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## September 28, 2018

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

### I. State Issues

#### a. Division of Local Government Services Issues Local Finance Notice on SALT Charitable Contribution Law

On September 25 the Division of Local Government Services (DLGS) issued [Local Finance Notice 2018-23](#) providing guidance on the implementation of the SALT Charitable Contribution Law. As you may recall, in response to the 2017 Federal Tax Reform, which included a \$10,000 limit on the State and Local Taxes (SALT) deduction, Governor Murphy signed into law P.L. 2018, c. 11, commonly referred to as the Charitable Trust legislation. It took effect on July 3, 2018.

The law permits municipalities, counties and/or school districts to establish a charitable trust. In turn taxpayers can receive a credit for a charitable donation on their property tax bill. In theory, the property taxpayer would be able to use 90% of the charitable donation as a tax deduction on their federal income taxes. However, the IRS has issued proposed regulations to reduce the deductions available for charitable contributions by the amount of any state or local tax credit the taxpayer receives or expects to receive in return. In response, both Governor Murphy and State Attorney General Gurbir Grewal expressed opposition to the proposal and said that the State will challenge the IRS proposal in Court if necessary.

For more, [please click here for the NJLM September 27 Special Issue Briefing](#).

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

## **b. New ABC Rule for Limited Brewery Licensees Issued**

Last Friday, September 21, 2018, Division of Alcoholic Beverage Control (ABC) Director David P. Rible issued, effective immediately, a 'Special Ruling Authorizing Certain Activities by Holders of Limited Brewery Licenses.' The Special Ruling is meant to clarify provisions of Chapter 47, P.L. 2012, which revised the 'law regarding limited breweries, commonly known as micro-breweries, and restricted breweries, commonly known as brewpubs.'

In the Ruling, the Director notes, 'The 2012 amendment was not intended to establish a new consumption venue at the brewery, with the same privileges as a sports bar or restaurant.' To preclude misuse of the privileges that are afforded to limited brewery licensees – 'the manufacture of malt alcoholic beverages and the distribution of these products through the three-tier system' - the Ruling limits the number of special permits that the Division will issue for on-site and off-site events. Most specifically, the Ruling establishes guidelines that define a brewery tour.

We are evaluating the possible impact of the Ruling on the participation of local limited brewers at municipal festivals and civic events. The Ruling is available on the [Division of ABC website](#)

**Contact:** Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481 x121.

## **c. Update on Marijuana/Cannabis Legalization**

In case you have not seen it, we call your attention to the [League's September 12 Urgent Alert](#) regarding the anticipated legalization of adult recreational use marijuana.

Since that alert went out, draft amendments to Senator Scutari's bill have gone public but with one major difference than what we reported in our earlier email. The state tax rate in the bill is 10%, not the 25% that was being widely discussed and included in the legislation as introduced. The difference reflects the respective positions of the Legislative sponsors and the Murphy Administration and will be subject to further negotiations.

As we anticipated, the legislation allows a municipality to enact an up-to-2% local excise tax for local purposes. It also would give a municipality 180 days to "opt out" by passing an ordinance banning any commercial business associated with cannabis.

The League, working closely with the Urban Mayors Association (UMANJ) and the Conference of Mayors (NJCM), has communicated to the sponsors and the Murphy Administration that the local option should be up to 5%. Enforcement will fall almost entirely on municipal governments, which will need to absorb costs associated with law and code enforcement, health services, education, and social services. Two percent is simply insufficient to offset costs and is an incentive for municipalities to opt out. We based this conclusion on our conversations with dozens of Mayors across-the-state and based on our outreach to our fellow State leagues in states that have legalized recreational marijuana.

We note that the League, as well as the UMANJ and NJCM, has not taken a position on the larger legalization issue. But regardless of your position on legalization, there are inherent issues that will be confronted by local governments if and when cannabis is legalized and it is imperative to give municipalities as many tools sufficient to effectively deal with those issues. Thus, recognizing the likelihood of passage, most likely in October, **we urge you to contact your Legislators and ask that if they support legalization they should also support a 5% local option and that municipalities should have the ability to “opt-in” instead of requiring what will likely be hundreds of municipalities to “opt out.”**

**Contact:** Michael F. Cerra, Assistant Executive Director, [mcerra@njslom.org](mailto:mcerra@njslom.org), 609-695-3481 x120.

#### **d. 2% Interest Arbitration Cap**

As you know, despite overwhelming support from municipal and county officials and the business community and conclusive evidence for an extension, the Legislature and Governor failed to act by December 31, 2017 to renew the 2% cap on interest arbitration awards. Because contracts typically expire at the end of the calendar year, the impact of the failure renewal will be begin to be felt as municipalities begin to negotiate new contracts this year and through the spring and summer of 2019.

The temporary 2% cap on police and fire arbitration contract awards proved to be an effective tool to control increasing salary costs and provide a solution to assist local governments in keeping property taxes down and costs under control. It is important to note, that although the cap on Interest Arbitrations has expired the 2% property tax levy cap remains in effect.

