

# HOUSE BILL REPORT

## E2SHB 1303

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### As Passed Legislature

**Title:** An act relating to education.

**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.

**Brief History:**

**Committee Activity:**

Education: 1/28/97, 2/13/97 [DPS];

Appropriations: 2/26/97, 3/4/97 [DP2S(w/o sub ED)].

**Floor Activity:**

Passed House: 3/13/97, 63-33.

Senate Amended.

House Refused to Concur.

Senate Insisted on Position.

House Concurred.

Passed Legislature.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Johnson, Chairman; Hickel, Vice Chairman; Smith; Sterk; Sump and Talcott.

**Minority Report:** Without recommendation. Signed by 5 members: Representatives Cole, Ranking Minority Member; Keiser, Assistant Ranking Minority Member; Linville; Quall and Veloria.

**Staff:** Pat Shelledy (786-7149).

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Education. Signed by 18 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; Benson; Carlson; Cooke; Crouse; Dyer; Lambert; Lisk; Mastin; McMorris; Parlette; D. Schmidt; Sehlin; Sheahan and Talcott.

**Minority Report:** Do not pass. Signed by 13 members: Representatives H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Chopp; Cody; Grant; Keiser; Kenney; Kessler; Linville; Poulsen; Regala and Tokuda.

**Staff:** Jack Daray, (786-7178).

**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 (SPI) 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 an 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 of Bill: Waivers.** School districts' board of directors may grant to individual schools within the district full or partial waivers of state laws contained in various chapters of the revised code of Washington 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 11<sup>th</sup> 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;
- certification requirements.

School district boards of directors must certify to the 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. An 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.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** (Education) The purpose of the bill is to provide greater flexibility and accountability to locally elected officials, to relieve schools and districts from the burden of unfunded mandates, and to recognize that one size does not fit all when it comes to determining how best to deliver educational services to students. The procedures in the bill provide adequate protection to ensure waivers are designed to improve student learning. The education system is over-regulated. SPI needs to get out of program management. Waivers are cumbersome to get under the current procedure. The bill enables principals to do what is best for the children in their schools. The schools need relief from employee lawsuits.

(Appropriations) Every school should be involved in empowering the school site to create a learning environment. Down the road there will be a savings. Money will have to be spent, but it will be gained in the long run. It is better to have a bottom-up collaborative process. These individuals are best able to advise. School districts will not take this increase of authority lightly. They are responsible for quality education and this bill will give them that ability.

**Testimony Against:** (Education) More flexibility is needed but the bill goes too far and does not provide sufficient measures of accountability annually. The role of participants other than the principal should be strengthened. The standard for granting the waiver should be that the variance will improve student learning. Consideration should also be given to how the waiver will affect the student's parents and other participants in the educational process. The collective bargaining provisions go too far, will create disharmony, and could result in negotiation of additional obligations rather than fewer. Teacher certification laws should not be subject to waiver at the individual school level. Teaching is a profession and the state should expect that members of the profession satisfy minimum criteria. Rather than adopting blanket waiver provisions that create uncertainty about what may be waived, the legislature should take each statute and address it. Waivers of statutes governing

special education should not be granted. The entire reason why the state chapter on special education was passed was to ensure the constitutional access to education for children with special needs. The braille law was just passed last year and should not be subject to waiver.

(Appropriations) Waivers should be an agreement or consensus decision. This could put state at risk of basic education requirement. Waivers concerning special interests don't go far enough. The bill will cause uncertainty and instability as school districts each go their own way. The school districts need to identify which rights and benefits they intend to waive. The bill could lead to labor relations problems and issues.

**Testified:** (Education) Representative Hickel, prime sponsor; Terry Bergeson, Superintendent of Public Instruction (supports with concerns); Judy Bushnell, Bellevue School Board, (supports); Tom Vander Ark, Superintendent, Federal Way School District, (supports); Ben Lostimado, Federal Way School District (supports); David Westberg, Stationary Engineers (opposed); Pat Thompson, Washington State Council County/City Employees (opposed); Rainier Houser, Dick Devlin, Elaine Klein, Pam Morris Stendahl, Hertica Martin, and Cliff Johnson, Association of Washington School Principals (support); Cecile Lindquist, Washington State Special Education Coalition (oppose Sec. 5); Ian Elliot, citizen, (supports); Kathy Wellington and Gayle Sander, Spokane School District (concerns); Doug Nelson, Public School Employees (opposed); Karen Davis, Washington Education Association (opposed); Noel Nightingale, National Federation of Blind of Washington (opposed); and Larry Davis, State Board of Education

(Appropriations) Representative Hickel, prime sponsor; Jean Ameluxen, Office of the Superintendent of Public Instruction (pro with concerns); Karen Davis, Washington Education Association (con); Doug Nelson, Public School Employees (con); Joe Pope, Principals' Association (pro); and Dan Steele, Washington State School Directors' Association (pro).(supports with concerns).