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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1368

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State of Washington

68th Legislature

2024 Regular Session

**By** House 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)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to requiring and funding the purchase of zero  
2 emission school buses; amending RCW 28A.160.140 and 28A.160.195;  
3 adding a new section to chapter 70A.15 RCW; adding a new section to  
4 chapter 28A.300 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that zero  
7 emission vehicle technology is crucial to protecting Washington's  
8 children from the health impacts of fossil fuel emissions and to  
9 limiting the long-term impacts of climate change on our planet.  
10 Spurred by a supportive regulatory environment, the state has made  
11 great advances in recent years that have improved the performance and  
12 reduced the costs of such vehicles. With the recent deployment of  
13 financial incentives for clean transportation technology under the  
14 federal bipartisan infrastructure law of 2021, the inflation  
15 reduction act of 2022, and state funding for early adopters of zero  
16 emission buses that began being made available in the 2023 enacted  
17 budgets, the costs and performance of zero emission vehicles,  
18 including zero emission school buses, are forecast to continue to  
19 improve in coming years. Zero emission school buses on the market  
20 today feature reduced fuel, operations, and maintenance costs  
21 compared to their fossil-fueled counterparts.

1 (2) Zero emission school buses and the related reduction of  
2 diesel exhaust will also have significant public health benefits for  
3 children, school staff, bus drivers, and communities, and decrease  
4 inequities. Residents in overburdened parts of Washington facing poor  
5 air quality are disproportionately communities of color, rural, and  
6 low-income and suffer from increased health risks, higher medical  
7 bills, are living sicker and dying younger, emphasizing the need for  
8 cleaner air and environmental justice.

9 (3) Further, the legislature finds that school districts need  
10 funding support to enable the transition to zero emission buses,  
11 including accurately reflecting the costs of zero emission buses in  
12 the state's reimbursement schedule for school buses. Zero emission  
13 buses are intended to include both battery electric technologies and  
14 hydrogen fuel cell technologies.

15 (4) Therefore, it is the intent of the legislature to help  
16 transition school districts, charter schools, and state-tribal  
17 education compact schools to using only zero emission school buses.

18 (5) During this transition, it is the intent of the legislature  
19 to prioritize grants to communities that are already bearing the most  
20 acute harms of air pollution, and to replace the oldest diesel  
21 vehicles that were manufactured under outdated and less protective  
22 federal emission standards. During the time leading up to an eventual  
23 phase out of fossil fuel powered school buses, electric utilities are  
24 encouraged to plan and take steps to ensure any service upgrades  
25 necessary to support the onboarding of zero emission fleets of school  
26 buses, including by making use of the grid modernization grant  
27 program administered by the department of commerce. Schools and  
28 school districts receiving zero emission school buses funded through  
29 the program created in this act are encouraged to coordinate with  
30 electric utilities to utilize the vehicles to support electric system  
31 reliability and capacity through vehicle-to-grid integration when the  
32 buses are not in service.

33 NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.15  
34 RCW to read as follows:

35 (1) The department must administer the zero emission school bus  
36 grant program within the clean diesel grant program for buses,  
37 infrastructure, and related costs.

38 (2)(a) Appropriations to this grant program are provided solely  
39 for grants to transition from fossil-fuel school buses to zero

1 emission vehicles. Eligible uses of grant funds include the planning  
2 and acquisition of zero emission school bus vehicles for student  
3 transportation, planning, design, and construction of associated  
4 fueling and charging infrastructure, including infrastructure to  
5 allow the use of zero emission buses in cold weather and other  
6 challenging operational conditions, the scrapping of old diesel  
7 school buses, and training drivers, mechanics, and facility  
8 operations personnel to operate and maintain the zero emission buses  
9 and infrastructure.

10 (b) Grant recipients may combine grant funds awarded under this  
11 section with any other source of funding in order to secure all funds  
12 needed to fully purchase each zero emission vehicle and any  
13 associated charging infrastructure.

14 (c) Grants issued under this section are in addition to payments  
15 made under the depreciation schedule adopted by the office of the  
16 superintendent of public instruction. Grants may only be issued until  
17 the school bus depreciation schedule established in RCW 28A.160.200  
18 is adjusted to fund the cost of zero emission bus purchases at which  
19 time the department must transition the program established in this  
20 section to focus solely on electric vehicle charging infrastructure  
21 grants.

22 (3) When selecting grant recipients, the department must  
23 prioritize, in descending order of priority:

24 (a) School bus routes currently using school buses manufactured  
25 prior to 2007 and serving overburdened communities, including  
26 communities of color, rural, and low-income communities, highly  
27 impacted by air pollution identified by the department under RCW  
28 70A.65.020(1);

29 (b) School bus routes serving overburdened communities, including  
30 communities of color, rural, and low-income communities, highly  
31 impacted by air pollution identified by the department under RCW  
32 70A.65.020(1);

33 (c) If funds remain after reviewing grant applications meeting  
34 the criteria of (a) of this subsection, the replacement of school  
35 buses manufactured prior to 2007; and

36 (d) If funds remain after reviewing grant applications meeting  
37 the criteria of (a), (b), or (c) of this subsection, to applicants  
38 that demonstrate an unsuccessful application to receive federal  
39 funding for zero emission school bus purposes prior to January 1,  
40 2024.

