
SUBSTITUTE HOUSE BILL 2374

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Education (originally sponsored by Representatives Pelesky, Hargrove, L. Thomas, Hickel, McMahan, Thompson, Sherstad, Goldsmith, Mulliken, Blanton, Hymes, Stevens and Crouse)

Read first time 02/02/96.

1 AN ACT Relating to compensation of educational employees who
2 participate in strikes; amending RCW 28A.400.200, 28A.150.290, and
3 28A.150.290; adding a new section to chapter 28A.400 RCW; adding a new
4 section to chapter 41.56 RCW; adding a new section to chapter 41.59
5 RCW; providing a contingent effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.400
8 RCW to read as follows:

9 (1) For the purposes of this section "strike" means any concerted
10 action by employees or employee organizations to suspend, curtail,
11 interrupt, withhold, or otherwise fail or refuse to perform fully their
12 normal duties or services as school employees in connection with a
13 controversy concerning terms, tenure, or conditions of their
14 employment, or concerning the association or representation of persons
15 in negotiating, fixing, maintaining, changing, or seeking to arrange
16 terms or conditions of their employment, regardless of whether the
17 disputants in the controversy stand in the proximate relation of
18 employer and employee or whether the concerted action is directed
19 against the employer school district.

1 (2)(a) No school district employee participating in a strike may be
2 paid any salary for any school day or partial school day in which the
3 employee participates in a strike. The school district shall reduce
4 the salary of each employee participating in the strike by an amount
5 equal to one day's salary for each day or partial day that the employee
6 participates in the strike. For purposes of this section, the term
7 "salary" shall include the employee's base salary plus any additional
8 salary earned through supplemental contracts. For purposes of this
9 section, the term "salary" shall not include health, retirement, or
10 other benefits.

11 (b) The reduction in the salary shall be subtracted from the
12 employee's paycheck for the pay period in which the strike day or days
13 occurred.

14 (c) The employee shall be notified in writing of the employer's
15 intent to withhold an amount equal to one day's salary for each day of
16 participation in a strike. Any employee so notified shall, at his or
17 her request made in writing to the school administrator specified in
18 the notice, be provided an opportunity to show nonparticipation in the
19 strike.

20 (3)(a) Except as provided in (b) of this subsection, school
21 district boards of directors shall not close schools in the event of a
22 strike by school district employees. If a strike occurs, school
23 district boards of directors shall employ substitutes, use
24 administrators, or take other appropriate actions to keep schools open.

25 (b) If, after taking all reasonable steps to keep schools open, a
26 school district board of directors makes a finding that keeping all of
27 the schools in the district open is not practicable, it may close one
28 or more schools in the district. However, if schools are closed, the
29 length of the school year shall not be extended due to the strike
30 beyond the scheduled last day of the school year. If the last day of
31 the school year has not been established, the school year shall not be
32 extended due to the strike beyond the scheduled last day of the prior
33 school year.

34 (4) No action taken under the authority of this section may be
35 construed as a violation of RCW 41.59.140 or 41.56.140. In addition,
36 this section shall not be construed to allow strikes by school district
37 employees.

38 (5) Any state funds that are withheld from employee salaries in
39 accordance with this section that are not used to hire substitutes or

1 otherwise used to keep schools open shall be returned by the school
2 district to the superintendent of public instruction. The amount of
3 funds to be returned, if any, shall be determined by the superintendent
4 of public instruction in consultation with the school district.

5 (6) This section shall take effect beginning in the 1996-97 school
6 year.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.56 RCW
8 to read as follows:

9 All collective bargaining agreements pursuant to this chapter that
10 are entered into, renewed, or extended after the effective date of this
11 section between public school employers and employees shall be
12 consistent with section 1 of this act.

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

15 All collective bargaining agreements pursuant to this chapter that
16 are entered into, renewed, or extended after the effective date of this
17 section shall be consistent with section 1 of this act.

18 **Sec. 4.** RCW 28A.400.200 and 1993 c 492 s 225 are each amended to
19 read as follows:

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

23 (2) Except as provided in section 1 of this act:

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

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

32 (3)(a) The actual average salary paid to basic education
33 certificated instructional staff shall not exceed the district's
34 average basic education certificated instructional staff salary used
35 for the state basic education allocations for that school year as
36 determined pursuant to RCW 28A.150.410.

