

Introduced: 2/17/72
Referred: Labor & Mangement

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 683

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to wages, hours and working arrangements."

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

8 * Section 1. AS 23.10.140 is amended to read:

9 Sec. 23.10.140. PENALTY. An employer who [WILFULLY] violates a pro-
10 vision of secs. 50 - 150 of this chapter, or of any regulation or order
11 of the commissioner issued under it, upon conviction is punishable by a
12 fine of not less than \$100 nor more than \$2,000, or by imprisonment for
13 not less than 10 nor more than 90 days, or by both. Each day a violation
14 occurs constitutes a separate offense.

15 Sec. 2. AS 23.40 is amended by adding new sections to read:

16 ARTICLE 2. PUBLIC EMPLOYMENT RELATIONS ACT.

17 Sec. 23.40.070. DECLARATION OF POLICY. The legislature finds that
18 joint decision making is the modern way of administering government. If
19 public employees have been granted the right to share in the decision-
20 making process affecting wages and working conditions, they have become
21 more responsive and better able to exchange ideas and information on op-
22 erations with their administrators. Accordingly, government is made more
23 effective. The legislature further finds that the enactment of positive
24 legislation establishing guidelines for public employment relations is
25 the best way to harness and direct the energies of public employees eager
26 to have a voice in determining their conditions of work, to provide a
27 rational method for dealing with disputes and work stoppages, to streng-
28 then the merit principle where civil service is in effect and to maintain
29 a favorable political and social environment. The legislature declares

1 that it is the public policy of the state to promote harmonious and
2 cooperative relations between government and its employees and to pro-
3 tect the public by assuring effective and orderly operations of govern-
4 ment. These policies are to be effectuated by

5 (1) recognizing the right of public employees to organize for
6 the purpose of collective bargaining;

7 (2) requiring public employers to negotiate with and
8 enter into written agreements with employee organizations
9 on matters of wages, hours, and other terms and conditions
10 of employment;

11 (3) maintaining merit system principles among public employees.

12 Sec. 23.40.080. RIGHTS OF PUBLIC EMPLOYEES. Public employees may
13 self organize and form, join or assist an organization to bargain col-
14 lectively through representatives of their own choosing, and engage in
15 concerted activities for the purpose of collective bargaining or other
16 mutual aid or protection.

17 Sec. 23.40.090. COLLECTIVE BARGAINING UNIT. The labor relations
18 agency shall decide in each case, in order to assure to employees the
19 fullest freedom in exercising the rights guaranteed by secs. 70 - 260 of
20 this chapter, the unit appropriate for the purposes of collective bar-
21 gaining, based on such factors as community of interest, wages, hours and
22 other working conditions of the employees involved, the history of col-
23 lective bargaining, and the desires of the employees. Bargaining units
24 shall be as large as is reasonable and unnecessary fragmenting shall be
25 avoided.

26 Sec. 23.40.100. REPRESENTATIVES AND ELECTIONS. (a) The labor
27 relations agency shall investigate a petition if it is submitted in a
28 manner prescribed by the labor relations agency and is

29 (1) by an employee or group of employees or an organization

1 acting in their behalf alleging that 30 per cent of the employees of a
2 proposed bargaining unit

3 (A) want to be represented for collective bargaining by a
4 labor or employee organization as exclusive representative,
5 or

6 (B) assert that the organization which has been certified or
7 is currently being recognized by the public employer as bargaining
8 representative is no longer the representative of the majority of
9 employees in the bargaining unit; or

10 (2) by the public employer alleging that one or more organiza-
11 tions have presented to it a claim to be recognized as a representative
12 of a majority of employees in an appropriate unit.

13 (b) If the labor relations agency has reasonable cause to believe
14 that a question of representation exists, it shall provide for an appro-
15 priate hearing upon due notice. If the labor relations agency finds that
16 there is a question of representation, it shall direct an election by
17 secret ballot to determine whether or by which organization the employees
18 desire to be represented and shall certify the results of the election.
19 Nothing in this section prohibits the waiving of hearings by stipulation
20 for the purpose of a consent election in conformity with the regulations
21 of the labor relations agency or an election in a bargaining unit agreed
22 upon by the parties. The labor relations agency shall determine who is
23 eligible to vote in an election and shall establish rules governing the
24 election. In an election in which none of the choices on the ballot re-
25 ceives a majority of the votes cast, a runoff election shall be conducted,
26 the ballot providing for selection between the two choices receiving the
27 largest and the second largest number of valid votes cast in the election.
28 If an organization receives the majority of the votes cast in the election
29 it shall be certified by the labor relations agency as exclusive repre-

1 representative of all the employees in the bargaining unit.

