

## DUPAGE MAYORS AND MANAGERS CONFERENCE 2017 LEGISLATIVE ACTION PROGRAM

### **Legislative Priorities**

*Representing more than one million residents by advocating for sound public policy initiatives, DMMC strives to promote municipal government, foster intergovernmental cooperation and find innovative solutions to make local government work more effectively for DuPage residents and ultimately all citizens of Illinois. DMMC's legislative priorities include:*

#### *Ensuring Sustainable Municipal Budgets*

Making sure that revenue generated by local residents and businesses stays local is crucial to preserving vital municipal services like police and fire protection, garbage pick-up, road maintenance and snow removal. DMMC communities, as well as those throughout the state, rely on these revenue streams—including Local Government Distributive Fund (LGDF) dollars that are collected by the state and returned to municipal governments to pay for essential services. By protecting all state-collected local revenue streams, legislators help ensure municipalities can deliver these basic services and necessary staffing to residents.

#### *Preserving Retirement Benefits for Police and Firefighters*

To ensure retirement security for local police officers and firefighters, DMMC is part of a statewide coalition advocating for reforms aimed at preserving public safety pensions. Without cutting benefits, consolidating the 651 individual public safety pension funds into a single multiple-employer pension system would expand investment opportunities and lower operational expenses for those who serve our communities.

#### *Empowering Local Taxpayers Regardless of Population*

Municipalities should have the ability to respond to constituent needs and govern themselves, regardless of their population. Removing the distinction between home rule and non-home rule communities would eliminate the barriers of non-home rule authority, giving municipalities crucial local control and decision-making ability. This reform would also provide access to restricted dollars to fund critical services like police and fire protection, infrastructure repairs and economic development. Non-home rule communities make up approximately half of the municipalities in DuPage and approximately 83 percent of those in Illinois.

### ***Making Local Business More Competitive***

Workers' compensation reforms would create economic opportunity and jobs to make Illinois more competitive with surrounding states. Adopting common-sense changes would lead to more reasonable settlements without harming employees who have legitimate claims. The following modest reforms would better protect workers and enable employers to expand, relocate and grow their businesses:

- ***Ensure Employers Receive Credit for Permanency Payments on Subsequent Injuries to Body Parts that are Compensated as Person as a Whole***

Under the Illinois Workers' Compensation Act (Act), head, back, and neck injuries are compensated as a percentage of person as a whole instead of as a scheduled body part. Employers paying a percentage of permanency on scheduled body part injuries can receive a credit for subsequent injuries to the same scheduled body part. The Act should be amended to ensure that employers receive credit for permanency payments on subsequent injuries to body parts that are compensated as person as a whole.

- ***Equate Permanent Loss of the Shoulder to Loss of Use of the Arm***

The Workers' Compensation Commission ruled that a permanent shoulder injury is viewed as person as a whole, doubling the cost of compensation and also providing duplicative compensation for previous arm injuries. The Act should be amended to overturn the ruling and equate permanent loss of the shoulder to loss of use of the arm, which provides a total of 253 weeks of paid salary, including previous compensation.

- ***Remove the Burden of Proof for the Cause of Firefighter Injuries from Municipalities***

Statutory rebuttable presumption provisions put the burden of proof on the employer to prove that an injury arose from a cause outside of employment. In certain situations this presumption unfairly shifts the burden to the taxpayer to prove causation, particularly in cases where the public agency does not have access to records from an employee's secondary employer. The Act should be changed to place the same burden of proof on firefighters as is placed on other employees.

- ***Require Arbitrators to Adhere to Guidelines from the American Medical Association***

The American Medical Association (AMA) provides guidelines for rating the level of permanent impairment due to injury. However, arbitrators may give little or no consideration to the AMA ratings when provided at hearings, instead awarding greater loss of use at the expense of taxpayers. State statute should require arbitrators to adhere to the AMA guidelines.

- ***Require Medical Providers to Issue Bills Pursuant to the Established Fee Schedule***

2011 reforms established fees that medical providers may charge for treating patients with workers' compensation claims. However, medical providers bill at non-approved, higher rates and place the burden on the employer to calculate fee schedule reductions. Medical providers should be required to issue bills pursuant to the fee schedule.

