Minnesota Department of Education

Review of Education-Related Mandates

February, 2010

FY 2010
Report
To the
Legislature

As required by
Minnesota Statutes
2009
127A.05, Subd. 2

COMMISSIONER:

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Review of

Education-Related

Mandates

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Minnesota Statutes

127A.05, Subd. 2

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Cost of Report Preparation

The total cost for the Minnesota Department of Education (MDE) to prepare this report was approximately $600. Most of these costs involved staff time in analyzing data from surveys and preparing the written report. Incidental costs include paper, copying, and other office supplies.

Estimated costs are provided in accordance with Minnesota Statutes 2009, Section 3.197, which requires that at the beginning of a report to the legislature, the cost of report preparation must be provided.

Commissioner's Review of Mandates

Minnesota Statutes 2009, Section 127A.05, subdivision 2, requires the Commissioner of Education to "…review all education-related mandates in state law and rule once every four years to determine which fail to adequately promote public education in the state." Findings from this review are to be sent to the legislature. Following are findings from this latest review.

In gathering information for this report, MDE surveyed all public school superintendents in the state and heads of major education organizations. This same survey method was used to gather recommendations for the previous report. All public school superintendents were surveyed in the fall of 2009 through one of MDE's weekly e-mail messages. A meeting was held with education organization leaders to receive their feedback and discuss their recent work around education-related mandates at approximately the same time. See Appendix A.

As in past surveys, respondents were asked to identify the following:

- Mandates that should be repealed because they do not promote public education
- Mandates that you consider unfunded

Respondents were asked to include the specific state statute or rule citation for all mandates identified. As noted below, a specific citation did not always accompany each identified mandate. When possible, we sought to locate the apparent citation related to the mandate and provide it in the listing.

Responses received in this survey were not as numerous as in past years; this could be due in part to the extensive work that the education organizations have been doing to compile their own list of education-related mandates they would like to see repealed. It should also be noted that MDE, the education organizations and the legislature have over the last several legislative sessions, sought to repeal what were deemed unnecessary mandates. Many of these legislative proposals, which might be called "mandate reductions," have become law during this decade.

Mandates cited most frequently are listed first under each of the two categories. Responses are combined under a single topic when possible.

MANDATES THAT DO NOT PROMOTE PUBLIC EDUCATION

(Citations in parentheses were sometimes provided by respondents; at other times the citations are based on assumptions made by MDE. In some cases, explanatory notes are added to help the reader determine the nature of the mandate being addressed. Quotes or paraphrases are intended to provide the essence of respondent commentary)

- **School Calendar (Minnesota Statutes 2009, 120A.40).** Districts are allowed to set their school calendar as they see fit, except that they cannot begin the school year prior to Labor Day. One respondent expressed that schools should be able to determine for themselves if it is appropriate for them to start the school year before Labor Day.

- **Staff Development Report (Minnesota Statutes 2009, Section 122A.60 subd. 4).** Districts are required to report to the department by October 15 of each year their staff development activities and expenditures for the previous year. The respondent maintained that most school are already in AYP and have improvement plans.

- **"Open Enrollment" (Minnesota Statutes 2009, Section 124D.03)**. Minnesota's public school students all have the opportunity to apply to attend public schools outside the school district in which they reside. There are a variety of reasons for open enrolling and include the availability of different class and curriculum offerings. Open enrollment is a school choice option available at no cost to the student. More than 30,000 Minnesota students participated in open enrollment last year. Students must apply to the school district of their choice by the priority filing date of January 15 for the following school year. Families generally provide transportation. No tuition is charged. According to one school district official, "If kids open enroll out of the district, let the home district keep half of the money, and let the district that they open enroll in, come and pick them up. This would also help outstate school districts with enrollment, revenue, and kids transferring out to play sports in a certain district."

- **Flexible Learning Year (Minnesota Statutes 2009, 124D.122).** Districts may establish and operate a flexible learning year program upon approval of the commissioner. One respondent stated this should be permitted without obtaining the commissioner's approval.

- **District Report; Career and Technical Education (Minnesota Statutes 2009, Section 124D.452).** This law requires each district and cooperative center to report data to the department on their career and technical education. One school district official stated they receive so little money for the program that the report seemed useless.

