



The Challenge



May 2004

State audit slams School Building Authority

The project funding process used by the West Virginia School Building Authority is devoid of accountability, according to a legislative audit of the agency's performance.

In addition to the lack of funding accountability, neither the SBA nor the State Department of Education keeps adequate records to allow for a study of how consolidation has effected West Virginia's children.

The performance audit was completed months ago by the office of the West Virginia Legislative Auditor, but only released in mid-May.

The report contains a written response from SBA Executive Director Clacy Williams, dated June 2, 2003. In the response, Williams attempts to explain away the auditors' findings.

Nearly the entire audit is focused on the accountability and documentation issues.

The first portion of the report focuses on the finding that "project selection for funding by the SBA lacks accountability."

During the selection process, recommendations are taken from the

staff of the SBA and a group known as the "plan review team." The staff group and the plan review team both assign scores to each project proposal and then the projects are presented to the members of the SBA governing board, who make the final determinations on which projects get funding.

As for the project selection process, the Legislative Auditor made the important findings:

- "Some of the selections made each year have no relationship to
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Judge rules in Lincoln County case

A Kanawha County Circuit Judge has dealt a severe blow to Lincoln County citizens and the elected Lincoln County Board of Education.

Circuit Judge Charles King has announced his intent to dismiss lawsuits filed by Lincoln County citizens' groups, contesting the state's plan to consolidate all Lincoln County high schools into one \$30 million plus mega-school.

On May 17th, King announced that he intends to dismiss the lawsuits. As of press-time, King had not issued a written memorandum opinion and order, detailing his reasons, as is required by law.

Challenge West Virginia has been heavily involved in the litigation

from the start. Challenge WV Coordinator Linda Martin expressed dismay at King's decision, but confidence that it would be overturned on appeal.

"We look forward to presenting our case to the Supreme Court," Martin said. "We have the experts to make the case that small schools are better."

"The real issue here is: do citizens have the right to question decisions made by the state? Is our democracy working?"

The West Virginia Department of Education took control of Lincoln County Schools in 2000. After the state BOE appointed a new superintendent, he immediately began implementation of the plan.

One bond levy fails while a second passes

One school construction bond proposal has failed while a second bond issue was passed during the May 11th Primary Election.

Voters in Mineral County rejected a \$15.8 million bond issue by a vote of 3,525 to 2,544. As a result of the defeat, Mineral County will have to return a \$10 million grant awarded by the School Building Authority last year.

Voters in Jefferson County approved a \$19 million bond levy proposal by a vote of 5,849 to 2,374.

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Mingo County school closure plan could have trouble

Despite the fact that the balance of power has shifted as a result of the Primary Election, the Mingo County Board of Education is charging ahead with its high school consolidation plan.

However, the Mingo BOE may have already committed a procedural error, which could be fatal to its plan.

During a May 24, 2004, school closure hearing, Mingo BOE member Dee Kapourales admitted that she held a private, "informational meeting" at her home, in which at least three members of the board

took part.

In 1996, the West Virginia Supreme Court of Appeals specifically ruled that such an "informational" meeting specifically violated the West Virginia Open Governmental Proceedings Act (the "Sunshine Law"). The court also held that no proof of intent to violate the act was necessary to invalidate an action of a public body holding such a meeting. In that case, citizens of Fayette County sued their board of education to stop a proposed consolidation. Three members of that county's board held the same type of

"informational" meeting in the office of the county's superintendent of schools.

The Circuit Court of Fayette County ruled that the board had violated the Sunshine Law and stopped the consolidation. The Fayette board appealed the circuit court's ruling and the Supreme Court ruled in favor of the citizen plaintiffs.

The Mingo BOE still has more closure hearings planned. The board hopes to close three high schools and consolidate them into one. A number of middle and elementary schools will also be closed.

SBA

either ranking (SBA staff or review team rankings.)"

- "Every level of the selection process lacks documentation and accountability."

- "There are usually a few projects with wide and inexplicable variances between the two ratings."

The Legislative Auditor recommends that the SBA develop a documentation system whereby the agency can be adequately held accountable for its actions.

"Documentation should be developed that fully explains the thought process that went into the plan review team and SBA staff's rankings," the report reads. "Documentation should be developed that fully explains the decisions made by SBA members."

The audit also harshly criticizes the actual meeting process where projects are approved by the governing board.

"Members of the SBA have little or no discussion during the selection process on why a given project should be funded," the report says. "Disagreements on the nominations made in the meetings have been rare over the three-year scope of the

audit."

The non-discussion between SBA board members casts a shadow of doubt over the entire process, the report notes.

"Because minimal discussions are held, discretionary decisions have the appearance of being made outside of open meeting proceedings," the auditors wrote. "There should be explanations documented for all selections to improve accountability and remove the mystery in some of the SBA's choices."

As part of the agency review process, the Legislative Auditor's office contacted 17 county superintendents of schools, asking them to explain their understandings of the SBA project selection/funding process.

