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**SENATE BILL 5038**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Mullet and Wellman

Prefiled 12/09/22.

1 AN ACT Relating to the modification of notification deadlines for  
2 certain education employment contracts and related dates; amending  
3 RCW 28A.405.210, 28A.310.250, 28A.405.220, 28A.405.230, and  
4 28A.405.245; and providing an effective date.

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

6 **Sec. 1.** RCW 28A.405.210 and 2016 c 85 s 1 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  
12 district at a regular or special meeting thereof, nor unless he or  
13 she is the holder of an effective teacher's certificate or other  
14 certificate required by law or the Washington professional educator  
15 standards board 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,  
18 and except as otherwise provided by law, limited to a term of not  
19 more than one year. Every such contract shall be made in duplicate,  
20 one copy to be retained by the school district superintendent or  
21 secretary and one copy to be delivered to the employee. No contract

1 shall be offered by any board for the employment of any employee who  
2 has previously signed an employment contract for that same term in  
3 another school district of the state of Washington unless such  
4 employee shall have been released from his or her obligations under  
5 such previous contract by the board of directors of the school  
6 district to which he or she was obligated. Any contract signed in  
7 violation of this provision shall be void.

8 In the event it is determined that there is probable cause or  
9 causes that the employment contract of an employee should not be  
10 renewed by the district for the next ensuing term such employee shall  
11 be notified in writing on or before (~~(May 15th)~~) June 1st preceding  
12 the commencement of such term of that determination, (~~(or if the~~  
13 ~~omnibus appropriations act has not passed the legislature by the end~~  
14 ~~of the regular legislative session for that year, then notification~~  
15 ~~shall be no later than June 15th,)~~) which notification shall specify  
16 the cause or causes for nonrenewal of contract. Such determination of  
17 probable cause for certificated employees, other than the  
18 superintendent, shall be made by the superintendent. Such notice  
19 shall be served upon the employee personally, or by certified or  
20 registered mail, or by leaving a copy of the notice at the house of  
21 his or her usual abode with some person of suitable age and  
22 discretion then resident therein. Every such employee so notified, at  
23 his or her request made in writing and filed with the president,  
24 chair or secretary of the board of directors of the district within  
25 (~~(ten)~~) 10 days after receiving such notice, shall be granted  
26 opportunity for hearing pursuant to RCW 28A.405.310 to determine  
27 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  
30 his 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)~~) 10 days following July 15  
33 rather than the day that the employee submits the request for a  
34 hearing. If any such notification or opportunity for hearing is not  
35 timely given, the employee entitled thereto shall be conclusively  
36 presumed to have been reemployed by the district for the next ensuing  
37 term upon contractual terms identical with those which would have  
38 prevailed if his or her employment had actually been renewed by the  
39 board of directors for such ensuing term.

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

6 **Sec. 2.** RCW 28A.310.250 and 2016 c 85 s 5 are each amended to  
7 read as follows:

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

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

32 **Sec. 3.** RCW 28A.405.220 and 2016 c 85 s 2 are each amended to  
33 read as follows:

34 (1) Notwithstanding the provisions of RCW 28A.405.210, every  
35 person employed by a school district in a teaching or other  
36 nonsupervisory certificated position shall be subject to nonrenewal  
37 of employment contract as provided in this section during the first  
38 three years of employment by such district, unless: (a) The employee

1 has previously completed at least two years of certificated  
2 employment in another school district in the state of Washington, in  
3 which case the employee shall be subject to nonrenewal of employment  
4 contract pursuant to this section during the first year of employment  
5 with the new district; or (b) the employee has received an evaluation  
6 rating below level 2 on the four-level rating system established  
7 under RCW 28A.405.100 during the third year of employment, in which  
8 case the employee shall remain subject to the nonrenewal of the  
9 employment contract until the employee receives a level 2 rating; or  
10 (c) the school district superintendent may make a determination to  
11 remove an employee from provisional status if the employee has  
12 received one of the top two evaluation ratings during the second year  
13 of employment by the district. Employees as defined in this section  
14 shall hereinafter be referred to as "provisional employees."

