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1 IN THE SENATE BY THE RULES COMMITTEE

2 CS FOR SENATE BILL NO. 78 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND 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. PUBLIC POLICY. The legislature finds that it is  
12 the public policy of the state to promote harmonious and cooperative  
13 relationships between government and its employees by permitting  
14 school district certificated employees to organize and bargain collec-  
15 tively. The legislature further finds that the welfare of the citi-  
16 zens of this state is promoted by assuring the effective and orderly  
17 operations of government. Accordingly the legislature declares that  
18 strikes by school district certificated employees shall be prohibited  
19 and that school district certificated employees shall be guaranteed  
20 the right to join or refuse to join, and to participate in or refuse  
21 to participate in, employee organizations.

22 \* Sec. 2. AS 14.20 is amended by adding a new section to read:

23 Sec. 14.20.552. RIGHTS OF CERTIFICATED EMPLOYEES. A certif-  
24 icated employee of a school district shall have the right to

25 (1) organize or form, join or assist, any employee orga-  
26 nization;

27 (2) negotiate collectively through representatives of their  
28 own choosing;

29 (3) engage in other peaceful activities for the purposes of

1 collective bargaining or other mutual aid or protection unless the  
2 activity is prohibited by law;

3 (4) refuse to join or participate in the activities of an  
4 employee organization, including the payment of dues, fees, assess-  
5 ments, or service fees of any type; and

6 (5) representation by the certified and recognized orga-  
7 nization for the purpose of the administration of grievances arising  
8 under collective bargaining agreements.

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

10 (a) Negotiations between the certificated employees of the  
11 regional educational attendance areas and the respective regional  
12 school boards may [SHALL] be conducted by one team representing all  
13 the certificated employees [, ONE TEAM REPRESENTING ALL THE CERTIF-  
14 ICATED ADMINISTRATIVE PERSONNEL IF THEY HAVE JOINED TOGETHER TO NEGO-  
15 TIATE INDEPENDENTLY AS PROVIDED IN AS 14.20.560(f),] and one team  
16 representing all the participating regional school boards. If admin-  
17 istrative personnel or noncertificated employees have joined together  
18 to negotiate independently as provided in AS 14.20.560(f), a team  
19 representing the independent employee organizations shall participate  
20 in the negotiations.

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

22 Sec. 14.20.560. NEGOTIATING UNIT. (a) Upon petition for certi-  
23 fication by 25 percent of the employees in a proposed negotiation unit  
24 and if the agency has reasonable cause to believe that a question of  
25 representation exists, the agency shall provide for an appropriate  
26 hearing upon 10 days notice to all certificated employees of the  
27 school district. If the agency finds that there is a question of  
28 representation, the agency shall conduct an election by secret ballot  
29 to determine whether or by which organization the employees desire to

1 be represented and shall certify the results of the election. The  
2 ballot shall contain a "No Representation" option. A hearing may be  
3 waived by stipulation of the agency and petitioning employees and the  
4 agency may conduct a consent election or voluntary certification in  
5 conformity with the regulations of the agency or an election in a  
6 negotiating unit agreed upon by the parties. The agency shall deter-  
7 mine the persons eligible to vote in an election and shall establish  
8 rules governing the election. If none of the choices on the ballot in  
9 an election receives a majority of the votes cast, a runoff election  
10 shall be conducted. The ballot in the runoff election shall provide  
11 for selection between the two choices receiving the largest and the  
12 second largest number of valid votes cast in the election. If an  
13 organization receives the majority of the votes cast in the election,  
14 it shall be certified by the agency as the exclusive representative of  
15 all the employees in the negotiating unit.

16 (b) An election may not be held in a negotiating unit or in a  
17 subdivision of a negotiating unit if a valid election has been held  
18 within the preceding 12 months.

19 (c) A school board may recognize an organization as the exclu-  
20 sive representative of the certificated employees by mutual consent.

21 (d) An election may not be conducted by the agency in a negoti-  
22 ating unit in which there is in force a valid agreement, except during  
23 the 90-day period preceding the expiration date of the agreement.  
24 However, an election may be held upon petition of 25 percent of the  
25 persons in the negotiating unit but not parties to the agreement if  
26 more than three years have elapsed since the execution of the agree-  
27 ment or the last timely renewal, whichever was later.

