

## Legislative Update

This is the MEA Legislative update. 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 go to <http://www.mea.org/gov/legislativeupdates.html>.

The Legislature has recessed for a two week Thanksgiving/Deer Hunting recess, to be followed by two weeks of session in early December and then adjournment for the year. We anticipate that there could be an effort to make a deal to trade the First Class Status for Detroit for the School Re-Structuring, Charter School Expansion or the Neighborhood Voucher Schools. The lobbyists request that for the next few weeks, communication take place with you legislators around these issues and Privatization/Outsourcing and Campaign Finance.

### **SCHOOL RE-STRUCTURING. ON NOVEMBER 19<sup>TH</sup>, REP. TIM MELTON (D-PONTIAC)**

**INTRODUCED HB 6705 DEALING WITH SCHOOL RESTRUCTURING. THE CHANGES IT PROPOSES TO THE SCHOOL CODE WOULD APPLY TO SCHOOL BUILDINGS THAT ARE NOT ACCREDITED FOR FOUR YEARS OR THAT DO NOT MAKE AYP IN BOTH READING AND MATH FOR AT LEAST FOUR YEARS. AT THE END OF FOUR YEARS, THE LOCAL BOARD OF EDUCATION MAY ENTER A CONTRACT WITH AN OUTSIDE ORGANIZATION TO ADMINISTER THE SCHOOL. IF THE LOCAL BOARD DOES NOT DO SO, AFTER FIVE YEARS NOT MAKING AYP, THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL ENTER A CONTRACT WITH SUCH AN ORGANIZATION TO ADMINISTER THE SCHOOL FOR FIVE YEARS. THE STATE SUPERINTENDENT WOULD HAVE TO DEVELOP A LIST OF APPROVED ORGANIZATIONS BASED UPON CRITERIA THAT SHOW A TRACK RECORD OF MANAGING SCHOOLS IN A MANNER THAT IMPROVES STUDENT ACHIEVEMENT.**

**THE MEA IS OPPOSED TO THE BILL AS IT STANDS. IT IS UNCLEAR WHETHER THE BILL WOULD RESULT IN ELIMINATION OF THE ENTIRE STAFF OF SUCH A BUILDING, BUT SOME COULD ARGUE THAT IT DOES. UNDER SUCH ARGUMENTS, THE BARGAINING RIGHTS OF EMPLOYEES COULD BE JEOPARDIZED, THE TENURE RIGHTS OF TEACHERS COULD BE UNDER ATTACK, AND THE ENTIRE STAFF COULD BE DISPLACED. THERE IS ALSO A CONCERN THAT THE OUTSIDE CONTRACTOR CONTROLS ALL OF THE STATE AID FOR THE STUDENTS IN THE BUILDING EXCEPT FOR 3% THAT CAN BE RETAINED BY THE DISTRICT FOR ADMINISTRATIVE CHARGES. THE EFFECT COULD BE TO LEAVE INSUFFICIENT FUNDS FOR THE REMAINDER OF THE DISTRICT TO FUND NEEDED PROGRAMS AND STAFF. IN ADDITION, THE CRITERIA USED BY THE STATE SUPERINTENDENT TO APPROVE THE OUTSIDE ORGANIZATIONS WOULD PUT A PREMIUM ON THOSE WHO HAVE ALREADY DONE IT, THEREBY EXCLUDING MANY QUALIFIED GROUPS WITH THE ABILITY BUT NO TRACK RECORD.**

The Senate has passed SB 1013, an amendment to the school code dealing with re-structuring of schools that "fail". Current law provides that a school that is not accredited for three consecutive years may be turned over to an outside specialist, it may be closed, it may be aligned with a research based improvement model, or its parents may enroll their children in any other school in the district at public expense. SB 1013 adds failure to make AYP for three years as a reason for these consequences to kick in. We have reliable information that some House members intend to use this as a vehicle bill for more extensive take over of schools that fail to make AYP for some period of time.

