

HOUSE BILL REPORT

E2SHB 1134

As Passed House:
March 8, 2013

Title: An act relating to state-tribal education compact schools.

Brief Description: Authorizing state-tribal education compact schools.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives McCoy, Santos, Appleton, Lytton, Ryu, Stanford, Roberts, Jinkins, Haigh, Freeman and Hunt).

Brief History:

Committee Activity:

Community Development, Housing & Tribal Affairs: 1/29/13, 2/5/13 [DPS];
Appropriations: 2/21/13, 3/1/13 [DP2S(w/o sub CDHT)].

Floor Activity:

Passed House: 3/8/13, 85-12.

Brief Summary of Engrossed Second Substitute Bill

- Authorizes the Superintendent of Public Instruction to enter into state-tribal education compacts for the operation of public schools.
- Creates a work group through the Department of Early Learning to develop and pilot early learning programs for schools operating under a state-tribal education compact.
- Changes the levy base for school districts in which a state-tribal education compact school is located.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives McCoy, Chair; Appleton, Vice Chair; Angel, Ranking Minority Member; Johnson, Assistant Ranking Minority Member; Pike, Ryu, Santos and Sawyer.

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.

Minority Report: Do not pass. Signed by 1 member: Representative Haler.

Staff: Sean Flynn (786-7124).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Community Development, Housing & Tribal Affairs. Signed by 29 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Alexander, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Carlyle, Cody, Dahlquist, Dunshee, Fagan, Green, Haigh, Haler, Harris, Hudgins, Hunt, Jinkins, Kagi, Maxwell, Morrell, Parker, Pedersen, Pettigrew, Pike, Ross, Schmick, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 2 members: Representatives Chandler, Assistant Ranking Minority Member; Taylor.

Staff: Jessica Harrell (786-7349).

Background:

Under the state Constitution, the Legislature must provide for a general and uniform system of public schools. The Superintendent of Public Instruction (SPI) has the duty to oversee all matters necessary to maintain a basic education program for common schools (from kindergarten through high school) at public expense. The basic education program generally refers to all the resources necessary to provide the opportunity to meet the state high school graduation requirements. Major components of the basic education program include instructional programming, special education, and transportation services.

Local School Districts.

The SPI distributes annual appropriations to local school districts to fund the basic education program. Each school district elects a board of directors to manage and operate its schools. School boards are governed by state law covering areas such as board composition and scope of authority, curriculum development, attendance policies, and employment practices.

Levy Authority.

State law determines the maximum amounts school districts may collect through local maintenance and operation (M&O) levies. Most districts may raise 28 percent of the district's levy base. Some districts are grandfathered at higher percentages. A maintenance and operations levy may last up to four years.

Levy Base.

The maximum levy a school district may collect is determined by the district's levy base. The levy base includes most state and federal revenues received by the district in the prior school year. For example, the calendar year 2013 M&O levy collections are based on school

year 2012-2013's funding level. Additionally the Legislature included in the levy base certain amounts that the district did not receive through apportionment payments. These items include the amounts districts would have received under Initiative 728, Initiative 732, and enhanced allocations for additional staffing in K-4 classrooms.

Tribal Schools.

There are currently seven tribal schools operating in the state that are not directly part of the public school system. Each of these schools was created by a tribal government body or entity and operates with grant-funding from the United States Department of Interior Indian Affairs. Each tribal government or entity operating these schools has entered into an interlocal agreement with a local school board to fund educational services for children in the school district. The interlocal agreements require compliance with certain school district policies and procedures including personnel, curriculum development, record inspection, and audits.

The Department of Early Learning.

The Department of Early Learning (DEL) oversees early learning policies and programs, including the Early Childhood Education and Assistance Program and the Early Support for Infants and Toddlers. The DEL also partners with the SPI to oversee the Kindergarten Inventory of Developing Skills Program, which focuses on enhancing the transition from early learning programming to kindergarten.

Summary of Engrossed Second Substitute Bill:

State-Tribal Education Compacts.

The SPI is authorized to enter into a state-tribal education compact with the governing body of any tribe or the governing body of any school currently receiving funding from the Bureau of Indian Affairs. The SPI must convene a government-to-government meeting to initiate negotiations with any tribe or school that applies for an education compact.

A state-tribal education compact must address certain provisions, including compliance, notices of violation, dispute resolution, recordkeeping and auditing, delineation of respective responsibilities, term length, and termination.

