

2 **E2SHB 1303** - S AMD - 492
3 By Senator Hochstatter

4 ADOPTED AS AMENDED 4/18/97

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** As we face a more complex society and
8 increasing demands are placed on schools and the educational services
9 they provide for children, it is important that school districts are
10 provided with flexibility to determine how best to work within their
11 communities to ensure students are meeting high academic standards. It
12 is the intent of the legislature to allow schools to approach their
13 educational mission with both increased flexibility and accountability
14 that will assist them in better meeting the needs of the students in
15 their district.

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

18 (1) As provided in sections 3 through 20 of this act, the board of
19 directors of each school district may grant waivers, or partial
20 waivers, of state laws and rules to schools within the district. The
21 school board shall grant waivers in accordance with this section.

22 (2) To apply for waivers, a school principal must prepare an
23 application to the board of directors that identifies which laws and
24 rules are being requested for waiver and the rationale for the request.
25 The rationale must identify how granting the waivers will improve
26 student learning or the delivery of education services in the school.
27 The application must include evidence that the school's teachers,
28 classified employees, site council, parents, and students, as
29 appropriate, are committed to working cooperatively in implementing the
30 waiver.

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

33 (4) The duration, renewal, and rescission of the waivers shall be
34 determined by the school district board of directors. The renewal of
35 a waiver shall be subject to the review process by the superintendent

1 of public instruction and the state board of education as provided in
2 subsection (7) of this section.

3 (5) The following may not be waived:

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

5 (b) Provisions of the basic education act relating to certificated
6 instructional staff ratios, RCW 28A.150.100, except for waivers
7 provided in accordance with RCW 28A.630.945; goals, RCW 28A.150.210;
8 funding allocations, formulas, and definitions, RCW 28A.150.250 and
9 28A.150.260, except for waivers provided in accordance with RCW
10 28A.150.250; and salary and compensation minimum amounts and
11 limitations, RCW 28A.400.200;

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

14 (d) The assessment, accountability, and reporting requirements in
15 RCW 28A.230.190, the fourth grade standardized test; RCW 28A.230.230,
16 the eighth grade standardized test; RCW 28A.230.240, the eleventh grade
17 standardized test; RCW 28A.630.885, assessment requirements as
18 developed by the commission on student learning; and RCW 28A.320.205,
19 the annual performance report;

20 (e) Requirements in RCW 28A.150.220 pertaining to the total number
21 of program hours that must be offered, except for waivers provided in
22 accordance with RCW 28A.305.140;

23 (f) State and federal financial reporting and auditing
24 requirements;

25 (g) State constitutional requirements; and

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

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

30 (7) School district boards of directors granting waivers to state
31 laws and rules shall certify to the superintendent of public
32 instruction that they have a waiver review process in effect and shall
33 transmit to the superintendent of public instruction and the state
34 board of education a list of laws and rules that have been waived in
35 accordance with this section and a description of the process used in
36 considering the waivers. The superintendent of public instruction and
37 the state board of education shall review the waivers of state laws and
38 rules within their respective jurisdictions. The waivers shall be
39 approved by the superintendent of public instruction or the state board

1 of education, as appropriate, if the school district board of directors
2 complied with the requirements of this section. The superintendent of
3 public instruction or state board of education, as appropriate, shall
4 approve or deny the waiver request, in whole or in part, within forty
5 calendar days of receiving the list of waivers. If the district
6 receives no response from either the superintendent of public
7 instruction or the state board of education after forty days, the
8 waiver shall be deemed uncontested. If a waiver is contested by the
9 superintendent of public instruction or the state board of education,
10 either as appropriate, may make recommendations to the district that
11 will assist the district in accomplishing the goal sought through the
12 waiver. The state board of education may delegate the responsibility
13 for reviewing and approving or denying the waivers to its staff if an
14 appeal procedure to the board is provided.

15 (8) School district boards of directors granting waivers shall
16 report annually to the superintendent of public instruction the impact
17 on student learning or delivery of education services resulting from
18 the waivers granted.

