

SENATE BILL REPORT

E2SHB 1368

As Reported by Senate Committee On:
Early Learning & K-12 Education, February 21, 2024
Ways & Means, February 26, 2024

Title: An act relating to requiring and funding the purchase of zero emission school buses.

Brief Description: Requiring and funding the purchase of zero emission school buses.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Senn, Fey, Berry, Doglio, Peterson, Chapman, Fosse, Slatter, Gregerson, Callan, Lekanoff, Ramel, Stonier, Street, Santos, Fitzgibbon, Berg, Reed, Simmons, Bergquist, Goodman, Pollet, Cortes, Macri and Leavitt).

Brief History: Passed House: 2/9/24, 58-39.

Committee Activity: Early Learning & K-12 Education: 2/19/24, 2/21/24 [DPA-WM, DNP, w/oRec].

Ways & Means: 2/24/24, 2/26/24 [DPA, DNP, w/oRec].

Brief Summary of Amended Bill

- Requires the Department of Ecology to administer the Zero-Emission School Bus Grant Program, and prioritize grants to districts serving communities highly impacted by air pollution and with buses manufactured prior to 2007.
- Provides that once the total cost of ownership of zero emission school buses is at or below the total cost of ownership of diesel school buses, school districts may only receive reimbursement for the purchase of zero emission school buses and may only contract with pupil transportation service providers that use zero emission school buses to transport students for the district, with some exceptions.
- Requires OSPI to survey school districts about the adoption of zero-emission school buses.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Wellman, Chair; Nobles, Vice Chair; Wilson, C., Vice Chair;
Hunt, Mullet and Pedersen.

Minority Report: Do not pass.
Signed by Senator McCune.

Minority Report: That it be referred without recommendation.
Signed by Senators Hawkins, Ranking Member; Dozier.

Staff: Alex Fairfortune (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.
Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair,
Operating; Billig, Conway, Dhingra, Hasegawa, Hunt, Keiser, Pedersen, Randall, Saldaña,
Van De Wege and Wellman.

Minority Report: Do not pass.
Signed by Senators Wilson, L., Ranking Member, Operating; Gildon, Assistant
Ranking Member, Operating; Schoesler, Ranking Member, Capital; Boehnke, Braun,
Muzzall, Torres and Wagoner.

Minority Report: That it be referred without recommendation.
Signed by Senator Rivers, Assistant Ranking Member, Capital.

Staff: Richard Ramsey (786-7909)

Background: School Bus Purchasing and Reimbursement. School districts are responsible for selecting, paying for, and maintaining student transportation vehicles purchased by the district. The Office of the Superintendent of Public Instruction (OSPI) is responsible for developing categories and competitive specifications for school bus acquisitions as well as a corresponding list of school bus dealers with the lowest purchase price quotes. School districts and educational service districts that purchase buses through this competitive quote process or through a separate lowest-price competitive bid process are eligible for certain state funds based on the category of vehicle, the anticipated lifetime of vehicles of this category, and a state reimbursement rate. The accumulated value of the state payments received by the district and the potential investment return is designed to be equal to the replacement cost of the vehicle, less its salvage value, at the end of its anticipated lifetime.

In 2022 the Legislature passed SHB 1644, which expanded the allowable uses of money

from a transportation vehicle fund to include:

- the purchase, installation, and repair of electric pupil transportation vehicle charging stations and other zero-emission fueling stations, and other costs necessary for their installation;
- completing feasibility plans to transition from gas or diesel pupil transportation vehicles to electric or zero-emission pupil transportation vehicles; and
- converting or repowering existing gas or diesel pupil transportation vehicles to electric or zero-emission pupil transportation vehicles.

Zero-Emission School Bus Grant Program. The Washington State Clean Diesel Program operates a Zero-Emission School Bus Grant Program that provides up to \$14 million in funding to scrap and replace diesel school buses with new zero-emission school buses, including charging or fueling infrastructure. School bus owners that transport students to K-12 public schools, including charter and tribal-compact schools, are eligible to apply. Funding levels are tiered based on an applicant district's Free or Reduced-Price Lunch (FRPL) percentage or Rural School District status. Applicants are also scored based on criteria related to the vehicle's age, whether the district is located in a highly impacted overburdened community, and the district's percentage of economically disadvantaged children.

Summary of Amended Bill: Zero-Emission Vehicle School Bus Grants. The Department of Ecology (Ecology) must administer a Zero-Emission School Bus Grant Program within the Clean Diesel Grant Program for buses, infrastructure, and other related costs. Grants are provided to transition from fossil-fuel school buses to zero-emission vehicles (ZEV), which are defined as vehicles that produce zero exhaust emission of any air pollutant and any greenhouse gas other than water vapor.

