

TWENTY EIGHTH DAY

AFTERNOON SESSION

Senate Chamber, Olympia, Sunday, June 9, 2013

The Senate was called to order at 1:00 p.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Cleveland, Ericksen, Hobbs, Mullet and Rolfes.

The Sergeant at Arms Color Guard consisting of Senate Staff Judy Rogers-LaVinge and Colleen Rust, presented the Colors. Senator Schlicher offered the prayer.

MOTION

On motion of Senator Fain the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Fain, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5947 by Senators Smith and Baumgartner

AN ACT Relating to providing funds for the US 395/North Spokane corridor projects; adding a new section to 2013 c 306 (uncodified); and making appropriations.

Referred to Committee on Transportation.

MOTION

On motion of Senator Fain, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

On motion of Senator Fain, the Senate reverted to the third order of business.

MESSAGE FROM GOVERNOR
GUBERNATORIAL APPOINTMENTS

Office of the Governor
P.O. Box 40002
Olympia, Washington 98504-0002

April 28, 2013

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I request the following gubernatorial nominee be removed from their respective Senate nomination:

David Jennings, Fish & Wildlife Commission

I am grateful for Mr. Jennings service to the state of Washington.

Very truly yours,
Jay Inslee

Governor

CC: Senator Kirk Pearson, Chair, Natural Resources and Parks Committee

Senator Christine Rolfes, Ranking Member, Natural Resources and Parks Committee.

MOTION

Senator Fain moved that the Senate grant the request of the Governor.

Senator Fraser spoke on the motion.

The President declared the question before the Senate to be that the Senate grant the request of the Governor to remove from gubernatorial nomination David Jennings, Gubernatorial Appointment No. 9123[INDEX: Other Action], appointed June 18, 2009, for a term ending December 31, 2014, as a Member of the Fish and Wildlife Commission.

The motion by Senator Fain that the Senate grant the request of the Governor carried and David Jennings, Gubernatorial Appointment No. 9123 was removed from gubernatorial nomination by voice vote.

PERSONAL PRIVILEGE

Senator Pearson: "Thank you Mr. President, I just want for the record to know that we're very grateful for Mr. Jennings service to the State of Washington and wish him the very best. Thank you Mr. President."

MOTION

At 1:10 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 2:23 p.m. by President Owen.

MOTION TO LIMIT DEBATE

Senator Fain: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through June 9, 2013."

The President declared the question before the Senate to be the motion by Senator Fain to limit debate.

The motion by Senator Fain carried and debate was limited through June 9, 2013 by voice vote.

MOTION

On motion of Senator Fain, the Senate advanced to the seventh order of business.

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pearson moved that Jay Kehne, Gubernatorial Appointment No. 9232, be confirmed as a member of the Fish and Wildlife Commission.

Senator Pearson spoke in favor of the motion.

MOTION

On motion of Senator Billig, Senators Cleveland, Hobbs, Mullet and Rolfes were excused.

MOTION

On motion of Senator Rivers, Senator Ericksen was excused.

APPOINTMENT OF JAY KEHNE

The President declared the question before the Senate to be the confirmation of Jay Kehne, Gubernatorial Appointment No. 9232, as a member of the Fish and Wildlife Commission.

The Secretary called the roll on the confirmation of Jay Kehne, Gubernatorial Appointment No. 9232, as a member of the Fish and Wildlife Commission and the appointment was confirmed by the following vote: Yeas, 31; Nays, 13; Absent, 0; Excused, 5.

Voting yea: Senators Bailey, Becker, Billig, Braun, Chase, Conway, Dammeier, Darneille, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hewitt, Hill, Keiser, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, O'Ban, Parlette, Pearson, Rivers, Schlicher, Shin and Tom

Voting nay: Senators Baumgartner, Benton, Brown, Hatfield, Holmquist Newbry, Honeyford, King, Padden, Ranker, Roach, Schoesler, Sheldon and Smith

Excused: Senators Cleveland, Ericksen, Hobbs, Mullet and Rolfes

Jay Kehne, Gubernatorial Appointment No. 9232, having received the constitutional majority was declared confirmed as a member of the Fish and Wildlife Commission.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5127, by Senate Committee on Commerce & Labor (originally sponsored by Senators Holmquist Newbry, Tom, King, Sheldon, Baumgartner, Ericksen, Rivers, Litzow, Benton, Dammeier, Carrell, Braun, Bailey, Honeyford, Becker, Hill, Roach, Schoesler, Parlette, Padden and Hewitt).

