



From: NJLM - Municipal Clerks [mailto:njlm-clerks@cityconnections.com]
Sent: Wednesday, June 10, 2009 3:24 PM
To: Lashway, Lisa
Subject: From NJLM - Two Mayors Ltrs

LEAGUE ALERT

Municipal Clerk: Please forward to Mayor and Governing Body.

June 10, 2009

Re: I Guidance on Employee Furloughs in Civil Service Jurisdiction

Re: II League/Site Remediation Brownfield Outreach Briefing – June 16th

Re: I. Guidance on Employee Furloughs in Civil Service Jurisdiction

Dear Mayor:

In the aftermath of the press reports regarding the State settlement with the CWA, as well as recent court and PERC decisions, a number of questions have arisen as to the status of the Civil Service Commission (“CSC”) emergency rule (“Rule”) on temporary layoffs/staggered furloughs. The State implementation of its settlement agreement as well as the impact of the recent court and PERC rulings are currently before the CSC. This notice will serve as guidance to local governments regarding the status of temporary layoffs. (See our letter of June 5, 2009 for background).

In March, the CSC adopted an Emergency Rule, N.J.A.C. 4A:8-1.1 (the “Rule”) that specifically addressed the authority of State and local government to implement temporary layoffs, including staggered temporary layoffs. The Rule was challenged by a number of unions. The Appellate Division upheld the promulgation of the Rule and found that a decision to lay off all employees in a layoff unit, even on a temporary basis, must be considered a managerial prerogative. However, the Appellate Division also stayed the implementation of the Rule regarding “staggered layoffs” pending consideration of issues as to the scope of negotiations before the Public Employment Relations Commission (“PERC”) on companion unfair practice charges filed by the unions. PERC’s Commission Designee found that the question of staggered furloughs was negotiable in non-civil service jurisdictions and did not address the question with any certainty in civil service jurisdictions.

Last week, the State and the CWA reached a tentative agreement in order to address the

economic crisis facing the State in the 2009 and 2010 State budgets. In addition to a deferral of the negotiated 3.5% wage increase payable July 1, 2009 to January 1, 2011, and the implementation of 10 unpaid self-directed furlough days, the agreement provides for a mutual request to the CSC to rescind the Rule, and establishes a Study Commission including representatives of the CSC, PERC, local government employers and labor to study temporary layoffs or furloughs. The agreement makes clear that the parties retain the rights and remedies they had prior to the issuance of the Rule, and acknowledges that the law regarding temporary layoffs/staggered furloughs as it existed before the Rule continues to be in place. Thus, the agreement recognizes that a public employer has the same options today as it did before the Rule, which include permanent layoffs, temporary layoffs from closures of entire departments, and negotiated staggered layoffs.

Prior to the enactment of the Rule, staggered furloughs were not contemplated under the regulations and had been found to violate the civil service regulations and the Employer-Employee Relations Act when not negotiated with the bargaining representatives. In contrast, a department wide shut down on a specific day(s) has been found not to violate either the civil service regulations or the Employer-Employee Relations Act even prior to the adoption of the Rule.

Thus, the law regarding temporary layoffs as it existed before the Rule allows for a full department, like a Public Works or Recreation Department to close on a specific day, and that continues to be in place because public employers retain the rights and remedies they had prior to the adoption of the Rule. We understand only a small number of plans were submitted and approved under the Rule, and the League will be requesting the CSC keep these plans in place. The State's agreement with the CWA as well as other similar local settlements can also serve as a template for negotiating staggered furloughs. Accordingly, public employers' options absent the current CSC Rule include: **(1)** permanent layoffs; **(2)** temporary layoffs from closures of entire departments; and **(3)** negotiated staggered layoffs. Please consult with your counsel and your labor relations counsel regarding any layoff plans you have submitted for review or are considering for review or implementation.

For further information contact Deborah Kole at (609) 695-3481 ext. 137.

Very truly yours,

William G. Dressel, Jr.
Executive Director

LAST REMINDER!

RE: II. League/Site Remediation Brownfield Outreach Briefing – June 16th

Dear Mayor:

The New Jersey Department of Environmental Protection recently sent you a notice of an important roundtable on **Tuesday, June 16, 2009 from 1:00 to 5:30** in the ITC Conference Room at 300 Riverview Plaza, Trenton. There is no charge for the DEP Program and all municipal officials are invited. The purpose of the meeting is to update you on the **Site Remediation Reform Act**, legislation that amends existing laws to speed up the remediation process, thereby allowing contaminated properties to be redeveloped and placed back on local tax rolls much more quickly. The New Jersey State League of Municipalities supported this initiative.

New Jersey's long industrial history and high-density population have resulted in a legacy of contaminated sites that affects every municipality. On June 16, Assistant Commissioner Irene Kropp will explain how this new system will allow the DEP to make substantial progress in paring down the backlog of contaminated sites which is vital to stimulating economic development in our communities.

Funding to investigate, remediate and redevelop these contaminated sites is available through grant programs administered by the DEP and the New Jersey Economic Development Authority. DEP staff will provide information about how your municipality can benefit by these programs. Case studies will be presented showcasing how municipalities have used these funding sources to transform brownfield and landfill sites into retail, residential and open space.

DEP staff will also provide you with an update on the **latest landfill closure and recycling regulations**. A consultation period at the end of the meeting will provide you with an opportunity to meet individually with DEP personnel to discuss the topics that most interest you.

We are partners in protecting New Jersey's environment and the League strongly encourages you to attend this roundtable with your appropriate municipal officials. Please plan to attend and RSVP to lynette.lurig@dep.state.nj.us or call the DEP Office of Community Relations at (609) 984-3081 for more information.

Very truly yours,

William G. Dressel, Jr.
Executive Director

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