



March 22, 2012

MATC Milwaukee Board Bill, SB 275, Passes as 2011-2012 Session Adjourns

- *Bill Disbanding MATC Board Becomes the Contentious Session's Final Battle.*
- *Threats to Milwaukee Public Television Licenses Slow Bill, But Don't Stop Passage.*
- *Local Agreement Could Temper Initial Impact.*
- *Unprecedented Bill; Unprecedented Impact.*

Despite a huge statewide advocacy effort in opposition, SB 275 cleared both houses when the Senate's passage was "concurrented in" by the Assembly just before it adjourned late Friday afternoon, March 16th. The bill is now awaiting the Governor's consideration and signature.

The Assembly concurrence broke a deadlock to end a marathon 36-hour final floor day that concluded the 2011-2012 legislative session. Any bill that did not pass both houses in identical fashion expired upon final adjournment. We worked very hard to keep SB 275 from passage. In the end, however, this bill became the last test of wills between majority Republicans and minority Democrats in a session that was highly contentious from start to finish.

The impact of SB 275 is described below. Importantly, the twin identical bills (SB 275 and AB 353) as introduced last year affected the composition of all 16 district boards. These were the only versions to receive public hearings. Essentially, the original bills eliminated 2 employer, 2 employee, and 1 of 3 at-large positions on *all boards* and replaced them with 5 private for-profit "businessperson" seats. All other aspects of district boards and their appointments would have been unchanged.

Soon after the first public hearing in early December, it was clear that these original bills as introduced would not pass.

The Senate Process

A Senate committee held a public hearing on the original bill in early December, but no action was taken. In early January, the Senate bill's lead sponsor, Glenn Grothman (R-West Bend), testified at the Assembly committee's hearing on the original bill version. At the hearing, he announced to committee members that he believed the twin bills could not pass the full Senate *unless amended to apply only to the MATC Milwaukee board*.

Amendments to Amendments to Amendments

An amendment to focus the bill exclusively on MATC Milwaukee was offered in the Senate committee in February, on the eve of a Senate committee vote to recommend bill passage. Besides focusing only on Milwaukee, the new version included more dramatic changes to the board, its composition, and the appointing authority.

The new bill eliminated all nine persons from their MATC board positions upon passage. It completely eliminated the longstanding appointment committee of 22 school board presidents and replaced it with a committee of 4 county officials. It eliminated the local "plan of representation," eliminated considering minority representation in board appointments, and eliminated the board's elected official position. It also defined private business seats as open only to current employees of: businesses larger than 30 employees (all 5 business seats), larger than 100 (2 of the 5 seats), and manufacturing businesses (2 of the 5), among other changes.

After additional amendments in Senate committee that softened some of these changes (restoring the plan of representation, restoring consideration of minority representation, restoring the elected official position and changing the minimum business size from 30 to 15), the bill passed out of Senate committee February 23rd on a 4-3 party-line vote with Republicans in favor and Democrats opposed.

The bill was debated on the Senate floor on March 7th, with strong opposition by Senate Democrats. It was replaced by yet another new bill version and then further amended on the Senate floor (to require 7 of 9 MATC board members be residents of Milwaukee County, which has 91% of the population). Senate Democrats were able to delay a final vote on procedural issues. The bill returned to the calendar and passed the full Senate on another party-line vote (17-16) on March 13th, the second-to-last day of the 2011-12 Senate session.

The Assembly Process

In the weeks leading up to the Senate action, it became clear that neither the original bill version (affecting all boards) *nor the MATC Milwaukee-only versions* of the bill would have the support to successfully pass out of Assembly committee. Behind the scenes, at least two (of 7) Republicans appeared to be opposed along with the 4 committee Democrats. Facing a likely 6-5 defeat, the scheduled committee vote was cancelled by

the Assembly Colleges and Universities Committee Chair, Steve Nass (R-Whitewater), about 90 minutes before the vote was to take place on March 6th.

In the Assembly, the bill never received another hearing and remained stuck in committee without enough support for passage. This would typically be the end for any normal bill in a normal session.

