

461 also amends the CERB statute, Chapter 43.160 RCW, by clarifying evaluation standards for CERB projects, and enlarging the CERB Board.

I agree with the purpose of both bills. However, they contain provisions that would result in four double amendments to the CERB statute.

Sections 2 and 3 of Engrossed Substitute House Bill No. 863 add additional members to CERB. Sections 1 and 2 of Engrossed Substitute House Bill No. 461 also add members to CERB. I have vetoed Sections 2 and 3 of Engrossed Substitute House Bill No. 863 because I believe the membership provisions of Engrossed Substitute House Bill 461 is a more definitive statement of legislative intent because the bill resulted from more extensive discussion and negotiation during the session.

Section 4 of Engrossed Substitute House Bill No. 863 adds a new section to Chapter 43.160 RCW. Section 4 of Engrossed Substitute House Bill No. 461 duplicates the same language. Therefore, I have vetoed Section 4 of Engrossed Substitute House Bill No. 863 in order to avoid the confusion of duplicate sections being added to Chapter 43.160 RCW.

Section 12 of Engrossed Substitute House Bill No. 863 adds an emergency clause to the act and makes Section 3 effective July 1, 1985. The emergency clause is not necessary and the referral to Section 3 would make it a double amendment. Therefore, I have vetoed Section 12 of Engrossed Substitute House Bill No. 863 in order to avoid confusion.

With the exception of Sections 2, 3, 4 and 12, Engrossed Substitute House Bill No. 863 is approved."

CHAPTER 434

[House Bill No. 999]

EDUCATIONAL CLINICS

AN ACT Relating to educational clinics; amending RCW 28A.97.030; adding new sections to chapter 28A.97 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. It is the intent of this act to provide for an equitable distribution of funds appropriated for educational clinics, to stabilize existing programs, and to provide a system for orderly expansion or retrenchment in the event of future increases or reductions in program appropriations.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.97 RCW to read as follows:

The superintendent of public instruction shall prepare a report on educational clinics that:

- (1) Identifies a funding level that is adequate to fund the enrollment served by educational clinics during the previous fiscal year;
- (2) Identifies locales in the state which are served by educational clinics but where demand for educational clinic services will support additional service, and recommends the funding level necessary to serve such demand;
- (3) Identifies locales in the state which are not served by educational clinics but where demand will support operation of clinics, and recommends the funding level necessary to serve such demand; and

(4) Identifies locales in the state that are either underserved or not served by existing public school programs for drop-outs or for drop-out prevention, but where demand will support such services and recommends the funding level necessary to serve such demand.

The report shall be submitted to the legislature by January 1 in the year following the effective date of this act and updates of the report shall be submitted with each biennial budget request until such time as funding levels reach the levels recommended in subsections (2) and (3) of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.97 RCW to read as follows:

In allocating funds appropriated for educational clinics, the superintendent of public instruction shall:

(1) Place priority upon stability and adequacy of funding for educational clinics that have demonstrated superior performance as defined in RCW 28A.97.040(2).

(2) Initiate and maintain a competitive review process to select new or expanded clinic programs in unserved or underserved areas. The criteria for review of competitive proposals for new or expanded education clinic services shall include but not be limited to:

(a) The proposing organization shall have obtained certification from the state board of education as provided in RCW 28A.97.010;

(b) The cost-effectiveness of the proposal as judged by the criteria established in RCW 28A.97.100(1) and (2); and

(c) The availability of committed nonstate funds to support, enrich, or otherwise enhance the basic program.

(3) In selecting areas for new or expanded educational clinics programs, the superintendent of public instruction shall consider factors including but not limited to:

(a) The proportion and total number of dropouts unserved by existing clinics programs, if any;

(b) The availability within the geographic area of programs other than educational clinics which address the basic educational needs of dropouts; and

(c) Waiting lists or other evidence of demand for expanded educational clinic programs.

(4) In the event of any curtailment of services resulting from lowered legislative appropriations, the superintendent of public instruction shall issue pro rata reductions to all clinics funded at the time of the lowered appropriation. Individual clinics may be exempted from such pro rata reductions if the superintendent finds that such reductions would impair the clinic's ability to operate at minimally acceptable levels of service. In the event of such exceptions, the superintendent shall determine an appropriate rate for reduction to permit the clinic to continue operation.

