

Louisiana Federation of Teachers

Weekly Legislative Digest

May 10, 2013

Steve Monaghan, President * Les Landon, Editor

2013 Regular Legislative Session

Now available on the Web at <http://la.aft.org>

[Check out all things legislative on the LFT's Legislative Resource Page!](#)

High court rules voucher funding unconstitutional

The State of Louisiana may not use funds dedicated to public education to pay the tuition for students in private and religious schools, the State Supreme Court ruled on Tuesday.

“The state’s highest court affirmed what we believed all along,” said Louisiana Federation of Teachers President Steve Monaghan. “Our constitution clearly states that public education’s Minimum Foundation Program is reserved for public schools and public school systems.

“Today’s ruling is a victory for the constitution and for the rule of law,” Monaghan continued. “It is a rebuff to an administration that railroaded the voucher bill through the legislature. In today’s ruling, the court restated the simple fact that no governor and no legislature have the right to ride roughshod over the foundational principles of our government.”

The high court ruled that Act 2 of 2012 violated Article VIII, Section 13(b) of the Constitution, which states that the MFP formula “shall be used to determine the cost of a minimum foundation program of education in all public elementary and secondary schools as well as to equitably allocate the funds to parish and city school systems.”

In addition, the decision states that the resolution funding the MFP, SCR 99, was improperly adopted by the legislature and is therefore invalid. The resolution included language to pay for non-public education in private and religious schools, as well as the so-called “Course Choice” program.

The court did not rule on the educational merits of the programs, only on the constitutionality of the funding mechanism. The ruling leaves in question the future of a voucher scheme that enrolled nearly 5,000 students this year, and has already expanded to another 3,000 for the coming school year.

“It is regrettable that there is now some confusion about where those children will attend school, Monaghan said. “But that is the fault of the governor and his allies. Not only was the voucher program patently unconstitutional, but it placed children into schools without adequate oversight and with no assurance of quality instruction.”

The suit against the voucher scheme was first filed by the LFT on June 7 of last year. The LFT was joined in the suit by the Louisiana Association of Educators, the Louisiana School Boards Association and some 43 local school districts. Attorneys in the case were Larry Samuel representing the LFT, Bob Hammonds representing the LSBA and Brian Blackwell representing the LAE.

White says vouchers must be funded under law

Regardless of the Supreme Court decision that vouchers cannot be funded through public education’s Minimum Foundation Program, a source must be found to make the state’s final \$6 million payment to participating schools this year, Superintendent of Education John White told the Senate Finance Committee on Thursday.

White told the panel that money for vouchers is sent to private and religious schools on a quarterly basis, and that \$6 million must be paid to the schools this month.

Tuesday's Supreme Court decision did not vacate all of Act 2 of 2012, which created the voucher program. It stated only that MFP funds cannot be used to pay for vouchers or the controversial "course choice" program.

The court also ruled that this year's MFP was improperly adopted by the legislature last year.

That leaves lawmakers and Gov. Jindal in a predicament. A source of funds must be found to make this month's voucher payment. And if the program moves forward into next year, an additional \$30 million to \$40 million must be found somewhere to finance the governor's privatization scheme.

The legislature is already struggling to find money to fill an anticipated billion dollar gap in next year's budget.

Panel rejects union-busting scheme



LFT President Steve Monaghan testifies against HB 552.

A bill that would have prohibited the payroll deduction of union dues for public employees was narrowly defeated in the House Labor and Industrial Relations Committee Thursday.

House Bill 552 by Rep. Alan Seabaugh (R-Shreveport) was clearly aimed at teacher unions like the LFT as punishment for successfully challenging Gov. Bobby Jindal's assaults on public schools. Had the bill passed, unions would have lost the right to collect dues through payroll deduction, almost immediately reducing their income to zero. The unions would then have had to find alternative ways to collect dues.

Rep. Seabaugh objected to payroll deduction of union dues because unions like LFT take positions on issues that are important to members. "Frankly," he said, "the dues often are used to engage in a political process."

