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**SENATE BILL 5085**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Wellman and Mullet

Prefiled 12/22/22.

1 AN ACT Relating to principal and assistant principal terms of  
2 employment; amending RCW 41.59.080, 28A.405.230, 28A.405.245,  
3 28A.400.302, and 28A.405.130; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature acknowledges the critical  
6 role that school principals play in our education system and the  
7 impact that effective and sustainable school leadership can have on  
8 student success, educator retention, and overall school culture.

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

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

16 The legislature intends to:

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

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

21 (3) Provide better protection for assistant principal positions;

- 1 (4) Update employment applications; and
- 2 (5) Clarify required trainings for evaluations.

3 **Sec. 2.** RCW 41.59.080 and 1998 c 244 s 11 are each amended to  
4 read as follows:

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

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

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

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

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

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

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

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

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

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

16           Any certificated employee of a school district employed as an  
17 assistant superintendent, director, (~~principal, assistant~~  
18 ~~principal,~~) coordinator, or in any other supervisory or  
19 administrative position, hereinafter in this section referred to as  
20 "administrator", shall be subject to transfer, at the expiration of  
21 the term of his or her employment contract, to any subordinate  
22 certificated position within the school district. "Subordinate  
23 certificated position" as used in this section, shall mean any  
24 administrative or nonadministrative certificated position for which  
25 the annual compensation is less than the position currently held by  
26 the administrator.

27           Every superintendent determining that the best interests of the  
28 school district would be served by transferring any administrator to  
29 a subordinate certificated position shall notify that administrator  
30 in writing on or before May 15th preceding the commencement of such  
31 school term of that determination, or if the omnibus appropriations  
32 act has not passed the legislature by the end of the regular  
33 legislative session for that year, then notification shall be no  
34 later than June 15th, which notification shall state the reason or  
35 reasons for the transfer, and shall identify the subordinate  
36 certificated position to which the administrator will be transferred.  
37 Such notice shall be served upon the administrator personally, or by  
38 certified or registered mail, or by leaving a copy of the notice at

1 the place of his or her usual abode with some person of suitable age  
2 and discretion then resident therein.

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

30 ~~This section applies to any person employed as an administrator~~  
31 ~~by a school district on June 25, 1976, and to all persons so employed~~  
32 ~~at any time thereafter, except that RCW 28A.405.245 applies to~~  
33 ~~persons first employed after June 10, 2010, as a principal by a~~  
34 ~~school district meeting the criteria of RCW 28A.405.245. This section~~  
35 ~~provides the exclusive means for transferring an administrator~~  
36 ~~subject to this section to a subordinate certificated position at the~~  
37 ~~expiration of the term of his or her employment contract)).~~

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

1 (1) Any certificated employee of a school district under this  
2 section who is first employed as a principal (~~(after June 10, 2010,)~~)  
3 or assistant principal as provided in RCW 28A.400.100 and evaluated  
4 on the leadership framework shall be subject to transfer as provided  
5 under this section, at the expiration of the term of his or her  
6 employment contract, to any subordinate certificated position within  
7 the school district: PROVIDED, That such transfer shall be made at  
8 the expiration of the contract year and only during the first three  
9 consecutive school years of employment as a principal or assistant  
10 principal by a school district; except that if any such principal or  
11 assistant principal has been previously employed as a principal or  
12 assistant principal by another school district in the state of  
13 Washington for three or more consecutive school years the provisions  
14 of this section shall apply only to the first full school year of  
15 such employment. "Subordinate certificated position" as used in this  
16 section means any administrative or nonadministrative certificated  
17 position for which the annual compensation is less than the position  
18 currently held by the administrator. (~~(This section applies only to~~  
19 ~~school districts with an annual average student enrollment of more~~  
20 ~~than thirty-five thousand full-time equivalent students.))~~)

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

34 (3) Commencing with the fourth consecutive school year of  
35 employment as a principal or assistant principal, or the second  
36 consecutive school year of such employment in the case of a principal  
37 or assistant principal who has been previously employed as a  
38 principal or assistant principal by another school district in the  
39 state for three or more consecutive school years, the transfer of the  
40 principal or assistant principal to a subordinate certificated

1 position shall be based on the superintendent's determination that  
2 the results of the evaluation of the principal's or assistant  
3 principal's performance using the evaluative criteria and rating  
4 system established under RCW 28A.405.100 provide a valid reason for  
5 the transfer (~~((without regard to whether there is probable cause for~~  
6 ~~the transfer))~~). If a valid reason is shown, it shall be deemed that  
7 the transfer is reasonably related to the principal's or assistant  
8 principal's performance. No probationary period is required. However,  
9 provision of support and an attempt at remediation of the performance  
10 of the principal or assistant principal, as defined by the  
11 superintendent, are required for a determination by the  
12 superintendent under this subsection that the principal or assistant  
13 principal should be transferred to a subordinate certificated  
14 position.

15 (4) Any superintendent transferring a principal or assistant  
16 principal under this section to a subordinate certificated position  
17 shall notify that principal or assistant principal directly and in  
18 writing on or before May 15th before the beginning of the school year  
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 The notification shall state the reason or reasons for the transfer  
23 citing specific evaluative and performance criteria using the rating  
24 system established under RCW 28A.405.100 and shall identify the  
25 subordinate certificated position to which the principal or assistant  
26 principal will be transferred. The notification shall be served upon  
27 the principal or assistant principal personally, or by certified or  
28 registered mail, or by leaving a copy of the notice at the place of  
29 his or her usual abode with some person of suitable age and  
30 discretion then resident therein. Such notice shall be communicated  
31 directly to the principal or assistant principal and served by  
32 certified or registered mail.

33 (5) Any principal or assistant principal so notified may request  
34 to the president or chair of the board of directors of the district,  
35 in writing and within (~~((ten))~~) 10 days after receiving notice, an  
36 opportunity to meet informally with the board of directors in an  
37 executive session for the purpose of requesting the board to  
38 reconsider the decision of the superintendent, and shall be given  
39 such opportunity. The board, upon receipt of such request, shall  
40 schedule the meeting for no later than the next regularly scheduled

1 meeting of the board, and shall give the principal or assistant  
2 principal written notice at least three days before the meeting of  
3 the date, time, and place of the meeting. At the meeting the  
4 principal or assistant principal shall be given the opportunity to  
5 refute any evidence upon which the determination was based and to  
6 make any argument in support of his or her request for  
7 reconsideration. The principal or assistant principal and the board  
8 may invite their respective legal counsel to be present and to  
9 participate at the meeting. The board shall notify the principal or  
10 assistant principal in writing of its final decision within ~~((ten))~~  
11 10 days following its meeting with the principal or assistant  
12 principal. No appeal to the courts shall lie from the final decision  
13 of the board of directors to transfer a principal or assistant  
14 principal to a subordinate certificated position.

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

25 **Sec. 5.** RCW 28A.400.302 and 2019 c 295 s 311 are each amended to  
26 read as follows:

27 A school district employment application may not include a  
28 question asking whether the applicant has ever been placed on  
29 administrative leave, has ever been on a plan of improvement, has  
30 ever been under an investigation, or has ever resigned in lieu of  
31 termination.

32 **Sec. 6.** RCW 28A.405.130 and 2012 c 35 s 3 are each amended to  
33 read as follows:

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

37 (2) Before evaluating classroom teachers, principals, or  
38 assistant principals using the evaluation systems required under RCW

1 28A.405.100, principals and administrators must engage in  
2 professional development designed to implement the revised systems  
3 and maximize rater agreement.

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