

# SENATE BILL REPORT

## ESSB 5889

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As Amended by House, April 13, 2009

**Title:** An act relating to flexibility in the education system.

**Brief Description:** Providing flexibility in the education system.

**Sponsors:** Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Hobbs, McAuliffe, McDermott and Oemig).

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 2/05/09, 2/18/09 [DPS, w/oRec].

Passed Senate: 3/10/09, 46-1.

Passed House: 4/13/09, 97-1.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** That Substitute Senate Bill No. 5889 be substituted therefor, and the substitute bill do pass.

Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King, Ranking Minority Member; Brandland, Hobbs, Jarrett, McDermott, Roach and Tom.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Holmquist.

**Staff:** Kimberly Cushing (786-7421)

**Background:** Title 28A of the Revised Code of Washington encompasses the laws related to the common schools and establishes the organizational structure of the common school system. ("Common schools" are public schools operating a program for kindergarten through twelfth grade or any part thereof.) Separate chapters define the roles and responsibilities of the Superintendent of Public Instruction (SPI), the State Board of Education (SBE), educational service districts (ESDs), and school districts. Other chapters of Title 28A define requirements for health screening and requirements, traffic safety, compulsory school attendance and admission, compulsory course work and activities, awards, and academic achievement and accountability.

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Over the years, school districts have asked the Legislature to ease the burden that state mandates have placed on public schools. Deregulation may provide school districts with the flexibility to reallocate resources, personnel, materials, and training time.

**Summary of Engrossed Substitute Bill:** The following laws in Title 28A RCW relating to information, notice and reporting requirements, and curriculum and assessment mandates are suspended or delayed, repealed, amended to allow online information unless written information is requested by parents, or required only to the extent funds are available.

The following programs or requirements established by law are each repealed:

- SPI must provide information about immunizations.
- SPI must include information on (1) the proper use of the left-hand lane in traffic safety courses; (2) motorcycle awareness in traffic safety courses; and (3) driving safely among bicyclists and pedestrians in traffic safety courses.
- SPI must require districts to annually inform high school students that employers may request transcripts.
- On or before January 1, 2002, SPI must report to the Legislature on the types of grants awarded under the Washington Civil Liberties Public Education Program.
- Student Learning Plans are required for 8-12 grade students who were not successful on any or all of the content areas of the WASL or who may not be on track to graduate due to credit deficiencies or absences.

The following programs or requirements established by law are suspended until July 1, 2011:

- School districts must require visual and auditory screening and prepare or provide records. This is suspended, except to the extent necessary to comply with federal Individuals with Disabilities Education Act (IDEA), as well as children who are eligible for free or reduced-priced lunch.
- The classroom-based assessments (CBAs) for civics for students in the fourth or fifth grade are suspended until 2010-11.
- SPI must revise a manual of the Washington State Common School Code and provide it to public agencies within the common school system and sell it to other public and nonpublic agencies.
- SPI must provide high schools the contact information for programs offering college credit, including online advanced placement classes. These schools must publish entrance requirements and availability of local programs that lead to college credits.
- SPI must provide an annual aggregate report to the Legislature on the educational experiences and progress of students in foster care.
- School districts must provide all high school students with the option to take the math college readiness test.
- SPI must develop technology essential academic learning requirements (EALRs). By the 2010-11 school year, SPI must develop and make available assessments for the technology EALRs.

The following laws are amended:

- If a school district has received approval for its plan for using learning assistance funds (LAP), it is not required to resubmit a plan unless the district has made a significant change to the plan or a portion of the plan. The Office of SPI must establish guidelines defining a "significant change."

