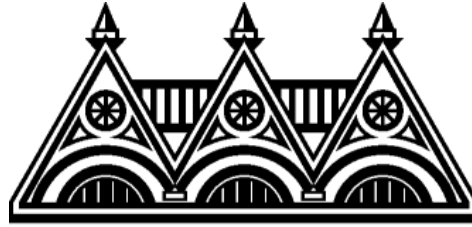


# TRANSFERS, ADVANCES, AND CASH FLOW MANAGEMENT

Presented by:  
Rebecca C. Princehorn, Esq.  
&  
Paul S. Rutter, Esq.



**Bricker & Eckler**  
ATTORNEYS AT LAW

**BRICKER & ECKLER LLP**

**100 South Third Street  
Columbus, Ohio 43215  
(614) 227-2300**

**160 East Main Street  
Barnesville, Ohio 43713  
(740) 374-2284**

**1001 Lakeside Avenue East  
Suite 1350  
Cleveland, Ohio 44114  
(216) 523-5405**

**201 East Fifth Street  
Suite 1110  
Cincinnati, Ohio 45202  
(513) 870-6700**

**258 Front Street  
Marietta, Ohio 45750  
(740) 374-2248**

**312 N. Patterson Blvd.  
Suite 200  
Dayton, Ohio 45402  
(937) 224-5300**

[www.bricker.com](http://www.bricker.com)

*Note: These materials are for educational purposes only, and are not intended to provide legal advice.*

# TRANSFERS, ADVANCES, AND CASH FLOW MANAGEMENT

## I. Introduction.

Why is this topic important? Fund accounting ensures that legally restricted cash is segregated into a fund for a specific purpose. Transferring cash out of one fund and into another potentially permits spending the restricted cash in violation of its restricted purposes. The guidelines in the Ohio Revised Code and from the Auditor of State help to prevent such errors.

## II. Transfers & Advances—The Basics.

A. Transfers—a transfer is the permanent reallocation of cash or other assets without an equivalent flow of assets in return and without a repayment requirement. Transfers are made pursuant to RC 5705.14 to 5705.16. Once transferred, cash or assets is changed and subject to the restrictions of the receiving fund.

1. In most instances, a transfer is from an unrestricted fund to restricted fund.
2. In rare instances, a transfer may be from a restricted fund to another restricted fund with the same purpose.
3. Prohibited Transfers. The proceeds or balances of the following may never be transferred (RC 5705.15):
  - a. Loans and bond issues;
  - b. Special levies for the payment of loans or bond issues;
  - c. Funds derived from any excise tax levied by law for a specific purpose; and
  - d. License fees imposed by law for a specific purpose.
4. Cash may never be transferred from restricted funds to unrestricted funds.

B. Advances—an advance is a temporary reallocation of cash from one fund to another with an expectation of repayment within 12 months. AOS Bulletin 97-003. Advances must be from a fund with statutory authority to use the cash for the same purpose for which the fund receiving the cash was established.

### III. Authorizing Transfers & Advances.

A. All transfers must be authorized by a resolution of the board of township trustees before they occur. The Ohio Revised Code does not provide for retroactive transfers. The resolution must appear in the minutes of the board.

B. Some transfers may occur after the board of township trustees passes its resolution alone. Those transfers are listed in RC 5705.14 and below:

1. An unexpended balance in a bond fund may be transferred to a sinking fund or a bond retirement fund from which such bonds are payable—2/3 vote of board of township trustees is required (RC 5705.14(A));
2. An unexpended balance in any specific permanent improvement fund after payment of all obligations incurred in acquisition of the permanent improvements may be transferred to the sinking fund or bond retirement fund if needed for obligations; also may be transferred to special fund for the acquisition of the permanent improvements—2/3 vote of board of township trustees is required (RC 5705.14(B));
3. An unexpended balance in a sinking fund, after all indebtedness, interest, and other obligations have been paid or retired, may be transferred to a bond retirement fund, and vice versa—2/3 vote of board of township trustees is required (RC 5705.14(C));
4. An unexpended balance in any special fund, other than an improvement fund, may be transferred to the general fund or the sinking fund or bond retirement fund after the termination of the activity, service, or other undertaking for which the special fund existed, but only after the payment of all obligations incurred and payable from such special fund—2/3 vote of board of township trustees is required (RC 5705.14(D)); and
5. Cash in the general fund may be transferred to any other fund—simple majority vote of board of township trustees is required (RC 5705.14(E)).

