

SENATE BILL NO. 458

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/23/92  
Referred: L&C, HES

A BILL

FOR AN ACT ENTITLED

1 "An Act including public school employees in the Public Employment Relations Act as  
2 class (a)(3) employees entitled to a right to strike after advisory arbitration; relating to  
3 teacher tenure; providing for teacher layoff procedures; and providing for an effective  
4 date."

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

6 \* Section 1. AS 14.16.050(a) is amended to read:

7 (a) The following provisions apply with respect to the operation and management of the  
8 state boarding school as if it were a school district:

9 (1) requirements relating to school district operations:

10 (A) AS 14.03.030 - 14.03.050 (defining the school term, day in session,  
11 and school holidays);

12 (B) AS 14.03.083 - 14.03.140 (miscellaneous provisions applicable to  
13 school district operations);

14 (C) regulations adopted by the board under authority of AS 14.07.020(a)

1 that are applicable to school districts and their schools, unless the board specifically  
2 exempts the state boarding school from compliance with a regulation;

3 (D) AS 14.12.150 (authorizing school districts to establish and participate  
4 in the services of a regional resource center);

5 (E) AS 14.14.050 (imposing the requirement of an annual audit);

6 (F) AS 14.14.110 (authorizing cooperation with other school districts);

7 (G) AS 14.14.130 (directing the employment of a chief school  
8 administrator);

9 (H) AS 14.14.140(b) (establishing a prohibition on employment of a  
10 relative of the chief school administrator);

11 (I) AS 14.18 (prohibiting discrimination based on sex in public education);

12 (2) requirements relating to state financial assistance for education and the receipt  
13 and expenditure of that assistance:

14 (A) AS 14.17.080 (relating to student count estimates);

15 (B) AS 14.17.082 (relating to school operating fund balances);

16 (C) AS 14.17.160 - 14.17.220 (setting out the procedure for payment of  
17 financial assistance, and imposing general requirements and limits on money paid);

18 (3) requirements relating to teacher employment and retirement:

19 (A) AS 14.14.105 and 14.14.107 (relating to sick leave);

20 (B) AS 14.20.095 - 14.20.215 (relating to the employment and tenure of  
21 teachers);

22 (C) AS 14.20.220 (relating to the salaries of teachers employed);

23 (D) AS 14.20.280 - 14.20.350 (relating to sabbatical leave provisions for  
24 teachers);

25 (E) AS 23.40.070 - 23.40.260 [AS 14.20.550 - 14.20.610] (authorizing  
26 collective bargaining [, NEGOTIATION, AND MEDIATION] by certificated employees),  
27 except with regard to teachers who are administrators and except that the board may  
28 delegate some or all of its responsibilities under those statutes;

29 (F) AS 14.25 (provisions regarding the teachers' retirement system);

30 (4) requirements relating to students and educational programs:

31 (A) AS 14.30.180 - 14.30.350 (relating to educational services for

1 exceptional children);

2 (B) AS 14.30.360 - 14.30.370 (establishing health education program  
3 standards);

4 (C) AS 14.30.400 - 14.30.410 (relating to bilingual and bicultural  
5 education).

6 \* Sec. 2. AS 14.16.070 is amended to read:

7 Sec. 14.16.070. APPLICABILITY OF OTHER LAW. AS 23.40.070 - 23.40.260 (Public  
8 Employment Relations Act) apply to the employees of the state boarding school [WHO ARE  
9 NOT SUBJECT TO AS 14.20].

10 \* Sec. 3. AS 14.20.175(b) is amended to read:

11 (b) A teacher who has acquired tenure rights is subject to nonretention for the following  
12 school year only for the following causes:

13 (1) incompetency, which is defined as the inability or the unintentional or  
14 intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

15 (2) immorality, which is defined as the commission of an act which, under the  
16 laws of the state, constitutes a crime involving moral turpitude;

17 (3) substantial noncompliance with the school laws of the state, the regulations  
18 or bylaws of the department, the bylaws of the district, or the written rules of the superintendent;  
19 [OR]

20 (4) a necessary reduction of staff, as determined by the employer, occasioned  
21 by a decrease in school attendance, or a necessary reduction in staff because of budgetary or  
22 fiscal circumstances, as determined by the employer and approved by the commissioner.

23 \* Sec. 4. AS 14.20 is amended by adding a new section to read:

24 Sec. 14.20.176. LAYOFF; REHIRE. (a) A teacher is subject to layoff at any time  
25 during a calendar year, in a manner determined by the employer, because of budgetary or fiscal  
26 circumstances of the municipal school district or regional educational attendance area.

