

Legislative Update

This is the MEA Legislative update. **Changes from previous editions of the Legislative Update are in bold typeface.** Please feel free to use any or all of this report in discussing issues with your membership or with public officials. If you have questions contact the MEA Field Based Lobbyist for your area. For previous issues of this Legislative Update, including the final version for 2009, go to <http://www.mea.org/gov/legislativeupdates.html>.

The protectors of special interest tax cuts, the ones that have gutted Proposal A over the past 15 years and created a \$2 Billion or so structural budget deficit for the State, started out 2010 with massive new assaults on the economic well being of thousands of school employees, police, fire and other municipal and county employees, and all employees of the State of Michigan. These new assaults are necessary if the massive special interest tax breaks are to be preserved while at the same time balancing the State's budget. In essence the proposals are to protect the special interest tax breaks by taxing public employees and balancing the budget on their backs.

This time the attacks on public employees are coming from the Senate Republican caucus and from the Democratic Governor. Below is a summary of both.

The Governor's proposal includes the following.

Health insurance for active employees – Require all new State employees to be covered by a less expensive health plan with less benefits and higher co-pays, deductibles, etc. Employees covered by this plan would be required to pay 20% of the premiums for the plan. **For school employees and other local employees, make this plan available as an opt-in that could be negotiated locally. Presumably, things like premium sharing could also be negotiated locally.**

Retirement Incentives – the Governor is proposing a combination of positive and negative incentives for school employees and State employees to retire this summer.

The positive incentive is an increase in the “multiplier” from 1.5% to 1.6% of final average compensation for all employees who **are immediately eligible for a full pension and who** retire with an effective date between July 1 and September 1, 2010. The cost of this additional retirement benefit is to be paid by the “applicable” school district, i.e., the local where the retiree worked. **The local school employer will not have any say over whether an employee may exercise this option.** The increase in the multiplier to 1.6% would increase the pension of people taking advantage of the incentive by 6.66%.

Phased in Retirement for some employees is another positive incentive of the plan. It would enable employees to retire under the incentive above and work a reduced schedule of no more than 50% of their previous schedule for up to 3 years. The employees could only work for the district from which they retired, and it would be up to the district to decide whether and who they wish to hire under this arrangement. The rationale for the proposal is to be able to retain difficult to replace employees on a reduced schedule for up to 3 years.

The negative incentives are numerous, including:

- **Elimination of all subsidies for retiree dental and vision insurance for anyone with a retirement effective date after October 1, 2010;**

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- **Increase the employee contribution by 3% for all employees who continue to work effective October 1, 2010 (the only exception is “MIP Plus” employees whose contribution was increased to 6.1% in 2008. These employees will have contributions increased by 0.9%);**
- **Cap of 30 years on the amount of earned service credit an employee may accrue starting July 1, 2010. Employees with more than 30 years as of that date would be capped at what they have earned. This does not affect purchased service credit which would be in addition to the earned service. After reaching the cap, employees would be in a defined contribution plan with a 4% employer contribution with an option for the employee to contribute 3% and a mandate that the employer match the employee contribution.**
- **For employees hired after October 1, 2010, a reduced pension system that will be a combination of a defined benefit plan and a defined contribution plan. They will have a DB plan similar to the current plan but with no purchase of service credit, no benefits till age 65, no COLA. The DC portion would be an option for the employee to contribute to a DC plan and the employer match the first 2% at a rate of \$1.00 for every \$2.00 the employee contributes (a 1% employer maximum).**

IT IS IMPORTANT TO BE AWARE OF THE FACT THAT ALL OF THESE RETIREMENT PROPOSALS WILL REQUIRE LEGISLATION AND THAT THE BILLS HAVE NOT EVEN BEEN INTRODUCED AS OF NOW. BOTH THE SENATE AND THE HOUSE OF REPRESENTATIVES WILL BE REQUIRED TO PASS IDENTICAL VERSIONS OF THE BILLS AND SEND THEM TO THE GOVERNOR TO BE SIGNED BEFORE THEY CAN BECOME LAW. TELL EVERYONE NOT TO PANIC AND MAKE ANY HASTY DECISIONS UNTIL THE ACTUAL DETAILS ARE KNOWN.

