

Education Update

To: LWVO
From: Joan Platz
Education Update June 7, 2010

1) 128th Ohio General Assembly: Members of the Ohio House and Senate completed work on a number of bills last week before leaving Columbus for a summer break. Lawmakers might be called back to Columbus to address some unfinished business, such as HJR15 (Letson), which revises the process for apportioning the state for General Assembly districts. The legislative schedule for the second half of 2010 is not available yet.

*Joshua O'Farrell (New Philadelphia) took the oath of office on June 2, 2010 to become the new House Representative for the 96th Ohio House District. He replaces Representative Allan Sayre, who resigned from the Ohio House to accept a position as deputy auditor for Tuscarawas County.

2) Update on Legislation: The following bills were approved by the Ohio House and Senate last week:

*SB210 (Coughlin/Kearney) Nutritional Standards for Schools: Please see # 3 below.

*SB232(Widener) Renewable Energy: The Senate concurred with House amendments on June 3, 2010.

This bill exempts from taxation renewable energy facilities that are not financed through the Ohio Air Quality Development Authority, and requires a payment in lieu of taxes on the basis of each megawatt of production capacity in such facilities.

Major education organizations opposed this bill, citing the payment in lieu of taxes provision as being too low to adequately compensate school districts for the loss of tax revenue. The education organizations requested that the bill be amended to increase the payment in lieu of taxes to \$15,000 per megawatt, and be divided proportionally among local government entities that are impacted by the alternative energy facility.

*SB162 (Buehrer) Telecommunications: The Senate concurred with House amendments on June 3, 2010.

SB162 revises state policies regarding telecommunications services; repeals current law governing alternative regulation of telephone companies; and rescinds related rules of the Public Utility Commission of Ohio.

*HB519 (Yuko) - Casino Implementation. Lawmakers in the House and Senate missed a June 3, 2010 deadline, but within hours on June 4, 2010 approved a compromise bill to implement the constitutional amendment approved by Ohio voters in

November 2009, authorizing the construction and operation of casinos in four Ohio cities.

***SB181 (Stewart) Mine Reclamation/Corrections**

Bill: The Ohio House approved SB181 on May 27, 2010, but the Senate refused to agree with the House amendments, which sent the bill into a conference committee. SB181 was amended in conference committee and later approved by both the House and Senate on June 3, 2010.

SB181, as introduced, provided legal immunity to landowners for the cleanup of abandoned mines.

The bill was expanded to include several "budget corrections" after amendments were added by the House Finance and Appropriations Committee and the Ohio House.

The conference committee amended the bill again to include appropriations for the Casino Control Commission; ensure compliance with federal State Fiscal Stabilization Fund requirements in FY10; allocate \$100 million from the casino licensure funds for a Board of Regents internship program and workforce development programs; increase from \$10 million to \$15 million funds for chartered nonpublic schools; and replace a provision in SB181 regarding adequate yearly progress/school ratings with language from SB167 (Cates) on school district ratings. This new provision lowers a school district's report card rating by one category (rather than to continuous improvement) when a school district fails to meet AYP for the same two subgroups for three consecutive years.

*In other news, the Ohio House approved by a vote of 54 to 42 on June 3, 2010 HB504 (Foley), which requires statewide candidates to file financial disclosure information, including their last four federal income tax returns, and approved HB495 (Book), which eliminates several state boards and commissions.

The Ohio House and Senate were unable to develop compromise legislation to move forward HJR15 (Letson), a constitutional amendment that revises the way that legislative districts are drawn based on specific criteria. The House approved HJR15 on May 27, 2010. HJR15 retains the existing Apportionment Board, which would oversee a public competition to draw legislative district maps, based on representational fairness, political competitiveness, and compactness. A five member panel of retired judges would hear challenges to the plan, rather than the Ohio Supreme Court.

The Senate version of the plan, SJR5 (Husted), creates, a seven-member Ohio Redistricting Commission composed of state elected officials. These officials would oversee the drawing of both the state legislative and congressional districts. A five-member super majority of the commission would be needed to adopt the plan.

Lawmakers in the House and Senate were working with Senator Husted, sponsor of a Senate version of the redistricting plan, on compromise legislation. If HJR15 is approved by the Ohio Senate before August 4, 2010, voters will have a chance to decide the issue on the November 2, 2010 ballot. Members of the House and Senate are expected to continue work on this legislation during the summer.

