

Original sponsor: Rules/Governor

Offered: 5/28/82  
Referred: Finance

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

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HOUSE CS FOR CS FOR SENATE BILL NO. 668 (HESS)

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."

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

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\* Section 1. AS 14.20.170(a)(3) is amended to read:

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(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.

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\* Sec. 2. AS 23.40.200(b) is amended to read:

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(b) The class in (a)(1) of this section is composed of police and  
16 fire protection employees, jail, prison and other correctional institu-  
17 tion employees, [AND] hospital employees, and emergency services em-  
18 ployees of the Department of Military Affairs. Employees in this class  
19 may not engage in strikes. Upon a showing by a public employer, [OR]  
20 the labor relations agency, or a school board for teachers included in  
21 the class under this subsection, that employees in this class are  
22 engaging or about to engage in a strike, an injunction, restraining  
23 order, or other order which may be appropriate shall be granted by the  
24 superior court in the judicial district in which the strike is occurring  
25 or is about to occur. If an impasse or deadlock is reached in collective  
26 bargaining between the public employer and employees in this class, and  
27 mediation has been utilized without resolving the deadlock, the parties  
28 shall submit to arbitration under AS 23.40.208 [TO BE CARRIED OUT UNDER  
29 AS 09.43.030].

1 \* Sec. 3. AS 23.40.200(c) is amended to read:

2 (c) The class in (a)(2) of this section is composed of public  
3 utility, snow removal, and sanitation employees and public school and  
4 other educational institution employees, including teachers except  
5 teachers included in the class in (b) of this section by a majority of  
6 voters under AS 23.40.202. Employees in this class may engage in a  
7 strike after mediation, subject to the voting requirement of (d) of this  
8 section, for a limited time. The limit is determined by the interests  
9 of the health, safety or welfare of the public. The public employer,  
10 [OR] the labor relations agency, or, if teachers are engaging in a  
11 strike, the school board may apply to the superior court in the judicial  
12 district in which the strike is occurring for an order enjoining the  
13 strike. A strike may not be enjoined unless it can be shown that it has  
14 begun to threaten the health, safety or welfare of the public. A court,  
15 in deciding whether or not to enjoin the strike, shall consider the  
16 total equities in the particular class. "Total equities" includes not  
17 only the impact of a strike on the public but also the extent to which  
18 employee organizations and public employers have met their statutory  
19 obligations. If an impasse or deadlock still exists after the issuance  
20 of an injunction, the parties shall submit to arbitration under AS 23.-  
21 40.208 [TO BE CARRIED OUT UNDER AS 09.43.030].

22 \* Sec. 4. AS 23.40.200(e) is amended to read:

23 (e) Notwithstanding the provisions of (b), (c) and (d) of this  
24 section, the employees with the concurrence of the employer may agree in  
25 writing to submit a dispute arising from interpretation or application  
26 of a collective bargaining agreement to arbitration under AS 23.40.208.

27 \* Sec. 5. AS 23.40 is amended by adding new sections to read:

28 Sec. 23.40.202. LOCAL OPTION FOR DETERMINING THE CLASSIFICATION OF  
29 TEACHERS. (a) The following question, if approved by a majority of the

1 members of a school board, shall be placed before the voters of the  
2 school district in accordance with (b) of this section: "Shall teachers  
3 employed by the ..... (name of school district) be subject to  
4 AS 23.40.200(b), prohibiting certain public employees from engaging in a  
5 strike? Yes [ ] No [ ]"

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

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

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 an impasse exists, arbitration shall be conducted before an arbitration  
22 panel selected in accordance with (b) of this section.

23 (b) The employee organization and the public employer shall each  
24 name a representative to the arbitration panel within two working days  
25 of reaching impasse. A representative selected to arbitrate an impasse  
26 that involves teachers shall reside in the school district governed by  
27 that school board. The two members selected shall then name a mutually  
28 acceptable third member to the arbitration panel. If the first two  
29 members of the arbitration panel cannot agree upon a third member within

1 three working days, within an additional five working days the parties  
2 shall select the third member from a permanent list of Alaska arbitrators  
3 previously supplied by the American Arbitration Association. This selec-  
4 tion shall be made by the striking method. The third member shall act as  
5 chairman.

6 (c) Expenses of an independent arbitrator selected under (b) of  
7 this section shall be borne equally by both parties.

8 (d) The arbitration panel shall continue in session until a  
9 decision has been reached. The arbitration panel shall issue its  
10 decision within five working days from the conclusion of the presenta-  
11 tion by the parties unless the parties agree to an extension of time.

12 (e) The decision of the arbitration panel is final and binding  
13 upon both parties and shall be implemented within five working days after  
14 the decision has been reached, unless the parties agree to an extension  
15 of time.

16 (f) An arbitration panel shall carry out arbitration in accordance  
17 with AS 09.43.010 - 09.43.180 and shall consider all applicable laws and  
18 applicable Alaska supreme court decisions.

19 (g) If a provision of the decision of an arbitration panel is  
20 held invalid by a court, only that provision ceases to be of force and  
21 effect, and either party, upon not less than 30 days written notice to  
22 the other party, may open negotiations for the substitution of a pro-  
23 vision or an agreement, consistent with the decision of the court.

24 \* Sec. 6. AS 23.40 is amended by adding a new section to read:

25 Sec. 23.40.241. LEGAL RESPONSIBILITIES OF SCHOOL BOARDS. Nothing  
26 in AS 23.40.070 - 23.40.260 may be construed as an abrogation or  
27 delegation of the legal responsibilities, powers, and duties of the  
28 school board of a borough or city school district or a regional educa-  
29 tional attendance area.

1 \* Sec. 7. AS 23.40.250(5) is amended to read:

2 (5) "public employee" means any employee of a public employer,  
3 whether or not in the classified service of the public employer, except  
4 elected or appointed officials [OR TEACHERS OR NONCERTIFICATED EMPLOYEES  
5 OF SCHOOL DISTRICTS];

6 \* Sec. 8. AS 23.40.250(6) is amended to read:

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

13 \* Sec. 9. AS 23.40.250 is amended by adding new paragraphs to read:

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

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

18 \* Sec. 10. AS 14.20.550 - 14.20.610 are repealed.

19 \* Sec. 11. (a) A school board, including a regional educational atten-  
20 dance area school board, may not reject having the provisions of the Public  
21 Employment Relations Act apply to its relations with its employees.

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

27 \* Sec. 12. Nothing in this Act terminates or modifies a collective bar-  
28 gaining unit, recognition of exclusive bargaining representative, or col-  
29 lective bargaining agreement if the unit, recognition, or agreement is in

1 effect on the effective date of this Act.

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