



Pennsylvania Association of School Business Officials

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Senate Education Committee

The Educational Opportunity and Accountability Act

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Good afternoon, Chairman Smucker, Chairman Dinniman and the rest of the members of the Senate Education Committee. My name is Jeffrey Mummert, and I am the Business Administrator for South Western School District in York County. I am testifying today on behalf of the PA Association of School Business Officials (PASBO). I am a member of the PASBO Board of Directors and the Chairman of the PASBO Legislative Committee. I thank you for the opportunity to allow me to testify before you today on Senate Bill 6 and the very important issue of addressing underperforming schools. PASBO, like the rest of the testifiers with me today, certainly believes that every student in every school across the commonwealth has every opportunity for academic and educational success and that accountability is required to ensure that is the case.

As a representative of PASBO, my expertise is in school finance and school operations, and my testimony today is going to focus on the financial and operational implications of Senate Bill 6. Overall, while we believe the general intent of this proposal is positive, there are significant issues that must be addressed and questions that must be answered before such a proposal can be implemented. If many of these concerns are not addressed, this proposal has the potential to impose significant financial hardship on school districts across the state, negatively impacting students and taxpayers.

Funding mechanism

One of the major financial and operational concerns we have with the mechanics of this proposal is the requirement that a school district pays charter school tuition for each and every student that is in a school that is transferred to the Achievement School District (ASD). There has been significant recognition that there are flaws with the current charter school funding formula, and there has been significant debate and effort over the past several sessions to make changes to this formula.

The implications of using the flawed charter school funding formula without modification are dramatic. If a school is transferred to the ASD, a school district that may already be struggling financially will likely struggle even more. If, for example, a school with 300 students becomes an ASD school, assuming a \$10,000 tuition rate per student, that school district will send \$3 million per year to the ASD. The school district is very unlikely to be able to reduce its costs by a corresponding amount.

As a result, the additional dollars necessary to cover the cost of an ASD school will have to be made up by cuts to the educational programs and services offered to the students remaining in the school district—the students who are performing better in comparison to those in the ASD school—who will be punished as their educational opportunities, programs and services will be reduced.

Alternatively, a school district may have to raise local property taxes for the purpose of covering the costs of the state-run ASD school. Data shows that each year a growing share of a district's annual property tax revenue is dedicated to covering the annual increase in charter school expenditures. From 2009-10 to 2012-13 when property taxes increased by \$937,385,712 across the state, a full 50% of this increase was dedicated solely to covering the corresponding growth in charter school tuition costs. Between 2011-12 and 2012-13, a full 57% of the annual increase in property taxes was dedicated to covering the annual increase in charter school expenses, with total charter school costs in 2012-13 equating to nearly 11% of total property taxes that year.

Requiring a school district to pay tuition for an entire school through the flawed charter school tuition formula will exacerbate the burden already placed on local taxpayers, as they will be forced to carry this additional load for the state—and have no local control over the school. Funding the state-run ASD schools in this manner—through local property taxes—represents a significant departure from the norm of the use of local resources, as local dollars will be sent to the state for distribution and use. Is there any mechanism for the local community to dictate how their local resources are spent or at least to ensure that they are spent on the students in the ASD school in their community?

Additionally, the use of the flawed charter school formula in this context also brings back an issue that we hoped had been addressed—the pension double dip. While the double dip was eliminated last year, unfortunately by eliminating the state reimbursement to charter schools instead of allowing school districts to deduct their employee retirement contributions—this proposal would institute a new pension double dip for the ASD. School districts with a school moving to the ASD would be required to include 100% of their employee retirement costs in the tuition calculation while the state would also reimburse the ASD for approximately 50% of their employee retirement costs. As a result, the formula will overpay the ASD for their employee retirement costs, at the detriment of the school district.

PASBO also has a significant concern with the use of the charter school special education tuition rate. In late 2013, the Special Education Funding Commission released their report and recommendations detailing how the special education funding formula should be changed for both school district students and charter school students. The recommendations ensured that resources were directed to those students and schools with the greatest need by focusing on the actual number of special education students in each school district or charter school and their corresponding needs. While Act 126 of 2014 implemented this positive new formula for school districts, the charter school special education tuition rate was never changed.

