

The Legislature

West Virginia School Boards Association



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Williams 'Assured' to stay as SBA Leader

SBA, ethics bills moving in Legislature

Analysis/Commentary by Howard M. O’Cull, Ed.D.

As of this writing, the 2005 special legislative session called by Gov. Joe Manchin during his inaugural address is entering its fifth day with most major legislative proposals, including those relating to ethics and government reorganization, headed to House/Senate conference committees. In all likelihood, the session will end tomorrow, according to legislative leaders.

The major legislative issue, that relating to legislation aimed at erasing a \$3 billion funding shortfall in Workers Compensation, will require additional work, although the Senate has passed its version of the bill, with the House expected to follow suit today (Jan. 28).

Government reorganization

Gov. Manchin’s proposal to reorganize several state agencies, including the School Building Authority of West Virginia, has gotten considerable press in Charleston, particularly in regard to the SBA.

Taking an early lead to fashion the tone most news media outlets adopted toward the proposed SBA reorganization, the *Charleston Gazette* – with the Associated Press rewriting the original *Gazette* piece for its first article on the subject – pitched the story with this headline: “Manchin Targets School Building Authority; Long-time Director Might be Replaced.”

Manchin officials, however, say the issue isn’t the SBA executive director per se. And, late yesterday, agency Executive Director Clacy Williams, Ed.D., told a *Gazette* reporter he was “assured” by the governor that the matter wasn’t personal and that Williams will remain in the post. Actually borrowing a page from former Gov. Bob Wise, Manchin officials say the issue is how agencies such as the SBA, which appear to be semi-autonomous or which report to non-elected boards, have or use their independent bonding capacities.

That point, admittedly absent from Manchin’s original legislation, was made yesterday in a House Government Organization committee. The newly-proposed language would prohibit bonds from being issued or reissued by the “state...or any of its agencies, boards, or commissions, where the ultimate user of the proceeds of the bonds is the state of West Virginia or any of its agencies, boards, commissions or departments, or (if) the issuance or re-issuance of the bonds implicates the state’s credit rating.”

That bill provision then says the bonds could be issued or reissued if the Legislature expressly approves such through legislation or a concurrent resolution of both houses. Or bonds could be issued or reissued upon the “express written approval of the gover-

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Overview

STATS

Day of 2005 Special Session:	5
Days Remaining Until 2005 Regular Session:	12
Interim Meetings Remaining:	1

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QUOTE

“What’s the point here? There can’t be any other point except this is being political. If something works, why change it?” – *W. Va. Board of Education President Barbara Fish discussing the governor’s agency reorganization bill.*

WC Set for March

The W. Va. School Boards Association’s 2005 Winter Conference will be held March 11 and 12 in Charleston at the Embassy Suites Hotel.

The program commences at 1:00 p.m. on Friday, March 11 and will conclude by 12:45 p.m., Saturday March 12.

Programming focuses on becoming a “high-impact” school board, as well as segments relating to safe schools, school building projects, small schools—a continuation of programming from the 2004 Fall Conference—and a possible workshop on new ethics legislation.

Doug Eadie, author and school board consultant, is the keynote presenter. Copies of his book, *The Five Habits of High-Impact School Boards*, will be provided to each conference participant.

Gov. Joe Manchin, newly-appointed House Education Committee Chairman Tom Campbell (D-Greenbrier) and Senate Education Committee Chairman Bob Plymale (D-Wayne) will be invited.

The session will offer more than seven clock hours training for county board members.

Shuttle buses will provide transportation to the state Capitol on March 11. County board members and boards need to make their own legislative appointments.

Campbell heads House Education Comm.

A fifth-term Democratic delegate from Greenbrier County is the new House Education Committee Chairman.

Del. Tom Campbell was appointed to the post by House Speaker Bob Kiss (D-Raleigh). Campbell is a Lewisburg Certified Public Accountant, and has served in the House since 1997. He was chairman of the House Pensions and Retirement Committee in 2003.

According to biographical information about House members, the 44-year-old delegate is a Read Aloud West Virginia Volunteer; President of the Greenbrier Valley Chapter of the W. Va. University Alumni Association, and an advisory member of State Fair of West Virginia. He also is a member of various professional organizations and is Elder-authorized Lay Preacher in the Presbyterian Church.

In press comments, Campbell said he hopes to bring an open-door policy and a spirit of cooperation to what has become one of the more contentious committees in the Legislature. "I hope we can focus on these things that affect education and not be distracted by outside issues. I hope I can get the Education Committee off to a fresh start." Those remarks were made to a *Charleston Gazette* reporter.

Sen. Bob Plymale (D-Wayne) chairs the Senate Education Committee. He is employed by a federal transportation research agency affiliated with Marshall University and located in Huntington. He was named chairman of the SEC in 2003.

That committee was formerly chaired by Sen. Lloyd Jackson (D-Lincoln).

Kiss removed Mezzatesta from the chairmanship in August, in the midst of an internal House investigation of allegedly fraudulent letters prepared by committee employees in an attempt to clear

Mezzatesta of charges in a still-on-going Ethics Commission investigation.

Mezzatesta and his wife each pleaded no contest to a misdemeanor charge of altering or deleting legislative computer records.

Campbell said he doesn't expect to serve on the budget conference committee which determines final education funding.

WVSBA refining 2005 session goals

The W. Va. School Boards Association Executive Board, meeting Jan. 8 in Charleston (St. Paul Lutheran Church, ELCA), approved seven proposed legislative priorities for the West Virginia Legislature's 2005 Regular Session which commences Feb. 9.

