2318 SHESS SB 77 - SB 78

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

ment	Sponsor (Principal)	Bill Number
Administration Older Alaskans Commission	Senator Fischer	SB 77

ment Position: The Older Alaskans Commission supports establishment of an Alaskans senior citizen employment team program to increase training and employment opportunities for seniors enabling them to live independent lives in dignity as well as utilizing their experience, expertise, and wisdom as a valuable state resource.

n Director	Date	Commissioner's Signature	Date
[signature]	2/4/83		

GOVERNOR'S OFFICE USE

ents.

Position Noted	By	Date

SUMMARY

Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
Unknown at this time	DOL

Organizational Support for Bill	2. b) Organizational Opposition to Bill
Older Alaskans Commission Older Persons Action Group The American Legion Department of Labor	None Known

gram Effects of Bill

This bill is compatible with the senior employment programs administered by the Older Alaskans Commission for persons over 55 funded by Title V of the Older Americans Act and those over 60 funded under AS 47.65. Currently the senior employment programs only serve about 2% of the elderly unemployed in the state. This program would provide employment for another 1%. Since many of these positions are usually located within other organizations serving seniors such as nutrition programs, it would also assist in providing needed services in areas which have been unable to meet present demand.

cal Impact: ☐ None ☒ Fiscal Note Attached

endments Proposed:

Page 3, Sec. 6 (b), line 12 change "director" to "Older Alaskans Commission".
Page 3, Sec. 9, line 21, change "director" to "Older Alaskans Commission".
Page 1, Sec. 2, line 20, change "60" to "55"
Page 2, Sec. 5, line 9, change "60" to "55"

mments:

This program would benefit communities by providing positions for worthwhile projects. Some would contribute greatly to reduced taxes by assisting other seniors to remain in their own homes for a longer period of time instead of being institutionalized at about $4,000 per month per person. A national study of Title V by the American Association of Retired Persons shows that for every $1. spent for the program $1.15 is returned to the economy. The state would also benefit by having more productive citizens and fewer on welfare. For example, 91% of the enrollees on current senior employment programs are eligible for welfare. Thus, savings in these costs alone could pay for most of the costs of this program.

This program would provide the direct benefit to the enrollee of an income, the opportunity to prove capability and training for a job. Increased income would result in the indirect benefit of improved health through better nutrition, housing and improved mental outlook through the feelings of worth as a result of their working contribution to society.

Reasons for the requests under "Amendments Proposed" are as follows:

1. Change "director" to "Older Alaskans Commission" because the Commission should be responsible for determining regulations which the executive director would implement.

2. Change age 60 to 55 because, for most persons, age 55 is the most critical age concerning employment. Actually, the Department of Labor defines the older worker as being age 45 and up because age-related employment problems frequently occur at this time and become progressively worse. (Society perceives the worker as too old, with obsolete skills and as being untrainable.) Fifty-five seems to be the turning point age at which second careers need to be developed because of the physical slowing of some individuals and/or obsolescence of skills due to changing technologies. Many widows enter the job market about this age because social security is not available to them (the average age of widowhood is 56) when dependent children are no longer in the home. At age 55, there is still a 10-20 year period in which to use new career training before retirement. Therefore, training for highly skilled careers is still considered worthwhile.

   Age 55 would also coincide with the existing Title V program thus facilitating the administration of both programs.

CS FOR SB 77 (HESS) - BILL ANALYSIS

SECTION 2 changed age limit from 60 to 55

SECTION 5 changed age limit from 60 to 55

SECTION 6 page 3

(b) added section to limit reimbursement to 75% of the wages paid

(d) added section to guarantee that 25% of the contracts will be awarded to private employers.

"NEPOTISM" was not added to the bill. Legal opinion from Billy Berrier is that contracts under this bill would come under the current nepotism statute.

Contracts awarded to private employers is another problem, as to defining the relationships of the enrollee to what may be a corporation. I had no specific direction from the committee and would suggest that this be a topic of discussion at the committee meeting.

STATE OF ALASKA
FISCAL NOTE

Revision Date Apr. 21, 1983

I. REQUEST
Bill/Resolution No.: CS SB 77
Title: Alaska Senior Citizen Employment
Sponsor: Vic Fischer
Requestor: Vic Fischer

II. FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social and *
BRU, Program of Subprogram(s) Affected:
Older Alaskans Commission

*Economic Assistance for the Aged

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		81	86.4	91.6	97.0	102.8
200 TRAVEL		9.8	10.4	11.0	11.7	12.4
300 CONTRACTUAL		7.6	8.1	8.5	9.1	9.6
400 COMMODITIES		1.1	1.2	1.2	1.3	1.4
500 EQUIPMENT		2.0	Ø	Ø	Ø	Ø
600 LAND & STRUCTURES		0	Ø	Ø	Ø	Ø
700 GRANTS, CLAIMS, ETC		666.4	706.4	748.8	793.7	841.3
TOTAL OPERATING		768.4	812.4	861.1	912.8	967.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis See attached.

Prepared By: Eileen Rehwald [signature] Phone: 465-3250
Division: Older Alaskans Commission Date: 4-21-83

Approved by Commissioner: [signature] Date: [illegible]
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor

IV ANALYSIS:

A. Assumptions

In the grants component, the following assumptions have been made:

(1) the average number of hours to be worked is 25 hours per week,

(2) the average wage is $7.29 per hour (the current rate being paid on other senior employment programs),

(3) 25% of the average wage is to cover required fringe benefits, other work-related necessities and work- or career-related training.

Inflation is computed at 6% per year except for equipment, one time only purchase.

B. Program Summary

This program would provide 75% subsidized employment for seniors 55 years of age or older with employers who would guarantee an unsubsidized position at the end of the training period. This type of program necessitates detailed planning and development, accounting functions, and on-site monitoring and evaluation. Therefore, funds for administrative support are included for two positions: Grants Administrator and Project Field Representative. A Form 13 is attached for each position.

Travel is vital for program development and implementation. Travel permits the personal contact necessary to coordinate and design individual enrollee training and employability plans, monitoring of worksite and enrollees, resultant program evaluation and modification as required.

Contractual services include office space, janitorial services, communications, xerox, printing, advertising, and a share of the display writer. Although office space is included here, the $4,000 allowed for this purpose would be transferred to the Department of Administration, Leasing and Facilities BRU.

Equipment required for two persons is two desks, two chairs, one file cabinet, one bookcase and two calculators.

Administrative costs are approximately 14% of the total funds requested.

C. Computations

Using the assumptions listed above and the fact that only 75% of the wages are reimbursable to the employer on the Committee Substitute Bill, the cost per enrollee is as follows:

75% (25 hours x 7.29 x 52 weeks + 25% fringe benefits & training) = $8885

For 75 enrollees (75 x $8885) the cost is $666,400.

D. Economic Impact

1. Contribution to the economy. Because this is a low income group and wages are not high, it can be expected that all salaries will be used to purchase goods and services with a resulting ripple effect. A national study of the federally funded program by the American Association of Retired Persons shows that for every $1.00 spent for the program, $1.15 is returned to the economy.

2. Reduction in state welfare costs. This program would probably follow the pattern of the current federally funded program in which 26% of the new applicants last year were on a welfare program when they applied.

   Although eligibility for the program permits applicant family incomes to be 125% of the poverty guidelines (established by the U.S. Office of Management and Budget), 84% of those currently enrolled had family incomes at or below 100% of the poverty level guidelines as follows:

Family Size	Family Income (including Social Security and pensions)
1	$5,870 per year
2	$7,790 " "
3	$9,710 " "

Therefore, most of the 84% are eligible for welfare but many proud Alaskan elders refuse to accept it and no one can deny that workfare is better than welfare.

Another major tax saving is due to the kind of jobs many of these enrollees perform such as home chore services for the frail elderly to help them remain in their own homes longer instead of being institutionalized.

These services include hauling wood and water, snow shoveling, minor home repair, preparing meals, shopping for groceries, housecleaning, etc. This assistance is especially important in smaller communities where there are no home health aides or other help available. For example, one enrollee in Eagle (salary $500 per month) usually assists three to six persons at a savings of approximately $4,000 per month each for institutional costs. There are currently 18 persons performing in a similar manner.

In order to assure recruitment of low-income elderly, this office plans to prepare a pamphlet describing employment opportunities for the target group. The possibility of mailing this pamphlet directly to all Public Assistance recipients has already been discussed with that office. The reason for this approach is that a large percentage of older workers are "discouraged" workers who do not believe they can get a job due to age discrimination and so do not apply at job service centers.

Thus, the savings in taxes alone as indicated above could more than pay for this program.

1.	POSITION TITLE Grants Administrator			RANGE/STEP 17A	BARG. UNIT GGU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER N/A	PCN NUMBER N/A	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.	

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary $2,757/mo.	33,084	
6.	Benefits .1620	5,360	
7.	Supplemental Benefits .0613	2,028	
8.	Fixed Benefits H.I. 240/mo.	2,880	
9.	TOTAL PERSONAL SERVICES	01	43.4
10.	Travel	02	4.8
11.	Contractual	03	3.8
12.	Commodities	04	.6
13.	Equipment	05	1.0
14.	Other		53.6
15.	TOTAL COST		

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER

JUSTIFICATION

This position is needed to plan and develop the new ASCET program which would also involve profitable organizations. It requires its own regulations, accounting functions, monitoring and evaluations. Duties are as follows:

Promulgates regulations for new ASCET program

Develops Program in accordance with legislation establishing a system for application, awarding funds, and monitoring of employers to meet goal: hiring of enrollee upon successful completion of training

Reviews, evaluates applications, recommends funding levels, prepares Notification of Grant Award and subgrantee budget maintaining appropriate accounting records

Monitors on-site to provide technical assistance; assure fiscal accountability and compliance with regulations, Older Alaskans Commission policies, and program requirements; submits detailed written report.

Develops individual enrollee training/employability program coordinating with employer, enrollee, Older Worker Specialist at Job Center, and involved educational institutions

Resolves problems with enrollees or program operations

Makes policy recommendations

Supervises and works closely with CETA Field Representative II

13 REQUEST FOR NEW POSITION

AGENCY Administration

PROGRAM Social and Economic Assistance for the Aged

BRU Older Alaskans Commission

COMPONENT Administration

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Revised Date

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1.	POSITION TITLE CETA Field Representative II		RANGE/STEP 15A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER N/A	PCN NUMBER N/A	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.
3.	CONTINUATION LEVEL	ADDITION						

	TYPE OF EXPENDITURE		AMOUNT
4.	1	2	3
	PERSONAL SERVICES		
5.	Salary $2,398	28,776	
6.	Benefits .1620	4,662	
7.	Supplemental Benefits .0613	1,764	
8.	Fixed Benefits H.I. $240/mo.	2,880	
9.	TOTAL PERSONAL SERVICES	01	38.1
10.	Travel	02	5.0
11.	Contractual	03	3.8
12.	Commodities	04	.5
13.	Equipment	05	1.0
14.	Other		-
15.	TOTAL COST		48.4

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

This position is needed as support to the Grants Administrator in the administration of the new ASCET program. Duties are as follows:

Assists with preparation of Notification of Grant Award and subgrantee budgets.

Reviews intakes, terminations, and other forms for completeness, accuracy and consistency, devises tracking system for reports not received of needing corrective action.

Monitors time sheets and enrollee progress reports.

Records all appropriate information for preparation of statistical and programmatic performance reporting.

Makes field investigations of program status and progress, providing specific program information to enrollees, work-site employer and supervisor.

Monitors program activities through reporting systems, makes periodic status reports to supervisor indicating problem areas requiring solution and recommending other adjustments in program activities.

13 REQUEST FOR NEW POSITION

AGENCY Administration

PROGRAM Social and Economic Assistance for the Aged

BRU Older Alaskans Commission

COMPONENT Administration

FY 84

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Revised Date

01-113G (7/82) - 13

Senate Bill 77

"An Act establishing the Alaska Senior Citizen employment team program and fund"

POSITION PAPER

The Older Alaskans Commission urges passage of this legislation in order to provide increased training and employment opportunities for seniors enabling them to live independent lives in dignity as well as utilizing their experience, expertise, and wisdom as a valuable state resource.

In a year's time, approximately 2,890 Alaskans 55 and over applied for jobs at job service centers and only 12% were placed. National studies have indicated that the so-called "discouraged workers" who no longer apply at job service centers increase in number with age up through the years even into age 60 and 65. In June 1981, the University of Alaska at Anchorage in their report "An Assessment of the Status and Needs of Alaska's Elderly" listed the following statistics relating to employment of persons 60 and over, with an average age of 70.3, median age 68.6.

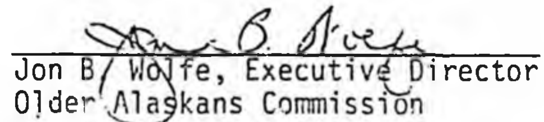
> "Retirement is the characteristic most usually associated with the occupational level of older persons. 72.6% were retired (15.2% for health and medical reasons other than by choice). 25.8% did not consider themselves retired and were either working, waiting or actively pursuing employment. In addition, 40% of the respondents stated that they missed working for a variety of reasons including the money, companionship, the feeling of usefulness or accomplishment, or the job itself".

This would indicate that the "discouraged" or "hidden" worker in the age group of 60 and over is more than one and one-half times the so-called workforce according to the statistics of employment centers. The older persons simply do not go to employment centers because they do not feel they will be able to get a job.

This program would provide seniors with the opportunity to prove capability thus helping to eradicate some of the stereotyped images of the older worker. It would also provide training to update skills that may have become obsolete in today's rapidly changing technologies.

A national study of the federal senior employment program by the American Association of Retired Persons shows that for every $1.0 spent for the program, $1.15 is returned to the economy. In Alaska, many positions assist other seniors, especially in the bush, to remain in their own homes for a longer period of time instead of being institutionalized at about $4,000 per month per person. This program would also save additional tax money by having more productive citizens and fewer on welfare. For example 91% of the enrollees on current senior employment programs are eligible for welfare. Thus, savings in these costs alone could pay for most of the costs of this program.

The fiscal note submitted would place 100 seniors in part time jobs (although full time is permitted) and it is obvious this is a very small percentage (less than 4%) of the seniors who are actively searching for a job. However, with budget constraints that exist, it is realized that it may not be possible to fund that many positions and the Older Alaskans Commission will appreciate your consideration of any assistance that may be given to train and employ additional seniors.



Jon B. Wolfe, Executive Director
Older Alaskans Commission

Amendments

p. 3., line 8
strike out "all or a portion" & insert
"not to exceed 75%"

p. 3, line 12
line 21

strike out "director" & insert
"Older Alaskans Commission"

p. 3, line 5. after the period (".") insert an additional sentence: "The contract shall provide that the enrollee may not be related by blood or marriage to the employer."

age 55

no less than 25% of jobs with private
sector employers

the DIRECTOR SHALL ASSURE THAT NO
LESS THAN 25% OF THE ENROLLEES
ARE EMPLOYED IN THE PRIVATE SECTOR.

SENATE HESS COMMITTEE OBSERVER/WITNESS SIGN-UP SHEET

DATE: 3/17/83 SPONSOR: V. Fischer

SUBJECT(S): SB 77 - Senior Citizen Employ. team

NAME	REPRESENTING	ADDRESS	PHONE	Observer	Witness
Eileen Rehwald	Older Alaskans Commission	Dept of Admin Pouch C	465-3250		X
Paul Emerson	Juneau-Douglas Senior Citizens Club	805 West 12th St. Apt. 208, Juneau 99801	586-1525		X
Margot Dick	SE Senior Services	419 6th St. CCS Wing Juneau, AK 99801	586-6233		X

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE POUCH V, JUNEAU 99811
SENATOR VIC FISCHER, CHAIRMAN (907) 465-4954

MEMORANDUM

TO: Senator Joe Josephson, Chair
Senate HESS Committee

FROM: Senator Vic Fischer, Chair
Senate State Affairs Committee

DATE: March 2, 1983

RE: Senate Bill 77

I would appreciate it greatly if you could schedule Senate Bill 77 for a hearing before the HESS Committee at your earliest convenience.

