

HOUSE BILL REPORT

ESHB 2518

As Passed Legislature

Title: An act relating to educational employees.

Brief Description: Changing provisions for educational employees.

Sponsor(s): By House Committee on Education (originally sponsored by Representatives Peery, Vance, Brumsickle, D. Sommers, Winsley, Van Luven, Bowman, Broback, Wood, Wynne, Mitchell and H. Myers; by request of Superintendent of Public Instruction and Board of Education).

Brief History:

Reported by House Committee on:
Education, January 30, 1992, DPS;
Appropriations, February 10, 1992, DPS(ED-A APP);
Passed House, February 18, 1992, 98-0;
Amended by Senate;
Passed Legislature.

**HOUSE COMMITTEE ON
EDUCATION**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 19 members: Representatives Peery, Chair; G. Fisher, Vice Chair; Brough, Ranking Minority Member; Vance, Assistant Ranking Minority Member; Betrozoff; Broback; Brumsickle; Carlson; G. Cole; Dorn; P. Johnson; Jones; J. Kohl; Neher; Orr; Rasmussen; Roland; H. Sommers; and Valle.

Staff: Robert Butts (786-7111).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *The substitute bill by Committee on Education be substituted therefor and the substitute bill as amended by Committee on Appropriations do pass.* Signed by 27 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Silver, Ranking Minority Member; Morton, Assistant Ranking Minority Member; Appelwick; Belcher; Bowman; Braddock; Brekke; Carlson; Dorn; Ebersole;

Ferguson; Fuhrman; Hine; Lisk; May; Mielke; Nealey; Peery; Pruitt; D. Sommers; H. Sommers; Sprenkle; Valle; and Wang.

Minority Report: *Without recommendation.* Signed by 1 member: Representative Rust.

Staff: Jack Daray (786-7178).

Background: RECORD CHECKS: Under current law, a background check through the Washington State Patrol Criminal Identification System is required when a person applies to the Superintendent of Public Instruction (SPI) for an initial certificate to be a school teacher, administrator, or educational staff associate. In addition, school districts may request that a state patrol background check be conducted when applicants apply for classified and certificated positions. However, school districts are not required by law to do background checks.

To obtain positive identification when doing background checks, fingerprints are needed. School districts may require that fingerprints be submitted, but the law is unclear as to whether SPI can request fingerprints when background checks are done during the certification process.

Information included in the state patrol identification system is limited to convictions and information concerning illegal activities in Washington State. To obtain information regarding out-of-state criminal activity, a Federal Bureau of Investigation check is required.

SPI INVESTIGATION OF COMPLAINTS: Under state law, SPI is permitted to revoke or suspend a certificate or permit only upon complaint of a school district superintendent or an educational service district superintendent. Further, in the absence of such a complaint, SPI lacks express authority to investigate an alleged violation of the certification statutes or rules even where SPI has reason to believe a violation has occurred. A complaint by a private school administrator is also insufficient, even though approved private schools have certificated personnel.

SPI SUBPOENA POWER: In contrast to numerous other state licensing entities, when investigating a complaint, SPI currently does not have the power to administer oaths and affirmations, subpoena and compel the attendance of witnesses, take evidence, and require the production of relevant documents.

Summary of Bill: RECORD CHECKS: School districts, educational service districts, and their contractors shall require a record check through the state patrol criminal

identification system and through the Federal Bureau of Investigation prior to hiring an employee. For contractors, however, only employees who have regularly scheduled unsupervised access to children are required to have record checks. The record check shall include a fingerprint check. Applicants may be employed on a conditional basis pending completion of the investigation.

If the applicant has had a record check within the previous two years, the district or contractor may waive the requirement. The district and contractor hiring the employee shall determine who shall pay costs associated with the record check.

Current law requiring a mandatory background check of persons applying for an education certificate is amended to require that fingerprints be used, and that the record check also include information from the Federal Bureau of Investigation identification system. The requirement may be waived if a check has been done within the previous two years.

The State Patrol is authorized to charge school districts and educational service districts for record checks when fingerprints are submitted. A revolving fund is created for these funds.

The State Patrol and FBI are prohibited from keeping the fingerprints on file.

COMPLAINT: Existing state law is amended to authorize revocation or suspension of a certificate or permit upon complaint of a private school administrator.

INVESTIGATION: In the absence of a complaint and under certain circumstances, SPI is authorized to investigate an alleged violation of state statutes and rules concerning certification. If the specified requirements are met, SPI can investigate not only the alleged violation, but other matters that may be disclosed in the course of the investigation as well.

SPI SUBPOENA POWER: The SPI is empowered to administer oaths and affirmations, subpoena and compel the attendance of witnesses, take evidence, and require the production of relevant documents.

If a person fails to obey a subpoena or refuses to give evidence, a court with jurisdiction is permitted to issue a show cause order. Failure to obey a court order may be punishable as contempt.

Fiscal Note: Available.

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

Testimony For: (Education): Protection of children is a high priority. When doing background checks, names are not enough: fingerprints are needed. It also is important to have FBI checks to obtain information on out-of-state convictions.

(Appropriations): Use of fingerprints will greatly enhance the ability to detect individuals with criminal histories of concern to schools.

Testimony Against: (Education): Supports concept, but concerned about the cost to school districts, the state patrol, and prospective employees. Also, provisions that require checks on volunteers who have unsupervised access to children could be very costly and would likely discourage volunteers.

(Appropriations): Federal Bureau of Investigation background checks and the related fee would be deterrents to needed participation of volunteers in the schools.

Witnesses: (Education): Marcia Costello and Rick Wilson, SPI (support); Howard Fisher, Assistant Attorney General (supports); Rick Jensen, Washington State Patrol (supports, but concerned about the cost); Walter Ball, Washington School Principals Association (supports, but concerned about language that would require volunteers to have checks); Bob Fisher, WEA (supports concept, should also be imposed on other groups that work with children); Greg Paus, Washington Association of School Administrators (opposes); Lorraine Wilson, Washington School Directors' Association (supports); Deborah Senn, SEIU (supports with reservations); Dave Ashton, Laidlaw Transit (supports, but concerned about two-year exemption); Linda Byrnes, State Board of Education (supports); Lynn McKinnon, PSE (supports with reservations); Sharon Foster, YMCAs & Council of Youth Agencies (supports concept); and Roger Easton, ESD 112 (supports, but recommends the type of convictions that are covered be increased).

(Appropriations): Lynn McKinnon, Public Service Employees (pro); Deborah Senn, Service Employee International Union (pro); Marcia Costello, Office of Superintendent Public Institution (pro); and Rick Jensen, Washington State Patrol (pro).