As a matter of courtesy, the association executive board adopted a resolution for sharing the proposals with the legislative leadership and with the governor. Once those informational meetings are held – the first is scheduled today with Senate Education Committee Chairman Bob Plymale (D-Wayne) – the proposals will be included in WVSBA's *Legislative Priorities and Philosophies* document, which is released annually.

The association's Committee on Legislation, meeting earlier on Jan. 8, developed the list of legislative priorities, basing its work on two previous COL meetings held in 2004.

The 2005 *Legislative Priorities* include:

- 1. Support of gubernatorial/Ethics Commission initiatives to strengthen Ethics Commission:** independent investigatory powers for EC; more stringent financial disclosures; and a call to address whether or not EC or state's Pecuniary Interest Statute §61-10-15 should have precedence in matters relating to conflicts of interest. The Pecuniary Interest Statute is the "oldest" statute, dating to the days of the state's founding. Finally, WVSBA supports measures that will "discourage elected officials, including county board members, from pressuring administrative or agency officials in regard to outlay of funds, provision or addition of programs favored by the elected official or untoward behavior toward administrative or agency personnel which could unduly benefit the requesting public official." WVSBA won't introduce its own bill, but will base support on measures proposed by the governor or EC.
- 2. Provision of Adequate "auxiliary" school personnel services (nurses, counselors, psychologists and others working DIRECTLY with students).** As in past sessions, WVSBA supports addition of a "dedicated" school aid formula line item for "auxiliary school personnel" such as school counselors, nurses and psychologists. The purpose is to more fully fund these positions, while not "subtracting" from professional personnel for whom these individuals now are counted. WVSBA may support legislation authorizing "table games" as one means to fund these positions, although the organization, without seeing any actual such legislation, has not made a final commitment to this route of funding.

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The Legislature provides county board of education members, state policymakers, school administrators, and others information, opinion and commentary regarding West Virginia legislative issues. This publication does not necessarily reflect the official views, opinions or policies of the WVSBA, unless specifically stated.

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3. **Establishment of a broad-based committee to review school personnel laws, especially in light of the federal No Child Left Behind (NCLB) requirements.** The association will support efforts to examine existing school personnel laws to determine their efficacy in terms of NCLB. Other matters to consider relate to appointment and staffing of schools by school principals, with a notion of greater county board flexibility in this area-while safeguarding principals' rights. Additionally, the association urges the Legislature to "study the applicable statutes and [state Board of Education] policies, rules and regulations relating to the recruitment, employment and retention of educational personnel to determine how these strictures affect the provision of high quality educational services to students."
4. **Provision of enhanced salary and benefits for school employees.** WVSBA is not supporting a specific school employees' pay proposal. (Traditionally, the association, in terms of pay proposals, supports legislation introduced on behalf of the governor.) The association also voices support for continued initiatives designed to strengthen the state's Unemployment and Workers' Compensation efforts.
5. **Enactment of legislation that will result in greater intra-district sharing of county board central office administrative services.** This is one of the association's flagship recommendations. Such sharing of central office services would be through cooperative arrangements between and among two or more county boards. While Regional Education Service Agencies may wish to sponsor such sharing of central office administrative services, the collaborative arrangements would not depend upon RESA initiation. Nothing in WVSBA's proposal would require sharing of services, however. Moreover, attrition, retirements and down-sizing would be factors that could "lead" to sharing of services-a preferred approach. Finally, WWSBA does not, at this time, necessarily support the sharing of other professional personnel, including teachers, unless the Legislature sanctions this move. (The association is aware of some existing arrangements for such via RESAS.)
6. **Establishment of an interim legislative committee to study effects of 2002 legislation relating to RESAS.** As enunciated by the association's Committee on Legislation and WVSBA Executive Board, the notion is to study how effective RESAs have become since adoption of significant reform legislation in 2002. In making this study, WVSBA is not asking for a return to the prior governance structure, realizing legislative support for such appears greatly lacking, but for some further clarification of RESA duties and those of RESA boards. The governor would appoint the committee.
7. **Appointment of a broad-based committee to study the state school aid formula.** A long-standing recommendation of the association, this committee, which would be comprised by a number of educators and non-educators, including legislators, businesspersons and citizens, would work to review the SAF in terms of its viability, especially given disparate needs of the state's 55 county boards. An initial report would be given in December, with the work of the committee to be on-going. The governor would appoint the committee.

The organization's *Legislative Priorities* document was first compiled in 1990 and is updated annually.

WVSBA Executive Director Howard M. O'Cull, Ed.D., chairs the Committee On Legislation.

For more information on the proposals, please contact O'Cull.

WVASA announces 2005 priorities

The W. Va. Association of School Administrators, meeting earlier in the month, has adopted four legislative priorities for the West Virginia Legislature's 2005 Regular Session, according to Martha Dean, Ed.D., the group's executive director.

The WVASA priorities include:

Priority number 1:

Funding for both increased enrollment counties and very small districts within the formula: Remove the last sentence in 18-9A-15 and add the following: "Those counties with fewer than 1400 net enrollment shall be eligible for consideration for supplemental appropriations for capacity building. The state superintendent shall receive petitions for supplemental appropriation from eligible counties that establish verified lack of capacity of the county to provide direct services to students mandated by state law or state board policy. The state superintendent shall make appropriations to eligible counties after verifying need and reasonable local effort to meet mandated requirements."

Priority number 2:

Revision of the funding formula to provided dedicated funds for the required positions of treasurer (one per county) and school nurses (1 per 1,500 enrollment K-8).

