
HOUSE BILL 1386

State of Washington 64th Legislature 2015 Regular Session

By Representatives Magendanz, Muri, Hargrove, McCaslin, and Pettigrew

Read first time 01/19/15. Referred to Committee on Education.

1 AN ACT Relating to school employee workforce reductions; amending
2 RCW 28A.405.210 and 28A.405.300; adding new sections to chapter
3 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 students and educators succeed - schools must build cultures where
8 all 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 ensuring that
13 teachers who do the best work are the ones who keep their jobs when
14 budgets need to be cut, by basing reduction in force policies on the
15 evaluations the legislature has outlined for measuring teacher
16 performance. Since the loss of teachers through layoffs already
17 impacts student learning, there is an urgent need to conduct layoffs
18 in a way that retains the most effective teachers. Educators deserve
19 to be recognized for their ability to help students learn and
20 students deserve the very best and brightest teachers.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.405
2 RCW to read as follows:

3 (1) When reductions in the workforce occur due to enrollment
4 decline or revenue loss, the employment contracts of any certificated
5 classroom teacher and educational staff associate must be nonrenewed
6 in the following manner within each particular certification or
7 endorsement area. Certificated classroom teachers and educational
8 staff associates who received the lowest evaluation rating, as
9 described in RCW 28A.405.100, when averaging their two most recent
10 evaluations in accordance with the method in subsection (2) of this
11 section, must have their contracts nonrenewed first, with nonrenewals
12 continuing to proceed upward through the two-year average ratings in
13 such a manner. Any determination that must be made between teachers
14 who received the same averaged rating must provide a preference for
15 teachers who have the greatest number of years teaching in the school
16 district and any additional criteria established in the policy of the
17 board or locally bargained agreement; except that any such additional
18 criteria may be established only if the contract or policy is in the
19 best interest of the students.

20 (2) For the purposes of calculating two-year averages as provided
21 in subsection (1) of this section, the average must weigh the
22 teacher's most recent evaluation by sixty percent and his or her
23 prior year's rating by forty percent. The numbers to be used in
24 calculating these averages are as follows, the lowest evaluation
25 rating is worth zero points, and the highest evaluation rating is
26 worth 4.25 points. If a four-tiered evaluation system is being used,
27 then the second highest evaluation rating is worth 2.75 points and
28 the third highest evaluation rating is worth four points. The
29 weighted two-year average shall be multiplied by a factor of 1.05 to
30 ensure that the averaging of ratings for teachers with reasonable
31 variation in their evaluations does not result in lowering their
32 rating below teachers with similar ratings based on only one year's
33 evaluation rating. The final two-year weighted average shall be
34 rounded to the hundredth place before being used for the decisions
35 made under subsection (1) of this section. Teachers with only one
36 year of evaluation ratings must use this evaluation rating in place
37 of a two-year average.

38 (3) For the purposes in subsection (1) of this section, any
39 certificated classroom teacher or educational staff associate for
40 whom no evaluation data is available must have his or her employment

1 contract nonrenewed before any other certificated classroom teacher
2 or educational staff associate within his or her certification or
3 endorsement area. If data collection allows, school leaders should
4 make an effort to complete evaluations before the district is
5 required to make contract renewal decisions.

6 (4) Any school district whose board policies or locally bargained
7 agreement outlines recall rights for certificated classroom teachers
8 and educational staff associates must recall staff in the reverse
9 order contracts were nonrenewed as provided for in subsection (1) of
10 this section. No school district policy may offer recall rights for
11 more than three years.

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

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.405
17 RCW to read as follows:

18 (1) In the event that the determination that the employment
19 contract of a certificated classroom teacher or educational staff
20 associate will not be renewed by the district in accordance with
21 section 2 of this act, the employee must be notified in writing on or
22 before May 15th or if the omnibus appropriations act has not passed
23 the legislature by May 15th, then notification must be no later than
24 June 15th. The notification must state the reason or reasons for the
25 determination. The notice must be served upon the employee
26 personally, or by certified or registered mail, or by leaving a copy
27 of the notice at the place of his or her usual abode with some person
28 of suitable age and discretion then resident therein.

