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June 11, 2021

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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. Update on AG Directives Regarding Public Disclosure of the Identities of Officers Who Commit Serious Disciplinary Violations

On June 15, 2020, Attorney General, Gurbir Grewal issued Law Enforcement Directive No. 2020-5 and 2020-6, mandating public disclosure of the identities of law enforcement officers who commit serious disciplinary violations. However, implementation of these Directives was stayed pending a legal challenge. This week the [NJ Supreme Court upheld the Directives'](#) validity, clearing the way for all law enforcement agencies in the state to begin complying with its public-disclosure requirements.

In light of the Court's decision Attorney General Grewal issued a supplemental Directive, [Law Enforcement Directive No. 2021-6](#), providing guidance to all law enforcement agencies about how to fully comply with the Major Discipline Directive, and

providing clarification regarding law enforcement agencies' authority over the confidentiality and publication of internal disciplinary information and records. The supplemental Directive also sets August 9, 2021 as a new date by which all law enforcement agencies must publish their initial reports.

The Supreme Court decision along with Directive No. 2021-6 should be carefully reviewed with your chief of police, municipal attorney, and records custodian to ensure compliance with the new mandates.

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

b. Bill Removing Management Prerogative Advances

Senate President Sweeney with Senators Addiego and Greenstein, recently introduced [S-3810](#) known as the "Responsible Collective Negotiations Act" to provide additional worker safeguards in response to the 2018 U.S. Supreme Court *Janus v. AFSCME* ruling. While several provisions of the bill do build upon the "Workplace Democracy Enhancement Act" there are several troubling provisions that expand and change the nature of collective negotiations with all public unions, except police and fire, that are extremely troubling.

First the bill expands the items that would become mandatory subjects during contract negotiations unless a negotiated agreement would prevent government from carrying out its statutory mission. Items would include "all matters that intimately and directly affect the work and welfare of public employees" including but not limited to layoffs; subcontracting and privatization; criteria and procedures for promotions, performance evaluations and hiring; transfer of employees; assignments and reassignment of employees; transfer of negotiations unit of work; and job security, discipline disputes, and disciplinary review procedures. This new provision will effectively remove managing from management by adding previous management prerogative items to mandatory negotiations.

Secondly, the bill would mandate that grievance and disciplinary review procedures must provide for binding arbitration as a means for resolving disputes involving subjects for collective negotiation which include the areas listed above. Removing the ability to negotiate with unions how matters are handled removes previously negotiated items from the process.

The bill would treat the communications between the union and its members regarding collective negotiations, administration of collective negotiations agreements, investigation of grievances, other workplace related complaints and issues, or any other matters within the scope of the duty of fair representation as confidential communications. Further, such communications would not be subject to disclosure under the discovery rules of New Jersey administrative agencies, including, but not limited to the Office of Administrative Law and PERC or pursuant to N.J.S.A. 2A:23B-17, and other applicable state laws authorizing arbitrators, presiding at labor arbitrations, issuing subpoenas. Public employers' communication would remain disclosable, failing to provide public employers those same rights and creating an unlevelled playing field.

The bill now stands at second reading in the Senate. We anticipate the Assembly companion, A-5862, to be before Assembly Appropriations Committee soon. We urge you contact your Senator and Assembly representative to urge them to vote no.

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

c. Senate Committee Scheduled to Review Small Cell Regulation Bill

The Senate Economic Growth Committee is scheduled to review [S-2674](#) on Tuesday, June 15, 2021 at 10 a.m. This purpose of this legislation is to provides for uniform regulation of small wireless facility deployment in the state and mirrors, and in some cases beyond, current Federal law. The Assembly companion of this bill, [A-1116](#), was reported out of committee with amendments and is set for second reading in the Assembly. It is anticipated that there will be committee amendment to S-2674 to allow it to conform to amendments already made to its Assembly companion. There may, however, be additional amendments from the Senate committee.

The League (NJLM) and the Conference of Mayors (NJCM) met regularly with industry representatives and, as a result, the Assembly Appropriations Committee amended the bill to address many of the concerns raised by the NJLM and NJCM. We appreciate the work of Assemblywoman Carol Murphy in responding to many of the concerns we raised.

As noted above, other amendments may be forthcoming and we believe more work can be done to ensure all communities have access to broadband internet. We are hopeful that we can continue to work with the bills' sponsors and all stakeholders to develop and fair and rational bill.

For more information on S-2674/A-1116 and an overview the underlying matter of small cell deployment please see the League's recent [blog post](#).

