

HOUSE BILL REPORT

E2SHB 1368

As Amended by the Senate

Title: An act relating to requiring and funding the purchase of zero emission school buses.

Brief Description: Requiring and funding the purchase of zero emission school buses.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Senn, Fey, Berry, Doglio, Peterson, Chapman, Fosse, Slatter, Gregerson, Callan, Lekanoff, Ramel, Stonier, Street, Santos, Fitzgibbon, Berg, Reed, Simmons, Bergquist, Goodman, Pollet, Cortes, Macri and Leavitt).

Brief History:

Committee Activity:

Environment & Energy: 2/7/23, 2/14/23 [DPS];
Appropriations: 1/11/24, 1/29/24 [DP2S(w/o sub ENVI)].

Floor Activity:

Passed House: 2/9/24, 58-39.
Senate Amended.
Passed Senate: 3/1/24, 29-20.

Brief Summary of Engrossed Second Substitute Bill

- Requires the Department of Ecology to administer the Zero-Emission School Bus Grant Program, and prioritize grants to routes serving communities overburdened with air pollution and with buses manufactured prior to 2007.
- Requires new school buses acquired by school districts or used in pupil transportation contracts to be zero emission after the total cost of ownership is determined to be below the total cost of ownership of diesel buses, with exceptions.
- Amends school bus purchasing and contracting protocols of the Office of the Superintendent of Public Instruction (OSPI) and school districts.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- Requires the OSPI to survey school districts about the adoption of zero-emission school buses.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Doglio, Chair; Mena, Vice Chair; Berry, Duerr, Fey, Lekanoff, Ramel, Slatter and Street.

Minority Report: Do not pass. Signed by 4 members: Representatives Dye, Ranking Minority Member; Abbarno, Couture and Goehner.

Minority Report: Without recommendation. Signed by 2 members: Representatives Ybarra, Assistant Ranking Minority Member; Barnard.

Staff: Jacob Lipson (786-7196).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Environment & Energy. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Callan, Chopp, Davis, Fitzgibbon, Lekanoff, Pollet, Riccelli, Ryu, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 9 members: Representatives Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Chandler, Dye, Harris, Rude, Sandlin and Schmick.

Staff: James Mackison (786-7104).

Background:

Student Transportation.

School buses are used to transport students to and from school or in connection with designated school activities. School district boards of directors are responsible for the operation of student transportation programs. School districts may use school buses and drivers hired by the district or commercial chartered bus services for the transportation of school children and employees necessary for their supervision.

School districts are responsible for selecting, paying for, and maintaining student

transportation vehicles purchased by the district. Regarding school bus purchases, the Office of the Superintendent of Public Instruction (OPSI) is responsible for developing categories and competitive specifications for school bus acquisitions as well as a corresponding list of school bus dealers with the lowest purchase price quotes. School districts and educational service districts that purchase buses through this competitive quote process or through a separate lowest-price competitive bid process are eligible for certain state funds that are based on the category of vehicle, the anticipated lifetime of vehicles of this category, and a state reimbursement rate. The accumulated value of the state payments received by the district and the potential investment return is designed to be equal to the replacement cost of the vehicle, less its salvage value, at the end of its anticipated lifetime.

Legislation adopted in 2007 directed the OPSI to implement a school bus replacement incentive program for qualifying new buses purchased by a school district on or before June 30, 2009.

Department of Ecology Zero-Emission Vehicle Rules and Grant Programs.

Under the federal Clean Air Act (federal CAA), most states, including Washington, are restricted from enacting their own emissions standards for new motor vehicles, which is an authority generally reserved to the federal government. California is the only state allowed under the federal CAA to adopt state standards for vehicle emissions. California's vehicle emissions standards must be at least as protective of public health as federal standards and must be approved by the United States Environmental Protection Agency (EPA). Other states may adopt vehicle emissions standards that are identical to California's vehicle emissions standards for specific vehicle model years. The motor vehicle emissions standards established by California contain two program components: low-emission vehicle (LEV) requirements and zero-emission vehicle (ZEV) requirements.

