

HOUSE BILL REPORT

HB 3038

As Reported by House Committee On:
Education

Title: An act relating to standards and accountability in education.

Brief Description: Regarding standards and accountability in education.

Sponsors: Representatives Maxwell, Priest, Sullivan, Carlyle, White, Hunt, Kagi, Anderson, Kenney, Conway, Rolfes and Clibborn.

Brief History:

Committee Activity:

Education: 1/27/10, 2/2/10 [DPS].

Brief Summary of Substitute Bill

- Requires the Superintendent of Public Instruction (SPI) annually to identify the persistently lowest-achieving schools in the state, using federal definitions.
- Directs the SPI to recommend and the State Board of Education (SBE) to designate school districts for Required Action if they have a persistently lowest-achieving school, based on criteria established by the SPI, and subject to the availability of federal school improvement funds.
- Requires the SPI to contract for an academic performance audit for Required Action districts and requires these districts to prepare a plan to implement one of four federal intervention models in their persistently lowest-performing schools.
- Provides for re-opening or negotiating addenda to collective bargaining agreements to make changes needed to implement a Required Action plan and, if there is an impasse, provides for mediation and superior court order to resolve disputes.
- Requires plans to be submitted to the SPI for approval and directs districts to implement them, subject to availability of federal funds.
- Allows for a district to request reconsideration by the SBE if the plan is rejected, based on whether the SPI gave appropriate consideration to the unique circumstances of the school district.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Authorizes the SPI to revise the state learning standards and, by August 2, 2010, provisionally adopt a common set of standards that are substantially identical to those developed by a multi-state consortium. Prohibits the SPI from implementing the revisions until the Education committees of the Legislature have an opportunity for review.
- Requires each school to conduct outreach and seek feedback from a diverse range of parents and community members and to include a summary of this information in its annual school performance report.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Quall, Chair; Maxwell, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Dammeier, Fagan, Hunt, Johnson, Orwall, Probst and Santos.

Minority Report: Do not pass. Signed by 2 members: Representatives Lias and Sullivan.

Staff: Barbara McLain (786-7383).

Background:

System of School and District Accountability.

Introduction. In 2005 the Legislature directed the newly-reconstituted State Board of Education (SBE) to "implement a standards-based accountability system of academic achievement." Since that time, the SBE has worked extensively to consider and develop options for such a system. In 2009 the Legislature made the direction more specific by requiring the SBE to develop:

- an accountability index to identify exemplary schools that deserve recognition, as well as schools that need additional help to improve student achievement;
- a proposal and timeline for a voluntary system of support and assistance for schools and districts; and
- a proposal and timeline for a comprehensive system of improvement targeted to schools and districts that have not demonstrated sufficient improvement through the voluntary system.

The SBE submitted its report and recommendations to the Legislature on December 1, 2009.

Federal Accountability and School Improvement. Washington's approach to identifying schools and districts needing improvement has followed the requirements of the federal No Child Left Behind Act of 2001 (NCLB). The NCLB requires that schools and districts make "adequate yearly progress" (AYP) by meeting established annual goals for scores on state assessments in mathematics and reading, graduation rates, and unexcused absence rates, both for all students as well as for each identified subgroup of students.

Schools are categorized as "needing improvement" if they do not make AYP for two years in a row. There are successive subcategories or steps for schools that continuously do not make AYP, including "corrective action" and "restructuring." Although the state is required to identify all schools in the various steps of needing improvement, school districts are required to take the corrective actions specified by the NCLB only in those schools that receive Title I funds.

State Assistance to Schools and Districts Needing Improvement. During the past six years, the Superintendent of Public Instruction (SPI) has established focused assistance programs for schools that need help improving student achievement. These programs have provided needs assessments, external facilitators, coaches, professional development, planning assistance, and various other services to participating schools and districts. Federal funding is available for Title I schools; state funds have also been provided to extend the services to non-Title I schools. The total state and federal investment in focused assistance for 2009-10 was \$21 million, of which \$3 million was from state funds.