- **Safe School Levy Maintenance of Effort (Minnesota Statutes 2009, Section 126C.44 paragraph (c)).** School districts are required to annually certify either that (1) its total spending on services provided by licensed school counselors, licensed school nurses, licensed school social workers, licensed school psychologists, and licensed alcohol and

chemical dependency counselors is not less than the sum for the previous year; or (2) that the district's full-time equivalent number of employees in this category is not less than the previous year. A respondent noted, "In these times of severe budget cuts, no category should be more protected than another." Another respondent reiterated this concern by stating, "This mandate takes away our local control to decide whether to keep, for example, a social worker versus a teacher."

- **School Board Elections (Minnesota Statutes 2009, 205A.12).** One respondent felt that school boards should allow for "at-large" seats.

- **Athletic Report (Minnesota Rule 3535.3600).** Districts are required to report to the department by October 15 of each year an elementary and secondary athletic program report. One respondent feels this is unnecessary and that districts "already certify that we do not discriminate."

MANDATES CONSIDERED UNFUNDED

(Citations in parentheses were sometimes provided by respondents; at other times the citations are based on assumptions made by MDE. In some cases, explanatory notes are added to help the reader determine the nature of the mandate being addressed. Quotes or paraphrases are intended to provide the essence of the commentary from respondents)

- **Transportation (Minnesota Statutes 2009, 123B.88).** Current statutes dictate when and how districts need to transport students. One respondent maintained that these regulations are underfunded and cost more than the actual revenue provided.

- **Special Education (Minnesota Statutes 2009, Chapter 125A, and related state rules; also many requirements are required by federal law, especially the Individuals with Disabilities Education Act (IDEA) and related federal regulations).** A respondent declared this to be the largest unfunded mandate. The respondent suggested, "Minnesota should make sure it only requires what the federal government does. No extra requirements should be added."

OTHER MANDATES

- **State Reports.** One respondent encouraged the use of technology to ease the burden of state reporting requirements. The respondent suggested a system that could pre-populate fields and streamline reports to reduce multiple entries of similar information. It was also noted that these reports are more burdensome to smaller districts because they have fewer people to help with the reporting requirements in the central office.

- **Education Code (Minnesota Statutes 2009, Chapters 120 to 129B).** A respondent asked that all education-related mandates be repealed unless there was solid evidence to show that the mandate was proven to have a positive effect on the education of students. The respondent also suggested that no new mandates be added under the current economic situation and no unfunded mandates in the future.

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The Minnesota education mandates summarized above are those identified by public school superintendents, education organization leaders, and others surveyed by MDE in 2009. As in past surveys done for this agency reporting requirement (Minnesota Statutes, Section 127A.05, subd. 2), respondents were asked to identify the following:

- Mandates that should be repealed because they do not promote public education
- Mandates that you consider unfunded

As noted previously, MDE has requested the repeal or simplification of numerous mandates over the last several legislative sessions. These department proposals were often based on suggestions from school officials, including previous surveys done for this reporting requirement. At this time, the department is again considering a few proposed changes in statutes that might be considered "mandate reductions." These changes would be included in legislation proposed in the 2010 legislative session.

In addition to the department's survey and report on education-related mandates, several education organizations including the Minnesota Association of School Administrators, the Minnesota School Board Association, the Association of Metropolitan School Districts, and the Minnesota Rural Education Association brought forth a report during the 2009 legislative session of all education-related mandates for which the organizations were seeking to either repeal or amend. For the 2010 legislative session, the organizations have worked together to refine their list to a set of mandates that their memberships feel are of highest priority to either repeal or amend. This list is included in Appendix A.

APPENDIX A.

Education Organizations – List of Unfunded Legislative Mandates (2010)

1. **M.S.120A.40 School Calendar**

   This statute does not allow districts to begin an elementary or secondary year before Labor Day. Elected school board members should be able to determine the starting and ending date of the district's school calendar. While assessment standards continue to rise through NCLB, the state legislature continues to limit the methods districts can use to increase learning opportunities for public school students. Elected school board members should be able to determine a learning calendar that meets the demands of the families, students and businesses. Virginia, Michigan and Minnesota are the only states that impose this mandate. In the 2010-11 school year, school districts will be required to start school no earlier than Sept 7. In 2011-12, school districts will be required to start school no earlier than September 5.

