

May 12, 2017

RE: WEEKLY UPDATE

I. State Policy Issues

II. Federal Policy Issues III. Also of Interest Dear Mayor:

I. State Policy Issues

a. Governor Conditionally Vetoes Transfer of PFRS Management Bill

On Monday, Governor Christie conditionally vetoed S-3040/A-99, which would transfer the management of the Police and Fire Retirement System (PFRS) to a Board of Trustees comprised of Labor and Management representatives. In his veto message the Governor noted that he “refuses to hand PFRS a blank check, while handing the taxpayers the deposit slip” and was returning the bill with “a variety of recommendations to ensure that the concerns of taxpayers and local governments are appropriately considered.”

The League, along with the Conference of Mayors and the Association of Counties, strongly opposed the legislation and welcomed the Governor’s action. Thanks to our members who reached out to the Governor’s office and to Legislators to express concerns with the legislation.

The bill returns to the Legislature for consideration of the Governor’s recommendations. At this point, it appears that the bill will be held for the remainder of this legislative session, but we will advise if that should change. [For more, click here for the League’s May 8th letter.](#)

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

b. DOT Commissioner’s Budget Testimony Highlights Stronger TTF and Local Aid

Repeating comments previously provided to the members of Senate Budget and Appropriations Committee, on Wednesday, Department of Transportation Commissioner Richard Hammer spoke to their Assembly counterparts on the Governor’s proposed budget for New Jersey’s next Fiscal Year.

Commissioner Hammer reaffirmed his commitment to the Department’s ‘State of Good Repair’ philosophy, stating, “As the most densely populated state in the nation—and as a major corridor for the movement of goods—our bridges, highways and local streets take a steady pounding, especially from heavy truck traffic. All this requires vigorous annual repair programs. I reiterate how very fortunate we are to now have a stable and long-term funding plan in place, and I am determined to put these funds to use quickly to ensure that we stay ahead of the curve. The new Trust Fund enables us to spend \$2 billion per year for a total of \$16 billion over the eight-year life of the reauthorization.”

On the matter of primary importance to New Jersey's Mayors, Governing Body Members and property taxpaying citizens and businesses, Commissioner Hammer said, "A new facet of the reauthorization is that it increases the total TTF outlay for Local Aid from \$190 million per year to \$430 million per year. I am looking forward to working with the localities through our Division of Local Aid to assist them over the course the reauthorization. I want to help them be successful and strengthen their ability to deliver what will be the largest municipal aid and county aid programs in state history."

Again, we want to thank Past Presidents and Mayors Tim McDonough of Hope, Brian Wahler of Piscataway and Joe Tempesta of West Caldwell, Past President and Mayor Emeritus Suzanne Walters of Stone Harbor, and Mayor Robert Jackson of Montclair, who led our three-year effort on this. We also thank Senate President Steve Sweeney and Assembly Speaker Vince Prieto for their early and abiding commitment to increased Local Aid, and Senators Paul Sarlo and Steve Oroho for their leadership in crafting the compromise bill that made possible the new and stronger Transportation Trust Fund.

Visit the [Division of Local Aid and Economic Development](#) website for more information on Local Aid opportunities.

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

c. Health Commissioner Testifies on FY18 Department Budget

On May 10, New Jersey Department of Health Commissioner Cathleen Bennett testified before the Assembly Budget Committee on the Department's FY 18 proposed budget. Commissioner Bennett testified on harnessing their efforts with local health departments to ensure health of communities. The Commissioner noted that "local health departments are the backbone of our public health infrastructure" and noted that they provided 250,000 immunizations, 178,000 health screenings, 57,000 retail food inspections, 38,000 communicable disease investigations, 72,000 rabies vaccinations and 4,400 recreational bathing facility inspections. The Commissioner also highlighted the June 7th Annual Population Health Summit at Rider University. Click [here](#) to read the Commissioner's testimony.

Contact: Lori Buckelew, Senior Legislative Analyst, 609-695-3481 x112, lbuckelew@njslom.org.

d. Survey of Adoption of State Housing Code – Deadline May 19

The Division of Codes & Standards is gathering information regarding the usefulness of the New Jersey State Housing Code and seeks input from municipalities **by Friday, May 19th**.

