
HOUSE BILL 2239

State of Washington 64th Legislature 2015 Regular Session

By Representatives Hunter, Lytton, Sullivan, and Carlyle

Read first time 04/15/15. Referred to Committee on Appropriations.

1 AN ACT Relating to implementation of a plan for fulfilling
2 Article IX obligations; adding a new chapter to Title 28A RCW;
3 providing an expiration date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** INTENT. (1) In its January 2012 ruling in
6 *McCleary v. State*, the state supreme court declared that Engrossed
7 Substitute House Bill No. 2261 (2009) (chapter 548, Laws of 2009),
8 "if fully funded," constituted a "promising reform" that would remedy
9 deficiencies in the state's compliance with its paramount duty to
10 make ample provision for the education of its children. In Engrossed
11 Substitute House Bill No. 2261, the legislature revised its previous
12 formulas to establish the prototypical school model, and it directed
13 the quality education council and its technical working groups to
14 provide the details of necessary formula enhancements to the
15 prototypical school model. The following year, the legislature
16 enacted Substitute House Bill No. 2776 (2010), which provided in
17 statute quantification of the formula enhancements and established
18 statutory deadlines for funding and implementation of these
19 deadlines. Specifically, Substitute House Bill No. 2776 called for
20 (a) full funding of the expected cost transportation formula by the
21 2013-2015 biennium, which the legislature implemented in the budget

1 for the 2013-2015 biennium, fully funding the model in the 2014-15
2 school year; (b) full funding of the enhanced formula for materials,
3 supplies, and operating costs by the 2015-16 school year, which both
4 houses of the legislature have funded in the respective 2015-2017
5 proposed budgets that have passed each chamber; (c) full funding for
6 all-day kindergarten by the 2017-18 school year, which both houses of
7 the legislature have funded in the respective 2015-2017 budgets that
8 have passed each chamber, one year ahead of the statutory deadline;
9 and (d) full funding for K-3 class size reduction by the 2017-18
10 school year, in which both houses of the legislature have funded a
11 phase-in schedule in the respective 2015-2017 proposed budgets that
12 have passed each chamber, with full implementation planned for the
13 2017-18 school year.

14 (2) In its September 2014 order in *McCleary*, the court indicated
15 that it expects the legislature to provide the court with a plan
16 against which to measure the state's progress toward full
17 implementation. As described in subsection (1) of this section, in
18 Substitute House Bill No. 2776 the legislature enacted a
19 comprehensive plan for funding the enhancements to the prototypical
20 school formula, and the legislature has not failed to meet a
21 statutorily prescribed deadline. These enhancements to the funding
22 formula address transportation and materials, supplies, and operating
23 costs, two of the areas identified by the court in which state
24 funding allocations were insufficient to support the state's program
25 of basic education, thereby causing school districts to rely on
26 school district levies for implementation of the state's basic
27 education program.

28 (3) The original ruling also identified a constitutional flaw in
29 the funding formula that predated Engrossed Substitute House Bill No.
30 2261 and Substitute House Bill No. 2776: State allocations for
31 teacher salaries were insufficient to provide districts with adequate
32 funding to hire and retain teachers for the state's program of basic
33 education. The court explained that district expenditures for
34 salaries exceed state allocations for salaries, including an average
35 difference of eight thousand dollars for certificated instructional
36 staff and forty thousand dollars for administrators. The court
37 acknowledged that some of this difference was likely due to
38 legitimate contracts for extra time, responsibility, or incentive
39 under RCW 28A.400.200. Further, it is likely that some of these
40 salary expenditures are attributable to school districts' decisions

1 made at a local level to hire staff to supplement the state's
2 allocations for the state's program of basic education. Even so, the
3 legislature accepts the court's conclusion that at least some of
4 these salary expenditures are properly the state's responsibility as
5 part of its duty to allocate sufficient funding to hire and retain
6 qualified staff for the state's program of basic education. This
7 conclusion represents a structural flaw in the way in which the state
8 allocates funding for K-12 education.

