MEMORANDUM

October 2, 2008

To: Richard Royalty

From: Erin P. Bartholomy

Shelly A. Scinto

Re: Illinois school districts and working cash bonds for educational purposes: how to move bond proceeds from the working cash fund to the educational fund.

I. INTRODUCTION

An Illinois school district may levy a separate tax for working cash purposes or sell bonds for working cash purposes. In each case, a working cash fund is created (or increased) and the tax collections or bond proceeds, as the case may be, are deposited therein. Moneys to the credit of the working cash fund may be loaned to any fund for which the district levies taxes. When the taxes are collected, the working cash fund is reimbursed. This interfund loan and repayment mechanism allows school districts to borrow in anticipation of tax collections without bearing the costs of external short-term borrowing alternatives.

II. ISSUE PRESENTED

When a school district issues working cash bonds, the proceeds of that issue are deposited to the credit of the district’s working cash fund. If the district intends to use those proceeds for educational purposes, the district must somehow move those funds out of the working cash fund and into the district’s educational fund. How does the district accomplish this? If the district simply transferred the proceeds from the working cash fund to the educational fund, the district would be obligated to repay the working cash fund when the taxes levied for educational were collected. Such a result would drain the educational fund and leave the cash necessary to operate the district in the district’s working cash fund.

1 Section 20 of the School Code of the State of Illinois, as amended (the “School Code”).

2 Moneys earned as interest from the investment of the working cash fund may be transferred from the working cash fund to another fund of the district without any requirement of repaying to the working cash fund. 105 ILCS 5/20-5.

3 Section 20-5 of the School Code provides: “[a]t any time moneys are available in the working cash fund they shall be transferred to the educational fund and disbursed for the payment of salaries and other school expenses so as to avoid, whenever possible, the issuance of anticipation tax warrants [sic] or notes.” 105 ILCS 5/20-5.

4 If the board of education of a school district transfers working cash bond proceeds to the educational fund, the board must reimburse the working cash fund with taxes levied for the educational fund when those taxes are collected. As soon as
III. **Answer**

The district may abate funds from its working cash fund to any fund which the Board of Education determines to be most in need of the funds, such as the educational fund. The abatement is a permanent transfer and there is no obligation to repay the working cash fund when the levy for educational purposes is collected.

IV. **Analysis**

Pursuant to Section 20-8 of the School Code, the board of education of a school district may, by resolution, abolish its working cash fund and transfer the balance to the educational fund. An abolishment may only occur at the end of the district’s fiscal year. The result of abolishment is to permanently transfer funds to the educational fund without any obligation to reimburse the working cash fund with tax collections.

A school board may also abate its working cash fund. In *In re Application of Walgenbach*, the Supreme Court stated that “[i]mplicit in the provisions of Section 20-9 [of the School Code] is the authority to abate a working cash fund.”

Section 20-9 of the School Code provides that: “Nothing in this Article prevents a school district which has abolished or abated its working cash fund from again creating a working cash fund in the manner provided in this Article.”

At issue in *Walgenbach* was the validity of working cash funds issued by two Illinois school districts. At the time of the issuance of the bonds, each district had a working cash fund with a fund balance. Citing Section 20-2 of the School Code, the tax objectors argued that the districts were without authority to issue bonds for the purpose of replenishing those working cash funds, and therefore, the taxes levied to pay the bonds were invalid. In rejecting the tax objectors’ argument, the Court highlighted the reference to abatement in Section 20-9 of the School Code. The Court also noted that in the approximately 50 years since the enactment of Section 20-2, the authority to issue bonds to increase funds in an existing working cash fund had not been questioned. The Court concluded that it was the legislative intent of the General Assembly to allow school districts to issue bonds to obtain funds for an existing working cash fund.

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5 105 ILCS 5/20-8.

6 *In re Application of Walgenbach*, 104 Ill.2d 121, 125 (1984).

7 105 ILCS 5/20-9 (emphasis added).

8 104 Ill.2d at 126.
As discussed above, the Court, as part of its analysis, confirmed that a school district has the authority to abolish or abate its working cash fund. An abolishment, pursuant to Section 20-8 of the School Code is a “transfer of any balance in [the working cash] fund.” An abatement, by implication, constitutes a transfer of less than the balance of the working cash fund. In practice, this means that a district must leave more than a *de minimis* amount, such as 0.05% of the assessed valuation of the school district, to the credit of the working cash fund to avoid having the transaction characterized as an abolishment.