

# HOUSE BILL REPORT

## ESHB 2239

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**As Passed House:**  
June 26, 2015

**Title:** An act relating to implementation of a plan for fulfilling Article IX obligations.

**Brief Description:** Concerning implementation of a plan for fulfilling Article IX basic education obligations.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Hunter, Lytton, Sullivan and Carlyle).

**Brief History:**

**Committee Activity:**

Appropriations: 4/30/15, 6/23/15 [DPS].

**Second Special Session**

**Floor Activity:**

Passed House: 6/26/15, 51-46.

**Brief Summary of Engrossed Substitute Bill**

- Establishes a schedule for legislative study and enactment of revisions to K-12 funding, including compensation and school district levies, by September 1, 2018.
- Establishes the Washington Education Funding Council to advise the Legislature on these topics.
- Repeals the Quality Education Council.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle, Cody, Dunshee, Hansen, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, Pettigrew, Sawyer, Senn, Springer, Sullivan, Tharinger and Walkinshaw.

**Minority Report:** Do not pass. Signed by 14 members: Representatives Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Buys, Condotta, Dent,

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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.*

Haler, Harris, G. Hunt, MacEwen, Magendanz, Schmick, Stokesbary, Taylor and Van Werven.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Wilcox, Assistant Ranking Minority Member.

**Staff:** Jessica Harrell (786-7349).

**Background:**

Basic Education Funding Formulas.

Under the prototypical school formula established in Engrossed Substitute House Bill (ESHB) 2261 (2009) and Substitute House Bill 2776 (2010), the state allocates funding to the state's 295 school districts for implementation of the state's program of basic education. These bills called for phased-in implementation of specified enhancements to the basic education program and the funding to support it. Three of these enhancements have not yet been fully implemented: (1) specified increases in funding for materials, supplies, and operating costs (MSOC) by the 2015-16 school year; (2) full funding of class size reductions for grades kindergarten through 3 (K-3) by the 2017-18 school year; and (3) statewide implementation of all-day kindergarten, also by the 2017-18 school year.

School District Employee Compensation.

*State Allocations.* Funding to support salaries for the classified and administrative staff allocated through the prototypical school funding formula is specified in the omnibus operating appropriations act. Funding for certificated instructional staff (CIS) is allocated based on a "grid" which provides salary values that increase based on educational credit and years of service. Each district's CIS allocation is based on its "staff mix", that is, the distribution on the state salary grid of the CIS hired by the district. In addition, the state allocates a salary rate for classified staff and a salary rate for administrative staff in each district.

*State Restrictions on CIS Salaries.* In general, state salary funding is for allocation purposes only, and school districts are not required to hire staff according to the prototypical school staffing formula, nor are they required to pay CIS salaries according to the state CIS salary grid. Instead, actual CIS salaries are determined by each district's collective bargaining agreements.

However, the state places some restrictions on actual salaries districts may pay. First, a district may not pay CIS less than the lowest salary on the state grid for a bachelor's or master's degree and zero years of service. Second, a district's actual average CIS salary may not exceed the district's actual average salary that is allocated under the state formula. Third, CIS salaries in the basic education program must be consistent with CIS salaries in other programs. Finally, CIS salaries may exceed these limits only by separate contract for additional time, responsibility, or incentive (TRI). Under the TRI restrictions, supplemental contracts may not be used to pay for services that are part of the state's program of basic education.

*Salary Enhancements.* Engrossed Substitute House Bill 2261 expressed intent to enhance allocations for school district employee compensation by 2018. A report issued in 2012 by a Compensation Technical Working Group (Group) recommended that allocations be based on market-rate salaries for comparable occupations, as identified by a study commissioned by the Group.

#### State and Local Property Tax Levies for Schools.

*State property tax levy for common schools.* The state levies a property tax for common schools. (Total state allocations for common schools substantially exceed revenues from the state property tax, however.) In statute, the rate of the state property tax levy is \$3.60 per \$1,000 of assessed value. Due to statutory growth restrictions on the state property tax levy, the actual effective levy rate for taxes due in calendar year 2015 is \$2.19 per \$1,000 of assessed value. Like other property taxes, including school district levies, the state property tax is levied and collected on a calendar-year basis.

*School District Excess Levies.* Upon voter approval, school districts are authorized to collect levies above the 1 percent constitutional property tax limit. School district voters may approve maintenance and operations (M&O) levies for up to four years, capital levies for up to six years, and bond levies for the life of the bonds. Under the rulings of the state Supreme Court, M&O levies may be used only for "enrichments" beyond the program of basic education, and the state may not cause school districts to rely on local levies for the support of the state's basic education program.

A school district's maximum M&O levy amount is determined by the district's levy base and levy percentage. Generally speaking, a district's annual levy base is its state and federal funding for the prior school year, adjusted for inflation. Until calendar year 2018, the levy percentage for most school districts is 28 percent, which means that each calendar year districts may collect up to 28 percent of their levy base. (Some districts are "grandfathered" at a higher levy percentage.) Beginning in calendar year 2018, the levy percentage drops to 24 percent.

