

AFFILIATE NEWSWIRE

Volume 1, Issue 2

May 2010

New Jersey State League of Municipalities

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Prevailing Wage Contract Threshold Changes

On July 1, 2009 the New Jersey prevailing wage threshold increased to \$14,187 for work done for, or on property or premises owned by a municipality. The threshold remains at \$2,000 for any other public entity, including boards of education and municipal utility authorities.

The Division of Wage and Hour Compliance at 609-292-2283 can answer questions about whether or not a project is subject to the Prevailing Wage Act.

In addition to the threshold increases, there were two new statutes related to prevailing wages in 2009. PL2009, c. 249, extended prevailing wage requirements to certain “maintenance-related projects” which are bid and have an aggregate value over \$50,000. The definition of what work is included is still under review by the Department of Labor and Workforce Development.

PL2009, c. 88, requires contractors and subcontractors to submit certified payroll records to the public entity for the collection or transportation of solid waste, including recyclable materials other than recycled or reclaimed asphalt or concrete

-Written by Joyce Miller, Franklin Township.

Cap Law Flexibility Needed

As you know, on March 18, the Division of Local Government Services (DLGS) issued [Local Finance Notice 2010-08](#). That Notice includes the following:

“Budget language regarding State aid distribution is being modified to reduce payments to those municipalities that use formula aid reductions as an add-on to the levy cap calculation. In other words, any amount of state formula aid reduction used as a levy cap exception [N.J.S.A. 40A:4-45(b)(2), as shown on Line A-10 of the Levy Cap Calculation Workbook] will result in an offsetting decrease to CMPTRA/ETR formula aid payments.”

We have asked Governor Christie to direct DLGS to rescind this directive, and to withdraw the operative language from his budget proposal.

Continued on Page 2 under “Cap Law”

Division of Pension and Benefits Guidance on Pension Reforms

Recently the Division of Pensions and Benefits sent Certifying Officers guidance on Frequently Asked Questions regarding P.L. 2010, c. 2. A copy of the guidance letter has been posted to the League's website under Pension Reforms. This guidance letter addresses some of the questions raised on the implementation of changes to health benefits program. The questions address the 1.5% contribution, multiple coverage, reduction in waiver amount and eligibility.

Below please find the Division of Pension and Benefits guidance on recurring questions we have been receiving:

Q. Is the 1.5% of base pay contribution in addition to previously negotiated premium contributions?

A. No. The 1.5% contribution is intended to be a floor, or minimum, contribution that an employee will make toward medical and/or prescription drug plan coverage. If another contribution arrangement has been negotiated, the higher of the two will prevail. All employees must contribute an amount equivalent to at least 1.5% of the employee's base pay. Any premium contributions for dental or vision care are in addition to the 1.5% contribution.

Q. A local unit is currently in contract negotiations. Employees currently contribute 15% of dependent premium - how would 1.5% be applied?

A. If the 15% of dependent premium is greater than 1.5% of the employee's base salary, then no additional contribution is required of that employee.

-Continued on Page 4 under Pension Reforms...

Cap Law . . .

We have also asked the Senate and Assembly Committees to remove this language from the proposed budget, as soon as possible.

The Local Finance Notice is **NOT** based on current State law. It is based on a proposed provision in the Governor's proposed State budget. DLGS has issued its operational guidance IN ANTICIPATION of Legislative acceptance of the proposed budget language. But beyond those procedural irregularities, it is, we believe, bad public policy.

The de facto repeal of Section 45(b)(2), by budget language, provides no benefit to the State. Under the current statutory scheme, whether a municipality utilizes this legislatively provided exception does not add or subtract from the budget. This provision will only prevent a municipality from passing on to its taxpayers the reductions in aid that the State will be providing.

Further, this approach is entirely inconsistent with the spirit of P.L. 2007, c. 62, which added the tax levy cap.

One of the narrowly crafted exceptions provided for by the Legislature is the ability of municipalities to offset decreases in State formula aid. The effort to supersede Section 45(b)(2) represents an attempt to repeal only one part of the statute imposing a levy cap on municipalities – one that the Legislature felt important enough to include in crafting those narrow exceptions that it enunciated. A further effect of this de facto repeal is to lead to the type of unintended adverse consequences envisioned by the Legislature, forcing municipalities to either implement draconian service cuts or apply for the levy cap exemption anyway and face further cuts in State aid.

