

2SSB 5329 - S AMD 133
By Senator Billig

NOT ADOPTED AS AMENDED 03/07/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that in 2010 an
4 accountability system was created for the Washington public schools,
5 which was to be implemented in two phases. The first phase used
6 federal guidelines to designate the persistently lowest-achieving
7 schools that were eligible for federal Title I funds to apply for a
8 federal school improvement grant to implement federal intervention
9 strategies to improve student performance. The system was initially
10 voluntary but a required action process was to begin in 2011. The
11 legislature further finds that under the required action process four
12 of the persistently lowest-achieving schools that were on a downward
13 trend were offered the opportunity to use the federal school
14 improvement grants to take required actions. The legislature further
15 finds that the Renton and Onalaska school districts show promising
16 improvement that other districts can build upon. The legislature
17 intends to implement phase two of the accountability process beginning
18 in the 2013-14 school year with the ten most persistently lowest-
19 achieving schools.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.657
21 RCW to read as follows:

22 (1) By June 1, 2013, the office of the superintendent of public
23 instruction must identify the ten most persistently lowest-achieving
24 schools using the student results on the statewide reading and
25 mathematics assessments.

26 (2) A school district with at least one school identified as one of
27 the ten most persistently lowest-achieving schools shall be designated
28 as a required action district.

1 (3) The superintendent of public instruction shall provide each
2 required action school district superintendent with written notice by
3 certified mail or personal service of the identification of the school
4 within the district as one of the most persistently lowest-achieving
5 schools causing the district to be designated a required action
6 district.

7 (4) A district designated as a required action district must notify
8 all parents of students attending a school identified as one of the
9 most persistently lowest-achieving schools in the district, the
10 designation of the district as a required action district, and the
11 process for complying with the requirements in RCW 28A.657.040 through
12 28A.657.100.

13 (5) Each required action district designated under this section
14 must follow the process and comply with the requirements in RCW
15 28A.657.040 through 28A.657.100.

16 **Sec. 3.** RCW 28A.657.050 and 2012 c 53 s 10 are each amended to
17 read as follows:

18 (1) The local district superintendent and local school board of a
19 school district designated as a required action district must submit a
20 required action plan to the state board of education for approval.
21 Unless otherwise required by subsection (3) of this section, the plan
22 must be submitted under a schedule as required by the state board. A
23 required action plan must be developed in collaboration with
24 administrators, teachers, and other staff, parents, unions representing
25 any employees within the district, students, and other representatives
26 of the local community. The superintendent of public instruction shall
27 provide a district with assistance in developing its plan if requested.
28 The school board must conduct a public hearing to allow for comment on
29 a proposed required action plan. The local school district shall
30 submit the plan first to the office of the superintendent of public
31 instruction to review and approve that the plan is consistent with
32 federal guidelines. After the office of the superintendent of public
33 instruction has approved that the plan is consistent with federal
34 guidelines, the local school district must submit its required action
35 plan to the state board of education for approval.

36 (2) A required action plan must include all of the following:

1 (a) Implementation of one of the four federal intervention models
2 required for the receipt of a federal school improvement grant, for
3 those persistently lowest-achieving schools that the district will be
4 focusing on for required action. However, a district may not establish
5 a charter school under a federal intervention model without express
6 legislative authority, unless the district is designated a required
7 action district in accordance with section 2 of this act. If a
8 required action district chooses to establish a charter school as the
9 intervention model, then the charter school that is established counts
10 towards the maximum number of charter schools that may be established
11 in accordance with RCW 28A.710.150. The intervention models are the
12 turnaround, restart, school closure, and transformation models. The
13 intervention model selected must address the concerns raised in the
14 academic performance audit and be intended to improve student
15 performance to allow a school district to be removed from the list of
16 districts designated as a required action district by the state board
17 of education within three years of implementation of the plan;

18 (b) Submission of an application for a federal school improvement
19 grant or a grant from other federal funds for school improvement to the
20 superintendent of public instruction, except that a district designated
21 as a required action district in accordance with section 2 of this act
22 shall receive the state funds appropriated for this purpose;

23 (c) A budget that provides for adequate resources to implement the
24 federal model selected and any other requirements of the plan;

25 (d) A description of the changes in the district's or school's
26 existing policies, structures, agreements, processes, and practices
27 that are intended to attain significant achievement gains for all
28 students enrolled in the school and how the district intends to address
29 the findings of the academic performance audit; and

30 (e) Identification of the measures that the school district will
31 use in assessing student achievement at a school identified as a
32 persistently lowest-achieving school, which include improving
33 mathematics and reading student achievement and graduation rates as
34 defined by the office of the superintendent of public instruction that
35 enable the school to no longer be identified as a persistently lowest-
36 achieving school.

