

Introduced: 2/10/78  
Referred: Labor & Management  
and Finance

1 IN THE HOUSE

BY RUDD AND COWPER

2 HOUSE BILL NO. 796

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing in the Department of Labor a  
7 public employment relations board under the Public  
8 Employment Relations Act and otherwise amending pro-  
9 visions of law applicable to collective bargaining in  
10 the public sector; and providing for an effective  
11 date."

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

13 \* Section 1. AS 23.40.070 is amended by adding a new paragraph to read:

14 (4) establishing a separate public employment relations board  
15 to administer the provisions of secs. 70 - 260 of this chapter.

16 \* Sec. 2. AS 23.40 is amended by adding new sections to read:

17 Sec. 23.40.082. ALASKA PUBLIC EMPLOYMENT RELATIONS BOARD. (a)  
18 There is established an Alaska Public Employment Relations Board. The  
19 board shall be within the Department of Labor for budgetary and adminis-  
20 trative purposes only.

21 (b) The board consists of three members. One member shall be  
22 representative of public employers; one member shall be representative  
23 of public employees; and the third member shall be representative of the  
24 public. Members shall be appointed by the governor for terms of six  
25 years, except that the members first appointed shall serve two, four,  
26 and six years, respectively, as designated by the governor at the time  
27 of appointment.

28 (c) Public employers and employee organizations representing  
29 public employees may submit to the governor for consideration names of

1 persons representing their interests to serve as members of the board.  
2 The governor shall first consider these persons in selecting the members  
3 of the board to represent public employees and public employers.

4 (d) Each member of the board shall hold office until his successor  
5 is appointed and qualified.

6 (e) The governor shall designate the chairman from among the mem-  
7 bers of the board.

8 (f) Members of the board serve without compensation but are en-  
9 titled to per diem and travel expenses as may be authorized by law for  
10 members of boards and commissions.

11 Sec. 23.40.084. CONDUCT OF BUSINESS BY THE BOARD. (a) Any action  
12 taken by the board shall be by a majority of the members of the board.  
13 All decisions of the board shall be reduced to writing and shall state  
14 separately its finding of fact and conclusions.

15 (b) Two members of the board constitutes a quorum. Any vacancy in  
16 the board does not impair the authority of the remaining members to  
17 exercise all the powers of the board.

18 Sec. 23.40.086. POWERS AND DUTIES OF THE BOARD. (a) In addition  
19 to the powers and functions provided in other sections of this chapter,  
20 the board shall

21 (1) certify or decertify employee organizations as exclusive  
22 representatives;

23 (2) conduct representation elections;

24 (3) resolve disputes, including but not limited to mediation  
25 and binding arbitration activities;

26 (4) determine appropriate collective negotiation units and  
27 employees covered by these units;

28 (5) prevent unfair labor practices; and

29 (6) at the close of each fiscal year, make a written report

1 to the governor of such facts as it may consider essential to describe  
2 its activities, including the cases and their dispositions, and the  
3 names, duties, and salaries of its officers and employees; copies of the  
4 report shall be transmitted to the Legislative Affairs Agency and all  
5 members of the legislature.

6 (b) The board

7 (1) shall appoint an executive officer; and

8 (2) may employ mediators, arbitrators, hearing officers, and  
9 other assistants as it may consider necessary in the performance of its  
10 functions, prescribe their duties, fix their compensation, and provide  
11 for reimbursement of actual and necessary expenses incurred by them in  
12 the performance of their duties, within the limits of amounts appro-  
13 priated by the legislature for those purposes.

14 \* Sec. 3. AS 23.40.090 is amended to read:

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

24 \* Sec. 4. AS 23.40.100 is amended to read:

25 Sec. 23.40.100. REPRESENTATIVES AND ELECTIONS. (a) The board  
26 [LABOR RELATIONS AGENCY] shall investigate a petition if it is submitted  
27 in a manner prescribed by the board [LABOR RELATIONS AGENCY] and is

28 (1) by an employee or group of employees or an organization  
29 acting in their behalf alleging that 30 per cent of the employees of a

1 proposed bargaining unit

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

4 (B) assert that the organization which has been certi-  
5 fied or is currently being recognized by the public employer as  
6 bargaining representative is no longer the representative of the  
7 majority of employees in the bargaining unit; or

8 (2) by the public employer alleging that one or more organi-  
9 zations have presented to it a claim to be recognized as a representa-  
10 tive of a majority of employees in an appropriate unit.

