
SENATE BILL 5914

State of Washington

62nd Legislature

2011 Regular Session

By Senators Tom and Zarelli

Read first time 04/05/11. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to teacher performance; amending RCW 28A.405.140,
2 28A.405.220, 28A.405.415, 28A.150.410, and 28A.400.200; adding new
3 sections to chapter 28A.405 RCW; adding a new section to chapter
4 28A.150 RCW; creating new sections; and providing an effective date.

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

6 **PART I**

7 **SHORT TITLE AND INTENT**

8 NEW SECTION. **Sec. 101.** This act may be known and cited as the
9 excellent teachers for every student act.

10 NEW SECTION. **Sec. 102.** The legislature finds that in order for
11 Washington schools to be great places to teach and learn - where all
12 kids and educators succeed - schools must build cultures where all
13 students thrive. The legislature intends to respect teachers and
14 principals first by empowering them to create that culture together,
15 and then by helping them retain the teachers who are crucial to that
16 culture. In particular, these policies support practices with a track
17 record of closing the achievement gap. This is done by:

1 (1) Ensuring that teachers who do the best work are the ones who
2 keep their jobs when budgets need to be cut, by basing reduction in
3 force policies on the evaluations the legislature has outlined for
4 measuring teacher performance. Since the loss of teachers through
5 layoffs already impacts student learning, there is an urgent need to
6 conduct layoffs in a way that retains the most effective teachers.
7 Educators deserve to be recognized for their ability to help students
8 learn and children deserve the very best and brightest teachers;

9 (2) Empowering principals and teachers with autonomy in challenging
10 school placement decisions to ensure the creation of school cultures
11 that both promote the ongoing improvement of teaching and learning and
12 are committed to closing the achievement gap. The strongest, most
13 successful school cultures are those in which teachers and principals
14 work toward shared goals for improving student learning. In order to
15 create shared cultures, principals and teachers must be able to agree
16 that a challenging school placement is the best fit for them;

17 (3) Recognizing that for the fair evaluation of a principal based
18 on the criteria outlined by the legislature, specifically that
19 principals should be evaluated on creating a school culture that
20 promotes the ongoing improvement of learning and teaching and managing
21 both staff and fiscal resources to support student achievement and
22 legal responsibilities for students and staff, a principal needs the
23 ability to select teachers who have demonstrated effectiveness and have
24 demonstrated qualifications and teaching experience that support the
25 instructional practices of his or her school;

26 (4) Increasing the authority of principals to terminate teachers
27 upon a finding that, after multiple years of unsuccessful improvement
28 following training and mentoring, the lack of a teacher's progress in
29 improving his or her teaching skills is detrimental to the academic
30 performance of the teacher's students; and

31 (5) Reforming the statewide salary allocation schedule and national
32 board bonuses to ensure that state appropriations are rationally
33 allocated using an evidence-based pay schedule that rewards teachers
34 who are making a positive difference toward educational attainment of
35 their students.

36 **PART II**

1 **PERFORMANCE-BASED REDUCTION IN FORCE DUE TO ENROLLMENT**
2 **DECLINE OR REVENUE LOSS**

3 NEW SECTION. **Sec. 201.** A new section is added to chapter 28A.405
4 RCW to read as follows:

5 (1) When reductions in the workforce occur due to enrollment
6 decline or revenue loss, the employment contracts of any certificated
7 classroom teacher must be nonrenewed in the following manner within
8 each particular certification or endorsement area. Certificated
9 classroom teachers who received the lowest evaluation rating, as
10 described in RCW 28A.405.100 must have their contracts nonrenewed
11 first.

12 (2) The board of directors of each school district shall adopt a
13 written policy governing procedures for the nonrenewal of employment
14 contracts for certificated classroom teachers as provided for in
15 subsection (1) of this section.

16 (3) Any school district whose board policies or locally bargained
17 agreement outlines recall rights for certificated classroom teachers
18 must recall staff in the reverse order contracts were nonrenewed as
19 provided for in subsection (1) of this section.

20 (4) All collective bargaining agreements and other contracts
21 entered into between a school district and an employee bargaining unit
22 or an employee after the effective date of this section, as well as
23 bargaining agreements existing on the effective date of this section,
24 but renewed or extended after the effective date of this section, must
25 be consistent with this section.

26 **PART III**
27 **STAFFING PLACEMENTS**

28 NEW SECTION. **Sec. 301.** A new section is added to chapter 28A.405
29 RCW to read as follows:

30 Any policy adopted by a school district board of directors after
31 the effective date of this section under RCW 28A.150.230 or in a
32 locally bargained agreement must contain provisions that prohibit
33 assignment of a certificated classroom teacher to a school in the
34 lowest tier of the state board of education's accountability index,
35 unless agreed to by the hiring principal and, if applicable to local
36 policy, the school-based entity charged with hiring decisions.

