

REPORT TO THE LEGISLATURE

# HB 1431 School District Insolvency Workgroup Report

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# HB 1431 School District Insolvency Workgroup Report

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# Executive Summary

## Introduction

Under Washington State law, there is currently no method to dissolve a district due to financial insolvency. An Educational Service District's (ESD) Regional Committee may only dissolve districts where enrollment is less than five full-time equivalent students (FTEs) or when a district has not made a reasonable effort to provide 180 days of school.

In 2007, the Vader School District became financially insolvent and was eventually dissolved and absorbed into the Castle Rock School District. During this process, the lack of statutes and administrative rule became evident, and therefore a very limited means of accomplishing the dissolution and no process available to guide the districts, the ESDs, or the Office of Superintendent of Public Instruction (OSPI).

## Report Directive

In Chapter 192, Laws of 2011 (SHB1431), the Legislature directed OSPI to convene the ESDs for the purpose of analyzing options and making recommendations for a clear legal framework and process for dissolution of a school district on the basis of financial insolvency. The required analysis included:

- A definition of financial insolvency;
- A timeframe, criteria, and process for initiating dissolution of a district;
- Roles and responsibilities of various entities, including OSPI, ESDs, and Regional Committees on school district organization; and
- Recommendations with respect to various issues such as terminating staff contracts, liquidation of liabilities, and dealing with bonded indebtedness.

In conducting the analysis, the ESDs were also required to consult with individuals with legal and financial expertise. The ESDs also could recommend a financial early warning system for consistent, early identification of school districts with potential fiscal difficulties. The recommendations were required to address amendments to current law as well as propose new laws as necessary.

The SHB 1431 Workgroup (Workgroup) was comprised of thirteen members from across the state. Eight members represented five of the state's ESDs, three members were from OSPI, and two members were legal counsel who assisted the Workgroup in drafting statutes and understanding limitations in existing statute and the state's constitution.

## Recommendations

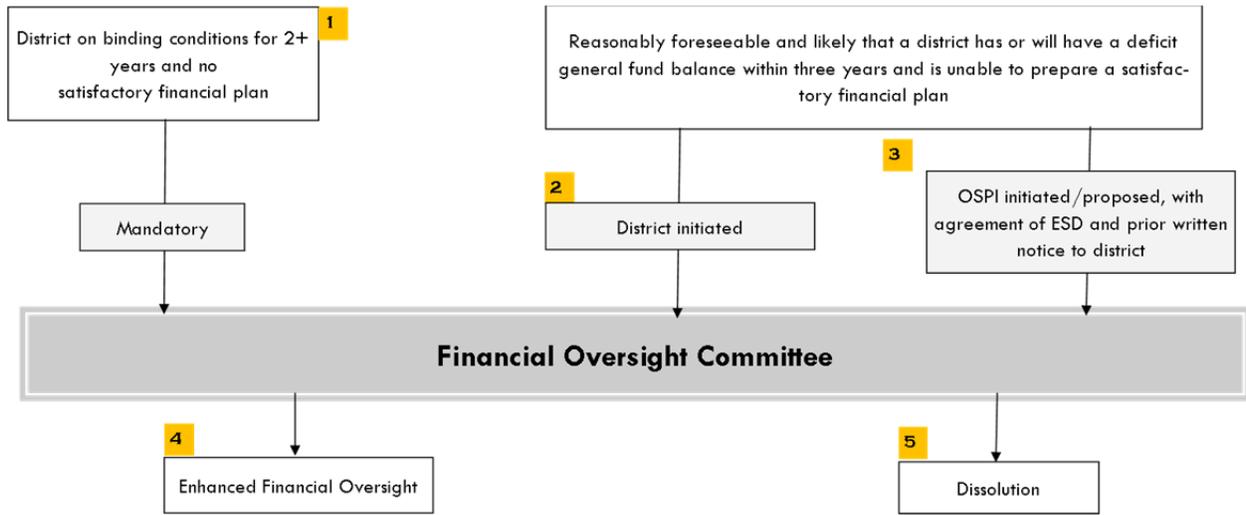
The Workgroup recommends:

1. Districts identified as financially insolvent through clear criteria should be required to adhere to state oversight in regards to all financial matters.
2. A state level committee (the Financial Oversight Committee), after considering financial and other factors, should review the situation, and hold at least one public hearing to receive input on any financial plans that have been proposed, or, if dissolution is considered a valid option, public input on options for dissolution. After completing its review, the Committee shall either recommend continued state oversight (called Enhanced Financial Oversight) or should recommend dissolution of the district and will provide a dissolution plan and dissolution petition to the currently authorized ESD Regional Committees.
3. If dissolution is recommended, the insolvent district and districts with contiguous boundaries should meet and attempt to negotiate an agreement to allocate the financially insolvent district's territory to one or more other districts and to address transfer and adjustments in the insolvent district's assets and liabilities. If the insolvent district and at least one other district with contiguous boundaries are unable to reach an agreement that is approved by the Financial Oversight Committee, the petition to dissolve should be considered by the Regional Committee. The Regional Committee will approve or deny the petition.
4. If a Regional Committee approves a petition, there should be an appeal process that may be used by either the dissolving or the absorbing district(s). If denied, the district would remain on state oversight. See Figure 1 on the next page.

## Early Warning System

OSPI is currently working on financial indicators. The ESDs will collaborate with OSPI to finalize these indicators and have them in place by the 2012–2013 school year.

**Figure 1: Overview of School Insolvency**



1. If a district has been on binding conditions (budgeting receivables) for two or more school years and there is currently no valid financial plan for exiting binding conditions, the district is referred to the Financial Oversight Committee.
2. Alternatively, if there a reasonably foreseeable and likely scenario that a district has or will have a deficit general fund balance within three years, and is unable to prepare a satisfactory financial plan, the district may request the convening of the Financial Oversight Committee.
3. In a similar situation, OSPI, after getting agreement from the district’s ESD and after giving notification to the district, may convene the Financial Oversight Committee.
4. First, the Financial Oversight Committee may recommend Enhanced Financial Oversight, where the state oversees the district’s finances and operations, which may include the appointment of a Special Administrator, to prevent the dissolution of a district.
5. Second, the Financial Oversight Committee may recommend that the district be dissolved, at which time OSPI shall file a petition for dissolution with the district’s ESD.

# Background

After experiencing severe financial problems, the Vader School District No. 18 (Vader) was dissolved and annexed to Castle Rock School District No. 401 in 2007. Prior to that event, it had been almost 25 years since the last school district closure in Washington State took place. In November of 2009, John Molohon, ESD 113 Assistant Superintendent for Fiscal Services, and the Administrator of Vader's binding conditions, published a report titled *The Vader School District Closing in Retrospect* (Vader report). Primarily, the Vader report identifies and makes recommendations to address the lack of a clear legal framework and process for dissolving a school district for financial reasons, including the lack of clear legal authority for OSPI or an ESD Regional Committee to determine and manage the myriad of financial and practical issues that such an event presents.

## Vader Report Recommendations

The recommendations made in the Vader report can be summarized as follows:

1. OSPI or a school district should be authorized to initiate the dissolution of a district due to financial insolvency and the ESD Regional Committee should make the determination and oversee the dissolution.
2. Various financial and legal issues associated with dissolution should be addressed, to include determining the appropriate length of time to permit a district to solve its own problems without outside intervention.
3. Technical amendments should be made to other laws dealing with district reorganization and dissolution.

## Existing Authority for School District Dissolution

Current statutory provisions emphasize voluntary and negotiated reorganization of school districts.

There are only two references to dissolution of a district in statute:

1. School district boundaries may be altered by the dissolution and annexation to an existing district of a part or all of another district.
2. A Regional Committee is required to dissolve any school district that, in the prior year:
  - A. Has an annual enrollment of fewer than five K–8 students; or
  - B. Has not made a reasonable effort to provide the minimum 180-day school year.

No statutes provide for dissolution of a school district in any other fashion or for any other reason. The dissolution of Vader occurred under the second of the two laws referenced above, but only because the district agreed not to make up some days missed in the prior year due to an emergency closure in order to fall under the provisions of this statute.

## Existing Authority: Binding Conditions

School districts must annually submit a budget to OSPI in which expected expenditures for the upcoming school year do not exceed expected revenues from all sources including fund balance. If a school district cannot submit a balanced budget, it may petition OSPI to be allowed to include revenues from a future school year (in other words, borrow against future state apportionment payments). In order to gain approval the district must agree to certain binding conditions that are intended to improve the district's financial condition. There are nine ESDs in the state. The ESD Fiscal Officer for the ESD in which the school district is located is assigned to be the administrator of the binding conditions. The administrator has limited authority and primarily serves as a financial consultant to the school district. There have been 12 districts in binding conditions at some point over the last 10 years. Most have resolved their finances in one to two years. All but two of these districts have had fewer than 2,000 students.

## Financial Insolvency: Definition

The Workgroup recommends “financially insolvent” be defined as a school district that: (1) has been on binding conditions pursuant to RCW 28A.505.110 for two consecutive fiscal school years and is unable to prepare a satisfactory financial plan; or (2) has, or is reasonably foreseeable and likely to have, a deficit general fund balance within three years or less, and is unable to prepare a satisfactory financial plan.

