

SENATE BILL REPORT

SB 5329

As of February 1, 2013

Title: An act relating to creating the state superintendent school district.

Brief Description: Creating the state superintendent school district.

Sponsors: Senators Litzow, Hobbs, Fain, Hatfield, Tom, Frockt and Roach.

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/30/13.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Staff: Susan Mielke (786-7422)

Background: According to the Education Commission of the States, 29 states have enacted policies that allow the state to take over a school district that is low performing. The level of state control and local influence in such takeovers varies from state to state.

In 2010, the Washington Legislature created an accountability system intended to be implemented in two phases. Phase I uses federal guidelines to designate the lowest achieving schools that are eligible for federal Title I program funds to apply for a federal School Improvement Grant (SIG) to implement federal intervention strategies. The system was voluntary for the first year but a required action process began in 2011. Four Required Action Districts (RAD) were designated. The RADs are in their second year of implementing a three-year federal SIG to improve the school culture and increase student performance. It is projected that federal funds for future cohorts of RADs will not be forthcoming.

Intent language in the 2010 legislation provides for a Phase II, beginning in 2013 using a state Achievement Index (Index), if federally approved, to identify schools in need of improvement, including schools that are not eligible for federal Title I program funds, in order to implement state and local intervention models with state funds. The Index did not receive federal approval. The State Board of Education (SBE) and the Office of Superintendent of Public Instruction (OSPI) are jointly working to make changes to the Index. SBE currently uses the Index to recognize successful schools through the Washington Achievement Awards.

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.

When the 2010 Legislature created the Required Action process, a Joint Select Committee on Education Accountability (Committee) was also created. The Committee's tasks include, among other things, examining options and models for significant state action, particularly in the case of a persistent lack of improvement by a RAD; and determining appropriate decision-making responsibilities and consequences at the school, district, and state levels. The Committee met twice in 2012 and submitted an interim report to the legislative Education Committees in September 2012 with background information. A final report with recommendations is due by September 1, 2013.

Summary of Bill: The State Superintendent District (SSD) is established as an office within OSPI. The SSD will act as a statewide school district for schools that are temporarily transferred from the original school district to the SSD because the school is among the lowest of the persistently lowest-performing schools, as defined by current criteria. The SSD has all the powers and responsibilities of a school district board of directors except, it may not levy taxes, buy or sell real property, incur bonded indebtedness, and has no eminent domain power. No more than 20 schools can be transferred to SSD each year.

Learning Management Organization (LMO). The SSD must contract with a Learning Management Organization (LMO) to manage and operate an SSD school. The LMO must be a public benefit nonprofit corporation or a nonprofit corporation that has applied for tax-exempt status under section 501(c) (3) of the Internal Revenue Code; and must have expertise in managing the daily operations and the academic and instructional learning environments of a school. The contract between OSPI and a LMO must include specified information, including a performance framework with performance indicators, measures, and metrics for improving student learning at the SSD school. The contract must also include expectations and indicators for parent and community involvement, including holding regular public meetings with a parent and community advisory committee. The contract between OSPI and the LMO must not be for more than three years but may be renewed based on the performance framework data in the contract. An LMO may contract with others to provide goods and services to the SSD school.

Transfer Process. Beginning in January 2014, OSPI must annually recommend to the SBE schools for temporary transfer to SSD. A process for providing notice to the school district and for seeking reconsideration of the recommendation is provided. SBE must consider the OSPI recommendations at a public meeting and may modify the recommendations. The annual transfer of schools to the SSD takes effect on September 1. The original school district, in cooperation with OSPI, must develop a transfer plan.

Exempt from State Laws. OSPI as the SSD and the schools transferred to its jurisdiction are exempt from all state laws and rules applicable to schools, except that they must:

- comply with the state and federal health, safety, parents' rights, civil rights, and non-discrimination laws applicable to school districts; employee record checks requirements; the annual performance report; the Open Public Meetings Act; the Open Public Records Act; and future legislation enacted governing the SSD;
- provide instruction in the Essential Academic Learning Requirements and participate in the statewide student assessments;
- employ certificated instructional staff, except in exceptional cases, which is the same requirement for non-charter and private schools;

- adhere to generally accepted accounting principles and be subject to financial examinations and audits as determined by the state auditor; and
- be subject to SBE's performance improvement goals.

