

H B

130

AMENDMENT NO.

OFFERED IN HOUSE HESS COMMITTEE:

BY: Alyce Hanley

HOUSE BILL NO. 130

PAGE 4, LINE 14

receiving a written request. A written notice by either party must be presented no later than November 1.

PAGE 4, LINE 18

(c) Negotiations must be concluded with both parties reaching agreement by January 15, unless by mutual agreement, both parties agree to extend the process to January 31. Failing to reach agreement by January 31, the parties shall immediately institute the mediation process (Sec. 14.20.570)

PAGE 5, LINE 21

period. Following mediation agreement must be reached no later than April 15th or the dispute will go to arbitration (Sec. 14.20.585)

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HOUSE BILL NO. 130

PAGE 6, LINE 3

each party shall submit a final offer on all [each] issues in  
dispute. Each

PAGE 6, LINE 14

best offer of one of the parties [on each issue] and shall issue a

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_  
 Revision Date: \_\_\_\_\_  
 Title: "An Act relating to educational employees' collective bargaining."  
 Sponsor: House HESS  
 Requestor: House HESS

Bill Version: HB 130  
 Publish Date: \_\_\_\_\_

Agency Affected: Labor  
 BRU: Labor Standards & Safety  
 Components: Wage & Hour

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		122.6	122.6	67.7	67.7	67.7
TRAVEL		23.5	24.2	12.1	12.5	12.8
CONTRACTUAL		53.3	54.9	39.3	40.5	41.7
SUPPLIES		2.1	2.2	1.3	1.3	1.4
EQUIPMENT		4.8	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>206.3</b>	<b>203.9</b>	<b>120.4</b>	<b>122.0</b>	<b>123.6</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND		206.3	203.9	120.4	122.0	123.6
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>206.3</b>	<b>203.9</b>	<b>120.4</b>	<b>122.0</b>	<b>123.6</b>

**POSITIONS:**

FULL-TIME		3	3	1	1	1
PART-TIME					1	1
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director *Stuart* Phone: 465-4870  
 Division: Labor Standards & Safety Date: 3/18/87

Approved by Commissioner: Jim Sampson *Sampson* Date: 3/18/87  
 Agency: Labor

- Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)  
 Senate Secretary

## FISCAL NOTE ANALYSIS

For HB 130

Under this bill, the Department of Labor will act as the labor relations agency for all school districts and will be responsible for investigating representation petitions; determining appropriate units for collective bargaining purposes; investigating unfair labor practices; monitoring elections; and holding representation and unfair labor practices hearings.

Two investigators (located in Anchorage) are required to conduct the investigations, to monitor the elections, and to hold informal hearings. In addition, one clerical position is required to provide support to the investigators.

In addition to the costs associated with the two Wage and Hour Investigators and one clerical position, the fiscal note also includes costs for printing (\$3,000) and legal fees (\$15,000).

Line item costs for FY 88 are as follows:

Personal Services	\$122,600
Travel	23,500
Contractual Services	53,300
Commodities	2,100
Equipment	4,800
TOTAL	<u>\$206,300</u>

Of these costs, only the equipment costs of \$4,800 are one-time items.

For FY 89 through FY 92, an inflation rate of 3.0 percent has been used for all line items but personal services.

It is anticipated that the labor relations activity will stabilize after two years. Accordingly, beginning in FY 90, the costs reflect a three-month reduction in the clerk-typist position and a deletion of one investigator position.

Other assumptions:

1. Effective date of July 1, 1987.
2. Contracts of 28 school districts will come up for renegotiations each year.
3. Fifty percent of the school districts (equates to approximately 28) will file unfair labor practice charges requiring hearing before the labor relations board.

Position Title <b>Wage and Hour Investigator II</b>			No. of Positions <b>2</b>	Range/Step <b>18A</b>	Barg. Unit <b>GGU</b>	Gov.	Approv.	Disapp.	
Time Status <b>PFT</b>	Staff Months <b>12</b>	RP Number	Location <b>Anchorage</b>		Election District	Leg.			
Type of Expenditure			Justification						
			<p>These positions will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The position will be responsible for monitoring school district representation elections and assisting school districts in complying with state and federal labor relation laws. The investigator will travel extensively throughout the state performing these investigations, hearings, and monitoring functions.</p> <p>Contractual and commodity costs are average per - employee costs. Equipment would be a one-time expense for desk, chair, cabinets, etc.</p>						
1		2							3
Salary		74,712							
Benefits		22,414							
Premium Pay									
Other									
Total Personal Services									97,126
Travel									23,500
Contractual									25,100
Commodities									1,400
Equipment			3,200						
Other									
Total Cost			150,326						
Receipt Code			Funding Source						
			Federal Receipts 1002						
			G. F. Match 1003						
			General Funds 1004						
			I-A Receipts 1005						
			Program Receipts 1028						
			CIP Receipts 1061						
			Other						
			150,326						
For B&M Use Only									
Key Number									

