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SENATE BILL 6424

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State of Washington

54th Legislature

1996 Regular Session

By Senators Rasmussen and Johnson

Read first time 01/15/96. Referred to Committee on Education.

1 AN ACT Relating to the date of notification that the contract of a  
2 certificated school employee will not be renewed; and amending RCW  
3 28A.310.250, 28A.405.210, 28A.405.220, and 28A.405.230.

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

5 **Sec. 1.** RCW 28A.310.250 and 1990 c 33 s 280 are each amended to  
6 read as follows:

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

13 Every educational service district superintendent or board  
14 determining that there is probable cause or causes that the employment  
15 contract of a certificated employee thereof is not to be renewed for  
16 the next ensuing term shall be notified in writing on or before ((May))  
17 June 15th preceding the commencement of such term of that  
18 determination, which notification shall specify the cause or causes for  
19 nonrenewal of contract. Such notice shall be served upon that employee

1 personally, or by certified or registered mail, or by leaving a copy of  
2 the notice at the house of his or her usual abode with some person of  
3 suitable age and discretion then resident therein. The procedure and  
4 standards for the review of the decision of the hearing officer,  
5 superintendent or board and appeal therefrom shall be as prescribed for  
6 nonrenewal cases of teachers in RCW 28A.405.210, 28A.405.300 through  
7 28A.405.380, and 28A.645.010. Appeals may be filed in the superior  
8 court of any county in the educational service district.

9       **Sec. 2.** RCW 28A.405.210 and 1990 c 33 s 390 are each amended to  
10 read as follows:

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

19       The board shall make with each employee employed by it a written  
20 contract, which shall be in conformity with the laws of this state, and  
21 except as otherwise provided by law, limited to a term of not more than  
22 one year. Every such contract shall be made in duplicate, one copy to  
23 be retained by the school district superintendent or secretary and one  
24 copy to be delivered to the employee. No contract shall be offered by  
25 any board for the employment of any employee who has previously signed  
26 an employment contract for that same term in another school district of  
27 the state of Washington unless such employee shall have been released  
28 from his or her obligations under such previous contract by the board  
29 of directors of the school district to which he or she was obligated.  
30 Any contract signed in violation of this provision shall be void.

31       In the event it is determined that there is probable cause or  
32 causes that the employment contract of an employee should not be  
33 renewed by the district for the next ensuing term such employee shall  
34 be notified in writing on or before (~~May~~) June 15th preceding the  
35 commencement of such term of that determination, which notification  
36 shall specify the cause or causes for nonrenewal of contract. Such  
37 determination of probable cause for certificated employees, other than  
38 the superintendent, shall be made by the superintendent. Such notice

1 shall be served upon the employee personally, or by certified or  
2 registered mail, or by leaving a copy of the notice at the house of his  
3 or her usual abode with some person of suitable age and discretion then  
4 resident therein. Every such employee so notified, at his or her  
5 request made in writing and filed with the president, chair or  
6 secretary of the board of directors of the district within ten days  
7 after receiving such notice, shall be granted opportunity for hearing  
8 pursuant to RCW 28A.405.310 to determine whether there is sufficient  
9 cause or causes for nonrenewal of contract: PROVIDED, That any  
10 employee receiving notice of nonrenewal of contract due to an  
11 enrollment decline or loss of revenue may, in his or her request for a  
12 hearing, stipulate that initiation of the arrangements for a hearing  
13 officer as provided for by RCW 28A.405.310(4) shall occur within ten  
14 days following July 15 rather than the day that the employee submits  
15 the request for a hearing. If any such notification or opportunity for  
16 hearing is not timely given, the employee entitled thereto shall be  
17 conclusively presumed to have been reemployed by the district for the  
18 next ensuing term upon contractual terms identical with those which  
19 would have prevailed if his or her employment had actually been renewed  
20 by the board of directors for such ensuing term.

21 This section shall not be applicable to "provisional employees" as  
22 so designated in RCW 28A.405.220; transfer to a subordinate  
23 certificated position as that procedure is set forth in RCW 28A.405.230  
24 shall not be construed as a nonrenewal of contract for the purposes of  
25 this section.

26 **Sec. 3.** RCW 28A.405.220 and 1992 c 141 s 103 are each amended to  
27 read as follows:

28 Notwithstanding the provisions of RCW 28A.405.210, every person  
29 employed by a school district in a teaching or other nonsupervisory  
30 certificated position shall be subject to nonrenewal of employment  
31 contract as provided in this section during the first two years of  
32 employment by such district, unless the employee has previously  
33 completed at least two years of certificated employment in another  
34 school district in the state of Washington, in which case the employee  
35 shall be subject to nonrenewal of employment contract pursuant to this  
36 section during the first year of employment with the new district.  
37 Employees as defined in this section shall hereinafter be referred to  
38 as "provisional employees".