29 (2) Every employee who receives notification under this section,
30 at his or her request made in writing and filed with the
31 superintendent of the district within ten days after receiving the
32 notice, must be given the opportunity to meet informally with the
33 superintendent for the purpose of requesting the superintendent to
34 reconsider the decision. The meeting must be held no later than ten
35 days following the receipt of the request, and the employee must be
36 given written notice of the date, time, and place of meeting at least
37 three days prior thereto. At the meeting, the employee must be given
38 the opportunity to refute any facts upon which the superintendent's

1 determination was based and to make any argument in support of his or
2 her request for reconsideration.

3 (3) Within ten days following the meeting with the employee, the
4 superintendent must either reinstate the employee or submit to the
5 school district board of directors for consideration at its next
6 regular meeting a written report recommending that the employment
7 contract of the employee be nonrenewed and stating the reason or
8 reasons for nonrenewal. A copy of the report must be delivered to the
9 employee at least three days before the scheduled meeting of the
10 board of directors. In taking action upon the recommendation of the
11 superintendent, the board of directors must consider any written
12 communication that the employee files with the secretary of the board
13 at any time before that meeting.

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

21 (5) This section applies to any person employed by a school
22 district in a certificated classroom teaching or education staff
23 associate position after the effective date of this section. This
24 section provides the exclusive means for nonrenewing the employment
25 contract due to enrollment decline or revenue loss of any such
26 employee and no other provision of law is applicable, including RCW
27 28A.405.210, 28A.405.300, and 28A.405.310.

28 **Sec. 4.** RCW 28A.405.210 and 2010 c 235 s 303 are each amended to
29 read as follows:

30 (1) No teacher, principal, supervisor, superintendent, or other
31 certificated employee, holding a position as such with a school
32 district, hereinafter referred to as "employee", shall be employed
33 except by written order of a majority of the directors of the
34 district at a regular or special meeting thereof, nor unless he or
35 she is the holder of an effective teacher's certificate or other
36 certificate required by law or the Washington professional educator
37 standards board for the position for which the employee is employed.

38 (2) The board shall make with each employee employed by it a
39 written contract, which shall be in conformity with the laws of this

1 state, and except as otherwise provided by law, limited to a term of
2 not more than one year. Every such contract shall be made in
3 duplicate, one copy to be retained by the school district
4 superintendent or secretary and one copy to be delivered to the
5 employee. No contract shall be offered by any board for the
6 employment of any employee who has previously signed an employment
7 contract for that same term in another school district of the state
8 of Washington unless such employee shall have been released from his
9 or her obligations under such previous contract by the board of
10 directors of the school district to which he or she was obligated.
11 Any contract signed in violation of this provision shall be void.

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

20 ((Such))

21 (b) The determination of probable cause for certificated
22 employees, other than the superintendent, shall be made by the
23 superintendent. ((Such))

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

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

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

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

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

16 **Sec. 5.** RCW 28A.405.300 and 2010 c 235 s 305 are each amended to
17 read as follows:

18 Except as provided in sections 2 and 3 of this act, in the event
19 it is determined that there is probable cause or causes for a
20 teacher, principal, supervisor, superintendent, or other certificated
21 employee, holding a position as such with the school district,
22 hereinafter referred to as "employee", to be discharged or otherwise
23 adversely affected in his or her contract status, such employee shall
24 be notified in writing of that decision, which notification shall
25 specify the probable cause or causes for such action. Such
26 determinations of probable cause for certificated employees, other
27 than the superintendent, shall be made by the superintendent. Such
28 notices shall be served upon that employee personally, or by
29 certified or registered mail, or by leaving a copy of the notice at
30 the house of his or her usual abode with some person of suitable age
31 and discretion then resident therein. Every such employee so
32 notified, at his or her request made in writing and filed with the
33 president, chair of the board or secretary of the board of directors
34 of the district within ten days after receiving such notice, shall be
35 granted opportunity for a hearing pursuant to RCW 28A.405.310 to
36 determine whether or not there is sufficient cause or causes for his
37 or her discharge or other adverse action against his or her contract
38 status.

1 In the event any such notice or opportunity for hearing is not
2 timely given, or in the event cause for discharge or other adverse
3 action is not established by a preponderance of the evidence at the
4 hearing, such employee shall not be discharged or otherwise adversely
5 affected in his or her contract status for the causes stated in the
6 original notice for the duration of his or her contract.

7 If such employee does not request a hearing as provided herein,
8 such employee may be discharged or otherwise adversely affected as
9 provided in the notice served upon the employee.

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

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