CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5552

Chapter 266, Laws of 2005

59th Legislature
2005 Regular Session

SCHOOL DISTRICT EMPLOYMENT--APPLICANT INFORMATION

EFFECTIVE DATE: 7/24/05

Passed by the Senate March 14, 2005
YEAS 47  NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 11, 2005
YEAS 96  NAYS 0

FRANK CHOPP
Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SUBSTITUTE SENATE BILL 5552 as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN
Secretary

Approved May 4, 2005.

FILED
May 4, 2005 - 3:17 p.m.

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to information required for school district employment applicants; and amending RCW 28A.400.301.

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

Sec. 1. RCW 28A.400.301 and 2004 c 29 s 2 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Applicant" means an applicant for employment in a certificated or classified position who is currently or was previously employed by a school district.

(b) "Employer" means a school district employer.

(2) Before hiring an applicant, a school district shall request the applicant to sign a statement:

(a) Authorizing the applicant's current and past employers, including employers outside of Washington state, to disclose to the hiring school district sexual misconduct, if any, by the applicant and making available to the hiring school district copies of all documents in the previous employer's personnel, investigative, or other files relating to sexual misconduct by the applicant; and
(b) Releasing the applicant's current and past employers, and employees acting on behalf of that employer, from any liability for providing information described in (a) of this subsection, as provided in subsection (4) of this section.

(3) Before hiring an applicant, a school district shall request in writing, electronic or otherwise, the applicant's current and past employers, including out-of-state employers, to provide the information described in subsection (2)(a) of this section, if any. The request shall include a copy of the statement signed by the applicant under subsection (2) of this section.

(4) Not later than twenty business days after receiving a request under subsection (3) of this section, a school district shall provide the information requested and make available to the requesting school district copies of all documents in the applicant's personnel record relating to the sexual misconduct. The school district, or an employee acting on behalf of the school district, who in good faith discloses information under this section is immune from civil liability for the disclosure.

(5) A hiring district shall request from the office of the superintendent of public instruction verification of certification status, including information relating to sexual misconduct as established by the provisions of subsection (11) of this section, if any, for applicants for certificated employment.

(6) A school district shall not hire an applicant who does not sign the statement described in subsection (2) of this section.

(7) School districts may employ applicants on a conditional basis pending the district's review of information obtained under this section. When requests are sent to out-of-state employers under subsection (3) of this section, an applicant who has signed the statement described in subsection (2) of this section, shall not be prevented from gaining employment in Washington public schools if the laws or policies of that other state prevent documents from being made available to Washington state school districts or if the out-of-state school district fails or refuses to cooperate with the request.

(8) Information received under this section shall be used by a school district only for the purpose of evaluating an applicant's qualifications for employment in the position for which he or she has applied. Except as otherwise provided by law, a board member or
employee of a school district shall not disclose the information to any
person, other than the applicant, who is not directly involved in the
process of evaluating the applicant's qualifications for employment.
A person who violates this subsection is guilty of a misdemeanor.

(9) Beginning September 1, 2004, the board or an official of a
school district shall not enter into a collective bargaining agreement,
individual employment contract, resignation agreement, severance
agreement, or any other contract or agreement that has the effect of
suppressing information about verbal or physical abuse or sexual
misconduct by a present or former employee or of expunging information
about that abuse or sexual misconduct from any documents in the
previous employer's personnel, investigative, or other files relating
to verbal or physical abuse or sexual misconduct by the applicant. Any
provision of a contract or agreement that is contrary to this
subsection is void and unenforceable, and may not be withheld from
disclosure by the entry of any administrative or court order. This
subsection does not restrict the expungement from a personnel file of
information about alleged verbal or physical abuse or sexual misconduct
that has not been substantiated.

(10) This section does not prevent a school district from
requesting or requiring an applicant to provide information other than
that described in this section.

(11) By September 1, 2004, the state board of education has the
authority to and shall adopt rules defining "verbal abuse," "physical
abuse," and "sexual misconduct" as used in this section for application
to all classified and certificated employees. The definitions of
verbal and physical abuse and sexual misconduct adopted by the state
board of education must include the requirement that the school
district has made a determination that there is sufficient information
to conclude that the abuse or misconduct occurred and that the abuse or
misconduct resulted in the employee's leaving his or her position at
the school district.

(12) Except as limited by chapter 49.12 RCW, at the conclusion of
a school district's investigation, a school employee has the right to
review his or her entire personnel file, investigative file, or other
file maintained by the school district relating to sexual misconduct as
addressed in this section and to attach rebuttals to any documents as
the employee deems necessary. Rebuttal documents shall be disclosed in
the same manner as the documents to which they are attached. The provisions of this subsection do not supersede the protections provided individuals under the state whistleblower laws in chapter 42.41 RCW.

Passed by the Senate March 14, 2005.
Passed by the House April 11, 2005.
Approved by the Governor May 4, 2005.
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