

CS FOR HOUSE BILL NO. 217(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/22/95

Referred: Labor and Commerce

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 the basic need of a school district determined under AS 14.17.021(b) and adjusted
17 under AS 14.17.225(b) decreases by three percent or more from the previous year.
18 This section does not apply to a teacher who has not acquired tenure rights.

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

26 (c) In making layoff and rehire decisions under this section, a school district
27 may give preference to a primary school teacher who has less seniority than a
28 secondary school teacher in order to preserve the primary school program. The district
29 may also give preference to a secondary school teacher over a primary school teacher
30 with more seniority in order to preserve secondary school programs.

31 (d) Notwithstanding any provision of AS 23.40, the terms of a collective

1 bargaining agreement entered into between a school district or regional educational
2 attendance area and a bargaining organization representing teachers on or after the
3 effective date of this section may not be inconsistent with the provisions of this
4 section.

5 (e) A teacher on layoff status is not entitled to be reemployed under
6 AS 14.20.145 and does not accrue leave. However, layoff status does not constitute
7 a break in service for

8 (1) retaining acquired tenure rights; or

9 (2) retaining accrued sick leave.

10 * **Sec. 7.** AS 14.20.205 is amended to read:

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

18 * **Sec. 8.** The amendments made by secs. 1 - 3 of this Act apply to teachers first hired by
19 a school district on or after the effective date of this Act.