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August 7, 2020

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

To assist in providing guidance and information we have created a [COVID-19 resource page](#). We will continue to update the page as we get pertinent information and include announcements in our Daily Updates.

I. State

a. COVID-19 Update

Today Governor Murphy announced that there were 384 new positive cases and an additional 12 confirmed deaths resulting from COVID-19. To date, there have been 184,061 confirmed cases, and 14,007 confirmed deaths. There are also 1,853 probable deaths associated with the virus. The rate of transmission is at 1.15.

In addition, Lt. Governor Oliver announced the creation of a [Small Landlord Emergency Grant Program](#) using \$25 million of the Coronavirus Relief Fund (CRF) funds. The emergency grant will be available to landlords of 3 to 10 rental units. The landlords must pass the benefit to their tenants by forgiving any outstanding balances and/or fees for April through July rent payments.

With somewhat of a surprise, the number of New Jersey unemployment claims filed the week ending August 1 dropped 41%. The 16,573 applications is the lowest since March. There is no apparent explanation for the significant decrease. Meanwhile, the US Department Labor reported today that the unemployment rate dropped to 10.2%. That is

down from a peak of 14.7% in April.

The New Jersey Supreme Court heard the challenge to the state borrowing proposal this past week. If you recall, the Administration and the State Legislature advanced a proposal that would authorize the borrowing of up to \$9.9 billion between the current fiscal year (FY 2020, extended to September 30) and FY 2021. The State Republicans, represented by State Senator Michael Testa before Court, is challenging the constitutionality of the provision. It is not known when the Court will rule.

Since our last update, Governor Murphy issued four new COVID-19 related executive orders:

[Executive Order 170 \(EO 170\)](#), signed July 31, 2020 and took effect immediately, extends certain statutory deadlines across state government. The statutory deadlines extended through EO 170 are limited to those specifically identified in an Appendix to the executive order. Of particular concern to municipal governments is the extension of multiple statutory deadlines found in: N.J.S.A. 4:1C-21(c), 4:1C-21(d), 4:1C-21(i), all of which deal with review and approvals related to farmland preservation programs; N.J.S.A. 56:8-96(c), which deals with the revocation by local health authorities of pet shops' licenses; and N.J.S.A. App.A:9-40.1 which requires municipal emergency management coordinators to complete approved course work. EO 170 and its appendix should be reviewed carefully with all levels of your municipal government to ensure the new deadlines are taken into consideration.

[Executive Order 171 \(EO 171\)](#) extends the Public Health Emergency that was initially declared on March 9, 2020. Under the Emergency Health Powers Act, a declared public health emergency expires after 30 days unless renewed. EO 171 extends the Public Health Emergency for an additional 30 days.

[Executive Order 172 \(EO 172\)](#), signed August 3, 2020 and took effect immediately, directs that, for the duration of the Public Health Emergency, any new or returning State or municipal employee who is hired on or after March 9, 2020, may immediately enroll in the State Health Benefits Program (SHBP). EO 172 supersedes waiting periods otherwise required by law and supersedes requirements in Executive Order 115 which allowed immediate enrollment in the SHBP but only if the person was hired for responding to the COVID-19 pandemic.

[Executive Order 173 \(EO 173\)](#) decreases the capacity limits of indoor gatherings. EO 173 was signed August 3, 2020 and took effect at 6:00 a.m. on August 4, 2020. EO 173 limits indoor gatherings to 25% of the room's capacity, but regardless of the room's capacity, the maximum limit is 25 persons down from 100 persons. For purposes of determining this limit, private residences or residential units are to be treated as a single room.

The change in EO 173 does not apply to weddings, funerals, memorial services, religious services or celebrations, and political activities. These events may continue under previous rules that limited events to 25% of a room's capacity, but with a limit of 100 people.

See the League's [COVID-19 page](#) for all our resources and communications.

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

b. Tropical Storm Isaias Update from Board of Public Utilities (BPU)

As of 1:00 p.m. on Friday approximately 300,000 utility customers remain without power statewide, down from a peak of 1.4 million.

