

HOUSE BILL REPORT

E2SSB 5329

As Reported by House Committee On:
Education
Appropriations

Title: An act relating to transforming persistently failing schools.

Brief Description: Transforming persistently failing schools.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Litzow, Hobbs, Fain, Hatfield, Tom, Frockt and Roach).

Brief History:

Committee Activity:

Education: 3/15/13, 3/29/13 [DPA];

Appropriations: 4/5/13, 4/8/13 [DPA(APP w/o ED)].

**Brief Summary of Engrossed Second Substitute Bill
(As Amended by Committee)**

- Updates the criteria used by the Superintendent of Public Instruction (SPI) to identify persistently lowest-achieving schools to conform to revised federal rules and guidance, to be applied equally to both Title I and non-Title I schools.
- Permits state as well as federal funds to be used for school improvement in a Required Action District (RAD).
- Replaces a requirement that a RAD use one of four federal intervention models with a requirement for use of a school improvement model approved by the SPI.
- Authorizes the State Board of Education to designate a RAD that has implemented a required action plan for at least three years and has not made adequate progress to a new Level II RAD process.
- Directs that the SPI work with the school board to develop a Level II Plan that includes specified interventions and conditions binding on the district.
- Provides a process and authority for the SPI to direct actions if the school board does not agree to a Level II Plan, or if the Level II Plan is not implemented as specified.

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.

- Directs the SPI to design a system of support, assistance, and intervention that applies equally to Title I and non-Title I schools if funds are available, and is implemented in the 2014-15 school year.
- Establishes a legislative task force to oversee implementation and monitor outcomes from the educational accountability system.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass as amended. Signed by 11 members: Representatives Santos, Chair; Stonier, Vice Chair; Bergquist, Haigh, Hunt, Lytton, Maxwell, McCoy, Orwall, Pollet and Seaquist.

Minority Report: Do not pass. Signed by 7 members: Representatives Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Fagan, Hargrove, Hawkins, Hayes and Klippert.

Staff: Barbara McLain (786-7383).

Background:

History.

In 2010 the Legislature enacted a law to establish criteria and a process for identifying and requiring intervention in persistently lowest-achieving schools. Each year the Superintendent of Public Instruction (SPI) identifies the schools and recommends that the State Board of Education (SBE) designate school districts as Required Action Districts (RADs) if the districts have a persistently lowest-achieving school.

The RADs must undergo an academic audit, develop a required action plan, have the plan approved by the SBE, and then implement the plan using federal funds for school improvement. If the SBE rejects a required action plan, the school district may request reconsideration by a Required Action Plan Review Panel (Panel) convened for this purpose. The Panel makes recommendations, but the SBE's decision after reconsideration is final.

A procedure is established for re-opening collective bargaining agreements in order to implement a required action plan. The SPI recommends release of a district from required action after at least three years if the school has made sufficient progress; a district that fails to make the necessary improvement must submit a new plan. The 2010 law established a Joint Select Committee on Education Accountability (Joint Select Committee) to examine various topics, including options for significant state action if a RAD continues to fail to improve. The Joint Select Committee is scheduled to submit a final report by September 2013.

The 2010 law was enacted concurrently with a significant increase in federal funding for School Improvement Grants (SIGs). Various aspects of the law are designed to assure eligibility for the SIGs:

- A persistently lowest-achieving school is defined as one of the lowest performing 5 percent of schools either receiving or eligible to receive federal Title I funds.
- School performance is measured using federal criteria, including results on state reading and mathematics assessments and high school graduation rates.
- Recipients of the SIGs must implement one of four intervention models specified by the U.S. Department of Education: turnaround, restart (including as a charter school), school closure, or transformation.
- The RAD process is implemented only if federal funds are available.

Since 2010 the Office of the Superintendent of Public Instruction (OSPI) has annually identified the list of persistently lowest-achieving schools, and 28 schools have received \$67 million from the SIGs, to be used over a three-year period. Four of these schools were also designated under the state RAD process.

Current Status.

The SPI is not anticipating additional federal funding for the SIGs and thus did not designate any RADs for the 2012-13 school year. State funding for school improvement grants was eliminated in the 2011-13 biennial budget.