Participation of schools and districts in focused assistance, including Title I schools, has been entirely voluntary. Washington has had a law prohibiting the SPI or the SBE from intervening in a school or district unless the Legislature authorized a set of intervention strategies. In 2009 this law was modified, but any proposal by the SBE to implement an involuntary system of assistance takes effect only if formally authorized by the Legislature.

New Federal School Improvement Regulations. In December 2009 the U.S. Department of Education issued new regulations governing the use of federal funds for school improvement. The American Recovery and Reinvestment Act of 2009 provides approximately \$42.5 million for school improvement to Washington over the next three years.

Under the new regulations:

- significant resources and attention are focused on the lowest 5 percent of persistently lowest-performing schools that are eligible for Title I funds;
- persistently lowest-performing schools are identified on the basis of overall performance of all students and lack of progress over time; and
- school districts are required to implement one of four federal intervention models in persistently lowest-performing schools.

The four intervention models are:

1. Turnaround: A district would be required to replace the principal, rehire no more than 50 percent of the staff, adopt a new governance structure for the school, provide high quality professional development, and use data to identify and implement a research-based instructional program.
2. Restart: A district must close the school and reopen it either as a charter school or under the management of an external education management organization.
3. Closure: A district closes the school and enrolls the students in other schools in the district that are higher-performing.
4. Transformation: In addition to replacing the principal, a variety of required and optional activities are outlined. The activities are intended to develop teacher and leader effectiveness, implement comprehensive reform strategies, increase learning

time and create community-oriented schools, and provide operational flexibility and sustained support to the new principal.

School district participation in the new federal school improvement process is voluntary.

Proposal from the SBE. The SBE's December 2009 report recommends implementation of a new system of state support and assistance in two phases. The first phase, to be implemented in 2010, would focus on persistently lowest-achieving schools under the new federal guidelines, using federal funds. The second phase, beginning in 2013, would include non-Title I schools and permit more flexibility in both identification of schools as well as intervention models.

The report also outlines a proposed procedure for identifying a subset of school districts that must implement SBE-approved school improvement plans (called Required Action Districts and Required Action Plans). The new Accountability Index adopted by the SBE would be used to identify exemplary schools for recognition.

Common Core Standards.

The SPI is responsible for developing, adopting, and periodically revising the state learning standards. If requested, the SPI must provide opportunities for the Education committees of the Legislature to review any proposed modifications to the standards before they are adopted.

In the spring of 2009 Washington signed a Memorandum of Understanding (MOU) to join the Common Core Standards Initiative (Initiative) along with 47 other states. The Initiative is an effort led by the National Governor's Association and the National Council of Chief State School Officers to develop a single, common set of standards for English language arts and mathematics in K-12, as well as a set of college and career readiness standards.

The Initiative's definition of "adoption" is that a state adopts the standards either in their entirety or with no more than 15 percent additional content within three years. The college and career readiness standards were released for comment in September 2009. The K-12 standards are scheduled to be released in January 2010. The MOU does not obligate Washington to adopt the standards.

School Report Card.

Each school is required to publish an annual school performance report, deliver it to parents of children in the school, and make it available to the community. The minimum content of the report includes enrollment statistics and student demographics, student achievement data, an annual budget report, and a description of learning improvement plans for the school.

Summary of Substitute Bill:

System of School and District Accountability.

Intent. The Legislature finds that it is the state's responsibility to create a coherent and effective accountability framework for continuous improvement for all schools and districts.

Phase I of this framework will use the SBE's Accountability Index to recognize schools that have done an exemplary job of raising student achievement and closing achievement gaps. Phase I will also target the persistently lowest-achieving schools defined under federal guidelines to provide federal funds and federal intervention models, voluntarily in 2010 and through a Required Action process in 2011.

Phase II will work toward using the Accountability Index to identify schools needing improvement, including those that are non-Title I schools, and using state and local intervention models and state funds beginning in 2013, in addition to the federal program.

