
SUBSTITUTE HOUSE BILL 1709

State of Washington 55th Legislature 1997 Regular Session

By House Committee on Education (originally sponsored by
Representatives McMorris, Chandler, Mastin and Smith)

Read first time 03/05/97.

1 AN ACT Relating to mandates on school districts; amending RCW
2 28A.150.290, 28A.150.290, 28A.335.210, 74.09.5249, 74.09.5253,
3 74.09.5255, 74.09.5256, 43.09.260, and 70.24.290; creating a new
4 section; and providing a contingent effective date.

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

6 **Sec. 1.** RCW 28A.150.290 and 1990 c 33 s 111 are each amended to
7 read as follows:

8 (1) The superintendent of public instruction shall have the power
9 and duty to make such rules and regulations as are necessary for the
10 proper administration of this chapter and RCW 28A.160.150 through
11 ~~((28A.160.220))~~ 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010
12 not inconsistent with the provisions thereof, and in addition to
13 require such reports as may be necessary to carry out his or her duties
14 under this chapter and RCW 28A.160.150 through ~~((28A.160.220))~~
15 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010.

16 (2) The superintendent of public instruction shall have the
17 authority to make rules and regulations which establish the terms and
18 conditions for allowing school districts to receive state basic
19 education moneys as provided in RCW 28A.150.250 when said districts are

1 unable to fulfill for one or more schools as officially scheduled the
2 requirement of a full school year of one hundred eighty days or the
3 total program hour offering, teacher contact hour, or course mix and
4 percentage requirements imposed by RCW 28A.150.220 and 28A.150.260 due
5 to one or more of the following conditions:

6 (a) An unforeseen natural event, including, but not necessarily
7 limited to, a fire, flood, explosion, storm, earthquake, epidemic, or
8 volcanic eruption that has the direct or indirect effect of rendering
9 one or more school district facilities unsafe, unhealthy, inaccessible,
10 or inoperable; and

11 (b) An unforeseen mechanical failure or an unforeseen action or
12 inaction by one or more persons, including negligence and threats, that
13 (i) is beyond the control of both a school district board of directors
14 and its employees and (ii) has the direct or indirect effect of
15 rendering one or more school district facilities unsafe, unhealthy,
16 inaccessible, or inoperable. Such actions, inactions or mechanical
17 failures may include, but are not necessarily limited to, arson,
18 vandalism, riots, insurrections, bomb threats, bombings, delays in the
19 scheduled completion of construction projects, and the discontinuance
20 or disruption of utilities such as heating, lighting and water:
21 PROVIDED, That an unforeseen action or inaction shall not include any
22 labor dispute between a school district board of directors and any
23 employee of the school district.

24 A condition is foreseeable for the purposes of this subsection to
25 the extent a reasonably prudent person would have anticipated prior to
26 August first of the preceding school year that the condition probably
27 would occur during the ensuing school year because of the occurrence of
28 an event or a circumstance which existed during such preceding school
29 year or a prior school year. A board of directors of a school district
30 is deemed for the purposes of this subsection to have knowledge of
31 events and circumstances which are a matter of common knowledge within
32 the school district and of those events and circumstances which can be
33 discovered upon prudent inquiry or inspection.

34 (3) The superintendent of public instruction shall make every
35 effort to reduce the amount of paperwork required in administration of
36 this chapter and RCW 28A.160.150 through ((28A.160.220)) 28A.160.210,
37 28A.300.035, 28A.300.170, and 28A.500.010; to simplify the application,
38 monitoring and evaluation processes used; to eliminate all duplicative
39 requests for information from local school districts; and to make every

1 effort to integrate and standardize information requests for other
2 state education acts and federal aid to education acts administered by
3 the superintendent of public instruction so as to reduce paperwork
4 requirements and duplicative information requests.

5 **Sec. 2.** RCW 28A.150.290 and 1992 c 141 s 504 are each amended to
6 read as follows:

7 (1) The superintendent of public instruction shall have the power
8 and duty to make such rules and regulations as are necessary for the
9 proper administration of this chapter and RCW 28A.160.150 through
10 ~~((28A.160.220))~~ 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010
11 not inconsistent with the provisions thereof, and in addition to
12 require such reports as may be necessary to carry out his or her duties
13 under this chapter and RCW 28A.160.150 through ~~((28A.160.220))~~
14 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010.

