

2319

SHESS SB 78

2319

1 (a) Negotiations between the [CERTIFICATED] employees of the
2 regional educational attendance areas and the respective regional
3 school boards ^{may} shall be conducted by one team representing all the
4 [CERTIFICATED] employees [, ONE TEAM REPRESENTING ALL THE CERTIFICATED
5 ADMINISTRATIVE PERSONNEL IF THEY HAVE JOINED TOGETHER TO NEGOTIATE
6 INDEPENDENTLY AS PROVIDED IN AS 14.20.560(f),] and one team represent-
7 ing all the participating regional school boards. However, if admin-
8 istrative personnel or noncertificated employees have joined together
9 to negotiate independently as provided in AS 14.20.560(f), a team
10 representing the independent employee organizations shall participate
11 in the negotiations.

12 * Sec. 4. AS 14.20.560 is repealed and reenacted to read:

13 Sec. 14.20.560. NEGOTIATING UNIT. (a) The educational employ-
14 ees labor relations agency shall decide in each case, in order to
15 assure to employees the fullest freedom in exercising the rights
16 provided under AS 14.20.550 -- 14.20.610, the unit appropriate for the
17 purposes of negotiation, based on such factors as community of inter-
18 est, wages, hours and other working conditions of the employees in-
19 volved, the history of negotiating, and the desires of the employees.
20 Negotiating units shall be as large as is reasonable, and unnecessary
21 fragmenting shall be avoided.

22 add (2)
23 (b) If the educational employees labor relations agency has
24 reasonable cause to believe that a question of representation exists,
25 it shall provide for an appropriate hearing upon due notice. If the
26 educational employees labor relations agency finds that there is a
27 question of representation, the educational employee labor relations
28 agency shall direct an election by secret ballot to determine whether
29 or by which organization the employees desire to be represented and
shall certify the results of the election. Nothing in this section

1 prohibits the waiving of hearings by stipulation for the purpose of a
2 consent election ^{or voluntary contribution} in conformity with the regulations of the educational
3 employee labor relations agency, or an election in a negotiating unit
4 agreed upon by the parties. The educational employees labor relations
5 agency shall determine who is eligible to vote in an election and
6 shall establish rules governing the election. In an election in which
7 none of the choices on the ballot receives a majority of the votes
8 cast, a runoff election shall be conducted, the ballot providing for
9 selection between the two choices receiving the largest and the second
10 largest number of valid votes cast in the election. If an organi-
11 zation receives the majority of the votes cast in the election it
12 shall be certified by the educational employees labor relations agency
13 as exclusive representative of all the employees in the negotiating
14 unit.

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

18 (d) Nothing in this chapter prohibits recognition of an orga-
19 nization as the exclusive representative by a board by mutual consent.

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

27 (f) Nothing in this section shall be construed to prevent non-
28 certificated employees or certificated administrative personnel groups
29 from having the right to negotiate independent of the other personnel

1 if they choose to do so as the result of a secret ballot. If noncer-
2 tificated or certificated administrative personnel seek to negotiate
3 independent of other certificated employees, the educational employees
4 labor relations agency shall view the submitted representation
5 petition and, if 25 percent of the employees in a proper negotiating
6 unit sign the petition, shall conduct a representation election.

7 * Sec. 5. Nothing in this Act terminates or modifies an existing nego-
8 tiating unit or agreement if the unit or agreement is in effect on the
9 effective date of this Act.

10 * Sec. 6. AS 14.20 is amended by adding a new section to read:

11 Sec. 14.20.565. NEGOTIATION MEETINGS. (a) A school board
12 shall, upon the written request of the employee bargaining organiza-
13 tion, meet with the representative of the organization within 20 days
14 of the request at a time and place to be mutually agreed upon. In the
15 same manner, representatives of an employee bargaining organization
16 are required to meet with a school board or its representatives within
17 20 days after receiving a written request.

18 (b) The negotiating meeting may be held in executive session
19 upon mutual agreement of both parties, but all final agreements shall
20 be made at a public meeting of the school board.

21 * Sec. 7. AS 14.20.570 is amended to read:

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

27 (1) Within seven days of the certification the requesting
28 party shall ask the United States Federal Mediation and Conciliation
29 Service to serve as the agency to resolve the dispute. The requesting

1 party shall notify the educational employees labor relations agency
2 that the parties have requested a mediator.

3 (2) The mediator shall chair all mediation meetings between
4 the disputing parties and attempt to resolve the differences between
5 the disputing parties and reach common acceptance of terms and condi-
6 tions or other items in dispute wherever possible.

7 [(3) WITHIN 30 DAYS OF THE INITIAL MEETING OF THE PARTIES
8 TO THE DISPUTE THE MEDIATOR SHALL HAVE REDUCED ALL THE AGREED TERMS,
9 CONDITIONS AND OTHER ITEMS TO A WRITTEN CONTRACT. IF MUTUALLY AGREED
10 THE PERIOD FOR REPORTING THE CONTRACT TO BOTH PARTIES MAY BE EXTEND-
11 ED.]

12 (4) Each party to the dispute may select a team [OF NOT
13 MORE THAN FIVE PERSONS] to present the evidence, thinking and position
14 of the group they represent, to the mediator.

15 (b) If the mediation meetings are held during the school day,
16 teachers representing an employee bargaining agency shall be released
17 from classroom or other assigned duties without penalty or loss of
18 pay.

19 * Sec. 8. AS 14.20.580 is repealed and reenacted to read:

20 Sec. 14.20.580. ^{Continued Impasse} ~~MEDIATION FAILURE~~. The mediator shall notify
21 the agency when the parties jointly agree, or when the mediator
22 independently determines, that further mediation would not promote
23 resolution of the dispute. Following mediation, the parties shall
24 observe a 10-day cooling-off period.

25 * Sec. 9. AS 14.20 is amended by adding new sections to read:

26 ^{Change} } Sec. 14.20.581. LOCAL OPTION. (a) If a dispute still exists
27 (3) } following the period described in AS 14.20.580, the board shall meet
28 } and, by written resolution, decide whether to allow the employees to
29 } engage in an unlimited strike, as described in AS 14.20.582(a),

1 whether to allow the employees to engage in a limited strike, as
2 described in AS 14.20.582(b), or whether the parties shall immediately
3 submit to mediated arbitration under AS 14.20.583.

4 (b) Any resolution adopted in accordance with this section is
5 binding until an agreement is reached.

6 Sec. 14.20.582. EMPLOYEE STRIKES. (a) If the board adopts a
7 resolution which authorizes employees to engage in an unlimited
8 strike, the employees may engage in a strike if a majority of the
9 employees in the negotiating unit elect to do so.

10 (a) If the board adopts a resolution which authorizes employees
11 to engage in a limited strike, the employees may engage in a limited
12 strike if a majority of the employees in the negotiating unit elect to
13 do so. A limited strike may not exceed ²¹~~45~~ calendar days. If no
14 agreement is obtained within ²¹~~45~~ days, the parties shall submit to
15 arbitration under AS 14.20.583.

16 (b) If employees elect not to strike in the election described
17 in (a) or (b) of this section, the board is not required to partici-
18 pate in arbitration, *however the parties may request continued*
assistance from the LIRA in resolution of the dispute.

19 (c) During a strike described in (a) ~~or (b)~~ of this section, an
20 aggrieved person may apply to the superior court in the judicial
21 district in which the strike is occurring for an order enjoining the
22 strike. A strike may not be enjoined unless it can be shown that it
23 has begun to threaten the health, safety or welfare of the public. A
24 court, in deciding whether or not to enjoin the strike, shall consider
25 the total equities in the particular class. "Total equities" includes
26 not only the impact of a strike on the public but also the extent to
27 which employee organizations and public employers have met their
28 statutory obligations. If an impasse or deadlock still exists after
29 the issuance of an injunction, the parties shall submit to arbitration

1 under AS 14.20.583.

2 (d) The educational employees labor relations agency shall
3 ~~establish procedures under which the bargaining agent shall~~
4 conduct the election described in this section.

5 Sec. 14.20.583. ARBITRATION. (a) The parties shall submit to
6 mediated arbitration if the board adopts a resolution under AS 14.20.-
7 581 which precludes an employee strike, or if arbitration results
8 under AS 14.20.582(B) or AS 14.20.582(C). Mediated arbitration means
9 that the arbitrator may propose compromise positions to points in
10 dispute as part of the arbitration process. Each party shall agree to
11 the decision prepared by the arbitrator.

12 (b) An agreement between a board and an employee group must
13 include a procedure to promptly select an arbitrator. However, if
14 ~~there is no~~ ^{are unable to agree on a} contractual provision which provides for the selection of
15 an arbitrator, the educational employee labor relations agency shall
16 ~~provide the parties a list of seven arbitrators, each of who must~~
17 ~~reside in Alaska. The educational employee labor relations agency~~
18 ~~shall define a system for the parties to select an arbitrator from the~~
19 ~~submitted list.~~ ^{direct} ^{and (c)}

20 (c) Within five days after the arbitrator has been selected, the
21 board and the employee organization must present to the arbitrator its
22 facts with respect to the items in dispute.