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

30 (3) Every such provisional employee so notified, at his or her  
31 request made in writing and filed with the superintendent of the  
32 district within (~~ten~~) 10 days after receiving such notice, shall be  
33 given the opportunity to meet informally with the superintendent for  
34 the purpose of requesting the superintendent to reconsider his or her  
35 decision. Such meeting shall be held no later than (~~ten~~) 10 days  
36 following the receipt of such request, and the provisional employee  
37 shall be given written notice of the date, time and place of meeting  
38 at least three days prior thereto. At such meeting the provisional  
39 employee shall be given the opportunity to refute any facts upon

1 which the superintendent's determination was based and to make any  
2 argument in support of his or her request for reconsideration.

3 (4) Within (~~ten~~) 10 days following the meeting with the  
4 provisional employee, the superintendent shall either reinstate the  
5 provisional employee or shall submit to the school district board of  
6 directors for consideration at its next regular meeting a written  
7 report recommending that the employment contract of the provisional  
8 employee be nonrenewed and stating the reason or reasons therefor. A  
9 copy of such report shall be delivered to the provisional employee at  
10 least three days prior to the scheduled meeting of the board of  
11 directors. In taking action upon the recommendation of the  
12 superintendent, the board of directors shall consider any written  
13 communication which the provisional employee may file with the  
14 secretary of the board at any time prior to that meeting.

15 (5) The board of directors shall notify the provisional employee  
16 in writing of its final decision within (~~ten~~) 10 days following the  
17 meeting at which the superintendent's recommendation was considered.  
18 The decision of the board of directors to nonrenew the contract of a  
19 provisional employee shall be final and not subject to appeal.

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

26 **Sec. 4.** RCW 28A.405.230 and 2016 c 85 s 3 are each amended to  
27 read as follows:

28 Any certificated employee of a school district employed as an  
29 assistant superintendent, director, principal, assistant principal,  
30 coordinator, or in any other supervisory or administrative position,  
31 hereinafter in this section referred to as "administrator", shall be  
32 subject to transfer, at the expiration of the term of his or her  
33 employment contract, to any subordinate certificated position within  
34 the school district. "Subordinate certificated position" as used in  
35 this section, shall mean any administrative or nonadministrative  
36 certificated position for which the annual compensation is less than  
37 the position currently held by the administrator.

38 Every superintendent determining that the best interests of the  
39 school district would be served by transferring any administrator to

1 a subordinate certificated position shall notify that administrator  
2 in writing on or before (~~May 15th~~) June 1st preceding the  
3 commencement of such school term of that determination, (~~or if the~~  
4 ~~omnibus appropriations act has not passed the legislature by the end~~  
5 ~~of the regular legislative session for that year, then notification~~  
6 ~~shall be no later than June 15th,~~) which notification shall state  
7 the reason or reasons for the transfer, and shall identify the  
8 subordinate certificated position to which the administrator will be  
9 transferred. Such notice shall be served upon the administrator  
10 personally, or by certified or registered mail, or by leaving a copy  
11 of the notice at the place of his or her usual abode with some person  
12 of suitable age and discretion then resident therein.

13 Every such administrator so notified, at his or her request made  
14 in writing and filed with the president or chair, or secretary of the  
15 board of directors of the district within (~~ten~~) 10 days after  
16 receiving such notice, shall be given the opportunity to meet  
17 informally with the board of directors in an executive session  
18 thereof for the purpose of requesting the board to reconsider the  
19 decision of the superintendent. Such board, upon receipt of such  
20 request, shall schedule the meeting for no later than the next  
21 regularly scheduled meeting of the board, and shall notify the  
22 administrator in writing of the date, time and place of the meeting  
23 at least three days prior thereto. At such meeting the administrator  
24 shall be given the opportunity to refute any facts upon which the  
25 determination was based and to make any argument in support of his or  
26 her request for reconsideration. The administrator and the board may  
27 invite their respective legal counsel to be present and to  
28 participate at the meeting. The board shall notify the administrator  
29 in writing of its final decision within (~~ten~~) 10 days following its  
30 meeting with the administrator. No appeal to the courts shall lie  
31 from the final decision of the board of directors to transfer an  
32 administrator to a subordinate certificated position: PROVIDED, That  
33 in the case of principals such transfer shall be made at the  
34 expiration of the contract year and only during the first three  
35 consecutive school years of employment as a principal by a school  
36 district; except that if any such principal has been previously  
37 employed as a principal by another school district in the state of  
38 Washington for three or more consecutive school years the provisions  
39 of this section shall apply only to the first full school year of  
40 such employment.