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

22 (10) This section expires June 30, 1999.

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

25 (1) 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 (2) This section expires June 30, 1999.

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

34 (1) Schools may obtain, in accordance with section 2 of this act,
35 waivers from the statutory requirements in this chapter that pertain to
36 the instructional program, operation, and management of schools, except
37 that the statutory requirements of RCW 28A.155.105 and RCW 28A.155.115

1 may not be waived. Waivers also may be obtained, in accordance with
2 section 2 of this act, from any rules of the state board of education
3 and superintendent of public instruction adopted to implement the
4 statutory requirements, except that any rules adopted to implement RCW
5 28A.155.105 and RCW 28A.155.115 may not be waived. School districts
6 may not waive the district's obligation to meet all federal statutes
7 applicable to the education of individuals with disabilities.

8 (2) This section expires June 30, 1999.

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

11 (1) 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 (2) This section expires June 30, 1999.

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

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

26 (2) This section expires June 30, 1999.

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

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

35 (2) This section expires June 30, 1999.

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

3 (1) 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 (2) This section expires June 30, 1999.

10 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.220
11 RCW to read as follows:

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

18 (2) This section expires June 30, 1999.

19 NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.225
20 RCW to read as follows:

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

27 (2) This section expires June 30, 1999.

28 NEW SECTION. **Sec. 11.** A new section is added to chapter 28A.230
29 RCW to read as follows:

30 (1) 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.

36 (2) This section expires June 30, 1999.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 28A.235
2 RCW to read as follows:

3 (1) 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 (2) This section expires June 30, 1999.

10 NEW SECTION. **Sec. 13.** A new section is added to chapter 28A.300
11 RCW to read as follows:

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

18 (2) This section expires June 30, 1999.

19 NEW SECTION. **Sec. 14.** A new section is added to chapter 28A.305
20 RCW to read as follows:

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

27 (2) This section expires June 30, 1999.

28 NEW SECTION. **Sec. 15.** A new section is added to chapter 28A.320
29 RCW to read as follows:

30 (1) 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. No
36 waivers may be obtained from section 2 of this act.

1 (2) This section expires June 30, 1999.

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

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

10 (2) This section expires June 30, 1999.

11 NEW SECTION. **Sec. 17.** A new section is added to chapter 28A.400
12 RCW to read as follows:

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

19 (2) This section expires June 30, 1999.

20 NEW SECTION. **Sec. 18.** A new section is added to chapter 28A.405
21 RCW to read as follows:

22 (1) 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 (2) This section expires June 30, 1999.

29 NEW SECTION. **Sec. 19.** A new section is added to chapter 28A.600
30 RCW to read as follows:

31 (1) Schools may obtain, in accordance with section 2 of this act,
32 waivers from the statutory requirements in this chapter that pertain to
33 the instructional program, operation, and management of schools.
34 Waivers also may be obtained, in accordance with section 2 of this act,

1 from any rules of the state board of education and superintendent of
2 public instruction adopted to implement the statutory requirements.

3 (2) This section expires June 30, 1999.

4 NEW SECTION. **Sec. 20.** A new section is added to chapter 28A.640
5 RCW to read as follows:

6 (1) 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 (2) This section expires June 30, 1999.

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

15 (1) The superintendent of public instruction shall establish and
16 may amend from time to time minimum criteria for the evaluation of the
17 professional performance capabilities and development of certificated
18 classroom teachers and certificated support personnel. For classroom
19 teachers the criteria shall be developed in the following categories:
20 Instructional skill; classroom management, professional preparation and
21 scholarship; effort toward improvement when needed; the handling of
22 student discipline and attendant problems; and interest in teaching
23 pupils and knowledge of subject matter.

24 Every board of directors shall, in accordance with procedure
25 provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920,
26 establish evaluative criteria and procedures for all certificated
27 classroom teachers and certificated support personnel. The evaluative
28 criteria must contain as a minimum the criteria established by the
29 superintendent of public instruction pursuant to this section and must
30 be prepared within six months following adoption of the superintendent
31 of public instruction's minimum criteria. The district must certify to
32 the superintendent of public instruction that evaluative criteria have
33 been so prepared by the district.

