
HOUSE BILL 2110

State of Washington 62nd Legislature 2011 1st Special Session

By Representatives Lytton, Dammeier, Frockt, Seaquist, Appleton, Finn, Ryu, Moscoso, Angel, Fagan, Dahlquist, Wilcox, Rolfes, Carlyle, Ladenburg, and Hunt

Read first time 05/05/11. Referred to Committee on Education.

1 AN ACT Relating to changing the deadline for notices of nonrenewal
2 of contracts for certificated school employees; amending RCW
3 28A.405.210, 28A.405.220, 28A.405.230, 28A.405.245, and 28A.310.250;
4 and declaring an emergency.

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

6 **Sec. 1.** RCW 28A.405.210 and 2010 c 235 s 303 are each amended to
7 read as follows:

8 No teacher, principal, supervisor, superintendent, or other
9 certificated employee, holding a position as such with a school
10 district, hereinafter referred to as "employee", shall be employed
11 except by written order of a majority of the directors of the district
12 at a regular or special meeting thereof, nor unless he or she is the
13 holder of an effective teacher's certificate or other certificate
14 required by law or the Washington professional educator standards board
15 for the position for which the employee is employed.

16 The board shall make with each employee employed by it a written
17 contract, which shall be in conformity with the laws of this state, and
18 except as otherwise provided by law, limited to a term of not more than
19 one year. Every such contract shall be made in duplicate, one copy to

1 be retained by the school district superintendent or secretary and one
2 copy to be delivered to the employee. No contract shall be offered by
3 any board for the employment of any employee who has previously signed
4 an employment contract for that same term in another school district of
5 the state of Washington unless such employee shall have been released
6 from his or her obligations under such previous contract by the board
7 of directors of the school district to which he or she was obligated.
8 Any contract signed in violation of this provision shall be void.

9 In the event it is determined that there is probable cause or
10 causes that the employment contract of an employee should not be
11 renewed by the district for the next ensuing term such employee shall
12 be notified in writing on or before May 15th preceding the commencement
13 of such term of that determination, or if the omnibus appropriations
14 act has not passed the legislature by (~~May 15th~~) the end of the
15 regular legislative session for that year, then notification shall be
16 no later than June 15th, which notification shall specify the cause or
17 causes for nonrenewal of contract. Such determination of probable
18 cause for certificated employees, other than the superintendent, shall
19 be made by the superintendent. Such notice shall be served upon the
20 employee personally, or by certified or registered mail, or by leaving
21 a copy of the notice at the house of his or her usual abode with some
22 person of suitable age and discretion then resident therein. Every
23 such employee so notified, at his or her request made in writing and
24 filed with the president, chair or secretary of the board of directors
25 of the district within ten days after receiving such notice, shall be
26 granted opportunity for hearing pursuant to RCW 28A.405.310 to
27 determine whether there is sufficient cause or causes for nonrenewal of
28 contract: PROVIDED, That any employee receiving notice of nonrenewal
29 of contract due to an enrollment decline or loss of revenue may, in his
30 or her request for a hearing, stipulate that initiation of the
31 arrangements for a hearing officer as provided for by RCW
32 28A.405.310(4) shall occur within ten days following July 15 rather
33 than the day that the employee submits the request for a hearing. If
34 any such notification or opportunity for hearing is not timely given,
35 the employee entitled thereto shall be conclusively presumed to have
36 been reemployed by the district for the next ensuing term upon
37 contractual terms identical with those which would have prevailed if

1 his or her employment had actually been renewed by the board of
2 directors for such ensuing term.

3 This section shall not be applicable to "provisional employees" as
4 so designated in RCW 28A.405.220; transfer to a subordinate
5 certificated position as that procedure is set forth in RCW 28A.405.230
6 or 28A.405.245 shall not be construed as a nonrenewal of contract for
7 the purposes of this section.

