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## STATE HOUSE NEWS

*June 5, 2020*

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**STATE BORROWING PLAN**

On June 4th, the General Assembly passed by a vote of 51-28 **ASSEMBLY, NO. 4175** *(Pintor Marin D-29),* which would establish the "New Jersey COVID-19 Emergency Bond Act" to authorize the State to issue $5.0 billion in general obligation bonds and to apply for federal stimulus loans on behalf of certain local governing bodies. Although a companion version of the bill does not currently exist in the Senate, the Senate Budget and Appropriations Committee held a public hearing on the Administration's proposal on June 1st where the State Treasurer also outlined the projected $10.0 billion revenue shortfall the State is facing as a result of the COVID-19 public health crisis.

As noted above, and what is a very elementary summary of a complicated funding mechanism, this legislation would authorize the State to issue $5.0 billion in general obligation bonds. Additionally, the measure would permit the State Treasurer to borrow from the federal government, for the benefit of the State, and for the purpose of providing financial assistance to certain local governing bodies, in such amounts and on such terms, as determined by the federal government under the Municipal Liquidity Fund (MLF). In general, the Federal Reserve established the MLF to help states, counties with a population of at least 500,000 residents *(Bergen, Camden, Essex, Hudson, Middlesex, Monmouth, Ocean, Passaic and Union),* and cities with a population of at least 250,000 *(Newark)* residents, to manage cash flow during the COVID-19 public health crisis. Under A-4175, the State could borrow up to $9.0 billion from the MLF payable within 3 years to provide loans, in part, to counties and municipalities that do not meet the above population requirements or may otherwise have limited access capital markets.

Additionally, this legislation would permit the State to issue refunding bonds to refinance the $5.0 billion in general obligation bonds and MLF monies to pay off the initial obligations accordingly. Unless the Federal Reserve extends the program, the MLF will suspend purchasing eligible notes on December 31, 2020. Finally, the measure would authorize the State to issue bonds and borrow from the federal government under the State's Constitution to address the fiscal exigencies caused by the COVID-19 public health crisis and to preserve the fiscal integrity of the State.

NJAC has not yet taken a position on the proposal as we're still in the process of reviewing its potential and direct impact on county government, which may include cuts in funding for all county colleges, county vocational technical schools, and other county specific initiatives that may otherwise be subsidized, in part, by the State's issuing of general obligation bonds under the bill. NJAC is also taking into consideration the potential long-term ramifications this legislation may impose on taxpayers, other cost saving measures the State may implement to reduce the amount of borrowing necessary, and potential systemic changes to the way the State has long-governed itself with a multitude of unnecessary layers of costly government and bureaucracies.

**COVID-19 Relief Bonds**

The Senate Community and Urban Affairs Committee will likely consider at its meeting on June 11th **Senate, No. 2475** *(Singleton D-7/Gopal D-11),* which would allow counties and municipalities to borrow monies through the issuance of bonds and notes to cover unanticipated emergency expenses and revenue shortfalls directly attributable to the COVID-19 public health crisis. The General Assembly passed the companion version **Assembly, No. 3971** *(Benson D-14/Coughlin D-19*) on May 15th by a vote of 56-20-4. We'll make sure to provide a final summary of the measure as the Legislature will likely amend it before sending the final version to the Governor's Desks for his signature. NJAC supports this legislation as it would provide a valuable mechanism to help navigate the unprecedented budget challenges all local governing bodies will undoubtedly face because of the COVID-19 public health crisis.

**Prisoner Reentry**

Thank you to Governor Murphy for hearing our concerns and conditionally vetoing **Senate, No. 2331** *(Sweeney D-3/Cunningham D-31)(Pintor Marin D-29/Quijano D-20)* to remove county jails from its requirements. In general, this legislation would help inmates obtain certain reentry benefits upon release from prison.

Although NJAC and our friends at the New Jersey County Jail Wardens Association (NJCJWA) and County Welfare Directors Association of New Jersey (CWDANJ) remain committed to helping inmates navigate treatment and other vital services upon release from incarceration, this legislation as introduced would have proved very costly and been impractical for county jails to implement. In fact, our collective organizations have drafted proposed legislation that would authorize each county to establish a county reentry coordinator, who would be responsible for navigating treatment and services to inmates in a county jail who have been sentenced to a term of incarceration or are ordered detained pending trial following a pretrial detention hearing.

