

June 10, 2016

Re: **Weekly Policy Update**

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Dear Mayor:

**I. Transportation Trust Fund**

With just under three weeks until the State budget deadline, the replenishment of the State Transportation Trust Fund (TTF) remains the biggest policy issue in Trenton and a key League legislative priority. On Monday, Senator Steven Oroho (R-24) outlined the most detailed proposal to date, which he hopes will gain bipartisan support. The Senator called for a twenty-cent (\$.20) increase to the gas tax to raise the necessary revenues to keep the TTF solvent. In doing so, the Senator noted that failure to replenish the TTF will have significant property tax impacts throughout the State as counties and municipalities will need to rely on local sources for road maintenance and for any capital improvement. The data presented by the Senator reflects a possible \$10.6 billion impact on property taxpayers over the next 25 years if funding is not identified. In exchange for the gas tax increase, the Senator proposed other tax cuts and income tax credits in order to achieve “tax fairness.”

A long-term solution for the TTF is a major priority for the League and for local governments. The League’s objectives are as follows:

- 1. Reauthorize the Transportation Trust Fund to ensure adequate and reliable funding to meet State and local transportation infrastructure funding needs for the next 10 years.**
- 2. Increase Local Aid funding to ensure adequate and reliable funding to meet all local transportation infrastructure needs. (The NJDOT reports that New Jersey municipalities are responsible for 64% of road miles, and along with county governments, 39% of bridges in New Jersey.)**
- 3. Increase the municipal share of Local Aid funding and ensure fair funding for all municipalities.**

**Time is of the essence. Please contact your Legislators.**

**Contact:** Jon Moran, [jmoran@njslom.org](mailto:jmoran@njslom.org) or 609-695-3481 x121  
Mike Cerra, [mcerra@njslom.org](mailto:mcerra@njslom.org) or 609-695-3481 x120

## **II. Bill to Permit Volunteer Firefighters to Continue Service After Retirement From PERS or PFRS Advances**

On Thursday, June 9, the Senate State Government Committee amended and released S-2107, which would permit a person with a pre-existing volunteer relationship as a firefighter and with their employer to retire from service covered by PERS or PFRS, and continue to serve that employer as a volunteer. The bill, which the League **supports**, was amended to include volunteer first aid workers, rescue squad workers, or emergency medical technicians serving as a volunteer. We thank Senators Sarlo and Kean, sponsors of S-2107, for the amendment.

S-2107 addresses some of the concerns we raised in [League Conference Resolution 2014-05](#); it was adopted at the November 2014 annual conference in response to the Division of Pensions and Benefits guidance on post retirement employment. For more information please see our [May 6](#) and [June 3](#) letters.

In addition to reaching out to your Senator and urging them to support S-2107, please consider adopting the sample resolution in support of S-2107.

**Contact:** Lori Buckelew, [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org) or 609-695-3481, x112

## **III. State Supreme Court Ruling on Cost of Living**

Yesterday the New Jersey Supreme Court issued a ruling in the appeal of the cost of living adjustments (COLA) freeze, a provision of the 2011 pension reform law, for state and local government retirees. By a 6-1 vote, with a dissent written by Justice Albin, the Court upheld the COLA adjustments in the 2011 law, and reinstated the trial court ruling which dismissed the complaints brought by the public sector unions.

The Court held “to construe a statute as creating a contractual right, the Legislature’s intent to limit the subsequent exercise of legislative power must be clearly and unequivocally expressed concerning both the creation of a contract as well as the terms of the contractual obligation. In this instance, proof of unequivocal intent to create a non-forfeitable right to yet-unreceived COLAs is lacking. The Legislature retained its inherent sovereign right to act in its best judgment of the public interest and to pass legislation suspending further COLAs.”

COLAs were not eliminated in the 2011 law, but frozen until the pension funds reach 80% funding. As you know, since local governments have continued to pay into the system year after year, the local systems are better funded and will reach 80% funding sooner than will the State systems.

The Court's ruling is available

at: <http://www.judiciary.state.nj.us/opinions/supreme/A717214Rvc.pdf>

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#### **IV. Senate Committee To Consider Bill That Applies Local Bid Threshold To Other Procurement Laws**

On Thursday, the Senate Community and Urban Affairs Committee will consider **S-728**, which would apply the local public contract bid threshold amounts for local Pay-to-Play and prevailing wage laws. The League of Municipalities **strongly supports** S-728, as it would change the threshold for Pay-to-Play from \$17,500 to the local bid threshold; and, the Prevailing Wage threshold for municipalities from \$15,444 to the local bid threshold; and, for boards of education and counties, from \$2,000 to the local bid threshold. Please note that the local bid threshold is up to \$40,000 if the municipality has a Qualified Purchasing Agent (QPA); and without a QPA, it is \$17,500. As a result, the quote threshold is up to \$6,000 if the municipality has a QPA, and without a QPA it is \$2,625.

