

May 20, 2016

**RE: Weekly Policy Update**

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Dear Mayor:

Here is summary of some issues of interest to local governments.

**I. Important Affordable Housing Legislation Introduced**

Bipartisan legislation has been introduced in each house that would provide an important clarification for the determination of municipal affordable housing obligations. S-2254, sponsored by Senators Greenstein and Bateman) and A-3821, sponsored by Assemblymen DeAngelo and Benson would clarify that municipalities’ affordable housing obligations consist solely of present and prospective need. Specifically, this legislation would clarify that the amount of affordable housing that municipalities must zone for to create a “reasonable opportunity” for low and moderate income households to live in a municipality will be the sum of: 1) the low and moderate income households that exist in the municipality presently, but live in deteriorated housing; and 2) the municipality’s share of low and moderate income households that will be created in the future.

Recently, one trial level judge had determined that municipalities’ obligations should retrospectively include low and moderate income households created during the 15 year “gap” period in which COAH was unable to promulgate third round rules or municipal obligations. That decision runs against the language and intent of the Fair Housing Act (FHA). Additionally, such retrospective determinations as to need raise serious analytical problems because those households could be double counted as present need. Such arbitrary determinations would inflate local, regional and statewide need to unrealistic numbers that municipalities could not realistically meet.

This bill clarifies the existing law and creates a rational and reasonable path forward for New Jersey municipalities to meet their affordable housing goals. We urge you to contact the

Governor's Office, the Offices of the Senate President and the Speaker of the Assembly and your Legislators and urge that they support S-2254 and A-3821. Staff Contact: Mike Cerra, [mcerra@njslom.org](mailto:mcerra@njslom.org) or 609-695-3481 x120.

## **II. Assembly Committee Releases Bill That Requires Prevailing Wage for PILOT Projects**

Yesterday the Assembly Labor Committee released [A-3435](#), which imposes prevailing wage requirements on any property where a public body has provided, approved, or authorized a tax abatement or tax exemption. The League opposes A-3435 as the proposed requirements will significantly weaken the ability of municipalities to spur economic development in blighted areas, and will also impede private investment that generates jobs, quality housing, environmental cleanup and other public goods.

Payments in lieu of taxes (PILOTs) are the single most powerful tool available to municipalities to encourage property owners and developers to make improvements to property or to locate a project in a distressed or blighted area. With respect to long term tax exemptions in particular, exemptions are granted only where the municipality has determined that the project would not occur but for the PILOT. Increasing the cost of already challenged projects by requiring a private property owner to pay prevailing wage for improvements on their property, will prompt a greater demand on the municipality for a lower PILOT (thereby diminishing municipal revenue and property tax relief) and may even prevent a project from moving forward.

This is of particular concern where a project's revenue will be limited, as in the construction of affordable housing, or where a project bears additional costs to meet other public needs or interests, such as environmental remediation, historic preservation, or the installation of infrastructure.

A-3435 now awaits consideration by the full Assembly. Please contact your Assembly representatives and urge them to vote **NO** on A-3435. Staff Contact: Lori Buckelew, [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org) or 609-695-3481 x 112.

## **III. Bills Fail to Promote Municipal Consolidation**

The League of Municipalities opposes [S-690/A-2921](#). The companion bills were released by the Assembly State and Local Government Committee on Thursday, May 19.

When first introduced in 2013, the sponsors stated that their purpose was "...to encourage more municipal consolidations, and thereby help achieve greater efficiencies in municipal government to rein in property taxes." Toward that end, the bill was meant to "... promote municipal consolidation by increasing the flexibility, clarity, and available tools ...."

At that time, we worked with a Senate sponsor on amendments that would: 1.) restore the requirement for voter approval of a proposed consolidation; and 2.) require that the voters be

provided with an analysis of the full fiscal impact of the proposed consolidation; with those changes, we had supported the bill.

In its current form, however, the bill will actually limit local flexibility, increase consolidation costs and, thereby, discourage future consolidations. Specifically, new Sections 3. e., f. and g. of the bill grant tenure, continued employment and terminal leave rights to select employees – specifically, public safety employees - of consolidating municipalities. Further amendments would prevent emergency appropriations needed to support the work of certain consolidation commissions.