A “satisfactory financial plan” is a plan, approved by OSPI and the ESD where the district is located, which demonstrates a school district will have an adequate fund balance at the end of the plan period relying on (1) currently available revenue streams provided by federal, state or local resources; or (2) future revenue streams determined reasonably reliable by the ESD.

## Financial Oversight Committee

The Workgroup recommends the creation and use of a Financial Oversight Committee to assist in addressing financial matters, including dissolution, of a financially insolvent district. Use of the Financial Oversight Committee, and the dissolution process being recommended, is intended to be the primary means for dealing with financially insolvent school districts. School districts may only file for bankruptcy if it is recommended by the Financial Oversight Committee.

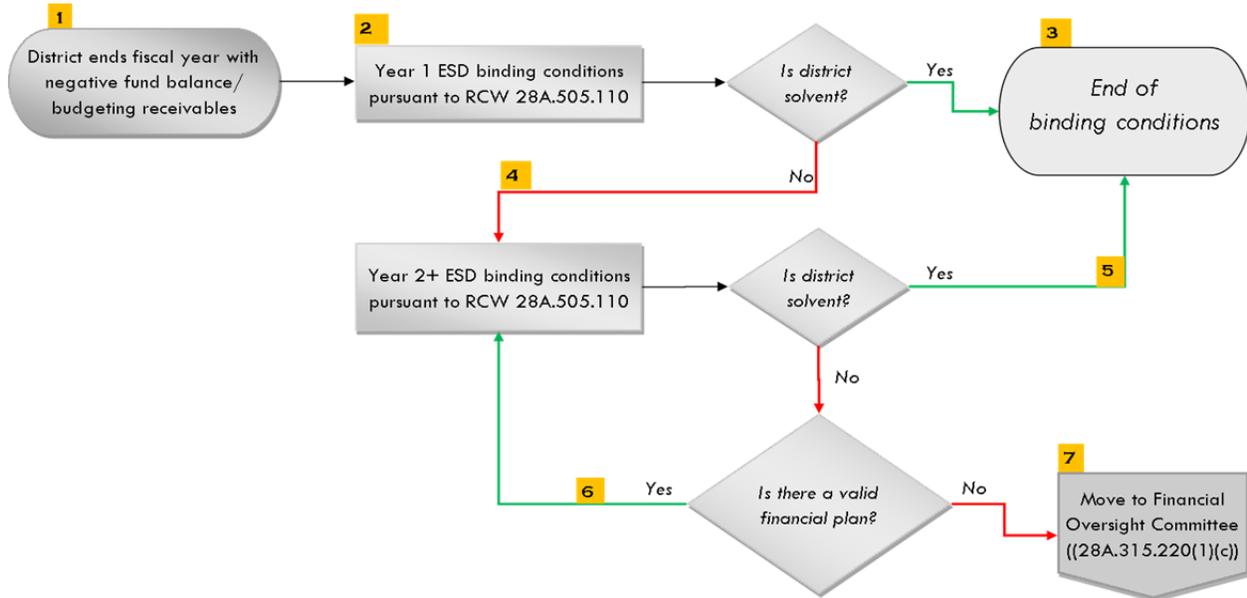
The Financial Oversight Committee will be comprised of two representatives from OSPI and two representatives from the ESDs. One of the ESD representatives will be from an ESD other than where the financially insolvent district is located, and the other will be from the ESD where the financially insolvent district is located, but only serves in an advisory (non-decision-making) role.

The Financial Oversight Committee shall be convened when:

- The school district has been on binding conditions for two or more years and there is no satisfactory financial plan in place; or

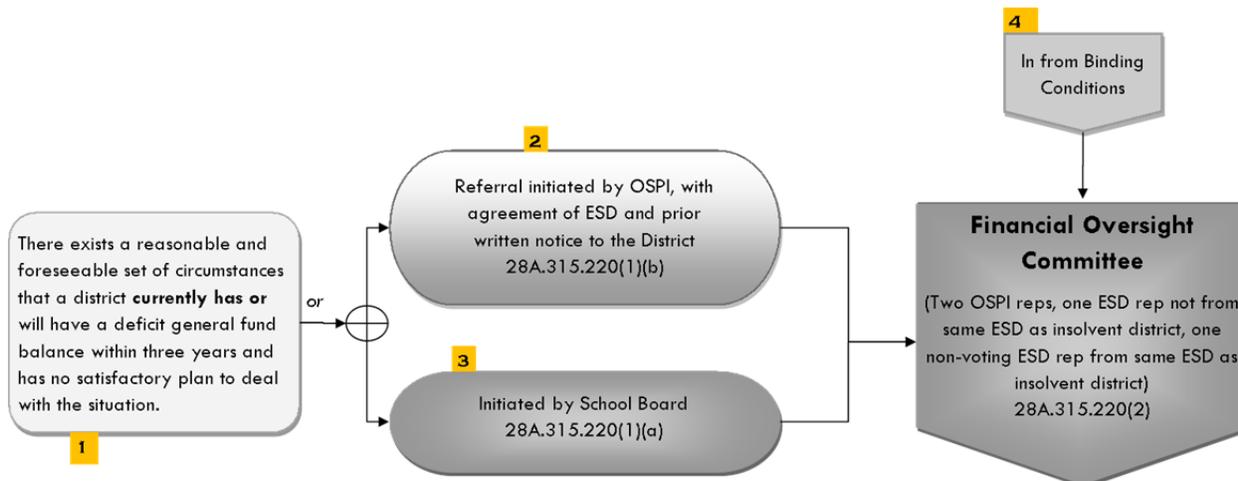
- Initiated by OSPI because the district is deemed to be financially insolvent, as defined above; or
- Requested by a school district board of directors.

**Figure 2: Binding Conditions**



1. To be placed on binding conditions, a district must end the year with a negative fund balance or need to budget receivables collected in the future to balance its budget.
2. In such a situation, the district goes to binding conditions.
3. If binding conditions result in the district becoming solvent (and meeting all other requirements), the district leaves binding conditions.
4. If not, the district enters the second year (Year 2+) of binding conditions.
5. If the district can achieve solvency (and meet any other requirements), it will exit binding conditions.
6. If after the second year the district is not solvent, the ESD and OSPI determine if there is a valid financial plan in place to bring the district back to solvency.
7. If the district has a valid plan for achieving solvency, it remains on binding conditions.
8. If there is no valid financial plan, the district is referred to the Financial Oversight Committee.

**Figure 3: Paths to Financial Oversight**



1. If there exists a reasonable and foreseeable set of circumstances that a district currently has or will have a deficit general fund balance within three years and has no satisfactory plan to address the situation, there are two options.
2. OSPI, after getting agreement from the district's ESD, and after notifying the district, may recommend the convening of the Financial Oversight Committee.
3. The district's school board may request that the Financial Oversight Committee be convened.
4. Alternatively, the Financial Oversight Committee may be convened if the district has been on binding conditions for two or more years and lacks a valid financial plan to exit binding conditions.

Where appropriate and necessary, the Financial Oversight Committee may solicit input and assistance from other government organizations, such as any contiguous school district, other ESDs, the county assessor's office, the county treasurer's office, the county prosecuting attorney's office, the state auditor's office, and/or the state attorney general's office.

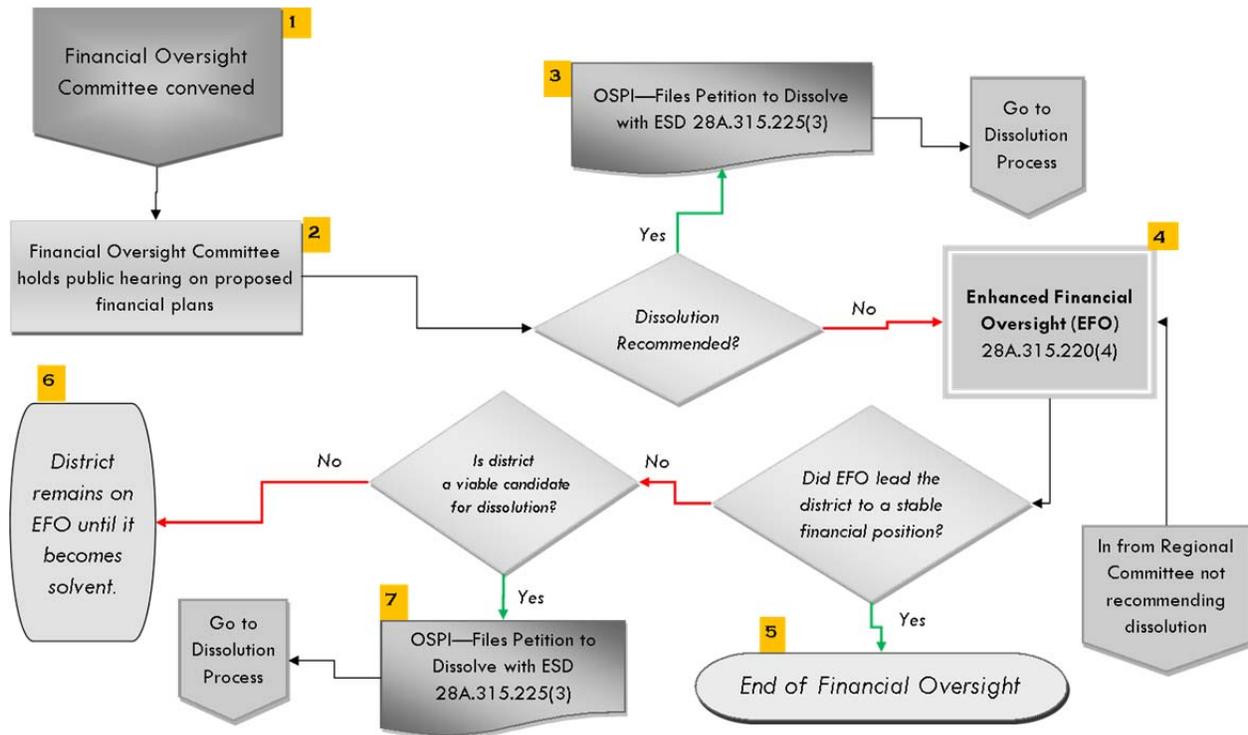
In addition, the Financial Oversight Committee shall hold at least one public hearing either in the insolvent school district or ESD to receive public input on financial plans that have been presented to return the district to a financially stable position. If the Committee feels that dissolution of the district is a valid option, it will also receive input on options for dissolution of the district at the public hearing.

