

September 16, 2016

Re: Weekly Policy Update

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Dear Mayor:

I. Legislative Action in Trenton

Both Houses of the State Legislature held voting sessions on Thursday, September 15.

The General **Assembly** took action on a handful of bills of interest to local governments. The Assembly **approved** the following bills **supported** by the League:

[A-856](#)-- This legislation would require the removal, prior to the sale or transfer of an “authorized emergency vehicle,” of any equipment or marking that would identify it as an emergency vehicle. Under the bill, equipment required to be removed would include handheld spotlights affixed to side mirrors, antennas used for emergency response communication equipment, mobile vision and mobile data terminals, sirens, strobe lights, or any other light with optional strobe functions typically used on an authorized emergency vehicle. Markings that are to be removed include any decal, insignia, or striping added to the authorized emergency vehicle by a State or municipal agency, or any other government entity engaged in law enforcement, fire services, or emergency medical transportation.

These requirements would not apply if the buyer is another New Jersey emergency service provider. The bill also requires the Attorney General to issue guidelines or directives for the enforcement of this requirement. It will join its Senate companion, S-1498, for consideration by the Senate Law and Public Safety Committee.

[A-2220](#)---This legislation provides municipalities with another option to use for public procurement while preserving the integrity and appropriate procedural protections of public procurement. The Senate companion stands at 2nd reading in the Senate.

[A-2512](#)--- This bill will require the Board of Public Utilities (BPU) to adopt a final decision or order within 12 months of the final public hearing held to determine whether a telecommunications service is a competitive service. This bill also requires the BPU to adopt a final decision or order on an application to increase rates charged by public utilities to their customers within 12 months of the final public hearing held to review an application.

If the BPU has not adopted a final decision or order within 12 months of the final public hearing, it will need to hold an additional public hearing before adopting a final decision or order. The BPU is to make no determination as to whether a telecommunications service is a competitive service unless a public hearing has been held in the previous 12 months to determine whether a

telecommunications service is a competitive service. The Senate companion was approved by the Senate Economic Growth Committee and awaits consideration before the Senate Budget and Appropriations Committee.

The Assembly also amended A-3381, which would have required municipal volunteer programs for free removal of snow from certain residential properties occupied by seniors or disabled persons. The League raised a number of unfunded mandate and liability issues to the sponsor, Assemblywoman Angela McKnight, and she agreed to amend the bill to address these concerns. We will review the amendments and advise you at a future date.

The **Senate** took action on:

S-1991 – This bill will require additional cost-benefit analyses and local government financial impact findings for approval of long term property tax exemptions was amended on the Senate floor. The amendments, which are not available at this time, are meant to increase transparency and would apparently require the posting PILOT information on municipal website and reporting to the Division of Local Government Services. The amended bill unanimously passed the Senate and now awaits consideration by Assembly State and Local Government Committee.

The League **opposes** S-1991 as it will increase the municipal cost of processing such applications and limit municipal discretion in determining the relevant factors in the decision making process.

S-1991 will require applicants under the Long Term Tax Exemption Law to submit a cost benefit analysis of the project's impact on municipal, county and school finances, including but not limited to: the net financial impact on the municipality based on the estimated payments to the municipality by the financial agreement and estimated additional one time and periodic expenditures incurred by the municipality as a result of the project; municipal revenues gained or lost based on the estimated net financial impact; estimated net financial impact of the property on the municipality if the project is not approved and the current use and condition of the property continued; property tax revenues to be foregone by the county and taxing districts in which the project is located if a tax exemption is approved; and any other information required by the Division of Local Government Services.

This will increase application costs, but will not necessarily provide additional insight to the municipality as private entities are unlikely to have extensive information regarding governmental operations (e.g., the number, types and costs of municipal personnel), revenues, and budgets.

