

Transfers

Question: I am auditing a city that used a transfer to close out a non-tax levied account to their General Fund. I didn't know if they could do this under K.S.A. 79-2958 [closure of tax levy funds] or if there was another statute that would permit it. Thank you for your time and assistance.

Answer: In the absence of direction otherwise pursuant to the legal authority by which the non-tax levy fund was originally created, upon closure any remaining unencumbered funds will be transferred to the municipality general fund.

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Question: Also have some questions about the Implement Fund, and what items we can use it for. Know that new equipment is the main use for it, but we also have concerns about it with the County Commissioners wanting to go to a County Road System, and want to make sure that the residents of our township receive the benefit of the money that we have been putting aside for a new grader. If we end up with a County-Wide System, I guess our question is can we use the funds to purchase repairs, fuel and road rock? Any advise you can give us on that would be helpful.

Answer: Regarding your equipment reserve fund, in the event the fund becomes unnecessary due to action by the County and you wish to close the fund, the rule is to transfer the reserve fund balance back to the fund(s) from the which the reserve fund balance originated (e.g. Road Fund, General Fund).

So, after closing the reserve fund you should be in a position to use those funds for the uses you describe in your note.

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Question: Can transfers be made from the general fund to the wastewater fund?

Answer: The general rule within the budget law is that there shall be no transfer between funds in the absence of lawful authority to do so (K.S.A. 79-2934). In this case, we have looked

through the statutes of which we are aware, and by which cities are authorized to make transfers, and find none that authorize a transfer from the general fund to the wastewater fund.

However, if you are needing to prop up your wastewater fund with general fund dollars, please keep in mind that the general fund can lawfully cover on its own pretty much any expenditure need of your wastewater fund. In short, if the wastewater fund is short of budget authority or unencumbered cash, or both, you can just pay directly out of your general fund (assuming sufficient unencumbered cash and budget authority).

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Question: I am auditing a city that used a transfer to close out a non-tax levied account to their General Fund. I didn't know if they could do this under K.S.A. 79-2958 or if there was another statute that would permit it. Thank you for your time and assistance.

Answer: A very good question. In the absence of statutory directive on disposition of the proceeds of a non-tax levy fund upon its closure the most appropriate transfer of those funds would be, first, back to the fund or funds from which any unexpended transfer dollars originated (generally, a fund that authorizes transfer to another fund provides that the dollars transferred, if not needed, shall be transferred back) and, second, to the general fund.

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Question: If we do add a capital improvement fund, may yearly transfers be made into it from the Water Utility Fund? I don't see where it specifies in the statute. We don't want to create another fund if we can only finance it through the general fund since our water fund has much more in it than our general. Things we would be saving for in our capital improvement fund would probably all be water/sewer related.

Answer: Good Morning. Transfers from the Water Utility into the Capital Improvement fund, a non-budgeted fund, can be made yearly and you have a couple options for doing so.

First, K.S.A. 12-1,118 allows transfers to and from capital improvement funds. The language concerning the transfer reads as follows: "The ordinance establishing such fund . . . may provide for the budgeted transfer of moneys from other city funds lawfully available for improvement purposes to the capital improvement fund"

And, K.S.A. 12-825d allows transfers of surplus revenue from a water utility when not needed for operations or debt service. The statute allows the transfer from the utility fund into any other fund of the city.

We hope this information helps.

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Question: We are looking at doing some concrete walkways in 2013. I know it's a Capital Improvement, but where does it go on the 2013 Budget?

Answer: According to your most recent hospital district budget, you only have two funds – the General Fund and an Employee Benefit Fund. Since the walkways could not be classified as an employee benefit, the estimated cost of the project should be included in a line item in the General Fund of your proposed budget.

It does not appear that you have a capital projects fund, but if the hospital district was formed under the provisions of K.S.A. 80-2501 *et seq.*, it appears that the formation of a capital improvement fund for the hospital is at least implied by statute.

K.S.A. 80-2518(d) reads as follows:

Hospital moneys which are deposited to the credit of funds and accounts which are not restricted to expenditure for specified purposes may be transferred to the general fund of the hospital and used for the operation of the hospital or to a special fund for additional equipment and capital improvements for the hospital.

