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1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 78 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to teachers' collective bargaining  
7 agreements; and providing for an effective date."

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

9 \* Section 1. AS 14.20 is amended by adding a new section to Article 6  
10 to read:

11 Sec. 14.20.540. DECLARATION OF POLICY. The legislature finds  
12 that all public school employees are entitled to participate in for-  
13 mulating decisions that pertain to their employment and to the ful-  
14 fillment of their professional duties. Effective and responsive  
15 administration of public schools is most readily obtained through the  
16 negotiation of labor agreements that incorporate both managerial and  
17 employee perspectives. The legislature further finds that providing  
18 for harmonious and cooperative relations between school boards and  
19 employee organizations will promote public education in the state.  
20 Accordingly, the legislature declares that it is in the best interest  
21 of the state to guarantee all educational employees the opportunity to  
22 form employee organizations and to negotiate with respect to the terms  
23 and conditions of their employment.

24 \* Sec. 2. AS 14.20.550 is amended to read:

25 Sec. 14.20.550. NEGOTIATION WITH [CERTIFICATED] EMPLOYEES. (a)  
26 Each city, borough and regional school board, shall negotiate with its  
27 certificated and noncertificated employees in good faith on matters  
28 pertaining to their employment and the fulfillment of their profes-  
29 sional duties.

1           (b) In AS 14.20.540 - 14.20.610, "certificated employees" in-  
2 cludes teachers, counselors, principals, assistant principals, and  
3 other certificated administrative personnel, but does not include  
4 superintendents, assistant superintendents, and other certificated  
5 executive administrative personnel who the educational employees labor  
6 relations agency determines to be inappropriate members of an employee  
7 negotiating unit.

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

9           (a) Negotiations between the [CERTIFICATED] employees of the  
10 regional educational attendance areas and the respective regional  
11 school boards shall be conducted by one team representing all the  
12 [CERTIFICATED] employees [, ONE TEAM REPRESENTING ALL THE CERTIFICATED  
13 ADMINISTRATIVE PERSONNEL IF THEY HAVE JOINED TOGETHER TO NEGOTIATE  
14 INDEPENDENTLY AS PROVIDED IN AS 14.20.560(f),] and one team represent-  
15 ing all the participating regional school boards. If administrative  
16 personnel or noncertificated employees have joined together to negoti-  
17 ate independently as provided in AS 14.20.560(f), a team representing  
18 the independent employee organizations shall participate in the nego-  
19 tiations.

20 \* Sec. 4. AS 14.20.560 is repealed and reenacted to read:

21           Sec. 14.20.560. NEGOTIATING UNIT. (a) The educational employ-  
22 ees labor relations agency shall decide in each case, in order to  
23 assure to employees the fullest freedom in exercising the rights  
24 provided under AS 14.20.540 - 14.20.610, the unit appropriate for the  
25 purposes of negotiation, based on such factors as community of inter-  
26 est, wages, hours, and other working conditions of the employees in-  
27 volved, the history of negotiating, and the desires of the employees.  
28 Negotiating units shall be as large as is reasonable and unnecessary  
29 fragmenting shall be avoided.

1           (b) Upon petition for certification by 25 percent of the employ-  
2           ees in a proposed negotiation unit and if the educational employees  
3           labor relations agency has reasonable cause to believe that a question  
4           of representation exists, the agency shall provide for an appropriate  
5           hearing upon due notice. If the educational employees labor relations  
6           agency finds that there is a question of representation, the educa-  
7           tional employees labor relations agency shall direct an election by  
8           secret ballot to determine whether or by which organization the em-  
9           ployees desire to be represented and shall certify the results of the  
10          election. This section does not prohibit the waiving of hearings by  
11          stipulation for the purpose of a consent election or voluntary certi-  
12          fication in conformity with the regulations of the educational employ-  
13          ees labor relations agency or an election in a negotiating unit agreed  
14          upon by the parties. The educational employees labor relations agency  
15          shall determine who is eligible to vote in an election and shall adopt  
16          rules governing the election. In an election in which none of the  
17          choices on the ballot receives a majority of the votes cast, a runoff  
18          election shall be conducted. The ballot in the runoff election shall  
19          provide for selection between the two choices receiving the largest  
20          and the second largest number of valid votes cast in the election. If  
21          an organization receives the majority of the votes cast in the elec-  
22          tion, it shall be certified by the educational employees labor rela-  
23          tions agency as the exclusive representative of all the employees in  
24          the negotiating unit.

25           (c) An election may not be held in a negotiating unit or in a  
26          subdivision of a negotiating unit if a valid election has been held  
27          within the preceding 12 months.

