

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1368

Chapter 345, Laws of 2024

68th Legislature
2024 Regular Session

ZERO EMISSION SCHOOL BUSES

EFFECTIVE DATE: June 6, 2024

Passed by the House March 5, 2024
Yeas 58 Nays 38

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 1, 2024
Yeas 29 Nays 20

DENNY HECK

President of the Senate

Approved March 28, 2024 2:33 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1368** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 29, 2024

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1368

AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

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.160.195 and 28A.160.140;
3 adding a new section to chapter 70A.15 RCW; adding a new section to
4 chapter 28A.160 RCW; adding a new section to chapter 28A.300 RCW; and
5 creating a new section.

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

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

1 today feature reduced fuel, operations, and maintenance costs
2 compared to their fossil-fueled counterparts.

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

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

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

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

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

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

1 (2)(a) Appropriations to this grant program are provided solely
2 for grants to transition from fossil-fuel school buses to zero
3 emission vehicles. Eligible uses of grant funds include the planning
4 and acquisition of zero emission school bus vehicles for student
5 transportation, planning, design, and construction of associated
6 fueling and charging infrastructure, including infrastructure to
7 allow the use of zero emission buses in cold weather and other
8 challenging operational conditions, the scrapping of old diesel
9 school buses, and training drivers, mechanics, and facility
10 operations personnel to operate and maintain the zero emission buses
11 and infrastructure.

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

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

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

26 (a) School districts currently using school buses manufactured
27 prior to 2007 and serving overburdened communities, including
28 communities of color, rural, and low-income communities, highly
29 impacted by air pollution identified by the department under RCW
30 70A.65.020(1);

31 (b) If funds remain after reviewing grant applications meeting
32 the criteria of (a) of this subsection, school districts serving
33 overburdened communities, including communities of color, rural, and
34 low-income communities, highly impacted by air pollution identified
35 by the department under RCW 70A.65.020(1);

36 (c) If funds remain after reviewing grant applications meeting
37 the criteria of (a) and (b) of this subsection, the replacement of
38 school buses manufactured prior to 2007; and

39 (d) If funds remain after reviewing grant applications meeting
40 the criteria of (a), (b), or (c) of this subsection, to applicants

1 that demonstrate an unsuccessful application to receive federal
2 funding for zero emission school bus purposes prior to January 1,
3 2024.

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

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

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

14 (5) The department must provide notice of a grant award decision
15 to the utility providing electrical service to the grant recipient.

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

24 (7) For the purposes of this section, "zero emission vehicles"
25 means a vehicle that produces zero exhaust emission of any air
26 pollutant and any greenhouse gas other than water vapor.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.160
28 RCW to read as follows:

29 (1) The office of the superintendent of public instruction, in
30 consultation with the department of ecology, must develop preliminary
31 guidance for school districts regarding the formula factors used to
32 calculate the total cost of ownership for zero emission school buses
33 and diesel school buses. After considering feedback to the
34 preliminary guidance, the office of the superintendent of public
35 instruction, in consultation with the department of ecology, must
36 adopt rules to establish the formulas. Such formulas must, at a
37 minimum, address the initial cost of the bus at the time of purchase,
38 the cost of maintenance, the cost of fueling and charging, and the
39 cost of replacing zero emission school bus batteries, if applicable.

1 (2) (a) Once the total cost of ownership of zero emission school
2 buses is at or below the total cost of ownership of diesel school
3 buses, as determined by the formulas in subsection (1) of this
4 section, school districts may only receive reimbursement under RCW
5 28A.160.195 and 28A.160.200 for the purchase of zero emission school
6 buses.

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

11 (3) (a) The office of the superintendent of public instruction
12 must make exceptions to the requirement under subsection (2) of this
13 section in the following circumstances:

14 (i) The reimbursement is for a diesel school bus that was
15 purchased prior to the total cost of ownership determination;

16 (ii) The school district has bus route mileage needs that cannot
17 be met by the average daily mileage achieved under actual use
18 conditions in Washington for zero emission school buses;

19 (iii) The school district has other unique needs that may not be
20 met by the technological capabilities of zero emission school buses;
21 or

22 (iv) The school district does not have, or have access to, the
23 appropriate charging infrastructure to support the use of zero
24 emission school buses. If a school district qualifies under this
25 exception it must submit documentation indicating it has applied for
26 grant funding to install charging infrastructure under available
27 federal grant programs or the zero emission school bus grant program
28 established under section 2 of this act, or documentation from a
29 public utility district or utility company indicating the school
30 district does not have enough electric capacity to support the
31 appropriate charging infrastructure.

32 (b) Exceptions granted by the superintendent of public
33 instruction under (a)(ii) through (iv) of this subsection may not
34 exceed five years. A school district may apply to renew an exception
35 if the need for such an exception still exists after the initial
36 exception has expired.

