

April 13, 2017

RE: WEEKLY UPDATE

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I. State Policy Issues

a. League President Comments on Local Hopes for Next State Budget

Today, in Deptford, League of Municipalities' President, Mayor Albert Kelly of the City of Bridgeton, spoke before the Senate Budget and Appropriations Committee. Mayor Kelly urged the legislators responsible for spending decisions during the State's next fiscal year, beginning on July 1, to "focus on ways that you can help local officials to better serve our property taxpayers."

Mayor Kelly went on to list a number of specific matters where State action could help to contain property taxes, including:

- Restoration of \$320 million ETR/CMPTRA funding, which the State has been using since the recession hit, to balance State spending;
- Protection for taxpayers in municipalities, where the Urban Enterprise Zone program was allowed to expire at the end of last year;
- Relief from a new mandate, requiring municipal public defenders to represent certain indigent defendants in County criminal courts; and
- An end to the diversion of the fees collected to modernize New Jersey's 911 emergency response system, and the rededication of those resources to providing our citizens with the State of the Art emergency communications system that they were promised and that they have been paying for since 2004.

Mayor Kelly also urged the legislators to:

- Extend the interest arbitration cap (set to expire at the end of the year), which limits the awards that an independent arbitrator can impose on local taxpayers, when a town and a public safety employees' union reach an impasse in contract negotiations; and
- Resist efforts to use future local government health benefit savings to fund State government pension obligations.

Finally, on the matter of school funding, Mayor Kelly told the committee, "We stand ready to assist that effort in any way that we can. ... As you work to improve school funding, we only ask that you respect two principles: Fairness and Equity for our property taxpaying residents and businesses. You know that property taxes are unfair and inequitable. They are not based on the ability to pay and fall heaviest on those living on fixed incomes. They drive investment and

economic development away from the Garden State. The solution to school funding must not make the property tax burden any heavier. We hope it can make it much lighter.”

Go to <https://nj-njslom.civicplus.com/DocumentCenter/View/2813> to read the full text of Mayor Kelly’s testimony.

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

b. PFRS Legislation Update, S-3040

A bill ([S-3040/A-99](#)) that could lead to dramatic property tax increases or drastic cuts to vital services is now on the Governor’s desk. This legislation would disproportionately shift control of the Police and Fire Retirement System (PFRS) from balanced labor-management control to a union dominated (7-5) decision making structure. In its current form, the bill will allow public safety union members and retirees to enhance their own benefits; while forcing their public employers and New Jersey taxpayers to assume a disproportionate amount of the risk.

The League, along with the New Jersey Conference of Mayors and the New Jersey Association of Counties, opposes the bill for the reasons outlined below. **We urge you to please continue to communicate with the Governor’s office and your Legislators to convey your concerns. If the Governor either vetoes or conditionally vetoes the bill, it will go back to the Legislature for further action.**

Your continued engagement is vitally important.

Our objections to [S-3040/A-99](#) are:

- The bill creates a system where taxpayers are responsible for funding 70% of the system, but are a minority on the board which governs decisions and thus bear the majority of the risk;
- As a result the unions are responsible for funding just 30% of the system but are in control of the board governing decisions on such matters as contribution rate, benefit levels, and investments.

Please keep these facts in mind as you talk with your legislators.

PFRS is a defined benefit plan. Retirement pay is calculated on a formula, using factors like length of employment and salary history; not on the return of the funds’ investments, like a 401K. In the event of any shortfall in a return from investments, the employers (in this case, municipalities, counties and their property taxpayers) must make up the difference.

Employers with a minority seat at the table will have an uphill battle in preventing run-away costs that will ultimately be passed on to the taxpayers. **Since employers (and by extension our property taxpayers) have the greater risk** the board should be comprised of an equal number of labor and management representatives.

If the board composition is to remain in favor of labor, then we strongly believe that the plan must be changed from defined benefit to a defined contribution plan, with a flat contribution rate from the employers (property taxpayers). Otherwise, a system will be created that provides public safety unions with control, but with little risk. This is a concerning prospect for taxpayers.