The Financial Oversight Committee shall review the financial condition of a school district and recommend:

1. That an insolvent district enters Enhanced Financial Oversight, or
2. Dissolution, and a corresponding plan for such dissolution.

The Financial Oversight Committee will review and identify either a comprehensive dissolution plan, or a comprehensive plan to return the district to financial solvency. OSPI shall implement the Financial Oversight Committee recommendations via Enhanced Financial Oversight, which will be monitored by the ESD.

**Figure 4: Financial Oversight**



1. The Financial Oversight Committee, comprised of four members (two from OSPI, one from an ESD that is not the one the district is in, and one non-voting member from the ESD that the district is in), will review the district’s financial information and any financial plans have been proposed.
2. The Financial Oversight Committee shall hold at least one public hearing on the proposed financial plans to return the district to a financially stable position. If the Financial Oversight Committee feels that dissolution of the insolvent district is a valid option, it shall receive input from the community on options for dissolution at the public hearing.
3. If the Committee recommends dissolution, OSPI will file the petition to dissolve with the ESD.
4. If the Committee does not recommend dissolution, it can recommend Enhanced Financial Oversight (EFO). Within EFO, the district’s ability to enter into new contracts will be limited, and there will be a detailed review of the district’s expenditures.
5. If EFO leads the district into a stable financial position, the district will exit EFO when it achieves stability. If EFO does not lead to a stable financial position within a reasonable time frame, the Financial Oversight Committee will determine if the district is a valid candidate for dissolution.
6. If the district is not a valid candidate for dissolution, it will remain on EFO until such time as it becomes solvent.
7. If the district is a candidate for dissolution, OSPI will file a petition to dissolve the district with that district’s ESD.

# Enhanced Financial Oversight

Enhanced Financial Oversight shall include, but not be limited to, the following types of actions:

- Contracting authority – a school district shall not approve any new contracts or approve changes or renewals to any existing contracts without obtaining prior written approval from the ESD. Contracts that are entered into without prior ESD approval shall be void and unenforceable. The ESD will not approve new contracts, changes to or renewals of existing contracts unless there is a reasonably reliable source of funds to pay any costs associated with the new, renewed or modified contract. The ESD may require a clause in any new, renewed or modified contract that states the contract may be terminated immediately and will release the district from any further liability if the district is financially insolvent, as defined in the law. The requirement to obtain approval for new, renewed or modified contracts in accordance with Enhanced Financial Oversight does not impact contracts that are already in place, unless they are opened or up for renewal. Example – districts would not be allowed to add days or pay to staff contracts.
- Appointment of a Special Administrator – the Financial Oversight Committee may recommend OSPI appoint a Special Administrator that will oversee and carry out the financial conditions that are imposed on the district by the Financial Oversight Committee. The Special Administrator will report directly to the Financial Oversight Committee.
- Hiring and other personnel actions – the Financial Oversight Committee shall have final approval authority regarding whether administrators should be retained, released or reassigned duties, as allowed by personnel and other previously-entered-into legal agreements. Example – districts would not be allowed to renew or buyout a superintendent’s contract without Financial Oversight Committee approval.
- When deemed reasonably necessary to obtain funds to liquidate contractual liabilities or to avoid dissolution, a request may be made that OSPI waive expenditure restrictions imposed on the use of funds in the biennial appropriations act, grant agreements, statutes, administrative regulations and/or the school district accounting manual, and where permitted by federal law. OSPI shall have the authority to approve the liquidation or disposition of the school district’s fixed assets and contractual liabilities by any reasonable and documented method.

If the Financial Oversight Committee determines a financially insolvent school district should be dissolved, it will notify OSPI, who will file a petition for dissolution.

## Funding

The Workgroup recommends that the annual appropriation that OSPI receives for school district emergencies (\$208,000 for FY 2012) be used to fund such costs as are necessary when districts are either in the process of being dissolved or have entered Enhanced Financial Oversight. Examples of costs include hiring a Special Administrator or other specialists, Regional Committee hearing costs or other expenditures that are identified based on the needs of the specific situation.

The Workgroup also recommends that larger costs to implement dissolution or to sustain a district in Enhanced Financial Oversight be requested from the Legislature on a case-by-case basis. For example, during the Vader dissolution, an appropriation was requested and received to demolish the school building that had been condemned. This relieved the absorbing district of a significant cost that it could not have afforded to take on.

## Process for Dissolution

The Workgroup recommends OSPI initiate dissolution of a financially insolvent district by filing a petition to dissolve with the ESD superintendent, if dissolution is recommended by the Financial Oversight Committee.

The Workgroup also recommends dissolution petitions be processed using the procedures, timelines, and criteria that are in existing law for a transfer of property from one district to another.

Accordingly, OSPI will file the petition for dissolution with the ESD superintendent. The ESD superintendent then notifies all the contiguous school districts that the dissolution petition has been filed. The insolvent school district and contiguous school districts meet to negotiate an agreement regarding (1) the annexation of all or part of the territory in the insolvent district, and (2) an equitable distribution of the assets and liabilities of the financially insolvent district among the insolvent and contiguous districts.

The financially insolvent and contiguous districts have ninety (90) days to negotiate an agreement and file it with the ESD superintendent. If the financially insolvent district requests it, the ESD superintendent will grant one thirty (30) day extension to allow for continued negotiations. During the negotiations, the financially insolvent school district may request and the ESD superintendent may appoint a mediator to work with and assist the insolvent and contiguous districts in reaching an agreement. The financially insolvent district may notify the ESD superintendent at any time during the negotiations that an agreement is not possible, at which point the negotiations will terminate and the Regional Committee will be convened.

If an agreement between a financially insolvent district and at least one contiguous district is reached, with both school boards' approval and the approval of the Financial Oversight Committee, the approved written agreement is filed with the ESD superintendent. The agreement between the districts must specify the effective date for dissolution and annexation of the district and how the assets and liabilities will be transferred or adjusted.

If an agreement between a financially insolvent district and one or more contiguous districts cannot be reached within ninety (90) days, or by the end of the thirty (30) day extension, the insolvent district notifies the ESD superintendent. Within ten days of being notified by the insolvent district, the ESD superintendent notifies the Regional Committee.

When the Regional Committee is notified, it schedules a public hearing on the dissolution petition within sixty (60) days. At the hearing, OSPI must submit information demonstrating the district is financially insolvent and should be dissolved. The petition also must contain OSPI's recommendation regarding the annexation of the dissolved district's territory to one or more other districts and the transfer and equitable adjustment of the assets and liabilities. The

financially insolvent district and any contiguous district may submit a recommendation for the Regional Committee's consideration regarding the allocation and annexation of territory and the transfer and adjustment of assets and liabilities. OSPI's and the district(s)' recommendation(s) shall be based on the factors (noted below) the Regional Committee must consider in making its decision.

If the Regional Committee does not accept the petition and finds that dissolution is not warranted, the petition will be denied and the district will continue to operate. The district will remain in Enhanced Financial Oversight.

If the Regional Committee accepts the petition and finds the school district is financially insolvent, the Regional Committee shall approve the petition to dissolve the district. The Regional Committee shall allocate the territory in the dissolved district for annexation to one or more contiguous districts. The Regional Committee's decision to allocate territory for annexation to another district shall be based on the committee's best judgment, taking into account the factors in RCW 28A.315.015 (2) and 28A.315.205 (4), which are:

RCW 28A.315.015 (2):

- (a) A balance of local petition requests and the needs of the statewide community at large in a manner that advances the best interest of public education in the affected school districts and communities, the educational service district, and the state;
- (b) Responsibly serving all of the affected citizens and students by contributing to logical service boundaries and recognizing a changing economic pattern within the educational service districts of the state;
- (c) Enhancing the educational opportunities of pupils in the territory by reducing existing disparities among the affected school districts' ability to provide operating and capital funds through an equitable adjustment of the assets and liabilities of the affected districts;
- (d) Promoting a wiser use of public funds through improvement in the school district system of the educational service districts and the state; and
- (e) Other criteria or considerations as may be established in rule by the superintendent of public instruction.