The Pay-to-Play law, administered by the Election Law Enforcement Commission, directly impacts the Local Public Contracts Law (LPCL) with no consideration for the law. When N.J.S.A. 19:44A-20.4 was enacted, the LPCL bid threshold was \$17,500, therefore, the threshold in N.J.S.A. 19:44A-20.4 became \$17,500. Unfortunately, what was overlooked was that statutorily LPCL bid threshold increases every 5 years in direct proportion to the rise or fall of the index rate and rounded to the nearest \$1,000 (N.J.S.A. 40A:11-3 (c)). The LPCL bid threshold has increased while the Pay-to-Play threshold remains the same. As a result, there are now times, when a local unit could solicit quotes for a particular good or service, but because of the \$17,500 Pay-to-Play threshold, there must be formal action by the governing body in the award of the quotation.

The Prevailing Wage Act, administered by the Department of Labor and Workforce Development, directly impacts the LPCL. The Act requires the payment of minimum rates of pay to laborers, craftsmen and apprentices employed on public works projects. Covered workers must receive the appropriate craft prevailing wage rate as determined by the Department's Commissioner. Prevailing wage rates are based on the collective bargaining agreements established for a particular craft or trade in the locality in which public work is performed. In New Jersey, these rates vary by county and by the type of work performed. Public works projects subjected to the Act are those funded in whole or in part with the funds of a public body. As a result, a project under the bid threshold, but over \$15,444, will have to comply with the Prevailing Wage Act and the reporting requirements.

S-728, sponsored by Senators Cruz-Perez and Beach, is a common-sense bill that links the procurement thresholds while keeping the intent of each law intact. Please contact your Senator and express support for S-728.

**Contact:** Lori Buckelew, [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org) or 609-695-3481 x112

## **V. Urgent Legislative Alert: Affordable Housing “Gap” Period**

We again call your attention to Senate bill S-2254 and Assembly Bill A-3821. The League **supports** this important legislation, which will facilitate municipal compliance and result in the production of affordable housing. Please [click here](#) for the League’s Dear Mayor Advisory of May 26, which summarizes the legislation and provides links to a sample resolution. Your immediate attention on this issue is needed in order to advance this timely and needed legislation.

**Contact:** Mike Cerra, [mcerra@njslom.org](mailto:mcerra@njslom.org) or 609-695-3481, x120

## **VI. Conference Hotel Housing Scam – Warning**

It has come to our attention that there are unauthorized firms soliciting housing and hotel reservations to League conference attendees.

**The only firm authorized to handle our conference housing reservations is AC Central Reservations.** <http://nj-njslom.civicplus.com/336/2016-Conference>

**They will not call, email or contact anyone unsolicited.**

**Don’t be misled!** If you are contacted unsolicited by anyone regarding hotel reservations, be assured that they are *not* from the League or AC Central Reservations. Scammers specifically target potential conference attendees in order to trick them into using their services.

Using unauthorized reservation services creates real problems for you and the conference as a whole. You cannot be assured that your credit card or financial information is secure and your room reservation may not actually be made. Also, your room will not be part of the official conference housing block, so you won’t get emergency housing information, nor will there be adequate shuttle bus services to your hotel.

As always, the League is available to answer your questions on any aspect of the annual conference and we strive to make your participation both enjoyable and highly productive.

Please contact us if you have any questions.

**Contact:** Michael J. Darcy, CAE, [mdarcy@njslom.org](mailto:mdarcy@njslom.org) or 609-695-3481, x116

## **VII. Nominations Open Recognizing Ethics and Integrity**

Nominate your local government professional who demonstrates the highest standards of ethics and integrity to receive the 14th Annual Michael A. Pane Memorial Award.

The award is to honor a local government professional (attorney, engineer or planner) who exemplifies the highest standards of ethics and whose work has significantly enhanced the

integrity of local government. This joint effort of the Institute of Local Government Attorneys and the League will recognize the winner during the Annual League Conference this November 17, 2016 in Atlantic City. Nominations are due no later than September 15 and forms can be found at: <http://nj-njslom.civicplus.com/336/2016-Conference>

**Contact:** Kristina P. Hadinger, [k.hadinger@mgplaw.com](mailto:k.hadinger@mgplaw.com) or 609- 436-1202

### **VIII. NJ P3 Retail Program**

NJLM, Downtown NJ, and the International Council of Shopping Centers (ICSC) invite you to “Strategies & Finance Opportunities to Help Re-Purpose New Jersey Real Estate” June 16 at William Paterson University, Wayne, NJ. Two expert panels share public-private partnerships and other opportunities that can help transition your obsolete real estate into flourishing mixed-use development.

This ICSC P3 Retail program is a forum for the public and private sector to network, share ideas and discuss development issues and mutually desired retail projects.

**Register online at:** [www.icsc.org/2016A08](http://www.icsc.org/2016A08) and use code **NJP308**.

### **IX. Highland Septic Density Rule Proposal**

The New Jersey Department of Environmental Protection has proposed new septic density rules for the Highlands Region. The current septic density rules allow for one individual septic system for every 25 acres in non-forested and for every 88 acres in forested areas. This proposal breaks up the Highlands into three different Land Use Capability (LUC) zones and lowers the per acreage requirement for individual septic systems. This rule proposal is available [here](#). Comments are due by July 1, 2016.

**Contact:** Ed Purcell Esq., [epurcell@njslom.org](mailto:epurcell@njslom.org) or 609-695-3481, x137

Sincerely,

Michael J. Darcy, CAE Executive  
Director