

# Education Legislative Report

May 2, 2014 – Issue #11

## ***PreK-12 Education Districts Bill Passes the House***

On Wednesday, April 30<sup>th</sup> the House gave final approval to [H.883](#), an act relating to prekindergarten-grade 12 education districts, on a 76-60 vote.

The key components of the final bill include:

- 1) Effective July 1, 2020, supervisory unions cease to exist in favor of PreK-12 “education districts” governed by a single board and operating with a single budget and a common district-wide tax rate.
- 2) Existing school districts have until July 1, 2017 to determine their alignment under self-designed articles of agreement, using the structure and incentives of Acts 153/156. The bill changes the Act 153/156 requirement that a new district be effective by July 1, 2017 in order to receive financial incentives; now districts that have had an affirmative vote by all necessary districts by July 1 are eligible to obtain the incentives.
- 3) Through June 30, 2017, the process for forming into new education districts generally conforms to the existing process for establishing unified union school districts in Title 16. Districts that merge will have the ability to draft their own merger plan and articles of agreement. Those articles can specify how the new expanded district will treat a range of issues, including town representation on the new board, closure of schools, and school choice.
- 4) The bill creates a nine-member design team of individuals who are geographically representative, have a broad range of knowledge of and experience in the Vermont education system and in Vermont communities, and represent diverse points of view and interests. The design team is tasked with developing a statewide realignment plan for districts that did not voluntarily realign prior to July 1, 2017.
- 5) Between 2014 and 2017, this design team will convene at least 10 facilitated public engagement meetings and visit every supervisory union to consult with school board members, community leaders, parents, students, school administrators, teachers and other school staff, and public and private entities that regularly collaborate with schools.
- 6) The design team will develop a preliminary plan that reflects the public comments and any relevant research by April, 2017. The preliminary plan must include a process whereby districts can request a change in their proposed

placement within an education district or otherwise voice unique concerns prior to adoption of the final plan.

- 7) Between July 1, 2017 and November 1, 2017 the design team will conduct 10 additional public meetings and consult with local educational and community leaders in order to receive feedback on the preliminary plan. The final plan shall be submitted to the State Board by November 1, 2017; the State Board shall then submit the plan with its recommendations to the General Assembly on January 1, 2018.
- 8) The final plan would need to receive an affirmative vote by the legislature in 2018 to go into full effect by 2020.
- 9) The final plan will preserve the ability of districts that currently operate schools or offer school choice to continue to do so.
- 10) Districts that determine their realignment or realign under the statewide plan must establish a transition board for the purpose of negotiating contracts, establishing a budget and hiring a superintendent. The transition board has the authority to negotiate new employment contracts with their future employees; provided, however, that if a new agreement is not reached prior to the date the new education district takes effect, then the parties shall comply with existing agreements in place in each member district until a new agreement is reached.
- 11) The Agency of Education is tasked with providing technical support and other resources to the design team and to districts pursuing voluntary realignment, as well as with developing performance criteria and measurements to help inform both phases of the realignment process. To help them accomplish this work, the bill creates four new positions at the Agency, which are in addition to the education analyst position the House created for the Agency in H.889.

Throughout the course of the lengthy debate, several amendments were offered, two of which passed handily. The first would require the State Board of Education to select three “test sites” to comprehensively analyze the educational and financial benefits and detriments of merger. The SBE would have to report its findings next January to the General Assembly, which would serve to inform the realignment process moving forward.

The second amendment requires the Joint Fiscal Office to determine the total amount of new “unfunded mandates” imposed on supervisory unions and school districts for the coming fiscal year and to present this total to the Joint Fiscal Committee at its July meeting. The Joint Fiscal Committee then reviews and approves the total, and that amount will then be automatically added to the General Fund transfer to the Education Fund for that fiscal year and each fiscal year after. “Unfunded mandate” is defined as a Vermont statute or regulation that requires a supervisory union or school district to

perform certain actions, but with no money or funding mechanism in place for fulfilling the requirement.

The bill now heads to the Senate Rules Committee, since it passed the House well after the cross-over deadline. Given the waning days of the session, the fate of H.883 is not clear. The Senate Education Committee passed some governance-related provisions in its amended version of H.876, the miscellaneous education bill (see page 4), and has expressed reluctance to do anything more on the governance front this session.