RCW 28A.315.205 (4):

- (a) Student educational opportunities as measured by the percentage of students performing at each level of the statewide mandated assessments and data regarding student attendance, graduation, and dropout rates;
- (b) The safety and welfare of pupils. For the purposes of this subsection, "safety" means freedom or protection from danger, injury, or damage and "welfare" means a positive condition or influence regarding health, character, and well-being;
- (c) The history and relationship of the property affected to the students and communities affected, including, for example, the impact of the growth management act and current or proposed urban growth areas, city boundaries, and master planned communities;
- (d) Whether or not geographic accessibility warrants a favorable consideration of a recommended change in school district organization, including remoteness or isolation of places of residence and time required to travel to and from school; and

- (e) All funding sources of the affected districts, equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per pupil valuation when all funding sources are considered, improvement in the economies in the administration and operation of schools, and the extent the proposed change would potentially reduce or increase the individual and aggregate transportation costs of the affected school districts.

The Regional Committee also makes a decision regarding the transfer and any equitable adjustments in the assets and liabilities of the financially insolvent district and the annexing district(s), based on the committee's best judgment, taking into consideration the factors in RCW 28A.315.245, which include:

- (1) The number of school age children residing in each school district and in each part of a district involved or affected by the proposed change in school district organization;
- (2) The assessed valuation of the property located in each school district and in each part of a district involved or affected by the proposed change in school district organization;
- (3) The purpose for which the bonded indebtedness of any school district involved or affected by the proposed change in school district organization was incurred;
- (4) The history and relationship of the property affected to the students and communities affected by the proposed change in school district organization;
- (5) Additional burdens to the districts affected by the proposed change in school district organization as a result of the proposed organization;
- (6) The value, location, and disposition of all improvements located in the school districts involved or affected by the proposed change in school district organization;
- (7) The consideration of all other sources of funding; and
- (8) Any other factors that, in the judgment of the school districts or Regional Committee, are important or essential to the making of an equitable adjustment of assets and liabilities.

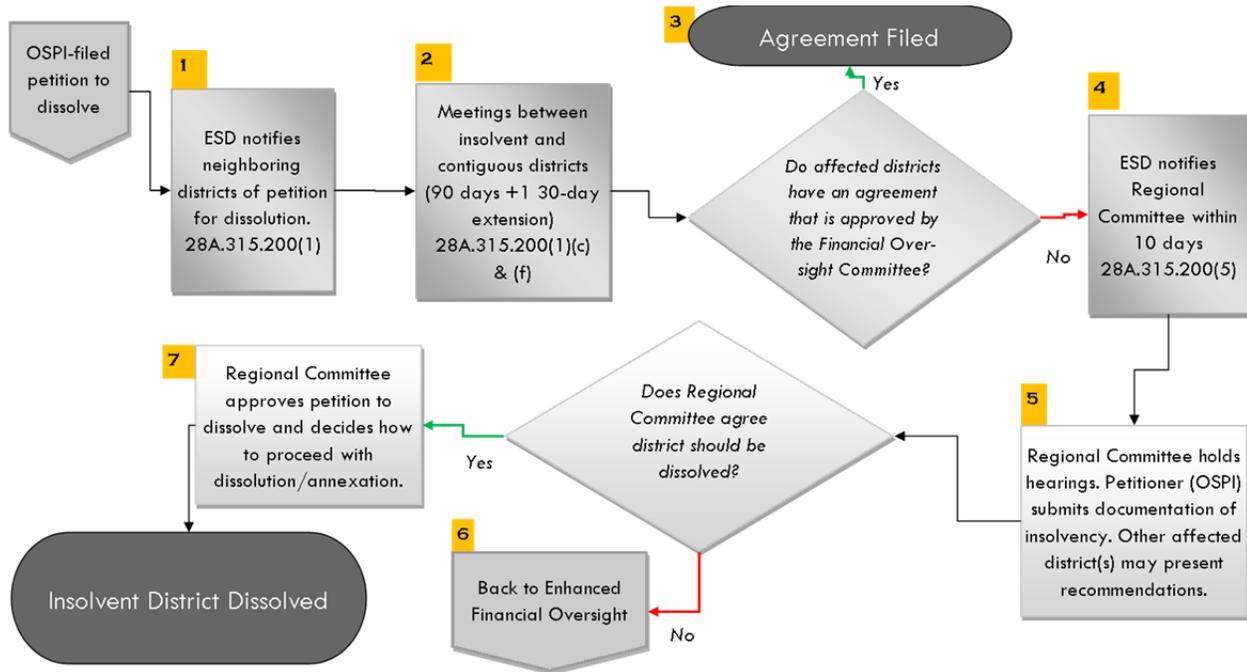
The Regional Committee issues its decision, in writing, within thirty (30) days of the date their decision is adopted. The decision is adopted at the conclusion of the public hearing, inclusive of any continuances the Regional Committee deems are necessary.

The Regional Committee decision approving the dissolution and annexation of a school district and the distribution of assets and liabilities will specify the effective date.

Upon receipt of an agreement of the dissolving and annexing districts, or a Regional Committee's written decision approving the dissolution of a district and the annexation of all or part of the dissolved district to contiguous districts, as well as any adjustment in assets and liabilities, the ESD superintendent prepares an order approving the changes to the dissolving and annexing school districts' boundaries and any adjustments in assets and liabilities. The ESD superintendent sends the order to the county auditor(s), assessor, treasurer, OSPI, and the superintendents of the dissolving and annexing districts. The order will be recorded in the county(s) where the districts with changes in their boundaries are located.

The Regional Committee decision may be appealed to OSPI for a hearing before an administrative law judge (ALJ) or to superior court as currently allowed in RCW 28A.315.

**Figure 5: Dissolution**



1. Once OSPI has filed a petition to dissolve an insolvent district, the ESD of the insolvent district will notify neighboring districts (i.e. contiguous districts) of the petition for dissolution.
2. The affected districts have 90 days to reach an agreement on how to dissolve the insolvent district. One 30-day extension may be granted for this process.
3. If the affected districts can reach an agreement that is approved by the Financial Oversight Committee, it is filed and the dissolution of the insolvent district will begin.
4. If the districts cannot reach an agreement, the ESD will notify the Regional Committee within 10 days. This may happen either at the end of the time given for bargaining, or if the petitioning district at any time feels that further negotiations will not be fruitful.
5. The Regional Committee will hold hearings pertaining to the dissolution request. The petitioner will present the documentation of insolvency and a recommendation for a plan for dissolution. Other affected district(s) may present their own recommendations at the hearings.
6. If the Regional Committee does not approve the petition for dissolution, the district will be placed on Enhanced Financial Oversight.
7. If the Regional Committee approves the petition for dissolution, it will determine how to proceed with that dissolution. It will make this determination based on the recommendations and testimony from the affected districts.

## Timeline

The timeline for dissolving a financially insolvent district will vary depending on each district's circumstances.

A district may be on binding conditions for two years before the Financial Oversight Committee is convened. Once the Financial Oversight Committee is convened, if a district does not have a satisfactory financial plan, OSPI may file a petition to dissolve the district. If circumstances do not support dissolving the district, or a satisfactory plan can be developed, a district will be subject to enhanced financial monitoring. The length of time a district is subject to enhanced financial monitoring will be based on improvements in the district's financial condition, the district's ability to continue operating, and the Financial Oversight Committee's determination that dissolution is or is not appropriate under the circumstances.

Once a petition to dissolve a financially insolvent district is filed, it will likely take between three to nine months to obtain a final decision regarding the dissolution, annexation and adjustments to assets and liabilities for the insolvent and contiguous districts. The goal will be to have dissolutions and annexations take effect before September 1 of the year in which the dissolution petition is filed.

## Outstanding Bond Debt, Levies, and Non-Voted Debt

Due to constitutional requirements, outstanding bond debt of a school district cannot be transferred to a district that did not participate in the election to approve the bond debt. Therefore, upon dissolution, outstanding bond debt of a financially insolvent district that is being dissolved (dissolving district) will remain the obligation of the properties in the dissolved district and outstanding bond debt of a district that annexes property from the dissolving district will remain the obligation of the portion of the annexing district that approved the bond debt.

The district or districts that annex property from a dissolving district, or the educational service district where the annexing district(s) is located, will certify the tax levy that will be assessed on property in the dissolving district. The county will collect the taxes and deposit them in a debt service fund that the annexing district will oversee for the purposes of repaying the outstanding debt of the dissolved district. If more than one district annexes property from a dissolving district with outstanding bond debt, the agreement between the districts or the Regional Committee will specify which annexing district is responsible to oversee the debt service fund for the outstanding bond debt of the dissolving district.

Similar to the transfer of outstanding bond debt, the outstanding excess levy of a dissolved district cannot be transferred to a district that annexes all or a portion of the dissolved district that did not vote on the levy. However, case law and the constitutional requirement for uniformity of taxes authorize a district that is annexing all or a portion of a dissolved district to extend its outstanding excess levy to the property in the dissolved district that was annexed in addition to the property in the annexing district. Accordingly, on the effective date of dissolution, any outstanding levies of the dissolving district will expire and properties in the dissolving district will be subject to outstanding levies of the annexing district or districts.

