
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1303

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Hickel, Johnson, Talcott, Smith, Backlund, McMorris, Radcliff, Thompson, Clements, Sheahan, B. Thomas, D. Schmidt, L. Thomas, Huff, Crouse, Robertson, Schoesler, Pennington, Cooke, Sullivan, Mitchell, Kastama, Dyer, Cairnes, Sump, Sterk, McDonald and Koster)

Read first time 03/05/97.

1 AN ACT Relating to education; amending RCW 28A.405.100, 41.59.935,
2 and 28A.335.170; adding new sections to chapter 28A.320 RCW; adding a
3 new section to chapter 28A.150 RCW; adding a new section to chapter
4 28A.155 RCW; adding a new section to chapter 28A.165 RCW; adding a new
5 section to chapter 28A.175 RCW; adding a new section to chapter 28A.180
6 RCW; adding a new section to chapter 28A.185 RCW; adding a new section
7 to chapter 28A.210 RCW; adding a new section to chapter 28A.220 RCW;
8 adding a new section to chapter 28A.225 RCW; adding a new section to
9 chapter 28A.230 RCW; adding a new section to chapter 28A.235 RCW;
10 adding a new section to chapter 28A.300 RCW; adding a new section to
11 chapter 28A.305 RCW; adding a new section to chapter 28A.330 RCW;
12 adding a new section to chapter 28A.400 RCW; adding a new section to
13 chapter 28A.405 RCW; adding a new section to chapter 28A.600 RCW;
14 adding a new section to chapter 28A.640 RCW; and creating new sections.

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

16 NEW SECTION. **Sec. 1.** As we face a more complex society and
17 increasing demands are placed on schools and the educational services
18 they provide for children, it is important that school districts are
19 provided with flexibility to determine how best to work within their

1 communities to ensure students are meeting high academic standards. It
2 is the intent of the legislature to allow schools to approach their
3 educational mission with both increased flexibility and accountability
4 that will assist them in better meeting the needs of the students in
5 their district.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.320
7 RCW to read as follows:

8 (1) As provided in sections 3 through 21 of this act, the board of
9 directors of each school district may grant waivers, or partial
10 waivers, of state laws and rules to schools within the district. The
11 school board shall grant waivers in accordance with this section.

12 (2) To apply for waivers, a school principal must prepare an
13 application to the board of directors that identifies which laws and
14 rules are being requested for waiver and the rationale for the request.
15 The rationale must identify how granting the waivers will improve
16 student learning or the delivery of education services in the school.
17 The application must include evidence that the school's teachers,
18 classified employees, site council, parents, and students, as
19 appropriate, are committed to working cooperatively in implementing the
20 waiver.

21 (3) The school board shall provide for public review and comment
22 regarding the waiver request.

23 (4) The duration, renewal, and rescission of the waivers shall be
24 determined by the school district board of directors.

25 (5) The following may not be waived:

26 (a) Laws and rules pertaining to health, safety, and civil rights;

27 (b) Provisions of the basic education act relating to certificated
28 instructional staff ratios, RCW 28A.150.100; goals, RCW 28A.150.210;
29 funding allocations, formulas, and definitions, RCW 28A.150.250 and
30 28A.150.260; and salary and compensation minimum amounts and
31 limitations, RCW 28A.400.200;

32 (c) The essential academic learning requirements being developed by
33 the commission on student learning in RCW 28A.630.885;

34 (d) The assessment, accountability, and reporting requirements in
35 RCW 28A.230.190, the fourth grade standardized test; RCW 28A.230.230,
36 the eighth grade standardized test; RCW 28A.230.240, the eleventh grade
37 standardized test; RCW 28A.630.885, assessment requirements as

1 developed by the commission on student learning; and RCW 28A.320.205,
2 the annual performance report;

3 (e) Requirements in RCW 28A.150.220 pertaining to the total number
4 of program hours that must be offered;

5 (f) State and federal financial reporting and auditing
6 requirements;

7 (g) State constitutional requirements; and

8 (h) Certification and other requirements in chapter 28A.410 RCW.

