

CS FOR SENATE BILL NO. 151(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/10/97
Referred: Finance

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to public employment labor relations; relating to the protection
2 of the rights of public employees under the Public Employment Relations Act;
3 establishing ethical standards for union representatives of public employees; and
4 establishing disclosure requirements for public employee labor organizations."

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

6 * **Section 1.** AS 23.40 is amended by adding a new section to read:

7 **Sec. 23.40.011. Declaration of findings, purposes, and policy.** (a) The
8 legislature finds that

9 (1) in the public interest, it continues to be the responsibility of the state
10 government to protect public employees' rights to organize, choose their own
11 representatives, bargain collectively, and otherwise engage in concerted activities for
12 their mutual aid or protection;

13 (2) the relations between public employers and labor organizations and
14 the thousands of workers they represent have a substantial effect on the delivery of

1 needed goods and services to the people of the state; and

2 (3) in order to accomplish the objectives of the maintenance of
3 harmonious and cooperative relations between public employees and employers and
4 to ensure the orderly and effective operations of government, it is essential that labor
5 organizations, public employers, and their officials adhere to the highest standards of
6 responsibility and ethical conduct in administering the affairs of their organizations,
7 particularly as they affect labor management relations.

8 (b) The legislature further finds that there have been instances of disregard for
9 the rights of individual employees and failures to observe high standards of
10 responsibility and ethical conduct. These instances require legislation to provide
11 protection for the rights and interests of employees and the public generally as those
12 rights and interests relate to the activities of labor organizations, public employers, and
13 their officers and representatives.

14 (c) The legislature further finds that legislation is necessary to eliminate or
15 prevent improper practices on the part of labor organizations, public employers, and
16 their officers and representatives that distort and defeat the policies of this chapter and
17 have the tendency or effect of burdening or obstructing harmonious and cooperative
18 relations between public employees and employers and interfering with the effective
19 and orderly operations of government.

20 * **Sec. 2.** AS 23.40.075 is amended to read:

21 **Sec. 23.40.075. Items not subject to bargaining.** The parties may not
22 negotiate terms contrary to the

23 (1) reemployment rights for injured state employees under
24 AS 39.25.158;

25 (2) reemployment rights of the organized militia under AS 26.05.075;

26 (3) authority of the Department of Health and Social Services under
27 AS 47.27.035 to assign Alaska temporary assistance program participants to a work
28 activity considered appropriate by the Department of Health and Social Services; or

29 (4) authority for agencies to create temporary positions under
30 AS 47.27.055(c);

31 **(5) terms of a statute or, in the case of a political subdivision that**

participates in collective bargaining under this chapter, an ordinance, that applies to the employees unless the subject matter of the statute or ordinance is made subject to bargaining under this chapter.

* **Sec. 3.** AS 23.40.075 is amended by adding a new subsection to read:

(b) Except as provided in this chapter, a public employer retains managerial rights, prerogatives, and functions. Limitations on or exclusions from the rights of employers under this chapter shall be narrowly construed.

* **Sec. 4.** AS 23.40.090 is amended to read:

Sec. 23.40.090. Collective bargaining unit. The labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by **this chapter** [AS 23.40.070 - 23.40.260], the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours, and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

* **Sec. 5.** AS 23.40.090 is amended by adding new subsections to read:

(b) A representative designated or selected by a majority of the employees in a bargaining unit is the exclusive representative of all the employees in the unit. However, an employee or group of employees within the bargaining unit may at any time present grievances to the public employer and have those grievances adjusted as long as the adjustment is consistent with the terms of the collective bargaining agreement that covers those employees and as long as the bargaining representative has been given an opportunity to be present when the grievance is presented or adjusted.

(c) The labor relations agency may not decide that a unit is appropriate for collective bargaining if the unit combines

(1) a supervisory employee with a nonsupervisory employee;

(2) a confidential employee with a nonconfidential employee;

(3) a state employee in the classified service with a state employee who is not in the classified service;

(4) an employee employed as a peace officer with an employee who is not employed as a peace officer;

1 (5) an employee who is prohibited from engaging in strikes under
2 AS 23.40.200(b) with an employee who is not so prohibited.

3 (d) A labor organization may not be certified as the representative of
4 employees who are not peace officers if the organization

5 (1) has members or fee payers who are peace officers;

6 (2) is certified to represent peace officers; or

7 (3) is affiliated directed or indirectly with a labor organization that
8 represents or has members or fee payers who are peace officers.

9 (e) In this section,

10 (1) "confidential employee" means an employee who assists and acts
11 in a confidential capacity to a person who formulates, determines, or effectuates
12 management policies in labor relations matters;

13 (2) "peace officer" includes a correctional officer as defined in
14 AS 18.65.290;

15 (3) "supervisory employee" means a person, regardless of job
16 description or title, who has authority to act or to effectively recommend action in the
17 interest of a public employer in one or more of the following supervisory functions if
18 the exercise of that authority is not merely routine but requires the exercise of
19 independent judgment:

20 (A) employing, including hiring, transferring, laying off, or
21 recalling a public employee;

22 (B) discipline, including suspending, discharging, demoting, or
23 issuing written warnings to a public employee;

24 (C) grievance adjudication, including responding to a first level
25 grievance under a collective bargaining agreement.

26 * **Sec. 6.** AS 23.40.100(a) is amended to read:

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

29 (1) [BY] an employee or group of employees or an organization acting
30 in their behalf alleging that 30 percent of the employees of a proposed bargaining unit

31 (A) want to be represented for collective bargaining by a labor

1 or employee organization as exclusive representative; [,] or

2 (B) assert that the organization **that** [WHICH] has been
 3 certified or is currently being recognized by the public employer as bargaining
 4 representative is no longer the representative of the majority of employees in
 5 the bargaining unit; or

6 (2) [BY] the public employer alleging that

7 (A) one or more organizations have presented to it a claim to
 8 be recognized as a representative of a majority of employees in an appropriate
 9 unit;

10 (B) **the organization that has been certified or is currently**
 11 **recognized by the public employer as the bargaining representative is no**
 12 **longer representative of a majority of employees in the bargaining unit; or**

13 (C) **the duties of one or more of the employees in the**
 14 **bargaining unit have changed, or the nature of the work of the employees**
 15 **in the unit has changed, requiring the bargaining unit to be clarified or the**
 16 **certification amended.**

17 * Sec. 7. AS 23.40.100(d) is amended to read:

18 (d) Nothing in this chapter prohibits recognition of an organization as the
 19 exclusive representative by a public agency by mutual consent. **However, a member**
 20 **of a bargaining unit whose exclusive representative was established by mutual**
 21 **consent may petition the labor relations agency to hold an election to determine**
 22 **if the**

23 (1) **unit is appropriate for bargaining; or**

24 (2) **labor organization is in fact the representative of the majority**
 25 **of the members of the bargaining unit.**

26 * Sec. 8. AS 23.40.100 is amended by adding a new subsection to read:

27 (f) The labor relations agency may not investigate a petition by a labor
 28 organization and may not place the name of a labor organization on a ballot under this
 29 section unless the organization has filed all reports required of the organization under
 30 AS 23.40.400.

31 * Sec. 9. AS 23.40.110 is amended to read:

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

3 (1) interfere with, restrain, or coerce an employee in the exercise of the
4 employee's rights guaranteed in AS 23.40.080;

5 (2) dominate or interfere with the formation, existence, or
6 administration of an organization **or contribute financial or other support to the**
7 **organization; however, a public employer, including a supervisor, manager, or**
8 **agent of a public employer, may confer with employees during working hours,**
9 **without loss of time or pay, on matters of mutual concern, including methods of**
10 **production, service delivery, training, and employer organizational structures and**
11 **processes;**

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

15 (4) discharge or discriminate against an employee because the employee
16 has signed or filed an affidavit, petition, or complaint or given testimony under **this**
17 **chapter** [AS 23.40.070 - 23.40.260];

18 (5) refuse to bargain collectively in good faith with an organization
19 **that** [WHICH] is the exclusive representative of employees in an appropriate unit,
20 including but not limited to the discussing of grievances with the exclusive
21 representative.

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

24 [(1) MEMBERSHIP IN THE ORGANIZATION WHICH
25 REPRESENTS THE UNIT ON OR AFTER THE 30TH DAY FOLLOWING THE
26 BEGINNING OF EMPLOYMENT OR ON THE EFFECTIVE DATE OF THE
27 AGREEMENT, WHICHEVER IS LATER; OR

28 (2)] payment by the employee to the exclusive bargaining agent of a
29 service fee to reimburse the exclusive bargaining agent for the expense of representing
30 the members of the bargaining unit. **The service fee may only include**
31 **reimbursement for collective bargaining activities.**

1 (c) A labor or employee organization or its agents may not

2 (1) restrain or coerce

3 (A) an employee in the exercise of the rights guaranteed in
4 AS 23.40.080; [,] or

5 (B) a public employer in the selection of the employer's
6 representative for the purposes of collective bargaining or the adjustment of
7 grievances;

8 (2) refuse to bargain collectively in good faith with a public employer
9 [,] if **the organization** [IT] has been designated in accordance with **this chapter** [THE
10 PROVISIONS OF AS 23.40.070 - 23.40.260] as the exclusive representative of
11 employees in an appropriate unit;

12 **(3) engage in, or induce or encourage an individual to engage in,**
13 **a strike or a refusal in the course of employment to use, manufacture, process,**
14 **transport, or otherwise handle or work on goods or perform services, or threaten,**
15 **coerce, or restrain a person if the object of the labor organization is to force or**
16 **require**

17 **(A) an employer or a self-employed person to join a labor**
18 **organization or an employer organization or to enter into an agreement**
19 **that is prohibited under (e) of this section;**

20 **(B) a person to stop using, selling, handling, transporting,**
21 **or otherwise dealing in a product of another producer, processor, or**
22 **manufacturer, or to stop doing business with another person; however, this**
23 **subparagraph may not be interpreted to make unlawful an otherwise**
24 **lawful primary strike or primary picketing or to require another employer**
25 **to recognize or bargain with a labor organization as the representative of**
26 **the employer's employees unless the labor organization has been certified**
27 **as the exclusive representative of those employees under AS 23.40.090;**

28 **(C) an employer to recognize or bargain with a particular**
29 **labor organization as the representative of its employees if another labor**
30 **organization has been certified as the exclusive representative of those**
31 **employees;**

1 (D) an employer to assign particular work to employees in
 2 a particular organization or in a particular trade, craft, or class rather
 3 than to other employees unless the assignment is required by order or
 4 certification of the labor relations agency;

5 (4) require employees covered by an agreement authorized under
 6 (b) of this section to pay, as a condition of employment, a service fee in an
 7 amount that the labor relations agency finds

8 (A) not reasonably based on the expenses incurred by the
 9 labor organization for collective bargaining; or

10 (B) excessive or discriminatory under all the circumstances;

11 (5) cause or attempt to cause a public employer to pay or deliver,
 12 or agree to pay or deliver, money or another thing of value for services that are
 13 not performed or are not to be performed on behalf of the public employer; and

14 (6) picket or cause to be picketed, or threaten to picket or cause to
 15 be picketed, an employer, unless the labor organization is currently certified as
 16 the representative of the employer's employees, if the object of the picketing is to
 17 force or require

18 (A) the employer to recognize or bargain with a labor
 19 organization as the representative of the employer's employees; or

20 (B) the employees of an employer to accept or select the
 21 labor organization as their collective bargaining representative.

22 * **Sec. 10.** AS 23.40.110 is amended by adding new subsections to read:

23 (d) The expression or dissemination of views, argument, or opinion in any
 24 form does not constitute and is not evidence of an unfair labor practice under this
 25 chapter so long as the expression does not contain a threat of reprisal or force or a
 26 promise of benefit.

