
HOUSE BILL 1316

State of Washington

54th Legislature

1995 Regular Session

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 01/20/95. Referred to Committee on Education.

1 AN ACT Relating to educational employees' collective bargaining and
2 contractual obligations; adding a new chapter to Title 28A RCW;
3 creating a new section; and prescribing penalties.

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

5 PART I

6 DEFINITIONS

7 NEW SECTION. Sec. 101. Unless the context clearly requires
8 otherwise, the definitions in this section apply throughout this
9 chapter.

10 (1) "Bargaining representative" means any lawful organization
11 recognized by an employer and certified by the commission as the sole
12 and exclusive bargaining representative of certain employees of the
13 employer.

14 (2) "Commission" means the public employment relations commission
15 established in RCW 41.58.010.

16 (3) "Education association" means an organization, whether
17 organized on a county, city, regional, area or state basis, in which
18 employees of one or more public school employers participate and that

1 exists for the common purpose of protecting and advancing the wages and
2 hours of the organization's members.

3 (4) "Educational employee" means any certificated employee of a
4 school district, and includes a classified employee who formally
5 belongs to an education association.

6 (5) "Impasse" means neither party has a change in position after
7 good faith bargaining occurs.

8 (6) "Lockout" means the temporary withholding of work from a group
9 of employees by means of shutting down the operation of the employer in
10 order to bring pressure upon the affected employees or the bargaining
11 representative, or both, to accept the employer's terms of settlement
12 of a labor dispute.

13 (7) "Public school employer" means a public employer that is a
14 school district board.

15 (8) "Strike" means the concerted failure to report for duty, the
16 willful absence from one's position, the stoppage of work, or the
17 abstinence in whole or in part from the full, faithful, and proper
18 performance of the duties of employment for the purpose of inducing,
19 influencing, or coercing a change in public employment conditions,
20 compensations, or the rights, privileges, or obligations of employment,
21 including unfair labor practices committed by the public school
22 employee or employer.

23 NEW SECTION. **Sec. 102.** This chapter does not limit, impair, or
24 affect the right of a public employee to the expression or
25 communication of a view, grievance, complaint, or opinion on any matter
26 related to the conditions or compensation of public employment or his
27 or her betterment as long as the expression or communication does not
28 interfere with the full, faithful, and proper performance of the duties
29 of employment.

30 **PART II**

31 **LOCKOUTS, WALKOUTS, STRIKES, AND NOTIFICATION**

32 NEW SECTION. **Sec. 201.** No public employee or education
33 association employee or organization may engage in a strike, and no
34 public employee or employee organization may cause, instigate,
35 encourage, or condone a strike.

1 wholly or in part from the full performance of his or her duties in
2 normal manner without permission, on the date or dates when a strike
3 occurs, is presumed to have engaged in a strike on such date or dates.

4 NEW SECTION. **Sec. 303.** No person exercising on behalf of any
5 public employer any authority, supervision, or direction over a public
6 employee may authorize, approve, condone, or consent to a strike, or
7 the engaging in a strike, by one or more public employees, and the
8 person may not authorize, approve, condone, or consent to such strike
9 or engagement.

10 NEW SECTION. **Sec. 304.** Not later than five days after the receipt
11 of notification from the employer or bargaining representative, the
12 commission director shall fine each public school employee the amount
13 equal to one day of pay for that employee for each full or partial day
14 that the employee engaged in the strike; including partial or full days
15 not worked while in the notification and hearing process. The
16 commission shall fine the bargaining representative of the public
17 school employee fifty dollars per member represented for each employee
18 engaged in the strike.

19 NEW SECTION. **Sec. 305.** If the commission director finds that a
20 public school employer instituted a lockout in violation of section 202
21 of this act, the commission shall fine the public school employer five
22 thousand dollars for each full or partial day of the lockout.

23 NEW SECTION. **Sec. 306.** If the commission imposes a fine against
24 a public school employee under section 304 of this act and the public
25 school employee continues to be employed by a public school employer,
26 the commission shall order the public school employer to deduct the
27 fine from the public school employee's annual salary. A public school
28 employer shall comply promptly with an order under this section.

29 NEW SECTION. **Sec. 307.** If the commission imposes a fine against
30 the bargaining representative, the fine shall be paid to the commission
31 in full within thirty days from the date of the issuance of the fine.
32 Fines shall be deposited in the school aid account created in section
33 313 of this act.

1 NEW SECTION. **Sec. 308.** If the commission imposes a fine against
2 the school directors, the fine shall be paid within thirty days from
3 the date of the issuance of the fine.

4 NEW SECTION. **Sec. 309.** If the commission does not receive payment
5 of a fine imposed under this chapter within thirty days after the
6 imposition of the fine, or if a public school employer does not deduct
7 a fine from a public school employee's pay pursuant to an order under
8 sections 203(3) and 304 of this act, the commission shall institute
9 collection proceedings.

