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5-0297A

1 IN THE SENATE BY DUNCAN, ZHAROFF, JOSEPHSON,
KERTTULA AND SZYMANSKI
2 SENATE BILL NO. 40
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 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. A
27 [EACH CITY, BOROUGH AND REGIONAL] school board [,] shall negotiate
28 with its [CERTIFICATED] employees in good faith on matters pertaining
29 to [THEIR] employment and the fulfillment of [THEIR] professional

1 duties.

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

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

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 AS 14.20.560 is repealed and reenacted to read:

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

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

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

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

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

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

28 (f) Noncertificated employees or certificated administrative
29 personnel may choose by secret ballot to negotiate independently of

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

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

8 Sec. 14.20.565. NEGOTIATION MEETINGS. (a) At the written
9 request of an employee bargaining organization, a school board shall
10 meet with the representative of the organization within 20 days after
11 the request, at a time and place to be agreed upon. In the same
12 manner, representatives of an employee bargaining organization shall
13 meet with a school board or its representatives within 20 days after
14 receiving a written request.

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

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

19 (a) Upon [THE] written request for mediation by an employee
20 bargaining organization [AGENCY] or a school board, and upon certi-
21 fication by the requesting party that the parties cannot agree on an
22 independent private mediator and that good faith negotiations have
23 terminated in an impasse, the following procedure must be followed
24 [OCCURS]:

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

29 (2) the [THE] mediator shall chair all mediation meetings

1 between the disputing parties and attempt to resolve the differences
2 between the disputing parties and reach common acceptance of terms and
3 conditions or other items in dispute wherever possible; [.]

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

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

12 * Sec. 7. AS 14.20.570 is amended by adding a new subsection to read:

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

17 * Sec. 8. AS 14.20.580 is repealed and reenacted to read:

18 Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall determine
19 when further mediation would not promote resolution of the dispute.
20 Following mediation, the parties shall observe a 10-day cooling-off
21 period.

22 * Sec. 9. AS 14.20 is amended by adding a new section to read:

23 Sec. 14.20.585. ARBITRATION. (a) A collective bargaining
24 agreement between a school board and an employee bargaining organiza-
25 tion must include a procedure to promptly select an arbitrator to
26 conduct last-best-offer mediated arbitration. If the parties are
27 unable to agree on a procedure for the selection of an arbitrator, the
28 parties shall use the services of and comply with the procedures of
29 the American Arbitration Association in the selection of an

1 arbitrator.

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

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

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

18 * Sec. 10. AS 14.20.590 is amended to read:

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

27 * Sec. 11. AS 14.20.590 is amended by adding a new subsection to read:

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

1 An unfair labor practice shall be adjudicated under the grievance
2 procedure of the collective bargaining agreement. It is an unfair
3 labor practice for a school board to refuse to continue the terms of
4 an expired agreement until a new agreement is reached.

5 * Sec. 12. AS 14.20.610 is amended to read:

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

11 * Sec. 13. AS 14.20 is amended by adding a new section to Article 6 to
12 read:

13 Sec. 14.20.615. DEFINITIONS. (a) In AS 14.20.540 - 14.20.615,
14 "employee" includes certificated and noncertificated employees of
15 school districts.

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

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

21 * Sec. 15. This Act takes effect immediately under AS 01.10.070(c).