



2010 Legislative Briefing

FOR THE DUVAL COUNTY PUBLIC SCHOOLS

Report No. 6

MILLER CONSULTING GROUP

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REPORT INFORMATION

This is a report of the 2010 Legislative Session. The LEGISLATIVE BRIEFING is provided periodically during the regular session of the Florida Legislature.

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SIXTH WEEK OF SESSION

This was a very busy and politically transparent week to the public in Tallahassee. On Monday, the Education Council held an unprecedented 7 hour 45 minute meeting from 12:30 PM to 8:15 PM to hear two bills – HB 7053, High School Standards and HB 7189, Teacher Quality. The High School Standards bill took about 30 minutes of the time allotted and the rest was dedicated to HB 7189.

The tone of the meeting contrasted sharply with the meeting the previous week when the Pre K – 12 Policy Committee ended in chaos and angry comments from those who had sought to have their amendments heard before the committee. The Democrats had been cut off at that meeting by the chair because the question had been called on the bill, a procedural motion that requires the vote on the bill to be taken. (At that meeting the chair had interrupted the order of the agenda to allow for public testimony. The motion to call the question was made before the chair could return to the amendatory process that had been interrupted earlier to allow for testimony.) This time the meeting was civil and orderly.

120 people signed up to testify: about 90% of whom were opposed to the bill. The Council was unable to allow all who signed up to testify due to time constraints. Under both House and Senate rules, the published time for the end of a meeting must be strictly adhered to. Any vote taken after the official end of a meeting is illegal and any law

enacted is deemed null and void.

Of those unable to speak included Deborah Heald, Julie Delegal, and Terry Brady. However, W. C. Gentry was one of those who did speak. He expressed his caution to the legislative body that they were crossing over into the constitutional authority of the school board because the bill provided too many details as opposed to policy and goals. The result of this, he said, could result in many unintended consequences. He stated that Duval County supports the concept of performance pay and described Duval's principal and teacher pay plans as evidence.

He asked that the Legislature postpone the bill for one year so they could get it right. He also asked where the 5% Performance Fund would come from considering districts have already cut budgets to the bone and cannot spare another 5%, even for a pay system. He stated, "This is the perfect storm: this is not a rosy picture – we are facing \$40 million in cuts and another \$40 million for the Performance Fund." He addressed the cost of creating the remainder of our exams and his (our) concern about the inability to use experience or higher degrees in creating the schedule. He stated that it was important to allow us to pay for experience and training, especially in a program like AICE where teachers must have higher degrees as minimum training.

Earlier in the day, the Executive Director of FADSS (superintendents' association), the General Counsel for FADSS and I met with Rep. Proctor to discuss his views of the bill and to urge him to support an amendment to postpone the implementation of the bill one year, an initiative being sought by Rep. Weinstein. Rep. Proctor stated he had reservations with the bill. He stated he would vote for the bill but expected to work on correcting several deficiencies next year. In fact, most of the speakers at the hearing stated they supported many of the goals of the bill but felt it

was fatally flawed and a one year postponement would enable us to have time to fix it.

The bill was passed along party lines and was placed on the Special Order Calendar for full House action on Wednesday and Thursday.

The meeting in the House chamber Wednesday again was orderly but very long. The meeting on Wednesday was for the purpose of asking questions about the bill and offering amendments.

As expected, none of the amendments were adopted. The bill was substituted for SB 6, which was identical and HB 7189 was tabled.

The Thursday meeting was for the purpose of debating the bill and voting on the measure. The vote was taken at 2:26 AM Friday morning and the bill was passed. 9 Republicans joined Rep. Weinstein and Rep Van Zant from Clay County to vote against the bill.

It must be noted that Rep. Mia Jones repeatedly offered amendments that would have corrected some of the defective provisions in the bill. Each time she patiently explained and debated her amendments and handled each question pertaining to her amendments expertly. During the debate on the bill on the floor, on at least two occasions, she caused the leadership to research the law before they could respond to her concerns. Both Rep. Jones and Weinstein should be praised for their tenacity and courage.

During the week every minute was spent by educational lobbyists working on the bill to urge its defeat, including Terry Brady who worked with the FEA. Several of the school board lobbyists were called in to the Governor's education policy coordinator's office on Wednesday to discuss concerns about the bill and asked to submit in writing specific concerns by Thursday for their consideration. On Monday, a meeting has been set with the overall policy coordinator for the Governor to further discuss our concerns.

The bill (now SB 6) was fast-tracked and sent to the Governor on Friday – just a few hours after passage. It normally takes a minimum of three or four days to send passed bills to the governor for his action. He has until April 16 to veto or sign the bill. If he does neither, the bill becomes law without his signature.

Other bills that passed out of the House this past week include the Class Size Reduction resolution (SB 2), High School Standards (SB 4), and Corporate Tax Scholarship Program (SB 2126).

