

January 25, 2016

The Board of Education, Community High School District 99, met in regular session at 6:30 p.m. on Monday, January 25, 2016 at the Administrative Service Center.

Upon the Secretary's roll call, the following members answered present: Nancy Kupka, President; Terry Pavesich, Vice President; and Members Julia Beckman, Deb Boyle, Michael Davenport, Rick Pavinato and Don Renner.

Also present were Mark McDonald, Superintendent; Pete Theis, Assistant Superintendent for Human Resources; Mark Staehlin, District Controller; Henry Thiele, Incoming Superintendent; and Juli Gniadek, Secretary.

1. CLOSED SESSION

Member Pavesich moved and Member Davenport seconded that the meeting be adjourned to closed session for the purpose of: collective negotiating matters between the District and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. *5 ILCS 120/2(c)(2)*; discussion of the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the District or legal counsel for the District, including hearing testimony on a complaint lodged against an employee or against legal counsel for the District to determine its validity, *5 ILCS 120/2(c)(1)*, as amended by *P.A. 93-00*; and discussion of minutes of meetings lawfully closed under the Open Meetings Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. *5 ILCS 120/2(c)(21)*.

Upon the Secretary's roll call, Members Pavesich, Davenport, Renner, Pavinato, Beckman, Boyle and Kupka voted AYE. The President declared the motion carried.

2. RECONVENE TO REGULAR SESSION

The meeting was reconvened in open session with the following members of the Board of Education in attendance: Nancy Kupka, President; Terry Pavesich, Vice President; and Members Julia Beckman, Deb Boyle, Michael Davenport, Don Renner and Rick Pavinato.

Also present were Mark McDonald, Superintendent; Gina Ziccardi, Assistant Superintendent for Student Learning; Pete Theis, Assistant Superintendent for Human Resources; Scott Wuggazer, Assistant Superintendent for Special Services; Mark Staehlin, District Controller; Jim Kolodziej, Director of Physical Plant and Operations; Jill Browning, Communications Director; Ed Schwartz, South High Principal; and Juli Gniadek, Secretary.

There were three visitors.

(A copy of the Visitor Roster is attached.)

1. APPROVAL OF MINUTES

Member Beckman moved and Member Pavesich seconded that the Board of Education approve the minutes of the December 14, 2015 Business Meeting; the December 14, 2015 Closed Meeting; the January 11, 2016 Special/Workshop Meeting; and the January 11, 2016 Closed Meeting.

Upon the Secretary's roll call, Members Beckman, Pavesich, Pavinato, Boyle, Davenport, Renner and Kupka voted AYE. The President declared the motion carried.

2. RECEPTION OF VISITORS

There were no visitors.

3. CONDUCT OF PUBLIC HEARING CONCERNING THE INTENT OF THE BOARD OF EDUCATION TO SELL \$1,453,000 SCHOOL FIRE PREVENTION AND SAFETY BONDS

President Kupka announced the public hearing to receive public comments on the proposal to sell \$1,453,000 School Fire Prevention and Safety Bonds (the "Bonds") for the purpose of conforming the existing facilities of the District that house students to the building code promulgated by the State Board of Education of the State of Illinois, by altering and reconstructing said facilities and having equipment purchased and installed therein and explained that all persons desiring to be heard would have an opportunity to present written or oral testimony with respect thereto.

Mark Staehlin stated the architects identified \$5.2 million in Life Safety projects and that the District previously held a hearing for approval of \$3.5 million in bonds. Since the first public hearing the District received, from the Regional Office of Education, the list of approved Life Safety projects. Mr. Staehlin explained that the Office of the Governor recently made available Qualified School Construction Bonds (QSCB) which could be used for Life Safety projects, and that the majority of the interest on these bonds would be paid for by the federal government. Mr. Staehlin stated that though receipt of the QSCBs is not guaranteed, as there are many districts applying, the approval of the additional \$1,453,000 in bonds positions the District to fund all of the approved Life Safety work with the Qualified School Construction Bonds.

Board Members thanked Mark Staehlin for his work on the proposed bond sale.

Community Member Mr. Scott O'Connell read a statement. The statement is attached.

District 99 student Ms. Emma Nykiel stated that if we want to improve our schools we need to have the money to do maintenance work on them as needed.

Member Davenport moved and Member Pavesich seconded that the Board of Education adjourn the hearing concerning the intent of the Board of Education to sell \$1,453,000 School Fire Prevention and Safety Bonds.

Upon the Secretary's roll call, Members Davenport, Pavesich, Pavinato, Beckman, Boyle, Renner, and Kupka voted AYE. The President declared the motion carried.