**RETIREMENT.** SB 1450 been reported out by the Senate Education Committee to the full Senate. It removes community college employee from the Michigan Public School Employees

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Retirement System (MPERS). MEA opposes the bill. It would de-stabilize the system by taking more employees out and thereby increase the cost to the remaining employers, a cost that comes out of the general operating budgets. It would also place future retirement benefits in jeopardy by virtue of the fact that funding has been de-stabilized. Urge your member of the Michigan Senate to vote "NO" when the bill is taken up. This may occur during the week of December 1<sup>st</sup>.

**FIRST CLASS DISTRICT STATUS FOR DETROIT.** The School code defines a first class district as one with more than 100,000 student enrollment. Currently that is Detroit and no other district. Detroit has been losing 10-12 percent of its student population for several years, and the preliminary "fourth Friday count" was just above 89,000 students. District officials have said they expect the final count for 2008-09 to be approximately 96,000 students, well below the 100,000 threshold to remain a first class district. Detroit legislators are seeking ways to change the definition so that Detroit keeps the first class designation. The biggest reason for them to do so is that community colleges cannot authorize charter schools in a first class district. In other words, Detroit is immune from the glut of charter schools authorized by Bay Mills C.C. in recent years.

**CHARTER SCHOOL EXPANSION.** In a surprise move on Wednesday, September 24, 2008, Senate Republicans amended SB 1252 to make it easier for charter schools to expand into different grade levels without opening their enrollment to all students. That would make "cherry picking" students even easier for charter schools. The bill originally dealt with school districts sharing criminal background checks on bus drivers, but the floor amendments turned its purpose upside down. The bill passed the Senate on September 24, 2008 and now goes to the House of Representatives where its future is unknown. As of today, MEA strongly opposes the bill in its current form.

**HB 4533 OUTSOURCING/PRIVATIZATION** would remove the prohibition against bargaining over outsourcing or the impact of outsourcing that is currently contained in PERA. The bill passed the House in May, 2007 and was referred to the Senate Education Committee. The MEA supports this bill and we continue to seek ways to move the bill through the Senate and onto final passage.

**CAMPAIGN FINANCE, HB 4628** makes several changes in the Campaign Finance Act. These include removal of the requirement to have an annual authorization to collect PAC contributions by payroll deduction and a provision to allow payroll deduction of PAC contributions by public employers. The MEA supports this bill.

**NEIGHBORHOOD VOUCHER SCHOOLS.** One of the possible attacks on public education that could occur in the lame duck session is a trade off of the so called Neighborhood (voucher) Schools concept for a change in the School Code to protect the status of Detroit as a first class school district (see below). In a clever bit of wordsmithing, opponents of public education are now stealing the name "Neighborhood Schools", a name traditionally associated with the best of public education, as a means of allowing all comers to create a publicly funded school, what some are calling neighborhood voucher schools. There are no specific bills pending, but the concepts being circulated in Lansing are a system whereby any person or group of people could create a school and receive funding from the state. These ideas seem to suggest that no public

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body would need to authorize these schools and that there would be even less oversight and control than currently exists for charter schools.

The MEA lobby team is working hard to head off the adoption any proposal that would harm public schools and to insure that anything that might be adopted is beneficial to public education. We have ongoing meetings with leaders and committee chairs of both parties in the House and the Senate, as well as key legislators on these issues. We are in dialogue with members of the Detroit delegation in both the Senate and the House. The lobbyists are examining all pending bills to be ready for any effort to modify any existing bill(s) to accomplish a new voucher scheme, and are checking with legislators and staff to get a heads up on any amendments that may be introduced.

**PRIVATIZATION COST STUDY HB 6270 AND HB 6342** would require a cost benefit study prior to any decision by a school board to outsource/privatize support services in the schools. These bills were introduced in recent weeks and referred to the House Education and House Labor committees respectively. HB 6270 contains standards for such a study, a requirement that it be made public prior to any decision to privatize and any decision to renew a contract with a privateer and requirement that it offer significant savings if it is done. The MEA supports the bill.

**CLAIMS DATA, HB 5454** would fix the problems created by SB 418 (P.A. 106). It would change the required claims data to be released to the data on which the district has been rated. This is what we attempted to achieve when SB 418 was moving. However, the House leadership refused to make passage of this bill the price for the Senate leadership to get the fix it wanted on the “service tax” when that issue was addressed in December, 2007.