27 (e) It is an unfair labor practice for a labor organization and a public employer
 28 to enter into a contract or agreement, express or implied, in which the public employer
 29 ceases or refrains or agrees to cease or refrain from handling, using, selling,
 30 transporting, or otherwise dealing in a product or service of another public or private
 31 employer or to cease doing business with another person. If a contract or agreement

1 contains an agreement prohibited by this subsection, the part prohibited by this
2 subsection is unenforceable and void.

3 (f) A statement or action of a member of the legislature, a justice or judge, or
4 a member of the legislative body of a political subdivision of the state may not be
5 considered to be an unfair labor practice under this section if the statement or action
6 was within the scope of the individual's normal duties and if the individual was not
7 at the time of the statement or action designated to act as the agent of the public
8 employer in collective bargaining or the adjustment of grievances.

9 * **Sec. 11.** AS 23.40.120 is amended to read:

10 **Sec. 23.40.120. Investigation and conciliation of complaints.** If a verified
11 written complaint by or for a person claiming to be aggrieved by a practice prohibited
12 by AS 23.40.110, or a written accusation that a person subject to **this chapter**
13 [AS 23.40.070 - 23.40.260] has engaged in a prohibited practice, is filed with the labor
14 relations agency, it shall investigate the complaint or accusation. If it determines after
15 the preliminary investigation that probable cause exists in support of the complaint or
16 accusation, it shall try to eliminate the prohibited practice by informal methods of
17 conference, conciliation, and persuasion. Nothing said or done during this endeavor
18 may be used as evidence in a subsequent proceeding.

19 * **Sec. 12.** AS 23.40.130 is amended to read:

20 **Sec. 23.40.130. Complaint and accusation.** If the labor relations agency fails
21 to eliminate the prohibited practice by conciliation and to obtain voluntary compliance
22 with **this chapter** [AS 23.40.070 - 23.40.260,] or [,] before it attempts conciliation, it
23 may serve a copy of the complaint or accusation upon the respondent. The complaint
24 or accusation and the subsequent procedures shall be handled in accordance with
25 AS 44.62.330 - 44.62.630 [THE ADMINISTRATIVE ADJUDICATION PORTION
26 OF AS 44.62 (ADMINISTRATIVE PROCEDURE ACT)].

27 * **Sec. 13.** AS 23.40.140 is amended to read:

28 **Sec. 23.40.140. Orders and decisions.** If the labor relations agency finds that
29 a person named in the written complaint or accusation has engaged in a prohibited
30 practice, the labor relations agency shall issue and serve on the person an order or
31 decision requiring the person to cease and desist from the prohibited practice and to

1 take affirmative action which will carry out the provisions of **this chapter**
 2 [AS 23.40.070 - 23.40.260]. If the labor relations agency finds that a person named
 3 in the complaint or accusation has not engaged or is not engaging in a prohibited
 4 practice, the labor relations agency shall state its findings of fact and issue an order
 5 dismissing the complaint or accusation.

6 * **Sec. 14.** AS 23.40.150 is amended to read:

7 **Sec. 23.40.150. Enforcement by injunction.** The labor relations agency may
 8 apply to the superior court [IN THE JUDICIAL DISTRICT IN WHICH THE
 9 PROHIBITED PRACTICE OCCURRED] for an order enjoining the prohibited acts
 10 specified in the order or decision of the labor relations agency. Upon a showing by
 11 the labor relations agency that the person has engaged or is about to engage in the
 12 practice, an injunction, restraining order, or other order which is appropriate may be
 13 granted by the court and shall be without bond.

14 * **Sec. 15.** AS 23.40.160(a) is amended to read:

15 (a) For the purpose of the investigations, proceedings, or hearings **that**
 16 [WHICH] the labor relations agency considers necessary to carry out the provisions
 17 of **this chapter** [AS 23.40.070 - 23.40.260], the labor relations agency may issue
 18 subpoenas requiring the attendance and testimony of witnesses and the production of
 19 relevant evidence.

20 * **Sec. 16.** AS 23.40.160(d) is amended to read:

21 (d) If a person refuses to obey a subpoena issued under **this chapter**
 22 [AS 23.40.070 - 23.40.260], the superior court in the district in which the person
 23 resides or is found may, upon application by the labor relations agency, issue an order
 24 requiring the person to comply with the subpoena.

25 * **Sec. 17.** AS 23.40.170 is amended to read:

26 **Sec. 23.40.170. Regulations and adjudications.** (a) The labor relations
 27 agency may adopt regulations under AS 44.62 (Administrative Procedure Act) to carry
 28 out the provisions of **this chapter** [AS 23.40.070 - 23.40.260].

29 * **Sec. 18.** AS 23.40.170 is amended by adding a new subsection to read:

30 (b) Except for the requirements concerning hearing officers in AS 44.62.350,
 31 the provisions of AS 44.62 (Administrative Procedure Act) apply to adjudications

1 under this chapter.

2 * **Sec. 19.** AS 23.40.200(b) is amended to read:

3 (b) The class in (a)(1) of this section is composed **exclusively** of **(1)** police
 4 [AND FIRE PROTECTION EMPLOYEES], jail, prison, and other correctional
 5 institution employees **whose positions require certification by the Alaska Police**
 6 **Standards Council, (2) fire fighters, and (3) licensed health care providers**
 7 **employed by a hospital or correctional facility** [EMPLOYEES]. Employees in this
 8 class may not engage in strikes. Upon a showing by a public employer or the labor
 9 relations agency that employees in this class are engaging or about to engage in a
 10 strike, an injunction, restraining order, or other order **that** [WHICH] may be
 11 appropriate shall be granted by the superior court [IN THE JUDICIAL DISTRICT IN
 12 WHICH THE STRIKE IS OCCURRING OR IS ABOUT TO OCCUR]. If an impasse
 13 or deadlock is reached in collective bargaining between the public employer and
 14 employees in this class [,] and mediation has been **used** [UTILIZED] without resolving
 15 the deadlock, the parties shall submit to arbitration. **The arbitrator shall be selected**
 16 **under (g) of this section** [TO BE CARRIED OUT UNDER AS 09.43.030].

17 * **Sec. 20.** AS 23.40.200(c) is amended to read:

18 (c) The class in (a)(2) of this section is composed **exclusively** of public utility,
 19 snow removal, **residential care facility, and** sanitation [, AND EDUCATIONAL
 20 INSTITUTION] employees **and employees of hospitals other than licensed health**
 21 **care providers** [OTHER THAN EMPLOYEES OF A SCHOOL DISTRICT, A
 22 REGIONAL EDUCATIONAL ATTENDANCE AREA, OR THE STATE BOARDING
 23 SCHOOL]. Employees in this class may engage in a strike after mediation, subject
 24 to the voting requirement of (d) of this section, for a limited time. The limit is
 25 determined by the interests of the health, safety, or welfare of the public. The public
 26 employer or the labor relations agency may apply to the superior court in the judicial
 27 district in which the strike is occurring for an order enjoining the strike. A strike may
 28 not be enjoined unless it can be shown that it has begun to threaten the health, safety,
 29 or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall
 30 consider the total equities in the particular class. "Total equities" includes not only the
 31 impact of a strike on the public but also the extent to which employee organizations

1 and public employers have met their statutory obligations. If an impasse or deadlock
2 still exists after the issuance of an injunction, the parties shall submit to arbitration.
3 **The arbitrator shall be selected under (g) of this section** [TO BE CARRIED OUT
4 UNDER AS 09.43.030].

5 * **Sec. 21.** AS 23.40.200(d) is amended to read:

6 (d) The class in (a)(3) of this section includes all other public employees who
7 are not included in the classes in (a)(1) or (a)(2) of this section, **including employees**
8 **of the Alaska marine highway system**. Employees in this class may engage in a
9 strike **after an impasse or deadlock is reached in collective bargaining** if a majority
10 of the employees in a collective bargaining unit vote by secret ballot to do so.
11 However, if an impasse or deadlock is reached in collective bargaining negotiations
12 between a municipal school district, a regional educational attendance area, or the state
13 boarding school and its employees, the parties shall submit to advisory arbitration
14 before the employees may engage in a strike. The arbitrator selected to conduct the
15 advisory arbitration must be a member of the American Arbitration Association Panel
16 of Labor Arbitrators or the Federal Mediation and Conciliation Service. In selecting
17 the arbitrator, the parties shall request a list of arbitrators who have knowledge of and
18 recent experience in the local conditions in the school district, regional educational
19 attendance area, or state boarding school. A list containing at least five nominees who
20 meet the qualifications of this subsection is a complete list for the purpose of striking
21 names and selecting the arbitrator.

22 * **Sec. 22.** AS 23.40.200 is amended by adding new subsections to read:

23 (g) An arbitrator selected to conduct arbitration under (b), (c), or (e) of this
24 section must be a member of the Federal Mediation and Conciliation Service panel of
25 labor arbitrators. In selecting an arbitrator, the parties shall request a list of arbitrators
26 who have knowledge of and recent experience in the public sector and in this state or
27 the Pacific Northwest region. A list containing at least seven nominees who meet the
28 qualifications of this subsection is a complete list for the purpose of striking names and
29 selecting the arbitrator. If the parties are unable to agree upon an arbitrator or a
30 method of selecting an arbitrator within 30 days after impasse or deadlock, an
31 arbitrator shall be selected under AS 09.43.030.

1 (h) Arbitration conducted under (b), (c), (d), or (e) of this section shall be open
2 to the public and, the decision and award of the arbitrator are public records.

3 * **Sec. 23.** AS 23.40.205 is amended to read:

4 **Sec. 23.40.205. Family leave.** Notwithstanding any provision of **this chapter**
5 [AS 23.40.070 - 23.40.260] to the contrary, an agreement between the employer
6 subject to AS 23.10.500 - 23.10.550 and an employee bargaining organization that
7 does not contain benefit provisions at least as beneficial to the employee as those
8 provided by AS 23.10.500 - 23.10.550 shall be considered to contain the benefit
9 provisions of those statutes.

10 * **Sec. 24.** AS 23.40.210(a) is amended to read:

11 (a) Upon the completion of negotiations between an organization and a public
12 employer, if a settlement is reached, the employer shall reduce it to writing in the form
13 of an agreement. The agreement **must** [MAY] include a term for which it will remain
14 in effect, not to exceed three years. **The agreement may not contain a provision for**
15 **automatic renewal.** The agreement **must** [SHALL] include a pay plan designed to
16 provide for a cost-of-living differential between the salaries paid employees residing
17 in the state and employees residing outside the state. The plan **must** [SHALL] provide
18 that the salaries paid, as of August 26, 1977, to employees residing outside the state
19 shall remain unchanged until the difference between those salaries and the salaries paid
20 employees residing in the state reflects the difference between the cost of living in
21 Alaska and living in Seattle, Washington. The agreement **must** [SHALL] include a
22 grievance procedure **that, during its term, has** [WHICH SHALL HAVE] binding
23 arbitration as its final step. Either party to the agreement has a right of action to
24 enforce the agreement by petition to the labor relations agency. **However, a labor**
25 **organization that has failed to file the reports required by AS 23.40.400 may not**
26 **petition the labor relations agency to enforce an agreement under this section.**

27 * **Sec. 25.** AS 23.40.210(c) is amended to read:

28 (c) The **labor relations agency shall** [COMMISSIONER OF
29 ADMINISTRATION MAY] adopt regulations under AS 44.62 (Administrative
30 Procedure Act) to clarify and implement the criteria for establishing and maintaining
31 eligibility for the cost-of-living differential.

