

STATE HOUSE NEWS FOR FINANCE OFFICERS

June 8, 2018

UTILITY CONNECTION FEES

On June 7th, the Senate passed by a vote of 34 – 0 **SENATE, No. 1247** (*Rice D-28/Kean R-21*), which would authorize additional connection fees for certain utilities operated by local governments and would establish certain credits and reductions for these fees.

In summary, the bill would allow sewerage authorities, municipal authorities, and local units operating a county or municipal sewerage facility or water supply facility to impose new connection fees for an addition, alteration, or change in use to certain connected properties that materially increases the level of use and imposes a greater demand on the utility system, but does not involve a new physical connection of the property to the system. I'm out of breath from that sentence. This additional fee would be equal to the amount by which the increased use and demand on the utility system exceeds the use and demand that existed prior to the addition, alteration, or change in use. The additional fee would not take the place of fees for any new or additional connections.

The bill would also require utilities to apply credits to connection fees charged for a reconnection of certain disconnected properties that were previously connected to the utility system. If the reconnection does not require any new physical connection or does not increase the nature or size of the service or the number of services units or does not expand the use of the utility system, the credit would be equal to the amount of the new connection fee. If the reconnection requires any of the foregoing, the credit is equal to the amount of any connection fee previously paid for the property. If no connection fee was ever paid for the property, but all service charges due and owing on the property have been paid for at least 20 years, the credit is equal to the amount of the new connection fee. However, if no connection fee was ever paid for certain disconnected properties, a connection fee is to be charged in addition to any amount due and owing after application of a credit. The bill would provide for this fee to be equal to the lesser of: (1) 20 percent of the service charges that would have been paid based upon the usage for the last full year that the property was connected to the utility system for the period from the date of the disconnection from the utility system to the date of the new connection; or (2) the new connection fee. The companion version of the bill in the General Assembly, **ASSEMBLY, No. 2779** (*Greenwald D-6*) is currently in the Assembly State and Local Government Committee awaiting consideration.

PROPERTY TAX EXEMPTION ANALYSIS

On June 11th, the Senate Budget and Appropriations Committee will consider **SENATE, No. 1701** (*Singleton D-7/Sweeney D-3*), which would require an application for a long-term property tax exemption to include a cost-benefit analysis and for the mayor or other chief executive officer of the municipality to produce an independent cost-benefit analysis to be submitted along with the application to the municipal governing body before it can decide on the exemption. The bill would also require a municipal governing body to include in its resolution approving or disapproving of a project for which a long-term tax exemption is sought specific findings about the net impact of the project on the finances of the affected local governments, including the municipality, county, and school district.

This bill would require that municipalities consider and evaluate whether an investment in a redevelopment project through the grant of a long term property tax exemption will generate satisfactory revenue returns to the municipality, as well as the financial impacts to counties, school districts, and other local governments, and would allow the public to do the same by making the required cost-benefit analyses and findings part of the public record. Under the bill, the cost-benefit analyses and financial impact findings required for grants of long term property tax exemptions would have to be posted on the Internet website of the granting municipality. If the municipality does not have a website, the Department of Community Affairs (DCA) would be required to make this information available on its website.

The bill would also require municipalities that grant new long-term property tax exemptions to provide pertinent information about each approved project to DCA, which would post that information, along with existing long term property tax exemption information retrieved from plain language budget summaries submitted to DCA, in a database, sorted by municipality, on its Internet website. The companion version **ASSEMBLY, No. 345** (*Murphy D-7*) is currently in the Assembly State and Local Government Committee awaiting consideration.

