
SUBSTITUTE SENATE BILL 5329

State of Washington

63rd Legislature

2013 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Litzow, Hobbs, Fain, Hatfield, Tom, Frockt, and Roach)

READ FIRST TIME 02/14/13.

1 AN ACT Relating to assisting persistently lowest-achieving schools
2 to become more accountable; amending RCW 28A.657.050, 28A.657.050,
3 28A.657.090, and 28A.657.100; adding a new section to chapter 28A.657
4 RCW; creating a new section; making an appropriation; providing an
5 effective date; providing expiration dates; and declaring an emergency.

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

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

1 improvement that other districts can build upon. The legislature
2 intends to implement phase two of the accountability process beginning
3 in the 2013-14 school year with the ten most persistently lowest-
4 achieving schools.

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

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

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

14 (3) The superintendent of public instruction shall provide each
15 required action school district superintendent with written notice by
16 certified mail or personal service of the identification of the school
17 within the district as one of the most persistently lowest-achieving
18 schools causing the district to be designated a required action
19 district.

20 (4) A district designated as a required action district must notify
21 all parents of students attending a school identified as one of the
22 most persistently lowest-achieving schools in the district, the
23 designation of the district as a required action district, and the
24 process for complying with the requirements in RCW 28A.657.040 through
25 28A.657.100.

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

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

31 (1) The local district superintendent and local school board of a
32 school district designated as a required action district must submit a
33 required action plan to the state board of education for approval.
34 Unless otherwise required by subsection (3) of this section, the plan
35 must be submitted under a schedule as required by the state board. A
36 required action plan must be developed in collaboration with

1 administrators, teachers, and other staff, parents, unions representing
2 any employees within the district, students, and other representatives
3 of the local community. The superintendent of public instruction shall
4 provide a district with assistance in developing its plan if requested.
5 The school board must conduct a public hearing to allow for comment on
6 a proposed required action plan. The local school district shall
7 submit the plan first to the office of the superintendent of public
8 instruction to review and approve that the plan is consistent with
9 federal guidelines. After the office of the superintendent of public
10 instruction has approved that the plan is consistent with federal
11 guidelines, the local school district must submit its required action
12 plan to the state board of education for approval.

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

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

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

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

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

6 (e) Identification of the measures that the school district will
7 use in assessing student achievement at a school identified as a
8 persistently lowest-achieving school, which include improving
9 mathematics and reading student achievement and graduation rates as
10 defined by the office of the superintendent of public instruction that
11 enable the school to no longer be identified as a persistently lowest-
12 achieving school.

13 (3)(a) For any district designated for required action, the parties
14 to any collective bargaining agreement negotiated, renewed, or extended
15 under chapter 41.59 or 41.56 RCW after June 10, 2010, and for a school
16 district designated a required action district in accordance with
17 section 2 of this act after the effective date of this section, must
18 reopen the agreement, or negotiate an addendum, if needed, to make
19 changes to terms and conditions of employment that are necessary to
20 implement a required action plan. For any district applying to
21 participate in a collaborative schools for innovation and success pilot
22 project under RCW 28A.630.104, the parties to any collective bargaining
23 agreement negotiated, renewed, or extended under chapter 41.59 or 41.56
24 RCW after June 7, 2012, must reopen the agreement, or negotiate an
25 addendum, if needed, to make changes to terms and conditions of
26 employment that are necessary to implement an innovation and success
27 plan.

28 (b) If the school district and the employee organizations are
29 unable to agree on the terms of an addendum or modification to an
30 existing collective bargaining agreement, the parties, including all
31 labor organizations affected under the required action plan, shall
32 request the public employment relations commission to, and the
33 commission shall, appoint an employee of the commission to act as a
34 mediator to assist in the resolution of a dispute between the school
35 district and the employee organizations. Beginning in 2011, and each
36 year thereafter, mediation shall commence no later than April 15th.
37 All mediations held under this section shall include the employer and
38 representatives of all affected bargaining units.

1 (c) If the executive director of the public employment relations
2 commission, upon the recommendation of the assigned mediator, finds
3 that the employer and any affected bargaining unit are unable to reach
4 agreement following a reasonable period of negotiations and mediation,
5 but by no later than May 15th of the year in which mediation occurred,
6 the executive director shall certify any disputed issues for a decision
7 by the superior court in the county where the school district is
8 located. The issues for determination by the superior court must be
9 limited to the issues certified by the executive director.

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

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

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

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

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

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

23 (E) The academic performance audit that the office of the
24 superintendent of public instruction completed for the school district
25 in the case of a required action district, or the comprehensive needs
26 assessment in the case of a collaborative schools for innovation and
27 success pilot project.

28 (ii) Within seven days after the filing of the petition, each party
29 shall file with the court the proposal it is asking the court to order
30 be implemented in a required action plan or innovation and success plan
31 for the district for each issue certified by the executive director.
32 Contemporaneously with the filing of the proposal, a party must file a
33 brief with the court setting forth the reasons why the court should
34 order implementation of its proposal in the final plan.

35 (iii) Following receipt of the proposals and briefs of the parties,
36 the court must schedule a date and time for a hearing on the petition.
37 The hearing must be limited to argument of the parties or their counsel

1 regarding the proposals submitted for the court's consideration. The
2 parties may waive a hearing by written agreement.