23 (d) The arbitrator shall issue a ^{final and binding} decision ~~not more than 10 days~~
24 after the parties have presented their ^{oral written} arguments.

25 (e) ^{add new e} The parties shall share the cost of the arbitrator equally.

26 * Sec. 10. AS 14.20.590 is amended to read:

27 Sec. 14.20.590. GRIEVANCE PROCEDURES. Negotiations agreements
28 executed after July 1, 1975 shall define "grievances" and provide for
29 grievance procedures [FOR THE CERTIFICATE STAFF]. The grievance
procedures shall provide that the final step in the procedure shall be

1 binding arbitration. The negotiations agreement shall provide a
2 method for the selection of an arbitrator to resolve grievances.

3 * Sec. 11. AS 14.20.600 is amended to read:

4 Sec. 14.20.600. INDIVIDUAL RIGHTS [CASES]. (a) Nothing in
5 AS 14.20.550 -- 14.20.590 prohibits an employee from addressing a
6 school board, as an individual, through the regular procedures of the
7 school board for hearing individual cases.

8 (b) The educational employees labor relations agency shall
9 prescribe a manner consistent with the purposes of AS 14.20.550 --
10 14.20.610 to safeguard the rights of nonassociation of employees
11 having bona fide religious convictions.

12 * Sec. 12. AS 14.20 is amended by adding new sections to read:

13 Sec. 14.20.605. EDUCATIONAL EMPLOYEE LABOR RELATIONS AGENCY.

14 (a) There is established an educational employee labor relations
15 agency which consists of five members. The three members of the state
16 labor relations agency (AS 23.40) are members of the educational
17 employee labor agency. The governor shall appoint two additional
18 *one each from lists submitted by the NEA AK and AASB and*
19 members to the agency, each of who must have at least three years
20 experience in matters relating to education in Alaska. The two guber-
21 natorial appointees to the educational employees labor relations
22 agency serve at the pleasure of the governor.

23 (b) Members of the educational employees labor relations agency
24 receive no compensation for their services, but are entitled to per
25 diem and travel expenses authorized for boards and commissions.

26 (c) The educational employees labor relations agency may employ
27 staff assistance as it considers necessary to implement the provisions
28 of AS 14.20.550 -- 14.20.610.

29 Sec. 14.20.606. POWER TO IMPLEMENT NEGOTIATIONS. (a) The
educational employees labor relations agency shall perform the

1 functions described in AS 23.40.120 -- 23.40.180 to carry out the
2 provisions of AS 14.20.550 -- 14.20.610.

3 (b) The unfair labor practices described in AS 23.40.110 apply
4 to a board and an employee organization.

5 * Sec. 13. AS 14.20.610 is amended to read:

6 Sec. 14.20.610. LEGAL RESPONSIBILITIES OF BOARDS. Nothing in
7 AS 14.20.550 -- 14.20.600 may be construed as an abrogation or delega-
8 tion of the legal responsibilities, powers, and duties of the school
9 board including its right to make final decisions on educational
10 policies.

11 * Sec. 14. This Act takes effect immediately in accordance with AS 01.-
12 10.070(c).

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

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: January 24, 1984

REQUEST

Bill/Resolution No.: SR 78
Title: "An Act making the Public
Employment Relations Act..."
Sponsor: Senator Kertulla
Requestor: Senate HESS Committee
Date of Request: February 3, 1983

FISCAL DETAIL

Agency Affected: Labor
Program Category Affected: Public
Protection
BRU, Program or Subprogram(s) Affected:
Labor Standards and Safety BRU
Wage and Hour Component

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 |
|-----------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | 280.0 | 296.8 | 314.6 | 333.5 | 353.5 |
| 200 TRAVEL | | 58.2 | 61.7 | 65.4 | 69.3 | 73.5 |
| 300 CONTRACTUAL | | 124.5 | 132.0 | 139.9 | 148.3 | 157.2 |
| 400 SUPPLIES | | 4.5 | 4.8 | 5.1 | 5.4 | 5.7 |
| 500 EQUIPMENT | | 11.2 | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | 473.4 | 495.3 | 525.0 | 556.5 | 589.9 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|-------|-------|-------|-------|-------|
| GENERAL FUND | | 473.4 | 495.3 | 525.0 | 556.5 | 589.9 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | 473.4 | 495.3 | 525.0 | 556.5 | 589.9 |

POSITIONS:

| | | | | | | |
|-----------|--|---|---|---|---|---|
| FULL-TIME | | 7 | 7 | 7 | 7 | 7 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert J. Bacolas, Sr. *R. Bacolas* Phone: 465-4870
Division: Labor Standards and Safety Date: _____

Approved by Commissioner: Jim Robinson *Jim Robinson* Date: 2/14/84
Agency: Labor

LEG:A:33

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE
BILL/RESOLUTION NO: SB 78
TITLE: "An Act making the Public Employment Relations Act..."
AGENCY AFFECTED: Department of Labor
Page 2

Detail Analysis for Senate Bill 78

Five investigators are required to conduct the investigations, attend the elections, and hold informal hearings. Three will be located in Anchorage, which will be the control office and handle the south central and western portions of the State, one in Juneau for the southeast, and one in Fairbanks for the central and northern areas. Two clerical staff, situated in Anchorage, will provide technical support for the investigators.

In addition to the costs associated with the five Wage and Hour Investigators and two clerical support positions are costs to contract for a hearing officer on 26 occasions (\$20,700) and court reporting services including transcripts (\$11,300), plus priority and legal costs (\$7,000). A total of \$6,700 has been included in travel for the hearing officer's transportation and per diem (10 trips of two days each - transportation average \$490, per diem average \$180).

Of these costs, only the equipment of \$11,200 is a one-time expense.

Assumptions:

1. An inflation rate of 6% per annum (FY '86 through FY '89 only).
2. An effective date of July 1, 1984.
3. Contracts for 26 school districts will come up for negotiations each year.
4. Fifty percent of the school districts (equates to approximately 26) will file unfair labor practice charges requiring hearing before the labor relations board. (Average hearing lasts six weeks).

LEG:A:33

| | | | | | | | | | | |
|---|----------------------------|--------------------|--------------------|-------------------|---|-----------------------|-------------------|------|---------|---------|
| 1 | Position Title Clerk IV | | | | Range/Step 9B | Barg. Unit GGU | Form 1? Page/Line | GOV. | APPROV. | DISAPP. |
| 2 | Type of Position PFT | Staff Months 12 | RP Number SB 78 | PCN Number New | BRII Priority | Location Anchorage | Election District | LEG. | | |
| 3 | CONTINUATION LEVEL | | ADDITION | | JUSTIFICATION | | | | | |
| 4 | Type of Expenditure | | Amount | | <p>This position will provide lead clerical support for five Wage and Hour Investigators.</p> <p>Personal services calculations are based on the current salary schedule adjusted 5% for inflation.</p> <p>Contractual services are comprised of telephone charges, word processing equipment rent, management services support of \$2,570, \$3,600 for space rent, etc.</p> <p>One-time equipment costs are for a desk, file, recorder and a hookcase.</p> | | | | | |
| | 1 | 2 | 3 | | | | | | | |
| | PERSONAL SERVICES | | | | | | | | | |
| 5 | Salary | 21,420 | | | | | | | | |
| 6 | Benefits | 3,577 | | | | | | | | |
| 7 | Supplemental Benefits | 1,313 | | | | | | | | |
| 8 | Fixed Benefits | 2,724 | | | | | | | | |
| 9 | TOTAL PERSONAL SERVICES | 01 | 29,034 | | | | | | | |
| 10 | Travel | 02 | -0- | | | | | | | |
| 11 | Contractual | 03 | 13,170 | | | | | | | |
| 12 | Commodities | 04 | 1,000 | | | | | | | |
| 13 | Equipment | 05 | 1,600 | | | | | | | |
| 14 | Other | | | | | | | | | |
| 15 | TOTAL COST | | 44,804 | | | | | | | |
| | RECEIPT CODE | FUNDING SOURCE | | | | | | | | |
| 16 | | Federal Receipts | 1002 | | | | | | | |
| 17 | | G.F. Match | 1003 | | | | | | | |
| 18 | 100 | General Funds | 1004 | 44,804 | | | | | | |
| 19 | | I-A Receipts | 1005 | | | | | | | |
| 20 | | Program Receipts | 1028 | | | | | | | |
| 21 | | Other | | | | | | | | |
| For M&B Use Only 4A Key Number _____ | | | | | | | | | | |

13 REQUEST FOR NEW POSITION

AGENCY Labor _____
PROGRAM Worker Protection _____
BRII Labor Standards and Safety _____
COMPONENT Wage and Hour _____