3) Update on SB210 (Coughlin-Kearney) Nutrition Standards for Schools: As introduced SB210, and a similar bill (HB373 - Carney/Wachtmann) would have established nutritional standards for certain foods and beverages sold in public and chartered nonpublic schools; required public school students to have periodic body mass index measurements (BMI), and required that the results be reported; required thirty minutes of rigorous daily physical activity for all public school students in grades K-12; increased graduation requirements for physical education; strengthened licensure requirements for teachers who teach physical education; established the Healthy Choices in Healthy Children Council; delegated new responsibilities to the Ohio Department of Education; added new components to the Local Report Card; and more.

The Ohio House approved by a vote of 77-21, an amended version of SB210 on June 2, 2010, and the Ohio Senate agreed to the amendments on June 2, 2010. The bill now does the following:

- Establishes nutritional standards for certain foods and beverages sold in public and chartered nonpublic schools.
- Establishes the Healthy Choices for Healthy Children Council to monitor progress in improving student health and wellness and assist the Ohio Department of Education and the Ohio Department of Health implement provisions in the bill.
- Requires the Ohio Department of Education to annually issue a report to the governor and members of the General Assembly, and the Healthy Choices Council on the compliance of public and chartered nonpublic schools with the requirements of bill.
- Requires the ODE to establish a clearing house of best practices to support student health and fitness.
- Requires the State Board of Education to establish a measure of the following and include the measure on the Local Report Card: student success in meeting the physical education benchmarks; school district compliance with local wellness policies of the federal Child Nutrition and WIC Reauthorization Act; school district waivers from section 3313.674 (Body Mass Index/weight screening); school district participation in the pilot physical activity program (Section 3313.6016).
- Requires courses in health to include information about nutrition and the benefits of nutritious foods and physical activity.
- Requires the ODE to administer a pilot project requiring daily physical activity for students.
- Permits any school district, community school, STEM school, or chartered nonpublic school to participate in the pilot program requiring daily physical activity for students. If a district chooses to participate, all schools in a district must participate. Allows exceptions for certain students.
- Requires the ODE to issue an annual report on the costs of the physical activity program and data collected about the program.
- Requires, with exceptions, students to have periodic body mass index measurements (BMI) in third grade, fifth grade, ninth grade, but allows school districts to obtain a waiver from this provision from the Superintendent of Public Instruction.
- Requires the board of education/governing authority to notify parents regarding the results of the BMI measurement, and maintain the confidentiality of the BMI reports.

- Requires the board of education/governing authority to report the BMI and other data to the Department of Health.
- Allows the department of health to report the results of the data collection.
- Requires each board of education and governing authority of public and nonpublic charter schools to adopt and enforce nutrition standards governing types of food and beverages that may be sold on the school premises, and identify designated staff to meet the nutrition standards.
- Requires the ODE to make available free of charge computer software for assessing the nutritional value of foods.
- Requires school districts, STEM schools, and community schools, after July 1, 2013, to employ teachers with a valid license to teach physical education. (Currently classroom teachers in community schools are required to be licensed, but not in the subjects that they teach.)

4) Hearings on Community School

Operators/Management Companies: The House Finance and Appropriations Committee, Subcommittee on Primary and Secondary Education, chaired by Representative Stephen Dyer, conducted hearings on June 2 and 3, 2010 on the topic of charter schools and how they are sponsored, governed, and operated.

The hearings were in response to a lawsuit filed by the governing boards of Hope Academies of Cleveland and Akron and Life Skills Centers of Cleveland and Akron, April N. Hart legal counsel, in the Franklin County Court of Common Pleas on May 17, 2010, against White Hat Management, LLC, its affiliates, and the Department of Education.

The plaintiffs allege that White Hat Management, as a management company for charter schools, is not accountable to the governing boards that it has contracted with for the non-profit state funds that it receives to manage the charter schools; has refused to provide governing boards with complete information about how it has spent public dollars; and has not negotiated in good faith the renewal of charter school contracts.

The plaintiffs request in the lawsuit that the Court declare unconstitutional ORC §3314.026, a section of law that allows management companies to replace governing boards of charter schools; void all existing contracts with White Hat Management and its affiliates; order White Hat to provide a complete accounting from 2004 to the present of monies paid to each management company, receipts for purchases, and copies of all inventories and depreciation schedules regarding property, etc.; issue an injunction to prevent White Hat from removing property from the schools; require White Hat to negotiate in good faith; and compensate the plaintiffs for damages and reasonable attorney fees. The lawsuit is available at http://www.scribd.com/full/31486286?access_key=key-25x6u9ttkjj0ziou8ror.

