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HOUSE BILL 2017

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State of Washington                      63rd Legislature                      2013 Regular Session

By Representatives Parker, Lytton, Santos, Magendanz, and Fagan

Read first time 03/22/13. Referred to Committee on Education.

1            AN ACT Relating to changing the deadline for notices of nonrenewal  
2 of contracts for certificated school employees; amending RCW  
3 28A.405.210, 28A.405.220, 28A.405.230, 28A.405.245, and 28A.310.250;  
4 and declaring an emergency.

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

6            **Sec. 1.** RCW 28A.405.210 and 2010 c 235 s 303 are each amended to  
7 read as follows:

8            No teacher, principal, supervisor, superintendent, or other  
9 certificated employee, holding a position as such with a school  
10 district, hereinafter referred to as "employee", shall be employed  
11 except by written order of a majority of the directors of the district  
12 at a regular or special meeting thereof, nor unless he or she is the  
13 holder of an effective teacher's certificate or other certificate  
14 required by law or the Washington professional educator standards board  
15 for the position for which the employee is employed.

16            The board shall make with each employee employed by it a written  
17 contract, which shall be in conformity with the laws of this state, and  
18 except as otherwise provided by law, limited to a term of not more than  
19 one year. Every such contract shall be made in duplicate, one copy to

1 be retained by the school district superintendent or secretary and one  
2 copy to be delivered to the employee. No contract shall be offered by  
3 any board for the employment of any employee who has previously signed  
4 an employment contract for that same term in another school district of  
5 the state of Washington unless such employee shall have been released  
6 from his or her obligations under such previous contract by the board  
7 of directors of the school district to which he or she was obligated.  
8 Any contract signed in violation of this provision shall be void.

9 In the event it is determined that there is probable cause or  
10 causes that the employment contract of an employee should not be  
11 renewed by the district for the next ensuing term such employee shall  
12 be notified in writing on or before May 15th preceding the commencement  
13 of such term of that determination, or if the omnibus appropriations  
14 act has not passed the legislature by (~~May 15th~~) the end of the  
15 regular legislative session for that year, then notification shall be  
16 no later than June 15th, which notification shall specify the cause or  
17 causes for nonrenewal of contract. Such determination of probable  
18 cause for certificated employees, other than the superintendent, shall  
19 be made by the superintendent. Such notice shall be served upon the  
20 employee personally, or by certified or registered mail, or by leaving  
21 a copy of the notice at the house of his or her usual abode with some  
22 person of suitable age and discretion then resident therein. Every  
23 such employee so notified, at his or her request made in writing and  
24 filed with the president, chair or secretary of the board of directors  
25 of the district within ten days after receiving such notice, shall be  
26 granted opportunity for hearing pursuant to RCW 28A.405.310 to  
27 determine whether there is sufficient cause or causes for nonrenewal of  
28 contract: PROVIDED, That any employee receiving notice of nonrenewal  
29 of contract due to an enrollment decline or loss of revenue may, in his  
30 or her request for a hearing, stipulate that initiation of the  
31 arrangements for a hearing officer as provided for by RCW  
32 28A.405.310(4) shall occur within ten days following July 15 rather  
33 than the day that the employee submits the request for a hearing. If  
34 any such notification or opportunity for hearing is not timely given,  
35 the employee entitled thereto shall be conclusively presumed to have  
36 been reemployed by the district for the next ensuing term upon  
37 contractual terms identical with those which would have prevailed if

1 his or her employment had actually been renewed by the board of  
2 directors for such ensuing term.

3 This section shall not be applicable to "provisional employees" as  
4 so designated in RCW 28A.405.220; transfer to a subordinate  
5 certificated position as that procedure is set forth in RCW 28A.405.230  
6 or 28A.405.245 shall not be construed as a nonrenewal of contract for  
7 the purposes of this section.