27 (b) Before taking action under (a) of this section, a municipal school district or regional  
28 educational attendance area shall demonstrate, to the commissioner's satisfaction, that a budgetary  
29 or fiscal circumstance necessitates a layoff under (a) of this section.

30 (c) For a period of three years after layoff, a teacher who has been laid off under this  
31 section is entitled to a hiring preference to fill a vacancy in a teaching position in that district

1 or regional educational attendance area for which that teacher is qualified.

2 (d) If a teacher is offered a teaching position under (c) of this section, and the teacher  
3 declines the offer, the teacher is no longer entitled to a hiring preference under (c) of this  
4 section.

5 (e) Notwithstanding any provision of AS 23.40, the terms of a collective bargaining  
6 agreement entered into between a teacher and a school district or regional educational attendance  
7 area after the effective date of this section may not be inconsistent with the provisions of this  
8 section.

9 (f) This section applies to a teacher regardless of whether that teacher has acquired tenure  
10 rights.

11 \* Sec. 5. AS 23.40.200(c) is amended to read:

12 (c) The class in (a)(2) of this section is composed of public utility, snow removal,  
13 sanitation, and [PUBLIC SCHOOL AND OTHER] educational institution employees other than  
14 employees of a school district, a regional educational attendance area, or the state boarding  
15 school. Employees in this class may engage in a strike after mediation, subject to the voting  
16 requirement of (d) of this section, for a limited time. The limit is determined by the interests of  
17 the health, safety, or welfare of the public. The public employer or the labor relations agency  
18 may apply to the superior court in the judicial district in which the strike is occurring for an  
19 order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun  
20 to threaten the health, safety, or welfare of the public. A court, in deciding whether or not to  
21 enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes  
22 not only the impact of a strike on the public but also the extent to which employee organizations  
23 and public employers have met their statutory obligations. If an impasse or deadlock still exists  
24 after the issuance of an injunction, the parties shall submit to arbitration to be carried out under  
25 AS 09.43.030.

26 \* Sec. 6. AS 23.40.200(d) is amended to read:

27 (d) The class in (a)(3) of this section includes all other public employees who are not  
28 included in the classes in (a)(1) or (a)(2) of this section. Employees in this class may engage  
29 in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to  
30 do so. However, if an impasse or deadlock is reached in collective bargaining negotiations  
31 between a municipal school district, a regional educational attendance area, or the state

1 **boarding school and its employees, the parties shall submit to advisory arbitration before**  
2 **the employees may engage in a strike.**

3 \* Sec. 7. AS 23.40.215 is amended by adding a new subsection to read:

4 (c) Notwithstanding (b) of this section, the monetary terms of an agreement entered into  
5 between a school district or regional educational attendance area and its employees are not  
6 subject to approval by the legislature.

7 \* Sec. 8. AS 23.40.250(6) is amended to read:

8 (6) "public employee" means any employee of a public employer, whether or not  
9 in the classified service of the public employer, except elected or appointed officials or  
10 **superintendents of schools** [TEACHERS OR NONCERTIFICATED EMPLOYEES OF  
11 SCHOOL DISTRICTS];

12 \* Sec. 9. AS 23.40.250(7) is amended to read:

13 (7) "public employer" means the state or a political subdivision of the state,  
14 including without limitation, a **municipality** [TOWN, CITY, BOROUGH], district, **school**  
15 **district, regional educational attendance area**, board of regents, public and quasi-public corpo-  
16 ration, housing authority, or other authority established by law, and a person designated by the  
17 public employer to act in its interest in dealing with public employees;

18 \* Sec. 10. AS 23.40.250 is amended by adding a new paragraph to read:

19 (9) "regional educational attendance area" means an educational service area in  
20 the unorganized borough that may or may not include a military reservation, and that contains  
21 one or more public schools of grade levels K - 12 or any portion of those grade levels that are  
22 to be operated under the management and control of a single regional school board.

23 \* Sec. 11. Nothing in this Act terminates or modifies a collective bargaining unit, recognition of  
24 exclusive bargaining representative, or collective bargaining agreement if the unit, recognition, or  
25 agreement is in effect on the effective date of this Act.

26 \* Sec. 12. AS 14.20.550, 14.20.555, 14.20.560, 14.20.570, 14.20.580, 14.20.590, 14.20.600,  
27 14.20.610, and ch. 180, SLA 1990, are repealed.

28 \* Sec. 13. Notwithstanding sec. 4, ch. 113, SLA 1972, a municipal school district or regional  
29 educational attendance area may not reject application of AS 23.40.070 - 23.40.260 to employment  
30 relations with public school employees.

31 \* Sec. 14. This Act takes effect immediately under AS 01.10.070(c).