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Sent: Friday, April 09, 2010 3:55 PM
To: Lashway, Lisa
Subject: Defeating School Budget



**Municipal Clerks
for Mayors, Elected Officials
and Staff**



April 9, 2010

Re: Defeated School Budgets

Dear Mayor:

Although the School Board Election is not until April 20, 2010 we wanted to provide you advance guidance on defeated school budgets given the short time frame governing bodies have to review and take action.

In the spring of 2009, New Jersey School Board Association published an [FAQ](#) on "What every school board member should know during the budget/election process". The following excerpts apply to review of defeated budgets:

What happens if the budget is defeated?

Defeated school budgets are reviewed by the municipal governing body in consultation with the board of education. Generally, the municipality may - but is not required to - reduce the size of the school tax levy requested by the board. If it makes a cut, the municipality must back up its decision by identifying corresponding reductions in school expenditures. The school board is not bound by these particular spending cuts, but it must live with the tax levy certified by the municipal governing body.

Under the School Funding Reform Act (SFRA), a municipality may not reduce the tax levy below the district's minimum tax levy. Therefore, when voters reject a budget with a tax levy no higher than the state-required local share, the municipality cannot make any reductions. This scenario occurred in a handful of school districts last year.

School boards may apply to the state Department of Education's Division of

Finance for restoration of reductions made by the municipality. The school funding act provides the following bases for such applications:

A school district with a proposed budget above adequacy may apply for restoration only on the grounds that the municipality's reductions would negatively affect the district's long-term financial stability.

A school district with a proposed budget at or below adequacy may apply on the grounds that the municipality's action would negatively affect its long-term financial stability and/or would prevent it from providing a thorough and efficient education. The municipality must document "by clear and convincing evidence" that each proposed line-item reduction would not have an adverse impact on the district.

Required Local Share

The state will not permit a reduction in a school district's tax levy when it is spending below adequacy and not taxing at its local share. The local share represents the amount of money the state believes a community is capable of raising for school purposes; the concept plays a prominent role in determining how much state aid a district receives. Two factors establish a district's local share: its property wealth and its per capita income. In simplest terms, state school aid is determined by subtracting the district's local share from its adequacy budget.

Not all districts have been taxing at their local share, and the law does not require districts to do so. Instead, the SFRA identifies a minimum school tax levy (called "required local share"). The minimum tax levy is the lower of the district's state-determined local share or its previous-year school tax levy.

Other laws and regulations affect the school tax levy. The 2007 property tax levy cap law allows the Commissioner of Education to increase a district's tax levy if needed to meet academic requirements under No Child Left Behind or the state's monitoring process (NJQSAC). The levy cap law also allows the commissioner to grant waivers of the 4-percent property tax cap for certain reasons before the district presents the budget for public hearing. Additionally, the Executive County Superintendent's broad authority over the local school district budget process could result in a state-required increase in a district's tax levy.

Adequacy

The adequacy level is a factor used to determine the distribution of state aid; it is not a measure of a district's financial prudence. Nothing in the SFRA prevents a district from spending at a higher level. In fact, it is estimated that over two-thirds of the state's school districts spend above adequacy.

The SFRA identifies “adequacy” as the expenditure needed for a constitutionally required education. The calculations are based on the needs of a 5,000-student kindergarten-through-12th grade system. However, the state uses these adequacy calculations for all school districts, regardless of their size or grade span.

Per-pupil adequacy amounts are also weighted for factors, such as whether the student attends elementary school, middle school or high school, or receives specialized services. The per-pupil adequacy amounts are then multiplied by enrollment to produce the individual district’s “adequacy budget,” one of several factors used in the school aid formula.

Under the SFRA, a district may spend above its adequacy budget. There are two immediate consequences for doing so: first, the state will not provide aid to cover expenditures above adequacy. Second, school districts spending above adequacy must place notice of that fact in their advertised budgets.

Important 2010 Dates for Defeated Type II School Budgets, including Regional Schools

- School Election date – Tuesday, April 20th
- Within 2 days of Certification of Election Results - Delivery of the proposed budget defeated by voters to the governing body
- By Wednesday, May 19th - Last day for the governing body after consultation with the board of education to determine and certify to the county board of taxation the amount of money necessary for school purposes to be raised by taxation for the ensuing school year.
- Within 10 working days after the governing body determination the Board of Education may submit an application to the Executive County Superintendent for restoration, with a copy of the application to the governing body.
- Within 10 working days after the receipt of the board of education’s application for restoration of funds, the governing body may submit to the Executive County Superintendent any comments on the board’s application, with a copy to the board of education

Procedures Calendar” lists applicable dates. Pages 6 through 8 are the deadlines related to municipal review of defeated budgets

In addition, the NJSBA’s Legal and Policy Services Department develops a “Budget Review and Restoration of Reductions Memorandum” each year. In particular, pages 10 through 16, addresses the roles of the local school board and municipal governing body in reviewing the defeated school budgets. The document will be updated for 2010 later this month.

The Department of Education will be posting documents shortly concerning defeated budget review. We will advise you when those documents become available.

Very Truly Yours,

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