

**CS FOR HOUSE BILL NO. 465(HES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/20/96

Referred: Rules

Sponsor(s): REPRESENTATIVE IVAN

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to employment of teachers and school administrators and to  
2 public school collective bargaining."

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

4 \* Section 1. AS 14.20.145 is amended to read:

5           Sec. 14.20.145. AUTOMATIC REEMPLOYMENT. If notification of  
6 nonretention is not given according to AS 14.20.140, and if the teacher is not laid off  
7 under AS 14.20.177, a teacher is entitled to be reemployed in the same district for the  
8 following school year on the contract terms the teacher and the employer may agree  
9 upon, or, if no terms are agreed upon, the provisions of the previous contract are  
10 continued for the following school year, subject to AS 14.20.158. Except as provided  
11 in AS 14.20.177(e), the [THE] right to automatic reemployment under [BE  
12 REEMPLOYED ACCORDING TO] this section expires if the teacher does not accept  
13 reemployment within 30 days after the date on which the teacher receives a contract of  
14 reemployment. A teacher who is on family leave under AS 23.10.500 - 23.10.550 must

1 comply with the 30-day deadline in this section to retain the teacher's reemployment  
2 rights under this section.

3 \* **Sec. 2.** AS 14.20.147(b) is amended to read:

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

14 \* **Sec. 3.** AS 14.20 is amended by adding a new section to read:

15 Sec. 14.20.149. EMPLOYEE EVALUATION. (a) A school board shall adopt  
16 by July 1, 1997, a certificated employee evaluation system for evaluation and  
17 improvement of the performance of the district's teachers and administrators. The  
18 evaluation system applies to all the district's certificated employees except the district's  
19 superintendent. A school board shall consider information from students, parents,  
20 community members, classroom teachers, and administrators in the design and periodic  
21 review of the district's certificated employee evaluation system. An evaluation of a  
22 certificated employee under this section must be based on observation of the employee  
23 in the employee's workplace.

24 (b) The certificated employee evaluation system must

25 (1) establish evaluation criteria for the district's teachers and  
26 administrators that are based on professional performance standards adopted by the  
27 department by regulation;

28 (2) require at least two observations for the evaluation of each nontenured  
29 teacher in the district each school year;

30 (3) require at least an annual evaluation of each tenured teacher in the  
31 district who received an acceptable evaluation during the previous school year;

32 (4) permit the district to limit its evaluations of tenured teachers who

1 have consistently exceeded the district’s professional performance standards to one  
2 evaluation every two school years;

3 (5) require the school district to perform an annual evaluation for each  
4 administrator;

5 (6) require the school district to prepare and implement a plan of  
6 improvement for a teacher or administrator whose performance is evaluated as less than  
7 acceptable, except if the teacher’s or administrator’s performance warrants immediate  
8 dismissal under AS 14.20.170(a); and

9 (7) provide an opportunity for students, parents, community members,  
10 teachers, and administrators to provide information on the performance of the teacher or  
11 administrator who is the subject of the evaluation to the evaluating administrator.

12 (c) A person may not conduct an evaluation under this section unless the person  
13 holds a type B certificate, is employed by the school district as an administrator, and has  
14 completed training in the use of the school district’s teacher evaluation system.

15 (d) Once each school year, a school district shall offer in-service training to the  
16 certificated employees who are subject to the evaluation system. The training must  
17 address the procedures of the evaluation system, the standards that the district uses in  
18 evaluating the performance of teachers and administrators, and other information that the  
19 district considers helpful.

20 (e) A school district shall provide a tenured teacher whose performance is found,  
21 after evaluation, to be less than acceptable with a plan of improvement. The evaluating  
22 administrator shall consult with the tenured teacher in setting clear, specific performance  
23 expectations to be included in the plan of improvement. The plan of improvement must  
24 address ways in which the tenured teacher’s performance can be improved and shall last  
25 for not less than nine and not more than 12 months. The plan of improvement shall be  
26 based on the professional performance standards outlined in the locally adopted school  
27 district evaluation procedure. The school district must observe the teacher at least twice  
28 during the course of the plan. If, at the conclusion of the plan of improvement, the  
29 tenured teacher’s performance is again evaluated to be less than acceptable, the district  
30 may nonretain the teacher under AS 14.20.175(b)(1).

31 (f) A school district may place an administrator whose performance, including  
32 performance as an evaluator under the district’s certificated employee evaluation system,

1 is less than acceptable on a plan of improvement. The plan must address ways in which  
2 the administrator's performance can be improved and shall last for not less than nine and  
3 not more than 12 months. The school district must observe the administrator at least  
4 twice during the course of the plan. If, at the conclusion of the plan of improvement,  
5 the administrator's performance is again evaluated to be less than acceptable, the district  
6 may terminate its employment contract with the administrator.

