ML STRATEGIES

COVID-19 Insights Week in Review — May 22, 2020

May 22, 2020 | Article |

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.

This week, ML Strategies monitored the following updates stemming from Washington, DC and the Commonwealth of Massachusetts:

FEDERAL UPDATE

President Issues Executive Order on Regulatory Relief

Senate Holds Virtual Hearing on CARES Act Quarterly Report to Congress

Senators Question Implementation of Main Street Lending Program

Senators Call for Extension of Carbon Capture Tax Credit

SMART Act Introduced in Senate

Republicans Seek RFS Waiver

Paycheck Protection Flexibility Act

79 House Democrats Call for Restoration & Resilience Jobs Program

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FEDERAL UPDATE

President Issues Executive Order on Regulatory Relief

President Trump issued an "Executive Order on Regulatory Relief to Support Economic Recovery" this week saying federal agencies:

> **“should address this economic emergency by rescinding, modifying, waiving, or providing exemptions from regulations and other requirements that may inhibit economic recovery, consistent with applicable law and with protection of the public health and safety, with national and homeland security, and with budgetary priorities and operational feasibility. They should also give businesses, especially small businesses, the confidence they need to re-open by providing guidance on what the law requires; by recognizing the efforts of businesses to comply with often-complex regulations in complicated and swiftly changing circumstances; and by committing to fairness in administrative enforcement and adjudication.”**

Read the Executive Order here…

Senate Holds Virtual Hearing on CARES Act Quarterly Report to Congress

The Senate Banking Committee held a hearing on May 19 on “The Quarterly CARES Act Report to Congress” with testimony from Federal Reserve Chairman Powell and Treasury Secretary Mnuchin. The hearing covered Treasury loan programs, the Paycheck Protection Program, and other steps taken to implement the CARES Act.

For the archived hearing webcast and testimony click here…

Senators Question Implementation of Main Street Lending Program

Ahead of the Senate Banking Committee hearing with Federal Reserve Chairman Powell and Treasury Secretary Mnuchin, a number of senators sent letters to the pair with recommendations on implementation of the CARES Act’s Main Street Lending Program (MSLP).

Senators Warner (D-VA), Sinema (D-AZ), and Jones (D-AL) wrote urging the Fed and Treasury to: (1) further expand loan eligibility requirements, (2) provide greater flexibility on the loan term, (3) ensure that the program is user-friendly and easily accessible for small community banks, and (4) consider alternative approaches to assessing the maximum loan size.

Senator Brown (D-OH), ranking member of the Senate Banking Committee, wrote with a number of recommendations for operational and program features for the MSLP, asking that the Fed and Treasury: (1) prioritize access for small and medium sized businesses and lending to underserved areas, (2) require banks to work with new customers to access the MSLP, (3) build the program with transparency in mind, (4) provide standardized documentation for applicants, and (5) focus on small and medium-sized businesses that were doing well before the pandemic.

Read the letter from Ranking Member Brown here…

Senators Call for Extension of Carbon Capture Tax Credit

A bipartisan letter signed by seven U.S. Senators asks Treasury Secretary Mnuchin to extend the 45Q Carbon Capture Tax Credit. The letter was sent in response to reports that the Treasury Department is considering a one-year extension of the deadline to qualify wind and solar projects under the federal Investment Tax Credit and Production Tax Credit. Noting that the 45Q tax credit was approved with bipartisan support in 2018, the letter states that the “impact of COVID-19 on the economy, combined with the fact the IRS has still not issued final guidelines for using the 45Q tax credit after two years, has deterred many companies from starting construction.” Signers of the letter include Sens. Cramer (R-ND), Whitehouse (D-RI), Capito (R-WV), Barrasso (R-WY), Hoeven (R-ND), Smith (D-MN), and Cassidy (R-LA).

SMART Act Introduced in Senate

First unveiled by Senators Cassidy (R-LA) and Menendez (D-NJ) last month, the bipartisan State and Municipal Assistance for Recovery and Transition (SMART) Act was formally introduced in the Senate this

week. Original cosponsors of the SMART Act include Sens. Manchin (D-WV), Hyde-Smith (R-MS), Booker (D-NJ), and Collins (R-ME). Building upon the $150 billion in CARES Act funding for state and local governments, the SMART Act would provide $500 billion to state, local, and tribal governments in order to avoid mass layoffs, steep tax hikes, and a breakdown of essential services. After a $16 billion set-aside for Native American tribal governments, the remaining funding would be allocated to states through three equally divided tranches with one-third based on population size, one-third based on infection rates, and one-third based on revenue losses.

