
HOUSE BILL 2310

State of Washington 54th Legislature 1996 Regular Session

By Representatives Brumsickle, Radcliff and Mitchell

Read first time 01/09/96. Referred to Committee on Education.

1 AN ACT Relating to notification of nonrenewal of contracts for
2 certificated employees; amending RCW 28A.405.210, 28A.405.220, and
3 28A.405.230; 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 seven days after passage of the omnibus appropriations
15 act or June 15th, whichever occurs first, which notification shall
16 specify the cause or causes for nonrenewal of contract. Such
17 determination of probable cause for certificated employees, other than
18 the superintendent, shall be made by the superintendent. Such notice
19 shall be served upon the employee personally, or by certified or
20 registered mail, or by leaving a copy of the notice at the house of his
21 or her usual abode with some person of suitable age and discretion then
22 resident therein. Every such employee so notified, at his or her
23 request made in writing and filed with the president, chair or
24 secretary of the board of directors of the district within ten days
25 after receiving such notice, shall be granted opportunity for hearing
26 pursuant to RCW 28A.405.310 to determine whether there is sufficient
27 cause or causes for nonrenewal of contract: PROVIDED, That any
28 employee receiving notice of nonrenewal of contract due to an
29 enrollment decline or loss of revenue may, in his or her request for a
30 hearing, stipulate that initiation of the arrangements for a hearing
31 officer as provided for by RCW 28A.405.310(4) shall occur within ten
32 days following July 15 rather than the day that the employee submits
33 the request for a hearing. If any such notification or opportunity for
34 hearing is not timely given, the employee entitled thereto shall be
35 conclusively presumed to have been reemployed by the district for the
36 next ensuing term upon contractual terms identical with those which
37 would have prevailed if his or her employment had actually been renewed
38 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 1992 c 141 s 103 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 seven days after passage of the
26 omnibus appropriations act or June 15th, whichever occurs first, which
27 notification shall state the reason or reasons for such determination.
28 Such notice shall be served upon the provisional employee personally,
29 or by certified or registered mail, or by leaving a copy of the notice
30 at the place of his or her usual abode with some person of suitable age
31 and discretion then resident therein. The determination of the
32 superintendent shall be subject to the evaluation requirements of RCW
33 28A.405.100.

34 Every such provisional employee so notified, at his or her request
35 made in writing and filed with the superintendent of the district
36 within ten days after receiving such notice, shall be given the
37 opportunity to meet informally with the superintendent for the purpose
38 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 1990 c 33 s 392 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
38 employment contract, to any subordinate certificated position within

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

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

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

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

12 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and shall take
15 effect immediately.

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