

# SENATE BILL REPORT

## 2SHB 2113

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As of March 27, 2009

**Title:** An act relating to placements of students in residential habilitation centers.

**Brief Description:** Regarding placements of students in residential habilitation centers.

**Sponsors:** House Committee on Education Appropriations (originally sponsored by Representatives Kagi, Chase, Quall and Morrell).

**Brief History:** Passed House: 3/09/09, 97-0.

**Committee Activity:** Early Learning & K-12 Education: 3/26/09.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Staff:** Susan Mielke (786-7422)

**Background:** The state funds a 220-day educational program for children in certain institutions. Institutional education funding is allocated to local school districts, educational service districts, or other entities that provide the educational program on a monthly basis. The five types of institutions receiving institutional education program funding are:

1. Residential habilitation centers (RHCs), which provide 24-hour-a-day care for children with profound mental, physical, or behavioral disabilities who can not be served in less restrictive settings. There are three centers maintained by the Division of Developmental Disabilities and the Division of Mental Health of the Department of Social and Health Services (DSHS): Fircrest in the Shoreline school district, Morgan in the Bremerton school district, and Child Study and Treatment at Western State in the Clover Park school district.
2. State group homes, which provide 24-hour-a-day services for adjudicated youth. There are six group homes maintained by the Juvenile Rehabilitation Administration of the DSHS.
3. Institutions for juveniles committed by the courts, which provide 24-hour-a-day diagnosis, confinement, and rehabilitation of juveniles. There are five institutions maintained by the Juvenile Rehabilitation Administration of the DSHS.
4. County detention centers, which provide 24-hour-a-day treatment and care for juveniles who have been placed under protective custody or have committed a criminal offense. There are 21 centers maintained by county governments.
5. State corrections facilities, which provide 24-hour-a-day incarceration of adults and juveniles committed as adults. Institutional education funding is provided for the

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education of juveniles under 18 years of age. There is one correctional facility operated by the Department of Corrections that houses juvenile inmates.

State funding for each type of institution is provided based on a formula similar to the general apportionment funding formula. Each full-time equivalent (FTE) student generates staff units, which in turn generate dollars for salaries, benefits, and other costs of the program. Institutional education allocations are based on annual average FTE student enrollment, which reflect the average of student counts taken once per month throughout the year. During the 2007-2008 school year, there were approximately 1,573 student FTEs served through institutional educational programs. The average per student allocation was approximately \$11,943. The 2007-2009 budget included approximately \$38.9 million for institutional education funding.

In addition to the institutional per-student allocation, to the extent that the students have disabilities that require special education, the school districts in which the institutions are located may seek additional funds through the safety net process. School districts must demonstrate extraordinary special education program costs beyond state and federal resources to access the safety net funds.

Current law requires DSHS to provide transportation, furniture, equipment, heat, lights, telephones, janitorial services, repair services, clinical and medical evaluation services, and other support services and facilities necessary to conduct the program of education for institutions.

**Summary of Bill:** School districts where RHCs are located are eligible for RHC impact assistance for actual costs associated with educational services provided to students who are RHC residents to the extent that those costs exceed funding otherwise provided to serve those students. Eligible school districts must apply to the Office of the Superintendent of Public Instruction (OSPI) for such assistance and demonstrate that the actual costs were legitimate expenditures associated with educational services and that the costs exceed the total of other state and federal allocations and grants as well as private grants, bequests, and gifts made for the purpose of maintaining and operating the program of education for these students. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for impact assistance awards.

The OSPI may adopt rules and procedures necessary for administration of the impact assistance, which must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. Prior to revising any standards, procedures, or rules, the OSPI must consult with the Office of Financial Management and the fiscal committees of the Legislature.

The responsibilities of the DSHS to provide transportation, furniture, equipment, heat, lights, telephones, janitorial services, repair services, clinical and medical evaluation services, and other support services and facilities necessary to conduct the program are unchanged.

No later than 24 hours after it becomes known to DSHS that a person between the ages of three and 21 will be placed at a RHC, DSHS must provide notice to the superintendent of the school district in which the RHC is located. DSHS and the district must cooperate to

facilitate, to the maximum extent possible, the smooth transition of educational services and assure that the school district is able to provide the necessary educational services.

If any part of this act is found to conflict with federal requirements for the state to receive federal funds, then the conflicting part of the act is inoperative.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 11, 2009.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: There has been a significant increase of severely disabled children placed in RHCs. The RHC in the Shoreline school district, in particular, has seen a large increase. These children generally have very high needs. The district must develop an individual education plan for the child and work with the RHC to find the least restrictive environment for the child's education. We need to put into law the principle that the state will pay for the education of these state-placed children.

CON: We oppose this legislation. The underlying problem is that there is a lack of specialized group homes, which has created a concentration of kids being placed at RHCs. The school districts have funding available to them through DSHS, which should cover those things that are not appropriately covered through the institutional funding or the special education safety net. The statute lists those things that DSHS are responsible to provide. This is not the right way to go about fixing the problem. There are other institutional programs that also create high concentrations of students with disabilities in school districts and they will not have access to these funds under this bill.

OTHER: School districts with RHCs within the district receive funds from several sources: institutional funding; special education safety net; and DSHS. This bill is to fill any gaps there might be between those different fund sources. We cannot determine the actual cost of this bill because the cost of the program is dependent on the particular needs of the student. Because there is a concentration of students with very high needs in these school districts where the costs may not be appropriately addressed through the other sources, there have been gaps. Because the safety net has been improved, there should not be as many of these gaps that will occur.

**Persons Testifying:** PRO: Representative Kagi, prime sponsor.

CON: Christie Perkins, Washington State Special Education Coalition.

OTHER: Jennifer Priddy, OSPI.