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CLIENT ALERT

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MADISON AVE. MEETS MAIN STREET: THE SCHOOL BUS AD OPTION

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On January 6, 2011, Governor Christie signed into law a bill that allows school districts to enter into contracts for the sale of advertisements on the exterior sides of school buses. School buses that are owned or leased by a school district may now bear the logo or motto of advertisers, just like the billboards along our roadways. Unlike those billboards, however, advertisements on the sides of the yellow school bus may not reference or promote alcohol, tobacco products or any politically based information. Further, the Act grants the Commissioner of Education the authority to prohibit “inappropriate” advertisements.

The purpose of the Act is to provide an additional revenue source for school districts. To highlight this purpose, the Act states that “[g]iven the State’s current fiscal crisis, any mechanism that may increase a school district’s revenue that does not negatively impact the education of students should be explored as a viable option.” The Act requires that 50% of any revenue that the district receives under an advertising contract must be used by the board of education to offset the fuel costs of pupil transportation. Boards of education must use the other 50% of revenue towards student programs and services.

It is anticipated that the State Board of Education will soon issue rules and regulations to provide boards with guidance on issues such as the permissible size of advertising space and the criteria that should be used to determine the appropriateness of the content.

Should it choose to implement school bus advertising, a local board of education should also consider the interplay of other laws such as the “Public School Contracts Law,” *N.J.S.A. 18A:18A-1 et seq.* Pursuant to the Act, the provisions of that law apply to any advertising contract entered into by a board. As a result, a board of education should expect that the advertising contracts which it seeks to enter into with vendors will require analysis under public contracts law and related regulations, including requirements for award of concessions under *N.J.A.C. 5:34-9.4*.

Under the Act, local boards of education must approve all advertising contracts prior to any advertisement’s placement on a school bus. The Act also requires that the Commissioner of Education issue an annual report to the Governor and the Legislature describing how districts have taken advantage of the advertising as a source of revenue.

If your district either owns or leases school buses, it may wish to seriously consider selling advertising on its buses as an additional revenue source. Please do not hesitate to contact our school law attorneys at Schenck, Price, Smith & King, LLP at **973-539-1000**.