



Measure has been introduced in several past sessions

Bill would penalize board members for individual actions unless authorized by law

Mingo board, citizens sue WVBE Story on page 4

The House Education Committee, which meets today at 10 a.m., will consider a measure that would prohibit county board members from acting on behalf of their boards individually unless authorized by law.

House Bill 2365, as introduced, states that county board members who violate its provisions would be “personally liable for all costs and personal judgments incurred as a result of the violation, including attorney fees.”

The measure would prohibit county board members from making obligations on behalf of the board, committing the board’s funds, or using its property, employees or services without board consent. Board members could not administer the system, hire board employees, supervise or evaluate the board’s employees or students, disregard board policies or school rules, or attempt to exercise any other authority relating to the county schools or county board outside the scope of authority expressly provided by statute.

HEC staff members said the committee will consider a substitute bill that incorporates language from the West Virginia School Boards Association. WVSBA’s proposal would make violators subject to malfeasance-in-office proceedings, meaning a member “may” be removed from office. In order for this to occur, a three-judge panel would hear the matter, as stipulated in §6-6-7[a].

WVSBA questions bill’s penalties, offers alternative language

WVSBA is concerned that the bill, as drafted, could be abused, especially when county board members make unpopular decisions, such as closing or consolidating schools or laying off personnel. Pressure groups could exploit the law to tie up individual members in court or through procedures where they have to defend their board votes and actions, said WVSBA Executive Director Howard M. O’Cull, Ed.D.

O’Cull shared these concerns and questioned the bill’s penalty provisions in a March 7 meeting with HEC Chairman Tom Campbell,

See UNAUTHORIZED DECISIONS on page 3

Overview

STATS

Day of Session:	30
Days Remaining:	30
Bills Introduced (not including pre-filed bills):	1,457
Education Bills (WVSBA count):	316

INSIDE

- ‘Healthy Lifestyles’ could carry big pricetag.....2
- Mingo board, citizens sue WVBE and superintendent.....4
- “State of the Arts” study won’t be the first.....5
- Administrative Perspective.....6
- Guest Perspective.....7

QUOTE

“Don’t let the perfect become an enemy of the good.” – Department of Education and the Arts official Jay Cole discussing a legislative proposal. Cole is educational liaison for Gov. Joe Manchin III. The Marion County native once ran for the school board in his county — at age 20. The 20-year incumbent George “Doc” Boyles was among winners in the 1992 race.

WC starts Friday

The West Virginia School Boards Association’s 2005 Winter Conference begins at 1 p.m. this Friday and continues through 12:30 p.m. on Saturday. All conference activities take place at Charleston’s Embassy Suites Hotel.

The conference kicks off with a reception for legislators that is co-sponsored by the WVSBA and the West Virginia Association of School Administrators.

The keynote speaker on Friday is Doug Eadie, author of a book about school board effectiveness. Another presentation addresses the state’s Ethics Law, which was adopted in the 2005 Special Session and has been debated during the current 2005 Regular Session.

The WVSBA will discuss legislative matters during its FY06 Annual Business Meeting, slated for 4:15 p.m. Friday.

Saturday’s program examines “high-quality” teachers from the perspective of the federal No Child Left Behind Act. Steven Paine, Ed.D., deputy state superintendent of schools, will lead this panel. Other workshops focus on community schools and school security. The school construction workshop has been canceled.

For conference details, contact Shirley Davidson, administrative assistant, sdavidson@wvsba.org or 304-346-0571.

Delegates concerned about privacy, staffing and facility scheduling **‘Healthy lifestyles’ could cost local boards big bucks**

See **Administrative Perspective** on page 6

A House education subcommittee, headed by Del. David Perry, AD-Fayette, learned about the governor’s “Healthy Lifestyles” bill during a March 8 briefing by Nancy Tyler, counsel for the House Health and Human Resources Committee.

Tyler fielded a number of questions from HEC members about the governor’s proposed student health requirements, including the bill’s provisions affecting physical education (PE) and soft drinks in school.

There was considerable discussion about compilation of students’ body mass index, which includes information such as a pupil’s height and weight. Some are concerned the provision might violate federal laws regarding individual student identification.

Delegates questioned how the measurements would be made in terms of privacy and whether they would remain secure. They asked if school personnel would have to be trained to take measurements and which personnel would be responsible, as well as costs to county boards and schools. They

The “Healthy Lifestyles” student health promotion program encourages collaboration among all education agencies so they speak a united message on children’s health.

wanted to know how to schedule students in terms of the school day and school year.

Tyler said the proposal apparently is aimed at creating a database so that the effects of “Healthy Lifestyles” or other programs can be measured. She said aggregate – not personally identifiable – information would be used.

Del. Bob Tabb, D-Jefferson, said anorexia, especially among young girls, should be considered as a student health concern.

Tyler said the student health promotion program encourages

collaboration among all education agencies so that they speak a united message on children’s health.

Additional PE requirements could cost \$5.6 million

Most discussion of **House Bill 2816’s** physical education program focused on its cost, estimated at \$5.6

million by the West Virginia Department of Education. The WVDE fiscal note states that county boards would have to foot the bill through local dollars and staffing.

