

SENATE BILL REPORT

SHB 2492

As Reported by Senate Committee On:
Early Learning & K-12 Education, February 22, 2012
Ways & Means, February 27, 2012

Title: An act relating to requiring the state board of education to provide fiscal impact statements before making rule changes.

Brief Description: Requiring the state board of education to provide fiscal impact statements before making rule changes.

Sponsors: House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Haigh, Dammeier, Maxwell, Dahlquist, Liias, Finn and Santos).

Brief History: Passed House: 2/09/12, 97-0.

Committee Activity: Early Learning & K-12 Education: 2/16/12, 2/22/12 [DP-WM].
Ways & Means: 2/27/12 [DP, w/oRec].

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators McAuliffe, Chair; Rolfes, Vice Chair; Litzow, Ranking Minority Member; Eide, Fain, Harper, Hill, Hobbs, King, Nelson and Tom.

Staff: Susan Mielke (786-7422)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Brown, Conway, Fraser, Harper, Hatfield, Hewitt, Holmquist Newbry, Honeyford, Kastama, Kohl-Welles, Padden, Pridemore, Regala and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senators Baumgartner, Keiser and Tom.

Staff: Elise Greef (786-7708)

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.

Background: The State Board of Education (SBE) was first established by the Territorial Legislature in 1877. SBE currently consists of 16 members: five elected by school board members, seven appointed by the Governor, one elected by private schools, the Superintendent of Public Instruction, and two nonvoting students. Its statutory purpose is to provide advocacy and strategic oversight of public education, implement a standards-based accountability framework, provide leadership, and promote achievement of the Basic Education goals. Additionally, the Legislature has specifically delegated several responsibilities to SBE and authorized SBE to adopt rules in these areas, including implementing the statewide accountability system; setting high school graduation requirements; monitoring compliance with Basic Education requirements; and accrediting approved private schools.

The Office of the Superintendent of Public Instruction (OSPI), SBE, and the Professional Educator Standards Board are the state agencies that have rule-making authority in the area of education. The Administrative Procedures Act provides the process that state agencies must follow when adopting rules. Except in limited circumstances, agencies must provide notice of a proposed rule and an opportunity for public comment on the rule. Agencies can use an expedited process in certain limited circumstances. Generally this process is available if the rule:

- applies only to internal government operations;
- only incorporates federal or state law or rules;
- makes technical corrections without changing its effect;
- is explicitly and specifically dictated by statute; or
- was developed through negotiated or pilot rulemaking.

Summary of Bill: Except for specifically exempted rules, SBE must provide a school district a fiscal impact statement with the published notice of a hearing on proposed rules. At the hearing SBE must have a presentation and take public testimony on the fiscal impact statement. The exempted rules are emergency rules; rules adopting without material change federal or state laws and rules; rules related to procedures or practices of SBE and not any external parties; rules making technical corrections; and rules where the content is explicitly dictated by statute.

OSPI must prepare the required fiscal impact statement for the SBE proposed rules. In preparing the fiscal impact statement OSPI must solicit fiscal impact estimates from a representative sample of school districts. A copy of the fiscal impact statement must be forwarded to the legislative education committees.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Early Learning & K-12 Education): PRO: This bill is about unfunded mandates. State agencies, including the State Board of Education, that

have rulemaking authority can adopt rules that create unfunded mandates. When OSPI develops the fiscal note for SBE proposed rules, they need to reach out to the school districts to determine the fiscal impact before the rule goes into effect so there is clear communication and accountability about the impact. The smallest change can have a cascading effect by the time it reaches the classroom regarding costs, staffing decisions, and program offerings. SBE should consider these costs imposed on students, teachers, and schools. This idea is similar to the idea behind the bill that passed the Legislature last year requiring school district fiscal notes for proposed legislation; it is similar to the small business impact statements that other agencies must complete. This does not jeopardize the relationship between state agencies that make rules and the Legislature that passes the legislation.

OTHER: It is unclear what problem this bill is trying to solve. Some of the questions and comments about this bill have been about SBE rules for high school graduation requirements. If the issue is the high school graduation requirements, then we should address the high school graduation requirements. This bill creates a process to determine the fiscal impact of the rules adopted by SBE but not other state agencies with rules that impact school districts. There should be a thoughtful procedure for all of such agencies. There is not a clear definition of what a fiscal impact statement is, so it would be helpful for the Legislature to provide a definition.

Persons Testifying (Early Learning & K-12 Education): PRO: Representative Haigh, prime sponsor; Wendy Rader-Konafalski, WA Education Assn.; Marie Sullivan, WA State School Directors Assn.; Dan Steele, WA Assn. of School Administrators; Jerry Bender, Assn. of School Principals.

OTHER: Ben Rarick, SBE.

Staff Summary of Public Testimony (Ways & Means): PRO: The bill is a priority for the School Directors' Association because it will provide protection to school districts against unfunded mandates. The bill has bipartisan co-sponsorship and is supported by a number of education groups. We believe the bill provides better information for decision-making. The actual state fiscal impact is around \$5,000; the total impact assumes that districts would be reimbursed for their willingness to participate in providing information to OSPI. Understanding the fiscal implications before adoption of rules by the State Board of Education is a significant step forward and supports cooperative efforts between districts, OSPI, and the State Board of Education. There is currently a volunteer group of school business officials, established three years ago, that works with OSPI to understand fiscal impacts of legislative action. This group provides front-line information about impacts on school districts. The group has expanded every year for three years and is made up of large, small, urban, and rural districts. These volunteer districts do not expect to be reimbursed for their time but do the work because they care about informed decisions. This bill would expand this process to the State Board's rules.

Persons Testifying (Ways & Means): PRO: Marie Sullivan, Washington State School Directors' Association; Nancy Moffett, Washington Association of School Business Officials.