I am speaking to the Alaska State Retired Teachers Association on Saturday, March 5, and would very much like to be able to tell them what is scheduled with respect to this bill.

As usual, ' thank you for your attention to this matter.

RECEIVED
MAR 03 1983
Josephson

SB

78

SECTION ANALYSIS

CS FOR SENATE BILL NO. 78 (HESS)

Section 1: Adds a new section 14.20.540 DECLARATION OF POLICY

This policy statement indicates support for the principles of collective bargaining in public schools and is similar to that contained in the Public Employee Relations Act which emphasizes that joint decision-making more fully utilizes the resources of employees and enhances the potential for harmonious and cooperative relationships in public education.

Section 2: Amends AS 14.20.550

(a) Provides that noncertified employees shall have the right to negotiate their terms and conditions of employment. This is the only group of public employees in the State of Alaska who do not have access to collective bargaining through a statutory provision.

(b) Defines certificated employees and provides guidance to the Labor Relations Agency in the event there must be a determination as to an appropriate collective bargaining unit. Specifically excluded are superintendents of schools, assistant superintendents, and others who clearly have administrative responsibility within the school district structure.

Section 3: Amends AS 14.20.555

(a) This amendment clarifies current provision that there may be regional coordinated bargaining between multi REAA's if they opt to do so. In the event there is that option to do so then the separate bargaining units, teacher units, noncertified employees, and/or certificated administrative units can bargain independent of each other. This provision does not require that there be coordination of bargaining nor does it require that all employees be in a single unit.

Section 4: Repeals and Reenacts AS 14.20.560

(a) Grants specific authority to the Educational Employees Labor Relations Agency to make determinations in defining an appropriate collective bargaining unit in the event there should be a contest or dispute regarding same.

(b) Establishes procedures by which there may be an election to determine the bargaining agent and requires that there be at least a 25% of the employees in the proposed unit "showing of interest" by petition in order for the Labor Relations Agency to investigate and determine regarding the appropriate unit and bargaining agent.

(c) Provides that there may be no more than one representation election in a given twelve month period. This provides for stability in the collective bargaining relationship.

(d) This is enabling legislation which provides for a mutual consent process to recognize a bargaining unit.

(e) This provision provides that a competing organization may challenge an incumbent bargaining agent only during the ninety day period immediately prior to the expiration of a collective bargaining agreement. Again, this fosters a stability in the labor relationships. It also provides that an incumbent may not bar a competing organization from challenge through the collective bargaining agreement for a period longer than three years.

(f) This section provides that the noncertificated employees and certificated administrative employees may have, by their own petition, bargaining units separate from the traditional teacher certificated employee units upon presentation of a petition with 25% of their potential unit requesting same.

Section 5: Adds a new section AS 14.20.565 NEGOTIATION MEETINGS

(a) This section provides for the commencement of bargaining on the initiative of either the employer or the employees.

(b) This section provides that the actual bargaining may take place in executive session but all agreements must be done in a public meeting of the school board.

Section 6: Amends AS 14.20.570

(a) Provides that either party may request mediation in the event that good faith negotiations has failed to produce an agreement.

(1) Provides that the parties shall seek assistance from the United States Federal Mediation and Conciliation Service and shall notify the Educational Employees Labor Relations Agency of this request.

(2) Provides that the mediator shall conduct the meetings between the parties in an effort to resolve the dispute.

(3) Provides that each party may have a team of representatives present to present their position on the issues in dispute to the mediator.

Section 7: Repeals and Reenacts AS 14.20.580

(a) Provides that the mediator shall notify the Educati nal Employees Labor Relations Agency if the parties reach agreement or when the mediator determines that resolution of the dispute is not possible through mediation. Subsequent to this notice there shall be a ten day cooling off period during which, of course, the parties may continue to negotiate if they so choose.

Section 8: Adds a new section AS 14.20.581 LOCAL OPTION

(a) PROVIDES THE RIGHT OF THE SCHOOL BOARD TO MAKE A DETERMINATION AS TO WHETHER THE EMPLOYEES SHALL HAVE ACCESS TO LAST BEST OFFER MEDIATED ARBITRATION OR THE RIGHT TO STRIKE AS THE NEXT STEP BEYOND MEDIATION. IT FURTHER PROVIDES THAT THE SCHOOL BOARD SHALL CONDUCT PUBLIC HEARINGS PRIOR TO THEIR DETERMINATION AND THAT THE RESOLUTION BY THE BOARD SHALL BE ADOPTED PRIOR TO THE COMMENCEMENT OF MEDIATION.

(b) Provides that the resolution of the school board is binding throughout the course of that round of negotiations. However, the parties can mutually agree to change the school board resolution.

AS 14.20.582 EMPLOYEE STRIKES

(a) Provides that if the resolution of the school board is for the strike option such a strike may take place if a majority of the employees who are members of the bargaining agent elect to do so.

(b) Provides that a school board is not required to participate in arbitration if the employees elect not to strike. However, the parties may continue to seek assistance from the Educational Employees Labor Relations Agency in the resolution of the dispute.

(c) Provides that in the event of a strike it can be enjoined in Superior Court if the petitioner can demonstrate that the strike threatens the health, safety, or welfare of the public. If the court enjoins such a strike as part of the order the parties shall submit to arbitration described in the law.

(d) Provides that the Labor Relations Agency shall establish the procedures for the conduct of a strike vote.

As 14.20.583 ARBITRATION

(a) Defines the arbitration procedure to be last best offer mediated arbitration. It also provides that the parties shall attempt to secure an agreement as to the procedure to select the arbiter. If they are not successful the Educational Employees Labor Relations Agency shall direct the use of the services of either the Federal Mediation and Conciliation Service or the American Arbitration Association in the selection of the arbiter who must be a resident of the State of Alaska.

(b) Defines the mediated arbitration procedure to be one in which the arbiter receives the last best offers of the party, conducts a hearing receiving evidence and testimony by either party, may make proposals for the resolution of the dispute and, on the request of the arbiter or either party, may conduct a public hearing pertaining to the dispute after which the arbiter may receive revised last best offers from the parties.

(c) Provides criterion which shall guide the arbiter in making a determination.

(d) Provides that the arbiter shall adopt, without modification, the last best offer of one of the parties and that this shall constitute a final and binding decision.

(e) Provides that the parties shall share the cost of the arbitration process.

AS 14.20.584 ARBITRATION AWARD

(a) Provides for confirmation of an arbitration award in Superior Court.

(b) Provides the basis on which an award may be vacated.

(c) Provides further criterion relative to vacating an award.

(d) Establishes a timeframe under which application for vacating an award must be made.

(e) Establishes procedures in the event the court orders that the award or part of the award be vacated.

(f) Provides for confirmation of the award if it is not vacated.

AS 14.20.585 MODIFICATION OR CORRECTION OF AWARD

(a) Provides a timeframe under which application should be made to modify or correct an award, and subparagraphs numbers 1, 2, and 3 establish the criterion under which an award may be modified.

(b) Provides that the court shall confirm an award after modifying the award.

(c) Provides that the modification or correction of an award can also be part of the application to vacate an award.

Section 9: Amends AS 14.20.590 GRIEVANCE PROCEDURES

This change makes the grievance procedure language which has been in the statute applicable to the employees covered by the statute. This now includes classified employees.

Section 10: Amends AS 14.40.600 INDIVIDUAL RIGHTS

(a) Is the same language that is currently in the statute.

(b) Establishes the Educational Employees Labor Relations Agency as the administrative body to insure the rights of non-members having bona fide religious convictions.

Section 11: Adds a new section AS 14.20.605 EDUCATIONAL EMPLOYEES LABOR RELATIONS AGENCY

(a) Establishes the agency of five persons, three of whom are the current members of the State Labor Relations Agency, with the additional two members to be appointed by the Governor from lists submitted by NEA-Alaska and the Alaska Association of School Boards.

(b) Provides for compensation for legitimate expenses of the Agency.

(c) Provides that the Agency may employ staff for the purpose of carrying out its responsibilities under the law.

AS 14.20.606 POWER TO IMPLEMENT NEGOTIATIONS

(a) Gives the Educational Employee Labor Relations Agency responsibilities similar to those under the Public Employee Relations Act by reference for the purpose of investigating and making determinations which pertain to unfair labor practices.

(b) Defines the unfair labor practices by reference consistent with those practices which are defined in the Public Employee Relations Act.

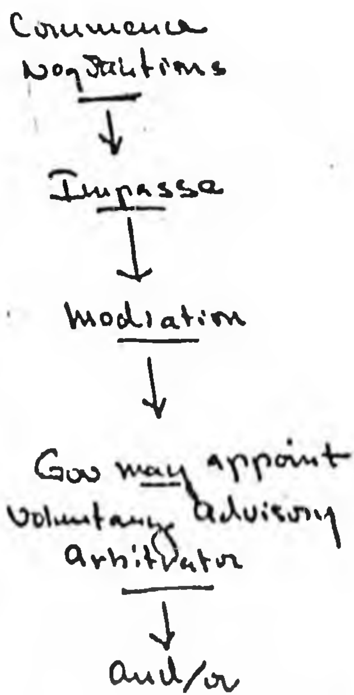
Section 12: Amends AS 14.20.610 to clarify that the school boards decision-making responsibilities pertain to those matters covered under educational policy.

Section 13: Defines the timeframe within which the school board shall make its determination relative to the dispute settlement procedure, right to strike, or last best offer mediated arbitration and that this decision shall be made within ninety days of the effective date of the Act.

Section 14: Preserves the stability which is governed by current collective bargaining agreements and preserves the exclusivity of bargaining agents at the time of the effective date.

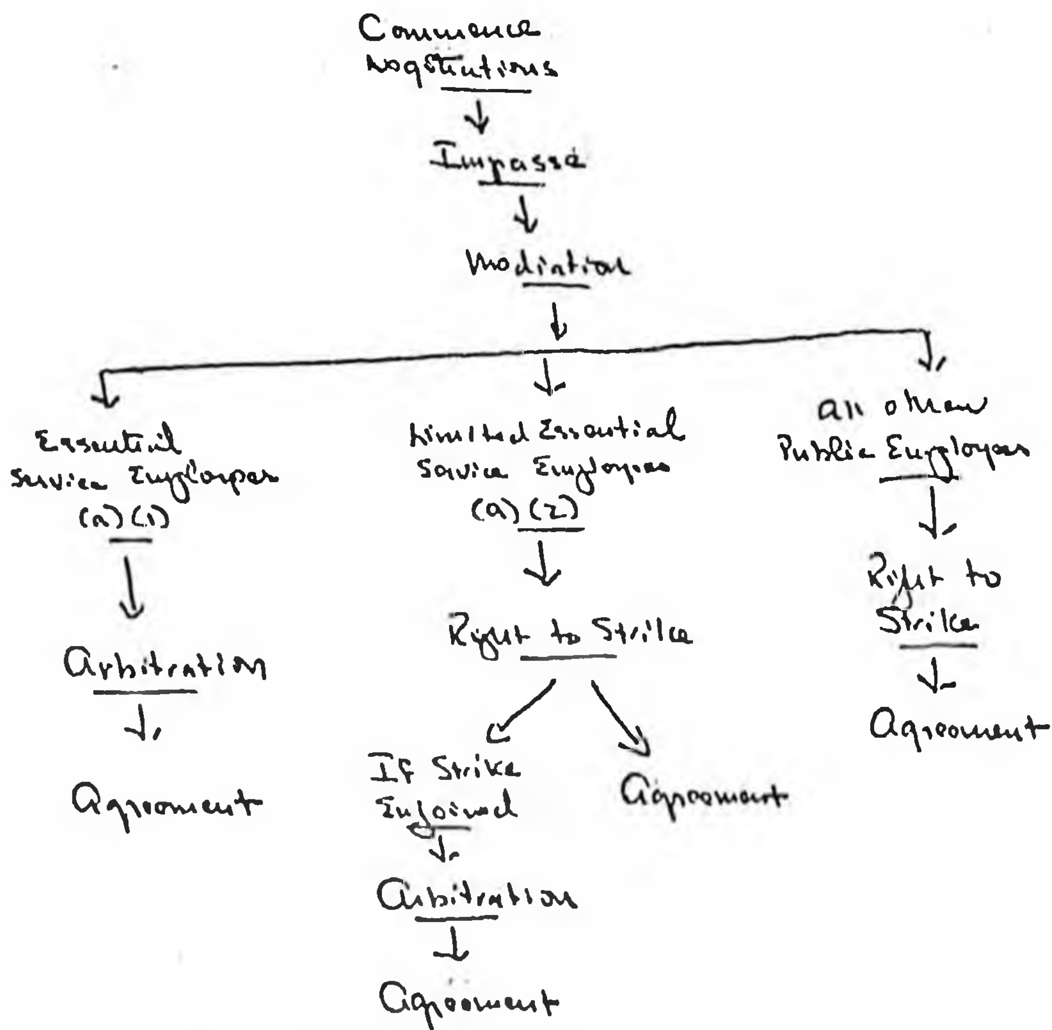
Section 15: Provides for an immediate effective date.

Current Teach. Barg Law
AS 14.20.—



AK Supreme Court has determined (8/82) that public school teachers do not have the right to strike.

