

## STATE HOUSE NEWS FOR FINANCE OFFICERS

June 29, 2018

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### PROPERTY TAX ASSESSMENTS

On June 25<sup>th</sup>, both houses passed and sent to the Governor, **ASSEMBLY, No. 2836** (*Mazzeo D-2/Murphy D-7*)(*Beach D-6*), which would authorize counties, in addition to Monmouth County and Gloucester County, to operate under the alternative real property assessment dates established pursuant to the “Real Property Assessment Demonstration Program.”

In summary, this legislation would require that upon a county board of taxation’s adoption of an alternative real property assessment calendar as the “Real Property Assessment Demonstration Program,” the county tax administrator must forward a copy of that resolution to the county governing body within seven business days. The bill would then require the county governing body to consider the board of taxation’s resolution within 60 days after receipt of the resolution. The measure would further require the county governing body to consider the resolution and either adopt the alternative real property assessment calendar by resolution or ordinance, as appropriate, or disapprove it by vote of a majority of its members.

If adopted, the legislation would require that not later than the first day of the second month next following the adoption of the alternative real property assessment calendar, the county must inform the county’s residents, by publication in the official newspaper of the county, of the adoption of the alternative real property assessment calendar, and the effect of the adoption of that calendar on county property taxpayers, including, but not limited to, the change in the date for filing an assessment appeal with the county tax board. Not later than the next business day following the adoption of the resolution, the county clerk must inform the Director of the Division of Taxation in the Department of Treasury of the governing body’s decision. The adoption of that alternative real property assessment calendar by a county would be permanent, and the county would not be permitted to adopt any other real property assessment calendar.

The real property assessment calendar as part of the “Real Property Assessment Demonstration Program” would re-schedule the property assessment appeal process to dates prior to the calculation of the local property tax rate, which allows for a more accurate local property tax rate to reflect local budgetary needs and the true value of the tax base that provides the property tax revenue to fund the local budget. The chart

below sets forth the current statutory dates relative to the individual functions that comprise the real property assessment process, and the dates for those functions under the “Real Property Assessment Demonstration Program.”

<i>DATES RELATIVE TO THE CERTIFICATION OF THE TAX LIST, ASSESSMENT APPEALS, AND THE CALCULATION OF LOCAL TAX RATES UNDER THE “REAL PROPERTY ASSESSMENT DEMONSTRATION PROGRAM” (ADP)</i>		
<i>Description of Function</i>	<i>Non-ADP Date</i>	<i>ADP Date</i>
Assessing Date	October 1 of pre-tax year	October 1 of pre-tax year
Certification of Preliminary Assessment	N/A	November 1 of pre-tax year
Notification of Assessment Postcards	February 1	November 15 of pre-tax year
Assessment Appeal Filing Deadline	April 1; May 1 in municipalities wherein revaluation of real property has occurred	January 15
Assessment Appeals Heard	May, June and July	February, March and April
Tax List Filed	January 10	May 5
County Preliminary Equalization	March 10	May 15
County Final Equalization	March 10	May 25
Municipal Budget to Tax Board	March 31	May 15
County Budget to Tax Board	April 1	May 15
School Budget to Tax Board	May 19	May 15
Certified Tax Rates	May 20	May 31
Tax Duplicates	June 3	June 3
Tax Bills	June 14	June 14

GFOA of NJ supports the measure as it would more effectively manage the losses due to successful assessment appeals by a property owner, which reduces the property tax base, and of which require municipalities to refund large amounts of property taxes previously collected from those property owners. Moreover, a successful appeal lowers the property assessment, and the amount of property taxes due and payable from those property owners in future years. Governor Murphy is expected to sign the measure into law.

**WORKERS COMPENSATION**

On June 7<sup>th</sup>, the Senate passed by a vote of 29-4 Senate, No. 716 (Greenstein D-14/Bateman R-16), which would create a rebuttable presumption of workers’ compensation coverage for public safety workers and other employees in certain circumstances.

