

# HOUSE BILL REPORT

## HB 2979

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**As Reported by House Committee On:**  
Higher Education

**Title:** An act relating to higher education performance agreements.

**Brief Description:** Regarding higher education performance agreements.

**Sponsors:** Representative Wallace.

**Brief History:**

**Committee Activity:**

Higher Education: 1/26/10, 1/29/10 [DPS].

**Brief Summary of Substitute Bill**

- Changes the composition of the state performance agreement committee.
- Changes the process and timeline for developing and negotiating performance agreements.
- Removes some of the elements that had previously been required to be included in performance agreements.
- Removes pilot-test status of the performance agreement process but retains the requirement for an audit of the process by the Joint Legislative Audit and Review Committee.

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### HOUSE COMMITTEE ON HIGHER EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Wallace, Chair; Sells, Vice Chair; Carlyle, Driscoll, Hasegawa and White.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Anderson, Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Angel and Haler.

**Staff:** Andi Smith (786-7304).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Higher education systems have come under increasing public and governmental scrutiny with respect to what they do, how well they do it, and at what cost. The globalization of economic competition focused on quality, rapid innovation, and cost have impacted thinking about business, government, and education. This phenomenon has raised expectations for outcome-based performance by all kinds of publicly supported programs.

There is a growing body of evidence that suggests that states are seeking a capacity to articulate statewide public needs and envision systemic efficiencies, some of which go well beyond the scope of any single institution, using an outcome-based method, variously named "contract," "compact," or "agreement." While there is some variation across states, the basic idea of this "performance agreement" is that state higher education entities and leadership from the executive and legislative branches come together to identify goals and performance expectations for higher education that include an authoritative commitment to adequate plans, support, and stability. The outcome of this process is to create agreement among the parties that articulates specific understanding about what results will be achieved, by whose actions, and with what resource expectations.

In 2008, via passage of Engrossed House Bill 2641, the Legislature put performance agreements into state statute and required the public-baccalaureate institutions, legislators, and the Governor's office to negotiate a six-year plan that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources. Staff from the Higher Education Coordinating Board (HECB) was required to staff the process. During the period between initial development of the performance agreements and the beginning of the 2009 legislative session, revenue forecasts for the state declined substantially. Since the performance agreements had been negotiated with an expectation of more available revenue and given that the initial development process was not well aligned with the Governor's budget development timeline, the agreements were never implemented.

The 2009 operating budget included language that directed the state performance agreement committee and each public four-year institution to develop performance agreements for the period of September 1, 2009, through June 30, 2015. The agreements are required to build on actual performance relative to the 2011 targets negotiated in previous agreements and had to include measurable performance targets in areas including enrollment, degree production, retention and graduation, and efficiency. The institutions are required to report on their progress toward performance targets to the state performance agreement committee prior to November 1, 2010. The HECB is required to summarize the individual institutional reports and provide them to the relevant fiscal and policy committees of the Legislature by December 1, 2010.

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## **Summary of Substitute Bill:**

### Committee Membership.

The statutory requirements regarding membership of the state performance agreement committee are altered and expanded. The legislation stipulates that: (1) the chairs of the higher education policy and fiscal committees from both houses are members; (2) the HECB

is expanded to two members, one of which is the executive director; (3) the representative from the Office of the Superintendent of Public Instruction is removed; and (4) one minority caucus member from each house must also be included. The state committee is still staffed by the HECB and the Executive Director of the HECB will serve as the committee chair.

#### Agreement Development Process.

The statutory requirements regarding the process by which the agreements are developed is also changed. Beginning with the 2011-13 biennium, each of the public four-year institutions of higher education must develop a preliminary draft performance agreement using the same institutional performance agreement representatives as are currently provided in statute. Once the preliminary draft is complete, institution leadership and representatives of the state performance agreement committee will engage in a series of meetings to negotiate a proposed performance agreement that shall be submitted to the full state performance agreement committee for consideration and adoption by September 15 of each year. Once the state performance agreement committee has adopted the final proposed performance agreement, it is submitted to the Governor's office and the Office of Financial Management by October 1 for consideration by the Governor for inclusion in the Governor's operating budget recommendations.

If the Legislature affirms the agreement through a proviso in the 2011-13 operating and capital budgets, the agreements go into effect on July 1, 2011. If the Legislature does not affirm the agreements, the institutions and state committee will renegotiate the agreements to be in compliance with the enacted budget and they will take effect during the period between September 1, 2011 and June 20, 2017.