9 (4) The legislature finds that increased state salary
10 allocations, while a necessary part of the solution, are not a
11 complete solution. Before the legislature may appropriate and
12 allocate sufficient funding to correct the structural flaw with state
13 salary allocations, it requires further information, analysis, and
14 policy deliberation on numerous important issues. Further, due to the
15 complexity of any plan that requires changes to property taxes, a
16 solution requires sufficient lead time to align property tax
17 revisions with school year allocations in the state budget. For these
18 reasons, the legislature intends to enact a schedule for researching
19 and enacting policies for fully funding all elements of Engrossed
20 Substitute House Bill No. 2261 on September 1, 2018. As set forth in
21 this chapter, the legislature intends to review and enact legislation
22 on:

23 (a) Time, responsibility, or incentive (TRI) contracts and
24 supplemental contracts. The state needs additional data on actual
25 district expenditures on TRI contracts and other supplemental
26 contracts. Data currently available to the legislature identify the
27 amount districts pay on average for TRI, but do not identify what
28 specific TRI items are purchased or for how much. The state requires
29 this data to enact a policy on supplemental contracts that is
30 consistent with a legal and policy determination of appropriate local
31 "enrichment."

32 (b) State salary allocations. Once the state has established the
33 proportion of local salary contributions that more correctly is part
34 of the state's duty to fund salaries for the state's program of basic
35 education, the state must establish a mechanism for delivering this
36 additional funding to school districts. This requires the state to
37 enact a new salary allocation policy. This new salary allocation
38 methodology must include a regional salary allocation model. It may
39 also include simplification or elimination of the state salary grid
40 on which teacher salary allocations are made.

1 (c)(i) Proper use of school district levies to supplement the
2 state's program of basic education. The state must enact a definition
3 of "enrichment" that provides school districts with sufficient
4 flexibility to implement local education priorities outside the
5 state's program of basic education while protecting the state's
6 ability to demonstrate that its allocations fund the state's program
7 of basic education.

8 (ii) The relationship of local effort assistance to the state's
9 program of basic education and state levy laws. The majority of
10 school districts are eligible for local effort assistance, also known
11 as levy equalization. Under local effort assistance, the state
12 provides additional funding as an enhancement outside the program of
13 basic education to districts that due to proportionally lower
14 property values are at a relative disadvantage in raising school
15 district levies to enrich the program of basic education. Though many
16 districts rely on this funding, there are policy questions about
17 whether this type of assistance should be addressed through state
18 foundational funding or levy laws.

19 (d) School district levies. Once the state has established an
20 appropriate policy on supplemental contracts and local enrichment,
21 and once the legislature has quantified its obligation to provide
22 additional salary obligations, the state must define a policy on
23 school district levy collections, and it must then quantify that
24 policy in legislation on districts' levy bases, rates, or lids.
25 Because the current levy lid and base law expires at the end of
26 calendar year 2017, this policy must be enacted in time for the
27 levies that comply with the new policy to be collected beginning
28 calendar year 2019, with 2018 constituting a transitional year
29 between the current levy statute and newly enacted policies.
30 Establishing new policies on levy bases and levy lids may require
31 associated revisions to the state property tax, including growth
32 limits on the state property tax, but this will require additional
33 legislative deliberation after the legislature sets new levy policies
34 that are based on a legislative definition of "enrichment" and other
35 education policies.

36 NEW SECTION. **Sec. 2.** WASHINGTON EDUCATION FUNDING COUNCIL
37 ESTABLISHED. (1) The legislature intends to fulfill its obligations
38 under Article IX of the state Constitution by completing its
39 implementation of all aspects of chapter 548, Laws of 2009 by

1 September 1, 2018. The funding formulas under chapter 28A.150 RCW to
2 support the state's instructional program must be revised and fully
3 implemented by that date under the schedule of annual benchmarks
4 prescribed in this chapter.

5 (2) The Washington education funding council is created to advise
6 the legislature as the state moves toward full implementation of the
7 program of basic education established pursuant to chapter 548, Laws
8 of 2009 and the financing and revenues necessary to support such
9 program. The council must make recommendations on how the legislature
10 should meet the requirements outlined in chapter 548, Laws of 2009 by
11 September 1, 2018, thereby fulfilling the requirements of the state
12 supreme court in *McCleary v. State*. The council must submit to the
13 legislature recommended changes to state salary allocation formulas,
14 and school district levy laws, along with any corresponding
15 recommendations on local effort assistance, state property tax laws,
16 or other state tax laws, to support the instructional program of
17 basic education as established under chapter 548, Laws of 2009.

18 (3) As provided in sections 4 and 6 of this act, the council
19 shall submit reports to the governor and the legislature detailing
20 its recommendations, including recommendations for resolving issues
21 or decisions requiring legislative action during the 2016 and 2017
22 legislative sessions, and recommendations for any funding necessary
23 to complete development and implementation of chapter 548, Laws of
24 2009. The recommendations must also include the technical details
25 for implementing the recommendations.

