ML STRATEGIES

COVID-19 Insights Week in Review — April 24, 2020

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Your team at ML Strategies continues to monitor **federal** and **state** legislative and regulatory responses to the public health and economic crisis. Each week, ML Strategies will provide updates from Massachusetts and Washington, DC to keep you informed and aware of relief opportunities and guidance for your businesses.

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FEDERAL UPDATE

Interim Stimulus Package Approved and Signed into Law

Following two weeks of negotiation, House and Senate leadership announced on Tuesday, April 21 that they had reached agreement on a $484 billion interim stimulus package – generally referred to as CARES

2.0 or COVID 3.5 – officially titled the Paycheck Protection Program Increase Act of 2020.

With the CARES Act's Small Business Administration (SBA) Paycheck Protection Program (PPP) having already exhausted the initial $350 billion allocated for small business loans, COVID 3.5 provides an additional $310 billion for the program. Of that amount, $60 billion is set aside for small lenders and community based financial institutions with $30 billion reserved for those with assets less than $10 billion and the remaining $30 billion reserved for institutions with assets between $10 billion and $50 billion.

COVID 3.5 also includes:

- $50 billion for the SBA Economic Injury Disaster Loan Program, allowing for approximately $300 billion in small business loans;
- $10 billion for the SBA Emergency Economic Injury Grant program;
- $75 billion in emergency funding for the health care system; and
- $25 billion for increased testing and contact tracing.

With most Senators in their home states this week, COVID 3.5 was approved by voice vote Tuesday evening and sent to the House of Representatives where it was approved on Thursday in a vote of 388-5 (with one member voting "present").President Trump signed the bill earlier today.

New House Oversight Committee for Pandemic Relief Efforts

Before voting to approve COVID 3.5, the House of Representatives also approved on a party-line vote the creation of a new Select Committee tasked with oversight of the Administration's implementation of the various pandemic relief measures. The committee, which will have subpoena authority, will operate under the House Committee on Oversight and will have 12 members. Speaker Pelosi (D-CA) will appoint 7 members, and intends to name Rep. Jim Clyburn (D-SC) as chairman, while House Minority Leader McCarthy (R-CA) will appoint 5 members.

Phase 4 Stimulus Negotiations Underway

With the interim stimulus now enacted, the debate will quickly turn to the next round of federal response to the pandemic. President Trump tweeted this week that "we will begin discussions on the next Legislative Initiative with fiscal relief to State/Local Governments for lost revenues from COVID 19, much needed Infrastructure Investments for Bridges, Tunnels, Broadband, Tax Incentives for Restaurants, Entertainment, Sports, and Payroll Tax Cuts to increase Economic Growth."

In a joint statement regarding COVID 3.5, Speaker Pelosi and Senate Minority Leader Schumer (D-NY) said that COVID 4 should be "transformative and far-reaching."

Senate Majority Leader McConnell (R-KY) is insisting that for the next stimulus to pass, the Senate must have returned to Washington for full consideration and debate.

Senators Raise Concerns Over CARES Act Municipal Liquidity Facility

Noting that under current requirements the Municipal Liquidity Facility created by the CARES Act would only directly benefit 15 counties and 10 cities across the nation, Senators Van Hollen (D-MD), Warren (D-MA), Schumer (D-NY), and Brown (D-OH) wrote to Federal Reserve Chairman Powell on April 17 to raise concerns about the "seemingly arbitrary city and county population thresholds used to determine eligibility" for the program. The Senators urged Chairman Powell to expand eligibility for the program, which allows the Fed to purchase up to $500 billion of debt from eligible entities.
Read the letter here…

Proposed State and Municipal Aid for Recovery and Transition (SMART) Fund

Senators Cassidy (R-LA) and Menendez (D-NJ) announced this week that when the Senate reconvenes, likely in May, they intend to introduce bipartisan legislation to create the State and Municipal Aid for Recovery and Transition (SMART) Fund. Providing an additional $500 billion in COVID-19 stabilization funds, the SMART Fund would build upon the existing $150 billion set aside in the CARES Act to help states and local governments. Specifically, the SMART Fund would deliver funding to state and local governments, U.S. territories and the District of Columbia in three equal tranches based upon a new formula that takes into consideration areas of the country with the greatest need:

- One-third to eligible entities based on population size to ensure they each receive additional federal resources to meet their growing needs (same formula used to disburse the $150 billion state

stabilization fund created in the CARES Act, but essentially doubles those available funds);
- One-third to eligible entities based upon the number of COVID-19 cases relative to the U.S. population to target the urgent public health challenge; and
- One-third to eligible entities based upon state revenue losses relative to pre-COVID-19 projections to target the urgent economic challenge.

