nominated Bruce Harris, the black, openly gay mayor of Chatham, and Phil Kwon, a Korean American, former federal prosecutor to the bench. Both men failed to gain the confirmation of the Senate, a slight that Christie said was purely political.

He tried, the governor said, to give Democrats exactly what they asked for and saw his nominees embarrassed by the worst form of political character assassination. What the senate really wants is another Democrat on the court, Christie and other Republicans charge. And that is a non-starter as long as Christie is governor.

So what does the future hold for Hanna and Bauman? Privately both Republicans and Democrats acknowledge that the letter from the progressives as well as the opposition from the legislative black caucus and others could spell the end of the road. The diverse group of opponents has given the senate the political cover it needs to shoot down another pair of nominees, members of both parties say.

If they get a hearing, it will likely end the same way that the hearings for Kwon and Harris ended—with an angry governor slamming a recalcitrant senate and Democrats responding by demanding a more diverse and balanced court.

There is no telling how or when the stalemate will end, but one thing is clear: with elections for both the governor and every member of the legislature looming it is unlikely that either side will soften its stance anytime soon. ▲

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Darryl Isherwood is the editor of PolitickerNJ, and its sister site State Street Wire. He has over a decade of experience as a reporter and has covered politics and government for news outlets in four states.

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Not in New Jersey

# Municipal Bankruptcy Advocates: California Dreamin'



By Thomas Neff  
Chairman of the New Jersey  
Local Finance Board; Director,  
Division of Local Government Services,  
Department of Community Affairs

**T**here has been talk recently about whether bankruptcy is a viable option for municipalities facing financial difficulties. Not surprisingly, the loudest talkers tend to be bankruptcy attorneys, who seek to turn a tidy profit. As the Chairman of the state board that must approve a municipal bankruptcy filing and the Director of the division of state government that regulates local government finances, let me assure you that bankruptcy is not going to be a viable option any time soon.

I recently had a candid discussion with a California bankruptcy attorney who acknowledged she profited from a highly dysfunctional local government financial system that had led to local government bankruptcy litigation. She noted that as a taxpayer, she wished California had a system that regulated and constructively engaged local government finances like we have in New Jersey.

As only a fellow policy wonk could do, the California bankruptcy attorney expressed excitement about how our system

promoted local government solvency by: (1) requiring local governments to appropriate funds to meet their financial obligations, including debt payments; (2) prohibiting certain risky investments and irresponsible borrowings; and (3) licensing certain professionals including assessors, tax collectors and other government finance professionals.

LET ME ASSURE YOU THAT  
MUNICIPAL BANKRUPTCY IS NOT  
GOING TO BE A VIABLE OPTION  
IN NEW JERSEY ANY TIME SOON.

I returned her compliment by letting her know I liked California's weather. I didn't have much nice to say about



New Jersey's bankruptcy attorneys are 'California Dreamin' about the money they could make off a municipal bankruptcy action.



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their failed system of local government finance. The result has been fiscal train wrecks, bankruptcies, and small fortunes thrown away on bankruptcy lawyers and consultants, such as her.

Local officials in New Jersey who have visions of local bankruptcy dancing in their heads because of bankruptcy attorney sales pitches are, well, California Dreamin.' Worse, local officials who waste public money on bankruptcy lawyers are slapping their taxpayers in the face. That money could be returned as tax relief. It could be put towards a core government purpose, such as public safety or road improvements. Or, go figure, it could be used to pay liabilities that

local governments incurred instead of simply trying to walk away from payments through a bankruptcy filing.

A municipality attempting to file for bankruptcy is making a statement. It is saying they won't pay for things their government has consumed or contractually agreed to provide. It's a statement that their finances have become such a mess that there is no other way out. In places like California where local governments are almost completely unregulated, it's a statement that can sometimes be warranted.

But in New Jersey, such a statement will be greeted by this Chairman of the Local Finance Board (as it has by the Chairs that preceded me for the last 80 years) with disgust. In review-

ing any application to file bankruptcy, the Board will look to eliminate inefficiencies so that the town's bills can be paid. And the first area the board will explore is whether funds being wasted on bankruptcy attorneys could be better directed to paying obligations the local government incurred.

Just like the Mamas and the Papas sang about in 1965, its cold out these days and I'm California Dreamin' about the nice weather of California. New Jersey's bankruptcy attorneys are similarly 'California Dreamin': about the money they could make off a municipal bankruptcy action.

But it's winter in New Jersey. I'm still cold, and bankruptcy attorneys are frozen out. ▲



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Resilient Design

# Creating Buildings that Can Survive the Next Superstorm



By Tom Dallesio  
Resilient Design Project Manager,  
College of Architecture and Design,  
New Jersey Institute of Technology



Perth Amboy residents display their commitment to rebuild following Hurricane Sandy.

New Jerseyans will not soon forget where they were on October 29, 2012. Although it was not yet Mischief Night, Superstorm Sandy left a trail of destruction that went well beyond “mischief;” bringing death, wide scale destruction and disruption to the Garden State.

The winds howled, though we learned later that they didn’t reach hurricane force. Rain came down sideways and combined with surges of air and waves that broke through stone walls and earthen berms. The force of the storm moved homes and businesses. It took a roller coaster for a ride into the ocean.

MONTHS AFTER THAT  
PRE-HALLOWEEN SURPRISE, THE TRICK  
IS TO INCORPORATE BETTER DESIGN  
INTO OUR REBUILDING EFFORTS.

