

## **Public Notice**

### **Education**

#### **State Board of Education**

#### **Notice of Receipt of 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 of Education 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 requests 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.

The petitioner states that N.J.A.C. 5:30-5.3, 5.4, and 5.5 do not apply to school districts, but including similar provisions at N.J.A.C. 6A:23A-5 will ensure fiscal accountability and keep school districts from spending or obligating the same funds twice. The petition also states that many school districts frequently incur obligations beyond an appropriation and simply transfer funds to cover the deficit because provisions similar to the Local Finance Board's rules do not apply to school districts.

The petitioner's requested new rules at N.J.A.C. 6A:23A-5 as follows (addition indicated in boldface **thus**):

**6A:23A-5.10 Procedure for the certification of funds of an award**

**(a) The following procedure shall be utilized for the certification of funds when a contract is to be awarded by the governing body of the school board:**

**1. The chief financial officer or certifying finance officer, as appropriate, charged with the responsibility of maintaining the financial records of the contracting unit shall certify in writing to the governing body the availability or lack thereof of adequate funds for each contract that is pending approval by the governing body. Said certification shall designate specifically the line item appropriation(s) of the official budget to which the contract will be properly charged, ensuring that the same funds shall not be certified as available for more than one pending contract. Said officer shall be solely responsible for the accuracy of the certification.**

**2. No resolution authorizing the entering into of any contract pursuant to N.J.S.A. 18A:18A-1 et seq. or any other law for the expenditure of public funds to a vendor shall be enacted unless it shall recite that such a certificate showing the availability of funds has been provided. The resolution shall specify the exact line item appropriation(s) or ordinance that shall be charged.**

**3. The certification of availability of funds shall be attached to the original copy of the resolution or ordinance and kept in the files of the municipal clerk, clerk of the board of chosen freeholders or secretary to the governing body.**

**4. Before a governing body approves a resolution or ordinance authorizing the entering into of a contract, the local unit's attorney shall be satisfied that a certificate of availability of funds has been provided.**

**5. A local unit's governing body shall not enter into or execute a contract unless it has been presented with a written certification from its chief financial officer or certifying finance officer, as appropriate, stating the availability of sufficient funds for the contract(s) pending approval by the governing body.**

**6. When a contract is issued as a purchase order or amendment thereto, the certification of availability of funds shall be executed through the budgetary accounting encumbrance process.**

**(b) When a contract is awarded and a resolution of the governing body is not required, the availability of funds shall be certified by the chief financial officer or certifying finance officer shall make an appropriate entry into the school districts unit's financial system.**

In accordance with N.J.A.C. 1:30-4.2, the Department shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.