### ***Senate Finance Committee Passes Property Tax Provisions***

Earlier this week, the Senate Finance Committee opted to merge the miscellaneous tax bill, H.884, and the annual education property tax bill, H.889, which this year not only set the various education tax rates for FY15 but also made several education financing changes. The committee's proposal, still to be passed by the Senate, sets different rates than those passed by the House; and includes some but not all of the education financing amendments.

The House set the homestead base rate at \$0.98, the non-residential rate at \$1.515, the income sensitivity rate at 1.9 %, and the base education amount at \$9,382. The non-residential and income sensitivity rates were set higher than originally projected; this, along with the use of substantial one-time funds and other changes, allowed the House to lessen the expected increase in the homestead rate, from seven cents to four. Senate Finance decided against using one-time money to reduce the rate, as this would cause the rates to increase in FY16. They settled on a homestead rate of \$1.00, a non-residential rate of \$1.51, an income sensitivity rate of 1.84%, and the same base education amount.

In the Findings and Purpose section of the education financing portion of the new H.884, the committee writes, "A balance needs to be struck between the ability of Vermonters to pay additional taxes now and invest in system-changing improvements for the future." They are working with the Senate Education Committee to determine better uses of one-time money from the Supplemental Property Tax Relief Fund, including increased incentives for mergers (see below).

The bill as passed by Senate Finance includes proposals from the House on the form of a budget vote (must include numbers on changes in education spending per equalized pupil), excess spending (ties it to inflation instead of the previous year's average spending), and the fast-growth provision (eliminates it). It does *not* include an expansion of income sensitivity, changes to the renter rebate program, the gradual

elimination of small school support grants for non-geographically isolated districts, and the statement of intent to shift to a more income-based education funding system.

The excess spending provision is among the most concerning, because it ties the excess spending threshold to average education spending per equalized pupil in fiscal year 2014 increased by inflation (specifically, by the most recent New England Economic Project cumulative price index, for state and local government purchases of goods and services) instead of tying it to the previous year's average spending. The effect this change would have depends both on the rate of inflation as determined by the index and the rate of school spending changes. If education spending per equalized pupil continues to increase faster than inflation, this would result in a lower (and increasingly lower) threshold than would exist under current law. If spending rates increase more than inflation, this would result in a higher threshold. Given trends in school spending over the last couple decades, it seems likely this will result in a substantially lower threshold down the road, with more and more districts being affected.

The full Senate gave the bill preliminary approval on Thursday as amended by the Finance Committee. If given final approval today, it will head to conference committee next week.

### ***Retired Teacher Healthcare Benefits Discussion Continues in the House***

Discussions over the state treasurer's funding proposal for retired teachers' healthcare benefits have continued in the House. The bill, H.673, has been approved by the House Government Operations Committee; the Senate also included basically the same language in their version of the annual budget bill (H.885), which is now in conference.

The proposal will have a direct effect on school districts in a number of ways. Most obviously, there will be a new employer assessment, charged to school districts, for each new teacher hired who has not previously been part of the pension system. The amount of the assessment, which would go into effect on July 1 of this year, would be \$1,072 at first and increase over time. This is an *annual*, not a one-time, cost for each new teacher to the system; as more and more new teachers replace retiring teachers, the cost statewide will grow. In FY16, it is estimated at \$375,000; by FY2024, \$5.8 million; eventually, when all teachers are "new," the annual cost will be in excess of \$10 million.

The proposal also requires school districts to absorb pension costs for positions funded through federal grants; these costs are approximately 12.5 % of salary. The estimated impact statewide in FY16 is \$3 million, growing at two percent per year.

Lastly, new and non-vested teachers will be required to pay an additional one percent contribution to pension funding. This may create additional pressure on school districts to increase teacher salaries in response through the collective bargaining process.

The Ways and Means Committee has yet to take action on the bill, which would need to then go through Appropriations, the House floor, and the Senate. If the language is retained in the budget bill, though, H.673 won't need to go through that process.