1 * **Sec. 26.** AS 23.40.210(d) is amended to read:

2 (d) An agreement entered into under **this chapter** [AS 23.40.070 - 23.40.260]
3 must require compliance with the eligibility criteria for receiving the cost-of-living
4 differential contained in this section and the regulations adopted by the **labor relations**
5 **agency** [COMMISSIONER] under (c) of this section.

6 * **Sec. 27.** AS 23.40.210 is amended by adding new subsections to read:

7 (f) An arbitrator selected to conduct arbitration under (a) of this section must
8 be a member of the Federal Mediation and Conciliation Service panel of labor
9 arbitrators. In selecting an arbitrator, the parties shall request and maintain a list of
10 arbitrators who have knowledge of and recent experience in the public sector and in
11 this state or the Pacific Northwest region. A list containing at least seven nominees
12 who meet the qualifications of this subsection is a complete list for the purpose of
13 striking names and selecting the arbitrator.

14 (g) The decision and award in an arbitration conducted under this section are
15 considered to be a final administrative determination under AS 44.62 (Administrative
16 Procedures Act) for purposes of appeal. The decision and award are public records.

17 * **Sec. 28.** AS 23.40.212(a) is amended to read:

18 (a) The Board of Regents of the University of Alaska may delegate to the
19 Department of Administration its authority under **this chapter** [AS 23.40.070 -
20 23.40.260] to negotiate with an organization for an agreement.

21 * **Sec. 29.** AS 23.40.215(a) is amended to read:

22 (a) The monetary terms of any agreement entered into under **this chapter and**
23 **the extension or modification of an agreement, including an award by an**
24 **arbitrator acting under AS 23.40.200, if the extension or modification affects in**
25 **any way the monetary terms of an agreement,** [AS 23.40.070 - 23.40.260] are
26 subject to funding through [LEGISLATIVE] appropriation **by the legislature or by**
27 **the legislative body of a political subdivision that is subject to this chapter, as**
28 **appropriate. A monetary term of an agreement is not effective or enforceable**
29 **until the term has been approved and funded under this section.**

30 * **Sec. 30.** AS 23.40.215(b) is amended to read:

31 (b) The Department of Administration shall submit the monetary terms of an

1 agreement, **an arbitrator's award under AS 23.40.200, or an extension, or**
 2 **modification of an agreement,** to the legislature within 10 legislative days after the
 3 agreement of the parties [,] if the legislature is in session, or within 10 legislative days
 4 after the convening of the next regular session. The legislature shall advise the parties
 5 by concurrent resolution if it approves or disapproves of the monetary terms within 60
 6 legislative days after the agreement is submitted to the legislature. The approval of
 7 the monetary terms of an agreement under this subsection is a nonbinding, advisory
 8 expression of legislative intent. If within 60 legislative days after the agreement is
 9 submitted the legislature advises the parties by concurrent resolution that it disapproves
 10 the monetary terms of the agreement, the parties **shall** [MAY] resume negotiations.
 11 **This subsection applies to an agreement, award, extension, or modification**
 12 **between the state, including the University of Alaska or a public corporation of**
 13 **the state, and a labor organization representing state employees.**

14 * **Sec. 31.** AS 23.40.215 is amended by adding new subsections to read:

15 (d) An agreement, resolution, settlement, or arbitrator's award during the term
 16 of a collective bargaining agreement between the state and a labor organization that

17 (1) will require the expenditure of \$10,000 or more over the life of the
 18 collective bargaining agreement or that requires the state to forego repayment of
 19 money owed to the state may not take effect until at least 30 days after a copy of the
 20 terms has been received by the Legislative Budget and Audit Committee for review;

21 (2) substantially modifies the monetary terms reported to the legislature
 22 under (a) of this section is subject to approval by the legislature as provided in (a) and
 23 (b) of this section and is not effective unless and until it receives legislative funding
 24 and approval.

25 (e) The legislative body of a political subdivision that is an employer under
 26 this chapter may, by ordinance or resolution, provide a system of review and approval
 27 of the monetary terms of collective bargaining agreements consistent with this section.

28 * **Sec. 32.** AS 23.40.220 is amended to read:

29 **Sec. 23.40.220. Labor or employee organization dues and employee**
 30 **benefits, deduction and authorization.** Upon **the annual voluntary** written
 31 authorization of a public employee within a bargaining unit, the public employer shall

1 deduct from the payroll of the public employee the monthly amount of **membership**
 2 dues [, FEES,] and other employee benefits as certified by the secretary of the
 3 exclusive bargaining representative and shall deliver it to the chief fiscal officer of the
 4 exclusive bargaining representative. **An authorization under this subsection may not**
 5 **be made irrevocable for a period longer than one year.**

6 * **Sec. 33.** AS 23.40.220 is amended by adding new subsections to read:

7 (b) Upon the voluntary written authorization of a public employee required to
 8 pay a service fee under AS 23.40.110(b), the public employer shall deduct from the
 9 salary of the employee the monthly amount of the service fee or other employee
 10 benefits as certified by the secretary of the exclusive bargaining representative and
 11 shall deliver the amount withheld to the chief fiscal officer of the exclusive bargaining
 12 representative. The authorization from the public employee may not take effect before
 13 the effective date of the applicable collective bargaining agreement, may not last later
 14 than the termination date of the collective bargaining agreement, and may not be made
 15 irrevocable for a period longer than one year.

16 (c) An authorization form presented to a public employee by a public employer
 17 or labor organization must clearly state that an employee required to pay a service fee
 18 under AS 23.40.110(b) is obligated to pay, as a condition of employment, only a
 19 service fee for representation and may not be compelled to be or become a member
 20 of a labor organization as a condition of employment or to provide monetary support
 21 to a labor organization's social, fraternal, or political activities.

22 * **Sec. 34.** AS 23.40.250 is amended to read:

23 **Sec. 23.40.250. Definitions. Except as otherwise provided in AS 23.40.900,**
 24 **in this chapter** [IN AS 23.40.070 - 23.40.260], unless the context otherwise requires,

25 (1) **"bargaining unit member" means an employee of a public**
 26 **employer who is employed in a position or job classification in a unit that has**
 27 **been determined by the labor relations agency to be appropriate for collective**
 28 **bargaining;**

29 (2) "collective bargaining" means the performance of the mutual
 30 obligation of the public employer or the employer's designated representatives and the
 31 representative of the employees to meet at reasonable times, including meetings in

1 advance of the budget making process, and negotiate in good faith with respect to
 2 wages, hours, and other terms and conditions of employment, or the negotiation of an
 3 agreement, or negotiation of a question arising under an agreement and the execution
 4 of a written contract incorporating an agreement reached [IF REQUESTED BY
 5 EITHER PARTY], but these obligations do not compel either party to agree to a
 6 proposal or require the making of a concession;

7 (3) [(2)] "election" means a proceeding conducted by the labor relations
 8 agency in which the employees in a collective bargaining unit cast a secret ballot for
 9 collective bargaining representatives, or for any other purpose specified in **this chapter**
 10 [AS 23.40.070 - 23.40.260];

11 (4) "fee payer" or "service fee payer" means a person in a
 12 collective bargaining unit who is obligated to pay a service fee;

13 (5) "intentionally" has the meaning given in AS 11.81.900;

14 (6) "knowingly" has the meaning given in AS 11.81.900;

15 (7) "labor dispute" includes a controversy concerning wages, hours,
 16 or terms and conditions of employment, or concerning the association or
 17 representation of persons in negotiating, fixing, maintaining, changing, or seeking
 18 to arrange terms or conditions of employment, regardless of whether the
 19 disputants stand in the proximate relation of public employer and employee;

20 (8) [(3)] "labor relations agency" means the Alaska labor relations
 21 agency established in AS 23.05.360;

22 (9) "member" or "member in good standing," when used in
 23 reference to a labor organization, includes a person who has fulfilled the
 24 requirements for membership in the organization, and who neither has voluntarily
 25 withdrawn from membership nor has been expelled or suspended from
 26 membership after appropriate proceedings consistent with lawful provisions of the
 27 constitution and bylaws of the organization;

28 (10) [(4)] "monetary terms of an agreement" means the changes in the
 29 terms and conditions of employment **from a predecessor agreement, or from the**
 30 **terms and conditions established by statute, ordinance, resolution, or other means,**
 31 resulting from an agreement that will require **the expenditure of public money** [AN

1 APPROPRIATION] for their implementation or will result in a change in [STATE]
 2 revenues of the public employer or productive work hours for public [STATE]
 3 employees;

4 (11) "officer" means a constitutional officer, a person authorized
 5 to perform the functions of president, vice-president, secretary, treasurer, or other
 6 executive functions of a labor organization, and a member of its executive board
 7 or similar governing body, including an employee or agent of a labor organization
 8 who acts at the direction of an officer;

9 (12) "officer, agent, shop steward, or other representative," when
 10 used with respect to a labor organization, includes elected officials and key
 11 administrative personnel, whether elected or appointed, including business agents,
 12 heads of departments or major units, and organizers who exercise substantial
 13 independent authority, but does not include salaried nonsupervisory professional
 14 staff, stenographic, and service personnel;

15 (13) [(5)] "organization" means a labor or employee organization of any
 16 kind, an agency, or employee representative committee, group, association, or plan
 17 in which employees participate and that [WHICH] exists for the [PRIMARY] purpose,
 18 in whole or in part, of dealing with public employers concerning grievances, labor
 19 disputes, wages, rates of pay, hours of employment, and other terms and conditions
 20 of employment;

21 (14) "person" includes a labor organization;

22 (15) [(6)] "public employee" means any employee of a public employer,
 23 whether or not in the classified service of the public employer, and includes an
 24 individual whose work has stopped as a consequence of, or in connection with, a
 25 current labor dispute, because of an unfair labor practice, or because of exclusion
 26 or expulsion from a labor organization in any manner or for any reason
 27 inconsistent with the requirements of this chapter, except

28 (A) elected or appointed officials;

29 (B) [OR] superintendents of schools;

30 (C) temporary or nonpermanent employees;

31 (D) part-time employees who work less than 20 hours per

1 work week;

2 (E) employees of the legislative branch of state government;

3 (F) employees employed primarily to formulate, effectuate,
4 or determine management policy in the area of collective bargaining; or

5 (G) a person who is employed to act or assist a member of
6 the legislative body of a political subdivision of the state or a justice, judge,
7 or magistrate in the state court system in a confidential capacity;

8 (16) [(7)] "public employer" means

9 (A) the state or a political subdivision of the state, including
10 without limitation, a municipality, district, school district, regional educational
11 attendance area, board of regents, public and quasi-public corporation, housing
12 authority, or other authority established by law;

13 (B) [, AND] a person designated by the public employer to act
14 in its interest in dealing with public employees;

15 (C) a person employed by a public employer primarily to
16 formulate, effectuate, or determine the public employer's policies in the
17 area of labor relations;

18 (D) a group or association of public employers that

19 (i) is, with respect to public employees, an employer
20 under this chapter; or

21 (ii) may deal with a labor organization concerning
22 grievances, labor disputes, wages, rates of pay, hours of
23 employment, or conditions of work;

24 (17) [(8)] "regional educational attendance area" means an educational
25 service area in the unorganized borough that may or may not include a military
26 reservation [,] and that contains one or more public schools of grade levels K - 12 or
27 any portion of those grade levels that are to be operated under the management and
28 control of a single regional school board;

29 (18) "secret ballot" means the expression by ballot, voting machine,
30 or otherwise, but in no event by proxy, of a choice with respect to an election or
31 vote taken on a matter, which is cast in such a manner that the person expressing

1 the choice cannot be identified with the choice expressed;

2 (19) "service fee" means a fee authorized by AS 23.40.110(b) for
3 the costs associated with representation;

4 (20) "spousal equivalent" means a person who is cohabiting with
5 another person in a relationship that is like a marriage but that is not a legal
6 marriage;

7 (21) "trusteeship" means a receivership, trusteeship, or other
8 method of supervision or control whereby a labor organization suspends the
9 autonomy otherwise available to a subordinate body under its constitution or
10 bylaws;

11 (22) [(9)] "terms and conditions of employment"

12 (A) means the hours of employment, the compensation and
13 fringe benefits, and the employer's personnel policies affecting the working
14 conditions of the employees; but

15 (B) does not mean the general policies describing the function
16 and purposes of a public employer.