**Request For  
New Position**

Agency Labor  
 BRU Wage and Hour  
 Component Labor Standards and Safety

Page 3 of 4  
 Revised Date

**FY 87**

Position Title <b>Clerk Typist III</b>			No. of Positions 1	Range/Step 8A	Barq. Unit GGU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Anchorage		Election District	Leg.		
Type of Expenditure			Justification					
Amount			<p>This position will provide clerical support (typing, answering telephone, mail handling, etc.) for two wage and hour investigators.</p> <p>Contractual and commodity costs are average per-employee costs. Equipment would be a one-time expense for desk, chair, cabinets, etc.</p>					
1	2	3						
Salary	19,572							
Benefits	5,872							
Premium Pay								
Other								
Total Personal Services		25,444						
Travel		0						
Contractual		10,244						
Commodities		700						
Equipment		1,600						
Other								
Total Cost		37,988						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		37,988					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only Key Number _____								

**Request For  
New Position**

Agency Department of Labor  
 BRU Labor Standards & Safety  
 Component Wage and Hour Administration

Page 4 of 4  
 Revised Date

**FY 87**

Bill No. House Bill 130

Date March 19, 1987

Title "An Act relating to educational employees; collective bargaining agreements; and providing for an effective date."

Contact: Tom Stuart  
465-4870

Eileen Plate  
465-2700

This legislation makes it mandatory for all school boards to permit their noncertificated employees to enter into collective bargaining. Presently only certificated employees have the right to bargain collectively.

Under this bill, the Department of Labor would become the labor relations agency for 55 separate school districts (including REAA's) involving approximately 4,600 noncertificated employees and 7,500 certificated employees. The department would be responsible for:

- investigating representation petitions;
- determining appropriate units for the purpose of collective bargaining;
- conducting elections;
- monitoring the resolution of unfair labor practices;
- conducting preliminary hearings; and
- monitoring the mediation and arbitration of disputed issues subsequent to impasse during collective bargaining negotiations.

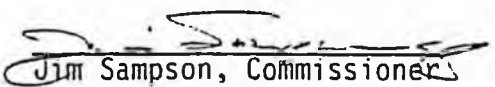
There are 55 school boards within the State of Alaska (including REAA's). Therefore, the Department of Labor as the labor relations agency would be conducting elections for the 55 separate school boards and holding hearings associated with the elections.

Four school districts are presently organized or have a collective bargaining agreement with a union or an association. These are Fairbanks, Kenai, Juneau and Anchorage.

The department supports the concept of extending collective bargaining to this group of public employees.

The department's fiscal note is attached.

APPROVED:

  
Jim Sampson, Commissioner  
Department of Labor

**POSITION PAPER/Department of Labor**

*Rebo*  
*Final Crown*  
*3/20/77*  
*del. to Kopman*

Original sponsor: Health, Education and  
Social Services Committee

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 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~~ <sup>INSERT - DO NOT UNDERSCORE</sup> 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 <sup>INSERT NEW (C) - DO NOT UNDERSCORE</sup>

\* 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

~~AMENDMENT NO. 1~~

AMENDMENT NO. 1

OFFERED IN HOUSE HESS COMMITTEE:

BY: Alyce Hanley

HOUSE BILL NO. 130

PAGE 4, LINE 14

~~receiving a written request. A written notice by either party must be presented no later than November 1.~~

*No later than JAN 15, January 15.*

PAGE 4, LINE 18

*NO underline*

(c) Negotiations must be concluded with both parties reaching agreement by <sup>MARCH 31</sup> January 15, unless by mutual agreement, both parties agree to extend the process to <sup>March 31</sup> January 31. Failing to reach agreement by <sup>MARCH</sup> January 31, the parties shall immediately institute the mediation process <sup>under AS</sup> (Sec. 14.20.570X).

PAGE 5, LINE 21

~~Following mediation agreement must be reached no later than April 15th, or the dispute will go to arbitration, (Sec. 14.20.585X).~~

~~Arbitration shall (start) by May 15.~~

*The parties shall conclude arbitration by May 15.*

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. <sup>^</sup> INSERT - NO UNDERSCORE

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. An arbitrator selected under this subsection must be a  
2 resident of this state unless no state resident arbitrator is readily  
3 available.

