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IN THE HOUSE

BY THE JUDICIARY COMMITTEE AND  
THE COMMERCE AND LABOR COMMITTEE

CS FOR HOUSE BILL NO. 415

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIRST LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to labor and employment;  
limiting the jurisdiction of state courts  
in issuing injunctions; and providing for  
an effective date."

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

Section 1. DEFINITIONS. As used in this Act

(1) "Labor dispute" includes any controversy concerning  
terms or conditions of employment, or concerning the association  
or representation of persons in negotiating, fixing, maintaining,  
changing or seeking to arrange terms or conditions of employment,  
regardless of whether or not the disputants stand in the proximate  
relation of employer and employe.

(2) a case involves or grows out of a labor dispute  
when the case involves persons who are engaged in the same indus-  
try, trade, craft or occupation, or who have direct or indirect  
interests therein, or who are employes of the same employer, or  
who are members of the same or an affiliated organization of  
employers or employes, whether such dispute is: (a) between one  
or more employers or associations of employers and one or more  
employes or associations of employes; (b) between one or more  
employers or associations of employers and one or more employers  
or associations of employers; or (c) between one or more employes  
or associations of employes and one or more employes or associa-  
tions of employes; or when the case involves any conflicting or

1 competing interests in a labor dispute of persons participating or  
2 interested therein.

3 (3) a person or association is a person participating  
4 or interested in a labor dispute if relief is sought against him  
5 or it, and if he or it:

6 (a) is engaged in the same industry, trade, craft  
7 or occupation in which such dispute occurs,

8 (b) has a direct or indirect interest therein,

9 (c) is a member, officer or agent of any asso-  
10 ciation composed in whole or in part of employers or em-  
11 ployes engaged in such industry, trade, craft or occupation.

12 Sec. 2. DECLARATION OF POLICY. In the interpretation of  
13 this Act, and in determining the jurisdiction and authority of  
14 the courts of this state, the public policy of Alaska is declared  
15 as follows: Whereas under prevailing economic conditions, devel-  
16 oped with the aid of governmental authority for owners of property  
17 to organize in a corporate and other forms of ownership associa-  
18 tion, the individual unorganized worker is commonly helpless to  
19 exercise actual liberty of contract and to protect his freedom  
20 of labor and thereby to obtain acceptable terms and conditions of  
21 employment, wherefor, though he should be free to decline to  
22 associate with his fellows, it is necessary that he have full  
23 freedom of association, self-organization and designation of rep-  
24 resentatives of his own choosing to negotiate the terms and con-  
25 ditions of his employment and that he shall be free from the inter-  
26 ference, restraint or coercion of employers of labor, or their  
27 agents, in the designation of such representatives or in self-  
28 organization or in other concerted activities for the purpose of  
29 collective bargaining or other mutual aid or protection; therefor,

1 the definitions of and limitations contained in this Act upon the  
2 jurisdiction and authority of the courts of this state hereby are  
3 enacted.

4 Sec. 3. RESTRICTIONS IN EMPLOYMENT CONTRACTS. Any under-  
5 taking or promise described in this section or any other under-  
6 taking or promise in conflict with the public policy declared in  
7 this Act is declared to be contrary to the public policy of Alaska  
8 and is not enforceable in any court of this state and does not  
9 afford any basis for the granting of legal or equitable relief by  
10 any such court, whether written or oral, express or implied,  
11 constituting or contained in any contract or agreement of hiring or  
12 employment between any individual, firm, company, association  
13 or corporation, and any employe or prospective employe of the  
14 same, whereby:

15 (1) Either party to such contract or agreement under-  
16 takes or promises not to join, become or remain a member of any  
17 labor organization or of any employer organization.

18 (2) Either party to such contract or agreement under-  
19 takes or promises that he will withdraw from an employment rela-  
20 tion in the event that he joins, becomes or remains a member of  
21 any labor organization or of any employer organization.

22 Sec. 4. INJUNCTIONS IN LABOR DISPUTES GENERALLY RESTRICTED.  
23 No court, nor any judge thereof, shall have jurisdiction to issue  
24 any restraining order or temporary or permanent injunction in a  
25 case involving or growing out of a labor dispute, except in strict  
26 conformity with this Act, nor shall any such restraining order  
27 or temporary or permanent injunction be issued contrary to the  
28 public policy declared in this Act.

