

SENATE BILL REPORT

SB 5901

As Reported by Senate Committee On:
Ways & Means, April 23, 2013

Title: An act relating to education.

Brief Description: Providing education reforms.

Sponsors: Senators Litzow and Tom.

Brief History:

Committee Activity: Ways & Means: 4/18/13, 4/23/13 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5901 be substituted therefor, and the 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.

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

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Elise Greef (786-7708)

Background: Requirements on Schools, School Districts, and the Office of Superintendent of Public Instruction (OSPI). Title 28A of the Revised Code of Washington includes the laws related to common schools and establishes the organizational structure of the common school system. Certain chapters within Title 28A define the roles and responsibilities of the Superintendent of Public Instruction (SPI), educational service districts (ESDs), and school districts. Other chapters provide requirements for school buildings, the delivery of information to school districts and parents or guardians, traffic safety, the observance of Temperance and Good Citizenship day, school gardens, and student learning plans.

Educator Salary. The Legislature allocates money to each district for state-funded employee salaries and associated fringe benefits. In the case of certificated instructional staff –

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teachers, counselors, librarians, and other instructional staff requiring certification – the state funding is provided based on a state salary-allocation schedule. An individual’s education level and teaching experience determines the allocation for base salary. Additional funds are provided for each additional year of experience up to 16 years, and for additional credits of approved education acquired up to a Ph.D. School districts have the authority to establish the actual salaries paid to staff, subject to local collective bargaining and within certain limits set by the Legislature. In 2009, the Legislature created an educator compensation technical workgroup to recommend the details of an enhanced salary allocation model. The workgroup submitted its final report on June 20, 2012, with recommendations that included increasing the starting salary, providing market-based salary allocations and annual cost-of-living increases, and limiting local salary enhancements.

Supplemental Contracts. One legislative limit on salaries is that the actual average salary in the district cannot exceed the average salary calculated based on the state allocation schedule. However, current law permits school districts to exceed this limitation by entering into a supplemental contract with the employee for additional time, responsibilities, incentives, or innovations (TRII). The supplemental contracts are sometimes called TRII contracts. TRII contracts may not cause the state to incur any present or future funding obligation; must be covered by collective bargaining; must be for only one year; if a TRII contract is not renewed, it cannot be viewed by the individual as an adverse change in their employment; and TRII contracts may not be used to pay individuals for providing basic education services.

Prototypical Funding Formula. In 2009, the Legislature created a new funding formula for allocating state funding for the instructional program of basic education. The formula uses prototypical schools to illustrate the level of resources needed to operate a school of a particular size, with particular types and grade levels of students, and using commonly understood terms and inputs such as class size, hours of instruction, and various categories of school staff. Additionally, the formula provides for materials, supplies, and operating costs (MSOC). School districts are not required to spend the funds in the same manner the state allocates the funds. Beginning in the 2011-12 school year, the minimum MSOC allocations were to be increased and adjusted annually for inflation as specified in the appropriations act. Specified levels of funding for MSOC were to be fully funded by the 2015-16 school year.

Transportation Funding Formula. Also, in 2009, the Legislature created a new student transportation funding formula. The new formula uses a regression analysis of various cost factors to allocate funds to school districts. The new formula initially was to be phased in according to an implementation schedule adopted by the Legislature. In 2010, legislation was passed to require the new student transportation funding formula to be fully implemented in the 2013-15 biennium.

Accountability. As part of a state system of education accountability, the State Board of Education (SBE) was directed by the Legislature to develop an accountability index (Index) to identify schools for recognition, continuous improvement, and state support. In 2009, SBE developed an Index using specified outcomes and indicators. The results are averaged into a single Index score. Schools are divided based on their Index score into the following five categories: exemplary; very good; good; fair; and struggling. SBE is currently revising the Index to include indicators for student growth and proficiency on state assessments, as a condition of a federal Department of Education waiver.

SPI and SBE jointly recognize school success based on the Washington Achievement Award using the Index. Schools are awarded for overall excellence and also special recognition in specific areas.

In 2010, the Legislature authorized a process for designating a school district with one or more persistently lowest-achieving schools as a Required Action District (RAD). RADs must conduct an academic audit, submit a required action plan for improvement to SBE for approval, and use federal funds to implement one of four federal intervention models. The law currently operates using only federal funds for the RAD process, but the legislation included an intent to implement a level II, which would use state dollars.

