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# Education Bills in the 1962 General Assembly

By PATTON G. WHEELER\*

Education was one of the major concerns of the 1962 General Assembly in terms of the number of bills introduced, the amount of money appropriated, the scope of the statutes enacted, and the degree of controversy created. Section 183 of the Kentucky Constitution directs that "the General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the state." The Legislature's responsibilities under this section have become increasingly complex with the growth of school systems and programs. This article summarizes some of the more important developments concerning education during the 1962 legislative session.

## APPROPRIATIONS

In 1954 the General Assembly enacted a Foundation Program to provide for a more equitable system of distributing state funds among the various school districts. The ensuing years have shown great improvements in the measurable quality and quantity of common school education, but they have also shown a tremendous increase in the amount of state financial support, and in the percent of the General Fund devoted to education.

The 1962 General Assembly, in the Budget Bill, appropriated approximately \$313 million for education during the 1962-64 biennium,<sup>1</sup> out of a total General Fund appropriation of \$483 million. Additional appropriations were made by specific statutes: House Bill 232<sup>2</sup> appropriated \$150,000 for the biennium to a State Committee for School District Audits; Senate Bill 276<sup>3</sup> ap-

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<sup>1</sup> Ky. Acts 1962, ch. 3, part II (II), reprinted in Ky. Rev. Stat. ch. 47 (1962) [hereinafter referred to as KRS.]

<sup>2</sup> Ky. Acts 1962, ch. 125, §1, reprinted in KRS ch. 47.

<sup>3</sup> Ky. Acts 1962, ch. 115, §2, reprinted in KRS ch. 47.

appropriated \$90,000 for the Council on Public Higher Education, and House Bill 484<sup>4</sup> appropriated an additional \$74,000 to the same agency; Senate Resolution 28<sup>5</sup> appropriated \$70,000 to the Commission on Public Education, and Senate Bill 162<sup>6</sup> appropriated an additional \$525,000 for the biennium to finance a greater number of classroom units for the education of exceptional children. The 1962 Session, like previous legislatures, set new records in expenditures for education.

#### COMMISSION ON PUBLIC EDUCATION

One of the sharpest controversies of the Session developed over extending the life of the Commission on Public Education (hereinafter referred to as the Commission) The Commission, created in 1960,<sup>7</sup> was the most recent legislative attempt to learn how to get the most results from the education dollar. A 1952-54 study by the Legislative Research Commission, with widespread citizen participation, had assisted in formulating the Foundation Program. Both the 1954<sup>8</sup> and the 1956 Sessions<sup>9</sup> directed the Legislative Research Commission to study particular phases of the Foundation Program in greater depth and the 1958 Legislature<sup>10</sup> directed it to evaluate the entire Foundation Program, but no report was published.

Finally, the 1960 House of Representatives created its own Committee to study schools.<sup>11</sup> This Committee's report, which was confined to a few areas, was highly critical of school administration and contained a number of recommendations for legislation. The report, however, was not presented until a few weeks before the end of the 1960 Session, and there was not enough time to allow full consideration of its recommendations.

Creation of the Commission on Public Education in 1960 was, to some extent, the culmination of legislative efforts to learn more about the school system. The Commission was directed to "study the problems and evaluate programs of public educa-

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<sup>4</sup> Ky. Acts 1962, ch. 129, §3, reprinted in KRS ch. 47.

<sup>5</sup> Ky. Acts 1962, ch. 186, §2, reprinted in KRS ch. 47.

<sup>6</sup> Ky. Acts 1962, ch. 169, §10, reprinted in KRS ch. 47.

<sup>7</sup> KRS 157.014.

<sup>8</sup> Ky. Acts 1954, ch. 214, §7(5).

<sup>9</sup> Ky. Acts 1956, ch. 106, §3.

<sup>10</sup> Ky. Acts 1958, ch. 72.

<sup>11</sup> H.R. 55, Ky. 1960.

tion,"<sup>12</sup> and was given an appropriation of \$75,000 for each year of the biennium, which was later supplemented from the Governor's Emergency Fund. This was by far the largest appropriation ever made for such a study and offered an unprecedented opportunity for an objective evaluation of education.

