

# Legislative Update

March 15, 2010 -- Number 9

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## Session ends; worst is yet to come

Before the regular legislative session ended on Saturday, Governor Manchin had already announced a special session on “education reform.” Prompted by the state’s failure to receive one of the initial Race to the Top grants, his attack on teachers, public education and the WVDE made it clear the special session is going to be a smorgasbord of changes and initiatives. The most likely date for the special session will be shortly after the primary election in May.

Just a few of the items you might see in a special session are: charter schools, teacher evaluations, hiring and firing practices, more work on the school calendar, performance or merit pay and more. The issue of OPEB remains unaddressed and may be handled in a separate special session later in the summer. WVEA will keep you informed on these issues and what you can do to assist as the special session draws near.

This legislative session saw little excitement; yet, a number of education-related bills passed. Among the bills passed were four issues WVEA urged legislators to address: too much testing; creation of school calendar committees, alternative education/truancy and re-opening the TDC service buy back window.

**HB 4436 – Provides schools with the ability to request waivers for non-mandatory testing.** The State Department of Education is required to present a list of all mandated and optional testing and assessment instruments. School Curriculum Teams review the list and may select non-mandated tests and instruments to utilize. The School Curriculum Team may apply for a waiver of any state or county policy requiring student assessment aside from the WESTEST2, the Alternative Performance Task Assessment, the Online Writing Assessment and the National Assessment of Educational Progress (NAEP). Waivers are to be granted based on the attainment of “full accreditation” status in the previous school year.

**HB 4593 – Provides additional funding for alternative education programs.** The funding levels increase from \$12 per pupil to \$18 per pupil over the next three years. Additional funding is placed into the development of programs to reduce the dropout rate and increase student attendance and involvement in school. The bill also mandates up to 5 drug courts across the state and allows students taking the GED to remain in a career and technical program. The bill requires counties to develop plans to achieve these goals. Furthermore, the WVDE will report to the Legislative Oversight Committee on Educational Accountability every 6 months to assure programs are in place and active to encourage attendance and decrease dropout rates. The mandatory age of attendance rises from 16 to 17 beginning with the 2011-2012 ninth grade cohort class.

**HB 4652 – Creates School Calendar Selection Committees in every county.** These committees are comprised of 7 to 11 members. Membership is elected by the employees of a county and includes one designee of the superintendent, one parent and the remainder representative of the ratio of teachers, administrators and service personnel. The committee presents 3 calendar options to all employees for approval. If a county shares a vocational center the counties will collectively adopt a calendar using the same process.

**SB 553 – The bill reopens the service credit “buy-back” window** and allows certain former TDC participants the opportunity to purchase the 25% additional service time. The opportunity is limited to those TDC participants who: (1) transferred and provided to the CPRB a signed "verification of cost" for service form by June 30, 2009; but were unable to complete the purchase of the one and one-half percent contribution, *or* (2) any member who did not request a “verification of cost” letter but attempted to purchase the one and one-half percent contribution and was denied in writing by the CPRB on or before December 31, 2009 will qualify for another opportunity to purchase the 25% additional service credit.

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Employees who wish to take advantage of this new opportunity to purchase service credit must request a new calculation from the CPRB on or before April 15, 2010. The recalculated contribution totals from CPRB will include interest at a rate of 7.5%.

To receive full credit, the member must pay TRS the recalculated purchase amount by June 30, 2010 or no later than sixty days after the postmarked date on a contribution recalculation from CPRB, whichever is later.

WVEA worked closely with legislative leaders for this window of opportunity for those individuals who experienced problems with their service buy-back. If you have questions, you should contact the CPRB at 1.800.654.4406 or [www.wvretirement.com](http://www.wvretirement.com).

Remember you must request a new calculation from the CPRB by April 15th in order to purchase service credit in this limited buy-back window. **Do not wait -- start the process now!**

### **Governor's business tax reduction proposal is defeated**

A proposed constitutional amendment (**HJR 101**) to reduce property taxes on business equipment and inventory was defeated in the Senate. Although the Tax Department refused to develop any meaningful projections on the cost to county boards of education for full implementation of this tax reduction, WVEA estimated that over time county boards of education would have lost approximately \$175 million.

WVEA opposed the resolution for a number of reasons. First, funding for education would be reduced and the tax reduction decision would be made by county commissions and not by county boards of education. At minimum, county boards of education should decide whether they could afford to reduce education funding. The governor's office made it very clear they opposed allowing county boards of education to have control over their own money.

Second, existing businesses would be placed at an economic disadvantage over businesses with new inventory or equipment that receive the tax break.

Third, and perhaps most importantly, business taxes play a very small role in the decision of a company to locate or expand. Having a well-educated, well-trained workforce is far more important to businesses than property taxes. The state should be investing in education, not tax giveaways.

Between 2007 and 2015, West Virginia will cut business taxes by almost \$1 billion. These tax reductions, championed by Governor Manchin and Senator Brooks McCabe (D-Kanawha), have no accountability measures. There is no one checking to see if these tax reductions have resulted in jobs being saved or created. How many jobs have these tax giveaways brought to our state? No one knows.

Despite the fact the proposed constitutional amendment diverted education funding to business tax reductions, WVEA was the only educational organization to actively oppose this legislation. WVEA consistently monitors and works to defeat all legislation that will be harmful to public education funding.

### **PEIA to end pre-existing conditions-- Open Enrollment more important than ever**

Under current rules, when a person is first covered by PEIA medical conditions they have recently been treated for are not covered for a year. A diabetic, for example, would have to wait a year before PEIA would pay for the treatment of his or her diabetes. Those requirements will change with the passage of **SB 449**.