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

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

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

20 \* Sec. 10. AS 14.20.590 is amended to read:

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

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

1 (b) The prohibition of unfair labor practices, as described in  
2 AS 23.40.110, applies to a school board and an employee organization.  
3 An unfair labor practice shall be adjudicated under the grievance  
4 procedure of the collective bargaining agreement. It is an unfair  
5 labor practice for a school board to refuse to continue the terms of  
6 an expired agreement until a new agreement is reached.

7 \* Sec. 12. AS 14.20.610 is amended to read:

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

13 \* Sec. 13. AS 14.20 is amended by adding a new section to article 6 to  
14 read:

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

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

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

23 \* Sec. 15. This Act takes effect immediately under AS 01.10.070(c).  
24  
25  
26  
27  
28  
29

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version: CSHB-130(HESS)  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: collective bargaining agreements  
and providing for an effective date.  
Sponsor: House HESS  
Requestor: HOUSE HESS

Agency Affected: Education  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

This bill has no fiscal impact on this department.

Prepared by: Steve Hole  
Division: Commissioner's Office

Phone: 465-2800  
Date: March 25, 1987

Approved by Commissioner: Marshall L. Lind  
Agency: Education

Date: March 25, 1987

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/13/87

FURTHER REFERRALS: Finance

DATE: 3/20/87

The Health, Education and Social Services Committee has considered HB 130

"An Act relating to educational employee s' collective bargaining agreements; and providing for an effective date."

**RECOMMENDS:**

- replace with CS HB 130 (HESS)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]

**SIGNING OTHER RECOMMENDATIONS:**

[Signature]  
[Signature] - Do Not Pass  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

[Signature]  
 Co Chairman's signature  
[Signature]

Amendment to HB 130

By Gruenberg

page 6 line 1 add a new sentence  
to read:

"An arbitrator selected under this  
subsection must be a resident of this  
state unless ~~the~~ <sup>no</sup> ~~is~~ <sup>state</sup> a resident  
arbitrator is readily available <sup>in</sup> ~~through~~  
~~the American Arbitration Association.~~"

RECEIVED FEB 28 1987

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NORMAN C. BANFIELD  
OF COUNSEL

February 26, 1987

HERBERT L. FAULKNER (1882-1972)  
FRANK M. DOOGAN (1923-1977)

\*\*ADMITTED IN WASHINGTON & ALASKA  
OTHERS NOT ADMITTED IN WASHINGTON

The Honorable Frances Ulmer  
House of Representatives  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: HB 130

Dear Fran:

Here are some thoughts about some of the less obvious problems (i.e. not including the concept of binding arbitration) in the above referenced bill. There are some very substantial changes from current law.

For example, Section 2 would mandate that districts collectively bargain with noncertificated personnel. This is not currently required although a number of districts do so voluntarily. There are alot of districts in this State who have very few noncertificated employees and they are able to reach compensation agreements with them without going through the formal and often time consuming process of collective bargaining. I have never known of a situation in which the lack of this statutory collective bargaining obligation gave rise to any dispute or difficulty between a district and its classified staff. In short, to my knowledge "it ain't broke."

I do not understand how Section 3 is suppose to work. It purports to authorize negotiations between a single organization representing all REAA employees and another organization representing all REAAs. It does not specify who decides if such consolidation is going to take place or what

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happens if groups from some REAAs join together but the employees so joined do not match the REAAs who themselves would like to join together. Also, it specifies that, where administrative or noncertificated employees have organized separately they "shall participate in the negotiations." Does that mean they negotiate at the same time, for their own separate contracts, or that they somehow have a hand in the negotiation of the certificated contract?

In Section 10 a new provision specifies that all questions involving the arbitrability of a grievance must themselves be decided by arbitration. It's a pretty fundamental concept of arbitration law that parties should not be compelled to arbitrate disputes that they have not agreed to arbitrate. This question is almost always a matter of legal interpretation for which the courts are well suited. Moreover, although arbitration is suppose to be a quick and inexpensive method of dispute resolution, in Alaska where labor arbitrators almost always are flown up from Washington or Oregon and often into remote sites (and then only after 3 or 4 preliminary steps of the grievance procedure), it very often may be less expensive and less time consuming to obtain a quick court resolution on arbitrability before investing the time and expense in that process.

