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**COURT OF APPEALS FOR DIVISION II  
STATE OF WASHINGTON**

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CHERYL DELYRIA AND JUDY KOCH,

Appellants,

v.

STATE OF WASHINGTON, WASHINGTON  
SCHOOL FOR THE BLIND,

Respondents.

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**BRIEF OF RESPONDENTS**

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## I. INTRODUCTION

This is a class action by two Washington State School for the Blind (School) teachers who allege that the School failed to compensate them as provided by law for fulfilling their teaching contracts. Ms. Delyria and Ms. Koch claim entitlement to extra salary payments for “time, responsibilities, or as an incentive” (“TRI” payments) pursuant to a statute, RCW 28A.400.200(4), which the Legislature has never applied to them.

## II. STATEMENT OF FACTS

The Washington 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. Clerk’s Papers (CP) at 289. Located in Vancouver, Washington, the School serves about 70 campus residential students and about 275 students through off-campus itinerant services. CP at 289, 292.

The School operates on a 180 day school year, with two or three extra Learning Improvement Days as authorized and funded by the Legislature. CP at 290. 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. CP at 290. Although other funds may come from

private or government grants, the School has no taxing or levy authority. CP at 293.

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. CP at 291. 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. CP at 291. Both education programs run on a four and one-half student contact day basis because residential and commuting students return home at noon on Friday afternoons. The teaching staff generally are free to leave at 1:30 on Friday afternoons. CP at 291.

Appellants Delyria and Koch are Orientation and Mobility instructors and teachers of the blind. Ms. Delyria was hired by the School in August 1996 from the Battle Ground (Washington) School District, and Ms. Koch was hired in 1993. CP at 142, 145 (Delyria); and CP at 146 (Koch).

At all times material to appellants' Complaint, the appellants and all other School teachers were paid pursuant to the statewide teacher's salary schedule, in accordance with RCW 72.40.028 and the applicable collective bargaining agreement between the School and the teachers' exclusive bargaining representative. CP at 142, 146. As State employees

subject to civil service law and protections, their salaries are fixed by the Personnel Resources Board. CP at 143-44. Appellants are paid on a “salary basis” under state wage and hour laws receiving, each pay period, the same monthly salary regardless of the number of days or hours in any particular workweek. CP at 147-48.

Appellants’ Complaint concedes that the School pays teachers in accordance with the Vancouver School District teacher salary schedule. CP at 73 (Complaint ¶ 7); and CP at 5 (First Amended Complaint ¶ 7). This salary schedule is based upon years of experience and educational background. *See, e.g.*, CP at 224 (Declaration of Willhide at Exhibit F). However, the appellants claim that by failing to make “TRI” payments under RCW 28A.400.200(4) for extra time, responsibilities, or as an incentive (without regard to such experience or educational background), the School nevertheless violates RCW 72.40.028.<sup>1</sup>

After completing discovery, the parties presented cross motions for summary judgment to the trial court. The trial court granted the motion for summary judgment of the School, denied the motion by the teachers, and this appeal followed.

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<sup>1</sup> The full text of RCW 72.40.028 and 28A.400.200 is attached as Appendix A.

### III. ARGUMENT IN SUPPORT OF JUDGMENT

Under all relevant modes of statutory interpretation—plain language, legislative history, and contextual—RCW 72.40.028 does not dictate that the teachers at the School receive TRI payments pursuant to RCW 28A.400.200. Even if RCW 28A.400.200(4) did apply in the present circumstances, the School may not give TRI payments to its teachers because several required conditions for such payments cannot be met. For these reasons, the trial court correctly ruled on this matter.

It is initially important to understand the trial court's ruling. The appellants say, "Essentially the trial court ruled that the TRI payments to VSD [Vancouver School District] is not really 'salary.'" Brief of Appellant at 5. *See also* Brief of Appellant at 16 ("The trial court held that TRI payments are not salary."). The trial court, however, actually held that the "salary" referred to in RCW 72.40.028 is that salary that is based upon one's background and experience, as the statutory language plainly requires.<sup>2</sup> In other words, the trial court did not rule that TRI payments are "not really 'salary'", but rather that one must understand the word "salary" in RCW 72.40.028 within the context of the entire statutory

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<sup>2</sup> In relevant part, Judge Tabor ruled from the bench: "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. . . ." Motions for Summary Judgment, Verbatim Report of Proceedings at 24.

clause and legislative history. The trial court correctly ruled in this matter, as demonstrated below.

