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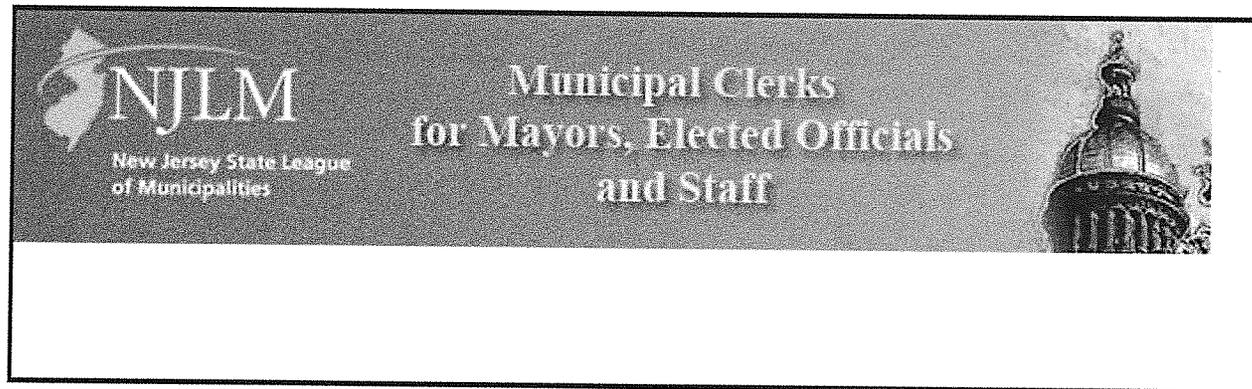
Masser, Michelle

From: Lashway, Lisa
Sent: Wednesday, February 27, 2013 1:52 PM
To: Canning, Sean; Masser, Michelle
Subject: FW: I. Corrected Copy-Appellae Court Decision in Keyport v. IUOE Local 68 II. Governor Intruduces State FY 2014 Budget III. Lt. Governor Guadagno Offers Econ. Dev. Tools

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From: NJLM to Municipal Officials [mailto:njlm-clerks@cityconnections.com]
Sent: Wednesday, February 27, 2013 1:50 PM
To: Lashway, Lisa
Subject: I. Corrected Copy-Appellae Court Decision in Keyport v. IUOE Local 68 II. Governor Intruduces State FY 2014 Budget III. Lt. Governor Guadagno Offers Econ. Dev. Tools

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February 27, 2013

Re: I. Appellate Court decision in Keyport v. IUOE Local 68, Belmar v. CWA AFL-CIO, Mount Laurel v. CWA and AFSCME Council 71

Dear Mayor:

Today, the Appellate Division released its decision in an important case that concerns local government employment and labor issues.

On May 20, 2009, Keyport submitted a temporary layoff plan with the CSC. The layoff plan converted three full time clerical positions to part time. The three now part time employees also lost their health insurance. Local 68 filed an unfair labor practice charge with PERC. PERC found in favor of the union, stating that work hours are mandatorily negotiable, and ordered Keyport to commence negotiations with Local 68 over the work week reductions and health insurance.

On August 3, 2009, Belmar submitted a temporary layoff plan to the Civil Service Commission (CSC) for approval. The plan required all employees of the Department of Public Works (DPW) to take ten involuntary furlough days between October 6 and December 15, 2009. The CSC approved the plan. The CWA, which represents the DPW, filed an unfair labor practice charge with the Public Employment Relations Commission (PERC). PERC found for the union, stating that the matters in dispute were negotiable, and deferred the outcome to binding arbitration.

On August 26, 2009, Mount Laurel submitted a temporary layoff plan to the CSC. The plan would require all employees except police and emergency medical personnel to take eight involuntary furlough days between November 2009 and June 2010. The CSC approved the plan. AFSCME filed a motion for summary judgment with PERC alleging that the reduction in work week hours was mandatorily negotiable. PERC once again found in favor in the union, and deferred the outcome to binding arbitration.

All three towns appealed PERC's decisions. Keyport was represented by Gordon Litwin, Esq., Belmar by Jonathan Cohen, Esq., and Mt. Laurel by Kelly Adler, Esq. The League participated as amicus curiae and was represented by Staff Attorney Matthew Weng, Esq. The towns and the League focused on the fact that the CSC passed an emergency rule that permitted public employers to institute temporary and/or demotional layoffs for reasons of economy and efficiency. Although this rule has since been repealed, it was in force when all three towns implemented their layoff plans.

