

HOUSE BILL REPORT

2ESB 5701

As Passed House:
April 15, 2013

Title: An act relating to authorizing penalties based on the fraudulent submission of tests for educators.

Brief Description: Authorizing penalties based on the fraudulent submission of tests for educators.

Sponsors: Senators Brown, Fain, Rivers, Dammeier and Cleveland.

Brief History:

Committee Activity:

Education: 3/14/13, 3/26/13 [DP].

Floor Activity:

Passed House: 4/15/13, 97-0.

Brief Summary of Second Engrossed Bill

- Permits the Professional Educator Standards Board (PESB) to submit a complaint to the Office of the Superintendent of Public Instruction (OSPI) alleging the grounds and factual basis under which a certificated school employee's certificate or permit should be suspended or revoked.
- Permits the OSPI to issue a reprimand as an alternative to suspension or revocation of a school employee's certificate.
- Allows a certificated school employee's certificate or permit to be suspended or revoked based on a complaint from the PESB alleging fraudulent submission of a test for educators after that complaint is investigated by the OSPI.
- Provides that employees who are accused of fraudulent submission of a test for educators have the right to be heard and appeal.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass. Signed by 20 members: Representatives Santos, Chair; Stonier, Vice Chair; Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority

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.

Member; Bergquist, Fagan, Haigh, Hargrove, Hawkins, Hayes, Hunt, Klippert, Lytton, Maxwell, McCoy, Orwall, Pike, Pollet, Seaquist and Warnick.

Staff: Luke Wickham (786-7146).

Background:

Certificated school employees may have their certificate or permit revoked or suspended upon a criminal records request report authorized by law, or upon the complaint of any school district superintendent, Educational Service District superintendent, or private school administrator for immorality, violation of written contract, unprofessional conduct, intemperance, or crime against the law of the state.

School district superintendents, Educational Service District superintendents, or private school administrators may file a written complaint concerning a certificated employee with the grounds and factual basis upon which they believe an investigation is warranted by the Office of the Superintendent of Public Instruction (OSPI). The Office of Professional Practices (OPP) is the specific office within the OSPI that investigates these complaints.

Once an investigation begins at the OPP, investigators review the allegations, gather evidence, and present the case to an administrator for a decision. Outcomes of these investigations include:

- dismissal of the complaint;
- reprimand of the employee, which leaves the certificate valid, but does admonish the educator to not repeat the behavior or conduct;
- suspension of the employee, which invalidates the certificate for a specified period of time and may have some requirements for reinstatement; or
- revocation of the certificate, which places the burden of proof on the employee to show good moral character and personal fitness to have his or her certificate reinstated.

Educators may appeal decisions to the OSPI's Informal Review Committee, which is comprised of nine educators (three teachers, three administrators, and three Educational Staff Associates). Further appeal can be made to an Administrative Law Judge and Superior Court.

Summary of Bill:

The Professional Educator Standards Board (PESB) is added to the list of persons or organizations that may make a complaint to the OSPI that could lead to the suspension or revocation of a certificated school employee's certificate or permit.

The OSPI is authorized to issue a reprimand as an alternative to suspension or revocation of a certificate or permit after a complaint is filed against a certificated school employee.

Any certificated school employee may have his or her permit or certificate revoked or suspended based upon a complaint from the PESB alleging unprofessional conduct in the form of a fraudulent submission of a test for educators. The PESB must issue to the OSPI a

written complaint alleging the grounds and factual basis upon which the PESB believes an investigation should be conducted. Any certificated school employee whose certificate is in question based on the PESB's allegation must have the right to be heard and appeal.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) This bill arose based on teachers submitting fraudulent test results. It is unfortunate that a teacher would even consider something like that, but that is why this bill is necessary. It is important that the OPP also have the discretion to reprimand an individual in addition to suspending or revoking a certificate. In 2005 the PESB was directed to put forward a teacher assessment called the ProTeach Portfolio to determine whether teachers were truly ready to enter the classroom. The first instance of a teacher cheating on this assessment occurred last year. The statute is very specific regarding who can forward complaints to the OPP. The PESB has no authority to refer complaints to the OPP. The PESB modified its rules to include submission of a fraudulent test as a form of unprofessional conduct, but it needs this bill to refer complaints to the OPP to initiate an investigation against teachers who submit fraudulent assessments. Because the PESB is the body responsible for the ProTeach Portfolio and other assessments, they are the appropriate body to forward complaints to the OPP for a full investigation.

(Opposed) None.

Persons Testifying: Senator Brown, prime sponsor; David Brenna, Professional Educator Standards Board; and Lucinda Young, Washington Education Association.

Persons Signed In To Testify But Not Testifying: None.