

# Education Legislative Report

February 28, 2014 – Issue #6

## ***Governor & Speaker of the House Indicate Support for Governance Change***

At a press conference this week, the Governor expressed general support for the direction being taken by the House Education Committee on a proposal that would require the dissolution of supervisory unions and the creation of PreK-12 Education Systems within five years. The proposal, currently in draft bill form, would allow time for existing school districts to form their own new districts meeting certain criteria that would be established by the bill.

Governor Shumlin suggested that the House Education Committee's consideration of the issue makes sense: "We know we have a structure of governance and a challenge going forward; this isn't an easy problem to solve." "We've got small schools, small communities," he said, "but we've got an awful lot of schools with very few kids in the classroom and one teacher."

Last week, Speaker of the House Shap Smith was quoted in a [VTDigger.org article](#) as saying, "I think we may be at a unique point in time in the history of education in the state of Vermont ... We have a lot to be proud of, and I think we could do even more. The educational community has been looking at issues that have been on the front burner around governance and the way we structure our educational system for a long time. The last time we looked at school districts in the state of Vermont was in 1892. It's good to look at governance every century and a half."

In a meeting with members of the Democratic caucus, Smith asked lawmakers to ask questions about the current system: "Are our institutions now presenting the best education opportunities that they could? Are there barriers in the current system and should we take a look at that?" He concluded, "there are some barriers, and we could take a look at our way of doing things."

Also this week, the House and Senate Education Committees held a joint hearing on the specific governance proposal currently under consideration by the House Education Committee (for more details on that proposal, see page 2). Secretary of Education Rebecca Holcombe expressed support for streamlining our governance structure in order to create more cohesion in curriculum, professional development, and accountability systems. Leaders from the Vermont School Boards Association board

---

*Published By:* Vermont School Boards Association, Vermont Superintendents Association, Vermont Principals' Association, Vermont Council of Special Education Administrators, Vermont Association of School Business Officials and VSBIT

*Attn:* Nicole Mace, 2 Prospect St., Montpelier, VT 05602 (802)-223-3580

Page 1

indicated their support for the general proposal, noting that changes in what our students need in order to be successful in today's economy require an examination of our current structure. "We are discussing an agricultural model in the information age," said John Fike, chairman of the Reading School Board and president of the Board of Directors for the VSBA. Leaders from the Vermont Superintendents Association also testified in support of moving to PreK-12 Systems, citing concerns about equitable access to high-quality educational opportunities.

### ***House Education Committee Drafts PreK-12 Systems Bill***

The House Education Committee spent significant time this week on a bill to create PreK-12 Systems; the bill is expected to be introduced the week following Town Meeting recess. As of this writing, the critical components of the bill include:

- 1) Effective July 1, 2019, supervisory unions would cease to exist in favor of PreK- 12 districts governed by a single board and operating with a single budget.
- 2) PreK-12 districts would be formulated with an eye toward recognizing historic relationships among communities, existing connections between school districts, and potential geographical obstacles.
- 3) PreK-12 districts would meet a set of educational and community-based criteria that preserve and enhance Vermont values, including the creation of school-based councils designed to build partnerships among families, staff and the community.
- 4) The minimum size standards for eligible PreK-12 districts would correspond generally with the size and configuration standards currently in place under the Act 153 RED formation guidelines – serving 1,250 students or four pre-existing districts.
- 5) Waivers could be sought to the minimum standards if educational and community-based goals are met. However, the systems must be PreK-12 single districts.
- 6) Existing school districts would have until mid-2017 to self-determine their alignment in a new (or currently existing) PreK-12 district.
- 7) Through 2017, the process for forming into new PreK-12 districts generally would conform to the existing process for establishing unified union school districts in Title 16.
- 8) The bill would create a legal/fiscal work group to examine potential equity issues, school choice implications, tax rate implications, and voting/representation issues associated with new single district board configurations; the group would make recommendations for action to the General Assembly. This work would be

completed by January 2015 in order to address relevant issues and "clear the path" to creation of PreK-12 districts.