Persistently Lowest-Achieving Schools. Beginning in 2010 and each year thereafter by December 1, the SPI must identify schools that are the persistently lowest-achieving in the state. A school is considered persistently lowest-achieving if it is a Title I or Title I-eligible school that is among the lowest-achieving 5 percent of schools in the state. The criteria for identifying persistently lowest-achieving schools must:

- be established by the SPI;
- meet federal requirements for receipt of a federal school improvement grant; and
- take into account the academic achievement of all students on the state assessments in reading and mathematics, as well as the school's lack of progress over time on this indicator.

Required Action Districts. Beginning in January 2011, the SPI must annually recommend to the SBE those school districts to be designated as Required Action districts.

Any district with at least one school identified as persistently lowest-achieving is designated as a Required Action district if it meets the criteria established by the SPI. However, a district will not be identified as a Required Action district if it received a federal school improvement grant in 2010 and implemented a federal intervention model in each persistently lowest-achieving school. Such a district may be designated as a Required Action district if it still meets the criteria for designation after implementing a school improvement plan for three years. A school district may request reconsideration of whether it met the criteria to be a Required Action district.

The SBE designates Required Action districts as recommended by the SPI. A designated district must notify the parents of students attending a persistently lowest-performing school of the designation and inform them of the process that is required for Required Action districts.

Required Action Plan. The SPI must contract with an external review team to conduct an academic performance audit of a Required Action district and its persistently lowest-achieving schools. The audit is based on criteria developed by the SPI, a number of which are specified.

The superintendent and school board of a Required Action district must develop a Required Action Plan (Plan) in collaboration with staff, parents, unions, students, and other representatives of the community and hold a public hearing on the proposed Plan. The SPI must provide assistance in developing a Plan if requested, including assistance to ensure the Plan is consistent with federal guidelines.

A Plan must include all of the following:

1. Implementation of one of four federal intervention models that are required for receipt of federal school improvement grants in those persistently lowest-performing schools that the district will be focusing on for Required Action. The models are the turnaround, restart, school closure, and transformation models, except that a district is not authorized to establish a charter school under one of the federal models without express legislative authorization. The model selected must address the concerns raised in the academic performance audit and be intended to allow removal of the Required Action designation within three years.
2. Submission of an application for a federal school improvement grant to the SPI.
3. A budget that provides adequate resources to implement the Plan.
4. A description of the changes in policies, agreements, and practices intended to accomplish significant gains in student achievement.
5. Identification of measures to be used to assess student achievement in persistently lowest-achieving schools, including mathematics and reading achievement and graduation rates.

Collective Bargaining Agreements. For any Required Action district, the parties to any collective bargaining agreement negotiated, renewed, or extended after the bill takes effect must reopen the agreement or negotiate an addendum if changes to terms and conditions of employment are needed to implement a Plan.

If the school district and employee organizations are unable to agree to these changes, the parties must request the Public Employment Relations Commission (PERC) to appoint a mediator. Mediation must commence no later than April 15. Mediations include the employer and representatives of all affected bargaining units.

If the PERC finds that the parties are unable to reach agreement after a reasonable period, but no later than May 15, the PERC director must certify any disputed issues for a decision by the superior court of the county in which the district is located. The issues before the superior court are limited to those issues certified by the PERC director.

By May 20 the school district must file a petition with the superior court that includes the certified issues and the academic performance audit for the district. Each party then files the proposal that it is asking to be implemented in a Plan, along with briefs providing the reasons. The superior court must schedule a hearing, which is limited to argument of the parties on their proposals.

The superior court must enter an order selecting the proposal that best responds to the issues raised in the district's academic performance audit and allows for the award of a federal school improvement grant. Orders must be issued no later than June 15 and are binding on

the parties, except that the court's decision is subject to appeal if it does not allow the district to implement a Plan that is consistent with an award of a federal school improvement grant.