FF 85

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Revised Date _____

LEG:F:3

| | | | | | | | | | | |
|---|-----------------------------------|--------------------|--------------------|-------------------|------------------|--|-------------------|------|---------|---------|
| 1 | Position title Clerk Typist II | | | | Range/Step 7B | Barg. Unit GGU | Form 12 Page/Line | GOV. | APPROV. | DISAPP. |
| 2 | Type of Position PFT | Staff Months 12 | RP Number SB 78 | PCN Number New | BRIJ Priority | Location Anchorage | Election District | LEG. | | |
| 3 | CONTINUATION LEVEL | | ADDITION | | X | | | | | |
| 4 | Type of Expenditure | | Amount | | | JUSTIFICATION | | | | |
| | 1 | 2 | 3 | | | This position will provide clerical support for five Wage and Hour investigators. | | | | |
| | PERSONAL SERVICES | | | | | Personal services calculations are based on the current salary schedule adjusted 5% for inflation. | | | | |
| 5 | Salary | 19,026 | | | | Contractual services are comprised of telephone charges, word processing equipment rent, management services support of \$2,570, space rent of \$3,600, etc. | | | | |
| 6 | Benefits | 3,177 | | | | One-time equipment costs are for a desk, file, transcriber, partitions, and a bookcase. | | | | |
| 7 | Supplemental Benefits | 1,166 | | | | | | | | |
| 8 | Fixed Benefits | 2,724 | | | | | | | | |
| 9 | TOTAL PERSONAL SERVICES | 01 | 26,093 | | | | | | | |
| 10 | Travel | 02 | -0- | | | | | | | |
| 11 | Contractual | 03 | 13,731 | | | | | | | |
| 12 | Commodities | 04 | 1,000 | | | | | | | |
| 13 | Equipment | 05 | 1,600 | | | | | | | |
| 14 | Other | | | | | | | | | |
| 15 | TOTAL COST | | 42,424 | | | | | | | |
| | RECEIPT CODE | FUNDING SOURCE | | | | | | | | |
| 16 | | Federal Receipts | 1002 | | | | | | | |
| 17 | | G.F. Match | 1003 | | | | | | | |
| 18 | 100 | General Funds | 1004 | 42,424 | | | | | | |
| 19 | | I-A Receipts | 1005 | | | | | | | |
| 20 | | Program Receipts | 1028 | | | | | | | |
| 21 | | Other | | | | | | | | |
| For M&B Use Only 4A Key Number _____ | | | | | | | | | | |

13 REQUEST FOR NEW POSITION

AGENCY Labor
PROGRAM Worker Protection
BRIJ Labor Standards and Safety
COMPONENT Wage and Hour

FY 85

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Revised Date

LEG:F:4

| | | | | | | | | | |
|--------------------------------|-----------------------|-----------|------------|---|------------|-------------------|------|--------|---------|
| Position Title | | | | Range/Step | Barg. Unit | Form 12 Page/Line | GOV. | APPROV | DISAPP. |
| 1 Wage and Hour Investigator I | | | | 16A | GGII | | | | |
| Type of Position | Staff Months | RP Number | PCN Number | BRU Priority | Location | Election District | LEG. | | |
| 2 PFT | 12 | SR 78 | New | | Fairbanks | | | | |
| 3 CONTINUATION LEVEL | | ADDITION | | JUSTIFICATION | | | | | |
| 4 Type of Expenditure | | Amount | | <p>This position will conduct investigations and informal hearing of unfair labor practices complaints regarding school districts filed with this agency. The investigation will travel extensively throughout the state performing these investigations and hearings.</p> <p>Personal services calculations are based on current salary schedules plus 5% inflation.</p> <p>Travel funds allow for twelve four-day trips costing an average of \$520 transportation and 360 per diem (\$90 X 4 days) per trip.</p> <p>Contractual services are comprised of telephone charges, equipment rent, management services costs of \$4,483, space rent of 3,600, etc.</p> <p>Equipment costs one-time purchases for a desk, chair, partitions, file, etc.</p> | | | | | |
| 1 | | 2 | 3 | | | | | | |
| PERSONAL SERVICES | | | | | | | | | |
| 5 Salary | | 37,359 | | | | | | | |
| 6 Benefits | | 6,239 | | | | | | | |
| 7 Supplemental Benefits | | 2,290 | | | | | | | |
| 8 Fixed Benefits | | 2,724 | | | | | | | |
| 9 TOTAL PERSONAL SERVICES | | 41 | 48,612 | | | | | | |
| 10 Travel | | 02 | 10,560 | | | | | | |
| 11 Contractual | | 03 | 10,083 | | | | | | |
| 12 Commodities | | 04 | 500 | | | | | | |
| 13 Equipment | | 05 | 1,600 | | | | | | |
| 14 Other | | | | | | | | | |
| 15 TOTAL COST | | | 71,355 | | | | | | |
| RECEIPT CODE | FUNDING SOURCE | | | | | | | | |
| 16 | Federal Receipts 1002 | | | | | | | | |
| 17 | G.F. Match 1003 | | | | | | | | |
| 18 100 | General Funds 1004 | | 71,355 | | | | | | |
| 19 | I-A Receipts 1005 | | | | | | | | |
| 20 | Program Receipts 1028 | | | | | | | | |
| 21 | Other | | | | | | | | |
| For M&B Use Only | | | | | | | | | |
| 4A Key Number _____ | | | | | | | | | |

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

FY 85

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Revised Date

LEG:F:5

| | | | | | | | | | |
|--------------------------------|--------------|------------------|------------|--|------------|-------------------|------|---------|---------|
| Position Title | | | | Range/Step | Barg. Unit | Form 12 Page/Line | GOV. | APPROV. | DISAPP. |
| 1 Wage and Hour Investigator I | | | | 16A | GGII | | | | |
| Type of Position | Staff Months | RP Number | PCN Number | BRIJ Priority | Location | Election District | LEG. | | |
| 2 PFT | 12 | SB 78 | New | | Anchorage | | | | |
| 3 CONTINUATION LEVEL | | ADDITION | | JUSTIFICATION | | | | | |
| 4 Type of Expenditure | | Amount | | <p>This position will conduct investigations and informal hearings of unfair labor practices complaints regarding school districts filed with this agency. The investigation will travel extensively throughout the state performing these investigations and hearings.</p> <p>Personal services calculations are based on current salary schedules plus 5% inflation.</p> <p>Travel funds allow for twelve four-day trips costing an average of \$500 transportation and 360 per diem (\$90 X 4 days) per trip.</p> <p>Contractual services are comprised of telephone charges, equipment rent, management services costs of \$3,890.</p> <p>Equipment costs are one-time purchases for a desk, chair, partition file, etc.</p> | | | | | |
| 1 | | 3 | | | | | | | |
| PERSONAL SERVICES | | | | | | | | | |
| 5 Salary | 32,420 | | | | | | | | |
| 6 Benefits | 5,414 | | | | | | | | |
| 7 Supplemental Benefits | 1,987 | | | | | | | | |
| 8 Fixed Benefits | 2,724 | | | | | | | | |
| 9 TOTAL PERSONAL SERVICES | 01 | 42,545 | | | | | | | |
| 10 Travel | 02 | 10,296 | | | | | | | |
| 11 Contractual | 03 | 9,490 | | | | | | | |
| 12 Commodities | 04 | 500 | | | | | | | |
| 13 Equipment | 05 | 1,600 | | | | | | | |
| 14 Other | | | | | | | | | |
| 15 TOTAL COST | | 64,431 | | | | | | | |
| RECEIPT CODE | | FUNDING SOURCE | | | | | | | |
| 16 | | Federal Receipts | 1002 | | | | | | |
| 17 | | G.F. Match | 1003 | | | | | | |
| 18 | 100 | General Funds | 1004 | 64,431 | | | | | |
| 19 | | I-A Receipts | 1005 | | | | | | |
| 20 | | Program Receipts | 1028 | | | | | | |
| 21 | | Other | | | | | | | |
| For M&B Use Only | | | | | | | | | |
| 4A Key Number | | | | | | | | | |

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRIJ Labor Standards and Safety

