

Education Legislative Report

February 17, 2014 – Issue #5

Proposal to Establish PreK-12 Education Systems Takes Shape

The House Education Committee has devoted significant time to a proposal to require the dissolution of supervisory unions and the creation of PreK-12 Education Systems within four to five years. The proposal, currently in draft outline form, would allow time for existing school districts to form into their own new districts meeting certain criteria that would be established by the bill.

The proposal would also create a Design Team, which would have the responsibility of establishing more detailed criteria and a process for moving to PreK-12 systems “to ensure that realignment will promote: equitable access to world-class learning opportunities, fiscal efficiency, conditions for stable leadership, a connected professional workforce, strong community involvement, stability and sustainability for taxpayers, a responsive accountability system, and flexibility in the deployment of resources.”

The committee heard from Secretary Rebecca Holcombe, who identified a host of challenges posed by our current governance system, including improving learning, addressing federal mandates, analyzing cost effectiveness, and dealing with significant leadership instability. The secretary commended the committee for leading the discussion and committed to assist them with any information and analysis they need as they develop and review proposals.

The committee also heard from several superintendents, who indicated that PreK-12 systems would allow for greater alignment of learning expectations and opportunities, greater equity across districts, more flexibility to deploy experienced and effective teachers where they are needed, and more stability in educational leadership.

On Friday, the VSBA testified that the association is prepared to participate in the process of shaping a bill that would create PreK-12 systems. Earlier in the week, the VSBA board of directors voted unanimously to approve a motion to participate in the development of the legislation, giving their strong support to working with the General Assembly to forge a path forward that is in the best interests of students and taxpayers.

Our Associations will monitor and contribute to the discussion over the next three months; we welcome you to weigh in with your association presidents and directors.

Senate Education Passes Principal Contract Nonrenewal Bill

The Senate Education Committee finished taking testimony on S.304, an act relating to public school principals and nonrenewal of contracts. Having heard from the VPA, VSA, VSBA, and others, the committee voted unanimously in favor of a strike-all amendment. The amendment adds language that clarifies the superintendent's role in supervising and supporting all principals within the supervisory union. It also stipulates that the superintendent will recommend renewal or nonrenewal to the school board on the basis of the superintendent's written evaluation of the principal.

Under current law, a principal has the right to have his or her contract renewed, or to receive written notice of nonrenewal, at least 90 days before the contract expires. The bill as amended would require written notification by February 1 if the principal has been in the position for more than two years; and by April 1 if the principal has been in the position for less than two years.

Finally, the bill amends the allowable reasons for nonrenewal: "elimination of the position, *unresolved* performance deficiencies, or other reasons *affecting the educational mission of the district*" (new language *italicized*). Whereas under current law a school board *may* allow a period of remediation, this bill would *require* that principals be provided the opportunity of remediation, as long as the nonrenewal is not based on the elimination of the position.

The VPA supports these changes because of concerns they have about principals having insufficient due process protections when nonrenewal decisions are made. The VSBA and the VSA objected to the proposal initially brought on behalf of the VPA because it constitutes a reversal of longstanding legislative policy that principals are part of a school district's management team and therefore a school board should have significant discretion regarding the renewal of a principal's contract. After deliberating the concerns among the parties, the VSA, VSBA and VPA offered language that was satisfactory to all parties.

Despite this agreement, the Senate Education Committee persisted in passing language that the VSBA and VSA continue to have concerns about. S.304 as amended by the Senate Education Committee should reach the floor later this week.

Ways and Means Committee Revisits Education Funding Proposals

Education finance discussions have continued in the House Ways and Means Committee, where representatives are examining possible education tax rates for FY15 as well as modifications to the education funding system. Last year, the committee introduced (in February) their annual bill setting the base homestead and household

income tax rates, the statewide non-residential tax rate, and the base education amount. The bill was amended to include a statement of intent for the coming year:

“[T]he House Committee on Ways and Means will continue their efforts to address concerns regarding education property taxes, including the financing, oversight, and educational outcomes of our current system and shall report its findings to the General Assembly by March 15, 2014 with the goal of implementing any statutory changes for the 2015-2016 school year. “

That bill didn't pass until mid May. In the mean time, the committee drafted and introduced a separate bill with a range of proposed changes to the funding system; most were stripped from the legislation before its passage on the session's final day. (As passed, it included a reduction in the excess spending threshold; technical changes to tuition over- and undercharges; and studies of the renter rebate program and on student-to-staff ratios.)

The committee is reconsidering many of last year's stripped proposals, as well as other changes to the funding system. *Unlike* last year, when the committee kept these proposals and the annual tax rate bill separate, this year the two likely will be combined. At this point, however, they have made no decisions on the tax rates or on which measures to move forward with. Possibilities include: modifying the property tax adjustment and excess spending threshold, eliminating most small schools grants, raising the minimum household income base rate, and replacing the renter rebate program. It is looking less and less likely the committee will introduce their bill—and thus their proposed tax rates—before Town Meeting, two weeks from now.

Study on Use of Paraeducators Included in Budget Adjustment Bill

The House last week concurred with the Senate's proposals of amendment to S.655, the fiscal year 2014 budget adjustment bill. Now included is an additional appropriation of \$75,000 to be transferred from the Agency of Education to the Joint Fiscal Office for special education analysis. A consultant would be hired to “evaluate the use of paraprofessionals to provide special education services in Vermont public schools.”

