

perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state, twenty-one thousand four hundred dollars; state treasurer, twenty-four thousand one hundred fifty dollars; state auditor, twenty-four thousand nine hundred fifty dollars; attorney general, thirty-one thousand five hundred dollars; superintendent of public instruction, thirty-one thousand five hundred dollars; commissioner of public lands, twenty-nine thousand two hundred fifty dollars; state insurance commissioner, twenty-four thousand fifty dollars; members of the legislature shall receive for their service ~~((three))~~ seven thousand ~~((eight))~~ two hundred dollars per annum, effective January 10, 1977; and in addition, ten cents per mile for travel to and from legislative sessions.

NEW SECTION. Sec. 2. There is hereby appropriated to the legislature the sum of two hundred and forty seven thousand, four hundred and seventy dollars from the state general fund for the purpose of implementing this 1976 amendatory act.

Passed the House March 14, 1976.

Passed the Senate March 13, 1976.

Approved by the Governor March 22, 1976.

Filed in Office of Secretary of State March 22, 1976.

CHAPTER 114

[Substitute House Bill No. 1364]

PUBLIC SCHOOL EMPLOYMENT

AN ACT Relating to education; amending section 28A.58.450, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 49, Laws of 1973 and RCW 28A.58.450; amending section 22, chapter 34, Laws of 1969 ex. sess. as amended by section 22, chapter 288, Laws of 1975 1st ex. sess. and RCW 28A.67.065; amending section 16, chapter 15, Laws of 1970 ex. sess. as last amended by section 133, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.67.070; amending section 28A.58.480, chapter 223, Laws of 1969 ex. sess. as amended by section 15, chapter 34, Laws of 1969 ex. sess. and RCW 28A.58.480; amending section 28A.58.490, chapter 223, Laws of 1969 ex. sess. as last amended by section 16, chapter 34, Laws of 1970 ex. sess. and RCW 28A.58.490; amending section 18, chapter 34, Laws of 1969 ex. sess. as amended by section 3, chapter 49, Laws of 1973 and RCW 28A.58.515; amending section 10, chapter ... (HB 1356), Laws of 1975-'76 2nd ex. sess. and RCW 28A.58.137; creating new sections; adding a new section to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW; adding new sections to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.67 RCW; and providing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.67 RCW a new section to read as follows:

Notwithstanding the provisions of RCW 28A.67.070 as now or hereafter amended, every person employed by a school district in a teaching or other non-supervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first year of employment by such district. Employees as defined in this section shall hereinafter be referred to as "provisional employees".

In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof

in writing on or before May 15th preceding the commencement of such school term, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee 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. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.67.065, as now or hereafter amended.

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

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

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

This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after the effective date of this 1976 amendatory act. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.67.070, and chapter 28A.88 RCW, as now or hereafter amended.

Sec. 2. Section 28A.58.450, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 49, Laws of 1973 and RCW 28A.58.450 are each amended to read as follows:

~~((Every board of directors determining))~~ In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, ~~((shall notify))~~ such employee shall be notified in writing of ~~((its))~~ that decision, which notification shall specify the

probable cause or causes for such action. Such determinations of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notices shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chairman of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to section 5 of this 1976 amendatory act to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his contract status. ~~((In the request for hearing, the employee may request either an open or closed hearing. The board upon receipt of such request shall call the hearing to be held within ten days following the receipt of such request, and at least three days prior to the date fixed for the hearing shall notify such employee in writing of the date, time and place of the hearing. The hearing shall be open or closed as requested by the employee; but if the employee fails to make such a request, the board or its hearing officer may determine whether the hearing shall be open or closed. The board may employ as a hearing officer any person not currently employed by the district to conduct on its behalf any hearing required by this section, who shall transmit to the board a record of the proceedings together with his recommended findings of fact and conclusions of law, and an advisory recommended decision for the board's final disposition. The board or its hearing officer may reasonably regulate the conduct of the hearing. The employee may engage such counsel and produce such witnesses as he or she may desire. The board of directors, within ten days following the conclusion of such hearing, shall notify such employee in writing of its final decision. Any decision to discharge or to take other adverse action against such employee shall be based solely upon the cause or causes for discharge specified in the notice of probable cause to the employee and established by a preponderance of the evidence at the hearing to be sufficient cause or causes for discharge or other adverse action against his contract status.))~~

In the event any such notice or opportunity for hearing is not timely given ~~((by the district))~~, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in section 9 of this 1976 amendatory act shall not be construed as a discharge or other adverse action against contract status for the purposes of this section.