4. 2016-2017 PROPOSED CALENDAR

Mark McDonald stated the Calendar Committee will meet for the final time on Thursday and that at the February 1, 2016 Special Meeting the administration will make a 2016-2017 calendar recommendation to the Board. Dr. McDonald reviewed some of the positives and negatives associated with an early start calendar.

5. STUDENT FEES FOR 2016-2017

Mark Staehlin presented the proposed 2016-2017 student fees. The proposal reflected an increase of \$20.00 in the registration fee which would be offset by removal of separate fees for student attendance at athletic events, plays and musicals and the publication fee. According to Mr. Staehlin the proposal is cost neutral and would remove a possible barrier to student attendance at school activities. The proposal did reflect a slight increase in admission to plays and musicals for adults; the athletic participation fee; and the yearbook. A decrease in admission for seniors and children to plays and musicals was proposed. Mr. Staehlin stated the Board would be asked to approve the proposed fees at the February Business Meeting.

6. QUARTERLY FINANCIAL REPORT

Mr. Staehlin said the mid-year fund balances were tracking as expected; on the revenue side, interest may be over budget; and that because of reduced fuel costs the District is saving approximately \$7,000 per month in transportation expenses.

7. PRELIMINARY 2016-2017 BUDGET DEVELOPMENT

Mr. Staehlin explained that, according to Administrative Regulation 4.20, the District is to maintain a 3% reserve level and if the level drops below 3% he is to come to the Board with an action plan to increase the reserve. He stated the administration set a target of decreasing the 2016-2017 budget by \$1 million dollars to increase the reserve while having little or no impact on students. He then presented an overview of the areas affected by the budget changes.

8. FREEDOM OF INFORMATION REQUESTS

Dr. McDonald reported that the District received four Freedom of Information Act requests last month, all of which were fulfilled.

9. CONSENT AGENDA

Member Boyle stated there was an error in the previously approved November 4, 2015 Closed Meeting Minutes that needed to be corrected.

Member Pavesich moved and Member Davenport seconded that the Board of Education approve the Consent Agenda as presented.

Upon the Secretary's roll call, Members Pavesich, Davenport, Renner, Pavinato, Beckman, Boyle, and Kupka voted AYE. The President declared the motion carried.

10. APPROVAL OF THE STAFFING RATIO FOR THE 2016-2017 SCHOOL YEAR

Dr. McDonald stated the staffing ratio recommendation of 21.8:1, which was originally presented to the Board in December, would staff the District buildings equitably and efficiently.

Member Pavinato moved and Member Beckman seconded that the Board of Education approve the Staffing Ratio for the 2016-2017 school year as presented.

Upon the Secretary's roll call, Members Pavinato, Beckman, Boyle, Davenport, Renner, Pavesich and Kupka voted AYE. The President declared the motion carried.

11. ABATEMENT RESOLUTION: ALTERNATE REVENUE BONDS

Mark Staehlin stated the Resolution is to abate the taxes, approximately \$1.2 million, on the Alternate Revenue Bonds so that the County does not levy a tax for these bonds because the District is paying for them out of operating funds.

Member Pavesich moved and Member Davenport seconded that the Board of Education approve the resolution abating the tax heretofore levied for the year 2015 to pay debt service on General Obligation Bonds (Alternate Revenue Source), Series 2011, of Community High School District Number 99, DuPage County, Illinois.

Upon the Secretary's roll call, Members Pavesich, Davenport, Renner, Pavinato, Beckman, Boyle and Kupka voted AYE. The President declared the motion carried.

12. OLD BUSINESS

None.

13. NEW BUSINESS

The Policy Committee presented the following policies for first reading, noting that if Board members have any questions or concerns related to these policies, they should contact a Committee member or Dr. McDonald. These policies will be brought forward for second reading and approval in February.

- 2.150 Committees
- 2.160 Board Attorney
- 2.200 Types of School Board Meetings
- 2.260 Uniform Grievance Procedure
- 4.50 Payment Procedures
- 5.40 Communicable and Chronic Infectious Disease
- 5.90 Abused and Neglected Child Reporting
- 5.100 Staff Development Program
- 6.15 School Accountability
- 6.50 School Wellness
- 6.60 Curriculum Content
- 6.140 Education of Homeless Children
- 6.160 English Language Learners
- 6.280 Grading and Promotion

- 6.311 Exemption from Physical Education
- 6.315 High School Credit for Courses taken as 7th or 8th Grade Students
- 6.320 High School Credit for Proficiency
- 7.10 Equal Educational Opportunities
- 7.40 Nonpublic School Students, Including Parochial and Home-Schooled Students
- 7.100 Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students
- 7.130 Student Rights and Responsibilities
- 7.140 Search and Seizure
- 7.270 Administering Medicines to Students
- 7.300 Extracurricular Clubs and Organizations & Athletics
- 7.305 Student Athlete Concussions and Head Injuries
- 7.310 Restrictions on Publications
- 7.325 Student Fund Raising Activities
- 7.340 Student Records
- 8.10 Connection with the Community
- 8.80 Gifts to the District

President Kupka posed questions regarding three of the policies being brought forward. Dr. McDonald addressed Dr. Kupka's questions. Additionally, Dr. Kupka asked that the Policy Committee look at a more prominent placement of Student Responsibilities.