More specifically, the consultant—with assistance from the AOE, the JFO, and Legislative Council—will examine paraprofessionals' impact on student outcomes; reasons school districts decide to use paraprofessionals; schoolwide programs for improving and managing behavior; how the current education funding system may impact the use of paraeducators; and local practices of reevaluation of the needs for one-on-one aides.

The consultant is to interview school board members, administrators, teachers, and paraprofessionals, as well as provide opportunities for participation by students with special needs and their parents or guardians. A report, including recommendations, is due January 15, 2015.

Secretary Holcombe Weighs in on Eliminating Relicensing Requirements

Last week in the education committees, Secretary Holcombe presented the Agency's response to the Vermont-NEA's proposal to eliminate individual professional learning plans (IPLPs) and professional portfolios from the teacher relicensure requirements. The Secretary stated that Vermont has a compelling state interest in ensuring that we support and develop teacher quality given that we spend over \$1.4 billion a year on education, 80 percent of which pays for staff.

In Vermont, licensure and relicensure are the only levers the state has to ensure a minimum of quality, so before any significant changes are made to the current process, Secretary Holcombe said we must ensure there are alternative processes in place that would provide frequent formative feedback to teachers in order to support systematic improvements in teaching practice. The Agency proposes to work with the Vermont-NEA and the Vermont Standards Board to streamline the licensing process and develop language that supports a robust model for teacher evaluation and feedback.

The committees made no decisions about how or whether to proceed with eliminating the re-licensure requirements. We will continue to monitor and report any developments.

Mandatory Binding Interest Arbitration Bill Under Review

This week the House Education Committee began taking testimony on [H.318](#), a bill that would prevent school boards from imposing finality and teachers from striking in the event the parties are unable to resolve disputed contract provisions. Instead, the parties would be required to submit their last best offer to the Vermont Labor Relations Board, which would select one of the offers in its entirety and determine its cost. The decision of the VLRB would be final and binding on the parties.

Vermont-NEA testified that in order for them to support the bill, significant changes would need to be made, such as extending its coverage to the Municipal Employees Relations Act and changing the arbitrator from the VLRB to arbitrators selected by mutual consent of the parties or through the American Arbitration Association process. Secretary Holcombe testified on the bill as well and expressed her support due to concerns about students losing valuable class time due to a strike.

The VSBA testified that it has a resolution against mandatory binding interest arbitration and offered reasons for continuing to oppose it. One concern with H.318 is that it may have the effect of further limiting the creativity and flexibility that we know we need in our collective bargaining processes. Education systems need to be able to adapt quickly to the needs of our students in the digital information age. We also must be able to respond to changes required by health care reform. In the high-stakes environment of binding interest arbitration, it is unlikely that either party would put forward a creative proposal because it is unlikely that an arbitrator would support such a proposal, particularly given the standards articulated in this bill.

Vermont's current collective bargaining policy frames a particular vision of collective bargaining, a vision increasingly out of step with the contemporary obligations of education. Representative Kurt Wright, lead sponsor of the bill, indicated in his testimony that H.318 is a "collective bargaining reform" bill. It is time to examine the entire framework to determine whether it could be improved in a way that promotes a collaborative, solutions-oriented approach to bargaining. Binding interest arbitration may be an appropriate element of a new system, as long as the process is crafted appropriately.

The committee indicated an interest in continuing to hear from stakeholders on the bill before it decides what to do next.

Open Meeting Law Changes Could Allow for More Online Collaboration

H.497, a bill that would make changes to the Open Meeting Law, has been under review by the House Government Operations Committee for the past two weeks. The bill clarifies that certain email communications – those that are between members of a public body for the purpose of scheduling a meeting, organizing an agenda, or distributing materials to discuss at a meeting – do not constitute a meeting. It also makes some changes to the executive session and agenda requirements, and creates a process for curing violations of the law. Failure to correct a violation could result in penalties, including reasonable attorney's fees and other litigation costs.

Based on recommendations submitted by the VSBA, the committee is considering whether to include language that would allow committees of public bodies to conduct "meetings" using online document sharing platforms. The VSBA proposed requiring online documents to be made public through a link on the website of a school district, allowing members of the public to view the draft, including comments made by committee members. Discussion of a refined proposal and final decisions would have to be conducted in an open meeting of the full body.

Some committee members seem supportive of allowing this type of online document collaboration, so long as there are mechanisms to ensure transparency and accountability. The committee will revisit this issue when it concludes its final mark-up of the bill this week.

Independent Schools Bill Back on the Wall

After several weeks of testimony on S.91, a bill that would have created certain requirements for independent schools serving a substantial number of publicly-funded students, the Senate Education Committee decided not to take action on the bill this session. Instead, the committee deferred to Secretary Holcombe's request to take some time to conduct a thorough legal review of the issues posed by publicly-funded independent schools that do not use blind admissions processes or provide special education and related services to students.

The committee has stated an interest in using the S.91 bill number to move forward language that would create a moratorium on "flipping" a school from private to public and they have begun to take testimony on that subject.

Education-Related Bills

This document summarizes all education-related bills that have been introduced by one or more members of the Legislature as of February 17, 2014. The deadline for individuals introducing new bills has passed; committees can introduce bills through the end of March. To read any bill's full text or see its status in the legislative process, go here: <http://www.leg.state.vt.us/database/status/status.cfm>.