Joining him in support of the bill was Jim Patterson from the Louisiana Association of Business and Industry, which spends millions of dollars on political campaigns and lobbying for issues that matter to big business.

LFT President Steve Monaghan pointed out that, had it not been for the LFT, which filed suit challenging both Act 1 and Act 2 of 2012, courts would not have ruled that Gov. Jindal's education schemes violated the constitution.

"Shutting our voice out might mean there wouldn't have been litigation over flawed programs," Monaghan said.

Rep. Alfred Williams (D-Baton Rouge) moved to involuntarily defer the bill. By a whisper-thin one vote margin, the motion passed and HB 552 was deferred.

Casting the deciding vote was Rep. Jerome "Dee" Richard (I-Thibodaux), who has reportedly been blanketed with hate mail for his courageous stand. The LFT Action Center has launched a campaign to thank Rep. Richard. [Please click here to send him a message of thanks and support.](#)

House approved budget compromise

After weeks of uncertainty, the House of Representatives on Friday approved HB 1 by Rep. James Fannin (D-Jonesboro), a \$25 billion compromise budget plan to pay for health care, K-12 education, higher education and other services provided by the state general fund.

The plan, which includes several other bills as part of a compromise budget package, requires some budget cuts and some reductions to tax incentives offered to businesses. It now moves to the Senate for debate, after which Gov. Bobby Jindal will either accept or veto all or part of the package.

White sort of answers fraud allegations

Following last week's blockbuster allegations of fraud in the Department of Education's calculations of high school performance scores, Superintendent of Education John White reported that some data may have been incorrectly reported by accident

In the previous meeting, highly qualified math teacher Herb Bassett accused the department of inflating high school performance scores by intentionally mislabeling an important column of data in the initial public release of the scores. The result, he said, was a mis-calibration of scores by 7.5 points.

This week, came back to the Senate Education Committee to say that some changes were made to tables of calculations on the Web site prior to his tenure. If information was mislabeled, he said, it was an accident.

Committee Chairman Conrad Appel (R-Metairie) asked White and Bassett to meet in private and not discuss the problems in a public forum. White was asked to report again to the committee at its last meeting of the legislative session.

Overwhelming support to halt ACT testing of special needs students

A bill that would exempt special needs students from taking the ACT test was given unanimous approval by the House of Representatives on Wednesday.

HB 343 by Rep. John Bel Edwards (D-Amite) applies to students who are not working toward a high school diploma and have a diagnosed exceptionality. Students whose IEP requires testing would still take the test, as would those whose parents specifically request the testing.

The bill will be heard next by the Senate Education Committee.

The House also passed HB 466 by Rep. Kenneth Havard (R-Jackson), which would halt a plan to make ACT scores count for 25% of a school's letter grade starting next year. It also goes to the Senate Education Committee for action.

Both bills are included in the LFT legislative agenda.

Panel kills bid to delay changes in school grade calculations

A freeze on changes to the way school performance scores are calculated was turned down by the House Education Committee.

Rep. Regina Barrow (D-Baton Rouge) said that HB 598 was needed because the state department and BESE change scoring calculations so often that it is confusing to school systems. The bill was supported by the Louisiana Federation of Teachers, Louisiana School Boards Association and the Louisiana Association of School Superintendents.

Opposing it were the Department of Education, BESE, Gov. Bobby Jindal's office and the Council for a Better Louisiana.

Tell-on-teacher bill deferred

For the second time, the House Education Committee deferred a bill that would inform parents if a teacher is rated ineffective, and give them the option of moving children to other teachers or schools.

HB 541 by Rep. Scott Simon (R-Abita Springs) was voluntarily deferred a week ago, which allowed it to be heard again by the committee. In its appearance this week, it was voted down by the panel. LFT opposed the bill.

Baton Rouge breakaway bill goes to House committee

The Senate approved a proposed constitutional amendment and its enabling legislation which would allow a section of Southeastern East Baton Rouge Parish to secede from the parish school system and create its own district.

