

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 2023**

64th Legislature  
2016 Regular Session

Passed by the House February 17, 2016  
Yeas 98 Nays 0

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**Speaker of the House of Representatives**

Passed by the Senate March 1, 2016  
Yeas 46 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2023** as passed by House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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HOUSE BILL 2023

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Passed Legislature - 2016 Regular Session

State of Washington

64th Legislature

2015 Regular Session

By Representatives Parker, Lytton, Magendanz, Riccelli, Ormsby, Fagan, and Santos

Read first time 02/06/15. Referred to Committee on Education.

1 AN ACT Relating to changing the deadline for notices of  
2 nonrenewal of contracts for certificated school employees; amending  
3 RCW 28A.405.210, 28A.405.220, 28A.405.230, 28A.405.245, and  
4 28A.310.250; 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  
12 district at a regular or special meeting thereof, nor unless he or  
13 she is the holder of an effective teacher's certificate or other  
14 certificate required by law or the Washington professional educator  
15 standards board 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,  
18 and except as otherwise provided by law, limited to a term of not  
19 more than one year. Every such contract shall be made in duplicate,  
20 one copy to be retained by the school district superintendent or  
21 secretary and one copy to be delivered to the employee. No contract

1 shall be offered by any board for the employment of any employee who  
2 has previously signed an employment contract for that same term in  
3 another school district of the state of Washington unless such  
4 employee shall have been released from his or her obligations under  
5 such previous contract by the board of directors of the school  
6 district to which he or she was obligated. Any contract signed in  
7 violation of this provision shall be void.

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

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

6 **Sec. 2.** RCW 28A.405.220 and 2012 c 35 s 7 are each amended to  
7 read as follows:

8 (1) Notwithstanding the provisions of RCW 28A.405.210, every  
9 person employed by a school district in a teaching or other  
10 nonsupervisory certificated position shall be subject to nonrenewal  
11 of employment contract as provided in this section during the first  
12 three years of employment by such district, unless: (a) The employee  
13 has previously completed at least two years of certificated  
14 employment in another school district in the state of Washington, in  
15 which case the employee shall be subject to nonrenewal of employment  
16 contract pursuant to this section during the first year of employment  
17 with the new district; or (b) the employee has received an evaluation  
18 rating below level 2 on the four-level rating system established  
19 under RCW 28A.405.100 during the third year of employment, in which  
20 case the employee shall remain subject to the nonrenewal of the  
21 employment contract until the employee receives a level 2 rating; or  
22 (c) the school district superintendent may make a determination to  
23 remove an employee from provisional status if the employee has  
24 received one of the top two evaluation ratings during the second year  
25 of employment by the district. Employees as defined in this section  
26 shall hereinafter be referred to as "provisional employees."

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

1 therein. The determination of the superintendent shall be subject to  
2 the evaluation requirements of RCW 28A.405.100.

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

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

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

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

38 **Sec. 3.** RCW 28A.405.230 and 2010 c 235 s 304 are each amended to  
39 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  
13 a subordinate certificated position shall notify that administrator  
14 in writing on or before May 15th preceding the commencement of such  
15 school term of that determination, or if the omnibus appropriations  
16 act has not passed the legislature by (~~May 15th~~)the end of the  
17 regular legislative session for that year, then notification shall be  
18 no later than June 15th, which notification shall state the reason or  
19 reasons for the transfer, and shall identify the subordinate  
20 certificated position to which the administrator will be transferred.  
21 Such notice shall be served upon the administrator personally, or by  
22 certified or registered mail, or by leaving a copy of the notice at  
23 the place of his or her usual abode with some person of suitable age  
24 and discretion then resident therein.

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

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

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

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

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

33 (2) During the first three consecutive school years of employment  
34 as a principal by the school district, or during the first full  
35 school year of such employment in the case of a principal who has  
36 been previously employed as a principal by another school district in  
37 the state for three or more consecutive school years, the transfer of  
38 the principal to a subordinate certificated position may be made by a

1 determination of the superintendent that the best interests of the  
2 school district would be served by the transfer.

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

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

33 (5) Any principal so notified may request to the president or  
34 chair of the board of directors of the district, in writing and  
35 within ten days after receiving notice, an opportunity to meet  
36 informally with the board of directors in an executive session for  
37 the purpose of requesting the board to reconsider the decision of the  
38 superintendent, and shall be given such opportunity. The board, upon  
39 receipt of such request, shall schedule the meeting for no later than  
40 the next regularly scheduled meeting of the board, and shall give the



1 principal written notice at least three days before the meeting of  
2 the date, time, and place of the meeting. At the meeting the  
3 principal shall be given the opportunity to refute any evidence upon  
4 which the determination was based and to make any argument in support  
5 of his or her request for reconsideration. The principal and the  
6 board may invite their respective legal counsel to be present and to  
7 participate at the meeting. The board shall notify the principal in  
8 writing of its final decision within ten days following its meeting  
9 with the principal. No appeal to the courts shall lie from the final  
10 decision of the board of directors to transfer a principal to a  
11 subordinate certificated position.

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

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

19 No certificated employee of an educational service district shall  
20 be employed as such except by written contract, which shall be in  
21 conformity with the laws of this state. Every such contract shall be  
22 made in duplicate, one copy of which shall be retained by the  
23 educational service district superintendent and the other shall be  
24 delivered to the employee.

25 Every educational service district superintendent or board  
26 determining that there is probable cause or causes that the  
27 employment contract of a certificated employee thereof is not to be  
28 renewed for the next ensuing term shall be notified in writing on or  
29 before May 15th preceding the commencement of such term of that  
30 determination or if the omnibus appropriations act has not passed the  
31 legislature by (~~May 15th~~)the end of the regular legislative session  
32 for that year, then notification shall be no later than June 15th,  
33 which notification shall specify the cause or causes for nonrenewal  
34 of contract. Such notice shall be served upon that employee  
35 personally, or by certified or registered mail, or by leaving a copy  
36 of the notice at the house of his or her usual abode with some person  
37 of suitable age and discretion then resident therein. The procedure  
38 and standards for the review of the decision of the hearing officer,  
39 superintendent or board and appeal therefrom shall be as prescribed

1 for nonrenewal cases of teachers in RCW 28A.405.210, 28A.405.300  
2 through 28A.405.380, and 28A.645.010. Appeals may be filed in the  
3 superior court of any county in the educational service district.

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

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