9 (6) A school district may not include provisions in a collective
10 bargaining agreement that limit the district's authority to grant
11 waivers under this section.

12 (7) School district boards of directors granting waivers to state
13 laws and rules shall certify to the superintendent of public
14 instruction that they have a waiver review process in effect and shall
15 transmit to the superintendent of public instruction and the state
16 board of education a list of laws and rules that have been waived in
17 accordance with this section and a description of the process used in
18 considering the waivers. The superintendent of public instruction and
19 the state board of education shall review the waivers of state laws and
20 rules within their respective jurisdictions. The waivers shall be
21 approved by the superintendent of public instruction or the state board
22 of education, as appropriate, if the school district board of directors
23 complied with the requirements of this section. The superintendent of
24 public instruction or state board of education, as appropriate, shall
25 approve or deny the waiver request, in whole or in part, within forty
26 calendar days of receiving the list of waivers. If the district
27 receives no response from either the superintendent of public
28 instruction or the state board of education after forty days, the
29 waiver shall be deemed uncontested. If a waiver is contested by the
30 superintendent of public instruction or the state board of education,
31 either as appropriate, may make recommendations to the district that
32 will assist the district in accomplishing the goal sought through the
33 waiver. The state board of education may delegate the responsibility
34 for reviewing and approving or denying the waivers to its staff if an
35 appeal procedure to the board is provided.

36 (8) School district boards of directors granting waivers shall
37 report annually to the superintendent of public instruction the impact
38 on student learning or delivery of education services resulting from
39 the waivers granted.

1 (9) The superintendent of public instruction and state board of
2 education shall report to the legislature by November 1, 2000, the laws
3 and rules that have been waived in accordance with this section.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.150
5 RCW to read as follows:

6 Schools may obtain, in accordance with section 2 of this act,
7 waivers from the statutory requirements in this chapter that pertain to
8 the instructional program, operation, and management of schools.
9 Waivers also may be obtained, in accordance with section 2 of this act,
10 from any rules of the state board of education and superintendent of
11 public instruction adopted to implement the statutory requirements.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.155
13 RCW to read as follows:

14 Schools may obtain, in accordance with section 2 of this act,
15 waivers from the statutory requirements in this chapter that pertain to
16 the instructional program, operation, and management of schools.
17 Waivers also may be obtained, in accordance with section 2 of this act,
18 from any rules of the state board of education and superintendent of
19 public instruction adopted to implement the statutory requirements.
20 School districts may not waive the district's obligation to meet all
21 state and federal statutes applicable to the education of individuals
22 with disabilities.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.165
24 RCW to read as follows:

25 Schools may obtain, in accordance with section 2 of this act,
26 waivers from the statutory requirements in this chapter that pertain to
27 the instructional program, operation, and management of schools.
28 Waivers also may be obtained, in accordance with section 2 of this act,
29 from any rules of the state board of education and superintendent of
30 public instruction adopted to implement the statutory requirements.

31 NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.175
32 RCW to read as follows:

33 Schools may obtain, in accordance with section 2 of this act,
34 waivers from the statutory requirements in this chapter that pertain to
35 the instructional program, operation, and management of schools.

1 Waivers also may be obtained, in accordance with section 2 of this act,
2 from any rules of the state board of education and superintendent of
3 public instruction adopted to implement the statutory requirements.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.180
5 RCW to read as follows:

6 Schools may obtain, in accordance with section 2 of this act,
7 waivers from the statutory requirements in this chapter that pertain to
8 the instructional program, operation, and management of schools.
9 Waivers also may be obtained, in accordance with section 2 of this act,
10 from any rules of the state board of education and superintendent of
11 public instruction adopted to implement the statutory requirements.