Our associations support the need for the state to address this significant problem, caused by years of neglect by state policy-makers. However, we are opposed to school districts being assigned a \$1,000 fee for every new teacher hired. If the education fund is to be assigned a portion of the responsibility, those funds should be taken off the top of the education fund rather than assigned to district budgets.

### ***Miscellaneous Ed. Bill Passes Out of Senate Education***

On Wednesday, April 30 the Senate Education Committee voted out their amended version of H.876, the miscellaneous education bill that passed the House on March 26. Much of the House language will go unchanged with some sections being tweaked or deleted; however, the committee made some significant additions to the bill over the past few days.

**Governance:** Working from proposals generated by the Senate Finance Committee and the Administration, the Education Committee added multiple sections related to education governance. Several of the proposals were rejected by the committee, including a statement of intent to move towards a PreK-12 system of education governance in the state of Vermont.

The committee did include provisions that significantly increase the amount of transition funds available to districts that complete a voluntary merger under Act 153/156 – from the current amount of \$150,000 to \$500,000. The bill also extends the Act 153/156 incentives beyond 2017 through June 30, 2019. However, mergers that are completed between July 1, 2017 and that time will be eligible for half of the amount available to districts that complete their mergers by July 1, 2017.

The bill would expedite the process of RED formation in places where the electorate of two or more districts voted to approve a plan of merger but one or more did not. In those situations, if all the necessary district school boards agree, then the districts that did not vote in favor of the plan will be the only districts that have to vote again and if they approve the plan then the merger will occur.

The bill also requires the State Board of Education to establish supervisory union service regions on or before July 1, 2015. These service regions would be responsible for jointly providing professional development, transportation, and goods and operational services exclusive of school food services. School districts will not have to participate in the service regions if they have formed a RED under Act 153/156 or if the Secretary determines that doing so would be more costly or less effective.

In addition, the bill would require – on or before April 1, 2015 – each supervisory union, including supervisory districts, to explore the possibility of merger with at least one other neighboring supervisory union. SU's would then have to submit to the Secretary of Education either a plan of merger or an explanation of why merger would inhibit the effective and efficient use of financial and human resources or diminish educational quality and opportunities. This section does not apply to districts that have appointed a RED merger study committee.

The remaining governance sections purport to clarify the duties of supervisory union boards, supervisory unions, superintendents and district boards. Most of the provisions are a restatement of current law, but clarify that the supervisory union is the entity that has “sole responsibility” for providing services such as professional development, special education services, transportation, and financial and student data management services.

However, notwithstanding the “sole responsibility” statement, the bill would retain the ability for the supervisory union to obtain a waiver from that requirement if it determines that services would be provided more efficiently and effectively at the district level. The only substantive change in roles and responsibilities contained in the Senate Education Committee version of the bill is to shift to the supervisory union the requirement for local districts to provide all text books, learning materials, equipment and supplies.

The bill directs the Agency of Education to provide technical support to districts exploring or engaged in the RED formation process and to develop a technical assistance handbook to support RED formation. It creates two analyst positions at the AOE to perform this work.

**Privatization, Principal Contracts, Student Residency:** The committee made other substantive changes to H.876, most of which include bills that have been passed by the Senate but either have not been taken up in or have been defeated by the House. These bills include:

- S.91, an act relating to privatization of public schools, which places a two-year moratorium on privatizing a public school and calls for a study of the

constitutional and legal consequences of doing so. Two weeks ago after a debate on the House floor, the bill was ordered to lie—that is, put aside indefinitely.

- S.304, an act relating to public school principals and nonrenewal of contracts, which clarifies that the superintendent is responsible for supervising and evaluating principals and which also changes the standard and timeline for nonrenewal of a principal’s contract. Our associations have consulted with several employment law attorneys who have concerns with the language as passed the Senate, because some of the language is vague and could lead to unnecessary litigation. We are working to move forward with replacement language that has the support of the VSBA, VSA, VPA and VSBIT.
- S.175, an act relating to permitting a student to remain enrolled in a Vermont public school after moving to a new school district. Our associations have expressed concerns about the language passed by the Senate because there are potentially significant cost implications with respect to the provision of and payment for special education services. We will be recommending useful adjustments to ensure the bill does not create costly unintended consequences for school districts.

