

Offered: 5/5/87
Referred: Finance

5-0910B

Original sponsors: Adams and Wallis

1 IN THE HOUSE BY THE HEALTH, EDUCATION AND
2 CS FOR HOUSE BILL NO. 199 (HESS) SOCIAL SERVICES COMMITTEE
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to teacher layoffs and reemployment,
7 educational employees' collective bargaining agree-
8 ments, and school board meetings to consider school
9 district budgets; and providing for an effective
10 date."
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
12 * Section 1. AS 14.20.175(b) is amended to read:
13 (b) A teacher who has acquired tenure rights is subject to
14 nonretention for the following school year only for the following
15 causes:
16 (1) incompetency, which is defined as the inability or the
17 unintentional or intentional failure to perform the teacher's custom-
18 ary teaching duties in a satisfactory manner;
19 (2) immorality, which is defined as the commission of an
20 act which, under the laws of the state, constitutes a crime involving
21 moral turpitude; or
22 (3) substantial noncompliance with the school laws of the
23 state, the regulations or bylaws of the department, the bylaws of the
24 district, or the written rules of the superintendent [; OR
25 (4) A NECESSARY REDUCTION OF STAFF OCCASIONED BY A DECREASE
26 IN SCHOOL ATTENDANCE].
27 * Sec. 2. AS 14.20 is amended by adding new sections to read:
28 Sec. 14.20.176. LAYOFFS. (a) A school district may place a
29 teacher on layoff status when it is necessary to reduce the number of

1 teachers in the district because of

2 (1) a decrease in school attendance; or

3 (2) a financial exigency.

4 (b) A district shall notify a teacher who is to be placed on
5 layoff status by certified mail at least 90 days before the effective
6 date of the layoff.

7 (c) When a district notifies a teacher of intent to place the
8 teacher on layoff status, the district shall

9 (1) notify each employee bargaining organization represent-
10 ing school district teachers affected by the layoffs, provide the
11 organization with all appropriate information, and meet with the
12 organization as requested to explore alternatives to the layoffs; and

13 (2) prepare for public distribution a statement that out-
14 lines in detail the proposed program and staff reduction plans, in-
15 cluding alternatives to layoffs.

16 (d) If the layoff is caused by a financial exigency, the dis-
17 trict shall implement all other reasonable cost-saving measures before
18 laying off teachers.

19 (e) A school district may not justify teacher layoffs based on a
20 financial exigency unless the district establishes that the financial
21 crisis cannot be alleviated adequately by reasonable means other than
22 a reduction in the number of teachers.

23 (f) The department shall adopt regulations to implement AS 14.-
24 20.176 - 14.20.178.

25 (g) In this section, "financial exigency" means an imminent
26 financial crisis that threatens the viability of the school district.

27 Sec. 14.20.177. TEACHER LAYOFF RIGHTS. (a) District-wide
28 seniority shall be the basic criterion to determine the order of
29 layoff and of recall from layoff for teachers.

1 (b) When a school district that has laid off certificated teach-
2 ers has a vacancy for a certificated position, the district shall
3 offer the position, in order of district seniority, to the teachers on
4 the district recall list who hold the necessary certificates for that
5 position. The district may not offer the position to a teacher who is
6 not on the district recall list unless each teacher on the recall list
7 who holds the necessary certificates for the position refuses to
8 accept the position. If the district fails to comply with this sub-
9 section, a teacher who holds the necessary certificates, who is on the
10 district recall list, and who has more seniority in the district than
11 the person hired by the district may seek damages from the district.
12 The teacher is entitled to receive an amount equal to the salary and
13 benefits the teacher would have earned if the teacher had been em-
14 ployed in the position for a time equal to the remainder of the teach-
15 er's layoff period under (e) of this section.

16 (c) A district that has a vacancy that is not filled under (b)
17 of this section shall attempt to fill the position from the statewide
18 recall list under AS 14.20.178.

19 (d) A teacher who is eligible to be on a district recall list or
20 the statewide recall list is considered to be on layoff status. A
21 teacher on layoff status is considered to be on unpaid leave of
22 absence. A teacher on layoff status does not accrue leave. Time
23 spent on layoff status does not count toward the acquisition of tenure
24 rights. However, layoff status does not constitute a break in service
25 for

- 26 (1) determining eligibility for tenure;
27 (2) retaining acquired tenure rights;
28 (3) retaining accrued sick leave; or
29 (4) retaining accrued benefits under AS 14.25 (teachers'

1 retirement system) unless the teacher requests in writing to be con-
2 sidered terminated from employment for purposes of AS 14.25.

3 (e) The district shall retain a teacher on the district recall
4 list until the first of the following occurs:

5 (1) the teacher accepts reemployment in the district in a
6 position comparable to the position from which the teacher was laid
7 off;

8 (2) the teacher requests the district to remove the teach-
9 er's name from the list;

10 (3) the teacher refuses three offers from the district for
11 employment in certificated positions for which the teacher holds the
12 necessary certificates; or

13 (4) the expiration of two years and 90 days.