17 * **Sec. 35.** AS 23.40.250 is amended by adding a new subsection to read:

18 (b) A labor organization is subject to this chapter if it

19 (1) is the recognized or certified representative of public employees
20 under this chapter;

21 (2) although not certified, is a national or international labor
22 organization or a local labor organization recognized or acting as the representative of
23 employees of a public employer or employers under this chapter;

24 (3) has chartered a local labor organization or subsidiary body that is
25 representing or actively seeking to represent employees of public employers; or

26 (4) has been chartered by a labor organization representing or actively
27 seeking to represent public employees as the local or subordinate body through which
28 the employees may enjoy membership or become affiliated with a labor organization.

29 * **Sec. 36.** AS 23.40.260 is amended to read:

30 **Sec. 23.40.260. Short title.** This chapter [AS 23.40.070 - 23.40.260] may be
31 cited as the Public Employment Relations Act.

1 * **Sec. 37.** AS 23.40 is amended by adding new sections to read:

2 **Article 3. Rights of Members of Labor Organizations.**

3 **Sec. 23.40.300. Rights of members of labor organizations.** (a) A member
4 of a labor organization has equal rights and privileges within the organization, subject
5 to reasonable rules and regulations in the organization's constitution and bylaws, to

6 (1) nominate candidates;

7 (2) vote in elections or referenda of the labor organization;

8 (3) attend membership meetings, and participate in the deliberations and
9 vote on the business of those meetings.

10 (b) A bargaining unit member, including a service fee payer, has equal rights
11 to vote in

12 (1) an election that has as its purpose the acceptance or rejection of a
13 collective bargaining agreement reached under AS 23.40.210, or the modification,
14 extension, or amendment of an agreement;

15 (2) an election or referendum of the labor organization that affects
16 wages, hours, or terms and conditions of employment of members of the bargaining
17 unit or of a subdivision of the bargaining unit to which the employee belongs.

18 (c) A member of a labor organization has the right to meet and assemble freely
19 with other members. Subject to (d) of this section, a member of a labor organization
20 also has the right to express

21 (1) views, arguments, or opinions; and

22 (2) at meetings of the labor organization, the member's views on
23 candidates in an election of the labor organization or on any business properly before
24 the meeting.

25 (d) Notwithstanding (c) of this section, a labor organization has the right to
26 adopt and enforce reasonable rules concerning the conduct of meetings, the
27 responsibility of every member toward the organization as an institution, and to the
28 members refraining from conduct that would interfere with the performance of the
29 labor organization's obligations.

30 **Sec. 23.40.310. Dues, initiation fees, and assessments.** (a) Except in the
31 case of a federation of national or international labor organizations, the rates of dues

1 and initiation fees payable by members of a labor organization in effect on the
 2 effective date of this Act may not be increased and a general or special assessment
 3 may not be levied on the members of the labor organization except as provided in this
 4 section.

5 (b) A labor organization may increase dues or initiation fees or impose a
 6 special or general assessment by majority vote by secret ballot of the members in good
 7 standing voting

8 (1) at a general or special membership meeting after reasonable notice
 9 of the intention to vote on the question; or

10 (2) in a membership referendum.

11 **Sec. 23.40.320. Protection of the right to sue.** (a) Except as provided in (b)
 12 of this section, a labor organization may not limit the right of a member of

13 (1) the labor organization to institute an action in a court, or a
 14 proceeding before an administrative agency, whether the labor organization or its
 15 officers are named as defendants or respondents in the action or proceeding; or

16 (2) a labor organization to appear as a witness in a judicial, legislative,
 17 or administrative proceeding, including a grievance proceeding or an arbitration
 18 proceeding, to petition the legislature, or to communicate with a legislator.

19 (b) A labor organization may require a member to exhaust reasonable hearing
 20 procedures within the organization, not to exceed a two-month lapse of time following
 21 the member's commencement of the proceeding, before instituting legal or
 22 administrative proceedings against the labor organization or an officer of the labor
 23 organization.

24 (c) An interested public employer or employer association may not directly or
 25 indirectly finance, encourage, appear in, or participate in, except as a party, an action,
 26 proceeding, or petition described in (a) of this section.

27 **Sec. 23.40.330. Safeguards against improper disciplinary action.** (a) A
 28 labor organization may not fine, suspend, expel, or otherwise discipline a member or
 29 an officer of the organization except for nonpayment of dues unless the member or
 30 officer has been

31 (1) served with written specific charges;

- 1 (2) given a reasonable time to prepare a defense; and
 2 (3) afforded a fair hearing.

3 (b) Any part of the constitution or bylaws of a labor organization that is
 4 inconsistent with this section is void.

5 (c) A person whose rights have been infringed by a violation of
 6 AS 23.40.340(a) or this section may bring a civil action in superior court for
 7 appropriate relief, including injunctions.

8 (d) Nothing in AS 23.40.300 - 23.40.350 limits the rights and remedies of a
 9 member of a labor organization under state or federal law, or before a court or other
 10 tribunal, or under the constitution and bylaws of a labor organization.

11 **Sec. 23.40.340. Right to copies of a collective bargaining agreement.** (a)
 12 In the case of a local labor organization, the secretary or the equivalent officer shall
 13 forward a copy of the collective bargaining agreement made by the labor organization
 14 with a public employer to an employee who requests a copy and whose rights as an
 15 employee are directly affected by the agreement. In the case of a labor organization
 16 other than a local labor organization, the secretary or the equivalent officer shall
 17 forward a copy of the agreement to each constituent unit that has members directly
 18 affected by the agreement. The secretary or the equivalent officer shall maintain at
 19 the principal office of that labor organization copies of the agreements made or
 20 received by the labor organization. If the labor organization does not have its principal
 21 office in this state, it shall make the copies available at a location in this state. The
 22 copies shall be available for inspection by a member or employee whose rights are
 23 affected by the agreement. The provisions of AS 23.40.330(c) apply in the
 24 enforcement of this section.

25 (b) A collective bargaining agreement between a labor organization and a
 26 public employer, including extensions, modifications, and amendments of the
 27 agreement, is a public record under AS 09.25.110.

28 **Sec. 23.40.350. Information concerning the Public Employment Relations**
 29 **Act.** A labor organization shall inform its members of the provisions of this chapter.

30 **Article 4. Reporting by Labor Organizations and Employers.**

31 **Sec. 23.40.400. Reporting by labor organizations.** (a) A labor organization

1 shall adopt a constitution and bylaws and shall file copies of them with the
2 commissioner together with a report signed by the organization's president and
3 secretary or the equivalent officers containing

4 (1) the name of the labor organization, its mailing address, and any
5 other address at which it maintains its principal office or keeps the records referred to
6 in AS 23.40.400 - 23.40.470;

7 (2) the name and title of each of the organization's officers;

8 (3) the amount of the initiation fee or fees required from a new or
9 transferred member and hiring hall fees required by the reporting labor organization;

10 (4) the amount of the regular dues or fees or other periodic payments
11 required to remain a member of the labor organization and the service fee required of
12 an employee subject to an agreement authorized by AS 23.40.110(b); and

13 (5) detailed statements, or references to specific provisions of
14 documents filed under this subsection that contain the required statements, showing the
15 provisions made and procedures followed with respect to

16 (A) qualifications for or restrictions on membership;

17 (B) the levying of assessments;

18 (C) participation in insurance or other benefit plans;

19 (D) authorization for disbursement of funds of the labor
20 organization;

21 (E) the audit of financial transactions of the labor organization;

22 (F) calling regular and special meetings;

23 (G) selection of officers, stewards, and representatives to other
24 bodies composed of labor organizations' representatives with a specific
25 statement of the manner in which each officer was elected, appointed, or
26 otherwise selected;

27 (H) discipline or removal of officers or agents for breaches of
28 trust;

29 (I) imposition of fines, suspensions, and expulsions of members,
30 including the grounds for the action and provisions made for notice, hearing,
31 judgment on the evidence, and appeal procedures;

- 1 (J) authorization for bargaining demands;
 2 (K) ratification of contract terms;
 3 (L) authorization for strikes; and
 4 (M) the issuance of work dispatches.

5 (b) A labor organization shall report a change in the information required by
 6 (a) of this section to the commissioner at the time the labor organization files the
 7 annual financial report required by (c) of this section.

8 (c) A labor organization shall file annually with the commissioner a financial
 9 report for the preceding fiscal year, signed by its president and treasurer or the
 10 equivalent officers, containing the information required by this subsection in adequate
 11 detail to accurately disclose the organization's financial condition and operations. The
 12 financial report must be organized in categories prescribed by the commissioner that
 13 permit the identification of costs associated with political, social, fraternal, or other
 14 activities not incident to the negotiation or administration of a collective bargaining
 15 agreement or the adjustment of grievances and must contain

16 (1) assets and liabilities of the organization at the beginning and end
 17 of the fiscal year;

18 (2) receipts of any kind and the sources for the receipts;

19 (3) salary, allowances, and other direct or indirect disbursements,
 20 including reimbursed expenses, to each officer, employee, consultant, or contractor
 21 who, during the fiscal year, received more than \$1,000 in the aggregate from the labor
 22 organization and any other labor organization affiliated with it or with which it is
 23 affiliated or that is affiliated with the same national or international labor organization;

24 (4) direct and indirect loans made to an officer, employee, or member
 25 that aggregated more than \$250 during the fiscal year, together with a statement of the
 26 purpose, security, if any, and arrangements for repayment;

27 (5) direct and indirect loans to a business enterprise, together with a
 28 statement of the purpose, security, if any, and arrangements for repayment;

29 (6) any payment of money or other thing of value and any expenditure,
 30 including compensation and reimbursed expenses paid to employees or agents of the
 31 labor organization, that is intended to influence the outcome of an election of a

1 candidate, a ballot proposition, or the passage or defeat of legislation; and

2 (7) other disbursements made by the labor organization and the
3 purposes of those disbursements.

4 (d) A labor organization required to submit a report under this chapter shall
5 maintain the information required to be reported in this state and make it available to
6 all of its members and fee payers without cost to the member or fee payer.

