

legislative bulletin

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To: All School Committee Members and Superintendents

From: Stephen J. Finnegan, Esq.

Date: December 15, 2009

SUBJECT: SUMMARY OF THE RELEVANT PROVISIONS: SENATE 2216 EDUCATION REFORM ACT

This bill passed the Senate on November 17, 2009 and is currently in the House Committee on Ways and Means. It is anticipated that the House will consider this legislation in early January 2010.

UNDERPERFORMING SCHOOLS

1. Schools that score in the lowest 20% statewide in their respective school level based on their combined English and Math MCAS scores, or beginning in July 1, 2011, the growth model used to evaluate improvement in student performance shall be deemed eligible for designation as underperforming or chronically underperforming status.

2. Not more than 5% of the public schools may be designated as underperforming or chronically underperforming at any given time.

3. The Board through regulation must take into account multiple indicators of school quality in making determinations regarding underperformance or chronic underperformance, such as attendance and dismissal rates, graduation rates, promotion rates or the lack of demonstrated improvement for 2 or more consecutive years in core academic subjects, either in the aggregate or among subgroups of students.

4. Upon designation of a school as underperforming the superintendent of the district, in consultation with the commissioner, shall create an innovation plan for the school. The superintendent shall convene a group of local stakeholders not exceeding 11 individuals including: the commissioner, or a designee; the chair of the school committee, or a designee; the president of the local teachers union, etc. to consider recommendations to maximize student achievement.

5. Pursuant to the innovation plan the superintendent may among other matters: expand, alter or replace the curriculum of the school; reallocate the uses of the existing budget of the school; dismiss or fail to rehire a teacher for good cause; expand the school day or year, etc.

6. The superintendent shall submit an innovation plan to the local stakeholder group, the school committee and the commissioner, all of whom may propose modifications to the plan. Within 30 days of the issuance of a final innovation plan, a school committee or local teachers union may appeal to the commissioner concerning one or more components of the plan submitted by the superintendent. The decision of the commissioner shall be final within 30 days.

7. If the innovation plan requires collective bargaining the superintendent may request that the school committee and any union bargain or reopen the bargaining of the relevant collective bargaining agreements. The bargaining shall be completed within 30 days and subject to ratification by the bargaining members in the school within 10 days. If the parties are unable to reach agreement or ratification within the above-referenced deadlines they shall submit unresolved issues to a joint resolution committee comprised of three members: one appointed by the union, one appointed by the superintendent and one shall be selected through AAA to conduct an expedited arbitration, which decision shall be final and binding.

8. The superintendent may select an external receiver to operate the school and implement the plan. The school committee may appeal the superintendent's decision to the commissioner.

9. Each innovation plan shall be authorized for a period of not more than three years.

10. Each school designated by the commissioner as underperforming shall be reviewed by the superintendent at least annually, and his report shall be submitted to the commissioner and the school committee by July 1.

CHRONICALLY UNDERPERFORMING SCHOOLS

11. Upon the designation of a school as chronically underperforming the commissioner shall create an innovation plan for the school after review by the local stakeholder group. The review and implementation of the plan by the commissioner is the same as above referenced in an underperforming school except that the appeal of the plan may be made by the superintendent and the school committee to the Board.

12. An external receiver selected by the commissioner to operate a chronically underperforming school shall have full managerial and operational control over the school as provided in the innovation plan. However, the school district where the school is located shall remain the employer of record.

13. The commissioner or external receiver shall provide a written report to the school committee on a quarterly basis to provide specific information about the progress on the implementation of the school's innovation plan.

CHRONICALLY UNDERPERFORMING DISTRICTS

14. If a school district has scored in the lowest 5% statewide on the composite performance index for English and Math MCAS, the commissioner shall appoint a fact-finding team to assess the reasons for the underperformance. Upon review of the fact-finding report the Board may declare the district chronically underperforming. Following such a declaration the Board shall designate a receiver for the district with all the powers of the superintendent and the school committee.

15. Not more than 2% (six districts) of the Commonwealth's school districts may be designated as chronically underperforming at any given time.

16. The regulations allowing the Board to designate a district as underperforming shall include student attendance and dismissal rates, student promotion and graduation rates, or the lack of demonstrated improvement for 2 or more consecutive years in core academic subjects, either in the aggregate or among subgroups of students.

17. The commissioner and the receiver shall jointly create an innovation plan similar to the procedure outlined for underperforming and chronically underperforming schools.

18. The commissioner and the receiver shall report on the progress to achieve the provisions of the innovation plan on a quarterly basis.

CHARTER SCHOOLS

19. Senate 2216 redrafts existing law regarding charter schools; however, the majority of the proposed new law restates the current law. The major changes are summarized below.