We believe that using the charter school special education tuition rate for special education students in a school assigned to the ASD is inappropriate. Using this tuition rate ignores the good work of the Special Education Funding Commission and will result in the ASD being dramatically overpaid for special education students, to the detriment of the school district. We know, from Act 16 reporting, that the vast majority of special education students across the state—in school districts and charter schools—are Category 1 students, meaning that their annual special education expenditures are less than \$25,000. Using the formula included in Senate Bill 6 ignores this fact and provides the ASD with resources significantly above the cost of educating most of these students.

PASBO would recommend that if the charter school funding formula must be used in this manner that it be modified to implement the recommendations of the Special Education Funding Commission, which tailored the special education tuition rate to the specific needs of each individual special education student. Alternatively, at the very least, the current charter school special education tuition calculation should be modified to use the school district's actual percentage of special education students instead of assuming a 16% special education population across the board.

Finally, the decision to fund ASD schools through the flawed charter school tuition formula has the negative consequence of increasing the charter school tuition rate in those districts with ASD schools. As more money is paid out in tuition, it all feeds back into the flawed calculation to increase the tuition rate for the following year. Again, this will have a tremendous negative financial impact on most of the school districts that will have a school transferred to the ASD, and that detriment will be felt most poignantly by the students remaining in the district.

Other Funding Sources

In addition to the charter school tuition calculation to fund the ASD, Senate Bill 6 requires the General Assembly to “appropriate funds as it deems necessary to pay the costs for the implementation and ongoing operation of the ASD.” The bill also requires an annual administrative fee be assessed on each ASD school to be used to cover the ASD’s administrative costs.

PASBO believes that if there are additional funds to be appropriated by the General Assembly, those funds could be spent more effectively if they were driven to school districts through a new basic education funding formula. We are hopeful that the new basic education funding formula to be put forth by the Basic Education Funding Commission in the coming weeks will begin to address the many inequities that have cropped up over the decades without a formula in Pennsylvania. As such, we believe that any new funds available for education should be directed to districts through that formula. As we believe that a new formula will take factors into account such as student counts and the number of students living in poverty, it is very likely that additional resources provided through a new formula will flow to some of the districts that would be most impacted by Senate Bill 6. As a result, we are optimistic that the use of a new formula would effectively direct additional funds to the same students and schools impacted by Senate Bill 6.

With regards to the administrative fee authorized under the bill, it is very unclear how this fee would be assessed. Senate Bill 6 indicates that the administrative fee will equal no more than 3% of an ASD school’s basic education funding allocation. Does this mean 3% of the regular education tuition that the ASD receives for a school? Are special education tuition rates to be included in that calculation? This would need to be clarified in the legislation.

Federal Funds

Another financial issue that must be clarified in the legislation is the distribution of federal funds. In 2012-13, over \$1.1 billion in federal funds flowed to school districts and charter schools. Of this total, significant amounts were directed to many of the school districts that have schools eligible for transfer to the ASD. In these schools and school districts, it is unclear what happens to these federal funds. Senate Bill 6 gives the ASD the authority to seek, manage

and expend federal money, yet it is unclear how federal money being directed to a school district would flow to the ASD if a school were transferred.

The implications of this issue are significant. School districts receive significant federal resources directed to several areas such as special education under IDEA, economically disadvantaged students under Title I, training and preparing high quality teachers under Title II and English language learners under Title III. Depending on the district, this federal money may be directed to a building in a district or disseminated throughout the district. If a school was transferred to the ASD, would the ASD have the authority and responsibility to report required data, apply for and receive the appropriate federal funds for its students? If so, will the tuition calculation be modified to allow school districts to deduct their own federal revenues—as is done with charter schools—since the ASD will be able to apply for similar funds for its own students?

Budget Timing

Senate Bill 6 also poses some budgeting challenges, both to the ASD and to the school district. The bill requires the ASD to pass a balanced budget, but there is no corresponding timeline or reference to the Act 1 budget process that school districts must follow. Will they need to pass a preliminary budget? Submit an Annual Financial Report? Be restricted to the same fund balance limitations that impact school districts? These questions should be answered.

Additionally, while there is a specific date by which the list of the bottom 5% of schools must be published annually, and notice is required prior to transferring a school to the ASD, there is no express timeline for this notification or for the transfer. Can this happen at any time during the school year? Can this only happen once a year at the beginning of the school year? How does a school district plan a budget when appealing the potential transfer with no timetable as to when an issue could be decided by Commonwealth Court? Will there be a period of time in which students can decide to attend another district school or stay at the transferred school? Either way, this process will create significant challenges—both for the school district and the ASD—as they work to craft a balanced budget or to maintain a balanced budget if the timing of this potential takeover is not very carefully aligned with the start of the school year and a school district's budget timeline.

