

MOASBO Fall Conference: "Legal Potpourri"

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New MO "Facebook" Law

- MO passed the Amy Hestir Student Protection Act, SB54, effective on August 28, 2011
- Prohibited teachers from establishing, maintaining, or using a non-work-related website that **allows exclusive access with a current or former student.**
- Cole County circuit judge entered an injunction after a request by the MSTA, prohibiting the enforcement of this section until further hearing

New MO "Facebook" Law

- Governor called a special session
- SB 1 was signed by Governor Nixon on October 21, 2011
- "This bill is not as good as it should be, but to veto it would return us to a bill that would be far worse," Nixon stated in a press release.

New MO "Facebook" Law

- ▶ SB 1 revises 162.069
- ▶ Written policy concerning employee-student communications must be in effect by March 1, 2012 (instead of January 1, 2012)
- ▶ The policy must address the use of electronic media and other mechanisms **to prevent** improper communications between staff members and students.

New MO "Facebook" Law

- ▶ SB 1 **repeals**
- ▶ The definitions of "exclusive access," "former student," "nonwork-related internet site," and "work-related internet site."
- ▶ 162.069.3 which prohibited teachers from establishing, maintaining or using a work-related internet site unless such site is available to school administrators and the child's legal custodian, physical custodian, or legal guardian

New MO "Facebook" Law

- ▶ SB 1 also **repeals:**
- ▶ 162.069.4 which provided that no teacher shall establish, maintain or use a nonwork-related internet site which allows exclusive access with a current or former student.
- ▶ What should school districts do now??

HJR2

- ▶ Will be voted on in November
- ▶ Would put before the voters a Missouri Constitution amendment to:
 - Ensure that any person has the right to pray in a public or private setting as long as the prayer does not result in disturbance of the peace or disruption of a public meeting or assembly
 - Citizens would have the right to pray on governmental premises as long as the prayers conform to parameters placed on other speech
 - Political subdivisions may allow persons to offer invocations of prayers at meetings

HJR2 (cont'd)

- ▶ Would put before the voters a Missouri Constitution amendment to:
 - No student would be compelled to perform or participate in academic assignments or presentations that violate his or her religious belief
 - Students may express their beliefs about religion in written work and oral assignments free from discrimination based on the religious content of their work
 - Public schools would be required to display the Bill of Rights

Bidding of insurance

- ▶ SB 57 amends 537.620:
- ▶ Risk coverage procured under this section, i.e. M.U.S.I.C., shall not be deemed a contract, purchase, or expenditure of public funds for which a school district is required to solicit competitive bids
- ▶ 537.620 already provided that business entities formed under this section, i.e., for the purpose of providing liability insurance, shall not be deemed to be an "insurance company" or "insurer" under the laws of Missouri.

Bidding of insurance (cont'd)

- ▶ Compare 537.620 with 376.696
- ▶ 376.696 provides that "any other law to the contrary notwithstanding," school districts must competitively bid insurance policies at least every 6 years and award the contract to the lowest or best bidder
- ▶ Which law applies??

Weeds

- ▶ School districts must now control all noxious weeds growing on district property
- ▶ Department of Agriculture maintains a list of "noxious weeds"
- ▶ See 236.190 - 236.240

Tax credits

- ▶ Arizona Christian School Tuition Organization v. Winn (U.S. 2011)
 - AZ passed a law giving tax credits to those who contribute to school tuition organizations that give scholarships to students to attend private (and sometimes religious) schools
 - United States Supreme Court held that taxpayers do not have standing to bring an Establishment Clause challenge to the law because the government was choosing not to tax, as opposed to making a decision spending taxpayer dollars

Tax credits (cont'd)

- ▶ *Manzara v. State* (Mo. banc 2011)
 - Taxpayers sued challenging the constitutionality of a tax credit statute
 - Argued that a tax credit was a grant of public property to a private person, i.e., violates MO Constitution
 - MO Supreme Court held that taxpayers do not have standing to challenge tax credits because it does not involve an expenditure of taxpayer funds
 - Discussed some language about expanding the test for determining taxpayer standing

Collective Bargaining

- ▶ Questions for the MO Supreme Court:
 - Are public entities required to negotiate "in good faith" as defined by federal law?
 - May a court order a public entity to establish a framework for collective bargaining?
 - Are public entities required to recognize an exclusive bargaining representative?

Questions?

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