29 Sec. 5. SPECIFIC ACTS WHICH ARE NOT ENJOINABLE. No court,  
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1 nor any judge thereof, shall have jurisdiction to issue any res-  
2 training order or temporary or permanent injunction in any case  
3 involving or growing out of any labor dispute to prohibit any  
4 person or persons participating or interested in such dispute from  
5 doing, whether singly or in concert, any of the following acts:

6 (1) Ceasing or refusing to perform any work or to re-  
7 main in any relation of employment.

8 (2) Becoming or remaining a member of any labor organi-  
9 zation or of any employer organization, regardless of any under-  
10 taking or promise, as is described in this Act.

11 (3) Paying or giving to, or withholding from, any per-  
12 son participating or interested in such labor dispute, any strike  
13 or unemployment benefits or insurance, or other moneys or things  
14 of value.

15 (4) By all lawful means aiding any person participating  
16 or interested in any labor dispute who is being proceeded against  
17 in, or is prosecuting, any action or suit in any court of the  
18 United States or of any state.

19 (5) Giving publicity to the existence of, or facts  
20 involved in, any labor dispute, whether by advertising, speaking,  
21 patrolling or by any other method not involving fraud or violence  
22 or intimidation.

23 (6) Assembling peaceably to act or to organize to act  
24 in promotion of their interests in a labor dispute.

25 (7) Advising or notifying any person of any intention  
26 to do any of the acts specified in subsections (1) to (6) of this  
27 section.

28 (8) Agreeing with other persons to do or not to do any  
29 of the acts specified in subsections (1) to (7) of this section.

1           (9) Advising, urging or otherwise causing or inducing  
2 without fraud or violence or intimidation, the acts specified in  
3 subsections (1) to (8) of this section, regardless of any under-  
4 taking or promise, as is described in this Act.

5           Sec. 6. RESTRICTIONS ON INJUNCTIONS. No court, nor any  
6 judge thereof, shall have jurisdiction to issue a restraining  
7 order or temporary or permanent injunction upon the ground that  
8 any of the persons participating or interested in a labor dispute  
9 constitute or are engaged in an unlawful combination or con-  
10 spiracy because of the doing in concert of the acts enumerated in  
11 this Act.

12           Sec. 7. LIABILITY FOR UNLAWFUL ACTS OF INDIVIDUALS. No  
13 officer or member of any association or organization, and no asso-  
14 ciation or organization participating or interested in a labor  
15 dispute, shall be held responsible or liable in any court of this  
16 state for the unlawful acts of individual officers, members or  
17 agents, except upon clear proof of actual participation in, or  
18 actual authorization of, such acts, or of ratification of such  
19 acts after actual knowledge thereof.

20           Sec. 8. HEARING AND FINDINGS. No court, nor any judge  
21 thereof, shall have jurisdiction to issue a temporary or permanent  
22 injunction in any case involving or growing out of a labor dispute,  
23 except after hearing the testimony of witnesses in open court,  
24 with opportunity for cross-examination, in support of the allega-  
25 tions of a complaint made under oath, and testimony in opposition  
26 thereto, if offered, and except after findings of fact by the  
27 court, to the effect:

28           (1) That unlawful acts have been threatened and will be  
29 committed unless restrained, or have been committed and will be

1 continued unless restrained, but no injunction or temporary res-  
2 training order shall be issued on account of any threat or un-  
3 lawful act excepting against the persons, association or organi-  
4 zation making the threat or committing the unlawful act or actually  
5 authorizing or ratifying the same after actual knowledge thereof.

6 (2) That substantial and irreparable injury to com-  
7 plainant's property will follow.

8 (3) That as to each item of relief granted greater in-  
9 jury will be inflicted upon complainant by the denial of relief  
10 than will be inflicted upon defendants by the granting of relief.

11 (4) That complainant has no adequate remedy at law.

12 (5) That the public officers charged with the duty to  
13 protect complainant's property are unable or unwilling to furnish  
14 adequate protection.

15 Sec. 9. NOTICE OF HEARING: ISSUANCE OF TEMPORARY INJUNCTION  
16 WITHOUT NOTICE. a. The hearing shall be held after due and per-  
17 sonal notice thereof has been given, in such manner as the court  
18 shall direct, to all known persons against whom relief is sought,  
19 and also to the chief of those public officials of the county and  
20 city within which the unlawful acts have been threatened or  
21 committed charged with the duty to protect complainant's property.  
22 However, if a complainant also alleges that, unless a temporary  
23 restraining order is issued without notice, a substantial and  
24 irreparable injury to complainant's property will be unavoidable,  
25 such a temporary restraining order may be issued upon testimony  
26 under oath, sufficient, if sustained, to justify the court in  
27 issuing a temporary injunction upon a hearing after notice. Such  
28 a temporary restraining order shall be effective for no longer  
29 than five days and shall become void at the expiration of the five

1 days.