Days, weeks and even months later, we’re still working to recover. And, unfortunately, the end is not in sight, because most of us recognize that another storm will come—it’s just a matter of time. And, frankly, we’re not ready.

Now, months after that pre-Halloween surprise, the trick is to incorporate better design into our rebuilding efforts. The treats are the opportunities for beneficial economic development, environmental protection and a higher quality of life.

With this in mind, the New Jersey Institute of Technology has established a program to inform and implement a resilient post-Sandy recovery in New Jersey. Through research, design and actual demonstration projects, we are providing federal, state and local leaders, business owners and residents with ready-to-build designs and expertise for disaster recovery.



Homes in Perth Amboy were damaged by Hurricane Sandy.

At the outset, we will focus on three initiatives:

- Developing resilient “prototypologies”—actual designs and models for housing, mixed-use development and public buildings at a range of scales and locations, constructed in an efficient manner;
- Creating a Center for Resilient Design and a clearinghouse for other academic institutions, businesses and non-governmental organizations to share information, expertise and assistance; and
- Organizing (Re)Build New Jersey Strong, a weeklong community service project during Spring Break 2013.

As an active partner in the post-Katrina recovery, NJIT sent faculty and students to Louisiana to team with Tulane University. Applying lessons from that collaboration, these initiatives will help residents, businesses and communities recover more quickly, build capacity for resilient design and create new opportunities for products and services that are New Jersey Strong.

Our effort includes short- and long-term goals that will complement work underway by federal, state and local governments, nonprofit organizations and civic entities to rebuild our communities, protect the environment and enhance the quality of life throughout the state.

In cooperation with federal, state and local agencies, NJIT is building a network of engaged professionals and expanding our research, planning and implementation efforts to serve as a clearinghouse for innovative designs and techniques that will not only rebuild in a more sustainable manner, but also export architectural ideas and products addressing natural disasters.

The short-term goal is to provide immediate help to communities such as Seaside Heights, Sea Bright, Belmar and others along the Jersey Shore; Newark, Hoboken, Jersey City and other urban areas; and in the suburban towns of Bergen County affected by flooding. We plan to help them to build or rebuild sustainable and resilient homes, businesses and public facilities in the wake of Hurricane Sandy.

The long-term goal is to use this process as a framework to create a comprehensive approach to construction and reconstruction. The approach we develop will take into account the potential for natural disasters by implementing the lessons from this storm and previous disasters.

The program exists to assist communities in their post-hurricane recovery efforts. The question in many towns is not whether to rebuild, but how to rebuild. With NJIT’s extensive institutional knowledge and a significant cadre of current and future architects

and engineers seeking opportunities to apply resilient solutions, this program helps New Jersey prepare for the next natural disaster.

Learning from our involvement in post-Katrina efforts in cooperation with Tulane University, NJIT is providing leadership on architectural design and resilient solutions. NJIT’s Center for Resilient Design also hopes to enhance economic development in New Jersey and to share resilient design innovations throughout the country and around the world.

Through research, studio courses and on-site construction activities, NJIT is developing “prototypologies” for beach areas and other areas of flooding in New Jersey. The New Jersey School of Architecture will mobilize over 1,000 students and faculty through applied research and experiential learning to create innovative solutions. Actual products include a report incorporating resilient designs, lessons learned and recommendations, as well as demonstration projects.

Over 300 NJIT students, faculty and alumni will donate their time and

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A roller coaster was swept off a Seaside Heights amusement pier by the force of the storm.

expertise during Spring Break 2013 to help communities recover from the storm and construct prototype projects that demonstrate designs and construction techniques that will withstand future hurricanes and/or major flooding. Fueled by the slogan, "NJIT Alternative Spring Break 2013: Where the Best Foundations Are Laid New Jersey Strong," we will undertake a

number of activities to help communities (re)build, including deconstruction, construction, finishing, clean-ups and surveys.

Future studios and enhancement of the Center for Resilient Design at NJIT will provide information and leadership to local, state and federal officials.

The Center plans to use high-tech tools and partnerships to reach its

goals. Through alliances with the federal government, State of New Jersey and local governments, nonprofit and professional organizations, private businesses and residents, NJIT brings practical design expertise to areas affected by Hurricane Sandy. Using geographic information systems (GIS), computer aided design (CAD) and other technologies, NJIT faculty and students are creating state-of-the-art proposals, including designs and models that visualize rebuilding post-Sandy and anticipate the next natural disaster.

NJIT's Resilient Design program has a critical role to play in the successful revitalization of the Jersey Shore, the City of Newark and other cities and suburban towns affected by Hurricane Sandy. The program also presents a key opportunity for municipalities to protect the environment and build communities that can withstand flooding and other natural disasters in innovative ways.

As New Jersey's only public college for the study of architecture, NJIT is uniquely qualified to undertake this effort and provide a public service to the people of New Jersey. ▲

For more information, contact Tom Dallessio, Resilient Design Project Manager at [thomas.g.dallessio@njit.edu](mailto:thomas.g.dallessio@njit.edu) or call him at 973-596-5872.

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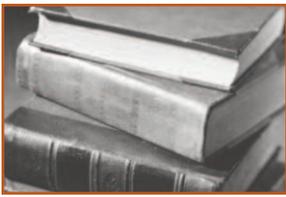
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## Defining an Unfunded Mandate and Signature Requirements for Ballot Initiatives

By Matthew Weng, Esq.  
NJLM Staff Attorney

**Q** *I know that some time ago a law was passed making unfunded local mandates impermissible. Can you give me details on this? When is a mandate illegal, and what should I do if I feel as though the state is imposing an unfunded mandate on our municipality?*

**A** In December 1995, the New Jersey state constitution was amended to prohibit unfunded mandates on boards of education, counties and municipalities. A statute was subsequently enacted as well.

