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**From:** McLaughlin, Craig D  
**Sent:** Friday, February 20, 2009 2:10 PM  
**To:** SBOH Members  
**Subject:** Hearings on School Rule Legislation

Board members,

Earlier this week, both houses of the Legislature held hearings on companion bills related to the Board's proposed school rules. The House heard HB 2070 in Ways and Means on Monday afternoon [February 16] and the Senate heard SB 5779 in Early Learning and K-12 Education on Wednesday [February 18] afternoon. The bills would require the Board to report on proposed rules and submit a final cost analysis before adopting the rules. Implementation would require action by the Legislature (budget proviso, bill or joint resolution) and the Legislature could phase in any implementation.

The Legislature has been at a loss about what to do with the rule because many members believe it should go forward but only with state funding, and there is no state funding (as of yesterday, the projected shortfall from today through June 30, 2011 is \$8 billion). On the capital side, both houses have been looking for some money with which to implement the rule. The Legislature is also considering proposals to significantly increase the basic education formulas that guide state contributions to schools. Increases in state aid would include more money for custodians, maintenance folks and non-employee-related costs that include repairs and maintenance. This would be phased in, however, and given the current budget, would not help schools immediately. Meanwhile, schools are losing local revenue (think property tax levies during a sharp decline in housing values and construction) and the Governor's budget cuts several hundred million in state aid to schools.

Everyone had been closely watching the "stimulus package" as it moved through Congress. The House version had \$14 billion and the Senate version \$16 billion that would be specifically for school repair, renovation and modernization. That would have meant something like \$200 million for Washington. The allowable expenditures fit very nicely with the Board's school rule. In the last-minute negotiations to find three Republican votes in the Senate, however, this language was removed. Instead, the final package included \$50 billion for a local government stabilization fund. Slightly less than a billion of this is headed toward Washington. Of this, 81.8% percent goes to make higher education and K-12 whole for any cuts in the state budgets. Anything left over would go to school districts and one of the suggested places to spend it was on repair and renovation. My guess is this will be pretty much a wash -- most of this money will be used to backfill proposed cuts. The remaining 18.2% -- or roughly \$180 million in Washington State -- goes into a Governor's discretionary fund that can be used to stabilize government services, which may include education. There is language in the law encouraging its use for school repair, renovation and

modernization, but it is discretionary. That money can easily be spent many times over and there will be many competing proposals for how it should be used. Rapidly implementing the rule and getting schools up to the new standards, plus supporting the expansion of local health school programs, could swallow up 10% to 20% of those funds over two years.

I met with the House sponsor last Friday afternoon [February 13] and Ned and I held a conference call with the chair and the EH committee on [February 16]. I then crafted the following attached talking points and testified "with concerns" at both hearings. The thumbnail version is that (1) we have a good rule; (2) we believe the rule should be implemented; (3) it is not within our power to deal with the financial issues (for both schools and local health); (4) if Leg wants to make implementation conditional on funding, there are many problems with the way this bill is written; (5) we are available to work on a better solution, perhaps one that identifies specific big-ticket items that would be subject to appropriation but would not hold up the entire rule.

In my conversation with the House sponsor, Brendan Sullivan, he seemed very open to a modified approach and was willing to convene a workgroup to identify those. The House hearing was very rushed (I only had two minutes to speak). In their testimony, all parties said nice things about the rule and the Board, but because of the costs, OSPI, school organizations, and school officials supported the proposed legislation. Testimony about health problems in the schools was pretty convincing. Art Starry, representing WSALPHO, testified in support of the rule but mentioned that local health also has financial concerns. Some members seemed genuinely ambivalent and uncertain, some seemed supportive of the rules, and a couple were openly hostile. The chair, Kelli Linville, wanted to explore a less command-and-control style of regulation, something more compliance-based, but I told her in a conversation afterward that what we have in place really does fit the compliance-based regulatory model (and she actually wanted to see fines).

In the Senate, the chair, Rosemary McAuliffe, who is also the prime sponsor, seemed willing to find a way to highlight specific provisions that could be subject to appropriation but she also made a point of closing the hearing by saying very firmly that passing a rule this expensive and expecting schools to absorb the cost was unacceptable. Senator Brandland said the school small repairs grant would be adjusted to give priority to projects necessary to comply with the rules. The reception was cordial and they seemed to be looking for solutions. A school official's testimony made it clear that he opposed anything that would let any part of the rule go forward (that it should be all or nothing).

I have received no requests from members or staff for any follow up meetings or to suggest language... I spoke to a staff person who said they simply do not yet know what they want to do. At that point they were waiting on yesterday's revenue projection and trying to make more sense out of the federal stimulus

