

**CS FOR HOUSE BILL NO. 217(HES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/18/95

Referred: Judiciary

Sponsor(s): REPRESENTATIVE IVAN

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to teacher tenure, teacher layoff and rehire rights, and to  
2 review of decisions of school boards concerning teachers."

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

4 \* **Section 1.** AS 14.20.147(b) is amended to read:

5 (b) When a school operated by a federal agency is transferred to or absorbed  
6 into a new or existing school district, the teachers shall also be transferred if mutually  
7 agreed by the teacher or teachers and the school board of the new or existing district.  
8 A teacher transferred from a federal agency school **that** [, WHICH] does not have an  
9 official salary schedule or teacher tenure in the same manner as a public school district  
10 in the state [,] shall be placed on a position on the salary schedule of the absorbing  
11 district; the salary may not be less than the teacher would have received in the federal  
12 agency school. If the teacher taught **four** [TWO] or more years in the federal agency  
13 school and, at the time of transfer, had a valid Alaska teaching certificate, that teacher  
14 shall be placed on tenure in the absorbing district.

1 \* **Sec. 2.** AS 14.20.150 is amended to read:

2 Sec. 14.20.150. ACQUISITION OF TENURE RIGHTS. (a) A teacher  
3 acquires tenure rights in a district when the teacher

4 (1) possesses a standard teaching certificate;

5 (2) has been employed as a teacher in the same district continuously  
6 for **four** [TWO] full school years and is reemployed for the school year immediately  
7 following the **four** [TWO] full school years; **and**

8 **(3) has been evaluated and recommended for tenure under (c) of**  
9 **this section.**

10 (b) The tenure rights acquired under (a) of this section become effective on the  
11 first day the teacher performs teaching services in the district during the school year  
12 immediately following the **four** [TWO] full school years.

13 \* **Sec. 3.** AS 14.20.150 is amended by adding a new subsection to read:

14 (c) The superintendent or the superintendent's designee shall annually evaluate  
15 the performance of each teacher in the district who has not earned tenure. In addition,  
16 for three of the four years before a tenure decision is made, each untenured teacher  
17 shall be evaluated by a peer review committee appointed by the superintendent. The  
18 superintendent shall appoint three teachers to a peer review committee unless the  
19 superintendent determines that, given the number of untenured teachers compared to  
20 the number of teachers available to serve on peer review committees, a committee  
21 should be composed of two teachers. A peer review committee shall submit its  
22 evaluation in writing to the superintendent and to the nontenured teacher. The  
23 evaluation by the peer review committee is advisory only. The superintendent shall  
24 recommend whether a teacher should be granted tenure.

25 \* **Sec. 4.** AS 14.20.160 is amended to read:

26 Sec. 14.20.160. LOSS OF TENURE RIGHTS. Tenure rights are lost when the  
27 teacher's employment in the district is interrupted or terminated. **However, a teacher**  
28 **on layoff status does not lose tenure rights during the period of layoff except as**  
29 **provided under AS 14.20.177.**

30 \* **Sec. 5.** AS 14.20.175(b) is amended to read:

31 (b) A teacher who has acquired tenure rights is subject to nonretention for the

1 following school year only for the following causes:

2 (1) incompetency, which is defined as the inability or the unintentional  
3 or intentional failure to perform the teacher's customary teaching duties in a  
4 satisfactory manner;

5 (2) immorality, which is defined as the commission of an act that,  
6 under the laws of the state, constitutes a crime involving moral turpitude; or

7 (3) substantial noncompliance with the school laws of the state, the  
8 regulations or bylaws of the department, the bylaws of the district, or the written rules  
9 of the superintendent [; OR

10 (4) A NECESSARY REDUCTION OF STAFF OCCASIONED BY A  
11 DECREASE IN SCHOOL ATTENDANCE].

12 \* **Sec. 6.** AS 14.25 is amended by adding a new section to read:

13 Sec. 14.20.177. LAYOFFS. (a) A school district may place a teacher who has  
14 acquired tenure rights on layoff status but only if it is necessary for the district to  
15 reduce the number of teachers because of a decrease in school attendance or because  
16 of a substantial decrease in school district revenue.

17 (b) For a period of three years after layoff, a teacher is on layoff status and  
18 is entitled to a hiring preference in the district or regional educational attendance area  
19 where the teacher had been employed. The hiring preference applies only to vacant  
20 teaching positions for which the teacher is qualified. If a teacher is offered a teaching  
21 position under this subsection and the teacher declines the offer, the teacher is no  
22 longer considered to be on layoff status and is no longer entitled to a hiring preference  
23 under this section.

24 (c) In making layoff and rehire decisions under this section, a school district  
25 may lay off or fail to rehire a secondary school teacher who has more seniority than  
26 a primary school teacher in order to give preference to a teacher skilled in teaching at  
27 the primary school level. The district may also give preference to a secondary school  
28 teacher over a primary school teacher with more seniority in order to preserve  
29 secondary school programs.

30 (d) Notwithstanding any provision of AS 23.40, the terms of a collective  
31 bargaining agreement entered into between a school district or regional educational

1 attendance area and a bargaining organization representing teachers on or after the  
2 effective date of this section may not be inconsistent with the provisions of this  
3 section.

4 (e) A teacher on layoff status is not entitled to be reemployed under  
5 AS 14.20.145 and does not accrue leave. Time spent on layoff status does not count  
6 toward the acquisition of tenure rights. However, layoff status does not constitute a  
7 break in service for

8 (1) determining eligibility for tenure;

9 (2) retaining acquired tenure rights; or

10 (3) retaining accrued sick leave.

11 \* **Sec. 7.** AS 14.20.205 is amended to read:

12 Sec. 14.20.205. JUDICIAL REVIEW. If a school board reaches a decision  
13 unfavorable to a teacher, the teacher is entitled to **mandatory, advisory arbitration**  
14 **conducted by a neutral third party and, if the decision of the school board**  
15 **remains unfavorable to the teacher, to judicial review based on the record** [A DE  
16 NOVO TRIAL] in the superior court. However, a teacher who has not attained tenure  
17 rights is not entitled to **arbitration or** judicial review **under** [ACCORDING TO] this  
18 section.

19 \* **Sec. 8.** The amendments made by this Act apply to teachers first hired by a school  
20 district on or after the effective date of this Act.