
SENATE BILL 6117

State of Washington

58th Legislature

2004 Regular Session

By Senator Winsley

Read first time 01/12/2004. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to labor disputes involving teachers and other
2 certificated instructional staff; adding new sections to chapter 41.59
3 RCW; prescribing penalties; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) If an agreement has not been reached on
6 a new employment contract following a reasonable period of negotiations
7 and mediation, but in no event later than August 1st of any year in
8 which the previous employment contract will expire, an interest
9 arbitration panel shall be created to resolve the dispute.

10 (2) By August 1st, each party shall name one person to serve as its
11 arbitrator on the arbitration panel. The two members so appointed
12 shall meet within three days following the appointment of the later
13 appointed member to attempt to choose a third member to act as the
14 neutral chairman of the arbitration panel. Upon the failure of the
15 arbitrators to select a neutral chairman within three days, the two
16 appointed members shall use one of the two following options in the
17 appointment of the third member, who shall act as chairman of the
18 panel: (a) By mutual consent, the two appointed members may jointly
19 request the commission, and the commission shall appoint a third member

1 within two days of such request. Costs of each party's appointee shall
2 be borne by each party respectively; other costs of the arbitration
3 proceedings shall be borne by the commission; or (b) either party may
4 apply to the commission, the federal mediation and conciliation
5 service, or the American Arbitration Association to provide a list of
6 five qualified arbitrators from which the neutral chairman shall be
7 chosen. Each party shall pay the fees and expenses of its arbitrator,
8 and the fees and expenses of the neutral chairman shall be shared
9 equally between the parties.

10 (3) The issues for determination by the arbitration panel shall be
11 limited to the issues certified by the executive director of the
12 commission.

13 (4) Once the members of the arbitration panel are determined, the
14 panel shall promptly establish a date, time, and place for a hearing
15 and shall provide reasonable notice thereof to the parties to the
16 dispute.

17 (5) The hearing shall take place by August 15th. The hearing shall
18 be informal, and each party shall have the opportunity to present
19 evidence and make argument. No member of the arbitration panel may
20 present the case for a party to the proceedings. The rules of evidence
21 prevailing in judicial proceedings may be considered, but are not
22 binding. Any oral testimony or documentary evidence or other data
23 deemed relevant by the chairman of the arbitration panel may be
24 received in evidence. The proceedings shall be recorded.

25 (6) The arbitration panel has the power to administer oaths,
26 require the attendance of witnesses, and require the production of such
27 books, papers, contracts, agreements, and documents as may be deemed by
28 the panel to be material to a just determination of the issues in
29 dispute. If any person refuses to obey a subpoena issued by the
30 arbitration panel, or refuses to be sworn or to make an affirmation to
31 testify, or any witness, party, or attorney for a party is guilty of
32 any contempt while in attendance at any hearing held hereunder, the
33 arbitration panel may invoke the jurisdiction of the superior court in
34 the county where the labor dispute exists, and the court has
35 jurisdiction to issue an appropriate order. Any failure to obey the
36 order may be punished by the court as a contempt.

37 (7) The hearing conducted by the arbitration panel shall be
38 concluded by August 22nd.

1 (8) The neutral chairman shall consult with the other members of
2 the arbitration panel, and, by September 1st, the neutral chairman
3 shall make written findings of fact and a written determination of the
4 issues in dispute, based on the evidence presented.

5 (9) A copy of the written findings of fact and a determination of
6 the dispute shall be served on the commission, on each of the other
7 members of the arbitration panel, and on each of the parties to the
8 dispute.

9 (10) The written determination shall be final and binding upon both
10 parties, subject to review by the superior court upon the application
11 of either party within seven days solely upon the question of whether
12 the decision of the panel was arbitrary or capricious.

13 NEW SECTION. **Sec. 2.** An interest arbitration panel created
14 pursuant to section 1 of this act, in the performance of its duties
15 under sections 1 through 7 of this act, exercises a state function and
16 is, for the purposes of sections 1 through 7 of this act, a state
17 agency. Chapter 34.05 RCW does not apply to proceedings before an
18 interest arbitration panel under sections 1 through 7 of this act.

19 NEW SECTION. **Sec. 3.** (1) In making its determination, the
20 arbitration panel shall take into consideration the following factors
21 as standards or guidelines to aid it in reaching a decision:

22 (a) The constitutional and statutory authority of the employer;

23 (b) Stipulations of the parties;

24 (c) Comparison of the wages, hours, and conditions of employment of
25 personnel involved in the proceedings with the wages, hours, and
26 conditions of employment of like personnel of like employers within the
27 state of Washington;

28 (d) Changes in any of the circumstances under (a) through (c) of
29 this subsection during the pendency of the proceedings; and

30 (e) Such other factors, not confined to the factors under (a)
31 through (d) of this subsection, that are normally or traditionally
32 taken into consideration in the determination of wages, hours, and
33 conditions of employment.

34 (2) The arbitration panel is bound by the statutory limitations for
35 salaries and compensation provided in RCW 28A.400.200 and 41.59.930.

1 NEW SECTION. **Sec. 4.** During the pendency of the proceedings
2 before the arbitration panel, existing wages, hours, and other
3 conditions of employment shall not be changed by action of either party
4 without the consent of the other but a party may so consent without
5 prejudice to his or her rights or position under sections 1 through 7
6 of this act.

7 NEW SECTION. **Sec. 5.** If the representative of either or both the
8 teachers and other certificated instructional staff and the school
9 district refuse to submit to the mediation and arbitration procedures
10 set forth in chapter 41.56 RCW, the parties, or the commission on its
11 own motion, may invoke the jurisdiction of the superior court for the
12 county in which the labor dispute exists and such court shall have
13 jurisdiction to issue an appropriate order. A failure to obey such
14 order may be punished by the court as a contempt thereof. A decision
15 of the arbitration panel shall be final and binding on the parties, and
16 may be enforced at the instance of either party, the arbitration panel
17 or the commission in the superior court for the county where the
18 dispute arose.

19 NEW SECTION. **Sec. 6.** Nothing in sections 1 through 7 of this act
20 may be construed to require the state to pay, directly or indirectly,
21 any increased salary or compensation resulting from the determination
22 of the arbitration.

23 NEW SECTION. **Sec. 7.** The provisions of sections 1 through 6 of
24 this act are intended to be additional to other remedies and shall be
25 liberally construed to accomplish their purpose. If any provision of
26 sections 1 through 6 of this act conflicts with any other statute,
27 rule, or policy of any school district, the provisions of sections 1
28 through 6 of this act shall control.

29 NEW SECTION. **Sec. 8.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

5 NEW SECTION. **Sec. 10.** Sections 1 through 7 of this act are each
6 added to chapter 41.59 RCW.

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