- ***Return Compensation Levels for Specific Injuries to those Granted Through 2005***

The Act specifies the number of weeks of salary an employee shall receive in compensation for each specific injury. As of February 1, 2006, the number of weeks of compensation was increased by approximately 7%, resulting in additional taxpayer costs. Compensation levels should be returned to those granted through 2005.

## Legislative Position Statements

*Every year the Conference responds to many legislative proposals, initiated by a variety of groups on a vast array of topics, which significantly impact municipalities and their residents. The following Legislative Position Statements outline Conference positions on several of these issues and guide our legislative efforts through the course of the year.*

### Protect Municipal Revenues

Municipal officials duly elected by their citizens should be allowed the local authority to self-govern and have the flexibility to fund the programs and services they consider necessary. Funds owed to municipalities should not be diverted and state mandates should be balanced against other municipal spending priorities to prevent overburdening local budgets and taxpayers.

#### *Limit the Prevailing Wage Act*

Protect small businesses and reduce local project costs for taxpayers by amending the Prevailing Wage Act to exempt projects below a minimum cost threshold of \$250,000 and annually adjust the threshold by the Consumer Price Index. Without this exemption, it is crucial the state oppose the imposition of “responsible bidder” requirements as they would greatly burden smaller, often local, contractors and taxpayers.

#### *Implement Streamlined Sales Tax*

Implement federal streamlined sales tax rules that preserve intra-state sourcing rules and require the state to treat the resulting funds as pass-through revenue to local governments.

#### *Permit Municipalities to Collect Hotel-Motel Taxes for Permanent Residents*

The Illinois Hotel Operators’ Occupation Tax Act specifically exempts permanent residents and limits municipal hotel and motel tax application to people staying less than 30 days. The Act should be amended to remove the exemption or change the definition of “permanent resident.”

#### *Address the Decline in Telecommunications Tax Revenue and Identify Alternative Revenue Sources*

From 2012 to 2014, approximately 800 municipalities across the state saw a total loss of \$40 million in revenue from taxes on phones. This is due in part to the fact that the law does not cover data packages or Internet-based telephone communications. With the decline expected to continue, it is imperative that the state amend statute to address data packages or identify alternative revenue sources to replace the sorely needed funds.

#### *Permit Municipalities to File for Federal Bankruptcy Protection*

Illinois state law currently provides no recourse for municipalities beset by unsustainable public safety pension costs, unfunded state mandates, and beleaguered local revenues that are administered by the state. The state should permit municipalities to file petitions and exercise powers pursuant to federal bankruptcy law.

***Reject Unfunded State Mandates***

Legislation often requires communities to divert local expenditures from municipal services and use them to fund state-imposed programs. The state should not impose mandates that increase financial obligations on local governments without providing adequate funds to reimburse municipalities for these new mandates.

***Make Owners Responsible for Foreclosed or Abandoned Property***

The burden to maintain foreclosed property should rest not on the municipality and taxpayers, but on the bank or other owner of record. In addition, liens should be preserved at the time of transfer to ensure municipalities can recoup unpaid taxes, fines, and costs of property maintenance.

***Allow the Selection of Out-of-State Contractors***

Allow municipalities to select out-of-state contractors, rather than in-state contractors, if the bid differential is greater than 10%.

***Eliminate or Reduce the Fees for NPDES Permits***

The fees charged to obtain National Pollutant Discharge Elimination System (NPDES) permit coverage for discharges from municipal separate storm sewer systems should be reduced to properly reflect the costs of regulating the systems.

## **Eliminate Barriers to Local Management of Labor and Personnel**

Support must be given to local authority to manage labor and personnel and to implement the most efficient and effective means of delivering services. Legislative barriers that make it difficult to consolidate and coordinate services—including police and fire protection, public works, and code enforcement—should be eliminated. The resulting efficiencies would permit municipalities to provide higher levels of service, save money, and reduce the burden on taxpayers.

***Reform Municipal Public Safety Pensions***

In addition to consolidation, the compliance and penalty provisions of Public Act 96-1495 must be amended. This law requires municipalities to fund pensions to a level of 90%, amortized to 2040, or risk having local revenue withheld by the state. If the high cost of current pensions is not addressed, this provision will require some municipalities to immediately increase pension funding to a point that cripples their ability to provide basic services. Also, a constitutional amendment is needed to remove the current protection on pension benefit increases, allowing them to be repealed. This must be addressed in order to prevent future pension sweeteners from adding to the burden of already unsustainable systems.

