

PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2011

INTRODUCTION

The 2011 session of the 117th Indiana General Assembly adjourned sine die on Friday, April 29, 2011. The legislature considered over 2,200 bills during the session, many of which addressed education policy and school governance, or were child-related legislation. The following is a summary of nine key K-12 education bills that were enacted into law by the legislature. Many other bills were passed by the legislature on a number of public policy topics including K-12 education, higher education, and child welfare and advocacy. For more information on these laws, go to: www.in.gov/legislative. The acts of legislation included in this report were selected by the Center for Evaluation & Education Policy (CEEP) at Indiana University for their significance and potential long-term impact on the K-12 education delivery system in Indiana.

A unique feature of this legislative summary is the inclusion of commentary and perspectives from statewide education and advocacy associations on the new laws. Representatives from those associations were invited to share their views concerning the pros and cons of the new laws because of their knowledge and expertise of topics covered by the legislation. The summary also includes the perspectives of Dr. Jonathan Plucker, Director of CEEP. We hope you find their personal insights beneficial. Their comments, other than Dr. Plucker's, do not represent, nor are they endorsed by, CEEP.

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COMMENTATORS

Frank Bush, Executive Director of the Indiana School Boards Association
Denny Costerison, Executive Director of the Indiana Association of School Business Officials
John Ellis, Executive Director of the Indiana Association of Public School Superintendents
Robert Enlow, President and CEO of the Foundation for Educational Choice
Gerald Mohr, Executive Director of the Indiana Association of School Principals
Russ Simnick, President of the Indiana Public Charter Schools Association
Sally Sloan, Executive Director of the Indiana Federation of Teachers
Vic Smith, Board Member of the Indiana Coalition for Public Education
Nate Schnellenberger, President of the Indiana State Teachers Association
Jonathan Plucker, Director, Center for Evaluation & Education Policy



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2011

Senate Bill 001 (PL90)

Title:

Teacher Evaluations and Licensing

Authors:

Kruse, Yoder, Banks

Sponsors:

Behning, Frizzell, Porter, Rhoads, Sullivan

Effective Date:

7/1/2011 (one section effective upon passage)

Summary

Eliminates the Advisory Board of the Division of Professional Standards of the Indiana Department of Education (IDOE). Requires the IDOE to revoke the license of a licensed school employee if the employee is convicted in another state or under federal statutes of an offense that is comparable to the felonies for which the employee's license would be revoked if committed in Indiana. Establishes an annual staff performance evaluation that categorizes teachers as highly effective, effective, improvement necessary, or ineffective. Specifies that a teacher rated ineffective or improvement necessary may not receive a raise or increment for the following year. Provides that a student may not be instructed two years in a row by two different teachers who have been rated as ineffective in the year preceding the student's placement in that class, if avoidable. Requires notice of cancellation of a teacher's contract not earlier than May 1 and not later than July 1. Specifies that current teacher salaries cannot be reduced due to a new salary scale adopted to meet the requirements of this act. Allows school corporations to consider additional content area degrees and credit hours in salary scale. Modifies language concerning supplemental services contracts to allow administrators to select and pay summer school teachers. Provides for the IDOE to develop a program to provide training and evaluations for school corporations in operational efficiency. Defines "attend" for purposes of the compulsory school attendance law. Indicates that attendance is excused only if it is in accordance with the governing body's excused absence policy. Specifies additional methods for the service of a notice of violation to a parent. Requires a superintendent or attendance officer to report a habitually absent child to the juvenile court or the Department of Child Services.

Commentary



SEA 001 purports to change: (1) the criteria for teacher evaluations, (2) the framework for teacher salary schedules, and (3) teacher due process provisions.

Throughout the session, ISTA shared models of evidence-based systems of evaluations and innovative pay schedules. These models resulted from an ISTA task force convened over the past two years to promote professional evaluation and pay. Evaluation procedures and criteria are no longer bargainable (under SEA 575) and making changes to the sponsors' introduced version of SEA 001 proved extremely challenging throughout the session. However, some important changes did succeed.

In the end, salary schedules based upon teacher training and experience were preserved for those employed before July 1, 2012, and increased compensation for training and experience was preserved for those currently in the process of attaining master's degrees.

Due process was changed to eliminate hearings for experienced teachers in dismissal proceedings (although a conference with representation before a school board is provided in lieu of a hearing).

Throughout the session, the SEA 001 proponents and the Department of Education (DOE) stressed that district salary schedules and evaluation plans are intended to be locally driven within certain statutory guideposts. Ultimately, how these schedules and plans will evolve is speculative at this point—much depends upon the degree to which the DOE and the State Board of Education can restrain themselves to enable districts to set their own local priorities.

*Nate Schnellenberger
President
Indiana State Teachers Association*

(More commentaries on next page)

Frank Bush: *ISBA did not support all the components of SEA 001. There was and has been no clear explanation of how the evaluation model or salary model will be implemented. Other sections of the bill such as, but not limited to, operational efficiencies, changing the labeling of teachers, and absenteeism are acceptable.*

John Ellis: *SEA 001 sets standards for increases or increments on salary schedules to be based on four things: 1) 33% on experience and degree changes (previously the increment); 2) the teacher's evaluation; 3) demonstration of leadership, including taking part in conducting teacher evaluations; and 4) meeting the academic needs of the students. Item four addresses earlier concerns that such a step would be based solely on test scores, but as written, would provide for teachers of special needs students and other teachers of subject areas not currently tested in a statewide process.*

Gerald Mohr: *Principals and corporation staff will have much to do in implementing the yet-to-be developed provisions of this bill. Placing teachers in new performance categories and including standardized and local test data in the annual evaluation will require a high level of manpower for administrators and thorough review of the corporation evaluation process. This approach will also impact the corporation compensation schedule as increments will now focus on the results of the evaluation which includes test data. This bill represents another legislative piece that gives the DOE State Board additional responsibility and power as they approve the rating categories, measures of student performance, actions that constitute a negative impact on student achievement, an acceptable standard for training evaluators, and a model evaluation plan. Also critical to the implementation of the bill will be the superintendent/principal relationship in the hiring and dismissal of teachers. The bill does work to provide additional ways that a school official can provide personal notice to the parent that their child is habitually absent.*

Sally Sloan: *Teachers are not opposed to accountability when the ultimate goal of evaluation is to improve teaching and learning. While there are many flaws in the language and thinking behind SEA 001, the most egregious is that it excludes the teacher's voice. This tool cannot be bargained. Much of the conflicting and/or vague language could be handled through negotiations. If teachers are not participants in the development of a first-rate evaluation, they become the targets rather than the agents of reform. (Susan Moore Johnson, *Why Teachers Must Have an Effective Evaluation System*).*

CEEP Perspective

From Dr. Jonathan Plucker



This is a complex bill, but my comments focus on the teacher evaluation portions of the new law. In general, the "let a thousand flowers" bloom approach is appealing – the legislative guidelines are broad enough to allow for considerable local control in designing evaluation systems, and the more ideas we generate from such an approach, the better.

