

legislative bulletin

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To: All School Committee Members and Superintendents

From: Stephen J. Finnegan, Esq.

Date: August 20, 2014

RE: GUN BILL AND OTHER END-OF-SESSION MATTERS

H.4376—AN ACT RELATIVE TO THE REDUCTION OF GUN VIOLENCE IS SIGNED INTO LAW BY GOVERNOR PATRICK

Safe and Supportive Schools

Last week Governor Patrick signed into law H.4376, which contains several sections concerning the public schools. Section 6 of the Gun law contains an extensive provision entitled “safe and supportive schools” that takes effect on January 1, 2015. This section defines “safe and supportive schools” as schools that foster a healthy and inclusive school environment that (i) enables students to develop a positive relationship with adults and peers, regulate their emotions and behavior, achieve academic and non-academic success in school and maintain physical and psychological health and well-being; and (ii) integrates services and aligns initiatives that promote students’ behavioral health, including social and emotional learning, bullying prevention, trauma sensitivity, dropout prevention, truancy reduction, children’s mental health, foster care and homeless youth education, inclusion of students with disabilities, positive behavioral approaches that reduce suspensions and expulsions and other similar initiatives. DESE is required to develop a “safe and supportive school” framework to implement the above referenced terms.

MASC reminded legislators that while several of these matters related to school discipline and anti-bullying have recently been addressed legislatively, the former only became fully effective on July 1, 2014. The remainder of the initiatives referenced in Section 6 of the Gun bill may be viewed as aspirational goals that result in an open-ended mandate that few districts would be capable of implementing without significant additional resources. The “safe and supportive school” initiative has been a grant-funded program through

the state budget for several years and MASC supports this approach in the future. MASC was successful with other education associations and the MMA in deleting the “safe and supportive” provision from the Senate version of H.4376, thanks to the assistance of several Senators, including Senators Brewer and Chang-Diaz. Ultimately, the conference committee adopted a compromise position that satisfied the concerns of MASC by making the “safe and supportive” school implementation subject to appropriation by vote of the school committee. Due to the difficulty of a mid-year implementation of such a comprehensive program, and since very few, if any, districts voted such a line item for F.Y. 2015, MASC recommends that you refrain from doing so and carefully scrutinize any such request for an appropriation in future years.

Emergency Medical Plans

Section 7 of H. 4376 amends Chapter 69, S. 8A, regarding the establishment of emergency medical plans effective January 1, 2014. The most significant change in existing law is by adding local police and fire to those to be consulted in the development of the plan. The amendment reads as follows: “Plans shall be developed in consultation with the school principal, school nurse, school athletic director, team physicians, coaches, trainers and local police, fire and emergency personnel, as appropriate. Schools shall practice the response sequence at the beginning of each school year and periodically throughout the year and evaluate and modify the plan as necessary. School officials shall review the response sequence with local fire and police officials at least 1 time each year and shall conduct periodic walk-throughs of school campuses. Plans shall be submitted once every 3 years to the department of elementary and secondary education,

the local police department and the local fire department on or before September 1. Plans shall be updated in the event of new construction or physical changes to the school campus as determined by the local police department.”

School Building Advisory Board

Section 8 of the Gun bill amends Chapter 70B S. 3A to add members to the school building advisory board. MASC already has representation on the Board.

Section 9 adds upgrades and technology devices that are necessary for enhanced safety and security as eligible costs for projects that are an alternative to construction or renovation.

School Building Plans

Section 10 of H.4376 adds a new section to the end of Chapter 70B, relative to the School Building Authority, as follows: Section 20. “The authority shall, in cooperation with a school district or municipality, submit plans or blueprints approved by the authority, associated with approved construction, renovation or reconstruction of a school building, to the local police department, fire department, Massachusetts emergency management agency and any regional law enforcement entity. The plans shall identify points of entry into a school building, emergency access routes for ingress or egress and other public safety features, including, but not limited to: fire hydrants, utility access points and stairwells. Any department in receipt of such plans may submit comments to the authority and school district. Upon completion of the approved construction, the authority shall, subject to appropriation, in cooperation with a school district or municipality, submit updated, as-built plans to the local police department, fire department, Massachusetts emergency management agency and any regional law enforcement entity, a copy of which shall be maintained on file by each department or agency in receipt of the plans. Plans submitted pursuant to this section shall be deemed confidential and shall not be considered public records under clause Twenty-sixth of section 7 of chapter 4.”

