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**SUPREME COURT OF THE STATE OF WASHINGTON**

(Court of Appeals, Division II No. 32714-7-II)

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CHERYL DELYRIA and JUDY KOCH,

Respondents,

v.

STATE OF WASHINGTON, WASHINGTON  
SCHOOL FOR THE BLIND,

Petitioners.

FILED  
COURT OF APPEALS  
DIVISION II  
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STATE OF WASHINGTON  
DEPUTY

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**PETITION FOR REVIEW TO THE SUPREME COURT**

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ROBERT M. MCKENNA  
Attorney General

W. HOWARD FISCHER  
WSBA #6142  
Senior Assistant Attorney General  
P.O. Box 40126  
Olympia, WA 98504-0126  
(360) 586-6300

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## I. IDENTITY OF PETITIONERS

The State of Washington and the Washington State School for the Blind (State School or State School for the Blind), an agency of the state of Washington, asks the Court to accept review of the decisions designated in Part II of this Petition.

## II. COURT OF APPEALS DECISIONS

The Petitioners seek review of the Court of Appeals' decision filed on June 14, 2006, and the Court's subsequent denial of reconsideration of that decision on July 31, 2007. Copies of the decision, Motion for Reconsideration, and Order Denying Reconsideration and Amending Opinion (July 31, 2007) are attached as Appendices A, B, and C. The final opinion, as published (found at *Savlesky v. State of Washington*, \_\_\_ Wn. App. \_\_\_, 136 P.3d 152 (2006) ), is attached as Appendix D.<sup>1</sup>

## III. ISSUES PRESENTED FOR REVIEW

The Legislature enacted separate provisions addressing local school districts' ability to negotiate and locally fund additional pay for teachers, and addressing the ability of the state operated schools for the blind and deaf to negotiate and obtain state funding for additional teacher

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<sup>1</sup> The parties stipulated at the trial court to dismissal of certain plaintiffs as well as the Washington State School for the Deaf, and the caption was reformed to read "Cheryl Delyria and Judy Koch, Plaintiffs v. State of Washington, Washington School for the Blind, Defendants." That caption is maintained here.

pay. Did the Court of Appeals err in ruling that teachers at the State School for the Blind are entitled to both forms of supplemental compensation?

#### **IV. SUMMARY OF ARGUMENT**

By interpreting the funding rules for the State School for the Blind in a manner contrary to the rules of statutory construction and contrary to legislative intent, the decision of the Court of Appeals has usurped the prerogatives of the Legislature and created a fiscal liability in excess of \$4 million. The decision of the Court of Appeals is contrary to decisions of this Court and all divisions of the Court of Appeals, creates an unworkable drafting burden for the Legislature, and presents a significant question of law under the state constitution.

This case presents a straight-forward issue of statutory construction and the record on this summary judgment proceeding provides a wealth of legislative history bearing upon the Legislature's true intent. The State respectfully requests this Court to accept review.

#### **V. STATEMENT OF THE CASE**

The State School for the Blind has been in existence since 1886 and provides a K-12 program of education to blind and visually impaired students up to age 22. Located in Vancouver, Washington, the State

School serves about 70 campus residential students and about 275 students through off-campus itinerant services.

The State School operates on a 180 day school year, with two or three extra Learning Improvement Days as authorized and funded by the Legislature. As a State agency, almost all support (tuition, transportation, board, room, limited medical care, and materials) is provided from taxpayer support as appropriated by the Legislature through the biennial budget. Although other funds may come from private or government grants, the State School has no property tax base or levy authority.

The elementary program provides for a K-6 education for students age 5 through 11½, with an emphasis on reading, daily living skills, and mobility. The secondary academic program serves students in grades 7-12, and focuses on reading and language arts, leading to a fully accredited high school diploma. Both education programs run on a four and one-half student contact day basis.

Respondents Delyria and Koch are Orientation and Mobility instructors and teachers of the blind. At all times material to their Complaint, the respondents and all other School teachers were paid pursuant to the statewide teacher's salary schedule, in accordance with

RCW 72.40.028<sup>2</sup> and the applicable collective bargaining agreement between the State School and the teachers' exclusive bargaining representative. As State employees subject to civil service law and protections, their salaries are fixed by the Personnel Resources Board.

RCW 72.40.028 provides in part:

Salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees **of similar background and experience** in the school district in which the program or facility is located. . . .

(Emphasis added.)

The statewide teacher salary schedule is based on experience and education factors. The Vancouver School District adopted the LEAP<sup>3</sup> allocation schedule set forth in the state budget as its salary schedule beginning in the 1999-2000 school year. The State School pays its teachers in a way that conforms to and is contemporaneous with the salaries paid to certificated employees of similar background and experience in the Vancouver School District where the School is located.

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<sup>2</sup> RCW 72.40.028, .110; and RCW 28A.400.200 are attached as Appendix E.

<sup>3</sup> "LEAP" means Legislative Evaluation and Accountability Program, established in RCW 44.48.

Respondents' Complaint at ¶ 7 and First Amended Complaint ¶ 7 concede this point.<sup>4</sup>

Respondents claim entitlement to extra salary payments for "time, responsibilities, or as an incentive" ("TRI payments") pursuant to RCW 28A.400.200(4). Unlike RCW 72.40.028, this statutory program is not tied to any teacher's educational attainment or years of experience. As Lee Goeke, Associate Superintendent of Human Resources, Vancouver School District, explained:

**8. These TRI payments may be attained by any teacher in the District without regard to their educational attainment.** A teacher with a Bachelor's Degree (BA) can obtain the same TRI payment as the person who possesses a Doctorate (Ph.D). A teacher with a Master's and less than 90 college credits (MA+45 on the salary schedule) with five (5) years of experience can obtain the same TRI payment as the teacher with a Master's and less than 90 college credits (again, MA+45 on the salary schedule) and ten (10) years of experience. **There is a slight increase in TRI payments for those with more than 16 years of experience,** which recognizes that they are at the top of the salary schedule and can no longer advance through educational attainment or longevity.

Clerk's Papers (CP) at 134 (emphasis added).

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<sup>4</sup> For example, Respondent Delyria possesses a Masters Degree and 16 years of service. Therefore, she is at the top of the State salary schedule as adopted by the Legislature, the Vancouver School District, and the State School. 2001 Budget (Laws of 2001, 2d Spec. Sess., ch. 7, § 503) (Appendix F1). For the 2001-02 school year, the salary for an "MA +90 or Ph.D." with 16 years of experience is \$54,923 per year. CP at 220-21. The Vancouver School District salary schedule for the 2001-02 (Appendix F2) also shows that an "MA +90 or Ph.D." with 16 years of experience earned \$54,923 in that school year.

Moreover, TRI payments may be made only upon the completion of identified activities and deliverables, after application for payment and verification; and may not be made to certain certificated employees. There is no correlation between education and experience and Vancouver's supplemental TRI contracts.

The parties presented cross motions for summary judgment to the trial court. The trial court granted the motion of the State School and denied the motion by the Respondents. The Court of Appeals then reversed.

## **VI. ARGUMENT**

### **A. The Court of Appeals' Misapplication of RCW 72.40.028 Presents an Issue of Substantial Public Interest**

Pursuant to RCW 72.40.028, the State School pays its teachers at the same education/experience base as the local school district, which is the Vancouver School District, since that is the district where the State School is located. The issue arises in relation to TRI payments that school districts are authorized to pay teachers as an incentive or for taking on extra responsibility or work under RCW 28A.400.200(4). While the Vancouver School District makes TRI payments without regard to the teacher's education and experience, the clear statutory language and legislative history of RCW 72.40.028 indicate that supplemental

compensation for teachers at the State School must be based on the salaries of certificated employees “of similar background and experience”. That could only refer to the base salary in the appropriations act.

By applying the general statute governing supplemental pay for school district teachers and overriding more specific statutes governing extra work by teachers at the State School for the Blind, the Court of Appeals acted contrary to clear precedent of this Court and created an unfunded fiscal obligation, which the Legislature never intended. Review and reversal of this erroneous decision is a matter of substantial public interest. *See* RAP 13.4(b)(4).

- 1. The Court of Appeals’ analysis of the legislative history of RCW 72.40.028 and 28A.400.200 is incorrect. The Legislature did not intend that teachers at the State School receive TRI payments.**
  - a. In 1980, when the Legislature provided that State School salaries conform to the salaries of employees of similar background and experience in the local district, RCW 28A.400.200(4), TRI payments had not yet been authorized.**

The Court of Appeals incorrectly cites the chronology of the legislative history. This is a critical error, because it leads to an incorrect reading of legislative intent.

In 1980, the Legislature amended RCW 72.05.140 to require that the salaries of certificated employees conform to salaries paid to other

certificated employees of similar background and experience in the local district. Laws of 1980, ch. 58, § 1, reads in part:

Commencing with the 1981-82 school year, and each school year thereafter, salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees **of similar background and experience** in the school district in which the program or facility is located.

Appendix G (emphasis added).

Immediately before this statute was passed, the State passed the Washington Basic Education Act of 1977 (defining a program of basic education) and the Levy Lid Act of 1977 as the first step toward full state funding of basic education. In 1980, however, local school districts were under strict salary limitations. As detailed in AGO 1989, No. 15 (July 21, 1989), the Legislature passed what was commonly known as the "school district salary and compensation limitation law". Laws of 1981, ch. 16, § 2 at 87 provided that the maximum salary and compensation levels at which school district employees were to be paid were governed at the amounts and percentages set forth in the biennial operating appropriations act in effect at the time of payment. The rationale for adopting the salary

lid bill was to address the problem of unanticipated increase in costs to the State. House Journal, 43d Leg. at 163 (Wash. 1981).<sup>5</sup>

It was not until 1985, when the State's financial crisis began to resolve, that the Legislature authorized school districts to exceed the salary lid by entering into separate contracts with certificated instructional or classified staff for additional days or additional duties **at the end** of the school year. Laws of 1985, ch. 349, § 7 at 1119, codified as RCW 28A.58.093.

Thus, at the time RCW 72.05.140 was enacted **in 1980** to set the base salary of State School teachers to conform to that of local teachers of equivalent educational background and experience, the TRI payments respondents seek for additional days, etc., did not exist. Indeed, there was no such thing as supplemental payments to anyone. Contrary to the Court of Appeals' decision, the Legislature simply could not have contemplated that RCW 72.05.140 include supplemental TRI payments as additional salary.

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<sup>5</sup> As an example of the State's then dire financial situation, Governor Spellman instituted an across-the-board expenditure cut and the Legislature met twice to resolve it. *See Seattle Sch. Dist. 1 of King Cy. v. State*, 97 Wn.2d 534, 647 P.2d 25 (1982).

- b. **When the 1985 Legislature allowed local districts to pay TRI money, the Legislature also enacted *special* provisions to deal with additional work, if any, to be performed by State School for the Blind teachers.**

In 1985 the Legislature simultaneously considered two proposals; one governing the State Schools for the Blind and Deaf, and one governing the 296 school districts. The proposal (Substitute S.B. 3797) for the State Schools for the Blind and Deaf read:

**Employees required to work in excess of the eight-hour maximum per day or the forty-hour maximum per week shall be compensated by not less than equal hours of compensatory time off or in lieu thereof, a premium rate of pay per hour . . . .**

Laws of 1985, ch. 378, § 12 (Appendix H1) (emphasis added).

The proposal (Engrossed Substitute S.B. 3235) for common school teachers read, in part:

**School boards may . . . provide supplemental compensation for additional days or additional duties . . . if the district does not incur obligations for the supplements beyond the current school year and if such supplements do not cause the state to incur any present or future funding obligations. . . .**

Laws of 1985, ch. 349, § 7 (Appendix H2) (emphasis added).

These specific (at least as to the State School for the Blind) and general (as to common schools) proposals both originated in the Senate, were “together” in the Senate and House Education “policy” committees

of the 1985 Legislature, and were signed by the governor on the same day, May 20, 1985.<sup>6</sup>

The Legislature thus enacted one regime of supplemental compensation at the State School for the Blind to address work covered outside the duties covered by the base salary in the statewide schedule, and another for local school districts with levy fund access. **There being no change in the text of RCW 72.40.028, the reference to salaries of certificated employees “of similar background and experience” could only refer (then and now) to the base salary in the appropriations act.**<sup>7</sup>

The Court of Appeals erred when it held that the meaning of salaries in RCW 72.40.028 was changed by the enactment of RCW 28A.400.200(4).

**c. When the 1987 Legislature allowed supplemental pay during the school year, the law directly governing the State Schools remained unchanged.**

In 1987, the Legislature again authorized local districts to exceed the state salary limit by entering supplemental contracts for additional time, responsibilities, or as an incentive (TRI payments) undertaken, this time, **during** the school year rather than at the end. But, the Legislature

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<sup>6</sup> This legislative history is detailed in Petitioner’s Motion for Reconsideration and in the Legislative History and Digest of Bills, attached thereto as Appendix B.

<sup>7</sup> Whether, as the Court of Appeals observed, the phrase “similar background and experience” modified “certificated employees” is of academic interest to grammarians. The fact of the matter is that, as originally written by the Legislature in 1980, the phrase could only have referred to the base salary in the appropriations act and not supplemental payments which had not been conceived nor invented.

left the language of RCW 72.40.028 intact and any reference to salaries, therefore, continued to mean (as it only could at the time it was adopted in 1980) the base salary in each biennial appropriations act. The Legislature also left intact the special provision in the law governing the State School for the Blind, RCW 72.40.110, which continued to read, in part:

**Employees required to work in excess of the eight-hour maximum per day or the forty-hour maximum per week shall be compensated by not less than equal hours of compensatory time off or in lieu thereof, a premium rate of pay per hour . . . .**

*See Appendix H1 (emphasis added).*

- d. The 1993 Legislature gave effect to the parties' 1987 collective bargaining agreement governing additional work at the State School for the Blind.**

In 1993, the Legislature revisited the law pertaining to the State Schools for the Blind and the Deaf. RCW 72.40.110 was amended to delete references to "compensatory time" and "premium rates of hourly pay," referred to above. Instead, the Legislature said:

**Employees' hours of labor shall follow all state merit rules as they pertain to various work classifications and current collective bargaining agreements.**

*See Laws of 1993, ch. 147, § 6, attached as Appendix I (emphasis added).*

The collective bargaining agreement between the State School and the teachers' association in effect in April 1993, when the bill was signed into law by the Governor, provided, in part:

- 7.2 Teachers shall not be routinely required and scheduled to provide more than an average of 315 minutes of formal student contact instructional time per day, per week. Other mutually determined daily work scheduling shall be developed annually. . . .
- 7.3 Except for paid supplemental assignments, it is anticipated by the parties that teachers will as a group volunteer to participate in a certain measure of extra-curricular activities outside of normal student teacher formal instruction daily contact periods. Provided that during the academic year the total weekly hours should not substantially exceed an average of 40 hours per week.

CP at 142-43. Thus, the Legislature always intended that collective bargaining address any additional work beyond that covered in the base salary.

**e. Contrary to the Court of Appeals' decision, the Legislature did not intend teachers at the State School to receive TRI payments.**

In considering the intent of the Legislature, the Court of Appeals failed to properly consider the context of the overall legislative scheme.<sup>8</sup> When the law is read as a whole, it is clear that teacher salaries at the State School for the Blind cannot include TRI payments. One critical aspect of the law overlooked by the Court of Appeals is the funding mechanism for TRI payments. RCW 28A.400.200(4) only authorizes school boards to act. State agencies and institutions are not mentioned. In fact,

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<sup>8</sup> *Schrom v. Bd. for Volunteer Firefighters*, 117 Wn. App. 542, 546, 72 P.2d 239 (2003) (quoting *Subcontractors & Suppliers Collection Serv. v. McConnachie*, 106 Wn. App. 738, 741, 24 P.3d 1112 (2001)).

RCW 28A.400.200(4) expressly states that TRI payments cannot “cause the state to incur any present or future funding obligation.”

The Court of Appeals’ decision fails to recognize that the law only authorizes payments by school districts. Under RCW 28A.400.200, TRI payments do not pay for basic education. They are supplemental payments made by the school district out of local maintenance and operation levies, or other local funds for enrichment activities. Unlike a school district, the State School for the Blind has no ability to collect funds through a local tax levy. The Court of Appeals’ decision also ignores the manner in which TRI payments are determined. RCW 28A.400.200(4) provides that TRI payments are subject to collective bargaining under RCW 41.59, a chapter which does not apply to the State School.<sup>9</sup>

When the statutory framework is read as a whole, it is clear that the Legislature did not awkwardly lump the State School’s employees in with the separately funded school district employees. Instead, the Legislature provided a separate, parallel means of compensation for the state employees teaching at the State School. This separate system of supplemental pay is reflected in the separate collective bargaining process teachers at the State School engage in. Under the current collective

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<sup>9</sup> The employers addressed by RCW 41.59 are limited to school districts. RCW 41.59.020(5).

bargaining agreement, the Respondents each received exchange time and earned supplemental pay in accordance with the State School's resources.

The Court of Appeals failed to recognize that the Legislature adopted a common sense approach of providing parallel means to address compensation for extra work outside the state salary schedule. On the one hand, the Legislature authorized the state's 296 school districts to make supplemental contract payments with local levy funds, at local district expense. On the other hand, the Legislature authorized the State Schools for the Blind and Deaf to negotiate a collective bargaining agreement that provides for supplemental payments, to be made with state appropriated funds.

The Court of Appeals' decision raises an important issue of fiscal interest to the public. It improperly provides a windfall to the Respondents, allowing them to enjoy the TRI benefits the Legislature authorized for school district employees, in addition to the benefits the state afforded teachers at the State School in their existing bargaining agreement.<sup>10</sup>

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<sup>10</sup> Immediately preceding this suit, Respondents' collective bargaining representative requested Governor Locke's Budget Office to include funding for TRI payments to State School teachers in the 2001-03 budget. State Budget Director Marty Brown specifically declined. CP at 129-30.

**B. The Court of Appeals' Decision Conflicts With Several Supreme Court and Court of Appeals Decisions, Creates an Absurd and Unworkable Drafting Burden for the Legislature, and Raises a Separation of Powers Issue of Substantial Public Importance**

**1. The decision conflicts with this Court's decisions.**

The Legislature in 1985 had a specific proposal before it to provide compensatory time off, or a premium rate of hourly pay to School for the Blind employees who work extra hours. Also, it had a proposal to allow the employees of the 296 school districts to be paid for extra hours or days worked at the end of the regular school year. Each proposal was before the House Education Committee and the Senate Education Committee and each was signed into law by the governor on the same day, May 20, 1985.

The enactment of RCW 72.40.110 was specific to the State School for the Blind (and State School for the Deaf) and it controlled over the general grant to local school districts to exceed (but only with local levy funds) the amounts or percentages set forth in the biennial budget.<sup>11</sup>

The decision below violates this Court's well-established law in two ways:

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<sup>11</sup> Even if, in 1987, the Legislature allowed school districts to make supplemental payments with local funds for work **during** (as opposed to **after** the school year), it was against the "backdrop" of the specific law governing the State School which provided for compensatory time or a premium rate of hourly pay as determined by the State School's or Legislature's then recovering financial situation.

First, it disregards the principle that the Legislature is presumed to have full knowledge of existing statutes upon which it is legislating. *State v. Conte*, 159 Wn.2d 797, 154 P.3d 194 (2007); *State v. Lessley*, 118 Wn.2d 773, 827 P.2d 996 (1992) (Legislature is presumed to be familiar with its prior acts). **From 1985-1992**, the Legislature was presumed to know that extra compensation at the State Schools was governed by the “extra pay for extra work” provisions in the State Schools’ organic act, specifically the prior form of RCW 72.40.110. **From 1993 to the present**, the Legislature was presumed to know that extra work at the State School was governed by the collective bargaining agreement between the State School and its employees and the current (and effective) form of RCW 72.40.110.

Second, the decision below fails to follow this Court’s oft-stated rule of construction that specific enactments control over more general provisions. *State v. J.P.*, 149 Wn.2d 444, 69 P.3d 318 (2003) (specific definition controls the more general language); *Jones v. Sisters of Providence in Washington, Inc.*, 140 Wn.2d 112, 994 P.2d 838 (2000) (specific controls over more general in context of conflicting statutory provisions); *Staats v. Brown*, 139 Wn.2d 757, 991 P.2d 615 (2000) (this is consistent with our rule of statutory construction, which provides that a specific statute controls over a general statute on the same topic).

These deviations from this Court's long-standing precedent warrant review under RAP 13.4(b)(1).

**2. The decision conflicts with decisions of the Court of Appeals, including those of the court below.**

All three divisions of the Court of Appeals have adopted the principle that the Legislature is presumed to have full knowledge of its prior enactments<sup>12</sup> and that specific enactments take precedence and prevail over general provisions.<sup>13</sup> The decision below cuts directly against these precedents as well, and warrants review by this Court under RAP 13.4(b)(2).

**3. The decision places an absurd and unworkable drafting burden for the Legislature.**

The Court of Appeals improperly tasked the Legislature with creating "exclusions" in a general enactment so as to manifest an intent to trump more a specific statute. The court below said, "Moreover, the legislature enacted the pay parity statute, RCW 72.40.028, before the TRI authorization statute, RCW 28A.400.200. Had the legislature intended to exclude employees at the State School and other state institutions from

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<sup>12</sup> *State v. Thompson*, 93 Wn. App. 364, 967 P.2d 1282 (1998) (Division One); *Building Indus. Ass'n of Washington v. Dep't of Labor & Industries*, 123 Wn. App. 656, 98 P.3d 537 (2004) (Division Two); *Sanchez v. Dep't of Labor & Industries*, 39 Wn. App. 80, 692 P.2d 192 (1984) (Division Three).

<sup>13</sup> *Thornton Creek Legal Def. Fund v. City of Seattle*, 113 Wn. App. 34, 52 P.3d 522 (2002) (Division One); *Gossage v. State*, 112 Wn. App. 412, 49 P.3d 927 (2002) (Division Two); *McConnell v. Mothers Work, Inc.*, 131 Wn. App. 525, 128 P.3d 128 (2006) (Division Three).

receiving TRI payments, the statute would specify that exclusion. . . .”  
*Savlesky*, 136 P.3d at 156.

There is no burden on the Legislature to enact “negative exclusions” in order to prevent the general statute from trumping the more specific enactment. The Court of Appeals cited no authority for this novel proposition and none is known to the Petitioners. Under the novel reasoning of the court below, every statute would need to either be preceded by the exclusionary phrase, “Notwithstanding any other provision of law to the contrary . . . .”, or every conceivable collateral (albeit more specific) exclusion divined and accounted for. No court has ever tasked the Legislature with listing all of the other statutes **which are not to be affected**. Unless the analysis of the Court of Appeals is corrected by this Court, the Legislature will be presented with an unworkable (and likely impossible) burden. Pursuant to RAP 13.4(b)(4), this is a matter of substantial public interest that merits the attention of this Court.

**4. The decision raises a separation of powers question.**

Finally, the Court of Appeals decision dishonors the doctrine of separation of powers and the Legislature’s role in appropriating state funds when such funding is not constitutionally compelled. The Court states: “If alternate School funds cannot meet this financial need [the need the

Legislature itself allegedly created], the **legislature is obligated to supply the funds. . . .**" *Savlesky*, 136 P.3d at 156 (emphasis added).

The question thus presented is whether, when the Legislature fails to fund an optional program and expressly disclaims any "present or future funding obligation" (RCW 28A.400.200(4)), the judiciary can or should overrule the Legislature's power of appropriation under the guise of construing legislative intent. The failure of the Legislature to make appropriations which are not constitutionally compelled but which bear only upon the compensation of its own employees, which it has the plenary power to set, presents an issue which this Court should review under RAP 13.4(b)(3) or (4).

## VII. CONCLUSION

The State of Washington and the Washington School for the Blind respectfully requests the Supreme Court to accept review of this case.

RESPECTFULLY SUBMITTED this 28th day of August, 2007.

ROBERT M. MCKENNA  
Attorney General



W. HOWARD FISCHER, WSBA #6142  
Senior Assistant Attorney General  
Attorneys for State of Washington and  
Washington School for the Blind

**PROOF OF SERVICE**

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 28th day of August, 2007, at Olympia, WA.

  
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DIVISION II

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STATE OF WASHINGTON

BY \_\_\_\_\_

DEPUTY

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

JULIE SAVLESKY, JANICE STOTTS,  
GARY KAZEN, PATRICIA WILBER,

Plaintiffs,

CHERYL DELYRIA and JUDY KOCH,

Appellants,

v.

STATE OF WASHINGTON, WASHINGTON  
SCHOOL FOR THE DEAF,

Defendant,

STATE OF WASHINGTON, WASHINGTON  
SCHOOL FOR THE BLIND,

Respondent.

No. 32714-7-II

PUBLISHED OPINION

HOUGHTON, P.J. -- Teachers Cheryl Delyria and Judy Koch<sup>1</sup> appeal the trial court's summary judgment order dismissing their claims against the Washington State School for the Blind (School). They argue that state law requires that the School pay them the same as the Vancouver School District pays its teachers. We agree and reverse and remand for further proceedings.