In summary, this legislation would hold that in the course of employment, if a public safety worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers’ compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, the bill would create a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers’ compensation. The measure would affirm workers’ compensation coverage for any injury, illness or death of any

employee, including an employee who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the employee's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill would further create a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers would be required to maintain records of instances of the workers deployed where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, the bill would create a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, the cancer is a compensable occupational disease. The bill would provide that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring. The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and certain medical personnel.

GFOA of NJ opposes this legislation as it would likely increase annual expenditures by local governing bodies that employ or otherwise utilize public safety workers as it would shift of the burden of proof from the worker to the employer in certain cases, which may cause increased claims for workers' compensation benefits and the requirement for public safety employers to maintain additional records. The companion version Assembly, No. 1741 (Quijano D-20/Benson D-14) is currently in the Assembly Labor Committee awaiting consideration.

#### **ELECTRONIC PROCUREMENT**

On June 21<sup>st</sup>, the General Assembly unanimously passed **ASSEMBLY, NO. 3112** (*Benson D-14/Mukerhi D-33*), which would authorize local governing bodies subject to the "Local Public Contracts Law" and "Public School Contracts Law" to use electronic procurement technologies for such purposes as authorized by the local governing body.

In summary, the measure would authorize local governing bodies to use “electronic procurement” for the receipt of proposals and quotations, competitive contracting, the use of reverse auctions, and related practices for the purchase of goods and services, the sale of personal property, and other public procurement-related activities to be determined by the Director of Local Government Services. The measure would also authorize local governing bodies, joint purchasing units, or cooperative pricing systems to use electronic procurement practices for the following purposes: to purchase electric generation service, electric related service, gas supply service, or gas related service, for use at its facilities so long as the purchase otherwise complies with the provisions of the "Electric Discount and Energy Competition Act"; for the sale of surplus personal property under certain circumstances; and, for the sale of real property that would otherwise comply with the sale and lease provisions of the “Local Lands and Buildings Law.”

Contracts awarded for the administration of electronic procurement practices would be subject to the requirements of the "Local Public Contracts Law," and the "Public School Contracts Law." The bill would also require the Director of the Division of Local Government Services in the Department of Community Affairs, in consultation with other State government entities, to promulgate rules and regulations to effectuate the provisions of the bill. Local officials support this legislation as it would modernize the procurement process saving valuable time, money, and resources. The companion version **SENATE, No. 1599** (*Beach D-6/Oroho R-24*) is currently in the Senate Community and Urban Affairs Committee awaiting consideration.

#### **PROMPT PAYMENTS**

On June 25<sup>th</sup>, both houses unanimously passed and sent to the Governor **ASSEMBLY, No. 3808** (*Greenwald D-6/Bramnick R-12*) (*Singleton D-7/Oroho R-24*), which would provide for the prompt payment of public contracts for the purchase of goods and services.

In summary, and unless otherwise provided for in the contract, the measure would require State agencies, local governing bodies, and school districts to make penalty payments to such business concerns after 45 days following the required payment date instead of after 60 as is the case under current law. The penalty would consist of interest on the late payment at a rate established by the State Treasurer, and of which must be paid to the business concern for the period beginning on the day after the required payment date and ending on the date on which the check for payment is drawn. Interest may be paid by separate payment to a business concern but must be paid within 30 days of the late payment. The measure would allow public entities to waive certain interest payments for delinquencies due to circumstances beyond an entity’s control, including but not limited to lightning strikes or natural disasters. Governor Murphy is expected to sign the measure into law.

## OPEN PUBLIC MEETINGS AND RECORDS

On June 14<sup>th</sup>, the New Jersey State League of Municipalities (NJLM), the New Jersey School Boards Association, and the New Jersey Association of Counties (NJAC) testified before the Senate State Government, Wagering, Tourism, and Historic Preservation Committee to discuss legislation that would expand the Open Public Records Act (OPRA) and the Open Public Meetings Act (OPMA) as **SENATE, NOS. 106 & 107** (*Weinberg D-37/Pennacchio R-26*). Although the collective organizations are strong proponents of openness and transparency in government and appreciates the fact that this legislation would modernize the government records process and authorize local governing bodies to impose surcharges on commercial entities under certain circumstances, all are concerned with the provisions below and their impact on daily operations, staff time and resources, and exposure to liability.

