

HOUSE BILL NO. 149

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE FIELDS

Introduced: 3/24/21

Referred: Labor and Commerce, State Affairs

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to allowing certain child day care providers to organize for the purpose**
2 **of collective bargaining."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 23.40.070 is amended to read:

5 **Sec. 23.40.070. Declaration of policy.** The legislature finds that joint decision-
6 making is the modern way of administering government. If public employees **and**
7 **child day care providers** have been granted the right to share in the decision-making
8 process affecting wages and working conditions, they have become more responsive
9 and better able to exchange ideas and information on operations with their
10 administrators. Accordingly, government is made more effective. The legislature
11 further finds that the enactment of positive legislation establishing guidelines for
12 public employment relations is the best way to harness and direct the energies of
13 public employees **and child day care providers** eager to have a voice in determining
14 their conditions of work, to provide a rational method for dealing with disputes and

1 work stoppages, to strengthen the merit principle where civil service is in effect, and
 2 to maintain a favorable political and social environment. The legislature declares that
 3 it is the public policy of the state to promote harmonious and cooperative relations
 4 between **public employers and public** [GOVERNMENT AND ITS] employees **or**
 5 **child day care providers** and to protect the public by assuring effective and orderly
 6 operations of government. These policies are to be effectuated by

7 (1) recognizing the right of public employees **and child day care**
 8 **providers** to organize for the purpose of collective bargaining;

9 (2) requiring public employers to negotiate with and enter into written
 10 agreements with employee organizations **and child day care provider organizations**
 11 on matters of wages, hours, and other terms and conditions of employment;

12 (3) maintaining merit-system principles among public employees.

13 * **Sec. 2.** AS 23.40.080 is amended to read:

14 **Sec. 23.40.080. Rights of public employees and child day care providers.**

15 Public employees **and child day care providers** may self-organize and form, join, or
 16 assist an organization to bargain collectively through representatives of their own
 17 choosing, and engage in concerted activities for the purpose of collective bargaining or
 18 other mutual aid or protection.

19 * **Sec. 3.** AS 23.40.090 is amended to read:

20 **Sec. 23.40.090. Collective bargaining unit.** The labor relations agency shall
 21 decide in each case, in order to assure to employees **and child day care providers** the
 22 fullest freedom in exercising the rights guaranteed by AS 23.40.070 - 23.40.260, the
 23 unit appropriate for the purposes of collective bargaining, based on such factors as
 24 community of interest, wages, hours, and other working conditions of the employees
 25 **and child day care providers** involved, the history of collective bargaining, and the
 26 desires of the employees. Bargaining units shall be as large as is reasonable, and
 27 unnecessary fragmenting shall be avoided.

28 * **Sec. 4.** AS 23.40.100(a) is amended to read:

29 (a) The labor relations agency shall investigate a petition if it is submitted in a
 30 manner prescribed by the labor relations agency and is

31 (1) by an employee, **a** [OR] group of employees, **a child day care**

1 **provider, a group of child day care providers,** or an organization acting in their
 2 behalf alleging that 30 percent of the employees **or child day care providers in** [OF]
 3 a proposed bargaining unit

4 (A) want to be represented for collective bargaining by a labor,
 5 [OR] employee, **or child day care provider** organization as exclusive
 6 representative, or

7 (B) assert that the organization **that** [WHICH] has been
 8 certified or is currently being recognized by the public employer as bargaining
 9 representative is no longer the representative of the majority of employees **or**
 10 **child day care providers** in the bargaining unit; or

11 (2) by the public employer alleging that one or more organizations
 12 have presented to it a claim to be recognized as a representative of a majority of
 13 employees **or child day care providers** in an appropriate **bargaining** unit.

