
SECOND SUBSTITUTE SENATE BILL 5329

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Litzow, Hobbs, Fain, Hatfield, Tom, Frockt, and Roach)

READ FIRST TIME 03/01/13.

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.657.060, 28A.657.090, and 28A.657.100; adding new sections to
4 chapter 28A.657 RCW; creating a new section; providing an effective
5 date; providing an expiration date; 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 to assist the ten most persistently lowest-
4 achieving schools. Additionally, the legislature intends to create a
5 second level in the required action process that authorizes the office
6 of the superintendent of public instruction to take certain actions.

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

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

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

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

22 (4) A district designated as a required action district must notify
23 all parents of students attending a school identified as one of the
24 most persistently lowest-achieving schools in the district, the
25 designation of the district as a required action district, and the
26 process for complying with the required action process in RCW
27 28A.657.040 through 28A.657.100.

28 (5) Each required action district designated under this section
29 must follow the process and comply with the requirements in RCW
30 28A.657.040 through 28A.657.100.

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

33 (1) The local district superintendent and local school board of a
34 school district designated as a required action district must submit a
35 required action plan to the state board of education for approval.
36 Unless otherwise required by subsection (3) of this section, the plan

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

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

18 (a) Implementation of one of the four federal intervention models
19 required for the receipt of a federal school improvement grant, for
20 those persistently lowest-achieving schools that the district will be
21 focusing on for required action, or for a district designated a
22 required action district in accordance with section 2 of this act, one
23 of the four federal intervention models or the collaborative schools
24 for innovation and success model in accordance with chapter 28A.630
25 RCW. However, a district may not establish a charter school under a
26 federal intervention model without express legislative authority,
27 unless the district is designated a required action district in
28 accordance with section 2 of this act. If a required action district
29 chooses to establish a charter school as the intervention model, then
30 the charter school that is established counts towards the maximum
31 number of charter schools that may be established in accordance with
32 RCW 28A.710.150. The intervention models are the turnaround, restart,
33 school closure, and transformation models, or for a district designated
34 a required action district in accordance with section 2 of this act,
35 the intervention models are the four federal intervention models or the
36 collaborative schools for innovation and success model in accordance
37 with chapter 28A.630 RCW. The intervention model selected must address
38 the concerns raised in the academic performance audit and be intended

1 to improve student performance to allow a school district to be removed
2 from the list of districts designated as a required action district by
3 the state board of education within three years of implementation of
4 the plan;

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

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

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

17 (e) Identification of the measures that the school district will
18 use in assessing student achievement at a school identified as a
19 persistently lowest-achieving school, which include improving
20 mathematics and reading student achievement and graduation rates as
21 defined by the office of the superintendent of public instruction that
22 enable the school to no longer be identified as a persistently lowest-
23 achieving school.

24 (3)(a) For any district designated for required action, the parties
25 to any collective bargaining agreement negotiated, renewed, or extended
26 under chapter 41.59 or 41.56 RCW after June 10, 2010, and for a school
27 district designated a required action district in accordance with
28 section 2 of this act after the effective date of this section, must
29 reopen the agreement, or negotiate an addendum, if needed, to make
30 changes to terms and conditions of employment that are necessary to
31 implement a required action plan. For any district applying to
32 participate in a collaborative schools for innovation and success pilot
33 project under RCW 28A.630.104, the parties to any collective bargaining
34 agreement negotiated, renewed, or extended under chapter 41.59 or 41.56
35 RCW after June 7, 2012, must reopen the agreement, or negotiate an
36 addendum, if needed, to make changes to terms and conditions of
37 employment that are necessary to implement an innovation and success
38 plan.

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

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

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

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

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

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

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

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

34 (E) The academic performance audit that the office of the
35 superintendent of public instruction completed for the school district
36 in the case of a required action district, or the comprehensive needs
37 assessment in the case of a collaborative schools for innovation and
38 success pilot project.

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

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

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

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

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

36 (4) All contracts entered into between a school district and an
37 employee must be consistent with this section and allow school

1 districts designated as required action districts to implement one of
2 the (~~four federal~~) intervention models in a required action plan.

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

5 (1) The local district superintendent and local school board of a
6 school district designated as a required action district must submit a
7 required action plan to the state board of education for approval.
8 Unless otherwise required by subsection (3) of this section, the plan
9 must be submitted under a schedule as required by the state board. A
10 required action plan must be developed in collaboration with
11 administrators, teachers, and other staff, parents, unions representing
12 any employees within the district, students, and other representatives
13 of the local community. The superintendent of public instruction shall
14 provide a district with assistance in developing its plan if requested.
15 The school board must conduct a public hearing to allow for comment on
16 a proposed required action plan. The local school district shall
17 submit the plan first to the office of the superintendent of public
18 instruction to review and approve that the plan is consistent with
19 federal guidelines. After the office of the superintendent of public
20 instruction has approved that the plan is consistent with federal
21 guidelines, the local school district must submit its required action
22 plan to the state board of education for approval.