C. Most other transfers require a resolution of the board of township trustees and tax commissioner approval. The resolution must pass by a simple majority vote. NOTE: 5705.16 formerly also required approval by the court of common pleas in the county in which the affected funds were held, but Am. Sub. H.B. 49 of the 132<sup>nd</sup> General Assembly, effective September 30, 2017, removed that requirement.

D. An improper transfer is subject to a finding for adjustment from the Auditor of State. If the funds are not adjusted, the Auditor may issue a qualified opinion. If the funds are adjusted, it may result in negative balances.

E. All advances must be identified and approved by a formal resolution passed by the board of township trustees before the transaction is completed.

F. The resolution for the advance must include a specific statement that the transaction is an advance of cash and indicate the fund from which repayment is expected.

G. Advances must:

1. Not violate restrictions on the cash being advanced;
2. Be repaid within 12 months;
3. If not repaid by the end of the fiscal year, the altered cash balances must be considered in the appropriation resolution; and
4. If not repaid within 12 months, the township must use formal transfer procedures to authorize a transfer. The township then must reverse the entries recording the cash advance and repay the advance as a transfer.

#### IV. Is it Really a Transfer?

A. Some cash flows are similar to transfers but are not considered transfers by law.

B. Intrafund Appropriation “Transfer”—an intrafund appropriation transfer is the decrease of the spending authority of one appropriation account and the simultaneous increase in the spending authority of another appropriation account within the same fund. Notice there is no cash flow, so this is not a transfer.

C. Exchange Transaction—an exchange transaction is the flow of cash from one fund to another in exchange for the return of services. Notice, there is return consideration, so this is not a transfer. Instead, this should be reported as a disbursement from the paying fund and a receipt to the receiving fund that provided the service.

1. Townships should take care to ensure the purpose for which the cash was disbursed is within the paying fund’s authorization.
2. Townships should take further care to ensure the amount of the cash transferred for the service is reasonable—excessive amounts may be classified as gifts.

3. Note that the township could transfer an excessive amount, but the reasonable portion should be classified as a disbursement in exchange for services, and the excessive portion should be classified as a transfer and conform to the rules for transfers.
- D. “Snow Fences”—RC 5705.13 allows townships to “fence” money in a fund for a particular purpose. By statute, this is not a transfer under RC 5705.13 to 5705.15. It is a unique type of fund reallocation authorized by law.
1. Types of “fences” authorized by RC 5705.13 include:
    - a. Reserve balance accounts (RC 5705.13(A));
    - b. Special revenue funds (RC 5705.13(B)); and
    - c. Capital projects funds (RC 5705.13(C)).
  2. To establish a reserve balance account, special revenue fund, or capital projects fund, the board of township trustees must pass a resolution by a simple majority vote. The resolution must specify the purpose for which the fund is established.
  3. A reserve balance account may be established for the purpose of accumulating currently available resources to: (1) stabilize township budgets against cyclical changes in revenues and expenditures; (2) provide for payment of claims and deductibles under an individual or joint self-insurance program for the township; or (3) provide for payments of claims, assessments, and deductibles under various types of worker’s compensation insurance plans.
  4. A special revenue fund may be established for the purpose of: (1) accumulating resources for the payment of accumulated sick leave, vacation leave, and payments in lieu of taking compensatory time off upon the termination of employment or retirement of officers and employees of the township or (2) accumulating revenues for the payment of salaries during any year in which the number of pay periods exceeds the customary number of pay periods.
  5. A capital projects fund may be established for the purpose of accumulating resources for the acquisition, construction, or improvement of fixed assets of the township. For the purposes of the capital projects fund, fixed assets include motor vehicles.
  6. The “snow fence”—any cash from any fund that is authorized for the same purpose as the reserve balance account, special revenue fund, or capital projects fund may transfer money into that fund without regard to the procedures in RC 5705.14 to 5705.16. And the board of township

trustees, by a simple majority vote, may pass a resolution rescinding the fund. Any cash in the fund is transferred back to the fund from which it came.