- 9) The bill would create a 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. This design team would monitor progress of voluntary mergers from 2014 to mid-2017; conduct community engagement activities in regions where newly proposed PreK-12 districts were not taking shape; and develop the criteria, process and overall plan to assign or create new PreK-12 districts where districts had not self-assigned during the 2014 to 2017 period.
- 10) The bill would require the design team to submit their statewide plan to the State Board of Education for approval through the rulemaking process so that as of July 2019, all districts in the state would be realigned into some number of PreK-12 single school districts.

For the most current information about the evolving discussion, including drafts currently under consideration, visit the committee's [website](#) – all documents can be found by clicking on the link for "Governance Structure for Education." Members of our associations have begun testifying in both the Senate and House Education Committees. We will continue to monitor and contribute to the discussion over the next few months; we welcome you to weigh in with your association presidents and directors.

### ***Senate Passes Principal Contract Nonrenewal Bill***

On Wednesday, the Senate gave final approval to S.304, an act relating to public school principals and nonrenewal of contracts. Under current law, a principal serving in the same position for more than two years 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. Nonrenewal may be based on elimination of the position, performance deficiencies, or other reasons. If based on performance deficiencies, the notice of nonrenewal must be accompanied by an evaluation from the superintendent.

The bill as passed clarifies that the superintendent shall be the supervisor of the principal and must evaluate the principal during the year in which his or her contract would expire. Along with that evaluation, the superintendent would have to indicate in writing whether he or she intends to recommend to the school board that the contract be renewed or nonrenewed.

The bill would require written notice of nonrenewal by February 1 if the principal has been in the position for more than two years; by April 1 if the principal has been in the position for less than two years; and at least 30 days before the existing contract expires, if the final day of the existing contract is other than June 30. The bill as passed also changes the standard for nonrenewal to “elimination of the position, *unresolved* performance deficiencies, or other reasons *affecting the educational mission of the district.*” School boards continue to have the discretion to allow for a period of remediation prior to issuing its final decision on nonrenewal.

Prior versions of the bill had *required* a period of remediation for any reason other than elimination of the position, a requirement about which the VSBA and VSA voiced significant concerns. Members of the Senate Education Committee worked with the VSBA, VSA and VPA to arrive at the final language regarding remediation that all parties were willing to accept for purposes of supporting favorable consideration of S.304 by the Senate.

Our associations will continue to work together as the bill is considered in the House to assure that any law enacted fairly and thoroughly addresses the interests and concerns of the various parties of interest sponsoring this report.

### ***Miscellaneous Education Bill Underway in House Education Committee***

The House Education Committee has been working on a draft miscellaneous education bill over the past several weeks. The draft bill contains provisions designed to update Title 16 in response to the newly-adopted Education Quality Standards (State Board Rule 2000) – primarily changing the term “school quality standards” to “education quality standards.” It also facilitates the expansion of out-of-state online postsecondary program offerings in Vermont by exempting certain out-of-state online postsecondary programs from the requirements of 16 V.S.A. §176a and allowing the State of Vermont to participate in interstate reciprocity agreements for the purpose of authorizing online postsecondary programs.

The current draft of the bill under consideration by the committee also makes some changes to the provisions of Title 16 that apply to career technical education centers. It creates a new definition of a CTE program of study: “the delivery of academic and career technical education that prepares students for postsecondary training and career success. At a minimum, a program of study: incorporates and aligns secondary and postsecondary education; includes academic and CTE content in a coordinated, non-duplicative progression of courses; offers the opportunity, when appropriate, for secondary students to obtain postsecondary credit; and leads to an industry-recognized

credential or certificate at the post-secondary level or to an associate or baccalaureate degree.”

The draft bill also makes some changes to 16 V.S.A. §2902 related to educational support systems, replacing the term “educational support system” with “tiered system of supports,” and making changes to the types of supports that must be “readily available to any student who requires support beyond what can be provided in the general education classroom, and intensive, individualized interventions for any student requiring a higher level of support.”

