

Sandra Miller

From: KING Sandi L [sandi.l.king@state.or.us]
Sent: Thursday, December 10, 2009 12:07 PM
To: recordertreasurer@cityofjacksonvilleoregon.com
Subject: RE: Use of unappropriated funds
Attachments: Changes After Adoption.doc

Sandra:

I have inserted ORS 294.460 which is the statute that governs how loans from one fund to another can happen, or more specifically, not happen.

Since the unappropriated ending fund balance (UEFB) is not part of the list under (1)(a)-(c), there is no statutory restriction that prevents a district from using the UEFB to loan from one fund to another. (Intra-fund loans are not allowed) Because UEFB's are not appropriated funds there is no violation with the appropriation statutes that would restrict a "Transfer".

I am enclosing a copy of our "Changes After Adoption" reference document that lists this ability under an Inter-Fund Loan on page 3.

294.460 Loans from one fund to another; commingling cash balances of funds.

(1) It shall be lawful to loan money from any fund to any other fund of the municipal corporation whenever the loan is authorized by official resolution or ordinance of the governing body. The loans shall be made in compliance with the applicable requirements and limitations of this section. **Loans made under this section shall not be made from:**

(a) **Debt service reserve funds** created to provide additional security for outstanding bonds or other borrowing obligations that the municipal corporation has covenanted with the holders of such bonds or other borrowing obligations to maintain at certain specified levels. However, nothing in this paragraph is intended or shall be construed to prohibit loans from any such debt service reserve fund to the extent that the aggregate outstanding amount of the loans does not exceed the amount by which the amount in such debt service reserve fund exceeds the amount the municipal corporation has covenanted to maintain in the reserve fund with the holders of the related bonds or other borrowing obligations;

(b) Debt service funds created to account for moneys needed to make annual debt service payments on outstanding bonds or other borrowing obligations; or

(c) Moneys credited to any fund when, under applicable constitutional provisions, the moneys are restricted to specific uses unless the purpose for which the loan is to be made is a use allowed under such constitutional provisions.

(2) The resolution or ordinance authorizing any interfund loan permitted under this section shall:

(a) State the fund from which the loan is to be made, the fund to which the loan is to be made, the purpose for which the loan is to be made and the principal amount of the loan.

(b) **If the interfund loan is a capital loan,** set forth a schedule under which the principal amount

of the loan, together with interest thereon at the rate provided for in paragraph (c)(B) of this subsection, is to be budgeted and repaid to the lending fund. The schedule shall provide for the repayment in full of the loan over a term not to exceed five years from the date the loan is made.

(c) If the interfund loan is a capital loan, provide that the loan shall bear interest at an annual rate equal to:

(A) The rate of return on moneys invested in the local government investment pool under ORS 294.805 to 294.895, as reported under ORS 294.875, immediately prior to the adoption of the ordinance or resolution authorizing the loan; or

(B) Such other rate as the governing body may determine. *(which can be 0%)*

(d) If the interfund loan is an operating loan, provide that the money loaned shall be budgeted and repaid to the fund from which the money was borrowed by the end of the ensuing year or ensuing budget period.

(3) The payment of any operating loans not repaid in the year or budget period in which the operating loan was made shall be budgeted as a requirement in the ensuing year or ensuing budget period.

(4) It shall be lawful to commingle cash balances of funds so long as all such fund moneys are segregated in the budget and accounting records.

(5) As used in this section:

(a) **“Capital loan”** means any interfund loan, or portion thereof, made for the purpose of financing the design, acquisition, construction, installation or improvement of real or personal property and not for the purpose of paying operating expenses.

(b) **“Operating loan”** means any interfund loan, or portion thereof, that is not a capital loan, including any interfund loan, or portion thereof, made for the purpose of paying operating expenses. [1963 c.576 §§27b,27c; 1979 c.310 §7; 1999 c.632 §13; 2001 c.135 §23]

*Please let me know if you have any further questions.
Have a nice day.*

Sandi

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-----Original Message-----

From: Sandra Miller, City Recorder/Treasurer [mailto:recordertreasurer@cityofjacksonvilleoregon.com]
Sent: Thursday, December 10, 2009 11:35 AM

To: sandi.l.king@state.or.us

Subject: Use of unappropriated funds

Thank you so much for your help.

Sandra Miller, City Recorder/Treasurer

City of Jacksonville

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(541) 899-1231 x104

Budget Changes After Adoption

ORS 294.326: It is unlawful to expend money unless authorized by Local Budget Law.