Public Employees
PERA
AS 23.40.—



SAMS

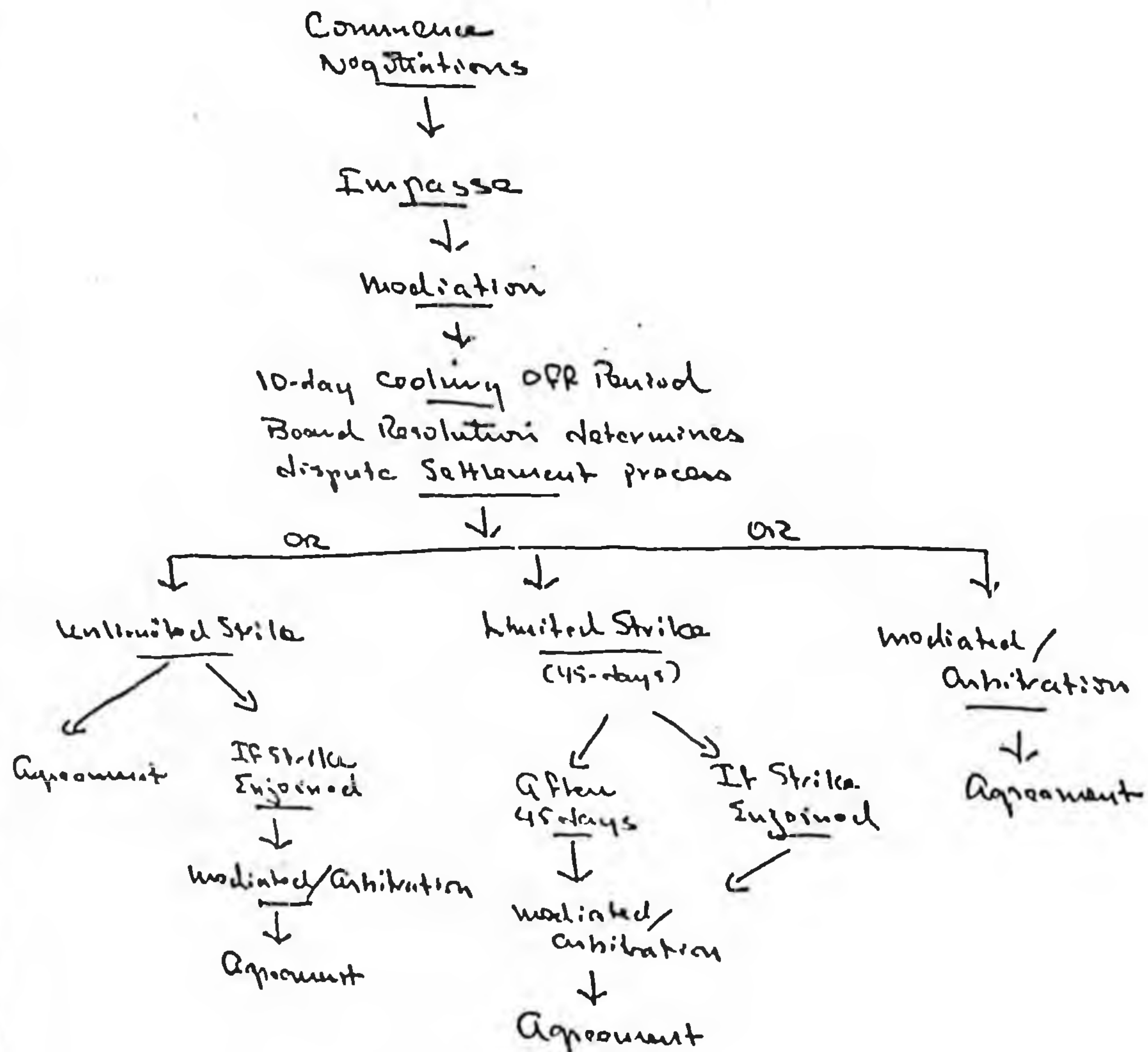
Places certificated Public School Employees in essential Services category (a) (1)

Places non-certificated Public School employees in limited essential Services category (a) (2)

Note: SB 104 places non-certificated employees in (a) (3)

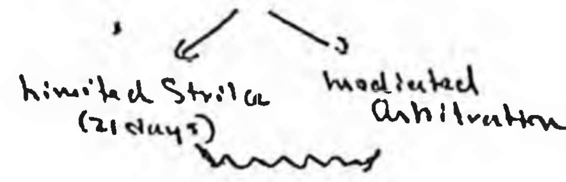
Negotiation Dispute Settlement Procedures, page 2

CS SB78
(Admin)
Revises AS 14.20-

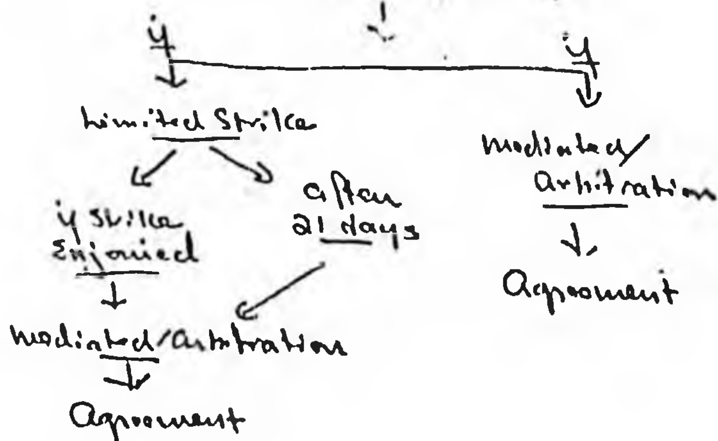


CS SB78
Revises AS 14.20-

School Resolution to determine dispute Settlement option within 90 day of effective date of Law.



Commence Negotiations
↓
Impasse
↓
Mediation
↓
10-day Cooling off



Model

Commence Negotiations
↓
Impasse
↓
Mediation
↓
Mediated Arbitration by Last Best Offer Item by Item

(the process to commence No later than 60 days prior to Expiration of the agreement)
↓
Agreement
(before 30 June)

Bill No.	Senate Bill 78	Date	February 18, 1983
Title	"An Act making the Public Employment Relations Act applicable to employees of school districts; and providing for an effective date."	Contact:	Judy Knight 465-2700 Robert J. Bacolas, Sr. 465-4870

This legislation would permit certificated and non-certificated employees of school boards or districts to enter into collective bargaining. Further, it mandates PERA coverage for certificated employees.

Section 1. AS 23.40.200(b) prohibits certificated employees of the school district from engaging in a strike and provides for injunctive relief or other appropriate relief through the courts if said employees strike or the threat of a strike is imminent. Compulsory arbitration is required when an impasse is reached in collective bargaining and mediation fails to resolve the impasse.

Section 2. AS 23.40.200(c) permits non-certificated employees of the school district to engage in a strike after mediation for a limited time. Provides for injunctive relief through the courts when the strike action threatens the health, safety, and welfare of the public. Requires compulsory arbitration if an impasse still exists after an injunction is issued by the courts.

Section 3. Adds a new section which would prohibit a school board or a municipality from rejecting having the provisions of the PERA apply to its relations with its certificated school employees. School boards could still exercise opt-out provisions for non-certificated employees.

Section 4. AS 23.40.250(5) defines public employees to include certificated and non-certificated employees of school districts.

Section 5. AS 23.40.250(6) defines a public employer to include without limitation a city, borough, school district, school board, public and quasi-public corporations, housing authorities or any other lawful authority, for a designated agent of the public employer to act in its interest.

Section 6. AS 23.40.250 defines a school district as including a regional educational area.

POSITION PAPER/Department of Labor

Section 7. AS 14.20.550 - AS 14.20.610. Repeal of these statutes would transfer the jurisdiction over collective bargaining, negotiation, and mediation from the Department of Education under Title 14 to the Public Employees Relations Act under Title 23.and repeal the case law established in Kenai Penninsula Borough School District v Kenai Penninsula Education Association.

Section 8. Collective bargaining units, agreements, and recognition of bargaining representatives in existence upon the effective date of this act shall remain status quo.

Collective bargaining in the public sector is a complicated and unique field of labor law. It is envisioned that the demands placed on our department with this legislation will be substantial based upon the interest conveyed to this department by this class of employees and by unions and employee organizations. There are 53 school districts within the state of Alaska (including REAAs). We are only able to identify four of these districts that are presently organized or that have a collective bargaining agreement with a union or an association. Those are Fairbanks, Kenai, Juneau and Anchorage. The Department of Labor may expect to be acting as Labor Relations Agency for 53 separate school districts involving approximately 6,700 certificated and possibly 4,600 non-certificated employees, for a total of 11,300. The department does not have the staff or the financial resources to assume the expanded services inherent in Senate Bill 78 without the funding requested in the fiscal note.

The department supports the concept of collective bargaining for both certificated and non-certificated employees. However, the costs associated with this bill are significant. This Administration feels that the responsibility for administering the labor relations activities inherent in this bill should be placed at the local level, and this department concurs with the specific recommendations provided by the Department of Education.

APPROVED:

Jim Robison
Commissioner
Department of Labor

4/2
SB 78

Joe, Pappy, Paul, Rick, Vic

Eleanor Anderson - Dept. of Admin.
Thinks they are not that far apart from NEA
Don't like district picking options following

Steve Hale - DOE

Bob Manners - NEA

Comparison PERA - proposals

4:00 - Friday
23.40

March 7, 1983
SB 97 - SB 78

Joe, Halford, Vic

<u>SB 97</u> - Approp. to Bethel Social Services, Inc.
<u>Sen. John Sackett</u> - can't operate on existing funds appropriated in FY 82. John Garvin, Assoc. of Children's Homes, provided wrong figures for cost of care.
- Current rate $75.52 / day
- Requests $115.00 / day

rates fluctuate greatly around the State.
Error made in Finance Committee

motion Halford - moves the bill

SB 78

<u>Rob Gruye</u> - Assoc. of Ak. Sch. Bds.
Why are we interested in Binding Arb.? Was the Anch. strike sufficient to stimulate such
Binding arb. has not worked in other States.
SB 55 - legis. wants to look at other collective bargaining agreements - not consistent with this bill.
No discussions are placed in binding arb. laws
— look at Depart. of Admin. figures on track record of settlement before & during bargaining

Joe - would you oppose legalizing right to strike?
No. People will strike if they want to regardless of legal status. Would support strike over option.
Mistake to go into [illegible] because you have [illegible] a law intended for others. Classroom teachers than anyone Construct a statute in Title 14.

Halford What about local school district options?

There needs to be more options; also at what point is the decision made - and can it be changed.

Shifford — What limitations on binding arb? If any changes are made here, it will affect all in Class I PERA.

- teachers tend to bargain other kinds of issues than usual PERA

Gary Stringham - Director Labor Relations
Dept. of Admin.

Had hoped to bring policy statement of Gov. but it was not complete. Many statements made by Bob Green.

Admin. ~~supports~~ feels there are different types of Pub Employees w/ different bargaining needs all school dist. employees should be encompassed in title 14.

Sharon Sweeney - MEA

Gary Stringham's testimony is first Stringham heard of separate laws for teachers and unclassified being treated differently than other employees.

Position paper - Amendment.

Joe — SB 104 - Bill King

Section 1 added closing [illegible] in election to vote for no representation.

SB 78
2-21-83

Josephson, V. Fischer, P. Fischer, Moss, Halford.

Steve Hole - DOE
St. Bd of Ed voted 4-2 opposing bill.
Gov. does not yet have a firm position on bill. Did support binding arb. but must give credence to State Sch. Bd. decision.

Joe concern of Board?
substance of discussion - not convinced that present system is so bad it needs this severe of a change. Only one dispute unsolvable. Court said no right to strike

Vic "draconian measure"? Why?
Board didn't talk about binding arb. only this bill.
Eubank, Cruz voted for

Paul What role depart?
None for DOE - in Labor (title 23) PERA

collective bargaining in 1973 enacted. currently 53 school dist. (incl. REAA)

Sherie Shelley APEA
favors bill.
Sec. 4 - extend. rights to classified employees. No remedy except going to court - time consuming & expensive. Should be treated like other pub employees.

Vic what frequency?
P.O.L. answer letter.

Paul given choice?
select binding arb. - doesn't interrupt services to public

Don Renfrow - AASA (Alaska Sch. admin.) - N. Slope Sch. Dist.
School Bd. should make policy, esp. in the area of budgets. Giving decision to 3rd party will cause fiscal management problems.

Art Woodhouse AASA - Super. Sitka Sch. Dist.
was in Michigan, had binding arb. witnessed financial difficulties resulting from B. Arb. An outsider doesn't live in district, no financial resp. Need prudent, conservative people - prob. w/ long range planning with declining revenues.

Joe What if Legis. gave right to Strike to teachers?

Where is evidence that another tool is needed? Have a successful record (NEA)

Bob Manners NEA-Alaska
#1 priority for years. Disrupted collective bargaining w/ no strike clause. Need a fair and equitable process. No finality in laws as written. Presence of arb. will strengthen bilateral agreement.
testimony suggests unusual awards

Statistics are that awards are close to other settlements.
arbitrators use comparability, don't want to get into new areas. Want an early resolution.

Joe How to work in CERA w/ no talks?
conceivable, yes & in an arb. procedure, each side must present problem. Likelihood of that is slim.

Joe Impasse/deadlock?
Nothing precludes effort to reach agreements while in arb.

Vic package or line arb?

provides latitude for parties to define arb. procedure. Conventional type in bill.

Paul arb. award no diff. than settlement then why the need?
Some sch. dist. not as interested as others.

Paul what about arbitrator being resident of area?
Neutral party must have appropriate skills.

Paul Looking for Equality? What about tenure?
Not the same issue but "just cause dismissal" and same rights as other types of employees.

Moss Fiscal note. Assumptions made in DOL F.N.
1. inflation 6% yr.
2. Effect. date
3. 26 dist. Contracts up yearly
4. 1/2 Sch. Dist. will file unfair labor practices per yr.

Joe very high costs 1/2 million

Moss don't agree w/ assumptions. Need more accurate fiscal info.

Manners 1/3 to 1/2 bargain a yr. presumes a dispute in all, figures seem too high.

* Joe ask OMB for fiscal note info

Rentrow - what about costs to other departments?
Alaska in better shape than other States, teachers have done exceptionally well.

Moss - heading back to S.O.S. If D.O.L. gets into process of this are we heading back to SOS?

Rentrow

Comm. Robinson (Jim) D.O.L.
looked back in history of unfair charges to make assumptions for fiscal note.

Moss still must be reviewed by OMB - What are they doing since Feb 3rd date?

Joe what you're saying is that these assumptions are guessing ONLY and that it could be much higher or lower? Yes.

Can you get us figures on other bargaining units in State using PERA? Yes

Paul contractual services for what?
Hearing officers from D.O.L. Can use D.O.L. free arbitration services or hire outside person. Each side pays half the costs of arbitrator.

Joe In preparing fiscal note.

Cherie Shelley - also represent FBKS N.S. Borough.
Use binding arb. only for unfair labor practices. AEA would not make the thrust to get classified employees organized. (particularly in rural Alaska).

Joe will hold for more info from OMB.

Sec 3 pg 2. - AREA -

a school board
may not reject ...
with certificated

- what about
non-certificated

([illegible] with
[illegible] employees)

same in sec (B)

Sec 5 - technical differences. - Stability in relationship.
(e)(f) substantively the same.

NEA Sec 6 - Gov Sec 7:
(A)(B)(C) the same
both allow more than 5 people on team.

NEA Sec 8 - Gov Sec 9:

line 13-15

Pg. 6 the School Bd. shall decide, after public hearings, on arbitration or the right to strike by written resolution.

... if the majority of the members of the bargaining agent (negotiating unit?)

Nea (b) - Gov (c)

Connecticut - "last best offer"

Nea Pg 7 - Criteria for arbitrator from Conn. (good stuff)

School board problems
1) what is negotiable (Kenai decision reference)
2) board makes final decision on ed. policies.

NEA Bill

merge Connecticut statute - "last best offer"

2 opportunities for "l.b.o."

1) beginning

2) later

ECRA - LRA - Gov shall appt 2 additional members by NEA Bill

Joe — School bd. make initial decision, may change but not during final 90 days

if strike

1. negot meetings
2. Either party can request mediator
3. if still impasse → tell LRA
4. 10 day cooling off
5. strike < arbitration → last best offer; enjoin — injunction → arbitration
6. [illegible] in court

SENATE [illegible] COMMITTEE OBSERVER/WITNESS SIGN-UP SHEET

DATE: 4/29/83 SPONSOR:

SUBJECT(S): SB 78 Binding ARBITRATION

NAME	REPRESENTING	ADDRESS	PHONE	Observer	Witness		
Guy Stringham	DOA	STATE OFF Bldg	965-1403		✓		
Bill Manners	NEA	[illegible]	556-3090		✓		

4/29/83
SB 78

Joe, Rich, Pappy, Paul

Greg Stringham - Dir. Labor Relations - Admin

Joe critical question - whether school bd. may select finalizing option?
- only one of the issues

differences of opinion on role of school board and the NEA -

school board has upper hand - no role after negotiation.

Gov feels after 10 day cooling off - during that period, the board can look at all options and decide on strike / lim strike or arbitration. no advantage in anything but full strike for board

Joe conduct of union board on ground rules set out before mediation. Issue is which option is recom

In collective bargaining boards feel they have mandate of people

ERROR - pg 6, line 4 [un] limited STRIKE

5/2/83

CS SB 78 - Binding Arb.

Joe, Vic, Phil, Rick

Guy Stringham - Dept of Admin. Labor Relations

- no difference in end result of bills

issues in conflict:

1. when the Board makes the decision on the final outcome

- 3 final resolution possibilities are imp.

