

May 6, 2022

Legislative Update from Lawyers

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CHAPMAN
Focused on Finance



Topics for Discussion

- Notable 2021 Legislation
- 2022 Spring Session Highlights
- Possible Future Legislation



Notable 2021 Legislation



Finance: Fund Transfers

** AUTHORITY TO TRANSFER AMONG OPERATING FUNDS WITHOUT JUSTIFICATION EXTENDED TO JUNE 30, 2024 (Section 17-2A)

- Has been extended several times since 2003
- Limits on amount removed long ago
- Still requires notice and public hearing
- Legislature “forgot” in spring; acted in fall



** SIMILAR SUNSET EXTENSION FOR TRANSFER OF EXCESS LIFE SAFETY FUNDS WITHOUT LEVY ABATEMENT: NOT EXTENDED

** STILL RECOMMEND GREATER RELIANCE ON EDUCATIONAL FUND



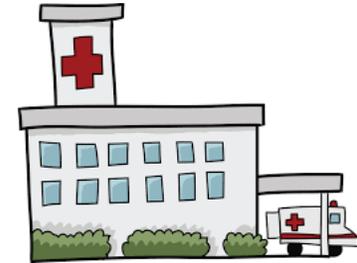
Finance: Property Tax Exemptions

** ILLINOIS CONSTITUTION

- Permits Legislature to grant if charity, government, school, religious institutions
- Legislature has written many specific types of exemptions
- Courts read statutory requirements as additional to constitutional ones

** HOSPITALS

- Section 15-86 sets up comparison of would-be taxes vs. value of charitable services
- Supreme Court upheld on face
- Department of Revenue ignoring Constitution
- Many pending cases



** TRADE SCHOOLS

- New Section 15-37 grants exemptions to non-profit “trade schools”
- Older court cases say professional trade schools are not “schools” under constitution
- What will DOR do?

** SENIOR LIVING RESIDENCES

- Section 15-65(c) addresses
- Same issues of constitution vs. statute requirements



Finance: Levy Adjustment

*** NEW MAKE-WHOLE SUPPLEMENTAL LEVY

- P.A. 102-519 adds Section 18-233 to Property Tax Code
- Starts with 2021 levy (2022 extension)
- Only in PTELL counties
- County Treasurer certifies refund losses every year by November 15

*** LIMITS

- Only applies to assessment-based refunds, such as PTAB, specific objections
- Does not cover losses due to rate objections and new tax exemptions
- Does not address problems resulting from EAV losses

*** ABATEMENT OPTION

- Statute does not address, but clerks (including Cook County) allow
- Year to year decision



Finance: Other

***COUNTIES MUST ALLOW LEVIES TO BE FILED ELECTRONICALLY**

- P.A. 102-625

***TIF REPORTS FILED WITH COMPTROLLER MUST NOW INCLUDE CERTAIN INFORMATION (P.A. 102-127)**

- Including jobs created or to be created
- Including incremental EAV created or to be created

***TAXING DISTRICTS MUST PUBLISH VENDOR LIST (P.A. 102-265)**

- Minority-owned
- Women-owned
- Veteran-owned



Board

*** GENERAL PRIMARY DATE -- P.A. 102-15

- Changed from March to June 28
- For 2022 only
- Deadline for ballot resolutions was April 11, 2022

*** JUNETEENTH NATIONAL FREEDOM DAY -- P.A. 102-334

- Now a State Holiday (June 19)
- Added to School Code list

*** SCHOOL BUILDING CLOSING HEARINGS -- P.A. 102-204

- Board must hold 3 single-purpose public hearings
- Each hearing must be preceded by website notice at least 10 days prior
- Exceptions for buildings which are unsafe, unsanitary, or unfit for occupancy



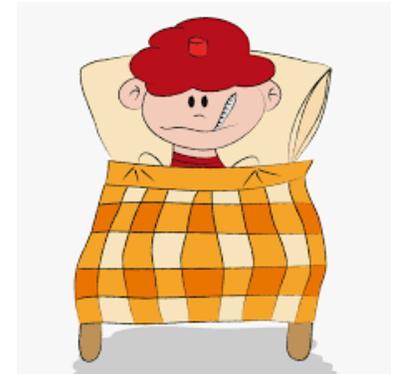
Personnel: Leaves

*** EMPLOYEE SICK LEAVE RIGHTS EXPANDED -- P.A. 102-275

- *Dynak v. Wood Dale SD 7* (2020): teacher sick leave for childbirth must be taken within 6 weeks immediately following birth, even if summer prevents any leave
- 2021 School Code Amendment to Section 24-6
 - ✓ Use of 30-day leave for birth may be taken any time within 12 months
 - ✓ Not dependent on need to recover
 - ✓ Applies to adoption and foster care