I've personally helped a district design an evaluation system (in a district in which evaluation was NOT part of the contract), and teachers and administrators worked very well together in designing a system that met everyone's needs. I'm optimistic this will be the case in most school corporations as we move forward under SEA 001.

One lesson we've observed from others around the country who design such systems is that evaluation and compensation reform place a heavy burden on administrators and school leadership preparation programs. If administrators do not receive the support they need to guide teacher evaluation efforts, those efforts will not succeed.



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2011

Senate Bill 085 (PL142)

Title:

Graduation Rates Study

Authors:

Leising, Rogers, Young, R., Mrvan, Buck, Kruse, Breaux

Sponsors:

Behning, Smith, V.

Effective Date:

July 1, 2011

Summary

Creates the education issues study committee to study the causes of low graduation rates in Indiana high schools and to identify and highlight certain ways of improving graduation rates.

Commentary



This bill takes a proactive approach to the study of a critical education issue and will allow for good dialogue among legislators and education professionals.

*Gerald Mohr
Executive Director
Indiana Association of School Principals*

Frank Bush: *ISBA supported the study committee to examine an integral issue with student performance that impacts failing schools, as well as on individual learners and their preparation for the world of work.*

CEEP PERSPECTIVE – Jonathan Plucker: *We've spent too long in Indiana arguing about how to calculate high school graduation rates. This bill moves us assertively to a more important discussion: Why are the rates unacceptably low, and what can we do about it? I hope that the study committee will gather input from the many districts that are already working hard to solve this persistent problem.*



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2011

Senate Bill 575 (PL48)

Title:

Teacher Collective Bargaining

Authors:

Boots, Kenely, Charbonneau, Kruse

Sponsors:

Behning, Torr

Effective Date:

Various effective dates

Summary

Extends the use of temporary teacher contracts to hiring for positions funded by grants outside the school funding formula. Provides that wage payment arrangements may not contain terms beyond those permitted to be bargained. Provides that the statutory procedures for refusing to continue or canceling a teacher contract may not be modified by a collective bargaining agreement. Limits the number of teachers the exclusive representative may appoint to serve on statutory or locally created district-wide and school-wide committees of a school corporation. Provides that an agreement may not include provisions that limit a school employer's ability to restructure schools that do not meet federal or state accountability standards, or that limit a school employer's ability to enter into programs that offer postsecondary credit or dual credits to students. Provides that an agreement may not extend beyond December 31 of the year at the end of a state budget biennium. Prohibits certain subjects from being bargained collectively, and provides that prohibited subjects and items that lead to deficit financing may not be included in an agreement. Removes certain items from the list of discussion subjects between a school employer and an exclusive representative. Provides that collective bargaining begins before August 1 in the first year of the state budget biennium. Provides that if a complaint that is filed alleging an unfair practice concerning a subject of discussion is found to be frivolous, the complaining party is liable for costs and attorney's fees. Modifies the mediation process. Establishes a process for fact-finding. Expands the purposes for which money in the capital projects fund may be used.

Commentary



For the first time in 38 years, collective bargaining has been modified to address the many adverse changes to the original 1973 legislation, and now provides districts with an opportunity to focus on real issues. It will be incumbent on school leaders to remain open in discussions that involve student learning and include professional staff in professional discussions regarding teacher/learner interactions. Districts will negotiate dollars and have the opportunity to reset adverse language in contracts. Some of the language that will and needs to change has been immovable since the 1960's.

John Ellis

Executive Director

Indiana Association of Public School Superintendents



Although it's called teacher collective bargaining, it effectively guts the ability to bargain in the true meaning of bargaining. In bargaining, negotiating, you must have the ability to discuss issues of importance to one if not both sides and have the tools to compromise until you have an agreement. Bargaining is neither all give nor all take. Agreements in our schools today reflect years of work – teachers, administrators, school boards coming together to resolve concerns, create solutions, and often compromise. It is through the bargaining and discussions process that teachers have a professional voice.

(Sally Sloan commentary continued on next page)

Sally Sloan

Executive Director

Indiana Federation of Teachers

(Commentary of Sally Sloan – continued)

The scope of what can be bargained and even the degree to which it can be bargained is so limited in this bill that this can scarcely be called collective bargaining. While the 1973 bargaining law stated mandated subjects of bargaining and mandated subjects of discussion, any topic of value could be bargained. SEA 575 prohibits the parties from bargaining anything other than salary, wages, and wage-related fringe benefits.

Finally, SEA 575 expands the temporary teacher contract to include teachers hired on grant money. There is no point to this limitation. Teachers on temporary contracts do not have certain job security rights. They do not typically get benefits such as health insurance. They are not assured standard lay-off or RIF and rights of recall, and can contribute to TRF after 60 days and only upon request. When schools, and even terms of a collective bargaining agreement, can and should determine layoff procedure, when nonpermanent teachers (currently) can be so easily non-renewed after the first and second year, why would you want to diminish job security and benefits of teachers? Once again, the potential revolving door syndrome puts children in harm's way.

Frank Bush: *ISBA supported the bill to narrow the scope of bargaining and to permit school boards more latitude with school governance decisions. SEA 575 reflects one of the Association's legislative resolutions.*

Gerald Mohr: *Along with SEA 001, principals and superintendents will need to spend time with teachers on this language so the new approach to contracts and relationships is done with student interests as the focus. Strong administrators already thoroughly discuss the elements contained in SEA 575, and will continue to follow this practice, so together student achievement can progress. The make-up of corporation and building committees will now have the potential to better reflect the instructional attitudes contained within each entity.*

Nate Schnellenberger: *From the beginning of the session, proponents of SEA 575 contended that teacher bargaining rights should be constricted to salary, wages, and wage-related benefits only. ISTA opposed this contention, arguing that no other professionals involved in student learning have the vantage point, the access, or the regular opportunity to understand fully what students need to achieve Indiana's performance standards. Teachers' meaningful input in school and student matters is invaluable and, simply put, a teacher's working conditions constitute a student's learning conditions. The most binding way for teacher input to be meaningfully considered has been through provisions in the teacher contract.*

As enacted, SEA 575 limits bargaining to salary, wages, and wage-related benefits. As discussed under other bills (above), the state has exerted more control over both funding and benefits — both of which will ultimately impact bargaining. Most other issues, including working hours and teacher evaluations, are mandatory subjects of discussion. It is expected that school policies will start to reflect these discussions. It is also expected that teacher input on those policies might need to unveil themselves in local school board meeting settings. Contracts entered into after July 1, 2011, may not include issues other than the bargainable issues.

There remain a host of outstanding issues and some key legal questions yet to be resolved with regard to the implementation of SEA 575.