2 (c) An election may not be held in a bargaining unit or in a subdivi-
3 sion of a bargaining unit if a valid election has been held within the
4 preceding 12 months.

5 (d) Nothing in this chapter prohibits recognition of an organization
6 as the exclusive representative by a public agency by mutual consent.

7 (e) No election may be directed by the labor relations agency in a bar-
8 gaining unit in which there is in force and effect a valid collective
9 bargaining agreement, except during a 90-day period preceding the expir-
10 ation date. However, no collective bargaining agreement may bar an
11 election upon petition of persons in the bargaining unit but not parties
12 to the agreement if more than three years have elapsed since the execu-
13 tion of the agreement or the last timely renewal, whichever was later.

14 Sec. 23.40.110. UNFAIR LABOR PRACTICES. (a) A public employer or
15 his agent may not

16 (1) interfere, restrain or coerce an employee in the exercise
17 of his rights guaranteed in sec. 80 of this chapter;

18 (2) dominate or interfere with the formation, existence or ad-
19 ministration of an organization;

20 (3) discriminate in regard to hire or tenure of employment or
21 a term or condition of employment to encourage or discourage membership
22 in an organization;

23 (4) discharge or discriminate against an employee because he
24 has signed or filed an affidavit, petition or complaint or given testi-
25 mony under secs. 70 - 260 of this chapter;

26 (5) refuse to bargain collectively in good faith with an or-
27 ganization which is the exclusive representative of employees in an ap-
28 propriate unit, including but not limited to the discussing of grievances
29 with the exclusive representative.

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

3 (1) membership in the organization which represents the unit
4 on or after the 30th day following the beginning of employment or on the
5 effective date of the agreement, whichever is later; or

6 (2) payment by the employee to the exclusive bargaining agent
7 of a service fee to reimburse the exclusive bargaining agent for the
8 expense of representing the members of the bargaining unit.

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

10 (1) restrain or coerce

11 (A) an employee in the exercise of the rights
12 guaranteed in sec. 80 of this chapter, or

13 (B) a public employer in the selection of his represen-
14 tative for the purposes of collective bargaining or the adjustment
15 of grievances;

16 (2) refuse to bargain collectively in good faith with a
17 public employer, if it has been designated in accordance with the provi-
18 sions of secs. 70 - 260 of this chapter as the exclusive representative
19 of employees in an appropriate unit.

20 Sec. 23.40.120. INVESTIGATION AND CONCILIATION OF COMPLAINTS.

21 If a verified written complaint by or for a person claiming to be
22 aggrieved by a practice prohibited by sec. 110 of this chapter, or a
23 written accusation that a person subject to secs. 70 - 260 of this
24 chapter has engaged in a prohibited practice, is filed with the labor
25 relations agency, it shall investigate the complaint or accusation.
26 If it determines after the preliminary investigation that probable
27 cause exists in support of the complaint or accusation, it shall try
28 to eliminate the prohibited practice by informal methods of conference,
29 conciliation, and persuasion. Nothing said or done during this

endeavor may be used as evidence in a subsequent proceeding.

Sec. 23.40.130. COMPLAINT AND ACCUSATION. If the labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with secs. 70-260 of this chapter, or, before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act(AS 44.62).

Sec. 23.40.140. ORDERS AND DECISIONS. If the labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of secs. 70 - 260 of this chapter. If the labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 23.40.150. ENFORCEMENT BY INJUNCTION. The labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the labor relations agency. Upon a showing by the labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order which is appropriate may be granted by the court and shall be without bond.

Sec. 23.40.160. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a) For the purpose of the investigations, proceedings, or hearings which the labor relations agency considers necessary to carry out the

1 provisions of secs. 70 - 260 of this chapter, the labor relations
2 agency may issue subpoenas requiring the attendance and testimony of
3 witnesses and the production of relevant evidence.

4 (b) The labor relations agency may administer oaths, examine
5 witnesses, and receive evidence.

6 (c) The attendance of witnesses and the production of evidence
7 may be required from any place in the state at any designated place of
8 hearing.

9 (d) If a person refuses to obey a subpoena issued under secs. 70 -
10 260 of this chapter, the superior court in the district in which the
11 person resides or is found may, upon application by the labor relations
12 agency, issue an order requiring him to comply with the subpoena.

