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Legislative Report

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Gov. Rendell announces proposal for statewide healthcare plan for public school employees; PSBA believes plan has potential

This week **Gov. Edward Rendell** announced that legislation has been introduced for a statewide health care plan for public school employees. The governor said that school districts spend \$1.5 billion on medical and prescription drug coverage and the health care premiums paid by districts soared by 24% from 2003 to 2005. Elements of the proposed system are modeled on the cost control efforts adopted by the Pennsylvania Employee Benefits Trust Fund, or PEBTF, which provides health benefits to state employees.

The legislation, **HB 1841** (not yet introduced), will not annul any existing collective bargaining agreement. Instead, school districts would enter the proposed statewide program after existing contracts expire. Participation would be mandatory for all school districts except Philadelphia and the program could serve approximately 230,000 school employees. The program would be run by a 12-member board divided evenly among the commonwealth, school employees and school boards - with major decisions like plan design and any employee cost-sharing requiring the agreement of representatives of all three parties.

Under the legislation, the commonwealth will become a partner in funding school employee health benefits. Once any initial surplus in the system is exhausted, the state would pay up to half of the annual increase in health care costs. As an incentive for school districts and employees to control costs, the state would not be required to pay more than the inflation rate for private sector health insurance. In addition, the state's payment would be targeted to offset the costs of all school districts but provide the most assistance to the school districts with the greatest financial need.

PSBA issued a statement in support of the concept of a statewide healthcare plan for public school employees that would protect local taxpayers by containing premium costs, assuring a reasonable level of health benefits and eliminating a contentious collective bargaining issue. However, for HB 1841 to accomplish its overall goals in a manner that is feasible, affordable and adequately protects local taxpayers from potential new burdens, significant additional work is needed.

"Throughout these discussions, a number of important provisions were developed that PSBA supports," said **PSBA Executive Director Thomas Gentzel**. "We are pleased that the current draft of the legislation ensures transparency and legislative review before any healthcare plan is implemented. The success of a statewide healthcare plan will be in the details. PSBA looks forward to continuing to work with the Rendell Administration and the General Assembly to address a number of conceptual issues that remain unresolved," he added.

PSBA's primary concerns include:

- Avoiding the creation of new statutory entitlements for employees or former employees who do not all currently participate in many local health plans, or do not do so at employer expense;

- Ensuring that school employers, employees and the commonwealth have a defined incentive to be full partners in cost-containment and funding program benefits. Local taxpayers should not be the sole default bill-payer, and no longer can be in view of the realities of Act 1's restrictions;
- Strengthening the bill's language to ensure that healthcare issues are no longer a permissible subject of bargaining;
- Focusing the new system on active school employees rather than retirees; and
- Ensuring that in designing the new system the governing board has a duty to balance the interests of all stakeholders, including local employers, taxpayers and the commonwealth, as well as those of individual beneficiaries.

PSBA testifies on cyber charter legislation

In other news this week, PSBA presented testimony to the House Education Committee in support of legislation to make changes in the cyber-charter school law that would require these educational entities to meet the same accountability standards as traditional public schools.

Lawrence Feinberg, a school board member from the School District of Haverford Township, told the committee that [HB 446](#), sponsored by **Rep. Karen Beyer** (R-Northampton/Lehigh), and [HB 738](#), sponsored by **Rep. Anthony DeLuca** (D-Allegheny), would correct several significant issues regarding cyber-charter school funding, oversight and accountability.

"There is no question that cyber schools have a place in the educational spectrum and that they work well for many students. This discussion is not about putting cyber schools out of business," Feinberg told the committee. "It is about the disconnect between their authorization, funding and oversight. It is about accountability for taxpayers' money, and it is about another rapidly growing unfunded state mandate in the context of Act 1 budget caps."

Feinberg also challenged the cyber-charter school position that these schools save taxpayers money. He noted that large numbers of home-schooled students are now being enrolled in cyber schools and said that these students represent an entirely new cost since school districts were not financially responsible for their home education. "PDE estimates that nearly 40% of new cyber students were previously enrolled in a nonpublic school or a home education program. If that figure is accurate, then during the 2004-05 school year, 493 public school districts were mandated to provide just under \$30 million in new tax dollars for those students," Feinberg added.

On the question of accountability, Feinberg told the committee that taxpayers and school districts have no accounting of how the cyber-charter schools spend tuition money and school district officials cannot explain to taxpayers how their investments in cyber-charter schools are paying off.

Roberta Marcus, a school director from the Parkland School District and PSBA second vice president, told the committee that school district residents want to know that their taxes are necessary investments that provide students with an education to prepare them for a bright future.

"As elected officials who are ultimately responsible for the taxpayer dollars that come to us, we must be

prepared to answer questions about how our investments are meeting the goals of our district and the educational needs of students," Marcus said. "That includes the investments we make on behalf of our taxpayers to cyber-charter schools.

"We cannot do that under the current law, because cyber-charter schools are not required to report on the progress of a district's students to the school boards who invest taxpayer funds in them," Marcus said.

Marcus noted that "being accountable means that cyber-charter schools must have the same financial accountability that the General Assembly deems is important for school districts."

Tim Allwein, PSBA assistant executive director for governmental and member relations, addressed several myths put forth by the cyber-charter school community and the realities that the committee needed to consider.