Bipartisan Support for Expedited FDA Review of COVID-19 Vaccine

A bipartisan letter to U.S. Department of Health and Human Services Secretary Alex Azar and U.S. Food and Drug Administration Commissioner Stephen Hahn asks them to begin consideration of the conditions under which a COVID-19 vaccine might be approved and deployed more rapidly than under the usual process. The letter says the consideration "must rest on a rational analysis of the risk/benefit ratio, based on the best available science, and be free of political interference." The letter was led by Reps. Bill Foster (D-IL) and Donna Shalala (D-FL), who served as Secretary of Health and Human Services under President Clinton.
Read the letter here…

House and Senate Letters Call for Gaming Industry Access to Stimulus Programs

Members of the U.S. House of Representatives and U.S. Senate wrote to the leadership of the House Small Business Committee and the Senate Small Business & Entrepreneurship Committee this week urging that the gaming industry not be prohibited from accessing COVID-19 small business relief efforts such as the Paycheck Protection Program and Economic Injury Disaster Loan Program. According to a press release, "While small businesses in the gaming industry support more than 350,000 jobs in the United States, guidance released by the U.S. Small Business Administration and the U.S. Department of Treasury several weeks ago excluded any small business that derives more than one-third of their revenue from legal gaming activities from participation in PPP."
Access the House and Senate letters, along with background, here…

Democrats Support Inclusion of Cannabis Industry in Next Stimulus

Noting that the cannabis industry supports more than 240,000 workers in the United States, spanning 33 states and the District of Columbia, 10 Democratic senators wrote to Senate Majority Leader McConnell (R-KY) and Senate Minority Leader Schumer (D-NY) this week urging them to include in any future relief package provisions to "allow state-legal cannabis small businesses and the small businesses who work with this industry to access the critical SBA support they need during these challenging and unprecedented times."
Read the letter here…

President Issues Executive Order Suspending Immigration

President Trump issued an Executive Order (EO) "suspending entry of immigrants who present risk to the U.S. labor market during the economic recovery following the COVID-19 outbreak." Effective at 11:59 p.m. eastern daylight time on April 23, 2020, the EO is in place for 60 days. No later than 50 days after the effective date, the Secretary of Homeland Security, in consultation with the Secretary of State and Secretary of Labor, will recommend to the president whether to continue or modify the EO. Many groups are exempted from the EO, including:

- health care professionals;
- medical or other researchers performing work related to COVID-19;
- members of the U.S. armed services and their spouses and children;
- spouses and minor children of U.S. citizens;
- persons entering the U.S. for national security or law enforcement purposes; and
- EB-5 Immigrant Investor Program applicants.

Access the Executive Order here…

MASSACHUSETTS UPDATE

Baker Joining Regional Working Group to Reopen the Economy

Last week, Governor Baker joined a regional working group tasked with responsibly restarting the northeast economy. Massachusetts joins governors from New York, Connecticut, Pennsylvania, Rhode Island, New Jersey, and Delaware to discuss a collaborative way to get people back to work and restart the economy with people's health and safety as the top priorities. Concerns across the region surround reopening the economy and people returning to work too early, while the virus continues to tear through cities and towns across the nation. While governors and economists are eager to enter the recovery phase of this public health and economic crisis, returning to work and restarting the economy too early could result in a second wave of the virus or other grave consequences. The northeast regional working group aims to use the ideas and circumstances in each state to better inform the process of returning to post-COVID-19 normalcy.

On Tuesday, April 21, Gov. Baker announced plans to convene a Massachusetts-focused working group of public health experts, business leaders and academics to establish a framework for returning to "normal life" when it is deemed safe to do so. The White House issued guidance clearing the return to social and economic life after 14 days of decreased COVID-19 case totals. On Tuesday, Massachusetts reached 5 consecutive days, triggering the need to establish a process to reopen Massachusetts businesses and offices with clearly defined rules and regulations to monitor operations as the Commonwealth eases back to normal, pre-COVID-19 economic and social environments. However, on Wednesday COVID-19 cases surged to 1,745 new cases, restarting the 14 days of decreased cases clock.

On Thursday, April 23, Gov. Baker announced progress on the development of a Massachusetts-centric framework for returning to "normal life," as discussed earlier in the week. A group of health and life science experts and business leaders convened virtually to establish a phased approach framework to reopen the economy with specific conditions that would need to be met in order to do so. The working group considered questions such as how flat the curve would need to be to feel confident about reopening, what treatment would need to be available and how Massachusetts would secure it, which sectors would return to work first, how the Commonwealth could ramp up testing, what new workplace norms would look like post-COVID-19, how to increase tracing practices, how to reengage the unemployed back into the workforce, and when to reopen schools, childcare programs and transportation options. At the core of the recommended framework is the focus on the ability of business sectors to protect their workers to minimize the risk of a second wave of infections.

Massachusetts Schools to Remain Closed Until September/Extension of Non-Emergency Child Care Program Closures

On Tuesday, April 21, Gov. Baker announced Massachusetts public and private schools will remain closed for the duration of the school year. Baker first announced a temporary K-12 school closure order on March 15, with hopes of reopening classrooms on Monday, April 6. With data proving the COVID-19 virus continued to torment the Commonwealth and the nation, Gov. Baker extended the order through May 4. Then, with feedback from teachers, administrators, parents, school superintendents, and other stakeholders as May 4 neared, it became clear it would not be safe for students or teachers and faculty to return this school year. On Tuesday, Commissioner of Elementary and Secondary Education Jeffrey C. Riley announced his plan to issue guidance on next steps for school systems, parents and students. He plans to provide guidance on best practices for remote learning, mental health supports for students during the public health crisis, "essential standards" students must achieve to advance to the next grade, and a framework for reopening schools in September if circumstances permit.

