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Local Finance Notice

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Municipal Clerks

Moving School Elections to the November General Election (P.L. 2012, c.202)

On Tuesday, January 17, Governor Christie signed into law Chapter 202 of the Laws of P.L 2011 (A-4394/S-3148) establishing procedures for moving the date of a school district's annual school election from April to the General Election in November. Under the new law, districts that have their school board members elected in November no longer have to submit their budgets (that meet levy cap requirements) for voter approval. Only a school board decision to exceed the levy cap would have to receive voter approval, and that would be on the November ballot.

The change in election date can be made by the board of education itself, the municipality (or municipalities that are members of a regional board), or by citizen petition. To help school boards and municipal governing bodies decide whether or not they want to change the election, a Questions and Answers document has been prepared to help guide local decision making. As the document states, school boards and municipal governing bodies are advised to adopt resolutions to make the change and notify their County Clerks **no later than February 17.**

The passage of this law with bi-partisan support provides both taxpayer savings and increased voter participation in the process. We urge prompt consideration and quick action to take advantage of this new opportunity.

Richard E. Constable III
Acting Commissioner

Frequently Asked Questions
Regarding New School Election Law

(P.L. 2011, c. 202)

P.L. 2011, c. 202, signed into law on January 17, 2012, permits a board of education, a municipal governing body, or voters (by way of petition) to move the April annual school board election to the date of the November general election.

The following information is in response to inquiries received by various State agencies from school districts and municipalities regarding implementation of this statute.

Procedure to Move the Annual School Board Election to November

1. Q. Is this new law in effect for 2012?

A. Yes.

2. Q. What procedure is required for the school board ("board") or municipal governing body ("governing body")?

A. The law requires passage of a resolution by the applicable board or governing body.

The board or governing body is required to follow the requirements of the Open Public Meetings Act, (N.J.S.A. 10:4-1, et seq.) for such action, and should also follow the board's or governing body's existing procedures for passage of a resolution.

3. Q. Is there a standard format for a resolution to move the election to November?

A. A sample resolution is appended to this FAQ.

4. Q. In order to move the April 2012 school election to November 2012, what is the deadline for the passage of such resolution?

A. There is no set deadline in the new law, but reading the statute in context with the timelines already established in election law provides a compelling rationale for the board or governing body to approve a resolution no later than **February 17, 2012**, and immediately notify the county clerk. This would provide the appropriate time to avoid potentially unnecessary expenses related to preparing for an April election; and also provide due notice to any person interested in filing a nomination petition for an April election.

5. Q. What happens if only the board or the governing body, but not both, pass a resolution moving the school election to November?

A. Under the law, the board and governing body each have independent authority to pass the resolution to move the April school election to November.

It is not required that both the board and governing body agree on the change of the election date. A resolution to change the date from either government office is controlling.

6. Q. If a board or governing body passes the resolution, what other government offices should be notified?

A. P.L. 2011, c. 202 requires notification to the applicable county clerk. It is also strongly recommended that a copy of the resolution be provided to the county board of election (and the county superintendent of elections, if there is one in the county); the applicable municipal clerk(s) and school board secretary or secretaries; the State Division of Elections; the Department of Education's Executive County Superintendent; and the Department of Community Affairs, Division of Local Government Services.

7. Q. In the case of a regional, merged, or consolidated school district, which entities have the authority to move the annual school election to November?

A. Either the individual board or all of the district's constituent governing bodies can move the annual school election to November.

Also, in the case of a limited purpose regional school district, if all of the constituent elementary districts move their elections to November, the regional school district election automatically moves to November.

8. Q. If the election is moved to November, can it revert back to April at a later date?

A. Yes, but once a school election is moved to November, no action can be taken (either by petition or resolution) to move the election back to April for four years.

9. Q. Does a move to a November election affect a school board's option to hold a special election, as is currently permitted by law four times a year at specified times?

A. No, the four special school election dates (January, March, September and December) remain available. April is not an option.

November School Elections

10. Q. If a board or governing body moves the school election, what is on the ballot for a November election?

A. At the November general election, the voters vote on the school board candidates and any proposed cap over-ride referendum. The election may also include a capital spending proposal. There is no vote on the annual school base budget within the levy cap.

11. Q. For the November election, what is the deadline for nomination petitions for school board candidates?

A. The deadline is the day of the June primary election.

12. Q. For April school elections, the school board secretary is the filing officer for nomination petitions. Who is the filing officer for November school elections?

A. The county clerk.

13. Q. For April school elections, the board rules on objections to nomination petitions. For the November election, who makes such decisions?

A. The county clerk.

14. Q. Is the November school election a partisan or non-partisan election?

A. Non-partisan.

15. Q. Where will the school board candidates be placed on the ballot?

A. The school election will be on a separate section of the ballot. The school board candidates will not be aligned with any political party or partisan candidates.

