

HOUSE BILL REPORT

HB 1303

As Reported By House Committee On:

Education
Appropriations

Title: An act relating to education.

Brief Description: Changing education provisions.

Sponsors: 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)].

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).

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 Substitute 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 principals must seek the involvement of the school's superintendent, site council, school staff, and parents. 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 11th grade standardized tests;

- Statewide assessment requirements measuring the essential academic learning requirements;
- Annual school performance reports;
- State and federal financial reporting and auditing requirements.;
- The goals of the Basic Education Act and the essential academic learning requirements being developed by the Commission on Student Learning;
- Total program-hour offering requirements;
- State constitutional requirements.
- The authority of the school board to grant waivers

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, the laws and rules that have been waived.

Existing law governing the authority of the SPI and the SBE to grant waivers in certain limited areas is repealed except for the provision that authorizes the SBE to grant waivers of total program-hour offerings.

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, education reform, the basic education allocation formula, and appropriations and adjustments;
- 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;
- Learning Assistance Program;

- Dropout Prevention and Retrieval Program;
- Transition Bilingual Instruction Program;
- Highly Capable Students;
- Health - Screening and Requirements;
- 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 certificated employees, including evaluations, continuing contract provisions, hiring and discharge;
- Provisions governing teacher certification;
- 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;
- Sexual equality and sexual harassment provisions; and
- Five-year restrictions on renting or leasing buildings or equipment.

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

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 without adversely affecting the employee's compensation or benefits. If reassignment is not possible, the employee may be placed on paid leave.

Collective bargaining. Certain topics may no longer be included in collective bargaining agreements for certificated employees: agreements regarding transfer, assignment, scheduling of employees, the school-year calendar, and the granting of waivers. The provisions of the act do not apply to collective bargaining agreements of certificated employees to the extent of a conflict, but the act applies the first day following expiration of the collective bargaining agreement without regard to renewal or extension.

Substitute Bill Compared to Original Bill: An intent section is added. A provision is added linking the general waiver provision to the specific waiver provisions in each chapter to indicate that school district boards of directors only have authority to waive provisions contained within those chapters. Applicants for waivers must identify how the waiver will improve student learning or the delivery of educational services in school. School districts can't waive goals of basic education or essential academic learning requirements being developed by the CSL. School districts also can't waive the total program-hour offerings or state constitutional requirements. School districts can't include provisions in collective bargaining agreements that restrict the authority of the school board to grant waivers and the school board's authority to grant waivers is not a subject of collective bargaining. School districts must describe the waiver process to SPI. SPI may respond to the request for approval of a waiver within 40 instead of 30 days. If SPI contests the waiver, SPI or the SBE may make recommendations to the school district to assist the district in achieving the goal sought through the waiver. The directors must report annually to the superintendent about the impact of the waivers. School districts cannot waive their obligations to meet federal and state statutes applicable to the education of individuals with disabilities. The waiver provision contained in the chapter governing parental access to classrooms and materials is stricken. Provisions of HB 1385 are added regarding probation of employees. Notices of deficiencies may be issued any time after October 15, instead of anytime on or before February 1, and then a 60-day period of probation will begin to run. If the employee does not improve during the probation period, the employee may be transferred or placed on leave until the end of the school year. The provision restricting what topics may be contained in collective bargaining agreements for classified staff is stricken. Provisions governing collective bargaining agreements for certificated staff are added or restructured. A provision is added to provide that the act does not apply to existing collective bargaining agreements to the extent of a conflict with the act, but does apply as soon as the existing agreement expires without regard to renewal or extension of the agreement. The provision excluding certain topics from collective bargaining is moved to another section. A provision is added to clarify that collective bargaining agreements cannot limit the school districts' authority to grant waivers. A provision is added that allows school districts to obtain waivers from the five-year limit on leasing space, portables, security systems, and other equipment. Current law is restored that allows the SBE to grant waivers of total program-hour offerings. The principal must consult with the superintendent of the school district when developing a waiver application.

Appropriation: None.

Fiscal Note: Requested on January 24, 1997.

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

Testimony For: 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.

Testimony Against: 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.

Testified: 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 (supports with concerns).

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).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Education: Statutes and regulations not eligible to be waived are expanded to specifics of the Basic Education Act relating to fiscal issues, including instructional staffing ratios, funding allocations and ratios, minimum salary levels for certain teachers on the state salary schedule, and salary compliance with the state salary schedule.

Evidence of commitment to working on waivers is required of teachers, classified staff, site council members, parents and students.

Current laws permitting the State Board of Education and the Superintendent of Public Instruction to grant certain waivers on a district-wide basis are restored.

Collective bargaining about the school year calendar and transfer, assignment, and scheduling of employees is restored.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: 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: 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: 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).