

Offered: 4/15/85  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 130 (HESS)

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 AS 14.20.550 is repealed and reenacted to read: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 each issue 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) For each issue, the arbitrator shall adopt without modifica-  
2 tion the last best offer presented by one of the parties. The arbi-  
3 trator shall issue a final and binding decision not more than 10 days  
4 after the parties have presented their 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 and confirmed by the legislature  
15           meeting in joint session. Members serve for terms of three years.  
16           Members serve at the pleasure of the governor. The governor shall  
17           appoint as members one representative of management, one representa-  
18           tive of organized labor, and one public member. The members repre-  
19           senting management and organized labor must have knowledge and exper-  
20           ience in educational employment issues.

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

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

26           Sec. 14.20.606. POWER TO IMPLEMENT NEGOTIATIONS. (a) The  
27           agency shall perform the functions described in AS 23.40.120 - 23.40.-  
28           180 to carry out the provisions of AS 14.20.540 - 14.20.615.

29           (b) The prohibition of unfair labor practices, as described in

1 AS 23.40.110, applies to a school board and an employee bargaining  
2 organization.

3 \* Sec. 13. AS 14.20.610 is amended to read:

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

9 \* Sec. 14. AS 14.20 is amended by adding a new section to article 6 to  
10 read:

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

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

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

19 \* Sec. 17. This Act takes effect immediately in accordance with AS 01.-  
20 10.070(c).