**PROPERTY TAX FREEZE, SJR P and HJR III.** HJR III passed the House of Representatives on 9/25/08, but it has not been transmitted to the Senate for consideration. These resolutions call for amendment to the Michigan Constitution to further limit the increase in the “taxable value” of property. Currently, taxable value increases from year to year are capped at 5% or the increase in the CPI, whichever is less. These resolutions would cap the increases at the increase in the market value of the property for any year where that was less than 5% AND less than the CPI increase. For years when the value of the property goes down, the taxable value would be the same as the previous year. The estimates are that this proposal would cost the School Aid Fund between \$65 million and \$100 million per year in lost revenue, and would cost local units of government up to \$500 million per year. MEA OPPOSES the resolutions.

**COMMUNITY COLLEGE RETIREMENT, SB 1450,** would remove all newly hired, after January 1, 2009, employees of Michigan community colleges from the Michigan Public School Employees Retirement System. MEA opposes the bill because it would deprive such employees of a pension plan and health benefits into retirement and it would force up the contribution rate for all remaining educational employers in the system. The bill had a hearing before the Senate Education Committee on September 24, 2008.

**RIGHT TO WORK ZONES, SB 1457** sponsored by Sen. Nancy Cassis (R) Novi proposes to amend section 14 of the Michigan Labor Mediation Act (MCL 423.14). It would allow the governing body of any city, county, township or village to adopt a measure creating a right to work zone within its boundaries, or approve a citizen initiative creating such a zone. If adopted,

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the Employment Relations Commission shall not enforce an all union shop agreement covering employees within its boundaries. The bill was introduced on September 9<sup>th</sup> and referred to the Senate Commerce and Tourism committee. So far there is not action scheduled on the bill, but it could be taken up at short notice if the leadership so decides. The MEA lobbyists are monitoring this bill which we strongly oppose..

**HIGHER EDUCATION BUDGETS.** The Consensus Revenue Conference is now projecting that the state general fund budget (GF/GP) will have a reduction of \$279.5 million (or 3.1%) in 2008-09 when compared to 2007-08. This will result in further downward pressure on the higher education budgets as they work through the process.

**Community College Funding, SB 1093,** as passed into law provided an overall increase of 2% over this year, with individual increases ranging from 1.6% to 2.6%. (A listing of individual college increases is available.)

**University Funding, SB 1099** ended up providing an overall increase of 1% with individual increases at 1% for all universities including the three “Research Universities”.

**BUDGET 2007-2008.** Public Act 137 of 2007 (HB4359) is the 2007-08 state aid bill. Public Act 137 of 2007 (HB4359) reestablishes the formula in place after Proposal A, which sets a new basic foundation allowance for FY 2007-08 at \$8,433. Districts at or above the basic will receive an increase of \$48 per pupil. Districts at the current minimum foundation of \$7,108 will receive twice that increase or \$96 per pupil. Districts in between will receive an increase on a sliding scale based on the formula between \$48 and \$96 per pupil. PA 136 (HB 4350) for colleges and universities, and PA 120 (HB4360) for community colleges allocated an overall increase in funding of 1%, as well as restoring the cuts and delayed payments from the 2006-2007 budget.

A 2007-08 School Aid Budget Supplemental bill, HB 5531, was signed into law on April 29, 2008 as PA 112 of 2008. The Act provides for negative adjustments to the total spending for foundation allowances and special education based on updated student counts. Additionally, it restores the \$4.7 million that was cut from the Michigan School Readiness Program grants last fall, it adds \$1.3 million for grants to sparsely populated rural districts, \$0.1 million for competitive Cultural Access Grants and \$80,000 for Newslines (a news service for the visually impaired). It also includes two expenditures that MEA opposed. Those are \$3.3 million for the Department of Education to establish an assessment item test bank, and \$0.6 million for the Department to develop end-of-course prototype assessments.

**2008-09 BUDGET BILLS.** On May 16<sup>th</sup> the budget process took a step forward with the report of the May Consensus Revenue Estimating Conference. That report estimates that revenue dedicated to the School Aid Fund (SAF) for 2008-09 will be \$11,707,400,000 which is some \$163.2 million less than they estimated in January.