#### Required Elements of the Agreements.

The legislation stipulates that certain elements must be negotiated as part of the final performance agreement. They include indicators that measure timeliness of student progress toward degrees and certifications; benchmarks and goals for long-term degree production, including discrete benchmarks and goals in areas of critical state need including but not limited to high employer demand programs of study; the level of state resources and tuition revenue necessary to meet the performance outcomes, benchmarks, and goals, with state resources subject to legislative appropriation; and indicators that measure outcomes concerning enrollment, retention, and success of students from diverse underrepresented and low-income groups. The goals and outcomes identified in a performance agreement must be linked to the role, mission, and strategic plan of the institution of higher education and aligned with the statewide strategic master plan for higher education. The agreements may also provide an institution with flexibility in administering or waiving state controls or rules and identify statutory changes necessary to grant an institution such flexibility or waivers. Finally, the agreements may include any additional measures that an institution may deem a priority in meeting state or institutional strategic planning goals.

#### Pilot Status.

Provisions that deemed the performance agreement process as a pilot test are removed. Requirements for an audit of the agreements and process by the Joint Legislative Audit and Review Committee are retained.

**Substitute Bill Compared to Original Bill:**

Each of the participating institutions is required to designate specific representatives to the group that develops the institutional performance agreement. Membership must include two faculty members, one of whom is selected by the faculty union, where appropriate, and the other by the faculty governance organization. Two student members, selected by the student government organization must also serve.

The performance agreements must include benchmarks and goals related to "high employer demand programs of study." The Joint Legislative Audit and Review Committee is required to conduct an evaluation of the higher education performance agreements and make recommendation to the Governor and the Legislature regarding their continuation and expansion by November 1, 2017.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill has been developed through a collaborative effort but there are still some unresolved issues regarding participation. The notion of performance agreements has been worked on for years and it could be used as the foundation to talk about a wide array of issues. We need to make higher education more transparent and the performance agreements could be that vehicle. The bill clearly links the Strategic Master Plan for Higher Education with institutional missions, outcomes, and levels of resources. We need to establish a process that involves policy makers and institutions that allows for a productive conversation about what we assume and what we expect. Performance agreements allow for mission differentiation and allow us the opportunity to target resources and shape future behavior. A great deal of good thinking and goodwill has gone into the development of these plans because they are an important step in monitoring and fully funding higher education to support system performance.

All of the institutions initially prepared agreements but they got stalled and the institutions did not get to have a full dialogue with the state committee. The stakeholders got together over the interim to look at the current processes to understand how they need to be tweaked. One needed adjustment was to streamline the campus agreement development process to align it with the institutional budget process while still consulting campus constituencies. The institutions also thought that they needed to have a more specific designation about state

policy makers to facilitate a fuller conversation with the state committee. As such, we recommended that the fiscal and policy chairs serve so that institutions could have a direct conversation with funders. This bill will align tuition, state support, and outcomes. It has not been that successful in other states, but Washington has an opportunity to fund higher education based on outcomes versus per full-time equivalents. We also need a bill that corrects current statute so that institutions can stay in compliance.

The Workforce Training and Education Coordinating Board (Workforce Board) supports the bill, particularly the provision about being responsive to critical state needs. One of the main missions at the Workforce Board is to meet the needs of employers. We want to present more education and training opportunities where there are good jobs at the end, especially in nursing. We would just ask to clarify and make consistent that "critical state need" includes "high employer demand programs of study."

(In support with concerns) The bill has a long history and the faculty unions jumped into the process really early. The unions wanted to make sure that if laws were being waived, then collective bargaining and employee rights were protected. The original drafters protected those provisions, true to our shared understanding. One of the other things that the unions wanted on original passage and something that we would like to see restored now is the involvement of unions at the beginning of the agreement development process. We want significant input, at the institutional level, when developing the preliminary drafts of the agreement and there is an easy language fix to accomplish this. Adding the expertise of the faculty is going to make the agreements better and contribute to the support and buy-in of the people who are going to implement this.

(Opposed) None.

**Persons Testifying:** (In support) Representative Wallace, prime sponsor; Jan Ignash, Higher Education Coordinating Board; Terry Teale, Council of Presidents; Maddy Thompson, Workforce Training and Education Coordinating Board; and Jono Hanks, University of Washington/Washington Student Association.

(In support with concerns) Wendy Rader-Konofalski, Washington Education Association.

**Persons Signed In To Testify But Not Testifying:** None.