7 (g) The department may request copies of each school district's certificated  
8 employee evaluation systems and changes the district makes to the systems.

9 (h) Information provided to a school district under the school district's  
10 certificated employee evaluation system is not a public record and is not subject to  
11 disclosure under AS 09.25.

12 \* **Sec. 4.** AS 14.20.150 is repealed and reenacted to read:

13 Sec. 14.20.150. ACQUISITION OF TENURE RIGHTS. (a) Except as  
14 provided in (c) of this section, a teacher acquires tenure rights in a district when the  
15 teacher

16 (1) possesses a valid teaching certificate that authorizes the teacher to  
17 be employed as a regular classroom teacher or as an administrator under regulations  
18 adopted by the department;

19 (2) has been employed as a teacher in the same district continuously  
20 for three full school years;

21 (3) receives, under the district's evaluation system, an acceptable  
22 evaluation in the third year of any three-year period of continuous employment with  
23 the district; and

24 (4) on or before October 15 of the school year,

25 (A) accepts a contract for employment as a teacher in the  
26 district for a fourth consecutive school year; and

27 (B) performs a day of teaching services in the district during  
28 that school year.

29 (b) In this section, a full school year of employment means employment that  
30 begins on or before the first student count day required by the department in a school  
31 year or October 15, whichever occurs first, and continues through the remainder of the  
32 school year.

1 (c) A superintendent may not acquire or maintain tenure in a district.

2 \* **Sec. 5.** AS 14.20.155(a) is amended to read:

3 (a) **Except as otherwise provided in this chapter, a** [A] teacher who has  
4 acquired tenure rights has the right to employment within the district during continuous  
5 service.

6 \* **Sec. 6.** AS 14.20.160 is amended to read:

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

11 \* **Sec. 7.** AS 14.20.170 is amended by adding a new subsection to read:

12 (c) A teacher who is dismissed under this section is not entitled to a plan of  
13 improvement under AS 14.20.149.

14 \* **Sec. 8.** AS 14.20.175(b) is amended to read:

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

17 (1) **failure to meet performance objectives defined in the individual's**  
18 **plan of improvement which is based on locally adopted professional performance**  
19 **standards as identified in AS 14.20.149** [INCOMPETENCY, WHICH IS DEFINED  
20 AS THE INABILITY OR THE UNINTENTIONAL OR INTENTIONAL FAILURE TO  
21 PERFORM THE TEACHER'S CUSTOMARY TEACHING DUTIES IN A  
22 SATISFACTORY MANNER];

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

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

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

30 \* **Sec. 9.** AS 14.20 is amended by adding a new section to read:

31 Sec. 14.20.177. REDUCTIONS IN FORCE. (a) A school district may  
32 implement a layoff plan under this section if it is necessary for the district to reduce the

1 number of tenured teachers because

2 (1) school attendance in the district has decreased;

3 (2) there has been a significant, demonstrated reduction in per-pupil  
4 expenditures due to a decrease in revenue from one year to the next.

5 (b) Before a school district lays off any tenured teacher, the school board shall  
6 adopt a layoff plan. The plan must identify academic and other programs that the district  
7 intends to maintain in implementing the layoff plan. The plan must also include  
8 procedures for layoff and recall of tenured teachers consistent with this section.

9 (c) Except as provided in this subsection, a school district may place a tenured  
10 teacher on layoff status only after the district has given notice of nonretention to all  
11 nontenured teachers. However, a school district may retain a nontenured teacher and  
12 place on layoff status a tenured teacher if there is no tenured teacher in the district who  
13 is qualified to replace the nontenured teacher.

14 (d) For purposes of this section, a tenured teacher is considered qualified for a  
15 position if the position is in

16 (1) grades K - 8 and the teacher has an elementary endorsement;

17 (2) an established middle school and the teacher has

18 (A) an elementary endorsement;

19 (B) a middle school endorsement; or

20 (C) a secondary certificate with a subject area endorsement in the  
21 area of assignment in which the teacher filling the position will spend at least 40  
22 percent of the teacher's time or the teacher can show evidence of acceptable  
23 teaching experience in the subject; or

24 (3) grades 9 - 12 and the teacher has an endorsement for each subject  
25 area in which the teacher filling the position will spend at least 40 percent of the  
26 teacher's time or the teacher can show evidence of acceptable teaching experience in the  
27 subject.

28 (e) For a period of three years after layoff, a teacher is on layoff status and is  
29 entitled to a hiring preference in the district where the teacher had been employed. The  
30 hiring preference applies only to vacant teaching positions for which the teacher is  
31 qualified. If a teacher is offered a teaching position under this subsection and the teacher  
32 declines the offer or fails to accept it within 30 days, the teacher is no longer considered

1 to be on layoff status and is no longer entitled to a hiring preference under this section  
2 unless the teacher declines the offer because the teacher is contractually obligated to  
3 provide professional services to another private or public educational program.

