

December 18, 2015

RE: Weekly Policy Update

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Dear Mayor:

I. Regulation of Residential Rentals

In Trenton on Thursday, [A-4764](#), a bill to reinstate municipal authority to annual inspect residential rental properties, was amended on the floor of the New Jersey General Assembly. The amendments made the Assembly bill identical to the Senate companion, [S3277](#). Both bills stand at 2nd reading and are poised for final votes in each house when the

Legislature returns in early January. These bills must pass each house by January 11 to go to the Governor; otherwise each bill will die as of midnight January 11. The League strongly **supports** these bills, which are sponsored by Assemblyman John Burzichelli and Senator Nilsa Cruz-Perez respectively. Please contact your State Legislators and ask them to support A-4746 and S-2733. For more, please [click here](#).

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II. Four Constitutional Amendments Considered

Also in Trenton, several constitutional amendments were considered by the Assembly Judiciary Committee as well as the Senate Budget and Appropriations Committee. The goal is to have these questions on the November 2016 ballot. In order to be considered on the November 2016 ballot the proposed constitutional amendment would need to pass both the Senate and Assembly by a super majority or a simple majority both in this term, which ends January 12th, and by the summer of next term, which begins 12 noon on January 12th.

[ACR-1](#), sponsored by Assembly Speaker Prieto, will amend the State Constitution to dedicate all State revenues from motor fuels and petroleum products gross receipts tax to transportation system. ACR-1 does not propose an increase in either the gas tax or the petroleum tax. Rather, it proposes the dedication of all the revenues of each for the Transportation Trust Fund (TTF),

including the current \$0.03 portion of the petroleum tax that is not currently dedicated for transportation. Any future increase in either, assuming ultimate passage, would then also be dedicated.

ACR-1 does not include a formula for disbursement of the funding, thus the allocation of revenues to local governments would be determined on annual basis.

ACR-1 unanimously passed the Assembly Judiciary Committee. A Senate companion, SCR190, was proposed for introduction yesterday by Senator Nicholas Sacco.

[ACR-2](#) proposes constitutional amendment to allow Legislature to authorize by law establishment and operation of casinos in certain counties. Specifically, ACR-2 would authorize the establishment and operation of 2 casinos located in two different counties outside 75 miles of Atlantic City. For the first 16 State Fiscal Years (SFY) 35% of the State's share of revenue from the operation of the two casinos will be dedicated to Atlantic City for the purpose of recovery, stabilization or improvement of Atlantic City, 2% to thoroughbred and Standardbred horsemen program, and the remaining 63% will be split 48% to the State and 52% to state aid to each municipality and county in the State for programs and property tax relief for senior citizens and disable residents. Over the next 10 SFY, aid to Atlantic City will decrease by 1.5% while increasing the 63% by 1.5%. Thereafter 20% of the revenue will be dedicated to Atlantic City.

ACR-2 passed the Assembly Judiciary Committee by a 4-2 vote, with Assemblywoman Schepisi and Assemblyman Chris A. Brown voting against it. At this time, there is no Senate companion to ACR-2

[ACR-3](#) proposes a constitutional amendment to require payments by State to State-administered retirement systems and establish in Constitution right of public employees to pension benefit; provides for enforcement of funding obligations and benefit rights. Beginning July 1, 2017 the State would be required to make a payment of at least 4/8ths of full required pension contribution. The payments will increase by 1/8th each year until full contribution will be required in July 1, 2021. In addition, the State would be required to make their contribution on a quarterly basis on August 1, November 1, February 1 and May 1 each year.

ACR-3 passed the Assembly Judiciary Committee by a 4-1-1 vote, with Assemblywoman Schepisi voting no and Assemblyman Chris A. Brown abstaining. The Senate companion, SCR184 passed Senate Budget and Appropriations Committee yesterday, as well, by an 8-5 vote, with Senators Beck, O'Toole, Bucco, Oroho, and Thompson voting against it. SCR-184 was also amended on the Senate floor yesterday to concur with ACR-3.

[ACR-4](#) proposes constitutional amendment to change membership of legislative Apportionment Commission; imposes certain requirements on commission for process and legislative district composition. The legislative Apportionment Commission every ten years after the federal national census establishes the legislative districts in New Jersey. ACR-4 would increase the membership of the Apportionment Commission from 10 to 13 members, based on ethnic and racial diversity, in addition to the already required geographical diversity.