As NJAC and NJCJWA have worked together on several prison reform bills over the years, we've found it important to understand the distinction between State prisons and county jails. In general, State prisons house inmates convicted of crimes following a trial, while approximately 85% - 90% of the statewide county jail population is comprised of inmates awaiting trial or their first appearance after being issued a warrant for their arrest. County jails process and house an estimated 10,000 to 12,000 inmates on any given day with an average length of stay between 5 – 15 days depending on the county. Additionally, between 25% - 40% of the above noted county jail population is now compromised of defendants awaiting their first appearance, which is a hearing held between 24-48 hours of a defendant being taken into custody at a county jail. At this hearing, the court determines to either release the defendant with certain pretrial conditions or detain the defendant pending trial. Under Criminal Justice Reform, most defendants fall into the latter category and are released from a county jail within 48 hours after confinement. The Legislature may either concur with the Governor's conditional veto or let the measure expire.

**PROPERTY TAX APPEALS**

On May 28th, Governor Murphy signed into law **ASSEMBLY, NO. 4157** *(Mukherji D-33/ Johnson, D-37)(Sarlo D-39/Cyran D-20)* as P.L. 2020, c.35, which extends the time for filing certain property tax appeals in 2020. In general, this new law extends the deadline to file an appeal for the assessment of real property to July 1, 2020. The measure also extends the deadline for county boards of taxation to render decisions in tax appeal cases to September 30, 2020. However, the new law does not apply to appeals filed with a county board of taxation on parcels of real property participating in the a the Property Tax Assessment Demonstration Program (Monmouth County), the Property Tax Assessment Reform Act (Gloucester County), or in a county that has adopted, by resolution, an alternative real property assessment calendar.

**ELECTRONIC CONSTRUCTION PROCUREMENT**

On May 28th, the Senate Community and Urban Affairs Committee favorably reported **SENATE, NO 2085** *(Sweeney D-3/Oroho R-24),* which would establish the "Electronic Construction Procurement Act. NJAC supports the measure as its permissive and could streamline the procurement process for public works construction projects.

In summary, this legislation would permit local governing bodies, county colleges, and school districts to use an electronic procurement process for public works construction contracts. The electronic construction procurement process to be used by those public entities would be the process developed by the Director of the Division of Local Government Services (DLGS) in the Department of Community Affairs (DCA) by regulations promulgated for the electronic procurement practices authorized in the Local Unit Electronic Procurement Act. Additionally, the bill would require State contracting units, including State colleges, to use an electronic procurement process for public works construction contracts when the project requires public advertisement. The bill would require the State Treasurer to promulgate regulations to effectuate this public works construction electronic procurement requirement. The regulations would set forth each of the steps the State Treasurer deems appropriate to be taken by each State contracting unit for contracts that meet those criteria. The regulations also would set forth a procedure to be followed for the awarding of a contract for the administration of the electronic procurement process. S-2085 is on Second Reading in the Senate; and, the companion version **ASSEMBLY, NO. 3785** *(Greenwald D-6/Mazzeo D-2)* is currently in Assembly State and Local Government Committee awaiting consideration.

**STRATEGIES FOR BALANCING THE BUDGET – NACO COUNTY NEWS**
*Mike Mucha, Deputy Executive Director, Government Finance Officers Association*

As county governments begin to address large revenue shortfalls and significant gaps in their budgets, commissioners, executives, finance and budget staff and leaders from across every department in your organization will need to work together to consider both the short and long-term implications of budget reduction strategies.

GFOA has developed a 12-step guide to financial recovery as part of our overall fiscal first aid resources (available online at www.gfoa.org/ffa). These resources recognize the various stages of financial distress and highlight potential treatments that county governments can take. However, these treatments are not without risk. In solving the immediate budget crisis, leaders must make sure they also don't jeopardize their long-term financial stability or hurt the prospects for financial recovery.

In early March, when the pandemic first caused shutdown orders and forced many to work from home, governments had to take short-term action to reduce spending, manage cash flow and identify how to maintain critical operations. As the economy starts to re-open, and as governments begin to grasp both the depth and longevity of this financial crisis, more severe budget-balancing strategies will be necessary.

Not every government will be in the same situation, however. With county governments getting revenue from a mixture of different sources and with the different level of impact that COVID-19 has had on different locations, the required severity of budget treatments will differ. This article highlights several common fiscal first aid treatments and the risks to consider for each. Treatments are categorized by type but are presented in no particular order. GFOA also understands that every local government may have unique risk factors or situations in your community to address so there is no one-size-fits-all approach to budget balancing.

PERSONNEL COSTS**:** For many governments, personnel costs can make up 70 percent or more of total expenses, so any discussion about closing a large budget shortfall must include salary cost savings. Governments, however, can use different strategies such as freezing vacant positions, better managing overtime or address health care costs before considering more severe measures like wage freezes, hiring freezes, reduction in hours or ultimately layoffs. *Caution:* With riskier approaches (furloughs, hiring freeze or wage freeze), governments risk driving away their more talented staff. The broad nature of these programs often results in productivity losses greater than cost savings, large drop in employee morale and tendency for staff to begin sacrificing organizational goals for personal or department gains.