CEEP PERSPECTIVE – Jonathan Plucker: *Given what we've seen in other states, SEA 575 probably represents a middle ground approach. Collective bargaining wasn't eliminated, which would have been excessive (and according to our research, wouldn't have made a huge difference); at the same time, the bargaining process in some districts had gotten out of hand. As Dr. Mohr notes in his commentary, the combination of SEA 001 and SEA 575 makes administrator-teacher collaboration critically important. I'd also add school boards to that mix, as they are an integral partner to any constructive, sustainable change within our schools.*



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2011

House Bill 1001 (PL229)

Title:

State Budget

Authors:

Espich

Sponsors:

Kenley, Broden

Effective Date:

Various effective dates

Summary *Only includes key provisions of House Bill 1001 as they relate to K-12 education.

Formula eliminates grants and guarantees that are not child-based; simplifies formula and makes it more fair: increases the formula by .5% for CY 2012 and by 1.0% for CY 2013; eliminates the Reghoster, Restoration Grants, Small School Grants, and Prime Time Guarantee; Target Revenue = Foundation times the Complexity Index plus \$100/ADM for enrollment from 500 to 1,000; Establishes a maximum for Prior Year Revenue at 120% of Target Revenue; Transitions all school corporations down to Target Revenue over seven years; Transitions all schools below Target Revenue up to Target Revenue in the first year (CY 2012); Increases the Complexity Index score needed to qualify for the Second Tier Complexity & Increases Complexity Index needed to qualify for Primetime funding; Adds Honors grant for students with a technical curriculum; Funds Special Education, Career and Technical Education, and Honors Grants at 2011 levels, uses the same formulas; Increases the foundation and complexity index to benefit all schools; Increases Foundation by \$90 for 2012 and \$125 for 2013; Increases Free/Reduced Lunch Grant in the Complexity Index by \$45 for 2012 and by \$62 for 2013; Full-Day Kindergarten: Increases annual funding for Full-Day Kindergarten by \$23.4M or 40%; new "Excellence in Performance Awards for Teachers": Provides grants to schools for performance-based awards for outstanding teachers, administered by IDOE; new line item funded at \$6M for FY 2012 and \$9M for FY 2013; Restores Reduction to Non-English Speaking Program; Charter Schools: school formula includes enrollment increase of 2,000 students for both 2012 and 2013; Funds Virtual Charter Schools at 85% of Foundation plus Special Education Grants; funds first semester costs for new Charter Schools opening after June 30, 2011 (estimated at \$5M/yr); Debt Restructuring: Allow school corporations with substantial circuit breaker losses to restructure debt to reduce annual debt service payments. Annual reductions in debt service costs can be shifted to Capital Projects or Transportation Fund to help offset Circuit Breaker losses (impacts about 32 school corporations); Transfers and use of Capital Projects Fund (CPF): Restores the authority (that currently exists but would expire on December 31, 2011, without new authorization) for a school corporation to use a portion of its Capital Projects Fund (CPF) to pay for property insurance and utility costs. A school could use an amount up to 3.5% of its 2005 tuition support for both 2012 and 2013; Early graduation scholarships: Provides that students that graduate from high school immediately after their junior year are eligible to receive a \$4,000 Mitch Daniels Early Graduation Scholarship; Failing Schools: Provides that a school which remains in the lowest performance category for a 5th year becomes a "turnaround academy. Permits the State Board of Education to approve a petition from a school corporation to restructure a failing school or permits the State Board to appoint a special management team to operate the Academy. Includes other provisions addressing operation of turnaround academies and special management teams.

Commentary



Because of the significance of the education reform bills and several social issues, the state biennial budget bill took a back seat for the majority of the session. This was partly because of the lack of any new revenue when the House was considering the budget, and how the budget bill would be handled during the House Democratic walkout. By the end of the session, HEA 1001 did get more debate because of the influx of new state revenues. From the beginning of the session, it looked as if the tuition support appropriation for school corporations would be straight-lined for the next two years. But, the April 15 state revenue forecast was very positive and additional revenue was available to legislators. An additional \$150 million was given to K-12 education for the school formula, full-day kindergarten, and performance awards for teachers. Over the biennium, \$90 million was added to the formula. This provided a state-wide .5% increase in 2012 and 1% in 2013. This is a positive move, but it must be pointed out that school corporations are still short the \$327 million reductions that occurred the past two years. The total tuition support has been "reset" to reflect these reductions. HEA 1001 did not replace the cuts that impacted 2010 and 2011. This is a significant point for future school funding.

(Dennis Costerison commentary continued on next page)

Dennis Costerison
Executive Director
Indiana Association of School Business Officials

(Commentary of Dennis Costerison - continued)

With the Republicans in power in both houses, it was known early on that the philosophy of the school distribution formula would change. Two concepts (money following the child and equalizing the dollars per student in the formula) would be implemented. So, the formula from the beginning of the session until the budget bill was passed did not contain the deghoster factor, the restoration grant, the small school grant, and the Primetime calculation guarantee. This simplified the formula greatly, but will have significant impacts on numerous corporations. Over half of all school corporations will receive less state dollars in 2012 than they received in 2011. A total of 46 corporations will have reductions of 4% or greater in 2012. This will provide serious challenges with the reductions that were already implemented in the past two years.

HEA 1001 does provide \$23.4 million additional funding for the full-day kindergarten grant in each year of the biennium. These increases are greatly appreciated, but it is important to note that these monies fully fund the FDK grant but not the full program. Parents will still be paying for this program.

The budget bill contains several other issues of significance, such as:

- A formula to provide monies "saved" through HEA 1003 (vouchers) to all school corporations.*
- A reduction of \$2 million per year for the Non-English Speaking Program categorical grant.*
- \$6 million in the first year and \$9 million in the second for a new program called Excellence in Performance Awards for Teachers.*
- A debt refinancing mechanism was created to assist corporations impacted negatively by circuit breaker losses. This procedure must be approved by the voters before the corporation can proceed. From all indications, this will not be used extensively.*
- Turnaround academies language was added to the budget bill in the Senate.*
- The calculation for textbook reimbursement was changed to a per eligible student formula. It is not evident how this will impact corporations state-wide.*

Even though the budget bill was not in the headlines that much during the session, the revisions to the school formula will have major ramifications to funding in the future. School corporations will continue to face serious challenges as they educate the million public school students.

Frank Bush: *The Indiana General Assembly crafted a state budget that provides a modicum of increase statewide for public schools. This increase makes Indiana the leader in the nation and if not at least in the top three states providing school support for the biennium rather than a cut in funding. The problem is that because of declining enrollment and adjusting for transitioning school to the target revenue many schools received less state support for the first year of the biennium when compared to the statewide percentage, even with a mechanism to assist some of the more impacted losers. There will be considerable need to assist schools during the second year of the biennium if the state revenue increases as expected. Regarding other sections of HEA 1001, the FDK increased appropriation is moving in the correct direction; the circuit breaker language does not assist enough schools; the use of CPF is appreciated for offsetting funding losses; the turnaround academy is a questionable solution to a failing school. But with hindsight the policymakers approved a budget that lived within the revenue means and that will need attention in 2012.*

John Ellis: *All educators appreciate the additional funding added by the Governor and General Assembly late in the process, but it has been distorted in the press, especially FDK funding. It is important to remember that FDK was never intended to be fully funded as the press seems to think – the new dollars were directed at fully funding the FDK grant. The amount of increase in dollars for FDK will actually not be known until the fall count is completed.*

Also of note, school districts have been down \$300M in revenue, which has impacted two school years, and will remain almost \$150M down for the next two years. A smaller hole is far better, additional funds are certainly appreciated, but it is still a hole when you look to maintaining programming and staffing as other costs continue to increase.