- days are ~~[illegible]~~ imp also. 45 or 21

- Fed. Mediation and Conciliation Services (FMCS) is imp. also for use in Ak.

- selection process for LRA - NEA version requires lists from AASB and NEA - thinks this ignores other organizations of interest.

Bob Greene - AK Sch. Bd.

- local option of interest to school boards

- need legislative decision on what is negotiable.

- nothing to inhibit using all the steps

- last best offer → package rather than item-by-item

- limited strike only if teachers unpaid

Bob Nanners - NEA - AK

differences

1. when decision made (VERY IMP.)

2. no. of choices

3. where arbitrator comes from

(criteria for arbitrator in making decision)

(2)
5/3 78

NEA prefers last best offer.

Joe | Bruce & Manners work it out ~~on~~ by Wed.

SENATE HESS COMMITTEE OBSERVER/WITNESS SIGN-UP SHEET

DATE: 5/2/83 SPONSOR: Kerttula

SUBJECT(S): SB 78 - Binding Arbitration

NAME	REPRESENTING	ADDRESS	PHONE	Observer	Witness		
Guy Stringham	DOA Labor Relations	7th Floor SOB	465-4403		✓		

SENATE [illegible] COMMITTEE OBSERVER/WITNESS SIGN-UP SHEET

DATE: 4/27/83 SPONSOR:

SUBJECT(S): SB 78

NAME	REPRESENTING	ADDRESS	PHONE	Observer	Witness		
LEE POWELSON	APEA	340 North Franklin	586-2334		✓		
Eleanor Andrews	Admin	Pouch C Juneau 99811	465-2200				
Steve Hole	DOE	Pouch F	2890		✓		

Public Employment Relations Act

Reprinted from 1981 Code of Iowa

Public Employment Relations Board
[illegible]
Des Moines, [illegible]
Telephone [illegible]

CHAPTER 20

PUBLIC EMPLOYMENT RELATIONS (COLLECTIVE BARGAINING)

Referred to in [illegible]

Collective bargaining agreements and appropriations for the period of July 1, 1977 to June 30, 1979, see 67GA, ch 1

20.1 Public policy.
20.2 Title.
20.3 Definitions.
20.4 Exclusions.
20.5 Public employment relations board.
20.6 General powers and duties of the board.
20.7 Public employer rights.
20.8 Public employee rights.
20.9 Scope of negotiations.
20.10 Prohibited practices.
20.11 Prohibited practice violations.
20.12 Strikes prohibited.
20.13 Bargaining unit determination.
20.14 Bargaining representative determination.
20.15 Elections.
20.16 Duty to bargain.
20.17 Procedures.
20.18 Grievance procedures.
20.19 Impasse procedures—agreement of parties.
20.20 Mediation.
20.21 Fact-finding.
20.22 Binding arbitration.
20.23 Legal actions.
20.24 Notice and service.
20.25 Internal conduct of employee organizations.
20.26 Employee organizations—political contributions.
20.27 Conflict with federal aid.
20.28 Inconsistent statutes—effect.
20.29 Filing agreement—public access.
20.30 Supervisory member—no reduction before retirement.

20.1 Public policy. The general assembly declares that it is the public policy of the state to promote harmonious and cooperative relationships between government and its employees by permitting public employees to organize and bargain collectively; to protect the citizens of this state by assuring effective and orderly operations of government in providing for their health, safety, and welfare; to prohibit and prevent all strikes by public employees; and to protect the rights of public employees to join or refuse to join, and to participate in or refuse to participate in, employee organizations. [C75, 77, 79, §20.1]

20.2 Title. This chapter shall be known as the "Public Employment Relations Act". [C75, 77, 79, §20.2]

20.3 Definitions. When used in this chapter, unless the context otherwise requires:

1. "Public employer" means the state of Iowa, its boards, commissions, agencies, departments, and its political subdivisions including school districts and other special purpose districts.

2. "Governing body" means the board, council, or commission, whether elected or appointed, of a political subdivision of this state, including school districts and other special purpose districts, which determines the policies for the operation of the political subdivision.

3. "Public employee" means any individual employed by a public employer, except individuals exempted under the provisions of section 20.4.

4. "Employee organization" means an organization of any kind in which public employees participate and which exists for the primary purpose of representing public employees in their employment relations.

5. "Board" means the public employment relations board established under section 20.5.

6. "Strike" means a public employee's refusal, in concerted action with others, to report to duty, or his willful absence from his position, or his stoppage of work, or his abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of public employment.

7. "Confidential employee" means any public employee who works in the personnel offices of a public employer or who has access to information subject to use by the public employer in negotiating or who works in a close continuing working relationship with public officers or representatives associated with negotiating on behalf of the public employer.

"Confidential employee" also includes the personal secretary of any of the following: Any elected official or person appointed to fill a vacancy in an elective office, member of any board or commission, the administrative officer, director, or chief executive officer of a public employer or major division thereof, or the deputy or first assistant of any of the foregoing.

8. "Mediation" means assistance by an impartial third party to reconcile an impasse between the public employer and the employee organization through interpretation, suggestion, and advice.

9. "Arbitration" means the procedure whereby the parties involved in an impasse submit their differences to a third party for a final and binding decision or as provided in this chapter.

10. "Impasse" means the failure of a public employer and the employee organization to reach agreement in the course of negotiations.

11. "Professional employee" means any one of the following:

a. Any employee engaged in work

(1) Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

(2) Involving the consistent exercise of discretion and judgment in its performance;

(3) Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(4) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.

b. Any employee who.

(1) Has completed the courses of specialized intellectual instruction and study described in paragraph "a", subparagraph 4, of this subsection, and

(2) Is performing related work under the supervision of a professional person to qualify himself or herself to become a professional employee as defined in paragraph "a" of this subsection.

12. *"Fact-finding"* means the procedure by which a qualified person shall make written findings of fact and recommendations for resolution of an impasse. [C75, 77, 79,§20.3]

20.4 Exclusions. The following public employees shall be excluded from the provisions of this chapter:

1. Elected officials and persons appointed to fill vacancies in elective offices, and members of any board or commission.

2. Representatives of a public employer, including the administrative officer, director or chief executive officer of a public employer or major division thereof as well as his deputy, first assistant, and any supervisory employees.

Supervisory employee means any individual having authority in the interest of the public employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other public employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. All school superintendents, assistant superintendents, principals and assistant principals shall be deemed to be supervisory employees.

3. Confidential employees.

4. Students working as part-time public employees twenty hours per week or less, except graduate or other postgraduate students in preparation for a profession who are engaged in academically related employment as a teaching, research, or service assistant.

5. Temporary public employees employed for a period of four months or less.

6. Commissioned and enlisted personnel of the Iowa national guard.

7. Judges of the supreme court, district judges, district associate judges and judicial magistrates and the employees of such judges and courts.

8. Patients and inmates employed, sentenced or committed to any state or local institution.

9. Persons employed by the state department of justice.

10. Persons employed by the commission for the blind. [C75, 77, 79,§20.4]

Referred to in §20.3(3), 279.23

20.5 Public employment relations board.

1. There is established a board to be known as the "Public Employment Relations Board." The board shall consist of three members appointed by the governor, subject to confirmation by the senate. No more than two members shall be of the same political affiliation, no member shall engage in any political activity while holding office and the members shall devote full time to their duties.

The members shall be appointed for staggered terms of four years beginning and ending as provided in section 69.19.

The member first appointed for a term of four years shall serve as chairperson and each of the member's successors shall also serve as chairperson.

2. Any vacancy occurring shall be filled in the same manner as regular appointments are made.

3. In selecting the members of the board, consideration shall be given to their knowledge, ability, and experience in the field of labor-management relations. The chairperson and the remaining two members shall each receive an annual salary as set by the general assembly.

4. The board may employ such persons as are necessary for the performance of its functions. Personnel of the board shall be employed pursuant to the provisions of chapter 19A.

5. Members of the board and other employees of the board shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses and salaries shall be paid from appropriations for such purposes and the board shall be subject to the budget requirements of chapter 8. [C75, 77, 79,§20.5, 68GA, ch 2,§9, ch 1010,§7]

Referred to in §20.21

Confirmation, §2.32

20.6 General powers and duties of the board. The board shall:

1. Administer the provisions of this chapter.

2. Collect, for public employers other than the state and its boards, commissions, departments, and agencies, data and conduct studies relating to wages, hours, benefits and other terms and conditions of public employment and make the same available to any interested person or organization.

3. Maintain, after consulting with employee organizations and public employers, a list of qualified persons representative of the public to be available to serve as mediators and arbitrators and establish their compensation rates.

4. Hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such power to a member of the board, or persons appointed or employed by the board, including hearing officers for the performance of its functions. The board may petition the district court at the seat of government or of the county wherein any hearing is

held to enforce a board order compelling the attendance of witnesses and production of records.

5. Adopt rules in accordance with the provisions of chapter 17A as it may deem necessary to carry out the purposes of this chapter. [C75, 77, 79,§20.6]

20.7 Public employer rights. Public employers shall have, in addition to all powers, duties, and rights established by constitutional provision, statute, ordinance, charter, or special act, the exclusive power, duty, and the right to:

1. Direct the work of its public employees.

2. Hire, promote, demote, transfer, assign and retain public employees in positions within the public agency.

3. Suspend or discharge public employees for proper cause.

4. Maintain the efficiency of governmental operations.

5. Relieve public employees from duties because of lack of work or for other legitimate reasons.

6. Determine and implement methods, means, assignments and personnel by which the public employer's operations are to be conducted.

7. Take such actions as may be necessary to carry out the mission of the public employer.

8. Initiate, prepare, certify and administer its budget.

9. Exercise all powers and duties granted to the public employer by law. [C75, 77, 79,§20.7]

20.8 Public employee rights. Public employees shall have the right to:

1. Organize, or form, join, or assist any employee organization.

2. Negotiate collectively through representatives of their own choosing.

3. Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection insofar as any such activity is not prohibited by this chapter or any other law of the state.

4. Refuse to join or participate in the activities of employee organizations, including the payment of any dues, fees or assessments or service fees of any type. [C75, 77, 79,§20.8]

Referred to in §20.10

20.9 Scope of negotiations. The public employer and the employee organization shall meet at reasonable times, including meetings reasonably in advance of the public employer's budget-making process, to negotiate in good faith with respect to wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training and other matters mutually agreed upon. Negotiations shall also include terms authorizing dues checkoff for members of the employee organization and grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties. If an agreement provides for dues checkoff, a member's dues may be checked off only upon the member's written request and the member may terminate the dues checkoff at any time by giving thirty days' written notice. Such obligation to negotiate in good faith does not compel either party to agree to a proposal or make a concession.

Nothing in this section shall diminish the authority and power of the merit employment department, board of regents' merit system, educational radio and television facility board's merit system, or any civil service commission established by constitutional provision, statute, charter or special act to recruit employees, prepare, conduct and grade examinations, rate candidates in order of their relative scores for certification for appointment or promotion or for other matters of classification, reclassification or appeal rights in the classified service of the public employer served.

All retirement systems shall be excluded from the scope of negotiations. [C75, 77, 79,§20.9]

Referred to in §20.10, 20.17

20.10 Prohibited practices.

1. It shall be a prohibited practice for any public employer, public employee or employee organization to willfully refuse to negotiate in good faith with respect to the scope of negotiations as defined in section 20.9.

2. It shall be a prohibited practice for a public employer or his designated representative willfully to:

a. Interfere with, restrain or coerce public employees in the exercise of rights granted by this chapter.

b. Dominate or interfere in the administration of any employee organization.

c. Encourage or discourage membership in any employee organization, committee or association by discrimination in hiring, tenure, or other terms or conditions of employment.

d. Discharge or discriminate against a public employee because he has filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because he has formed, joined or chosen to be represented by any employee organization.

e. Refuse to negotiate collectively with representatives of certified employee organizations as required in this chapter.

f. Deny the rights accompanying certification or exclusive recognition granted in this chapter.

g. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in this chapter.

h. Engage in a lockout.

3. It shall be a prohibited practice for public employees or an employee organization or for any person, union or organization or their agents willfully to:

a. Interfere with, restrain, coerce or harass any public employee with respect to any of his rights under this chapter or in order to prevent or discourage his exercise of any such right, including, without limitation, all rights under section 20.8.

b. Interfere, restrain, or coerce a public employer with respect to rights granted in this chapter or with respect to selecting a representative for the purposes of negotiating collectively on the adjustment of grievances.

c. Refuse to bargain collectively with a public employer as required in this chapter.

d. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in this chapter.

e. Violate section 20.12.

f. Violate the provisions of sections 732.1 to 732.3, which are hereby made applicable to public employers, public employees and public employee organizations.

g. Picket in a manner which interferes with ingress and egress to the facilities of the public employer.

h. Engage in, initiate, sponsor or support any picketing that is performed in support of a strike, work stoppage, boycott or slowdown against a public employer.

i. Picket for any unlawful purpose.

4. The expressing of any views, argument or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of any unfair labor practice under any of the provisions of this chapter, if such expression contains no threat of reprisal or force or promise of benefit. [C75, 77, 79,§20.10]

Referred to in §20.11, 279.19

20.11 Prohibited practice violations.

1. Proceedings against a party alleging a violation of section 20.10, shall be commenced by filing a complaint with the board within ninety days of the alleged violation causing a copy of the complaint to be served upon the accused party in the manner of an original notice as provided in this chapter. The accused party shall have ten days within which to file a written answer to the complaint. However, the board may conduct a preliminary investigation of the alleged violation, and if the board determines that the complaint has no basis in fact, the board may dismiss the complaint. The board shall promptly thereafter set a time and place for hearing in the county where the alleged violation occurred. The parties shall be permitted to be represented by counsel, summon witnesses, and request the board to subpoena witnesses on the requester's behalf. Compliance with the technical rules of pleading and evidence shall not be required.

2. The board may designate a hearing officer to conduct the hearing. The hearing officer shall have such powers as may be exercised by the board for conducting the hearing and shall follow the procedures adopted by the board for conducting the hearing. The decision of the hearing officer may be appealed to the board and the board may hear the case de novo or upon the record as submitted before the hearing officer, utilizing procedures governing appeals to the district court in this section so far as applicable.

3. The board shall appoint a certified shorthand reporter to report the proceedings and the board shall fix the reasonable amount of compensation for such service, which amount shall be taxed as other costs.

4. The board shall file its findings of fact and conclusions of law. If the board finds that the party accused has committed a prohibited practice, the board may, within thirty days of its decision, enter into a consent order with the party to discontinue the practice, or petition the district court for injunctive relief pursuant to rules of civil procedure 320 to 330.

5. Any party aggrieved by any decision or order of the board may within ten days from the date such decision or order is filed, appeal therefrom to the district court of the county in which the hearing was held, by filing with the board a written notice of appeal setting forth in general terms the decision appealed from and the grounds of the appeal. The board shall forthwith give notice to the other parties in interest.

6. Within thirty days after a notice of appeal is filed with the board, it shall make, certify, and file in the office of the clerk of court to which the appeal is taken, a full and complete transcript of all documents in the case, including any depositions and a transcript or certificate of the evidence together with the notice of appeal.

7. The appeal shall be triable at any time after the expiration of twenty days from the date of filing the transcript by the board and after twenty days' notice in writing by either party and the board upon the other.

8. The transcript as certified and filed by the board shall be the record on which the appeal shall be heard, and no additional evidence shall be heard. In the absence of fraud, the findings of fact made by the board shall be conclusive if supported by substantial evidence on the record considered as a whole.