7 **Sec. 23.40.410. Reporting by officers and employees of labor organizations.**

8 (a) Except for an employee performing exclusively clerical or custodial services and
9 except as provided in (c) of this section, an officer or employee of a labor organization
10 shall file with the commissioner a signed report describing for the preceding fiscal year

11 (1) income or other benefit with monetary value, including reimbursed
12 expenses, that the individual or the individual's spouse, spousal equivalent, or minor
13 child derived directly or indirectly from a public employer whose employees are
14 represented by the labor organization or whose employees the labor organization is
15 actively seeking to represent, except payments and other benefits received as a bona
16 fide employee of the employer and except permanent fund dividends;

17 (2) any transaction in which the individual or the individual's spouse,
18 spousal equivalent, or minor child engaged directly or indirectly involving a grant
19 from, contract with, or loan to or from a public employer whose employees are
20 represented by the labor organization or whose employees the labor organization is
21 actively seeking to represent;

22 (3) stocks, bonds, securities, or other interest, legal or equitable, that
23 the individual or the individual's spouse, spousal equivalent, or minor child directly
24 or indirectly held in, and income or other benefit with monetary value, including
25 reimbursed expenses, that the individual or the individual's spouse, spousal equivalent,
26 or minor child directly or indirectly derived from, a business

27 (A) a substantial part of which consists of buying from, selling
28 or leasing to, or otherwise dealing with, a public employer whose employees
29 are represented by the labor organization or whose employees the labor
30 organization is actively seeking to represent;

31 (B) a part of which consists of buying from, or selling or

1 leasing directly or indirectly to, or otherwise dealing with the labor
2 organization;

3 (4) a direct or indirect business transaction or arrangement between the
4 individual or the individual's spouse, spousal equivalent, or minor child and a public
5 employer whose employees the individual's organization represents or is actively
6 seeking to represent, except work performed and payments and benefits received as a
7 bona fide employee of the employer and except the receipt, purchase, or sale of goods
8 or services in the regular course of business at prices generally available to a state
9 resident;

10 (5) a payment of money or other thing of value, including reimbursed
11 expenses, but not including a permanent fund dividend, that the individual or the
12 individual's spouse, spousal equivalent, or minor child received directly or indirectly
13 from a public employer;

14 (6) a payment of money or other thing of value, including reimbursed
15 expenses, made by the individual or the individual's spouse, spousal equivalent, or
16 minor child to an elected or appointed official of a public employer or a candidate for
17 public office.

18 (b) The provisions of (a)(1) - (5) of this section may not be construed to
19 require an officer or employee to report bona fide investments in securities traded on
20 a securities exchange registered as a national securities exchange under 15 U.S.C. 78a -
21 78lll (Securities Exchange Act of 1934), in shares in an investment company registered
22 under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act), or in securities of a public
23 utility holding company registered under 15 U.S.C. 79 - 79z-6 (Public Utility Holding
24 Company Act of 1935), or to report income derived from those investments.

25 (c) This section may not be construed to require an officer or employee of a
26 labor organization to file a report under (a) of this section unless the individual or the
27 individual's spouse, spousal equivalent, or minor child holds or has held an interest,
28 has received income or any other benefit with monetary value or a loan, or has
29 engaged in a transaction described in this section.

30 **Sec. 23.40.420. Reports of public employers and others.** (a) An officer or
31 elected or appointed official of a public employer who in a fiscal year made a

1 payment, loan, expenditure, promise, agreement, or other transaction covered by this
2 section shall file a report that meets the requirements of (b) of this section. The report
3 shall list

4 (1) any payment or loan, direct or indirect, of money or other thing of
5 value, including reimbursed expenses, or a promise or agreement for a payment or
6 loan, to a labor organization, or to an officer, agent, shop steward, or other
7 representative of a labor organization, or to an employee of a labor organization,
8 except

9 (A) a payment of money or another thing of value in
10 satisfaction of a judgment of a court or a decision or award of an arbitrator or
11 impartial chair, or in compromise, adjustment, settlement, or release of a claim,
12 complaint, grievance, or dispute in the absence of fraud or duress;

13 (B) money deducted from the wages of employees in payment
14 of membership dues in a labor organization if the employer has received
15 written authorization from the employee for the deduction under AS 23.40.220;

16 (C) a payment to a benefit program authorized by a collective
17 bargaining agreement, except payments and other benefits made to a person as
18 a bona fide employee of the public employer if making the payments is a part
19 of the normal and regular duties of the officer or elected or appointed official;

20 (D) a payment or other benefit made to the person as a bona
21 fide employee of the public employer if making the payment is a part of the
22 normal and regular duties of the officer or elected or appointed official;

23 (2) any payment, including reimbursed expenses, made by an officer
24 or elected or appointed official to employees of the public employer for whom the
25 officer or official works, or a group or committee of employees, to cause the employee
26 or group or committee of employees to persuade other employees to exercise or not
27 to exercise, or to persuade them as to the manner of exercising, the right to organize
28 and bargain collectively under AS 23.40.080 unless the payments were
29 contemporaneously or previously disclosed to the other employees;

30 (3) any expenditure during the fiscal year if an object of the
31 expenditure, directly or indirectly, is to interfere with, restrain, or coerce employees

1 in the exercise of the right to organize and bargain collectively under AS 23.40.080,
2 or is to obtain information concerning the activities of employees or a labor
3 organization in connection with a labor dispute involving the employer, except for use
4 solely in conjunction with an administrative or arbitral proceeding or a criminal or civil
5 judicial proceeding;

6 (4) any agreement or arrangement with an independent contractor or
7 organization under which the contractor or organization undertakes

8 (A) activities if an object of the agreement or arrangement,
9 directly or indirectly, is to persuade employees to exercise or not to exercise,
10 or persuade employees as to the manner of exercising, the right to organize and
11 bargain collectively under AS 23.40.080; or

12 (B) to supply the employer with information concerning the
13 activities of employees or a labor organization in connection with a labor
14 dispute involving the employer, except information for use solely in
15 conjunction with an administrative or arbitral proceeding or a criminal or civil
16 judicial proceeding;

17 (5) any payment, including reimbursed expenses, under an agreement
18 or arrangement described in (4) of this subsection.

19 (b) A report under this section must be filed with the commissioner in a form
20 prescribed by the commissioner, signed by the principal executive officer, showing in
21 detail

22 (1) the date and amount of each payment, loan, expenditure, promise,
23 agreement, or arrangement;

24 (2) the name, address, and position, if any, in any firm or labor
25 organization of the person to whom the transaction in (1) of this subsection was made;
26 and

27 (3) a full explanation of the circumstances of the transactions under (1)
28 of this subsection, including the terms of an agreement or understanding under which
29 the transactions were made.

30 (c) A person shall file, within 30 days after entering into an agreement or
31 arrangement covered by this section, a report with the commissioner containing the

1 name under which the person is engaged in doing business, the address of its principal
 2 office, and a detailed statement of the terms and conditions of the agreement or
 3 arrangement if the person, under an agreement or arrangement with a public employer,
 4 undertakes activities where an object of the activity is, directly or indirectly, to

5 (1) persuade employees to exercise or not to exercise, or persuade
 6 employees as to the manner of exercising, the right to organize and bargain
 7 collectively through representatives of their own choosing; or

8 (2) supply an employer with information concerning the activities of
 9 employees or a labor organization in connection with a labor dispute involving the
 10 employer, except information for use solely in conjunction with an administrative or
 11 arbitral proceeding or a criminal or civil judicial proceeding.

12 (d) This section may not be construed as an amendment to or modification of
 13 the rights protected by AS 23.40.110.

14 (e) In this section, "interfere with, restrain, or coerce" means interference,
 15 restraint, and coercion that, if done with respect to the exercise of rights guaranteed
 16 in AS 23.40.080, would constitute an unfair labor practice under AS 23.40.110.

17 **Sec. 23.40.430. Exemptions for attorney-client and deliberative**
 18 **communications.** (a) AS 23.40.400 - 23.40.470 may not be construed to require an
 19 attorney who is a member in good standing of the state bar to include in a report
 20 required to be filed under AS 23.40.400 - 23.40.470, information that was lawfully
 21 communicated to the attorney by a client in the course of an attorney-client
 22 relationship.

23 (b) If a note, letter, memorandum, or other writing between elected or
 24 appointed officials of a public employer or between an elected or appointed official
 25 or a person who formulates, effectuates, or determines management policies and a
 26 person who assists or acts in a confidential capacity in labor relations matters is
 27 deliberative in nature and does not constitute a final administrative determination, it
 28 is privileged and confidential and is not a public document.

29 **Sec. 23.40.440. Reports; public records.** (a) The reports and documents filed
 30 with the commissioner under AS 23.40.400, 23.40.410, 23.40.420, and 23.40.470 are
 31 public records under AS 09.25.110.

1 (b) A person required to file a report under this chapter shall maintain records
 2 at a location in the state on the matters required to be reported for a period of not less
 3 than five years after the filing of the documents based on the information that the
 4 records contain. The records must

5 (1) provide the necessary basic detailed information and data from
 6 which the documents filed with the commissioner may be verified, explained, or
 7 clarified, and checked for accuracy and completeness;

8 (2) include vouchers, worksheets, receipts, and applicable resolutions.

9 (c) A labor organization shall file the initial report required under
 10 AS 23.40.400 within 30 days after the date on which the labor organization first
 11 becomes subject to this chapter. A person required to file a report under AS 23.40.400
 12 - 23.40.420 shall file the report within 90 days after the end of the person's fiscal year.

13 **Sec. 23.40.450. Criminal provisions.** (a) A person who intentionally violates
 14 a provision of AS 23.40.400 - 23.40.470 is guilty of a class A misdemeanor.

15 (b) A person who makes a false statement or representation of a material fact,
 16 knowing it to be false, or who knowingly fails to disclose a material fact, in a
 17 document, report, or other information required under AS 23.40.400 - 23.40.470 is
 18 guilty of a class A misdemeanor.

19 (c) A person who intentionally makes a false entry in or intentionally
 20 withholds or destroys books, records, reports, or statements required to be kept under
 21 AS 23.40.400 - 23.40.470 is guilty of a class A misdemeanor.

22 (d) An individual required to sign reports under AS 23.40.400 - 23.40.430
 23 shall be personally responsible for the filing of the report and for any statement
 24 contained in the report that the person knows to be false.

25 **Sec. 23.40.460. Civil enforcement.** When a person has violated or is about
 26 to violate a provision of AS 23.40.400 - 23.40.470, the commissioner may bring a civil
 27 action for appropriate relief, including injunctions.

28 **Sec. 23.40.470. Auditing and accounting reports.** A company or individual
 29 that is engaged to provide auditing or accounting services necessary to provide the
 30 information required by AS 23.40.400 - 23.40.470 shall file annually with the
 31 commissioner, with respect to each fiscal year during which an audit or accounting

1 was performed, a report in the form and detail required by the commissioner by
 2 regulation. The report shall be filed by the president and treasurer or the equivalent
 3 principal officers of the auditing or accounting company describing the company's
 4 experience and credentials, including information as to the payments received,
 5 administrative and legal expenses, and other related data and information the
 6 commissioner determines to be necessary to the public interest and to carry out the
 7 policy of AS 23.40.400 - 23.40.470.

8 **Article 5. Trusteeships.**

9 **Sec. 23.40.500. Trusteeship reports.** (a) A labor organization that has or
 10 assumes trusteeship over a subordinate labor organization shall file with the
 11 commissioner within 30 days after the establishment of the trusteeship, and
 12 semiannually thereafter, a report signed by its president and treasurer or the equivalent
 13 principal officers and by the trustees of the subordinate labor organization. The report
 14 must contain

- 15 (1) the name and address of the subordinate organization;
- 16 (2) the date the trusteeship was established;
- 17 (3) a detailed statement of the reason or reasons for establishing or
 18 continuing the trusteeship; and
- 19 (4) the nature and extent of participation by the membership of the
 20 subordinate organization in the selection of delegates to represent the subordinate
 21 organization in regular or special conventions, in other policy determining bodies, and
 22 in the election of officers of the labor organization that has assumed trusteeship over
 23 the subordinate organization.

24 (b) The initial report must also include a full and complete account of the
 25 financial condition of the subordinate organization as of the time trusteeship was
 26 established. During the continuance of a trusteeship, the labor organization that has
 27 assumed trusteeship over the subordinate labor organization shall file on behalf of the
 28 subordinate labor organization the annual report required by AS 23.40.400 signed by
 29 the president and treasurer or the equivalent principal officers of the labor organization
 30 that has assumed the trusteeship and by the trustees of the subordinate labor
 31 organization.

1 (c) A person who intentionally violates this section is guilty of a class A
2 misdemeanor.