The Appropriation Commission would be required to hold at least 3 public hearings, provide information to the public and accept district plans and comments from the public. The vote establishing legislative districts would be required to take place at a public meeting with a public comment period.

Finally, ACR-4 would prohibit creating a plan in which more than half of the districts favor either major political party and would require that at least 25% of the districts be competitive. It would also require communities of interest within districts be preserved. Communities of interest has been defined by ACR-4 to mean a geographically contiguous population sharing common interests relevant to the legislative process such as trade areas, communication and transportation networks, media markets or social, cultural or economic interest.

ACR-4 passed the Assembly Judiciary Committee by a 4-2 vote, with Assemblywoman Schepisi and Assemblyman Chris A. Brown voting against it. The Senate companion, SCR-188, was introduced on Monday and awaits consideration by the Senate Judiciary Committee.

III. Bills on the Governor's Desk

As a result of Thursday Assembly and Senate Voting sessions, the following bills of interest await consideration by Governor Christie:

A-1347/S-264, the "Thomas P. Canzanella Twenty First Century First Responders Protection Act"; concerns workers' compensation for public safety workers. This bill would create a rebuttable presumption that if, in the course of employment, a public safety worker is exposed to a carcinogen or pathogen, that any subsequent injury, disability, chronic or corollary illness or death is compensable under workers' compensation.

The League **opposes** this bill as provisions of this bill will increase costs, which will need to be passed on to taxpayers. In ascending order of potential impact, our concerns follow. First, the bill will impose new record keeping requirements, which will apply to volunteer organizations, as well as to local and State professional agencies and departments. Second, the bill shifts the standard of proof to rebut the presumption of compensability, from a preponderance of the evidence to "clear and convincing" proof. (There is no definition of this new standard, so it will need to be worked out in costly litigation.) Third, under A-1347/S-264, New Jersey local taxpayers will be forced to further subsidize the Federal Government.

(Municipalities and the State are required to reimburse the Medicare program for medical payments incurred by retirees who qualify for workers' compensation. Under this Act, more and more claimants will qualify.) Fourth, that will occur because A-1347/S-264 will create a presumption 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 related nor does it support a presumption for volunteers.)

It passed the Senate on October 23 by a vote of 22-12 and the Assembly on December 17 by a vote of 45-23-1. The Governor vetoed similar legislation in 2013.

S-1940/A-2893, would exempts board of education and local government payments to entities under BPU jurisdiction from certain certification requirements. Specifically S-1940/A-2893 would allow bills of the following to be paid by the municipality without a claimant certification on their purchase order: telecommunications or basic cable services provided by a telecommunications or cable service company under the jurisdiction of the BPU; electric, gas, water or sewer utility service provided by a public utility (as defined in NJSA 48:2-13) and regulated by the BPU and a service that is provided under a contract between a public utility (as defined in NJSA 48:2-13) and a governing body that is approved by the BPU under which the rates for service are controlled by the governing body pursuant to the terms of the contract. The League **supports** S-1940/A-2893, which unanimously passed the Senate on December 18, 2014 and the Assembly December 17, 2015.

A-4248/S-2867permits municipal land banking in conjunction with online property database development. The League supports this permissive tool, which passed the Senate 24-16 on June 25 and the Assembly 45-22 on December 17, 2015.

A-2229concerns contracts for asphalt work under the "Local Public Contracts Law." Specifically, would relocate the asphalt price and fuel price adjustment requirements from one section, N.J.S.A. 40A:11-13, to another section, N.J.S.A. 40A:11-16, of the Local Public Contracts Law. This move will clarify that the price adjustments for asphalt and fuel would apply to all bid specifications not just bid specifications for construction, alternation or repair of a building. The League **supports** this legislation.

A-3390/S-2309permits transmittal of certain land use documents via email. The bill amends N.J.S.A. 40:55D-15 to permit the use of e-mail, instead of personal service or certified mail, for notice to the municipal clerk of adjoining municipality of all hearings on the adoption, revision or amendment of a development regulation involving property situated within 200 feet of such adjoining municipality at least 10 days prior to the date of any such hearing and notice to the county planning board. Proof that an e-mail was sent to the correct e-mail address within the required time frame shall constitute a rebuttable presumption of confirmation that the e-mail was delivered. The League **supports** A-3390/S-2309, which unanimously passed the Assembly on November 13, 2014 and the Senate December 17, 2015.

