

**WEST BEND JT. SCHOOL DISTRICT #1  
LEGISLATIVE AGENDA**

**RELIEF FROM EXCESSIVE COSTS**

May 14, 2010

**I. HEALTH CARE**

School districts are struggling to maintain very rich health care benefits. If present trends continue, health insurance will continue to absorb a greater percentage of the district's budget. Health insurance has grown from 7% of a typical school district's budget in 2000 to 13% today. As a percentage of teacher salaries, health costs have increased from 14% in 2000 to 26% in 2010. Costs have doubled in the last 10 years. Our costs are conservative as we are self-insured. Likely other plans are even more expensive in other districts across the state. We do not have the latitude, however, to change the parameters of state law and bargaining requirements.

Therefore, the request is that the legislature examine the following alternatives to seriously address rising costs.

A. Possible Options To Provide Relief Under Section 111.70, Wis. Stats.:

1. Remove health insurance from collective bargaining and/or establish a state-wide health plan for all school district employees.
2. All districts shall have the right to bid-out health insurance unilaterally on a state-defined benefit plan that will be based on a typical private sector plan and mandate that districts adopt the state health plan if it is less expensive.
3. Allow local school districts and municipalities to form regional co-ops and be exempt from bargaining.
4. Set specific amount that health insurance represents as a total percent of budget and the balance be paid by the employee.

**II. COLLECTIVE BARGAINING/ARBITRATION**

No other mandate exerts more control over a school district's ability to determine its own wages and fringe benefits than collective bargaining and arbitration. Over 80% of a district's budget is devoted to wages and benefits for employees with the inability of local boards to adjust the requirements of law.

As a result, the request is for the legislature to consider the following alternatives:

A. Possible Options To Provide Relief Under Section 111.70, Wis. Stats.:

1. Eliminate collective bargaining at the local level and shift the function to the state. Develop one salary schedule and fringe benefit program that the state would finance. Allow local districts to supplement using locally-approved monies for pay for performance. The state would need to fund the base salaries and rising costs established within the scale.
2. Reinstate the Qualified Economic Offer (QEO) but change the specific allowable total wage and benefit increase each biennium based on economic conditions and rising costs.
3. Eliminate arbitration. Restore fact-finding as final step in the process. Consider a legal right to strike.
4. Eliminate arbitrators and require a jury, or referendum to select the most reasonable offer.
5. Mandate that all statutory criteria shall receive equal weight or restore "greatest and greater" weight factors of revenue controls and local economic conditions, respectively.
6. Allow school board to determine impasse resolution procedure.

B. Eliminate the requirement to bargain the school calendar

1. Match the number of days of school to funding and requirements

**III. OTHER POST-EMPLOYMENT BENEFITS (OPEB)**

Looming in the not-so-distant future is the billions of dollars in unfunded liabilities that public employers will have to absorb to finance post-retirement benefit plans. Many school districts have made economic promises of up to ten years of nearly fully-paid health insurance. Fringe benefit costs have grown exponentially from the time these promises were made.

A. Possible Options To Provide Relief Under Chapter 40, Wis. Stats.:

1. Raise the retirement age to 62 in order to receive a full pension under the Wisconsin Retirement System.
2. Require employees to pay their entire share of WRS.
3. Require districts to implement defined contribution instead of defined benefit.

**IV. Special Education Requirements of the State Legislature for Students in Residential Care Centers:**

While most of the laws guiding special education are Federal Law, the state statute does set the requirement of school districts regarding students IEP monitoring for RCCs (residential care centers). When students are placed in RCCs, the district in which the student resided prior to the placement is responsible for the IEP. Thus, if a student is incarcerated and then placed in an RCC, West Bend holds the responsibility for that students IEP even if they never attended school in the district per WI Stat. 48.60.

The change appropriate is that the district in which the RCC is located retains responsibility for a student's IEP.

**DEPARTMENT OF PUBLIC INSTRUCTION**

**WAIVERS FOR DEPARTMENT OF PUBLIC INSTRUCTION**

Currently the state of Wisconsin has 20 Standards that dictate expectations for local school districts. The 20 standards were written for schools in the 1980s. They do not reflect the restrictions placed on schools as a result of revenue limits put in place in 1993, nor have they been updated to reflect a priority of focusing on 21<sup>st</sup> Century Skills as an expectation of preparing students for the future. With limited resources, these expectations need to be updated to reflect the highest priorities for programming in preparing students for the future and to ensure access for all students in the State of Wisconsin.

Until such time that the Department and the legislature is able to align the mandates with resources that can fund the mandates, the West Bend School District leadership team is requesting to have greater local control and flexibility to redesign programming, innovate, and provide resources that match the costs. The current economic climate makes it difficult to meet these mandates and the rising costs without adequate funding.

