
HOUSE BILL 1609

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By Representatives Pettigrew, Dammeier, Carlyle, Dahlquist, Kagi, Finn, Anderson, Jinkins, Hunter, and Eddy

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1 AN ACT Relating to school employee workforce reductions and
2 assignments; amending RCW 28A.405.210 and 28A.405.300; adding new
3 sections to chapter 28A.405 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that in order for
6 Washington schools to be great places to teach and learn - where all
7 kids and educators succeed - schools must build cultures where all
8 students thrive. The legislature intends to respect teachers and
9 principals first by empowering them to create that culture together,
10 and then by helping them retain the teachers who are crucial to that
11 culture. In particular, these policies support practices with a track
12 record of closing the achievement gap. This is done by:

13 (1) Ensuring that teachers who do the best work are the ones who
14 keep their jobs when budgets need to be cut, by basing reduction in
15 force policies on the evaluations the legislature has outlined for
16 measuring teacher performance. Since the loss of teachers through
17 layoffs already impacts student learning, there is an urgent need to
18 conduct layoffs in a way that retains the most effective teachers.

1 Educators deserve to be recognized for their ability to help students
2 learn and children deserve the very best and brightest teachers;

3 (2) Empowering principals and teachers with autonomy in school
4 placement decisions to ensure the creation of school cultures that both
5 promote the ongoing improvement of teaching and learning and are
6 committed to closing the achievement gap. The strongest, most
7 successful school cultures are those in which teachers and principals
8 work toward shared goals for improving student learning. In order to
9 create shared cultures, principals and teachers must be able to agree
10 that a school placement is the best fit for them; and

11 (3) Recognizing that for the fair evaluation of a principal based
12 on the criteria outlined by the legislature, specifically that
13 principals should be evaluated on creating a school culture that
14 promotes the ongoing improvement of learning and teaching and managing
15 both staff and fiscal resources to support student achievement and
16 legal responsibilities for students and staff, a principal needs the
17 ability to select teachers who have demonstrated effectiveness and have
18 demonstrated qualifications and teaching experience that support the
19 instructional practices of his or her school.

20 **PART I**

21 **PERFORMANCE-BASED REDUCTION IN FORCE DUE TO ENROLLMENT**
22 **DECLINE OR REVENUE LOSS**

23 NEW SECTION. **Sec. 101.** A new section is added to chapter 28A.405
24 RCW to read as follows:

25 (1) When reductions in the workforce occur due to enrollment
26 decline or revenue loss, the employment contracts of any certificated
27 classroom teacher and educational staff associate must be nonrenewed in
28 the following manner within each particular certification or
29 endorsement area. Certificated classroom teachers and educational
30 staff associates who received the lowest evaluation rating, as
31 described in RCW 28A.405.100, when averaging their two most recent
32 evaluations in accordance with the method in subsection (2) of this
33 section, must have their contracts nonrenewed first, with nonrenewals
34 continuing to proceed upward through the two-year average ratings in
35 such a manner. Any determination that must be made between teachers
36 who received the same averaged rating, must provide a preference for

1 teachers who have the greatest number of years teaching in the school
2 district and any additional criteria established in the policy of the
3 board or locally bargained agreement; except that any such additional
4 criteria may be established only if the contract or policy is in the
5 best interest of the students.

6 (2) For the purposes of calculating two-year averages as provided
7 in subsection (1) of this section, the average must weigh the teacher's
8 most recent evaluation by sixty percent and his or her prior year's
9 rating by forty percent. The numbers to be used in calculating these
10 averages are as follows, the lowest evaluation rating is worth zero
11 points, and the highest evaluation rating is worth 4.25 points. If a
12 four-tiered evaluation system is being used, then the second highest
13 evaluation rating is worth 2.75 points and the third highest evaluation
14 rating is worth four points. The weighted two-year average shall be
15 multiplied by a factor of 1.05 to ensure that the averaging of ratings
16 for teachers with reasonable variation in their evaluations does not
17 result in lowering their rating below teachers with similar ratings
18 based on only one year's evaluation rating. The final two-year
19 weighted average shall be rounded to the hundredth place before being
20 used for the decisions made under subsection (1) of this section.
21 Teachers with only one year of evaluation ratings must use this
22 evaluation rating in place of a two-year average.

23 (3) For the purposes in subsection (1) of this section, any
24 certificated classroom teacher or educational staff associate for whom
25 no evaluation data is available must have his or her employment
26 contract nonrenewed before any other certificated classroom teacher or
27 educational staff associate within his or her certification or
28 endorsement area. If data collection allows, school leaders should
29 make an effort to complete evaluations before the district is required
30 to make contract renewal decisions.