COMPONENT Wage and Hour

FY 85

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Revised Date

LEG:F:6

| | | | | | | | | | | |
|---|--|--------------------|--------------------|-------------------|-------------------|--|-------------------|------|---------|---------|
| 1 | Position Title Wage and Hour Investigator I | | | | Range/Step 16A | Barg. Unit GGU | Form 1? Page/Line | GOV. | APPROV. | DISAPP. |
| 2 | Type of Position PET | Staff Months 12 | RP Number SB 78 | PCN Number New | BRU Priority | Location Anchorage | Election District | LEG. | | |
| 3 | CONTINUATION LEVEL | | ADDITION | | X JUSTIFICATION | | | | | |
| 4 | Type of Expenditure | | Amount | | | <p>This position will conduct investigations and informal hearings of unfair labor practices complaints regarding school districts filed with this agency. The investigation will travel extensively throughout the state performing these investigations and hearings.</p> <p>Personal services calculations are based on current salary schedules plus 5% inflation.</p> <p>Travel funds allow for twelve four-day trips costing an average of \$500 transportation and 360 per diem (\$90 X 4 days) per trip.</p> <p>Contractual services are comprised of telephone charges, equipment rent, management services costs of \$3,890, space rent of \$3,600, etc.</p> <p>Equipment costs are one-time purchases for a desk, chair, partitions, file, etc.</p> | | | | |
| | 1 | 2 | 3 | | | | | | | |
| | PERSONAL SERVICES | | | | | | | | | |
| 5 | Salary | 32,420 | | | | | | | | |
| 6 | Benefits | 5,414 | | | | | | | | |
| 7 | Supplemental Benefits | 1,987 | | | | | | | | |
| 8 | Fixed Benefits | 2,724 | | | | | | | | |
| 9 | TOTAL PERSONAL SERVICES | 01 | 42,545 | | | | | | | |
| 10 | Travel | 02 | 10,296 | | | | | | | |
| 11 | Contractual | 03 | 9,490 | | | | | | | |
| 12 | Commodities | 04 | 500 | | | | | | | |
| 13 | Equipment | 05 | 1,600 | | | | | | | |
| 14 | Other | | | | | | | | | |
| 15 | TOTAL COST | | 64,431 | | | | | | | |
| | RECEIPT CODE | FUNDING SOURCE | | | | | | | | |
| 16 | | Federal Receipts | 1002 | | | | | | | |
| 17 | | G.F. Match | 1003 | | | | | | | |
| 18 | 100 | General Funds | 1004 | 64,431 | | | | | | |
| 19 | | I-A Receipts | 1005 | | | | | | | |
| 20 | | Program Receipts | 1028 | | | | | | | |
| 21 | | Other | | | | | | | | |
| For M&B Use Only 4A Key Number _____ | | | | | | | | | | |

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

FY 85

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Revised Date

LEG:F:7

| | | | | | | | | | | |
|---|--|--------------------|--------------------|-------------------|--|--------------------|-------------------|------|---------|---------|
| 1 | Position title Wage and Hour Investigator I | | | | Range/Step 16A | Barg. Unit GGU | Form 1? Page/Line | GOV. | APPROV. | DISAPP. |
| 2 | Type of Position PFT | Staff Months 12 | RP Number SB 78 | PCN Number New | BRU Priority | Location Juneau | Election District | LEG. | | |
| 3 | CONTINUATION LEVEL | | ADDITION | | JUSTIFICATION | | | | | |
| 4 | Type of Expenditure | | Amount | | <p>This position will conduct investigations and informal hearings of unfair labor practices complaints regarding school districts filed with this agency. The investigation will travel extensively throughout the state performing these investigations and hearings.</p> <p>Personal services calculations are based on current salary schedules plus 5% inflation.</p> <p>Travel funds allow for twelve four-day trips costing an average of \$475 transportation and \$360 per diem (\$90 X 4 days) per trip.</p> <p>Contractual services are comprised of telephone charges, equipment rent, management services costs of \$3,890, space rent of \$3,600, etc.</p> <p>Equipment costs are one-time purchases for a desk, chair, partitions, file, etc.</p> | | | | | |
| | 1 | 2 | 3 | | | | | | | |
| | PERSONAL SERVICES | | | | | | | | | |
| 5 | Salary | 32,420 | | | | | | | | |
| 6 | Benefits | 5,414 | | | | | | | | |
| 7 | Supplemental Benefits | 1,987 | | | | | | | | |
| 8 | Fixed Benefits | 2,724 | | | | | | | | |
| 9 | TOTAL PERSONAL SERVICES | 01 | 42,545 | | | | | | | |
| 10 | Travel | 02 | 10,032 | | | | | | | |
| 11 | Contractual | 03 | 9,490 | | | | | | | |
| 12 | Commodities | 04 | 500 | | | | | | | |
| 13 | Equipment | 05 | 1,600 | | | | | | | |
| 14 | Other | | | | | | | | | |
| 15 | TOTAL COST | | 64,167 | | | | | | | |
| | RECEIPT CODE | FUNDING SOURCE | | | | | | | | |
| 16 | | Federal Receipts | 1002 | | | | | | | |
| 17 | | G.F. Match | 1003 | | | | | | | |
| 18 | 100 | General Funds | 1004 | 64,167 | | | | | | |
| 19 | | I-A Receipts | 1005 | | | | | | | |
| 20 | | Program Receipts | 1028 | | | | | | | |
| 21 | | Other | | | | | | | | |
| For M&B Use Only 4A Key Number _____ | | | | | | | | | | |

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

FY 85

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| | | | | | | | | | |
|---------------------------------|--------------|-----------|------------|------------------|------------|-------------------|------|---------|---------|
| Position Title | | | | Range/Step | Barg. Unit | Form 12 Page/Line | GOV. | APPROV. | DISAPP. |
| 1 Wage and Hour Investigator II | | | | 19A | GGU | | | | |
| Type of Position | Staff Months | RP Number | PCN Number | BRU Priority | Location | Election District | LEG. | | |
| 2 PFT | 12 | SB 73 | New | | Anchorage | | | | |
| 3 CONTINUATION LEVEL | | | | ADDITION | | X | | | |
| 4 Type of Expenditure | | | | Amount | | | | | |
| 1 | | | | 2 | | 3 | | | |
| PERSONAL SERVICES | | | | | | | | | |
| 5 Salary | | | | 37,359 | | | | | |
| 6 Benefits | | | | 6,239 | | | | | |
| 7 Supplemental Benefits | | | | 2,290 | | | | | |
| 8 Fixed Benefits | | | | 2,724 | | | | | |
| 9 TOTAL PERSONAL SERVICES | | | | 01 | | 48,612 | | | |
| 10 Travel | | | | 02 | | 10,296 | | | |
| 11 Contractual | | | | 03 | | 10,083 | | | |
| 12 Commodities | | | | 04 | | 500 | | | |
| 13 Equipment | | | | 05 | | 1,600 | | | |
| 14 Other | | | | | | | | | |
| 15 TOTAL COST | | | | | | 71,091 | | | |
| RECEIPT CODE | | | | FUNDING SOURCE | | | | | |
| 16 | | | | Federal Receipts | | 1002 | | | |
| 17 | | | | G.F. Match | | 1003 | | | |
| 18 100 | | | | General Funds | | 1004 71,091 | | | |
| 19 | | | | I-A Receipts | | 1005 | | | |
| 20 | | | | Program Receipts | | 1028 | | | |
| 21 | | | | Other | | | | | |
| For M&B Use Only | | | | | | | | | |
| 4A Key Number _____ | | | | | | | | | |

JUSTIFICATION

This supervisory position will conduct investigations and informal hearings of unfair labor parties complaints filed with this agency. The investigator will travel extensively throughout the state performing these investigations and hearings.

Personal services calculations are based on current salary schedules plus 5% inflation.

Travel funds allow for twelve four-day trips costing an average of \$498 transportation and \$360 per diem (\$90 X 4 days) per trip.

Contractual services are comprised of telephone charges, equipment rent, management services costs of \$4,483, space rent of \$3,600, etc.

One-time equipment charges include a desk, chair, file, partitions, etc.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

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Changes begin page 6, section 8

added "after public hearing" lines 3-4 and "last best offer" to the term mediated arbitration.

deleted "limited" on line 5 and added "right to.."

lines 12-13, page 6 deleted "limited" when used with strike.

line 7, page 7 added "last best offer" to mediated arbitration.

Page 7, subsection (b) is new - describes the process for last best offer mediated arbitration:

1. Each party submits an offer on all items of dispute.
2. Each party submits oral and written arguments to the arbitrator and is given opportunity to respond to the presentation of the other party.
3. The arbitrator may propose compromises.
4. Either party or the arbitrator may call for public hearing for the purpose of allowing each party to explain their position and final offers.
5. The arbitrator will allow each party to revise its last best offer before final submission.

(c) is the same

(d) the arbitrator shall accept the last best offer of one party without modification, and shall issue a binding decision within 10 days after submission of the final offer.

Section 13, page 11 Added "last best offer" and "right to strike" to line 29.

MEMORANDUM

FROM: Senator Josephson
DATE: March 26, 1984
RE: Analysis of CSSB 78 (Rules)

ANALYSIS OF CSSB 78 (RULES)

This outline reviews some problems under the Rules Committee version of CSSB 78 (hereinafter called "Rules").

I. "Rules" denies to teachers and school boards alike the ability to employ the right to strike as an alternative to arbitration. Cf. "HESS", which allows school boards -- not teachers -- the right to choose between the arbitration mode and the strike mode. Note: we have a current situation in Alaska (Anchorage Community College) in which the employer is saying that the teachers ought to have the unlimited right to strike!

II. "Rules" affords no reasonable finality to the bargaining process. Under "Rules", an arbitrator's award must be confirmed by the legislature (in the case of an REAA), or by the municipal assembly or city council (in the case of a home rule municipality, borough, or city). This confirmation by a political body is in addition to the judicial review provided for. Note: the arbitrator's award is submitted to the assembly or legislature even when the arbitrator has accepted the proposal of the school board and has rejected the proposal of the teachers! Note: in many cases, the award of the arbitrator may actually confirm agreements of the parties; even so, the arbitrator's

award would require legislative confirmation. The "Rules" bill would involve the legislative branch in minutiae. It would put local school boards under more direct control of local assemblies and city council. In the case of REAAs, it would intrude an urban-influenced legislature into the affairs of local school governance.