N.J.A.C. 5:28 contains rules for the maintenance of one- and two-family dwellings, and is effective only if a municipality adopts it by reference. If your municipality has adopted the State Housing Code under a property maintenance ordinance, please advise the Division of Codes and Standards by May 19th by sending an e-mail to cstandards@dca.nj.gov. **If a municipality does not respond by May 19, the default answer will be that the municipality has not adopted the State Housing Code.**

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e. We Ask Your Assistance in Advancing These Bills of Interest to Municipalities

The League **supports** both [A-4666/S-3080](#) and [A-4667/S-3081](#). Both bills are a response to the current affordable housing impasses in the State and lack of a statewide housing policy and guidance for municipalities.

Specifically, A-4666/ S-3080 enacted a moratorium on affordable housing litigation through December 31, 2017. The bill would not impact any judgement or settlement issued or agreed to before the effective date of the bill. Current litigation would be stayed until the moratorium expires.

A-4667/S-3081 establishes the Affordable Housing Obligation Study Commission. This commission will study prior court decisions, the effectiveness of past affordable housing practices, and analyze projected population increases and corresponding housing need. The commission will hold public hearings and is required to publish a report of its findings at the end of the year.

[For more, you can click here for the League's Town Crier post.](#)

Take Action: Click here to ask your State Legislators to support these bills.

You can click here for a sample resolution in favor of these bills, which can be downloaded in [PDF](#).

The League also **supports** [A-2452](#), which would create new liquor licenses for restaurants meeting certain criteria. 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. These licenses would only be available to restaurants that meet certain square footage requirements, and that maintain a full-service kitchen. The bill provides that alcoholic beverages could only be sold in connection with the service of food at a table by an employee of the restaurant. A license holder would be prohibited from providing a bar area for customers of the restaurant to congregate and consume alcoholic beverages.

[For more on this bill, click here for the League's Town Crier post.](#)

Take Action: Click here to use our Voter Voice system to ask your Legislators to advance this important economic development initiative.

Contacts:

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II. Federal Policy Issues

a. Recent U.S. Supreme Court Ruling

On May 1, 2017 the Supreme Court of the United States issued its opinion on a case that could have an impact on municipalities nationwide. In [Bank of America, Et El. v. City of Miami Florida, No. 15-1111 \(U.S. May 1, 2017\)](#) the court clarified that under the Federal Fair Housing Act (FHA), a city could be an aggrieved party and thus entitled to bring suit against a mortgage lender for FHA violations. Many see this portion of the ruling as a huge victory for municipal governments looking to recover from the damages caused by the housing crisis. However, the Court also ruled that while a city could be an aggrieved party it would need to meet a highly burdensome standard when proving causation.

For more information on this recent decision please click [here](#).

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

b. The Federal Communications Commission Notice

The Federal Communications Commission (FCC) issued a Notice of Inquiry and Notice of Proposed Rulemaking where it has requested comments on whether or not the Commission should enact rules to preempt state and local laws in order to help facilitate broadband deployment. Under the Federal Telecommunications Act (the “Act”) the FCC has authority to remove barriers which would inhibit the ability to provide telecommunication services both in state and across state borders. What this means is that the FCC is specifically authorized to preempt state or local laws which it views as inhibiting the ability of a telecommunications company to provide its services.

A threshold question which the FCC is now seeking comments on is whether or not broadband services should be included as telecommunication services which has traditionally only applied to copper wire. The FCC has taken the preliminary viewpoint that broadband services are included within the meaning of telecommunications and therefore they have authority under Section 253 of the Act to preempt state and local laws that would inhibit these services. In addition to this, the FCC seeks comments on specific acts by state and local governments which they view as being a barrier to telecommunications services and seek to preempt. Those acts include:

- Moratoria on market entry or deployments of telecommunications facilities.
- Excessive delays in negotiations and approvals for right-of-way agreements and permitting.

