

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

636H0460

SENATE BILL NO. 61

Introduced by: Senators Staggers, de Hueck, Greenfield, Hagen, McIntyre, Munson, Olson (Ed), Sutton (Dan), and Symens and Representatives Kooistra, Garnos, Hennies (Don), Kloucek, McCoy, and Monroe

1 FOR AN ACT ENTITLED, An Act to allow for binding arbitration for school districts and
2 employees under certain circumstances.

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 Terms used in this Act mean:

- 7 (1) "Arbitrator," the Department of Labor;
- 8 (2) "Arbitration," the procedure whereby a school district and its employees in an impasse
9 submit their differences to the Department of Labor for a final and binding decision;
- 10 (3) "Impasse," the failure of a school district and employee representative to reach an
11 agreement in the course of negotiation;
- 12 (4) "Party," either a school district or a representative of a school district's employees.

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



1 If a school district and the employees' representative have reached an impasse and do not
2 request the Department of Labor to intervene as provided in § 3-18-8.1, the parties may agree
3 to arbitration, which shall be binding. Refusal by either party to arbitrate is not an unfair labor
4 practice or bad faith negotiation. The request for arbitration shall be in writing and filed with the
5 Department of Labor within thirty days of the date of impasse. The arbitration hearing shall be
6 held within thirty days of the receipt of the request.

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

9 Each party shall submit to the Department of Labor within four days of the request for
10 arbitration, the final offer made to the other party on the impasse items with proof of service of
11 a copy upon the other party. Each party shall also submit a copy of the draft of the proposed
12 collective bargaining agreement to the extent that agreement has been reached. The parties may
13 continue to negotiate all offers until an agreement is reached or a decision is rendered by the
14 arbitrator.

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

17 The submission of the impasse items to the arbitrator is limited to those issues upon which
18 the parties have not reached agreement.

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

21 The arbitrator may not attempt to conciliate or otherwise settle the dispute in any manner
22 other than that prescribed in this Act. The arbitrator may conduct formal or informal hearings
23 to discuss offers submitted by both parties.

24 Section 6. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The arbitrator shall consider the following factors:

- 3 (1) Past collective bargaining contracts between the parties including the bargaining that
4 led up to such contract;
- 5 (2) The ability of the school district and political subdivision to finance and appropriate
6 economic adjustments and the effect of the adjustments on the normal standard of
7 services;
- 8 (3) The power of the school district and political subdivision to levy taxes and appropriate
9 funds for the conduct of its operations;
- 10 (4) The interests and welfare of the public and employees; and
- 11 (5) Any other factors, which are normally or traditionally taken into consideration in the
12 determination of wages, hours, and conditions of employment through voluntary
13 collective bargaining.

14 Section 7. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 The arbitrator shall select, within fifteen days after the conclusion of arbitration, one of the
17 final package offers on all impasse items submitted by the parties.

18 Section 8. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The selection by the arbitrator and items agreed upon by the school district and the employee
21 organization shall be deemed to be the collective bargaining agreement between the parties.

22 Section 9. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 The decision of the arbitrator is final and binding subject to the limitation that no decision is

1 valid or enforceable if its implementation would be in violation of any statutory limitation on the
2 school district's funds. Any decision of the arbitrator shall be construed a decision of an
3 administrative agency and may be appealed in the manner provided for in chapter 1-26.

4 Section 10. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms of a collective bargaining agreement either negotiated or established otherwise under
7 the terms of this Act are enforceable by civil action in circuit court in the same manner as any
8 other collective bargaining agreement, as provided for in § 60-9-4.

9 Section 11. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any contracts issued to teachers pursuant to chapter 13-43 shall be reissued to comply with
12 the arbitration award.