Amending provisions governing structured settlements by removing age barriers and clarifying legislative intent. Revised for 1st Substitute: Amending provisions governing structured settlements by removing age barriers and clarifying legislative intent. (REVISED FOR ENGROSSED: Amending provisions governing structured settlements by lowering age barriers and clarifying legislative intent.)

The bill was read on Third Reading.

Senators Holmquist Newbry, Sheldon, Schoesler, Smith, Padden, Baumgartner and Becker spoke in favor of passage of the bill.

Senators Keiser, Murray, Conway, Kline, Kohl-Welles, Hargrove, Hasegawa and Frockt spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5127.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5127 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 18; Absent, 0; Excused, 4.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Braun, Brown, Dammeier, Eide, Ericksen, Fain, Hatfield, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, O'Ban, Padden, Parlette, Pearson, Rivers, Roach, Schoesler, Sheldon, Smith and Tom

Voting nay: Senators Billig, Chase, Conway, Darneille, Fraser, Frockt, Hargrove, Harper, Hasegawa, Keiser, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Ranker, Schlicher and Shin

Excused: Senators Cleveland, Hobbs, Mullet and Rolfes

ENGROSSED SUBSTITUTE SENATE BILL NO. 5127, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Hasegawa: "As a brevity impaired member on the floor here which I understand is a fairly common affliction and since, which is why we have the three minute rule. It would be very helpful to me personally and maybe to other members of this body if it would be possible to get a timer placed on the board or something so that I can help monitor myself as we go along. Thank you Mr. President."

REMARKS BY THE PRESIDENT

President Owen: "Ladies and Gentleman of the Senate. The President is going to ask for your attention for just a moment and the reason for it is I have an approach by both sides recently about complaints about the ranker that is starting to come about in debate. As I said, I got complaints from both sides, when I receive complaints like that the President believes that at this time he must more directly to adhere to your rules. So, I'm going to read your rule for you on debate: 'Whenever any Senator is about to speak in debate or submit to any matter to the Senate the Senator shall rise and standing in place respectfully address the President and when recognized and in a curtsey matter speak to the question under debate avoiding personalities. And then it goes on. I have seen that we are slipping outside of those rules a little bit. The President has allowed a little liberty in that area at times but when you raise the question to me then I feel an obligation to more strictly adhere to your rules so, as I see you slipping across the line if you hear this you might jump back but I did want to bring that up because these are difficult times. They are very difficult issues and they generate very strong opinions and emotions and so please try to adhere to your rules so that we can continue the debate in a curtsey matter. Thank you very much.'

THIRD READING

SUBSTITUTE SENATE BILL NO. 5242, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Litzow, Dammeier, Tom, Hobbs, Hatfield, Delvin, Hewitt, Padden and Schoesler).

Requiring policies regarding assignment of certificated instructional staff.

The bill was read on Third Reading.

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MOTION

On motion of Senator Litzow, the rules were suspended and Substitute Senate Bill No. 5242 was returned to second reading for the purpose of amendment.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5242, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Litzow, Dammeier, Tom, Hobbs, Hatfield, Delvin, Hewitt, Padden and Schoesler)

Requiring policies regarding assignment of certificated instructional staff.

The measure was read the second time.

MOTION

Senator Litzow moved that the following striking amendment by Senator Litzow be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28A.657 RCW to read as follows:

(1) In addition to the accountability processes implemented under this chapter, the state board of education must use the Washington achievement index to identify all the school districts that during the previous two school years did not make progress in closing the opportunity gaps in any of the individual subgroups of students or did not make progress in closing the overall opportunity gap within the district. The state board of education shall provide the list of school districts to the office of the superintendent of public instruction by December 1st of each year. The superintendent shall notify each school district of the identification by January 1st of each year.

