

MINUTES

February 18, 2010

Minutes of the legislative meeting of the State Board of Education held February 18, 2010, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 12:00 p.m. Janet A. Cannon, Chairman of the Law and Policy Committee chaired the meeting.

Members present were:

Chair Debra G. Roberts
Vice Chair Dixie L. Allen
Member Laurel O. Brown
Member Kim R. Burningham
Member Janet A. Cannon
Member Leslie B. Castle
Member David L. Crandall
Member C. Mark Openshaw
Member Tami W. Pyfer
Member David L. Thomas

Member Craig Coleman participated by Telephone.

Members Rosanita Cespedes, Robert DePoe, Greg W. Haws, Douglas Holmes, Michael Jensen, Denis R. Morrill and Carol A. Murphy were excused.

Also present were:

Superintendent Larry K. Shumway
Deputy Superintendent Martell Menlove
Associate Superintendent Brenda Hales
Associate Superintendent Todd Hauber
Associate Superintendent Judy Park
Public Relations Director, Mark Peterson
Board Secretary, Twila B. Affleck

Members of the Press:

Amy Stewart, Deseret Morning News

State Office of Education Staff:

Carol Lear, Law, Legislation and Educational Services
LesLee Snelson, Law, Legislation and Educational Services

Chairman Janet A. Cannon welcomed everyone and called the meeting to order.

Swearing in of New Board Member

Chair Debra G. Roberts issued the Oath of Office to newly appointed Board Member Tami W. Pyfer, representing District 1.

Proposed Legislation

Deputy Superintendent Martell Menlove presented the following proposed legislation items:

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1SSB 43 - Post-retirement Employment Amendments, 1SSB 63 - New Public Employees' Tier II Contributory Retirement Act, and SB 94 - Supplemental Benefit Amendments for Noncontributory Public Employees

Cory Holdaway representing the Utah Education Association presented the concerns of the Utah Education Association on these retirement bills. He indicated that there is concerns on all of these bills from all of the employee organizations in the state. (For complete details see General Exhibit No. 11132.) They are not saying there are not problems with the retirement system today. However, it is not as dire as it is being painted to be. They have the ability to recover if they are given enough time. They do not want to be obstructionists, but would like to provide a benefit that attracts and retains teachers. They would prefer to work together over the course of the next year to come up with some other possible actions, rather than have the bill pass this session.

HB 355 - Legal Guardianship Amendments

Representative Sandstrom presented his proposed legislation on amendments to Legal Guardianship which puts the burden of proof on a school district. He presented a brief history of a current lawsuit wherein the Jordan and Salt Lake City School District would not allow students participating with the Regulators Hockey organization to attend school. Mike Holmes, President of Regulators Hockey also spoke to the reason for the legislation. It was noted that guardianship of these students has not been an issue in a large number of school districts. However, this year Jordan and Salt Lake School Districts have not been allowing this. The whole question boils down to money. The district indicated that with legal guardianship they would not be paying the wpu.

It was reported that there is a competing bill HB 367 by Representative Laura Black.

Superintendent Shumway commented that there was a significant discussion in the legislature a few years ago with foreign exchange students, and there would be a reasonable question as to why we would have a sports organization bringing students in and paying for their education. Why would we want to set up a structure where we are already short on funds.

Representative Sandstrom commented that the bill does not change the current statute.

Mr. Holmes commented that the primary reason they put the children participating in the hockey program in Utah homes is to insure they are safe and sound. The options presented by the school district does not meet the needs of the parents or the legal guardianship.

It was pointed out that it costs parents \$12,000 per year to have their children participate in this hockey program, none of which goes to the school.

HB 367 - Guardianship Residency Requirements

Representative Laura Black HB 367 presented her competing bill on guardianship residency requirements which is the exact opposite of the bill previously presented.

Member Dave Thomas commented that he is a big advocate of tort reform and looser pay. He questioned Representative Black as to whether or not she would be open to having a true looser pay provision in the bill. She responded that she did not know at this time and would have to research it further.

Representative Black posed the question of how much money are we really willing to give up to have these kids come to Utah to participate in specific activities, sports or not. Her goal is to work toward a better middle ground.

Representative Black asked for a point of personal privilege. She commented that this week in the Education Committee they also heard a bill she presented on auditory protection for public school employees. They believe it is the State Board's rule that prohibits them from having that auditory protection. She indicated this protection is molded to their individual ear, so they cannot under the rule use the legislative school supply money. She noted that they are not very expensive in the broad scope of things, but would dramatically improve the quality of teaching they have. She requested that the State Board amend that rule.

Superintendent Shumway reported that Carol Lear is currently preparing an amendment to the Board rule and it will be on an agenda soon.

Retirement Legislation Discussion Continued

Cory Holdaway further commented relative to the thought that our system is not in the dire condition as some would have us to think. There is evidence of that with various reports, *Forbes* recognized Utah as the number one managed retirement system. Today, the Pugh Foundation also came out with a report that recognized the pension plan for Utah as being very well managed and in good condition. Anything above an 80% funding level for a retirement system is looked upon as being within the threshold of being well managed. We are currently at 85%. He indicated that there are various options we could propose as a state in place of where we are going with reducing the benefit by half that they feel would deserve greater debate and scrutiny over the course of the interim to be able to protect the ability to attract and retain quality

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public employees and teachers. He requested that the Board reconsider its position of support concept.