37 (3)(a) For any district designated for required action, the parties
38 to any collective bargaining agreement negotiated, renewed, or extended

1 under chapter 41.59 or 41.56 RCW after June 10, 2010, and for a school
2 district designated a required action district in accordance with
3 section 2 of this act after the effective date of this section, must
4 reopen the agreement, or negotiate an addendum, if needed, to make
5 changes to terms and conditions of employment that are necessary to
6 implement a required action plan. For any district applying to
7 participate in a collaborative schools for innovation and success pilot
8 project under RCW 28A.630.104, the parties to any collective bargaining
9 agreement negotiated, renewed, or extended under chapter 41.59 or 41.56
10 RCW after June 7, 2012, must reopen the agreement, or negotiate an
11 addendum, if needed, to make changes to terms and conditions of
12 employment that are necessary to implement an innovation and success
13 plan.

14 (b) If the school district and the employee organizations are
15 unable to agree on the terms of an addendum or modification to an
16 existing collective bargaining agreement, the parties, including all
17 labor organizations affected under the required action plan, shall
18 request the public employment relations commission to, and the
19 commission shall, appoint an employee of the commission to act as a
20 mediator to assist in the resolution of a dispute between the school
21 district and the employee organizations. Beginning in 2011, and each
22 year thereafter, mediation shall commence no later than April 15th.
23 All mediations held under this section shall include the employer and
24 representatives of all affected bargaining units.

25 (c) If the executive director of the public employment relations
26 commission, upon the recommendation of the assigned mediator, finds
27 that the employer and any affected bargaining unit are unable to reach
28 agreement following a reasonable period of negotiations and mediation,
29 but by no later than May 15th of the year in which mediation occurred,
30 the executive director shall certify any disputed issues for a decision
31 by the superior court in the county where the school district is
32 located. The issues for determination by the superior court must be
33 limited to the issues certified by the executive director.

34 (d) The process for filing with the court in this subsection (3)(d)
35 must be used in the case where the executive director certifies issues
36 for a decision by the superior court.

37 (i) The school district shall file a petition with the superior

1 court, by no later than May 20th of the same year in which the issues
2 were certified, setting forth the following:

3 (A) The name, address, and telephone number of the school district
4 and its principal representative;

5 (B) The name, address, and telephone number of the employee
6 organizations and their principal representatives;

7 (C) A description of the bargaining units involved;

8 (D) A copy of the unresolved issues certified by the executive
9 director for a final and binding decision by the court; and

10 (E) The academic performance audit that the office of the
11 superintendent of public instruction completed for the school district
12 in the case of a required action district, or the comprehensive needs
13 assessment in the case of a collaborative schools for innovation and
14 success pilot project.

15 (ii) Within seven days after the filing of the petition, each party
16 shall file with the court the proposal it is asking the court to order
17 be implemented in a required action plan or innovation and success plan
18 for the district for each issue certified by the executive director.
19 Contemporaneously with the filing of the proposal, a party must file a
20 brief with the court setting forth the reasons why the court should
21 order implementation of its proposal in the final plan.

22 (iii) Following receipt of the proposals and briefs of the parties,
23 the court must schedule a date and time for a hearing on the petition.
24 The hearing must be limited to argument of the parties or their counsel
25 regarding the proposals submitted for the court's consideration. The
26 parties may waive a hearing by written agreement.