Two additional issues surfaced in the discussion: Availability of facilities and how to fit the expanded PE requirements within the scheduled curricula without disturbing other curricula requirements or scheduling mandated by WVDE policies and law.

“You can’t rob other programs,” said Del. Linda Sumner, D-Raleigh, who, along with other legislators, is concerned the emphasis on PE will require evaluation or could eliminate other programs. They see this approach as divisive within schools.

“You can’t prioritize one content area over another,” Perry said.

A third area of discussion concerned a bill section that would allow exemptions from PE instruction, especially for student athletes.

Perry and others questioned whether exemptions would be requested by students engaged in other school programs. Tyler said some legislators want to remove the exemptions provision.

Regarding its costs, HEC Vice Chairman Larry A. Williams, D-Preston, said the bill, as written, would prove to be an “unfunded mandate” for county boards.

Melanie Purkey, executive director of WVDE’s Office of Student Services and Health Promotion, said the WVDE wants to research how several counties are offering PE more frequently during the school week. She said one problem in getting PE data is the inconsistency in programming throughout the state.

In terms of facilities, Purkey said PE courses could be taught in school spaces other than gymnasiums. Legislators noted that some space designed for PE classes also is used for lunchrooms and other purposes.

Staffing also is an issue, although delegates did not discuss in detail the additional staff it might require. Perry said the bill would

See **HEALTHY LIFESTYLES** on page 3

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.

W.Va. School Boards Association
PO Box 1008
Charleston, WV 25324
(304) 346-0571
(304) 346-0572 fax

WVSBA.ORG

Dr. Rodney C. Thompson (Wayne), President
thompsonchiropractic@msn.com
Howard M. O’Cull, Ed. D., Executive Director, Editor
hocull@wvsba.org
Diane Slaughter, APR, CAE, Layout and Design
info@homesteadlane.com
Shirley M. Davidson, Administrative Assistant,
Production and Circulation
sdavidson@wvsba.org

HEALTHY LIFESTYLES

Continued from page 2

require three additional PE teachers at the middle school where he is the principal.

Del. Mary Poling, D-Barbour, said if the bill does require additional staff, it couldn't go into effect this year due to an April deadline for making school personnel changes. Some legislators at the meeting suggested possible Local School Improvement Council waivers from the PE requirement or other modifications.

Other delegates talked about the value of recess, while Poling mentioned a YMCA program that includes a "gym in a box."

Soft drink policies might be stronger

Some legislators say the measure's soft drink provisions aren't

as strict as current law or policies in some counties.

Williams said the proposal could actually reduce federal lunch funds, based on the bill's general wording. Some delegates said the bill could liberalize when soft drinks can be purchased, especially in high schools.

Williams said the measure, while aimed at sound student nutrition, isn't inherently workable. "If a kid wants a soft drink, he's going to bring it with him [to school]."

Some legislators said they think the proposal may detract from West Virginia Board of Education policy, and questioned why the program would be administered by the Office of the Secretary of Education and the Arts, given the WVDE health division.

The bill has been referred to the House Health and Human Resources Committee, then the House Finance Committee.

UNAUTHORIZED DECISIONS

Continued from page 1

D-Greenbrier. O'Cull offered the proposed malfeasance language, which was approved by the WWSBA Executive Board, at the end of that meeting.

Campbell said the committee also was concerned about possible abuse.

HB2365 sponsors include lead sponsor Del. David Perry, D-Fayette, and Dels. Robert D. Beach, D-Monongalia; John Pino, D-Fayette; James H. Morgan, D-Cabell; and Gerald Crosier, D-Monroe.

A similar measure was last considered in 2003, when HB2197 was approved by the House but died in the Senate. Similarly, HB4110 was introduced in the 2002 session.

HEC approves bills about program reviews, service personnel tests

In other action this week, the HEC approved two measures.

HB2525 would delete a 2001 law, included in HB2208, which required the West Virginia Department of Education to conduct an independent evaluation of WVDE-sponsored character education programs, including the Responsible Students Program. Because the bill was adopted in 2001, the independent review was scheduled for each odd-numbered year.

Melanie Purkey, executive director of the department's Office of Student Services and Health Promotion, said the measure has cost the WVDE about \$150,000 since its enactment. Purkey said her department, funded primarily with federal dollars, has had to draw upon those funds to complete earlier evaluations.

HB2527, which was adopted by the House in 2004 but died in the Senate, would allow employees of multi-county vocational schools to administer school service personnel competency tests in multi-county vocational schools that serve the county where the individual is employed.

According to committee staff counsel David Mohr, the bill ap-

plies to all service personnel except county bus operators, whose competency tests must be administered by a county board employee.

Service personnel competency tests have been required for the last several years. They may be written or performance tests, or both. The tests determine whether potential employees in a service personnel classification possess the requisite knowledge and skills.

Delegate asks how programs are to be evaluated if law passes

While there was little discussion on HB2525 and HB2527, Del. Jeff Eldridge, D-Lincoln, asked how the WVDE character education programs would be evaluated if the independent evaluation provision were removed.