The Governor is also proposing that local government and school districts be required to obtain competitive bids for all contracts over \$50,000. Yet another proposal is to amend the Urban Cooperation Act and the Inter-governmental Transfer Act to provide that the highest pay level is not required when local units combine or combine services.

A substantive change for school districts, if enacted, is the proposal by the Governor to require districts to “submit required consolidation and shared services plans to the Michigan Department of Education for review and approval.” Apparently these plans could entail combining districts, sharing administrators and/or sharing non-instructional support service employees across district lines or among districts and ISDs. If MDE history is any indicator, there will be very little consolidation of or sharing of administrators but a great deal of forced elimination of the actual people who deliver services to children.

A positive in the Governor’s proposal is a call for a biennial review of all “tax expenditures”, i.e., tax breaks. The proposal points out that Michigan has enacted some \$36 BILLION in tax exemptions, credits, loopholes, etc. The Governor proposes that they be reviewed every two years with an eye toward keeping the ones that work and/or still make sense, and eliminating the ones that do not accomplish what they set out to do. Since about \$1 Billion per year (plus) of these tax loopholes has been taken out of the school aid fund, we welcome the call to carefully scrutinize these breaks.

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The Governor has a series of proposals that sound good but amount to little more than window dressing when it comes to actual budget savings or governmental efficiency. They include going to a two year budget system, biennial budget presentations, an additional revenue estimating conference every year, disclosure of the full cost of legislation, tying legislative pay to budget performance, and adoption of “pay-as-you-go” budgeting. While they sound good and may save a little bit, these ideas will not make a serious dent in the structural deficit.

The entire proposal of the Governor may be found at <http://www.michigan.gov/gov/0,1607,7-168-55273---,00.html>

An explanation of her retirement proposal by the House Fiscal Agency can be found at http://www.house.mi.gov/hfa/PDFs/2010%20Gov%20Reform%20Memo_MPSERS.pdf

The “Reform” package of the Senate Republican caucus is in bill form and the bills have all been introduced and referred to the Senate Committee on Reforms and Restructuring. The bills in their entirety may be found at [http://www.legislature.mi.gov/\(S\(5g4youryonb5yiunuhe4g5yl\)\)/mileg.aspx?page=home](http://www.legislature.mi.gov/(S(5g4youryonb5yiunuhe4g5yl))/mileg.aspx?page=home)

The bills that have been introduced so far are:

SB 1074 (Pappageorge (R) – Troy) – Mandatory Outsourcing of Non-instructional Support Services. The bill would require all school districts, including ISDs, to outsource all custodial, food service and transportation services no later than January, 2011. The bill allows the current union to bid on the services and mandates acceptance of the lowest bid. It specifically provides that such outsourced employees may not be employed by the district which means that the employees would automatically lose credit in the school employees retirement system.

SB 1073 (Birkholz (R) – Saugatuck) – Limit Expenditures for Support Services to 28%. The bill amends the State Aid Act to limit districts to spending no more than 28% of general fund expenditures on “supporting services”, except for instructional support services. Contrary to the publicity about the bill, it is not merely a limitation on administrative expenditures since it would include in the 28% cap things like counseling services, psychologists, social workers, speech therapy, transportation, custodial, food service and a host of other non-classroom activities that are essential to quality education.

SB 1046 (Jansen (R) - Grand Rapids) - Employee Payment of Health Care Cost. The bill proposes a new act that provides that a public employer can pay no more than 80% of the cost of health care plans provided to its employees. The limitation would rise to 85% of the cost for plans that include both a wellness plan and a health savings account.

SB 1047 (Sanborn (R) – Richmond) – Access to State Civil Service Health Plans. This bill allows the State Civil Service Commission to establish health plans that other public employers could use to purchase health benefits for their employees. The local public employer would be required to provide payment for the total cost no later than the first day of each month for which coverage is provided.

