

HOUSE BILL 311

Introduced by Schye

1/19	Introduced
1/20	Referred to Education & Cultural Resources
2/01	Hearing
2/08	Tabled in Committee

1 House BILL NO. 311
2 INTRODUCED BY Seby
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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
5 ARBITRATION OF LABOR DISPUTES BETWEEN SCHOOL DISTRICTS AND
6 SCHOOL TEACHERS; REQUIRING AN ARBITRATOR TO SETTLE A
7 CONTRACT DISPUTE BASED ON THE LAST BEST OFFER OF EACH PARTY;
8 AND MANDATING 2-YEAR COLLECTIVE BARGAINING AGREEMENTS FOR
9 SCHOOL DISTRICTS."
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 NEW SECTION. Section 1. Definitions. As used in [this
13 act], unless the context indicates otherwise, the following
14 definitions apply:
15 (1) "Appropriate unit" means a group of school
16 district teachers joined together for collective bargaining
17 purposes as designated by the board.
18 (2) "Board" means the board of personnel appeals
19 provided for in 2-15-1705.
20 (3) "Exclusive representative" means the labor
21 organization that has been designated by the board as the
22 exclusive representative of school district teachers in an
23 appropriate unit or has been so recognized by the school
24 district.
25 (4) "School district" means a public employer that is:

1 (a) a board of trustees of an elementary school
2 district, high school district, or county high school
3 district;
4 (b) the governing board of a special education
5 cooperative provided for in 20-7-451; or
6 (c) a political subdivision of the state that provides
7 educational services as defined in 20-30-101.
8 NEW SECTION. Section 2. Arbitration between school
9 teachers and school districts. If a dispute occurs in the
10 course of collective bargaining between the exclusive
11 representative of an appropriate unit and a school district
12 and the procedures for mediation in 39-31-307 have not
13 resulted in settlement of the dispute by May 1 prior to the
14 expiration of the contract, either party or both may
15 petition the board for final and binding arbitration.
16 NEW SECTION. Section 3. Appointment of arbitrator.
17 (1) The parties to a dispute may appoint an arbitrator by
18 mutual agreement. The board must be notified of the
19 appointment of an arbitrator within 5 days following
20 appointment.
21 (2) If the parties have not appointed an arbitrator
22 and have not provided for any other method of appointment,
23 the arbitrator must be selected in the following manner:
24 (a) within 3 days of the receipt of a petition for
25 final and binding arbitration, the board shall submit to the

parties a list of five qualified and impartial arbitrators;

(b) from the list, the parties shall alternately strike four names, after determining by lot which party strikes the first name;

(c) the remaining name following this procedure must be appointed the arbitrator; and

(d) the parties shall notify the board of the appointment within 5 days of the receipt of the list submitted by the board.

NEW SECTION. Section 4. Hearing and decision. (1)

Within 5 days after he is appointed, the arbitrator shall set the date, time, and place for a hearing. The hearing must be held within 30 days following the appointment of the arbitrator.

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

(3) At the hearing, each party must be given full opportunity to submit all relevant evidence, introduce relevant documents, call witnesses, request subpoenas, and argue on behalf of its position.

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

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

(6) At the conclusion of the hearing, each party shall submit its written respective position on the entire bargaining package in the form of a last best offer.

(7) The arbitrator shall resolve the dispute by accepting the last best offer of one party. The arbitrator shall incorporate into a comprehensive decision the accepted last best offer. The arbitrator's decision must also incorporate agreements on issues reached by the parties prior to the decision. Within 20 days after concluding the hearing, the arbitrator shall notify the board and the parties, in writing, of his final decision. The decision of the arbitrator is final and binding upon the parties to the dispute unless submitted to the district court for review.

NEW SECTION. Section 5. Consideration of relevant factors. In arriving at a decision, the arbitrator shall consider all relevant factors, including:

(1) the history of negotiations between the parties;

(2) the interests and welfare of the public and the financial ability of the school district to pay;

(3) the interests and welfare of the teachers

1 represented in the dispute;

2 (4) appropriate cost-of-living indices;

3 (5) comparison of the hours, wages, fringe benefits,
4 and conditions of employment of the teachers involved with
5 other teachers performing similar services; and

6 (6) other matters traditionally considered in the
7 determination of hours, wages, fringe benefits, and
8 conditions of employment.

9 NEW SECTION. Section 6. Parties to arbitration. The
10 school district and the exclusive representative of the
11 appropriate unit are the only proper parties to arbitration,
12 except that each party has the right to be represented by an
13 attorney at any hearing under [this act].

14 NEW SECTION. Section 7. Costs of arbitration. The
15 parties shall share equally the fees and related expenses of
16 the arbitrator. If one party requests a transcript and the
17 other party does not, the requesting party shall bear the
18 expenses of the transcript exclusively. All other costs must
19 be borne by the party incurring them.

20 NEW SECTION. Section 8. Procedure following award --
21 strikes and lockouts prohibited. (1) Either party to
22 arbitration may seek to confirm, vacate, modify, or correct
23 an award in arbitration, but only as provided in 27-5-311
24 through 27-5-314 and 27-5-321 through 27-5-324.

25 (2) Strikes and lockouts are prohibited during the

1 term of any collective bargaining agreement between the
2 school district and an appropriate unit or during the
3 negotiation or arbitration of such agreement.

4 NEW SECTION. Section 9. Two-year collective
5 bargaining agreements mandated. Commencing with the state
6 fiscal year that begins July 1, 1991, a collective
7 bargaining agreement between a school district and an
8 appropriate unit must have a duration of 2 years and must
9 coincide with the biennium of the state.

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