*** FMLA QUALIFICATION EXPANDED -- P.A. 102-335

- Federal FMLA eligibility: 12 months, 1250 hours
- Illinois School Code: 12 months, but only 1000 hours



Personnel: Teacher Retirees Returning to Service

** TEMPORARY 100-DAY CAP (INSTEAD OF 120)
EXTENDED THROUGH 6-30-2023 -- P.A. 102-537

- ** EXEMPTION FOR HIRING RETIREES IN “SHORTAGE AREA” -- P.A. 102-440
- Now runs through 6-30-2024
 - For existing advertising requirements, replaces newspaper with website



Personnel: Other

** TENURED TEACHER EVALUATION INTERVAL -- P.A. 102-252

- If tenured teacher received “excellent” or “proficient,” plan may allow next evaluation no later than 3 years later (instead of 2)
- Intervals for other teachers not changed
- Still subject to bargaining

** HCRCA WILL NOT COVER COVID -- P.A. 102-667

- Health Care Right of Conscience Act prohibits discrimination because of person’s refusal to obtain health care due to “conscience”
- New Section 13.5 says does not apply to COVID requirements
- Not effective until June 1, 2022



2022 Spring Session Highlights



State Budget

HB 4700:

Status: Passed both Houses (4/9/22); sent to Governor (4/13/22); Governor approved (4/19/22); Public Act 102-0699.

- Creates the Fiscal Year 2023 Budget Implementation Act.
- Makes the changes necessary to implement the State budget for fiscal year 2023.
- School Provisions:
 - \$350 million of "New State Funds" (\$300 million tier funding; \$50 million property tax relief grants)
 - \$96 million added to mandated categoricals



Homestead Exemptions

SB 1975:

Status: Passed both Houses (4/9/22); sent to the Governor (4/27/22).

- Made technical changes to homestead exemption for veterans with disabilities
- Increased senior citizens homestead exemption for collar counties from \$5,000 to \$8,000
- Increased general homestead exemption for collar counties from \$6,000 to \$8,000



Cash Reserve

SB 1975 (cont.)

- Requires disclosure of cash reserve balance of all funds held by school districts.
- Disclosure must be made to the public at the public hearing at which the district certifies its budget and levy.



PTELL Recapture

SB 1975 (cont.)

- School districts that have a designation of recognition or review according to the State Board of Education's School District Financial Profile System can recapture PTELL underlevy in a subsequent year.
 - Aggregate extension base is greater of last aggregate extension or "aggregate extension limit".
 - "Aggregate extension limit" means the district's last preceding aggregate extension if the district had utilized the maximum limiting rate permitted without referendum for each of the 3 immediately preceding levy years.
 - The aggregate extension of a district that includes any recapture for a particular levy year cannot exceed the district's aggregate extension for the immediately preceding levy year by more than 5%.
 - If a district cannot recapture the entire unrealized levy amount in a single levy year, the district may increase its aggregate extension in each succeeding levy year until the entire levy amount is recaptured, except that the increase may not exceed 5%.
 - To be eligible for recapture, the district must certify to the county clerk that it did not extend the maximum amount permitted for a particular levy year within 60 days after the district files its levy resolution with the county clerk for the levy year for which the district did not extend the maximum amount permitted.



Debt Limit Exceptions

HB 4688:

Status: Passed both Houses (4/8/22).

- Amends the School Code:
 - Provides debt limit exceptions for the six school districts set forth below, subject to specified conditions.
 - Mahomet-Seymour CUSD 3
 - New Berlin CUSD 16
 - Highland CUSD 5
 - Sullivan CUSD 300
 - Manhattan SD 114
 - Golf SD 67

School District Funding Formula

- HB 4728:

Status: Passed both Houses (3/30/22); sent to the Governor (4/28/22)

- Makes a technical change concerning how an organizational unit's adjusted equalized assessed valuation (“EAV”) is calculated.
- Changes only impact school districts with EAV decline of 10% or more in the most recent year.

