

Legislative Report – Mr. Mahler

- Mr. Mahler submitted a written report as follows:

Legislative Schedule...

While the Senate and House had been adjourned until September and August, respectively, the Senate is now scheduled to return to Harrisburg for three session days next week, and the House for two session days the following week. During this time legislators are likely to be briefed on the state of budget negotiations and work to complete votes on some issues that were not concluded by June 30.

Vetoed Bills

Over the past few weeks, Governor Wolf vetoed the Legislature's budget, a liquor privatization bill, revised school code, and a pension reform bill.

Pension Reform: SB 1, as passed by the General Assembly, modifies the future benefits of pre-Act 120 employees by making the lump sum withdrawal option actuarially neutral, caps post-Act 120 employees at the Social Security wage base in the DB plan (with additional salary over that cap eligible for a DC and cash balance plan) and requires new employees hired on or after July 1, 2016 to participate in cash balance and DC plans.

"There are provisions within this legislation, which as part of a comprehensive pension proposal I could support," Gov. Wolf said in a press release following the veto. "However, Senate Bill 1 does not address the problems facing our pension system comprehensively and fairly." Wolf also noted that the plan "provides no immediate cost savings to taxpayers and does not maximize long-term savings for taxpayers," was not negotiated in good faith as part of the budget discussion, violates federal tax law (concerning impermissible cash or deferred arrangement), and "forces newly-hired employees to pay down the unfunded liability of existing pension plans, caused by years of government failure to make necessary payments, while denying those new employees the full benefit of their contributions."

In a press release responding to the pending veto, House and Senate Republican leaders stated that, "with this [sic] veto, he is rejecting tangible, systematic changes to reform the public employee pension systems, which are currently the number one reason for property tax increases."

The veto puts all aspects of the pension issue back onto the budget negotiation table.

State Budget: Passed in both chambers by a partisan vote, **HB 1192** included no tax increases (including no new gas extraction tax, as proposed by the governor), a \$100 million increase for basic education driven out by the newly proposed funding formula, an additional \$25 million for special education and an allocation of \$0 for PlanCon due to a proposed \$5.3 billion bond issue that would have provided immediate dollars to provide lump sum reimbursements to those districts at Parts G and H of the program.

The governor's veto means that legislative leaders and the governor will need to continue meeting in Round 2 of budget negotiations and, eventually, all members of the General Assembly will need to return to Harrisburg to approve a final budget plan and accompanying legislation.

"The citizens of Pennsylvania sent us here to do serious work and to address the problems facing this commonwealth," Gov. Wolf said in a press release following the veto. "This includes enacting a budget that contains fair and adequate education funding in part by implementing a commonsense severance tax, providing property tax relief to Pennsylvania families and seniors, fixing the structural deficit, and providing a sound plan to create jobs across this commonwealth. This budget does not accomplish these essential tasks, so I cannot, in good faith, give it my approval."

In response to the veto, Senate Majority Leader Jake Corman (R-Centre) said, "The governor owns this now. The General Assembly put up the votes to pass a balanced budget. He owns the fact that we don't have a budget now, and we will wait for him to offer a new plan." (Note: The Department of Education has posted an FAQ on the budget impasse. [Click here](#) to read it.)

After one meeting between House and Senate leadership and the governor early last week, negotiations fell apart and the parties did not meet for further budget negotiations.

School Code: The General Assembly also passed and sent to the governor a School Code bill, [HB 762](#) to accompany the budget. Gov. Wolf promptly vetoed that bill as well.

The bill included Fiscal Code language from last year's budget (re: special education funding changes, PlanCon changes regarding deadlines and some grant language), and new PlanCon changes, although the language inserted into HB 762 concerning PlanCon was not that found in HB 210 (Rep. Seth Grove's bill). Rather, it would have required establishment

of a legislative advisory committee, which would have six months to recommend a new PlanCon structure going forward, in addition to the bond language.

New Laws:

Cyberbullying – HB 229: signed into law as Act 26 of 2015. The act amends the Crimes Code to make cyberbullying of a child a misdemeanor of the third degree and provides alternative penalties for juveniles found guilty of cyberbullying. It also requires the court to determine if a pattern of misconduct occurred before a penalty could be imposed and re-define terms to require a more serious effect of the action (i.e. from "serious emotional distress" to "substantial emotional distress").

