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DATE: July 2, 2020

TO: SELF

RE: ***SSC's Sacramento Weekly Update***

Governor Newsom Signs 2020–21 State Budget

Just two days before the beginning of the new fiscal year, Governor Gavin Newsom signed the $202 billion spending plan for 2020–21 into law. The Governor signed the two main budget bills, Senate Bill (SB) 74 and Assembly Bill (AB) 89, as well as 18 budget trailer bills, which contain the implementing language of the State Budget.

SB 74 was sent to Governor Newsom at the constitutional deadline of June 15, which was before legislative leadership and the Newsom Administration came to a deal on the budget. The Governor delayed taking action on the bill until the Legislature could send him another budget bill that reflected their agreement and would make amendments to SB 74, which is what AB 89 does. While the Governor has the authority to veto any budget line item, he only used his "blue pencil" once since the State Budget is based on negotiations with legislative leadership.

Like the main budget bills, the budget trailer bills take effect immediately upon the Governor's signature. The three most significant trailer bills for education are the following:

- **SB 98—Education Omnibus Budget Trailer Bill.** This bill includes the implementing language of the budget's education provisions including $12 billion in Local Control Funding Formula (LCFF) deferrals, $5.3 billion ($4.8 billion federal funds) to mitigate learning loss from COVID-19, adoption of the Administration's new special education funding formula at a rate of $625 per average daily attendance (ADA), an ADA hold harmless provision that stipulates ADA will be based on the 2019–20 year, and replacing the Local Control and Accountability Plan for 2020–21 with a Learning Continuity and Attendance Plan due by September 30, 2020.

- **AB 84—Public Employment and Retirement Budget Trailer Bill.** This bill redirects the $2.3 billion from the 2019–20 State Budget Act that was allocated to provide long-term relief for the California State Teachers' Retirement System (CalSTRS) and California Public Employees' Retirement System (CalPERS) and instead uses those dollars to further reduce employer contribution rates for the 2020–21 and 2021–22 fiscal years. This reallocation will further reduce the CalSTRS employer rate from 18.41% to approximately 16.15% in 2020–21 and from 18.10% to approximately 16% in 2021–22, while the CalPERS employer contribution rate will be reduced from 22.67% to 20.70% in 2020–21 and from 24.60% to 22.84% in 2021–22.

- **AB 76—K–12 Education and Community Colleges 2019–20 Deferral.** This bill defers $1.85 billion in payments for K–12 education from June 2020 to July 2020 and defers $330 million in payments for the California Community Colleges from May and June 2020 to July 2020.

Bill Amended to Provide Liability Protections for Schools

During the recent budget deliberations, one issue that was repeatedly discussed, but never addressed, was how the state could protect schools from COVID-19-related lawsuits. While there was nothing in the final budget agreement that resolved this issue, Assemblymember Patrick O'Donnell (D-Long Beach), who chairs the Assembly Education Committee, gutted and amended AB 1384 on Monday into a measure that would provide limited liability protections for the state's schools as they prepare to reopen.

Specifically, the bill would require local educational agencies (LEAs) to establish policies and procedures for operating programs and facilities that are consistent with applicable federal, state, and local legal and regulatory COVID-19-related requirements and also takes into consideration guidelines from federal, state, and local government entities and public health agencies. The bill would exempt LEAs that meet these requirements from monetary liability and damages for injury relating to COVID-19 infection, any condition in existence because of the COVID-19 pandemic, or any act or omission by LEAs in response to the COVID-19 pandemic.

Since this is a two-year bill that is already in the second house (the Senate), it has been referred to the Senate Judiciary Committee for its policy hearing. However, since the Senate will be on summer recess beginning July 3 and will not return until July 13, the bill will not be heard by the committee until the Senate returns meaning we won't know more about this bill until later this month.

Leilani Aguinaldo

Changes to Interfund Borrowing in the 2020–21 State Budget Deal

By Robert McEntire, EdD, and Sheila G. Vickers
School Services of California Inc.'s *Fiscal Report*
June 29, 2020

Temporary interfund borrowing for cash flow purposes has been allowed by statute for many years, as discussed in our May 2020 *Fiscal Report* article "*Ask SSC . . . How Do We Implement Temporary Interfund Borrowing?*" The 2020–21 State Budget deal adds Section 42603.1 to the Education Code, which provides additional flexibility related to interfund borrowing, but it comes with strings attached.

For the 2020–21 and 2021–22 fiscal years, if there are cash deferrals (and there are), the following provisions will be in effect:

- Up to 85% of the money in any fund can be temporarily transferred to another fund for cash flow purposes
  - This is an increase from the normal 75% limitation
- A governing board resolution authorizing the temporary borrowing is required
  - This has not been specifically required by statute in the past, but some county offices of education or county treasurers may have always required it
- A public hearing is required to be held before the governing board adopts the resolution
  - This has not been required by statute in the past

Note that these changes are effective only for the next two fiscal years.

Keep in mind that the statute that provides for interfund borrowing, Education Code Section 42603, does not distinguish between the ability to borrow from different types of funds, as it refers to "moneys held in any fund or account." However, if there is a need to borrow from certain sources, such as bond funds or Community Facilities District (CFD) funds, check with your legal counsel before making the transaction.

If your local agency needs to implement a temporary interfund transfer for cash flow purposes, be sure to plan ahead, prepare the resolution, and hold the public hearing before the cash borrowing is needed.