

URGENT MESSAGE FOR DISTRICT ADMINISTRATORS AND BOARD PRESIDENTS:

ISSUE: The layoff clauses and the later deadlines for issuing layoff notices that are established by many of the layoff provisions in teacher collective bargaining agreements may be unavailable to districts if the budget repair bill passes in its current form. If this happens, the only way to reduce staff size for 2011-12 **in some districts** may be through the nonrenewal provisions of Wisconsin Statute 118.22. The absolute latest deadline for giving preliminary notice of nonrenewal to teachers for 2011-2012 would be February 28, 2011, but it would be preferable to have such notices issued by the 25th. Further, school districts that have always adhered to the section 118.22 nonrenewal deadlines to enact staff reductions must consider whether there is a need to issue additional preliminary notices of nonrenewal/staff reduction by the statutory deadline.

ACTION: WASB's Employment and Labor Law Staff encourages all school districts to give public notice of a special school board meeting for Thursday February 25, 2011 (or Friday February 26th if meeting on the 25th is not possible).

- Taking this action is **most important** for any district (1) that is unsettled for the current school year (2010-11) and beyond; or (2) that always adheres to the to the 118.22 nonrenewal deadlines to enact staff reductions (regardless of their settled or unsettled status).
- Districts that are settled for 2009-2011, but unsettled for 2011-2012, **may still find it prudent to schedule such a meeting** and obtain legal advice from district legal counsel as to whether there is an advantage in attempting to adhere to **both** the 118.22 nonrenewal procedures and the contractual layoff language (e.g., because of the uncertainty of what the end of collective bargaining would mean for 2011-2012 layoffs enacted under an expired collective bargaining agreement).
- Districts that are settled for BOTH 2010-11 (this year) and 2011-12 (next year) and whose contract with the teacher bargaining unit contains a comprehensive layoff clause that establishes later dates for enacting and providing notices of 2011-2012 layoffs likely have the least need for such a meeting and the least risk associated with simply following their typical layoff processes.

As the above suggests, individual district circumstances can make a significant difference about the need to consider using the nonrenewal process and meeting the February 28th preliminary notice deadline. Posting a meeting is a proactive step that will allow each district to **seek specific legal advice** and make the most appropriate decisions applicable to their unique contracts and other circumstances. A posted meeting can always be cancelled if it is determined that there isn't a need for it. Districts may also wish to consult with their legal counsel on the advisability of negotiating with their teachers' union to establish a later nonrenewal timeline for nonrenewals tied to staff reduction ("layoff"). At a minimum, any such agreement would have to be ratified by both parties no later than February 28th.

Possible items to include on the agenda for such a special meeting (NOTE: review and follow the statutory* and board policy procedures applicable to calling a special meeting) may include the following:

1. Provisions of the State budget repair bill and anticipated 2011-13 State budget and possible impacts on the _____ School District.

2. _____ School District budget projections and budget scenarios, including the possible reduction of staff positions, in light of projected state funding for schools and projected school district revenue limits during 2011-2013.
3. Preliminary notices of the nonrenewal of individual employment contracts of licensed employees, such contracts being subject to the nonrenewal provisions of Wisconsin Statute 118.22 (IMPORTANT: The district should obtain legal advice from their legal counsel as to whether this item may be appropriate for closed session discussion under Wis. Stat. 19.85(1)(c), or whether the decisions on preliminary notices will be an open session item of business).

** What is involved in calling a special meeting of the school board? In addition to standard notice under the Open Meetings Law, school districts should refer to their Board policies and the requirements of Wis. Stat. sec. 120.11 (for common and union high school districts) and sec. 120.43 (for unified school districts).*