No action was taken on the budget. The conference committees have been stalled awaiting various issues to be resolved: Seminole gaming and federal Medicaid matching decisions related to the Federal Stabilization bill. The Seminole Compact issue was resolved when the House and Senate reached an agreement late in the week on the Compact. The agreement will bring in \$434 million for the 10 -11 fiscal year. The Senate had included that amount in its budget.

BILL ACTION

Teacher Quality (SB 6) passed out of the House, the last stop before the governor's desk.

The bill implements new teacher employment contract provisions that apply only to new teachers under contract after July 1, 2010; requires the development of end-of-course exams (EOC's) for every course offered by each school system if the course is not now tested by state assessment or accelerated course tests by 2013-14; and requires the implementation of a new teacher appraisal system, over 50% of which is determined by learning gains as assessed by the EOC's in 2014 – 15.

A revision in the current appraisal system will be in effect this July 1, 2010. The current appraisal system requires that teacher assessment be "primarily based" on student performance. The bill amends that provision by requiring, effective July 1, 2010, that teacher assessment be at least 50% based on student performance.

The bill also requires new salary schedules solely based on performance and differentiated factors by July 1, 2014. The salary schedule may not be based on experience or degrees earned.

The bill impacts teacher certification as well. Effective 2014, certificate renewal will be permitted only if 4 out of the last 5 appraisal were at the Effective or Highly Effective levels.

High School Standards (SB 4) passed out of the House. It has not yet been sent to the Governor.

The bill adds required courses for acquiring the math and science credits – Geometry (in 10-11) and Algebra II (in 12-13) required for math credits and Biology I (in 11-12) and chemistry / physics plus an equally rigorous science course (in 13-14).

The bill also adds requirements for the passage of EOC's in Algebra I (10-11), Geometry (11-12), and Biology I (11-12). By 12-13, a phase-in of all of these EOC's will be required in order for a student to receive credit in the course. The 9th and 10th grade Math FCAT and FCAT science will be phased out through 11-12. The requirement for Majors and Minors is deleted. In addition, a program called Credit Acceleration Program (CAP) will allow students to take the EOC for credit in lieu of taking the course.

Middle school promotion will be impacted as well, especially as the EOC's relate to Algebra I and Biology. Other amendments were made to FCAT provisions, school recognition program, and school grades.

Class Size Amendment Resolution (SB 2) was passed by the necessary 2/3 majority and will be placed on the ballot in November.

The bill retains the CSR requirements but modifies the constitutional provisions slightly to allow for a variance in individual classes while maintaining the average per class in each school. Pre K – 3 would be required to maintain an average of 18 students per teacher but a classroom would be allowed a variance of 3 (as long as the average is 18); 4 – 8 would be required to maintain an average of 22 students per teacher but a classroom would be allowed a variance of 5 (as long as the average is maintained at 22); and 9 – 12 would be required to maintain an average of 25 students per teacher but would be allowed a variance of 5 (as long as the average is maintained at 25).

Corporate Tax Scholarship Program (SB 2126) was also passed by the House but has not yet been sent to the Governor. The bill expands the cap on the program from the current \$118 million to \$140 million and allows the cap to increase another 25% once the amount of tax credits reach 90% of the cap. The amount provided for the vouchers also increase from the current \$3950 per student to 60% in 10-11 and eventually to 80% of the total potential FEFP per student appropriated to public

schools. Next year the voucher should exceed the amount public schools receive from the General Revenue for its FEFP funding (the balance for public schools is paid out of local taxes).

Other bills passed in committee

SB 1096, Civics Education, would require students entering grade 6 in 12-13 to take a one semester course in civics education that includes specified content and to pass an EOC in 13-14. The school grade will be affected in 13-14 based on the aggregate scores of students who have been assessed. The similar **HB 105**, has passed the House and is awaiting Senate action.

SB 1970, Accelerated Course Bonuses, would decrease the weight factor of accelerated course and change the way bonuses are distributed. The impact of the bill and others that are moving is that teachers in the programs could be provided 10's of thousands of dollars in bonuses at the expense of having the program. Similar provisions are found in the budget conforming bills and in **HB 1287** which is scheduled for a hearing this week.

SB 206, Academic Signing Day, would encourage school districts to recognize students receiving academic scholarship on a specific day each year in April. **HB 55** is ready for floor action in the House.

SB 2014, Early Learning, would revise various provisions pertaining to AWI and Early Learning Coalitions. **HB 1203** is scheduled for a hearing in the house Appropriations council.

HB 1505, McKay Scholarships, Would revise eligibility requirements for students to receive McKay Scholarships. Students enrolled in any prior FTE reporting period would be eligible as would kindergarten students. Public schools would be responsible for the IEP. The bill would also allow students to be served outside the private school setting with written authorization from the parent and physician. The private school would be responsible for contracting with a private company to monitor the student's progress. **SB 2746** is in committee.

HB 747, Students with Diabetes, would prohibit school districts from assigning students to schools on the basis that the students have diabetes and would permit students to manage their diabetic

condition on school grounds with physician and parental permission. **SB 896** is scheduled for a committee hearing.

