

TESTIMONY PROVIDED TO: Senate Government Operations
FROM: Amy Fowler, Deputy Secretary Agency of Education
TOPIC: S.217
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The Senate Bill recommends key elements related to

1. A report from all licensing agencies to evaluate whether or not licensing could be more efficiently achieved under the Secretary of State's office due by October 15, 2016; and
2. Specific statutory changes to multiple Titles which would change licensing experiences for School Based Speech and Language Pathologists.

Specifically, the committee has requested that we provide testimony on the second item today.

Background- Part 2

The proposals introduced in the second element seeks to address issues pertaining to Speech and Language Pathologists that remain following the transfer of the clinical licensure from the Agency of Education to the Secretary of State's office in 2015. While these proposed fixes address the technical problems, they are not the direction that the Agency of Education would propose.

Prior to the transfer of clinical licensing to the Secretary of State, the Agency of Education had provided clinical licensure to Speech and Language Pathologists and Audiologists. These were the only clinical licenses conferred by the Agency of Education. In fall of 2014, the Secretary of State approached the Agency to discuss transferring these clinical licenses to their office and the Agency of Education conferred that we had no vested interest in licensing non-educationally related speech and language pathologists.

In the course of working with the Secretary of State and legislative bodies, it became clear that transfer of this license to the Office of Public Regulation would create an unintended consequence related to participation in the teacher retirement system. Specifically, the retirement system recognizes those educators who are licensed by the Vermont Standards Board for Professional Educators (VSBPE) and have worked in Vermont's public schools as earning eligibility for retirement. The Agency of Education has supported the VSBPE in formal rule making including the request for public comments related to the requirements to license that came about as a result of the move of clinical licensure to Secretary of State's office and recently presented these Rules to ICAR and are in the phase of public comment until March 2, 2016.

In the Bill proposed, the Agency has the following concerns:

1. It is the Agency of Education's role to confer educator licenses by statute. This change in language undermines that role for one group of educators. The Agency does not believe this is in the best interest of schools and we have not been a partner in writing this legislation.
2. Educationally, there is debate among the education field regarding Speech and Language Pathologists as educators. Some Speech and Language Pathologists have reported to the Agency of education a clear desire to have a single clinical license through the Office of Public Regulation while others have contacted us to state that it is important to them to have both a clinical license

for private practice but also that the educational designation is valued because it speaks to specific skills and work they do that is important to them for recognition and distinction and that they value the connection to the Agency of Education and their local standards Board. Members of the Special Education Associations have also expressed concern related to the core educational function that SLPs play in executing special education cases and prefer that this remain within the Agency of Education.

The Agency of Education believes that a similar study to survey the field for Speech and Language Pathologists in much the same way that the Secretary of State conducted a review of the term “social worker” should be conducted prior to making such a dramatic change in statutory language. The Agency of Education would defer to the results of the findings of that study as to whether or not Speech and Language Pathologists believe there should be a separate license or endorsement for education related Speech and Language Pathologists executed by either OPR or the Agency of Education or both.

Should the respective bills associated with this topic continue despite the Agency’s objection, the Agency also suggests that the following issues be addressed:

- a. In the portion related to definitions for Title 16, §1691a. (B) inserts language that specifically states that individuals licensed under chapter 26 are not teachers. However, in §1931 definition a “Teacher” means any licensed person under Title 26 who regularly provides services similar to a teacher. It appears to the Agency of Education that these two definitions are contradictory and should be aligned.
- b. Not mentioned in this bill is any statutory change to Title 16 Chapter 51 §1698-1707 which details the procedures for investigating educator misconduct and determinations of actions. The Agency assumes that the legislature intends for the Secretary of State to assume the responsibility of conducting all reviews of misconduct by those licensed under Title 26 and that the Agency of Education, upon receiving complaints related to such educators will refer them to the Secretary of State. In these statutes, “teacher” will refer only to §1691a (10)(A) and does not apply to (10)(B). Without such amendments, the statute would require the Agency of Education to investigate educators who it does not license and to administer consequences it could not enforce. We do not believe this is consistent with the intent of the legislature.

Further recommendations

The Agency of Education does not believe we should give testimony related to the functions of the Office of the Treasurer and would recommend testimony from that office. Specifically,

1. The definition in §1931 for (iv) appears to imply that only those who have contracts which require participation in the teacher retirement system will be considered; we are unclear by what mechanism the Vermont Teacher Retirement System will be able to gather data for what work by those licensed under Title 26 does and does not include this notification in an efficient manner.

2. Whether or not this will have a fiscal impact on the retirement system as professions which are currently licensed by the VSBPE will have the option to contribute/withdraw from the retirement system at the discretion of local school system. This will currently impact school nurses, school speech and language pathologists, some school psychologists.

Part 1

Like other State Agencies and Departments, the report requested in Part 1 represents additional work that we would not be undertaking at this time. As the legislature is aware, the Agency of Education is working to implement multiple legislative initiatives- Act 77, universal pre-K, Act 46. Additionally we are currently tasked with writing and submitting the state plan in response to the federal re-authorization of the Elementary and Secondary Education Act- formerly known as No Child Left Behind which is a 1000 page piece of legislation that we must respond to by December, and support for the field in implementing the Education Quality Standards in light of reduced positions following our collective move to reduce funding at the state level. We will certainly provide the report as requested but find it important to help the committee be aware of the ongoing work which is currently underway by the Agency of Education that present competing and equally compelling demands on limited resources.