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Referred: Rules

Original sponsor: Clocksin

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 174 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public employees subject to collec-
7 tive bargaining."

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

9 * Section 1. AS 14.20.550 is amended to read:

10 Sec. 14.20.550. NEGOTIATION WITH CERTIFICATED ADMINISTRATIVE EM-
11 PLOYEES. Each city, borough and regional school board, shall negotiate
12 with its certificated administrative employees in good faith on matters
13 pertaining to their employment and the fulfillment of their professional
14 duties.

15 * Sec. 2. AS 14.20.555(a) is amended to read:

16 (a) Negotiations between the certificated administrative employees
17 of the regional educational attendance areas and the respective regional
18 school boards shall be conducted by one team representing all the cer-
19 tificated administrative employees [, ONE TEAM REPRESENTING ALL THE CER-
20 TIFICATED ADMINISTRATIVE PERSONNEL IF THEY HAVE JOINED TOGETHER TO
21 NEGOTIATE INDEPENDENTLY AS PROVIDED IN SEC. 560(f) OF THIS CHAPTER,] and
22 one team representing all the participating regional school boards.

23 * Sec. 3. AS 14.20.560 is amended to read:

24 Sec. 14.20.560. ADMINISTRATIVE EMPLOYEE [TEACHERS'] BARGAINING
25 GROUPS. (a) When a majority of the certificated administrative em-
26 ployees in a school district have designated an educational organization
27 of their own choosing to bargain for them, the organization shall be
28 recognized by the school board as the bargaining agent for all the cer-
29 tificated administrative staff, except superintendents of schools. [THE

MEMBERSHIP OF ANY SUCH RECOGNIZED EDUCATIONAL ORGANIZATION SHALL BE COMPOSED PRINCIPALLY OF THOSE EMPLOYED IN THE TEACHING PROFESSION IN ALASKA.]

(b) The organization representing a majority of the certificated administrative employees of a school district shall, upon the request of the school board, submit an affidavit verifying that it does represent a majority of the certificated administrative employees. Recognition of the employee bargaining agency by a school board is valid for one year or a term agreed upon by the two parties to an agreement, unless a majority of the certificated administrative employees [CERTIFIED STAFF] votes to request the termination of recognition of the employee bargaining agency. The school board is entitled to an affidavit of membership from the employee bargaining agency once each year.

(c) Upon the request of 25 percent of the certificated administrative employees in a district, the school board shall hold, within 20 days, an election by secret ballot of all the certificated administrative employees in order to determine their choice of a bargaining agency. The results of this election are binding for one year.

(d) A school board shall, upon the written request of the employee bargaining organization, meet with the representative of the organization within 20 days of the request at a time and place to be mutually agreed upon. In the same manner, representatives of an employee bargaining organization are required to meet with a school board or its representatives within 20 days after receiving a written request. The school board and the employee organization may not select more than five representatives each to negotiate for them.

(e) The negotiating meeting may be held in executive session upon mutual agreement of both parties, but all final agreements shall be made at a public meeting of the school board.

1 [(f) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT CERTI-
2 FICATED ADMINISTRATIVE PERSONNEL GROUPS, INCLUDING PRINCIPALS AND
3 ASSISTANT PRINCIPALS, FROM HAVING THE RIGHT TO NEGOTIATE INDEPENDENTLY
4 OF THE OTHER CERTIFICATED PERSONNEL IF THEY CHOOSE TO DO SO AS THE
5 RESULT OF A SECRET BALLOT.]

6 * Sec. 4. AS 14.20.570(b) is amended to read:

7 (b) If the mediation meetings are held during the school day, cer-
8 tificated administrative employees [TEACHERS] representing an employee
9 bargaining agency shall be released from their [CLASSROOM OR OTHER]
10 assigned duties without penalty or loss of pay.

11 * Sec. 5. AS 14.20.590 is amended to read:

12 Sec. 14.20.590. GRIEVANCE PROCEDURES. Negotiations agreements
13 executed under AS 14.20.550 - 14.20.590 [AFTER THE EFFECTIVE DATE OF
14 THIS ACT] shall define "grievances" and provide for grievance procedures
15 for the certificated staff subject to AS 14.20.550 - 14.20.590. The
16 grievance procedures shall provide that the final step in the procedure
17 shall be binding arbitration. The negotiations agreement shall provide
18 a method for the selection of an arbitrator.

19 * Sec. 6. AS 14.20.600 is amended to read:

20 Sec. 14.20.600. INDIVIDUAL CASES. Nothing in AS 14.20.550 -
21 14.20.590 prohibits a certificated administrative [AN] employee from
22 addressing a school board, as an individual, through the regular proce-
23 dures of the school board for hearing individual cases.