According to the U.S. Census Bureau’s most recent Survey of State and Local Government Finances, police protection costs account for more than 10% of total property tax collections in New Jersey. That is 10% of total collections, inclusive of school district, county and special district property tax collections. Those costs represent more than twice the amount of local resources spent on roads and bridges; three times more than it is spent for solid waste management; four times more than appropriations for parks and recreation; and eight times the amount dedicated to general administration.

Taking such a significant proportion of local costs off the table, results in a bill that will fail to accomplish its original purpose. Based on the inclusion of those cost-drivers in the bill, the League of Municipalities must, and now, oppose passage of S-690/A-2921.

Having already passed in the Senate, it is crucial for you to contact your representatives in the General Assembly, expressing your opposition to the legislation. Staff Contact: Jon Moran, [jmoran@njslom.com](mailto:jmoran@njslom.com) or 609-695-3481 x 121.

#### **IV. Bill Would Preempt Municipal Regulation of “Network” Taxi Service**

The League of Municipalities opposes [A-3695](#) and [S-2179](#), as currently drafted. On Thursday, the Assembly Transportation and Independent Authorities Committee advanced A-3695 to Second Reading. The bill is now poised for an Assembly Floor vote.

These substantially similar bills would create a new class of taxis exempt from local oversight. Instead, the legislation establishes State-level safety and insurance requirements for transportation network companies that conduct business in this State. According to the bill, a transportation network company (Uber or Lyft, for example) is an individual or entity that uses a digital network or software application to connect a passenger to a transportation network company driver for the purpose of providing transportation to the passenger. Sections 25.b. and 25.c. of A-3695 (and Section 24 of S-2179) exempt these entities and individuals from any local regulation. All fees would be payable to the State.

Since 1917, in order to protect prospective passengers and the general public, and to preserve order, municipalities have been empowered by statute to license and regulate ride-for-hire businesses. Throughout that period, in order to protect the public, local governing bodies have

been responsive to concerns raised by passengers, pedestrians, local merchants and other motorists; local first responders have attended to accidents. While no level of regulation is perfect, municipalities have clearly demonstrated their effectiveness in this area for close to 100 years.

The manner, in which the service is dispatched and provided, does not materially alter the responsibilities that local governments will bear. Nor will the manner of dispatch obviate the concerns of local elected officials in ensuring the public's legitimate interests in public safety. Further, enactment of this bill could motivate traditional taxi and limousine businesses to; similarly, avoid local over-sight, by a change to their business models. That, in turn, could make it more difficult for older residents and for the economically disadvantaged to access transportation alternatives. On this basis, absent deletion of the preemption provisions and the League of Municipalities cannot support this legislation.

Please contact your Legislators and communicate your concerns with these bills. Staff Contact: Jon Moran, [jmoran@njslom.org](mailto:jmoran@njslom.org) or 609-695-3481 x121.

#### **V. A-1821 – Advanced 911 Text Message Technology**

Though we have concerns about the sufficiency and reliability of the funding, the League of Municipalities supports A-1821. This bill was approved by the Assembly Homeland Security and State Preparedness Committee and advanced, for further consideration, to the Assembly Appropriations Committee. It will require 9-1-1 service facilities to be equipped with systems, approved by the Office of Emergency Telecommunications Services (OETS), for the processing of requests for emergency services sent via text message, within three years following enactment of the bill.

Text message technology may be the safest way for some victims to communicate their danger to emergency dispatch. For a child hiding under a bed or in a closet, for a victim of human trafficking, or for a hearing-disabled individual witnessing a crime, fire or accident, text messaging can be a life-saver.

Pursuant to the bill, funding derived from a nine penny (\$0.09) increase in the 9-1-1 System and Emergency Response Fee. Currently, the 9-1-1 System and Emergency Response Fee, which is meant to fund the 9-1-1 system, is a \$0.90 monthly fee imposed on mobile service customers and telephone company customers in this state. This bill increases the monthly fee to \$0.99. According to provisions in the bill, the fee increase would expire three years after the enactment of this bill.

Since 2008, however, little of the money derived from the 9-1-1 System and Emergency Response Fee has been distributed to municipal or county Public Safety Answering Point (PSAP) 9-1-1 dispatch operations. Most has been diverted to the State's General Fund.

We appreciate the sponsors' effort to provide a funding source for this life-saving technology. As this bill moves forward, we will work with all interested parties and with State budget-makers to

ensure sufficient financial support, so that property taxpayers will not be left funding the shortfall on this, as on other programs. Despite those concerns, however, we support A1821. Staff Contact: Jon Moran, [jmoran@njslom.org](mailto:jmoran@njslom.org) or 609-695-3481 x121.