7. Additional Requirements—Reserve Balance Account:

- a. The resolution establishing the account must state in which fund the account shall be established. For additional reserve accounts stabilizing township budgets against cyclical changes, the account may be in the general fund or any one or more special operating funds; for additional reserve accounts to provide for the payment of claims and deductibles under an individual or joint self-insurance program or to provide for payments of claims, assessments, and deductibles under various types of worker's compensation insurance plans, the account may be established in the general fund or in a separate internal service fund.
- b. The amount of cash in a reserve balance account to stabilize the township's budget cannot exceed the greater of 5% of the revenue credited to the fund in which the account was established in the previous fiscal year or 1/6 of the expenditures from the fund in the previous fiscal year.
- c. The amount in a reserve balance account for the purpose of stabilizing the township's budget does not constitute an unencumbered balance or revenue of the township under RC 5705.35(A) or RC 5705.36(A)(1).

8. Additional Requirements—Capital Projects Fund:

- a. The resolution establishing the fund must identify the source of money to be used for the acquisition, construction, or improvement of the fixed assets, the amount of money to be accumulated for that purpose, the period of time over which the money is to be accumulated, and the fixed assets the township intends to acquire, construct, or improve.
- b. A township may not accumulate money in a capital projects fund for more than ten years after the resolution establishing the fund is adopted.
- c. If the township does not enter into a contract to acquire, construct, or improve the fixed assets before the ten year period is over, the fiscal officer must transfer all money in the capital projects fund to the funds from which the money originally was transferred or the fund that originally was intended to receive the money.

- E. Township Reserve Balance Accounts—townships have additional authority under RC 5705.132 to create reserve balance accounts for any purposes for which the board of township trustees lawfully may expend money of the township, other than for the purposes in RC 5705.13(A) [see above].
1. A board of township trustees may create an RC 5705.132 reserve balance account by a resolution passed with a simple majority vote. The resolution must state: the specific purpose for which the account is established; the fund within which the account is established; the fund or account from which money shall be transferred; the number of years the account shall exist; and the maximum total amount of money that can be credited to the account during the existence of the account and the maximum total amount of money that can be credited to the account in any one fiscal year.
  2. Money may be transferred to an RC 5705.132 reserve balance account from any fund which lawfully may expend money for the purposes for which the reserve balance account is established. Money may be expended from the reserve balance account only for the purpose for which it was established.
  3. The total amount of money to the credit of *all* RC 5705.132 reserve balance accounts at any time in any fiscal year must not exceed 5% of the total of the township's revenue from all sources for the preceding fiscal year and any unencumbered balances carried over to the current fiscal year.
  4. A reserve balance account may not exist for more than 5 fiscal years beginning with the first fiscal year money is credited to the account. If the resolution establishing the account authorized a period of existence of less than 5 fiscal years, the board of township trustees may pass a resolution extending the period, but only up to a total of 5 fiscal years.
  5. The board of township trustees may pass a resolution rescinding the account at any time.
  6. Upon the expiration or rescission of an RC 5705.132 reserve balance account, any unexpended balance must be transferred to the fund or account from which the money originally was transferred. If the money in the account was transferred from multiple funds or accounts, the unexpended balance shall be transferred back in proportion to the amount originally transferred from each fund or account.

7. The balance to the credit of an RC 5705.132 reserve balance account is not considered part of the unencumbered balance or revenue of the township under RC 5705.35(A) or RC 5705.36(A)(1).

