

THE SCHOOL ADMINISTRATOR

and Uniform Compliance Guidelines ISSUED BY STATE BOARD OF ACCOUNTS

Volume 182A

June 2008

NEW LAWS AFFECTING SCHOOL CORPORATIONS

The following is a Digest of some of the laws passed by the 2008 Regular Session of the General Assembly affecting school corporations. Please note the effective dates. Some of the laws do not pertain directly to school corporations but are included in the Digest for ready reference to the covered subject matter.

The Digest is not intended as an expression of legal interpretation. The Digest is also not intended to be all inclusive. References in the Digest will be to the Indiana Code in the following form (Amends IC 20-20-31-3) (Amends Indiana Code, Title 20, Article 20, Chapter 31, Section 3).

PUBLIC LAW 9 - SENATE ENROLLED ACT 210 - EFFECTIVE JULY 1, 2008. TRF BENEFITS. Amends IC 5-10.2-4-7.2 concerning dissolution of marriage issues of TRF members.

PUBLIC LAW 11 - HOUSE ENROLLED ACT 1051 - EFFECTIVE JULY 1, 2008. FOUNDATIONS. Adds IC 20-47-1-2.5 to provide a "qualified foundation" means: (1) a nonprofit charitable community foundation; or (2) a public school endowment corporation.

PUBLIC LAW 12 - SENATE ENROLLED ACT 133 - EFFECTIVE JULY 1, 2008. PERF. Amends IC 5-10.2-5-43 concerning PERF benefits and provides for a cost of living increase.

PUBLIC LAW 13 - SENATE ENROLLED ACT 219 - EFFECTIVE JULY 1, 2008. LACTATION SUPPORT. Adds IC 5-10-6-2 concerning reasonable break time to employees as needed under section a). The state and political subdivisions of the state shall provide reasonable paid break time each day to an employee for (lactation purposes) for the employee's infant child. The break time must, if possible, run concurrently with any break time already provided to the employee. The state and political subdivisions are not required to provide break time under this section if providing break time would unduly disrupt the operations of the state or political subdivisions. (b) The state and political subdivisions of the state shall make reasonable efforts to provide a room or other location, other than a toilet stall, in close proximity to the work area, for an employee described in subsection (a). The state and political subdivisions shall make reasonable efforts to provide a refrigerator or other cold storage space for keeping milk that has been expressed. The state or a political subdivision is not liable if the state or political subdivision makes reasonable effort to comply with this subsection. Adds IC 22-2-14 to provide as used in this chapter, "employer" means a person or entity that employs twenty-five (25) or more employees. (c) Except in cases of willful misconduct, gross negligence, or bad faith, an employer is not liable for any harm caused by the provisions provided.

PUBLIC LAW 16 - HOUSE ENROLLED ACT 1275 - EFFECTIVE JULY 1, 2008. PUBLIC RECORDS COPY COSTS. Amends IC 5-14-3-8 to provide in part (d) As used in this subsection, "actual cost" means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs.

PUBLIC LAW 27 - HOUSE ENROLLED ACT 1145 - EFFECTIVE JULY 1, 2008. SALE OF LAND TO ABUTTING LANDOWNER. Adds IC 36-1-11-5.9 to provide in part c) Notwithstanding sections 4, 4.1, 4.2, and 5 of this chapter and subject to the procedures described in subsections (d) and (e), a disposing agent of a political subdivision may sell or transfer real property acquired by tax default without consideration or for a nominal consideration to an abutting landowner. Adds other procedures.

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PUBLIC LAW 31 - HOUSE ENROLLED ACT 1203 - EFFECTIVE JULY 1, 2008. SCHOOL BUSES. Amends IC 9-18 concerning registration of school buses prior to July 29 of each year.

PUBLIC LAW 39 - HOUSE ENROLLED ACT 1244 - EFFECTIVE JULY 1, 2008. CONGRESSIONAL TOWNSHIP SCHOOL FUNDS. Amends and adds to IC 20-42-2 allowing the loans for the transfer of the funds to The Treasurer of State.