34 Except as provided in subsection (5) of this section, it shall be
35 the responsibility of a principal or his or her designee to evaluate
36 all certificated personnel in his or her school. During each school
37 year all classroom teachers and certificated support personnel,

1 hereinafter referred to as "employees" in this section, shall be
2 observed for the purposes of evaluation at least twice in the
3 performance of their assigned duties. Total observation time for each
4 employee for each school year shall be not less than sixty minutes.
5 Following each observation, or series of observations, the principal or
6 other evaluator shall promptly document the results of the observation
7 in writing, and shall provide the employee with a copy thereof within
8 three days after such report is prepared. New employees shall be
9 observed at least once for a total observation time of thirty minutes
10 during the first ninety calendar days of their employment period.

11 ~~((Every))~~ At any time after October 15th, an employee whose work is
12 judged unsatisfactory based on district evaluation criteria shall be
13 notified in writing of ~~((stated))~~ the specific areas of deficiencies
14 along with a ~~((suggested specific and))~~ reasonable program for
15 improvement ~~((on or before February 1st of each year))~~. During the
16 period of probation, the employee may not be transferred from the
17 supervision of the original evaluator. Improvement of performance or
18 probable cause for nonrenewal must occur and be documented by the
19 original evaluator before any consideration of a request for transfer
20 or reassignment as contemplated by either the individual or the school
21 district. A probationary period of sixty school days shall be
22 established ~~((beginning on or before February 1st and ending no later~~
23 than May 1st)). The establishment of a probationary period does not
24 adversely affect the contract status of an employee within the meaning
25 of RCW 28A.405.300. The purpose of the probationary period is to give
26 the employee opportunity to demonstrate improvements in his or her
27 areas of deficiency. The establishment of the probationary period and
28 the giving of the notice to the employee of deficiency shall be by the
29 school district superintendent and need not be submitted to the board
30 of directors for approval. During the probationary period the
31 evaluator shall meet with the employee at least twice monthly to
32 supervise and make a written evaluation of the progress, if any, made
33 by the employee. The evaluator may authorize one additional
34 certificated employee to evaluate the probationer and to aid the
35 employee in improving his or her areas of deficiency; such additional
36 certificated employee shall be immune from any civil liability that
37 might otherwise be incurred or imposed with regard to the good faith
38 performance of such evaluation. The probationer may be removed from
39 probation if he or she has demonstrated improvement to the satisfaction

1 of the principal in those areas specifically detailed in his or her
2 initial notice of deficiency and subsequently detailed in his or her
3 improvement program. Lack of necessary improvement (~~(shall be)~~) during
4 the established probationary period, as specifically documented in
5 writing with notification to the probationer and shall constitute
6 grounds for a finding of probable cause under RCW 28A.405.300 or
7 28A.405.210.

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

11 Immediately following the completion of a probationary period that
12 does not produce performance changes detailed in the initial notice of
13 deficiencies and improvement program, the employee may be removed from
14 his or her assignment and placed into an alternative assignment for the
15 remainder of the school year. This reassignment may not displace
16 another employee nor may it adversely affect the probationary
17 employee's compensation or benefits for the remainder of the employee's
18 contract year. If such reassignment is not possible, the district may,
19 at its option, place the employee on paid leave for the balance of the
20 contract term.

21 (2) Every board of directors shall establish evaluative criteria
22 and procedures for all superintendents, principals, and other
23 administrators. It shall be the responsibility of the district
24 superintendent or his or her designee to evaluate all administrators.
25 Such evaluation shall be based on the administrative position job
26 description. Such criteria, when applicable, shall include at least
27 the following categories: Knowledge of, experience in, and training in
28 recognizing good professional performance, capabilities and
29 development; school administration and management; school finance;
30 professional preparation and scholarship; effort toward improvement
31 when needed; interest in pupils, employees, patrons and subjects taught
32 in school; leadership; and ability and performance of evaluation of
33 school personnel.

