ACCNJ LEGAL & INSURANCE UPDATE

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GATEWAY DEVELOPMENT COMMISSION PLA LITIGATION

In November, George Harms Construction Co., Inc. (Harms) filed a federal lawsuit in the U.S. District Court for the District of New Jersey against the Gateway Development Commission (Gateway) challenging the project labor agreement (PLA) tied to the Hudson River Tunnel Project's New Jersey Surface Alignment contract (Project). The lawsuit alleges the PLA, as adopted by Gateway, effectively excludes its United Steelworkers (USW)-represented workforce from bidding and violates state statutory directives, federal procurement norms, and constitutional protections (including due process, equal protection, and First Amendment claims).

On December 11, 2025, the Court denied Harms's motion for a temporary restraining order and refused to delay the bid deadline, concluding that Harms had not demonstrated likelihood of success on its core legal claims. The Court did find that Harms demonstrated a likelihood of success on a narrow First Amendment theory—that the PLA could amount to compelled speech and association by requiring the company to accept union terms inconsistent with its existing labor relationships. Nevertheless, the Court determined Harms failed to establish irreparable harm absent injunctive relief.

Harms has since filed an appeal in the U.S. Court of Appeals for the Third Circuit which largely centers around its First Amendment compelled speech and freedom of association claims. ACCNJ recently filed an amicus brief supporting Gateway's authority to require contractors to enter into a Project Labor Agreement (PLA) with trade unions affiliated with the Hudson County Building and Construction Trades Council, and to exclude the USW as a signatory union.

While the appeal remains pending, Gateway retains authority to proceed under the existing PLA, and the ultimate timeline will depend on the appellate court's disposition of Harms's First Amendment claims.

NO TAX ON OVERTIME

The 2025 federal budget law, the "One Big Beautiful Bill Act", created a limited deduction for overtime pay premiums required by the Fair Labor Standards Act (FLSA). FLSA-covered employees are required to be paid at least 1.5x their regular rate for hours worked over 40 in a workweek. The "qualified" amount is limited to the premium portion of FLSA-required overtime pay that exceeds the employee's regular rate of pay (the "half" in "time-and-a-half). The deduction is capped at $12,500 per taxable year ($25,000 in the case of a joint return).

Importantly, not all “overtime” pay is eligible for the deduction. Only overtime pay required by the FLSA is deductible. Employees may not deduct additional overtime earned under state law requirements (e.g., daily overtime). Nor can they deduct extra overtime paid pursuant to a more generous collective bargaining agreement, or employer compensation policy, such as double-time for working a holiday (where the hours do not exceed 40 hours in a week).

Employers must now separately report qualified overtime compensation for the taxable year on an employee’s Form W-2. Accordingly, employers should review and, where necessary, update payroll systems to ensure accurate tracking and reporting.

DIRTY DIRT LAW AMENDMENTS

On January 20, 2026, former Governor Murphy signed several bills into law, including an amendment to New Jersey’s Dirty Dirt Law (N.J.S.A. 13:1E-127.1 et seq.). Originally expanded in 2020 to regulate soil and fill recycling activities, the law applied broadly to entities involved in collecting, transporting, processing, storing, brokering, purchasing, selling, or disposing of soil and fill materials.

The recent amendments clarify and limit the scope of the law by narrowing the statutory definition of “broker.” Specifically, the revised definition now excludes two categories of entities: (1) individuals or entities acting on their own behalf that retain businesses to perform soil and fill recycling services at properties they own or control; and (2) entities whose subcontractors conduct soil and fill recycling services, provided those subcontractors are properly licensed by the NJDEP. Therefore, neither category of entity will be required to obtain an A-901 license under the amendment.

For public works contractors, the law now also clarifies that soil generated and managed in accordance with project plans and specifications on State and locally funded projects does not trigger A-901 or soil and fill recycling licensing requirements. By narrowing the scope of who needs a license and clarifying who qualifies as a broker, the amendments ease unnecessary regulatory burdens while still ensuring proper oversight of soil and fill recycling activities.

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