

Legislative Session is Wrapping Up

Clock is ticking as 2017-18 Legislature moves into its final weeks



Following a surprise Democratic victory in a January special election to fill a vacant Senate seat in northwestern Wisconsin (congratulations to Patty Schachtner, a Somerset school board member), Gov. Scott Walker, in his State of the State address, unveiled an ambitious legislative agenda for the remainder of the 2017-18 session. The agenda includes money for low-spending and rural schools, a child tax credit, a rural economic development plan, a health care stability plan, and welfare reform.

With only a few floor dates left in 2018, the Legislature has been in a rush to push the governor's proposals as well as a package of bills to address problems with the state's foster care system and a host of other individual bills out of committees and onto the floor.

As of this writing, the state Assembly is preparing to enter what could be its final week of floor sessions. The state Senate is likely to meet at least once in March.

This month's column takes a look at some of the key bills affecting K-12 public education that the WASB is most involved with as the two-year legislative session winds down.

■ Assembly Bill 835/Senate Bill 690

Sparsity Aid Increase/Low-Revenue Ceiling Adjustment

The WASB strongly supports these identical companion bills and

securing their passage is one of our top priorities for the remainder of the session. The Assembly version (AB 835) has been passed by the Assembly and is now available for Senate action.

Under the bills, beginning in 2018-19, school districts that qualify for Sparsity Aid under current law would receive a payment equal to \$400 per pupil, an increase of \$100 per pupil over the current amount.

In addition, under the bills, the low-revenue ceiling would increase to \$9,400 per pupil in 2018-19, and by an additional \$100 per pupil each year until it reaches \$9,800 in 2022-23.

Under current law, any district with base revenue per pupil that is below a statutorily specified amount (currently \$9,100 per pupil) may increase its revenues up to that amount without seeking referendum approval.

The original bill would have prevented at least nine districts from using the adjustments to the low-revenue ceiling provided in the bill for up to three years because voters in those districts had turned down an operational referendum held during or after the 2015-16 school year.

Based on urging from the WASB and others, the bill was amended to give districts another chance to go to their voters to use the low-revenue ceiling increase if they had a recent failed operational referendum.

A separate provision in the amendment addresses a situation in

which voters in a district rejected — at the same election — both a borrowing referendum and a referendum to raise the revenue limit that was tied to the school construction project for which the borrowing was requested. Under the amendment, such a district would not be subject to the three-year freeze and could utilize the low-revenue ceiling adjustment without obtaining approval from the district's voters.

The Assembly version of the bill (AB 835) is on the Senate's Feb. 20 calendar for a vote on concurrence (or final passage). We expect the bill to pass and be sent to the governor.

■ Assembly Bill 693

The so-called "Teacher Protection Act"

The WASB opposed this bill in its original form and continues to oppose it. Nearly everyone who testified at the Jan. 11 public hearing was in opposition, including all of the other public education advocacy groups and groups representing students with disabilities.

The author, Rep. Jeremy Thiesfeldt (R-Fond du Lac) has introduced two substitute amendments in an attempt to muster support for passing at least some vestige of the original bill.

The second of these, Assembly Substitute Amendment 2 (ASA 2), is stripped down to the point that the legislation would provide only for the right of a teacher to terminate

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his or her employment if he or she is the victim of a “physical assault” as defined in the bill or of a violent crime as defined under state law. (See Wis. Stat. s. 939.632 (1) (e).) The physical assault or violent crime could occur while the teacher is on school premises, at or in transit to a school-sponsored activity, or otherwise engaged in official duties on behalf of the school district.

The WASB continues to have strong concerns about the proposal even in its watered-down form. These include:

1) Although ASA 2 still conditions a teacher’s right to terminate his or her contract without penalty, including the payment of liquidated damages, upon the teacher providing the school board with a law enforcement report documenting the physical assault or violent crime within two months of the incident, the bill doesn’t specify a time frame within which the teacher must (or may) exercise this right. Thus, it appears a teacher could decide to terminate their contract at any time without penalty, whether in the current year or in five years or in 10 years, etc., so long as he or she provided the school board with a law enforcement report documenting the physical assault or violent crime within two months of the incident covered in the report.