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

29 Sec. 14.20.565. NEGOTIATION MEETINGS. (a) A school board

1 shall, upon the written request of an employee bargaining organiza-  
2 tion, meet with the representative of the organization within 20 days  
3 after the request at a time and place to be mutually agreed upon. In  
4 the same manner, representatives of an employee bargaining organiza-  
5 tion are required to meet with a school board or its representatives  
6 within 20 days after receiving a written request from the board.

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

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

12 (a) Upon the written request for mediation by an employee bar-  
13 gaining organization or a school board, and upon certification by the  
14 requesting party that the parties cannot agree on an independent  
15 private mediator and that good faith negotiations have terminated in  
16 an impasse, the following shall occur [OCCURS]:

17 (1) Within seven days of the certification the requesting  
18 party shall ask the United States Federal Mediation and Conciliation  
19 Service to serve as the agency to resolve the dispute. The requesting  
20 party shall notify the agency that the parties have requested a media-  
21 tor.

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

26 [(3) WITHIN 30 DAYS OF THE INITIAL MEETING OF THE PARTIES  
27 TO THE DISPUTE THE MEDIATOR SHALL HAVE REDUCED ALL THE AGREED TERMS,  
28 CONDITIONS AND OTHER ITEMS TO A WRITTEN CONTRACT. IF MUTUALLY AGREED  
29 THE PERIOD FOR REPORTING THE CONTRACT TO BOTH PARTIES MAY BE

1 EXTENDED.]

2 (3) [(4)] Each party to the dispute may select a team of  
3 not more than five persons to present the evidence, thinking, and  
4 position of the group they represent [,] to the mediator.

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

6 Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall notify  
7 the agency when the parties jointly agree, or when the mediator inde-  
8 pendently determines, that further mediation would not promote resolu-  
9 tion of the dispute. The notification from the mediator to the agency  
10 shall indicate the items at impasse that qualify for arbitration  
11 determination. Those items shall be limited to wages and fringe  
12 benefits of a monetary nature. Following mediation, the parties shall  
13 observe a 10-day cooling off period.

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

15 Sec. 14.20.585. ARBITRATION. (a) If impasse continues after a  
16 10-day cooling off period and continued negotiations thereafter, the  
17 parties shall submit all items still in dispute and determined eligi-  
18 ble for arbitration by the mediator to the process of last best offer  
19 mediated arbitration. An agreement between a board and an employee  
20 group shall include a procedure to promptly select an arbitrator. If  
21 the parties are unable to agree on a contractual provision that  
22 provides for the selection of an arbitrator, the agency shall direct  
23 the parties to use the services of and comply with the procedures of  
24 the American Arbitration Association in the selection of an arbitra-  
25 tor.

26 (b) In last best offer mediated arbitration under this section  
27 each party shall submit a final offer on all issues in dispute. Each  
28 party shall submit to the arbitrator oral or written evidence in  
29 support of its position and shall be given an opportunity to respond

1 to the presentation of evidence by the other party. The arbitrator  
2 may propose compromises to points in dispute. At the request of  
3 either party, or on the motion of the arbitrator, the arbitrator may  
4 conduct a public meeting for the purpose of allowing the parties to  
5 present and explain their positions and final offers. The arbitrator  
6 shall allow each party to revise its last best offer before final  
7 submission to the arbitrator for decision.

8 (c) The decision of the arbitrator shall take into consideration  
9 (1) the history of negotiations between the parties before  
10 entering arbitration;

11 (2) the public interest and financial resources of the  
12 school district;

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

14 (4) changes in the cost of living;

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

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

19 (d) The arbitrator shall without modification adopt the last  
20 best offer of one of the parties and issue a final decision not more  
21 than 10 days after the parties have presented their last best offer.