**Dual Enrollment:** The bill also expands the dual enrollment program to privately-funded students at approved non-sectarian or sectarian independent schools; however it clarifies that a district of residence will not be responsible for paying for dual enrollment courses if the student is privately (as opposed to publicly) tuitioned. In those cases, the independent school would be responsible for paying the school district’s portion of the students’ dual enrollment tuition. This proposal was narrowly defeated in the House earlier this session.

**Task Forces:** The bill creates two task forces that are to be staffed and supported by the Agency of Education and one that is under the umbrella of the PreK-16 Council. The PreK-16 Council is tasked with creating a working group from its own membership in order to review and evaluate issues of equity in and access to Vermont’s expanded learning programs. The Agency is responsible for convening a task force on Vermont Innovation in Education, which is responsible for examining barriers to the effective use of technology in Vermont’s schools and to support access to technology through the dissemination of best practices “and the potential creation of a grant program.”

The second task force the Secretary of Education is tasked with convening is a Physical Education and Nutrition Task Force, which is charged with examining and recommending ways for Vermont schools to improve wellness, physical education,

activity and nutrition. Both of these task forces are required to submit a report to the Governor and the Committees on Education on or before October 1, 2014.

Because of the fiscal elements of the bill, it is expected to go to the Senate Finance and Appropriations Committees before it goes to the full Senate for a floor vote.

### ***Green Mountain Care Bill Passes the House without Mitigation Language***

Last week, the VSBA and VSBIT were able to collaborate with representatives from a coalition of labor organizations in order to eliminate the mitigation language that we had concerns about in S.252. Section 29 (formerly Section 17 of the Senate-passed version) included language directing the Commissioners of Labor and Human Resources to create a working group of labor and management to develop a plan to transition unionized employees from their current health insurance programs to Green Mountain Care. The group was also supposed “to address the role of collective bargaining on the transition process and [to] propose methods to mitigate the impact of the transition on employees’ health care coverage and on their total compensation.”

We had concern about that language because it presupposes an outcome in negotiations: that unionized employees will be shielded from changes to the health care system even though those changes will be managed through the collective bargaining process. Working with labor, we were able to arrive at several changes, which were approved by the Ways and Means Committee, and ultimately, the House.

First, VSBIT (in addition to the VSBA) is named as a participant in the working group due to their expertise in the health insurance plans that most school employees are currently covered by. Second, we agreed to modify the charge to the group to include this language: “The transition plan shall be consistent with state and federal labor relations laws and public and private sector collective bargaining agreements and shall ensure that total employee compensation does not decrease significantly, nor financial costs to employers increase significantly, as a result of the transition of employees to Green Mountain Care.”

Because the House made significant changes to the version passed by the Senate, we expect that S.252 will go to conference committee. We will continue to follow the bill to ensure the compromise language remains intact.

### ***Pre-K Bill Moves Forward in the Senate***

The Senate Appropriations Committee on Wednesday voted 7-0-0 in support of H.270, last year’s House-passed bill to expand prekindergarten access statewide, with one

important caveat: it wouldn't take effect until a fiscal year following a fiscal year in which statewide education spending per equalized pupil increases by no more than the rate of inflation plus one-tenth of one percent. Based on recent education spending, enrollment, and inflation numbers, this is unlikely to occur in the near future.

The bill—without the Appropriations Committee's spending trigger—was previously approved unanimously by both the Senate Education and Senate Finance Committees; before that, it received strong support in the House, passing easily. On Thursday, the Senate voted narrowly (17-13) to remove the trigger language from the bill; shortly thereafter, they moved the bill forward with a 29-1 vote of support. It is scheduled for third reading today.

Most school districts in Vermont either provide public prekindergarten education or pay for private providers for pre-k education for those parents who decide to enroll their children. Children receiving at least 10 hours per week of publicly-funded pre-k education are included in their district's average daily membership with a 0.46 weight. H.270 would allow parents in *all* school districts in Vermont to enroll their three- or – four-year-old children in a public or qualified private pre-k program, with the cost of 10 hours per week covered by the district.