
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6736

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Goings, Pelz, Heavey, Rasmussen, McAuliffe, Fraser, Bauer, Franklin, Loveland, Sheldon, Spanel, Fairley, Thibaudeau, Wojahn, Snyder, Sutherland, Drew, Rinehart, Kohl, Smith, Haugen and Winsley)

Read first time 02/06/96.

1 AN ACT Relating to employees of school districts; adding new
2 sections to chapter 41.59 RCW; repealing RCW 41.59.120; and declaring
3 an emergency.

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 The intent and purpose of sections 1 through 8 of this act are to
8 recognize that there exists a public policy in the state of Washington
9 against strikes by educational employees as a means of settling their
10 labor disputes; that the uninterrupted and dedicated service of these
11 employees is vital to the welfare and public safety of the state of
12 Washington; that to promote such dedicated and uninterrupted public
13 service there should exist an effective and adequate alternative means
14 of settling disputes.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.59 RCW
16 to read as follows:

17 Negotiations between an employer and the bargaining representative
18 in a unit of educational employees shall be commenced at least five

1 months prior to the submission of the budget to the legislative body of
2 the public employer. If no agreement has been reached sixty days after
3 the commencement of such negotiations then, at any time thereafter,
4 either party may declare that an impasse exists and may submit the
5 dispute to the commission for mediation, with or without the
6 concurrence of the other party. The commission shall appoint a
7 mediator, who shall forthwith meet with the representatives of the
8 parties, either jointly or separately, and shall take such other steps
9 as he or she may deem appropriate in order to persuade the parties to
10 resolve their differences and effect an agreement: PROVIDED, That a
11 mediator does not have a power of compulsion.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.59 RCW
13 to read as follows:

14 If an agreement has not been reached following a reasonable period
15 of negotiations and mediation, and the executive director of the
16 commission, upon the recommendation of the assigned mediator, finds
17 that the parties remain at impasse, then an interest arbitration panel
18 shall be created to resolve the dispute. The issues for determination
19 by the arbitration panel shall be limited to the issues certified by
20 the executive director. Within seven days following the issuance of
21 the determination of the executive director, each party shall name one
22 person to serve as its arbitrator on the arbitration panel. The two
23 members so appointed shall meet within seven days following the
24 appointment of the later appointed member to attempt to choose a third
25 member to act as the neutral chairman of the arbitration panel. Upon
26 the failure of the arbitrators to select a neutral chairman within
27 seven days, the two appointed members shall use one of the two
28 following options in the appointment of the third member, who shall act
29 as chairman of the panel: (1) By mutual consent, the two appointed
30 members may jointly request the commission, and the commission shall
31 appoint a third member within two days of such request. Costs of each
32 party's appointee shall be borne by each party respectively; other
33 costs of the arbitration proceedings shall be borne by the commission;
34 or (2) either party may apply to the commission, the federal mediation
35 and conciliation service, or the American Arbitration Association to
36 provide a list of five qualified arbitrators from which the neutral
37 chairman shall be chosen. Each party shall pay the fees and expenses

1 of its arbitrator, and the fees and expenses of the neutral chairman
2 shall be shared equally between the parties.

3 The arbitration panel so constituted shall promptly establish a
4 date, time, and place for a hearing and shall provide reasonable notice
5 thereof to the parties to the dispute. A hearing, which shall be
6 informal, shall be held, and each party shall have the opportunity to
7 present evidence and make argument. No member of the arbitration panel
8 may present the case for a party to the proceedings. The rules of
9 evidence prevailing in judicial proceedings may be considered, but are
10 not binding, and any oral testimony or documentary evidence or other
11 data deemed relevant by the chairman of the arbitration panel may be
12 received in evidence. A recording of the proceedings shall be taken.
13 The arbitration panel has the power to administer oaths, require the
14 attendance of witnesses, and require the production of such books,
15 papers, contracts, agreements, and documents as may be deemed by the
16 panel to be material to a just determination of the issues in dispute.
17 If any person refuses to obey a subpoena issued by the arbitration
18 panel, or refuses to be sworn or to make an affirmation to testify, or
19 any witness, party, or attorney for a party is guilty of any contempt
20 while in attendance at any hearing held hereunder, the arbitration
21 panel may invoke the jurisdiction of the superior court in the county
22 where the labor dispute exists, and the court has jurisdiction to issue
23 an appropriate order. Any failure to obey the order may be punished by
24 the court as a contempt thereof. The hearing conducted by the
25 arbitration panel shall be concluded within twenty-five days following
26 the selection or designation of the neutral chairman of the arbitration
27 panel, unless the parties agree to a longer period.