If the cap on interest arbitration is not renewed, while the 2% property tax levy cap remains in effect, municipalities will be forced to reduce or eliminate municipal services in order to fund interest arbitration awards. We urge you, particularly if you have contracts that expire on December 31, to demonstrate to your Legislators what the impact will be on your budget, on other services provided to your constituents and the impact on local property taxes.

And we urge you to pass a resolution urging the State Legislature and Governor to extend the 2% cap on Police and Fire Arbitration Contract Awards.

For a copy of the Resolution Urging the State Legislature to Extend the 2% Cap on Police and Fire Arbitration Contract Awards: [Word](#) / [PDF](#)

#### **Contacts:**

- Lori Buckelew, Sr. Legislative Analyst, [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org), 609-695-3481 x112.
- Michael F. Cerra, Assistant Executive Director, [mcerra@njslom.org](mailto:mcerra@njslom.org), 609-695-3481 x120.

## **II. Federal Issues**

## **a. FCC Approves Order Preempting Municipal Control of the Public Right-of-Way**

On Wednesday, the Federal Communications Commission (“FCC”) held a public meeting where it voted to approve a [Declaratory Ruling and Third Report and Order](#) (“Order”) that substantially limits local control of public rights-of-way (“ROW”). As we previously [reported](#), the Order applies aspects of the Federal Communications Act to municipal review of applications for small cell wireless facilities within the municipal ROW.

The Order restricts the kinds and types of limitations and standards that local governments can set for wireless facilities seeking access to the ROW. This includes limitations and standards set by local governments for aesthetic, safety, and system resiliency purposes. Standards must be in writing and cannot be unreasonably burdensome.

The Order creates a “shot clock” for reviewing applications for small cell wireless facilities. Municipal governments must review applications for collocation on preexisting structures within 60 days, and a deadline of 90 days for new builds. The review period applies for batched applications the same as they would for individual applications. While applications will not be deemed granted if a shot clock timeline is missed, the Order now allows wireless site applicants to seek expedited injunctive relief in court within 30 days of the missed deadline. The shot clock can be paused if the municipality notifies the applicant within 30 days of receiving the application that the application is substantially incomplete.

The Order will go into effect 30 days after it is published in the federal register. The Order can still be opposed through a filing of petitions for reconsideration (“PFR”). A petition for reconsideration requests that the commission review an action it has already taken. This is different from submitting comments during the open comment period. Given the controversial nature of the FCC’s action numerous PFR’s are expected to be filed. We will continue to keep you updated on this matter should there be further developments.

Local governments are the stewards of public rights-of-way, which are used by telecommunications providers to build their own networks. By narrowing the window and resources for evaluating small cell applications, the FCC is hindering local government’s ability to fulfill public health and safety responsibilities during the construction and modifications of small cell facilities. For more information on the order and its impact please see a recent [post](#) from our national affiliate, the National League of Cities.

**Contact:** Frank Marshall, Esq, League Staff Attorney, [FMarshall@njslom.org](mailto:FMarshall@njslom.org), 609-695-3481 x 137.

## **b. League Calls on USDOT for Release of Northeast Corridor Repair Funding**

On Thursday, the Coalition for the Northeast Corridor, of which the League is a member, sent a letter to U.S. Secretary of Transportation Elaine Chao urging the immediate release of \$275 million, already appropriated by Congress, for Amtrak Northeast Corridor infrastructure repairs. These funds were appropriated – with bipartisan support - in the Federal government’s 2017 and 2018 Appropriations, but have yet to be committed for their intended purpose by the U.S. Department of Transportation.

Thanks to the Leadership of Congressman Frelinghuysen, Congress passed Appropriations bills that included this funding, which is crucial to the repair of the Northeast Corridor and vital to the Gateway Project. A copy of the Coalition's letter is available on [the League's website](#)

**Contact:** Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481 x121.

### **c. Progress on Federal FY '19 Appropriations Should Avert Shutdown**

As the Federal Fiscal Year nears its end, and a new year fast approaches, the U.S. House of Representatives approved legislation that will, if signed, prevent a government shutdown at midnight, on this coming Sunday. In his most recent statement on the subject, the President said that he would sign the bills, which include full funding for over two-thirds of the Federal government, and which will defer a showdown on the rest until after the mid-term elections, on December 7.

Our partners at the National League of Cities continue to post the status of specific programmatic funding on matters important to municipalities. That info is available on [NLC's Federal Budget Tracker](#).

**Contact:** Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481 x121.

## **III. League Conference**

### **a. Unauthorized Hospitality Functions**

The 103<sup>rd</sup> Annual League Conference will soon be upon us and we know you are looking forward to a productive and educational week.

Numerous exhibitors and groups have scheduled receptions and hospitality functions during the evening hours in Atlantic City. However each year there are a few commercial entities that schedule hospitality function such as brunches and lunches which conflict with the Conference programming. These unauthorized functions should not be confused with legitimate business luncheons sponsored by our affiliated associations and their members. The League urges you not to attend daytime hospitality functions offered by commercial firms.