Clearances – HB 1276; amended and passed by the Senate, with House concurrence on amendments, and sent to the Governor; signed into law as Act 15 of 2015. The bill amends the Child Protective Services Law to make some changes to the language passed in Act 153, including the following:

- * Defines "routine interaction" as regular and repeated contact that is integral to a person's employment or volunteer responsibilities
- * Defines "immediate vicinity" as an area in which an individual is physically present with a child and can see, hear, direct and assess the activities of the child
- * Clarifies that for internships, work-study or co-op programs, the person the school and the employer identify as the child's supervisor is the person responsible for the child's welfare and that individual must be in the immediate vicinity of the child at regular intervals
- * Waives the fees for child abuse clearances and state criminal background checks for volunteers and permits these free certifications to be provided only once every 57 months; reduces the fee to \$8 for school employees
- * Clarifies that volunteers need to obtain certifications if they have "direct volunteer contact", meaning they are responsible for the care, supervision, guidance or control of children AND have routine interaction with children
- * Prohibits the use of certifications obtained for free as a volunteer from being used for employment or for purposes other than as a volunteer
- * Adds a presumption of good faith, stating that an employer or individual responsible for selecting volunteers is presumed to act in good faith when identifying which volunteers must submit certifications and in maintaining records
- * Clarifies that students enrolled in a school who volunteer for an event on school grounds that is sponsored by the school do not need certifications as volunteers if they are not responsible for a child's welfare
- * Permits individuals (with the exception of volunteers receiving free certifications) to use current certifications to apply for employment or as a volunteer and to serve as an employee or a volunteer
- * Requires employees to obtain new certifications every 60 months; employees who do not have certification or whose certifications are older than 60 months must obtain new certifications by December 31, 2015
- * Beginning August 25, 2015, volunteers must obtain renewed certifications every 60 months; if the current certifications are more than 60 months old, the volunteer has one year to obtain renewed certifications and if the volunteer never had certifications, the individual must obtain certifications by July 1, 2016

Other Legislative Action

Economic Furloughs – In a 100-91 vote, the House passed [HB 805](#), concerning economic furloughs HB 805. The bill has been referred to the Senate Education Committee. It:

- * would retain current language regarding tenure, requiring temporary professional employees to complete three years of satisfactory performance to be awarded tenure. However, the district superintendent could extend that period to four years.

* provides for furloughs for economic reasons upon majority vote of the board of school directors, provided that such decisions are first based on performance, with seniority considered if the overall performance rating of professional employees is the same. Reinstatement would take place in inverse order. Following the furlough, the position would remain vacant for at least one year unless the suspended employee is reinstated to the position.

* allows suspension of professional teaching employees only if an equal percentage/proportion of administrators are likewise suspended, with an exception if the Secretary of Education determines the district's operations are already sufficiently streamlined or if the State Board of Education approves the exception. The bill further states that any five administrative staff positions selected by the board of school districts in that LEA would be exempt from furlough.

* requires the Legislative Budget and Finance Committee to conduct a study of the effectiveness of economic furloughs under the act following the 2019-20 school year

* forbids collective bargaining agreements negotiated after the effective date of these provisions from addressing suspension or realignment of positions that does not reflect the act's requirements

School Accountability and Takeover – The Senate, in a partisan 27-22 vote, passed SB 6, which implements the Educational Opportunity and Accountability Act. The proposal requires the bottom 5% of elementary and secondary schools—as measured by the SPP—to become Intervention Schools, giving their school boards some additional flexibility to improve their scores. The bottom 1% of elementary and secondary schools become part of the Achievement School District (ASD), a statewide school district made up of no more than 75 schools at any one time, and run by an executive director appointed by a seven-member board (appointed by the Legislature), with the authority to close schools, convert schools to charter schools, authorize new charter schools, or fire the principal and over 50 percent of the staff in that school. The bill also requires creation of community advisory boards in affected school districts. PASA, PASBO, PAESSP and PSBA, sent a joint letter to members of the Senate over the weekend, urging a “no” vote on the bill.

Clearances: SB 862; passed by the Senate. The bill amends the School Code to bring the state's background check requirements into compliance with federal requirements. The bill clarifies that background check clearances would need to be valid three years, rather than one year, as provided in current state law.

Data Collection – HB 1112; passed by the House; sent to the Senate. The bill creates an advisory committee to work with PDE and the State Board to review current data collection and reporting requirements and to recommend the elimination of those reports that are unnecessary or duplicative. The advisory committee is to be made up primarily of school business officials. The bill also requires PDE to provide a justification and burden analysis prior to instituting any new data collection requirement that is not required by legislation.

Committees:

Today, the House Education Committee was to have a public hearing concerning state assessments.

The Senate Local Government Committee, yesterday, sent HB 823 to the Senate for consideration. The bill makes some revisions to Act 164 of 2014, providing for training and additional qualifications for tax collectors and the appointment of a deputy tax collector. Specifically, HB 823 clarifies that the municipality electing the tax collector must approve the deputy and that an immediate family member of the tax collector cannot serve as deputy.

SchoolWatch: HB 224; approved by the Senate Education Committee. The bill amends the Public School Code to codify the addition of financial information to the School Performance Profile. This is a modified version of the original “SchoolWatch” bill. It codifies the financial information recently added by the PDE to the SPP website but does not include a requirement to add return-on-investment data, a provision that had been included in last session's bill.