1 (5) The board of directors shall notify the teacher in writing of
2 its final decision within ten days following the meeting at which the
3 principal's recommendation was considered. The decision of the board
4 of directors to terminate the contract of a teacher pursuant to this
5 section shall be final and not subject to appeal.

6 (6) All school district collective bargaining agreements signed,
7 adopted, or renewed after the effective date of this section, shall
8 include provisions consistent with this section.

9 **Sec. 402.** RCW 28A.405.220 and 2010 c 235 s 203 are each amended to
10 read as follows:

11 (1) Notwithstanding the provisions of RCW 28A.405.140 and
12 28A.405.210, every person employed by a school district in a teaching
13 or other nonsupervisory certificated position shall be subject to
14 nonrenewal of employment contract as provided in this section during
15 the first three years of employment by such district, unless: (a) The
16 employee has previously completed at least two years of certificated
17 employment in another school district in the state of Washington, in
18 which case the employee shall be subject to nonrenewal of employment
19 contract pursuant to this section during the first year of employment
20 with the new district; or (b) the school district superintendent may
21 make a determination to remove an employee from provisional status if
22 the employee has received one of the top two evaluation ratings during
23 the second year of employment by the district. Employees as defined in
24 this section shall hereinafter be referred to as "provisional
25 employees."

26 (2) In the event the superintendent of the school district
27 determines that the employment contract of any provisional employee
28 should not be renewed by the district for the next ensuing term such
29 provisional employee shall be notified thereof in writing on or before
30 May 15th preceding the commencement of such school term, or if the
31 omnibus appropriations act has not passed the legislature by May 15th,
32 then notification shall be no later than June 15th, which notification
33 shall state the reason or reasons for such determination. Such notice
34 shall be served upon the provisional employee personally, or by
35 certified or registered mail, or by leaving a copy of the notice at the
36 place of his or her usual abode with some person of suitable age and

1 discretion then resident therein. The determination of the
2 superintendent shall be subject to the evaluation requirements of RCW
3 28A.405.100.

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

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

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

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

1 PART V

2 LINKING YEARLY BONUSES TO TEACHER PERFORMANCE

3 Sec. 501. RCW 28A.405.415 and 2009 c 539 s 6 are each amended to
4 read as follows:

5 (1) Before the 2013-14 school year, certificated instructional
6 staff who have attained certification from the national board for
7 professional teaching standards shall receive a bonus each year in
8 which they maintain the certification. Beginning in the 2013-14 school
9 year and each year thereafter, certificated instructional staff who
10 have received a bonus for at least two years must be evaluated by the
11 principal as a top tier teacher under RCW 28A.405.100 in order to
12 receive an annual bonus. The bonus shall be calculated as follows:
13 The annual bonus shall be five thousand dollars (~~in the 2007-08 school~~
14 ~~year. Thereafter, the annual bonus shall increase by inflation. For~~
15 ~~the 2009-10 and 2010-11 school years the annual bonus shall be subject~~
16 ~~to the availability of amounts appropriated for this purpose. During~~
17 ~~the 2011-2013 and 2013-2015 fiscal biennia, in addition to annual~~
18 ~~adjustments for inflation, the bonus amount shall be additionally~~
19 ~~increased such that, by the end of the 2014-15 school year, national~~
20 ~~board bonus amounts are, at a minimum, equal to what they would have~~
21 ~~been if annual adjustments for inflation had not been suspended during~~
22 ~~the 2009-10 or 2010-11 school year)).~~

23 (2) Before the 2013-14 school year, certificated instructional
24 staff who have attained certification from the national board for
25 professional teaching standards shall be eligible for bonuses in
26 addition to that provided by subsection (1) of this section if the
27 individual is in an instructional assignment in a school in which at
28 least seventy percent of the students qualify for the free and reduced-
29 price lunch program. Beginning in the 2013-14 school year and each
30 year thereafter, certificated instructional staff who have received a
31 bonus for at least two years must be evaluated by the principal as a
32 top tier teacher under RCW 28A.405.100 in order to receive an annual
33 bonus under this subsection.

34 (3) The amount of the additional bonus under subsection (2) of this
35 section for those meeting the qualifications of subsection (2) of this
36 section is five thousand dollars.

37 (4) The bonuses provided under this section are in addition to
38 compensation received under a district's salary schedule adopted in

1 accordance with RCW 28A.405.200 and shall not be included in
2 calculations of a district's average salary and associated salary
3 limitations under RCW 28A.400.200.

4 (5) The bonuses provided under this section shall be paid in a lump
5 sum amount in July of each school year.

6 (6) The technical working group established in RCW 28A.400.201 must
7 include an examination of national board certification bonuses.

