

School Client Conference Webinar Series 2021

Finance and Facilities Track
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Annual and Special Votes: Procedures and Pitfalls

Presented by:

Andrew Freedman, Andrew Drilling, Emily Dinsmore

Overview

- Annual and Special Votes – Typical Process
 - Notice Requirements
 - Voter Registration
 - Small City School District Registration Requirements
 - Military Ballots
- 2020 Election Recap
- Key Takeaways and Lessons Learned
- Questions

Annual Meeting and Election

- Annual Meeting:
 - Elect school board members
 - Approve school budget and other specific propositions.
- Generally must be held on the third Tuesday in May
 - Limited exception in the event of a conflict with religious observances.
 - Most districts must hold the annual meeting and election during at least six consecutive hours after 6:00 a.m., two hours of which must be after 6:00 p.m.
 - Small city school districts – at least nine consecutive hours, beginning not earlier than 6:00 a.m., two hours of which must be after 6:00 p.m.

Annual Meeting and Election - Notice

- Notice of Annual Meeting
 - Notice of the date, time and place of the annual meeting and election must be published four times during the seven weeks proceeding the date of the meeting and election.
 - In two newspapers of general circulation, with the first publication occurring at least 45 days before the date of the meeting and election.
 - Notice must also state the date, time and place of the public hearing on the budget.
 - A statement that residents may obtain a copy of the proposed budget at any district schoolhouse, during designated hours, on each day other than a Saturday, Sunday or holiday during the 14 days preceding the date of the annual meeting and election and on the day of the election.
 - Notice of any proposed tax and, where required by law, the substance of each specific proposition to be voted on.
 - Petitions for nominating school board members must be filed in the district clerk's office between 9:00 a.m. and 5:00 p.m. no later than 30 days (20 in small city school districts) before the election.

Public Hearing on Budget

- Schools districts must hold a public hearing on the budget at least 7 days but not more than 14 days prior to the meeting and election.
 - Purpose is to present the proposed budget to the voters.
 - Notice of the date, time and place of the public hearing must be set forth in the notice of the annual meeting and election.
- Following the public hearing, a district must mail to all qualified voters a school “Budget Notice,” no later than 6 days prior to the annual meeting and election.

Absentee Ballots

- Absentee ballots generally must be provided upon proper application by any qualified voter who is unable to vote in person due to at least one of several reasons specified by law.
 - Legally permitted reasons depend on whether the district utilizes personal registration.
- To obtain an absentee ballot, voters generally must submit a ballot application to the district.
 - If the absentee ballot is to be mailed to the voter, the application must be received at least 7 days prior to election; if it is to be delivered in person, the application must be received no later than the day before the election.
 - Districts must review all such applications and determine whether the applicant is a qualified voter and otherwise entitled to vote by absentee ballot.
- School districts are required to maintain a list of individuals who have been issued absentee ballots.
 - This list must be made available for public inspection in the office of the district clerk during regular business hours.

Military Ballots – New in 2020

- Part 122 of the Regulations of the Commissioner of Education that implemented Education Law 2018-d.
 - Emergency regulations went into effect in March.
 - Now permanently adopted as of April 23, 2020.
- Military ballot language must be included in the Annual Notice.
 - For every Annual Notice and Notice of Special Meeting and Vote going forward, regardless of the pandemic.
- Regulations require districts to develop & make available:
 - Military ballot applications.
 - And for districts with personal registration: Military voter registration applications.
- Must include Military Ballot Voter Affirmation with Ballot.
 - Specific statutory language.
 - Must be printed on inner envelope transmitted with the ballot.

Military Ballots, Cont.

- Military voters and eligible family members must submit a separate application for a military ballot for each election.
 - Application for military ballot constitutes an application for any necessary revote.
- Military voters may designate a preference for receiving military voter registration, military ballot applications or military ballots by mail, facsimile transmission or electronic mail.
 - The designation remains in effect until revoked.
- Military ballot applications must be received in the office of the district clerk no later than 5:00 p.m. on the day preceding the last day for transmission of military ballots.
 - Such ballots must be mailed or otherwise distributed no later than 25 days before the election (except in small city school districts where ballots must be mailed no later than 14 days before the election).
- Military ballots cannot be canvassed unless they are received by 5:00 p.m. on the day of the election or the close of the polls, depending on the specific circumstances.