28           (d) This section does not prohibit recognition of an organiza-  
29          tion as the exclusive representative by a board by mutual consent.

1 (e) An election may not be directed by the educational employees  
2 labor relations agency in a negotiating unit in which there is in  
3 force a valid agreement, except during the 90-day period preceding the  
4 expiration date of the agreement. However, an agreement may not bar  
5 an election upon petition of persons in the negotiating unit but not  
6 parties to the agreement if more than three years have elapsed since  
7 the execution of the agreement or the last timely renewal, whichever  
8 was later.

9 (f) This section does not prohibit noncertificated employees or  
10 certificated administrative personnel groups from choosing by secret  
11 ballot to negotiate independently of other personnel. If noncer-  
12 tificated or certificated administrative personnel seek to negotiate  
13 independently of other certificated employees, the educational employ-  
14 ees labor relations agency shall review the submitted representation  
15 petition and, if 25 percent of the employees in a proper negotiating  
16 unit sign the petition, the agency shall conduct a representation  
17 election.

18 \* Sec. 5. AS 14.20 is amended by adding a new section to read:

19 Sec. 14.20.565. NEGOTIATION MEETINGS. (a) A school board  
20 shall, upon the written request of an employee bargaining organiza-  
21 tion, meet with the representative of the organization within 20 days  
22 after the request at a time and place to be mutually agreed upon. In  
23 the same manner, representatives of an employee bargaining organiza-  
24 tion are required to meet with a school board or its representatives  
25 within 20 days after receiving a written request.

26 (b) Notwithstanding AS 44.62.310, a negotiating meeting may be  
27 held in executive session upon mutual agreement of both parties, but  
28 all final agreements shall be made at a public meeting of the school  
29 board.

1 \* Sec. 6. AS 14.20.570(a) is amended to read:

2 (a) Upon the written request for mediation by an employee bar-  
3 gaining agency or a school board, and upon certification by the re-  
4 questing party that the parties cannot agree on an independent private  
5 mediator and that good faith negotiations have terminated in an im-  
6 passe, the following shall occur [OCCURS]:

7 (1) Within seven days of the certification the requesting  
8 party shall ask the United States Federal Mediation and Conciliation  
9 Service to serve as the agency to resolve the dispute. The requesting  
10 party shall notify the educational employees labor relations agency  
11 that the parties have requested a mediator.

12 (2) The mediator shall chair all mediation meetings between  
13 the disputing parties and attempt to resolve the differences between  
14 the disputing parties and reach common acceptance of terms and condi-  
15 tions or other items in dispute wherever possible.

16 [(3) WITHIN 30 DAYS OF THE INITIAL MEETING OF THE PARTIES  
17 TO THE DISPUTE THE MEDIATOR SHALL HAVE REDUCED ALL THE AGREED TERMS,  
18 CONDITIONS AND OTHER ITEMS TO A WRITTEN CONTRACT. IF MUTUALLY AGREED  
19 THE PERIOD FOR REPORTING THE CONTRACT TO BOTH PARTIES MAY BE EXTEND-  
20 ED.]

21 (3) [(4)] Each party to the dispute may select a team [OF  
22 NOT MORE THAN FIVE PERSONS] to present the evidence, thinking, and  
23 position of the group they represent [,] to the mediator.

24 \* Sec. 7. AS 14.20.580 is repealed and reenacted to read:

25 Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall notify  
26 the educational employees labor relations agency when the parties  
27 jointly agree, or when the mediator independently determines, that  
28 further mediation would not promote resolution of the dispute. Fol-  
29 lowing mediation, the parties shall observe a 10-day cooling-off

1 period.

2 \* Sec. 8. AS 14.20 is amended by adding new sections to read:

3 Sec. 14.20.581. LOCAL OPTION. (a) A school board after public  
4 hearing shall by written resolution decide whether last best offer  
5 mediated arbitration or the right to strike shall follow the mediation  
6 procedure described in AS 14.20.570. The resolution shall be adopted  
7 before the mediation process begins.

8 (b) A resolution adopted in accordance with this section is  
9 binding until an agreement is reached. However, the parties may  
10 mutually agree to modify the option selected under this section.

11 Sec. 14.20.582. EMPLOYEE STRIKES. (a) If the board adopts a  
12 resolution that authorizes employees to engage in a strike, the  
13 employees may engage in a strike if a majority of the employees who  
14 are members of the bargaining agency elect to do so.

15 (b) If the employees elect not to strike, the school board is  
16 not required to participate in arbitration. This subsection does not  
17 prohibit the parties from requesting continued assistance from the  
18 educational employees labor relations agency in the resolution of the  
19 dispute.