24 * Sec. 7. AS 14.20.610 is amended to read:

25 Sec. 14.20.610. LEGAL RESPONSIBILITIES OF BOARDS. Nothing in
26 AS 14.20.550 - 14.20.600 or in AS 23.40.070 - 23.40.260 may be construed
27 as an abrogation or delegation of the legal responsibilities, powers,
28 and duties of the school board including its right to make final
29 decisions on policies.

1 * Sec 8. AS 23.40.200(b) is amended to read:

2 (b) The class in (a)(1) of this section is composed of police and
3 fire protection employees, jail, prison and other correctional institu-
4 tion employees, [AND] hospital employees, and emergency services em-
5 ployees of the Department of Military Affairs. Employees in this class
6 may not engage in strikes. Upon a showing by a public employer, [OR]
7 the labor relations agency, or a school board for teachers included in
8 the class under this subsection, that employees in this class are
9 engaging or about to engage in a strike, an injunction, restraining
10 order, or other order which may be appropriate shall be granted by the
11 superior court in the judicial district in which the strike is occurring
12 or is about to occur. If an impasse or deadlock is reached in collective
13 bargaining between the public employer and employees in this class, and
14 mediation has been utilized without resolving the deadlock, the parties
15 shall submit to arbitration to be carried out under AS 23.40.205 [AS 09.-
16 43.030].

17 * Sec. 9. AS 23.40.200(c) is amended to read:

18 (c) The class in (a)(2) of this section is composed of public
19 utility, snow removal, and sanitation employees and public school and
20 other educational institution employees, including teachers except
21 teachers included in the class in (b) of this section by a majority of
22 voters under AS 23.40.202. Employees in this class may engage in a
23 strike after mediation, subject to the voting requirement of (d) of this
24 section, for a limited time. The limit is determined by the interests
25 of the health, safety or welfare of the public. The public employer,
26 [OR] the labor relations agency, or, if teachers are engaging in a
27 strike, the school board may apply to the superior court in the judicial
28 district in which the strike is occurring for an order enjoining the
29 strike. A strike may not be enjoined unless it can be shown that it has

1 begun to threaten the health, safety or welfare of the public. A court,
2 in deciding whether or not to enjoin the strike, shall consider the
3 total equities in the particular class. "Total equities" includes not
4 only the impact of a strike on the public but also the extent to which
5 employee organizations and public employers have met their statutory
6 obligations. If an impasse or deadlock still exists after the issuance
7 of an injunction, the parties shall submit to arbitration to be carried
8 out under AS 23.40.205 [AS 09.43.030].

9 * Sec. 10. AS 23.40.200(e) is amended to read:

10 (e) Notwithstanding the provisions of (b), (c) and (d) of this
11 section, the employees with the concurrence of the employer may agree in
12 writing to submit a dispute arising from interpretation or application
13 of a collective bargaining agreement to arbitration under AS 23.40.205.

14 * Sec. 11. AS 23.40 is amended by adding new sections to read:

15 Sec. 23.40.202. LOCAL OPTION FOR DETERMINING THE CLASSIFICATION OF
16 TEACHERS. (a) The following question, if approved by a majority of the
17 members of a school board, shall be placed before the voters of the
18 school district in accordance with (b) of this section: "Shall teachers
19 employed by the (name of school district) be subject to
20 AS 23.40.200(b), prohibiting certain public employees from engaging in a
21 strike? Yes [] No []"

22 (b) If a school board approves the question under (a) of this
23 section, the local governing body of the municipality, or the director
24 of elections if the board is a regional school board, shall place the
25 question set out in (a) of this section on a separate ballot at the next
26 regular election held in the municipality or regional educational atten-
27 dance area. The local governing body shall conduct the election in
28 accordance with the election ordinance of the municipality. The director
29 of elections shall conduct the election in the general manner prescribed

1 by AS 14.08.071 and the Alaska Election Code (AS 15).

2 (c) If a majority of voters voting on the question vote "yes" on
3 the question set out in (a) of this section, teachers in that school
4 district shall be included in the class under AS 23.40.200(b) and
5 removed from the class under AS 23.40.200(c).

6 Sec. 23.40.205. ARBITRATION. (a) When an organization and a
7 public employer are unable to reach an agreement through negotiations
8 and an impasse exists, arbitration shall be conducted before an arbitra-
9 tion board of five persons consisting of one professional arbitrator
10 with substantial experience in the field of labor relations, selected by
11 the labor relations agency, who shall serve as chairperson, and four
12 public members selected from the panel described in (c) of this section,
13 or, if the impasse involves teachers, selected in accordance with (d) of
14 this section. If a controversy involves state employees, the arbitra-
15 tion board shall include residents of at least three of the four state
16 judicial districts. If a controversy involves teachers, the four public
17 members shall be residents of the affected school district.

18 (b) Each party shall submit to the arbitration board its final
19 offer on the impasse. The board shall select either the final offer of
20 the organization or the final offer of the public employer. The selec-
21 tion of the board shall be considered to be the collective bargaining
22 agreement between the parties. The determination of the board on the
23 final offer shall be final and binding on the parties as if the arbitra-
24 tion had been conducted under the Uniform Arbitration Act (AS 09.43).