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SJR P (Jansen (R) – Grand Rapids) – Constitutional Amendment on Cost Allocation. This Senate Joint Resolution would place before the voters an amendment to the State Constitution to empower the Legislature to establish “cost allocation” among public employees and employers, and prohibit any collective bargaining, local or state civil service rule or other provision that is not in compliance with the allocation established by law. In other words, this constitutional amendment would authorize the Legislature to do what is proposed by SB 1046, above.

SB 1072 (Richardville (R) – Monroe) – Police and Fire Binding Arbitration amendments. This bill proposes to amend Act 312 of 1969, the law that calls for bargaining disputes involving police and fire personnel to be submitted to binding arbitration if the parties cannot reach a settlement. The bill proposes to set an absolute limitation of 180 days on the times an arbitration hearing can take to complete. It also proposes that the employment relations commission establish mandatory training for arbitrators involved in the process. Finally, it proposes that each side be required to provide the arbitration panel with an initial offer of settlement on each outstanding issue and a final settlement offer on each issue within 14 days of the commencement of the hearing.

SB 1085 (Jansen (R) – Grand Rapids) & SB 1086 (Hardiman (R) – Kentwood) – Limits Pay Rates for Combined Local Services. These bills propose to amend the Inter-Governmental Transfer Act and the Urban Cooperation Act by adding a provision to each of the laws to the effect that nothing requires that employees of any joint or consolidated activities and entities must be paid at the highest pay rate of any of the units involved. These laws apply to school districts as well as other local units of government and would mean that schools could consolidate or share services and some employees might suffer a pay reduction.

FUNDING – The Governor presented her budget last week. A summary of the proposal by the House Fiscal Agency can be found at <http://www.house.mi.gov/hfa/schoolaid.asp>

The executive budget features maintaining funding at the same level in 2010-11 as it is in the 2009-10 budget. This in turn sets the per pupil foundation allowance for each district at the level of the 2008-09 budget but directs that each district reduced its overall funding by \$165/per pupil, but leaves it up to the district to decide where to take the money.

Categorical and other areas of the school aid budget are also proposed to remain at the 2009-10 level. Essentially, this is a status quo budget proposal, holding K-12 schools harmless from further cutbacks.

However, the spending levels proposed by the Governor are predicated on passage by the Legislature of a new revenue package tied to reducing taxes on some business, reducing the sales tax and use tax rate to 5.5% from the current 6% level, and expanding the base to which the sales and use taxes apply to include most services provided in Michigan. By 2013-14 this proposal would be revenue neutral, but next year it would raise some \$554 million in new revenue for schools, \$327 million in 2011-12 and \$48 million additional revenue in 2012-13. As expected, the Senate Republican leadership indicated that it will not deal with this revenue proposal, but, quite unexpectedly, the House Democratic

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Speaker declared, “the proposal is dead on arrival”. In other words, we are all worried about re-election and we don’t care about education.

Without additional revenue, K-12 education faces another reduction in 2010-11 of about \$250/per pupil over and above the \$165/per pupil suffered this year.

Consolidation of Services – The budget proposal requires districts to implement “consolidation of service” plans by the beginning of 2011-12. These plans are required to implement the most cost effective method of providing the following services: purchasing, payroll, financial accounting, facilities maintenance, pupil transportation, human resources, technology and food services. Each district and each ISD is required to put together the most cost effective method of providing these services.

The budget bill provides that if the district is most cost effective, it may use its own plan. If it is not the most cost effective, it must use the ISD to provide the service or face a reduction of 1% in its total state aid. The ISD may change the district(s) for this service.

“Race to the Top” School Reform – On December 18 & 19 the Legislature took final action on the bills it deemed necessary to qualify for Race to the Top funding. The bills went to the Governor and were signed into law on January 4th. Differences in HB 4787, HB 4788, SB 925 and SB 926 were worked out in conference committees and voted on in both houses of the Legislature.

