

SENATE BILL REPORT

E2SHB 1303

As Reported By Senate Committee On:
Education, April 4, 1997

Title: An act relating to education.

Brief Description: Changing education provisions.

Sponsors: 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: 3/21/97, 4/4/97 [DPA].

SENATE COMMITTEE ON EDUCATION

Majority Report: Do pass as amended.

Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Rasmussen.

Staff: Susan Mielke (786-7422)

Background: Federal and state constitutions, laws, regulations and administrative rules, together with local school district policies provide the parameters for the operation, management and instructional program of public schools.

Waivers: Currently, school districts may seek waivers from state laws or administrative rules relating to the self-study process, the length of the school year, program hour requirements, student-to-teacher ratios, and other rules necessary to implement restructuring of its educational program.

Probation Period for Certificated Employees: If a school principal judges a certificated employee's work as unsatisfactory based on district performance criteria, the employee must be notified of the specific problems by February 1 and given a reasonable program for improvement. A probationary period must be provided for the employee to demonstrate improvements in the areas of deficiency. The probation period may begin on or before February 1, and may not extend beyond May 1. Lack of improvement is grounds for finding probable cause for discharge or nonrenewal of the employee's contract.

Collective Bargaining: Classified and certificated employees have a right to enter into collective bargaining agreements regarding wages, hours, and the terms and conditions of employment with school districts.

School District Contracting: School boards may enter into contracts for the school district. The duration of those contracts may not exceed five years.

Summary of Amended Bill: School boards are given specific authority to grant waivers, or partial waivers of state laws and related rules pertaining to a school's instructional program, operation, and management, including but not limited to the requirements in the following areas:

- Special education (except that school districts may not waive the district's obligation to meet federal requirements applicable to the education of individual's with disabilities);
- Learning assistance program;
- Dropout prevention and retrieval program;
- Transitional bilingual program;
- Highly capable students;
- Traffic safety;
- Compulsory school attendance and admission;
- Compulsory course work and activities;
- Food services;
- Certificated and noncertificated employees;
- Students; and
- Sexual equality.

Waiver Process: A school principal submits an application to the school board to request a waiver. The application must identify the laws and rules sought to be waived, and must explain how the waiver will improve student learning or the delivery of education services in the school. The application requires evidence that the school's employees, site council, parents, and students are committed to working cooperatively in implementing the waiver. The board must provide an opportunity for public review and comment regarding each waiver request. The board will determine the length of each waiver, and whether a waiver will be renewed or rescinded.

Nonwaivable By the School District, Unless Otherwise Provided by Law:

- Laws and rules addressing health, safety and civil rights;
- Basic Education Act provisions regarding funding, instructional staff ratios, minimum salary levels for certain teachers, and salary limitations;
- Assessment, accountability, and reporting requirements for the fourth, eighth, and 11th grade standardized tests;
- The basic education student goals;
- The essential academic learning requirements (EALRs) and the statewide assessments to measure the EALRs.
- The annual school performance report;
- State and federal financial reporting and auditing requirements;
- Total program-hour offering requirements;
- State and federal financial and auditing requirements;
- State constitutional requirements;
- Certification and related requirements; and
- The school board's authority to grant waivers under this act.

SPI/SBE Review: School boards must certify to the Superintendent of Public Instruction (SPI) that a district waiver review process is in place. School boards must submit a list of the waivers granted and a description of the waiver process followed to the SPI or the State Board of Education (SBE), whichever is appropriate. The SPI or the SBE must approve the waivers if the requirements of the application have been met. The waiver list must be approved or denied within 40 days of receiving the list.

Reports: School districts must annually report to the SPI on the impact of the waivers granted on student learning or the delivery of education services. The SPI and the SBE must report to the Legislature by November 1, 2000 on the laws and rules that have been waived under this act.

Probation Period for Certificated Employees: A certificated employee may be placed on probation for failure to meet district employee performance standards any time after October 15. The probation period is limited to 60 days. Once an employee is on probation, supervision of the employee may not be transferred. Before a request for transfer or reassignment is considered the original evaluator must document improved performance or probable cause for nonrenewal. If the employee does not make satisfactory improvement, then the employee may be moved to an alternative assignment for the remainder of the school year without adversely affecting the employee's compensation or benefits. If reassignment is not possible, then the employee may be placed on paid leave.

Collective Bargaining: Collective bargaining agreements between school districts and certificated employees may not limit the school district's authority to grant waivers under this act.

Study by SPI: The SPI, school districts, and the SBE are directed to identify additional actions to increase school and school district flexibility. The study must include the review of the SPI's rulemaking process and waivers of collective bargaining agreement provisions. The study must be submitted to the Legislature by December 1, 1997.

Study by the Joint Select Committee on Education Restructuring. The requirement that the Joint Select Committee on Education Restructuring complete a study on waivers by December 1, 1997 is deleted.

Expiration Date. The provisions of the act expire June 30, 1999.

Amended Bill Compared to Substitute Bill: The striking amendment adds the requirement that SPE and SBE must review requests to renew waivers under the same process established to review the initial waiver requests.

Language is added allowing the waiver of some of the nonwaiverable— provisions since some of them are waivable under current law.

The amendment clarifies that the state special education statutes may be waived, but districts must still meet the federal law obligations applicable to the education of individuals with disabilities.

The amendment deletes the specific provision to get a waiver from the provisions of Chapter 28A.210 RCW, which address health screening and immunization requirements.

Section 24 is eliminated. Section 24 permitted a school board to request a waiver of the statutory limitation of five years for certain contracts entered into by a school board.

The requirement that the Joint Select Committee on Education Restructuring complete a study on waivers by December 1, 1997, since the bill requires the Superintendent of Public Instruction to complete a broad study, including the granting of waivers, by December 1, 1997.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 17, 1997.

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

Testimony For: This bill is important because it empowers teachers and administrators to achieve higher standards and better meet the needs of their students by providing greater flexibility from unnecessary state-level regulation. This will help current schools to act more like charter schools. Each waiver will require substantial involvement with the community, including parents and teachers. Community concerns may be expressed at the public hearing on the waiver application. A follow-up report is required to show whether the waiver was effective. In effect, this acts as a pilot project to identify those laws and rules that are unnecessary, so we can later consider eliminating them. Other processes the Legislature has used to identify unnecessary laws have failed. Students will be sufficiently protected because constitutional requirements cannot be waived. This bill is consistent with education reform because the state will be setting the standards and then getting out of the way of the district.

Testimony Against: Under this bill school districts would be able to waive the state requirement to provide Braille instruction, and other special education requirements. Braille instruction should be added to the list of things that cannot be waived. Parents of children with disabilities face a continual fight for services for their children, even with the current laws in effect. This bill is an attack on special education. The special education requirements should not be waivable. It is unclear how waiving employee rights and benefits would improve student education. Waiver of such provisions will only lead to conflicts and hostilities between employers and employees. There is concern regarding the structure of the bill because it does not set forth the full text of a chapter but, in effect, is amending complete chapters of the code. There is concern with limiting bargaining agreements. There is concern that the bill does not ensure sufficient checks and balances. If it is true that there are necessary laws then the laws should be removed for everyone, not only for a select few.

Testified: PRO: Ken Winkes, Rainer Houser, AWSP; Dwayne Slate, WSSDA; CON: Bennett Prows, National Federation of the Blind of WA; Donna Ruble, WA Parents of Blind Children; Doug Nelson, PSE; Donna Patrick, Developmental Disabilities Council; Barbara Mertens, WASA; Judy Hartmann, WEA.