14 Sec. 14.20.178. STATEWIDE RECALL LIST. (a) The department
15 shall maintain a list of certificated teachers who have been laid off
16 by school districts in the state under AS 14.20.176. The list shall
17 be maintained in order of years of teaching service in school dis-
18 tricts in the state. The department shall retain a teacher's name on
19 the list until the first of the following occurs:

20 (1) the teacher accepts reemployment in the state in a
21 position comparable to the position from which the teacher was laid
22 off;

23 (2) the teacher requests the department to remove the
24 teacher's name from the list;

25 (3) the teacher refuses three offers from a school district
26 in the state for employment in certificated positions for which the
27 teacher holds the necessary certificates; or

28 (4) the expiration of five years.

29 (b) A district that is unable to fill a vacancy from the

1 district recall list under AS 14.20.177 shall notify the department of
2 the vacancy. The department shall notify teachers on the statewide
3 recall list of vacant positions referred to it under this subsection.
4 The district shall accept applications from teachers on the statewide
5 recall list for at least 30 days after the department has notified the
6 recall list of the vacancy. The district may not offer the vacant
7 position to a teacher who is not on the statewide recall list unless
8 each teacher on the statewide recall list who holds the necessary
9 certificates and who filed a timely application for the position has
10 refused to accept the position.

11 * Sec. 3. AS 14.20 is amended by adding a new section to article 6 to
12 read:

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

26 * Sec. 4. AS 14.20.550 is amended to read:

27 Sec. 14.20.550. NEGOTIATION WITH [CERTIFICATED] EMPLOYEES. A
28 [EACH CITY, BOROUGH AND REGIONAL] school board [,] shall negotiate
29 with its [CERTIFICATED] employees in good faith on matters pertaining

1 to [THEIR] employment and the fulfillment of [THEIR] professional
2 duties.

3 * Sec. 5. AS 14.20.555(a) is amended to read:

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

15 * Sec. 6. AS 14.20.560 is repealed and reenacted to read:

16 Sec. 14.20.560. NEGOTIATING UNIT. (a) In order to assure to
17 employees the fullest freedom in exercising the rights provided under
18 AS 14.20.540 - 14.20.615, the labor relations agency shall decide in
19 each case the appropriate negotiating unit, based on such factors as
20 community of interest, wages, hours, and other working conditions of
21 the employees involved, the history of negotiating, and the desires of
22 the employees. Negotiating units must be as large as is reasonable.
23 The agency shall avoid unnecessary fragmenting of the units.

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

1 secret ballot to determine whether, or by which organization, the em-
2 ployees desire to be represented, and shall certify the results of the
3 election. The parties may agree to waive a hearing in order to hold a
4 consent election or for voluntary certification in accordance with
5 regulations of the labor relations agency, or for an election in a
6 negotiating unit agreed upon by the parties. The labor relations
7 agency shall determine the persons eligible to vote in an election and
8 shall adopt regulations governing the election. In an election in
9 which none of the choices on the ballot receives a majority of the
10 votes cast, the agency shall conduct a runoff election. The ballot in
11 the runoff election must provide for selection between the two choices
12 receiving the largest and the second largest number of valid votes
13 cast in the election. The agency shall certify an organization that
14 receives the majority of the votes cast in the election as the exclu-
15 sive representative of all the employees in the negotiating unit.

16 (c) 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 (d) The parties may agree to recognize an employee bargaining
20 organization as the exclusive representative.

21 (e) The labor relations agency may direct an election in a
22 negotiating unit in which there is in force a valid collective bar-
23 gaining agreement only during the 90-day period preceding the expira-
24 tion date of the agreement. However, an agreement may not bar an
25 election upon petition of persons in the negotiating unit but not
26 parties to the agreement if more than three years have elapsed since
27 the execution of the agreement or the last timely renewal, whichever
28 was later.

29 (f) Noncertificated employees or certificated administrative

1 personnel may choose by secret ballot to negotiate independently of
2 other personnel. If noncertificated or certificated administrative
3 personnel seek to negotiate independently of other certificated em-
4 ployees, the labor relations agency shall review the submitted rep-
5 resentation petition and, if 30 percent of the employees in a proper
6 negotiating unit sign the petition, the agency shall conduct a rep-
7 resentation election.

8 * Sec. 7. AS 14.20 is amended by adding a new section to read:

9 Sec. 14.20.565. NEGOTIATION MEETINGS. (a) At the written
10 request of an employee bargaining organization, a school board shall
11 meet with the representative of the organization within 20 days after
12 the request, at a time and place to be agreed upon. In the same
13 manner, representatives of an employee bargaining organization shall
14 meet with a school board or its representatives within 20 days after
15 receiving a written request. A written notice by either party must be
16 presented no later than December 1. Negotiations shall commence no
17 later than January 15.

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

21 (c) Negotiations must be concluded with both parties reaching
22 agreement by March 15, unless by mutual agreement, both parties agree
23 to extend the process to March 31. Failing to reach agreement by
24 March 31, the parties shall immediately institute the mediation pro-
25 cess under AS 14.20.570.