IN THE FINAL ANALYSIS, THE MEA OPPOSED THE PACKAGE BECAUSE ALL OF THE EMPLOYEE PROTECTIONS IN A SCHOOL TAKEOVER SITUATION THAT WERE PART OF THE HOUSE PASSED VERSIONS OF HB 4787 AND HB 4788 WERE STRIPPED OUT AT THE INSISTENCE OF HOUSE NEGOTIATORS ON THE CONFERENCE COMMITTEE AND THE STATUS OF EMPLOYEES IN A SCHOOL TAKEOVER SITUATION WAS RETURNED TO WHAT IT WOULD HAVE BEEN IN THE ORIGINAL VERSIONS OF THE BILLS AS INTRODUCED BY REPS MELTON AND JOHNSON IN THE SPRING OF 2009.

The RTTT legislation that was adopted on December 18-19, 2009 and signed into law by the Governor includes the following:

HB 4787 (2009 PA 204) – This bill does several things, first and foremost of which is a detailed plan to improve the lowest performing 5% of school buildings in the State. It creates the position of State Reform/Redesign Officer (SRRO) appointed by the State Superintendent of Public Instruction. The SRRO identifies the lowest performing 5% of districts as defined by the federal Race to the Top (RTTT) guidelines. Districts in which these schools are located have 90 days to develop an acceptable plan, including negotiated addenda to applicable collective bargaining agreements, and submit the plan to the SRRO. Each plan would have to implement one of the RTTT models for the building, the Turnaround Model, the Restart Model, the Transformational Model or School Closure. The SRRO may approve, modify or reject the plans that are submitted. The local board would have 30 days to adopted modifications, and it would have the right to appeal a rejection to the State Superintendent. Once a model is implemented, regular reports must be submitted to the SRRO.

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It creates a single State School Reform/Redesign School District to be made up of all school buildings whose redesign plan was rejected by the SRRO and all schools that implement a plan but fail to make adequate progress under the plan. The SRRO would be the superintendent of this district and would have all powers and duties of the school boards that sent buildings to it except powers of borrowing and taxation. The SRRO could implement one of the four RTTT models to change the schools in this district and could impose changes in collective bargaining agreements to do so, or in the case of a Restart Model provide that no collective bargaining agreement would be in effect.

The bill also allows the SRRO to appoint a CEO for a group of failing schools if s/he deems it likely to achieve better educational results.

The bill raises the mandatory attendance age for students in Michigan to age 18 starting with the students who reach age 11 by December 1, 2009 or who enter grade 6 after 2009. It contains an opt out provision allowing parents of students who are at least age 16 to allow them to drop out of school.

The bill expands the personal curriculum for high school students. It allows a teacher or counselor of the student (in addition to the parent) to request a personal curriculum. The personal curriculum would be developed by a group that includes a teacher of the student with expertise in the subject area. To be eligible the student must have completed, but not necessarily passed, at least 1 ½ credits in mathematics before that curriculum could be modified (previously it was 2 ½ credits).

HB 4788 (2009 PA 201) – Amends the Public Employment Relations Act (PERA) to limit employee rights in accordance with HB 4787 above, and provides the right to bid on support services that school districts plan to outsource.

The bill adds a provision to the sub-section that prohibits bargaining on the decision to outsource non-instructional support services that limits the application of this prohibition. Specifically, it says that the prohibition against bargaining only applies if the bargaining unit currently providing the services is given an opportunity to bid on the contract for the non-instructional services on an equal basis as other bidders.

It provides that the SRRO is the public employer for any schools that are placed in the State Reform/Redesign School District and any CEO appointed over several buildings is the public employer for the buildings placed under the control of the CEO.

HB 5596 (2009 PA 202) – Mandates that the Superintendent of Public Instruction develop an alternative method to achieve teacher certification. People who possess a bachelor's degree or higher from a regionally accredited college or university and who have been accepted into an approved program for alternative certification may be issued an "interim" certificate by the state superintendent. To be an approved program, the program must provide intensive training that the state superintendent deems equivalent to at least 12 hours of college credit, has a proven record of producing successful teachers in other states and only accepts candidates with BA or higher degrees and a grade point average of at least 3.0 on a 4.0 scale. A district that hires a person with such an interim teaching certificate must agree to provide intensive supervision and

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coaching as defined by the state superintendent. Persons teaching may teach under an interim certificate on the same basis as persons who hold other certificates provided these people are making meeting the requirements to be awarded a Michigan teaching certificate under Section 1531 of the school code.