8 **PART VI**

9 **STATEWIDE SALARY ALLOCATION SCHEDULE**

10 NEW SECTION. **Sec. 601.** The legislature finds the Washington state
11 institute for public policy has analyzed research on whether having a
12 graduate degree improves the ability of a teacher to raise the academic
13 performance of his or her students. The institute concluded that the
14 average research estimate is that graduate degrees had "essentially
15 zero" impact on student outcomes, except possibly in the instance of
16 mathematics and science graduate degrees for teachers in particular
17 fields. The institute found that, within the context of a single
18 salary schedule, salary schedules should be adjusted to place less or
19 no emphasis on graduate degrees. Additionally, the institute found
20 that the effect of teacher experience on student learning, while quite
21 significant in the initial years, levels off considerably beyond five
22 years of experience. The legislature is cognizant of this research and
23 finds that, at present, it spends more than nine hundred million
24 dollars per year in higher pay for teachers with educational experience
25 beyond a bachelor's degree and a significant amount in higher
26 compensation for teachers beyond their initial years of experience.
27 The legislature intends to reform the statewide salary schedule to
28 ensure that dollars spent on education are better allocated to improve
29 student outcomes.

30 **Sec. 602.** RCW 28A.150.410 and 2010 c 236 s 10 are each amended to
31 read as follows:

32 (1) The legislature shall establish for each school year in the
33 appropriations act a statewide salary allocation schedule, for
34 allocation purposes only, to be used to distribute funds for basic
35 education certificated instructional staff salaries under RCW

1 28A.150.260. For the purposes of this section, the staff allocations
2 for classroom teachers, teacher librarians, guidance counselors, and
3 student health services staff under RCW 28A.150.260 are considered
4 allocations for certificated instructional staff.

5 (2) Salary allocations for state-funded basic education
6 certificated instructional staff shall be calculated by the
7 superintendent of public instruction by determining the district's
8 average salary for certificated instructional staff, using the
9 statewide salary allocation schedule and related documents, conditions,
10 and limitations established by the omnibus appropriations act.

11 (3) ~~Beginning ((January 1, 1992, no more than ninety college~~
12 ~~quarter-hour credits received by any employee after the baccalaureate~~
13 ~~degree may be used to determine compensation allocations under the~~
14 ~~state salary allocation schedule and LEAP documents referenced in the~~
15 ~~omnibus appropriations act, or any replacement schedules and documents,~~
16 ~~unless:~~

17 ~~(a) The employee has a master's degree; or~~

18 ~~(b) The credits were used in generating state salary allocations~~
19 ~~before January 1, 1992)) in the 2013-14 school year, the statewide~~
20 ~~salary allocation schedule shall phase out in annual proportional~~
21 ~~decrements additional salary allocations for certificated instructional~~
22 ~~staff with greater than eight years of service and educational~~
23 ~~experience beyond a baccalaureate degree plus forty-five credits,~~
24 ~~unless the employee has a master's degree in mathematics, science, or~~
25 ~~special education and is teaching in one of those fields, in which case~~
26 ~~the increased compensation allocation shall reflect only that portion~~
27 ~~of an employee's workload that is spent teaching those fields.~~

28 (4) By no later than the 2018-19 school year, the maximum college
29 quarter-hour credits and years of education service used to determine
30 compensation allocations under the state salary allocation schedule and
31 LEAP documents referenced in the omnibus appropriations act, or any
32 replacement schedules and documents, shall be:

33 (a) Forty-five credits after the baccalaureate degree, unless the
34 employee has a master's degree in mathematics, science, or special
35 education and is teaching in one of those fields, in which case the
36 increased compensation allocation shall reflect only that portion of
37 the employee's workload that is spent teaching in those fields; and

38 (b) Eight years of service.

1 (5) Beginning in the 2007-08 school year, the calculation of years
2 of service for occupational therapists, physical therapists, speech-
3 language pathologists, audiologists, nurses, social workers,
4 counselors, and psychologists regulated under Title 18 RCW may include
5 experience in schools and other nonschool positions as occupational
6 therapists, physical therapists, speech-language pathologists,
7 audiologists, nurses, social workers, counselors, or psychologists.
8 The calculation shall be that one year of service in a nonschool
9 position counts as one year of service for purposes of this chapter, up
10 to a limit of two years of nonschool service. Nonschool years of
11 service included in calculations under this subsection shall not be
12 applied to service credit totals for purposes of any retirement benefit
13 under chapter 41.32, 41.35, or 41.40 RCW, or any other state retirement
14 system benefits.