V. Examples of Transfers and Advances.

A. Valid Transfer—a sewer fund debt covenant requires a periodic transfer from the sewer operating fund to the sewer debt service fund.

B. Invalid Transfer—a three-person village water division “transfers” \$250,000 from the water fund to village’s general fund for annual support services, including accounting, information technology, and human resources training.

1. Notice that if the payment truly was for services, this is not a transfer, but an exchange transaction.
2. But considering the services received (support services for three employees), the Auditor of State found that the amount paid was unreasonable.
3. It therefore should have been a transfer, but the transfer procedures were not followed. A finding for adjustment for the unreasonable portion (\$200,000) was issued.

C. Invalid Transfer—a township transferred \$13,000 from the general fund to the road and bridge fund, but the minutes of the board of township trustees did not record a resolution to transfer the funds. This was an invalid transfer that resulted in a finding for adjustment.

D. Invalid Transfer—a township transferred \$100,000 from the gas tax fund to the general fund. Transfers from one fund with a restricted purpose to a fund with a different restricted purpose or no restriction potentially permits spending the cash in violation of the restricted purpose. A finding for adjustment was issued.

E. Valid Advance—a fire district followed the proper procedure to advance funds to purchase a fire truck in anticipation of a grant reimbursement.

F. Invalid Advance—a county “advanced” \$1 million from the health care self-insurance fund (a restricted fund) to the general fund (an unrestricted fund), subject to a five year repayment plan. First, this is not an advance: it is not for 12 months or less, and it is from a restricted fund to an unrestricted fund. Second, it is not a valid transfer because it was not approved properly.

VI. R.C. 133.10 – External Cash Flow Borrowing (Current Revenue, not Newly Approved Property Tax).



A. 133.10(A) – This subsection permits a township to issue securities in anticipation of the collection of current property taxes for a fiscal year, but the principal amount borrowed cannot exceed one-half of the estimated amount the township will receive in that fiscal year and during the six months following the issuance of the securities, less advances and amounts levied for debt charges. Such securities must mature no later than six months after the month in which the securities are issued and, in any case, no later than the last day of the fiscal year in which they are issued.

B. 133.10(B) – This subsection permits a township to issue securities in anticipation of the receipt of current revenue to be available later during the fiscal year from a source or combination of sources other than property taxes, including federal or state moneys. The principal amount borrowed cannot exceed one-half of the amount estimated to be received during the fiscal year, less advances and prior collections. Such securities must mature no later than the last day of the fiscal year for which the revenue is anticipated.

C. 133.10(C) – This subsection permits a township to issue securities in anticipation of the collection of property taxes for the remaining fiscal year. The aggregate principal amount of these securities and of any securities issued under R.C. 133.10(A) outstanding at the time of issuance cannot exceed one-half of the estimated amount that the township will receive from all property taxes to be distributed to the township from all tax settlements for the remainder of the fiscal year, less advances and amounts levied for debt charges. Such securities must mature no later than the last day of the fiscal year for which the revenue is anticipated.

D. 133.10(D) – This subsection permits a township to issue securities in anticipation of the collection of a tax settlement which has been delayed under R.C. 321.24(E). The principal amount of all securities outstanding against the anticipated taxes may not exceed 90% of the amount estimated to be due from the settlement, less advances and amounts levied for debt charges. Such securities must mature no later than the next August 31<sup>st</sup>.

E. Additional Terms of Traditional Cash Flow Borrowing Securities

1. First day of issuance:
  - a. General Rule - not prior to first day of fiscal year;
  - b. Exception - on or after tenth day prior to first day if:
    - i. No proceeds are considered available for appropriation prior to first day; and
    - ii. No proceeds are expended prior to first day.
2. Proceeds used only for purposes for which amounts anticipated were intended.

3. Amounts from the anticipated sources needed for debt charges on cash flow securities are deemed appropriated and have priority for that purpose.
4. Property taxes include state distributions in payment of credits or exemptions.