
SUBSTITUTE HOUSE BILL 2979

State of Washington **61st Legislature** **2010 Regular Session**

By House Higher Education (originally sponsored by Representative Wallace)

READ FIRST TIME 02/02/10.

1 AN ACT Relating to higher education performance agreements;
2 amending RCW 28B.10.920, 28B.10.921, 28B.10.922, and 44.28.156; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that significant
6 progress has been made through a number of plans and policies to
7 establish coherent and transparent funding and policy objectives,
8 resources, and expectations for Washington's six public four-year
9 institutions of higher education. The legislature established a pilot
10 performance agreement process to implement these plans and policies.

11 (2) Developing performance agreements at each of the public four-
12 year institutions of higher education will provide that the proper
13 balance of tuition, state support, and financial aid will be tied to
14 each institution's unique role, mission, student profile, and
15 contribution to achieving the goals of the state's strategic master
16 plan for higher education.

17 (3) The legislature finds that aligning and simplifying the process
18 for preparing, submitting, and processing performance agreements for

1 the six public four-year institutions with the state budget process is
2 necessary to provide adequate time for negotiation and deliberation.

3 (4) A forum should be created to develop an agreement among
4 policymakers and institution leaders about how institutions' strategic
5 plans, resources, and outcomes align with the state higher education
6 strategic master plan, as adopted by the legislature, for a planning
7 horizon of six years.

8 (5) Beginning in 2010, each public four-year institution of higher
9 education should develop a performance agreement that will be submitted
10 in conjunction with its biennial budget request.

11 **Sec. 2.** RCW 28B.10.920 and 2008 c 160 s 2 are each amended to read
12 as follows:

13 (1) As used in this section and RCW 28B.10.921 and 28B.10.922, a
14 performance agreement is an agreement reached between the state and the
15 governing board of an institution of higher education and approved by
16 the legislature using the process provided in RCW 28B.10.922.

17 (2) The purpose of a performance agreement is to develop and
18 communicate a six-year (~~plan~~) agreement developed jointly by state
19 policymakers and an institution of higher education that aligns goals,
20 priorities, desired outcomes, flexibility, institutional mission,
21 accountability, and levels of resources.

22 (~~(3) Beginning in 2008, performance agreements shall be pilot-~~
23 ~~tested with the public four-year institutions of higher education.~~)

24 **Sec. 3.** RCW 28B.10.921 and 2008 c 160 s 3 are each amended to read
25 as follows:

26 (1) Performance agreements shall address but not be limited to the
27 following issues:

28 (a) Indicators that measure (~~outcomes concerning cost, quality,~~)
29 timeliness of student progress toward degrees and certifications(~~(, and~~
30 ~~articulation between and within the K-12 and higher education~~
31 ~~systems))~~);

32 (b) Benchmarks and goals for long-term degree production, including
33 discrete benchmarks and goals in (~~particular fields of study~~) areas
34 of critical state need including but not limited to high employer
35 demand programs of study;

1 (c) The level of state resources and tuition revenue necessary to
2 meet the performance outcomes, benchmarks, and goals, with state
3 resources, subject to legislative appropriation;

4 (~~The prioritization of four-year institution capital budget~~
5 ~~projects by the office of financial management~~) Any additional
6 measures that an institution may deem a priority in meeting state or
7 institutional strategic planning goals; and

8 (e) Indicators that measure outcomes concerning (~~recruitment~~)
9 enrollment, retention, and success of students(~~, faculty, and staff~~)
10 from diverse, underrepresented (~~communities~~), and low-income groups.

11 (2) The goals and outcomes identified in a performance agreement
12 shall be linked to the role, mission, and strategic plan of the
13 institution of higher education and aligned with the statewide
14 strategic master plan for higher education.

15 (3) Performance agreements may also (~~include grants to~~) provide
16 an institution(~~, under the terms of the agreement, of~~) with
17 flexibility (~~or waivers from~~) in administering or waiving state
18 controls or rules. The agreement may identify (~~areas where~~)
19 statutory changes (~~is~~) necessary to grant an institution such
20 flexibility or waivers of state agency rules.

