
SECOND SUBSTITUTE HOUSE BILL 1316

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Education (originally sponsored by Representatives Elliot, Thompson, Fuhrman, Mulliken, Pelesky, McMorris, D. Schmidt, Sheahan, Sherstad, B. Thomas, McMahan, Johnson, Stevens, L. Thomas, Backlund, Hargrove and Koster)

Read first time 02/02/96.

1 AN ACT Relating to educational employees' collective bargaining and
2 contractual obligations; amending RCW 41.59.120; and adding a new
3 section to chapter 41.59 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.59 RCW
6 to read as follows:

7 Educational employees are prohibited from engaging in a strike.
8 School district boards of directors are prohibited from engaging in a
9 lockout of educational employees. Should either a strike or lockout
10 occur, the representative of the educational employees or board of
11 directors may invoke the jurisdiction of the superior court in the
12 county in which the labor dispute exists, and such court shall have
13 jurisdiction to issue an appropriate order against either or both
14 parties. In fashioning an order, the court shall take into
15 consideration not only the elements necessary for injunctive relief but
16 also the purpose and goals of this chapter and any mitigating factors
17 such as the commission of an unfair labor practice by either party.

1 **Sec. 2.** RCW 41.59.120 and 1975 1st ex.s. c 288 s 13 are each
2 amended to read as follows:

3 (1) Prior to beginning the collective bargaining process, the
4 parties shall make public the issues to be bargained. This shall be
5 accomplished at a public meeting of the school district board of
6 directors.

7 (2) Either an employer or an exclusive bargaining representative
8 may declare that an impasse has been reached between them in collective
9 bargaining and may request the commission to appoint a mediator for the
10 purpose of assisting them in reconciling their differences and
11 resolving the controversy on terms which are mutually acceptable. If
12 the commission determines that its assistance is needed, not later than
13 five days after the receipt of a request therefor, it shall appoint a
14 mediator in accordance with rules and regulations for such appointment
15 prescribed by the commission. The mediator shall meet with the parties
16 or their representatives, or both, forthwith, either jointly or
17 separately, and shall take such other steps as he or she may deem
18 appropriate in order to persuade the parties to resolve their
19 differences and effect a mutually acceptable agreement. The mediator,
20 without the consent of both parties, shall not make findings of fact or
21 recommend terms of settlement. The services of the mediator,
22 including, if any, per diem expenses, shall be provided by the
23 commission without cost to the parties. Nothing in this subsection
24 ~~((+1))~~ (2) shall be construed to prevent the parties from mutually
25 agreeing upon their own mediation procedure, and in the event of such
26 agreement, the commission shall not appoint its own mediator unless
27 failure to do so would be inconsistent with the effectuation of the
28 purposes and policy of this chapter.

29 ~~((+2))~~ (3) If the mediator is unable to effect settlement of the
30 controversy within ten days after his or her appointment, ~~((either~~
31 ~~party, by written notification to the other, may request that their))~~
32 the parties' differences shall be submitted to fact-finding with
33 recommendations, except that the time for mediation may be extended by
34 mutual agreement between the parties. Within five days ~~((after receipt~~
35 ~~of the aforesaid written request for fact-finding))~~, the parties shall
36 select a person to serve as fact-finder and obtain a commitment from
37 that person to serve. If they are unable to agree upon a fact-finder
38 or to obtain such a commitment within that time, either party may
39 request the commission to designate a fact-finder. The commission,

1 within five days after receipt of such request, shall designate a fact-
2 finder in accordance with rules and regulations for such designation
3 prescribed by the commission. The fact-finder so designated shall not
4 be the same person who was appointed mediator pursuant to subsection
5 ~~((+1+))~~ (2) of this section without the consent of both parties.

6 The fact-finder, within five days after his or her appointment,
7 shall meet with the parties or their representatives, or both, either
8 jointly or separately, and make inquiries and investigations, hold
9 hearings, and take such other steps as he or she may deem appropriate.
10 For the purpose of such hearings, investigations and inquiries, the
11 fact-finder shall have the power to issue subpoenas requiring the
12 attendance and testimony of witnesses and the production of evidence.
13 If the dispute is not settled within ten days after his or her
14 appointment, the fact-finder shall make findings of fact and recommend
15 terms of settlement within thirty days after his or her appointment,
16 which recommendations shall be advisory only.

17 ~~((+3+))~~ (4) Such recommendations, together with the findings of
18 fact, shall be submitted in writing to the parties and the commission
19 privately before they are made public. Either the commission, the
20 fact-finder, the employer, or the exclusive bargaining representative
21 ~~((may))~~ shall make such findings and recommendations public if the
22 dispute is not settled within five days after their receipt from the
23 fact-finder.

24 ~~((+4+))~~ (5) The costs for the services of the fact-finder,
25 including, if any, per diem expenses and actual and necessary travel
26 and subsistence expenses, and any other incurred costs, shall be borne
27 by the commission without cost to the parties.

28 ~~((+5+))~~ (6) Nothing in this section shall be construed to prohibit
29 an employer and an exclusive bargaining representative from agreeing to
30 ~~((substitute, at their own expense, their own procedure for resolving
31 impasses in collective bargaining for that provided in this section or
32 from agreeing to))~~ utilize for the purposes of this section any other
33 governmental or other agency or person in lieu of the commission.

34 ~~((+6+))~~ (7) Any fact-finder designated by an employer and an
35 exclusive representative or the commission for the purposes of this
36 section shall be deemed an agent of the state.

--- END ---