



Legislative Bulletin 2/17/12 – updated 2/23/12

The Senate gave final approval this week to a key Republican priority dealing with workers' compensation. **SB 572 (Dempsey)** was approved with a largely party-line 28-6 vote. The bill would cover occupational diseases under the workers' compensation program, which proponents feel will free businesses from potentially costly litigation. It would also allow employees to sue their co-workers for injuries sustained on the job only if the injury was "purposefully and dangerously" caused. Occupational diseases, such as those caused by on-the-job exposure to chemicals and toxins, were removed from the workers' compensation program under a 2005 law.

Also passed this week in the Senate was **SB 773 (Parson)** that would push Missouri's filing period for the 2012 state primary election back from February 28 to March 27. Parson indicated the bill was necessary to give those charged with redrawing the legislative boundaries more time to complete a finalized map. In order to get the bill passed in a timely manner, the House is holding a Technical Session today to read in the bill.

Despite a handful of Thursday morning hearings and Friday's Technical Session, the House essentially wrapped floor debate up on Wednesday cutting the week short once again. Before closing up shop, a number of consent bills were approved. Also passed this week was a non-binding resolution, HCR 3, which calls for an amendment to the U.S. Constitution to require the federal government to balance the budget.

Both chambers will reconvene on Monday at 4:00 p.m.

NEWLY FILED BILLS OF CONCERN:

HB 1718 (Scharnhorst) establishes Bryce's Law which authorizes a tax credit for a person donating to a scholarship-granting organization for special needs students if it is not claimed on his or her federal income tax return. Scharnhorst has filed this bill the past several years.

HB 1735 (Dieckhaus) establishes the Passport Scholarship Program. This is the House version of Senator Cunningham's SB 706, which was rolled into a committee substitute for SB 451 and voted out of the General Laws Committee this week (noted below).

In addition to HB 1735, Representative Dieckhaus filed **HB 1736 and HB 1740** also containing Passport Scholarship language.

HOUSE URBAN ISSUES COMMITTEE - Advertising on school buses

HB 1273 (Kelley) would require the State Board of Education within the Department of Elementary and Secondary Education to promulgate rules and regulations authorizing local school boards to lease advertising space on the interior and exterior of school buses allow school districts to sell advertising space on school buses. Among the districts that responded to the fiscal note inquiry, Special School District indicated that based on other states, they could earn \$300,000 - \$400,000 per year from bus advertising on their 150 buses.

HOUSE APPROPRIATIONS EDUCATION - Budget

HB 2002 was voted out Tuesday and will now go before the Budget Committee. Included in this week's mark-ups (changes to the bill) was an additional \$300,000 to Regional Professional Development Centers (RPDCs). Other items that received additional funding were Early Grade Literacy (\$100,000) and Vocational Rehabilitation (\$283,000).

HOUSE BUDGET - Tax Amnesty

A committee substitute was voted out for **HB 1030 (Flanigan)**, which establishes a tax amnesty program. If you recall from last week, the sponsor indicated the measure would generate approximately \$53 million in revenue for the state. Included in the substitute was an expansion adding teachers to the list of those required to be in tax compliance before renewing their "license". However, an amendment was approved removing this language. In addition, the amendment removed the controversial "no new tax language" which decreases the potential revenue by \$18 million annually. The measure passed 24-0.

SENATE GENERAL LAWS - Repealing the Blaine Amendment

"Freedom Day" was the focus of Senator Cunningham's committee hearing this week. Among the bills heard was **SJR 47 (Rupp)**, which upon its passage, would put before the voters a measure to modify Article IX, Section 8, commonly referred to as the "Blaine Amendment" by removing the prohibition on the distribution of public moneys to religious organizations by prohibiting public entities from denying an individual or an entity the state benefits of an education program, funding, or other support on the basis of religious identify or belief provided the state benefits comply with the First Amendment to the United States Constitution.

Rupp noted the use of public funding at private institutions of higher education, which has been an ongoing argument posed by proponents of the measure each year. Others in support pointed out thirteen other states without the restriction and indicated it was put into place as a result of religious bigotry towards the Catholic church. Opponents asked the committee to consider the cost alone to the foundation formula as there are approximately 83,000 students that could be drawn into the formula. After all, one would have to assume all parents would take advantage of the savings. A representative with the Anti-Defamation League in opposition to the bill noted the potential for extremist and hate groups such as the Westboro Church out of Kansas to set up educational shops in Missouri and in turn benefit from such legislation. CSDSTL and other education groups testified in opposition to the bill. A fiscal note is not yet available on the substitute.