Robert Enlow: *HEA1001 makes four important steps in the right direction for education. It creates a funding formula where the dollars more closely follow the child while providing additional funding for full-day kindergarten. It also sets up a clearer process for turning around failing schools, while allowing children who are eligible to graduate from high school early receive a scholarship to attend an institution of higher education. Our foundation applauds these changes.*

Gerald Mohr: *IASP endorses the use of the state fiscal reserves to support the underfunded Teachers Retirement Fund. We appreciate increased funding for K-12 education; student performance over the next few years should be examined as corporations transition to their target revenue. Reducing revenue for poorer districts could negatively impact the students who need the additional funds. We also note that while funding was increased for the Full-Day Kindergarten grant, it still falls far short of fully funding this important program for all Indiana students. Early high school graduation is now incentivized by the \$4,000 scholarship opportunity which, while attractive, could impact high school programs and course offerings that provide college credit opportunities at a much smaller cost to the parents.*

(Continued on next page)

Nate Schnellenberger: *This year's budget and school funding formula left unanswered as many questions as it answered: **School Formula:** We know that the general assembly provided a statewide average increase of 0.5% in 2012 (\$15 million) and 1% in 2013 (\$61 million) for K-12 education. But we also know that these increases are applied to a base level of funding that was taken back to 2007 levels via the \$300+ million cut made in 2010 and that over one-half of the districts will likely see reductions in funding in 2012 from 2011. Even with that, we know that the school formula run data most likely represent a best case scenario because what we don't know is how many new charter schools will be established in the next couple of years (under the expansion of charter schools provisions in HEA 1002), how many students will opt to graduate early under the new Mitch Daniels Scholarship program (HEA 1001), and how many eligible students will opt for a taxpayer-funded voucher to attend private school (courtesy of HEA 1003)—all of which will directly affect what monies are left for existing public schools (be they community-based or charter) to operate.*

Circuit Breaker: *We know that the elimination of the circuit breaker tax credit subsidy will result in the loss of millions of dollars to certain districts, primarily affecting transportation and capital projects funds—but ultimately affecting all funding. What we don't know is how many of these school districts will truly be able to avail themselves of a new debt service refinance/payment extension mechanism included in the bill.*

Full-Day Kindergarten: *We know, too, that there is an increase in funding to FDK from \$58.5 million to \$81 million. What we don't know is how many districts that could not afford to provide FDK to date will be able to afford it going forward even with this new partial subsidy.*

Textbook Funding and New Distribution Formula: *We know that the textbook reimbursement line item was flat-lined for another two years even though there are increased numbers of eligible students. What we don't know is how a new textbook funding distribution formula that was included in this budget bill at the very end of the session will affect school districts.*

Categorical Programs: *We know that for many of the categorical grant programs, the next two years will see continued flat-lined funding (special education, vocational/technical education, summer school, alternative education, technology, and gifted and talented). For other programs, deeper cuts were made (English Language Learners, early intervention, and reading). And state grants for staff professional development and state support for Indiana's Education Service Centers were defunded altogether. At the same time, state funds were unearthed to support a new "merit-type" grant for effective or highly effective teachers (\$15 million over the biennium) and to fund the Woodrow Wilson Fellowship program (\$5 million, which previously had been funded from federal stimulus dollars). We know, clearly, that all of these changes reflect legislative priority setting. What we don't know is how or if student achievement will be enhanced.*

13th Check for Teacher And State Employee Retirees & Pension Stabilization Fund (PSF): *In lieu of a bona fide cost-of-living adjustment (COLA), the legislature provided, for the 3rd year in a row, a 13th check to certain retirees. While the 13th check is commendable and certainly warranted, it must be noted that with each year without a COLA (that becomes part of the retiree's pension base), retirees' purchasing power and ability to maintain their standard of living decrease. It should also be noted that the General Assembly stipulated that if the total amount of state reserves exceeds 10% of the general revenue appropriations for a current fiscal year, then 50% of that excess would be redirected to the PSF, which helps fund the unfunded liability of the Teachers Retirement Fund. Additionally, any excess over \$150 million collected from the use sales attributable to remote sales (internet sales) is also redirected to the PSF.*

Turnaround Academies: *Much more than at any time in the recent past, this session's state budget/school funding formula bill became the repository of substantive public policy issues not generally linked to state funding, such as the inclusion of the "turnaround academy" bill (HB 1479) into HEA 1001.*

By definition, a turnaround academy is simply a school that, in every facet, will be run by an outside management company, and not the local school board or administrators. The SMT appears to have every power and duty of a school board except that it is not bound by the teachers' collective bargaining agreement—a seemingly significant motivating force behind this new creation.

Under the bill, these academies come into play if a school that is in the 5th year after initial placement in the lowest performance academy is still in the lowest performance academy. The law does not include any provisions requiring that these SMTs improve student performance and there are no provisions describing how a turnaround academy might ever transition out of this status. There are numerous unanswered questions associated with this sweeping provision as is the case with many of the other school structure/school personnel bills this session.

ISTA opposed the turnaround academy bill as: (1) undermining local control and local community input; (2) for those schools and employees, effectively repealing teacher bargaining rights; and (3) offering no identified programmatic solutions to schools facing persistent student performance challenges.

CEEP PERSPECTIVE- Jonathan Plucker: *This bill was indeed complex and covered an extraordinary amount of ground, and the commentaries raise many good points. Although I understand the concern that many policy initiatives were placed in this budget bill, we should recognize that this was predictable (and largely expected) when the legislative process ground to a halt for several weeks in the middle of the session.*



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2011

House Bill 1002 (PL91)

Title:

Charter Schools

Authors:

Bosma, Behning, Sullivan

Sponsors:

Kruse, Yoder, Buck, Banks

Effective Date:

