

October 13, 2017

RE: WEEKLY UPDATE

- State Issues
- Federal Issue

III. 102nd Annual League

Conference IV. Also of Interest Dear

Mayor: **I. State Issues**

a. Legislative Priorities: Lame Duck and Beyond Election

With Election Day less than a month away, the League continues its focus on issues that we hope to see advance when the Legislature reconvenes. Over the next few weeks, we'll brief you on issues that may emerge in lame duck or early in the next legislative terms.

First and foremost, the League is working closely with the Conference of Mayors and the Association of Counties to extend the 2% cap on interest arbitration. We are now 79 days away from the expiration of the 2% cap on interest arbitration. The evidence and facts are clear and unambiguous: the 2% interest arbitration cap which has proven to be an effective tool to curtail property taxes.

Here's what you can do:

1. If you haven't done so already, please adopt the League's model resolution ([pdf](#)) urging the State Legislature and Governor to extend the 2% interest arbitration cap.
2. Please communicate regularly with your State Legislators and candidates for office. Please be sure to urge them to push for the extension when the Legislature reconvenes after the elections.
3. Please educate your residents on this issue and urge them to contact their Legislators as well.

Resources:

- [Please click here](#) for the League's 2% IA cap page.
- Please [click here for the League's Town Crier](#) blog post on this issue.

Contacts:

- Michael Cerra, Assistant Executive Director, mcerra@njslom.org, 609-695-3481 x120
- Lori Buckelew, Senior Legislative Analyst, lbuckelew@njslom.org, 609-695-3481 x112.

Additionally, we hope to see progress either in lame duck or early next session on [A-2452](#), which would create new liquor licenses for restaurants meeting certain criteria. It is the sponsor's intent to foster and encourage economic development and growth in this State by creating a new lesscostly restaurant license that permits the licensee to sell alcoholic beverages and to provide financial compensation to certain plenary retail consumption licensees who already have established businesses and paid market value for their licenses.

This bill creates a restricted restaurant license (R1) which permits the holder to sell any alcoholic beverages for consumption on the premises of certain restaurants. In addition, the bill creates a restricted beer and wine license (R2) which permits the holder to sell only beer and wine by the bottle or can.

Here's what you can do:

- Pass a resolution in support of A-2452. [Click here for a sample.](#)

Resources:

- [Please click here for League's Town Crier post.](#)

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

b. Appellate Division Rules Volunteer Firefighter Not Employee Entitled to CEPA Protection

Recently, the NJ Appellate Division issued a ruling, finding that a volunteer firefighter is not an employee entitled to the protections afforded by the Conscientious Employee Protection Act ("CEPA"). In the published opinion, [Jeffrey Sauter v. Colts Neck Volunteer Fire Company No. 2](#), the Appellate panel found that the financial benefits provided to a volunteer firefighter were so de minimis that they could not constitute, "sufficient remuneration to bring him within the definition of an employee under the (CEPA) statute." The court further concluded that, although the Law Against Discrimination ("LAD") has been extended to provide protection to volunteer firefighters, the same could not be done with the CEPA law.

While the court found that based on the facts of the case at hand the volunteer firefighter was not an employee for CEPA purposes, this may not always be the case. The court was sure to point out that there are times where those labeled as volunteers or independent contractors could indeed be considered an employee for purposes of CEPA. This kind of situation would occur when an individual labeled as a volunteer was actually receiving some kind of financial gain that was more than de minimis and instead constituted wages or sufficient remuneration.

You should review this case with your municipal attorney for further information on how this ruling could impact your town.

Contact: Frank Marshall, Esq., League Staff Attorney, fmarshall@njslom.org or 609-695-3481 x137.

c. Tax Court Ruling on Surviving Spouse Eligibility for Disabled Veterans Property Tax Exemption

Recently the NJ Tax Court handed down a ruling that is sure to have a municipal impact. In, [Rosanna Pruent-Steven v. Township of Toms River](#), the Tax Court defined the terms, widow, and widower, for purposes of a surviving spouses' eligibility for the disabled veteran property tax exemption. In its ruling, the court determined that the terms, "widow" and "widower" as they appeared in the State Constitution and the statute, define a person and not a marital status. Thus, surviving spouses of disabled veterans can be eligible for property tax exemption after they have remarried, provided that they are not currently married at the time they request the exemption.

To read more about this case and the potential municipal impact, please see our recent blog post, [here](#).