27 (iv) The court must enter an order selecting the proposal for
28 inclusion in a required action plan that best responds to the issues
29 raised in the school district's academic performance audit, and allows
30 for the award of a federal school improvement grant or a grant from
31 other federal or state funds for school improvement to the district
32 from the office of the superintendent of public instruction to
33 implement one of the four federal intervention models. In the case of
34 an innovation and success plan, the court must enter an order selecting
35 the proposal for inclusion in the plan that best responds to the issues
36 raised in the school's comprehensive needs assessment. The court's
37 decision must be issued no later than June 15th of the year in which
38 the petition is filed and is final and binding on the parties; however

1 the court's decision is subject to appeal only in the case where it
2 does not allow the school district to implement a required action plan
3 consistent with the requirements for the award of a federal school
4 improvement grant or other federal or state funds for school
5 improvement by the superintendent of public instruction.

6 (e) Each party shall bear its own costs and attorneys' fees
7 incurred under this statute.

8 (f) Any party that proceeds with the process in this section after
9 knowledge that any provision of this section has not been complied with
10 and who fails to state its objection in writing is deemed to have
11 waived its right to object.

12 (4) All contracts entered into between a school district and an
13 employee must be consistent with this section and allow school
14 districts designated as required action districts to implement one of
15 the four federal models in a required action plan.

16 **Sec. 4.** RCW 28A.657.050 and 2010 c 235 s 105 are each amended to
17 read as follows:

18 (1) The local district superintendent and local school board of a
19 school district designated as a required action district must submit a
20 required action plan to the state board of education for approval.
21 Unless otherwise required by subsection (3) of this section, the plan
22 must be submitted under a schedule as required by the state board. A
23 required action plan must be developed in collaboration with
24 administrators, teachers, and other staff, parents, unions representing
25 any employees within the district, students, and other representatives
26 of the local community. The superintendent of public instruction shall
27 provide a district with assistance in developing its plan if requested.
28 The school board must conduct a public hearing to allow for comment on
29 a proposed required action plan. The local school district shall
30 submit the plan first to the office of the superintendent of public
31 instruction to review and approve that the plan is consistent with
32 federal guidelines. After the office of the superintendent of public
33 instruction has approved that the plan is consistent with federal
34 guidelines, the local school district must submit its required action
35 plan to the state board of education for approval.

36 (2) A required action plan must include all of the following:

1 (a) Implementation of one of the four federal intervention models
2 required for the receipt of a federal school improvement grant, for
3 those persistently lowest-achieving schools that the district will be
4 focusing on for required action. However, a district may not establish
5 a charter school under a federal intervention model without express
6 legislative authority, unless the district is designated a required
7 action district in accordance with section 2 of this act. If a
8 required action district chooses to establish a charter school as the
9 intervention model, then the charter school that is established counts
10 towards the maximum number of charter schools that may be established
11 in accordance with RCW 28A.710.150. The intervention models are the
12 turnaround, restart, school closure, and transformation models. The
13 intervention model selected must address the concerns raised in the
14 academic performance audit and be intended to improve student
15 performance to allow a school district to be removed from the list of
16 districts designated as a required action district by the state board
17 of education within three years of implementation of the plan;

18 (b) Submission of an application for a federal school improvement
19 grant or a grant from other federal funds for school improvement to the
20 superintendent of public instruction, except that a district designated
21 as a required action district in accordance with section 2 of this act
22 shall receive the state funds appropriated for this purpose;

23 (c) A budget that provides for adequate resources to implement the
24 federal model selected and any other requirements of the plan;

25 (d) A description of the changes in the district's or school's
26 existing policies, structures, agreements, processes, and practices
27 that are intended to attain significant achievement gains for all
28 students enrolled in the school and how the district intends to address
29 the findings of the academic performance audit; and

30 (e) Identification of the measures that the school district will
31 use in assessing student achievement at a school identified as a
32 persistently lowest-achieving school, which include improving
33 mathematics and reading student achievement and graduation rates as
34 defined by the office of the superintendent of public instruction that
35 enable the school to no longer be identified as a persistently lowest-
36 achieving school.

37 (3)(a) For any district designated for required action, the parties
38 to any collective bargaining agreement negotiated, renewed, or extended

1 under chapter 41.59 or 41.56 RCW after June 10, 2010, and for a school
2 district designated a required action district in accordance with
3 section 2 of this act after the effective date of this section, must
4 reopen the agreement, or negotiate an addendum, if needed, to make
5 changes to terms and conditions of employment that are necessary to
6 implement a required action plan.

