

CERTIFICATION OF ENROLLMENT

SENATE BILL 5487

61st Legislature
2009 Regular Session

Passed by the Senate March 9, 2009
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 1, 2009
YEAS 96 NAYS 1

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5487** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5487

Passed Legislature - 2009 Regular Session

State of Washington

61st Legislature

2009 Regular Session

By Senator Brandland

Read first time 01/23/09. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to notification of nonrenewal of contracts for
2 certificated employees; amending RCW 28A.405.210, 28A.405.220,
3 28A.405.230, and 28A.310.250; and declaring an emergency.

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

5 **Sec. 1.** RCW 28A.405.210 and 2005 c 497 s 216 are each amended to
6 read as follows:

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

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

1 copy to be delivered to the employee. No contract shall be offered by
2 any board for the employment of any employee who has previously signed
3 an employment contract for that same term in another school district of
4 the state of Washington unless such employee shall have been released
5 from his or her obligations under such previous contract by the board
6 of directors of the school district to which he or she was obligated.
7 Any contract signed in 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 commencement
12 of such term of that determination, or if the omnibus appropriations
13 act has not passed the legislature by May 15th, then notification shall
14 be no later than June (~~1st~~) 15th, which notification shall specify
15 the cause or causes for nonrenewal of contract. Such determination of
16 probable cause for certificated employees, other than the
17 superintendent, shall be made by the superintendent. Such notice shall
18 be served upon the employee personally, or by certified or registered
19 mail, or by leaving a copy of the notice at the house of his or her
20 usual abode with some person of suitable age and discretion then
21 resident therein. Every such employee so notified, at his or her
22 request made in writing and filed with the president, chair or
23 secretary of the board of directors of the district within ten days
24 after receiving such notice, shall be granted opportunity for hearing
25 pursuant to RCW 28A.405.310 to determine whether there is sufficient
26 cause or causes for nonrenewal of contract: PROVIDED, That any
27 employee receiving notice of nonrenewal of contract due to an
28 enrollment decline or loss of revenue may, in his or her request for a
29 hearing, stipulate that initiation of the arrangements for a hearing
30 officer as provided for by RCW 28A.405.310(4) shall occur within ten
31 days following July 15 rather than the day that the employee submits
32 the request for a hearing. If any such notification or opportunity for
33 hearing is not timely given, the employee entitled thereto shall be
34 conclusively presumed to have been reemployed by the district for the
35 next ensuing term upon contractual terms identical with those which
36 would have prevailed if his or her employment had actually been renewed
37 by the board of directors for such ensuing term.

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

6 **Sec. 2.** RCW 28A.405.220 and 1996 c 201 s 2 are each amended to
7 read as follows:

8 Notwithstanding the provisions of RCW 28A.405.210, every person
9 employed by a school district in a teaching or other nonsupervisory
10 certificated position shall be subject to nonrenewal of employment
11 contract as provided in this section during the first two years of
12 employment by such district, unless the employee has previously
13 completed at least two years of certificated employment in another
14 school district in the state of Washington, in which case the employee
15 shall be subject to nonrenewal of employment contract pursuant to this
16 section during the first year of employment with the new district.
17 Employees as defined in this section shall hereinafter be referred to
18 as "provisional employees".

19 In the event the superintendent of the school district determines
20 that the employment contract of any provisional employee should not be
21 renewed by the district for the next ensuing term such provisional
22 employee shall be notified thereof in writing on or before May 15th
23 preceding the commencement of such school term, or if the omnibus
24 appropriations act has not passed the legislature by May 15th, then
25 notification shall be no later than June (~~1st~~) 15th, which
26 notification shall state the reason or reasons for such determination.
27 Such notice shall be served upon the provisional employee personally,
28 or by certified or registered mail, or by leaving a copy of the notice
29 at the place of his or her usual abode with some person of suitable age
30 and discretion then resident therein. The determination of the
31 superintendent shall be subject to the evaluation requirements of RCW
32 28A.405.100.

