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Education Legislation Summary: 2017 Special Session - Biennial Budget, Connecticut General Assembly

On October 26, 2017, the General Assembly passed Emergency Certified Bill 1502 (“Bill 1502” or “the Bill”). The Bill was signed by Governor Malloy on October 31, 2017 (except for a line item veto related to hospital charges). This summary is intended to give you a brief overview of some of the more significant changes affecting public elementary and secondary education.

Changes Affecting School Operations

Mandatory Medicaid Provider Enrollment

Effective no later than December 1, 2017, each local and regional board of education must (1) enroll as a provider in the state medical assistance program, (2) participate in the Medicaid School Based Child Health Program administered by DSS (Department of Social Services), and (3) submit billable service information electronically to DSS or its billing agent. The local or regional board of education may enter into an agreement with a third-party vendor or another local/regional board of education to comply with these requirements.

See Bill 1502 § 51.

Mandatory PPT Inquiry Related to Medicaid Eligibility

Currently, Connecticut General Statutes Section 10-76d(a)(2) permits a local or regional board of education, through its planning and placement team (PPT) to determine a child’s Medicaid status. Bill 1502 amends the law to require each local or regional board of education, through its Planning and Placement Team (PPT), to determine each child’s Medicaid eligibility or enrollment status. In the case of a student who may be eligible for Medicaid, the PPT shall request that the parent/guardian apply for Medicaid. Each local/regional board of education must also comply with applicable federal regulations (34 C.F.R. Section 300.154) before billing for special education/related services under the Medicaid School Based Child Health Program through DSS. *See Bill 1502 § 51.*

In addition, private schools, hospitals, or institutions that receive funding for special education instruction from a local/regional board of education must also provide to the local/regional

board of education all required documentation needed to submit claims to the Medicaid School Based Child Health Program through DSS. *See Bill 1502 § 52.*

Cooperative Arrangements for BOE Operations

- a. Property, casualty and workers' compensation insurance
Bill 1502 requires each municipality, through its legislative body, and each board of education to consult when possible regarding the joint purchase of property insurance, casualty insurance and workers' compensation insurance.
See Bill 1502 § 160.

- b. BOE Consultation Regarding Contracts for Goods or Services
The Bill requires local boards of education, after receiving responses to requests for bids for a good or service, to (i) consult with the legislative body of the municipality if the municipality provides or uses such good or service at a lower cost than the lowest qualified bid submission provided to the local board of education and (ii) consider a cooperative agreement with the municipality for such good or service if the equivalent level of such good or service is provided by the municipality or through a municipal contract with a lower cost than the bid submission.
See Bill 1502 § 161.

- c. BOE Consultation Regarding Purchase of Payroll Software
The Bill requires each local board of education to consult with the legislative body of the municipality prior to purchasing payroll software (payroll processing or accounts payable) to determine whether the payroll software systems may be purchased or shared on a regional basis. *See Bill 1502 § 162.*

- d. Shared Administrative/Central Office Functions - BOE and Municipality
The Bill adds a new statutory provision that permits a municipality, upon the approval of its legislative body, and local board of education to enter into a cooperative agreement relating to the performance of administrative and central office functions for the municipality and board of education. *See Bill 1502 § 153.*

- e. Shared Administrative/Central Office Functions - BOE and BOE
Bill 1502 expands the types of cooperative arrangements between two or more local boards of education. In addition to school accommodations, programs, activities, special education services, health care services, and alternative education, local board of education may enter into written cooperative arrangements to include administrative and central office duties.
See Bill 1502 § 154.

- f. Shared Superintendent Services
Under certain conditions, a local board of education may receive direction concerning the supervision of schools from a superintendent of schools employed

by another local board of education provided that the legislative body of the municipality employing the superintendent of schools authorizes such use. Further, the local board of education seeking direction from a superintendent from another school district must meet the following conditions: (1) the board of education must operate within a municipality with a population under 10,000, (2) the board of education can operate up to two (2) public schools, and (3) the board of education must operate within a municipality with fewer than 2,000 resident students.

