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June 14, 2019

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Municipal Clerks: Please forward to Mayor, Governing Body and Department Heads.

I. State Issues

a. URGENT ALERT! OPRA and OPMA Bills Scheduled for Monday

We have just learned that the Senate Budget and Appropriations Committee has scheduled [S-106](#) and [S-107](#) for a hearing on this coming Monday, June 17. These bills would, respectively, enact major changes to the Open Public Meetings Act and the Open Public Records Act. Those changes would impose new requirements on local governing bodies and record custodians; and could easily hamstring local operations.

We anticipate amendments, but we do not believe that they will be able to address our continued, significant concerns with these bills such as the requirements for subcommittees and mandatory prevailing attorney fees for requestors. For details and analysis of these bills, please see our earlier [Town Crier OPRA/OPMA blogpost](#).

And please contact your State Senators to express your concerns with S-106 and S-107.

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

b. Residential Property Tax Relief/Telecom Personal Property Tax Bill Advances

The Assembly Appropriations Committee has released A-5450, which will clarify telecommunications industry corporate tax responsibilities and shield local taxpayers from the costs of endless tax court litigation. The bill now awaits a floor vote in the General

Assembly.

We thank the sponsors of this legislation, as well as the Members of the Appropriations Committee, who advanced the bill with unanimous support.

Please contact your State representatives, and urge them to support A-5450. Also, please see our [June 11 Urgent Alert](#) for more details.

A-5450 would clarify the Legislature's intent to permanently apply the business personal property tax on local exchange telephone companies that were subject to the tax as of April 1, 1997. Without this clarification, for every year during which the utility asserts an exemption, and in every municipality that is denied this funding, taxpayers will face costly and lengthy litigation.

Again, please contact your State representatives, and urge them to support A-5450.

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

c. Senate State Government Releases First "Path to Progress" Bills

On Thursday the Senate State Government, Wagering, Tourism, and Historic Preservation Committee released the following Path to Progress bills:

- [S-3760](#) would require municipalities, counties, school districts, and local authorities to regularly meet to discuss shared service agreements. The bill would also reduce a municipality's State aid by 5% for failing to meet at least twice each year to discuss shared services as required under the bill. The League expressed our concerns with this legislation and will be working with our local government partners at New Jersey Association of Counties and New Jersey School Boards Association to address our collective concerns with the bill.
- [S-3761](#) would establish a County and Municipal Study Commission. The League long supported the work and mission of the old County and Municipal Study Commission and thus supports this legislation.
- [S-3762](#), in addition to making changes on the common level range, would expand the provisions of Gloucester County Property Assessment Pilot program (P.L. 2009 c. 118) to permit any county governing body, except those that adopted the Real Property Demonstration Program, to adopt by ordinance the Property Tax Assessment Reform Act. Besides our concerns with S-3762, we strongly believe that before any legislation moves forward making changes to the property assessment function there must be a wholesale study of the property assessment functions that includes a review of the two pilot programs.
- [S-3764](#) would require counties to appoint shared services coordinators and would appropriate \$2.0 million to fund the appointments. This legislation would require counties to hire a county shared services coordinator and would provide grant monies of up to \$95,000 per county to offset the costs associated with the establishing the new position.
- [S-3767](#) would establish a pilot program to permit the use of generally accepted accounting principles in certain county and municipal annual financial statements.

- [S-3768](#) would require shared services agreements to include, in addition to what's already required under current law: performance evaluation criteria, procedures for determining fee adjustments, alternative dispute resolution procedures, and exit procedures to govern dissolution agreements.
- [S-3769](#) would permit county police departments to provide police services to municipalities.

It is our understanding that these bills will now be 2nd referenced to the Senate Budget and Appropriations Committee for further consideration, possibly over the course of the summer. We will continue to work with the sponsors, Senate President and stakeholders to address our concerns with proposed legislation.

Contact: Michael F. Cerra, Assistant Executive Director, mcerra@njlm.org, 609-695-3481 x120.

d. Committee Amends First Responders' Workers' Comp Rewrite

On Thursday in Trenton, the Assembly Appropriations Committee amended and released S-716/A-1741, companion bills that make it much easier for any public safety worker—volunteer or professional—to receive a workers' compensation award. (See our [June 12 Daily Alert](#).)

These amendments represent a partial response to suggestions put forward by the Municipal Excess Liability (MEL) fund and the League. For example, before these amendments, the bill would have required “clear and convincing” evidence, in order to rebut the presumption that any injury, disability, chronic or coronary illness or death would be compensable under workers' comp, if, in the course of employment, a police officer, firefighter, emergency responder or nurse is exposed to a carcinogen or pathogen.

