

HOUSE BILL ANALYSIS

HB 1497

Title: *An act relating to educational employees' collective bargaining and contractual obligations.*

Brief Description: *Prohibiting strikes by educational employees.*

Sponsors: *Representatives Hickel, Johnson, Talcott, Mitchell, Sherstad, Backlund, McMorris, Radcliff, Thompson, Clements, B. Thomas, Dyer, L. Thomas, Huff, Crouse, Schoesler, Pennington, Sump, McDonald, Koster, D. Sommers and Mulliken.*

HOUSE COMMITTEE ON EDUCATION

Meeting Date: *February 13, 1997.*

Bill Analysis Prepared by: *Pat Shelledy (786-7149).*

Background: *Strikes: The Legislature has granted certificated and classified employees of Washington's public schools the right to enter into collective bargaining agreements with regard to wages, hours, and terms and conditions of employment. Current statutes pertaining to collective bargaining include provisions regarding determination of bargaining units, identification of exclusive bargaining representatives, impasse options, and unfair practices.*

Collective bargaining laws that pertain to classified staff does not permit or grant classified employees the right to strike. Statutory law pertaining to certificated staff does not address whether or not the right to strike is permitted. However, courts have found strikes by certificated staff are subject to injunction based on Washington Supreme Court cases that have affirmed injunctions against public employees who were on strike. The court has noted that strikes by public employees have traditionally been illegal under common law and have not been officially sanctioned under statutory law.

Collective bargaining: *When a public employer or exclusive bargaining representative declares that an impasse has been reached in collective bargaining, either of them may request appointment of a mediator by the public employment relations commission. The mediator is provided at no cost to the parties. The parties may agree to their own mediation procedure. If the mediator fails to settle the dispute within ten days, either party, by written notification to the other party, may request that their differences be submitted to fact-finding. If the fact-finder does not settle the dispute, the fact-finder must make findings and recommend terms of settlement to the parties and the commission. The findings and recommendations*

must be submitted privately to the parties and commission before they are made public. The commission, fact-finder, employer, or bargaining representative may make the findings and recommendations public if the dispute is not settled within five days after receipt of the fact-finder's findings and recommendations.

An employer and exclusive bargaining representative may agree to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining or to use another agency or person instead of the commission.

Summary of Bill: *Strike: A provision is added to state law that prohibits certificated educational employees from engaging in a strike. School district boards of directors also are prohibited from engaging in a lockout of educational employees.*

Should either a strike or lockout occur, the representative of the educational employees or board of directors may invoke the jurisdiction of the superior court and the court shall have jurisdiction to issue an appropriate order against either or both parties. In fashioning an order, the court is to take into consideration not only the elements necessary for injunctive relief but also the purpose and goals of collective bargaining and any mitigating factors.

Collective bargaining: *Prior to beginning the collective bargaining process, the public employer and the bargaining representative must make the issues to be bargained public at a public meeting of the school district board of directors.*

If the mediator is unable to settle a dispute, the dispute must be submitted to fact-finding and written notification of the other party is not required.

If the fact-finder does not resolve the dispute and the dispute is not settled within five days after the fact-finder's findings and recommendations are received by the commission and parties, either the commission, the fact-finder, the employer, or the bargaining representative must make the findings and recommendations public.

Employers and bargaining units are no longer permitted to substitute a different process at their own expense for resolution of collective bargaining disputes.

Fiscal Note: *Requested on February 10, 1997.*

Effective Date: *Ninety days after adjournment of session in which bill is passed.*