
SECOND SUBSTITUTE HOUSE BILL 1303

State of Washington

55th Legislature

1997 Regular Session

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)

Read first time 03/05/97.

1 AN ACT Relating to education; amending RCW 28A.405.100, 41.59.935,
2 and 28A.335.170; adding new sections to chapter 28A.320 RCW; adding a
3 new section to chapter 28A.150 RCW; adding a new section to chapter
4 28A.155 RCW; adding a new section to chapter 28A.165 RCW; adding a new
5 section to chapter 28A.175 RCW; adding a new section to chapter 28A.180
6 RCW; adding a new section to chapter 28A.185 RCW; adding a new section
7 to chapter 28A.210 RCW; adding a new section to chapter 28A.220 RCW;
8 adding a new section to chapter 28A.225 RCW; adding a new section to
9 chapter 28A.230 RCW; adding a new section to chapter 28A.235 RCW;
10 adding a new section to chapter 28A.300 RCW; adding a new section to
11 chapter 28A.305 RCW; adding a new section to chapter 28A.330 RCW;
12 adding a new section to chapter 28A.400 RCW; adding a new section to
13 chapter 28A.405 RCW; adding a new section to chapter 28A.410 RCW;
14 adding a new section to chapter 28A.600 RCW; adding a new section to
15 chapter 28A.640 RCW; adding a new section to chapter 41.59 RCW; and
16 creating a new section.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

18 NEW SECTION. **Sec. 1.** As we face a more complex society and
19 increasing demands are placed on schools and the educational services

1 they provide for children, it is important that school districts are
2 provided with flexibility to determine how best to work within their
3 communities to ensure students are meeting high academic standards. It
4 is the intent of the legislature to allow schools to approach their
5 educational mission with both increased flexibility and accountability
6 that will assist them in better meeting the needs of the students in
7 their district.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.320
9 RCW to read as follows:

10 (1) As provided in sections 3 through 22 of this act, the board of
11 directors of each school district may grant waivers, or partial
12 waivers, of state laws and rules to schools within the district. The
13 school board shall grant waivers in accordance with this section.

14 (2) To apply for waivers, a school principal must prepare an
15 application to the board of directors that identifies which laws and
16 rules are being requested for waiver and the rationale for the request.
17 The rationale must identify how granting the waivers will improve
18 student learning or the delivery of education services in the school.
19 The application must include evidence that the school's teachers,
20 classified employees, site council, parents, and students, as
21 appropriate, are committed to working cooperatively in implementing the
22 waiver.

23 (3) The school board shall provide for public review and comment
24 regarding the waiver request.

25 (4) The duration, renewal, and rescission of the waivers shall be
26 determined by the school district board of directors.

27 (5) The following may not be waived:

28 (a) Laws and rules pertaining to health, safety, and civil rights;

29 (b) Provisions of the basic education act relating to certificated
30 instructional staff ratios, RCW 28A.150.100; goals, RCW 28A.150.210;
31 funding allocations, formulas, and definitions, RCW 28A.150.250 and
32 28A.150.260; and salary and compensation minimum amounts and
33 limitations, RCW 28A.400.200;

34 (c) The essential academic learning requirements being developed by
35 the commission on student learning in RCW 28A.630.885;

36 (d) The assessment, accountability, and reporting requirements in
37 RCW 28A.230.190, the fourth grade standardized test; RCW 28A.230.230,
38 the eighth grade standardized test; RCW 28A.230.240, the eleventh grade

1 standardized test; RCW 28A.630.885, assessment requirements as
2 developed by the commission on student learning; and RCW 28A.320.205,
3 the annual performance report;

4 (e) Requirements in RCW 28A.150.220 pertaining to the total number
5 of program hours that must be offered;

6 (f) State and federal financial reporting and auditing
7 requirements; and

8 (g) State constitutional requirements.

9 (6) The granting of waivers of state laws and rules pursuant to
10 chapter . . . , Laws of 1997 (this act) by school district boards of
11 directors as authorized in this section is not subject to collective
12 bargaining. A school district may not include provisions in a
13 collective bargaining agreement that limit the district's authority to
14 grant waivers under this section.

15 (7) School district boards of directors granting waivers to state
16 laws and rules shall certify to the superintendent of public
17 instruction that they have a waiver review process in effect and shall
18 transmit to the superintendent of public instruction and the state
19 board of education a list of laws and rules that have been waived in
20 accordance with this section and a description of the process used in
21 considering the waivers. The superintendent of public instruction and
22 the state board of education shall review the waivers of state laws and
23 rules within their respective jurisdictions. The waivers shall be
24 approved by the superintendent of public instruction or the state board
25 of education, as appropriate, if the school district board of directors
26 complied with the requirements of this section. The superintendent of
27 public instruction or state board of education, as appropriate, shall
28 approve or deny the waiver request, in whole or in part, within forty
29 calendar days of receiving the list of waivers. If the district
30 receives no response from either the superintendent of public
31 instruction or the state board of education after forty days, the
32 waiver shall be deemed uncontested. If a waiver is contested by the
33 superintendent of public instruction or the state board of education,
34 either as appropriate, may make recommendations to the district that
35 will assist the district in accomplishing the goal sought through the
36 waiver. The state board of education may delegate the responsibility
37 for reviewing and approving or denying the waivers to its staff if an
38 appeal procedure to the board is provided.

