



The Challenge



March 2003

McDowell plan presented to state

McDowell County citizens presented their plan for the county's school system to the West Virginia Board of Education during its March 13 meeting.

"The People's Plan for Excellence," presents an alternative to a massive school consolidation plan proposed by state-appointed Superintendent of Schools Mark Manchin.

The citizens have been upset with the manner in which Manchin made his proposal without any consultation with the community. In fact, Manchin has called "The People's Plan for Excellence" a "delaying tactic."

Despite Manchin's comment, the plan still proposes the consolidation and/or closure of 12 county schools. The major difference in Manchin's plan and the citizens' plan is that the citizens' plan calls for Big Creek and Iaeger high schools to remain intact, whereas

Manchin wants to consolidate the two.

The citizens' plan was presented in the format which the State Department of Education and the School Building Authority require for Comprehensive Educational Facilities Plans.

The plan also contains a rough proposal for financing the projects. The U.S. Army Corps of Engineers has pledged \$41 million for new schools in McDowell County as a result of flooding in the summer of 2001.

The plan's executive summary questions the motives for the state takeover of McDowell County schools in 2001.

"While other factors certainly played a part in the state takeover, it appears a major consideration was to advance the consolidation of schools," reads the executive summary.

The summary also alludes to

the frustration shared by McDowell Countians over Manchin's actions.

"Both the citizens of McDowell and their elected local board of education were denied the opportunity to have input into Dr. Manchin's school closing and consolidation plan," the summary states.

The plan was formulated during a series of meetings in communities around the county. More than 500 citizens took part in the meetings.

The State Board of Education took no action on the citizens' proposal, but it plans to vote on Dr. Manchin's plan during its April meeting.

Manchin's closure plan is also the subject of a legal challenge by the residents. More details about the lawsuit will appear in the April edition of *The Challenge*.

School computer budgets cut

The West Virginia Legislature has slashed the budget for computer upgrades in public schools from \$17 million this year to \$8 million next year.

State Department of Education officials are not sure of all the implications the cuts will have on educational programs. Student access to the Internet and access to free e-mail accounts are

uncertain at this time.

There were no corresponding cuts made in computer spending for administrative purposes. The cuts only affect computers used by students.

The action has come under fire from educators and parents alike.

"I can think of a bunch of things to cut before you cut computers for kids," said one Logan

County parent. "At my daughter's school, the students still have to use IBM PCs from the early 1980's."

"In a technology-driven society, you have to have a technology-driven curriculum if you expect your students to excel," said a Logan County teacher who wanted to remain anonymous.

This 'n that from around the state

- Two reporters for The Charleston Gazette have won awards from the National Association of Education Writers. Reporters Eric Eyre and Scott Finn won awards for their reporting on post-flood purchasing abuses by state education officials and private contractors and for their series entitled, "Closing Costs," which detailed the problems brought on children by school consolidation. The "Closing Costs" series revealed that West Virginia school consolidations have failed to produce increased course offerings as had been promised. The closings have produced agonizingly long bus rides for many students and have failed to save money. "Closing Costs" won for best series in a newspaper under 100,000 in circulation. The purchasing abuses stories, known as "License to Steal," won second-place in the category for best investigative reporting. The awards will be presented at the Education Writers Association annual meeting in Chicago on April 26. Additionally, "License to Steal" was a first-place winner of a National Headliner Award, which will be presented in Atlantic City, NJ on April 26.



- Parents around the state, whose children attend private schools, received at least \$425,000 from county boards of education last year. The payments, known as "payments in lieu of transportation," are made to assist parents with the costs of transporting their children to private schools. Even though the State Supreme Court has ruled that county boards are not constitutionally obligated to make the payment, most all county boards continue the practice. State law does not prohibit the payments, and the State Board of Education reimburses the county board its costs in making the payments. Payments are made either by the mile, or on a daily basis. The amounts are as high as \$1.25 per day and 75 cents per mile. In Logan and Kanawha counties, the payment is \$1 per day, per child. In Putnam County, parents get \$45 per year. Some counties, such as Hancock, even provide buses for children in private schools.

- Fayette County Circuit Judge John Hatcher has dismissed an attempt by a Fayette County Board of Education member, who was removed from office, to have his legal bill for the removal proceedings paid by the county board. Last year, Judge Hatcher entered an order removing Lawrence Boley and Leon Newman from the board of education, due to their illegal simultaneous service on the board and local public service districts. The issue of payment of legal fees was resolved by another order, entered by Hatcher, which indicated the parties have agreed to the dismissal,

agreed to bring no further actions and to bear their own costs. Other terms of the settlement have not been disclosed. Boley originally filed his suit in magistrate court, seeking payment of \$3,275.15 in legal fees. The magistrate ruled in Boley's favor and the board appealed that decision to the circuit court.

- Also in Fayette County, two board members are raising serious questions about certain costs incurred in the school system. Fayette BOE Member Carolyn Arritt and BOE President Danny Wright questioned transportation, overtime and travel costs, during a recent meeting of the board. Arritt said she had investigated the bus routes in the county and has found several specific places where the routes overlap. Arritt also questioned the practice of bus drivers taking their buses home between their morning and evening runs. She said some of those trips tack on an extra 50 miles per day. Wright asked for an investigation into overtime costs, which currently average about \$400,000 per year and a second investigation into travel costs which average \$60,000 annually.

