CERTIFICATION OF ENROLLMENT

SENATE BILL 5487

Chapter 57, Laws of 2009

61st Legislature
2009 Regular Session

CERTIFICATED EMPLOYEES--NONRENEWAL OF CONTRACTS--NOTICE

EFFECTIVE DATE: 04/10/09

Passed by the Senate March 9, 2009
YEAS 48  NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 1, 2009
YEAS 96  NAYS 1

FRANK CHOPP
Speaker of the House of Representatives

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SENATE BILL 5487 as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN
Secretary

Approved April 10, 2009, 2:55 p.m.

FILED
April 13, 2009

CHRISTINE GREGOIRE
Governor of the State of Washington

SECRETARY OF STATE
State of Washington
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 2005 c 497 s 216 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 Washington professional educator standards board
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) 15th, 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 1996 c 201 s 2 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 15th, 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 1996 c 201 s 3 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 15th, 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 1996 c 201 s 4 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)) 15th, which notification shall specify the cause or causes for nonrenewal of contract. Such notice shall be served upon that 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. 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 takes effect immediately.

Passed by the Senate March 9, 2009.
Passed by the House April 1, 2009.
Approved by the Governor April 10, 2009.
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