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February 28, 2020

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

I. State Issues

a. FY 2021 State Budget – Municipal Interest

On Tuesday Governor Murphy proposed a \$40.85 billion budget, to govern state spending through the State's next (FY 2021) Fiscal Year. While we continue our analysis, we wanted to highlight the following areas of interest in the [FY2021 Budget Brief](#) that could impact your municipality. Please note that these items reflect the Governor's proposal, which is subject to change by the Legislature, in discussions with the Administration, and based on public testimony, prior to enactment by the end of June.

Municipal Aid (pg. 17): CMPTRA/Energy Tax Receipts, Transitional Aid, and Highlands Protection Fund remains flat; Pinelands Open Space PILOT's increased by \$3.5 million for a total of \$10 million; Meadowlands Tax-Sharing Payments decreased by \$4 million. We will, again, ask the Legislature to begin to restore, in the CMPTRA/Energy Tax Receipts distribution, the over \$320 million, which the State has used, year after year, since the beginning of the Great Recession, to address other priorities. These funds are supposed to be distributed to local governments, for municipal property tax relief. We will also ask the Legislature to restore Meadowlands Tax Sharing Payments.

School Formula Aid (pg. 13-14): includes \$50 million for Stabilization Aid, which will help districts that are implementing plans to adjust to new funding levels determined by the 2018 school funding reform legislation.

Affordable Housing (pg. 18): Allocates at least \$60 million to fund affordable housing across the State.

Pre-K to 12 Education (pg. 12): includes \$16.3 billion in funding for pre-K to 12 education, which includes direct payments for education pension and health benefits. Expands Pre-k by \$83 million in new spending, of which \$25 million will be used to assist approximately 30 new districts that are ready to launch programs.

Lead Remediation (pg. 6): \$80 million appropriation to the Drinking Water Program 'a first step of the Administration's plan to ensure safe and modern water infrastructure.'

Pension Contribution (pg. 10): totals \$4.89 billion.

Health Benefits (pg. 10-11): includes \$2.8 billion for active and post-retirement medical benefits. The state is claiming it has saved over \$500 million in the current year and through "rigorous and ongoing efficiencies in the administration of our health plans and partnerships with labor", they are expecting to save \$800 million in the upcoming year.

Transportation Trust Fund (pg. 19): \$2 billion, which includes \$1.24 billion for State and local highway and bridge projects; \$760 million for transportation projects: and \$620 million for pay-as-you-go funding.

Shared Services (pg. 17): level funding of \$10 million for Local Efficiency Achievement Program (LEAP)

NJ Transit (pg. 18): Increases the general fund subsidy by \$132 million to a total of \$589.5 million in funding.

Voting Rights, Election Management: (pg. 33) \$16.2 billion, in addition to \$9.8 million federal grant, for Election Management and Coordination to "ensure open and fair elections".

Grants Access (pg. 10): The Administration plans to launch a Grants Management Office, with locations in both Trenton and Washington, to identify funding opportunities for State agencies and local governments, and to provide support for local governments seeking federal and other funding.

Our analysis will continue and we will share more details on more items, as they are made available to us, by the Department of Community Affairs and by the Office of Management and Budget, in the Treasury Department.

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- Jon Moran, Senior Legislative Analyst, jmoran@njlm.org, 609-695-3481 x121.

b. Court Ruling Definitively Answers Lingering OPRA Question Regarding Disclosure of Pet License Info

Earlier this week a New Jersey Appellate Division ruling provided a clear, but troublesome, answer to a long unsettled question that has plagued municipal record custodians – Are the names and addresses of those who submit pet license applications subject to disclosure under the Open Public Records Act? In [Bozzi v. Roselle Park](#), a published decision, the Appellate Division definitively ruled that the names and addresses of those who submitted pet license applications to municipalities must be disclosed under an OPRA request.

Although New Jersey's Open Public Record Act ("OPRA") has been enacted for nearly two decades, with hundreds of court cases interpreting the law, there remain many unsettled questions regarding the application of OPRA's provisions. A common theme amongst these unsettled questions is the interplay between OPRA's broad mandate supporting disclosure and an individual's reasonable expectation of privacy. Often, it is left to the records custodian to balance these competing interests, without clear guidance, and at times leading to legal challenges.