15 (2) The superintendent of public instruction shall have the
16 authority to make rules and regulations which establish the terms and
17 conditions for allowing school districts to receive state basic
18 education moneys as provided in RCW 28A.150.250 when said districts are
19 unable to fulfill for one or more schools as officially scheduled the
20 requirement of a full school year of one hundred eighty days or the
21 annual average total instructional hour offering imposed by RCW
22 28A.150.220 and 28A.150.260 due to one or more of the following
23 conditions:

24 (a) An unforeseen natural event, including, but not necessarily
25 limited to, a fire, flood, explosion, storm, earthquake, epidemic, or
26 volcanic eruption that has the direct or indirect effect of rendering
27 one or more school district facilities unsafe, unhealthy, inaccessible,
28 or inoperable; and

29 (b) An unforeseen mechanical failure or an unforeseen action or
30 inaction by one or more persons, including negligence and threats, that
31 (i) is beyond the control of both a school district board of directors
32 and its employees and (ii) has the direct or indirect effect of
33 rendering one or more school district facilities unsafe, unhealthy,
34 inaccessible, or inoperable. Such actions, inactions or mechanical
35 failures may include, but are not necessarily limited to, arson,
36 vandalism, riots, insurrections, bomb threats, bombings, delays in the
37 scheduled completion of construction projects, and the discontinuance
38 or disruption of utilities such as heating, lighting and water:

1 PROVIDED, That an unforeseen action or inaction shall not include any
2 labor dispute between a school district board of directors and any
3 employee of the school district.

4 A condition is foreseeable for the purposes of this subsection to
5 the extent a reasonably prudent person would have anticipated prior to
6 August first of the preceding school year that the condition probably
7 would occur during the ensuing school year because of the occurrence of
8 an event or a circumstance which existed during such preceding school
9 year or a prior school year. A board of directors of a school district
10 is deemed for the purposes of this subsection to have knowledge of
11 events and circumstances which are a matter of common knowledge within
12 the school district and of those events and circumstances which can be
13 discovered upon prudent inquiry or inspection.

14 (3) The superintendent of public instruction shall make every
15 effort to reduce the amount of paperwork required in administration of
16 this chapter and RCW 28A.160.150 through ((28A.160.220)) 28A.160.210,
17 28A.300.035, 28A.300.170, and 28A.500.010; to simplify the application,
18 monitoring and evaluation processes used; to eliminate all duplicative
19 requests for information from local school districts; and to make every
20 effort to integrate and standardize information requests for other
21 state education acts and federal aid to education acts administered by
22 the superintendent of public instruction so as to reduce paperwork
23 requirements and duplicative information requests.

24 NEW SECTION. **Sec. 3.** The office of the superintendent of public
25 instruction shall report to the legislature before December 1, 1997, on
26 specific actions it has taken in calendar year 1997 to meet paperwork
27 reduction and other requirements in RCW 28A.150.290(3).

28 **Sec. 4.** RCW 28A.335.210 and 1983 c 204 s 7 are each amended to
29 read as follows:

30 The state board of education and superintendent of public
31 instruction shall allocate, as a nondeductible item, out of any moneys
32 appropriated for state assistance to school districts for the original
33 construction of any school plant facility the amount of one-half of one
34 percent of the appropriation to be expended by the Washington state
35 arts commission for the acquisition of works of art. The works of art
36 may be placed in accordance with Article IX, sections 2 and 3 of the
37 state Constitution on public lands, integral to or attached to a public

1 building or structure, detached within or outside a public building or
2 structure, part of a portable exhibition or collection, part of a
3 temporary exhibition, or loaned or exhibited in other public
4 facilities. The Washington state arts commission shall, in
5 consultation with the superintendent of public instruction, determine
6 the amount to be made available for the purchase of works of art under
7 this section, and payments therefor shall be made in accordance with
8 law. The designation of projects and sites, selection, contracting,
9 purchase, commissioning, reviewing of design, execution and placement,
10 acceptance, maintenance, and sale, exchange, or disposition of works of
11 art shall be the responsibility of the Washington state arts commission
12 in consultation with the superintendent of public instruction and
13 representatives of school district boards of directors. However, the
14 costs to carry out the Washington state arts commission's
15 responsibility for maintenance shall not be funded from the moneys
16 referred to under this section, RCW 43.17.200, 43.19.455, or
17 28B.10.025, but shall be contingent upon adequate appropriations being
18 made for that purpose: PROVIDED, That the superintendent of public
19 instruction and the school district board of directors of the districts
20 where the sites are selected shall have the right to:

21 (1) Waive its use of the one-half of one percent of the
22 appropriation for the acquisition of works of art before the selection
23 process by the Washington state arts commission;

24 (2) Appoint a representative to the body established by the
25 Washington state arts commission to be part of the selection process
26 with full voting rights;

27 (3) Reject the results of the selection process;

28 (4) Reject the placement of a completed work or works of art on
29 school district premises if such works are portable.

30 School districts may, in lieu of accepting a work of art selected
31 by the Washington state arts commission, select a local work of art
32 that is of equal or lesser value than the work of art selected by the
33 Washington state arts commission.

