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H.557

Introduced by Representatives LaLonde of South Burlington, Christie of
Hartford, and Conlon of Cornwall

Referred to Committee on

Date:

Subject: Education; labor relations for teachers and administrators

Statement of purpose of bill as introduced: This bill proposes to (i) require negotiations between teachers' or administrators' organizations and school boards over collective bargaining agreements to commence earlier than currently required; (ii) increase transparency in the process; (iii) extend the terms of an existing collective bargaining agreement when the parties are unable to negotiate a new agreement before the expiration of the existing agreement, except, if the parties do not comply with certain time frames, with respect to wages and benefits which would continue at levels and amounts that are not greater than those in effect on the expiration date of the existing contract; (iv) clarify that the parties may jointly agree to mediation but mediation is not mandatory; (v) deem the parties to be at an impasse if they are unable to reach agreement on specific negotiable items within 90 days after commencement of negotiations; (vi) require that the parties undertake fact-finding if they do not agree to mediation or if mediation fails to resolve outstanding differences; (vii) establish guidelines for fact finders and

1 arbitrators to consider when making a determination in relation to a labor
2 relations dispute involving teachers or school administrators; (viii) limit the
3 time period after the delivery of a fact-finding report for a school board to
4 impose terms of employment and for teachers or administrators to commence a
5 strike; and (ix) expand the powers of a Superior Court to issue injunctive relief
6 to prevent violations of 16 V.S.A. chapter 57 (labor relations for teachers and
7 administrators).

8 An act relating to labor relations for teachers and administrators

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. 16 V.S.A. § 2003 is amended as follows:

11 § 2003. TIME TO BEGIN

12 The ~~teacher~~ teachers' or ~~administrator~~ administrators' organizations holding
13 exclusive negotiating rights and the school board or the school board
14 negotiations council shall ~~make a request for commencement of negotiations~~
15 ~~either to their school board or to the school board negotiations council no later~~
16 ~~than 120 days prior to the earliest school district annual meeting conducted~~
17 ~~within the supervisory union~~ commence negotiations on or before September 1
18 of the final year of the existing collective bargaining agreement unless both
19 parties agree to a later start date. To commence negotiations, the parties shall
20 exchange complete initial proposals on or before September 1 or, if a later start

1 date is agreed upon by the parties, that later start date. The initial proposals
2 shall be made public simultaneously on the commencement date of the
3 negotiations.

4 Sec. 2. 16 V.S.A. § 2005 is amended to read:

5 § 2005. WRITTEN AGREEMENT

6 (a) The negotiations councils for the school board and the teachers' or
7 administrators' organization shall enter into a written agreement or agreements
8 incorporating ~~therein~~ matters agreed to in negotiation.

9 (b)(1) In the event the negotiations council for the school board and the
10 negotiations council for the teachers' or administrators' organization are
11 unable to arrive at an agreement before the expiration date of the existing
12 contract, the existing contract shall, subject to subdivision (2) of this
13 subsection, remain in force until a new contract is ratified by the parties.

14 (2) If the negotiations council for the school board and the negotiations
15 council for the teachers' or administrators' organization fail to comply with the
16 time frames in section 2003 or 2007 of this title, then wages and benefits shall
17 continue at levels and amounts that are not greater than those in effect on the
18 expiration date of the existing contract, and no wage step increases or column
19 advancement shall occur after the expiration date, unless a provision of the
20 existing contract provides to the contrary and except as provided in subsection
21 (c) of this section.

1 (c) Nothing in this section shall prohibit the parties from agreeing to a
2 modification of certain provisions of the existing contract which, as amended,
3 shall remain in effect until a new contract is ratified by the parties.

4 Sec. 3. 16 V.S.A. § 2005a is added to read:

5 § 2005a. IMPASSE

6 If the negotiations councils for the school board and teachers' or
7 administrators' organization are unable to reach agreement on specific
8 negotiable items within 90 days after commencement of negotiations, the
9 parties shall be deemed to be at an impasse. If the parties are at an impasse:

10 (1) they may jointly agree to mediation under section 2006 of this
11 title; and

12 (2) they shall undertake fact-finding under section 2007 of this title if
13 they do not agree to mediation or if mediation fails to resolve all outstanding
14 differences.

