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September 11, 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 518 new positive cases and an additional nine confirmed deaths resulting from COVID-19. To date, there have been 195,888 confirmed cases and 14,234 confirmed deaths. The rate of transmission is at 1.08. The positivity rate as of September 7 was 2.6%.

Since our last update, Governor Murphy has not issued any COVID-19 related executive orders.

On Tuesday, the Governor updated the Travel Quarantine Advisory adding Delaware, Maryland, Ohio, and West Virginia to the list and bringing the total to 35 states and territories. Puerto Rico and U.S. Virgin Islands have been removed from the list.

Also on Tuesday, Human Services Commissioner Carole Johnson [announced](#) that the Department will be using Coronavirus Relief Fund (CRF) resources to provide up to \$25

million to help mental health and substance use disorder providers remain open and accessible by reimbursing for the added costs, such as complying with social distancing, ensuring technology to facilitate access to telehealth, and covering costs for personal protective equipment they are incurring due to COVID-19.

The Department of Law and Public Safety issued an [Administrative Order](#) clarifying that health clubs located in hotels, motels, condominiums, cooperatives, corporate offices, or other business facilities may open their indoor premises, but those that are open to the public, and not only to guests, residents, and employees, must conform to the provisions of Executive Order 181 and associated [guidance](#) and the [executive directive](#) issued by the Department of Health.

For the week ending September 5, New Jersey Labor Department received 22,703 new unemployment applications. The Labor Department received approval from FEMA for a grant through the Lost Wages Supplemental Assistance (LWA) program, which provides up to \$300 per week for a limited time to eligible individuals on top of other unemployment benefits they receive. As the implementation of this funding requires new programming to disperse funds, it is anticipated those eligible will be notified in a few weeks when available.

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

b. League Position on Governor's Budget Proposal Presented to Legislature

The League of Municipalities' position on the Governor's proposed FY 21 budget has been presented by League President Jim Perry and League Executive Director Mike Cerra to the members of both the Senate Budget and Appropriation Committee and the Assembly Budget Committee. That testimony states, in part:

"As leaders in the level of government closest to the people and their concerns, Mayors and local governing bodies remain committed to meeting the trials that face our State, now, and that will continue to challenge our resourcefulness, in the months ahead. Municipalities have been essential in flattening the curve. The State's recovery is impossible without them.

"If adopted by the Legislature, the Governor's proposal, combined with appropriations for the August 1 payment, which were included in the July-September three-month bridge budget, would hold combined appropriations for Energy Tax Receipts Property Tax Relief (ETR) and Consolidated Municipal Property Tax Relief Aid (CMPTRA) level for the balance of the year. While level funding is not full funding, Governor Murphy continues to propose budgets without further deep cuts to these vital, unrestricted, statewide municipal property tax relief programs.

"Respectfully, we urge you to approve that funding."

The letter testimony also expresses support for level funding in Transitional Aid, Capital City Aid, Open Space Payments in Lieu of Taxes, and Highlands Protection Fund Aid. It urges the Legislature to authorize the Governor's proposed \$120 million local government emergency fund, to be administered by the Department of Community Affairs (DCA). This

program is intended to defray eligible municipal public safety and public health expenses for municipalities in the 12 counties that did not receive direct federal funding through the CARES Act's Coronavirus Relief Fund (CRF).

The League's statement notes a number of concerns with the Governor's proposal specifically:

- It would eliminate funding (\$4 million in SFY '20) for Meadowlands Tax-Sharing Payments;
- It would divert over \$30 million from Affordable Housing Trust Fund dollars to be used for other programs;
- It would divert \$12 million from the State Recycling Trust Fund and \$10 million, from the Clean Communities Trust Fund, both to be used to offset State Parks management costs.

We have asked the Legislature to address these concerns. We will keep you posted as the State speeds toward its September 30 deadline for budget adoption.

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

c. Juneteenth a State Holiday

Yesterday, Governor Murphy signed, [S-19](#), (now, P.L.2020, c.76), designating Juneteenth, the third Thursday in June, as a state and public holiday. The legislation adds Juneteenth as a paid holiday for all State government employees. New Jersey is the sixth state to designate Juneteenth a state holiday.

Juneteenth commemorates June 19, 1865, when Union General Gordon Granger rode into Galveston, TX, to inform enslaved people of the 1863 Emancipation Proclamation and of their freedom. The announcement from General Granger led to celebration and jubilation, which has continued each year in various forms throughout the United States for 150 years. This law took effect immediately.

Contact: Paul Penna, Legislative Analyst, ppenna@njlm.org, 609 695-3481, x110.

d. State Expands Voter Tools

The Division of Elections has launched the state's first online voter registration tool as well as functionality to let voters track their mail-in ballot.

To [register online](#), individuals will need their date of birth and one of the following forms of identification: a current and valid driver's license or a non-driver identification card issued by NJ Motor Vehicle Commission; or, a social security number. If a person uses their social security number, they must have the ability to sign on-screen or upload their signature to complete the process.

To track their mail-in ballot, a voter must sign into their personal NJ Voter Information System account that they can [set up their NJ Voter Information System account](#). Additionally, voters can also call their [County Election Officials](#) to track their vote by mail ballot.

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

e. Appellate Division Rules Certain Employee Settlement Agreements Exempt from OPRA

Last week, the Appellate Division issued a notable decision regarding the Open Public Records Act (OPRA). In [Libertarians for Transparent Government v. Cumberland County](#) the court held that a settlement agreement between a public body and its employee, resolving an internal disciplinary action against that employee, is exempt from disclosure as a personnel record.