Sec. 3. Section 22, chapter 34, Laws of 1969 ex. sess. as amended by section 22, chapter 288, Laws of 1975 1st ex. sess. and RCW 28A.67.065 are each amended to read as follows:

~~((Every board of directors, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, shall establish an evaluative~~

~~criteria and procedures for all certificated employees. Such procedure shall require not less than annual evaluation of all employees. New employees shall be evaluated within the first ninety calendar days of their employment. Every employee whose work is judged unsatisfactory shall be notified in writing of stated areas of deficiencies along with recommendations for improvement by February 1st of each year. A probationary period shall be established from February 1st to April 15th for the employee to demonstrate improvement.)~~ (1) The superintendent of public instruction shall, on or before January 1, 1977, establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter. Such criteria shall be subject to review by November 1, 1976, by four members of the legislature, one from each caucus of each house, including the chairpersons of the respective education committees.

Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

It shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel, hereinafter referred to as "employees" in this section, shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the evaluation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

Every employee whose work is judged unsatisfactory based on district evaluation criteria shall be notified in writing of stated specific areas of deficiencies along with a suggested specific and reasonable program for improvement on or before February 1st of each year. A probationary period shall be established beginning on or before February 1st and ending no later than May 1st. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet

with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement shall be specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.58.450 or 28A.67.070, as now or hereafter amended.

The establishment of a probationary period shall not be deemed to adversely affect the contract status of an employee within the meaning of RCW 28A.58.450, as now or hereafter amended.

(2) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

(3) Each certificated employee shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her professional performance.

(4) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated employees or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.67.070, as now or hereafter amended, or the discharge of such evaluator under RCW 28A.58.450, as now or hereafter amended.

Sec. 4. Section 16, chapter 15, Laws of 1970 ex. sess. as last amended by section 133, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.67.070 are each amended to read as follows:

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he is the holder of an effective teacher's certificate or other certificate required by law or the state board of education for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in triplicate, one copy to be retained by the school district superintendent or secretary, one copy to be retained, after having been approved and registered, by the educational service district superintendent, and one copy to be delivered to the employee thereafter. No contract shall be offered by any board nor approved and registered by the educational service district superintendent for the employment of any ((teacher)) employee who has previously signed ((a)) an employment contract ((to teach)) for that same term in another school district of the state of Washington unless such ((teacher)) employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

~~((Every board of directors determining))~~ In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term ((shall notify that)) such employee shall be notified in writing on or before ((April)) May 15th preceding the commencement of such term of that determination ((of the board of directors)), which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chairman or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to section 5 of this 1976 amendatory act to determine whether ((or not the facts constitute)) there is sufficient cause or causes for nonrenewal of contract. ((In the request for hearing, the employee may request either an open or closed hearing. Such board upon receipt of such request shall call the hearing to be held within ten days following the receipt of such request, and at least three days prior to the date fixed for the hearing shall notify the employee in writing of the date, time and place of the hearing. The hearing shall be open or closed as requested by the employee, but if the employee fails to make such a request, the board or its hearing officer may determine whether the hearing shall be open or closed.

~~The board may employ as a hearing officer any person not currently employed by the district to conduct on its behalf any hearing required by this section, who shall transmit to the board a record of the proceeding together with his recommended findings of fact and conclusions of law, and an advisory recommended decision for the board's final disposition. The board or its hearing officer may reasonably regulate the conduct of the hearing. The employee may engage such counsel and produce such witnesses as he or she may desire. The board of directors, within ten days following the conclusion of such hearing, shall notify the employee in writing of its final decision either to renew or not to renew the employment of the employee for the next ensuing term. Any decision not to renew~~

~~such employment contract shall be based solely upon the cause or causes for nonrenewal specified in the notice of probable cause to the employee and established by a preponderance of the evidence at the hearing to be sufficient cause or causes for nonrenewal.)~~ If any such notification or opportunity for hearing is not timely given (~~by the district~~), the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in section 1 of this 1976 amendatory act; transfer to a subordinate certificated position as that procedure is set forth in section 9 of this 1976 amendatory act shall not be construed as a nonrenewal of contract for the purposes of this section.