Each party bears its own costs and attorneys' fees. Amendments are made to school employee collective bargaining laws to cross-reference the collective bargaining provisions in the bill.

Plan Approval and Implementation. Required Action plans must be submitted to the SPI for approval. The SPI must accept any orders from a superior court for inclusion in a Plan. Any addendum or modification of a collective bargaining agreement does not go into effect until the SPI approves the Plan.

The SPI must explain its rationale for not approving any Plan. The district must either submit a new plan within 40 days, or within 10 days can request reconsideration by the SBE. The reconsideration is based on whether the SPI gave appropriate consideration to the unique circumstances and characteristics of the district. The SBE can reaffirm the decision of the SPI, recommend that the SPI reconsider, or recommend changes that should be considered to secure Plan approval. The SPI must consider the SBE's recommendations and issue a decision. If the district must submit a new Plan, it must do so within 40 days. If federal funds are not available, a Plan is not required to be implemented. Otherwise, a Plan must be implemented in the school year immediately following designation as a Required Action district. The SBE and the SPI must develop timelines and procedures for these deliberations so that a district can implement its Plan within the timeframe required.

If a district has not submitted a final Plan for approval, or has submitted a Plan but not received approval by the beginning of the school year that the Plan is to be implemented, the SPI is authorized to redirect the district's Title I funds based on the academic performance audit.

The SPI must provide a biannual report to the SBE on the progress of all Required Action districts in implementing their plans. The SPI must recommend that a district be released from Required Action after the district implements a Plan for three years, has made progress (as defined by the SPI), and no longer has a persistently lowest-performing school. If the SBE determines that a district has not made sufficient progress, the district remains in Required Action and must submit a new or revised Plan.

Other. The SBE, in cooperation with the SPI, must annually recognize schools for exemplary student performance, as measured by the SBE Accountability Index.

Provisions of law directing the SBE to develop and submit proposals to the Legislature for an accountability system are repealed, including a requirement that a proposal for addressing performance challenges takes effect only if formally authorized by the Legislature.

Joint Select Committee. A Joint Select Committee (Committee) is created with eight legislative members to examine options and models for significant state action, particularly in the case of persistent lack of improvement by a Required Action district. The Committee must submit an interim report by September 1, 2011, and a final report with recommendations by September 1, 2012.

Common Core Standards.

The SPI is authorized to revise the state standards in mathematics, reading, writing, and communication by August 2, 2010, by provisionally adopting a common set of standards that are substantially identical to the ones developed by a multi-state consortium in which Washington participated. Additional standards may be included if they do not exceed 15 percent of the standards in each content area. The SPI must not implement the provisionally-adopted standards until the legislative Education committees have an opportunity for review. By January 1, 2011, the SPI must submit a detailed comparison of the provisional standards and the state standards, as well as an estimated timeline and costs to implement the provisional standards.

School Report Card.

Beginning in 2010-11, each school must conduct outreach and seek feedback from a diverse range of parents and community members regarding their experience with the school. Schools must summarize the feedback and include it in the annual school performance report.

Substitute Bill Compared to Original Bill:

A persistently lowest-performing school is among the lowest-performing 5 percent of all Title I or Title I-eligible schools, not just those that are in federal improvement status. The criteria used by the SPI to identify persistently lowest-performing schools are those required for a district to receive a federal grant. School districts who volunteer to participate in the federal grant in 2010 will not be designated as Required Action for three years; however they may be designated after that if they still have a persistently lowest-performing school in the district and meet the criteria for designation. A district's Plan can address only selected persistently lowest-achieving schools rather than all of them. Provisions regarding collective bargaining agreements apply to agreements renewed or extended after the bill takes effect, in addition to those that are negotiated after that time.

