March 24, 2020

New Jersey Adopts Several Pieces of Emergency Legislation to Address COVID-19 Concerns

New Jersey Governor Phil Murphy took action on a number of emergency bills yesterday as part of the State's ongoing response to the COVID-19 pandemic. Among other things, these measures provide alternative means for the conduct of vital government functions and seek to ensure the State's citizens are afforded necessary access to testing and medical services. Other newly adopted laws offer guidance to businesses and local government on compliance with regulatory requirements in the face of the extraordinary limitations imposed on the face-to-face conduct of business. A run down on the bills signed into law on March 20 and 23, 2020 follows.

Health, Safety and Welfare

A-3843/S-2283: Requirement to Provide Coverage for Testing for COVID-19. Requires health insurance and Medicaid coverage for testing of COVID-19 and for telemedicine and telehealth during the COVID-19 state of emergency. Pursuant to this law, health insurance carriers, including hospitals, health and medical corporations, health maintenance organizations and insurance companies, and State and School Employees' Health Benefits Programs must provide coverage, to the same extent as for other services under the health benefits plan, for expenses incurred in (1) testing for COVID-19 provided that a licensed medical practitioner has issued a medical order for that test; and (2) the delivery of health care services through telemedicine and telehealth in accordance with N.J.S.A. 45:1-61 et seq. No cost-sharing may be imposed on the coverage. This Bill takes effect immediately and applies to all health benefit plans currently in effect in New Jersey, or those that will be delivered, issued, executed or renewed in this State after the effective date. It remains in effect for the same duration as the Public Health Emergency and State of Emergency declared by Governor Murphy in Executive Order 103 of 2020.

A-3854/S-2286: Authorization to Collect Specimen for COVID-19 Testing. Authorizes all licensed health care facilities and clinical laboratories to collect specimens for the purpose of testing for COVID-19 for the duration of the public health emergency. This law does not revoke the authority of the Commissioner of Health under the Emergency Health Powers Act to require such facilities to provide services or the facility to respond to the public health emergency. The Commissioner may also waive mandatory staffing ratio requirements for health care facilities during a public health emergency.

A-3840/S-2281: Requirement to Provide School Meals or Meal Vouchers to Eligible Students. Requires school districts to implement a program to provide school meals or meal vouchers to students eligible for free and reduced price school meals during school closures due to the COVID-19 pandemic. To do so, the school district must collaborate with county and municipal government officials to identify walkable and easily accessible meal distribution sites, including possible sites such as fair-based locations and community centers. For school districts with high density housing, the district must strive to identify a distribution site in that area. For students who are not within walking distance to the school, the district must distribute the meals to the students' residence, or their bus stop along the established bus route but only if the students' parents or guardians are present at the bus stop. Food distributed to the student's residence can include up to three school days' worth of food per delivery. If a district is unable to provide school meals, the district must establish a food voucher system for the students, established according to criteria set forth by the Commissioner of Education in consultation with the Commissioner of Human Services.

A-3855/S-2287: Requirement to disseminate information about food access programs. Pursuant to this law, the Statewide 2-1-1 system and executive branch departments must display information concerning food access programs and

other resources through their main website and social media throughout the duration of any declared public health emergency. The 2-1-1 system and departments must disseminate information using any other means as appropriate.

Conduct of Government Operations

A-3095/S-1982: Revision of Timeframe to Send Out Mail-in Ballots. Provides each county clerk with an additional week to proof, print, prepare and forward mail-in ballots. This law applies only to the 2020 primary election. However, county clerks are still required to mail military and overseas ballots by April 18, 2020.

A-3849/S-2302: Revision of Timeframe to Respond to Request for Government Records. Modifies the deadline by which public agencies are required to respond to a request for government records during period of emergency. During a state of emergency, a custodian of a government record for a public agency is 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, as circumstances permit. The current requirement for the custodian to grant such access or deny such a request as soon as possible, and no later than seven business days after receipt, has been relaxed.

A-3851/S-2295: Revision of Timeframe to Adopt County and Municipal Budgets. Permits extension of deadlines for adoption of county and municipal budgets under certain circumstances. The Director of the Division of Local Government Services in the Department of Community Affairs is permitted to extend the dates for the introduction and approval, and for the adoption of municipal and county budgets for any local fiscal year beyond the dates required under N.J.S.A. 40A:4-1 *et seq*. whenever a Public Health Emergency or a State of Emergency, or both, has been declared and is in effect.

A-3850/S-2294: **Open Public Meeting Act Amendment to Permit Virtual Public Meetings.** This law authorizes public bodies, such as governing bodies, planning boards and boards of adjustment, to conduct meetings by means of remote communication or other electronic equipment and to provide 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 law 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 remote communication, such as telephones, or other electronic equipment, such as Google Hangout, Zoom or Go-To Meeting. The law further permits public bodies to provide 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.

AJR-158/SJR-77: Request to the FCC to Take Emergency Measures. This resolution urges the Federal Communications Commission (the "FCC") to take temporary measures to secure broadband access for those affected by COVID-19. The Resolution states that the FCC has taken measures such as approving experimental licenses to expand wireless networks, applying funds to boost connectivity in areas of need and urging private carriers to launch mobile cell towers, and urges the FCC to take similar emergency measures that secure broadband access for areas in need.

Commerce and Business

A-3845/S-2301: Prohibition from Penalizing Employees for Leave due to Infectious Disease. This new law prohibits employers, during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103, from terminating or otherwise penalizing an employee who requests or takes time off from work based on the written or electronically transmitted recommendation of a New Jersey licensed medical professional because the employee has, or is likely to have, an infectious disease, which may infect others at the employee's workplace. When the employee returns to work from such a leave, employers are required to reinstate the employee to the position that he or she held when the leave started without impacting seniority, status, employment benefits, pay or other terms and conditions of employment. In addition to the ability to file complaints with the Commissioner of Labor and Workforce Development due to an employer violation, the law provides aggrieved employees with a private right of action, allowing them to seek reinstatement. Employers may also be subject to a $2500 fine for violating the law.

A-3859/S-2284: **Authorizing NJEDA to Issue Business Grants During State of Emergency.** This law empowers the New Jersey Economic Development Authority ("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. Further, the law authorizes the NJEDA to grant two 6-month extensions for certain submission deadlines relating to tax credit incentive programs.

A-3861/S-2290: Authorization to Hold Shareholder Meetings Remotely. Pursuant to this law, during a state of emergency, shareholders may hold a meeting by means of remote communication to the extent the board authorizes and adopts guidelines and procedures governing such a meeting. Shareholders will be deemed to be present in person and will be entitled to vote at the meeting.

A-3865/S-2291: Prohibition from Accepting Returned Groceries and Other Foodstuffs. This law makes it an unlawful practice for a retail food store to accept return of any groceries and other foodstuffs purchased during, and for 30 days after the state of emergency declared in response to COVID-19. Groceries and other foodstuffs means dairy products, meat and delicatessen products, produce products, seafood products, carbonated beverages, coffee and other beverages, snack foods, candy products, baked products, paper products, household cleaning items, health and beauty products, frozen foods, pet foods and supplies, and any other edible product not previously listed. Violators may be liable for punitive damages, treble damages and costs, as well as penalties of up to $10,000 for the first offense and up to $20,000 for subsequent offenses. The law also allows the Attorney General to issue cease and desist orders.

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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