

Statement of the West Virginia School Board Association (WVSBA) regarding Senate Education Committee's omnibus public education legislation

The West Virginia School Board Association (WVSBA), an organization comprised of the state's 55 county boards of education and 275 elected county board members issues this statement in regard to the Senate Education Committee's omnibus public education legislation having advanced from the committee Friday, January 25, 2019.

Preliminary Considerations

In the onset it is important when considering education reform to have clearly articulated goals. Without goals for education reform, it is difficult to judge whether any proposed policy changes will improve our public educational system.

A central goal of public education reform should be a firm, dedicated focus on improving student achievement, especially those students whose parents lack the resources, the energy, the ability, the desire and/or the will power to effectively aid their children to become successful learners. Obviously, educating students - students from all socio-economic standings - is becoming more difficult due to the opioid problem plaguing our communities, changing family structures, varying economic enclaves throughout the state and other factors.

Indeed, parents may not be capable of providing supports necessary for children to thrive in West Virginia's public education system. To the extent that reforms fail to improve achievement for students or, worse, make educating students more difficult, public education reform efforts likely will fail. Public education reform demands commitment for proper study, allocation of time and dedication of resources.

We urge you to judge the ensuing considerations against these reform pronouncements.

Structural considerations

Omnibus bill

- The legislation encompasses revisions to numerous sections of existing law and adds other proposed provisions of law. The terminology “omnibus” is employed is to refer to these legislative proposals which are sweeping.
- The West Virginia Legislature’s use of an omnibus bill approach is nothing new and, in fact, served historically as the vehicle for advancing major changes in public education, especially relating to school employee pay, benefits, specific teacher empowerment measures and other reforms.
- Regarding the senate legislation, however, there is seeming fixation this practice of bill-drafting “economy” colors the measure as flawed. Additionally, there is the notion omnibus bills are disallowed by the state Constitution since a bill can cover only one “object.” Finally, there is the seeming conclusion the senate measure is concretized – a notion which even its sponsors admit is unfounded given the legislative process. In fact, this legislation has at least five additional steps before becoming law. The issue of an omnibus bill makes but one significant point: The legislation is an attempt to provide an umbrella for school reform based on past approaches used by legislators. In that the senate measure attempts to address policy issues of some if not great controversy within various – mainly – public education camps, the notion arises the measure is prone to being considered invalid.
- WVSBA or no other organization is responsible for providing legislative direction. Omnibus measure or not, our organization must approach the bill in terms of both its parts and the collective whole. Omnibus bills work that way: One takes the considered policy “good” with the considered policy “bad.” Stated differently, there is something for everyone to like or to dislike.
- Those comments being made, omnibus bills demand - require - considerable efforts at deliberation, i.e., public hearings, extensive legislative committee presentations, and

methods to secure meaningful input of interest groups. That approach has been noticeably absent in this process as opposed to consideration of previous omnibus bills.

Two particularly troubling aspects

Charter Schools

- In a monolithic sense, the public education community opposes charter schools. WVSBA joins in this opposition.

Yet the conventional opposition to charter schools largely focuses on charter schools' academic performance; West Virginia's rurality; the notion charter schools siphon county board moneys, diminishing capacity for county boards to provide services to students "remaining" outside chartered schools; the conclusion charter schools typically attract the "best and brightest" students, leaving county schools with lack of student population diversity; the assumption charter schools will undermine passage of county board excess levies.

These well-worn criticisms may be deserved but often pale under truer scrutiny: Charter schools, based on a number of studies, fare similarly to public schools in terms of student academic achievement – a mixed lot; Charter schools in rural areas may serve as antidotes to bus rides of a prohibitive length for students, meaning rural schools escape consolidation; funding for charter schools could be structured to minimize direct fiscal county board fiscal impact; the effect charter schools would "have" on county board excess levies is "unchartered." The presence of parochial or private schools, as an aid, hinderance or indifferent factor in terms of county board county excess levy elections has not been subjected to great analysis.

In an abbreviated analysis, presence of private, parochial or even home-schooling endeavors appear to have little anecdotal effect on levy elections.

The charter

To oppose charter schools using the above considerations is to miss the greater issue: ***The Charter***. Charter schools, no matter their sponsors, are responsible for achieving the mission or goals of their charters, limiting these schools to narrowed areas of academic concentration - sanctioned exclusivity.

Public schools - admittedly with mixed results - seek to provide each student the constitutional provision of a thorough and efficient public education.

Through de facto exclusion of students not “fitting” its charter, a charter school may achieve excellence - that is, in terms of exclusivity, for students who “fitting” the charter.

