

Introduced: 1/19/82
Referred: Health, Education &
Social Services and Labor &
Commerce

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 668

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 the resolution of impasses in
7 public employee collective bargaining."

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

9 * Section 1. AS 23.40.200 is amended to read:

10 Sec. 23.40.200. CLASSIFICATION OF PUBLIC EMPLOYEES [ARBITRATION].

11 (a) For purposes of this section, public employees are employed to
12 perform services in one of the three following classes:

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

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

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

19 (b) The class in (a)(1) of this section is composed of police and
20 fire protection employees, jail, prison and other correctional institu-
21 tion employees, and hospital employees. Employees in this class may not
22 engage in strikes. Upon a showing by a public employer [OR THE LABOR
23 RELATIONS AGENCY] that employees in this class are engaging or about to
24 engage in a strike, an injunction, restraining order, or other order
25 which may be appropriate shall be granted by the superior court in the
26 judicial district in which the strike is occurring or is about to occur.
27 If an impasse or deadlock is reached in collective bargaining between
28 the public employer and employees in this class, and mediation has been
29 utilized without resolving the deadlock, the parties shall submit to

1 fact-finding under AS 23.40.201. If an impasse remains after the par-
2 ties have discussed the factfinder's report, and if the members of the
3 affected bargaining unit approve arbitration in a secret ballot election
4 conducted as provided by the labor relations agency, the parties shall
5 submit to arbitration under AS 23.40.202. An injunction prohibiting a
6 strike shall be extended until an agreement is reached either by arbi-
7 tration or negotiation [ARBITRATION TO BE CARRIED OUT UNDER AS 09.-
8 43.030].

9 (c) The class in (a)(2) of this section is composed of public
10 utility, snow removal, sanitation and public school and other educa-
11 tional institution employees. Employees in this class may engage in a
12 strike after mediation, subject to the voting requirement of (d) of this
13 section, for a limited time. The limit is determined by the interests
14 of the health, safety or welfare of the public. The public employer [OR
15 THE LABOR RELATIONS AGENCY] may apply to the superior court in the judi-
16 cial district in which the strike is occurring for an order enjoining
17 the strike. A strike may not be enjoined unless it can be shown that it
18 has begun to threaten the health, safety or welfare of the public. A
19 court, in deciding whether or not to enjoin the strike, shall consider
20 the total equities in the particular class. "Total equities" includes
21 not only the impact of a strike on the public but also the extent to
22 which employee organizations and public employers have met their statu-
23 tory obligations. If an impasse or deadlock still exists after the
24 issuance of an injunction, the parties shall submit to fact-finding
25 under AS 23.40.201. If an impasse remains after the parties have dis-
26 cussed the factfinder's report, and if the members of the affected bar-
27 gaining unit approve arbitration in a secret ballot election conducted
28 as provided by the labor relations agency, the parties shall submit to
29 arbitration under AS 23.40.202. An injunction prohibiting a strike

1 shall be extended until an agreement is reached either by arbitration
2 or negotiation [ARBITRATION TO BE CARRIED OUT UNDER AS 09.43.030].

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

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

12 (f) The parties to a collective bargaining agreement may provide
13 in the agreement a contract for arbitration to be conducted solely
14 according to the Uniform Arbitration Act (AS 09.43) if the Act is incor-
15 porated into the agreement or contract by reference.

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

17 Sec. 23.40.201. FACT-FINDING. (a) Fact-finding shall be conduc-
18 ted by a neutral person who is independent of either party and who is
19 selected and approved by the parties.

20 (b) The factfinder shall conduct hearings, receive evidence includ-
21 ing testimony, and conduct an independent investigation of the facts.
22 The factfinder shall send written recommendations concerning unresolved
23 issues to the public employer and the organization. The factfinder
24 shall consider and give weight to the following factors:

- 25 (1) the management discretion of the public employer;
26 (2) the stipulations of the parties;
27 (3) the interests and welfare of the public and the financial
28 ability of the public employer to bear the present or recurrent costs
29 involved;

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

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

9 (6) other similar factors relevant to the resolution of labor
10 contract negotiations.

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

13 Sec. 23.40.202. ARBITRATION. (a) Arbitration shall be conducted
14 before an arbitration board of five persons, appointed by the labor
15 relations agency, to resolve issues which remain unresolved between two
16 parties after mediation and fact-finding. The arbitration board shall
17 consist of one professional arbitrator with substantial experience in
18 the field of labor relations impasse resolution, who shall serve as
19 chairperson, and four public members from the panel described in (c) of
20 this section. For an impasse involving state employees, the arbitration
21 board shall include residents of at least three of the four state judi-
22 cial districts.

23 (b) The arbitration board shall consider the proposed agreement
24 submitted by each party in relation to the factors set out in AS 23.40.-
25 201(b) and shall choose between the two proposed agreements. The pro-
26 posed agreement chosen by the board shall be binding on the parties as
27 if the arbitration had been conducted under the Uniform Arbitration Act
28 (AS 09.43) and shall be enforceable as provided in this chapter.

29 (c) The labor relations agency shall select a standing panel to

1 provide public members for an arbitration board from among persons who:
2 (1) have broad and varied experience in the conduct of human affairs,
3 (2) have resided in Alaska for a substantial period of time, and (3) are
4 not at the time of selection employed in a position which requires
5 direct participation in labor-management relations. The number of
6 members of the standing panel shall be a number which the labor rela-
7 tions agency determines to be adequate to ensure the availability of
8 four persons when needed. The standing panel shall include at least one
9 resident of each state judicial district. A person who resides for a
10 period of more than three months at a place outside Alaska, or who
11 becomes employed in a position which requires direct participation in
12 labor-management relations shall be removed from the panel.

13 (d) An arbitration board shall be compensated by the parties for
14 its services as follows:

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

17 (2) the professional arbitrator serving as chairperson shall
18 be compensated on terms which the parties determine to represent fair
19 value for such professional services.

20 * Sec. 3. AS 23.40.040 is repealed.
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