

SENATE BILL REPORT

SB 5607

As of February 3, 2009

Title: An act relating to education.

Brief Description: Attaining a world class K-12 educational system.

Sponsors: Senators McAuliffe, Pridemore, Kauffman, Hargrove, Regala, Franklin, Shin, Kline, Keiser and Kohl-Welles.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/02/09.

Brief Summary of Bill

- An 11-member Commission is established to annually determine the resources necessary to amply provide a basic K-12 education based on prototypical schools.
- Specific increases are made to the current basic education funding formula for 2009 and 2010, with subsequent increases based on the recommendations of the Commission, if approved by the Legislature and the Governor.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Staff: Susan Mielke (786-7422)

Background: Constitutional Duty of Basic Education. Under article IX, section 1 of the Washington State Constitution, "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders . . ." The courts have interpreted this to mean that the state must define a program of basic education and amply fund it from a regular and dependable source. The courts have found that local levies are not regular or dependable and may only be used for enrichment programs beyond basic education. The courts have concluded that once the Legislature has established full funding for the program of basic education it may not reduce such funding, even in periods of fiscal crisis. However, the Legislature is required to review, evaluate, and revise the program of education and its funding in order to meet the current needs of the children in the state. The state must also provide a general and uniform system of public schools under article IX, section 2 of the Constitution.

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.

All-Day Kindergarten. In the 2007-08 school year, the Legislature began phasing-in voluntary all-day kindergarten starting with the schools with the highest percentages of students qualifying for a free or reduced lunch. Funding was provided to support a full-day program for approximately 10 percent of the state's kindergarten enrollment during the 2007-08 school year, and 20 percent during the 2008-09 school year. All-day kindergarten is not currently basic education.

Basic Education Program and Allocation. The Legislature has defined a basic education as including goals, a minimum of 180 days, and 1,000 hours averaged across all grade levels in a school district. The courts have found that a basic education also includes the special education program for students with disabilities who need specialized instruction due to the disability; the Learning Assistance Program (LAP), which provides assistance to underachieving students; the Transitional Bilingual Instruction Program (TBIP), which assists students to achieve competency in English when they are from homes where the primary language is other than English; the educational program for students in residential schools and detention facilities, and students under the age of 18 incarcerated in adult correctional facilities; and portions of the student transportation program.

The funding allocation for the basic education program is based on staff compensation factors, and nonemployee related costs (NERC). The allocation also includes enhanced funding for small schools. Additionally, the allocation includes administrative, certificated instructional staff (CIS), and classified staff per student ratios however school districts retain responsibility for determining staffing levels. The current ratios are in the appropriations act and, at a minimum, are:

- four administrators to 1,000 K-12 students;
- 49 CIS to 1,000 students in grades kindergarten through 3;
- 46 CIS to 1,000 students in grades four through 12; and
- 16.67 classified staff to 1,000 students in grades kindergarten through 12.

Initiative 732 (I-732). I-732, approved by the voters in 2000, provides a cost-of-living salary adjustment (COLA) to school employees based on the Puget Sound area consumer price index as determined by the U. S. Department of Labor, Bureau of Labor Statistics. The COLA for the 2009-10 school year is estimated to be 4.1 percent and for the 2010-11 school year to be 0.0 percent, for a total cost of \$355 million for the 2009-11 biennium.

Learning Improvement Days (LID). Since 1993 the Legislature has provided funding for some form of LID. Currently, the appropriations act provides funding for two LID. Districts are eligible to receive LID funds if the LID are added to the 180-day contract. LID are limited to specific activities identified in the school improvement plan. The principal and district superintendent must approve the activities, which must be for professional development. LID must be the length of a full-day under the base contract. SPI must ensure that districts follow these provisions.

Initiative 728 (I-728). I-728, approved by the voters in 2000, established the Student Achievement Fund (SAF). Under the SAF process, the state distributes a portion of state property tax revenues to school districts on a per-student basis. This funding is not basic education funding. School districts may use SAF funds for a number of purposes, including

class size reductions, extended learning opportunities, teacher professional development, pre-K, and related facilities improvements. SAF allocations increase annually by inflation.