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

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

4 (d) Nothing in this chapter prohibits recognition of an organiza-  
5 tion as the exclusive representative by a public agency by mutual con-  
6 sent.

7 (e) No election may be directed by the board [LABOR RELATIONS  
8 AGENCY] in a bargaining unit in which there is in force a valid collec-  
9 tive bargaining agreement, except during a 90-day period preceding the  
10 expiration 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. 5. AS 23.40.120 is amended to read:

15 Sec. 23.40.120. INVESTIGATION AND CONCILIATION OF COMPLAINTS. If  
16 a verified written complaint by or for a person claiming to be aggrieved  
17 by a practice prohibited by sec. 110 of this chapter, or a written  
18 accusation that a person subject to secs. 70 - 260 of this chapter has  
19 engaged in a prohibited practice, is filed with the board, the board  
20 [LABOR RELATIONS AGENCY, IT] shall investigate the complaint or accusa-  
21 tion. If it determines after the preliminary investigation that pro-  
22 bable cause exists in support of the complaint or accusation, it shall  
23 try to eliminate the prohibited practice by informal methods of con-  
24 ference, conciliation, and persuasion. Nothing said or done during this  
25 endeavor may be used as evidence in a subsequent proceeding.

26 \* Sec. 6. AS 23.40.130 is amended to read:

27 Sec. 23.40.130. COMPLAINT AND ACCUSATION. If the board [LABOR  
28 RELATIONS AGENCY] fails to eliminate the prohibited practice by concili-  
29 ation and to obtain voluntary compliance with secs. 70 - 260 of this

1 chapter, or, before it attempts conciliation, it may serve a copy of the  
2 complaint or accusation upon the respondent. The complaint or accusa-  
3 tion and the subsequent procedures shall be handled in accordance with  
4 the administrative adjudication portion of the Administrative Procedure  
5 Act (AS 44.62).

6 \* Sec. 7. AS 23.40.140 is amended to read:

7 Sec. 23.40.140. ORDERS AND DECISIONS. If the board [LABOR RELA-  
8 TIONS AGENCY] finds that a person named in the written complaint or  
9 accusation has engaged in a prohibited practice, it [THE LABOR RELATIONS  
10 AGENCY] shall issue and serve on the person an order or decision requir-  
11 ing him to cease and desist from the prohibited practice and to take  
12 affirmative action which will carry out the provisions of secs. 70 - 260  
13 of this chapter. If the board [LABOR RELATIONS AGENCY] finds that a  
14 person named in the complaint or accusation has not engaged or is not  
15 engaging in a prohibited practice, it [THE LABOR RELATIONS AGENCY] shall  
16 state its findings of fact and issue an order dismissing the complaint  
17 or accusation.

18 \* Sec. 8. AS 23.40.150 is amended to read:

19 Sec. 23.40.150. ENFORCEMENT BY INJUNCTION. The board [LABOR  
20 RELATIONS AGENCY] may apply to the superior court in the judicial dis-  
21 trict in which the prohibited practice occurred for an order enjoining  
22 the prohibited acts specified in the order or decision of the board  
23 [LABOR RELATIONS AGENCY]. Upon a showing by the board [LABOR RELATIONS  
24 AGENCY] that the person has engaged or is about to engage in the prac-  
25 tice, an injunction, restraining order, or other order which is appro-  
26 priate may be granted by the court and shall be without bond.

27 \* Sec. 9. AS 23.40.160 is amended to read:

28 Sec. 23.40.160. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a)  
29 For the purpose of the investigations, proceedings, or hearings which

1 the board [LABOR RELATIONS AGENCY] considers necessary to carry out the  
2 provisions of secs. 70 - 260 of this chapter, the board [LABOR RELATIONS  
3 AGENCY] may issue subpoenas requiring the attendance and testimony of  
4 witnesses and the production of relevant evidence.

5 (b) The board [LABOR RELATIONS AGENCY] may administer oaths,  
6 examine witnesses, and receive evidence.

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

10 (d) If a person refuses to obey a subpoena issued under secs. 70 -  
11 260 of this chapter, the superior court in the district in which the  
12 person resides or is found may, upon application by the board [LABOR  
13 RELATIONS AGENCY], issue an order requiring him to comply with the sub-  
14 poena.