14. RECEPTION OF VISITORS

There were no visitors.

15. REPORT ON LEGISLATIVE EDUCATION NETWORK OF DUPAGE (LEND)

Member Renner and Dr. McDonald shared that the topics of the recent LEND meeting included: the loss of State aid to the District if the State Board of Education budget was approved; the tax exempt status of hospitals; the assessed value of properties in DuPage County; and the tax freeze bill.

16. REPORT ON SCHOOL ASSOCIATION FOR SPECIAL EDUCATION IN DUPAGE COUNTY (SASED)

Member Beckman reported that SASED Director Volpe recently held a Strategic Planning Session that was well attended. She said that SASED is continuing to pursue a change in its legal entity status and that the District 99 Board will need to approve the change in status.

17. REPORT ON ILLINOIS HUMANITIES COUNCIL

Member Beckman reported the first of the public education discussions sponsored by the Illinois Humanities Council is Wednesday, April 27.

18. REPORT ON DISTRICT 99 EDUCATION FOUNDATION

Member Pavesich reported that Pizza Wars was a success and the Foundation raised an estimated \$8,400. She thanked everyone who attended, the pizza vendors, the event sponsors and the South High CMG staff for their support.

19. REPORT ON ILLINOIS ASSOCIATION OF SCHOOL BOARDS (IASB)

Member Boyle reminded the Board of the upcoming DuPage Division Meeting on March 1, at Fenton High School in Bensenville, where Dr. Beth Purvis, Illinois Secretary of Education, will be the guest speaker.

20. UPCOMING BOARD OF EDUCATION MEETINGS

President Kupka announced the following meeting dates:

February 1, 2016 Special Meeting – 7:00 p.m. – Administrative Service Center

February 22, 2016 Regular Business Meeting – 7:30 p.m. – Administrative Service Center

21. ADJOURNMENT

There being no further business or discussion, Member Davenport moved and Member Boyle seconded that the meeting be adjourned. Upon the unanimous voice vote of the seven members in attendance, the President declared the motion carried. The meeting adjourned at 9:23 p.m.

Nancy Kupka, President

Juli Gniadek, Secretary



BOARD OF EDUCATION

JANUARY 25, 2016

VISITOR ROSTER

NAME

Jacob Giblin
Emma Nykiel
Ben Nykiel

***** PUBLIC HEARING TESTIMONY *****
2016 "MAINTENANCE PROJECT" BONDS

January 25, 2016

Community High School District 99
Administrative Service Center
ATTN: Board of Education
6301 Springside Avenue,
Downers Grove, IL 60516

HEARING
EXHIBIT 1

Via Hand Delivery:

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Via Hand and E-mail Delivery:

Juli Gniadek -- jgniadek@csd99.org

**RE: PUBLIC HEARING COMMENTS ON THE PROPOSED ISSUANCE OF
MAINTENANCE PROJECT BONDS**

Dear members of the Board of Education and Board Secretary Gniadek:

Please consider the following to be my written testimony on the proposed issuance of approximately \$4,953,000 of bonds for maintenance projects. I am providing this written testimony so that the written record of this Hearing contains my complete written statement.

Thank you in advance for your attention to this testimony.

Respectfully,

Scott O'Connell

HEARING TESTIMONY OF SCOTT O'CONNELL

2016 "MAINTENANCE PROJECT" BONDS

January 25, 2016

Seventeen months ago, at its August 18, 2014 board meeting, this public body gave notice that it had decided to breach a contract that a prior Board of Education had approved on May 16, 2011.

Eighteen months ago, the appointed administrators of this district began executing their plan to attempt to persuade the elected members of the Board of Education to commit bond fraud. Yes ... bond fraud. Sadly, the elected members of that Board of Education initially agreed to begin its participation in that fraud with its vote on August 18, 2014.

I honestly believe that if it had not been for my appearance at the public hearing scheduled for September 15, 2014, the taxpayers of this district would have witnessed the execution of a \$1,525,000 fraudulent bond issuance. After my written testimony of September 15, 2014 became a part of the written record of the fraudulent "funding bond" issuance, the administrators and members of the Board of Education quietly tabled the proposed "funding bond" issuance for maintenance expenses that otherwise would have to be paid for out of the district's Aggregate Extension Base ("PTELL" or "tax cap").