31 (4) Any school district whose board policies or locally bargained
32 agreement outlines recall rights for certificated classroom teachers
33 and educational staff associates must recall staff in the reverse order
34 contracts were nonrenewed as provided for in subsection (1) of this
35 section. These recall rights may only guarantee a right to interview
36 and do not supersede the provisions of section 201 of this act that a
37 certificated classroom teacher or educational staff associate may be

1 assigned to a particular school only with the consent of the hiring
2 principal. No school district policy may offer recall rights for more
3 than three years.

4 (5) All collective bargaining agreements and other contracts
5 entered into between a school district and an employee bargaining unit
6 or an employee after the effective date of this section must be
7 consistent with this section.

8 NEW SECTION. **Sec. 102.** A new section is added to chapter 28A.405
9 RCW to read as follows:

10 (1) In the event that the determination that the employment
11 contract of a certificated classroom teacher or educational staff
12 associate will not be renewed by the district in accordance with
13 section 101 of this act, the employee must be notified in writing on or
14 before May 15th or if the omnibus appropriations act has not passed the
15 legislature by May 15th, then notification must be no later than June
16 15th. The notification must state the reason or reasons for the
17 determination. The notice must be served upon the employee personally,
18 or by certified or registered mail, or by leaving a copy of the notice
19 at the place of his or her usual abode with some person of suitable age
20 and discretion then resident therein.

21 (2) Every employee who receives notification under this section, at
22 his or her request made in writing and filed with the superintendent of
23 the district within ten days after receiving the notice, must be given
24 the opportunity to meet informally with the superintendent for the
25 purpose of requesting the superintendent to reconsider the decision.
26 The meeting must be held no later than ten days following the receipt
27 of the request, and the employee must be given written notice of the
28 date, time, and place of meeting at least three days prior thereto. At
29 the meeting, the employee must be given the opportunity to refute any
30 facts upon which the superintendent's determination was based and to
31 make any argument in support of his or her request for reconsideration.

32 (3) Within ten days following the meeting with the employee, the
33 superintendent must either reinstate the employee or submit to the
34 school district board of directors for consideration at its next
35 regular meeting a written report recommending that the employment
36 contract of the employee be nonrenewed and stating the reason or
37 reasons for nonrenewal. A copy of the report must be delivered to the

1 employee at least three days before the scheduled meeting of the board
2 of directors. In taking action upon the recommendation of the
3 superintendent, the board of directors must consider any written
4 communication that the employee files with the secretary of the board
5 at any time before that meeting.

6 (4) The board of directors must notify the employee in writing of
7 its final decision within ten days following the meeting at which the
8 recommendation for nonrenewal was considered. The decision of the
9 board of directors to not renew the contract of an employee may be
10 appealed in accordance with RCW 28A.405.320 through 28A.405.360 to the
11 superior court in the county in which the school district is located.

12 (5) This section applies to any person employed by a school
13 district in a certificated classroom teaching or education staff
14 associate position after June 25, 2010. This section provides the
15 exclusive means for nonrenewing the employment contract due to
16 enrollment decline or revenue loss of any such employee and no other
17 provision of law is applicable, including, RCW 28A.405.210,
18 28A.405.300, and 28A.405.310.

19 **Sec. 103.** RCW 28A.405.210 and 2010 c 235 s 303 are each amended to
20 read as follows:

21 (1) No teacher, principal, supervisor, superintendent, or other
22 certificated employee, holding a position as such with a school
23 district, hereinafter referred to as "employee", shall be employed
24 except by written order of a majority of the directors of the district
25 at a regular or special meeting thereof, nor unless he or she is the
26 holder of an effective teacher's certificate or other certificate
27 required by law or the Washington professional educator standards board
28 for the position for which the employee is employed.

29 (2) The board shall make with each employee employed by it a
30 written contract, which shall be in conformity with the laws of this
31 state, and except as otherwise provided by law, limited to a term of
32 not more than one year. Every such contract shall be made in
33 duplicate, one copy to be retained by the school district
34 superintendent or secretary and one copy to be delivered to the
35 employee. No contract shall be offered by any board for the employment
36 of any employee who has previously signed an employment contract for
37 that same term in another school district of the state of Washington

1 unless such employee shall have been released from his or her
2 obligations under such previous contract by the board of directors of
3 the school district to which he or she was obligated. Any contract
4 signed in violation of this provision shall be void.

