

December 23, 2015

RE: Weekly Policy Update

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IV. Hospital Tax Exemption Bill Moves to Full Senate, Assembly Version Introduced

Dear Mayor:

I. Bills Passed the Senate

Last week, the following bills of interest passed the Senate and now await action by the Assembly:

S-297, permits municipality to hire private company to provide construction officials, subcode officials, and technical assistants unanimously passed the Senate. Under the provisions of this bill, the services provided by a private company, which would need to be certified by the Department of Community Affairs, would be considered professional services and the municipality would be able to award the contract to the company following the Local Public Contracts Law and Pay-to-Play Laws. Under the bill, no employees of a private company would be eligible for tenure rights, pension or retirement benefits.

The League **supports** this bill that would provide a municipality with an option that could reduce costs and improve services. The permissive nature of the bill allows for local discretion based on unique local circumstances. Governing bodies all around the State would welcome the opportunity to evaluate whether a private contractor could deliver construction code services more economically and more efficiently. Taxpayers and builders would also enjoy the benefits this reform could produce.

S-785, concerns earned sick leave. The League takes no position generally on the issue of earned sick leave. However, the League must **oppose** this legislation in its current form because it does not specifically exempt local governments. It is our understanding that the underlying legislative intent of S-785 is to provide protections for those who are not already covered by collective bargaining. As a result of civil service requirements and the prevalence of sick leave provisions in contracts, which are then often extended by practice to non-union and at-will employees, local government employees are already provided sick leave and this bill has the potential to conflict with existing contractual provisions.

S-785 was amended on the Senate floor to delete from the definition of “family member” the provision that the term includes a person designated by the employee for whom the employee may use earned sick leave to care for, if the employee has no spouse, domestic partner, or civil union partner and increase, in the case of an employee who had not accrued sick leave before the

effective date of the bill, the number of days, from 90 to 100, which must elapse from the time an employee is hired before the employee may use accrued sick time.

S-785 passed the Senate 22-17. The Assembly companion, A-2354, awaits consideration by the full Assembly.

Contact: Mike Cerra at 609-695-3481, ext. 120 or mcerra@njslom.org

II. Bills Passed the Assembly

Last week, the following bills of interest passed the Assembly and now await action by the Senate:

A-4763, revises “Electronic Waste Management Act” passed the Assembly by a vote of 46-18-1 on December 17. This legislation would make various changes to the State's electronic waste recycling laws as it would require each manufacturer of “covered electronic devices” to provide for the collection, transportation, and recycling of its market share in weight of all covered electronic devices collected in a program year. Replacing the current law's mandate that each manufacturer provide for the collection, transportation, and recycling of its "return share in weight" as estimated by the Department of Environmental Protection (DEP). In addition, it changes the definition of "consumer" to include State entities, school districts, and local government units; and, would include fax machines and printers in the definition of "covered electronic device."

Additionally, A-4763 would permit DEP to establish a statewide standard program to collect, transport, and recycle covered electronic devices. The bill would also require each manufacturer to provide for the convenient collection of covered electronic devices, especially used televisions in densely populated areas. The bill would streamline the DEP's planning and reporting requirements by requiring an annual report with a complete listing of all collection locations for covered electronic devices including televisions, the parties that operate them, the amount of material by weight collected at each site, and a complete listing of all recyclers that recycle covered electronic devices, together with the amount of material by weight recycled annually.

The measure would require collection locations to report semi-annually. The reports would include the total weight or volume of covered electronic devices collected, the date, time, and volume of covered electronic devices transported from the collection location, and the name and identifying information of the authorized recycler transporting the covered electronic devices. Every authorized recycler would be required to identify the address of each collection location, and the total weight of covered electronic devices delivered or collected from each collection location, the weight of each type of covered electronic device collected from each collection location, the address of any facility where covered electronic devices are handled, and the disposition of all components of covered electronic devices. Each manufacturer would be

required to report semiannually its progress towards achieving its market share in weight obligation.