(2) School districts identified under subsection (1) of this section must implement staff assignment policies pursuant to section 2 of this act even if not identified in subsequent years.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.405 RCW to read as follows:

(1) School districts identified and notified pursuant to section 1 of this act must implement the staff assignment policy in this section.

(2) For the purposes of this section:

(a) "Certificated instructional staff" means classroom teachers and educational staff associates;

(b) "Displaced" means a certificated instructional staff member assigned to a particular school no longer has an assignment to that school as a result of a request for reassignment by the certificated instructional staff member, a principal, or the district administration; change in program; change in enrollment; or implementation of a state or federal accountability intervention model. As provided under RCW 28A.405.100(4)(b), a certificated instructional staff member may not be displaced during a probationary period to the supervision of an individual other than the original evaluator; and

(c) "Nonprovisional" means a certificated instructional staff member who does not fall under the provisions of RCW 28A.405.220.

(3) A nonprovisional certificated instructional staff member may be assigned to a particular school only with the agreement of the principal and the staff member being assigned. The principal shall receive input on assignment decisions from at least two

teachers employed at the school and chosen by the faculty of teachers at the school to represent them in the hiring process. As provided under RCW 28A.405.100(8), evaluation results must be used as one of multiple factors in the consideration of an agreement to an assignment beginning with the 2015-16 school year. A district superintendent or the district superintendent's designee may override up to two staff assignment agreements in a given school year.

(4) If an assignment cannot be found, the superintendent or designee may assign the displaced nonprovisional certificated instructional staff member to a temporary position, including a substitute assignment, an instructional support position, a position in a district office, or other position.

(5) If a displaced nonprovisional certificated instructional staff member is not assigned to a nontemporary position by May 15th of the school year following the displacement, the school district shall place the displaced nonprovisional certificated instructional staff member on unpaid leave until such time as the displaced nonprovisional certificated instructional staff member is able to secure an assignment. If the displaced nonprovisional certificated instructional staff member secures an assignment while placed on unpaid leave that is substantially similar to their assignment prior to their displacement, the school district shall reinstate the displaced nonprovisional certificated instructional staff member's salary and benefits at the level they would have been if the nonprovisional certificated instructional staff member had not been placed on unpaid leave.

NEW SECTION. Sec. 3. A new section is added to chapter 41.59 RCW to read as follows:

Sections 1 and 2 of this act do not affect or impair any collective bargaining agreements between an employer and educational employees or employee organization under this chapter in effect on the effective date of this section. All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, and bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, must be consistent with sections 1 and 2 of this act.

NEW SECTION. Sec. 4. The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Litzow to Substitute Senate Bill No. 5242.

The motion by Senator Litzow carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, beginning on line 1 of the title, after "to" strike the remainder of the title and insert "principal empowerment; adding a new section to chapter 28A.657 RCW; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 41.59 RCW; and providing for submission of this act to a vote of the people."

MOTION

On motion of Senator Litzow, the rules were suspended, Engrossed Substitute Senate Bill No. 5242 was advanced to third

reading, the second reading considered the third and the bill was placed on final passage.

Senators Litzow and Baumgartner spoke in favor of passage of the bill.

Senators McAuliffe, Billig, Schlicher, Kohl-Welles and Shin spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5242.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5242 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 19; Absent, 0; Excused, 4.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Braun, Brown, Dammeier, Ericksen, Fain, Hatfield, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, O'Ban, Padden, Parlette, Pearson, Rivers, Roach, Schoesler, Sheldon, Smith and Tom

Voting nay: Senators Billig, Chase, Conway, Darneille, Eide, Fraser, Frockt, Hargrove, Harper, Hasegawa, Keiser, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Ranker, Schlicher and Shin

Excused: Senators Cleveland, Hobbs, Mullet and Rolfes

ENGROSSED SUBSTITUTE SENATE BILL NO. 5242, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5895, by Senate Committee on Ways & Means (originally sponsored by Senators Hill and Hargrove).

Funding education.