The community at large was never made aware of the 2014 attempted bond fraud, but the evidence of it still resides within the records of this district. I know about the attempted bond fraud of 2014, as do Mr. McDonald, Mr. Staehlin and each board member serving at the time. While the community at large may not know, it would be a cynical assumption on the part of the current members of this board to assume that the community at large otherwise does not care about violations of the law by members of their elected board.

This evening, the Board of Education is once again holding yet another statutorily mandated "public hearing" regarding yet another bond issuance. It is presumed that this hearing, like all other similar "tax" hearings held from time to time at school board meetings across Illinois, will have no public participation other than mine. The lack of any actual public participation at such hearings has been the norm for decades. These mandated hearings ask for public comment and offer an opportunity for taxpayers and citizens to ~~cross-examine~~ the finance "experts" and legal "experts" proposing a tax increase.

In my opinion, a citizen participating in the hearing process is simply wasting his/her time if all they present at the hearing are emotional pleas. By the time a BINA hearing such as this one (or the one held on September 15, 2014) is held, the decision to sell the bonds has already been made (although the final board vote has yet to officially take place) and no plea coming from the audience to stop the tax increase will be heeded by any elected board in Illinois. **In my opinion, the only thing that will stop what amounts to just another routine school bond issuance is the law itself.**

This evening, the Board of Education is once again giving notice to the community that it intends to sell "life safety" bonds to pay for a laundry list of maintenance expenses that

otherwise would have to be paid for out of the district's Aggregate Extension Base ("PTELL" or "tax cap").

In the fall of 2014, it was fraudulent "funding bonds" for maintenance projects.

In the winter of 2015, it is "life safety" bonds for maintenance projects.

As was the case in 2014, the real motivation behind the currently proposed "maintenance project" bond issuance cloaked as a "building code" violation bond issuance ("life safety") is to increase the district's tax revenue by tapping into the Debt Service Extension Base (DSEB) of the district.

DEBT SERVICE EXTENSION BASE (DSEB):

Since levy year 2009, the district's DSEB of \$2,094,025 has increased by CPI. The table presented below shows that for levy year 2015 there is \$253,422 of debt service available compared to only \$5,325 had the General Assembly not drilled another hole in the PTELL ("Tax Cap") in 2009 by expanding the DSEB each year by CPI.

Total Non-Referendum Debt Service	Aggregate Debt Service Extension Base	Remaining DSEB Capacity	Levy Year	CPI-U	DSEB multiplied by (1 + CPI-U)	Available DSEB w/ CPI-U
\$2,089,205	\$2,094,025	\$4,820	2009	0.1%	\$2,096,119	\$6,914
\$2,091,445	\$2,094,025	\$2,580	2010	2.7%	\$2,152,714	\$61,269
\$2,088,820	\$2,094,025	\$5,205	2011	1.5%	\$2,185,005	\$96,185
\$2,092,950	\$2,094,025	\$1,075	2012	3.0%	\$2,250,555	\$157,605
\$2,093,688	\$2,094,025	\$337	2013	1.7%	\$2,288,815	\$195,127
\$2,090,725	\$2,094,025	\$3,300	2014	1.5%	\$2,323,147	\$232,422
\$2,088,700	\$2,094,025	\$5,325	2015	0.8%	\$2,341,732	\$253,032
\$2,090,000	\$2,094,025	\$4,025	2016	0.7%	\$2,358,124	\$268,124
\$2,090,000	\$2,094,025	\$4,025	2017	1.5%	\$2,393,496	\$303,496
\$2,090,000	\$2,094,025	\$4,025	2018	1.5%	\$2,429,398	\$339,398
\$2,090,000	\$2,094,025	\$4,025	2019	1.5%	\$2,465,839	\$375,839
\$2,080,000	\$2,094,025	\$14,025	2020	1.5%	\$2,502,827	\$422,827
\$0	\$2,094,025	\$2,094,025	2021	1.5%	\$2,540,369	\$2,540,369
\$0	\$2,094,025	\$2,094,025	2022	1.5%	\$2,578,475	\$2,578,475
\$0	\$2,094,025	\$2,094,025	2023	1.5%	\$2,617,152	\$2,617,152
\$0	\$2,094,025	\$2,094,025	2024	1.5%	\$2,656,409	\$2,656,409
\$0	\$2,094,025	\$2,094,025	2025	1.5%	\$2,696,255	\$2,696,255
\$0	\$2,094,025	\$2,094,025	2026	1.5%	\$2,736,699	\$2,736,699
\$0	\$2,094,025	\$2,094,025	2027	1.5%	\$2,777,750	\$2,777,750
\$0	\$2,094,025	\$2,094,025	2028	1.5%	\$2,819,416	\$2,819,416
\$0	\$2,094,025	\$2,094,025	2029	1.5%	\$2,861,707	\$2,861,707

The totals in red equal \$742,608 for the five tax years 2010-2014. That is the amount of property taxes that the average school superintendent business manager view as having been forever "left on the table".

