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Senator Vic Fischer

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954



MEMORANDUM

TO: Senate Finance Committee

FROM: Senator Vic Fischer

RE: CSSB 55 (Finance)

DATE: June 2, 1983

SB 55 was before the committee on May 19. The consensus of the committee, at that time, was to review committee substitutes to address constitutional and other problems.

Two CS versions of SB 55 are attached. Version 1 of CSSB 55 (Finance) follows the suggestion made by Senator Mulcahy that the legislature make a positive action to express agreement of the monetary terms. Version 2 of CSSB 55 (Finance) was drafted by the Department of Law at the request of Senator Ray, and follows more closely the original intent of the bill.

Both make some changes from the Judiciary CS. The substantive changes are:

- a) In both proposed committee substitutes, the Department of Administration submits the monetary terms only after the agreement has been entered into; in the Judiciary version of SB 55, the monetary terms would be submitted to the legislature before the state and an organization entered into an agreement.
- b) Both proposed committee substitutes add a sentence that legislative action taken by resolution on the monetary terms of an agreement is a non-binding advisory expression of legislative intent.
- c) Both committee substitutes also change the period of time in which the legislature can act on the submitted terms from 30 to 60 days.
- d) Both committee substitutes contain a provision enabling parties to resume negotiations if the monetary terms are not supported by the legislature.

The differences between the two proposed committee substitutes are:

a) Version 1 requires an approval by concurrent resolution to express that the monetary terms of an agreement are acceptable to the legislature (lines 14-17). In version 2, the monetary terms of the agreement shall be considered acceptable to the legislature, unless a concurrent resolution expressing rejection of the monetary terms of the agreement is passed (lines 14- 18).

b) Regarding negotiations, version 1 of the bill states that the parties may resume negotiations if the legislature does not pass a concurrent resolution approving the monetary terms of the agreement (lines 19-23). Version 2 of the bill states that the parties may resume negotiations if the legislature passes a concurrent resolution rejecting the monetary terms of the agreement (lines 20-23).

ST



Alaska State Legislature
House

JUNEAU, ALASKA

MESSAGE TO THE SENATE

Date Feb. 9, 1984

MR. PRESIDENT:

OK'd

The House passed CS FOR SENATE BILL NO. 55 (Rls) with
the following amendment:

HOUSE CS FOR CS FOR SENATE BILL NO. 55 (Fin)
(collective bargaining; efd)

and returned for consideration.

Irene Peterson

Chief Clerk of the House



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer *Teresa B. Cramer*
Administrative Assistant

SUBJECT: Senate Bill 55 - Collective Bargaining

The Public Employment Relations Act provides that the monetary terms of any agreement entered into between the state and an employee representative are subject to funding through legislative appropriation. AS 23.40.215. The Act does not set out how the legislative review should occur.

The Blue Ribbon Commission has discussed the problems which can arise if the Legislature fails to act expeditiously on collective bargaining agreements submitted to it. Delay followed by legislative rejection can preclude the parties from completing any renegotiations before the Legislature adjourns. There would then be no funding for the new agreement and the Legislature might have to convene in special session, an expensive alternative.

The commission recommends that legislation be adopted which would encourage prompt legislative review of collective bargaining agreements.

Bill Analysis

Page 1 The first section of the proposed legislation requires
Line 9 that negotiated agreements be submitted to the Legisla-
 ture within 10 days of signing by the parties and that
 the Legislature have 30 days to review the monetary
 terms. If the Legislature finds the terms unacceptable,
 then it may reject the agreement by concurrent resolution.
 If the Legislature fails to act within 30 days, then the
 contracts will be considered to have legislative approval.
 The proposed legislation does not address the introduction
 or passage of an appropriation bill funding the agreements.

Line 18 The second section of the bill contains an immediate
 effective date clause.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 18, 1983

The Honorable Vic Fischer
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: CSSB 55 -- Collective
bargaining agreements
Our file no.: 366-612-83

Dear Senator Fischer:

In your letter of May 18, 1983, you have asked whether the procedures proposed in CSSB 55 to effectuate approval of a collective bargaining agreement raise constitutional concerns. As we discussed below, the bill raises substantial constitutional questions and, as a consequence, will almost undoubtedly foster extensive litigation. In light of the limited time available for our response and the complexity of the matter, we limit our response to identifying the legal questions posed by CSSB 55.

