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October 23, 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 Issues

a. COVID-19 Update

Today Governor Murphy announced that there were 1,139 new positive cases and an additional 11 confirmed deaths resulting from COVID-19. To date, there have been 225,430 confirmed cases, and 14,484 confirmed deaths. The rate of transmission is at 1.17.

Since our last update, Governor Murphy issued no COVID-19 related Executive Orders.

On Tuesday, the Governor added Arizona and Maryland to the list of states and territories subject to the [Travel quarantine and advisory](#) list. There are currently 39 states and territories subject to the Travel quarantine advisory. Neighboring states Connecticut, Pennsylvania, and Delaware now meet the criteria for New Jersey's travel advisory. In a [joint statement](#), the Governor noted that due to the interconnected nature of the region

and mode of transport between New Jersey and the three states, a 14-day quarantine is not reasonable in all instances. Therefore, non-essential travel to and from these states is highly discouraged at this time but the states are not mandating that travelers quarantine due to the interconnected nature of the region and economy.

For the week ending October 17, the New Jersey Labor Department [announced](#) 28,669 new unemployment applications.

As a reminder previously the Governor announced that Halloween activities can go forward with local [guidance](#) provided by the New Jersey Department of Health (DOH) to local officials, schools, outside organizations, and businesses. Please see our recent [blog post](#) for more information on the Halloween guidance.

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

b. Legislation Limiting Law Enforcement Presence at Polling Locations Moving Quickly

[S-2923/A-4655](#) would limit law enforcement presence at polling places and ballot drop boxes. Specifically, the bill would:

- Prohibit a ballot drop box to be located inside or within 100 feet of an entrance or exit of a law enforcement agency.
- Limit the presence of law enforcement officers and law enforcement agencies at polling places and during the conduct of elections.
- Prohibit a district board of elections, and any member thereof, from requesting, whenever in their opinion it would be necessary to do so, that law enforcement officers be detailed to assist in preserving the peace and good order in and about a polling place.
- Prohibit a law enforcement officer from serving as a member of the district board of elections or as a challenger during an election, unless they are a candidate.
- Prohibit a law enforcement officer, whether on or off-duty or in or out of uniform, from standing or remaining within 100 feet of a polling place during the conduct of an election except to vote in a personal capacity if qualified to vote. However, there is an exception for police to be in the polling location when they receive a call for assistance with regard to a specific emergency or disturbance but the election district board must notify the Secretary of State after law enforcement arrives
- Prohibit electioneering within 100 feet of ballot drop box.
- Permit the County Clerk to request a police officer to transport specific material to/from the polling location.

We have reached out to the sponsors raising concerns with the legislation as drafted. The bill is scheduled to be heard before Assembly Appropriations on Monday and on the Assembly voting list for Thursday.

Contact: Lori Buckelew, Assistant Executive Director, lbuckelew@njlm.org, 609-695-3481 x112.

c. Your Action Needed: Senate Advancing PFRS 20 and Out Legislation

A last minute addition to Thursday's Senate Budget Committee was [S-1017](#) which permits a PFRS employee who is enrolled before or after the bill's effective date to retire, regardless of age, upon attaining 20 or more years of service credit and would allow that employee to receive a retirement allowance equal to 50% of the member's final compensation. The committee amended the bill to include a sunset provision after 2 years and unanimously released the amended bill.

As we previously [reported](#) the public safety unions are pushing this legislation in response to what they believe is a misinterpretation of the 1999 law. The public safety unions have argued that the minimum increase cost incurred by this legislation will be off-set by the healthcare savings.

The League, along with the New Jersey Association of Counties, view this legislation as an enhancement of benefit at a time we can least afford it. The benefit provided in S-1017 will impact the pension fund liability leading to increased costs. Before enhanced benefits are even considered, we all have the responsibility to ensure that the pension fund is stable. While a 74% funding ratio for the local Police and Fire System (PFRS) is on the right track, the fund is not yet stable enough to consider enhanced benefits. This legislation does not account for the impact of the recent market downturn or the reduction of the assumed rate of return on the pension fund. In addition, we question how healthcare benefits savings will offset the increase pension liability cost as not all municipalities and counties provide healthcare benefits in retirement. Furthermore, there is the simple accounting issue that the state will fund the liability the municipality or county pays for healthcare benefits if provided, in retirement.

Funded by property taxpayer dollars, county and municipal governments across the State will spend \$1,038,351,129 in 2020 to subsidize the PFRS, while PFRS members will contribute approximately \$348,439,976 to the defined benefit plan. In other words, property taxpayers will finance over 70% of PFRS in 2020, while PFRS members will pay 30%. Since these additional costs will be borne by taxpayers, the League opposes this legislation.

Please [contact your Senator](#) and urge them to oppose S-1017.