#### Local Effort Assistance.

Under the state's program of local effort assistance (LEA), also known as levy equalization, the state provides additional funding to school districts that are at a relative disadvantage in raising M&O levies due to relatively low property values. Local effort assistance is not part of the basic education program. Currently, 207 districts receive LEA.

#### McCleary Ruling and Subsequent Orders.

In the 2012 *McCleary* ruling, the state Supreme Court invalidated the state's pre-ESHB 2261 funding formulas and determined that the state had failed to fulfill its constitutional duty to make ample provision for the education of all children. Among other things, the court determined that the state funding formulas failed to allocate sufficient funding to hire and retain staff to implement the state's program of education. In subsequent orders, the court has directed the Legislature to provide the court with a year-by-year plan to implement all aspects of ESHB 2261.

#### Quality Education Council

Legislation adopted in 2009 established the Quality Education Council (QEC) and tasked it with informing and making strategic recommendations on the ongoing implementation of the program of Basic Education and the funding to support it. The QEC is composed of the Superintendent of Public Instruction (SPI) and representatives from the Legislature, the State Board of Education, the Department of Early Learning, the Professional Educator Standards Board (PESB), the Educational Opportunity Gap Oversight and Accountability Committee (Opportunity Gap Committee), and the Office of the Governor.

The QEC has submitted annual reports to the Legislature, including various recommendations intended to close the educational opportunity gap; improve supplemental instruction through the Learning Assistance Program (LAP), the Transitional Bilingual Instructional Program (TBIP), and the Highly Capable Program (HCP); and support education professionals, including through programs that encourage diverse populations to become teachers. The QEC has also examined issues related to Early Learning and the state funding formula for the TBIP in response to specific legislative assignments.

### **Summary of Engrossed Substitute Bill:**

#### Findings and Intent.

The Legislature acknowledges both the court's *McCleary* ruling on salary allocations and the court's call for an implementation plan. The Legislature explains that both the House of Representatives and Senate budget proposals for 2015-17 meet statutory requirements by fully funding MSOC in the 2015-16 school year, by fully funding all-day kindergarten one year ahead of schedule, and by continuing to phase in funding for K-3 class size reduction, with full implementation planned for the 2017-18 school year.

The Legislature declares that increased state salary allocations are a necessary part of a constitutional solution, but not a complete solution. As a starting point for reviewing salary allocation, the Legislature finds that the review process should begin with an assumption that a minimum of 90 percent of total statewide school district salary expenditures for state-funded employees represents the minimum salary cost of the state's program. The Legislature requires further deliberation and analysis, as well as sufficient lead time to align any property tax-based solution with the state budget. The Legislature declares that there is a need for further study of: TRI contracts; state salary allocations, including regionalization and the possible simplification or elimination of the state salary grid; the "enrichments" that may be funded with local levies; the role of LEA; the appropriate amount of school district levies; and the relation of school district levies to the state property tax.

#### Definitions.

The following terms are defined: consumer price index; council; enrichment; levy equalization; local levies; localization; 90 percent minimum; state-funded employees; state's program of basic education; and TRI.

#### Washington Education Funding Council Established.

The Washington Education Funding Council (WEFC) is created to advise the Legislature as the Legislature moves toward full implementation of ESHB 2261 by September 1, 2018. Under the specified timeline, the WEFC must provide the Legislature with recommended

changes to state salary allocation formulas, school district levies, LEA, and state property tax laws or other state tax laws.

The WEFC is comprised of 11 members: four members of each chamber of the Legislature; the Governor or designee; the State Treasurer or designee; and the Superintendent of Public Instruction or designee. The WEFC is staffed by committee staff of the Senate and the House of Representatives, and the WEFC may also establish technical working groups to advise it on technical and practical aspects of proposed policies or formulas. Recommendations of the WEFC require the approval of eight of the 11 members.

#### Timeline for WEFC Recommendations and Actions of the Legislature.

A timeline is established for research, recommendations, and legislation to implement ESHB 2261 by September 1, 2018. Due dates are prescribed for the WEFC recommendations and for enactments of the Legislature.

*2015 WEFC Recommendations.* By December 1, 2015, the WEFC must provide the Legislature and Governor with recommendations on:

1. research on the use of TRI contracts, other factors that affect use of supplemental contracts, and local levy expenditures;
2. a definition of "enrichment" that may be provided with local levies;
3. protections to ensure that local levies are spent only for enrichment;
4. statewide minimum and average CIS salaries, with recommendations on methodologies for regionalizing allocations;
5. local effort assistance; and
6. amount of and mechanisms for state allocations for health insurance benefits.