14 * **Sec. 5.** AS 23.40.100(b) is amended to read:

15 (b) If the labor relations agency has reasonable cause to believe that a question
 16 of representation exists, it shall provide for an appropriate hearing upon due notice. If
 17 the labor relations agency finds that there is a question of representation, it shall direct
 18 an election by secret ballot to determine whether or by which organization the
 19 employees **or child day care providers want** [DESIRE] to be represented and shall
 20 certify the results of the election. Nothing in this section prohibits the waiving of
 21 hearings by stipulation for the purpose of a consent election in conformity with the
 22 regulations of the labor relations agency or an election in a bargaining unit agreed
 23 upon by the parties. The labor relations agency shall determine who is eligible to vote
 24 in an election and shall establish rules governing the election. In an election in which
 25 none of the choices on the ballot receives a majority of the votes cast, a runoff election
 26 shall be conducted, the ballot providing for selection between the two choices
 27 receiving the largest and the second largest number of valid votes cast in the election.
 28 If an organization receives the majority of the votes cast in the election it shall be
 29 certified by the labor relations agency as exclusive representative of all the employees
 30 **or child day care providers** in the bargaining unit.

31 * **Sec. 6.** AS 23.40.110 is amended to read:

1 **Sec. 23.40.110. Unfair labor practices.** (a) A public employer or an agent of a
2 public employer may not

3 (1) interfere with, restrain, or coerce an employee **or child day care**
4 **provider** in the exercise of **a right** [THE EMPLOYEE'S RIGHTS] guaranteed in
5 AS 23.40.080;

6 (2) dominate or interfere with the formation, existence, or
7 administration of an organization;

8 (3) discriminate in regard to hire or tenure of employment or a term or
9 condition of employment to encourage or discourage membership in an organization;

10 (4) discharge or discriminate against an employee **or child day care**
11 **provider for signing or filing** [BECAUSE THE EMPLOYEE HAS SIGNED OR
12 FILED] an affidavit, petition, or complaint, or **giving** [GIVEN] testimony, under
13 AS 23.40.070 - 23.40.260;

14 (5) refuse to bargain collectively in good faith with an organization
15 which is the exclusive representative of employees **or child day care providers** in an
16 appropriate unit, including [BUT NOT LIMITED TO] the discussing of grievances
17 with the exclusive representative.

18 (b) Nothing in this chapter prohibits a public employer from making an
19 agreement with an organization to require as a condition of employment

20 (1) membership in the organization **that** [WHICH] represents **a**
21 **bargaining** [THE] unit on or after the 30th day following the beginning of
22 employment or on the effective date of the agreement, whichever is later; or

23 (2) payment by the employee **or child day care provider** to the
24 exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agent
25 for the expense of representing the members of the bargaining unit.

26 (c) **An** [A LABOR OR EMPLOYEE] organization or its agents may not

27 (1) restrain or coerce

28 (A) an employee **or child day care provider** in the exercise of
29 the rights guaranteed in AS 23.40.080, or

30 (B) a public employer in the selection of the employer's
31 representative for the purposes of collective bargaining or the adjustment of

1 grievances;

2 (2) refuse to bargain collectively in good faith with a public employer,
3 if it has been designated in accordance with the provisions of AS 23.40.070 -
4 23.40.260 as the exclusive representative of employees **or child day care providers**
5 in an appropriate unit.

6 * **Sec. 7.** AS 23.40.205 is amended to read:

7 **Sec. 23.40.205. Family leave.** Notwithstanding **a** [ANY] provision of
8 AS 23.40.070 - 23.40.260 to the contrary, an agreement between **a public** [THE]
9 employer subject to AS 39.20.500 - 39.20.550 and an [EMPLOYEE BARGAINING]
10 organization **under AS 23.40.070 - 23.40.260** that does not contain benefit provisions
11 **that are** at least as beneficial to the **public employees covered by the agreement**
12 [EMPLOYEE] as **the benefit provisions of** [THOSE PROVIDED BY] AS 39.20.500
13 - 39.20.550 shall be considered to contain the benefit provisions of **AS 39.20.500 -**
14 **39.20.550** [THOSE STATUTES].

