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BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 130 (L&C)

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 AS 14.20.550 is repealed and reenacted to read:

26 Sec. 14.20.550. NEGOTIATION BETWEEN SCHOOL BOARDS AND EMPLOYEES.
27 (a) A school board and an employee bargaining organization shall
28 negotiate in good faith on matters pertaining to employment and the
29 fulfillment of professional duties.

1 (b) In this section, "negotiate in good faith" means the perfor-
2 mance of mutual obligations of the parties to meet at reasonable times
3 and to participate actively, indicating a present intention to reach
4 agreement, or to negotiate an agreement or a question arising under
5 the agreement, and at the request of either party to execute a written
6 contract incorporating any agreement reached. However, the require-
7 ment to negotiate in good faith may not be interpreted to compel
8 either party to agree to a proposal or to make a concession.

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 shall be conducted by one team representing all the
13 [CERTIFICATED] employees [, ONE TEAM REPRESENTING ALL THE CERTIFICATED
14 ADMINISTRATIVE PERSONNEL IF THEY HAVE JOINED TOGETHER TO NEGOTIATE
15 INDEPENDENTLY AS PROVIDED IN AS 14.20.560(f),] and one team represent-
16 ing all the participating regional school boards. In addition, if
17 administrative personnel or noncertificated employees have joined
18 together to negotiate independently as provided in AS 14.20.560(f), a
19 team representing the independent employee organizations shall partic-
20 ipate in the negotiations.

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 AS 14.20.560 is repealed and reenacted to read:

22 Sec. 14.20.560. NEGOTIATING UNIT. (a) In order to assure to
23 employees the fullest freedom in exercising the rights provided under
24 AS 14.20.540 - 14.20.610, the agency shall decide in each case the
25 unit appropriate for the purposes of negotiation, based on such fac-
26 tors as community of interest, wages, hours, and other working con-
27 ditions of the employees involved, the history of negotiating, and the
28 desires of the employees. Negotiating units must be as large as is
29 reasonable. The agency shall avoid unnecessary fragmenting of the

1 units.

2 (b) Upon petition for certification by 30 percent of the employ-
3 ees in a proposed negotiating unit, and if the agency has reasonable
4 cause to believe that a question of representation exists, the agency
5 shall provide for an appropriate hearing after reasonable notice. If
6 the agency finds that there is a question of representation, the
7 agency shall direct an election by secret ballot to determine whether,
8 or by which organization, the employees desire to be represented, and
9 shall certify the results of the election. The parties may agree to
10 waive a hearing for the purpose of a consent election, voluntary
11 certification of an employee bargaining organization in accordance
12 with the regulations of the agency, or an election in a negotiating
13 unit agreed upon by the parties. The agency shall determine the
14 persons eligible to vote in an election and shall adopt regulations
15 governing the election. In an election in which none of the choices
16 on the ballot receives a majority of the votes cast, the agency shall
17 conduct a runoff election. The ballot in the runoff election must
18 provide for selection between the two choices receiving the largest
19 and the second largest number of valid votes cast in the election.
20 The agency shall certify an organization that receives the majority of
21 the votes cast in the election as the exclusive representative of all
22 the employees in the negotiating unit.

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

26 (d) The parties may agree to recognize an employee bargaining
27 organization as the exclusive representative.

28 (e) The agency may direct an election in a negotiating unit in
29 which there is in force a valid collective bargaining agreement only

1 during the 90-day period preceding the expiration date of the agree-
2 ment. However, an agreement may not bar an election upon petition of
3 persons in the negotiating unit but not parties to the agreement if
4 more than three years have elapsed since the execution of the agree-
5 ment or the last timely renewal, whichever was later.

6 (f) Noncertificated employees or certificated administrative
7 personnel may choose by secret ballot to negotiate independently of
8 other personnel. If noncertificated employees or certificated admin-
9 istrative personnel seek to negotiate independently of other certifi-
10 cated employees, the agency shall review the submitted representation
11 petition and, if 30 percent of the employees in a proper negotiating
12 unit sign the petition, the agency shall conduct a representation
13 election.

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

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

22 (b) Notwithstanding AS 44.62.310, the parties may agree to hold
23 a negotiation meeting in executive session, but the parties shall make
24 all final agreements at a public meeting of the school board.

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

26 (a) Upon [THE] written request for mediation by an employee bar-
27 gaining organization [AGENCY] or a school board, and upon certifica-
28 tion by the requesting party that the parties cannot agree on an
29 independent private mediator and that good faith negotiations have

1 terminated in an impasse, the following procedure must be followed
2 [OCCURS]:

3 (1) Within seven days after [OF] the certification, the
4 requesting party shall ask the United States Federal Mediation and
5 Conciliation Service to serve as the agency to resolve the dispute.
6 The requesting party shall notify the agency that the parties have
7 requested a mediator.

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

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

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

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

20 Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall notify
21 the agency when the parties jointly agree, or when the mediator inde-
22 pendently determines, that further mediation would not promote resolu-
23 tion of the dispute. Following mediation, the parties shall observe a
24 10-day cooling-off period.

