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LOCAL GOVERNMENT

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Proposed Budget Threatens Smaller Municipalities

Residents of NJ's rural areas face a reduction in state aid

On February 26, Gov. Jon Corzine presented his budget recommendation for the 2008–2009 fiscal year. Gov. Corzine's approximately \$33 billion budget proposal has threatened to greatly reduce and cut off state aid to New Jersey's smaller municipalities. Although no new state tax increase is proposed, the terms of the budget will require an increase in local budgets and a corresponding increase in taxes for the residents of smaller rural municipalities throughout the state. The governor's proposed budget must by law be passed by the start of the state's next fiscal year, on July 1, 2008.

The governor's proposed budget decreases funding based solely on a municipality's population. The main target of the reduction in municipal aid is municipalities with populations of less than 10,000. Without warning, and without regard to performance, the governor is seeking to immediately eliminate or significantly reduce funding to these smaller municipalities.

Of New Jersey's 566 municipalities, 323, or 57 percent, have less than 10,000 residents, and comprise approximately 17 percent of the state's population. The economic reality is that the governor is attempting to force po-

litical and social changes in the mostly rural sectors of New Jersey. The fiscal risk, which is totally unwarranted considering the bankrupt monetary policies practiced by our state officials, is thrust upon local part-time officials who do not have the full economic expertise, time or legal ability to obtain the governor's objective. Consolidation has its merits but cannot be fully accomplished by the checkbook.

The proposed budget calls for a significant reduction in Consolidated Municipal Property Tax Relief Aid ("CMPTRA") funding. During the current fiscal year, CMPTRA funding is approximately \$835 million, with a proposed reduction to \$773 million for the next fiscal year, or a reduction of \$62 million or 8 percent. Towns with more than 10,000 residents will have their CMPTRA aid frozen at the 2007 level. Additionally, CMPTRA funding will be cut in half for municipalities with populations between 5,000 and 10,000 people. Those unfortunate municipalities with fewer than 5,000 residents will be cut off from all CMPTRA aid. This might not seem like much money in the greater scheme of things, but many of the smaller municipalities heavily rely on state money to act as a stopgap for their trim budgets. Further, the Governor fails to recognize and deal with a real budget culprit — the unfair reliance on local ratables to fund the local and

school budgets, which typically comprise a majority of the local tax burden.

The CMPTRA program is made up of several municipal property tax relief funding programs. CMPTRA aid was established in the 1996 budget, which consolidated 14 separate programs of state aid to municipalities, including such categories as business personal property tax replacement aid, municipal revitalization aid, supplemental municipal property tax relief aid and urban aid, into one program. These programs lessen general property taxes and provide alternative funding. The reduction in CMPTRA aid necessarily varies in amount among municipalities.

The proposed budget makes it significantly more difficult for all residents, and especially fixed income senior citizens, to survive in towns with less than 10,000 residents. Living in one of these towns means that you will receive less property tax relief than a neighbor in a different and bigger town with a population of more than 10,000. Of course, municipalities do receive other types of state aid, like payments for open space and energy facilities, and this aid may not be affected by the governor's budget. However, the reduction or loss of CMPTRA funding will have an enormous impact on the majority of New Jersey municipalities.

In theory, consolidation logically may assist in reducing governmental costs. In reality, however, consolidation is a complicated process which requires

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a great deal of negotiating and planning by municipalities. The process takes time and money, as well as political and social capital; things not currently in abundant supply in New Jersey. In support of the argument that consolidation is difficult, there have been only two municipal consolidations in New Jersey over more than 50 years. Many municipalities have rejected consolidation multiple times.

Grants in the amount of \$32 million are proposed to be made available to help municipalities fund studies and implement consolidation; up to \$40,000 is available for municipalities to study the process of consolidation, and up to \$200,000 to implement consolidation. Although the grant money may be helpful in beginning the consolidation study process, it offers no relief from the reduction of municipal funding which effectively requires consolidation to occur immediately.

The governor has recently indicated he may be willing to phase in the reductions in aid to municipalities over a "couple" of years. This phasing is deeply needed or otherwise municipalities will lose funding without even having the chance to first consolidate. Several municipalities have already entered into shared services agreements for different municipal functions, including courts, administrators and employees. The governor's proposed budget does not take any shared services into account, and will still punish those municipalities that have entered into shared services agreements but have not officially consolidated.

When considering consolidation, there are many issues to ponder: which zoning will apply; what COAH obligations and planning will comply; who will be the chief of police; who will pay for the pension of municipal employees; how will labor contracts be molded; what kind of governing body will govern; how many fire departments will be in the new municipality; which open space acquisition will be prioritized; what voluntary ambulance squad will remain; which municipal court judge and health officer gets to keep his or her job; and the list goes on.

