

SENATE BILL REPORT

E2SSB 5329

As Amended by House, April 15, 2013

Title: An act relating to transforming persistently failing schools.

Brief Description: Transforming persistently failing schools.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Litzow, Hobbs, Fain, Hatfield, Tom, Frockt and Roach).

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/30/13, 2/13/13 [DPS-WM, DNP].

Ways & Means: 2/20/13, 3/01/13 [DP2S, DNP, w/oRec].

Passed Senate: 3/07/13, 30-19.

Passed House: 4/15/13, 68-29.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5329 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Litzow, Chair; Dammeier, Vice Chair; Billig, Brown, Fain, Hill, Mullet and Rivers.

Minority Report: Do not pass.

Signed by Senators McAuliffe, Ranking Member; Rolfes, Assistant Ranking Member; Cleveland.

Staff: Susan Mielke (786-7422)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5329 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Bailey, Becker, Braun, Dammeier, Hewitt, Parlette, Rivers, Schoesler and Tom.

Minority Report: Do not pass.

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.

Signed by Senators Hargrove, Ranking Member; Nelson, Assistant Ranking Member; Conway, Fraser, Hasegawa, Keiser, Kohl-Welles, Murray and Ranker.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Elise Greef (786-7708)

Background: 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.

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.

When the RAD process was adopted by the Legislature, charter schools were not authorized by state law. Initiative 1240 was approved by voters in November 2012. The Initiative authorized a maximum of 40 charter schools to be established over a five-year period, with no more than eight established in a single year.

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.

Summary of Engrossed Second Substitute Bill: By December 1, 2013, OSPI must identify the ten most persistently lowest-achieving schools using the student results on the statewide reading and mathematics assessments. If a school district has at least one of the ten

identified schools then it is designated a RAD. Notice to school districts and parents is required. RAD process is applied to the ten schools using only state, not federal, funds. The intervention models selected may be one of the four federal intervention models or the state Collaborative Schools for Innovation and Success model.

If at the end of the first three-year RAD process a RAD has not met the requirements for release, OSPI:

- must review the actions taken under the Required Action process;
- must create a new three-year plan with the input of the school district, with specifics included in the plan provided in the bill;
- may choose to implement one of the four federal models or the collaborative schools model;
- may create a charter school as one of the implementation models and, if so, it will count toward the maximum number of charter schools that may be established in accordance with the charter school law;
- must exercise the powers of a school district board of directors with regard to employment of staff assigned at the schools entering level two;
- may delegate the responsibility to hire, assign, evaluate, and dismiss employees; and
- must report specific information twice per year to SBE.

Employees assigned to the school may request a transfer.

If at the end of this three-year plan SBE determines that the RAD has not made sufficient improvement as determined by OSPI then the school must be closed and the students assigned to another school unless SBE determines there is no viable option to accommodate the students due to lack of capacity or inability to provide equitable access to educational programs and services.

The bill is null and void unless funded in the budget.

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 on Original Bill (Early Learning & K-12 Education): 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 cannot 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 do not currently have that in the state. Now if the improvement efforts do not 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 (Early Learning & K-12 Education): 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 WA Principals.

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

Staff Summary of Public Testimony on Substitute (Ways & Means): PRO: This bill is the next phase in the process of SB 6696, it is appreciated that funding is provided. We would like to make sure there is enough funding to cover the entire biennium and that the funding distribution is scaled to individual schools' needs.

CON: Opposition to the bill is based on the insufficient amount of funding provided and the provisions around closing districts. We would appreciate changes to the bill that more closely align it to federal action plans, and the acknowledgement of the need for state funding. With sufficient funding, these programs really do turn around schools. We suggest picking fewer schools for the appropriation, or adding more funding for the ten schools.

OTHER: We are adding more proponents than not for the bill in its current form. The concept of intervention is a good one. Funding will be needed. Linking funding to whatever the audit process identifies as required action is important. A focused approach matters – diagnose exactly what is wrong that needs to be changed and concentrate on those changes. SBE supports moving to a system where the state takes ownership of its own accountability system. Currently, our school improvement system consists of passing on federal funds for improvement if they are available. The Joint Task Force on Education Funding

recommended adding \$15 million per year in state funds for this purpose. SBE is supportive of the concept.

Persons Testifying (Ways & Means): PRO: Marie Sullivan, WA State School Directors' Assn.

CON: Wendy Rader-Konofalski, WA Education Assn.

OTHER: Ramona Hattendorf, WA State PTA; Ben Rarick, SBE.

House Amendment(s): Replaces all provisions of the underlying Senate bill with the following:

A legislative finding is made that an effective accountability system is a partnership between the state and local school district boards. It is recognized that it takes time to make significant changes in the educational system that are sustainable. Additionally, there is a finding that state takeover is unlikely to produce long-term improvement but that in the rare case a school continues to fail then a process is appropriated for OSPI to intervene.

The current accountability procedures are expanded to use federal or state funding. OSPI must design a system of support, assistance, and intervention that is subject to review by SBE, applies equally to federal Title I and non-Title I schools to the extent state funds are appropriated for this purpose, and is implemented in the 2014-15 school year.

The criteria used by OSPI to identify challenged schools in need of improvement and a subset of such schools that are persistently lowest-achieving schools is updated to conform to revised federal rules and guidance and must be adopted by OSPI in rule. The criteria must include availability of funds for a RAD plan. If the Washington Achievement Index is approved by federal Department of Education, then it must be used to identify the challenged and persistently lowest-achieving schools.

OSPI must create guidelines for the development of a RAD plan. Closing the opportunity gap must be one of the measures of improvement included in a plan. Instead of using one of the four federal intervention models, RADs must use an OSPI-approved school improvement model. OSPI, with SBE, must publish a list of research and evidence-based school improvement models, consistent with the following turnaround principles: providing strong leadership; ensuring teachers are effective and can improve instruction; increasing learning time; strengthening the school's instructional program; using data to inform instruction; establishing a safe and supportive school environment; and engaging families and communities.

If a RAD does not demonstrate sufficient improvement after at least three years, SBE may require a new plan or assign the district to a new Level II RAD process. OSPI must direct a needs assessment and review on why the previous plan did not succeed.

If the RAD is assigned to the Level II process, then OSPI must work with the school board to develop a Level II plan that addresses the needs assessment and specifies interventions and other conditions to be implemented, which are binding. The plan must also specify assistance provided from OSPI, which may include onsite specialists with experience in school turnaround and cultural competences and assistance from the educational service district. If OSPI and the

school board do not agree, then OSPI must develop the plan. The school board may request a reconsideration from a Required Action Plan Review Panel established under current law. School districts must reopen bargaining agreements, if necessary to implement the plan, and OSPI must participate in bargaining discussions if the plan is developed by OSPI. OSPI must defer to the school district as the governing authority. However, OSPI is responsible and accountable for assuring the Level II RAD plan is implemented with fidelity. If the plan is not being implemented, then OSPI may direct actions that must be taken by the school district personnel and may withhold funding.

The Education Accountability System Oversight Committee is established to monitor outcomes from the accountability system and make recommendations as necessary. The Committee's members are eight legislators, two Governor appointees, and one non-legislative member of Educational Opportunity Gap Oversight and Accountability Committee. The current Joint Select Committee on Educational Accountability is repealed.