An unfunded mandate is described as any law, rule, or regulation that requires expenditures by a school board, county, or municipality and that "does not authorize resources to offset the additional direct expenditures required for the implementation of the law or the rule or regulation."

The amendment further created the Council on Local Mandates, which hears disputes and makes rulings as to whether a statute, rule, or regulation is an unfunded mandate. If the council determines that any provision of a statute or any part of a rule or regulation constitutes an unfunded state mandate, that provision of the law or that part of the rule or regulation shall cease to be mandatory in its effect and shall expire.

There are six categories of laws, rules, or regulations that while technically unfunded mandates will not be declared null and void. Those are:

- a. those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;
- b. those which are imposed on both government and non-government entities in the same or substantially similar circumstances;
- c. those which repeal, revise or ease an existing requirement or mandate or which reapportion the costs of activities between boards of education, counties, and municipalities;
- d. those which stem from failure to comply with previously enacted laws or rules or regulations issued pursuant to a law;
- e. those which implement the provisions of the New Jersey Constitution; and
- f. laws which are enacted after a public hearing, held after public notice that unfunded mandates will be considered, for which a fiscal analysis is available at the time of the

public hearing and which, in addition to complying with all other constitutional requirements with regard to the enactment of laws, are passed by 3/4 affirmative vote of the members of each House of the Legislature.

Local bodies that wish to file a complaint can download and fill out the form available on the Council's website ([www.state.nj.us/localmandates](http://www.state.nj.us/localmandates)), and can file a complaint via email.

**Q** *A group of citizens has been circulating a petition to place an ordinance on the ballot for the voters to add to our municipal code. I know that there are different signature requirements. What are they, and why are there two?*

**A** What you are referring to is the initiative process. In our previous edition of the Faulkner Act publication, we described it this way:

The Faulkner Act provides two sets of numbers, which will require an initiated ordinance to be submitted by the municipal council:

1. A number of signatures equal to at least 15 percent of the total votes cast in the municipality at the last election at which members of the General Assembly were elected; or
2. A number of signatures equal to at least 10 percent but less than 15 percent of the total votes cast in the municipality at the last election at which members of the General Assembly were elected.

If an initiative petition has the first set of numbers, the ordinance will be put on the ballot in a special election if there is no general or regular municipal election occurring not less than 40 days nor more than 90 days after the final date for withdrawal of the petition. If an initiative petition has the second set of numbers, the ordinance will be submitted to the voters at the next general or regular municipal election occurring not less than 40 days after the final date for withdrawal of the petition. Thus the difference between the two sets of numbers is that the first provides an opportunity for the ordinance to be placed on the ballot in a special election, while the second does not. ▲

*This column is for informational purposes only, and is not intended as legal advice.*

*Women in Municipal Government  
Committee Presents  
5<sup>th</sup> Annual  
Women in Municipal Government Day*

**Friday, March 15, 2013**

**9:00 a.m. to 12:00 noon**

**Princeton Marriott Hotel and Conference Center**

The Annual Women in Government Celebration Day honors the contributions of women in public service. This year we are honoring women who demonstrate a commitment to advancing women's active participation in government.

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# NJLM Educational Foundation Event Addresses Infrastructure



By Ken Gardner  
Trustee, NJLM Educational Foundation;  
Vice President of Government Banking,  
PNC Bank

**T**he New Jersey League of Municipalities' Education Foundation continues in its mission to bring municipal officials, academics, government officials and business leaders together to share their visions of New Jersey; their hopes for the future of public policy; and their solutions to the compelling challenges facing the state.

I was happy to serve as the moderator for the foundation's recent program "New Jersey Infrastructure: What is Needed and How to Fund It," held December 12, 2012 at the Conference Center at Mercer.

Dean James Hughes, from the Rutgers Bloustein School of Planning and Public Policy, led off with an informative talk titled "An Instant History of New Jersey's Infrastructure

since 1900." The Dean talked about New Jersey's past success and leadership on issues such as transportation planning. That history gives us a good example of the type of planning we will need to do to be economically competitive in the future.

Philip K. Beachem, President of Alliance for Action, then spoke about "Transportation Infrastructure." Phil's story took us from his political start at the local level to the need for a strong working relationship with members of Congress. While reminding us of the basic needs of local governments for traffic signals and the like, Phil addressed the success New Jersey had through the committee leadership positions held by past Congressional members from New Jersey.



Elected officials and others attended the NJLM Educational Foundation program "New Jersey Infrastructure: What is Needed and How to Fund It," on December 12, 2012 at the Conference Center at Mercer.

Suzanne Chiavari, Vice President of Engineering for New Jersey American Water, addressed "Water Infrastructure." She described the strong foundation of the existing system across the state. She spoke about the type of investment we need and how to manage our assets. At the conclusion, she gave us some helpful tools. Specifically, she reviewed the Environmental Protection Agency's list of "5 Things You Should Know & 5 Things You Should Do."

Neary, President of Keep Middlesex Moving (KMM) and the former Mayor of East Brunswick, explained his organization's focus. Since 1988, KMM has partnered with commuters, employers and local, county, and state government to reduce traffic congestion and improve air quality. They remain committed to improving air quality and being a part of the solution.