Gov. Baker also announced on Tuesday that non-essential childcare programs will remain closed until June 29, with the understanding that once parents return to their workplaces, childcare is imperative to a successful transition.

Access COVID-19 Order No. 28 relative to school closures here.

Unemployment Insurance Eligibility Expansion

Self-employed workers, independent contractors, gig workers, freelance workers, and individuals laid off from religious institutions are now eligible for expanded unemployment insurance benefits through Pandemic Unemployment Assistance ("PUA"). PUA became available through the federal CARES Act in late March; however, due to the fact that workers the legislation originally aimed to address were not already contributing to the unemployment system, a new platform to process these individuals became essential. Previously scheduled to launch on April 30, Gov. Baker announced that on April 20, ten days ahead of schedule, an online unemployment insurance portal opened to accept applications for

individuals who were previously ineligible for standard unemployment benefits in the Commonwealth and have lost their jobs due to COVID-19. The system is now ready to process applications and issue payment to eligible candidates. PUA benefits will be retroactive to January 27, 2020 or the date of an individual's unemployment, whichever date is more recent, and lasts for up to 39 weeks. PUA benefits may not exceed the maximum weekly benefit rate for standard unemployment insurance, $823, and will be reimbursed to the Commonwealth by the federal government.

Access the PUA application portal here.

For more on the Massachusetts Department of Unemployment Assistance guidance on the CARES Act, read ML Strategies' recent COVID-19 Insights Week In Review – April 10, 2020.

Massachusetts COVID-19 Pending Legislation

Late last week, legislation relative to liability protections for health care providers and facilities picked up steam. Late on Friday, April 17, Gov. Baker signed SB2630, *An Act to provide liability protections for health care workers and facilities during the COVID-19 Pandemic*, into law. This legislation filed by the Governor is set to exempt health care providers and facilities from lawsuits and civil liability for damages resulting from care services provided during the COVID-19 crisis. Five field medical stations are now operational across the Commonwealth resulting in health care professionals providing services outside of normal hospital settings. This legislation will protect providers and the nonprofit organizations across the state providing the use of facilities from lawsuits and extends immunity from liability from March 10, 2020 until Gov. Baker repeals the state of emergency in Massachusetts.

On Monday, April 20, Gov. Baker signed HB4647, *An Act providing for a moratorium on evictions and foreclosures during the COVID-19 emergency*, into law, another piece of legislation that quickly moved through the Legislature. Initially, the House and Senate crafted different versions of the legislation, leading to the appointment of a conference committee to iron out both chambers' must-haves for a final version to lay before the Governor. The conference committee agreed on a bill protecting homeowners and renters from being forced to leave their homes and risk their health during the crisis due to notices to quit from landlords and property owners. While the legislation will keep individuals and families in their homes, the bill does not absolve renters and homeowners from paying their rent and mortgages during the pandemic. Rather the legislation protects them from paying late fees if they can adequately demonstrate financial hardship due to the COVID-19 crisis. The moratorium is set to last 120 days, or 45 days after the Governor lifts the COVID-19 state of emergency.

The COVID-19 pandemic has forced Americans across the country to rethink the way we approach activities such as working and learning remotely, how to keep in touch with friends and family while remaining socially and physically distant, and how to practice civic duties such as collecting signatures and voting in elections. As the nation approaches the next election cycle, waves of legislation in Massachusetts are being filed relative to voting, protecting polling places and nomination paper requirements. On Friday, April 17, the Massachusetts Supreme Judicial Court ruled to reduce signature requirements for candidates running in 2020 state and congressional elections due to the burden COVID-19 has placed on citizens' constitutional rights to run for elected office. Chief Justice Gants offered the decision of the Court reducing signature requirements by 50% to create easier access for candidates seeking elected office during the pandemic. The Court also extended the deadline to submit signatures to their local clerks from April 28 to May 5, allowing for some electronic signatures.

While the Massachusetts Legislature is focusing on much-needed COVID-related legislation at the moment, pre-COVID bills are not being forgotten in the legislative process. Your team at ML Strategies continues to keep a close eye on legislation pertaining to various sectors to best support your businesses. As times remain uncertain due to this vicious virus, ML Strategies continues to stay on top of all issues stemming from Beacon Hill, ready to answer any questions you may have during these difficult times.

Recent ML Strategies Massachusetts Insights on COVID-19

Read more of what ML Strategies and Mintz are saying in our COVID-19 Insights Centers:

The Sobering Truth behind COVID-19's Impact on Massachusetts' Annual Budget – This week, ML Strategies published a piece on the impact of COVID-19 on Massachusetts' FY21 budget cycle and revenue adjustments.
Read more here…

Authors