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

23 Sec. 14.20.586. ARBITRATION AWARD. An arbitration award may be  
24 implemented in a school district only if the award has been approved  
25 by the local municipal government in the case of city and borough  
26 school districts or the legislature in the case of a regional educa-  
27 tional attendance area. If an arbitration award is not approved by  
28 the local municipal government or the legislature, the parties shall  
29 return to arbitration.

1           Sec. 14.20.587. JUDICIAL RELIEF. (a) On application of a  
2 party, the superior court shall confirm an award unless grounds are  
3 urged for vacating, modifying, or correcting the award.

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

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

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

9           (3) the arbitrator exceeded its powers;

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

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

17           (d) An application to the superior court under this section  
18 shall be made within 90 days after delivery of a copy of the award to  
19 the applicant. However, if the application is predicated upon grounds  
20 set out in (b)(1) and (2) of this section, it shall be made within 90  
21 days after the grounds are known or should have been known.

22           (e) In vacating an award the court may order a rehearing before  
23 a new arbitrator chosen as provided in the agreement, or in the ab-  
24 sence of a provision in the agreement, as provided in AS 14.20.585(a).  
25 If the award is vacated on grounds set out in (b)(3) or (4) of this  
26 section, the court may order a rehearing before the arbitrator who  
27 made the award or a successor appointed as provided in this subsec-  
28 tion. The time within which the original agreement of the parties  
29 requires an arbitration award to be made is applicable to the

1 rehearing and commences from the date of the order requiring a  
2 rehearing.

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

6 Sec. 14.20.588. MODIFICATION OR CORRECTION OF AWARD. (a) On  
7 application of a party made within 90 days after delivery of a copy of  
8 the award to the applicant the superior court shall modify or correct  
9 the award if

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

13 (2) an arbitrator has made an award concerning a matter not  
14 submitted to the arbitrator and the award may be corrected without  
15 affecting the merits of the decision upon the issues submitted; or

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

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

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

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

25 Sec. 14.20.590. GRIEVANCE PROCEDURES. Negotiations agreements  
26 between school boards and their certificated employees [EXECUTED AFTER  
27 JULY 1, 1975] shall define "grievances" as a misapplication or mis-  
28 interpretation of the terms and conditions of a negotiated agreement  
29 and provide for grievance procedures for the certificated staff. The

1 grievance procedures shall provide that the final step in the proce-  
2 dure shall be binding arbitration. The negotiations agreement shall  
3 provide a method for the selection of an arbitrator to resolve griev-  
4 ances.

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

6 Sec. 14.20.600. INDIVIDUAL RIGHTS [CASES]. Nothing in AS 14.-  
7 20.540 - 14.20.615 [AS 14.20.550 - 14.20.590] prohibits an employee  
8 from addressing a school board, as an individual, through the regular  
9 procedures of the school board for hearing individual cases.

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

11 Sec. 14.20.605. CERTIFICATED EMPLOYEES LABOR RELATIONS AGENCY.

12 (a) There is established a certificated employees labor relations  
13 agency that consists of five members. The three members of the state  
14 personnel board (AS 39.25.060) are members of the certificated employ-  
15 ees labor relations agency. The governor shall appoint two additional  
16 members to the agency, one each from lists of nominees submitted by  
17 the National Education Association of Alaska and the Alaska Associa-  
18 tion of School Boards. Each nominee shall have at least three years  
19 experience in matters relating to education in Alaska. The two  
20 appointees of the governor to the certificated employees labor rela-  
21 tions agency serve at the pleasure of the governor.

22 (b) Members of the agency receive no compensation for their  
23 services, but are entitled to per diem and travel expenses authorized  
24 for boards and commissions.

25 (c) The agency may employ staff assistance as it considers  
26 necessary to implement the provisions of AS 14.20.540 - 14.20.615.

27 Sec. 14.20.606. APPLICABILITY OF PUBLIC EMPLOYMENT RELATIONS  
28 ACT. (a) The agency shall perform the functions described in  
29 AS 23.40.120 - 23.40.180 to carry out the provisions of AS 14.20.540 -

1 14.20.615.

