

HOUSE BILL REPORT

ESHB 2366

As Passed House:
January 25, 2016

Title: An act relating to basic education obligations.

Brief Description: Concerning basic education obligations.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Lytton, Magendanz, Sullivan, Caldier, Kochmar, Rossetti, Muri, Haler and Santos).

Brief History:

Committee Activity:

Appropriations: 1/20/16, 1/21/16 [DPS].

Floor Activity:

Passed House: 1/25/16, 64-34.

Brief Summary of Engrossed Substitute Bill

- Establishes the Education Funding Task Force to continue the work of the Governor's informal work group to make recommendations to the Legislature on implementing the program of basic education.
- Directs the Washington State Institute for Public Policy to contract for independent professional consulting services.
- Directs the Legislature to take legislative action by the end of the 2017 session to eliminate school district dependency on local levies for implementation of the state's program of basic education.
- Appropriates \$500,000 to the Evergreen State College.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 21 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Cody, Fitzgibbon, Hansen, Harris, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, Magendanz, Pettigrew, Robinson, Sawyer, Senn, Springer, Stokesbary, Sullivan, Tharinger and Walkinshaw.

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 7 members: Representatives Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Haler, Schmick, Taylor and Van Werven.

Minority Report: Without recommendation. Signed by 4 members: Representatives Condotta, Dent, G. Hunt and MacEwen.

Staff: Jessica Harrell (786-7349).

Background:

Basic Education Funding Formulas.

Under the prototypical school formula established in Chapter 548, Laws of 2009 PV (ESHB 2261) and Chapter 236, Laws of 2010 PV (SHB 2776), the state allocates funding to the state's 295 school districts for implementation of the state's program of basic education. These bills called for phased-in implementation of specified enhancements to the basic education program and the funding to support it. The 2015-17 Omnibus Appropriations Act included full implementation of: (1) the pupil transportation funding model; (2) specified increases in funding for materials, supplies, and operating costs (MSOC); and (3) statewide implementation of all-day kindergarten. The 2015-17 appropriations also included phase-in of the remaining K-3 class size reduction policy, funding class sizes ranging from 19 to 22 students for general education K-3 class sizes and 17 to 21 students in high poverty schools. The remaining step to fully implement class size reductions for grades kindergarten through 3 (K-3) to 17 students is due to be fully funded by the 2017-18 school year.

School District Employee Compensation.

State Allocations. Funding to support salaries for the classified and administrative staff allocated through the prototypical school funding formula is specified in the omnibus operating appropriations act. Funding for certificated instructional staff (CIS) is allocated based on a "grid" which provides salary values that increase based on educational credit and years of experience. Each district's CIS allocation is based on its "staff mix," that is, the distribution on the state salary grid of the CIS hired by the district. In addition, the state allocates a salary rate for classified staff and a salary rate for administrative staff in each district. (Some districts are "grandfathered" at a higher salary allocation for one or more of the staff types.)

State Restrictions on CIS Salaries. In general, state salary funding is for allocation purposes only, and school districts are not required to hire staff according to the prototypical school staffing formula, nor are they required to pay CIS salaries according to the state CIS salary grid. Instead, actual CIS salaries are determined by each district's collective bargaining agreements.

However, the state places some restrictions on actual salaries districts may pay. First, a district may not pay CIS less than the lowest salary on the state grid for a bachelor's or master's degree and zero years of experience. Second, a district's actual average CIS salary may not exceed the district's actual average salary that is allocated under the state formula. Third, CIS salaries in the basic education program must be consistent with CIS salaries in other programs. Finally, CIS salaries may exceed these limits only by separate contract for

additional time, responsibility, or incentive (TRI). Under the TRI restrictions, supplemental contracts may not be used to pay for services that are part of the state's program of basic education.

Salary Enhancements. Engrossed Substitute House Bill 2261 expressed intent to enhance allocations for school district employee compensation by 2018. A report issued in 2012 by a Compensation Technical Working Group (Group) recommended that allocations be based on market-rate salaries for comparable occupations, as identified by a study commissioned by the Group. The commissioned study recognized that districts use locally funded TRI pay to supplement state salary allocations for CIS, but it did not include data on or analysis of the services provided under those contracts.

Local Property Tax Levies for Schools.

Schools District Excess Levies. Upon voter approval, school districts are authorized to collect levies above the 1 percent constitutional property tax limit. School district voters may approve maintenance and operation (M&O) levies for up to four years, capital levies for up to six years, and bond levies for the life of the bonds. Under the rulings of the state Supreme Court, M&O levies may be used only for "enrichments" beyond the program of basic education, and the state may not cause school districts to rely on local levies for the support of the state's basic education program.