Other Important Considerations

- Election Inspectors: should additional inspectors be appointed in addition to the number required by law?
 - Count the ballots and tally the votes.
- Potential Challenges: all disputes are referred to the Commissioner of Education.
 - Potential challengers bear a heavy burden and must prove (i) that the district engaged in improper conduct; and (ii) the improper activity ***actually*** affected the outcome of the election.

Budget Approval or Rejection and Contingency Budgets

- If a school board proposes a budget within the property tax levy limit, only a simple majority of qualified voters present and voting is necessary to adopt the budget.
 - Where total expenditures exceed the property tax levy limit, 60% of the qualified voters present and voting must approve.
- If the budget is rejected, a school board may:
 - Prepare and adopt a contingency budget without going back to the voters;
 - Present the original budget (or a revised budget) for a second vote at a special district meeting; or
 - Adopt a contingency budget, and then present one or more propositions to the voters, giving them the opportunity to fund services that cannot be provided without voter approval.
- **Important limitation:** a contingency budget funds only teachers' salaries and those items the board determines to be "*ordinary contingent expenses.*"

Special School District Meetings

- A meeting of qualified voters called for a specific purpose or purposes.
 - e.g., conducting budget revote or filling board vacancy.
- Special district meetings generally do not have to be held on a specific date or time.
 - However, special rules apply for small city school districts and union free and central school districts in certain situations.
 - Notice must be provided and must include the same items of information required in the notice of annual meeting (as applicable).
 - With limited exceptions, notice should be given in the same manner as the notice of the annual meeting (i.e., 45 days ahead of the meeting, with publication once each week for four weeks in two newspapers of general circulation).

Registration of Voters – Central and Union Free School Districts

- The Education Law permits, but does not require, school boards in union free and central school districts to provide for the personal registration of voters.
- The time and location of voter registration is set by school board resolution, but may not be more than 14 days nor less than 5 days before the annual district meeting and election.
 - Such registration must be open for at least four consecutive hours between 7:00 a.m. and 8:00 p.m.
- Districts that require personal registration may request proof of residency from a voter prior to the election, as a condition of maintaining the voter's name on the registration list.

Registration of Voters – Small City School Districts

- Small city school districts have their own registration scheme under the Education Law. Such districts are required to provide for the personal registration of voters.
- The time and location of voter registration is set by school board resolution.
 - Such registration date must be 20 days after the resolution setting the registration date and must be at least two weeks prior to the election.
- The annual or special meeting notice must include the date(s) on which the Board of Registration will meet.
 - Two additional notices must be published as well: a Notice of Registration and Notice of Availability of Register.

2020 Election Recap

In response to the COVID-19, the Governor issued Executive Order 202.26 regarding the 2020 school vote:

- The vote was conducted entirely by **absentee ballot**;
- School districts had to send an absentee ballot to all qualified voters in the district;
- Ballots were initially due on June 9, 2020 but then the deadline for mailed in ballots was extended until June 16, 2020.
- School Districts also had to send a postcard notice with the date of the election, date of budget hearing, and definition of qualified voter.

2020 Election Recap

- The Executive Order did not entirely change elections.
 - Instead, same as always with specific changes.
 - Districts still had to send all notices.
- The notices needed to include new mandatory military language, advise of virtual public hearing, and advise that the vote would be conducted via absentee ballot.
- We suggested adding the District Clerk's contact information and adding language providing for further changes due to the COVID-19 outbreak.

2020 Election Recap

- Suggested Language for Annual Notices:
- **TAKE FURTHER NOTICE** that the District is closely monitoring all current and future legal developments as they pertain to District elections and budget votes. Due to the spread of the COVID-19 virus and Governor Cuomo's executive orders mandating the closure of all schools and modifications of school elections, the deadlines and procedures stated herein may change as required by law or consistent with further state guidance. All District residents are encouraged to closely monitor the District's website at **[link]** for the most up-to-date information concerning the District's annual vote.

