

SENATE BILL REPORT

SB 6500

As of January 29, 2004

Title: An act relating to labor disputes involving teachers and other certificated instructional staff.

Brief Description: Providing a procedure for resolving labor disputes involving teachers and other certificated instructional staff.

Sponsors: Senator Schmidt.

Brief History:

Committee Activity: Commerce & Trade: 1/28/04.

SENATE COMMITTEE ON COMMERCE & TRADE

Staff: Jennifer Strus (786-7316)

Background: Overview. Collective bargaining between school districts and certificated educational employees (including teachers and principals) is governed by state law. Under this law, the representatives of the employer and the exclusive bargaining representative of the employees must meet at reasonable times in light of the time limitations of the budget-making process and bargain in good faith regarding wages, hours, and terms and conditions of employment.

Limitations. The parties are not permitted to bargain salary or compensation increases in excess of those authorized under the statewide salary allocation determined by the Legislature or under the requirements related to the school district's authority over salaries and supplemental contracts.

Resolving Collective Bargaining Impasses. *Mediation.* If either party declares an impasse in bargaining, the party may request the Public Employment Relations Commission (PERC) to appoint a mediator. If the mediator is unable to effect a settlement within ten days, either party may request that the dispute be submitted to fact-finding with recommendations, unless the parties agree to extend the mediation period.

Fact-Finding. Within five days after a request for fact-finding is received, the parties must select a person to serve as fact-finder or PERC designates a fact-finder. The fact-finder, within five days, must meet with the parties, jointly or separately, and make inquiries or hold hearings. The fact-finder may issue subpoenas. Unless the dispute is settled within ten days of the fact-finder's appointment, the fact-finder must issue advisory findings and recommendations within 30 days. These findings and recommendations are submitted privately to the parties and PERC. Any party, the fact-finder, or PERC may make the report public if the dispute is not settled within five days of receiving the report.

Optional Procedures. The parties are authorized to agree to substitute, at their own expense, their own procedure for resolving collective bargaining impasses, which could include binding interest arbitration.

Strike or Lockouts. The certificated employee collective bargaining statute does not address strikes or lockouts. Under Washington Supreme Court precedent, superior courts are authorized to issue orders enjoining public employee strikes.

Summary of Bill: If a new contract is not reached by July 15 in a year in which a teacher's contract expires, an interest arbitration panel is convened to resolve the dispute.

By July 15, each side must choose an arbitrator. The two arbitrators chosen by each side must choose a third member to act as a neutral chair of the panel. If the two cannot agree on the third member, they can request that PERC appoint a third member or choose from a list of five names provided by PERC, federal Mediation and Conciliation Services or the American Arbitration Association.

The executive director of PERC certifies the issues to be decided upon by the panel. Once the members are chosen, they must promptly schedule a date, time and place for a hearing and must provide reasonable notice of the hearing. The hearing must be held by August 1 and must be concluded by August 8. The panel chair, after consulting with other members of the panel must make written findings of fact and a determination of issues in dispute. The panel must consider the following in making its determination: (a) the constitutional and statutory authority of the employer school district; (b) the stipulations of the parties; (c) comparisons of wages, hours and conditions of those in like situations in Washington State; (d) the fiscal resources and financial capability of the school district; (e) the academic achievement level of the students in the district; and (f) other considerations normally considered when negotiating teacher contracts.

A copy of the findings must be served on PERC, other arbitration panel members and the parties to the dispute. The parties may take the following action on the findings: (a) accept the arbitrators' dispute settlement determination; or (b) agree on their own dispute settlement agreement which can be different than the panel's.

By August 30, if the parties do not agree to the settlement that will end the dispute by August 31, the chair's written determination is final and binding on both parties. The chair's determination is subject to review by the superior court if one of the parties requests review by September 7. The only question to be decided by the court is whether the panel's decision was arbitrary and capricious.

If either party refuses to submit to the procedures set forth in the bill, either party or PERC can take the matter to the superior court and the court has the authority to issue an appropriate order. Failure to obey an order is contempt of court. The arbitration panel's decision is final and binding on the parties and can be enforced by a court at the request of either party, PERC or the arbitration panel.

The right of teachers and other certificated staff to strike is not granted.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.