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

24 (a) Implementation of one of the four federal intervention models
25 required for the receipt of a federal school improvement grant, for
26 those persistently lowest-achieving schools that the district will be
27 focusing on for required action, or for a district designated a
28 required action district in accordance with section 2 of this act, one
29 of the four federal intervention models or the collaborative schools
30 for innovation and success model in accordance with chapter 28A.630
31 RCW. However, a district may not establish a charter school under a
32 federal intervention model without express legislative authority,
33 unless the district is designated a required action district in
34 accordance with section 2 of this act. If a required action district
35 chooses to establish a charter school as the intervention model, then
36 the charter school that is established counts towards the maximum
37 number of charter schools that may be established in accordance with

1 RCW 28A.710.150. The intervention models are the turnaround, restart,
2 school closure, and transformation models, or for a district designated
3 a required action district in accordance with section 2 of this act,
4 the intervention models are the four federal intervention models or the
5 collaborative schools for innovation and success model in accordance
6 with chapter 28A.630 RCW. The intervention model selected must address
7 the concerns raised in the academic performance audit and be intended
8 to improve student performance to allow a school district to be removed
9 from the list of districts designated as a required action district by
10 the state board of education within three years of implementation of
11 the plan;

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

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

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

24 (e) Identification of the measures that the school district will
25 use in assessing student achievement at a school identified as a
26 persistently lowest-achieving school, which include improving
27 mathematics and reading student achievement and graduation rates as
28 defined by the office of the superintendent of public instruction that
29 enable the school to no longer be identified as a persistently lowest-
30 achieving school.

31 (3)(a) For any district designated for required action, the parties
32 to any collective bargaining agreement negotiated, renewed, or extended
33 under chapter 41.59 or 41.56 RCW after June 10, 2010, and for a school
34 district designated a required action district in accordance with
35 section 2 of this act after the effective date of this section, must
36 reopen the agreement, or negotiate an addendum, if needed, to make
37 changes to terms and conditions of employment that are necessary to
38 implement a required action plan.

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

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

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

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

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

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

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

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

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

36 (ii) Within seven days after the filing of the petition, each party
37 shall file with the court the proposal it is asking the court to order
38 be implemented in a required action plan for the district for each

1 issue certified by the executive director. Contemporaneously with the
2 filing of the proposal, a party must file a brief with the court
3 setting forth the reasons why the court should order implementation of
4 its proposal in the final plan.

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

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

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

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

30 (4) All contracts entered into between a school district and an
31 employee must be consistent with this section and allow school
32 districts designated as required action districts to implement one of
33 the (~~four federal~~) intervention models in a required action plan.

34 **Sec. 5.** RCW 28A.657.060 and 2010 c 235 s 106 are each amended to
35 read as follows:

36 A required action plan developed by a district's school board and
37 superintendent must be submitted to the state board of education for

1 approval. The state board must accept for inclusion in any required
2 action plan the final decision by the superior court on any issue
3 certified by the executive director of the public employment relations
4 commission under the process in RCW 28A.657.050. The state board of
5 education shall approve a plan proposed by a school district only if
6 the plan meets the requirements in RCW 28A.657.050 and provides
7 sufficient remedies to address the findings in the academic performance
8 audit to improve student achievement. Any addendum or modification to
9 an existing collective bargaining agreement, negotiated under RCW
10 28A.657.050 or by agreement of the district and the exclusive
11 bargaining unit, related to student achievement or school improvement
12 shall not go into effect until approval of a required action plan by
13 the state board of education. If the state board does not approve a
14 proposed plan, it must notify the local school board and local
15 district's superintendent in writing with an explicit rationale for why
16 the plan was not approved. Nonapproval by the state board of education
17 of the local school district's initial required action plan submitted
18 is not intended to trigger any actions under RCW 28A.657.080. With the
19 assistance of the office of the superintendent of public instruction,
20 the superintendent and school board of the required action district
21 shall either: (~~((a)–{(1)}~~)) (1) Submit a new plan to the state board
22 of education for approval within forty days of notification that its
23 plan was rejected, or (~~((b)–{(2)}~~)) (2) submit a request to the
24 required action plan review panel established under RCW 28A.657.070 for
25 reconsideration of the state board's rejection within ten days of the
26 notification that the plan was rejected. If federal or state funds are
27 not available, the plan is not required to be implemented until such
28 funding becomes available. If federal or state funds for this purpose
29 are available, a required action plan must be implemented in the
30 immediate school year following the district's designation as a
31 required action district.

