

Introduced: 1/25/85
Referred: Labor & Commerce, Health,
Education & Social Services and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 130

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

10 * Section 1. AS 14.20 is amended by adding a new section to article 6
11 to read:

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

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

26 Sec. 14.20.550. NEGOTIATION WITH [CERTIFICATED] EMPLOYEES. Each
27 city, borough and regional school board, shall negotiate with its
28 [CERTIFICATED] employees in good faith on matters pertaining to their
29 employment and the fulfillment of their professional duties.

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

2 (a) Negotiations between the [CERTIFICATED] employees of the
3 regional educational attendance areas and the respective regional
4 school boards must [SHALL] be conducted by one team representing all
5 the [CERTIFICATED] employees[, ONE TEAM REPRESENTING ALL THE CERTIFI-
6 CATED ADMINISTRATIVE PERSONNEL IF THEY HAVE JOINED TOGETHER TO NEGOTI-
7 ATE INDEPENDENTLY AS PROVIDED IN AS 14.20.560(f),] and one team repre-
8 senting all the participating regional school boards. If administra-
9 tive personnel or noncertificated employees have joined together to
10 negotiate independently as provided in AS 14.20.560(f), a team repre-
11 senting the independent employee organizations shall participate in
12 the negotiations.

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

14 Sec. 14.20.560. NEGOTIATING UNIT. (a) The educational employ-
15 ees labor relations agency shall, in order to assure to employees the
16 fullest freedom in exercising the rights provided under AS 14.20.-
17 540 -- 14.20.610, decide in each case the unit appropriate for the
18 purposes of negotiation, based on such factors as community of inter-
19 est, wages, hours, and other working conditions of the employees in-
20 volved, the history of negotiating, and the desires of the employees.
21 Negotiating units must be as large as is reasonable; unnecessary
22 fragmenting of the units must be avoided.

23 (b) Upon petition for certification by 30 percent of the employ-
24 ees in a proposed negotiating unit, and if the educational employees
25 labor relations agency has reasonable cause to believe that a question
26 of representation exists, the agency shall provide for an appropriate
27 hearing after reasonable notice. If the educational employees labor
28 relations agency finds that there is a question of representation,
29 that agency shall direct an election by secret ballot to determine

1 whether, or by which organization, the employees desire to be repre-
2 sented, and shall certify the results of the election. This section
3 does not prohibit the waiving of hearings by stipulation for the
4 purpose of a consent election or voluntary certification in conformity
5 with the regulations of the educational employees labor relations
6 agency, or an election in a negotiating unit agreed upon by the
7 parties. The educational employees labor relations agency shall
8 determine who is eligible to vote in an election and shall adopt
9 regulations governing the election. In an election in which none of
10 the choices on the ballot receives a majority of the votes cast, a
11 runoff election must be conducted. The ballot in the runoff election
12 must provide for selection between the two choices receiving the
13 largest and the second largest number of valid votes cast in the
14 election. If an organization receives the majority of the votes cast
15 in the election, it must be certified by the educational employees
16 labor relations agency as the exclusive representative of all the
17 employees in the negotiating unit.

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

21 (d) This section does not prohibit recognition of an organiza-
22 tion as the exclusive representative upon mutual consent of the
23 parties.

24 (e) An election may only be directed by the educational employ-
25 ees labor relations agency in a negotiating unit in which there is in
26 force a valid collective bargaining agreement during the 90-day period
27 preceding the expiration date of the agreement. However, an agreement
28 may not bar an election upon petition of persons in the negotiating
29 unit but not parties to the agreement if more than three years have

1 elapsed since the execution of the agreement or the last timely renew-
2 al, whichever was later.

3 (f) This section does not prohibit noncertificated employees or
4 certificated administrative personnel from choosing by secret ballot
5 to negotiate independently of other personnel. If noncertificated or
6 certificated administrative personnel seek to negotiate independently
7 of other certificated employees, the educational employees labor
8 relations agency shall review the submitted representation petition
9 and, if 30 percent of the employees in a proper negotiating unit sign
10 the petition, the agency shall conduct a representation election.

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

12 Sec. 14.20.565. NEGOTIATION MEETINGS. (a) A school board
13 shall, upon the written request of an employee bargaining organiza-
14 tion, meet with the representative of the organization within 20 days
15 after the request, at a time and place to be agreed upon. In the same
16 manner, representatives of an employee bargaining organization are
17 required to meet with a school board or its representatives within 20
18 days after receiving a written request.

19 (b) Notwithstanding AS 44.62.310, a negotiation meeting may be
20 held in executive session upon agreement of both parties, but all
21 final agreements must be made at a public meeting of the school board.