8 **Sec. 2.** RCW 28A.405.220 and 2012 c 35 s 7 are each amended to read  
9 as follows:

10 (1) Notwithstanding the provisions of RCW 28A.405.210, every person  
11 employed by a school district in a teaching or other nonsupervisory  
12 certificated position shall be subject to nonrenewal of employment  
13 contract as provided in this section during the first three years of  
14 employment by such district, unless: (a) The employee has previously  
15 completed at least two years of certificated employment in another  
16 school district in the state of Washington, in which case the employee  
17 shall be subject to nonrenewal of employment contract pursuant to this  
18 section during the first year of employment with the new district; or  
19 (b) the employee has received an evaluation rating below level 2 on the  
20 four-level rating system established under RCW 28A.405.100 during the  
21 third year of employment, in which case the employee shall remain  
22 subject to the nonrenewal of the employment contract until the employee  
23 receives a level 2 rating; or (c) the school district superintendent  
24 may make a determination to remove an employee from provisional status  
25 if the employee has received one of the top two evaluation ratings  
26 during the second year of employment by the district. Employees as  
27 defined in this section shall hereinafter be referred to as  
28 "provisional employees."

29 (2) In the event the superintendent of the school district  
30 determines that the employment contract of any provisional employee  
31 should not be renewed by the district for the next ensuing term such  
32 provisional employee shall be notified thereof in writing on or before  
33 May 15th preceding the commencement of such school term, or if the  
34 omnibus appropriations act has not passed the legislature by (~~May~~  
35 ~~15th~~) the end of the regular legislative session for that year, then  
36 notification shall be no later than June 15th, which notification shall  
37 state the reason or reasons for such determination. Such notice shall

1 be served upon the provisional employee personally, or by certified or  
2 registered mail, or by leaving a copy of the notice at the place of his  
3 or her usual abode with some person of suitable age and discretion then  
4 resident therein. The determination of the superintendent shall be  
5 subject to the evaluation requirements of RCW 28A.405.100.

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

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

30 (5) The board of directors shall notify the provisional employee in  
31 writing of its final decision within ten days following the meeting at  
32 which the superintendent's recommendation was considered. The decision  
33 of the board of directors to nonrenew the contract of a provisional  
34 employee shall be final and not subject to appeal.

35 (6) This section applies to any person employed by a school  
36 district in a teaching or other nonsupervisory certificated position  
37 after June 25, 1976. This section provides the exclusive means for

1 nonrenewing the employment contract of a provisional employee and no  
2 other provision of law shall be applicable thereto, including, without  
3 limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

4 **Sec. 3.** RCW 28A.405.230 and 2010 c 235 s 304 are each amended to  
5 read as follows:

6 Any certificated employee of a school district employed as an  
7 assistant superintendent, director, principal, assistant principal,  
8 coordinator, or in any other supervisory or administrative position,  
9 hereinafter in this section referred to as "administrator", shall be  
10 subject to transfer, at the expiration of the term of his or her  
11 employment contract, to any subordinate certificated position within  
12 the school district. "Subordinate certificated position" as used in  
13 this section, shall mean any administrative or nonadministrative  
14 certificated position for which the annual compensation is less than  
15 the position currently held by the administrator.

16 Every superintendent determining that the best interests of the  
17 school district would be served by transferring any administrator to a  
18 subordinate certificated position shall notify that administrator in  
19 writing on or before May 15th preceding the commencement of such school  
20 term of that determination, or if the omnibus appropriations act has  
21 not passed the legislature by (~~May 15th~~) the end of the regular  
22 legislative session for that year, then notification shall be no later  
23 than June 15th, which notification shall state the reason or reasons  
24 for the transfer, and shall identify the subordinate certificated  
25 position to which the administrator will be transferred. Such notice  
26 shall be served upon the administrator personally, or by certified or  
27 registered mail, or by leaving a copy of the notice at the place of his  
28 or her usual abode with some person of suitable age and discretion then  
29 resident therein.

30 Every such administrator so notified, at his or her request made in  
31 writing and filed with the president or chair, or secretary of the  
32 board of directors of the district within ten days after receiving such  
33 notice, shall be given the opportunity to meet informally with the  
34 board of directors in an executive session thereof for the purpose of  
35 requesting the board to reconsider the decision of the superintendent.  
36 Such board, upon receipt of such request, shall schedule the meeting  
37 for no later than the next regularly scheduled meeting of the board,

1 and shall notify the administrator in writing of the date, time and  
2 place of the meeting at least three days prior thereto. At such  
3 meeting the administrator shall be given the opportunity to refute any  
4 facts upon which the determination was based and to make any argument  
5 in support of his or her request for reconsideration. The  
6 administrator and the board may invite their respective legal counsel  
7 to be present and to participate at the meeting. The board shall  
8 notify the administrator in writing of its final decision within ten  
9 days following its meeting with the administrator. No appeal to the  
10 courts shall lie from the final decision of the board of directors to  
11 transfer an administrator to a subordinate certificated position:  
12 PROVIDED, That in the case of principals such transfer shall be made at  
13 the expiration of the contract year and only during the first three  
14 consecutive school years of employment as a principal by a school  
15 district; except that if any such principal has been previously  
16 employed as a principal by another school district in the state of  
17 Washington for three or more consecutive school years the provisions of  
18 this section shall apply only to the first full school year of such  
19 employment.

