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

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

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.

JOEL PRITCHARD
President of the Senate

TIMOTHY A. MARTIN
Chief Clerk

MIKE LOWRY
Governor of the State of Washington

FILED
March 28, 1996 - 4:17 p.m.
AN ACT Relating to notification of nonrenewal of contracts for certificated employees; amending RCW 28A.405.210, 28A.405.220, 28A.405.230, and 28A.310.250; and declaring an emergency.

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

Sec. 1. RCW 28A.405.210 and 1990 c 33 s 390 are each amended to read as follows:

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

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

In the event it is determined that there is probable cause or
causes that the employment contract of an employee should not be
renewed by the district for the next ensuing term such employee shall
be notified in writing on or before May 15th preceding the commencement
of such term of that determination, or if the omnibus appropriations
act has not passed the legislature by May 15th, then notification shall
be no later than June 1st, which notification shall specify the cause
or causes for nonrenewal of contract. Such determination of probable
cause for certificated employees, other than the superintendent, shall
be made by the superintendent. Such notice shall be served upon the
employee personally, or by certified or registered mail, or by leaving
a copy of the notice at the house of his or her usual abode with some
person of suitable age and discretion then resident therein. Every
such employee so notified, at his or her request made in writing and
filed with the president, chair or secretary of the board of directors
of the district within ten days after receiving such notice, shall be
granted opportunity for hearing pursuant to RCW 28A.405.310 to
determine whether there is sufficient cause or causes for nonrenewal of
contract: PROVIDED, That any employee receiving notice of nonrenewal
of contract due to an enrollment decline or loss of revenue may, in his
or her request for a hearing, stipulate that initiation of the
arrangements for a hearing officer as provided for by RCW
28A.405.310(4) shall occur within ten days following July 15 rather
than the day that the employee submits the request for a hearing. If
any such notification or opportunity for hearing is not timely given,
the employee entitled thereto shall be conclusively presumed to have
been reemployed by the district for the next ensuing term upon
contractual terms identical with those which would have prevailed if
his or her employment had actually been renewed by the board of
directors for such ensuing term.

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

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

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

In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

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

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

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

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

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

Any certificated employee of a school district employed as an
assistant superintendent, director, principal, assistant principal,
coordinator, or in any other supervisory or administrative position,
hereinafter in this section referred to as "administrator", shall be
subject to transfer, at the expiration of the term of his or her
employment contract, to any subordinate certificated position within
the school district. "Subordinate certificated position" as used in
this section, shall mean any administrative or nonadministrative
certificated position for which the annual compensation is less than
the position currently held by the administrator.
Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

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

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

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

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

Every educational service district superintendent or board
determining that there is probable cause or causes that the employment
contract of a certificated employee thereof is not to be renewed for
the next ensuing term shall be notified in writing on or before May
15th preceding the commencement of such term of that determination or
if the omnibus appropriations act has not passed the legislature by May
15th, then notification shall be no later than June 1st, which
notification shall specify the cause or causes for nonrenewal of
contract. Such notice shall be served upon that employee personally,
by certified or registered mail, or by leaving a copy of the notice
at the house of his or her usual abode with some person of suitable age
and discretion then resident therein. The procedure and standards for
the review of the decision of the hearing officer, superintendent or
board and appeal therefrom shall be as prescribed for nonrenewal cases
of teachers in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and
28A.645.010. Appeals may be filed in the superior court of any county
in the educational service district.

*NEW SECTION. Sec. 5. This act is necessary for the immediate
preservation of the public peace, health, or safety, or support of the
state government and its existing public institutions, and shall take
effect immediately.

*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.

Note: Governor’s explanation of partial veto is as follows:

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

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

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

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

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

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