Properties in the dissolving district will be assessed taxes based on the outstanding levy of the annexing district or districts, starting in the year in which the dissolution takes effect, if the dissolution is prior to September 1. If dissolution is effective after September 1, properties in the dissolving district will not be assessed until the following year. Taxes are assessed in one year for collection the following year. If the annexing district determines that it is necessary to levy more than the outstanding amount to serve students in the dissolved area that was annexed, the annexing district may call an election seeking approval of a supplemental or replacement levy. If the supplemental or replacement levy fails, the annexing district's outstanding levy will remain intact.

Any existing non-voted debt (debt other than levies or bonds) of the dissolving district that has not been or cannot be liquidated will be transferred to the annexing district. Upon dissolution and annexation, territory in the dissolving district shall assume and be subject to the outstanding debt of the annexing district. Transferred debt may be paid for by taxes that are assessed on the dissolving and annexing district based on the existing approved levy amount of the annexing district.

## Outstanding Staff Contracts

Upon dissolution, individual contracts of employees, as well as collective bargaining agreements with employee groups, in the dissolved district are extinguished. Annexing or receiving districts have flexibility to constitute their workforces, including hiring any former employees of dissolved districts, as they choose, with no obligation under any circumstances to observe provisions of a dissolved district's contracts or bargaining agreements. Certificated employees of a dissolved district do not retain any continuing contract rights, and any appeals from certificated or classified employees' notices of termination are expedited, and limited to review of whether their district is dissolved due to financial insolvency.

## Timing for Taxes and Elections

Workgroup members met with representatives from the Department of Revenue, the Secretary of State's Office Elections Division, and members representing the County Assessors, County Treasurers, and County Auditor's Associations to discuss how outstanding bond debt, excess levies, and the timing for collecting taxes and conducting elections is addressed when a school district is dissolved.

The parties agreed that the boundaries for purposes of property taxation and the levy of property taxes under RCW 84.09.030 are the boundaries that are established as of the first day of September, instead of the first day of August. The draft legislation includes this change in existing law.

The parties also agreed that the timing for, and eligibility to participate in, elections on levies, bonds, and election of district directors shall occur in accordance with state general election laws, RCW 29A. Under RCW 29A.16.040, changes to precincts in a school district, and the voters' rights associated with the precincts, cannot be changed during the time period that starts 14 days prior to the due date for candidate filings and the general election. Candidate filings are due around the second week in May. Accordingly, if a school district is dissolved after the end of

April, voters in the dissolved district and in the annexing district will vote as if the district had not been dissolved, until the next election that occurs after the general election, or until the voter precincts have been changed to address the change in school district boundaries.

After a district is dissolved, the board of directors of the annexing district may call a special election on a replacement or supplemental levy to be applied to all the property in the revised boundaries of the annexing district. Voters in the annexing district, including the added portions of the dissolved district, will vote on the supplemental or replacement levy provided the election on the supplemental or replacement levy is placed on the ballot after the general election. Voters in the dissolved district are not eligible to vote on levies or other school district matters until the precinct boundaries are altered to reflect the change in school district boundaries, which may not occur between the end of April and the date of the general election.

Under existing law (RCW 28A.343.040), within eight months of annexing territory from a dissolving district, the board of directors of the annexing district must prepare a redistricting plan with new director district boundaries that take the annexed territory into account. Existing directors retain their current position on the board until their existing terms expire and a new director is elected, even if the existing director no longer resides in the director district that he or she was initially elected to represent, by RCW 28A.343.350(1). The election of new directors based on new director district boundaries will not occur until the next election for the annexing district's board. At that election, voters in the dissolved district will vote for candidates in the same way voters in the annexing district elect candidates (vote on members at large and/or on the director position that represents the area where the voters reside). Until the next election, voters in the dissolved district will be represented by the board member(s) in the annexing district who are assigned to represent them under the redistricting plan that is adopted by the annexing district's school board.

## Financial Indicators (Financial Early Warning System)

One of the optional assignments given to the ESDs in SHB 1431 is to “recommend a financial early warning system for consistent, early identification of school districts with potential fiscal difficulties.”

Research conducted and presented to the Workgroup found that 19 states do not identify what would happen when a district becomes insolvent. In nearly 40 percent of states, the type and extent of state involvement in district insolvency are not established by statute or regulation. In 31 states, formal legal mechanisms are available to districts in fiscal crisis. In 24 of these states, insolvent districts can file for federal municipal bankruptcy. Another legal mechanism, available in 17 states, is some form of state fiscal takeover of districts – such as binding conditions in our state.

Few states were found to monitor their districts fiscal health as closely as California, Illinois, Ohio, and Arkansas. The Workgroup reviewed information on how each of these four states evaluate a district's financial condition, the financial indicators and financial data used in these evaluations, actions the state takes, and procedures for creating and publicly releasing a list of districts approaching or in fiscal crisis.

The Illinois School District Financial Profile System (Profile) was chosen as the Workgroup's starting point for its financial early warning model because this Profile is easy to understand, uses a few basic financial indicators, which are weighted according to importance, and has a point system similar to a student grade point average (GPA), which places each district into one of four categories. The basic indicators currently under consideration include:

1. Fund balance to revenue ratio (measures how much a district is saving or how much savings a district is using);
2. Expenditure to revenue ratio (measures how much of every dollar brought in the district is spending);
3. Days cash on hand (average cash on hand divided by average daily expenditures (total expenditures divided by 360 days); this measures how long a district could go without receiving either a state payment or local levy collections); and
4. Percent of long-term debt margin remaining (the more debt a district has, the fewer resources that are available for operations).

OSPI and the ESDs are committed to developing financial indicators for school districts for school year 2012–2013, and plan to meet with K–12 stakeholders to get input into what the indicators should be and how they should be weighted. Whichever financial indicators are eventually decided upon, it will provide a snapshot of a district's financial health for a particular point in time and is not necessarily an indicator of which districts are in or headed for financial crisis. In order for users of this information to gain a better understanding of a district's financial health, a historical trend analysis of these indicators will identify districts that are on either an upward or a downward trend. Of even greater importance will be the individual context that each school district will need to provide to users of this information.

## Proposed Legislative Changes

**Proposed Legislative Amendments to chapter 28A.315 RCW** (stricken words deleted and underlined words added)

### **RCW 28A.315.025**

#### **Definitions.**

As used in this chapter:

- (1) "Change in the organization and extent of school districts" means the formation and establishment of new school districts, the dissolution of existing school districts, the alteration of the boundaries of existing school districts, or all of them.
- (2) "Regional committee" means the regional committee on school district organization created by this chapter.

(3) "School district" means the territory under the jurisdiction of a single governing board designated and referred to as the board of directors.

(4) "Educational service district superintendent" means the educational service district superintendent as provided for in RCW 28A.310.170 or his or her designee.

(5) "Financial oversight committee" means a committee convened pursuant to RCW 28A.315.220, comprised of two representatives from the superintendent of public instruction, one representative from an educational service district where a financially insolvent district is not located and one non-voting representative from the educational service districts where a financially insolvent district is located.

(6) "Financially insolvent district" means a school district that:

(a) has been on binding conditions pursuant to RCW 28A.505.110 for two consecutive years and is unable to prepare a satisfactory financial plan; or

(b) is reasonably foreseeable and likely to have a deficit general fund balance within three years and is unable to prepare a satisfactory financial plan.

(7) "Satisfactory financial plan" means a plan approved by the superintendent of public instruction and the educational service district where a school district is located demonstrating the school district will have an adequate fund balance at the end of the plan period relying on:

(a) currently available revenue streams provided by federal, state or local resources; or

(b) other revenue streams determined reasonably reliable by the educational service district where the school district is located.

## **RCW 28A.315.065**

### **District boundary changes — Submission to county auditor.**

~~(4)~~ Any district boundary changes shall be ~~submitted to~~ filed for recording with the county auditor by the educational service district superintendent within thirty days after the changes have been approved in accordance with this chapter. The superintendent shall submit both legal descriptions and maps. District boundary changes shall be effective the date specified in the educational service district superintendent's order.