- Excessive fees and other excessive costs charged to telecommunication providers. Such fees include fees charged for access to rights-of-way, permitting, construction, licensure, or other fees related to the provision of telecommunications service.
- Unreasonable conditions or requirements for; granting access to the rights-of-way, permitting construction, or licensing.

Perhaps the most critical of these acts which the FCC seeks to preempt is the ability for local governments to charge for access to the rights-of-way as well as other fees. It appears as though that through this rulemaking the FCC is opening the door to the potential for it to determine all locally imposed fees.

The League is monitoring this rulemaking closely and will continue to update our members on the matter as it develops.

Comments on this Notice are due on or before June 12, 2017, and reply comments are due before July 10, 2017.

All filings in response to this Notice must refer to WC Docket No. 17-84. Comments may be submitted electronically [here](#). For a full copy of the Notice which includes instructions on how to file paper comments please click [here](#).

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

III. Also of Interest

a. The 2nd Annual Population Health Summit

New Jersey Health Commissioner Cathleen Bennett will be holding the 2nd Annual Population Health Summit on Friday, June 7, 2017 from 8:30 a.m. to 3:30 p.m. at Rider University.

This free event will include a Roundtable Discussion, among deans of New Jersey academic on “What are you doing to ensure the Health of your population?” and panel discussions on municipal leadership driving population health improvements and community based approaches to promote a culture of health. Members of the Population Health Action Team (Commissioners Connolly, Richman, Martin, and Bennett) will close out the summit by presenting Population Health Hero Awards to this year’s winners.

Click [here](#) to register for this free event.

b. Municipal Land Use Law Re-Forum

The Municipal Land Use Law (MLUL) Re-Forum is for experienced practitioners, decisionmakers and opinion leaders who seek the opportunity to share their vision for how the MLUL could be updated –to authorize the use of innovative planning tools in your communities; to prevent internal inconsistencies between master plans, zoning ordinances and reexamination reports that confound even the attorneys; and to improve the local review process, to name just a few examples. With the help of experienced facilitators, the open meeting format will allow participants to shape the agenda, lead the discussion and leave with a set of action items for putting changes in place.

The League, along with affiliate organization the New Jersey Planning Officials (NJPO) is partnering with a broad range of other groups, including the New Jersey Chapter of the American Planning Association, on this program. The event, designed for experienced municipal officials, planners, land use attorneys, developers, architects, environmentalist or anyone else interested in the MLUL, will held on Friday, May 19, 8am to 4pm at the Hyatt Regency in New Brunswick. You can register now at: <http://njplanning.org/event/mlul-re-forum/>

c. 2017 Financial Disclosure Statements Guidance Issued

The Division of Local Government Services has issued [guidance](#) on the filing of the 2017 Financial Disclosure Statements. The deadline to file the Financial Disclosure Statements (FDS) is on or before April 30th. However, while the Local Finance Board has no statutory authority to extend the filing deadline, due to the delay in opening the 2017 FDS system for filers, **the Local Finance Board is expected to delay enforcement of the statutory deadline until May 30, 2017.** For information please see our [Town Crier blog](#) on this issue.

Contact: Lori Buckelew, Senior Legislative Analyst, lbuckelew@njslom.org 609-695-3481 x112.

d. League Affiliate Offers Drone Certification

Are you thinking about getting a drone to support municipal operations; for building inspections, doing an emergency loss assessment, determining the health of trees, searching for a lost child, inspecting bridges, or evaluating the environment during a building fire or flood? These are just a few areas to consider when using this new technology.

Public entities, performing inherently government functions, can self-certify their pilots and their aircraft. But how do you self-certify? And how do you know if the certification process will satisfy the Federal Aviation Administration (FAA)? Who can fly the drone? What certification do they need? And most importantly, how do municipalities protect themselves by making sure your personnel are trained properly? Click below to learn about the 2-day training program available from League Affiliate Jersey Access Group for municipal operators of unmanned aircraft systems (UAS) or drones.

<http://events.r20.constantcontact.com/register/event?oeidk=a07euidlls1ee7fd51&lr=5izl8xcab&showPage=true>

Sincerely,

Michael J. Darcy, CAE
Executive Director