NEW SECTION. Sec. 5. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW a new section to read as follows:

(1) Any employee receiving a notice of probable cause for discharge or adverse effect in contract status pursuant to RCW 28A.58.450, as now or hereafter amended, or any employee, with the exception of provisional employees as defined in section 1 of this 1976 amendatory act, receiving a notice of probable cause for nonrenewal of contract pursuant to RCW 28A.67.070, as now or hereafter amended, shall be granted the opportunity for a hearing pursuant to this section.

(2) In any request for a hearing pursuant to RCW 28A.58.450 or 28A.67.070, as now or hereafter amended, the employee may request either an open or closed hearing. The hearing shall be open or closed as requested by the employee, but if the employee fails to make such a request, the hearing officer may determine whether the hearing shall be open or closed.

(3) The employee may engage counsel who shall be entitled to represent the employee at the prehearing conference held pursuant to subsection (4) of this section and at all subsequent proceedings pursuant to this section. At the hearing provided for by this section, the employee may produce such witnesses as he or she may desire.

(4) In the event that an employee requests a hearing pursuant to RCW 28A.58.450 or 28A.67.070, as now or hereafter amended, a hearing officer shall be appointed in the following manner: Within ten days following the receipt of any such request the board of directors of the district or its designee and the employee shall each appoint one nominee, each of whom shall be a member in good standing of the Washington state bar association. Within five days following the appointment of such nominees they shall jointly appoint a hearing officer who shall be a member in good standing of the Washington state bar association. Should said nominees fail to agree as to who should be appointed as the hearing officer, either the board of directors or the employee, upon appropriate notice to the other party, may apply to the presiding judge of the superior court for the county in which the district is located for the appointment of such hearing officer, whereupon such presiding judge shall have the duty to appoint a hearing officer who shall be a member in good standing of the Washington state bar association and who

shall, in the judgment of such presiding judge, be qualified to fairly and impartially discharge his or her duties. Nothing herein shall preclude the board of directors and the employee from stipulating as to the identity of the hearing officer in which event the foregoing procedures for the selection of the hearing officer shall be inapplicable. The district shall pay all fees and expenses of any hearing officer selected pursuant to this subsection.

(5) Within five days following the selection of a hearing officer pursuant to subsection (4) hereof, the board of directors or its designee shall schedule a prehearing conference to be held within such five day period. The employee shall be given written notice of the date, time, and place of such prehearing conference at least three days prior to the date established for such conference.

(6) The hearing officer shall preside at any prehearing conference scheduled pursuant to subsection (5) of this section and in connection therewith shall:

(a) Issue such subpoenas or subpoenas duces tecum as either party may request at that time or thereafter; and

(b) Authorize the taking of prehearing depositions at the request of either party at that time or thereafter; and

(c) Provide for such additional methods of discovery as may be authorized by the civil rules applicable in the superior courts of the state of Washington; and

(d) Establish the date for the commencement of the hearing, to be within ten days following the date of the prehearing conference, unless the employee requests a continuance, in which event the hearing officer shall give due consideration to such request.

(7) The hearing officer shall preside at any hearing and in connection therewith shall:

(a) Make rulings as to the admissibility of evidence pursuant to the rules of evidence applicable in the superior courts of the state of Washington; and

(b) Make other appropriate rulings of law and procedure.

(8) Except as provided in subsection (9) of this section, the board of directors of the district shall have the following duties and responsibilities in connection with any hearing conducted pursuant to this section:

(a) Not less than a quorum of the board shall hear all of the evidence admitted during the hearing.

(b) At the conclusion of the hearing, board members who have heard all of the evidence shall deliberate in private and shall reach a final decision by vote of a majority of the members participating at the hearing.

(c) Written notice of the final decision of the board of directors shall be sent to the employee as promptly as possible and in no event later than ten days after the conclusion of the hearing.