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

d. A-2401 - Responsible Dog Ownership Act

On Wednesday, the League testified in opposition to [A-2401](#), the "Responsible Dog Ownership Act" as introduced. While the League has previously opposed this as overly broad, we are working with the sponsor on amendments regarding the enforcement of and definitions of large dog; issues regarding invisible fencing, homeowners associations' prohibitions against fences; as well as fees and penalty ranges for violations. The Committee amended and released the bill. The amendments to the Assembly bill addressed a majority of the League's concerns such as permitting the use of invisible fencing and other fence compliance options for residents of condominiums, townhouses, apartments, and other rental properties; allowing municipalities to allocate monies from dog licenses for enforcement of the bill's provisions; creation of a dedicated trust fund for enforcement of the bill's provisions; and increasing penalties for daily violation of Responsible Dog ordinance.

The Senate companion [S-3607](#) has not yet been amended to address the League's concerns and is scheduled to be heard in the Senate Environment and Energy Committee next week. The League will review potential amendments and determine if the concerns have been addressed.

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

e. S-1 Passes Senate

Last week [S-1](#), which would encourage shared services, passed the full Senate. We thank Senate President Sweeney for the various amendments to the bill to address our concerns. We appreciate the civil service reforms and are optimistic they will make sharing of services much easier for civil service and non-civil service towns. We also appreciate the amendments to the process for the study and possible recommendations to be more transparent and provide appropriate protections to municipalities. Unfortunately, the penalty of loss of state aid enacted for not adopting recommended shared services remains.

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

f. NJDEP Launches Online Toolkit to Help Communities Integrate Climate Resilience & Adaptation Into Local Land-Use Planning

This week the New Jersey Department of Environmental Protection (NJDEP) announced the launch of the [Resilient NJ: Local Planning for Climate Change Toolkit](#). The Toolkit is meant to assist municipalities with creating a climate change-related vulnerability assessment and developing local climate resilience strategies as required by changes to the Municipal Land Use Law pursuant to [P.L. 2021, c. 6](#), signed by Governor Murphy in February.

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

g. GRC Issues Special Statement Regarding Reverting Back to Statutory OPRA Response Times Due To Termination of Public Health Emergency

Government Records Council (GRC), Executive Director Frank Caruso issued a [Special Statement](#) this week regarding the signing of [P.L. 2021, c.103](#), which resulted in the termination of the State's COVID-19 public health emergency and reinstated the statutory response time frame under the Open Public Records Act (OPRA).

The Special Statement reminds records custodians that they should return to responding to OPRA requests under the statutory time frames. An exception to this when a requestor is seeking records directly related to an agency's COVID-19 response.

We suggest that you review this Special Statement with your municipal clerk and municipal attorney for more information, and to ensure compliance with OPRA.

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

II. Federal Issues

a.DLGS Provides Application for Municipalities Under 50,000 Population Coronavirus-19 State and Local Recovery Funds.

This week, the Division of Local Government Services (DLGS) posted the [application portal](#) for municipalities with a population under 50,000 to apply for funding allocated in the [American Rescue Plan](#). For more information, please read the [League's recent blog post](#).

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

b. Highlight Municipal Infrastructure Needs and Successes with #LeadWithInfrastructure

As Congress debates the details of an infrastructure package with the Biden Administration, including how it is paid for, it is critical that New Jersey municipalities highlight infrastructure needs and successes on social media and tag federal members.

Using the hashtags #RebuildWithUs and #LeadWithInfrastructure, please share pictures, graphics and descriptions of local infrastructure needs and success stories on your social media accounts. Examples of tweets can be viewed on the [League's Social Media Sample Page](#).

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

c. FEMA Issues Request for Information Regarding Climate Change and Underserved Communities

The Federal Emergency Management Agency (FEMA) has issued a Request for Information (RFI) to receive input from the public on specific FEMA programs, regulations, collections of information, and policies for the agency to consider modifying, streamlining, expanding, or repealing in light of recent Executive Orders.

FEMA seeks input by June 21, 2021 to determine whether:

1. Agency programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups;
2. Additional agency actions are required to bolster resilience to climate change; and
3. Agency programs, policies, and activities address the disproportionately high and adverse climate-related impacts on disadvantaged communities.

Municipalities can provide written comments up to June 21, 2021 through the Federal eRulemaking Portal, Docket ID: [FEMA-2021-0011](#).

In addition to written comments, [FEMA is hosting a webinar](#) to collect verbal comments. The webinar will be open to anyone and will be held on Tuesday, June 15 at 2 p.m.

FEMA suggests that useful feedback includes specific programs, regulations, information collections and/or policies that could benefit from reform. Additionally, feedback should refer to specific barriers to participation; address how to improve risk perception; offer actionable data; and specify viable alternatives to existing approaches that meet statutory obligations.

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

III. COVID-19 Weekly Update

a. New Guidance on Masks

Since [terminating the COVID-19 public health and state of emergency](#), and [signing legislation expiring all COVID-19 executive orders](#), Governor Murphy continues to promote the vaccination programs to reach the goal of having 4.7 million New Jerseyans fully vaccinated by June 30. According to the Center for Disease Control (CDC) New Jersey ranks 6th among all states with 72% of all residents eligible for vaccination having received at least their first shot. There are approximately 1,800 vaccination sites across the state.