Following public testimony, the committee held an Executive Session voting out a committee substitute for **SB 451 (Cunningham)**. An extensive summary (6 pages) of the substitute is provided at the end of this report.

SENATE EDUCATION COMMITTEE

A number of bills were heard in Senate Education Wednesday.

SB 677 (Pearce) modifies the law regarding school accreditation for failing school districts by removing the two-year waiting period that exists between the classification of a school district as unaccredited and the lapse of the district's corporate organization. Instead, when the State Board of Education classifies a district as unaccredited, it may determine the date of the district's lapse. At such time, the State Board may establish the district's governance conditions or determine an alternative governance structure.

Among those supporting the bill were Chris Nicastro with the department, Bernie DuBray with Fort Zumwalt, MSBA, MNEA and the State Chamber.

SB 654 (Lager) requires the school board of each district and charter school to establish an evaluation system for teachers and teaching. This is a proposal being pushed by MSTA in hopes of pacifying those in support of further accountability. Senators Cunningham and Chappelle-Nadal adamantly opposed the bill stating it was completely off-base in terms of standards/outcomes being adequately defined. MSTA and MASA testified in support.

SB 737 (Engler) restricts the Department of Elementary and Secondary Education from creating a report or publication related to the Missouri School Improvement Program that includes the data of any children in facilities serving neglected children or delinquent children in a district's aggregate scores unless the Department creates an annotation with the data collected only from the district's regularly enrolled students and an explanation. MSBA and MASA supported the bill.

The committee then voted out **SB 483 (Rupp)**, which creates the Early High School Graduation Program for public high school students who graduate from high school early (heard last week).

Pearce announced that both **SB 677 and SB 737** (mentioned above) will be voted out next week.

SUMMARY OF SCS FOR SB451 (CUNNINGHAM)

PASSPORT SCHOLARSHIP PROGRAM: This act establishes the Passport Scholarship Program to grant scholarships to students residing in an unaccredited school district to attend a qualified nonpublic school.

To be eligible for a scholarship, a student must reside in an unaccredited district. A student will remain eligible until graduation from high school or age twenty-one, whichever occurs earlier. Students will remain eligible even if their district of residence changes because of a boundary line change, annexation, consolidation, reorganization, or dissolution.

Beginning in tax year 2012, a taxpayer may make a qualifying contribution to an approved or qualified educational assistance organization and claim a tax credit. The annual cumulative amount of tax credits is limited at \$40 million, which will be increased or decreased based on the consumer price index for the Midwest. The tax credit is for sixty percent of the amount of the contribution, is nonrefundable and may be carried forward for four years. The Director of the Department of Economic Development must establish a procedure to apportion the amount of tax credits amongst all educational assistance organizations. The Director may reapportion those tax credits to educational assistance organizations that have used all, or a certain percentage, of their tax credits.

An educational assistance organization that desires to participate or provide scholarships through the Passport Scholarship Program must meet certain requirements, including being a 501(c)(3) organization; providing a receipt to taxpayers for contributions; ensure that funds are used as specified in the act; distribute scholarship payments four times per year; provide the Department of Economic Development, upon request, with criminal background checks on all employees and board members; and demonstrate financial accountability and viability, as described in the act.

Each educational assistance organization must ensure that qualified schools: comply with all health and safety laws applicable to nonpublic schools; hold a valid occupancy permit if required; do not discriminate in admissions based on race, color, or national origin; and provide academic accountability to parents. An educational assistance organization must annually and publicly report to the Department information about the organization, information about the scholarship recipients, and the dollar amounts of scholarships awarded.

A qualified school must comply with state laws applicable to public schools for criminal background checks for employees and exclude from employment anyone prohibited from working in a public school. A qualified school must administer an assessment to its scholarship students but has the option of administering one of three different types of assessment. A qualified school must also meet certain accountability measures, including fiscal soundness, accreditation, and surveys of parents and students.

A qualified school is prohibited from accepting a scholarship check that exceeds its standard tuition and fees. If the scholarship amount is insufficient to cover the cost of tuition, a qualified school may charge the parent or guardian the difference between the cost of tuition and the amount of the scholarship.

The Joint Committee on Education must conduct a study of the scholarship program. The Joint Committee may contract with an outside researcher if assistance is needed and funds are available. The study must begin within five years of commencement of the program and must cover a period of five years. (Sections 135.712-135.719)

CHARTER SCHOOLS: This act allows an accredited school district, combination or a cooperative of school districts to sponsor or operate a charter school in or for an unaccredited school district, which may enroll resident students of any school district classified as unaccredited. Such a charter school is prohibited from contracting with the unaccredited district, employing any of the unaccredited district's teachers, or contracting with any teacher union. If the district is no longer unaccredited, the charter school may continue to operate. Charter schools may enroll students from any unaccredited district. Charter schools may continue to operate if the district in which they are located is modified through a boundary line change, annexation, consolidation, dissolution, or action of the State Board of Education. They may continue to enroll students, as described in the act, and new charter schools may open and operate as well.