According to Chairman Dyer, the purpose of the hearings was to learn more about the issues raised in the lawsuit, and find solutions. All interested parties, including White Hat Management, were invited to testify, but when White Hat did not appear before the subcommittee, Representative Dyer said that he would recess the subcommittee rather than adjourn, to provide White Hat the opportunity to testify before the subcommittee in the future. The following are some of the individuals and groups that testified before the subcommittee on June 2 & 3, 2010:

*Mark Michael, assistant legal council for the Ohio Department of Education, provided information about charter school law, and recommendations proposed by the State Board of Education to eliminate a provision in law that allows a charter school operator to replace a governing authority of a charter school, under certain circumstances.

*Piet van Lier, senior researcher for Policy Matters Ohio, shared information included in a report Policy Matters released on May 12, 2010 entitled, "Public Good vs. Private Profit: Imagine Schools, Inc. in Ohio" by Piet van Lier.

The report examines the poor academic performance, weak oversight, conflicts of interest, real estate and business deals of Imagine Schools, the largest for-profit charter school management company in the nation, with 71 schools in the U.S., including eleven schools in Ohio. Imagine Schools is privately owned by Dennis Bakke, a former chairman of AES Corporation, a global energy generation and distribution company, and his wife Eileen Bakke, a former teacher.

The presentation noted the similarities between Imagine Schools and White Hat Management, both operators or management companies for charter schools. Schools managed by Imagine and White Hat are completely controlled by the management companies; their governing authorities are often hand-picked by the management companies; there is a lack of financial transparency regarding how public funds are spent; and textbooks, equipment, facilities, are often owned by the management companies.

The following are just some of the recommendations included in the report to improve charter school accountability:

- Prohibit for-profit management companies from operating charter schools;
- Strengthen the independence and proper role of charter school governing boards;
- Ensure that governing board members are empowered and held accountable as stewards of public trust and monies; and
- Require charter school operators/managers to be completely transparent and subject to full public disclosure

The Policy Matters report is available at <http://www.policymattersohio.org/pdf/ImagineSchools2010.pdf>.

*April N. Hart, legal counsel for plaintiff schools in the lawsuit, explained the statutory responsibilities of governing authorities, sponsors, and operators, and how there is a growing conflict between governing authorities, sponsors, and operators over control and accountability of charter schools in Ohio.

According to her written testimony, "The two major problems our Governing Boards face with White Hat in the struggle to truly govern our schools are 1) the lack of financial accountability -- we have no detailed information how the public monies we pay them are spent; and 2) the very real threat of expulsion under R.C.3314.026 if we dare to terminate or replace White Hat."

*Two presenters from the Thomas B. Fordham Foundation, Terry Ryan, Vice President for Ohio Programs and Policy, and Kathryn Mullen Upton, Director of Sponsorship, provided information about the work of the Fordham Foundation as a sponsor of six charter schools in Ohio. The Foundation believes that the governing authority of a charter school is the "owner" of the charter schools, and that it is a mistake for sponsors and management companies to "blur the lines of authority." Also, sponsors should not be "vendors" that provide services based on fees to the charter schools that the sponsor oversees.

Among the recommendations proposed to improve Ohio's charter school program are the following:

- clarify the lines of authority between sponsor, governing authority, and operator
- mandate competitive bidding for additional administrative services provided by sponsors
- provide charter school pupils with the same level of operational funding as students in school districts
- create incentives for school districts to provide school facilities
- remove the moratorium on e-schools
- eliminate geographic restrictions on where charter schools can open
- support the merger of the state's 65-plus charter school sponsors

*Brian Adams, CEO of Ohio Community School Consultants, described the following three financial models that are being used in Ohio to operate charter schools:

- The Pass Through Model: A majority of state funds are passed from a charter school's governing authority to an operator/management company.
- The Mom and Pop Model: The governing authority operates the school.
- The 20 Percent Model: The management company accepts up to 20 percent of funds for services, such as central office operations, but the remainder of the funds stay with the governing authority.

The following legislative recommendations were included in the presentation:

- Provide the governing authority with full authority over funding with the right to call for an audit if abuse is suspected.
- Require management companies to provide detailed budgets and financial reports.
- Establish a position of independent fiscal officer/internal auditor, who reports directly to the governing authority, and is not affiliated with the sponsor or management company.

*David Welch, Franklin University, testified on June 3, 2010 that he resigned as a member of a community school governing authority, after he was unable to obtain complete financial records and information from Imagine Schools, the management company contracted by the charter school.

*Darold Johnson, director of legislation and political action for the Ohio Federation of Teachers (OFT), explained the history of the charter school movement, which was a concept promoted first in 1988 by Albert Shanker, president of the American Federation of Teachers.

Shanker proposed the creation of less-regulated, but more innovative, public schools, to explore teaching strategies and other concepts that would lead to increased student success.

According to Johnson, the charter school concept has been "co-opted here in Ohio by those who prefer to profit from children rather than educate them well." A 2006 report released by the OFT and the Food and Allied Service Trades Division

of the AFL-CIO includes additional information about the interlocking real estate deals, business deals, and loans that have made auditing White Hat Management impossible. Imagine Schools have implemented similar interlocking fiscal arrangements with the schools that it operates.

The OFT recommends that for-profit e-schools and for-profit management companies be prohibited in Ohio; operators that receive more than 25 percent of state funds be required to fully disclose how public funds are spent; the membership of the governing authorities include representatives from the local communities in which the school is located; all charter schools use the PASS form, developed by the ODE, to report expenses to the public; and an Evidence Based Model be created to fund charter schools.

*Barb Shaner, chair of the Coalition for Public Education (CPE), shared recommendations for improving charter school accountability, especially for charter schools that serve students who have dropped-out of school. According to the presentation, the graduation rate for charter schools was 25.5 percent for the most recent year reported, and 16.1 percent for charter schools with dropout recovery programs.

By comparison, the graduation rate for traditional public schools was 90.9 percent and 72.5 percent for Ohio's big eight urban school districts.

To improve charter school accountability the CPE recommends the following:

-Increase the Eligibility Requirements for Sponsoring Charter Schools: Allow "in-state sponsors" to sponsor a new charter school if a majority of the schools that are sponsored are performing at a level of continuous improvement (C-rating) on the Local Report Card or better.

Allow "out of state sponsors" to sponsor a new charter school if a majority of the schools that are sponsored are performing at a comparable level of continuous improvement or better.

Current law allows sponsors to sponsor new charter schools even if the sponsor is sponsoring only one school at a level of continuous improvement or better.

-Closure Exemptions: Eliminate the closure exemption for dropout recovery and prevention charter schools, and authorize the State Board of Education to adopt criteria for closing low-performing dropout recovery charter schools.

-Increase Fiscal Transparency: Require charter school management companies that receive 25 percent or more of state funding for charter schools, to provide full details of financial records.

-Increase Accountability for Student Attendance:

Prorate or reduce payments to charter schools in which students attend school for less than the required number of hours that constitute a school year for charter schools.

The Coalition for Public includes the Ohio Association of School Business Officials, the Ohio School Boards Association, the Buckeye Association of School Administrators, the Ohio Parent Teacher Association, the League of Women Voters of Ohio, the Ohio Education Association, the Ohio Federation of Teachers, the

Ohio Coalition for Equity and Adequacy of School Funding, the Ohio Retired Teachers Association, and teacher organizations from several school districts.

5) National Update on Education Issues

*According to the U.S. Department of Education, 35 states and the District of Columbia have submitted Phase 2 Race to the Top grant applications by the June 1, 2010 deadline. The states are competing for a share of \$3.4 billion to reform education by focusing on four areas:

-Adopting standards and assessments that prepare students to succeed in college and the workplace and to compete in the global economy; -Building data systems that measure student growth and success, and inform teachers and principals about how they can improve instruction; -Recruiting, developing, rewarding, and retaining effective teachers and principals, especially where they are needed most; and -Turning around the lowest-achieving schools.

The Ohio Department of Education submitted its Phase 2 Race to the Top application for \$400 million, after finishing 10th in Phase 1. The Ohio proposal received the support from 324 school districts and 213 charter schools, representing one million students in Ohio. If the proposal is funded, these school districts and schools will receive a portion of the \$400 million grant.

The U.S. DOE will select the Phase 2 finalists over the summer and invite them to Washington to make personal presentations to an expert review panel. Ten to fifteen awards are expected to be granted during this round. The awards will be announced by the end of September 2010.

*The National Governor's Association (NGA) Center for Best Practices and the Council of Chief State School Officers (CCSSO) released on June 2, 2010 the Common Core State Standards in mathematics and English language arts in grades K-12.

Forty-eight states and two territories have participated in the development of internationally benchmarked common standards that include the knowledge and skills that students need to succeed in college and in careers. According to the NGA and the CCSSO the common standards will promote more collaboration among school districts and states to improve student learning and assess student progress.

Six states have adopted the common core already, and in the coming months other states will adopt and implement the common core standards through their own legal procedures and processes. For example, the State Board of Education of Ohio will consider the Common Core for adoption at its June 7, 2010 business meeting. In the future the NGA and the CCSSO are expected to develop common core standards in science and "potentially additional subject areas."

For more information about the Common Core please visit <http://www.corestandards.org/the-standards>.

6) State Board of Education Retreat

The State Board of Education, Debbie Cain President, will hold a planning and work session on June 6-8, 2010 at the Educational Service Center of Central Ohio, 2080 Citygate Drive, Columbus.

On June 6, 2010, the Board will begin its business meeting at 7:00 PM, which includes an executive session.

On June 7, 2010 the Board will reconvene its business meeting at 8:30 AM and consider the following resolutions for a vote:

- Resolution to adopt academic content standards in science and social studies.
- Resolution to adopt common core academic content standards and their successors in mathematics and English Language Arts.

The Board will allow twenty minutes for public participation on action items. The Board will then adjourn.

The Board will begin its planning and work session at 10:00 AM. The planning and work session which include the following:

- A discussion of Boardmanship
- Educational Issues in Ohio
- Education Policy Drivers in Ohio, such as the SBE's vision document, House Bill 1, the Strategic Plan for P-12 Education, Race to the Top, SB311 - Ohio Core, 21st Century Learning Subcommittee Recommendations, the Blueprint for Reauthorization of ESEA -Integrating Board members' priorities with the policy drivers

On June 8, 2010 the SBE meeting will begin at 8:30 AM with a review of the work of the previous day. The Board will then discuss building a twelve month strategic action plan. The meeting will adjourn after lunch.

For more information about the time schedule for this meeting, please visit <http://education.ohio.gov/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=576&ContentID=78915&Content=86556>

7) Policy Brief Examines Portfolio Schools: The Education and the Public Interest Center (EPIC), at the University of Colorado at Boulder, and the Education Policy Research Unit (EPRU), at Arizona State University released on June 2, 2010 a policy brief by Professor Kenneth Saltman of DePaul University in Chicago entitled, "Urban School Decentralization and the Growth of "Portfolio Districts". The brief describes a school reform concept, based on "market principles", being used in New York, Chicago, New Orleans, Washington D.C., and to some extent in Denver and Cleveland referred to as "portfolio schools".

Professor Saltmann writes, "The premise of the portfolio strategy is that if superintendents build portfolios of schools that encompass a variety of educational approaches offered by different vendors, then over time school districts will weed out under-performing approaches and vendors; as a result, more children will have more opportunities for academic success."

According to the brief, the portfolio school concept was "embraced" by former head of the Chicago city schools, Arne Duncan, now the Secretary of Education for

the Obama administration, and is supported by some urban superintendents and policy makers. The concept merges four strategies: decentralization; charter schools; reconstituting or closing failing schools; and accountability based on test results. Schools that fail to improve are continuously put through a cycle of closure and staff replacement, based on market forces. The concept has also been dubbed "creative destruction" or "churn".

The policy brief notes, however, that no reliable evidence is available to support or reject the portfolio concept, and no analytic tools have been developed to measure the effectiveness of this approach to improve student achievement.

Professor Saltman recommends that policy makers and administrators "use caution" when considering the portfolio district approach, and consider the following questions:

- What credible evidence do we have, or can we obtain, that suggests the portfolio model offers advantages compared to other reform models?
- What would those advantages be, when might they be expected to materialize, and how might they be documented?
- If constituent elements of the model (such as charter schools and test-based accountability) have not produced advantages outside of portfolio systems, what is the rationale for expecting improved outcomes as part of a portfolio system?
- What funding will be needed for startup, and where will it come from?
- What funding will be necessary for maintenance of the model? Where will continuation funds come from if startup funds expire and are not renewed?
- How will the cost/benefit ratio of the model be determined?

The policy brief is available at
<http://epicpolicy.org/publication/portfolio-districts>

The Education and the Public Interest Center (EPIC) at the University of Colorado at Boulder and the Education Policy Research Unit (EPRU) at Arizona State University collaborate to promote well-informed democratic deliberation about education policy by providing academic as well as non-academic audiences with useful information and high quality analyses.

8) Bills Introduced:

HB546 (Gardner) Budget Planning/Management

Commission: Requires the Budget Planning and Management Commission to meet at least six times during the period of July 1, 2010 through November 30, 2010, and declares an emergency.

HB542 (Stebelton) Educational Choice

Scholarships: Gradually increase to 20,000 the number of Educational Choice Scholarships awarded annually.

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