

Vic's Statehouse Notes #329 – January 7, 2019

Dear Friends,

The Governor wants to speed up a law that would allow him to replace the State Superintendent of Public Instruction with an appointee who is not required to have experience as a K-12 teacher or a K-12 administrator.

Democracy took a hit in the 2017 session. The Indiana General Assembly passed a flawed law taking away the power of voters to choose the K-12 leader and leaving a loophole to allow appointment of someone without K-12 experience.

In the historic final vote on April 18, 2017, the power of voters to elect the State Superintendent of Public Instruction was ended after 166 years. The power taken away from voters was given to the Governor starting in 2025.

Now the Governor and legislative leaders want to take power away from voters sooner, starting in 2021. Identical bills to do this have been filed in the House (HB 1005) and the Senate (SB 275).

This is a bad idea for two reasons:

1. It ends even earlier the power given to voters in the Indiana Constitution. In our democracy, Indiana voters should retain the power to elect the State Superintendent of Public Instruction.
2. The language of the law removing this power from voters is badly flawed. Loopholes and deceptive wording make it possible for the Governor to appoint someone with no experience in K-12 teaching or K-12 administration.

Contact your legislators to oppose moving this date up and to oppose allowing anyone without K-12 experience to lead our K-12 school system. Tell them that you oppose HB 1005 and SB 275.

The Law Removing a Constitutional Pillar in 2025 Has Flawed Language and Should Not Be Accelerated

Since 1851, voters have been able to elect a State Superintendent who had an independent mandate from the electorate as the education leader in Indiana. Now, more power has been handed to the Governor.

With this vote, democracy in Indiana was diminished.

Voters who want to influence education policy in Indiana had better focus on the race for Governor. If the privatization of public education in Indiana is to be reversed, voters will need to find a candidate for Governor who will be a champion for public education. Voters will no longer be able send a message to change the direction of education in Indiana by voting for a State Superintendent as they did in 2012.

Illusory Language in the 2017 Law Means K-12 Experience is Not Required for the Governor's Appointee

Under the current law passed in 2017, the Governor will appoint a Secretary of Education starting in 2025. The illusory language of the law detailed below leaves the impression that K-12 experience is required but when the words are examined closely, K-12 is not mentioned. Track the details below:

The 2017 Law to End the Office of State Superintendent of Public Instruction (House Bill 1005): Resurrected from a Decisive Defeat

House Bill 1005, rising controversially from a decisive defeat to be passed and signed, took a nearly unprecedented path to reach the final vote in 2017:

- House Bill 1005 passed the House 68-29.
- SB 179, identical to HB 1005, failed in the Senate 23-26. Many thought defeating the bill would end the proposal for this session.

- Senate rules say that when a bill is defeated “that exact language or substantially similar language shall be considered decisively defeated and shall not be considered again during the session.”
- In a Senate Rules Committee meeting in which Democrats pointedly argued that the rules say “shall not be considered again during the session,” the Republican leadership claimed that they were making the bill “substantially different.” Republicans had the votes to win the argument.
- The “substantial differences” were found in three changes:
 - 1) The date of the first appointment by the Governor was changed from 2021 to 2025.
 - 2) A requirement of two years residency in Indiana was reinstated.
 - 3) Qualifications were stated which give the illusion that experience in K-12 education is required to be appointed. In fact, K-12 experience is not mandated, a conclusion confirmed in a statement on the floor of the Senate by the bill’s sponsor Senator Buck while speaking against Senator Breaux’s proposed amendment which would have mandated K-12 experience: “While we are trying to consider the availability to the Governor of somebody that would be the administrator of our department of ed, I hope we realize that someone with the depth of experience of executive leadership and in higher ed such as former Governor Mitch Daniels would be excluded from that category. I think it gives the Governor a great deal of latitude in looking to somebody that has executive experience in the field of education.” (Senator Buck during second reading amendments, March 30, 2017)

Read carefully the new slippery language on qualifications:

- 1) has demonstrated personal and professional leadership success, preferably in the administration of public education;”
 - 2) possesses an earned advanced degree , preferably in education or educational administration, awarded from a regionally or nationally accredited college or university; and”
 - 3) either:
 - a. at the time of taking office is licensed or otherwise employed as a teacher, principal, or superintendent;
 - b. has held a license as a teacher, superintendent, or principal, or any combination of these licenses, for at least five (5) years at any time before taking office; or
 - c. has a total of at least five (5) years of work experience as any of the following, or any combination of the following, before taking office:
 - Teacher.
 - Superintendent.
 - Principal.
 - Executive in the field of education.
- The word “preferably” has no meaning under the law. It can obviously be ignored. It is surprising that such a word is used in the bill. Using “preferably” means that it is not necessary to appoint a public education administrator to be State Superintendent. Similarly it is not necessary to appoint someone with a degree in education or educational administration.
 - This “preferably” language and the phrase “Executive in the field of education” open the door to appointing a business leader with executive experience in an education field such as testing or technology. Superintendents in Indiana are no longer required to have a superintendent’s license.
 - Another concern is whether it was written for a higher education official to be appointed. No reference to K-12 experience or degrees is included. It is not clear that those who wrote this legislation wanted a leader with K-12 experience.
 - After the Senate Rules Committee added these amendments, the full Senate passed the historic bill 28-20.
 - At this point, Speaker Bosma as bill sponsor had a choice. He could take the bill to a conference committee to restore the House’s bill language or he could ask the House to concur with the Senate language. After several days, he decided to opt for a concurrence vote in the House which passed 66-31 on April 18th.

Bi-Partisan Opposition and Partisan Support

Despite discussion of past Democratic leaders wanting this change, the final votes in both the House (66-31) and the Senate (28-20) on HB 1005 showed bi-partisan opposition and, except for one vote, partisan support.

In the House, the yes votes were cast by 65 Republicans and one Democrat, Representative Goodin.

In the House, the no votes were cast by 28 Democrats and 3 Republicans, Representatives Judy, Nisly and Pressel.

In the Senate, all 28 yes votes were cast by Republicans.

In the Senate, the no votes were cast by all 9 Democrats and 11 Republicans, Senators Becker, Bohacek, Crane, Glick, Grooms, Head, Kenley, Koch, Kruse, Leising and Tomes.

Contact Your Legislators

If you are concerned about who leads our K-12 school system in this unprecedented makeover of K-12 school leadership in Indiana, contact your legislators to say you oppose HB 1005 and SB 275. Tell them two things:

- 1) The case is clear: Appointing Indiana's K-12 leader has undermined democracy and the damage should not be accelerated. The Governor and the Republican leadership have suppressed future disagreement between the Governor and the State Superintendent by ending the independent mandate from voters held by the State Superintendent since 1851. Since Governors are elected on many issues and education is a minor issue in gubernatorial campaigns, voters have lost their direct power to correct the course of education when they are motivated to do so, as they were in the 2012 election. Removing public dissent on education in this manner aligns with Milton Friedman's plan to gradually deconstruct public education and fund a marketplace of private schools with public tax dollars. This puts us on a slippery slope to a weaker and weaker democracy where the power of the ballot box is diminished.
- 2) The language of the law must be changed to require K-12 experience before anyone is appointed to lead Indiana's K-12 school system. The loophole language "Executive in the field of education" allowing leaders with only higher education experience or business experience related to education must be replaced with clear language requiring experience in K-12 teaching or K-12 administration.

Thank you for your active support of public education in Indiana!

Best wishes,

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