David Zimmer, Executive Director of the New Jersey Environmental Infra-

structure Trust (NJEIT), addressed "Views on Local Funding Needs." David addressed the programs offered by the NJEIT and the Trust's work on a Natural Disaster Emergency Financing Program.

The event's presentations can be accessed at [www.njlmef.org/121212-event/index.html](http://www.njlmef.org/121212-event/index.html). We hope to see you at our next event. We all have a role to play in shaping the future of our municipalities. ▲

WE HOPE TO SEE YOU  
AT OUR NEXT EVENT.  
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OUR MUNICIPALITIES.

Assistant Commissioner for Capital Investment, Planning and Grant Administration David Kuhn gave a presentation on the New Jersey Department of Transportation, based on his 20 plus years at the department, which provided invaluable institutional knowledge. He discussed the number of roads and bridges, as well as fatality statics. David updated the gathering on the goals of the department and the challenges it faces.

Mary-Ann Holden, Commissioner of the New Jersey Board of Public Utilities, presented "Regulated Utilities Current and Future Needs—A Macro View." As a new commissioner, she spoke about her time as Mayor and her town's local utilities operation. She also remarked that the NJLM Education Foundation has provided her with valuable insights into the statewide utilities operation. She expressed her commitment to using her local experience to make sure towns' opinions are heard at the Board of Public Utilities.

The second part of our event was dedicated to exploring the state's infrastructure needs from a local perspective. Our first presenter, Bill

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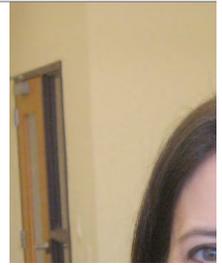
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League joins NJEA in Read Across America Celebration

# Building a Nation of Readers



By Christy Kanaby  
Read Across America State Coordinator,  
New Jersey Education Association

It's that time of year again! It's time to don your red and white stovepipe hats and join the nationwide celebration of reading. Friday, March 1, is Read Across America Day, and for the 13th year the League is working with the New Jersey Education Association (NJEA) to promote reading and literacy through *Read Across America-NJ*.

Read Across America is an annual celebration of reading that culminates this year on March 1, the day before what would have been the 109th birthday of prolific children's book author Theodor Seuss Geisel, known and loved worldwide as Dr. Seuss.

**Nationwide Celebration** Nationwide, educators and communities are urged to take part in "Building a Nation of Readers." Schools around the country will celebrate the day with reading fairs, assemblies, and other literacy-related events.

Elected and appointed municipal officials should plan to join local schools in their celebrations. All participants are invited to pay tribute to Dr. Seuss by proudly wearing an iconic red-and-white stovepipe hat, the symbol of his signature character, the Cat in the Hat. NJEA is proud to support

NEA's new partnership with Smilemakers, a Staples company, for all Dr. Seuss-related items. A percentage of the profits from Read Across America sales will be donated to benefit the NEA's literacy program. Community leaders can view these items at [www.smilemakers.com/NEASeussStore](http://www.smilemakers.com/NEASeussStore)

READ ACROSS AMERICA IS AN  
ANNUAL CELEBRATION OF READING  
THAT CULMINATES THIS YEAR  
ON MARCH 1, THE DAY BEFORE  
WHAT WOULD HAVE BEEN THE  
109TH BIRTHDAY OF DR. SEUSS.



Caption: Hasbrouck Heights Mayor Rose Heck reads to students as part of last year's Read Across America Celebration.



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# Facing a Starkly Different New Jersey

By Ingrid Reed  
Leadership Group Member,  
*Facing Our Future*; policy analyst  
and recently retired member of  
the Eagleton Institute of Politics



**T**he recent and ongoing lessons of Hurricane Sandy highlight the need to rethink the delivery of government services and to prioritize infrastructure investment.

At every level of government, a significant gap exists between the cost of services and the revenues to pay for them. And if we maintain our current services level, this gap will widen over the next five years. To achieve the required balanced budgets at all levels of government, but particularly at the municipal level, there must be trade-offs.

Based on an objective, nonpartisan look at the numbers, *Facing Our Future's* latest reports show a fiscal environment that is spiraling out of control. Our antiquated system of raising and spending money is no longer sustainable. Without structural changes, the impact on our system of public services—including schools, public safety, transportation, and healthcare—will be devastating to the most vulnerable and painful for virtually everyone.

Over the next five years, New Jersey's citizens will face losing the high quality, public services we've long enjoyed and come to expect. At the municipal level, the projected gap between appropriations and revenue grows each year and is projected to be more than \$2.8 billion in 2017.

*Facing Our Future's* latest report documents the complexity and intertwined nature of programs and spending throughout all levels of New Jersey government. Our findings were conclusive—business as usual cannot continue. No one solution or group of solutions can close the budget gaps. New Jersey has a systemic problem, and only a comprehensive solution can resolve the long-term crisis.

To date, we have taken only limited actions to adapt, streamline or rethink government. The result has been the hollowing out of critical services, rather than the redesign of them. New Jersey's service delivery systems, at all levels of government, were designed for a 19th Century state. Services are duplicated across public entities in the same municipality or county and across differing levels of government. New Jersey needs a 21st Century government to meet the 21st century needs of its citizens.

In two separate reports, the *Facing Our Future* Leadership Group posed core questions to provide a framework for informed public discussion of reform. They are (1) How do we establish priorities?; (2) What investments are necessary for economic growth?; (3) What are the possibilities for change?; and, (4) How do we increase government effectiveness and efficiency?