The bill was read on Third Reading.

MOTION

On motion of Senator Hill, the rules were suspended and Engrossed Substitute Senate Bill No. 5895 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5895, by Senate Committee on Ways & Means (originally sponsored by Senators Hill and Hargrove)

Funding education.

The measure was read the second time.

MOTION

Senator Hill moved that the following striking amendment by Senator Hill be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that it is the paramount duty of the state under Article IX of the state Constitution to provide for the education of the citizens of the state.

The state supreme court ruled the legislature has not provided adequate state funding from dependable and regular sources to comply with the paramount duty. It is the intent of the legislature, therefore, through section 2 of this act to modify the state expenditure limit to ensure a limit is placed on the remainder of state government expenditures that will enable the state to commit an increasing proportion of state tax dollars and the state budget to the education of our citizens in fulfillment of the state's paramount duty.

Sec. 2. RCW 43.135.025 and 2009 c 479 s 35 are each amended to read as follows:

(1) The state shall not expend from the general fund or related fund during any fiscal year state moneys in excess of the state expenditure limit established under this chapter.

(2) Except pursuant to a declaration of emergency under RCW ~~((43.135.035))~~ 43.135.034 or pursuant to an appropriation under RCW 43.135.045(2), the state treasurer shall not issue or redeem any check, warrant, or voucher that will result in a state general fund or related fund expenditure for any fiscal year in excess of the state expenditure limit established under this chapter. A violation of this subsection constitutes a violation of RCW 43.88.290 and shall subject the state treasurer to the penalties provided in RCW 43.88.300. After July 1, 2015, and prior to July 1, 2023, the state expenditure limit established by this section does not apply to:

(a) State allocations to school districts and educational service districts;

(b) Appropriations to the state's institutions of higher education or appropriations to state student financial aid programs;

(c) Appropriations for the early learning program under RCW 43.215.141 and 43.215.142 and other licensed child care programs under chapter 43.215 RCW that promote positive child outcomes through curriculum, learning, and training;

(d) The costs of court rulings imposing new state costs issued after July 1, 2015, and prior to July 1, 2023;

(e) Expenditures of extraordinary revenue growth, as defined in Article 7, section 12 of the state Constitution, to the extent that the extraordinary revenue growth is not deposited to the budget stabilization account; or

(f) The cost of extraordinary growth in the caseloads of state entitlement programs to the extent that total biennial entitlement caseload costs exceed by one-third the average biennial percentage growth over the prior five fiscal biennia, not including the cost of new entitlements or the expansion of existing entitlements after January 1, 2013, or the expansion of medicaid eligibility under the federal affordable care act.

The exceptions established in (a) through (f) of this subsection shall be calculated by the state expenditure limit committee.

(3) The state expenditure limit for any fiscal year shall be the previous fiscal year's state expenditure limit increased by a percentage rate that equals the fiscal growth factor.

(4)(a) For purposes of computing the state expenditure limit for the fiscal year beginning July 1, ~~((2009))~~ 2013, the phrase "the previous fiscal year's state expenditure limit" means the total state expenditures from the state general fund ~~((the public safety and education account, the health services account, the violence reduction and drug enforcement account, the student achievement fund, the water quality account, and the equal justice subaccount))~~, not including federal funds, for the fiscal year beginning July 1, ~~((2008))~~ 2012, plus the fiscal growth factor.

(b) For purposes of computing the state expenditure limit for the fiscal year beginning July 1, 2015, the phrase "the previous fiscal year's state expenditure limit" means the total state expenditures from the state general fund and related funds plus the fiscal growth factor, excluding expenditures for the purposes of subsection (2)(a), (b), and (c) of this section.

(c) For purposes of computing the state expenditure limit for the fiscal year beginning July 1, 2023, the phrase "the previous fiscal

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year's state expenditure limit" means the total state expenditures from the state general fund and related funds for the fiscal year beginning July 1, 2022, plus the fiscal growth factor, including expenditures for the purposes of subsection (2)(a) through (f) of this section.