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

26 Sec. 14.20.585. ARBITRATION. (a) If the agency is notified
27 under AS 14.20.580 that further mediation will not promote resolution
28 of the dispute, the parties shall submit to last-best-offer mediated
29 arbitration. A collective bargaining agreement between a school board

1 and an employee bargaining organization must include a procedure to
2 promptly select an arbitrator. If the parties are unable to agree on
3 a procedure for the selection of an arbitrator, the agency shall
4 direct the parties to use the services of and comply with the proce-
5 dures of the United States Federal Mediation and Conciliation Service
6 or the American Arbitration Association in the selection of an arbi-
7 trator.

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) When making the decision, the arbitrator shall consider

20 (1) the history of negotiations between the parties before
21 entering arbitration;

22 (2) the public interest and financial abilities of the
23 school district;

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

25 (4) changes in the cost of living;

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

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

1 (d) The arbitrator shall, without modification, adopt the last
2 best offer of one of the parties, and shall issue a final and binding
3 decision not more than 10 days after the parties have presented their
4 last best offers.

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

6 (f) Within 30 days after receipt of a final decision in an
7 arbitration, a party to the arbitration may file a motion in the
8 superior court for the judicial district in which the school district
9 is located to vacate or modify the decision. The court, after hear-
10 ing, may vacate or modify the decision if the substantial rights of a
11 party have been prejudiced because

- 12 (1) the decision violates constitutional or statutory law;
13 (2) the decision exceeds the statutory authority of the
14 arbitrator;
15 (3) the procedure in the arbitration was unlawful;
16 (4) the proceeding is affected by other error of law;
17 (5) the decision is clearly erroneous in view of the reli-
18 able, probative and substantial evidence on the whole record; or
19 (6) the decision is arbitrary, capricious, or characterized
20 by abuse of discretion or clearly unwarranted exercise of discretion.

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

22 Sec. 14.20.590. GRIEVANCE PROCEDURES. Negotiations agreements
23 must [EXECUTED AFTER JULY 1, 1975, SHALL] define "grievances" and
24 provide for grievance procedures [FOR THE CERTIFICATED STAFF]. The
25 grievance procedures must [SHALL] provide that the final step in the
26 procedure is [SHALL BE] binding arbitration. The negotiations agree-
27 ment must [SHALL] provide a method for the selection of an arbitrator
28 to resolve grievances.

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

1 Sec. 14.20.600. INDIVIDUAL RIGHTS [CASES]. Nothing in AS 14.-
2 20.540 - 14.20.615 [AS 14.20.550 - 14.20.590] prohibits an employee
3 from addressing a school board, as an individual, through the regular
4 procedures of the school board for hearing individual cases.

5 * Sec. 11. AS 14.20.600 is amended by adding a new subsection to read:

6 (b) The agency may adopt regulations setting out procedures
7 consistent with the purposes of AS 14.20.540 - 14.20.615 to safeguard
8 the rights of nonassociation of employees having bona fide religious
9 convictions.

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

11 Sec. 14.20.605. EDUCATIONAL EMPLOYEES LABOR RELATIONS AGENCY.

12 (a) There is established in the Department of Administration an
13 educational employees labor relations agency that consists of three
14 members appointed by the governor for terms of three years. Members
15 serve at the pleasure of the governor.

16 (b) Members of the agency receive no compensation for their
17 services, but are entitled to per diem and travel expenses authorized
18 for boards and commissions under AS 39.20.180.

19 (c) The agency may employ staff to implement the provisions of
20 AS 14.20.540 - 14.20.615.

21 Sec. 14.20.606. POWER TO IMPLEMENT NEGOTIATIONS. (a) The
22 agency shall perform the functions described in AS 23.40.120 - 23.40.-
23 180 to carry out the provisions of AS 14.20.540 - 14.20.615.

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

27 * Sec. 13. AS 14.20.610 is amended to read:

28 Sec. 14.20.610. LEGAL RESPONSIBILITIES OF BOARDS. Nothing in
29 AS 14.20.540 - 14.20.615 [AS 14.20.550 - 14.20.600] may be construed

1 as an abrogation or delegation of the legal responsibilities, powers,
2 and duties of the school board, including its right to make final
3 decisions on educational policies.

4 * Sec. 14. AS 14.20 is amended by adding a new section to article 6 to
5 read:

6 Sec. 14.20.615. DEFINITION. In AS 14.20.540 - 14.20.615
7 "agency" means the educational employees labor relations agency.

8 * Sec. 15. Notwithstanding AS 14.20.605 enacted by sec. 12 of this Act,
9 one initial member of the educational employees labor relations agency
10 shall serve a term of one year and one initial member shall serve a term of
11 two years.

12 * Sec. 16. This Act does not modify or terminate a negotiating unit or
13 agreement in existence on the effective date of this Act.

14 * Sec. 17. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).