20 This section applies to any person employed as an administrator by  
21 a school district on June 25, 1976, and to all persons so employed at  
22 any time thereafter, except that RCW 28A.405.245 applies to persons  
23 first employed after June 10, 2010, as a principal by a school district  
24 meeting the criteria of RCW 28A.405.245. This section provides the  
25 exclusive means for transferring an administrator subject to this  
26 section to a subordinate certificated position at the expiration of the  
27 term of his or her employment contract.

28 **Sec. 4.** RCW 28A.405.245 and 2010 c 235 s 302 are each amended to  
29 read as follows:

30 (1) Any certificated employee of a school district under this  
31 section who is first employed as a principal after June 10, 2010, shall  
32 be subject to transfer as provided under this section, at the  
33 expiration of the term of his or her employment contract, to any  
34 subordinate certificated position within the school district.  
35 "Subordinate certificated position" as used in this section means any  
36 administrative or nonadministrative certificated position for which the  
37 annual compensation is less than the position currently held by the

1 administrator. This section applies only to school districts with an  
2 annual average student enrollment of more than thirty-five thousand  
3 full-time equivalent students.

4 (2) During the first three consecutive school years of employment  
5 as a principal by the school district, or during the first full school  
6 year of such employment in the case of a principal who has been  
7 previously employed as a principal by another school district in the  
8 state for three or more consecutive school years, the transfer of the  
9 principal to a subordinate certificated position may be made by a  
10 determination of the superintendent that the best interests of the  
11 school district would be served by the transfer.

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

29 (4) Any superintendent transferring a principal under this section  
30 to a subordinate certificated position shall notify that principal in  
31 writing on or before May 15th before the beginning of the school year  
32 of that determination, or if the omnibus appropriations act has not  
33 passed the legislature by (~~May 15th~~) the end of the regular  
34 legislative session for that year, then notification shall be no later  
35 than June 15th. The notification shall state the reason or reasons for  
36 the transfer and shall identify the subordinate certificated position  
37 to which the principal will be transferred. The notification shall be  
38 served upon the principal personally, or by certified or registered

1 mail, or by leaving a copy of the notice at the place of his or her  
2 usual abode with some person of suitable age and discretion then  
3 resident therein.

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

23 (6) This section provides the exclusive means for transferring a  
24 certificated employee first employed by a school district under this  
25 section as a principal after June 10, 2010, to a subordinate  
26 certificated position at the expiration of the term of his or her  
27 employment contract.

28 **Sec. 5.** RCW 28A.310.250 and 2009 c 57 s 4 are each amended to read  
29 as follows:

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

36 Every educational service district superintendent or board  
37 determining that there is probable cause or causes that the employment



1 contract of a certificated employee thereof is not to be renewed for  
2 the next ensuing term shall be notified in writing on or before May  
3 15th preceding the commencement of such term of that determination or  
4 if the omnibus appropriations act has not passed the legislature by  
5 ((May 15th)) the end of the regular legislative session for that year,  
6 then notification shall be no later than June 15th, which notification  
7 shall specify the cause or causes for nonrenewal of contract. Such  
8 notice shall be served upon that employee personally, or by certified  
9 or registered mail, or by leaving a copy of the notice at the house of  
10 his or her usual abode with some person of suitable age and discretion  
11 then resident therein. The procedure and standards for the review of  
12 the decision of the hearing officer, superintendent or board and appeal  
13 therefrom shall be as prescribed for nonrenewal cases of teachers in  
14 RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010.  
15 Appeals may be filed in the superior court of any county in the  
16 educational service district.

17 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
18 preservation of the public peace, health, or safety, or support of the  
19 state government and its existing public institutions, and takes effect  
20 immediately.

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