Regarding issues such as charter schools, public school advocates are cast as reticent or mightily opposed to change. Reasons vary. In the strictest sense, public schools operate within communities which vastly differ in terms of culture, values, economic standing and demographics. Within this milieu public schools are committed to educating students, taking students “from where they are” to “where students should be.”

The senate charter school legislation is no different than other charter proposals. Simply put, this measure would allow chartered schools – various sponsors – to populate county schools systems with schools which the county board essentially “must approve.”

Through exclusivity charter schools can examine innovation, focus on narrowed areas of expertise and promote specialized curricula.

That is a given and county boards may even collaborate with charter schools. The greater issue, however, is one whereby a statewide panel may, in fact, overturn a county board’s decision not to approve (authorize) a charter school. In this instance, the statewide panel acts as a final decisionmaker. The makeup of this panel, however, is problematic in that it includes state legislators making decisions outside their legislative capacities. There is a question whether this role is proper.

Another issue is the fact that institutions of higher education, including private institutions, have the ability to be authorizers under the statute. Given the issues that have occurred in other states where charter schools were created and poor performing schools occurred or worse, funds were utilized for private gain, we believe it is incumbent to have the authorizers of charter schools to be those directly accountable to the people. Authorizing a private institution which has no direct or indirect accountability to the people is particularly troubling.

Additionally, it is troubling that charter school governing boards, administrators and employees are not specifically subject to the same conflict of interest provisions that school board members, superintendents, principals, teachers and other county officials are subject to §61-10-15 which prohibits a county official from having personal interests, directly or indirectly, in a contract, purchase or sale over which their public position gives them “voice, influence or control.” If such statute is appropriate for school board members, superintendents, principals, teachers and other county officials, it should also be appropriate for charter school boards, superintendents, principals and teachers at charter schools that are funded with public money.

We also have other concerns but have confined our analysis to the above.

District-wide approach to innovation

In our list of recommendations, we provide what can be considered a district-wide approach to innovation. The proposal we make, however, cannot be seen as a “alternative” to this legislation because it isn’t. Charter schools are charter schools unless the county board itself were granted leeway to establish these schools as originator and authorizer. Charter school purists decry such an approach.

Education Savings Accounts (ESAs)

A second considerable area of concern relates to Education Savings Accounts (ESAs). In terms of closer inspection this approach establishes an unvarnished voucher system for schools.

Besides philosophy per se, that is: opposition to providing parents funds for conversion into educational currency to procure educational goods and services, this measure may result in intertwined public/private services for special needs students. While such may occur today, does the ESA approach produce contradiction in terms of IEPs and similar services for special needs students?

To simply oppose ESAs because of their intent is to view this issue within a shallow context. The greater scrutiny should focus on the impact, or the degree of impact, for county boards to provide the constitutional mandate of a thorough and efficient education for all students.

A primary issue relating to ESAs is that of accountability.

There are requirements enwrapped concerning what qualifies as an ESA. Yet, one can question the mechanism by which these expenses will be scrutinized. Today, parents who are homeschooling and sending children to private schools are doing so by their own dollar. The incentives of alternatively educating one's child are presumably pure. In this new approach, we are incentivizing sending our children to homeschool/private school programs by literally handing cash to parents. In a state riddled with an Opioid epidemic, are we handing money to parental/custodial recipients who could use the funds for other purposes? With proper safeguards probably not. That is, with proper safeguards.

In making these comments, we note ESAs are operable subject to legislative appropriation, based on a certain percentage of the state school aid formula.

If the state is heading in this policy direction, ramifications of ESAs should be studied first prior to any considerations of legislative approval.

Lastly, this concept could be converted into public school ESAs which could be used for parents to secure tutoring services, various enrichments for students, online learning, etc. Again, with considerable oversight as to provision of ESA credits or funds.

Bill provisions

These matters being stated, we commend the senate committee for these aspects included in the legislation. (The listing is not exhaustive.)

1. The bill addresses the state's high rate of student absenteeism by requiring schools to "make meaningful contact" with parents or guardian determine causes for the student absenteeism and how the school may assist. Current judicial penalties remain. County boards can use this approach to bolster community accountability for student absenteeism and may be able to secure grants or other means of in-kind support. (Refer to WVSBA recommendation listed below regarding Local School Improvement Councils.)
2. Central office administrators, supervisors and directors would serve at the will and pleasure of the county superintendent. As with other similar statutory directives, county boards would be responsible for acting upon county superintendent recommendations in this regard. This provision would be effective next July. Many superintendents have long expressed support for such a notion. The notion could be applied to school building principals.
3. Statutes governing school counselors would be revised to state counselors' "main responsibility shall be providing direct counseling services to students. The primary purpose of this position shall be to support students with their academic, social, and emotional needs." Using other language in this section, the approach is not only laudable but necessary for the well-being of our students.

