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**SUBSTITUTE HOUSE BILL 2310**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** House Committee on Education (originally sponsored by Representatives Brumsickle, Radcliff and Mitchell)

Read first time 02/02/96.

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 1990 c 33 s 390 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 state board of education for the position for  
14 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 15th, which notification shall specify the cause  
15 or causes for nonrenewal of contract. Such determination of probable  
16 cause for certificated employees, other than the superintendent, shall  
17 be made by the superintendent. Such notice shall be served upon the  
18 employee personally, or by certified or registered mail, or by leaving  
19 a copy of the notice at the house of his or her usual abode with some  
20 person of suitable age and discretion then resident therein. Every  
21 such employee so notified, at his or her request made in writing and  
22 filed with the president, chair or secretary of the board of directors  
23 of the district within ten days after receiving such notice, shall be  
24 granted opportunity for hearing pursuant to RCW 28A.405.310 to  
25 determine whether there is sufficient cause or causes for nonrenewal of  
26 contract: PROVIDED, That any employee receiving notice of nonrenewal  
27 of contract due to an enrollment decline or loss of revenue may, in his  
28 or her request for a hearing, stipulate that initiation of the  
29 arrangements for a hearing officer as provided for by RCW  
30 28A.405.310(4) shall occur within ten days following July 15 rather  
31 than the day that the employee submits the request for a hearing. If  
32 any such notification or opportunity for hearing is not timely given,  
33 the employee entitled thereto shall be conclusively presumed to have  
34 been reemployed by the district for the next ensuing term upon  
35 contractual terms identical with those which would have prevailed if  
36 his or her employment had actually been renewed by the board of  
37 directors for such ensuing term.

38 This section shall not be applicable to "provisional employees" as  
39 so designated in RCW 28A.405.220; transfer to a subordinate

1 certificated position as that procedure is set forth in RCW 28A.405.230  
2 shall not be construed as a nonrenewal of contract for the purposes of  
3 this section.

4 **Sec. 2.** RCW 28A.405.220 and 1992 c 141 s 103 are each amended to  
5 read as follows:

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

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

30 Every such provisional employee so notified, at his or her request  
31 made in writing and filed with the superintendent of the district  
32 within ten days after receiving such notice, shall be given the  
33 opportunity to meet informally with the superintendent for the purpose  
34 of requesting the superintendent to reconsider his or her decision.  
35 Such meeting shall be held no later than ten days following the receipt  
36 of such request, and the provisional employee shall be given written  
37 notice of the date, time and place of meeting at least three days prior  
38 thereto. At such meeting the provisional employee shall be given the

1 opportunity to refute any facts upon which the superintendent's  
2 determination was based and to make any argument in support of his or  
3 her request for reconsideration.

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

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

21 This section applies to any person employed by a school district in  
22 a teaching or other nonsupervisory certificated position after June 25,  
23 1976. This section provides the exclusive means for nonrenewing the  
24 employment contract of a provisional employee and no other provision of  
25 law shall be applicable thereto, including, without limitation, RCW  
26 28A.405.210 and chapter 28A.645 RCW.

27 **Sec. 3.** RCW 28A.405.230 and 1990 c 33 s 392 are each amended to  
28 read as follows:

29 Any certificated employee of a school district employed as an  
30 assistant superintendent, director, principal, assistant principal,  
31 coordinator, or in any other supervisory or administrative position,  
32 hereinafter in this section referred to as "administrator", shall be  
33 subject to transfer, at the expiration of the term of his or her  
34 employment contract, to any subordinate certificated position within  
35 the school district. "Subordinate certificated position" as used in  
36 this section, shall mean any administrative or nonadministrative  
37 certificated position for which the annual compensation is less than  
38 the position currently held by the administrator.

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

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

1 this section shall apply only to the first full school year of such  
2 employment.

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

8 **Sec. 4.** RCW 28A.310.250 and 1990 c 33 s 280 are each amended to  
9 read as follows:

10 No certificated employee of an educational service district shall  
11 be employed as such except by written contract, which shall be in  
12 conformity with the laws of this state. Every such contract shall be  
13 made in duplicate, one copy of which shall be retained by the  
14 educational service district superintendent and the other shall be  
15 delivered to the employee.

16 Every educational service district superintendent or board  
17 determining that there is probable cause or causes that the employment  
18 contract of a certificated employee thereof is not to be renewed for  
19 the next ensuing term shall be notified in writing on or before May  
20 15th preceding the commencement of such term of that determination or  
21 if the omnibus appropriations act has not passed the legislature by May  
22 15th, then notification shall be no later than June 15th, which  
23 notification shall specify the cause or causes for nonrenewal of  
24 contract. Such notice shall be served upon that employee personally,  
25 or by certified or registered mail, or by leaving a copy of the notice  
26 at the house of his or her usual abode with some person of suitable age  
27 and discretion then resident therein. The procedure and standards for  
28 the review of the decision of the hearing officer, superintendent or  
29 board and appeal therefrom shall be as prescribed for nonrenewal cases  
30 of teachers in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and  
31 28A.645.010. Appeals may be filed in the superior court of any county  
32 in the educational service district.

33 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
34 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take  
2 effect immediately.

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