The bill also requires that the municipality produce an independent cost-benefit analysis on the same topics. Municipalities already consider the relative costs and benefits of a project in their consideration of financial agreements, which must be approved by a municipality by ordinance in order for a tax exemption to take effect, and which are already required by N.J.S.A. 40A:2011 to include determinations as to “the relative benefits of the project to the redevelopment of the redevelopment area when compared to the costs, if any, associated with the tax exemption.” Preparation of a formal analysis on a prescribed set of topics will increase the municipal cost of reviewing applications and will limit local decision making authority.

We will advise you on the details of the amendments once they become available. In the meantime, we suggest you contact your Assembly representatives and urge them to vote NO on the assembly companion, A-3599.

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II. N.J. Supreme Court Issues Important Ruling on Constitutionality of Digital Billboard Ban

The New Jersey Supreme Court has issued an important ruling regarding the constitutionality of a municipality’s ban on off-premise digital billboards. In *E&J Equities v. Board of Adjustment of Franklin Township* the Court invalidated such an ordinance as unconstitutional under the U.S. and New Jersey constitutions. Docket No. 075207 (N.J. 2016). At issue was a municipality’s decision to ban off-site digital billboards due to general aesthetic and safety concerns.

The Court applied the Clark/Ward standard that applies to “content-neutral regulations restricting or regulating expression by those seeking to advance commercial ventures.” Slip. Op. at 39. The Court stated that:

Under that standard, although the Ordinance carries a presumption of validity, Bell, supra, 110 N.J. 1t 394, when faced with a constitutional challenge to it legislation, the Township must demonstrate that the prohibition of digital billboards is content neutral, that it is narrowly tailored to serve a recognized and identified government interest, and that reasonable alternative channels of communication exist to disseminate the information sought to be distribute, Ward supra, at 491 U.S. at 799, 109 Sc.D. at 2758... Slip. Op. at 41.

The Court held that the ordinance was content neutral. However, the Court held that the Township had nevertheless failed this test because:

[While the] government interest identified by the Township—aesthetics and the safety of motorists... have long been recognized as legitimate and substantial government interests, particularly related to billboards... [the Township] must do more than simply invoke government interests that have been recognized over time as substantial. In other words, there must be a modicum of support for the invoked government interests. Slip. Op. at 43.

Essentially, the Court challenged the municipality’s reliance on general aesthetic and safety concerns. It found that such concerns could not be a “substantial interest” based on the record before it. In doing so, the Court focused on the existence of a “considerable body of literature discussing the impact, or lack thereof, of digital billboards on traffic safety and standards that can be applied to such devices to enhance traffic safety and mitigate aesthetic concerns.” Slip. Op. at 44.

The Court was careful to not impose a general ban. In concluding the opinion, the Court stated that, “we do not suggest that no municipal restrictions on off-premises digital billboards or multiple message centers can pass constitutional muster... [Rather,] a more robust factual record in support of the cited government interests deemed substantial may satisfy the Clark/Ward test.” Slip. Op. at 45-46.

Local officials, particularly planning boards, zoning boards, and their attorneys should be made aware of this decision.

Contact: Ed Purcell, Esq., Staff Attorney, epurcell@njslom.org, 609 695-3481 x137.

III. Advocacy Tools for Local Officials

[As Mentioned in our August 19 Friday recap letter](#) the League is rolling out some new tools and initiatives for our advocacy efforts. Please [click here](#) for more on our VoterVoice service.

We would suggest registering with that service to assist the League in future legislative efforts. We anticipate launching our first legislative campaign shortly.

And please [click here](#) to read the League’s new legislative blog, “The Town Crier.”

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

IV. Apply for the 2016 Governor’s Environmental Excellence Awards

Applications are being accepted for New Jersey’s premier awards program for recognizing outstanding environmental performance, programs and projects throughout the state. These awards recognize significant contributions to environmental protection in New Jersey.

Nominations can be submitted for nine different categories. Full details are at www.nj.gov/dep/eeawards. The **submission deadline is September 28.**

The Governor's Environmental Excellence Awards Program is sponsored by the New Jersey Department of Environmental Protection, the New Jersey Environmental Infrastructure Trust and the New Jersey Corporation for Advanced Technology, in partnership with the New Jersey State League of Municipalities.