## **RCW 28A.315.095**

### **Regional committees — Powers and duties.**

The powers and duties of each regional committee are to:

(1) Hear and approve or disapprove proposals for changes in the organization and extent of school districts in the educational service districts when a hearing on a proposal has been requested under RCW 28A.315.~~200~~195;

~~(2) Act on notices and proposals from the educational service district under RCW 28A.315.225;~~

~~(23) Make an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness and excess tax levies as otherwise authorized under this section, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts;~~

~~(34) Make an equitable adjustment of the bonded indebtedness outstanding against any of the old and new districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected, subject to the requirements in RCW 28A.315.265;~~

~~(45) Provide that territory transferred from a school district by a change in the organization and extent of school districts, other than changes required pursuant to RCW 28A.315.225, shall either remain subject to, or be relieved of, any one or more excess tax levies that are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory from the school district;~~

~~(56) Provide that territory transferred to a school district by a change in the organization and extent of school districts, other than changes required pursuant to RCW 28A.315.225, shall either be made subject to, or be relieved of, any one or more excess tax levies that are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory to the school district;~~

~~(6)(a) Provide that a school district which is annexing or receiving territory from a financially insolvent school district pursuant to RCW 28A.315.225 may submit to the voters of the entire school district, including the territory to be annexed or transferred, a proposition for a replacement or supplemental levy pursuant to RCW 84.52.053(2)(b).~~

~~(b) Provide that, if an election under subsection 6(a) has not occurred or has failed, territory transferred from a financially insolvent school district to another school district or districts pursuant to RCW 28A.315.225 shall be relieved of any one or more excess tax levies that are authorized for such financially insolvent school district under RCW 84.52.053 before the effective date of the transfer of territory from such financially insolvent school district;~~

~~(c) Provide that, if an election under subsection 6(a) has not occurred or has failed, territory transferred from a financially insolvent school district to another school district or districts pursuant to RCW 28A.315.225 shall be made subject to any one or more excess tax levies that are authorized for such receiving school district or districts under RCW 84.52.053 before the effective date of the transfer of territory to such receiving school district or districts;~~

(7) Establish the date by which a committee-approved transfer of territory shall take effect;

(8) Hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new school district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in RCW 28A.315.225 ~~290 or 28A.315.320~~ prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in

this chapter. Three members of the regional committee or two members of the committee and the educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The regional committee shall cause notice to be given, at least ten days prior to the date appointed for any such hearing, in one or more newspapers of general circulation within the geographical boundaries of the school districts affected by the proposed change or adjustment. In addition notice may be given by radio and television, or either thereof, when in the committee's judgment the public interest will be served thereby; and

(9) Prepare and submit to the superintendent of public instruction from time to time or, upon his or her request, reports and recommendations respecting the urgency of need for school plant facilities, the kind and extent of the facilities required, and the development of improved local school administrative units and attendance areas in the case of school districts that seek state assistance in providing school plant facilities.

### **RCW 28A.315.195**

#### **Transfer of territory by petition — Requirements — Rules — Costs.**

(1) A proposed change in school district organization by transfer of territory from one school district to another may be initiated by a petition in writing presented to the educational service district superintendent:

(a) Signed by at least fifty percent plus one of the active registered voters residing in the territory proposed to be transferred; or

(b) Signed by a majority of the members of the board of directors of one of the districts affected by a proposed transfer of territory and providing documentation that, before signing the petition, the board of directors took the following actions:

(i) Communicated the proposed transfer to the board of directors of the affected district or districts and provided an opportunity for the board of the affected district or districts to respond; and

(ii) Communicated the proposed transfer to the registered voters residing in the territory proposed to be transferred, provided notice of a public hearing regarding the proposal, and provided the voters an opportunity to comment on the proposal at the public hearing.

(2) The petition shall state the name and number of each district affected, describe the boundaries of the territory proposed to be transferred, and state the reasons for desiring the change and the number of children of school age, if any, residing in the territory.

(3) The educational service district superintendent shall not complete any transfer of territory under this section that involves ten percent or more of the common school student population of the entire district from which the transfer is proposed, unless the educational service district superintendent has first called and held a special election of the voters of the entire school district from which the transfer of territory is proposed. The purpose of the election is to afford those voters an opportunity to approve or reject the proposed transfer. A simple majority shall determine approval or rejection.

(4) The superintendent of public instruction may establish rules limiting the frequency of petitions that may be filed pertaining to territory included in whole or in part in a previous petition.

(5) A petition to transfer territory shall be processed in accordance with RCW 28A.315.200 and 28A.315.205.

## **NEW SECTION**

### **RCW 28A.315.200**

#### **Transfer of Territory and Dissolution Petitions — Process.**

(1) Upon receipt of a petition to transfer territory pursuant to RCW 28A.315.195 or to dissolve a financially insolvent school district pursuant to RCW 28A.315.225, the educational service district superintendent shall notify in writing the affected districts that:

(a) Each school district board of directors, whether or not initiating a proposed transfer of territory or dissolution, is required to enter into negotiations with the affected district or districts;

(b) In the case of a citizen-initiated petition, the affected districts must negotiate on the entire proposed transfer of territory;

(c) The districts have ninety calendar days in which to agree to the proposed transfer of territory or to agree on the annexation of a financially insolvent district;

(d) Districts negotiating an agreement regarding annexation of a dissolving financially insolvent district may not agree to not dissolve a financially insolvent district;

(e) The agreement between at least one contiguous district and a financially insolvent district regarding the annexation of the dissolving district and the distribution of assets and liabilities is subject to approval by the financial oversight committee;

(f) The districts may request and shall be granted by the educational service district superintendent one thirty-day extension to try to reach agreement;

(g) Any district involved in the negotiations may at any time during the ninety-day period notify the educational service district superintendent in writing that agreement will not be possible.

(2) If the negotiating school boards cannot come to agreement about the proposed transfer of territory, or cannot agree how to annex a financially insolvent district, the educational service district superintendent, if requested by the affected districts, shall appoint a mediator. The mediator has thirty days to work with the affected school districts to see if an agreement can be reached on the proposed transfer of territory.

(3) If the affected school districts cannot come to agreement about the proposed transfer of territory, or cannot agree how to annex a financially insolvent district, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to

agreement, any affected district may file with the educational service district superintendent a written request for a hearing by the regional committee.

(4) If the affected school districts cannot come to agreement about the proposed transfer of territory initiated by citizen petition, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, the district in which the citizens who filed the petition reside shall file with the educational service district superintendent a written request for a hearing by the regional committee, unless a majority of the citizen petitioners request otherwise.

(5) Upon receipt of a notice under subsection (3) or (4) of this section, the educational service district superintendent shall notify the chair of the regional committee in writing within ten days.

(6) Costs incurred by school districts under this section shall be reimbursed by the state from such funds as are appropriated for this purpose.

### **RCW 28A.315.205**

#### **Transfer of territory or dissolution and annexation by petition — Regional committee responsibilities — Rules — Appeals.**

(1) The chair of the regional committee shall schedule a hearing on the proposed transfer of territory or dissolution petition at a location in the educational service district within sixty calendar days of being notified under RCW 28A.310.200 (3) or (4) ~~195 (7) or (8)~~.

(2) Within thirty calendar days of the hearing under subsection (1) of this section, or final hearing if more than one is held by the committee, the committee shall issue its written findings and decision to approve or disapprove the proposed transfer of territory or the dissolution and annexation of a financially insolvent district. The educational service district superintendent shall transmit a copy of the committee's decision to the superintendents of the affected school districts within ten calendar days.

(3) In carrying out the purposes of RCW 28A.315.015 and in making decisions as authorized under RCW 28A.315.095(1), the regional committee shall base its judgment upon whether and to the extent the proposed change in school district organization complies with RCW 28A.315.015(2) and rules adopted by the superintendent of public instruction under chapter 34.05 RCW.

(4) The rules under subsection (3) of this section shall provide for giving consideration to all of the following:

(a) Student educational opportunities as measured by the percentage of students performing at each level of the statewide mandated assessments and data regarding student attendance, graduation, and dropout rates;

(b) The safety and welfare of pupils. For the purposes of this subsection, "safety" means freedom or protection from danger, injury, or damage and "welfare" means a positive condition or influence regarding health, character, and well-being;

(c) The history and relationship of the property affected to the students and communities affected, including, for example, the impact of the growth management act and current or proposed urban growth areas, city boundaries, and master planned communities;

(d) Whether or not geographic accessibility warrants a favorable consideration of a recommended change in school district organization, including remoteness or isolation of places of residence and time required to travel to and from school; and

(e) All funding sources of the affected districts, equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per pupil valuation when all funding sources are considered, improvement in the economies in the administration and operation of schools, and the extent the proposed change would potentially reduce or increase the individual and aggregate transportation costs of the affected school districts.

(5)(a)(i) A petitioner or school district may appeal a decision by the regional committee to the superintendent of public instruction based on the claim that the regional committee failed to follow the applicable statutory and regulatory procedures or acted in an arbitrary and capricious manner. Any such appeal shall be based on the record and the appeal must be filed within thirty days of the final decision of the regional committee. The appeal shall be heard and determined by an administrative law judge in the office of administrative hearings, based on the standards in (a) (ii) of this subsection.

(ii) If the administrative law judge finds that all applicable procedures were not followed or that the regional committee acted in an arbitrary and capricious manner, the administrative law judge shall refer the matter back to the regional committee with an explanation of his or her findings. The regional committee shall rehear the proposal.

(iii) If the administrative law judge finds that all applicable procedures were followed or that the regional committee did not act in an arbitrary and capricious manner, depending on the appeal, the educational service district shall be notified and directed to implement the changes.

(iv) The administrative law judge shall expedite review and issuance of a decision on an appeal of a decision approving the dissolution and annexation of a financially insolvent district.

(b) Any school district or citizen petitioner affected by a final decision of the regional committee may seek judicial review of the committee's decision in accordance with RCW 34.05.570. Judicial review of a regional committee decision approving dissolution and annexation of a financially insolvent district shall be expedited.