PUBLIC LAW 51 - SENATE ENROLLED ACT 207 - EFFECTIVE JULY 1, 2008. ACCESS TO PUBLIC RECORDS. Amends IC 5-14-3-4 to provide in section (23) concerning the public records requests by persons incarcerated in correctional facilities.

PUBLIC LAW 57 - SENATE ENROLLED ACT 241 - EFFECTIVE VARIOUS DATES. DISASTER RELIEF. Amends IC 10-14-4-5 to provide the state disaster relief fund is established to provide financial assistance to: (1) assist eligible entities in paying for: (A) the costs of repairing, replacing, or restoring public facilities or individual residential real or personal property damaged or destroyed by a disaster; or (B) response costs incurred by an eligible entity during a disaster; and (2) allow the agency to pay for response costs incurred by the state or a local unit of government at the direction of the agency. The agency may provide financial assistance in response to a disaster only from the balance in the fund that is unobligated on the date the disaster occurs.

PUBLIC LAW 76 - SENATE ENROLLED ACT 51 - EFFECTIVE JULY 1, 2008. PERF/TRF. Amends IC 5-10.2 concerning a 30 day waiting period for reemployment in regards to PERF/TRF pay.

PUBLIC LAW 79 - HOUSE ENROLLED ACT 1185 - EFFECTIVE JULY 1, 2008. INDOOR AIR QUALITY. Amends IC 5-22-15 concerning offers to conduct indoor air-quality inspection programs and price preferences.

PUBLIC LAW 89 - SENATE ENROLLED ACT 334 - EFFECTIVE MARCH 19, 2008. SEVERE WEATHER WARNING SIRENS. Adds 36-8-21.5 concerning procedures related to severe weather warning sirens and as used in this chapter, "infrastructure agency", with respect to an area in a county, means: (1) a political subdivision; or (2) an agency; responsible for planning for, acquiring, operating, maintaining, or testing one (1) or more severe weather warning sirens in the area.

PUBLIC LAW 93 - HOUSE ENROLLED ACT 1065 - EFFECTIVE JULY 1, 2008. PERF/TRF. Amends and adds to IC 5-10.2-4 concerning designated beneficiaries.

Amends IC 5-10.2-4 concerning TRF benefits.

PUBLIC LAW 115 - SENATE ENROLLED ACT 72 - EFFECTIVE JULY 1, 2008. PERF.

Amends IC 5-10.2 concerning withdrawal of annuity savings accounts.

PUBLIC LAW 124 - HOUSE ENROLLED ACT 1019 - EFFECTIVE JANUARY 1, 2008. PERF/TRF. Adds IC 5-10.2-5-43.4 concerning a cost-of-living adjustment for TRF members. Amends 5-10.2 concerning PERF members.

PUBLIC LAW 130 - HOUSE ENROLLED ACT 1119 - JULY 1, 2008. TRF REEMPLOYMENT.

Amends IC 5-10.2-4 concerning the \$35,000 salary exemption for TRF/PERF members.

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PUBLIC LAW 131 - HOUSE ENROLLED ACT 1125 - EFFECTIVE VARIOUS DATES. RAINY DAY FUND LOANS. Adds IC 6-1.1-11-21 concerning the State rainy day fund loans for eligible school corporations, provides in part an eligible school corporation may prepay a loan under the chapter from any source of revenue.