   Repeal

2. **M.S. 120A.41 Length of School Year; Days of Instruction**

   A school board's annual school calendar must include at least the number of days of student instruction the board formally adopted as its school calendar at the beginning of the 1996-1997 school year. This limits districts authority to reduce the number of days to reduce building, transportation and labor costs. It is unlikely that districts will use this tool due to the increased academic demands, but the state legislature did not anticipate the enormous economic and budget challenges that school districts would be facing.

   Repeal: Standards-based reform and focuses on student "seat time" as academic indicator of success.

3. **M.S.123B.02 Subd. 15 General Powers of Independent School Districts**

   The law requires districts to negotiate the number and identity of 403(b) vendors. School districts had the authority to limit the number and identity of vendors unilaterally. The 2008 change will cost district time and possibly administrative expenses because it is now a term and condition of employment.

   Repeal

4. **M.S.123B.05 Contract Deadline and Penalty**

   While the intentions of this statue are understood, this statute puts school boards at a disadvantage. Teachers have continuing contract rights. The deadline should be repealed. If a school board and exclusive representative of the teacher cannot reach a settlement on the master agreement by September 1 of the odd year, the school board and exclusive

representative will be certified for binding arbitration. Each side will be required to submit a list of the items in dispute to the Bureau of Mediation Services. Arbitration will take place as presently provided in statute with the exception that the arbitrator's award shall be either the school board's final offer total package or the exclusive representative final-offer total package unless conventional or an item-by-item final-offer is mutually agreed upon by the school board and exclusive representative of teachers.

Repeal

5. M.S. 123B.10 Publishing Requirements

Mandate to publish minutes and budget information in legal newspaper despite few reading them. **Give school districts the option** to publish minutes on their Website with a simple notice in the newspaper stating the Web address where the information can be found. This can reduce expenses for all districts in these tough economic times while still providing access to minutes and budget information.

Some of the publication requirements include:
Budgets - M.S. 123B.10
Consolidation of Districts - M.S.123B.48
Contracts and Bids - M.S.123B.52
Agreement proposal with Education Districts - M.S.123A.15
Hearings on Fees - M.S.123B.38
Inter-district cooperative agreement meetings notice -M.S. 123A.32
School building grounds - M.S.123B.29, M.S.123B.51, M.S.123B.71
Election notices - M.S. 205A.07 and M.S. 645.13

6. M.S.123B.88 Transportation of Nonpublic School and Charter School Students

A district shall provide equal transportation within the district for all school children to any school when transportation is deemed necessary by the school board because of distance or traffic condition in like manner and form as provided in sections 123B.88 and 123B.92, when applicable.

If a charter school does not elect to provide transportation, transportation for pupils enrolled at the school must be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in the same district in which the charter school is located. Transportation may be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in a different district. If the district provides the transportation, the scheduling of routes, manner and method of transportation, control and discipline of the pupils, and any other matter relating to the transportation of pupils under this paragraph shall be within the sole discretion, control, and management of the district.

Option one: Allow school districts that provide transportation services to charter and nonpublic students to charge for the full cost of transporting students to their sites.

A charter school is eligible for an additional amount of general education revenue of approximately $230 per pupil if it elects to provide transportation services. In the alternative, a charter school may choose to have the school district in which it is located provide transportation services. In this case, the charter school does not receive any transportation funding, and the school district must provide transportation services to the charter school attendees in the same manner as it provides transportation to its resident students and students entering the school district under the enrollment options (open enrollment) program.

M.S.123B.86 EQUAL TREATMENT

Subdivision 1. General provisions.

A district shall provide equal transportation within the district for all school children to any school when transportation is deemed necessary by the school board because of distance or traffic condition in like manner and form as provided in sections 123B.88 and 123B.92, when applicable.

Subd. 2. Nonpublic school students.

