

Considerations for Possible Act 173 Delay

Background

S.224 as Recommended by the Senate Education Committee contains important technical revisions to Act 173. The AOE fully supports passage of those technical corrections. Additionally, the committee has requested a recommendation for whether Act 173 should be further delayed in response to COVID-19. Under current law, the shift to census-based funding will take place on July 1, 2021. This means that if no additional changes are made, budgets that will be planned beginning fall 2020 and considered by voters in early 2021 will support the first year of the new funding model. Changes to the approval standards for approved independent schools will take place July 1, 2022 for school year 2022-2023 and beyond.

Considerations for Delay of Act 173 in Response to COVID-19

The primary consideration for delaying the start date of census block funding for special education is economic. Supervisory unions/supervisory districts will need to respond to unforeseen costs within their FY 2021 budgets as a result of providing remote learning, student meals and child care for essential workers during the period of COVID-19 school closures. On a state funding level, we are aware that the loss to the state in sales and use revenues will also place pressure on the education fund. Census-based special education funding is an additional pressure on many SU/SDs to either keep costs level or shift costs to local budgets. Taxpayers will experience any shift onto local budgets as an education property tax increase. It may be wise to allow an additional year for cost pressures associated with COVID-19 to play out before adding additional pressures and uncertainties associated with a new funding model.

Another consideration is the strain that the COVID-19 crisis has placed on the staff resources of the education system. This concern impacts funding and special education provisions, as well as the required changes to the independent school approval process contained in sections 19 – 21 of the Act. The same school officials who are responsible to plan the shift in practice and funding associated with Act 173 have been responding to the crisis and calls for essential services. Teachers and support staff are learning new ways of educating students remotely. These unforeseen needs have displaced the professional development opportunities that would have been directed toward Act 173 implementation. There may not be enough time for SU/SDs to make the changes necessary to be successful under a census block model. The Agency's focus has also shifted to support around Continuity of Learning, and away from Act 173 guidance, for the time being.

Third, the necessary revisions to State Board rules for funding and special education are currently making their way through the APA process. Public comment sessions are scheduled for April 22, May 6 and May 22, 2020. Remote participation will be the only means for public comment while the state is observing social distancing protocols. Feedback from the field is critical to ensure that the final rules lead SU/SDs to meet the goals of Act 173. It is not likely that the State Board will receive the same level of engagement with remote public comment sessions

as would have been the case with in-person hearings. The State Board is also required by current law to begin rulemaking for Series 2200 (independent schools) on or before November 30, 2020. While the Agency is able to support this timeline under the current framework, we expect that the State Board might like to utilize any additional time for its current (funding) rules, meaning that two rulemaking processes would need to take place during the same period of time. This would be challenging work for the Agency, the Board and the field to juggle all at once.

Finally, the General Assembly does not appear poised to adopt the recommendations of the Pupil Weighting Study this year. It would have been ideal to account for new and more appropriate weights for student subgroups simultaneously with the first year of census block funding. That study recommended the addition of a weight for poverty to the calculation of each SU/SD's census block grant. If the special education funding shift is delayed until school year 2021-2022 it may be possible to make those changes in the 2021 legislative session.

Recommendation

For the foregoing reasons, the Agency has determined that it may be prudent to delay Act 173 timelines an additional year, to July 1, 2022 for the shift to census-block funding and to July 1, 2023 for sections related to approved independent schools (section 19-21). However, the Agency believes that consultation with the Census Based Funding Advisory Group and the State Board of Education is critical. The Agency will not be able to receive the input of those two public bodies until their next meetings. The State Board will meet on April 22, and the Advisory Group will meet on May 4. We would be grateful for an invitation to report back to the Committee after those dates.