32 **Sec. 6.** RCW 28A.657.090 and 2010 c 235 s 109 are each amended to
33 read as follows:

34 A school district must implement a required action plan upon
35 approval by the state board of education. The office of (~~{the}~~) the
36 superintendent of public instruction must provide the required action
37 district with technical assistance and federal school improvement grant

1 funds or other federal funds for school improvement, if available, or
2 state funds, to implement an approved plan. The district must submit
3 a report to the superintendent of public instruction that provides the
4 progress the district is making in meeting the student achievement
5 goals based on the state's assessments, identifying strategies and
6 assets used to solve audit findings, and establishing evidence of
7 meeting plan implementation benchmarks as set forth in the required
8 action plan.

9 **Sec. 7.** RCW 28A.657.100 and 2010 c 235 s 110 are each amended to
10 read as follows:

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

14 (2) The superintendent of public instruction must recommend to the
15 state board of education that a school district be released from the
16 designation as a required action district after the district implements
17 a required action plan for a period of three years; has made progress,
18 as defined by the superintendent of public instruction, in reading and
19 mathematics on the state's assessment over the past three consecutive
20 years; and no longer has a school within the district identified as
21 persistently lowest-achieving. The state board shall release a school
22 district from the designation as a required action district upon
23 confirmation that the district has met the requirements for a release.

24 (3)(a) If the state board of education determines that the required
25 action district has not met the requirements for release, the district
26 (~~remains in required action and must submit a new or revised plan~~
27 ~~under the process in RCW 28A.657.050~~) enters level two of the required
28 action process. The office of the superintendent of public instruction
29 shall review the actions taken in accordance with the required action
30 process and create a new three-year plan with input from the school
31 district board of directors to be implemented by the office of the
32 superintendent of public instruction using a management structure
33 chosen by the superintendent of public instruction. The superintendent
34 of public instruction may choose to implement one of the federal
35 intervention models as provided in RCW 28A.657.050 or the collaborative
36 schools for innovation and success model in accordance with chapter
37 28A.630 RCW. If the superintendent chooses to establish a charter

1 school as the intervention model, then the charter school that is
2 established counts towards the maximum number of charter schools that
3 may be established in accordance with RCW 28A.710.150.

4 (b) The three-year plan for level two of the required action
5 process must contain a performance framework that sets out the
6 indicators, measures, and metrics for improvement of student learning
7 including: Student academic proficiency, student academic growth,
8 achievement gap among subgroups, attendance, recurrent enrollment
9 graduation rates, postsecondary readiness, financial performance, and
10 sustainability.

11 (c) A required action district that is designated to enter level
12 two of the required action process must notify all parents of students
13 attending a school identified as one of the most persistently lowest-
14 achieving schools in the district of the designation of the district as
15 a level two required action district, and the process for complying
16 with the requirements in this subsection (3).

17 (d) The superintendent of public instruction must provide a report
18 twice per year to the state board of education regarding the progress
19 made by all school districts designated for level two of the required
20 action process. The biannual report must include data on student
21 learning indicators identified in the required action district level
22 two plan; outline implementation success, challenges, and risks; and
23 include a sustainability plan. The state board of education may
24 provide input and recommended actions if it deems the three-year plan
25 is not making sufficient improvement.

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

34 NEW SECTION. Sec. 8. A new section is added to chapter 28A.657
35 RCW to read as follows:

36 (1) Certificated and classified employees assigned to a school that
37 is scheduled to enter level two of the required action process may

1 apply to the original school district for a transfer of assignment
2 within the original district, which request must be considered
3 according to the policies and procedures of the district regarding
4 transfers of assignment.

5 (2) The superintendent of public instruction shall exercise the
6 powers of a school district board of directors under RCW 28A.400.300
7 with regard to employment of certificated and classified employees
8 assigned at the schools entering level two of the required action
9 process.

10 (3) The superintendent of public instruction may delegate the
11 responsibility to hire, assign, evaluate, and dismiss employees
12 assigned at the schools entering level two of the required action
13 process.

14 (4) For any district designated for level two of the required
15 action process, the parties to any collective bargaining agreement
16 negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after
17 the effective date of this section must reopen the agreement, or
18 negotiate an addendum, if needed, to make changes to terms and
19 conditions of employment that are necessary to implement a required
20 action plan.

21 NEW SECTION. **Sec. 9.** Section 3 of this act expires June 30, 2019.

22 NEW SECTION. **Sec. 10.** Section 4 of this act takes effect June 30,
23 2019.

24 NEW SECTION. **Sec. 11.** 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.

--- END ---