

SENATE BILL REPORT

SHB 1865

As Reported By Senate Committee On:
Commerce & Labor, April 1, 1997

Title: An act relating to school district contracting.

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

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

Brief History:

Committee Activity: Commerce & Labor: 3/27/97, 4/1/97 [DPA].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended.

Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Heavey and Newhouse.

Staff: Jonathan Seib (786-7427)

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 Amended 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.

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

A contract may not be made with a religious or sectarian organization or school where the contract would violate the state or federal Constitution.

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.

Amended Bill Compared to Substitute Bill: The amendment clarifies that a contract with religious or sectarian organizations are prohibited only where it would 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 clarifies the contracting authority of school districts, explicitly providing them with the same contracting rights as other public corporate bodies in the state. It gives school boards explicit options to use taxpayer dollars as wisely and efficiently as taxpayers would like.

Testimony Against: None.

Testified: PRO: Representative Thomas, prime sponsor; Doug Nelson, Public School Employees; Dan Steele, Washington State School Directors' Association.