
SENATE BILL 6156

State of Washington 58th Legislature 2004 Regular Session

By Senators Pflug and Mulliken

Read first time 01/13/2004. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to teacher strikes; amending RCW 28A.400.200 and
2 28A.410.010; adding a new chapter to Title 28A RCW; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** INTENT. The legislature recognizes the
6 state's paramount duty to provide a basic education to all students
7 residing in Washington. The legislature also recognizes that various
8 state courts have ruled teachers do not have a right to strike. The
9 legislature recognizes further that when an unlawful teacher strike
10 occurs, it creates significant impacts to students and families.
11 Therefore, it is the intent of the legislature to ensure that during a
12 teacher strike, a basic education is provided to all students without
13 significant interruption. The legislature intends that during a
14 strike, the superintendent of public instruction must ensure that
15 schools are opened in a timely fashion to mitigate the impact of a
16 teacher strike on students and families.

17 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly

1 requires otherwise, the definitions in this section apply throughout
2 this chapter.

3 (1) "Strike" means a concerted work stoppage by one or more
4 teachers in a school district for all or part of a regularly scheduled
5 school day.

6 (2) "Strike curriculum" means a program of instruction developed
7 and adopted by a school district for use during a teacher strike and
8 approved by the state board of education for the purpose of providing
9 students a basic education in accordance with the goals defined in RCW
10 28A.150.210.

11 (3) "Strike substitute" means a person qualified under RCW
12 28A.410.010 for duty as a strike substitute and hired for one hundred
13 eighty days or less by a school district during a strike for the
14 purpose of providing students a basic education by implementing the
15 district's strike curriculum.

16 NEW SECTION. **Sec. 3.** STRIKE CURRICULUM REQUIRED. (1) The
17 superintendent of public instruction in consultation with the state
18 board of education must provide oversight and support to school
19 districts in identifying available and economical resources to develop
20 strike curriculum.

21 (2) Not later than August 31, 2004, each school district board of
22 directors must adopt or amend as necessary a strike curriculum for each
23 grade in which the district offers instruction. A district's strike
24 curriculum must be readily available for implementation by a substitute
25 teacher if there is a teacher strike. In developing its strike
26 curriculum, a district may incorporate existing long-term substitute
27 plans, web-based curricula, thematic and interdisciplinary units, and
28 other suitable programs of instruction.

29 NEW SECTION. **Sec. 4.** BASIC EDUCATION DURING A STRIKE. (1) The
30 superintendent of public instruction in consultation with the state
31 board of education must develop a voluntary prescreening process to
32 maintain a confidential list of persons qualified and willing to serve
33 as substitute teachers during a strike. Upon request from a school
34 district board of directors during a strike, the superintendent of
35 public instruction must assist the district with completing the tasks

1 necessary to open the school within the time required in subsection (3)
2 of this section.

3 (2) The state board of education must establish rules for
4 eligibility for a strike substitute permit under RCW 28A.410.010.
5 Rules must reflect the legislative intent to ensure that a district can
6 meet the requirements under this section to hire substitutes and open
7 school, and harmonize the need for appropriate minimum qualifications
8 and safeguards based on age, good moral character, and personal
9 fitness, with the need for flexibility in making hiring decisions based
10 on shortages of certificated persons during a strike.

11 (3) Beginning on the first regularly scheduled school day following
12 the fifth regularly scheduled school day during which a teacher strike
13 is in effect, a school district must provide a program of instruction
14 by employing strike substitute teachers to implement the district's
15 strike curriculum. Strike days are counted cumulatively for each
16 school calendar year. A district may extend the date for opening
17 school under this section for up to two days to use up to two
18 nonstudent days for the training and orientation of strike substitutes.
19 However, a district may not extend the school calendar more than five
20 days past the previously published one hundred eighty student days.

21 NEW SECTION. **Sec. 5.** STRIKE SUBSTITUTES. (1) A person employed
22 as a strike substitute will be compensated for the duration of
23 employment in the capacity of a strike substitute based on the first
24 year of service under the statewide salary schedule for certificated
25 employees, unless one of the following conditions is present, in which
26 case compensation for service as a strike substitute will be the
27 greater of the two compensation amounts:

28 (a) The strike substitute is entitled to compensation under the
29 statewide salary schedule for certificated employees at a rate higher
30 than the first year of service under the schedule; or

31 (b) The strike substitute is employed in an administrative or
32 support services capacity in a school district and is entitled to
33 compensation at a rate higher than the first year of service under the
34 statewide salary schedule.

35 (2) In making its hiring decisions a school district must comply
36 with RCW 28A.400.303 and the rules adopted by the state board under RCW
37 28A.410.010.

1 (3) A school district must inform parents of children enrolled in
2 the district in writing when a strike substitute is employed who does
3 not meet the requirements to be defined as highly qualified under the
4 federal no child left behind act of 2001.

5 (4) To meet the intent of this act, public and private employers
6 are encouraged, but not required, to grant leave to employees to
7 support employees who wish to serve as substitutes during a teacher
8 strike.

9 **Sec. 6.** RCW 28A.400.200 and 2002 c 353 s 2 are each amended to
10 read as follows:

11 (1) Every school district board of directors (~~shall~~) must fix,
12 alter, allow, and order paid salaries and compensation for all district
13 employees in conformance with this section.

