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NEW REQUIREMENTS RELATING TO EXCESS FUND ACCUMULATIONS

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A new law recently signed by Governor Pritzker will require school districts to report and avoid excess accumulation of money in their principal operating funds. Public Act 103-0394 has added Section 17-1.10 to the School Code. This law will affect each district's annual budget and levy process. It also has implications for one of the most common types of tax rate objection.

Annual Calculation. Beginning with the 2024-2025 school year and for every year thereafter, each district must calculate the combined fund balance of its three principal operating funds: the Educational Fund, the Operations and



Maintenance Fund, and the Transportation Fund. The amounts are to be derived from the district's most recently audited annual financial report (AFR). The results of this calculation must be made in a written report presented at a school board meeting. (Expressly exempted from this provision, however, are any school districts receiving federal impact aid.)

Note that just last year the General Assembly imposed an obligation on districts to publicly report the cash reserve balances in each district fund twice a year, at the time of the budget and levy hearings. This is an additional requirement, including the aggregation of those three funds and the making of an annual report in writing.

Operational Funds Reserve Reduction Plan. For those districts where the combined principal fund balance exceeds a certain amount, the law imposes an additional requirement. Specifically, where that combined balance is greater than 2.5 times the district's average combined expenditures in those

three funds over the prior three fiscal years, the district must submit a plan to the Illinois State Board of Education. That plan must report the methods by which the district will, within 3 years, reduce that combined balance to an amount no more than 2.5 times the 3-year average expenditures. The law does not suggest what those methods might be, but a district should be able to consider a variety of approaches, including reduced levies, expenditure variations, redistribution of revenues, and fund transfers. All such reserve reduction plans will be posted by ISBE on its website.

The necessary calculation may be illustrated in this way:

The filing of an operational funds reserve reduction plan is required where

Combined Fund Balance (Ed + O&M + Tran.)

>2.5



Combined Fund Average Expenditures Over Last 3 FYs

Regarding the timing of these requirements, the law does not specify when the annual fund report is due, but does provide that, where a reduction plan is required, it must be filed by December 31, so the fund report must be made before that date as well. However, the law also expressly provides that the district is to use its AFR for the expenditure amounts and fund balances, figures which on occasion might not be available for a fiscal year until after January 1 of the next year. Thus, it may be necessary to use incomplete or estimated numbers for the prior year expenditures and final fund balance amounts when final AFRs are not available.

It should be emphasized that, as a practical matter, while excess accumulations in particular operating funds frequently do happen, it would be a rare occurrence where there is an excess accumulation in a school district's three principal operating



funds in combination.

Tax Rate Objections Implications. It is readily apparent that this legislation was meant to address one of the most common tax rate objections filed against school districts, those alleging that certain tax levies were unnecessary because of excess accumulations in a district's fund balance. Many years ago, the courts developed their own rules for evaluating such claims, not based on any statutory language. In cases such as *Central Illinois Public Service Co. v. Miller* (Ill. Sup. Ct., 1969), the courts have used a general rule under which the objectors could be said to have made a prima facie case of excess accumulation where the ratio of money available to be used in a particular fund exceeds 2 or 3 times the average amount spent in the fund over the prior 3 years. If this showing were made, the burden shifted to the district to produce evidence defending the need for its levy despite the amount of revenues available without the levy.

This “Miller ratio” analysis resembles the formula now codified in Section 17-1.10 in some respects, but also differs from it in certain important ways. First, courts using the Miller analysis generally look at each fund individually, while the new law requires examination of the principal funds in the aggregate. Further, the new law does not address any of the other district funds, such as the Tort Immunity Fund, the Municipal Retirement/Social Security Fund, or the Life Safety Fund. Perhaps most importantly, the law specifies its own new remedy for excess accumulation: the preparation of a report to ISBE by which the district may choose its own path for reduction of the excess over 3 years. This is far different from the objectors’ goal, often granted by the courts in the past, of receiving a refund of past taxes.

It remains to be seen, of course, whether and in what ways the courts will view this new legislation as having an effect on excess accumulation tax rate objections, either prospectively or on those objections challenging levies in past years.

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If you have any questions, please do not hesitate to contact one of our attorneys.