

1 House BILL NO. 462  
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4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS  
 5 75-6116 THROUGH 75-6120, R.C.M. 1947, RELATING TO THE  
 6 "PROFESSIONAL NEGOTIATIONS ACT FOR TEACHERS"; AND REPEALING  
 7 SECTIONS 75-6121, 75-6123, 75-6124 AND 75-6126, R.C.M.  
 8 1947."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 75-6116, R.C.M. 1947, is amended to  
 12 read as follows:

13 "75-6116. Declaration of policy and purpose. In  
 14 pursuance of the duty imposed upon it by the constitution to  
 15 provide a system of free public schools and to adopt all  
 16 means necessary and proper to secure to the people the  
 17 advantages and opportunities of education, the legislative  
 18 assembly hereby declares that it recognized teaching as a  
 19 profession which requires special educational qualifications  
 20 and that to achieve high quality education it is  
 21 indispensable that good relations exist between teaching  
 22 personnel and their governing boards. It is, therefore, the  
 23 policy of this state to recognize the rights of professional  
 24 school employees to form, join, or assist professional  
 25 employees' organizations to negotiate with ~~their governing~~

1 boards each elementary and secondary school board regarding  
 2 the terms and conditions of professional service and to  
 3 ~~confer--and--consult~~ negotiate in other matters for the  
 4 purpose of establishing, maintaining, protecting and  
 5 improving educational standards, and to establish procedures  
 6 which will facilitate and encourage amicable settlement of  
 7 disputes. It is further recognized that the authority of  
 8 public school district boards of trustees is established by  
 9 law and a each elementary and secondary district board of  
 10 trustees has final authority for determining policies for  
 11 the operation of public schools under its jurisdiction which  
 12 are not inconsistent with law."

13 Section 2. Section 75-6117, R.C.M. 1947, is amended to  
 14 read as follows:

15 "75-6117. Definitions. As used in this act, unless the  
 16 context clearly requires otherwise:

17 (1) "Teacher" means an individual certificated in class  
 18 1, 2, 4 or 5 as provided in section 75-6006, but shall not  
 19 include such certificated individuals who are not currently  
 20 under contract to perform classroom teaching; however  
 21 "teacher" shall include principals certificated in class 3  
 22 who so elect as provided in subsection (3);

23 (2) "Employer" means a school district as defined in  
 24 section 75-6501.

25 (3) "Appropriate unit" means all of the teachers

HB 462

1 employed by a single employer. Principals employed by an  
2 employer may elect to be included in the appropriate unit or  
3 may elect to establish a separate appropriate unit of  
4 principals;

5 (4) "Board" means ~~any public~~ either an elementary or  
6 secondary school board of trustees;

7 ~~{5}--"Strike"--means--any-work-stoppage-by-a-teacher-or~~  
8 ~~teachers-which-interferes-with-the-operation-of-a-school--or~~  
9 ~~schools;--which-includes-abstinence-in-whole-or-in-part-from~~  
10 ~~the-fully-faithful-and-proper-performance-of-the--duties--of~~  
11 ~~employment;--for--the--purpose--of--inducing,-influencing-or~~  
12 ~~coercing-an-employer--to--change--any--terms--or--conditions~~  
13 ~~relating-to-the-employer-teacher-relationship;~~

14 ~~{6}~~ (5) "Teacher organization" means any organization of  
15 employees which includes teachers in membership;

16 ~~{7}~~ (6) "Representative of teachers" means a  
17 representative elected pursuant to the provisions of section  
18 ~~75-6121~~ 75-6121.1."

19 Section 3. Section 75-6118, R.C.M. 1947, is amended to  
20 read as follows:

21 "75-6118. Teachers' rights. It shall be lawful for  
22 teachers to organize, form, join or assist in employee  
23 organizations or to engage in lawful activities for the  
24 purpose of collective bargaining or to bargain collectively  
25 through representatives of their own free choice. Teachers

1 shall also have the right to refrain from any or all such  
2 activity but shall be bound by a professional negotiations  
3 agreement involving the appropriate unit of which they are a  
4 member. It shall be the duty of an employer to ~~meet--and~~  
5 ~~confer~~ negotiate on any proposal advanced by a  
6 representative of teachers, or by a teacher or group of  
7 teachers if no representative of teachers has been selected,  
8 if such proposal does not endeavor to amend the terms of a  
9 professional negotiations agreement then in effect, and  
10 nothing in this act shall be construed to diminish such  
11 duty. However, a representative of teachers selected as  
12 provided by this act, shall be the exclusive representative  
13 of all the teachers in the appropriate unit to ~~meet; confer~~  
14 ~~or~~ negotiate upon all matters permitted in section 75-6119  
15 and such teachers shall not negotiate individually."

