



From: NJLM - Municipal Clerks [mailto:njlm-clerks@cityconnections.com]
Sent: Thursday, January 21, 2010 2:48 PM
To: Lashway, Lisa
Subject: Governor Christie Issues Eight Executive Orders

LEAGUE ALERT

Municipal Clerk: Please forward to Mayor and Governing Body.

January 21, 2010

Re: Governor Christie Issues Eight Executive Orders

Dear Mayor:

In a flurry of action on his first day in Office, Governor Chris Christie issued eight Executive Orders yesterday, several of which have special importance for State-local relations. The Orders can be viewed on the Governor's website at <http://nj.gov/infobank/circular/eoindex.htm>. Also see Gov Signs Mandate Relief Exec Orders," under In the News," on our website, www.njslom.org, for NJN video of signing.

In **Executive Order No. 1**, Governor Christie is suspending 154 rule proposals effective yesterday, for a period of 90 days. Rule proposals that affect public safety, security, or health, affect the state's ability to receive money or certifications from the federal government, interfere with the essential duties of the administrative agency or interfere with a judicial deadline will not be suspended. The 90 day period allows the Red Tape Review Group, headed by Lieutenant Governor Guadagno, to identify those that are unworkable, overly-proscriptive, or ill-advised. The Red Tape Review Group will then make recommendations to Governor Christie regarding those proposals, allowing the Governor to ensure that any new rule or regulation will not negatively impact the economy or businesses of the State of New Jersey.

In **Executive Order No. 2**, (EO 2) Governor Christie directs State agencies to employ "Common Sense Principles" for State rulemaking. The EO directs for short-term relief, intermediate relief and long-term relief. For short-term relief, the EO requires, among other things, State agencies to seek input from experts and stakeholders; it changes the application of the "time of decision rule" so that any State permits or approvals be governed by the regulations and standards in place at the time of filing (*please note that this applies only to State procedures and does not change the application of the time of decision rule at the local level*); it provides a comprehensive and transparent means to seek waivers; conduct cost/benefit analysis; identify when proposed State regulations exceed Federal requirements; and embrace performance-based outcomes instead of punitive penalties for "technical

violations.”

For “intermediate regulatory relief”, the EO directs State agencies to identify within 90 days regulations and processes that impede economic development. Within 180 days, State agencies must redraft such rules and regulations to remove such impediments. In cases where Federal regulations are adequate, a State regulation is to be eliminated.

For “long term regulatory relief”, the EO directs State agencies to promote transparency and predictability when drafting proposed rules, balancing the intent of the regulations with the imposition on the regulated community. Furthermore, State agencies are directed to adopt, when applicable, Federal regulations as written and to draft rules to impose the least amount of burden and costs on businesses.

Executive Order No. 3 creates the Red Tape Review Group to review proposed and pending State rules, and previous Governors’ Executive Orders, to assess their effects on New Jersey’s economy and to determine whether their burdens on businesses and workers outweigh their intended benefits. The Group, chaired by Lieutenant Governor Guadagno, will have 90 days to provide Governor Christie with a written report detailing recommendations to rescind, repeal or amend any provisions that unduly burden business and workers.

The following, or their designees, will serve on the Group: Lieutenant Governor Guadagno, Governor’s Chief Counsel, Department of Environmental Protection Commissioner, Department of Community Affairs Commissioner, Senate President Sweeney, Assembly Speaker Oliver, Senate Minority Leader Kean, and Assembly Minority Leader DeCrose. In addition, Lieutenant Governor Guadagno has the discretion to appoint additional individuals to provide the Group with necessary and appropriate expertise and stakeholder representation.

The Executive Order requires the Red Tape Review Group to solicit comments, both written and oral, from the public and consider the views expressed in any report.

The League is looking forward to working with the Red Tape Review Group in addressing unfunded mandates we deal with on a daily basis.

Executive Order No. 4 would apply to future State administrative rules and regulations affecting local government. It aims to prevent State agencies from proposing any future new unfunded mandates on local governments, unless they are authorized to do so, in writing, by the Governor or Lieutenant Governor. The Order, further, requires a detailed fiscal analysis, prior to publication, of any local government mandate being considered for proposal. That analysis would include a quantification of the mandate’s estimated costs, a comparison of costs and benefits, and the identification of revenue sources to offset the costs. It also requires the State agency to “solicit information regarding the proposed mandate from potentially affected local governments, businesses, residents, and public stakeholders.”

The State agency would then be required to submit a report to the Lieutenant Governor, which

would, among other things, include the fiscal analysis and indicate if the regulation under consideration was modified, in response to the information that was received from local officials and other interested parties. Within thirty (30) days of receipt, the Lieutenant Governor, or her designee, would determine if the rule would be an unfunded mandate and, if so, make recommendations for changes.

The Executive Order allows for an exception to this process, if the agency head notifies the Lieutenant Governor that the rule “is necessary to respond to emergent circumstances that threaten the public health, safety or welfare.” The Lieutenant Governor would reinstate the reporting requirement, “after the emergency has been addressed.”

The Order, however, does not give local officials the right to challenge State actions that do not comply with these procedures.

Executive Order No. 5 creates a blue-ribbon Council of Economic Advisors to assist the Governor in fostering economic recovery and prosperity.

Executive Order No. 6 directs to Casino Control Commission to designate certain employees as essential to casino operations, in order to prevent casino closings in the event of a curtailment of State operations.

Executive Order No. 7 expands the Pay-to-Play law to include any Labor Union or Labor Organization in the definition of Business Entity as well as include Legislative Leadership Committees to the list of committees of restricted donations. We are currently reviewing the Executive Order to determine if the order applies to municipalities.

Executive Order No. 8 is designed to promote greater transparency in public finance. It requires the State Treasurer to prepare and publish various quarterly and monthly reports on revenues and spending. It requires ‘on budget’ and ‘off budget’ reports. It requires ‘statewide performance budgeting’ to be implemented in the State’s next Fiscal Year and it requires a new ‘user friendly’ website, so that the public can more easily track government spending to “enhance the public’s understanding of government spending and program performance.”

We salute Governor Christie for his immediate action on unfunded mandates. While yesterday’s actions do not provide relief from pre-existing mandates, they demonstrate the Governor’s keen awareness of the problem and his willingness to act swiftly and decisively, when opportunities arise to provide relief.

If you have any questions, please contact Jon Moran at 609-695-3481, ext. 121.

Very truly yours,

William G. Dressel, Jr. Executive Director NJLM222 West State Street Trenton, NJ 08608