K.S.A. 80-2501(c) defines hospital monies as “moneys acquired through the issuance of bonds, the levy of taxes, the receipts of grants, donations, gifts, bequests, interest earned on investments authorized by this act and state or federal aid and from fees and charges for use of and services provided by the hospital.”

So, if the district wished to create a capital projects fund and transfer monies into the fund from the general fund, an argument could be made that it would be allowed by statute. However, the current accounting guidance recommends limiting the number of funds created. So, while the creation of a capital projects fund may be permissible, you may want to debate its establishment due to the relative small nature of improvements being made, and continue to list and make the expenditure from the general fund. If the district embarks on a large project, such as an addition, a capital project fund at that time should certainly be considered.

We hope this response addresses your question. If you have additional questions or comments, please do not hesitate to contact us.

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Question: I question whether we should continue to have all our sewer business under water utility. I think separating these would be a plus.

Answer: We have seen these utilities combined into one fund, which is your current practice, or divided into two funds – one for each utility. This really is an issue of preference by you and the governing body.

K.S.A. 12-631o appears to give cities the following options to finance a sewer system – out of the general fund, a combined utility fund, or a separate fund. So, you would have the authority to create the separate fund. If this is the path you and your governing body decide to follow, we would suggest that you create the fund in your next proposed budget. Show all revenue and expenditures related to the sewer going to and coming from that fund. You would also want to budget in the water fund a transfer to the sewer fund for the sewer monies still remaining in the water fund at the end of the current fiscal year. You would also want to show the transfer in the sewer fund as a receipt. The statutory authority for the transfer between the water and sewer fund is K.S.A. 12-825d.

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Question: Our treasurer was once told that when she moved money from the savings account into the checking account she needed to show that as a transfer. The treasurer and I have never been able to figure out the sense of that. If we want to move money from savings to checking it is all City money and separate from fund transactions, right? Very confusing.

Answer: Our general answer is that the mere movement of monies between your checking and savings accounts usually does not necessarily mean that there has been a transfer between funds. However, this response must be qualified. Let us assume that you have a capital improvement fund of \$50,000, all of which is invested in a \$50,000 CD (there are no other monies in the investment). The governing body decides to move \$10,000 back to the general fund, so you liquidate the CD and move \$10,000 from the CD to the general fund bank account. In this case you would have a transfer of cash between bank accounts as well as a transfer between funds.

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Question: According to my City Clerk's Manual (from LKM) I can use the equipment reserve fund to reserve and finance the acquisition of equipment. Money to finance equipment may be budgeted and transferred to this fund from any lawful source.

My question is can I put money in the equipment reserve fund from our electric, water, wastewater, solid waste funds as well as general as long as I designate the different funds within the equipment reserve fund?

Answer: Yes. The authority for creation of your equipment reserve fund, and for transfers into it, is K.S.A. 12-1,117, which authorizes such transfers from any fund from which equipment purchases would otherwise be lawful.

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Question: Our road and bridge department wants to buy 2-way radios and wants to take the funds out of the Special Machinery Fund. Is that ok?

Answer: A good question. It appears from a review of your 2012 budget that your special machinery fund is one created pursuant to KSA 68-141g, which provides as to expenditures:

All moneys credited to such special fund shall be used by such municipalities for the purpose of purchasing road, bridge or street building machinery or equipment or the building of bridges

We would like to say that your department head is OK with what he or she wants to do, but it might be stretching a little too far in this instance to say that radios fall within the limitations of the statute.

However, you may have a couple of other options: First, we notice that you also have a non-budgeted equipment reserve fund, presumably authorized by KSA 19-119, a statute which does allow expenditures of the type proposed here; and, second, KSA 68-141g authorizes a transfer back of dollars not needed to the fund from which those dollars originated. So, with the second option if the non-budgeted fund dollars originated in the road and bridge fund you might simply transfer back to road and bridge the cost of the two-way radios and make the purchase from that fund, assuming no statutory limitation.

We hope that all of this helps.

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Question: I looked to see what could be transferred to the Improvement fund from Cemetery General fund. Do I read right it is 25% of the budget? I know on the Township it is beg bal + receipts x .25 = amount of transfer.