<sup>1</sup> Delyria and Koch filed a class action lawsuit on behalf of 59 current and 33 former employees of the Washington State School for the Blind.

## FACTS

Located in Vancouver, the School educates blind and partially sighted students up to the age of 21. It has approximately 70 campus residential students and serves about 275 students through its off-campus services. There are 18 on-campus teachers, seven outreach teachers who provide off-campus services, and one on-campus speech and language pathologist. The School, as a state agency, relies on legislative funding; it does not have any levy or taxing authority.<sup>2</sup>

RCW 72.40.028 governs the School's certificated employees' qualifications and salaries. It provides that "[s]alaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located." RCW 72.40-.028. The School is located in the Vancouver School District (District).

In 1987, the legislature enacted former RCW 28A.58.0951, later recodified as RCW 28A.400.200 (2002). That statute authorizes local school districts to exceed a statewide salary limitation by entering into supplemental contracts for "additional time, additional responsibilities or incentives" (TRI). RCW 28A.400.200(4). The statute also provides that "[s]upplemental contracts shall not cause the state to incur any present or future funding obligation." RCW 28A.400.200(4). Since 1998, the District employees received TRI compensation--an average of \$2,710 per year.<sup>3</sup>

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<sup>2</sup> On occasion, the School receives gifts and grants.

<sup>3</sup> According to the amended complaint, the TRI payment under the 2001-2003 comprehensive professional agreement between the District and the Vancouver Education Association totaled \$2,520 per teacher.

The District's agreement with its certificated employees specifies that TRI duties are those that occur outside the regular 180-day contract year or regular school hours. Local school districts make their TRI payments from maintenance and operations levy funds. The School, however, has no levy authority or geographically limited property tax base.

Currently, the School's employees perform work equivalent to that of the District's employees, but they do not receive any TRI payments.<sup>4</sup> In 2001, the School and its Teachers' Association signed a collective bargaining agreement, effective August 1, 2001 to July 30, 2003. That agreement allowed School employees to earn exchange time for activities outside their regular workday. The bargaining agreement also limited this exchange or compensatory time to three paid workdays before the school year.

On May 27, 2003, Delyria and Koch filed their class action lawsuit,<sup>5</sup> seeking: (1) declaratory relief finding that the School violated RCW 72.40.028, (2) an award of all unpaid salaries, (3) a penalty equal to the amount of the unpaid salaries, (4) and costs and fees.

The School moved for summary judgment, and Delyria and Koch moved for partial summary judgment.<sup>6</sup> After agreeing with the parties' stipulation that a purely legal issue faced the court, it noted:

My interpretation of RCW 72.40.028 in regard to salaries is that at the time that this was enacted in 1980 there was no TRI payment situation, that that

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<sup>4</sup> The School asserts that it has a four and one-half day workweek and smaller class sizes than the District. But it does not claim that its employees put in fewer hours than District employees.

<sup>5</sup> Delyria started working as a teacher at the School in August 1996, whereas Koch began in 1993. Both took some exchange time for activities outside the regular working hours pursuant to the collective bargaining agreement.

<sup>6</sup> Delyria and Koch sought partial summary judgment as to liability.

came about some five years later, and at the time that the TRI payments were instituted the legislature, if they had intended, could have clearly indicated that the State schools were a part of this. They did not do so.

The term "salaries" is somewhat ambiguous, but my interpretation is that it meant a salary based upon one's similar background and experience, that is, having to do with the education and tenure or time in a particular position by teachers. The TRI payment situation is one that came about with the intent to deal with many of the realities of being a teacher and working long hours beyond what might be characterized as a formal workday or workweek, and I'm certainly not saying that teachers at the School for the Blind don't put in lots of extra time too, but there are other forms of compensation. Whether or not they're adequate, again, is not before this Court.

It's my finding that RCW 28A.400.200 does not apply to the School for the Blind. The TRI payments are a separately administered program or / and involve separate issues, that there might very well be a need for a fix here, but I think it has to be addressed to the legislature rather than the Court.

Report of Proceedings (RP) at 23-24. The trial court granted the School's motion and denied Delyria and Koch's motion for partial summary judgment.

Delyria and Koch appeal.

#### ANALYSIS

We address whether RCW 72.40.028 and RCW 28A.400.200 entitle School employees to receive the same TRI payments that the District has paid its teachers since 1998. Delyria and Koch argue that the law entitles them to the same pay as District employees and that the trial court erred in denying their motion for partial summary judgment on liability and in granting the School's motion instead.

#### STANDARD OF REVIEW

We review de novo a summary judgment order, engaging in the same inquiry as the trial court, taking the facts and all reasonable inferences in the light most favorable to the nonmoving party. *Allstate Ins. Co. v. Raynor*, 143 Wn.2d 469, 475, 21 P.3d 707 (2001). A court properly grants summary judgment "if the pleadings . . . together with the affidavits, if any, show that

No. 32714-7-II

there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” CR 56(c). Summary judgment is proper if reasonable minds could reach only one conclusion. *Kalmas v. Wagner*, 133 Wn.2d 210, 215, 943 P.2d 1369 (1997).

#### STATUTORY CONSTRUCTION

We construe statutes de novo as a question of law. *Rettkowski v. Dep't of Ecology*, 128 Wn.2d 508, 515, 910 P.2d 462 (1996). We give statutory words their plain and ordinary meaning unless we perceive a contrary intent within the statute. *Erection Co. v. Dep't of Labor & Indus.*, 121 Wn.2d 513, 518, 852 P.2d 288 (1993). If the statutory language is clear and unambiguous, we determine the meaning of the statute from its language alone and we do not consider legislative history. *Multicare Med. Ctr. v. Dep't of Soc. & Health Servs.*, 114 Wn.2d 572, 582, 790 P.2d 124 (1990).

In construing a statute, we give effect to all the statutory language so that no provision is rendered meaningless. *Whatcom County v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996). And we read statutes relating to the same subject as complementary and not in conflict. *Waste Mgmt. of Seattle, Inc. v. Utils. & Transp. Comm'n*, 123 Wn.2d 621, 630, 869 P.2d 1034 (1994).

#### Plain and Unambiguous Language

Delyria and Koch argue that the School's refusal to give them TRI pay cannot be justified because RCW 72.40.028 plainly and unambiguously provides that employees with similar background and experience at the School and the District must receive equivalent salaries. RCW 72.40.028 provides in relevant part:

All teachers at the state school for the deaf and the state school for the blind shall meet all certification requirements . . . . Salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located.

We begin by noting that under the plain language of RCW 72.40.028, the phrase "similar background and experience" modifies "certificated employees." The most natural and grammatically correct reading of the statute leads to the conclusion that the statute applies to those School and District employees who have similar background and experience.<sup>7</sup> Reading the plain and unambiguous statute alone would lead us to conclude that Delyria and Koch are entitled to salaries comparable to those of District employees.

#### The School's Counterarguments to the Plain Language

The School raises several arguments contrary to this conclusion, but they do not persuade us. First, it argues that the School cannot give TRI pay to its employees because under RCW 28A.400.200, the State cannot be obligated to make such payments. RCW 28A.400.200 provides in relevant part:

(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.

....

(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 . . . .

....

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<sup>7</sup> The last antecedent rule of statutory construction gives our construction further support. That rule provides that qualifying words and phrases refer to the language immediately preceding the qualifier, unless a contrary intention appears in the statute. *In re Estate of Kurtzman*, 65 Wn.2d 260, 264, 396 P.2d 786 (1964). Because "certificated employees" immediately precedes the phrase "similar background and experience," the last antecedent rule supports concluding that the phrase modifies "certificated employees."

(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, additional responsibilities, or incentives. *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. . . . 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.

(Emphasis added.)

The School argues that the legislature did not intend the School's employees to receive TRI payments because when the legislature enacted former RCW 72.05.140,<sup>8</sup> the pay parity statute, in 1980, it had not yet enacted legislation authorizing TRI payments. Thus, the School argues that "[t]he [l]egislature simply could not have contemplated RCW 72.05.140 to include supplemental TRI payments as additional salary." Resp't's Br. at 10. We disagree.

We presume the legislature considered its prior enactments when enacting new legislation. *State v. Roth*, 78 Wn.2d 711, 715, 479 P.2d 55 (1971); *State v. Pub. Util. Dist. No. 1*, 91 Wn.2d 378, 383, 588 P.2d 1146 (1979). If the legislature wanted to exclude the application of RCW 28A.400.200(4) from the pay parity requirement in the former RCW 72.05.140, it could have done so. That the legislature did not amend the pay parity requirement when it enacted the TRI provision demonstrates its intent not to render the two statutes mutually exclusive.

Moreover, the legislature enacted the pay parity statute, RCW 72.40.028, before the TRI authorization statute, RCW 28A.400.200. Had the legislature intended to exclude employees at the School and other state institutions from receiving TRI payments, the statute would specify that exclusion. Because the pay parity statute existed at the time of the new enactment, we presume that the legislature knew that all salary increases made available to District employees

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<sup>8</sup> The relevant provision is identical to that in the current RCW 72.40.028.

must likewise be available to School employees. Clearly, TRI payments may qualify as “salary” for the purposes of the pay parity statute. Essentially, the standard base salary for teachers and TRI payments are indistinguishable to the extent that both are “fixed compensation paid regularly.” WEBSTER’S THIRD NEW INTERN’L DICTIONARY at 2003 (2002). Accordingly, there must be a comparable salary increase made available to School employees if made available to District employees through TRI payments. The District may obtain the necessary funds to offer its employees TRI payments through geographically based levies. The School does not have this option. If alternate School funds cannot meet this financial need, the legislature is obligated to supply the funds. We presume the legislature knew that it had accepted this obligation when it enacted RCW 28A.400.200.

The School further counters that the legislature expressed its intent to exclude its employees from TRI payments when the legislature “enacted special provisions to deal with additional work, if any, to be performed by [School] teachers.” Resp’t’s Br. at 11 (emphasis omitted). The School argues that in enacting RCW 72.40.110, the legislature made a policy choice to exclude School employees from receiving TRI payments and instead to provide them with compensatory (or exchange) time and protection under collective bargaining agreements. But the School’s argument fails because it does not offer any evidence that these different measures were enacted to replace TRI payments. That the legislature merely enacted a different compensation method for School employees does not sufficiently show legislative intent to exclude School employees from receiving TRI payments.

Finally, the School counters that “the overall legislative scheme” demonstrates that the legislature did not intend School employees to receive TRI payments. Resp’t’s Br. at 14. In

support, the School cites several provisions in RCW 28A.400.200(4) to show that the legislature meant to cover only the school districts:

1. TRI payments, by virtue of the express language of RCW 28A.400.200(4), cannot cause the State to incur any present or future funding obligations. . . .
2. TRI payments, under RCW 28A.400.200(4), are subject to collective bargaining under RCW 41.59, a chapter which does not apply to state employees.<sup>9</sup>
3. TRI payments cannot pay for basic education . . . and are paid out of local maintenance and operation levies or other local funds. . . . The [School] does not have local levy authority and has no geographically limited tax base.

Resp't's Br. at 15.

Delyria and Koch argue that the statutory language declaring that the state shall incur no funding obligation does not preclude paying TRI funds to School employees. They assert that the disclaimer provision of the state's funding obligation in RCW 28A.400.200(4) needs to "be read in conjunction with the language in RCW 28A.400.200(1), which states that the entire section concerns the operation of school districts." Appellants' Br. at 20. According to Delyria and Koch, the legislative intent behind the funding obligation disclaimer is that obligations to fund local school districts will not burden the state. They argue that the language of RCW 28A.400.200(1) makes it applicable only to local school districts. Therefore, the prohibition on incurring further state obligation does not apply to the School or to other state institutions. They assert that the legislature intended to apply this disclaimer only to the local school districts

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<sup>9</sup> The purpose of this chapter is stated as follows:

It is the purpose of this chapter to prescribe certain rights and obligations of the educational employees of the school districts of the state of Washington, and to establish procedures governing the relationship between such employees and their employers which are designed to meet the special requirements and needs of public employment in education.

RCW 41.59.010.

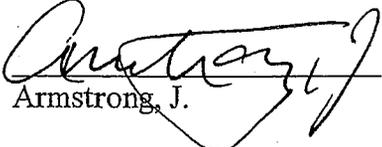
because the school districts have local levy authorities and geographically limited tax bases. Thus, they contend that the legislature would have amended either or both of the statutes if it had intended to substantially limit the pay parity requirement of RCW 72.40.028 and that the absence of any such amendment or language shows that it did not intend to exclude School employees from receiving TRI payments.<sup>10</sup> We agree.

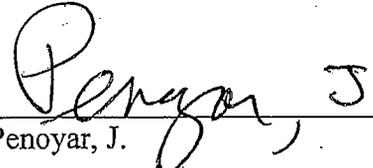
Further, we presume the legislature considered the pay parity statute when it enacted the TRI statute. *See Roth*, 78 Wn.2d at 715. There was no attempt to amend the prior statute or to exclude employees of state institutions from TRI eligibility in the new statute. Consequently, we presume that the legislature knew of and accepted its obligation to provide funding for TRI benefits for employees of schools unable to raise such funds through levies. This interpretation also comports with the rule of statutory construction that we must render statutes on the same subject complementary and not in conflict. *See Waste Mgmt. of Seattle*, 123 Wn.2d at 630.

Reversed and remanded for further proceedings.

  
Houghton, P.J.

We concur:

  
Armstrong, J.

  
Penoyar, J.

<sup>10</sup> In addition to arguments focused on statutory construction and context, Delyria and Koch also advanced arguments regarding policy, fairness, and equity. Because we decide this case through statutory construction, we do not address these alternative arguments.

NO. 32714-7

**COURT OF APPEALS, DIVISION  
OF THE STATE OF WASHINGTON**

CHERYL DELYRIA AND JUDY  
KOCH,

Appellants,

v.

STATE OF WASHINGTON,  
WASHINGTON SCHOOL FOR THE  
BLIND,

Respondents.

RESPONDENTS'  
MOTION FOR  
RECONSIDERATION

**I. IDENTITY OF MOVING PARTY**

Respondents State of Washington and Washington School for the Blind, pursuant to RAP 12.4, seek the relief designated in Section II.

**II. RELIEF REQUESTED**

Respondents request the Court to reconsider the decision filed on June 14, 2006 and enter a decision affirming the trial court's order granting summary judgment.

### III. GROUNDS FOR RECONSIDERATION AND ARGUMENT

- A. **The Court has made a critical factual error which has caused it to apply a flawed analysis and the wrong rule of statutory construction.**

The Opinion erroneously states, at 2:

*In 1987*, the legislature enacted former RCW 28A.58.0951, later recodified as RCW 28A.400.200 (2002). That statute authorizes local school districts to exceed a statewide salary limitation by entering into supplemental contracts for “additional time, additional responsibilities . . .” . . . .

(Emphasis added.)

Actually, it was *in 1985* that the Legislature first authorized school districts to exceed the state salary lid by entering into separate supplemental contracts with teachers for additional days of work. *See* Laws of 1985, ch. 349, § 7 at 1199, copy attached as Appendix A. This error in the Opinion appears to have arisen because the Opinion is citing to the 1987 repeal of RCW 28A.58.0093 and .095 and their replacement with RCW 28A.58.0951, as noted in passing in Brief of Respondents at 10.

By referring to the incorrect repeal and replacement of previously enacted legislation, the Opinion misses the “critical path” of supplemental contracting for teachers in general and at the School for the Blind. That critical legislative path is illustrated in the following side-by-side comparison:

1980 – Laws of 1980, ch. 58, § 1 is enacted to provide in part:

Commencing with the 1981-82 school year, and each school year thereafter, salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located.

1985 Legislative Session: SSB 3797, enacted as Laws of 1985, ch. 378 (see Appendix B herein):

NEW SECTION. Sec. 12. A new section is added to chapter 72.40 RCW to read as follows:

.....

*Employees required to work in excess of the eight-hour maximum per day or the forty-hour maximum per week shall be compensated by not less than equal hours of compensatory time off or, in lieu thereof, a premium rate of pay per hour equal to not less than one-one hundred and seventy-sixth of the employee's gross monthly salary. ....*

1985 Legislative Session: ESSB 3235, enacted as Laws of 1985, ch. 349:

NEW SECTION. Sec. 7. A new section is added to chapter 28A.58 RCW to read as follows:

*School boards may by separate contract with certificated instructional and classified staff provide supplemental compensation for additional days or additional duties as set forth in the bargaining agreement or agreements as negotiated between the district and the respective bargaining representatives, if the district does not incur obligations for the supplements beyond the current school year and if such supplements do not cause the state to incur any present or future funding obligations. Additional days for certificated instructional staff and classified staff shall be those days beyond their respective work year.*

Such separate contracts shall be subject to the collective bargaining provisions of chapter 41.59 and 41.56 RCW. Such supplemental compensation shall not be deemed an increase in salary or compensation for purposes of RCW 28A.58.095. Separate contracts shall be subject to the provision of RCW 28A.67.074, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.58.450 through RCW 28A.58.515.

Upon reconsideration, the Court should apply the correct historical record and then apply one of the most familiar rules of construction: the specific controls over the more general. That rule specifies that when there is a conflict between one statutory provision which deals with a subject in a general way (supplemental contracts for all teachers throughout the state, Laws of 1985, ch. 349, § 7, above) and another provision which deals with the same subject in a specific manner (Blind and Deaf School teachers shall be compensated with compensatory time or a premium rate of hourly pay, Laws of 1985, ch. 378, § 12, above), the more specific will prevail. *Hama Hama Co. v. Shorelines Hearings Bd.*, 85 Wn.2d 441, 536 P.2d 157 (1975); *Aviation West Corp. v. Wash. State Dep't of Labor & Industries*, 138 Wn.2d 413, 980 P.2d 701 (1999).

The error in the Opinion is even more profound when one considers that both the “general” and “specific” enactments were pending before the same Senate and House Committees. The Legislative Digest and History of Bills<sup>1</sup> for SSB 3797 (“comp” time and “premium hourly rate of pay” at the Schools) and ESSB 3235 (supplemental contracts at school districts), attached as Appendices C and D, respectively, show that the two parallel supplemental compensation bills were

- (a) in Senate Education Committee “together” from February 6-26, 1985; and
- (b) in Senate Rules “together” from March 8-12, 1985; and
- (c) in the House Education Committee for *over* two weeks “together” from March 18-April 1, 1985, and
- (d) passed out of House Education (the final “policy committee” for both) within four (4) days of one another.

Indeed, the two measures were considered and signed into law by the Governor on the same day, May 20, 1985. Compare Laws of 1985, ch. 349 (Appendix A) with Laws of 1985, ch. 378 (Appendix B).

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<sup>1</sup> The Legislative Digest and History of Bills of the Senate and House of Representatives has been cited in many cases, dating back to the late 1970s. *see In re Dependency of M.J.L. v. Wash. Dep’t of Social & Health Servs.*, 124 Wn. App. 36, 44, 96 P.3d 996 (2004); *State. ex rel. Evergreen Freedom Found. v. Washington Education Ass’n.*, 140 Wn.2d 615, 620, 999 P.2d 602 (2000); *Roberts v. Dudley*, 140 Wn.2d 58, 85, 993 P.2d 901 (2000); *Duskin v. Carlson*, 136 Wn.2d 550, 562, 965 P.2d 611 (1998); *Rabon v. City of Seattle*, 135 Wn.2d 278, 298, 957 P.2d 621 (1998); *State v. Berlin*, 133 Wn.2d 541, 558, 947 P.2d 700 (1997); and *Clallam Cy. Deputy Sheriff’s Guild v. Board of Clallam Cy. Comm’ns*, 92 Wn.2d 844, 851, 601 P.2d 943 (1979). A court may take judicial notice of legislative publications. *Seattle Times Co. v. County of Benton*, 99 Wn.2d 251, 661 P.2d 964 (1983).

Reconsideration is warranted because the Opinion is based on a mistaken view of the historical record. The Education Committees of the 1985 House and Senate, the 1985 Senate Rules Committee, and the Governor acting legislatively on May 20, 1985, all had the question of “general” TRI payments for the 296 school districts’ teachers and the more “specific” local governance provisions at the Schools for the Deaf and Blind squarely before them. There was no need for anyone to “exclude” School teachers from the TRI payment legislation. See Slip Opinion at 7. The Legislature spoke by its specific direction that School teachers receive “comp time” or a “premium hourly pay”, and by its conscious decision not to provide funding for such payments for a quarter of a century.<sup>2</sup>

When the 1985 legislation is laid side-by-side, it is clear that the Legislature adopted parallel means to address compensation for work performed outside the scope of duties covered by the state salary schedule: one for school districts which have access to local levy funds and one for the State Schools, which don’t.

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<sup>2</sup> Brief of Respondents at 18-19. Recall, as well, that in the period immediately preceding the filing of this suit, Governor Locke’s Budget Office specifically declined to include funding for TRI payments for School for the Blind teachers in the 2001-03 biennial budget. Declaration of Martin H. Brown, Director, Office of Financial Management (Declaration of Brown), CP at 129-30.

The Court's Opinion "taxes" the Legislature with millions of dollars of liability based upon a critical factual error which leads to a flawed analysis. The Court should reconsider and reverse, as the Supreme Court surely will.

**B. The Court's Opinion overlooks three critical arguments of the School.**

There are three additional errors in the Opinion that arise from its failure to address three critical arguments by the School. First, the Opinion ignores and therefore does not address the undisputed fact that extra salary for "time, responsibilities, or as an incentive" at the Vancouver School District is not related to the certificated employees' "background and experience" as required by RCW 72.40.028 for the School for the Blind, but is paid regardless of educational attainment.<sup>3</sup> This causes the Court to read the critical link to "background and experience" out of the 1980 statute. This is contrary to the rule that statutes must be construed so that all language is given effect and no portion is rendered meaningless or superfluous. *See, e.g., Kilian v. Atkinson*, 147 Wn.2d 16, 21, 50 P.3d 638 (2002).

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<sup>3</sup> Declaration of Lee Goeke, Associate Superintendent of Human Resources, Vancouver School District (Declaration of Goeke), Clerk's Papers (CP) at 134.

Second, the Opinion ignores and therefore does not address the fact that the Legislature has added and deleted additional days of work for teachers generally and, for the two State Schools, in substantive law as recently as 1999. *See* RCW 28A.655.130, discussed in Brief of Respondents at 16-17. That statute provides in part:

(1) To the extent funds are appropriated, the office of the superintendent of public instruction annually shall allocate accountability implementation funds to school districts. . . .

(4) The state schools for the deaf and blind are eligible to receive allocations under this section.

This statute provided a substantive law basis for "Learning Improvement Days" (additional days of training without students) at the State Schools, and demonstrates that the Legislature knows how to include the State Schools when extra compensation is deemed desirable or necessary.

Finally, the Opinion ignores and therefore does not address the fact that the Legislature has added and deleted additional days of work for teachers at the State Schools in budget enactments, as was observed and argued in Brief of Respondents at 18-19. These Learning Improvement Days first appeared in the 1999 biennial budget. *See* Laws of 1999, ch. 309, § 503(7), wherein the Legislature said:

(7) The certificated instructional staff base salary specified for each district in LEAP Document 12E and the salary schedules in subsection (4)(a) of this section include a 1.67 percent increase for three learning improvement days added in the 1999-00 school year and maintained in the 200-01 school year. A school district is eligible for the learning improvement day funds for school years 1999-00 and 2000-01, *only if three days have been added to the base contract in effect for the 1998-99 school year. . . .* The additional days shall be for activities related to improving student learning consistent with education reform implementation. *The length of a learning improvement day shall not be less than the length of a full day under the base contract. . . .*

The 2001 Legislature again put three Learning Improvement Days in the budget and those were funded in the first fiscal year of that budget. However, in 2002 the Legislature passed a supplemental budget bill which funded two Learning Improvement Days for both school districts and, by operation of RCW 28A.655.130, for the Schools for the Blind and Deaf, funding for which was built into the statewide salary schedule which is sensitive to educational attainment and years of experience. *See Clerk's Papers (CP) at 224, 232 for examples of the salary schedules which include Learning Improvement Days.* The Legislature again demonstrated that it knew how to state its intention to fund additional time, responsibilities, and incentives for state employees of the Schools for the Blind (and Deaf), a point the Opinion ignores or overlooks.

#### IV. CONCLUSION

For the above reasons, the Respondents move the Court to reconsider its Opinion in the above matter.

RESPECTFULLY SUBMITTED this 29th day of June, 2006.

ROB MCKENNA  
Attorney General



W. HOWARD FISCHER  
WSBA #6142  
Senior Assistant Attorney General  
Attorneys for Respondents  
Office of Attorney General  
P.O. Box 40126  
Olympia, WA 98504-0126  
(360) 459-6600

**PROOF OF SERVICE**

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

- US Mail Postage Prepaid
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- Hand delivered by \_\_\_\_\_

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 29th day of June, 2006, at Olympia, WA.