Priority number 3:

Provision of increased salary for school personnel during the fiscal year 2005-06.

Priority number 4:

Addition of service personnel category "Aide V" which will be defined as an aide required to hold an LPN certification to facilitate the provision of needed health procedures for students requiring them.

WVASA is an organization comprised of executive level school administrators, including county superintendents, central office personnel and other administrators.

For more information regarding the organization, refer to www.wvasa.org.

The Legislature

WATCH FOR THE LATEST ON EDUCATION LEGISLATION.

Mathematics emphasis

Senior year critical for economic development according to WVDE officials

By Jason B. Keeling

Ensuring a productive high school senior year was a main focal point of the Legislative Oversight Commission on Education Accountability's Jan. 11 interim meeting, and several state officials indicated the issue is a critical component of student achievement across West Virginia. LOCEA's meeting was held jointly with members of the Legislative Oversight Commission on Workforce Investment, a committee that places focuses on the needs of businesses.

Increased economic development requires a highly skilled workforce, said Sen. John Unger (D-Berkeley), who has advocated throughout the interims a more rigorous and engaged senior year for students.

Several items were voiced as particular concerns, such as high numbers of first year college students requiring remedial courses in mathematics and English, the greater likelihood that those students will drop out of college, and the negative economic impact associated with students that do not obtain a marketable skill.

Early intervention is key, according to Sen. Robert Plymale (D-Wayne), who has suggested that end-of-course exams may help identify the students needing greater attention. Nineteen states, including Ohio and Virginia, currently require some form of such exams.

"The senior year should not be viewed as a finish line. It's really just a beginning," stated a workforce investment staff person, who said that a more seamless education could be promoted through increased senior career seminars and business internships, and by encouraging high school counselors to collaborate with college advisors regarding such initiatives.

Stanley Hopkins, a W.Va. Department of Education assistant superintendent, has been charged to lead a taskforce to address potential improvements at the high school level. "We are acutely aware of the challenges being faced by high school students," stated Hopkins, who said that issues such as formative interval assessments, meaningful work-based learning experiences, expanded dual-credit courses, and an increased compulsory school attendance age to 18 are topics likely to be explored. The taskforce should make recommendations to the W.Va. Board of Education by June, he said.

Content knowledge

The national newspaper Education Week (*Quality Counts* report) gave West Virginia's math standards an "A," and the WVBE in

December increased to four math courses the requirement for college bound high schoolers, yet the state ranked 48th in the subject on the American College Testing (ACT) exam, according to WVDE Assistant Superintendent Pamela Cain.

The WVDE plans to change this trend by strengthening the content knowledge of educators, she said, adding that leadership cadres are being established in each county as an instrument for professional development. Federal Title II moneys will be used to support the effort and the cadres are likely to meet regionally on occasion, according to Cain.

Textbook Savings

Some legislators are beginning to pressure state education officials to review its textbook adoption practices, given that some textbook contract renewals are soon. State law requires textbooks to be updated every eight years, but the WVBE requires such to occur every six years.

Textbook companies make substantial profits from the state by simply reorganizing some texts, said Sen. Unger, who reiterated comments made in December interim meetings by Sen. Larry Edgell (D-Wetzel), an educator who pointed out that certain subjects such as mathematics may justify less frequent re-adoptions, given the more fixed nature of their content.

Unger suggested forming a text buying pool with other states, and that savings from doing such could be used in other instructional areas.

Instructional Time

Education Subcommittee B: Public Education met briefly on Jan. 10 to discuss its likely February recommendations. Committee members suggested additional instructional days could be obtained by allowing school systems to begin anytime during the week of Aug. 26, and end anytime during the week of June 10. Currently, the instructional term may begin no earlier than Aug. 26 and end no later than June 10.

Del. David Perry (D-Fayette) continued his request for the state to return to the practice of "banked time," where instructors add additional minutes to class time, which could be accrued as instructional minutes counted toward state requirements.

— *The writer, owner of Keeling Strategic Communications, serves as a public relations consultant to the W.Va. School Boards Association.*

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nor."

Under terms of the House's proposed legislation, agency officials would have to make written contact with the governor, the President of the Senate and the Speaker of the House before issuing or reissuing bonds.

Manchin officials, in a statement to *The Legislature*, said these points are pivotal: "When Governor Manchin visited the financial leaders of Wall Street last week, they made it clear to him that our state would make much more progress financially if it spoke in one,

consistent voice instead of sending several different agencies with various bonding authority to present their own proposals to them separately."

The statement went on to read that the House and Senate reorganization legislation will "ensure that the agencies that are responsible for the state's economic development and financial bonding will operate as a team, so that Gov. Manchin will be able to better work with the nation's financial experts with the overall goal of finding ways to provide assistance to new and existing businesses in our state so that we can keep the good jobs we already have and

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create many more.”

As stated, legislative observers note that the SBA’s ability to issue its own bonds was strongly questioned last year with Wise removing two long-serving SBA board members in December 2003 after the agency’s bond issue interfered with one Wise had sought for the Economic Development Grant Committee. That stance was emphasized in an AP story which ran yesterday.

SBA structure

As originally introduced the legislation would have permitted the governor to make a wholesale change in the composition of the board: Terms of SBA members would have been expired on March 31 with the governor, in addition to naming its “new” members, also appointing its executive director who would serve at the governor’s will and pleasure.

The original legislation would have pared the board from 10 to 9 members by removing one W. Va. Board of Education member. The proposal also would have increased the number of citizen members, one of whom would have served as vice chairman.