The Committee removed that provision and the bill now retains the current “preponderance of the evidence” standard to rebut a claim.

We want to thank David Grubb and Paul Bent, who represented the MEL, throughout the years, in discussions on this matter.

At this time, we are evaluating the amendments.

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

II. Federal Issues

a. IRS Issues Final Regulations Effectively Ending NJ's SALT Cap Workaround

On Tuesday, the IRS issued [final regulations](#) regarding the deductibility of charitable contributions when the contributor receives in exchange a state or local tax credit. These final regulations come about after New Jersey and many other states took efforts to lessen the negative impact caused by the \$10,000 cap on a federal income tax deduction for

state and local taxes (SALT) brought about by the 2017 Tax Cuts and Jobs Act.

By way of background, the 2017 Tax Cuts and Jobs Act capped the federal income tax deduction for state and local taxes at \$10,000. For high property tax states like NJ this had a tremendous negative impact as it could result in driving down property values, among other things.

In response, many states including NJ, endeavored to come up with ways to blunt the negative impact of the SALT deduction cap. In May of 2018, Governor Murphy signed into law [P.L. 2018, c.11](#) which authorized counties, school districts and municipalities to set up charitable funds which property taxpayers could donate to and in return would receive a credit on their property tax bill of up to 90% of the donation. This was labeled as a workaround for the new SALT deduction cap as under federal tax law deductions for charitable contributions remained uncapped. The idea was to re-categorize SALT payments as charitable contributions so taxpayers could once again deduct the full amount of their SALT payments on their federal income tax returns.

P.L. 2018, c.11 works similarly to programs that have been in place across the country for many years prior to the 2017 Tax Cuts and Jobs Act. Programs with this similar workaround have been scrutinized, and essentially approved, by the IRS in the past—although never approved through any formal rulemaking, but through informal guidance.

Seeing that many states were adopting these workarounds in response to the SALT cap, the Federal Administration, through the IRS, scrambled to prevent a key portion of the 2017 Tax Cut and Jobs Act from being undermined. In late August of 2018 the IRS issued a [notice of proposed rulemaking](#) that would essentially overturn their previously issued informal guidance which allowed these workarounds and instead eliminate their effectiveness entirely.

To put it simply the proposed, now adopted, regulations disallow charitable contributions from being deducted from federal income taxes whenever the contributor received in return a credit for taxes at the state or local level.

While, under P.L. 2018, c.11, NJ municipalities still have the ability to set up a charitable fund to accept donations and provide a property tax credit, the underlying reason for a property taxpayer to contribute to these funds has been eliminated by the IRS regulations. The League is unaware of any municipality that has set up such a charitable fund, likely because of signaling from the IRS even prior to the issuance of draft regulations that the federal administration would seek to disallow such workaround. With this in mind, many were hesitant to go through the effort to create such a program.

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

b. National Flood Insurance Program Extension Enacted

Upon his return to the Country last Friday, President Trump signed [H.R. 2157](#) into law. In addition to providing vital aid to jurisdictions devastated by an unprecedented series of natural disasters, that bill—The Additional Supplemental Appropriations for Disaster Relief Act of 2019—extends the life of the NFIP through September 30 of this year.

We will keep you apprised of further developments, as they occur.

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

III. League Conference

a. Reserve Your Hotel for the League Conference

Preparations for the 104th Annual League Conference November 19-21 are underway and the hotel reservations system is open for attendees and exhibitors at the League [Conference Web Page](#). There you will also see a preliminary schedule of conference sessions.

Staying in Atlantic City for the Conference is a great way to get the most from your attendance at the Conference. Staying over will maximize your time and opportunities to participate in the educational, informational, and networking opportunities offered throughout the Annual League Conference.

b. 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 AC Central Reservations. This information is on the top of the official conference housing form sent to all municipal clerks and posted on [our website](#).

Using unauthorized reservation services creates real problems for you and the conference as a whole. You cannot be assured your credit card information is secure and your room reservation may not actually be made. Using unauthorized services means your room will not be part of the official conference housing block so you won't get emergency housing information (which happened in both 2011 and 2012), nor will there be adequate shuttle bus services to your hotel.

As always, the League is available to answer your questions on any aspect of the annual conference and we strive to make your participation both enjoyable and highly productive.

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

c. Exhibit Booth Registration is Open!

Invite your vendors to exhibit at the 2019 NJLM Annual Conference and showcase their product or service to other municipalities. Exhibit space is already 70% sold out so contact your vendors today—or send us a note and we'll reach out to them! The 2019 Exhibitor and Sponsorship Prospectus can be [downloaded](#)

Contact: Kristin Lawrence, Director of Exhibition and Sponsorships, 609-695-3481, x125 or klawrence@njlm.org.





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