PEIA will no longer be allowed to withhold payment for treatment of a person's pre-existing conditions. *However*, in order to prevent someone from not enrolling until they are sick, people can only enroll during the open enrollment period or during a "qualifying event."

Open enrollment occurs from April 1st through April 30th. If someone changes health insurance coverage during this open enrollment (dropping a managed care plan and enrolling in PEIA, for example), then that coverage begins July 1st.

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A qualifying event would include: a birth or adoption, marriage, death, loss of health insurance coverage by a spouse or dependent, etc. What would not qualify as a qualifying event would be your spouse's health insurance becoming so expensive that he or she decides to drop it. Under the new rules, your spouse would have to wait until the next open enrollment before he or she could enroll in PEIA.

WVEA members should remember that, under most circumstances, PEIA is a worthless secondary insurance plan. This means for most people it does not make sense to keep your spouse on PEIA if he or she is covered under their employer's health insurance policy. Circumstances where it might make sense to have your spouse on both health insurance plans would include where the coverage doesn't include prescription drugs or there is a pre-existing condition limitation for a serious medical condition.

The open enrollment period will be more important than ever. PEIA Benefit Fairs will be held in early to mid-April and are listed on their web site at [www.peia.wv.gov](http://www.peia.wv.gov).

## Other significant pieces of legislation to pass this session

**SB 229** – Allows the **School Building Authority** the option of increasing the amount of outstanding bonds. The bill clarifies the cap on the sale of bonds is based on the state's total obligation at the time the bonds are sold and not since the inception of the SBA.

**SB 391** – Corrected a questionable piece of legislation passed last year that prohibits county employees from **running for County Board's of Education**. This legislation allows employees to run for the office. Employees may not serve on Boards of Education where they are employed. Therefore, if successfully elected, an employee must resign from employment before the office may be held.

**SB 480** – This **Higher Education** legislation revamps the classified staffing system. This bill provides for administrative staff to be employed at the Higher Education Policy Commission (HEPC) and Community and Technical College system (CTC) to oversee human resource management at the institutions falling under their purview. Additionally, the bill provides for training of human resource staff at the state's institutions and those performing evaluations. The bill increases the levels of accountability for evaluations and pay increases throughout the classified schedule.

The full funding of classified staff salary schedule is encouraged and prohibits the application of funds to other areas until full funding is achieved. Discretionary raises may not be instituted unless progress is made towards full funding. After funding is achieved a program begins at the institution for Fair, Accountable, Credible, Transparent, and Systematic (FAIR) human resource management. The plan provides transparency, equality and fair compensation, improved evaluation processes, comparative salaries for the market area and job type, and is geared at attracting and retaining top notch employees, motivating, and retaining well-qualified employees. A Job Classification Committee and a Compensation Planning and Review Committee are created under the HEPC. WVU and MU may increase the number of non-classified staff from the current 20% to 25% without approval of the HEPC. Institutions may implement up to a 3% tuition increase without the approval of the HEPC. However Marshall University, the WVSOM, and WVU may implement up to a 5% increase without the authorization of the HEPC.

**SB 631** – Updates the process for **adopting textbooks and instructional materials**. The legislation simplifies the process somewhat in addition to clarifying that the adoption of electronic materials is permitted.

**HB 4031** – **Caps the amount of funding for RESAs** at \$3.9 million. In addition, it provides that when the State Department of Education's budget is decreased RESA's budget is also decreased by the same proportion.

**HB 4040** – The **school calendar** bill was the first bill to pass this session. It removes the beginning and ending dates from the code. It does not change the 43-week calendar period or change the number of contracted days. It has the same number of IS days, OS days, holidays, etc. Employees will continue to be paid for snow days.

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**HB 4211** – Provides a procedure for disbursement of legislative funding provided to the Department of Education for county **Limited English Proficient programs**. Funds shall be appropriated to the county boards in a manner that takes into account the proficiency levels of the students and the capacity of the county board to deliver the programs. A county board must apply to the state superintendent.

**HB 4223** – Increases the penalties for **overcoming a school bus** in an automobile and also penalties for distributing a **controlled substance** in the area of a bus stop or drop-off point.

**HB 4512 – Itinerant and Bus Operator bill.** Requires that anyone hired after July 1, 2010 as Supervisor of Transportation or in a multi-classification position including the title must have 5 years of experience working in the transportation department of a county board of education. School bus driver certification tests would be required annually for substitute school bus operators unless the substitute is a retired bus operator with 1-10 years of experience, in that case the test shall be administered triennially. The test is administered triennially for regular employee and continuing contract status operators.

Furthermore, itinerant status is defined as a service person without a fixed worksite and can be reassigned to another site. County boards may create itinerant positions only within the aide and autism mentor classification categories, and only if job duties involve exceptional students. A service person with itinerant status must be provided with 10 days written notice prior to a reassignment if the employee does not consent and without the posting of the vacancy. A service person with itinerant status may not be reassigned more than twice during the school year. A service person assigned to two worksites and travels at the expense of the county board during the daily schedule does not hold itinerant status.

In addition to job description, period of employment, pay and benefits, a job vacancy postings must now include the worksite, the starting and ending time of the daily shift. Additionally, notice of a job vacancy in the aide classification categories shall include the program or primary assignment of the position.

**HB 4669 – Provides waivers of West Virginia Code as requested by four schools receiving Innovation Zone Status.** The Innovation Zone plans were contingent on the ability to forgo particular state law pertaining to class size, allowing for collaboration, school calendar to provide days for freshmen to attend school alone, credits for vocational programs, and new teacher trainings.

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