A school district's maximum M&O levy amount is determined by the district's levy base and levy percentage. Generally speaking, a district's annual levy base is its state and federal funding for the prior school year, adjusted for inflation. Until calendar year 2018, the levy percentage for most school districts is 28 percent, which means that each calendar year districts may collect up to 28 percent of their levy base. (Some districts are "grandfathered" at a higher levy percentage.) Beginning in calendar year 2018, the levy percentage drops to 24 percent.

Local Effort Assistance.

Under the state's program of local effort assistance (LEA), also known as levy equalization, the state provides additional funding to school districts that are at a relative disadvantage in raising M&O levies due to relatively low property values. Local effort assistance is not part of the basic education program. Currently, 215 districts are eligible to receive LEA, of which 205 districts are receiving the assistance.

McCleary Ruling and Subsequent Orders.

In the 2012 *McCleary* ruling, the state Supreme Court invalidated the state's pre-ESHB 2261 funding formulas and determined that the state had failed to fulfill its constitutional duty to make ample provision for the education of all children. Among other things, the court ruled that the state funding formulas failed to allocate sufficient funding to hire and retain staff to implement the state's program of education. In subsequent orders, the court has directed the state to provide the court with a year-by-year plan for full funding of all aspects of basic education. In 2014, the court declared that the state's failure to submit a plan constituted contempt of court, and in 2015 the court imposed sanctions against the state.

Summary of Engrossed Substitute Bill:

Findings and Intent.

The Legislature indicates its commitment to funding its statutory formulas for the state's program of basic education, explaining that the current 2015-17 operating budget funds its statutory formulas for pupil transportation, MSOC, statewide all-day kindergarten, and class size reductions in grades K-3. The Legislature explains that the four-year budget outlook reflects the plan for funding the remaining increment of K-3 class size reduction by the scheduled statutory due date.

The Legislature declares its commitment to fully funding the program as defined and to eliminating school dependency on local levies for implementation of the state's program. Legislative intent is declared to provide state funding for competitive salaries and benefits that are sufficient to hire and retain competent staff.

The Legislature finds that the lack of transparency regarding the use of local levy funds limits its ability to make informed decisions and that previous studies did not include data and analysis of compensation paid by districts that is above basic education salary allocations. The Legislature declares that data and analysis on the source of compensation funding, duties, uses or categories for which compensation is paid above the state's allocation is necessary to inform the legislature's decisions.

Education Funding Task Force Established.

The Education Funding Task Force (EFTF) is created to continue the work of the Governor's informal work group to review the data and analysis provided by the consultant retained in this bill. The task force consists of eight legislators, two members from each of the two largest caucuses of the House of Representatives and the Senate; and the Governor or his designee as a non-voting member to serve as a facilitator. Recommendations of the EFTF require an affirmative vote of five of its members and must be submitted to the Legislature by January 9, 2017. Staff support is provided by the Office of Program Research and Senate Committee Services, with additional support provided by the Office of Financial Management. The EFTF meetings must comply with legislative rules relating to public notice of legislative committee meetings and committee procedures.

The EFTF must make recommendations to the Legislature on implementing the program of basic education. Using the data and analysis provided by the consultant retained under the bill, the work of the Washington State University report on inventories and assessment of the condition of Washington's schools, and the Professional Educator Standards Board report on addressing teacher shortages, the EFTF must, at a minimum, make recommendations regarding the following:

- compensation that is sufficient to hire and retain the staff funded under the statutory prototypical model and an associated salary allocation model;
- whether future salary adjustments should be incorporated into the salary allocation model and the method for providing adjustment, if applicable;
- whether a local labor market adjustment formula should be incorporated and, if so, the method for adjustment, including considerations for rural and remote districts and districts with economic distressing factors that affect recruitment and retention;
- whether additional state legislation is needed to help school districts to support state funded all day kindergarten and class size reduction in kindergarten through third grade;

- improving or expanding existing educator recruitment and retention programs;
- local M&O levies and local effort assistance;
- local school district collective bargaining;
- clarification of the distinction between services provided as part of the state's statutory program of basic education and services that may be provided as local enrichment;
- the provision and funding method for school employee health benefits; and
- sources of state revenue to support the state's statutory program of basic education.

Consulting Services and Data and Analysis.

The Washington State Institute for Public Policy, in consultation with the EFTF, must contract for independent professional consulting services to collect and analyze K-12 public school staff compensation. The data to be collected and analyzed includes public school staff total compensation data including: compensation paid in addition to basic education salary allocations; source of funding, and the duties, uses or categories for which the additional compensation is paid. In addition the consultant must also identify market rate salaries that are comparable to each of the prototypical school staff types and provide analysis regarding whether a local labor market adjustment formula should be implemented and which market adjustment factors should be used.