13 Sec. 23.40.170. REGULATIONS. The labor relations agency may
14 adopt regulations under the Administrative Procedure Act (AS 44.62) to
15 carry out the provisions of secs. 70 - 260 of this chapter.

16 Sec. 23.40.180. PENALTY FOR VIOLATION OF ORDER OR DECISION. A
17 person who violates a provision of an order or decision of the labor
18 relations agency is guilty of a misdemeanor and is punishable by a fine
19 of not more than \$500.

20 Sec. 23.40.190. MEDIATION. If, after a reasonable period of
21 negotiation over the terms of a collective bargaining agreement, a dead-
22 lock exists between a public employer and an organization, the labor
23 relations agency may appoint a competent, impartial, disinterested
24 person to act as mediator in any dispute either on its own initiative
25 or on the request of one of the parties to the dispute. The parties
26 may also select a mediator by agreement or mutual consent. It is the
27 function of the mediator to bring the parties together voluntarily
28 under such favorable auspices as will tend to effectuate settlement of
29 the dispute, but neither the mediator nor the labor relations agency

1 have any power of compulsion in mediation proceedings.

2 Sec. 23.40.200. ARBITRATION. (a) For purposes of this section,
3 public employees are employed to perform services in one of the three
4 following classes:

5 (1) those services which may not be given up for even the
6 shortest period of time;

7 (2) those services which may be interrupted for a limited
8 period but not for an indefinite period of time; and

9 (3) those services in which work stoppages may be sustained
10 for extended periods without serious effects on the public.

11 (b) The class in (a)(1) of this section is composed of police
12 and fire protection employees, jail, prison and other correctional
13 institution employees, and hospital employees. Employees in this
14 class may not engage in strikes. Upon a showing by a public employer
15 or the labor relations agency that employees in this class are engaging
16 or about to engage in a strike, an injunction, restraining order, or
17 other order which may be appropriate shall be granted by the superior
18 court in the judicial district in which the strike is occurring or is
19 about to occur. If an impasse or deadlock is reached in collective
20 bargaining between the public employer and employees in this class,
21 and mediation has been utilized without resolving the deadlock, the
22 parties shall submit to arbitration to be carried out under AS 09.43.030.

23 (c) The class in (a)(2) of this section is composed of public
24 utility, snow removal, sanitation and public school and other educa-
25 tional institution employees. Employees in this class may engage in a
26 strike after mediation, subject to the voting requirement of (d) of
27 this section, for a limited time. The limit is determined by the
28 interests of the health, safety or welfare of the public. The public
29 employer or the labor relations agency may apply to the superior court

1 in the judicial district in which the strike is occurring for an order
2 enjoining the strike. A strike may not be enjoined unless it can be
3 shown that it has begun to threaten the health, safety or welfare of
4 the public. A court, in deciding whether or not to enjoin the strike,
5 shall consider the total equities in the particular class. "Total
6 equities" includes not only the impact of a strike on the public but
7 also the extent to which employee organizations and public employers
8 have met their statutory obligations. If an impasse or deadlock still
9 exists after the issuance of an injunction, the parties shall submit
10 to arbitration to be carried out under AS 09.43.030.

11 (d) The class in (a)(3) of this section includes all other
12 public employees who are not included in the classes in (a)(1) or
13 (a)(2) of this section. Employees in this class may engage in a strike
14 if a majority of the employees in a collective bargaining unit vote
15 by secret ballot to do so.

16 (e) Notwithstanding the provisions of (b), (c) and (d) of this
17 section, the employees with the concurrence of the employer may agree
18 in writing to submit a dispute arising from interpretation or applica-
19 tion of a collective bargaining agreement to arbitration.

20 (f) The parties to a collective bargaining agreement may provide
21 in the agreement a contract for arbitration to be conducted solely
22 according to the Uniform Arbitration Act (AS 09.43) if the Act is
23 incorporated into the agreement or contract by reference.

24 Sec. 23.40.210. AGREEMENT. Upon the completion of negotiations
25 between an organization and a public employer, if a settlement is
26 reached, the employer shall reduce it to writing in the form of an
27 agreement. The agreement may include a term for which it will remain
28 in effect, not to exceed three years. The agreement shall include
29 a grievance procedure which shall have binding arbitration as its

1 final step. Either party to the agreement has a right of action to en-
2 force the agreement by petition to the labor relations agency.