Ultimately, the League shares the same objective as the public safety unions, that is, to secure the local PFRS system. But, **the system created in S-3040/A-99 does not provide adequate safeguards for New Jersey's property taxpayers.**

Again please contact your Legislators to explain to them the serious problems that plague this legislation, as currently drafted. If the Governor either vetoes or conditionally vetoes the bill, it will go back to the Legislature for further action. Your continued engagement is vitally important.

Contacts: Lori Buckelew, Sr. Legislative Analyst, lbuckelew@njslom.org, 609-695-3481 x112.

Michael Cerra, Assistant Executive Director, mcerra@njslom.org, 609-695-3481 x120.

c. We Ask Your Assistance in Advancing These Bills of Interest to Municipalities

The League supports both [A-4666/S-3080](#) and [A-4667/S-3081](#). Both bills are a response to the current affordable housing impasses in the State and lack of a statewide housing policy and guidance for municipalities.

Specifically, A-4666/ S-3080 enact a moratorium on affordable litigation through December 31, 2017. The bill would not impact any judgement or settlement issued or agreed to before the effective date of the bill. Current litigation would be stayed until the moratorium expires. A4667/ S-3081 establish the Affordable Housing Obligation Study Commission. This commission will study prior court decisions, the effectiveness of past affordable housing practices, and analyze projected population increases and corresponding housing need. The commission will hold public hearings and is required to publish a report of its findings at the end of the year.

[For more, you can click here for the League's Town Crier post.](#)

Take Action: Click here to ask your State Legislators to support these bills.

You can click here for a sample resolution in favor of these bills, which can be downloaded in as a [PDF](#).

- The League also supports [A-2452](#), which would create new liquor licenses for restaurants meeting certain criteria. This bill creates a restricted restaurant license (R1) which

permits the holder to sell any alcoholic beverages for consumption on the premises of certain restaurants. In addition, the bill creates a restricted beer and wine license (R2)

which permits the holder to sell only beer and wine by the bottle or can. These licenses would only be available to restaurants that meet certain square footage requirements, and that maintain a full-service kitchen. The bill provides that alcoholic beverages could only be sold in connection with the service of food at a table by an employee of the restaurant. A license holder would be prohibited from providing a bar area for customers of the restaurant to congregate and consume alcoholic beverages.

[For more on this bill, click here for the League's Town Crier post.](#)

Take Action: Click hereto use our Voter Voice system to ask your Legislators to advance this important economic development initiative.

Contacts:

- Michael Cerra, Assistant Executive Director, mcerra@njslom.org , 609-695-3481 x120;
- Lori Buckelew, Senior Legislative Analyst, 609-695-3481 x112 or lbuckelew@njslom.org;
- Jon Moran, Senior Legislative Analyst, 609-695-3481 x121 or jmoran@njslom.org.

II. Federal Policy Issues

a. Big Seven Urges Congress to Preserve Financing Tools Vital to Municipalities

Last week, the National League of Cities joined the Council of State Governments, the National Governors Association, the National Conference of State Legislatures, the U.S. Conference of Mayors, the National Association of Counties, and International City/County Management Association, to call on Congress to preserve the state and local deduction and the tax-exempt status of municipal bonds in any comprehensive tax reform package.

In the letter to Congress, municipal priorities were made clear. Both the state and local deduction and tax-exempt status of municipal bonds are essential components of the tax code and support investments in infrastructure, public safety and education, encourage economic growth and provide state and local governments with flexibility needed to meet resident's needs.

The state and local tax deduction was one of six deductions in the original tax code in 1913. The principal that no government should tax another strikes at the heart of federalism and any reversal would be an overreach by the federal government. This preemption would result in a double taxation and increase the constraints of local budgets due to a lack of revenue.

Municipal bonds are the primary tool used by state and local governments to build and maintain infrastructure. This efficient financing tool gives localities the flexibility to spend on projects

that are needed. In the past decade, state and local governments have financed \$3.8 trillion in infrastructure through municipal bonds. The tax exemption reduces the issuance cost and affords city leaders the flexibility to finance public capital improvements and infrastructure projects.