The 2014 bond fraud ("funding bonds") attempted to capture the available amount for 2014 (\$232,422) and subsequent years.

The 2016 maintenance project bond issuance ("life safety" bonds) is an attempt to capture the available amount for 2015 (\$253,032) and subsequent years.

As part of my testimony at this Hearing, I ask that the Secretary include as part of the official certified minutes of this Hearing a complete copy of both my written statement as presented as well as the exact language of the Section 17-2.11 of the School Code of Illinois as attached hereto. For the benefit of the members of the Board of Education, I have attached to this written testimony the language of Section 17-2.11 of the School Code of Illinois as found today on the website of the General Assembly. I have no reason to believe that the attached language is in any way different from the current law as amended.

With one possible exception, I am operating on the presumption that not one member of this elected board has actually even read Section 17-2.11.

LEGAL REVIEW:

I strongly encourage each board member to read (and re-read) Section 17-2.11 of the School Code.

Section 17-2.11 is a "revenue" statute. It authorizes a board of education to raise additional revenues for specific purposes if certain explicit conditions are met. Additionally, the statute explicitly controls both the amount of revenue that can be raised (either in total or by tax year) as well as the "type" of revenue (tax levy vs. bond proceeds).

In my opinion, the proposed 2016 maintenance project bond issuance ("life safety" bonds) of nearly \$5,000,000 violates several subsections of Section 17-2.11 of the School Code of Illinois.

A) Subsection "(a)"

The language of subsection (a) of the Act makes clear that this special revenue authorization is only available to school districts that have received a "lawful order" to correct a school building code violation or a violation of the Illinois EPA (statute and/or regulation(s)).

Section 17-2.11 begins ...

"(a) Whenever, as a result of any lawful order of any agency, other than a school board, having authority to enforce any school building code applicable to any facility that houses students, or any law or regulation for the protection and safety of the environment, pursuant to the Environmental Protection Act, any school district having a population of less than 500,000 inhabitants is required to alter or reconstruct any school building or permanent, fixed equipment;..."

District 99 has no such "lawful order" as verified by Mr. Staehlin in a FOIA response last fall. Apparently, the administration of this district began this bond issuance exercise by inviting an architect/engineering firm to walk through the buildings paying particular

attention to the laundry list of "maintenance" projects already assembled by the administrators.

The first **ELEVEN** words of the statute determine whether or not the rest of the statute should even be read.

"Whenever, as a result of any lawful order of any agency,..."

Now, your financial advisor, legal counsel, bond counsel and disclosure counsel (if one takes part in this issuance) will all tell you that school districts across the state sell "life safety" bonds for maintenance projects all the time and have done so for years and the ROE and the ISBE go along with the scheme. That is true, but it does not prove the actions are authorized by statute. As my mother always said, "Just because everyone else is doing it, doesn't make it right."

Of course, your financial advisor and bond counsel also told you that selling the fraudulent "funding bonds" in 2014 was also "legal"!!!

Subsection "(a)" has two conditions:

"(1) **When there are not sufficient funds available** in the operations and maintenance fund of the school district, the school facility occupation tax fund of the district, or the fire prevention and safety fund of the district, as determined by the district on the basis of rules adopted by the State Board of Education, **to make such alteration or reconstruction or to purchase and install such permanent, fixed equipment so ordered** or determined as necessary. Appropriate school district records must be made available to the State Superintendent of Education, upon request, to confirm this insufficiency.

(2) When a certified estimate of an architect or engineer licensed in this State **stating the estimated amount necessary** to make the alteration or reconstruction or to purchase and install the equipment so ordered has been secured by the school district, and the **estimate has been approved by the regional superintendent of schools having jurisdiction over the district and the State Superintendent of Education**. Approval must not be granted for any work that has already started without the prior express authorization of the State Superintendent of Education. If the estimate is not approved or is denied approval by the regional superintendent of schools within 3 months after the date on which it is submitted to him or her, the school board of the district may submit the estimate directly to the State Superintendent of Education for approval or denial."

The statute contemplates a school district receiving a "lawful order" informing the board of a building code violation. In order to raise the additional revenue available under Section 17-2.11, the statute directs the school board to perform the following steps 1) determine the cost of repairs, 2) determine if it has sufficient funds to correct the violation, and 3) if no funds are available, the ROE/ISBE has only one role within this statute and that is to review and approve the "estimate".

