

HOUSE BILL ANALYSIS

HB 1865

Title: *An act relating to school district contracting.*

Brief Description: *Allowing school districts to contract with other public and private entities.*

Sponsors: *Representatives B. Thomas, Johnson, Talcott, Thompson, Radcliff, Mulliken, Hickel, Backlund, Zellinsky and McDonald.*

HOUSE COMMITTEE ON EDUCATION

Meeting Date: *February 18, 1997.*

Bill Analysis Prepared by: *Pat Shelledy (786-7149).*

Background: A school district is a body corporate and possesses all the usual powers of a public corporation. A school district may sue and be sued, transact business necessary for maintaining the school district and schools, protect the rights of the district, and enter such obligations as authorized by law. RCW 28A.320.010.

The board of directors of each school district have broad discretionary power to determine and implement written policies not in conflict with other laws. RCW 28A.320.015.

A variety of provisions in the education code provide that school districts may contract for various goods or services. There is not a general provision in the code that specifically provides that school districts have a general authority to contract.

The Washington State Supreme Court has held that a government agency may not avoid obligations imposed on the government agency by contracting with a private organization to fulfill a role of the agency. *Weyerhaeuser v. Pierce Cty.*, 124 Wn.2d 26 (1994). (case involved environmental issues under SEPA requirements). In general, an agency only has those powers that are expressly given or necessarily implied in statute. *State ex.rel. PUD No. 1. v. Dep't of Public Service*, 21 Wn.2d 201 (1944).

A provision in the education code provides that if a school district enters into a contract for services that had previously been performed by classified school employees, the contract must contain a specific clause providing for health care benefits for the contracting entity's employees. The provision also requires the school district to conduct a feasibility study regarding the impact of entering into contracts for services, obtain the superintendent of public instructions's approval, and comply

with existing collective bargaining agreements. This provision applies to contracts for services being performed by classified staff as of July 26, 1993. ***The provision regarding conducting feasibility studies prior to a school district entering into a contract for services that are being performed by classified school employees as of July 25, 1993, is amended to provide the provision applies to services performed by employees before July 26, 1993.***

Summary of Bill: An express provision is added to statutory provisions governing school districts to provide that a board of directors of a school district may contract with other school districts, educational service districts, public or private organizations, agencies, schools, or individuals to implement the board's powers and duties. The board may contract for goods and services, including but not limited to goods and services as specifically authorized in statute or rule, as well as other educational, instructional, and specialized services.

Contracts may not be made with religious or sectarian organizations or schools.

Fiscal Note: *Not requested.*

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