## **RCW 28A.315.215**

### **Transfer of territory or dissolution and annexation by agreement or regional committee decision order — Approval — Order.**

(1) Upon receipt by the educational service district superintendent of a written agreement by two or more school districts to the transfer of territory between the affected districts, or an

agreement approved by the financial oversight committee regarding the annexation of a financially insolvent district, the superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of the affected districts. The order shall also establish all approved terms of the equitable adjustment of assets and liabilities involving the affected districts, with the effective date of such alterations to the boundaries. For school districts that are dissolved and annexed pursuant to RCW 28A.315.225, the order shall provide that any excess tax levy approved (including previously approved and imposed excess levies by the school district annexing or receiving the transferred territory from the financially insolvent school district and replacement and supplemental levies voted upon by voters of the entire newly established territory) prior to the effective date of the dissolution by the school district receiving the transferred territory from the dissolved school district shall, in the cases of previously approved and imposed excess levies of the annexing or receiving school district, be imposed on the newly annexed, or dissolved territory, and in the case of replacement or supplemental levies, the entire newly established territory, pursuant to RCW 84.09.030. The superintendent shall ~~file~~ certify his or her action ~~with~~ to each county auditor, each county treasurer, each county assessor, the secretary of state's office, the office of superintendent of public instruction and the superintendents of all school districts affected by the action.

(2) Upon receipt by the educational service district superintendent of a written ~~decision~~ order by the regional committee approving the transfer of territory between two or more school districts, or the dissolution and annexation of a financially insolvent school district, the superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of the affected districts, with the effective date of such alterations to the boundaries. The order may not be implemented before the period of appeal authorized under RCW 28A.315.205 (5) (a) (i) has ended. The order shall also establish all approved terms of the equitable adjustment of assets and liabilities involving the affected districts. For school districts that are dissolved and annexed pursuant to RCW 28A.315.225, the order shall provide that any excess tax levy approved (including previously approved and imposed excess levies by the school district annexing or receiving the transferred territory from the financially insolvent school district and replacement and supplemental levies voted upon by voters of the entire newly established territory) prior to the effective date of the dissolution by the school district receiving the transferred territory from the dissolved school district shall, in the cases of previously approved and imposed excess levies of the annexing or receiving school district, be imposed on the newly annexed, or dissolved territory, and in the case of replacement or supplemental levies, the entire newly established territory, pursuant to RCW 84.09.030. The superintendent shall ~~file~~ certify his or her action ~~with~~ to each county auditor, each county treasurer, each county assessor, the secretary of state's office, the office of superintendent of public instruction and the superintendents of all school districts affected by the action.

## NEW SECTION

### 28A.315.220

#### **Financial oversight of financially insolvent school district.**

(1) The superintendent of public instruction shall convene a financial oversight committee:

(a) At the request of the board of directors of a financially insolvent district;

(b) When the superintendent of public instruction determines a district is financially insolvent, after first consulting with the educational service district where the district is located and notifying the district the committee will be convened; or

(c) When a district has been on binding conditions pursuant to RCW 28A.505.110 for two consecutive years and does not have a satisfactory financial plan.

(2) The financial oversight committee shall review the financial condition of a financially insolvent school district. In conducting its review, the committee shall hold a public hearing in the financially insolvent school district or educational service district in order to receive public comment on any proposed financial plans. If the financial oversight committee feels that dissolution of the financially insolvent school district is a valid option, it shall receive input at the public hearing on options for dissolving said school district.

(3) After holding a public hearing as outlined in paragraph (2) above, the financial oversight committee shall make a recommendation to the superintendent of public instruction to either dissolve a financially insolvent school district or to place a district under enhanced financial monitoring to reduce the risk of dissolution due to insolvency. The superintendent of public instruction shall implement financial oversight committee recommendations via enhanced financial oversight, which will be monitored by the educational service district.

(4) Enhanced financial oversight may include, but not limited to the following types of actions, which the superintendent of public instruction is expressly authorized to implement and enforce:

(a) Appointment of a special administrator to oversee and carry out financial conditions imposed on the district as recommended by the financial oversight committee;

(b) Review, approval and limitations on a school district's authority to enter into contracts;

(c) Review, approval and limitations on hiring and personnel actions;

(d) Waiver of expenditure restrictions imposed on the use of funds in the biennial appropriations act, grant agreements, statutes, administrative regulations and/or the school district accounting manual, to the extent it is not prohibited by federal law, when deemed reasonably necessary to obtain funds to liquidate contractual liabilities or to avoid dissolution;

(e) Liquidation or disposition of fixed assets and contractual liabilities by any reasonable and documented method provided the liquidation or disposition of fixed assets and contractual liabilities is reasonably necessary prior to filing a dissolution petition.

(5) Any new, amended or renewed contract entered into by a school district that is subject to enhanced financial monitoring that has not been approved by the educational service district or special administrator, or that is inconsistent with conditions imposed on the district pursuant to this section, shall be null and void.

(6) Any action taken by a school district that subject to enhanced financial monitoring that is reasonably like to affect the district's finances shall be null and void if the action was not approved by the educational service district or special administrator or if the action is inconsistent with conditions imposed on the district pursuant to this section.

(7) The superintendent of public instruction shall adopt rules to carry out the provisions in this section, which may include, but not limited to identifying the responsibilities and authority of the financial oversight committee, the educational service district, the special administrator and the school district and the implementation of enhanced financial oversight.

## **RCW 28A.315.225**

### **Dissolution and annexation of certain districts — Annexation of nondistrict property.**

(1) In case any school district has an average enrollment of fewer than five kindergarten through eighth grade pupils during the preceding school year or has not made a reasonable effort to maintain, during the preceding school year at least the minimum term of school required by law, the educational service district superintendent shall report that fact to the regional committee, which committee shall dissolve the school district and annex the territory thereof to some other district or districts. For the purposes of this section, in addition to any other finding, "reasonable effort" shall be deemed to mean the attempt to make up whatever days are short of the legal requirement by conducting of school classes on any days to include available holidays, though not to include Saturdays and Sundays, prior to June 15th of that year. School districts operating an extended school year program, most commonly implemented as a 45-15 plan, shall be deemed to be making a reasonable effort. In the event any school district has suffered any interruption in its normal school calendar due to a strike or other work stoppage or slowdown by any of its employees that district shall not be subject to this section.

(2) A financially insolvent school district may be dissolved and annexed to one or more contiguous districts, in accordance with an agreement between the insolvent district and at least one other contiguous district, which has been approved by the financial oversight committee, or in accordance with the decision of the regional committee. A financially insolvent district may only file bankruptcy if it is recommended by the financial oversight committee.

(3) A petition to dissolve a financially insolvent school district may be filed with the superintendent of public instruction provided that prior to signing and filing the petition, the financial oversight committee was convened and recommended that the district be dissolved.

(4) A petition for dissolution shall include the name of the financially insolvent district, the legal boundaries of such district, the names of contiguous school districts, the basis for concluding the district is financially insolvent, a map with legal description of the proposed annexation of the financially insolvent school district to one more contiguous school districts and any proposed equitable adjustments of assets and liabilities for the affected districts. The proposed annexation and equitable adjustment of assets and liabilities shall be based on the factors in RCW 28A.315.015 (2), 28A.315.205 (4) and 28A.315.245.

(5) The superintendent of public instruction, at the recommendation of the financial oversight committee, may take the following actions upon filing a petition to dissolve a financially insolvent school district:

(a) authorize liquidation or disposition of fixed assets and contractual liabilities by any reasonable and documented method;

(b) waive expenditure restrictions on state and local monies required by the biennial appropriations act and statutes, administrative rules and procedures, to the extent the restrictions need to be waived to provide the financially insolvent school district with cash for the liquidation of contractual liabilities and to the extent such waiver is not prohibited by federal law.

(6) The superintendent of public instruction may request an appropriation to address matters associated with the dissolution of a financially insolvent school district.

(7) The superintendent of public instruction may adopt rules governing actions that may be taken to prevent a school district from being dissolved and to assist in the orderly and timely dissolution and annexation of school districts that are unable to avoid financial insolvency.

(8) A petition to dissolve a financially insolvent school district shall be processed in accordance with RCW 28A.315.200 and 28A.315.205.

(9) In case any territory is not a part of any school district, the educational service district superintendent shall present to the regional committee a proposal for the annexation of the territory to some contiguous district or districts.

## **NEW SECTION**

### **RCW 28A.315.230**

**Effect of dissolution and annexation of a financially insolvent district on existing contracts of employment and collective bargaining agreements; authority of annexing or receiving districts to constitute their workforces; termination of individual contracts of employment in financially insolvent districts.**

Notwithstanding any other provision of law:

(1) As of the effective date of dissolution of a financially insolvent district, all existing employment contracts and collective bargaining agreements of the financially insolvent district shall be extinguished.

(2) School districts that annex or receive territory from a financially insolvent district shall have full authority to constitute their workforces, and shall have no duty to bargain with, or observe the former wages and working conditions of, any former employees of a financially insolvent district who may be hired; rather, any employees hired from a financially insolvent district shall become part of the appropriate bargaining units, if any, of the annexing or receiving district, and their wages and working conditions shall be defined by the terms of the annexing or receiving district's bargaining agreements or other policies or conditions of employment.