15 Sec. 4. 16 V.S.A. § 2006 is amended to read:

16 § 2006. MEDIATOR MEDIATION

17 (a) If, after negotiation has taken place on all matters properly before them,
18 the negotiations councils for the school board and teachers' or administrators'
19 organization are unable to reach agreement on specific negotiable items at an
20 impasse under section 2005a of this title, they may, within five days after the
21 date of impasse, jointly agree upon to retain the services and person of a

1 mediator for the purpose of assisting them in reconciling their differences and
2 resolving the controversy on terms that are mutually acceptable. If agreement
3 cannot be reached upon the person of a mediator, ~~either party may request~~
4 ~~mediation upon any and all unresolved issues to be conducted by the American~~
5 ~~Arbitration Association or its designee~~ within 10 days after the parties agree to
6 retain a mediator, the parties shall request selection of a mediator through the
7 Federal Mediation and Conciliation Service to mediate any and all unresolved
8 issues. The parties shall meet with the mediator within 30 days after the
9 designation of the mediator and shall promptly make such information
10 available as required whenever requested by the mediator.

11 (b) The parties may agree to an extension of the deadlines in this section.

12 (c) In no event shall the negotiations councils for the school board and
13 teachers' or administrators' organization be required to enter into mediation.

14 Sec. 5. 16 V.S.A. § 2007 is amended as follows:

15 § 2007. FACT-FINDING COMMITTEE

16 (a) If the negotiations councils for the school board and teachers' or
17 administrators' organization agree to mediation under section 2006 of this title
18 but the mediation fails to resolve outstanding differences or is not requested
19 and a continuing disagreement persists, either party may, after negotiation on
20 all matters properly before them, request that any or all unresolved issues be
21 submitted to a fact finding committee by notifying the other party of their

1 ~~intention and setting forth in writing the issues to be submitted to fact finding~~
2 then, within five days after the conclusion of the mediation or, if mediation is
3 not requested, within five days after the date of impasse under section 2005a of
4 this title, each party shall set forth in writing all unresolved issues and submit
5 those issues to each other and shall appoint a representative to serve on a fact-
6 finding committee. The parties may agree to an extension of the deadlines in
7 this subsection.

8 (b) The fact-finding committee, ~~which shall be activated as soon as~~
9 ~~practicable upon request,~~ shall be composed of one member selected by the
10 school board negotiations council, one member selected by the negotiations
11 council for the teachers' or administrators' organization, and one member who
12 shall serve as the chair and neutral fact finder, to be chosen by the other two
13 members appointed under subsection (a) of this section. In the event that
14 agreement cannot be reached on a ~~third member for the fact-finding committee~~
15 neutral fact finder within 10 days after the appointment of the other two
16 members, the American Arbitration Association shall be asked to appoint the
17 third member according to its expedited selection process. The parties may
18 agree to an extension of the deadline in this subsection.

19 (c)(1) The fact-finding committee shall convene as soon as practicable and
20 within 60 days after its the appointment of the neutral fact finder, hold
21 informal hearings as necessary, and provide adequate opportunity to all parties

1 to testify fully on, and present evidence regarding, all unresolved issues and
2 their respective positions on these issues. All parties to the dispute shall
3 furnish the fact-finding committee promptly upon its request with all records,
4 papers, and information in their possession pertaining to any matter properly in
5 issue before the fact-finding committee.

6 (2) ~~The fact-finding committee~~ neutral fact finder shall make a written
7 report and shall deliver it to both parties recommending a reasonable basis for
8 the settlement of the disagreement within 30 days after the ~~appointment of all~~
9 ~~members of the~~ fact-finding committee convenes. The report shall make
10 findings of fact relevant to the factors set forth in subsection (d) of this section
11 and recommend a reasonable basis for settlement with respect to each issue in
12 dispute between the parties.

