

ALASKA STATE LEGISLATURE
SENATE SPECIAL COMMITTEE ON EDUCATION

February 29, 2008

8:06 a.m.

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator Charlie Huggins, Vice Chair
Senator Bettye Davis
Senator Donald Olson

MEMBERS ABSENT

Senator Gary Wilken

COMMITTEE CALENDAR

SENATE BILL NO. 285

"An Act relating to the power and duties of the Department of Education and Early Development for improving instructional practices in school districts; and providing for an effective date."

MOVED CSSB 285(SED) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 285

SHORT TITLE: STATE INTERVENTION IN SCHOOL DISTRICT

SPONSOR(S): SENATOR(S) STEVENS

02/19/08	(S)	READ THE FIRST TIME - REFERRALS
02/19/08	(S)	SED, FIN
02/27/08	(S)	SED AT 8:00 AM BUTROVICH 205
02/27/08	(S)	Heard & Held
02/27/08	(S)	MINUTE(SED)

WITNESS REGISTER

TIM LAMKIN

Staff to Senator Stevens
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Presented a committee substitute (CS) for SB 285 labeled 25-LS1522\C.

CARL ROSE, Executive Director

Association of Alaska School Boards
Anchorage AK

POSITION STATEMENT: Cautiously supported CSSB 285(SED).

MARY FRANCIS
Executive Director
Council of School Administrators
Juneau AK

POSITION STATEMENT: Commented on CSSB 285(SED).

EDDY JEANS, Director
School Finance and Facilities Section
Department of Education and Early Development (DEED)
Juneau AK

POSITION STATEMENT: Supported CSSB 285(SED).

NEIL SLOTNICK, Assistant Attorney General
Department of Law (DOL)
Juneau AK

POSITION STATEMENT: Commented on CSSB 285(SED).

ACTION NARRATIVE

CHAIR GARY STEVENS called the Senate Special Committee on Education meeting to order at [8:06:33 AM](#). Present at call to order were Senators Bettye Davis, Donald Olson, Charlie Huggins, and Gary Stevens.

SB 285-STATE INTERVENTION IN SCHOOL DISTRICT

[8:06:33 AM](#)

CHAIR GARY STEVENS announced consideration of SB 285.

TIM LAMKIN, staff to Senator Stevens, presented a committee substitute (CS) for SB 285 labeled 25-LS1522\C.

SENATOR CHARLIE HUGGINS moved to adopt CSSB 285, version C, for discussion purposes. There were no objections and it was so ordered.

MR. LAMKIN explained the main difference in the CS is that on page 3, line 25, of the original bill it said "in the instructional practices" and that was deleted in the CS. That phrase was initially put in by the drafter for grammatical purposes, but it had consequences the Department of Education and Early Development (DEED) did not support. It would limit the department's ability to intervene and make personnel decisions

and withhold funds, which was the primary thrust of the bill. The CS reflects more closely what the department originally submitted.

MR. LAMKIN explained that Amendment 1 was put forth in the spirit of communication and the fact that with this proposed law the legislature is delegating more authority to the DEED. So if the perception is that the legislature is granting too much power to the DEED or that this would somehow diminish local control of school districts, this amendment would at least require the department to notify the legislature before exercising these new intervention powers.

25-LS1522\C.1
Bullock/Mischel
7/11/09

A M E N D M E N T 1

OFFERED IN THE SENATE BY SENATOR STEVENS
TO: CSSB 285(), Draft Version "C"

Page 3, line 26, following "(15)":

Insert ";

(17) notify the legislative committees
having jurisdiction over education before intervening
in a school district under AS 14.07.030(14) or
withholding public school funding under
AS 14.07.030(15)"

[8:10:08 AM](#)

SENATOR HUGGINS moved to adopt Amendment 1. There being no objection, the motion carried.

[8:10:33 AM](#)

CARL ROSE, Executive Director, Association of Alaska School Boards, said in "Moore versus the State of Alaska" the plaintiffs asked a question, but they weren't prepared for the response. They drew into focus the poor performance of students in some school districts. He said the association has offered its assistance to the DEED to work with school districts on governance training, but he still has a couple of concerns. He wouldn't oppose the bill today, because it has a place in what next step beyond the "No Child Left Behind," and comes before the last step of reconstitution and complete take-over by the state, which the state doesn't want to do to any school

district. Mr. Rose informed them that 90 percent of the school districts fare well under local control, but some of them do have low student performance and could use some assistance.