Since the last comprehensive tax reform in 1986, the tax code has become increasingly complex and the need for streamlining is apparent. While NLC supports reform, revenue neutrality should not be accomplished by preempting state and local governments taxing authority. Any effort that includes cutting these vital tools is short sighted and would undermine the ability to meet the needs of the citizens local officials are sworn to serve.

We look forward to working with champions of municipalities in both our House and Senate delegations in order to protect both the state and local deduction and the tax exemption of municipal bonds.

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

b. League Past President Chris Bollwage and NLC Testify on Brownfields Reauthorization

Recently, representatives of National League of Cities (NLC) and the U.S. Conference of Mayors testified before two House committees to highlight the importance of the U.S. Environmental Protection Agency Brownfields program and ask Congress to make several key improvements to the program as they consider reauthorization.

On March 28, New Jersey League of Municipalities' Past President and Elizabeth Mayor Chris Bollwage were joined by NLC President Matt Zone, Cleveland councilmember, at a hearing of the House Transportation and Infrastructure Subcommittee on Water Resources and Environment.

Mayor Bollwage told the Committee, "I am pleased to be here today to discuss the role brownfields redevelopment can play to build our 21st Century Infrastructure as well as revitalize communities. For many people, brownfields are just the neighborhood eyesore or the former industrial site, but for Mayors they also represent unrealized potential. Mayors see the redevelopment of brownfields as a chance to bring jobs back to a community, revitalize neighborhoods, increase our tax base, and reuse and enhance already existing infrastructure in a more sustainable way. I cannot stress enough that redeveloping brownfields is such a win-win for everyone involved, that Congress should reauthorize the brownfields law, and make some minor improvements, that would make the program even more successful."

On April 4, Mayor Bollwage joined fellow-Mayor Sal Panto, Easton, Pa., who serves as Chair of the NLC Energy, Environment and Natural Resources Federal Advocacy Committee, to testify before the House Energy and Commerce Subcommittee on Environment.

Suggesting improvements to the law and the program, Mayor Bollwage noted, “The Act should exempt local and state government from CERCLA liability if the government unit (a) owns a brownfield as defined by section 101(39); (b) did not cause or contribute to contamination on the property; and (c) exercises due care with regard to any known contamination at the site. Although property acquisition is a vital tool for facilitating the development of brownfields, many local governments have been dissuaded by fears of environmental liability. As a result, we have many brownfield properties that are, what we like to call, “mothballed”. While it hasn’t been a major problem in my community, it is a problem in other communities.”

NLC submitted a letter for the record at both hearings outlining priorities for a reauthorization bill, including increasing or maintaining the overall level of funding for the brownfields program, increasing the overall grant funding to allow communities to cleanup more difficult sites, and resolving the disincentives created by potential liability to facilitate reuse of brownfields properties.

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

c. FCC Proposes Sweeping New Restrictions on Local Land Use Authority

The Federal Communications Commission (FCC) recently released drafts of proposed rules that, if finalized, could dramatically preempt local governments. The two proposed rules regarding wireline and wireless service, which are intended to streamline and promote broadband deployment, suggest that local government requirements and practices are inhibiting the deployment of broadband internet, and should be preempted. The proposals suggest a series of changes that could limit local government control over the rights-of-way, further limit local review of wireless facilities, hamper local government protection of consumers of copper landline phone services, and restrict local efforts to stop redlining by telecommunications providers.

The FCC will vote on whether to advance these proposed rules through the formal public commenting process at its April 20 Open Meeting. It is likely to do so, and the commenting period would begin after publication in the Federal Register. However, commenting docket have been opened for both proposed rules and interested cities are encouraged to submit feedback in advance of the April 20 meeting.

Municipalities can comment on the first proposed rule, “[Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment](#),” using WC Docket 17-84, and can comment on the second proposed rule, “[Wireless Infrastructure NPRM](#),” using WT Dockets 17-79 and 15-180. Our friends at the National League of Cities (NLC) will continue to monitor this rulemaking and will comment on the proposals.

Contact: Michael Cerra, Assistant Executive Director, mcerra@njslom.org, 609-695-3481 x120.