SB 981 (2009 PA 205) – This is another multi-part school code bill that implements several changes in the RTTT package. It creates a new category of charter schools called “Schools of Excellence” which are to be high performing charter schools in areas of high student need. It allows up to 10 new charter Schools of Excellence in a 5 year period to be located in school districts with a graduation rate below 75% as determined by the state department. At least the first 5 of these schools must offer 1 or more high school grade levels (9-12).

The act allows 2 of the 10 new charter Schools of Excellence to be cyber schools. These schools may enroll students who were previously enrolled in a public school (as opposed to home schooled students). They must offer all grades, K-12. They must have previous experience in another state operating schools that serve urban, high risk students through a model that involves a significant cyber component. Each of the two schools is limited to 400 students with an ability to expand to a total of no more than 1,000 students by adding one additional slot for each enrolled student above 400 that is identified as a drop out in the Michigan data system.

It allows high performing charters schools to convert to Schools of Excellence which opens a slot for a replacement charter school. To be eligible to convert to a School of Excellence a charter school at the elementary level (K-8) must either have 90% or more of its students score proficient or above on the math and language MEAP tests over a 3 year period; or, be a school with at least 50% of its student population eligible for free or reduced lunch and at least 70% of its student population scores proficient or better on math and language portions of the MEAP over a three year period. For secondary charter schools to convert to Schools of Excellence the school must have at least an 80% average attendance rate, at least an 80% graduation rate and have at minimum an 80% post secondary enrollment rate.

The law allows the authorizer of a charter that converts to a School of Excellence to replace the school that has been converted with a new charter school.

The law prohibits authorizers from issuing new charter school contracts in a school district that has a graduation rate over 75.5% on average for the past three school years.

It requires school administrators to be certified as administrators after the law goes into effect. It requires the state board and state superintendent to develop the administrator certification program and to recognize alternate pathways to administrator certification.

Requires school boards to work with teachers and administrators to develop and implement evaluation systems that are rigorous, transparent and fair. The systems are to insure that teachers and administrators are evaluated at least annually. They are to establish clear approaches to measuring student growth and provide teachers and administrators with relevant data on student growth. The evaluation systems are to evaluate job performance taking into account multiple rating categories with student growth as a significant factor.

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These evaluation must be used to inform decisions about job effectiveness, while insuring ample opportunities to improve; promotion, retention; development, while providing coaching, instruction support and professional development; whether to grant tenure or full certification; and removing ineffective tenured and untenured teachers and administrators after giving ample opportunities to improve and ensuring that these decision are made using rigorous standards and streamlined, transparent and fair procedures.

The law provides high school curriculum flexibility in meeting the math requirement by allowing students to complete algebra II over 1.5 years with 1.5 credits awarded, and to partially or fully fulfill the algebra II requirement by completing formal career or technical educational programs that have appropriate embedded mathematics content.

SB 926 (2009 PA 203) – this bill makes technical and substantive changes to the state school aid act. One of the substantive changes is a requirement that the Center for Educational Performance and Information (CEPI) create and implement a teacher identifier system with the ability to match an individual teacher and individual students that the teacher has taught. With appropriate privacy safeguards the system would be required to make annual assessment of student records including educational growth data, to be able to be correlated with individual teachers. This data would be accessible to teachers, administrators and school board members so they can make informed decisions in order to improve instruction and student achievement.

The other substantive change in the bill is a provision that requires boards to provide teachers with adequate access to “basic instructional supplies”. A teacher or principal without adequate basic instructional supplies could file a claim with the department of education which would have 3 business days to contact the district who would have to respond with the supplies or with a plan to provide the supplies. If the department is not satisfied with the district’s response it could investigate or it could withhold a portion of total funds due to the district and use the money to provide the supplies.