The reduction in formula aid, as a result of the above, to a level below that provided in 2002 appears inevitable for some that may seek to employ this levy cap exception. We believe that a strong argument exists that once formula aid falls below the 2002 level, the provisions of N.J.S.A. 52:27D-441(b) and (c) (*i.e.*, the "poison pill" provisions) will automatically be triggered. The net effect of this could be the loss of more than \$2 billion of Corporate Business tax revenue from the State's next budget. This is a further reason for the Legislature to insure that the levy cap exception of N.J.S.A. 40A:4-45(b)(2) remains fully in place and available to all of New Jersey's municipalities, without any penalty being imposed for its use.

In testimony before the Assembly Budget Committee, DCA Acting Commissioner Grifa acknowledged that some municipalities may need levy cap flexibility, in order to meet the legitimate service needs of their citizens. She indicated that the Division of Local Government Services (DLGS) will soon provide guidance to those towns that will need to ask the Local Finance Board for a cap waiver.

We have contacted the Division of Local Government Services on this and we will share any further guidance as soon as it is available.

Again, while we continue to push for the removal of the proposed language from the proposed budget, we appreciate this recognition of the need for flexibility in the administration of budget caps.

-Written by Jon Moran at 609-695-3481, ext. 121 or email jmoran@njslom.com.

Upcoming Seminars

- **May 4-New Jersey's Economic Stimulus Act and Recovery Zone Bond Programs**-Robert Meyner Reception Center, Holmdel
- **May 6-Reducing Staff to Meet Statutory Obligations: How Negotiate Furloughs, Layoffs, and Contracts**-Robert Meyner Reception Center, Holmdel
- **May 11-Performance Measurement in the Public Sector**-Crowne Plaza, Monroe Twp
- **June 11-NJDARM Computer Training, Artemis Records Retention and Disposition Management System**-The Conference Center at Mercer, West Windsor, NJ
- **June 15-Ethics and Conflicts of Interest** -The Enterprise Center at BCC, Mount Laurel
- **June 18-Maintaining a Safe Community within current Budget Constraints:A Discussion on Budgeting, Shared Services, and Labor Negotiations**-Robert Meyner Reception Center, Holmdel
- **June 25-Ethics and Conflicts of Interest**-Burlington Township Municipal Building, Burling Township



Attendees at the March 31st "Budget and Audit Updates" Seminar at Bergen County Community College in Paramus, NJ

95th ANNUAL CONFERENCE NOVEMBER 16-19, 2010 HOUSING FORMS COMING SOON

Municipal housing forms for the 95th Annual Conference will be mailed to all Municipal Clerks in early June. Non-municipal forms will be available in the June issue of *New Jersey Municipalities* magazine. Be sure to get your housing requests in early to help ensure your requirements get first consideration.

For more information contact Dee Kotch at 609-695-3481 ext. 115

An Editorial: Separate and Save Our Pensions

Our local PERS pension needs to be separated from the State portion of PERS. Our local membership comprises 70% of the total PERS membership. Our local units continue to make their annual payments into our pension system. Our portion of the pension system is 71% funded compared to the State's 56%. Our per member employer contribution is only \$3,437 compared with the State's \$8,084. Our per member unfunded liability is \$32,910 compared with the State's \$88,480.

Why do we continue to get thrown under the bus because of the State's inability to make their contributions and manage their portion of the pension system. The affiliate groups need to unite with the League to demand that our system be separated from the mismanaged State system. We need to have our own set of Trustees to manage and protect our system for our best interests.

-Written by Ron Zilinski, President, Tax Collectors and Treasurers Association of New Jersey, email rzilinski@trentonnj.org

To register for a Seminar and/or Event, please log onto www.njslom.org, click "Calendar", select your event, and fax the downloaded registration form to Suzanne Delany, Registration Coordinator, at (609) 695-0151. Should you have any registration questions, such as availability of a seminar, call Suzanne at (609) 695-3481 at ext 111, or you can email her at sdelany@njslom.com.

Any other questions regarding a NJSLOM Seminar and/or Event, please contact Danielle Holland (x 118) (609) 695-3481 email dholland@njslom.com.

Pension Reforms..

Q. On what salary is the calculation of the 1.5% contribution based?

A. The calculation is based on the employee's base contractual salary. In most instances, that means the salary on which pension contributions are based. However, for employees hired after July of 2007 for whom pensionable salary is limited to the salary on which Social Security contributions are based, the employee's total base salary would be used. As an employee receives salary increases during the year, the amount of contribution would need to be adjusted accordingly.