(5) A state expenditure limit committee is established for the purpose of determining and adjusting the state expenditure limit as provided in this chapter. The members of the state expenditure limit committee are the director of financial management, the attorney general or the attorney general's designee, and the chairs and ranking minority members of the senate committee on ways and means and the house of representatives committee on ways and means. All actions of the state expenditure limit committee taken pursuant to this chapter require an affirmative vote of at least four members.

(6) Each November, the state expenditure limit committee shall adjust the expenditure limit for the preceding fiscal year based on actual expenditures and known changes in the fiscal growth factor and then project an expenditure limit for the next two fiscal years. If, by November 30th, the state expenditure limit committee has not adopted the expenditure limit adjustment and projected expenditure limit as provided in subsection (5) of this section, the attorney general or his or her designee shall adjust or project the expenditure limit, as necessary.

(7)(a) "Fiscal growth factor," after July 1, 2015, and prior to July 1, 2023, means the average of the sum of inflation and population change for each of the prior three fiscal years.

(b) "Inflation" means the percentage change in the implicit price deflator for the United States for each fiscal year as published by the federal bureau of labor statistics.

(c) "Population change" means the percentage change in state population for each fiscal year as reported by the office of financial management.

(d) "Fiscal growth factor," prior to July 1, 2015, and after July 1, 2023, means the average growth in state personal income for the prior ten fiscal years.

(8) "General fund" means the state general fund and related funds.

(9) "Related funds" means the Washington opportunity pathways account, the education legacy trust account, and the pension funding stabilization account.

NEW SECTION. Sec. 3. The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with RCW 43.135.035."

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Hill to Engrossed Substitute Senate Bill No. 5895.

The motion by Senator Hill carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "43.135.025" strike the remainder of the title and insert "; creating a new section; and providing for a submission of this act to a vote of the people."

MOTION

On motion of Senator Hill, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5895 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hill and Baumgartner spoke in favor of passage of the bill.

Senators Hargrove and Darneille spoke against passage of the bill.

POINT OF INQUIRY

Senator Conway: "Would Senator Hill yield to a question? The question I have really, you know this bill is obviously new here. I don't believe that the good member of the Ways & Means committee that I have seen this two percent limit and I have a couple of questions. One is that I see that we've changed the education funding bill considerably and I thought yesterday's budget presumed that we would pass that education funding bill and the second question I have is that I'm a little bit concerned about the impact of this spending limit on our bond rating and whether this spending limit approach will impact state bond records? And, finally, I guess, those are the two major questions that I have Senator. Again this is a major bill, I wish we could have seen some of the provisions in Ways & Means so that we could have heard from everyone on this bill and I guess appealing to you to explain to me how we passed the budget yesterday assuming the passage of this education bill and now we've changed it? Thank you."

Senator Hill: "Yeah, be happy to answer your question. The first question was, have we seen this in Ways & Means? We actually have seen this in Ways & Means at a hearing on April 5th. This is bill 5895. The striker simply skinnies the bill down so the components that you see about, really the, about controlling that general government and non-education growth is the same that we heard on April 5th in Ways & Means. It passed out of Ways & Means and I believe, what was your second question? The bond rating. Have not had a discussion with the Treasurer. Since we did have a hearing on this bill you know couple months ago, I have not seen any concerns from the Treasurer's office."

Senators Nelson, Frockt, Fraser, Hasegawa, Kohl-Welles and Chase spoke against passage of the bill.

Senators King and Bailey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5895.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5895 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 20; Absent, 0; Excused, 4.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Braun, Brown, Dammeier, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, O'Ban, Padden, Parlette, Pearson, Rivers, Roach, Schoesler, Sheldon, Smith and Tom

Voting nay: Senators Billig, Chase, Conway, Darneille, Eide, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Keiser, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Ranker, Schlicher and Shin

Excused: Senators Cleveland, Hobbs, Mullet and Rolfes

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5895, having received the constitutional majority, was

declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

HUNTER GOODMAN, Secretary of the Senate

MOTION

At 3:57 p.m., on motion of Senator Fain, the Senate adjourned until 10:00 a.m. Monday, June 10, 2013.

BRAD OWEN, President of the Senate

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