Compact schools generally are exempt from state statutes and rules applicable to school districts and school boards, except as provided by law or by the terms of the compact.

Compact schools, however, must comply with the following state requirements:

- provide a curriculum and conduct a basic education program;
- employ certified instructional staff, except in certain exceptional cases;
- comply with employee record check requirements and mandatory termination and notifications;
- comply with nondiscrimination laws;
- comply with future legislation governing compact schools; and
- adhere to generally accepted accounting principles and be subject to audits by the State Auditor.

In addition, no compact school may engage in sectarian practices in its operations, education program, admissions, or employment practices. A tribal-state education compact may not limit or restrict enrollment or school choice options available in the public school system.

Compact schools are not prohibited from implementing a policy of Indian preference in employment. Compact schools may prioritize the enrollment of tribal members and siblings of enrolled students if enrollment demand exceeds the capacity of the school.

The SPI must apportion funding for a compact school according to the general statutory school funding formula. Allocations for certified instructional staff must be based on the average staff mix ratio of the school under the statewide salary allocation schedule. Allocations for classified staff and certified administrative staff must be based on the salary allocations of the school district in which the compact school is located. The funding allocation mechanism does not require compact schools to use the statewide salary allocation schedule. The funds allocated for a compact school must still be included in the tax levy base of a school district that formerly provided funding to the compact school through an interlocal agreement.

Compact schools must report enrollment in the same manner as is required of school districts. The compact must establish the school's projected first year enrollment for purposes of determining amounts payable for that year. The SPI must reconcile the amount paid in the first year with the actual student enrollment and make adjustments in allocation for the second year.

Early Learning Pilot Program.

The DEL must convene a working group to develop and pilot early learning programs for compact schools that work in conjunction with education programs for kindergarten and beyond.

- The working group must examine service delivery models for compact schools and make recommendations within six months of the effective date of this law.
- The DEL must submit a preliminary report to the Legislature by 2017, regarding the implementation of the early learning pilot programs.
- The DEL must submit a final report to the Legislature by 2022. The final report must include an evaluative component to determine if the pilot programs are closing the educational opportunity gap and make recommendations if the pilot programs should be made permanent.
- The pilot program expires in 2023.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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

Staff Summary of Public Testimony (Community Development, Housing & Tribal Affairs):

(In support) Education is critically important to all the tribes. It is a challenge for tribal students to relate to those who teach them and the school curriculum. This supports the opportunity for tribal students to stay in school. Working through the SPI provides some consistent direction and recognizes government-to-government relations. A government-to-government relationship is purer than the relationships with local school districts. This addresses the high drop-out rate of Native American students. The teaching of culture and language is critical to academic achievement of tribal students. Interlocal agreements do exist, but are not the appropriate forum. Administrative costs would be better used on education and learning. Tribes have had success working with the SPI. There needs to be accountability regarding public resources. It is requested that one of the early learning working groups be from the eastside of the state. The early learning gap begins at 18 months of age. This offers the opportunity to explore early learning models. Native American students are being served through state and federal programs, including the Early Childhood Education and Assistance Program and Head Start. More discussion may be required about the timeline for implementation of the workgroup and pilot programs.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) All tribes will have a different perspective regarding the value of moving from an interlocal agreement with a school district to having a compact. This bill allows the tribes to deal directly with the Superintendent of Public Instruction. The bill does not result in a caseload increase. Each Full Time Equivalent student generates the same basic education amount as is currently being generated. This bill only changes how the funding is flowing. It will go directly to the tribal school rather than passing through an existing school district first.

Education is critically important to state and tribal economies. In the current system children have not done well. The test scores are low and their dropout level is high. Moving to a compact school system will allow the tribes to provide culturally relevant education as well as address the problems that are currently faced by the students at the tribal schools.

(Opposed) None.

Persons Testifying (Community Development, Housing & Tribal Affairs): Representative McCoy, prime sponsor; Miguel Perez-Gibson and John Sirois, Colville Tribes; Steve Robinson, Umatilla Tribe; Amy Blondin, Department of Early Learning; Leonard Forsman, Suquamish Tribe; and Ken Kanikeberg, Office of Superintendent of Public Instruction.

Persons Testifying (Appropriations): Joe Davalos, Tribal Leaders Congress; Steve Robinson, Quinault Nation, Tulalip Tribes, and Stillaquamish Tribe; and Miguel Perez-Gibson, Colville Tribes.

Persons Signed In To Testify But Not Testifying (Community Development, Housing & Tribal Affairs): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.