

SENATE BILL REPORT

ESHB 2366

As of March 4, 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: Passed House: 1/25/16, 64-34.

Committee Activity: Early Learning & K-12 Education:

Brief Summary of Bill

- Creates the Education Funding Task Force to continue the work of the Governor's informal work group on implementing the program of basic education.
- Appropriates \$500,000 for 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.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Staff: Susan Mielke (786-7422)

Background: Basic Education. The Washington State Constitution (Constitution) provides: “It is the paramount duty of the state to make ample provision for the education of all children residing within its borders. . . .” The Washington Supreme Court (Court) has interpreted this to mean that the Legislature must define an instructional program of basic education for public schools and amply fund it from a regular and dependable source.

In 2009, the Legislature adopted a revised basic education funding allocation model for public schools based on prototypical schools. The use of prototypical schools is intended to illustrate the level of resources needed to operate a school of a particular size using commonly understood terms such as class size, hours of instruction, and specified staff

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.

positions. In 2010, the Legislature set targets and a timeline for phasing in specified funding enhancements to the basic education program by 2018, including enhancements to student transportation; materials, supplies, and operating costs (MSOC); statewide, full-day kindergarten; and a reduction in kindergarten through grade three (K-3) class sizes.

The 2015-17 omnibus appropriations act included sufficient funding to fully implement the enhancements to student transportation, MSOC, and statewide full-day kindergarten. The 2015-17 appropriations also continued the phase-in of K-3 class size reductions. The four-year balanced budget outlook includes the remaining step to implement the enhancement to reduce the K-3 class size to 17 students.

In the 2012 case *McCleary v State*, the Court found that the State had failed to meet its paramount constitutional duty to amply fund the costs of its basic education program using the pre-2009 funding model. The Court provided that state funding should reflect the actual costs of providing the legislatively defined instructional program of basic education. The Court identified state salary allocations as one area of shortfall. The Court noted that some of the difference between actual salaries and state allocations represented permissible incentive pay that went toward non-basic education related tasks. However, districts pay for some salaries that are likely a basic education responsibility using local levy funds. The Court reaffirmed that reliance on local school district levies for funding basic education is unconstitutional because local levies are not a regular and dependable funding source since levies are temporary, subject to approval by the voters, and highly variable. Local levies can be used by school districts for enrichment purposes.

The *McCleary* Court retained jurisdiction to help ensure progress by the State in meeting its constitutional obligation. In subsequent orders, the Court has directed the State to provide the Court with a 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 a fine of \$100,000 per day until the Legislature adopts a complete plan for complying with its constitutional duty by the 2018 school year.

School Employee Compensation. The Legislature allocates money to each school district for state-funded school employee salaries. The actual salaries paid to certificated instructional staff and classified staff are subject to the collective bargaining process, within certain limits set by the Legislature.

Certificated Instructional Staff (CIS). State funding for teachers and other certificated instructional staff salaries is provided through the state salary allocation model, which uses education and years of experience to vary the salary levels. The salary allocation is increased for each additional year of experience, up to 16 years, and for additional education, up to a Ph.D. School districts must pay at least the minimum salary on the state salary allocation model and cannot exceed the average salary calculated on the state salary allocation model.

Certificated Administrative Staff (CAS) and Classified Staff (CLS). There is no state salary allocation model for certificated administrative staff or classified staff such as bus drivers, food service workers, custodial staff, and class room aides. Each school district receives an allocation for these staff based on historical salary allocations, adjusted for cost-of-living increases.

School District Levies. School districts are authorized to raise funds locally for their districts through excess levies. Since 1977, the Legislature has limited the amount school districts may request from their voters and collect through maintenance and operation (M&O) levies. The maximum amount that may be raised is based on the state and federal funding received by the district in the prior year. The amount that may be raised is typically referred to as the district's levy authority.