3 (iv) The court must enter an order selecting the proposal for
4 inclusion in a required action plan that best responds to the issues
5 raised in the school district's academic performance audit, and allows
6 for the award of a federal school improvement grant or a grant from
7 other federal or state funds for school improvement to the district
8 from the office of the superintendent of public instruction to
9 implement one of the four federal intervention models. In the case of
10 an innovation and success plan, the court must enter an order selecting
11 the proposal for inclusion in the plan that best responds to the issues
12 raised in the school's comprehensive needs assessment. The court's
13 decision must be issued no later than June 15th of the year in which
14 the petition is filed and is final and binding on the parties; however
15 the court's decision is subject to appeal only in the case where it
16 does not allow the school district to implement a required action plan
17 consistent with the requirements for the award of a federal school
18 improvement grant or other federal or state funds for school
19 improvement by the superintendent of public instruction.

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

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

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

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

32 (1) The local district superintendent and local school board of a
33 school district designated as a required action district must submit a
34 required action plan to the state board of education for approval.
35 Unless otherwise required by subsection (3) of this section, the plan
36 must be submitted under a schedule as required by the state board. A
37 required action plan must be developed in collaboration with

1 administrators, teachers, and other staff, parents, unions representing
2 any employees within the district, students, and other representatives
3 of the local community. The superintendent of public instruction shall
4 provide a district with assistance in developing its plan if requested.
5 The school board must conduct a public hearing to allow for comment on
6 a proposed required action plan. The local school district shall
7 submit the plan first to the office of the superintendent of public
8 instruction to review and approve that the plan is consistent with
9 federal guidelines. After the office of the superintendent of public
10 instruction has approved that the plan is consistent with federal
11 guidelines, the local school district must submit its required action
12 plan to the state board of education for approval.

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

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

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

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

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

6 (e) Identification of the measures that the school district will
7 use in assessing student achievement at a school identified as a
8 persistently lowest-achieving school, which include improving
9 mathematics and reading student achievement and graduation rates as
10 defined by the office of the superintendent of public instruction that
11 enable the school to no longer be identified as a persistently lowest-
12 achieving school.

13 (3)(a) For any district designated for required action, the parties
14 to any collective bargaining agreement negotiated, renewed, or extended
15 under chapter 41.59 or 41.56 RCW after June 10, 2010, and for a school
16 district designated a required action district in accordance with
17 section 2 of this act after the effective date of this section, must
18 reopen the agreement, or negotiate an addendum, if needed, to make
19 changes to terms and conditions of employment that are necessary to
20 implement a required action plan.

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

32 (c) If the executive director of the public employment relations
33 commission, upon the recommendation of the assigned mediator, finds
34 that the employer and any affected bargaining unit are unable to reach
35 agreement following a reasonable period of negotiations and mediation,
36 but by no later than May 15th of the year in which mediation occurred,
37 the executive director shall certify any disputed issues for a decision

1 by the superior court in the county where the school district is
2 located. The issues for determination by the superior court must be
3 limited to the issues certified by the executive director.

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

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

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

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

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

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

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

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

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

31 (iv) The court must enter an order selecting the proposal for
32 inclusion in a required action plan that best responds to the issues
33 raised in the school district's academic performance audit, and allows
34 for the award of a federal school improvement grant or a grant from
35 other federal or state funds for school improvement to the district
36 from the office of the superintendent of public instruction to
37 implement one of the four federal intervention models. The court's
38 decision must be issued no later than June 15th of the year in which

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

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

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

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

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

19 A school district must implement a required action plan upon
20 approval by the state board of education. The office of (~~the~~) the
21 superintendent of public instruction must provide the required action
22 district with technical assistance and federal school improvement grant
23 funds or other federal funds for school improvement, if available, or
24 state funds, to implement an approved plan. The district must submit
25 a report to the superintendent of public instruction that provides the
26 progress the district is making in meeting the student achievement
27 goals based on the state's assessments, identifying strategies and
28 assets used to solve audit findings, and establishing evidence of
29 meeting plan implementation benchmarks as set forth in the required
30 action plan.

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

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

1 (2) The superintendent of public instruction must recommend to the
2 state board of education that a school district be released from the
3 designation as a required action district after the district implements
4 a required action plan for a period of three years; has made progress,
5 as defined by the superintendent of public instruction, in reading and
6 mathematics on the state's assessment over the past three consecutive
7 years; and no longer has a school within the district identified as
8 persistently lowest-achieving. The state board shall release a school
9 district from the designation as a required action district upon
10 confirmation that the district has met the requirements for a release.

11 (3) If the state board of education determines that the required
12 action district has not met the requirements for release, the
13 ~~((district remains in required action and must submit a new or revised~~
14 ~~plan under the process in RCW 28A.657.050))~~ office of the
15 superintendent of public instruction shall review the actions taken in
16 accordance with the required action process and create a new three-year
17 plan with the school district board of directors to be implemented by
18 the office of the superintendent of public instruction using a
19 management structure chosen by the superintendent of public
20 instruction.

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

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

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

1 NEW SECTION. **Sec. 9.** Section 4 of this act takes effect June 30,
2 2019.

3 NEW SECTION. **Sec. 10.** Section 2 of this act is necessary for the
4 immediate preservation of the public peace, health, or safety, or
5 support of the state government and its existing public institutions,
6 and takes effect immediately.

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