“Beware the Ides of March”

Instead, however, when the dramatically altered Senate bill passed, it was immediately “messed” over to the Assembly floor. Assembly rules allow a bill passed by the Senate to be “concurred in” (passed) if that bill’s Assembly twin has received a public hearing. Technically, the bill had received a hearing. It was on dramatically different terms and could not likely pass from that committee, but it had received a hearing. The Assembly placed SB 275 on its calendar for the final day of the 2011-12 session, Thursday, March 15th.

The Senate-passed bill received strong support from business groups led by the Milwaukee Metropolitan Association of Commerce. It was opposed by all technical colleges, the Wisconsin Technical College System, the Wisconsin Association of School Boards, and the Wisconsin Counties Association (on the Assembly version). Around the state, a large number of advocates made contacts opposing Assembly concurrence. Presidents, board members, faculty and staff, students, and others made calls, sent email, and visited the Capitol.

A large number of MATC Milwaukee faculty, staff and students came to the Capitol Thursday evening, and the visiting Wisconsin Leadership Development Institute (WLDI) group was there for a long-scheduled visit on Friday morning. A number of WLDI members chose to get directly involved by speaking with their own Assembly members and staff just off the floor. A leadership team from MATC and the District Boards’ Paul Gabriel had spent significant time in the Capitol for several days, as did WTCS staff including President Clancy and Vice President Morna Foy.

“Slumber Party From Hell”

Across the 36 hours of the Assembly’s final floor period spanning March 15-16, this bill, SB 275, would become the singular “bottom line” bill supported by a determined Assembly Republican leadership and opposed by a defiant Assembly Democrat leadership. From Thursday morning through Friday afternoon, MATC’s Tim Elverman and the District Boards’ Paul Gabriel were in the Capitol for 30 or more of the final 36 hours. One Capitol staffer would dub the entire experience in retrospect, “a slumber party from hell.”

As Thursday wore on, we first faced and countered new assertions that the bill somehow did not eliminate all nine MATC board members from serving at one time. The complicated bill, tortured by amendments and lacking the time or inclination for in-

depth study, was being characterized by some as allowing current members to serve out their terms. This was incorrect. Setting this right took a written opinion from a legislative attorney, who agreed with our reading of the measure as immediately removing all board members from their position.

Getting to Sesame Street

The MATC Milwaukee District Board holds the FCC licenses for Milwaukee Public Television including MPTV Channels 10 and 36. By Thursday, we were able to confirm through MATC's Washington, D.C. legal counsel for FCC matters that removing all nine board members at one time likely would be considered an unauthorized "transfer of control" of public television licenses. Such transfers require prior FCC approval under federal law.

Despite circulating well-researched information concerning the FCC problem, another legislative attorney opined "on a cursory review" to legislators that the bill should not create problems with the FCC. We learned of the contrary (and, we believed, incorrect) opinion when it was reported online by the Milwaukee Journal Sentinel. MATC officials and Paul Gabriel worked extensively on this issue Thursday to Friday and contacted the Journal Sentinel. By the wee hours Friday morning, the Milwaukee Journal Sentinel had conducted an independent review. The paper agreed with our analysis, stating so in two article postings beginning with Karen Herzog's March 15th posting: *"Is MATC's public television license in jeopardy?"* A major print-version article by Herzog and Patrick Marley appeared in Friday morning's printed paper and online. It confirmed that:

"The Journal Sentinel contacted an independent attorney in Washington, D.C., whose practice focuses on regulatory and business issues facing companies in the broadcast industry. She agreed with MATC's attorney."

The complete article is available [here](#).

End Game

As Thursday gave way to Friday, it was clear that Assembly Democrats were prepared to filibuster against the bill by offering and debating more than 70 amendments. This process would start and stop as Assembly leaders and advocates behind the scenes sought any possible alternative to the stalemate. Because the Senate had already adjourned late Thursday afternoon, the end game appeared to be an all-or-nothing proposition. If the Assembly amended the bill, there was no Senate left to adopt the changes.