A-4194/S-2978authorizes mobile electronic waste destruction units to operate without DEP permit. This legislation would authorize the owner or operators of a mobile unit that "...crushes, shreds, or otherwise destroys electronic storage devices, such as computer hard drives...to operate the mobile unit without a recycling permit..." While this proposal may be seen from the operator's standpoint as streamlining the process, it is our view that appropriate regulatory

oversight is warranted in these circumstances. This legislation would reduce necessary oversight and accountability, and we do not believe it serves the public interest. The League **opposes** A4194/S-2978, which unanimously passed the Senate on June 29 and the Assembly on December 17, 2015.

IV. Washington Compromise Funds Federal Programs Through September

In Washington DC, after weeksof bipartisan negotiations, Congress and the White House have reached an agreement on the broadest tax and spending deal since the January 2013 ‘fiscal cliff’ agreement, which prevented automatic spending cuts from taking effect and shielded middleclass workers from tax increases while allowing some increases on the wealthy.

As ‘Part One’ of the agreement, yesterday in Washington the House of Representatives voted to pass a \$680-billion package of tax cuts, the first of two steps as the chamber tries to wrap up its business for 2015. We anticipate action on ‘Part Two’ today, when the House will vote on a \$1.1 trillion bill that funds the government through September 2016. The Senate is expected to take up both measures and send them on to the President, also later today.

The agreement includes :

- The \$680 billion tax cut package, including extensions of about 50 tax breaks and a delay until 2017 of the medical device tax: (Permanent extensions were included of the child tax credit; the earned income tax credit; state and local sales tax deductions; and lowincome housing credits.)
- A two-year delay on the “Cadillac tax” on expensive employer-backed health care plans;
- A lift in the 40-year-old oil export ban in exchange for tax breaks pushed by favored by advocates of wind and solar energy;
- A permanent renewal of federal funds for 9/11 emergency aid workers;
- New security requirements for the visa waiver program;
- Reduced funding for the Environmental Protection Agency
- The compromise does not contain language to restrict the influx of refugees from Syria and Iraq. Nor does it contain language to strip funding for Planned Parenthood, which many demanded, or gun control legislation favored by others.

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V. Internet Tax Freedom Changes Could Prove Costly

Also in Washington DC, enacted in 1998 and renewed several times, the “Internet Tax Freedom Act” (ITFA) temporarily prohibits states and localities from taxing monthly subscription fees for fixed and mobile Internet access. A grandfather clause has allowed seven states that directly taxed this service in 1998 — Hawaii, New Mexico, North Dakota, Ohio, South Dakota, Texas, and Wisconsin — to keep doing so.

This week, long-time proponents of making ITFA permanent attached a permanent extension to an unrelated measure covering federal customs and border protection. The legislation also would repeal the grandfather clause in 2020.

Not only would the repealer cost those seven States hundreds of millions of dollars; as currently drafted, it would also would place every state and thousands of local governments at risk of losing tax dollars they use to pay for critical services. That would be the result of repeal of the grandfather clause, which applies to any State's pre-1998 taxes that could be considered indirect taxes on Internet access. Examples include state and local taxes that Internet access providers pay on the things they buy in order to provide Internet service, such as computer servers, fiber-optic cable, or even gasoline for their vehicles.

Almost all of these taxes existed before 1998, so the grandfather clause protects them from legal challenge. But if Congress eliminates the clause, it could open the floodgates to legal challenges to state and local taxes on Internet access providers that many congressional supporters of ITFA probably didn't intend to ban.

The best course would be to simply let ITFA expire. There's no longer any justification for banning states and localities from imposing the same taxes on Internet access service that they impose on cable TV, telephone calls, physical books, and other ways to transmit entertainment and information. But if lawmakers want to make ITFA permanent, they should do so in conjunction with H.R. 2775, which would allow States to tax most online purchases by consumers, in order to offset the revenue loss. It would also restore equity for local 'Main Street' retailers.

Please contact your Representative in the House on this matter.

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VI. Wall Township Named Environmentalist of the Year: Six Towns honored by the Governors Environmental Excellence Awards

The Wall Township Environmental Advisory Committee was honored with the Environmentalist of the Year award for its longtime environmental successes, including the 2015 publication of a commemorative book on the committee's 35-year history.

Six municipalities along with a host of municipal and civic groups, businesses, and agencies from across the state were honored this week by the Christie Administration's 16th annual Governor's Environmental Excellence Awards (GEEA) for their commitment to protecting and enhancing New Jersey's environment.

For more information about GEEA, visit: <http://www.nj.gov/dep/eeawards/>

Sincerely,

Michael J. Darcy, CAE Executive
Director