
SENATE BILL 5155

State of Washington

58th Legislature

2003 Regular Session

By Senators Mulliken and T. Sheldon

Read first time 01/16/2003. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to prohibiting strikes and lockouts under chapter
2 41.59 RCW; amending RCW 41.59.020; adding a new section to chapter
3 41.59 RCW; and prescribing penalties.

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 (1) It is unlawful for an employee or an employee organization,
8 directly or indirectly, to induce, instigate, encourage, authorize,
9 ratify, or participate in a strike.

10 (2) It is unlawful for an employer to authorize, consent to, or
11 condone a strike, to conduct a lockout, to pay or agree to pay an
12 employee for any day in which the employee participates in a strike, or
13 to pay or agree to pay any increase in compensation or benefits to an
14 employee in response to or as a result of a strike or any act that
15 violates subsection (1) of this section. It is unlawful for any
16 representative of the employer to authorize, ratify, or participate in
17 any violation of this subsection.

18 (3)(a) If a violation of subsection (1) or (2) of this section
19 occurs, or is imminently threatened, any citizen domiciled within the

1 jurisdictional boundaries of the state may petition the superior court
2 of the county in which the school district, or any part thereof, is
3 situated for an injunction restraining the violation or imminently
4 threatened violation. Rules of civil procedure regarding injunctions
5 apply to the action. However, the court shall grant a temporary
6 injunction if it appears to the court that a violation has occurred or
7 is imminently threatened; the plaintiff need not show that the
8 violation or threatened violation would greatly or irreparably injure
9 him or her. A bond may not be required of the plaintiff unless the
10 court determines that a bond is necessary in the public interest.

11 (b) Failure to comply with any temporary or permanent injunction
12 granted under this subsection is contempt of court as provided in
13 chapter 7.21 RCW. The court may impose a penalty of up to ten thousand
14 dollars for an employee organization or the employer, for each day
15 during which the failure to comply continues. The sanctions for an
16 employee found to be in contempt shall be as provided in chapter 7.21
17 RCW. An individual or an employee organization that makes an active
18 good faith effort to comply fully with the injunction shall not be
19 deemed to be in contempt.

20 (4) Nothing in this section prevents new or renewed bargaining and
21 agreement within the scope of bargaining, as defined by this chapter,
22 at any time. However, the parties may not agree to a provision
23 regarding suspension or modification of any court-ordered penalty
24 provided in this section and any such agreement is void.

25 (5) Each of the remedies and penalties provided by this section is
26 separate and several and is in addition to any other legal or equitable
27 remedy or penalty.

28 (6) In addition to the remedies and penalties provided by this
29 section, the successful litigant is entitled to recover costs and
30 reasonable attorneys' fees incurred in the litigation.

31 **Sec. 2.** RCW 41.59.020 and 1989 c 11 s 11 are each amended to read
32 as follows:

33 As used in this chapter:

34 (1) (~~The term~~) "Employee organization" means any organization,
35 union, association, agency, committee, council, or group of any kind in
36 which employees participate, and which exists for the purpose, in whole
37 or in part, of collective bargaining with employers.

1 (2) (~~The term~~) "Collective bargaining" or "bargaining" means the
2 performance of the mutual obligation of the representatives of the
3 employer and the exclusive bargaining representative to meet at
4 reasonable times in light of the time limitations of the budget-making
5 process, and to bargain in good faith in an effort to reach agreement
6 with respect to the wages, hours, and terms and conditions of
7 employment: PROVIDED, That prior law, practice or interpretation shall
8 be neither restrictive, expansive, nor determinative with respect to
9 the scope of bargaining. A written contract incorporating any
10 agreements reached shall be executed if requested by either party. The
11 obligation to bargain does not compel either party to agree to a
12 proposal or to make a concession.

13 In the event of a dispute between an employer and an exclusive
14 bargaining representative over the matters that are terms and
15 conditions of employment, the commission shall decide which item(s) are
16 mandatory subjects for bargaining and which item(s) are nonmandatory.

17 (3) (~~The term~~) "Commission" means the public employment relations
18 commission established by RCW 41.58.010.

19 (4) (~~The terms~~) "Employee" and "educational employee" means any
20 certificated employee of a school district, except:

21 (a) The chief executive officer of the employer.

22 (b) The chief administrative officers of the employer, which shall
23 mean the superintendent of the district, deputy superintendents,
24 administrative assistants to the superintendent, assistant
25 superintendents, and business manager. Title variation from all
26 positions enumerated in this subsection(4)(b) may be appealed to the
27 commission for determination of inclusion in, or exclusion from, the
28 term "educational employee".

29 (c) Confidential employees, which shall mean:

30 (i) Any person who participates directly on behalf of an employer
31 in the formulation of labor relations policy, the preparation for or
32 conduct of collective bargaining, or the administration of collective
33 bargaining agreements, except that the role of such person is not
34 merely routine or clerical in nature but calls for the consistent
35 exercise of independent judgment; and

36 (ii) Any person who assists and acts in a confidential capacity to
37 such person.

1 (d) Unless included within a bargaining unit pursuant to RCW
2 41.59.080, any supervisor, which means any employee having authority,
3 in the interest of an employer, to hire, assign, promote, transfer,
4 layoff, recall, suspend, discipline, or discharge other employees, or
5 to adjust their grievances, or to recommend effectively such action, if
6 in connection with the foregoing the exercise of such authority is not
7 merely routine or clerical in nature but calls for the consistent
8 exercise of independent judgment, and shall not include any persons
9 solely by reason of their membership on a faculty tenure or other
10 governance committee or body. The term "supervisor" shall include only
11 those employees who perform a preponderance of the above-specified acts
12 of authority.

13 (e) Unless included within a bargaining unit pursuant to RCW
14 41.59.080, principals and assistant principals in school districts.

15 (5) (~~The term~~) "Employer" means any school district.

16 (6) (~~The term~~) "Exclusive bargaining representative" means any
17 employee organization which has:

18 (a) Been selected or designated pursuant to the provisions of this
19 chapter as the representative of the employees in an appropriate
20 collective bargaining unit; or

21 (b) Prior to January 1, 1976, been recognized under a predecessor
22 statute as the representative of the employees in an appropriate
23 collective bargaining or negotiations unit.

24 (7) (~~The term~~) "Person" means one or more individuals,
25 organizations, unions, associations, partnerships, corporations,
26 boards, committees, commissions, agencies, or other entities, or their
27 representatives.

28 (8) (~~The term~~) "Nonsupervisory employee" means all educational
29 employees other than principals, assistant principals and supervisors.

30 (9) "Labor dispute" means a controversy concerning terms or
31 conditions of employment, or concerning the association or
32 representation of persons in negotiating, fixing, maintaining,
33 changing, or seeking to arrange terms or conditions of their public
34 employment, regardless of whether the disputants in the controversy
35 stand in the proximate relation of employer and employee.

36 (10) "Lockout" means the refusal of the employer, in connection
37 with a labor dispute, to permit its employees to commence or continue
38 the full performance of their normal duties and services as employees.

1 (11) "Strike" means any concerted action by employees or employee
2 organizations, in connection with a labor dispute, to suspend, curtail,
3 interrupt, withhold, or otherwise fail or refuse to perform fully their
4 normal duties or services as employees.

--- END ---