- The Preston County Board of Education is considering cutting more than 30 jobs next year, due to a loss of \$600,000 in state funding for those positions. The cuts include 17 teachers and service personnel, who are currently paid from county revenues and 16 teachers paid from federal funding sources. According to State Department of Education figures, the monetary losses arise from the loss of 75 students over the past two fiscal years. Of the total loss, \$225,000 is a result of the expected loss of a federal "Class Size Reduction Grant" from a program initiated during the Clinton Administration. The program provided funding for extra teachers in schools with high pupil-teacher ratios.

- The State Board of Education has pledged to cut down on the practice of allowing teachers to retire and then return as long-term substitutes. Under current state law, county boards may hire retired teachers into such positions when there is a "critical need". In the past, counties were not required to prove they have a "critical need" in order to hire the retired teachers. The State Department of Education is planning to require counties to prove the critical need before filling the positions.

- The Monongalia County Board of Education has scheduled a bond levy election for October 4, 2003. The board hopes to pass a \$50 million bond issue for several school construction and renovation projects.

Case challenges BOE attorneys

The State Supreme Court is considering a case, which could affect the manner in which county boards of education obtain legal advice.

In the case, Marshall County citizens are challenging the legality of the Marshall County Board of Education's expenditures for outside legal counsel.

The plaintiffs contend that such expenditures are illegal in most cases.

At the center of the controversy are two statutes. The plaintiffs maintain they are in harmony with one another, while the defendants claim the statutes conflict.

The first law, West Virginia Code §7-4-7 provides that, "It shall be the duty of the prosecuting attorney ... to advise, attend to, bring, prosecute or defend, as the case may be, all matters, actions, suits and proceedings in

which such county or any county board of education is interested."

The second statute, West Virginia Code §18-5-13(12), gives county boards of education the authority to, "employ legal counsel."

The plaintiffs maintain county boards must use county prosecuting attorneys for everything but the most complex legal issues. The defendants argue they have the right to use outside counsel at their sole discretion.

According to the plaintiffs' research, the Marshall County Board of Education had spent more than \$400,000 over the past six fiscal years, for outside lawyers.

The plaintiffs' research also found that county boards of education had spent approximately \$13 million on outside attorneys from 1997 to date. The county spending the highest amount was Cabell

County at more than \$1.7 million. Hardy County spent the smallest amount at \$17,000.

In all, 24 counties spent more than \$200,000. Of those five more topped \$500,000. Those counties are:

Monongalia (\$977,482.26), Harrison (\$679,510.47), Raleigh (\$671,855.14), Berkeley (\$611,484) and Jefferson (\$596,766.32).

A number of smaller counties had relatively large legal bills:

Mingo (\$341,951.05), Mason (\$496,224.29), Lincoln (\$372,821.07), Wetzel (\$285,710.22) and Upshur (\$278,500.98).

The lead plaintiff in the case is Challenge West Virginia Marshall County Fellow Frank Longwell.

The court is expected to rule at any time.

Supreme Court decides bus dispute

The W.Va. Supreme Court of Appeals has decided that a county board of education may make bus runs into another county to pick-up students who attend school in the first county, as long as the students have proper authorization from both counties.

The decision was made in a two-year long controversy between Marion and Taylor counties.

In July 2000, after getting a new superintendent of schools, Taylor County discovered that Marion County was making bus runs into Taylor County, to pick-up students to attend Marion County Schools. According to Taylor County, Marion County had established 21 bus stops in Taylor County, with three buses traveling 18 miles into the county. Many of the stops are not located

on existing Taylor County bus routes. It was undisputed that the Taylor County Board of Education never approved the actions of Marion County.

Upon further investigation, Taylor County could not account for a number of school-aged children who were supposed to be attending Taylor County schools. It was then discovered that the students were attending Marion County schools without the approval of the Taylor County Board of Education. State law currently requires both involved county boards to approve any inter-county student transfers.

In September 2001, Marion County agreed to stop the practice, but later changed its position after receiving an opinion from the State Superintendent of Schools,

saying the practice was legal.

Subsequent to the superintendent's opinion, Taylor County filed a lawsuit against Marion County, seeking to enjoin Marion County from making the bus runs.

In the lawsuit, Taylor County maintained that the bus runs promoted an outflow of about 80 Taylor County students to Marion County schools, and cost the Taylor County board more than \$500,000 per year in state funding.

The court's opinion states, "A county board of education may unilaterally establish bus stops within another county to provide transportation to students who have received proper authorization from both county school boards to attend school in the county providing the bus transportation."

The Challenge

The Challenge is published monthly by Challenge West Virginia, a statewide organization committed to maintaining and improving small community schools.

Challenge West Virginia's goal is to reform education in West Virginia so that citizens have a voice in policy decisions and every child has the opportunity to receive a first-class education and the promise of a bright future.



Challenge West Virginia

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