See Bill 1502 § 152.

g. Regional BOE Finance Committee

Regional boards of education may create a finance committee with the purpose of providing information to the regional board of education concerning local budget issues of the member towns, as well as any assistance requested by the regional board of education in the preparation of its proposed budget. *See Bill 1502 § 156.*

Mandatory Reporting to Municipalities

a. Copies of contracts for administrative personnel

The Bill adds a new requirement for local and regional boards of education to “forthwith” file a signed copy of any contract for administrative personnel with the town clerk. For regional boards of education, contracts must be filed with the town clerk in each member town. While the statute does not define “contract for administrative personnel,” we believe that it is fair to interpret the statute to require the filing of the administrators’ collective bargaining agreement (if any) as well as any individual signed employment contracts with administrative personnel, both certified and non-certified. The town clerk is further responsible for posting a copy of any such contract on the town’s website.

See Bill 1502 § 157.

b. Notification of hiring of certain central office personnel

The Bill also creates a new requirement that a local board of education notify the legislative body of the municipality prior to the start date of any individual hired to fill a central office administrative personnel position with an annual salary of \$100,000 or greater and for which the proposed or approved education budget does not provide funding for such position. This new requirement does not apply to any administrative personnel position that is funded from a grant awarded to the board of education or from any gift or donation made to the board of education. *See Bill 1502 § 155.*

Minimum Budget Requirement

The Bill extends the provisions of Section 10-262j, commonly referred to as the “Minimum Budget Requirement,” to the 2017-2018 and 2018-2019 fiscal years. The Bill also provides that a municipality which experiences a year-over-year reduction in its Education Cost Sharing (“ECS”) grant may reduce its education appropriation in an amount equal to or less than the ECS reduction and remain compliant with the Minimum Budget Requirement. *See Bill 1502 § 252.*

A municipality may only reduce an already-passed education appropriation to account for an unanticipated reduction in its ECS grant if: (a) it passed the original appropriation before the adoption of the state budget; (b) the state aid received by the municipality pursuant to the state budget was less than was projected at the time the original appropriation was passed; and (c) it gets approval for such reduction in the same manner that the original appropriation was approved (e.g., referendum). A municipality may not reduce an already-adopted education appropriation in an amount greater than the unanticipated reduction in the municipality's ECS grant. *See Bill 1502 § 253.*

Distressed municipalities may now also propose reductions to their Minimum Budget Requirement thresholds as part of a financial restructuring plan. *See Bill 1502 § 370.*

Alliance Districts

The Bill amends Section 10-262u(a) through (d) to require the Commissioner of Education to designate thirty-three school districts as alliance districts for a period of five years. This designation is currently expired under current law. The law also modifies the definition of an alliance district to include towns that are among the towns with the thirty lowest accountability index scores. Furthermore, the law clarifies that alliance districts may not receive any increase in funds over the amount received in the 2011-2012 fiscal year. *See Bill 1502 § 224.*

Changes Affecting School Construction/School Building Projects

The Bill expands the types of emergency school building projects eligible for state assistance to include replacement or installation of skylights, installation of insulation for exterior walls and attics, and purchase and installation of limited use and access elevator, windows, photovoltaic panels, wind generation systems, building management systems, or public school administrative or service facility. Further, the superintendent of schools must provide written notification to the Commissioner of Administrative Services within seven (7) calendar days following the discovery of the emergency condition and submit an application to the Commissioner not later than six (6) months following such notification. *See Bill 1502 § 62.*

The Bill amends Section 10-287i to permit the Department of Administrative Services (DAS) to withhold eleven percent (11%) of a project's reimbursement grant pending the completion of the final audit of the project. The Bill modifies the standards for a renovation project pursuant to Section 10-285b(a)(1) to require that the renovation covers at least fifty-five percent (55%) of the completed project's square footage. *See Bill 1502 §§ 64, 67.*

Bill 1502 clarifies that local board of education or municipalities remain financially responsible for school construction financial obligations incurred when those local entities were part of a now-dissolved regional board of education. *See Bill 1502 § 65.*