Regarding cyber-charter school accountability, Allwein noted for the committee several sections of the Public School Code that do not apply to those educational entities, including prohibiting school directors' employment or doing business with the school, requiring accounts and records of proceedings to be open for inspection by a taxpayer, limiting unreserved fund balances and employing personnel to ensure compulsory school attendance. Currently, five of the 12 cyber-charter schools maintain fund balances that are more than 30%, while public school boards are restricted by state law to keeping balances of only 8-12%.

"Cyber charter school administrators have claimed that they need to retain these large fund balances because school districts deny them payment," Allwein said. "School districts have the option to allow PDE to deduct an estimated amount, as documented by the cyber-charter school, from any and all state payments made to the district after receipt of documentation. School districts are choosing this option for a variety of reasons including verifying student residency."

Allwein also challenged the assertion that cyber-charter schools provide equity in education because funding follows the student. The commonwealth stopped providing per-student public education funding in the 1990s. Funding cyber-charter school tuition on a per-student basis provides more funds than public schools receive for these students.

Feinberg told the committee that "the formula used to determine cyber-charter school tuition has no relation to the actual costs for a cyber education." He illustrated this by using Haverford Township's per-student special education cost for cyber-charter schools.

"Haverford is required to pay \$22,968.96 cyber tuition for a special education student, regardless of the actual cost to any cyber school for educating their students," Fienberg said. "Last year, Haverford's special education population was 1,731 students. Using the cyber-charter school tuition charge, the total per-student tuition would be \$39,759,269 if all of Haverford's special education students attended cyber schools. This is almost three times our total special education budget of \$13.6 million.

"The cyber-charter school tuition formula does not accurately reflect the cost of educating special needs students while respecting taxpayers' wallets," Feinberg added.

Public schools are simply asking that the legislature remedy the unintended consequences of the state law that allowed for the creation of cyber-charter schools.

State Board of Education held meeting this week to discuss status of various regulatory proposals

Also this week, the State Board of Education held its regularly scheduled meeting. **It was reported that the board's proposed revisions to the Chapter 49 regulations for certification of professional personnel will become final and effective when they are published in the Pennsylvania Bulletin on Saturday, Sept. 22, 2007.** These revisions, called the Chapter 49-2 proposal, revise teacher preparation programs and clinical activities to include mandated training and experience for new teachers to meet the needs of students with disabilities and English language learners. In addition, the new regulations require school districts to offer opportunities for all professional employees, including superintendents and administrators, to participate in continuing education related to these groups of students.

Chapter 49-2 also changes the scope of instructional certificates and requires dual certification for special education teachers. A new elementary/middle level certificate is created, and the current K-12 special education certificate is split into two separate certificates. These changes in the scope of certificates will be effective on Jan. 1, 2013. Any teacher already certified prior to 2013 will be grandfathered and can continue teaching under that certificate.

The scope of the seven new certificates is as follows:

1. Early Childhood Certificate covers grades pre-K - 4, or ages 3 through 9.
2. Elementary/Middle Certificate covers grades 4-8 or ages 9 through 14. Elementary/Middle certificates permit instruction in any subject in grades 4, 5 and 6 and in a core academic subject or subjects in grades 7 and 8.
3. Secondary Certificate covers grades 7-12, or ages 11 through 21.
4. Specialized Area Certificate (such as art) covers pre-K -12, or up to age 21.
5. Special Education Pre-K- 8 (ages 3-14) -- with dual certification in either: Early Childhood, Elementary/Middle; or Reading Specialist certificates.
6. Special Education 7-12 (ages 11-21)-- with dual certification in either: Secondary or Reading Specialist certificates.
7. Special Education Hearing Impaired, Visually Impaired and Speech/Language Impaired would cover pre-K -12 or ages 3-21.

Chapter 49-2 also provides for school districts that have a short-term staffing problem by allowing them to seek exceptions to the grade and age level limitations of certain certificates on an individual, case-by case basis. Under the new rule, districts can seek exceptions for the two special education certificates as well as the Early Childhood and Elementary/Middle certificates. The district must submit a written request justifying the reason for the need for the exception, and the Department of Education would set at time limit for each exception granted.

The State Board of Education also reported that revisions to the **Chapter 14** regulations for special education and the **Chapter 16** regulations for special education for gifted students are in the first phase of the regulatory review process. Once all public comments are received, the board will consider additional changes to the draft prior to final adoption. The board intends to have a revised draft ready for final approval at the next meeting in November.

In other matters, the State Board continued discussion on its proposal to change high school graduation requirements but did not issue any draft regulatory language. Specifically, the State Board intends to revise **Chapter 4** to remove the current option for school districts to use either the PSSA or a local assessment to determine student proficiency as a graduation requirement. Instead, the regulations would require students to

reach proficiency on the 11th-grade PSSA or pass a series of Graduation Competency Assessments in order to graduate.

GCA's would be administered in: Mathematics: Algebra I, Algebra II and Geometry; English: English 10 and English 11; Science: Biology and Chemistry; and Social Studies: American History, and Civics and Government. Effective with the freshman class of 2009-10, in order to graduate, all students would have to demonstrate proficiency in reading, writing, mathematics and science on the 11th grade PSSA, 12th grade PSSA retake or on all of the GCA's in each subject in which the student did not score proficient on the PSSA.

The board conducted a roundtable session on Thursday, Sept. 20, with practitioners from school entities to discuss how the proposal could be implemented. The practitioners raised various concerns and questions with the proposal. No decisions or conclusions were reached and discussions will continue.

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