16 Section 4. Section 75-6119, R.C.M. 1947, is amended to  
17 read as follows:

18 "75-6119. Duty to negotiate and bargain. It shall be  
19 the duty of all employers acting as a board, or acting by  
20 and through a bargaining agent designated or employed by the  
21 employer, and all teachers, or a representative of teachers,  
22 to meet ~~and confer~~ for professional ~~negotiations~~ negotiation  
23 purposes at the request of either, except as provided by  
24 this act, to discuss matters relating directly to the  
25 employer-teacher relationship such as salary, hours and

1 other terms of employment, and to negotiate and bargain for  
 2 agreement on such matters. ~~The matters of negotiation and~~  
 3 ~~bargaining for agreement shall not include matters of~~  
 4 ~~curriculum, policy of operation, selection of teachers and~~  
 5 ~~other personnel, or physical plant of schools or other~~  
 6 ~~facilities, however nothing herein shall limit the~~  
 7 ~~obligation of employers to meet and confer as provided in~~  
 8 ~~section 75-6118; Teachers under a professional negotiations~~  
 9 agreement, or the representative of teachers, shall not  
 10 demand that professional negotiation conferences begin until  
 11 after November 1 of the last year such agreement is  
 12 effective, but, if professional negotiation is desired, must  
 13 serve written notice of intention to negotiate collectively  
 14 upon the employer not later than November 1 of such year  
 15 stating specifically the items to be negotiated. If such  
 16 notice is not served, the employer shall not be required to  
 17 negotiate any terms of the employer-teacher relationship for  
 18 the following school year. Professional negotiation  
 19 agreements in effect at the time this act becomes effective  
 20 shall continue to their expiration. No professional  
 21 negotiation agreement shall extend for a term of more than  
 22 two (2) years."

23 Section 5. Section 75-6120, R.C.M. 1947, is amended to  
 24 read as follows:

25 "75-6120. Unfair practices. (1) Employers, their

1 agents or representatives, are prohibited from the following  
 2 unlawful acts:

3 (a) Interfering with, restraining or coercing teachers  
 4 in any manner in their right of self-organization or  
 5 selection of a representative;

6 (b) Discriminating in regard to conditions of  
 7 employment when the purpose is to discourage membership in a  
 8 teacher organization;

9 (c) Refusing to ~~meet, confer or~~ negotiate in good faith  
 10 with teachers or the duly elected representative of an  
 11 appropriate unit of teachers ~~or with a panel selected upon~~  
 12 ~~impasse as provided in section 75-6123, to discuss or~~  
 13 negotiate upon any matter dealing directly with the  
 14 employer-teacher relationship as provided in section  
 15 75-6118;

16 (d) Refusing to reduce to writing and sign a  
 17 professional negotiation agreement arrived at through  
 18 negotiation and discussion;

19 (2) Teachers or teacher organizations, their agents or  
 20 representatives, are prohibited from the following unlawful  
 21 acts:

22 (a) Restraining or coercing teachers in violation of  
 23 their rights guaranteed under section 75-6118 or interfering  
 24 in the conduct of an election as provided in this section.

25 (b) Refusing to reduce to writing or sign a

HB 462

1 professional negotiation agreement arrived at through  
2 negotiation and discussion;

3 ~~(e) instituting, maintaining or participating in a~~  
4 ~~strike or boycott against any employer, or picketing any~~  
5 ~~school or school facility to further or to induce a strike~~  
6 ~~or boycott because of any controversy, engaging in, or~~  
7 ~~inducing or encouraging any individual to engage in a~~  
8 ~~strike or refusal to handle goods or perform services or~~  
9 ~~threatening, coercing or restraining any individual where~~  
10 ~~the object thereof is to force or require any employer to~~  
11 ~~discontinue doing business with such individual or to force~~  
12 ~~or require an employer to recognize a teacher representative~~  
13 ~~not selected as provided in section 75-6121.~~

14 ~~(d)~~ (c) Refusing to meet, confer or bargain in good  
15 faith with an employer or its agents or with a panel  
16 selected upon impasse as provided in section 75-6123, to  
17 discuss or bargain upon any matter dealing directly with the  
18 employer-teacher relationship as defined in section  
19 75-6119."

