
SENATE BILL 6742

State of Washington

54th Legislature

1996 Regular Session

By Senators Bauer and Kohl

Read first time 01/30/96. Referred to Committee on Labor, Commerce & Trade.

1 AN ACT Relating to employees of community and technical colleges;
2 amending RCW 28B.52.035; reenacting and amending RCW 28B.50.140; and
3 adding new sections to chapter 28B.52 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 28B.52 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 28B.52 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 28B.52 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 28B.52 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 28B.52 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 28B.52 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 28B.52 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 28B.52 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 28B.50.140 and 1991 c 238 s 39 and 1991 c 58 s 1 are
33 each reenacted and amended to read as follows:

34 Each board of trustees:

35 (1) Shall operate all existing community and technical colleges in
36 its district;

1 (2) Shall create comprehensive programs of community and technical
2 college education and training and maintain an open-door policy in
3 accordance with the provisions of RCW 28B.50.090(3). However,
4 technical colleges, and college districts containing only technical
5 colleges, shall maintain programs solely for occupational education,
6 basic skills, and literacy purposes. For as long as a need exists,
7 technical colleges may continue those programs, activities, and
8 services they offered during the twelve-month period preceding
9 September 1, 1991;

10 (3) Shall employ for a period to be fixed by the board a college
11 president for each community and technical college and, may appoint a
12 president for the district, and fix their duties and compensation,
13 which may include elements other than salary. Compensation under this
14 subsection shall not affect but may supplement retirement, health care,
15 and other benefits that are otherwise applicable to the presidents as
16 state employees. The board shall also employ for a period to be fixed
17 by the board members of the faculty and such other administrative
18 officers and other employees as may be necessary or appropriate and fix
19 their salaries and duties. (~~Compensation and salary increases under
20 this subsection shall not exceed the amount or percentage established
21 for those purposes in the state appropriations act by the legislature
22 as allocated to the board of trustees by the state board for community
23 and technical colleges.~~) The state board for community and technical
24 colleges shall adopt rules defining the permissible elements of
25 compensation under this subsection;

26 (4) May establish, under the approval and direction of the college
27 board, new facilities as community needs and interests demand.
28 However, the authority of boards of trustees to purchase or lease major
29 off-campus facilities shall be subject to the approval of the higher
30 education coordinating board pursuant to RCW 28B.80.340(5);

31 (5) May establish or lease, operate, equip and maintain
32 dormitories, food service facilities, bookstores and other self-
33 supporting facilities connected with the operation of the community and
34 technical college;

35 (6) May, with the approval of the college board, borrow money and
36 issue and sell revenue bonds or other evidences of indebtedness for the
37 construction, reconstruction, erection, equipping with permanent
38 fixtures, demolition and major alteration of buildings or other capital
39 assets, and the acquisition of sites, rights-of-way, easements,

1 improvements or appurtenances, for dormitories, food service
2 facilities, and other self-supporting facilities connected with the
3 operation of the community and technical college in accordance with the
4 provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

5 (7) May establish fees and charges for the facilities authorized
6 hereunder, including reasonable rules and regulations for the
7 government thereof, not inconsistent with the rules and regulations of
8 the college board; each board of trustees operating a community and
9 technical college may enter into agreements, subject to rules and
10 regulations of the college board, with owners of facilities to be used
11 for housing regarding the management, operation, and government of such
12 facilities, and any board entering into such an agreement may:

13 (a) Make rules and regulations for the government, management and
14 operation of such housing facilities deemed necessary or advisable; and

15 (b) Employ necessary employees to govern, manage and operate the
16 same;

17 (8) May receive such gifts, grants, conveyances, devises and
18 bequests of real or personal property from private sources, as may be
19 made from time to time, in trust or otherwise, whenever the terms and
20 conditions thereof will aid in carrying out the community and technical
21 college programs as specified by law and the regulations of the state
22 college board; sell, lease or exchange, invest or expend the same or
23 the proceeds, rents, profits and income thereof according to the terms
24 and conditions thereof; and adopt regulations to govern the receipt and
25 expenditure of the proceeds, rents, profits and income thereof;

26 (9) May establish and maintain night schools whenever in the
27 discretion of the board of trustees it is deemed advisable, and
28 authorize classrooms and other facilities to be used for summer or
29 night schools, or for public meetings and for any other uses consistent
30 with the use of such classrooms or facilities for community and
31 technical college purposes;

32 (10) May make rules and regulations for pedestrian and vehicular
33 traffic on property owned, operated, or maintained by the district;

34 (11) Shall prescribe, with the assistance of the faculty, the
35 course of study in the various departments of the community and
36 technical college or colleges under its control, and publish such
37 catalogues and bulletins as may become necessary;

38 (12) May grant to every student, upon graduation or completion of
39 a course of study, a suitable diploma, nonbaccalaureate degree or

