

March 13, 2015

RE: Weekly Policy Update

Municipal Clerk: Please forward a copy to all Governing Body Members Dear

Mayor:

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

I. NJ Supreme Court Ruling

On Tuesday, the New Jersey Supreme Court issued a ruling in response to the Fair Share Housing Center's (FSHC) motion to enforce litigant's rights. While the Court did order that exclusionary zoning disputes will be heard by the Courts, effectively bypassing the Council on Affordable Housing (COAH), the Court agreed with the League and other municipal advocates that municipalities should not be punished for COAH's failure to act. Accordingly, the Court's ruling established a process and timeline for municipalities to voluntarily go to the Courts via "declaratory judgment actions." Effectively municipalities will have 120 days to voluntarily go to the Courts and seek protection from builders remedy actions. A copy of the ruling is online at: <http://www.judiciary.state.nj.us/opinions/supreme/M39214COAH.pdf>

The League expresses its deep appreciation to Edward J. Buzak, Esq, who represented the League in this matter, as well as Jonathan Drill, Esq. and Jeffrey Surenian, Esq, who represented individual municipalities.

The League will continue to analyze this decision and keep you advised of all developments. For more on this decision, please see the League's March 10 letter (<http://nj-njslom.civicplus.com/ArchiveCenter/ViewFile/Item/376>.) **Contact:** Mike Cerra, mcerra@njslom.org, 609-695-3481 x120.

II. Open Space Funding

On Monday, the Senate Environment and Energy Committee approved [S-2769](#), which would implement the constitutional dedication of corporation buses tax (CBT) revenues for open space, farmland and historic preservation. The bill works off the assumption that the 4% dedication of CBT revenues will yield approximately \$71 million in revenues. At the same time, the Governor's proposed budget projects the allocation of approximately \$81 million to open space, farmland and historic preservation. For a summary, please see the League's May 10 letter (<http://nj-njslom.civicplus.com/ArchiveCenter/ViewFile/Item/375>) **Contact:** Mike Cerra, mcerra@njslom.org, 609-695-3481 x120

III. Legislative Alert: EIT Mandate Up for Assembly Vote on Monday

On Monday, the Assembly approved [A-3548](#), which would require local governments and authorities to obtain financing cost estimates from the New Jersey Environmental Infrastructure Trust for certain projects. The League **opposes** this legislation.

Specifically, this bill would require any local government financing an environmental infrastructure project, or project component, costing \$1,000,000 or more, to request from the New Jersey Environmental Infrastructure Trust (NJEIT) an estimate of financing cost, if the project was to be funded in whole or in part by the NJEIT. NJEIT will have 15 days from the submission of a completed form to provide an estimate of financing cost and possible interest rate that may be made available for the project. If the local government does not finance an environmental infrastructure project with funding provided by the NJEIT, then it must submit the financing cost estimate provided by the NJEIT, together with the supplemental debt statement, to Division of Local Government Services.

Municipalities currently have the option of pursuing a loan from the NJEIT and the provisions of A-3548 are based on changes that are proposed to the NJEIT program but are currently in development and not in effect. Currently if a municipality wishes to use the NJEIT program they must adhere to a standard grant time table and they are not guaranteed funding. Funding is based on priority and fund availability. For example, the Clean Water Traditional NEIFP for 2016, according to NJEIT's website, has given funding priority to "(1) resiliency projects for systems adversely impacted during Sandy, (2) projects to repair Sandy damaged infrastructure and (3) projects to improve the resiliency of environmental infrastructure in future disasters throughout the State subject to the availability of funds at the time of project approval. As such, a project's readiness to proceed is now a critical element of funding eligibility."

In addition, NJEIT program may save some municipalities money when financing a project but savings are not always guaranteed. With interest rates low, municipalities have been able to secure interest rates at a lower rate than the NJEIT program without the ongoing administrative fees charged by NJEIT and DEP. NJEIT does offer principal loan forgiveness, but at this time only the Sandy NJEIP Loan Program has principal loan forgiveness of up to 18%.

A-3548, while well intended, mandates a lengthy process that will unnecessarily delay certain projects. **We are particularly concerned that this legislation will unnecessarily delay shovel ready projects.** Further, this legislation mandates the use of an undeveloped tool that may be helpful in the planning process but will not provide an accurate picture of the funding available to municipalities.

This bill is now referenced to the Senate Budget and Appropriations Committee, joining its Senate companion legislation S-2354. Please contact your State Senator and urge opposition to S-2354 and A-3548.

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

Very truly yours,

William G. Dressel, Jr. Executive
Director