MR. ROSE continued that Western Washington State had a professor, Dan Stufflebean, who articulated four principles of evaluation: feasibility (can it be accomplished), utility (is it easily understood and implemented), accuracy (will what is proposed be accurate), and propriety (is it appropriate for the city it is in). He said the department would look at some proposals, but he was mainly concerned about accuracy and propriety as well as utility.

Alaska once had state-operated schools; but it moved away from that to local control because lawmakers wanted people to be able to go to locally-elected officials to voice their concerns about the public education system. He said that has worked for the most part; but the state is still faced with low performance school districts and, under the Constitution, it is the state's responsibility to provide assistance. While he doesn't oppose this bill, he doesn't want to see the state move closer to reconstitution or a complete takeover of school districts.

MR. ROSE stated that the judge charged the state in the Moore case to see some movement within one year, but didn't tell them what she wanted to see happen. So he recommended that they take the same position in this bill and tell the department what the legislature wants to see done; but don't tell them how to do it. Have the department promulgate regulations and review them for abuse or extenuating circumstances. The judge said the state needs to show some interest in low performance school districts and this may be the most appropriate way. However, he cautioned them to consider who would be accountable if something like this is done and the initiatives are not appropriate or accurate, because school board members can be recalled, but the department can't. He concluded by saying, "We'll do everything as a school board association to assist in any way that we can. Once again - feasibility, utility, accuracy and appropriateness, I think, are important."

[8:15:36 AM](#)

CHAIR STEVENS said he thought what happens if the department fails is a key issue and he asked if districts in general are accepting of this change.

MR. ROSE replied that the affected districts are not going to be in favor of it. Those districts face extreme conditions like

differences in language, culture and distance; they are not connected by roads. There are difficulties that even the department is going to have to face, he said, but it is a matter of interpretation in terms of what ought to be done. He thought they would welcome the assistance, but not the heavy-handed way this is being done. However, in some ways it is very necessary and if they can ensure that the regulations are not being abused the legislature has some responsibilities and the judge is commanding them.

He said when they look at the department's capabilities to deal with something like this, it will have to go to contractors and consultants. When you do that with people who have retired from the system and are in state, the cost are manageable; but if they start bringing contractors in from outside the state it will cost a lot more. He admonished them to remember that they are withholding foundation dollars for these initiatives and that so that would concern him.

CHAIR STEVENS asked when he expected the department to return control to the districts.

MR. ROSE replied when the department meets the targets that are laid out, control could return to the school districts. He didn't know how long that would take. It is a huge challenge and these issues are being dealt with in not just rural Alaska, but in some larger school districts with the Native population.

SENATOR HUGGINS agreed with Mr. Rose. He said the committee was given a list of 6 districts for intervention and another list of 16 districts that were labeled "look closely at" and he thought the key to their approach should be to communicate actions with that group so it could get out of the closely looked at category and never go to the intervention group. He thought a chronological list that created an expectation... if A doesn't happen, B will happen... would work so nobody would be surprised and everybody would understand what the next step would be. People might be motivated to help themselves before that next step.

MR. ROSE responded that Senator Huggins was really talking about consequences and sometimes people have a tough time with those, but they do bring results. He asked people to look at this intervention plan not as a punitive action, but rather a plan of improvement.

SENATOR OLSON asked if any of the school districts that don't like it have come up with alternatives. Are other alternatives out there that might be more acceptable?

MR. ROSE replied that most of these school districts have embarked on the initiatives. In the case of Northwest Arctic, they had a curriculum review that showed them their areas of improvement and they were working hard to get there; but they face some real difficulties. He said:

If this bill helps them get where they need to go, great. My only concern is that it's not viewed as punitive and that the costs, if exorbitant, could affect their foundation funds and I don't know exactly how that would affect each one of them. But I do know they're trying.

SENATOR HUGGINS said the state already has a mentoring program that is widely accepted and makes significant contributions in most cases. He thought maybe a similar model might be workable because people would view it as assisting proactively.

MR. ROSE replied that the mentoring program is one component that would help at the instructional level, but what is being drawn into focus is more than just personnel. The amendment they just adopted causes the department to go into a school district not just because of its instructional programs, but to do a full assessment and help them come up with a plan to address the problems.

[8:24:32 AM](#)

MARY FRANCIS, Executive Director, Council of School Administrators, said she asked her members what they thought but hasn't heard much yet. Her membership would be coming to town in a couple of weeks and could fully vet this issue with the superintendents and other district administrators at that time.

[8:26:37 AM](#)

CHAIR STEVENS said he appreciated that because they were concerned about not hearing from the districts. The real problem they are facing is that this appears to be a must-have piece of legislation that needs to move through the legislature in 45 days. He would be loath to hold the bill for another two weeks; so he encouraged her to keep commenting through the whole process.