As you know, present law provides that the monetary terms of an agreement do not take effect without legislative approval. AS 23.40.215. In practical application, monetary terms take effect only when an appropriation to fund the agreement is adopted. The effective dates of other provisions in an agreement are not, however, contingent on legislative review and approval. CSSB 55 proposes, in contrast, that monetary terms of an agreement would take effect unless the legislature adopts within 30 days a concurrent resolution which disapproves of the monetary terms. Further, the effective date for other items in the agreement would be contingent on the monetary terms taking effect through legislative inaction.

We first question whether CSSB 55 proposes a permissible exercise of legislative powers. The novel feature of the legislation is the significance of the legislature's failure to

act. In State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980), the Alaska Supreme Court considered the constitutionality of a statute, AS 44.62.320(a), which provided for the annulment or administrative regulations through adoption of a concurrent resolution. The Court observed that "[t]he Alaska Constitution defines with specificity the mechanics of legislation. Each provision has a purpose 'designed to engender a responsible legislative process worthy of the public trust.'" Id. at 772, quoting Plumley v. Hale, 594 P.2d 497, 500 (Alaska 1979). With respect to the regulation annulment procedure at issue, the court concluded that the adoption of a concurrent resolution was an impermissible method to exercise legislative power. Indeed, since CSSB 55 infers legislative action through an absence of action, the bill arguably exacerbates the procedural deficiencies identified at length in A.L.I.V.E. Voluntary. Further, the A.L.I.V.E. Voluntary court also noted that where the legislature acts through the adoption of a concurrent resolution, the governor is deprived of an opportunity to exercise a veto of the legislative action. That concern is equally applicable to the procedures established under CSSB 55.

The bill also raises substantial questions with respect to the appropriation process. Article 9, section 13 of the Alaska Constitution provides that "no money shall be withdrawn from the treasury except in accordance with appropriations made by law." Clearly, legislative inaction cannot suffice to permit the expenditure of public money without an appropriation. The bill, therefore, should not be construed to permit a "de facto appropriation" of public money to fund the agreement. And, if the monetary terms of an agreement became effective through legislative inaction, the terms of any outstanding appropriations would be determinative of whether the executive branch had authority to expend public money to fund the agreement. Of course, as a practical matter the use of a preexisting appropriation may require the dismissal of public employees to provide sufficient money to fund the agreement. A related, and more difficult problem is that once the monetary terms are effective, contractual obligations are established. We cannot opine with any certainty what ramifications would follow were the state in the difficult posture of being subject to contractual obligations, yet without the requisite appropriation to enable the expenditure of public money. We note that it is arguable that the legislature's continuing obligation to fund the monetary terms of an agreement pursuant to AS 23.40.21: may, ultimately, be compromised in this instance.

Hon. Vic Fischer
CSSB 55 -- collective bargaining agreements
366-612-83

May 18, 1983
Page 3

If you have any further questions on this matter,
please feel free to call.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:

Jonathan B. Rubini

Jonathan B. Rubini
Assistant Attorney General

JBR:jb

cc: Honorable Bill Ray
Alaska State Legislature

Eleanor Andrews, Deputy Commissioner
Department of Administration

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600
465-3603

June 8, 1983

JUN 10 1983

The Honorable Vic Fischer
Senator
Pouch V
Juneau, Alaska 99811

Collective Bargaining for Teachers
Our File 366-609-83

Dear Senator Fischer:

You have posed a series of questions relating to collective bargaining for teachers. You have asked (1) whether school districts are required to negotiate placement of teachers on salary schedules, (2) whether school districts are required to grant tenure to teachers who work half-time for two school years, and (3) whether school districts are limited to awarding sick leave as it accrues.

We believe that arguments can be made in support of the position taken by the Department of Education on each of these questions. As discussed below, however, we believe it would be appropriate for the Department of Education to reevaluate its role in this area.

Your first and second questions were addressed in a letter from this office to Peter C. Partnow, Esq., dated June 15, 1982, and appended to this letter. ^{1/} In this letter Assistant Attorney General Bruce M. Botelho reviews the general authority of the Department of Education and the regulations of that agency which are relevant to your inquiry. Mr. Botelho concludes that regulations of the Department of Education give rise to a negative answer to your first and second questions and that the regulations are probably valid. See 4 AAC 15.020, 4 AAC 18.030(b).