In response to these questions and others, the *Facing Our Future* Leadership Group identified more than a dozen specific ideas that have worked in New Jersey and other jurisdictions across the country. Our list of practical options can be implemented at one or more levels of government. Additionally, they serve as an ongoing reference and catalyst for new ideas about how to meet the public service needs of the 21st Century.

The ideas do not provide a single blueprint for action. Nor will they close the funding gaps that exist at all levels of government. Instead, they provide specific examples in specific areas of service. However, these principles can often be applied to unrelated services. Listed alphabetically, the options are:

- adopting an internet sales tax;
- centralizing emergency response systems;
- combining efforts to maximize special services;
- consolidating Information Technology (IT) services and updating aging infrastructure;
- expanding e-government and integrating one-stop resources;
- exploring transition of developmental disability services to home- and community-based care;
- identifying—and incentivizing—successful implementation of shared services;
- identifying creativity and change in purchasing operations;
- implementing county administration of school districts;
- right-sizing deployment of police, fire, emergency responders;
- sharing examples of municipal consolidation;
- supporting countywide tax assessment; and,
- using Medicaid for health and behavioral health services in county juvenile detention centers (pre-adjudication).

Neither the 2012 *Facing Our Future* report nor the prior year's initial report make specific recommendations about taxes or revenues, and neither report addresses the fairness of our current tax structure. However, both reports find that no single action

## What is Facing Our Future?

Facing Our Future is an independent, bipartisan effort—coordinated through the Council of New Jersey Grantmakers (CNJG)—to build understanding about New Jersey's systemic fiscal problems and the critical investments needed for future economic growth.

The Facing Our Future Leadership Group is a volunteer assembly of more than 20 former cabinet officers, senior government executives, public servants and foundation community leaders. The members are: Nancy Becker, William H. Byrnes, Raphael J. "Ray" Caprio, Michael Catania, Sam Crane, Kathy Crotty, Christopher J. Daggett, Hans Dekker, Robert Del Tufo, John Farmer, Caren Franzini, Gwendolyn Harris, Michael M. Horn, Feather O'Connor Houstoun, Richard F. Keevey, Marc Pfeiffer, Deborah T. Poritz, Ingrid Reed, Robert L. Smart, Nina Stack and Charles Venti.

For more information about Facing Our Future or to arrange for a presentation, email [facingourfuture@cnjg.org](mailto:facingourfuture@cnjg.org) or visit [www.facingourfuture.org](http://www.facingourfuture.org). Share your input and opinions in the conversation about how we can ensure economic growth in our state—and in New Jersey's municipalities.

can provide a solution. New Jersey cannot only grow, or only cut, or only tax its way out of its long-range and well-publicized budget problem. The *Facing Our Future* Leadership Group firmly believes that a tax policy discussion has to be a part of any discussion—and of our future.

In addition, the Leadership Group believes that New Jersey needs a single source of objective information on important areas of public investment (not operational needs)—including transportation and environmental infrastructures, power and communication grids. This information will make it possible to develop a balanced set of investment priorities based on the projected challenges at all levels of government. An objective look at our investment needs will help ensure economic growth in our state and provide

a clear picture of our state's capability to compete despite our infrastructure challenges. In the coming months, look for *Facing Our Future* to identify recommendations for investment and provide options for how to prioritize and consider funding those investments.

*Facing Our Future* presents the landscape against which elected officials must make their decisions. All levels of government—state, county, municipal and school district—are interconnected. Decisions at one level have inevitable consequences at another. The inevitable effect of 'balancing without restructuring and modernizing' is an acceleration of the hollowing out of services at all levels of government. Unless we rethink what services we want from our government, and how we want to deliver and pay for them, we will face a starkly different New Jersey. ▲



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## A New Twist on Employee Disciplinary Matters



By Joseph M. Hannon, Esq.  
NJLM Labor Counsel;  
Partner, Genova Burns Giantomasi & Webster

Recently, the New Jersey Supreme Court decided *Winters v. North Hudson Regional Fire & Rescue*,<sup>1</sup> a case which applied the principles of "equitable estoppel" to public employee disciplinary matters and subsequent litigation challenging employee discipline. The Supreme Court case limits public employees' ability to bring a civil suit alleging retaliation in cases where the facts giving rise to the civil suit have already been rejected in an administrative proceeding. The application of *Winters* will evolve over time, but its effects will likely be felt by all municipalities involved in disciplinary proceedings.

In that case, *Winters* was removed from public employment as a firefighter with North Hudson Regional Fire & Rescue (Regional). The termination was the second major disciplinary action against him in a short period of time. In a first disciplinary matter, *Winters* was generally charged with submitting false reports. He was demoted and suspended for 60 days.<sup>2</sup> The second disciplinary matter at issue in *Winters* sought termination due to *Winters* working in other positions with other municipalities while out on sick leave with North Hudson Regional Fire & Rescue.