MS. FRANCIS said the words "coaching" and "mentoring" have come up in reference to the fiscal note - the concept of coaching or mentoring for the districts or administrators that are not in compliance. She cautioned against the use of that word because the department's existing coaching and mentoring programs are not to be judgmental or evaluative; so she suggested they use a different word for the kind of assistance that is provided. She also wanted to know how withholding funds would actually promote student achievement and said, "That is a fairly heavy hammer that is included in this bill."

She suggested that if the administrator association had the opportunity to put together a support committee of practitioners in-the-field who are from the same cultural region, "essentially police our own..." as a critical intervention step, that would go a long way toward acceptance of the final conclusion. She pointed out that at this point, all of the intervention is from the department; and as a former superintendent, she knows people are more likely to listen to their peers a whole lot more effectively.

[8:30:41 AM](#)

CHAIR STEVENS asked Mr. Jeans to address the steps that lead to intervention.

EDDY JEANS, Director, School Finance and Facilities Section, Department of Education and Early Development (DEED), said the department has draft regulations that were taken to the state board of education in March that actually lay out each of those steps. He said the focus here is on increasing student achievement. The department doesn't need to intervene when a school is heading in the right direction, but the judge made it very clear that it's the legislature's responsibility to intervene in those schools that are not showing progress or, as in some cases, are slipping backwards.

So, for its regulations, the department first looked at whether a school was making adequate yearly progress (AYP); if 50 percent of a school's students were scoring proficient in reading, writing and math, they knew they didn't have to intervene. But then it starts getting trickier because they have to dig a little deeper into the data at an individual school level. If the department sees progress in school achievement it will back off; if it doesn't, it will help the school develop an improvement plan and use school coaches to make sure the plan is being followed.

MR. JEANS said currently they are directing school districts to use Title 1 funds to hire the coaches before the department even approves their grant applications. But that puts the coaches in an awkward position because they are employees of the district doing work for the DEED. He claimed that hiring coaches is the only reason for withholding money from the foundation program.

He pointed out that their fiscal note they did include funds in a contractual line to hire coaches so they won't have to dip into the districts' foundation funds. He thought it was important for the department to have that authority if more schools are found to need intervention.

SENATOR HUGGINS asked at what point in the process the department accesses Title 1 funds for coaching.

MR. JEANS replied that is happening right now when districts apply for their Title 1 funds on an annual basis.

CHAIR HUGGINS asked if he meant that is in the six school districts they've intervened in.

MR. JEANS answered yes.

CHAIR HUGGINS asked what happens with the 16 schools they are looking closely at.

MR. JEANS answered those schools are making progress. They still have to submit school improvement plans, but they are not at the point of hiring district coaches to make sure the plans are being implemented.

SENATOR HUGGINS asked how they know these schools are following their plan.

[8:35:47 AM](#)

MR. JEANS replied that's why they believe they need the district or school coaches. He emphasized that the statute may appear heavy-handed, but their intent is to work with the school district administration and board in developing the school improvement plan. They have developed many tools for school districts to use in educating and assessing children and help them meet the state performance standards. The department will not accept just any school improvement plan unless they think it will make a difference. When the plan is in place, it must be monitored; that's what this legislation is intended to do.

SENATOR DAVIS said she doesn't agree that this legislation needs to be rushed through the process and asked what makes it necessary for them to move so fast on it. She said she appreciated the fact that they need a plan of action, but to move it within a week, without the input they need from the districts, the teachers, the administrators and everyone concerned is not realistic. She viewed the department's withholding foundation funds as an unfunded mandate; the districts are already in trouble and they need the money. If anybody is going to step up to the plate for money it should be the legislature.

She said she wants the legislature to see the plan that the department intends to take before the Board of Education, even though they are not going to vote on it. Legislators want to be able to see if the department is moving in the right direction and perhaps add some comments, not wait until it gets to the Board of Education and it is too late to speak to it. She reiterated, what makes this a "must have" piece of legislation for this session?

CHAIR STEVENS said the crucial question is timeliness and asked what happens if the legislature does not act this session.

NEIL SLOTNICK, Assistant Attorney General, Department of Law (DOL), representing the Department of Education and Early Development (DEED). He said the court was very clear; she gave the state one year to come back to her and show it had responded to her instructions to increase the oversight in school districts. He asked the judge if he could show her what the DEED is doing now, but she said "No." She wanted the legislature to be aware of her findings and what the state was doing; and she wanted to see the legislative response.