20 Section 6. There is a new R.C.M. section numbered  
21 75-6121.1 that reads as follows:

22 75-6121.1. Petition on representation matters --  
23 hearing--notice--election. (1) Whenever a petition has  
24 been filed with the board of personnel appeals:

25 (a) by a teacher organization or a group of teachers

1 or any labor organization acting in their behalf alleging  
2 that thirty per cent (30%) of the teachers:

3 (i) wish to be represented for collective bargaining  
4 by a labor organization as exclusive representative, or

5 (ii) assert that the labor organization which has been  
6 certified or is currently being recognized by the board as  
7 bargaining representative is no longer the representative of  
8 the majority of teachers in the unit; or

9 (b) by the board alleging that one or more labor  
10 organizations has presented to it a claim to be recognized  
11 as the exclusive representative in an appropriate unit, the  
12 board of personnel appeals or its agent shall investigate  
13 the petition, and if it has reasonable cause to believe that  
14 a question of representation exists, it shall provide for an  
15 appropriate hearing upon due notice. If the board of  
16 personnel appeals or its agent finds that there is a  
17 question of representation, it shall direct an election by  
18 secret ballot to determine whether, and by which labor  
19 organization the teachers desire to be represented or  
20 whether they desire to have no labor organization represent  
21 them and shall certify the results thereof. Only those  
22 labor organizations which have been designated by more than  
23 ten per cent (10%) of the teachers in the unit found to be  
24 appropriate shall be placed on the ballot. Nothing in this  
25 section prohibits the waiving of hearings by stipulation for

1 for the purpose of a consent election in conformity with the  
2 rules of the board of personnel appeals.

3 (2) An election shall not be directed in any  
4 bargaining unit or in any subdivision thereof within which,  
5 in the preceding twelve (12) month period, a valid election  
6 has been held. Unless the majority vote is for no  
7 representation by a labor organization and in any election  
8 where none of the choices for a representative on the ballot  
9 receives a majority, a runoff election shall be conducted;  
10 the ballot providing for selection between the two choices  
11 receiving the largest and the second largest number of valid  
12 votes cast in the election. A labor organization which  
13 receives the majority of the votes cast in an election shall  
14 be certified by the board of personnel appeals as the  
15 exclusive representative.

16 Section 7. There is a new R.C.M. section numbered  
17 75-6123.1 that reads as follows:

18 75-6123.1. Fact-finding -- arbitration. (1) If,  
19 after forty (40) days following the commencement of  
20 negotiation between an employer, and a negotiating agent  
21 designated by the employer, and teachers, or a  
22 representative of teachers, an agreement cannot be reached  
23 upon any proper issue or issues presented, either party may  
24 petition the board of personnel appeals to initiate  
25 fact-finding.

1 (2) Within three (3) days of receipt of such petition  
2 the board of personnel appeals shall submit to the parties a  
3 list of seven (7) qualified, disinterested persons from  
4 which list the parties shall alternate in striking three (3)  
5 names, and the remaining person shall be designated fact  
6 finder. This process shall be completed within five (5)  
7 days of receipt of the list. The parties shall notify the  
8 board of personnel appeals of the designated fact finder.

9 (3) If no request for fact-finding is made by either  
10 party before the expiration of the agreement, or thirty (30)  
11 days following certification or recognition of an exclusive  
12 representative, the board of personnel appeals may initiate  
13 fact-finding as provided for in (2) above.

14 (4) The fact finder shall immediately establish dates  
15 and place of hearings. Upon request of either party of the  
16 fact finder, the board of personnel appeals shall issue  
17 subpoenas for hearings conducted by the fact finder. The  
18 fact finder may administer oaths. Upon completion of the  
19 hearings, but no later than twenty (20) days from the day of  
20 appointment, the fact finder shall make written findings of  
21 facts and recommendations for resolution of the dispute and  
22 shall serve such findings on the public employer and the  
23 exclusive representative. The fact finder may make this  
24 report public five (5) days after it is submitted to the  
25 parties. If the dispute is not resolved fifteen (15) days

HB 462

1 after the report is submitted to the parties, the report  
2 shall be made public.

3 (5) The public employer and the exclusive  
4 representative shall be the only proper parties to  
5 fact-finding proceedings.

6 (6) The cost of fact-finding proceedings shall be  
7 equally borne by the board and the parties concerned.

8 (7) Nothing in this section prohibits the fact finder  
9 from endeavoring to mediate the dispute in which he has been  
10 selected or appointed as fact finder.

11 (8) Nothing in this section prohibits the parties from  
12 voluntarily agreeing to submit any or all of the issues to  
13 final and binding arbitration, and if such agreement is  
14 reached the arbitration shall supersede the fact-finding  
15 procedures set forth in this section. An agreement to  
16 arbitrate, and the award issued in accordance with such  
17 agreement shall be enforceable in the same manner as is  
18 provided in this act for enforcement of collective  
19 bargaining agreements.

20 Section 8. Sections 75-6121, 75-6123, 75-6124, and  
21 75-6126, R.C.M. 1947, are repealed.

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