

June 5, 2015

RE: Weekly Policy Update

I. OPRA and OPMA Bills Before Committee on Monday
II. Costly Public Safety Workers' Compensation Bills Advance
III. Spill Act Amendment Advances

Dear Mayor:

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

I. OPRA and OPMA Bills Before Committee on Monday

On Monday, June 8th Senator Weinberg's proposed amendments to the Open Public Meetings Act ([S-781](#)) and Open Public Records Act ([S-782](#)), which are **opposed** by the League, are before the Senate Budget and Appropriations Committee. The League has met with the Senator to discuss the concerns of local governments regarding the costs and practicality of the proposals. We anticipate amendments to the bills on Monday and will report back to you once we are able to review the amendments. We respectfully request you contact your Senator expressing any concerns you may have with this legislation.

Contact: Lori Buckelew, lbuckelew@njslom.org or 609-695-3481 x112.

II. Costly Public Safety Workers' Compensation Bills Advance

On Thursday, the Assembly Labor Committee released companion bills ([A-1347](#) and S-264), which concern workers' compensation for public safety workers. We **oppose** this initiative, which would be the most expensive program of its type in the country and needlessly subsidize the Federal Government at the expense of the New Jersey tax payers. We were joined, in our opposition, by the New Jersey Municipal Excess Liability Joint Insurance Fund.

The bills 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 bills would extend this coverage to volunteer fire, first aid, rescue and EMS personnel, as well as to all paid police, fire and other first responder. They would also impose new record keeping requirements on municipalities.

Currently, an employee claiming workers' compensation shoulders the burden of proof and must be able to show that any injury, disability, illness or death was caused by any on-the-job activity or exposure. Under current law in New Jersey, the standard to rebut the presumption of compensability is "preponderance of the evidence." This bill would shift the burden of proof to the municipality, and raise the standard for that proof; requiring the employer to present "clear and convincing" evidence that the ailment or injury was not linked to any on-the-job exposure or activity.

Further, under A-1347/S-264, New Jersey local taxpayers will substantially subsidize the Federal Government through the Social Security Medicare Program, as Medicare will require municipalities to reimburse it for medical payments incurred by retirees collecting workers' compensation under this Act.

Clearly, we need to balance our responsibility to our public safety workers, who suffer injury or illness in the course of their service, with our responsibility to the taxpaying public. We believe that current workers' comp provisions strike a proper balance. The provisions of this bill will, we feel, tip the scales and increase costs that will need to be passed on to taxpayers.

The Senate has already approved this proposal. Please contact your two representatives in the General Assembly, urging them to oppose S-264 and A-1347, the "Thomas P. Canzanella Twenty First Century First Responders Protection Act."

Contact: Jon Moran, jmora@njslom.org or 609-695-3481 x121

III. Spill Act Amendment Advances

On Thursday, the Assembly Environment and Solid Waste Committee approved [A-1779](#), which the League **supports**. 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. We thank John Scagnelli, Esq, the League's Environmental Counsel, for his testimony before the Committee.

In late 2005 the NJDEP filed an environmental cleanup suit pursuant to the Spill Act against nine businesses for discharging toxic chemicals, mainly dioxin, from a plant in Newark into the Passaic River. The private companies then filed third party complaints against about 300 public and private entities alleging that those entities had contributed at varying degrees to the contamination of the Passaic River and should bear some of the responsibility. Under the theory that the various public entities contributed, either directly or indirectly, to the contamination of the Passaic River through the discharge of wastewater, a total of 71 municipalities, 6 municipal wastewater entities and 9 State entities were named as third party defendants in the litigation, notwithstanding language in the Spill Act stating that sewage and sewage sludge shall not be considered as hazardous substances.

The municipal entities named as third parties each paid \$95,000 to the State as part of a settlement. It is our contention, however, that the Legislature intended to exempt municipalities from the requirements of the Spill Act with respect to discharges of sewage and sewage sludge. A-1779 clarifies the intent of the Legislature and will assure that taxpayers will not be held liable in similar circumstances going forward.

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

Very truly yours,

William G. Dressel, Jr.
Executive Director