In July 2012 Washington received a provisional one-year waiver from certain requirements of the Elementary and Secondary Education Act (ESEA). Under the ESEA waiver:

- Low-achieving schools are categorized as Priority, Focus, and Emerging, with performance measures using the test scores of all students, plus achievement gaps between groups of students, as well as high school graduation rates for all students and subgroups of students.
- Instead of implementing specific federal intervention models, low-achieving schools are required to use turnaround principles established by the DOE to improve performance.
- States are permitted to propose their own methods for identifying schools and their own systems of providing support, assistance, and intervention based on their performance.

The provisions of the ESEA continue to apply only to Title I or Title-I eligible schools, but the SPI and the SBE are redesigning the state Accountability Index and developing an accountability system that could apply to all schools in the state.

Summary of Amended Bill:

Modifications to Required Action.

Beginning December 1, 2013, the SPI must identify a category of schools called "challenged schools in need of improvement." The criteria used by the SPI to identify schools must meet federal requirements under the ESEA or other federal rules or guidance and must be applied equally to both Title I and non-Title I schools. Turnaround principles are defined.

The SPI must also identify a subset of these challenged schools for purposes of the state RAD process, called "persistently lowest-achieving" schools. The criteria for this

designation must also be established by the SPI and include lack of progress over a number of years, as well as the availability of funds for implementation of a required action plan.

The state Accountability Index is renamed the Washington Achievement Index, and if federally approved, the SPI must use it to identify schools.

State as well as federal funds may be used to support a required action plan. The requirement that the RADs must implement one of four specified federal intervention models is removed. Instead, a RAD must implement a school improvement model, based on turnaround principles, that has been approved by the SPI. The SPI also develops guidelines for required action plans. School districts with more than one persistently lowest-achieving school must develop a required action plan for each school, as well as a plan for how the district will provide assistance.

Level II Required Action.

If a RAD has not demonstrated sufficient improvement after at least three years of implementing a required action plan, the SBE may either require development of a new plan or assign the district to a new Level II RAD process. Before making this determination, the SBE must submit its findings to an Education Accountability System Oversight Committee (Oversight Committee) for review and comment.

Under Level II, the SPI must direct that a needs assessment and review be conducted to identify the reasons why the previous required action plan did not succeed. The SPI must then work with the school board to develop a Level II Plan that specifically addresses the findings of the needs assessment and specifies the interventions that must be implemented. Interventions may include reallocation of resources, reassignment of personnel, use of a specified intervention model, or other conditions that the SPI determines are necessary for the Level II Plan to succeed, which conditions become binding on the district.

The Level II Plan must also specify the assistance to be provided from the SPI, which may include assignment of on-site specialists with experience in school turnaround and cultural competence, and assistance from the Educational Service District. Level II Plans must be submitted to the SBE for approval. If the SPI and the school board do not agree, the SPI must submit the Level II Plan to the SBE directly. The school board may request a reconsideration from the Panel, but the SBE's decision is final after considering the Panel's recommendations.

School districts and employee organizations must reopen collective bargaining agreements if necessary to implement a Level II Plan, using the process authorized under current law. If the Level II Plan is one developed by the SPI without the agreement of the school board, the SPI participates in the collective bargaining discussions.

The SPI is responsible for assuring that a Level II Plan is implemented with fidelity. The SPI must defer to the local school board as the governing authority of the school district, but if the SPI finds that the Level II Plan is not being implemented as specified, the SPI may direct actions that must be taken by school personnel to implement the Level II Plan or any binding conditions within it. If any binding conditions are not being followed, the SPI may withhold the allocation of funds under authority provided in current law.

Educational Accountability System.

The SBE must propose rules to establish an accountability framework. The SPI must then design a system of support, assistance, and intervention based on the framework and submit the design to the SBE for review. The system must be implemented statewide no later than the 2014-15 school year. To the extent state funds are available, the system must apply equally to Title I and non-Title I schools.

The Achievement Index must use five categories of schools with the following labels:

- Exemplary;
- Very Good;
- Good;
- Fair; and
- Struggling.

An Oversight Committee is established with two legislators from each caucus of the House of Representatives (House) and the Senate, two appointees from the Governor, and one non-legislative member of the Educational Opportunity Gap Oversight and Accountability Committee. The Oversight Committee is directed to monitor the effectiveness of the state system of support, assistance, and intervention in improving student achievement; review the SBE determinations to assign a district to Level II RAD; make recommendations as necessary; and submit a biennial report to the Legislature. The Joint Select Committee on Educational Accountability is repealed.

