

# HOUSE BILL REPORT

## SB 6210

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### As Reported by House Committee On: Appropriations

**Title:** An act relating to the terms under which tribal schools may participate in the state retirement systems as part of a state-tribal education compact.

**Brief Description:** Addressing the terms under which tribal schools may participate in the state retirement systems as part of a state-tribal education compact.

**Sponsors:** Senators Conway, Schoesler, McCoy, Hobbs, Rolfes and Hunt; by request of Select Committee on Pension Policy.

#### **Brief History:**

##### **Committee Activity:**

Appropriations: 2/24/18, 2/26/18 [DP].

#### **Brief Summary of Bill**

- Permits tribal compact schools to choose participation in the Teachers' Retirement System and the School Employees' Retirement System.
- Requires participating tribal compact schools to submit to Washington law for reporting, contributions, auditing requirements, and dispute resolutions.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 33 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Buys, Caldier, Cody, Condotta, Fitzgibbon, Graves, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Taylor, Tharinger, Vick, Volz and Wilcox.

**Staff:** David Pringle (786-7310).

#### **Background:**

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*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.*

In 2013 the Legislature enacted the State-Tribal Compact Authority, authorizing the Office of the Superintendent of Public Instruction (OSPI) to enter into state-tribal education compacts (compacts) with the governing body of any federally recognized tribe in Washington. Compact schools generally are exempt from state statutes and rules applicable to school districts and school boards; however, they must comply with certain state requirements, such as staffing qualifications and reporting. How these requirements are met is outlined in the compacts, which are negotiated between the governing body of the tribe and the OSPI. State funding for compact schools is apportioned in the same way as public schools.

School district employees are generally divided into the Teachers' Retirement System (TRS) or the School Employees' Retirement System (SERS). The TRS covers employees who are certificated by the OSPI to teach and are employed by a public school, educational service district, or the state in an instructional, administrative, or supervisory capacity. The SERS covers noncertificated school district employees. The Washington State Retirement Systems, including the SERS and the TRS, are operated consistent with Section 401(a) of the Internal Revenue Code (IRC). This section, and associated sections, of federal law outlines the requirements that a governmental retirement plan must meet in order for pension contribution and interest earnings to be on a pre-tax basis. Determination letters can be requested from the Internal Revenue Service (IRS) to ensure that plan changes do not conflict with IRC requirements. Many of the same federal tax rules that apply to state governmental employee retirement plans also apply to tribal government employee retirement plans.

There are 29 federally-recognized tribes in Washington, and currently eight tribal schools in Washington. Five are compact schools (an application for a sixth is currently pending). One compact school, Quileute Tribal School, is participating in the TRS and the SERS; however, according to the Department of Retirement Systems (DRS), legislation is required in order to allow compact schools to continue participating.

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### **Summary of Bill:**

The compact for a tribal school opting to participate in the TRS or the SERS must include provisions that allow the tribal compact school to be treated similarly to public schools for the purpose of administering the retirement benefits. Similarly to other TRS and SERS employers, tribal compact schools are required to adhere to reporting, contribution, and auditing requirements as well as consent to the jurisdiction of Washington courts for the purposes of enforcing these requirements. The tribal compact school must also agree to make information that is provided to the DRS available to the OSPI. Unlike other TRS and SERS employers, a tribal compact school may choose to withdraw from TRS and SERS participation. The provisions of a compact related to the TRS and the SERS participation must memorialize the expectations and duties of the parties upon the decision by a tribal school to no longer participate in the TRS and the SERS.

If the IRS determines that the provisions of this law conflict with IRC plan qualification requirements, the bill is considered null and void.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This is about recruitment and retention of teachers in tribal compact schools. This bill is in part the result of efforts in the Select Committee on Pension Policy to address the unique circumstances of tribal schools, including that they can choose to opt-out of the pension systems. The bill needs to cover the Quileute School that is already in the retirement plans, as well as the other four schools that could choose to participate.

(Opposed) None.

**Persons Testifying:** Dylan Doty, Muckleshoot Indian Tribe.

**Persons Signed In To Testify But Not Testifying:** Dave Mastin, Office of Superintendent of Public Instruction.