Various Effective Dates

Summary

Allows charter schools to opt in to the state health insurance plans. Establishes the charter school board as a statewide sponsor of charter schools. Provides that the Indiana Department of Education (IDOE) shall provide staff to the charter school board until the board begins receiving administrative fees from schools chartered by the board. Adds certain nonprofit private colleges and universities as eligible charter school sponsors. Establishes certain accountability criteria for charter school sponsors, and places charter schools under accountability standards for public schools. Adds: (1) student academic growth, (2) financial performance and stability, and (3) board performance and stewardship; to the list of items to be included in a charter school's charter. Requires uniform and consistent transfer of credits for students who transfer from a charter school to another public school. Stipulates that a teacher in a conversion charter school may be an employee of the charter school or the school corporation as determined in a charter school's charter. Provides that at least 90% of the full-time teachers in a charter school must be licensed or in the process of obtaining a license. Ends the virtual charter school pilot program, and allows existing virtual charter schools to seek sponsors. Provides that a virtual charter school's funding is equal to the sum of: (1) the virtual charter school's ADM multiplied by 85% of the school's foundation amount (rather than 80% of the statewide average basic tuition support, under current law), and (2) the total of any special education grants to which the virtual charter school is entitled. Provides that each school year, at least 60% of the students who are enrolled in virtual charter schools for the first time must have been included in the state's ADM count for the previous school year. Requires the Department of Education to establish a charter school page on the department's Internet web site. Establishes the charter school facilities assistance program and fund. Specifies the purposes for which grants and loans of money in the fund may be used. Provides that money in the fund may be used to match federal grants from the United States Department of Education for charter school facilities, and deletes current law that allows common school fund interest to provide these state matching funds. Changes the procedure for converting a public school into a charter school. Establishes a process by which charter schools may lease or purchase unused, closed, or unoccupied school buildings that are maintained by school corporations and are not being used for classroom instruction. Permits the State Board of Education to close a charter school, transfer sponsorship of a charter school, or reduce the administrative fees collected by the sponsor of the charter school, if the charter school remains in the lowest performance category or designation for five years. Permits the State Board of Education to suspend the authority of a sponsor if at least 25% of the sponsor's charter schools have been subject to an accountability action. Provides that a charter school that has received an advance for operational costs from the common school fund does not have to make principal or interest payments during the state fiscal years beginning July 1, 2011, and July 1, 2012.

Commentary



In 2009, the National Alliance for Public Charter Schools (NAPCS) released its state rankings comparing the strength of the charter law in each state. Indiana ranked 29th out of 40 states with charter laws. HB 1002 addressed many of the weaknesses in state charter law, particularly in the areas of access to facilities and funding, number and type of charter school authorizers, authorizer accountability, and the removal of barriers to charter school success. In the area of facilities and funding, Indiana for the first time will allow charter schools to use taxpayer-funded vacant school buildings. This legislation also creates a charter school facilities fund to help the state seek and administer grants aimed at supporting charter school facilities and begins to address the first-semester delay in funding that forced charter schools to borrow operating funds from the state in their early years.

(Russ Simnick commentary continued on next page)

Russ Simnick

President

Indiana Public Charter Schools Association

(Commentary of Russ Simnick - continued)

These initiatives remove a significant obstacle to charter expansion. Following best practices learned in other states, HB 1002 creates the new statewide charter school commission to serve as an authorizer and also allows private universities to authorize schools. The act also removes the cap on the number of charter schools the Mayor of Indianapolis can authorize each year. HB 1002 also provides charter schools with additional flexibility in staffing. Up to 10% of a charter school's full-time teachers and all of its part-time teachers are not required to have a teaching license. This will help new schools provide the array of content areas necessary and will allow schools to be innovative in their course offerings in subjects with a limited supply of licensed teachers. The final area of impact of HB 1002 is in the "parent trigger." Early drafts of the bill would have allowed a majority of parents or teachers or the school board to convert a school to a charter school. The power of teachers to trigger a conversion was eliminated in the Senate, and the trigger now requires both parents and the school board to sign off on a conversion, so the effectiveness of this section remains to be seen. Overall, the act greatly strengthens the policy environment for charter schools in this state. The NAPCS will not release its new state rankings until January 2012, but has indicated that Indiana will be ranked in the top five states, based on the strength of the new law.

Frank Bush: *Even though ISBA opposed the expansion of charter schools, especially because of the impact on public school tuition support, the Association appreciates the inclusion of accountability for charter schools and of the wage payment provision that is an ISBA legislative resolution.*

John Ellis: *Charter schools are not public schools as long as they continue to ignore student due process rights and simply send students that are problematic back to the local public school without having been subject to the due process required of truly public schools before any expulsion/removal from the school.*

Robert Enlow: *Expanding charter school authorizers to include private non-profit universities and establishing a state board to both authorize charter schools and oversee charter authorizers will increase the number of quality charter schools in the state. These provisions, as well as the increase in virtual charter schools, will go a long way to creating a system of schools that best serves Hoosier children.*

Gerald Mohr: *Key issues in this bill for educators include the appropriate language for increased accountability for charter schools and sponsors. As these public schools are given an opportunity to expand, it is important to give the same focus on student achievement that is being given to all Indiana public schools. High schools need to be aware of the credit transfer provision in this bill and examine their own district policies on this matter to insure compliance with the language.*

Sally Sloan: *This bill expands charter schools substantially, ultimately reducing funding to all existing schools – traditional and charter alike. With funding decreasing \$300 million in each of the last two years, now is not the time to expand charter schools. Indiana's charters have fared better than many others seemingly because there are limits on the number of schools. That is not to say that Indiana charters perform better than traditional public schools. They do not.*

While HEA 1002 language calls for 90% of the teachers in a charter school to be licensed teachers, caveat language allows for that requirement to be waived by the State Board of Education. Given the make-up of this Board, it doesn't take much to think a waiver would be routine.

The conversion charter language moves teachers out of the unit, effectively taking away bargaining rights. The language also allows parents to convert a school in what has already been determined by efforts in California, to be damaging to schools and children rather than contributing to students' achievement.

Again, legislation claiming to be "education reform" puts children in Indiana's public schools – existing traditional and charter – in harm's way.

Vic Smith: *The Indiana Coalition for Public Education, a bipartisan group opposed to the privatization of our public schools, did not oppose the concept of expanding public charter schools but did oppose two elements of the charter school bill related to privatization:*

- *allowing private colleges to authorize public charter schools, and*
- *allowing "for-profit" management companies to operate public charter schools as contractors.*

Both elements remained in the bill. In HEA 1002, we now have a law which:

- 1) *empowers the boards of 30 private colleges and universities in Indiana to commit public resources to fund as many new public charter schools as they may wish. These boards are not publicly elected and are not subject to open door laws and other public procedures that public boards must observe. In addition, charter schools under the law are to be non-sectarian while many private colleges are sectarian. Mixing sectarian and non-sectarian interests in this way, when teaching about such topics as evolution and church-state issues, is bad public policy and a predictable recipe for problems.*

(Vic Smith commentary continued on next page)

(Commentary of Vic Smith - continued)

- 2) *did not limit management of charter schools to non-profit groups but instead permits “for-profit” educational management organizations to manage charter schools, leaving the inescapable question about priorities: Why should tax dollars that should be going to educate students be diverted to make a corporate profit for owners or shareholders?*

Nate Schnellenberger: *As long as there is a finite appropriation dedicated to K-12 education, the proliferation of new charter schools will affect existing community-based public and existing charter schools. With new eligible sponsors (the state charter school board and nonpublic four-year colleges and universities), with the elimination of all yearly caps or thresholds on their creation, and with financing provisions encouraging sponsors and organizers, there is little doubt that, through HEA 1002, Indiana will see charter school growth. Legitimate questions remain as to the need (how many are too many?) versus the negative effect on existing schools (would it be more efficient to focus energies and resources on existing school programs rather than creating new schools?). At a time when some might believe that fewer (not more) school-based “bureaucracies” are warranted, the growth of charter schools clearly creates more government entities dependent upon state financial support.*