CHAIR STEVENS asked what steps the court might take if the state doesn't take action.

MR. SLOTNICK replied that he didn't want to speculate, but it's very clear she has the authority to enter an injunction and order the DEED to take certain actions regarding increasing oversight of education and regarding how the exit exam could be applied.

SENATOR DAVIS asked him to explain the judge's stand on the exit exam.

MR. SLOTNICK answered that the court made a finding that, with the quality of the existing educational oversight in districts that are not showing high performance, if the state cannot use the exit exam to deny children in some districts a diploma, she would have the authority to enter an injunction that would essentially create a two-tier system - because some districts would have an exit exam and others wouldn't. As a policy matter, that would be a very difficult situation.

CHAIR STEVENS said "must have" were his words because the results of ignoring it could be pretty draconian. He asked Mr. Jeans what can happen if the legislature ignores the judge's ruling.

MR. JEANS replied that the judge made it very clear that when the department doesn't see high student achievement or increasing student achievement, local control must give way. This piece of legislation makes it very clear that if a school district can't demonstrate that children are improving (not necessarily that they've met the high standard) then the state has the job to step in and provide that guidance. Right now school districts are saying this is a local control state and the department can't tell them what to do. However, the court's made the state's obligation to put its very best effort forward very clear. He said the department would work with districts to improve performance, but it wasn't going to direct instruction at the school level. Some schools were showing improvements.

MR. JEANS explained that the department is not withholding Title 1 funds, but rather directing districts on how to spend them. However, the contractors are employees of the district and he thinks they need to make future school coaches employees of the department.

SENATOR DAVIS said she still thinks this is an unfunded mandate and the low performing schools need the Title 1 monies. The legislature should address that, not the department. She also knows the judge wants to see more than just this legislation before she will close this case out. With regard to the exit exam, she said the legislature can take care that issue, because the legislature put it in place and if it isn't working they can repeal it.

[8:47:35 AM](#)

MR. JEANS said he has heard the word "takeover" many times and he does not believe the judge directed the State of Alaska to take over any school districts. She directed the State of Alaska

to put forth its best effort. The DEED may not be successful, but it has to be able to demonstrate to the court that it has put forth its best effort, which is what this legislation is intended to do.

CHAIR STEVENS said he thinks it would be the department's intention to return control to the district as soon as possible.

MR. JEANS said he didn't see this as the department taking control, but rather as the legislature directing school districts to accept guidance and direction from the Department of Education. "We absolutely intend to work collaboratively with the school district administration, with the school board, with the individual school principals, in implementing the school improvement plan."

SENATOR DAVIS said the legislature could provide that in a joint resolution so districts will understand the direction the legislature is taking.

CHAIR STEVENS asked Mr. Jeans to speak to what the half million dollars in the fiscal note will be used for.

MR. JEANS replied that the fiscal note would establish a new school improvement office within the commissioner's office. They would work with the district and school level coaches and work with the school districts in developing their school and district improvement plans. It would also allow \$215,000 for contracts. This is the money the department would use first before dipping into district funds. He said he doesn't know if it is enough, but they could always come back and ask for more if it isn't.

[8:50:11 AM](#) at ease [8:51:27 AM](#)

CHAIR STEVENS called the meeting back to order at [8:51:27 AM](#). He said if there is no objection, they can have a letter of intent drawn up stating that the department regulations and intervention procedures will be reviewed next year and that could catch up with the bill.

SENATOR OLSON said he has a concern about the mandate in the State Constitution to provide public education to students and the legislature's obligation to fund it. He asked Mr. Slotnick if this problem might come back to bite them; if it might infringe on some of the administrative powers.

MR. SLOTNICK responded that he is not sure he understands the question. The court has drawn into question the issue of local control, which has been the basis of education in this state since statehood except for a brief period in rural Alaska when the state operated schools. Frankly, he said, the way he sees this playing out is that the state already has an accountability system that the legislature adopted in 1998; he thinks this legislation and the court's decision go hand in glove with where this legislature has already been headed - which is to have both state accountability and local control.

SENATOR OLSON asked if he sees a problem with supervision by the legislature as opposed to the Department of Education.

MR. SLOTNICK replied that he does not see that being an issue; it's always been clear as governmental processes are implemented in this state, that the legislature delegates that authority to the DEED to do its oversight duties and the court hasn't said otherwise.

[8:55:53 AM](#)

SENATOR HUGGINS moved to report CSSB 285(SED) from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

There being no further business to come before the committee, chair Stevens adjourned the meeting at [8:56:13 AM](#).