PROMPT PAYMENTS

On June 7th, the General Assembly passed by a vote of 73 – 0 **ASSEMBLY, No. 3808** (*Greenwald D-6/Bramnick R-12*), which would amend the “New Jersey Prompt Payment Act” to require State agencies that are delinquent in making payments to a business concern that provide goods or services. In summary, the measure would require State agencies, local governing bodies, and school districts to make penalty payments to such business concerns after 45 days following the required payment date instead of after 60 as is the case under current law. The penalty would consist of interest on the late payment at a rate established by the State Treasurer, and of which must be paid to the business concern for the period beginning on the day after the required payment date and ending on the date on which the check for payment is

drawn. Interest may be paid by separate payment to a business concern but must be paid within 30 days of the late payment. The measure would allow public entities to waive certain interest payments for delinquencies due to circumstances beyond an entity's control, including but not limited to lightning strikes or natural disasters. The companion version of the bill in the **SENATE, No. 3808** (*Singleton D-7/Oroho R-24*) is on Second Reading in the Senate.

SOLAR ENERGY GENERATION FACILITIES

Also on June 7th, the Senate passed by a vote of 37 – 0 **SENATE, No. 601** (*Smith D-17/Greenstein D-14*), which would require the owner of solar and photovoltaic energy generation facilities and structures to remove and recycle the facility and structures and any related equipment or infrastructure after the termination of their use. The measure would require the Department of Environmental Protection (DEP) to adopt regulations that establish standards for the removal and recycling of solar and photovoltaic energy generation facilities and structures. The bill would also impose civil penalties up to \$1000.00 on any person in violation of the measure and any rules or regulations adopted accordingly. The companion version of this legislation in the General Assembly Assembly, No 4011 (*Pinkin D-18*) is currently in the Assembly Environment and Solid Waste Committee awaiting consideration

TAX APPEAL REFUNDS

On June 7th, the General Assembly passed by a vote of 50 - 22 **ASSEMBLY, No. 2004** (*Karabinchak D-18/Mazzeo D-2*), which extends the period of time in which municipalities are required to refund the excess collection of nonresidential property taxes following a successful tax appeal to within three years of the date of final judgment. The measure would require a municipality to refund these excess property tax collections in substantially equal payment periods and in substantially equal payment amounts. The legislation would maintain the current statutory time-period of 60 days in which municipalities are required to refund the excess taxes paid on residential properties following a successful tax appeal. The Senate has yet to introduce a companion version of this legislation.

SWEENEY BILL WOULD ALTER THE WAY NEW JERSEY DISTRIBUTES SCHOOLS

Ryan Hutchins & Linh Tat, Politico, May 31, 2018

State legislative leaders are moving forward with a bill that would dramatically change the way New Jersey distributes state aid to local school districts. State Senate President Steve Sweeney introduced a bill, NJ S2, on Thursday that would phase out adjustment aid — the so-called hold harmless provision that has allowed some districts to receive more aid than others — and eliminate growth caps so districts with growing enrollments can receive more funding. The changes would shift \$68 million from districts the state Senate president considers overfunded to some of the most underfunded ones and ensure every

district receives at least 58 percent of the funding they should receive from the state. Currently, some districts are funded at 20 percent or 45 percent, he said. The bill, Sweeney said, “gives the districts that have lost children the chance to shrink in attrition and right size. ... It gives us the chance to end the unfairness that’s going on.”

Assembly Speaker Craig Coughlin is on board with the changes and plans to advance the legislation soon, according to an Assembly source who was not authorized to discuss the issue publicly. The growth cap would be eliminated immediately while the adjustment aid would be phased out over seven years. Sweeney, who until now had been seeking a five-year phase-out, attributed the change to compromising with the Assembly. “This is not as quickly as I would like it to be, but in negotiation between houses ... we ramp it up, with, I think, minor impact, if any, at all,” Sweeney said. The state Senate president said he hopes to have the bill clear the Legislature by next week.