Your third question is also addressed by regulations of the Department of Education. Under 4 AAC 15.040, sick leave "is

^{1/} Mr. Partnow was counsel to the Anchorage School District at the time of this communication.

The Honorable Vic Fischer
Senator
Re: Collective Bargaining

June 8, 1983
Page -2-

accrued" at the rate of one and one-third days for each calendar month and may be used only after it has been accrued. Although we recognize that substantial arguments can be offered in opposition, the arguments outlined by Mr. Botelho apply in this context with equal force.

Although it is not at all clear that a court would reach the results predicted by Mr. Botelho, it is apparent that arguments can be made in good faith to support the positions taken by the Department of Education. 2/ Accordingly, we are prepared to defend them in court as need arises.


Your inquiry was accompanied by materials which outlined a number of policy arguments in favor of amending the above regulations. We have forwarded those materials to the Department of Education for its review. That agency has informally indicated a willingness to reevaluate its present policies in this area.

If you have additional questions, please do not hesitate to contact this office.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:



Thomas H. Robertson
Assistant Attorney General

THR:jca

cc: Harold Raynolds, Jr.
Commissioner
Department of Education

2/ It is perhaps noteworthy that AS 44.62.060 requires that all regulations be approved by the Department of Law before filing with the Lieutenant Governor.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

RECEIVED JUN 21 1982

JAY S. HAMMOND, GOVERNOR

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603

June 15, 1982

Mr. Peter C. Partnow
Hellen & Partnow
425 G Street, Suite 710
Anchorage, AK 99501

366-714-82

Re: Teacher's Credible
Service

Dear Peter:

This letter is in response to your recent communication on behalf of the Anchorage School District to seek clarification regarding credible service of teachers employed by local school districts as it pertains to the acquisition of tenure and placement on district salary schedules.

You first asked under what authority the Department of Education regulates credible teaching experience for salary advancement purposes. In raising that issue you correctly note that the Alaska Supreme Court has interpreted AS 14.20.550¹ and AS 14.20.610² to require districts to negotiate with its certificated employers in good faith on questions concerning salaries, leave time and other issues closely connected with the economic well being of the individual teacher. See Rouse v. Anchorage School District, 613 P.2d. 263, 264, -65, (Alaska 1980) and Kenai Peninsula School District v. Kenai Peninsula Education Association, 572 P.2d.

1. AS 14.20.550 provides: Each city, borough and regional school board, shall negotiate with its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties.

2. AS 14.20.610 states: Nothing in secs. 550-600 of this chapter may be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the school board including its right to make final decisions on policies.

416, 422 (Alaska 1977). The court's pronouncements in those cases tend to support your position that local school districts and certificated bargaining representatives possess the authority to agree on any salary schedule, including the method by which individual employees are to be placed in the pay schedule. However, on the occasions at which the Supreme Court has had an opportunity to address the issue, the parties before it did not include the Alaska Department of Education. For that reason, we do not believe Rouse and Kenai Peninsula to be dispositive. Other language supports the authority of the department to affect salary schedule advances.

The genesis of that authority is found at VII, Sec. 1 of the Alaska Constitution which provides:

The Legislature shall by general law establish and maintain a system of public schools open to all children of the state, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

The Alaska Supreme Court has interpreted that section to mean that the state has a clear and pervasive authority to supervise and direct the field of public education, authority which has been delegated to the Department of Education, which is empowered under AS 14.07.060 to promulgate any regulations necessary to carry out that educational mandate. Tunley v. Municipality of Anchorage School District, 631 P.2d. 67 (Alaska 1981). In addition to its general delegation, the legislature has also conferred specific authority to the department to affect matters relating to compensation. In particular, AS 14.20.130 provides in pertinent part:

An employer may, after January 1, issue contracts for the following school year to employees regularly qualified in accordance with the regulations of the department.³

3. The legislature also established other parameters relating to salaries by statute. See AS 14.20.220-230.

These statutes were the authorities relied upon by the department in adopting 4 AAC 15.020,⁴ which provides in pertinent part:

4 AAC 15.020. CREDITABLE TEACHING EXPERIENCE. (a) Certificated teachers serving a school term of 140 instructional days or more shall be credited with a year of teaching service.

(b) Fractional years of teaching, either through teaching full days on contracts for less than a full term, or through teaching part of a day on full-term contracts, or part of an instructional day on contracts of less than a full term may be converted to full school term (180 days) in determining creditable service. No part-time teaching may be counted unless the terms for such part-time teaching are specifically stated in the contract.

