

# SENATE BILL REPORT

## ESSB 5313

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As Passed Senate, April 26, 2019

**Title:** An act relating to school levies.

**Brief Description:** Concerning school levies and local effort assistance.

**Sponsors:** Senate Committee on Early Learning & K-12 Education (originally sponsored by Senator Wellman; by request of Office of Financial Management).

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/23/19, 2/15/19 [DPS-WM, DNP].

Ways & Means: 2/25/19, 3/21/19, 4/02/19 [DP2S, DNP].

**Floor Activity:**

Passed Senate: 4/26/19, 25-23.

### Brief Summary of Engrossed First Substitute Bill

- Allows a district to levy at the lesser of \$2.50 per \$1,000 of assessed value or \$2,500 per pupil for school districts with fewer than 40,000 FTE students.
- Allows a district to levy at the lesser of \$2.50 per \$1,000 of assessed value or \$3,000 per pupil for school districts with 40,000 FTE students or more.
- Provides local effort assistance to school districts that do not generate an enrichment levy of at least \$1,550 per student when levying at a rate of \$1.50 per \$1,000 of assessed value.
- Provides enrichment funding to charter schools and state-tribal compact schools based on the local enrichment levy collected by school districts, up to \$1,550 per student.
- Provides additional enrichment funding to school districts that meet certain enrollment criteria.
- Requires school districts, beginning in the 2019-20 school year, to provide an expenditure schedule that identifies the amount expended on certain supplementary enrichment activities.

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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.*

- Requires, should the state auditor find that a school district has used local revenues for non-enrichment activities, the school district's maximum enrichment levy collection must be reduced.

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## SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** That Substitute Senate Bill No. 5313 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Wilson, C., Vice Chair; Hunt, McCoy, Pedersen and Salomon.

**Minority Report:** Do not pass.

Signed by Senators Hawkins, Ranking Member; Holy, Mullet, Padden and Wagoner.

**Staff:** Alex Fairfortune (786-7416)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5313 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Billig, Carlyle, Conway, Darneille, Hunt, Keiser, Liias, Palumbo, Pedersen and Van De Wege.

**Minority Report:** Do not pass.

Signed by Senators Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Hasegawa, Schoesler, Wagoner and Warnick.

**Staff:** Jeffrey Naas (786-7708)

**Background:** School District Levy Authority. The state Constitution limits regular property tax levies to a maximum of 1 percent of the property's value. Upon voter approval, school districts are authorized to collect excess levies above the 1 percent constitutional property tax limit. School district voters may approve enrichment levies, previously referred to as maintenance and operation (M&O) excess levies, for up to four years, capital levies for up to six years, and bond levies for the life of the bonds. Since 1977, the Legislature has limited the amount school districts may collect through their M&O levies.

*Prior to EHB 2242.* Prior to the passage of EHB 2242 in 2017, a school district's maximum excess levy amount for M&O levies was determined by the district's levy base and levy percentage, also referred to as a lid. Generally, a district's annual levy base was its state and federal funding for the prior school year, adjusted for inflation, and additionally calculated amounts that were added to the levy base in 2010, sometimes referred to as ghost money. The levy lid was the maximum allowable percentage of the levy base that a school district could collect, and was set at 28 percent for most school districts. Some school districts were grandfathered in at a higher levy percentage.

*After EHB 2242.* Beginning with calendar year 2019, M&O levies were renamed enrichment levies, and a new levy lid was implemented. A district's maximum enrichment levy is now the lesser of \$2,500 per pupil or a rate of \$1.50 per \$1000 of assessed value. Before a school district may submit an enrichment levy to the voters, it must receive approval of its expenditure plan from the Office of the Superintendent of Public Instruction (OSPI). OSPI may approve the plan if it determines the district will spend enrichment levy revenues only for permitted enrichment activities.

Local Effort Assistance. LEA, also known as levy equalization, was created in 1987. Under the LEA program, the state provides additional funding to school districts that are at a disadvantage in raising enrichment levies due to low property values.

*Prior to EHB 2242.* Prior to the passage of EHB 2242, the state LEA program provided funding to equalize up to 14 percent of the school district's levy base. A district was eligible to receive LEA if the district's levy rate that was needed to raise the 14 percent levy amount for the district exceeded the statewide average 14 percent levy rate. State funding provided under the LEA program was proportional to the degree at which the district's rate exceeded the statewide average rate.

*After EHB 2242.* Beginning with LEA distributions in calendar year 2019, LEA is calculated under a new formula that provides assistance to any school district that does not generate an enrichment levy of at least \$1,500 per student when levying at a rate of \$1.50 per \$1,000 of assessed value. An eligible school district's maximum LEA is the difference between the district's per pupil levy amount, based on a rate of \$1.50 per \$1,000 of assessed value, and \$1,500 per pupil, multiplied by the district's resident enrollment. Districts that are eligible for LEA but do not levy the maximum levy allowed receive LEA in proportion to their actual levy collection.