Let me know if I am correct. Thanks

Answer: Per K.S.A. 17-1336a(b):

The board of directors of any cemetery district created pursuant to article 13 of chapter 17 of the Kansas Statutes Annotated . . . is hereby authorized and empowered, by resolution, to transfer any surpluses of the money derived from any tax levy existing at the end of a budget year to a special fund to be used to purchase machinery and equipment for cemetery maintenance. The amount of such transfer shall not exceed 25% of the annual budget.

The transfer amount from unencumbered cash derived from property tax remaining at the end of the budget year cannot exceed 25% *of the adopted budget* for the fund. For example, if the cemetery general fund budget is \$10,000 and \$3000 in budget authority and unencumbered cash derived from tax dollars remains at the end of the budget year, then they can transfer up to \$2500.

We hope that this helps.

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Question: Hello. One of our cities came in to discuss additional unanticipated revenue for the city. They are selling water from their city wells and roughly estimate the additional income this year in the neighborhood of \$30,000+.

Can they create a Reserve Fund to deposit the revenue into? If so, do they need to adopt a resolution/ordinance to do so? Does the revenue need to first be deposited into the General Fund and transferred to the Reserve Fund or can the revenue be directly deposited into the Reserve Fund? They have already received revenue earlier this year for the sale of water and deposited it into the General Fund. Can those funds be moved? What would they name the new reserve fund?

Thanks in advance for your help.

Answer: In regard to the city in question they certainly can create an equipment reserve fund. Pursuant to KSA 12-1,117 the fund will need to be created by ordinance. Since they just have the general and special highway budgeted funds the proceeds will need to be receipted into their general fund and then transferred to the reserve fund.

The equipment reserve fund is subject to certain limitations on how the dollars in that fund may be spent, but the idea, I'm assuming, is in part at least to find a place to park the unanticipated revenue. The statute provides that the fund is not subject to the budget law (a non-budgeted

fund) and, importantly, dollars in the fund not needed for acquisition of equipment may be transferred back (via resolution) to the general fund where it can, as you know, be spent for any lawful purpose.

In addition, since the statute sets no percentage limitation on the amount that may be transferred annually to the equipment reserve fund the folks in this city may transfer dollars received prior to creation of the reserve fund. The one short-term limitation on transfers might be budget authority in the general fund, inasmuch as the transfers will code as expenditures to the general fund; if need be they can amend the general fund to create additional budget authority.

In regard to a name for the fund they might want to consider a name that includes the words “equipment” and “reserve,” inasmuch as that makes clear from where they found the statutory authority for the fund (we note, too, that the city in question already has a “City Municipal Equipment” fund which appears to have been created pursuant to KSA 68-141g; transfers there, however, are limited to 25% annually of resources available).

We hope that this helps. Pertinent parts of the statute are quoted below.

12-1,117. Municipal equipment reserve fund; purpose; investment and transfer of moneys in fund. (a) The governing body of any city may provide, by adoption of an ordinance, for a municipal equipment reserve fund to finance the acquisition of equipment. Moneys may be budgeted and transferred to such fund from any source which may be lawfully utilized for such purposes For the purposes of this act, equipment shall include machinery, vehicles and any other equipment or personal property including, but not limited to, computer hardware and software, which the city is authorized to purchase for municipal purposes.

(b) Moneys credited to such fund from annually budgeted transfers shall not thereafter be subject to the provisions of K.S.A. 79-2925 to 79-2937 In making the budgets of such city, the amounts credited to, and the amount on hand in, such equipment reserve fund and the amount expended therefrom shall be shown thereon for the information of the taxpayers of such city. . . .

(c) If the governing body of any city determines that money which has been credited to such fund or any part thereof is not needed for the purposes for which so budgeted or transferred, the governing body may transfer, by adoption of a resolution, such amount not needed to the fund from which it came

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Question: Our city is creating a new revenue source from the sale of effluent water. For the first ten years, we want to transfer part of that new revenue from the General Fund to the Debt Service fund to pay for a GO Bond payment of a storm water drainage project.