III. "Rules" make no provision in case the legislature or assembly or city council reject the arbitrator's award. If an award is disapproved, "Rules" says the dispute is remanded to the arbitrator again. But what does the arbitrator do? Does the arbitrator accept the offer the arbitrator previously rejected? Do the parties make new proposals? Does the arbitrator create a package of the arbitrator's own creation? Is the second arbitrator's award also to be reviewed by the assembly, council, or legislature? If so, is it also subject to remand upon disapproval?

IV. "Rules" promotes divisiveness at the local or legislative level. In my opinion, passage of "Rules" will create disharmony between municipal assemblies and school boards, and directly and indirectly involve assemblies in the work of school boards and school administrators -- something that our state local government code and our home rule charters did not intend.

V. "Rules" bill defines grievances too narrowly. "Rules" would limit grievances to issues of "misapplication or misinterpretation of the terms and conditions of a negotiated agreement." Example: The Department of Education (DOE) has regulations governing sexual harassment in the school workplace. "Rules" would not allow an employee to grieve an alleged violation of the state regulations or of adopted school policies. The employee would be caught in a "Catch 22" situation. The employee would not be allowed to grieve such a

case, unless the regulation were part of the negotiated agreement. But the regulation could not be part of the negotiated agreement because it concerns a 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 14.10.615(2) of "Rules".

VII. "Rules" restricts arbitration to "salary and monetary items"; thus, the proposal process may not solve a dispute because non-economic issues would be left outstanding, with teachers having neither the right to bargain nor the right to strike.

VIII. "Rules" Sec. 12(b) makes non-negotiable certain conditions of employment that have been traditionally negotiable, e.g., promotions, discipline, transfer, dismissal, and reduction-in-force. Example: Some contracts call for reductions to be made according to seniority principles; others call for reductions to be made by consideration of staff certification and staff preparation to teach particular subjects. Under "Rules", the contractual provisions would no longer be possible. Another example: At present, some contracts require that teachers be given notice of and an opportunity to apply for vacancies at the administrative level. Under "Rules", contracts could not contain such assurances.

(AS 23.40.070-.260) - 1972

Amends PERA to include public school district employees
(* this bill is slightly ambiguous on classified employees, but they are included in PERA in SB 104)

23.40.070 DECLARATION OF POLICY

Statement that joint decision making is good for government and causes employees to be more responsive. The desire is to provide harmonious relationships.

- (1) Recognizes right of employees to organize and negotiate.
- (2) Requires employees to negotiate and enter into written agreements on terms and conditions of employment.
- (3) Maintains merit system principles.

23.40.080 RIGHTS OF PUBLIC EMPLOYEES

Establishes right of public employees to organize, negotiate, and engage in concerned activities in their self-interest.

23.40.090 COLLECTIVE BARGAINING UNIT

Establishes the authority of the Labor Relations agency to make determinations on the appropriate collective bargaining unit.

23.40.100 REPRESENTATIVES AND ELECTIONS

- (a) LRA to investigate a petition for certification as a bargaining agent.
 - (1) Petition must contain 30% of the proposed bargaining unit.
 - (A) Must state that employees want to be represented by a labor organization.

(OR)

- (B) Assent that the current representation is no longer representative of a majority in the unit.
- (2) Petition by employees if their is a clause that 1 or more organizations desire recognition of employees in an appropriate unit.
- (b) If LRA finds reasonable cause for representations it may hold a hearing, investigate and conduct a secret ballot election. This section also provides for a consent election. The organization with a majority of the votes cast will be certified as the bargaining agent.
- (c) Only one election may be held in a 12 month period.
- (d) Prevides for mutual consent recognition.
- (e) An election may be barred for up to 3 years by agreement. The challenge period is 90 days prior to expiration.

23.40.110 UNFAIR LABOR PRACTICES

- (a) Employees or Agent may not:
 - (1) interfere, restrain, or coerce employees
 - (2) dominate or interfere with the bargaining agent
 - (3) discriminate in hiring, firing, terms of employment or membership in the organization
 - (4) discharge or discriminate against an employee for union activities
 - (5) refuse to negotiate in good faith
- (b) Enabling legislation permitting the parties to agree to:
 - (1) Closed shop
 - (2) Agency fee

(c) An employee organization may not:

(1) Restrain or coerce

(A) An employee or

(B) An employer in the choice of the employer's agent or representative.

(2) Refuse to negotiate in good faith

23.40.120 INVESTIGATION AND CONCILIATION OF COMPLAINTS

Establishes authority of LRA to investigate and attempt to resolve unfair labor practice allegations.

23.40.130 COMPLAINT AND ACCUSATION

If there is no informal resolution to an ULP allegation, adjudication shall be in accordance with the Administrative Procedures Act (AS 44.62).

23.40.140 ORDERS AND DECISIONS

Grants authority to LRA to issue cease and desist order or dismiss a complaint.

23.40.150 ENFORCEMENT BY INJUNCTION

LRA may through Superior court, seek an order restraining prohibited practices.

23.40.160 POWER TO INVESTIGATE AND COMPEL TESTIMONY

(a) The LRA may subpoena witnesses and evidence and compel attendance.

(b) LRA may administer oaths, receive evidence.

(c) Attendance of witness and production of evidence may be compelled.

(d) A person refusing a subpoena may be ordered to comply through Superior Court.

23.40.170 REGULATIONS

The LRA may adopt regulations as per the Administrative Procedures Act. (AS 44.62)

23.40.180 PENALTY FOR VIOLATION OF ORDER OR DECISION

A person violating an order is guilty of a misdemeanor and may be fined up to \$50.00.

23.40.190 MEDIATION

If after a reasonable time of negotiations there exists an impasse the LRA may appoint a mediator or the parties may mutually select a mediator.

23.40.200 ARBITRATION

(a) Classifies employees

(1) Services which cannot be interrupted by strike.

(2) Services which could have a limited strike.

(3) Services which could be sustained during a strike.

(b) Define class (a) (1) as police, fire, jail, hospital and other institutional employees. Precludes a strike, provides for arbitration under AS 09.43.030 if mediation does not settle the dispute.

SEC 1: Amends 23.40.200 (b) to include certificated employees of school districts in class (a) (1)

- (c) Defines class (a) (2) as public utility, snow removal, sanitation and public school and other educational institutional employees. Provides for strike if mediation does not resolve negotiation. The strike may be enjoined through superior court if it threatens the public health, safety, or welfare. If the strike is enjoined the parties shall submit the dispute to arbitration per AS 09.43.030.
- (d) Define (a) (3) to be all other public employees not included in (a) (1) and (2). Provides that these employees may strike, subject to voting requirements.
- (e) Provides for mutually agreed voluntary arbitration on rights disputes.
- (f) Provides that the parties may incorporate or by reference make the Uniform Arbitration Act AS 09.43 a part of the agreement.

SEC 2: Amends 23.40.200 (c) to include by implication, classified employees.

23.40.210 AGREEMENT

Defines an agreement, its maximum length, provides for cost of living differentials, requires a grievance procedure ending in binding arbitration.

23.40.212 AGREEMENT WITH THE BOARD OF REGENTS

- (a) Provides that the Regents may have the Department of Administration negotiate on its behalf.
- (b) Provides that the Department of Administration will participate in Board of Regents-Employee negotiations and an agreement requires approval of the Department.

23.40.218 FUNDING

Provides that an agreement which requires funding is subject to Legislative Approval.

23.40.220 DUES AND BENEFIT DEDUCTIONS AND AUTHORIZATION

Provides for deduction and transmittal of dues upon authorization of employees.

23.40.228 EXEMPTION FROM PERA

A person who is a member of a bona fide religious organization may be exempted from becoming a member of the employee organization upon submission of proof of religious conviction to the LRA-Such an employee shall pay an assessment equivalent to union dues and assessments to the union. The union shall contribute an equivalent amount to a charity of its choice, not affiliated with the union.

23.40.230 ASSISTANCE BY DEPARTMENT OF LABOR

The Department of Labor may assist the personnel board on elections and unfair labor practices if there is no objection from the employee organization.

SEC 3: Adds a new sub-section, 23.40.235 which:

- (a) Precludes a school board from opting out of PERA for certificated school employees.
- (b) Precludes a municipality from opting out of PERA for certificated employees.

23.40.240 EFFECT ON EXISTING UNITS, REPRESENTATIVES, AGREEMENTS

Preserves status quo on passage of the Act.

23.40.245 POSTSECONDARY STUDENT INVOLVEMENT IN COLLECTIVE BARGAINING

- (a) In post-secondary collective bargaining the parties shall permit a student to attend, observe, participate and have access to all documents and information.

- (b) The student may not disclose information unless the parties agree.
- (c) The students of the institution involved shall select their representatives.
- (d) Up to three student representatives may be involved when various geographic areas are effected.