**Summary of Engrossed First Substitute Bill: School District Levy Authority.** Beginning with taxes levied for collection in 2020, a school district's maximum enrichment levy is the lesser of \$2,500 per pupil or a rate of \$2.50 per \$1,000 of assessed value for school districts with fewer than 40,000 FTE students. For school districts with 40,000 FTE students or more, the maximum enrichment levy is the lesser of \$3,000 per pupil or a rate of \$2.50 per \$1,000 of assessed value.

Local Effort Assistance. Beginning with LEA distributions in calendar year 2020, LEA is provided to school districts that do not generate an enrichment levy of at least \$1,550 per student when levying at a rate of \$1.50 per \$1,000 of assessed value. An eligible school district's maximum LEA is the difference between the district's per pupil levy amount, based on a rate of \$1.50 per \$1,000 of assessed value, and \$1,550 per pupil, multiplied by the district's resident enrollment. Districts that are eligible for LEA, but do not levy \$1.50 receive LEA in proportion to the lesser of \$1.50 or the school district's actual levy.

Additional enrichment funding is provided to charter schools and state-tribal compact schools. This additional funding is equal to the prior year enrichment levy amount per student for the school district in which the school is located, up to \$1,550, multiplied by the school's prior year enrollment. Additional enrichment funding is also provided to school

districts that meet certain enrollment criteria and are located west of the Cascades in a county that borders another state.

Supplemental Expenditures. Beginning in the 2019-20 school year, school districts must provide a supplemental expenditure schedule by revenue source, identifying the amount expended by object for a specific list of supplementary enrichment activities beyond the state funded amount. School districts must also maintain a record describing how salary and related benefit costs for certain supplementary enrichment activities are documented, and demonstrate enrichment of the state's program of basic education. Should the state auditor find a school district has used local revenues for non-enrichment activities, the school district's maximum enrichment levy collection authorized under law must be reduced by the unauthorized expenditure amount in the following year.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education):** *The committee recommended a different version of the bill than what was heard.* PRO: There was never a mandate to reduce local levies, only to put more money towards basic education. In the old funding world, the biggest difference between districts was levies but now it is regionalization. Some districts get regionalization because they have high property costs, but at the same time get LEA because they are property poor. The state needs to go back to a percentage based levy model because it will flow better with the amount of money given to districts. OSPI chose a 22 percent model because it is a little over halfway from where the limit used to be. It does not restore all of the levy because the state added a lot of money in state funding. Now 22 percent of a much higher base is a significant amount of local levy opportunity. The LEA approach under SB 5466 does not add any additional dollars and focuses on those districts that are truly property poor. After getting to a \$3.75/\$1,000 AV tax rate the state would fill in the rest. Under the old model about two-thirds of districts were getting equalization, under current law about half of districts are receiving equalization, and under SB 5466 about 40 percent of districts would receive equalization. This treats districts that are property wealthy similar under both policies. SB 5313 is good but would result in much more levy equalization.

There are some inequities and unintended consequences that have come about from previous education funding legislation. In the levy swap, state funding was swapped for local levy dollars. However, the state resources have been very department and subject specific and are often provided for certain categorical programs. These funds cannot be used to pay for preschool, alternative high school, or music programs. For decades basic education has been subsidized with enrichment levies, but now schools can collect only a fraction of what has historically been collected. Local communities need to be able to go to voters to support their kids. A percentage based model is tied to state funding so it is more sustainable and it

creates more certainty for school districts. A 28 percent levy is best because it has been done before and it is relatively simple.

CON: The OSPI 22 percent bill would require a higher tax rate on top of the \$0.90 increase in the state base tax rate. The 28 percent bill will recreate some of the inequities of pre-McCleary, and cause further pressure between property poor and property rich districts. It would do little more than make the rich districts richer and the poor districts poorer. The either/or bill does not provide for LEA so districts currently receiving LEA would have to double their tax rate in order to get the same level of funding.

OTHER: Under the OSPI proposal there is technical wording that needs to be fixed, because it references the difference between a tax rate and a threshold which is not mathematically possible. While most districts would fall under the 22 percent model, there are concerns that LEA will be eliminated or reduced. The 28 percent proposal only fixes issues for the I-5 corridor, but will be a non-starter in other areas of the state. The 28 percent model will drive more levy equalization, and will restore some funding, but not as much as was lost. There is merit to the either/or model, but it needs to include hold harmless LEA language so that LEA is not removed entirely.

