

Public Notice

Education

State Board of Education

Notice of Action on Petition for Rulemaking

Fiscal Accountability, Efficiency, and Budgeting Procedures

Additional Measures to Ensure Effective and Efficient Expenditures of District Funds

N.J.A.C. 6A:23A-5

Petitioner: Gerald Reiner.

Take notice that on February 6, 2020, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioner, requesting the State Board add new rules at N.J.A.C. 6A:23A-5 to require school districts to certify the availability of funds for an entire project before beginning a new project, such as new construction or a boiler replacement.

The petitioner specifically requested the State Board adopt a new section at N.J.A.C. 6A:23A-5 to apply to school districts the rules at N.J.A.C. 5:30-5.3, 5.4, and 5.5, as amended by the Local Finance Board in 2017, that ensure local units prove sufficient funds are available when incurring an obligation.

A notice acknowledging receipt of the petition was published in the March 16, 2020, New Jersey Register at 52 N.J.R. 535(a). A notice of action indicating that additional time was needed for the Department to deliberate about this petition was published in the May 18, 2020, New Jersey Register at 52 N.J.R. 1085(a). Executive Order 127 (2020) extended the deadlines pursuant to N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-4.1, 4.2, and 4.3 for any Executive Branch department or agency to act on any currently pending petition for rulemaking or on any petition

for rulemaking filed during the Public Health Emergency originally declared in Executive Order No. 103 (2020). Deadlines that would otherwise occur sooner are extended until 90 days after the last day of the Public Health Emergency originally declared in Executive Order No. 103 (2020).

N.J.A.C. 6A:23A-16.10(c)3 requires the school business administrator/board secretary to certify, on a monthly basis, the availability of funds in all funds, including the capital project fund. The certification must include that the total of encumbrances and expenditures for each line item account do not exceed the line item appropriation. Furthermore, the following State statutes and rules set forth other fiscal controls:

- N.J.A.C. 6A:23A-16.10(a) prohibits district boards of education from operating in a deficit and also requires district boards of education to implement controls over budgeted revenues and appropriations. The subsection further requires district boards of education to only approve an encumbrance or expenditure (liability or payment) that, when added to the total of existing encumbrances and expenditures, does not exceed the amount appropriated by the district board of education trustees in the applicable line item account established pursuant to the minimum chart of accounts referenced at N.J.A.C. 6A:23A-16.2(f)1;
- N.J.S.A. 18A:7G-4.a and N.J.A.C. 6A:26-2 require capital projects to be implemented in a long-range facilities plan (LRFP);
- N.J.S.A. 18A:21-2 and 3 and 18A:7G-31 allow a capital reserve account to be established pursuant to fund the projects created in an LRFP. The withdrawal of funds from capital reserve are made pursuant to N.J.A.C. 6A:23A-14.1(h), which restricts the use of funds for only the capital projects; and

- N.J.A.C. 6A:23A-14.2 allows school districts to establish a maintenance reserve account to be used to implement required maintenance of the school district's facilities. N.J.A.C. 6A:23A-14.2(d) specifically allows school districts to use funds from the maintenance reserve account, but only for required maintenance appropriations and not for transfer to any other line-item account.

Due to all of the fiscal controls detailed above, the new rules requested by the petitioner are unnecessary. Therefore, the petitioner's request is denied.