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## August 3, 2018

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### I. State Issues

It has been a relatively quiet week in Trenton, but there are a number of issues the League is closely monitoring. According to public comments made by the Senate President, we expect that the “Economic and Fiscal Policy Working Group” to release its recommendation shortly. [If you recall](#), this legislative subcommittee was asked to take a comprehensive look at the tax structure in the State and to offer recommendations. It is also possible that we may begin to see movement later this month on legislation to legalize adult, recreational use of marijuana. The League is also actively engaged with Legislature and the Judiciary, [articulating our concerns with the recent report and subsequent recommendations on municipal courts.](#)

**In addition, we call your attention to the following:**

#### **i. Bill Promotes Volunteerism**

The State Senate and the General Assembly have both unanimously approved [A1627/S1873](#). The League of Municipalities **strongly supports** A-1627, which would permit a person with a pre-existing volunteer relationship as a firefighter or first aid with their employer to retire from service covered by PERS or PFRS and continue to serve that employer as a volunteer. This is an issue in many municipalities and the League has heard from local elected officials statewide about the difficulties in retaining qualified volunteers.

This bill previously passed both houses but was pocket vetoed by then Governor Christie. We urge you to contact the Governor’s office and ask that he vote this important initiative into law. To do so, please either call 609-292-6000 or see:

<https://www.nj.gov/governor/contact/>.

This legislation stems from a League conference resolution in 2014 and we thank the sponsors, including Senators Sarlo and Kean, Assemblywoman Schepisi and Assemblyman Bucco for their efforts.

For more, on this please see our Town Crier blog post at:

<https://njlmblog.wordpress.com/2018/07/09/bill-to-help-volunteers-awaits-governors-action/>

**Contacts:**

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- Lori Buckelew, Senior Legislative Analyst, [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org), 609-695-3481, ext. 112

**ii. League Opposes Municipal Preemption in “Bag Bill”**

On June 25, the State Legislature sent to the Governor legislation that would impose a statewide fee on single-use carryout bags provided to customers at retail check-out counters.

The League of Municipalities **opposes** the legislation ([A-3267/S-2600](#)), which would, in part, supersede and preempt local ordinances that are being readied for adoption, and that are meant to address problems caused by non-reusable carriers.

Already, a number of towns have taken positive action to encourage retailers and shoppers to better protect the environment by using more durable carriers. These ordinances are grandfathered by the proposal. But others are in the process of doing the same. We see no environmental benefit in preempting their actions. To contact the Governor’s office on this, please either call 609-292-6000 or see:

<https://www.nj.gov/governor/contact/>.

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- Michael F. Cerra, Assistant Executive Director, [mcerra@njslom.org](mailto:mcerra@njslom.org), 609-695-3481, ext. 120
- Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481, ext.121

**b. First Responders Workers’ Comp Rewrite Raises Costs to Local Taxpayers**

The League remains opposed to [S-716](#), the Thomas P. Canzanella Twenty First Century First Responders Protection Act, which passed the Senate in June. The bill now awaits action, along with its companion, A-1741, in the Assembly Labor Committee.

David N. Grubb, Executive Director of New Jersey’s Municipal Excess Liability Joint Insurance Fund, has written an [analysis of the potential costs](#) of the bill, as currently drafted. After reading that report, please contact your municipality’s two representatives in the General Assembly, urging opposition to S-716/A-1741 in its current form.

This bill creates a rebuttable presumption of workers' compensation coverage for public safety workers and other employees in certain circumstances. The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police, and certain medical personnel.

Clearly, as a society we must recognize and appreciate the service of our first responders. However, we must also balance our responsibility to our public safety workers with our responsibility to the taxpaying public at large. The provisions of this bill will, we feel, tip the scales and increase costs that will need to be passed on to taxpayers.

Under S-716/A-1741, New Jersey local taxpayers will be forced to subsidize the Federal Government. Municipalities will be required to reimburse the Medicare program for medical payments incurred by retirees collecting workers' compensation under this Act. S-716/A-1741 will make it almost impossible to contest claims.

Under current law in New Jersey, the standard to rebut the presumption of compensability is "preponderance of the evidence" In S-716/A-1741, the standard is raised to the impossible "clear and convincing." Only one state, Oregon, uses that standard. However, Oregon excludes volunteers from the presumption and requires career firefighters to report any claims within 7 years of retirement. The other states use the more reasonable "preponderance of the evidence" standard currently used in New Jersey.

Further, S-716/A-1741 presumes that all cancers are due to on the job exposures. The most comprehensive study that we are aware of was published by the National Institute for Occupational Safety and Health (NIOSH). The study concluded that career firefighters had a significantly higher rate of mesothelioma and an elevated rate of respiratory, digestive, and urinary cancers. The study does not support the presumption that all cancers are job related.

Our recommendation is to create a study commission to examine the issue, review the NIOSH study and consider the experience of other states. Further, this issue should be addressed outside of workers' compensation.

**Contact:** Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481, ext. 121

### **c. Supreme Court Ruling Expands Standing for Challenging Planning Board Decisions**

Yesterday, the State Supreme Court issued a decision that is sure to have a municipal impact. [Cherokee LCP Land, LLC v. City of Linden Planning Board](#), examined the definition of "interested party" within the Municipal Land Use Law (MLUL). Specifically, the Court sought to determine whether the holder of a tax sale certificate has standing as an "interested party" to challenge a planning board's approval of a land use application for a neighboring property.