The levy lid is the limit on school districts' levy authority. Under current law, 205 of the 295 school districts have a levy lid of 28 percent of the district's state and federal funding, which was temporarily increased in the 2010 legislative session from 24 percent. This means that school districts may request voter approval and collect \$0.28 for each \$1 of state and federal revenue the district receives. The other 90 school districts have a levy lid ranging from 28.01 percent to 37.90 percent.

Additionally, in the 2010 legislative session, the Legislature increased a school district's levy base to include certain non-basic education revenues formerly allocated by the State in addition to the revenues the district actually receives from state and federal sources. Effective with the levies for calendar year 2018, the levy lid will revert to 24 percent and the increases will be removed from the levy base.

Local Effort Assistance. The Local Effort Assistance program (LEA), or levy equalization, was created in 1987 to mitigate the effect that above-average property tax rates might have on the ability of a school district to raise local revenues through voter-approved levies. The LEA is expressly not part of basic education. The amount is calculated based on equalizing tax rates to a statewide average for a certain equalization rate. The current LEA equalization rate is 14 percent. In calendar year 2018, the LEA equalization rate will decrease to 12 percent.

Four-year Balanced Budget Outlook. In 2012, the Legislature enacted a law requiring the state operating budget to be balanced for the two-year biennium in which it is offered and the projected state operating budget to be balanced for the following two-year period based on current estimates for state revenues and the projected cost of maintaining the current level of state programs and services. Together, these two requirements are often referred to as the "Four-Year Balanced Budget Outlook."

Professional Educator Standards Board (PESB) Brief. The PESB Brief Addressing Recurring Teacher Shortages includes data, analyses, and recommendations for the Legislature that include:

- funding and requiring public higher education institutions to develop priority production area recruitment and enrollment plans, including recruiting strategies;
- increasing the funding for alternative routes for teacher certification and educator retooling programs;
- centralizing and funding marketing and recruitment;
- establishing competitive beginning teacher pay and aligning salary increases with teacher certification;
- funding statewide beginning teacher induction and mentoring; and
- providing forecasting tools for school district hiring needs.

Summary of Bill: Findings and Intent. The Legislature has demonstrated its commitment to funding education through the increased funding for basic education in the 2015-17 biennial budget. Legislative intent to complete the scheduled phase-in of the K-3 class size reduction in accordance with the four-year balanced budget outlook; to provide state funding for competitive salaries and benefits that are sufficient to hire and retain competent certificated instructional staff, administrators, and classified staff; and to minimize any disruptive impact to school districts and taxpayers is provided. Legislative findings that the lack of transparency regarding school districts' use of local levy funds limits the Legislature's ability to make informed decisions about educator compensation are made. 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. The Education Funding Task Force (EFTF) is created to continue the work of the Governor's informal work group on implementing the program of basic education. 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 the Governor's designee as a non-voting member to serve as a facilitator. Meetings of the EFTF must comply with legislative rules for committee meetings and procedures. 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 for the EFTF must be provided by the Office of Program Research, Senate Committee Services, and the Office of Financial Management.

The EFTF must review compensation and labor market data and analysis provided by a contracted consultant, and the PESB's report on teacher shortages. The EFTF must make recommendations regarding the following:

- compensation that is sufficient to hire and retain state-funded basic education, including whether and how future salary adjustments and a local labor market adjustment should be incorporated;
- whether additional state legislation is needed to help school districts to support state-funded all-day kindergarten and K-3 class size reduction;
- improving or expanding existing educator recruitment and retention programs;
- M&O levies and LEA;
- school district collective bargaining;
- clarifying the distinction between basic education and local enrichment services;
- the provision and funding of school employee health benefits; and
- sources of state revenue to support the state's statutory program of basic education.

Independent Professional Consulting Service. The Washington State Institute for Public Policy (WSIPP), in consultation with the EFTF, must contract for independent consultants to collect and analyze school staff compensation and labor market data. The Superintendent of Public Instruction and school districts must provide the necessary data to the consultant, WSIPP, OFM, and the EFTF. The consultant must provide an interim report by September 1, 2016, and a final report by November 15, 2016.

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 to fund the Washington State Institute for Public Policy to contract with independent professional consulting services.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

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