School Resource Officers, Two-Way Communications Devices and Mental Health Plans

Section 11 of the Gun bill (effective July 1, 2015) requires that every chief of police, in consultation with the superintendent and subject to appropriation, shall assign, at least 1 school resource officer to serve the city, town, commonwealth charter school, regional school district or county agricultural school. The Commissioner of Education may for good cause waive

the requirement concerning assignment of a school resource officer, and if funds are not available the chief of police shall consult with state police regarding such assignment. The school resource officer provision contains liability language favorable to the employer, and does not require a specific duty of care.

A requirement is also imposed upon school districts, subject to appropriation, to possess a two-way communication device for the sole purpose of communicating with the district’s police and fire departments. This matter has the same language relative to liability and duty of care as above referenced.

MASC worked with the office of Rep. Peisch and others regarding the addition of the subject to appropriation language to the school resource officer and two-way communication devices. We worked closely with the MMA and Senators Brewer, Chang-Diaz and others concerning the favorable liability terms.

The liability provision was also added to the mental health section of this bill. However, we were unable to get the subject to appropriation language added to the mental health requirement. Section 11 provides as follows: “each school district, charter school, approved private day or residential school and collaborative school shall develop and adhere to a plan to address the general mental health needs of its students, including the students’ families, teachers and school administrators.” We consider this provision to have significant mandate implications and we will work with State Auditor Bump and others to limit the financial exposure of school committees. Considering the many mandates present in the original bill we are thankful to our legislative allies for ameliorating the most difficult provisions. MASC especially thanks Senator Brewer for agreeing, upon our request, to move the effective date for the provisions in Section 11 (school resource officer, two-way communication devices and mental health plans) from January 1, 2015 to July 1, 2015.

Suicide Prevention Training

Finally, Section 12 of the Gun bill requires that DESE, subject to appropriation, shall adopt rules to mandate that all school districts provide at least 2 hours of suicide awareness and prevention training every 3 years to all licensed school personnel. This Section also contains the above referenced liability language. School personnel hired after the effective date of this Section but before December 3, 2014 (the date for DESE rules to be promulgated) shall obtain the training by March 4, 2015. Other than Sections 11 and 12 the effective dates for education related matters are January 1, 2015.

H.3822. AN ACT PROMOTING MUNICIPAL COLLABORATION AND REGIONALIZATION

This bill provides for the regionalization of the exercise of the powers and duties of multiple cities or towns by agreement of the governmental units. MASC is not opposed to the general terms of the legislation; however we have joined with the MTA to insure that any such agreement if it involves schools shall be subject to the approval of the school committee. The Associations have proposed the following amendment to H.3822:

“A regional school district, superintendency union, educational collaborative, charter school or commonwealth virtual school may only be formed as provided in the applicable provisions of the General Laws, and no joint powers agreement under this section may, in substance, create such a district, union, collaborative, charter school or virtual school, irrespective of how the entity created under a joint powers agreement may be characterized or named. A joint powers agreement relating to public schools may only be entered into by the school committee, or other governing board, as applicable.”

The legislative session has as of July 31, 2014 concluded its formal sessions and therefore, any legislation requires unanimous approval. MASC welcomes your comments on this matter.

REGIONAL SCHOOL TRANSPORTATION: CARRY-OVER LEGISLATION

On August 5, 2014 the Governor signed into law the following law: An Act Regarding the Establishment of a Regional School Transportation Reimbursement Fund.