12 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.185
13 RCW to read as follows:

14 Schools may obtain, in accordance with section 2 of this act,
15 waivers from the statutory requirements in this chapter that pertain to
16 the instructional program, operation, and management of schools.
17 Waivers also may be obtained, in accordance with section 2 of this act,
18 from any rules of the state board of education and superintendent of
19 public instruction adopted to implement the statutory requirements.

20 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.210
21 RCW to read as follows:

22 Schools may obtain, in accordance with section 2 of this act,
23 waivers from the statutory requirements in this chapter that pertain to
24 the instructional program, operation, and management of schools.
25 Waivers also may be obtained, in accordance with section 2 of this act,
26 from any rules of the state board of education and superintendent of
27 public instruction adopted to implement the statutory requirements.

28 NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.220
29 RCW to read as follows:

30 Schools may obtain, in accordance with section 2 of this act,
31 waivers from the statutory requirements in this chapter that pertain to
32 the instructional program, operation, and management of schools.
33 Waivers also may be obtained, in accordance with section 2 of this act,
34 from any rules of the state board of education and superintendent of
35 public instruction adopted to implement the statutory requirements.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 28A.225
2 RCW to read as follows:

3 Schools may obtain, in accordance with section 2 of this act,
4 waivers from the statutory requirements in this chapter that pertain to
5 the instructional program, operation, and management of schools.
6 Waivers also may be obtained, in accordance with section 2 of this act,
7 from any rules of the state board of education and superintendent of
8 public instruction adopted to implement the statutory requirements.

9 NEW SECTION. **Sec. 12.** A new section is added to chapter 28A.230
10 RCW to read as follows:

11 Schools may obtain, in accordance with section 2 of this act,
12 waivers from the statutory requirements in this chapter that pertain to
13 the instructional program, operation, and management of schools.
14 Waivers also may be obtained, in accordance with section 2 of this act,
15 from any rules of the state board of education and superintendent of
16 public instruction adopted to implement the statutory requirements.

17 NEW SECTION. **Sec. 13.** A new section is added to chapter 28A.235
18 RCW to read as follows:

19 Schools may obtain, in accordance with section 2 of this act,
20 waivers from the statutory requirements in this chapter that pertain to
21 the instructional program, operation, and management of schools.
22 Waivers also may be obtained, in accordance with section 2 of this act,
23 from any rules of the state board of education and superintendent of
24 public instruction adopted to implement the statutory requirements.

25 NEW SECTION. **Sec. 14.** A new section is added to chapter 28A.300
26 RCW to read as follows:

27 Schools may obtain, in accordance with section 2 of this act,
28 waivers from the statutory requirements in this chapter that pertain to
29 the instructional program, operation, and management of schools.
30 Waivers also may be obtained, in accordance with section 2 of this act,
31 from any rules of the state board of education and superintendent of
32 public instruction adopted to implement the statutory requirements.

33 NEW SECTION. **Sec. 15.** A new section is added to chapter 28A.305
34 RCW to read as follows:

1 Schools may obtain, in accordance with section 2 of this act,
2 waivers from the statutory requirements in this chapter that pertain to
3 the instructional program, operation, and management of schools.
4 Waivers also may be obtained, in accordance with section 2 of this act,
5 from any rules of the state board of education and superintendent of
6 public instruction adopted to implement the statutory requirements.

7 NEW SECTION. **Sec. 16.** A new section is added to chapter 28A.320
8 RCW to read as follows:

9 Schools may obtain, in accordance with section 2 of this act,
10 waivers from the statutory requirements in this chapter that pertain to
11 the instructional program, operation, and management of schools.
12 Waivers also may be obtained, in accordance with section 2 of this act,
13 from any rules of the state board of education and superintendent of
14 public instruction adopted to implement the statutory requirements. No
15 waivers may be obtained from section 2 of this act.