9. Any order or decision of the board may be modified, reversed, or set aside on one or more of the following grounds and on no other:

a. If the board acts without or in excess of its powers.

b. If the order was procured by fraud or is contrary to law.

c. If the facts found by the board do not support the order.

d. If the order is not supported by a preponderance of the competent evidence on the record considered as a whole.

10. When the district court, on appeal, reverses or sets aside an order or decision of the board, it may remand the case to the board for further proceedings in harmony with the holdings of the court, or it may enter the proper judgment, as the case may be. Such judgment or decree shall have the same force and effect as if action had been originally brought and tried in said court. The assessment of costs in such appeals shall be in the discretion of the court.

11. An appeal may be taken to the supreme court from any final order, judgment, or decree of the district court. [C75, 77, 79,§20.11]

Referred to in [illegible]

20.12 Strikes prohibited.

1. It shall be unlawful for any public employee or any employee organization, directly or indirectly, to induce, instigate, encourage, authorize, ratify or participate in a strike against any public employer.

2. It shall be unlawful for any public employer to authorize, consent to, or condone a strike; or to pay or agree to pay any public employee for any day in which the employee participates in a strike; or to pay or agree to pay any increase in compensation or benefits to any public employee in response to or as a re-

sult of any strike or any act which violates subsection 1. It shall be unlawful for any official, director, or representative of any public employer to authorize, ratify or participate in any violation of this subsection. Nothing in this subsection shall prevent new or renewed bargaining and agreement within the scope of negotiations as defined by this chapter, at any time after such violation of subsection 1 has ceased; but it shall be unlawful for any public employer or employee organization to bargain at any time regarding suspension or modification of any penalty provided in this section or regarding any request by the public employer to a court for such suspension or modification.

3. In the event of any violation or imminently threatened violation of subsection 1 or 2, any citizen domiciled within the jurisdictional boundaries of the public employer may petition the district court for the county in which the violation occurs or the district court for Polk county for an injunction restraining such violation or imminently threatened violation. Rules of civil procedure 320 to 330 regarding injunctions shall apply. However, the court shall grant a temporary injunction if it appears to the court that a violation has occurred or is imminently threatened; the plaintiff need not show that the violation or threatened violation would greatly or irreparably injure him; and no bond shall be required of the plaintiff unless the court determines that a bond is necessary in the public interest. Failure to comply with any temporary or permanent injunction granted pursuant to this section shall constitute a contempt punishable pursuant to chapter 665. The punishment shall not exceed five hundred dollars for an individual, or ten thousand dollars for an employee organization or public employer, for each day during which the failure to comply continues, or imprisonment in a county jail not exceeding six months, or both such fine and imprisonment. An individual or an employee organization which makes an active good faith effort to comply fully with the injunction shall not be deemed to be in contempt.

4. If a public employee is held to be in contempt of court for failure to comply with an injunction pursuant to this section, or is convicted of violating this section, he shall be ineligible for any employment by the same public employer for a period of twelve months. His public employer shall immediately discharge him, but upon his request the court shall stay his discharge to permit further judicial proceedings.

5. If an employee organization or any of its officers is held to be in contempt of court for failure to comply with an injunction pursuant to this section, or is convicted of violating this section, the employee organization shall be immediately decertified, shall cease to represent the bargaining unit, shall cease to receive any dues by checkoff, and may again be certified only after twelve months have elapsed from the effective date of decertification and only after a new compliance with section 20.14. The penalties provided in this section may be suspended or modified by the court, but only upon request of the public employer and only if the court determines the suspension or modification is in the public interest.

6. Each of the remedies and penalties provided by this section is separate and several, and is in addition to any other legal or equitable remedy or penalty. [C75, 77, 79,§20.12]

Referred to in §20.10

20.13 Bargaining unit determination.

1. Board determination of an appropriate bargaining unit shall be upon petition filed by a public employer, public employee, or employee organization.

2. Within thirty days of receipt of a petition or notice to all interested parties if on its own initiative, the board shall conduct a public hearing, receive written or oral testimony, and promptly thereafter file an order defining the appropriate bargaining unit. In defining the unit, the board shall take into consideration, along with other relevant factors, the principles of efficient administration of government, the existence of a community of interest among public employees, the history and extent of public employee organization, geographical location, and the recommendations of the parties involved.

3. Appeals from such order shall be governed by appeal provisions provided in section 20.11.

4. Professional and nonprofessional employees shall not be included in the same bargaining unit unless a majority of both agree. [C75, 77, 79,§20.13]

Referred to in §20.14

20.14 Bargaining representative determination.

1. Board certification of an employee organization as the exclusive bargaining representative of a bargaining unit shall be upon a petition filed with the board by a public employer, public employee, or an employee organization and an election conducted pursuant to section 20.15.

2. The petition of an employee organization shall allege that:

a. The employee organization has submitted a request to a public employer to bargain collectively with a designated group of public employees.

b. The petition is accompanied by written evidence that thirty percent of such public employees are members of the employee organization or have authorized it to represent them for the purposes of collective bargaining.

3. The petition of a public employee shall allege that an employee organization which has been certified as the bargaining representative does not represent a majority of such public employees and that the petitioners do not want to be represented by an employee organization or seek certification of an employee organization.

4. The petition of a public employer shall allege that it has received a request to bargain from an employee organization which has not been certified as the bargaining representative of the public employees in an appropriate bargaining unit.

5. The board shall investigate the allegations of any petition and shall give reasonable notice of the receipt of such a petition to all public employees, employee organizations and public employers named or described in such petition or interested in the representation question. The board shall thereafter call an election under section 20.15, unless

a. It finds that less than thirty percent of the public employees in the unit appropriate for collective bargaining support the petition for decertification or for certification.

b. The appropriate bargaining unit has not been determined pursuant to section 20.13.

6. The hearing and appeal procedures shall be the same as provided in section 20.11. [C75, 77, 79,§20.14]

Referred to in §20.12, 20.15

20.15 Elections.

1. Upon the filing of a petition for certification of an employee organization, the board shall submit a question to the public employees at an election in an appropriate bargaining unit. The question on the ballot shall permit the public employees to vote for no bargaining representation or for any employee organization which has petitioned for certification or which has presented proof satisfactory to the board of support of ten percent or more of the public employees in the appropriate unit.

2. If a majority of the votes cast on the question is for no bargaining representation, the public employees shall not be represented by an employee organization. If a majority of the votes cast on the question is for a listed employee organization, then the employee organization shall represent the public employees in an appropriate bargaining unit.

3. If none of the choices on the ballot receive the vote of a majority of the public employees voting, the board shall conduct a runoff election among the two choices receiving the greatest number of votes.

4. Upon written objections filed by any party to the election within ten days after notice of the results of the election, if the board finds that misconduct or other circumstances prevented the public employees eligible to vote from freely expressing their preferences, the board may invalidate the election and hold a second election for the public employees.

5. Upon completion of a valid election in which the majority choice of the employees voting is determined, the board shall certify the results of the election and shall give reasonable notice of the order to all employee organizations listed on the ballot, the public employers, and the public employees in the appropriate bargaining unit.

6. A petition for certification as an exclusive bargaining representative shall not be considered by the board for a period of one year from the date of the certification or decertification of an exclusive bargaining representative or during the duration of a collective bargaining agreement which shall not exceed two years. A collective bargaining agreement with the state, its boards, commissions, departments, and agencies shall be for two years and the provisions of a collective bargaining agreement except agreements agreed to or tentatively agreed to prior to July 1, 1977, or arbitrators' award affecting state employees shall not provide for renegotiations which would require the refinancing of salary and fringe benefits for the second year of the term of the agreement, except as provided in section 20.17, subsection 6, and the effective date of any such agreement shall be July 1 of odd-numbered years, provided that if an exclusive bargaining representative is certified on a date which will prevent the negotiation of a collective bargaining agreement prior to July 1 of odd-numbered years for a period of two years, the certified collective bargaining representative may negotiate a one-year contract with a public employer which shall be effective from July 1 of the even-numbered year to July 1 of the succeeding odd-numbered year when new contracts shall become effective. However, if a petition for decertification is filed during the duration of a collective bargaining agreement, the board shall award an election under this section not more than one hundred eighty days nor less than one hundred fifty days prior to the expiration of the collective bargaining agreement. If an employee organization is decertified, the board may receive petitions under section 20.14, provided that no such petition and no election conducted pursuant to such petition within one year from decertification shall include as a party the decertified employee organization. [C75, 77, 79,§20.15]

Referred to in §20.14

20.16 Duty to bargain. Upon the receipt by a public employer of a request from an employee organization to bargain on behalf of public employees, the duty to engage in collective bargaining shall arise if the employee organization has been certified by the board as the exclusive bargaining representative for the public employees in that bargaining unit. [C75, 77, 79,§20.16]

20.17 Procedures.

1. The employee organization certified as the bargaining representative shall be the exclusive representative of all public employees in the bargaining unit and shall represent all public employees fairly. However, any public employee may meet and adjust individual complaints with a public employer.

2. The employee organization and the public employer may designate any individual as its representative to engage in collective bargaining negotiations.

3. Negotiating sessions, strategy meetings of public employers or employee organizations, mediation and the deliberative process of arbitrators shall be exempt from the provisions of chapter 28A. However, the employee organization shall present its initial bargaining position to the public employer at the first bargaining session. The public employer shall present its initial bargaining position to the employee organization at the second bargaining session, which shall be held no later than two weeks following the first bargaining session. Both sessions shall be open to the public and subject to the provisions of chapter 28A. Hearings conducted by arbitrators shall be open to the public.

4. The terms of a proposed collective bargaining agreement shall be made public and reasonable notice shall be given to the public employees prior to a ratification election. The collective bargaining agreement shall become effective only if ratified by a majority of those voting by secret ballot.

5. Terms of any collective bargaining agreement may be enforced by a civil action in the district court of the county in which the agreement was made upon the initiative of either party.

6. No collective bargaining agreement or arbitrators' decision shall be valid or enforceable if its implementation would be inconsistent with any statutory limitation on the public employer's funds, spending or budget or would substantially impair or limit the performance of any statutory duty by the public employer. A collective bargaining agreement or arbitrators' award may provide for benefits conditional upon specified funds to be obtained by the public employer, but the agreement shall provide either for automatic reduction of such conditional benefits or for additional bargaining if the funds are not obtained or if a lesser amount is obtained.

7. If agreed to by the parties nothing in this chapter shall be construed to prohibit supplementary bargaining on behalf of public employees in a part of the bargaining unit concerning matters uniquely affecting those public employees or co-operation and coordination of bargaining between two or more bargaining units.

8. The salaries of all public employees of the state under a merit system and all other fringe benefits which are granted to all public employees of the state shall be negotiated with the governor or his designee on a state-wide basis, except those benefits which are not subject to negotiations pursuant to the provisions of section 20.9.

9. A public employee or any employee organization shall not negotiate or attempt to negotiate directly with a member of the governing board of a public employer if the public employer has appointed or authorized a bargaining representative for the purpose of bargaining with the public employees or their representative, unless the member of the governing board is the designated bargaining representative of the public employer.

10. The negotiation of a proposed collective bargaining agreement by representatives of a state public employer and a state employee organization shall be complete not later than March 15 of the year when the agreement is to become effective. The board shall provide, by rule, a date on which any impasse item must be submitted to binding arbitration and for such other procedures as deemed necessary to provide for the completion of negotiations of proposed state collective bargaining agreements not later than March 15. The date selected for the mandatory submission of impasse items to binding arbitration shall be sufficiently in advance of March 15 to insure that the arbitrators' decision can be reasonably made before March 15. [C75, 77, 79,§20.17]

Referred to in §20.11, 20.22

20.18 Grievance procedures. An agreement with an employee organization which is the exclusive representative of public employees in an appropriate unit may provide procedures for the consideration of public employee grievances and of disputes over the interpretation and application of agreements. Negotiated procedures may provide for binding arbitration of public employee grievances and of disputes over the interpretation and application of existing agreements. An arbitrator's decision on a grievance may not change or amend the terms, conditions or applications of the collective bargaining agreement. Such procedures shall provide for the invoking of arbitration only with the approval of the employee organization, and in the case of an employee grievance, only with the approval of the public employee. The costs of arbitration shall be shared equally by the parties.

Public employees of the state shall follow either the grievance procedures provided in a collective bargaining agreement, or in the event that no such procedures are so provided, shall follow grievance procedures established pursuant to chapter 19A. [C75, 77, 79,§20.18]

20.19 Impasse procedures—agreement of parties. As the first step in the performance of their duty to bargain, the public employer and the employee organization shall endeavor to agree upon impasse procedures. Such agreement shall provide for implementation of these impasse procedures not later than one hundred twenty days prior to the certified budget submission date of the public employer. If the parties fail to agree upon impasse procedures under the provisions of this section, the impasse procedures provided in sections 20.20 to 20.22 shall apply. [C75, 77, 79,§20.19]

20.20 Mediation. In the absence of an impasse agreement between the parties or the failure of either party to utilize its procedures, one hundred twenty days prior to the certified budget submission date, the board shall, upon the request of either party, appoint an impartial and disinterested person to act as mediator. It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but the mediator may not compel the parties to agree. [C75, 77, 79,§20.20]

Referred to in §20.19

20.21 Fact-finding. If the impasse persists ten days after the mediator has been appointed, the board shall appoint a fact-finder representative of the public, from a list of qualified persons maintained by the board. The fact-finder shall conduct a hearing, may administer oaths, and may request the board to issue subpoenas. The fact-finder shall make written findings of facts and recommendations for resolution of the dispute and, not later than fifteen days from the day of appointment, shall serve such findings on the public employer and the certified employee organization.

The public employer and the certified employee organization shall immediately accept the fact-finder's recommendation or shall within five days submit the fact-finder's recommendations to the governing body and members of the certified employee organization for acceptance or rejection. If the dispute continues ten days after the report is submitted, the report shall be made public by the board. [C75, 77, 79,§20.21]

Referred to in §20.19

20.22 Binding arbitration.

1. If an impasse persists after the findings of fact and recommendations are made public by the fact-finder, the parties may continue to negotiate or, the board shall have the power, upon request of either party, to arrange for arbitration, which shall be binding. The request for arbitration shall be in writing and a copy of the request shall be served upon the other party.

2. Each party shall submit to the board within four days of request a final offer on the impasse items with proof of service of a copy upon the other party. Each party shall also submit a copy of a draft of the proposed collective bargaining agreement to the extent to which agreement has been reached and the name of its selected arbitrator. The parties may continue to negotiate all offers until an agreement is reached or a decision rendered by the panel of arbitrators.

As an alternative procedure, the two parties may agree to submit the dispute to a single arbitrator. If the parties cannot agree on the arbitrator within four days, the selection shall be made pursuant to subsection 5. The full costs of arbitration under this provision shall be shared equally by the parties to the dispute.

3. The submission of the impasse items to the arbitrators shall be limited to those issues that had been considered by the fact-finder and upon which the parties have not reached agreement. With respect to each such item, the arbitration board award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitration board or to the recommendation of the fact-finder on each impasse item.

4. The panel of arbitrators shall consist of three members appointed in the following manner:

a. One member shall be appointed by the public employer.

b. One member shall be appointed by the employee organization.

c. One member shall be appointed mutually by the members appointed by the public employer and the employee organization. The last member appointed shall be the chairman of the panel of arbitrators. No member appointed shall be an employee of the parties.

d. The public employer and employee organization shall each pay the fees and expenses incurred by the arbitrator each selected. The fee and expenses of the chairman of the panel and all other costs of arbitration shall be shared equally.