Student Discipline, Suspensions, and Expulsions. Under current definitions, suspension means a denial of attendance for discipline purposes from a single subject or class, or from any full schedule of subjects or classes, for a stated period of time. A suspension also may include a denial of admission to school property. A short-term suspension means a suspension for any portion of a calendar day up to and not exceeding ten consecutive school days. A long-term suspension is a suspension exceeding ten school days. An expulsion means a denial of attendance for an indefinite period of time. An expulsion also may include a denial of admission to school property.

Every school board of directors must adopt and make available to each pupil, teacher, and parent in the district, reasonable written rules regarding pupil conduct, discipline, and rights including, but not limited to, short-term and long-term suspensions. Such rules must not be inconsistent with any of the following: federal statutes and regulations, state statutes, common law, and the rules of SPI. The board's rules must include due-process guarantees as prescribed by SPI. When such rules are made available to each pupil, teacher, and parent, they must be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, SPI, and the rules of the school district.

Individual student data on disciplinary actions is recorded in SPI's statewide student information system (CEDARS), including disciplinary actions related to bullying, tobacco, alcohol, illicit drugs – other than marijuana, fighting without major injury, violence without major injury, violence with major injury, possession of a weapon, other behavior resulting in suspension or expulsion, serious bodily injury, and marijuana.

Summary of Bill (Recommended Substitute): The bill has three parts:

- Part I – provides greater flexibility to schools by allowing them to fully realign resources around evidence-based practices;
- Part II – creates school recognition and reform programs; and
- Part III – addresses student discipline and expulsion policies.

Part I. Educator Salary. A Joint Select Committee on Educator Compensation is created. Membership of the Committee consists of the chairs and ranking members of: the Committee on Education of the House of Representatives; the Committee on Early Learning and K-12 Education of the Senate; the Committee on Ways and Means of the Senate; and the Committee on Appropriations of the House of Representatives. A chair may appoint a

designee to function in the chair's place. The purpose of the Committee is to provide oversight to the development of a new educator compensation model that links state compensation policies to research-based practices shown to increase an educator's effectiveness and positive impact on student learning. The Committee expires March 2015.

Supplemental Contracts. Beginning July 1, 2013, the local TRII contracts are limited to the percentage over the base salary provided by separate contracts during the 2012-13 school year. Beginning July 1, 2015, school districts may apply to SBE to increase the percentage over base salary based solely on the number of schools in the district that receive an A, B, or C-letter grade under the school grading program created in the bill. Collective bargaining agreements entered into after the effective date of these provisions must be consistent with the provisions.

Part II. School Accountability. A school-grading program that assigns a letter grade of A through F to each school based on the Index and other outcome measurements is implemented beginning with a pilot program in the 2013-14 school year. An evaluation of the pilot will be submitted by December 2014 and modifications made for 2014-15 school year for statewide implementation of the program based on the recommendations.

WSIPP must compile an in-depth cost/benefit analysis itemizing the most effective research-proven practices and programs for delivering K-12 public school instruction.

The school-grading program and inventory of research-based practices will be used to recognize highly productive schools through the current Washington Achievement Award that is presented jointly by OSPI and SBE, and is based on the Index. Beginning in the 2015-17 biennium, schools that receive an A-letter grade are awarded a banner and award.

The Strategic Innovative Grant program is created for the Professional Educator Standards Board (PESB), with the Washington Institute of Public Policy, to provide grants to school districts based on innovation and the degree to which a proposal implements effective educator and school leadership compensation systems that are evidence based and research based. PESB must report on the amount and purposes of the grants awarded. Collective bargaining agreements entered into after the effective date of this act must be consistent with this program.

Part III. Student Discipline, Suspensions, and Expulsions. Student expulsions or suspensions may not be for an indefinite period of time. Emergency expulsions must end or be converted to another corrective action within ten days of removal from school. Notice and due-process rights must be provided when an emergency expulsion is converted to another corrective action.

Student suspensions or expulsions longer than ten days must have an end date one year or less from the time of corrective action. Districts must make reasonable efforts to assist students in returning to an educational setting before the end of a corrective action. School districts may petition SPI for authorization to exceed the one-year suspension or expulsion limitation.

