

## **Legislative Report – Mr. Mahler**

Mr. Mahler submitted a written report as follows:

**Legislative News... *Legislative Schedule*** – The House and Senate met for only three days of session instead of the four days that were scheduled last week. Both the House and Senate return to Harrisburg today and are scheduled to be in session every day through June 30.

### ***Legislative Action*** –

**Clearances – HB 1276; passed by the House.** The bill amends the Child Protective Services Law to make some changes to the language passed in Act 153. The bill provides a definition of “routine interaction,” clarifies the definition of a “program, activity or service,” provides information about who needs clearances in a work-study program, and clarifies how a clearance can be used. Several amendments were adopted on the floor, including amendments to do the following:

- Clarify that adults working for an employer who participates with a work-study program are not required to obtain clearances if they are not the individual responsible for a child’s welfare
- States that adults working for an employer participating in a work-study program are not required to obtain clearances if the children involved are 16 or older
- States that a volunteer whose service is infrequent does not need the federal background check if the volunteer works within the immediate vicinity of an individual responsible for the child’s welfare
- Codifies the waiver of fees for volunteers and clarifies that the free clearances can be obtained only once every 36 months and that they cannot be used for any purpose other than applying as a volunteer
- Requires the federal background check every 60 months

***Related: Reduced Background Check Fees*** – Earlier this month, Gov. Wolf announced that fees for child abuse clearances and criminal background checks required by the Child Protective Services Law will be waived for volunteers working with children. Additionally, the Department of Human Services (DHS) and the Pennsylvania State Police (PSP) will be reducing the cost of both the child abuse and criminal history record checks from \$10 to \$8 for all other applicants. These changes will take effect July 25, 2015.

In 2014, 23 pieces of legislation were enacted including Act 153 of 2014, changing how Pennsylvania responds to child abuse. These changes significantly impacted the reporting, investigation, assessment, prosecution and judicial handling of child abuse and neglect cases. “My action today could not have been accomplished without the hard work of the General Assembly, who has participated in an ongoing bipartisan working group with the Administration in an effort to develop needed clarifications to the Child Protective Services Law,” said Gov. Wolf. “Through that process, the General Assembly expressed concerns of many members about

the cost of background clearances, particularly for volunteers. I share those concerns, and that is why I am excited to announce these actions today.”

Beginning July 1, 2015, volunteers are required to obtain background checks, including the Child Abuse History Clearance, issued by the DHS, and the Criminal History Record Check, issued by the PSP. Persons seeking employment for work with children and others required under the law will still be assessed fees for the clearances, but at a reduced cost of \$8 each. FBI clearances are also required for all employees and for volunteers who have not been a continuous resident of the commonwealth for the last 10 years, but because these are administered by the federal government current costs will continue to apply.

From Jan 1, 2015 to April 30, 2015, there were 61,019 clearance applications received for volunteers. The projected total number of volunteer clearances for FY 2015-2016 is 296,836. For DHS, the total number of clearances received was 512,583 since the electronic system went live in late December 2014 through May 31, 2015. The PSP processed 828,579 Criminal History Record Checks from January through May of 2015.

**Keystone Exams – SB 880: passed by the Senate, 49-0.** The bill would delay the implementation of the Keystone Exams as a graduation requirement until the 2018-19 school year. Research for Action recently released an analysis of 2013-14 Keystone Exam results, concluding that “if early proficiency rates are accurate predictors of how students will perform on future keystones, Pennsylvania students will face serious obstacles in attaining high school diplomas when the policy goes into full effect in 2017.”

**Tax Shift – HB 1256; passed by the House.** The bill amends the Local Tax Enabling Act to remove the disincentive to convert an occupational tax to an EIT by eliminating the requirement that the tax generated by the occupational tax was limited to the revenue obtained in the 2009 fiscal year. The bill provides for a revenue neutral shift.

**Earned Income Tax Form: SB 356: passed by the Senate, 49-0.** The bill amends the Local Tax Enabling Act to allow taxpayers to use the Annual Local Earned Income Tax Form available on the Department of Revenue’s website, change the date of returns if the last day of the month falls on a weekend or holiday, and add a safe-harbor estimated tax provision.

**Clean and Green: HB 806; passed unanimously in the House.** The bill amends the Pennsylvania Farmland and Forest Land Assessment Act – Clean and Green – to prohibit the application of use values that result in assessments higher than fair market values.