PUBLIC LAW 133 - HOUSE ENROLLED ACT 1165 - EFFECTIVE JULY 1, 2008. TRANSFER TUITION, HOMELESS CHILDREN AND FOSTER CARE CHILDREN. Adds IC 20-26-11-30 to provide (a) This section applies to a student who resided in a school corporation where the student had legal settlement for at least two (2) consecutive school years immediately before moving to an adjacent school corporation. (b) A school corporation in which a student had legal settlement for at least two (2) consecutive years as described in subsection (a): (1) shall allow the student to attend an appropriate school within the school corporation in which the student formerly resided; (2) may not request the payment of transfer tuition for the student from the school corporation in which the student currently resides and has legal settlement or from the student's parent; and (3) shall include the student in the school corporation's ADM; if the principal and superintendent in both school corporations jointly agree to enroll the student in the school. (c) If a student enrolls under this section in a school described in subsection (b)(1), the student's parent must provide for the student's transportation to school. (d) A student to whom this section applies may not enroll primarily for athletic reasons in a school in a school corporation in which the student does not have legal settlement. However, a decision to allow a student to enroll in a school corporation in which the student does not have legal settlement is not considered a determination that the student did not enroll primarily for athletic reasons.

Adds IC 20-50 concerning homeless children and foster care children and responsibilities of school corporations including the providing of transportation in certain situations.

PUBLIC LAW 135 - HOUSE ENROLLED ACT 1179 - EFFECTIVE MARCH 24, 2008. RESTRAINT OF TRADE. Adds IC 24-1-1-5.1 to provide in part the attorney general may bring an action on behalf of the state or a political subdivision (as defined in IC 34-6-2-110) for injuries or damages sustained directly or indirectly as a result of a violation of this chapter.

PUBLIC LAW 137 - HOUSE ENROLLED ACT 1204 - EFFECTIVE MARCH 24, 2008. EMERGENCY ALERT SYSTEM ADVISORY COMMITTEE. Adds IC 10-13-72-38 concerning the Emergency Alert System Advisory Committee.

PUBLIC LAW 138 - HOUSE ENROLLED ACT 1219 - UNEMPLOYMENT INSURANCE. Amends IC 22-4 concerning income determination procedure.

PUBLIC LAW 146 - HOUSE ENROLLED ACT 1001 - EFFECTIVE VARIOUS DATES. PROPERTY TAXES.

Bonds and Other Title 5 Issues

Amends IC 5-1-5-1 to provide in part: (i) "Local issuing body" means an issuing body that is: (1) a political subdivision (as defined in IC 36-1-2-13); (i) "Local issuing body" means an issuing body that is: (1) a political subdivision (as defined in IC 36-1-2-13); (2) a district (as defined in IC 6-1.1-21.2-5); or (3) a corporation or other entity that: (A) is not a body corporate and politic established as an instrumentality of the state; and (B) has issued bonds that are payable directly or indirectly from lease rentals payable by a political subdivision or district described in subdivision (1) or (2).

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PUBLIC LAW 146 - HOUSE ENROLLED ACT 1001 - EFFECTIVE VARIOUS DATES. PROPERTY TAXES. (Continued)

Adds IC 5-1-5-17 to provide (a) This section applies to bonds that are: (1) issued after June 30, 2008, by a local issuing body; . . . (b) The last date permitted under an agreement for the payment of principal and interest on bonds that are issued to retire or otherwise refund other revenue bonds or general obligation bonds may not extend beyond the maximum term of the bonds being refunded.

Adds IC 5-1-5-18 to provide (a) This section applies to bonds that are: (1) issued after June 30, 2008, by a local issuing body; and (b) Savings (as computed under section 2 of this chapter) that accrue from the issuance of bonds to retire or otherwise refund other bonds may be used only for the following purposes: (1) To maintain a debt service reserve fund for the refunding bonds at the level required under the terms of the refunding bonds, if the local issuing body adopts an ordinance, resolution, or order authorizing that use of the proceeds or earnings. (2) To pay the principal or interest, or both, on: (A) the refunding bonds; or (B) other bonds, if the issuing body approves an ordinance authorizing the use of the savings to pay principal or interest on other bonds. (3) To reduce the rate or amount of ad valorem property taxes, special benefit taxes on property, or tax increment revenues imposed by or allocated to the local issuing body.