1 certificate. Technical colleges shall offer only nonbaccalaureate
2 technical degrees, certificates, or diplomas for occupational courses
3 of study under rules of the college board. Technical colleges in
4 districts twenty-eight and twenty-nine may offer nonbaccalaureate
5 associate of technical or applied arts degrees only in conjunction with
6 a community college the district of which overlaps with the district of
7 the technical college, and these degrees may only be offered after a
8 contract or agreement is executed between the technical college and the
9 community college. The authority and responsibility to offer transfer
10 level academic support and general education for students of districts
11 twenty-one and twenty-five shall reside exclusively with Whatcom
12 Community College. The board, upon recommendation of the faculty, may
13 also confer honorary associate of arts degrees upon persons other than
14 graduates of the community college, in recognition of their learning or
15 devotion to education, literature, art, or science. No degree may be
16 conferred in consideration of the payment of money or the donation of
17 any kind of property;

18 (13) Shall enforce the rules and regulations prescribed by the
19 state board for community and technical colleges for the government of
20 community and technical colleges, students and teachers, and promulgate
21 such rules and regulations and perform all other acts not inconsistent
22 with law or rules and regulations of the state board for community and
23 technical colleges as the board of trustees may in its discretion deem
24 necessary or appropriate to the administration of college districts:
25 PROVIDED, That such rules and regulations shall include, but not be
26 limited to, rules and regulations relating to housing, scholarships,
27 conduct at the various community and technical college facilities, and
28 discipline: PROVIDED, FURTHER, That the board of trustees may suspend
29 or expel from community and technical colleges students who refuse to
30 obey any of the duly promulgated rules and regulations;

31 (14) May, by written order filed in its office, delegate to the
32 president or district president any of the powers and duties vested in
33 or imposed upon it by this chapter. Such delegated powers and duties
34 may be exercised in the name of the district board;

35 (15) May perform such other activities consistent with this chapter
36 and not in conflict with the directives of the college board;

37 (16) Notwithstanding any other provision of law, may offer
38 educational services on a contractual basis other than the tuition and
39 fee basis set forth in chapter 28B.15 RCW for a special fee to private

1 or governmental entities, consistent with rules and regulations adopted
2 by the state board for community and technical colleges: PROVIDED,
3 That the whole of such special fee shall go to the college district and
4 be not less than the full instructional costs of such services
5 including any salary increases authorized by the legislature for
6 community and technical college employees during the term of the
7 agreement: PROVIDED FURTHER, That enrollments generated hereunder
8 shall not be counted toward the official enrollment level of the
9 college district for state funding purposes;

10 (17) Notwithstanding any other provision of law, may offer
11 educational services on a contractual basis, charging tuition and fees
12 as set forth in chapter 28B.15 RCW, counting such enrollments for state
13 funding purposes, and may additionally charge a special supplemental
14 fee when necessary to cover the full instructional costs of such
15 services: PROVIDED, That such contracts shall be subject to review by
16 the state board for community and technical colleges and to such rules
17 as the state board may adopt for that purpose in order to assure that
18 the sum of the supplemental fee and the normal state funding shall not
19 exceed the projected total cost of offering the educational service:
20 PROVIDED FURTHER, That enrollments generated by courses offered on the
21 basis of contracts requiring payment of a share of the normal costs of
22 the course will be discounted to the percentage provided by the
23 college;

24 (18) Shall be authorized to pay dues to any association of trustees
25 that may be formed by the various boards of trustees; such association
26 may expend any or all of such funds to submit biennially, or more often
27 if necessary, to the governor and to the legislature, the
28 recommendations of the association regarding changes which would affect
29 the efficiency of such association;

30 (19) Subject to the approval of the higher education coordinating
31 board pursuant to RCW 28B.80.340(4), may participate in higher
32 education centers and consortia that involve any four-year public or
33 independent college or university; and

34 (20) Shall perform any other duties and responsibilities imposed by
35 law or rule and regulation of the state board.

36 **Sec. 10.** RCW 28B.52.035 and 1991 c 238 s 148 are each amended to
37 read as follows:

1 At the conclusion of any negotiation processes as provided for in
2 RCW 28B.52.030, any matter upon which the parties have reached
3 agreement shall be reduced to writing and acted upon in a regular or
4 special meeting of the boards of trustees, and become part of the
5 official proceedings of said board meeting. (~~Provisions of written~~
6 ~~contracts relating to salary increases shall not exceed the amount or~~
7 ~~percentage established by the legislature in the appropriations act and~~
8 ~~allocated to the board of trustees by the state board for community and~~
9 ~~technical colleges.)) The length of term of any such agreement shall
10 be for not more than three fiscal years. Any provisions of these
11 agreements pertaining to salary increases will not be binding upon
12 future actions of the legislature. If any provision of a salary
13 increase is changed by subsequent modification of the appropriations
14 act by the legislature, both parties shall immediately enter into
15 collective bargaining for the sole purpose of arriving at a mutually
16 agreed upon replacement for the modified provision.~~

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