(9) In lieu of the hearing procedures provided for in subsections (7) and (8) of this section, the board at the time it schedules the prehearing conference pursuant to subsection (5) of this section, may elect, if the employee consents, to have the hearing conducted by the hearing officer without board participation and if the board so elects, it shall give written notice thereof to the employee at or before the time of said prehearing conference. The hearing officer shall have the following duties at any hearing conducted by the hearing officer without board participation:

(a) The hearing officer shall make rulings as to the admissibility of evidence pursuant to the rules of evidence applicable in the superior court of the state of Washington.

(b) The hearing officer shall make other appropriate rulings of law and procedure.

(c) Within ten days following the conclusion of the hearing the hearing officer shall transmit in writing to the board and to the employee, findings of fact and conclusions of law and final decision.

(10) Any final decision by the board or the hearing officer to nonrenew the employment contract of the employee, or to discharge the employee, or to take other action adverse to the employee's contract status, as the case may be, shall be based solely upon the cause or causes specified in the notice of probable cause to the employee and shall be established by a preponderance of the evidence at the hearing to be sufficient cause or causes for such action.

(11) All subpoenas and prehearing discovery orders shall be enforceable by and subject to the contempt and other equity powers of the superior court of the county in which the school district is located upon petition of any aggrieved party.

(12) A complete record shall be made of the hearing and all orders and rulings of the hearing officer and school board.

Sec. 6. Section 28A.58.480, chapter 223, Laws of 1969 ex. sess. as amended by section 15, chapter 34, Laws of 1969 ex. sess. and RCW 28A.58.480 are each amended to read as follows:

Any appeal to the superior court by an employee shall be heard (~~(de novo)~~) by the superior court without a jury. Such appeal shall be heard expeditiously. The superior court's review shall be confined to the verbatim transcript of the hearing and the papers and exhibits admitted into evidence at the hearing, except that in cases of alleged irregularities in procedure not shown in the transcript or exhibits and in cases of alleged abridgment of the employee's constitutional free speech rights, the court may take additional testimony on the alleged procedural irregularities or abridgment of free speech rights. The court shall hear oral argument and receive written briefs offered by the parties.

The court may affirm the decision of the board or hearing officer or remand the case for further proceedings; or it may reverse the decision if the substantial rights of the employee may have been prejudiced because the decision was:

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the board or hearing officer; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order; or
- (6) Arbitrary or capricious.

Sec. 7. Section 28A.58.490, chapter 223, Laws of 1969 ex. sess. as last amended by section 16, chapter 34, Laws of 1969 ex. sess. and RCW 28A.58.490 are each amended to read as follows:

If the court enters judgment for the employee, and if the court finds that the probable cause determination was made in bad faith or upon insufficient legal

grounds, the court in its discretion may award to ~~((an))~~ the employee a reasonable attorney's fee for the preparation and trial of his appeal, together with his taxable costs in the superior court. If the court enters judgment for the employee, in addition to ordering the school board to reinstate or issue a new contract to the employee, the court may award damages for loss of compensation incurred by the employee by reason of the action of the school district.

Sec. 8. Section 18, chapter 34, Laws of 1969 ex. sess. as amended by section 3, chapter 49, Laws of 1973 and RCW 28A.58.515 are each amended to read as follows:

~~((In lieu of requesting a hearing before the board of directors or its designated hearing officer pursuant to the provisions of RCW 28A.58.450 and 28A.67.070, an employee may elect to appeal the action of the board directly to the superior court of the county in which the school district is located))~~ In the event that an employee, with the exception of a provisional employee as defined in section 1 of this 1976 amendatory act, receives a notice of probable cause pursuant to RCW 28A.58.450 or 28A.67.070, as now or hereafter amended, stating that by reason of a lack of sufficient funds or loss of levy election the employment contract of such employee should not be renewed for the next ensuing school term or that the same should be adversely affected, the employee may appeal any said probable cause determination directly to the superior court of the county in which the school district is located. Such appeal shall be perfected by serving upon the ~~((clerk))~~ secretary of the school board and filing with the clerk of the superior court a notice of appeal within ten days after receiving the ~~((notification of the action of the board))~~ probable cause notice. The notice of appeal shall set forth in a clear and concise manner the action appealed from. The superior court shall determine whether or not there was sufficient cause for the action ~~((of the board of directors))~~ as specified in the probable cause notice, which cause must be proven by a preponderance of the evidence, and shall base its determination solely upon the cause or causes stated in the notice of the employee. The appeal provided in this section shall be ~~((conducted in the same manner as appeals provided in RCW 28A.58.470 through 28A.58.500))~~ tried as an ordinary civil action: PROVIDED, That the board of directors' determination of priorities for the expenditure of funds shall be subject to superior court review pursuant to the standards set forth in RCW 28A.58.480, as now or hereafter amended: PROVIDED FURTHER, That the provisions of RCW 28A.58.490 and 28A.58.500, as now or hereafter amended, shall be applicable thereto.