8 **Sec. 2.** RCW 28A.405.220 and 2010 c 235 s 203 are each amended to
9 read as follows:

10 (1) Notwithstanding the provisions of RCW 28A.405.210, every person
11 employed by a school district in a teaching or other nonsupervisory
12 certificated position shall be subject to nonrenewal of employment
13 contract as provided in this section during the first three years of
14 employment by such district, unless: (a) The employee has previously
15 completed at least two years of certificated employment in another
16 school district in the state of Washington, in which case the employee
17 shall be subject to nonrenewal of employment contract pursuant to this
18 section during the first year of employment with the new district; or
19 (b) the school district superintendent may make a determination to
20 remove an employee from provisional status if the employee has received
21 one of the top two evaluation ratings during the second year of
22 employment by the district. Employees as defined in this section shall
23 hereinafter be referred to as "provisional employees."

24 (2) In the event the superintendent of the school district
25 determines that the employment contract of any provisional employee
26 should not be renewed by the district for the next ensuing term such
27 provisional employee shall be notified thereof in writing on or before
28 May 15th preceding the commencement of such school term, or if the
29 omnibus appropriations act has not passed the legislature by (~~May~~
30 ~~15th~~) the end of the regular legislative session for that year, then
31 notification shall be no later than June 15th, which notification shall
32 state the reason or reasons for such determination. Such notice shall
33 be served upon the provisional employee personally, or by certified or
34 registered mail, or by leaving a copy of the notice at the place of his
35 or her usual abode with some person of suitable age and discretion then
36 resident therein. The determination of the superintendent shall be
37 subject to the evaluation requirements of RCW 28A.405.100.

1 (3) Every such provisional employee so notified, at his or her
2 request made in writing and filed with the superintendent of the
3 district within ten days after receiving such notice, shall be given
4 the opportunity to meet informally with the superintendent for the
5 purpose of requesting the superintendent to reconsider his or her
6 decision. Such meeting shall be held no later than ten days following
7 the receipt of such request, and the provisional employee shall be
8 given written notice of the date, time and place of meeting at least
9 three days prior thereto. At such meeting the provisional employee
10 shall be given the opportunity to refute any facts upon which the
11 superintendent's determination was based and to make any argument in
12 support of his or her request for reconsideration.

13 (4) Within ten days following the meeting with the provisional
14 employee, the superintendent shall either reinstate the provisional
15 employee or shall submit to the school district board of directors for
16 consideration at its next regular meeting a written report recommending
17 that the employment contract of the provisional employee be nonrenewed
18 and stating the reason or reasons therefor. A copy of such report
19 shall be delivered to the provisional employee at least three days
20 prior to the scheduled meeting of the board of directors. In taking
21 action upon the recommendation of the superintendent, the board of
22 directors shall consider any written communication which the
23 provisional employee may file with the secretary of the board at any
24 time prior to that meeting.

25 (5) The board of directors shall notify the provisional employee in
26 writing of its final decision within ten days following the meeting at
27 which the superintendent's recommendation was considered. The decision
28 of the board of directors to nonrenew the contract of a provisional
29 employee shall be final and not subject to appeal.

30 (6) This section applies to any person employed by a school
31 district in a teaching or other nonsupervisory certificated position
32 after June 25, 1976. This section provides the exclusive means for
33 nonrenewing the employment contract of a provisional employee and no
34 other provision of law shall be applicable thereto, including, without
35 limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

36 **Sec. 3.** RCW 28A.405.230 and 2010 c 235 s 304 are each amended to
37 read as follows:

1 Any certificated employee of a school district employed as an
2 assistant superintendent, director, principal, assistant principal,
3 coordinator, or in any other supervisory or administrative position,
4 hereinafter in this section referred to as "administrator", shall be
5 subject to transfer, at the expiration of the term of his or her
6 employment contract, to any subordinate certificated position within
7 the school district. "Subordinate certificated position" as used in
8 this section, shall mean any administrative or nonadministrative
9 certificated position for which the annual compensation is less than
10 the position currently held by the administrator.