Instead, plan your daytime activities so you can derive the greatest educational benefit from attending the League Conference. League Education sessions begin at 9:00 AM, break at noon when there are informative Exhibitor Learning Sessions, resume at 2:00 and finally adjourn at 5:15.

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 the [League's website](#).

### **c. Don't Forget! CEU Tracking System Procedures for 103<sup>rd</sup> Annual NJLM Conference**

Badge Scanners will be used to track CEU Credits and Attendance at the NJLM 103<sup>rd</sup> Annual Conference.

For Sessions that Have CEU credit Available

- All Attendees looking to earn credit must scan-in and scan-out of these qualifying sessions\* to earn their CEU credits.
- Attendees will claim their certificates after the conference via the League website [www.njslom.org/confceu/](http://www.njslom.org/confceu/)

For more information or for a complete list of procedures please visit the [Conference Website](#).

\* Please note, the procedures described above only apply to educational sessions. Business Meetings and Exhibitor Learning Sessions are not included in the scanning system.

## **IV. Also of Interest**

### **a. Due October 1 - The League is 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.

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

### **b. Mayors' View on Race and Discrimination**

The National League of Cities (NLC) along with Boston University and the Rockefeller Foundation have produced a report "[Mayoral Views on Race and Discrimination](#)" that

explores how mayors of medium-sized and large cities understand race, discrimination and equity in their communities and on a national level. The report offers key findings on mayor's beliefs about:

- The four groups most subject to discrimination
- Race impacts on access to services
- The quality of services is largely equal across different groups of people, except for one service.

See the report for more details including NLC's Race, Equity and Leadership (REAL) initiative 10 concrete actions mayors can take to not only acknowledge, but address racism and discrimination in their cities.

**For questions on the report contact Tom Martin, Communications Director, NLC at 202-626-3186.**

### **c. Attorney General 21/21 Community Policing Project**

The Attorney General has [asked the 21 County Prosecutors](#) to organize quarterly public events to discuss issues relevant to community policing in the 21st century (the "21/21 Community Policing Project"). The goal of the project is to strengthen relationships between law enforcement officers and the communities they serve – and to address areas of concern before conflicts arise. Starting in spring 2018, each of the County Prosecutors will be responsible for organizing one meeting each on the following topics:

- Spring 2018 (Apr-Jun) – Investigations of Officer-Involved Shootings
- Summer 2018 (Jun-Aug) – Opioids
- Fall 2018 (Sep-Nov) – Immigration Enforcement
- Winter 2018-19 (Dec-Feb) – Bias Crimes

The events will include presentations and/or discussions on the quarterly topic. For a listing of scheduled public events contact [your county prosecutor](#) or visit the [21/21 Community Policing Project site](#).

### **d. Application for 2018 Governor's Environmental Excellence Awards Available**

The New Jersey Department of Environmental Protection (DEP) is accepting applications for the 2018 Governor's Environmental Excellence Awards (GEEA). The Governor's Environmental Excellence Awards Program is New Jersey's premier awards program for recognizing outstanding environmental performance, programs, and projects throughout the state. These awards recognize individuals, businesses, institutions, communities, organizations, educators, youth and others who have made significant contributions to environmental protection in New Jersey. Since the awards program was established in 2000, 170 winners have been recognized. Nominations can be submitted for seven different categories. In addition, the category for "Environmental Education" has been divided into two awards: one for adult-led educational initiatives and one for projects that are student-led or have succeeded due to a high level of student involvement.

The GEEA Program is sponsored by the New Jersey Department of Environmental Protection, the New Jersey Environmental Infrastructure Trust and the New Jersey Corporation for Advanced Technology, in partnership with the New Jersey State League

of Municipalities. Award winners will be honored at a ceremony in December, to be held in Trenton. The 2018 application and other awards information is available at [the DEP website](#). Completed applications must be received at DEP by October 5.

Questions – Contact Tanya Oznowich at DEP at 609-984-9802 or [Tanya.Oznowich@dep.nj.gov](mailto:Tanya.Oznowich@dep.nj.gov)

### **e. Brownfields Reuse Workshop**

The NJ Brownfields Interagency Working Group is hosting an “Accelerate Land Reuse for Community Revitalization” workshop to address questions around legal liability, regulatory issues, funding resources, assessment/remediation, and community engagement to spur redevelopment of these properties.

Panels will feature NJEDA, IBank, NJDEP and USEPA. There will also be an opportunity to meet individually with panelists and over a dozen additional state and federal agencies during Office Hour Consultations. Lunch will be served.

The workshop is free but registration is required. Attend October 9<sup>th</sup> at the Middlesex Fire Academy in Sayreville OR October 18<sup>th</sup> at the Kroc Center in Camden. Come meet with the experts you need to move your redevelopment projects. Register today at the center for creative land recycling website.

[Register for the Sayreville workshop.](#)

[Register for the Camden workshop.](#)

For questions contact the center for creative land recycling at 646-712-0535.



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