**Persons Testifying (Early Learning & K-12 Education):** PRO: Senator Lisa Wellman, Prime Sponsor; Gene Sementi, West Valley School District, Spokane; Jennifer Priddy, Finance Manager, Olympia School District; JoLynn Berge, Assistant Superintendent of Finance, Seattle Public Schools; Kate Davis, CFO, Highline Public Schools; Lorrell Noahr, Washington Education Association; Jessica Vavrus, Washington State School Directors' Association; Troy Nichols, Capital Region ESD 113; Rosalind Medina, Tacoma School District; Jim Crawford, Office of Financial Management; Rebecca Vaux, Washington's Paramount Duty.

CON: Wade Smith, Walla Walla School District.

OTHER: Nancy Chamberlain, Washington State PTA; Randy Russell, citizen; Mitch Denning, Alliance of Educational Associations.

**Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):**  
No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** PRO: We support this bill as we see it is the only avenue we have currently that would allow us to survive without making devastating cuts to our program and staffing. If we lose our local funding a lot of taxpayers are going to be very surprised that they do not have any money to support extracurricular activities after the McCleary fix. We would appreciate any kind of substantial gap closing. It is important to realize that we not only take care of underrepresented students but also better performing students with the money that comes from the levy. While we do not want taxpayers to pay more we think they should have the choice of paying more levies as an alternative to potentially deep staffing cuts.

I want to remind everyone that McCleary was not about levies, it was about a gross underfunding of education by the state. We need levies for critical staff to support the mental

health of our students. This has nothing to do with the collective bargaining agreements that were made recently on teacher salaries and has more to do with the additional funding local levies allow us to provide enrichment programs and the extra staffing necessary to make sure our kids get an opportunity for graduation. The decrease in local levy authority resulting from HB 2242 drastically cut our school district's ability to fund programs our communities support such as an anti-bullying program which will impact about 1000 students.

Levies allow school districts to hire additional teachers and support staff beyond what the state funds. In negotiations this last summer school districts left and right convinced our members that unless there is a fix there is going to be a lot of classified employees laid off in the next year. We hope you will consider whether 10 percent of LEA is sufficient across the board and we would like the bill to include more than one year of a hold harmless provision. The Governor has expressed consistent concern that with full funding of McCleary the reductions in local levy authority have gone too far and you have heard from districts about the likely impacts resulting from reduced levies. McCleary was not about levies; it was clearly about the Legislature defining basic education and then fully funding it.

Levy dollars have enabled our school district to build supports that engage community institutions and the programs in partnership to help students graduate for example. We've grown a humble arts education program from one high needs school to a network of programs offering theater music and dance programs which helps to keep kids off of the streets. These programs have been eliminated as a result of the levy reductions. The 44 districts we represent have not yet all completed their analysis of how this change in the formula will affect them, but we feel confident the changes in this bill would give the vast majority of our school districts the flexibility they need to provide the services that their voters in their community expect.

OTHER: An integral part of HB 2242 was a commitment by lawmakers that increases in local taxes would be limited in return for large state level property tax increases to provide uniform and equitable funding for schools. SSB 5313 would turn back the clock and reintroduce inequity in school funding to the benefit of wealthy school districts leaving students in property poor districts with proportionately less money. We want to include specific clear limits so any new levy dollars are protected and allowed to actually fund those local community priorities. Also, we urge you to extend the levy equalization hold harmless beyond one year.

**Persons Testifying (Ways & Means):** PRO: Charlie Brown, Tacoma, Franklin Pierce, Bethel School Districts; Troy Nichols, Capital Region ESD 113; Lorrell Noahr, Washington Education Association; Doug Nelson, PSE/SEIU 1948; Lisa Keating, Washington State PTA; Patrick Murphy, Superintendent, Olympia School District; JoLynn Berge, Assistant Superintendent, Business and Finance, Seattle Public Schools; Kate Davis, CFO, Highline School District; Dave Mastim, Office of the Superintendent of Public Instruction; Jessica Vavrus, Washington State School Directors' Association; Jim Crawford, Office of Financial Management, Assistant Director, Budget Division; April Shine, Foundation for Tacoma Students; Tony Gomez, Tacoma Arts Live; Carla Santorno, Superintendent, Tacoma School District; Alan Reitz, White Salmon Valley School Board Chair; Jerry Lewis, White Salmon Valley Schools Superintendent.

OTHER: Dan Steele, Washington Association of School Administrators and Washington Association of School Business Officials; Liv Finne, Washington Policy Center.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.

