

2 E2SHB 1303 - S AMD - 527
3 By Senators Finkbeiner and Johnson

4

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

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

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

32 Schools may obtain, in accordance with section 2 of this act,
33 waivers from the statutory requirements in this chapter that pertain to
34 the instructional program, operation, and management of schools, except
35 that the statutory requirements of RCW 28A.155.105 and 28A.155.115 may
36 not be waived. Waivers also may be obtained, in accordance with
37 section 2 of this act, from any rules of the state board of education

1 and superintendent of public instruction adopted to implement the
2 statutory requirements, except that any rules adopted to implement RCW
3 28A.155.105 and 28A.155.115 may not be waived. School districts may
4 not waive the district's obligation to meet all federal statutes
5 applicable to the education of individuals with disabilities.

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

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

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

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

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

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

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

32 Schools may obtain, in accordance with section 2 of this act,
33 waivers from the statutory requirements in this chapter that pertain to
34 the instructional program, operation, and management of schools.
35 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 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.220
4 RCW to read as follows:

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

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

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

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

29 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.

1 NEW SECTION. **Sec. 13.** A new section is added to chapter 28A.300
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. 14.** A new section is added to chapter 28A.305
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. 15.** A new section is added to chapter 28A.320
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. No
25 waivers may be obtained from section 2 of this act.

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

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

34 NEW SECTION. **Sec. 17.** A new section is added to chapter 28A.400
35 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. 18.** A new section is added to chapter 28A.405
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.

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

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

23 NEW SECTION. **Sec. 20.** A new section is added to chapter 28A.640
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 **Sec. 21.** RCW 28A.405.100 and 1994 c 115 s 1 are each amended to
32 read as follows:

33 (1) The superintendent of public instruction shall establish and
34 may amend from time to time minimum criteria for the evaluation of the
35 professional performance capabilities and development of certificated

1 classroom teachers and certificated support personnel. For classroom
2 teachers the criteria shall be developed in the following categories:
3 Instructional skill; classroom management, professional preparation and
4 scholarship; effort toward improvement when needed; the handling of
5 student discipline and attendant problems; and interest in teaching
6 pupils and knowledge of subject matter.

7 Every board of directors shall, in accordance with procedure
8 provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920,
9 establish evaluative criteria and procedures for all certificated
10 classroom teachers and certificated support personnel. The evaluative
11 criteria must contain as a minimum the criteria established by the
12 superintendent of public instruction pursuant to this section and must
13 be prepared within six months following adoption of the superintendent
14 of public instruction's minimum criteria. The district must certify to
15 the superintendent of public instruction that evaluative criteria have
16 been so prepared by the district.

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

31 ~~((Every))~~ At any time after October 15th, an employee whose work is
32 judged unsatisfactory based on district evaluation criteria shall be
33 notified in writing of ~~((stated))~~ the specific areas of deficiencies
34 along with a ~~((suggested specific and))~~ reasonable program for
35 improvement ~~((on or before February 1st of each year))~~. During the
36 period of probation, the employee may not be transferred from the
37 supervision of the original evaluator. Improvement of performance or
38 probable cause for nonrenewal must occur and be documented by the
39 original evaluator before any consideration of a request for transfer

1 or reassignment as contemplated by either the individual or the school
2 district. A probationary period of sixty school days shall be
3 established ((beginning on or before February 1st and ending no later
4 than May 1st)). The establishment of a probationary period does not
5 adversely affect the contract status of an employee within the meaning
6 of RCW 28A.405.300. The purpose of the probationary period is to give
7 the employee opportunity to demonstrate improvements in his or her
8 areas of deficiency. The establishment of the probationary period and
9 the giving of the notice to the employee of deficiency shall be by the
10 school district superintendent and need not be submitted to the board
11 of directors for approval. During the probationary period the
12 evaluator shall meet with the employee at least twice monthly to
13 supervise and make a written evaluation of the progress, if any, made
14 by the employee. The evaluator may authorize one additional
15 certificated employee to evaluate the probationer and to aid the
16 employee in improving his or her areas of deficiency; such additional
17 certificated employee shall be immune from any civil liability that
18 might otherwise be incurred or imposed with regard to the good faith
19 performance of such evaluation. The probationer may be removed from
20 probation if he or she has demonstrated improvement to the satisfaction
21 of the principal in those areas specifically detailed in his or her
22 initial notice of deficiency and subsequently detailed in his or her
23 improvement program. Lack of necessary improvement ((shall be)) during
24 the established probationary period, as specifically documented in
25 writing with notification to the probationer and shall constitute
26 grounds for a finding of probable cause under RCW 28A.405.300 or
27 28A.405.210.

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

31 Immediately following the completion of a probationary period that
32 does not produce performance changes detailed in the initial notice of
33 deficiencies and improvement program, the employee may be removed from
34 his or her assignment and placed into an alternative assignment for the
35 remainder of the school year. This reassignment may not displace
36 another employee nor may it adversely affect the probationary
37 employee's compensation or benefits for the remainder of the employee's
38 contract year. If such reassignment is not possible, the district may,

1 at its option, place the employee on paid leave for the balance of the
2 contract term.

3 (2) Every board of directors shall establish evaluative criteria
4 and procedures for all superintendents, principals, and other
5 administrators. It shall be the responsibility of the district
6 superintendent or his or her designee to evaluate all administrators.
7 Such evaluation shall be based on the administrative position job
8 description. Such criteria, when applicable, shall include at least
9 the following categories: Knowledge of, experience in, and training in
10 recognizing good professional performance, capabilities and
11 development; school administration and management; school finance;
12 professional preparation and scholarship; effort toward improvement
13 when needed; interest in pupils, employees, patrons and subjects taught
14 in school; leadership; and ability and performance of evaluation of
15 school personnel.