Investments: HB 1296; amended and approved by the House Local Government Committee. The bill expands the list of permitted investments of municipal and school district funds, and establishes reasonable criteria and constraints on the use of these investments, local governments can increase returns, become aligned with national best practices for public funds investment, allow their investment officers the same tools as their counterparts in most other states, and institutionalize appropriate risk management strategies to protect public funds.

Bargaining Disclosure: SB 645; approved by the House State Government Committee. The bill requires employers to provide notice of the terms and estimated cost prior to signing collective bargaining agreements. Notice must be posted on the employer's website 2 weeks prior to the signing and remain posted for 30 days after the signing.

Cost of Regulations: [SB 731](#); approved by the Senate Education Committee. The bill requires the State Board of Education to submit to the House and Senate Education Committee chairs a fiscal impact statement to accompany every change in regulations pertaining to the Keystone Exams.

Reverse Appeals: [SB 877](#); amended and approved by Senate Urban Affairs and House Committee; now on the Senate Voting Calendar. The bill limits a school district's ability to engage in reverse assessment appeals except for limited circumstances. In addition to making some technical language changes, the amendment stipulates that appeals in 2016 must be filed between June 1 and September 1 or by the annual appeal date set by the county. PASA opposes SB 877.

Other PA News:

According to the PA Department of Revenue, Pennsylvania collected \$2.9 billion in General Fund revenue in June, which was \$206.7 million, or 6.6 percent, less than the official estimate. Fiscal year 2014-15 General Fund collections totaled \$30.6 billion, which is \$412.2 million, or 1.4 percent, above estimate. The only tax that did not meet fiscal year expectations was the realty transfer tax, which came in 7.5 percent less than anticipated for the year.

From the State Board of Education: PSSA Cut-Scores...

The State Board of Education last Thursday approved the cut-scores for the 2015 PSSAs in math and English Language Arts (ELA) for grades 3-8, as recommended by the Department of Education. These set new cutoffs for "advanced," "proficient," "basic" and "below basic." This process is known as setting the "cut scores."

During the Board discussion, officials from the Department of Education and representatives from Data Recognition Corporation (DRC), which develops and scores the tests, explained that the process for determining the cut-scores involved panels of educators and administrators who analyzed test questions and their alignment to the PA Common Core in the process of finalizing and recommending performance levels. They also noted that the 2015 PSSA was based on the PA Common Core Standards approved by the Board in 2013 and, for that reason, the tests reflect additional rigor compared to the 2014 tests.

With the tests aligned to the new requirements analysis shows that the proficiency rates in grades three through eight dropped on average by 35.4 percentage points in math and 9.4 percentage points in English language arts on the Pennsylvania System of School Assessment (PSSA) exam.

However, the department said 2014-15 should be considered the new baseline for year-to-year comparisons. "It isn't useful to compare these 2015 student results directly to past results, because the tests are different," said department press secretary Nicole Reigelman. "Student performance hasn't changed, but the test has changed considerably in some grades."

DRC and PDE officials stated they expected those scores to improve within three years, as younger students will have had more exposure to the updated academic standards and school districts will have had more time to fully design and implement curriculum that is aligned with the standards.

Click here to view the approved cut-scores in ELA, and **click here** to see the cut-scores in math. (Please print to read.)

[Here](#) is more on the results.

National News - ESEA

This week, the House and Senate both moved forward with their ESEA proposals. The Senate continues to debate amendments, and the House passed the Student Success Act (HR 5).

In the House: Earlier this week, the House considered **18 amendments** during debate before passing the final bill by a slim 5-vote margin, 218-213. The House is now waiting for the Senate to pass the Every Child Achieves Act, so the two bills can be conferenced and sent to the President's desk.

In the Senate: The Senate continues their ESEA debate and amendment process. The Senate is expected to complete amendment debate and final vote on the bill fairly soon.

Other National News

Wisconsin: College Readiness Law – A new law in Wisconsin requires the state to examine high schools that send to its public universities more than six students who don't qualify for credit-bearing coursework. Assembly Bill 56, authored by Republican Rep. John Jagler, was signed by Gov. Scott Walker on Wednesday. It requires the University of Wisconsin to create a report that informs the state legislature and state department of education which high schools send more than a half-dozen students who must take remedial math or English courses. *Read the rest of the story: ["Wisconsin Law Requires ID of Schools That Send Unprepared Students to College"](#)* (from *Education Week*, 4/3/15).

Kansas: Court Decision on School Funding – Kansas' block-grant funding of public education is inequitable and unconstitutional, a three-judge school finance court ruled in late June. In an 87-page ruling, the panel ordered that the state fix the problem by reinstating parts of the school-finance formula repealed by the block-grant bill passed by the Legislature and signed by Gov. Sam Brownback earlier this year. The court ruled that the bill violates the state constitution "both in regard to its adequacy of funding and in its change of, and in its embedding of, inequities in the provision of capital outlay state aid and supplemental general state aid." *Read the rest of the story: "Court Panel Says Key Parts of BlockGrant School Funding Law Violate Kansas Constitution"* (from *The Wichita Eagle*, 6/26/15).