Section 11 delegates to this same arbitrator the authority to adjudicate unfair labor practice claims. Currently such claims are adjudicated by the courts and I cannot imagine what the perceived advantage is of relegating them to the grievance procedure instead. The same section contains an extremely important new term which would effectively require that expired contracts be continued in effect unless and until a new agreement is reached. Since virtually all of those agreements contain salary schedules which provide for automatic step and column increases from one year to the next, such a requirement provides very little incentive for employees to arrive at a new agreement where salary freezes or rollbacks are dictated by declining revenues. Several districts that I know of who foolishly agreed to a similar concept in their own current negotiated agreements are now discovering what a disaster they have created for themselves. Decisions under the National Labor Relations Act and other public sector bargaining statutes have regularly refused to adopt such a principle, apparently recognizing the deleterious effect it would have on the bargaining process.

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Thanks for taking the time to review these comments. I would be happy to talk with you further about any of this should you think that would be useful.

Very truly yours,



Lawrence T. Feenev

LTF/kms/0229n



## Kodiak Island Borough School District

### RESOLUTION 867-11

RE: HB 130 & SB 40, an act relating to educational employees collective bargaining agreements.

WHEREAS, HB 130 & SB 40, provide for opportunities of consolidation for all employee groups within school districts for purposes of collective bargaining, and

WHEREAS, the bill further mandates school districts to engage in binding arbitration with their collective bargaining agent(s) and

WHEREAS, neither bill addresses the critical need of a responsible policy for Reduction in Force (RIF) necessitated by the decline in state funding for primary and secondary education, and

WHEREAS, neither bill addresses the need to reexamine the present state statutes regarding acquisition of teacher tenure, or statutes regarding dismissal and nonretention of tenured staff, and

WHEREAS, without reasonable RIF policy, changes in the length of time for gaining the property rights of teacher tenure, and workable procedures for dismissal and nonretention, school districts are in the untenable position of having no authority to reduce personnel costs, and

WHEREAS, further legislation by the Alaska State Legislature, which restricts the authority and responsibility at the local level, only diminishes the basic right of self-government and local control of public education.

NOW THEREFORE BE IT RESOLVED, that the Kodiak Island Borough School Board strenuously opposes the enactment of this legislation, and

FURTHER BE IT RESOLVED, that the Board of Education strongly urges the Alaska State Legislature to consider the issue of binding arbitration only with changes to teacher tenure, reduction in force policy, and dismissal and nonretention statutes in light of reduced state support to education.

\_\_\_\_\_  
President  
Kodiak Island Borough School Board



Official Business

**COMMITTEE:**

House HESS Committee

**DATE:** 3/20/87

**SIGN-IN**

**Subject of meeting:**

HB 130 - Collective Bargaining by Education Employees

CSSB 33 - Violation of Compulsory Education

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? & Which Bill
Steve McPhetres	326 4 <sup>th</sup> St. Juneau	6-9702	AK School Admin	130
Alan Dill	Box 423 Sitka	747-3734	NEA - Alaska	yes 130
<del>Don Oberg</del>	<del>1234 1234 1234</del>	<del>558-5107</del>	<del>NEA-AK</del>	
Mina Page	Box 973 Nome, AK	443-2035	WEA - K.	
<del>Dutton</del>	<del>2000 Seward Dr. Juneau</del>		<del>G.I.G.</del>	
James Sawicki	Box 630 Tinesu 99102	5-4839	D.O.C.	yes 130
Lee Powelson	340 N. Franklin	6-2334	APEA	yes 130
Pamela Reynolds	8031 Ewins ANC 99507	349-1745	NEA-AK/AEA	no
Carol Merritt	PO Box 60475 Fairbanks	479-5985	WEA/Alaska	Yes
Bon Mannens	105 Municipal Way #302	586-3090	NEA/AK	Yes.



Official Business

**COMMITTEE:**

House HESS Committee

**DATE:** 3/20/87

**SIGN-IN**

**Subject of meeting:**

HB 130 - Collective Bargaining by Education Employees

CSSB 33 - Violation of Compulsory Education

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? & Which Bill
Judy SALO	4510 Kenaitze Court	283-7764	Teachers	HB / 130 <del>yes</del>
Pam McCord	2115 Stribos Way	77-0605	Teachers / Inclusion	HB / 130 <del>yes</del>
Peg Stout	6208 E. 34 <sup>th</sup> Ave. 99504	337-7047	Teachers	HB / 130 <del>yes</del>
Ed Bussey	517 Capitol	3466		
Lusan Dithorn	Box 80913, College, Ak. 99708	414-5040	NEA / Alaska Teachers	HB / 130 <del>yes</del>
Marla Huss	521 Capitol	465-2684	Rep. Swackhammer	no
Don Ohng	Box 184 Kenai AK 99611	283-4666	NEA-AK - KEA	130 /
PHILIP MYERCHIN	717 Canyon Road, KETCHIKAN, AK	225-3786	NEA-AK, KEA	



# STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

## LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H HESS	3-20-87	8:30 a.m.
H L+C	2-18-85	1:20 p.m.
H L+C	2-25-85	1:25 p.m.
H L+C	3-4-85	1:15 p.m.
H L+C	3-11-85	1:40 p.m.
H L+C	3-14-85	1:25 p.m.
H L+C	3-15-85	1:30 p.m.
H L+C	3-18-85	1:25 p.m.
H L+C	3-18-85	6:40 p.m.
H L+C	3-21-85	1:25 p.m.
H L+C	3-22-85	1:40 p.m.
H HESS	4-1-85	4:30 p.m.
H HESS	4-2-85	4:30 p.m.
H HESS	4-8-85	4:30 p.m.
H HESS	4-11-85	4:30 p.m.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 20, 1987

SUBJECT: Sectional analysis of HB 130  
(Educational employees' collective  
bargaining agreements)

TO: Representative Niilo Koponen  
Co-chairman, House HESS

FROM: Teresa B. Cramer *IBC*  
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 adds findings and a declaration of policy to the article that establishes collective bargaining for educational employees.

Section 2 expands the scope of educational employee collective bargaining by removing the limitation that only certificated employees are entitled to participate. This change is reflected throughout the bill. Section 2 also makes a technical change to reflect that AS 14.60.010 defines school board to mean the school board of a borough or city school district or a regional educational attendance area so it is not necessary to repeat the list.

Section 3 permits administrative personnel or noncertificated employees who have chosen to negotiate separately from teachers to have a team representing them participate in collective bargaining with regional educational attendance area school boards.

Section 4 gives the state labor relations agency responsibility for deciding appropriate negotiating units for educational employee collective bargaining. Subsection (a) directs that the units be as large as is reasonable and avoid unnecessary fragmenting. Subsections (b) - (e) set out the procedures for certification as a bargaining organization to represent a unit. Subsection (f) permits non-certificated employees or certificated administrative personnel to choose by secret ballot to negotiate independently of the teachers.

Section 5 adds a section to require school boards and employee bargaining organizations to meet with each other on request. The section permits them to hold negotiations in executive session. It requires them to make all final agreements at a public meeting of the school board.

Section 6 makes technical changes and eliminates the 30 day limit on a mediator attempting to resolve differences between disputing parties.

Section 7 adds subsection (c) to require that if mediation or arbitration meetings occur during working hours, the employee team members do not have to take leave to participate. The existing subsection (b) of AS 14.20.570 already permits teachers representing employee bargaining agency at a mediation meeting to be released from their duties without loss of pay. It would be appropriate to amend (b) rather than add (c).

Section 8 eliminates the requirement that the parties act on the mediator's report within 10 days and eliminates the governor's power to appoint an advisory arbitrator to review the issues and make recommendations. Instead, following mediation, the section requires that the parties observe a 10-day cooling off period.

Section 9 adds last-best-offer mediated arbitration to educational employee collective bargaining and requires that collective bargaining agreements include a procedure for selection of an arbitrator and the conduct of last-best-offer mediated arbitration. Under subsection (b), each party submits a final offer on each issue in dispute. The arbitrator may propose compromises and the parties may revise their offers. If the parties do not reach agreement on their own, the arbitrator adopts the offer of one of the parties on each issue and issues a final and binding decision not more

Representative Koponen  
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than 10 days after the parties have presented their final offers. The parties share the cost of the arbitrator equally.

Section 10 removes an obsolete date and gives the arbitrator the power to determine whether a grievance is subject to grievance arbitration.

Section 11 incorporates the prohibition of unfair labor practices from the Public Employment Relations Act (AS 23.40.070 - 23.40.260) and directs that they be adjudicated under the grievance procedure of the collective bargaining agreement between the parties. The section also makes it an unfair labor practice for a school board to refuse to continue the terms of an expired agreement until a new agreement is reached.

Section 12 amends the spanned reference to reflect the new definition section added in section 13 of the bill and also clarifies that the school board has the right to make final decisions on educational policies.

Section 13 adds a section that defines "employee" to include both certificated and noncertificated employees of school districts. It also incorporates definitions for other terms from the Public Employment Relations Act.

Section 14 reflects the constitutional prohibition against impairing the obligation of contracts by providing that the Act does not modify or terminate a negotiating unit or a collective bargaining agreement that is in existence on the effective date of the Act.

Section 15 is an immediate effective date clause.

If I may be of further assistance, please advise.

TC: csh  
c7/095