Grants may be used for the following purposes:

- planning and acquisition of ZEV school buses;
- planning, design and construction of fueling and charging infrastructure, including infrastructure to allow the use of ZEV buses in cold weather and other challenging operational conditions;
- the scrapping of old diesel school buses; and
- training for drivers, mechanics, and facility operations personnel.

Grants are in addition to payments under the Office of the Superintendent of Public Instruction (OSPI) depreciation schedule, and may be combined with other sources of funding. Ecology may retain up to 3.5 percent of funds for administering the grant program and 6.5 percent of funds for technical assistance to grant recipients. Ecology must provide notice of a grant award decision to the utility providing electrical service to the grant recipient.

Ecology must prioritize the following grant recipients, in descending order of priority:

- school districts using buses manufactured prior to 2007 serving overburdened

communities highly impacted by air pollution identified by Ecology under the Climate Commitment Act;

- school districts serving overburdened communities highly impacted by air pollution identified by Ecology under the Climate Commitment Act;
- school districts using buses manufactured prior to 2007; and
- applicants that have demonstrated a previously unsuccessful application for federal funding prior to January 1, 2024.

Ecology, in consultation with OSPI, must submit a report to the Governor and Legislature updating on the status of the ZEV School Bus Grant Program by June 1, 2025. The report must include a summary of recommendations and implementation considerations for transitioning the zero emission school bus grant program to the school bus depreciation schedule used by OSPI for school district reimbursement.

School District Reimbursement and Contracting. OSPI, in consultation with Ecology, must develop preliminary guidance for school districts regarding the formula factors used to calculate the total cost of ownership for zero emission school buses and diesel school buses. After considering feedback to the preliminary guidance, OSPI must adopt rules to establish the formulas. The formulas must, at a minimum, address the initial cost of the bus at the time of purchase, the cost of maintenance, the cost of fueling and charging, and the cost of replacing batteries.

Once the total cost of ownership of zero emission school buses is at or below the total cost of ownership of diesel school buses, school districts may only receive reimbursement for the purchase of zero emission school buses and may only enter into pupil transportation services contracts with entities that use zero emission school buses to transport students for the school district. OSPI must grant an exception to these requirements if:

- the reimbursement is for a diesel school bus that was purchased prior to the total cost of ownership determination;
- the school district has bus route mileage needs that cannot be met by the average daily mileage achieved under actual use conditions in Washington for zero emission school buses;
- the school district has other unique needs that may not be met by the technological capabilities of zero emission school buses; or
- the school district does not have, or have access to, the appropriate charging infrastructure to support the use of zero emission school buses. Under this exception, the district must submit documentation indicating it has applied for grant funding to install charging infrastructure or documentation from a utility indicating the school district does not have enough electric capacity to support charging infrastructure.

Exceptions may not exceed five years, unless the exception is for a reimbursement for a diesel bus purchased prior to the total cost of ownership determination. A school district may apply to renew an exception if the need for such an exception still exists after the initial exception has expired.

The new reimbursement and contracting requirements do not prohibit the use of externally vented fuel-operated passenger heaters from November 15th through March 15th annually until other viable alternatives are available.

If a school district enters into a pupil transportation services contract with a private nongovernmental entity that uses zero emission school buses to transport students for the school district, the contract period may be up to seven years in duration rather than five years authorized under current law.

Zero-Emission Vehicle School Bus Survey. By November 15, 2024, OSPI, in consultation with Ecology, must carry out a survey of school districts, charter schools, and state-tribal education compact schools focused on the uptake and total cost of ownership of ZEV school buses. OSPI must submit a report to the Legislature summarizing its findings by December 1, 2024.

The survey must collect the following information from each school district and school:

- current ZEV charging, refueling capacity, and infrastructure;
- whether the district or school would anticipate applying for grant funds, if available, to support ZEV bus or infrastructure purchases in the next two or five years;
- for any district or school using a bus after the end of its applicable depreciation schedule, whether the bus was manufactured prior to 2007 and an explanation for its continued use;
- responses to preliminary guidance from OSPI for calculating total cost of ownership and whether the school district or school utilizes the preliminary guidance or uses a different calculation methodology; and
- any other survey information deemed helpful by Ecology or OSPI to facilitating the transition to ZEV.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

- Directs OSPI, in consultation with Ecology, to develop preliminary guidance regarding the formula factors used to calculate the total cost of ownership for zero emission school buses and diesel school buses.
- Requires OSPI, in consultation with Ecology, to adopt rules to establish such formulas and sets out minimum formula factors that must be considered.
- Provides that, once total cost of ownership of zero emission school buses is at or below the total cost of ownership of diesel school buses, school districts may only receive reimbursement for the purchase of zero emission school buses and may only contract with pupil transportation service providers that use zero emission school buses to transport students for the school district.
- Provides exceptions to the reimbursement limitation and the contracting requirements, up to five years in duration, if a school district has mileage or other unique needs that cannot be met by zero emission buses or if a school district does not

