

HOUSE BILL REPORT

SHB 2456

As Passed House:

February 13, 2004

Title: An act relating to the hiring of school district employees.

Brief Description: Establishing provisions for disclosure of sexual misconduct by applicants for school district employment.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives McDonald, Lantz, Carrell, Bush, Pearson, Ahern, Haigh, Armstrong, Talcott, Shabro, Holmquist, Kristiansen, Anderson, Chase, Moeller, Morrell and Woods).

Brief History:

Committee Activity:

Education: 1/29/04, 2/5/04 [DP];

Appropriations: 2/9/04, 2/10/04 [DPS].

Floor Activity:

Passed House: 2/13/04, 97-0.

Brief Summary of Substitute Bill

- Requires school districts to exchange information regarding sexual misconduct, if any, by current and former classified school district employees.
- Requires school districts to electronically request from the Office of the Superintendent of Public Instruction (OSPI) verification of certification status before hiring an applicant for a certificated staff position and to seek additional information from the OSPI when a complaint or investigation is indicated.
- Prohibits a school district from hiring an applicant who does not authorize a release of records.
- Limits disclosure of information obtained under an authorized release.
- Establishes a misdemeanor violation for misuse of the information obtained.
- Prohibits a school district from suppressing information about employee sexual misconduct.
- Requires the State Board of Education to define "sexual misconduct."

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass. Signed by 10 members: Representatives Quall, Chair; McDermott, Vice Chair; Talcott, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Cox, Haigh, Hunter, McMahan, Rockefeller and Santos.

Staff: Sydney Forrester (786-7120).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 27 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Ruderman, Schual-Berke, Sump and Talcott.

Staff: Denise Graham (786-7137).

Background:

School districts are required to conduct a criminal background check on school employees. School districts are not, however, required to contact an applicant's current or former employer to obtain reference information. Some forms of school employee misconduct may not necessarily result in criminal prosecution or conviction, due to severance agreements, resignation agreements, or other agreements, and information about the misconduct may not be detected through a criminal background check.

Summary of Substitute Bill:

A school district must submit a request electronically to the SPI for verification of the certification status and the records regarding sexual misconduct, if any, for certificated applicants. When the results of such a request indicate a complaint or investigation that resulted in action being taken, the school district shall request from the SPI information regarding complaints or investigations regarding sexual misconduct, if any.

Prior to hiring an applicant for a classified position, a school district must obtain the applicant's written authorization for release of the applicant's records regarding sexual misconduct, if any, from the applicant's former or current school district employer. An applicant who refuses to provide the authorization may not be offered employment with the district. A school district must submit the authorization with a request for the records, if any, to the appropriate school district.

A school district receiving such a request for records must, within 20 days, provide the hiring district with information in the applicant's personnel file regarding sexual misconduct, if any. A

school district may offer conditional employment pending its review of information obtained from another school district.

School districts and their employees who, in good faith, release the information requested are immune from civil liability. Information received by the hiring district may be disclosed only to those directly involved in the hiring decision. Misuse of the information constitutes a misdemeanor.

Beginning September 1, 2004, no school district may enter into an agreement to suppress or expunge from personnel files information about employee sexual misconduct. Information about alleged misconduct, not substantiated, may be expunged from an employee's personnel file.

The State Board of Education is directed to define "sexual misconduct" for application to certificated and classified employees. The definition must include a requirement that the school district has determined there is sufficient information to conclude the conduct occurred and that it resulted in the employee's departure from employment with the school district.

Appropriation: None.

Fiscal Note: Requested on February 11, 2004.

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

Testimony For: (Education) This bill deals with a very small portion of the state's school employees. The vast majority of education employees are quality individuals and dedicated to the profession. It is important to ensure the safety of all students, but nonetheless, in some cases when a person commits misconduct the person is allowed to continue working in another part of the state. One case is too many and anything that can be done to improve the system should be done.

Sexual misconduct may be too narrow and other types of misconduct would probably be covered. In addition, the goal of school boards in addressing misconduct is a guaranteed outcome. Sometimes voluntary agreements for surrender of a teaching certificate achieve this at the local level and make schools a safer place for children.

(Concerns) Last year's original Senate bill did not include the same definition of sexual misconduct as in this bill. It is important that employees, particularly classified employees, be protected from injustice and the definition should be limited to proven misconduct. The definition developed by the State Board of Education should be clear so that everyone knows what is covered by the law. The rules and guidelines for the sharing of information should be comprehensive, and may include some of the other bills pending on this subject. It also is important to understand the local, state, administrative, and criminal processes involved in cases of misconduct allegations.

Testimony For: (Appropriations) This bill will ensure that information related to sexual misconduct will follow teachers and coaches. Although there might be a small cost to this bill, it is worth the price. Lawsuits are more expensive than this bill.

Testimony Against: (Education) None.

Testimony Against: (Appropriations) None.

Persons Testifying: (Education) (In support) Representative McDonald, prime sponsor; Dan Steele, Washington State School Directors' Association; Ted Thomas, Longview School Board; Lonnie Johns-Brown, Washington Association of Sexual Assault Programs; Lucinda Young, Washington Education Association; and Rainer Houser, Association of Washington School Principals.

(In support with concerns) Greg Williamson, Office of the Superintendent of Public Instruction.

(Concerns) David Westberg, Stationary Engineers.

Persons Testifying: (Appropriations) (In support) Lonnie Johns-Brown, Washington Coalition Sexual Assault Programs.

Persons Signed In To Testify But Not Testifying: (Education) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.