16 NEW SECTION. **Sec. 17.** A new section is added to chapter 28A.330
17 RCW to read as follows:

18 Schools may obtain, in accordance with section 2 of this act,
19 waivers from the statutory requirements in this chapter that pertain to
20 the instructional program, operation, and management of schools.
21 Waivers also may be obtained, in accordance with section 2 of this act,
22 from any rules of the state board of education and superintendent of
23 public instruction adopted to implement the statutory requirements.

24 NEW SECTION. **Sec. 18.** A new section is added to chapter 28A.400
25 RCW to read as follows:

26 Schools may obtain, in accordance with section 2 of this act,
27 waivers from the statutory requirements in this chapter that pertain to
28 the instructional program, operation, and management of schools.
29 Waivers also may be obtained, in accordance with section 2 of this act,
30 from any rules of the state board of education and superintendent of
31 public instruction adopted to implement the statutory requirements.

32 NEW SECTION. **Sec. 19.** A new section is added to chapter 28A.405
33 RCW to read as follows:

34 Schools may obtain, in accordance with section 2 of this act,
35 waivers from the statutory requirements in this chapter that pertain to

1 the instructional program, operation, and management of schools.
2 Waivers also may be obtained, in accordance with section 2 of this act,
3 from any rules of the state board of education and superintendent of
4 public instruction adopted to implement the statutory requirements.

5 NEW SECTION. **Sec. 20.** A new section is added to chapter 28A.600
6 RCW to read as follows:

7 Schools may obtain, in accordance with section 2 of this act,
8 waivers from the statutory requirements in this chapter that pertain to
9 the instructional program, operation, and management of schools.
10 Waivers also may be obtained, in accordance with section 2 of this act,
11 from any rules of the state board of education and superintendent of
12 public instruction adopted to implement the statutory requirements.

13 NEW SECTION. **Sec. 21.** A new section is added to chapter 28A.640
14 RCW to read as follows:

15 Schools may obtain, in accordance with section 2 of this act,
16 waivers from the statutory requirements in this chapter that pertain to
17 the instructional program, operation, and management of schools.
18 Waivers also may be obtained, in accordance with section 2 of this act,
19 from any rules of the state board of education and superintendent of
20 public instruction adopted to implement the statutory requirements.

21 **Sec. 22.** RCW 28A.405.100 and 1994 c 115 s 1 are each amended to
22 read as follows:

23 (1) The superintendent of public instruction shall establish and
24 may amend from time to time minimum criteria for the evaluation of the
25 professional performance capabilities and development of certificated
26 classroom teachers and certificated support personnel. For classroom
27 teachers the criteria shall be developed in the following categories:
28 Instructional skill; classroom management, professional preparation and
29 scholarship; effort toward improvement when needed; the handling of
30 student discipline and attendant problems; and interest in teaching
31 pupils and knowledge of subject matter.

32 Every board of directors shall, in accordance with procedure
33 provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920,
34 establish evaluative criteria and procedures for all certificated
35 classroom teachers and certificated support personnel. The evaluative
36 criteria must contain as a minimum the criteria established by the

1 superintendent of public instruction pursuant to this section and must
2 be prepared within six months following adoption of the superintendent
3 of public instruction's minimum criteria. The district must certify to
4 the superintendent of public instruction that evaluative criteria have
5 been so prepared by the district.

6 Except as provided in subsection (5) of this section, it shall be
7 the responsibility of a principal or his or her designee to evaluate
8 all certificated personnel in his or her school. During each school
9 year all classroom teachers and certificated support personnel,
10 hereinafter referred to as "employees" in this section, shall be
11 observed for the purposes of evaluation at least twice in the
12 performance of their assigned duties. Total observation time for each
13 employee for each school year shall be not less than sixty minutes.
14 Following each observation, or series of observations, the principal or
15 other evaluator shall promptly document the results of the observation
16 in writing, and shall provide the employee with a copy thereof within
17 three days after such report is prepared. New employees shall be
18 observed at least once for a total observation time of thirty minutes
19 during the first ninety calendar days of their employment period.