In analyzing the case, the Court looked to a three pronged test to determine whether an issue is mandatorily negotiable: (1) the item intimately and directly affects the work and welfare of public employees; (2) the subject has not been fully or partially preempted by statute or regulation; and (3) a negotiated agreement would not significantly interfere with the determination of governmental policy.

Although the Court found that the unions satisfied the first prong, they failed to satisfy both the second and third prongs. The emergency rule clearly preempted the subject of negotiation, and the ability to lay off employees, even temporarily or through demotion, is a non-negotiable policy determination. The decisions of PERC were overturned and the furloughs and demotions allowed to proceed. The Court agreed with PERC, however, on the issue of health benefits in Keyport and required that issue proceed to arbitration.

You can find a copy of the Appellate Court's decision
<http://www.njslom.org/documents/2013-Keyport-Court-Decision.pdf>

We urge you to discuss the outcome with your municipal attorney and labor counsel. If you have any questions or require further information, please contact Staff Attorney Matthew Weng at 609-695-3481 ext 137 or at mweng@njslom.com.

Very truly yours,

William G. Dressel, Jr.

Executive Director

CORRECTED COPY

RE: II. Governor Introduces State FY 2014 Budget

Dear Mayor:

Today in Trenton, Governor Christie presented his annual budget address to a joint session of the Legislature. You can access a copy of the speech at <http://nj.gov/governor/news/addresses/2010s/approved/20130226.html>

Over the next four months, the Legislature will review the proposed budget; then draft and pass an Appropriations Act that will govern State spending for the State's next Fiscal Year, beginning on July 1.

The Governor's proposed budget includes \$32.9 billion in State spending. In his speech, the Governor noted that he has again proposed a balanced budget with no tax increases. The budget will also meet the State's mandated pension obligations.

The proposal includes a \$40 million "Sandy Contingency Fund" to fund liabilities not covered by insurance or Federal funding for families, businesses and local governments effected by Superstorm Sandy. The proposal, also, would increase school aid by \$97 million, to bring total school aid to almost \$9 billion.

In his speech, the Governor recounted the State's contributions to property tax relief, including pension and benefit reform, arbitration reform and the levy cap. He, further, indicated his support for applying the 2% cap to user fees, eliminating IMPEDIMENTS to shared services and eliminating unused accumulated sick leave retirement pay-outs.

We understand that the Division of Local Government Services will post certified municipal property tax relief figures on its website tomorrow.

Earlier today, we were informed by Division of Community Affairs' Commissioner Richard Constable that combined Energy Tax and CMPTRA funding for each municipality will remain stable.

Over the next few days, we will conduct a more detailed review of the Governor's proposal. Expect further updates. If you have any questions, contact Jon Moran at 609-695-3481, ext. 121 or jmoran@njslom.com

Very truly yours,

William G. Dressel, Jr.
Executive Director

RE: III. Lt. Governor Guadagno Offers Economic Development Tools

Dear Mayor:

Do you want to learn about state resources and financial tools and incentives available to support and attract business to your municipality?

At my request, Lieutenant Governor Kim Guadagno has agreed to kick-off a business event followed by a panel which she has assembled of representatives from the New Jersey Business Action Center, the Economic Development Authority, the Department of Community Affairs, the Treasurer's Office, the State Library, the Board of Public Utilities and the Small Business Development Center. **THESE STATE REPRESENTATIVES WILL PROVIDE INFORMATION ON SPECIFIC PROGRAMS AND FUNDING AVAILABLE TO SUPPORT AND GROW BUSINESS IN OUR MUNICIPALITIES.** After their presentation, these experts also will be available for one-on-one discussions at this meeting.

This program will take place in East Windsor Township, just off Exit 8 of the New Jersey Turnpike at:

4:00 pm to 6:00 pm

Tuesday, March 5, 2013
East Windsor Senior Center
40 Lanning Boulevard
East Windsor Township

REGISTRATION IS FREE, BUT IT IS REQUIRED. Contact Becky Wright at bwright@njslom.com or 609-695-3481, ext. 110, to confirm your participation. I encourage your municipality to be there to take advantage of the worthwhile information which will be shared at this meeting.

Very truly yours,

Janice S. Mironov, President,
New Jersey State League of Municipalities,
Mayor, East Windsor Township

*If you would like to be removed from receiving faxed advisories please contact Shirley Cade at scade@njslom.com or 609-695-3481 ext. 114 with the name of your municipality and fax number. Thank you.

Please be advised that the information you receive is not legal advice. You must consult your town attorney to make sure that any of the material you receive is in accordance with current state law and your particular facts and situation.

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New Jersey League of Municipalities

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609-695-3481

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