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HOUSE BILL 1398

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Beck, Wood, Nealey, Hochstatter and Fuhrman.

Read first time January 28, 1991. Referred to Committee on Education.

1            AN ACT Relating to teachers' strikes; and adding new sections to  
2 chapter 41.59 RCW.

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

4            NEW SECTION.    **Sec. 1.**    If an agreement has not been reached  
5 following a reasonable period of negotiations and mediation but in no  
6 event later than the beginning date of the school year in which the  
7 contract expires, and the executive director of the commission, upon  
8 the recommendation of the assigned mediator, finds that the parties  
9 remain at impasse, then an interest arbitration panel shall be created  
10 to resolve the dispute.    The issues for determination by the  
11 arbitration panel shall be limited to the issues certified by the  
12 executive director.    Within seven days following the issuance of the  
13 determination of the executive director, each party shall name one  
14 person to serve as its arbitrator on the arbitration panel.    The two  
15 members so appointed shall meet within seven days following the

1 appointment of the later appointed member to attempt to choose a third  
2 member to act as the neutral chair of the arbitration panel. Upon the  
3 failure of the arbitrators to select a neutral chair within seven days,  
4 the two appointed members shall use one of the two following options in  
5 the appointment of the third member, who shall act as chair of the  
6 panel: (1) By mutual consent, the two appointed members may jointly  
7 request the commission, and the commission shall appoint a third member  
8 within two days of such request. Costs of each party's appointee shall  
9 be borne by each party respectively; other costs of the arbitration  
10 proceedings shall be borne by the commission; or (2) either party may  
11 apply to the commission, the federal mediation and conciliation  
12 service, or the American arbitration association to provide a list of  
13 five qualified arbitrators from which the neutral chair shall be  
14 chosen. Each party shall pay the fees and expenses of its arbitrator,  
15 and the fees and expenses of the neutral chair shall be shared equally  
16 between the parties.

17 The arbitration panel so constituted shall promptly establish a  
18 date, time, and place for a hearing and shall provide reasonable notice  
19 thereof to the parties to the dispute. A hearing, which shall be  
20 informal, shall be held, and each party shall have the opportunity to  
21 present evidence and make argument. No member of the arbitration panel  
22 may present the case for a party to the proceedings. The rules of  
23 evidence prevailing in judicial proceedings may be considered, but are  
24 not binding, and any oral testimony or documentary evidence or other  
25 data deemed relevant by the chair of the arbitration panel may be  
26 received in evidence. A recording of the proceedings shall be taken.  
27 The arbitration panel has the power to administer oaths, require the  
28 attendance of witnesses, and require the production of such books,  
29 papers, contracts, agreements, and documents as may be deemed by the  
30 panel to be material to a just determination of the issues in dispute.

1 If any person refuses to obey a subpoena issued by the arbitration  
2 panel, or refuses to be sworn or to make an affirmation to testify, or  
3 any witness, party, or attorney for a party is guilty of any contempt  
4 while in attendance at any hearing held hereunder, the arbitration  
5 panel may invoke the jurisdiction of the superior court in the county  
6 where the labor dispute exists, and the court has jurisdiction to issue  
7 an appropriate order. Any failure to obey the order may be punished by  
8 the court as a contempt thereof. The hearing conducted by the  
9 arbitration panel shall be concluded within twenty-five days following  
10 the selection or designation of the neutral chair of the arbitration  
11 panel.

12 The neutral chair shall consult with the other members of the  
13 arbitration panel, and, within thirty days following the conclusion of  
14 the hearing, the neutral chair shall make written findings of fact and  
15 a written determination of the issues in dispute, based on the evidence  
16 presented. A copy thereof shall be served on the commission, on each  
17 of the other members of the arbitration panel, and on each of the  
18 parties to the dispute. That determination shall be final and binding  
19 upon both parties, subject to review by the superior court upon the  
20 application of either party solely upon the question of whether the  
21 decision of the panel was arbitrary or capricious.

22 NEW SECTION. **Sec. 2.** An interest arbitration panel created  
23 pursuant to section 1 of this act, in the performance of its duties  
24 under this chapter, exercises a state function and is, for the purposes  
25 of this chapter, a state agency. Chapter 34.05 RCW does not apply to  
26 proceedings before an interest arbitration panel under this chapter.

27 NEW SECTION. **Sec. 3.** In making its determination, the interest  
28 arbitration panel shall be mindful of the legislative purpose

1 enumerated in RCW 41.59.010 and as additional standards or guidelines  
2 to aid it in reaching a decision, it shall take into consideration the  
3 following factors:

4 (1) The constitutional and statutory authority of the employer;

5 (2) Stipulations of the parties;

6 (3) Comparison of the wages, hours, and conditions of employment of  
7 personnel involved in the proceedings with the wages, hours, and  
8 conditions of employment of like personnel of like employers of similar  
9 size on the west coast of the United States;

10 (4) The average consumer prices for goods and services, commonly  
11 known as the cost of living;

12 (5) Changes in any of the foregoing circumstances during the  
13 pendency of the proceedings; and

14 (6) Such other factors that are normally or traditionally taken  
15 into consideration in the determination of wages, hours, and conditions  
16 of employment.

17 NEW SECTION. **Sec. 4.** During the pendency of the proceedings  
18 before the interest arbitration panel, existing wages, hours, and other  
19 conditions of employment shall not be changed by action of either party  
20 without the consent of the other but a party may so consent without  
21 prejudice to his or her rights or position under this chapter.

22 NEW SECTION. **Sec. 5.** If the representative of either or both the  
23 educational employee and the employer refuse to submit to the  
24 procedures set forth in RCW 41.59.120 and section 1 of this act, the  
25 parties, or the commission on its own motion, may invoke the  
26 jurisdiction of the superior court for the county in which the labor  
27 dispute exists and such court shall have jurisdiction to issue an  
28 appropriate order. A failure to obey such order may be punished by the

1 court as contempt of court. A decision of the interest arbitration  
2 panel shall be final and binding on the parties, and may be enforced at  
3 the instance of either party, the interest arbitration panel, or the  
4 commission in the superior court for the county where the dispute  
5 arose.

6 NEW SECTION. **Sec. 6.** The right of educational employees to  
7 engage in any strike, work slowdown, or stoppage is not granted. An  
8 organization recognized as the bargaining representative of educational  
9 employees subject to this chapter that willfully disobeys a lawful  
10 order of enforcement by a superior court pursuant to this section and  
11 section 5 of this act, or willfully offers resistance to such order,  
12 whether by strike or otherwise, is in contempt of court as provided in  
13 chapter 7.21 RCW. An employer that willfully disobeys a lawful order  
14 of enforcement by a superior court pursuant to section 5 of this act or  
15 willfully offers resistance to such order is in contempt of court as  
16 provided in chapter 7.21 RCW.

17 NEW SECTION. **Sec. 7.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act are each  
22 added to chapter 41.59 RCW.