23.40.250 DEFINITIONS

- (1) Collective bargaining-good faith negotiations resulting in an agreement.
- (2) Election-a preceeding to determine the bargaining agent.
- (3) Labor Relations Agency-responsibilities given to Department of Labor for all public employees who are not state employees.
- (4) Organization-Labor or employee organization
- (5) Public Employee-any public employee except elected or appointed officials, teachers, and non-certificated employees of school districts.
- (6) Public Employee-the state or any political subdivision or a person designated to represent same.
- (7) "terms and conditions of employment"- compensation, fringe benefits and employee's personnel policies effecting working condition.

SEC 4: Amends 23.40.250 (5) to include school district employees in the definition of public employee.

SEC 6: Adds a new paragraph (8) to 23.40.250 which defines school district to include REAA.

23.40.260 SHORT TITLE

PERA

SEC 5: Amends 23.40.260 (b) to include school districts in the definition of public employee.

SEC 7: repeals the current teacher bargaining law:
AS 14.20.550-610

SEC 8: Preserves the status quo on all current negotiated agreements, bargaining agents and bargaining units with the passage of the Act.

SEC 9: Provides that the Act take effect immediately.

(AS 14.20.550-160) - 1970

Administration

This substitute amends the current teacher bargaining law, AS 14.20.550-610, using concepts from PERA and provides non-certificated with the right to organize and negotiate.

This substitute amends the current teacher bargaining law, AS 14.20.550-610 using concepts from PERA and provides non-certificated employees the right to organize and negotiate.

14.20.550 - NEGOTIATION WITH CERTIFICATED EMPLOYEES

Establishes right to negotiate.

Section 1.

Add an introductory policy statement, 14.20.540, similar to that of PERA.

Section 2.

Amends 14.20.550 to

(a) Include and give non-certificated employees the right to organize and negotiate.

(b) Give guidance to the educational employees Labor Relations Agency as to the job titles that might appropriately be included in a certificated employee bargaining unit.

Section 1.

Adds an introductory policy statement, a4,20.540 similar to that in PERA.

Section 2.

Amends 14.20.559 to

(a) Include non-certificated employees in the right to organize and negotiate.

(b) Provide guidance to the ELRA as to job titles that might appropriately be included in a certificated employee bargaining unit.

14.20.555 - OPTIONAL COORDINATED EMPLOYEE NEGOTIATIONS

Section 3.

Amends 14.20.555

(a) Applies to REAA's and provides for

(a) To make the option of multi-district

Section 3.

Amends 14.20.555

Same as Administration CS

multi-district negotiations through a single team representing employees and a single team representing employees if the parties so choose.

single team negotiations available to all employees. It also provides that administrators and/or non-certificated employees may have separate multi-district single team negotiations.

- (b) Establishes negotiating teams of not less than five persons.
- (c) Provides that an REAA board may choose to negotiate separately, according to 550.

14.20.560 - TEACHERS BARGAINING GROUPS

Section 4.

Repeals and reenacts 14.20.560.

- (a) Establishes the right to organize and negotiate if a majority of certificated staff so choose, except the superintendent: primarily those employed in the teaching profession in Alaska.
- (b) Provides that a school board may request an affidavit from the bargaining agent certifying that it does represent a majority of the certificated employees in the unit.
- (c) With a 25% sharing of interest by certificated employees, the school board shall conduct our elections within 20 days to determine a bargaining agent. Results are

- (a) Provides the ELRA with authority to determine an appropriate bargaining unit based on community of interest.
- (b) Gives the ELRA authority to investigate any questions pertaining to representation and to conduct an election, if necessary, according to their procedures, and to certify a bargaining agent. It also provides for consent election.
- (c) Precludes more than one election per year.

Section 4.

Repeals and reenacts 14.20.560.

- (a) Gives guidance to the ELRA on an appropriate definition for a bargaining unit.
- (b) Establishes criteria (25% petition) as a basis for investigation of a question as to an appropriate unit. Gives the ELRA authority to investigate the question, conduct an election if necessary and certify a bargaining agent. Provides for a mutual consent election.
- (c) Precludes more than one election in a 12 month period.

binding for one year.

(d) Establishes time frames and procedures to commence bargaining. Restricts negotiating team size to five persons.

(e) Provides that parties may negotiate in executive session; final agreements at a public meeting.

(f) Provides that administrators can have separate bargaining units by secret ballot.

(d) Provides for mutual consent recognition

(e) Provides a contract bar to a challenge for up to three years and establishes the timely period for a competing organization to challenge the incumbent bargaining agent.

(f) Provides that administrators and non-certificated personnel may, upon a 25% showing of interest, choose through secret ballot to negotiate separately from certificated employees.

(d) Provides for recognition by mutual consent.

(e) Provides that a contract cannot bar a challenge for more than three years and establishes the period when a challenge is timely.

(f) Provides that administrators and non-certificated employees through a 25% petition may have a secret ballot election to establish separate bargaining units.

Perserves status quo on all negotiating units, agreements, and bargaining agents at the time this act is passed.

Section 5.

Presumes the status quo on all existing collective bargaining agents upon passage of this act.

Section 6.

Adds new Sections 14.20.565.

Section 5.

Add a new Section 14.20.565; Negotiation Meetings.

(a) Same as current 14.20.560.565 (a) except no restriction on the size of negotiating teams.

(b) Essentially the same as current 14.20.560 (e).

size of the negotiations team.

(b) Same as current 14.20.560 (e).

14.20.570 - MEDIATION BOARD

Section 7.

Amends 14.20.570: Mediation

- (a) Either party may request mediation.
 - (1) With seven days the requesting party seeks FMC's service.
 - (2) Role/responsibility of mediator defined.
 - (3) Within 30 days all resolved items should be reduced to written agreement. Parties may extend time frames.
 - (4) Restrict team size to five persons.

- (a) Same as current 14.20.570 (a).
 - (1) Very similar to current 14.20.570 (a)(1) but provides that the ELRA unit be notified.
 - (2) Same as current 14.20.570 (a)(2).
 - (3) Deletes 14.20.570 (a)(3).
 - (4) Should be reimbursed (3), changes 14.20.570 (a)(4) to remove the five person restriction on the size of the representative team.

(b) Same as current 14.20.570 (b).

Section 6.

Amends 14.20.570 (a).

- (a) Essentially the same as current 14.20.570 (a).
 - (1) Essentially same as current 14.20.570 (a)(2).
 - (2) Same as current 14.20.570 (a)(2).
 - (3) Deletes current 14.20.570 (1)(3).
 - (4) Should be renumbered (3) and essentially same as 14.20.570 (a)(4) but removes the restriction on the numbers on the negotiating team.

14.20.580 - THE MEDIATION REPORT

- (a) Provides 10 days for parties to accept or reject the mediation report.
- (b) If rejected, mediator has five days to review and prepare final report.
- (c) If final report is rejected the

Section 8.

Repeals and reenacts 14.20.580 with a new title: Mediation Failure.

Provides that the mediator determines or the parties jointly agree that mediation will not resolve the dispute.

Section 7.

Repeals and reenacts 14.20.580: Continued Impasse.

Provides that if mediator does not produce an agreement the mediator and/or the parties mutually, shall notify the ELRA

Requires notice to ELRA. Provides for a subsequent 10 day cooling off period.

Section 9.

Adds a new Section 14.20.581: Local Option.

(a) School board to meet during cooling off period and decide, by resolution, whether employees shall have access to

- unlimited strike
- limited strike ,
- arbitration

(b) School board resolution is binding until agreement is reached unless parties mutually agrees.

Adds a new Section 14.20.582: Employee Strikes.

(a) If board resolution permits, employees may engage in an unlimited strike if a majority of the negotiating unit elect to do so.

(b) If board resolution permits, employees may engage in a limited (45-day) strike if a majority of the negotiating unit elect to do so. If no settlement after 45 day strike, then arbitration.

(c) If resolution is for either kind of strike and employees elect not to do so, no further requirement on school

that the impasse continues to exist. Provides that there shall be a 10 day cooling off period.

Section 8.

Adds a new Section 14.20.581: Local Option.

(a) Before mediator, the school board, by resolution shall determine whether the dispute settlement procedure shall be

- strike
- arbitration

(b) The school board resolution is binding until agreement is reached unless mutually changed by the parties.

Adds a new Section 14.20.582: Employee Strikes.

(a) If the board authorizes a limited strike it shall be no more than 21 days after which, if there is no agreement, the parties shall go to arbitration.

(b) If the board authorizes a strike and the employees elect not to strike, the board is not required to participate in arbitration but the parties may seek assistance from the ELRA in resolving the dispute.

(c) The strike may be enjoined in superior court if it can be shown that it threatens the public

board to arbitration.

- (d) Either kind of strike can be enjoined in superior court if there is shown to be a threat to the public health, safety or welfare. If the strike is enjoined, then arbitration.
- (e) The ELRA will conduct the strike vote.

Adds a new Section 14.20.583: Arbitration.

- (a) Provides for arbitration if that is the school board resolution or if a strike is enjoined. Defines mediated-arbitration. Makes the arbitrator's decision final and binding on the parties.
- (b) Provides that the parties shall agree on an arbitration selection procedure. If they are unable to do so, the ELRA shall provide a list of seven Alaskan arbitrators and define the system for the parties to make a selection.
- (c) The arbitrator will hear the positions of the parties within five days of selection.
- (d) The arbitration decision will be within 10 days after hearing the parties' positions.
- (e) The costs of arbitration to be shared equally.

health, safety, or welfare. If the strike is enjoined the dispute will then be settled through arbitration.

