

**SENATE BILL NO. 278**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY SENATOR WIELECHOWSKI

Introduced: 2/12/10

Referred: State Affairs, Labor and Commerce

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act allowing certain teachers, public employees, and private sector employees to  
2 take leave without pay when their spouses are on leave from deployment in a combat  
3 zone."

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

5 \* **Section 1.** AS 14.20.345(b) is amended to read:

6 (b) A leave of absence under this section or AS 14.20.348 is not an  
7 interruption of the continuous service necessary to attain or retain retirement or tenure  
8 rights under AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on leave  
9 of absence under this section may not be counted in determining when a teacher has  
10 sufficient service to enable the teacher to acquire retirement or tenure rights.

11 \* **Sec. 2.** AS 14.20 is amended by adding a new section to read:

12 **Sec. 14.20.348. Leave without pay when spouse is on leave from military**  
13 **deployment in a combat zone.** (a) Notwithstanding AS 14.20.345(a), a teacher may  
14 take leave without pay, not to exceed 10 regularly scheduled work days in a calendar

1 year, when the teacher's spouse is a member of a regular, reserve, or auxiliary  
 2 component of the armed forces of the United States or the organized militia under  
 3 AS 26.05.010 who is deployed during a period of military conflict in a geographic  
 4 area that is designated a combat zone by the President of the United States and is on  
 5 leave from that military deployment for any reason. In this subsection, "period of  
 6 military conflict" means a period of war

7 (1) declared by the United States Congress; or

8 (2) in which a member of a reserve component of the armed forces of  
 9 the United States is ordered to active duty under 10 U.S.C. 12301 or 12302.

10 (b) A teacher is not required to give advance notice of a request for leave  
 11 under this section.

12 (c) A request for leave that meets the requirements of (a) of this section may  
 13 not be denied, and a teacher's employer may not, by act or omission, retaliate against  
 14 the teacher for requesting or taking the leave.

15 (d) A leave of absence under this section

16 (1) is not a break in service for retirement purposes;

17 (2) continues the teacher in pay status, notwithstanding  
 18 AS 14.20.345(d) and (f), for the purpose of ensuring that the teacher's eligibility for  
 19 employee benefits, including retirement benefits, is not affected by the leave; and

20 (3) except as provided in (1) and (2) of this subsection, does not entitle  
 21 the teacher to accrue retirement benefits that would not ordinarily accrue if the teacher  
 22 were on leave of absence without pay under AS 14.20.345(a).

23 (e) A change to a teacher's terms or conditions of employment is void if its  
 24 cause is an act of retaliation that violates (c) of this section.

25 \* **Sec. 3.** AS 23.10.105 is amended to read:

26 **Sec. 23.10.105. Posting summary required.** An employer subject to  
 27 AS 23.10.050 - 23.10.150 or 23.10.435 shall keep a summary or abstract of **the**  
 28 **applicable** [THESE] sections, approved by the commissioner, posted in a conspicuous  
 29 location at the place where a person subject to them is employed. An employer shall  
 30 be furnished copies of a summary by the state on request without charge.

31 \* **Sec. 4.** AS 23.10 is amended by adding a new section to article 7 to read:

1           **Sec. 23.10.435. Leave without pay when spouse is on leave from military**  
2 **deployment in a combat zone.** (a) This section applies to every person that, as an  
3 employer, other than the federal or state government or the government of a political  
4 subdivision of the state, employs any combination of 20 or more full-time, part-time,  
5 and temporary employees who are compensated under an express or implied contract  
6 of hire that is oral or written.

7           (b) An employee of an employer described in (a) of this section may take, and  
8 the employee's employer shall grant, leave without pay, not to exceed 10 regularly  
9 scheduled work days in a calendar year, when the employee's spouse is a member of a  
10 regular, reserve, or auxiliary component of the armed forces of the United States or the  
11 organized militia under AS 26.05.010 who is deployed during a period of military  
12 conflict in a geographic area that is designated a combat zone by the President of the  
13 United States and is on leave from that military deployment for any reason. In this  
14 subsection, "period of military conflict" means a period of war

15                   (1) declared by the United States Congress; or

16                   (2) in which a member of a reserve component of the armed forces of  
17 the United States is ordered to active duty under 10 U.S.C. 12301 or 12302.

18           (c) An employee is not required to give advance notice of a request for leave  
19 under this section.

20           (d) A request for leave that meets the requirements of (b) of this section may  
21 not be denied, and an employee's employer may not, by act or omission, retaliate  
22 against the employee for requesting or taking the leave.

23           (e) A leave of absence under this section

24                   (1) is not a break in service for retirement purposes;

25                   (2) continues the employee in pay status for the purpose of ensuring  
26 that the employee's eligibility for employee benefits, including retirement benefits, is  
27 not affected by the leave; and

28                   (3) except as provided in (1) and (2) of this subsection, does not entitle  
29 the employee to accrue retirement benefits that would not ordinarily accrue when the  
30 employee is on other authorized leave without pay.