5. If the third member has not been selected within four days of notification as provided in subsection 2, a list of three arbitrators shall be submitted to the parties by the board. The two arbitrators selected by the public employer and the employee organization shall determine by lot which arbitrator shall remove the first name from the list submitted by the board. The arbitrator having the right to remove the first name shall do so within two days and the second arbitrator shall have one additional day to remove one of the two remaining names. The person whose name remains shall become the chairman of the panel of arbitrators and shall call a meeting within ten days at a location designated by him.

6. If a vacancy should occur on the panel of arbitrators, the selection for replacement of such member shall be in the same manner and within the same time limits as the original member was chosen. No final selection under subsection 9 shall be made by the board until the vacancy has been filled.

7. The panel of arbitrators shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in this section.

8. From the time of appointment until such time as the panel of arbitrators makes its final determination, there shall be no discussion concerning recommendations for settlement of the dispute by the members of the panel of arbitrators with parties other than those who are direct parties to the dispute. The panel of arbitrators may conduct formal or informal hearings to discuss offers submitted by both parties.

9. The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:

a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.

b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.

d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

10. The chairman of the panel of arbitrators may hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such powers to other members of the panel of arbitrators. The chairman of the panel of arbitrators may petition the district court at the seat of government or of the county in which any hearing is held to enforce the order of the chairman compelling the attendance of witnesses and the production of records.

11. A majority of the panel of arbitrators shall select within fifteen days after its first meeting the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties, or the recommendations of the fact-finder on each impasse item.

12. The selections by the panel of arbitrators and items agreed upon by the public employer and the employee organization, shall be deemed to be the collective bargaining agreement between the parties.

13. The determination of the panel of arbitrators shall be by majority vote and shall be final and binding subject to the provisions of section 20.17, subsection 6. The panel of arbitrators shall give written explanation for its selection and inform the parties of its decision. [C75, 77, 79,§20.22]

Referred to in §20.19

20.23 Legal actions. Any employee organization and public employer may sue or be sued as an entity under the provisions of this chapter. Service upon the public employer shall be in accordance with law or the rules of civil procedure. Nothing in this chapter shall be construed to make any individual or his assets liable for any judgment against a public em-

ployer or an employee organization. [C75, 77, 79,§20.23]

20.24 Notice and service. Any notice required under the provisions of this chapter shall be in writing, but service thereof shall be sufficient if mailed by restricted certified mail, return receipt requested, addressed to the last known address of the parties, unless otherwise provided in this chapter. Refusal of restricted certified mail by any party shall be considered service. Prescribed time periods shall commence from the date of the receipt of the notice. Any party may at any time execute and deliver an acceptance of service in lieu of mailed notice. [C75, 77, 79,§20.24]

20.25 Internal conduct of employee organizations.

1. Every employee organization which is certified as a representative of public employees under the provisions of this chapter shall file with the board a registration report, signed by its president or other appropriate officer. The report shall be in a form prescribed by the board and shall be accompanied by two copies of the employee organization's constitution and bylaws. A filing by a national or international employee organization of its constitution and bylaws shall be accepted in lieu of a filing of such documents by each subordinate organization. All changes or amendments to such constitutions and bylaws shall be promptly reported to the board.

2. Every employee organization shall file with the board an annual report and an amended report whenever changes are made. The reports shall be in a form prescribed by the board, and shall provide the following information:

a. The names and addresses of the organization, any parent organization or organizations with which it is affiliated, the principal officers, and all representatives.

b. The name and address of its local agent for service of process.

c. A general description of the public employees the organization represents or seeks to represent.

d. The amounts of the initiation fee and monthly dues members must pay.

e. A pledge, in a form prescribed by the board, that the organization will comply with the laws of the state and that it will accept members without regard to age, race, sex, religion, national origin or physical disability as provided by law.

f. A financial report and audit.

3. The constitution or bylaws of every employee organization shall provide that:

a. Accurate accounts of all income and expenses shall be kept, and annual financial report and audit shall be prepared, such accounts shall be open for inspection by any member of the organization, and loans to officers and agents shall be made only on terms and conditions available to all members.

b. Business or financial interests of its officers and agents, their spouses, minor children, parents or otherwise, that conflict with the fiduciary obligation of such persons to the organization shall be prohibited.

c. Every official or employee of an employee organization who handles funds or other property of the organization, or trust in which an organization is interested, or a subsidiary organization, shall be bonded. The amount, scope, and form of the bond shall be determined by the board.

4. The governing rules of every employee organization shall provide for periodic elections by secret ballot subject to recognized safeguards concerning the equal right of all members to nominate, seek office, and vote in such elections, the right of individual members to participate in the affairs of the organization, and fair and equitable procedures in disciplinary actions.

5. The board shall prescribe rules necessary to govern the establishment and reporting of trusteeships over employee organizations. Establishment of such trusteeships shall be permitted only if the constitution or bylaws of the organization set forth reasonable procedures.

6. An employee organization that has not registered or filed an annual report, or that has failed to comply with other provisions of this chapter, shall not be certified. Certified employee organizations failing to comply with this chapter may have such certification revoked by the board. Prohibitions may be enforced by injunction upon the petition of the board to the district court of the county in which the violation occurs. Complaints of violation of this section shall be filed with the board.

7. Upon the written request of any member of a certified employee organization, the auditor of state may audit the financial records of the certified employee organization. [C75, 77, 79,§20.25]

20.26 Employee organizations—political contributions. An employee organization shall not make any direct or indirect contribution out of the funds of the employee organization to any political party or organization or in support of any candidate for elective public office.

Any employee organization which violates the provisions of this section or fails to file any required report or affidavit or files a false report or affidavit shall, upon conviction, be subject to a fine of not more than two thousand dollars.

Any person who willfully violates this section, or who makes a false statement knowing it to be false, or who knowingly fails to disclose a material fact shall, upon conviction, be subject to a fine of not more than one thousand dollars or imprisoned for not more than thirty days or shall be subject to both such fine and imprisonment. Each individual required to sign affidavits or reports under this section shall be personally responsible for filing such report or affidavit and for any statement contained therein he knows to be false.

Nothing in this section shall be construed to prohibit voluntary contributions by individuals to political parties or candidates.

Nothing in this section shall be construed to limit or deny any civil remedy which may exist as a result of action which may violate this section. [C75, 77, 79,§20.26]

20.27 Conflict with federal aid. If any provision of this chapter jeopardizes the receipt by the state or any of its political subdivisions of any federal grant-

trust funds or other federal allotment of money, the provisions of this chapter shall, insofar as the fund is jeopardized, be deemed to be inoperative. [C75, 77, 79, §20.27]

20.28 Inconsistent statutes—effect. A provision of the Code which is inconsistent with any term or condition of a collective bargaining agreement which is made final under this chapter shall supersede the term or condition of the collective bargaining agreement unless otherwise provided by the general assembly. A provision of a proposed collective bargaining agreement negotiated according to this chapter which conflicts with the Code shall not become a provision of the final collective bargaining agreement until the general assembly has amended the Code to remove the conflict. [C79, §20.28; 68GA, ch 2,§36]

20.29 Filing agreement—public access. Copies of collective bargaining agreements entered into between the state and the state employees' bargaining representatives and made final under this chapter shall be filed with the secretary of state and be made available to the public at cost. [C79, §20.29]

[illegible]

20.30 Supervisory member—no reduction before retirement. A supervisory member of any department or agency employed by the state of Iowa shall not be granted a voluntary reduction to a nonsupervisory rank or grade during the six months preceding retirement of the member. A member of any department or agency employed by the state of Iowa who retires in less than six months after voluntarily requesting and receiving a reduction in rank or grade from a supervisory to a nonsupervisory position shall be ineligible for a benefit to which the member is entitled as a nonsupervisory member but is not entitled as a supervisory member.

The provisions of this section shall be effective during the collective bargaining agreement in effect from *July 1, 1979* to *June 30, 1981*. [68GA, ch 2,§40]

as certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties. (As added by Ch. 124, L. 1970)

Sec. 14.20.555. Regional Certificated Employee Negotiations. (a) Negotiations between the certificated employees of the regional educational attendance areas and the respective regional school boards shall be conducted by one team representing all the certificated employees, one team representing all the certificated administrative personnel if they have joined together to negotiate independently as provided in Sec. 550(b) of this chapter, and one team representing all the participating regional school boards.

(b) Each team may consist of as many members as there are regional school boards. Each board is entitled to one member on the team. However, each negotiating team shall consist of not less than five members.

(c) A regional educational attendance area board may be exempted from or submit its own negotiations in accordance with Sec. 560 of this chapter. (Sec. 14.20.555(a) to (c), as added by Ch. 124, L. 1970)

Sec. 14.20.560. Teachers' Bargaining Groups. (a) When a majority of the certificated employees of a school district have designated an educational organization of their own choosing to bargain for them, the organization shall be recognized by the school board as the bargaining agent for all the certificated staff, except superintendents of schools. The membership of any such recognized educational organization shall be composed generally of those employed in the teaching profession in Alaska.

(b) The organization representing a majority of the certificated employees of a school district shall upon the request of the school board, submit an affidavit certifying that it does represent a majority of the certificated employees. Recognition of the employee bargaining agency by a school board is valid for one year or a term agreed upon by the two parties to an agreement, unless a majority of certificated staff votes to request the termination of recognition of the employee bargaining agency. The school board is entitled to an affidavit bargaining agency once each year.

(c) Upon the request of 20 per cent of the certificated employees in a district, the school board shall hold, within 20 days, an election by secret ballot of all the certificated employees in order to determine their choice of a bargaining agency. The results of the election are binding for one year.

(d) A school board shall, upon the written request of the employee bargaining organization, meet with the representatives of the organization within 20 days of the request at a time and place to be mutually agreed upon. In the same manner, representatives of an employee bargaining organization are required to meet with a school board or its representatives within 20 days after receiving a written request. The school board and the employee organization may not select more than five representatives each to negotiate for them.

(e) The negotiating meeting may be held on school or nonschool time upon mutual agreement of both parties, but all final agreements shall be made at a public meeting of the school board.

(f) Nothing in this section shall be construed to prevent certificated administrative personnel groups, including principals and assistant principals, from having the right to negotiate independently of the other certificated personnel if they choose to do so or as the result of a recent ballot. (Added by Ch. 65, L. 1971)

Sec. 14.20.570. Mediation Board. (a) Upon the written request for mediation by an employee bargaining agency or a school board, and upon certification by the requesting party that the parties cannot agree on an independent private mediator and that good faith negotiations have terminated in an impasse, the following occurs:

(1) Within seven days of the certification the requesting party shall ask the U.S. Federal Mediation and Conciliation Service to serve as the agency to resolve the dispute.

(2) The mediator shall chair mediation meetings between the disputing parties and attempt to resolve the differences between the disputing parties and reach common acceptance of terms and conditions of other items in dispute wherever possible.

(3) Within 30 days of the initial meeting of the parties to the dispute, the mediator shall have reduced all the agreed terms and items and other items to a written contract. If mutually agreed the period for resolving the dispute by both parties may be extended.

(b) Each party to the dispute may select a team of not more than five persons to present the evidence, thinking and position of the group they represent, to the mediator.

(c) If the mediation meetings are held during the school day, teachers representing an employee bargaining agency shall be released from classroom or other assigned duties without penalty or loss of pay. (As amended by Ch. 202, L. 1975)

Sec. 14.20.580. The Mediation Report. (a) Within 10 days each party to the dispute shall accept or reject in total the mediation report.

(b) If rejected by either party, the mediator shall have an additional five days to review the objections and prepare a final report.

(c) If the final report is rejected by either side, the governor may appoint an advisory arbitrator to review the issues and make recommendations for solution. (As amended by Ch. 202, L. 1975)

Sec. 14.20.590. Grievance Procedures. Negotiated agreements concluded after the effective date of this Act shall define "grievances" and provide for grievance procedures for the certificated staff. The grievance procedures shall provide that the final step in the procedure shall be binding arbitration. The negotiated agreement shall provide a method for the selection of an arbitrator. (As amended by Ch. 202, L. 1975)

Sec. 14.20.600. Individual Cases. Nothing in Secs. 550–590 of this chapter prohibits an employee from addressing a school board as an individual, through the regular procedures of the school board for hearing individual cases.

Sec. 14.20.610. Legal Responsibilities of Boards. Nothing in the foregoing provisions shall 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.

ALASKA

There are two public employee bargaining statutes on the books in the State of Alaska. The Public Employment Relations Act requires employers to negotiate with recognized employee organizations on wages, hours, and fringes and gives limited strike rights to the state's public employees except police, fire, prison, and hospital employees. The other requires school boards to negotiate in good faith with teachers. Full text of the laws follows:

Public Employment Relations Act

Full text of Secs. 23.40.070 to 23.40.260 comprising the Public Employment Relations Act, as enacted by Ch. 113, L. 1972, as amended by Ch. 41, L. 1974, and as last amended by Ch. 148, L. 1979, effective July 18, 1979.

Ed. Note: Sec. 4 of Ch. 113, L. 1972, effective September 1, 1972, states that the "Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply."

In State of Alaska v. City of Petersburg [illegible], July [illegible], 1975, the state Supreme Court ruled that City of Petersburg could not validly reject application of the Act more than [illegible] months after it became effective, and after [illegible] of City Council had [illegible] of [illegible] organizational activity of City's police [illegible] employees.

For related rulings, see [illegible]

Sec. 23.40.070. Declaration of policy. — The legislature finds that joint decision-making is the modern way of administering government. If public employees have been granted the right to share in the decision-making process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective. The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, to strengthen the merit principle where civil service is in effect and to maintain a favorable political and social environment. The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are to be effectuated by

(1) recognizing the right of public employees to organize for the purpose of collective bargaining;

(2) requiring public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment;

Ed. Note: The Public Employment Relations Act does [illegible] employees and does not [illegible] Alaska State [illegible] [illegible] bargaining [illegible] state [illegible]

For related rulings, see [illegible]

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(3) maintaining merit system principles among public employees.

Sec. 23.40.080. Rights of public employees. — Public employees may self-organize and form, join or assist an organization to bargain collectively through representatives of their own choosing, and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Sec. 23.40.090. Collective bargaining unit. — The labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by Secs. 23.40.070 — 23.40.260 of this chapter, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

Sec. 23.40.100. Representation and elections. — (a) The labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency and is

(1) by an employee or group of employees or an organization acting in their behalf alleging that 30 per cent of the employees of a proposed bargaining unit

(A) wish to be represented for collective bargaining by a labor or employee organization as exclusive representative, or

(B) assert that the organization which has been certified or is currently being recognized by the public employer as bargaining representative is no longer the representative of the majority of employees in the bargaining unit; or

(2) by the public employer alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the labor relations agency or an election in a bargaining unit agreed upon by the parties. The labor relations agency shall determine who is eligible to vote in an election and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a run-off election shall be conducted, the ballot providing for selection between the two choices receiving the largest and the second largest number of valid votes cast in the election. If an organization receives the majority of the votes cast in the

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election it shall be certified by the labor relations agency as exclusive representative of all the employees in the bargaining unit.

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

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by a public agency by mutual consent.

(e) No election may be directed by the labor relations agency in a bargaining unit in which there is in force and effect a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of persons in the bargaining unit but not parties to the agreement, if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Sec. 23.40.110 Unfair labor practices. — (a) A public employer or his agent may not

(1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in Sec. 80 [Sec. 23.40.080] of this chapter;

(2) dominate or interfere with the formation, existence or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because he has signed or filed an affidavit, petition or complaint or given information under Secs. 10-260 [Secs. 23.40.070 to 23.40.260] of this chapter;

(5) refuse to bargain collectively in good faith with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(b) Nothing in this chapter prohibits a public employer from making an agreement with an organization to require as a condition of employment

(1) membership in the organization which represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later, or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agent for the expense of representing the members of the bargaining unit.