5 (3)(a) In the event it is determined that there is probable cause
6 or causes that the employment contract of an employee should not be
7 renewed by the district for the next ensuing term such employee shall
8 be notified in writing on or before May 15th preceding the commencement
9 of such term of that determination, or if the omnibus appropriations
10 act has not passed the legislature by May 15th, then notification shall
11 be no later than June 15th, which notification shall specify the cause
12 or causes for nonrenewal of contract. ((Such))

13 (b) The determination of probable cause for certificated employees,
14 other than the superintendent, shall be made by the superintendent.
15 ((Such))

16 (c) Notice shall be served upon the employee personally, or by
17 certified or registered mail, or by leaving a copy of the notice at the
18 house of his or her usual abode with some person of suitable age and
19 discretion then resident therein.

20 (d) Every ((such)) employee ((so)) notified in accordance with this
21 section, at his or her request made in writing and filed with the
22 president, chair, or secretary of the board of directors of the
23 district within ten days after receiving such notice, shall be granted
24 opportunity for hearing pursuant to RCW 28A.405.310 to determine
25 whether there is sufficient cause or causes for nonrenewal of
26 contract((~~:- PROVIDED, That any employee receiving notice of nonrenewal~~
27 ~~of contract due to an enrollment decline or loss of revenue may, in his~~
28 ~~or her request for a hearing, stipulate that initiation of the~~
29 ~~arrangements for a hearing officer as provided for by RCW~~
30 ~~28A.405.310(4) shall occur within ten days following July 15 rather~~
31 ~~than the day that the employee submits the request for a hearing))).~~

32 (e) If any ((such)) notification or opportunity for hearing is not
33 timely given under this section, then the employee entitled thereto
34 shall be conclusively presumed to have been reemployed by the district
35 for the next ensuing term upon contractual terms identical with those
36 which would have prevailed if his or her employment had actually been
37 renewed by the board of directors for such ensuing term.

1 (f) This section shall not be applicable to "provisional employees"
2 as so designated in RCW 28A.405.220((+)) or to reductions in workforce
3 due to enrollment decline or revenue loss in accordance with sections
4 101 and 102 of this act.

5 (g) Transfer to a subordinate certificated position as that
6 procedure is set forth in RCW 28A.405.230 or 28A.405.245 shall not be
7 construed as a nonrenewal of contract for the purposes of this section.

8 **Sec. 104.** RCW 28A.405.300 and 2010 c 235 s 305 are each amended to
9 read as follows:

10 Except as provided in sections 101 and 102 of this act, in the
11 event it is determined that there is probable cause or causes for a
12 teacher, principal, supervisor, superintendent, or other certificated
13 employee, holding a position as such with the school district,
14 hereinafter referred to as "employee", to be discharged or otherwise
15 adversely affected in his or her contract status, such employee shall
16 be notified in writing of that decision, which notification shall
17 specify the probable cause or causes for such action. Such
18 determinations of probable cause for certificated employees, other than
19 the superintendent, shall be made by the superintendent. Such notices
20 shall be served upon that employee personally, or by certified or
21 registered mail, or by leaving a copy of the notice at the house of his
22 or her usual abode with some person of suitable age and discretion then
23 resident therein. Every such employee so notified, at his or her
24 request made in writing and filed with the president, chair of the
25 board or secretary of the board of directors of the district within ten
26 days after receiving such notice, shall be granted opportunity for a
27 hearing pursuant to RCW 28A.405.310 to determine whether or not there
28 is sufficient cause or causes for his or her discharge or other adverse
29 action against his or her contract status.

30 In the event any such notice or opportunity for hearing is not
31 timely given, or in the event cause for discharge or other adverse
32 action is not established by a preponderance of the evidence at the
33 hearing, such employee shall not be discharged or otherwise adversely
34 affected in his or her contract status for the causes stated in the
35 original notice for the duration of his or her contract.

36 If such employee does not request a hearing as provided herein,

1 such employee may be discharged or otherwise adversely affected as
2 provided in the notice served upon the employee.

3 Transfer to a subordinate certificated position as that procedure
4 is set forth in RCW 28A.405.230 or 28A.405.245 shall not be construed
5 as a discharge or other adverse action against contract status for the
6 purposes of this section.

