

Karen Hill

From: Charlie Glaes
Sent: Friday, September 07, 2012 2:04 PM
To: Karen Hill
Subject: FW: Legislative Update: August 13-18
Attachments: PolicyBrief-Collective Bargaining Ballot Proposal.pdf; PolicyBrief-SB 1040(Presented to Governor).pdf

From: masa-supt [mailto:masa-supt@listserv.melg.org]
Sent: Friday, August 17, 2012 1:18 PM
To: Charlie Glaes
Subject: Legislative Update: August 13-18



In this update:

- RETIREMENT REFORM
- COURT RULING ON 3%
- COLLECTIVE BARGAINING BALLOT PROPOSAL
- SBLF LEGISLATION

RETIREMENT REFORM

As indicated in an email earlier this week, MPSERS reform legislation passed the Senate and House of Representatives and now heads to Governor Snyder where it is expected to be approved. This is an important victory for Michigan School Districts as it keeps the retirement rate down, provides schools with budget stability, and preserves benefits for current and future retirees. Senate Majority Leader Richardville characterized the vote as “one of the most significant bills either of the chambers will take up in this legislative term.”

The bill cleared the Senate on 21-16 vote with Senators Jones, Nofs, Pavlov and Proos joining Democrats in opposition to the bill. Senator Brandenburg was absent from session. The House followed suit and concurred with the changes on a 57-48 vote. Republic Representatives Genetski, Johnson, McMillin, Nesbitt, Rendon and Zorn joined all Democrats present in voting no, though for different reasons.

We have attached a policy brief that details the final changes.

COURT RULING ON 3%

The Court of Appeals (COA) ruled yesterday against the law that requires school districts to withhold 3 percent of their employees' wages as their contributions to the Michigan Public School Employees Retirement System

The court wrote in a 2-1 decision that the 2010 law violated "multiple constitutional rights set forth in both the U.S. and Michigan constitutions." "Specifically, we conclude that the statute violates federal and state constitutional protections against: state impairment of contracts, the taking of private property by the government without compensation as well as the constitutional guarantee of substantive due process," The court also noted that the law "takes wages from present employees and puts them in a fund that pays for health benefits for present retirees", but that current employees "have no vested right themselves to receipt of health benefits upon their own retirement." The dissent opinion concludes that the law "should have been upheld because, it does not impair contracts and it doesn't allow the state to take property "in the sense contemplated by the Fifth Amendment."

Supporters of the law indicated they were not surprised by the ruling and, while they have not indicated their intent, it is highly likely that they will appeal to the Michigan Supreme Court. – so keep your powder dry! Even though the American Federation of Teachers-Michigan and others have been calling for the immediate refund of all contributions collected so far that are in an escrow account, it is anticipated that collections will continue as usual until the case is heard by the court.

MASA is working with legal counsel to prepare a policy brief that will be available next week.

[Click here for a copy of the ruling.](#)

COLLECTIVE BARGAINING BALLOT PROPOSAL

The State Board of State Canvassers were deadlocked this week on whether to certify the ballot proposal that would protect the right to collectively bargain in the Constitution. A deadlock means that the proposal is off the ballot for now pending a legal battle.

Supporters for the proposal filed an action with the Supreme Court, asking to bypass the Court of Appeals for a ruling on whether the proposal could go on the ballot. Opponents of the proposal had argued that there is no way to meet the 100-word limit for the ballot description of the proposal given its wide-ranging consequences and had filed a challenge with the board.

MASA has attached a policy brief providing you with more information on the proposal.

SBLF LEGISLATION

Testimony will continue on a package of bills that would make major changes to Michigan's School Bond Loan Fund after two days of testimony this week in front of the House Appropriations Committee.

Earlier this week MASA learned that House Bill's 770,771,772 and 870 could have been voted on in the Michigan House of Representatives. This bill package seeks to severely limit a district ability to utilize the School Bond Loan Fund. The Chairman of the House Appropriation Committee (Rep. Chuck Moss) has expressed a desire to work with us on finding workable solution. The legislation has been put on hold until after the election. Please contact your Representative over break and talk about the negative consequences to this bill.

As always, If you have questions on this update please contact me at bbiladeau@gomasa.org

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GOVERNMENT RELATIONS POLICY BRIEF

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**Updated 8/16/12*

Issue: The Michigan "[Protect Our Jobs" proposal](#) may be on the November statewide ballot in Michigan. The initiative would add a section to the state constitution guaranteeing a right to "organize together to form, join or assist labor organizations, and to bargain collectively with a public or private employer." It will also prohibit any existing or future law of the state from impairing, restricting or limiting the negotiation and enforcement of any collective bargaining agreement, *except the ability to prohibit or restrict strikes by public employees.*

Support: Protect Our Jobs Coalition

Supporters (To Date):

Michigan UAW	Lecturers' Employee Organization	National Education Association
Michigan Education Association	Michigan Branch of the AFT	Progress Michigan
We Are the People – Michigan	Michigan AFL-CIO	Michigan Democratic Party
Michigan Nurses Association	Michigan State Utility Workers Council	

"Protect Our Jobs" has spent about \$1.2 million and has about \$6.9 million in cash on hand, according to a recent public expenditure report.