(c) A labor or employee organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in Sec. 80 [Sec. 23.40.080] of this chapter, or

(B) a public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with a public employer, if it has been designated in accordance with the provisions of Secs. 10-260 [Secs. 23.40.070 to 23.40.260] of this chapter as the exclusive representative of employees in an appropriate unit.

Sec. 23.40.120 Investigation and conciliation of complaints. — If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by Sec. 110 [Sec. 23.40.110] of this chapter, or a written accusation that a person subject to Secs. 10-260 [Secs. 23.40.070 to 23.40.260] of this chapter has engaged in a prohibited practice, is filed with the labor relations agency, it shall investigate the complaint or accusation. If it determines after the preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

Sec. 23.40.130 Complaint and accusation. — If the labor relations agency fails to eliminate the prohibited practice by conciliation, and to obtain voluntary compliance with Secs. 10-260 [Secs. 23.40.070 to 23.40.260] of this chapter, or, before or after attempt at conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedure shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

Sec. 23.40.140 Orders and decisions. — If the labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of Secs. 10-260 [Secs. 23.40.070 to 23.40.260] of this chapter. If the labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 23.40.150 Enforcement by injunction. — The labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the labor relations agency. Upon a showing by the labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order which is appropriate may be granted by the court and shall be without bond.

Sec. 23.40.160 Power to investigate and compel testimony. — (a) For the purpose of the investigation, proceedings, or hearings which the labor relations agency considers necessary to carry out the provisions of Secs. 10-260 [Secs. 23.40.070 to 23.40.260] of this chapter, the labor relations agency may issue subpenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpena issued under Secs. 10-260 [Secs. 23.40.070 to 23.40.260] of this chapter, the superior court in the district in which the person resides or is found may, upon application by the labor relations agency, issue an order requiring him to comply with the subpena.

Sec. 23.40.170 Regulations. — The labor relations agency may adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of Secs. 10-260 [Secs. 23.40.070 to 23.40.260] of this chapter.

Sec. 23.40.180 Penalty for violation of order or decision. — A person who violates a provision of an order or decision of the labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than $500.

Sec. 23.40.190 Mediation. — If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, a deadlock exists between a public

employer and an organization, the labor relations agency may appoint a competent, impartial, disinterested person to act as mediator in any dispute either on its own initiative or on the request of one of the parties to the dispute. The parties may also select a mediator by agreement or mutual consent. It is the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the labor relations agency has any power of compulsion in mediation proceedings.

Sec. 23.40.200. Arbitration. — (a) For purposes of this section, public employees are employed to perform services in one of the three following classes:

(1) those services which may not be given up for even the shortest period of time;

(2) those services which may be interrupted for a limited period but not for an indefinite period of time; and

(3) those services in which work stoppages may be sustained for extended periods without serious effects on the public.

(b) The class in (a)(1) of this section is composed of police and fire protection employees, jail, prison and other correctional institution employees, and hospital employees. Employees in this class may not engage in strikes. Upon a showing by a public employer or the labor relations agency that employees in this class are engaging, or about to engage in a strike, an injunction, restraining order, or other order which may be appropriate shall be granted by the superior court in the judicial district in which the strike is occurring or is about to occur. If an impasse or deadlock is reached in collective bargaining between the public employer and employees in this class, and mediation has been utilized without resolving the deadlock, the parties shall submit to arbitration to be carried out under AS 09.43.030.

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

(d) The class in (a)(3) of this section includes all other public employees who are not included in the classes in (a)(1) or (a)(2) of this section. Employees in this class may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employer with the concurrence of the employees may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

(f) The parties to a collective bargaining agreement may provide in the agreement a contract for arbitration to be conducted solely according to the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference.

Sec. 23.40.210. Agreement. — Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement shall include a pay plan designed to provide for a cost-of-living differential between the salaries paid employees residing in the state and employees residing outside the state. The plan shall provide that the salaries paid, as of the effective date of this Act, to employees residing outside the state shall remain unchanged until the difference between those salaries and the salaries paid employees residing in the state reflects the difference between the cost of living in Alaska and living in Seattle, Washington. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency. (As amended by Ch. 62, L. 1972)

Sec. 23.40.212. Agreement with the board of regents. — (a) The board of regents of the University of Alaska may delegate to the department of administration its authority under Secs. 23.40.070 to 23.40.260 to negotiate with an organization for an agreement.

(b) The department of administration shall participate in the negotiations between the board of regents and an organization. An agreement between the board and an organization requires the approval of the department. (As added by Ch. 130, L. 1978)

Sec. 23.40.215. Funding. — The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation.

Sec. 23.40.220. Labor or employee organization dues and employee benefits deduction and authorization. — Upon written authorization of a public employee within a bargaining unit, the employer shall deduct from the payroll of the public employee the monthly amount of dues, fees and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

Sec. 23.40.225. Exemption from public employment relations act. — Notwithstanding the provisions of Sec. 220 of this chapter, a collective bargaining unit which has reached an agreement referred to under Sec. 210 of this chapter that incorporates a union security provision, including but not limited to a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the labor relations agency, the agency shall declare the employee exempt from becoming a member of a labor organization or employee association. The employee shall pay an amount of money equivalent to regular union or association dues, initiation fees, and assessments, to the union or association. Compliance of this section exempts the employee to the same extent as if it were the payment of dues. The remaining [illegible]

shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor or employee organization. The employee organization shall submit proof of contribution to the labor relations agency. (Am added by Ch. 83, L. 1976)

Sec. 23.40.230. Assistance by department of labor. — When state employees are involved, the Department of Labor shall, if requested by the personnel board, and if there is no objection by the organization involved, assist the personnel board on matters such as, but not limited to, conducting elections and investigating unfair labor practices.

Sec. 23.40.240. Effect on existing units, representatives and agreements. — Nothing in this chapter terminates or modifies a collective bargaining unit, recognition of exclusive bargain representative, or collective bargaining agreement of the unit, recognition or agreement is in effect at the time this Act becomes effective.

Sec. 23.40.245. Post-secondary student involvement in collective bargaining. — (a) When a bargaining unit includes members of the faculty or other employees of a public institution of post-secondary education, the public employer and the representative of the bargaining unit shall permit student representatives of that institution to (1) attend and observe all meetings between the public employer and the representative of the bargaining unit which are involved with collective bargaining; (2) have access to all documents pertaining to collective bargaining exchanged by the employer and the representative of the bargaining unit, including copies of transcripts of the meetings.

(b) Student representatives may not disclose information concerning the substance of collective bargaining obtained in the course of their activities under (a) of this section, unless that information is released by the employer or the representatives of the bargaining unit.

(c) For the purpose of this section, the students of the institution involved in negotiations shall select their representatives from the institution directly involved in negotiations.

(d) When the institution is negotiating with bargaining units representing more than one major geographic area of the state, the student representatives shall be from those areas. No more than three student representatives may attend meetings at any time. (Am added by Ch. 148, L. 1976)

Sec. 23.40.250. Definitions. — In Secs. 70.700 [Secs. 23.40.070 to 23.40.260] of this chapter, unless the context otherwise requires,

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings in advance of the budget making process and negotiate in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party; but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in Secs. 70-700 [Secs. 23.40.070 to 23.40.260] of this chapter;

(3) "labor relations agency" means the state personnel board with regard to the state and employees of the state, and means the Department of Labor with regard to all other public employers and all other public employees;

(4) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

(5) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or members of the [illegible] employees of school districts;

[illegible]

[illegible]

(6) "public employer" means the state or a political subdivision of the state, including without limitation, a borough, city, borough, district, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees;

(7) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer.

[illegible]

Sec. 23.40.260. Short title. — Secs. 70-700 [Secs. 23.40.070 to 23.40.260] of this chapter may be cited as the Public Employment Relations Act.

Teachers

[illegible]

Sec. 14.20.550. [illegible] — [illegible]

NEA · ALASKA

This decision combined with the absence of finality through arbitration puts teachers at a distinct disadvantage as they attempt to negotiate their terms and conditions of employment. Nothing in the present law requires an employer or even a … for a school board to negotiate in good faith and reach agreement. Parity and equity in a collective bargaining relationship derives from the parties each having some means of exerting pressure on the other in support of their position. Absent the ability to [illegible] to strike, teachers as employees do not have an equitable position in the negotiations process.

In the public sector an answer which is being used by an increasing number of states is interest arbitration for 'essential service' employees such as teachers, police, fire, and hospital employees. This is becoming the most effective method of preventing strikes while settling negotiations disputes in a fair and effective manner.

Alaska has a unique opportunity to resolve the teacher bargaining law problem through the Public Employee Relations Act. PERA, as it is known, has been in place for 10 years and has provided an adequate negotiations procedure for all public employees except teachers. The legislative purpose as stated in PERA, applied to public school teachers, would establish uniform labor relations procedures for all public employees in the State.

Sec. 23.40.070. Declaration of policy. The legislature finds that joint decision-making is the modern way of administering government. If public employees have been granted the right to share in the decision-making process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective. The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, to strengthen the merit principle where civil service is in effect, and to maintain a favorable political and social environment. The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are best effectuated by

(1) recognizing the right of public employees to self-organization for the purpose of collective bargaining;

(2) requiring public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment;

(3) maintaining merit system principles among public employees.

Sec. 23.40.080. Rights of public employees. Public employees may self-organize and form, join, or assist an organization to bargain collectively through representatives of their own choosing, and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Senate Bill 78 effectively addresses the strike question by placing teachers in the PERA in the "essential services" category. In so doing, it eliminates the ambiguity regarding the procedures - and absence of same - in the current teacher bargaining law.

PERA has a positive labor relations track record in Alaska and its arbitration procedure is sound and provides the statutory safeguards necessary to insure the interests of government.

Recent surveys in the Anchorage community by Senators Colletta and Kelly and Representative Phillips showed an overwhelming sentiment (nearly 80%) that teacher negotiations disputes should be settled through arbitration rather than strikes.

In his dissenting opinion in the recent Supreme Court decision on the 1976 Anchorage Teacher Strike, Justice Rabinowitz said:

"If public school teachers are so essential to society that they must be denied the right to strike, then they should be given the right to compulsory arbitration."

In his public statements over the past two years Governor Sheffield has spoken strongly on the need for finality in the teacher negotiations process and indicated support for the Senate Finance Committee Substitute for CS for SB 174 in the Twelfth Legislature.

Opponents of arbitration of teacher negotiations disputes, while sincere in their opposition to the concepts of arbitration, generally have not accurately represented the facts of the process:

1) "Erosion of decision-making authority of school boards."

- Through application of the Uniform Arbitration Act under PERA, arbitrators are constrained from excessive awards and should consider the financial responsibilities of a school board.

2) "Arbitration is not constitutional."

- Again, the Alaska Uniform Arbitration Act meets the constitutional test by establishing criteria for the arbitrators to use in reaching a decision.

3) "Arbitration doesn't prevent strikes."

- Quite the contrary! The record is clear in those states which have compulsory binding arbitration. There are not strikes as a result of negotiations disputes when arbitration is the final step in the dispute settlement procedure.

d) "Arbitration lengthens the process."

- Again, quite the contrary! The data shows that the mere presence of an arbitration procedure enhances the potential for a negotiated settlement short of its actual use. When the parties know that the issues in a dispute will be subject to third party scrutiny and determination, the tendency is to take more reasonable and defensible positions in the interest of reaching bilateral agreement.

It should be noted that Alaska has had for over ten (10) years the statutory requirement of binding arbitration on grievance disputes. The track record in this arena clearly shows that the vast majority of grievances do not get to arbitration in that the parties are generally able to reach agreement on their resolution and that the arbitration decisions which have been rendered have not been particularly burdensome for either party.

Finality in teacher negotiations is essential. Too much time, energy, and human resource is currently being spent by both sides in the teacher collective bargaining process as a result of negotiations impasse disputes which would be better spent on the task of education.

NEA - ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

JUNEAU OFFICE

ANCHORAGE REGIONAL OFFICE

ANCHORAGE, ALASKA

FAIRBANKS REGIONAL OFFICE

COLLEGE ROAD

FAIRBANKS, ALASKA

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Executive Secretary
Juneau Office

Robert C. Cooksey
Deputy Executive Secretary
Juneau Office

James D. Alter
Field Staff
Juneau Office

Charles L. O'Connell
Deputy Executive Secretary
Anchorage Office

Dianne Anderson
Field Staff
Anchorage Office

Steve Pulkkinen
Field Staff
Anchorage Office

Mary Ann Emenger
Deputy Executive Secretary
Fairbanks Office

May 4, 1983

TO: Senator Joe Josephson, Chair
Members, Senate HESS

RE: SB 78; NEA-Alaska and AASB Meeting

At the request of the Committee we met on 3 May to discuss and explore options attendant to a mutually acceptable collective bargaining bill to be used as a substitute for SB 78.

While the discussions proved insightful and revealed some areas of commonality of thought on collective bargaining generally at least five (5) basic concepts continue to be deterrents to a mutually acceptable bill.

a) Scope of Negotiations:

- AASB prefers a specific list of items which would be subject to collective bargaining, especially if arbitration is to be the final step in the bargaining process.

- NEA-Alaska prefers that the current definition continue, incorporating with the "Kenai Decision". It is our opinion that a specific and limiting list unnecessarily constrains the parties in resolution of problems.

b) Negotiability vs Arbitrability:

- AASB feels that all of the items subject to negotiations should not necessarily be included in the issues which may be placed before an arbitrator.

- NEA-Alaska feels that any unresolved item which is legitimately included as part of a collective bargaining process should be subject to arbitration.

c) Management Rights:

- It is the position of AASB that the presence of an arbitration provision necessitates the inclusion of specific management rights statements.

- NEA-Alaska feels that the presence of 14.20.610 clearly reserves to a school board its rights, responsibilities, and authority and gives the board substantial latitude on matters attendant to policy.

d) Finality through:

- conventional arbitration, last best offer arbitration, strike, unilateral determination.

e) AASP concern for effect of financial exigencies vis a vis reducing program and staff.

With a major share of the time being devoted to a, b, and c and not producing a bilateral understanding, items d and e were not fully discussed.

Respectfully submitted:

Robert Manners
Executive Secretary

RM:lc

MEMORANDUM State of Alaska

TO: Allen Blume
Special Assistant
Governor's Office

DATE: April 18, 1983

FILE NO: 377-092-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

By: Arthur H. Peterson
Assistant Attorney General
and Regulations Attorney

SUBJECT: CSSB 78 (HESS) (educational employees negotiations)

As you requested, attached is the proposed final version of the CS for SB 78.

This proposed bill is ready to be submitted to Senator Josephson.

AHP/jb

Attachment

cc w/enc.: John Rubini
Assistant Attorney General
Juneau

SB 78
POSITION PAPER

Collective Bargaining Between School Boards and Their Employees

The Committee Substitute for Senate Bill 78 has recognized three basic fundamentals which the Administration feels are vital in meeting the needs of educational collective bargaining:

1. The proper philosophical approach to public employment collective bargaining as stated by the Legislature in the Policy Declaration of AS 23.40 will protect the inherent right of elected public officials to manage, balanced against the employees' inherent right to participate in the development of the rules used to manage.

2. The need to continue the integrity of a separate Educational Title in the Alaska Statutes, where the needs of school district employees and school boards can be recognized.

3. The right of all school district employees to organize into representative groups of their own choosing, and to have a bilateral resolution to the collective bargaining process that will be overseen by an Educational Labor Relations Agency.

In addressing specific requirements of the bill, the Administration finds itself in agreement with:

1. The establishment of an Educational Labor Relations Board composed of the present State Labor Relations Agency plus, an additional two members from the educational community. This coupling of those already versed in Labor Related decisions on the record with the insight of those from Educational Community will save both time and money in implementing the new law change.