10 NEW SECTION. **Sec. 310.** A public school employer shall not provide
11 to a public school employee or to a board member any compensation or
12 additional work assignment that is intended to reimburse the public
13 school employee or board member for a monetary penalty imposed under
14 this chapter or that is intended to allow the public school employee or
15 board member to recover a monetary penalty imposed under this section.

16 NEW SECTION. **Sec. 311.** Fines imposed under this chapter are in
17 addition to other penalties prescribed by law.

18 NEW SECTION. **Sec. 312.** A public school employer may bring an
19 action to enjoin a strike by public school employees in violation of
20 section 201 of this act, and a bargaining representative may bring an
21 action to enjoin a lockout by a public school employer in violation of
22 section 202 of this act, in the superior court for the county in which
23 the affected public school is located. A court having jurisdiction of
24 an action brought under this section shall grant injunctive relief if
25 the court finds that a strike or lockout has occurred, without regard
26 to the existence of other remedies, demonstration of irreparable harm,
27 or other factors. Failure to comply with an order of the court may be
28 punished as contempt. In addition, the court shall award court costs
29 and reasonable attorneys' fees to the plaintiff who prevails in an
30 action brought under this section.

31 NEW SECTION. **Sec. 313.** The school aid account is created in the
32 state treasury. All receipts from fines and penalties under this
33 chapter shall be deposited into the account. Moneys in the account may

1 be spent only after appropriation. Expenditures from the account may
2 be used only for one-time school construction costs.

3 **PART IV**
4 **EMPLOYEE DISCHARGE**

5 NEW SECTION. **Sec. 401.** A public school employer may discipline or
6 discharge a public employee for engaging in a strike. The officer or
7 entity having power to remove or discipline the employee may do so
8 within five days after regular compensation of the employee has ceased
9 or other discipline has been imposed.

10 NEW SECTION. **Sec. 402.** At no time during negotiations, impasse,
11 or strike may the master contract supersede an educational employee's
12 contract.

13 **PART V**
14 **MEDIATION AND IMPASSE**

15 NEW SECTION. **Sec. 501.** The public school employer and a
16 bargaining representative shall mutually agree that an impasse exists,
17 and that they are to submit the dispute to the commission for mediation
18 with or without the concurrence of the other as provided by RCW
19 41.56.440.

20 NEW SECTION. **Sec. 502.** If the parties in section 501 of this act
21 agree to participate in mediation under this section, not later than
22 thirty days after the date of impasse, an arbitration panel shall be
23 created. Each of the parties shall appoint one individual to represent
24 the party in the mediation, and those two representatives shall select
25 a third member to act as a neutral party and mediator. If the two
26 parties fail to choose a mediator within seven days, the commission
27 shall appoint a mediator within two days after this seven-day period
28 has run.

29 NEW SECTION. **Sec. 503.** Not later than thirty days after the
30 appointment of a mediator under section 502 of this act, if the
31 representatives of the parties mutually agree on a recommended

1 settlement of the impasse, the representatives each shall present the
2 recommended settlement to the party he or she represents for approval.

3 NEW SECTION. **Sec. 504.** If one or both of the parties fail to
4 ratify a recommended settlement under section 503 of this act within
5 the thirty-day time limit specified in section 503 of this act, the
6 public school employer may implement unilaterally its last offer of
7 settlement made before the impasse occurred. This section does not
8 limit or otherwise affect a public school employer's ability to
9 unilaterally implement all or part of its bargaining position as
10 otherwise provided by law.

11 NEW SECTION. **Sec. 505.** Mediation costs under this chapter shall
12 be shared equally by both parties.

13 NEW SECTION. **Sec. 506.** During the process of mediation and if
14 impasse should occur, the school day shall proceed as planned by the
15 school calendar. No cessation of instructional time may occur.

16 **PART VI**

17 **LIMITATIONS OF COLLECTIVE BARGAINING**

18 NEW SECTION. **Sec. 601.** Except as otherwise provided in this
19 chapter, as used in this chapter "collective bargaining" is the
20 performance of the mutual obligation of the employer and the
21 representative of the employees to meet at reasonable times and bargain
22 in good faith with respect to wages, benefits, hours, and other terms
23 and conditions of employment unless specifically prohibited.

24 NEW SECTION. **Sec. 602.** Collective bargaining between a public
25 school employer and a bargaining representative of its employees is
26 limited to the following:

- 27 (1) Salary schedule with current state guidelines including extra
28 duty salary schedules;
- 29 (2) Fringe benefits, including group health coverage and pension;
- 30 (3) Right to organize;
- 31 (4) Election of officers;
- 32 (5) Impasse resolution; and
- 33 (6) Personal safety and security.

1 NEW SECTION. **Sec. 801.** Part headings as used in this act do not
2 constitute any part of the law.

3 NEW SECTION. **Sec. 802.** Sections 101, 102, 201 through 204, 301
4 through 313, 401, 402, 501 through 506, 601 through 604, 701, and 702
5 of this act shall constitute a new chapter in Title 28A RCW.

--- END ---