20 ~~((Every))~~ At any time after October 15th, an employee whose work is
21 judged unsatisfactory based on district evaluation criteria shall be
22 notified in writing of ~~((stated))~~ the specific areas of deficiencies
23 along with a ~~((suggested specific and))~~ reasonable program for
24 improvement ~~((on or before February 1st of each year))~~. During the
25 period of probation, the employee may not be transferred from the
26 supervision of the original evaluator. Improvement of performance or
27 probable cause for nonrenewal must occur and be documented by the
28 original evaluator before any consideration of a request for transfer
29 or reassignment as contemplated by either the individual or the school
30 district. A probationary period of sixty school days shall be
31 established ~~((beginning on or before February 1st and ending no later~~
32 than May 1st)). The establishment of a probationary period does not
33 adversely affect the contract status of an employee within the meaning
34 of RCW 28A.405.300. The purpose of the probationary period is to give
35 the employee opportunity to demonstrate improvements in his or her
36 areas of deficiency. The establishment of the probationary period and
37 the giving of the notice to the employee of deficiency shall be by the
38 school district superintendent and need not be submitted to the board
39 of directors for approval. During the probationary period the

1 evaluator shall meet with the employee at least twice monthly to
2 supervise and make a written evaluation of the progress, if any, made
3 by the employee. The evaluator may authorize one additional
4 certificated employee to evaluate the probationer and to aid the
5 employee in improving his or her areas of deficiency; such additional
6 certificated employee shall be immune from any civil liability that
7 might otherwise be incurred or imposed with regard to the good faith
8 performance of such evaluation. The probationer may be removed from
9 probation if he or she has demonstrated improvement to the satisfaction
10 of the principal in those areas specifically detailed in his or her
11 initial notice of deficiency and subsequently detailed in his or her
12 improvement program. Lack of necessary improvement (~~(shall be)~~) during
13 the established probationary period, as specifically documented in
14 writing with notification to the probationer and shall constitute
15 grounds for a finding of probable cause under RCW 28A.405.300 or
16 28A.405.210.

17 (~~The establishment of a probationary period shall not be deemed to~~
18 ~~adversely affect the contract status of an employee within the meaning~~
19 ~~of RCW 28A.405.300.))~~

20 Immediately following the completion of a probationary period that
21 does not produce performance changes detailed in the initial notice of
22 deficiencies and improvement program, the employee may be removed from
23 his or her assignment and placed into an alternative assignment for the
24 remainder of the school year. This reassignment may not displace
25 another employee nor may it adversely affect the probationary
26 employee's compensation or benefits for the remainder of the employee's
27 contract year. If such reassignment is not possible, the district may,
28 at its option, place the employee on paid leave for the balance of the
29 contract term.

30 (2) Every board of directors shall establish evaluative criteria
31 and procedures for all superintendents, principals, and other
32 administrators. It shall be the responsibility of the district
33 superintendent or his or her designee to evaluate all administrators.
34 Such evaluation shall be based on the administrative position job
35 description. Such criteria, when applicable, shall include at least
36 the following categories: Knowledge of, experience in, and training in
37 recognizing good professional performance, capabilities and
38 development; school administration and management; school finance;
39 professional preparation and scholarship; effort toward improvement

1 when needed; interest in pupils, employees, patrons and subjects taught
2 in school; leadership; and ability and performance of evaluation of
3 school personnel.

4 (3) Each certificated employee shall have the opportunity for
5 confidential conferences with his or her immediate supervisor on no
6 less than two occasions in each school year. Such confidential
7 conference shall have as its sole purpose the aiding of the
8 administrator in his or her assessment of the employee's professional
9 performance.