The BPU understands that being without power is extremely frustrating and is in constant contact with all utilities to ensure they are working to restore power as efficiently and effectively as they are able. The aftermath of Isaias was particularly severe with damage both to transmission systems as well as poles and wires. It will take some time due to the severity of the damage with many downed trees which impact the most isolated outages. Some of the outages, especially in areas serviced by JCP&L are extremely difficult to address given the location of these customers. Much of JCP&L's territory is heavily wooded and in rural areas. In particular many downed trees falling on power lines and knocking down poles presents a significant obstacle to restoring power. JCP&L has indicated they will have the majority of power restored by tonight and tomorrow, the rest by Tuesday.

c. Governor Issues Conditional Veto of CRB Bill

On July 31 Governor Murphy issued a [conditional veto for A-3971](#), which authorizes the issuance of "coronavirus relief bonds" (CRBs) by municipalities and counties. In the conditional veto language the Governor acknowledge the need for local governments to be provided with "an essential tool to help them maintain fiscal solvency during and in the aftermath of the COVID-19 pandemic. However, the better pathway to accomplish this result is to build upon the well-established local budgetary and debt structures in facilitating critical relief, rather than to create a new, additional financing mechanism for this singular purpose."

The Governor's conditional veto removed the original bill language including the ability to bond for revenue losses related to COVID-19 and replaced it with the issuance of special emergency appropriation for the immediate preparation, response, recovery and restoration of public services in response to COVID 19 and a deficit in prior year operation during or in the immediate next fiscal year due to COVID19. A "deficit in operations" was defined as a deficit balance reported on a local unit's "Results of Operation" schedule of the annual financial statement. The conditional veto includes a certification by the Chief Financial Officer approved by majority vote of the governing body; a 45 day window for Division of Local Government Services (DLGS) to review and either approve or deny the application, in writing; and a longer repayment scheduled if the current repayment schedule would cause significant fiscal distress as outlined in the conditional veto.

The conditional veto also permits the DLGS to promulgate general guidance modifying the standard for anticipated revenues when the amount realized in cash from the same source during the next preceding fiscal year experienced reductions due to COVID19 to address the budgetary requirement that the budgeted anticipated revenues cannot exceed the previous year's realized revenues.

Under the conditional veto local units would be prohibited from borrowing monies that may be considered duplicative of financial assistance provided by the federal government, State or other sources to address COVID19.

The League does not support the conditional veto but continues to work with the sponsors, legislature, Administration, and local government partners to ensure that municipalities have the needed flexibility to address not only the expenses related to COVID-19 but the loss revenue as a result of the pandemic.

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d. Division Issues Local Finance Notice Energy Tax Receipt/CMPTRA Payments

The Division of Local Government Services issued [Local Finance Notice 2020-17](#) summarizing the Energy Tax Receipt and CMPTRA payment program for CY 2020 and SFY 2020 extension budgets. The Energy Tax Receipt and CMPTRA August 1 installment payment was 45% of the aid. Another schedule will be released regarding the remaining payments after the passage of the State's FY2021 budget.

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e. Governor Vetoes Bill Expanding Project Labor Agreements

On Monday Governor Murphy issued a [conditional veto for S-1370](#), which expands the permissible use of project labor agreements for public works projects from building based public works projects to include highways, bridges, pumping stations, and water and sewage treatment plants. Projects will still need to be at least worth \$5 million, excluding land acquisition costs, to be eligible for project labor agreements.

The Governor's conditional veto removed road and highway projects from the definition of public works and clarified that public works projects include bridge replacement, construction, reconstruction, and rehabilitation.

In the past the League of Municipalities has opposed project labor agreements as they tend to limit competition, the hallmark of the public bidding process in New Jersey, and increase project cost. Project labor agreements typically narrow the number of potential bidders as local units must accept higher bids from a limited pool of union-only contractors. Small contracting firms, the backbone of employment opportunities for many workers, are traditionally non-union. With a project labor agreement in place they are unable to compete not based on their proven ability to do quality work at reasonable prices but on whether or not their workers chose to join a union.

While we appreciate the Governor's conditional veto and the permissive nature of S-1370 we continue to oppose S-1370 as we do not believe it is good public policy to expand the use of project labor agreements.

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II. Federal

a. Census Bureau Moves to Cut Data Collection Phase Short

Late last week, the U.S. Census Bureau released information on a number of steps being taken to shorten the time for field data collection, to the end of September, and to provide reapportionment data to the Congress by the end of the year. Until this announcement, the Bureau had been expected to continue field operations through the month of October.

Clarence Anthony, Executive Director of our federal partner, the National League of Cities, said, 'The shortening of census non-response follow up threatens to create an undercount for communities of color, immigrants, and hard-to-count communities. We need to have an accurate census to ensure the \$1.5 trillion in federal spending over the next decade is allocated fairly and appropriately.'

