Education Legislative Report

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House Education Committee Passes Amendment to S.122

Last week, the House Education Committee passed an amendment to S.122, which makes modifications to structures eligible for incentives under Acts 153, 156 and 46. The House Ways and Means Committee also approved the bill with one minor adjustment, which means it will head to the floor this week.

The House Education Committee began its work on S.122 on March 29 and held a public hearing on April 4. On the day following the public hearing, the committee voted against H.15, a bill that would allow alternative structures to be exempt from the final statewide plan. Instead, the House Education amendment includes more clarity for school districts that will submit alternative structure proposals, and requires the Agency of Education to review alternative structure proposals, provide feedback to proposing districts, and to accept additional information from proposing districts that is responsive to the feedback.

What follows is a section-by-section review of the House Education Committee amendment to S.122.

The amendment adds additional findings to Section 1. It states that Vermont can improve outcomes for students from families who are low income, and that, while we have a very high graduation rate from our high schools, not enough of our graduates continue their education beyond high school. Another addition to Section 1 states that, while S.122 makes useful changes to Act 46 timelines and incentives, nothing in the bill suggests that it is acceptable for a district to fail to take reasonable and robust action to meet the goals of Act 46.

In Section 2, S.122 removes the requirement that at least one "side" in a "side-by-side" structure operate PK-12. The House Education amendment leaves that change in place and adds a timeline extension to receive incentives for districts forming a new "side-by-side"

Table of Contents

until November 30, 2017. This conforms to other timeline extensions in S.122.

Section 3 of the amendment makes changes to the "three-by-one" structure in S.122 to allow for one or more existing, unmerged, districts. It removes the Senate's incentives for these structures, but keeps the exemption from the final statewide plan for all merged and existing districts in a "three-by-one" structure. Merged districts within a "three-by-one" may qualify for incentives under Acts 153 or 156 if they meet the size requirements in those laws - 4 districts or 1,250 ADM.

In the amendment, a "three-by-one side-by-side" is defined as a new district formed by the merger of at least three districting (merged district) together with one or two existing districts (each an existing district) in a supervisory union. If a "three-by-one" includes more than one existing district, the two must either operate different grades from each other or be geographically isolated from each other, if they operate the same grades. As in S.122, the existing district(s) must be either geographically or structurally isolated. The amendment removes a third option from S.122, which would have allowed a district to be an "existing district" if it has greatly differing levels of indebtedness from neighboring districts.

The amendment adds a procedure for the formation of a "three-by-one." All districts must jointly submit a proposal to the State Board demonstrating the following: that the "three-by-one" structure is better suited to them than a preferred structure and that it meets the goals of Act 46; that each existing district qualifies as either geographically or structurally isolated; and, that each existing district will continue to improve its performance on each of the Act 46 efficiency goals. Additionally, the merged districts must receive final voter approval of their merger by November 30, 2017. The existing district(s) must obtain final voter approval to be an existing district in the "three-by-one" by November 30, 2017. Finally, the structure must become operational on or before November 30, 2019 in a manner approved by the State Board.

In Section 4, the amendment makes similar changes to S.122's "two-by-two-by-one" structures; however, districts within a "two-by-two-by-one" would be eligible for Act 156 incentives if formed by the merger of at least two districts on each "side." Merged districts as well as the existing district in the structure would be exempt from the final statewide plan. The merged and existing districts would be required to submit the same proposal to the State Board as described

above for “three-by-one” structures, and receive the final voter approval for the merger and for becoming the existing district by November 30, 2017.

The amendment leaves Section 5 in S.122, which provides Vernon the ability to withdraw from its union high school district without the approval of all remaining member districts. Section 6 repeals the provision in 2019.

A new Section 6a amends the guidelines that the State Board will use to evaluate alternative structure proposals. Currently, Act 46 states that a preferred structure may not be the best option for all regions of the state and provides guidance to the State Board of Education in evaluating whether an alternative structure will be able to meet the goals of the Act. The amendment contains a provision for alternative structures that contain the smallest number of school districts practicable after consideration of levels of indebtedness among member districts. It also would require alternative structures to meet all obligations in 16 V.S.A. 261(a) (duties of supervisory union boards), such as uniform curriculum, special education and human resource systems. The amendment also lowers the advisory ADM for alternative structures from 1,100 to 900.

A new Section 6b adds detail to the process for districts submitting alternative structure proposals. The Secretary and State Board may consider proposals beginning on October 1, 2017. Districts will be able to confer with the Agency of Education and/or State Board and revise their proposals accordingly.

The amendment also contains a process for adopting Articles of Agreement for districts merged pursuant to the final statewide plan. The State Board would include default articles within the final plan. Any districts subject to the plan would be encouraged to form a 706b study committee and allowed 90 days to develop their own Articles of Agreement. If the study committee is unable to agree on locally-developed articles within the 90 days, the default articles would apply to the new district.

A new Section 6c would require the State Board to act by September 30, 2017 to publish a list of districts qualifying as geographically isolated for the purposes of awarding small schools grants after July 1, 2020.

