
Education Committee

HB 1386

Brief Description: Concerning school employee workforce reductions.

Sponsors: Representatives Magendanz, Muri, Hargrove, McCaslin and Pettigrew.

Brief Summary of Bill

- Describes a new performance based framework and procedures for reductions in force (RIFs) due to enrollment decline or revenue loss.
- Outlines a process for RIFs due to enrollment declines or revenue losses that is separated and differentiated from that established for nonrenewals based on probable cause.

Hearing Date: 2/3/15

Staff: Megan Wargacki (786-7194).

Background:

Employment Contracts.

Certificated employees, including classroom teachers and educational staff associates (ex. nurse, social worker, physical therapist, counselor) may only be hired by written order of the majority of the school board directors. The school board must make a written contract with each certificated employee, which must be limited to a one-year term.

Nonrenewal for Probable Cause.

When the board has probable cause that an employment contract should not be renewed, the board must notify the employee in writing with the cause for nonrenewal, on or before May 15th, unless the omnibus appropriations act has not yet passed, in which case the notification must be no later than June 15th. A nonrenewed employee may request a hearing to determine whether there is sufficient cause for the nonrenewal.

Performance Evaluations.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Certain aspects of performance evaluation for certificated school employees are specified in statute, such as minimum evaluation criteria and the requirement that probation and nonrenewal of contracts must be based on performance judged "not satisfactory." Beyond the minimums provided in statute, the details of the process and criteria for evaluation are subjects of collective bargaining.

Legislation enacted in 2010 directed development of revised evaluation systems specifically for teachers and principals, including eight new evaluation criteria for teachers, eight criteria for principals, and a four-level rating system. Beginning no later than the 2013-14 school year, each district adopted an implementation schedule that transitions all teacher and principal evaluations to the new systems by the 2015-16 school year. Evaluations must be performed annually, with comprehensive evaluations at least every four years.

Using Evaluations to Inform Human Resources Decisions.

Washington law guides how districts use teacher evaluations in making human resource decisions, including whether a struggling teacher's contract is renewed, and whether a teacher moves from provisional to continuing contract status. Districts may use evaluations in decisions related to transfers, hiring, and layoffs, also called reductions in force (RIFs) .

In 2012, the Legislature asked the Superintendent of Public Instruction to report to the Legislature and Governor on the best practices for using the teacher and principal evaluations and other appropriate elements in school district human resource and personnel practices. The same legislation required that evaluation results be used as one of multiple factors in making human resource and personnel decisions, including RIFs, beginning with the 2015-16 school year. The December 2013 report recommended:

- training on the evaluations to ensure calibration for evaluators and knowledge of the rubric for everyone;
- maintaining the existing rule related to using "multiple measures" in teacher RIFs decisions; and
- delaying the use of teacher evaluation data in RIFs decisions until the evaluation system is fully implemented statewide.

Summary of Bill:

Reductions in Force of Certificated Staff and Educational Staff Associates due to Enrollment Decline or Revenue Loss.

A performance based framework governing RIFs due to declines in enrollment or revenue losses is set forth in statute. Past performance evaluations are key to determining the order in which certificated staff and educational staff associate (ESA) employment contracts within each particular certification or endorsement area are nonrenewed:

- If no evaluation data is available for a particular teacher or ESA, his or her contract must be nonrenewed first.
- In the event evaluation data is available, a teacher or ESA who received the lowest evaluation rating when averaging the two most recent evaluations according to a specified, weighted formula must be nonrenewed before a teacher or ESA with a higher two year average rating. The most recent evaluation available is weighted by 60 percent while the next most recent is weighted by 40 percent.

- If only one year's evaluation is available, this rating is to be used in place of the two year average.
- In the event of a tie, preference is given to the teacher or ESA with the greatest number of years teaching in the district. Additional criteria established in school board policy or the applicable collective bargaining agreement may also be determinative in a tie situation, but any such additional criteria must be established only if the contract or policy is in the best interest of the students.

Teachers and ESAs whose contracts have been nonrenewed due to enrollment decline or revenue loss are to be recalled in the reverse order that their contracts were nonrenewed. Recall rights may last only three years.

All collective bargaining agreements entered into after the effective date of the act must be consistent with this statutory framework.

RIF Process and Procedure.

The process for RIFs due to enrollment declines or revenue losses is separated and differentiated from that established for nonrenewals based on probable cause. The time frame for notice remains the same. There is no opportunity for a hearing, rather, the employee who receives such a notification may make a written request to meet informally with the superintendent for the purpose of requesting that the superintendent reconsider the decision. The request must be made within 10 days of receipt of the notice, and the meeting must occur within 10 days of the request being made. At the meeting, the employee must be given the opportunity to refute any facts upon which the superintendent's determinations was based and to make any argument in support of his or her request for reconsideration.

Within 10 days following that meeting, the superintendent must either reinstate the employee or submit to the school board, for consideration at its next regular meeting, a written report recommending that the employee's contract be nonrenewed and stating the reasons for nonrenewal. The employee must be copied with this report at least three days prior to the board meeting. In taking action on the report, the board must consider any written communication that the employee files before the meeting.

Within 10 days following the meeting, the board must provide the employee with written notice of its final decision. This decision may be appealed to the superior court in which the school district is located.

This process applies to any person employed by a school district in a certificated classroom teaching or ESA position after the effective date of this act.

Technical changes are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.