7 (b) If the school district and the employee organizations are
8 unable to agree on the terms of an addendum or modification to an
9 existing collective bargaining agreement, the parties, including all
10 labor organizations affected under the required action plan, shall
11 request the public employment relations commission to, and the
12 commission shall, appoint an employee of the commission to act as a
13 mediator to assist in the resolution of a dispute between the school
14 district and the employee organizations. Beginning in 2011, and each
15 year thereafter, mediation shall commence no later than April 15th.
16 All mediations held under this section shall include the employer and
17 representatives of all affected bargaining units.

18 (c) If the executive director of the public employment relations
19 commission, upon the recommendation of the assigned mediator, finds
20 that the employer and any affected bargaining unit are unable to reach
21 agreement following a reasonable period of negotiations and mediation,
22 but by no later than May 15th of the year in which mediation occurred,
23 the executive director shall certify any disputed issues for a decision
24 by the superior court in the county where the school district is
25 located. The issues for determination by the superior court must be
26 limited to the issues certified by the executive director.

27 (d) The process for filing with the court in this subsection (3)(d)
28 must be used in the case where the executive director certifies issues
29 for a decision by the superior court.

30 (i) The school district shall file a petition with the superior
31 court, by no later than May 20th of the same year in which the issues
32 were certified, setting forth the following:

33 (A) The name, address, and telephone number of the school district
34 and its principal representative;

35 (B) The name, address, and telephone number of the employee
36 organizations and their principal representatives;

37 (C) A description of the bargaining units involved;

1 (D) A copy of the unresolved issues certified by the executive
2 director for a final and binding decision by the court; and

3 (E) The academic performance audit that the office of the
4 superintendent of public instruction completed for the school district.

5 (ii) Within seven days after the filing of the petition, each party
6 shall file with the court the proposal it is asking the court to order
7 be implemented in a required action plan for the district for each
8 issue certified by the executive director. Contemporaneously with the
9 filing of the proposal, a party must file a brief with the court
10 setting forth the reasons why the court should order implementation of
11 its proposal in the final plan.

12 (iii) Following receipt of the proposals and briefs of the parties,
13 the court must schedule a date and time for a hearing on the petition.
14 The hearing must be limited to argument of the parties or their counsel
15 regarding the proposals submitted for the court's consideration. The
16 parties may waive a hearing by written agreement.

17 (iv) The court must enter an order selecting the proposal for
18 inclusion in a required action plan that best responds to the issues
19 raised in the school district's academic performance audit, and allows
20 for the award of a federal school improvement grant or a grant from
21 other federal or state funds for school improvement to the district
22 from the office of the superintendent of public instruction to
23 implement one of the four federal intervention models. The court's
24 decision must be issued no later than June 15th of the year in which
25 the petition is filed and is final and binding on the parties; however
26 the court's decision is subject to appeal only in the case where it
27 does not allow the school district to implement a required action plan
28 consistent with the requirements for the award of a federal school
29 improvement grant or other federal or state funds for school
30 improvement by the superintendent of public instruction.

31 (e) Each party shall bear its own costs and attorneys' fees
32 incurred under this statute.

33 (f) Any party that proceeds with the process in this section after
34 knowledge that any provision of this section has not been complied with
35 and who fails to state its objection in writing is deemed to have
36 waived its right to object.

37 (4) All contracts entered into between a school district and an

1 employee must be consistent with this section and allow school
2 districts designated as required action districts to implement one of
3 the four federal models in a required action plan.

4 **Sec. 5.** RCW 28A.657.090 and 2010 c 235 s 109 are each amended to
5 read as follows:

6 A school district must implement a required action plan upon
7 approval by the state board of education. The office of (~~{the}~~) the
8 superintendent of public instruction must provide the required action
9 district with technical assistance and federal school improvement grant
10 funds or other federal funds for school improvement, if available, or
11 state funds, to implement an approved plan. The district must submit
12 a report to the superintendent of public instruction that provides the
13 progress the district is making in meeting the student achievement
14 goals based on the state's assessments, identifying strategies and
15 assets used to solve audit findings, and establishing evidence of
16 meeting plan implementation benchmarks as set forth in the required
17 action plan.