(c) Teaching days less than a full instructional day shall be given a fractional value. This value times the number of equivalent instructional days.

We cannot conclude that this regulation is invalid. There is ample justification for the state's regulation of teacher's salaries, since teachers frequently transfer from district to district and uniformity in crediting service for salaries and the teacher's retirement system (AS 14.25) promote a single system of public education.

In short Commissioner Lind's February 10, 1982 interpretation of 4 AAC 15.020(1) to Superintendent Davis is

4. AS 44.62.040(b) requires that the statutory authority for the regulation be given. AS 44.62.040(b) reads:

Citation of the general statutory authority under which a regulation is adopted, as well as citation of specific statutory sections being implemented, interpreted or made clear, shall follow the text of each regulation submitted under (a) of this section.

a reasonable administrative interpretation of that regulation. Tunley, supra 681 P.2d. at 78, fn30.

Your second area of inquiry surrounds the manner in which tenure is calculated for regularly contracted part-time teachers.

You correctly note that the Alaska Supreme Court's decision in State v. Redman, 491 P.2d. 157 (Alaska 1971) held that a teacher who worked half days continuously throughout a particular school year could count that year's employment toward acquiring tenure rights under AS 14.20.150 which provides:

(a) A teacher acquires tenure rights in a district when he (1) possesses a standard teaching certificate; (2) has been employed as a teacher in the same district continuously for two full school years and is re-employed for the school year immediately following the two full school years.

(b) The tenure rights acquired under (a) of this section become effective on the first day the teacher performs teaching services in the district during the school year immediately following the two full school years. (emphasis added)

While there has been no statutory change since the Redman I-decision, the Department of Education, relying upon its general supervisory powers, adopted 4 AAC 18.030(b) which under the same facts alters the result in Redman I. That regulation provides:

(b) In AS 14.20.150 (pertaining to acquisition of tenure right), "two full years" means

(1) two consecutive school years consisting of the number of days within the school term set by AS 14.03.030 and the customary hours per day other than temporary authorized absences; or

(2) a combination of sequential fractions of years of continuous employment, computed in accordance with 4 AAC 15.030(b) - (d) which total two full school years of not less than the average number of days in the school terms during which the fractional service is computed.

Mr. Peter C. Partnow

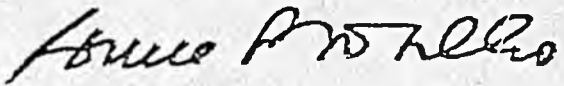
-5-

June 15, 1982

While we think it a close question, we believe that the Alaska Supreme Court would defer to the Department of Education's interpretative regulation.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Bruce M. Botelho
Assistant Attorney General

BMB:prn:bp

MEMORANDUM

February 6, 1983

TO: Senator Vic Fischer

FROM: Suzanne Tryck

RE: SB 55



SB 55, "An act relating to collective bargaining; and providing for an effective date," is a modification of the final amendment to SB 668 made on the floor of the Senate on May 18, 1982, and of SB 59 of the 12th legislative session.

One variation between the three pieces of legislation concerns the amount of time allowed before an agreement must be submitted to the legislature, and may be pinpointed in lines 13 and 14 of this year's bill. In SB 55, the State's agreement with an organization must be submitted within 10 days of signing, or 10 days after the convening of a regular legislative session. In the 1982 amendment to SB 668, the agreement between the State and an organization had to be submitted to the legislature within 60 days after the convening of a regular legislative session. In SB 59 of last session, the agreement arrived at by collective bargaining had to be submitted to the legislature within 30 days after the convening of the regular

Legislative session.

Another modification between this year's SB 55 and the two previous pieces of legislation is the legislative action required for the agreement to go into effect. This is addressed in line 15 of SB 55. Here, the monetary terms of the agreement take effect unless rejected by concurrent resolution within 30 days after the submission of the agreement to the legislature. In the 1982 amendment to SB 668, the legislature had to approve the monetary terms by appropriation for them to go into effect. In SB 59, the legislature could not adjourn until it had accepted or rejected the monetary terms of an agreement submitted to which the bill applied. Constitutional questions arose concerning SB 59 as a result of the adjournment clause (See enclosure from the Department of Law).

The constitutional problems of SB 59 appear to be cleaned out of this year's SB 55. However, I have requested the Attorney General's office to testify on SB 55 on February 8, 1983.

