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HOUSE BILL 1316

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State of Washington

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By Representatives Elliot, Thompson, Fuhrman, Mulliken, Pelesky, McMorris, D. Schmidt, Sheahan, Sherstad, B. Thomas, McMahan, Johnson, Stevens, L. Thomas, Backlund, Hargrove and Koster

Read first time 01/20/95. Referred to Committee on Education.

1 AN ACT Relating to educational employees' collective bargaining and  
2 contractual obligations; adding a new chapter to Title 28A RCW;  
3 creating a new section; and prescribing penalties.

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

5 PART I

6 DEFINITIONS

7 NEW SECTION. Sec. 101. Unless the context clearly requires  
8 otherwise, the definitions in this section apply throughout this  
9 chapter.

10 (1) "Bargaining representative" means any lawful organization  
11 recognized by an employer and certified by the commission as the sole  
12 and exclusive bargaining representative of certain employees of the  
13 employer.

14 (2) "Commission" means the public employment relations commission  
15 established in RCW 41.58.010.

16 (3) "Education association" means an organization, whether  
17 organized on a county, city, regional, area or state basis, in which  
18 employees of one or more public school employers participate and that

1 exists for the common purpose of protecting and advancing the wages and  
2 hours of the organization's members.

3 (4) "Educational employee" means any certificated employee of a  
4 school district, and includes a classified employee who formally  
5 belongs to an education association.

6 (5) "Impasse" means neither party has a change in position after  
7 good faith bargaining occurs.

8 (6) "Lockout" means the temporary withholding of work from a group  
9 of employees by means of shutting down the operation of the employer in  
10 order to bring pressure upon the affected employees or the bargaining  
11 representative, or both, to accept the employer's terms of settlement  
12 of a labor dispute.

13 (7) "Public school employer" means a public employer that is a  
14 school district board.

15 (8) "Strike" means the concerted failure to report for duty, the  
16 willful absence from one's position, the stoppage of work, or the  
17 abstinence in whole or in part from the full, faithful, and proper  
18 performance of the duties of employment for the purpose of inducing,  
19 influencing, or coercing a change in public employment conditions,  
20 compensations, or the rights, privileges, or obligations of employment,  
21 including unfair labor practices committed by the public school  
22 employee or employer.

23 NEW SECTION. **Sec. 102.** This chapter does not limit, impair, or  
24 affect the right of a public employee to the expression or  
25 communication of a view, grievance, complaint, or opinion on any matter  
26 related to the conditions or compensation of public employment or his  
27 or her betterment as long as the expression or communication does not  
28 interfere with the full, faithful, and proper performance of the duties  
29 of employment.

30 **PART II**

31 **LOCKOUTS, WALKOUTS, STRIKES, AND NOTIFICATION**

32 NEW SECTION. **Sec. 201.** No public employee or education  
33 association employee or organization may engage in a strike, and no  
34 public employee or employee organization may cause, instigate,  
35 encourage, or condone a strike.



1 wholly or in part from the full performance of his or her duties in  
2 normal manner without permission, on the date or dates when a strike  
3 occurs, is presumed to have engaged in a strike on such date or dates.

4 NEW SECTION. **Sec. 303.** No person exercising on behalf of any  
5 public employer any authority, supervision, or direction over a public  
6 employee may authorize, approve, condone, or consent to a strike, or  
7 the engaging in a strike, by one or more public employees, and the  
8 person may not authorize, approve, condone, or consent to such strike  
9 or engagement.

10 NEW SECTION. **Sec. 304.** Not later than five days after the receipt  
11 of notification from the employer or bargaining representative, the  
12 commission director shall fine each public school employee the amount  
13 equal to one day of pay for that employee for each full or partial day  
14 that the employee engaged in the strike; including partial or full days  
15 not worked while in the notification and hearing process. The  
16 commission shall fine the bargaining representative of the public  
17 school employee fifty dollars per member represented for each employee  
18 engaged in the strike.

19 NEW SECTION. **Sec. 305.** If the commission director finds that a  
20 public school employer instituted a lockout in violation of section 202  
21 of this act, the commission shall fine the public school employer five  
22 thousand dollars for each full or partial day of the lockout.

23 NEW SECTION. **Sec. 306.** If the commission imposes a fine against  
24 a public school employee under section 304 of this act and the public  
25 school employee continues to be employed by a public school employer,  
26 the commission shall order the public school employer to deduct the  
27 fine from the public school employee's annual salary. A public school  
28 employer shall comply promptly with an order under this section.

29 NEW SECTION. **Sec. 307.** If the commission imposes a fine against  
30 the bargaining representative, the fine shall be paid to the commission  
31 in full within thirty days from the date of the issuance of the fine.  
32 Fines shall be deposited in the school aid account created in section  
33 313 of this act.

1        NEW SECTION.    **Sec. 308.** If the commission imposes a fine against  
2 the school directors, the fine shall be paid within thirty days from  
3 the date of the issuance of the fine.

4        NEW SECTION.    **Sec. 309.** If the commission does not receive payment  
5 of a fine imposed under this chapter within thirty days after the  
6 imposition of the fine, or if a public school employer does not deduct  
7 a fine from a public school employee's pay pursuant to an order under  
8 sections 203(3) and 304 of this act, the commission shall institute  
9 collection proceedings.

