

03-14-11

March 14, 2011

Five and One Half Days to Go and Still No Budget; However, Retirement Swap Bills Still Very Much in Mix

The Senate Finance Committee amendments to House Bill 2, the General Appropriations Act make little change in Education Funding. The budget as passed by the House adds \$25 million from film tax credits that were not in the original House Appropriations and Finance Committee (HAFC) proposal. Of this \$25, \$7.5 million was added to school public school support the rest of the \$25 million freed from the film credit compromise goes to Medicaid, corrections, various other social services, and public safety. The Senate added language to the bill that makes this additional funding contingent on passage of legislation like HB 607, the film credit reduction compromise. Before the cut from the retirement swap, public school support is cut by about 1.5%, while the rest of state government's cut is nearer 3%. The final version of the budget cuts the equivalent of \$15 million from the State Equalization Guarantee and then created another \$5 million dollar cut on top of that to allow the Secretary of Education to impose "efficiencies." When that happens, the measure will move to the Senate floor for a vote.

One of the two other pieces of this shaky puzzle that makes up this year's budget machinations, House Taxation and Revenue Committee Substitute for HBs 607 and 622 passed the House after much, often acrimonious, debate. This legislation is a compromise to use \$25 million from film tax credits. Several House members gave voice to our shared concern about why the film industry (and public employees-see below) were singled out for budget balancing pain when the oil and gas industry get a \$1 billion in tax credits and subsidies! This legislation, too, is waiting in the Senate Finance Committee.

House Retirement Swap Bill Amended in Senate Finance Committee

The other piece of the budget puzzle is legislation forcing public employees to pay a larger share of retirement withholdings (see below) to save the state budget some \$47 million dollars on top of the 1.5% retirement swap passed two years ago and either continued or made permanent in the two versions of the idea moving through the legislature.

The current house version, HB 628, extends the 1.5% another year, but doesn't make it permanent. HB 628 passed the House on Monday, March 7. It creates a shell game of \$27 million in pension swaps for school employees (and \$22 million for other public employees) as proposed by the Legislative Finance Committee to increase employees' share of retirement by 1.75%. The legislature pretends that the School Equalization Guarantee has this money in it, then, in another section of the budget reduces school appropriations by an amount equal to that saved by the passage of this bill, thus passing the increase passed on to employees. Without enabling legislation, this this reduction won't happen. HAFC Substitute for HB 628 is the enabling legislation.

The bill also extends the two-year 1.5 percent contribution shift implemented for FY10 and FY11 from the employer to the employee for those employees making more than \$20,000 another two years (FY12 and FY13).

It also makes a one-year contribution shift of 1.75 percent from the employer rate to the employee rate for those making more than \$20,000 for FY12. This changes the percentage of retirement withholdings for members of ERA and their employers (as well as employees covered by the Public Employees Retirement Association). This legislation "swaps" an additional 1.75% of salary with the state to reduce their share of retirement withholdings and increase yours. This swap is all about budget balancing and does nothing to increase the solvency of the Educational Retirement Fund. In fact, we think it harms the fund. Employee dollars always add less stability to retirement than employer funds, since employees who choose not to retire can remove those dollars from the fund.

Republican Representative James White attempted to amend HB 628 on the House floor to make the 1.5% shift permanent, rather than the two year extension contained in the bill. This was, fortunately soundly defeated. The vote on the final bill, though not as close as we would have liked, still showed that there are many House members who agree with us and find balancing the budget on the backs of public employees distasteful. Here is the final vote. Thank those members who voted NO.

HB 628 was amended in the Senate Finance Committee on Saturday. One amendment requires an actuarial study by September 30, 2013, to analyze whether the higher employee contribution rates and lower employer contribution rates required statute have had or will have an adverse actuarial effect on the retirement system in violation of Article 20, Section 22 of the constitution of New Mexico (one of the contentions in our and other public employees' s law suit against the increases filed two years ago). If there is an adverse effect, the two retirement boards will ask, but not necessarily get, a supplemental appropriation from the second session of the fifty-first legislature in the amount that will rectify the adverse actuarial effect. It also has an amendment that extends both swaps from July 1, 2012 through June 30, 2013, if the general fund increases by less than \$100 million and the state fund reserves drop below 5%. HB 628 will move to the Senate calendar and will likely be the Senate vehicle for accomplishing the swap, even though the Senate version, Senate Bill 248, which makes the 1.5% permanent! is also on the Senate Calendar.