Accountability. The State Board of Education (SBE) has responsibility for implementing a statewide accountability system that includes identification of successful schools and districts, those in need of assistance, and those in which state intervention measures are needed. Intervention strategies may be implemented only after authorization by the Legislature, which has not occurred.

For the past two years SBE has been working on an accountability system and on January 15, 2009, they adopted a resolution to:

- develop an accountability index to identify schools and districts based on student achievement;
- work to build the capacity of districts to help their schools improve, including an Innovation Zone program to provide improvement assistance;
- establish a process for placing schools and districts on Academic Watch if no significant improvement occurs, which would include a binding performance contract between the state and the district; and
- continue to refine the details of the accountability system.

Basic Education Finance Task Force. In 2007 the Legislature created the task force to review the definition of basic education, review all current basic education funding formulas, develop options for a new funding structure and all the necessary formulas, propose a new definition of basic education, and make recommendations to the Legislature by December 1, 2008. A proposal by the Full Funding Coalition (FFC), which is composed of members of WSSDA, WASA, AWSP, WEA, and PSE, was presented to the Task Force and became a minority report to the Task Force report offered by one of the Task Force members.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed First Substitute): The Full Funding Coalition's proposal is implemented to revise the basic education funding formula, including increasing funding in this biennium.

Constitutional Duty of Basic Education. The purpose of the Act is to establish a new funding system for public schools phased in over six years, which will provide adequate resources, give all students the opportunity to meet the state's educational standards, be more transparent, and allow greater flexibility to school districts. A commission is created to oversee the new system, recommend to the Legislature the level of funding needed to meet the state's definition of basic education, and review and update the definition of basic education, as needed.

Commission for Quality Education (Commission). An 11-member Commission is created composed of the Superintendent of Public Instruction (SPI) and ten members appointed by the Governor, with five members representing the educational system. The chair is elected by the other Commission members. Terms, compensation, and other operating procedures are specified. The Office of the Superintendent of Public Instruction (SPI) must provide staff and maintain web pages for the Commission.

The Commission's duties include the following:

- a. determining the resources necessary to make ample provision for the education of all Washington students based on a prototypical school adjusted for cost of educating students by school size, region, family income level, and relevant student demographic factors;
- b. after each legislative session, reviewing the Legislature's actions that have a fiscal impact on schools and incorporating sufficient resources into the prototypical school model for schools to comply;
- c. conducting a comparative labor market analysis every two years of salaries and other compensation of school district employees;
- d. developing performance indicators for schools at full-funded levels based on prototype schools to establish performance expectations for schools relative to the percent of full funding provided by the state; and
- e. preparing a technical report to the Governor, SPI, and the Legislature, and a non-technical report to the public, both starting on December 1, 2010.

Annual Legislative Report. The Legislature may fund K-12 at levels other than those identified by the Commission. On August 1 of each year the Legislature must issue a report detailing the degree to which appropriated amounts differ from recommendations of the Commission and the implications and ramifications on the performance of students, schools, and districts.

All-Day Kindergarten. As all-day kindergarten is phased in, it will be basic education for those school districts that receive the funding for all-day kindergarten. The phase-in will be complete by the 2012-13 school year.

Basic Education Program and Allocation. It is clarified that the goal of education is for schools as well as school districts. The basic education program and allocation maintains 180 full days and an offering of 1,000 hours, including kindergarten when the phase-in is complete. Language is removed that the basic education allocation is fully funded by the Legislature when the program requirements are funded in accordance with the funding allocation provisions and ratios.

Allocations for extraordinary costs of small school districts are increased to reflect increased staff allocations beginning in the 2009-2010 school year and thereafter. NERC are increased 12.4 percent for the 2009-10 school year, increased 23.7 percent for 2010 school year; and increased subsequently based on recommendations of the Commission, if adopted by the Legislature and the Governor. The requirement that the SPI and the Governor biennially review the distribution formula and that the Legislature may approve, amend, or reject the formula is removed.

The ratio for administrators is maintained at four administrators to 1,000 K-12 students. The CIS and classified staff ratios to 1,000 students are increased as follows:

For the 2009-10 school year, at a minimum:

- CIS is increased from 49 to 56.37 in grades Kindergarten through three;
- CIS increased from 46 to 47.07 in grades four through 12;
- Classified staff is increased from 16.67 to 17.21 in grades K through 12.