11 Every superintendent determining that the best interests of the
12 school district would be served by transferring any administrator to a
13 subordinate certificated position shall notify that administrator in
14 writing on or before May 15th preceding the commencement of such school
15 term of that determination, or if the omnibus appropriations act has
16 not passed the legislature by (~~May 15th~~) the end of the regular
17 legislative session for that year, then notification shall be no later
18 than June 15th, which notification shall state the reason or reasons
19 for the transfer, and shall identify the subordinate certificated
20 position to which the administrator will be transferred. Such notice
21 shall be served upon the administrator personally, or by certified or
22 registered mail, or by leaving a copy of the notice at the place of his
23 or her usual abode with some person of suitable age and discretion then
24 resident therein.

25 Every such administrator so notified, at his or her request made in
26 writing and filed with the president or chair, or secretary of the
27 board of directors of the district within ten days after receiving such
28 notice, shall be given the opportunity to meet informally with the
29 board of directors in an executive session thereof for the purpose of
30 requesting the board to reconsider the decision of the superintendent.
31 Such board, upon receipt of such request, shall schedule the meeting
32 for no later than the next regularly scheduled meeting of the board,
33 and shall notify the administrator in writing of the date, time and
34 place of the meeting at least three days prior thereto. At such
35 meeting the administrator shall be given the opportunity to refute any
36 facts upon which the determination was based and to make any argument
37 in support of his or her request for reconsideration. The
38 administrator and the board may invite their respective legal counsel

1 to be present and to participate at the meeting. The board shall
2 notify the administrator in writing of its final decision within ten
3 days following its meeting with the administrator. No appeal to the
4 courts shall lie from the final decision of the board of directors to
5 transfer an administrator to a subordinate certificated position:
6 PROVIDED, That in the case of principals such transfer shall be made at
7 the expiration of the contract year and only during the first three
8 consecutive school years of employment as a principal by a school
9 district; except that if any such principal has been previously
10 employed as a principal by another school district in the state of
11 Washington for three or more consecutive school years the provisions of
12 this section shall apply only to the first full school year of such
13 employment.

14 This section applies to any person employed as an administrator by
15 a school district on June 25, 1976, and to all persons so employed at
16 any time thereafter, except that RCW 28A.405.245 applies to persons
17 first employed after June 10, 2010, as a principal by a school district
18 meeting the criteria of RCW 28A.405.245. This section provides the
19 exclusive means for transferring an administrator subject to this
20 section to a subordinate certificated position at the expiration of the
21 term of his or her employment contract.

22 **Sec. 4.** RCW 28A.405.245 and 2010 c 235 s 302 are each amended to
23 read as follows:

24 (1) Any certificated employee of a school district under this
25 section who is first employed as a principal after June 10, 2010, shall
26 be subject to transfer as provided under this section, at the
27 expiration of the term of his or her employment contract, to any
28 subordinate certificated position within the school district.
29 "Subordinate certificated position" as used in this section means any
30 administrative or nonadministrative certificated position for which the
31 annual compensation is less than the position currently held by the
32 administrator. This section applies only to school districts with an
33 annual average student enrollment of more than thirty-five thousand
34 full-time equivalent students.

35 (2) During the first three consecutive school years of employment
36 as a principal by the school district, or during the first full school
37 year of such employment in the case of a principal who has been

1 previously employed as a principal by another school district in the
2 state for three or more consecutive school years, the transfer of the
3 principal to a subordinate certificated position may be made by a
4 determination of the superintendent that the best interests of the
5 school district would be served by the transfer.