NEW SECTION. Sec. 9. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.67 RCW a new section 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, 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 chairman, 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 the effective date of this 1976 amendatory act and to all persons so employed at any time thereafter. This section provides the exclusive means for transferring an administrator to a subordinate certificated position at the expiration of the term of his or her employment contract.

Sec. 10. Section 10, chapter ... (HB 1356), Laws of 1975-'76 2nd ex. sess. and RCW 28A.58.137 are each amended to read as follows:

In all districts the board of directors shall elect a superintendent who shall have such qualification as the local school board alone shall determine. ~~((He))~~ The superintendent shall have supervision over the several departments of the schools thereof and carry out such other powers and duties as prescribed by law. Notwithstanding the provisions of RCW 28A.58.100(1), the board may contract with such superintendent for a term not to exceed three years when deemed in the best interest of the district. The right to renew a contract of employment with any school superintendent shall rest solely with the discretion of the school board employing such school superintendent. Regarding such renewal of contracts of

school superintendents the provisions of RCW ((~~28A.58.450 through 28A.58.515; 28A.67.065;~~) 28A.67.070, 28A.67.074 and 28A.88.010 shall be inapplicable.

NEW SECTION. Sec. 11. Nothing in this 1976 amendatory act shall be construed to annul or to modify or to preclude the continuation of any lawful agreement entered into prior to the effective date of this 1976 amendatory act.

NEW SECTION. Sec. 12. If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the House March 14, 1976.

Passed the Senate March 12, 1976.

Approved by the Governor March 22, 1976.

Filed in Office of Secretary of State March 22, 1976.

CHAPTER 115

[Engrossed Substitute Senate Bill No. 2006]

DEPARTMENT OF VETERANS AFFAIRS

AN ACT Relating to state government; creating the department of veterans affairs; amending section 1, chapter 11, Laws of 1971 and RCW 43.17.010; amending section 2, chapter 11, Laws of 1971 and RCW 43.17.020; amending section 43.61.030, chapter 8, Laws of 1965 as last amended by section 5, chapter 189, Laws of 1971 ex. sess. and RCW 43.61.030; amending section 43.61.040, chapter 8, Laws of 1965 as last amended by section 6, chapter 189, Laws of 1971 ex. sess. and RCW 43.61.040; amending section 43.61.050, chapter 8, Laws of 1965 as amended by section 35, chapter 18, Laws of 1970 ex. sess. and RCW 43.61.050; amending section 43.61.070, chapter 8, Laws of 1965 as amended by section 36, chapter 18, Laws of 1970 ex. sess. and RCW 43.61.070; adding a new section to chapter 41.06 RCW; and adding a new chapter to Title 43 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Department" means the department of veterans affairs;
- (2) "Director" means the director of the department of veterans affairs;
- (3) "Committee" means the veterans affairs advisory committee.

NEW SECTION. Sec. 2. There is hereby created a department of state government to be known as the department of veterans affairs. All powers, duties, and functions now or through action of this legislature vested by law in the department of social and health services relating to veterans and veteran affairs are transferred to the department, except those powers, duties, and functions which are expressly directed elsewhere by law. Powers, duties, and functions to be transferred shall include, but not be limited to, all those powers, duties, and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs. Also transferred to the department shall be the powers, duties, and functions of the bonus division of the treasurer's office: PROVIDED, That such transfer shall not occur until the bonus division completes its current duties of accepting and processing bonus claims arising from the Viet Nam conflict. This section shall not be construed to continue the powers,