

LAST CHANCE FOR MANY FUND TRANSFERS: STATUTORY AUTHORITY DUE TO EXPIRE AT END OF FISCAL YEAR

An important tool for school districts in fund management is due to expire on June 30, 2020.

Districts would be wise to employ that tool before then in order to maintain flexibility in the use of scarce resources and, even more important, to avoid costly tax objection refunds in the future.

Section 17-2A of the School Code has long provided a useful mechanism for moving money between any of a school district's three principal operating funds: Educational, Operations & Maintenance, and



Transportation. Since 2017, transfers from the Tort Immunity Fund to the Operations & Maintenance Fund have also been permitted. Limits on the amount of the transfer were removed long ago. The procedural requirements of notice and a public hearing remain. But the statute has also contained an ill-defined usage limitation: a transfer may be ***“made solely for the purpose of meeting one-time, non-recurring expenses.”*** The statute does not define “one-time, non-recurring expenses,” nor are there court cases or administrative rules clarifying the meaning of this use limitation.

However, since 2003, the meaning of the use limitation has been irrelevant because Section 17-2A has also included a sunset provision temporarily waiving application of the use limitation to a specific date. And, as the sunset date has approached on



each occasion in the last several years, the General Assembly has seen fit to push the date further out. Until this year, that is. No bill has even been introduced in the 2020 session to extend the sunset provision of the use limitation in Section 17-2A beyond June 30, 2020.

What was different this year? Presumably, the recent removal of the specific rate limitation for the Educational Fund for those districts subject to the Property Tax Extension Limitation Law (PTELL or the “tax cap”) may have, for some, lessened the urgency for flexibility in school district fund transfers. But even that well-received reform still does not address districts in non-PTELL counties or existing balances in any district throughout the State.



So right now, every district should be closely examining the projected year-end balances in their Educational, Operation & Maintenance, Transportation, and Tort Immunity Funds. If there will be insufficient money in one of those funds in the coming year, a transfer now, rather than after June 30, should be made. Further, if there is much more than enough money in one of those funds, it is critical to move the excess out now. An allegation of excessive balances in school district funds is one of the most common types of taxpayer rate objections and can lead to severe revenue losses due to tax refunds.

Going forward, unless there is another change in the law, Section 17-2A transfers should still be available after June 30, but only for more limited purposes, and arguably not for routine fund balance



management. Because of this, more extensive use of the Educational Fund in PTELL counties is strongly advised.

If you have any questions or would like assistance in accomplishing timely fund transfers, please do not hesitate to contact one of our attorneys.