

**NEW SECTION.** Sec. 4. In addition to, and not in lieu of, any other appropriations, there is appropriated to the department of social and health services for the biennium ending June 30, 1981, from the general fund the sum of two hundred twenty-five thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

**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 Senate February 4, 1980.

Passed the House March 4, 1980.

Approved by the Governor April 4, 1980.

Filed in Office of Secretary of State April 4, 1980.

## CHAPTER 179

[Substitute Senate Bill No. 3321]

### STATE BOARD OF EDUCATION—PRIVATE SCHOOLS' REPRESENTATION— MAIL VOTE ACCEPTANCE

AN ACT Relating to education; amending section 28A.04.010, chapter 223, Laws of 1969 ex. sess. and RCW 28A.04.010; amending section 28A.04.040, chapter 223, Laws of 1969 ex. sess. as last amended by section 49, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.04.040; amending section 28A.04.060, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 19, Laws of 1975 and RCW 28A.04.060; amending section 1, chapter 19, Laws of 1975 and RCW 28A.04.065; amending section 17, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.033; and adding new sections to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.04 RCW.

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

Section 1. Section 28A.04.010, chapter 223, Laws of 1969 ex. sess. and RCW 28A.04.010 are each amended to read as follows:

The state board of education shall be comprised of two members from each congressional district of the state, not including any congressional district at large, elected by the members of the boards of directors of school districts thereof, as hereinafter in this chapter provided, and one nonvoting member elected at large, as hereinafter in this chapter provided, by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.02.201, as now or hereafter amended.

**NEW SECTION.** Sec. 2. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.04 RCW a new section to read as follows:

The superintendent of public instruction, at the time of calling the election for state board membership under RCW 28A.04.020, if there be a state board member representative of the private schools within the state whose term of membership will end on the second Monday of January next following, shall call an election to be held throughout the state in those private

schools referred to in RCW 28A.04.010 and shall give written notice thereof to each member of the board of directors of each such private school. Such notice shall include such instructions, rules and regulations as provided for in RCW 28A.04.020, as now or hereafter amended.

**NEW SECTION.** Sec. 3. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.04 RCW a new section to read as follows:

Not later than the twenty-fifth day of August of the year in which this amendatory act becomes effective and, subsequently, not later than the twenty-fifth day of August in any year in which there will be a vacancy in the nonvoting position on the state board on the second Monday of January next following, the superintendent of public instruction shall call an election to be held in those private schools referred to in RCW 28A.04.010, to select the nonvoting member of the state board of education to represent the private schools of the state. Not earlier than the first day of September, nor later than the sixteenth day of September, candidates for this position on the board shall file declarations of candidacy in person or by mail with the superintendent of public instruction on forms prepared by the superintendent. The superintendent of public instruction may not accept any declaration of candidacy that is not on file in his office or is not received by mail before the seventeenth day of September. Not later than the first day of October, the superintendent of public instruction shall send ballots to the chairperson of each private school referred to in RCW 28A.04.010 enclosing therewith biographical data on each candidate for such membership on the board. Each member of the board of directors of each private school in the state qualified under RCW 28A.04.010 shall be eligible to vote for the candidate for the state board of education representative of the private schools as provided in this section. Each member of the private school board shall obtain a ballot and biographical data from the chairperson of the board and shall cast his or her vote for one candidate whose name appears on the ballot. The ballot shall then be returned to the chairperson of the board who shall compile the votes of the individual board members and declare the candidate who receives a majority of the members' votes to be the candidate of the board. No votes shall be accepted for counting if received by mail after the sixteenth day of October. The superintendent of public instruction, along with three persons appointed by the state board of education, shall count and tally the votes from each private school not later than the twenty-fifth day of October, computing electoral points by multiplying each vote for a candidate by the number of enrolled students in the respective school as determined by enrollment reports forwarded to the superintendent of public instruction for the last previous month of September. Within ten days of such computation the superintendent of public instruction shall immediately notify by certified mail the candidate who received a majority of electoral points in the election, and the private schools so voting, of the results of such election. If no candidate receives a majority of the

electoral points cast, then, not later than the first day of November, the superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of electoral points accruing from such votes cast. No vote cast at such second election shall be received for counting if received by mail after the sixteenth day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of electoral points accruing from the votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the superintendent of public instruction. Within ten days following the count of votes in an election at which a member of the state board of education representative of the private schools in the state is elected, the superintendent of public instruction shall certify to the secretary of state the name of the person elected to be a member of the state board of education.

Sec. 4. Section 28A.04.040, chapter 223, Laws of 1969 ex. sess. as last amended by section 49, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.04.040 are each amended to read as follows:

Candidates for membership on the state board of education shall file declarations of candidacy with the superintendent of public instruction on forms prepared by the superintendent. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, or later than the sixteenth day of September. The superintendent of public instruction may not accept any declaration of candidacy that is not on file in his office or is not postmarked before the seventeenth day of September, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of september. No person employed in any school, college, university, or other educational institution or any educational service district superintendent's office or in the office of superintendent of public instruction shall be eligible for membership on the state board of education and each member elected who is not representative of the private schools in this state and thus not running-at-large must be a resident of the congressional district from which he was elected. No member of a board of directors of a local school district or private school shall continue to serve in that capacity after having been elected to the state board.