Deputy Superintendent Menlove distributed a draft that provides some incremental steps that may be implemented either now or over time to sure up the system. (For complete details see General Exhibit No. 11133.) Dr. Menlove stated that his concern is the potential to recruit new employees into a system where we have been able in the past to say, the salary is not that great, but the benefit compensates for it.

Superintendent Shumway recommended that the Board support incremental steps 1 and 2 at this time in such a fluid environment, and support the idea of this being carefully revisited at a future time.

Mr. Holdaway commented that the rehire bill, SB 43 or some version of it is going to pass because of the public sentiment related to the challenges that were shared in the press with regard to the Ogden police. There are public safety officers retiring in place and retaining their salary and also getting a pension in addition to a 401K. Unfortunately, educators are being put in that same debate. Therein in fact what happens in public education is if there is a rehire for a teacher that has retired they come in at a negotiated salary significantly less than what they retired at. Mr. Holdaway indicated there is a substitute bill dealing with the 401K part of that. We are supporting taking the 401K portion of the rehire and send it to the URS system, but keep in place the ability to draw the pension and the salary you earn by working.

Superintendent Shumway indicated that it has been clear that the Board's position has been supporting the concept to insure the retirement system remains actuarially sound. In further discussions, however, the idea of incrementalism seem to be something that is attractive and if there was a position the Board wanted to take it would be supporting increments 1 and 2 this year and revisit it in a year. Mr. Holdaway agreed with this, with the exception of SB 63. If any version of SB 63 passes, they have real reservations for the new hires.

Geoffrey Leonard, General Counsel for the Utah School Employees Association commented that they are participating in this coalition and their comments would be the same as presented by Mr. Holdaway.

Motion was made by Vice Chair Dixie L. Allen and seconded by Member Kim R. Burningham that the Board continues to recognize the need for action during the current General Session of the Legislature. Further, the Board supports an incremental approach during this session to include the following steps: 1) discontinuation of the employer 14.22 percent 401K

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contribution to employees who are receiving a salary and URS benefits under a retirement plan, and redirection of these funds to the URS; 2) discontinuation of the employer 1.5 percent 401K contribution to employees who are currently participants in any URS plan and redirection of these funds to the URS; and 3) extension of the URS vesting requirement to up to eight years. Further, that the financial condition of URS be carefully reviewed after the present General Session and that further action be taken as circumstances require at that time to ensure the stability and strength of the system. Motion carried unanimously.

It was clarified that the vesting time period be accumulative not consecutive.

HB 355 and 367, Legal Guardianship Amendments and Guardianship Residency Requirements

Motion was made by Vice Chair Dixie L. Allen and seconded by Member David L. Thomas that the board position is unnecessary on both bills. The law is clearly written, and the additional language is punitive. We may want to do more inservice in the districts to address these issues. Motion carried unanimously.

Budget Update

Associate Superintendent Todd Hauber reported that last night the appropriations subcommittee made their presentations to executive appropriations as to the decisions they had made. It was more of a formality rather than a decision meeting in that the report was received by the committee. The executive appropriations only had a few questions with regard to the specific programs being reduced as proposed by the subcommittee, but nothing of great substance.

Mr. Hauber reported that as far as the revenue go for FY10 the decisions in the committee that adopts the revenue estimates, they would not change the estimates. The Uniform School Fund has a \$5 million increase and the General Fund has a \$5 million decrease. No change for 2010. For FY11 it is a net \$50 million decrease. It is not a huge significant change and still within parameters of expectations and forecasting. There will be some decisions that have to be made to balance the budget.

SB 56 - School Reporting Amendments

This bill provides additional definitions for the State Office of Education to use in calculating per pupil teacher ratio and class sizes. This bill may blur the lines of distinction of power in that now you have the legislature telling the State Board how to calculate specific items on a report they are required to produce.

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HB 393 - Advertisements on School Buses

This bill allows school districts and charter schools to advertise on school buses. This particular bill does not talk about the State Board of Education. It simply allows the local districts to do this. Much of what happens as far as pupil transportation is guided by state rules, this may be a situation where the Board may want to be involved where you haven't been involved on the other end of the spectrum of general supervision and control.

Motion was made by Member David L. Thomas and seconded by Vice Chair Dixie L. Allen to oppose SB 56 and HB 393, based on the separation of powers issue. Motion carried with Members Allen, Brown, Burningham, Cannon, Crandall, Openshaw, Pyfer and Thomas voting in favor; Members Castle and Coleman absent.

Dr. Menlove shared a document identifying the Board's actions on legislation to date as well as a copy of the latest tracking sheet. (For complete details see General Exhibit No. 11134.)

Motion was made by Member David L. Crandall and seconded by Chair Debra Roberts to adjourn. Motion carried.

Meeting adjourned at 2:10 p.m.