SB 59 died in Senate State Affairs, the voting record for that committee meeting is unavailable. That bill may never have come up in committee. The amendment to SB 668 was not adopted. The voting record in respect to this year's Senate State Affairs committee is as follows; for the amendment were Senators Ray and Rodey, the other's voted against adoption of the amendment. The version of SB 668 as it passed out of the Senate, and as it relates to the current SB 55 is as follows: 1) The organization and the State of Alaska had 60 days to submit the

agreement to the legislature (vs 10 days in SB 55), and the monetary terms of the agreement would take effect unless rejected by the legislature by concurrent resolution within 60 days of the submission (vs 30 days in SB 55). Senator Ray voted against SB 668.

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



May 18, 1983

Norman Gorsuch,
Attorney General
Department of Law
Pouch K,
Juneau, Alaska 99811

Dear Mr. Gorsuch:

I would appreciate an Attorney General's opinion on possible constitutional and other legal problems that might be associated with CSSB 55 (Jud).

I thank you for your prompt attention to this matter.

Best regards,

A handwritten signature in cursive script, appearing to read "Vic Fischer", written over the "Best regards," text.

Senator Vic Fischer

↓

MEMORANDUM

February 6, 1983

TO: Senator Vic Fischer

FROM: Suzanne Tryck

RE: SB 55

SB 55, "An act relating to collective bargaining; and providing for an effective date," is a modification of the final amendment to SB 668 made on the floor of the Senate on May 18, 1982.

One

The alteration occurs in lines 13 and 14 of SB 55. In this bill, the State's agreement with an organization must be submitted within 10 days of signing, or 10 days after the convening of a regular legislative session. In the amendment to SB 668, the agreement between the state and an organization had to be submitted to the legislature within 60 days after the convening of a regular legislative session.

The second alteration of the amendment is found in line 15 of SB 55. Here, the monetary terms of the agreement take effect unless rejected within 30 days after the submission of the agreement to the legislature. Whereas, in the 1982 amendment to SB 668, the legislature had to approve the monetary terms by appropriation for them to go into effect. The amended section 14 of SB 668 directing the long term monetary agreement between the State and an organization is not addressed in SB 55.

by concurrent resolution

Of those sitting on the Senate State Affairs Committee, only Senator Ray voted against the amendment to SB 668 on May 18, 1982.

SB 55

① Any agreements entered into between the state and any organization w/in 10 days of signing or 10d after convening of leg. session.

② Monetary terms take agreement w/in 30d after submission - unless they are rejected by uncurrent resolution w/in 30d. time frame,

? are teachers under the umbrella of any organization?

SB 668

① relates specifically to teachers.

NOTE: PUBLIC EMPLOYEES ≠ TEACHERS; T'S = ADMINISTRATIVE EMPLOYEES.

SEC 2) Between school boards and their admin employees (teachers) negotiations shall be done in good faith.

SEC 3. Negot. between admin + regional school boards shall be conducted by one team from each group.

SEC. 4 A Teachers may choose their own arbitrators, who will be recognized by the school board.

1/2)

~~SEC 5~~ ^{1/2} crossing a bargaining agency - final agreements shall be at public meeting of school board

SEC. 5: b.

teachers shall be released from job duties w/out dock if mediation

? what are grievance procedures?

? when does collective bargaining come in process?
is held.

sec. 6 grievance proced.
shall provide that the final step in procedure shall be collective bargaining.

sec. 7 certificated administrative employee may address school board as an individual.

sec 8

ask David Dye.

SELA

A certain employees may not engage in strikes

B) ^{dispute} impasse collect. Barg.

→ fact-finding →

arbitration AS. 23.40.208

* 23.40.200(a)2,

* 23.40.202

SEL. 12. local

1-2 voters have local option to determine the classification of teachers.

^{BN} C) about fact finding

(7-19) Arbitration

1) arbitrators, mediators

SB55

SB 55 is an alteration
of the amendment to SB 668
made on the floor
of the senate on 5/12/82

SB 668

1) selection of Board
shall be ~~to~~ considered to
be the collective bargaining
agreement between the
parties.

A) determination of Board
shall be final.

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811



Official Business

MEMORANDUM

DATE: 1/19/81
TO: Sen. Ray
FROM: Sen. Vic Fischer *Vic*
RE: SB 59, "An Act relating to collective bargaining
and providing for an effective date."