- A. Under a plain reading of RCW 72.40.028, the School complies with the statute by paying according to the Vancouver School District schedule, to the extent such salary is tied to background and experience.**

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 and the Vancouver School District adopted the LEAP<sup>3</sup> allocation schedule as its salary schedule beginning in the 1999-2000 school year. CP at 35-36 (Declaration of Roy Maier, at 2, l. 24 to 3, l. 1). The School follows and 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. CP at 145.

For example, appellant Delyria possesses a Masters Degree and because of her prior service in the Battle Ground School District, is

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

credited with more than 16 years of service and is, thus, at the “top” of the State salary schedule as adopted by the Legislature, the Vancouver School District, and the School. CP at 145. Attached as Appendix B is the 2001 Budget (Laws of 2001, 2nd Sp. Sess., ch. 7, § 503). 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. Appendix C is the Vancouver School District No. 37 salary schedule (also the School’s salary schedule) for the 2001-02 showing that an “MA +90 or Ph.D.” with 16 years of experience earned \$54,923 in that school year. CP at 222. The trial court correctly understood that the School pays pursuant to the same education- and experience-based salary schedule as the local school district.

The record below also undisputedly established that TRI payments may be obtained by any Vancouver School District teacher regardless of his or her educational attainment or years of experience. As the Declaration of Lee Goeke, Associate Superintendent of Human Resources, Vancouver School District (Declaration of Goeke), 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.

CP at 134 (emphasis added).

Moreover, TRI payments may be made only upon the completion of identified activities, after application for payment and verification;<sup>4</sup> and may not be made to certain certificated employees.<sup>5</sup> There is simply no

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<sup>4</sup> The application and verification process is set forth in Exhibit B to the Declaration of Lee Goeke, Associate Superintendent of Human Resources, Vancouver School District (Declaration of Goeke):

12.3 C The procedure to validate the actual performance of time and/or responsibility of a contractual commitment will normally be made by submission of signed documentation from the employee. The employee's written affirmation of his/her presence on site at specified times and/or time documentation associated with the creation of a work product as confirmed in writing by the employee's supervisor are the two (2) recognized methods to validate the services performed and responsibilities completed.

Clerk's Papers (CP) at 138.

<sup>5</sup> The fact that some (most) but not all Vancouver employees receive TRI payments is demonstrated in Exhibit B to the Declaration of Goeke at 4, where Section 12.5 B iii and iv include differential TRI payments for those on compensated leave in excess of 12 weeks (where the TRI compensation transfers to a substitute) or less than 12 weeks (where the TRI compensation is retained by incumbent). CP at 140.

correlation between education and experience on the one hand and Vancouver's supplemental TRI contracts on the other.<sup>6</sup>

**B. As evidenced by the legislative history of RCW 72.40.028 and 28A.400.200, the Legislature did not intend teachers at the School to receive TRI payments.**

**1. In 1980, when the Legislature provided that School salaries conform to the salaries of employees of similar background and experience in the local district, RCW 28A.400.200(4) (authorizing TRI payments) had not yet been enacted.**

The legislative history of RCW 72.04.028, the statute upon which appellants rely, can be traced to its predecessor, RCW 72.05.140, when the Schools for the Deaf and Blind were entities within the division of children and youth services. RCW 72.05.140 was enacted by Laws of 1959, ch. 28, and is attached as Appendix D.

Laws of 1979, ch. 141, § 180 amended RCW 72.05.140 to change the "division of children and youth services" to "the department"; and, in the same session of the Legislature, ch. 217, § 9 applied RCW 72.05.140 specifically to the Schools for the Deaf and Blind. *See* Appendix E.

In 1980, the Legislature amended RCW 72.05.140 to require that, in addition to having a program conforming to the usual standards defined

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<sup>6</sup> The Declaration of Roy Maier, upon which appellants heavily relied below, masks the differences in TRI payment availability through the use of "average" figures potentially available when designated activities have been performed. But, as page 2 of Exhibit 1 to his own Declaration indicates: "Supplemental contracts should be issued for a *measurable and deliverable product or service. . . .*" CP at 39 (emphasis added).

by law, the salaries of certificated employees be set to conform to and be contemporaneous with salaries paid to other certificated employees of *similar background and experience in the local district.*

Laws of 1980, ch. 58, § 1, copy attached as Appendix F, 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.

(Emphasis added.)

At the time this statute was passed, 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. *See* Appendix G. The rationale for adopting the salary lid bill was to deal with the problem of unanticipated increase in costs *to the State*. House Journal, 43rd Leg. at 163 (1981).

It was not until 1985 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. Laws of 1985, ch. 349, § 7 at 1119, codified as RCW 28A.58.093.