34 (3) Each certificated employee shall have the opportunity for
35 confidential conferences with his or her immediate supervisor on no
36 less than two occasions in each school year. Such confidential
37 conference shall have as its sole purpose the aiding of the
38 administrator in his or her assessment of the employee's professional
39 performance.

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

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

30 (6) This section expires June 30, 1999.

31 **Sec. 22.** RCW 41.59.935 and 1990 c 33 s 571 are each amended to
32 read as follows:

33 (1) Nothing in this chapter shall be construed to grant employers
34 or employees the right to reach agreements regarding:

35 (a) Salary or compensation increases in excess of those authorized
36 in accordance with RCW 28A.150.410 and 28A.400.200; or

37 (b) Limiting the employer's authority to grant waivers under
38 section 2 of this act.

1 (2) This section expires June 30, 1999.

2 **Sec. 23.** RCW 28A.630.945 and 1995 c 208 s 1 are each amended to
3 read as follows:

4 (1) The state board of education, where appropriate, or the
5 superintendent of public instruction, where appropriate, may grant
6 waivers to districts from the provisions of statutes or rules relating
7 to: The length of the school year; student-to-teacher ratios; and
8 other administrative rules that in the opinion of the state board of
9 education or the opinion of the superintendent of public instruction
10 may need to be waived in order for a district to implement a plan for
11 restructuring its educational program or the educational program of
12 individual schools within the district.

13 (2) School districts may use the application process in RCW
14 28A.305.140 or 28A.300.138 to apply for the waivers under subsection
15 (1) of this section.

16 (3) ~~((The joint select committee on education restructuring shall
17 study which waivers of state laws or rules are necessary for school
18 districts to implement education restructuring. The committee shall
19 study whether the waivers are used to implement specific essential
20 academic learning requirements and student learning goals. The
21 committee shall study the availability of waivers under the schools for
22 the twenty-first century program created by chapter 525, Laws of 1987,
23 and the use of those waivers by schools participating in that program.
24 The committee shall also study the use of waivers authorized under RCW
25 28A.305.140. The committee shall report its findings to the
26 legislature by December 1, 1997))~~ This section expires June 30, 1999.

27 NEW SECTION. **Sec. 24.** The superintendent of public instruction,
28 in collaboration with school district personnel and the state board of
29 education, shall conduct a study to identify additional actions that
30 can be taken to increase flexibility for individual schools and school
31 districts. The study shall review the superintendent of public
32 instruction's rule-making process, the granting of waivers from
33 provisions of collective bargaining agreements, and other policies and
34 practices that reduce school and school district flexibility. The
35 study shall be submitted to the education committees of the senate and
36 house of representatives by December 1, 1997."

1 **E2SHB 1303** - S AMD - 492
2 By Senator Hochstatter

ADOPTED 4/18/97

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4 On page 1, line 1 of the title, after "education;" strike the
5 remainder of the title and insert "amending RCW 28A.405.100, 41.59.935,
6 and 28A.630.945; adding new sections to chapter 28A.320 RCW; adding a
7 new section to chapter 28A.150 RCW; adding a new section to chapter
8 28A.155 RCW; adding a new section to chapter 28A.165 RCW; adding a new
9 section to chapter 28A.175 RCW; adding a new section to chapter 28A.180
10 RCW; adding a new section to chapter 28A.185 RCW; adding a new section
11 to chapter 28A.220 RCW; adding a new section to chapter 28A.225 RCW;
12 adding a new section to chapter 28A.230 RCW; adding a new section to
13 chapter 28A.235 RCW; adding a new section to chapter 28A.300 RCW;
14 adding a new section to chapter 28A.305 RCW; adding a new section to
15 chapter 28A.330 RCW; adding a new section to chapter 28A.400 RCW;
16 adding a new section to chapter 28A.405 RCW; adding a new section to
17 chapter 28A.600 RCW; adding a new section to chapter 28A.640 RCW;
18 creating new sections; and providing expiration dates."

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