1 In the event the superintendent of the school district determines  
2 that the employment contract of any provisional employee should not be  
3 renewed by the district for the next ensuing term such provisional  
4 employee shall be notified thereof in writing on or before (~~May~~) June  
5 15th preceding the commencement of such school term, which notification  
6 shall state the reason or reasons for such determination. Such notice  
7 shall be served upon the provisional employee personally, or by  
8 certified or registered mail, or by leaving a copy of the notice at the  
9 place of his or her usual abode with some person of suitable age and  
10 discretion then resident therein. The determination of the  
11 superintendent shall be subject to the evaluation requirements of RCW  
12 28A.405.100.

13 Every such provisional employee so notified, at his or her request  
14 made in writing and filed with the superintendent of the district  
15 within ten days after receiving such notice, shall be given the  
16 opportunity to meet informally with the superintendent for the purpose  
17 of requesting the superintendent to reconsider his or her decision.  
18 Such meeting shall be held no later than ten days following the receipt  
19 of such request, and the provisional employee shall be given written  
20 notice of the date, time and place of meeting at least three days prior  
21 thereto. At such meeting the provisional employee shall be given the  
22 opportunity to refute any facts upon which the superintendent's  
23 determination was based and to make any argument in support of his or  
24 her request for reconsideration.

25 Within ten days following the meeting with the provisional  
26 employee, the superintendent shall either reinstate the provisional  
27 employee or shall submit to the school district board of directors for  
28 consideration at its next regular meeting a written report recommending  
29 that the employment contract of the provisional employee be nonrenewed  
30 and stating the reason or reasons therefor. A copy of such report  
31 shall be delivered to the provisional employee at least three days  
32 prior to the scheduled meeting of the board of directors. In taking  
33 action upon the recommendation of the superintendent, the board of  
34 directors shall consider any written communication which the  
35 provisional employee may file with the secretary of the board at any  
36 time prior to that meeting.

37 The board of directors shall notify the provisional employee in  
38 writing of its final decision within ten days following the meeting at  
39 which the superintendent's recommendation was considered. The decision

1 of the board of directors to nonrenew the contract of a provisional  
2 employee shall be final and not subject to appeal.

3 This section applies to any person employed by a school district in  
4 a teaching or other nonsupervisory certificated position after June 25,  
5 1976. This section provides the exclusive means for nonrenewing the  
6 employment contract of a provisional employee and no other provision of  
7 law shall be applicable thereto, including, without limitation, RCW  
8 28A.405.210 and chapter 28A.645 RCW.

9 **Sec. 4.** RCW 28A.405.230 and 1990 c 33 s 392 are each amended to  
10 read as follows:

11 Any certificated employee of a school district employed as an  
12 assistant superintendent, director, principal, assistant principal,  
13 coordinator, or in any other supervisory or administrative position,  
14 hereinafter in this section referred to as "administrator", shall be  
15 subject to transfer, at the expiration of the term of his or her  
16 employment contract, to any subordinate certificated position within  
17 the school district. "Subordinate certificated position" as used in  
18 this section, shall mean any administrative or nonadministrative  
19 certificated position for which the annual compensation is less than  
20 the position currently held by the administrator.

21 Every superintendent determining that the best interests of the  
22 school district would be served by transferring any administrator to a  
23 subordinate certificated position shall notify that administrator in  
24 writing on or before (~~May~~) June 15th preceding the commencement of  
25 such school term of that determination, which notification shall state  
26 the reason or reasons for the transfer, and shall identify the  
27 subordinate certificated position to which the administrator will be  
28 transferred. Such notice shall be served upon the administrator  
29 personally, or by certified or registered mail, or by leaving a copy of  
30 the notice at the place of his or her usual abode with some person of  
31 suitable age and discretion then resident therein.

32 Every such administrator so notified, at his or her request made in  
33 writing and filed with the president or chair, or secretary of the  
34 board of directors of the district within ten days after receiving such  
35 notice, shall be given the opportunity to meet informally with the  
36 board of directors in an executive session thereof for the purpose of  
37 requesting the board to reconsider the decision of the superintendent.  
38 Such board, upon receipt of such request, shall schedule the meeting

1 for no later than the next regularly scheduled meeting of the board,  
2 and shall notify the administrator in writing of the date, time and  
3 place of the meeting at least three days prior thereto. At such  
4 meeting the administrator shall be given the opportunity to refute any  
5 facts upon which the determination was based and to make any argument  
6 in support of his or her request for reconsideration. The  
7 administrator and the board may invite their respective legal counsel  
8 to be present and to participate at the meeting. The board shall  
9 notify the administrator in writing of its final decision within ten  
10 days following its meeting with the administrator. No appeal to the  
11 courts shall lie from the final decision of the board of directors to  
12 transfer an administrator to a subordinate certificated position:  
13 PROVIDED, That in the case of principals such transfer shall be made at  
14 the expiration of the contract year and only during the first three  
15 consecutive school years of employment as a principal by a school  
16 district; except that if any such principal has been previously  
17 employed as a principal by another school district in the state of  
18 Washington for three or more consecutive school years the provisions of  
19 this section shall apply only to the first full school year of such  
20 employment.

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

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