1 (b) Fringe benefit contributions for basic education certificated
2 instructional staff shall be included as salary under (a) of this
3 subsection only to the extent that the district's actual average
4 benefit contribution exceeds the amount of the insurance benefits
5 allocation provided per certificated instructional staff unit in the
6 state operating appropriations act in effect at the time the
7 compensation is payable. For purposes of this section, fringe benefits
8 shall not include payment for unused leave for illness or injury under
9 RCW 28A.400.210; employer contributions for old age survivors
10 insurance, workers' compensation, unemployment compensation, and
11 retirement benefits under the Washington state retirement system; or
12 employer contributions for health benefits in excess of the insurance
13 benefits allocation provided per certificated instructional staff unit
14 in the state operating appropriations act in effect at the time the
15 compensation is payable. A school district may not use state funds to
16 provide employer contributions for such excess health benefits.

17 (c) Salary and benefits for certificated instructional staff in
18 programs other than basic education shall be consistent with the salary
19 and benefits paid to certificated instructional staff in the basic
20 education program.

21 (4) Salaries and benefits for certificated instructional staff may
22 exceed the limitations in subsection (3) of this section only by
23 separate contract for additional time, additional responsibilities, or
24 incentives. Supplemental contracts shall not cause the state to incur
25 any present or future funding obligation. Supplemental contracts shall
26 be subject to the collective bargaining provisions of chapter 41.59 RCW
27 and the provisions of RCW 28A.405.240, shall not exceed one year, and
28 if not renewed shall not constitute adverse change in accordance with
29 RCW 28A.405.300 through 28A.405.380. No district may enter into a
30 supplemental contract under this subsection for the provision of
31 services which are a part of the basic education program required by
32 Article IX, section 3 of the state Constitution.

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

35 **Sec. 5.** RCW 28A.150.290 and 1990 c 33 s 111 are each amended to
36 read as follows:

37 (1) The superintendent of public instruction shall have the power
38 and duty to make such rules and regulations as are necessary for the

1 proper administration of this chapter and RCW 28A.160.150 through
2 (~~28A.160.220~~) 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010
3 not inconsistent with the provisions thereof, and in addition to
4 require such reports as may be necessary to carry out his or her duties
5 under this chapter and RCW 28A.160.150 through (~~28A.160.220~~)
6 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010.

7 (2) The superintendent of public instruction shall have the
8 authority to make rules and regulations which establish the terms and
9 conditions for allowing school districts to receive state basic
10 education moneys as provided in RCW 28A.150.250 when said districts are
11 unable to fulfill for one or more schools as officially scheduled the
12 requirement of a full school year of one hundred eighty days or the
13 total program hour offering, teacher contact hour, or course mix and
14 percentage requirements imposed by RCW 28A.150.220 and 28A.150.260 due
15 to one or more of the following conditions:

16 (a) An unforeseen natural event, including, but not necessarily
17 limited to, a fire, flood, explosion, storm, earthquake, epidemic, or
18 volcanic eruption that has the direct or indirect effect of rendering
19 one or more school district facilities unsafe, unhealthy, inaccessible,
20 or inoperable; (~~and~~)

21 (b) An unforeseen mechanical failure or an unforeseen action or
22 inaction by one or more persons, including negligence and threats, that
23 (i) is beyond the control of both a school district board of directors
24 and its employees and (ii) has the direct or indirect effect of
25 rendering one or more school district facilities unsafe, unhealthy,
26 inaccessible, or inoperable. Such actions, inactions or mechanical
27 failures may include, but are not necessarily limited to, arson,
28 vandalism, riots, insurrections, bomb threats, bombings, delays in the
29 scheduled completion of construction projects, and the discontinuance
30 or disruption of utilities such as heating, lighting and water(~~(+~~
31 ~~PROVIDED, That an unforeseen action or inaction shall not include any~~
32 ~~labor dispute between a school district board of directors and any~~
33 ~~employee of the school district))i~~

34 (c) A strike that requires a school district board of directors to
35 close one or more schools in accordance with section 1 of this act.

36 A condition is foreseeable for the purposes of this subsection to
37 the extent a reasonably prudent person would have anticipated prior to
38 August first of the preceding school year that the condition probably
39 would occur during the ensuing school year because of the occurrence of

1 an event or a circumstance which existed during such preceding school
2 year or a prior school year. A board of directors of a school district
3 is deemed for the purposes of this subsection to have knowledge of
4 events and circumstances which are a matter of common knowledge within
5 the school district and of those events and circumstances which can be
6 discovered upon prudent inquiry or inspection.