For decades, the school districts of Illinois have used the "special revenue" of Section 17-2.11 as a "capital projects" revenue source (either levy or bonds or both). Both PTELL districts and non-PTELL districts tap this section of the school code for common maintenance projects. That is not the intent of the General Assembly and the language of

the statute, when read objectively, is clear that the revenue is only available in very limited circumstances.

B) Subsection "(I)"

The language of subsection (I) of the Act makes clear that this special revenue authorization is only available to school districts under an explicit formula. It is clear that the amount of the bonds that may be issued is contingent upon two other numbers: 1) the approved estimated cost to cure the violations and 2) the amount that can be raised by the annual "nickel" levy.

Section 17-2.11(I) states ...

"(I) If the proceeds from the tax levy authorized by this Section are insufficient to complete the work approved under this Section, the school board is authorized to sell bonds without referendum under the provisions of this Section in an amount that, when added to the proceeds of the tax levy authorized by this Section, will allow completion of the approved work."

Mr Staehlin in a letter to the board dated January 21, 2016, states the timeline for the "completion of the approved work":

"Only a \$3.5 million level of issuance authority was requested at that time because we expected to phase the capital projects over several years and intended to delay the issuance of a portion of the bonds to later years thereby reducing interest costs to the District."

For tax year 2014, the EAV of the district was \$3,854,886,329. Sub-section (a) authorizes a "nickel" levy. If the EAV for the next five years remains flat at the 2014 level, the Section 17-2.11 levy will generate **\$1,927,443** annually to cover the cost of the \$4,953,000 of "maintenance projects".

Section 17-2.11 authorizes NON-REFERENDUM BONDS ("...authorized to sell bonds without referendum...") only when the tax levy authorized does not generate enough revenue to complete the urgent, life threatening projects.

Given the forecasted EAV of the district (\$3,854,886,329 for tax years 2015-2017), the amount of revenue generated by the "nickel levy" (\$1,927,443 for tax years 2015-2017), the amount of urgent, life threatening projects (\$4,953,000), and the timeline of expenditures as put forth by Mr. McDonald and Mr. Staehlin, the district is clearly WITHOUT STATUTORY AUTHORITY to issue bonds under Section 17-2.11 of the school code.

Summer	Planned "Maintenance" Projects	Section 17.2-11 Nickel Levy	Coverage	Authorized Level of Bonds
2016	\$1,650,000	\$1,927,433	1.17	\$0
2017	\$1,650,000	\$1,927,433	1.17	\$0
2018	\$1,650,000	\$1,927,433	1.17	\$0
	\$4,950,000			

Therefore, any attempt to sell bonds under Section 17-2.11 of the School Code of Illinois will clearly be in VIOLATION of the Act.

C) "Nickel Levy" is a "New Rate" under the PTELL

Finally, the district is subject to the PTELL (since October 1991); and therefore, is prohibited from establishing new taxing authority without first asking the voters via a direct referendum. The district does not have the authority simply to add the FPS "nickel levy" to its certified levy filed with the county clerk. Therefore, while the School Code (Section 17-2.11) blocks the FPS bond sale due to the amount of revenue generated by the Nickel levy, the PTELL blocks the actual FPS levy. Therefore, the intent of the PTELL is effectuated by requiring district 99 to ask the voters before they attempt to raise taxes above the calculated Limiting Rate of the PTELL.

CONCLUSION:

In conclusion, I strongly urge each elected individual of this public body to vote NO on the issuance of these unauthorized "maintenance project" bonds. The proposed bond issuance is nothing more than an unauthorized, non-referendum tax increase.

Section 17-2.11 is a "revenue" section of the School Code. The statute is clear and unambiguous in its purpose and its conditions for use by this board. Both administrators and board members are apparently intentionally misinterpreting this statute in order to increase property tax revenues outside the clearly defined limits of the PTELL

If these bonds are approved by a majority of the members of this board, it will be evidence that the board has no interest in representing taxpayers or soliciting their input regarding tax increases.

Thank you.

Scott O'Connell
Downers Grove, Illinois

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(105 ILCS 5/17-2.11) (from Ch. 122, par. 17-2.11)
Sec. 17-2.11. School board power to levy a tax or to borrow money and issue bonds for fire prevention, safety, energy conservation, accessibility, school security, and specified repair purposes.