33 Every such provisional employee so notified, at his or her request
34 made in writing and filed with the superintendent of the district
35 within ten days after receiving such notice, shall be given the
36 opportunity to meet informally with the superintendent for the purpose
37 of requesting the superintendent to reconsider his or her decision.

1 Such meeting shall be held no later than ten days following the receipt
2 of such request, and the provisional employee shall be given written
3 notice of the date, time and place of meeting at least three days prior
4 thereto. At such meeting the provisional employee shall be given the
5 opportunity to refute any facts upon which the superintendent's
6 determination was based and to make any argument in support of his or
7 her request for reconsideration.

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

20 The board of directors shall notify the provisional employee in
21 writing of its final decision within ten days following the meeting at
22 which the superintendent's recommendation was considered. The decision
23 of the board of directors to nonrenew the contract of a provisional
24 employee shall be final and not subject to appeal.

25 This section applies to any person employed by a school district in
26 a teaching or other nonsupervisory certificated position after June 25,
27 1976. This section provides the exclusive means for nonrenewing the
28 employment contract of a provisional employee and no other provision of
29 law shall be applicable thereto, including, without limitation, RCW
30 28A.405.210 and chapter 28A.645 RCW.

31 **Sec. 3.** RCW 28A.405.230 and 1996 c 201 s 3 are each amended to
32 read as follows:

33 Any certificated employee of a school district employed as an
34 assistant superintendent, director, principal, assistant principal,
35 coordinator, or in any other supervisory or administrative position,
36 hereinafter in this section referred to as "administrator", shall be
37 subject to transfer, at the expiration of the term of his or her

1 employment contract, to any subordinate certificated position within
2 the school district. "Subordinate certificated position" as used in
3 this section, shall mean any administrative or nonadministrative
4 certificated position for which the annual compensation is less than
5 the position currently held by the administrator.

6 Every superintendent determining that the best interests of the
7 school district would be served by transferring any administrator to a
8 subordinate certificated position shall notify that administrator in
9 writing on or before May 15th preceding the commencement of such school
10 term of that determination, or if the omnibus appropriations act has
11 not passed the legislature by May 15th, then notification shall be no
12 later than June (~~1st~~) 15th, which notification shall state the reason
13 or reasons for the transfer, and shall identify the subordinate
14 certificated position to which the administrator will be transferred.
15 Such notice shall be served upon the administrator personally, or by
16 certified or registered mail, or by leaving a copy of the notice at the
17 place of his or her usual abode with some person of suitable age and
18 discretion then resident therein.

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

1 the expiration of the contract year and only during the first three
2 consecutive school years of employment as a principal by a school
3 district; except that if any such principal has been previously
4 employed as a principal by another school district in the state of
5 Washington for three or more consecutive school years the provisions of
6 this section shall apply only to the first full school year of such
7 employment.

8 This section applies to any person employed as an administrator by
9 a school district on June 25, 1976 and to all persons so employed at
10 any time thereafter. This section provides the exclusive means for
11 transferring an administrator to a subordinate certificated position at
12 the expiration of the term of his or her employment contract.

13 **Sec. 4.** RCW 28A.310.250 and 1996 c 201 s 4 are each amended to
14 read as follows:

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

21 Every educational service district superintendent or board
22 determining that there is probable cause or causes that the employment
23 contract of a certificated employee thereof is not to be renewed for
24 the next ensuing term shall be notified in writing on or before May
25 15th preceding the commencement of such term of that determination or
26 if the omnibus appropriations act has not passed the legislature by May
27 15th, then notification shall be no later than June (~~1st~~) 15th, which
28 notification shall specify the cause or causes for nonrenewal of
29 contract. Such notice shall be served upon that employee personally,
30 or by certified or registered mail, or by leaving a copy of the notice
31 at the house of his or her usual abode with some person of suitable age
32 and discretion then resident therein. The procedure and standards for
33 the review of the decision of the hearing officer, superintendent or
34 board and appeal therefrom shall be as prescribed for nonrenewal cases
35 of teachers in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and
36 28A.645.010. Appeals may be filed in the superior court of any county
37 in the educational service district.

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

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