In addition, the school board of an unaccredited or provisionally accredited district may close district schools and lease the school building to the governing board of a charter school that it sponsors. The school board of an accredited district may close a district school it deems to need improvement and may lease the school building to the governing board of a charter school that it sponsors.

When a charter school is sponsored by the local school board under this provision of law, as described in the act, the State Board of Education will have the accountability and enforcement powers of a charter school sponsor under current law. (Section 160.402)

LAPSE OF A SCHOOL DISTRICT: This act removes the two-year waiting period that exists between the classification of a school district as unaccredited and the lapse of the district's corporate organization. Instead, when the State Board of Education classifies a district as unaccredited, it must review the governance of the district to establish the conditions under which the existing school board will continue to govern. The State Board must also determine the date on which the district will lapse and must determine an alternative governing structure for the district.

This act changes the timing and purpose of the hearing that the Department of Elementary and Secondary Education must conduct. When a district is classified as unaccredited, the hearing must be regarding the accreditation status of the district. Also, the hearing must provide an opportunity to convene community resources that may be useful or necessary to support the school district as it attempts to return to accredited status.

When it classifies a district as unaccredited, the State Board of Education may allow continued governance by the existing local board of education under specific terms and conditions. If the State Board appoints a special administrative board to oversee the district, it may determine the number of members and specify the board's duties. If the State Board determines an alternative governing structure, it must provide a rationale for its decision and review and recertify the alternative form of governance every three years. In addition, the State Board must create a public comment method, establish expectations for academic progress by creating a time line for full accreditation, and provide annual reports to the General Assembly and Governor on the district's progress, as described in the act.

A special administrative board appointed under this act will retain the authority granted to a school board under the laws of the state in effect at the time of the district's lapse.

The State Board cannot attach the territory of a lapsed district or establish more than one district within the territory of a lapsed district to school districts other than St. Louis or those located in St. Louis County.

This act repeals the requirement that provisionally accredited and unaccredited districts develop a plan to divide up the district if the district cannot regain accreditation within three years of the loss of accreditation. This act also repeals the limitation on the State Board attaching a district with more than 5,000 pupils to another district without approval by the receiving district's school board.

This act provides that the powers of the State Board of Education will be superseded by the annexation procedure established in Section 167.403. (Section 162.081)

INTERSCHOLASTIC ATHLETICS AND ACTIVITIES: No school district may become a member of or retain membership in a statewide activities association that prohibits or delays athletic or activities eligibility for any student who transfers from an unaccredited district to an accredited district, virtual school, charter school, or nonpublic school with a Passport Scholarship under state law. (Section 162.086)

RECEIPT OF STATE SCHOOL AID: As a condition of receiving state school aid, an unaccredited district must transfer any local effort moneys it receives from the county assessor and collector to the custody of the State Treasurer. The State Treasurer may collaborate with the State Board of Education and a clearinghouse, if one exists, to identify the tuition and transportation costs for students transferring out of the unaccredited district and the amount of moneys needed from the local effort moneys to pay the tuition and transportation. The State Board of Education will determine the extent to which the State Treasurer may disburse the funds, as described in the act.

In addition, a school district will not be eligible to receive state aid if it violates state school laws, except as described in the act. (Section 163.021)

WEIGHTED AVERAGE DAILY ATTENDANCE: If a school district is using the weighted average daily attendance for the preceding school year or second preceding school year, the Department of Elementary and Secondary Education must adjust it so that the district receives no aid for students who are receiving a Passport Scholarship. (Section 163.036)

STUDENT TRANSFERS FROM AN UNACCREDITED DISTRICT: Currently, the school board of a school district that does not maintain an accredited school is required to pay the tuition and transportation of resident pupils who attend an accredited school in another district of the same or an adjoining county. This section applies to both unaccredited school districts and K-8 school districts that do not offer high school grades.