34 Rejection at any point before or after the selection process shall
35 not cause the loss of or otherwise endanger state construction funds
36 available to the local school district. Any works of art rejected
37 under this section shall be applied to the provision of works of art
38 under this chapter, at the discretion of the Washington state arts
39 commission, notwithstanding any contract or agreement between the

1 affected school district and the artist involved. In addition to the
2 cost of the works of art the one-half of one percent of the
3 appropriation as provided herein shall be used to provide for the
4 administration by the Washington state arts commission and all costs
5 for installation of the work of art. For the purpose of this section
6 building shall not include sheds, warehouses or other buildings of a
7 temporary nature.

8 The executive director of the arts commission, the superintendent
9 of public instruction and the Washington state school directors
10 association shall appoint a study group to review the operations of the
11 one-half of one percent for works of art under this section.

12 **Sec. 5.** RCW 74.09.5249 and 1994 c 180 s 3 are each amended to read
13 as follows:

14 (1) The agency awarded the contract under RCW 74.09.5245 shall:

15 (a) Enroll all participating districts in this state, except those
16 with preexisting contracts under RCW 74.09.5247, as medicaid providers
17 effective the beginning of the 1993-94 school year;

18 (b) Develop a state-wide system of billing the department and
19 private insurers for medical services provided in special education
20 programs;

21 (c) Train health care practitioners employed by or contracting with
22 districts in medicaid and insurer billing;

23 (d) Verify the medicaid eligibility of students enrolled in special
24 education programs in each district;

25 (e) Provide ongoing technical assistance to practitioners and
26 districts; and

27 (f) Process and forward all medicaid claims to the department and
28 all other claims to private insurers.

29 (2) For each student, individual districts may, in consultation
30 with the billing agent, deliver to the student's parent or guardian a
31 letter, prepared by the billing agent, requesting the consent of the
32 parent or guardian to bill the student's health insurance carrier for
33 services provided through the special education program. If a district
34 chooses to do this, the letter must be accompanied by a consent form,
35 on which the parent may identify the student's health insurance carrier
36 so that the billing agent may bill the carrier for medical services
37 provided to the student. The letter must clearly state the following:

1 (a) That the billing program is designed in part to raise
2 additional funds to improve education services;

3 (b) That under no circumstances will the parent or guardian be
4 personally charged for any portion of the bill not paid by the insurer,
5 including copayments, deductibles, or uncovered services;

6 (c) That the amount of the billing will apply to the policy's
7 annual deductible even though the parent will not be billed for the
8 amount of the deductible;

9 (d) That the amount of the billing, will, however, apply towards
10 annual or lifetime benefit caps if these are included in the policy;

11 (e) That it is possible that their premiums would be increased as
12 a result of their consent;

13 (f) That if any of the possible negative consequences of consent
14 were to affect them, they are free to withdraw their consent at any
15 time; and

16 (g) That their consent is entirely voluntary and that the services
17 the student receives through the district will not be affected by their
18 willingness or refusal to consent to the billing of their private
19 insurer.

20 **Sec. 6.** RCW 74.09.5253 and 1994 c 180 s 4 are each amended to read
21 as follows:

22 (1) Each district (~~shall~~) may participate in the program of
23 billing for medical services provided in the district's special
24 education program. Each participating district shall provide the
25 superintendent of public instruction with a list, as of the first
26 school day in October, December, and May of each year, of all students
27 enrolled in special education programs within the area served by the
28 district, for purposes of verifying the medicaid eligibility of the
29 students.

30 (2) A person employed by or contracting with a district who
31 provides medical services shall provide the billing agent with
32 information necessary to promptly complete monthly billings for each
33 medicaid-eligible student he or she serves as part of the district's
34 special education program.

35 (3) The superintendent of public instruction shall submit to the
36 legislature at the beginning of each legislative session a report
37 indicating the district-by-district participation and the medicaid and
38 private insurance payment receipts during the preceding fiscal year.

1 The report must further indicate for each participating district the
2 total number of special education students, and the number eligible for
3 medicaid, as determined by the medical assistance administration.
4 (~~The superintendent may require a letter of explanation from any~~
5 ~~district whose billings for medical assistance under the program, in~~
6 ~~the judgment of the superintendent, indicate nonparticipation or~~
7 ~~underparticipation.~~))

8 (4) Failure to apply for reimbursement shall not result in
9 reduction of block grant moneys and allocations to special education
10 students shall not be reduced below 1996-97 funding levels.

11 **Sec. 7.** RCW 74.09.5255 and 1994 c 180 s 6 are each amended to read
12 as follows:

13 Of the projected federal medicaid and private insurance revenue
14 collected under RCW 74.09.5249, twenty percent, after deduction for
15 billing fees, shall be for incentive payments to participating
16 districts. Incentive payments shall only be used by participating
17 districts for children with disabilities.