The state aid bill this year is SB 1107, and with differing versions passed by the House and Senate, the bill was sent to a conference committee to resolve the differences between the House

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and Senate passed versions. The Conference Committee met and passed out a Conference Report on July 17, 2008, the Conference Report was adopted by both the House and Senate, and the Governor signed it into law on August 6, 2008.

The new School Aid Budget provides for per pupil allowance increase of \$56.00 or 0.66% for the highest districts and \$112.00 or 1.5% for the lowest districts, with districts in between on a scale between the two figures. That makes the minimum foundation \$7,316 and the base foundation \$8,489 for the 2008-2009 school year. The Governor had proposed selling \$300 million in bonds to create small high schools. MEA opposed this based on the cost to the school aid fund of over \$34 million per year for the next twenty years. Ultimately, the legislature passed a modest proposal of a one year funding of \$15 million for the small school initiative. No more than 1/3 of the grants can be awarded to public school academies. GF/GP "Bleeding" rises to about \$240 million. This is money which is now being paid by the school aid fund which was previously paid by the general fund. One example is school bus inspections which was previously paid out of the State Police budget.

### **Other Budget Highlights.**

Declining Enrollment is maintained at \$20 million. Child and Adolescent Health Centers increased by \$1 million. Early Childhood Investment Corporation (ECIC) Great Start Communities Grants increased by \$5 million. Michigan School Readiness Program (MSRP) increased by \$2.5 million which provides 735 more at risk four year old children able to participate. The ISD General Budget allocation increased by 1%. A new provision allocates \$725,000 to create Algebra Credit Recovery Grants. This replaces the previous middle school math grants from the prior budgets. Adult Education was maintained at \$24 million.

### **Higher Education.**

Community Colleges got an overall increase of 2% over this year, with individual increases ranging from 1.6% to 2.6%. (A listing of individual college increases is available.) Universities – Overall increase of 1% with individual increases at 1% for all universities including the three "Research Universities".

**CHARTER SCHOOL ACCOUNTABILITY.** HB 6178, sponsored by Rep. Mary Valentine was introduced recently, and has been reported out to the full House of Representatives by the Education Committee. In the version reported out, the bill would require that at least 1/3 of the members of a charter school board of directors must be parents of students enrolled in the charter school. The MEA supports this bill.

**RETIREE RE-EMPLOYMENT.** Current law allows retirees in "critical shortage" areas to be employed for up to six years with no reduction in their pension benefits. There is little control over what is a shortage area, and the district that employs such retirees makes no contribution to the pension system, and saves the cost of fringe benefits since the retirement system pays them. HB 4593, sponsored by Rep. Tim Melton, sought to increase the number of years to 10. The MEA has worked to craft a compromise that increases the number of years to 8 that a retiree may be employed while also requiring districts to make contributions to the retirement system for the health benefits of such retirees. The bill was reported to the full House on June 10 in a form that would require payment for health benefits to begin in the third year such a person is employed. It would also require greater certification by district officials that they have sought qualified applicants for the positions. MEA supports this compromise.

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**THIRD GRADE READING.** SB 1275 is a proposed amendment to the state school aid act that would require extensive program changes and testing requirements for students in grades 1-3, along with considerable follow-up in the upper elementary and middle school grades for students who are not reading at grade level by grade 3. While there have been no official cost estimates for the bill, we believe that the cost to school districts would be in the tens of millions of dollars and could run into the hundreds of millions. So far the bill has not been taken up, but indications are that it may be considered in the near future, perhaps along with the budget. In its current form, the MEA opposes the bill.

**READING REQUIREMENTS FOR CERTIFICATE RENEWAL.** The MEA lobby team is working with legislators on a proposal that has surfaced recently in the Senate Education Committee to add a requirement that all teachers complete a course in reading disabilities and differentiated instruction not later than July 1, 2011 or have their certificate invalidated. As of May 15 the Senate Education Committee reported SB 842 (version S-3) to the full Senate. Due to our efforts, and contrary to some media reports, this version does **NOT** contain a requirement for all existing teachers to complete a 3 credit reading course in order to renew their certificates. Instead, it requires school districts to provide at least 5 days of professional development dedicated to the diagnosis and remediation of reading disabilities for all teachers except those who hold a provisional certificate. For holders of provisional certificates as of July 1, 2009 the requirement to take a course in reading disabilities in order to attain a professional certificate remains the same as current law. This version passed the Senate as is now in the House Education Committee. As of today, MEA supports this version of the bill.