26 (4)(a) The Washington education funding council consists of the
27 following members:

28 (i) Eight legislators, with two members from each of the two
29 largest caucuses of the senate appointed by the president of the
30 senate and two members from each of the two largest caucuses of the
31 house of representatives appointed by the speaker of the house of
32 representatives;

33 (ii) The governor, or the governor's designee;

34 (iii) The state superintendent of public instruction, or the
35 superintendent's designee; and

36 (iv) The state treasurer, or the treasurer's designee.

37 (b) The council shall select cochairs from among its legislative
38 members.

39 (c) The council is staffed by the house of representatives office
40 of program research, senate committee services, and the office of

1 financial management, with additional staff support provided by the
2 state entities with representatives on the council.

3 (5) Legislative members of the council must be reimbursed for
4 travel expenses in accordance with RCW 44.04.120. Nonlegislative
5 members, except those representing an employer or organization, are
6 entitled to be reimbursed for travel expenses in accordance with RCW
7 43.03.050 and 43.03.060.

8 (6) The expenses of the council must be paid jointly by the
9 senate and the house of representatives. Council expenditures are
10 subject to approval by the senate facilities and operations committee
11 and the house of representatives executive rules committee, or their
12 successor committees.

13 NEW SECTION. **Sec. 3.** COUNCIL MAY ESTABLISH TECHNICAL WORKING
14 GROUPS. (1) The Washington education funding council may also
15 establish technical working groups to advise the task force on
16 technical and practical aspects of proposed policies and formulas.

17 (2) The technical working group or groups may include
18 representatives of the legislative evaluation and accountability
19 program committee, school district and educational service district
20 financial managers, the Washington association of school business
21 officers, the Washington education association, the Washington
22 association of school administrators, the association of Washington
23 school principals, the Washington state school directors'
24 association, the public school employees of Washington, the
25 educational opportunity gap oversight and accountability committee,
26 and other interested stakeholders with expertise in education finance
27 or state revenue.

28 NEW SECTION. **Sec. 4.** WASHINGTON EDUCATION FUNDING COUNCIL
29 RECOMMENDATIONS TO THE 2016 LEGISLATURE. By December 1, 2015, the
30 Washington education funding council shall provide the legislature
31 and governor with:

32 (1)(a) Research describing the current use of TRI and
33 supplemental contracts, broken down by use and estimated dollar
34 amount per use. This research must distinguish among (i) additional
35 services, such as coaching, or similar services rendered outside the
36 school day; (ii) additional services performed during the school day,
37 such as service as a department head; (iii) salary supplements for
38 work "deemed done" or work such as grading papers that would

1 ordinarily be considered part of the teacher's job; (iv) supplemental
2 contracts that are part of the state's program of basic education,
3 such as preparation of individualized education plans; and (v) other
4 types of supplemental contracts;

5 (b) Research describing, and quantifying if possible, other
6 factors that affect supplemental contracts including, but not limited
7 to: Collective bargaining laws and practices, local compensation
8 philosophy, regional cost-of-living differences, difficulty of
9 attracting staff to particular schools or programs, and community
10 expectations;

11 (c) Research describing school district levy expenditures on
12 items other than salaries, broken down into specific categories, such
13 as technology, the transitional bilingual instruction program,
14 special education, the highly capable program, athletics,
15 extracurricular activities, other intermural activities, or
16 equipment;

17 (2) In light of the research in subsection (1) of this section,
18 recommendations for legislation to define the "enrichment" that may
19 be appropriately funded with school district levies outside the
20 state's program of basic education. The recommendations must be
21 sufficiently specific to provide guidance to school districts and
22 auditors;

23 (3) Recommendations on protections for the state to ensure that
24 school district levy funding is used only for enrichment. These may
25 include additional auditing requirements, additional requirements for
26 school district accounting, additional reporting by school districts,
27 and changes to collective bargaining laws or practices;

28 (4) Preliminary recommendations for statewide minimum and average
29 salary allocations for certificated instructional staff, certificated
30 administrative staff, and classified staff, including recommendations
31 on methodologies for regional adjustment of state allocations; and

32 (5) Recommendations on whether the state should continue
33 providing local effort assistance to enhance school district levy
34 funding for relatively property-poor districts, or whether state
35 support for funding enrichments outside the program of basic
36 education should be addressed through state funding formulas, other
37 state funding, or levy laws.