***Amend PSEBA***

The Public Safety Employee Benefits Act (PSEBA) was originally created to supply health insurance benefits to public safety employees who suffer catastrophic injuries in the line of duty. However, the system is frequently used to provide duplicative benefits at the expense of taxpayers, even when recipients are eligible for alternative health insurance benefits. The federal definition of “catastrophic injury” must be adopted to ensure that taxpayers are no longer needlessly overcharged.

***Amend the Illinois Labor Relations Act to Create a Level Playing Field for Labor Arbitration***

Municipalities are at a severe disadvantage during interest arbitration, resulting in significant costs to taxpayers. Arbitrators should be required to take into consideration the interest and welfare of the public and financial ability of the unit of government to meet costs with current revenue streams. The Illinois Labor Relations Act should also be amended to reform other standards and rules which arbitrators follow in making decisions to ensure a level playing field for all parties.

***Preclude Bans on Part-Time or Paid-On-Call Firefighters and Paramedics***

Many municipalities rely on part-time or paid-on-call (POC) firefighters and paramedics to staff fire departments and fire protection districts. Labor agreements should not be allowed to prohibit firefighters and paramedics from working part-time or POC for other fire services when not on duty with their full-time employer.

***Exempt Staffing Requirements for Collective Bargaining***

Repeal the statutory change making manning a mandatory subject of firefighter arbitration which permits an outside arbitrator, with no concept of a community’s needs and resources, to decide how many firefighters are required on a shift. This affects the number of firefighters that must be employed by a department and weakens municipal ability to manage the department’s budget. Taxpayers bear the burden of these additional costs.

***Amend the Minimum Wage Law to Permit Daily Unpaid Disciplinary Suspensions***

The Federal Labor Standards Act was amended in 2004 to include new rules for determining the exempt and nonexempt status of employees and provide for salary deductions for “unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of written workplace conduct rules.” Illinois statute should be amended to allow for a daily equivalent of unpaid disciplinary suspensions.

***Prohibit Municipal Employees from Serving on the Governing Board***

No municipal employee should be eligible to serve on the governing board for that municipality due to the inherent conflict of interest this creates.

***Amend Public Safety Pension Board Training Legislation***

Amend Public Acts 96-0429 and 94-0354 to permit pension board trustees, police chiefs, and deputy chiefs to satisfy training requirements using online courses and webinars, and allow certification of local community colleges to provide the training. Additionally, provide exemptions for professionals with relevant credentials and remove the requirement for annual review, making training a one-time event.

## **Preserve and Respect Local Authority**

The freedom to make decisions at the local level is the best way municipalities can fully serve their unique constituencies. Policies should not undermine or preempt the local authority and responsibility to protect the health, safety, and welfare of local residents.

### ***Resolve Minor Infractions Locally***

Permitting residents to settle minor speeding violations through the help of local municipalities will make the legal process more efficient and more convenient for constituents. Municipalities should have the ability to adjudicate minor speeding violations – lower than 20 mph over the posted limit on local roadways – at a local venue.

### ***Maintain Local Authority to Regulate Rights of Ways and the Siting of Wireless Facilities***

Reasonable regulations should be developed for the deployment of wireless technology that ensure reliable cellular coverage but prevent the unfettered taking and use of public property by private business concerns. It is the responsibility of local authorities to protect the public health, safety, and welfare of its citizens, so local authorities must be permitted to regulate the location and installation of wireless equipment and facilities within their jurisdictions.

### ***Amend FOIA to Exempt Law Enforcement Records that Relate to Pending Cases***

The Freedom of Information Act (FOIA) should be amended to provide a clear exemption for records which are related to pending cases. The disclosure of police records concerning pending cases jeopardizes the right to a fair trial and is contradictory to Illinois Supreme Court rules.

### ***Expand FOIA Exemptions to Protect Employee Safety and Privacy***

The state should enact common-sense FOIA reforms to alleviate some of the burden on local governments and taxpayers while still protecting transparency and public access to information. Exemptions to FOIA should be expanded to keep private those records relating to employees' personal information and internal investigations into employee conduct. The right of the public to certain information must be carefully balanced with workers' privacy rights.