13 (d) In preparing his or her report, the neutral fact finder shall primarily
14 consider the following factors:

15 (1) the lawful authority of the school board and of the teachers' or
16 administrators' organization;

17 (2) any stipulations of the parties;

18 (3) the interest and welfare of the public;

19 (4) the financial ability of the school district to pay for increased labor
20 and other costs of public services, including the following factors for the
21 district as compared to statewide averages:

1 (A) housing data, including property sales and prices;

2 (B) median family income;

3 (C) employment and unemployment data; and

4 (D) property tax rates;

5 (5) the average consumer prices for goods and services commonly
6 known as the cost of living as demonstrated by the most recent Bureau of
7 Labor Statistics, All Urban Consumers (CPI-U), Northeast Region, as
8 published on the U.S. Department of Labor website;

9 (6) the overall compensation presently received by the employees,
10 including direct wages, fringe benefits, continuity conditions and stability of
11 employment, and all other benefits received; and

12 (7) the willingness of the school district community to provide increased
13 compensation to the school district's employees, as demonstrated by the results
14 of recent votes on the school district's budget.

15 (e)(1) The neutral fact finder may supplement the factors set forth in
16 subsection (d) of this section by comparing the wages, hours, and conditions of
17 employment of the employees involved in the dispute with the wages, hours,
18 and conditions of employment of employees performing similar services in
19 public schools in comparable communities or in private employment in
20 comparable communities. Any comparison undertaken by the neutral fact

1 finder pursuant to this subsection shall be secondary to his or her consideration
2 of the factors set forth in subsection (d) of this section.

3 (2) Before undertaking a comparison pursuant to this subsection, the
4 neutral fact finder shall determine whether a community is comparable to the
5 school district in which the dispute is occurring based on the relative tax
6 burdens, cost per pupil, and student outcomes in the two communities.

7 (3) If the neutral fact finder determines that a community is comparable
8 to the school district in which the dispute is occurring, the neutral fact finder
9 may consider:

10 (A) the actual monetary value of the overall compensation, including
11 direct wages, fringe benefits, continuity conditions and stability of
12 employment, and all other benefits received by the employees in the
13 comparable community; and

14 (B) the actual monetary value of any increase in overall
15 compensation in the comparable community, including direct wages, fringe
16 benefits, continuity conditions and stability of employment, and all other
17 benefits received.

18 (f) The report of the ~~fact finding committee~~ neutral fact finder shall be
19 advisory only and shall not be binding on either party. The report shall be
20 made public by the fact-finding committee if the issues in dispute have not
21 been resolved within ten days of ~~of~~ after the delivery of the report.

1 ~~(e)~~(g) All expenses of fact-finding and mediation shall be borne jointly by
2 the parties to the dispute.

3 Sec. 6. 16 V.S.A. § 2008 is amended to read:

4 § 2008. ~~FINALITY OF DECISIONS~~ CONTRACT IMPOSITION AND
5 STRIKES

6 (a)(1) The school board may impose terms of employment not earlier than
7 14 days after delivery of the report of the fact finder under section 2007 of this
8 title and only on or before the later of:

9 (A) 14 days after the beginning of the school year; or

10 (B) 14 days after the teachers' organization or administrators'
11 organization has commenced a strike under subsection (b) of this section.

12 (2) Terms of employment imposed by the school board under
13 subdivision (1) of this subsection may be for up to one year in duration.

14 (3) All decisions of the school board under subdivision (1) of this
15 subsection regarding matters in dispute in negotiations shall, after full
16 compliance with this chapter, be final.

17 (b)(1) The teachers' organization or administrators' organization may
18 commence a strike, as defined in 21 V.S.A. § 1722(16), not earlier than
19 14 days after delivery of the report of the neutral fact finder under section 2007
20 of this title and only on or before the later of:

21 (A) 14 days after the beginning of the school year; or

1 (B) 14 days after the imposition of terms by the school board under
2 subsection (a) of this section.

3 (2) A school board may petition for an injunction or other appropriate
4 relief from the Superior Court in the county where a strike in violation of this
5 subsection is occurring or is about to occur.

6 (3) The teachers' organization or administrators' organization may only
7 commence a strike once with respect to any contract that is subject to
8 negotiation under this chapter.