School Construction Grants

HB 3637:

Status: Passed both Houses (3/29/22); sent to the Governor (4/27/22)

- Gives school districts on the 2005 and 2006 School Construction List same provisions as previously given to school districts on the 2004 School Construction List.
- Provided that a school district has 2 years from the date the school district was issued a conditional grant award from the Capital Development Board to obtain the school district's required local match and receive a final grant award from the Capital Development Board. If the required local match is not obtained within the 2-year time frame, the school district is required to reapply in another application cycle, after the 2-year time frame, to be considered for a grant award.
- Required the State share of the grant amount in a conditional grant award that is not claimed by a school district within the 2-year time frame to be reallocated to future application cycles after the 2-year time frame expires.



State Pension Bonds

HB 4292:

Status: Passed both Houses (3/29/22); sent to the Governor (4/18/22)

- Authorizes an additional \$1,000,000,000 of State Pension Obligation Acceleration Bonds.
- Amends the State Employees, State Universities and Downstate Teachers Articles of the Illinois Pension Code.
- Extends the option for a participant to receive an accelerated pension benefit payment in lieu of any pension benefit or for a reduction in the increases to his or her annual retirement annuity and survivor's annuity to June 30, 2026 (instead of June 30, 2024).



Teachers' Retirement System

SB 2803:

Status: Passed both Houses (3/25/22); sent to the Governor (3/24/22); approved by the Governor (3/25/22); Public Act 102-0696

- Makes a supplemental appropriation in the amount of \$172,823,300, or so much thereof as is necessary, from the Pension Stabilization Fund to the Office of the State Comptroller for funding the unfunded liabilities of the Teachers' Retirement System of the State of Illinois.



Local Government Efficiency

SB 3789:

Status: Passed both Houses (3/31/22).

As Introduced:

- Created the Decennial Committees on Local Government Consolidation and Efficiency Act.
- Provided that, within one year after the effective date of the Act and at least once every 10 years thereafter, each unit of local government that may levy any tax (except municipalities and counties) must form a committee to: study local efficiencies, including an analysis of whether to consolidate with another unit of local government, municipality or county; and create a report with recommendations regarding efficiencies, increased accountability and consolidation.
- Provided that the duties of the committee include, but are not limited to, the study of the unit of local government's governing statutes, ordinances, rules, procedures, powers, jurisdiction, shared services, intergovernmental agreements and interrelationships with other units of local government and the State.
- Provided that the Committee shall collect data, research, analysis and public input.
- Dissolved the Committee after completion of its report.
- Provided for Committee membership, meetings and report requirements.
- Amended the State Mandates Act to require implementation without reimbursement.



Local Government Efficiency (cont.)

SB 3789 (cont.)

Senate Floor Amendment No. 1:

- Renames the Act to the Decennial Committees on Local Government Efficiency Act.
- Amends the School Code: Provides that the report that accompanies the school district's annual financial report must be adopted at an open meeting that allows for public comment.
- Amends the State Mandates Act to require implementation without reimbursement.



Administrative Leave

HB 1167: Status: Passed both Houses (3/31/22); Governor approved (4/5/22); P.A. 102-697.

- Amends the School Code to provide for pay and benefits to school district employees and contractors who provide educational support services for a school closure or e-learning day.
 - However, House Floor Amendment No. 3 added an exception to paying employees and contractors of a school district who provide educational support services for a school closure or e-learning day if the school day is rescheduled and the employee will be paid their daily, regular rate of pay and benefits on the rescheduled day when services are rendered.
- Provides for COVID-19 paid administrative leave for school district employees who are fully vaccinated against COVID-19.
- Provides for the return of sick leave used during the 2021-2022 school year to teachers and employees who are fully vaccinated against COVID-19.
- Provides for COVID-19 paid administrative leave for employees who are fully vaccinated against COVID-19.



School Educator Evaluations

HB 4688: Status: Passed both Houses (4/8/22).