Perhaps no clearer example of these competing interests is an OPRA request for the names and addresses of those who submitted pet license applications to municipalities. While the Bozzi ruling certainly provides clarity for records custodians it raises concerns amongst privacy advocates. Because this is a published decision this ruling has precedential weight, making it the law-of-the-land unless the Supreme Court overrules or the Legislature passes corrective measures. It is unclear at this time if the decision will be appealed.

You should review this decision with records custodians and your municipal attorney for more information on how this decision will impact your municipality.

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c. Senate Committee to consider PFRS 20 and Out Legislation

[S-1017](#) provides an additional category of service retirement for Police and Fire Retirement System (PFRS) employees. Under the bill, a PFRS employee who is enrolled before or after the bill's effective date may retire, regardless of age, upon attaining 20 or more years of service credit and would receive a retirement allowance equal to 50% of the member's final compensation.

Under current law, a member must be 55 years of age or older to retire on a service retirement allowance of 50% of final compensation upon attaining 20 years or more of service. A [1999 law](#) permitted retirement after 20 years of service regardless of age for those already enrolled in PFRS at that time. This bill extends the 1999 law benefit to all PFRS members regardless of enrollment date and retirement age.

In the previous legislative term, the non-partisan Office of Legislative Services (OLS) provided an objective [fiscal impact analysis](#) on the then Assembly companion bill, A-6024.

While the public safety unions claim that the bill will not increase any costs, the OLS analysis noted that the bill "...will have a significant, indeterminate fiscal impact, likely in the hundreds of millions of dollars, on both the State and local portions of the PFRS pension funds and the unfunded liability costs that would be charged to the State and

local government entities to fund the unfunded liability created by the bill.”

In addition, the analysis stated that “the bill **will increase** the annual actuarially determined (required) contribution to the PFRS in order to fund the actuarial liability created by the bill. As such, the early retirement allowances created by this bill and paid out of the pension fund are funded over time by increased State and local public employer normal contributions and unfunded liability contributions.”

Funded by property taxpayer dollars, county and municipal governments across the State will spend \$1,038,351,129 in 2020 to subsidize the PFRS, while PFRS members will contribute approximately \$348,439,976 to the defined benefit plan. In other words, property taxpayers will finance over 70% of PFRS in 2020, while PFRS members will pay 30%. Since these additional costs will be borne by taxpayers, the League opposes this legislation.

S-1017 is scheduled for a hearing before the Senate State Government Committee on March 5. Please [contact your Senator](#) and urge them to vote against increasing the PFRS obligation.

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II. Federal Issue

a. Administration Asks Congress for Coronavirus Funding

On Monday night, the Executive Branch sent a supplemental funding request to Congress, asking for authorization to spend an additional \$2.5 billion to fight the coronavirus. The total would include unexpended moneys that were originally appropriated to address the threat of the Ebola virus, in addition to over \$1.25 billion in new dollars. As proposed, over \$1 billion would be used for vaccine development, and the balance would go to the Department of Health and Human Services (HHS), giving the Department flexibility to be apportioned as it sees fit. Possible uses include stockpiling masks and funding improved diagnostics.

On Tuesday morning, U.S. HHS Secretary Alex Azar advised members of the Senate Labor-HHS-Education Appropriations Subcommittee, and other Senators, that the \$2.5 billion request is meant to fund efforts through the current Fiscal Year, which ends on September 30. Additional funding will be requested for the Federal Government’s next Fiscal Year. Also addressing the Committee were officials from the Centers for Disease Control and Prevention, the National Institutes of Health, the Departments of State and Homeland Security, and the Office of Management and Budget.

Senators questioned the adequacy of the \$2.5 billion request, with Senate Appropriations Committee Chair, Senator Richard Shelby stating, “It seems to me the administration’s request is lowballing it, possibly. If you lowball something like this, you’ll pay for it later.” It appears that Congress is ready to dedicate more than that \$2.5 billion to Coronavirus preparedness and response.

Vice President Pence, who, as Governor of Indiana, had experience in dealing with public

health challenges, has been put in charge of Federal response.

Information useful to local governments, and to citizens, is available from the Centers for Disease Control (CDC) on its [COVID 19](#) webpage as well as New Jersey Department of Health [COVID-2019](#) page.

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

III. Annual League Conference

a. Claim Your CEUs from the 2019 League Conference

Attention Municipal Officials! Do Not Forget to Claim Your CEUs from the 2019 NJLM Annual Conference! Visit the [Conference Tracking page](#) to claim your credits.

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