Contact: Frank Marshall, Esq., League Staff Attorney, fmarshall@njslom.org or 609-695-3481 x137.

d. Public Hearing on UCC Amendment on minor work

Last Friday, the League submitted comments raising significant concerns with a proposed amendment to the Uniform Construction Code (UCC) regarding so-called "minor work." [Click here for a copy of these comments.](#)

We received notice today that based on the requests from the League and a number of municipalities, the Department of Community Affairs will now hold a public hearing on the proposal. Originally, no public hearing was scheduled and the comment period ended on October 6. The public notice will appear in the November 6, New Jersey Register (NJR). The hearing itself will be held on Wednesday, November 29, 2017, at 10 am at the New Jersey Department of Community Affairs in Trenton. **Contacts:**

Michael Cerra, Assistant Executive Director, mcerra@njslom.org, 609-695-3481 x120

Frank Marshall, Esq., Staff Attorney, fmarshall@njslom.org, 609-695-3481 x137. **e.**

Mayors Survey

Mayors, have you completed the 2017 Mayors survey? By now, you should have received via regular mail a letter from the League dated September 6, which included the 2017 Mayors Survey and other information. If you misplaced a copy, please email mcerra@njslom.org. Please take the time to complete the survey as soon as possible.

II. Federal Issues

a. House ‘Vote of Confidence’ for Municipal Bonds Can Save Taxpayer Dollars and Aid Infrastructure Investment

On October 3, the House of Representatives passed the Municipal Finance Support Act of 2017 (H.R. 1624), in a unanimous voice vote. The bipartisan legislation would roll back regulations and classify municipal securities as a level 2A investment grade, liquid, and readily marketable assets.

Under the new law, the Federal Deposit Insurance Act would be amended to require certain municipal bonds to be treated as “High-Quality Liquid Assets (HQLA),” which allows financial institutions to hold municipal bonds. This will make bonds a more attractive investment, in turn making municipal bonds more affordable for municipalities. This is encouraging news that can lower the cost of investments in local infrastructure.

Although a similar bill passed in the Senate by unanimous consent in 2016, the Senate will need to draft and introduce new legislation. National League of Cities has called on city champions in Congress to continue moving this issue forward by voting on this vital legislation this year.

Now is the time to thank your Representative in the House for their support; and to encourage.

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

b. Local Taxpayers Targeted in Federal Tax Reform Effort

As the tax reform debate heats up in Washington, the state and local tax (SALT) deduction is still a prime target for elimination, as a way to pay for the proposed tax cuts. While mounting opposition to its elimination has given rise to multiple proposals to preserve SALT in part, local leaders must continue to stand up and tell Congress that municipalities and families should not be forced to pay for federal tax reform.

While the U.S. House of Representatives is in recess the week of October 16, we ask municipal leaders to schedule a meeting with your member of Congress and their district director to advocate for SALT and tax-exempt municipal bonds. NLC and our Americans Against Double Taxation coalition partners are hosting a SALT Week of Action to highlight the importance of SALT. Visit nlc.org/SALT to find the tools you need to take action during this critical week.

We also request that, if you have not done so already, please consider adopting the sample resolution “Urging Congress, as Federal Income Tax Reform Advances, to Protect the Deductibility of State and Local Taxes” available at [pdf](#).

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

c. Waters of the United States (WOTUS) Under Review by Agencies and Supreme Court

On September 27, our partner in Washington, the National League of Cities (NLC), [NLC submitted comments](#) to the U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps) on the [Definition of the “Waters of the United States” – Recodification of Pre-Existing Rules](#). The proposed rule would rescind the 2015 Clean Water Rule (aka “Waters of the U.S.” or WOTUS) and recodify the regulatory text that existed prior to the 2015 rule.

The comment letter highlights some of the challenges for local governments in reverting back to the previous definition of a “waters of the U.S.” and asks the agencies to give clear direction to the regional offices about the types of waters that trigger federal Clean Water Act oversight and permitting responsibilities. Additionally, NLC asked the agencies to follow the guidelines of [Executive Order 13132: Federalism and the Administrative Procedures Act](#) throughout the rulemaking process of withdrawing and proposing a WOTUS rule.