20. Horace Mann charters currently require approval by the local school committee and the local collective bargaining agent. S.2216 only requires that Horace Mann schools be approved by the local school committee after consultation with the employee representative.

21. A Horace Mann school operating in an existing school building may, pursuant to a memorandum of understanding, waive provisions of collective bargaining agreements upon approval of the school committee and a majority of the school's faculty.

22. This bill creates a student recruitment and retention plan that requires charter schools to enroll students that reflect the population from which the charter school draws its students in 3 or more of several categories as follows: students eligible for free and reduced price lunch; special education students; limited English proficient students; sub-proficient students who have scored in the needs improvement or failing categories on the MCAS exam for two of the past three years, etc.

23. Currently, some charter schools take children off an existing waitlist as a vacancy occurs in the school. However, some schools do not fill vacancies, with the result being that children never get off the waitlist to attend the school. This bill requires charter schools to fill vacant seats as they occur, other than in grades 11 and 12, if they occur before February 15. If the vacancy occurs after February 15, the school must fill it the following September in the same cohort of students.

24. In addition to current law which prohibits pre-lottery interviews for the purposes of screening children, this bill prohibits parental contracts, mandatory volunteer time by parents and mandatory attendance at meetings from being conditions of enrollment at charter schools.

25. Charter schools may send mail to eligible students in the district and the district may send mail to currently enrolled charter school students from the district unless the parent objects.

CHARTER CAPS

26. Charter schools are currently not allowed to exceed 120 schools statewide of which 48 are reserved for Horace Mann charters and 72 are reserved for Commonwealth charters. Only 7 Horace Mann charters and about 53 Commonwealth charters have been

awarded. Furthermore, no more than 4% of the total statewide pupil population may be enrolled in charter schools. S.2216 eliminates these caps. Charter school tuition shall not exceed 9% of the district's net school spending or 18% of such spending for districts that score in the lowest 10% in their combined MCAS scores for the prior two years.

27. The legislation imposes a cap on the amount of tuition that can be kept from one year to the next. Any public money over 20% of a charter school's operating budget and planned capital budget for the following school year is returned to the state and the district in proportion to the Chapter 70/local aid share. Excluded from the 20% calculation are the following: money used to save for a capital purchase, the 4th quarter tuition payment, and money necessary to guarantee a bank loan.

28. Language in the bill provides that when chapter 70 aid is cut, the charter school foundation budget tuition component is cut proportionately.

29. In order to achieve efficiencies in providing services or making purchases, charter schools may become members of educational collaboratives and access bulk purchasing arrangements.

SENDING SCHOOL DISTRICT CHARTER REIMBURSEMENT

30. Current law requires that districts whose students attend charter schools shall be reimbursed for such costs as follows: year 1 for 100%; year 2 for 60%; and year 3 for 40%. The Education Committee draft contained the same formula. According to S.2216 charter schools will now be paid for the first year of increased costs directly, thus giving districts a 100% hold harmless provision in year 1 of an increase. In the second through the sixth years of the increase, the district will be reimbursed 25% of the increase each year. The reimbursement mechanism will be phased in, so that districts that are currently in the 100-60-40 model will continue to receive funds until the reimbursement is fully paid. MASS is proposing and MASC will be supporting a revision to the proposed reimbursement model as follows: 100-60-40 and 35% thereafter.

INNOVATION SCHOOLS

This bill creates Innovation Schools. These are district schools with increased autonomy and flexibility in all aspects of their operation. Any school in any district may take advantage of this new model, and the funding of these schools is the same as for any other school in the district.

31. The school committee, superintendent and teachers union collaborate on the development of these schools.

32. Two-thirds of the affected faculty are required to approve the school's innovation plan in the case of a school conversion. In the case of a new school, the teachers union will negotiate contract modifications.

33. Schools adopting this model may have an advisory board of trustees and engage in private fundraising.

34. These schools may be created by a wide variety of groups and individuals, including: parents, teachers, superintendents, school committees and non-profit organizations.

35. An innovation school must be authorized, for not more than an initial term of 5 years, by the local school committee.

REGIONAL SCHOOL TRANSPORTATION

Also included in the bill are provisions that allow regional school districts to charge reasonable transportation fees for children in grades 7 through 12 to offset district transportation costs. This provision is problematic due to the likelihood that in a difficult budget year such as next year the legislature may look to eliminate the remaining 29% of regional school transportation funding. Also, unlike cities and towns, regional schools would have to charge substantial transportation fees due to the distances students are transported. Section 11E states that regional school transportation payments may not be lowered in any fiscal year by a percentage greater than any reduction made to chapter 70 payments.

The full text of the Senate bill is on the MASC website (www.masc.org), as well as amendments to the bill proposed by MASC and the rationale for those amendments.