#### **IV. Latest Revenue Estimates Deepen State's Budget Hole**

This week in Trenton, the Assembly Budget Committee and the Senate Budget and Appropriations Committee met to accept testimony from non-partisan Legislative Budget and Finance Officer Frank W. Haines, III, and from Acting State Treasurer Ford M. Scudder. With hard numbers for final 2015 State Income Tax payments in hand, the Office of Legislative Services and the State Treasurer presented revised revenue figures for the State's current (FY 2016) Budget Year. Based on those figures, both also present their revised revenue estimates for FY 2017.

Using the estimates contained in the Governor's February Budget message to the Legislature as a benchmark, Mr. Haines expects the State to collect \$487 million less than anticipated for FY 2016, and \$622 million less in FY 2017, leaving State budget makers with over \$1 billion less to work with as they struggle to put together a spending plan for the Budget Year beginning on July 1. The Treasurer's slightly more hopeful estimates look for State revenue collections to fall \$603 million in the current fiscal year, and \$240 million for the upcoming budget.

The Treasurer offered the legislators a plan to bridge the resultant gaps. While we await all the details, it appears that – with the exception of an \$18 million cut in the Brownfields Reimbursement Fund for FY 2017 – programs important to municipalities will escape the budget axe.

However, it is important to note that the Administration's balanced budget proposal for FY 2017 continues to rely on savings of \$250 million, pursuant to unspecified State Health Benefits Plan and School Employees' Health Benefits Plan changes.

It is also extremely important to remember that the proposed budget does not address the upcoming absence of any revenue in the Transportation Trust Fund.

We will keep you posted on any new developments. Staff Contact: Jon Moran, [jmoran@njslom.org](mailto:jmoran@njslom.org) or 609-695-3481 x121.

#### **VII. New Jersey Supreme Court Denies Mill Village Apartments Appeal**

Yesterday, the New Jersey Supreme Court denied a petition for certification by the defendant-petitioner apartment owners in State of New Jersey v. Mill Village Apartments. Mill Village Apartments strongly narrowed a previous appellate division decision, Timber Glen, Phase III v. Township of Hamilton, in relation to municipalities' ability to regulate residential rental properties. This unreported appellate division decision was the subject of a [February 24, 2016 notice](#). Because the Court denied the appeal, Mill Village Apartments remains good law. Staff Contact: Ed Purcell Esq., [epurcell@njslom.org](mailto:epurcell@njslom.org) or (609) 695-3481 x137.

### **VIII. Support for Bills Allowing Volunteer Service After Retirement**

We have received a number of calls looking for ways to support [A-536](#) and [S-2107](#), which were introduced, in response to a Division of Pensions advisory regarding continued volunteer service for public employee retirees. The bills would make it clear that service to local government in a volunteer capacity would not impact a retiree's rights to pension payments. You can access a Sample Resolution at: <https://nj-njslom.civicplus.com/DocumentCenter/View/6456> Staff Contact:

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

### **IX. Guidance on Delinquencies & Cancelling Delinquent Municipal Charges**

The Division of Local Government Services has issued [Local Finance Notice 2016-09](#) formalizing their long established guidance on applying payments toward delinquent property taxes and municipal charges. The notice also included guidance for designating a municipal employee to cancel municipal charges and fess under \$10. If the governing body has adopted a resolution authorizing an employee to cancel property tax delinquencies less than \$10, the governing body will need to adopt a resolution extending such authority to delinquencies of less than \$10 for any charges and fees imposed by the municipality. **Contact:** Lori Buckelew, [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org) or 609-695-3481 x112.

### **X. Commemorate the 10th Anniversary of the Mayors Wellness Campaign**

The New Jersey Health Care Quality Institute started the Mayors Wellness Campaign 10 years ago in partnership with the NJ League of Municipalities to empower mayors to improve community health across the state. Now more than 300 mayors are part of the Mayors Wellness Campaign. Join the Mayors Wellness Campaign for light refreshments as we honor our mayors and key leaders of the Campaign from over the years. All are invited to the State House located at 125 W. State St. Trenton, NJ 08608, Assembly Majority Office Room; Wednesday, June 1 at 10:00 am. If you have any questions, please contact the Mayors Wellness Campaign Phone: 609-452-5980.

Sincerely,

Michael J. Darcy, CAE Executive  
Director