6 (3) Commencing with the fourth consecutive school year of
7 employment as a principal, or the second consecutive school year of
8 such employment in the case of a principal who has been previously
9 employed as a principal by another school district in the state for
10 three or more consecutive school years, the transfer of the principal
11 to a subordinate certificated position shall be based on the
12 superintendent's determination that the results of the evaluation of
13 the principal's performance using the evaluative criteria and rating
14 system established under RCW 28A.405.100 provide a valid reason for the
15 transfer without regard to whether there is probable cause for the
16 transfer. If a valid reason is shown, it shall be deemed that the
17 transfer is reasonably related to the principal's performance. No
18 probationary period is required. However, provision of support and an
19 attempt at remediation of the performance of the principal, as defined
20 by the superintendent, are required for a determination by the
21 superintendent under this subsection that the principal should be
22 transferred to a subordinate certificated position.

23 (4) Any superintendent transferring a principal under this section
24 to a subordinate certificated position shall notify that principal in
25 writing on or before May 15th before the beginning of the school year
26 of that determination, or if the omnibus appropriations act has not
27 passed the legislature by (~~May 15th~~) the end of the regular
28 legislative session for that year, then notification shall be no later
29 than June 15th. The notification shall state the reason or reasons for
30 the transfer and shall identify the subordinate certificated position
31 to which the principal will be transferred. The notification shall be
32 served upon the principal personally, or by certified or registered
33 mail, or by leaving a copy of the notice at the place of his or her
34 usual abode with some person of suitable age and discretion then
35 resident therein.

36 (5) Any principal so notified may request to the president or chair
37 of the board of directors of the district, in writing and within ten
38 days after receiving notice, an opportunity to meet informally with the

1 board of directors in an executive session for the purpose of
2 requesting the board to reconsider the decision of the superintendent,
3 and shall be given such opportunity. The board, upon receipt of such
4 request, shall schedule the meeting for no later than the next
5 regularly scheduled meeting of the board, and shall give the principal
6 written notice at least three days before the meeting of the date,
7 time, and place of the meeting. At the meeting the principal shall be
8 given the opportunity to refute any evidence upon which the
9 determination was based and to make any argument in support of his or
10 her request for reconsideration. The principal and the board may
11 invite their respective legal counsel to be present and to participate
12 at the meeting. The board shall notify the principal in writing of its
13 final decision within ten days following its meeting with the
14 principal. No appeal to the courts shall lie from the final decision
15 of the board of directors to transfer a principal to a subordinate
16 certificated position.

17 (6) This section provides the exclusive means for transferring a
18 certificated employee first employed by a school district under this
19 section as a principal after June 10, 2010, to a subordinate
20 certificated position at the expiration of the term of his or her
21 employment contract.

22 **Sec. 5.** RCW 28A.310.250 and 2009 c 57 s 4 are each amended to read
23 as follows:

24 No certificated employee of an educational service district shall
25 be employed as such except by written contract, which shall be in
26 conformity with the laws of this state. Every such contract shall be
27 made in duplicate, one copy of which shall be retained by the
28 educational service district superintendent and the other shall be
29 delivered to the employee.

30 Every educational service district superintendent or board
31 determining that there is probable cause or causes that the employment
32 contract of a certificated employee thereof is not to be renewed for
33 the next ensuing term shall be notified in writing on or before May
34 15th preceding the commencement of such term of that determination or
35 if the omnibus appropriations act has not passed the legislature by
36 (~~May 15th~~) the end of the regular legislative session for that year,
37 then notification shall be no later than June 15th, which notification

1 shall specify the cause or causes for nonrenewal of contract. Such
2 notice shall be served upon that employee personally, or by certified
3 or registered mail, or by leaving a copy of the notice at the house of
4 his or her usual abode with some person of suitable age and discretion
5 then resident therein. The procedure and standards for the review of
6 the decision of the hearing officer, superintendent or board and appeal
7 therefrom shall be as prescribed for nonrenewal cases of teachers in
8 RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010.
9 Appeals may be filed in the superior court of any county in the
10 educational service district.

11 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 immediately.

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