Sec. 5. Section 28A.04.060, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 19, Laws of 1975 and RCW 28A.04.060 are each amended to read as follows:

Each member of the state board of education shall be elected by a majority of the electoral points accruing from all the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the superintendent of public instruction and no votes shall be accepted for counting if postmarked after the sixteenth day of October, or if not

postmarked or the postmark is not legible, if received by mail after the twenty-first day of October following the call of the election. The superintendent of public instruction and an election board comprised of three persons appointed by the state board of education shall count and tally the votes and the electoral points accruing therefrom not later than the twenty-fifth day of October in the following manner: Each vote cast by a school director shall be accorded as many electoral points as there are enrolled students in that director's school district as determined by the enrollment reports forwarded to the state superintendent of public instruction for apportionment purposes for the month of September of the year of election: **PROVIDED**, That school directors from a school district which has more than five directors shall have their electoral points based upon enrollment recomputed by multiplying such number by a fraction, the denominator of which shall be the number of directors in such district, and the numerator of which shall be five; the electoral points shall then be tallied for each candidate as the votes are counted; and it shall be the majority of electoral points which determines the winning candidate. If no candidate receives a majority of the electoral points cast, then, not later than the first day of November, the superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of electoral points accruing from such votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of electoral points accruing from the votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the superintendent of public instruction. Within ten days following the count of votes in an election at which a member of the state board of education is elected, the superintendent of public instruction shall certify to the secretary of state the name or names of the persons elected to be members of the state board of education.

Sec. 6. Section 1, chapter 19, Laws of 1975 and RCW 28A.04.065 are each amended to read as follows:

Any common school district board member or any private school board member eligible to vote for a candidate for membership on the state board of education or any candidate for the position, within ten days after the state superintendent of public instruction's certification of election, may contest the election of the candidate for any of the following causes:

(1) For malconduct on the part of the state superintendent of public instruction or any member of the election board with respect to such election;

(2) Because the person whose right is being contested was not eligible for membership on the state board of education at the time the person was certified as elected;

(3) Because the person whose right is being contested gave a bribe or reward to a voter or to an inspector, judge or clerk of the election for the purpose of procuring the person's election, or offered to do so;

(4) On account of illegal votes.

An action contesting an election pursuant to this section shall be conducted in compliance with RCW 29.65.020 and 29.65.040 through 29.65-.120, as now or hereafter amended.

Sec. 7. Section 17, chapter 283, Laws of 1977 ex. sess. and RCW 28A-.21.033 are each amended to read as follows:

Each member of an educational service district board shall be elected by a majority of the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the secretary to the state board of education and no votes shall be accepted for counting if post-marked after the sixteenth day of October or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of October following the call of the election. The secretary to the state board of education and an election board comprised of three persons appointed by the state board of education shall count and tally the votes not later than the twenty-fifth day of October in the following manner: Each vote cast by a school director shall be accorded as one vote. If no candidate receives a majority of the votes cast, then, not later than the first day of November, the secretary to the state board of education shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the secretary to the state board of education. Within ten days following the count of votes in an election at which a member of an educational service district board is elected, the secretary to the state board of education shall certify to the county auditor of the headquarters county of the educational service district the name or names of the persons elected to be members of the educational service district board.

NEW SECTION. Sec. 8. 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.

Passed the Senate March 12, 1980.  
Passed the House February 19, 1980.  
Approved by the Governor April 4, 1980.  
Filed in Office of Secretary of State April 4, 1980.

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CHAPTER 180

[Engrossed Senate Bill No. 3371]

PADILLA BAY ESTUARINE SANCTUARY—APPROPRIATION

AN ACT Relating to tidelands; authorizing the purchase of tidelands for establishment of an estuarine sanctuary; and making an appropriation.

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

NEW SECTION. Section 1. For the purpose of establishing an estuarine sanctuary in Padilla Bay, Skagit county, there is appropriated from the general fund to the department of ecology for the biennium ending June 30, 1981, the sum of seventy thousand dollars, or so much thereof as may be necessary. The department of ecology may use such funds for the acquisition of tidelands within Padilla Bay, Skagit county, either through direct expenditures or through grants to a federal, state, or local agency and for administering the establishment of an estuarine sanctuary in Padilla Bay, Skagit County.

No moneys appropriated under this section may be used by the department of ecology for acquisition of tidelands unless made in combination with an equal match of moneys from other public or private sources.

Prior to acquiring any tidelands, the department of ecology shall determine that the use of the property to be acquired will be consistent with chapter 90.58 RCW, the shoreline management act, and guideline and master programs adopted thereunder.

Hunting, fishing, boating and noncommercial taking of shellfish shall be authorized but shall be regulated on properties acquired under this section or as a result of the passage of this section.

Passed the Senate March 13, 1980.  
Passed the House March 12, 1980.  
Approved by the Governor April 4, 1980.  
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