(5) In the event that an additional clinic or clinics become certified and apply to the superintendent for funds to be allocated from a legislative appropriation which does not increase from the immediately preceding biennium, or does not increase sufficiently to allow such additional clinic or clinics to operate at minimally acceptable levels of service without reducing the funds available to previously funded clinics, the superintendent shall not provide funding for such additional clinic or clinics from such appropriation.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.97 RCW to read as follows:

The superintendent shall include the educational clinics program in the biennial budget request. Contracts between the superintendent of public instruction and the educational clinics shall include quarterly plans which provide for relatively stable student enrollment but take into consideration anticipated seasonal variations in enrollment in the individual clinics. Funds which are not expended by a clinic during the quarter for which they were planned may be carried forward to subsequent quarters of the fiscal year. The superintendent shall make payments to the clinics on a monthly basis pursuant to RCW 28A.97.040.

***Sec. 5. Section 3, chapter 341, Laws of 1977 ex. sess. and RCW 28A.97.030 are each amended to read as follows:**

The superintendent of public instruction shall adopt, by rules, policies and procedures to permit a prior common school dropout to reenter at the grade level appropriate to such individual's ability: PROVIDED, That such individual shall be placed with the class he would be in had he not dropped out and graduate with that class, if his ability so permits notwithstanding any loss of credits prior to reentry and if such student earns credits at the normal rate subsequent to reentry.

Notwithstanding any other provision of law, any certified educational clinic student, upon completion of an individual student program and irrespective of age, shall be eligible to take the general educational development test as given throughout the state. Any such student who passes the general educational development test shall not be permitted to reenroll in the common school system in the state for other than vocational courses.

***Sec. 5 was vetoed, see message at end of chapter.**

NEW SECTION. Sec. 6. If specific funding for the purposes of section 2 of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, section 2 of this act shall be null and void. Section 2 of this act shall be of no effect until such specific funding is provided. If such funding is so provided, section 2 of this act shall take effect when the legislation providing the funding takes effect.

NEW SECTION. Sec. 7. Section 3(5) of 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 April 23, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 21, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 21, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to one section, House Bill No. 999 entitled:

"AN ACT Relating to educational clinics...;"

House Bill No. 999 establishes a new system for the allocation of state funds in support of educational clinics, and directs a study by the Superintendent of Public Instruction concerning the funding and program criteria for educational clinics and public school drop-out prevention programs.

Section 5 was added as a Senate floor amendment. The intent of the section was to preclude the potential disruptiveness that might result from drop-out students returning to their former high schools. The amendment, though, would allow such students to return for attendance in vocational educational programs. The intent of this amendment has merit, although it unfortunately raises two significant legal questions: equal protection for all students; and denying the constitutional right to a basic education. The Supreme Court ruled that there is an absolute right of the state to provide a basic education, unless prevented by the student. The Section 5 provision might be held unconstitutional because it limits the state's responsibility to provide an equal opportunity for basic education for all students.

The equal protection issue arises because only drop-outs who have attended educational clinics and obtained a GED would be prohibited from returning to the common school system. There is no statutory prohibition against a drop-out returning to the common school system.

With the exception of Section 5, which I have vetoed, the remainder of House Bill No. 999 is approved."

CHAPTER 435

[Substitute Senate Bill No. 4424]

WATER RIGHTS—SPECIAL FILING PERIOD TEMPORARILY ESTABLISHED

AN ACT Relating to water rights; amending RCW 90.14.043; adding a new section to chapter 90.14 RCW; and declaring an emergency.

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

Sec. 1. Section 4, chapter 216, Laws of 1979 ex. sess. and RCW 90.14.043 are each amended to read as follows:

(1) Notwithstanding any time restrictions imposed by the provisions of chapter 90.14 RCW, a person may file a claim pursuant to RCW 90.14.041 if such person obtains a certification from the pollution control hearings board as provided in this section.

(2) A certification shall be issued by the pollution control hearings board if, upon petition to the board, it is shown to the satisfaction of the board that: