

legislative bulletin

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To: All School Committee Members and Superintendents

From: Stephen J. Finnegan, Esq.

Date: September 24, 2004

Subject: Supplemental Budget – H. 5076

Romney Signs Supplemental Budget

A few days ago, Governor Romney signed a Supplemental Budget that contained \$439 million of additional spending. According to final revenue figures, the Fiscal Year 2004 surplus was \$724 million. After supplemental spending, \$137 million of the surplus was deposited into the State's stabilization fund and \$150 million was set aside for school building assistance. The Commonwealth's reserves now total \$1.2 billion.

Funding to cities and towns was increased by \$75 million of one time non-recurring municipal aid. The funding for your community may be found by visiting the mass.gov website.

Budget Alters Charter School Funding Formula

As you recall the state budget, as passed by the legislature, contained a moratorium on new Charter Schools including five schools scheduled to open this September. The Governor vetoed the Charter School moratorium and the House of Representatives upheld his veto. Some legislators voted to uphold the Governor's veto of the moratorium when the legislative leadership promised swift action on a Charter School funding revision. Prior to the funding amendment, Charter Schools received the average cost per student from their sending school district or the district in which the Charter School is located, whichever was less. The term "average cost per student" did not necessarily reflect the cost of the Charter School to educate that student, who may or may not be a special education, bilingual, or secondary student. MASC and other educational associations have supported legislation to reflect more closely the actual cost of education for a Charter School student.

The Supplemental Budget contained an additional \$21.6 million in order to ensure that no Charter School receives less funding in Fiscal Year 2005 than it would have received prior to the passage of the revision to Charter School funding. In addition to the change to the funding formula, Charter Schools will also be eligible for special education circuit breaker funding.

The Commonwealth, using the Foundation Budget, will calculate a separate amount for Charter Schools within each district that reflects more closely the actual grade and special program (e.g. Limited English Proficiency, Special Education) of each student who may leave for a Charter School. The Department shall calculate the percentage of actual net school spending reported by the sending district associated with tuition

costs for tuitioned-out special education students, including education that occurs in educational collaboratives, and with spending on health care costs for retired employees, for any district for which such costs are included in net school spending, and shall reduce the district's above average spending percentage proportionately. For more information on the new Charter Formula, please visit mass.gov and cite H. 5076, §. 31.

Charter Schools will also get an allotment for facilities that reflect the average per pupil cost statewide for new construction, renovation and capital equipment costs, which is approximately \$700 per student. This allocation will be subject to annual appropriation rather than direct aid to Charter Schools.

The Department of Education will draft regulations to implement the newly enacted Charter Formula changes.

Out of District Vocational Transportation

The Governor returned H. 5076, §.30, concerning out of district transportation, for a corrective amendment citing MGL C.74 instead of the incorrect C.71. Due to the technical nature of the amendment it is possible that the legislature will enact the provision as amended.

The State Budget allocated \$800,000 to fund out of district vocational school transportation. This law was amended during 2003 to delete a provision to allow the sending school district to receive 50% state reimbursement for the transportation of non-resident students. The F.Y. 2005 State Budget rewrote MGL C.74, §8A as follows: "subject to appropriation, and upon voting to provide transportation to said students [the school committee of the city or town in which the student resides] shall be eligible for state reimbursement to the maximum extent of 50% of the cost of said transportation."

The Supplemental Budget provision that has been returned for technical amendment repeals the most recently enacted state budgetary amendment as immediately above referenced. In its place H.5076 would require the sending "school committee, when necessary, to provide for the transportation [of the resident student], and shall, subject to appropriation, be entitled to state reimbursement to the full extent of the amounts so expended . . . a town shall not be required under the provisions of this section to provide for the transportation of a person who has completed the twelfth grade or the equivalent thereto." The Supplemental Budget

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appropriates an additional \$800,000 to provide a total of \$1.6 million for the above referenced transportation funding.

Student Attendance and Payment of Tuition of Non-Resident Student

The Supplemental Budget contains two sections (33 and 34) which strengthen a school committee's right to exclude students who are not otherwise eligible by law (e.g. School Choice) to attend school in a district in which they do not reside. In the event that a school committee allows a non resident student to attend school they may recover tuition from their parent or guardian. The following sections have been added to MGL C.76, §.5&6:

Section 5 of chapter 76 of the General Laws is hereby amended by adding the following sentence after the first sentence: - No school committee is required to enroll a person who does not actually reside in the town unless said enrollment is authorized by law or by the school committee. Any person who violates or assists in the violation of this provision may be required to remit full restitution to the town of the improperly-attended public schools.

Section 6 of chapter 76 of the General Laws is hereby amended by striking the text and inserting in place thereof the following:-

If a child resides temporarily in a town other than the legal residence of his parent or guardian for the special purpose of there attending school, the child may attend school with the authorization of the school committee of said town, and the said town may recover tuition from the parent or guardian, unless under section twelve of chapter seventy-six, such tuition is payable by a town. Tuition payable by parent or guardian shall, for the period of attendance, be computed at the regular rate established by the school committee for non-resident pupils, but in no case exceeding the average expense per pupil in such school for said period. The school committee of the town in which a child is temporarily residing for the special purpose of their attending school may waive all or part of the tuition charge for such child.

Special Education Rate Setting

Chapter 149 of the Acts of 2004, the State Budget at section 278, limited the F.Y. 2005 rates for Special Education Approved Private Schools at the same level calculated for fiscal year 2004. The Supplemental Budget, at section 120, allows the 2005 rates to be adjusted by the rate of inflation as determined by the division of purchased services. An additional \$3.5 million was added to a Department of Social Services account to help pay for the inflationary adjustments above referenced.

Funding for Implementation of MCAS Science and History Tests and Teacher Preparation

The Supplemental Budget contains an additional \$3.2 million in order to implement the proposed MCAS science and history tests. H. 5076 also contains an additional \$975,000 for teacher preparation programs.

Education Related Vetoes:

Dissection

Section 29 of H. 5076, concerning a mandatory opt out provision for any student who chooses not to participate in dissection as part of a science course was vetoed by the Governor. This section would have required alternatives to dissection to be offered by the school district. MASC and most other educational associations have long opposed the dissection language contained in the bill. The association believes that curriculum matters of this nature are more appropriately decided by the local school district.

Teacher Home Loan Program

The Governor vetoed \$5 million to implement a teacher home loan program that was to be administered by the Mass. Housing Finance Agency.

Board of Higher Education Tuition Waivers

Governor Romney vetoed section 156 of H. 5076 that would have prohibited higher education tuition waivers solely on the basis of a student's scores on MCAS exams.

House Working Group on Charter School Finance

Section 177A of H. 5076 was vetoed by the Governor. This section would have continued the House of Representatives work on the funding of Charter Schools.

Administration of Cystic Fibrosis Prescription Enzyme Supplements

The Governor on September 17, 2004 signed into law H. 4409, An Act to Allow Students with Cystic Fibrosis to Self Administer Enzyme Supplements. This act will take effect ninety days after passage.

Section 54B of Chapter 71 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding at the end thereof the following new sentence: -

Notwithstanding any general or special law or regulation to the contrary, no school district shall prohibit students with cystic fibrosis from possessing and administering prescription enzyme supplements, in accordance with department of public health regulations concerning students' self-administration of prescription medications.

Analysis of Charter School Funding Formula and Charter Legislation Update

Friday, October 29, 2004
MASC/MASS Joint Conference
Worcester Centrum Centre

Check your mailbox or online at www.masc.org