

Legislative Update

February 26, 2010 -- Number 7

WVEA school calendar companion legislation continues to move

Since the beginning of the session, WVEA has insisted on the passage of a series of companion pieces to the recently passed calendar bill.

WVEA insists any discussion of instructional time must include the issues of excessive testing requirements and student absenteeism/truancy. WVEA also submitted legislation that proposed the statutory creation of a school calendar committee with county employees voting on the calendar adoption. Bills are moving through both houses that deal with all three of our issues.

HB 4652 and SB 677 create **school calendar committees**. The bills have slight variations, but in general they require each county create a calendar committee with elected representatives. The committees are comprised of 7 to 11 people. Educators, service personnel and administrators are represented on the committee in the ratio they are employed within the county. The bills required multiple calendars be presented to all employees for a secret ballot vote. The calendar with the majority of votes is taken to the board for approval. If the employee selected calendar is rejected by the Board, the cycle begins anew.

HB 4593 has passed the House. The bill is titled **High School Graduation Improvement Act** and is aimed at improving the dropout rate. The bill provides supplemental funding to each county for alternative education programs. Currently the counties receive \$8 per student for such programs. The amount was slated to increase to \$12; however, this bill increases funding to \$18 per student. The bill increases the mandatory age of attendance from 16 to 17 and reduces the number of allowed absences from 10 to 5. The bill also requires counties to create a plan for alternative education programs. WVEA is encouraging an appropriation of monies to fund pilot projects for truancy diversion programs aimed at the middle school. WVEA will work to amend this bill in the Senate to ensure programs are developed and funds directed to elementary and middle school programs. Your help will be needed to successfully amend this bill.

HB 4436 on Testing Limitations is about to pass the house. It requires the Department of Education to provide a list of optional testing and assessment instruments to counties. Schools may select which tests the school chooses to administer. The school must then ask for a waiver if the tests they wish to eliminate are included in county policy. The bill also allows teachers to act in place of the curriculum team and can adopt instructional strategies and programs that promote student learning. The bill enables the state department to intervene in a school that fails to make progress in 3 of the last 5 years. While this bill is a start, it needs to be amended in the Senate to make the testing requirements more defined and the teachers' voice more binding.

Your help will be needed to improve these bills. Visit the WVEA Website at www.wvea.org for information on how you can help.

WVEA opposes Charter School bill moving through Senate

Senator Erik Wells' (D-Kanawha) **Charter Schools bill (SB 686)** passed out of Senate Education and Senate Finance. "WVEA had a number of discussions with Senator Wells regarding the provisions of his bill. We discussed our concerns and told him what changes would need to be made in order for us to support the bill," states WVEA President Dale Lee. "He stated he couldn't make those changes and I informed him we couldn't support the bill."

The bill eliminates many employee rights for those individuals working in a charter school. The purpose of the bill is to

 (continued on back)

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(continued from page 1)

create public charter schools in our state. Charter schools, as written in the bill, are exempt from rules regulating the school calendar, personnel, instructional minutes per day, required programs of study, instructional goals and objectives and instructional methods.

Eighty percent of teachers in an existing school or a unanimous vote of the LSIC may convert an existing school to a charter school. Once the school is designated as a charter school, employees lose their rights to hiring, firing, evaluation, RIF and transfer. The principal has the right to “deselect” employees from the school's staff and they must apply for other positions in the county. The principal is also the final authority on the hiring of new teachers into the school.

“I don't see the need for the charter school legislation,” states Lee. “Last year we passed the Innovation Zone legislation. The purpose of the Innovation Zone legislation is the same as the charter schools, which is to allow teachers at the school the latitude to find innovative ways to provide instruction and improve student achievement.”

Last month the WVDE granted planning grants to 19 schools/consortiums serving over 14,000 students through the Innovation Zone legislation. In the Innovation Zone process, no teacher or service personnel will have their rights taken away.

