THE COMMONWEALTH EDUCATIONAL POLICY INSTITUTE
CENTER FOR PUBLIC POLICY - L. DOUGLAS WILDER SCHOOL OF GOVERNMENT AND PUBLIC AFFAIRS

2012 General Assembly Update

Week 9 Update—March 12, 2012

The 2012 General Assembly is now in session.

The 2012 General Assembly session adjourned on Saturday, March 10 without completing action on a state budget for the next two fiscal years. The legislature immediately convened a special session on the budget and will gather again on March 21 to deliberate a revised spending plan for the remainder of FY12 and new budget for FY13 and FY14. Legislators also will allow for the consideration of judicial appointments during the special session, as stipulated in **HJ 5002**.

Last Friday, the legislature agreed to waive procedural rules to allow new budget bills for the current fiscal year and upcoming biennium that were introduced last week and approved in the House, to be carried over to the special session. Typically, legislation that is "carried over" is done so to the next regular session of the General Assembly. As approved, **HJ 531** allows **HB 1300** and **HB 1301** to be carried over from the 2012 Regular Session to the 2012 Special Session of the General Assembly. The Senate Finance Committee (SFC) subsequently carried over the bills, which amend the FY12 budget and appropriate money for the 2012-2014 biennium, and essentially are in the same form as the budget bills approved earlier by the House of Delegates.

Senate Democrats, who had held up passage of the budget bills for the past several weeks, have laid out their disagreements with previous versions of the SFC budget and have offered supplemental amendments to the spending plans for consideration during the special session. Overall, the amendments propose adjustments of more than $140 million in state general funds (and more than twice that amount in nongeneral funds). The most significant changes that seize revenues to fund alternative spending priorities would take about $70 million from the mortgage service settlement agreement (received by the state to help offset any losses due to the mortgage lending crisis) and another $30 million from a new Federal Action Contingency Trust Fund proposed to be established to cushion the state against any forthcoming federal revenue reductions. Much of the settlement agreement dollars had been programmed into the local government area to help offset previous state reductions in aid to localities.

In the area of public education, new or enhanced spending that is being proposed includes the following:

- An additional $18.5 million in FY14 to fully fund restoration of the cost of competing adjustment for support personnel in Northern Virginia school divisions. Previously, the SFC included $30.1 million in FY13 and $12.1 million in FY14 for this initiative (the House-approved budget provided $12 million the first year and $12.3 million the second year).
- An additional $61.1 million over the biennium, coupled with $45 million the SFC previously targeted in the first year to assist school divisions with paying for the increase in the retirement employer

contribution rates, for updating non personal inflation costs (support health insurance premiums, utilities, and gasoline costs) for local school divisions.
- An additional $8.5 million for the Virginia Preschool Initiative for At-Risk Four-Year-Olds. Previously, the SFC targeted $18.2 million for updating the per pupil amount from $6,000 to $6,800 to reflect a more realistic current cost.

Education Legislation

Legislators spent the final days of the session trying to reach compromises on legislation in contention between the House and Senate. The most significant issues noted below were resolved in the session's closing hours:

Retirement:

Concerning changes to the Virginia Retirement System (VRS), legislators passed three bills that are of great interest to school divisions. **SB 497** requires that local government and school division employees pay the five percent employee contribution to the VRS. This was the position previously endorsed by the Senate. Under the approved bill, school boards would be authorized to allow a phase in of the payment of such employee contribution over a maximum of five years. Senior legislators stated that they will seek to allow that same option to local governing bodies through language to be included in the state budget. The approved measure requires localities and school boards to offset the increased contributions to be paid by their employees with a corresponding pay increase.

The fiscal impact statement previously prepared for the bill noted that there would be no impact on the VRS trust fund from this bill, because it causes a change to the source of funds, not the amount of such funds; that is, it simply shifts the source of employee contributions from employer to employee.

