

2020 LUNCH and Learn

SPECIAL WEBINAR SERIES

THURSDAYS, NOON - 1 P.M.

Registration

Use the links below to register for each webinar. There is no registration fee for this special series, however you must register to participate.

After you register, you will receive a confirmation email. You will receive the link to participate in the webinar the morning of each webinar.

Boardmanship Institute

Participating board members will receive 1 point and 1 hour of SCSBA Boardmanship Institute credit for each webinar.

September 3, 2020

COVID-19 and potential liability under IDEA — Providing a "FAPE" while employing alternative instruction delivery methods

The Individuals with Disabilities Education Act (IDEA) requires that school districts provide eligible students with disabilities with a free appropriate public education or a "FAPE". What constitutes a FAPE when schools are operating under normal circumstances, with traditional face-to-face instructional delivery, has been litigated extensively and legal guidance can be gleaned from Supreme Court rulings. Now, with the COVID-19 pandemic, school districts are faced with unique, unprecedented circumstances that are requiring the use of alternative instructional delivery methods during the 2020-2021 school year. This session will help board members understand how the Supreme Court has defined FAPE,



Keup

and the core concepts relating to the provision of a FAPE. Participants will explore how the core concepts of providing a FAPE may be interpreted in light of the changes necessitated by the COVID-19 pandemic and how school districts can employ good practices to minimize potential IDEA liability.

Peter Keup, Esquire, Boykin & Davis, LLC

● **Click here to register now.**

September 10, 2020

Funding long-term and short-term capital projects

During this session board members will explore the financing options available to school districts under South Carolina law to finance short-term and long-term capital needs.



Heizer

**Francenia B. Heizer, Attorney,
Burr Forman McNair**

● **Click here to register now.**



PRESIDENT'S

C L U B



Gold Level

Boykin & Davis, LLC

Halligan Mahoney
& Williams, P.A.

Silver Level

Burr Forman McNair

Hood Construction Company

White & Story, LLC

Bronze Level

Duff Freeman Lyon, L.L.C.

Haynsworth Sinkler Boyd, P.A.

Wells Fargo Bank
and Wells Fargo
Asset Management

SCSBA

Who to call

800.326.3679

We welcome your calls and e-mails. Call toll-free. After hours, dial the extension to leave a voice mail.

SCSBA

Scott Price, Executive Director

Extension 0259, sprice@scsba.org

chief executive officer, individualized district studies (curriculum, organizational, salary, etc.), superintendent search

Judy LeGrand, Executive Assistant and Superintendent Search Coordinator

Extension 0226, jlegrand@scsba.org

liaison to SCSBA board of directors

Rodney Nixon, IT Manager

Extension 0241, rnixon@scsba.org

Ranae Mack, Receptionist

Extension 0220, rmack@scsba.org

Melissa Donald, Director of Finance

Extension 0238, mdonald@scsba.org

Susan Hagedorn, Office Operations and Accounting Manager

Extension 0234, shagedorn@scsba.org

Gwen J. Hampton, MSW, CMP, Director of Leadership Development

Extension 0251, ghampton@scsba.org

annual convention, association workshops/conferences, board assessments, Boardmanship Institute, on-site training

Blair Warren, Conference Service Associate

Extension 0260, bwarren@scsba.org

Debbie Elmore, Director of Governmental Relations

Extension 0224, delmore@scsba.org

advocacy services, legislative services, referendum information

Becky Bean, Director of Communications

Extension 0227, rbean@scsba.org

awards and recognition, board data, media relations, publications, website (scsba.org)

Erin Hughes, Administrative Assistant for Communications and Governmental Relations

Extension 0261, ehughes@scsba.org

Dr. Tiffany N. Richardson, General Counsel and Director of Policy and Legal Services

Extension 0258, trichardson@scsba.org

Rasheeda Cleveland, Staff Attorney

Extension 0247, rcleveland@scsba.org

Rachael O'Bryan, Administrative Assistant

Extension 0233, robryan@scsba.org

Emma Brody, Paralegal

Extension 0237, ebrody@scsba.org

SCSBIT

Steve Mann, CPA, Director of Insurance Services

Extension 0254, smann@scsba.org

risk control services, self-insured property & casualty program, self-insured workers' compensation program

Jennifer Ayers, Administrative Assistant

Extension 0256, jayers@scsba.org

Sheri Miracle, Office Assistant

Extension 0221, smiracle@scsba.org

Property & Casualty

Kim Anderson, Asst. Dir., Property and Casualty Extension 0252, kanderson@scsba.org

Nicky Shova, Administrative Assistant

Extension 0222, nshova@scsba.org

Risk Control

Tim Hinson, CPSI, Risk Control Manager

Extension 0248, thinson@scsba.org

Workers' Compensation

Danny Deal, Assist. Dir., Workers Comp.