- **AGENDA MATTERS:** the OPMA legislation would require providing adequate notice, which *“shall include each individual time to be discussed or acted upon, and a brief description thereof, and shall identify the names of the parties to and approximate dollar amounts of any contracts, including employment contracts, to be discussed or acted upon.”* This section needs additional clarification on whether identifying the names of the parties to and approximate dollar amounts of any contracts, including employment contracts, include the total value of a collective bargaining agreement.
- **MEETING MINUTES:** the OPMA legislation would require providing comprehensive meeting minutes that include *“the time and place, the members present, the subjects considered, the actions taken, including all motions made, the identities of the moving and seconding parties members, the vote of each member, and each member’s stated reasons if any, for his or her action or vote, the identity of each member of the public who spoke and a summary of what was said...”* Including the stated reasons, if any for a member’s action on a vote would impact county operations and may force local governing bodies to hire a transcribing service to make sure that accurate meeting minutes are taken.
- **MEETING MINUTES:** The OPMA legislation would require that *“minutes shall be made available to the public as soon as possible but not later than 15 days after the next meeting of the public body occurring after the meeting for which the minutes were prepared...”* Requiring meeting minutes to be made available to the public not later than 15 days after the next meeting of the public body occurring after the meeting for which the minutes were prepared would impact operations and may force local governing bodies to hire additional staff and reduce services elsewhere. If a public body video records a public meeting, then providing access to the video recording should supplant the need to take and provide comprehensive meetings minutes as means to streamline the process and provide an open and transparent record of the meeting.

- **ATTORNEY’S FEES:** The OPMA legislation would require *“any party, other than a public body, that prevails in an action brought pursuant to this section, shall be awarded the amount of reasonable attorney’s fees incurred in bringing the action. The cost of any attorney’s fee awarded by the court shall be paid by the public body.”* The courts and Government Records Council should retain the flexibility to award reasonable attorney’s fees as such fees are paid for by property taxpayer dollars.
- **REDACTION OF RECORDS:** The OPRA legislation would require the custodian of a government record whom redacts information from a copy of the record to provide *“the requestor with a redacted version of the document and one affidavit or certified statement for the entire request that states the date of the record, the originator or author of the record, the subject matter or title of the record, the number of pages with redactions, and the specific statutory provision or other lawful basis for each such redaction.”* Requiring a custodian of a government record to provide an affidavit or certified statement of the redacted information of a requested record will impact county operations and may lead to litigation.

The Committee favorably reported the bills and second referenced the package to the Senate Budget and Appropriations Committee for consideration. The companion version **ASSEMBLY, Nos. 1019 & 1020** (*Johnson D-37/Benson D-14*) are currently in the Assembly State and Local Government Committee pending a hearing. NJAC, NJLM, and NJSBA plan on meeting with the sponsors over the summer to discuss our concerns in more detail.

#### **SECURING OUR CHILDREN’S FUTURE BOND ACT**

On June 29<sup>th</sup>, the Senate is likely to consider the changes made by the General Assembly to **SENATE, No. 2293** (*Sweeney D-3/Oroho R-24*)(*Benson D-14/Burzichelli D-3*), which would authorize the issuance of \$1,000,000,000 in State general obligation bonds to provide grants for county vocational school districts and county colleges to construct and equip educational facilities for new career and technical education programs. Proceeds from the bonds would also be used to provide grants for the costs of school facility security projects at kindergarten through grade 12 schools.

