

As a part of the Preti Flaherty Legislative Update sent yesterday to our clients, we provided highlights of the Governor's omnibus emergency legislation related to the outbreak of COVID-19. We felt it was important to provide a separate update today with more detailed information about LD 2167, An Act to Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency.

LD 2167 grants Governor Mills on a temporary basis additional powers during the duration of the current state of emergency. Those powers are broken down into twelve areas, as outlined below. Complete language of the law may be found at the following link: [LD 2167](#).

Education *(Part A: Effective until 30 days after the termination of the state of emergency)*

In consultation with the Education Commissioner, the Governor may waive the compulsory school attendance requirements (including the minimum number of school days) or allow for those attendance requirements to be met through alternative learning systems, such as remote access. The Governor may also continue to provide nutrition services to students of schools that are closed due to COVID-19.

Unemployment Insurance *(Part B)*

Certain unemployment insurance eligibility and benefit charging provisions have been revised under the Employment Security Law to protect public health during the state of emergency by allowing an individual who takes a temporary leave of absence due to COVID-19 to qualify for unemployment benefits. The normal waiting period has been waived, and benefits would not be charged against the employer.

Emergency Medical Services *(Part C)*

In order for the Maine Emergency Medical Services Board to respond quickly to emergencies, the Board may delegate functions and authority to the MEMS staff without rulemaking. This will allow for the Director of MEMS to undertake specific activities delegated by the Board. It also allows for the Medical Direction and Practices Board to use technologies such as videoconferencing to conduct its meetings, and to delegate its duties to statewide emergency medical services medical director and associate director, until December 31, 2020.

Municipal Budgets and Elections *(Part D: Effective March 1, 2020 to January 15, 2021)*

If an annual municipal budget meeting is delayed beyond the date the annual budget is typically submitted for approval due to COVID-19 health concerns, the prior year's budget may be established as the budget for the ensuing year until a final budget is approved. Additionally, if the municipal officers determine that property taxes must be committed in a timely manner to the collector, the municipal assessor(s) may commit property taxes on the basis of the budget deemed approved. A municipal treasurer may disburse money on the authority of a warrant that is seen and signed by individual municipal officers outside of a public meeting.

Municipal officers may postpone the date of a scheduled municipal secret ballot election when nomination papers have already been issued or filed by posting a public notice, which must be signed by a majority of board members and must contain detailed information about the election, at least 2 days prior to the date of the election. If ballots have been printed for the postponed election, the municipality may still use those ballots even with the inclusion of the incorrect election date. If absentee ballots have been issued and returned, the municipality is required to use the ballots printed for the originally scheduled election. The municipal clerk is required to safeguard and secure any absentee ballots already returned until the date of the rescheduled election. During the interim period between the originally scheduled election and rescheduled election, the clerk may continue to issue and accept absentee ballots and applications and allow voting in the presence of the clerk.

School Budget Meetings *(Part E: Effective March 1, 2020 to January 15, 2021)*

If due to the state of emergency the level of state subsidy for the 2020-2021 school year is not finalized before June 1, 2020 or if school board meetings are delayed, a school board may delay a school budget meeting otherwise required to be held before July 1, 2020 to a date on or after July 1, 2020. If a school board elects to delay a school budget meeting, the meeting must be held and the budget approved within 30 days of the date the Commissioner of Education notifies the school board of the amount allocated to the school administrative unit or following the end of the state of emergency.

Licenses and Registrations *(Part F)*

Any licenses and registrations (such as for motor vehicles, all-terrain vehicles, watercraft and dogs) issued by a municipality that expire during the state of emergency may be extended until 30 days after the end of the state of emergency. The registration and licensing fees that would have been

payable but for the extension are due within 30 days following the end of the state of emergency.

A municipality may grant, without conducting a hearing, a request for a renewal of a license to sell alcohol. This does not affect the ability of a municipality to deny a request for renewal for specified cause and is valid only during the state of emergency and the 30 days following the end of the state of emergency.