Funding. A process for state allocations for SSD schools is provided and includes general apportionment, special education, and other categorical and non-basic education funds. A SSD school is also eligible for federal funds.

State and federal funds apportioned to SSD schools must be included in the original school district's levy base. If a local levy has been approved before the transfer of the school, then the SSD school is eligible for its share of local levy funds. If a local levy is approved after the transfer of the school, then the school must be included in the levy fund distribution.

Employees. The original school district must notify all employees of a school that is identified to be transferred to SSD before the transfer takes place, and that their employment contracts will not be renewed at the end of the school year. Employees may request a transfer to the SSD school or another school in the original school district. OSPI must delegate to the LMO the responsibility to hire, assign, evaluate, and dismiss all staff of a SSD school. Years of service in a SSD school will be included in the service calculation for the statewide salary allocation schedule.

Students. The original school district must notify all parents of students of a school when the school is scheduled to be transferred to SSD. Students must be permitted to transfer to another school within the original school district in accordance with district assignment policies. Students in a SSD school may participate in interscholastic and extracurricular activities of the original school district.

Facilities. An SSD school is entitled to use its existing facility rent free. The original school district retains ownership and remains responsible for major repairs and safety upgrades, but SSD is responsible for routine maintenance of the facility. OSPI may negotiate with the original school district for payment of the school's share of overhead costs.

Return to Original District. An SSD school is eligible to return to its original school district when it meets the performance improvement criteria established by SBE for three consecutive years. A process for notification and for the return is provided. The board of the directors of the original school district may negotiate a new contract with the LMO to continue oversight and management of a returned state superintendent district school.

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: PRO: We know that there are schools that are chronically and persistently failing. We know that the federal funding will probably not be

coming anymore. At some point we have to do something, but we can't sit around and continue to fail our students. We have to take some action. It is important to have a tiered response to interventions. We don't currently have that in the state. Now if the improvement efforts don't work there is no next step. Other states are having success with this model.

CON: People are distrustful of government and yet school levies are passed. What you need to do is allow districts the ability to revamp how they use their resources. Let us work with our teachers to improve the school. This bill ignores the success of schools that previously were not performing. The school districts that received the federal grants developed plans for improvement that involved the employee unions, parents, and communities and they got a lot of new funding. But this legislation is not providing additional resources. Research shows that takeovers don't always work, except in Louisiana, which experienced hurricane Katrina. While policy makers may be frustrated in what you see as a lack of progress, school directors are frustrated that the state is not fully funding schools. This bill creates a loss of control for the schools and a loss of connection with their community.

OTHER: You should modify this so that takeover occurs only after the SIG plan has been implemented for three years. The current accountability system has consequences but relies on the federal funding. The more you take control from local parents and the community the more it erodes public confidence in the school and district and will negatively impact levy passage rates. We are not clear on the impact of this legislation on the school employees so we want to work with the sponsor. You should provide a range of actions that are options for OSPI to use to act. Plan for what happens after, since you eliminate the local structure then there may be no way back. Figure out how this fits in the bigger picture of accountability.

Persons Testifying: PRO: Senator Litzow, prime sponsor; Dave Powell, Stand for Children; Anne Luce, Partnership for Learning, WA Roundtable; Frank Ordway, League of Education Voters.

CON: Edri Geiger, Vancouver Public Schools; Lucinda Young, WA Education Assn.; Marie Sullivan, WA State School Directors; Andy Kelly, Alan Burke, OSPI; Ramona Hattendorf, WA State Parent Teacher Assn.; Dan Steele, WA Assn. of School Administrators; Jerry Bender, Assn. of WS Principals.

OTHER: Doug Nelson, Public School Employees, Ben Rarick, SBE.