Contact: Lori Buckelew, Assistant Executive Director, lbuckelew@njlm.org, 609-695-3481 x112.

d. Senate Committee Approves Hospital Property Tax Subsidy Bill

Yesterday, the Senate Budget and Appropriations Committee reviewed A-1135, S-357 and S-624, which the League has consistently opposed. The Committee combined S-357 with S-624 and approved a Senate Committee Substitute (SCS) for both the newly combined S-624 and A-1135.

These bills stem from a tax court decision which brought to light how the business model for modern hospitals does not comport with the original public policy reasons for exempting non-profit hospitals from property taxes.

While the League is supportive of a legislative solution to this issue we do not believe that SCS A-1135 and SCS S-624 provides a proper solution. As a threshold matter, the bill sets up an unconstitutional tax exemption. Notwithstanding the constitutional issues, this legislation poses other concerns as it attempts to create a Community Service

Contribution (CSC) fee which would be paid by hospitals organized as non-profits in lieu of any property tax. The contemplated CSC fee would be far smaller than any property tax bill which these hospitals would otherwise be subject to effectively, serving as a subsidy to an otherwise profitable industry, paid for by all other property tax payers of host communities.

We anticipate that the full Senate will take up the legislation at their next scheduled voting session, on October 29. Although the full Assembly has already voted to approve A-1135, the amendments made yesterday by the Senate committee will need to be confirmed by the Assembly, who has a voting session scheduled for the same day.

We urge our members, especially those hosting non-profit hospitals, to review SCS S-357/SCS A-1135, and to reach out to [your legislators](#) and to the Governor's office, expressing how this legislation would impact you and your taxpayers.

Contact: Frank Marshall, Esq., Associate General Counsel, fmarshall@njlm.org, 609-695-3481 x137.

e. Vital Municipal Revenue Bill Advances

On Monday, with a unanimous vote, the Assembly State and Local Government Committee released [A-2991](#), a bill that would end over a decade of confusion about the telecommunications business personal property tax (BPPT). We want to thank Hopewell Borough Mayor Paul Anzano and Town of Newton Councilman Matt Dickson for their testimony in support of this bill.

The bill now goes to the Assembly Appropriations Committee for further consideration. The members of that Committee are:

- [Assemblyman John J. Burzichelli](#), Chair and the bill's sponsor
- [Assemblyman Gary S. Schaer](#), Vice Chair
- [Assemblyman Brian Bergen](#)
- [Assemblyman Wayne P. DeAngelo](#)
- [Assemblyman Antwan McClellan](#)
- [Assemblywoman Gabriela M. Mosquera](#)
- [Assemblywoman Eliana Pintor Marin](#)
- [Assemblyman Kevin J. Rooney](#)
- [Assemblywoman Cleopatra G. Tucker](#)
- [Assemblyman Jay Webber](#)

To date, over 120 municipalities have been denied the use of these BPPT funds by telecommunications providers, which have misinterpreted a 1997 statute that required them to annually compensate municipalities for local services.

In each year since 2008, more and more municipalities have been told by the providers that they had determined that they were no longer subject to the tax.

Assemblyman Burzichelli represents two of those towns – Elmer and Penns Grove. Likewise, Assembly Schaer represents Little Ferry, Passaic, Ridgefield Park, Rutherford, Hackensack and Wood-Ridge. Assemblyman Bergen represents Morris Township, Morristown, Mountain Lakes, Netcong, Rockaway and Roxbury. Assemblywoman Mosquera represents Laurel Springs and Lindenwold. Assemblyman Rooney represents

Allendale, Franklin Lakes, Ho Ho Kus, Midland Park, Pequannock, Riverdale, Waldwick and Wyckoff. Assemblywoman Tucker represents Nutley. And Assemblyman Webber represents Butler, Jefferson and Parsippany Troy Hills.

Only Committee Members DeAngelo, McClellan and Pintor Marin come from Districts not yet suffering from these revenue losses. Not yet. But that is likely only a matter of time.

Please contact your representatives in the General Assembly and urge them to support A-2991.

For more details on the bill see our [October 16 Weekly Update](#).

Contact: Jon Moran, Senior Legislative Analyst, jmoran@njlm.org, 609-695-3481 x121.

f. Governor Action on Legislation

This week Governor Murphy took action on various pieces of legislation, several of municipal interest. The first, P.L. 2020, c. 108 establishes and encourages the installation of electric vehicle charging stations in common interest communities. For more on this new law please see [item II of the October 21 Daily Update](#).

The second was the conditional veto of S-1163/A-4271, which dealt with funding of law enforcement body cameras and A-4312/S-101, which establishes parameters for law enforcement body worn cameras for law enforcement when carrying out their official duties. For more on this conditional veto please see [item II of the October 20 Daily Update](#).

The last was the [veto](#) of S-2704/A4413, which would have appropriated \$300 million to EDA from federal "Coronavirus Relief Fund" to assist food establishments impacted by Executive Order 158 to temporary pause the resumption of indoor dining. In his veto message the Governor noted that the recent announcement of Phase 3 of EDA's Small Business Emergency Assistant Grant Program that includes \$115 million in CARES Act funding to support establishments classified as food services and drinking places achieves the goal of this legislation.

