H-3920.2

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**HOUSE BILL 2947**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Sullivan, Lytton, Blake, and Rossetti

AN ACT Relating to education governance; amending RCW 43.17.010 and 43.17.020; reenacting and amending RCW 42.17A.705; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 28A RCW; creating new sections; providing a contingent effective date; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that a growing number of agencies, each with their own priorities and activities, set education policy. The legislature further recognizes that while there is excellent work being pursued by individual entities in response to their specific duties, the focus and impact for student success would be magnified if there were a cohesive state-level governance education system and if some of these agencies were brought together. The legislature further finds that consolidation of state-level education entities would result in a governance system with a more unified student-centered vision, common goals, shared priorities, and linked outcomes. The results for learners would be improved with an integrated system approach.

The legislature intends to create a cohesive state-level governance education system that will provide for integrated policies at the state level and consistent best practice guidance and technical assistance to local delivery systems. By consolidating state-level planning, policies, and assistance, the legislature intends that outcomes for learners will improve and management burdens for local delivery systems will be lessened.

**PART I**

**DEPARTMENT OF EDUCATION CREATED**

NEW SECTION. **Sec.**  There is created a department of state government to be known as the department of education. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of education.

(2) "Director" means the director of education.

NEW SECTION. **Sec.**  The executive head and appointing authority of the department is the director. The director shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate.

NEW SECTION. **Sec.**  It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the director in order that the director may institute therein the flexible, alert, and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever the director's authority is not specifically limited by law, the director has complete charge and supervisory powers over the department. The director may create such administrative structures as the director considers appropriate, except as otherwise specified by law. The director may employ such assistants and personnel as necessary for the general administration of the department. This employment shall be in accordance with the state civil service law, chapter 41.06 RCW, except as otherwise provided.

NEW SECTION. **Sec.**  The director shall appoint a deputy director, a department personnel director, and such assistant directors as may be needed to administer the department. The deputy director shall have charge and general supervision of the department in the absence or disability of the director and, in case of a vacancy in the office of director, shall continue in charge of the department until a successor is appointed and qualified, or until the governor appoints an acting director.

NEW SECTION. **Sec.**  Any power or duty vested in or transferred to the director by law or executive order may be delegated by the director to the deputy director or to any other assistant or subordinate; but the director shall be responsible for the official acts of the officers and employees of the department.

NEW SECTION. **Sec.**  (1) The director may appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department.

(2) The director may also appoint statewide committees or councils on such subject matters as are or come within the department's responsibilities.

(3) The director may also appoint advisory committees on K-12 public education.

(4) Members of state advisory committees or councils under this section may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec.**  In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, such rules as may become necessary to entitle the state to participate in federal funds may be adopted, unless expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements that are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department that may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any law dealing with the department is ruled to be in conflict with federal requirements that are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, the conflicting part is declared to be inoperative solely to the extent of the conflict.

NEW SECTION. **Sec.**  (1) The governor shall appoint a transition team to plan the technical and practical steps required to bring the office of the superintendent of public instruction into a new department as provided in this act. The transition team may include representatives from the office of the superintendent of public instruction. The governor shall appoint the lead of the transition team.

(2) The transition team shall complete the transition plan and implementation schedule by January 1, 2018. The plan shall be designed to phase-in the operation of the department of education to begin by July 1, 2018, and be completed by July 1, 2019.

(3) This section expires July 1, 2020.

NEW SECTION. **Sec.**  A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the department of education to the director, the director's personal secretary, the deputy director, all division directors and assistant directors, and one confidential secretary for each of these officers.

**Sec.**  RCW 43.17.010 and 2011 1st sp.s. c 43 s 107 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of enterprise services, (9) the department of commerce, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, (16) the department of archaeology and historic preservation, (17) the department of early learning, ((~~and~~)) (18) the Puget Sound partnership, and (19) the department of education, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

**Sec.**  RCW 43.17.020 and 2011 1st sp.s. c 43 s 108 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of enterprise services, (9) the director of commerce, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, (17) the director of early learning, ((~~and~~)) (18) the executive director of the Puget Sound partnership, and (19) the director of education.

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

**Sec.**  RCW 42.17A.705 and 2015 3rd sp.s. c 1 s 406 and 2015 c 1 s 317 are each reenacted and amended to read as follows:

For the purposes of RCW 42.17A.700, "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of early learning, the director of ecology, the director of education, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, student achievement council, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, liquor ((~~control~~)) and cannabis board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees.

NEW SECTION. **Sec.**  (1) The office of the superintendent of public instruction is hereby abolished and its powers, duties, and functions are hereby transferred to the department of education. All references to the superintendent of public instruction or the office of the superintendent of public instruction in the Revised Code of Washington shall be construed to mean the director or the department of education.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the office of the superintendent of public instruction shall be delivered to the custody of the department of education. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the office of the superintendent of public instruction shall be made available to the department of education. All funds, credits, or other assets held by the office of the superintendent of public instruction shall be assigned to the department of education.

(b) Any appropriations made to the office of the superintendent of public instruction shall, on the effective date of this section, be transferred and credited to the department of education.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the office of the superintendent of public instruction are transferred to the jurisdiction of the department of education. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of education to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the office of the superintendent of public instruction shall be continued and acted upon by the department of education. All existing contracts and obligations shall remain in full force and shall be performed by the department of education.

(5) The transfer of the powers, duties, functions, and personnel of the office of the superintendent of public instruction shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the office of the superintendent of public instruction assigned to the department of education under this section whose positions are within an existing bargaining unit description at the department of education shall become a part of the existing bargaining unit at the department of education and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART II**

**STATE BOARD OF EDUCATION TRANSFERRED**

NEW SECTION. **Sec.**  (1) The state board of education is hereby abolished and its powers, duties, and functions are hereby transferred to the department of education. All references to the executive director or the state board of education in the Revised Code of Washington shall be construed to mean the director or the department of education.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state board of education shall be delivered to the custody of the department of education. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the state board of education shall be made available to the department of education. All funds, credits, or other assets held by the state board of education shall be assigned to the department of education.

(b) Any appropriations made to the state board of education shall, on the effective date of this section, be transferred and credited to the department of education.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the state board of education are transferred to the jurisdiction of the department of education. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of education to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the state board of education shall be continued and acted upon by the department of education. All existing contracts and obligations shall remain in full force and shall be performed by the department of education.

(5) The transfer of the powers, duties, functions, and personnel of the state board of education shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the state board of education assigned to the department of education under this section whose positions are within an existing bargaining unit description at the department of education shall become a part of the existing bargaining unit at the department of education and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART III**

**MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec.**  Sections 101 through 109 and 201 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. **Sec.**  This act takes effect July 1, 2019, if the proposed amendment to Article III, sections 1, 3, 10, 22, and 24 of the state Constitution eliminating the office of the superintendent of public instruction (H-3919/16) is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, this act is void in its entirety.

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