Senate Bill 59 has been referred to Senate State Affairs Committee. Please forward any information and statements of intent that would be helpful in committee analysis of the bill. My office is Room 205, Behrends Building; phone 465-4954.

Thank you.

*file SB 59
Dead full*



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

SB 55

February 6, 1983

TO: Senator Vic Fischer

FROM: Suzanne Tryck

RE: SB 55

SB 55, "An act relating to collective bargaining; and providing for an effective date," is a modification of ~~1~~ the final amendment to SB 668 made on the floor of the Senate on May 18, 1982, and of ~~2~~ SB 59 of the 12th legislative session.

^{ONE}
~~A most fundamental~~ variation between the three pieces of legislation ^{CONCERNS} revolves around the amount of time allowed before an agreement must be submitted to the legislature, ^(LINES 13 + 14 of SB55) ~~(and may be pinpointed in lines 13 and 14 of this year's bill.)~~ In SB 55, the State's agreement with an organization must be submitted within 10 days of signing, or 10 days after the convening of a regular legislative session. In the 1982 amendment to SB 668, the agreement between the State and an organization had to be submitted to the legislature within 60 days after the convening of a regular legislative session. In SB 59 of last session, the agreement arrived at by collective bargaining had to be submitted to the legislature within 30 days after the convening of the regular

legislative session.

another
The ~~second~~ modification between this year's SB 55 and the two previous pieces of legislation centers ^{is} around the ~~action~~ ^{Legislative required} that must be taken by ~~the legislature allowing or disabling~~ ^{for} the agreement ~~from going~~ ^{to go} into effect. This is addressed in line 15 of SB 55. Here, the monetary terms of the agreement take effect unless rejected by concurrent resolution within 30 days after the submission of the agreement to the legislature. In the 1982 amendment to SB 668, the legislature had to approve the monetary terms by appropriation for them to go into effect. In SB 59, the legislature could not adjourn until it had accepted or rejected the monetary terms of an agreement submitted to which the bill applied. Constitutional questions arose concerning SB 59 as a result of the adjournment clause (See enclosure from the Department of Law).

this
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agreement to the legislature (vs 10 days in SB 55), and the monetary terms of the agreement ^{will} ~~should~~ take effect unless rejected by the legislature by concurrent resolution within 60 days of the submission (vs 30 days in SB 55). Senator Ray voted against SF 668.

1/13/81
Senate
Journal
SB 59 vote

Died in
State
affairs

MEMORANDUM

February 6, 1983

TO: Senator Vic Fischer

FROM: Suzanne Tryck

RE: SB 55

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Of those sitting on the Senate State Affairs Committee, only senator Ray voted against the amendment to SB 668 on May 18, 1982.

STATE OF ALASKA

Ham
JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF ADMINISTRATIVE SERVICES

POUCH C - JUNEAU 99811
465-2277

March 2, 1981

Honorable Vic Fischer
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

Re: SB59

In response to a request from your office, the following are the expiration dates of contracts with the various bargaining units:

General Government Unit	12-31-82
Supervisory Unit	12-31-82
Labor Trades & Crafts	12-31-82
Public Safety Unit	12-31-81
Confidential Employees Unit	12-31-82
Non-Licensed Ferry System Employees (IBU)	3-31-83
Masters, Mates & Pilots	3-31-83
Marine Engineers	6-30-80

Although the contract for Marine Engineers has expired, there is a letter of agreement which extends the contract on a day to day basis.

If I can answer any other questions, please call.

Sincerely,

Judy
Judy Crondahl
Director

JC/bc
cc: Sandra Withers
Director
Division of Labor Relations
Department of Administration

Rules

LETTER OF INTENT

CS FOR SENATE BILL NO. 668 (Rls)

It is the intent of the Legislature that school boards and their respective teacher groups may enter into agreements on any matter of interest to the two parties if they so choose; however, it is understood that neither party is compelled to negotiate those items listed as non-negotiable in the Kenai Peninsula Borough School District V. Kenai Peninsula Education Association, 572 P 2d 416 (Alaska.1977).

Neither section 13 of CS FOR SENATE BILL 668 (Rules) (amending AS 23.40.250(1) nor the bill in total is intended to diminish or restrict the list of non-negotiable items in the above referenced case.