Additionally, the approved provisions of **HB 1130** and **SB 498**, contain a number of pension changes that will affect current and future employees. Current VRS Plan 1 members who are not vested (those having less than 5 years of creditable service) and Plan 2 members (individuals hired after July 1, 2010) will see the following changes:

1) Average Final Compensation (AFC) will be calculated based on the average of the highest 60 months of compensation, rather than the current 36 months; Plan 2 employees already had been using the 60 month standard.

2) Cost of Living Adjustments (COLA) will be capped at 3% rather than the current 5% for Plan 1 employees and 8% for Plan 2 employees.

3) The retirement formula multiplier will drop from 1.70% to 1.65%.

Further, for all employees who have fewer than 20 years of service and who retire before age 65, will see their annual COLA delayed until they reach age 65.

Finally all employees hired after January 1, 2014, will be required to enter a hybrid (defined benefit and defined contribution) system, under which an employee must pay 4% of salary toward the defined benefit portion and 1% toward the defined contribution portion. The employer would match up to 3.5% of the employee contributions. The bill also lays out future state retirement contribution rates through 2018, with the goal of fully paying the VRS-recommended rates by that time.

***Teacher Contracts*:**

The much-debated teacher contracts bill, **HB 576**, was referred back to the Senate Education and Health Committee on a 23 to 17 vote and carried over for the year. On the Senate floor, the case was successfully made that the legislation needed more discussion by interested parties during the offseason, as the bill was not scheduled to take effect until July 1, 2013, anyway. There were indications that the Committee will have those discussions and hold hearings on the legislation in the coming months. Recall that the bill would have changed processes by which teachers and certain administrators are evaluated and retained, including replacing continuing contract status with annual contract status for new teachers and principals; requiring a two-year probationary status for teachers and principals; and that annual evaluations include student academic progress as a significant factor. The Senate narrowly had defeated its own version of the legislation earlier in the session.

***Charter Schools*:**

Legislators agreed to a compromise on two charter school bills, **HB 1173** and **SB 440**. The approved measures provide the following:

1) The local school board may allow a charter school to use vacant or unused properties or real estate owned by the school board.

2) Following a local school board decision to deny a public charter school application or to revoke or fail to renew a charter agreement, the local school board shall submit documentation to the Board of Education (BOE) as to the rationale for the denial or revocation; however, the BOE shall have no authority to grant or deny a public charter school application or to revoke or fail to renew a charter agreement.

3) Local school boards may elect whether charter school personnel are employees of the charter school or of the local school division.

4) Per pupil funding provided to the charter school by the local school board shall be negotiated in the charter agreement and be commensurate with the average school-based costs of educating the students in the division's existing schools.

***Mandates*:**

The approved version of **SB 679** and **HB 1295** eliminate certain mandates as recommended by the Governor's Local Government Mandate Review Task Force. The education-related provisions include the following: 1) Allowing, rather than requiring, local school boards to appoint a local gifted advisory committee and a school health advisory board; 2) Eliminating a requirement that school divisions notify each parent of the estimated average per pupil cost for public education in the school division for the coming school year; and 3) Eliminating a requirement that any school board selling surplus real property establish a capital improvement fund for any proceeds of the sale.

***Virtual Schools*:**

SB 598 concerning virtual schools failed to pass. The Senate version of the bill stipulated that any student enrolling full time in a virtual school program served by a multidivision, online provider outside his school division of residence, shall have his state share of SOQ per pupil funding and three-quarters of his local share of funding, transferred from the school division of residence to the enrolling school division. The House had amended the bill to provide that, effective July 1, 2013, any school division that offers a full-time virtual school program would be able to require students who live within its jurisdiction and want to attend a virtual school to enroll in the one offered by the school division. The school division could offer the virtual school itself, contract with another division for its operation, or contract with a private provider that offers such a program. Funding decisions would have been delayed for a year under this version. However, conferees on the bill were unable to come to agreement and thus the bill failed.

As warranted, additional updates will be posted during the General Assembly's special session on the budget. Please contact CEPI if you have questions or need additional information about the 2012 General Assembly.

E-mail Response

Questions or More Information? Please contact CEPI if you have any questions or need additional information about the 2012 General Assembly.