Governor Phil Murphy said during Thursday afternoon’s “Ask Governor Murphy” radio broadcast on WKXW-FM that he had not seen the legislation but that recent budget talks with legislative leaders have yielded “very good progress.” Asked by host Eric Scott if the preliminary aid figures given to school districts in March would be revised, with some districts losing funding, Murphy said, “it’s going to be an equitable distribution.” In a statement later Thursday, Dan Bryan, a spokesman for Murphy, said the governor is committed to fixing the inequities in New Jersey’s school funding, “the most notable among them being the systematic underfunding of the school funding formula over the past eight years.” “But let’s be clear: In order to fix the inequities in our school funding system, we need the revenues proposed in Governor Murphy’s FY19 budget,” Bryan stated. “The Governor and his team have been working with the Senate President and Assembly Speaker on modernizing the [school funding formula] and he looks forward to reaching an agreement soon that works for all New Jersey students and families.”

Sweeney’s legislation arrives about four weeks before the state budget deadline and as Murphy and lawmakers remain in a dispute over the need to raise taxes. Sweeney and Coughlin are both resisting the governor’s call for higher taxes on millionaires and a restoration of the 7 percent sales tax. An agreement on school funding, which Sweeney has made his top priority, could be seen as a positive sign in the progress. The governor himself has publicly expressed optimism about reaching a budget deal by the June 30 deadline, saying he and lawmakers are in the sixth inning of the game. But Sweeney, who has clashed with Murphy since the fellow Democrat took office in January, thinks otherwise. He has been playing a tough negotiating game behind closed doors, even withholding support for an accounting maneuver that may be necessary for keeping the state’s general fund from running out of cash. He told reporters at the Statehouse there’s still a lot of game left to play before reaching an agreement. “We’re not in the sixth inning,” Sweeney said. “I’ve done budgets. This is my ninth budget. So I know better than anybody right now. We’re not in the sixth inning.” The school aid changes envisioned by

Sweeney's new legislation could also factor directly into the budget talks. Districts across the state have already set their budgets for the next school year and could be hit with large revenue gaps. That could require the state to make additional aid available to avoid a financial crisis for some districts.

Enrollment growth caps, which have limited the flow of new aid to districts even as the number of pupils has grown, would go away in the 2019-2020 school year. Adjustment aid would be phased out over seven years, starting in 2018-19. The current growth caps are set at 10 percent for districts spending above their adequacy threshold and 20 percent for districts spending below it. Adequacy threshold refers to the amount of money a school system should spend to ensure every child receives a "thorough and efficient" education. Adjustment aid was applied to some districts when the state adopted its current funding formula in 2008. The money was given to districts to shield them from a sudden sharp decline in state aid because of the change in the formula.

The aid was supposed to be phased out over time, but that never occurred. As a result, some districts continue to receive money from this fund, though they're receiving more than their share of state aid. The Sweeney bill would reduce that aid and "other overfunded categories of state aid" by 5 percent this year, 8 percent next year then 10 percent, 14 percent, 18 percent, 21 percent and 24 percent in the following years. The former Abbott districts — typically the large, urban districts — would be allowed "cap relief" for seven years so they can raise more local taxes to make up the anticipated loss in adjustment aid. A spokesman for the state's largest teachers union said the association was reviewing the latest proposal. The New Jersey Education Association has previously opposed any changes that would result in funding losses for districts. David Sciarra, executive director of the Education Law Center, which has represented former Abbott districts, said in a statement the group "adamantly" opposes any changes that would cut resources necessary for students to receive a "thorough and efficient" education.

"By slashing state aid over the next seven years, Senator Sweeney's proposal would do just that, impacting school children across the state," he stated, adding that the only recourse appears to be increasing local taxes significantly. "Before even considering this proposal, legislators must demand to know which schools will lose state aid and be unable to deliver the education their children are constitutionally entitled to receive." Sweeney's bill would also create a new category of hold-harmless aid for career-technical schools, called the "vocational expansion stabilization aid." This funding would ensure that such schools get no less than the amount they received in 2017-18, or more if the formula calls for giving them more in a given year. This exception recognizes the fact that vocational schools rely largely on the county for their aid and cannot raise taxes on their own.

