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**SENATE BILL 5740**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senator King

AN ACT Relating to the one hundred eighty day school calendar; amending RCW 28A.150.220, 28A.150.290, 28A.305.141, 28A.310.240, 28A.330.100, 28A.400.200, 28A.400.300, and 28A.410.080; adding a new section to chapter 43.135 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that school children in Washington state have a shorter school year and therefore receive less academic instruction than students in most of the nations that outperform Washington students in international comparisons. The legislature further finds that the length of the school year is virtually the same today as it was throughout the twentieth century. The legislature acknowledges that education reform and increased investments by the legislature in Washington schools creates the expectation of profound improvement in student achievement and obviously calls for new ways to use time to achieve powerful learning.

The legislature intends to extend the minimum school year from one hundred eighty days to two hundred twenty days. The legislature further intends for this longer school year to provide additional instructional time for students and more state-compensated time for teachers so that supplemental contracts and "deemed done" payments by school districts to teachers can end. The legislature further intends to prioritize investments in K-12 schools to improve student outcomes.

**Sec.**  RCW 28A.150.220 and 2014 c 217 s 201 are each amended to read as follows:

(1) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through twelve, at least a district-wide annual average of one thousand hours, which shall be increased beginning in the 2015-16 school year to at least one thousand eighty instructional hours for students enrolled in grades nine through twelve and at least one thousand instructional hours for students in grades one through eight, all of which may be calculated by a school district using a district-wide annual average of instructional hours over grades one through twelve; and

(b) For students enrolled in kindergarten, at least four hundred fifty instructional hours, which shall be increased to at least one thousand instructional hours according to the implementation schedule under RCW 28A.150.315.

(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the essential academic learning requirements under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete twenty-four credits for high school graduation, beginning with the graduating class of 2019 or as otherwise provided in RCW 28A.230.090. Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(e) Supplemental instruction and services for eligible and enrolled students and exited students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and

(g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.

(4) Nothing contained in this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5)(a) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, ((~~and one hundred eighty half-days of instruction, or equivalent, in kindergarten, to be increased to a minimum of one hundred eighty school days per school year according to the implementation schedule under RCW 28A.150.315~~)) which shall be increased to two hundred twenty days in accordance with section 10 of this act.

(b) Each school district board of directors shall adopt a school calendar in which breaks in scheduled instructional days for students are limited to a maximum of two weeks at a time during the school year.

(c) Schools administering the Washington kindergarten inventory of developing skills may use up to three school days at the beginning of the school year to meet with parents and families as required in the parent involvement component of the inventory.

((~~(c)~~)) (d) In the case of students who are graduating from high school, a school district may schedule the last five school days of the ((~~one hundred eighty day~~)) school year for noninstructional purposes including, but not limited to, the observance of graduation and early release from school upon the request of a student. All such students may be claimed as a full‑time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260. Any hours scheduled by a school district for noninstructional purposes during the last five school days for such students shall count toward the instructional hours requirement in subsection (2)(a) of this section.

(6) Nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

(7) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

**Sec.**  RCW 28A.150.290 and 1992 c 141 s 504 are each amended to read as follows:

(1) The superintendent of public instruction shall have the power and duty to make such rules and regulations as are necessary for the proper administration of this chapter and RCW 28A.160.150 through ((~~28A.160.220~~)) 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010 not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out his or her duties under this chapter and RCW 28A.160.150 through ((~~28A.160.220~~)) 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010.

(2) The superintendent of public instruction shall have the authority to make rules and regulations which establish the terms and conditions for allowing school districts to receive state basic education moneys as provided in RCW 28A.150.250 when said districts are unable to fulfill for one or more schools as officially scheduled the requirement of a full school year of one hundred eighty days, which shall be increased to two hundred twenty days in accordance with section 10 of this act, or the annual average total instructional hour offering imposed by RCW 28A.150.220 and 28A.150.260 due to one or more of the following conditions:

(a) An unforeseen natural event, including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that (i) is beyond the control of both a school district board of directors and its employees and (ii) has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water: PROVIDED, That an unforeseen action or inaction shall not include any labor dispute between a school district board of directors and any employee of the school district.

A condition is foreseeable for the purposes of this subsection to the extent a reasonably prudent person would have anticipated prior to August first of the preceding school year that the condition probably would occur during the ensuing school year because of the occurrence of an event or a circumstance which existed during such preceding school year or a prior school year. A board of directors of a school district is deemed for the purposes of this subsection to have knowledge of events and circumstances which are a matter of common knowledge within the school district and of those events and circumstances which can be discovered upon prudent inquiry or inspection.

(3) The superintendent of public instruction shall make every effort to reduce the amount of paperwork required in administration of this chapter and RCW 28A.160.150 through ((~~28A.160.220~~)) 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010; to simplify the application, monitoring and evaluation processes used; to eliminate all duplicative requests for information from local school districts; and to make every effort to integrate and standardize information requests for other state education acts and federal aid to education acts administered by the superintendent of public instruction so as to reduce paperwork requirements and duplicative information requests.

