
ENGROSSED House Bill 2641

State of Washington

60th Legislature

2008 Regular Session

By Representatives Jarrett, Priest, Wallace, Ormsby, McIntire, Sells, Morrell, Upthegrove, Sullivan, and Haler

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1 AN ACT Relating to higher education performance agreements; adding
2 new sections to chapter 28B.10 RCW; adding a new section to chapter
3 44.28 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that in the last
6 ten years, significant progress has been made to identify and monitor
7 accountability and performance measures in higher education, both
8 internally in institutions and externally in the legislative and state
9 policymaking environment.

10 (2) However, the legislature further finds that opportunities exist
11 to promote greater visibility of performance measures among
12 policymakers and among the public consumers of higher education.
13 Policy decisions, including decisions about resource allocation, should
14 be made with greater knowledge and a shared understanding about the
15 tradeoffs between resources, flexibility, and desired outcomes. A
16 forum should be created to allow discussion among policymakers and
17 institution leaders about setting outcome-oriented priorities,
18 targeting of investments, linking operating and capital planning, and

1 creating a longer-term view than the biennial budget cycle typically
2 permits.

3 (3) Therefore, the legislature intends to implement a process for
4 such discussions, agreements, and planning to occur. The process of
5 crafting higher education performance agreements will be pilot-tested
6 over a six-year period with the public four-year institutions of higher
7 education beginning in 2008.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10 RCW
9 to read as follows:

10 (1) As used in this section and sections 3 and 4 of this act, a
11 performance agreement is an agreement reached between the state and the
12 governing board of an institution of higher education and approved by
13 the legislature using the process provided in section 4 of this act.

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

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

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.10 RCW
22 to read as follows:

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

25 (a) Indicators that measure outcomes concerning cost, quality,
26 timeliness of student progress toward degrees and certifications, and
27 articulation between and within the K-12 and higher education systems;

28 (b) Benchmarks and goals for long-term degree production, including
29 discrete benchmarks and goals in particular fields of study;

30 (c) The level of resources necessary to meet the performance
31 outcomes, benchmarks, and goals, subject to legislative appropriation;
32 and

33 (d) The prioritization of four-year institution capital budget
34 projects by the office of financial management.

35 (2) The goals and outcomes identified in a performance agreement

1 shall be linked to the role, mission, and strategic plan of the
2 institution of higher education and aligned with the statewide
3 strategic master plan for higher education.

4 (3) Performance agreements may also include grants to an
5 institution, under the terms of the agreement, of flexibility or
6 waivers from state controls or rules. The agreement may identify areas
7 where statutory change is necessary to grant an institution flexibility
8 or waivers of state agency rules.

9 (4) The following areas may not be included in a performance
10 agreement:

11 (a) Flexibility or waivers of requirements in a collective
12 bargaining agreement negotiated under chapter 28B.52, 41.56, 41.59,
13 41.76, or 41.80 RCW;

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

16 (c) Rules, processes, duties, rights, and responsibilities of the
17 academic faculty as contained in the faculty codes of the four-year
18 institution;

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

20 (e) Flexibility or waivers of administrative rules or other
21 regulations that address health and safety, civil rights, and
22 nondiscrimination laws that apply to institutions of higher education;
23 and

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

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.10 RCW
28 to read as follows:

29 (1) A state performance agreement committee is created to represent
30 the state in developing performance agreements under this section and
31 sections 2 and 3 of this act. The committee is composed of
32 representatives from the governor's office, the office of financial
33 management, the higher education coordinating board, the office of the
34 superintendent of public instruction, two members of the senate
35 appointed by the secretary of the senate, and two members of the house
36 of representatives appointed by the speaker of the house of
37 representatives. The state performance agreement committee shall be

1 staffed by personnel from the higher education coordinating board. The
2 governing boards of the public four-year institutions of higher
3 education shall designate performance agreement representatives for
4 each institution respectively that shall include two faculty members at
5 those institutions bargaining under chapter 41.76 RCW, at least one of
6 whom shall be appointed by the exclusive collective bargaining agent.
7 If the participating pilot institution does not bargain under chapter
8 41.76 RCW, then two faculty members shall be appointed by the faculty
9 senate of that institution.

10 (2) Each of the participating institutions shall develop a
11 preliminary draft of a performance agreement with input from students
12 and faculty. Starting with the preliminary drafts, the state
13 performance agreement committee and representatives of each institution
14 shall develop revised draft performance agreements for each institution
15 and submit the revised drafts to the governor and the fiscal and higher
16 education committees of the legislature no later than September 1,
17 2008.

18 (3) After receiving informal input on the revised draft performance
19 agreements, particularly regarding the levels of resources assumed in
20 the agreements, the state committee and institution representatives
21 shall develop final proposed performance agreements and submit the
22 agreements to the governor and the office of financial management by
23 November 1, 2008, for consideration in development of the governor's
24 2009-2011 operating and capital budget recommendations.

25 (4) The state committee shall submit any legislation necessary to
26 implement a performance agreement to the higher education committees of
27 the senate and house of representatives.

28 (5) All cost items contained within a performance agreement are
29 subject to legislative appropriation.

30 (6) If the legislature affirms, through a proviso in the 2009-2011
31 omnibus appropriations act, that the omnibus appropriations act and the
32 2009 capital budget act enacted by the legislature align with the
33 proposed performance agreements, the performance agreements shall take
34 effect beginning July 1, 2009, through June 30, 2015. If the
35 legislature affirms, through a proviso in the 2009-2011 omnibus
36 appropriations act or through inaction, that the omnibus appropriations
37 act and/or the 2009 capital budget act are not aligned with the
38 proposed performance agreements, the state committee and institution

1 representatives shall redraft the agreements to align with the enacted
2 budgets, and the redrafted agreements shall take effect beginning
3 September 1, 2009, through June 30, 2015.

4 (7) The legislature, the state committee, and the institution
5 representatives shall repeat the process described in subsection (6) of
6 this section for each subsequent omnibus appropriations and capital
7 budget act enacted between the 2010 and 2014 legislative sessions to
8 ensure that the performance agreements are updated as necessary to
9 align with enacted omnibus appropriations and capital budget acts.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 44.28 RCW
11 to read as follows:

12 The joint committee shall conduct an evaluation of the higher
13 education performance agreement pilot test under sections 2 through 4
14 of this act and make recommendations regarding changes to the substance
15 or process of creating the agreements, including whether the
16 performance agreement process should be continued and expanded to
17 include additional higher education institutions. The evaluation shall
18 be submitted to the governor and the higher education committees of the
19 senate and house of representatives by November 1, 2014.

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