This act differentiates between a K-8 school district that does not offer high school grades and a school district classified as unaccredited by the State Board of Education. This act specifies that the school board of an unaccredited district must pay the tuition and transportation of resident pupils who attend an accredited school in another district of the same or an adjoining county. A resident pupil of an unaccredited district may attend a school in another accredited district in the same or an adjoining county. A student may continue to attend an accredited or provisionally accredited school district in the same or an adjoining county if the student's unaccredited district of residence is annexed or dissolved. A parent or guardian may choose to enroll his or her child in a provisionally accredited district provided that officials of the district or clearinghouse have informed the parent or guardian of the accreditation classification and given a written explanation of the definition of provisional accreditation. Any school that receives transfer students will not be required to include those student's scores on the statewide assessment in that district's scores for up to five years.

The rate of tuition to be charged is the lesser of the nonresident tuition established by each district, or in the absence of nonresident tuition, the lesser of the two districts' average expenditure per pupil for the most recently completed year for which data are available. When the unaccredited district is either St. Louis or a district in St. Louis County, the tuition rate will be set at the amount used by any voluntary urban transfer program. The tuition amount will increase by the cost of living, as measured by the consumer price index. The tuition amount cannot exceed the lesser of the two districts' current expenditure per average daily attendance.

The residence district must also pay the cost of education in the receiving district for any student with an IEP accepted in the receiving district. The tuition payment will be facilitated and handled by the State Board of Education withholding the necessary amount of funds from the unaccredited district's state aid or the local effort moneys in the custody of the State Treasurer.

By June 30, 2012, each district must establish criteria for the admission of nonresident pupils from unaccredited districts. The primary criteria must be the availability of highly qualified teachers in existing classroom space. Each district must establish criteria for calculating available seats, taking into account the district's resident student population growth or decrease, such that the receiving district is not required to employ additional teachers or construct additional classrooms. In addition, resident pupils must not be displaced from the school building to which they are assigned. The receiving district will be responsible for assigning a student to a particular building or program but if the receiving school is primarily virtual, parent permission will be required.

When a student from an unaccredited district has been accepted in an accredited district, he or she may complete the educational program through graduation, even if the district of residence regains accreditation.

The Department of Elementary and Secondary Education must develop a uniform document to be used by school districts to keep track of the number of students who seek admission. The parent of a student seeking admission must receive a copy. Each district must report the information from the document, as described in the act.

In addition, the students of an unaccredited district may be enrolled in the virtual school of a district or the state as an alternative to or in addition to other enrollment options. The school board of a receiving district may offer a virtual education program in an unaccredited district in which resident and nonresident pupils may enroll.

A homeless child, as described in the act, in an unaccredited district may transfer to an accredited district in the same or an adjoining county. A student who transfers will be considered a resident of the receiving school district for purposes of special education services. (Sections 167.131 and 167.133)

PROCEDURES WHEN A DISTRICT BECOMES UNACCREDITED: This section creates the Hinson Plan. If a school district, except for St. Louis or a district in St. Louis County, becomes unaccredited, surrounding accredited districts must divide up the territory of the district, annex it, and draw up new attendance boundaries. When an accredited district annexes a portion of an unaccredited district, it will not be considered a successor entity for the purposes of employment contracts, unemployment compensation, or any other purpose. In addition, the accredited district may have certain other powers and authorities, as described in the act. The executive directors of the Public School Retirement System of Kansas City and the Public School Retirement System of Missouri, and the Commissioner of Education, or his or her designee, to meet and study the effects of school district boundary line changes on retirement systems.

They must prepare a report, with any recommendations for legislative action, with ninety days and submit it to the President Pro Tempore of the Senate, Speaker of the House of Representatives, the Joint Committee on Public Employee Retirement, and the Joint Committee on Education. (Section 167.403)

CLEARINGHOUSE: This act requires the Department of Elementary and Secondary Education to create a clearinghouse, or appoint a neutral third party to serve as a clearinghouse, to assist students in the St. Louis City School District or any other unaccredited district in St. Louis County, to transfer to an accredited district, charter school, virtual school, or nonpublic school using a Passport Scholarship.

A parent or guardian seeking to enroll his or her child in another school must send initial notification to the district of residence and the clearinghouse between January 3 and July 15 for enrollment. However, a parent or guardian may enroll a child in a school without using the clearinghouse and a school may enroll a child who has missed the deadlines for enrolling through the clearinghouse.

The clearinghouse must provide counselors to assist and advise parents and guardians on school options that are available and assist in preparation of applications. The expenses associated with the clearinghouse will be defrayed by the Department of Elementary and Secondary Education withholding funds, not to exceed five hundred dollars per pupil, from the unaccredited district's state school aid.

This program will continue until the district has been accredited for five consecutive years and has met all MSIP academic standards for five consecutive years.

The clearinghouse must identify a method by which parents and guardians can prioritize the schools in which they would like to enroll their child. The clearinghouse must identify the total number of students who seek to transfer as well as the number of transfer requests received by each individual school or district, as described in the act.