SECTION 1. Section 16C of chapter 71 of the General Laws is hereby amended by adding at the end the following sentences:- “Regional school districts may establish a Regional School Transportation Reimbursement Fund. Reimbursements made by the commonwealth pursuant to this section may be deposited into said fund and may carry forward for one fiscal year.”

CHAPTER 70 GENERAL AID TO EDUCATION

Chapter 70 was increased by nearly \$100 million, which brings the total funding of this account to \$ 4.4 billion. This increased funding will keep school districts at foundation spending levels and provide additional assistance to school districts that do not benefit

from foundation aid. You may find your district's local aid amount on the MASC website at www.masc.org.

SCHOOL TRANSPORTATION: REGIONAL, HOMELESS AND NON-RESIDENTIAL

The Governor recommended level-funding regional school transportation at \$51.5 million. The House voted a \$2 million increase from the prior year appropriation. The Senate through the efforts of many senators, particularly Senator Brewer, raised the aid for this account to an unprecedented \$70.3 million, thereby providing 90% of the reimbursement for regional school transportation.

Homeless student transportation has been level funded at \$7.3 million, which represents approximately 50% of the necessary funding.

Non-resident student transportation, which funds, in part, transportation of students when their district school does not offer particular programs has been funded in the amount of \$2.2 million.

CIRCUIT BREAKER FUNDING INCREASED BY \$5 MILLION

The so-called circuit breaker account that provides funding for extraordinary special education costs received an appropriation of \$257.5 million. This funding represents close to full funding of this account.

POTHOLE ACCOUNT

The so-called pothole account otherwise referred to as the foundation reserve, received an appropriation of \$3.4 million. This line item addresses the concerns of municipalities that experience extraordinary increases in their minimum required local contribution.

FOUNDATION BUDGET REVIEW COMMISSION

MASC and other associations have supported the reestablishment of this Commission that was part of the 1993 Education Reform Act. This Commission, which includes MASC, shall seek to determine the educational and related programs and services necessary to achieve the Commonwealth's educational goals. This Commission was included in the budget signed by Governor Patrick.

METCO FUNDING

The METCO account has received an appropriation of \$19.1 million.

FUNDING FOR ALTERNATIVE EDUCATION MANDATE

As you are aware, the school discipline law that became effective July 1, 2014 contained a provision that mandated continuing education for suspended and expelled students. The State Auditor determined that the failure to properly fund the alternative education requirement constituted an unfunded mandate. MASC has been working on this matter with several members of the Legislature including Representative Peisch, who was successful in adding an amendment to the House budget that created a line item of alternative education programs and secured funding in the amount of \$246,000, which was signed into law by Governor Patrick.

RETIRED TEACHERS' HEALTHCARE COSTS

As you are aware (see February 20, 2014 Legislative Bulletin), Section 3 of the State Budget has long barred DESE from considering costs for retired teachers to be part of the net school spending for any districts in which said costs were not considered part of

such spending in fiscal year 1994. Section 260 of the State Budget allows communities who did not adopt the 1994 net school spending language to do so between July 1, 2014 and June 1, 2015. In towns the local option is frequently exercised by the town meeting; however, the budgetary language requires only the approval of the town council or board of selectmen and in a regional school district acceptance is by vote of the regional school committee. This provision would be phased in over a four year period, and contains safeguards for districts that have been placed in level 4 and 5 status.

SUBSTANCE ABUSE POLICY

Section 210 of the State Budget requires each school district to have a policy regarding substance abuse prevention and the education of its students about the dangers of substance abuse. DESE and public health shall create a task force to develop a model policy that, in part, shall include the implementation of an evidence-based substance abuse prevention curriculum for grades 5 to 12 inclusive.

Updates on legal and legislative developments, as well as a review of recent legislation relative to student discipline, school nutrition, social media and bullying, school finance, and educational collaboratives will be presented at the

MASC/MASS JOINT CONFERENCE

November 5-8, Hyannis

register now at: www.masc.org

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