Student suspension and expulsion data collected by CEDARS must be made publicly available and easily accessible on OSPI's website and must be disaggregated and cross-tabulated with specified categories. The K-12 data governance group must examine the data collected under the behavior infraction subgroup reported by CEDARS and create at least four additional behavior infraction codes including the four most-reported behaviors listed in the catchall category, other, by December 1, 2013.

Schools should make efforts to allow students who were suspended or expelled to return to an educational setting as soon as possible and convene a school reentry meeting with the student and student's parents within 20 days of the long-term suspension or expulsion. School districts must create a reentry and reengagement plan tailored to the student's individual circumstances, including consideration of the incident that led to the long-term suspension or expulsion. Reentry meetings are not intended to replace a petition for readmission.

The Washington State School Directors' Association must collaborate with the Office of the Education Ombudsman to develop a model policy for school districts to implement changes to suspension and expulsion policies and make the policy available on their website by May 1, 2014.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute): The substitute eliminates the following provisions from the original bill:

- the repeal, removal, suspension, or making subject-to-funding the list of requirements on schools, school districts, or OSPI;
- the changes to K-12 funding formulas for MSOC and pupil transportation allocations; and
- policies regarding interventions for struggling schools and establishment of locally administered school reform programs.

Additionally, the membership of the Joint Select Committee on Educator Compensation is expanded to include the ranking members, as well as the chairs, of the four House and Senate committees.

Appropriation: Appropriates \$2.5 million general fund-state for fiscal year 2014; and \$2.5 million general fund-state for fiscal year 2015 to PESB for the purpose of providing Strategic Innovative Grants.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

Effective Date: The bill contains several effective dates. Sections 107, 108, 304, 307, and 507 are subject to an emergency clause and take effect immediately. Section 109 takes effect September 1, 2013. Section 202 takes effect September 1, 2015. Section 306 takes effect June 30, 2019.

Staff Summary of Public Testimony on Original Bill: CON: The bill has too many moving pieces; it would be better as separate component bills so each can be considered on

its own merit. The districts appreciate the focus on flexibility and would support green building requirements being subject to funding; that is a very expensive requirement. We are very concerned about the salary limitations in the bill. We do not need another salary study. The state argued at trial that we do not need additional studies, and we would concur with that. A compensation technical workgroup met for two years, dealt with different issues, but did a good job and we would encourage you to look at, and act on, their recommendations. We are concerned about allowing for supplemental salary waivers only for teachers at successful schools. It is already difficult to recruit and retain teachers for struggling schools. If this policy is implemented, that cycle will be exacerbated. We appreciate the MSOC and transportation funding but believe there are other important enhancements that should not be missed if we are to comply with the terms of the *McCleary* ruling. It is almost as if there are a number of bills that are all put together. We cannot support the salary provisions. Freezing educator salaries at a time when there are proposals to either suspend or eliminate Initiative 732 is inappropriate. A new study on educator compensation is necessary. The workgroup put together a comprehensive proposal that linked to educator standards, and included professional development costs and mentor-mentees. We are concerned that the basic education enhancements do not address class size. Focusing on books and buses covers things that are already paid for. We are concerned about grading schools. Assigning failing grades to schools sets them up for failure and labels the students that go to those schools. Limiting long-term suspensions or expulsions can be a problem for schools. Unfortunately, there are children who should not be back in those schools as they can be a real danger to the other students. We understand there is a provision to manage exceptions but do not think we should need to go to SPI to ask permission for a waiver; we have competent administrators and board members to make those decisions on behalf of individual communities. It is an additional regulatory burden. If this is the vehicle for education reform – particularly on the school grading, A through F – we want to work with you to correct what we see as structural flaws. We have concerns about school districts applying for flexibility on supplemental contracts. This seems to imply that salary compliance applies only to low-performing schools and might send mixed messages. The school grading approach is an oversimplified approach. Further, there are about two pages of very detailed technical specifications about how the Index should be written, which would amount to a re-do. SBE spent the last five or six months working with a consultant to develop the Index. Some of this reads like business rules. I would be worried that members of the Committee would not understand what they are voting on. The school improvement sections seem to conflict with other legislation that progressed far in the legislative process.

Persons Testifying: CON: Dan Steele, WA Assn. of School Administrators; Shawn Lewis, WA Education Assn.; Mitch Denning, Alliance of Educational Assns.; Charlie Brown, Tacoma Public Schools; Ben Rarick, SBE.