15 \* Sec. 10. AS 23.40.170 is amended to read:

16 Sec. 23.40.170. REGULATIONS. The board [LABOR RELATIONS AGENCY]  
17 may adopt regulations under the Administrative Procedure Act (AS 44.62)  
18 to carry out the provisions of secs. 70 - 260 of this chapter.

19 \* Sec. 11. AS 23.40.180 is amended to read:

20 Sec. 23.40.180. PENALTY FOR VIOLATION OF ORDER OR DECISION. A  
21 person who violates a provision of an order or decision of the board  
22 [LABOR RELATIONS AGENCY] is guilty of a misdemeanor and is punishable by  
23 a fine of not more than \$500.

24 \* Sec. 12. AS 23.40.190 is amended to read:

25 Sec. 23.40.190. MEDIATION. If, after a reasonable period of  
26 negotiation over the terms of a collective bargaining agreement, a  
27 deadlock exists between a public employer and an organization, the board  
28 [LABOR RELATIONS AGENCY] may appoint a competent, impartial, disinter-  
29 ested person to act as mediator in any dispute either on its own initia-

1       tive or on the request of one of the parties to the dispute. The par-  
2       ties may also select a mediator by agreement or mutual consent. It is  
3       the function of the mediator to bring the parties together voluntarily  
4       under such favorable auspices as will tend to effectuate settlement of  
5       the dispute, but neither the mediator nor the board [LABOR RELATIONS  
6       AGENCY] has any power of compulsion in mediation proceedings.

7       \* Sec. 13. AS 23.40 is amended by adding a new section to read:

8               Sec. 23.40.195. FACT FINDING. (a) If, after reasonable efforts  
9       by a mediator, the parties remain at impasse, the board may appoint a  
10      fact-finding board of three members, representative of the public, from  
11      a list of qualified persons maintained by the board.

12             (b) The fact-finding board appointed in (a) of this section,  
13      acting by a majority of its members, shall identify the major issues in  
14      a particular impasse, review the positions of the parties, and transmit  
15      its findings of fact and any recommendations for the resolution of the  
16      dispute to both parties within 10 days after its appointment.

17             (c) Persons designated to serve on a fact-finding board under the  
18      provisions of this section are entitled to per diem and travel expenses  
19      as may be authorized for members of boards and commissions.

20      \* Sec. 14. AS 23.40.210 is amended to read:

21             Sec. 23.40.210. AGREEMENT. Upon the completion of negotiations  
22      between an organization and a public employer, if a settlement is  
23      reached, the employer shall reduce it to writing in the form of an  
24      agreement. The agreement may include a term for which it will remain in  
25      effect, not to exceed three years. The agreement shall include a pay  
26      plan designed to provide for a cost-of-living differential between the  
27      salaries paid employees residing in the state and employees residing  
28      outside the state. The plan shall provide that the salaries paid, as of  
29      August 26, 1977, to employees residing outside the state shall remain

1 unchanged until the difference between those salaries and the salaries  
2 paid employees residing in the state reflects the difference between the  
3 cost of living in Alaska and living in Seattle, Washington. The agree-  
4 ment shall include a grievance procedure which shall have binding arbi-  
5 tration as its final step. Either party to the agreement has a right of  
6 action to enforce the agreement by petition to the board [LABOR RELA-  
7 TIONS AGENCY].

8 \* Sec. 15. AS 23.40.225 is amended to read:

9       Sec. 23.40.225. EXEMPTION FROM PUBLIC EMPLOYMENT RELATIONS ACT.  
10 Notwithstanding the provisions of sec. 220 of this chapter, a collective  
11 bargaining settlement reached, or agreement entered into, under sec. 210  
12 of this chapter that incorporates union security provisions, including  
13 but not limited to a union shop or agency shop provision or agreement,  
14 shall safeguard the rights of nonassociation of employees having bona  
15 fide religious convictions based on tenets or teachings of a church or  
16 religious body of which an employee is a member. Upon submission of  
17 proper proof of religious conviction to the board [LABOR RELATIONS  
18 AGENCY], the board [AGENCY] shall declare the employee exempt from  
19 becoming a member of a labor organization or employee association. The  
20 employee shall pay an amount of money equivalent to regular union or  
21 association dues, initiation fees, and assessments to the union or  
22 association. Nonpayment of this money subjects the employee to the same  
23 penalty as if it were nonpayment of dues. The receiving union or asso-  
24 ciation shall contribute an equivalent amount of money to a charity of  
25 its choice not affiliated with a religious, labor or employee organiza-  
26 tion. The union or association shall submit proof of contribution to  
27 the board [LABOR RELATIONS AGENCY].