**CERTIFICATION (STATE BOARD).** The State Board is in the process of changing teacher certification requirements. Those working on these changes believe it will take at least one year to develop. However, discussions regarding new certification requirement involve adding a “subjective criterion” (e.g., a subjective evaluation by an administrator or other person that would be a mandatory part of the certification renewal process) that would in effect provide for a continuing probationary period. We have been asked to participate in a workgroup to address our concerns over the possible change from objective standards (years of teaching experience and class hours) to one that would give administrators (some without education degrees and experience) the authority to determine continued employment of a trained and “highly qualified” teacher.

**MANDATORY FULL DAY KINDERGARTEN, SB 162 and HB 4662.** HB 4662 is getting some movement in the House while SB 162 languishes in the Senate Education Committee (see the 4/29/2008 Legislative Update for more detail). A substitute version of HB 4662 has been reported to the floor of the full House of Representatives. This version requires a district to provide kindergarten classes. Beginning in 20011-12, for any district that has not made adequate yearly progress under the NCLB law, it would require that the length of the kindergarten day be the same as the day of other elementary school grades operated by the district. For all districts it would phase in as of 2011-12 a requirement that a child be age 5 by September 1 of the school year in order to be eligible to attend kindergarten that year.

**KINDERGARTEN FUNDING.** Related to the full day kindergarten proposals is the issue of per pupil funding for kindergarten students. Under the current state aid act all kindergarten students

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count as a per pupil FTE whether they attend for a full day or for a partial day. The State Aid Budget changed the funding scheme as follows:

- (1) Beginning in 2009-2010 FTE's for Developmental Kindergarten or Pre-kindergarten or a similar class intended to be the first of 2 years before grade 1 will be determined by dividing the number of class hours by the hours required for grades 1-12.
- (2) Beginning in 2010-2011 FTE's for regular Kindergarten will need to have 60% of the hours required for grades 1-12.
- (3) Beginning in 2011-2012 FTE's for regular Kindergarten will need to have 70% of the hours required for grades 1-12.

**PUBLIC EMPLOYEE RETIREMENT HEALTH CARE, HB 5913.** While nothing will happen on this issue this week, the bill is under active consideration and discussion. This bill will authorize and create irrevocable public employee retirement health care trust for the purpose of holding, investing, and distributing assets to be used for post-employment health care benefits as well as set forth certain rights that public employees have in retirement health care benefits. This is one possible vehicle for discussion of the whole question of how to pay for retirement health care benefits for public employee retirees, including school retirees. The issue is being discussed in the House Public Retiree Health sub-committee, chaired by Rep. Mark Meadows (D-East Lansing). MEA has been meeting with and monitoring the activities of this committee.

**HB 5375 the MICHIGAN PROMISE ZONE ACT,** this bill creates a new law to provide assistance with the cost of higher education for low income students. The bill would allow any local district, ISD, city, township, in which the number of children at or below the federal poverty level exceeds the average in the state, to create a "Promise Zone Authority". This authority would be allowed to provide financial assistance to students from within the authority for the cost of higher education. The authority would be financed by donations and by capturing one-half of the growth in the State Education Tax revenue within the authority

The bill passed the House on December 13<sup>th</sup> and is in the Senate Education Committee. MEA has concerns related to the fact that this is yet another hit to the school aid fund for something that is not a K-12 expenditure.

**ACADEMIC FREEDOM BILL, HB 6027,** sponsored by Representative Moolenaar (R-Midland). This Bill adds significant protections to academic freedom. The State Board, Board of the local school district or ISD, and other public school officials shall endeavor to assist and allow teachers to help pupils understand, analyze, critique, and review and an objective manner the scientific strengths and weaknesses of existing scientific theories pertinent to the course being taught. MEA opposes.

**MANDATORY ATTENDANCE AGE. HB 4042/SB 11 and HB 5594** would establish a mandatory attendance age of 18. See the Legislative update for 04/29/2008 for more details.