School districts submit their Plans to the SPI, rather than the SBE, for approval. A preliminary submittal for approval that a plan is consistent with federal guidelines is not required. If the SPI rejects a required action plan, the district can submit a request for reconsideration by the SBE, which is based on whether the SPI gave appropriate consideration to the unique circumstances of the school district. Possible recommendations by the SBE are specified, which must be considered by the SPI before a decision is issued. The SBE and the SPI must develop timelines and procedures so that a district can implement its plan within the timeframe required. The SPI has authority to redirect a district's Title I funds without SBE direction if a plan is not approved. If a district remains in Required Action status after three years, it must submit a new or revised Plan. It is clarified that a Plan must be implemented only if federal funds are available.

School employee collective bargaining laws are amended to cross-reference the collective bargaining provisions in the bill. The new accountability laws are placed into a new RCW chapter. A Joint Select Committee on Education Accountability is created with eight legislative members to examine options and models for significant state action, particularly

in the case of persistent lack of improvement by a Required Action district. An interim report is due September 1, 2011, and a final report is due September 1, 2012.

The SPI is authorized, rather than required, to revise the state learning standards by adopting a common set of standards by August 2, 2010. This adoption is provisional, and the SPI cannot implement the provisionally-adopted standards until the Education committees have an opportunity for review. The SPI must submit a detailed comparison of the new standards and the current standards, along with an estimated timeline and costs to implement the new standards.

Each school must conduct outreach and seek feedback from a broad and diverse range of parents and other community members rather than conduct a survey.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) We all know there is room for improvement in student achievement. The notion of accountability appears to be a new idea, but it is not new at all. Policymakers and educators have been working on these issues for a decade or more; this bill is like a culminating project. Accountability is a key role of a school board in its oversight of the district. It is a responsibility that school board members take very seriously. However, under certain circumstances, a voluntary system of school improvement is not enough to bring opportunity and success for all students. It is time to roll up our sleeves and address failing schools. Raising standards and assessing progress alone will not improve the achievement of all students. This is about being accountable to parents and the community, and ensuring that all children have access to an excellent, equitable education. Major modifications have been made to the original proposal by the SBE to address concerns and clarify provisions. Improvement plans will be developed collaboratively with local school districts, their employees, and their communities. Required Action status will be limited to a small number of districts that have not been able to sustain improvement over time. The proposal provides a model for the state to intervene on behalf of students to provide the assistance and support those districts need. The planning process is collaborative and negotiated, and all parties are brought to the table.

As long as the common core standards are more focused and targeted, they should work for our state. This legislation is needed to get us into the race for federal funds, but Washington must focus on what is needed for our own state.

(In support with concerns) There continue to be concerns around accountability. The original education reform bill in 1993 promised high standards and assessments, flexibility

and resources for school districts, and accountability. We have the first, and we are working on the third. Flexibility and resources seem to be completely neglected. We are concerned about being held accountable for things, but not given the opportunity to succeed. This proposal is vastly different from the one considered several years ago, so progress is being made. The Plans should not have to be submitted first to the SPI and then to the SBE. It is good that the provision requiring withholding of Title I funds has been removed, but there is a question about having the SBE direct the SPI to do something. Classified employees should not be included in the mediation provisions in the bill. There is already an impasse procedure in law that works well for these employees. The audit team from the academic performance audit should approve the Plan. They will be the ones who know the situation in the school district. It is a double-edged sword that people recognize the importance of the principal in school improvement, since the federal models all call for the principal to be removed.

(Opposed) None.

Persons Testifying: (In support) Representative Maxwell, prime sponsor; Randy Dorn, Superintendent of Public Instruction; Warren Smith, Edie Harding, and Connie Fletcher, State Board of Education; Lucinda Young, Washington Education Association; Judy Hartmann, Governor's Executive Policy Office; Doreen Cato, Stand for Children and First Place; and Jerry Bender, Association of Washington School Principals.

(In support with concerns) Dan Steele, Washington State School Directors' Association; and Doug Nelson, Public School Employees of Washington.

Persons Signed In To Testify But Not Testifying: (In support) Caroline King, Partnership for Learning; and Kim Howard, Washington State Parent Teacher Association.

(Neutral) Liv Finne, Washington Policy Center.