7 **PART II**
8 **TEACHER AND PRINCIPAL AGREEMENT ON STAFFING PLACEMENTS**

9 NEW SECTION. **Sec. 201.** A new section is added to chapter 28A.405
10 RCW to read as follows:

11 (1) Any policy adopted by a school district board of directors
12 after the effective date of this section under RCW 28A.150.230 or in a
13 locally bargained agreement must contain a provision stating that a
14 certificated classroom teacher and educational staff associate may be
15 assigned to a particular school only with the mutual consent of the
16 hiring principal and teacher, and, if applicable to local policy, the
17 school-based entity charged with hiring decisions. Before consenting,
18 the principal and, if applicable, the school-based entity charged with
19 hiring, must review the certificated classroom teacher's or educational
20 staff associate's demonstrated effectiveness and qualifications to
21 determine that the qualifications and teaching experience support the
22 instructional practices of the school. The policy of mutual consent
23 hiring shall be referred to as school-based hiring. In making
24 decisions pursuant to this section, a school district must work with
25 the local teachers' association to develop policies for the local
26 school board of directors to adopt. If no association exists in the
27 school district, the school district must create an eight person
28 committee consisting of four school district members and four teachers
29 that must develop the policies. Every school district must adopt a
30 school-based hiring policy no later than when the existing locally
31 bargained agreements are renegotiated upon expiration.

32 (2) Beginning the effective date of this section, any active
33 nonprovisional certificated classroom teacher or educational staff
34 associate whose evaluation rating level during the prior school year
35 was in the top level of a two-level rating system or in the top two
36 levels of a four-level rating system as described in RCW 28A.405.100

1 who has not secured a position through school-based hiring shall be a
2 member of a priority hiring pool. The priority hiring pool must ensure
3 the teacher a right to interview for available positions for which he
4 or she is qualified in a school district.

5 (3)(a) Beginning the effective date of this section, when a
6 determination is made that the services of a certificated classroom
7 teacher or educational staff associate are no longer required for the
8 reasons stated in subsection (6) of this section and the employee is
9 therefore displaced from a particular school but not discharged by the
10 school district, the employee must receive written notification of his
11 or her removal from the school. The notice must be served upon the
12 employee personally or by certified or registered mail, or by leaving
13 a copy of the notice at the house of his or her usual abode with some
14 person of suitable age and discretion who is a resident at the abode.

15 (b) Within ten days of receiving notice, the employee may file a
16 written request with the president, chair, or secretary of the board of
17 directors of the school district for an opportunity for a hearing on
18 the sufficiency of the determination. The school district board of
19 directors must provide an opportunity for a hearing within ten days
20 after the employee submits the request.

21 (c) Upon notice to the teacher, the department of human resources
22 for the school district must immediately provide the employee with a
23 list of all vacant positions for which he or she is qualified, as well
24 as a list of vacancies in any area identified by the school district to
25 be an area of critical need. A list of vacancies within the district
26 must be kept up-to-date and available online. If a displaced employee
27 applies for a vacancy on the list of vacancies then the employee's
28 application must be made to the principal of a listed school and the
29 employee must provide a copy of the application to the school district.
30 When a principal recommends appointment of an applicant to a vacant
31 position, the employee shall be transferred to that position.

32 (4) If a nonprovisional certificated classroom teacher or
33 educational staff associate has been displaced in accordance with this
34 section and is unable to secure a mutual consent assignment at a school
35 in the school district within six months of receiving notification of
36 his or her displacement as provided in subsection (3)(a) of this
37 section or for one summer hiring cycle, whichever is longer, then the
38 school district may not renew the teacher's contract in accordance with

1 RCW 28A.405.210, as lacking an official assignment shall be considered
2 probable cause for the nonrenewal of a contract. If the teacher
3 secures an assignment at a school in the school district at a later
4 date, the school district must reinstate the teacher's salary and
5 benefits at the level they were when the teacher's contract was
6 nonrenewed.

7 (5) Nothing in this section limits the ability of a school district
8 to place a teacher in a six-month or other limited term assignment,
9 including, but not limited to, a substitute assignment, or
10 instructional support role during the period in which the teacher is
11 attempting to secure a classroom assignment through school-based
12 hiring. Such a limited term assignment does not constitute an
13 assignment through school-based hiring and may not be deemed to
14 interrupt the period in which the teacher is required to secure an
15 assignment through school-based hiring before the district does not
16 renew the teacher's contract.

17 (6) This section applies to any teacher who is displaced as a
18 result of, but not limited to, a transfer request; drop in enrollment;
19 phase-out; reduction in program; reduction in building; or
20 implementation of a federal or state accountability intervention model
21 such as turnaround, school closure, or transformation model.

22 (7) Nothing in this section may be interpreted as nullifying the
23 right of a school district board of directors or superintendent to
24 involuntarily transfer a teacher if the right is expressed in board
25 policy or a locally bargained agreement. However, any such assignment
26 resulting from this transfer must be mutually consented to by the
27 teacher and principal in order to comply with the school-based hiring
28 policy in this section.

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