Assembly leadership on both sides of the aisle, along with MATC and Boards Association leaders, came close to a breakthrough compromise. However, we all knew that this would require an extreme long shot: the Senate's return in extraordinary session. Simply passing the bill was off the table for Democrats who possessed the power of filibuster in a session already more than 24 hours old. Amending the bill

without the Senate coming back (which would kill it) was off the table for majority Assembly Republicans who possessed the vote cushion to methodically table each amendment in succession for as long as it took.

A glimmer of possibility (brightened by the willing interest of Senate Democrat leader Mark Miller, D-Monona) to bring back the Senate was quickly extinguished by the shock wave rolling down from Wausau Friday morning. Pam Galloway (R-Wausau) had just resigned her Senate seat effective immediately. With the Senate now split 16-16 and recalls looming, the next likely date for the Senate to be on the floor is in January, 2013.

By the Assembly's 24-hour mark at 10 a.m. Friday, the end game crystallized. Any compromise would be outside the bill itself. Democrats could extend the debate but that was it. Republicans could hold out. The dynamic became one of the debate's length, not its outcome.

There were pretty clearly a handful of Assembly Republicans who wished to vote against concurrence along with the Democrats. With a 59-39 majority (60-39 including the one Independent), the votes simply were not there to defeat passage. There was no way to affect the standoff except to prolong it among exhausted members and staff ready for a shower and sleep, ready to end the most contentious session in modern memory. A few members from each side had already left town.

Ultimately, Assembly leaders from both sides, along with the Senate bill sponsor, would work to obtain an informal understanding outside the bill itself to maintain continuity on the MATC Board. While the bill eliminates the entire board immediately, board members continue to serve until successors are appointed. Members of the new appointing authority expressed an intention to appoint 6 of the 9 current members to the new board. These are the current members who qualify for various slots on the new board. This agreement was confirmed in the Milwaukee Journal Sentinel article cited above:

"Sen. Glenn Grothman (R-West Bend) said he had a statement signed by the chairmen of the Ozaukee and Washington County boards of supervisors promising they would reappoint six of the current nine members for the first year if the bill passed, and they received appointment authority."

The remaining Assembly amendments were withdrawn at the authors' request. The bill was concurred in on a voice vote. The bill is now ready for the Governor's consideration and signing. If signed, as is likely, the bill becomes law no later than 11 days later.

What Comes Next?

According to our best reading of complex existing law as affected by the bill's passage, it appears the new appointing authority will be informed of nine vacancies within 30 days of the bill becoming law. This begins the well-worn process of notices, public hearing and board appointments over approximately 60 more days. The new

appointments are then submitted to the WTCS Board for (the Herculean) task of review. The WTCS must assure the appointments meet the complex requirements made more so by this bill. The Board's next regular meetings for action on the appointments (seating the members) are May 15th and July 10-11. This author considers it unlikely for the process to be completed in time for consideration in May.

What the Bill Does

The impact of SB 275 as passed:

- Disbands the entire MATC Milwaukee District Board as soon as the bill becomes law. This appears to be the first time in history the Legislature summarily disbanded an entire local government's governing body of public officials. Little or no factual data was ever presented to support this action. The public hearing, of course, was held on very different bill versions.
- Eliminates the longstanding public board appointment authority of 22 elected school board presidents serving the MATC District. The appointing authority is replaced by an appointment committee of just 4 members. The new appointing body of 4 is comprised of the:
 - Washington County Board Chair (2% of population and 25% of the new appointing committee),
 - Ozaukee County Board Chair (7% of population and 25% of appointing authority) and
 - Milwaukee County Executive and the Milwaukee County Board Chair (50% of the appointing committee membership but over 90% of the district population and 85% of the district's property value).
- Permanently eliminates 5 board seats (2 employer positions, 2 employee positions, and 1 at-large seat) and replaces them with 5 who must come from private "for-profit" businesses, or from not-for-profit health care entities, credit unions or cooperatives.
 - None of the 5 "businesspersons" may come from a business with less than 15 employees.
 - 2 of the 5 must come from entities of 100 or more employees.
 - 2 of the 5 must come from manufacturing entities.
 - The "for-profit" plus health, credit union and cooperatives definition:
 - excludes any persons employed in police and fire service, chambers of commerce, business alliances and economic development groups, community organizations, foundations and charities, mutual insurance companies, fraternal organizations, the U.S. Military, college/university and K-12 education, and many others.
 - excludes all private business retirees. A private industry member would cease to be an eligible businessperson immediately upon retirement. Many leading business members currently serving on

technical college boards have recently retired or will retire during the course of board service.