18 **Sec. 8.** RCW 74.09.5256 and 1994 c 180 s 7 are each amended to read
19 as follows:

20 (1) Participating districts shall reassign medicaid payments to be
21 received under RCW 74.09.5249 through 74.09.5253, 74.09.5254 and
22 74.09.5255, and this section to the superintendent of public
23 instruction.

24 (2) The superintendent of public instruction shall receive medicaid
25 payments from the department of social and health services for all
26 state and federal moneys under Title XIX of the federal social security
27 act due to participating districts for medical assistance provided in
28 the district's special education program.

29 (3) The superintendent shall use reports from the department of
30 social and health services, the state billing agent, participating
31 districts acting as their own billing agent, and firms to calculate the
32 appropriate amounts of incentive payments and state special education
33 program moneys due each district.

34 (4) Moneys received by the superintendent of public instruction
35 shall be disbursed for the following purposes:

36 (a) Reimbursement to the department of social and health services
37 for the state-funded portion of medicaid payments;

1 (b) Reimbursement for billing agent's fees, including those of
2 participating districts acting as their own agent and billing fees of
3 firms;

4 (c) Incentive payments to participating school districts equal to
5 twenty percent of the federal portion of medicaid payments after
6 deduction for billing fees; and

7 (d) The remainder shall be distributed to participating districts
8 as part of state allocations for the special education program provided
9 under RCW 28A.150.390.

10 (5) With respect to private insurer funds received by participating
11 districts, the superintendent of public instruction shall reduce state
12 special education program allocations to the participating districts by
13 eighty percent of the amount received, after deduction for billing
14 fees.

15 **Sec. 9.** RCW 43.09.260 and 1995 c 301 s 15 are each amended to read
16 as follows:

17 The examination of the financial affairs of all local governments
18 shall be made at such reasonable, periodic intervals as the state
19 auditor shall determine. However, an examination of the financial
20 affairs of all local governments shall be made at least once in every
21 three years, and an examination of individual local government health
22 and welfare benefit plans and local government self-insurance programs
23 shall be made at least once every two years. Examinations of school
24 districts shall be made every three years, unless a more frequent audit
25 is required as a condition of a grant received, or a contract entered
26 into, by a school district, or the state auditor has evidence that a
27 more frequent audit of an individual school district is needed. The
28 term local governments for purposes of this chapter includes but is not
29 limited to all counties, cities, and other political subdivisions,
30 municipal corporations, and quasi-municipal corporations, however
31 denominated.

32 The state auditor shall establish a schedule to govern the auditing
33 of local governments which shall include: A designation of the various
34 classifications of local governments; a designation of the frequency
35 for auditing each type of local government; and a description of events
36 which cause a more frequent audit to be conducted.

37 On every such examination, inquiry shall be made as to the
38 financial condition and resources of the local government; whether the

1 Constitution and laws of the state, the ordinances and orders of the
2 local government, and the requirements of the state auditor have been
3 properly complied with; and into the methods and accuracy of the
4 accounts and reports.

5 A report of such examination shall be made and filed in the office
6 of state auditor, and one copy shall be transmitted to the local
7 government. A copy of any report containing findings of noncompliance
8 with state law shall be transmitted to the attorney general. If any
9 such report discloses malfeasance, misfeasance, or nonfeasance in
10 office on the part of any public officer or employee, within thirty
11 days from the receipt of his or her copy of the report, the attorney
12 general shall institute, in the proper county, such legal action as is
13 proper in the premises by civil process and prosecute the same to final
14 determination to carry into effect the findings of the examination.

15 It shall be unlawful for any local government or the responsible
16 head thereof, to make a settlement or compromise of any claim arising
17 out of such malfeasance, misfeasance, or nonfeasance, or any action
18 commenced therefor, or for any court to enter upon any compromise or
19 settlement of such action, without the written approval and consent of
20 the attorney general and the state auditor.

21 **Sec. 10.** RCW 70.24.290 and 1988 c 206 s 606 are each amended to
22 read as follows:

23 The superintendent of public instruction shall (~~adopt rules that~~
24 ~~require appropriate education and training, to be included as part of~~
25 ~~their present continuing education requirements,)~~ make available to
26 school districts information and training material developed for public
27 school employees on the prevention, transmission, and treatment of
28 AIDS. Neither the superintendent nor the department of health may
29 require that school employees receive training in AIDS, except as
30 required under chapter 49.17 RCW. The superintendent of public
31 instruction shall work with the office on AIDS under RCW 70.24.250 to
32 develop the educational and training material necessary for school
33 employees.

34 NEW SECTION. **Sec. 11.** Section 2 of this act takes effect
35 September 1, 2000. However, section 2 of this act shall not take

1 effect if, by September 1, 2000, a law is enacted stating that a school
2 accountability and academic assessment system is not in place.

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