ISTA also focused attention on the conversion charter school provisions. Under existing law, conversions could occur when teachers, parents, and the school board came together to work together. No one group was allowed to be excised from the commitment to move forward. HEA 1002 (together with SEA 575) removed teachers from these kinds of discussions. As has been the case with several of the bills, a preoccupation with teachers having bargaining rights associated with school-based, student-focused matters led to a new conversion process, initiated by 51% of the parents through a petition and supported by the school board through its majority vote. Where teacher collective bargaining rights were preserved in a conversion situation under the old law, under this new scheme, teachers’ right to bargain is recognized only if the charter agreement recognizes it. Obviously, ISTA opposed these changes and continues to believe that the partnership forged among all of the relevant stakeholders (parents, school board, and teachers) creates the best, healthiest, and most transparent environment to incubate dramatic structural change.

CEEP PERSPECTIVE – Jonathan Plucker: *This law levels the playing field for charter schools in many respects, most notably the provision of some facilities funding and addressing the issues surrounding first-year funding. In exchange, the law heightens accountability requirements. All of these changes were probably overdue.*

I suspect the extensive, rapid growth in charters that advocates predict and critics fear will not come to pass. Such growth assumes an unlimited capacity of human capital to create, implement, and run charter schools, which is unrealistic. The future of charter growth in Indiana remains, as it has for years, in the hands of public school districts that can charter their own schools in the name of innovation. Until we see more creation of those types of charter schools, the impact of bills such as HB 1002 will be limited.

There were many complaints during the session about the provision to allow private universities to authorize charter schools. The concerns are important and understandable, yet all but one of our public universities balked for years to get involved with charters in meaningful ways ... this was a very predictable response.



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2011

House Bill 1003 (PL92)

Title:

School Scholarships

Authors:

Behning, Bosma

Sponsors:

Kruse, Yoder, Banks, Buck, Smith, K., Walker

Effective Date:

Various effective dates (some sections indicate retroactive effective dates others indicate July 1, 2011)

Summary

Provides a tax deduction for a parent who sends a child to a private school or home schools the child. Increases the school scholarship tax credits that may be awarded for donations to a scholarship-granting organization. Prohibits a scholarship-granting organization from limiting the availability of scholarships to students of only one participating school. Provides choice scholarships to students in families with income that is not more than 150% percent of the amount required for the individual to qualify for the federal free or reduced lunch program to pay the costs of tuition and fees at a public or private elementary school or high school that charges tuition. Requires fair admissions policies for schools eligible for choice scholarships. Requires an eligible school to include certain subjects in the school's curriculum. Limits the number of choice scholarships awarded per school year before June 30, 2013. Limits the choice scholarship granted to a student in grade 1 through 8 to \$4,500 per school year. Provides consequences for nonpublic schools who receive: (1) consecutive low category designations for school performance and improvement, and (2) a distribution of choice scholarships. Makes conforming changes.

Commentary



HEAB 1003 vaults Indiana to the head of the national class when it comes to school choice. After three years, this landmark bill allows low- and middle-income children to receive a publicly funded scholarship to attend a non-public school. It also expands the state's existing scholarship tax credit bill and establishes a tax deduction for families with children already attending non-public schools. As a result, a family's zip code will no longer be a determining factor in whether or not a child from a low- or middle-income background has access to a quality school. Importantly, this bill provides solid accountability for private schools at both the front end through financial reporting and the back end through grading schools based on results.

Robert Enlow
President and CEO
Foundation for Educational Choice



The Indiana Coalition for Public Education vigorously opposed House Bill 1003. In approving Governor Daniels' high-priority voucher bill, the General Assembly has:

- 1) shattered the church-state barrier in K-12 schools observed since the 1851 Constitution. State tuition will now flow to religious schools when parents want a religious education for their children at taxpayer expense. This contradicts Article 1, Section 6 of Indiana's Constitution: "No money shall be drawn from the treasury, for the benefit of any religious or theological institution."*
- 2) allowed state funding for schools that are not "equally open to all," words from in contradiction to Article 8, Section 1 of Indiana's Constitution. Private schools can reject struggling or disabled students. They can discriminate based on religion in accepting students and hiring staff. The law doesn't really give parents choice but instead gives private schools choice in selecting the students they want in their school.*

(Vic Smith commentary continued on next page)

Vic Smith
Board Member
Indiana Coalition for Public Education

(Commentary of Vic Smith- continued)

3) ended the long-standing vision of Caleb Mills and the common school movement of the 1850's to introduce young citizens to our democracy in a non-partisan forum, where pros and cons are balanced. State funding will now go to private schools with private missions to impart using partisan presentations, indoctrination, or other one-sided methods.

The non-partisan LSA [Legislative Services Agency] estimated that the law could transfer as much as \$58 million from public schools to private schools in the next two years. At the last minute, a first-ever tax deduction for private school and home school expenses was added.

All of these concerns point to the need for future legislators to reconsider this law and for our courts to review its constitutionality.

Frank Bush: Indiana adopted vouchers in 2009. Therefore, ISBA opposition to HEA 1003 was the expansion and use of public school dollars to support the program, not a policy that had already passed. One significant part of HEA 1003 is the amendment that requires equivalent instruction by the nonpublic school if it accepts voucher from a parent. This will place the education programs of public and private schools on a more level field for instruction and insure that students are receiving a consistent curriculum wherever attending school.

John Ellis: In the current tax credit voucher program, \$2.2 M in un-awarded credits for the fiscal year under the fiscal aggregate credit cap of \$2.5 M went unspent. Dollars unused, at the very least need to return to the public schools from which they were taken. The bill limits the choice scholarships granted to students in Grades 1 through 8 to \$4,500 per school year. The fiscal calls for \$3.9M to be taken from K-12 public school funding for the vouchers, available, inexplicably, to home schooled students.

Gerald Mohr: While initially billed as a way to provide choice for low-income students in failing schools, the bill ultimately provides choice to those families that can afford the unfunded tuition and can secure transportation to the private school. The adopted amendment giving a tax deduction for educational expenditures for home school student expenses or for unreimbursed private school costs will further impact corporation financial issues. Accreditation and accountability language is an important feature of this bill and will prevent some private schools from participating in this program.

Sally Sloan: The new voucher law expands tuition tax credits and directly gives money to children/parents to attend private and parochial schools. Even if there were no conflict regarding the separation of church and state, the fact that up to \$60 million will be diverted from traditional public schools in these economic times should be enough to stop intelligent legislators from passing this.

I must say that the legislation did improve from the introduced version of the bill, but it still crosses the lines of separation of church and state as well as diverting much needed funding for existing schools.