31           (f) A change to an employee's terms or conditions of employment is void if its

1 cause is an act of retaliation that violates (d) of this section.

2 (g) An employer may not

3 (1) hinder or delay the commissioner or an authorized representative of  
4 the commissioner in the performance of a duty related to the enforcement of this  
5 section;

6 (2) refuse to admit the commissioner or an authorized representative of  
7 the commissioner to any place of employment as may be required for the enforcement  
8 of this section;

9 (3) refuse to make a record accessible, or to furnish a sworn statement  
10 of the record, or to give information required for the enforcement of this section, upon  
11 demand, to the commissioner or an authorized representative of the commissioner;

12 (4) fail to post a summary or abstract of this section as required by  
13 AS 23.10.105; or

14 (5) discharge or in any other manner discriminate or retaliate against  
15 an employee because the employee has filed a complaint, instituted or caused to be  
16 instituted any proceeding under or related to this section, or testified or is about to  
17 testify in a proceeding under or related to this section.

18 (h) An employer who violates this section is subject to AS 23.10.110.

19 (i) The commissioner shall adopt regulations to implement this section.

20 \* **Sec. 5.** AS 39.20 is amended by adding a new section to read:

21 **Sec. 39.20.285. Leave without pay when spouse is on leave from military**  
22 **deployment in a combat zone.** (a) This section applies to every person who is a paid  
23 employee of

24 (1) the executive, judicial, or legislative branch of state government, a  
25 state public corporation or council established by law, or the University of Alaska,  
26 whether the employee is a permanent, nonpermanent, or temporary employee, who is  
27 employed for an average of 20 or more scheduled hours each week, but does not  
28 include employees of the Alaska Railroad Corporation;

29 (2) a political subdivision of the state.

30 (b) An employee may take leave without pay, not to exceed 10 regularly  
31 scheduled work days in a calendar year, when the employee's spouse is a member of a

1 regular, reserve, or auxiliary component of the armed forces of the United States or the  
 2 organized militia under AS 26.05.010 who is deployed during a period of military  
 3 conflict in a geographic area that is designated a combat zone by the President of the  
 4 United States and is on leave from that military deployment for any reason. In this  
 5 subsection, "period of military conflict" means a period of war

6 (1) declared by the United States Congress; or

7 (2) in which a member of a reserve component of the armed forces of  
 8 the United States is ordered to active duty under 10 U.S.C. 12301 or 12302.

9 (c) An employee is not required to give advance notice of a request for leave  
 10 under this section.

11 (d) A request for leave that meets the requirements of (b) of this section may  
 12 not be denied, and an employee's employer may not, by act or omission, retaliate  
 13 against the employee for requesting or taking the leave.

14 (e) A leave of absence under this section

15 (1) is not a break in service for retirement purposes;

16 (2) continues the employee in pay status for the purpose of ensuring  
 17 that the employee's eligibility for employee benefits, including retirement benefits, is  
 18 not affected by the leave; and

19 (3) except as provided in (1) and (2) of this subsection, does not entitle  
 20 the employee to accrue retirement benefits that would not ordinarily accrue when the  
 21 employee is on other authorized leave without pay.

22 (f) A change to an employee's terms or conditions of employment is void if its  
 23 cause is an act of retaliation that violates (d) of this section.

24 (g) The director of personnel in the Department of Administration shall adopt  
 25 regulations to implement this section as it applies to employees described in (a)(1) of  
 26 this section.

27 \* **Sec. 6.** AS 39.20.310 is amended to read:

28 **Sec. 39.20.310. Exceptions.** Except as provided in AS 39.20.275 **and**  
 29 **39.20.285**, AS 39.20.200 - 39.20.330 do not apply to

30 (1) members of the state legislature, the governor, the lieutenant  
 31 governor, and justices and judges of the supreme and superior courts and of the court

1 of appeals, but nothing in AS 39.20.200 - 39.20.330 may be construed to diminish the  
2 salaries fixed by law for these officers by reason of absence from duty on account of  
3 illness or otherwise;

4 (2) magistrates serving the state on less than a full-time basis;

5 (3) officers, members of the teaching staff, and employees of the  
6 University of Alaska;

7 (4) persons employed in a professional capacity to make a temporary  
8 and special inquiry, study, or examination as authorized by the governor, the  
9 legislature, or a legislative committee;

10 (5) members of boards, commissions, and authorities who are not  
11 otherwise employed by the state;

12 (6) temporary employees hired for periods of less than 12 consecutive  
13 months;

14 (7) persons employed by the division of marine transportation as  
15 masters and members of the crews operating the state ferry system who are covered by  
16 collective bargaining agreements as provided in AS 23.40.040, except as expressly  
17 provided by law;

18 (8) persons employed by the state who are covered by collective  
19 bargaining agreements as provided in AS 23.40.210, except as expressly provided by  
20 law.