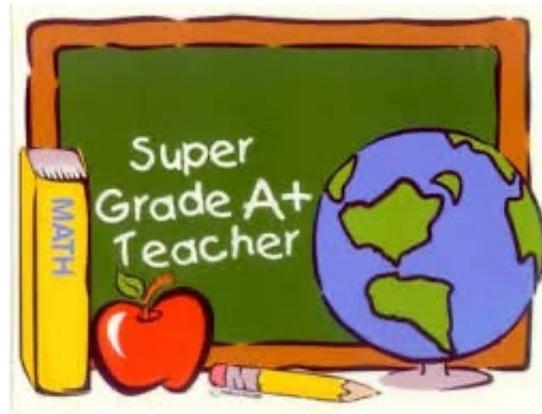
- Provided that, for one year beginning on the effective date of the Act, requirements related to completing professional development activities for the renewal of a Professional Educator License do not apply, except that the number of professional development hours required is reduced by 20% for any renewal cycle that includes the 2021-2022 school year.
- In provisions related to the content of evaluation plans, allowed a school district to waive, for the 2022-2023 school year only, the evaluation requirement of any teacher in contractual continued service or any principal or assistant principal whose performance during the last school year in which the teacher, principal or assistant principal was evaluated was rated as either "excellent" or "proficient".
- With respect to rules adopted by the State Board of Education concerning educator evaluations, for the 2022-2023 school year only, provided that factors related to methods of measuring student growth may not be used in any educator evaluation.



School Educator Evaluations (cont.)

HB 4256: Passed both Houses (4/7/22); sent to the Governor (4/20/22).

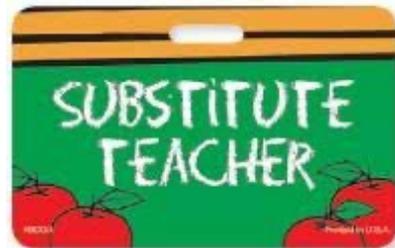
- Amends the Chicago School District Article of the School Code.
- Provides that for the 2022-2023 school year only, if the Governor has declared a disaster due to a public health emergency, the school district may waive the evaluation requirement of any teacher in contractual continued service, any principal or any assistant principal whose performance was rated as either “excellent” or “proficient” during the last school year in which the teacher, principal or assistant principal was evaluated.



Substitute Teachers

SB 3893: Status: Passed both Houses (4/5/22); sent to the Governor (4/27/22).

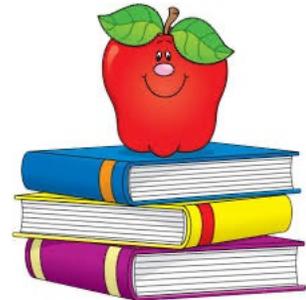
- Amends the School Code.
- Provides that a substitute teacher may teach up to 120 (instead of 90) school days for any one licensed teacher under contract in the same school year, beginning with the 2021-2022 school year through the 2023 school year.
- Outside of that time period, there is a 90-day limitation.



Individualized Education Programs

HB 4365: Status: Passed both Houses (3/30/22); Governor approved (4/22/22); Public Act 102-0703.

- Allows a student's (instead of "child's") individualized education program (IEP) team to determine whether the special education program of a school district is unable to meet the needs of a student with a disability.
- Provides that the financial responsibility and reimbursement of the resident district of a student with a disability applies to emergency placements in nonpublic special education facilities that are not approved by the State Board of Education.
- Provides that a school district may place a student in a nonpublic special education facility providing educational services within the facility, but not approved by the State Board of Education, under specified circumstances.
- Removes provisions that provide that a school district has no obligation to pay a residential facility unless and until specified proof is provided to the satisfaction of the State Board of Education.
- Removes provisions that provide that if the State Board of Education denies approval in writing or does not respond to a facility's or resident district's request for approval within 10 days after the request is submitted to the State Board of Education, the matter shall be referred to the Community and Residential Services Authority, which shall make the determination and notify the facility or resident district and the State Board of Education within 10 days after the Authority receives the referral.
- Provides that emergency placement in an approved facility may continue so long as (i) the student's IEP team determines annually that such placement continues to be appropriate to meet the student's needs and (ii) at least every 3 years following the student's placement, the IEP team reviews appropriate placements approved by the State Board of Education.
- Removes changes to provisions concerning placement in a residential facility and payment of educational costs and provisions concerning the Community and Residential Services Authority.



Unpaid Student Balances

HB 4243: Status: Passed both Houses (4/7/22); sent to the Governor (4/20/22).

- Provides that no public high school of a school district may withhold a student's grades, transcripts or diploma because of an unpaid balance on the student's school account.
- Provides that at the end of each school year, the school district must catalogue and report to the State Board of Education the total amount that remains unpaid by students.
- The above provisions only apply for 3 years after the effective date of this Act.