37 (4) For the purposes of this section, "zero emission school bus"
38 means a school bus that produces zero exhaust emission of any air
39 pollutant and any greenhouse gas other than water vapor.

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

3 (1) The superintendent of public instruction, in consultation
4 with the regional transportation coordinators of the educational
5 service districts, shall establish a minimum number of school bus
6 categories considering the capacity and type of vehicles required by
7 school districts in Washington. The superintendent, in consultation
8 with the regional transportation coordinators of the educational
9 service districts, shall establish competitive specifications for
10 each category of school bus. The categories shall be developed to
11 produce minimum long-range operating costs, including costs of
12 equipment and all costs in operating the vehicles. The competitive
13 specifications shall meet federal motor vehicle safety standards,
14 minimum state specifications as established by rule by the
15 superintendent, and supported options as determined by the
16 superintendent in consultation with the regional transportation
17 coordinators of the educational service districts. The superintendent
18 may solicit and accept price quotes for a rear-engine category school
19 bus that shall be reimbursed at the price of the corresponding front
20 engine category.

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

28 (3) (a) The superintendent shall base the level of reimbursement
29 to school districts and educational service districts for school
30 buses on the lowest quote for the base bus in each category. School
31 districts and educational service districts shall be reimbursed for
32 buses purchased only through a lowest-price competitive bid process
33 conducted under RCW 28A.335.190 or through the state bid process
34 established by this section.

35 (b) Once the total cost of ownership of zero emission school
36 buses is at or below the total cost of ownership of diesel school
37 buses, as determined under the formulas adopted by rule pursuant to
38 section 3 of this act, school districts may only receive
39 reimbursement for the purchase of zero emission school buses, unless
40 the district has been granted an exception under section 3(3) of this

1 act. For the purposes of this subsection, "zero emission school bus"
2 means a school bus that produces zero exhaust emission of any air
3 pollutant and any greenhouse gas other than water vapor.

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

12 (5) This section does not prohibit school districts or
13 educational service districts from conducting their own competitive
14 bid process.

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

17 **Sec. 5.** RCW 28A.160.140 and 1990 c 33 s 140 are each amended to
18 read as follows:

19 (1) As a condition of entering into a pupil transportation
20 services contract with a private nongovernmental entity, each school
21 district shall engage in an open competitive process at least once
22 every five years. This requirement shall not be construed to prohibit
23 a district from entering into a pupil transportation services
24 contract of less than five years in duration with a district option
25 to renew, extend, or terminate the contract, if the district engages
26 in an open competitive process at least once every five years after
27 July 26, 1987. If a school district enters into a pupil
28 transportation services contract with a private nongovernmental
29 entity that uses zero emission school buses to transport students for
30 the school district, the contract period may be up to seven years in
31 duration.

32 (2) Once the total cost of ownership of zero emission school
33 buses is at or below the total cost of ownership of diesel school
34 buses, as determined under the formulas adopted by rule pursuant to
35 section 3 of this act, a school district may only enter into, renew,
36 or extend a pupil transportation services contract with a
37 nongovernmental entity that uses zero emission school buses to
38 transport students for the school district. The office of the
39 superintendent of public instruction must provide an exception to

1 this requirement, upon request from the school district, if the
2 school district meets the criteria in section 3(3)(a) (ii) through
3 (iv) of this act. The requirements of this subsection do not prohibit
4 the use of externally vented fuel-operated passenger heaters from
5 November 15th through March 15th annually until other viable
6 alternatives become available.

7 (3) As used in this section:

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

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

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

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

23 ~~(3))~~ (c) "School bus" means a motor vehicle as defined in RCW
24 46.04.521 and under the rules of the superintendent of public
25 instruction; and

26 (d) "Zero emission school bus" means a school bus that produces
27 zero exhaust emission of any air pollutant and any greenhouse gas
28 other than water vapor.

29 NEW SECTION. Sec. 6. A new section is added to chapter 28A.300
30 RCW to read as follows:

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

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

1 (a) Current zero emission vehicle charging and refueling capacity
2 and infrastructure;

3 (b) Whether, assuming the availability of grant funds and
4 depreciation schedule payments to cover the full cost of a vehicle,
5 including the total cost of ownership of the vehicle, the school
6 district or school would anticipate applying for funds to support
7 zero emission school bus or bus infrastructure purchases in the next
8 two years, and in the next five years;

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

14 (d) Responses to preliminary guidance from the office of the
15 superintendent of public instruction for calculating total cost of
16 ownership and whether the school district or school utilizes the
17 preliminary guidance or uses a different calculation methodology; and

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

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

Passed by the House March 5, 2024.

Passed by the Senate March 1, 2024.

Approved by the Governor March 28, 2024.

Filed in Office of Secretary of State March 29, 2024.

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