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ASSOCIATION OF ALASKA SCHOOL BOARDS

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CS SB 458 (L&C) Nonretention revision

AASB Position

The Association of Alaska School Boards (AASB) supports CSSB 458 (L&C).

If reductions in workforce are required in Alaska's schools due to fiscal circumstances, layoff provisions must allow the educational program needs of our youth, and not tenure, to be the primary determining factor. **AASB believes the program needs of students should drive the staffing patterns of schools.**

History

Historically, tenure rights were granted primarily to protect academic freedom and prevent arbitrary dismissals. Current law allows a reduction in tenured staff for reasons of incompetence, immorality, substantial noncompliance and a decrease in enrollment. CS SB 458 (L&C) would allow districts to layoff tenured staff for budgetary and fiscal reasons. Under current law, tenured teachers are protected from such layoffs, even if it means a district is facing bankruptcy. This leaves school boards in a position of having to make program cuts and fill the remaining positions with teachers who are less qualified but are guaranteed employment because of tenure.

Bill offers latitude

To ensure that every avenue has been exhausted by school districts in determining a financial "emergency" which would require tenured layoffs, AASB supports the requirement of verification by the Commissioner of Education of a "necessary reduction in staff because of budgetary or fiscal circumstances."

AASB is also supportive of the provision to allow layoff for budgetary circumstances at any time during the calendar year. The lack of a forward funding mechanism coupled with the timing of the Legislature in determining the level of school funding each year puts school districts in a double bind when trying to make staffing decisions. Districts sometimes rely on passage of a supplemental bill to complete their funding. In the absence of that they can discover they are short funded, and the ability to layoff during the school year becomes more critical.

Fairness and balance in bargaining

AASB believes this bill offers a balanced attempt to provide fairness in the collective bargaining process, particularly in light of the recently legislated unlimited right-to-strike by school employees.

To a great degree many school districts are forced to bargain blindly, not knowing the level of funding they will receive until after bargaining is completed. Districts may be placed in the position of making a financial decision to avert a strike, then find out later that district funding is insufficient. Education programs suffer as a result, and other staff may have to be nonretained to pay for the newly bargained agreement. AASB believes this is unfair to school employees who may be nonretained, and to students whose program needs are considered only after other contractual obligations are met.

7-GS2078D
Cramer
3/27/92

CS FOR SENATE BILL NO. 458 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to teacher tenure; providing for teacher layoff procedures; and providing
2 for an effective date."

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

4 * Section 1. AS 14.20.175(b) is amended to read:

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

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

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

11 (3) substantial noncompliance with the school laws of the state, the regulations
12 or bylaws of the department, the bylaws of the district, or the written rules of the superintendent;

13 [OR]

14 (4) a necessary reduction of staff, as determined by the employer, occasioned

1 by a decrease in school attendance, or a necessary reduction in staff because of budgetary or
2 fiscal circumstances, as determined by the employer and approved by the commissioner.

3 * Sec. 2. AS 14.20 is amended by adding a new section to read:

4 Sec. 14.20.176. LAYOFF AND REHIRE. (a) A teacher is subject to layoff at any time
5 during a calendar year, in a manner determined by the employer, because of budgetary or fiscal
6 circumstances of the municipal school district or regional educational attendance area. Before
7 placing a teacher on layoff status under this subsection, a municipal school district or regional
8 educational attendance area shall demonstrate, to the commissioner's satisfaction, that a budgetary
9 or fiscal circumstance necessitates the layoff.

10 (b) For a period of three years after layoff, a teacher who has been laid off under this
11 section is entitled to a hiring preference, in the district or regional educational attendance area
12 where the teacher had been employed, to fill a vacant teaching position for which the teacher is
13 qualified. If a teacher is offered a teaching position under this subsection and the teacher
14 declines the offer, the teacher is no longer entitled to the hiring preference.

15 (c) Notwithstanding any provision of AS 23.40, the terms of a collective bargaining
16 agreement entered into between a teacher and a school district or regional educational attendance
17 area on or after the effective date of this section may not be inconsistent with the provisions of
18 this section.

19 (d) This section applies to a teacher regardless of whether the teacher has acquired tenure
20 rights.

21 * Sec. 3. Nothing in this Act terminates or modifies a collective bargaining agreement if the
22 agreement is in effect on the effective date of this Act.

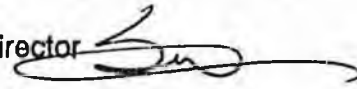
23 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).



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April 3, 1992

TO: Senator Drue Pearce, Chair
and
Members, Senate Labor and Commerce Committee

FROM: Scott A. Burgess, Executive Director 

RE: Proposed CS SB 458 (L&C) - Relating to teacher tenure; providing for teacher layoff procedures (Cramer, 3/27/92)

The Alaska Municipal League supports the proposed CS SB 458 (L&C) - An Act relating to teacher tenure and providing for teacher layoff procedures (Cramer, 3/27/92. As drafted, the bill would allow school districts, with the permission of the Commissioner of Education, to lay off tenured teachers if necessary because of the fiscal or budgetary circumstances of the municipal school district or regional educational attendance area. The *1992 Alaska Municipal League Policy Statement* includes the following statement: "The League supports legislation that allows local school districts to have a reduction in force of teachers (tenured and non-tenured) when either student enrollment decreases or funding is reduced" (II.A.4).

Current Alaskan law provides that a school district may reduce its tenured teaching staff only in the event of a decline in student enrollment. The proposed CS SB 458 (L&C) would amend that provision to clarify that the employing district has the right to determine whether a reduction in staff is warranted by a decline in enrollment.

In addition, it would give districts essential management authority to determine when a reduction in staff was necessary for fiscal or budgetary reasons. Personnel costs are the largest single element in a school district's budget and one the district may not be able to cut back if the proportion of tenured teachers is high, as it is in many of Alaska's districts.

Municipalities fund approximately 25 percent of the cost of education in Alaska's municipal districts. Because of their major contribution to and responsibility for the costs of running school districts, municipalities strongly support enhancing the ability of school districts to control their costs by reducing teaching staff in cases of financial hardship. While the League supports adequate funding for education if possible to avoid teacher layoffs, AML and its members support passage of CS SB 458, which would give districts that authority, with the approval of the Commissioner of Education.

clst92:SB 458.403