10       NEW SECTION.    **Sec. 310.** A public school employer shall not provide  
11 to a public school employee or to a board member any compensation or  
12 additional work assignment that is intended to reimburse the public  
13 school employee or board member for a monetary penalty imposed under  
14 this chapter or that is intended to allow the public school employee or  
15 board member to recover a monetary penalty imposed under this section.

16       NEW SECTION.    **Sec. 311.** Fines imposed under this chapter are in  
17 addition to other penalties prescribed by law.

18       NEW SECTION.    **Sec. 312.** A public school employer may bring an  
19 action to enjoin a strike by public school employees in violation of  
20 section 201 of this act, and a bargaining representative may bring an  
21 action to enjoin a lockout by a public school employer in violation of  
22 section 202 of this act, in the superior court for the county in which  
23 the affected public school is located. A court having jurisdiction of  
24 an action brought under this section shall grant injunctive relief if  
25 the court finds that a strike or lockout has occurred, without regard  
26 to the existence of other remedies, demonstration of irreparable harm,  
27 or other factors. Failure to comply with an order of the court may be  
28 punished as contempt. In addition, the court shall award court costs  
29 and reasonable attorneys' fees to the plaintiff who prevails in an  
30 action brought under this section.

31       NEW SECTION.    **Sec. 313.** The school aid account is created in the  
32 state treasury. All receipts from fines and penalties under this  
33 chapter shall be deposited into the account. Moneys in the account may

1 be spent only after appropriation. Expenditures from the account may  
2 be used only for one-time school construction costs.

3 **PART IV**  
4 **EMPLOYEE DISCHARGE**

5 NEW SECTION. **Sec. 401.** A public school employer may discipline or  
6 discharge a public employee for engaging in a strike. The officer or  
7 entity having power to remove or discipline the employee may do so  
8 within five days after regular compensation of the employee has ceased  
9 or other discipline has been imposed.

10 NEW SECTION. **Sec. 402.** At no time during negotiations, impasse,  
11 or strike may the master contract supersede an educational employee's  
12 contract.

13 **PART V**  
14 **MEDIATION AND IMPASSE**

15 NEW SECTION. **Sec. 501.** The public school employer and a  
16 bargaining representative shall mutually agree that an impasse exists,  
17 and that they are to submit the dispute to the commission for mediation  
18 with or without the concurrence of the other as provided by RCW  
19 41.56.440.

20 NEW SECTION. **Sec. 502.** If the parties in section 501 of this act  
21 agree to participate in mediation under this section, not later than  
22 thirty days after the date of impasse, an arbitration panel shall be  
23 created. Each of the parties shall appoint one individual to represent  
24 the party in the mediation, and those two representatives shall select  
25 a third member to act as a neutral party and mediator. If the two  
26 parties fail to choose a mediator within seven days, the commission  
27 shall appoint a mediator within two days after this seven-day period  
28 has run.

29 NEW SECTION. **Sec. 503.** Not later than thirty days after the  
30 appointment of a mediator under section 502 of this act, if the  
31 representatives of the parties mutually agree on a recommended

1 settlement of the impasse, the representatives each shall present the  
2 recommended settlement to the party he or she represents for approval.

3 NEW SECTION. **Sec. 504.** If one or both of the parties fail to  
4 ratify a recommended settlement under section 503 of this act within  
5 the thirty-day time limit specified in section 503 of this act, the  
6 public school employer may implement unilaterally its last offer of  
7 settlement made before the impasse occurred. This section does not  
8 limit or otherwise affect a public school employer's ability to  
9 unilaterally implement all or part of its bargaining position as  
10 otherwise provided by law.

11 NEW SECTION. **Sec. 505.** Mediation costs under this chapter shall  
12 be shared equally by both parties.

13 NEW SECTION. **Sec. 506.** During the process of mediation and if  
14 impasse should occur, the school day shall proceed as planned by the  
15 school calendar. No cessation of instructional time may occur.

## 16 **PART VI**

### 17 **LIMITATIONS OF COLLECTIVE BARGAINING**

18 NEW SECTION. **Sec. 601.** Except as otherwise provided in this  
19 chapter, as used in this chapter "collective bargaining" is the  
20 performance of the mutual obligation of the employer and the  
21 representative of the employees to meet at reasonable times and bargain  
22 in good faith with respect to wages, benefits, hours, and other terms  
23 and conditions of employment unless specifically prohibited.

24 NEW SECTION. **Sec. 602.** Collective bargaining between a public  
25 school employer and a bargaining representative of its employees is  
26 limited to the following:

- 27 (1) Salary schedule with current state guidelines including extra  
28 duty salary schedules;
- 29 (2) Fringe benefits, including group health coverage and pension;
- 30 (3) Right to organize;
- 31 (4) Election of officers;
- 32 (5) Impasse resolution; and
- 33 (6) Personal safety and security.



1        NEW SECTION.    **Sec. 801.**    Part headings as used in this act do not  
2    constitute any part of the law.

3        NEW SECTION.    **Sec. 802.**    Sections 101, 102, 201 through 204, 301  
4    through 313, 401, 402, 501 through 506, 601 through 604, 701, and 702  
5    of this act shall constitute a new chapter in Title 28A RCW.

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