28 The neutral chairman shall consult with the other members of the
29 arbitration panel, and, within thirty days following the conclusion of
30 the hearing, the neutral chairman shall make written findings of fact
31 and a written determination of the issues in dispute, based on the
32 evidence presented. A copy thereof shall be served on the commission,
33 on each of the other members of the arbitration panel, and on each of
34 the parties to the dispute. That determination shall be final and
35 binding upon both parties, subject to review by the superior court upon
36 the application of either party within thirty days of its receipt
37 solely upon the question of whether the decision of the panel was
38 arbitrary or capricious.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.59 RCW
2 to read as follows:

3 An interest arbitration panel created pursuant to section 3 of this
4 act, in the performance of its duties under this chapter, exercises a
5 state function and is, for the purposes of this chapter, a state
6 agency. Chapter 34.05 RCW does not apply to proceedings before an
7 interest arbitration panel under this chapter.

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

10 During the pendency of the proceedings before the arbitration
11 panel, existing wages, hours and other conditions of employment shall
12 not be changed by action of either party without the consent of the
13 other but a party may so consent without prejudice to his rights or
14 position under sections 1 through 8 of this act.

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

17 If the representative of either or both the educational employees
18 and the employer refuse to submit to the procedures set forth in
19 sections 2 and 3 of this act, the parties, or the commission on its own
20 motion, may invoke the jurisdiction of the superior court for the
21 county in which the labor dispute exists and such court shall have
22 jurisdiction to issue an appropriate order. A failure to obey such
23 order may be punished by the court as a contempt thereof. A decision
24 of the arbitration panel shall be final and binding on the parties, and
25 may be enforced at the instance of either party, the arbitration panel
26 or the commission in the superior court for the county where the
27 dispute arose.

28 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.59 RCW
29 to read as follows:

30 The right of educational employees to engage in any strike, work
31 slowdown, or stoppage is prohibited. Both parties to any dispute shall
32 submit to the procedures set forth in sections 2 and 3 of this act
33 without resort to a strike or lockout. An organization recognized as
34 the bargaining representative that willfully disobeys a lawful order of
35 enforcement by a superior court pursuant to section 6 of this act and
36 this section, or willfully offers resistance to such order, whether by

1 strike or otherwise, is in contempt of court as provided in chapter
2 7.21 RCW. An employer that willfully disobeys a lawful order of
3 enforcement by a superior court pursuant to section 6 of this act or
4 willfully offers resistance to such order is in contempt of court as
5 provided in chapter 7.21 RCW.

6 NEW SECTION. **Sec. 8.** A new section is added to chapter 41.59 RCW
7 to read as follows:

8 (1) In making its determination, the arbitration panel shall be
9 mindful of the legislative purpose enumerated in section 1 of this act
10 and as additional standards or guidelines to aid it in reaching a
11 decision, shall take into consideration the following factors:

12 (a) The constitutional and statutory authority of the employer;

13 (b) Stipulations of the parties;

14 (c) The average consumer prices for goods and services, commonly
15 known as the cost of living;

16 (d) At-risk student populations or students with special needs;

17 (e) The financial capability of the school district;

18 (f) Changes in any of the foregoing circumstances during the
19 pendency of the proceedings; and

20 (g) Such other factors, not confined to the foregoing, which are
21 normally or traditionally taken into consideration in the determination
22 of wages, hours, and conditions of employment.

23 (2) Nothing in this section shall be construed to prohibit an
24 employer and an exclusive bargaining representative from agreeing to
25 substitute, at their own expense, their own procedure for resolving
26 impasses in collective bargaining for that provided in this section or
27 from agreeing to utilize for the purposes of this section any other
28 governmental or other agency or person in lieu of the commission.

29 NEW SECTION. **Sec. 9.** RCW 41.59.120 and 1975 1st ex.s. c 288 s 13
30 are each repealed.

31 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and shall take
34 effect immediately.

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