

ORDINANCE NO. 9725 (NEW SERIES)

AN ORDINANCE AMENDING SECTION 119.3 OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE RELATING TOTEMPORARY TRANSFERS OF FUNDS TO SPECIFIED AGENCIES WITHIN THE COUNTY OF SAN DIEGO

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Recitals. WHEREAS, Section 6 of Article XVI of the California Constitution provides in part that the “treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by a city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer’s office”; and

WHEREAS, charter schools are not required by law to deposit their funds with the county treasurer (Education Code 47610); and

WHEREAS, a “sponsoring” school district’s funds cannot automatically be transferred to the County to repay a treasurer loan in the event that a charter school is unable to repay the advance; and

WHEREAS, unless otherwise agreed upon, the County General Fund would have to bear the loss if a school district (or charter school) fails to repay a temporary transfer of funds.

WHEREAS, Article VIIa of the San Diego County Administrative Ordinances, Sections 119.1 through 119.3 directs the County Auditor and Controller and the County Treasurer-Tax Collector to take action on requests for temporary transfers of funds and provide procedures to be followed upon receiving requests for temporary transfers of funds without the need to seek approval by the Board of Supervisors in each instance;

WHEREAS, there is a need to amend Section 119.3 to provide certain standards to be followed in case of loans to charter schools;

Section 2. For the reasons stated above, Section 119.3 of the San Diego County Administrative Code is amended to read as follows:

Section 119.3 PROCEDURE TO BE FOLLOWED UPON RECEIVING REQUESTS FOR TEMPORARY TRANSFERS OF FUNDS

The procedure hereinafter set forth is established and will be followed with respect to requests for temporary transfers of funds or determinations of the need for temporary transfers of funds as provided in Section 119.2 of this Article:

1. Upon receipt of a written request to the Board of Supervisors from the governing body of a school district, a community college district, a special district, or other political subdivision within the County of San Diego, or from the County Board of Education with respect to the County school service fund, requesting a temporary transfer of funds to meet current expenses of maintenance or obligations incurred for maintenance purposes, as applicable, or upon the determination of the Board of Supervisors that a temporary transfer of funds to a district or entity whose governing body is the Board of Supervisors, is needed for such reasons, the Clerk of the Board of Supervisors shall forward such request or statement of determination to the County Auditor and Controller.
2. The County Auditor and Controller shall determine the amount which is 85% of the amount of money which will accrue to a school district, community college district or the County school service fund during the fiscal year, or the amount of the anticipated revenues accruing to a special district, other political subdivision, or entity and 85% of such amount, as applicable; the amount of prior transfers of funds to the requesting agency during the fiscal year; and the resultant amount which is transferable as of a specified date to the requesting agency within the constitutional or statutory provisions cited in Section 119.1 of this Article. The Auditor and Controller shall set forth these amounts in a certificate placed on or attached to the request or statement of determination and transmit the request or statement and his certificate to the County Treasurer-Tax Collector.
3. The County Treasurer-Tax Collector shall state in a certificate placed on or attached to the request or statement of determination whether or not funds are available for transfer and shall retransmit the request or statement and accompanying certificates back to the County Auditor and Controller.
4. Upon completion of the foregoing actions, the County Auditor and Controller and the County Treasurer-Tax Collector shall complete procedures and adjust their accounts to accomplish the transfer of funds in the amount which their respective certificates show may be transferred under the constitutional and statutory provisions cited in Section

119.1 of this Article, subject to the limitations and conditions set forth in Section 119.2 of this Article.

5. Upon receipt of a written request to the Board of Supervisors from the governing body of a charter school, requesting the temporary transfer of funds, the Auditor and Controller and the Treasurer-Tax Collector may authorize the temporary transfers of funds to meet a charter school's current expenses of maintenance or obligations incurred for maintenance purposes, as applicable, upon the determination that it is needed and the following conditions are met:
 - a. The charter school agrees to maintain its funds in the County Treasury and pay them out solely through the Treasurer's office; and
 - b. The charter school agrees to a temporary transfer of funds using one of the following alternatives:
 - (1) A sponsoring school district accepts the transfer of funds on behalf of the charter school and repays the transfer as provided for in the Education Code.
 - (2) The sponsoring district agrees to indemnify the County if the charter school fails to repay the temporary transfer. Specifically, the Auditor and Controller will have the authority to automatically transfer such funds to the County from the sponsoring district's funds.
 - (3) The charter school provides one of the following guaranties of repayment, acceptable to the Auditor and Controller and Treasurer-Tax Collector: (a) an irrevocable letter of credit, (b) a surety bond, or (c) a funded escrow agreement.

PASSED AND ADOPTED THIS 12th DAY OF JULY, 2005