1 (8) School district boards of directors granting waivers shall
2 report annually to the superintendent of public instruction the impact
3 on student learning or delivery of education services resulting from
4 the waivers granted.

5 (9) The superintendent of public instruction and state board of
6 education shall report to the legislature by November 1, 2000, the laws
7 and rules that have been waived in accordance with this section.

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

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

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

18 Schools may obtain, in accordance with section 2 of this act,
19 waivers from the statutory requirements in this chapter that pertain to
20 the instructional program, operation, and management of schools.
21 Waivers also may be obtained, in accordance with section 2 of this act,
22 from any rules of the state board of education and superintendent of
23 public instruction adopted to implement the statutory requirements.
24 School districts may not waive the district's obligation to meet all
25 state and federal statutes applicable to the education of individuals
26 with disabilities.

27 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.165
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. 6.** A new section is added to chapter 28A.175
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. 7.** A new section is added to chapter 28A.180
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. 8.** A new section is added to chapter 28A.185
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.

25 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.210
26 RCW to read as follows:

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

33 NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.220
34 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. 11.** A new section is added to chapter 28A.225
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. 12.** A new section is added to chapter 28A.230
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. 13.** A new section is added to chapter 28A.235
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 NEW SECTION. **Sec. 14.** A new section is added to chapter 28A.300
32 RCW to read as follows:

33 Schools may obtain, in accordance with section 2 of this act,
34 waivers from the statutory requirements in this chapter that pertain to
35 the instructional program, operation, and management of schools.

1 Waivers also may be obtained, in accordance with section 2 of this act,
2 from any rules of the state board of education and superintendent of
3 public instruction adopted to implement the statutory requirements.

4 NEW SECTION. **Sec. 15.** A new section is added to chapter 28A.305
5 RCW to read as follows:

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

12 NEW SECTION. **Sec. 16.** A new section is added to chapter 28A.320
13 RCW to read as follows:

14 Schools may obtain, in accordance with section 2 of this act,
15 waivers from the statutory requirements in this chapter that pertain to
16 the instructional program, operation, and management of schools.
17 Waivers also may be obtained, in accordance with section 2 of this act,
18 from any rules of the state board of education and superintendent of
19 public instruction adopted to implement the statutory requirements. No
20 waivers may be obtained from section 2 of this act.

21 NEW SECTION. **Sec. 17.** A new section is added to chapter 28A.330
22 RCW to read as follows:

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

29 NEW SECTION. **Sec. 18.** A new section is added to chapter 28A.400
30 RCW to read as follows:

31 Schools may obtain, in accordance with section 2 of this act,
32 waivers from the statutory requirements in this chapter that pertain to
33 the instructional program, operation, and management of schools.
34 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. 19.** A new section is added to chapter 28A.405
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. 20.** A new section is added to chapter 28A.410
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. 21.** A new section is added to chapter 28A.600
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. 22.** A new section is added to chapter 28A.640
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 **Sec. 23.** RCW 28A.405.100 and 1994 c 115 s 1 are each amended to
2 read as follows:

3 (1) The superintendent of public instruction shall establish and
4 may amend from time to time minimum criteria for the evaluation of the
5 professional performance capabilities and development of certificated
6 classroom teachers and certificated support personnel. For classroom
7 teachers the criteria shall be developed in the following categories:
8 Instructional skill; classroom management, professional preparation and
9 scholarship; effort toward improvement when needed; the handling of
10 student discipline and attendant problems; and interest in teaching
11 pupils and knowledge of subject matter.

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

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

36 (~~Every~~) At any time after October 15th, an employee whose work is
37 judged unsatisfactory based on district evaluation criteria shall be
38 notified in writing of (~~stated~~) the specific areas of deficiencies
39 along with a (~~suggested specific and~~) reasonable program for