In addition, the State's [Department of Health released their guidance for summer camps](#) with changes made pursuant to recent CDC updates. As part of the guidance, wearing a mask outdoors will not be required for either campers or staff. The State does strongly encourage unvaccinated individuals to wear a mask when in crowds and during situations that include sustained contact with others.

COVID Data for June 11, 2021:

- 194 new positive cases for a total of 889,799 confirmed cases
- 4 new confirmed deaths for a total of 23,639 confirmed deaths
- The rate of transmission is at 0.80
- 1,263 cases linked to 281 school outbreaks since August 2020
- 9,124,192 vaccine doses have been administered, including 5,120,177 who have received at least one dose and 4,344,033 who are fully vaccinated. 55% are Pfizer, 41% Moderna, and 4% J&J.

Vaccine Information

As a reminder, the vaccination incentive Vax Pass under the new "[Vax and Visit NJ](#)" continues. Homebound residents who have not yet connected with their local health department, or a home health agency, and who need an in-home vaccination should visit www.covid19.nj.gov/homeboundvax or contact the call center at 855-568-0545.

Contacts:

- Mike Cerra, Executive Director, mcerra@njlm.org, 609-695-3481, x120.
- Lori Buckelew, Assistant Executive Director, lbuckelew@njlm.org, 609-695-3481, x112.

IV. 2020 Annual League Conference

a. It's Not Too Late!

We hope that the NJLM Virtual Conference allowed you to look back and forward on the challenges of the day, be it the COVID-19 pandemic, social and restorative justice or how to balance the competing interests in preparing for your 2021 budget. While we expect to

be back in-person in Atlantic City in 2021, the virtual conference offers a unique benefit. The content of the approximately 80 programs and 145 virtual exhibitor booths will be available on-demand through October 31, 2021.

Anyone who is registered can simply log in to [the Conference website](#) to view any of the programs or visit any of the exhibitor booths. And for those who did not attend, it's not too late. We will continue to accept [registrations](#) for access to the Conference site. Those who register now will not be able to apply for CEUs but will have full access to all programs and exhibit booths. And please continue to visit the exhibitors who chose to support the 105th Annual Conference by stopping by their booths. You can contact exhibitors directly with any questions or comments by simply using the "Request Information" button on each booth. This will generate an automatic email to the exhibitor and they will contact you with a reply.

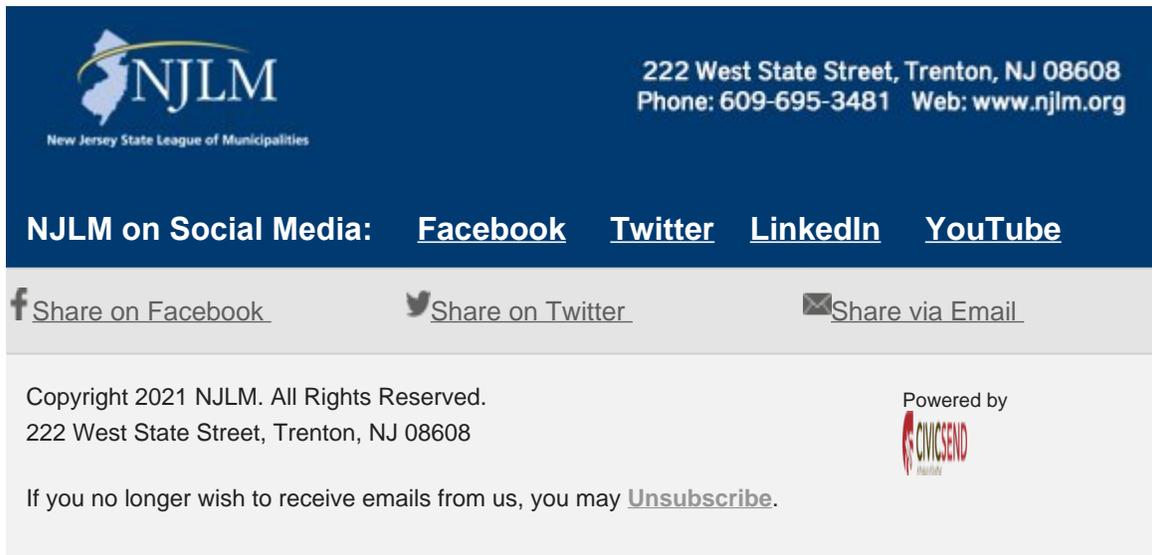
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 **NJLM**
New Jersey State League of Municipalities

222 West State Street, Trenton, NJ 08608
Phone: 609-695-3481 Web: www.njlm.org

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