Read a press release and find the bill text here…

Republicans Seek RFS Waiver

Noting that since March the U.S. has experienced "an unprecedented drop in the demand for gasoline, diesel, and jet fuel," 15 Republican Senators are asking Environmental Protection Agency (EPA) Administrator Wheeler to utilize his authority to prevent the Renewable Fuel Standard (RFS) from "contributing to severe economic harm in a state, a region, or the nation." The letter was led by Senator Barrasso (R-WY), chairman of the Senate Environment and Public Works Committee.

Read the letter here…

Paycheck Protection Flexibility Act

Reps. Roy (R-TX) and Phillips (D-MN) last week introduced the bipartisan Paycheck Protection Flexibility Act to make changes to the CARES Act's Paycheck Protection Program (PPP). While the legislation was not included in the HEROES Act, approved by the House last week as Democrats' opening offering for a "phase 4" economic stimulus, Reps. Roy and Phillips have announced that they secured a commitment from congressional leadership for a vote on the Paycheck Protection Flexibility Act as part of negotiation of the final phase 4 bill. Senate Republicans have already stated that the House-passed HEROES Act will not be taken up by the Senate, meaning there will negotiations over the coming weeks between House and Senate leadership on a final phase 4 proposal. The Paycheck Protection Flexibility Act would:

- Allow forgiveness for expenses beyond the 8-week cover period of the PPP;
- Eliminate PPP restrictions limiting non-payroll expenses to 25% of loan proceeds;
- Eliminate restrictions that limit PPP loan limits to 2 years;
- Ensure full access to payroll tax deferment for businesses that take PPP loans; and
- Extend the PPP rehiring deadline to offset the effect of enhanced Unemployment Insurance.

79 House Democrats Call for Restoration & Resilience Jobs Program

Led by Reps. Dingell (D-MI), Grijalva (D-AZ), Huffman (D-CA), Cartwright (D-PA), Lowenthal (D-CA), Haaland (D-NM), Rochester (D-DE), and Gallego (D-AZ), 79 House Democrats have called for future economic recovery packages to include a "Restoration and Resilience Jobs" program. Saying that millions of good paying jobs can be created restoring natural resources and bolstering community resilience, in a letter to Speaker Pelosi (D-CA) and House Minority Leader Hoyer (D-MD) the Democrats point to President Franklin Delano Roosevelt's Civilian Conservation Corps during the Great Depression and to job creation under the more recent American Recovery and Reinvestment Act (ARRA) following the Great Recession a decade ago. The letter calls for $27.5 billion to rebuild outdoor recreation infrastructure; $24 billion to bolster resilience to hurricanes, flooding, and other hazards; $19.5 billion to restore imperiled fish and wildlife habitat; $26.5 billion to bolster resilience to fire and restore public lands; $20 billion to reclaim degraded lands; and $7.5 billion to increase the resilience of working lands.

Read the letter here…

MASSACHUSETTS UPDATE

Reopening Advisory Board Releases Report

On Monday, May 18, the Baker-Polito Administration's Reopening Advisory Board published its report outlining a four-phase schedule for reopening the Commonwealth since the closure of non-essential businesses on March 23. The plan is coupled with a new "Safer at Home" advisory, replacing the "Stay at Home" advisory issued on March 31, which will allow residents to access reopened businesses and services with stringent workplace safety standards and protocols in place. Monday began Phase 1, allowing manufacturing, construction, places of worship, and high-priority health procedures at hospitals and community health centers to resume. On May 25, Phase 1 will expand, allowing laboratory and life science facilities, offices other than those located in Boston, hair salons and barbershops, pet grooming, recreation and outdoor activities, other health care providers for high-priority procedures, and remote

fulfillment and curbside pick-up for retail stores to resume or reopen. On June 1, the last expansion of Phase 1, office space in Boston will be allowed to reopen. Phase 2 will include retail, restaurants, lodging, and personal services such as nail salons and day spas. Phase 3 will include bars, casinos, gyms, museums, and other business activities excluding nightclubs and large venues. The Governor anticipates each phase to last at least three weeks, with potential for extensions, which will be based on COVID-19 data on transmission. If transmission rates increase, the Administration highlighted the potential for regression in phases if necessary.