If a student ceases participation in the St. Louis area voluntary urban transfer program and transfers under Section 167.133, and if the state contribution for tuition and transportation is less under the 167.133 transfer, the difference between the two amounts must be transferred to the general revenue fund. (Sections 167.406 & 167.409)

VIRTUAL SCHOOLS: A student may enroll in the virtual courses or programs of a school district, charter school, or MoVIP that meets the requirements for virtual courses established in Section 162.1250. The Department shall withhold the tuition amount, as described in the act, from the district of residence's state school aid, and shall seek local moneys, as described in the act. (Section 167.418)

SCHOOL PRINCIPALS: School principals will have the right to select teachers for their schools who have demonstrated effectiveness and qualifications. School districts with multiple schools must include provisions in teacher contracts for the placement of teachers rated highly effective or effective based on the mutual consent of the teacher and principal of the school. School districts may adopt options for teachers rated effective or higher who are displaced and not selected for a regular position. This act contains additional procedures for when a position is unavailable for a teacher.

TEACHER TENURE: Currently, the St. Louis City School District has a separate tenure system. This act ends this separate system and includes St. Louis in the statewide system. If a special administrative board is governing a school district, it may appoint a hearing officer to conduct a teacher termination hearing. In addition, a school board, upon an affirmative vote of a constitutional majority of its members, may

appoint a hearing officer to conduct a teacher termination hearing.

This act modifies the procedures and criteria by which school boards may place teachers on leave. Instead of seniority or years of service being used as criteria for placing teachers on leave, the deciding criterion will be effective teacher performance based on documented student learning and growth. (Sections 168.104, 168.106, 168.116, 168.124, 168.221)

EDUCATOR EVALUATIONS: At least fifty-one percent of an educator's evaluation must be based on a student's academic growth. (Section 168.128)

ADJUSTMENT OF FUNDS: This act also repeals a requirement that certain payments made from any source by a school district that result in the transfer of the title of real property to the school district be deducted as an adjustment to the funds payable to the district under the school funding formula. (Section 177.088)

SHARING OF SERVICES AND INCREASING EFFICIENCIES ACT: Two or more school districts, charter schools, any public, private, or nonprofit entity, political subdivision, public institution of higher education, or private institution of higher education may cooperate and share resources to achieve efficiencies, become more cost-effective, reduce costs, and reduce and minimize duplicative operations, services, and purchasing.

In addition, nothing in this section may be construed to prohibit any of the identified entities from entering into any cooperative agreement, as described in the act, or to prohibit any identified entity from altering any agreement it may have entered into with another entity described in the act without agreement from all the parties to the agreement or expiration of the contract that is in force upon the effective date of the act. (Section 177.250)

The provisions of this act are nonseverable. (Section 1)

This act contains an emergency clause that applies to the remainder of the sections, except for the teacher tenure provisions and sections 177.088 and 177.250. (Section B)

This act contains an effective date of July 1, 2012 for the teacher tenure provisions. (Section C).

This act contains provisions substantially similar to SB 706 (2012).

House Bill 1740

On Wednesday, February 22, the House Education committee voted out a committee substitute for House Bill 1740 by a vote of 13-9. Following is a brief summary of the provisions contained in this substitute:

- Passport Scholarship (tax credits) – donations made to scholarship granting organizations (who in turn are eligible for a tax credit capped in total at \$40 million), which in turn provides students in unaccredited districts with a scholarship to be used at a private or parochial school anywhere in the state. A qualified school does not include public schools.
- Formula – contains Rep. Thomson's HB 1043 formula language
- Two year window before DESE can intervene in an unaccredited district is repealed as contained in HB 1174
- A portion of Rick Stream's language regarding transfers from unaccredited districts, but allows student to attend any district. There is no language to require a student to attend school within the unaccredited district first or allowing county districts to have discretion
- Establishes a clearinghouse for student transfers
- Removal of teachers' tenure effective for new hires 6-30-12 (nothing included on evaluations)
- Removal of last-in/first-out seniority regarding teachers
- Charter language as proposed by Rep. Tishaura Jones
- Virtual Charters limited to students in unaccredited districts

Those in favor of the bill were: Dieckhaus, Cookson, Anders, Bahr, Barnes, Burlison, Cierpiot, Funderburk, Leara, McNary, Neth, Schad, Scharnhorst, Stream

Those in opposition to the bill were: Anders, Aull, Fitzwater, Tishaura Jones, Lampe, McNeil, Shively, Swinger, Thomson