*2016 Enactments of the Legislature.* By June 30, 2016, the Legislature must enact laws that:

1. effective September 1, 2018, define "enrichment," define the use of levy funding for salary supplements, and establish protections to ensure that levy expenditures are beyond the state's basic education program;
2. quantify the portion of locally funded salaries that are the responsibility of the state's program of basic education and provide direction for a new state salary model;
3. establish preliminary guidance for a new salary model with regionalization;
4. establish preliminary policy guidance for school district levies for collection beginning in calendar year 2018;
5. establish preliminary policy guidance for LEA; and
6. establish preliminary guidance for the amount of and mechanisms for state allocations for health benefits.

*2016 WEFC Recommendations.* By November 15, 2016, the WEFC must provide the Legislature with recommendations on:

1. quantification of a state salary allocation model for implementation in the 2018-19 school year, including regionalization and methods for future adjustment;
2. quantification of school district levies;
3. whether changes to levies should result in changes to the state property tax;
4. other sources of state revenue to support ESHB 2261, including but not limited to a carbon pollution tax, business and occupation taxes, sales or capital gains tax; and
5. quantification of a LEA formula.

*2017 Enactments of the Legislature.* By June 30, 2017, the Legislature must enact laws that:

1. provide a new salary allocation model and appropriate funding under this model for the 2018-19 school year;
2. consider whether new state revenue laws, including state property or other taxes, are needed, and if changes to the state property tax are enacted, provide for transitional state and school district levies for calendar year 2018;
3. establish school district levies for 2018 and thereafter;
4. establish LEA formulas and appropriates for those formulas; and
5. appropriate funds for health benefits that are based on the rate the state appropriates for state employees.

Quality Education Council.

The Quality Education Council is eliminated and statutory references to it are repealed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) The three bills and the proposal that were heard in the earlier work session are deeply technical. This bill lays out the questions and presents a way to try to resolve this in public, after two years of private efforts have not been fruitful.

Through local levies, local taxpayers must be able to fund enrichment. Senate Bill 6109 sets a higher standard with respect to what is enrichment, and it is questionable whether a district could run a summer program under this standard. Senate Bill 6104 and House Bill 2239 each provide mechanisms to study this issue over the interim. The fact that the Legislature is seriously addressing this issue is appreciated. This must be done correctly. Under Senate Bill 6109, Tacoma Public Schools stands to lose \$16 million. Under Senate Bill 6103, Tacoma's loss would be \$21 million. Such losses would impact the high schools such as the Lincoln Center, the School of the Arts and the Science and Math Institute, as well as Montessori and preschool programs.

(In support with concerns) House Bill 2239 addresses the right corrections, and sets appropriate deadlines, but the time to do something is sooner rather than later. The plans should be melded to make the best plan. It will take time to implement, and as implementation begins, necessary corrections can be made. House Bill 2239 is a good backup if there is no agreement, but it may not satisfy the court. House Bill 2239 sounded more appealing in light of the complexity of all of the many issues, as heard during the work session on the various other bills and proposal. It makes sense to take time during the interim to resolve the issues identified in other legislation. House Bill 2239 asks the right questions. Perhaps, there are some things that could be done this session, such as health benefits.

(With concerns) The work that has been done to date is appreciated. One billion dollars has been put in, and another \$1 billion will be put in this year. The concern with House Bill 2239 is that it will delay implementation. Use of the Seattle Consumer Price Index (CPI) will cause problems statewide. The Legislature should work on Senate Bill 6109 during this special session. Senate Bill 6109 and Senate Bill 6103 are supported. Section 3 in Senate Bill 6104 is opposed.

(Opposed) House Bill 2239 is opposed. Another committee is not needed. Do not just kick the can down the road. The last time such an approach was taken was in 2007, when Washington's funding for schools was \$1,000 below the national average. Now, it is \$4,000 below the national average. Senate Bill 6093 is supported.

(Other) More money is needed. The concern with another study is that it kicks the can down the road. It is important that a variety of knowledgeable people be part of the group studying the issues, including parents and school personnel. In order to reduce class size, more buildings are needed. The House Bill 2239 process is supported, but there is some concern with some of the elements in that they seem to be predetermined. Each of the proposals that were heard today contain unintended consequences such as, lowering overall pay, reducing classified staff, and creating boundary and retention issues. House Bill 2239 will allow all issues to be fully considered.

**Persons Testifying:** (In support) Representative Hunter, prime sponsor; Grace Yuan, The School Alliance; Charlie Brown, Tacoma Public Schools and Franklin Pierce Public Schools; and Mitch Denning, Alliance of Educational Associations.

(In support with concerns) Dan Steele, Washington Association of School Administrators; and Deb Merle, Washington State School Directors' Association.

(With concerns) Amber Carter, Association of Washington Business.

(Opposed) David Spring, Coalition to Protect Our Public Schools.

(Other) Eden Mack, Washington State PTA and Seattle Council PTSA; and Julie Salvi, Washington Education Association.

**Persons Signed In To Testify But Not Testifying:** None.