Extension 0240, ddeal@scsba.org



Boardmanship Institute CALENDAR OF EVENTS

For the most updated conference information,
please routinely check the Training tab on our website, scsba.org.

| Conferences | Date(s) & Location | Fees & Deadlines | BI Points & Hours |
|---|---|--|--|
| NSBA Advocacy Institute | January 24-26, 2021 Washington, DC TBD | National School Boards Association www.nsba.org | 5 points |
| <u>Annual Convention, Civility and Professional Ethics Workshop, Board Chair Workshop, New Board Orientation</u> | February 18-21, 2021 Hilton Head/Hilton Head Marriott | <u>Feb 18: Civility and Professional Ethics Workshop</u> ♦ Registration fee: \$135, members only <u>Feb 18: Board Chair Workshop</u> ♦ Registration fee: \$135, members only <u>Feb 18: New Board Orientation</u> ♦ Registration fee: \$100, no charge for new board members, members only <u>Feb 18-21: Annual Convention</u> ♦ Registration fee: \$275, non-members \$475 ♦ Cancellation deadline: TBD Hotel rate: \$146, Hotel deadline: Jan 20 | CPEW: 10pts 5 hrs BCW: 10pts 5 hrs NBO: 5 pts 5 hrs AC: 15 pts 14 hrs |
| <u>2DAC</u> (Two Days at the Capitol) | March 4, 2020 Columbia/Columbia Metropolitan Convention Center | ♦ Registration fee: \$75 ♦ Cancellation deadline: February 26 | 5 pts 2 hrs |
| NSBA Annual Conference | April 4-6, 2020 Chicago, IL | National School Boards Association www.nsba.org | 5 points |
| <u>2DAC</u> (Two Days at the Capitol) | April 22, 2020 Columbia/Columbia Metropolitan Convention Center | ♦ Registration fee: \$75 ♦ Cancellation deadline: April 15 | 5 pts 2 hrs |
| <u>New Board Orientation, Make-up</u> | June 4, 2020 Virtual Conference | ♦ Registration fee: \$100, no charge for new board members, members only ♦ Cancellation deadline: May 21 | 5 pts 5 hrs |
| <u>School Law Conference</u> | August 21-22, 2020 Virtual Conference | ♦ Registration fee: \$150, non-members \$250 ♦ Cancellation deadline: August 6 | 15 pts 7 hrs |
| <u>Webinar-Lunch & Learn Series</u> | September 3, 2020 | There is no registration fee for this event. Board secretaries <u>must register</u> their board members who plan to participate. | 1 pt 1 hr |
| <u>Webinar-Lunch & Learn Series</u> | September 10, 2020 | There is no registration fee for this event. Board secretaries <u>must register</u> their board members who plan to participate. | 1 pt 1 hr |
| <u>Beyond the Basics Workshop</u> | October 8, 2020 Virtual Conference | ♦ Registration fee: \$100, non-members \$200 ♦ Cancellation deadline: September 24 | 5 pts 5 hr |
| <u>Webinar-Legislative Preview</u> | October 2020 | There is no registration fee for this event. Board secretaries <u>must register</u> their board members who plan to participate. | 1 pt 1 hrs |
| <u>Risky Business Seminar</u> | October 15, 2020 Virtual Conference | ♦ Registration fee: \$80, members only ♦ Cancellation deadline: September 1 | 10 pts 5 hrs |
| <u>Legislative Advocacy Conference</u> | December 3, 2020 Virtual Conference | ♦ Registration fee: \$125, non-members: \$250 ♦ Cancellation deadline: November 20 | 10 pts 5 hrs |

Revised: August 25, 2020

| | | | |
|---------------------------------|--------------------------------|--|--|
| <u>Delegate Assembly</u> | December 4, 2020 TBD | | |
|---------------------------------|--------------------------------|--|--|

Conferences held on Saturday and Sunday begin approximately 8 a.m. and may require Friday and Saturday night hotel stay.

- ♦ Registration fees are subject to change.
- ♦ No refunds after the cancellation deadline.
- ♦ Registration fees increase \$25 for registrations made after the deadline.



Funding Short-Term and Long-Term Capital Projects



an extension of the 2020 SCHOOL LAW CONFERENCE

2020 **Lunch and Learn**
SPECIAL WEBINAR SERIES
THURSDAYS, noon - 1 P.M.

