
SENATE BILL 6500

State of Washington

58th Legislature

2004 Regular Session

By Senator Schmidt

Read first time 01/21/2004. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to labor disputes involving teachers and other
2 certificated instructional staff; amending RCW 28A.400.200; adding new
3 sections to chapter 41.59 RCW; prescribing penalties; and declaring an
4 emergency.

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

6 NEW SECTION. **Sec. 1.** The intent and purpose of sections 1 through
7 8 of this act are to recognize that there exists a public policy in the
8 state of Washington against strikes by teachers and other certificated
9 instructional staff as a means of settling their labor disputes; that
10 the uninterrupted and dedicated service of these educational employees
11 is vital to the welfare and education of the children of the state of
12 Washington; that to promote such dedicated and uninterrupted public
13 service there should exist an effective and adequate alternative means
14 of settling disputes.

15 NEW SECTION. **Sec. 2.** (1) If an agreement has not been reached on
16 a new employment contract following a reasonable period of negotiations
17 and mediation, but in no event later than July 15th of any year in

1 which the previous employment contract will expire, an interest
2 arbitration panel shall be created to resolve the dispute.

3 (2) By July 15th, each party shall name one person to serve as its
4 arbitrator on the arbitration panel. The two members so appointed
5 shall meet within three days following the appointment of the later
6 appointed member to attempt to choose a third member to act as the
7 neutral chairman of the arbitration panel. Upon the failure of the
8 arbitrators to select a neutral chairman within three days, the two
9 appointed members shall use one of the two following options in the
10 appointment of the third member, who shall act as chairman of the
11 panel: (a) By mutual consent, the two appointed members may jointly
12 request the commission, and the commission shall appoint a third member
13 within two days of such request. Costs of each party's appointee shall
14 be borne by each party respectively; other costs of the arbitration
15 proceedings shall be borne by the commission; or (b) either party may
16 apply to the commission, the federal mediation and conciliation
17 service, or the American Arbitration Association to provide a list of
18 five qualified arbitrators from which the neutral chairman shall be
19 chosen. Each party shall pay the fees and expenses of its arbitrator,
20 and the fees and expenses of the neutral chairman shall be shared
21 equally between the parties.

22 (3) The issues for determination by the arbitration panel shall be
23 limited to the issues certified by the executive director of the
24 commission.

25 (4) The members of the arbitration panel shall be determined by
26 July 22nd. Once the members of the arbitration panel are determined,
27 the panel shall promptly establish a date, time, and place for a
28 hearing and shall provide reasonable notice thereof to the parties to
29 the dispute.

30 (5) The hearing shall take place by August 1st. The hearing shall
31 be informal, and each party shall have the opportunity to present
32 evidence and make argument. No member of the arbitration panel may
33 present the case for a party to the proceedings. The rules of evidence
34 prevailing in judicial proceedings may be considered, but are not
35 binding. Any oral testimony or documentary evidence or other data
36 deemed relevant by the chairman of the arbitration panel may be
37 received in evidence. The proceedings shall be recorded.

1 (6) The arbitration panel has the power to administer oaths,
2 require the attendance of witnesses, and require the production of such
3 books, papers, contracts, agreements, and documents as may be deemed by
4 the panel to be material to a just determination of the issues in
5 dispute. If any person refuses to obey a subpoena issued by the
6 arbitration panel, or refuses to be sworn or to make an affirmation to
7 testify, or any witness, party, or attorney for a party is guilty of
8 any contempt while in attendance at any hearing held hereunder, the
9 arbitration panel may invoke the jurisdiction of the superior court in
10 the county where the labor dispute exists, and the court has
11 jurisdiction to issue an appropriate order. Any failure to obey the
12 order may be punished by the court as a contempt.

13 (7) The hearing conducted by the arbitration panel shall be
14 concluded by August 8th.

15 (8) The neutral chairman shall consult with the other members of
16 the arbitration panel, and, by August 15th, the neutral chairman shall
17 make written findings of fact and a written determination of the issues
18 in dispute, based on the evidence presented.

19 (9) A copy of the written findings of fact and a determination of
20 the dispute shall be served on the commission, on each of the other
21 members of the arbitration panel, and on each of the parties to the
22 dispute.

23 (10) The parties shall meet to confer on the arbitration chairman's
24 written findings of fact and determination. The parties may
25 voluntarily take either of the following actions:

26 (a) Mutually agree to accept the arbitrator's dispute settlement
27 determination; or

28 (b) Mutually agree upon their own dispute settlement agreement to
29 end the dispute, which can be different from the arbitration chairman's
30 determination.

31 (11) If, by August 30th, the parties do not voluntarily agree to a
32 settlement that will end the dispute then on August 31st the
33 arbitration chairman's written determination shall be final and binding
34 upon both parties.

35 (12) The arbitration chairman's final and binding written
36 determination shall be subject to review by the superior court upon the
37 application of either party to the dispute by September 7th solely upon

1 the question of whether the decision of the panel was arbitrary or
2 capricious.

3 NEW SECTION. **Sec. 3.** An interest arbitration panel created
4 pursuant to section 2 of this act, in the performance of its duties
5 under sections 1 through 8 of this act, exercises a state function and
6 is, for the purposes of sections 1 through 8 of this act, a state
7 agency. Chapter 34.05 RCW does not apply to proceedings before an
8 interest arbitration panel under sections 1 through 8 of this act.