LFT opposes SB 199 and SB 73, both by Sen. Bodi White (R-Central). The bills will next be heard by the House Education Committee. [Please click here to sign a petition opposing the breakaway.](#)

House approves honesty in affidavits bill

A bill allowing courts to question the truthfulness of certain statements by administration officials was approved by the House of Representatives.

HB 523 by Rep. Randal Gaines (D-LaPlace) requires government agencies to prove that affidavits presented in court by the administration are true, and allows the statements to be challenged in court.

Last summer, a judge said that he could not temporarily suspend the payment of vouchers with MFP funds because Superintendent of Education John White and Commissioner of Administration Paul Rainwater signed affidavits saying that the injunction would cause a state budget deficit. Though the statements were apparently false, they could not be questioned by the court.

The bill, which is included in the LFT legislative agenda, moves to the Senate for action.

Voucher eligibility bill deferred by committee

HB 248 by Rep. Kirk Talbot (R-River Ridge) was deferred by the House Education Committee. It would have required the Department of Education to annually verify the eligibility status of voucher recipients.

Action on retirement bills

Two bills that would have required a specific dollar amount to be included in the Minimum Foundation Program in order to pay for retirement costs were rejected by the House Education Committee. They were HB 666 by Rep. Kevin Pearson (R-Slidell) and HB 643 by Rep. Greg Miller (R-Norco).

The House Retirement Committee approved HB 53 by Rep. Alan Seabaugh (R-Shreveport) which would prohibit future employees of the Louisiana Federation of Teachers and some other organizations from participating in the Teachers Retirement System of Louisiana.

A bill that changes the final average compensation for firefighters from 36 to 60 months, SB 7 by Sen. Barrow Peacock (R-Shreveport), was defeated on the Senate floor. The bill was resurrected as SB 259, however, and then was approved by 20 to 17.

Faced with both constitutional issues and questions about Internal Revenue Service compliance, the House and Senate both passed resolutions suspending provisions of the cash balance retirement plan until July 1, 2014. HCR 2 by Rep. Joe Harrison (R-Gray) and SCR 1 by Rep. Page Cortez (R-Lafayette) will each now be heard in the other legislative house.

The week ahead...

Monday, May 13

The Senate Finance Committee will discuss the FY 2013-14 executive budget for the Board of elementary and Secondary Education and the recovery School District.

The Senate Retirement Committee will hear HCR 2 by Rep. Joe Harrison (R-Gray) which delays the cash balance retirement plan; HB 46 by Rep. Ed Price (D-Gonzales) which authorizes a cost of living adjustment for the School Employees' Retirement System; and SB 17 by Sen. Elbert Guillory (D-Opelousas) which changes funding to state retirement systems by increasing employee contributions by 1%. LFT opposes the bill.

Tuesday, May 14

The House Education Committee will hear HB 346 by Rep. Jerome "Dee" Richard (I-Thibodaux), which would require legislative approval of changes made to the way school performance scores are calculated; H 598 by Rep. Regina Barrow (D-Baton Rouge) which requires school performance scores to be computed on a 100 point scale; SB 127 by Sen. Gary Smith (D-Norco) which says that non-diploma bound students do not have to take the ACT test; and SB 199 and SB 73 by Sen. Bodi White (R-Central) which would create a constitutional amendment allowing parts of east Baton Rouge Parish's school system to secede and form a new district.

The House and Governmental Affairs Committee will hear HV 531 by Rep. Kenny Havard (R-Jackson), a proposed constitutional amendment to prohibit unfunded mandates on public school systems.

Wednesday, May 15

The House Retirement Committee will hear HB 61 by Rep. Austin Badon (D-New Orleans), which intends to prevent spiking of retirement benefits by reducing the benefit if an employee's salary increases by 30% or more in a year. LFT opposes the bill because anti-spiking provisions are already in effect, and this bill could have a negative impact on teachers who move from nine month to 12 month positions.

The committee will also hear HB 68 by Rep. Kevin Pearson (R-Slidell), yet another cash balance retirement program for members of the State Employees Retirement System and higher education employees in the Teachers Retirement System.