The Commission report, released shortly before the 1962 Session convened, included twenty-eight recommendations. It also included minority recommendations on seven points; the dissenting statements were filed by professional educators on the Commission. These recommendations, as modified, became the major part of the 1962 Legislature's education enactments. The Commission on Public Education Report was based on studies by three groups. It had contracted with private research firms to study the Foundation Program and to conduct a program evaluation study. Curriculum was studied by a committee of classroom and college teachers.

Although the Commission had been created as a continuing agency, no appropriation for it was included in the 1962 Budget Bill. Early in the Session the Senate Majority Leader introduced a Resolution appropriating \$75,000 to the Commission for each year of the biennium.<sup>13</sup> Few measures have survived such difficult treatment as this Resolution received. It was voted down by both Houses after sharp debate, amended several times, and was finally revived and passed by fairly close margins. The amendments reduced the appropriation to \$85,000 per year,<sup>14</sup> required that one member of the Commission be a legislator,<sup>15</sup> and provided that the Legislative Research Commission would furnish certain housekeeping services.<sup>16</sup> The Education Commission was continued for another biennium,<sup>17</sup> but with a reduced appropriation and a less than unanimous legislative endorsement.

#### CONSTITUTIONAL AMENDMENTS

One of the Commission's primary recommendations was that a constitutional amendment be proposed to make the Superin-

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<sup>12</sup> KRS 157.014(3).

<sup>13</sup> S.R. 28, Ky. 1962.

<sup>14</sup> Ky. Acts 1962, ch. 186, reprinted in KRS ch. 47.

<sup>15</sup> KRS 157.024.

<sup>16</sup> KRS 157.022.

<sup>17</sup> KRS 157.018.

tendent of Public Education appointive, rather than elective. This was embodied in Senate Bill 265, which proposed that the Superintendent be appointed by a State Board of Education which, in turn, would be appointed by the Governor for seven-year overlapping terms. The Bill was rejected in the Senate by a vote of twenty to seventeen. Opposition was based largely on the fact that a comparable amendment was decisively defeated at the polls in 1957, and the contention that the State Board should be elected, rather than appointed.

The Commission's recommendation that the Constitution be amended to remove the salary limit for the Superintendent of Public Instruction met with more success. Senate Bill 367,<sup>18</sup> which was enacted, proposed an amendment to remove the salary limit for all public officers. Senate Bill 237<sup>19</sup> submits to the voters the question of calling a limited constitutional convention, which would include the subject of compensation of public officers.

#### OMNIBUS EDUCATION BILL

House Bill 207,<sup>20</sup> entitled simply "An Act relating to education," was generally referred to as the Omnibus Education Bill. It embraced a wide range of proposals, and included most of the Commission on Public Education's recommendations, generally in a modified form. The Omnibus Education Bill was the product of conferences between the Commission, education officials, and administration representatives, and represented a compromise between these groups. It was ultimately enacted with only three dissenting votes in the Senate and one in the House, after both committee and floor amendments. The provisions of House Bill 207 are summarized below, under the topical headings used in the Omnibus Education Bill itself.

*Procedure in School Board Causes.* Efforts to oust a county school superintendent had indicated inadequacies in Kentucky law and a need for revising removal procedures. House Bill 207 provides that the State Board of Education is empowered to

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<sup>18</sup> Ky. Acts 1962, ch. 118.

<sup>19</sup> Ky. Acts 1962, ch. 111.

<sup>20</sup> Ky. Acts 1962, ch. 244, codified in scattered sections of KRS chs. 156-58, and 161.

suspend any district board member or superintendent who, in the opinion of a majority of the Board, is guilty of gross immorality, misconduct in office, incompetence, or willful neglect of duty<sup>21</sup> Previously, the Board could act only upon recommendation of the Superintendent of Public Instruction.

Under the new law, the Board may suspend any officer for up to ninety days,<sup>22</sup> and is empowered to hold hearings and issue subpoenas to determine the issue.<sup>23</sup> If the State Board has not dismissed the charges or removed the officer at the end of this period, he is automatically reinstated.<sup>24</sup> The State Board is directed to name a person to fill the vacancy during the period of suspension.<sup>25</sup>

The Commission had recommended that the Attorney General, upon recommendation of the Governor, Auditor, State Board of Education, or the Superintendent of Public Instruction, be authorized to proceed in Franklin Circuit Court to recover school funds wrongfully spent. House Bill 207 authorizes the Attorney General to proceed to recover school funds upon the recommendation of these officers,<sup>26</sup> but adopted the recommendation of the minority that such actions be brought in the circuit court of the county in which the district is located.<sup>27</sup> The bill provides, however, that a special judge will be selected to try the action upon motion of any party<sup>28</sup>

*Fiscal Management.* Another compromise resulted in the creation of a State Committee for School District Audits, composed of the Governor, the Attorney General, and the Superintendent of Public Instruction.<sup>29</sup> The Committee is directed to select certified public accountants to audit each district at least once in each two years.<sup>30</sup> The expense of such audits is to be shared by the Committee and the school district,<sup>31</sup> and House Bill 232 appropriates funds to the Committee for this purpose.<sup>32</sup> The

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<sup>21</sup> KRS 156.132(2).