- have appropriate charging infrastructure or the capacity to install such infrastructure.
- Authorizes school districts to enter pupil transportation service contracts with private nongovernmental entities for a period of seven years, rather than five years, if the entity uses zero emission school buses to transport students for the school district.
 - Allows the use of externally vented fuel-operated passenger heaters from November 15th through March 15th annually until other viable options become available.
 - Provides that grant prioritization is based on school district rather than bus route.
 - Adds definition of "zero emission school bus" to the new sections to align with the definition of "zero emission vehicle" under the grant program and survey.
 - Modifies the intent section, grant program, and survey to align with the new language.

EFFECT OF EARLY LEARNING & K-12 EDUCATION COMMITTEE AMENDMENT(S):

- Removes provisions that require OSPI's depreciation schedule to solely include zero-emission school buses once the total cost of ownership is at or below the total cost of ownership of diesel school buses, and all related provisions including rulemaking authority and direction for reimbursement under this schedule.
- Removes provisions that require newly acquired school buses used for pupil transportation service contracts to be zero-emission and provisions granting exceptions to this requirement.
- Removes language changing the pupil transportation service contract period from 5 years to 15 years.
- Modifies the intent, grant program, and survey provisions to remove references to the depreciation schedule and pupil transportation contract requirements.
- Requires the Department of Ecology to provide notice of a grant award decision to the utility providing electrical service to the grant recipient.
- Adds cross references to clarify the order of grant prioritization

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 15, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is about making sure kids have cleaner air to breathe, communities have cleaner air and water, and that bus drivers have easier physical environments. The Department of Health did a health impact review that showed lots of benefits, especially around asthma and respiratory illness. The bill focuses

on overburdened communities first, and as a grant program it is focused on districts that want to adopt zero-emission buses. Then ultimately, over time, OSPI must recognize the earlier upfront cost of electric buses. Great strides will be made in future years, like having batteries that will allow buses to drive longer distances, and costs will decrease. This paves the way without getting ahead of what is currently available. It will significantly benefit district health without taxing their resources. It will reduce greenhouse gas emissions and improve the air quality to protect children who are especially vulnerable. Bus drivers rave about how clean, comfortable, and reliable their routes are with zero-emission buses. Districts need to be fully funded for transportation and infrastructure costs and receive the full cost of implementation.

CON: This will be detrimental to rural school districts. Electric buses cost three times the amount of regular buses and batteries need to be replaced at a high cost. Batteries may explode and these fires are much harder to put out. Cities may benefit but rural communities will not. This removes local control. Sustainable practices are essential but we have to consider the practicality and cost. This is not a wise use of taxpayer money.

OTHER: The local utility needs to be aware of grant recipients to make sure the utility has the capacity to provide the electrical infrastructure, which can take up to a year to become operational.

Persons Testifying (Early Learning & K-12 Education): PRO: Representative Tana Senn, Prime Sponsor; Maddy Thompson; Melissa Gombosky, Evergreen and Vancouver Public Schools; Anna Lising, Governor's Office; Molly Williams, Department of Ecology; Charlie Brown, South Sound Superintendents; Devon Kellogg, Washington State PTA; Jim Kowalkowski, Rural Education Center; Mollie Grow, Washington Chapter American Academy of Pediatrics; Adrienne Joyce, Washington State Catholic Conference.

CON: Teresa Ekdahl-Johnson; Mary Long, Conservative Ladies of Washington.

OTHER: Bill Clarke, WA PUD Association.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):

No one.

Staff Summary of Public Testimony on Bill as Amended by Early Learning & K-12 Education (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: We appreciate that this is a grant only program. This bill is important for the climate. Evidence shows that kids do better when they do not breathe diesel pollution. We support using Climate Commitment Act funds for this program. I want to note that this bill is inclusive of both electric and hydrogen buses.

OTHER: We have very strong concerns about this bill when it was in the House which created a mandate for school districts to buy these buses. We caution against mandates for school districts. What works in Vancouver may not work in rural districts. We represent

the contractors who work with school districts.

Persons Testifying (Ways & Means): PRO: Charlie Brown, South Sound Superintendents; Leah Missik, Climate Solutions; Melissa Gombosky, Evergreen, Vancouver and Richland School Districts .

OTHER: Carolyn Logue, WA State Student Transportation Coalition.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.