**Tax Collectors: HB 823; passed in the House.** The bill makes some revisions to Act 164 of 2014, which provided for training and additional qualifications for tax collectors and the appointment of a deputy tax collector. The bill clarifies that the municipality electing the tax collector must approve the deputy and that an immediate family member of the tax collector cannot serve as deputy.

**Other Legislative Activity:**

**Economic Furloughs** – Last week Wednesday the House took up consideration of **HB 805**, concerning economic furloughs. Multiple amendments were offered to the bill during the debate, which went into the evening, in part due to lengthy procedural debates. In the end, an amendment proposed by Rep. Stan Saylor (R-York), chairman of the House Education Committee, was narrowly approved with a 95-94 vote. As amended, HB 805:

- Would retain current language regarding tenure, requiring temporary professional employees to complete three years of satisfactory performance to be awarded tenure. However, the district superintendent could extend that period to four years.
- Provides for furloughs for economic reasons upon majority vote of the board of school directors, provided that such decisions are first based on performance, with seniority considered if the overall performance rating of professional employees is the same. Reinstatement would take place in inverse order. Following the furlough, the position would remain vacant for at least one year unless the suspended employee is reinstated to the position.
- Allows suspension of professional teaching employees only if an equal percentage/proportion of administrators are likewise suspended, with an exception if the Secretary of Education determines the district's operations are already sufficiently streamlined or if the State Board of Education approves the exception. The language further states that any five administrative staff positions selected by the board of school districts in that LEA would be exempt from furlough.
- Requires the Legislative Budget and Finance Committee to conduct a study of the effectiveness of economic furloughs under the act following the 2019-20 school year
- Forbids collective bargaining agreements negotiated after the effective date of these provisions from addressing suspension or realignment of positions that does not reflect the act's requirements The House still needs to take a final vote on the bill.

**Data Collection – HB 1112; approved by the House Education Committee.** The bill creates an advisory committee to work with PDE and the State Board to review current data collection and reporting requirements and to recommend the elimination of those reports that are unnecessary or duplicative. The advisory committee is to be made up primarily of school business officials. The bill also requires PDE to provide a justification and burden analysis prior to instituting any new data collection requirement that is not required by legislation.

**Mandate Waiver Program – HB 1119; approved by the House Education Committee.** The bill resurrects the mandate waiver program, giving school districts, charter schools, vo-techs and IUs the opportunity to waive certain mandates upon a school board resolution and an application to PDE. An approved waiver request will be good for 5 years, after which, the district must complete an evaluation of the waived mandate, including an estimate of the savings, to continue the waiver. The bill contains a list of items that cannot be waived, although explicitly permits the waiver of the Prevailing Wage Act and the Separations Act. On Tuesday, the House State Government Committee held a meeting and tabled **SB 645**, which requires public employers to provide notice of the terms and estimated cost prior to signing collective bargaining agreements.

Notice must be posted on the employer's website 2 weeks prior to the signing and remain posted for 30 days after the signing.

On Wednesday, the Senate Urban Affairs and Housing Committee reported out **SB 877** for first consideration. The bill limits a school district's ability to engage in reverse assessment appeals except for limited circumstances. **PlanCon: SB 694; approved by the Senate Education Committee.** The bill amends the Public School Code to streamline and automate the PlanCon process, make changes to some of the current criteria, create a transparent website to determine project status, allow lump sum reimbursement with the approval of PDE and the school district and allow districts that engaged in construction projects during the moratorium to remain eligible for reimbursement.

**Clearances: SB 862; approved by the Senate Education Committee.** The bill amends the School Code to bring the state's background check requirements into compliance with federal requirements. The bill clarifies that background check clearances would need to be valid three years, rather than one year, as provided in current state law.

***This Week's House Floor Calendar*** – The following bills are on the House calendar for possible consideration this week: **Pension Reform: HB 727.** The bill creates a defined contribution plan for all new school and state employees hired on or after July 1, 2016. The plan would require an employer contribution to the DC plan of 4 percent of the employee's salary and an employee contribution of 6.5 percent of salary. An actuarial note has not yet been provided for this legislation. The Public Employees Retirement Commission (PERC) met last week to issue an actuarial note on this proposal. PERC's actuarial note indicated that the proposal will cost PSERS between \$5 billion and \$28 billion to transition to a defined contribution plan. The wide span is due to disagreement between actuaries regarding this transition cost.

