
SENATE BILL 6736

State of Washington

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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 01/29/96. Referred to Committee on Labor, Commerce & Trade.

1 AN ACT Relating to employees of school districts; amending RCW
2 28A.400.200; adding new sections to chapter 41.59 RCW; and repealing
3 RCW 41.59.120 and 41.59.935.

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 employees of school districts and community colleges
10 subject to this chapter as a means of settling their labor disputes;
11 that the uninterrupted and dedicated service of these classes of
12 employees is vital to the welfare and public safety of the state of
13 Washington; that to promote such dedicated and uninterrupted public
14 service there should exist an effective and adequate alternative means
15 of settling disputes.

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

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

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

17 If an agreement has not been reached following a reasonable period
18 of negotiations and mediation, and the executive director of the
19 commission, upon the recommendation of the assigned mediator, finds
20 that the parties remain at impasse, then an interest arbitration panel
21 shall be created to resolve the dispute. The issues for determination
22 by the arbitration panel shall be limited to the issues certified by
23 the executive director. In addition, each party to the impasse may
24 select a maximum of three issues for determination by the arbitration
25 panel which may include any matter affecting terms and conditions of
26 employment. Within seven days following the issuance of the
27 determination of the executive director, each party shall name one
28 person to serve as its arbitrator on the arbitration panel. The two
29 members so appointed shall meet within seven days following the
30 appointment of the later appointed member to attempt to choose a third
31 member to act as the neutral chairman of the arbitration panel. Upon
32 the failure of the arbitrators to select a neutral chairman within
33 seven days, the two appointed members shall use one of the two
34 following options in the appointment of the third member, who shall act
35 as chairman of the panel: (1) By mutual consent, the two appointed
36 members may jointly request the commission, and the commission shall
37 appoint a third member within two days of such request. Costs of each
38 party's appointee shall be borne by each party respectively; other

1 costs of the arbitration proceedings shall be borne by the commission;
2 or (2) either party may apply to the commission, the federal mediation
3 and conciliation service, or the American Arbitration Association to
4 provide a list of five qualified arbitrators from which the neutral
5 chairman shall be chosen. Each party shall pay the fees and expenses
6 of its arbitrator, and the fees and expenses of the neutral chairman
7 shall be shared equally between the parties.

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

33 The neutral chairman shall consult with the other members of the
34 arbitration panel, and, within thirty days following the conclusion of
35 the hearing, the neutral chairman shall make written findings of fact
36 and a written determination of the issues in dispute, based on the
37 evidence presented. A copy thereof shall be served on the commission,
38 on each of the other members of the arbitration panel, and on each of
39 the parties to the dispute. That determination shall be final and

1 binding upon both parties, subject to review by the superior court upon
2 the application of either party solely upon the question of whether the
3 decision of the panel was arbitrary or capricious.

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

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

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

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

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

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

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

34 The right of employees of school districts and community colleges
35 subject to this chapter to engage in any strike, work slowdown, or

1 stoppage is not granted. An organization recognized as the bargaining
2 representative that willfully disobeys a lawful order of enforcement by
3 a superior court pursuant to section 6 of this act and this section, or
4 willfully offers resistance to such order, whether by strike or
5 otherwise, is in contempt of court as provided in chapter 7.21 RCW. An
6 employer that willfully disobeys a lawful order of enforcement by a
7 superior court pursuant to section 6 of this act or willfully offers
8 resistance to such order is in contempt of court as provided in chapter
9 7.21 RCW.

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

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

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

17 (b) Stipulations of the parties;

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

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

21 (e) Changes in any of the foregoing circumstances during the
22 pendency of the proceedings; and

23 (f) Such other factors, not confined to the foregoing, which are
24 normally or traditionally taken into consideration in the determination
25 of wages, hours, and conditions of employment.

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

32 **Sec. 9.** RCW 28A.400.200 and 1993 c 492 s 225 are each amended to
33 read as follows:

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

1 (2)(a) Salaries for certificated instructional staff shall not be
2 less than the salary provided in the appropriations act in the state-
3 wide salary allocation schedule for an employee with a baccalaureate
4 degree and zero years of service; and

5 (b) Salaries for certificated instructional staff with a masters
6 degree shall not be less than the salary provided in the appropriations
7 act in the state-wide salary allocation schedule for an employee with
8 a masters degree and zero years of service((~~+~~)).

9 (3)(a) If the actual average salary paid to basic education
10 certificated instructional staff ((~~shall not exceed~~)) exceeds the
11 district's average basic education certificated instructional staff
12 salary used for the state basic education allocations for that school
13 year as determined pursuant to RCW 28A.150.410, the state shall not
14 incur any present or future funding obligations for that portion of
15 salary.

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

32 (c) Salary and benefits for certificated instructional staff in
33 programs other than basic education shall be consistent with the salary
34 and benefits paid to certificated instructional staff in the basic
35 education program.

36 (4) ((~~Salaries and benefits for certificated instructional staff~~
37 ~~may exceed the limitations in subsection (3) of this section only by~~
38 ~~separate contract for additional time, additional responsibilities, or~~
39 ~~incentives.~~)) Supplemental contracts shall not cause the state to

1 incur any present or future funding obligation. Supplemental contracts
2 shall be subject to the collective bargaining provisions of chapter
3 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one
4 year, and if not renewed shall not constitute adverse change in
5 accordance with RCW 28A.405.300 through 28A.405.380. No district may
6 enter into a supplemental contract under this subsection for the
7 provision of services which are a part of the basic education program
8 required by Article IX, section 3 of the state Constitution.

9 (5) Employee benefit plans offered by any district shall comply
10 with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

11 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
12 each repealed:

13 (1) RCW 41.59.120 and 1975 1st ex.s. c 288 s 13; and

14 (2) RCW 41.59.935 and 1990 c 33 s 571, 1987 1st ex.s. c 2 s 206, &
15 1981 c 16 s 3.

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