21 (4) (~~The following areas may not be included in a~~) Performance
22 agreements may not include:

23 (a) Flexibility or waivers of requirements in a collective
24 bargaining agreement negotiated under chapter 28B.52, 41.56, 41.59,
25 41.76, or 41.80 RCW;

26 (b) Flexibility or waivers of administrative rules or processes
27 governed by chapter 28B.52, 41.56, 41.59, 41.76, or 41.80 RCW;

28 (c) Rules, processes, duties, rights, and responsibilities of the
29 academic faculty as contained in the faculty codes of the four-year
30 institution;

31 (d) Flexibility or waivers of requirements under chapter 39.12 RCW;

32 (e) Flexibility or waivers of administrative rules or other
33 regulations that address health and safety, civil rights, and
34 nondiscrimination laws that apply to institutions of higher education;
35 and

36 (f) State laws covering terms and conditions of employment,
37 including but not limited to salaries, job security, and health,
38 retirement, unemployment, or any other employment benefits.

1 **Sec. 4.** RCW 28B.10.922 and 2008 c 160 s 4 are each amended to read
2 as follows:

3 (1) A state performance agreement committee is created to represent
4 the state in developing performance agreements under this section and
5 RCW 28B.10.920 and 28B.10.921. The committee is composed of one
6 representative((s)) from the governor's office((r)); one representative
7 from the office of financial management((r)); two representatives from
8 the higher education coordinating board((, the office of the
9 superintendent of public instruction, two members of the senate
10 appointed by the secretary of the senate, and two members of the house
11 of representatives appointed by the speaker of the house of
12 representatives)) appointed by the board, one of whom is the executive
13 director; the chairs of the appropriate house of representatives and
14 senate policy committees or their designees; the chair of an
15 appropriate house of representatives fiscal committee, or the chair's
16 designee; the chair of an appropriate senate fiscal committee, or the
17 chair's designee; and one member each from the house of representatives
18 and the senate minority caucuses appointed by the speaker of the house
19 of representatives and president of the senate, respectively. The
20 executive director of the higher education coordinating board shall
21 serve as chair of the state performance agreement committee. The state
22 performance agreement committee shall be staffed by personnel from the
23 higher education coordinating board.

24 (2) (~~Each of the participating institutions shall develop a~~
25 ~~preliminary draft of a performance agreement with input from students~~
26 ~~and faculty. The governing boards of the public four-year institutions~~
27 ~~of higher education shall designate performance agreement~~
28 ~~representatives for each institution respectively that shall include~~
29 ~~two faculty members at those institutions bargaining under chapter~~
30 ~~41.76 RCW, at least one of whom shall be appointed by the exclusive~~
31 ~~collective bargaining agent and the other appointed by the faculty~~
32 ~~governance organization of that institution. If the participating~~
33 ~~pilot institution does not bargain under chapter 41.76 RCW, then two~~
34 ~~faculty members shall be appointed by the faculty governance~~
35 ~~organization of that institution. The associated student governments~~
36 ~~or their equivalents shall designate two performance agreement~~
37 ~~representatives at those institutions. Starting with the preliminary~~
38 ~~drafts, the state performance agreement committee and representatives~~