1 NEW SECTION. **Sec. 5.** LEGISLATION TO BE ENACTED DURING THE 2016
2 LEGISLATIVE SESSION. By June 30, 2016, the legislature shall enact
3 legislation that:

4 (1) Effective September 1, 2018:

5 (a) Defines "enrichments" to the state's program of basic
6 education that may appropriately be used to supplement with local
7 funding;

8 (b) Defines appropriate use of levy funding to supplement
9 salaries; and

10 (c) Establishes protections that allow the state to demonstrate
11 its funding of the state's program of basic education and that
12 ensures levy expenditures are outside the state's program of basic
13 education;

14 (2) Quantifies the portion of locally funded salaries that is the
15 responsibility of the state's program of basic education and provides
16 direction for a new salary model within a specified percentage of the
17 state-base salary or other specified formula;

18 (3) Establishes preliminary policy guidance for the Washington
19 education funding council to develop a new state salary model for
20 implementation in the 2018-19 school year, which (a) must include
21 regional salary allocations, and (b) may include simplification or
22 elimination of the state teacher salary grid, or (c) both, or other
23 policies;

24 (4) Establishes preliminary policy guidance for school district
25 levies for collection beginning in calendar year 2018, including a
26 combination of rates, bases, or lids, or any of these. The school
27 district levy policy must reflect the definition of "enrichment" and
28 the new policies regarding use of levies to supplement salary
29 allocations for the local program; and

30 (5) Establishes preliminary policy guidance for use of state
31 moneys as local effort assistance to supplement school district levy
32 funding for enrichments outside the program of basic education
33 beginning in calendar year 2018, including whether this is
34 appropriately addressed through state foundational funding formulas
35 or levy laws rather than state assistance in funding enrichments.

36 NEW SECTION. **Sec. 6.** WASHINGTON EDUCATION FUNDING COUNCIL
37 RECOMMENDATIONS TO THE 2017 LEGISLATURE. By November 15, 2016, the
38 Washington education funding council and its technical working groups
39 must make recommendations to the legislature on the following:

1 (1) Quantification, including methods for future adjustment, of a
2 new salary model for implementation in the 2018-19 school year,
3 including quantification and methods for adjusting regional salary
4 allocations and simplification or elimination of the existing grid;

5 (2) Quantification of appropriate school district levy bases,
6 rates, or lids, or any of these, with recommended legislation for
7 collection in calendar year 2019, and levy policies for the 2018
8 transition year;

9 (3) Recommendations on how, if at all, these changes to school
10 district levies should result in changes to state property tax
11 policies, including growth caps;

12 (4) Recommendations on other sources of state revenue to support
13 state allocations for chapter 548, Laws of 2009, including but not
14 limited to a carbon pollution tax; and

15 (5) Quantification of formulas for any program of local effort
16 assistance, beginning by calendar year 2019.

17 NEW SECTION. **Sec. 7.** LEGISLATION TO BE ENACTED IN THE 2017
18 LEGISLATIVE SESSION. By June 30, 2017, the legislature must enact
19 legislation that accomplishes the following:

20 (1) Enacts a new salary allocation model for the 2018-19 school
21 year, which must include regional adjustments, and make
22 appropriations in the 2017-2019 operating budget for distribution to
23 districts under this model;

24 (2) Considers the recommendations of the Washington education
25 funding council regarding whether changes to state property tax laws,
26 or other state tax laws, including a carbon pollution tax, are
27 necessary to correspond with new school district levy policies. If
28 the legislature chooses to reduce school district maintenance and
29 operations levies while increasing the state property tax levy, the
30 legislature must enact (a) a state property tax levy rate for the
31 transitional year of calendar year 2018, including adjustments to
32 levy growth caps as necessary; and (b) school district levy lids for
33 calendar year 2018;

34 (3) Establishes new bases, rates, or lids, or any of these, for
35 school district levies for collection beginning in calendar year 2018
36 or calendar year 2019, depending on subsection (2) of this section;
37 and

38 (4) Enacts formulas and makes appropriations for any program of
39 local effort assistance, beginning by calendar year 2019.

1 NEW SECTION. **Sec. 8.** This chapter expires August 1, 2019.

2 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act
3 constitute a new chapter in Title 28A RCW.

4 NEW SECTION. **Sec. 10.** EMERGENCY CLAUSE. This act is necessary
5 for the immediate preservation of the public peace, health, or
6 safety, or support of the state government and its existing public
7 institutions, and takes effect immediately.

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