“To some extent, this bill is an anti-employee version of the Innovation Zone legislation. It gives far too much authority to the school administrator and strips the employees of their rights. It allows the principal to dismiss teachers without cause. Any bill with those provisions is not something WVEA could ever support,” said Lee. “There is no research to prove that eliminating the rights of school employees will improve student achievement. Such actions by legislators are simply anti-employee.”

Employees becoming members of the Board of Education

SB 391, restoring the right of **county board employees to seek a seat on their board** of education, passed the House on February 22. The bill passed the Senate earlier and awaits the Governor's signature. The bill was made effective from passage. A bill passing on the final day of session in 2009 included language prohibiting county employees from running for the Board of Education in the same county unless they were retired. The practice had previously been that a currently employed school employee could run for office, but must retire prior to being sworn in.

WVEA believed the changes made last session were unconstitutional and began conversations with legislators to solve the problem. Delegates Mary Poling and Scott Varner, in addition to Senator Larry Edgell, were pivotal in the passage of this legislation. WVEA's lobbying in the Senate and House generated this quick-moving bill.

Pension bills provide relief to TRS transfer victims

The House Pensions committee passed out **HB 463**, providing a **window of opportunity** to Teacher's Defined Contribution (TDC) members who selected to move into the Teacher's Retirement System (TRS) and wanted to purchase full credit in the old system. An identical bill is about to pass in the Senate, **SB 553**.

Many people who transferred to TRS also desired to purchase full credit in the old system. While many were able to purchase the full-credit seamlessly, the Retirement Board rejected a few hundred people attempting to purchase the credit. The reasons for rejection varied from postmarking the forms on the due date, failure to provide the required form, to relying on faulty procedural information from a financial advisor.

Those TDC participants who transferred and provided to the CPRB a signed “verification of cost” letter by June 30, 2009; but were unable to complete the purchase of the one and one-half percent contribution or any member who did not request a “verification of cost” letter but attempted to purchase the one and one-half percent contribution and was denied in writing by the CPRB on or before December 31, 2009, will qualify for another opportunity to purchase the 25% additional service credit.

Pension Bills to provide relief to TRS transfer victims

(continued from page 2)

Employees who wish to take advantage of this new opportunity to purchase service credit must request a new calculation from the CPRB **on or before April 15, 2010**. The recalculated contribution totals from CPRB will include interest at a rate of 7.5%.

To receive full credit, the member must pay TRS the recalculated purchase amount by June 30, 2010 or no later than sixty days after the postmarked date on a contribution recalculation from CPRB, whichever is later.

WVEA has worked throughout the session for the opportunity to correct problems that arose from the initial transfer window.

Time runs out...maybe

The legislative session is in the final weeks and time appears to have run out on a number of bills. Legislative rules require that a bill must have passed its originating house (Senate or House) by Wednesday, March 3 (Crossover Day). In order for that to happen, a bill must have been discharged from a committee by Friday, February 26th.

A few of the items that appear not to have made it out of committee in time include:

Differential pay bills – These bills were submitted at the request of the WVDE and featured differential pay proposals for certain endorsement areas, teaching in high poverty schools, etc. WVEA worked with a House Education subcommittee to defeat this bill.

Annual evaluations – This was also a bill introduced at the request of the WVDE requiring all professionals to have annual evaluations. A WVDE task force is already working on revisions to the current evaluation policy and WVEA believed the committee should have the opportunity to finish their work before legislation is passed. WVEA President Dale Lee as well as other WVEA members serve on the WVDE Evaluation Task Force.

OPEB – It appears any bill dealing with the OPEB liability will be held until a special session. It is the intent of the Senate leadership to continue to gather data, negotiate on the bill's details and pass it in a special session. WVEA will take an active role in those negotiations. Unfortunately, it also appears the county boards will not see any legislation to relieve them of the OPEB liability unless it is dealt with in a special session.

WVEA will continue to watch for these and other bills to be revived during the final week. The Senate occasionally originates a bill late in the session. Some bills may be amended into other bills and, therefore, "revived." WVEA lobbyists are at the capitol every day and will keep you informed of any progress.

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