According to Mohr, the Office of Educational Performance Audits could conduct on-site reviews to see if the programs are in place. By removing the provision, Mohr said there would be no "separate requirement in statute" for independent evaluation.

He also said collection of data about program availability is different from independent evaluation "to see if the program is effective."

Both measures were adopted by voice vote. They are included on the House Consent calendar, and are on second reading today.

Senate committee looks at program for the blind and dyslexic

On March 8, Brenda Williams, chairwoman of the state's Distance Learning Coordinating Council, presented to both legislative education committees. She is the WVDE's chief technology official.

Today's HEC agenda includes a presentation about institutional education, and a bill relating to alternative teacher certification (HB2528).

The Senate Education Committee meets this afternoon to consider a measure relating to "Recording for the Blind and Dyslexic," a national organization that provides services to people with those disabilities. The committee also may consider bills at its 2 p.m. and 5 p.m. sessions.

The HEC will receive a presentation from Regional Education Service Agencies at its 10 a.m. meeting.

WWSBA is concerned the bill could be abused when county board members make unpopular decisions, such as closing or consolidating schools or laying off personnel.

Workers' Compensation reform was highlighted in the Feb. 10, 1995, issue of *The Legislature*, with the publication reporting the House of Delegates passed Gov. Gaston Caperton's reform proposals that after five hours of intense debate. *The Legislature* reported that the Senate was poised to pass the House version.

In terms of Committee presentations, Nancy Walker, who heads the West Virginia Department of Education's West Virginia Education Information System (WVEIS), reported that the Hardy, Putnam, Raleigh and Wood county school systems "have yet to come online with the system." Walker said the systems "held out" to "make a statement about unfunded mandates," among other reasons. (All systems were online by 1995.)

Then Regional Education Service Agency Executive Director Charles Duffy, Ph.D., told legislators that RESAs were contracting with the Appalachia Educational Laboratory to study RESA ser-

vices and cost savings. Duffy also told legislators, "It would not be unreasonable for RESAs to assist counties in any safe schools requirements."

In another study-related matter, Center for Professional Development Executive Director Gail Looney, Ed.D., told House Education Committee members that 98 percent of respondents to a CPD survey said the quality of education was improving in West Virginia, in large part due to professional development and training services provided by her agency.

Finally, the House and Senate continued work on safe schools legislation, with both bodies using a "formatted" bill negotiated between the two committees and the Governor's Office as their template.

—*The Legislature*, Feb. 10, 1995

Lees' suit calls takeover 'arbitrary and capricious'

Mingo board, citizens sue WVBE, Stewart

"(The West Virginia Board of Education's decision to intervene in Mingo County Schools), if uncorrected, can and will have a chilling effect upon the various citizens and public officials throughout West Virginia." — *Statement from Charleston attorney Jim Lees' petition for overturning the WVBE's Feb. 16 decision to intervene in Mingo County Schools.*

Charleston attorney Jim Lees this week filed suit in Kanawha County Circuit Court against the West Virginia Board of Education and State Superintendent of Schools David Stewart in regard to the West Virginia Board of Education's Feb. 16 decision to intervene in the Mingo County School System.

It is the second such intervention in Mingo County.

In the suit, Lees asks the court to set aside the Feb. 16 WVBE decision to intervene in the county and to return full authority, consistent with West Virginia law, to the Mingo County Board of Education.

The suit is filed on behalf William Duty, Mitchell Chapman and Michael Carter, members of the Mingo Board, as well as Linda Hurley and Leah Musgrave, who are described in the suit as "citizen(s) and voter(s) of Mingo County...(who) cast...legitimate vote(s) for various candidates for the Mingo County Board of Education in the May 2004 election."

Lees bases his petition largely on the premise that the takeover was "arbitrary and capricious," which he said violates state law and disenfranchises MCBOE members and citizens.

He also said the state board's actions placed "severe limitations on the power and duty of the county board member petition-

ers to fulfill their duties and obligations of their elected office."

The WVBE action, Lees argues, also "deprives Hurley and Musgrave of the effect of their lawful votes in the May 2004 election, thus disenfranchising these voters."

Lees, in a point made at the Feb. 16 WVBE meeting, also argues that the state board's actions limit the ability of the MCBOE to "...approve the expenditure of legal fees for the purpose of seeking judicial review of such acts by ordering counsel to cease and desist from any and all legal work for the MCBOE."

The above action, according to the brief, is "specifically designed to prohibit county boards of education from seeking judicial review of WVBE decisions by removing a county board's ability to direct and pay legal counsel."

Lees also said the Office of Education Performance Audits report of the Mingo County School System, upon which the WVBE action was based, doesn't "constitute sufficient grounds to justify the action of the state board and state superintendent and that such action by the WVBE

and state superintendent constitutes an arbitrary and capricious act..."

Additionally, Lees asks the WVBE and state superintendent to respond to the suit and to pay legal fees. He requested a scheduling order for the case hearing be made by April 1.