The Superintendent of Public Instruction must collect the data from the school districts with sufficient time for the consultant to accomplish the work required. The consultant must provide an interim report by September 1, 2016, and a final report by November 15, 2016.

Specified Legislative Action.

The Legislature must take legislative action by the end of the 2017 session to eliminate school district dependency on local levies for implementation of the state's program of basic education.

Appropriation: An appropriation in the amount of \$500,000 for the 2015-17 biennium is made to the Evergreen State College.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Feelings are mixed about what should be done to address the state's obligation to fully fund K-12 public education. There is a lot to do and to overcome over the next year. This bill will get the Legislature on the road to fully funding its program of basic education and is the baseline for the Legislature to move forward.

It is disappointing that it has taken so much time to get to this plan, but it is appreciated that the tough conversations are being had and it is gratifying to the legislature digging deep into the difficult issue of K-12 public school funding. This bill does not kick the can down the road, but rather is a welcome continued discussion. It would be good to see funding streams

that are connected to student outcomes in the final solution. It would be helpful to include the school directors and school business officers in the final process finding a solution to fully funding the state's program of basic education.

The members of the Governor's workgroup that met over the summer are to be commended. There is both frustration that the Legislature should be going faster and that much more should be done, but it does not benefit anyone to act hastily. The questions that the Legislature must address are serious and complicated. Information is needed for the Legislature to be able to make good choices moving forward.

(Opposed) There have been numerous studies over the past several years, one of which was used to prove the plaintiff's case, that the state was underfunding the program of basic education, against the state in *McCleary*. Nothing will be done to resolve the state's underfunding of K-12 public schools unless the Legislature is pushed. There is nothing new in this bill that hasn't been done by other groups previously. The Legislature must just take action now.

The bipartisan tone and obvious efforts of the work being done are appreciated. However, many of the topics discussed in the bill have already been reviewed and the bill does not meaningfully take concrete action or make advancement on what must be done. Additional data can be helpful, but requesting data in greater levels of granularity won't necessarily help the Legislature find the solution. There was a chance for the Legislature to make meaningful gains, but this bill doesn't do it. Bolder action is required at this time.

It is disappointing that House Bill (HB) 2366 is all that is being proposed. This bill is just another plan that kicks the can down the road. It doesn't lower class sizes or invest more in K-12 public schools, nor does it provide the capital necessary to reduce class sizes in schools or support all-day kindergarten. The bill delays hard decisions that the Legislature must make for an entire year. Funding must happen now and must include new revenue. Close tax loopholes, carbon tax, capital gains tax, and get rid of tax breaks. Students are the future taxpayers and leaders of the state. The bill would be improved by the inclusion of details and deliverables like HB 2239 proposed last year.

When a student in third grade doesn't do their homework on time, they face consequences. The Legislature voted for Engrossed Substitute House Bill 2261 and Substitute House Bill 2776 to define basic education and the Legislature said it would fund it by the start of the 2017-18 school year. The Legislature set its homework and its due date but it is off track. Students are paying the consequences for the Legislature not doing its homework. Lunch time is too short and classes are too large. The solution is simple. The Legislature must do its job and fund education now.

(Other) More studies might be informative but don't actually provide the funding or the plan necessary to complete ESHB 2261 and SHB 2776 and relieve the contempt of court. When the state does not provide the funding, the local parent teacher association and taxpayers step in to pay for the state's program. In finding a solution, the state should add new revenue, not take resources from other necessary state programs or reshuffle existing K-12 public school expenditures. Washington's tax is the most regressive in the country and should be changed

to be fair. Every student has a constitutional right to an amply funded education. Do more this session than make a plan to make a plan.

The work done by the four caucuses is appreciated. The eventual plan must have a regular and dependable funding source. The consultant should work with the Superintendents and school business officers after the data has been collected so they can help determine where the levy is being spent. The Legislature must be careful with the transition from local funding to state funding. The underfunding of salaries must be addressed.

Persons Testifying: (In support) Representative Lytton, prime sponsor; Jene Jones, League of Education Voters; Dan Steele, Washington Association of School Administrators; Jessica Vavrus, Washington State School Directors' Association; and Matt Steuerwalt, Office of the Governor.

(Opposed) Randy Dorn, Superintendent of Public Instruction; Asher Ravona; Summer Stinson, Washington's Paramount Duty; and Ben Rarick, State Board of Education.

(Other) Eden Mack, Washington State Parent Teacher Association; Julie Salvi, Washington Education Association; Mitch Denning, Alliance of Education Associations; and Neil Strege, Washington Roundtable.

Persons Signed In To Testify But Not Testifying: None.