Contacts:

- Andrew LaFevre, Legislative Analyst, alafevre@njlm.org, 609-695-3481 x116.
- Paul Penna, Legislative Analyst, ppenna@njlm.org, 609 695-3481, x110.

g. Home Based Jobs Creation Act Clears Assembly Committee

On Wednesday, the Assembly Commerce and Economic Development heard [A-485 \(PDF\)](#) the "Home Based Jobs Creation Acts." which permits a family home business to exist in a residential zone as an accessory use and not require a use variance.

The League opposes this bill because it creates an unintended loophole that allows certain home-based businesses that are currently illegal under a municipality's zoning law, to become legal and protected.

The bill overrides any inconsistent local ordinance but then permits a municipality to adopt

a later ordinance that could be the same as the original local ordinance that was overridden. However, if a municipality presently prohibits, by ordinance, certain home occupations and such use is permitted by this legislation, upon readoption of the same ordinance, such use would be protected as a preexisting nonconforming use.

Despite the League's vigorous opposition, the bill passed unanimously out of committee. We urge you to [contact your legislators](#) and ask them to oppose this legislation.

Contact: Paul Penna, Legislative Analyst, ppenna@njlm.org (609) 695-3481 x 110.

h. S-2964 Seek to Create Restricted Beer, Wine and Cider License

On September 24, Senate Bill [2964](#) was introduced. The bill seeks to create a restricted alcoholic beverage license that would allow a licensee to sell beer, wine, and cider by the glass on the premises of a restaurant with a full-service kitchen. The holder of a restricted license would only be allowed to serve alcoholic beverages in connection with the sale of food but not allowed to provide a bar for restaurant customers to gather and consume alcoholic beverages. This legislation has been referred to the Senate Committee on Law and Public Safety. Currently there is no date scheduled for this legislation to be heard in front of a committee.

Contact: Andrew LaFevre, Legislative Analyst, alafevre@njlm.org, 609-695-3481 x116.

i. ABC Extends Licensees' Special Permit Time Limits

The Division of Alcoholic Beverage Control (ABC) has issued a [Special Ruling Extending COVID-19 Premises Expansion Permits](#) (SR-2020-21). The original ABC Special Order, issued on June 3, permits designated licensees and permittees to expand their licensed premises into outdoor areas, either contiguous or non-contiguous to their permanently licensed premises. The over 2,300 COVID-19 Expansion Permits already issued were scheduled to expire on November 30, 2020.

The new Special Ruling allows a permittee to apply for an extension until March 31, 2021. The host municipality will be given the opportunity to endorse the application, should it differ from the initial COVID-19 Expansion Permit.

Licensees must continue to comply with all current COVID-19 safety measures as established by the Governor's Executive Orders and/or the New Jersey Department of Health (NJDOH) directives, guidance, and protocols regarding indoor and outdoor dining. Further, all seating areas subject to this permit must conform to all applicable State statutes and regulations as well as local zoning, building, and fire codes.

Contact: Jon Moran, Senior Legislative Analyst, jmoran@njlm.org, 609-695-3481 x121.

II. 2020 Annual League Conference

a. You Can Still Register for the 2020 NJLM Virtual Conference

To preview the Conference, including the most up-to-date schedule, CUEs, exhibitor listing and networking chatrooms, visit the [2020 NJLM Virtual Conference](#).

A full interactive exhibit hall will be available beginning November 2, complete with details and information on each exhibitor, exhibitor handouts, and graphics. During Conference week, you can live chat with exhibitors for more information about their products and service solutions.

We are also in the process of putting together Networking Chatrooms, and these chatrooms will be added to the main schedule of events as they are confirmed.

Please check back often—we are adding more information to [2020 NJLM Virtual Conference](#) daily.

III. Also of Interest

a. The League is Accepting Applications for the Innovation in Governance Program

The New Jersey Department of Community Affairs (DCA) and the New Jersey League of Municipalities (NJLM) will again acknowledge and promote Innovation in Governance through our annual recognition program. This is a great opportunity to showcase innovative solutions to any problems that have cropped up – either suddenly or over time – in your municipality. It can also be an opportunity to let your peers in on innovations that prevented problems from even arising. The deadline is extended to **Friday, October 30, 2020**, and is fast approaching.

[Visit our awards page](#) to see previous years of impressive ideas created by our winning municipalities as well as the full invitation and application to this year's program.

Contact: Ciara Bradley, Legislative Administrator, CBradley@njlm.org, 609-695-3481, x128.

b. Campaign Contribution Notice

The New Jersey Division of Elections has requested we share the following information. It is important that come to the attention of each Municipal Clerk Questions and inquiries for additional information should be directed to the Division of Elections at 609-292-3760 or reference New Jersey Elections law, P.L. 1975, c. 70

“No holder of a public office or position shall demand payment or contribution from another holder of a public office or position for the campaign purposes of any candidate or for the use of any political party.”



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