18 **Sec. 6.** RCW 28A.657.100 and 2010 c 235 s 110 are each amended to
19 read as follows:

20 (1) The superintendent of public instruction must provide a report
21 twice per year to the state board of education regarding the progress
22 made by all school districts designated as required action districts.

23 (2) The superintendent of public instruction must recommend to the
24 state board of education that a school district be released from the
25 designation as a required action district after the district implements
26 a required action plan for a period of three years; has made progress,
27 as defined by the superintendent of public instruction, in reading and
28 mathematics on the state's assessment over the past three consecutive
29 years; and no longer has a school within the district identified as
30 persistently lowest-achieving. The state board shall release a school
31 district from the designation as a required action district upon
32 confirmation that the district has met the requirements for a release.

33 (3) If the state board of education determines that the required
34 action district has not met the requirements for release, the
35 (~~{district remains in required action and must submit a new or revised~~
36 ~~plan under the process in RCW 28A.657.050}~~) office of the

1 superintendent of public instruction shall review the actions taken in
2 accordance with the required action process and create a new three-year
3 plan with the school district board of directors to be implemented by
4 the office of the superintendent of public instruction using a
5 management structure chosen by the superintendent of public
6 instruction.

7 (4) If at the end of the three-year plan instituted in accordance
8 with subsection (3) of this section the state board of education
9 determines that the required action district has not made sufficient
10 improvement as determined by the office of the superintendent of public
11 instruction, the school must be closed and the students assigned to
12 another school, unless there is no viable option to accommodate the
13 students due to lack of capacity or inability to provide equitable
14 access to educational programs and services.

15 NEW SECTION. Sec. 7. The sum of ten million dollars, or as much
16 thereof as may be necessary, is appropriated for the fiscal year ending
17 June 30, 2014, from the general fund to the office of the
18 superintendent of public instruction for equal distribution to each of
19 the ten school districts identified in section 2 of this act to
20 implement this act.

21 NEW SECTION. Sec. 8. Section 3 of this act expires June 30, 2019.

22 NEW SECTION. Sec. 9. Section 4 of this act takes effect June 30,
23 2019.

24 NEW SECTION. Sec. 10. Section 2 of this act is necessary for the
25 immediate preservation of the public peace, health, or safety, or
26 support of the state government and its existing public institutions,
27 and takes effect immediately."

NOT ADOPTED AS AMENDED 03/07/2013

1 On page 1, line 2 of the title, after "accountable;" strike the
2 remainder of the title and insert "amending RCW 28A.657.050,
3 28A.657.050, 28A.657.090, and 28A.657.100; adding a new section to
4 chapter 28A.657 RCW; creating a new section; making an appropriation;
5 providing an effective date; providing expiration dates; and declaring
6 an emergency."

EFFECT: Restores the version of the bill as-passed Early Learning and K-12 Education Committee prior to changes made in Ways & Means Committee.

Changes made in Ways & Means:

Details regarding the level two three-year intervention plan added. (Substitute bill language had stated that OSPI would review the actions taken in accordance with the required action process and create a new three-year plan with the school district board of directors to be implemented by OSPI using a management structure chosen by the superintendent of public instruction.)

Under the new specifications:

OSPI:

May choose to implement one of the four federal models or the collaborative schools model;

May create a charter school as one of the implementation models and, if so, it will count toward the maximum number of charter schools that may be established in accordance with the charter school law;

Must exercise the powers of a school district board of directors with regard to employment of staff assigned at the schools entering level two;

May delegate the responsibility to hire, assign, evaluate, and dismiss employees; and

Must report specific information twice per year to SBE.

Employees assigned to the school may request a transfer.

The level two plan must contain a performance framework that sets out indicators, measures, student academic proficiency, student growth, achievement gap, attendance, graduation rates, and financial performance, among other details.

The \$10 million appropriation and reference to state funding in the intent section removed.

--- END ---