What exactly is municipal consolidation? It is a complicated process governed by New Jersey statutory law. The Municipal Consolidation Act, N.J.S.A. 40:43-66.35, et seq., encourages municipal consolidation, as "an act of high public importance." The Municipal Consolidation Act was completely revised in 1978, and further amended in 1992, 1996 and 1999. Consolidation is seen as a means to insure more rational control of growth and development, more efficient provision of local services, and more effective public administration. Yet, as stated above, almost no one has done it.

Basically, a "consolidated municipality" is a single, new municipality that results from consolidation efforts. It is important to realize consolidation is not just a simple merger or existing municipalities: instead, a brand new consolidated municipality is created.

The process of consolidation is far from simple. A joint municipal consolidation study commission ("Consolidation Commission") is formed, either by submitting the question of forming a Consolidation Commission to the voters, or by the governing bodies creating a Consolidation Commission. The Consolidation Commission studies the question and feasibility of consolidation, including the forms of government available, and prepares a report of its findings and recommendations. Five members of each municipality are members of the Consolidation Commission, each member being either elected or appointed by the governing body. The meetings of the Consolidation Commission are to be an open process, held in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq. The Consolidation Commission report is required to be filed within 10 months of appointment of the members of the Commission.

The Consolidation Commission, in its final report, can recommend that either: 1) a referendum be held, pursuant to which voters decide whether to consolidate into a single new municipality or not; or 2) the municipalities should not be consolidated into a single municipality. If consolidation is not recommended,

the Consolidation Commission may still make findings and recommendations regarding consolidation of municipal services and functions. A recommendation for consolidation is approved only if a majority of those who vote in each municipality favor the consolidation.

If a Consolidation Commission recommends consolidation, it is required to report: the proposed form of government; details of adjustment of indebtedness and obligations of each municipality and school districts, to preserve a fair and equitable burden of taxation of debt service; transfer of property and assets to the new municipality and school district; authorization of bonds prior to the date of consolidation; adjustments and abolition of offices, positions and employment; process of election of members of the new governing body; what ordinances, rules and regulations that will be temporarily in effect; and the manner of school district consolidation. The Department of Community Affairs grants feasibility study funding, and, within five months of establishment of the Consolidation Commission, prepares and reports its own study on the fiscal aspects of the proposed consolidation.

An important concept to recognize is that after the date of consolidation, the municipalities become a new single municipality, under the name and form of government set forth in the report and recommendation of the Consolidation Commission. The assets, contracts, debts and other obligations of the participating municipalities and school districts become vested in the newly created consolidated municipality. Municipal employees, if not eliminated by the consolidation, become employees of the new consolidated municipality.

A simpler consolidation process is also provided for in the Municipal Consolidation Act, for consolidation of a municipality with a population of less than 500 with another larger municipality. Specific provisions encourage "consolidation of sparsely populated municipalities into contiguous municipalities having larger populations." A majority of voters must still vote in favor of con-

solidation, but the consolidated municipality really becomes part of the absorbing municipality, continuing the form of government and name of the larger municipality.

Alternatively, Local Option Municipal Consolidation, N.J.S.A. 40A:65-25, created as part of the Uniform Shared Services and Consolidation Act in 2007, offers more flexibility than the Municipal Consolidation Act. The Local Option permits, in lieu of the Municipal Consolidation Act, for a municipal consolidation study commission, upon application, to study the feasibility of consolidating municipalities.

In addition to the consolidation plan that is required pursuant to the Municipal Consolidation Act, the Local Option requires inclusion of provisions regarding: a timetable for implementing the plan; duplicate positions to be abolished; and

the applicability of Title 11, Civil Service provisions. The Local Option also considers, as part of the study, phasing-in of a consolidation plan, continued use of boundary lines, and apportionment of pre-consolidation debts.

Municipalities that are subject to civil service provisions (Title 11A) are subject to a consolidation implementation plan to be created by the Department of Personnel. Ironically, the governor is proposing elimination of the Department of Personnel at a time when it is so obviously needed to assist in civil service employment matters for consolidating municipalities.

For years, smaller municipalities within New Jersey have maintained their independence while at the same time sharing services, in an effort to reduce costs for taxpayers. Many municipalities have earnestly set up Consolidation

Commissions and have had arduous but unfortunately unfruitful negotiations with their neighbors. These local officials have learned the pitfalls of such a process, combined with human nature to resist relinquishment of local control. Yet the State with more and more centralized control cannot boast of any significant statewide achievements either; only swollen bureaucracies, not always with objective analysis, and prone to special interests, corruption and favoritism.

It is often State officials who are in the newspapers, who continue to tarnish New Jersey's reputation, not the local officials who have little personal gain at stake and merely want to work and live in a better place. It would be unfortunate for State mandate to eliminate the people's choice and require rushed consolidation of New Jersey's municipalities with smaller populations.■