The bill would further allow DEP to assess a per pound fee of \$0.50 multiplied by a manufacturer's market share in weight obligation for a manufacturer that fails to collect, transport, and recycle covered electronic devices under the law. Finally, the bill would establish the "Electronic Waste Management Fund" whereby all program revenues and penalties would be deposited in the fund for administration and enforcement and other costs of the program.

The Senate companion version S-2973 awaits consideration by the full Senate.

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S-316, increases flexibility, clarity, and available tools of optional municipal consolidation process. Based on recent Assembly Floor amendments to S-316/A-1739 the League of Municipalities withdrew its support and will now oppose passage of the legislation, as currently drafted.

This bill had been introduced at the outset of the current Legislative Session in order to increase flexibility and provide new tools that would be available to municipalities considering consolidation. The Senate sponsor, Senator Robert Gordon, had graciously accepted some amendments offered by the League, when the bill was considered by the Senate Community and Urban Affairs Committee. Because he did, we were happy to be able to support the bill.

But the recent Assembly Floor amendments will actually limit local flexibility, increase consolidation costs and, thereby, discourage future consolidations. Specifically, new Sections 3. e., f. and g. of the bill grant tenure, continued employment and terminal leave rights to select employees of consolidating municipalities. Further amendments would prevent emergency appropriations needed to support the work of certain consolidation committees.

Based on the inclusion of those cost-drivers in the bill, the League of Municipalities must, now, oppose passage of S-316/A-1739.

The Assembly approved this bill on Thursday, 55-10 with 4 abstentions. It now goes back to the Senate for concurrence. Please contact your State Senator and urge them to oppose S-316, as currently constituted.

Contact: Jon Moran at 609-695-3481, ext. 121 or jmoran@njslom.org

III. Spill Act Amendments Poised to Advance

On Monday, the Senate Budget and Appropriations Committee advanced [SCS for S-444 and S2419](#). This legislation would provide complete protection to public entities, municipalities and sewerage authorities from being dragged into environmental lawsuits through contribution claims, because it would cover contribution claims based upon other legal causes of action in

addition to the Spill Act, such as strict liability, nuisance, trespass and negligence. This legislation clarifies the original intent of the New Jersey Spill Compensation and Control Act to specifically state that any domestic, commercial, or industrial wastewater, sewage, or sewage sludge expelled or released from a public sewer system or a public sewage treatment plant, are exceptions from the Spill Act.

The League **supports** this legislation, which can be voted on by the full Senate on January 11, 2016. The Assembly companion legislation, [A-1779](#), also stands at 2nd reading and can be voted for a full Assembly vote on January 11. For more on this bill, [please click here](#).

Please contact your State Legislators and ask for their support for S-444 and A-1779.

Contact: Mike Cerra, mcerra@njslom.org, 609-695-3481 x120.

IV. Hospital Tax Exemption Bill Moves to Full Senate, Assembly Version Introduced

Legislation has been introduced and is advancing through both houses that would fundamentally alter the way in which non-profit hospitals are exempt from the property tax. By way of background, a recent tax court decision, A.H.S. Hosp. Corp. v. Town of Morristown, invalidated a non-profit hospital's property tax exemption due to the intermingling of for-profit and nonprofit activities on exempt property. Under existing law, such intermingling of for-profit and non-profit uses are prohibited.

In part, the proposed legislation ([S-3299/A-4903](#)) would exempt all acute care hospital properties owned by non-profits incorporated in New Jersey. It also extends that exemption to any for-profit medical service activity which takes place on that property. In effect, non-profits that act as real-estate holding companies will provide a property tax exemption benefit for the for-profit activities which take place on their properties. The legislation also imposes a \$2.50 per bed per day community contribution that host municipalities can use to pay for emergency services or to "reduce the property tax levy." Municipalities that host satellite emergency care facilities will receive \$250 per day.

The League sympathizes with the purpose of this legislation but, among other issues, has many concerns related to its constitutionality and the reasonableness of the community contribution fee amount.

It is likely that S-3299 will be placed before the full Senate by the end of this legislative term. A4903 still awaits consideration by Assembly State and Local Government Committee. Please contact your State Senator and Assembly representatives and urge them to oppose S-3299/A4903.

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Sincerely,

Michael J. Darcy, CAE Executive
Director