<sup>22</sup> KRS 156.134(3).

<sup>23</sup> KRS 156.134(2).

<sup>24</sup> KRS 156.134(3).

<sup>25</sup> KRS 156.136.

<sup>26</sup> KRS 156.138.

<sup>27</sup> KRS 156.142.

<sup>28</sup> KRS 156.144.

<sup>29</sup> KRS 156.265(1).

<sup>30</sup> KRS 156.265(2).

<sup>31</sup> KRS 156.265(4).

<sup>32</sup> Ky. Acts 1962, ch. 125, reprinted in KRS ch. 47.

Commission majority, like the 1960 House Committee, had recommended that the Auditor of Public Accounts make periodic audits of school districts, but the bill reflected the minority proposal that such audits be made by an independent group.<sup>33</sup>

The Commission recommendation that the State Board of Education, through the Department of Finance, be authorized to secure price contract agreements for the purchase of certain school supplies and equipment was incorporated into House Bill 207<sup>34</sup> District boards of education are required to purchase under such contracts unless they can secure lower prices through their own bids.<sup>35</sup> Experience in purchasing school busses under similar legislation indicates that substantial economies can be effected through centralized bid procedures.

*Organization of the State Board.* House Bill 207 provides that, effective January 1964, members of the State Board of Education shall be appointed from Court of Appeals districts, instead of at large.<sup>36</sup> On the same date, which corresponds to the end of the present Superintendent of Public Instruction's term, the Superintendent shall cease to be a member and Chairman of the Board.<sup>37</sup> The Commission had recommended that these changes be effective July 1, 1962, and had urged that all policy-making powers be transferred from the Superintendent to the State Board. The minority report, however, was incorporated into House Bill 207

A minor revision recommended by the Commission was adopted, raising the per diem of State Board members, and requiring that they meet not less than every three months.<sup>38</sup> Previously, the statutes set the State Board per diem at a lesser amount than comparable officers, and did not clearly establish their right to meet as often as necessary

*Discrimination Against Teachers and Other School Employees.* The Omnibus Bill includes a provision that no teacher or school employe can be in any way favored or discriminated against because of political or religious opinions or affiliations or ethnic origin.<sup>39</sup> It prohibits any person from using or promising

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<sup>33</sup> KRS 156.275(1).

<sup>34</sup> KRS 156.074.

<sup>35</sup> KRS 156.076.

<sup>36</sup> KRS 156.030.

<sup>37</sup> *Ibid.*

<sup>38</sup> KRS 156.060.

<sup>39</sup> KRS 161.162.

to use any official authority or influence to secure an appointment as a teacher or school employe, or any advantage in such employment, for the purpose of influencing their vote.<sup>40</sup> Penalties are provided for violation of this section.<sup>41</sup>

This provision corresponds more closely with the recommendation of a minority of the Commission than that of the majority. The majority had recommended additional provisions to prohibit political assessments and partisan political activity on the part of school employes; the majority, in effect, had proposed that the state Merit System be made applicable to school employes, with the reservation that they be permitted to run for public office.

*Teachers Rank.* The Foundation Program law classified teachers into seven ranks, based on educational preparation, for salary purposes. House Bill 207, following the Commission's recommendation, abolished the two lowest ranks, with effective dates set far enough ahead to permit teachers presently in those ranks to complete additional semester hours and qualify for higher ranks.<sup>42</sup> The bill did not, however, incorporate the Commission's recommendation that the highest rank be abolished. The Commission contended that the highest rank, which may be achieved by taking graduate work not related to a higher degree or to the teacher's individual needs, served no effective purpose.