Nate Schnellenberger: Arguably, the most extreme public policy shift in the area of education, HEA 1003 provides for the expansion of an income tax credit for donations benefitting private schools, the creation of a new income tax deduction for parents of home-schooled, private school students, and a taxpayer-funded voucher program to fund the tuition costs of certain private school students.

Tax Credit for Private School Scholarship Giving: As introduced, Indiana's current \$2.5 million tax credit would have been able to grow exponentially (in \$10 million stages) on a statewide basis and individually to the taxpayer by increasing the credit from 50% of the contribution to 80% of the contribution over the next 3 years. As enacted, the statewide cap was doubled to \$5 million and the individual taxpayer credit remained at 50%.

Tax Deduction for Home School Expenses: Included during the waning days of the session, this deduction is offered to parents who send their children to private schools or who home school their children. The deduction is equal to \$1,000 per child for educational expenses and can be applied against tuition, fees, computer software, textbooks, workbooks, curricula, school supplies (other than personal computers), and other written materials used primarily for academic instruction or for academic tutoring, or both. This deduction is not available to parents who send their children to public schools.

Vouchers: Private school vouchers shift much-needed resources away from local community-based public schools and do not address class size, teacher training, outdated and overcrowded buildings, and inequitable funding issues. At the end of the session, HEA 1003 offers up 7,500 vouchers in the first year of the biennium and 15,000 vouchers in the second year of the biennium to eligible students to go to eligible private (including parochial) schools. To qualify for a 50% voucher, the student's family must qualify at a household income level of not more than 150% of the free or reduced price textbook eligibility level (for a family of 4, that means a household income of \$62,000). Indiana's Legislative Services Agency tallied the fiscal impact at about \$66 million over the biennium in tuition support dollars that could leave public schools in the form of private school vouchers.

(Nate Schnellenberger commentary continued on next page)

(Commentary of Nate Schnellenberger - continued)

Especially at a time when over one-half of Indiana's public community-based schools will see cuts in funding, ISTA opposed HEA 1003 as antithetical to the mission of and constitutional directive to Indiana's General Assembly—that being, to provide for a “general and uniform system of Common (public) schools, wherein tuition shall be without charge and equally open to all.” [Ind. Const. Art. 8, Sec. 1]

CEEP PERSPECTIVE – Jonathan Plucker: *This bill was hasty given all the other changes being debated in the General Assembly this past session. Furthermore, it will probably not have a huge impact, making it a lower priority than other education reforms being discussed during the session (yet also an unnecessary distraction).*

CEEP has studied vouchers extensively, especially during our evaluation of the Cleveland voucher system. In general, the positive results of voucher programs are overstated. This is in part because what happens in the classroom of public and private schools is not drastically different. In addition, studies suggest that when parents make decisions about where to send their child to school, achievement is often not a major factor. As a result of these and other factors, any private-public differences in student achievement tend to be quite small (and often favor public schools).

One potential downside that received far too little discussion was the tendency of such programs to promote the growth of schools sponsored by non-mainstream religious denominations. This has been observed in Milwaukee and we have little reason to believe it won't happen in Indiana.

When I share these sentiments with people, I'm often asked what I would have proposed instead, to which I reply: Full open enrollment among public schools. Far more students would avail themselves of the free market in education, expensive and endless litigation would be avoided, and other states have had better luck with open enrollment than with vouchers. Full open enrollment also would have taken the steam out of the voucher movement, but many public education advocates fought open enrollment for years. Calls for private school vouchers only increased as a result. I lament the lost opportunity here.



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2011

House Bill 1074 (PL179)

Title:

Selection of School Board Members

Authors:

Frizzell, Noe, Smith, V., Fry, C.

Sponsors:

Lawson, C., Ladnsek

Effective Date:

July 1, 2011

Summary

Provides that, beginning in 2012, school board members selected by election must be elected at general elections and take office the following January 1. Provides that a school board plan may be amended to allow for both election and appointment of the members of the school board. Allows a change in a school board plan to be initiated by the filing of a petition signed by at least 10% of the voters of the school corporation with the clerk of the circuit court. (Under current law, a petition initiating a change in a school board plan must be signed by at least 20% of the voters of the school corporation.) Provides for a public question to be placed on the ballot at the 2011 municipal election in Mishawaka asking the voters whether the method of choosing members of the governing body of the Mishawaka school corporation should be changed. Establishes, if the voters of Mishawaka approve the public question, a governing body of five members, three of whom are elected at large by the voters of the city, one of whom is appointed by the city executive, and one of whom is appointed by the city legislative body. Provides other details of the organization of the governing body. Provides for the election rather than the appointment of the members of the school board for the city of East Chicago and adds certain other provisions concerning the composition and organization of the school board. Repeals provisions related to the election of school board members at the primary election position and organization of the school board. Repeals provisions related to the election of school board members at the primary election.

Commentary



ISBA has opposed this mandate on local control for seven years. It passed in 2011 facing the same facts as presented in previous years of why the public policy was not needed. Fundamentally, school boards or local communities can make a change from the primary to the general election or vice versa with state board approval. And since 70% of Indiana school boards have chosen May elections, the mandate forced these to comply, with the reason that more voters participate in November than in the primary. But regardless, it's now public policy and will be implemented.

Frank Bush
Executive Director
Indiana School Boards Association

CEEP PERSPECTIVE – Jonathan Plucker

Clarifying the procedures for school board elections was overdue and should increase the willingness and ability of people to get involved in this process. That said, the most important aspect of the law is the least discussed: The strengthening of local control by letting districts have boards with both elected and appointed members. This third option for determining school board composition is an important change, as is putting the structure of the board in the hands of local voters. The collection of changes under HB 1074 allows for much greater public participation in how school boards are organized and how board members are chosen.



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2011

House Bill 1238 (PL198)

Title:

Advocacy with Public Funds

Authors:

Noe

Sponsors:

Charbonneay, Head, Broden

Effective Date:

Various effective dates (effective upon passage and effective July 1, 2011)

Summary

Advocacy with public funds. Provides that during the period beginning with the adoption of a resolution by a school corporation to place a school levy referendum question on the ballot and continuing through the day on which the referendum is submitted to the voters, the school corporation may not promote a position on the referendum by taking certain actions. Provides that a political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of the petition and remonstrance process. (Under current law, such a prohibition applies under the capital projects referendum statutes.) Provides that the ballot language for a capital project referendum must first be approved by the Department of Local Government Finance (DLGF). (Under current law, the DLGF makes recommendations concerning the ballot language.) Provides that the language of a school referendum levy question to be submitted to voters must first be approved by the DLGF. Prohibits a person or organization that provides goods or services to a school corporation under contract from spending money to promote a position on a school corporation's capital project petition and remonstrance, capital project referendum, or referendum tax levy, unless: (1) the person is an employee of the school corporation whose employment is governed by a collective bargaining contract or employment contract, or (2) the person or organization has a contract with a school corporation solely for the use of the school corporation's facilities. Provides that if a referendum levy is approved by the voters in a school corporation in a calendar year, another referendum levy question may not be placed on the ballot in the school corporation in the following calendar year. Provides that if a school corporation imposes a referendum levy approved in a referendum, the school corporation may not simultaneously impose more than one additional referendum levy approved in a subsequent referendum. Provides that advocacy or discussion by certain officials concerning a petition and remonstrance or referendum is allowed and is not considered a use of public funds. Prohibits an employee of a school corporation from initiating discussion of a petition and remonstrance or referendum at a meeting between a teacher and parents of a student regarding the student's performance or behavior at school. Provides that an official of a political subdivision who is authorized to discuss or advocate for or against a petition or remonstrance or a referendum may be assisted by an employee of the political subdivision. Removes the county fiscal body from the school referendum levy process. Provides that the county fiscal body is not required to certify the referendum question. Repeals a superseded provision.