26 * Sec. 8. AS 14.20.570(a) is amended to read:

27 (a) Upon [THE] written request for mediation by an employee
28 bargaining organization [AGENCY] or a school board, and upon certi-
29 fication by the requesting party that the parties cannot agree on an

1 independent private mediator and that good faith negotiations have
2 terminated in an impasse, the following procedure must be followed
3 [OCCURS]:

4 (1) within [WITHIN] seven days after [OF] the certifica-
5 tion, the requesting party shall ask the United States Federal Media-
6 tion and Conciliation Service to serve as the agency to resolve the
7 dispute; [.]

8 (2) the [THE] mediator shall chair all mediation meetings
9 between the disputing parties and attempt to resolve the differences
10 between the disputing parties and reach common acceptance of terms and
11 conditions or other items in dispute wherever possible; [.]

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

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

20 * Sec. 9. AS 14.20.570 is amended by adding a new subsection to read:

21 (c) When a mediation or arbitration meeting is held during
22 normal working hours, the school district shall release the members of
23 the employee team from work to attend the meeting without loss of pay
24 or benefits.

25 * Sec. 10. AS 14.20.580 is repealed and reenacted to read:

26 Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall determine
27 when further mediation would not promote resolution of the dispute.
28 Following mediation, the parties shall observe a 10-day cooling-off
29 period. Following mediation agreement must be reached no later than

1 April 15 or the dispute will go to arbitration under AS 14.20.585.
2 The parties shall conclude arbitration by May 15.

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

4 Sec. 14.20.585. ARBITRATION. (a) A collective bargaining
5 agreement between a school board and an employee bargaining organiza-
6 tion must include a procedure to promptly select an arbitrator to
7 conduct last-best-offer mediated arbitration. If the parties are
8 unable to agree on a procedure for the selection of an arbitrator, the
9 parties shall use the services of and comply with the procedures of
10 the American Arbitration Association in the selection of an arbitra-
11 tor. An arbitrator selected under this subsection must be a resident
12 of this state unless no state resident arbitrator is readily avail-
13 able.

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

25 (c) The arbitrator shall, without modification, adopt the last
26 best offer of one of the parties on each issue, and shall issue a
27 final and binding decision not more than 10 days after the parties
28 have presented their last best offers.

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

1 * Sec. 12. AS 14.20.590 is amended to read:

2 Sec. 14.20.590. GRIEVANCE PROCEDURES. Negotiations agreements
3 must [EXECUTED AFTER JULY 1, 1975 SHALL] define "grievances" and
4 provide for grievance procedures [FOR THE CERTIFICATED STAFF]. The
5 grievance procedures must [SHALL] provide that the final step in the
6 procedure is [SHALL BE] binding arbitration. The negotiations agree-
7 ment must [SHALL] provide a method for the selection of an arbitrator
8 to resolve grievances. The arbitrator shall determine all questions
9 of arbitrability of a grievance.

10 * Sec. 13. AS 14.20.590 is amended by adding a new subsection to read:

11 (b) The prohibition of unfair labor practices, as described in
12 AS 23.40.110, applies to a school board and an employee organization.
13 An unfair labor practice shall be adjudicated under the grievance
14 procedure of the collective bargaining agreement. It is an unfair
15 labor practice for a school board to refuse to continue the terms of
16 an expired agreement until a new agreement is reached.

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

18 Sec. 14.20.595. LAYOFF PROVISIONS. (a) A school board and an
19 employee bargaining organization shall negotiate contract terms re-
20 garding teacher layoffs. The terms shall be consistent with AS 14.-
21 20.176 - 14.20.178. The contract may include terms that offer addi-
22 tional protections to teachers in the district.

23 (b) If a school district intends to lay off teachers under
24 AS 14.20.176 - 14.20.178, the district shall negotiate with the em-
25 ployee bargaining organization to find ways to alleviate as much as
26 possible the effect of the layoffs on members of the bargaining orga-
27 nization.

28 (c) A decision of a school district to lay off a teacher is
29 subject to review under the grievance procedures required by

1 AS 14.20.590.

2 * Sec. 15. AS 14.20.610 is amended to read:

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

8 * Sec. 16. AS 14.20 is amended by adding a new section to article 6 to
9 read:

10 Sec. 14.20.615. DEFINITIONS. (a) In AS 14.20.540 - 14.20.615,
11 "employee" includes certificated and noncertificated employees of
12 school districts.

13 (b) In AS 14.20.540 - 14.20.615, "collective bargaining," "elec-
14 tion," "labor relations agency," and "organization" have the meanings
15 given in AS 23.40.250.

16 * Sec. 17. AS 44.62.310 is amended by adding a new subsection to read:

17 (g) A school board or subcommittee of a school board may not
18 consider or discuss the school district budget except in a public
19 meeting. The work papers and related materials concerning the budget
20 that are considered at the meeting are public records. The board
21 shall make copies of the papers and materials available to the public
22 at the meeting to the maximum extent possible.

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

25 * Sec. 19. This Act takes effect immediately under AS 01.10.070(c).