In summary the “Securing our Children’s Future Bond Act” would allocate bond proceeds as follows: \$400,000,000 for county vocational school district career and technical education grants; \$50,000,000 for county college career and technical education grants; \$450,000,000 for school facility security grants; and, \$100,000,000 for school district water infrastructure improvement grants. The legislation would require the Commissioner of Education, in consultation with the Commissioner of Labor and Workforce Development, the Secretary of Higher Education, and the Commissioner of Labor and Workforce Development to establish procedures for the review and approval of, and eligibility criteria for, career and technical education grants. The grant applicant must demonstrate how the proposed project would: increase the

capacity of the county vocational school district or the county college to offer career and technical education programs; prepare students for high demand, technically skilled careers; and align with labor market demands or economic development goals. The measure would further require county vocational school districts or county colleges demonstrate the process by which it engaged employers to identify workforce needs.

Projects that meet any of the following criteria would receive priority for career and technical education grant funding: the county vocational school district or the county college offers a stackable credentials program. Such a program supports industry-recognized, short term credentials and certificates that count toward a higher-level certificate or degree, so that individuals may advance in employment and training during their careers; in the case of a county vocational school district grant, the district has entered into a partnership with a county college for the provision of career and technical education programs, and in the case of a county college grant, the county college has entered into a partnership with a county vocational school district for the provision of career and technical education programs; or the county vocational school district or the county college has entered into a partnership with an employer to provide technical education and training for current or potential employees.

Importantly note that for any career and technical education project, the county which established the county vocational school district or county college would be required to support 25% of the cost of the project, while the grant provided under the bill would support the remaining 75% of the cost of the project. The bill would further require the bond act to be submitted to the people for approval at the general election in November. Governor Murphy is expected to sign the measure into law.

#### **LAWMAKERS OFFER MURPHY BIG COUNTERPROPOSAL THAT WOULD TAX SHORE RENTALS**

*Ryan Hutchins, POLITICO, June 27, 2018*

TRENTON — Legislative leaders on Wednesday announced a major new budget proposal that would raise \$360 million in new taxes from short-term rentals and some real estate transactions, a move that could reset negotiations with Gov. Phil Murphy with a possible state shutdown just days away. The plan, the lawmakers said, would close a revenue gap projected by the governor and also offer him a longer-term infusion of cash, addressing some of the key sticking points in their discussions. The proposal does not, however, include the higher millionaires tax or sales tax restoration sought by Murphy.

Senate President Steve Sweeney said the offer, which also depends on getting the governor to agree to count revenue from several other programs that were not previously scored, would produce \$889 million in total revenue. Murphy said this week the Legislature's \$36.5 billion budget fell \$855 million short of his goals.

The Senate president also said he had agreed to extend his corporate business tax hike to four years instead of two, though the proposed rate would not change, still giving New Jersey the highest top business tax in the nation. Sweeney (D-Gloucester) said he was

optimistic a deal could get done by midnight Saturday, when the state will shut down if a new budget is not in place, and said he was compromising on a lot to be able to offer the governor this deal.

"We're all in this together," Sweeney said, speaking in a conference room at the Statehouse. "We need to fix New Jersey now." The proposal would impose the state sales tax on short-term rental properties, a move that's already angering some Jersey Shore lawmakers and could peel away needed Democratic votes on the floor. It would produce an estimated \$250 million in revenue in the next fiscal year, with a Sept. 1 start day to ensure it doesn't affect the current summer rental season. Sweeney said he wasn't thrilled to impose more taxes, but noted every other state along the Atlantic Ocean imposes some kind of tax on rental homes. "The only state that doesn't is us," Sweeney said. "We're the outlier. It's just about fairness."

The plan would also include a 1 percent increase in the realty transfer fee on properties worth more than \$1 million, including both houses and businesses. That would produce around \$110 million in revenue, according to the estimates provided the Senate Democrats. The lawmakers said the nonpartisan Office of Legislative Services backs up the figures. The Senate president, who has previously described higher taxes as a "last resort," said he didn't believe the higher tax rate would hurt the real estate market. "We don't think so," Sweeney said. "Someone who is going to buy a million-dollar home is going to buy a million-dollar home."