The California ZEV program requires that a specified percentage of the vehicles delivered for sale in the state by manufacturers must be ZEVs. California's current ZEV standards for passenger cars and light-duty trucks require that 9.5 percent of vehicles produced by manufacturers and delivered for sale in California be ZEVs by 2020. This requirement increases to 22 percent for model year 2025, and then increases to 100 percent of vehicles beginning in 2035.

In 2020 the Legislature enacted a bill that requires the Department of Ecology (Ecology) to adopt all of California's motor vehicle emission standards, including the ZEV program. Ecology adopted initial rules to implement the ZEV program in 2021, and in December of 2022 updated its rules to increase the standard for ZEV sales of passenger cars, light-duty trucks, and medium-duty vehicles to 100 percent beginning in 2035, in accordance with a similar rule recently adopted in California.

As part of Ecology's clean diesel program, Ecology administers grant programs that have a goal of reducing diesel pollution emissions, including grants that have been used to purchase zero-emission school buses.

Summary of Engrossed Second Substitute Bill:

Zero-Emission Vehicle School Bus Grants.

The Department of Ecology (Ecology) must administer a Zero-Emission School Bus Grant Program within the Clean Diesel Grant Program for buses, infrastructure, and other related costs. Grants are to transition from fossil-fuel school buses to zero-emission vehicles (ZEV), and may be used for planning and acquisition of ZEV school buses, transportation, planning, design and construction of fueling and charging infrastructure, the scrapping of old diesel school buses, and training for drivers, mechanics, and facility operations personnel. Grants are in addition to payments under the Office of the Superintendent of Public Instruction (OSPI)'s depreciation schedule, and may be combined with other sources of funding. Once the OSPI school bus depreciation schedule is adjusted to fund the cost of ZEV school bus purchases, Ecology must transition the grant program to focus solely on charging infrastructure grants. Ecology may retain up to 3.5 percent of funds for administering the grant program and 6.5 percent of funds for technical assistance to grant recipients.

Ecology must prioritize the following grant recipients, in descending order of priority:

- school bus routes using buses manufactured prior to 2007 serving communities highly impacted by air pollution identified by Ecology under the Climate Commitment Act;
- school bus routes serving communities highly impacted by air pollution identified by Ecology under the Climate Commitment Act;
- school bus routes using buses manufactured prior to 2007; and
- applicants that have demonstrated a previously unsuccessful application for federal funding prior to January 1, 2024.

Ecology, in consultation with the OSPI, must submit a report updating on the status of the ZEV School Bus Grant Program by June 1, 2025.

Zero-Emission Vehicle School Bus Acquisition.

Ecology, in consultation with the OSPI, must adopt rules to establish formulas to calculate the total cost of ownership for school buses. Prior to the adoption of rules, the OSPI must publish optional preliminary guidance that school districts may follow regarding total cost of ownership. Once total cost of ownership of ZEV buses is determined to be at or below the total cost of ownership of diesel school buses:

- the OSPI's depreciation schedule must solely include ZEV school buses; and
- newly acquired school buses used for pupil transportation services contracts must be ZEV buses.

These requirements do not apply to diesel buses purchased by a school district prior to the determination that ZEV school bus total cost of ownership is at or below the cost of ownership of diesel school buses, or for use cases where needs, including the mileage needs of bus routes, are not capable of being met by the ZEV bus technical capabilities, and for which an extension may be requested by a school district. The use of externally-vented

fuel-operated passenger heaters are authorized from November 15 to March 15 annually until other viable alternatives become available.

OSPI reimbursements to school districts must reflect the full cost of ZEV buses, excluding operating costs covered by the OSPI or infrastructure eligible for Ecology grants. The OSPI must solicit competitive price quotes for ZEV buses.

Zero-Emission Vehicle School Bus Survey.