1 improvement (~~on or before February 1st of each year~~). During the
2 period of probation, the employee may not be transferred from the
3 supervision of the original evaluator. Improvement of performance or
4 probable cause for nonrenewal must occur and be documented by the
5 original evaluator before any consideration of a request for transfer
6 or reassignment as contemplated by either the individual or the school
7 district. A probationary period of sixty school days shall be
8 established (~~beginning on or before February 1st and ending no later~~
9 than May 1st)). The establishment of a probationary period does not
10 adversely affect the contract status of an employee within the meaning
11 of RCW 28A.405.300. The purpose of the probationary period is to give
12 the employee opportunity to demonstrate improvements in his or her
13 areas of deficiency. The establishment of the probationary period and
14 the giving of the notice to the employee of deficiency shall be by the
15 school district superintendent and need not be submitted to the board
16 of directors for approval. During the probationary period the
17 evaluator shall meet with the employee at least twice monthly to
18 supervise and make a written evaluation of the progress, if any, made
19 by the employee. The evaluator may authorize one additional
20 certificated employee to evaluate the probationer and to aid the
21 employee in improving his or her areas of deficiency; such additional
22 certificated employee shall be immune from any civil liability that
23 might otherwise be incurred or imposed with regard to the good faith
24 performance of such evaluation. The probationer may be removed from
25 probation if he or she has demonstrated improvement to the satisfaction
26 of the principal in those areas specifically detailed in his or her
27 initial notice of deficiency and subsequently detailed in his or her
28 improvement program. Lack of necessary improvement (~~shall be~~) during
29 the established probationary period, as specifically documented in
30 writing with notification to the probationer and shall constitute
31 grounds for a finding of probable cause under RCW 28A.405.300 or
32 28A.405.210.

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

36 Immediately following the completion of a probationary period that
37 does not produce performance changes detailed in the initial notice of
38 deficiencies and improvement program, the employee may be removed from
39 his or her assignment and placed into an alternative assignment for the

1 remainder of the school year. This reassignment may not displace
2 another employee nor may it adversely affect the probationary
3 employee's compensation or benefits for the remainder of the employee's
4 contract year. If such reassignment is not possible, the district may,
5 at its option, place the employee on paid leave for the balance of the
6 contract term.

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

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

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

33 (5) After an employee has four years of satisfactory evaluations
34 under subsection (1) of this section, a school district may use a short
35 form of evaluation, a locally bargained evaluation emphasizing
36 professional growth, an evaluation under subsection (1) of this
37 section, or any combination thereof. The short form of evaluation
38 shall include either a thirty minute observation during the school year
39 with a written summary or a final annual written evaluation based on

1 the criteria in subsection (1) of this section and based on at least
2 two observation periods during the school year totaling at least sixty
3 minutes without a written summary of such observations being prepared.
4 However, the evaluation process set forth in subsection (1) of this
5 section shall be followed at least once every three years unless this
6 time is extended by a local school district under the bargaining
7 process set forth in chapter 41.59 RCW. The employee or evaluator may
8 require that the evaluation process set forth in subsection (1) of this
9 section be conducted in any given school year. No evaluation other
10 than the evaluation authorized under subsection (1) of this section may
11 be used as a basis for determining that an employee's work is
12 unsatisfactory under subsection (1) of this section or as probable
13 cause for the nonrenewal of an employee's contract under RCW
14 28A.405.210 unless an evaluation process developed under chapter 41.59
15 RCW determines otherwise.

16 NEW SECTION. **Sec. 24.** A new section is added to chapter 41.59 RCW
17 to read as follows:

18 In the case of school district employees and employers who are
19 parties to a collective bargaining agreement that is in effect on the
20 effective date of this section, chapter . . ., Laws of 1997 (this act)
21 does not apply with respect to issues in which there is a conflict
22 between chapter . . ., Laws of 1997 (this act) and the agreement until
23 the first day following expiration of the collective bargaining
24 agreement. On that day, chapter . . ., Laws of 1997 (this act) applies
25 without regard to renewal or extension of the agreement.

26 **Sec. 25.** RCW 41.59.935 and 1990 c 33 s 571 are each amended to
27 read as follows:

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

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

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

34 **Sec. 26.** RCW 28A.335.170 and 1990 c 33 s 360 are each amended to
35 read as follows:

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

5 (1) To rent or lease building space, portable buildings, security
6 systems, computers and other equipment. A school district
7 administrator or principal may obtain, in accordance with section 2 of
8 this act, waivers from the five-year restriction. Waivers also may be
9 obtained, in accordance with section 2 of this act, from any rules of
10 the state board of education and superintendent of public instruction
11 adopted to implement the statutory requirements;

12 (2) To have maintained and repaired security systems, computers and
13 other equipment; and

14 (3) To provide pupil transportation services.

15 No school district may enter into a contract for pupil
16 transportation unless it has notified the superintendent of public
17 instruction that, in the best judgment of the district, the cost of
18 contracting will not exceed the projected cost of operating its own
19 pupil transportation.

20 The budget of each school district shall identify that portion of
21 each contractual liability incurred pursuant to this section extending
22 beyond the fiscal year by amount, duration, and nature of the
23 contracted service and/or item in accordance with rules and regulations
24 of the superintendent of public instruction adopted pursuant to RCW
25 28A.505.140 and 28A.310.330.

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

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