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February 21, 2020

- I. State Issues
- II. Annual League Conference
- III. Also of Interest

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

I. State Issues

a. Governor to Deliver Budget Address

On Tuesday, February 25 at 2 p.m., Governor Phil Murphy will deliver his third budget address before a joint session of the State Legislature.

The League will provide a summary shortly afterwards and further analysis in the days and weeks ahead. The State Constitution requires the State Fiscal Year 2020 budget to be signed by July 1.

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

b. Division Issues Guidance on Levy Cap Referendums

The Division of Local Government Services (DLGS) has issued [Local Finance Notice 2020-02](#) providing specific instruction and direction to municipalities considering holding a public referendum on exceeding the 2% Levy Cap or the 2.5% Appropriation Cap. If your municipality is considering a public referendum, we suggest that you review this Local Finance Notice along with our [blog post](#) with your professional staff.

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njlm.org, 609-695-3481 x112.

c. State Health Benefits Program Special Open Enrollment for Employees and Retirees Under Age 65 Enrolled in Horizon HMO

The State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) are currently holding a [special Open Enrollment](#) for employees and retirees under the age of 65 currently enrolled in one of the Horizon HMO Plans. Employees and retirees under the age of 65 who are currently enrolled in Horizon HMO, Horizon HMO1525, Horizon HMO2030, or Horizon HMO2035 have the option to switch to a Preferred Provider Organization (PPO), a Tiered Network Plan, or a High Deductible (HD) Plan.

In addition to their initial announcement, the Division of Pension is using targeted communication to inform the over 7,000 eligible employees and retirees. All eligible employees will be receiving a direct mailing from Horizon that will outline qualifications. The Open Enrollment period will take place from February 17 through February 28, 2020. For local government employees that choose to change their plan, the effective date of their new plan will be April 1, 2020.

This special Open Enrollment is for medical plan changes only. Members will not be permitted to add dependents to coverage, change coverage levels, or make changes to dental or prescription drug plans.

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njlm.org, 609-695-3481 x112.

d. Bills Will End Costly Litigation and Preserve Residential Property Tax Relief

The League strongly supports common-sense legislation that has been reintroduced for consideration in the current Legislation session. A-2991/S-421 are companion bills that will clarify telecommunications industry corporate tax responsibilities and shield local taxpayers from the costs of endless tax court litigation.

Based on a misreading of a 1997 law, Verizon decided that it could exempt itself from the payment of business personal property taxes (BPPT), in any year and in any municipality, when and where it is unilaterally determined that it provided less than 51% of dial tone service.

The dispute began in 2008 when Verizon informed a handful of municipalities that it had decided to exempt itself from payment of taxes on all of the cables and electronic equipment it houses in local switching stations. In the years that followed, similar decisions by Verizon have led to cases affecting taxpayers in hundreds of other New Jersey municipalities.

Earlier last year, Hopewell Borough in Mercer County prevailed over Verizon in a Tax Court case involving the corporation's claimed exemption for 2008. It took one municipality 10 years to ensure that Verizon would pay its 2008 taxes. Further litigation will be needed for Hopewell to secure BPPT payments for each subsequent year in which the exemption

was claimed. Every other municipality faces the same prospect of costly annual tax court filings, which, as we have seen, can drag on for over a decade. But even that might not end the problem, as Verizon has appealed the final Tax Court decision, forcing Hopewell Borough to put even more time and treasure into the fight.

A-2991/S-421 will put an end to the travail. This initiative will clarify the Legislature's intent to permanently apply the business personal property tax on local exchange telephone companies that were subject to the tax as of April 1, 1997.

We thank the sponsors, Assemblyman Burzichelli and Senators Turner, Bateman, Cardinale, Corrado, and Weinberg. S-421 has been referred to the Senate Community and Urban Affairs Committee. A-2991 awaits referral.

Please contact your State Legislators and urge them to support this necessary clarification.

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

e. Healthcare Levy Cap Exclusion 2020 Budget

In [Local Finance Notice 2020-02](#) the Division of Local Government Services (DLGS) noted that when preparing the property tax levy cap workbook the healthcare exclusion cannot be used for increases in healthcare cost resulting from decreases in employee healthcare contributions. Furthermore, the Division notes that agreeing to a higher or lower amount of employee health benefit contribution may be a factor that the Director of Local Government Services and/or the Local Finance Board considers when reviewing applications.

