



**MEQUON-THIENSVILLE SCHOOL DISTRICT
BOARD OF EDUCATION**

EXECUTIVE SUMMARY

<p>Subject: Action to Approve the Resolution to Retain the Law Firm of Foley & Lardner LLP to provide Board with Legal Services and Representation</p>	<p>Category: <input checked="" type="checkbox"/> Action <input type="checkbox"/> Discussion <input type="checkbox"/> Information</p>
<p>Attachments (2):</p> <ul style="list-style-type: none"> • Board Communication - November 2, 2011 • Resolution 	<p>Date for Consideration: January 16, 2012</p>

Background

Please review attached Board communication dated November 2, 2011.

Foley and Lardner LLP has agreed to represent the consortium of school districts on a contingency basis. Action to approve the attached board resolution by each school district is necessary in order for them to begin this process.

<p>Highlights:</p> <ul style="list-style-type: none"> • District joining consortium of school districts which left WEA Trust in attempt to recover funds received directly by WEA from the federal government for Early Retiree Reinsurance Program (ERRP). WEA applied for these funds on behalf of their clients (school districts). • Foley & Lardner has agreed to represent school districts on a contingency basis. No cost for legal representation beyond contingency fee arrangement. Contingency fee will be equal to 33.3% of successful recovery plus expenses. (Note: 40% fee if results in appellate court). • Amount still due the Mequon-Thiensville School District is \$75,570. Potential recovery amount will be based on our districts pro rata share of funds held by WEA in comparison to all districts funds held by WEA in consortium multiplied by the amount of funds ultimately recovered. 	
<p>Strengths</p>	<p>Needs Improvement</p>
<ul style="list-style-type: none"> • Participation in consortium makes it cost effective for our district to seek recovery of these funds. • Recovery of some portion of \$75,570 in funds with no risk to district possible. 	<ul style="list-style-type: none"> • ERRP funds recovered have limitations and must be used as intended by the federal government to reduce the cost of providing health coverage to retirees.

Recommendation

It is recommended the Board approve the attached resolution retaining legal services of Foley & Lardner LLP for representation in this matter.

Submitted By: Gail Grieger, Director of Business Services	
Board of Education Action:	<input type="checkbox"/> Approve <input type="checkbox"/> Reject <input type="checkbox"/> Research/Report Back

MEQUON-THIENSVILLE SCHOOL DISTRICT
5000 West Mequon Road
Mequon, Wisconsin 53092

MEMORANDUM

Demond A. Means, Ed.D., Superintendent
Eric J. Dimmitt, Director of Curriculum, Instruction & Assessment
Hughes B. George, Director of Pupil Services
Gail M. Grieger, Director of Business Services

November 2, 2011

TO: Dr. Means and the Board of Education

FROM: Gail Grieger, Director of Business Services

SUBJECT: WEA Insurance Issue

The purpose of this communication is to inform you of potential litigation with WEA Insurance involving a class action lawsuit with several area school districts.

As a result of federal health care reform, the government created a temporary program called the Early Retiree Reinsurance Program (ERRP) to promote health coverage for early retirees. As part of this program, the government set aside a limited amount of funds that could be used for this purpose. Last spring, WEA Trust informed school districts that, as the plan sponsor, they were applying for these funds on behalf of their school districts. School districts were "told" by WEA the credit to be received without any supporting documentation. In addition, WEA indicated they were distributing these funds back to school districts in the form of a premium credit that must be used during the 2011-12 plan year.

The credit identified by WEA for the Mequon-Thiensville School District was \$90,685. Since the district changed carriers in September, we were able to apply two months or \$15,114 of the credit—leaving a balance due of \$75,571.

We have been working with a consortium of school districts that left WEA Trust and are exploring seeking recovery of these funds. The law firm of Foley & Lardner has expressed interest in taking the case on a contingency basis if there is sufficient claim volume to cover their cost/time.

I have committed the district at this point on a preliminary basis. If there should be sufficient interest to move forward with litigation, formal approval by the board would be necessary. While the dollars due MTSD are not as substantial as other school districts in this claim, I do not see any "downside" to participating in this process. Based on our balance due, it would not be cost effective to pursue this issue alone, therefore, any dollars recovered would be a gain.

I will continue to update you as any new information becomes available. If you have any questions, please feel free to contact me. Thank you.

Resolution of the Mequon-Thiensville School District Board of Education

Pursuant to the authority bestowed upon it by section 120.13(9m) of the Wisconsin Statutes, the Mequon-Thiensville School District Board of Education hereby resolves to retain the law firm of Foley & Lardner LLP to provide the Board with legal services and representation pursuant to the attached letter of engagement dated January 9, 2012.

Approved this 16th day of January, 2012.

Suzette Urbashich, Board President

Cindy L. Miske, Board Clerk