March 24, 2020

NJ Governor Signs COVID-19 Legislation

Including NJEDA Business Grants and Amendments to Open Public Meetings Act and Open Public Records Act

On March 20, Governor Murphy signed into law several bills addressing COVID-19, including bills which authorize funding for the New Jersey Economic Development Authority (NJEDA) to make grants to businesses, amend the Open Public Meetings Act concerning public body meetings and amend the Open Public Records Act.

Bill A3845/S2284: Authorizing NJEDA to issue business grants during State of Emergency

This bill empowers the NJEDA to issue business grants for project "planning, designing, acquiring, constructing, reconstructing, improving, equipping, and furnishing," including (without limitation) grants for working capital and meeting payroll requirements during "periods of emergency" declared by the Governor and for the duration of economic disruptions due to such emergency. The grants are specifically intended for small and medium size businesses and for not-for-profit entities impacted by economic disruptions during a state of emergency.

The NJEDA still needs to promulgate how these grants will be administered (e.g., new programs or modifications to existing programs). These grants will be another source of emergent funds for small and mid-size businesses in addition to the US Small Business Administration (SBA) Economic Injury Disaster Loans (See Day Pitney Advisory on the Day Pitney COVID-19 Resource Center concerning these SBA Loans).

Further, the bill authorizes NJEDA to grant two 6-month extensions for certain submission deadlines relating to tax credit incentive programs. These procedural modifications to the NJEDA incentive programs are in addition to Executive Order 103, which waives specific requirements under the various incentives tied to job creation, like Grow NJ. In particular, during the state of emergency, employers do not have to comply with the requirement that a full-time employee spend at least 80 percent of his or her time at the site or qualified business facility.

Bill A3850/S2294: Open Public Meeting Act Amendment to permit virtual public meetings

This bill authorizes public bodies, such as governing bodies, planning boards and boards of adjustment, to conduct meetings by means of communication or other electronic equipment and to notice for said meetings electronically without being in violation of the Senator Byron M. Baer Open Public Meetings Act, *N.J.S.A.* 10:4-6 *et. seq*. The bill permits a public body to conduct a meeting and public business, cause a meeting to be open to the public, vote, and receive public comment by means of communication, such as telephones, or other electronic equipment, such as Google Hangout, Zoom or Go-To Meeting.

The bill further permits public bodies to notice for said meetings electronically with the caveat that meetings noticed electronically should be limited to matters necessary for the continuing operation of government and which relate to the State of Emergency related to COVID-19 to the extent practicable. As such, municipalities should continue to adhere to the standard notice requirements in *N.J.S.A.* 10:4-6 (i.e., 48 hours advance notice posted in the municipal building, filed with a designated officer of the public body, and provided to two newspapers) to conduct regular business at such a meeting. The bill does not alter the notice requirements of applicants pursuant to the Municipal Land Use Law for public hearings before a

planning board or board of adjustment. An applicant should still mail and publish notice of a planning board or board of adjustment at least 10 days prior to said hearing date. The bill is effective immediately and in effect for a period of no more than eighteen months.

Bill A3849/S2302: Revision of Timeframe to Respond to Request for Government Records

Under this bill, a custodian of government records for a public agency will be required only to make a reasonable effort to respond to a request for a government record within seven business days, or as soon as possible thereafter, for the duration of a state of emergency. Under current law, there is no leeway and custodians are required to grant or deny access to requested government records within seven business days.

Please note this is not an exhaustive list of the various bills and executive orders signed into law.

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our COVID-19 Resource Center.

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

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