The HGO proposal would increase the board membership to 11, including the governor or designee who serves as SBA chairman, the current slot for three WVBE members, and the current six citizen members. The state superintendent would serve in an ex officio capacity. (Due to the governor or his designee chairing the group, the state superintendent would no longer serve as SBA chairman—a point reiterated in the HGO bill.)

The reconstituted board would serve staggered five-year terms and WVBE members, who serve nine-year terms, would be prohibited from serving more than a five-year term, which apparently would be renewable.

In terms of the SBA directorship, the HGO amended the bill so that the governor could appoint an executive director (with senate consent). That individual serves at the governor’s will and pleasure for a four-year term. If the governor were to remove the executive director prior to the expiration of the term, the SBA board, “without the vote of the chairperson, shall fill the vacancy for the remainder of the unexpired term...”

An HGO amendment, passed on voice vote, makes it clear that the SBA board, through subsequent action, can’t reemploy an executive director who has been dismissed. (The proviso was made applicable to all agencies covered in the governor’s proposal.)

In terms of the bill’s bonding provisions, SBA Executive Director Clacy Williams has proposed an amendment that would exempt bonds issued for the purpose of refinancing from legislative approval. He said the amendment is necessary because of often short windows to refinance bonds, given favorable investment markets. Williams contends the legislation, as drafted, could require the Legislature to meet in a special session for this purpose—a procedure that would be costly, time-consuming and which could mean loss of favorable timing for bonds.

In terms of other debate on the proposal as relating to the SBA, the Senate passed the measure as introduced by the governor, with the amended language coming from the House side.

Economic development angle

Since there was virtually no Senate deliberation on the bill—it was passed on the first day of the special session without amendment—the debate shifted to the House. In terms of SBA bill reorga-

nization discussions, the slant wasn’t aimed at bonds and the like but rather to the economic impact of the SBA has had in terms of construction job in various communities throughout the state—a point that is attractive to both labor and construction advocacy groups and which has become a growing SBA theme since last year, although agency officials are clear to couch the construction and jobs argument within the context of better school learning environments.

In fact, Williams has been quoted as saying that the SBA, since its creation in 1989, has spread \$972 million across the state to renovate numerous schools and to build 105 new facilities.

In terms of the Manchin administration, the SBA role has become the subject of considerable discussion, especially given Manchin’s embrace, during the campaign, of small, community schools and his purported support of what is termed the “no-cost busing bill,” a small schools group measure that effectively would freeze school consolidations in the state. (Manchin officials say the governor is reviewing the bill. The governor has made no public pronouncements of support for the actual measure. Refer to the December 2004 issue of *The Legislature*.)

Shift

The degree to which the Manchin administration actually will embrace these and similar “small schools” ideas—and whether or not the administration will weigh-in on the Mingo County Board of Education efforts to thwart a state-inspired consolidation plan—is yet to be seen. However, some legislative analysts see the issue as pertaining to a continuing shift in gubernatorial thinking toward the agency—a shift that may have been pointedly illustrated last year when the Legislature removed about \$19 million in funding from the agency using the dollars to plug a hole in the state budget. Additionally, some legislative observers say the millions in SBA dollars doled out last year may be the “last” such an outlay of moneys for school construction for a long time. This circumstance gives the Legislature even more power to set the agency’s prospective fiscal agenda.

In another development, Wise, in his 2004 state of the state address, signaled what is seen as a shift in terms of school facilities policy, calling for more of an emphasis on community schools. (Refer to the Jan. 16, 2004 issue of this publication.) Additionally, he said he would appoint WVBE members who would share that philosophy. Small school groups who “bought” those statements say they were disappointed when Wise signed legislation that effectively closed several schools in McDowell County. For their part, Wise and legislators say that had the legislation not been approved, federal funds for construction of several schools in a flood plain would have been lost.

Two other recent developments come into play, according to some legislative observers: A critical Legislative Auditor’s report which faulted both the SBA and WVBE for having lax (or non-existent) procedures for agency operations and doling of SBA dollars and a report by a well-respected researcher which showed that school size is “neutral” in terms of its effect upon student achievement. Reportedly, SBA officials had hoped the study would have been more favorable to their efforts. (Refer to the May 21, June 28 and July 30 issues of *The Legislature*.)

Given these factors, Manchin appears to be building on the

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Mingo Finances Examined

OEPA Finds ‘Issues’ In Mingo Schools

As directed by the W. Va. Board of Education in December, a 20-member Office of Education Performance Audits Team has found what its executive director termed as “issues there.”

The report will be presented at the February WVBE meeting unless the state board calls an emergency meeting prior to that time.

According to OEPA executive director, Kenna Seal, Ed.D., the Mingo County School System may be “struggling in a lot of areas.” Two obvious “areas” of interest to the WVBE and OEPA include facilities and finances.

In fact, the WVBE ordered the probe because of what has become a protracted situation involving the local board and its decision – constituted by a “new majority” of members following the May Primary Election – not to embrace a previous board’s plan for consolidation of high schools in the county.

‘Re-intervention’

Many observers see OEPA’s efforts as a prelude for board “re-intervention” in the county—efforts designed to complete the previous board consolidation plan. For its part, both the state superintendent of schools and the head of the state School Building Authority have asked MCBOE members to illustrate what they plan on doing about a projected board deficit next year and \$17 million in SBA funds for the stalled facilities project.

For its part, the board met earlier in the month, directing county superintendent Brenda Skibo to develop ways to meet projected budgetary shortfalls—in addition to plans Skibo had previously submitted to the Mingo Board.

