

HOUSE BILL NO. 503

1/26 Introduced
1/26 Referred to Education & Cultural Resources
2/13 Hearing
2/19 Adverse Committee Report
2/20 Bill Killed

1 HOUSE BILL NO. 503
2 INTRODUCED BY Jerry

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE
5 COLLECTIVE BARGAINING PROCESS BETWEEN AND COLLECTIVELY
6 BARGAINED AGREEMENTS OF SCHOOL DISTRICTS AND TEACHERS."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Definitions. As used in [sections 1 through
10 9], unless the context clearly indicates otherwise, the
11 following definitions apply:

12 (1) "Board" means the board of personnel appeals
13 provided for in 2-15-1705.

14 (2) "School district" means a public employer that is
15 a board of trustees of an elementary school district, high
16 school district, or county high school district, the
17 governing board of a special education cooperative, or other
18 political subdivision of the state of Montana providing
19 educational services.

20 Section 2. Arbitration between teachers and school
21 district. If an impasse is reached in the course of
22 collective bargaining between the exclusive representative
23 of an appropriate unit, as defined in 39-31-103, composed
24 solely of teachers and a school district and the procedures
25 for mediation in 39-31-307 have not resulted in settlement

1 by the following April 1, either party, or both jointly, may
2 petition the board for compulsory final and binding
3 arbitration.

4 Section 3. Selection of arbitrator. Within 3 days of
5 receipt of a petition for compulsory final and binding
6 arbitration, the board shall submit to the parties a list of
7 five qualified and impartial arbitrators. From the list
8 submitted by the board, the parties shall alternately strike
9 four names, after flipping a coin to decide who strikes the
10 first name. The remaining person is the arbitrator. The
11 parties shall notify the board of the designated arbitrator
12 within 5 days of the receipt of the list. However, the
13 parties may mutually agree to an arbitrator other than one
14 of those on the list submitted by the board. The board must
15 be notified of the arbitrator mutually agreed upon within 5
16 days of the receipt of the list.

17 Section 4. Hearing and decision. (1) Within 5 days
18 after he is chosen, the arbitrator shall set the date, time,
19 and place for a hearing, which must be held within 30 days
20 of the designation of the arbitrator.

21 (2) The arbitrator may issue subpoenas, require the
22 submission of evidence, and administer oaths.

23 (3) The school district and the exclusive
24 representative are the only proper parties to arbitration.

25 (4) At the hearing, each party must be given full

1 opportunity to submit all relevant evidence, introduce
2 relevant documents, call witnesses, request subpoenas, and
3 argue on behalf of its position.

4 (5) The hearing may be continued at the discretion of
5 the arbitrator, but in any event it must be concluded within
6 10 days after its commencement. Written posthearing briefs
7 may be submitted by the parties at the discretion of the
8 arbitrator.

9 (6) Prior to making a determination on any issue, the
10 arbitrator may attempt to mediate the dispute or refer
11 issues back to the parties for further negotiation. The
12 parties may make an agreement on any issue prior to a
13 determination on that issue by the arbitrator.

14 (7) At the conclusion of the hearing, the parties must
15 submit their written respective positions on each issue in
16 the form of a last best offer.

17 (8) The arbitrator shall separately resolve each issue
18 by accepting the last best offer on the issue of either of
19 the parties and shall incorporate in a comprehensive
20 decision each accepted last best offer. The arbitrator's
21 decision must also incorporate agreements on issues reached
22 by the parties prior to the decision. The arbitrator shall
23 notify the board and the parties of the decision in writing
24 within 20 days after the conclusion of the hearing. The
25 decision of the arbitrator is final and binding upon the

1 parties to the dispute.

2 (9) In arriving at a decision, the arbitrator shall
3 consider all relevant factors, including:

4 (a) the history of negotiations between the parties;

5 (b) the interests and welfare of the public and the
6 financial ability of the school district to pay;

7 (c) the interests and welfare of the teachers
8 represented in the dispute;

9 (d) appropriate cost-of-living indexes;

10 (e) comparison of the hours, wages, fringe benefits,
11 and other conditions of employment of the teachers involved
12 with those of other employees performing similar services;

13 (f) comparison with the state and regional labor
14 market generally; and

15 (g) any other matters traditionally considered in the
16 determination of hours, wages, fringe benefits, and other
17 conditions of employment.

18 Section 5. Costs of arbitration. The parties must
19 share equally the fee and related expenses of the
20 arbitrator. If one party requests a transcript and the other
21 party does not, the requesting party must bear the expense
22 of the transcript exclusively. All other costs must be borne
23 by the party incurring them.

24 Section 6. Enforcement of award. An award or decision
25 issued in accordance with [section 4] is enforceable in the

1 same manner as provided in Title 39, chapter 31, for
2 enforcement of collective bargaining agreements.

3 Section 7. Judicial review. (1) The arbitrator's
4 decision is subject to judicial review upon the filing by a
5 party to the arbitration of a motion to vacate or modify the
6 decision in the district court for the judicial district in
7 which the school district is located. The motion must be
8 filed within 30 days following receipt of a final decision.

9 (2) The review must be conducted by the court without
10 a jury and is confined to the record. The review must
11 include any alleged irregularities in procedure before the
12 arbitrator. Upon request by one or both of the parties, the
13 court must hear oral argument and receive written briefs.

14 (3) The court may not substitute its judgment for that
15 of the arbitrator as to the weight of the evidence on
16 questions of fact. The court may affirm the decision, remand
17 the case for further proceedings, or reverse or modify the
18 decision if substantial rights of the appellant have been
19 prejudiced because such decision is:

20 (a) in violation of constitutional or statutory
21 provisions;

22 (b) in excess of the statutory authority of the
23 arbitrator;

24 (c) made upon unlawful procedure;

25 (d) affected by other error of law;

1 (e) clearly erroneous in view of the reliable,
2 probative, and substantial evidence on the whole record; or

3 (f) arbitrary, capricious, or characterized by abuse
4 of discretion or clearly unwarranted exercise of discretion.

5 (4) A party may obtain review of a final judgment of a
6 district court by appeal to the supreme court within 60 days
7 after entry of judgment. The appeal must be taken in the
8 manner provided by law for appeals from district courts in
9 civil cases.

10 (5) In any district court action to vacate or modify
11 the decision of the arbitrator or in any appeal to the
12 supreme court, reasonable attorney fees, costs, and legal
13 interest on any salaries withheld as the result of the
14 action or appeal may be awarded against the appellant if the
15 decision is not modified or vacated by the court.

16 Section 8. Strikes and lockouts limited. Strikes and
17 lockouts are prohibited during the term of any collective
18 bargaining agreement between the school district and an
19 appropriate unit, as defined in 39-31-103, composed solely
20 of teachers and during negotiations concerning or
21 arbitration of such an agreement.

22 Section 9. Two-year teacher collective bargaining
23 agreements mandated. Beginning with the state fiscal
24 biennium that begins on July 1, 1987, a collectively
25 bargained agreement between a school district and an

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1 appropriate unit, as defined in 39-31-103, composed solely
2 of teachers must have a duration of 2 years and must
3 coincide with the fiscal biennium of the state.

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