3 (d) A person who makes a false statement or representation of a material fact,
4 knowing it to be false, or who knowingly fails to disclose a material fact in any report
5 required under this section or intentionally makes a false entry in or intentionally
6 withholds, conceals, or destroys documents, books, records, reports, or statements upon
7 which the report is based is guilty of a class A misdemeanor.

8 (e) An individual required to sign a report under this section shall be
9 personally responsible for the filing of the report and for any statement contained in
10 the report that the individual knows to be false.

11 **Sec. 23.40.510. Conduct and purposes of a trusteeship.** A trusteeship shall
12 be established and administered by a labor organization over a subordinate body only
13 in accordance with the constitution and bylaws of the organization that has assumed
14 trusteeship over the subordinate body and for the purpose of correcting corruption or
15 financial malpractice, assuring the performance of collective bargaining agreements or
16 other duties of a bargaining representative, restoring democratic procedures, or
17 otherwise carrying out the legitimate objects of the labor organization.

18 **Sec. 23.40.520. Unlawful acts relating to labor organizations under**
19 **trusteeship.** (a) Except as provided in (b) of this section, during a period when a
20 subordinate body of a labor organization is in trusteeship, it is unlawful to

21 (1) count the votes of delegates from the body in a convention or
22 election of officers of the labor organization unless the delegates have been chosen by
23 secret ballot in an election in which all the members in good standing of the
24 subordinate body were eligible to participate; or

25 (2) transfer to the organization current receipts or other funds of the
26 subordinate body except the normal per capita tax or assessments payable by
27 subordinate bodies not in trusteeship.

28 (b) This section does not prevent the distribution of the assets of a labor
29 organization in accordance with its constitution and bylaws upon the bona fide
30 dissolution of the labor organization.

31 (c) A person who intentionally violates a provision of AS 23.40.500 -

1 23.40.540 is guilty of a class A misdemeanor.

2 (d) Upon the written complaint of a member or subordinate body of a labor
3 organization alleging that the organization has violated the provisions of AS 23.40.500
4 - 23.40.540, the commissioner shall investigate the complaint. If the commissioner
5 finds probable cause to believe that the violation has occurred and has not been
6 remedied, the commissioner shall, without disclosing the identity of the complainant,
7 bring a civil action in superior court for appropriate relief, including injunctive relief.
8 A member or subordinate body of a labor organization affected by a violation of
9 AS 23.40.500 - 23.40.540 may bring a civil action in superior court for appropriate
10 relief, including injunctive relief.

11 **Sec. 23.40.530. Duration of trusteeship.** In a proceeding under AS 23.40.500
12 - 23.40.540, a trusteeship established by a labor organization in conformity with the
13 procedural requirements of its constitution and bylaws and authorized or ratified after
14 a fair hearing before the executive board or another appropriate body under its
15 constitution or bylaws is presumed valid for a period of 18 months from the date of
16 its establishment. The trusteeship may not be attacked during that period except upon
17 clear and convincing evidence that the trusteeship was not established or maintained
18 in good faith for a purpose allowable under AS 23.40.500 - 23.40.540. After the
19 expiration of 18 months, the trusteeship is presumed invalid and the court shall require
20 its discontinuance unless the labor organization shows by clear and convincing
21 evidence that the continuation of the trusteeship is necessary for a purpose allowable
22 under AS 23.40.500 - 23.40.540. If it is determined that continuance of the trusteeship
23 is necessary, the court may dismiss a complaint to dissolve the trusteeship or retain
24 jurisdiction of the cause on conditions and for a period as the court considers
25 appropriate.

26 **Sec. 23.40.540. Complaint by the commissioner.** The rights and remedies
27 provided by AS 23.40.500 - 23.40.540 are in addition to other rights and remedies at
28 law or in equity. However, if the commissioner files a complaint, the jurisdiction of
29 the superior court in which the complaint is filed over the trusteeship is exclusive.

30 **Article 6. Labor Organization Elections and Removal of Officers.**

31 **Sec. 23.40.600. Terms of office; election procedures.** (a) A labor

1 organization shall elect its officers not less often than once every three years by secret
2 ballot among the members in good standing.

3 (b) A labor organization and its officers shall comply with the reasonable
4 requests of a candidate for office in the organization to distribute by mail or otherwise,
5 at the candidate's expense, campaign literature in aid of the individual's candidacy to
6 all members in good standing of the labor organization and shall refrain from
7 discrimination in favor of or against a candidate with respect to the use of lists of
8 members. A bona fide candidate for office in the labor organization may bring suit
9 in the superior court to enforce the requirements of this subsection. Whenever a labor
10 organization or its officers authorize the distribution to members, by mail or otherwise,
11 of campaign literature on behalf of a candidate for office in the labor organization with
12 reference to the election, similar distribution at the request of any other bona fide
13 candidate shall be made by the labor organization and its officers with equal treatment
14 as to the expense of the distribution. Every bona fide candidate has the right, once
15 within the 30 days before an election of a labor organization in which the candidate
16 is standing for election, to inspect and copy a list containing the names and last known
17 addresses of all members of the labor organization who are subject to a collective
18 bargaining agreement requiring membership in the organization or payment of a
19 service fee. The labor organization shall keep the list at its principal office and shall
20 designate an official of the organization to maintain it. If the labor organization does
21 not have its principal office in this state, the list shall be made available in the state.
22 Adequate safeguards to ensure a fair election shall be provided, including the right of
23 a candidate to have an observer at the polls and at the counting of the ballots.

24 **Sec. 23.40.610. Procedures for elections by secret ballot.** (a) In an election
25 required by AS 23.40.600 - 23.40.660 that is to be held by secret ballot, a reasonable
26 opportunity shall be given for the nomination of candidates. A member in good
27 standing is eligible to be a candidate and to hold office, subject to reasonable
28 qualifications uniformly imposed, and has the right to vote for or otherwise support the
29 candidate or candidates of the member's choice without being subject to penalty,
30 discipline, or improper interference or reprisal of any kind by the labor organization
31 or any member of the organization.

1 (b) Not less than 30 days before the election, the organization shall mail
2 notice of the election to each member at the member's last known home address.

3 (c) A member in good standing is entitled to one vote. A member whose dues
4 have been withheld by the member's employer under AS 23.40.220 may not be
5 declared ineligible to vote or to be a candidate for office in the organization by reason
6 of alleged delay or default in the payment of dues.

7 (d) The votes cast by members of a local labor organization shall be counted
8 separately and the results shall be published separately.

9 (e) The election officials designated in the constitution or bylaws, or the
10 secretary if no other official is designated, shall preserve for one year the ballots and
11 all other records pertaining to the election.

12 (f) The election shall be conducted in accordance with the constitution and
13 bylaws of the labor organization insofar as they are not inconsistent with the provisions
14 of AS 23.40.600 - 23.40.660.

15 **Sec. 23.40.620. Selection of officers by a convention.** (a) When officers are
16 chosen by a convention of delegates elected by secret ballot, the convention shall be
17 conducted in accordance with the constitution and bylaws of the labor organization
18 insofar as they are not inconsistent with the provisions of AS 23.40.600 - 23.40.660.

19 (b) The officials designated in the constitution and bylaws, or the secretary if
20 no other official is designated, shall preserve for one year the credentials of the
21 delegates and all minutes and other records of the convention pertaining to the election
22 of officers.

23 **Sec. 23.40.630. Limitation on use of dues for candidacies.** Money received
24 by a labor organization as dues, assessments, or similar levy, and money of a public
25 employer may not be contributed or applied to promote the candidacy of a person in
26 an election subject to the provisions of AS 23.40.600 - 23.40.660. However, a labor
27 organization may pay for notices, factual statements of issues not involving candidates,
28 and other expenses necessary for the holding of an election.

29 **Sec. 23.40.640. Removal of officers by the labor relations agency.** (a) If
30 the labor relations agency, upon application of a member of a labor organization, finds
31 after hearing that the constitution and bylaws of the labor organization do not provide

1 an adequate procedure for the removal of an elected officer guilty of serious
2 misconduct, the labor relations agency may authorize removal under (b) of this section.

3 (b) If the labor relations agency makes the finding required by (a) of this
4 section, the members in good standing of the labor organization, after notice and
5 hearing, may remove the officer for cause by voting in a secret ballot conducted by
6 the officers of the labor organization in accordance with its constitution and bylaws
7 to the extent that they are not inconsistent with the provisions of AS 23.40.600 -
8 23.40.660.

9 (c) The labor relations agency shall adopt regulations setting minimum
10 standards and procedures for determining the adequacy of the removal procedures
11 under this section.

12 **Sec. 23.40.650. Complaints.** (a) A member of a labor organization may file
13 a complaint with the labor relations agency alleging the violation of a provision of
14 AS 23.40.600 - 23.40.660, including violation of the constitution or bylaws of the labor
15 organization pertaining to the election and removal of officers, if the member has

16 (1) exhausted the remedies available under the constitution and bylaws
17 of the labor organization and of any parent body; or

18 (2) invoked the available remedies without obtaining a final decision
19 within three calendar months after their invocation.

20 (b) An election challenge under this section must be filed within 30 days after
21 the member becomes eligible under (a) of this section to file the challenge. The
22 challenged election shall be presumed valid pending a final decision on the challenge
23 as provided in this section. In the interim, the elected officers of the organization shall
24 conduct the affairs of the organization, or the organization's affairs shall be conducted
25 as provided in the organization's constitution and bylaws.

26 (c) The labor relations agency shall investigate a complaint filed under this
27 section. If it finds probable cause to believe that a violation of AS 23.40.600 -
28 23.40.660 has occurred and has not been remedied, it shall, within 60 days after the
29 filing of the complaint, bring a civil action against the labor organization in the
30 superior court. The civil action must seek to set aside the invalid election, if any, and
31 to direct the conduct of an election or hearing and vote upon the removal of officers

1 under the supervision of the agency and in accordance with the provisions of
 2 AS 23.40.600 - 23.40.660. The court may take actions it considers proper to preserve
 3 the assets of the labor organization.

4 (d) In an action brought under (c) of this section, the court shall declare an
 5 election void and direct the conduct of a new election under supervision of the labor
 6 relations agency and, so far as lawful and practicable, in conformity with the
 7 constitution and bylaws of the labor organization if the court finds, upon a
 8 preponderance of the evidence after a trial upon the merits, that

9 (1) an election has not been held within the time prescribed by
 10 AS 23.40.600; or

11 (2) the violation of AS 23.40.600 - 23.40.640 may have affected the
 12 outcome of an election.

13 (e) After an election held under (d) of this section, the labor relations agency
 14 shall promptly certify to the court the names of the persons elected. The court shall
 15 enter a decree declaring those persons to be the officers of the labor organization. If
 16 the proceeding is for the removal of officers under this section, the labor relations
 17 agency shall certify the results of the vote, and the court shall enter a decree declaring
 18 whether those persons have been removed as officers of the labor organization.

19 (f) An order directing an election, dismissing a complaint, or designating
 20 elected officers of a labor organization is appealable in the same manner as the final
 21 judgment in a civil action, but an order directing an election may not be stayed
 22 pending appeal.

23 **Sec. 23.40.660. Application of other laws.** Except as provided in
 24 AS 23.40.600 - 23.40.660, a labor organization may not be required to conduct
 25 elections of officers with greater frequency or in a different form or manner than is
 26 required by its own constitution or bylaws. The provisions of AS 23.40.600 -
 27 23.40.660 do not affect rights and remedies to enforce, before the conduct of the
 28 election, the constitution and bylaws of a labor organization with respect to elections.
 29 The remedy provided by AS 23.40.600 - 23.40.660 for challenging an election already
 30 conducted is exclusive.