Amends IC 5-1-14-15 to eliminate pension obligation bonds after July 1, 2008.

Amends IC 5-1-13-2 (c) Surplus bond proceeds or investment earnings may be used by a local issuing body for the following purposes: (1) To maintain a debt service reserve fund for the bonds to which the surplus bond proceeds or investment earnings are attributable, at the level required under the terms of the bonds, if the local issuing body adopts an ordinance, resolution, or order authorizing that use of the proceeds or earnings. (2) To pay the principal or interest, or both, on any other bonds of the local issuing body, if the local issuing body adopts an ordinance, a resolution, or an order authorizing the use of the surplus proceeds to pay principal or interest on the bonds. (3) To reduce the rate or amount of ad valorem property taxes, special benefit taxes on property, or tax increment revenues imposed by or allocated to the local issuing body.

Amends IC 5-1-14-10 to provide (c) except as otherwise provided by this section, IC 36-7-12-27, or IC 36-7-14-25.1, the maximum term or repayment period for obligations issued after June 30, 2008, . . . may not exceed: (1) the maximum applicable period under federal law, for obligations that are issued to evidence loans made or guaranteed by the federal government or a federal agency; (2) twenty-five (25) years, for obligations that are wholly or partially payable from tax increment revenues derived from property taxes; or (3) twenty (20) years, for obligations that are not described in subdivision (1) or (2) and are wholly or partially payable from ad valorem property taxes or special benefit taxes on property.

Adds IC 5-1-14-16 to provide for obligations that are issued after June 30, 2008, by a local issuing body; . . . for the payment of principal and interest on the obligations.

Amends IC 5-13-6-3 to eliminate (c) concerning property tax advance draws from the property tax replacement fund from the county treasurer.

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PUBLIC LAW 146 - HOUSE ENROLLED ACT 1001 - EFFECTIVE VARIOUS DATES. PROPERTY TAXES. (Continued)

Budgets and Related Issues

Amends IC 6-1.1-17-5 concerning budgets to provide in part (3) The governing body of each school corporation (including a school corporation described in subdivision (1)), not later than the time required under section 5.6(b) of this chapter for budget years beginning after June 30, 2010.

Fiscal Year Budgets

Amends IC 6-1.1-17-5.6 provide in part beginning in 2010, each school corporation shall adopt a budget under this section that applies from July 1 of the year through June 30 of the following year. In the initial budget adopted by a school corporation in 2010 under this section, the first six (6) months of that initial budget must be consistent with the last six (6) months of the budget adopted by the school corporation for calendar year 2010.

Appointed Boards

Adds IC 6-1.1-17-20.5 to provide (a) This section applies to the governing body of a taxing unit unless a majority of the governing body is comprised of officials who are elected to serve on the governing body. (b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9. (c) If: (1) the assessed valuation of a taxing unit is entirely contained within a city or town; or (2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town; the governing body of the taxing unit may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the city or town fiscal body. (d) This subsection applies to a taxing unit not described in subsection (c). The governing body of the taxing unit may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the county fiscal body in the county where the taxing unit has the most net assessed valuation.

Excess Levy

Amends IC 6-1.1-18.5-3 concerning Department of Local Government Finance and excess levy appeals.

Controlled Projects And Referendum Thresholds

Amends IC 6-1.1-20-1.1 and IC 6-1.1-20-3.1 to provide for thresholds and definitions for controlled projects and referendums. Also adds IC 6-1.1-20-3.5 and 6-1.1-20-3.6 concerning procedures for controlled projects, including the petition process.

