

UPDATE

As 2009 comes to an end and you prepare to enter 2010, we would like to remind you of legislative changes that occurred in 2009 affecting special elections and financing of capital projects. Please find below a summary of changes that occurred in 2009.

Special Election Dates

Section 29A.04.330 of the Revised Code of Washington (“RCW”) was amended by Chapter 413, Laws of 2009. Special election dates from now until July 1, 2011, are as follows:

- Second Tuesday in February;
- Fourth Tuesday in April;
- Third Tuesday in May, but only for elections regarding tax levies that failed previously in the calendar year and new bond issues;
- The day of the primary as specified by RCW 29A.04.311; and
- First Tuesday after the first Monday in November.

Please note that there is no longer a special election date in March and the election in May is only for limited purposes.

After July 1, 2011, there will no longer be a special election date in May.

Additionally, the county auditor must be provided at least 45 days notice prior to the election date, rather than 52 days, as was previously required. Resolutions calling for special elections on the day of the primary or on the first Tuesday following the first Monday in November are still required to be presented to the county auditor at least 84 days prior to the election.

Uses of Capital Project Fund Proceeds

RCW 28A.320.330 was reenacted and amended pursuant to Chapter 460, Laws of 2009, to clarify and expand the allowable uses of non-bond proceeds in the capital projects fund. In addition to projects previously allowed, RCW 28A.320.330, as amended, now allows school districts to use capital project fund proceeds (other than bond proceeds) for the following purposes:

- Major renovation and replacement of facilities and systems where periodical repairs are no longer economical or extend the useful life of the facility or system beyond its original planned useful life;
- Major repairs;
- Exterior painting of facilities;

- Replacement and refurbishment of roofing, exterior walls, heating and ventilating systems, floor covering in classrooms and public or common areas and electrical and plumbing systems; and
- Major equipment repair, painting of facilities and other major preventative maintenance purposes.

To the extent funds are used for major equipment repair, painting of facilities and other major preventative maintenance purposes, a school district shall transfer the portion of the capital projects fund used for such purpose to the general fund. Based on the school district's most recent two-year history of general fund maintenance expenditures, funds used for such purpose may not replace routine annual preventative maintenance expenditures made from the school district's general fund.

RCW 84.52.053 was amended, pursuant to Chapter 460, Laws of 2009, to allow two-year through six-year tax levies (when authorized by voters) to be made for the purposes set forth above.

If you have any questions about the information contained in this Update, please feel free to contact Roy J. Koegen (roy@koegenedwards.com) or Erik J. Lamb (erik@koegenedwards.com) or at (509) 747-4040.