Frank Bush: *The Indiana School Boards Association supported the flexibility of the statute and advocated for more local discretion and participation by school officials. But what was obtained in the legislation was the best available for this session and will assist school corporations with the process.*

Dennis Costerison: *This bill eliminated the "gag order" that applied to school officials promoting and discussing a school referendum and/or a petition/remonstrance project. HEA 1238 allows school board members, superintendents, assistant superintendents, and school business officials to provide factual information on a petition/remonstrance project, a construction referendum, and/or an operating referendum at any time prior to the vote or collection of signatures. Prior to the passage of HEA 1238, school officials could not speak out regarding the elections or petition drive. Therefore, they could not respond to incorrect or misleading information. HEA 1238 is a very positive piece of legislation that permits school officials to provide information and promote projects to the public.*

John Ellis: *Removes the previous "gag order" on school administrators authorized to discuss or advocate for a petition or remonstrance or a referendum. With the gag order, many patrons could not understand why district leaders were silent when speaking at various functions, making it appear that they were neutral on their own recommended action!*

Gerald Mohr: *School corporations, their officials, and their employees are restricted in various ways from promoting a position on a public question subject to a referendum that would authorize an increase in the school corporation's property tax levy. Corporation officials will want to approach advocacy with a distinct plan of how to gather resources to effectively communicate the need for the referendum, including their ability to speak with civic groups and individuals on this topic. Language was amended to clarify that a vendor with a contract or an arrangement to provide goods or services to the school corporation may not spend money to promote a position on the petition or remonstrance. If a person or organization has a contract or an arrangement to use the corporation facilities, they may provide assistance.*

(More commentaries on next page)

Nate Schnellenberger: *This bill was introduced to reign in communications efforts engaged in by public schools and public school employees in their collective effort to promote referenda initiatives within their community. Interestingly, the chief and most vocal proponents of HEA 1238 were citizens from a school district in which the general fund referenda promoted by the school district (and opposed by them) had been handily defeated. Nevertheless, HEA 1238 asserts tighter controls on the process.*

Since the General Assembly eliminated school General Fund property taxes in 2008 and since the General Assembly effectively controls the operational dollars available to public school districts, the General Fund referendum process is the only meaningful way for a community to demonstrate its commitment to its public school programs. Obviously, the tighter the controls on this process, the more difficult it becomes for a school community to succeed.

ISTA efforts centered on working with the sponsors to enable them to understand the practical realities associated with the legislature attempting to micromanage routine communication within a community. As a result, certain modifying provisions were added along the way, such as enabling school employees to provide factual information to others upon request and specifically allowing teachers to make personal expenditures to promote a position.

CEEP PERSPECTIVE – Jonathan Plucker: *The bill clarifies several issues with the referendum and remonstrance process that many observers felt provided for an uneven playing field during these efforts. Given that the majority of referenda fail (and often by very wide margins), leveling the playing field a bit was the right thing to do: A free debate before a free vote is critical for participatory democracy to thrive.*



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2011

House Bill 1260 (PL200)

Title:

School Corporation Health Insurance

Authors:

Dermody, Turner, Goodin, Porter

Sponsors:

Charbonneau, Arnold, Hershman

Effective Date:

July 1, 2011

Summary

Specifies certain requirements and recommendations for school corporation employee health coverage programs. The employer share of the cost of coverage under a health plan provided by a school corporation for the school corporation's employees may not exceed by more than 12% the employer's share of the cost of coverage under the State of Indiana health plan provided for state employees. If cost restrictions are exceeded, specifies certain requirements and penalties.

Frank Bush: *ISBA supported the guidelines of HEA 1260 because of the potential for more stringent restrictions. At least the bill provides structure for reducing health coverage premiums while maintaining services.*

Dennis Costerison: *HEA 1260 deals with school corporation health insurance costs. The bill states that if the cost of health insurance is greater than 12% of the state's health insurance program, then the school corporation has two years to get their costs equal to or below the state's premium. After two years, if the local premium is still above the state's cost, the school corporation shall move to the state's health insurance program. This bill is an alternative to forcing all corporations to go on the state plan. The vast majority of school corporations are keeping their costs below the state's costs by joining consortiums or using tools such as local clinics to keep costs down. HEA 1260 also contains a listing of best insurance practices that are recommendations to keep costs down. The bill targets corporations with very high insurance premiums and should be a mechanism to lower these costs.*

John Ellis: *Insurance experts predict that only about 50 school districts would benefit from a move to the state employees' plan, which means that 83% would have lost money making that move, as originally proposed in the bill. Fortunately, substantial amendments helped. Now that the employer share of the cost of coverage under a health plan provided by a school corporation may not exceed by more than twelve percent (12%)—the employer share of the cost of coverage under the same type of health plan—the cost paid by the district is likely to drop, significantly in some districts, and be passed on to staff. Many district bargaining units have opted to bargain benefits in lieu of more substantial salary increases as a local option, so some of the transitions will be difficult.*

Nate Schnellenberger: *Another bill that focused on school employees, HEA 1260 was an attempt to cluster future school employee health insurance packages around the scope of Indiana's state plan for state employees. Clearly, there were policymakers who supported forcing all school employees into the state health plan en masse. HEA 1260 took a different approach by stipulating that unless a school district's employer share of its employee health insurance plan is not more than 112% of what the state's share would be under the state plan, then ultimately (over a set time period), the school district "must elect to" provide the state plan to its employees.*

While teachers' collective bargaining rights for employee benefits, including health insurance benefits, were left intact under SEA 575 (see below), HEA 1260 does serve to limit those rights—especially for districts that currently would fall outside of the 112% "buffer" zone. However, in the end, there is still an element of local control remaining (as opposed to an outright state health plan mandate) and so ISTA worked with the sponsors to ameliorate some of the more drastic provisions seen in the introduced version of HEA 1260. Specifically, the statutory buffer zone increased from 110% to 112%, the severe financial penalties imposed upon a noncompliant school district were removed altogether, the time frame available to ultimately comply was extended, and the mandate that every district with fewer than 100 employees must join a consortium or trust was removed altogether.



PERSPECTIVES

ON THE KEY K-12 EDUCATION
LEGISLATION OF 2011

For more information regarding the legislation,
please go to the General Assembly web site at:
www.in.gov/legislative

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