***This Week's Senate Floor Calendar*** – The following bills are on the Senate calendar for possible consideration this week: **Educational Opportunity & Accountability Act - SB 6.** The bill requires the bottom 5% of elementary and secondary schools—as measured by the SPP—to become “Intervention Schools,” giving their school boards some additional flexibility to improve their scores. The bottom 1% of elementary and secondary schools would become part of the Achievement School District (ASD), a statewide school district made up of no more than 75 schools at any one time, and run by an executive director appointed by a seven-member board (appointed by the Legislature), with the authority to close schools, convert schools to charter schools, authorize new charter schools, or fire the principal and over 50 percent of the staff in that school. The bill also requires creation of community advisory boards in affected school districts.

**Transition to Work: HB 400.** The bill establishes the “Work Experience for High School Students with Disabilities” Act, which would designate the Office of Vocational Rehabilitation (OVR) in the Department of Labor & Industry as the lead agency responsible for developing connections between local education agencies and employers to promote the successful transition from school to competitive, gainful employment. OVR would arrange for, monitor and support the placement of high school students with disabilities in internships, on-the-job training and full- or part-time work in integrated settings with private and public sector employers.

**Bargaining and Executive Sessions: SB 643.** The bill clarifies that sessions involving negotiations during collective bargaining do not qualify for executive sessions.

### **Other State News:**

**State Budget Update** – As of today, although budget negotiations continue behind closed doors, and while there are indications that some progress is being made on some items, there appear to be no significant breakthroughs on others. However, all parties now agree that the budget deficit to overcome is \$1.2 billion. The highlight of the week was the release of the Basic Education Funding Commission’s recommendations for a new basic education funding formula, which will have a significant role in negotiations **PASA/PASBO Report** – On Tuesday PASA and PASBO released “Continued Cuts: The PASA/PASO Report on School District Budgets.” The annual report, based on a school budget survey of districts across the Commonwealth, demonstrates that, for 2015-16, school districts across the commonwealth plan to balance their budgets through property tax increases, staff and/or program reductions, or a combination of the two. The survey results indicate:

- More than 70 percent of districts plan to raise local property taxes, and nearly 80 percent of these indicate that the increases will hit or exceed the Act 1 index.
- Forty-one percent of districts will reduce staffing.
- Nearly one-quarter of all districts, and 29 percent of the poorest districts, will reduce or eliminate valuable programs.
- Districts continue to report that mandated costs have increased and continue to present sizable burdens, while the overall state share of education funding is down from 39 percent in 2008-09 to 37 percent in 2014-15, the sixth consecutive year in which a majority of districts have raised property taxes to meet education needs.

“Survey findings reveal that the vast disparities in resources available to poorer districts that rely most heavily on state funding and well-off districts that rely more heavily on local property taxpayers to support their schools continues to widen,” said PASA Executive Director Jim Buckheit. This has created a public education system that provides students, depending on where they live and go to school, widely different, and unequal, educational opportunities.”

**Proposed School Funding Formula** – Last Thursday, after a year of work and hearings, the Basic Education Funding Commission released its final report and a recommended formula for distributing new basic education funding.

**General Formula Description - Components:** Student-Weighted Average Daily Membership (ADM) A school district's ADM count would be increased by the following student-based factors (with "ADM" referring to the average for the previous three school years):

- Poverty. Applies a weight of 0.6 for students in concentrated poverty (100 percent of the Federal Poverty Level) and 0.3 for students in moderate poverty (between 100 and 184 percent of FPL).
- Poverty Concentration. For districts where concentrated poverty is 30 percent or higher, applies a weight of 0.3 for each student in concentrated poverty.

- English Language Learners. Applies a weight of 0.6 for each ELL student.
- Charter School Enrollment. Applies a weight of 0.2 for each charter school student.
- Sparsity/Size. Applies a weight of 0.7 for higher costs incurred by small and geographically dispersed districts (similar to special education funding formula)

#### Local Factors

Newly established measures of tax capacity and local tax effort will replace aid ratio in distribution of Basic Education Funding.