In addition to facilities, the board effectively is operating “outside” the context of its Comprehensive Education Facilities Plan as currently adopted. In fact, the MCBOE has not submitted a revised CEFP for state board approval.

The MCBOE majority, including President Bill Duty, has several questions about construction of the proposed consolidated school on a mining site, including what he says is the county board’s “non-possession” of the site itself as well as questions about “who” has title to the property, current mining of the property and whether or not the SBA grant is enough to pay for any new school.

Skibo and WVBE officials say the “fully-merged” school, to be comprised of four small high schools, will offer students better curricula and enhanced learning opportunities. Additionally, some county officials point to potential economic benefits of developing the site.

The dollars

In discussing the January WVBE decision, a state board spokesperson said that a review of the school system’s finances shows that Mingo County spent \$1.3 million “above and beyond” its general current expenses and special revenue funds last year. In the letter written to the board, State Schools Superintendent Dr. David Stewart said that number is a strong indication that the Mingo board may be headed towards deficit spending. Under state law, local financial bodies are prohibited from deficit spending.

Additionally, WVBE officials say the number of professional and service personnel employed by the Mingo County School System has consistently exceeded the number allowed under the funding formula for the state.

Also, the number of students per school in the county is below the state average. Mingo currently operates 15 schools for 4,686 students. That averages to 312 students per school. The state average is 365 students per school.

In his letter, Stewart asked MCBOE officials to “provide this office with a plan by January 31, 2005 of what steps the Mingo County board has taken or intends to take to resolve this negative financial trend that is reflected in this financial analysis.”

‘Double standard?’

WVBE critics say the board is playing a “double-standard” with Mingo County, noting that the Preston County Board of Education is operating with a deficit exceeding \$500,000—and that any Mingo deficit is “prospective.”

Additionally, WVBE statistics show that, in terms of the percentage of funds allocated for facilities by the local board as well as transportation and personnel, MCBOE’s “percentages” are within the norm of boards with comparable student net enrollments—a point the WVBE overlooks, according to W. Va. School Boards Association Executive Director Howard M. O’Cull.

“The only difference, if you look at the percentages closely, is the fact that Mingo has been subject to one intervention, and the other boards in comparison haven’t. Of course, that fact alone may make Mingo unique. Yet, in terms of comparative numbers or percentages with districts of comparable size, Mingo is not that much different.”

O’Cull, however, says he supports the WVBE stance with regard to the county because of its deliberative nature.

Legislative angle

The Mingo situation, according to various sources, may well play out in the Legislature. Small schools groups reportedly have contacted Gov. Joe Manchin and others within the Manchin Administration saying the WVBE will intervene in the county, and seeking Manchin’s support against such a move.

Whether that request will be honored isn’t known, but Manchin, during his campaign, did show sympathy with some Mingo residents opposed to the plan. According to spokesperson Linda Martin, the small schools groups are “at a loss as to what the Legislature could do in Mingo County.” Martin and other similarly-minded persons intend to ask for public hearings on the measure, pointing to last year’s effective closing of McDowell County Schools without “due process.”

Additionally, Martin and other WVBE critics say the state board doesn’t want to take the issue “too public” because of the MCBOE’s employment of well-known attorney Jim Lees who has been hired, according to some Mingo County sources, to contest any WVBE intervention.

‘Complicated’

O’Cull says the issue is quite complicated not only because of the facility issue but also because of how it impacts the understanding of a county board as a “continuing corporation.” Additionally, he said the matter involves a more fundamental aspect of

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policy precedence Wise had begun.

That, however, isn't how WVBE President Barbara Fish sees things. She told the *Gazette* that the entire initiative was "political" and that the SBA's procedures are "working" and, thus, don't need to be fixed.

WVSBA role

For its part, the W. Va. School Boards Association has called for more detail as to how SBA projects are chosen for funding and for the criteria used. (The Legislature inched toward that goal last year by requiring the agency now to tell counties why a project was or wasn't funded.) The association itself, however, has called for no overhaul of the SBA board—or for Williams' removal.

In telescoping the issue in terms of news reportage, it is easy to draw a connection between the governor's bill and WVSBA's calls for reform in SBA procedures as lending support for Williams' removal as agency executive director.

The entire set of issues well illustrate how policy proposals, aired in a public milieu, can become captive to nuance; the ability of newspapers to set the tone for discussion of issues and questions of motive when the real issue may be hand-writing on the wall that has or is being ignored to the consternation of high-placed elected officials. Indeed, it is difficult for agencies to switch mission and tactics or to "learn" when they are independent and have learned to operate within a degree of considerable autonomy or when they are governed by non-elected boards or boards appearing not to be heavily weighed with measures of external accountability.

In terms of public policy, both Wise and Manchin, especially Manchin who has declared himself to be the state's CEO, may sense that the SBA and other groups outlined in his bill should answer to an elected official rather than their often appointed boards or funders. In terms of policy, this may be an admirable goal, but the original Manchin proposal became bogged down because, in the words of one Delegate, it was "over the top" in terms of literally firing the current SBA board and then refashioning the board as the governor wanted—with a completely new SBA director.

In the end, Manchin may get most of what he wanted: More control over the SBA, control he says is needed in terms of bonding decisions for that and other agencies. Thus, far that's all we can deduce from the mix. Subsequent policy statements and actions will tell the rest. The fact the Senate passed the bill intact and that the House of Delegates, even in revising the proposal is giving the governor most of what he wants, leads many legislative observers to say that the message is being delivered to these agencies—loud and clear. Politics: maybe; maybe not.