16. Q. Who has the authority to design the set-up of the ballot?

A. The county clerk designs the general election ballot. Under the new law, the clerk has the "authority to determine the specifications for, and the final arrangement of, the official ballots."

17. Q. In an April school election, the school board determines the hours of the election. What are the hours for the November election?

A. 6 a.m. to 8 p.m.

18. Q. If board members are elected in November, when does the board re-organize?

A. The first week of January.

19. Q. If a school election is moved to November, does that extend the expired term of office for the current board members?

A. Yes, their terms are extended until the January re-organization meeting.

20. Q. If the election is moved to November, thereby eliminating the vote on the annual base budget, is the board still required to hold public hearings on the budget as currently required by law?

A. Yes.

Fiscal Issues

21. Q. If the election is moved to November, will the school board incur any costs?

A. Unlike an April election, the school board will not incur base costs for the payment of board workers, voting machine transportation, overtime for county election personnel, rental of polling places, or other inherent costs of an election. These costs are already covered by either the state or the county as part of the existing November general election.

The new law states that a school board would be responsible for any increased costs incurred only by a county board of election if the school election moves to November. It is anticipated that such added costs would be minimal, if any. The new law provides that the board of education and the respective board of election can enter into an agreement regarding cost, pursuant to guidelines to be issued by the Secretary of State.

A school board also would not be responsible for ballot printing costs as it is the county clerk, not the county board of election, that has such responsibilities. Nor would a school board be responsible for any added costs incurred by a county superintendent of elections, if there is such office in the county.

Cap Over-ride Referendum

22. Q. If the November separate proposal (cap over-ride) is approved by the voters, does it affect the current budget or the subsequent budget?

A. A successful separate proposal (cap over-ride) is merged with the current budget and would allow the district to increase spending in the current budget year for the purpose cited in the voter-approved referendum.

School Elections Not Moving to November

23. Q. If a number of school elections are moved to November, will there be any added costs for those boards that continue with the April election?

A. It is possible that there is an increase in costs for districts maintaining April elections as a result of fewer school districts sharing in the overall costs of the April election.

24. Q. For boards that continue with an April school election and base-budget vote, will a separate proposal (cap over-ride referendum) still be on the April ballot?

A. Yes.

Sample Resolution

RESOLUTION

Establishing the Election of Members of the _____ Board of Education
As the First Tuesday after the First Monday in November

WHEREAS, P.L. 2011, c. 202 authorizes changing the election date of school board members from the third Tuesday in April to the first Tuesday after the first Monday in November (the General Election); and

WHEREAS, Such action requires the adoption of a resolution by a school district or the municipality or municipalities constituting such district, as set forth in P.L. 2011, c. 202; and

WHEREAS, P.L. 2011, c. 202 requires that the change to a November election remain in effect for four years; and

WHEREAS, P.L. 2011, c. 202 eliminates the annual voter referendum on the proposed general fund tax levy (i.e., the base budget which is at or below the statutory tax levy cap) in school districts where board of education members are elected at the General Election; and

WHEREAS, P.L. 2011, c. 202 requires that an additional general fund tax levy proposal (i.e., for an expenditure in excess of the tax levy cap) be presented to voters as a separate question at the General Election; and

WHEREAS, (*optional*) The _____ (Board of Education or Governing Body) believes that the financial interest of its constituents is safeguarded by the state's tax levy cap and the thorough review of the proposed school budget by the Executive County Superintendent and the Executive County School Business Administrator; and

WHEREAS, (*optional*) The _____ (Board of Education or Governing Body) believes that more citizens will participate in the selection of school board members at the General Election than on the third Tuesday in April and that the higher level of participation will foster positive interest in our public schools; and

WHEREAS, (*optional*) The _____ (Board of Education or Governing Body) is committed to the non-partisan status of school board membership and the non-partisan conduct of school elections, and believes this principle will not be compromised by conducting board member elections in November.

NOW, THEREFORE, BE IT RESOLVED,

That, pursuant to P.L. 2011, c. 202, the _____ (Board of Education or Governing Body) changes the annual election date for school board members from the third Tuesday in April to the November General Election, beginning in 2012; and be it further

RESOLVED, That, pursuant to P.L. 2011, c. 202, the annual organization meeting of the _____ Board of Education will take place in the first week of January following the November General Election and that the board of education's next organization meeting will take place in the first week of January 2013; and be it further

RESOLVED, That, pursuant to P.L. 2011, c. 202, members of the _____ Board of Education whose terms would have expired by May 2012 will continue to serve in office until the January 2013 organization meeting; and be it further

RESOLVED, That this resolution be transmitted to the _____ County Clerk; the _____ County Board of Elections and/or Superintendent of Elections; the _____ municipal clerk(s) and school board secretary or secretaries; the Department of State, Division of Elections; the Department of Education's Executive County Superintendent; and the Department of Community Affairs, Division of Local Government Services; and be it further

RESOLVED, That a copy of this resolution also be provided to the New Jersey School Boards Association and New Jersey State League of Municipalities.