**Sec.**  RCW 28A.305.141 and 2016 c 99 s 1 are each amended to read as follows:

(1) In addition to waivers authorized under RCW 28A.305.140 and 28A.655.180, the state board of education may grant waivers from the requirement for a one hundred eighty day school year under RCW 28A.150.220, which shall be increased to two hundred twenty days in accordance with section 10 of this act, to school districts that propose to operate one or more schools on a flexible calendar for purposes of economy and efficiency as provided in this section. The requirement under RCW 28A.150.220 that school districts offer minimum instructional hours may not be waived.

(2) A school district seeking a waiver under this section must submit an application that includes:

(a) A proposed calendar for the school day and school year that demonstrates how the instructional hour requirement will be maintained;

(b) An explanation and estimate of the economies and efficiencies to be gained from compressing the instructional hours into fewer than one hundred eighty days, which shall be increased to two hundred twenty days in accordance with section 10 of this act;

(c) An explanation of how monetary savings from the proposal will be redirected to support student learning;

(d) A summary of comments received at one or more public hearings on the proposal and how concerns will be addressed;

(e) An explanation of the impact on students who rely upon free and reduced-price school child nutrition services and the impact on the ability of the child nutrition program to operate an economically independent program;

(f) An explanation of the impact on employees in education support positions and the ability to recruit and retain employees in education support positions;

(g) An explanation of the impact on students whose parents work during the missed school day; and

(h) Other information that the state board of education may request to assure that the proposed flexible calendar will not adversely affect student learning.

(3) The state board of education shall adopt criteria to evaluate waiver requests under this section. A waiver may be effective for up to three years and may be renewed for subsequent periods of three or fewer years. After each school year in which a waiver has been granted under this section, the state board of education must analyze empirical evidence to determine whether the reduction is affecting student learning. If the state board of education determines that student learning is adversely affected, the school district must discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the determination has been made.

(4) The state board of education may grant waivers authorized under this section to five or fewer school districts. Of the five waivers that may be granted, two must be reserved for districts with student populations of less than one hundred fifty students, and three must be reserved for districts with student populations of between one hundred fifty-one and five hundred students.

**Sec.**  RCW 28A.310.240 and 2009 c 47 s 1 are each amended to read as follows:

(1) Every educational service district board shall adopt written policies granting leaves to persons under contracts of employment with the district in positions requiring either certification or classified qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement, and emergencies for both certificated and classified employees, with such compensation as the board prescribes. The board shall adopt written policies granting annual leave with compensation for illness, injury, and emergencies as follows:

(a) For persons under contract with the district for a full fiscal year, at least ten days;

(b) For persons under contract with the district as part-time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days, which shall be increased to two hundred twenty days in accordance with section 10 of this act;

(c) For certificated and classified employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per fiscal year. Provisions of any contract in force on July 23, 1989, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation the person would have received had the person not taken the leave provided in this section;

(e) Leave provided in this section not taken shall accumulate from fiscal year to fiscal year up to a maximum of one hundred eighty days for the purposes of RCW 28A.310.490, which shall be increased to two hundred twenty days in accordance with section 10 of this act, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one fiscal year. Such accumulated time may be taken at any time during the fiscal year, or up to twelve days per year may be used for the purpose of payments for unused sick leave; and

(f) Accumulated leave under this section shall be transferred to educational service districts, school districts, the office of the superintendent of public instruction, the state school for the blind, the school for the deaf, institutions of higher education, and community and technical colleges, and from any such district, school, or office to another such district, school, office, institution of higher education, or community or technical college. An intervening customary summer break in employment or the performance of employment duties shall not preclude such a transfer.

(2) Leave accumulated by a person in a district prior to leaving the district may, under rules of the board, be granted to the person when the person returns to the employment of the district.

(3) Leave for illness or injury accumulated before July 23, 1989, under the administrative practices of an educational service district, and such leave transferred before July 23, 1989, to or from an educational service district, school district, or the office of the superintendent of public instruction under the administrative practices of the district or office, is declared valid and shall be added to such leave for illness or injury accumulated after July 23, 1989.

**Sec.**  RCW 28A.330.100 and 2006 c 263 s 417 are each amended to read as follows:

Every board of directors of a school district of the first class, in addition to the general powers for directors enumerated in this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him or her, and to fix his or her duties and compensation;

(2) To employ, and for cause dismiss one or more assistant superintendents and to define their duties and fix their compensation;

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation;

(4) To employ, and for cause dismiss, supervisors of instruction and to define their duties and fix their compensation;

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the superintendent of public instruction for the use of the common schools of this state;

(6) To, in addition to the minimum requirements imposed by this title establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of youth with disabilities, as in the judgment of the board, best shall promote the interests of education in the district;

(7) To determine the length of time over and above one hundred eighty days, which shall be increased to two hundred twenty days in accordance with section 10 of this act, that school shall be maintained: PROVIDED, That for purposes of apportionment no district shall be credited with more than one hundred ((~~and~~)) eighty-three days' attendance in any school year, which shall be increased to two hundred twenty days in accordance with section 10 of this act; and to fix the time for annual opening and closing of schools and for the daily dismissal of pupils before the regular time for closing schools;

(8) To maintain a shop and repair department, and to employ, and for cause dismiss, a foreman and the necessary help for the maintenance and conduct thereof;

(9) To provide free textbooks and supplies for all children attending school;

(10) To require of the officers or employees of the district to give a bond for the honest performance of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all bonds required of all such officers or employees to be paid by the district: PROVIDED, That the board may, by written policy, allow that such bonds may include a deductible proviso not to exceed two percent of the officer's or employee's annual salary;

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts; and

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure: PROVIDED, That children shall not be required to submit to vaccination against the will of their parents or guardian.