Questions about the awards program can be forwarded to NJDEP employee Tanya Oznovich by calling (609) 984-9802 or emailing Tanya.Oznovich@dep.nj.gov.

Contact: Michael J. Darcy, CAE, Executive Director, mdarcy@njslom.org, 609-695-3481, x116.

V. Pre-Registration for 101st NJLM Conference Opened August 1

Pre-registration for the NJLM Conference opened on Monday, August 1, by paper and online formats. The form and online registration links are located on our website, www.njslom.org.

Click on the tab "Conference," select "Conference 2016" and click on the "Register Now" button to access your municipal pre-registration form or non-municipal registration form.

REMINDER: Pre-registration ends October 1, 2016. After October 1, 2016, all new registrations must be completed onsite in Atlantic City.

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Johniffer Harris, Assistant Financial Administrator, jharris@njslom.org, 609-6953481, x119.

VI. New for 2016 – The League is going mobile!

Starting October 5th you can download the new official conference app. Access a fully searchable session schedule, interactive map of the exhibit floor, a thorough listing of exhibitors, and up-to-date event information. Don't miss important sessions, speakers or exhibits – create a personalized schedule before you arrive at the Convention Center to maximize your experience! Download day is October 5 at www.njslom.org/2016conf/app

VII. NJLM 2016 Conference CEU List Updated.

The Annual Conference CEU list has been updated. You can view this list by clicking the following link: <http://nj-njslom.civicplus.com/339/Continuing-Education-Unit-CEU-Tracking-S>. The list is not yet final so continue to check the page for updates. And download the conference mobile app October 5 to receive update notices <http://www.njslom.org/2016conf/app-download.html>

Contact: Danielle Holland, Seminar Manager, dholland@njslom.org, or 609-695-3481 x118.

VIII. Innovation in Government Award Nominations Sought

The New Jersey Department of Community Affairs and the New Jersey League of Municipalities will again acknowledge and promote Innovation in Governance through our annual recognition program. It gives you the chance to congratulate your public professionals and employees for a job well done. And it can help to demonstrate to your constituents the appreciation that other local officials, throughout New Jersey, have for your creativity and leadership. See how to nominate your program [by clicking here](#).

Contact: Ciara Bradley, Legislative Administrator, cbradley@njslom.org , 609-695-3481, x128.

IX. Mayors Hall of Fame Reminder

Once again, the New Jersey State League of Municipalities Executive Board wants to pay tribute to mayors who have served at least 10 years as mayor. During the Mayors Box Luncheon at Annual League Conference in November we will induct nominees to the Mayors Hall of Fame. See details on the nomination process here <http://nj-njslom.civicplus.com/246/Mayors-Elected-Officials-Hall-of-Fame>

X. Visit Sustainable Jersey at the New Jersey League of Municipalities Conference

November 15-17, 2016. The Sustainable Jersey Awards Luncheon is on November 15, 2016. Sustainable Jersey has 9 sessions at the NJLM Conference. For more information, click [here](#):

XI. Social Security and the American Retirement Plan

For retirement planning purposes, public employees can read about the government pension offset (GPO) and the windfall elimination provision (WEP) at [Information for Government Employees](http://www.ssa.gov/planners/retire/gpo-wep.html) at www.ssa.gov/planners/retire/gpo-wep.html.

For the nation's 86,000 public employers and 23 million public employees, Social Security and Medicare coverage for State and local government employees is unique because there are special coverage provisions for public employees under the Social Security Act. They also have a webpage dedicated to State and Local Government Employers at www.ssa.gov/slge/.

Contact: Michael J. Darcy, CAE, Executive Director, mdarcy@njslom.org, 609-695-3481, x116.

Sincerely,

Michael J. Darcy, CAE Executive
Director