15 * **Sec. 8.** AS 23.40.210(d) is amended to read:

16 (d) **Except for an agreement applicable solely to child day care providers,**
17 **an** [AN] agreement entered into under AS 23.40.070 - 23.40.260 must require
18 compliance with the eligibility criteria for receiving the cost-of-living differential
19 contained in this section and the regulations adopted by the commissioner under (c) of
20 this section.

21 * **Sec. 9.** AS 23.40.225 is amended to read:

22 **Sec. 23.40.225. Exemption based on religious convictions.** Notwithstanding
23 the provisions of AS 23.40.220, a collective bargaining settlement reached, or
24 agreement entered into, under AS 23.40.210 that incorporates **a** union security
25 **provision,** [PROVISIONS,] including a union shop or agency shop provision [OR
26 AGREEMENT], shall safeguard the **right** [RIGHTS] of nonassociation **for each**
27 **employee or child day care provider who has** [OF EMPLOYEES HAVING] bona
28 fide religious convictions based on tenets or teachings of a church or religious body of
29 which **the** [AN] employee **or child day care provider** is a member. Upon submission
30 of proper proof of religious conviction to the labor relations agency, the agency shall
31 declare the employee **or child day care provider** exempt from becoming a member of

1 a labor organization or employee association. The employee **or child day care**
 2 **provider** shall pay **to the union or association** an amount of money **equal**
 3 **[EQUIVALENT] to [REGULAR] union or association dues, including** initiation fees
 4 **[,] and assessments, normally required of a member** **[TO THE UNION OR**
 5 **ASSOCIATION]**. Nonpayment of this money **may cause** **[SUBJECTS]** the employee
 6 **or child day care provider to be subject to a penalty equal to** the **[SAME]** penalty
 7 **the employee or child day care provider would be subject to under AS 23.40.070 -**
 8 **23.40.260, or an agreement under AS 23.40.070 - 23.40.260, for** **[AS IF IT WERE]**
 9 nonpayment of dues. The receiving union or association shall contribute **[AN**
 10 **EQUIVALENT AMOUNT OF MONEY]** to a charity of its choice **that is** not
 11 affiliated with a religious, labor, or employee organization **or child day care provider**
 12 **an amount of money equal to the amount paid by the employee or child day care**
 13 **provider under this section and** **[. THE UNION OR ASSOCIATION]** shall submit
 14 **[PROOF OF CONTRIBUTION]** to the labor relations agency **proof of the**
 15 **contribution.**

16 * **Sec. 10.** AS 23.40 is amended by adding a new section to read:

17 **Sec. 23.40.242. Child day care providers and organizations.** (a) Nothing in
 18 AS 23.40.070 - 23.40.260

- 19 (1) makes a child day care provider a public employee;
- 20 (2) forms or terminates an employer-employee legal relationship;
- 21 (3) changes a child day care provider's legal status as a corporation,
 22 sole proprietorship, or other legal entity;
- 23 (4) is intended to interfere with compliance by a person, the state, or a
 24 political subdivision of the state with a federal law or a requirement of a federal grant
 25 or subsidy;
- 26 (5) prohibits a child day care provider from communicating or
 27 attempting to communicate with a public employer or another person.

28 (b) A child day care provider organization may not administer or process
 29 payments for day care.