  
BARBARA BURRIS

## CHAPTER 349

[Engrossed Substitute Senate Bill No. 3235]

SMALL SCHOOL DISTRICT BASIC EDUCATION ALLOCATION FORMULA  
SCHOOL SELF-STUDY PROCEDURES—CAREER LADDER STUDY—SCHOOL  
IMPROVEMENT GRANTS—CONTACT HOUR WAIVER—SUPPLEMENTAL  
TEACHER COMPENSATION

AN ACT Relating to educational excellence; amending RCW 28A.41.140; adding a new section to chapter 28A.04 RCW; adding new sections to chapter 28A.58 RCW; adding a new section to chapter 28A.67 RCW; creating new sections; and making appropriations.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The superintendent of public instruction shall by December 1, 1985, recommend to the legislature a basic education allocation formula which provides adequate but not excessive funding for districts having less than twenty-five full time equivalent students.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.58 RCW to read as follows:

Each school district board of directors shall develop a schedule and process by which each public school within its jurisdiction shall undertake self-study procedures on a regular basis: PROVIDED, That districts may allow two or more elementary school buildings in the district to undertake jointly the self-study process. Each school may follow the accreditation process developed by the state board of education under RCW 28A.04.120(4), although no school is required to file for actual accreditation, or the school may follow a self-study process developed locally. Whatever process is used must focus upon the quality and appropriateness of the school's educational program and the results of its operational efforts.

Any self-study process must include the participation of staff, parents, members of the community, and students, where appropriate to their age. Emphasis throughout the process shall be placed upon:

- (1) Achieving educational excellence and equity;
- (2) Building stronger links with the community; and
- (3) Reaching consensus upon educational expectations through community involvement and corresponding school management.

The initial self-study process within each district shall begin by September 1, 1986, and should be completed for all schools within a district by the end of the 1990-91 school year.

The state board of education shall develop rules and regulations governing procedural criteria. Such rules and regulations should be flexible so as to accommodate local goals and circumstances. Rules and regulations may allow for waiver of the self-study for economic reasons and may also

allow for waiver of the initial self-study if a district or its schools have participated successfully in an official accreditation process or in a similar assessment of educational programs within the last three years. The self-study process shall be conducted on a cyclical basis every seven years following the initial 1990-91 period.

The superintendent of public instruction shall provide training to assist districts in their self-studies.

Each district shall annually report to the superintendent of public instruction on the scheduling and implementation of their self-study activities.

**NEW SECTION.** Sec. 3. The legislature recognizes the need to keep and attract quality teachers in our public schools. The legislature intends to examine the effectiveness of a career ladder in our public schools. To improve the quality of teaching and foster a professional climate which encourages creativity and cooperation among teachers and enhances the intrinsic rewards teachers experience from helping students learn, the legislature intends to locally test ways in which the goal of attracting and retaining excellent teachers might be accomplished. The legislature recognizes that a career ladder system is one means of enhancing the attractiveness of teaching; however, the legislature wishes to investigate this concept further prior to determining whether to develop such a system.

**NEW SECTION.** Sec. 4. A new section is added to chapter 28A.67 RCW to read as follows:

(1) The superintendent of public instruction is hereby authorized to grant funds for selected school improvement and research projects, including improvements in curriculum, instruction, and classroom management developed by teachers.

(2) The superintendent shall appoint an advisory committee on research and development composed of certificated and noncertificated staff, administrators, curriculum specialists, parents, school directors, postsecondary educators, business persons, and others as the superintendent finds necessary. The committee shall propose criteria to the superintendent to evaluate proposed school improvement and research projects proposed by educational employees. The criteria approved by the superintendent shall:

(a) Assure to the extent possible that projects will be chosen which represent the various geographical locations, school or district sizes, and grade levels existent in the state; (b) provide for evaluation of each project upon completion; and (c) include such other requirements as the superintendent finds necessary. The committee shall recommend to the superintendent of public instruction the awarding of grants to fund those proposals showing the most potential for developing knowledge which will be helpful to local districts in their efforts to enhance educational equity and excellence. Projects may involve the collaboration of personnel from higher education institutions and kindergarten through grade twelve educators.

(3) The superintendent of public instruction shall award grants to selected project participants in such amounts as determined by the superintendent of public instruction, who shall take into consideration grant amounts as recommended by the advisory committee on research and development under subsection (2) of this section. The sum of all grants awarded per year shall not exceed that amount appropriated by the legislature for such purposes. Grants may be awarded to individual teachers or teams of teachers including teacher's aides and volunteers.

(4) The superintendent of public instruction shall maintain a clearinghouse of information on these research projects for the use of local districts.

**Sec. 5.** Section 14, chapter 244, Laws of 1969 ex. sess. as last amended by section 1, chapter 229, Laws of 1983 and RCW 28A.41.140 are each amended to read as follows:

The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (1) Certificated staff and their related costs;
- (2) Classified staff and their related costs;
- (3) Nonsalary costs;
- (4) Extraordinary costs of remote and necessary schools and small high schools; and

(5) The attendance of students pursuant to RCW 28A.58.075 and 28A.58.245, each as now or hereafter amended, who do not reside within the servicing school district.

This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. Commencing with the 1980-81 school year, the formula adopted by the legislature shall reflect a ratio of not less than fifty certificated personnel to one thousand annual average full time equivalent students and one classified person to three certificated personnel. In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect. **PROVIDED,** That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific

operational functions of local school districts other than those program requirements identified in RCW 28A.58.754. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.41.145, as now or hereafter amended, enrolled on the first school day of each month. The definition of full time equivalent student shall be determined by rules and regulations of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

Certificated staff shall include those persons employed by a school district in a teaching, instructional, educational staff associate, learning resources specialist, administrative or supervisory capacity and who hold positions as certificated employees as defined under RCW 28A.01.130, as now or hereafter amended, and every school district superintendent, and any person hired in any manner to fill a position designated as, or which is in fact, that of deputy superintendent or assistant superintendent: PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute. Each annual average full time equivalent certificated classroom teacher's direct classroom contact hours shall average at least twenty-five hours per week. Direct classroom contact hours shall be exclusive of time required to be spent for preparation, conferences, or any other nonclassroom instruction duties. Up to two hundred minutes per week may be deducted from the twenty-five contact hour requirement, at the discretion of the school district board of directors, to accommodate authorized teacher/parent-guardian conferences, recess, passing time between classes, and informal instructional activity. Implementing rules to be adopted by the state board of education pursuant to RCW 28A.58.754(6) shall provide that compliance with the direct contact hour requirement shall be based upon teachers' normally assigned weekly instructional schedules, as assigned by the district administration. Additional record-keeping by classroom teachers as a means of accounting for contact hours shall not be required. However, upon request from the board of directors of any school district, the provisions relating to direct classroom contact hours for individual teachers in that district may be waived by the state board of education if the waiver is necessary to implement a locally approved plan for educational excellence

and the waiver is limited to those individual teachers approved in the local plan for educational excellence. The state board of education shall develop criteria to evaluate the need for the waiver. Granting of the waiver shall depend upon verification that: (a) The students' classroom instructional time will not be reduced; and (b) the teacher's expertise is critical to the success of the local plan for excellence.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.04 RCW to read as follows:

The state board of education may grant waivers to school districts from the provisions of RCW 28A.58.750 through 28A.58.754 on the basis that such waiver or waivers are necessary to implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program. The state board shall adopt criteria to evaluate the need for the waiver or waivers.

NEW SECTION. Sec. 7. A new section is added to chapter 28A.58 RCW to read as follows:

School boards may by separate contract with certificated instructional and classified staff provide supplemental compensation for additional days or additional duties as set forth in the bargaining agreement or agreements as negotiated between the district and the respective bargaining representatives, if the district does not incur obligations for the supplements beyond the current school year and if such supplements do not cause the state to incur any present or future funding obligations. Additional days for certificated instructional staff and classified staff shall be those days beyond their respective work year. Such separate contracts shall be subject to the collective bargaining provisions of chapters 41.59 and 41.56 RCW. Such supplemental compensation shall not be deemed an increase in salary or compensation for purposes of RCW 28A.58.095. Separate contracts shall be subject to the provision of RCW 28A.67.074, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.58.450 through RCW 28A.58.515.

NEW SECTION. Sec. 8. (1) The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the superintendent of public instruction for the purposes of section 2 of this act.

(2) The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the superintendent of public instruction for the purposes of section 4 of this act.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 27, 1985.

Passed the House April 27, 1985.

Approved by the Governor May 20, 1985.

Filed in Office of Secretary of State May 20, 1985.

CHAPTER 350

(Substitute Senate Bill No. 3146)

DEPARTMENT OF CORRECTIONS—INSTITUTION NAMES CORRECTED—  
SINGLE CELL REQUIREMENT DELAYED UNTIL 1987

AN ACT Relating to corrections; amending RCW 72.01.050, 72.12.160, 9.94.049, 72.65.010, and 72.13.091; repealing RCW 72.12.050; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 72.01.050, chapter 28, Laws of 1959 as last amended by section 68, chapter 136, Laws of 1981 and RCW 72.01.050 are each amended to read as follows:

(1) The secretary of social and health services shall have full power to manage and govern the following public institutions: The western state hospital, the eastern state hospital, the northern state hospital, the state training school, the state school for girls, Lakeland Village, the Rainier school, the state school for the deaf, the state school for the blind, and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions.

(2) The secretary of corrections shall have full power to manage and govern the following public institutions: The Washington state penitentiary, the Washington state reformatory, the Washington corrections center, the McNeil Island ((penitentiary)) corrections center, the Purdy ((treatment)) corrections center for women, the Cedar Creek corrections center, the Clearwater corrections center, the Firland ((correctional)) corrections center, the Indian Ridge ((treatment)) corrections center, the Larch corrections center, the Olympic ((correctional)) corrections center, Pine Lodge ((correctional)) corrections center, ((and)) the special offender center, the Twin Rivers corrections center, and the proposed five hundred bed facility at Clallam Bay subject only to the limitations contained in laws relating to the management of such institutions.

(3) If any of the facilities specified in subsection (2) of this section is fully or partially destroyed by natural causes or otherwise, the secretary of corrections may, with the approval of the governor, provide for the establishment and operation of additional residential correctional facilities to

place those inmates displaced by such destruction. However, such additional facilities may not be established if there are existing residential correctional facilities to which all of the displaced inmates can be appropriately placed. The establishment and operation of any additional facility shall be on a temporary basis, and the facility may not be operated beyond July 1 of the year following the year in which it was partially or fully destroyed.

Sec. 2. Section 109, chapter 136, Laws of 1981 and RCW 72.12.160 are each amended to read as follows:

It is the intent of the legislature that limitations be placed on the state correctional institutions at Monroe.

The following facilities at Monroe shall be subject to the inmate population limitations specified in this section.

(1) The special offender center shall house no more than one hundred forty-four inmates.

(2) The ((proposed medium security facility)) Twin Rivers corrections center shall house no more than five hundred inmates.

(3) The Monroe reformatory population shall be as determined pursuant to federal court order.

PROVIDED, That the governor may declare an emergency and increase by ten percent for a twelve-month period of time the population limitation of any of the facilities specified in this section.

Sec. 3. Section 6, chapter 121, Laws of 1979 and RCW 9.94.049 are each amended to read as follows:

For the purposes of RCW 9.94.043 and 9.94.045, "state correctional institution" means the: Washington corrections center, Washington state penitentiary, Washington state reformatory, McNeil Island corrections center, Purdy ((treatment)) corrections center for women, Larch corrections center, Indian Ridge ((treatment)) corrections center, Cedar Creek corrections center, the Olympic corrections center, Firland ((correctional)) corrections center, Clearwater corrections center, Pine Lodge ((correctional)) corrections center, the Twin Rivers corrections center, the special offender center, the proposed five hundred bed facility at Clallam Bay, and other state correctional facilities used solely for the purpose of confinement of convicted felons.

Sec. 4. Section 1, chapter 17, Laws of 1967 as last amended by section 110, chapter 136, Laws of 1981 and RCW 72.65.010 are each amended to read as follows:

As used in this chapter, the following terms shall have the following meanings:

(1) "Department" shall mean the department of corrections.

(2) "Secretary" shall mean the secretary of corrections.

(3) "State correctional institutions" shall mean and include the Washington state penitentiary; the Washington corrections center; the

## CHAPTER 378

[Substitute Senate Bill No. 3797]

## STATE SCHOOL FOR THE BLIND—STATE SCHOOL FOR THE DEAF

AN ACT Relating to the state schools for the blind, deaf, and sensory handicapped; amending RCW 72.01.050, 72.05.010, 72.05.130, 72.40.010, 72.40.020, 72.40.031, 72.40.040, 72.40.050, 72.40.060, 72.40.070, 72.40.080, 72.40.090, 72.40.100, 72.41.010, 72.41.020, 72.41.040, 72.42.010, 72.42.020, and 72.42.040; adding new sections to chapter 72.40 RCW; adding a new section to chapter 72.41 RCW; adding a new section to chapter 72.42 RCW; creating new sections; repealing RCW 72.05.140, 72.40.001, 72.41.050, and 72.42.050; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. All powers, duties, and functions of the department of social and health services pertaining to the state school for the blind and the state school for the deaf are transferred to the state school for the blind and the state school for the deaf, respectively.

**NEW SECTION.** Sec. 2. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services and pertaining to the powers, functions, and duties transferred by section 1 of this act shall be delivered to the custody of the state school for the blind and the state school for the deaf, as applicable. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services in carrying out the powers, functions, and duties transferred by section 1 of this act shall be made available to the state school for the blind and the state school for the deaf, as applicable. All funds, credits, or other assets including but not limited to any real and personal property held in connection with the powers, functions, and duties transferred by section 1 of this act shall be assigned to the state school for the blind and the state school for the deaf, as applicable.

Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred by section 1 of this act shall, on the effective date of this act, be transferred and credited to the state school for the blind and the state school for the deaf, as applicable, which amounts shall be determined by the office of financial management and shall also include the amounts appropriated to the department of social and health services for any support services provided.

Whenever 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.

**NEW SECTION.** Sec. 3. All classified employees of the department of social and health services engaged in performing the powers, functions, and duties transferred by section 1 of this act are transferred to the jurisdiction of the state school for the blind and the state school for the deaf. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the state school for the blind and the state school for the deaf, as applicable, to perform their usual duties upon the same terms as formerly, without any loss of rights including but not limited to current employees existing promotional, transfer, and reduction in force rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

**NEW SECTION.** Sec. 4. All rules and all pending business before the department of social and health services pertaining to the powers, functions, and duties transferred by section 1 of this act shall be continued and acted upon by the state school for the blind and the state school for the deaf, as applicable. All existing contracts and obligations shall remain in full force and shall be performed by the state school for the blind and the state school for the deaf.

**NEW SECTION.** Sec. 5. The transfer of the powers, duties, functions, and personnel of the department of social and health services shall not affect the validity of any act performed by such employee prior to the effective date of this act.

**NEW SECTION.** Sec. 6. If apportionments of budgeted funds are required because of the transfers directed by sections 2 through 5 of this act, 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.

**NEW SECTION.** Sec. 7. Nothing contained in sections 1 through 6 of this act may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law.

Sec. 8. Section 72.01.050, chapter 28, Laws of 1959 as last amended by section 68, chapter 136, Laws of 1981 and RCW 72.01.050 are each amended to read as follows:

(1) The secretary of social and health services shall have full power to manage and govern the following public institutions: The western state hospital, the eastern state hospital, the northern state hospital, the state training school, the state school for girls, Lakeland Village, the Rainier school, ~~(the state school for the deaf, the state school for the blind)~~ and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions.

(2) The secretary of corrections shall have full power to manage and govern the following public institutions: The state penitentiary, the state reformatory, the Washington corrections center, the McNeil Island penitentiary, the Purdy treatment center for women, the Cedar Creek corrections center, the Clearwater corrections center, the Firland correctional center, the Indian Ridge treatment center, the Larch corrections center, the Olympic correctional center, Pine Lodge correctional center, and the special offender center, subject only to the limitations contained in laws relating to the management of such institutions.

(3) If any of the facilities specified in subsection (2) of this section is fully or partially destroyed by natural causes or otherwise, the secretary of corrections may, with the approval of the governor, provide for the establishment and operation of additional residential correctional facilities to place those inmates displaced by such destruction. However, such additional facilities may not be established if there are existing residential correctional facilities to which all of the displaced inmates can be appropriately placed. The establishment and operation of any additional facility shall be on a temporary basis, and the facility may not be operated beyond July 1 of the year following the year in which it was partially or fully destroyed.

Sec. 9. Section 72.05.010, chapter 28, Laws of 1959 as last amended by section 7, chapter 167, Laws of 1980 and RCW 72.05.010 are each amended to read as follows:

The purposes of RCW 72.05.010 through 72.05.210 are: To provide for every child with behavior problems, mentally and physically handicapped persons, and ~~((deaf and blind))~~ hearing and visually impaired children, within the purview of RCW 72.05.010 through 72.05.210, as now or hereafter amended, such care, guidance and instruction, control and treatment as will best serve the welfare of the child or person and society; to insure nonpolitical and qualified operation, supervision, management, and control of the Green Hill school, the Maple Lane school, the Naselle Youth Camp, the Mission Creek Youth Camp, Echo Glen, the Cascadia Diagnostic Center, Lakeland Village, Rainier school, the Yakima Valley school, Interlake school, Fircrest school, the Francis Haddon Morgan Center, the Child Study and Treatment Center and Secondary School of Western State Hospital, ~~((the state school for the blind, the state school for the deaf))~~ and like residential state schools, camps and centers hereafter established, and to place them under the department of social and health services except where specified otherwise; and to provide for the persons committed or admitted to those schools that type of care, instruction, and treatment most likely to accomplish their rehabilitation and restoration to normal citizenship.

Sec. 10. Section 72.05.130, chapter 28, Laws of 1959 as last amended by section 12, chapter 191, Laws of 1983 and RCW 72.05.130 are each amended to read as follows:

The department shall establish, maintain, operate and administer a comprehensive program for the custody, care, education, treatment, instruction, guidance, control and rehabilitation of all persons who may be committed or admitted to institutions, schools, or other facilities controlled and operated by the department, except for the programs of education provided pursuant to RCW 28A.58.772 through 28A.58.776, as now or hereafter amended, which shall be established, operated and administered by the school district conducting the program, and in order to accomplish these purposes, the powers and duties of the secretary shall include the following:

(1) The assembling, analyzing, tabulating, and reproduction in report form, of statistics and other data with respect to children with behavior problems in the state of Washington, including, but not limited to, the extent, kind, and causes of such behavior problems in the different areas and population centers of the state. Such reports shall not be open to public inspection, but shall be open to the inspection of the governor and to the superior court judges of the state of Washington.

(2) The establishment and supervision of diagnostic facilities and services in connection with the custody, care, and treatment of mentally and physically handicapped, and behavior problem children who may be committed or admitted to any of the institutions, schools, or facilities controlled and operated by the department, or who may be referred for such diagnosis and treatment by any superior court of this state. Such diagnostic services may be established in connection with, or apart from, any other state institution under the supervision and direction of the secretary. Such diagnostic services shall be available to the superior courts of the state for persons referred for such services by them prior to commitment, or admission to, any school, institution, or other facility. Such diagnostic services shall also be available to other departments of the state. When the secretary determines it necessary, the secretary may create waiting lists and set priorities for use of diagnostic services for juvenile offenders on the basis of those most severely in need.

(3) The supervision of all persons committed or admitted to any institution, school, or other facility operated by the department, and the transfer of such persons from any such institution, school, or facility to any other such school, institution, or facility. PROVIDED, That where a person has been committed to a minimum security institution, school, or facility by any of the superior courts of this state, a transfer to a close security institution shall be made only with the consent and approval of such court. ~~((This shall not apply to the state school for the deaf or the state school for the blind.))~~

(4) The supervision of parole, discharge, or other release, and the post-institutional placement of all persons committed to Green Hill school and Maple Lane school, or such as may be assigned, paroled, or transferred therefrom to other facilities operated by the department. Green Hill school

and Maple Lane school are hereby designated as "close security" institutions to which shall be given the custody of children with the most serious behavior problems.

Sec. 11. Section 72.40.010, chapter 28, Laws of 1959 and RCW 72.40.010 are each amended to read as follows:

There are established at Vancouver, Clark county, ~~((an institution))~~ a school which shall be known as the state school for the blind, and a separate ~~((institution))~~ school which shall be known as the state school for the deaf. The primary purpose of the state school for the blind and the state school for the deaf is to educate and train hearing and visually impaired children.

The schools shall be under the direction of their respective superintendents with the advice of the board of trustees.

NEW SECTION. Sec. 12. A new section is added to chapter 72.40 RCW to read as follows:

The hours of labor for each full time employee shall be a maximum of eight hours in any work day and forty hours in any work week.

Employees required to work in excess of the eight-hour maximum per day of the forty-hour maximum per week shall be compensated by not less than equal hours of compensatory time off or, in lieu thereof, a premium rate of pay per hour equal to not less than one hundred and seventy-sixth of the employee's gross monthly salary. If an employee is granted compensatory time off, such time off should be given within the calendar year and if such an arrangement is not possible the employee shall be given a premium rate of pay. However, compensatory time or payment in lieu thereof shall be allowed only for overtime as is duly authorized and accounted for under rules by each superintendent.

Sec. 13. Section 72.40.020, chapter 28, Laws of 1959 as amended by section 247, chapter 141, Laws of 1979 and RCW 72.40.020 are each amended to read as follows:

The ~~((secretary))~~ governor shall appoint a superintendent for ~~((each institution))~~ the state school for the blind. The superintendent ~~((s must be not less than thirty nor more than seventy years of age and must be practically acquainted with school management and class instruction of the blind and the deaf, respectively, having had at least ten years' actual experience in teaching in schools for such persons.~~

~~The secretary may discharge any employee in his discretion)~~ shall have a masters degree from an accredited college or university in school administration or blind education, five years of experience teaching blind students in the classroom, and three years administrative or supervisory experience in programs for blind students.

NEW SECTION. Sec. 14. A new section is added to chapter 72.40 RCW to read as follows:

The governor shall appoint a superintendent for the state school for the deaf. The superintendent shall have a masters degree from an accredited college or university in school administration or deaf education, five years of experience teaching deaf students in the classroom, and three years administrative or supervisory experience in programs for deaf students.

NEW SECTION. Sec. 15. A new section is added to chapter 72.40 RCW to read as follows:

In addition to any other powers and duties prescribed by law, the superintendent of the state school for the blind and the superintendent of the state school for the deaf:

(1) Shall have full control of their respective schools and the property of various kinds.

(2) May establish criteria, in addition to state certification, for teachers at their respective schools.

(3) Shall employ members of the faculty, administrative officers, and other employees, who shall all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law.

(4) Shall establish the course of study including vocational training, with the assistance of the faculty and the advice of the respective boards of trustees.

(5) May establish new facilities as needs demand.

(6) May adopt rules, under chapter 34.04 RCW, as deemed necessary for the government, management, and operation of the housing facilities.

(7) Shall control the use of the facilities and authorize the use of the facilities for night school, summer school, public meetings, or other purposes consistent with the purposes of their respective schools.

(8) May adopt rules for pedestrian and vehicular traffic on property owned, operated, and maintained by the respective schools.

(9) Purchase all supplies and lease or purchase equipment and other personal property needed for the operation or maintenance of their respective schools.

(10) Except as otherwise provided by law, may enter into contracts as each superintendent deems essential to the respective purposes of their schools.

(11) May receive gifts, grants, conveyances, devises, and bequests of real or personal property from whatever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions will aid in carrying out the programs of the respective schools; sell, lease or exchange, invest, or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms and conditions thereof; and adopt rules to govern the receipt and expenditure of the proceeds, rents, profits, and income thereof.

(12) May contract with the department of social and health services for management consultant or other services which the department, if requested, shall provide.

(13) May, except as otherwise provided by law, enter into contracts as the superintendents deem essential for the operation of their respective schools.

(14) Shall adopt rules providing for the transferability of employees between the school for the deaf and the school for the blind consistent with collective bargaining agreements in effect.

(15) Shall prepare and administer their respective budgets consistent with RCW 43.88.160 and the budget and accounting act, chapter 43.88 RCW generally, as applicable.

(16) May adopt rules under chapter 34.04 RCW and perform all other acts not forbidden by law as the superintendents deem necessary or appropriate to the administration of their respective schools.

Sec. 16. Section 6, chapter 50, Laws of 1970 ex. sess. as amended by section 248, chapter 141, Laws of 1979 and RCW 72.40.031 are each amended to read as follows:

The school year for the state school for the blind and the state school for the deaf shall commence on the first day of July of each year and shall terminate on the 30th day of June of the succeeding year. The regular school term shall be for a period of nine months and shall commence as near as reasonably practical at the time of the commencement of regular terms in the public schools, with the equivalent number of days as are now required by law, and the regulations of the superintendent of public instruction as now or hereafter amended, during the school year in the public schools. The school shall observe all legal holidays, in the same manner as other agencies of state government, and the schools will not be in session on such days and such other days as may be approved by the ((secretary of social and health services)) respective superintendents. During the period when the schools are not in session during the regular school term, schools may be operated, subject to the approval of the ((secretary)) respective superintendents, for the instruction of students or for such other reasons which are in furtherance of the objects and purposes of such schools.

