

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2310

Chapter 201, Laws of 1996

(partial veto)

54th Legislature
1996 Regular Session

CONTRACTS FOR CERTIFICATED EMPLOYEES--NOTIFICATION OF NONRENEWAL

EFFECTIVE DATE: 6/6/96

Passed by the House March 2, 1996
Yeas 89 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate February 28, 1996
Yeas 48 Nays 0

JOEL PRITCHARD
President of the Senate

Approved March 28, 1996, with the
exception of section 5, which is
vetoed.

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of
the House of Representatives of the
State of Washington, do hereby certify
that the attached is **SUBSTITUTE HOUSE
BILL 2310** as passed by the House of
Representatives and the Senate on the
dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 28, 1996 - 4:17 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2310

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

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 1st, 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 1st, 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 1st, 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 1st, 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***
35 ***state government and its existing public institutions, and shall take***
36 ***effect immediately.***

37 ****Sec. 5 was vetoed. See message at end of chapter.***

Passed the House March 2, 1996.

Passed the Senate February 28, 1996.

Approved by the Governor March 28, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 28, 1996.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 5,
3 Substitute House Bill No. 2310 entitled:

4 "AN ACT Relating to notification of nonrenewal of contracts for
5 certificated employees;"

6 Substitute House Bill No. 2310 contains an emergency clause in
7 section 5. The emergency clause was included in case the legislature
8 failed to adopt a supplemental budget by May 15, 1996. The
9 supplemental budget was adopted on March 7th, leaving the emergency
10 clause unnecessary.

11 Although this legislation is important, it is not a matter
12 necessary for the immediate preservation of the public peace, health,
13 or safety, or support of the state government and its existing public
14 institutions. Preventing this bill from being subject to a referendum
15 under Article II, section 1 (b) of the state Constitution unnecessarily
16 denies the people of this state their power, at their own option, to
17 approve or reject this bill at the polls.

18 For these reasons, I have vetoed section 5 of Substitute House Bill
19 No. 2310.

20 With the exception of section 5, Substitute House Bill No. 2310 is
21 approved."