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

29       Sec. 23.40.245. LIST OF EMPLOYEE ORGANIZATIONS AND EXCLUSIVE

1 REPRESENTATIVES. (a) The board shall maintain a list of employee  
2 organizations. To be recognized as an employee organization and to be  
3 included on the list, an organization shall file with the board a state-  
4 ment of its name, the name and address of its secretary or other officer  
5 to whom notices may be sent, the date of its organization, and its  
6 affiliations, if any, with other organizations. No other qualifications  
7 for inclusion shall be required, but every employee organization shall  
8 notify the board promptly of any change of name or of the name and  
9 address of its secretary or other officer to whom notices may be sent,  
10 or of its affiliates.

11 (b) The board shall indicate on the list which employee organiza-  
12 tions are exclusive representatives of appropriate bargaining units, the  
13 effective dates of their certification, and the effective date and  
14 expiration date of any agreement reached between the public employer and  
15 the exclusive representative. Copies of this list shall be made avail-  
16 able to interested parties upon request.

17 \* Sec. 17. AS 23.40.250(2) is amended to read:

18 (2) "election" means a proceeding conducted by the board  
19 [LABOR RELATIONS AGENCY] in which the employees in a collective bargain-  
20 ing unit cast a secret ballot for collective bargaining representatives,  
21 or for any other purpose specified in secs. 70 - 260 of this chapter;

22 \* Sec. 18. AS 23.40.250 is amended by adding a new paragraph to read:

23 (8) "board" means the Alaska Public Employment Relations  
24 Board.

25 \* Sec. 19. AS 39.23.030 is amended to read:

26 Sec. 39.23.030. OFFICERS; STAFF. The commission shall select a  
27 chairman from among its members annually. The director of the division  
28 of personnel [AND LABOR RELATIONS] serves as ex officio secretary to the  
29 commission and provides research, technical and administrative services.

1 \* Sec. 20. AS 39.50.200 is amended by adding a new subparagraph to read:

2 (NN) Alaska Public Employment Relations Board;

3 \* Sec. 21. AS 44.19 is amended by adding new sections to read:

4 Sec. 44.19.017. COLLECTIVE BARGAINING. The governor shall negoti-  
5 ate with and, on behalf of the state, enter into written agreements with  
6 the exclusive representatives of public employee organizations on  
7 matters of wages, hours, and other terms and conditions of employment.

8 ARTICLE 8B. OFFICE OF LABOR RELATIONS.

9 Sec. 44.19.601. OFFICE OF LABOR RELATIONS. (a) There is estab-  
10 lished in the Office of the Governor an office of labor relations to  
11 assist the governor in negotiating with and entering into written  
12 agreements between the public employers and the exclusive representa-  
13 tives of public employees on matters of wages, hours and other terms and  
14 conditions of employment.

15 (b) The office of labor relations is administered by the chief  
16 negotiator for the state. The chief negotiator shall be experienced in  
17 labor relations. The governor shall appoint and may remove the chief  
18 negotiator and staff as may be necessary.

19 (c) The salary of the chief negotiator shall be determined by the  
20 members of the Alaska Public Employment Relations Board.

21 Sec. 44.19.603. DUTIES OF THE OFFICE OF LABOR RELATIONS. The  
22 office of labor relations shall

23 (1) assist the governor in formulating management's philo-  
24 sophy for public collective bargaining as well as planning bargaining  
25 strategies;

26 (2) conduct negotiations with the exclusive representatives  
27 of each employee organization and designate employer spokesmen for each  
28 negotiation;

29 (3) coordinate the state's resources in all mediation and

1 interest arbitration cases as well as in all labor disputes;

2 (4) conduct systematic reviews of collective bargaining  
3 agreements for the purpose of contract negotiations;

4 (5) coordinate the systematic compilation of data by all  
5 agencies that is required for negotiating purposes; and

6 (6) coordinate the establishment of cost data negotiated with  
7 each exclusive representative and assist the governor in making recom-  
8 mendations to the legislative bodies.

9 \* Sec. 22. AS 23.40.250(3) is repealed.

10 \* Sec. 23. This Act takes effect July 1, 1978.