**NEW SECTION.** Sec. 17. A new section is added to chapter 72.40 RCW to read as follows:

In addition to the powers and duties under section 15 of this act, the superintendent of each school shall:

(1) Monitor the location and educational placement of each student reported to the superintendents by the educational service district superintendents;

(2) Provide information about educational programs, instructional techniques, materials, equipment, and resources available to students with

visual or auditory impairments to the parent or guardian, educational service district superintendent, and the superintendent of the school district where the student resides; and

(3) Serve as a consultant to the office of the superintendent of public instruction and assist school districts in improving their instructional programs for students with visual or hearing impairments.

**NEW SECTION.** Sec. 18. A new section is added to chapter 72.40 RCW to read as follows:

All teachers at the state school for the deaf and the state school for the blind shall meet all certification requirements and the programs shall meet all accreditation requirements and conform to the standards defined by law or by rule of the state board of education or the office of the state superintendent of public instruction. The superintendents, by rule, may adopt additional educational standards for their respective schools. Salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located. The superintendents may provide for provisional certification for teachers in their respective schools including certification for emergency, temporary, substitute, or provisional duty.

Sec. 19. Section 72.40.040, chapter 28, Laws of 1959 as last amended by section 4, chapter 160, Laws of 1984 and RCW 72.40.040 are each amended to read as follows:

The schools shall be free to residents of the state between the ages of five and twenty-one years until the 1984-85 school year, between the ages of four and twenty-one years commencing with the 1984-85 school year, and between the ages of three and twenty-one years commencing with the 1985-86 school year ((... and who are blind or deaf, or otherwise sensory handicapped, and who are free from toothsome or contagious diseases)) and who are visually or hearing impaired or otherwise sensory handicapped with problems of learning originating mainly due to a visual or auditory deficiency. Each school shall admit and retain students on a space available basis according to criteria developed and published by each school superintendent in consultation with each board of trustees and school faculty: **PROVIDED**, That students over the age of twenty-one years, who are otherwise qualified may be retained at the school, if in the discretion of the superintendent in consultation with the faculty they are proper persons to receive further training given at the school and the facilities are adequate for proper care, education, and training.

Sec. 20. Section 72.40.050, chapter 28, Laws of 1959 as amended by section 249, chapter 141, Laws of 1979 and RCW 72.40.050 are each amended to read as follows:

The ~~(secretary)~~ superintendents may admit to ~~(the)~~ their respective schools ~~((blind or deaf))~~ visually or hearing impaired children from other states as appropriate, but the parents or guardians of such children from other state will be required to pay annually or quarterly in advance a sufficient amount to cover the cost of maintaining and educating such children as set by the applicable superintendent.

Sec. 21. Section 72.40.060, chapter 28, Laws of 1959 as last amended by section 151, chapter 275, Laws of 1975 1st ex. sess. and RCW 72.40.060 are each amended to read as follows:

It shall be the duty of ~~(the clerks of)~~ all school districts in the state, ~~((at the time for making the annual reports))~~ to report to ~~((the superintendent of))~~ their respective educational service districts the names of all ~~((deaf, mute, or blind))~~ visually or hearing impaired youth residing within their respective school districts who are between the ages of ~~((six))~~ three and twenty-one years.

Sec. 22. Section 72.40.070, chapter 28, Laws of 1959 as last amended by section 250, chapter 141, Laws of 1979 and RCW 72.40.070 are each amended to read as follows:

It shall be the duty of each educational service district ~~((superintendent))~~ to make a full and specific report of ~~((such deaf, mute, or blind))~~ visually or hearing impaired youth to the ~~((board of county commissioners of the county in which the youth resides at its regular meeting in July of each year. He shall also, at the same time, transmit a duplicate copy of such report to the secretary and the))~~ superintendent of the school for the blind or the school for the deaf, as the case may be and the superintendent of public instruction, annually. The superintendent of public instruction shall report about the hearing or visually impaired youth to the school for the blind and the school for the deaf, as the case may be, annually.

Sec. 23. Section 72.40.080, chapter 28, Laws of 1959 as last amended by section 153, chapter 275, Laws of 1975 1st ex. sess. and RCW 72.40.080 are each amended to read as follows:

It shall be the duty of the parents or the guardians of all such ~~((blind or deaf))~~ visually or hearing impaired youth to send them each year to the proper school or institution. Full and due consideration shall be given to the parent's or guardian's preference as to which program the child should attend. The educational service district superintendent shall take all action necessary to enforce this section. ~~((If satisfactory evidence is laid before the educational service district superintendent that any blind or deaf youth is being properly educated at home or in some suitable institution other than the state schools, he shall take no action in such case other than to make a record of such fact, and take such steps as may be necessary to satisfy himself that such defective youth will continue to receive a proper education.))~~

Sec. 24. Section 72.40.090, chapter 28, Laws of 1959 as amended by section 1, chapter 51, Laws of 1975 and RCW 72.40.090 are each amended to read as follows:

If it appears to the satisfaction of the board of county commissioners that the parents of any such ~~((blind or deaf))~~ visually or hearing impaired youth within their county are unable to bear the expense of transportation to and from the state schools, it shall send them to and return them from the schools or maintain them there during vacation at the expense of the county. Nothing in this section shall be construed as prohibiting the ~~((department))~~ superintendents from authorizing or incurring such travel expenses for the purpose of transporting such ~~((blind or deaf))~~ visually or hearing impaired youth to and from points within this state during week-ends and/or vacation periods. For the purposes of this section, the ~~((department))~~ superintendents shall impose no conditions upon parents or guardians specifying the number of weekends such persons shall take custody of ~~((deaf and blind))~~ hearing or visually impaired students.

Sec. 25. Section 72.40.100, chapter 28, Laws of 1959 as last amended by section 154, chapter 275, Laws of 1975 1st ex. sess. and RCW 72.40.100 are each amended to read as follows:

Any parent, guardian, or educational service district superintendent ~~((or county commissioner))~~ who, without proper cause, fails to carry into effect the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, upon the complaint of any officer or citizen of the county or state, before any justice of the peace or superior court, shall be fined in any sum not less than fifty nor more than two hundred dollars.

**NEW SECTION.** Sec. 26. A new section is added to chapter 72.40 RCW to read as follows:

Appropriations for the school for the deaf and the school for the blind shall be made to the superintendent of public instruction. The amounts for each institution shall be specified and shall not be used for any other purpose. The superintendent of public instruction shall transmit all the moneys to the state school for the blind or the state school for the deaf at the request of the superintendents of the respective schools.

**NEW SECTION.** Sec. 27. A new section is added to chapter 72.41 RCW to read as follows:

Unless the context clearly requires otherwise, as used in this chapter "superintendent" means superintendent of the state school for the blind.

Sec. 28. Section 1, chapter 118, Laws of 1973 and RCW 72.41.010 are each amended to read as follows:

It is the intention of the legislature in creating a board of trustees for the state school for the blind to perform the duties set forth in this chapter, that the board of trustees perform needed advisory services to the legislature

and ~~((directly to the secretary of the department of social and health services, hereinafter denominated the "secretary"))~~ to the superintendent of the Washington state school for the blind, in the development of programs for the ~~((blind))~~ visually impaired, and in the operation of the Washington state school for the blind.

Sec. 29. Section 2, chapter 118, Laws of 1973 as amended by section 13, chapter 30, Laws of 1982 1st ex. sess. and RCW 72.41.020 are each amended to read as follows:

There is hereby created a board of trustees for the state school for the blind to be composed of ~~((two))~~ trustees. In making such appointments the governor shall give consideration to geographical exigencies and shall appoint ~~one trustee residing in~~ a resident from each of the state's congressional districts now or hereafter existing. Trustees with voting privileges shall be appointed by the governor with the consent of the senate. A representative of the parent-teachers association of the Washington state school for the blind, a representative of the Washington council of the blind, a representative of the ~~((Washington state association for the blind and))~~ national federation of the blind of Washington, a representative of the united blind of Washington state, one representative designated by the teacher association ~~((of))~~ of the Washington state school for the blind, and a houseparent designated by the houseparents' exclusive bargaining representative shall each be ex officio and nonvoting members of the board of trustees and shall serve during their respective tenures in such positions.

~~((The initial appointees of the governor to the board of trustees shall draw lots at the first meeting thereof to determine their respective initial terms. One trustee shall serve for one year, one for two years, two for three years, one for four years, and two for five years.~~

~~Hereafter the successors of the))~~ Trustees ~~((initially appointed))~~ shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed within sixty days of the vacancy and appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's congressional districts. The board shall not be deemed to be unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. No voting trustee may be an employee of the state school for the blind, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, a school district or educational service district administrator, appointed after the effective date of this 1985 act, or an elected officer or member of the legislative authority or any municipal corporation.

The board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. ~~((Four))~~ A majority of the voting members of the board in office shall constitute a quorum, but a lesser number may ~~((adjourn))~~ convene from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The superintendent of the state school for the blind shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.

Sec. 30. Section 4, chapter 118, Laws of 1973 and RCW 72.41.040 are each amended to read as follows:

~~((Under the general auspices of the secretary of the department of social and health services;))~~ The board of trustees of the state school for the blind:

(1) Shall monitor and inspect all existing facilities of the state school for the blind, and report its findings to the ~~((secretary))~~ superintendent;

(2) Shall study and recommend comprehensive programs of education and training and review the admission policy as set forth in RCW 72.40.040 and 72.40.050, and make appropriate recommendations to the ~~((secretary))~~ superintendent;

(3) Shall ~~((advise the secretary in selection of))~~ submit a list of three qualified candidates for superintendent ~~((;))~~ to the governor and shall advise the superintendent about the criteria and policy to be used in the selection of members of the faculty and such other administrative officers and other employees, who shall with the exception of the superintendent all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law. All employees and personnel classified under chapter 41.06 RCW shall continue, after ~~((June 7, 1973))~~ the effective date of this 1985 act, 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 the state civil service law;

(4) Shall submit an evaluation of the superintendent to the governor by July 1 of each odd-numbered year and may recommend to the governor that the superintendent be removed for misfeasance, malfeasance, or willful neglect of duty;

(5) May recommend to the ~~((secretary))~~ superintendent the establishment of new facilities as needs demand;

~~((5))~~ (6) May recommend to the ~~((secretary))~~ superintendent rules and regulations for the government, management, and operation of such housing facilities deemed necessary or advisable;

~~((6))~~ (7) May make recommendations to the ~~((secretary))~~ superintendent concerning classrooms and other facilities to be used for summer or

night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for the school for the blind;

~~((7))~~ (8) May make recommendations to the ~~((secretary))~~ superintendent for adoption of rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the school for the blind;

~~((9))~~ (9) Shall recommend to the ~~((secretary))~~ superintendent, with the assistance of the faculty, the course of study including vocational training in the school for the blind, in accordance with other applicable provisions of law and rules and regulations;

~~((10))~~ (10) May grant to every student, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate;

~~((11))~~ (11) Shall participate in the development of, and monitor the enforcement of the rules and regulations pertaining to the school for the blind;

~~((12))~~ (12) Shall perform any other duties and responsibilities prescribed by the ~~((secretary))~~ superintendent.

Sec. 31. Section 1, chapter 96, Laws of 1972 ex. sess. and RCW 72.42.010 are each amended to read as follows:

It is the intention of the legislature, in creating a board of trustees for the state school for the deaf to perform the duties set forth in this chapter, that the board of trustees perform needed advisory services to the ~~((secretary of the department of social and health services, hereinafter denominated the "secretary,"))~~ legislature and to the superintendent of the Washington state school for the deaf in the development of programs for the ~~((deaf))~~ hearing impaired, and in the operation of the Washington state school for the deaf.

**NEW SECTION.** Sec. 32. A new section is added to chapter 72.42 RCW to read as follows:

Unless the context clearly requires otherwise as used in this chapter "superintendent" means superintendent of the Washington state school for the deaf.

Sec. 33. Section 2, chapter 96, Laws of 1972 ex. sess. as amended by section 15, chapter 30, Laws of 1982 1st ex. sess. and RCW 72.42.020 are each amended to read as follows:

There is hereby created a board of trustees for the state school for the deaf to be composed of ~~((eleven trustees, of whom eight shall be appointed by the governor. In making such appointments the governor shall give consideration to geographical exigencies and shall appoint one trustee residing in))~~ a resident from each of the state's congressional districts. Trustees with voting privileges shall be appointed by the governor with the consent of the senate. The president of the parent-teachers house organization of the

~~((deaf))~~ school for the deaf, ~~((the vice president of the parent-teachers house organization of the deaf school))~~ a houseparent selected by the houseparents' exclusive bargaining representative, one representative designated by the teacher association of the school for the deaf, and the president of the Washington state association for the deaf shall each be ex officio and nonvoting members of the board of trustees and shall serve during their respective tenures in such positions.

~~((The initial appointees to the board of trustees shall draw lots at the first meeting thereof to determine their respective initial terms. One trustee shall serve for one year, one for two years, two for three years, one for four years, and two for five years.~~

~~Hereafter the successors of the))~~ Trustees ~~((initially appointed))~~ shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed within sixty days of the vacancy and appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's congressional districts, as now or hereafter existing. The board shall not be deemed to be unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. No voting trustee may be an employee of the state school for the deaf, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, a school district or educational service district administrator appointed after the effective date of this act, or an elected officer or member of the legislative authority of any municipal corporation.

The board of trustees shall organize itself by electing a ~~((chairman))~~ chairperson, vice-chairperson, and secretary from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. ~~((Four))~~ A majority of the voting members of the board in office shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. ~~((The superintendent of the state school for the deaf shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.))~~

Sec. 34. Section 4, chapter 96, Laws of 1972 ex. sess. as amended by section 1, chapter 42, Laws of 1981 and RCW 72.42.040 are each amended to read as follows:

~~((Subject to the direction and control of the secretary of the department of social and health services,))~~ The board of trustees of the state school for the deaf:

(1) Shall monitor and inspect all existing facilities of the state school for the deaf, and report its findings to the ((secretary)) superintendent.

(2) Shall study and recommend comprehensive programs of education and training and review the admission policy as set forth in RCW 72.40.040 and 72.40.050, and make appropriate recommendations to the ((secretary)) superintendent.

(3) Shall (~~advise the secretary in selection of~~) develop a process for recommending candidates for the position of superintendent and upon a vacancy shall submit a list of three qualified candidates for superintendent ((3)) to the governor and shall advise the superintendent about the criteria and policy to be used in the selection of members of the faculty and such other administrative officers and other employees, who shall all with the exception of the superintendent be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law. ((The board in consultation with the secretary shall establish qualifications for the position of superintendent. The board shall evaluate the superintendents annually and when necessary may recommend disciplinary action in respect to the superintendent.)) All employees and personnel classified under chapter 41.06 RCW shall continue, after ~~(May 23, 1972)~~ the effective date of this 1985 act, 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 the state civil service law;

(4) Shall submit an evaluation of the superintendent to the governor by July 1 of each odd-numbered year and may recommend to the governor at any time that the superintendent be removed for misfeasance, malfeasance, or wilful neglect of duty.

(5) May recommend to the ((secretary)) superintendent the establishment of new facilities as needs demand;

(6) May recommend to the ((secretary)) superintendent rules and regulations for the government, management, and operation of such housing facilities deemed necessary or advisable;

(7) May make recommendations to the ((secretary)) superintendent concerning classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for the school for the deaf;

(8) May make recommendations to the ((secretary)) superintendent for adoption of rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the school for the deaf;

(9) Shall recommend to the ((secretary)) superintendent, with the assistance of the faculty, the course of study including vocational training in the school for the deaf, in accordance with other applicable provisions of law and rules and regulations;

(10) May grant to every student, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate.

(11) Shall participate in the development of, and monitor the enforcement of the rules and regulations pertaining to the school for the deaf;

(12) Shall perform any other duties and responsibilities prescribed by the ((secretary)) superintendent.

NEW SECTION, Sec. 35. The following acts or parts of acts are each repealed:

(1) Section 72.05.140, chapter 28, Laws of 1959, section 180, chapter 141, Laws of 1979, section 9, chapter 217, Laws of 1979 ex. sess., section 1, chapter 58, Laws of 1980 and RCW 72.05.140;

(2) Section 100, chapter 136, Laws of 1981 and RCW 72.40.001;

(3) Section 5, chapter 118, Laws of 1973 and RCW 72.41.050; and

(4) Section 5, chapter 96, Laws of 1972 ex. sess. and RCW 72.42.050.

NEW SECTION, Sec. 36. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION, Sec. 37. This act shall take effect July 1, 1986. The secretary of social and health services and the governor may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the Senate April 24, 1985.  
Passed the House April 18, 1985.

Approved by the Governor May 20, 1985.  
Filed in Office of Secretary of State May 20, 1985.

CHAPTER 379

[Engrossed Substitute Senate Bill No. 3516]  
SPANISH OR JAPANESE LANGUAGE INSTRUCTION IN SELECTED SCHOOL DISTRICTS

AN ACT Relating to instruction in foreign languages; amending RCW 28A.67.020; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION, Sec. 1. The legislature recognizes that it is important for the students and future citizens of our state to become fluent in a foreign language, particularly the languages of Pacific Rim countries and Latin American countries.

NEW SECTION, Sec. 2. The superintendent of public instruction may grant funds to five selected school districts to conduct a foreign language

SSB 3797



**EDITION NO. 5 - FINAL**  
**Volume 1 — Senate and RCW to Bill**  
**Table**

**Legislative Digest and**  
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**FORTY-NINTH LEGISLATURE**

|                         |                  |    |                |
|-------------------------|------------------|----|----------------|
| → 1985 Regular Session: | January 14, 1985 | to | April 28, 1985 |
| 1st Special Session:    | June 10, 1985    | to | June 11, 1985  |
| 1986 Regular Session    | January 13, 1986 | to | March 12, 1986 |

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**DIGEST & HISTORY ON LEGISLATIVE BILLS, MEMORIALS AND RESOLUTIONS;**  
**RCW — BILL TABLE; and TOPICAL INDEX**

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**\*\* Compiled to and Inclusive of April 30, 1986 \*\***

SID SNYDER  
Secretary of the Senate

DENNIS L. HECK  
Chief Clerk, House of Representatives

With the Cooperation of the Statute Law Committee  
& Legislative Information System

S. B. 3797 by Senators Bauer, Thompson, Zimmerman, Conner

Revising the laws for the state school for the deaf and the state school for the blind.

(SUBSTITUTED FOR - SEE 1ST SUB)

Transfers all powers, duties, and functions of the department of social and health services pertaining to the state schools for the blind and deaf to the appropriate school itself. Provides that all contracts and collective bargaining agreements remain in effect.

Provides for the appointment of a superintendent for each school by the governor and specifies the necessary qualifications.

Sets forth the powers and duties of each superintendent, including admission standards.

Provides for a board of trustees, including membership, powers, and duties, for the school for the deaf and school for the blind respectively.

Declares an emergency and takes effect July 1, 1985.

--1985 REGULAR SESSION--

- Feb 6 First reading, referred to Education.  
 Mar 8 Majority; 1st substitute bill be substituted, do pass.  
 Passed to Rules committee for second reading.  
 Mar 12 Made eligible to be placed on second reading.  
 Mar 14 Placed on second reading by Rules committee.  
 Mar 15 1st substitute bill substituted.

1st Sub. S. B. 3797 by Senate Committee on Education

Revising the laws for the state school for the deaf and the state school for the blind.

(DIGEST AS ENACTED)

Transfers all powers, duties, and functions of the department of social and health services pertaining to the state schools for the blind and deaf respectively. Provides for the transfer of all equipment, documents, appropriations etc., be transferred, and that all contracts and collective bargaining agreements remain in effect.

Provides for the appointment of a superintendent for each school by the governor and specifies the necessary qualifications.

Sets forth the powers and duties of each superintendent.

Modifies provisions for a board of trustees, including membership, powers, and duties, for the school for the deaf and school for the blind respectively.

Modifies references of state school for "the blind," to state school for "the visually impaired."

Sets teacher qualifications.  
 Modifies admission standards.  
 Requires annual report by SPI.  
 Modifies parental influence on the program of study of students who are visually or hearing impaired.  
 Defines "superintendent."  
 Repeals code provisions.  
 Declares an emergency and takes effect July 1, 1986.

--1985 REGULAR SESSION--

- Mar 8 Majority; 1st substitute bill be substituted, do pass.  
 Passed to Rules committee for second reading.  
 Mar 12 Made eligible to be placed on second reading.  
 Mar 14 Placed on second reading by Rules committee.  
 Mar 15 1st substitute bill substituted.  
 Rules suspended.  
 Placed on third reading.  
 Third reading, passed; Yeas, 44; nays, 2; absent, 3.  
 -IN THE HOUSE-  
 Mar 16 First reading, referred to Education.  
 Apr 5 Majority; do pass with amendment(s).  
 Minority; do not pass.  
 Passed to Rules committee for second reading.  
 Apr 16 Placed on second reading by Rules committee.  
 Apr 18 AMENDED.  
 Rules suspended.  
 Placed on third reading.  
 Third reading, passed; Yeas, 71; nays, 25; absent, 2.  
 -IN THE SENATE-  
 Apr 24 Senate concurred in House amendments.  
 Passed final passage. Yeas, 46; nays, 0; absent, 3.  
 Apr 25 President signed.  
 -IN THE HOUSE-  
 Speaker signed.  
 -OTHER THAN LEGISLATIVE ACTION-  
 Apr 27 Delivered to Governor.  
 May 20 Governor signed.  
 Chapter 378, 1985 Laws

S. B. 3798 by Senators McDermott, Zimmerman, Thompson, Lee, Bender, Talmadge

Providing for the financing of local public works.

(SUBSTITUTED FOR - SEE 1ST SUB)

Adds a new chapter relating to public works with the intent of fostering self-reliance in local governments and to provide technical and financial assistance.

Defines key terms.

Creates the public works board and provides for its composition, powers and duties.

Sets forth the financing powers of



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**FORTY-NINTH LEGISLATURE**

|                       |                  |    |                |
|-----------------------|------------------|----|----------------|
| 1985 Regular Session: | January 14, 1985 | to | April 28, 1985 |
| 1st Special Session:  | June 10, 1985    | to | June 11, 1985  |
| 1986 Regular Session  | January 13, 1986 | to | March 12, 1986 |

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**DIGEST & HISTORY ON LEGISLATIVE BILLS, MEMORIALS AND RESOLUTIONS;**  
**RCW — BILL TABLE; and TOPICAL INDEX**

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**\*\* Compiled to and Inclusive of April 30, 1986 \*\***

SID SNYDER  
Secretary of the Senate

DENNIS L. HECK  
Chief Clerk, House of Representatives

With the Cooperation of the Statute Law Committee  
& Legislative Information System

House amendments. Asks House for conference thereon. Conference committee appointed.

-IN THE HOUSE-

- Apr 24 Conference committee request granted. Conference committee appointed.
- Apr 28 By resolution, returned to Senate for third reading.

-IN THE SENATE-

Referred to Rules 3.

--1986 REGULAR SESSION--

- Jan 13 By resolution, reintroduced and retained in present status.
- Jan 14 Committee relieved of further consideration. Referred to Human Services & Corrections.
- Mar 12 By resolution, indefinitely postponed.

S. B. 3234 by Senators Hansen, Barr, Bauer, Bailey, Goltz, Newhouse, Benitz, Patterson

Providing funds for noxious weed control.

(AS OF SENATE 2ND READING 3/20/85)

Modifies vehicle licensing fees.

Provides for fifty cent assessment of each license fee to be deposited in the noxious weed control fund.

Creates the noxious weed control fund, which is an account in the treasury. States such moneys in the fund are subject to appropriation.

States permissible purposes for moneys.

Earmarks research funds.

Directs the department of agriculture to submit annual report to the legislature.

Authorizes the department of agriculture to adopt rules.

Applies sunset review process based on termination date of June 30, 1991.

--1985 REGULAR SESSION--

- Jan 22 First reading, referred to Agriculture.
- Feb 1 Majority; do pass. Passed to Rules committee for second reading.
- Feb 6 Rules Committee refers to Committee on Ways & Means.
- Mar 8 Majority; do pass with amendment(s). Passed to Rules committee for second reading.
- Mar 14 Made eligible to be placed on second reading.
- Mar 18 Placed on second reading by Rules committee.
- Mar 20 AMENDED. Rules suspended. Placed on third reading. Third reading, passed; Yeas, 28; nays, 19; absent, 2.

-IN THE HOUSE-

- Mar 21 First reading, referred to Agriculture.
- Apr 5 Majority; do pass with amendment(s). Passed to Rules committee for second reading.
- Apr 9 Rules Committee refers to Committee on Ways & Means.
- Apr 28 By resolution, returned to Senate for third reading.

-IN THE SENATE-

Referred to Rules 3.

--1986 REGULAR SESSION--

- Jan 13 By resolution, reintroduced and retained in present status.
- Jan 14 Committee relieved of further consideration. Referred to Ways & Means.
- Mar 12 By resolution, indefinitely postponed.

S. B. 3235 by Senators Gaspard, McDermott, Bottiger, Rinehart, Warnke, Wojahn, Bender, Garrett

Providing programs for educational excellence.

(SUBSTITUTED FOR - SEE 1ST SUB)

Directs the superintendent of SPI to appoint an advisory committee to evaluate proposed school improvement and research projects.