Adopted by the Senate as a Senate Letter of Intent - May 18, 1982



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

50
F4

January 19, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill providing for the resolution of impasses in public employee collective bargaining. The bill provides for public participation in the process of impasse resolution through an arbitration board which includes four members of the public who reside in various areas of the state. I expect that this method of impasse resolution will ensure that the terms and conditions of public employment are more consistent with the terms and conditions generally prevailing throughout the state. The bill applies to all public employers who have not elected to opt out of the Public Employment Relations Act (PERA) (AS 23.040.070 -- 23.40.260).

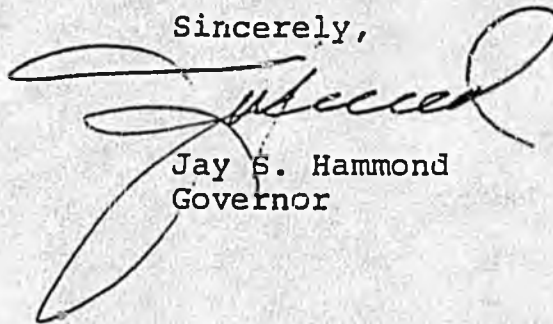
Amended AS 23.40.200 (sec. 1 of the bill) provides that when a public employer and an employee organization reach an impasse in bargaining, the parties shall submit to fact-finding. Under new AS 23.40.201 (sec. 2 of the bill), a neutral person will be selected by the parties to conduct the fact-finding. The factfinder will conduct an investigation and submit recommendations to the parties after considering certain factors. The parties will discuss the factfinder's report and attempt to reach an agreement. If there is still an impasse after fact-finding is employed, AS 23.40.200 provides that the dispute will be submitted to an arbitration board, appointed by the Labor Relations Agency, which consists of one professional arbitrator and four public members chosen from a standing panel (AS 23.40.202 in sec. 2 of the bill). The arbitration board will choose between the final proposal of each party.

Under AS 23.40.202, the standing panel will include persons with substantial length of Alaskan residence, who have broad and varied personal experience in human affairs, and who are not employed in a position requiring participation in labor-management relations. The panel will include residents of each state judicial district. Each arbitration board chosen from the panel for state employee impasses will include residents of at least three of the four state judicial districts.

Under AS 23.40.202(d), the public members of the board will be compensated with per diem and travel allowance applicable to all state boards and commissions. The professional arbitrator will be paid a reasonable fee for such professional services. These expenses will be shared by the parties.

Section 3 of the bill repeals AS 23.40.040, which allowed bargaining with ferry system personnel before the enactment of the Public Employment Relations Act (PERA). The decision in IBU v. Hafling, 585 P.2d 870 (Alaska 1978), held that the PERA applies to ferry personnel. That decision made AS 23.40.040 redundant and unnecessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay S. Hammond", is written over the typed name. The signature is stylized with large loops and a long horizontal stroke.

Jay S. Hammond
Governor

Ⓟ rules

Section Analysis

CS SB 668 (Rules) am

Provides that noncompliance with the provisions of the Public Employees Relations Act may also be a reason for the dismissal of a teacher.

-7: Amends Chapter 20 of the Title 14 to apply only to certificated administrator employees of the school districts.

This bill moves certificated teachers from Chapter 20 of Title 14 to the Public Employees Relations Act, (PERA) 23.40.070 - 23.40.260, for purposes of negotiations.

Amends 14.20.610 to clarify that the inclusion of teachers under PERA does not diminish the rights and responsibilities of school boards on matters attendant to policy.

Amends 23.40.200(b) - "essential service" employees to include emergency services employees of the Department of Military Affairs in class (1) under PERA. (Arbitration, no right to strike.) Provides for fact finding as a method to settle the dispute before the parties submit the issues to arbitration.

0: Amends 23.40.200(c) to include teachers under class (2) of PERA - limited right to strike; school board may seek an injunction; if the strike is enjoined then the dispute to be submitted to fact finding as a method to settle the issues before submitting them to arbitration.

: No substantive change but references the new Panel arbitration procedure.

2: Adds a new section, 23.40.202 which provides that a school board may, by majority vote, have the question of prohibition of teacher strikes placed before the voters in the next general election through the municipal governing body or director of elections in the case of REAA's.

If the question is approved by the voters, teachers are then placed in class (1) with access to fact finding and arbitration.

Adds a new section, 23.40.206: Fact Finding, which provides that a neutral, independent person, selected by the parties, shall review the issues, evidence, and facts and make recommendations for resolution of the dispute.