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PUBLIC LAW 146 - HOUSE ENROLLED ACT 1001 - EFFECTIVE VARIOUS DATES. PROPERTY TAXES. (Continued)

Referendum Prohibitions

IC 6-1.1-20-10.1 to provide (a) This section applies only to a political subdivision that, after June 30, 2008, adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease subject to sections 3.5 and 3.6 of this chapter. (b) During the period beginning with the adoption of the ordinance or resolution and continuing through the day on which a local public question is submitted to the voters of the political subdivision under section 3.6 of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the local public question by doing any of the following: (1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the local public question, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision. (2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the local public question. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project. (3) Using an employee to promote a position on the local public question during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the local public question at any time. (4) In the case of a school corporation, promoting a position on a local public question by: (A) using students to transport written materials to their residences or in any way directly involving students in a school organized promotion of a position; or (B) including a statement within another communication sent to the students' residences. However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a local public question that are part of the normal and regular conduct of the employee's office or agency. (c) The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian who supports or opposes a controlled project subject to a local public question held under section 3.6 of this chapter. (d) A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation for the use of any of the school corporation's facilities may not spend any money to promote a position on a local public question. A person or an organization that violates this subsection commits a Class A infraction. (e) An attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project may not spend any money to promote a position on a local public question. A person who violates this subsection: (1) commits a Class A infraction; and (2) is barred from performing any services with respect to the controlled project.

Distressed Units

Amends IC 6-1.1-20.3-1 to change the name of the "circuit breaker board" to the "distressed unit appeal board".

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DLGF Approval - Bonds

Adds IC 6-1.1-20-7.5 to provide this section applies only to bonds, leases, and other debt for which a political subdivision: (1) after June 30, 2008, makes a preliminary determination as described in section 3.1 or 3.5 of this chapter or a decision as described in section 5 of this chapter; or (2) in the case of bonds, leases, or other obligations not subject to section 3.1, 3.5, or 5 of this chapter, adopts a resolution or ordinance authorizing the bonds, lease rental agreement, or other obligations after June 30, 2008.

Notwithstanding any other provision, review by the department of local government finance and approval by the department of local government finance are not required before a political subdivision may issue or enter into bonds, a lease, or any other obligations payable from ad valorem property taxes.

Debt Service

Adds IC 6-1.1-20.6-10 to provide political subdivisions are required by law to fully fund the payment of their debt obligations in an amount sufficient to pay any debt service or lease rentals on outstanding obligations, regardless of any reduction in property tax collections due to the application of tax credits granted under this chapter. Any reduction in collections must be applied to the other funds of the political subdivision after debt service or lease rentals have been fully funded. Also provides for the Treasurer of State to pay unpaid debt service obligations by deducting payments from the amount to be distributed to a political subdivision.

Tax Adjustment Boards

Amends IC 6-1.1-29-2 concerning county tax adjustment boards.

TIF

Amends IC 6.1-21.2-12 concerning notifications to political subdivisions of special assessments for taxes in tax increment financing areas.

State Withholdings

Adds IC 6-1.1-30-17 concerning the possible State withholdings of CAGIT, COIT or EDIT for counties not property tax compliant.

Nonbinding Guidelines

Amends IC 20-19-2-12 concerning nonbinding guidelines by the State Board of Education for the selection of school sites and the construction, alteration, and repair of school buildings, athletic facilities, and other categories of facilities related to the operation and administration of school corporations.

Amends IC 20-19-2-13 to provide for State Board of Education building guidelines.

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PUBLIC LAW 146 - HOUSE ENROLLED ACT 1001 - EFFECTIVE VARIOUS DATES. PROPERTY TAXES. (Continued)

Amends IC 20-19-3-8 to provide (b) Notwithstanding subsection (a), the department shall do the following: (1) Receive and review plans and specifications as required by IC 20-19-2-12. (2) Establish a central clearinghouse for access by school corporations that may want to use a prototype design in the construction of school facilities. The department shall compile necessary publications and may establish a computer data base to distribute information on prototype designs to school corporations. Architects and engineers registered to practice in Indiana may submit plans and specifications for a prototype design to the clearinghouse. The plans and specifications may be accessed by any person. However, the following provisions apply to a prototype design submitted to the clearinghouse: (A) The original architect of record or engineer of record retains ownership of and liability for a prototype design. (B) A school corporation or other person may not use a prototype design without the site-specific, written permission of the original architect of record or engineer of record. (C) An architect's or engineer's liability under clause (A) is subject to the requirements of clause (B). The state board may adopt rules under IC 4-22-2 to implement this subdivision.