- excludes taking into account a person's prior professional careers or experience. Three current board members who worked in manufacturing and as a journeyman printer but are in second careers or retired would no longer count as businesspersons.
- excludes many small private business employees arbitrarily only because the business has fewer than 15 employees. According to the U.S. Census Bureau, private firms with fewer than 10 employees comprise 73% of all Wisconsin business firms (thus, 73% of business owners), and those firms employ almost 20% of all private employees statewide.
- eliminates the board's 100-year history of having dedicated employer and employee seats. The replacement members could come from qualifying entities without regard for the level of position they hold.

These provisions make at least 3 of 5 current MATC board members unable to be reappointed. The following 5 members are removed and are not eligible for 7 of 9 new board seats:

- Lauren Baker, Director of Career and Technical Education for Milwaukee Public Schools (not a private businessperson despite 25 prior years as a journeyman printer in private industry);
- Fred Royal, Jr., the District Boards Association's Secretary/Treasurer, an employee of the Milwaukee Help in Re-Employment Center, which assists dislocated workers (not a private businessperson despite being a former long-time Delphi Electronics employee);
- Bobbie Webber, Captain, retired, Milwaukee Fire Department (not a private businessperson);
- Ann Wilson, Director of the Hillside Family Resource Center, part of City of Milwaukee Public Housing (not a private businessperson); and
- Peter Earle, Law Offices of Peter Earle (a private businessperson, but not qualified because his business has less than 15 employees).

In addition to the 5 members above, the remaining 4 members are also removed but are eligible to be re-appointed under the new law:

- Melanie Holmes, board chair, vice president of Manpower Group, Inc., a Fortune 100 Corporation (businessperson);
- Michael Katz, President, Molded Dimensions, an Ozaukee County manufacturing company (businessperson);
- Tom Michalski, an Oak Creek Alderman and retired machinist (elected official); and
- Dr. Richard Monroe, Nicolet High School District (school district administrator). Note that a new school administrator was just appointed to replace Dr. Monroe by the outgoing appointment authority at its regular annual appointment hearing on March 17th.

Unanswered Questions

Many questions remain. The bill represents a watershed moment for technical colleges statewide, and, perhaps, for all local government bodies. During floor debate, Senator Dave Hansen (D-Green Bay) made the point (to paraphrase): “This bill represents the first time the legislature has ever summarily disbanded an entire local government’s governing body.” Soon after, Senator Jennifer Shilling (D-La Crosse) asked: “Who is next?”

Throughout the process, there was almost no data or evidence suggesting problems with the MATC Milwaukee board or college. The most significant statement made in public was offered without any data or substantiation. Senator Grothman rose during debate to state that (again, to paraphrase) “MATC graduates are not as well prepared as the graduates at other technical colleges.” We believe that the members of both houses received solid factual data from us refuting this prior to voting.

Coda

The resiliency and responsiveness of Wisconsin technical colleges has grown steadily over 100 years. Neither is easily eroded by any single cause or event. It seems ironic that this bill would pass when considered on both its public policy and historical dimensions. In terms of public policy, it was arguably the most targeted and dramatic change imposed on any local government by the state in a long time. Yet (at least to this author), it was among the least publicly considered and publicly justified. In terms of history, it would pass in the final minutes of a legislative session long to be remembered for many reasons. It would pass in a legislative session capping, among other events, the year of Milwaukee Area Technical College’s centennial.

Author’s note: WisconsinEye Senior Producer and veteran Capitol reporter Steve Walters interviewed Senator Glenn Grothman and Assembly Assistant Minority Leader Sandy Pasch (D-Shorewood) today concerning this bill for the “Newsmakers” television program. A link to the video is found [here](#).

This report was prepared by Paul Gabriel for the Wisconsin Technical College District Boards Association. Any analysis or opinion in this report is exclusively the author’s.