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## May 18, 2018

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### I. State Issues

#### a. S-5 Conditional Veto

In case you missed it, last Thursday the Governor **conditionally vetoed** S-5, the PFRS takeover legislation. Essentially, the Governor has made a number of recommendations to the Legislature so to secure his support for the bill. The Senate is expected to accept and act on these recommendations on June 7. It will then need to go to the Assembly and then be returned to the Governor. [Please click here for a summary of the S-5 conditional veto.](#)

#### Contacts:

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- Lori Buckelew, Senior Legislative Analyst, [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org), 609-695-3481, Ext. 112.

#### b. Confusion Surrounds Misinterpretation of New Animal Cruelty Enforcement Law

[Please click here for our recent Town Crier post](#) on the implementation of P.L. 2017, c. 331, regarding the animal cruelty statutes.

#### Contacts:

- Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481, Ext.

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- Frank Marshall, Esq., League Staff Attorney, [FMarshall@njslom.org](mailto:FMarshall@njslom.org), 609-695-3481, Ext. 137.

### **c. Governor Signs “Workplace Democracy Enhancement Act”**

Earlier today, Governor Murphy signed [A-3686](#), the “Workplace Democracy Act.” This law, which takes effect immediately, imposes mandatory requirements on public employers to ensure that public unions are able to carry out their statutory duties by having access to, and the ability to communicate with, their public employee members. The new law was enacted in response to public employee union concerns regarding the possible outcome of a case, *Janus v. American Federation of State, County, and Municipal Employees, Council 31*, which was argued before the U.S. Supreme Court earlier this year.

In signing this bill, Governor Murphy acknowledged that the new law may be in conflict with the Supreme Court’s ultimate decision, but he is willing to work closely with the sponsors to enact any required changes. In addition, the Governor noted he is “sensitive to the privacy concerns of our public employees and recognize the need to prevent the improper use of personal identifying information collected under the terms of this act.” Therefore, the Governor has directed State agencies to develop “sufficient procedures to protect sensitive personal employee information and to restrict its use solely to achieve the act’s purposes” when implementing the law.

We suggest you review this new law with your administrator and labor attorney. For more on the provisions of the new law please see [our blog post](#).

**Contact:** Lori Buckelew, Senior Legislative Analyst, [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org), or 609-695-3481, Ext. 112.

### **d. Appellate Division Issues Important Decision Impacting OPRA**

On Wednesday, in a consolidated opinion, the Appellate Division issued its decision in [Harry Scheeler v. City of Cape May](#), a case which the League joined as amicus curiae. This case concerned the Open Public Records Act (OPRA) and specifically sought to answer the question: Does a person who is not a resident or domiciliary of New Jersey have standing to file a request for public records under OPRA, or are rights under OPRA restricted to “citizens” of New Jersey?

Unfortunately, the court ruled against municipalities and the League, and found that there is universal standing to submit OPRA requests, regardless of residency. Meaning, OPRA requests made by out-of-state requestors and even from those in foreign countries must be fulfilled, all at the expense of New Jersey taxpayers. The court reasoned that the legislative intent of the OPRA law was to provide for transparency to all requestors, despite the law’s seemingly unambiguous language that, “government records shall be readily accessible for inspection, copying, or examination by *the citizens of this State.*” Because this is a published opinion the decision must be followed throughout the state. There is still an opportunity for an appeal to the State Supreme Court where the Appellate Division’s ruling could be overturned. We will be sure to keep our members informed on this matter. You should review this decision with your municipal attorney as well as your municipal clerk for more information on this ruling and its impact on your municipality.

**Contact:** Frank Marshall, Esq., League Staff Attorney, [FMarshall@njslom.org](mailto:FMarshall@njslom.org), 609-695-3481, Ext. 137.

### **e. Bill to Clarify Certain Volunteer Position Do Not Impact Retirement Benefits for Public Employees Advances**

On Monday, May 14, Senate State Government Committee unanimously passed [A-1627/S-1873](#), which would permit a person with a pre-existing volunteer relationship as a firefighter, first aid worker, rescue squad worker, or emergency medical technician with their employer to retire from service covered by PERS or PFRS and continues to serve that employer as a volunteer. As a result of the Division of Pension and Benefits [guidance](#) on “bona fide severance of employment,” the League **supports** this much needed legislation.