PHIL MURPHY ORDERS STATE AGENCIES TO PREPARE FOR GOVERNMENT SHUTDOWN

Matt Arco & Brent Johnson, NJ Advance Media, June 1, 2018

Governor Phil Murphy's administration put New Jersey's state agencies on notice Friday that they should prepare for another state government shutdown if a state budget isn't signed by the June 30 deadline. The letter to Murphy's cabinet members, obtained by NJ Advance Media, asked them to update contingency plans for their departments.

It was sent shortly after top staffers in the state Senate and Assembly met with Murphy's senior staff Friday morning amid ongoing negotiations about Murphy's first state budget proposal -- which so far have been fraught. The meeting was tense and unproductive, according to six sources with knowledge of the event who would speak only on the condition of anonymity. One source described it as "ugly." Shortly thereafter, Murphy's chief counsel, Matthew Platkin, ordered state agencies to submit their shutdown contingency plans to the governor by noon on June 11.

It would be the second straight year that New Jersey's government shut down over July 4th weekend because of a dispute at the budget deadline. Friday's meeting came a day after state Senate President Stephen Sweeney -- New Jersey's second-most powerful elected official -- introduced a plan to revamp the state's school funding and said he was willing to risk another shutdown to get it done. Sweeney, D-Gloucester, is also angry about a pro-Murphy ad that an independent group with ties to the governor is preparing to air. A script for the TV spot has Murphy on camera touting the accomplishments of the first five months of his administration. But Sweeney views it as putting pressure on lawmakers to agree with the governor's \$37.4 billion budget plan -- which includes \$1.5 billion in tax hikes -- when the negotiations should happen in private. Murphy downplayed the ad during an unrelated event in Woodbridge on Friday morning. "Frankly, the script looks so divisive, I wouldn't be surprised if the Russians were involved," Murphy quipped.

But Sweeney isn't laughing. He says Murphy, along with state Assembly Speaker Craig Coughlin, D-Middlesex, should be discussing the budget with each other -- not over the airwaves. "If you read the ad, it's basically saying we need to do all the things he's asking for in the budget and we need revenues," Sweeney told NJ Advance Media in a phone interview Friday. "Pretty simple. That's the stuff we should be negotiating." One source said the situation between Murphy and Sweeney -- who have had a rocky relationship thus far -- is currently "as bad as it gets." Another source said it appeared Murphy's team was manufacturing political drama with Friday's meeting. The sit-down ended shortly after Platkin, Murphy's counsel, and Kevin Drennan, the executive director of the state Senate and a top Sweeney aide, exchanged words about Sweeney's school funding plan, according to two sources. Platkin abruptly left the room out of anger, the sources said. Hours later, he released the memo warning of a shutdown. Drennan confirmed he was in the meeting but said "the characterizations that have been reported are inaccurate and overblown. I don't believe it is appropriate to be talking publicly about

what transpired in private discussions," Drennan added in a statement. "Our goal is to get things done, not to create distractions."

The drama comes a year after a budget dispute between then-Gov. Chris Christie, a Republican, and leaders of the Democrat-controlled state Legislature shut down the state government for three days. State parks, beaches and agencies were shuttered over July 4th weekend. And NJ Advance Media captured widely circulated photographs of Christie lounging on the sand outside the governor's summer house at one of the closed state beaches. Now, Murphy, a Democrat, is in charge. But legislative leaders from his own party disagree with his first state budget proposal. They have pushed back against Murphy's plans for a new tax on millionaires and reverting the state sales tax from 6.625 percent back to 7 percent to increase funding for education, transportation and more. Legislative leaders are considering crafting their own budget with no millionaires' tax or sales tax increase to send to Murphy, according to multiple sources. It would include Sweeney's school funding plan, legislative add-ons that Murphy nixed and additional money for homestead rebates.

If Murphy and the Legislature don't agree to a budget by June 30 -- the end of the fiscal year -- that will trigger another shutdown. And the way it stands now, state parks and beaches would be closed again. A bill being considered in the Legislature to keep them open amid another shutdown has not passed yet and it's unclear if it will by the end of the month. The bill, introduced last year, would require those sites to remain open for seven days in the event of a shutdown.