Adds a new Section 14.20.583: Arbitration.

- (a) Provides for mediated arbitration if that is the board resolution or if a strike is enjoined. Provides that the decision of the arbitrator is final and binding on the parties.
- (b) The parties must agree on a procedure to select an arbitrator. If they are unable to do so, the ELRA shall direct the parties to use the services of the FMC's on American Arbitration Association in the selection of an Alaskan resident arbitration.
- (c) Establishes criteria for the arbitrator to use in making an award, (1)-(6).
- (d) Provides for the arbitrator's decision 10 days after the parties' have presented oral and written arguments.
- (e) Provides that the parties share the cost of arbitration.

Adds a new Section 14.20.584: Arbitrator's Award.

- (a) Provides for confirmation of an award in superior court.
- (b) Provides for vacation of an award in superior court, (i)-(4) if fraud, partiality, corruption, arbitrator exceeding authority, refusal to postpone on hearing or hear testimony and receive evidence.
- (c) Restricts the court to (b) (1)-(4).
- (d) Application to court to vacate must be within 90 days.
- (e) If court vacates an award provides for a rehearing.
- (f) If application to vacate is denied, the award shall be confirmed by the court.

Adds a new Section 14.20.585: Modification Or Correction of Award.

- (a) Requires that a party apply to do so within 90 days.
 - (1)-(3) establishes grounds to modify: miscalculation of award, if award is of a matter not before the arbitrator, or is imperfect in form.
- (b) Court may make modifications and confirm the award or if application is denied the court shall confirm the award.

14.20.590 - GRIEVANCE PROCEDURES

Requires that agreements define grievances and provide procedures to resolve them with or final step of binding arbitration and provide a procedure to select an arbitrator.

14.20.600 - INDIVIDUAL CASES

Protects the right of an individual to address the school board.

Section 10.

Amends 14.20.590 to make the grievance procedure and arbitration requirement available to all employees.

Section 11.

Amends 14.20.600

- (a) Includes the word Rights in Individual cases.
- (b) Is added to safeguard the rights of non-members based on bona fide religious convictions.

Section 12.

Adds a new Section 14.20.605.

- (a) establishing an Educational Labor Relations Agency of five persons, three of whom are the current LRA with two more to be appointed by the Governor. The two new appointees must have three years experience in education in Alaska.
- (b) Provides for expenses of the ELRA.
- (c) Provides that the ELRA can employ staff to carry out its duties.

Section 9.

Amends 14.20.590 to make grievance procedures and binding arbitration available to all school district employees.

Section 10.

Amends 14.20.600

- (a) Include Rights in Individual cases.
- (b) Provide that the ELRA shall protect the rights of non-members who have bona fide religious objections if there is a union shop or agency fee.

Section 11.

Adds a new Section 14.20.605.

- (a) Establishes an Educational Employees Labor Relations Agency of five persons, three of whom are the current LRA and two more to be appointed by the Governor from lists submitted by NEA-AK and the AASB.
- (b) Establishes expense reimbursements for the ELRA.
- (c) Provides that the ELRA may employ staff to carry out its functions.

Adds a new Section 14.20.606: Power to Implement Negotiations.

- (a) Provides, by reference, that the ELRA has authority to handle ULP allegations in the same manner as PERA: AS 23.40.120-180.

3.40.120-180.

4.20.610 - LEGAL RESPONSIBILITIES OF BOARDS

reserves the right of a school board to make final decisions on policies.

Section 10: Purpose

Governor may appoint advisory arbitrator.

Section 13.

Amends 14.20.610 to clarify the authority of a school board to make decision on educational policies and includes the the new section, Declaration of Policy, 14.20.540 thereunder.

Section 14.

Makes the act effective immediately.

Adds a new Section 14.20.606.

- (a) Gives the ELRA authority to process alleged Unfair Labor Practices and by reference incorporates the procedures of PERA AS
- (b) Prohibits ULP and defines by reference incorporating the PERA Definition AS 23.40.110.

Section 12.

Clarifies 14.20.610 and school board right to make decisions on education policy and incorporates applicability of 14.20.540, Declaration of Policy.

Section 13.

Provides that the local option dispute settlement resolution of the school board (strike or arbitration) must be done within 90 days of the effective date of the Act.

Section 14.

Preserves the status quo on all agreements, negotiating units and bargaining agents at the time the Act is passed.

Section 15.

Establishes an immediate effective date.

Section 20: Request for Appointment

- (a) Either party or both may make the request verbally, followed by letter or telephone.
- (b) Request must contain
 - (1) statement that mediation report rejected by one or both.
 - (2) statement of how arbitration expenses will be funded.
 - (3) written nomination of up to three mutually acceptable arbitrators. If no mutual agreement, a statement that the parties accept appointment of an arbitrator by the American Arbitration Association.
- (c) The issues at impasse may not be specified in the request.

Section 30: Appointment of Advisory Arbitrator.

- (a) If the Governor so decides, the arbitrator will be appointed within ten days.
- (b) Subsequent to appointment, all communication is between the parties and the arbitrator.
- (c) The Governor may decide not to appoint an arbitrator and will notify the parties within ten days.

Section 40: Arbitrator's Report.

At conclusion, the arbitrator's summary and report goes to the parties and the Governor.

SECTION ANALYSIS

CS FOR SENATE BILL 78 (HESS)

(Administration)

Section 1

Clarifies the policy of the State of Alaska. The public school employees shall have the right to negotiate their terms and conditions of employment. Further, it parallels the Public Employee Relations Act reinforcing the principal that joint decision making is in the best interest of good government.

Section 2

Establishes that in addition to certificated employees, the non-certificated staff shall also have the right to bargain their terms and conditions of employment. Paragraph B defines generally those who are included in certificated employee bargaining units and also generally states by position title, those who would not be included. These titles would vary from district to district depending upon job descriptions.

Section 3

This Section continues the concept which is in the current law that there may be multi-district bargaining if the parties so choose. It also provides that administrative certificated personnel or non-certificated employees may have separate bargaining units.

Section 4

Paragraph A provides that the Labor Relations Agency shall make determinations in the event that there is a dispute on who should be included or excluded from a particular bargaining unit. It also provides that the bargaining units shall be as broadly based as feasible in a given district.

Paragraph B provides that the Labor Relations Agency will make determinations if there is a question about what bargaining agent should represent a particular group of employees.

Paragraph C precludes more than one representation election in a twelve month period so as to foster stability between the parties.

Paragraph D provides that the parties themselves can establish a representative without the assistance of the Labor Relations Agency.

Paragraph E establishes that a competing organization cannot be barred from challenging an incumbent for a period longer than three (3) years and it establishes a ninety (90) day period during which the challenge is appropriate.

Paragraph F establishes that there may be separate bargaining units for certified administrative personnel and for the classified, if they have a proper showing of interest (25% of the members of the petitioning unit).

Section 5

This Section preserves the stability of the current collective bargaining units and agreements which would be in effect at the time of the passage of this Bill.

Section 6

Paragraph A establishes a timely period regarding commencement of negotiations and procedural response requirements.

Paragraph B extends the current teacher bargaining statute with provision that the parties may negotiate in an executive session but all final agreements must be made at a public meeting.

Section 7

Paragraph A establishes that either party may petition for mediation in the event that negotiations have not reached agreement.

Sub Paragraph 1 designates the FMCS as the agency to provide mediation assistance.

Sub Paragraph 2 establishes the role of the mediator.

Sub Paragraph 4 should really be renumbered Sub Paragraph 3 and further expands the role of either party regarding presentations to the mediator.

Sub Paragraph B preserves the current statute which provides for release time without loss of pay in the event that mediations are held during the school day.

Section 8

*diff. in
NEA/Gov.
New Sec 9*

This Section establishes a ten (10) day cooling off period in the event the parties are unable to reach agreement through mediation.

Section 9

Provides in Paragraph A that the Board of Education during the cooling off period shall make a decision by written resolution as to whether the employees shall have access to

- 1) an unlimited strike
- 2) a limited strike
- 3) arbitration

as the dispute settlement mechanism.

Paragraph B establishes that the Board's resolution cannot be changed during that round of bargaining.

The Section entitled Employee Strikes 14.20.582 should have a number which would require the renumbering of the rest of the draft.

Paragraph A describes the unlimited strike option and the vote requirement.

Paragraph B establishes the limited strike as one of forty-five (45) days maximum, after which if there is still no agreement the parties shall submit to arbitration.

Paragraph C establishes that the School Board has no obligation if they have provided a strike option and the employees elect not to strike.

Paragraph D provides that the strike may be enjoined by the Superior Court if the petitioning party can establish that there is a threat to health, safety or welfare of the public.

Paragraph E provides that the Educational Employees Labor Relations Agency shall conduct the election pertaining to a strike vote.

