

June 26, 2015

**RE: Weekly Policy Update**

Dear Mayor:

Here's a recap of major policy issues of interest to local governments.

**I. State Budget Update**

Both Houses of the Legislature took action, yesterday, on the State budget and the package of budget-related bills that were reviewed in our June 24 letter (<http://nj-njslom.civicplus.com/Archive.aspx?ADID=302>). Again, along party lines, the bills were passed and sent to the Governor. For detailed information on the current state of the FY 2016 State Budget, visit the Legislature's Homepage at <http://www.njleg.state.nj.us/>. On that site, top, front and center, you will find links to the latest. The Governor has indicated that he will be making full use of his veto powers on the budget and the revenue raisers later today. We will provide a more detailed summary of the final state spending plan, early next week.

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

**II. OPRA/OPMA Pulled from Agenda**

On Tuesday, the proposed amendments to the Open Public Records Act (OPRA) and the Open Public Meetings Act (OPMA) ([S-781](#) and [S-782](#)) were pulled from the Senate Budget and Appropriations Committee agenda after it was clear that the bills did not have the votes to advance. While we appreciate the amendments Senator Weinberg and the advocates of this legislation were putting forth the League continues to oppose these bills due to the prevailing attorney fee language, the subcommittee requirements, which were to be amended, and the exemption of the legislature from OPRA and OPMA. For more information please see our [June 24 Dear Mayors Letter](#) available at <http://nj-njslom.civicplus.com/Archive.aspx?ADID=302>.

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

**III. Status of Deptford Township's Unfunded Mandate Complaint**

Yesterday, the League filed a brief as *amicus curie* before the Council on Local Mandates. The Council is a constitutional body empowered to invalidate state laws and regulations which impose mandates on municipalities but do not fund the costs of their implementation. The

League supports Deptford Township's complaint that P.L. 2014, c.54 (chapter 54) is an unconstitutional state mandate.

Chapter 54 requires that every new municipal police cruiser used primarily for traffic stops be outfitted with a "mobile video recording system." The law defines such systems as either dash cams or body cams. The law provides for a \$25 surcharge on DUI convictions to be paid to the municipality in which the DUI violation took place, as a means of funding this requirement.

During its passage the League opposed chapter 54 as an unfunded mandate. Indeed, the Office of Legislative Services (OLS) issued a fiscal note stating that this surcharge would not adequately cover municipal costs. We will update you as this case proceeds.

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#### **IV. Sunset of certain provisions of c. 78 Pension and Healthcare Reforms**

As you may recall [P.L. 2011, c. 78](#) had a sunset provision on the required healthcare contributions. The law included a sunset provision that the healthcare contributions required by Section 39 expire four years after the effective date of when employees began contributing. **After the full implementation** of contributions set forth in section 39, healthcare contributions **becomes a negotiated item** with those contribution levels becoming the base of negotiations. For example, if employees began their c. 78 contributions on Jan 1, 2012 then healthcare contributions do not become a negotiated item until after Jan 1, 2016.

It is important to note that [P.L. 2010, c. 2](#) requires that all employees must contribute a minimum of 1.5% of current base salary towards their health benefits cost. C. 78 did not remove this requirement. Also, it does not preclude an employer from requiring a health care contribution greater than 1.5% of the employee's base salary.

We strongly suggest you discuss this with you labor attorney. For more information please see our June 25 Dear Mayors Letter available at <http://nj-njslom.civicplus.com/Archive.aspx?ADID=303>.

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#### **V. Bill to require release of "Bidders List" sent to the Governor**

The League of Municipalities strongly **opposes** [A-947](#), which would require municipalities, counties and local authorities to release the names, upon request, of all parties who have received bid documents prior to the bid opening once three or more bid packets have been obtained. The

release of the bidders' list would have to be made available in a timely manner in accordance with the Open Public Records Act. In addition, municipalities will have the option to post the list on their websites. However, failure to release this information would prohibit a municipality from accepting the bids and require the re-advertisement for bids.

The League opposes A-947 for several reasons. First and foremost, we are concerned that the release of the bidders' names prior to the receipt of bids could lead to collusion and bid rigging. We are also concerned with the benchmark of "three or more bids" before the release of the bidders' list. We believe that this arbitrary benchmark will lead to costly litigation. Finally, we are concerned that the bill will require a municipality to create and maintain a record.

Contractors have long argued that release of the bidder's list may force contractors to "sharpen their pencils." We question why can't these "pencils be sharpened" regardless of the number of bidders or who is bidding on the project. Shouldn't potentially responsible bidders be submitting their lowest prices in all their bids?

We strongly believe that the public bidding process should be open and competitive. The names of bidders are routinely released after a bid opening. We are troubled with releasing the list prior to a bid opening because it has the potential to limit competition which can drive up costs for taxpayers and create an environment that could possibly lead to bid rigging and collusion.

The bill passed the Assembly last June with a vote of 59-16-3 and yesterday it passed the Senate 25-14. The bill now awaits action by Governor Christie.

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## **VI. Bills sent to the Governor for consideration**

Yesterday, the following bills, which the League supports, were sent to the Governor for consideration.

[A-1726](#), which amends "Flood Hazard Area Control Act" to require DEP to take certain actions concerning delineations of flood hazard areas and floodplains, unanimously passed the Senate yesterday. It previously passed the Assembly last May with a vote of 72-6.

[A-2385](#), which authorizes rural electric cooperative and certain municipalities to establish municipal shared services authority, unanimously passed the Senate yesterday. It previously unanimously passed the Assembly in February. A-2385 would authorize three or more municipalities that operate retail electric distribution systems to establish a municipal shared services energy authority. Once established, the bill would authorize rural electric cooperatives to become a member of the authority.

[A-2579](#), which authorizes municipalities to facilitate private financing of water conservation, storm shelter construction, and flood and hurricane resistance projects through use of voluntary special assessments, passed the Senate by a vote of 36-1 yesterday. It previously passed the Assembly in January with a vote of 58-12-1. A-2579 is a permissive expansion of an existing program

[A-3807](#), which permits educational research and services corporations to act as lead procurement agencies for local units and publically supported educational institutions; permits Council of County Colleges to act as lead procurement agency for county colleges, unanimously passed the Senate and Assembly yesterday. The educational research and services corporations could act as the lead procurement for goods and services concerning educational technology systems and related services.

[A-4265](#), which permits municipal, county, and regional police and fire forces to establish fiveyear residency requirement for police officers and firefighters; allows exceptions to requirement under certain circumstances, passed the Senate by a vote of 21-14 and the Assembly by a vote of 41-32-4 yesterday. A-4265 permits a municipality to establish a five year residency requirement for police officers and firefighters. Residency would have to begin within six months for the date the police officer or firefighter begins their official duties. The municipality could provide exceptions to the requirement for any police officer or member of the fire department who suffers injury, or a threat of injury, to his person, family, or property, committed by another who acts with purpose to: (1) intimidate him because of his status as an officer or member of the fire department; (2) manipulate an investigation; or (3) otherwise influence him to violate his official duty.

Very truly yours,

William G. Dressel, Jr.  
Executive Director