

Original sponsor: Clocksin

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1 IN THE HOUSE

BY THE RULES COMMITTEE

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

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 14.20.170(a)(3) is amended to read:

10 (3) substantial noncompliance with the school laws of the
11 state, the provisions of AS 23.40.070 - 23.40.260, the regulations or
12 bylaws of the department, the bylaws of the district, or the written
13 rules of the superintendent.

14 * Sec. 2. AS 14.20.550 is amended to read:

15 Sec. 14.20.550. NEGOTIATION WITH CERTIFICATED ADMINISTRATIVE EM-
16 PLOYEES. Each city, borough and regional school board, shall negotiate
17 with its certificated administrative employees in good faith on matters
18 pertaining to their employment and the fulfillment of their professional
19 duties.

20 * Sec. 3. AS 14.20.555(a) is amended to read:

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

28 * Sec. 4. AS 14.20.560 is amended to read:

29 Sec. 14.20.560. ADMINISTRATIVE EMPLOYEE [TEACHERS'] BARGAINING

1 GROUPS. (a) When a majority of the certificated administrative em-
2 ployees in a school district have designated an educational organization
3 of their own choosing to bargain for them, the organization shall be
4 recognized by the school board as the bargaining agent for all the cer-
5 tificated administrative staff, except superintendents of schools. [THE
6 MEMBERSHIP OF ANY SUCH RECOGNIZED EDUCATIONAL ORGANIZATION SHALL BE
7 COMPOSED PRINCIPALLY OF THOSE EMPLOYED IN THE TEACHING PROFESSION IN
8 ALASKA.]

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

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

24 (d) A school board shall, upon the written request of the employee
25 bargaining organization, meet with the representative of the organiza-
26 tion within 20 days of the request at a time and place to be mutually
27 agreed upon. In the same manner, representatives of an employee bargain-
28 ing organization are required to meet with a school board or its repre-
29 sentatives within 20 days after receiving a written request. The school

1 board and the employee organization may not select more than five repre-
2 sentatives each to negotiate for them.

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

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

11 * Sec. 5. AS 14.20.570(b) is amended to read:

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

16 * Sec. 6. AS 14.20.590 is amended to read:

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

24 * Sec. 7. AS 14.20.600 is amended to read:

25 Sec. 14.20.600. INDIVIDUAL CASES. Nothing in AS 14.20.550 -
26 14.20.590 prohibits a certificated administrative [AN] employee from
27 addressing a school board, as an individual, through the regular proce-
28 dures of the school board for hearing individual cases.

29 * Sec. 8. AS 14.20.610 is amended to read:

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

6 * Sec. 9. AS 23.40.200(b) is amended to read:

7 (b) The class in (a)(1) of this section is composed of police and
8 fire protection employees, jail, prison and other correctional institu-
9 tion employees, [AND] hospital employees, and emergency services em-
10 ployees of the Department of Military Affairs. Employees in this class
11 may not engage in strikes. Upon a showing by a public employer, [OR]
12 the labor relations agency, or a school board for teachers included in
13 the class under this subsection, that employees in this class are
14 engaging or about to engage in a strike, an injunction, restraining
15 order, or other order which may be appropriate shall be granted by the
16 superior court in the judicial district in which the strike is occurring
17 or is about to occur. If an impasse or deadlock is reached in collective
18 bargaining between the public employer and employees in this class, and
19 mediation has been utilized without resolving the deadlock, the parties
20 shall submit to fact-finding under AS 23.40.206. If an impasse remains
21 after the parties have discussed the factfinder's report, and if the
22 members of the affected bargaining unit approve arbitration in a secret
23 ballot election conducted as provided by the labor relations agency, the
24 parties shall submit to arbitration under AS 23.40.208. An injunction
25 prohibiting a strike shall be extended until an agreement is reached
26 either by arbitration or negotiation [ARBITRATION TO BE CARRIED OUT
27 UNDER AS 09.43.030].

28 * Sec. 10. AS 23.40.200(c) is amended to read:

29 (c) The class in (a)(2) of this section is composed of public

utility, snow removal, and sanitation employees and public school and other educational institution employees, including teachers except teachers included in the class in (b) of this section by a majority of voters under AS 23.40.202. Employees in this class may engage in a strike after mediation, subject to the voting requirement of (d) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The public employer, [OR] the labor relations agency, or, if teachers are engaging in a strike, the school board may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which employee organizations and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to fact-finding under AS 23.-40.206. If an impasse remains after the parties have discussed the fact-finder's report, and if the members of the affected bargaining unit approve arbitration in a secret ballot election conducted as provided by the labor relations agency, the parties shall submit to arbitration under AS 23.40.208. An injunction prohibiting a strike shall be extended until an agreement is reached either by arbitration or negotiation [ARBITRATION TO BE CARRIED OUT UNDER AS 09.43.030].

* Sec. 11. AS 23.40.200(e) is amended to read:

(e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employees with the concurrence of the employer may agree in writing to submit a dispute arising from interpretation or application

1 of a collective bargaining agreement to arbitration under AS 23.40.208.

2 * Sec. 12. AS 23.40 is amended by adding new sections to read:

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

10 (b) If a school board approves the question under (a) of this
11 section, the local governing body of the municipality, or the director
12 of elections if the board is a regional school board, shall place the
13 question set out in (a) of this section on a separate ballot at the next
14 regular election held in the municipality or regional educational atten-
15 dance area. The local governing body shall conduct the election in
16 accordance with the election ordinance of the municipality. The director
17 of elections shall conduct the election in the general manner prescribed
18 by AS 14.08.071 and the Alaska Election Code (AS 15).

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

23 Sec. 23.40.206. FACT-FINDING. (a) Fact-finding shall be conduc-
4 ted by a neutral person who is independent of either party and who is
5 selected and approved by the parties.