For the 2010-11 school year, at a minimum:

- CIS is increased to 59.56 in grades Kindergarten through three;
- CIS is increased to 48.14 in grades four through 12;
- Classified staff is increased to 17.41 in grades kindergarten through 12.

A New Basic Education Allocation. Beginning with the 2011-12 school year, the Legislature will adopt a replacement basic education allocation formula based on recommendations of the Commission. The formula will be based on prototype schools and maintains funding for regular education, special education, LAP, TBIP, and adds student transportation as part of basic education; but, the transportation funding formula is not changed. The allocation per student for the LAP increases in the 2009-10 school year to 5.26 CIS per 1,000 students; and in the 2010-11 school year increased to 7.06 CIS per 1,000 students. Subsequent increases are based on the recommendations of the Commission.

Beginning with 2011-12 school year, the allocations for special education, LAP, TBIP and student transportation may be separate categorical appropriations or combined with the regular basic education allocation to create a foundation formula. Beginning in the 2011-12 school year, the Legislature may incorporate the I-728 SAF into a new foundation formula pursuant to the recommendations of the Commission.

I-732. Salary increases are provided to CIS, certificated administrative staff and classified staff above the COLA adjustments by 3 percent for the 2009-10 school year and 2 percent for the 2010-11 school year. Subsequent adjustments will be based on the recommendations of the Commission, if adopted by the Legislature and Governor.

LID and I-728. The current appropriations language addressing LIDs is put in the statutes. In the 2009-10 school year, the CIS salary schedule must include a minimum of 3.2 LIDs; and in the 2010-11 school year the schedule must include a minimum of 4.3 LID. Subsequently, additional LID and amounts available under I-728 must be phased-in considering the recommendations of the Commission.

Accountability. The bill provides that state expectations of school districts need to transition from inputs to accountability for performance based on multiple measures. Districts are responsible for providing effective educational opportunities to students in proportion to the state funding provided. Struggling schools and school districts should receive progressive levels of support and assistive measures after a thorough diagnosis to determine the reasons they are struggling.

By December 1, 2010, the SBE, the SPI, and the PESB must report on ways to measure and implement a number of accountability measures specified in the bill addressing students, classroom practices, teachers, schools, central administration, local school boards, and the executive and legislative branches.

Technical changes are made to the levy lid statutes as a result of the changes in the definition of basic education. SPI must change the accounting manual so that expenditure of levy revenues are accounted for as a separate program or programs.

Appropriation: None.

Fiscal Note: Requested on January 28, 2009.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed, except section 502 which takes effect January 1, 2012.

Staff Summary of Public Testimony: PRO: This is a beginning framework on which to build a new funding structure for basic education. These are the areas where the FFC could agree, that can be implemented now, and that will help school districts the most. The sections addressing a funding source have been removed in the proposed substitute to provide flexibility to consider many different options. The expectations are high for school districts but the level of funding and the performance of our students continues to drop. This bill will provide additional funds immediately. The Commission created in the bill is integral in developing a fair accountability system where struggling schools and districts will receive progressive levels of support and the performance expectations are proportional to the amount of state funding provided.

CON: The definition of basic education drives the funding and we are missing opportunities that we could take advantage of now. We are excited about the spirit of cooperation that is pervading the meeting but we think there are changes that should be made in the bill to strengthen it. A more comprehensive and long-term approach is what we need. The State Board's CORE 24 for high school credits should be included. Additionally, new teacher certification based on teacher effectiveness and a teacher career ladder coupled with a robust mentoring program should be included. Research shows that early learning for at-risk children can make the biggest impact of any of the reforms and should also be addressed.

Persons Testifying: PRO: Senator McAuliffe, prime sponsor; Paul Rosier, WASA, FFC, Bill Freund, WEA, FFC; Dr. David Conley, EPIC, FFC; Ken Kanikeberg, OSPI; Dan Steele, WSSDA, FFC; Barbara Mertens, WASA, FFC; Doug Nelson, PSE/SEIU, FFC; Jerry Bender, AWSP, FFC; Peter Knowles, teacher.

CON: Jim Kainber, Stand for Children; Shawn Hanson, Pat Montgomery, parents; George Scarola, Lisa Macfarlane, League of Education Voters.