14 (2)(a) Salaries for certificated instructional staff (~~shall~~) may
15 not be less than the salary provided in the appropriations act in the
16 statewide salary allocation schedule for an employee with a
17 baccalaureate degree and zero years of service; and

18 (b) Salaries for certificated instructional staff with a masters
19 degree (~~shall~~) may not be less than the salary provided in the
20 appropriations act in the statewide salary allocation schedule for an
21 employee with a masters degree and zero years of service;

22 (3)(a) The actual average salary paid to certificated instructional
23 staff (~~shall~~) may not exceed the district's average certificated
24 instructional staff salary used for the state basic education
25 allocations for that school year as determined pursuant to RCW
26 28A.150.410.

27 (b) Fringe benefit contributions for certificated instructional
28 staff (~~shall~~) must be included as salary under (a) of this subsection
29 only to the extent that the district's actual average benefit
30 contribution exceeds the amount of the insurance benefits allocation
31 provided per certificated instructional staff unit in the state
32 operating appropriations act in effect at the time the compensation is
33 payable. For purposes of this section, fringe benefits (~~shall~~) do
34 not include payment for unused leave for illness or injury under RCW
35 28A.400.210; employer contributions for old age survivors insurance,
36 workers' compensation, unemployment compensation, and retirement
37 benefits under the Washington state retirement system; or employer

1 contributions for health benefits in excess of the insurance benefits
2 allocation provided per certificated instructional staff unit in the
3 state operating appropriations act in effect at the time the
4 compensation is payable. A school district may not use state funds to
5 provide employer contributions for such excess health benefits.

6 (c) Salary and benefits for certificated instructional staff in
7 programs other than basic education (~~shall~~) must be consistent with
8 the salary and benefits paid to certificated instructional staff in the
9 basic education program.

10 (4) Salaries and benefits for certificated instructional staff may
11 exceed the limitations in subsection (3) of this section only by
12 separate contract for additional time, additional responsibilities, or
13 incentives. Supplemental contracts (~~shall~~) may not cause the state
14 to incur any present or future funding obligation. Supplemental
15 contracts (~~shall be~~) are subject to the collective bargaining
16 provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240,
17 (~~shall~~) may not exceed one year, and if not renewed (~~shall~~) do not
18 constitute adverse change in accordance with RCW 28A.405.300 through
19 28A.405.380. No district may enter into a supplemental contract under
20 this subsection for the provision of services which are a part of the
21 basic education program required by Article IX, section 3 of the state
22 Constitution.

23 (5) Employee benefit plans offered by any district (~~shall~~) must
24 comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

25 (6) No moneys appropriated under this section may be expended for
26 sick leave benefits, compensation, or health benefits during the time
27 an employee engages in a strike or work stoppage. During a strike or
28 work stoppage, a school district board of directors may require a
29 signed statement from a licensed health care provider certifying that
30 an employee's absence was due to illness or injury.

31 **Sec. 7.** RCW 28A.410.010 and 2001 c 263 s 1 are each amended to
32 read as follows:

33 The state board of education (~~shall~~) must establish, publish, and
34 enforce rules and regulations determining eligibility for and
35 certification of personnel employed in the common schools of this
36 state, including certification for emergency or temporary, substitute
37 or provisional duty, and duty as a strike substitute consistent with

1 section 4 of this act, and under such certificates or permits as the
2 board (~~((shall))~~) deems proper or as otherwise prescribed by law. The
3 rules (~~((shall-require))~~) must provide that the initial application for
4 certification (~~((shall))~~) requires a record check of the applicant
5 through the Washington state patrol criminal identification system and
6 through the federal bureau of investigation at the applicant's expense.
7 The record check (~~((shall))~~) must include a fingerprint check using a
8 complete Washington state criminal identification fingerprint card.
9 The superintendent of public instruction may waive the record check for
10 any applicant who has had a record check within the two years before
11 application. The rules (~~((shall))~~) must permit a holder of a lapsed
12 certificate but not a revoked or suspended certificate to be employed
13 on a conditional basis by a school district with the requirement that
14 the holder (~~((must))~~) complete any certificate renewal requirements
15 established by the state board of education within two years of initial
16 reemployment. The rules must permit a person otherwise qualified for
17 duty as a strike substitute to be employed on a provisional basis by a
18 school district during a strike pending the results of the record check
19 required under this section.

20 In establishing rules pertaining to the qualifications of
21 instructors of American sign language the state board shall consult
22 with the national association of the deaf, "sign instructors guidance
23 network" (s.i.g.n.), and the Washington state association of the deaf
24 for evaluation and certification of sign language instructors.

25 The superintendent of public instruction (~~((shall))~~) acts as the
26 administrator of any such rules and regulations and (~~((have the power~~
27 ~~to))~~) may issue any certificates or permits and revoke the same in
28 accordance with board rules and regulations.

29 NEW SECTION. Sec. 8. Section captions used in this act constitute
30 no part of the law.

31 NEW SECTION. Sec. 9. Sections 1 through 5 of this act constitute
32 a new chapter in Title 28A RCW.

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