Then in 1987, the Legislature passed Reengrossed Second Substitute House Bill 455 in which RCW 28A.58.093 and .095 were repealed and replaced with RCW 28A.58.0951. RCW 28A.58.0951(4)<sup>7</sup> authorizes school districts to exceed the state salary limitation by entering into separate or supplemental contracts for additional time, additional responsibilities, or as an incentive, or “TRI” payment.

Thus, at the time RCW 72.05.140 was enacted to set the base salary of School teachers to conform to that of local teachers of equivalent educational background and experience, the TRI payments appellants seek for additional days, etc., did not exist. The Legislature simply could not have contemplated RCW 72.05.140 to include supplemental TRI payments as additional salary.

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<sup>7</sup> As part of a general recodification of Title 28A, RCW 28A.58.0951 was recodified as RCW 28A.400.200 by Laws of 1990, ch. 33, § 4.

2. **When the 1985 Legislature finally lifted salary restrictions and allowed local districts to pay TRI money, the Legislature also enacted *special* provisions to deal with additional work, if any, to be performed by Washington State School for the Blind teachers.**

As detailed above, the 1985 Legislature authorized local school districts to enter into separate contracts for additional days or duties.

The same 1985 Legislature was also reorganizing the Department of Social and Health Services. In Laws of 1985, ch. 378, § 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) were transferred to the Schools for the Blind and Deaf, respectively.

The act also repealed RCW 72.05.140 (*see* Laws of 1985, ch. 378, § 35), and section 18 reenacted it as RCW 72.40.028 as follows:

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.

Laws of 1985, ch. 378, § 18 (emphasis added).

Rather than include School for the Blind teachers in the TRI payment legislation adopted the same session, the 1985 Legislature made a very different policy choice. Instead of authorizing TRI payments, it specifically provided that work in excess of a standard 40 hour work week be compensated with *either* compensatory (or exchange) time *or* with a premium rate of hourly pay. This section, which would become codified as RCW 72.40.110, reads:

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-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.

Laws of 1985, ch. 378 § 12 (emphasis added). A copy of Laws of 1985, ch. 378 is attached as Appendix H.

**3. There is further evidence of legislative intent: the parties' 1987 collective bargaining agreement on additional work was given effect by the 1993 Legislature.**

In 1993, the Legislature again opened up the chapter of the law pertaining to the Schools for the Blind and for the Deaf.

RCW 72.40.110 was amended to delete the 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.*

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

The collective bargaining agreement between the 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.

See CP at 142-43 (Declaration of Cherie Willhide, Director of Human Resources, Washington State School for the Blind (Declaration of Willhide) at 2-3).

Thus, additional work beyond that covered in the base salary was always contemplated by the Legislature to be addressed in collective bargaining.

**C. As evidenced by the context of the overall legislative scheme, the Legislature did not intend teachers at the School to receive TRI payments.**

Beyond legislative history, legislative intent is further determined from the statutory language viewed in the *context* of the overall legislative scheme. *Schrom v. Board 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)).

There are several other indicators why teacher salaries at the State School for the Blind do not include TRI payments.

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. However, this is exactly what the appellants seek in this litigation.

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.

3. TRI payments cannot pay for basic education (RCW 28A.400.200) and are paid out of local maintenance and operation levies or other local funds. CP at 134-35 (Declaration of Goeke); and CP at 127-28 (Declaration of Martin H. Brown, Director, Office of Financial Management (Declaration of Brown)). State agencies do not have the authority to raise levy dollars. CP at 128 (Declaration of Brown). The Washington State School for the Blind does not have local levy authority and has no geographically limited tax base. CP at 148 (Declaration of Willhide).

4. The current collective bargaining agreement, which was signed by appellant/class representative Judy Koch as union president, provides that, in lieu of TRI payments, additional work outside the regular work day would be compensated with "exchange time". CP at 149 (Declaration of Willhide). Consistent with the collective bargaining

agreement, both Ms. Delyria and Ms. Koch took “exchange time” for activities outside their regular work day. CP at 149 (Declaration of Willhide). In addition, both received supplemental contract payments for “extra hours”, in-service hours, education reform day, safety training, or coaching. CP at 310-11 (Supplemental Declaration of Cheri Willhide) as to appellant Koch; and CP at 311-12 as to appellant Delyria. Appellants essentially enjoy the benefits of the additional compensation derived from their existing bargaining agreement and seek to supplement those benefits with ones they could not achieve either in the Governor’s Budget Office (*see* CP at 127 (Declaration of Brown)), or at the bargaining table (*see* CP at 148 (Declaration of Willhide)).

5. The Legislature well knows how to declare and fund additional work for the Schools for the Blind and for the Deaf, both substantively and in the biennial budget.

Substantively, the 1999 Legislature made provision for what would become Learning Improvement Days *in state law and included the two State Schools*.