With respect to the ASD, the timing is critical to ensure they have a plan and can begin educating students on day one. Depending on the timing of this transfer, how will they ensure they have enough time to hire appropriate staff—teaching staff and administrative staff, such as PIMS administrators? Will they have enough time to work with this staff to develop plans and curriculum, assess needs and provide required supplies and other items, draft and implement school policies and work with the community to understand and accept the changes in leadership and direction of the school?

Charter school implications

From a financial perspective, another potentially crippling consequence of Senate Bill 6 is the authority given to the executive director of the ASD to convert a school to a charter school or to authorize a new charter school. For a school district that is struggling financially, every dollar is critical, and the conversion of a school to a charter school or the authorization of a new charter school in the district has the potential to have dramatic financial consequences for the district and the students remaining there.

The conversion of a school building to a charter school might not appear to have significant financial consequences for a school district, since the district will be paying the charter tuition rate under Senate Bill 6 for every student in the school when it is part of the ASD. However, as discussed above, this increase in costs can have tremendous impact on the school district and its remaining students. Additionally, if the school is converted to a charter school, students outside of that school may apply to attend, creating an even greater financial drain on an already struggling district.

The authorization of a new charter school in a school district has tremendous financial implications for the entire district. While Senate Bill 6 indicates that if a new charter school is authorized by the executive director of the ASD, preference be given to students residing in the area served by the eligible school, if other students in the school district begin to attend the new charter school, the school district could wind up in a calamitous financial situation.

As more students in a school district attend charter schools, the charter tuition rate that school district pays increases, as a school district must include all of its charter school tuition costs in the tuition calculation. For example, if a school district with a total average daily membership of 1,000 had budgeted total expenditures pursuant to the charter school tuition calculation in section 1725-A of the Public School Code of \$10 million, the charter tuition rate for a regular education student would be \$10,000. If 50 students attended a brand new charter school at a total cost of \$500,000, the next year, the district's budgeted total expenditures would be \$10.5 million, and the charter school tuition rate for a regular education student would be \$10,500. If that next year another 20 students attended the charter school the total charter school tuition cost would be \$735,000 and the next year's total budgeted expenditures would be \$10.735 million, making the new charter school tuition cost \$10,735 per student. This example becomes more dramatic as special education tuition rates are factored into the process.

This cycle would continue, making it more and more difficult for a school district to escape the financial downward spiral. As more and more school district resources are eaten up through charter school tuition, less and less resources can be directed to the classroom, making it more and more difficult for the district to ensure they are providing students with the programs, services and supports they need to succeed.

This is precisely what has happened in Chester-Upland School District. As more and more students left the school district to attend charter schools, the total charter school tuition costs fed back into the tuition calculation and have continued to increase the tuition rate year after year, leaving fewer and fewer resources left in the school district to provide for its own students. The district is literally caught in a downward spiral from which it is unlikely to recover.

As many of the school districts that have a school eligible for transfer to the ASD are already facing financial challenges, some due to charter schools already in place, the addition of new charter school facilities would only exacerbate these financial challenges and make it increasingly difficult to ensure they are providing the students remaining in the district with a quality education. As a result, it is not unlikely that the academic achievement of the students remaining in the district would begin to slip. Resources once available for academic programs, services and support for district students would be redirected to cover charter school tuition costs and more district schools would wind up as Intervention Schools or be transferred to the ASD. This seems to be precisely the opposite result that Senate Bill 6 is striving to achieve, and we would encourage you to consider these implications before extending the authority to authorize new charter schools.

Use of School Facilities

Another important provision of the bill from a financial and operational standpoint, is the provision that requires the school district to lease a school building to the ASD, and provide access to all facilities and properties available to the school, students and staff while it was part of the school district. We have several important questions regarding the details of this provision.

Does this mean that the ASD has access to playgrounds, administration buildings and other schools in the school district? What if the school district has a centralized food service operation and the ASD school shared a centralized warehouse to store food or a centralized space to prepare food? Are all of these additional facilities to be included into the lease payment? If so, how? Should debt service payments on the facilities be included in the lease payment? Since the building will be leased to the ASD, who is responsible for the utilities? Should the utilities be factored into the lease payment? If so, how will a district determine an appropriate fair market rate for the lease without knowing how the ASD plans to operate the school? Will the school day or school year be extended beyond current operation?