Outlines criteria for projects and proposals.

Authorizes the awarding of grants as recommended.

Directs SPI to maintain information clearinghouse.

Directs each school district board to develop a schedule and process for self study.

Provides criteria for self-study process.

Permits waiver of certain provisions relating to direct classroom contact hours for individual teachers, if such waiver is necessary to implement a locally approved plan for educational excellence.

Authorizes incentives.

Directs state board of education to recommend a plan to establish graduate level professional teacher preparation program.

Modifies in-service training programs.

--1985 REGULAR SESSION--

- Jan 22 First reading, referred to Education.
- Feb 26 Majority; 1st substitute bill be substituted, do pass. Passed to Rules committee for second reading.
- Mar 4 Made eligible to be placed on second reading.
- Mar 12 Placed on second reading by

Rules committee.

Mar 16 1st substitute bill substituted.

1st Sub. S. B. 3235 by Senate Committee  
on Education

Providing programs for educational  
excellence.

(DIGEST AS ENACTED)

Instructs the SPI to recommend to  
the legislature by December 1, 1985, a  
basic education allocation formula to  
provide adequate funding for districts  
having less than twenty-five full time  
equivalent students.

Directs each school district board  
to develop a schedule and process for  
self study, including studies undertaken  
jointly by two or more elementary  
school buildings.

Directs the superintendent of SPI  
to appoint an advisory committee to  
evaluate proposed school improvement  
and research projects.

Outlines criteria for projects and  
proposals.

Permits waiver of certain provi-  
sions relating to direct classroom con-  
tact hours for individual teachers, if  
such waiver is necessary to implement a  
locally approved plan for educational  
excellence.

Permits school boards to contract  
with specified staff for supplemental  
compensation for additional days or du-  
ties as negotiated.

Appropriates the sum of one hundred  
thousand dollars twice from the general  
fund to the SPI for the biennium ending  
June 30, 1987, for purposes of sections  
2 and 4 of the act.

--1985 REGULAR SESSION--

Feb 26 Majority; 1st substitute bill be  
substituted, do pass.

Passed to Rules committee for  
second reading.

Mar 4 Made eligible to be placed on  
second reading.

Mar 12 Placed on second reading by  
Rules committee.

Mar 16 1st substitute bill substituted.  
AMENDED.

Rules suspended.

Placed on third reading.

Third reading, passed; Yeas, 27;  
nays, 19; absent, 3.

-IN THE HOUSE-

Mar 18 First reading, referred to  
Education.

Apr 1 Majority; do pass with  
amendment(s).

Minority; do not pass.

Referred to Ways & Means.

Apr 5 Majority; do pass with  
amendment(s) to the amendment(s)  
by Education.

Passed to Rules committee for  
second reading.

Apr 9 Placed on second reading by

Rules committee.

Apr 15 AMENDED.

Rules suspended.

Placed on third reading.

Third reading, passed; Yeas, 96;  
nays, 1; absent, 1.

-IN THE SENATE-

Apr 22 Senate refuses to concur in  
House amendments. Asks House  
for conference thereon.

Conference committee appointed.

-IN THE HOUSE-

Apr 24 Conference committee request  
granted.

Conference committee appointed.

Apr 26 Conference committee report;  
free conference powers  
requested.

Conference committee report;  
adopted.

Free conference powers granted.

-IN THE SENATE-

Conference committee report;  
free conference powers  
requested.

Conference committee report;  
adopted.

Free conference powers granted.

-IN THE HOUSE-

Apr 27 Free conference committee  
report; do pass.

Free conference committee  
report, adopted.

Passed final passage as amended  
by conference committee; Yeas,  
97; nays, 0; absent, 1.

-IN THE SENATE-

Free conference committee  
report; do pass.

Free conference committee  
report, adopted.

Passed final passage as amended  
by conference committee; Yeas,  
38; nays, 10; absent, 1.

Apr 28 President signed.

-IN THE HOUSE-

Speaker signed.

-OTHER THAN LEGISLATIVE ACTION-

Delivered to Governor.

May 20 Governor signed.

Chapter 349, 1985 Laws

S. B. 3236 by Senators Moore, Sellar,  
Vognild, Bender, McManus, Warnke,  
McCaslin, Newhouse, Deccio, Wojahn,  
Stratton, Guess, McDermott,  
von Reichbauer, Conner

Relating to banks and bank holding  
companies.

(DIGEST AS ENACTED)

Provides when out-of-state bank  
holding company may acquire more than  
five percent of the voting stock or  
all, or substantially all, of the as-  
sets of a bank.

Provides an effective date of July  
1, 1987.

--1985 REGULAR SESSION--

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

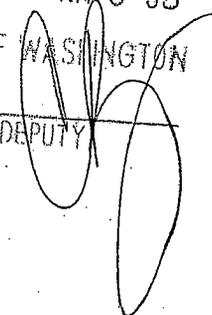
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DIVISION II

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DIVISION III

ATTORNEY GENERAL'S OFFICE  
TORTS DIVISION OLYMPIA  
STATE OF WASHINGTON  
No. 32714-7-II BY

DEPUTY 

JULIE SAVLESKY, JANICE STOTTS,  
GARY KAZEN, PATRICIA WILBER,

Plaintiffs,

CHERYL DELYRIA and JUDY KOCH,

Appellants,

v.

STATE OF WASHINGTON, WASHINGTON  
SCHOOL FOR THE DEAF,

Defendant,

STATE OF WASHINGTON, WASHINGTON  
SCHOOL FOR THE BLIND,

Respondent.

ORDER  
DENYING MOTION FOR  
RECONSIDERATION  
AND  
AMENDING OPINION

Respondent filed a motion for reconsideration for the opinion filed on June 14, 2006, in the above entitled matter. After consideration, this Court denies the motion for reconsideration and hereby amends the opinion as follows:

On page 2 of the slip opinion, in the third paragraph, adding the following footnote to the first full sentence. That sentence now reads:

In 1987, the legislature enacted former RCW 28A.58.0951, later recodified as RCW 28A.400.200 (2002).<sup>3</sup>

<sup>3</sup> The legislature first provided compensation for "additional days or additional duties" in 1985 (former RCW 28A.58.093) and payment for "additional time, additional responsibilities, or incentives" in 1987 (former RCW 28A.58.0951).

On page 8 of the slip opinion, in the first full paragraph, adding the following footnote to the last sentence. That sentence now reads:

That the legislature merely enacted a different compensation method for School employees does not sufficiently show legislative intent to exclude School employees from receiving TRI payments.<sup>10</sup>

<sup>10</sup> As noted in footnote three, the legislature first provided compensation for "additional days or duties" in 1985. In 1987, the legislature further added compensation for "additional time, additional responsibilities, or incentives."

The School contends that the legislature made a policy decision to provide a different method of compensation to the Blind and Deaf School employees by enacting the TRI statute in 1985. But whether the first TRI statute was enacted in 1985 or 1987 makes no difference for our analysis because RCW 72.40.110 (compensatory time off or premium rate of hourly pay for School for the Blind employees) was enacted in 1985. That is, even if RCW 72.40.110 was enacted at the same time as, instead of before, the TRI statute, it would be irrelevant because nothing indicates that the legislature intended RCW 72.40.110 and the TRI statute to be mutually exclusive and because the legislature did not exclude the application of TRI payments from the pay parity requirement of the former RCW 72.05.140, which has been in effect since 1980.

The remaining footnotes will be renumbered accordingly.

DATED this 31<sup>ST</sup> day of JULY, 2007.

Houghton, C.J.  
Houghton, C.J.

Armstrong, J.  
Armstrong, J.

Penoyar, J.  
Penoyar, J.

**H**  
**Savlesky v. State, Washington School for the Deaf**  
 Wash.App. Div. 2,2006.

Court of Appeals of Washington, Division 2.  
 Julie SAVLESKY, Janice Stotts, Gary Kazen,  
 Patricia Wilber, Plaintiffs,  
 Cheryl Delyria and Judy Koch, Appellants,

v.

STATE of Washington, WASHINGTON SCHOOL  
 FOR THE DEAF, Defendant,  
 State of Washington, Washington School for the  
 Blind, Respondent.  
 No. 32714-7-II.

June 14, 2006.

As Amended on Denial of Reconsideration July 31,  
 2007.

**Background:** Teachers at state school for the blind brought class action against state and school, alleging that they were entitled to same pay as teachers within local school district, and seeking declaratory relief, unpaid salaries, and penalties. The Superior Court, Thurston County, Gary R. Tabor, J., dismissed teachers' claims, and they appealed.

**Holding:** The Court of Appeals, Houghton, P.J., held that teachers at state school for the blind were entitled to receive same payments for additional time, additional responsibilities or incentives (TRI) that school district paid to other teachers.

Reversed and remanded.  
 West Headnotes

[1] Schools 345  144(4)

345 Schools

345II Public Schools

345II(K) Teachers

345II(K)1 In General

345k143 Compensation

345k144 In General

345k144(4) k. Rate or

Amount of Compensation. Most Cited Cases  
 Teachers at state school for the blind were entitled to receive the same payments for additional time, additional responsibilities or incentives (TRI) that

school district paid to other teachers; plain language of applicable statute provided that salaries of all certificated teachers at state schools for the deaf and blind shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program was located. West's RCWA 28A.400.200, 72.40.028.

[2] Appeal and Error 30  893(1)

30 Appeal and Error

30XVI Review

30XVI(F) Trial De Novo

30k892 Trial De Novo

30k893

Cases Triable in  
 Appellate Court

30k893(1) k. In General.

Most Cited Cases

Appeal and Error 30  895(2)

30 Appeal and Error

30XVI Review

30XVI(F) Trial De Novo

30k892 Trial De Novo

30k895 Scope of Inquiry

30k895(2) k. Effect of

Findings Below. Most Cited Cases

The appellate court reviews de novo a summary judgment order, engaging in the same inquiry as the trial court, taking the facts and all reasonable inferences in the light most favorable to the nonmoving party.

[3] Judgment 228  185(6)

228 Judgment

228V On Motion or Summary Proceeding

228k182 Motion or Other Application

228k185 Evidence in General

228k185(6)

k. Existence or  
 Non-Existence of Fact Issue. Most Cited Cases  
 Summary judgment is proper if reasonable minds could reach only one conclusion.

[4] Appeal and Error 30  893(1)

30 Appeal and Error

30XVI Review

30XVI(F) Trial De Novo

30k892 Trial De Novo  
30k893 Cases Triable in  
Appellate Court

30k893(1) k. In General.

Most Cited Cases

Appellate courts construe statutes de novo as a question of law.

**[5] Statutes 361** ↪ 188

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k187 Meaning of Language

361k188 k. In General. Most

Cited Cases

In construing a statute, courts give statutory words their plain and ordinary meaning unless courts perceive a contrary intent within the statute.

**[6] Statutes 361** ↪ 190

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k187 Meaning of Language

361k190 k. Existence of

Ambiguity. Most Cited Cases

**Statutes 361** ↪ 217.4

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k213 Extrinsic Aids to

Construction

361k217.4 k. Legislative History in General. Most Cited Cases

If statutory language is clear and unambiguous, courts determine the meaning of the statute from its language alone and does not consider legislative history.

**[7] Statutes 361** ↪ 206

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k204 Statute as a Whole, and

Intrinsic Aids to Construction

361k206 k. Giving Effect to Entire Statute. Most Cited Cases

In construing a statute, courts give effect to all the statutory language so that no provision is rendered

meaningless.

**[8] Statutes 361** ↪ 223.2(.5)

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k223 Construction with Reference to Other Statutes

361k223.2 Statutes Relating to the Same Subject Matter in General

361k223.2(.5) k. In General.

Most Cited Cases

Courts read statutes relating to the same subject as complementary and not in conflict.

**[9] Statutes 361** ↪ 212.1

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k212 Presumptions to Aid Construction

361k212.1 k. Knowledge of Legislature. Most Cited Cases

Courts presume the legislature considered its prior enactments when enacting new legislation.

\*153 Thomas K. Doyle, Bennett, Hartman, Morris & Kaplan LLP, Portland, OR, for Appellant.

Warren Howard Jr Fischer, Attorney at Law, Olympia, WA, for Respondent.

HOUGHTON, P.J.

¶ 1 Teachers Cheryl Delyria and Judy Koch <sup>FN1</sup> appeal the trial court's summary judgment order dismissing their claims against the Washington State School for the Blind (School). They argue that state law requires that the School pay them the same as the Vancouver School District pays its teachers. We agree and reverse and remand for further proceedings.

<sup>FN1</sup>. Delyria and Koch filed a class action lawsuit on behalf of 59 current and 33 former employees of the Washington State School for the Blind.

FACTS

¶ 2 Located in Vancouver, the School educates blind and partially sighted students up to the age of 21. It has approximately 70 campus residential

students and serves about 275 students through its off-campus services. There are 18 on-campus teachers, seven outreach teachers who provide off-campus services, and one on-campus speech and language pathologist. The School, as a state agency, relies on legislative funding; it does not have any levy or taxing authority.<sup>FN2</sup>

FN2. On occasion, the School receives gifts and grants.

¶ 3 RCW 72.40.028 governs the School's certificated employees' qualifications and salaries. It provides that "[s]alaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located." RCW 72.40-.028. The School is located in the Vancouver School District (District).

¶ 4 In 1987, the legislature enacted former RCW 28A.58.0951, later recodified as RCW 28A.400.200 (2002).<sup>FN3</sup> That statute authorizes local school districts to exceed a statewide salary limitation by entering into supplemental contracts for "additional time, additional responsibilities or incentives" (TRI). RCW 28A.400.200(4). The statute also provides that "[s]upplemental contracts shall not cause the state to incur any present or future funding obligation." RCW 28A.400.200(4). Since 1998, the District employees received TRI compensation-an average of \$2,710 per year.<sup>FN4</sup>

FN3. The legislature first provided compensation for "additional days or additional duties" in 1985 (former RCW 28A.58.093) and payment for "additional time, additional responsibilities, or incentives" in 1987 (former RCW 28A.58.0951).

FN4. According to the amended complaint, the TRI payment under the 2001-2003 comprehensive professional agreement between the District and the Vancouver Education Association totaled \$2,520 per teacher.

¶ 5 The District's agreement with its certificated employees specifies that TRI duties are those that occur outside the regular 180-day contract year or regular school hours. Local school districts make

their TRI payments from maintenance and operations levy funds. The School, however, has no levy authority or geographically limited property tax base.

¶ 6 Currently, the School's employees perform work equivalent to that of the District's employees, but they do not receive any TRI payments.<sup>FN5</sup> In 2001, the School and its Teachers' Association signed a collective bargaining agreement, effective August 1, 2001 to July 30, 2003. That agreement allowed School employees to earn exchange time for activities outside their regular workday. The bargaining agreement also limited this exchange or compensatory time to three paid workdays before the school year.

FN5. The School asserts that it has a four and one-half day workweek and smaller class sizes than the District. But it does not claim that its employees put in fewer hours than District employees.

¶ 7 On May 27, 2003, Delyria and Koch filed their class action lawsuit, <sup>FN6</sup> seeking: (1) \*154 declaratory relief finding that the School violated RCW 72.40.028, (2) an award of all unpaid salaries, (3) a penalty equal to the amount of the unpaid salaries, (4) and costs and fees.

FN6. Delyria started working as a teacher at the School in August 1996, whereas Koch began in 1993. Both took some exchange time for activities outside the regular working hours pursuant to the collective bargaining agreement.

¶ 8 The School moved for summary judgment, and Delyria and Koch moved for partial summary judgment.<sup>FN7</sup> After agreeing with the parties' stipulation that a purely legal issue faced the court, it noted:

FN7. Delyria and Koch sought partial summary judgment as to liability.

My interpretation of RCW 72.40.028 in regard to salaries is that at the time that this was enacted in 1980 there was no TRI payment situation, that that came about some five years later, and at the time that the TRI payments were instituted the legislature, if they had intended, could have clearly indicated that the State schools were a part of this. They did not

do so.

The term "salaries" is somewhat ambiguous, but my interpretation is that it meant a salary based upon one's similar background and experience, that is, having to do with the education and tenure or time in a particular position by teachers. The TRI payment situation is one that came about with the intent to deal with many of the realities of being a teacher and working long hours beyond what might be characterized as a formal workday or workweek, and I'm certainly not saying that teachers at the School for the Blind don't put in lots of extra time too, but there are other forms of compensation. Whether or not they're adequate, again, is not before this Court.

It's my finding that RCW 28A.400.200 does not apply to the School for the Blind. The TRI payments are a separately administered program or / and involve separate issues, that there might very well be a need for a fix here, but I think it has to be addressed to the legislature rather than the Court.

Report of Proceedings (RP) at 23-24. The trial court granted the School's motion and denied Delyria and Koch's motion for partial summary judgment.

¶ 9 Delyria and Koch appeal.

#### ANALYSIS

[1] ¶ 10 We address whether RCW 72.40.028 and RCW 28A.400.200 entitle School employees to receive the same TRI payments that the District has paid its teachers since 1998. Delyria and Koch argue that the law entitles them to the same pay as District employees and that the trial court erred in denying their motion for partial summary judgment on liability and in granting the School's motion instead.

#### Standard of Review

[2][3] ¶ 11 We review de novo a summary judgment order, engaging in the same inquiry as the trial court, taking the facts and all reasonable inferences in the light most favorable to the nonmoving party. Allstate Ins. Co. v. Ravnor, 143 Wash.2d 469, 475, 21 P.3d 707 (2001). A court properly grants summary judgment "if the pleadings ... together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." CR 56(c). Summary judgment is proper if reasonable minds could reach only one conclusion.

Kalmas v. Wagner, 133 Wash.2d 210, 215, 943 P.2d 1369 (1997).

#### Statutory Construction

[4][5][6] ¶ 12 We construe statutes de novo as a question of law. Retikowski v. Dep't of Ecology, 128 Wash.2d 508, 515, 910 P.2d 462 (1996). We give statutory words their plain and ordinary meaning unless we perceive a contrary intent within the statute. Erection Co. v. Dep't of Labor & Indus., 121 Wash.2d 513, 518, 852 P.2d 288 (1993). If the statutory language is clear and unambiguous, we determine the meaning of the statute from its language alone and we do not consider legislative history. Multicare Med. Ctr. v. Dep't of Soc. & Health Servs., 114 Wash.2d 572, 582, 790 P.2d 124 (1990).

[7][8] ¶ 13 In construing a statute, we give effect to all the statutory language so that no provision is rendered meaningless. \*155 Whatcom County v. City of Bellingham, 128 Wash.2d 537, 546, 909 P.2d 1303 (1996). And we read statutes relating to the same subject as complementary and not in conflict. Waste Mgmt. of Seattle, Inc. v. Utils. & Transp. Comm'n, 123 Wash.2d 621, 630, 869 P.2d 1034 (1994).

#### Plain and Unambiguous Language

¶ 14 Delyria and Koch argue that the School's refusal to give them TRI pay cannot be justified because RCW 72.40.028 plainly and unambiguously provides that employees with similar background and experience at the School and the District must receive equivalent salaries. RCW 72.40.028 provides in relevant part:

All teachers at the state school for the deaf and the state school for the blind shall meet all certification requirements.... Salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located.

¶ 15 We begin by noting that under the plain language of RCW 72.40.028, the phrase "similar background and experience" modifies "certificated employees." The most natural and grammatically correct reading of the statute leads to the conclusion that the statute applies to those School and District

employees who have similar background and experience.<sup>FN8</sup> Reading the plain and unambiguous statute alone would lead us to conclude that Delyria and Koch are entitled to salaries comparable to those of District employees.

FN8. The last antecedent rule of statutory construction gives our construction further support. That rule provides that qualifying words and phrases refer to the language immediately preceding the qualifier, unless a contrary intention appears in the statute. *In re Estate of Kurtzman*, 65 Wash.2d 260, 264, 396 P.2d 786 (1964). Because “certificated employees” immediately precedes the phrase “similar background and experience,” the last antecedent rule supports concluding that the phrase modifies “certificated employees.”

#### The School's Counterarguments to the Plain Language

¶ 16 The School raises several arguments contrary to this conclusion, but they do not persuade us. First, it argues that the School cannot give TRI pay to its employees because under RCW 28A.400.200, the State cannot be obligated to make such payments. RCW 28A.400.200 provides in relevant part:

(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.

....

(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....

....

(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, additional responsibilities, or incentives. *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.... 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.

(Emphasis added.)

¶ 17 The School argues that the legislature did not intend the School's employees to receive TRI payments because when the legislature enacted former RCW 72.05.140,<sup>FN9</sup> the pay parity statute, in 1980, it had not yet enacted legislation authorizing TRI payments. Thus, the School argues that “[t]he [l]egislature simply could not have contemplated RCW 72.05.140 to include supplemental TRI payments as additional salary.” Resp't's Br. at 10. We disagree.

FN9. The relevant provision is identical to that in the current RCW 72.40.028.

[9] ¶ 18 We presume the legislature considered its prior enactments when enacting \*156 new legislation. *State v. Roth*, 78 Wash.2d 711, 715, 479 P.2d 55 (1971); *State v. Pub. Util. Dist. No. 1*, 91 Wash.2d 378, 383, 588 P.2d 1146 (1979). If the legislature wanted to exclude the application of RCW 28A.400.200(4) from the pay parity requirement in the former RCW 72.05.140, it could have done so. That the legislature did not amend the pay parity requirement when it enacted the TRI provision demonstrates its intent not to render the two statutes mutually exclusive.

¶ 19 Moreover, the legislature enacted the pay parity statute, RCW 72.40.028, before the TRI authorization statute, RCW 28A.400.200. Had the legislature intended to exclude employees at the School and other state institutions from receiving TRI payments, the statute would specify that exclusion. Because the pay parity statute existed at the time of the new enactment, we presume that the legislature knew that all salary increases made available to District employees must likewise be available to School employees. Clearly, TRI payments may qualify as “salary” for the purposes of the pay parity statute. Essentially, the standard base salary for teachers and TRI payments are indistinguishable to the extent that both are “fixed compensation paid regularly.” Webster's Third New Intern'l Dictionary at 2003 (2002). Accordingly, there must be a comparable salary increase made available to School employees if made available to District employees through TRI payments. The District may obtain the necessary funds to offer its employees TRI payments through geographically based levies. The School does not have this option. If alternate School funds cannot meet this financial need, the legislature is obligated to supply the funds. We presume the legislature knew that it had accepted this

obligation when it enacted RCW 28A.400.200.

¶ 20 The School further counters that the legislature expressed its intent to exclude its employees from TRI payments when the legislature “enacted special provisions to deal with additional work, if any, to be performed by [School] teachers.” Resp’ts Br. at 11 (emphasis omitted). The School argues that in enacting RCW 72.40.110, the legislature made a policy choice to exclude School employees from receiving TRI payments and instead to provide them with compensatory (or exchange) time and protection under collective bargaining agreements. But the School’s argument fails because it does not offer any evidence that these different measures were enacted to replace TRI payments. That the legislature merely enacted a different compensation method for School employees does not sufficiently show legislative intent to exclude School employees from receiving TRI payments.<sup>FN10</sup>

FN10. As noted in footnote three, the legislature first provided compensation for “additional days or duties” in 1985. In 1987, the legislature further added compensation for “additional time, additional responsibilities, or incentives.” The School contends that the legislature made a policy decision to provide a different method of compensation to the Blind and Deaf School employees by enacting the TRI statute in 1985. But whether the first TRI statute was enacted in 1985 or 1987 makes no difference for our analysis because RCW 72.40.110 (compensatory time off or premium rate of hourly pay for School for the Blind employees) was enacted in 1985. That is, even if RCW 72.40.110 was enacted at the same time as, instead of before, the TRI statute, it would be irrelevant because nothing indicates that the legislature intended RCW 72.40.110 and the TRI statute to be mutually exclusive and because the legislature did not exclude the application of TRI payments from the pay parity requirement of the former RCW 72.05.140, which has been in effect since 1980.

¶ 21 Finally, the School counters that “the overall legislative scheme” demonstrates that the legislature did not intend School employees to receive TRI payments. Resp’ts Br. at 14. In support, the School cites several provisions in RCW

28A.400.200(4) to show that the legislature meant to cover only the school districts:

1. TRI payments, by virtue of the express language of RCW 28A.400.200(4), cannot cause the State to incur any present or future funding obligations....
2. TRI payments, under RCW 28A.400.200(4), are subject to collective bargaining under RCW 41.59, a chapter which does not apply to state employees.<sup>FN11</sup>

FN11. The purpose of this chapter is stated as follows:

It is the purpose of this chapter to prescribe certain rights and obligations of the educational employees of the school districts of the state of Washington, and to establish procedures governing the relationship between such employees and their employers which are designed to meet the special requirements and needs of public employment in education.

RCW 41.59.010.

3. TRI payments cannot pay for basic education ... and are paid out of local maintenance and operation levies or other local funds.... The [School] does not have local levy authority and has no geographically limited tax base.  
Resp’ts Br. at 15.