1 This section applies to any person employed as an administrator  
2 by a school district on June 25, 1976, and to all persons so employed  
3 at any time thereafter, except that RCW 28A.405.245 applies to  
4 persons first employed after June 10, 2010, as a principal by a  
5 school district meeting the criteria of RCW 28A.405.245. This section  
6 provides the exclusive means for transferring an administrator  
7 subject to this section to a subordinate certificated position at the  
8 expiration of the term of his or her employment contract.

9 **Sec. 5.** RCW 28A.405.245 and 2016 c 85 s 4 are each amended to  
10 read as follows:

11 (1) Any certificated employee of a school district under this  
12 section who is first employed as a principal after June 10, 2010,  
13 shall be subject to transfer as provided under this section, at the  
14 expiration of the term of his or her employment contract, to any  
15 subordinate certificated position within the school district.  
16 "Subordinate certificated position" as used in this section means any  
17 administrative or nonadministrative certificated position for which  
18 the annual compensation is less than the position currently held by  
19 the administrator. This section applies only to school districts with  
20 an annual average student enrollment of more than thirty-five  
21 thousand full-time equivalent students.

22 (2) During the first three consecutive school years of employment  
23 as a principal by the school district, or during the first full  
24 school year of such employment in the case of a principal who has  
25 been previously employed as a principal by another school district in  
26 the state for three or more consecutive school years, the transfer of  
27 the principal to a subordinate certificated position may be made by a  
28 determination of the superintendent that the best interests of the  
29 school district would be served by the transfer.

30 (3) Commencing with the fourth consecutive school year of  
31 employment as a principal, or the second consecutive school year of  
32 such employment in the case of a principal who has been previously  
33 employed as a principal by another school district in the state for  
34 three or more consecutive school years, the transfer of the principal  
35 to a subordinate certificated position shall be based on the  
36 superintendent's determination that the results of the evaluation of  
37 the principal's performance using the evaluative criteria and rating  
38 system established under RCW 28A.405.100 provide a valid reason for  
39 the transfer without regard to whether there is probable cause for

1 the transfer. If a valid reason is shown, it shall be deemed that the  
2 transfer is reasonably related to the principal's performance. No  
3 probationary period is required. However, provision of support and an  
4 attempt at remediation of the performance of the principal, as  
5 defined by the superintendent, are required for a determination by  
6 the superintendent under this subsection that the principal should be  
7 transferred to a subordinate certificated position.

8 (4) Any superintendent transferring a principal under this  
9 section to a subordinate certificated position shall notify that  
10 principal in writing on or before (~~May 15th~~) June 1st before the  
11 beginning of the school year of that determination(~~(, or if the~~  
12 ~~omnibus appropriations act has not passed the legislature by the end~~  
13 ~~of the regular legislative session for that year, then notification~~  
14 ~~shall be no later than June 15th)~~). The notification shall state the  
15 reason or reasons for the transfer and shall identify the subordinate  
16 certificated position to which the principal will be transferred. The  
17 notification shall be served upon the principal personally, or by  
18 certified or registered mail, or by leaving a copy of the notice at  
19 the place of his or her usual abode with some person of suitable age  
20 and discretion then resident therein.

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



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

6           NEW SECTION.   **Sec. 6.** This act takes effect July 31, 2023.

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