Amended Bill Compared to Engrossed Second Substitute Bill:

The SPI must annually identify challenged schools in need of improvement based on criteria that conform to federal guidance but apply equally to Title I and non-Title I eligible schools. Persistently-lowest achieving schools for the purposes of the RAD process are a subset of these other schools, and are identified using criteria adopted by the SPI that include lack of progress and the availability of funds. The underlying bill directed the SPI to identify the 10 most persistently-lowest achieving schools in the state by December 1, 2013, based on reading and mathematics scores. The 10 identified schools were assigned as a RAD, and state funds were authorized for implementation of a required action plan. The underlying bill had a null and void clause.

Rather than being required to use of one of four federal intervention models, a RAD must implement a school turnaround model approved by the SPI. The underlying bill retained required use of the federal models, but permitted a RAD to implement a Collaborative Schools for Innovation and Success model, which is currently a state-funded pilot project in four elementary schools.

The SPI works with the local school board to develop a Level II Plan, but if there is not agreement, then the SPI submits the Plan to the SBE directly. A school district may appeal the SPI's decision to a Panel established in current law. The SPI is responsible for assuring implementation of the Level II Plan, which contains specific interventions and conditions that are binding on the district. The SPI defers to the local school board, but if the Level II Plan is not being implemented as required, the SPI may direct school personnel to take

actions. If binding conditions are not being followed, the SPI may withhold funds. Under the underlying bill, the SPI developed the Level II Plan, implemented the Plan through a management structure chosen by the SPI, and exercised the powers of the school board with regard to employing staff of the school. If at the end of three years under a Level II Plan, the school had still not made sufficient improvement, the underlying bill required the school to be closed unless there was no viable option to accommodate the students.

The SPI must design a system of support, assistance, and intervention that applies equally to Title I and non-Title I schools to the extent funds are available. The Achievement Index must label schools as exemplary, very good, good, fair, and struggling. An Education Accountability System Oversight Committee is established and assigned responsibility to review the SBE's designation of a Level II RAD. The Joint Select Committee on Educational Accountability is repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 6, relating to requirements for required action plans, which amends a law that currently has an effective date due to the expiration of temporary provisions, which takes effect on June 30, 2019.

Staff Summary of Public Testimony:

(In support) All supporters of education are headed toward the same goal, which is to make kids more successful. The graduation rate is only 74 percent, which means the system is failing a lot of kids, and many of those are students of color. This bill assists persistently lowest-achieving schools in becoming more accountable by putting the 10 highest-failing schools into the RAD process. There is state funding and support for three years, but if the school is still failing then the SPI takes over. There is a need to turn around persistently failing schools that have been that way for years.

There is an example of a school in another state that was shut down due to persistent low performance. Parents were very upset. It was reopened and went from being the lowest to the highest performing in four years, and outperformed a highly-funded magnet school down the street. Parents in that community now see the potential for turnaround. It can be done. In order to protect the interests of students in persistently lowest-performing schools, significant actions must be taken. This bill provides a clear direction and authorizes the SPI to intervene and take over management when turnaround cannot be accomplished despite financial assistance.

This bill builds on the existing RAD process in a thoughtful way and creates a good balance between local and state management and oversight over low-performing schools.

(With concerns) There are some components that are very much supported, and others that are very much not supported. The hope is that the conclusion at the end of session is a thoughtful combination of the Senate and House bills. There is a need for a second phase of required action that gives the SPI some ability to intervene tactically in some situations. However, the presumption of local control must be retained. School management cannot be disconnected from the community.

(Opposed) This is another layer of regulation and paperwork for schools that takes away from the work that is being done to improve student achievement. Schools are not afraid to face up to low scores, but they do not believe labeling students as failing is the answer. Some schools that are labeled as low performing on some measures are in fact very high performing when the actual practices and instruction are compared to the research through a thorough needs assessment.

Schools that have been through the school improvement process have learned a great deal, including that the required federal intervention models were designed for urban school districts. The real issue is not requiring school districts to act, but requiring the state to help. The additional federal funding has been a significant factor in achieving improvement because it enabled the districts to offer summer school, additional instruction, and professional development. The SPI has been a partner, not a boss. This is an important distinction.

The addition of the null and void clause is appreciated. The SIG and RAD schools have been very successful, and the key has been robust federal funding. Washington schools have received acclaim for being the best improving in the nation. Every school that was targeted has been successful. The real question is how this can be sustained and continued, not how to be punitive and threaten penalties for failure. The House bill on this topic was much better aligned with the work of the SBE and the SPI, as well as what is happening in school districts. This is a state takeover bill, and it gives the SPI hiring and firing authority over school district employees. This is the wrong direction to take. Instead, the SBE should finish its work on the Index and the Joint Select Committee should continue its work.