2) The definition of “physical assault” is problematic and has not been changed even though problems have been pointed out consistently as the legislation has been discussed. Under the bill, “physical assault” means “the knowing or intentional touching of another person, by use of any body part or object, with the intent to cause physical harm.” This definition does not require any element where the act causes bodily harm or any element that the act is done without the consent of the person harmed. *(Compare this with the statutory*

definition of Battery in s. 940.19. Wis. Stat.)

3) The phrase “at or in transit to a school-sponsored activity” is also problematic. A teacher could be traveling to an event in his or her own vehicle and be assaulted by someone not even remotely connected to the school district and still avail himself or herself of the “right to terminate” provision.

The bill is currently in the Assembly Judiciary Committee where a vote on moving it along is scheduled for Feb. 20.

■ Assembly Bill 496/Senate Bill 402

Suspending and Expelling a Pupil for Possessing a Firearm at School

The WASB strongly supports this bill at the request of a number of school boards and administrators. It would restore local discretion with respect to bringing expulsion proceedings in cases involving a student who brings a firearm on to school grounds.

With one important exception, school boards exercise almost complete discretion in determining the appropriate length and other conditions of an expulsion – all the way from allowing immediate reinstatement,

to permitting conditional reinstatement, to deciding that the term of the expulsion shall last until the student is no longer age-eligible to attend public school unless the board modifies the firearms-related expulsion mandate on a case-by-case basis.

The exception is that any time school officials conclude that a student has possessed a firearm (which is defined to include not only guns but also various “destructive devices”) while at school or while under the supervision of a school authority. The school district must suspend the student, commence expulsion proceedings, and expel the student from school for at least one year.

School districts accepting certain federal funds also must have a policy in place that is consistent with these mandates and that requires a referral of all firearms-related and weapons-related incidents to law enforcement.

Federal law, however, provides for two exceptions that permit a school board to not suspend/hold an expulsion hearing in the specific situations involving:

- 1) A firearm that is lawfully stored inside a locked vehicle on school property; or

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2) The possession of a firearm for an activity approved and authorized by the school board if the school board adopts appropriate safeguards to ensure pupil safety.

The bill restores local control over school discipline procedures in certain, specified circumstances to local the school board. The bill does not affect criminal law nor does it affect law enforcement decisions related to students who bring firearms onto school grounds. Students could still face sanctions under existing criminal statutes regarding possession of firearms or other dangerous weapons on school grounds.

School boards already have the authority under current law not to expel students in these situations; however, they must go through the expulsion hearing process. We question why the state mandates suspension and an expulsion hearing even in cases where the school board can

readily determine the matter was a mistake by the pupil and that the health and safety of the pupil and/or others was not put at risk. In these cases, school administration, in accordance with the school board's adopted student code of conduct, would not have initiated the expulsion process absent the requirement in state law to do so.

The WASB also recognizes that increasing numbers of school districts are sponsoring trap shooting teams, which by definition are school-approved activities that involve firearms. In addition, many districts would like to provide hunter safety courses on school grounds with school board approval. This bill addresses these circumstances by clarifying the procedure schools must follow regarding school discipline and explicitly spelling out exceptions. These are significant issues in many rural school districts.

Finally, it is important to note

that while the bill removes a mandate, it does not add any new mandates. The bill in no way restricts a school board's authority to suspend or expel a student in any situation involving a firearm on school grounds. Any school district that wants to maintain a policy of automatic suspension/expulsion in all cases involving firearms can still do so. This bill would not require any board to change its student code of conduct.

The Assembly version of the bill (AB 496) passed the Assembly on a voice vote (unanimously) on Jan. 23. The Senate version of the bill (SB 402) was recommended for passage on a unanimous 5-0 vote by the Senate Judiciary and Public Safety Committee on Jan. 30. Both bills are available for Senate floor action and we expect this legislation to be taken up, passed and sent to the governor in March before the current session ends. ■

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