4. County boards could provide differing pay for teachers in “critically needed” or hard-to-fill subjects and geographic areas. Accordingly, the bill would remove a statewide pay equalizing provision that keeps some counties’ pay from greatly exceeding the pay in other counties (currently, counties can differ to a limited extent). In terms of the state minimum salary schedules, teachers who are primarily certified as math teachers would be considered to have three extra years of experience on the salary schedule, which generally provides annual automatic pay bumps based on years of service. The bill also provides for one-time, \$2,000 stipends, if funds are available, if math teachers complete yet-undetermined courses.
5. County boards would be able to determine their own property tax levying rates. (Since the mid-1980s the state legislature has determined county board levy rates.) This proposition is meritorious but deserves fuller review by county boards since this approach could usher clusters of county board members who wish to concentrate on fiscal conservatism. The measure appears silent as to whether levy rates once determined could be revised, meaning lowered by subsequent boards since a county board is a continuing statutorily-established public corporation.
6. The bill proposes to limit the local share calculation (locally-derived property tax dollars) for each county board to their FY16 local share amount. County boards having experienced an increase in property values since FY16 will realize the lower local share amount, increasing the amount of state aid funding the county will receive. There is some question as to the actual intent of this provision, although it is said to assist ‘growth county boards.’
7. Counties having fewer than 1,400 public school students would also nevertheless be given per-pupil funding for 1,400 students, but only for the “basic foundation program” section of the state aid formula.
8. School employees would accumulate earned sick days for each month they work, rather than receiving their yearly amount to use up front each year. Retirees would also be able to buy one month of health insurance coverage for themselves and their dependents for every 10 unused accrued sick days.
9. School employees would see raises of about \$2,120 for each teacher.

10. Professional school support personnel would be redefined to include not just counselors and nurses, but also those “providing direct social and emotional support services to students, including but not limited to, social workers and psychologists.”
11. Teachers would receive \$250 nonrefundable income tax credits to buy supplies or pay for training.

Provisions regarding strikes and “paycheck protection”

This measure includes a number of revised or proposed sections of code relating to school employee strikes, what is referenced as “paycheck protection.” This provision would require school employees to annually agree to have part of their paychecks withheld to pay teacher association dues.

Other provisions

WVSBA supports many of the bill’s other provisions, noting the measure faces potential of significant changes both in the state senate and, if adopted by that body, in the House of Delegates.

WVSBA supports many of the bill’s provisions, opposing, of course, charter schools, a cornerstone of the legislative proposal, and ESAs as constituted in the proposal. We see some merit in making an ESA concept available to public school students.

WVSBA recommendations

We also offer the following considerations:

Innovation School Districts

- I. Legislation adopted in 2013 law at the behest WVSBA creates Innovation School Districts. We believe the Legislature should revisit this statute, making several revisions: modifying the process by which a county board becomes an Innovation School District

and allowing such school districts to investigate county board educational needs, including promotion of specialized schools within the county which the board would sanction to meet identified goals or strategies such as STEM education.

- II. Secondly, simplify the process necessary for county boards to become Innovation School Districts. This can be done by methodology whereby the Innovation School District is granted such designation without undue adherence or encumbrance by state Board of Education policies, rules and regulations or laws. The goal is for the county board to become reliant on self-directedness.
- III. As part of this process, Innovation School Districts can identify ways to meet the dissimilar needs of students in the district, having school-by-school or district-wide ability to ensure a concentration on student performance that is equitable but not necessarily equal.
- IV. As part of this process, county boards could be exempt from various statutes, rules and regulations.

LSICs and school improvement

A second consideration is one whereby Local School Improvement Councils are retooled to have a greater role and say in addressing student academic achievement in schools throughout the county. These measures are being drafted with knowledge of both the Senate and House of Delegates Education Committee chairs.

Senate bill is ‘imperfect’ but deserves more than rhetorical dismissal

We conclude by noting the legislative process is imperfect. It is a process fraught by numerous actors promoting numerous approaches to public education issues.

What this process often lacks, partly due to session timing, is a means to thoroughly consider the ramifications of public education policy issues.

That rhetorical voices rise to oppose legislative proposals of merit but contrary to group goals or philosophies is a given and part of the process. Unfortunately, students are the losers when the agendas of adults are substituted for what can be best for students.

This bill is by no means perfect? Can it be perfected as it works its way through the legislative process? Will public education groups, including WVSBA, have an opportunity to perfect the laudable aspects of the legislation, working to strike parts which don't provide or best meet the goal of serving students and seeking to accomplish such in a manner that proves positive?

Probably not.

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