While it was determined long ago that litigation settlements must be disclosed, there was ambiguity in how OPRA's exemption for personnel records would apply to agreements resolving employee disciplinary charges before litigation ensues. The Appellate Division distinguished these internal settlement agreements from litigation matters. They succinctly reasoned that because an employee's disciplinary records are covered by OPRA's personnel exemption, it follows that the settlement of disciplinary charges are also covered by the personnel exemption.

The Appellate Division went further and determined that under OPRA's personnel exemption, the entire settlement agreement must be withheld. It would not be enough to simply redact portions.

Although the court found that the settlement agreement was exempt from disclosure under OPRA, it remanded the case back to the trial court to determine if the agreement could be obtained under the common law right of access. We will continue to keep you updated on this case.

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

II. Federal

a. No Congressional Coronavirus Relief Forthcoming

Yesterday, the U.S. Senate failed to advance a scaled-down Coronavirus Relief measure when a procedural motion to invoke closure was defeated on party lines.

The \$500 billion proposal would have provided zero support for local and state governments. It would also have reduced the Federal Reserve Bank's authority to provide liquidity to the financial system to support lending to businesses, states, and local governments.

It included additional Payroll Protection Plan (PPP) funds (\$257 billion) to support small businesses, a \$300 per week unemployment insurance supplement, and it would have extended the deadline for recipient use of CARES Act Coronavirus Relief Fund monies from December 31, 2020 to September 30, 2021.

As the Federal government approaches the end of its Fiscal Year on September 30 and

as Election Day nears, it appears unlikely that the Congressional Coronavirus relief logjam will break before, at least, the middle of November.

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

b. NLC Seeks Clarity on Permitted CRF Funding Uses

The March CARES Act provided direct Coronavirus Relief Fund (CRF) assistance to the State of New Jersey and the State's nine most populous counties. The law allowed those direct recipients to 'sub-allocate' some or all of those monies to other local governments, located therein. The Governor has proposed, in the Budget currently being considered by the Legislature, the sub-allocation of some of the State's CRF money to municipalities located in the 12 counties that were denied direct funding, and to those counties.

If your municipality receives a share of CRF assistance from either a direct recipient county, or, if approved by the Legislature, through the State program, the monies can only be spent in compliance with Federal rules. Repayment of unauthorized spending of CRF funds to the Federal Government could be ordered.

The problem has been that the U.S. Treasury keeps reinterpreting the rules. That problem has been compounded now, because Treasury's Office of Inspector General (OIG) – the independent auditing agency of all Treasury spending - recently issued guidance that differs from, and is more restrictive than, the most recent Treasury guidance.

With regards to payroll expenses, Treasury advises that a recipient "...*may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.*"

Despite that presumption, OIG advises that it will require a recipient to produce records that "... *include, but are not limited to (1) general and subsidiary ledgers used to account for the receipt of CRF payments and subsequent disbursements; and (2) payroll, time, and human resource records to support costs incurred for payroll expenses related to addressing the COVID-19 health emergency. ... and any other documents/records that support employee's function/duties and/or time was substantially dedicated to mitigating the COVID-19 emergency.*" Effectively, the OIG will not allow a recipient to make any presumption regarding payroll costs, but will instead require detailed documentation.

This is a very confusing situation with many contradictions, but our Federal partners at the National League of Cities (NLC) are working hard to try to sort through it. NLC is taking the lead in drafting a letter to the OIG's office about this issue in conjunction with other relevant state and local organizations. You can [view the letter](#) and here is NLC's [statement](#).

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

III. 2020 Annual League Conference

a.105th Annual NJLM Conference – Presented Virtually: Early Registration

Pricing Before October 16

The League is here to help our members navigate through the pandemic & plan for recovery. Join us this November at the [105th Annual Conference](#) presented virtually - no need to travel. Earn CEUs at live sessions, and watch recorded sessions on-demand for up to one year. Learn about new vendor solutions and network with peers from the convenience of your home town.

A session schedule will be available online mid-October, and in 2020 the printed Conference Program will be included as an insert in the November issue of *NJ Municipalities* magazine.

[Register](#) before October 16 to take advantage of an early registration discount.

Benefits of Attending the 2020 NJLM Virtual Conference

- Over 75 sessions
- Earn CEUs
- Networking chat rooms
- Learn about vendor solutions by visiting the virtual exhibit hall
- Discuss products with exhibitors in live chats
- No need to travel
- Save on hotel costs

Join us online this November. [Register before October 16](#) to take advantage of the discounted early registration price.

b. Submit League Conference Resolutions by October 5

The Conference Resolutions Committee will consider resolutions from officials who are currently in municipal office. A summary of the proposed resolution should be sent to the League office by Friday, October 5, 2020. All resolutions must be general and relate to municipal government interests.

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

IV. Also of Interest

a. Governor Murphy Announces Free Naloxone for New Jersey Residents

On Wednesday, Governor Murphy announced the state will provide free Naloxone at 322 different pharmacies throughout New Jersey. This will be the second time the Governor's Administration has issued free Naloxone to combat the ever-growing opioid crisis. The Naloxone will be distributed on a first come first served basis, without giving personal information or a prescription.

Governor Murphy said, "The ongoing opioid epidemic continues to devastate communities across our state. By expanding access to Naloxone, New Jerseyans will have this life-saving medication readily available to help those who may be suffering from an overdose."

All participating pharmacies have orders from the New Jersey Department of Health on how to dispense the Naloxone. To find the participating pharmacies locations please [visit Department of Human Service's Naloxone Saves Lives page](#).

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

b. New Jersey Public Risk Management Association (PRIMA) is Hosting a Free Webinar

On September 17, 2020 from 9:00 a.m. to 12 noon on COVID-19 - What's Working? This [webinar](#) will cover COVID-19 issues related to workers compensation, opening of schools, and employment law issues. CEU credits are available.



New Jersey State League of Municipalities

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