The Senate's version of the retirement contribution swap Senator Stewart Ingle's Senate Bill 248 received a do-pass recommendation in the Senate Finance Committee last week amended to make the 1.5% permanent. The House vote against this idea may help us eventually change that.

House Taxation and Revenue Committee Substitute for HBs 607 and 622 as well as HB 628 and House Bill 2, the budget bill, are

all likely moving to the Senate Floor early this week.

NEA-New Mexico continues to speak out against cuts and to contend that any cuts which are made should allow decision making at the local level through collective bargaining. Tell your House Member that any more cuts to school funding and employee salaries are just plain wrong.

Send the Message: NO MORE CUTS!:

Teacher Evaluation Bill Advances Through Senate

Senate Bill 502 revamps New Mexico's teacher evaluation and has been sent from the Senate Education Committee to the Senate Finance Committee. Senate Bill 502 is Sponsored by Senator Cynthia Nava, this measure passed the Senate on Friday. One good point of the bill is its requirement that evaluation systems be used to make employment decisions; this would add protections to prevent teacher terminations for reasons other than job related ones. This bill has been introduced on behalf of the Governor and Secretary of Education. They have been open to compromise and we have worked to make changes to the proposed legislation that protect teacher due process and that guarantee both NEA-NM and AFT NM places on the task force that will develop the details of the new evaluation system. Part of this development will be how to define "student growth" as shown by the New Mexico standards-based assessment. We certainly don't accept that a straight test score, without any consideration of extenuating circumstances such as attendance and other negative factors, can be used. The bill will now be scheduled in House Committees for further debate. Because of Senator Nava's willingness to make many of the changes we suggested, NEA-NM supported Senate passage of the measure. The vote is at this link.

We will continue to monitor the measure as it moves to the House. We will be especially watchful for any attempts to reduce due process or collective bargaining rights (both contained in the original bill as proposed by the Martinez administration). The bill is scheduled for hearings in the House Education Committee and the House Labor Committee.

House Republicans and Two Democrats Turn their Backs on Public Schools

After a group of Republican Representatives reneged on commitments to vote for Representative Jim Trujillo's House Joint Resolution One late Tuesday, we went back to the drawing board to find the 36 votes necessary to pass the measure. Unfortunately, they were never found. On Thursday all Republicans joined Democratic Representatives Rhonda King and Donna Irwin to defeat passage on a tie vote of 35-35. Representative Dennis Roch had proposed an amendment to restore safeguards inadvertently left out of the original draft, but currently contained in the constitution. The amendment was incorporated in floor substitute for the original bill; however Roch and all other Republicans failed to support public school funding on the final vote.

HJR 1 would have placed a constitutional amendment on the November 2012 ballot allowing the 5.8% distribution from the state land grant permanent fund begun in 2003 to continue indefinitely. Clearly the 5.8% distribution rate has not endangered the corpus of the fund; it has continued to increase. The amendment would have been logical to the voting public. Simply continue current practice of distribution and continue to help grow school funding without increasing taxes. Since the amendment failed, it is clear that school funding will, in the worst case scenario, decrease or in the best case scenario, increase at a much slower rate in the near term, preventing the movement toward sufficient funding without a major effort from the general fund.

Thank those Democratic House members who supported public schools, and let those who did not know how you feel about their failure to support funding.

Senate Version of Constitutional Amendment Changed to Meet Our Objections

After working with the sponsor and early childhood advocates, NEA-New Mexico now supports Senate Joint Resolution 10. Changes were made to prevent this measure from seeming so much like a voucher for private day care centers and to move public schools' return back to 5.8% in 2024. This measure essentially does the nearly same thing as HJR 1. It maintains the public school portion of the payout at 5.5% until 2024, when it returns to 5.8% permanently and raises an additional 1.5% from the permanent to spend on early childhood programs. That raises the payout from the fund from the current 5.8% to 7%. While we are a little concerned with the 7% payout number, we believe that the corpus of the fund will still maintain an adequate growth. Several amendments made in the Senate Rules Committee met our concerns with privatization and the level of school funding.

SJR 10 has been waiting a long time for a hearing in the Senate Finance Committee and as yet to be scheduled. Ask Senate Finance Committee members to support this important funding mechanism for public schools and early childhood programs. However, the loss of HJR 1 makes passage, or even a hearing in Senate Finance, of SJR 10 much less likely.