- SPI must only provide the appropriate personnel notice of the State Board of Health rules regarding contagious diseases when there are significant changes. Online access to the rules is sufficient.
- SPI must provide access, rather than printing and distributing, rules, records, and forms for visual and auditory screening.
- Public and private schools must provide access to information about the meningococcal and human papillomavirus diseases and their vaccinations. Online access is sufficient, unless a parent specifically requests the information in writing.
- Each school must inform students and parents about compulsory attendance. Online access to the information is sufficient, unless a parent specifically requests the information in writing.
- SPI must prepare and annually provide access to information regarding enrollment options. Online access to the information is sufficient, unless a parent specifically requests the information in writing.
- Providing online access to information about intradistrict and interdistrict enrollment options is sufficient, unless a parent specifically requests the information in writing.
- School districts may provide parents with information regarding their rights under the Public Records Act, when requesting school employee discipline records for sexual misconduct.
- Schools must provide online notice of pesticide use, as well as written notice upon the request of a parent.
- Schools offering educational pathways must ensure students will have access to the courses and inform the parents about what opportunities are available to the student through the pathway. Providing online access to this information is sufficient, unless a parent specifically requests the information in writing.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:** PRO: This bill targets unfunded mandates, which are often the biggest complaint from stakeholders. Some of the items in the bill will be pulled out and others will be tweaked. Now is the time to give feedback. While the bill as written has not been completely vetted and is not ready to be passed into law, the direction the bill is headed, as well as the ensuing discussions, are welcome. It is critical to preserve statutes dealing with student achievement, civil rights, health, safety, and federal funding. Agency regulations should be added. The maintenance and food nutrition people are ready to work with the Legislature. With the Learning Assistance Funds, it is appropriate to only provide notice when actual changes are made. Eliminating student learning plans is supported, because there are many other places where this work is done.

CON: The nurses, early learning community, and sexual assault coalition want to offer their expertise on related programs. Eliminating visual screening impacts poor children. People who have worked hard on bills don't have lobbyists to come down and testify on these issues.

We pass laws to make the few who will not do the right thing, even if told. Suspensions will cause confusion. If we are concerned about costs, put a moratorium on the WASL.

OTHER: This is not a specific unfunded mandate issue, but rather an underfunding issue overall. The challenges are the unintended consequences – such as which child will miss out on a part of their education when a program is suspended. Use the principal as a filter, if a principal does not know about the mandate, it probably is not needed. We appreciate the intention behind the bill. We are interested in working with legislators on dropout prevention and career technical education (CTE). CTE is not an unfunded mandate.

**Persons Testifying:** PRO: Senator Hobbs, prime sponsor; John Altman, OSPI; Barbara Mertens, Washington Association of School Administrators; Dan Steele, Washington State School Directors Association; Mitch Denning, Alliance of Education Association.

CON: Lonnie Johns-Brown, School Nurse Organization for Washington; Christie Perkins, Washington State Special Education Coalition.

OTHER: Lucinda Young, Washington Education Association; Jerry Bender, Association of Washington School Principals; Eleni Papudakis, Workforce Board.

**House Amendment(s):** Removes the following provisions from the bill:

- Repeals the requirement for SPI to provide information about immunization requirements.
- Repeals the requirements for certain specified information to be included in traffic safety education course materials.
- Repeals the requirements for school districts to prepare Student Learning Plans for certain students.
- Suspends until July 1, 2011, the requirements for school districts to provide visual and auditory screening and prepare and provide records, except as required by the federal IDEA or to serve low-income children.
- Suspends until 2011-12 the notice requirements regarding college credit programs.
- Allows school districts to satisfy information requirements to parents about various diseases and vaccines through online information.

Adds the following provisions to the bill:

- Repeals a requirement that SPI must encourage school districts to use community service as an alternative to suspension and distribute information on programs.
- Repeals the requirement that any course in Washington State history and government must include specific content areas.
- Repeals the encouragement to districts to adopt family preservation education program curriculum.
- Repeals the Award for Excellence in Education.
- Repeals the Award for Excellence in Teaching Preparation.
- Repeals a requirement that SPI must submit an application to the U.S. Department of Education for flexibility in the state's assessment and conduct a pilot project with certain districts.
- Repeals the requirements that are imposed on school-to-work transition projects.

- Restricts the state Educational Technology Plan's requirements on school districts to only what is required by federal requirements.
- Allows visual screening in schools to be performed by ophthalmologists, optometrists, or opticians who donate their professional services.

Modifies the following provisions in the bill:

- Rather than suspending until July 1, 2011, a requirement that SPI publish and distribute a Common School Manual for free to public school agencies, SPI is required to make the Common School Manual available online and is authorized to charge any agency for hard copies.
- SPI cannot require districts to use classroom-based assessments in social studies, arts, and health and fitness and must communicate clearly the districts' option to use other strategies chosen by that district.