Ethics bill

In terms of proposed legislation to restructure the state Ethics Commission, the two houses have passed differing bill versions, each altering the governor's originally-submitted bill.

Among several changes, the Senate added a ban on lawmakers from attending free receptions while in session. That change was rejected yesterday by the House Judiciary Committee, but will remain one difference between the two pieces of legislation the conference committee will have to consider. According to various newspaper accounts, Senators may have inserted the provision in order to have better bargaining leverage with the House, although Sen.

Shirley Love (D-Fayette) has said he enthusiastically embraces that notion. Love made that amendment to the governor's bill in a Senate Finance Committee meeting.

The HJC also removed provisions that would have required public officials to disclose their real estate holdings and their spouses to disclose their employers and sources of income. This issue prompted considerable debate earlier in the week, with Delegates arguing the process would prove tedious and that it could prove vexing in terms of properties spouses may hold separately. In fact, the HJC counsel said spouses couldn't be compelled to provide the information—a situation that could lead to an officeholder's embarrassment, according to several delegates.

The bills differ on how to restore power to the EC in terms of the agency initiating its own investigations. The Senate would require approval by at least three-fourths of the 12-member commission. The HJC proposal envisions a "Public Servant Conduct Review Board" of three retired circuit judges to approve any probe. Privately, most observers think the panel idea is a stronger policy proposal, but say either approach (or a combination) could be approved.

The original bill had a provision to guard against "meritless" complaints filed against officeholders during elections to drum up negative press against incumbents. The HJC amended that provision requiring complaints to be filed within 120 days before an election. The commission then would have to dismiss or find probable cause within 90 days. This measure, which would affect county board incumbents, is particularly important especially given the many hard decisions county boards have to make.

As for "double-dipping," or when public officials or employees with two public jobs get paid for the identical time periods, the HJC amended the proposal to allow dual pay as long as the officeholder or employee discloses both to the commission, and has the pay from one job reduced by the amount of the pay from the other position.

Most observers were surprised at the amount of debate this provision engendered. In fact, educator/legislators were the ones to point out how difficult it would be to apply this standard. The House approach, debated for almost an hour in committee, precipitated this amendment. The Senate is expected to go along. In fact, its measure had similar language.

Several other provisions relate to lobbyists, including lobbyists' registration fees and lobbyists' service on boards of public bodies that handle matters of direct benefit to them.

While the governor may not have gotten the complete ethics bill he wanted, significant changes or, more precisely clarifications, are likely to be adopted.

As many veteran legislators point out, things aren't as bad as when the EC was first created in 1989 after a spate of legislators were imprisoned. Yet, they acknowledge ethics reform has struck a chord with the public—even though the proposal likely to emerge from the Legislature is somewhat incremental. Indeed, the real test will be supporting funding for the commission. That's a point EC Executive Director Lew Brewer is already talking up while waiting for the EC bill to pass.

—O'Cull is WVSBA Executive Director.

Blankenship gave to watchdog group

The *Charleston Gazette*, in a Jan. 11 article, reported that Massey Energy President Don Blankenship helped finance the Charleston-based watchdog group West Virginia Wants to Know.

According to the article, WVWTK spent \$54,836.61 of its \$68,978.41 budget on an ad criticizing state Attorney General Darrell McGraw and his brother, state Supreme Court Justice Warren McGraw. The ad ran in the weeks before the November election in which the brothers were standing for re-election. Darrell McGraw won, and Warren McGraw lost.

When asked about the Blankenship funding, which was taken from financial disclosures to the Internal Revenue Service, a WVWTK spokeswoman wouldn't say how much Blankenship's donation was, but said the money didn't or wouldn't influence the group's work.

The group was very visible in the recent situation regarding former House Education Committee Chairman Jerry Mezzatesta (D-Hampshire), seeking his removal from office. WVWTK representatives have attended several county board meetings, launching "in-

vestigations" in Cabell, Hampshire and Doddridge Counties.

In a related development, the *Gazette* reported that Mezzatesta, now a Hampshire County central office administrator, is seeking—through a FOIA—tape-recordings of HCBOE meetings during which people "talked about him."

The *Gazette* reported that Mezzatesta's Dec. 22 FOIA request asked for correspondence about his job performance and whether or not HCBOE members talked about him in closed-door executive sessions.

In a related development, the state Office of Education Performance Audits—at the request of the W. Va. Board of Education—has visited the Hampshire School System to make an audit regarding "grants" the board may have received.

Mezzatesta was removed as HEC chairman in 2004 amid various state investigations about any role he may have had with deleting or altering legislative computer records. In late November, he was ordered to pay a \$500 fine and sentenced to 90 days' probation.

State Board News

This issue of *The Legislature* contains the inaugural "State Board News" column, which is designed to inform county board members about W. Va. Board of Education policymaking, programs and services. "State Board News" will appear in *The Legislature* only.

Policy §2510 work day definition

At their January meeting, the WVBE placed §Policy 2510: Assuring the Quality of Education – Regulations for Education Programs, Definition of Teacher Work Day – on 30-day public comment. The board is to vote on the matter at its February meeting in Mason County. WVBE members urge county board members to review the document and make proposed policy improvements. The policy can be found on the WVBE Web site at <http://wvde.state.wv.us/policies/>.

Online lesson plans

The WVBE encourages more state schools to take advantage of SAS inSchool, an award-winning, web-based educational curriculum. SAS inSchool creates web-based teaching learning curricula focusing on the core subjects taught in grades eight through 12, including English, social studies, science, mathematics and Spanish. In addition, the software offers a web-based planning environment for teachers, and for students, it promotes problem-solving and critical thinking skills. For more information about SAS inSchool, visit <http://www.SASinSchool.com> or contact the West Virginia Department of Education at 304.558.2699.