15 (6) Fiscal savings from changes to the statewide salary allocation
16 schedule under this section shall be fully reinvested in compensation
17 of certificated instructional staff. Beginning in the 2013-14 school
18 year the statewide salary allocation schedule shall be revised to
19 incorporate performance pay based on the certificated teacher
20 evaluation system required under RCW 28A.405.100 and the school
21 accountability index required under RCW 28A.657.110. Seventy percent
22 of savings from changes to the statewide salary allocation schedule
23 shall be directed to certificated instructional staff performance pay
24 based on the certificated teacher evaluation system required under RCW
25 28A.405.100 and thirty percent directed to certificated instructional
26 staff performance pay based on the school accountability index required
27 under RCW 28A.657.110.

28 **Sec. 603.** RCW 28A.400.200 and 2010 c 235 s 401 are each amended to
29 read as follows:

30 (1) Every school district board of directors shall fix, alter,
31 allow, and order paid salaries and compensation for all district
32 employees in conformance with this section.

33 (2)~~((a))~~ Salaries for certificated instructional staff shall not
34 be less than the salary provided in the appropriations act in the
35 statewide salary allocation schedule for an employee with a
36 baccalaureate degree and zero years of service~~((+and~~

1 ~~(b) Salaries for certificated instructional staff with a master's~~
2 ~~degree shall not be less than the salary provided in the appropriations~~
3 ~~act in the statewide salary allocation schedule for an employee with a~~
4 ~~master's degree and zero years of service)).~~

5 (3)(a) The actual average salary paid to certificated instructional
6 staff shall not exceed the district's average certificated
7 instructional staff salary used for the state basic education
8 allocations for that school year as determined pursuant to RCW
9 28A.150.410.

10 (b) Fringe benefit contributions for certificated instructional
11 staff shall be included as salary under (a) of this subsection only to
12 the extent that the district's actual average benefit contribution
13 exceeds the amount of the insurance benefits allocation provided per
14 certificated instructional staff unit in the state operating
15 appropriations act in effect at the time the compensation is payable.
16 For purposes of this section, fringe benefits shall not include payment
17 for unused leave for illness or injury under RCW 28A.400.210; employer
18 contributions for old age survivors insurance, workers' compensation,
19 unemployment compensation, and retirement benefits under the Washington
20 state retirement system; or employer contributions for health benefits
21 in excess of the insurance benefits allocation provided per
22 certificated instructional staff unit in the state operating
23 appropriations act in effect at the time the compensation is payable.
24 A school district may not use state funds to provide employer
25 contributions for such excess health benefits.

26 (c) Salary and benefits for certificated instructional staff in
27 programs other than basic education shall be consistent with the salary
28 and benefits paid to certificated instructional staff in the basic
29 education program.

30 (4) Except as provided in RCW 28A.150.410, salaries and benefits
31 for certificated instructional staff may exceed the limitations in
32 subsection (3) of this section only by separate contract for additional
33 time, for additional responsibilities, for incentives, or for
34 implementing specific measurable innovative activities, including
35 professional development, specified by the school district to: (a)
36 Close one or more achievement gaps, (b) focus on development of
37 science, technology, engineering, and mathematics (STEM) learning
38 opportunities, or (c) provide arts education. Beginning September 1,

1 2011, school districts shall annually provide a brief description of
2 the innovative activities included in any supplemental contract to the
3 office of the superintendent of public instruction. The office of the
4 superintendent of public instruction shall summarize the district
5 information and submit an annual report to the education committees of
6 the house of representatives and the senate. Supplemental contracts
7 shall not cause the state to incur any present or future funding
8 obligation. Supplemental contracts shall be subject to the collective
9 bargaining provisions of chapter 41.59 RCW and the provisions of RCW
10 28A.405.240, shall not exceed one year, and if not renewed shall not
11 constitute adverse change in accordance with RCW 28A.405.300 through
12 28A.405.380. No district may enter into a supplemental contract under
13 this subsection for the provision of services which are a part of the
14 basic education program required by Article IX, section 3 of the state
15 Constitution.

16 (5) Employee benefit plans offered by any district shall comply
17 with RCW 28A.400.350 (~~and~~), 28A.400.275, and 28A.400.280.

18 NEW SECTION. **Sec. 604.** A new section is added to chapter 28A.150
19 RCW to read as follows:

20 Beginning in the 2011-12 school year, the base salary allocation
21 for school district certificated instructional staff must be reduced
22 for those grandfathered school districts with allocations above the
23 minimum salary identified in the statewide salary allocation schedule.
24 The grandfathered district reduction shall be in annual proportional
25 decrements that result in the allocation being uniform across all
26 school districts in the 2013-14 school year. The annual decrement for
27 each grandfathered school district shall, at a minimum, be the lesser
28 of (1) the difference between the district's base salary allocation and
29 the minimum salary identified in the statewide salary allocation
30 schedule, and (2) one percent of the minimum salary identified in the
31 statewide salary allocation schedule.

32 **PART VII**
33 **MISCELLANEOUS**

1 NEW SECTION. **Sec. 701.** This act takes effect September 1, 2011.

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