

January 20, 2015

**RE: Contact Legislators Now to Protect Relief for Our Property Taxpayers**

Dear Mayor:

In one month, Governor Christie will propose the State's next budget. Facing the need to fund pension payments, the slow economic recovery, rising debt and the pending Transportation Trust Fund crisis, it appears that State budget makers will be hard pressed to make ends meet, yet again.

We need to anticipate a possible diversion of our funding. **All local officials need to stand together to protect the municipal property tax relief funding that helps us to provide essential services to our communities.** Two programs provide the bulk of relief - the Energy Tax Receipts Property Tax Relief (ETR) program and the Consolidated Municipal Property Tax Relief Aid (CMPTRA) program.

CMPTRA was created by the Whitman Administration, when it decided to 'consolidate' a number of previously discrete municipal property tax relief programs. Each of CMPTRA's component parts was distributed according to state established formulas. And many of those parts were extensions of taxes that had once been assessed and collected at the municipal level. Among its many components, CMPTRA includes the Financial Business Tax, the Business Personal Property Tax Replacement, the Railroad Class II Property Tax, the Insurance Franchise Tax, the Corporation Business Tax on Banking Corporations and a big chunk of State Payments In Lieu Of Taxes (PILOT) payments, that had been under-funded for many years, prior to being folded into the Consolidation. These are, or were, all municipal revenue replacement programs. They were not, properly speaking, State aid. They were not meant to make things better for municipal property taxpayers. They were only intended to keep things from getting worse.

In 1997, the ETR replaced the Public Utility Gross Receipts and Franchise Tax (PU-GRAFT). That was a tax on regulated public utilities originally assessed and collected at the municipal level. In the early 1980s, for its own benefit and for the convenience of the tax paying utilities, the State became the collection agent for this assessment. The law that effected this change promised that the proceeds would be distributed back to the municipalities, which provide services to utility facilities and from whence come utility profits. The State of New Jersey neglected that commitment, immediately repurposing large and growing portions of the proceeds to its own general fund. Modernization and deregulation led to a major reform of utility taxes in the mid-Nineties. That reform law validated and, supposedly, capped the State's annual percentage.

At the League's urging, ETR municipal property tax relief funding was protected by the, so-called, poison pill. The "Poison Pill" provides that, if the State does not appropriate and distribute Energy Tax Receipts Property Tax Relief (ETR) funding, in any year, in accordance with statutory requirements, then the State forfeits the right to collect the corporation business tax (CBT) from all corporate taxpayers that are not public utilities for that tax year.

Chapter 168, P.L. 1999, required that the amount of State aid paid to municipalities under the two largest State aid programs be indexed annually for inflation and be used for municipal property tax rate relief. The Consolidated Municipal Property Tax Relief Aid (CMPTRA) program beginning in the next fiscal year, and the Energy Tax Receipts Property Tax Relief Fund program beginning when that program's aid growth was scheduled to end in State Fiscal Year 2002, would be increased annually to adjust for the annual change in inflation measured by the government purchasing price deflator.

The amount of State aid paid to municipalities in State fiscal year 1999 under the Consolidated Municipal Property Tax Relief Aid program equaled approximately \$756 million. The law was intended to protect this current level of aid against inflationary pressures and the annual inflationary adjustments would be required to be used by municipalities for keeping property taxes down. The law also provided that the small number of municipalities that did not have a net distribution of Consolidated Municipal Property Tax Relief Act in 1998 (due to the Pension Offset) would have a distribution measured by future inflationary growth upon a base equal to the levels of all the municipal aid they received in fiscal year 1995 before the consolidation of those municipal aid programs.

The amount of ETR distributed in SFY 2002 was \$755 million. Chapter 168, which has never been repealed or amended, calls for annual inflationary adjustments to total ETR appropriations and distribution AND for distributions to each individual municipality at, at least, the level each received in State Fiscal Year 2002. If those conditions are not met, the poison pill would apply. Beginning almost immediately, State Treasurers began to comingle ETR and CMPTRA distributions; and, in order to avoid the poison pill, every dollar added to ETR calculations was subtracted from CMPTRA. The result was an apparent inflationary increase in ETR funding, only achieved by an actual reduction in CMPTRA.

There will come a time when CMPTRA will be exhausted and the State will need to find another source of funding to make the required increase in ETR. In the alternative, State budget makers might try to challenge the poison pill.

I have asked League Past President, Mayor Janice Mironov of East Windsor Township, who chairs our ETR task Force, to monitor this situation and to take strong action, should the State try to avoid its responsibilities to municipal governments and local taxpayers. I, also, intend to raise this matter with Department of Community Affairs Commissioner Richard Constable, when I meet with him, early next month.

**In the meantime, I ask all of you to contact your State Legislators and express your continued support for League efforts to restore the \$320 million in property tax relief funding that has been diverted to other uses, since 2010.**

Contact Jon Moran at 609-695-3481, ext. 121 or [jmoran@njslom.com](mailto:jmoran@njslom.com) if you have any questions.

Very truly yours,

Brian Wahler, President, NJLM and  
Mayor, Piscataway