*Scholarships.* The Commission's studies pointed out the existence of a severe shortage of teachers in the fields of science, mathematics, and foreign languages, and of school librarians. It therefore recommended that scholarships be established to enable persons teaching these subjects without adequate academic preparation to return to school. House Bill 207 established a Teacher Education Scholarship Fund for this purpose,<sup>43</sup> but made no appropriation. It provides merely that the Fund shall become effective at any time that funds become available from unexpended portions of the Foundation Program Fund.<sup>44</sup>

*School Programs.* The Commission report expressed concern over the fact that districts were required to hold only 173 actual

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<sup>40</sup> KRS 161.164.

<sup>41</sup> KRS 161.990(1), (2).

<sup>42</sup> KRS 157.390.

<sup>43</sup> KRS 156.610.

<sup>44</sup> KRS 156.650.



school days out of the 185 day minimum term. It recommended that districts be required to operate schools for at least 178 days, with a maximum of five days allowed for holidays, professional meetings, and in-service training, and an additional two days allowed for training specifically approved by the State Department of Education. House Bill 207 partially incorporated this recommendation, authorizing a total of ten days for these purposes, which is an effective increase of two days in the school term.<sup>45</sup>

The Commission was also critical of the amount of time devoted to extra-curricular activities during the school day. It recommended that any child who is released from attending a class, except for a maximum of four days of field trips directly concerned with classwork, be considered absent for purposes of computing average daily attendance, which is the primary basis of state financial support. House Bill 207 adopts the four-day limit, with the proviso that the Superintendent of Public Instruction may authorize additional days for special trips or events.<sup>46</sup> The bill does not, however, adopt the proposed penalty of considering the student absent for attendance purposes.

*Summary of House Bill 207* House Bill 207 was a twenty-page measure, including a number of complex provisions, and this summary can do no more than indicate the general effect of its contents. The entire bill was based on recommendations of the Commission on Public Education, but many of these recommendations were severely revised or curtailed. Some of the main provisions will not go into effect for several years; others do not substantially change the existing law; the effect of some provisions will depend on their administration. Some major recommendations of the Commission, such as those relating to school finance, were not included in the bill. The provisions of House Bill 207, however, embody changes that are expected to bring about improvements in school administration and programs.

#### RESOLUTIONS RELATING TO EDUCATION

Some Resolutions recommended by the Commission on Public Education passed the House, but died in the Senate during the

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<sup>45</sup> KRS 158.070.

<sup>46</sup> KRS 158.060.

rush of the last legislative days. These three Resolutions directed: that the State Board of Education set standards for the amount of the Foundation Program current expense allotment to be used for instructional material;<sup>47</sup> that appropriate educational authorities adopt uniform standards for teacher training and certification;<sup>48</sup> that appropriate authorities act to increase the supply of teachers in certain critical fields.<sup>49</sup> When it became apparent that these measures would not receive Senate action, they were re-drafted as simple House resolutions, not requiring joint action, and passed by the House.

#### EDUCATIONAL TELEVISION

The 1960 General Assembly had directed the Legislative Research Commission to study the possible uses of educational television in Kentucky. A research report issued in November analyzed the probable costs and effectiveness of such a system and concluded that it would tend to equalize educational opportunity. An advisory committee appointed in conjunction with the study proposed a specific plan for educational television in Kentucky.

House Bills 131,<sup>50</sup> 132,<sup>51</sup> and 133<sup>52</sup> constitute the enabling acts for an educational television system. Despite considerable opposition, the three bills became law. The first two bills empower the State Board of Education to participate in a program of educational television and empower the State Property and Building Commission to acquire sites for facilities. Both of these bills contained other provisions, not related to educational television. The third bill declared it to be public policy to develop and utilize a network of educational television production facilities and transmission stations. It created a Kentucky Authority for Educational Television, with four members representing the Department of Education and state colleges, two members qualified in the technical aspects of television, and three citizen members. The three bills establish procedures by which the construction of a statewide network of educational television

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<sup>47</sup> H.R. 123, Ky. 1962.

<sup>48</sup> H.R. 125, Ky. 1962.

<sup>49</sup> H.R. 124, Ky. 1962.

<sup>50</sup> KRS 156.070(3)(a)-(c).

<sup>51</sup> KRS 56.440,-.450,-.520,-.550.

<sup>52</sup> KRS 168.010-.100.

facilities can be financed through bond issues. The State Property and Buildings Commission is now engaged in planning and acquiring sites.