The announcement comes a day after Murphy publicly offered a compromise to lawmakers, including a number of ideas he was already said to have discussed with them. The plan included a pared-down corporate business tax, his millionaires' tax and a restoration of the sales tax to 7 percent over two years. Sweeney, Assembly Speaker Craig Coughlin and other top lawmakers had been scheduled to attend another meeting with the governor on Wednesday afternoon. The session was called off to give the governor and treasury officials enough time to digest the new proposal, according to a senior administration official.

Noticeably absent from the press conference on Wednesday was Coughlin (D-Middlesex) and any other Assembly lawmaker. Sweeney said his counterpart in the lower house is on board, but he did not explain why he didn't attend the press conference. A spokesman for the Assembly speaker declined to comment. Some lawmakers were not pleased with the latest proposal. State Sen. Jeff Van Drew (D-Cape May), the Democratic nominee for Congress in New Jersey's 2nd District, said he was "totally opposed" to the plan and vowed to vote against it should it come to the floor. "I think it makes us less competitive to have yet another tax. I'd almost like to see them lowered on other hotels and motels," Van Drew said. "This is just one more tax that makes it a little bit more difficult for people to stay at the shore."

The new counteroffer also calls for making adjustments to numerous revenue projections from the state treasury, changes totaling \$306 million. The adjustments include fixing a \$40 million math error, counting \$49 million from a tax on yet-to-be-legalized recreational marijuana and \$66 million from expanding the sales tax to all online sales. The lawmakers also say they can collect \$77 million from "language appropriations," though they did not explain what that means. And they expect to get another \$68 million by adjusting the corporate business tax revenue estimate to include banks and financial institutions, and to account for "behavioral changes."

All those estimates line up with the analysis from the state treasury, Sweeney and Senate staff members said. On top of those changes, the lawmakers want the governor to count another \$223 million in revenue from two proposals neither side had previously scored: \$200 million from a one-time repatriation tax, scored at half of the estimate, and another \$23 million from a new fee on single-use carryout bags. With those new revenues in places, Sweeney said he could accept the governor's lower estimates for some of his proposals, including scoring the corporate business tax increase at \$640 million instead of \$805 million. The lawmakers also don't plan on receiving any revenue from some audits and state health plan changes, previously estimated to bring in \$240 million.

Murphy had no immediate comment on the new proposal. He said earlier in the day he remained flexible and open to discussing other options. In particular, Murphy said he was willing to support an increase in the corporate business tax if it didn't sunset in two years, but also indicated he wanted to see a lower rate. The budget lawmakers sent to the governor last week would raise the corporate tax rate from 9 percent to 11.5 percent for companies that earn between \$1 million and \$25 million per year, and to 13 percent for larger firms — the highest rate in the nation.

Then there's the issue of a millionaire's tax. The budget the governor proposed in March would raise the marginal tax rate on those earning more than \$1 million per year from 8.97 percent to 10.75 percent. Murphy seems quite attached to the idea; Sweeney loathed it. The governor expressed a willingness to agree to a lower rate, saying at a press conference in Newark on Wednesday morning that he would "entertain" any "reasonable, credible response." Pressed repeatedly by reporters on whether he would consider making a deal that would include some higher tax rate for millionaires, Sweeney initially said he wouldn't do so if it was at the tax rate offered by Murphy. But he also said, rather explicitly, "I'm not open to a millionaire's tax."

It appears the entire budget debate could come down to the one issue. Sweeney said as much himself, telling reporters he doesn't see the state shutting down this weekend unless Murphy holds out. "If there's a shutdown," he said, "it's because the governor decided to shut it down to raise taxes on people."

## **FOR MURPHY, CHANGES TO FUNDING FORMULA DEPEND ON REVENUES TO FUND THEM**

*John Mooney, NJ Spotlight, June 21, 2018*

A broad deal may have been reached between Gov. Phil Murphy and Democratic leaders on changes to the state's school-funding formula, but the trickier part is deciding on the details of who will gain and who will lose under the new plan. Yesterday, Murphy traveled to the state Department of Education in Trenton for a press event where he both praised the progress that's been made and warned again that the deal will only go through if there's agreement on the tax and revenue side.