Opposition (To Date):

Michigan Governor Rick Snyder	Michigan Association of School Boards
Michigan Association of School Administrators	Michigan Chamber of Commerce

Status: A petition was filed on June 13 2012. Supporters collected and turned in 684,286 signatures (322,609 were needed). The Board of State Canvassers has deadlocked on whether to certify the ballot proposal so the proposal is off the ballot for now until the courts can resolve the dispute. Supporters for the proposal filed an action with the Supreme Court, asking to bypass the Court of Appeals for a ruling on whether the proposal could go on the ballot.

Impact: A memorandum from the Office of the Michigan Attorney General indicates that the ballot initiative could repeal at least 18 provisions in the Michigan constitution, adversely impact at least 13 Michigan statutes and repeal at least 170 Michigan laws. Passage of this initiative would effectively repeal all limitations on the right to collectively bargain, including prohibited subjects of bargaining set forth in the Public Employment Relations Act (PERA) listed below:

Policyholder of insurance benefit	Volunteers	Discharge/ discipline of an employee
Starting day for the school year	Experimental or pilot programs	Classroom observations
Amount of pupil contact time	Technology use decisions	Method of compensation
School improvement committees	Recover any monetary penalty	Employee performance evaluation
Open enrollment opportunity	Placement of teachers	Performance-based compensation
Public school academies	Personnel decisions (add/reduce)	Notification to parents
Contracting non-instructional services		

The ballot proposal would also abrogate in whole or in part current laws and statutory requirements including:

- Prohibition on automatic wage, step and benefit increases (PA 54 of 2011)
- Tenure Act Reforms (PA 100 and PA 101 of 2011)
- Publicly Funded Health Insurance Contribution Act (PA 152 of 2011)
- Michigan School Code: Mcl 380.620 transparency reporting; .1230a criminal background checks; .1230b unprofessional conduct disclosure; .1230d criminal history disclosure; .1235 sabbatical leave; .1248 LIFO policies; .1249 evaluation system criteria – effectiveness labels; .1250 merit compensation; 1280c SRRO; .1284a common calendar; .1284b post Labor Day start; .1312 corporal punishment; .1317 employee prohibited conduct; 1535a/b teaching certificate hearings/suspensions;
- Michigan School Aid Act: Mcl 388.1701 teacher professional development requirements

GOVERNMENT RELATIONS POLICY BRIEF

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***Updated: 8/15/2012**

ISSUE: Senate Bill 1040 (H-3) w/ amendments; MPSERS REFORM

Pension changes:

- Employees hired before July 1, 2010 (non-hybrid employees), would be required to make the following choices by October 26, 2012 to take effect December 1, 2012:
 1. Increase contributions (4% for the Basic and 7% MIP) to maintain a 1.5% pension multiplier.
 2. Maintain current contribution and receive a 1.25% pension multiplier for future years of service.
 3. Freeze existing pension benefits and move into a defined contribution (DC), 401(k) style plan with a flat 4% employer contribution for future service.
- Employees in the existing "hybrid" plan (those hired on or after July 1, 2010) would not be affected by these pension changes.
- New hires (first hired on or after September 4, 2012) could choose an optional DC plan which would provide a 50% matching employer contribution for an employee's contribution of up to 6% of their salary.

Health Care changes:

- Shifts from paying for retiree health care benefits on a pay-as-you-go method to prefunding with a combination of employee contributions, employer contributions and state funding.
- Beginning January 1, 2013, increases the retiree health insurance premium contribution of both existing and future retirees to 20%. For retirees who are currently in the system and who are age 65 or older on January 1, 2013, the cap on the maximum employer contribution for medical, dental, and vision benefits would be 90%.
- Eliminates retiree health insurance coverage for employees hired after September 4, 2012 and replaces it with an employer matching contribution of up to 2% of compensation into either a 401(k) or 457 plan.
- Allows existing employees to opt out of retiree health insurance and instead choose the 2% matching contribution into a DC plan in lieu of retiree health benefits.
- Continues the 3% employee contribution for retiree health but guarantees an employee's individual contributions.

Rate Changes:

- Caps the employer contribution rate for unfunded accrued liabilities (UAL) at 20.96% of payroll. If the UAL rate exceeds 20.96%, the School Aid Fund will cover any additional amount. Collectively, including an average 3.5% of payroll for normal costs, the total employer contribution rate will be capped at approximately 24.46% of payroll.
- Reamortizes the cost of the early retirement program of 2010 from 5 years to 10 years in order to create short term savings to allow additional funding.

Other:

- By November 15th 2012, require an independent third-party study of several potential plan changes including, costs of transitioning to a defined contribution plan and charging employer contribution rates based on current operating expenditures (COE) rather than payroll.

POSITION: Support

KEY POINTS:

Shifts from a pay-as-you-go method of paying for retiree health care benefits to prefunding with a combination of employee contributions, employer contributions and state funding.

Keeps the retirement rate down, provides schools with budget stability, and preserves benefits for current and future retirees.

NEXT STEPS: The legislation now heads to Governor Snyder where he is expected to sign it.