9 NEW SECTION. **Sec. 4.** (1) In making its determination, the
10 arbitration panel shall be mindful of the legislative purpose
11 enumerated in section 1 of this act and, as additional standards or
12 guidelines to aid it in reaching a decision, it shall take into
13 consideration the following factors:

- 14 (a) The constitutional and statutory authority of the employer;
- 15 (b) Stipulations of the parties;
- 16 (c) Comparison of the wages, hours, and conditions of employment of
17 personnel involved in the proceedings with the wages, hours, and
18 conditions of employment of like personnel of like employers within the
19 state of Washington;
- 20 (d) The availability of fiscal resources and financial capability
21 of the school district;
- 22 (e) The academic achievement level of students in the district;
- 23 (f) Changes in any of the circumstances under (a) through (e) of
24 this subsection during the pendency of the proceedings; and
- 25 (g) Such other factors, not confined to the factors under (a)
26 through (f) of this subsection, that are normally or traditionally
27 taken into consideration in the determination of wages, hours, and
28 conditions of employment.

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

31 NEW SECTION. **Sec. 5.** During the pendency of the proceedings
32 before the arbitration panel, existing wages, hours, and other
33 conditions of employment shall not be changed by action of either party
34 without the consent of the other but a party may so consent without

1 prejudice to his or her rights or position under sections 1 through 8
2 of this act.

3 NEW SECTION. **Sec. 6.** If the representative of either or both the
4 teachers and other certificated instructional staff and the school
5 district refuse to submit to the mediation and arbitration procedures
6 set forth in this chapter, the parties, or the commission on its own
7 motion, may invoke the jurisdiction of the superior court for the
8 county in which the labor dispute exists and such court shall have
9 jurisdiction to issue an appropriate order. A failure to obey such
10 order may be punished by the court as a contempt thereof. A decision
11 of the arbitration panel shall be final and binding on the parties, and
12 may be enforced at the instance of either party, the arbitration panel
13 or the commission in the superior court for the county where the
14 dispute arose.

15 NEW SECTION. **Sec. 7.** The right of teachers and other certificated
16 instructional staff to engage in any strike, concerted work slowdown or
17 stoppage, or other concerted interruption of operations is not granted.
18 An organization recognized as the bargaining representative of teachers
19 and other certificated instructional staff subject to sections 1
20 through 8 of this act that willfully disobeys a lawful order of
21 enforcement by a superior court pursuant to section 6 of this act and
22 this section, or willfully offers resistance to such order, whether by
23 strike or otherwise, is in contempt of court as provided in chapter
24 7.21 RCW. An employer that willfully disobeys a lawful order of
25 enforcement by a superior court pursuant to section 6 of this act or
26 willfully offers resistance to such order is in contempt of court as
27 provided in chapter 7.21 RCW.

28 NEW SECTION. **Sec. 8.** Nothing in sections 1 through 8 of this act
29 may be construed to require the state to pay, directly or indirectly,
30 any increased salary or compensation resulting from the determination
31 of the arbitration.

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

34 (1) Every school district board of directors shall fix, alter,

1 allow, and order paid salaries and compensation for all district
2 employees in conformance with this section and sections 1 through 8 of
3 this act.

4 (2)(a) Salaries for certificated instructional staff shall not be
5 less than the salary provided in the appropriations act in the
6 statewide salary allocation schedule for an employee with a
7 baccalaureate degree and zero years of service; and

8 (b) Salaries for certificated instructional staff with a masters
9 degree shall not be less than the salary provided in the appropriations
10 act in the statewide salary allocation schedule for an employee with a
11 masters degree and zero years of service;

12 (3)(a) The actual average salary paid to certificated instructional
13 staff shall not exceed the district's average certificated
14 instructional staff salary used for the state basic education
15 allocations for that school year as determined pursuant to RCW
16 28A.150.410.

17 (b) Fringe benefit contributions for certificated instructional
18 staff shall be included as salary under (a) of this subsection only to
19 the extent that the district's actual average benefit contribution
20 exceeds the amount of the insurance benefits allocation provided per
21 certificated instructional staff unit in the state operating
22 appropriations act in effect at the time the compensation is payable.
23 For purposes of this section, fringe benefits shall not include payment
24 for unused leave for illness or injury under RCW 28A.400.210; employer
25 contributions for old age survivors insurance, workers' compensation,
26 unemployment compensation, and retirement benefits under the Washington
27 state retirement system; or employer contributions for health benefits
28 in excess of the insurance benefits allocation provided per
29 certificated instructional staff unit in the state operating
30 appropriations act in effect at the time the compensation is payable.
31 A school district may not use state funds to provide employer
32 contributions for such excess health benefits.

33 (c) Salary and benefits for certificated instructional staff in
34 programs other than basic education shall be consistent with the salary
35 and benefits paid to certificated instructional staff in the basic
36 education program.

37 (4) Salaries and benefits for certificated instructional staff may
38 exceed the limitations in subsection (3) of this section only by

1 separate contract for additional time, additional responsibilities, or
2 incentives. Supplemental contracts shall not cause the state to incur
3 any present or future funding obligation. Supplemental contracts shall
4 be subject to the collective bargaining provisions of chapter 41.59 RCW
5 and the provisions of RCW 28A.405.240, shall not exceed one year, and
6 if not renewed shall not constitute adverse change in accordance with
7 RCW 28A.405.300 through 28A.405.380. No district may enter into a
8 supplemental contract under this subsection for the provision of
9 services which are a part of the basic education program required by
10 Article IX, section 3 of the state Constitution.

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

13 NEW SECTION. **Sec. 10.** The provisions of sections 1 through 8 of
14 this act are intended to be additional to other remedies and shall be
15 liberally construed to accomplish their purpose. If any provision of
16 sections 1 through 8 of this act conflicts with any other statute,
17 rule, or policy of any school district, the provisions of sections 1
18 through 8 of this act shall control.

19 NEW SECTION. **Sec. 11.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 immediately.

27 NEW SECTION. **Sec. 13.** Sections 1 through 8 and 10 of this act are
28 each added to chapter 41.59 RCW.

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