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

23 (a) Upon [THE] written request for mediation by an employee bar-
24 gaining agency or a school board, and upon certification by the re-
25 questing party that the parties cannot agree on an independent private
26 mediator and that good faith negotiations have terminated in an im-
27 passe, the following procedure must be followed [OCCURS]:

28 (1) Within seven days after [OF] the certification, the
29 requesting party shall ask the United States Federal Mediation and

1 Conciliation Service to serve as the agency to resolve the dispute.
2 The requesting party shall notify the educational employees labor
3 relations agency that the parties have requested a mediator.

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

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

13 (4) Each party to the dispute may select a team [OF NOT
14 MORE THAN FIVE PERSONS] to present the evidence, thinking, and posi-
15 tion of the group they represent[,] to the mediator.

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

17 Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall notify
18 the educational employees labor relations agency when the parties
19 jointly agree, or when the mediator independently determines, that
20 further mediation would not promote resolution of the dispute. Fol-
21 lowing mediation, the parties shall observe a 10-day cooling-off
22 period.

23 * Sec. 8. AS 14.20 is amended by adding a new section to read:

24 Sec. 14.20.585. ARBITRATION. (a) If the educational employees
25 labor relations agency is notified under AS 14.20.580 that further
26 mediation will not promote resolution of the dispute, the parties
27 shall submit to last-best-offer mediated arbitration. A collective
28 bargaining agreement between a board and an employee group must in-
29 clude a procedure to promptly select an arbitrator. If the parties

1 are unable to agree on a procedure for the selection of an arbitrator,
2 the educational employees labor relations agency shall direct the
3 parties to use the services of and comply with the procedures of the
4 United States Federal Mediation and Conciliation Service or the Ameri-
5 can Arbitration Association in the selection of an arbitrator. An
6 arbitrator selected under this subsection must be a resident of this
7 state.

8 (b) In last-best-offer mediated arbitration under this section,
9 each party shall submit a final offer on all issues in dispute. Each
10 party shall submit to the arbitrator oral or written evidence in sup-
11 port of its position, and must be given an opportunity to respond to
12 the presentation of evidence by the other party. The arbitrator may
13 propose compromises to points in dispute. At the request of either
14 party, or on the motion of the arbitrator, the arbitrator may conduct
15 a public meeting for the purpose of allowing the parties to present
16 and explain their positions and final offers. The arbitrator shall
17 allow each party to revise its last best offer before final submission
18 to the arbitrator for decision.

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

23 (d) The parties shall share the cost of the arbitrator equally.

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

25 Sec. 14.20.590. GRIEVANCE PROCEDURES. Negotiations agreements
26 executed after July 1, 1975, must [SHALL] define "grievances" and must
27 provide for grievance procedures [FOR THE CERTIFICATED STAFF]. The
28 grievance procedures must [SHALL] provide that the final step in the
29 procedure is [SHALL BE] binding arbitration. The negotiations agreeme

1 must [SHALL] provide a method for the selection of an arbitrator to
2 resolve grievances.

3 * Sec. 10. AS 14.20.600 is amended to read:

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

8 (b) The educational employees labor relations agency may adopt
9 regulations setting out procedures consistent with the purposes of
10 AS 14.20.540 -- 14.20.610 to safeguard the rights of nonassociation of
11 employees having bona fide religious convictions.

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

13 Sec. 14.20.605. EDUCATIONAL EMPLOYEES LABOR RELATIONS AGENCY.
14 (a) There is established in the Department of Administration an
15 educational employees labor relations agency that consists of five
16 members. The three members of the state personnel board (AS 39.25.-
17 060) are members of the educational employees labor relations agency.
18 The governor shall appoint two additional members to the agency. The
19 two gubernatorial appointees to the educational employees labor re-
20 lations agency serve at the pleasure of the governor.

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

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

27 Sec. 14.20.606. POWER TO IMPLEMENT NEGOTIATIONS. (a) The
28 educational employees labor relations agency shall perform the func-
29 tions described in AS 23.40.120 -- 23.40.180 to carry out the

1 provisions of AS 14.20.540 -- 14.20.610.

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. Nothing in
6 AS 14.20.540 [14.20.550] -- 14.20.600 may be construed as an abroga-
7 tion or delegation of the legal responsibilities, powers, and duties
8 of the school board, including its right to make final decisions on
9 educational policies.

10 * Sec. 13. This Act does not modify or terminate a negotiating unit or
11 agreement in existence on the effective date of this Act.

12 * Sec. 14. This Act takes effect immediately in accordance with AS 01.-
13 10.070(c).