



From: NJLM - Municipal Clerks [mailto:njlm-clerks@cityconnections.com]
Sent: Wednesday, March 18, 2009 3:36 PM
To: Lashway, Lisa
Subject: From NJLM - Two Mayors Letters & a Bulletin Correction

LEAGUE ALERT

Municipal Clerk: Please forward to Mayor and Governing Body.

March 18, 2009

Re: I False Claims Acts Amendments Threaten Local Governments

Re: II Pension Deferral Signed

Re: III "Correction, Legislative Bulletin, March 2009, No. 1".

Re: I. False Claims Acts Amendments Threaten Local Governments

Dear Mayor:

We would like to bring to your attention Congress's latest proposed amendments to the federal False Claims Act (FCA) and related statutes. While the primary goal of the Senate bill, S.386, is to crack down on improper conduct by private sector recipients of federal funds, the bill has the collateral effect of threatening to create new liability for municipalities. New York City has been fighting to exempt localities from these amendments and to mitigate the impact of the FCA itself, but they need other cities to get involved.

We believe all municipalities have major cause to be concerned about this bill, and about the FCA as its standards become more stringent. The FCA already threatens to bankrupt cities with whistleblower lawsuits, treble damages, and other harsh penalties that can quickly add up to hundreds of millions of dollars, threatening local services and local taxpayers. This legislation significantly increases the exposure under the FCA, and the related federal frauds statute, of any local government or affiliated local public agency (such as a public hospital system or school district) that receives federal funding. The federal funding may be for Medicare or Medicaid; welfare; educational, research or other types of grants; construction of highways or other infrastructure; etc.

States are actually exempt from whistleblower lawsuits under the FCA, but a 2003 Supreme Court decision held that localities are fully subject to such suits. New York City has sent a letter to the Senate Judiciary

Committee with proposed amendments to the bill to remedy the situation. Under this proposal, the bill would state that local governments (including local agencies like school districts and public hospitals) are to be treated the same as states under the FCA, and that amendments to the federal frauds statute that significantly expand that law do not apply to states and localities. **The letter and proposal will be posted on our website tomorrow, March 19.**

We urge you to send a letter of support for New York's proposal to the Senate Judiciary Committee. If you have any questions or concerns about this communication, please contact Deborah M. Kole, staff attorney, at the League, ex. 137, or at dkole@njslom.com

Very truly yours,

William G. Dressel, Jr.
Executive Director

Re: II. Pension Deferral Signed

Dear Mayor:

Last evening, Governor Corzine signed the Pension Payment Deferral Option legislation, S-21/A-3868.

For detail on the legislation, see our March 12 letter at <http://www.njslom.org/ml031209.html>. And a copy of the bill is available at http://www.njleg.state.nj.us/2008/Bills/S0500/21_11.PDF.

The new law requires the Treasurer to prepare new bills, reflecting the option to pay only 50%, subject to approval by the Local Finance Board. However, there is nothing in the law to alter the April 1 due date for pension payments. This, obviously, will put unexpected pressure on those of you who might need to take the 50% deferral.

We have contacted the Division of Local Government Services. DLGS expects to have a Local Finance Notice out on this, later today or tomorrow. They are also working with the Division of Pensions to provide some flexibility for municipalities forced to deal with this, in such a tight time frame. For more information, contact Jon Moran at 609-695-3481, ext. 121.

Very truly yours,

William G. Dressel, Jr.
Executive Director

Re: III. "Correction, Legislative Bulletin, March 2009, No. 1".

Please note that due to a printer error, three bills listed on page 1 of our most recent "Legislative Bulletin" are incorrectly listed as oppositions. These three bills, A-3482, A-3486 and A-3505, were all supported by the League Legislative Committee.

A corrected copy of page 1 of the bulletin is online at: <http://www.njslom.org/bulletin-march-2009-print-correction.pdf>

The corrected copy will also be mailed to you along with the next issue of the Legislative bulletin in early April.

We apologize for the inconvenience. "

NJLM

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