3 Sec. 23.40.215. FUNDING. The monetary terms of any agreement
4 entered into under the Public Employment Relations Act are subject to
5 funding through legislative appropriation.

6 Sec. 23.40.220. LABOR OR EMPLOYEE ORGANIZATION DUES AND EMPLOYEE
7 BENEFITS, DEDUCTION AND AUTHORIZATION. Upon written authorization of a
8 public employee within a bargaining unit, the public employer shall
9 deduct from the payroll of the public employee the monthly amount of
10 dues, fees and other employee benefits as certified by the secretary of
11 the exclusive bargaining representative and shall deliver it to the chief
12 fiscal officer of the exclusive bargaining representative.

13 Sec. 23.40.230. ASSISTANCE BY DEPARTMENT OF LABOR. When state
14 employees are involved, the Department of Labor shall, if requested by
15 the personnel board, and if there is no objection by the organization
16 involved, assist the personnel board on matters such as, but not limited
17 to, conducting elections and investigating unfair labor practices.

18 Sec. 23.40.240. EFFECT ON EXISTING UNITS, REPRESENTATIVES AND
19 AGREEMENTS. Nothing in this chapter terminates or modifies a collective
20 bargaining unit, recognition of exclusive bargaining representative, or
21 collective bargaining agreement if the unit, recognition, or agreement
22 is in effect at the time this Act becomes effective.

23 Sec. 23.40.250. DEFINITIONS. In secs. 70 - 260 of this chapter,
24 unless the context otherwise requires,

25 (1) "collective bargaining" means the performance of the
26 mutual obligation of the public employer or his designated representatives
27 and the representative of the employees to meet at reasonable times, in-
28 cluding meetings in advance of the budget-making process and negotiate
29 in good faith with respect to wages, hours and other terms and conditions

1 of employment, or the negotiation of an agreement, or negotiation of a
2 question arising under an agreement and the execution of a written con-
3 tract incorporating an agreement reached if requested by either party,
4 but these obligations do not compel either party to agree to a proposal
5 or require the making of a concession;

6 (2) "election" means a proceeding conducted by the labor re-
7 lations agency in which the employees in a collective bargaining unit
8 cast a secret ballot for collective bargaining representatives, or for
9 any other purpose specified in secs. 70 - 260 of this chapter;

10 (3) "labor relations agency" means the state personnel board
11 with regard to the state and employees of the state, and means the
12 Department of Labor with regard to all other public employees and all
13 other public employers;

14 (4) "organization" means a labor or employee organization of
15 any kind in which employees participate and which exists for the primary
16 purpose of dealing with employers concerning grievances, labor disputes,
17 wages, rates of pay, hours of employment and conditions of employment;

18 (5) "public employee" means any employee of a public employer,
19 whether or not in the classified service of the public employer, except
20 elected or appointed officials or teachers or non-certificated employees
21 of school districts;

22 (6) "public employer" means the state or a political subdivi-
23 sion of the state, including without limitation, a town, city, borough,
24 district, board of regents, public and quasi-public corporation, housing
25 authority or other authority established by law, and a person designated
26 by the public employer to act in its interest in dealing with public
27 employees;

28 (7) "terms and conditions of employment" means the hours of
29 employment, the compensation and fringe benefits, and the employer's

1 personnel policies affecting the working conditions of the employees;
2 but does not mean the general policies describing the function and
3 purposes of a public employer.

4 Sec. 23.40.260. SHORT TITLE. Secs. 70 - 260 of this chapter may
5 be cited as the Public Employment Relations Act.

6 * Sec. 3. AS 09.43.010 is amended to read:

7 Sec. 09.43.010. ARBITRATION AGREEMENTS VALID; APPLICATION OF
8 CHAPTER. A written agreement to submit an existing controversy to arbi-
9 tration or a provision in a written contract to submit to arbitration a
10 subsequent controversy between the parties is valid, enforceable and
11 irrevocable, except upon grounds which exist at law or inequity for the
12 revocation of a contract. However, this chapter does not apply to a
13 labor-management contract unless it is incorporated into the contract by
14 reference or its application provided for by statute.

15 * Sec. 4. This Act is applicable to organized boroughs and political sub-
16 divisions of the state, home rule or otherwise, unless the legislative
17 body of the political subdivision, by ordinance or resolution, rejects
18 having its provisions apply.

19 * Sec. 5. AS 23.40.010 is repealed.
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