1 of each institution shall develop revised draft performance agreements
2 for each institution and submit the revised drafts to the governor and
3 the fiscal and higher education committees of the legislature no later
4 than September 1, 2008.) In preparation for the 2011-2013 biennium,
5 each of the state's four-year institutions of higher education shall
6 develop a preliminary draft performance agreement with input from
7 students and faculty. The governing boards of the public four-year
8 institutions of higher education shall designate performance agreement
9 representatives for each institution respectively that shall include
10 two faculty members at those institutions bargaining under chapter
11 41.76 RCW, at least one of whom shall be appointed by the exclusive
12 collective bargaining agent and the other appointed by the faculty
13 governance organization of that institution. If the participating
14 pilot institution does not bargain under chapter 41.76 RCW, then two
15 faculty members shall be appointed by the faculty governance
16 organization of that institution. The associated student governments
17 or their equivalents shall designate two performance agreement
18 representatives at those institutions. Once the preliminary draft is
19 developed by the institution, representatives of the state committee
20 and institution leadership shall engage in a series of meetings to
21 negotiate a proposed performance agreement that shall be submitted to
22 the full state committee for consideration and action by September 15,
23 2010. Once the state committee has agreed to recommend the performance
24 agreement, it shall be submitted to the governor's office and the
25 office of financial management by October 1, 2010, for consideration by
26 the governor for inclusion in the governor's 2011-2013 operating budget
27 recommendations.

28 (3) (~~After receiving informal input on the revised draft~~
29 ~~performance agreements, particularly regarding the levels of resources~~
30 ~~assumed in the agreements, the state committee and institution~~
31 ~~representatives shall develop final proposed performance agreements and~~
32 ~~submit the agreements to the governor and the office of financial~~
33 ~~management by November 1, 2008, for consideration in development of the~~
34 ~~governor's 2009-2011 operating and capital budget recommendations.~~

35 (4)) The state committee ((shall)) may submit any legislation
36 necessary to implement a performance agreement to the ((higher
37 education)) appropriate committees of the senate and house of
38 representatives.

1 ~~((+5))~~ (4) All cost items contained within a performance agreement
2 are subject to legislative appropriation.

3 ~~((+6))~~ (5) If the legislature affirms, through a proviso ~~((in the~~
4 ~~2009-2011 omnibus appropriations act))~~, that the enacted omnibus
5 appropriations act ~~((and the 2009 capital budget act enacted by the~~
6 ~~legislature))~~ aligns with the proposed performance agreements, the
7 performance agreements shall take effect beginning July 1, ~~((2009))~~
8 2011, through June 30, ~~((2015))~~ 2017. If the legislature affirms,
9 through a proviso ~~((in the 2009-2011 omnibus appropriations act))~~ or
10 through inaction, that the omnibus appropriations act ~~((and/or the 2009~~
11 ~~capital budget act are))~~ is not aligned with the proposed performance
12 agreements, the state committee and institution ~~((representatives))~~
13 leadership shall ~~((redraft the agreements to align with the enacted~~
14 ~~budgets, and the redrafted agreements shall take effect beginning~~
15 ~~September 1, 2009, through June 30, 2015))~~ reconvene to agree upon
16 necessary adjustments to the performance agreements to align funding
17 provided by the enacted omnibus appropriations act with agreed
18 indicators and outcomes, in which case the performance agreements shall
19 take effect beginning September 1, 2011, through June 30, 2017.

20 ~~((+7))~~ (6) The legislature, ~~((the))~~ state committee, and ~~((the))~~
21 institution ~~((representatives))~~ leadership shall repeat the process
22 described in subsections ~~((+6))~~ (2) through (5) of this section for
23 each subsequent omnibus appropriations ~~((and capital budget))~~ act
24 enacted between the 2010 and ~~((2014))~~ 2015 legislative sessions to
25 ensure that the performance agreements are updated as necessary to
26 align with enacted omnibus appropriations ~~((and capital budget))~~ acts.

27 **Sec. 5.** RCW 44.28.156 and 2008 c 160 s 5 are each amended to read
28 as follows:

29 The joint committee shall conduct an evaluation of the higher
30 education performance agreements ~~((pilot test))~~ under RCW 28B.10.920
31 through 28B.10.922 and make recommendations regarding changes to the
32 substance or process of creating the agreements, including whether the
33 performance agreement process should be continued and expanded to
34 include additional higher education institutions. The evaluation shall
35 be submitted to the governor and the higher education committees of the

1 senate and house of representatives by November 1, ((2014)) 2017.

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