(Kanawha County Circuit Judge Paul Zakaib, Jr. will hear the case at 1 p.m. April 4.)

It is civil action No. 05-AA-22.

The case is in the form of Writ of Certiorari which asks the court to set aside the ruling of an "inferior tribunal."

Lees' suit says the Office of Education Performance Audits report of the Mingo County School System doesn't constitute sufficient grounds to justify the action of the state board and state superintendent.

West Virginia should act on previous recommendations

'State of the arts' study won't be the first

By Jeanne Moore, DMA

The March 4 issue of *The Legislature* carried an article on information provided to a joint session of the House and Senate Education Committees on March 1. The last section of the article (see page 7) summarized a report given by representatives of Appalachian Education Initiative (AEI).

While AEI is to be congratulated and thanked for the several fine programs and opportunities they have provided for West Virginia's students, it is always regrettable when incorrect information is given to legislators and is published, as has happened in this case. *The Legislature* reported:

"AEI will conduct a 'State of the Arts Survey' in West Virginia to determine art content and programs offered in all grade levels in the public schools. Survey questions will ask the number of certified art teachers teaching arts education courses in the state. Gregory said this type of information *has never been compiled in West Virginia.*" (Italics mine.)

Since sometime before 1975 the West Virginia Department of Education (WVDE) has been able to provide computer lists of West Virginia teachers, their certification, and teaching assignments. Arriving at the WVDE as the newly appointed music specialist on Jan. 17, 1977, I immediately undertook the task of collecting this type of information for a report presented to the State Board of Education (SBOE) on June 6, 1977.

Similar information and reports were compiled each year (although my duties were enlarged to include Visual Art, Theatre, and Dance) until my retirement in June 1998. These reports and the yearly directories of arts teachers should still be available in WVDE files. Copies of most of them are also kept in my personal files.

Through the years a number of more comprehensive surveys have been made. In 1990, "Arts in Education in West Virginia Schools," a 500-page survey report by James Andrews, funded by the National Endowment for the Arts, and jointly sponsored by the Division of Culture and History and the WVDE, was completed. This report made 31 specific recommendations for the improvement of arts education in West Virginia.

It was shared with the governor (leading to the establishment of The Governor's Task Force on the Arts in Basic Education 1991-1994), the Legislature, the sponsoring agencies and the public. However, few of the recommendations were ever implemented.

When Dr. Francine Kirk became coordinator for the arts with the WVDE in July 1998, she conducted a comprehensive study known as the AIMS survey, which dealt with use of technologies,

professional development, and teacher's use of the recently adopted Instructional Goals and Objectives for the four arts disciplines.

At least two major reports by committees of teachers and other experts in the arts were compiled for use in the *Pauley vs. Bailey* case and the ongoing hearings on the Recht Decision. The most recent of these reports contained 21 recommendations in the categories of: qualified personnel, professional development, funding, and time.

The document was presented to the SBOE on Dec. 6, 2000. To the best of my knowledge, at the time of this of this writing, none of these recommendations have been implemented by the SBOE, nor have any of the recommendations provided a basis for Improvement Packages requested by the SBOE of the West Virginia Legislature.

Obviously, it is not true to say that information about arts teachers, their certification, and assignments "... has never been compiled in West Virginia," a statement attributed to the AEI speaker in *The Legislature*

article.

One would hope that the AEI might use the recommendations of these major reports, and the fact that many have not been implemented, to establish the need for their own current study. One would also hope that AEI might look into the reasons why the SBOE and the West Virginia Legislature have, over the last 15 years, been so reluctant to implement the recommendations made on the basis of competent research for the improvement of arts education.

—Moore is former WVDE Coordinator of the Arts. She retired in 1998.

"It is not true to say that information about arts teachers, their certification and assignments has never been compiled in West Virginia."

Wisdom

"Nothing will ever be attempted if all possible objections must be first overcome."

— Samuel Johnson.

Administrative Perspective

PE, soda pop and grievance procedures among hot topics this week

SB475 would set 1400-pupil funding 'floor'

By Martha Dean, Ed.D.

Tuesday I worked on a bill that was not referred to the House Education Committee. It was **House Bill 2429**, which was introduced by several Kanawha County Delegates. Its purpose is to provide property tax relief to property owners whose property was damaged or destroyed by a natural disaster.

The bill passed the House Judiciary Committee and was set to go to the House Finance Committee as a second reference, but there was an effort to remove the second reference and pass the bill to the floor.

The big problem with this bill is that the tax relief was provided to property owners but there was no provision for county school boards or county commissions to recoup the taxes lost during the current fiscal year. I thank all the superintendents and other members of the West Virginia Association of School Administrators who took the time to call the Speaker's office and/or HFC Chairman Harold Michael, D-Hardy, to express your point of view.

As late as 3 pm Tuesday I heard that the effort to remove the second reference was not successful.

Tuesday afternoon was the joint meeting of the House and Senate education committees. The presenter was Brenda Williams, a West Virginia Department of Education technology official, who spoke on behalf of the Distance Learning Coordinating Council, of which she is chairperson.