The four federal intervention models do not work. The current law came about at a time when state intervention was optional but not required. The ESEA waiver changes all of that, but it does not apply to non-Title I schools. The state should expect great teaching for all kids.

Persons Testifying: (In support) Senator Litzow, prime sponsor; Adel Sefrioui; Anne Luce, Partnership for Learning and Washington Roundtable; and Matt Canedy, Association of Washington Business.

(With concerns) Ben Rarick, State Board of Education.

(Opposed) Claudia Serrano and Wendi Manthei, Pasco School District; Kevin Chase, Grandview School District; Wendy Rader-Konofalski, Washington Education Association; Marie Sullivan, Washington State School Directors' Association; and Andrew Kelly, Office of the Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education. Signed by 19 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle, Cody, Dunshee, Green, Haigh, Hudgins, Hunt, Jinkins, Kagi, Maxwell, Morrell, Pedersen, Pettigrew, Ross, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 12 members: Representatives Alexander, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Dahlquist, Fagan, Haler, Harris, Parker, Pike, Schmick and Taylor.

Staff: Jessica Harrell (786-7349).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Education:

The Appropriations Committee amendment makes the following recommendations: (1) directs the Office of the Superintendent of Public Instruction (OSPI) to adopt criteria for identifying challenged schools in need of improvement and persistently lowest achieving schools by rule; (2) adds that school districts receiving federal school improvement grants in 2011 and 2010 may have a school designated as persistently lowest-achieving for purposes of the Required Action District (RAD) process if they have voluntarily implemented an improvement plan for three years and still have not improved; and (3) adds that if a district that received three-year grants from the school improvement grants is designated as a RAD for the same persistently lowest achieving school, the State Board of Education may assign the district to the Level II RAD designation if the district still fails to improve after one year of required action.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 4, 2013.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 6 relating to requirements for required action plans, which amends a law that currently has an effective date due to the expiration of temporary provisions, which takes effect on June 30, 2019.

Staff Summary of Public Testimony:

(In support) This bill offers a tiered and differentiated support for our schools. The OSPI currently has the ability to provide support using federal funding. This funding is going to go away at the end of next year. The bill gives the OSPI an excellent opportunity to work with our educational partners.

This is a much better bill than came out of the Senate. However, Washington State School Directors' Association has three concerns that should be addressed. It should be made clear that Charter Schools are included under this legislation. Criteria around what is considered a challenging school should be developed by rule to allow for public comment. It is unclear how much this bill costs. The funding level should be commensurate with what was provided by the federal government, in order to make sure it is successful.

This bill provides a collaborative, transparent process coupled with an urgent requirement that we address our lowest achieving schools. As the state's most important investment, this level of accountability is overdue. This bill builds on the successful federal program and refines the process. Coupled with the Teacher Principal Evaluation Pilot Program process, this bill is building a unique accountability framework that will help all of our students. There are fiscal reasons to provide targeted reform for failing schools. Basic education enhancement will assist all schools. It is a response to intervention for our schools, similar to the reading bill. We screen, diagnose, identify what is the problem, and provide an appropriate intervention based on the diagnosis. These are Washington schools, for which Washington money should be used. Breakdowns happen at all schools, not just high poverty schools. Funds must be targeted appropriately.

(In support with concerns) The Washington Education Association has been very involved in the existing RAD program. One of the things that the state should be proud of is that there have been real improvements with the schools currently part of this system. This is due to sufficient funding and a collaborative, nonpunitive approach. The areas of concern are specifically section 3, subsection 3, and all of section 11. If the plans are not funded, they cannot be implemented. Sixty-six million dollars over three years was provided by the federal government for 27 schools. At the level funded by the Senate, no more than five to 10 schools could be funded. The challenge category expands the pool to maybe 150 schools. The Legislature should look carefully at the level of funding and consider the support level.

(Opposed) None.

Persons Testifying: (In support) Andrew Kelly, Office of the Superintendent of Public Instruction; Elizabeth Richer, League of Education Voters; and Ramona Hattendorf, Washington State PTA.

(In support with concerns) Marie Sullivan, Washington State School Directors' Association; and Wendy Rader-Konafalski, Washington Education Association.

Persons Signed In To Testify But Not Testifying: None.