RCW 28A.655.130 provided in part:

**Accountability implementation funds**

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

*districts.* The purposes of the funds are to: Develop and update student learning improvement plans; implement curriculum materials and instructional strategies; provide staff professional development to implement the selected curricula and instruction; develop and implement assessment strategies and training in assessment scoring; and fund other activities intended to improve student learning for all students, including students with diverse needs. Activities funded by the allocations must be consistent with the school or district improvement plan, designed to improve the ability of teachers and other instructional certificated and classified staff to assist students in meeting the essential academic learning requirements, and designed to achieve state and local accountability goals. Activities funded by the allocations shall be designed to protect the teachers' instructional time with students and minimize the use of substitute teachers.

....

(3) The amount of allocations shall be determined in the omnibus appropriations act.

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

(Emphasis added.)

These Learning Improvement Days first appeared in the 1999 biennial budget, 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. . . .*

Laws of 1999, ch. 309, § 503 (emphasis added).

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, the funding for which was built into the statewide salary schedule which is sensitive to educational attainment and years of experience. *See CP at 224, 232 (Exhibits F and I of the Declaration of Willhide)* for examples of the salary schedules which include these Learning Improvement Days. Thus, in both substantive law and budget enactments, the Legislature well knows how to state its intent to fund additional time, responsibilities, and incentives for state employees of the School for the Blind (and Deaf).

6. One final contextual element: In the 10 biennial budgets from 1987-89 through 2005-07, in times both flush and spare, the

Legislature has declined to fund the School (and the appellants) for this purpose.<sup>8</sup>

#### IV. ARGUMENT IN ANSWER TO APPELLANTS

Appellants spend nearly two-thirds of their brief arguing a proposition that follows from a fundamental mischaracterization of the trial judge's ruling. As discussed earlier, the appellants say that "[e]ssentially the trial court ruled that the TRI payments to VSD [Vancouver School District] is not really 'salary.'" Brief of Appellant at 5. *See also* Brief of Appellant at 16 ("The trial court held that TRI payments are not salary.")<sup>9</sup>

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<sup>8</sup> And, as we earlier observed, the Legislature *does* know how to declare and fund additional work days for School employees. *See* RCW 28A.655.130 (Accountability Implementation funding or Learning Improvement Days to be made available to State Schools for Deaf and Blind).

<sup>9</sup> Appellants take substantial "literary license" with their citations of authority or to the record. They do this in one of two ways: (1) By re-casting authority or an exhibit; or (2) by forgetting to cite clarifying witness testimony. For example, in Brief of Appellant at 16-17, appellants refer to the "Washington School for the Blind's *self-published* S-275 Personnel Reporting Handbook" which requires that TRI payments be reported as salary. Basic legal research would have revealed that Report S-275 "means the alphabetic listing of certificated personnel *employed by a school district . . .*" WAC 392-121-225 (emphasis added); and use of a common search engine would have revealed that the S-275 Personnel Reporting Handbook is a publication of the Superintendent of Public Instruction, containing instructions to Washington State schools and educational service districts. *See, e.g.,* [www.K12.wa.us/Safs/INS/PER/0304/S275.PDF](http://www.K12.wa.us/Safs/INS/PER/0304/S275.PDF)

For further example, the appellants cite their union's executive director for the proposition that, from 1997-2001 "WSSB saw close to as many employees leave the school (24) as were currently employed as of November, 2001 (32)." Brief of Appellant at 14, citing CP at 36. In fact, of the 24, 14 were substitute teachers, 3 retired with about 80 years of combined service, 1 left to complete a doctorate, 3 accepted other employment, 1 was hired by a school district, 1 was released for performance-related reasons, and 1 was subject to a reduction-in-force (RIF). In other words, between 1997-2001, only two (2) individuals left the School for Washington K-12 employment and one

From this fundamental mischaracterization, the appellants argue that “nothing in the TRI statute removes TRI payments from the definition of salary . . . .”;<sup>10</sup> and “monies paid to VSD teachers under the TRI statute are salary by any generally accepted meaning of that term. . . .”<sup>11</sup> These observations may be true, but they have absolutely nothing to do with whether it was the salary contemplated by the Legislature in enacting RCW 72.40.028. That salary, historically and factually, refers to the statewide salary schedule which is a function of educational background and experience, while the later-enacted (and non-state funded) TRI payments may be attained by any Vancouver teacher without regard to educational attainment and only upon the completion of identified tasks, where years of experience are generally irrelevant.

Appellants build their plain language argument upon their conclusion that “conform to and be contemporary with” means that “WSSB [School for the Blind] teachers should be paid salaries which are the *equivalent* to VSD teachers, for the same period of time worked.” Brief of Appellant at 9 (emphasis added). “Conform to” does not mean

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of those two found such employment after being RIF’d. CP at 307. Appellants then neglect to mention the two (2) new teachers who joined the School’s teaching ranks, one from the Northshore School District, the other from Federal Way School District. Page limitations prevent us from detailing every such license; however, the reader should proceed with caution.

<sup>10</sup> Brief of Appellant at 10.

<sup>11</sup> Brief of Appellant at 11.

“equivalent”, it means only that the same limited set of rules apply to a given situation.<sup>12</sup> Further, the word ‘salary’ within RCW 72.40.028 contains limitations under which conformity is required; namely, that such salary relate to one’s background and experience.

The word “salary” can be fully understood only in the context of the entire statutory clause, because to interpret the word otherwise would, contrary to a fundamental canon of construction, render the language “similar background and experience” superfluous.<sup>13</sup>

The words “background and experience” modify the word “salaries” and the two terms mean that salary based on background and experience must be comparable among School and non-School teachers in the Vancouver School District. Since TRI payments are not based on background and experience, the School complies with RCW 72.40.028 by using the salary schedule adopted by the Vancouver School District.

Appellants also argue that the School receives funding from the federal government as well as grants and private donations, all of which

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<sup>12</sup> “Conform to” means “1. To be similar in form or character. 2. To act or be in compliance . . . . 3. To behave in accordance with prevailing modes or customs.” *Webster’s II New College Dictionary* 236 (1995) (emphasis in original). “Contemporary” means “[b]elonging to the same period of time.” *Id.* at 243.

<sup>13</sup> “The legislature is presumed not to include unnecessary language when it enacts legislation.” *McGinnis v. State*, 152 Wn.2d 639, 645, 99 P.3d 1240 (2004). “A fundamental canon of construction holds a statute should not be interpreted so as to render one part inoperative.” *Davis v. State ex. rel. Dep’t of Licensing*, 137 Wn.2d 957, 969, 977 P.2d 554 (1999).

could be used to fund TRI salary. However, this proposal runs squarely into the admonition of RCW 28A.400.200(4) that supplemental contracts shall not cause the State to incur any present or future funding obligation. Appellants' proposal also leads to strange and unlikely result that Legislature intended that the Vancouver School District and its employees, bargaining over locally generated levies, could obligate the School to pay teacher salaries out of gifted funds; or, alternatively, obligate the Washington State Legislature itself to fund the difference.

A much more rational and less strained interpretation of the statutory scheme is that:

- (a) The School is bound by the base salary distribution received by the Vancouver School District and its staff by virtue of RCW 72.40.018 ("Salaries . . . shall . . . conform to and be contemporary with salaries paid to other certificated employees of similar background and experience . . ."), which is controlled by the Legislature and allocated in accordance with the statewide teacher salary schedule; *and*
- (b) The School and its employee group may negotiate supplemental contract payments according to the School's own resources (not those of Vancouver) under RCW 72.40.110 ("Employees' hours of labor shall follow all state merit rules as they pertain to various work classifications and current collective bargaining agreements."); *and*
- (c) The Legislature understands that some supplemental contracts, such as for coaching, "extra hours", in-service training, education reform days, and other extraordinary

assignments are undertaken by the School and the School continues to attract and retain a talented staff.<sup>14</sup>

Finally, appellants advance arguments of policy and equity. The School does not dispute that its teachers and staff should be well compensated, and that periodic increases by the Legislature are important if the School is to attract and retain qualified staff. But the appellants' policy argument should be directed to the Legislature, which is better able to assess issues of morale, workload, and, ultimately, compensation. To date, the Legislature has not manifested the public policy advocated by the appellants, either in substantive law or in any of its appropriations acts. In this regard, the Legislature itself is the fundamental source of this State's public policy<sup>15</sup> and, absent some constitutional impediment, may distinguish between its own state employees and those of local entities.

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<sup>14</sup> In the three year period between 2001 and September 2004, immediately preceding the School's summary judgment motion, the record established that the School had not lost a single teacher to the Vancouver School District *or to any other Washington school district*. CP at 307 (Supplemental Declaration of Dr. Dean O. Stenehjem).

<sup>15</sup> *State v. Jackson*, 137 Wn.2d 712, 725, 976 P.2d 1229 (1999) (quoting *State v. Enloe*, 47 Wn. App. 167, 170, 734 P.2d 520 (1987)).

**V. CONCLUSION**

For all the reasons set forth above, the trial court's summary judgment dismissal of appellants' claims should be affirmed.

RESPECTFULLY SUBMITTED this 9th day of August, 2005.

ROB MCKENNA  
Attorney General



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WSBA #6142  
Senior Assistant Attorney General  
Attorneys for Respondents

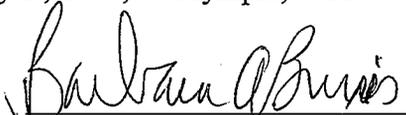
**PROOF OF SERVICE**

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 9th day of August, 2005, at Olympia, WA.

  
\_\_\_\_\_  
BARBARA BURRIS

FILED  
COURT OF APPEALS  
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BY \_\_\_\_\_  
DEPUTY

**→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.]

**→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

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

Years of Service	BA+135	MA	MA+45	MA+90 or PHD
0	34,859	33,951	36,500	38,142
1	35,313	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 12B 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

ANGEMTS	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								
IONTHLY OURLY	2,288.92	2,319.67	2,372.00	2,450.08	2,505.25	2,562.50	2,595.58	2,680.33	2,766.25								
	18.76	19.01	19.44	20.08	20.53	21.00	21.28	21.97	22.67								
A+15	28,209.00	28,588.00	29,231.00	30,192.00	30,896.00	31,595.00	31,974.00	33,010.00	34,088.00	35,205.00							
IONTHLY OURLY	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							
	19.27	19.53	19.97	20.62	21.10	21.58	21.84	22.55	23.28	24.05							
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						
IONTHLY OURLY	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						
	19.79	20.06	20.51	21.18	21.67	22.16	22.44	23.16	23.91	24.71	25.51						
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	42,618.00	43,957.00	45,292.00	46,621.00
IONTHLY OURLY	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	3,552.00	3,664.00	3,777.00	3,891.00
	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	29.11	30.01	30.91	31.81
A+90	32,219.00	32,688.00	33,414.00	34,490.00	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	45,736.00	47,181.00	48,608.00	49,976.00
IONTHLY OURLY	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	4,114.87
	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	33.73
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
IONTHLY OURLY	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
	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	35.39
A+165	32,931.00	33,297.00	33,995.00	35,027.00	35,755.00	36,503.00	36,904.00	38,031.00	39,225.00	40,480.00	41,700.00	43,005.00	44,362.00	45,766.00	47,212.00	48,439.00	49,407.00
IONTHLY OURLY	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
	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	41,930.00	43,200.00	44,505.00	45,872.00	47,275.00	48,712.00	50,251.00	51,557.00	52,589.00
IONTHLY OURLY	2,950.25	2,982.75	3,042.42	3,132.08	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
	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/PHD	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	47,966.00	49,422.00	50,923.00	52,491.00	53,846.00	54,923.00
IONTHLY OURLY	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
	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

(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 division. 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. 72.05.140 *Educational Facilities in Youth Institutions.* The division of children and youth services, in order to provide educational facilities for persons admitted or committed to any of the institutions, schools or facilities herein provided, is authorized either to:

(1) Enter into an agreement with the local school district within which the institution is situated or with any other local school district conveniently located in the region, 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.

Sec. 72.05.150 *"Minimum Security" Institutions—Establishment—"Forest Camp Revolving Fund"*

Created. The department, through the division, shall have power to acquire, establish, maintain, and operate "minimum security" facilities for the care, custody, education, and treatment of children with less serious behavior problems. Such facilities may include parental schools or homes, farm units, and

forest camps. Admission to such minimum security facilities shall be by juvenile court commitment or by transfer as herein otherwise provided. In carrying out the purposes of this section, the department may establish or acquire the use of such facilities by gift, purchase, lease, contract, or other arrangement with existing public entities, and to that end the director may execute necessary leases, contracts, or other agreements. In establishing forest camps, the department may contract with other divisions of the state and the federal government; including, but not limited to, the state division of forestry, the state parks and recreation commission, the U. S. forest service, and the national park service, on a basis whereby such camps may be made as nearly as possible self-sustaining. Under any such arrangement the contracting agency shall reimburse the department for the value of services which may be rendered by the inmates of a camp and all such reimbursements shall be credited to a "forest camp revolving fund", which fund is hereby created, and out of which funds may be disbursed towards the cost of operation and maintenance of the camp.

Sec. 72.05.160 *Contracts with Other Divisions, Agencies Authorized.* In carrying out the provisions of sections 72.05.010 through 72.05.210, the department, through the division, shall have power to contract with other divisions or departments of the state or its political subdivisions, with any agency of the federal government, or with any private social agency.