SB 642, Teen Dating Violence & Abuse, would require a component in each district's health curriculum and a policy to provide professional development for staff. The policy would also prohibit dating abuse and violence on campus and at school activities. **HB 467** is to be heard next in House Education Policy council.

SB 2118, Seclusion and Restraint, would revise application procedures for licensing facilities serving persons with developmental disabilities, would require incidence reports from schools when a student is restrained or secluded, would require notification of the parent upon such occurrence, and would require training requirements to be developed by the DOE. **HB 1073** is similar and has one more stop before floor action.

SB 1058, School Notification, would require notification of the Director of Transportation and other impacted personnel by the Superintendent and of the bus driver by the school principal when a student is charged with a felony or a delinquent act that would be a felony if committed by an adult. An exemption in the public records act would be provided for agencies needing information regarding students. **SB 1058** and **HB 603** are scheduled for action on the floor of their respective chambers.

SB 1072, Juvenile Justice, would change the requirements for children in need of services by expanding the definitions to include children 9 years of age or younger and to allow youth served by the CINS / FINS network which will trigger certain mental health services. **HB 7181** is scheduled to be heard this week.

SB 2042, College and Career Transition Assistance, would establish a school-to-work program in schools, charter schools, or DJJ programs and establish an endowment fund for that purpose. **HB 1041** has not been heard.

SB 2224, Jobs for Florida Graduates, provides an endowment for the program including a tax credit for summer youth employment. **HB 1595** is scheduled to be heard in the House.

SB 1806, Vocational Rehabilitation / SMART Schools, would revise provisions of law that are obsolete and would conform other provisions with federal law.

SB 140, Farm Fresh Schools Program, would encourage school district food service programs to purchase from Florida farms and to make reasonable efforts to select foods based on nutritional value. **HB 1619** is scheduled to be heard in committee.

SB 514, School Tax Holiday, would be established as August 11 - 15. The House bill, **HB 483**, has passed the House and is awaiting action in the Senate. The House bill would set the days as August 13 - 15.

SB 2580, Group Health Insurance, would require school districts to form consortia to procure health insurance programs. The consortia would be comprised of school board members, superintendents, and employees selected by the FEA. School Boards may opt out of purchasing insurance through the consortia. **HB 1021** has not been heard in committee.

SB 1902, Retirement, was amended in committee about two weeks ago to delete most everything in the original bill detrimental to school personnel except overtime and accumulated leave which would not be counted toward retirement. The remainder of the bill relates to firefighters and municipalities. The bill was amended and then has been postponed at every meeting since.

SB 464, Military Leave, passed the full Senate. The bill would change the requirement for military leave from 17 days to 240 hours per year. **HB 129** is on the house calendar for full House consideration.

SB 1598, Public Records and Meetings, would require training of all public officials on the Government in the Sunshine Act. **HB 1211**, a comparable bill that restricts agencies in holding public meetings and provides transparency, has not been heard but will likely be scheduled this week.

HB 1107, Sovereign Immunity, would increase the school district (and other agencies) liability to \$200,000 from the current \$100,000 for tort claims and raises the liability for other combined claims by \$100,000. The identical bill in the Senate, **SB**

2060 has passed the Senate and is awaiting House action.

SB 1056, Prompt Pay, would prohibit damages against a contractor if the item list is not timely provided to the contractor. **HB 1157** is scheduled for a hearing in a House council.

HB 1233, Plant Surveys, would establish criteria for seeking an extension of the deadline for educational plant surveys and would prohibit districts from contracting for new projects during the extension period. **SB 2356** is scheduled for a committee hearing this week.

SB 1964, Design Professionals, would limit liability of design professionals for economic damages resulting from performance of services. **HB 701** a similar House bill, has been placed on the House calendar for floor action.

SB 2206, Financial Data, passed the Senate. The bill would require entities to maintain financial data in accordance with the requirements of the CFO. There is no House companion.

RETIREMENT ISSUES

Little action has been seen in the last week or two on retirement issues. To date, only the issues last reported are in play:

SB 2022: would require a contribution by all state workers (including school board employees AND including vested personnel) toward their FRS retirement. The rate would be .25 %. We have heard that this rate could go up to 1%.

HB 5703: would eliminate the health insurance subsidy of up to \$150. This would apply to new retirees effective July 1 and to all current retirees on January 1, 2011.

SB 1902: would eliminate the counting of overtime and accumulated leave (AL and SL) toward retirement.

No other issues are moving **right now**.

CAUTION: Please advise anyone planning on making a change in their retirement plans based on assumptions about pending legislation, including plans for DROP, to

proceed with caution. It would be advisable to wait until the second week of May, if possible. Some employees may have a deadline for their enrollment in DROP – they should stay tuned before making a decision.

I will know more as the end of the Session nears.

If you have any questions or comments, please let me know. I can be reached at my e mail address below.

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