College awareness program

The WVBE is encouraging further development of a pilot project to boost the state's college-going and retention rates. The W. Va. Department of Education, the state Higher Education Policy Commission and the W. Va. Council for Community and Technical College Education have joined forces to create the College for West Virginians - Education Go Get It Campaign.

College for West Virginians – Education Go Get It is being piloted in the north-central part of the state. The campaign will offer

printed materials, video spots and a website, <http://www.collegeforwv.com>.

The campaign also involves Go Centers, to be operated by a select group of trained high school students called the G-Force. Earlier this month, more than 200 students from high schools across the state received training on leadership and college preparation skills, according to WVBE officials. These students are expected to go back to their schools and open Go Centers. The Go Centers will be a one-stop-shop for college resources.

WVDE officials say the state's Gear Up program falls "directly in line" with College for West Virginians-Education Go Get It. Gear Up (Gaining Early Awareness and Readiness for Undergraduate Programs) ensures all students every opportunity to be academically and financially prepared for postsecondary education, including technical school, community college, or four-year college. GEAR UP raises the standards of academic achievement for all students, and develops effective and enduring alliances among schools, colleges, students, parents and government.

For more information about College for West Virginians, contact the WVDE at 304.558.2699.

Teaching Standards Commission

The WVBE named two new members to the Commission for Professional Teaching Standards (CPTS) during its January meeting. Pamela Hughes Moore and Mark Wills are the newest members of the education advisory panel. Moore has served as a mathematics teacher at Park Middle School in Raleigh County since 1971. Wills is a lawyer in Mercer County and a former member of the West Virginia House of Delegates. Comprised of 19 members, the CPTS was established in 1997 to form an alliance between the West Virginia Board of Education and the education profession. It serves in an advisory capacity to the state board on matters relating to teacher preparation, certification, licensure and professional development. WVSBA Immediate Past President William J. Raglin (Kanawha) serves on the Commission.

MINGO COUNTY “ISSUES”

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boardsmanship: “How, if you’re in the minority on this issue, can you pledge to support majority decisions?” There are some real fundamental questions about boardsmanship which should cause pause and reflection. Also, (Ms.) Skibo is in the middle and may, in a personal way, be the person most affected, especially if the state intervenes. Her position would be vacated. Yet, she has to do her duty in supporting the board majority, and in keeping her central

office’s morale up, as well as serving as a sort of intermediary for the state.”

In its December directive, the WVBE voted to instruct Superintendent Stewart to take any immediate action necessary to implement Mingo County’s Comprehensive Educational Facilities Plan. The Mingo County School Board voted last year to put that plan on hold.

The state board took over the Mingo County School system in 1998. It was returned to local control in 2002.

Make Plans Now To Attend

WV SBA's **WINTER CONFERENCE**

**March 11-12, 2005
Embassy Suites Hotel
Charleston**

The under-examined school calendar:

How to deal with its impact on learning

By Phyllis Bunker Frank

Preparing today's students for their world and future requires thoughtful examination of the traditional school calendar year that fit the 19th Century. Standards-based education increases the need to plan academic learning time, with flexibility and support built-in, so students can move through curriculum requirements at their own pace while mastering 21st Century learning skills.

Calendar time and learning is an under-examined potential solution to K-12 standards achievement. Time, used wisely and well, can serve as an academic equalizer for students. In this age of mandatory Adequate Yearly Progress, there is every reason to assure all education stakeholders that the resource of time is being carefully evaluated in designing the school year and school day to benefit continuous learning opportunities for all students.

School Calendar: 'Help or Hindrance?'

The operative question is whether the traditional academic calendar is a help or hindrance to student learning. Public education is a business that needs to plan for learning profit and not the measurable, observable summer learning loss or "summer slide" that has long been acknowledged in faculty lounges, parent conversations and well documented in research. The traditional response to "summer loss" is a cry for more, longer, and better summer school programs. That is, if only students would go to school in the summer, we could instruct and promote them in a way that they catch up and keep up with the information they somehow missed during the regular year.

Summer school is better than no summer school. Data show that timely intersession learning opportunities are better because typically instruction is more focused to what the student has been involved with in the previous learning block. Often the classroom teacher is given first opportunity to teach intersession(s) so a child may have the same teacher in a small group learning situation. Intersession learning may be more readily connected with what the student will be involved in the succeeding learning block, thereby affecting more developmental and continuous learning that is not viewed as remedial or seen as punitive.

Summer school will always wrestle with the disconnect that occurs at the end of the traditional school year calendar. Additionally, when careful data is kept, student attendance rates of 85 percent or more are found to be significantly higher for intersession than summer school.

Consider the following rhetorical question asked by Dr. Charles Ballinger, former Executive Director of the National Association for Year-Round Education (NAYRE) in his annual call for consideration of calendar modification at the Association's conferences: *"If year-round education were the traditional school calendar, and had been for over 100 years, and if someone were to suggest a "new" calendar whereby students would be exempt from instruction for up to three months at a time, would the American public allow, or*

even consider, such a scheme?" Then decide if now is the time to develop and adopt policies that ask for a clear focus on balancing the academic calendar year to address lengthy, planned interruption and strive to reduce or eliminate summer learning loss.