In Section 7, the amendment replaces S.122 timeline extensions for alternative structure proposals. The House amendment would require that districts proposing alternative structures must do so either on the date that is six months after the final adoption of the State Board's rules on alternative structures, or on January 31, 2018, whichever is earlier. This change is intended to take into account the State Board's approval of revised rules at its April 18 meeting. The next step for the rules is review and approval by the Legislative Committee on Administrative Rules (LCAR), which is the final step necessary for the rules to become effective.

The amendment retains Section 8 as passed by the Senate. It extends the deadline for mergers that qualify for incentives from July 1 until November 30, 2017 if the districts seeking to merge have either had a proposal rejected by voters, had a new member seek to join the study committee, or are members of an SU that combined with another SU on or after July 1, 2010.

The amendment also retains Section 9 of S.122. This section clarifies that districts that form a preferred structure prior to July 1, 2019 will receive a $150,000 transition facilitation grant. It also retains Section 10, which allows study committees to expend up to thirty percent of their grant funds toward community outreach prior to a unification vote.

The amendment retains Sections 11-15 of S.122. Section 11 provides a $10,000 transition facilitation grant for districts that are not subject to the statewide plan, but that agree to take on an "orphan" district in their region at the request of the State Board pursuant to the final statewide plan. Section 12 would require the State Board to respond to a request for readjustment of supervisory union boundaries within 75 days of receipt. Sections 13 – 16 are technical drafting corrections requested by the committee's legislative draftsperson.

Section 17 relocates language from S.122 to a location within the bill intended to make it more clear to readers. The section stipulates that a unified union school district will be eligible for preferred structure incentives even if it is assigned to a supervisory union by the State Board pursuant to the final statewide plan.

A new Section 18 states that the State Board may adopt rules to assist districts in submitting alternative structure proposals, but it may not adopt more stringent requirements than provided for in Act 46.

Section 19 of the amendment is an exemption for the Lemington school district from a provision of the Acts 153/156/46 tax incentives that would hold the district at very high property tax rates for five years if it joined the NEK Choice School District. Lemington pays tuition for all resident students and has experienced volatility in its tax rates for many years. Lemington's current tax rate is over 200% higher than the newly merged district's rate. This change will allow Lemington's tax rate to be the average tax rate of other towns within the merged district, provided that it re-votes to join NEK Choice School District.

Section 20 of the amendment addresses the election of unified union school board members. Under current law, vacancies in certain seats on unified union boards must be filled by the selectboard in the corresponding town. This provision would allow the unified union school board to appoint a qualified person to the vacancy, after consultation with the selectboard.

If approved by the House, it is likely that a conference committee will be appointed to iron out the differences between the House and the Senate on S.122.

Senate Appropriations Committee Budget Includes Property Tax Increase

On Friday, the Senate Appropriations Committee unanimously approved their amendment to the FY2018 budget bill. The Senate plan includes a $7.9 million shift in costs to the Education Fund to pay for State Teachers Retirement in FY2018. The Senate plan also cuts the Medicaid transfer to the Education Fund by $3 million. These shifts will cost the Education Fund $10.9 million in FY2018. After application of $4.2 million in one-time reversion funds, the shift would raise nonresidential property tax rates by one cent over the House-passed rate and three cents higher than FY2017 rates. See the associated Education Fund Outlook here.

The stated rationale for the Senate Appropriations Committee's decision to move the cost of the State Teachers Retirement System to the Education Fund is that the cost can be recouped as part of the savings attributable to new health insurance plans. Those savings, however, are unlikely to be realized. The majority of districts did not budget for savings in FY 2018, so the mechanics of "capturing" the savings associated with the transition are unclear. In fact, according to the Legislature's Joint Fiscal Office, statewide education spending is expected to grow by 3.4% in FY 2018.

On April 20, the Governor held a meeting of the Speaker of the House, President of the Senate, and VT-NEA, VSBA, and VSA in order to discuss a proposal to transition school employee health insurance negotiations to the state. The Governor's proposal includes a mechanism to "capture" any savings that are realized through the establishment of a statewide health insurance benefit.

The Governor is proposing to change the scope of bargaining at the local level to specify that health insurance negotiations for school employees would take place between the state and the VT-NEA. This change would be effective immediately and would mean the transition to new VEHI plans would be negotiated at the state level. Contracts that have already settled locally would not be impacted. If adopted, the plan could result in $13 million in savings to the Education Fund in FY 2018, depending on the outcome of negotiations.

The VT-NEA rejected the plan immediately and released a statement condemning the Governor's proposal and blaming the VSBA. The Governor responded with a press release of his own.

Currently every school board in Vermont is bargaining changes to employee health insurance plans. On January 1, 2018, all school employees will be on new health care plans, and the costs of those new plans are currently being bargained at the supervisory union/district level.

In Vermont, there is variety in total compensation provided to educators, depending on the region of the state and the socioeconomic makeup of a community. In 2017, we have a unique opportunity to ensure equity in the health care coverage available to all school employees, while at the same time delivering millions of dollars in savings to taxpayers.

Because all employees are transitioning to new health plans in January of 2018, the VSA and VSBA believe that now is the time for school employee health insurance benefits to be established through negotiations at the state level.