**Staff Summary of Public Testimony on Proposed Second Substitute (Ways & Means):**

PRO: In 2017 the legislature cut levy funding by imposing arbitrary and low caps which are devastating for secondary schools resulting in layoffs. In particular, assistant principals and counselors are essential to the social and emotional health of students helping them navigate their educational pathways to college and a career. This bill still leaves a levy cap that will result in substantial cuts at Seattle Public Schools. As a result of these cuts class sizes will go up, librarians will be cut to half time and libraries will not be open for the whole school day. We are a wealthy school district and yet we are not able to meet the needs of our most vulnerable because of the levy cuts.

Raising our levy is not our first choice to address our deficit, we would rather receive regionalization or see special education fully funded, but this would be immensely helpful. We support the language in this bill which changes the levy lid as we would be able to collect our entire levied amount under the new proposal. Our community expects us to provide the same quality programs to children as we did before the McCleary fix, however this is impossible given our loss in local levy authority. We support this bill. It will allow us to collect our full levy in 2020 that will provide us with 14.5 million dollars, which is almost half of our 2019-20 problem.

School districts fund 30 percent of basic education classified employees in their local levy. There are layoffs, ongoing negotiations, and threatened layoffs around the state as a result of the loss of local levy funding. The loss of this locally approved funding will result in programs or community supports being reduced or eliminated. Staff above the state allocation will be severely affected. Currently we fund extra nurses, counselors, and reading specialists, as well as additional safety security support staff.

I like the concept of the 20 percent levy base with one exception, that LEA be equalized up to 20 percent, not 10 percent. If we were to cut all athletics in our district and then also cut our clubs and all extracurriculars, and everything across the board, we still have \$975,000 left to cut just as a result of the levy cap.

It is going to cost society a lot of money if kids do not get a good education and wind up in jail, so anything that you can do to keep these kids in school and active is in the public interest. This bill will begin to restore funding to our schools so they can continue to support the needs of their students, for both general education and special education.

CON: We ask you to adjust the LEA rates and not penalize districts that do not opt to raise levy rates.

OTHER: We strongly support the proposed increase in LEA which might mitigate some of the inequities between our property rich and property poor districts. We are concerned that the hold harmless is only for one year. We support moving back to the well-known percentage-based model. Levies allow school districts to hire additional teachers, nurses,

counselors, and support staff for students beyond what the state funds. Districts that are between the \$2,100 LEA threshold and the \$3,000 levy threshold deserve the opportunity to support programs such as STEM, college career connected learning and other opportunities by raising the \$2.50 levy cap. Districts are using levies to fund nurses, Saturday school, after school classes, school resource officers, and staff in the classrooms.

We support efforts to ease the restrictions of the existing levy limits and this bill does provide some small relief for our district, but is still a long way away from providing significant help for situation. Over the next four years we will be cutting a total of \$2.3 million dollars to be able to live within the current revenue situation. Most of our levy was used to hire additional teachers over the prototypical model for more opportunities and lower class sizes. We are expected to provide more education and other mandates, but are not provided more resources to do so.

We did raise a levy that would, if approved, allow us to collect \$2,500 per pupil but we are currently capped at \$1.50 which allows us to collect \$700 less per student than most of our boundary districts, and it does not cost less than our district and we are not paying less for our teachers.

The bill would turn back the clock and reintroduce inequity in school funding the to the benefit of the wealthy school districts leaving students in property poor districts with proportionately less money. We are a small district and LEA funded additional staffing not funded through the prototypical funding model.

**Persons Testifying (Ways & Means):** PRO: Samantha Fogg, citizen; Natalya Yudkovsk, citizen; Emily Carmichael, Washington's Paramount Duty; Patrick Murphy, Olympia School District, Superintendent; Krestin Bahr, Eatonville School District, Superintendent; Gretchen Maliska, North Thurston Public Schools, Board of Directors; Carla Santorno, Tacoma School District Superintendent; Doug Nelson, PSE/SEIU 1948; Neal Kirby, former chair, ad hoc Committee for Levy Equalization; Laurie Stanton, White Salmon Valley School District; Robert Weisfield, White Salmon Valley School District; Jeff O'Dell, citizen; Jerry Holsten, South Kitsap School District, Executive Director HR.

CON: Melissa Gombosky, Spokane, Evergreen, and Vancouver Public Schools.

OTHER: Dan Steele, Washington Association of School Administrators and Washington Association of School Business Officials; Clifford Traisman, Highline Public Schools, Seattle Public Schools; Lorrell Noahr, Washington Education Association; Dave Mastin, Office of the Superintendent of Public Instruction; Jeff Moore, Everett Public Schools; Patti Hyatt, Naches Valley School District; Wandah Messinger, Naches Valley School District; Liv Finne, Washington Policy Center; Sandy Hayes, Northshore School Board, Vice Chair, Washington State School Directors' Association, Legislative Committee; Elissa Dyson, Onion Creek School Board, Washington State School Directors' Association, Small School Advisory Committee.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.