

**CS FOR HOUSE BILL NO. 217(L&C)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**NINETEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE LABOR AND COMMERCE COMMITTEE**

**Offered: 5/1/95**  
**Referred: Rules**

**Sponsor(s): REPRESENTATIVE IVAN**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to teacher tenure, teacher layoff and rehire rights, and to the**  
2 **right of tenured teachers to judicial review of decisions of nonretention or**  
3 **dismissal; and relating to retirement for certain employees of school districts and**  
4 **regional educational attendance areas."**

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

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

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

1 school and, at the time of transfer, had a valid Alaska teaching certificate, that teacher  
2 shall be placed on tenure in the absorbing district.

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

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

6 (1) possesses a standard teaching certificate; **and**

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

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 14.20.160 is amended to read:

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

18 \* **Sec. 4.** AS 14.20.175(b) is amended to read:

19 (b) A teacher who has acquired tenure rights is subject to nonretention for the  
20 following school year only for the following causes:

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

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

26 (3) substantial noncompliance with the school laws of the state, the  
27 regulations or bylaws of the department, the bylaws of the district, or the written rules  
28 of the superintendent [; OR

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

31 \* **Sec. 5.** AS 14.20 is amended by adding a new section to read:

1           Sec. 14.20.177. LAYOFFS. (a) A school district may place a teacher who has  
2           acquired tenure rights on layoff status but only after the district has nonretained all  
3           nontenured teachers and only if it is necessary for the district to reduce the number of  
4           tenured teachers because of a decrease in school attendance or because of a financial  
5           emergency verified by the commissioner of education. The commissioner's  
6           determination is not subject to review or appeal. This section does not apply to a  
7           teacher who has not acquired tenure rights.

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

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

20          (d) Notwithstanding any provision of AS 23.40, the terms of a collective  
21          bargaining agreement entered into between a school district or regional educational  
22          attendance area and a bargaining organization representing teachers on or after the  
23          effective date of this section may not be inconsistent with the provisions of this  
24          section.

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

28                  (1) retaining acquired tenure rights; or

29                  (2) retaining accrued sick leave.

30          (f) A teacher on layoff status may choose whether or not to treat the layoff as  
31          a termination for purposes of receiving a refund of the balance of the teacher's member

1 contribution account in the teachers' retirement system under AS 14.25.150.

2 \* **Sec. 6.** AS 14.20.180(b) is amended to read:

3 (b) The tenured teacher may, within 15 days immediately following receipt of  
4 the notification, notify the employer in writing that a hearing before the school board is  
5 requested **or, within 60 days after receipt of the notification, bring suit in superior**  
6 **court. If the tenured teacher notifies the school board that the teacher is requesting**  
7 **a hearing before the school board, the** [ THE TENURED] teacher may require in the  
8 notification that the hearing be either public or private and that the hearing be under oath  
9 or affirmation. The notification may also require that the right of cross-examination be  
10 provided and that the tenured teacher be represented by counsel and have the right to  
11 subpoena a person who has made allegations that are used as a basis for the decision of  
12 the employer.

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

14 Sec. 14.20.205. JUDICIAL REVIEW. If a school board reaches a decision  
15 unfavorable to a teacher **after a hearing under AS 14.20.180**, the teacher is entitled to  
16 **judicial review based on the record** [A DE NOVO TRIAL] in the superior court.  
17 However, a teacher who has not attained tenure rights is not entitled to judicial review  
18 **under** [ACCORDING TO] this section.

19 \* **Sec. 8.** The amendments made by secs. 1 and 2 of this Act apply to teachers first hired by  
20 a school district on or after the effective date of this Act.