4 (f) Notwithstanding any provision of AS 23.40, the terms of a collective  
5 bargaining agreement entered into between a school district and a bargaining organization  
6 representing teachers on or after the effective date of this section may not be inconsistent  
7 with the provisions of this section.

8 (g) A teacher on layoff status is not entitled to be reemployed under  
9 AS 14.20.145 and does not accrue leave. However, layoff status does not constitute a  
10 break in service for retaining tenure rights and accrued sick leave.

11 (h) In this section, "school district" or "district" means a city or borough school  
12 district or a regional educational attendance area.

13 \* **Sec. 10.** AS 14.20.180 is repealed and reenacted to read:

14 Sec. 14.20.180. PROCEDURES UPON NOTICE OF DISMISSAL OR  
15 NONRETENTION. (a) Before a teacher is dismissed, the employer shall give the  
16 teacher written notice of the proposed dismissal and a pretermination hearing. A  
17 pretermination hearing under this section must comport with the minimum requirements  
18 of due process, including an explanation of the employer's evidence and basis for the  
19 proposed dismissal and an opportunity for the teacher to respond. If, following a  
20 pretermination hearing, an employer determines that dismissal is appropriate, the  
21 employer shall provide written notice, including a statement of cause and a complete bill  
22 of particulars, of the decision. The dismissal is effective when the notice is delivered  
23 to the teacher.

24 (b) An employer that has decided to nonretain a tenured teacher shall provide  
25 the teacher with written notice, including a statement of cause and a complete bill of  
26 particulars. The notice must comply with AS 14.20.140(a).

27 (c) Within 15 days after receipt of a decision of dismissal under (a) of this  
28 section or nonretention under (b) of this section, a teacher may notify the employer in  
29 writing that the teacher is requesting a hearing before the school board. Upon receipt  
30 of a request for a hearing, the employer shall immediately schedule a hearing and notify  
31 the teacher in writing of the date, time, and place of the hearing. The teacher may elect  
32 to have either a public or a private hearing, and to have the hearing under oath or

1 affirmation. The parties have a right to be represented by counsel and to cross-examine  
2 witnesses. The teacher has the right to subpoena a person who has made statements that  
3 are used as a basis for the employer's decision to dismiss or nonretain. A written  
4 transcript, tape, or similar recording of the proceedings shall be kept. A copy of the  
5 recording shall be furnished to the teacher, for cost, upon request of the teacher. A  
6 decision of the school board requires a majority vote of the membership, by roll call.  
7 The board's decision shall be in writing and must contain specific findings of fact and  
8 conclusions of law. A copy of the decision shall be furnished to the teacher within 10  
9 days after the date of the decision. If the school board sustains the dismissal or  
10 nonretention, the teacher may appeal the decision to the superior court, in accordance  
11 with applicable rules of court, for a judicial review based on the record.

12 (d) A teacher who has acquired tenure who is dismissed or nonretained may  
13 waive the right to a hearing under (c) of this section and, within 60 days after receipt of  
14 the employer's decision to dismiss or nonretain the teacher, file an action in superior  
15 court.

16 \* **Sec. 11.** AS 23.40 is amended by adding a new section to read:

17 Sec. 23.40.235. PUBLIC INVOLVEMENT IN SCHOOL DISTRICT  
18 NEGOTIATIONS. Before beginning bargaining, the school board of a city or borough  
19 school district or a regional educational attendance area shall provide opportunities for  
20 public comment on the issues to be addressed in the collective bargaining process. Initial  
21 proposals, last-best-offer proposals, tentative agreements before ratification, and final  
22 agreements reached by the parties are public documents and are subject to inspection and  
23 copying under AS 09.25.110 - 09.25.140.

24 \* **Sec. 12.** AS 14.20.205 is repealed.

25 \* **Sec. 13. APPLICABILITY TO INDIVIDUALS.** The amendments to AS 14.20.147(b) and  
26 14.20.150, made by secs. 2 and 4 of this Act, apply only to an individual

27 (1) first hired as a teacher by a school district or regional educational attendance  
28 area, including Mt. Edgecumbe High School, on or after the effective date of this Act; or

29 (2) rehired as a teacher by a school district or regional educational attendance  
30 area, including Mt. Edgecumbe High School, on or after the effective date of this Act and  
31 following an interruption in continuous service that resulted in

32 (A) a loss of tenure rights under AS 14.20.160; or

1 (B) failure to acquire tenure rights under AS 14.20.150.

2 \* **Sec. 14.** APPLICABILITY TO CONTRACTS. Nothing in this Act affects a collective  
3 bargaining agreement in effect on the effective date of this Act.