26 (b) The factfinder shall conduct hearings, receive evidence includ-
27 ing testimony, and conduct an independent investigation of the facts.
28 The factfinder shall send written recommendations concerning unresolved
29 issues to the public employer and the organization. The factfinder

1 shall consider and give weight to the following factors:

2 (1) the management discretion of the public employer;

3 (2) the stipulations of the parties;

4 (3) the interests and welfare of the public and the financial
5 ability of the public employer to bear the present or recurrent costs
6 involved;

7 (4) a comparison of the wages, hours, benefits, and other
8 terms or conditions of employment of the employees involved with those
9 of other employees performing similar services in public and private
10 employment in comparable communities;

11 (5) the compensation currently received by the employees
12 including direct wage compensation, vacation, holidays, other excused
13 time, insurance and pensions, medical and hospitalization benefits,
14 continuity and stability of employment, and other benefits received; and

15 (6) other similar factors relevant to the resolution of labor
16 contract negotiations.

17 (c) The public employer and the organization shall meet and, using
18 the factfinder's recommendations, attempt to reach agreement.

19 Sec. 23.40.208. ARBITRATION. (a) When an organization and a
20 public employer are unable to reach an agreement after mediation and
21 fact-finding and an impasse exists, arbitration shall be conducted
22 before an arbitration board consisting of one professional arbitrator
23 with substantial experience in the field of labor relations, selected by
24 the labor relations agency, who shall serve as chairperson, and, if the
25 impasse involves public employees other than teachers, four public
26 members selected from the panel described in (c) of this section, or, if
27 the impasse involves teachers, two public members selected in accordance
28 with (d) of this section. If a controversy involves state employees,
29 the arbitration board shall include residents of at least three of the

1 four state judicial districts. If a controversy involves teachers, the
2 two public members shall be residents of the affected school district.

3 (b) Each party shall submit to the arbitration board its final
4 offer on the impasse. The board shall consider the factors set out in
5 AS 23.40.206(b) and shall select either the final offer of the organi-
6 zation or the final offer of the public employer. The selection of the
7 board shall be considered to be the collective bargaining agreement
8 between the parties. The determination of the board on the final offer
9 shall be final and binding on the parties as if the arbitration had been
10 conducted under the Uniform Arbitration Act (AS 09.43).

11 (c) For impasses involving public employees other than teachers,
12 the labor relations agency shall select a standing panel to provide
13 public members for an arbitration board from among persons who (1) have
14 broad and varied experience in the conduct of human affairs, (2) have
15 resided in the state for a substantial period of time, and (3) are not
16 at the time of selection employed in a position that requires direct
17 participation in labor-management relations. The number of members of
18 the standing panel shall be a number that the labor relations agency
19 determines to be adequate to ensure the availability of four persons
20 when needed. The standing panel shall include at least one resident of
21 each state judicial district. A person who resides for a period of more
22 than three months at a place outside the state, or who becomes employed
23 in a position that requires direct participation in labor-management
24 relations shall be removed from the panel.

25 (d) If an impasse involves teachers, the arbitrator selected by
26 the labor relations agency shall request the organization and the school
27 board to submit to the other party by a date certain the names of public
28 members to serve on the board described in (a) of this section. The
29 organization and the school board shall each select for this purpose one

1 person who (1) has broad and varied experience in the conduct of human
2 affairs, (2) resides in the affected school district, and (3) is not at
3 the time of selection employed in a position that requires direct parti-
4 cipation in labor-management relations. Within three days of the date
5 designated for submission of names under this subsection the organiza-
6 tion and the board shall each notify the arbitrator if it accepts the
7 person selected by the other party. If the parties agree, the persons
8 selected shall serve on the board described in (a) of this section. If
9 the organization and the board do not agree within three days on the
10 members selected, the arbitrator shall request each party to submit to
11 the labor relations agency a list consisting of not less than three nor
12 more than five persons who meet the criteria set out in (1), (2), and
13 (3) of this subsection. From each list submitted to the labor relations
14 agency, the agency shall promptly choose one person who shall serve on
15 the board described in (a) of this section.

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

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

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

23 * Sec. 13. AS 23.40.250(1) is amended to read:

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

1 ate in good faith with respect to matters pertaining to the employment
2 and the fulfillment of the professional duties of teachers, or the
3 negotiation of an agreement, or negotiation of a question arising under
4 an agreement and the execution of a written contract incorporating an
5 agreement reached if requested by either party, but these obligations do
6 not compel either party to agree to a proposal or require the making of
7 a concession;

8 * Sec. 14. AS 23.40.250(5) is amended to read:

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

13 * Sec. 15. AS 23.40.250(6) is amended to read:

14 (6) "public employer" means the state or a political sub-
15 division of the state, including without limitation, a [TOWN,] city,
16 borough, district, board of regents, city, borough, or regional school
17 board, public and quasi-public corporation, housing authority or other
18 authority established by law, and a person designated by the public
19 employer to act in its interest in dealing with public employees;

20 * Sec. 16. AS 23.40.250 is amended by adding new paragraphs to read:

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

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

25 * Sec. 17. AS 23.40.040 is repealed.

26 * Sec. 18. (a) A school board, including a regional educational atten-
27 dance area school board, may not reject having the provisions of the Public
28 Employment Relations Act apply to its relations with its teachers.

29 (b) The provisions of sec. 4, ch. 113, SLA 1972 do not apply to allow

1 organized boroughs and other political subdivisions of the state, home rule
2 or otherwise, to reject having the provisions of the Public Employment Rela-
3 tions Act apply to its relation with those school employees of the municipal-
4 ity included under the provisions of that Act.

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

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