(a) The board of any local district must provide school bus transportation to the district boundary for school children residing in the district at least the same distance from a nonpublic school actually attended in another district as public school pupils are transported in the transporting district. Such transportation must be provided whether or not there is another nonpublic school within the transporting district, if the transportation is to schools maintaining grades or departments not maintained in the district or if the attendance of such children at school can more safely, economically, or conveniently be provided for by such means.

(b) The school board of any local district may provide school bus transportation to a nonpublic school in another district for school children residing in the district and attending that school, whether or not there is another nonpublic school within the transporting district, if the transportation is to schools maintaining grades or departments not maintained in the district or if the attendance of such children at school can more safely, economically, or conveniently be provided for by such means. If the board transports children to a nonpublic school located in another district, the nonpublic school must pay the cost of such transportation provided outside the district boundaries.

Subd. 3.Board control.

When transportation is provided, the scheduling of routes, manner and method of transportation, control and discipline of school children and any other matter relating thereto shall be within the sole discretion, control and management of the board.

Option two: Clarify that school districts may charge for school bus transportation through the school fee law. A school district is prohibited from charging a fee for transportation to and from school for pupils living two miles or more from school.

M.S. 123B.36 AUTHORIZED FEES.

Subdivision 1.School boards may require fees.

(a) For purposes of this subdivision, "home school" means a home school as defined in sections 120A.22 and 120A.24 with five or fewer students receiving instruction.
(b) A school board is authorized to require payment of fees in the following areas:
(11) transportation to and from school of pupils living within two miles from school and all other transportation services not required by law. If a district charges fees for transportation of pupils, it must establish guidelines for that transportation to ensure that no pupil is denied transportation solely because of inability to pay.

7. M.S.124D.122 Establishment of Flexible Learning Year Program

Eliminate the requirement that districts seek commissioner approval on flexible learning year program. Authority should be given to local school boards and their community.
Thirteen school districts in the southwestern region of the state were denied an opportunity to use a flexible learning year that aligned instructional days with area community colleges. These districts had received the support of their local communities as outlined in the statute. This was a great opportunity for a school districts and higher education institutions to share services on a voluntary basis while meeting the needs of families and students; only to be denied by a bureaucrat in St Paul. More important, an earlier start allows for more instructional days before the MCA II and NWEA assessments.

Repeal: Commissioner of Education authority to approve a flexible learning year.

8. M.S.126C.12 Learning and Development Revenue Amount and Use

Revenue must be used to reduce and maintain the district's instructor-to-learner ratios in grades K-6 to 1-17 on average. Priority of this revenue must begin in kindergarten and grade 1. A district must not increase the district wide instructor to learner ratio in K-6. In addition, only those licensed by the board of teaching and whose duties are full-time teaching may be counted in the ratio calculation. Less than full-time instructors may be counted based on the number of hours they teach in K-6. Statute should be limited to efforts in reducing class size in classes K-3 only.

Amend: language to create a merged category of K-3.

9. M.S. 126C.44 (a) Sub-Section 6 Safe School Levy

The 2009 legislature amended this statute. From a school district management perspective, the amendment is a step in the right direction but does not go far enough. School district officials should have the right to determine the number of employees that most effectively serve their students. The maintenance of effort mandate either requires districts to maintain the dollar amount expended OR the number of employees in the school support service area. This law takes the decision-making authority away from superintendents and school boards. Second, the law creates a disincentive for districts to hire additional support service personnel due to the burden the maintenance of effort requirement places on school districts.

Repeal maintenance of effort requirement.

10. M.S.197.46 Veteran's Preference Act

Restore the term of "teacher" that was deleted in the 2009 legislative session. This simple deletion has and will create additional protections for teachers who are also defined as veterans. The result is that districts will be required to spend additional time and revenue in the dismissal or unrequested leave process for these teachers. Teachers already have significant protections under M.S. 122A.40. This additional requirement will impact the ability of the school district to reduce staff to balance its budget because of the extended time line offered under the veteran's preference act. See Chapter 94.

Amend: Reinstate term "teacher" in M.S. 197.46.

11. 205A.12 Subd. 7 Election Districts

Allow school districts an option to go from election districts to at-large seats by passing a resolution with 2/3 majority.

Amend to allow districts this choice.