(3) Certificated employees of a district that is dissolved due to financial insolvency shall have no continuing contract or appeal rights under RCW 28A.405.210 through .380 or other law, nor shall certificated or classified employees of a district dissolved due to financial insolvency have any resort to grievance or arbitration under a collective bargaining agreement, and any inconsistent provision of any individual contract or collective bargaining agreement is null and void. Rather, sufficient cause for nonrenewal or discharge of such certificated and classified personnel is deemed to exist by sole virtue of the employer district's dissolution for financial insolvency. Notice of nonrenewal or discharge under such circumstances may be given by the educational service district superintendent without regard to date. Any appeal to be addressed to the educational service district board on an expedited basis according to rules established by the superintendent of public instruction, and shall be confined to the issue of whether the employer district is dissolved for reasons of financial insolvency. There shall be no judicial review for the educational service district board's decisions in such matters.

**RCW 28A.315.265**

**Adjustment of bonded indebtedness — Order — Special elections.**

...

(4) If a change in school district organization approved by the regional committee concerns a proposal to form a new school district or if a change in school district organization includes a proposal for adjustment of voted general obligation bonded indebtedness involving an established school district and one or more former school districts now included therein pursuant to a vote of the people concerned, a special election of the voters residing within the territory of the proposed new district, or of the established school district involved in a proposal for adjustment of bonded indebtedness as the case may be, shall be held for the purpose of affording those voters an opportunity to approve or reject such proposals as concern or affect them.

...

**RCW 28A.315.285**

**Special election — Determination — Order — Certification.**

...

(2) If a special election is held to vote on a proposal for adjustment of bonded indebtedness, the entire vote cast by the registered voters of the proposed new district or of the established district as the case may be shall be tabulated. Any such proposition shall be considered approved if ~~sixty percent~~ three-fifths or more of all votes cast thereon are in the affirmative and forty percent of the voters who voted at the last general election cast a ballot.

**RCW 28A.315.305**

**School district organizational changes — Corporate existence — Payment of bonded indebtedness — Levy authority.**

...

(4) In case any such changes or adjustments involve the dissolution or annexation of a financially insolvent school district pursuant to RCW 28A.315.225:

(a) The board of directors of a receiving or annexing school district, or the educational service district superintendent as identified in RCW 84.52.020 shall certify a tax levy by November 30 in each calendar year that there is outstanding voted bonded indebtedness to pay the principal of and interest on such outstanding voted bonded indebtedness for the following calendar year;

(b) The county treasurer in the county in which such financially insolvent school district is located shall collect such levy, the proceeds of which shall be deposited into a debt service fund established and overseen by the annexing school district as determined by the financial oversight committee or regional committee to pay the principal of and interest on the dissolved district's outstanding bonded indebtedness as it becomes due;

(c) For outstanding voted bonded indebtedness of such financially insolvent school district, the board of directors of the receiving or annexing school district may determine that all or any portion of the voted bonded indebtedness be refunded pursuant to chapter 39.53 RCW, in which case the county legislative authority shall act as the governing body of the financially insolvent school district and is expressly empowered to take all action it deems necessary to accomplish such refunding; and

(d) Any balance in the debt service fund of such financially insolvent school district remaining after all such voted bonded indebtedness is paid shall be transferred to the general fund of the receiving or annexing school district.

## **RCW 28A.343.040**

### **Division or redivision of district into director districts.**

It is the responsibility of each school district board of directors to prepare for the division or redivision of the district into director districts no later than eight months after any of the following:

- (1) Receipt of federal decennial census data from the redistricting commission established in RCW 44.05.030;
- (2) Consolidation of two or more districts into one district under RCW48A.315.235;
- (3) Transfer of territory to or from the district or dissolution and annexation of a district under RCW 28A.315.215;
- ~~(4) Annexation of territory to or from the district under RCW 28A.315.290 or 28A.315.320;~~  
~~or~~
- (4) ~~(5)~~ Approval by a majority of the registered voters voting on a proposition authorizing the division of the district into director districts pursuant to RCW 28A.343.030.

The districting or redistricting plan shall be consistent with the criteria and adopted according to the procedure established under RCW 29A.76.010.

## **RCW 84.09.030**

### **Taxing District Boundaries — Establishment.**

- (1)(a) Except as provided in (b) and (c) of this subsection (1), for the purposes of property taxation and the levy of property taxes, the boundaries of counties, cities, and all other taxing districts shall be the established official boundaries of such districts existing on the first day of August of the year in which the property tax levy is made.
- (b) The boundaries for a newly incorporated port district or regional fire protection service authority shall be established on the first day of October if the boundaries of the newly incorporated port district or regional fire protection service authority are coterminous with the boundaries of another taxing district or districts, as they existed on the first day of August of that year.
- (c) The boundaries of a school district that is required to receive or annex territory due to the dissolution of a financially insolvent school district under RCW 28A.315.225 shall be established on the first day of September of that year.
- (2) In any case where any instrument setting forth the official boundaries of any newly established taxing district, or setting forth any change in the boundaries, is required by law to be filed in the office of the county auditor or other county official, the instrument shall be

filed in triplicate. The officer with whom the instrument is filed shall transmit two copies of the instrument to the county assessor.

(3) No property tax levy shall be made for any taxing district whose boundaries are not established as of the dates provided in this section.

### **RCW 84.52.053**

#### **Levies by school districts authorized — When — Procedure.**

(1) The limitations imposed by RCW 84.52.050 through 84.52.056, and 84.52.043 shall not prevent the levy of taxes by school districts, when authorized so to do by the voters of such school district in the manner and for the purposes and number of years allowable under Article VII, section 2(a) of the Constitution of this state. Elections for such taxes shall be held in the year in which the levy is made or, in the case of propositions authorizing two-year through four-year levies for maintenance and operation support of a school district, authorizing two-year levies for transportation vehicle funds established in RCW 28A.160.130, or authorizing two-year through six-year levies to support the construction, modernization, or remodeling of school facilities, which includes the purposes of RCW 28A.320.330(2) (f) and (g), in the year in which the first annual levy is made.

(2)(a) Once additional tax levies have been authorized for maintenance and operation support of a school district for a two-year through four-year period as provided under subsection (1) of this section, no further additional tax levies for maintenance and operation support of the district for that period may be authorized, except for additional levies to provide for subsequently enacted increases affecting the district's levy base or maximum levy percentage.

(b) Notwithstanding subsection (2)(a), any school district which is required to annex or receive territory pursuant to a dissolution of a financially insolvent school district pursuant to RCW 28A.315.225 may call either a replacement or supplemental levy election within the school district (including the territory annexed or transferred) as follows:

(i) An election for a proposition authorizing two-year through four-year levies for maintenance and operation support of a school district may be called and held prior to the effective date of dissolution to replace existing maintenance and operation levies and to provide for increases due to such dissolution.

(ii) An election for a proposition authorizing additional tax levies may be called and held prior to the effective date of dissolution to provide for increases due to such dissolution.

(iii) In the event a replacement levy election under (2)(b)(i) is held but does not pass, the affected school district may subsequently hold a supplemental levy election pursuant to (2)(b)(ii) so long as such supplement levy election is held prior to the effective date of dissolution. In the event a supplemental levy election is held under subsection (2)(b)(ii) but does not pass, the affected school district may subsequently hold a replacement levy election pursuant to subsection (2)(b)(i) so long as such replacement levy election is held prior to the effective date of dissolution. Failure of a replacement levy or supplemental levy election shall not affect any previously approved and existing maintenance and operation levy within the affected school district or districts.

For the purpose of applying the limitation of this subsection (2), a two-year through six-year levy to support the construction, modernization, or remodeling of school facilities shall not be deemed to be a tax levy for maintenance and operation support of a school district.

## **NEW SECTION**

### **RCW 28A.315.310**

#### **Validity of Dissolutions/Annexations/Organization of School Districts.**

All proceedings which have been taken by any school district, educational service district governing body or commission or any officers thereof for the purpose of effecting a dissolution, annexation, consolidation or transfer of territory from one or more school districts to one or more other school districts, including but not limited to reorganizing boundaries, making an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness and excess tax levies, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such school district, educational service district or the governing body or commission or officers thereof to effect such changes in organization of school districts.

### **RCW 28A.315.315**

#### **Appeal.**

An appeal may be taken, as provided for in RCW 28A.645.010, to the superior court of the county in which a school district or any part thereof is situated on any question of adjustment of property and other assets and of liabilities provided for in this chapter. Judicial review shall be expedited. If the court finds the terms of the adjustment in question not equitable, the court shall make an adjustment that is equitable.

In the case of any financially insolvent school district which is required to transfer territory pursuant to RCW 28A.315.225, no lawsuit whatsoever may be maintained challenging the imposition of excess tax levies on the territory transferred or annexed pursuant to an order of the superintendent of the educational service district under RCW 28A.315.215 unless that lawsuit is served and filed no later than thirty days after the date of the order.

School districts may only file for bankruptcy if recommended by the financial oversight committee.

### **RCW 39.64.040**

#### **Petition in bankruptcy.**

Subject to the requirement in RCW 28A.315.225, any taxing district in the state of Washington is hereby authorized to file the petition mentioned in section 80 of Chapter IX of the federal bankruptcy act.

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