31 **Article 7. Safeguards for Labor Organizations.**

1 **Sec. 23.40.700. Fiduciary responsibility of officers of labor organizations.**

2 (a) The officers, agents, shop stewards, and other representatives of a labor
3 organization occupy positions of trust in relation to the organization and its members
4 as a group. It is, therefore, the duty of each of those persons, taking into account the
5 special problems and functions of a labor organization, to

6 (1) hold its money and property solely for the benefit of the
7 organization and its members and to manage, invest, and expend the same in
8 accordance with its constitution and bylaws and resolutions of the governing bodies;

9 (2) refrain from dealing with the organization as an adverse party, or
10 on behalf of an adverse party, in any matter connected with the individual's duties and
11 to refrain from holding or acquiring any pecuniary or personal interest that conflicts
12 with the interests of the organization; and

13 (3) account to the organization for any profit received by the individual
14 in whatever capacity in connection with transactions conducted by the individual or
15 under the individual's direction on behalf of the organization.

16 (b) A general exculpatory provision in the constitution or bylaws of a labor
17 organization or a general exculpatory resolution of a governing body purporting to
18 relieve a representative of a labor organization of liability for breach of the duties
19 declared by this section is void as against public policy.

20 **Sec. 23.40.710. Action by member.** When a representative of a labor
21 organization is alleged to have violated the duties declared in AS 23.40.700(a) and the
22 labor organization or its governing board or officers refuse or fail to sue or recover
23 damages or secure an accounting or other appropriate relief within a reasonable time
24 after being requested to do so by a member of the bargaining unit, the member may
25 sue the representative in superior court to recover damages or secure an accounting or
26 other appropriate relief for the benefit of the labor organization.

27 **Sec. 23.40.720. Embezzlement.** A person who embezzles, steals, or
28 unlawfully and intentionally abstracts or converts to the person's own use, or the use
29 of another, any of the money, funds, securities, property, or other assets of a labor
30 organization of which the person is an officer, or by which the person is employed
31 directly or indirectly, is guilty of a class A misdemeanor.

1 **Sec. 23.40.730. Bonding.** (a) Except as provided in (d) of this section, a
2 representative or employee of a labor organization, or of a trust in which a labor
3 organization is interested, who handles funds or other property of the labor
4 organization or trust shall be bonded to provide protection against loss by reason of
5 acts of fraud or dishonesty on the person's part directly or through connivance with
6 others. The bond of each person shall be fixed at the beginning of the organization's
7 fiscal year and shall be in an amount not less than 10 percent of the funds handled by
8 the person and the person's predecessor or predecessors, if any, during the preceding
9 fiscal year, but in no case more than \$500,000. If the labor organization or the trust
10 in which a labor organization is interested does not have a preceding fiscal year, the
11 amount of the bond shall be, in the case of a local labor organization, not less than
12 \$1,000, and, in the case of another labor organization or of a trust in which a labor
13 organization is interested, not less than \$10,000.

14 (b) A bond under this section must be individual or schedule in form and shall
15 have a corporate surety company as surety. A person who is not covered by a bond
16 may not receive, handle, disburse, or otherwise exercise custody or control of the funds
17 or other property of a labor organization or of a trust in which a labor organization is
18 interested.

19 (c) A bond under this section may not be placed through an agent or broker
20 or with a surety company in which a labor organization or a representative of a labor
21 organization has a direct or indirect interest. A surety company through which a bond
22 under this section is placed shall be a corporate surety that holds a grant of authority
23 from the Secretary of the Treasury under the Act of July 30, 1947 (6 U.S.C. 6-13), as
24 an acceptable surety on federal bonds; however, when, in the opinion of the
25 commissioner, a labor organization has made other bonding arrangements that would
26 provide the protection required by this section at a comparable cost or less, the
27 commissioner may exempt the labor organization from placing a bond through a surety
28 company holding a grant of authority required by this subsection.

29 (d) This section does not apply to a labor organization whose property and
30 annual financial receipts are equal to or less than \$5,000 in value.

31 (e) A person who intentionally violates this section is guilty of a class A

1 misdemeanor.

2 **Sec. 23.40.740. Making loans.** (a) A labor organization may not directly or
3 indirectly make a loan or loans to an officer or employee of the organization that result
4 in a total indebtedness on the part of the officer or employee to the labor organization
5 in excess of \$2,000.

6 (b) A labor organization or public employer may not directly or indirectly pay
7 the fine of an officer or employee convicted of an intentional violation of
8 AS 23.40.700 - 23.40.750.

9 (c) A person who intentionally violates this section is guilty of a class A
10 misdemeanor.

11 **Sec. 23.40.750. Prohibitions against certain persons holding office.** (a)
12 Except as provided in (b) of this section, for a period of 13 years after a conviction
13 of a crime listed in (d) of this section or after the end of imprisonment for a crime
14 listed in (d) of this section, whichever is later, a person who has been convicted of or
15 served a part of a prison term resulting from a conviction of a crime set out in (d) of
16 this section may not serve

17 (1) as a consultant or advisor to a labor organization;

18 (2) as an officer, director, trustee, member of an executive board, or
19 similar governing body, business agent, manager, organizer, employee, or
20 representative in any capacity of a labor organization;

21 (3) as a labor relations consultant or advisor to a public employer, or
22 as an officer, director, agent, or employee of a group or association of public
23 employers dealing with a labor organization or in a position having specific collective
24 bargaining authority or direct responsibility in the area of labor-management relations
25 on behalf of a public employer;

26 (4) in a position that entitles the person to a share of the proceeds of,
27 or as an officer, executive, or administrative employee of, an entity whose activities
28 are in whole or in substantial part devoted to providing goods or services to a labor
29 organization; or

30 (5) in a capacity, other than in the person's capacity as a member of
31 the labor organization, that involves decision-making authority concerning, or decision-

1 making authority over, or custody or control of the money, funds, assets, or property
2 of, a labor organization.

3 (b) The period of the prohibition against service under (a) of this section may
4 be shortened if the sentencing court, on the motion of the person convicted, sets a
5 lesser period of at least three years after the conviction or after the end of
6 imprisonment, whichever is later, or unless before the end of the three years, in the
7 case of a person convicted or imprisoned,

8 (1) the person's citizenship rights, having been revoked as a result of
9 the conviction, have been fully restored; or

10 (2) the sentencing court determines that the person's service in a
11 capacity referred to in (a) of this section would not be contrary to the purposes of
12 AS 23.40.700 - 23.40.750.

13 (c) Before making a determination under (b) of this section, the court shall
14 hold a hearing and shall give notice of the proceeding by certified mail to the
15 commissioner and to state and local prosecuting officials in the jurisdiction or
16 jurisdictions in which the person was convicted. A person may not knowingly hire,
17 retain, employ, or otherwise place another person to serve in a capacity in violation
18 of this section.

19 (d) This section applies to

20 (1) a felony; or

21 (2) a misdemeanor involving abuse or misuse of the person's position
22 or employment for a public employer or in a labor organization or employee benefit
23 plan to seek or obtain an illegal gain at the expense of the public or of the members
24 of the labor organization or the beneficiaries of the employee benefit plan.

25 (e) A person who intentionally violates this section is guilty of a class A
26 misdemeanor.

27 (f) For the purpose of this section,

28 (1) a person is considered to have been convicted and to be under the
29 disability of conviction from the date of the judgment of the trial court regardless of
30 whether that judgment remains under appeal;

31 (2) a period of parole may not be considered as part of a period of

1 imprisonment.

2 (g) Whenever a person (1) by operation of this section, has been barred from
 3 office or other position in a labor organization as a result of a conviction, and (2) has
 4 filed an appeal of that conviction, the individual employer or organization responsible
 5 for payment of the salary shall place the salary that would be otherwise due the person
 6 by virtue of that office or position in escrow. Payment of the salary into escrow shall
 7 continue for the duration of the appeal or for the period of time during which the
 8 salary would be otherwise due, whichever period is shorter. Upon the final reversal
 9 of the person's conviction on appeal, the amounts in escrow shall be paid to the
 10 person. Upon the final sustaining of the person's conviction on appeal, the amounts
 11 in escrow shall be returned to the individual employer or organization responsible for
 12 payment of those amounts. Upon final reversal of the person's conviction, that crime
 13 no longer bars the person from assuming a position from which the person was
 14 previously barred.

15 **Sec. 23.40.790. Definition for AS 23.40.700 - 23.40.790.** In AS 23.40.700 -
 16 23.40.790, "representative of a labor organization" means an officer, agent, shop
 17 steward, or other representative of a labor organization.

18 **Article 8. Restrictions on Financial Transactions.**

19 **Sec. 23.40.800. Payment or lending of money.** (a) It shall be unlawful for
 20 a public employer, elected or appointed official, association of public employers, or
 21 person who acts as a labor relations expert, advisor, or consultant to a public employer
 22 or who has been designated to act in the interest of an employer in dealing with public
 23 employees to pay, lend, or deliver, or agree to pay, lend, or deliver, money or other
 24 thing of value to

25 (1) a representative of its employees;

26 (2) a labor organization or an officer or employee of a labor
 27 organization that represents, seeks to represent, or would admit to membership,
 28 employees of the public employer;

29 (3) an employee or group or committee of employees of the public
 30 employer in excess of the employees' normal compensation to cause the employee,
 31 group, or committee directly or indirectly to influence other employees in the exercise

1 of organizing and bargaining rights under this chapter; or

2 (4) an officer or employee of a labor organization with intent to
3 influence the officer or employee in respect to actions, decisions, or duties taken as a
4 representative of employees or as an officer or employee of the labor organization.

5 (b) It is unlawful for a person to request, demand, receive, or accept, or agree
6 to receive or accept, a payment, loan, or delivery of money or other thing of value
7 prohibited by (a) of this section.

8 (c) It is unlawful for a labor organization, or for a person acting as an officer,
9 agent, representative, or employee of a labor organization, to

10 (1) demand or accept from an officer or elected or appointed official
11 of a public employer money or other thing of value payable to the organization or to
12 an officer, agent, representative, employee, or member of the organization as a fee or
13 charge for refraining from the prosecution of a grievance, arbitration, or other
14 administrative proceeding or to secure resolution of a negotiation, grievance,
15 arbitration, or other administrative proceeding;

16 (2) offer, deliver, or cause to be delivered to an officer or elected or
17 appointed official, including candidates for public office, of a public employer, money
18 or other thing of value as a contribution to a political campaign, voter education
19 campaign, or defense fund if the purpose or effect of that contribution is to affect the
20 outcome of a negotiation, grievance, arbitration, or other administrative proceeding or
21 labor dispute between the public employer and the labor organization.

22 (d) This section does not apply with respect to

23 (1) money or other thing of value payable by an employer to

24 (A) an employee whose established duties include acting openly
25 for the employer in matters of labor relations or personnel administration; or

26 (B) an officer or employee of a labor organization who is also
27 an employee or former employee of the employer as compensation for, or by
28 reason of, the officer's or employee's service as an employee of the employer;

29 (2) the payment or delivery of money or other thing of value in
30 satisfaction of a judgment of a court or a decision or award of an arbitrator or
31 impartial chair or in compromise, adjustment, settlement, or release of any claim,

1 complaint, grievance, or dispute in the absence of fraud or duress;

2 (3) the sale or purchase of an article or commodity at the prevailing
3 market price in the regular course of business;

4 (4) money deducted from the wages of employees in payment of
5 service fees or membership dues of a labor organization if the employer has received
6 from each employee on whose account the deductions are made a written assignment
7 under an agreement authorized by AS 23.40.220;

8 (5) money or other thing of value paid to a trust fund that satisfies the
9 requirements of (e) of this section;

10 (6) money or other thing of value paid by an employer to a trust fund
11 established by the representative for the purpose of pooled vacation, holiday,
12 severance, or similar benefits, or defraying costs of apprenticeship or other training
13 programs; this paragraph does not require a labor organization or employer to bargain
14 on the establishment of a trust fund, and refusal to do so does not constitute an unfair
15 labor practice;

16 (7) money or other thing of value paid, lent, or delivered by a public
17 employer to a person covered by this section if the transaction is part of the
18 employer's regular activities and the person covered by this section does not receive
19 special treatment or special consideration of any sort because of the person's status
20 with regard to public employment labor relations.