1 (4) The department must distribute no less than 90 percent of the  
2 funds appropriated under this section to grant recipients. Amounts  
3 retained by the department may only be used as follows:

4 (a) Up to three and one-half percent of funds appropriated under  
5 this section for administering the grant program; and

6 (b) Up to six and one-half percent of funds appropriated under  
7 this section to provide technical assistance to grant applicants  
8 including, but not limited to, assistance in evaluating charging  
9 infrastructure and equipment and in coordinating with electric  
10 utility service adequacy.

11 (5) By June 1, 2025, the department in consultation with the  
12 superintendent of public instruction must submit a report to the  
13 governor and the relevant policy and fiscal committees of the  
14 legislature providing an update on the status of implementation of  
15 the grant program under this section and a summary of recommendations  
16 and implementation considerations for transitioning the zero emission  
17 school bus grant program from competitive school bus vehicle  
18 depreciation schedule established in RCW 28A.160.200.

19 (6) For the purposes of this section, "zero emission vehicles"  
20 means a vehicle that produces zero exhaust emission of any air  
21 pollutant and any greenhouse gas other than water vapor.

22 **Sec. 3.** RCW 28A.160.140 and 1990 c 33 s 140 are each amended to  
23 read as follows:

24 (1) As a condition of entering into a pupil transportation  
25 services contract with a private nongovernmental entity, each school  
26 district shall engage in an open competitive process at least once  
27 every ((five)) 15 years. This requirement shall not be construed to  
28 prohibit a district from entering into a pupil transportation  
29 services contract of less than ((five)) 15 years in duration with a  
30 district option to renew, extend, or terminate the contract, if the  
31 district engages in an open competitive process at least once every  
32 ((five)) 15 years ((after July 26, 1987)).

33 (2) Once zero emission school bus total cost of ownership as  
34 defined by rule making authorized in RCW 28A.160.195(7) is determined  
35 to be at or below the total cost of ownership as defined by rule  
36 making authorized in RCW 28A.160.195(7) of diesel school buses,  
37 newly-acquired school buses used for pupil transportation services  
38 contracts under this section must be school buses that are zero  
39 emission vehicles, as defined in section 2 of this act.

1 (3) (a) An extension to the deadline requirements under subsection  
2 (2) of this section may be requested by a school district with  
3 mileage needs for their bus routes that are unable to be met by the  
4 average daily mileage achieved under actual use conditions in  
5 Washington for zero emission school buses.

6 (b) The requirements of subsection (2) of this section do not  
7 prohibit the use of externally vented fuel-operated passenger heaters  
8 from November 15th through March 15th annually until other viable  
9 alternatives become available.

10 (4) As used in this section:

11 ~~((1))~~ (a) "Open competitive process" means either one of the  
12 following, at the choice of the school district:

13 ~~((a))~~ (i) The solicitation of bids or quotations and the award  
14 of contracts under RCW 28A.335.190; or

15 ~~((b))~~ (ii) The competitive solicitation of proposals and their  
16 evaluation consistent with the process and criteria recommended or  
17 required, as the case may be, by the office of financial management  
18 for state agency acquisition of personal service contractors;

19 ~~((2))~~ (b) "Pupil transportation services contract" means a  
20 contract for the operation of privately owned or school district  
21 owned school buses, and the services of drivers or operators,  
22 management and supervisory personnel, and their support personnel  
23 such as secretaries, dispatchers, and mechanics, or any combination  
24 thereof, to provide students with transportation to and from school  
25 on a regular basis; and

26 ~~((3))~~ (c) "School bus" means a motor vehicle as defined in RCW  
27 46.04.521 and under the rules of the superintendent of public  
28 instruction.

29 **Sec. 4.** RCW 28A.160.195 and 2005 c 492 s 1 are each amended to  
30 read as follows:

31 (1) The superintendent of public instruction, in consultation  
32 with the regional transportation coordinators of the educational  
33 service districts, shall establish a minimum number of school bus  
34 categories considering the capacity and type of vehicles required by  
35 school districts in Washington. Once zero emission school bus total  
36 cost of ownership as defined by rule making authorized in subsection  
37 (7) of this section is determined to be at or below the total cost of  
38 ownership as defined by rule making authorized in subsection (7) of  
39 this section of diesel school buses, these school bus categories must