9 Sec. 7. 16 V.S.A. § 2010 is amended to read:

10 § 2010. INJUNCTIONS

11 ~~No restraining order or temporary or permanent injunction shall be granted~~
12 ~~in any case brought with respect to any action taken by a representative~~
13 ~~organization or an official thereof or by a school board or representative~~
14 ~~thereof in connection with or relating to pending or future negotiations, except~~
15 ~~on the basis of findings of fact made by a court of competent jurisdiction after~~
16 ~~due hearing prior to the issuance of the restraining order or injunction that the~~
17 ~~commencement or continuance of the action poses a clear and present danger~~
18 ~~to a sound program of school education that in the light of all relevant~~
19 ~~circumstances it is in the best public interest to prevent. Any restraining order~~
20 ~~or injunction issued by a court as herein provided shall prohibit only a specific~~
21 ~~act or acts expressly determined in the findings of fact to pose a clear and~~

1 ~~present danger.~~ Upon application by either party, a Superior Court may issue a
2 temporary restraining order or other injunctive relief and may award costs,
3 including reasonable attorney's fees, in connection with any action taken or
4 about to be taken by a representative organization, its officials, or its members
5 or by a school board or its representative in relation to pending or future
6 negotiations that is in violation of this chapter or which poses a clear and
7 present danger to a sound program of school education that in light of all the
8 relevant circumstances it is in the best public interest to prevent.

9 Sec. 8. 16 V.S.A. § 2025 is amended to read:

10 § 2025. FACTORS TO BE CONSIDERED BY ARBITRATOR

11 * * *

12 (b) In reaching a decision, the arbitrator shall give weight to the factors
13 listed in subsection (a) of this section, plus the following factors:

14 (1) the lawful authority of the school board and of the teachers' or
15 administrators' organization;

16 (2) any stipulations of the parties;

17 (3) the interest and welfare of the public ~~and;~~

18 (4) the financial ability of the school board to pay for increased labor
19 and other costs of public services, including the ~~cost of labor~~ following factors
20 for the district as compared to statewide averages:

21 (A) housing data, including property sales and prices;

1 (B) median family income;

2 (C) employment and unemployment data; and

3 (D) property tax rates;

4 ~~(4) comparisons of the wages, hours, and conditions of employment of~~
5 ~~the employees involved in the dispute with the wages, hours, and conditions of~~
6 ~~employment of other employees performing similar services in public schools~~
7 ~~in comparable communities or in private employment in comparable~~
8 ~~communities;~~

9 (5) the average consumer prices for goods and services commonly
10 known as the cost of living as demonstrated by the most recent Bureau of
11 Labor Statistics, All Urban Consumers (CPI-U), Northeast Region, as
12 published on the U.S. Department of Labor website;

13 (6) the overall compensation presently received by the employees,
14 including direct wages, fringe benefits, and continuity conditions and stability
15 of employment, and all other benefits received; and

16 (7) ~~prior negotiations and existing conditions of other school and~~
17 ~~municipal employees~~ the willingness of the school district community to
18 provide increased compensation to the school district's employees, as
19 demonstrated by the results of recent votes on the school district's budget.

20 (c)(1) The arbitrator may supplement the factors set forth in subsection (b)
21 of this section by comparing the wages, hours, and conditions of employment

1 of the employees involved in the dispute with the wages, hours, and conditions
2 of employment of employees performing similar services in public schools in
3 comparable communities or in private employment in comparable
4 communities. Any comparison undertaken by the arbitrator pursuant to this
5 subsection shall be secondary to his or her consideration of the factors set forth
6 in subsection (b) of this section.

7 (2) Before undertaking a comparison pursuant to this subsection, the
8 arbitrator shall determine whether a community is comparable to the school
9 district in which the dispute is occurring based on the relative tax burdens, cost
10 per pupil, and student outcomes in the two communities.

11 (3) If the arbitrator determines that a community is comparable to the
12 school district in which the dispute is occurring, the arbitrator may consider:

13 (A) the actual monetary value of the overall compensation, including
14 direct wages, fringe benefits, continuity conditions and stability of
15 employment, and all other benefits received by the employees in the
16 comparable community; and

17 (B) the actual monetary value of any increase in overall
18 compensation in the comparable community, including direct wages, fringe
19 benefits, continuity conditions and stability of employment, and all other
20 benefits received.

1 Sec. 9. EFFECTIVE DATE

2 This act shall take effect on July 1, 2018 and apply to negotiations

3 beginning on or after that date.