Summer vacations not eliminated

If learning is planned on the basis of a 12-month calendar, then the allocated instructional days (180 per full time student) is the reliable funded infrastructure for learning that can be plotted over 247 possible instructional days (excludes Saturdays, Sundays, federal and state holidays). The more unreliable annual funding (levy, Title I, grants, foundation) is then available for planning supplementary learning for remediation, enrichment, promotion or acceleration in timely segments where it may have the greatest impact for students. It does not eliminate summer vacation (usually becomes six or seven weeks). Instead summer vacation is reduced and redistributed as two- or three-week vacations or intersession periods, the latter becoming time during the school year which will minimize the learning loss, forgetting, and extensive fall review associated with the typical three-month summer vacation. The 're-calendared' year provides the opportunity for more continuous learning and closing the summer induced aspect of the achievement gap.

The West Virginia Legislature has enacted a statute that allows for the development of year-round education (established by school[s] and districts). In order to level the learning planning field in West Virginia, the state's restrictive "before" and "after" school starting dates may need to be adjusted to meet the annual final fiscal report dates for utilization of federal funds. A few West Virginia elementary schools have undergone calendar conversions within the defined constraints, and have not looked back at the traditional calendar.

Kentucky is a statewide calendar time and learning leadership model that can be visited and invited in for documentation. The results of a recent study of nine Kentucky K-12 districts operating on year-round calendars for five years or longer is positive and fits with other national findings. The NAYRE website (www.nayre.org) and Annual Conference offer nationwide findings, real time calendar change experience sharing, and helpful publications.

Calendar Innovation

Calendar time innovation is an opportunity-to-learn academic equalizer that can assist schools in becoming the learner focused community of their vision and mission statements. Students found to be most negatively affected by the long summer break – learning different, special education placement, second language learners, minority populations and students with limited home resources and limited parent participation - have the most to gain. If "disproportionality" among students is addressed by learning resource adjustment, then learning for all students is benefited.

See **SCHOOL CALENDAR** on page 11

12 good reasons to change to a 12-month calendar

(based on empirical, survey, case study and anecdotal data)

- Reduces a design flaw that can interfere with learning (lengthy summer break)
- Reduces inefficiency – less review and re-teaching
- Provides timely supplemental learning opportunities
- Promotes effectiveness – developmental learning; credit retrieval; continuous study
- Equitable – “levels the playing field” among students; significantly contributes to addressing issues of disproportionality
- Recaptures dollars for programming from increased student attendance; reduced teacher absence; reduced vandalism
- Enhances chance that school becomes the place children want to be and teachers want to teach – consistent safe/supportive environment
- Increases regular and reliable food service for all who qualify – nutrition feeds cognition
- Addresses special populations – eliminates retention/recruitment decisions; where reliable intersessions occur there is evidence of reduced referrals for testing and special education program placement; 2nd language learners more continuously engaged in meaning based, context rich and cognitively demanding language learning environment
- Reduces social promotion and increases challenging course selection at middle and high school
- More closely models school to work – school experience and the teaching profession no longer trapped by and in a 9 month calendar
- Works with changes in the American family and offers the community full facility use

— *Source: Phyllis Bunker Frank*

SCHOOL CALENDAR

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In summary, in a performance-based learning environment with high expectations, it becomes an accountability imperative to link the regular academic program with supplementary learning time in ways that 1) provide timely assistance close to the identification of a learning concern; 2) contribute to continuity of learning for all students; 3) open “downtime” for reflection, play and innovation; 4) maintain consistent K-12 parent/school/community partnerships and 5) utilize our public education facilities and equipment full-time. Now is the time to plan for students to learn year in, year out, and year round.

Editor’s Note: For more information, refer to accompanying listing of “12 Good Reasons to Change to a 12-Month Calendar.”

—*Phyllis Bunker Frank, a speech/language pathologist, is a member of the Washington State Board of Education and a member of NAYRE. She served for 12 years as a school board member in Washington State. She completed her K-12 public education in Charleston where her parents and family members were career educators.*

Monongalia Schools Superintendent Position

The Monongalia County Board of Education has announced that it has contracted with the W. Va. School Boards Association to conduct a search for its county schools superintendent upon the resignation of Michael Vetere, Ed.D. Pertinent information regarding the position, search process and related details are being finalized by the county board, working through auspices of WVSBA. This information will be available shortly. For more information, please contact WVSBA Executive Director Howard M. O’Cull, Ed.D. John Myers, a former school administrator and Monongalia County resident, will work with O’Cull to formulate citizen involvement aspects of the search.

Holocaust Commission Sets Art, Writing Competition

The W. Va. Holocaust Education Council has announced its 2005 annual Art and Writing Competition, which is open to students in Grades 5-12. This year’s theme is “Heroes Forged from the Holocaust.” According to WVHEC officials, “students are encouraged to depict those whose actions were guided by moral values, rather than self-interest or fanaticism. Students are encouraged to dig deep to learn about individuals who risked their lives and livelihoods in order to help the victims of the Holocaust.”

Students have the option to enter four different areas including Prose/Written Entries, Poetry, Fiction and Artwork. All entries must be received no later than March 4, 2005. Students may download the entry form at: <http://wvde.state.wv.us/tt/2005/holo-entry.doc>

A first, second and third place prize will be awarded in the art, poetry and prose categories. Separate prizes will be offered for the middle school and high school entries. All winning entries will also receive a textbook on the Holocaust and a booklet comprising all the winning entries. Winners will be notified by April 4, 2005.

The Holocaust Education Council is part of the West Virginia Holocaust Education Commission. State teachers volunteer their time on the Council. For more information about the competition or the Council, contact the Holocaust Education Commission at 304.291.3732.

The Legislature

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