
Appropriations Committee

HB 2247

Brief Description: Regarding cost-of-living increases for educational employees.

Sponsors: Representatives Fromhold, McIntire, Lovick and Moeller.

Brief Summary of Bill

- Revises Initiative 732 to clarify the obligation for funding school employees' cost-of-living increases (COLAs): the state will pay for the COLA on the state-funded salary base, and school districts must fund the remainder from local or other resources.
- Strikes the portion of Initiative 732 that declares the COLA to be part of the state's basic education funding obligation to reflect the state Supreme Court decision in the *McGowan* case.
- Reinstates the COLA as part of the state's basic education funding obligation for school employees within the basic education program only, beginning with the 2005-06 school year.

Hearing Date: 4/21/03

Staff: Kristen Fraser (786-7148).

Background:

Constitutional Basis of K-12 Funding

Article IX, section 1 of the State Constitution declares that it is "the paramount duty of the state to make ample provision for the education of all children[.]" Section 2 of the same article also requires that the Legislature "shall provide for a general and uniform system of public schools."

After widespread school levy failures in the mid-1970s, school districts brought suit against the state, arguing that the state violated these constitutional principles by permitting school districts to rely heavily on local levy funding. In the *Seattle School District v. State* cases, often referred to as the *Doran* decisions after the trial court judge who decided them, the state constitutional law of education funding was developed. In *Seattle School District I*, the

state Supreme Court held that under Article IX of the State Constitution, the state's paramount duty is providing its children with an education. The state complies with this mandatory duty only when it makes ample provision for basic education through regular and dependable tax sources. According to the decision, local levy funding is not a regular and dependable tax source, and therefore it may not be used to fund basic education.

Funding for School Employees' Salaries

As a result of the first *Seattle School District* case, the Legislature enacted the Basic Education Act (BEA), which allocates funding to school districts on a staffing ratio-based formula. For teacher salaries, in addition to the staffing ratio, the funding formula uses a schedule that incorporates teachers' education and experience into a staff mix. In addition to funding employees under the basic education formulas, the state also allocates funding for state programs outside basic education, such as the highly capable program and additional primary teachers.

School districts may also use funding from local levies or other non-state sources to fund school employees' salaries. This local funding may be used only for enrichment programs outside the definition of basic education. These may include supplemental contracts for additional time, responsibility, or incentives. Under the statutory teacher salary parity requirements, teachers outside the basic education program must receive salaries comparable to those within the basic education program. There is no similar statutory parity requirement for administrators, or for classified employees, whose salaries are determined through local collective bargaining agreements.

Prior to the 2001-03 biennium, legislative appropriations for cost-of-living increases (COLAs) funded increases only for teachers, classified staff, and administrator salaries within the state-funded salary base. In other words, the Legislature did not fund COLAs for all district employees; districts funded COLAs for these employees with local levy dollars or other sources. Because of the state salary parity statutes and the inclusion of any state COLA on the state salary schedule, as a practical matter districts were required to provide COLAs to locally funded teachers whenever the state did so.

Initiative 732 COLA and the McGowan Case

In November of 2000, the voters adopted Initiative 732, which required cost-of-living increases for school employees. Specifically, the initiative stated that the COLA would be:

calculated by applying the rate of the yearly increase in the cost of living index to any state funded salary base used in state funding formulas . . . each school district shall be provided a cost-of-living allocation sufficient to grant this cost of living increase for . . . all employees of the district.

Additionally, the initiative declared that the COLA allocation was within the Legislature's basic education funding obligation. The initiative directed that the COLA be distributed in accordance with the districts' salary schedules, policies, and collective bargaining agreements.

In the 2001-03 enacted budget, as well as the Governor's proposed budget, the state funded the COLA for state-formula school employees, but did not fund it for employees funded from local district sources and other sources. Districts sued, arguing that the state was obligated to fund COLAs for all district employees.

In December of 2002, the State Supreme Court reached a decision on the case, known as *McGowan v. State*. First, the court held as a matter of statutory interpretation that the initiative required the state to fund COLAs for all district employees, regardless of whether the employees were state-funded.

Second, the court held as a matter of state constitutional law that the state cannot be required to fund COLAs for all district employees as a basic education obligation. The court severed as unconstitutional the portion of the initiative that declared the COLAs to be basic education. The court reasoned that the COLA allocation is a type of funding, not a type of education or educational service, and that every employee does not provide basic education services. For this reason, it was not within the "program" of basic education. Additionally, under the *Seattle School District I* holding, requiring the state to provide all district employees with a "basic ed" COLA would unconstitutionally tie basic education funding to levy funding. Further, providing the "basic ed" COLA allocation on levy-funded employees' salaries would result in an unconstitutional lack of uniformity, because some districts (those with levy-funded employees) would receive this allocation, but others would not.

Finally, the court declined to order a remedy. Under a line of separation of powers cases, the court has refused to order the Legislature to make appropriations for statutory programs unless the programs are constitutionally required. The court declared that its decision in the COLA case determined only the meaning of the language of the initiative. The court stated that the question of whether it should order the Legislature to make the appropriations needed to fulfill the statute's requirements was not before the court.

Summary of Bill:

Legislative intent is declared to reaffirm the goal of ensuring that school employees receive COLAs, and that for school employees within the basic education program, such COLAs are part of the state's basic education funding obligation.

Initiative 732 is amended to clarify the responsibility for funding the COLA. The total district COLA expenditure must be sufficient to provide a COLA for salaries of all employees of the district, but the state is responsible for funding the COLA for state-formula salaries only.

The initiative is also amended to reflect the court's holding in *McGowan* that the COLA is not basic education for all employees. However, for employee salaries within the program of basic education, the COLA is restored as a state basic education funding obligation, beginning with the 2005-06 school year.

Appropriation: None.

Fiscal Note: Requested April 19, 2003.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.