Additionally, Senate Bill 6 indicates that the school district is responsible for taking care of extensive repairs to the school that has been transferred to the ASD, but it is unclear how this process will work. First, there is no guidance to determine what constitutes an extensive repair. Does this mean a repair that will cost in excess of 50% of the value of the facility? Must an extensive repair be something that is critical to the structure of the facility or can it simply be an upgrade or other improvement? Second, which party makes the determination that an extensive repair is necessary and who has control over the details of the project? Third, what

happens if a school district does not have the resources to make extensive repairs? School districts across the state are currently struggling with construction and renovation projects due to the extreme uncertainty and delay in the PlanCon program, and due to this delay, districts are not able to count on any state reimbursement when contemplating a construction project. If a district does not have the resources, will it have to increase taxes, borrow money, cut programs or defer maintenance on its own buildings? Recognizing that every school district will be in a unique situation with regards to its facilities, we ask that you provide detailed clarification to all of these facility-related questions, without such clarification we anticipate there will be significant confusion and disagreement among the parties.

We also have questions and concerns about what happens if the ASD decides to convert a school district school into a charter school. Is the school district required to allow the charter school to use its facilities similar to how the ASD used the district's facilities? Would a school district need to continue providing access to playgrounds or warehouse space if a charter school took over operation of the school?

Employee Issues

Another potential operational issue that has significant cost implications for the school district are the provisions in Senate Bill 6 regarding employees. In a school transferred to the ASD, the ASD determines which, if any, school district employees to hire to continue at the school. Does this mean that the ASD can offer positions to administrative staff that do not work in the school such as the business manager, facilities director or PIMS administrator?

The bill also requires the school district to retain all employees not hired by the ASD. We believe this will have tremendous negative financial implications for the school district. How can a school district that is already struggling financially be responsible for absorbing additional employees that are not needed at full salaries and benefits? How can a school district justify this to taxpayers?

What is likely to happen in this scenario, is that the district will be required to furlough all the employees not hired by the ASD. However, if any of those employees have seniority over some of the other employees in the district, under current law, those employees will bump out teachers in school buildings with students that are performing well academically, and the teachers with the least seniority will be furloughed. As a result, this requirement in Senate Bill 6 has the potential to be extremely disruptive to a school district and to impact those students that are remaining in the school district. To prevent these outcomes, we suggest that these requirements be amended.

Additionally, from the perspective of the ASD, we believe that the provision providing ASD employees with health benefits that are the same as or comparable to the benefits they would be provided if they were employees of the school district is unworkable. As one statewide entity, how will the ASD be able to meet this requirement when working with employees from school districts and charter schools across the state? What if the transferring school district is self-insured?

Mandate Relief

One of the very positive provisions of Senate Bill 6 is the broad mandate relief available to the ASD or any entity that contracts with the ASD to operate or manage a school. The bill implements a type of mandate waiver program that would allow the ASD or a contracted entity to apply to the Department for a waiver of a regulation or law that inhibits the ASD's ability to increase student achievement.

PASBO is a strong proponent of mandate relief, and has advocated for a resurrection of the mandate waiver program that expired several years ago. While we are very supportive of this provision in Senate Bill 6, we would ask that this relief not be limited to the schools within the ASD. Relief from these mandates before a school finds itself in the bottom 5% or 1% of schools may be effective in preventing that school from ever falling into those categories and may increase the proficiency and student performance in schools across the state.

We encourage you to waive any regulations and statutes that hamper the ability of a school district to reach academic success for all school districts. Or alternatively, all school districts should at least have the same option to apply to the Department for a waiver of such mandates. Why should we wait until a school has reached the bottom to provide the relief that could have prevented them from getting there in the first place? Why not implement this program for all school districts as a preventive measure?

Conclusion

Overall, we recognize the positive intent of the legislation to attempt to provide a mechanism through which to address poor academic performance among students in schools across the state. This is a laudable goal, and we certainly agree that it is an issue that should be addressed. We do, however, have significant concerns with some of the mechanics of the proposal and the potentially detrimental and broad implications—both financially and operationally—of some of its provisions.

We would encourage you to address the questions that we have raised to provide as much clarification as possible and to minimize the financial impact of this proposal on the school districts and their remaining students. Nothing is gained if we rob Peter to pay Paul—fixing the most disastrous schools by taking resources from those that are performing better will create a downward spiral in every district that this legislation is trying to benefit. PASBO is happy to work with you to address these concerns and to attempt to craft a proposal that more effectively achieves the desired outcome.

Thank you for the opportunity to testify. I am happy to try to answer any questions you may have.