**A. Possible Waiver Options To Offer Relief From The 20 Standard Mandates:**

1. Restructuring Youth Options so that the students are able to count the credit but families have the responsibility to pay for college courses. Or, ensure that the school board has the authority to deny or grant requests OR reduce the 80% curricular match to 40%.

2. Allowing the district to offer Physical Education credit for athletic participation. If a student participates in two sports they can earn .5 credits/year meeting the graduation requirement for physical education.
3. Include Virtual Education as an option for Summer School with reimbursement back to the district, for each student who successfully completes the course, calculated utilizing the same formula as face-to-face education.

## **V. TRANSPORTATION AND SCHEDULING**

The current law requires school district to offer 180 days of instruction and begin the school year after Labor Day. Further the law dictates that school districts must provide for the transportation of private school students even if the schools schedules add additional costs to the school district.

### **A. Possible Legislative Relief:**

1. Revise the law so that all schools within a school district both public and private must adopt the same calendar. If private schools choose to have a sovereign calendar, they acquire the costs for transportation.
2. Revise the current law mandating when schools start and the days and minutes of instruction. The number of school days offered would be matched to the available funding for the mandated programming. School ends when the resources to fund the schools end. Requirements and mandates should not force local communities to deficit spend or limit access to programming required within some districts and not in others.

## **VI. TEACHER LAYOFF**

Current law in the state of Wisconsin mandates that teacher seniority be considered when laying off teachers. This greatly impacts the district's ability to reduce spending and be able to use performance as the determining factor for teacher layoffs.

### **A. Possible Options to Provide Local Authority for Laying Off Teachers**

1. Eliminate the use of seniority as the primary or exclusive determinate in layoffs and rely on teacher evaluation to determine the staff remaining after layoffs.
2. Remove some of the seniority preferences in statute and allow for districts to exempt exceptional teachers from the formula

## **ISSUES TO CONSIDER WHEN DETERMINING SUING THE STATE LEGISLATURE**

1. The equalization aid formula for the state of Wisconsin was previously determined to be equitable because it did distribute the aid based on the districts in greatest need. The school levy credit diverts funding away from the formula itself and the available aid to the neediest school districts has been compromised.
2. The equalization aid is designed so that it does not keep pace with inflation. State law has also removed the QEO and has now required binding arbitration which has the greatest factor of salary and benefit comparability as the determiner. Therefore, districts will not be able to control the majority of costs within their budgets of salary and benefits.

### **Background on the Indiana Lawsuit against their state officials**

Currently three school districts have filed suit against the Indiana State Officials with respect to Indiana's funding formula.

While the issues will be determined state by state, the legal counsel for the districts did share information that would be helpful to a district considering filing against the state:

The law firm is Franczek Radelet P.C.  
300 S. Wacker Drive  
Suite 3400  
Chicago, IL 60606  
312-986-0300  
312-986-9192 (fax)

The attorney contacted was Patricia Whitten  
312-786-6165  
[pjw@franczek.com](mailto:pjw@franczek.com)

She indicated that there needs to be a core of districts with the same critical issues advancing the concerns.

An expert witness from within the state will need to be contracted who is clearly an expert in the issues of school funding who will not have a conflict of interest. The expert will provide a study of the facts, figures and historical reasons for the current inadequacies in the funding formula, as well as clearly showing the injury to the plaintiff school districts.

The Indiana school district boards established one primary point district advancing the lawsuit. If there are a larger number of plaintiff districts, a small group can be designated as the lead in controlling the course of the litigation. However, continued communication among the plaintiffs is very important. Lead attorneys in the Indiana litigation are from Chicago due to their expertise and to conflicts of interest among local

school district attorneys, and retention of local counsel is recommended where the suit is filed to act as local advisor to the Chicago firm.

They identified parents as individual plaintiffs.

The costs were estimated to be \$75,000 through the expected motion to dismiss before the districts would enter into a trial phase.

They are fighting the motion to dismiss now.

Patty Whitten indicated that the costs may realistically run \$100,000 (including lead counsel, local counsel and experts) and a board would be safe establishing the cap at \$125,000 leading up to the trial phase.

She indicated that the plaintiff districts have carefully planned press conferences and briefings through the process, and the lawsuit has garnered a great deal of media attention that has been mostly favorable to the plaintiffs' position. One of the goals of the suit was to raise the Indiana State Legislature's awareness of the issues and it has prompted the Legislature to raise school funding as an issue to be addressed in their next legislative session. The lawsuit has gained momentum and attention across the state and the nation.