

SENATE BILL REPORT

SHB 2617

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

Title: An act relating to school district financial insolvency.

Brief Description: Regarding school district financial insolvency.

Sponsors: House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Anderson and Haigh; by request of Superintendent of Public Instruction).

Brief History: Passed House: 2/10/12, 97-0.

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

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Staff: Susan Mielke (786-7422)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

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

Minority Report: Do not pass.

Signed by Senators Honeyford and Schoesler.

Staff: Elise Greef (786-7708)

Background: Currently, a school district that cannot submit a balanced annual budget to the Office of Superintendent of Public Instruction (OSPI) may request permission to borrow against future apportionment payments. In order to gain OSPI approval the district must agree to certain binding conditions that are intended to improve the district's financial condition. The fiscal officer for the Educational Service District (ESD) in which the school district is located is assigned to be the administrator of the binding conditions. The

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.

administrator has limited authority and primarily serves as a financial consultant to the school district. There have been 12 districts in binding conditions at some point over the last ten years. Most have resolved their finances in one to two years. All but two of these districts have had fewer than 2,000 students.

The current laws that provide a process for changing school district boundaries emphasize voluntary and negotiated changes by school districts. A regional committee convened by the relevant ESD is authorized to make decisions when agreement among districts is not possible and to make necessary adjustments to assets and liabilities of affected districts when there is a reorganization. There are only two references to the dissolution of a school district:

1. District boundaries may be altered by the dissolution and annexation of part or all of another district; and
2. A regional committee must dissolve any school district that had an annual enrollment of fewer than five K-8 students in the prior year or has not made a reasonable effort to provide the minimum 180-day school year.

In 2007 the Vader School District became financially insolvent and was eventually dissolved and absorbed into the Castle Rock School District. The dissolution of Vader occurred under the second of the two laws referenced above, but only because the district agreed not to make up some days missed in the prior year due to an emergency closure in order to fall under the provisions of the statute.

In 2011 the Legislature directed OSPI to convene the ESDs to make recommendations for a clear legal framework and process for the dissolution of a school district on the basis of financial insolvency. The recommendations were submitted in December 2011, and include the legislative required analysis of termination of staff contracts, liquidation of liabilities, and dealing with bonded indebtedness; a definition of financially insolvent; the creation of a state level committee to assist in addressing financial matters, including enhanced financial oversight for districts in certain circumstances and to recommend dissolution of a financially insolvent school district following a specified process by the appropriate regional committee; and an appeals process.

Summary of Bill (Recommended Amendments): A financially insolvent school district is defined as one that has been on binding conditions for two consecutive years and is unable to prepare a satisfactory financial plan; or is reasonably foreseeable and likely to have a deficit general fund balance within three years and is unable to prepare a satisfactory financial plan. A satisfactory financial plan is a plan approved by OSPI and ESD demonstrating that the district will have an adequate fund balance by the end of the plan period that relies on currently available revenue streams or revenue streams that the ESD determines are reasonably reliable.

OSPI must convene a Financial Oversight Committee (Oversight Committee) if a district is found to be financially insolvent or at the request of a financially insolvent district. The Oversight Committee comprises two representatives from OSPI, one representative from an ESD where the district is not located, and one nonvoting representative from the ESD where the district is located. The Oversight Committee must review the financial condition of a financially insolvent school district, hold a public hearing, and make a recommendation to OSPI to either place the district under enhanced financial monitoring, which may include

specified types of actions; or dissolve the school district. A financially insolvent school district may file for bankruptcy only if recommended by the Oversight Committee.

A financially insolvent school district may be dissolved and annexed to one or more contiguous districts, in accordance with an agreement that has been approved by the Oversight Committee between the insolvent district and at least one other contiguous district, or in accordance with the decision of the regional committee initiated by OSPI, if recommended by the Oversight Committee. The proposed annexation and equitable adjustment of assets and liabilities must be based on the same factors used when making other changes in school district boundaries.

The order filed by OSPI that implements either the agreement among school districts or the decision of the regional committee must also specify that any excess tax levy approved by an annexing school district is imposed on the newly annexed territory. Before the effective date of a dissolution, a school district that annexes part or all of a financially insolvent district may submit to the voters either a levy to replace existing levies and provide for an increase due to the dissolution, or an additional levy to provide for an increase due to the dissolution. If these elections do not occur or fail, the transferred territory is relieved of any previous levy associated with the dissolved district, but subject to any previous levy associated with the annexing district. In the case of bonded indebtedness by a dissolved district, the annexing district may refund all or a part of it, or certify a levy to pay the debt. Boundary changes take effect on the date specified in an order filed with the county auditor. For the purposes of determining property taxes, the boundaries of an annexing district must be established on September 1 (rather than August 1 as is required for most other taxing districts).

Employees of a dissolved district have no continuing contract or grievance rights. The dissolution of the district is sufficient cause for contract nonrenewal or discharge. An annexing district has no obligation to observe terms of collective bargaining agreements of the dissolved district.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments): A technical amendment addresses a date issue brought forth by county auditors and the Washington State Department of Revenue and maintains the September 1 date for establishing boundaries for the purpose of levies. The option of being able to use a different date is eliminated.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on September 1, 2012.

Staff Summary of Public Testimony (Early Learning & K-12 Education): PRO: The state does not have a framework to address the dissolution of a school district due to financial insolvency. This bill provides a process that was developed at the direction of the Legislature

by financial experts. A district being dissolved because of financial insolvency is an anomaly and has not occurred but once; however, the inevitability of this happening in the future is growing because of the continued cuts to school district budgets. This is not a stealth school district consolidation bill but is about helping districts get out of financial insolvency and providing a process when a district cannot become solvent so there is a clearly defined process to support the students to continue to get services.

Persons Testifying (Early Learning & K-12 Education): PRO: Representative Anderson, prime sponsor; Shawn Lewis, OSPI; Jim Kowalkowski, Davenport School District.

Staff Summary of Public Testimony as Heard in Committee (Ways & Means): PRO: This is a popular bill. It deals with a lot of technical issues relating to potential insolvency of school districts but it's very important. This does not happen very frequently. Vader School District went insolvent in 2007 and it had been many years prior to that since the last school district went insolvent. This is not a consolidation bill. This is a mechanism for OSPI and Educational Service Districts to help districts who experience financial difficulties to get out of financial insolvency. But, in the event they cannot get out of insolvency, it provides a clear, consistent, coherent approach for moving through a dissolution process without impacting student services. So, in short, this is a will for school districts. It's prudent for all of us to have a will that directs what happens in case of unintended events. We hope unintended events do not occur but it is prudent to have a process in place in the event it is needed.

Persons Testifying (Ways & Means): PRO: Shawn Lewis, Chief Financial Officer, OSPI.