She said there are four methods of delivery for distance learning: interactive video conferencing, online courses, public broadcasting and satellite courses.

According to Williams, there are 641 courses offered by institutions of higher education, an increase over last year. There are 9,802 students enrolled, compared to 8,980 last year.

K-12 education has also dramatically increased its reliance on distance learning over the years. She said there are 1,698 courses approved and 96 courses being taken this year. In 2000 there were 364 students taking distance-learning courses and this number increased to 1,235 this year. Ninety-seven schools from 41 counties have students enrolled in distance learning classes.

With the increased utilization of distance learning, Williams emphasized that their biggest need is additional bandwidth to provide a pipeline sufficient to meet the demand. Also, there is a need for additional funding to provide for tuition for the delivery of courses.

I am happy to report that the bill that WVSA has been working on to meet its First Legislative Priority has been introduced in the Senate. It is **Senate Bill 475**. The measure is sponsored by Sen. Clark Barnes, R-Randolph. This bill removes the sentence that says, "Nothing in this section shall be construed to require any specific level of funding by the Legislature."

It also provides that any county with fewer than 1,400 students could apply to the state superintendent for supplemental appropriations if they verify lack of capacity to provide direct services to

students mandated by state law or West Virginia Board of Education.

We believe this bill will assist both the counties with increased enrollment and those that are so small they cannot make ends meet. If you have a chance, speak to your senators urging passage of this bill. We are still working on the House side to have the same bill introduced there.

Governor Joe Manchin III's "West Virginia Healthy Act of 2005" was introduced March 1 (HB2816). It contains several provisions that are dependent on the schools to implement, but the bill was not referred to the HEC. It has the double reference to the House Health and Human Resources and HFC.

In the schools, the bill limits the sale of soft drinks and encourages the sale of healthy beverages, which include 100-percent fruit juice, water, low-fat milk, and any beverage that contains no more than ten grams of sugar per serving.

Schools cannot sell soft drinks in any areas accessible to students in elementary, middle, or junior high schools through vending machines, in school stores, or fundraisers. Those high schools which permit the sale of soft drinks through vending machines must also offer for sale healthy beverages in an amount equal to the number of soft drinks offered for sale. All such sales must be in compliance with the rules of the National School Lunch Program.

The bill goes on to specify required physical education at each level. K-5 requires at least three days a week of 30 minutes per day of physical education; Grades 6-8 requires not less than one period of PE each school day of one semester; Grades 9-12 requires one full course credit of PE for graduation, but there is an exemption for children participating in interscholastic sports.

All of the provisions of HB2816 rest on the findings regarding a high level of obesity in West Virginia, and assert that we must take action to assist West Virginia citizens to engage in healthy eating and regular physical activity. I really don't think it improves the current requirements for physical education at the high school. As a matter of fact, it exempts the athletes who are now required to have a credit in PE to graduate.

Another bill, which may interest some of the readers, has not been referred to the Committee on Education. HB2924, introduced on Monday, creates a new second of law under Article 6, Civic Service System. It would allow state employees to take paid leave of not more than four hours to attend parent-teacher conferences or parent-caregiver conferences at a pre-school for their children.

This leave would not be credited against the employee's annual or sick leave benefits. This bill was referred to the Committee on Government Organization with a second reference to Finance.

Both houses have received bills relating to the Grievance Procedure. SB478 was introduced on Monday and its stated purpose is to simplify the grievance procedure by eliminating the current level one procedure and to authorize arbitration as an option for educational employees. The written grievance is to be filed within 15 days

See HOT TOPICS on page 8

Funding, infrastructure coming together for achievement program

HB4669 establishes model schools

By Jorea Marple, Ed.D.

The West Virginia Legislature passed **House Bill 4669** on March 13, 2004. This legislation provides a wonderful opportunity for school districts with an African-American student population of five percent or more to select three elementary and/or middle schools with a significant enrollment of disadvantaged, minority and under-achieving students to become model professional development schools for West Virginia.

The project provides an opportunity for the county and state to work cooperatively to determine the best practices, staffing and use of resources to facilitate student achievement. Successful initiatives resulting from this project will be recommended for improving student achievement in other public schools. The major provisions of the bill include the following:

- Establishes a special five-year demonstration professional development school project to improve the academic achievement of all children;
- Provides for the direction of the program through the state superintendent, and
- Provides an environment within which the public schools included in the project may collaborate with higher education, community organizations and the state board to develop replicable strategies to improve academic achievement for disadvantaged, minority and under-achieving students.

The passage of HB4669 resulted in the formation of the Division of School Improvement within the West Virginia Department of Education (WVDE) to focus on supporting initiatives, structures and processes at the school level to ensure that all children achieve mastery of essential skills and beyond, and to close the achievement gap among sub groups of the student population. The Division of School Improvement includes Pre-School and Early Childhood Education, Office of Student Assessment, GEAR-UP projects, Middle School Education, 21st Century Programs, Title II, Title V, Title VIB and HB4669.

Substantial progress has been made in securing necessary funding and building an infrastructure to support the implementation of HB4669. The Legislature has provided an initial allocation of \$400,000 to begin the implementation of HB4669. The funding has been utilized to support the employment of Closing the Achievement Gap Liaisons to work with the model schools.