2. Overcoming the uncertainty found in AS 14.20.550 by defining "administrators" who may or may not participate in collective bargaining is long overdue. In addition, clarifying the right of non-certificated educational employees to organize, thus making them equal to their counterparts in State service is also looked upon by the Administration as an important step toward equitability in the law.

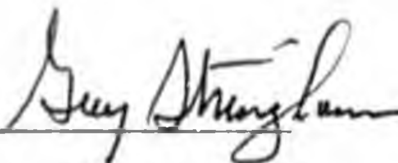
3. The establishment of a series of steps beyond impasse to bring bargaining to a bilateral conclusion by allowing for one of the following. A ten-day cooling off period, followed by the schoolboards' right to choose between unlimited strike followed by mediated arbitration, a limited 45-day strike followed by mediated arbitration, or an immediate move to mediated arbitration. These choices

preserve the District Schoolboards' opportunity to choose the vehicle it feels best in a given situation, while ensuring the employee groups with a bilateral ending.

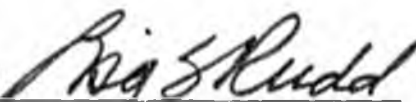
As the parties can move to resolution at any point, the pressure of the above actions will spur both parties to seek compromise as quickly as possible.

4. The use of Alaskan arbitrators versed in contract resolution, education and the needs of the public will help alleviate the fears of both Schoolboard and employee representative organizations that they will not get a fair contract under this system.

Prepared by:

Guy Stringham  4/18/83
Director
Division of Labor Relations
Date

Approved by:

Lisa Rudd  4/18/83
Commissioner
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Date

3/0414-02-2/3LR1

ASSOCIATION OF ALASKA SCHOOL BOARDS
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BINDING ARBITRATION

The Association of Alaska School Boards has, for years, maintained strong opposition to the concept of binding arbitration in the collective bargaining process not primarily because binding arbitration is a bad process for the settlement of disputes, but because of the manner in which the law is written. AASB has grave concerns that the proposed manner of implementation of binding arbitration could cause grave inroads into the instructional processes of school districts.

Alaskans are really "babes in the woods" when it comes to binding arbitration. The general assumption is that either we have it or we don't have it. If we have it, we assume that it should merely be added onto the laws we currently have. It should apply to what now is currently negotiated. This notion is wrong.

The problem is that only recently have we even recognized that there needs to be a definition as to what is negotiable. Our state statutes essentially make everything negotiable and the Alaska Supreme Court has limited this to some degree. However, it is still very much the case that collective bargaining in Alaska can and does involve policy as well as working conditions, wages, and hours. [illegible]

[illegible]

Wisconsin

[illegible]

Maine

[illegible]

Iowa

[illegible]

rights section and clear delineation of:

- mandatory items of bargaining
- optional items of bargaining of the parties agree
- prohibited items of bargaining

<u>New York</u>

Strong limitation on items submitted to arbitration and strike prohibition measures, including prohibiting dues collection by employers for strikers and double pay deductions for every day on the picket line.

Sound legislation dealing with binding arbitration should create a balance between the needs and rights of management and those of labor. Management needs a rights statement that clearly spells out the limits to which binding arbitration can infringe upon the responsibility of a school district to make management decisions. The responsibility of the school district is to provide a quality education for every child. Binding arbitration provisions should not infringe upon this responsibility.

Failure to act on this extremely important problem would be the crux of our opposition to binding arbitration. Failure to provide the ability to reduce certificated staff numbers as a means of restructuring the resource allocation of the district makes all kinds of discriminatory and academically unsound practices necessary. We feel arbitration awards that would require a reduction of classified staff while certificated personnel are protected from the same fate is discriminatory. To protect certificated staff from lay off and thus force reduction in expenditures into the textbook purchase, student activities or maintenance of facilities could be educationally unsound. Binding arbitration, under current legislative proposals will force these conditions upon us eventually.

Given these conditions, elected public officials, the school board, will be prohibited from performing their public charge, that of providing a quality education for every child.

Alternatives to binding arbitration and even alternatives to current negotiating practices, INCLUDING BINDING ARBITRATION, have been proposed in recent years by [illegible] with little or no success. [illegible]

[illegible]

[illegible]

RESOLVING IMPASSES

[¶5621] Handling impasses.—The best way to handle impasses is to avoid them by making the negotiation process work. But if the parties are not able to reach agreement in the course of negotiations, what happens? Public sector strikes are generally illegal. So various strike alternatives have been tried and new techniques are constantly being developed to solve this high-voltage problem.

Solutions will probably not be found until there's consensus about the meaningful differences between public and private employment. To what degree are they great enough to make techniques used in the private sector inappropriate? Views about this haven't jelled. Until they do, diversity in methods for settling contract disputes will continue—mediation, factfinding, arbitration and legal and illegal strikes.

Mediation

[¶5625] What is it?—Mediation has been defined as "assistance by an impartial third party to reconcile an impasse between the public employer and the exclusive representative regarding wages, hours, and other terms and conditions of employment through interpretation, suggestion, and advice to resolve the impasse" [Haw. ¶11,102].

Mediation is generally either the required or authorized first step in an impasse procedure. Although other impasse techniques are often subject to legal attack, mediation is not. Since there is no element of compulsion, there are no problems of unlawful delegation of governmental powers.

[illegible]

What are their *real* concerns? What have they been advocating for trading purposes and what are the real "musts"? Are they willing to effect a compromise on any of their supposed "musts"? Are they aware of the chances they are taking in letting a dubious position go to factfinding?

After exploring issues in private conference, the mediator often urges resumption of direct negotiations. He/she may preside over several bargaining sessions before again separating the parties. He may urge one team or the other to state openly what it has said privately. Negotiators may find it advisable to comply but make their doing so contingent upon acceptance of a counter-proposal or upon the other side's willingness to modify or withdraw certain of its demands. A skillful mediator will explore every avenue in open session that might prove to be the catalyst leading to resolving the impasse.

The mediator may go further. If his or her advice has been rejected in part or in toto, the mediator still may present specific recommendations. These may stem from the neutral's own concept of what it would take to break a deadlock or from mere intuition as to what will be acceptable to the parties.

☞ **MEDIATOR IS NOT AN ARBITRATOR** → Remember that the mediator isn't an arbitrator with the authority to impose a settlement upon the parties. He or she recommends but cannot mandate. In some states, a mediator's recommendations, if rejected, cannot even be referred to or given any weight in factfinding proceedings.

[¶5623] Mediator's techniques — The mediator is generally free to adopt any technique that will help settle a dispute. One exception is that some jurisdictions do not permit the mediator to make [illegible]

[illegible]

➯ BUT IT MAY BE INEVITABLE → If a truly important principle is involved, the party must go to factfinding regardless of costs.

Factfinding

[¶5635] What is it?—Factfinding is often the second step in the hierarchy of impasse techniques used in the public sector. If mediation fails, factfinding begins. Factfinding is the investigation of a public sector labor dispute by an individual, panel, or board that submits a report to the parties describing the issues involved. The report may contain recommendations for settlement and sometimes may be made public.

Factfinding, like mediation, is not usually attacked legally because factfinders' recommendations are not binding on parties. Many state laws authorize or require it. In addition, the parties may agree to submit disputes to factfinding in the absence of a legal requirement to do so.

Factfinding differs from mediation in that it is a formal proceeding. It is comparable to arbitration with one important difference. Factfinding leads to recommendations for settlement. Arbitration means a prescribed settlement.

➯ ADVISORY ARBITRATION → Factfinding is similar to advisory arbitration. When the process is used to settle grievance disputes, it's generally called advisory arbitration. When used to settle contract impasses, it's called factfinding.

[¶5636] Who serves as factfinder?—Factfinders are generally supplied by labor relations boards. They often are experienced persons in public sector [illegible]

[illegible]

Factfinders perform their function as the law requires or, if there is no law, as their experience dictates. For example, private communications with a factfinder may be taboo. Generally, a factfinder can't even communicate in writing with one of the parties without giving notice to the other and an opportunity for both to comment on the subject discussed.

Acceptability to both parties is the chief object of professional factfinders.

[¶5639] The hearing.—Even though factfinders make nonbinding recommendations, they expect and merit professional presentation of the positions of both parties. This is no task for amateurs. The agency's legal counsel may qualify if well versed in the technique of handling grievance arbitrations. If the agency has a labor relations department, its director or a staff member should be qualified. *How* an agency's case is presented may be more important than *what* is presented!

PUT YOUR BEST FOOT FORWARD — Don't assume that a factfinder is merely going to add two figures and then divide by two. Put forward your best proposals. Don't hold back anything you're willing to concede. How acceptable a factfinder's recommendations are depends largely on how persuasively the case is presented.

[illegible]

Outcome: The factfinder prepares a graduated list of the last three years' salary scales from both the city's and the union's lists of comparable libraries. He/she discovers that—on the combined list—the city ranked seventh for two of the three years. This year, however, it fell to ninth. The city's tax rate and base are compared with those of adjoining communities. The factfinder discovers that although the city's tax base is small, its rate is fairly low, so a tax increase isn't out of the question.

The factfinder recommends a two-year contract with an 8% boost in the first year. This increase will bring the city's libraries back into seventh place in salaries. He/she recommends that the increase be broken up into two parts—4% now and 4% in six months—in order to ease the boost's burden on the city. For the second year, a cost-of-living adjustment based on the regional Consumer Price Index is recommended to give the librarians an inflation hedge.

settlement by finding common grounds of agre[illegible] meeting privately with each of them and making recommendations. If mediation efforts fail, the neutral arbitrates the dispute, and all decisions are final and binding.

Authorities are divided on the value of this technique. Those objecting claim that taking off a mediator's hat and putting on an arbitrator's hat is easier said than done. They believe it is impossible for a neutral to participate as a mediator without undermining one's authority as an arbitrator. Both the New York City arbitration law [N. Y. ¶25,034] and the Eugene, Oregon, ordinance [Ore. ¶25,011] specifically authorize impasse panels to mediate.

Strikes

[¶5651] What is a strike?—A strike is the concerted refusal of employees to perform all or part of their work as a pressure tactic for improving working conditions. [illegible]

treason, government employment is a privilege and not a right, and strikes run counter to the public interest. There is still near total agreement that many strikes cannot be tolerated. Mass walk-outs by police and fire officers can have disastrous consequences. Extended walkouts by others such as sanitation workers can also seriously endanger the public health and welfare.

☞ ON THE OTHER HAND → There's a growing awareness that public employment isn't the sole factor in determining whether services are essential. For example, are strikes by public sector clerks and park attendants more serious than those of private sector utility workers? Or strikes by public sector bus drivers more disruptive than strikes by private sector bus drivers?

Reappraisals. These considerations have made a small but growing number of policy-makers conclude that blanket strike bans are not justified (permissive laws in Alaska, Hawaii, Pennsylvania, Vermont illustrate this). Moreover, they don't work. Public employees have not abandoned and are not likely to abandon a successful technique when the issues are big enough to make the risk worthwhile. Strike penalties are not a deterrent if they're not enforced and many strike settlements include an agreement for amnesty.

☞ AN EXAMPLE → The illegal postal strike of 197[illegible] [illegible] under the National Labor Relations Act. [illegible]

From the employee's view [illegible]

safeguard against arbitrary action [City of Spokane v. Spokane Police Guild (S. Ct., 1976) No. 43954, 553 P. 2d 1316]. The Court also pointed out that although a binding arbitration award could result in the need for a city to raise taxes, the arbitration law itself didn't unconstitutionally impose a tax on the city to meet the costs of an arbitration award. But the Supreme Court of Utah hold the state couldn't withdraw the power of local elected officials to determine wages, hours and conditions of employment for firefighters and grant it to a panel of private citizens without providing for court review or any other safeguard to protect the public interest [Salt Lake City v. IAFF (Utah S. Ct.) No. 14689, 4-25-77].

The Colorado Supreme Court barred binding arbitration in public sector disputes as an unconstitutional delegation of authority, without considering the issue of safeguards [Greeley Police Union v. City Council of Greeley (S. Ct., 1976) No. 26992, 553 P. 2d [illegible]].

POWER TO TAX → Some laws meet the objection against giving an arbitrator power over the purse strings by providing that an award requiring legislative implementation is not final until that body acts (N.Y. § [illegible]).

[¶ [illegible]] OTHER OBJECTIONS – [illegible]

non-monetary item! (Similar examples could be offered with regard to evaluation procedures, etc.)

VI. "Rules" disenfranchises from collective bargaining certain employees now covered by negotiating agreements. Some employees now covered by some agreements, e.g., assistant principals, would be disenfranchised under the proposed AS 14.16.615(2) of "Rules".

VII. [illegible]

VIII. [illegible]

SENATE AMENDMENT

BY Josephson

To: Committee Substitute SENATE BILL No. 78 (HESS)

To: HOUSE BILL No.

PAGE: LINE:

Page 1, line 12: Delete "all public school employees" and add "certificated public school employees"

Page 1, line 21: Delete "all educational employees" and add "certificated public school employees"

Page 1, line 23: Delete brackets around "certificated"

Page 1, line 27: Delete "and noncertificated"

Page 2, lines [illegible]: Delete all brackets

Page 2, lines [illegible]: Delete all underlined language.

Page [illegible], line [illegible]: Delete "noncertificated employees or"

Page [illegible], lines [illegible]: Delete "noncertificated or"

[illegible]

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT

1. to share in a joint decision making process which fosters an exchange of ideas and information on operations and ....

2. Upon petition for certification by 25% of the employees in a proposed or existing negotiating unit and ....

3. Change Section 9

   Within 30 days of the effective date of this act, the board shall meet and, by written resolution, decide whether mediated arbitration or a limited strike shall follow the mediation procedure described in 14.20.570

4. to use the services of the FMCS or American Arbitration Association in the selection of an arbitrator who must be an Alaskan resident and the parties shall comply with the procedure of the FMCS or AAA.

5. Change (C)

   The decision of the arbitrator shall take into consideration (1) the history of negotiations between the parties before entering arbitration, (2) the public interest and financial abilities of the school district, (3) the interest and welfare of the employee group (4) changes in the cost of living (5) the existing employment conditions of the employee group compared with those of similar groups and (6) the salaries, fringe benefits and other conditions of employment prevailing in the state labor market.

6. [illegible]

[illegible]

be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

(c) An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant. However, if the application is predicated upon corruption, fraud or other undue means by either the opposing party or an arbitrator, it shall be made within 90 days after the grounds are known or should have been known.

(d) In vacating the award the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence of a provision in the agreement, by the provisions of 14.20.383 of this chapter, or, if the award is vacated on grounds set out in (a) (3) or (4) of this section, the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with the above. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

(e) If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

[illegible]

Teachers' Collective bargaining 2/SBm

DRAFT *J 7*
Law *4-13-83*

Original Sponsors: Kerttula, V. Fischer, Josephson, et al.

IN THE SENATE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SENATE BILL NO. 78 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to teachers' collective bargaining agreements; and providing for an effective date."

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

* Section 1. AS 14.20 is amended by adding a new section to Article 6 to read:

Sec. 14.20.[illegible]. DECLARATION OF POLICY. The legislature finds that it is in the best interests of the state to guarantee educational employees the opportunity to form employee organizations and to negotiate with respect to the terms and conditions of their employment.

* Sec. 2. AS 14.20.[illegible] is amended to read:

Sec. 14.20.[illegible]. NEGOTIATION WITH [CERTIFICATED] EMPLOYEES. (a) Each city, borough and regional school board, shall negotiate with its certificated and noncertificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties.

(b) [illegible]

* Sec. 3. [illegible]

[illegible]