21 (e) To qualify as a trust fund under (d)(5) of this section,

22 (1) the trust fund must be established by a representative of the labor
23 organization, for the sole and exclusive benefit of the employees of the employer, and
24 the employee's family and dependents, or of those employees, families, and dependents
25 jointly with the employees of other employers making similar payments and the
26 families and dependents of the other employees;

27 (2) payments must be held in trust for the purpose of paying, either
28 from principal or income or both, for the benefit of employees, the employee's family
29 and dependents, for medical or hospital care, pensions on retirement or death of
30 employees, compensation for injuries or illness resulting from occupational activity,
31 or insurance to provide any of the foregoing, or unemployment benefits or life

1 insurance, disability and health insurance, or accident insurance;

2 (3) the detailed basis on which the payments are to be made must be
3 specified in a written agreement with the employer, and employees and employers
4 must be equally represented in the administration of the trust fund, together with those
5 neutral persons that the representatives of the employers and the representatives of
6 employees may agree upon; the agreement must

7 (A) in the event the employer and employee groups deadlock
8 on the administration of the trust fund and there is no neutral person
9 empowered to break the deadlock, provide that the two groups shall agree on
10 an impartial arbitrator to decide the dispute, or in event of their failure to agree
11 within a reasonable length of time, on petition of either group, provide that the
12 superior court shall appoint an impartial arbitrator to decide the dispute;

13 (B) contain provisions for an annual audit of the trust fund, a
14 statement of the results of which shall be available for inspection by interested
15 persons at the principal office of the trust fund and at other places designated
16 in the written agreement; and

17 (4) those payments from the trust that are intended to be used for
18 providing pensions or annuities for employees must be made to a separate trust that
19 provides that the funds held in the separate trust cannot be used for any purpose other
20 than paying the pensions or annuities.

21 **Article 9. Miscellaneous Provisions.**

22 **Sec. 23.40.840. Retention of rights under other state laws.** Except as
23 explicitly provided to the contrary, nothing in this chapter

24 (1) reduces or limits the responsibilities of a labor organization or an
25 officer, agent, shop steward, or other representative of a labor organization, or of a
26 trust in which a labor organization is interested, under the laws of the state; or

27 (2) takes away a right or bars a remedy to which members of a labor
28 organization are entitled under federal or state law.

29 **Sec. 23.40.850. Service of process.** For the purposes of this chapter, service
30 of summons, subpoena, or other legal process of a court of the state upon an officer
31 or agent of a labor organization in the officer's or agent's capacity as such constitutes

1 service on the labor organization.

2 **Sec. 23.40.860. Cooperation by other agencies.** Each agency of the
3 executive branch of state government shall, to the extent permitted by state or federal
4 law, cooperate fully with the commissioner and the labor relations agency by providing
5 information and assistance, including disclosure of financial material and other records
6 related to collective bargaining and labor relations matters.

7 **Sec. 23.40.870. Prohibition on certain discipline by a labor organization.**
8 It shall be unlawful for a labor organization, an officer, agent, shop steward, or other
9 representative of a labor organization, or an employee of a labor organization to fine,
10 suspend, expel, or otherwise discipline a member for exercising a right to which the
11 member is entitled under this chapter.

12 **Article 10. Definition for AS 23.40.300 - 23.40.900.**

13 **Sec. 23.40.900. Definition for AS 23.40.300 - 23.40.900.** In AS 23.40.300 -
14 23.40.900, "employer" includes a person acting directly or indirectly as an employer
15 or an agent of an employer in relation to a public employee.

16 * **Sec. 38.** AS 14.16.050(a)(3) is amended to read:

17 (3) requirements relating to teacher employment and retirement:

18 (A) AS 14.14.105 and 14.14.107 (relating to sick leave);

19 (B) AS 14.20.095 - 14.20.215 (relating to the employment and
20 tenure of teachers);

21 (C) AS 14.20.220 (relating to the salaries of teachers
22 employed);

23 (D) AS 14.20.280 - 14.20.350 (relating to sabbatical leave
24 provisions for teachers);

25 (E) AS 23.40 [AS 23.40.070 - 23.40.260] (authorizing collective
26 bargaining by certificated employees), except with regard to teachers who are
27 administrators and except that the board may delegate some or all of its
28 responsibilities under those statutes;

29 (F) AS 14.25 (provisions regarding the teachers' retirement
30 system);

31 * **Sec. 39.** AS 14.16.070 is amended to read:

1 **Sec. 14.16.070. Applicability of other law.** AS 23.40 [AS 23.40.070 -
2 23.40.260] (Public Employment Relations Act) **applies** [APPLY] to the employees of
3 the state boarding school.

4 * **Sec. 40.** AS 23.05.360(f) is amended to read:

5 (f) For purposes of holding hearings, the members of the board sit in panels
6 of three members. The chair designates the panel that will consider a matter. Each
7 panel must include a representative of management, a representative of labor, and a
8 representative from the general public. A member of one panel may serve on the other
9 panel when the chair considers it necessary for the prompt administration of AS 23.40
10 [AS 23.40.070 - 23.40.260] (Public Employment Relations Act) or AS 42.40 (Alaska
11 Railroad Corporation Act).

12 * **Sec. 41.** AS 23.05.370(a) is amended to read:

13 (a) The agency shall

14 (1) establish its own rules of procedure;

15 (2) exercise general supervision and direct the activities of staff
16 assigned to it by the department;

17 (3) prepare and submit to the governor an annual report on labor
18 relations problems it has encountered during the previous year, including
19 recommendations for legislative action; the agency shall notify the legislature that the
20 report is available;

21 (4) serve as the labor relations agency under AS 23.40 [AS 23.40.070 -
22 23.40.260] (Public Employment Relations Act) and carry out the functions specified
23 in that Act; and

24 (5) serve as the railroad labor relations agency for the Alaska Railroad
25 under AS 42.40 (Alaska Railroad Corporation Act) and carry out the functions
26 specified in that Act.

27 * **Sec. 42.** AS 23.05.380 is amended to read:

28 **Sec. 23.05.380. Regulations.** The agency shall adopt regulations under
29 AS 44.62 (Administrative Procedure Act) to carry out labor relations functions under
30 AS 23.05.360 - 23.05.390, AS 23.40 [AS 23.40.070 - 23.40.260], and AS 42.40.730 -
31 42.40.890.

1 * **Sec. 43.** AS 29.35.685(c) is amended to read:

2 (c) **AS 23.40 applies** [AS 23.40.070 - 23.40.260 APPLY] to employees of an
3 authority established under AS 29.35.600 - 29.35.730 unless all municipalities
4 participating in the authority are exempt under sec. 4, ch. 113, SLA 1972.

5 * **Sec. 44.** AS 39.20.310(8) is amended to read:

6 (8) persons employed by the division of marine transportation as
7 masters and members of the crews operating the state ferry system who are covered
8 by collective bargaining agreements as provided in **AS 23.40.210** [AS 23.40.040],
9 except as expressly provided by law;

10 * **Sec. 45.** AS 39.25.110(16) is amended to read:

11 (16) persons employed by the division of marine transportation as
12 masters and members of the crews of vessels who operate the state ferry system and
13 who are covered by a collective bargaining agreement provided in **AS 23.40**
14 [AS 23.40.040];

15 * **Sec. 46.** AS 39.25.158(j) is amended to read:

16 (j) A collective bargaining agreement under **AS 23.40** [AS 23.40.070 -
17 23.40.260] may not include terms contrary to this section.

18 * **Sec. 47.** AS 39.27.012 is amended to read:

19 **Sec. 39.27.012. Temporary salary schedules.** The director of the division of
20 personnel may establish salary schedules providing lesser amounts than those in the
21 basic salary schedule in order to meet salary limit requirements for receipt and
22 expenditure of federal funds. Salary rates established under authority of this section
23 do not affect the salaries of employees provided for by a collective bargaining
24 agreement negotiated under the authority of **AS 23.40** [AS 23.40.070 - 23.40.260]
25 (Public Employment Relations Act).

26 * **Sec. 48.** AS 42.40.720 is amended to read:

27 **Sec. 42.40.720. Collective bargaining rights.** The provisions of **AS 23.40**
28 [AS 23.40.070 - 23.40.260] do not apply to the corporation or to its employees.
29 However, employees who are not executive officers may organize and form, join, or
30 assist an organization to engage in collective bargaining through representatives of
31 their own choosing and engage in concerted activities for the purpose of collective

1 bargaining or other mutual aid or protection.

2 * **Sec. 49.** AS 44.19.451(c) is amended to read:

3 (c) A collective bargaining agreement adopted under **AS 23.40** [AS 23.40.070 -
4 23.40.260] (Public Employment Relations Act) must be consistent with principles of
5 equal employment opportunity and affirmative action. AS 44.19.450 - 44.19.458
6 supersede the provisions of AS 39.25 (State Personnel Act).

7 * **Sec. 50.** AS 47.27.035(f), added by sec. 7, ch. 107, SLA 1996, is amended to read:

8 (f) A participant in work activities under this section is not considered an
9 employee of the state or other public employer for purposes of **AS 23.40**
10 [AS 23.40.070 - 23.40.260] (Public Employment Relations Act), nor shall any
11 provision of a collective bargaining agreement entered into under **AS 23.40**
12 [AS 23.40.070 - 23.40.260] be construed to interfere with the department's authority
13 to assign participants to work activities as authorized under this section.

14 * **Sec. 51.** AS 23.40.020, 23.40.030, 23.40.040, 23.40.215(c), and 23.40.240 are repealed.

15 * **Sec. 52.** APPLICATION OF PROVISIONS CONCERNING LABOR ORGANIZATION
16 ELECTIONS. The provisions of AS 23.40.600 - 23.40.660, enacted by sec. 37 of this Act,
17 become applicable (1) 90 days after the effective date of this Act in the case of a labor
18 organization whose constitution and bylaws can lawfully be modified or amended by action
19 of its constitutional officers or governing body, or (2) where those modifications can only be
20 made by a constitutional convention of the labor organization, no later than the earlier of the
21 conclusion of the constitutional convention of the labor organization that immediately follows
22 the effective date of this Act, or one year after the effective date of this Act. If a convention
23 is not held within the one-year period, the executive board or similar governing body
24 empowered to act for the labor organization between conventions is empowered to make the
25 interim constitutional changes necessary to carry out the provisions of AS 23.40.600 -
26 23.40.660.

27 * **Sec. 53.** APPLICATION OF TRUSTEESHIP REPORT PROVISION. Notwithstanding
28 AS 23.40.500(a), enacted by sec. 37 of this Act, a labor organization that has assumed
29 trusteeship over a subordinate labor organization before the effective date of this Act shall,
30 within 30 days after the effective date of this Act, file with the commissioner the information
31 required by AS 23.40.500.

1 * **Sec. 54.** REPORT FROM LABOR ORGANIZATION. Notwithstanding the deadline set
2 out in AS 23.40.440(c), a labor organization that is subject to the requirements of
3 AS 23.40.440 on the effective date of this Act must file its initial report under AS 23.40.440
4 no later than 30 days after the effective date of this Act.