While well intended the Division of Pensions has created an unintended consequence which, if not changed, will impact every public employee who volunteers in the state and will not only drive up property taxes, but would also reduce the quality and level of essential public services.

We thank the sponsors Senators Sarlo and Kean, and Assembly representatives Schepisi, Bucco, Auth, Danielsen, and DiMaio. The bill now awaits consideration by the full Senate. Please contact your Senator and urge them to support [A-1627/S-1873](#).

**Contact:** Lori Buckelew, Senior Legislative Analyst, [lbuckelew@njslom.org](mailto:lbuckelew@njslom.org), or 609-695-3481, Ext. 112.

### **f. Liquor Bill Makes Its First Found**

Yesterday, the Assembly Regulatory Oversight Committee approved [A-3494](#), which would permit municipalities to create new liquor licenses for restaurants meeting certain criteria. League First Vice President Colleen Mahr, Mayor of Fanwood, testified in support of the legislation, which should provide a permissive, economic development tool. The primary sponsor, Assemblyman John Burzichelli, indicated that the bill is still a work in progress and will continue to work with the major stakeholders to address any remaining concerns. The bill is now “second referenced” to the Assembly Appropriations Committee for its review and consideration. To date, there is no Senate companion.

**Contact:** Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481, Ext. 121.

### **g. State Treasurer to Testify Next Week. Energy Tax Uncertainty Persists.**

On Monday and Tuesday of next week, State Treasurer Elizabeth Maher Muoio will testify, respectively, before the Assembly Appropriations Committee and the Senate Budget and Appropriations Committee. At that time, the Treasurer will present the State’s revised revenue estimates, on which the State’s next budget will be based.

Please remind your State Legislators of our concerns regarding the Administration’s proposed revisions to the Energy Tax Receipts Property Tax Relief Fund (ETR).

Again, the proposed change will not decrease municipal property tax relief funding in the

upcoming budget. Though we had hoped to see steps taken to restore the \$320 million in cuts that have been included in the past eight State budgets, we appreciate the Administration's effort to ensure level funding. And we have no doubts that the Governor, the Treasurer, and all current State Legislators appreciate the value of municipal government and remain committed to municipal property tax relief. But who knows what a future Administration or future Legislators might do, if they are given discretion over Energy Tax Receipts?

The Governor's proposal will take energy sales and corporate tax receipts out of the off budget "lock box." By State law, the first \$788.5 million deposited in the lock box are dedicated to municipal property tax relief. Instead, all the energy sales and corporate tax proceeds will flow into the State's General Fund. The Administration means to hold municipalities harmless, by replacing the loss with Income Tax dollars.

Again, we appreciate the commitment to level funding, even though the current level is lower than it ought to be. Our concerns regard the future and they are based on two factors.

First, it would open the lock box that has ensured the annual ETR distributions would meet the minimum requirements of the statutes, since 1997. Second, this wouldn't be the first time that the State has used budget language to give itself greater spending discretion. The last time it happened led, over several years, to the deterioration of CMPTRA property tax relief. We need assurance that ETR property tax relief will not suffer the same decline.

Again—and especially if one of your State Legislators serves on the Assembly or Senate Budget Committees—please remind them of our concerns regarding the Administration's proposed revisions to the Energy Tax Receipts Property Tax Relief Fund (ETR).

**Contact:** Jon Moran, Senior Legislative Analyst, [jmoran@njslom.org](mailto:jmoran@njslom.org), 609-695-3481, Ext. 121.

## **II. Federal Issue**

### **a. SCOTUS Decision Opens Door to Sports Wagering**

On Monday, the Supreme Court of the United States (SCOTUS) issued its highly anticipated decision in [Murphy v. NCAA](#) (formerly *Christie v. NCAA*). The divided Court overturned the lower court's decision and found that the Federal law known as the Professional and Amateur Sports Protection Act (PASPA), which prohibited states from passing a law allowing sports wagering, violates the U.S. Constitution. This decision effectively allows states to permit and regulate sports wagering.