*Winters* appealed his removal to the Civil Service Commission, and his case was transferred to the Office of Administrative Law. In the initial stages of the OAL matter, he argued that the Regional removed him because he engaged in protected whistleblower activity regarding the death of another firefighter. The Administrative Law Judge (ALJ) instructed *Winters* to develop his theory of retaliation in his case in chief, something *Winters* did not fully do, despite being provided an opportunity to do so during discovery. The fire department subsequently moved for summary decision, which the ALJ granted, finding that the department substantiated the administrative charges and that those charges were not related to the alleged whistleblower activity. The Civil Service Commission affirmed the ALJ's findings.<sup>3</sup>

*Winters* appealed the Commission's decision to the Appellate Division, which affirmed the Commission's decision. However, while his appeal was pending, *Winters* filed a civil suit alleging the fire department retaliated against him in violation of the Conscientious Employee Protection Act (CEPA), the Law Against Discrimination (LAD), and Section 1983. In his civil suit, *Winters* claimed that the Regional retaliated against him for whistleblower activities which he engaged in over the course of four years (including the whistleblower activities he raised before the Office of Administrative Law). The Regional moved for summary judgment, which the trial court denied, finding that the ALJ had not decided the issue of retaliation. The Appellate

Division affirmed the denial of summary judgment on the basis of collateral estoppel.<sup>4</sup>

Upon review, the Supreme Court reversed. The Court framed the issue as whether an employee should be barred from seeking to circumvent discipline through a subsequent CEPA action alleging retaliation. The Court applied equitable principles of estoppel to bar *Winters* from bringing his civil suit, noting that *Winters* was afforded due process in the administrative proceedings, and there was no issue as to the identity of the parties in the two proceedings. The Supreme Court essentially precluded *Winters* from a second chance of appealing the termination to the Superior Court by raising retaliation as the reason for his termination as *Winters* should have and could have fully raised this defense in the administrative matter. The Court reasoned it would be "hard pressed to permit *Winters*' litigation tactics to avoid the application of estoppel principals in this matter."<sup>5</sup> It was conceded that *Winters* was afforded a full hearing with due process, and the parties were identical in both matters.<sup>6</sup> As such, the issues in the administrative matter and subsequent civil actions were aligned and litigated as part of the final judgment in the administrative claim. The Court went on to reason that "*Winters* cannot take advantage of his own tactic of throttling back on his claim of retaliation in the administrative proceeding after having initially raised it. Retaliation was a central theme of his argument and that he chose not to present there his comprehensive proof of that claim does not afford him a second bite at the apple in this matter."<sup>7</sup>

The Court thus put public employees on notice in stating:

We therefore put users of the public employment system of employee discipline on notice that integration of employer-retaliation claims should be anticipated and addressed when raised as part of the discipline review process. It is unseemly to have juries second-guessing major public employee discipline imposed after litigation is completed before the Commission to which the Legislature has entrusted review of such judgments.<sup>8</sup>

A more recent unpublished Appellate Division decision provides a glimpse into the future. In *Fang v. New Jersey*,<sup>9</sup> the Appellate Division applied *Winters* in affirming the dismissal of the plaintiff's CEPA suit because she had already raised claims of retaliatory conduct before the Division on Civil Rights (DCR). *Fang*, an employee of the Department of Transportation (DOT), filed a complaint with the DOT claiming she had been discriminated at work based, in part, on her national origin. *Fang* claimed that for this

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reason she had been denied a computer upgrade, yelled at by superiors, and received unwarranted poor performance evaluations. Fang was subsequently suspended.

As a result, Fang filed a complaint with the DCR, claiming that her supervisors retaliated against her because she filed a complaint with DOT. Fang raised the alleged retaliatory conduct in her DCR complaint, but after an investigation, the DCR recommended that the case be closed because there was no evidence that the plaintiff had been treated less favorably because of her national origin, nor was there was evidence that DOT suspended Fang for reasons other than that given, namely insubordination. Fang subsequently filed a CEPA suit in the Superior Court while the DCR matter was ongoing. In her civil suit, Fang claimed she was retaliated against for complaining to her supervisors about perceived misappropriation of funds.

The trial court granted defendants' motion to dismiss the complaint, and the Appellate Division affirmed. Although Fang cited additional retal-

iatory acts, the Appellate Division noted that the "actual contentions of retaliation that she placed before the DCR substantially and inextricably overlap with the allegations of retaliation" which formed the basis of her civil suit. The Appellate Division also rejected Fang's new legal theory that she was suspended for whistleblower activity, as opposed to filing a complaint alleging discrimination, because the DCR found that the DOT suspended Fang for legitimate reasons. The Appellate Division also found that, like Winters, Fang raised the issue in the administrative proceeding, the motion before the DCR. According to the Appellate Division, Fang's case was even clearer than Winters, as she did not hold back on her claim in the administrative proceeding.

The Winters case will have significant impact on public employees in the handling of administrative charges. Employees who now believe that retaliation was a factor in their discipline will likely fully litigate their retaliation case in the administrative proceeding. A finding on the retalia-

tion will likely have preclusive effect in any subsequent litigation thereby putting a determination of retaliation exclusively in the hand of the administrative judge or tribunal. This will leave employees with the choice of accepting discipline to preserve their lawsuit or challenge the discipline at the administrative level. Employers should continue to pay close attention to this issue for any changes to its application and be prepared for a more extensive hearing with greater discovery at the administrative level. ▲

Mr. Hannon would like to thank Joseph V. Manney, Esq., an associate at Genova Burns Giantomasi & Webster for his assistance on this article.