And even though intra-party discord over taxes has marked this budget season, there were also questions yesterday about the final numbers that would come out of the agreement. The Senate majority office yesterday released an assessment from the nonpartisan Office of Legislative Services of every district and how each would fare with the latest changes moving in the Senate and Assembly, which add an additional \$65 million to the \$283 million increase that Murphy has already proposed.

*Losers and Winners* - Within those totals are 192 districts that would see cuts due to the planned phase-out of so-called adjustment aid, a central piece of the agreement. The reductions were a mix of rural, suburban and urban districts, all largely due to falling enrollment. The remaining 394 districts would see increases, some quite significant and again cutting across different types of districts. The gains, for many of them, would be due to lifting limits on enrollment growth that led to their getting a small fraction of what the formula calls for. For others, flat funding under former Gov. Chris Christie left them well short their formula allotment.

Under the Democrats' plan, for instance, Robbinsville would see its state aid double to \$6.8 million; Chesterfield would triple to \$2.4 million. All but three districts in Bergen County would see an increase. All but one would get an increase in Essex County, including the state's biggest dollar winner, Newark (up \$37 million). But in many cases, these district numbers are quite different from what Murphy proposed in his own budget plan presented in March, and that's where it gets tricky.

Murphy yesterday kept his discussion of the changes general at his press event, also attended by state Education Commissioner Lamont Repollet. (The commissioner was finally sworn into the job the day before, after his confirmation had been held up by the Legislature for several months.) "I engaged with legislative leaders to modernize the funding formula, and make no mistake, we have made tremendous progress over the past three months," Murphy said. But as he did the day before at an event at the Trenton transit hub, he said any changes would be contingent on a revenue agreement that would pay for them. Murphy has been at odds with the Legislature over his proposal for a millionaires' tax and an increase in the sales tax. Lawmakers have countered his proposed permanent tax hikes with a corporate tax increase that would last for two years.

*Sound and Sane* - "Until we have an agreement on sound and sane revenues, we cannot have an agreement on school funding," he said. "We have a nice-looking half a loaf, but

we need a whole loaf to make this work.” Murphy said he spoke with families outside the event with the promise of sustainable school funding. “I cannot and I will not tell these families that we have solved their problem when I know we will be right back here in two years trying to think up new ways to dig up extra cash,” he said. Yet he hedged further when it came to the details of the spending plan and the latest changes. Although his staff had been involved in negotiations over the plan, Murphy said he had yet to review the final modifications.

“We are still going through this,” he said, holding up a page of edits to the budget language. “And my answer hasn’t changed that all options are available. In this particular area, we have made a lot of progress and worked together with the leadership on that half of the loaf.” Still, when questioned further about whether he would support the cuts to some districts in the plan — cuts he had previously resisted — the governor wouldn’t commit. “I won’t speak to the specifics, because we are still going through them,” he responded to a specific question about the reductions.

*Parents Protest* - While these details evidently need to get worked out, more than a dozen parents from badly underfunded districts tried to get into the event and ended up protesting outside in the lobby. Several of them said they supported the Legislature’s bill and hoped Murphy would go along. “It provides a true path to full funding,” said Jennifer Cavallaro-Fromm, co-chair of the new Fair Funding Action Committee, an advocacy group for underfunded districts. “We believe the Senate and the Assembly has listened to us in our testimony and accurately representing what is best for the majority of schoolchildren.” They were not as happy with the governor, saying his fight with the Legislature over taxes is imperiling their children’s education.

“If the governor can support this legislation that has bipartisan support, we would be happy and can move forward,” said Michele Blair, a Kingsway mother who brought along her 10-year-old daughter. Also in the crowd was Robert Beers, the superintendent of Manville schools, which would stand to gain from the Legislature’s plan \$3 million in a budget of \$22 million. But Beers said he can also feel for those losing aid. “I reside in a district in Hunterdon County losing aid, but if you look at its demographics, the school enrollment has gone down by almost 50 percent,” he said. Still, any reduction hurts, Beers said, even if there are fewer students to pay for: “I’m in a bizarre position in that where I work will benefit and where I live will not.”