September 10, 2020

Presented by:
Francenia B. Heizer, Esquire
(803) 799-9800 (Office)
(803) 331-9415 (Cell)
fheizer@burr.com

© 2019, Burr & Forman LLP


1

Financing Options for SC School Districts

- General Obligation Bonds
- South Carolina Association of Governmental Organizations (SCAGO)
- General Obligation Bond Anticipation Notes
- Acquisition, Use and Security Agreements
- Performance Contracts/Energy Conservation Measures
- Special Obligation Bonds
- Educational Capital Improvement Sales and Use Tax

360 Attorneys. 19 Offices. 1 Firm. **Southeastern** Strong.

2



© 2019, Burr & Forman LLP

2

General Obligation Bonds

- School districts are authorized to issue general obligation bonds in the amount of not exceeding 8% of the assessed value of all taxable property within a school district, without voter approval. This is known as the "8% constitutional debt limit."
- School districts may issue general obligation bonds in an amount beyond the 8% constitutional debt limit if those bonds are approved by the voters in a school district in a bond referendum.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

3



© 2019, Burr & Forman LLP

3

General Obligation Bonds

- General obligation bonds can be short-term (one year or less) or long-term (up to 30 years).
- When general obligation bonds are issued, the school district delivers a "Notice to Levy and Collect" to the County Auditor and the County Treasurer.
- The County officials levy and collect annually, in the same manner as county taxes are levied and collected, a tax, without limit, on all taxable property in a school district, sufficient to pay the principal and interest on the general obligation bonds as they mature and to create such sinking fund as may be necessary therefor.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

4



© 2019, Burr & Forman LLP

4

General Obligation Bonds

- Backed by the full faith, credit and taxing power of the issuer.
- Issued with the belief that the issuer will be able to repay its debt obligation through taxation.
- No assets used as collateral on general obligation bonds.
- Usually carry a lower interest rate due to lower default risk.
- May be tax-exempt or taxable.
- Most common form of debt issued by South Carolina school districts.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

5



© 2019, Burr & Forman LLP

5

General Obligation Bonds

- If approved by referendum:
 - › Can issue up to the amount approved by the voters.
 - › Projects limited to referendum question.
 - › Must be issued within five years of referendum date.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

6



© 2019, Burr & Forman LLP

6

SCAGO

- Nonprofit corporation created in 2002 largely through the efforts of representatives of the South Carolina Association of School Administrators (SCASA) and the South Carolina Association of School Business Officials (SCASBO) for the purpose of offering efficient, cost-effective financing programs for South Carolina school districts and other political subdivisions.
- Nine-member Board of Directors comprised of school district finance officers, superintendents and community members.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

7



© 2019, Burr & Forman LLP

7

SCAGO

- SCAGO General Obligation Bond Program
 - › Each school district issues its own general obligation bond.
 - › SCAGO facilitates the collective public sale of the bonds.
 - › Maturity of one year or less.
 - › Through economies of scale, school districts participating in SCAGO benefit from:
 - Low interest rates
 - Low costs of issuance
 - Ease and convenience

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

8



© 2019, Burr & Forman LLP

8

SCAGO

- SCAGO 2020 Spring General Obligation Bond Program
 - › Total Par Amount – \$64,610,000
 - › Number of school districts - 28
 - › True interest cost – 0.81%
- SCAGO 2020 Fall General Obligation Bond Program (Taxable and Tax-Exempt)
 - › Total Par Amount – \$136,838,000
 - › Number of school districts - 29
 - › True interest cost – Taxable - 0.23% ; Tax-Exempt – 0.16%

General Obligation Bond Anticipation Notes

- Like general obligation bonds, general obligation bond anticipation notes are subject to the 8% constitutional debt limit.
- General obligation bond anticipation notes are issued for one year or less and are secured by: (1) the bonds to be issued and (2) the full faith, credit and taxing power of a school district.

General Obligation Bond Anticipation Notes

- Short-term one-year debt.
- Can be rolled over for additional years.
- Secured by proceeds of a general obligation bond to be issued in the future.
- Do not require the levy and collection of ad valorem taxes because secured by general obligation bond.
- Good tool for projects that are going to be funded with general obligation bonds backed by a revenue source such as a sales and use tax.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

11



© 2019, Burr & Forman LLP

11

Acquisition, Use and Security Agreement

- Ability to finance equipment outside of the 8% constitutional debt limit.
- Similar to an installment purchase for equipment.
- Concept of "Rental Payments" is replaced with "Acquisition Payments."
- For each "Acquisition Payment," the issuer receives an unencumbered equity interest in the underlying financed collateral.
- "Acquisition Payments" are eligible to be paid from operations millage or debt service millage (via annual general obligation bond proceeds).