20 (c) During a strike described in (a) of this section, an  
21 aggrieved person may apply to the superior court in the judicial  
22 district in which the strike is occurring for an order enjoining the  
23 strike. A strike may not be enjoined unless it can be shown that it  
24 threatens the health, safety, or welfare of the public. A court, in  
25 deciding whether to enjoin the strike, shall consider the total equi-  
26 ties in each particular case. Total equities includes the impact of a  
27 strike on the public as well as the extent to which employee organiza-  
28 tions and public employers have met their statutory obligations. If  
29 an impasse or deadlock still exists after the issuance of an

1 injunction, the parties shall submit to arbitration under AS 14.-  
2 20.583.

3 (d) The educational employees labor relations agency shall  
4 establish procedures under which the bargaining agent shall conduct  
5 the election described in this section.

6 Sec. 14.20.583. ARBITRATION. (a) The parties shall submit to  
7 last best offer mediated arbitration if the board adopts a resolution  
8 under AS 14.20.581 that precludes an employee strike, or if  
9 arbitration results under AS 14.20.582(a) or (c). An agreement  
10 between a board and an employee group shall include a procedure to  
11 promptly select an arbitrator. If the parties are unable to agree on a  
12 contractual provision that provides for the selection of an  
13 arbitrator, the educational employees labor relations agency shall  
14 direct the parties to use the services of and comply with the  
15 procedures of the Federal Mediation and Conciliation Services or the  
16 American Arbitration Association in the selection of an arbitrator.  
17 An arbitrator selected under this subsection shall be a resident of  
18 the state.

19 (b) In last best offer mediated arbitration under this section  
20 each party shall submit a final offer on all issues in dispute. Each  
21 party shall submit to the arbitrator oral or written evidence in  
22 support of its position and shall be given an opportunity to respond  
23 to the presentation of evidence by the other party. The arbitrator  
24 may propose compromises to points in dispute. At the request of  
25 either party, or on the motion of the arbitrator, the arbitrator may  
26 conduct a public meeting for the purpose of allowing the parties to  
27 present and explain their positions and final offers. The arbitrator  
28 shall allow each party to revise its last best offer before final  
29 submission to the arbitrator for decision.

1 (c) The decision of the arbitrator shall take into consideration

2 (1) the history of negotiations between the parties before  
3 entering arbitration;

4 (2) the public interest and financial abilities of the  
5 school district;

6 (3) the interest and welfare of the employee group;

7 (4) changes in the cost of living;

8 (5) the existing employment conditions of the employee  
9 group compared with those of similar groups; and

10 (6) the salaries, fringe benefits and other conditions of  
11 employment prevailing in the state labor market.

12 (d) The arbitrator shall without modification adopt the last  
13 best offer of one of the parties and issue a final and binding  
14 decision not more than 10 days after the parties have presented their  
15 last best offer.

16 (e) The parties shall share the cost of the arbitrator equally.

17 Sec. 14.20.584. ARBITRATION AWARD. (a) On application of a  
18 party, the superior court shall confirm an award unless grounds are  
19 urged for vacating, modifying, or correcting the award.

20 (b) On application of a party, the court shall vacate an award  
21 if

22 (1) the award was procured by fraud or other undue means;

23 (2) there was evident partiality, corruption, or misconduct  
24 by an arbitrator prejudicing the rights of a party;

25 (3) the arbitrator exceeded its powers;

26 (4) the arbitrator refused to postpone the hearing upon  
27 sufficient cause being shown for postponement, refused to hear evi-  
28 dence material to the controversy, or otherwise conducted the hearing  
29 to substantially prejudice the rights of a party.

1 (c) The fact that the relief ordered by an arbitrator could not  
2 or would not be granted by a court is not ground for vacating or  
3 refusing to confirm the award.

4 (d) An application to the superior court under this section  
5 shall be made within 90 days after delivery of a copy of the award to  
6 the applicant. However, if the application is predicated upon cor-  
7 ruption, fraud, or other undue means by either the opposing party or  
8 an arbitrator, it shall be made within 90 days after the grounds are  
9 known or should have been known.

10 (e) In vacating an award the court may order a rehearing before  
11 a new arbitrator chosen as provided in the agreement, or in the ab-  
12 sence of a provision in the agreement, as provided under AS 14.20.583.  
13 If the award is vacated on grounds set out in (b)(3) or (4) of this  
14 section, the court may order a rehearing before an arbitrator who made  
15 the award or before a successor appointed as provided in this sub-  
16 section. The time within which the original agreement of the parties  
17 requires an arbitration award to be made is applicable to the rehear-  
18 ing and commences from the date of the order requiring a rehearing.