Adds a new section, 23.40.208 Arbitration, which is a change from the previous single person conventional arbitration to panel arbitration. This procedure to be used only after mediation and fact finding have been exhausted.

For State employees, the panel will consist of one professional arbitrator and four residents of the State representing at least three of the four judicial districts.

For teachers, the panel will consist of one professional arbitrator and two residents of the school district.

The panel will be restricted in its decision to the final offer of the organization or the final offer of the public employer.

~~Adds a new subsection to 23.40.210 which provides for Legislative response to an agreement covering State employees within 60 days of convening of a regular legislative session.~~

Amends 23.40.250(1) the definition of "collective bargaining" to mandate that the permissible scope of bargaining for teachers under PERA not be changed and to be exactly as currently stated in Title 14.

Amends 23.40.250(5) to exclude administrative employees of school boards.

Amends 23.40.250(6) to change the definition of "public employers" to include a "city, borough, or regional school board".

Amends 23.40.250 to add definitions of "district" and "teacher".

Repeals 23.40.040 which allows the Commissioner of Public Works to enter into collective bargaining agreements with the employees of the Division of Marine Transportation.

Requires school boards to apply the PERA to teachers.



NEA - ALASKA

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24 February '82

TO: Senator Parr, Chair
Senate HESS

FROM: NEA-Alaska, Inc.

RE: SENATE BILL 668

NEA-Alaska strongly urges the Senate HESS Committee to amend SB 668 to provide for inclusion of public school teachers in the Public Employee Relations Act, AS 23.40.070-23.40.260.

Such a change would require amendments to Sec. 23.40.200(b) to specifically include public school teachers, to Sec. 23.40.250(5) to again specifically include public school teachers, and to Sec. 23.40.250(6) to expand the definition of public employer to include public school district boards of education. Further, if passed and signed into law, this legislation could provide for the repeal of AS 14.20.550-14.20.610.

NEA-Alaska has long sought reforms to the current teacher bargaining law, especially in terms of its inadequacy in not providing for an equitable process to achieve finality or closure to collective bargaining.

By including teachers in the PERA, the Legislature effectively addresses other problems attendant to the current teacher bargaining law. The question of "scope" of negotiations and terms and conditions of employment has a better definition in the PERA. The right to bargain fair representation fees is clearly established in PERA. The PERA defines procedures for resolution of questions pertaining to the appropriateness of a bargaining unit and bargaining agent and does not leave them to be defined by one of the parties of interest, in this case the employer. And, the PERA defines and establishes procedures for resolutions of unfair labor practices, a process which teachers must now pursue in our already over-loaded court system. Finally, the PERA has an administrative agency, the Alaska State Labor Relations Agency. None exists for the current teacher bargaining law.

HESS 1982

NEA-Alaska urges and encourages your support for the inclusion of public school teachers in the PERA.

Respectfully submitted,

Robert Manners

Robert Manners
Executive Secretary

RM/st

SB # 668 / HESS

Bob Green

SB 668 Takes away decisions from boards
No fiscal autonomy. Board policies.
Staunchly opposes bill. At a minimum, basic
audits are needed - School Bd Law is antiquated
- Rts are vague as to what is
subject to bargaining (cov. - that's more complicated)
eg - negot/ arbitrable? Points out that boards
believe there is not really a choice - arbitration bill.
Local teachers probably won't take part on panel.
Mentions Gov's task force on Collective Bargaining
Bill does not adhere to this.

Manners

1. Note letter of intent from Senate
2. Notes arbitrator is limited

Karen Sery Mar-Su Bd

opposed to bill - points out budget situation. This may
create problems with budget. If the ~~pro~~ arbitrator
was god - that would be OK (She should have
stuck to her notes) If I can't make the decision
then god is the only one I'd trust. Wow!

Assy Supt Mar-Su

Binding Arkl in grievance - gives example
(The bill helps to solve his problem,
since it provides the labor relations
agency (professionals) will select ~~an~~ a
professional arbitrator.

SB 557

①

De Facto Appropriations.

- 1) if don't take action money is appropriated.
- 2) disapproved if not passed by ~~sub~~ concurrent resolution.

②

more subtle.

concept to present full agreement to leg. review.

1) only monetary provision & can be subject to leg. review.

2) can't leg. can't vote on the whole package.

Ans. limit to monetary terms. make bill more explicit - whole contract not sub. to leg review.