#### End Notes

1. 212 N.J. 67 (2012).
2. Id. at 78, 79.
3. Id. at 81.
4. Id. at 82, 83.
5. Id. at 86.
6. Id. at 88.
7. Id.
8. Id. at 74.
9. 2012 N.J. Super. Unpub. LEXIS 2677



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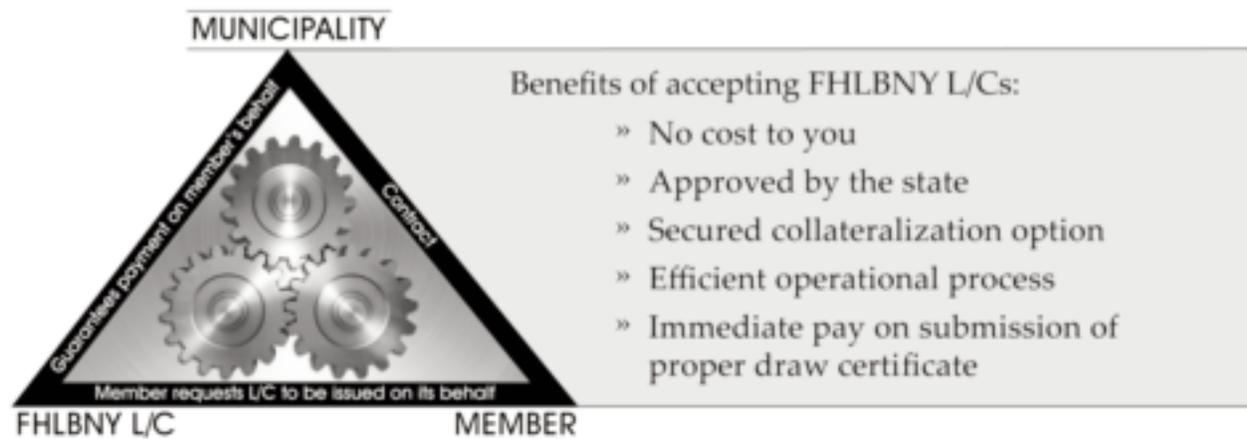




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Political Training for Women

# Women Move Forward in Politics



By Jean Sinzdak  
Center for American Women  
and Politics, Rutgers University

**A**t the Center for American Women and Politics (CAWP), we were thrilled that the 2012 elections included many “firsts” and notable achievements for women in politics. When the 113th Congress took office in January, a record number of women held seats. The number of female representatives—20 in the U.S. Senate and at least 78 in the House—is at an all-time high.

In addition, New Hampshire will become the first state ever to fill all of its top leadership posts with women. In 2013 the Granite State will have a female governor, two female U.S. Senators, and an all-female (two seat) U.S. House delegation. Hawaii, Massachusetts, North Dakota, and Wisconsin elected women to the U.S. Senate for the first time. Hawaii's Mazie Hirono became the first Asian/Pacific Islander American woman elected to the U.S. Senate and only the second woman of color to serve in the Senate. At least 12 states increased the number of women

serving in their Congressional delegations. South Carolina elected a woman to its State Senate, so there is no longer any state legislative chamber without a female representative. And those are just the highlights.

THE NUMBER OF FEMALE REPRESENTATIVES—20 IN THE U.S. SENATE AND AT LEAST 78 IN THE HOUSE—IS AT AN ALL-TIME HIGH.

Here in New Jersey, we've also seen gains for women in office in the past year. In 2012, the Garden State became one of the top ten states for the proportion of women



This year the program is scheduled for March 22 and 23 at the Douglass Campus Center, Rutgers-New Brunswick.

serving in its state legislature. Almost 30 percent of our legislators are female, including a record 15 women of color. This milestone is significant: as recently as 2005, New Jersey ranked in the bottom ten of all states, and the legislature was only 16 percent female. We should be proud of our state and of the women who have answered the call to public leadership.

**TO HELP WOMEN PREPARE  
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CAMPAIGN.**

Although women have made great strides here and nationally, we remain far from parity for women in office. Let's build on the current momentum and fill the pipeline with women committed to political leadership!

To help women prepare to be candidates, CAWP offers our annual Ready to Run™ Campaign Training for Women. This year the program is scheduled for March 22 and 23 at the Douglass Campus Center, Rutgers-New Brunswick. A bipartisan program that demystifies the process of running for elected office, Ready to Run™ features two tracks: "I'm Ready to Run, Now What?" and "I'm Not Ready to Run Yet, But..." The "Ready" track will feature interactive workshops on how to launch an effective campaign and navigate the political parties as a potential candidate. The second track will cover topics such as positioning yourself for future office, getting appointed to boards or commissions, party involvement and how to turn advocacy experience into political experience. Participants in both tracks will participate in plenary sessions on communications and media, internet strategies and fundraising.

In addition, Ready to Run™ features a Diversity Initiative designed to encourage women of color to seek public office. Supported in part by a generous grant from The Fund for New Jersey and shaped in partnership with

steering committees, the Diversity Initiative comprises three separate pre-conference programs: Elección Latina; Rising Stars: Educating Asian American Women for Politics; and Run Sister Run: Women of the African Diaspora Changing the Political Landscape. These programs will take place immediately prior to the main Ready to Run™ program on Friday, March 22.

Spread the word to colleagues and friends! Limited scholarships are available. For more details or to

register, visit [www.cawp.rutgers.edu/ReadytoRun](http://www.cawp.rutgers.edu/ReadytoRun). Questions? Contact Jean Sinzdak at (732) 932-9384, ext 260 or [sinzdak@rci.rutgers.edu](mailto:sinzdak@rci.rutgers.edu).

Jean Sinzdak is director of CAWP's Program for Women Public Officials, which aims to increase the impact of women in politics and make political women's leadership more effective through national, regional, and local events and programs for women officeholders, candidates, and campaign operatives. ▲



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# Jesse L. Tweedle, Sr. Joins NJLM Executive Board



**P**leasantville Mayor Jesse L. Tweedle was elected to the NJLM Executive Board at the League's Annual Business Meeting in January.