7 (3) The superintendent of public instruction shall make every
8 effort to reduce the amount of paperwork required in administration of
9 this chapter and RCW 28A.160.150 through ((28A.160.220)) 28A.160.210,
10 28A.300.035, 28A.300.170, and 28A.500.010; to simplify the application,
11 monitoring and evaluation processes used; to eliminate all duplicative
12 requests for information from local school districts; and to make every
13 effort to integrate and standardize information requests for other
14 state education acts and federal aid to education acts administered by
15 the superintendent of public instruction so as to reduce paperwork
16 requirements and duplicative information requests.

17 **Sec. 6.** RCW 28A.150.290 and 1992 c 141 s 504 are each amended to
18 read as follows:

19 (1) The superintendent of public instruction shall have the power
20 and duty to make such rules and regulations as are necessary for the
21 proper administration of this chapter and RCW 28A.160.150 through
22 ((28A.160.220)) 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010
23 not inconsistent with the provisions thereof, and in addition to
24 require such reports as may be necessary to carry out his or her duties
25 under this chapter and RCW 28A.160.150 through ((28A.160.220))
26 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010.

27 (2) The superintendent of public instruction shall have the
28 authority to make rules and regulations which establish the terms and
29 conditions for allowing school districts to receive state basic
30 education moneys as provided in RCW 28A.150.250 when said districts are
31 unable to fulfill for one or more schools as officially scheduled the
32 requirement of a full school year of one hundred eighty days or the
33 annual average total instructional hour offering imposed by RCW
34 28A.150.220 and 28A.150.260 due to one or more of the following
35 conditions:

36 (a) An unforeseen natural event, including, but not necessarily
37 limited to, a fire, flood, explosion, storm, earthquake, epidemic, or
38 volcanic eruption that has the direct or indirect effect of rendering

1 one or more school district facilities unsafe, unhealthy, inaccessible,
2 or inoperable; ((and))

3 (b) An unforeseen mechanical failure or an unforeseen action or
4 inaction by one or more persons, including negligence and threats, that
5 (i) is beyond the control of both a school district board of directors
6 and its employees and (ii) has the direct or indirect effect of
7 rendering one or more school district facilities unsafe, unhealthy,
8 inaccessible, or inoperable. Such actions, inactions or mechanical
9 failures may include, but are not necessarily limited to, arson,
10 vandalism, riots, insurrections, bomb threats, bombings, delays in the
11 scheduled completion of construction projects, and the discontinuance
12 or disruption of utilities such as heating, lighting and water((÷
13 PROVIDED, That an unforeseen action or inaction shall not include any
14 labor dispute between a school district board of directors and any
15 employee of the school district));

16 (c) A strike that requires a school district board of directors to
17 close one or more schools in accordance with section 1 of this act.

18 A condition is foreseeable for the purposes of this subsection to
19 the extent a reasonably prudent person would have anticipated prior to
20 August first of the preceding school year that the condition probably
21 would occur during the ensuing school year because of the occurrence of
22 an event or a circumstance which existed during such preceding school
23 year or a prior school year. A board of directors of a school district
24 is deemed for the purposes of this subsection to have knowledge of
25 events and circumstances which are a matter of common knowledge within
26 the school district and of those events and circumstances which can be
27 discovered upon prudent inquiry or inspection.

28 (3) The superintendent of public instruction shall make every
29 effort to reduce the amount of paperwork required in administration of
30 this chapter and RCW 28A.160.150 through ((28A.160.220)) 28A.160.210,
31 28A.300.035, 28A.300.170, and 28A.500.010; to simplify the application,
32 monitoring and evaluation processes used; to eliminate all duplicative
33 requests for information from local school districts; and to make every
34 effort to integrate and standardize information requests for other
35 state education acts and federal aid to education acts administered by
36 the superintendent of public instruction so as to reduce paperwork
37 requirements and duplicative information requests.

1 NEW SECTION. **Sec. 7.** Section 6 of this act shall take effect
2 September 1, 2000. However, that section shall not take effect if, by
3 September 1, 2000, a law is enacted stating that a school
4 accountability and academic assessment system is not in place.

5 NEW SECTION. **Sec. 8.** Sections 1 through 5 of this act are
6 necessary for the immediate preservation of the public peace, health,
7 or safety, or support of the state government and its existing public
8 institutions, and shall take effect immediately.

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