Is there a KSA that would allow this or should we pass an ordinance for this transfer until the storm water drainage project of the GO bond is paid? Thanks

Answer: We cannot find a statute authorizing the proposed transfer of effluent water revenue receipts from your general fund to your debt service fund, in which case your city, exercising its home rule authority, will need to adopt an ordinary ordinance authorizing the proposed transfers. We understand that you propose to submit such an ordinance to the city commission at its meeting next week.

Thank you for your question.

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Question: Good morning. We are trying to determine if there is a Kansas Statute that prohibits a city from transferring money from its General Fund to an Enterprise Fund (golf course, airport, etc.)? We have been told this is not allowed but are unable to find the statute prohibiting such a transfer. Are you aware of any such statute?

If transfers to enterprise funds are prohibited, I assume that Special Revenue funds should be used to account for the transactions for the golf course, airport, etc.

Thanks for your assistance.

Answer: Let us turn the question around and make it “is there a statute which *authorizes* such a transfer?” The budget law has a provision which reads “[n]o part of any fund shall be diverted [transferred] to any other fund, whether before or after the distribution of taxes by the county treasurer, except as provided by law.” (K.S.A. 79-2934.) So, we look for a statute that would authorize such a transfer, as opposed to one which would prohibit it. Of course, the phrase at the end of the sentence, “by law,” could mean, in addition to statutory authorization, transfer authority provided by home rule action of the city in question.

We’ve scrolled down through the list of transfer statutes we’ve compiled for cities and cannot find one that fits your situation, which means – unless there is an applicable transfer statute out there about which we don’t know - that in the absence of home rule ordinance authorization for such a transfer the above quoted language would prohibit it.

Your best bet would likely be to transfer excess resources from a utility fund pursuant to K.S.A. 12-825d unless the city in question would prefer to simply pay directly out of its general fund. As an FYI, it is not unusual to see utility fund transfers to golf funds.

We hope that this help.

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Question: The City requests assistance on special situation budget transfers. A major development is in bankruptcy and as a result the City must plan and budget for the likely event of a large default in special assessments levied for bond replacement in 2012.

The City Budget has been prepared to reflect full collection of the assessments and full bond and interest payments in the Debt Service Fund. If shortfalls in the Debt Service fund occur, the City is considering the following options:

- Transfers of accumulated economic development sales tax revenues from the Capital Improvement Fund (a non-budgeted fund) to the Debt Service fund under K.S.A. 12-6a16 would be made.
- A transfer from the General Fund to the Capital Improvement Fund will be made to maintain the capital improvement fund balance to the extent general funds are available under K.S.A. 12-1,118.

Because of the large sum involved we would like to have a written opinion from the Department of Accounts and Reports as to the appropriateness of this approach. Clearly, the City is responsible for paying all general obligation bonds. The city council's challenge is to structure the budgets to properly show legal compliance with budgetary regulations.

Answer: Good afternoon. It appears that the sales tax revenues are dedicated to the capital project, and a transfer in accordance with K.S.A. 12-6a16, as proposed, is allowed only as a residual equity transfer at such time as the project is complete. We don't believe the project is complete, since the City also proposes to transfer from the general fund to the capital project fund in order to maintain the capital project fund balance.

From our perspective it appears, in essence, that the City is trying to use general fund monies for the payment of the debt, if needed. That being the case, and since this is GO bond debt, we think the most appropriate course of action –to the extent necessary - is to pay the bond and interest directly from the general fund. Of course, the city would need to watch to ensure that payment of principal and interest from the general fund will not exceed expenditure authority. If so, the general fund budget will need to be amended (assuming the availability of unencumbered cash).

We realize that from an accounting perspective it would be cleaner to pay all debt from the debt service fund. But lacking statutory authority to move monies from the general fund to the debt service fund, and with the transfer contemplated in K.S.A. 12-6a16 a residual equity transfer, it appears payment from the general fund is the city's only recourse.

We hope this information helps.

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Question: Hi. During our most recent budget process, several questions arose about the use and purpose of our risk management fund. City council has a fund balance policy prescribing the desired balance of this fund, but they have acknowledged conflict with their policy during recent budgets. I understand that uninsured losses may be charged against this fund per statute and per the 1991 resolution establishing this fund, but we are considering other options as well.