Levy Replacement Grants

Adds IC 20-20-36 to provide for levy replacement grants under certain requirements. Provides in part 10 An eligible school corporation shall deposit and use the amount received from a grant as follows: (1) An amount equal to the revenue lost to the eligible school corporation's debt service fund as the result of the granting of credits shall be deposited in the eligible school corporation's debt service fund for purposes of the debt service fund. (2) Any part of a grant remaining after making the deposit required under subdivision (1) may be deposited in any combination of the eligible school corporation's capital projects fund, transportation fund, school bus replacement fund, and racial balance fund, as determined by the school corporation.

Leased Buildings

IC 20-23-4-42 regarding reviews, hearings, plans and specifications of leased buildings.

Transfer Tuition Appeals

Amends IC 20-26-11-13 to eliminate (j) concerning transfer tuition appeals.

Special Ed Preschool

Amends IC 20-20-34-1 concerning special ed preschool grants to provide the chapter applies to each school corporation.

Charter Schools

Amends IC 20-24-7-2 concerning charter school distributions.

Special Ed Preschool

Amends IC 20-40-4-4 to add part: (b) A school corporation may not impose a special education preschool property tax levy after December 31, 2008.

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CPF Transfers

Adds IC 20-40-8-21 concerning a capital projects fund to provide money in the fund may be transferred to another fund to replace property tax revenues lost to the fund as a result of the granting of circuit breaker credits under IC 6-1.1-20.6. A school corporation shall make a transfer of money under this section if the fund experiencing a shortfall is a debt service fund and money is not transferred from any other fund to cover the shortfall. The amount transferred must be equal to the amount of the shortfall that is not replaced from other funds.

Self-Insurance Fund Transfers

Amends IC 20-40-12-6 concerning self-insurance fund transfers, eliminating the references to the General fund tax levy and rate.

New Facility Adjustments

Adds IC 20-43-11.5 concerning new facility adjustments appeals procedures.

Referendum Tax Levy

Amends IC 20-46-1-8 and IC 20-46-1-9 concerning referendum tax levy procedures.

School Bus Replacements

Amends IC 20-46-5-8, to provide in part if the school corporation is seeking to: (A) replace an existing school bus earlier than twelve (12) years after the existing school bus was originally acquired.

DLGF Approval - Bonds

Adds IC 20-46-7-8.5, to provide (a) Notwithstanding any other provision, review by the department of local government finance and approval by the department of local government finance are not required before a school corporation may issue or enter into bonds, a lease, or any other obligation, if the school corporation: (1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or (2) in the case of bonds, leases, or other obligations not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the bonds, lease rental agreement, or other obligations after June 30, 2008. (b) A school corporation is not required to obtain the approval of the department of local government finance before the school corporation may repay from the debt service fund any loans made after June 30, 2008, for the purchase of school buses under IC 20-27-4-5. (c) This subsection applies after June 30, 2008. Notwithstanding any other provision, review by the department of local government finance and approval by the department of local government finance are not required before a school corporation may construct, alter, or repair a capital project.

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CPF Utility Payments

Amends IC 20-40-8-19, to provide money in the fund may be used to pay for up to one hundred percent (100%) of the following costs of a school corporation: (1) Utility services. (2) Property or casualty insurance. (3) Both utility services and property or casualty insurance. A school corporation's expenditures under this section may not exceed in 2008 and in 2009 three and five-tenths percent (3.5%) of the school corporation's 2005 calendar year distribution.

Tuition Support

Non code provisions concerning tuition support and distributions, appeal procedures.

Provides non code sections concerning shortfall tuition support appeals.

Also provides for a State Board of Accounts bond petition form by June 15, 2008.