19 (f) If the application to vacate is denied and a motion to  
20 modify or correct the award is not pending, the court shall confirm  
21 the award.

22 Sec. 14.20.585. MODIFICATION OR CORRECTION OF AWARD. (a) On  
23 application of a party made within 90 days after delivery of a copy of  
24 the award to the applicant the superior court shall modify or correct  
25 the award if

26 (1) there was an evident miscalculation of figures or an  
27 evident mistake in the description of a person or real or personal  
28 property referred to in the award;

29 (2) an arbitrator has made an award concerning a matter not

1 submitted to the arbitrator and the award may be corrected without  
2 affecting the merits of the decision upon the issues submitted; or

3 (3) the award is imperfect in a matter of form not affect-  
4 ing the merits of the controversy.

5 (b) If the application of a party under this section is granted,  
6 the court shall modify and correct the award to effect its intent and  
7 shall confirm the award as modified and corrected. If the application  
8 is denied, the court shall confirm the award as made.

9 (c) An application to modify or correct an award may be joined  
10 in the alternative with an application to vacate the award.

11 \* Sec. 9. AS 14.20.590 is amended to read:

12 Sec. 14.20.590. GRIEVANCE PROCEDURES. Negotiations agreements  
13 executed after July 1, 1975, shall define "grievances" and provide for  
14 grievance procedures [FOR THE CERTIFICATED STAFF]. The grievance  
15 procedures shall provide that the final step in the procedure shall be  
16 binding arbitration. The negotiations agreement shall provide a  
17 method for the selection of an arbitrator to resolve grievances.

18 \* Sec. 10. AS 14.20.600 is amended to read:

19 Sec. 14.20.600. INDIVIDUAL RIGHTS [CASES]. (a) Nothing in  
20 AS 14.20.550 - 14.20.590 prohibits an employee from addressing a  
21 school board, as an individual, through the regular procedures of the  
22 school board for hearing individual cases.

23 (b) The educational employees labor relations agency consistent  
24 with the purposes of AS 14.20.540 - 14.20.610 shall set forth proce-  
25 dures to safeguard the rights of nonassociation of employees having  
26 bona fide religious convictions.

27 \* Sec. 11. AS 14.20 is amended by adding new sections to read:

28 Sec. 14.20.605. EDUCATIONAL EMPLOYEES LABOR RELATIONS AGENCY.

29 (a) There is established an educational employees labor relations

1 agency which consists of five members. The three members of the state  
2 labor relations agency (AS 23.40) are members of the educational  
3 employees labor agency. The governor shall appoint two additional  
4 members to the agency one each from lists of nominees submitted by the  
5 National Education Association of Alaska and the Alaska Association of  
6 School Boards, each of whom must have at least three years experience  
7 in matters relating to education in Alaska. The two gubernatorial  
8 appointees to the educational employees labor relations agency serve  
9 at the pleasure of the governor.

10 (b) Members of the educational employees labor relations agency  
11 receive no compensation for their services, but are entitled to per  
12 diem and travel expenses authorized for boards and commissions.

13 (c) The educational employees labor relations agency may employ  
14 staff assistance as it considers necessary to implement the provisions  
15 of AS 14.20.540 - 14.20.610.

16 Sec. 14.20.606. POWER TO IMPLEMENT NEGOTIATIONS. (a) The  
17 educational employees labor relations agency shall perform the func-  
18 tions described in AS 23.40.120 - 23.40.180 to carry out the provi-  
19 sions of AS 14.20.540 - 14.20.610.

20 (b) The prohibition of unfair labor practices, as described in  
21 AS 23.40.110, applies to a school board and an employee organization.

22 \* Sec. 12. AS 14.20.610 is amended to read:

23 Sec. 14.20.610. LEGAL RESPONSIBILITIES OF BOARDS. Nothing in  
24 AS 14.20.540 - 14.20.600 [14.20.550 - 14.20.600] may be construed as  
25 an abrogation or delegation of the legal responsibilities, powers, and  
26 duties of the school board including its right to make final decisions  
27 on educational policies.

28 \* Sec. 13. An existing school board shall make the local option deci-  
29 sion between last best offer mediated arbitration or the right to strike

1 required under AS 14.20.581(a) added by sec. 8 of this Act within 90 days  
2 after the effective date of this Act.

3 \* Sec. 14. This Act does not modify or terminate a negotiating unit or  
4 agreement in existence on the effective date of this Act.

5 \* Sec. 15. This Act takes effect immediately in accordance with AS 01.-  
6 10.070(c).