Sec. 72.05.170 *Counseling and Consultative Services.* The division may provide professional counseling services to delinquent and maladjusted children and their parents, consultative services to communities dealing with problems of children and youth, and may give assistance to law enforcement

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 all persons committed to Green Hill school and 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. 9. Section 72.05.140, chapter 28, Laws of 1959 as amended by section 180, chapter 141, Laws of 1979 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 ~~((any of the institutions, schools or facilities herein provided))~~ the state schools for the deaf and blind, is authorized either to:

- (1) Enter into an agreement with the ~~((local))~~ school district within which the institution is situated ~~((or with any other local school district conveniently located in the region)), 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.

Sec. 10. Section 72.20.040, chapter 28, Laws of 1959 as last amended by section 229, chapter 141, Laws of 1979 and RCW 72.20.040 are each amended to read as follows:

The superintendent, subject to the direction and approval of the secretary shall:

- (1) Have general supervision and control of the grounds and buildings of the institution, the subordinate officers and employees, and the inmates thereof, and all matters relating to their government and discipline.
- (2) Make such rules, regulations and orders, not inconsistent with law or with the rules, regulations or directions of the secretary, as may seem to him proper or necessary for the government of such institution and for the employment, discipline and education of the inmates, except for the program of education provided pursuant to sections 2 through 4 of this amendatory act, as now or hereafter amended, which shall be governed by the school district conducting the program.

- (3) Exercise such other powers, and perform such other duties as the secretary may prescribe.

Sec. 11. Section 4, chapter 18, Laws of 1967 ex. sess. as amended by section 235, chapter 141, Laws of 1979 and RCW 72.30.040 are each amended to read as follows:

The superintendent shall have the following powers, duties and responsibilities:

- (1) Subject to the rules and regulations of the department and the state personnel board, he shall appoint all subordinate officers and employees.
- (2) Subject to the rules and regulations of the department, he shall supervise and manage the school, grounds, buildings and equipment, the subordinate officers and employees, and the persons committed, admitted or transferred to such school and shall have custody of such persons until they are released, discharged or transferred as provided by law.
- (3) He shall be the custodian of the personal property of all residents of the school subject to the provisions of RCW 72.33.180 as now or hereafter amended.

(4) Subject to the approval of the secretary, he shall be authorized to establish such industrial, vocational, educational or training programs as would be most beneficial to the residents of such school, except for the program of education provided pursuant to sections 2 through 4 of this amendatory act, as now or hereafter amended.

(5) Except as otherwise provided in this chapter, he shall administer the institution in accordance with the provisions of chapter 72.33 RCW.

Sec. 12. Section 72.33.040, chapter 28, Laws of 1959 as last amended by section 62, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.040 are each amended to read as follows:

The superintendent of a state school appointed after June 12, 1957 shall be a person of good character, and either a physician licensed to practice in the state of Washington or has attained a minimum of a master's degree from an accredited college or university in psychology, social science, or education, and in addition shall have had suitable experience in an administrative or professional capacity in the residential care, treatment and training of handicapped persons.

The superintendent shall have custody of all residents and control of the medical, educational, therapeutic and dietetic treatment of all persons resident in such state school, except for the program of education provided pursuant to sections 2 through 4 of this amendatory act, as now or hereafter amended, which the school district conducting the program shall have control of and joint custody of such residents in connection therewith: PROVIDED, That the superintendent shall cause surgery to be performed on any resident only upon gaining the consent of a parent, guardian, or limited guardian as authorized, except, if after reasonable effort to locate the parents, guardian, or limited guardian as authorized, and the health of such resident is certified by the attending physician to be jeopardized unless such surgery is performed, the required consent shall not be necessary.

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

government and its existing public institutions, and shall take effect immediately.

Passed the House March 5, 1981.

Passed the Senate March 6, 1981.

Approved by the Governor March 16, 1981.

Filed in Office of Secretary of State March 16, 1981.

## CHAPTER 16

[Substitute House Bill No. 1661]

### SCHOOL EMPLOYEES' SALARIES—DISTRICT BOARDS' AUTHORITY

AN ACT Relating to school districts; amending section 3, chapter 10, Laws of 1972 ex. sess. as last amended by section 4, chapter 182, Laws of 1980 and RCW 28A.58.100; creating new sections; adding a new section to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; and declaring an emergency.

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

Section 1. Section 3, chapter 10, Laws of 1972 ex. sess. as last amended by section 4, chapter 182, Laws of 1980 and RCW 28A.58.100 are each amended to read as follows:

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

(1) Employ for not more than one year, and for sufficient cause discharge all certificated and noncertificated employees( ~~and after, allow and order paid their salaries and compensation~~);

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

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

(b) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and noncertificated employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per year; provisions of any contract

in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

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

(e) Leave provided in this proviso not taken shall accumulate from year to year and such accumulated time may be taken at any time during the school year but for purposes of payments for unused sick leave shall not exceed twelve days per year.

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

(g) Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW 28A.58.097 and 28A.21.360;

(h) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction and offices of educational service district superintendents and boards, to and from such districts and such offices;

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

When any teacher or other certificated employee leaves one school district within the state, he shall retain the same seniority, leave benefits and other benefits that he had in his previous position. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service.

**NEW SECTION.** Sec. 2. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW a new section to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees. No school district board of directors may grant salary and compensation increases from any fund source whatsoever in excess of the amount and or percentage

as may be provided for employees as set forth in the state operating appropriations act in effect at the time the compensation is payable.

(2) Increases in school district employee fringe benefit contributions by school districts shall be included for purposes of determining salary and compensation increases under this section if contributions to fringe benefits provided by a district exceed or, by virtue of the increase, will exceed the amount provided for fringe benefits in the state operating appropriations act in effect at the time the compensation is payable.

(3) For purposes of this section, salary and compensation shall not include the following:

- (a) Payment for unused leave for illness or injury under RCW 28A.58.097,
- (b) Employer contributions for the following employee fringe benefits:
  - (i) Old Age Survivors Insurance
  - (ii) Workers' Compensation
  - (iii) Unemployment Compensation
  - (iv) Retirement benefits under the Washington State Retirement System.

(4) Provisions of any contract in force on the effective date of this amendatory act which conflict with requirements of this section shall continue in effect until contract expiration. After expiration, any new contract executed between the parties shall be consistent with this section.

NEW SECTION. Sec. 3. There is added to chapter 41.59 RCW a new section to read as follows:

Nothing in this chapter shall be construed to grant employers or employees the right to reach agreements regarding salary or compensation increases in excess of those authorized in accordance with section 2 of this amendatory act.

NEW SECTION. Sec. 4. There is added to chapter 41.56 RCW a new section to read as follows:

Nothing in this chapter shall be construed to grant school districts a school district employees the right to reach agreements in excess of those authorized in accordance with section 2 of this amendatory act.

NEW SECTION. Sec. 5. If any provision of this amendatory 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. 6. This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support

the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 6, 1981.  
Passed the Senate March 19, 1981.  
Approved by the Governor March 20, 1981.  
Filed in Office of Secretary of State March 20, 1981.

CHAPTER 17

[Senate Bill No. 3213]

ELECTRIFIED PUBLIC STREETCAR LINES—LOCAL IMPROVEMENTS

AN ACT Relating to electrified public streetcar lines; amending section 35.43.040, chapter 7, Laws of 1965 as amended by section 1, chapter 258, Laws of 1969 ex. sess. and RCW 35.43.040; and declaring an emergency.

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

Section 1. Section 35.43.040, chapter 7, Laws of 1965 as amended by section 1, chapter 258, Laws of 1969 ex. sess. and RCW 35.43.040 are each amended to read as follows:

Whenever the public interest or convenience may require, the legislative authority of any city or town may order the whole or any part of any local improvement including but not restricted to those, or any combination thereof, listed below to be constructed, reconstructed, repaired, or renewed and landscaping including but not restricted to the planting, setting out, cultivating, maintaining, and renewing of shade or ornamental trees and shrubbery thereon; may order any and all work to be done necessary for completion thereof; and may levy and collect special assessments on property specially benefited thereby to pay the whole or any part of the expense thereof, viz:

- (1) Alleys, avenues, boulevards, lanes, park drives, parkways, public places, public squares, public streets, their grading, regrading, planking, repaving, paving, repairing, macadamizing, remacadamizing, graveling, re-graveling, piling, repiling, capping, recapping, or other improvement; if the management and control of park drives, parkways, and boulevards is vested in a board of park commissioners, the plans and specifications for their improvement must be approved by the board of park commissioners before their adoption;
- (2) Auxiliary water systems;
- (3) Auditoriums, field houses, gymnasiums, swimming pools, or other recreational or playground facilities or structures;
- (4) Bridges, culverts, and trestles and approaches thereto;
- (5) Bulkheads and retaining walls;
- (6) Dikes and embankments;

## 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, 72.41.010, 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 Nascelle 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 herefrom 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 ((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 why are blind or deaf, or otherwise sensory handicapped, and who are free from toxosome 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 ~~((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~~((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;

~~((88))~~ (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;

~~((99))~~ (10) May grant to every student, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate;

~~((100))~~ (11) Shall participate in the development of, and monitor the enforcement of the rules and regulations pertaining to the school for the blind;

~~((111))~~ (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 of 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 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 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. 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

## CHAPTER 147

[Substitute Senate Bill 5536]

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) ~~(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-Staff))~~ (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 designated 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 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. 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 of 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.