2 b. No temporary restraining order or temporary injunction  
3 shall be issued except on condition that complainant first files  
4 an undertaking with adequate security in an amount to be fixed  
5 by the court sufficient to recompense those enjoined for any loss,  
6 expense or damage caused by the improvident or erroneous issuance  
7 of such order or injunction, including all reasonable costs,  
8 together with a reasonable attorney's fee and expense of defense  
9 against the order or against the granting of any injunctive relief  
10 sought in the same proceeding and subsequently denied by the  
11 court.

12 c. The undertaking mentioned in subsection b of this sec-  
13 tion shall be understood to signify an agreement entered into by  
14 the complainant and the surety upon which a decree may be rendered  
15 in the same suit or proceeding against the complainant and surety,  
16 upon a hearing to assess damages of which hearing complainant and  
17 surety shall have reasonable notice, the complainant and surety  
18 submitting themselves to the jurisdiction of the court for that  
19 purpose. This section does not deprive any party having a claim  
20 or cause of action under or upon such undertaking from electing to  
21 pursue his ordinary remedy by suit at law or in equity.

22 Sec. 10. PREREQUISITES TO INJUNCTIVE RELIEF. No restrain-  
23 ing order or injunctive relief shall be granted to any complainant  
24 who has failed to comply with any obligation imposed by law  
25 which is involved in the labor dispute in question, or who has  
26 failed to make every reasonable effort to settle such dis-  
27 pute, either by negotiation or with the aid of any available  
28 governmental machinery of mediation or voluntary arbitration.

29 Sec. 11. FINDINGS OF FACT PREREQUISITE TO INJUNCTION: SCOPE

1 OF INJUNCTION. a. No restraining order or temporary or permanent  
2 injunction shall be granted in a case involving or growing out  
3 of a labor dispute, except on the basis of findings of fact made  
4 and filed by the court in the record of the case prior to the  
5 issuance of such restraining order or injunction.

6 b. Every restraining order or injunction granted in a case  
7 involving or growing out of a labor dispute shall include only a  
8 prohibition of such specific acts as may be expressly complained  
9 of in the complaint filed in such case and as shall be expressly  
10 included in the findings of fact made and filed by the court.

11 Sec. 12. APPEAL TO SUPREME COURT. Whenever any court  
12 or judge thereof issues or denies any temporary injunction in a  
13 case involving or growing out of a labor dispute, the court shall,  
14 upon the request of any party to the proceedings and on his  
15 filing the usual bond for costs, forthwith certify, as in ordinary  
16 cases, the record of the case to the Supreme Court for its re-  
17 view. Upon the filing of such record in the Supreme Court, the  
18 appeal shall be heard and the temporary injunctive order affirmed,  
19 modified or set aside with the greatest possible expedition,  
20 giving the proceedings precedence over all other matters, except  
21 older matters of the same character.

22 Sec. 13. CONTEMPT PROCEEDINGS: JURY TRIAL: CHANGE OF JUDGE.

23 a. In all cases arising under this Act in which a person is  
24 charged with contempt in a court of this state, the accused shall  
25 enjoy the right to a speedy and public trial by an impartial  
26 jury wherein the contempt has been committed; provided, this  
27 right shall not apply to contempts committed in the presence of  
28 the court or so near thereto as to interfere directly with the  
29 administration of justice or to the misbehavior, misconduct or

1 disobedience of any officer of the court in respect to the  
2 writs, orders or process of the court.

3 b. The defendant in any proceeding for contempt of court  
4 may file with the court a demand for the retirement of the judge  
5 sitting in the proceeding, if the contempt arises from an attack  
6 upon the character or conduct of such judge and if the attack  
7 occurred elsewhere than in the presence of the court or so near  
8 thereto as to interfere directly with the administration of  
9 justice. Upon the filing of any such demand, the judge shall  
10 thereupon proceed no further, but another judge shall be desig-  
11 nated as provided by court rule. The demand shall be filed  
12 prior to the hearing in the contempt proceeding.

13 Sec. 14. EFFECTIVE DATE. This Act takes effect on the day  
14 after its passage and approval or on the day it becomes law with-  
15 out such approval.

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