10 (4) The failure of any evaluator to evaluate or supervise or cause
11 the evaluation or supervision of certificated employees or
12 administrators in accordance with this section, as now or hereafter
13 amended, when it is his or her specific assigned or delegated
14 responsibility to do so, shall be sufficient cause for the nonrenewal
15 of any such evaluator's contract under RCW 28A.405.210, or the
16 discharge of such evaluator under RCW 28A.405.300.

17 (5) After an employee has four years of satisfactory evaluations
18 under subsection (1) of this section, a school district may use a short
19 form of evaluation, a locally bargained evaluation emphasizing
20 professional growth, an evaluation under subsection (1) of this
21 section, or any combination thereof. The short form of evaluation
22 shall include either a thirty minute observation during the school year
23 with a written summary or a final annual written evaluation based on
24 the criteria in subsection (1) of this section and based on at least
25 two observation periods during the school year totaling at least sixty
26 minutes without a written summary of such observations being prepared.
27 However, the evaluation process set forth in subsection (1) of this
28 section shall be followed at least once every three years unless this
29 time is extended by a local school district under the bargaining
30 process set forth in chapter 41.59 RCW. The employee or evaluator may
31 require that the evaluation process set forth in subsection (1) of this
32 section be conducted in any given school year. No evaluation other
33 than the evaluation authorized under subsection (1) of this section may
34 be used as a basis for determining that an employee's work is
35 unsatisfactory under subsection (1) of this section or as probable
36 cause for the nonrenewal of an employee's contract under RCW
37 28A.405.210 unless an evaluation process developed under chapter 41.59
38 RCW determines otherwise.

1 **Sec. 23.** RCW 41.59.935 and 1990 c 33 s 571 are each amended to
2 read as follows:

3 Nothing in this chapter shall be construed to grant employers or
4 employees the right to reach agreements regarding:

5 (1) Salary or compensation increases in excess of those authorized
6 in accordance with RCW 28A.150.410 and 28A.400.200; or

7 (2) Limiting the employer's authority to grant waivers under
8 section 2 of this act.

9 **Sec. 24.** RCW 28A.335.170 and 1990 c 33 s 360 are each amended to
10 read as follows:

11 The board of directors of any school district may enter into
12 contracts for their respective districts for periods not exceeding five
13 years in duration with public and private persons, organizations, and
14 entities for the following purposes:

15 (1) To rent or lease building space, portable buildings, security
16 systems, computers and other equipment. A school district
17 administrator or principal may obtain, in accordance with section 2 of
18 this act, waivers from the five-year restriction. Waivers also may be
19 obtained, in accordance with section 2 of this act, from any rules of
20 the state board of education and superintendent of public instruction
21 adopted to implement the statutory requirements;

22 (2) To have maintained and repaired security systems, computers and
23 other equipment; and

24 (3) To provide pupil transportation services.

25 No school district may enter into a contract for pupil
26 transportation unless it has notified the superintendent of public
27 instruction that, in the best judgment of the district, the cost of
28 contracting will not exceed the projected cost of operating its own
29 pupil transportation.

30 The budget of each school district shall identify that portion of
31 each contractual liability incurred pursuant to this section extending
32 beyond the fiscal year by amount, duration, and nature of the
33 contracted service and/or item in accordance with rules and regulations
34 of the superintendent of public instruction adopted pursuant to RCW
35 28A.505.140 and 28A.310.330.

36 The provisions of this section shall not have any effect on the
37 length of contracts for school district employees specified by RCW
38 28A.400.300 and 28A.405.210.

1 NEW SECTION. **Sec. 25.** The superintendent of public instruction,
2 in collaboration with school district personnel and the state board of
3 education, shall conduct a study to identify additional actions that
4 can be taken to increase flexibility for individual schools and school
5 districts. The study shall review the superintendent of public
6 instruction's rule-making process, the granting of waivers from
7 provisions of collective bargaining agreements, and other policies and
8 practices that reduce school and school district flexibility. The
9 study shall be submitted to the education committees of the senate and
10 house of representatives by December 1, 1997.

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