Bidding Exemption for Food Service

HB 4813: Status: Passed both Houses (4/8/22).

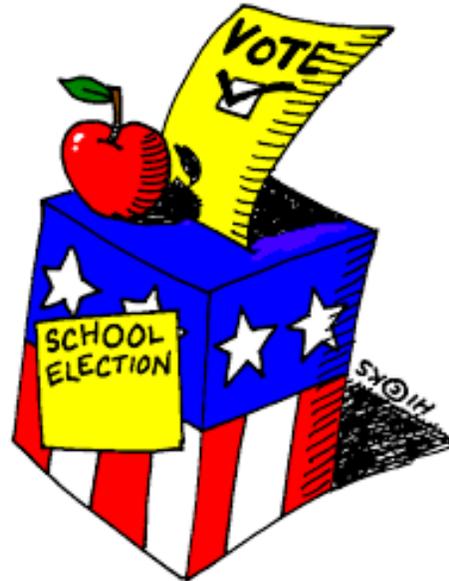
- The exemption from the contract bidding requirements for contracts for goods, services or management in the operation of a school's food service applies only if a good faith effort is made by the school district to give preference to (1) contracts that procure food that promotes the health and well-being of students in compliance with United States Department of Agriculture nutrition standards; (2) contracts that give a preference to State or regional suppliers that source local food products; (3) contracts that give a preference to food suppliers that utilize producers that adopt hormone and pest practices recommended by the United States Department of Agriculture; (4) contracts that give a preference to food suppliers that value animal welfare; and (5) contracts that increase opportunities for businesses owned and operated by minorities, women or persons with disabilities.
- Requires food supplier data to be submitted to the school district at the time of the bid and updated annually thereafter during the term of the contract.
- Requires the contractor to submit the updated food supplier data, which must include the name and address of each supplier, distributor, processor and producer involved in the provision of the products that the bidder is to supply.



Board Reorganization

HB 5127: Status: Passed both Houses (3/31/22); sent to the Governor (4/28/22).

- Provides that within 40 days (instead of 28) after the regular election of boards of school directors, the directors shall meet and organize by appointing one of their number as president and another as clerk.
- Provides that within 40 days (instead of 28) after the consolidated election, school boards shall organize by electing their officers and fixing a time and place for regular meetings.



Legislation has Passed. What's Next?

- The Governor has 60 days from the date the General Assembly sends the bill to his office to sign the bill into law.
- If he fails to sign the bill, the bill becomes law after the 60 days pass.
- Some bills take effect immediately upon becoming law.



Possible Future Legislation

TRS Annuitant Teaching Days

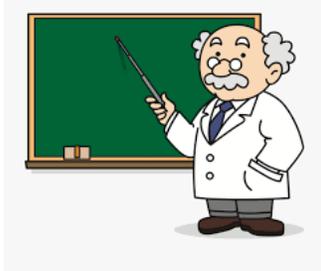
SB 3201: Status: Passed the Senate (4/1/22); re-referred to Rules Committee in the House (4/11/22).

As Introduced:

- Amended the Downstate Teacher Article of the Illinois Pension Code.
- Provided that beginning July 1, 2021, through June 30, 2023, an annuitant may accept employment as a teacher without impairing his or her retirement status if that employment is not within the school year during which service was terminated and does not exceed 150 paid days (instead of 120 paid days) or 750 paid hours (instead of 600 paid hours) in each school year.
- Provided that beginning July 1, 2023, an annuitant may accept employment as a teacher without impairing his or her retirement status if that employment is not within the school year during which service was terminated and does not exceed 120 paid days (instead of 100 paid days) or 600 paid hours (instead of 500 paid hours) in each school year.

Senate Floor Amendment No. 1:

- Amends the above provisions as follows:
 - Provides that beginning July 1, 2021, through June 30, 2023, an annuitant may accept employment as a teacher without impairing his or her retirement status if that employment is not within the school year during which service was terminated and does not exceed 140 paid days (rather than 150 paid days) or 700 paid hours (rather than 750 paid hours) in each school year, but not more than 100 paid days in the same classroom.



Other Topics

- PTELL Recapture
- PTELL Limiting Rate Referendum

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Questions and Answers

We thank you for your time!

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