

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

507H0276

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**SB 81** - 02/05/2002

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senators Munson, de Hueck, Koetzle, McIntyre, and Sutton (Dan) and Representatives Olson (Mel), Bradford, Brown (Richard), Elliott, Jensen, and Kooistra

1 FOR AN ACT ENTITLED, An Act to limit the Department of Labor's authority to recommend  
2 settlements in labor disputes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 If its efforts as conciliator prove unsuccessful, the Department of Labor shall, if requested  
7 by either party, impartially investigate the matters in difference between the parties. The request  
8 to the department shall be mailed within twenty days after the conclusion of the conciliation  
9 procedure provided for in § 60-10-1. The department shall give each party ample opportunity  
10 for presentation of its final offer on each unresolved issue and the rationale supporting its final  
11 offer on each unresolved issue. Within twenty days following the presentations of the final offers  
12 of both parties, the department shall issue a recommendation on each unresolved issue and the  
13 rationale supporting each recommendation. The department shall recommend either the final



1 offer of the public employees or the final offer of the public employers on each unresolved issue  
2 and may not make any alternative recommendation. The department shall furnish a copy of its  
3 recommendation to each of the parties and to any local newspaper for publication for the  
4 information of the public.

5 Section 2. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Each party shall submit to the department a copy of the final offer made to the other party  
8 on each unresolved issue and the rationale supporting the final offer on each unresolved issue  
9 with proof of service of a copy upon the other party. Each party shall also submit a draft, in  
10 writing, that includes all tentative agreements reached by the parties. The parties may continue  
11 to negotiate all offers until an agreement is reached or until a recommendation and rationale are  
12 issued by the department. The department shall consider the following factors in making its  
13 recommendation:

- 14 (1) Any past collective bargaining contract between the parties, including the bargaining  
15 that led up to the contract;
- 16 (2) The power of the public employer and political subdivision to finance the final  
17 collective bargaining agreement;
- 18 (3) Comparisons with employees performing similar work in the public sector in South  
19 Dakota and in states contiguous to South Dakota;
- 20 (4) The interests and welfare of the public and the employees; and
- 21 (5) Any other factor normally or traditionally taken into consideration in the  
22 determination of wages, hours, and conditions of employment through collective  
23 bargaining.

24 Section 3. That § 3-18-8.1 be amended to read as follows:

1        3-18-8.1. In case of impasse or failure to reach an agreement in negotiations conducted under  
2 the provisions of this chapter, either party may request the Department of Labor to intervene  
3 under the provisions of §§ 60-10-1 to ~~60-10-3~~, inclusive. Such request shall be mailed within ten  
4 days after a written statement is delivered to the designated representative for the other party  
5 declaring an impasse. Nothing in this section prohibits the parties to an impasse from adopting  
6 any other procedure to facilitate a settlement that is mutually agreeable.