One superintendent responded by saying, "Projects are selected from the list unless a member has a 'pet project' that they would like to see, in which case that project is selected regardless of its order on the list."

Another superintendent criticized the wide discretion granted to SBA members.

"Full control has been given to the agency with no direct oversight," said that superintendent. "I would recommend that the agency

be placed under the direct supervision of a superior state agency."

"The effect of politics on the SBA is profound," the superintendent concluded.

Challenge West Virginia Coordinator Linda Martin, who has dealt with the SBA since its establishment in the early 1990s, agrees with most of the Legislative Auditor's observations.

"The audit shows that the SBA decision are made in secret," Martin said. "They spend millions of our dollars to force their consolidation agenda on people. It is a slap in the face to the democratic process."

SBA Director Williams contested the audit's findings in his letter of June 2, 2003. Williams says the recommendations on documentation and accountability would place too big of a burden on the agency in a number of areas such as storage space. Williams did not comment on the use of computerized imaging systems as an alternative.

The audit is not clear as to why it was obviously completed in mid-2003, but not formally presented to the Legislature until May 16, 2004.

The complete document is available on the Internet at www.legis.state.wv.us.

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 the Mountain State so that the 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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This 'n that from around the state

- After 15 years as the Superintendent of Schools in Putnam County, Dr. Sam Sentelle is calling it quits. Sentelle announced his decision on May 17th, after a lengthy executive session meeting with the Putnam County Board of Education. “I do not wish and I am not seeking a renewal of my contract at this time,” said Sentelle during the public portion of the May 17th meeting. Putnam County board member Debbie Phillips commended Sentelle on his many years of service to the county. Sentelle, 62, said he had been in the superintendent’s post for a long time and felt it was time to move on. His current contract expires on June 30th. Sentelle didn’t say if he has any other plans. At the salary of \$94,000 per year, the Superintendent of Schools for Putnam County is one of the highest paid in the state. Before taking the superintendent’s position in Putnam County, Sentelle was Superintendent of Schools in Logan County for five years. Prior to moving to West Virginia, Sentelle served as an assistant superintendent in Richmond, Virginia.



Despite Kiss’ supportive stance on the issue, the House Republicans are calling for Kiss to remove Mezzatesta from his committee chairman’s position. Over the past several months, stories of abuse of power and ethical lapses on the part of Mezzatesta have flooded the media. Among the conduct currently under investigation by the Ethics Commission is Mezzatesta’s receipt of two publicly-funded salaries at the same time. Despite Mezzatesta’s promises to the contrary, he worked to secure state funded grants for the Hampshire County school system, his real life employer. Although he is employed by the Hampshire County BOE as a grant writer, records show that he has never applied for any federal or private grant for Hampshire County schools. In another disturbing incident, Mezzatesta unilaterally ordered officials with the State Department of Education to ignore funding laws passed by the entire Legislature. The effect of this directive was to steer public money from 11 counties, in favor of Hampshire County.

- Also in Putnam County, during the Board of Education’s May 17th meeting, board President Sid Linville refused to allow a number of citizens to address the board — an action which clearly violates the West Virginia Open Governmental Proceedings Act. The Act, commonly called the “Sunshine Law” requires public governmental bodies such as boards of education and county commissions to allow time during each public meeting for citizens to address the board. The law provides that no citizen wishing to speak at a meeting can be required to give notice of his intent more than 15 minutes prior to the meeting. The opportunity to be heard cannot be restricted based on the content of the citizen’s speech. During the May 17th meeting, Linville told the citizens that they could not address the board because the subject on which they wished to speak was not on the agenda.

- The West Virginia Department of Environmental Protection has awarded grants totaling \$150,000 to two school systems in the Eastern Panhandle of West Virginia. The money is to be used by the Jefferson and Berkeley county school systems to reduce school bus emissions. Buses in the two counties will be fitted with diesel oxidation catalysts to reduce the output of toxins such as diesel exhaust and carbon monoxide.

- Amid the deepening ethics controversy surrounding House of Delegates Education Committee Chairman Jerry Mezzatesta (D-Hampshire), House Speaker Bob Kiss (D-Raleigh) is keeping quiet. Kiss says he will not comment or take any action against Mezzatesta until a number of complaints filed with the West Virginia Ethics Commission have been resolved. “I don’t think it’s appropriate for members to comment prior to the completion of those deliberations,” Kiss told a Charleston area reporter. “The adjudicatory process exists for a reason under our laws and we should respect that process.

- Five teachers at Omar Elementary School in Logan County have been suspended for the remainder of the school year. According to Logan County school officials, the teachers inappropriately helped students on the state writing assessment examination. “We identified inappropriate actions during the monitoring of the writing assessment,” said Logan County Superintendent David Godby. “While the children were taking the assessment, the evidence indicates that some may have been assisted.”

- Also in Logan County, a school bus carrying 20 children was rear-ended earlier this month. No injuries were reported.

- In Monongalia County, five male students between the ages of 14 and 16 are facing battery charges in juvenile court, after they assaulted another University High School student during a school bus ride.