¶ 22 Delyria and Koch argue that the statutory language declaring that the state shall incur no funding obligation does not preclude paying TRI funds to School employees. They assert that the disclaimer provision of the state’s funding obligation in \*157RCW 28A.400.200(4) needs to “be read in conjunction with the language in RCW 28A.400.200(1), which states that the entire section concerns the operation of school districts.” Appellants’ Br. at 20. According to Delyria and Koch, the legislative intent behind the funding obligation disclaimer is that obligations to fund local school districts will not burden the state. They argue that the language of RCW 28A.400.200(1) makes it applicable only to local school districts. Therefore, the prohibition on incurring further state obligation does not apply to the School or to other state institutions. They assert that the legislature intended to apply this disclaimer only to the local school districts because the school districts have local levy authorities and geographically limited tax bases. Thus, they contend that the legislature would have amended either or both of the statutes if it had intended to substantially limit the pay parity

requirement of RCW 72.40.028 and that the absence of any such amendment or language shows that it did not intend to exclude School employees from receiving TRI payments. <sup>FN12</sup> We agree.

FN12. In addition to arguments focused on statutory construction and context, Delyria and Koch also advanced arguments regarding policy, fairness, and equity. Because we decide this case through statutory construction, we do not address these alternative arguments.

¶ 23 Further, we presume the legislature considered the pay parity statute when it enacted the TRI statute. See Roth, 78 Wash.2d at 715, 479 P.2d 55. There was no attempt to amend the prior statute or to exclude employees of state institutions from TRI eligibility in the new statute. Consequently, we presume that the legislature knew of and accepted its obligation to provide funding for TRI benefits for employees of schools unable to raise such funds through levies. This interpretation also comports with the rule of statutory construction that we must render statutes on the same subject complementary and not in conflict. See Waste Mgmt. of Seattle, 123 Wash.2d at 630, 869 P.2d 1034.

¶ 24 Reversed and remanded for further proceedings.

We concur: ARMSTRONG and PENOYAR, JJ.  
Wash.App. Div. 2,2006.  
Savlesky v. State, Washington School for the Deaf  
136 P.3d 152, 209 Ed. Law Rep. 900

END OF DOCUMENT

**RCW 72.40.028**

**Teachers' qualifications -- Salaries -- Provisional certification.**

All teachers at the state school for the deaf and the state school for the blind shall meet all certification requirements and the programs shall meet all accreditation requirements and conform to the standards defined by law or by rule of the state board of education or the office of the state superintendent of public instruction. The superintendents, by rule, may adopt additional educational standards for their respective schools. Salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located. The superintendents may provide for provisional certification for teachers in their respective schools including certification for emergency, temporary, substitute, or provisional duty.

[1985 c 378 § 18.]

**RCW 72.40.110**

**Employees' hours of labor.**

Employees' hours of labor shall follow all state merit rules as they pertain to various work classifications and current collective bargaining agreements.

[1993 c 147 § 6; 1985 c 378 § 12.]

**→28A.400.200. Salaries and compensation for employees--Minimum amounts--  
Limitations--Supplemental contracts**

(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 masters degree shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a masters 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, additional responsibilities, or incentives. 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 RCW 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.

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

[2002 c 353 § 2; 1997 c 141 § 2; 1993 c 492 § 225. Prior: 1990 1st ex.s. c 11 § 2; 1990 c 33 § 381; 1987 1st ex.s. c 2 § 205. Formerly RCW 28A.58.0951.]

(b) For summer vocational programs at skills centers, a maximum of \$2,098,000 may be expended each fiscal year.  
 (c) A maximum of \$343,000 may be expended for school district emergencies; and  
 (d) A maximum of \$500,000 per fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(10) For purposes of RCW 84.52.0531, the increase per full-time equivalent student in state basic education appropriations provided under this act, including appropriations for salary and benefits increases, is 2.5 percent from the 2000-01 school year to the 2001-02 school year, and 3.3 percent from the 2000-01 school year to the 2002-03 school year.

(11) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (h) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and  
 (b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

**NEW SECTION. Sec. 503. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION.**

(1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 12E for the appropriate year, by the district's average staff mix factor for basic education and special education certificated instructional staff in that school year, computed using LEAP Document 1S; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 12E for the appropriate year.

(2) For the purposes of this section:

(a) "Basic education certificated instructional staff" is defined as provided in RCW 28A.150 and "special education certificated staff" means staff assigned

to the state-supported special education program pursuant to chapter 28A.155 RCW in positions requiring a certificate;

(b) "LEAP Document 1S" means the computerized tabulation establishing staff mix factors for certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on March 25, 1999, at 16:55 hours; and

(c) "LEAP Document 12E" means the computerized tabulation of 2001-02 and 2002-03 school year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on March 13, 2001, at 16:32 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of 10.63 percent for school years 2001-02 and 2002-03 for certificated staff and 9.42 percent for school years 2001-02 and 2002-03 for classified staff.

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:

K-12 Salary Schedule for Certificated Instructional Staff  
 2001-02 School Year

| Years of Service | BA     | BA+15  | BA+30  | BA+45  | BA+90  |
|------------------|--------|--------|--------|--------|--------|
| 0                | 27,467 | 28,209 | 28,977 | 29,746 | 32,219 |
| 1                | 27,836 | 28,588 | 29,366 | 30,171 | 32,668 |
| 2                | 28,464 | 29,231 | 30,025 | 30,900 | 33,414 |
| 3                | 29,401 | 30,192 | 31,009 | 31,931 | 34,490 |
| 4                | 30,063 | 30,896 | 31,727 | 32,689 | 35,290 |
| 5                | 30,750 | 31,595 | 32,443 | 33,468 | 36,085 |
| 6                | 31,147 | 31,974 | 32,850 | 33,928 | 36,531 |
| 7                | 32,164 | 33,010 | 33,909 | 35,055 | 37,724 |
| 8                | 33,195 | 34,088 | 35,008 | 36,248 | 38,954 |
| 9                |        | 35,205 | 36,169 | 37,455 | 40,223 |
| 10               |        |        | 37,344 | 38,724 | 41,529 |
| 11               |        |        |        | 40,029 | 42,895 |
| 12               |        |        |        | 41,293 | 44,298 |
| 13               |        |        |        |        | 45,736 |
| 14               |        |        |        |        | 47,181 |
| 15               |        |        |        |        | 48,408 |
| 16 or more       |        |        |        |        | 49,376 |

| Years of Service | BA+135 | MA     | MA+45  | MA+90 or PHD |
|------------------|--------|--------|--------|--------------|
| 0                | 33,811 | 32,931 | 35,403 | 36,996       |

|            |        |        |        |        |
|------------|--------|--------|--------|--------|
| 1          | 34,252 | 33,297 | 35,793 | 37,377 |
| 2          | 35,030 | 33,995 | 36,509 | 38,124 |
| 3          | 36,177 | 35,027 | 37,585 | 39,273 |
| 4          | 37,007 | 35,755 | 38,355 | 40,072 |
| 5          | 37,853 | 36,503 | 39,121 | 40,889 |
| 6          | 38,308 | 36,904 | 39,508 | 41,285 |
| 7          | 39,569 | 38,031 | 40,700 | 42,546 |
| 8          | 40,867 | 39,225 | 41,930 | 43,843 |
| 9          | 42,201 | 40,430 | 43,200 | 45,177 |
| 10         | 43,572 | 41,700 | 44,505 | 46,549 |
| 11         | 44,979 | 43,005 | 45,872 | 47,956 |
| 12         | 46,446 | 44,362 | 47,275 | 49,422 |
| 13         | 47,947 | 45,766 | 48,712 | 50,923 |
| 14         | 49,505 | 47,212 | 50,251 | 52,481 |
| 15         | 50,792 | 48,439 | 51,557 | 53,846 |
| 16 or more | 51,808 | 49,407 | 52,589 | 54,923 |

K-12 Allocation Salary Schedule For Certificated Instructional Staff  
2002-03 School Year

|            |        |        |        |        |        |
|------------|--------|--------|--------|--------|--------|
| 0          | BA     | BA+15  | BA+30  | BA+45  | BA+90  |
| 1          | 28,318 | 29,083 | 29,875 | 30,668 | 33,217 |
| 2          | 28,699 | 29,473 | 30,276 | 31,106 | 33,680 |
| 3          | 29,345 | 30,137 | 30,955 | 31,857 | 34,449 |
| 4          | 30,312 | 31,127 | 31,970 | 32,920 | 35,559 |
| 5          | 30,994 | 31,854 | 32,710 | 33,702 | 36,383 |
| 6          | 31,703 | 32,574 | 33,448 | 34,505 | 37,203 |
| 7          | 32,112 | 32,964 | 33,868 | 34,979 | 37,663 |
| 8          | 33,160 | 34,033 | 34,959 | 36,141 | 38,893 |
| 9          | 34,223 | 35,145 | 36,092 | 37,372 | 40,161 |
| 10         |        | 36,295 | 37,289 | 38,616 | 41,470 |
| 11         |        |        | 38,501 | 39,923 | 42,815 |
| 12         |        |        |        | 41,269 | 44,225 |
| 13         |        |        |        | 42,572 | 45,671 |
| 14         |        |        |        |        | 47,153 |
| 15         |        |        |        |        | 48,642 |
| 16 or more |        |        |        |        | 49,907 |
|            |        |        |        |        | 50,906 |

|                  |        |        |        |              |
|------------------|--------|--------|--------|--------------|
| Years of Service | BA+135 | MA     | MA+45  | MA+90 or PHD |
| 0                | 34,859 | 33,951 | 36,500 | 38,142       |
| 1                | 313    | 34,328 | 36,902 | 38,535       |

|            |        |        |        |        |
|------------|--------|--------|--------|--------|
| 2          | 36,116 | 35,048 | 37,640 | 39,305 |
| 3          | 37,298 | 36,112 | 38,750 | 40,490 |
| 4          | 38,153 | 36,863 | 39,544 | 41,314 |
| 5          | 39,026 | 37,634 | 40,333 | 42,156 |
| 6          | 39,495 | 38,047 | 40,732 | 42,564 |
| 7          | 40,795 | 39,210 | 41,961 | 43,864 |
| 8          | 42,133 | 40,440 | 43,229 | 45,201 |
| 9          | 43,509 | 41,683 | 44,538 | 46,577 |
| 10         | 44,922 | 42,992 | 45,884 | 47,991 |
| 11         | 46,373 | 44,337 | 47,293 | 49,442 |
| 12         | 47,885 | 45,736 | 48,739 | 50,953 |
| 13         | 49,432 | 47,184 | 50,221 | 52,501 |
| 14         | 51,039 | 48,675 | 51,808 | 54,107 |
| 15         | 52,366 | 49,940 | 53,155 | 55,514 |
| 16 or more | 53,413 | 50,938 | 54,218 | 56,624 |

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

- (i) Credits earned since receiving the masters degree; and
- (ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

- (a) "BA" means a baccalaureate degree.
- (b) "MA" means a masters degree.
- (c) "PHD" means a doctorate degree.
- (d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.
- (e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 and 28A.415.023.
- (6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:
  - (a) The employee has a masters degree; or
  - (b) The credits were used in generating state salary allocations before January 1, 1992.
- (7) The certificated instructional staff base salary specified for each district in LEAP Document 12E and the salary schedules in subsection (4)(a) of this section include three learning improvement days originally added in the 1999-00 school year. A school district is eligible for the learning improvement day funds for school years 2001-02 and 2002-03, only if three learning improvement days

Communicated Teaching Salary Rates (includes 3 days Inservice)

| ANGEMRS | YEAR 0    | YEAR 1    | YEAR 2    | YEAR 3    | YEAR 4    | YEAR 5    | YEAR 6    | YEAR 7    | YEAR 8    | YEAR 9    | YEAR 10   | YEAR 11   | YEAR 12   | YEAR 13   | YEAR 14   | YEAR 15   | YEAR 16   |
|---------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| A       | 27,467.00 | 27,836.00 | 28,464.00 | 29,401.00 | 30,063.00 | 30,750.00 | 31,147.00 | 32,164.00 | 33,195.00 | 34,088.00 | 35,205.00 | 36,169.00 | 37,344.00 | 38,724.00 | 40,029.00 | 41,293.00 | 42,930.00 |
| MONTHLY | 2,288.92  | 2,319.67  | 2,372.00  | 2,450.08  | 2,505.25  | 2,562.50  | 2,664.50  | 2,750.83  | 2,840.67  | 2,933.75  | 3,014.08  | 3,112.00  | 3,227.00  | 3,335.75  | 3,441.08  | 3,541.08  | 3,641.08  |
| COURLY  | 18.76     | 19.01     | 19.44     | 20.09     | 20.53     | 21.00     | 21.58     | 22.85     | 23.28     | 24.05     | 25.51     | 26.45     | 27.34     | 28.21     | 29.30     | 30.26     | 31.24     |
| A+15    | 28,209.00 | 28,598.00 | 29,231.00 | 30,192.00 | 30,896.00 | 31,595.00 | 31,974.00 | 33,010.00 | 34,088.00 | 35,205.00 | 36,169.00 | 37,344.00 | 38,724.00 | 40,029.00 | 41,293.00 | 42,930.00 | 44,298.00 |
| MONTHLY | 2,350.75  | 2,382.33  | 2,435.92  | 2,516.00  | 2,574.67  | 2,632.92  | 2,664.50  | 2,750.83  | 2,840.67  | 2,933.75  | 3,014.08  | 3,112.00  | 3,227.00  | 3,335.75  | 3,441.08  | 3,541.08  | 3,641.08  |
| COURLY  | 19.27     | 19.53     | 19.97     | 20.62     | 21.10     | 21.58     | 21.84     | 22.85     | 23.28     | 24.05     | 25.51     | 26.45     | 27.34     | 28.21     | 29.30     | 30.26     | 31.24     |
| A+30    | 28,977.00 | 29,366.00 | 30,025.00 | 31,009.00 | 31,727.00 | 32,443.00 | 32,850.00 | 33,909.00 | 35,008.00 | 36,169.00 | 37,344.00 | 38,724.00 | 40,029.00 | 41,293.00 | 42,930.00 | 44,298.00 | 45,786.00 |
| MONTHLY | 2,414.75  | 2,447.17  | 2,502.08  | 2,584.08  | 2,643.92  | 2,703.58  | 2,737.50  | 2,825.75  | 2,917.33  | 3,014.08  | 3,112.00  | 3,227.00  | 3,335.75  | 3,441.08  | 3,541.08  | 3,641.08  | 3,741.08  |
| COURLY  | 19.79     | 20.06     | 20.51     | 21.18     | 21.67     | 22.16     | 22.44     | 23.16     | 23.91     | 24.71     | 25.51     | 26.45     | 27.34     | 28.21     | 29.30     | 30.26     | 31.24     |
| A+45    | 29,746.00 | 30,171.00 | 30,900.00 | 31,931.00 | 32,689.00 | 33,468.00 | 33,928.00 | 35,055.00 | 36,248.00 | 37,455.00 | 38,724.00 | 40,029.00 | 41,293.00 | 42,930.00 | 44,298.00 | 45,786.00 | 47,181.00 |
| MONTHLY | 2,478.83  | 2,514.25  | 2,575.00  | 2,660.92  | 2,724.08  | 2,789.00  | 2,827.33  | 2,921.25  | 3,020.67  | 3,121.25  | 3,227.00  | 3,335.75  | 3,441.08  | 3,541.08  | 3,641.08  | 3,741.08  | 3,841.08  |
| COURLY  | 20.32     | 20.61     | 21.11     | 21.81     | 22.33     | 22.86     | 23.17     | 23.94     | 24.76     | 25.58     | 26.45     | 27.34     | 28.21     | 29.30     | 30.26     | 31.24     | 32.23     |
| A+90    | 32,219.00 | 32,669.00 | 33,414.00 | 34,480.00 | 35,290.00 | 36,085.00 | 36,531.00 | 37,724.00 | 38,954.00 | 40,223.00 | 41,529.00 | 42,895.00 | 44,298.00 | 45,786.00 | 47,181.00 | 48,408.00 | 49,876.00 |
| MONTHLY | 2,684.92  | 2,722.33  | 2,784.50  | 2,874.17  | 2,940.83  | 3,007.08  | 3,044.25  | 3,143.67  | 3,246.17  | 3,351.92  | 3,460.75  | 3,574.58  | 3,691.50  | 3,811.33  | 3,931.75  | 4,034.00  | 4,114.67  |
| COURLY  | 22.01     | 22.31     | 22.82     | 23.56     | 24.11     | 24.65     | 24.95     | 25.77     | 26.61     | 27.47     | 28.37     | 29.30     | 30.26     | 31.24     | 32.23     | 33.07     | 33.78     |
| A+135   | 33,811.00 | 34,252.00 | 35,030.00 | 36,177.00 | 37,007.00 | 37,853.00 | 38,308.00 | 39,569.00 | 40,867.00 | 42,201.00 | 43,572.00 | 44,979.00 | 46,446.00 | 47,947.00 | 49,505.00 | 50,792.00 | 51,808.00 |
| MONTHLY | 2,817.58  | 2,854.33  | 2,919.17  | 3,014.75  | 3,083.92  | 3,154.42  | 3,192.33  | 3,297.42  | 3,405.58  | 3,516.75  | 3,631.00  | 3,748.25  | 3,870.50  | 3,995.58  | 4,125.42  | 4,232.67  | 4,317.33  |
| COURLY  | 23.09     | 23.40     | 23.93     | 24.71     | 25.28     | 25.86     | 26.17     | 27.03     | 27.91     | 28.83     | 29.76     | 30.72     | 31.73     | 32.75     | 33.81     | 34.69     | 35.59     |
| A       | 32,931.00 | 33,297.00 | 33,996.00 | 35,027.00 | 35,755.00 | 36,503.00 | 36,904.00 | 38,031.00 | 39,225.00 | 40,490.00 | 41,700.00 | 43,005.00 | 44,362.00 | 45,766.00 | 47,212.00 | 48,499.00 | 49,407.00 |
| MONTHLY | 2,744.25  | 2,774.75  | 2,832.92  | 2,918.92  | 2,979.58  | 3,041.92  | 3,075.33  | 3,169.25  | 3,268.75  | 3,369.17  | 3,475.00  | 3,583.75  | 3,696.83  | 3,813.83  | 3,934.33  | 4,036.58  | 4,117.25  |
| COURLY  | 22.49     | 22.74     | 23.22     | 23.93     | 24.42     | 24.93     | 25.21     | 25.98     | 26.79     | 27.62     | 28.48     | 29.38     | 30.30     | 31.26     | 32.25     | 33.09     | 33.75     |
| A+45    | 35,403.00 | 35,793.00 | 36,509.00 | 37,585.00 | 38,355.00 | 39,121.00 | 39,508.00 | 40,700.00 | 41,990.00 | 43,200.00 | 44,505.00 | 45,872.00 | 47,275.00 | 48,712.00 | 50,251.00 | 51,557.00 | 52,589.00 |
| MONTHLY | 2,950.25  | 2,982.75  | 3,042.42  | 3,132.06  | 3,196.25  | 3,260.08  | 3,292.33  | 3,391.67  | 3,494.17  | 3,600.00  | 3,708.75  | 3,822.67  | 3,939.58  | 4,059.33  | 4,187.58  | 4,296.42  | 4,382.42  |
| COURLY  | 24.18     | 24.45     | 24.94     | 25.67     | 26.20     | 26.72     | 26.99     | 27.80     | 28.64     | 29.51     | 30.40     | 31.33     | 32.29     | 33.27     | 34.32     | 35.22     | 35.92     |
| A+90    | 36,996.00 | 37,377.00 | 38,124.00 | 39,273.00 | 40,072.00 | 40,889.00 | 41,285.00 | 42,546.00 | 43,843.00 | 45,177.00 | 46,549.00 | 47,956.00 | 49,422.00 | 50,923.00 | 52,481.00 | 53,846.00 | 54,922.00 |
| MONTHLY | 3,083.00  | 3,114.75  | 3,177.00  | 3,272.75  | 3,339.33  | 3,407.42  | 3,440.42  | 3,545.50  | 3,653.58  | 3,764.75  | 3,879.08  | 3,996.33  | 4,118.50  | 4,243.58  | 4,373.42  | 4,487.17  | 4,576.92  |
| COURLY  | 25.27     | 25.53     | 26.04     | 26.83     | 27.37     | 27.93     | 28.20     | 29.06     | 29.95     | 30.86     | 31.80     | 32.76     | 33.76     | 34.78     | 35.85     | 36.78     | 37.52     |

city)) be included in the civil service and retirement plans of ((such)) the city or the county: PROVIDED, That residential requirements for such positions shall be coextensive with the county boundaries: PROVIDED FURTHER, That the city or county is authorized to pay such parts of the expense of operating and maintaining such civil service and retirement system and to contribute to the retirement fund in behalf of employees such sums as may be agreed upon between the ((governing bodies)) legislative authorities of such city and county.

Sec. 3. Section 6, chapter 46, Laws of 1949 and RCW 70.08.080 are each amended to read as follows:

The city by ordinance, and the county by ((resolution)) appropriate legislative enactment, under this chapter may pool all or any part of their respective funds available for public health purposes, in the office of the city treasurer or the office of the county treasurer in a special pooling fund to be established in accordance with agreements between the ((governing bodies)) legislative authorities of said city and county and which shall be expended for the combined health department.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 21, 1980.

Passed the Senate February 15, 1980.

Approved by the Governor March 3, 1980.

Filed in Office of Secretary of State March 3, 1980.

#### CHAPTER 58

[House Bill No. 1460]

#### STATE SCHOOLS FOR THE DEAF AND BLIND—CERTIFICATED EMPLOYEES' SALARIES

AN ACT Relating to certain educational facilities and programs; and amending section 72.05.140, chapter 28, Laws of 1959 as last amended by section 9, chapter 217, Laws of 1979 ex. sess. and RCW 72.05.140.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 72.05.140, chapter 28, Laws of 1959 as last amended by section 9, chapter 217, Laws of 1979 ex. sess. and RCW 72.05.140 are each amended to read as follows:

The department, in order to provide educational facilities and programs for persons admitted or committed to the state schools for the deaf and blind, is authorized either to:

(1) Enter into an agreement with the school district within which the institution is situated, or

(2) Provide a comprehensive school program in connection with any institution as if that institution were itself a local school system.

In the event that either option is exercised, all teachers shall meet all certification requirements and the program shall conform to the usual standards defined by law or by regulations of the state board of education or the office of the state superintendent of public instruction and/or other recognized national certifying agencies. Commencing with the 1981-82 school year, and each school year thereafter, salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located.

Passed the House February 1, 1980.

Passed the Senate February 19, 1980.

Approved by the Governor March 3, 1980.

Filed in Office of Secretary of State March 3, 1980.

#### CHAPTER 59

[House Bill No. 1463]

#### SCHOOL STUDENTS—EXCUSED ABSENCES

AN ACT Relating to education, and amending section 2, chapter 10, Laws of 1972 ex. sess. as last amended by section 4, chapter 201, Laws of 1979 ex. sess. and RCW 28A.27.010.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 2, chapter 10, Laws of 1972 ex. sess. as last amended by section 4, chapter 201, Laws of 1979 ex. sess. and RCW 28A.27.010 are each amended to read as follows:

All parents, guardians and the persons in this state having custody of any child eight years of age and under fifteen years of age shall cause such child to attend the public school of the district in which the child resides for the full time when such school may be in session or to attend a private school for the same time unless the school district superintendent of the district in which the child resides shall have excused such child from attendance because the child is physically or mentally unable to attend school ((or unless such child)), is attending a residential school operated by the department of social and health services, or has been excused upon the request of his or her parents, guardians, or persons in this state having custody of any such child, for purposes agreed upon by the school authorities and

## CHAPTER 378

[Substitute Senate Bill No. 3797]

## STATE SCHOOL FOR THE BLIND—STATE SCHOOL FOR THE DEAF

AN ACT Relating to the state schools for the blind, deaf, and sensory handicapped; amending RCW 72.01.050, 72.05.010, 72.05.130, 72.40.010, 72.40.020, 72.40.031, 72.40.040, 72.40.050, 72.40.060, 72.40.070, 72.40.080, 72.40.090, 72.40.100, 72.41.010, 72.41.020, 72.41.040, 72.42.010, 72.42.020, and 72.42.040; adding new sections to chapter 72.40 RCW; adding a new section to chapter 72.41 RCW; adding a new section to chapter 72.42 RCW; creating new sections; repealing RCW 72.05.140, 72.40.001, 72.41.050, and 72.42.050; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. All powers, duties, and functions of the department of social and health services pertaining to the state school for the blind and the state school for the deaf are transferred to the state school for the blind and the state school for the deaf, respectively.

**NEW SECTION.** Sec. 2. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services and pertaining to the powers, functions, and duties transferred by section 1 of this act shall be delivered to the custody of the state school for the blind and the state school for the deaf, as applicable. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services in carrying out the powers, functions, and duties transferred by section 1 of this act shall be made available to the state school for the blind and the state school for the deaf, as applicable. All funds, credits, or other assets including but not limited to any real and personal property held in connection with the powers, functions, and duties transferred by section 1 of this act shall be assigned to the state school for the blind and the state school for the deaf, as applicable.

Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred by section 1 of this act shall, on the effective date of this act, be transferred and credited to the state school for the blind and the state school for the deaf, as applicable, which amounts shall be determined by the office of financial management and shall also include the amounts appropriated to the department of social and health services for any support services provided.

Whenever 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.

**NEW SECTION.** Sec. 3. All classified employees of the department of social and health services engaged in performing the powers, functions, and duties transferred by section 1 of this act are transferred to the jurisdiction of the state school for the blind and the state school for the deaf. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the state school for the blind and the state school for the deaf, as applicable, to perform their usual duties upon the same terms as formerly, without any loss of rights including but not limited to current employees existing promotional, transfer, and reduction in force rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

**NEW SECTION.** Sec. 4. All rules and all pending business before the department of social and health services pertaining to the powers, functions, and duties transferred by section 1 of this act shall be continued and acted upon by the state school for the blind and the state school for the deaf, as applicable. All existing contracts and obligations shall remain in full force and shall be performed by the state school for the blind and the state school for the deaf.

**NEW SECTION.** Sec. 5. The transfer of the powers, duties, functions, and personnel of the department of social and health services shall not affect the validity of any act performed by such employee prior to the effective date of this act.

**NEW SECTION.** Sec. 6. If apportionments of budgeted funds are required because of the transfers directed by sections 2 through 5 of this act, 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.

**NEW SECTION.** Sec. 7. Nothing contained in sections 1 through 6 of this act may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law.

Sec. 8. Section 72.01.050, chapter 28, Laws of 1959 as last amended by section 68, chapter 136, Laws of 1981 and RCW 72.01.050 are each amended to read as follows:

(1) The secretary of social and health services shall have full power to manage and govern the following public institutions: The western state hospital, the eastern state hospital, the northern state hospital, the state training school, the state school for girls, Lakeland Village, the Rainier school, ~~(the state school for the deaf, the state school for the blind)~~ and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions.

(2) The secretary of corrections shall have full power to manage and govern the following public institutions: The state penitentiary, the state reformatory, the Washington corrections center, the McNeil Island penitentiary, the Purdy treatment center for women, the Cedar Creek corrections center, the Clearwater corrections center, the Firland correctional center, the Indian Ridge treatment center, the Larch corrections center, the Olympic correctional center, Pine Lodge correctional center, and the special offender center, subject only to the limitations contained in laws relating to the management of such institutions.

(3) If any of the facilities specified in subsection (2) of this section is fully or partially destroyed by natural causes or otherwise, the secretary of corrections may, with the approval of the governor, provide for the establishment and operation of additional residential correctional facilities to place those inmates displaced by such destruction. However, such additional facilities may not be established if there are existing residential correctional facilities to which all of the displaced inmates can be appropriately placed. The establishment and operation of any additional facility shall be on a temporary basis, and the facility may not be operated beyond July 1 of the year following the year in which it was partially or fully destroyed.

Sec. 9. Section 72.05.010, chapter 28, Laws of 1959 as last amended by section 7, chapter 167, Laws of 1980 and RCW 72.05.010 are each amended to read as follows:

The purposes of RCW 72.05.010 through 72.05.210 are: To provide for every child with behavior problems, mentally and physically handicapped persons, and ~~((deaf and blind))~~ hearing and visually impaired children, within the purview of RCW 72.05.010 through 72.05.210, as now or hereafter amended, such care, guidance and instruction, control and treatment as will best serve the welfare of the child or person and society; to insure nonpolitical and qualified operation, supervision, management, and control of the Green Hill school, the Maple Lane school, the Naselle Youth Camp, the Mission Creek Youth Camp, Echo Glen, the Cascadia Diagnostic Center, Lakeland Village, Rainier school, the Yakima Valley school, Interlake school, Fircrest school, the Francis Haddon Morgan Center, the Child Study and Treatment Center and Secondary School of Western State Hospital, ~~((the state school for the blind, the state school for the deaf))~~ and like residential state schools, camps and centers hereafter established, and to place them under the department of social and health services except where specified otherwise; and to provide for the persons committed or admitted to those schools that type of care, instruction, and treatment most likely to accomplish their rehabilitation and restoration to normal citizenship.

Sec. 10. Section 72.05.130, chapter 28, Laws of 1959 as last amended by section 12, chapter 191, Laws of 1983 and RCW 72.05.130 are each amended to read as follows:

The department shall establish, maintain, operate and administer a comprehensive program for the custody, care, education, treatment, instruction, guidance, control and rehabilitation of all persons who may be committed or admitted to institutions, schools, or other facilities controlled and operated by the department, except for the programs of education provided pursuant to RCW 28A.58.772 through 28A.58.776, as now or hereafter amended, which shall be established, operated and administered by the school district conducting the program, and in order to accomplish these purposes, the powers and duties of the secretary shall include the following:

(1) The assembling, analyzing, tabulating, and reproduction in report form, of statistics and other data with respect to children with behavior problems in the state of Washington, including, but not limited to, the extent, kind, and causes of such behavior problems in the different areas and population centers of the state. Such reports shall not be open to public inspection, but shall be open to the inspection of the governor and to the superior court judges of the state of Washington.

(2) The establishment and supervision of diagnostic facilities and services in connection with the custody, care, and treatment of mentally and physically handicapped, and behavior problem children who may be committed or admitted to any of the institutions, schools, or facilities controlled and operated by the department, or who may be referred for such diagnosis and treatment by any superior court of this state. Such diagnostic services may be established in connection with, or apart from, any other state institution under the supervision and direction of the secretary. Such diagnostic services shall be available to the superior courts of the state for persons referred for such services by them prior to commitment, or admission to, any school, institution, or other facility. Such diagnostic services shall also be available to other departments of the state. When the secretary determines it necessary, the secretary may create waiting lists and set priorities for use of diagnostic services for juvenile offenders on the basis of those most severely in need.

(3) The supervision of all persons committed or admitted to any institution, school, or other facility operated by the department, and the transfer of such persons from any such institution, school, or facility to any other such school, institution, or facility: PROVIDED, That where a person has been committed to a minimum security institution, school, or facility by any of the superior courts of this state, a transfer to a close security institution shall be made only with the consent and approval of such court. ~~((This shall not apply to the state school for the deaf or the state school for the blind.))~~

(4) The supervision of parole, discharge, or other release, and the post-institutional placement of all persons committed to Green Hill school and Maple Lane school, or such as may be assigned, paroled, or transferred therefrom to other facilities operated by the department. Green Hill school

and Maple Lane school are hereby designated as "close security" institutions to which shall be given the custody of children with the most serious behavior problems.

Sec. 11. Section 72.40.010, chapter 28, Laws of 1959 and RCW 72.40.010 are each amended to read as follows:

There are established at Vancouver, Clark county, ((an institution)) a school which shall be known as the state school for the blind, and a separate ((institution)) school which shall be known as the state school for the deaf. The primary purpose of the state school for the blind and the state school for the deaf is to educate and train hearing and visually impaired children.

The schools shall be under the direction of their respective superintendents with the advice of the board of trustees.

NEW SECTION. Sec. 12. A new section is added to chapter 72.40 RCW to read as follows:

The hours of labor for each full time employee shall be a maximum of eight hours in any work day and forty hours in any work week.

Employees required to work in excess of the eight-hour maximum per day or the forty-hour maximum per week shall be compensated by not less than equal hours of compensatory time off or, in lieu thereof, a premium rate of pay per hour equal to not less than one hundred and seventy-sixth of the employee's gross monthly salary. If an employee is granted compensatory time off, such time off should be given within the calendar year and if such an arrangement is not possible the employee shall be given a premium rate of pay. However, compensatory time or payment in lieu thereof shall be allowed only for overtime as is duly authorized and accounted for under rules by each superintendent.

Sec. 13. Section 72.40.020, chapter 28, Laws of 1959 as amended by section 247, chapter 141, Laws of 1979 and RCW 72.40.020 are each amended to read as follows:

The ((secretary)) governor shall appoint a superintendent for ((each institution)) the state school for the blind. The superintendent((s) must be not less than thirty nor more than seventy years of age and must be practically acquainted with school management and class instruction of the blind and the deaf, respectively, having had at least ten years' actual experience in teaching in schools for such persons.

The secretary may discharge any employee in his discretion) shall have a masters degree from an accredited college or university in school administration or blind education, five years of experience teaching blind students in the classroom, and three years administrative or supervisory experience in programs for blind students.

NEW SECTION. Sec. 14. A new section is added to chapter 72.40 RCW to read as follows:

The governor shall appoint a superintendent for the state school for the deaf. The superintendent shall have a masters degree from an accredited college or university in school administration or deaf education, five years of experience teaching deaf students in the classroom, and three years administrative or supervisory experience in programs for deaf students.

NEW SECTION. Sec. 15. A new section is added to chapter 72.40 RCW to read as follows:

In addition to any other powers and duties prescribed by law, the superintendent of the state school for the blind and the superintendent of the state school for the deaf:

- (1) Shall have full control of their respective schools and the property of various kinds.
- (2) May establish criteria, in addition to state certification, for teachers at their respective schools.
- (3) Shall employ members of the faculty, administrative officers, and other employees, who shall all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law.
- (4) Shall establish the course of study including vocational training, with the assistance of the faculty and the advice of the respective boards of trustees.
- (5) May establish new facilities as needs demand.
- (6) May adopt rules, under chapter 34.04 RCW, as deemed necessary for the government, management, and operation of the housing facilities.
- (7) Shall control the use of the facilities and authorize the use of the facilities for night school, summer school, public meetings, or other purposes consistent with the purposes of their respective schools.
- (8) May adopt rules for pedestrian and vehicular traffic on property owned, operated, and maintained by the respective schools.
- (9) Purchase all supplies and lease or purchase equipment and other personal property needed for the operation or maintenance of their respective schools.
- (10) Except as otherwise provided by law, may enter into contracts as each superintendent deems essential to the respective purposes of their schools.
- (11) May receive gifts, grants, conveyances, devises, and bequests of real or personal property from whatever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions will aid in carrying out the programs of the respective schools; sell, lease or exchange, invest, or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms and conditions thereof, and adopt rules to govern the receipt and expenditure of the proceeds, rents, profits, and income thereof.

(12) May contract with the department of social and health services for management consultant or other services which the department, if requested, shall provide.

(13) May, except as otherwise provided by law, enter into contracts as the superintendents deem essential for the operation of their respective schools.

(14) Shall adopt rules providing for the transferability of employees between the school for the deaf and the school for the blind consistent with collective bargaining agreements in effect.

(15) Shall prepare and administer their respective budgets consistent with RCW 43.88.160 and the budget and accounting act, chapter 43.88 RCW generally, as applicable.

(16) May adopt rules under chapter 34.04 RCW and perform all other acts not forbidden by law as the superintendents deem necessary or appropriate to the administration of their respective schools.

Sec. 16. Section 6, chapter 50, Laws of 1970 ex. sess. as amended by section 248, chapter 141, Laws of 1979 and RCW 72.40.031 are each amended to read as follows:

The school year for the state school for the blind and the state school for the deaf shall commence on the first day of July of each year and shall terminate on the 30th day of June of the succeeding year. The regular school term shall be for a period of nine months and shall commence as near as reasonably practical at the time of the commencement of regular terms in the public schools, with the equivalent number of days as are now required by law, and the regulations of the superintendent of public instruction as now or hereafter amended, during the school year in the public schools. The school shall observe all legal holidays, in the same manner as other agencies of state government, and the schools will not be in session on such days and such other days as may be approved by the ~~((secretary of social and health services))~~ respective superintendents. During the period when the schools are not in session during the regular school term, schools may be operated, subject to the approval of the ~~((secretary))~~ respective superintendents, for the instruction of students or for such other reasons which are in furtherance of the objects and purposes of such schools.

NEW SECTION. Sec. 17. A new section is added to chapter 72.40 RCW to read as follows:

In addition to the powers and duties under section 15 of this act, the superintendent of each school shall:

(1) Monitor the location and educational placement of each student reported to the superintendents by the educational service district superintendents;

(2) Provide information about educational programs, instructional techniques, materials, equipment, and resources available to students with

visual or auditory impairments to the parent or guardian, educational service district superintendent, and the superintendent of the school district where the student resides; and

(3) Serve as a consultant to the office of the superintendent of public instruction and assist school districts in improving their instructional programs for students with visual or hearing impairments.

NEW SECTION. Sec. 18. A new section is added to chapter 72.40 RCW to read as follows:

All teachers at the state school for the deaf and the state school for the blind shall meet all certification requirements and the programs shall meet all accreditation requirements and conform to the standards defined by law or by rule of the state board of education or the office of the state superintendent of public instruction. The superintendents, by rule, may adopt additional educational standards for their respective schools. Salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located. The superintendents may provide for provisional certification for teachers in their respective schools including certification for emergency, temporary, substitute, or provisional duty.

Sec. 19. Section 72.40.040, chapter 28, Laws of 1959 as last amended by section 4, chapter 160, Laws of 1984 and RCW 72.40.040 are each amended to read as follows:

The schools shall be free to residents of the state between the ages of five and twenty-one years until the 1984-85 school year, between the ages of four and twenty-one years commencing with the 1984-85 school year, and between the ages of three and twenty-one years commencing with the 1985-86 school year ~~((and who are blind or deaf, or otherwise sensory handicapped, and who are free from toxhomsic or contagious diseases))~~ and who are visually or hearing impaired or otherwise sensory handicapped with problems of learning originating mainly due to a visual or auditory deficiency. Each school shall admit and retain students on a space available basis according to criteria developed and published by each school superintendent in consultation with each board of trustees and school faculty. PROVIDED, That students over the age of twenty-one years, who are otherwise qualified may be retained at the school, if in the discretion of the superintendent in consultation with the faculty they are proper persons to receive further training given at the school and the facilities are adequate for proper care, education, and training.

Sec. 20. Section 72.40.050, chapter 28, Laws of 1959 as amended by section 249, chapter 141, Laws of 1979 and RCW 72.40.050 are each amended to read as follows:

The ~~((secretary))~~ superintendents may admit to ~~((the))~~ their respective schools ~~((blind or deaf))~~ visually or hearing impaired children from other states as appropriate, but the parents or guardians of such children or other state will be required to pay annually or quarterly in advance a sufficient amount to cover the cost of maintaining and educating such children as set by the applicable superintendent.

Sec. 21. Section 72.40.060, chapter 28, Laws of 1959 as last amended by section 151, chapter 275, Laws of 1975 1st ex. sess. and RCW 72.40.060 are each amended to read as follows:

It shall be the duty of ~~((the clerks of))~~ all school districts in the state, ~~((at the time for making the annual reports,))~~ to report to ~~((the superintendent of))~~ their respective educational service districts the names of all ~~((deaf, mute, or blind))~~ visually or hearing impaired youth residing within their respective school districts who are between the ages of ~~((six))~~ three and twenty-one years.

Sec. 22. Section 72.40.070, chapter 28, Laws of 1959 as last amended by section 250, chapter 141, Laws of 1979 and RCW 72.40.070 are each amended to read as follows:

It shall be the duty of each educational service district ~~((superintendent))~~ to make a full and specific report of ~~((such deaf, mute, or blind))~~ visually or hearing impaired youth to the ~~((board of county commissioners of the county in which the youth resides at its regular meeting in July of each year. He shall also, at the same time, transmit a duplicate copy of such report to the secretary and the))~~ superintendent of the school for the blind or the school for the deaf, as the case may be and the superintendent of public instruction, annually. The superintendent of public instruction shall report about the hearing or visually impaired youth to the school for the blind and the school for the deaf, as the case may be, annually.

Sec. 23. Section 72.40.080, chapter 28, Laws of 1959 as last amended by section 153, chapter 275, Laws of 1975 1st ex. sess. and RCW 72.40.080 are each amended to read as follows:

It shall be the duty of the parents or the guardians of all such ~~((blind or deaf))~~ visually or hearing impaired youth to send them each year to the proper school or institution. Full and due consideration shall be given to the parent's or guardian's preference as to which program the child should attend. The educational service district superintendent shall take all action necessary to enforce this section. ~~((If satisfactory evidence is laid before the educational service district superintendent that any blind or deaf youth is being properly educated at home or in some suitable institution other than the state schools, he shall take no action in such case other than to make a record of such fact, and take such steps as may be necessary to satisfy himself that such defective youth will continue to receive a proper education.))~~

Sec. 24. Section 72.40.090, chapter 28, Laws of 1959 as amended by section 1, chapter 51, Laws of 1975 and RCW 72.40.090 are each amended to read as follows:

If it appears to the satisfaction of the board of county commissioners that the parents of any such ~~((blind or deaf))~~ visually or hearing impaired youth within their county are unable to bear the expense of transportation to and from the state schools, it shall send them to and return them from the schools or maintain them there during vacation at the expense of the county. Nothing in this section shall be construed as prohibiting the ~~((department))~~ superintendents from authorizing or incurring such travel expenses for the purpose of transporting such ~~((blind or deaf))~~ visually or hearing impaired youth to and from points within this state during week-ends and/or vacation periods. For the purposes of this section, the ~~((department))~~ superintendents shall impose no conditions upon parents or guardians specifying the number of weekends such persons shall take custody of ~~((deaf and blind))~~ hearing or visually impaired students.

Sec. 25. Section 72.40.100, chapter 28, Laws of 1959 as last amended by section 154, chapter 275, Laws of 1975 1st ex. sess. and RCW 72.40.100 are each amended to read as follows:

Any parent, guardian, or educational service district superintendent ~~((or county commissioner))~~ who, without proper cause, fails to carry into effect the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, upon the complaint of any officer or citizen of the county or state, before any justice of the peace or superior court, shall be fined in any sum not less than fifty nor more than two hundred dollars.

**NEW SECTION.** Sec. 26. A new section is added to chapter 72.40 RCW to read as follows:

Appropriations for the school for the deaf and the school for the blind shall be made to the superintendent of public instruction. The amounts for each institution shall be specified and shall not be used for any other purpose. The superintendent of public instruction shall transmit all the moneys to the state school for the blind or the state school for the deaf at the request of the superintendents of the respective schools.

**NEW SECTION.** Sec. 27. A new section is added to chapter 72.41 RCW to read as follows:

Unless the context clearly requires otherwise, as used in this chapter superintendent "means superintendent of the state school for the blind.

Sec. 28. Section 1, chapter 118, Laws of 1973 and RCW 72.41.010 are each amended to read as follows:

It is the intention of the legislature in creating a board of trustees for the state school for the blind to perform the duties set forth in this chapter, that the board of trustees perform needed advisory services to the legislature

and ~~((directly to the secretary of the department of social and health services, hereinafter denominated the "secretary"))~~ to the superintendent of the Washington state school for the blind, in the development of programs for the ~~((blind))~~ visually impaired, and in the operation of the Washington state school for the blind.

Sec. 29. Section 2, chapter 118, Laws of 1973 as amended by section 13, chapter 30, Laws of 1982, 1st ex. sess. and RCW 72.41.020 are each amended to read as follows:

There is hereby created a board of trustees for the state school for the blind to be composed of ~~((twelve trustees. In making such appointments the governor shall give consideration to geographical exigencies and shall appoint one trustee residing in))~~ a resident from each of the state's congressional districts now or hereafter existing. Trustees with voting privileges shall be appointed by the governor with the consent of the senate. A representative of the parent-teachers association of the Washington state school for the blind, a representative of the Washington council of the blind, a representative of the ((Washington state association for the blind and)) national federation of the blind of Washington, a representative of the united blind of Washington state, one representative designated by the teacher association~~((s))~~ of the Washington state school for the blind, and a houseparent designated by the houseparents' exclusive bargaining representative shall each be ex officio and nonvoting members of the board of trustees and shall serve during their respective tenures in such positions.

~~((The initial appointees of the governor to the board of trustees shall draw lots at the first meeting thereof to determine their respective initial terms. One trustee shall serve for one year, one for two years, two for three years, one for four years, and two for five years.~~

~~Hereafter the successors of the))~~ Trustees ~~((initially appointed))~~ shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed within sixty days of the vacancy and appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's congressional districts. The board shall not be deemed to be unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. No voting trustee may be an employee of the state school for the blind, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, a school district or educational service district administrator, appointed after the effective date of this 1985 act, or an elected officer or member of the legislative authority or any municipal corporation.

The board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. ~~((Four))~~ A majority of the voting members of the board in office shall constitute a quorum, but a lesser number may ~~((adjourn))~~ convene from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The superintendent of the state school for the blind shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.

Sec. 30. Section 4, chapter 118, Laws of 1973 and RCW 72.41.040 are each amended to read as follows:

~~((Under the general auspices of the secretary of the department of social and health services,))~~ The board of trustees of the state school for the blind:

(1) Shall monitor and inspect all existing facilities of the state school for the blind, and report its findings to the ~~((secretary))~~ superintendent;

(2) Shall study and recommend comprehensive programs of education and training and review the admission policy as set forth in RCW 72.40.040 and 72.40.050, and make appropriate recommendations to the ~~((secretary))~~ superintendent;

(3) Shall ~~((advise the secretary in selection of))~~ submit a list of three qualified candidates for superintendent ~~((s))~~ to the governor and shall advise the superintendent about the criteria and policy to be used in the selection of members of the faculty and such other administrative officers and other employees, who shall with the exception of the superintendent all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law. All employees and personnel classified under chapter 41.06 RCW shall continue, after ~~((June 7, 1973))~~ the effective date of this 1985 act, 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 the state civil service law;

(4) Shall submit an evaluation of the superintendent to the governor by July 1 of each odd-numbered year and may recommend to the governor that the superintendent be removed for misfeasance, malfeasance, or willful neglect of duty;

(5) May recommend to the ~~((secretary))~~ superintendent the establishment of new facilities as needs demand;

~~((5))~~ (6) May recommend to the ~~((secretary))~~ superintendent rules and regulations for the government, management, and operation of such housing facilities deemed necessary or advisable;

~~((6))~~ (7) May make recommendations to the ~~((secretary))~~ superintendent concerning classrooms and other facilities to be used for summer or

night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for the school for the blind;

~~((77))~~ (8) May make recommendations to the ~~((secretary))~~ superintendent for adoption of rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the school for the blind.

~~((8))~~ (9) Shall recommend to the ~~((secretary))~~ superintendent, with the assistance of the faculty, the course of study including vocational training in the school for the blind, in accordance with other applicable provisions of law and rules and regulations;

~~((9))~~ (10) May grant to every student, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate;

~~((10))~~ (11) Shall participate in the development of, and monitor the enforcement of the rules and regulations pertaining to the school for the blind;

~~((11))~~ (12) Shall perform any other duties and responsibilities prescribed by the ~~((secretary))~~ superintendent.

Sec. 31. Section 1, chapter 96, Laws of 1972 ex. sess. and RCW 72.42.010 are each amended to read as follows:

It is the intention of the legislature, in creating a board of trustees for the state school for the deaf to perform the duties set forth in this chapter, that the board of trustees perform needed advisory services to the ~~((secretary of the department of social and health services, hereinafter denominated the "secretary"))~~ legislature and to the superintendent of the Washington state school for the deaf in the development of programs for the ~~((deaf))~~ hearing impaired, and in the operation of the Washington state school for the deaf.

NEW SECTION. Sec. 32. A new section is added to chapter 72.42 RCW to read as follows:

Unless the context clearly requires otherwise as used in this chapter "superintendent" means superintendent of the Washington state school for the deaf.

Sec. 33. Section 2, chapter 96, Laws of 1972 ex. sess. as amended by section 15, chapter 30, Laws of 1982 1st ex. sess. and RCW 72.42.020 are each amended to read as follows:

There is hereby created a board of trustees for the state school for the deaf to be composed of ~~((elector trustees, of whom eight shall be appointed by the governor. In making such appointments the governor shall give consideration to geographical exigencies and shall appoint one trustee residing in))~~ a resident from each of the state's congressional districts. Trustees with voting privileges shall be appointed by the governor with the consent of the senate. The president of the parent-teachers house organization of the

~~((deaf))~~ school for the deaf, ~~((the vice president of the parent-teachers house organization of the deaf school))~~ a houseparent selected by the houseparents' exclusive bargaining representative, one representative designated by the teacher association of the school for the deaf, and the president of the Washington state association for the deaf shall each be ex officio and nonvoting members of the board of trustees and shall serve during their respective tenures in such positions.

~~((The initial appointees to the board of trustees shall draw lots at the first meeting thereof to determine their respective initial terms. One trustee shall serve for one year, one for two years, two for three years, one for four years, and two for five years.~~

~~Hereafter the successors of the))~~ Trustees ~~((initially appointed))~~ shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed within sixty days of the vacancy and appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's congressional districts, as now or hereafter existing. The board shall not be deemed to be unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. No voting trustee may be an employee of the state school for the deaf, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, a school district or educational service district administrator appointed after the effective date of this act, or an elected officer or member of the legislative authority of any municipal corporation.

The board of trustees shall organize itself by electing a ~~((chairman))~~ chairperson, vice-chairperson, and secretary from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. ~~((Four))~~ A majority of the voting members of the board in office shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. ~~((The superintendent of the state school for the deaf shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.))~~

Sec. 34. Section 4, chapter 96, Laws of 1972 ex. sess. as amended by section 1, chapter 42, Laws of 1981 and RCW 72.42.040 are each amended to read as follows:

~~((Subject to the direction and control of the secretary of the department of social and health services.))~~ The board of trustees of the state school for the deaf.