#### HIGHER EDUCATION

House Bill 234<sup>53</sup> creates a University of Kentucky Community College system, with junior colleges to be established in four cities of the state as funds become available, and brings existing facilities at five other cities into this system. Two studies during the biennium, one by a Governor's Commission on Public Higher Education and the other by the Legislative Commission, had reviewed higher education and indicated the need for greatly expanded facilities. The Governor's Commission on Public Higher Education recommended that the coordinating functions of the Council on Public Higher Education be strengthened.

Two bills appropriate funds to the Council on Public Higher Education for special purposes. Senate Bill 276<sup>54</sup> appropriates \$45,000 per fiscal year for a program of occupational qualification development, to be carried out through contracts with junior colleges in the State. House Bill 484<sup>55</sup> adds three lay members to the Council, increases the number of meetings, and appropriates \$74,000 to expand research and coordinate staff activities during the biennium.

#### OTHER LEGISLATION

A number of other enactments concern education. Senate Bill<sup>56</sup> changes the birth date for school entrance purposes from December 30 to December 31. Senate Bill 86<sup>57</sup> creates a State Board of Business Schools to license and regulate business schools.

Several bills clarify existing statutes and practices. House Bill 86<sup>58</sup> limits the total expense money and per diem allowed county board of education members, and specifies that they may be reimbursed for expenses incurred outside the district under certain circumstances. Senate Bill 5<sup>59</sup> specifies that superin-

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<sup>53</sup> KRS 164.575-.600.

<sup>54</sup> KRS 164.027; appropriation reprinted in KRS ch. 47.

<sup>55</sup> KRS 164.010, -.060; appropriation reprinted in KRS ch. 47.

<sup>56</sup> KRS 158.030.

<sup>57</sup> KRS 331.010-.990.

<sup>58</sup> KRS 160.280.

<sup>59</sup> KRS 161.155.

tendents, supervisors, and attendance officers will be included in sick leave provisions applying to teachers.

Two enactments relate to the Teachers' Retirement System. House Bill 145<sup>60</sup> makes a number of changes in administration and investment requirements, and revises the method of determining retirement allowances. Senate Bill 188<sup>61</sup> authorizes a retirement allowance for teachers who taught for ten years prior to July 1, 1940, but who are not otherwise eligible for Teachers' Retirement benefits.

House Bill 208<sup>62</sup> creates a Professional Practices Commission, composed of representatives of specified professional organizations, to develop criteria of practice in specified areas, such as contractual obligations and transfer of teachers. The Commission will be financed by members of the teaching profession and will make recommendations to the State Board of Education.

Senate Bill 162<sup>63</sup> expands programs for educating mentally and physically handicapped children and requires school boards with eight tramble children to provide such classes upon petition of their parents. Financing was provided by a General Fund appropriation, and by transferring additional funds from the Foundation Program.

#### CONCLUSION

This summary is not intended to be exhaustive; various other bills enacted by the 1962 General Assembly concern education, either directly or indirectly. Some important measures, including several authorizing a school tax increase in certain cities, passed the House but died in the Senate Rules Committee. Other bills, such as those requiring election of county school board members from the county at large, and giving Franklin Circuit Court concurrent jurisdiction in actions to recover school funds, were reported favorably by a House Committee but did not receive favorable action on the floor. Still others, such as a bill to allow transportation of pupils to other than public schools, died in committee.

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<sup>60</sup> KRS 161.220, -.340, -.400, -.430, -.470, -.500, -.507, -.520, -.590, -.600, -.610, -.620, -.630, and -.650-.670.

<sup>61</sup> KRS 161.715.

<sup>62</sup> KRS 156.510-.550.

<sup>63</sup> KRS 157.200-.295; appropriation reprinted in KRS ch. 47.

The concern with education shown by the 1962 General Assembly undoubtedly will be reflected in future legislatures as the amount of funds and personnel involved in public schools continues to increase. Some acts of the 1962 Session, specifically those involving the pattern of higher education facilities and establishing an educational television system, can be expected to have far-reaching effects. Others represent at best improvement that could be accomplished without invoking controversy, and time will be required to judge their effectiveness. Kentucky's General Assembly, like that of most states, shows an increasing awareness of the broad issues of education, and a tendency to continually re-evaluate educational programs and practices. Determination of the control and content of public education is a constitutionally-assigned function of the legislature, and one that will continue to concern the General Assembly