To access the Reopening Advisory Board's report, please click here.

Massachusetts Health System's Measured Return to the "New Normal"

Within the Reopening Advisory Board's report, guidance is outlined for hospitals and community health centers to begin expanding services, which have been reduced to focus on the COVID-19 pandemic since March. As of May 18, community health centers are allowed to resume in-person preventative, diagnostic and treatment services if they can attest to meeting specific capacity criteria and public health safety standards. On May 25, other health care providers may resume in-person services based on provider's clinical judgment such as high-priority preventative services including pediatric care, immunizations, chronic disease care for high-risk patients, and urgent procedures.

Grim Economic Outlook for FY2021 Budget

Just last month, economic experts in academia, public policy and research convened to testify before the Joint Committee on Ways and Means regarding the economic impacts of the COVID-19 pandemic. At that hearing, the Massachusetts Taxpayers Foundation (MTF) projected FY21 tax revenues to fall by approximately $4.4 billion from the January 2020 benchmark. One month later, MTF is revising its FY21 outlook, projecting a $6 billion drop in revenue from the January benchmark. As of quarter four of 2020, the unemployment rate has risen to 22%, though MTF hopes 323,000 jobs may be recovered in FY21. Due to the length of the pandemic and fears surrounding a second wave of the virus this fall, MTF projects Massachusetts will not return to pre-pandemic employment levels until 2024.

To access a summary of MTF's revised outlook, click here.

Massachusetts COVID-19 Pending Legislation

While elections are being conducted quite differently since the start of the COVID-19 pandemic, vacant seats in the Massachusetts Senate needed to be filled by way of special elections for two Republican senators who left their posts for other positions. Former State Senator Vinny deMacedo of Plymouth resigned to take a position at Bridgewater State University, while Donald Humason left his Senate post to become the Mayor of Westfield. Special elections for both seats took place on May 19 and were conducted by a combination of traditional and vote-by-mail means, making them noteworthy examples of how election procedures may change during and after the pandemic. Even more noteworthy is the fact that both seats, long held by Republicans, were won by Democrats – Susan Moran in Plymouth and John Velis in Westfield. Their addition adds to the already existing Democratic super-majority in the Senate.

While the State House remains closed to the public for the foreseeable future, the Legislature continues to work through pre-COVID and COVID-related legislation in the pipeline. On Wednesday, the House considered an information technology, cybersecurity and food security bill originally filed by the Governor. House Ways and Means filed a new draft of the legislation, HB4708 – *An Act financing the general governmental infrastructure of the Commonwealth*, offering members until 3 pm last Friday to file amendments. While 189 amendments were filed, zero were accepted, with a consolidated amendment being offered on Wednesday morning for members to review before virtual debate started at 1 pm. The consolidated amendment carries a fiscal note of $101.1 million, an addition to the proposed $1.43 billion fiscal note of the Ways and Means new draft. The House voted to accept the consolidated amendment (138Y/18N), then moved to pass the legislation (149Y/7N) as amended to create HB4733.

As we continue to navigate through these unprecedented times, know that ML Strategies continues to keep lines of communication open with members on Beacon Hill to address the many sectors being impacted by the COVID-19 pandemic. Do not hesitate to reach out to your team at ML Strategies with any questions during these uncertain times.

To access the House's amended version of the information technology, cybersecurity and food security bill (HB4733), click here.

Recent ML Strategies Federal 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

On April 20, ML Strategies summarized testimony offered by economic experts in academia, public policy and research before the Joint Committee on Ways and Means relative to the economic impacts of the COVID-19 pandemic.

Read what our colleagues at ML Strategies are saying here...

Massachusetts' Reopening Advisory Board Releases Reopening Report

ML Strategies reviews the Baker-Polito Administration's Reopening Advisory Board's report outlining the Commonwealth's reopening process through its four-phased framework.

Read what our colleagues at ML Strategies are saying here...

Authors