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**SUBSTITUTE SENATE BILL 5085**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Early Learning & K-12 Education (originally sponsored by Senators Wellman, Mullet, Hunt, Lovick, Van De Wege, and C. Wilson)

AN ACT Relating to principal and assistant principal terms of employment; amending RCW 41.59.080, 28A.405.230, 28A.405.245, and 28A.405.130; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature acknowledges the critical role that school principals play in our education system and the impact that effective and sustainable school leadership can have on student success, educator retention, and overall school culture.

The legislature finds that principal and assistant principal turnover is occurring at a much higher rate than in prior years with roughly 40 percent of school principals expecting to leave the profession in the next three years.

To retain principals in their schools and in this profession, the legislature recognizes the need for increased protections, guidance, and support for surrounding principal terms of employment.

The legislature intends to:

(1) Provide principals and assistant principals with the ability to bargain working conditions;

(2) Allow principals to retain years of experience as educators if transferring to different roles;

(3) Provide better protection for assistant principal positions;

(4) Update employment applications; and

(5) Clarify required trainings for evaluations.

**Sec.**  RCW 41.59.080 and 1998 c 244 s 11 are each amended to read as follows:

The commission, upon proper application for certification as an exclusive bargaining representative or upon petition for change of unit definition by the employer or any employee organization within the time limits specified in RCW 41.59.070(3), and after hearing upon reasonable notice, shall determine the unit appropriate for the purpose of collective bargaining. In determining, modifying or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the educational employees; the history of collective bargaining; the extent of organization among the educational employees; and the desire of the educational employees; except that:

(1) A unit including nonsupervisory educational employees shall not be considered appropriate unless it includes all such nonsupervisory educational employees of the employer; ((~~and~~))

(2) A unit that includes only supervisors may be considered appropriate if a majority of the employees in such category indicate by vote that they desire to be included in such a unit; ((~~and~~))

(3) A unit that includes only principals and assistant principals may be considered appropriate if a majority of such employees indicate by vote that they desire to be included in such a unit; ((~~and~~))

(4) A unit that includes both principals and assistant principals and other supervisory employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; ((~~and~~))

(5) A unit that includes supervisors and/or principals and assistant principals and nonsupervisory educational employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; ((~~and~~))

(6) A unit that includes only employees in vocational-technical institutes or occupational skill centers may be considered to constitute an appropriate bargaining unit if the history of bargaining in any such school district so justifies; and

(7) ((~~Notwithstanding the definition of collective bargaining, a unit that contains only supervisors and/or principals and assistant principals shall be limited in scope of bargaining to compensation, hours of work, and the number of days of work in the annual employment contracts; and~~

~~(8)~~)) The bargaining unit of certificated employees of school districts, educational service districts, or institutions of higher education that are education providers under chapter 28A.193 RCW must be limited to the employees working as education providers to juveniles in each adult correctional facility maintained by the department of corrections and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education.

**Sec.**  RCW 28A.405.230 and 2016 c 85 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 the end of the regular legislative session for that year, 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, except that RCW 28A.405.245 applies to persons first employed after June 10, 2010, as a principal by a school district meeting the criteria of RCW 28A.405.245. This section provides the exclusive means for transferring an administrator subject to this section to a subordinate certificated position at the expiration of the term of his or her employment contract~~)).

**Sec.**  RCW 28A.405.245 and 2016 c 85 s 4 are each amended to read as follows:

(1) Any certificated employee of a school district under this section who is first employed as a principal ((~~after June 10, 2010,~~)) or assistant principal as provided in RCW 28A.400.100 and evaluated on the leadership framework shall be subject to transfer as provided under this section, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district: PROVIDED, That 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 or assistant principal by a school district; except that if any such principal or assistant principal has been previously employed as a principal or assistant 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. "Subordinate certificated position" as used in this section means any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator. ((~~This section applies only to school districts with an annual average student enrollment of more than thirty~~‑~~five thousand full~~‑~~time equivalent students.~~))

(2) During the first three consecutive school years of employment as a principal or assistant principal by the school district, or during the first full school year of such employment in the case of a principal or assistant principal who has been previously employed as a principal or assistant principal by another school district in the state for three or more consecutive school years, the transfer of the principal or assistant principal to a subordinate certificated position may be made by a determination of the superintendent that the best interests of the school district would be served by the transfer and shall cite specific evaluation criteria from the principal's or assistant principal's performance using the evaluative criteria and rating system established under RCW 28A.405.100, where applicable.

(3) Commencing with the fourth consecutive school year of employment as a principal or assistant principal, or the second consecutive school year of such employment in the case of a principal or assistant principal who has been previously employed as a principal or assistant principal by another school district in the state for three or more consecutive school years, the transfer of the principal or assistant principal to a subordinate certificated position shall be based on the superintendent's determination that the results of the evaluation of the principal's or assistant principal's performance using the evaluative criteria and rating system established under RCW 28A.405.100 provide a valid reason for the transfer ((~~without regard to whether there is probable cause for the transfer~~)). If a valid reason is shown, it shall be deemed that the transfer is reasonably related to the principal's or assistant principal's performance. No probationary period is required. However, provision of support and an attempt at remediation of the performance of the principal or assistant principal, as defined by the superintendent, are required for a determination by the superintendent under this subsection that the principal or assistant principal should be transferred to a subordinate certificated position.

(4) Any superintendent transferring a principal or assistant principal under this section to a subordinate certificated position shall notify that principal or assistant principal directly and in writing on or before May 15th before the beginning of the school year of that determination, or if the omnibus appropriations act has not passed the legislature by the end of the regular legislative session for that year, then notification shall be no later than June 15th. The notification shall state the reason or reasons for the transfer citing specific evaluative and performance criteria using the rating system established under RCW 28A.405.100 and shall identify the subordinate certificated position to which the principal or assistant principal will be transferred. The notification shall be served upon the principal or assistant principal 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. Such notice shall be communicated directly to the principal or assistant principal and served by certified or registered mail.

(5) Any principal or assistant principal so notified may request to the president or chair of the board of directors of the district, in writing and within ((~~ten~~)) 10 days after receiving notice, an opportunity to meet informally with the board of directors in an executive session for the purpose of requesting the board to reconsider the decision of the superintendent, and shall be given such opportunity. The board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall give the principal or assistant principal written notice at least three days before the meeting of the date, time, and place of the meeting. At the meeting the principal or assistant principal shall be given the opportunity to refute any evidence upon which the determination was based and to make any argument in support of his or her request for reconsideration. The principal or assistant principal and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the principal or assistant principal in writing of its final decision within ((~~ten~~)) 10 days following its meeting with the principal or assistant principal. No appeal to the courts shall lie from the final decision of the board of directors to transfer a principal or assistant principal to a subordinate certificated position.

(6) ((~~This section provides the exclusive means for transferring a certificated employee first employed by a school district under this section as a principal after June 10, 2010, to a subordinate certificated position at the expiration of the term of his or her employment contract~~)) Should a principal or assistant principal be transferred to a nonadministrative subordinate position their years of experience as an administrator shall count towards total years of experience as a Washington state certificated educator and be recognized or factored in relationship to their next placement and salary.

**Sec.**  RCW 28A.405.130 and 2012 c 35 s 3 are each amended to read as follows:

(1) No administrator, principal, or other supervisory personnel may evaluate a teacher, principal, or assistant principal without having received training in evaluation procedures.

(2) Before evaluating classroom teachers, principals, or assistant principals using the evaluation systems required under RCW 28A.405.100, principals and administrators must engage in professional development designed to implement the revised systems and maximize rater agreement.

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