The Bureau's updated plan includes enumerator awards and the hiring of more employees to accelerate the completion of data collection and reapportionment counts by those deadlines. Bureau Director Steven Dillingham stated, 'The Census Bureau continues its work on meeting the requirements of [Executive Order 13880](#) issued July 11, 2019, and the [Presidential Memorandum](#) issued July 21, 2020. A team of experts are examining methodologies and options to be employed for this purpose. The collection and use of pertinent administrative data continues.'

Executive Order 13880 of July 11, 2019, instructed federal executive departments and agencies to share information with the Census Bureau to allow the Bureau to obtain accurate data on the number of citizens, non-citizens, and undocumented individuals in the country. The Memorandum of July 21, 2020, directs the U.S. Secretary of Commerce, who supervises the Bureau, to eliminate undocumented persons from the counts to be provided to Congress for the purpose of the reapportionment, among the states, of seats in the House of Representatives.

Several lawsuits, challenging the Memorandum have been filed.

Please continue to use all of your communications platforms to engage all in your municipality to respond. Please direct anyone who has not yet responded to [United States 2020 Census](#).

New Jersey's response rate stands at 65%, 21st in the country. Congratulations to our Top Ten responders: Glen Rock (88.3%); Berkeley Heights (85.1%); Oradell (84.9%); Mountain Lakes (84.6%); Washington Township – Bergen (84.4%); Glen Ridge (84.3%); Cranbury (83.6%); River Edge (82.9%); Waldwick (82.5%); and Mansfield Township – Burlington (82.5%). Your municipality's rate is available at the [U.S. Census Bureau Rankings Dashboard](#).

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b. Local Aid Among Many Issues Delaying Federal Help

Negotiations over Washington's next response to the COVID-19 continue, with no end in sight, as Congressional Leaders meet with the White House bargaining team. Meanwhile, and also with no end in sight, municipalities across the Nation, and all around New Jersey, continue to struggle.

One side believes that all will be well, if only recipients of the Coronavirus Relief Funding

(CRF), which was included in the March CARES Act, are given more flexibility. The other side, at least for now, is committed to providing new direct and flexible assistance to all municipalities, regardless of size.

There are big differences between the HEROES Act, which the House passed back in the middle of May, and the HEALS package, which was introduced in the Senate at the beginning of last week. But from our perspective, the biggest difference is in recognizing the scope of the problems facing all local governments, along with the dire prospects for a strong economic recovery, if those problems are ignored.

In the give and take of negotiations, that priority could be lost. Please contact Senators Menendez and Booker and your Representative in the House. They have all supported direct local aid for all municipalities. Thank them for that. But they will all be hearing from different interests. Your contact will keep your municipality's needs in the forefront of their thinking.

Seventy percent of America's cities, towns, townships, boroughs, and villages did not receive CARES Act funding. And 100% of New Jersey's municipalities are among them. Even if that CRF funding is freed from previous limits, and even if some portion of the money that the State and our nine most populous counties received were to be shared among non-recipients, it won't be nearly enough to help offset crippled local revenue, diminished services, lost jobs and halted infrastructure projects.

Municipalities are essential in responding to the public health crisis. Strong municipalities will be essential in supporting their citizens and businesses, as the crisis continues. And vibrant municipalities will be absolutely essential for a sturdy economic recovery.

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III. 2020 Annual League Conference

a. Delegate Registration

[Delegate registration](#) opened August 1. We encourage everyone to preregister online and have their conference credentials mailed to them in advance. This avoids delays and lines onsite in Atlantic City.

b. League Code of Conduct

The League intends to maintain a welcoming professional atmosphere in all aspects of the Annual League Conference. To that end, conduct that violates the [League Code of Conduct](#) is not tolerated by the League, anyone who witnesses it, or is subjected to it. Everyone who participates in the Annual League Conference is required to adhere to this code.

c. Conference Center Preparations

We are busy making arrangements for this live event including education and exhibits with the full expectation that by November the State will permit important gatherings of government officials like the Annual League Conference. The League is taking measures

along with our partners at the Atlantic City Convention Center and all related service providers to follow CDC and NJDOH guidelines to create a safe and healthy conference. A healthy conference environment is our top priority for 2020 and with that, we are dedicated to providing an educational, informative, productive, and collaborative conference. Sanitization protocols that comply with CDC guidance are ready for public spaces, meeting areas, food service, and transportation. Venue layout will take into account social distancing, and preregistration will eliminate waiting lines.

d. 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.

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