

CHAPTER 62

AN ACT concerning borrowing by public school districts, amending P.L.2003, c.97.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2003, c.97 (C.18A:22-44.2) is amended to read as follows:

C.18A:22-44.2 State school aid payments not made until following school budget year; borrowing.

1. a. Notwithstanding any provision of law, rule, or regulation to the contrary, in the event that a State school aid payment for the current school budget year is not made until the following school budget year, the payment shall be recorded as revenue for budget purposes only in the current school budget year.

b. Notwithstanding the provisions of N.J.S.18A:22-25 and section 1 of P.L.1968, c.384 (C.18A:22-44.1) or any other law, rule, or regulation to the contrary, if a board of education of a school district is notified by the Commissioner of Education that one or more June State school aid payments will not be made until the following school budget year, and the district demonstrates through a written application to the commissioner the need to borrow and the commissioner approves that application, the board may borrow on or before June 30 of the current school budget year but not earlier than June 8 of the current school budget year a sum not exceeding the amount of the delayed State school aid payments, and may execute and deliver promissory notes therefor through private sale or delivery thereof. The district shall pay the amount so borrowed together with interest thereon and costs thereof. The promissory notes shall mature on or prior to the date of payment of the delayed June State school aid payments, may be redeemable prior to maturity, shall have such terms and conditions as shall be accepted by the board, and shall be authorized by resolution adopted by the board, which resolution may be adopted prior to application to the commissioner contingent upon approval by the commissioner. The amount so borrowed shall constitute a general obligation of the board and shall not constitute gross debt for purposes of N.J.S.40A:2-43.

c. If a school district's application to the commissioner contains a determination letter from a lending bank certifying to the interest charges on the borrowing and if the district's application is approved by the commissioner, the State shall pay on behalf of the district the approved interest on the promissory notes in an amount calculated from the date of borrowing through the date of payment by the State of the delayed June State school aid payments and other approved costs of issuance. Any obligations of the State to make payments pursuant to this section shall not constitute a general obligation of the State or a debt or a liability within the meaning of the State Constitution. Any payments required to be made by the State pursuant to this section shall be subject to appropriation.

d. Each school district which issues promissory notes pursuant to this section shall certify to the State Treasurer the name and address of the paying agent, the maturity schedule, interest rate, and date of payment of debt service on the promissory notes within three days after the date of issuance of the promissory notes. Following receipt of the certification, the State Treasurer shall withhold from the amount of State school aid payable to the district an amount sufficient to pay the principal on the maturity date of the promissory notes. In the event that there are interest or issuance costs which are not approved by the commissioner pursuant to subsection c. of this section, the State Treasurer shall also withhold an amount sufficient to pay those unapproved costs. The State Treasurer shall, on or before the maturity date, forward the withheld amount to the paying agent for the purpose of paying the debt service on the promissory notes. Notwithstanding any provision of this

section to the contrary, the State Treasurer's obligation to pay the paying agent pursuant to this subsection, other than those payments required to be made pursuant to subsection c. of this section, shall not exceed the amount of State school aid payable to the school district or the municipality.

e. Any negative unreserved, undesignated general fund balance that may be recorded as a direct result of a State aid payment for the current school budget year which is not made until the following school budget year shall not be considered a violation of any law or regulation and in need of corrective action.

f. The State Treasurer may, at his discretion, establish procedures and forms necessary to implement the provisions of this section. The State Treasurer may also adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this section.

2. This act shall take effect immediately.

Approved May 29, 2009.