The withdrawal proposal comes as legal challenges to the 2015 rule continue. While the 2015 rule is under a temporary nationwide stay, the first legal question to be resolved is which court - the district court or the appeals court - has jurisdiction to rule on the merits of the case. This week, the U.S. Supreme Court will hear oral arguments in the case [National Association of Manufacturers v. Department of Defense](#) on the jurisdictional question.

EPA and the Corps will hold a series of sector-specific conference calls throughout the fall to hear from stakeholders. A call for stormwater, wastewater management, and drinking water agencies will be held on November 14 from 1-3 pm EST. Click [here for the full list of calls](#) and registration information.

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

III. 102nd Annual League Conference

a. 2017 Conference App is Available Now!

The 2017 Conference App is available now. [Visit your device’s App Store to download](#). Download the app to view the full session schedule, including descriptions. Filter the schedule by CEU or group hosting. View the full exhibitor listing and create a custom schedule.

You must download and register for the 2017 version to view information for the 102nd Annual Conference; the 2016 version will not be updated.

The 2017 Conference App is Exclusively Sponsored by Phoenix Advisors, LLC.

b. Don’t Use Unauthorized Hotel Reservation Services

Every year there are unauthorized firms soliciting housing and hotel reservations from attendees at the Annual League Conference.

We assure you that the only firm authorized to handle our conference housing reservations is A.C. Central Reservations.

This information is on the top of the official conference housing form sent to all municipal clerks and posted on our website: <http://nj-njslom.civicplus.com/302/2017-Conference>

c. Plan Now for November: Exhibit Highlights

The Exhibit Hall at the League's Annual Conference offers a wide variety of services and products. Each day at the conference, take the opportunity to enjoy the exhibit floor by stopping in for a nice lunch and visits to the booths for every municipal need, concern, and interest.

Begin to make your list of exhibitors to visit including current favorites and the 62 new exhibiting companies—or contact them now! Plan today by visiting our interactive map at <https://shows.map-dynamics.com/NJLM2017/>

d. NJLM 2017 Conference CEU List Has Been Posted!

The first version of Annual Conference CEU list has been posted. You can view this list by clicking the following link: <http://nj-njslom.civicplus.com/DocumentCenter/View/347>

Please note, the Annual Conference CEU list is not final, please continue to check the conference page <http://nj-njslom.civicplus.com/302/2017-Conference> frequently for updates.

e. Don't Forget! CEU Tracking System Procedures for 102nd Annual NJLM Conference

Badge Scanners will be used to track CEU Credits and Attendance at the NJLM 102nd Annual Conference.

For Sessions that Have CEU credit Available

- All Attendees looking to earn credit must scan-in and scan-out of these qualifying sessions* to earn their CEU credits.
- Attendees will claim their certificates after the conference via the League website www.njslom.org/confceu/

For more information or for a complete list of procedures please click the following link for <http://nj-njslom.civicplus.com/300/Conference>

** Please note, the procedures described above only apply to educational sessions. **Business Meetings and vendor sessions are not included** in the scanning system*

IV. Also of Interest

a. League Professional Development Webinar

“OPRA Spotlight: The Lyndhurst Decision and Police Records”

Date: October 18, 2017 **Time:**

11:00a.m.-12:15p.m.

Location: Your Computer

The recent New Jersey Supreme Court decision in *North Jersey Media Group, Inc. v. Township of Lyndhurst* confirmed that most written records created during a criminal investigation are beyond the reach of Open Public Records Act requests, but the Court found that police Use of Force reports are subject to OPRA unless the government can show that disclosure would be “inimical to the public interest.” The Court’s reasoning has opened the door to arguments that police dash camera and body camera footage may be subject to OPRA based on the extent that the Attorney General’s Law Enforcement Directive 2015-1 constituted a “law” requiring that footage is created. Even if courts continue to hold that police camera footage is not subject to OPRA, the Supreme Court’s Lyndhurst decision has opened the door wide open to common law “right to know” requests for police camera footage. This webinar will discuss the implications of this case, how to handle such a request, and what it means for Municipal Records Custodians with regards to these types of OPRA requests.

CEUs: CMFO/CCFO-1.5 off Admin/Anc; CTC-1.5 Gen/Dec; CPWM-1.5 GOVT; RMC-1.5 Rec; QPA-1.5 Off Admin/Gen Duties; RPPO/RPPS-1.5 M/S

Link for Registration: <http://nj-njslom.civicplus.com/799/Seminar-and-Webinar-Handouts>

Sincerely,

Michael J. Darcy, CAE

Executive Director