When the PASPA was signed into law in the early 1990s, New Jersey was given the opportunity to opt-in and allow sports wagering, but at that time the State decided not to, making Nevada, Delaware, Montana, and Oregon the only states with legal sports wagering. In 2011, however, the State had a change of heart and, through a ballot initiative, amended the State Constitution to allow sports wagering at New Jersey casinos and current or former running and harness horse racetracks. When the Legislature passed

a law in 2012 setting out the statutory requirements for sports betting, the NCAA and other professional sports associations filed lawsuits to stop sports wagering. These lawsuits ultimately lead to the suit that made its way to the SCOTUS.

While the SCOTUS decision paved the way for legal sports wagering, the immediate impact is limited. The legislature still needs to pass legislation outlining the details of the State's sports wagering laws. The Legislative process has already begun, as Senate President Sweeney introduced [S-2602](#), which allows sport wagering within the state, on the same day the SCOTUS ruling was issued. The League is currently in the process of reviewing this piece of legislation and will keep our members updated on issues of municipal concern.

**Contact:** Frank Marshall, Esq., League Staff Attorney, [FMarshall@njslom.org](mailto:FMarshall@njslom.org) or 609-695-3481, Ext. 137.

### **III. League Conference**

#### **a. Exhibits at the Annual Conference**

Do you know a vendor that would be a good fit for the Annual Conference? If so, ask them about being an exhibitor or have them contact Kristin Lawrence, Exhibit Manager, at 609-695-3481, Ext. 125, or [klawrence@njslom.org](mailto:klawrence@njslom.org). Information is also available on [njslom.org/exhibit](http://njslom.org/exhibit)

### **IV. Also of Interest**

#### **a. The New Jersey State League of Municipalities 24th Annual Louis Bay 2nd Future Municipal Leaders Scholarship Competition**

Congratulations to the three statewide winners of the Louis Bay 2<sup>nd</sup> Scholarship Competition! Over 40 municipalities have participated this year. We would like to also applaud all of our participants for submitting excellent well-written essays, the League found each one admirable. It was a tough decision! Thanks to our judges: Scholarship Chairman Mayor Chuck Chairello, Buena Vista; Mayor Jim Anzaldi, Clifton; and Mayor Janet Tucci, West Long Branch. With pleasure, we would like to acknowledge the three winners and their respective municipality:

Ali Raza Husaini, East Windsor Township, submitted by Mayor Janice Mironov  
Aaryn S. Ross, Fanwood Borough, submitted by Mayor Colleen Mahr  
Akanksha Chauhan, Millburn Township, submitted by Mayor Cheryl Burstein

For a full listing of winners, finalists, and semifinalists, visit the Awards section of the League's website. <http://njslom.org/274/Louis-Bay-II-Future-Municipal-Leaders-Sc>

The purpose of this scholarship is to advance the virtues of elected and volunteer positions in municipal government while raising awareness of municipal government in general.

The League takes great pleasure in the administration of this program, but it could not be

continued without the help of the Mayors, and our judges, thanks to all of you. We commend all of you and look forward to your participation next year!

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## **b. New League Website Announcement**

In case you missed it, the League recently launched a completely redesigned website; a project NJLM staff has been working on for nine months. Our web address remains the same, [www.njslom.org](http://www.njslom.org), but the site has a completely different look and interface, which will improve user convenience. Some of the many new features of the site include:

- Subscription options for tailored alerts (for instance, users can subscribe to receive alerts when the job/RFP page is updated, or to receive emails each time a seminar is added to the seminar calendar). [Click here](#) to subscribe to alerts.
- Improved and responsive search function.
- A rotating photo banner atop each webpage with photos highlighting the state's many great features and locations, and currently featuring our recent Show Off Your City contest winner—Verona Township!
- A site map and quick links to aid site navigation.

We hope that the new site improves your experience navigating the League's website!



New Jersey State League of Municipalities

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