The Committee is expected to finalize their work on this bill the week after they return from Town Meeting recess.

### ***Open Meeting Law Bill Passes the House***

[H.497](#), a bill that would make changes to the Open Meeting Law, passed the House on Friday. 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 clarifies the requirements for holding electronic meetings; however, the version that passed out of the House Government Operations Committee (9-0-2) does not include language that would allow public bodies to conduct “meetings” using online document sharing platforms.

The bill makes some changes to the executive session requirements, most notably a new exception that allows discussion of “school security or emergency response measures, the disclosure of which could jeopardize public safety” in closed session. It also clarifies that boards may only enter into executive session to obtain “professional legal advice in connection with pending or imminent civil litigation or a prosecution, to which the public body is or may be a party.” This constitutes a significant narrowing of prior law, which did not require the presence of an attorney and allowed discussion of “civil actions.”

The bill requires agendas of meetings to be posted and made available at least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting. Any addition to or deletion from the agenda must be made as the first act of business at the meeting. Any other adjustment to the agenda may be made at any time during the meeting.

Finally, the bill makes significant changes to the penalties and enforcement provisions of the law. It requires any aggrieved person to notify a public body that they believe a violation of the law has taken place; to do so the person must allege a specific violation

and make a request for specific actions to be taken to remedy the violation. The public body would then have seven business days to respond publicly to the alleged violation; if they acknowledge a violation then they must cure it – by ratifying the prior action or declaring it as void - within 14 calendar days. In addition to curing the specific violation, the public body has to adopt specific measures that “actually prevent future violations.”

Failure to correct a violation could result in penalties, including reasonable attorney’s fees and other litigation costs; however, those penalties could be waived if a court finds that the public body had a reasonable basis in fact and law for its position, and the public body either acted in good faith or cured the violation.

### ***Senate Education Committee Passes Moratorium on Privatization Bill***

The Senate Education Committee unanimously approved a strike-all amendment to S.91; as amended, the bill would create a moratorium on privatization that would take effect upon passage and be repealed on July 1, 2016. Specifically, it prohibits a school district from ceasing “operation of a school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an approved independent school serving essentially the same population of students.”

The bill also prohibits the State Board of Education from approving an independent school if its purpose is to serve essentially the same population of students as the public school served and is proposed to be located in the building or buildings in which the public school previously operated. It also prevents the payment of public tuition dollars to independent schools serving essentially the same population of students and occupying the same building(s) as the previous public school.

Finally, S.91 as amended directs the Secretary of Education to study some of the legal implications of privatization, including federal civil rights law and the *Brigham* decision, proper use of state funds and delegation of authority to private institutions. The bill is scheduled to be considered by the full Senate the week after Town Meeting break.

### **Senate Ed. Committee Discusses District Residency Bill**

The Senate Education Committee has continued taking testimony on S.175, an act relating to permitting a student to remain enrolled in a Vermont public school after moving to a new school district. As introduced, the bill would authorize a student who moves from one school district to another to retain legal residency in the original district

---

*Published By:* Vermont School Boards Association, Vermont Superintendents Association, Vermont Principals’ Association, Vermont Council of Special Education Administrators, Vermont Association of School Business Officials and VSBIT

*Attn:* Nicole Mace, 2 Prospect St., Montpelier, VT 05602 (802)-223-3580

Page 6

and to remain enrolled in the original school for the rest of the school year. It would also authorize two school districts to permit a student to retain legal residency in the original district for up to two years.

The VSBA, VSA, and Vermont Council of Special Education Administrators have testified on the legislation, among others. While all parties agree on the importance of educational continuity for students, we believe that more information about and careful analysis of this issue is needed before changes to statute are made. The committee heard briefly from the Agency of Education's general counsel, Greg Glennon, who likewise expressed the need to more thoroughly review the topic. The committee intends to hear more from the Agency after Town Meeting recess.

### ***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 28, 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>.