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GOVERNOR SIGNS LEGISLATION ALLOWING SCHOOL BOARDS TO MOVE ELECTIONS TO APRIL WITHOUT A BUDGET VOTE IF WITHIN 2% CAP LEVY

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Governor Murphy recently signed a new law into effect (P.L.2023, c.289) which eliminates the vote on school budgets for Type II school districts in April elections, except for separate proposals to spend above the tax levy cap. Previously, Type II districts who held their elections in April were required to obtain voter approval of their base budgets, and if the budgets were rejected, the municipalities were given authority to decide on the school district budgets, which could result in budget cuts. Conversely, school boards with November elections were permitted to pass budgets without voter approval if their budgets remained within the tax levy cap. As a result, the vast majority of school boards throughout the state moved their elections from April to November to retain local control over the school budget.

Under the new law, Type II districts with April elections are no longer required to obtain voter approval for their budgets, but they would still need voter approval regarding any proposal for additional funds above the 2% tax levy cap. In other words, April elections are now akin to the November elections. As a result, school boards may wish to reconsider whether they would prefer to move their elections back to April in light of this recent legislation. Possible advantages to doing so are: (1) the electorate coming out to vote solely for the school board may be more knowledgeable about school district issues, as opposed to those who vote in November without knowing much about the candidates because they are generally there to vote on other State and Federal elections; and (2) if a separate spending proposal is adopted in April, there should be sufficient time to implement it before the next school year begins, as opposed to a November vote which will require waiting almost an additional year before implementation. A potential downside to the April election is that the board will be required to pay the cost of the separate election, which could run as high as \$30,000.00. There is no additional cost to the board for holding the election in November. Another potential downside is that where a school district decides to move its annual election from November to April, board member terms will be shortened accordingly.

As to the process to implement the change, the school board elections may be moved either through voter petition or by the resolution of either the school board or the municipality's

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governing body. Importantly, school boards are not permitted to move their elections from November to April until at least four (4) annual school elections have been held in November, and written notice of the change must be provided to the county clerk at least eighty-five (85) days prior to the third Tuesday in April to take effect for that year's election.

For more information about this alert, please contact Marc H. Zitomer (MHZ@spsk.com or 973-540-7329) or Christopher J. Sedefian (CJS@spsk.com or 973-798-4945).

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