**Sec.**  RCW 28A.400.200 and 2010 c 235 s 401 are each amended to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a master's degree shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a master's degree and zero years of service.

(3)(a) The actual average salary paid to certificated instructional staff shall not exceed the district's average certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. A school district may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education program.

(4) ((~~Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, for additional responsibilities, for incentives, or for implementing specific measurable innovative activities, including professional development, specified by the school district to: (a) Close one or more achievement gaps, (b) focus on development of science, technology, engineering, and mathematics (STEM) learning opportunities, or (c) provide arts education. Beginning September 1, 2011, school districts shall annually provide a brief description of the innovative activities included in any supplemental contract to the office of the superintendent of public instruction. The office of the superintendent of public instruction shall summarize the district information and submit an annual report to the education committees of the house of representatives and the senate. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.~~)) Salaries or any additional supplemental pay for certificated administrative staff, certificated instructional staff, and classified staff shall not be provided for work deemed done. For the purposes of this subsection, "deemed done" means work or items not associated with additional time, responsibility, or incentive.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 ((~~and~~)), 28A.400.275, and 28A.400.280.

**Sec.**  RCW 28A.400.300 and 2012 c 186 s 20 are each amended to read as follows:

(1) Every board of directors, unless otherwise specially provided by law, shall:

(a) Except as provided in subsection (3) of this section, employ for not more than one year, and for sufficient cause discharge all certificated and classified employees;

(b) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or classified qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and classified employees, and with such compensation as the board of directors prescribe: PROVIDED, That the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(i) For such persons under contract with the school district for a full year, at least ten days;

(ii) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days, which shall be increased to two hundred twenty days in accordance with section 10 of this act;

(iii) For certificated and classified employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per year; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(iv) Compensation for leave for illness or injury actually taken shall be the same as the compensation such person would have received had such person not taken the leave provided in this proviso;

(v) Leave provided in this proviso not taken shall accumulate from year to year up to a maximum of one hundred eighty days which shall be increased to two hundred twenty days in accordance with section 10 of this act and for the purposes of RCW 28A.400.210 and 28A.400.220, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one year. Such accumulated time may be taken at any time during the school year or up to twelve days per year may be used for the purpose of payments for unused sick leave;

(vi) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

(vii) Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW 28A.400.210 and 28A.310.490;

(viii) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction, offices of educational service district superintendents and boards, the state school for the blind, the Washington state center for childhood deafness and hearing loss, institutions of higher education, and community and technical colleges, to and from such districts, schools, offices, institutions of higher education, and community and technical colleges;

(ix) Leave accumulated by a person in a district prior to leaving said district may, under rules of the board, be granted to such person when the person returns to the employment of the district.

(2) When any certificated or classified employee leaves one school district within the state and commences employment with another school district within the state, the employee shall retain the same seniority, leave benefits and other benefits that the employee had in his or her previous position: PROVIDED, That classified employees who transfer between districts after July 28, 1985, shall not retain any seniority rights other than longevity when leaving one school district and beginning employment with another. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service.

(3) Notwithstanding subsection (1)(a) of this section, discharges of certificated and classified employees in school districts that are dissolved due to financial insolvency shall be conducted in accordance with RCW 28A.315.229.

**Sec.**  RCW 28A.410.080 and 1969 ex.s. c 223 s 28A.01.025 are each amended to read as follows:

The school year for all matters pertaining to teacher certification or for computing experience in teaching shall consist of not fewer than one hundred eighty school days, which shall be increased to two hundred twenty days in accordance with section 10 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 43.135 RCW to read as follows:

(1) Beginning July 1, 2017, and ending when each school district has increased the minimum school year to two hundred twenty days, when biennial revenues to the state general fund and related funds exceed state general fund and related fund revenues for the prior fiscal biennium, up to forty percent of the extraordinary growth revenue shall be expended by the legislature to phase in a minimum school year calendar of two hundred twenty days in each school district, starting with the school districts with the lowest scores on the statewide student assessments administered under RCW 28A.655.070.

(2) As used in this section:

(a) "Biennial revenues to the state general fund and related funds" includes the unrestricted ending fund balance from the prior fiscal biennium and includes the transfer or diversion of revenue or money to or from another fund or account but excludes transfers to the budget stabilization account under Article VII, section 12 of the state Constitution.

(b) "Related funds" means the Washington opportunity pathways account and the education legacy trust account.

(3) The calculations necessary to determine compliance with this section shall be performed by the economic and revenue forecast council.

**--- END ---**