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July 25, 2011

**Re: Division of Local Government Services' Guidance on the Pensions and Health Benefits Reforms**

Dear Mayor:

The Division of Local Government Services has issued Local Finance Notice 2011-20, which provides guidance on the new pensions and health benefits reforms. The Local Finance Notice can be found online after noon on Tuesday at [www.nj.gov/dca/lgs/lfns/11lfns/2011-20.doc](http://www.nj.gov/dca/lgs/lfns/11lfns/2011-20.doc).

The Division cautions that the Local Finance Notice should be construed as authoritative guidance, not formal legal advice. It is anticipated that there may be local circumstances that may require interpretation by the municipality's legal counsel in the event this or subsequent agency guidance is inconclusive.

In addition to the information posted on the Division of Pension's site, [www.nj.gov/treasury/pensions/reform-2011.shtml](http://www.nj.gov/treasury/pensions/reform-2011.shtml), the Division of Local Government Services has created a Health Benefits Reform site at [www.state.nj.us/dca/lgs/research/health/health.shtml](http://www.state.nj.us/dca/lgs/research/health/health.shtml).

Highlights of the Notice include:

- Base salary has been defined as the "pensionable" salary reported for pension purposes.
- Section 80 of the law allows employers time for practical and prospective implementation of increased employee contributions. When implemented after the effective date, June 28, 2011, there is no retroactive impact. This provision allows for administrative convenience and does not affect the effective date. Therefore, the Year 2 Phase in for employees not covered by a collective negotiations agreement is the pay period including July 1, 2012.
- Health benefits contribution calculation is the percentage of premium contribution (derived from salary and type of coverage tables from Section 39 of the law) multiplied by the total premium due for each employee and deducted from base salary. If the type of coverage or base salary changes during the year, the deduction would be changed at the same time, as appropriate.
- For municipalities that are self-insured the premiums should include all employer-borne health benefit related costs in order to adequately account for these costs on a per employer basis. These programs will need to calculate valid employee contribution models for each of the three coverage models (individual, employee plus, and family or equivalents). There are two approaches to this: establish rates (i.e., premium) by working with the health benefits professional who guides the plan, or using existing COBRA premiums. COBRA premiums are calculated pursuant to one of the two permitted models under Internal Revenue Code Section 4980B(f)(4). Existing COBRA rates should deduct the two percent administrative fee charged to separate employees who receive COBRA benefits. Local units using a self-insured program should consult with their third-party administrators or plan designers to develop an acceptable premium model.
- Employees hired on or after June 28, 2011 will be required to pay the full standard contribution (year 4), without regard to the phase in, unless their position is covered by a collective negotiations agreement in effect on that date. If the new employee is covered by an agreement that is in effect when hired, they are treated the same as employees who are already employed and covered by the collective negotiations agreement.
- If an employee in one bargaining unit changes to another bargaining unit the employee will immediately change to the provisions of the contract of the new bargaining unit.
- Existing contracts that are extended, altered, reopened, amended or otherwise adjusted are considered new agreements and would be subjected to immediate phase in.
- The law now requires local unit employers to provide their employees two Section 125 plan benefits: a "Premium Option Plan" (POP) and a Flexible Spending Account (FSA). These plans have long been offered to state employees as its "TaxSave" program.
- The law also permits local units to offer Dependent Care Flexible Spending Accounts for certain expenses used to care for dependents who live with the employee while the employee is at work. Page 8 of the Notice provides details on the Dependent Care Flexible Spending Accounts.

As a reminder, we have scheduled seminars throughout July and August on understanding and implementing the new reforms. While the July 27 and August 11 seminars have sold out, there is still limited seating for the Tuesday, August 16, 2011 seminar at the Crown Plaza Monroe (Jamesburg) from 8:30 a.m. to 12:00 p.m. Florence Sheppard, Acting Director of the Division of Pensions and Benefits and Marc Pfeiffer, Deputy Director of the Division of Local Government Services are the panelists.

To register for the seminar, visit [www.njslom.com/seminar-documents/2011-august-16-pensions.html](http://www.njslom.com/seminar-documents/2011-august-16-pensions.html). Complete the registration form and fax it with your voucher to (609) 695-0151. Questions about registering for the seminar, please contact Suzanne Delany [SDelany@njslom.com](mailto:SDelany@njslom.com) or 609-695-3481 ext 111.

If you have any questions or need additional information on the pension and health benefits reform please contact Lori Buckelew at [lbuckelew@njslom.com](mailto:lbuckelew@njslom.com) or 609-695-3481 x112.

Very truly yours,

William G. Dressel, Jr.

Executive Director

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