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

12



© 2019, Burr & Forman LLP

12

Acquisition, Use and Security Agreement

- Typically sold to a bank.
- The payments are subject to annual appropriation.
- If a school district non-appropriates, it owns the equipment already acquired and loses use and possession of the remainder of the equipment. At the end of the term of the agreement, the school district owns all of the equipment.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

13



© 2019. Burr & Forman LLP

13

Acquisition, Use and Security Agreement

- South Carolina Code of Laws 11-27-110 sets forth the requirements to determine if an acquisition, use and security agreement is subject to the 8% constitutional debt limit.
- 11-27-110 (1) defines an "Asset" as any real property and permanent improvements thereon including structures, buildings, and fixtures.
- If an acquisition, use and security agreement does not finance an "Asset" the amount does not count against the 8% constitutional debt limit of a school district.
- If the project is an energy conservation project, the amount of the acquisition, use and security agreement does not count against the 8% constitutional debt limit of a school district.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

14



© 2019. Burr & Forman LLP

14

Performance Contracts/Energy Conservation Measures

- School districts may enter into performance contracts or other arrangements for projects that result in energy savings.
- In performance contracts, the savings are guaranteed.
- The cost of the projects can be financed by the vendor or through an acquisition, use and security agreement or special obligation bonds.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

15



© 2019, Burr & Forman LLP

15

Performance Contracts/Energy Conservation Measures

- Annual payment for the cost of a performance contract can be paid from the guaranteed savings.
- If the cost of the project is financed through an acquisition, use and security agreement or special obligation bonds, its annual payment can be made from the proceeds of annual general obligation bonds.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

16



© 2019, Burr & Forman LLP

16

Special Obligation Bonds

- Issued for the acquisition of equipment or an energy savings project.
- Secured by an acquisition, use and security agreement.
- Sold in public market.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

17



© 2019, Burr & Forman LLP

17

Educational Capital Projects Sales and Use Tax

- One percent sales and use tax, the imposition of which must be approved in a referendum.
- Must be used for specific educational capital improvements and/or payment of debt service as set forth in the referendum question.
- Cannot exceed 15 years; in certain circumstances less.
- School district must meet the requirements of one of the issuer categories in the Act.

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

18



© 2019, Burr & Forman LLP

18

Educational Capital Projects Sales and Use Tax

- The Act includes a variety of requirements designed to allow some but not all school districts to utilize the Act.
- The current language in the Act is the result of legislative action taken in 2014 and 2016.
- If a school district is interested in imposing the sales tax, it has to fit into one of the categories or needs to request another amendment to the Act.

Short-Term – Annually

- General Obligation Bonds
 - › SCAGO
 - › Stand Alone
 - › Annual general obligation bonds allow school districts to meet immediate capital needs while keeping the millage rate stable
- General Obligation Bond Anticipation Notes

Mid-Term – One to Five Years

- General Obligation Bonds
- General Obligation Bond Anticipation Notes (rolled over)
- Acquisition, Use and Security Agreements
- Performance Contracts/Energy Conservation Measures

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

21



© 2019, Burr & Forman LLP

21

Long-Term – Over Five Years

- Referendum-approved General Obligation Bonds
- 8% General Obligation Bonds
- Acquisition, Use and Security Agreements
- Special Obligation Bonds
- Educational Capital Improvement Sales and Use Tax

360 Attorneys. 19 Offices. 1 Firm. Southeastern Strong.

22



© 2019, Burr & Forman LLP

22

Questions?

Columbia Office Address

1221 Main Street
Suite 1800
Columbia, SC 29201

Francenia B. Heizer, Esquire
(803) 799-9800 (office)
(803) 331-9415 (cell)
fheizer@burr.com

© 2019, Burr & Forman LLP

23

360 Attorneys.
19 Offices
1 Firm.
Southeastern Strong.



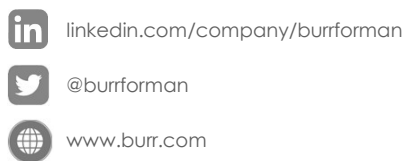
24

© 2019, Burr & Forman LLP

24



Get Connected



Thank you
for your
attention

© 2019 - Burr & Forman LLP

[illegible]