#### Local Effort.

Computed based on a district's local tax-related revenue and its median household income in relationship to the statewide median, with this "median household income index" (which replaces the current aid ratio) adjusted downward for high-spending school districts based on current expenditures per student-weighted ADM.

#### Local Capacity

Determined by how much a school district can generate in local tax-related revenue from personal income and market value compared with the median, with districts below the median proportionately adjusted.

#### Funding Distribution

The funding distribution is based on the product of the student-weighted ADM (based on a three-year period), the median household income index, and the sum of the local effort index and local capacity index, with each district receiving a pro rata share of the total BEF increase based on this final calculation.

**What's Next:** The intent of the Commission is for the formula to apply only to new dollars added to the basic Education Funding line-item, and have existing funds continue to be distributed to districts at current levels, holding each district "harmless," meaning no district would experience a loss of funding from the base amount. However, this issue is likely to be addressed during state budget negotiations.

Another open question that was not addressed by the Commission but instead will be addressed in state budget negotiations is what year the formula will first be used. Gov. Wolf wants to use it in 2016-17 and use his proposed funding increase to restore cuts made in 2011, while legislative leaders have stated they want to use the formula in 2015-16. It is important to note that the General Assembly must adopt the formula through legislation prior to its use. The Commission recommendations are expected to be used by legislative leaders and the administration to advocate for their respective budgeting positions. Expect to see various versions of spreadsheets and allocations as they advocate for their positions through adoption of the final 2015-16 state budget.

**CTE Grants** – (from the PDE) Governor Wolf's 2015-16 Budget includes several initiatives to reimagine the commonwealth's career and technical education system by creating cross-sector

partnerships among business, industry, and education. To that end, the Pennsylvania Department of Education has made three new Career and Technology Education (CTE) grants available.

One of these grants is the **Innovation Grant**, which supports the establishment and enhancement of CTE programs that prepare students for success in today's high-skill economy, align with workforce needs, and link students to employment in high-wage/high-demand fields.

**Project Lead The Way (PLTW)** is listed among others as a model program for consideration. Through this opportunity, applicants may seek grants up to \$400,000 to expand or enhance existing CTE programs – such as PLTW – beginning in September 2015. The opportunity also allows for applicants to seek planning grants for up to \$100,000 to implement a new CTE program in the fall of 2016. The College Board and PLTW are forging a long-term partnership to develop college and career pathways in Engineering, Biomedical Science, and Computer Science by combining Advanced Placement Program® (AP) courses with PLTW programs. Each pathway will emphasize applied learning and consist of three components: PLTW courses designed to introduce all students to the field; AP courses that provide an opportunity for college credit; and PLTW specialization courses that focus on knowledge and skills needed for high-growth careers. The Innovation Grant could be a great funding opportunity to initiate the AP-Project Lead The Way pathways in your school. The deadline for the Innovation Grant is **July 15, 2015**. For further information, contact John Bonchalk at the PDE by phone at (717) 722-4853 or by **email**.

***Preparing for SPP Release*** – The Department of Education last week reminded LEAs to be up-to-date with contact information, timeline and data elements for the data preview/review cycle prior in preparation for the fall release of SPP data. The first major review period (Phase I data) is July 1-24. Specific instructions on accessing the data review site via the LEAs secure access link, as well as completing the actual preview/review, will be provided via email along with the 2014-15 access links (on or before June 30 for Phase I).

***In National News... Federal Education Funding*** – The House Appropriations Committee unveiled its education spending proposal last week, which would slash funding for the U.S. Department of Education and its federal education programs by nearly \$3 billion. The bulk of those cuts come from eliminating a slate of nearly 20 programs, including many high-profile Obama administration priorities like the School Improvement Grants, the Preschool Development Grant, Investing in Innovation, and the Teacher Incentive Fund. *Read the rest of the story: “House GOP Aims to Cut Education Funding, Including Obama Priorities”* (from *Education Week*, 6/16/15).

***ESEA Reauthorization Update*** – AASA reports that the Senate ESEA reauthorization bill will not be considered on the floor next week, as thought, but may be pulled for consideration until early August or perhaps a bit sooner. AASA recommends that school officials contact their elected representatives in both chambers in Congress, urging them to reauthorize ESEA, and particularly ask their respective Senators to support the bipartisan reauthorization bill that was recently voted out committee.