
Education Committee

HB 1609

Brief Description: Regarding school employee workforce reductions and assignments.

Sponsors: Representatives Pettigrew, Dammeier, Carlyle, Dahlquist, Kagi, Finn, Anderson, Jinkins, Hunter and Eddy.

Brief Summary of Bill

- Instates a new performance based framework and procedures for reductions in force due to declines in enrollment or revenue losses.
- Provides for a school based hiring process that requires the mutual consent of both principal and teacher.
- Puts in place a displacement process governing situations in which a teacher or educational staff associate is displaced due to transfer, a drop in enrollment, phase out or reduction of a program, reductions in a building, or implementation of an accountability intervention model.

Hearing Date: 2/15/11

Staff: Cece Clynych (786-7195).

Background:

Performance Evaluations. Pursuant to 2010 legislation, each school district must establish a four-level rating system for evaluating classroom teachers and principals. The rating system must describe performance on a continuum that indicates the extent to which the criteria have been met or exceeded. When student growth data (showing a change in student achievement between two points in time) is available for principals and available and relevant to the teacher and subject matter, it must be based on multiple measures.

The revised evaluation criteria for principals must include: creating a school culture that promotes the ongoing improvement of learning and teaching for students and staff; demonstrable commitment to closing the achievement gap; providing for school safety; leading the

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development, implementation, and evaluation of a data-driven plan for increasing student achievement, including the use of multiple student data elements; assisting instructional staff with alignment of curriculum, instruction, and assessment with state and local district learning goals; monitoring, assisting, and evaluating effective instruction and assessment practices; managing both staff and fiscal resources to support student achievement and legal responsibilities; and partnering with the school community to promote student learning.

Principals hired after June 10, 2010 can be transferred to a subordinate position in the district even if they have more than three years of employment as a principal, based on the superintendent's determination that the results of the principal's performance evaluation provide a valid reason for the transfer. No probationary period is required, but support and an attempt at remediation, as defined by the superintendent, are required. A final decision by the board to transfer the principal cannot be appealed. These provisions apply only in school districts with more than 35,000 students.

Pilot and Implementation. The Office of Superintendent of Public Instruction (OSPI), with stakeholders and experts, must create models for implementing the revised evaluation system criteria, student growth measurement tools, professional development programs, and evaluator training. Beginning in the 2010-11 school year, the OSPI must select school districts that, among other things, have the agreement of the local associations representing teachers and principals to collaborate with the district, will pilot the new teacher and principal evaluation systems. The new evaluation systems must be implemented in all school districts beginning in 2013-14.

Reporting. The OSPI must provide reports on the status of the new evaluation implementation by July 1, 2011, and July 1, 2012. The 2011 report must include recommendations for whether a single statewide evaluation model should be adopted, whether modified versions should be subject to state approval, what the criteria would be for state approval, and challenges posed by requiring a state approval process.

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 reductions in force (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) 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 his or her two most recent evaluations according to a specified, weighted formula is to 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 only guarantee the right to interview, last only three years, and may not supersede other provisions in the act regarding school based hiring.

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, 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. There is no opportunity for a hearing, however. 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 district board of directors, 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 school board of directors 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 June 25, 2010.

School Based Hiring.

Every school board policy and collective bargaining agreement adopted after the effective date must provide that teachers and ESA may be assigned to a particular school only with the mutual consent of the hiring principal and the teacher or ESA. This policy of hiring only by mutual consent is referred to as "school-based hiring". School districts must work with their local teacher's association to develop school-based hiring policies. If there is no such association in the district, the school district must create an eight person committee, made up of four school board members and four teachers, to develop such policies. Every school district must adopt

such policies no later than the expiration and renegotiation of locally bargained agreements currently in place.

Any nonprovisional employee receiving the top performance rating in a two tiered performance rating system, or one of the top two ratings in a four tiered system, who hasn't secured a position through school-based hiring must be placed in the priority hiring pool. Being a member of this pool ensures that teacher or educational staff associate the right to interview for available positions within the district for which he or she is qualified.

Displacement Process.

Displacement may occur as the result of several factors, including but not limited to the following:

- transfer request;
- drop in enrollment;
- phase-out;
- reduction in Program;
- reduction in Building; and
- implementation of a federal or state accountability intervention model such as turnaround, school closure, or transformation model.

In the event that a teacher or educational staff associate is displaced from a particular school, but not discharged by the district, he or she must receive written notice and may, within 10 days, file a request for a hearing on the sufficiency of the determination on which the displacement was based. The school board of directors must provide an opportunity for a hearing within 10 days after the request is submitted.

Additionally, the district's human resources department must immediately provide the employee with a list of all vacant positions for which he or she is qualified as well as a list of vacancies in any area identified by the district to be an area of critical need. Such list must be kept up to date and available online. If a displaced employee applies for a vacancy on the list, the application must be made to the principal with a copy to the school district. It is up to the principal to recommend appointment or not and, if the principal so recommends, the employee is transferred to that position.

Should the displaced employee fail to secure a position through mutual consent within six month of notice of displacement, or for one summer hiring cycle, whichever is longer, then the district may not renew the employee's contract because lacking official assignment shall be considered probable cause for the nonrenewal of a contract. If that employee later secures a position, he or she must be reinstated at the salary and benefits level in effect at the time of nonrenewal.

Districts may place a teacher in a six month or other limited term assignment, including a substitute or instructional support position, during the period in which the teacher is attempting to secure a classroom assignment through school-based hiring. A limited term assignment does not constitute an assignment and does not interrupt the six month displacement period.

A district may involuntarily transfer a teacher according to board policy or a locally bargained agreement, however, any transfer must be mutually consented to by the teacher and the principal in order to comply with the school-based hiring policy.

Appropriation: None.

Fiscal Note: Requested on February 14, 2011.

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