

HOUSE BILL REPORT

SHB 1865

As Amended by the Senate

Title: An act relating to school district contracting.

Brief Description: Allowing school districts to contract with other public and private entities.

Sponsors: By House Committee on Education (originally sponsored by Representatives B. Thomas, Johnson, Talcott, Thompson, Radcliff, Mulliken, Hickel, Backlund, Zellinsky and McDonald).

Brief History:

Committee Activity:

Education: 2/18/97, 3/4/97 [DPS].

Floor Activity:

Passed House: 3/13/97, 96-0.

Senate Amended.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Johnson, Chairman; Hickel, Vice Chairman; Cole, Ranking Minority Member; Keiser, Assistant Ranking Minority Member; Linville; Quall; Smith; Sterk; Sump; Talcott and Veloria.

Staff: Pat Shelledy (786-7149).

Background: A school district is a corporate body and possesses all the usual powers of a public corporation. A school district may sue and be sued, transact business necessary for maintaining the school district and schools, protect the rights of the district, and enter such obligations as authorized by law.

The board of directors of each school district has broad discretionary power to determine and implement written policies not in conflict with other laws.

A variety of provisions in the education code provide that school districts may contract for various goods or services. There is not a general provision in the code that specifically provides that school districts have a general authority to contract.

The Washington State Supreme Court has held that a government agency may not avoid obligations imposed on the government agency by contracting with a private organization to fulfill a role of the agency. In general, an agency only has those powers that are expressly given or necessarily implied in statute.

A provision in the education code provides that if a school district enters into a contract for services that had previously been performed by classified school employees, the contract must contain a specific clause providing for health care benefits for the contracting entity's employees. The provision also requires the school district to conduct a feasibility study regarding the impact of entering into contracts for services, obtain the Superintendent of Public Instructions's approval, and comply with existing collective bargaining agreements. This provision applies to contracts for services being performed by classified staff as of July 26, 1993.

Summary of Bill: An express provision is added to statutory provisions governing school districts to provide that a board of directors of a school district may contract with other school districts, educational service districts, public or private organizations, agencies, schools, or individuals to implement the board's powers and duties. The board may contract for goods and services, including but not limited to goods and services as specifically authorized in statute or rule, as well as other educational, instructional, and specialized services.

Contracts may not be made with religious or sectarian organizations or schools.

When a school contracts for educational or specialized services, the purpose of the contract must be to improve student learning.

A technical correction is made to clarify that the statute governing contracting for services performed by classified staff as of July 25, 1993 is meant to apply to contracts on or after July 25, 1993.

EFFECT OF SENATE AMENDMENT(S): School districts may contract with religious or sectarian organizations if the contract does not violate the state or federal constitution.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill just tries to make it clear that school boards have authority to enter into contracts. The ability to contract for services enhances local control and helps districts meet specialized needs such as services for at-risk youth, vocational-

technical instruction, or other services that may be hard to find within the regular teaching faculty.

Testimony Against: Education of children should be based on proven products, not new and innovative contracts for services. School districts are not necessarily trustworthy and must be held accountable. Records must be kept. Parents must be available to review what is being taught. Nothing in current law prohibits school districts from contracting for services. The intent of the bill regarding the provisions governing classified employees is not clear. That provision is used in practice, and protects employees. Not all contracts for outside services have been successful or cost effective.

Testified: Representative Thomas, B., prime sponsor; Lynn Harsh, Evergreen Freedom Foundation (supports); Muriel Tingley, WA Parents Coalition for Academic Excellence (supports with concerns); Lloyd Gardner, citizen (supports); Doug Nelson and Patrick Lambert, Public School Employees (opposed); Dave Westberg, Council of Stationary Engineers (opposed); Lois McMahan, citizen (supports); and Dwayne Slate, Washington State School Directors' Association (supports).