25 (c) For impasses involving public employees other than teachers,
26 the labor relations agency shall select a standing panel to provide
27 public members for an arbitration board from among persons who (1) have
28 broad and varied experience in the conduct of human affairs, (2) have
29 resided in the state for a substantial period of time, and (3) are not

1 at the time of selection employed in a position that requires direct
2 participation in labor-management relations. The number of members of
3 the standing panel shall be a number that the labor relations agency
4 determines to be adequate to ensure the availability of four persons
5 when needed. The standing panel shall include at least one resident of
6 each state judicial district. A person who resides for a period of more
7 than three months at a place outside the state, or who becomes employed
8 in a position that requires direct participation in labor-management
9 relations shall be removed from the panel.

10 (d) If an impasse involves teachers, the arbitrator selected by
11 the labor relations agency shall request the organization and the school
12 board to submit to the other party by a date certain the names of public
13 members to serve on the board described in (a) of this section. The
14 organization and the school board shall each select for this purpose two
15 persons who (1) have broad and varied experience in the conduct of human
16 affairs, (2) reside in the affected school district, and (3) are not at
17 the time of selection employed in a position that requires direct parti-
18 cipation in labor-management relations. Within one week of the date
19 designated for submission of names under this subsection the organiza-
20 tion and the board shall each notify the arbitrator if it accepts the
21 persons selected by the other party. If the parties agree, the persons
22 selected shall serve on the board described in (a) of this section. If
23 the organization and the board do not agree on the members selected, the
24 arbitrator shall request each party to submit to the labor relations
25 agency a list consisting of not less than five nor more than seven
26 persons who meet the criteria set out in (1), (2), and (3) of this
27 subsection. From each list submitted to the labor relations agency, the
28 agency shall choose two persons who shall serve on the board described
29 in (a) of this section.

1 (e) An arbitration board is entitled to compensation by the par-
2 ties for its services as follows:

3 (1) public members shall receive per diem and travel allow-
4 ances as provided by law for members of state boards and commissions;

5 (2) the professional arbitrator serving as chairperson shall
6 be compensated on terms that the parties determine to represent fair
7 value for such professional services.

8 * Sec. 12. AS 23.40.250(1) is amended to read:

9 (1) "collective bargaining" means the performance of the
10 mutual obligation of the public employer or his designated representa-
11 tives and the representative of the employees to meet at reasonable
12 times, including meetings in advance of the budget making process and
13 negotiate in good faith with respect to wages, hours and other terms and
14 conditions of employment, or, for employees who are teachers, to negoti-
15 ate in good faith with respect to matters pertaining to the employment
16 and the fulfillment of the professional duties of teachers, or the
17 negotiation of an agreement, or negotiation of a question arising under
18 an agreement and the execution of a written contract incorporating an
19 agreement reached if requested by either party, but these obligations do
20 not compel either party to agree to a proposal or require the making of
21 a concession;

22 * Sec. 13. AS 23.40.250(5) is amended to read:

23 (5) "public employee" means any employee of a public employer
24 whether or not in the classified service of the public employer, except
25 elected or appointed officials or administrative employees of school
26 boards [TEACHERS] or noncertificated employees of school districts;

27 * Sec. 14. AS 23.40.250(6) is amended to read:

28 (6) "public employer" means the state or a political sub-
29 division of the state, including without limitation, a [TOWN,] city,

1 borough, district, board of regents, city, borough, or regional school
2 board, public and quasi-public corporation, housing authority or other
3 authority established by law, and a person designated by the public
4 employer to act in its interest in dealing with public employees;

5 * Sec. 15. AS 23.40.250 is amended by adding new paragraphs to read:

6 (8) "district" means a district as defined by AS 14.12.010;

7 (9) "teacher" means a person employed by a school board who
8 serves in a teaching or counseling capacity and is required to be certi-
9 ficated in order to hold the position.

10 * Sec. 16. AS 23.40.040 is repealed.

11 * Sec. 17. (a) A school board, including a regional educational atten-
12 dance area school board, may not reject having the provisions of the Public
13 Employment Relations Act apply to its relations with its teachers.

14 (b) The provisions of sec. 4, ch. 113, SLA 1972 do not apply to allow
15 organized boroughs and other political subdivisions of the state, home rule
16 or otherwise, to reject having the provisions of the Public Employment Rela-
17 tions Act apply to its relation with those school employees of the municipal-
18 ity included under the provisions of that Act.

19 * Sec. 18. Nothing in this Act terminates or modifies a collective bar-
20 gaining unit, recognition of exclusive bargaining representative, or col-
21 lective bargaining agreement if the unit, recognition, or agreement is in
22 effect on the effective date of this Act.

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