(1) Shall monitor and inspect all existing facilities of the state school for the deaf, and report its findings to the ((secretary)) superintendent;

(2) Shall study and recommend comprehensive programs of education and training and review the admission policy as set forth in RCW 72.40.040 and 72.40.050, and make appropriate recommendations to the ((secretary)) superintendent;

(3) Shall (~~advise the secretary in selection of~~) develop a process for recommending candidates for the position of superintendent and upon a vacancy shall submit a list of three qualified candidates for superintendent ((;)) to the governor and shall advise the superintendent about the criteria and policy to be used in the selection of members of the faculty and such other administrative officers and other employees, who shall all with the exception of the superintendent be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law. ((The board in consultation with the secretary shall establish qualifications for the position of superintendent. The board shall evaluate the superintendent annually and when necessary may recommend disciplinary action in respect to the superintendent.)) All employees and personnel classified under chapter 41.06 RCW shall continue, after ((May 23, 1972)) the effective date of this 1985 act, 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 the state civil service law;

(4) Shall submit an evaluation of the superintendent to the governor by July 1 of each odd-numbered year and may recommend to the governor at any time that the superintendent be removed for misfeasance, malfeasance, or willful neglect of duty;

(5) May recommend to the ((secretary)) superintendent the establishment of new facilities as needs demand;

((5)) (6) May recommend to the ((secretary)) superintendent rules and regulations for the government, management, and operation of such housing facilities deemed necessary or advisable;

((6)) (7) May make recommendations to the ((secretary)) superintendent concerning classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for the school for the deaf;

((7)) (8) May make recommendations to the ((secretary)) superintendent for adoption of rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the school for the deaf;

((8)) (9) Shall recommend to the ((secretary)) superintendent, with the assistance of the faculty, the course of study including vocational training in the school for the deaf, in accordance with other applicable provisions of law and rules and regulations;

((9)) (10) May grant to every student, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate.

((10)) (11) Shall participate in the development of, and monitor the enforcement of the rules and regulations pertaining to the school for the deaf;

((11)) (12) Shall perform any other duties and responsibilities prescribed by the ((secretary)) superintendent.

NEW SECTION. Sec. 35. The following acts or parts of acts are each repealed:

(1) Section 72.05.140, chapter 28, Laws of 1959, section 180, chapter 141, Laws of 1979, section 9, chapter 217, Laws of 1979 ex. sess., section 1, chapter 58, Laws of 1980 and RCW 72.05.140;

(2) Section 100, chapter 136, Laws of 1981 and RCW 72.40.001;

(3) Section 5, chapter 118, Laws of 1973 and RCW 72.41.050; and

(4) Section 5, chapter 96, Laws of 1972 ex. sess. and RCW 72.42.050.

NEW SECTION. Sec. 36. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 37. This act shall take effect July 1, 1986. The secretary of social and health services and the governor may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the Senate April 24, 1985.

Passed the House April 18, 1985.

Approved by the Governor May 20, 1985.

Filed in Office of Secretary of State May 20, 1985.

CHAPTER 379

(Engrossed Substitute Senate Bill No. 35161)  
SPANISH OR JAPANESE LANGUAGE INSTRUCTION IN SELECTED SCHOOL DISTRICTS

AN ACT Relating to instruction in foreign languages; amending RCW 28A.67.020; and treating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature recognizes that it is important for the students and future citizens of our state to become fluent in a foreign language, particularly the languages of Pacific Rim countries and Latin American countries.

NEW SECTION. Sec. 2. The superintendent of public instruction may grant funds to five selected school districts to conduct a foreign language

CHAPTER 349

[Engrossed Substitute Senate Bill No. 3235]  
SMALL SCHOOL DISTRICT BASIC EDUCATION ALLOCATION FORMULA—  
SCHOOL SELF-STUDY PROCEDURES—CAREER LADDER STUDY—SCHOOL  
IMPROVEMENT GRANTS—CONTACT HOUR WAIVER—SUPPLEMENTAL  
TEACHER COMPENSATION

AN ACT Relating to educational excellence; amending RCW 28A.41.140; adding a new section to chapter 28A.04 RCW; adding new sections to chapter 28A.58 RCW; adding a new section to chapter 28A.67 RCW; creating new sections; and making appropriations.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. The superintendent of public instruction shall by December 1, 1985, recommend to the legislature a basic education allocation formula which provides adequate but not excessive funding for districts having less than twenty-five full time equivalent students.

**NEW SECTION.** Sec. 2. A new section is added to chapter 28A.58 RCW to read as follows:

Each school district board of directors shall develop a schedule and process by which each public school within its jurisdiction shall undertake self-study procedures on a regular basis: PROVIDED, That districts may allow two or more elementary school buildings in the district to undertake jointly the self-study process. Each school may follow the accreditation process developed by the state board of education under RCW 28A.04.120(4), although no school is required to file for actual accreditation, or the school may follow a self-study process developed locally. Whatever process is used must focus upon the quality and appropriateness of the school's educational program and the results of its operational efforts.

Any self-study process must include the participation of staff, parents, members of the community, and students, where appropriate to their age. Emphasis throughout the process shall be placed upon:

- (1) Achieving educational excellence and equity;
- (2) Building stronger links with the community; and
- (3) Reaching consensus upon educational expectations through community involvement and corresponding school management.

The initial self-study process within each district shall begin by September 1, 1986, and should be completed for all schools within a district by the end of the 1990-91 school year.

The state board of education shall develop rules and regulations governing procedural criteria. Such rules and regulations should be flexible so as to accommodate local goals and circumstances. Rules and regulations may allow for waiver of the self-study for economic reasons and may also

allow for waiver of the initial self-study if a district or its schools have participated successfully in an official accreditation process or in a similar assessment of educational programs within the last three years. The self-study process shall be conducted on a cyclical basis every seven years following the initial 1990-91 period.

The superintendent of public instruction shall provide training to assist districts in their self-studies.

Each district shall annually report to the superintendent of public instruction on the scheduling and implementation of their self-study activities.

**NEW SECTION.** Sec. 3. The legislature recognizes the need to keep and attract quality teachers in our public schools. The legislature intends to examine the effectiveness of a career ladder in our public schools. To improve the quality of teaching and foster a professional climate which encourages creativity and cooperation among teachers and enhances the intrinsic rewards teachers experience from helping students learn, the legislature intends to locally test ways in which the goal of attracting and retaining excellent teachers might be accomplished. The legislature recognizes that a career ladder system is one means of enhancing the attractiveness of teaching; however, the legislature wishes to investigate this concept further prior to determining whether to develop such a system.

**NEW SECTION.** Sec. 4. A new section is added to chapter 28A.67 RCW to read as follows:

(1) The superintendent of public instruction is hereby authorized to grant funds for selected school improvement and research projects, including improvements in curriculum, instruction, and classroom management developed by teachers.

(2) The superintendent shall appoint an advisory committee on research and development composed of certificated and noncertificated staff, administrators, curriculum specialists, parents, school directors, postsecondary educators, business persons, and others as the superintendent finds necessary. The committee shall propose criteria to the superintendent to evaluate proposed school improvement and research projects proposed by educational employees. The criteria approved by the superintendent shall:

(a) Assure to the extent possible that projects will be chosen which represent the various geographical locations, school or district sizes, and grade levels existent in the state; (b) provide for evaluation of each project upon completion; and (c) include such other requirements as the superintendent finds necessary. The committee shall recommend to the superintendent of public instruction the awarding of grants to fund those proposals showing the most potential for developing knowledge which will be helpful to local districts in their efforts to enhance educational equity and excellence. Projects may involve the collaboration of personnel from higher education institutions and kindergarten through grade twelve educators.

(3) The superintendent of public instruction shall award grants to selected project participants in such amounts as determined by the superintendent of public instruction, who shall take into consideration grant amounts as recommended by the advisory committee on research and development under subsection (2) of this section. The sum of all grants awarded per year shall not exceed that amount appropriated by the legislature for such purposes. Grants may be awarded to individual teachers or teams of teachers including teacher's aides and volunteers.

(4) The superintendent of public instruction shall maintain a clearinghouse of information on these research projects for the use of local districts.

**Sec. 5.** Section 14, chapter 244, Laws of 1969 ex. sess. as last amended by section 1, chapter 229, Laws of 1983 and RCW 28A.41.140 are each amended to read as follows:

The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (1) Certificated staff and their related costs;
- (2) Classified staff and their related costs;
- (3) Nonsalary costs;
- (4) Extraordinary costs of remote and necessary schools and small high schools; and
- (5) The attendance of students pursuant to RCW 28A.58.075 and 28A.58.245, each as now or hereafter amended, who do not reside within the servicing school district.

This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. Commencing with the 1980-81 school year, the formula adopted by the legislature shall reflect a ratio of not less than fifty certificated personnel to one thousand annual average full time equivalent students and one classified person to three certificated personnel. In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific

operational functions of local school districts other than those program requirements identified in RCW 28A.58.754. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.41.145, as now or hereafter amended, enrolled on the first school day of each month. The definition of full time equivalent student shall be determined by rules and regulations of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

Certificated staff shall include those persons employed by a school district in a teaching, instructional, educational staff associate, learning resources specialist, administrative or supervisory capacity and who hold positions as certificated employees as defined under RCW 28A.01.130, as now or hereafter amended, and every school district superintendent, and any person hired in any manner to fill a position designated as, or which is in fact, that of deputy superintendent or assistant superintendent: PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute. Each annual average full time equivalent certificated classroom teacher's direct classroom contact hours shall average at least twenty-five hours per week. Direct classroom contact hours shall be exclusive of time required to be spent for preparation, conferences, or any other nonclassroom instruction duties. Up to two hundred minutes per week may be deducted from the twenty-five contact hour requirement, at the discretion of the school district board of directors, to accommodate authorized teacher/parent-guardian conferences, recess, passing time between classes, and informal instructional activity. Implementing rules to be adopted by the state board of education pursuant to RCW 28A.58.754(6) shall provide that compliance with the direct contact hour requirement shall be based upon teachers' normally assigned weekly instructional schedules, as assigned by the district administration. Additional record-keeping by classroom teachers as a means of accounting for contact hours shall not be required. However, upon request from the board of directors of any school district, the provisions relating to direct classroom contact hours for individual teachers in that district may be waived by the state board of education if the waiver is necessary to implement a locally approved plan for educational excellence

and the waiver is limited to those individual teachers approved in the local plan for educational excellence. The state board of education shall develop criteria to evaluate the need for the waiver. Granting of the waiver shall depend upon verification that: (a) The students' classroom instructional time will not be reduced; and (b) the teacher's expertise is critical to the success of the local plan for excellence.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.04 RCW to read as follows:

The state board of education may grant waivers to school districts from the provisions of RCW 28A.58.750 through 28A.58.754 on the basis that such waiver or waivers are necessary to implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program.

The state board shall adopt criteria to evaluate the need for the waiver or waivers.

NEW SECTION. Sec. 7. A new section is added to chapter 28A.58 RCW to read as follows:

School boards may by separate contract with certificated instructional and classified staff provide supplemental compensation for additional days or additional duties as set forth in the bargaining agreement or agreements as negotiated between the district and the respective bargaining representatives, if the district does not incur obligations for the supplements beyond the current school year and if such supplements do not cause the state to incur any present or future funding obligations. Additional days for certificated instructional staff and classified staff shall be those days beyond their respective work year. Such separate contracts shall be subject to the collective bargaining provisions of chapters 41.59 and 41.56 RCW. Such supplemental compensation shall not be deemed an increase in salary or compensation for purposes of RCW 28A.58.095. Separate contracts shall be subject to the provision of RCW 28A.67.074, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.58.450 through RCW 28A.58.515.

NEW SECTION. Sec. 8. (1) The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the superintendent of public instruction for the purposes of section 2 of this act.

(2) The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the superintendent of public instruction for the purposes of section 4 of this act.

**NEW SECTION.** Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 27, 1985.

Passed the House April 27, 1985.

Approved by the Governor May 20, 1985.

Filed in Office of Secretary of State May 20, 1985.

### CHAPTER 350

[Substitute Senate Bill No. 3146]

DEPARTMENT OF CORRECTIONS—INSTITUTION NAMES CORRECTED—  
SINGLE CELL REQUIREMENT DELAYED UNTIL 1987

AN ACT Relating to corrections; amending RCW 72.01.050, 72.12.160, 9.94.049, 72.65.010, and 72.13.091; repealing RCW 72.12.050; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 72.01.050, chapter 28, Laws of 1959 as last amended by section 68, chapter 136, Laws of 1981 and RCW 72.01.050 are each amended to read as follows:

(1) The secretary of social and health services shall have full power to manage and govern the following public institutions: The western state hospital, the eastern state hospital, the northern state hospital, the state training school, the state school for girls, Lakeland Village, the Rainier school, the state school for the deaf, the state school for the blind, and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions.

(2) The secretary of corrections shall have full power to manage and govern the following public institutions: The Washington state penitentiary, the Washington state reformatory, the Washington corrections center, the McNeil Island ((penitentiary)) corrections center, the Purdy ((treatment)) corrections center for women, the Cedar Creek corrections center, the Clearwater corrections center, the Firland ((correctional)) corrections center, the Indian Ridge ((treatment)) corrections center, the Larch corrections center, the Olympic ((correctional)) corrections center, Pine Lodge ((correctional)) corrections center, ((and)) the special offender center, the Twin Rivers corrections center, and the proposed five hundred bed facility at Clallam Bay subject only to the limitations contained in laws relating to the management of such institutions.

(3) If any of the facilities specified in subsection (2) of this section is fully or partially destroyed by natural causes or otherwise, the secretary of corrections may, with the approval of the governor, provide for the establishment and operation of additional residential correctional facilities to

place those inmates displaced by such destruction. However, such additional facilities may not be established if there are existing residential correctional facilities to which all of the displaced inmates can be appropriately placed. The establishment and operation of any additional facility shall be on a temporary basis, and the facility may not be operated beyond July 1 of the year following the year in which it was partially or fully destroyed.

Sec. 2. Section 109, chapter 136, Laws of 1981 and RCW 72.12.160 are each amended to read as follows:

It is the intent of the legislature that limitations be placed on the state correctional institutions at Monroe.

The following facilities at Monroe shall be subject to the inmate population limitations specified in this section.

(1) The special offender center shall house no more than one hundred forty-four inmates.

(2) The ((proposed medium security facility)) Twin Rivers corrections center shall house no more than five hundred inmates.

(3) The Monroe reformatory population shall be as determined pursuant to federal court order.

PROVIDED, That the governor may declare an emergency and increase by ten percent for a twelve-month period of time the population limitation of any of the facilities specified in this section.

Sec. 3. Section 6, chapter 121, Laws of 1979 and RCW 9.94.049 are each amended to read as follows:

For the purposes of RCW 9.94.043 and 9.94.045, "state correctional institution" means the: Washington corrections center, Washington state penitentiary, Washington state reformatory, McNeil Island corrections center, Purdy ((treatment)) corrections center for women, Larch corrections center, Indian Ridge ((treatment)) corrections center, Cedar Creek corrections center, the Olympic corrections center, Firland ((correctional)) corrections center, Clearwater corrections center, Pine Lodge ((correctional)) corrections center, the Twin Rivers corrections center, the special offender center, the proposed five hundred bed facility at Clallam Bay, and other state correctional facilities used solely for the purpose of confinement of convicted felons.

Sec. 4. Section 1, chapter 17, Laws of 1967, as last amended by section 110, chapter 136, Laws of 1981 and RCW 72.65.010 are each amended to read as follows:

As used in this chapter, the following terms shall have the following meanings:

(1) "Department" shall mean the department of corrections.

(2) "Secretary" shall mean the secretary of corrections.

(3) "State correctional institutions" shall mean and include the Washington state penitentiary; the Washington corrections center; the

## CHAPTER 147

[Substitute Senate Bill 5556]

STATE SCHOOLS FOR THE BLIND AND THE DEAF—REVISED POWERS,  
DUTIES, AND FUNCTIONS

Effective Date: 7/25/93

AN ACT Relating to state schools for the blind, deaf, and sensory impaired; amending RCW 72.40.022, 72.40.024, 72.40.040, 72.40.080, 72.40.090, 72.40.110, 72.41.020, 72.41.070, 72.42.020, and 72.42.070; and repealing RCW 72.41.080 and 72.42.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 72.40.022 and 1985 c 378 s 15 are each amended to read as follows:

In addition to any other powers and duties prescribed by law, the superintendent of the state school for the blind and the superintendent of the state school for the deaf:

- (1) Shall have full control of their respective schools and the property of various kinds.
- (2) May establish criteria, in addition to state certification, for teachers at their respective schools.
- (3) Shall employ members of the faculty, administrative officers, and other employees, who shall all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law.
- (4) Shall establish the course of study including vocational training, with the assistance of the faculty and the advice of the respective boards of trustees.
- (5) May establish new facilities as needs demand.
- (6) May adopt rules, under chapter 34.05 RCW, as deemed necessary for the government, management, and operation of the housing facilities.
- (7) Shall control the use of the facilities and authorize the use of the facilities for night school, summer school, public meetings, or other purposes consistent with the purposes of their respective schools.
- (8) May adopt rules for pedestrian and vehicular traffic on property owned, operated, and maintained by the respective schools.
- (9) Purchase all supplies and lease or purchase equipment and other personal property needed for the operation or maintenance of their respective schools.
- (10) Except as otherwise provided by law, may enter into contracts as each superintendent deems essential to the respective purposes of their schools.
- (11) May receive gifts, grants, conveyances, devises, and bequests of real or personal property from whatever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions will aid in carrying out the programs of the respective schools; sell, lease or exchange, invest, or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms and conditions thereof; and adopt rules to govern the receipt and expenditure of the proceeds, rents, profits, and income thereof.

(12) ~~(A) Any contract with the department of social and health services for management consultant or other services which the department, if requested, shall provide.~~

~~((13))~~ May, except as otherwise provided by law, enter into contracts as the superintendents deem essential for the operation of their respective schools.

~~((14) Shall))~~ (13) May adopt rules providing for the transferability of employees between the school for the deaf and the school for the blind consistent with collective bargaining agreements in effect.

~~((15))~~ (14) Shall prepare and administer their respective budgets consistent with RCW 43.88.160 and the budget and accounting act, chapter 43.88 RCW generally, as applicable.

~~((16))~~ (15) May adopt rules under chapter 34.05 RCW and perform all other acts not forbidden by law as the superintendents deem necessary or appropriate to the administration of their respective schools.

Sec. 2. RCW 72.40.024 and 1985 c 378 s 17 are each amended to read as follows:

In addition to the powers and duties under RCW 72.40.022, the superintendent of each school shall:

(1) Monitor the location and educational placement of each student reported to the superintendents by the educational service district superintendents;

(2) Provide information about educational programs, instructional techniques, materials, equipment, and resources available to students with visual or auditory impairments to the parent or guardian, educational service district superintendent, and the superintendent of the school district where the student resides; and

(3) Serve as a consultant to the office of the superintendent of public instruction, provide instructional leadership, and assist school districts in improving their instructional programs for students with visual or hearing impairments.

Sec. 3. RCW 72.40.040 and 1985 c 378 s 19 are each amended to read as follows:

The schools shall be free to residents of the state between the ages of ~~(five and twenty-one years until the 1984-85 school year, between the ages of four and twenty-one years commencing with the 1984-85 school year, and between the ages of three and twenty-one years commencing with the 1985-86 school year and who are visually or hearing impaired or otherwise sensory handicapped with problems of learning originating mainly due to a visual or auditory deficiency))~~ three and twenty-one years, who are blind/visually impaired or deaf/hearing impaired, or with other disabilities where a vision or hearing disability is the major need for services. The schools may provide nonresidential services to children ages birth through three who meet the eligibility criteria in this section, subject to available funding. Each school shall admit and retain students on a space available basis according to criteria developed and published by each school superintendent in consultation with each board of trustees and school

faculty. PROVIDED, That students over the age of twenty-one years, who are otherwise qualified may be retained at the school, if in the discretion of the superintendent in consultation with the faculty they are proper persons to receive further training given at the school and the facilities are adequate for proper care, education, and training.

Sec. 4. RCW 72.40.080 and 1985 c 378 s 23 are each amended to read as follows:

It shall be the duty of the parents or the guardians of all such visually or hearing impaired youth to send them each year to the proper school ~~(or institution))~~. Full and due consideration shall be given to the parent's or guardian's preference as to which program the child should attend. The educational service district superintendent shall take all action necessary to enforce this section.

Sec. 5. RCW 72.40.090 and 1985 c 378 s 24 are each amended to read as follows:

~~(If it appears to the satisfaction of the board of county commissioners that the parents of any such visually or hearing impaired youth within their county are unable to bear the expense of transportation to and from the state schools, it shall send them to and return them from the schools or maintain them there during vacation at the expense of the county. Nothing in this section shall be construed as prohibiting the superintendents from authorizing or incurring such travel expenses for the purpose of transporting such visually or hearing impaired youth to and from points within this state during weekends and/or vacation periods. For the purposes of this section, the superintendents shall impose no conditions upon parents or guardians specifying the number of weekends such persons shall take custody of hearing or visually impaired students.)~~ Notwithstanding any other provision of law, the state school for the blind and the school for the deaf may arrange and provide for weekend transportation to and from schools. This transportation shall be at no cost to students and parents, as allowed within the appropriations allocated to the schools.

Sec. 6. RCW 72.40.110 and 1985 c 378 s 12 are each amended to read as follows:

~~(The hours of labor for each full time employee shall be a maximum of eight hours in any work day and forty hours in any work week. Employees required to work in excess of the eight hour maximum per day or the forty hour maximum per week shall be compensated by not less than equal hours of compensatory time off or, in lieu thereof, a premium rate of pay per hour equal to not less than one one hundred and seventy sixth of the employee's gross monthly salary. If an employee is granted compensatory time off, such time off should be given within the calendar year and if such an arrangement is not possible the employee shall be given a premium rate of pay. However, compensatory time or payment in lieu thereof shall be allowed only for overtime as is duly authorized and accounted for under rules by each superintendent.)~~

Employees' hours of labor shall follow all state merit rules as they pertain to various work classifications and current collective bargaining agreements.

Sec. 7. RCW 72.41.020 and 1985 c 378 s 29 are each amended to read as follows:

There is hereby created a board of trustees for the state school for the blind to be composed of a resident from each of the state's congressional districts now or hereafter existing. Trustees with voting privileges shall be appointed by the governor with the consent of the senate. A representative of the parent-teachers association of the Washington state school for the blind, a representative of the Washington council of the blind, a representative of the national federation of the blind of Washington, ~~((a representative of the united blind of Washington state))~~ one representative designated by the teacher association of the Washington state school for the blind, and a ~~((houseparent selected by the houseparents))~~ representative of the classified staff designated by his or her exclusive bargaining representative shall each be ex officio and nonvoting members of the board of trustees and shall serve during their respective tenures in such positions.

Trustees shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed within sixty days of the vacancy and appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's congressional districts. The board shall not be deemed to be unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. No voting trustee may be an employee of the state school for the blind, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, a school district or educational service district administrator, appointed after July 1, 1986, or an elected officer or member of legislative authority or any municipal corporation.

The board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. A majority of the voting members of the board in office shall constitute a quorum, but a lesser number may convene from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The superintendent of the state school for the blind shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.

Sec. 8. RCW 72.41.070 and 1973 c 118 s 7 are each amended to read as follows:

The board of trustees shall meet at least ~~((six times each year))~~ quarterly.

Sec. 9. RCW 72.42.020 and 1985 c 378 s 33 are each amended to read as follows:

There is hereby created a board of trustees for the state school for the deaf to be composed of a resident from each of the state's congressional districts. Trustees with voting privileges shall be appointed by the governor with the consent of the senate. The president of the ~~((parent teachers house organization of the school for the deaf, a houseparent selected by the houseparents))~~ Parent-staff organization of the school for the deaf, a representative of the classified staff designated by their exclusive bargaining representative, one representative designated by the ~~((teacher))~~ Teachers' Association of the school for the deaf, and the president of the Washington State Association for the Deaf shall each be ex officio and nonvoting members of the board of trustees and shall serve during their respective tenures in such positions.

Trustees shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed within sixty days of the vacancy and appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's congressional districts, as now or hereafter existing. The board shall not be deemed to be unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. No voting trustee may be an employee of the state school for the deaf, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, a school district or educational service district administrator appointed after July 1, 1986, or an elected officer or member of the legislative authority of any municipal corporation.

The board of trustees shall organize itself by electing a chairperson, vice-chairperson, and secretary from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. A majority of the voting members of the board in office shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations.

Sec. 10. RCW 72.42.070 and 1972 ex.s. c 96 s 7 are each amended to read as follows:

The board of trustees shall meet at least ~~((six times each year))~~ quarterly.

NEW SECTION. Sec. 11. The following acts or parts of acts are each repealed:

- (1) RCW 72.41.080 and 1973 c 118 s 8; and
- (2) RCW 72.42.080 and 1972 ex.s. c 96 s 8.