1 solely include school buses that meet the definition of zero emission  
2 vehicle in section 2 of this act, except as necessary to reimburse  
3 diesel school buses purchased prior to the determination, and except  
4 for use cases where needs, including the mileage needs of bus routes,  
5 are not capable of being met by the technological capabilities of  
6 zero emission buses available to school districts for acquisition.  
7 The superintendent, in consultation with the regional transportation  
8 coordinators of the educational service districts, shall establish  
9 competitive specifications for each category of school bus. The  
10 categories shall be developed to produce minimum long-range operating  
11 costs, including costs of equipment and all costs in operating the  
12 vehicles. The competitive specifications shall meet federal motor  
13 vehicle safety standards, minimum state specifications as established  
14 by rule by the superintendent, and supported options as determined by  
15 the superintendent in consultation with the regional transportation  
16 coordinators of the educational service districts. The superintendent  
17 may solicit and accept price quotes for a rear-engine category school  
18 bus that shall be reimbursed at the price of the corresponding front  
19 engine category.

20 (2) After establishing school bus categories and competitive  
21 specifications, the superintendent of public instruction shall  
22 solicit competitive price quotes for base buses from school bus  
23 dealers, which must include the solicitation of competitive price  
24 quotes for zero emission buses that meet the definition of zero  
25 emission vehicle in section 2 of this act, to be in effect for one  
26 year and shall establish a list of all accepted price quotes in each  
27 category obtained under this subsection. The superintendent shall  
28 also solicit price quotes for optional features and equipment.

29 (3) The superintendent shall base the level of reimbursement to  
30 school districts and educational service districts for school buses  
31 on the lowest quote for the base bus in each category. School  
32 districts and educational service districts shall be reimbursed for  
33 buses purchased only through a lowest-price competitive bid process  
34 conducted under RCW 28A.335.190 or through the state bid process  
35 established by this section. Once school bus categories include only  
36 school buses that meet the definition of zero emission as required in  
37 subsection (1) of this section, reimbursements must reflect for the  
38 full cost of zero emission buses, excluding operating costs covered  
39 under this chapter and infrastructure eligible for grants under  
40 section 2 of this act.

1 (4) Notwithstanding RCW 28A.335.190, school districts and  
2 educational service districts may purchase at the quoted price  
3 directly from any dealer who is on the list established under  
4 subsection (2) of this section. School districts and educational  
5 service districts may make their own selections for school buses, but  
6 shall be reimbursed at the rates determined under subsection (3) of  
7 this section and RCW 28A.160.200. District-selected options shall not  
8 be reimbursed by the state.

9 (5) This section does not prohibit school districts or  
10 educational service districts from conducting their own competitive  
11 bid process.

12 (6) Nothing in this section prohibits the use of externally  
13 vented fuel-operated passenger heaters from November 15th through  
14 March 15th annually until other viable alternatives become available.

15 (7)(a) The superintendent of public instruction (~~may~~) must  
16 adopt rules under chapter 34.05 RCW to implement this section.

17 (b) The department of ecology, in consultation with the  
18 superintendent of public instruction, must adopt rules to establish  
19 the formulas used to calculate the total cost of ownership for school  
20 buses. Prior to the establishment of total cost of ownership rules,  
21 the superintendent of public instruction must, in consultation with  
22 the department of ecology publish optional preliminary guidance that  
23 school districts, including those contracting for pupil  
24 transportation services, may follow.

25 NEW SECTION. Sec. 5. A new section is added to chapter 28A.300  
26 RCW to read as follows:

27 (1) By November 15, 2024, the office of the superintendent of  
28 public instruction, in consultation with the department of ecology,  
29 must carry out a survey of school districts, charter schools, and  
30 state-tribal education compact schools focused on the uptake and  
31 total cost of ownership of zero emission school buses. The office of  
32 the superintendent of public instruction must submit a report to the  
33 legislature summarizing their findings by December 1, 2024.

34 (2) The survey required under this section must collect  
35 information from each school district and school on:

36 (a) Current zero emission vehicle charging and refueling capacity  
37 and infrastructure;

38 (b) Whether, assuming the availability of grant funds and  
39 depreciation schedule payments to cover the full cost of a vehicle,

1 including the total cost of ownership of the vehicle, the school  
2 district or school would anticipate applying for funds to support  
3 zero emission school bus or bus infrastructure purchases in the next  
4 two years, and in the next five years;

5 (c) For any schools or school districts still using a school bus  
6 after the end of its applicable depreciation schedule, whether the  
7 bus was manufactured prior to 2007, and an explanation of why the  
8 school or school district has continued to use the bus past the end  
9 of its depreciation schedule;

10 (d) Responses to preliminary guidance from the office of the  
11 superintendent of public instruction for calculating total cost of  
12 ownership and whether the school district or school utilizes the  
13 preliminary guidance or uses a different calculation methodology; and

14 (e) Any other survey information deemed helpful by the department  
15 of ecology or the office of the superintendent of public instruction  
16 to facilitating the transition to zero emission vehicles.

17 (3) For purposes of this section, "zero emission vehicle" has the  
18 same meaning as in section 2 of this act.

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