Mayor Tweedle has served the City of Pleasantville as an elected official on City Council for five years. During that time, he spent three years as Council President and one year as Mayor Pro Tempore. In 2008 he was elected Mayor.

Mayor Tweedle's 25 years of managerial experience has afforded him the opportunity to articulate and implement changes within the municipal government.

His community activism dates back to serving as a Board Member and Trustee on Pleasantville's Planning Board; Zoning Board of Adjustments; Urban Enterprise Zone (UEZ); Strategic Planning Committee and on the Technical Advisory Committee for Atlantic County Schools.

Currently, Mayor Tweedle serves on the League's Mayors Committee for a Green Future (MCGF); as Vice Chair of the UEZ of NJ; as a trustee of the NJLM Educational Foundation;

and as an Executive Board member of the Urban Mayors Association. He also serves as an Executive Board Member for the African American Heritage Museum and on the AtlantiCare Patient & Family Advisory Council.

Born in Atlantic City, Mayor Tweedle has been a Pleasantville resident since 1971. Pleasantville is where he and his wife, Beryl, live and raised their two children and now enjoy their three wonderful grandchildren. ▲

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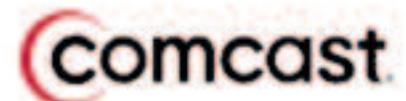
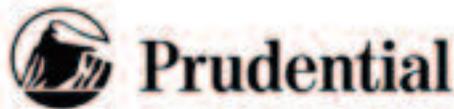
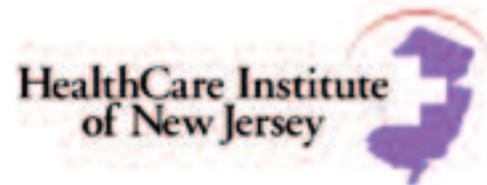
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By Taran B. Samhammer  
Bureau Services & Research Coordinator,  
Bureau of Municipal Information

In a response to the large number of residents who volunteered in the wake of Hurricane Sandy, **Middletown** has established a new advisory body, the Middletown Volunteer Corps. This new group will manage volunteers during the recovery phase of the hurricane and will also be available to supplement emergency services responders during future disasters. This advisory committee has been given the task of establishing a permanent registry of residents who are available to volunteer in times of emergency. They will also develop a strategic plan for the organization and structure and mission of the group, including strategies for recruitment, training and community-based activities.



**Maurice River** received a \$200,000 grant from the Environmental Protection Agency to contain unsafe levels of contaminants found on a local site. Contaminants included heavy metals and polychlorinated biphenyls. The property in question is located in a remote area; however, people continue to walk through the property. The purpose of the clean up is to contain contaminated soil only. Removing buildings or soil from the area was deemed too costly. Contaminated soil will be contained in 55 gallon drums.



**Essex County** recently received \$430,000 in federal grant funds enabling them to hire approximately 105 temporary workers to assist with Hurricane Sandy cleanup. The Hurricane Sandy Disaster Emergency Grant has created 1,300 temporary jobs in 16 counties. Allocated through the Department of Labor and Workforce Development and administered through the Essex County Department of Economic Development, Training and Employment, funds will be used to employ temporary workers, who will earn up to \$12,000 each, for up to six months. The nine Essex County towns included in this grant are: **Belleville, Bloomfield, Caldwell, Fairfield, Irvington, Livingston, Nutley, East Orange and Orange.**



After Hurricane Sandy, **Madison** was able to completely restore its power nine days after the storm ended due to advanced planning (75 percent of the borough was restored after four days). Madison has their own electric utility. Before electric work could be done they cleared downed trees, utility poles and potentially live wires. This was accomplished by the Department of Public Works and electric utility employees. The borough also called in vendors to help clear debris. Employees started working on Sunday after the hurricane was declared an emergency but before the storm hit New Jersey. During the storm, police

shut down streets where there were downed power lines and trees to insure the safety of all residents. Police also set up portable stop signs wherever traffic lights were out. After the storm, two shelters were opened as warming and cell phone charging stations, and the borough gave 25 donated generators to residents living without power.



**Upper Township** approved an ordinance in December prohibiting any contributions from contractors to candidates running for local political office. In September they approved an ordinance limiting contributions to \$300 in order to improve their score on the state's best practices list, as a bad score may result in a reduction of state aid. However, this new ordinance will eliminate contributions entirely. The only question is its enforceability, as contributions over \$300 are reported and appear on New Jersey Election Law Enforcement Commission forms, but those under \$300 are not reported and thus are difficult for the township clerk to track.



## *Datelines*

- February 6 . . . . .** 21st Annual Mayors' Legislative Day; State House, Trenton
- February 12 . . . . .** Ethics and Sexual Harrassment; Robert Meyner Reception Center, Holmdel
- February 23 . . . . .** Executive Leadership Training for Mayors and Council Presidents; Conference Center at Mercer, West Windsor
- February 25 . . . . .** Budget and Audit Updates; Robert Meyner Reception Center, Holmdel
- March 6 . . . . .** Budget and Audit Updates; Conference Center at Mercer, West Windsor
- March 13 . . . . .** Pension and Benefits Update; Robert Meyner Reception Center, Holmdel
- March 15 . . . . .** Women in Municipal Government Day; Princeton Marriott, Plainsboro
- March 20 . . . . .** Disciplinary Actions in the Public Sector; Robert Meyner Reception Center, Holmdel

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