30 * **Sec. 11.** AS 23.40.250(1) is amended to read:

- 31 (1) "collective bargaining" means the performance of the mutual

1 obligation of the public employer or the employer's designated representatives and the
 2 representative of the employees or child day care providers to meet at reasonable
 3 times, including meetings in advance of the budget making process, and negotiate in
 4 good faith with respect to wages, hours, and other terms and conditions of
 5 employment, or the negotiation of an agreement, or negotiation of a question arising
 6 under an agreement and the execution of a written contract incorporating an agreement
 7 reached if requested by either party, but these obligations do not compel either party to
 8 agree to a proposal or require the making of a concession;

9 * **Sec. 12.** AS 23.40.250(2) is amended to read:

10 (2) "election" means a proceeding conducted by the labor relations
 11 agency in which the employees or child day care providers in a collective bargaining
 12 unit cast a secret ballot for collective bargaining representatives, or for any other
 13 purpose specified in AS 23.40.070 - 23.40.260;

14 * **Sec. 13.** AS 23.40.250(4) is amended to read:

15 (4) "monetary terms of an agreement" means the changes in the terms
 16 and conditions of employment resulting from an agreement that

17 (A) will require an appropriation for their implementation;

18 (B) will result in a change in state revenues or productive work
 19 hours for state employees or child day care providers; or

20 (C) address employee or child day care provider
 21 compensation, leave benefits, or health insurance benefits, whether or not an
 22 appropriation is required for implementation;

23 * **Sec. 14.** AS 23.40.250(5) is amended to read:

24 (5) "organization" means a labor or employee organization of any kind
 25 in which employees or child day care providers participate and that [WHICH] exists
 26 for the primary purpose of dealing with employers concerning grievances, labor
 27 disputes, wages, rates of pay, hours of employment, and conditions of employment;

28 * **Sec. 15.** AS 23.40.250(6) is amended to read:

29 (6) "public employee" means any employee of a public employer,
 30 whether or not in the classified service of the public employer, except child day care
 31 providers, elected or appointed officials, or superintendents of schools;

1 * **Sec. 16.** AS 23.40.250(7) is amended to read:

2 (7) "public employer" means the state or a political subdivision of the
3 state, including without limitation, a municipality, district, school district, regional
4 educational attendance area, board of regents, public and quasi-public corporation,
5 housing authority, or other authority established by law, and a person designated by
6 the public employer to act in its interest in dealing with public employees **or child day**
7 **care providers**;

8 * **Sec. 17.** AS 23.40.250(9) is amended to read:

9 (9) "terms and conditions of employment" means the hours of
10 employment, the compensation and fringe benefits, and the employer's personnel
11 policies affecting the working conditions of the employees **or child day care**
12 **providers** [;] but does not mean the general policies describing the function and
13 purposes of a public employer.

14 * **Sec. 18.** AS 23.40.250 is amended by adding new paragraphs to read:

15 (10) "child" has the meaning given in AS 47.25.095;

16 (11) "child day care provider" means a day care center, family day care
17 home, school for children of preschool age, or other entity licensed under
18 AS 47.32.050 that receives state aid, directly or indirectly, for providing day care of a
19 child not related by blood, marriage, or legal adoption to an owner, operator, or
20 manager of the entity;

21 (12) "day care" has the meaning given in AS 47.25.095;

22 (13) "state aid" means money paid by the state

23 (A) to provide day care to the child of a person employed by
24 the state;

25 (B) to an organized borough of any class, a unified
26 municipality, or a city of any class to pay a child day care provider for
27 providing day care;

28 (C) as the result of a grant under AS 47.25.001 - 47.25.095.

29 * **Sec. 19.** AS 39.27.011(a) is amended to read:

30 (a) The following monthly basic salary schedule is approved as the pay plan
31 for classified and partially exempt employees in the executive branch of the state

1 government who are not members of a **public employee** collective bargaining unit
 2 established under the authority of AS 23.40.070 - 23.40.260 (Public Employment
 3 Relations Act) and for employees of the legislature under AS 24:

4	Range	Step	Step	Step	Step	Step	Step
5	No.	A	B	C	D	E	F
6	5	2,151	2,211	2,273	2,339	2,408	2,471
7	6	2,273	2,339	2,408	2,471	2,543	2,619
8	7	2,408	2,471	2,543	2,619	2,698	2,785
9	8	2,543	2,619	2,698	2,785	2,864	2,951
10	9	2,698	2,785	2,864	2,951	3,046	3,133
11	10	2,864	2,951	3,046	3,133	3,229	3,323
12	11	3,046	3,133	3,229	3,323	3,436	3,545
13	12	3,229	3,323	3,436	3,545	3,665	3,790
14	13	3,436	3,545	3,665	3,790	3,922	4,061
15	14	3,665	3,790	3,922	4,061	4,204	4,363
16	15	3,922	4,061	4,204	4,363	4,503	4,672
17	16	4,204	4,363	4,503	4,672	4,841	5,011
18	17	4,503	4,672	4,841	5,011	5,184	5,361
19	18	4,841	5,011	5,184	5,361	5,527	5,737
20	19	5,184	5,361	5,527	5,737	5,917	6,133
21	20	5,527	5,737	5,917	6,133	6,318	6,551
22	21	5,917	6,133	6,318	6,551	6,752	6,997
23	22	6,318	6,551	6,752	6,997	7,225	7,483
24	23	6,752	6,997	7,225	7,483	7,733	8,022
25	24	7,225	7,483	7,733	8,022	8,289	8,569
26	25	7,733	8,022	8,289	8,569	8,879	9,210
27	26	8,022	8,289	8,569	8,879	9,210	9,541
28	27	8,289	8,569	8,879	9,210	9,541	9,900
29	28	8,569	8,879	9,210	9,541	9,900	10,244
30	29	8,879	9,210	9,541	9,900	10,244	10,606
31	30	9,210	9,541	9,900	10,244	10,606	10,979

1 * **Sec. 20.** AS 39.27.012 is amended to read:

2 **Sec. 39.27.012. Temporary salary schedules.** The director of the division of
3 personnel may establish salary schedules providing lesser amounts than those in the
4 basic salary schedule in order to meet salary limit requirements for receipt and
5 expenditure of federal funds. Salary rates established under authority of this section do
6 not affect [THE] salaries [OF EMPLOYEES] provided for by a collective bargaining
7 agreement negotiated under the authority of AS 23.40.070 - 23.40.260 (Public
8 Employment Relations Act).

9 * **Sec. 21.** AS 39.28.020(c) is amended to read:

10 (c) A collective bargaining agreement **applicable to public employees and**
11 adopted under AS 23.40.070 - 23.40.260 (Public Employment Relations Act) must be
12 consistent with principles of equal employment opportunity and affirmative action.
13 This chapter supersedes the provisions of AS 39.25 (State Personnel Act).

14 * **Sec. 22.** AS 39.30.095(e) is amended to read:

15 (e) Notwithstanding (b) of this section, the rate of employer contribution to
16 provide hospital, surgical, dental, audiovisual, and other medical care benefits under
17 AS 39.30.091 is \$515 monthly beginning July 1, 2000; \$575 monthly beginning
18 July 1, 2001; and \$630 monthly beginning July 1, 2002, for the following employees
19 and officials:

20 (1) employees in the executive branch of the state government,
21 including the governor and lieutenant governor, who are not members of a **public**
22 **employee** collective bargaining unit established under the authority of AS 23.40.070 -
23 23.40.260 (Public Employment Relations Act);

24 (2) officials and employees of the legislative branch of state
25 government under AS 24;

26 (3) employees in the judicial branch of state government, including
27 magistrates and other judicial officers, who are not members of a **public employee**
28 collective bargaining unit established under AS 23.40.070 - 23.40.260 (Public
29 Employment Relations Act).

30 * **Sec. 23.** AS 40.25.151(d) is amended to read:

31 (d) The name and address of a living person who is a member or former

1 member of a state retirement system may be released to a retirement organization
2 representing persons receiving benefits under a state retirement system if the
3 retirement organization is affiliated with an organization representing **public**
4 employees of the employer under AS 23.40.070 - 23.40.260 (Public Employment
5 Relations Act).