III. Special Notice

The League and the Institute of Local Government Attorneys have submitted a motion requesting amicus status in the appeal to the New Jersey Supreme Court of the recent Appellate Division decision regarding Rice Notices and the Open Public Meetings Act (OPMA.) In Kean Federation of Teachers v. Morell, Kean University's Board of Trustees, the Court ruled that employees and prospective employees are entitled to receive a "Rice Notice" when a matter involving their employment is placed on the board's agenda. In addition, the ruling addresses the "prompt availability" of minutes and the need to adopt a meeting schedule that will enable such a release.

[Click here for a copy of that decision.](#)

The brief is being filed by League Associate Counsel John Gillespie of Parker McKay. The Appellate decision rewrites the OPMA and requires RICE notices to all potentially affected employees for every public meeting, at which the body may act or intends to act on any matter falling within OPMA's personnel exemption without regard to whether the body intends to discuss the matter in public or executive session, and without regard to whether the employee could be adversely affected.

We will keep you informed as this case proceeds.

IV. Also of Interest

a. Municipal Land Use Law Re-Forum

The MLUL Re-Forum is for experienced practitioners, decision-makers and opinion leaders who seek the opportunity to share your vision for how the Municipal Land Use Law (MLUL) could be updated –to authorize the use of innovative planning tools in your communities; to prevent internal inconsistencies between master plans, zoning ordinances and reexamination reports that confound even the attorneys; and to improve the local review process, to name just a few examples. With the help of experienced facilitators, our open meeting format will allow participants to shape the agenda, lead the discussion and leave with a set of action items for putting changes in place.

The League, along with affiliate organization the New Jersey Planning Officials (NJPO) is a partnering with a broad range of other groups, including the New Jersey Chapter of the American Planning Association, on this program. The event, designed for experienced municipal officials, planners, land use attorneys, developers, architects, environmentalist or anyone else interested in the MLUL will held on Friday, May 19, 8am to 4pm at the Hyatt Regency in New

Brunswick. The cost is \$50 if you register before April 30 and \$75 after that date. Registration includes breakfast, lunch, and a networking reception immediately following the event. You can register now at: <http://njplanning.org/event/mlul-re-forum/>

b. April Grants Posted

The League's April grants page has been posted and includes links to several federal funding opportunities. [Click here](#) to visit the Grant Resource Center.

The League's Grant Resource Center features links and resources to assist municipalities in their grant search. Through a partnership with GrantStation, we also offer a discounted membership to use their funding databases; [click here](#) for more information.

Contact: Taran B. Samhammer, tsamhammer@njslom.org, (609) 695-3481 x124.

c. NJ Municipalities Magazine Requests Your Feedback

We are currently in the process of putting together magazine testimonials in the hopes of collecting some comments about our magazine from satisfied readers.

Would you please take a few minutes to give us your opinion of the League's magazine, *NJ Municipalities*. Why do you read it? What do you find helpful? Do you find our articles useful? How can we improve?

There is no need to dictate a formal letter – please [click here](#) to submit your comments online, or email them to tsamhammer@njslom.org. Also, with your permission, we would like to share your thoughts with others.

We look forward to learning what you like about our magazine, and also welcome any suggestions or criticisms.

Contact: Taran B. Samhammer, Advertising Manager, tsamhammer@njslom.org, 609- 695-3481 x124.

d. Legal Issues Surrounding the Executive Order on Sanctuary Jurisdictions Free Webinar

President Trump's January 25 Executive Order on "[Enhancing Public Safety in the Interior of the United States](#)," and specifically its provisions related to "sanctuary jurisdictions," have been subject to litigation.

This webinar will help local government officials understand, and learn how to explain, the legal issues at stake in this litigation. Speakers: Lisa Soronen, State and Local Legal Center, Amanda Kellar, International Municipal Lawyers Association, and Hadi Sedigh, National Association of Counties

Date: April 18, 2017

Time: 1:00 PM, Eastern Time

Register here

This webinar is co-sponsored by the National Association of Counties, the State and Local Legal Center, and the International Municipal Lawyers Association.

Sincerely,

Michael J. Darcy, CAE
Executive Director