- In the event of a significant revenue shortfall in the general fund, could risk management funds be transferred to general fund?
 - If no, could expenditures other than casualty losses be charged directly to risk management fund?
- Can we charge insurance premiums to risk management fund?
- The City does not self-insure for any type of loss and we have reasonable deductibles. How would the governing body close the fund and return the balance to the general fund (the source of the funds), if desired?
- Are risk management funds common among Kansas cities?

Thanks for your help!

Answer: Good morning. A risk management reserve fund is authorized by K.S.A. 12-2615, and is created by a resolution of the governing body. The resolution “shall prescribe the purposes for which moneys in the fund may be used.” As to transfers the statute provides:

Moneys may be paid into such risk management reserve fund or special reserve fund from any source which may be utilized for such purposes, including transfers from the general fund, from any special liability expense fund established in accordance with the provisions of K.S.A. 75-6110 . . . or from any other fund or grant program account of the governmental unit in reasonable proportion to the estimated cost of self insuring the risk losses covered by such funds.

The statute also provides that money in this fund is not subject to the budget law and as such the fund can be shown on a non-budgeted form showing only the actual year activity, and with spending authority up to the amount of cash in the fund.

In subsection (b) the statute provides that when money credited to the fund is no longer needed such can be transferred back to the fund or funds from which it originated.

Questions:

Can money be transferred back to the general fund? If the governing body determines that money in the reserve fund is no longer needed for the purpose intended, then money can be transferred back to the fund from which it came.

Can insurance premiums be charged to the risk management fund? We are constrained to answer in the negative. The statute provides that the city “may pay [costs relating to any uninsured loss] from the risk management reserve fund” It would seem to us that insurance premiums are not “costs relating to any uninsured loss” and, thus, would not be permitted.

How can the risk management fund be closed? If the governing body determines that the fund is no longer needed, the governing body, by resolution, can transfer the remaining fund balance back to the funds from which such dollars originated, and provide for closure of the fund.

Are risk management funds common among Kansas’ cities? We do not track this information, but our guess would be that more often than not you would not find this fund in a city or county budget. You may check similar cities at our website home page under the heading “E-Budgets.” <http://www.da.ks.gov/ar/muniserv/>

We hope that this helps.

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Question: Is there a statute that allows for a city to transfer money from the general fund to the bond and interest fund? If so, could you please send me the statute number?

Answer: Good afternoon. To our knowledge there is no statutory authority to transfer from the general fund to the bond and interest fund. If the municipality is short monies in bond and interest they can pay the remaining bond and interest payment directly out of the general fund. But they cannot transfer.

Hope this information helps.

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Question: You mention that we cannot transfer money from our general fund to our employee benefits fund. Just curious, why not? Is this a legal opinion or statute or other?

Answer: The limitation on transfer is found in the Budget Law (K.S.A. 79-2934) which reads in part:

No part of any fund shall be diverted [transferred] to any other fund, whether before or after the distribution of taxes by the county treasurer, except as provided by law.

So, for municipalities that lack home rule authority (like recreation commissions) unless there is statutory authority specifically authorizing the transfer, it cannot be done.

Hope this information helps.

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Question: I have a city asking about a transfer from general to sewer fund. I am not sure which statute to use, can you help me? Thanks,

Answer: Good morning. This is a fairly easy question to answer. There exists no authority in state statute for making a transfer from the general fund to the sewer fund. Utility funds are enterprise funds, and as such, as a general rule, should be self-sustaining. The only option for the city, if they wish to use general fund monies for the sewer utility, is to pay the sewer expense directly out of the general fund.

We hope this helps.

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Question: Our City has a new board and City clerk. She explained what the different funds were and how they were to be managed. One was the sewer fund which the residents pay on a monthly basis for maintenance and to pay off the bond. Apparently, the bank has informed the former clerk that the new board transferred \$5,000 from the sewer fund to the general fund. Since that money was paid in for sewer can the council use it in the general fund for other purposes? If the answer is no what can be done about it?

Answer: Yes, pursuant to K.S.A. 14-568 any balance in the sewer fund of a second-class city not needed for operations and maintenance, or for payment of debt service, may be transferred without restriction to the general fund.

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