Six counties have provided funds to support the assignment of a full-time liaison to their model schools. The liaisons are to serve as a support to assist schools in the implementation of programs, services and initiatives that will result in increased student achievement.

The Appalachia Educational Laboratory (AEL) has stepped forward to provide funds, expertise and support in the effective implementation of HB 4669. AEL has provided up to \$50,000 in funds to support the development of a comprehensive evaluation design and the initial collection of baseline data for the model schools. In addition AEL has provided \$162,950 in training and support for the Closing the Achievement Gap Liaisons and for leadership teams within the model schools.

The Minority Student Strategies Council has submitted to the Benedum Foundation and received approval of \$100,370 to support the establishment of Minority Achievement Councils in the 10 project counties. Financial support from the Benedum Foundation is contingent upon ongoing legislative funding.

Additionally a comprehensive proposal has been developed and submitted through the Center for Professional Development to support the training of teachers and establishment of pre-AP and AP programs in schools in nine of the 10 project

counties. The proposal requests approximately \$2.4 million in funds to support project implementation.

A request for \$800,000 in school improvement funds for continuous implementation of HB4669 has been submitted to the West Virginia Legislature for consideration during this session.

HB4669 provides the opportunity for staff in the project schools to build and design programs and services to increase achievement performance of students and to serve as model schools for the implementation of proven programs in other schools throughout West Virginia.

Professional Development Model Schools include: Berkeley–Eagle Intermediate, North Middle, South Middle; Cabell–Spring Hill Elementary, Peyton Elementary, Cammack Middle; Fayette–Montgomery Middle, Mt Hope High (5-8), Collins Middle; Jefferson–Charles Town Middle, North Jefferson Elementary, Wright Denny Intermediate; Kanawha–Glenwood Elementary, Chandler Elementary, Stonewall Middle; Marion–Watson Elementary, East Park Elementary, Dunbar Middle/Miller Jr.H; McDowell–Mount View Middle, Fall River Elementary, Sandy River Middle; Mercer–Lashmeet/Matoaka School, Bluefield Intermediate, Bluefield Middle; Ohio–Madison Elementary, Ritchie Elementary, Wheeling Middle; Raleigh–Beckley Elementary, Stratton Elementary, Beckley Stratton Middle.

- Marple, former Kanawha County Schools superintendent, is the West Virginia Department of Education Assistant State Superintendent/Division of School Improvement Services. She is author of the 2002 book, "An Insider's Guide to Making School Systems Work," which can be accessed at: www.rowmaneducation.com.

HB4669 provides the opportunity for staff to build programs that increase student performance and serve as models for the implementation of proven programs in schools throughout West Virginia.

HOT TOPICS

continued from page 6

with the chief administrator, but the grievant may file with his or her immediate supervisor. If the immediate supervisor doesn't find for the grievant, it can be appealed to the chief administrator, but this is all called level one.

Level two is an appeal to the governing board and level three is an appeal to the administrative law judge. The grievant may appeal directly to level three from level one.

§18-29-10a has been added to the law and deals with the grievant being entitled to submit the grievance to arbitration with the cost of the arbitration being divided between the grievant and the institution, with the institution paying two-thirds of the cost.

Binding arbitration is substituted for Levels III and IV in the Grievance procedure in HB2932, introduced Tuesday. If the grievant isn't satisfied with the action taken at Level II or the grievance isn't resolved at Level II, the grievant or employer may request that the matter be referred to binding arbitration.

Binding arbitration will be paid for by the employer except that the grievant pays \$50 dollars toward the expense of the arbitration before it begins. The decision rendered by an arbitrator is final and binding on the parties and neither party has a right to appeal. This bill has a single reference to the House Judiciary Committee.

Monday must have been the day to introduce bills that require a fiscal note. HB2910 adds three new class titles for service personnel, all to be paid from county funds. These additional class titles include administrative assistant (pay grade H), cook IV (pay grade

D) and sanitation plant operator II (pay grade G). There is no mention of removing the restriction of the law that limits the number of Pay Grade H employees a county has, but I suppose that doesn't matter if the new classification is paid entirely from county funds.

HB 2912 requires the WVBE to adopt policy regarding the development and implementation of individual diabetes care plans and requires county boards to implement the guidelines so created. This bill is not referenced to the HEC but to the House Health Committee, then HFC.

HB2919 and HB2920 were both introduced the same day and both relate to changing the required ratio of school nurses but only HB 2920 has a fiscal note. Both are referred to the Education and Finance Committees. I personally like HB2919 better because it creates a separate step in the formula to pay for the school nurses required.

Revised §18-9A-27 establishes a basic foundation allowance to the county for school nurses required by the bill which is one nurse for every 1,500 kindergarten through twelfth grade pupils in net enrollment or major fraction thereof. HB2920 proposes to change the ratio to 750 preschool through twelfth grade pupils in net enrollment or major fraction thereof, but does not change the formula to pay the salaries of the additional nurses required.