By November 15, 2024, the OSPI, in consultation with Ecology, must carry out a survey of school districts, charter schools, and state-tribal education compact schools focused on the uptake and total cost of ownership of ZEV school buses. The OSPI must submit a report to the Legislature summarizing its findings by December 1, 2024.

EFFECT OF SENATE AMENDMENT(S):

As compared to Engrossed Second Substitute House Bill 1368, the striking amendment passed by the Senate makes the following changes:

- requires the Department of Ecology (Ecology) to prioritize zero-emission bus grant recipients based on school districts, rather than school bus routes, serving overburdened communities;
- requires Ecology to provide notice of grant award decisions to electric utilities providing service to a grant recipient;
- extends the maximum contract duration for school districts that enter into pupil transportation services contracts from 5 years to 7 years for zero-emission bus contracts, rather than extending the maximum contract duration to 15 years for all types of bus contracts;
- authorizes the Superintendent of Public Instruction (SPI), in consultation with Ecology, to adopt rules establishing formulas related to the total cost of ownership of zero-emission and diesel school buses, rather than Ecology adopting such rules in consultation with SPI;
- specifies that zero-emission school bus acquisition or contract requirements when the total cost of ownership of zero-emission buses is at or below the total cost of ownership of diesel school buses does not apply: (1) when the school district has bus route mileage needs that cannot be met by the average daily miles achieved under actual use by a zero-emission bus; (2) when the school district has other unique needs; or (3) when the school district does not have or have access to appropriate charging infrastructure; and
- limits the duration of exceptions to zero-emission bus purchase requirements for school districts to no more than five years, but authorizes renewals of exceptions where need exists.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 27, 2024.

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

Staff Summary of Public Testimony (Environment & Energy):

(In support) Diesel exhaust is a carcinogen, and students riding school buses are particularly at risk of diesel exposure. Diesel particles are small and penetrate deeply into the lungs, and increase risks of asthma and lung cancer. Asthma prevalence is an issue of racial equity. Zero-emission school buses emit no carcinogens or greenhouse gases, and are an environmentally superior alternative. While electric school buses are currently more expensive than diesel buses, zero-emission vehicle technology is improving and expected to be cost competitive within a decade. The grant program established by this bill would help school districts make up the price differential between electric buses and diesel buses until price parity is achieved. The 2035 phase-out of diesel school buses should be expedited, and other states have set more ambitious targets than what is contemplated in this bill. The bill supports both electric and hydrogen bus technology, but needs to be amended to also support hydrogen refueling infrastructure in a manner similar to electric bus charging infrastructure.

(Opposed) None.

(Other) The Department of Ecology (Ecology) supports the goals of transitioning to zero-emission buses, but has concerns with the language in the bill as introduced. Ecology should administer the grant program for zero-emission buses, rather than creating a new program at the Office of the Superintendent of Public Instruction that would duplicate Ecology's existing programs. Contractors that transport pupils should be eligible for grants, in addition to school districts. The grant program risks not being able to completely fund the costs of school districts associated with transitioning to a zero-emission fleet. The grant program should be a complete funding solution for school districts, rather than a competitive grant program. Electric buses are not appropriate for some school bus routes, and may face special storage and operational challenges.

Staff Summary of Public Testimony (Appropriations):

(In support) This policy provides a gradual ramp up for the purchase of zero-emission buses. School districts cannot transition to zero emission without financial support. This will help support charging infrastructure in addition to bus purchases. This will benefit schools, students, and the environment. Diesel emissions from buses damage both the environment and student health. Other states are enacting similar requirements: for example, New York required the purchase of zero-emission buses by 2027 and the full fleet to be zero emission by 2035.

Contractors providing pupil transportation services are leading the transition to zero-emission buses. Large in-state contractors already maintain electric school buses purchased

with federal grants as part of their fleet. There are technical considerations including the reliability of electric buses in cold weather. Contractors would like to work closely with members on the bill. At this stage of the transition public assistance is needed.

Electricians strongly support the bill and are ready and available to maintain a zero-emission bus fleet. This work will improve the health of students, including those compromised with conditions like asthma.