(a) Whenever, as a result of any lawful order of any agency, other than a school board, having authority to enforce any school building code applicable to any facility that houses students, or any law or regulation for the protection and safety of the environment, pursuant to the Environmental Protection Act, any school district having a population of less than 500,000 inhabitants is required to alter or reconstruct any school building or permanent, fixed equipment; the district may, by proper resolution, levy a tax for the purpose of making such alteration or reconstruction, based on a survey report by an architect or engineer licensed in this State, upon all of the taxable property of the district at the value as assessed by the Department of Revenue and at a rate not to exceed 0.05% per year for a period sufficient to finance such alteration or reconstruction, upon the following conditions:

(1) When there are not sufficient funds available in the operations and maintenance fund of the school district, the school facility occupation tax fund of the district, or the fire prevention and safety fund of the district, as determined by the district on the basis of rules adopted by the State Board of Education, to make such alteration or reconstruction or to purchase and install such permanent, fixed equipment so ordered or determined as necessary. Appropriate school district records must be made available to the State Superintendent of Education, upon request, to confirm this insufficiency.

(2) When a certified estimate of an architect or engineer licensed in this State stating the estimated amount necessary to make the alteration or reconstruction or to purchase and install the equipment so ordered has been secured by the school district, and the estimate has been approved by the regional superintendent of schools having jurisdiction over the district and the State Superintendent of Education. Approval must not be granted for any work that has already started without the prior express authorization of the State Superintendent of Education. If the estimate is not approved or is denied approval by the regional superintendent of schools within 3 months after the date on which it is submitted to him or her, the school board of the district may submit the estimate directly to the State Superintendent of Education for approval or denial.

In the case of an emergency situation, where the estimated cost to effectuate emergency repairs is less than the amount specified in Section 10-20.21 of this Code, the school district may proceed with such repairs prior to approval by the State Superintendent of Education, but shall comply with the provisions of subdivision (2) of this subsection (a) as soon thereafter as may be as well as Section 10-20.21 of this Code. If the estimated cost to effectuate emergency repairs is greater than the amount specified in Section 10-20.21 of this Code, then the school district shall proceed in conformity with Section 10-20.21 of this Code and with rules established by the State Board of Education to address such situations. The rules adopted by the State Board of Education to deal with these situations shall stipulate that emergency situations must be expedited and given priority consideration. For purposes of this paragraph, an emergency is a situation that presents an imminent and continuing threat to the health and safety of students or other occupants of a facility, requires complete or partial evacuation of a building or part of a building, or consumes one or more of the 5 emergency days built into the adopted calendar of the school or schools or would otherwise be expected to cause such school or schools to fall short of the minimum school calendar requirements.

(b) Whenever any such district determines that it is

necessary for energy conservation purposes that any school building or permanent, fixed equipment should be altered or reconstructed and that such alterations or reconstruction will be made with funds not necessary for the completion of approved and recommended projects contained in any safety survey report or amendments thereto authorized by Section 2-3.12 of this Act; the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(c) Whenever any such district determines that it is necessary for accessibility purposes and to comply with the school building code that any school building or equipment should be altered or reconstructed and that such alterations or reconstruction will be made with funds not necessary for the completion of approved and recommended projects contained in any safety survey report or amendments thereto authorized under Section 2-3.12 of this Act, the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(d) Whenever any such district determines that it is necessary for school security purposes and the related protection and safety of pupils and school personnel that any school building or property should be altered or reconstructed or that security systems and equipment (including but not limited to intercom, early detection and warning, access control and television monitoring systems) should be purchased and installed, and that such alterations, reconstruction or purchase and installation of equipment will be made with funds not necessary for the completion of approved and recommended projects contained in any safety survey report or amendment thereto authorized by Section 2-3.12 of this Act and will deter and prevent unauthorized entry or activities upon school property by unknown or dangerous persons, assure early detection and advance warning of any such actual or attempted unauthorized entry or activities and help assure the continued safety of pupils and school staff if any such unauthorized entry or activity is attempted or occurs; the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(e) If a school district does not need funds for other fire prevention and safety projects, including the completion of approved and recommended projects contained in any safety survey report or amendments thereto authorized by Section 2-3.12 of this Act, and it is determined after a public hearing (which is preceded by at least one published notice (i) occurring at least 7 days prior to the hearing in a newspaper of general circulation within the school district and (ii) setting forth the time, date, place, and general subject matter of the hearing) that there is a substantial, immediate, and otherwise unavoidable threat to the health, safety, or welfare of pupils due to disrepair of school sidewalks, playgrounds, parking lots, or school bus turnarounds and repairs must be made; then the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(f) For purposes of this Section a school district may replace a school building or build additions to replace portions of a building when it is determined that the effectuation of the recommendations for the existing building will cost more than the replacement costs. Such determination shall be based on a comparison of estimated costs made by an architect or engineer licensed in the State of Illinois. The new building or addition shall be equivalent in area (square feet) and comparable in purpose and grades served and may be on the same site or another site. Such replacement may only be done upon order of the regional superintendent of schools and the approval of the State Superintendent of Education.