The Bill clarifies that for school building grants for which application is made on and after July 1, 2017, each town shall be ranked in descending according to the adjusted equalized net

grand list per capita of the town two, three and four years prior to the fiscal year in which application is made. Based upon the ranking, a percentage between 10% - 70% shall be determined for new construction or replacement of a school building for each town on a continuous scale, and between 20% - 80% will be determined for renovations, extensions, code violations, roof replacements and major alterations of an existing school building and the new construction or replacement of a school building. Further, when the Commissioner of Administrative Services prepares an annual listing of all eligible school building projects, each listing must have a report including a variety of elements including an enrollment projection and the school's capacity; an estimation of total project costs; the readiness of such eligible project to begin construction; efforts made by the local or regional board of education to redistrict, reconfigure, merge or close schools under the board's jurisdiction prior to submitting an application under this section; enrollment and capacity information for all of the schools under the board's jurisdiction for the five years prior to application for a school building project grant; enrollment projections and capacity information for all of the schools under the board's jurisdiction for the eight years following the date such application is submitted; and the state's education priorities relating to reducing racial and economic isolation for the school district. *See Bill 1502 §§ 83, 236.*

Finally, the Bill expressly authorizes the DAS commissioner to commit to new school construction grants for up to \$518 million. *See Bill 1502 §§ 237-244, 246.*

Changes Affecting Teacher Retirement Board

Bill 1502 requires the Governor to appoint a mayor, first selectman or chief elected official of a municipality to the next available position on the TRB. *See Bill 1502 § 68.*

Effective January 1, 2018, the mandatory TRB contribution withheld from employees shall be increased from six percent (6%) to seven percent (7%). *See Bill 1502 § 586.*

Changes Related to Collective Bargaining

The Bill amends the binding interest arbitration provisions of the Municipal Employee Relations Act (Section 7-473c(d)(9)) to establish an "irrebuttable presumption that fifteen percent of the municipal employer's budget reserve is not available for the payment of the cost of any item subject to arbitration...." *See Bill 1502 § 158.*

Changes Affecting Technical Education and Career System

Bill 1502 makes a number of changes to the Technical Education and Career System. These changes include:

- a. Requiring the Education and Career System to offer full-time comprehensive secondary education. (Section 10-95(b)). *See Bill 1502 § 73.*



- b. Prohibiting Technical Education and Career System employees accepting gifts as an individual or on behalf of the system for personal use. Gifts to the System must comply with the state code of ethics for public officials. *See Bill 1502 § 72.*
- c. Requiring that the Department of Education conduct a review of the admissions policy of the Technical Education and Career Center that includes, without limitation, the use of placement tests and wait lists, the admissions policies relating to the enrollment of students with disabilities, students who are eligible to receive special education and related services and students who are English language learners, and diversity standards for the inclusion of minority students. *See Bill 1502 § 75.*

Creation of Connecticut Achievement and Resource Equity in Schools Commission

Bill 1502 creates a new commission responsible for making recommendations concerning state funding for education and resources needed to ensure that all public school students in the state have an opportunity to succeed. The Commission must report its recommendations in a written strategic plan submitted to certain state officials no later than April 1, 2018. The strategic plan must address certain identified issues including funding formulas, unequal local property tax burdens, equity and fairness, student educational needs (Pre-K through 12), and predictability and sustainability in educational grants to towns and school districts. The Commission shall be composed of sixteen appointed individuals who must reflect the state's geographic, population, socio-economic, racial and ethnic diversity. *See Bill 1502 § 71.*

Creation of Municipal Accountability Review Board (MARB)

The Bill creates a new entity, the Municipal Accountability Review Board, with broad oversight and other authority over the budgets, appropriations and other operations, including collective bargaining, of the most financially distressed municipalities. *See Bill 1502 § 367.*

Questions or Assistance:

If you have any questions about this legislative update, please feel free to contact one of the attorneys listed on page 1.

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