The Bureau of Motor Vehicles and the Department of Inland Fisheries and Wildlife must allow a Maine resident to renew the registration of a motor vehicle, trailer, all-terrain vehicle or watercraft, regardless of whether the municipality in which that resident resides participates in the online registration service for the duration of the state of emergency and 30 days following the end of the state of emergency.

FOAA *(Part G: Effective until 30 days after the state of emergency)*

During the state of emergency, the Freedom of Access Act may allow entities subject to that Act (not including the Legislature, a legislative committee or the legislative body of a county, municipality or other public entity) to conduct a public proceeding through telephonic, video, electronic or other similar means of communication as long as certain specified conditions are met, including notice of the means of holding the meeting, ensuring that members of the body can speak and be heard by the other members of the body and requiring that all votes are taken by roll call. The Legislature, a legislative committee or the Legislative Council may restrict attendance by the public to remote access by telephonic, video, electronic or other similar means.

Maine Emergency Management Act *(Part H: Effective until 30 days after the state of emergency unless otherwise noted)*

Under the Maine Emergency Management Act, the Governor may reasonably adjust time frames and deadlines imposed by law for state, county and municipal governments and other entities when such an adjustment is reasonably necessary to mitigate a substantial effect of the state of emergency. The Governor, in consultation with the PUC, may suspend the termination of residential electricity and water services during the period of the state of emergency and up to 60 days afterwards. The Governor may also modify or suspend the requirements for professional or occupational licensing or registration by any agency, board or commission if strict compliance with such requirements would in any way prevent, hinder or delay necessary action in dealing with the state of emergency.

Loan Guarantee Program (Part I)

The Loan Guarantee Program, administered by FAME, provides easier access to no-interest loans for Maine residents, including self-employed residents, who experience a reduction in income due to the state of emergency arising from COVID-19.

The program guarantees up to 10% of the loans eligible credit unions and financial institutions make to affected employees. Under the program, affected employees are eligible for up to 3 loans, each equal to their monthly after-tax pay, up to \$5,000, less unemployment benefits. Repayment is due starting 90 days after the end of the state of emergency and during the subsequent 6 months; during that period, interest may not be charged or accrue on the loan. Following the end of the 270 days, a credit union or financial institution that made a loan under the program, after a good faith effort to collect the principal amount of the loan, may apply to the authority for repayment of the uncollected amount of the loan in default. The authority is required to make reasonable efforts to recoup the amount of any payments made to credit unions and financial institutions from the employee who defaulted on the loan. The authority may not make any loans after December 31, 2020 and the program ends once all obligations for payment, repayment or discharge of the loans are satisfied.

Plastic, Paper and Single-Use Bags (Part J)

Starting April 22, 2020, retail establishments were required to charge at least 5 cents per recycled paper or reusable plastic bag used at point of sale; the implementation date has been delayed to January 15, 2021. The date on which the State occupies the whole field of regulation of single-use carry-out bags at retail establishments has been moved up from April 22, 2020 to March 17, 2020 but the voiding of municipal ordinance in conflict with state law has been delayed until January 15, 2021.

Physician and Health Care Facilities Reporting (Part K)

The Department of Health and Human Services may require a designated health care facility to report specific information to the department, such as the health care facility's emergency management plan and, on a daily basis, the number of beds available within that facility.

Whenever a physician knows or has reason to believe that a person whom the physician examines or cares for has a disease or condition designated as notifiable, that physician shall notify the department.

June 9, 2020 Elections *(Part L)*

Specifically for the June 9th elections, the Governor may take any reasonable administrative action she considers necessary to facilitate voting by all registered Maine voters in a manner that preserves and protects public health in response to COVID-19, including, but not limited to, issuance and receipt of absentee ballots for the June 9th elections.

Please do not hesitate to contact us with any questions.

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