PURCHASING PRACTICES: Vendors and suppliers present another opportunity for savings. Governments can use this opportunity to renegotiate or rebid contracts, audit routine purchases, or eliminate non-essential contracts. However, the largest improvement that governments can make with purchasing practice is to strictly adhere to policy.

Many governments have purchasing policies that require use of purchase orders, competitive bids or board approval. By routing all transactions through a purchasing process, spending can be tracked and staff can receive timely information to monitor the current budget situation. In times of financial crisis, it is essential that managers have current and accurate information for budget monitoring. *Caution:* Purchasing policies that require approvals should not overburden transactions with unnecessary approvals. Managers must be allowed to manage and putting unreasonable approval processes in place for all transactions will only increase the costs of operations.

ASSET MANAGEMENT: Capital projects and large asset or equipment purchases (including software) can present opportunities for savings and are likely very visible examples of current spending. Strategies like extending the useful life of assets, deferring maintenance or postponing projects can provide savings opportunities. Caution: In the short term, these strategies can provide relief, but as a long-term option, they present significant risks. Extending asset beyond its useful life or deferring maintenance can lead to higher long-term costs or drop in service level from non-functioning equipment. In addition, delayed projects may also delay opportunities for efficiency gains (for example from software modernization efforts).

SHARING RESOURCES: Governments have a tendency to operate as a collection of siloed departments. Significant saving opportunities can come from sharing more resources and greater collaboration. For example, unused equipment can be transferred to another department, inventory can be jointly managed or staff can transition to assist with peak work periods. In addition, governments may find opportunities to partner with other governments, non-profits or private organizations. For example, governments can work to borrow large equipment from neighboring jurisdictions rather than purchasing the asset or pursue managed competition opportunities for common services. *Caution:* Turning over control to another entity or becoming dependent on another organization to provide services adds risk for service delivery. Governments should make sure to work on proper service level agreements or MOUs when sharing resources.

REVENUE ENHANCEMENT: For most counties, the primary cause of the financial crisis will be loss of revenue, not out of control expenses. While actions geared to increasing revenue may be more difficult, options do exist. Governments can work to ensure any federal or state aid that they are eligible for is claimed. Often, these programs have complex requirements and limits. Understanding these rules is important for compliance. Governments may also have opportunities to explore new options for increasing fee revenue or examine and improve existing billing and collection procedures. *Caution:* More aggressive bill collection policies should be evaluated with larger community goals in mind. The collection methods used in the private sector may not treat constituents in a way that reflects well on government, especially during an economic downturn when many people are vulnerable**.**

To help in selecting budget treatment options, GFOA has developed a scoresheet that can be used to evaluate different options http://www.gfoa.org/ffa-evaluation-criteria-checklist. However, some strategies should be avoided or explored with extreme caution due to the potential for more damaging long-term effects.

STRATEGIES TO AVOID: The following budgeting gimmicks should be avoided and can cause long-term consequences for your government that make financial recovery that much more difficult.

- *Dismantling internal controls*: The risk of fraudulent activity generally increases during financial crisis. While some efficiencies may be possible by reducing basic internal controls, it is not worth the financial risk.

- *Underfunding liabilities:* Failing to maintain payments for pension contributions and other future liabilities has long-term consequences. Not only does it add those costs to a future period, the government loses out on investment income, and often creates additional challenges for bond ratings and public perception.

- *Defaulting on debt payments:* In addition to violating your contract with investors, failing to pay creditors would make it all but impossible to borrow in the future.

- *Early retirement programs:* Early retirement incentives seem like a straightforward way to reduce more senior and higher paid employees. In

- reality, realizing savings is complicated and difficult. Governments must find ways to replace staff and deal with large loss in knowledge. At the same time, retiree costs are shifted to the pension system adding additional costs to the government.

- *Pension obligation bonds:* Pension obligation bonds are complex financing instruments that involve converting pension liabilities to debt where proceeds are invested at a rate (ideally) above the rate on the bonds. However, if investment proceeds fail to cover the cost of the bonds, not only does government still have cost of pension liabilities, but now also has additional debt to repay. To be effective, this strategy requires almost perfect timing of the market. When not done correctly, this has led to some of the more well-known government bankruptcies over the past 15 years.

For more information or additional resources to assist please visit GFOA's resource centers for fiscal first aid at www.gfoa.org/ffa and COVID-19 response issues at www.gfoa.org/covid19. This article has been adopted from GFOA's two recently released "Balancing the Budget" research papers research papers available at www.gfoa.org/ffa. For questions, please contact research@gfoa.org.

**STATE HOUSE TRIVIA:** Did you know that on this date in 1956, Elvis Presley introduced his new single, Hound Dog, on The Milton Berle Show?

*"The quickest way to double your money is to fold it over and put it back In your pocket." Will Rogers*