

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

535D0429

SENATE BILL NO. 189

Introduced by: Senator Staggers and Representative Sutton (Daniel)

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:

15 If a school district and the employees' representative have reached an impasse and do not
16 request the Department of Labor to intervene as provided in § 3-18-8.1, the parties may agree
17 to arbitration, which shall be binding. The request for arbitration shall be in writing and filed with

1 the Department of Labor within thirty days of the date of impasse. The arbitration hearing shall
2 be held within thirty days of the receipt of the request.

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

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

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

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

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

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

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

22 The arbitrator shall consider the following factors:

- 23 (1) Past collective bargaining contracts between the parties including the bargaining that
24 led up to such contract;
- 25 (2) The ability of the school district and political subdivision to finance and appropriate

1 economic adjustments and the effect of the adjustments on the normal standard of
2 services;

3 (3) The power of the school district and political subdivision to levy taxes and appropriate
4 funds for the conduct of its operations;

5 (4) The interests and welfare of the public and employees; and

6 (5) Any other factors, which are normally or traditionally taken into consideration in the
7 determination of wages, hours, and conditions of employment through voluntary
8 collective bargaining.

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

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

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

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

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

19 The decision of the arbitrator is final and binding subject to the limitation that no decision is
20 valid or enforceable if its implementation would be in violation of any statutory limitation on the
21 school district's funds. Any decision of the arbitrator shall be construed a decision of an
22 administrative agency and may be appealed in the manner provided for in chapter 1-26.

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

25 Terms of a collective bargaining agreement either negotiated or established otherwise under

1 the terms of this Act are enforceable by civil action in circuit court in the same manner as any
2 other collective bargaining agreement, as provided for in § 60-9-4.

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

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