### ***Amend the Law Enforcement Officer-Worn Body Camera Act***

Amend state statute to exempt officer-worn body cameras from FOIA requirements or, at the very least, provide additional time for law enforcement to satisfy FOIA requests for body camera recordings.

### ***Amend Rules Regarding Publication of Reports and Notices***

Mandated reporting, printing, and notice requirements should be amended to permit municipalities to comply by posting online and providing paper copies on request. Double publication of two-county Truth in Taxation Notices wastes limited public resources and should be eliminated. In addition, Public Act 97-0146 should be amended to allow municipalities to publish notice of the availability of the treasurer's annual report, rather than the entire report.

### ***Preserve Local Risk Management Pools***

Support the preservation of local governments' authority to enter into and manage cooperative risk pools.

***Amend the Open Meetings Act***

Clarify all rules under the Open Meetings Act regarding the use of developing technology during meetings.

***Expand Allowable Annexation Boundaries***

Grant all municipalities the authority to annex areas separated only by artificial barriers when the annexation would permit the orderly natural growth of the municipality.

***Limit Land Disconnection***

Prohibit the disconnection of land from a municipality without approval from the city council or village board.

***Amend State Statute to comply with Reed v. Gilbert***

Amend 65 ILCS 5/11-13-1 to comply with the U.S. Supreme Court's ruling in *Reed v. Gilbert* and ensure municipalities have clear direction regarding the regulation of political signs.

***Clarify the Definition of "Public Place" within State Law Pertaining to Pedestrian Stops***

The Illinois Police and Community Relations Improvement Act requires law enforcement officers that subject a pedestrian to a detention in a public place to complete a uniform pedestrian stop card. The law must be clarified to provide a definition of "public place."

***Amend the Special Service Area Tax Law***

Amend the law to codify dormant special service areas (SSAs) and prohibit the refusal of SSAs which permit municipalities to ensure maintenance of facilities that are the responsibility of homeowner associations or other private groups. Also, eliminate the requirement to specify the SSA tax levy for the initial year for dormant SSAs. Allow waivers of objections after closure of the SSA public hearing and recordation for the SSA ordinance prior to the 60-day objection period in order to improve timing issues common to developments. Allow parties to a purchase and sale agreement to agree to waive their right to object to formation of an SSA for the property. Clarify statute to provide that a public hearing is required in any year when the SSA rate exceeds 105% of the preceding year's levy.

***Allow Municipalities to Determine the Form of Security Posted by Developers***

Municipalities, rather than developers, should have the authority to decide whether developers need a bond or a letter of credit for public improvements.

## **Statewide Regulations**

In certain instances, the universal application of statewide regulations is required to ensure equity and protect local health, safety, and welfare.

***Extend the Open Meetings Act and all Requirements of the Freedom of Information Act to the General Assembly***

Extend the policies and benefits of these Acts to the Illinois General Assembly to ensure transparency and accountability to the public.

## **Transportation**

A regional approach to transit governance and decision-making is necessary to promote multi-modal options, provide reliable and accessible bus and rail service, respond to current and future economic markets, and ensure an equitable allocation of federal, state, and regional transportation resources to DuPage communities.

### ***Support True Western Access***

As the construction of the Elgin-O'Hare Expressway expansion project continues, the state must consider the project's impact on local residents and businesses. The state should approve a resolution supporting maximum project benefits by ensuring the new access route is a true western entrance to the airport. True western access means a direct route to the terminals, which would increase multi-modal mobility around the airport, improve quality of life for residents and businesses, and provide economic development opportunities and increased job growth in the region west of the airport.

### ***Permit Municipal Control over Projects***

Municipalities should be allowed to obtain partial or full waiver from Illinois Department of Transportation review for certain projects, and to hire independent consultants to conduct state reviews in order to avoid delays. In addition, guidelines should be established to allow municipalities to administer Motor Fuel Tax funds without the delay of state approval.

### ***Improve Federal Safety Standards for the Transportation of Hazardous Materials and DOT-111 Tank Cars***

The federal government must require safety enhancements to ensure public and emergency responder safety in the rail transport of crude oil and other hazardous materials.