

FINAL BILL REPORT

E2SHB 1303

PARTIAL VETO

C 431 L 97

Synopsis as Enacted

Brief Description: Changing education provisions.

Sponsors: 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.

House Committee on Education

House Committee on Appropriations

Senate Committee on Education

Background: Waivers. School districts may request waivers from state laws and administrative rules under a few statutes. The State Board of Education (SBE) and the Superintendent of Public Instruction have authority to grant waivers.

For example, a school district may petition the SBE for a reduction in the total program-hour offering requirements for one or more of the grade level groupings required in the Basic Education Act. The state board must grant the request under certain circumstances.

A broader waiver provision establishes criteria under which school districts may obtain waivers from the self-study requirements, teacher classroom contact hours, and total program-hour offerings if the school district submits a plan to the SBE for restructuring its educational program or the program of individual schools.

Another statutory provision provides that school districts may obtain waivers from the provisions of statutes or rules relating to the length of the school year, student-to-teacher ratios, and other administrative rules that in the state board's or the superintendent's opinion may need to be waived to allow a district to implement an education restructuring plan in the district or individual schools.

Despite the ability to obtain waivers of certain laws and rules, federal and state constitutional laws, certain federal regulations, and other state statutes effectively restrict the ability of a school district to obtain certain waivers.

Probation periods. If a certificated school employee's work is considered unsatisfactory based on district criteria, the employee must be notified of the specific problems and be given a suggested specific and reasonable program for improvement. The notice must be given by February 1. The employee may then be placed on probation beginning on or before February 1, and ending no later than May 1. The purpose of the probationary period is to give the employee the opportunity to demonstrate improvement in his or her area of deficiencies. Lack of necessary improvement constitutes grounds for finding probable cause for discharge or non-renewal.

Collective bargaining. Classified and certificated employees have a right to enter into collective bargaining agreements with school districts. The scope of what may be contained in collective bargaining agreements is broad, and includes grievance procedures, wages, hours, and working conditions.

Summary: Waivers. A school district board of directors may grant to individual schools within the district full or partial waivers of certain state laws that govern education provisions and the rules and policies that implement those laws. The principal must prepare an application identifying which laws and rules the school would like the district to waive and the rationale for the request. The rationale must identify how granting the waivers will improve student learning or the delivery of education services in the school. The school board must provide for public review and comment regarding the waiver request.

The following may not be waived:

- laws and rules pertaining to health, safety, and civil rights;
- assessment, accountability, and reporting requirements for the fourth, eighth, and eleventh grade standardized tests;
- statewide assessment requirements measuring the essential academic learning requirements;
- annual school performance reports;
- state and federal financial reporting and auditing requirements;
- various provisions of the Basic Education Act and the essential academic learning requirements being developed by the Commission on Student Learning;
- total program-hour offering requirements except as provided in current law;
- state constitutional requirements;
- the authority of the school board to grant waivers; and
- certification requirements.

School district boards of directors must certify to the SPI Superintendent of Public Instruction (SPI) that they have waiver review processes in place and must transmit to the SPI and the SBE a list of laws and rules that have been waived and a description of the process used to waive them. The SPI or the SBE must approve the waiver if

the school board has complied with the specified requirements. The SPI or the SBE must approve or deny the waiver within 40 days. If the waiver is not approved the SPI or SBE may make recommendations to the district to assist the district in accomplishing the goal sought by the waiver.

School district boards of directors must report annually to the SPI about the impact on student learning or delivery of education services resulting from the waivers granted.

The SPI and the SBE must report to the Legislature by November 1, 2000, identifying the laws and rules that have been waived.

Specific provisions regarding the ability of schools to obtain waivers is added to various chapters of the education code. Those specific provisions provide that schools may obtain waivers that pertain to the instructional program, operation, and management of schools.—

Those specific provisions are added to the following chapters in the education code:

- general provisions governing the Basic Education Act, except as prohibited;
- special Education, except that school districts may not waive the district's obligation to meet state and federal statutes applicable to the education of individuals with disabilities or state braille laws;
- learning assistance program;
- dropout prevention and retrieval program;
- transition bilingual instruction program;
- highly capable students;
- traffic safety;
- compulsory school attendance and admission provisions;
- compulsory course work and activities;
- food services, (state and federal school breakfast and school lunch programs);
- general provisions governing the SPI;
- general provisions governing the SBE;
- provisions applicable to certain school districts of different classes;
- provisions governing employees' salary and compensation and benefits, hiring and discharge;
- provisions governing students, such as honors award programs, scholars programs, high school options, school locker searches, alternatives to suspension, mandatory expulsion for possession of firearms on school premises, and exchange of information with other entities; and
- sexual equality and sexual harassment provisions.

The school district's authority to grant waivers is not subject to collective bargaining.

The SPI must conduct a study to identify additional ways to increase flexibility for schools and school districts. A report is due to the Legislature by December 1, 1997.

Probation periods. A certificated school employee may be placed on probation any time after October 15. A probation period will run for 60 days. When an employee is placed on probation, the employee must remain under supervision of the original evaluator. The original evaluator must document either improvement of performance, or probable cause for discharge or non-renewal before consideration of a request for transfer. If the employee does not improve satisfactorily, the employee may be removed from the assignment and moved into an alternative assignment for the rest of the school year without adversely affecting the employee's compensation or benefits. If reassignment is not possible, the employee may be placed on paid leave.

The act expires June 30, 1999.

Votes on Final Passage:

House 63 33
Senate 25 24 (Senate amended)
House (House refused to concur)
Senate (Senate refused to recede)
House 66 32 (House concurred)

Effective: July 27, 1997

Partial Veto Summary: The governor vetoed the authority of school districts' board of directors to grant waivers from statutes and rules governing special education, bilingual education, truancy, sexual equality, and probationary periods for certificated school employees.