2020 Election Recap

- Districts still had to allow voters to view the budget and absentee ballot lists. The EO did not modify this requirement, even though schools were closed.
- So, we advised the following language in Annual Notice:
 - **TAKE FURTHER NOTICE** that a copy of the statement of the amount of money which will be required for the ensuing year for school purposes, exclusive of public monies, will be available, upon request, from the Office of the District Clerk, during the fourteen days immediately preceding, and the day of, the annual vote except Saturdays, Sundays or holidays, at each of the public school houses of the District (to the extent permissible under Executive Order 202.26 and any subsequent directives issued by New York State in response to the COVID-19 pandemic).
- We also suggested
 - Allowing requests via email;
 - Posting to the website.

2020 Election Recap

- The Executive Order did not suspend **personal registration** or authorize remote personal registration.
- We suggested alerting potential voters that they may register to vote electronically through the Department of Motor Vehicles at: <https://dmv.ny.gov/more-info/electronic-voter-registration-application>.
- If a district still did in-person registration, we recommended organizing it to minimize contact.
- We also suggested uploading personal registration documents on the website for potential voters to download.

Takeaways – Annual Notices/Ballot Logistics

- Send us your annual notice early.
 - If you've never sent us your notice before, consider sending it for review this year.
- Identify your printer, and make sure they have the capacity to print absentee ballots timely.
 - Even if elections are held in-person, we anticipate there may be more absentee ballots than usual this year.
- If you are waiting for the budget amount to print your ballots, remember you do not have to have the amount in the proposition!
 - The ballot can read along the lines of: “Do you approve the budget as presented by the Board of Education?”

Takeaways – Website Updates

- The more information you put out, the better!
- If it might be more difficult for voters to come in and see information in person, add it to the District’s website.
- Even during a “regular” election, we suggest using your District website as a “living document” to post information, deadlines, and dates
 - Candidate deadlines
 - Hearing information – date, time, link (if being done via webcast)
 - Vote – post date, how it will be conducted
 - Consider:
 - Personal registration voter documents, if applicable
 - List of absentee voters – update accordingly
 - Budget

Takeaways – Day of Voting

- Think about the room in which you hold the vote:
 - Do you need to maintain a 50-person maximum capacity?
 - Is the space big enough to maintain proper social distancing?
 - What additional COVID-19 protocols might be appropriate?
- You may wish to consider adding election personnel, to accommodate counting both in-person and absentee ballots.
- If you have a greater number of absentee ballots than normal, you can open the outer envelope prior to the official count, but you cannot open the inner envelope until then.
- One option for preserving the right for voters to view this process is to videotape and/or live stream the count.

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QUESTIONS?

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Thank you

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Property Transactions: Purchasing, Selling, Leasing, Improving School District Buildings and Environmental Compliance/SEQRA Overview

Presented by:

Elizabeth Holden, Paul Meosky, Emily Dinsmore

Check Email Attachment for Presentation Materials

Document titled “SCC 2021 Real Estate Takaways”

Real Property Tax Certiorari Cases After COVID

Presented By:

Michael B. Risman

Filing of Tax Certiorari Cases

- Filed in July of each year
- Service on School District on or before August 10
- Governor Cuomo Executive Order 202.67 extended statute of limitations from July 31 to November 3 for all civil lawsuits
- Could be extended in July 2021 as well

II. 2020 Tax Assessment Cases

- Substantial increase in filed cases
- Reason
 - Valuation of properties is based upon net operating income (income after expenses capitalized)
 - Revaluation projects
- Types of cases filed this year
 - Shopping malls
 - Retail shopping plazas
 - Impact of online shopping
 - Movie Theaters, clothing stores
 - Professional office buildings
 - People working from home
 - Vacant commercial land
 - Large manufacturing properties
 - Telecommunication properties not being filed
 - Apartments-Tenants not paying

III. Next year – 2021

- Taxable status date – March 1, 2021
- July 31 deadline
- More of same types of cases expected in 2021
- Plus hotels
- Properties which benefitted from PPP money this year

IV. Recommendations

- Monitor filing of all new cases
- Increase budget reserves for tax certiorari cases

Capital Projects & Financing

Your Issues for 2021

Presented by:

John Alessi, Jeffrey Stone, Brianne Szopinski, Marla Waiss, Emily Dinsmore

Check Email Attachment for Presentation Materials

Document titled “SCC 2021 Capital Projects Financings Takeaways”

Thank you!

CTLE code “EDUJAN22” will be emailed following the program