16 (3) Each certificated employee shall have the opportunity for
17 confidential conferences with his or her immediate supervisor on no
18 less than two occasions in each school year. Such confidential
19 conference shall have as its sole purpose the aiding of the
20 administrator in his or her assessment of the employee's professional
21 performance.

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

29 (5) After an employee has four years of satisfactory evaluations
30 under subsection (1) of this section, a school district may use a short
31 form of evaluation, a locally bargained evaluation emphasizing
32 professional growth, an evaluation under subsection (1) of this
33 section, or any combination thereof. The short form of evaluation
34 shall include either a thirty minute observation during the school year
35 with a written summary or a final annual written evaluation based on
36 the criteria in subsection (1) of this section and based on at least
37 two observation periods during the school year totaling at least sixty
38 minutes without a written summary of such observations being prepared.
39 However, the evaluation process set forth in subsection (1) of this

1 section shall be followed at least once every three years unless this
2 time is extended by a local school district under the bargaining
3 process set forth in chapter 41.59 RCW. The employee or evaluator may
4 require that the evaluation process set forth in subsection (1) of this
5 section be conducted in any given school year. No evaluation other
6 than the evaluation authorized under subsection (1) of this section may
7 be used as a basis for determining that an employee's work is
8 unsatisfactory under subsection (1) of this section or as probable
9 cause for the nonrenewal of an employee's contract under RCW
10 28A.405.210 unless an evaluation process developed under chapter 41.59
11 RCW determines otherwise.

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

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

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

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

20 **Sec. 23.** RCW 28A.335.170 and 1990 c 33 s 360 are each amended to
21 read as follows:

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

26 (1) To rent or lease building space, portable buildings, security
27 systems, computers and other equipment. A school district
28 administrator may obtain, in accordance with section 2 of this act,
29 waivers from the five-year restriction. Waivers also may be obtained,
30 in accordance with section 2 of this act, from any rules of the state
31 board of education and superintendent of public instruction adopted to
32 implement the statutory requirements;

33 (2) To have maintained and repaired security systems, computers and
34 other equipment; and

35 (3) To provide pupil transportation services.

36 No school district may enter into a contract for pupil
37 transportation unless it has notified the superintendent of public

1 instruction that, in the best judgment of the district, the cost of
2 contracting will not exceed the projected cost of operating its own
3 pupil transportation.

4 The budget of each school district shall identify that portion of
5 each contractual liability incurred pursuant to this section extending
6 beyond the fiscal year by amount, duration, and nature of the
7 contracted service and/or item in accordance with rules and regulations
8 of the superintendent of public instruction adopted pursuant to RCW
9 28A.505.140 and 28A.310.330.

10 The provisions of this section shall not have any effect on the
11 length of contracts for school district employees specified by RCW
12 28A.400.300 and 28A.405.210.

13 **Sec. 24.** RCW 28A.630.945 and 1995 c 208 s 1 are each amended to
14 read as follows:

15 (1) The state board of education, where appropriate, or the
16 superintendent of public instruction, where appropriate, may grant
17 waivers to districts from the provisions of statutes or rules relating
18 to: The length of the school year; student-to-teacher ratios; and
19 other administrative rules that in the opinion of the state board of
20 education or the opinion of the superintendent of public instruction
21 may need to be waived in order for a district to implement a plan for
22 restructuring its educational program or the educational program of
23 individual schools within the district.

24 (2) School districts may use the application process in RCW
25 28A.305.140 or 28A.300.138 to apply for the waivers under subsection
26 (1) of this section.

27 ~~((3) The joint select committee on education restructuring shall
28 study which waivers of state laws or rules are necessary for school
29 districts to implement education restructuring. The committee shall
30 study whether the waivers are used to implement specific essential
31 academic learning requirements and student learning goals. The
32 committee shall study the availability of waivers under the schools for
33 the twenty-first century program created by chapter 525, Laws of 1987,
34 and the use of those waivers by schools participating in that program.
35 The committee shall also study the use of waivers authorized under RCW
36 28A.305.140. The committee shall report its findings to the
37 legislature by December 1, 1997.))~~

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."

11 **E2SHB 1303** - S AMD - 527
12 By Senators Finkbeiner and Johnson

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14 On page 1, line 1 of the title, after "education;" strike the
15 remainder of the title and insert "amending RCW 28A.405.100, 41.59.935,
16 28A.335.170, and 28A.630.945; adding new sections to chapter 28A.320
17 RCW; adding a new section to chapter 28A.150 RCW; adding a new section
18 to chapter 28A.155 RCW; adding a new section to chapter 28A.165 RCW;
19 adding a new section to chapter 28A.175 RCW; adding a new section to
20 chapter 28A.180 RCW; adding a new section to chapter 28A.185 RCW;
21 adding a new section to chapter 28A.220 RCW; adding a new section to
22 chapter 28A.225 RCW; adding a new section to chapter 28A.230 RCW;
23 adding a new section to chapter 28A.235 RCW; adding a new section to
24 chapter 28A.300 RCW; adding a new section to chapter 28A.305 RCW;
25 adding a new section to chapter 28A.330 RCW; adding a new section to
26 chapter 28A.400 RCW; adding a new section to chapter 28A.405 RCW;
27 adding a new section to chapter 28A.600 RCW; adding a new section to
28 chapter 28A.640 RCW; and creating new sections."

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