The number of bills that impact education that are not being referred to the education committee makes it more difficult to try to keep track of the bills that are of interest to school administrators and school board members. I appreciate e-mails and phone calls to alert me to bills we should be following.

—Dean is WVASA Executive Director

In Brief

Mezzatesta won't pay fine

The Charleston Gazette reported that former Del. Jerry Mezzatesta, D-Hampshire, has refused to pay a \$2,000 fine levied by the state's Ethics Commission. In the article, Mezzatesta's attorney said the former lawmaker didn't consent to the fine in making a "conciliation agreement" with the commission.

Ethics Commission officials said the conciliation agreement included the fine, but Ben Bailey, Mezzatesta's attorney, said his client didn't admit to any wrongdoing. The text of the conciliation agreement is included on West Virginia Wants to Know's Web site: <http://www.wvwantstoknow.com/EthicsComm/mezzrefusefine.htm>.

There were numerous reports that the Hampshire County Board of Education, which met Monday evening, would take some action against Mezzatesta, but that didn't transpire, according to various sources.

Governor will support 'No-Cost Busing Bill'

Efforts continue in formulating the "No-cost busing bill." According to sources in the Governor's Office and people working on the measure, a bill may be introduced as early as next week.

The bill's proponents say that if the governor does not introduce the bill himself, he will support the measure. Various supporters, including Challenge West Virginia, have wrestled with a number of bill concepts, and reportedly will offer a bill completely different than last year's. The West Virginia Department of Education estimated the cost of last year's bill at \$80 million, but eventually reduced it to about \$50 million.

Constitutional amendment required to sell bonds

Gov. Joe Manchin III signed a bill that authorizes a special

election to amend the state Constitution. State voters would decide on the amendment to allow the state to sell \$5.5 billion in bonds to shore up three state pension plans.

The special election – paper ballots will be used – is slated for June 25. The governor wants to devote invested bond proceeds, plus a projected budget surplus, to erase shortfalls in retirement programs for teachers, troopers and judges. The governor and legislators say the current pension plan is unsound, pointing out that it covers more than 45,000 active and retired teachers and faces a \$5 billion shortfall.

The amendment is necessary because the state Constitution requires an amendment for all new debt. Manchin said he will use only private funds to promote the election. The West Virginia Board of Education was poised to vote on supporting the measure at its meeting today in Putnam County. It is believed the WVBE's action would constitute the first major endorsement of the plan by a state governmental body.

Sprouse files for third divorce

Senate Minority Leader Vic Sprouse, R-Kanawha, announced he has filed for divorce from his third wife, daughter of former GOP gubernatorial candidate David McKinley (who used to employ Sprouse). According to the *Charleston Daily Mail*, Sprouse, who based at least one previous political campaign on "family values," six weeks ago split with Amy McKinley Sprouse, who is four months' pregnant. Senate GOP lawmakers said they have no plans to ask for Sprouse's ouster as Minority Leader. The issue first surfaced in a GOP caucus several weeks ago, according to the *Charleston Gazette*. McKinley is a former legislator and GOP official.

Bill Abstract

Editor's Note: *The following is a listing of education and selected education-related bills, with action current through Wednesday, March 9, 2005 for most bills. For information relating to any of the measures listed, contact West Virginia School Boards Association Executive Director Howard M. O'Cull, Ed.D., or visit the West Virginia Legislature's Web site at www.legis.state.wv.us.*

Senate

Senate Bill 94. Provides county boards flexibility in the statutory order of required activities to occur on school calendar Instructional Support and Enhancement (ISE) days. Approved by Senate Education Committee Feb. 22. Passed Senate 2/28/05. Referred to House Education Committee, then House Finance Committee.

SB153. Revises state Ethics Act legislation enacted during 2005 Special Session in part due to revising language relating to a "gag order" against those filing Ethics Commission complaints that was included in the January legislation; other provisions. Passed Senate 2/17/05. Referred to House Judiciary Committee.

SB248. Voids the requirement that education technology expenditures be made in accordance with the West Virginia Education Technology Strategic Plan (ETSP). In that Strategic Plan members weren't appointed by former Gov. Bob Wise, the legislation allows various entities, including the West Virginia Department of Education, to expend technology moneys, including dollars for the Basic Skills and SUCCESS programs. Approved by Senate Education Committee Feb. 22. Passed Senate 2/28/05. Referred to House Education Committee, then House Finance Committee.

SB261. Provides for special election proposing constitutional amendment designated as the "Pension Bond Amendment." Passed Senate 2/24/05. Passed House 2/24/05. Governor signed 3/8/05; Legislative Action Completed.

SB212. Provides higher education employees the annual experience increment that is paid to state employees. Approved by Senate Education Committee 2.22.05. Referred to Senate Finance Committee 2/23/05.

SB282. Continues School Building Authority of West Virginia (state Sunset legislation). Passed Senate 3/1/05. Referred to House Government Organization Committee.

SB347. Authorizes approval of rules of the Higher Education Policy Commission and Council for Community and Technical College Education. Senate Education Committee adopted 3/3/05. Senate Adopted 3/9/05.