The Court ruled that tax lienholders can indeed have standing to challenge a planning board's actions, however, this is "not in and of itself determinative to standing." A tax lienholder must also show that its right to use, acquire, or enjoy property, is or may be affected by the planning board's action. Therefore, standing must be considered on a case-by-case basis.

While the ruling stop short of giving all tax lienholders automatic standing, it is significant as it still increases the potential pool of challengers to a planning board's decision. And, it would seemingly allow even those with the most speculative of future interests in neighboring properties to now use the MLUL to challenge the decisions of the municipal planning board. Giving holders of tax sale certificates these rights severely frustrates the purpose of the Tax Sale Law.

You should review this ruling with your municipal attorney for more information on how it will impact your municipality.

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## II. Federal Issues

### a. Federal FY19 Appropriations Update

As you may recall, back in March Congress passed and the President signed an FY18 Appropriations Act, which prevented a shut-down and provided funding for Federal programs, departments, and agencies, through September 30, 2018. At that time, an agreement was also reached on a bi-partisan budget act, which, in effect, established the 'rules of the game' for federal appropriators, through September 30, 2019. (The Federal government uses a two-step expenditure process. A Budget Act establishes broad guidelines. One or more Appropriations Acts authorize specific spending levels.) Some detail on the March compromises was provided in our [March 29, 2018 Town Crier blog](#).

Both Houses of Congress are now involved in the FY19 appropriations process, which will set specific programmatic authorizations for the upcoming Federal Fiscal Year – October 1, 2018 through September 30, 2019.

Under the chairmanship of New Jersey Congressman Rodney Frelinghuysen, the House Appropriations process is ahead of schedule. For details, visit the [Committee's website](#).

During the week of July 23, the Senate began consideration of a Fiscal Year 2019 (FY19) spending package consisting of four appropriations bills (Interior/Environment, Financial Services, Agriculture, and Transportation/Housing and Urban Development).

Our partners at the National League of Cities (NLC) consider the decision to bundle the four bills to be 'another good sign that Congress is likely to remain faithful to the higher funding levels approved under the current two-year budget agreement, rather than bending to the president's proposed budget cuts.'

If the package passes before the Senate's August recess, the Senate will have approved seven of the annual twelve spending bills. That would give House and Senate conferees two months to resolve their differences, before the beginning of the new Fiscal Year on October 1.

Local leaders can track the process of the FY19 spending bills by visiting [NLC's Budget Tracker](#), which details dozens of federal programs, in various departments and agencies.

**Contact:** Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481, ext. 121.

### **b. NFIP Lives On**

The Senate passed, and the President signed, legislation that will extend the life of the National Flood Insurance Program (NFIP) for another four months. This is the seventh time since September 2017 that a short-term extension has kept the program alive.

Thanks to those of you who contacted our United States Senators. Please thank Senators Menendez and Booker, who cosponsored and cast two, of the 86, votes in favor of this critical extension.

**Contact:** Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481, ext. 121.

## **III. League Conference**

### **a. Unauthorized Hotel Reservation Services**

Every year there are unauthorized firms soliciting housing and hotel reservations from attendees at the 103<sup>rd</sup> Annual League Conference. We assure you that the only firm authorized to handle our conference housing reservations is AC Central Reservations. This information is on the top of the official conference housing form sent to all municipal clerks and posted on our [website](#).

Using unauthorized reservation services creates real problems for you and the conference as a whole. You cannot be assured your credit card information is secure and your room reservation may not actually be made. Using unauthorized services means your room will not be part of the official conference housing block so you won't get emergency housing information (which happened in both 2011 and 2012), 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.

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

### **b. Exhibits at the Annual Conference**

Do you know a vendor that would be a good fit for the Annual Conference? If so, ask them about being an exhibitor or have them contact Kristin Lawrence, Exhibit Manager at 609-695-3481 x125 or [klawrence@njslom.org](mailto:klawrence@njslom.org). Information is also available on [njslom.org/exhibit](http://njslom.org/exhibit).

## IV. Also of Interest

### a. The League is Now Accepting Applications for the Innovation in Governance Program!

The New Jersey Department of Community Affairs (DCA) and the New Jersey League of Municipalities will again acknowledge and promote Innovation in Governance through our annual recognition program. This is a great opportunity to showcase innovative solutions to any problems that have cropped up – either suddenly or over time – in your municipality. It can also be an opportunity to let your peers in on innovations that prevented problems from even arising.

Visit our awards page to see previous years of impressive ideas created by our winning municipalities as well as the full invitation and application to this year's program by clicking [here](#).

**Contact:** Ciara Bradley, Legislative Administrator, [CBradley@njslom.org](mailto:CBradley@njslom.org), 609-695-3481, ext. 128.

### b. Updated Mayors Wellness Campaign Toolkit

The new and improved Mayors Wellness Campaign (MWC) toolkit is geared to help mayors and community organizations address their unique local health needs. The toolkit contains an introductory video, and nearly 30 evidence-based, step-by-step, cost-effective program ideas in four main categories: physical health and nutrition, environment and health, education and health, and arts and health. Users can filter their search by the age of the population they wish to serve, and by the season. View the MWC at-a-glance program guide to help determine which program is best for your community. Check out the new MWC toolkit [here](#)!

Questions about the toolkit or how to join the MWC? Contact Tyla Housman at [THousman@njhcqi.org](mailto:THousman@njhcqi.org) or 609-452-5980.



New Jersey State League of Municipalities

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