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

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

5 Sec. 14.20.610. LEGAL RESPONSIBILITIES OF BOARDS. (a) Nothing  
6 in AS 14.20.540 - 14.20.615 [AS 14.20.550 - 14.20.600] may be con-  
7 strued as an abrogation or delegation of the legal responsibilities,  
8 powers, and duties of the school board including its right to make  
9 final decisions on educational policies.

10 (b) In addition to the powers and duties established by law, a  
11 school board has the exclusive power and duty to

12 (1) direct the work of its employees;

13 (2) hire, promote, demote, transfer, assign, and retain  
14 employees in positions within the school district;

15 (3) suspend or discharge school district employees for  
16 proper cause;

17 (4) maintain the efficiency of governmental operations;

18 (5) relieve school district employees from duties because  
19 of lack of work or for other legitimate reasons;

20 (6) ascertain and implement the methods, means, assignments  
21 and personnel by which the school district's operations are to be  
22 conducted;

23 (7) take actions necessary to carry out the duties of the  
24 school district; and

25 (8) initiate, prepare, certify, and administer its budget.

26 \* Sec. 13. AS 14.20 is amended by adding new sections to read:

27 Sec. 14.20.611. REDUCTION IN FORCE. (a) A school district may,  
28 for reasons of program reduction or insufficient revenue, reduce the  
29 work force of the district by placing certificated tenured and non-

1 tenured employees on unpaid furlough status at any time during the  
2 school year with 30 days prior notice to the employee.

3 (b) An employee on furlough status has the first right of re-  
4 fusals on a vacancy for which the furloughed employee is qualified.

5 (c) Failure on the part of a furloughed employee to accept an  
6 offer of reemployment with the district shall constitute an abrogation  
7 of all rights to reemployment with the district.

8 Sec. 14.20.612. STRIKES PROHIBITED. (a) A certificated em-  
9 ployee or certificated employee organization may not, directly or  
10 indirectly, induce, instigate, encourage, authorize, ratify, or par-  
11 ticipate in a strike against a school district.

12 (b) A school board may not authorize, consent to, or condone a  
13 strike or pay a certificated employee for any day in which the em-  
14 ployee participates in a strike. A school board may not pay an in-  
15 crease in compensation or benefits to a certificated employee in  
16 response to or as a result of a strike that violates (a) of this  
17 section. An official or representative of a school board may not  
18 authorize, ratify, or participate in a violation of this subsection.  
19 This subsection does not prohibit new or renewed bargaining and agree-  
20 ment within the scope of negotiations as permitted by AS 14.20.540 -  
21 14.20.615, at any time after a violation of (a) of this section has  
22 ceased; but a school board or certificated employee organization may  
23 not bargain at any time regarding suspension or modification of a  
24 penalty provided in this section or regarding a request by the school  
25 board to a court for the suspension or modification.

26 (c) A citizen domiciled within the jurisdictional boundaries of  
27 the school district may petition the superior court for an injunction  
28 restraining a violation or imminent violation of this section.

29 (d) If a certificated employee violates this section the

1 employee shall be ineligible for employment by the same school dis-  
2 trict for a period of 12 months and the school board shall immediately  
3 discharge the employee.

4 (e) If a certificated employee organization or any of its offi-  
5 cers violates this section the certificated employee organization  
6 shall be immediately decertified, shall cease to represent the bar-  
7 gaining unit, shall cease to receive dues by checkoff, and may again  
8 be certified only after 12 months have elapsed from the effective date  
9 of decertification.

10 (f) A person who violates this section is guilty of a class B  
11 misdemeanor. The penalties provided in this section may be suspended  
12 or modified by the court, but only upon request of the public employer  
13 and only if the court determines the suspension of modification is in  
14 the public interest.

15 Sec. 14.20.615. DEFINITIONS. In AS 14.20.540 - 14.20.615

16 (1) "agency" means the certificated employees labor rela-  
17 tions agency;

18 (2) "certificated employee" includes teachers, counselors,  
19 and nonadministrative certificated personnel as considered appropriate  
20 by the agency but does not include assistant principals, principals,  
21 and other certificated administrative personnel.

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

24 \* Sec. 15. This Act takes effect immediately in accordance with AS 01.-  
25 10.070(c).