ORS 294.100: It is unlawful to expend any money in excess or for any other purpose than provided by law.

Supplemental Budgets (294.480)

Supplemental budget to increase appropriation amounts allowed, if:

- Condition was not ascertained when budget was prepared, or
- Unforeseen pressing necessity arises, or
- Unknown state, federal or local funds made available, or
- Unknown funded request for services received, or
- Insurance or property sale proceeds are used to replace facility, or
- Significantly more tax money received than budgeted.

Supplemental budget must:

- Be adopted before any expenditure exceeds existing appropriation
- Be only for current fiscal year
- Not increase tax levy

Process if supplemental budget changes any fund expenditures by **less than 10%**:

- Notice required not less than 5 days prior to regular meeting.
- Notice published by newspaper, mail or hand delivery.
- Notice includes "sufficient detail" on resources and expenditures.
- Governing body makes appropriations at their regular meeting.

Process if supplemental budget changes any fund expenditures by **10% or more**:

- Notice required 5 to 30 days prior to hearing.
- Notice published by newspaper, mail or hand delivery.
- Notice includes supplemental budget or summary of it.
- Governing body holds public hearing before making appropriations.

*** No Budget in Year District is Formed**

- **If formed between March 1 and June 30th – No budget required the following year either.**

Exceptions to Local Budget Process

Situation	Resolution Required	Supplemental Budget Required	No Official Action Required
Unforeseen Grant (294.326(3))			
<ul style="list-style-type: none"> • Unknown at time of regular budget: <ul style="list-style-type: none"> ➤ Specific purpose. ➤ General purpose. 	✓	✓	
Funded Unforeseen Occurrence (294.326(4))			
<ul style="list-style-type: none"> • Unforeseen condition/pressing necessity; and • Cost paid with non-tax money, or • Cost paid by outside source requesting service. 	✓		
Bond Proceeds or Debt Service (294.326(5))			
<ul style="list-style-type: none"> • If 60-day period in ORS 287A.150 expired after budget adopted, or • If bonds approved by voters during current year, or • If the bonds are to refund previous bonds. 			✓*
Expenditure of Bond Proceeds (294.326(6)):			
<ul style="list-style-type: none"> • From conduit revenue bonds or their debt service, or • Money escrowed for defeasing bonds, or • From prepayments of bond redemption assessments. 			✓*
Local Improvement Assessments (294.326(7))			✓*
Deferred Employee Compensation (294.326(8))			✓
Purchase Refund (294.326(10))			
<ul style="list-style-type: none"> • Public hearing required. 	✓		
Expenditures of New District in Year Formed (294.326(11))			✓*
Reducing Appropriations (294.435(6))			
<ul style="list-style-type: none"> • Optional if available resources decrease. • Public hearing required if budget changed. 	✓		
School/Community College Emergency (294.440)			
<ul style="list-style-type: none"> • To spend additional money from Federal Government or ESD under ORS 334.370. • Must declare emergency. 	✓		
Pass-through Adjustment (294.450(5) & OAR 150-294.361)			
	✓		

* Board Resolution Strongly Recommend

Transfers

Situation	Resolution Required	Supplemental Budget Required	No Official Action Required
Intra-Fund Transfers (294.450(1)) (<i>intra= same fund</i>)	✓		
<ul style="list-style-type: none"> • From one existing appropriation category to another. 			
Contingencies (294.450(2))	✓		
<ul style="list-style-type: none"> • Up to 15% of fund total appropriations • Over 15% of fund total appropriations 		✓	
Appropriation Transfers Between funds (294.450(3))	✓		
Resource Transfers Between Funds (294.450(3))	✓		

Inter-Fund Loans

Inter-Fund Loans (294.460)	✓
<ul style="list-style-type: none"> • May not be from debt service or debt service reserve. • May not be constitutionally dedicated money. • Operating loan limited to current year and next year. • Capital loan limited to 10 years. <p>(If capital loan must specify interest rate even if 0%)</p>	

An inter-fund Loan from the UEFB would be allowed under this statute (See limitations under ORS 294.460(1)).

Other

Involuntary Conversion/Natural Disaster (294.455)	✓
<ul style="list-style-type: none"> • Any available funds may be spent, including unappropriated ending fund balance. • If public health/safety requires prompt action, executive officer may authorize expenditure by written order. 	
Unnecessary Fund Elimination (294.475)	✓
<ul style="list-style-type: none"> • Balance to General Fund unless otherwise provided when fund set up. (<i>"forthwith" – means – "at once"</i>) 	