Many students support this bill. In addition to environmental concerns, exposure to diesel exhaust can lead to health issues for students, keeping them from meeting their full potential. Everyone needs to do their part, and government can set an example by requiring zero-emission school buses. The state should cover the costs of purchasing electric buses. This is an important step in fighting climate change and improving student health.

Motor vehicle pollution is the largest source of all carbon emissions. The market to support the transition to zero-emission buses exists and is continuing to grow. The demand for zero-emission vehicles is beyond the availability of state and federal grant funding. Incentives to transition as soon as possible are needed. This bill is important to our health and our future.

Lake Washington School District has 130 yellow buses. Though sustainability is a core value, bus depreciation payments and current federal and state grants are insufficient to cover the cost of the transition. This bill will provide needed support.

This is a health issue. Nearly all 12,000 buses in the state inventory run on diesel fuel. Research shows exhaust contains dangerous particulates that worsen air quality and lead to health problems, particularly respiratory issues. This will improve the health of students. Climate change is a national crisis and a risk to children's health. The future deadlines provide time for implementation and funding.

(Opposed) Climate change is not real. Batteries are toxic and expensive, and produced using child labor. Electric vehicles have a limited range. This transition can strain the electric grid, causing brownouts. The deadlines are too soon.

Several school districts opposed the timelines in that bill. While electric bus technology is promising and districts support clean air, infrastructure is not ready to support this policy. There are challenges such as the range of batteries for rural schools and performance in cold weather. The infrastructure needed is not in place. The Student Transportation Allocation Reporting System (STARS) formula should be fixed before mandating zero-emission buses. Staff need the expertise to maintain the new vehicles. Delivery of zero-emission buses can take a long time. Propane and hybrid buses are also low-emission and should be added.

(Other) School districts support the goal and intent of the bill but have concerns about the

implementation of the transition to zero-emission buses. The STARS operational formula needs to be fully funded before requiring purchases of zero-emission buses. The state depreciation schedule should also be updated. There will be additional costs for transitioning the entire fleet, including the need for new infrastructure. The deadline of 2027 is not reasonable and should be pushed back. Maintaining a heterogeneous fleet including both diesel and electric buses is challenging. School districts need to ensure the stability and availability of pupil transportation.

Persons Testifying (Environment & Energy): (In support) Representative Tana Senn, prime sponsor; Devon Kellogg, Washington State Parent-Teacher Association; Leah Missik, Climate Solutions; Carrie Nyssen, American Lung Association; Dave Arbaugh, Renewable Hydrogen Alliance; Claire Richards, Washington Physicians for Social Responsibility; and Bella Tancreti.

(Other) Shivani Sama; Siri Bliesner; Zachary Miller and Amy Cast, Washington State School Directors' Association; Joel Creswell, Department of Ecology; and Carolyn Logue, Washington State Student Transportation Coalition.

Persons Testifying (Appropriations): (In support) Representative Tana Senn, prime sponsor; Moa Valentin; Alexandra Perkins; Leah Missik, Climate Solutions; Nicole Grant, International Brotherhood of Electrical Workers Local 46; Greg Newman, First Student, Inc.; Jon Holmen, Lake Washington School District; Elizah DeMartini; Cassia Colombara; Sarah Lo; Brigid Bennett; Aliya Murphy; Devon Kellogg, Washington State Parent Teacher Association; Cynthia Stewart, League of Women Voters of Washington; Molly Spiller, Washington State Department of Ecology; and Wes Stewart, Sierra Club Washington.

(Opposed) Mary Long, Conservative Ladies of Washington; Nicole Daltoso, Evergreen Public School; Sharon Damoff; Travis Hanson, Mead School District; Paul Marquardt, Bethel Schools; Jim Kowalkowski, Rural Education Center; and Art Rodriguez, Yakima School District.

(Other) Mike Hoover, Washington State School Directors' Association; Kyle Hood, Tahoma School District; and Tyler Muench, Office of the Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying (Environment & Energy): None.

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