(g) The filing of a certified copy of the resolution levying the tax when accompanied by the certificates of the regional superintendent of schools and State Superintendent of Education shall be the authority of the county clerk to extend such tax.

(h) The county clerk of the county in which any school district levying a tax under the authority of this Section is located, in reducing raised levies, shall not consider any such tax as a part of the general levy for school purposes and shall not include the same in the limitation of any other tax rate which may be extended.

Such tax shall be levied and collected in like manner as all other taxes of school districts, subject to the provisions contained in this Section.

(i) The tax rate limit specified in this Section may be increased to .10% upon the approval of a proposition to effect such increase by a majority of the electors voting on that proposition at a regular scheduled election. Such proposition may be initiated by resolution of the school board and shall be certified by the secretary to the proper election authorities for submission in accordance with the general election law.

(j) When taxes are levied by any school district for fire prevention, safety, energy conservation, and school security purposes as specified in this Section, and the purposes for which the taxes have been levied are accomplished and paid in full, and there remain funds on hand in the Fire Prevention and Safety Fund from the proceeds of the taxes levied, including interest earnings thereon, the school board by resolution shall use such excess and other board restricted funds, excluding bond proceeds and earnings from such proceeds, as follows:

(1) for other authorized fire prevention, safety, energy conservation, and school security purposes and for required safety inspections; or

(2) for transfer to the Operations and Maintenance

Fund for the purpose of abating an equal amount of operations and maintenance purposes taxes.

Notwithstanding subdivision (2) of this subsection (j) and subsection (k) of this Section, through June 30, 2016, the school board may, by proper resolution following a public hearing set by the school board or the president of the school board (that is preceded (i) by at least one published notice over the name of the clerk or secretary of the board, occurring at least 7 days and not more than 30 days prior to the hearing, in a newspaper of general circulation within the school district and (ii) by posted notice over the name of the clerk or secretary of the board, at least 48 hours before the hearing, at the principal office of the school board or at the building where the hearing is to be held if a principal office does not exist, with both notices setting forth the time, date, place, and subject matter of the hearing), transfer surplus life safety taxes and interest earnings thereon to the Operations and Maintenance Fund for building repair work.

(k) If any transfer is made to the Operation and Maintenance Fund, the secretary of the school board shall within 30 days notify the county clerk of the amount of that transfer and direct the clerk to abate the taxes to be extended for the purposes of operations and maintenance authorized under Section 17-2 of this Act by an amount equal to such transfer.

(l) If the proceeds from the tax levy authorized by this Section are insufficient to complete the work approved under this Section, the school board is authorized to sell bonds without referendum under the provisions of this Section in an amount that, when added to the proceeds of the tax levy authorized by this Section, will allow completion of the approved work.

(m) Any bonds issued pursuant to this Section shall bear interest at a rate not to exceed the maximum rate authorized by law at the time of the making of the contract, shall mature within 20 years from date, and shall be signed by the president of the school board and the treasurer of the school district.

(n) In order to authorize and issue such bonds, the school board shall adopt a resolution fixing the amount of bonds, the date thereof, the maturities thereof, rates of interest thereof, place of payment and denomination, which shall be in denominations of not less than \$100 and not more than \$5,000, and provide for the levy and collection of a direct annual tax upon all the taxable property in the school district sufficient to pay the principal and interest on such bonds to maturity. Upon the filing in the office of the county clerk of the county in which the school district is located of a certified copy of the resolution, it is the duty of the county clerk to extend the tax therefor in addition to and in excess of all other taxes heretofore or hereafter authorized to be levied by such school district.

(o) After the time such bonds are issued as provided for by this Section, if additional alterations or reconstructions are required to be made because of surveys conducted by an architect or engineer licensed in the State of Illinois, the district may levy a tax at a rate not to exceed .05% per year upon all the taxable property of the district or issue additional bonds, whichever action shall be the most feasible.

(p) This Section is cumulative and constitutes complete authority for the issuance of bonds as provided in this Section notwithstanding any other statute or law to the contrary.

(q) With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of Public Act 86-004 (June 6, 1989), it is, and always has been, the intention of the General Assembly (i) that the Omnibus Bond Acts are, and always have been, supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

(r) When the purposes for which the bonds are issued have been accomplished and paid for in full and there remain funds on hand from the proceeds of the bond sale and interest earnings therefrom, the board shall, by resolution, use such excess funds in accordance with the provisions of Section 10-22.14 of this Act.

(s) Whenever any tax is levied or bonds issued for fire prevention, safety, energy conservation, and school security purposes, such proceeds shall be deposited and accounted for separately within the Fire Prevention and Safety Fund.

(Source: P.A. 98-26, eff. 6-21-13; 98-1066, eff. 8-26-14; 99-143, eff. 7-27-15.)