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njlm.org, 609-695-3481 x112.

f. Appeals Court Rules on Release of Police Use of Force Reports Under OPRA

Earlier this week a New Jersey Appellate Panel issued its decision in [Digital First Media v. Ewing Twp.](#) This published decision concerned the required release of police use of force reports (UFR) pertaining to juveniles. While it is well settled law that UFRs, with limited exceptions, are generally subject to disclosure under the Open Public Records Act (OPRA) and the common law, there remained uncertainty regarding disclosure of UFRs involving juveniles. This uncertainty was brought about by seemingly conflicting law and public policy.

In [Digital First Media v. Ewing Twp.](#) the court reviewed the interplay between OPRA and common law disclosure requirements, and court rules and regulations in place that safeguard from disclosure certain UFRs involving juveniles. The court distinguishes between UFRs written by police and those written in context of the Juvenile Justice Commission—noting that the focus of police written UFRs are not on the arrestee, whereas UFRs written by juvenile parole officers focus on the juvenile.

The court acknowledges the public policy reasons of ensuring the rehabilitation of a juvenile offender by keeping juvenile parole officer UFRs confidential. It also acknowledges the public policy purpose for allowing disclosure of police written UFRs,

even when juveniles are involved. Keeping these two competing interests in mind, the court determined that UFRs written by police even when pertaining to a juvenile, should be released under OPRA but with the juvenile's name redacted.

This ruling should be shared with your records custodian and police chief, and review with your municipal attorney for further information and guidance on how to proceed when records requests for UFRs are received.

Contact: Frank Marshall, Esq., Associate General Counsel, fmarshall@njlm.org, 609-695-3481 x137.

g. Governor Announces Ethics Reform Proposals

During his [remarks](#) at the Governor Florio Policy Lecture on Wednesday, Governor Murphy announced a comprehensive push for ethics reform as part of his pledge to change “the culture in Trenton, to make it more open and accessible, responsive, and, ultimately, more representative of our state and our great people—to make sure that government works for people, and not special interests.” The proposals include [legislation to eliminate the OPRA exemption for the legislature](#).

Another proposal includes [legislation to prohibit the legislature from taking action on any bill or resolution](#) that has not been posted in full on the legislature's website 72 hours prior to the vote unless three-fourths of the full membership votes that the bill or resolution is an emergency.

Other proposals include:

- [reducing the threshold for individuals to register as government affairs agents](#) from 20 hours of lobbying activities per calendar year to one hour per calendar year;
- requiring legislators and all executive and legislative branch employees earning \$100,000 or more per year to [fill out a detailed financial disclosure promulgated](#) by the State Ethics Commission;
- [extending the “cooling off” period](#), the time officials must wait after leaving their public service before being able to register as a lobbyist, from one to two years. This would apply to all executive and legislative branch staff earning more than \$100,000.

We will continue to keep you posted on the Governor's push for ethics reforms.

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njlm.org, 609-695-3481 x112.

II. Annual League Conference

a. Claim Your CEUs from the 2019 League Conference

Attention Municipal Officials! Do Not Forget to Claim Your CEUs from the 2019 NJLM Annual Conference! Visit the [Conference Tracking page](#) to claim your credits.

III. Also of Interest

a. Clean Energy Conference Update

NJBPU has announced the return of the New Jersey Clean Energy Conference: Charting the Path to 2050, to be held at Harrah's Resort in Atlantic City from April 6 to 7. With nineteen sessions to choose from, the Clean Energy Conference will feature informative and engaging discussions on the most relevant topics in clean energy. You won't want to miss our sessions on *Women and Climate*, the new *Energy Master Plan*, emerging *Offshore Wind* industries, and *Electric Vehicles* in New Jersey and beyond, to just name a few.

Visit the [conference website](#) to register and join business leaders, local officials, advocates, policymakers and others as we prepare to work together toward a clean energy future.

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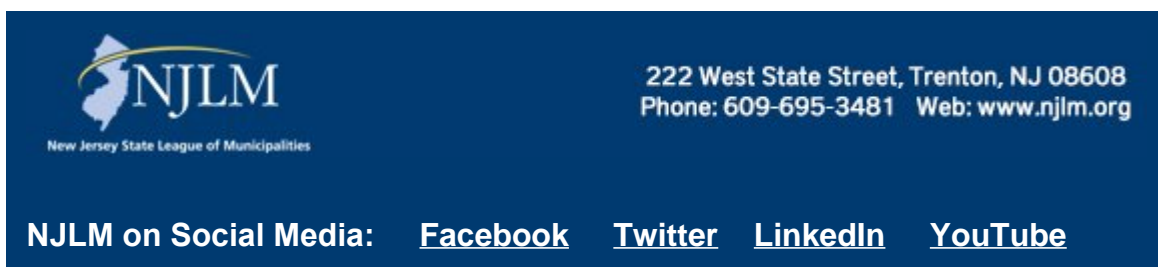
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