Q. Our union contract expired last year and has not been settled. Will these employees be required to contribute the 1.5% contribution after May 21st?

A. If the contract is not ratified by May 21st, those employees will be required to pay the 1.5% contribution for health coverage. If the contract is ratified before May 21st, those employees will not be required to pay the 1.5% contribution until the expiration of the contract.

Q. Are elected officials who are eligible for health benefits coverage subject to the 1.5% contributions? If they waive their salary, do they still pay?

A. Yes, current elected or appointed officials will be subject to the 1.5% contribution. In addition, they do not need to meet the minimum work hours of 35 hours per week provided they remain in the elected or appointed position continuously* after May 21st. Officials who are elected or appointed after May 21st must work a minimum of 35 hours per week to be eligible for health benefit coverage. If an elected or appointed official waives their salary, their contribution is based on the annual base salary of the position they hold.

**Continuously means that the employee maintains eligible coverage at the employer at which he/she was employed on May 21st.*

Q. Is the 1.5% contribution paid before or after taxes?

A. If the employer offers an Internal Revenue Code Section 125 plan, then the employer could deduct the contribution from the employees' salary on a pre-tax basis. Employers who do not offer a Section 125 plan should seek guidance from their financial advisor on the implications of offering a plan to their employees.

Q. Will non-SHBP/SEHBP participating employers be required to follow the 1.5% minimum contribution?

A. Yes. Chapter 2 stipulates that employees of non-participating employers must pay a minimum of 1.5% of annual base salary as a health benefits contribution.

Q. A labor contract expired last year and is still in negotiations. Will those employees be required to pay the 1.5% contribution?

A. If the contract is not ratified on or before May 21st, the covered employees will be required to contribute a minimum of 1.5% of their annual base salary effective May 22nd. If the contract is ratified on or before May 21st, the covered employees would not be subject to the minimum contribution until the expiration of that contract.

Q. A labor contract is set to expire prior to May 21st but we wish to extend the contract for one year. Will those employees be required to pay the 1.5% contribution?

A. The 1.5% withholding will not apply during the term of any extended contract that was agreed upon prior to May 22, 2010. It would apply to any extension agreed upon on or after May 22, 2010.

Q. We have employees who are not affiliated with a labor group. When do they start paying the 1.5% contribution?

A. Employees with no labor affiliation should begin the 1.5% contribution when the labor organization they are most closely aligned begins paying the contribution. For example, a police chief would begin paying the health contribution at the same time that the employees in the union representing rank and file officers begin paying the contribution. Where there is no clear relationship between the non-aligned employee and a labor organization, the non-aligned employee should begin paying the 1.5% minimum contribution in the first full payroll cycle after May 21st.

Q. Our organization does not have any employees represented by labor groups. When do they begin the health contribution?

A. If the employer has no employees represented by a labor organization, their employees would begin paying the contribution effective May 21st.

A complete copy of the FAQ is available at www.state.nj.us/treasury/pensions/chapter2-faq.shtml

-Written by Lori Buckelew, please contact lbuckelew@njslom.com or 609-695-3481 x112 for more information

NJILGA Website Offers Benefits Abound

The New Jersey Institute of Local Government Attorneys (“NJILGA”) is putting the finishing touches on its new website. This site will provide an opportunity for members to engage in discussion groups about topics of interest. Local government law practitioners who are members of NJILGA can address issues of concern and interact with colleagues. This website provides another opportunity for NJILGA members to hone their skills and keep abreast of the latest developments in the law.

Membership in NJILGA provides several benefits including access to the quarterly law review. NJILGA hosts a number of events, such as a superb cocktail party in Atlantic City each year, and provides educational opportunities that will qualify for continuing legal education credits.

As of this publication, the website is not yet operational. However, you may contact Peter Jost, President, NJILGA at peterjostatt2@embarqmail.com for more information.

-Written by Michele R. Donato, Attorney at Law



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Visit our website at
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Have an issue that you think should be addressed in this newsletter? Please send articles of 150 words to dholland@njslom.com

Deadline for July Newsletter: **June 15th, 2010**

The New Jersey State League of Municipalities is a voluntary association created to help communities do a better job of self-government through pooling information resources and brain power. It is authorized by State Statute and since 1915, has been serving local officials throughout the Garden State. All 566 municipalities are members of the League. Over 560 mayors and 13,000 elected and appointed officials of member municipalities are entitled to all of the services and privileges of the League.