SB401. Relates to governing boards of the newly-established New River Community and Technical College and the Community and Technical College of Shepherd University. Senate Education Committee approved 3/3/05. Senate Adopted 3/9/05.

House

House Bill 2015. Provides employers immunity from civil liability for job-related information disclosed regarding their former employees. Passed House 2/16/05. Referred to Senate Judiciary Committee.

HB2286. Relates to the sounding of "Taps" at veterans' honors funerals. Passed House 2/18/05. Passed Senate 2/21/05 (consti-

tutional rule requiring three-day reading for bills dispensed). Referred to governor 2/23/05. Governor signed 2/25/05; Legislative Action Completed.

HB2328. Provides precedential application to the Ethics Commission's written Opinions regarding open governmental meetings. Passed House 2/21/05. Referred to Senate Government Organization Committee, then Senate Judiciary Committee.

HB2350. Corrects provision in law relating to certification standards in other states and their application to teachers who may apply for certification in West Virginia. House Education Committee approved 3/1/05. House approved 3/7/05. Referred to Senate Education Committee.

HB2466. Removes some obsolete Code references from stature; other provisions. House Education Committee approved 3/1/05. House approved 3/7/03. Referred to Senate Education Committee, then Senate Finance Committee.

HB2525. Eliminates requirement that West Virginia Department of Education conduct independent evaluation of effectiveness of character education programs, including Responsible Students Program (RSP). House Education Committee adopted March 8. House Second Reading (Consent Calendar) 3/10/05.

HB2527. Allows school service personnel competency tests to be given at multi-county vocational centers at option of employee. House Education Committee adopted March 8. House Second Reading (Consent Calendar) 3/10/05.

HB2578. Increases school aid formula net enrollment limits for professional and school service personnel. House Education Committee approved 3/1/05. Referred to House Finance Committee.

Editor's Note: Comprehensive Bill Almanac begins in Issue 12 of The Legislature (March 18, 2005).

Golden Horseshoe database created

The Knights and Ladies of the Golden Horseshoe Society now have their names preserved electronically in history. The West Virginia Department of Education and West Virginia Archives and History have developed an online database of more than 15,000 Golden Horseshoe recipients.

All recipients are encouraged to visit the Web site to ensure their name is listed: <http://wvmemory.wvculture.org/goldenhorseshoe.html>.

Students who are inducted into the society receive the Golden Horseshoe pin, what some call one of the most treasured pieces of school memorabilia. The pins are awarded to eighth grade students who achieve the highest scores on the Golden Horseshoe test in their county, according to a WVDE press release.

The WVDE will help replace pins that recipients may have lost. Anyone who has lost a pin can download a replacement pin order form from <http://wvde.state.wv.us/goldenhorseshoe/lost.doc>.

For more information about the Golden Horseshoe test, contact Sharon Flack, social studies coordinator, at (304) 558-7805. The web site is <http://wvde.state.wv.us/goldenhorseshoe/>.

Sound Bites

“We will have a good two months after the (legislative) session to really go out and make sure people understand.”

– Gov. Joe Manchin III discussing legislation that will amend the state Constitution so \$5.5 billion in bonds can be sold to fix three state pension funds.

“It’s a great feeling. I think it’s something that’s long overdue.”

– Del. Cliff Moore, D-McDowell, one of three sponsors of a bill that would wipe out the last vestiges of segregationist language in a series of education statutes. Moore’s father, the late Ernie Moore, led this initiative in 1993.

“It takes a tremendous amount of this stuff to make meth.”

– Senate Health and Human Resources Chairman Roman W. Prezioso Jr., D-Marion, discussing a bill that would limit the sale of certain cold tablets that can be used to make methamphetamines. According to various sources, “meth labs” often are operated in homes with young children.

“The vast, vast majority of legislators don’t need an ethics bill.

But when abuses occur, we need to set some kind of standards.” – Norm Steenstra, executive director of the Citizens Action Group, discussing CAG’s proposals to require public officials to disclose real estate holdings and their spouses’ general financial interests.

Meanwhile in California...

Students in the Berkeley, Calif., school district aren’t getting homework assignments because teachers are refusing to grade work on their own time after two years without a pay raise. A black history event was canceled and parents had to staff a middle-school science fair because teachers are sticking strictly to the hours they’re contracted to work.

“Teachers do a lot with a little. All of a sudden, a lot of things that they do are just gone. It’s demoralizing,” said Rachel Baker, whose son is in kindergarten. Teachers say they don’t want to stop volunteering their time. “It’s hard,” said Judith Bodenhauser, a high school math teacher. “I have stacks of papers I haven’t graded. Parents want to talk to me. I don’t call them back.”

The action was organized by the Berkeley Federation of Teachers, which wants a cost-of-living increase next year. District Superintendent Michele Lawrence sympathized with teachers but said there isn’t money for raises because Gov. Arnold Schwarzenegger has not provided as much money to education as promised.

Source: *Public Education Network*



The Legislature

West Virginia School Boards Association
PO Box 1008
Charleston, WV 25324