Under the Section entitled Arbitration 14.20.583

Paragraph A provides for mediated arbitration if that in fact is the Board resolution or if the ~~strike~~ is enjoined or if limited arbitration fails to produce an agreement. It further defines "mediated arbitration" and establishes that the decision of the arbitrator is final.

Paragraph B provides that the parties shall agree on a procedure to select an arbitrator however, if that is not possible, the Educational Employees Labor Relations Agency shall provide the parties with a list of arbitrators who are Alaskan residents and define the system/procedure for the arbitrator.

Paragraph C provides that the arbitration proceeding will commence within five (5) days after the selection of the arbitrator.

Paragraph D provides that the arbitrators decision will be awarded within ten (10) days.

Paragraph E provides that the parties share the cost of the arbitration procedure.

Section 10

Continues a similar section in the current teacher bargaining law but makes the grievance procedure and the arbitration process available to all employees eligible to negotiate.

Section 11

Preserves similar language from the current teacher bargaining law in Paragraph A. In Paragraph B it provides that the Labor Relations Agency has responsibility for the rights of those members of a bargaining unit who choose to remain non-members of the bargaining agent based upon bona fide religious convictions.

Section 12

Paragraph A establishes a five (5) person labor relations agency using the current three (3) member Labor Relations Agency with two (2) more to be appointed by the Governor.

Paragraph B establishes the access of Labor Relations Agency persons to legitimate expenses.

Paragraph C establishes that the Agency may employ staff to carry out its business.

In the Section Power to Implement Regulations 14.20.606

Paragraph A defines procedures for the Labor Relations Agency to investigate and adjudicate unfair labor practice charges in a manner consistent with the procedures of the Public Employee Relations Act as defined in AS 23.40.120-23.40.180 and the provisions of AS 14.20.540 - 14.20.610.

Paragraph B defines unfair labor practices consistent again with PERA in AS 23.40.110.

Section 13

Continues language from the current Teacher Bargaining Law and makes a slight clarification regarding the concept of educational policies.

Section 14

Is the the effective date.

SECTION ANALYSIS

CS for SENATE BILL 78

Section 1

Clarifies the policy of the State regarding public school employees and their right to negotiate terms and conditions of employment. This Section parallels the Public Employee Relations Act reinforcing joint decision making as being in the best interest of government.

Section 2

Establishes that in addition to certificated employees, non-certificated staff shall have the rights to bargain their terms and conditions of employment.

Paragraph B defines generally those who are included in a certificated employee bargaining unit and also generally states by position title, those who would not be included.

Section 3

This Section continues the concept which is in the current law that there may be multi-district bargaining if the parties so choose, and establishes a procedure for opting out of such a process.

Section 4

Paragraph A establishes the Labor Relations Agency as the decision maker in the event that there is a dispute on bargaining unit definition.

Paragraph B provides precision in terms of a number requirements for a showing of interest in the event there is cause to decertify or create a new bargaining unit.

Paragraph C precludes more than one representational election in a twelve (12) month period.

Paragraph D provides for voluntary recognition absent intervention by the Labor Relations Agency.

Paragraph E establishes that a competing organization is precluded from challenging an incumbent for up to three (3) years and establishes also the appropriate time for such a challenge.

Paragraph F establishes that administrative certificated staff and/or classified staff may petition and be recognized as separate bargaining units.

Section 5

Preserves current law relative to procedures regarding the commencement of negotiations in Paragraph A.

Paragraph B provides the parties the latitude to bargain in executive session with the provision the final agreements must be acted on in a public meeting of the school board.

Section 6

Paragraph A establishes that either party may petition for mediation in the event negotiations have not reached an agreement.

Sub Paragraph 1 designates the FMCS as the agency to provide mediations services.

Sub Paragraph 2 establishes the role of the mediator.

Sub Paragraph 3 is a deletion from current law since FMCS does not provide written mediation reports.

Sub Paragraph 4 which should be renumbered 3 provides the definition of the process by which the mediator receives information from the parties.

Section 7

This Section establishes a ten (10) day cooling off period in the event that mediation does not produce a bi-lateral agreement between the parties.

Section 8

Paragraph A provides that a school board shall make a determination as to the dispute settlement procedure before mediation in the event mediation fails to produce an agreement. The choices shall be either strike or mediation.

Paragraph B provides that the resolution of the school board is binding through the remainder of the negotiation process until an agreement is produced.

In Section 14.20.582 Employee Strikes

Paragraph A defines the limited strike as being one which would not exceed twenty-one (21) calendar days after which if an agreement is not produced the parties would proceed on to arbitration.

Paragraph B provides that if the strike is the option selected by the school board and the employees elect not to strike that they may request the assistance of the Labor Relations Agency in the dispute resolution.

Paragraph C provides that the strike may be enjoined in Superior Court by a petitioning party for reasons pertaining to health, safety and public welfare.

Paragraph D provides that the Educational Labor Relations Agency shall establish the procedures under which the bargaining agent conducts an election attendant to a strike vote.

Section 14.20.583: Arbitration;

Paragraph A provides defines the mediated arbitration procedure and makes the decision of the arbitrator final and binding.

Paragraph B provides the parties the option to select an arbitrator and if they are unable to agree, the laborer relations agency will establish the procedures and produce lists of Alaskan resident arbitrators through the FMCS or American Arbitrators Association.

Paragraph C provides criteria for the arbitrator to use in making a decision.

Paragraph D provides that the arbitrator decision will be rendered within 10 days of the close of the hearing.

Paragraph E provides that the parties share the cost of the arbitration process.

Section 1420.584

Regarding arbitration awards addresses in paragraph A the issue of the superior court having the latitude to confirm an award.

Paragraph B provides authority for the court to vacate an award.

Paragraph C establishes the grounds on which the award can be vacated.

Paragraph D establishes a time frame within which either party must petition the court for vacating an award.

Paragraph E establishes a procedure for the court and the arbitrator in the event an award is vacated.

Paragraph F establishes that the court shall confirm an award if the application to vacate is denied.

Section 1420.585

Provides for procedures attend to the modification of a arbitration award similar to those for vacating an award in section 1420.584.

Section 9

Preserves language which is in the current law regarding grievance procedures and establishes that they are available to all employees covered by the law.

Section 10

Preserves in paragraph A the individual rights language of the current law.

Paragraph B establishes the authority of the labor relations agency to preserve the individual rights of non-association members who are members of the bargaining unit and have a bona fide religious conviction for being nonmembers.

Section 11

Establishes the 5 person educational labor relations agency using the current 3 member labor relations agency with 2 additional members to be appointed by the Governor. The appointments shall be made from lists of nominees submitted by NEA-Alaska and from a list submitted by the Alaska School Boards Association.

Paragraph B provides for the expenses of labor relations agency persons.

Paragraph C provides that the agency may employ staff as it deems necessary to implement the law.

Section 14.20.606

Provides that the agency has the authority to adjudicate unfair labor practice charges in a manner consistent with the procedures of the public employees relations act as in AS 23.40.120-23.40.180.

Paragraph B defines unfair labor practices consistent with PERA in AS 23.40.110 and makes them applicable in the teachers bargaining law.

Section 12

Provides that language from the current teacher bargaining law continue regarding the responsibilities of school boards and their right to make decisions on educational policies.

Section 13

Establishes the time frame within which a school board must by resolution make a determination as to whether the dispute settlement procedure will be arbitration or a limited strike.

Section 14

Preserves the collective bargaining relationships and negotiating units that are in existence at the time of the effective date of the act.

Section 15

Is the effective date.

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 15, 1983

The Honorable Joe Josephson
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Joe:

In response to your letter regarding Senate Bill 78, the delay has been caused by our involving NEA in the discussion before our Legislative Budget Review Committee. Most details of our policy paper are prepared and on Monday we plan to present you with our policy paper and draft statute for our recommended changes to SB 78.

We apologize for the delay.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

CLASSIFIED PERSONNEL ORGANIZATION

825 College Road

Fairbanks, Alaska 99701 (907) 452-2023

March 31, 1983

Senator Joe Josephson
ATTN: Dave Donley
Pouch V
State Capitol
Juneau, Ak. 99811

Dear Senator Josephson:

SB 104 has been passed out of Labor and Commerce and referred to the Senate Finance. It is my understanding that the bill has been assigned to your sub-committee by Senator Bennett and that is being considered for consolidation with SB 78 and SB 154.

First, let me state our unqualified support for the concepts put forth by all three bills. As we read SB 78 and SB 154, we do not agree that noncertified employees of school districts are included in either or were they intended to be. In addition, we believe the fiscal notes for SB 78 and SB 104 are erroneous. Senator Bennett has sent a copy of a letter I wrote to him concerning this matter to your office so I will not re-iterate our concerns here as you should have them.

We have been instrumental since 1977 in getting legislation introduced, which addresses our concerns, but to no avail. In order to correct serious inequities which exist for noncertificated employees of school districts, statutory recognition for collective bargaining and all related matters must be afforded under the auspices of PERA.

The legislature in 1972, stated its intent very clearly in the Declaration of Policy contained in PERA for the relationship public employees should enjoy with their employers. Oddly enough a few isolated groups of public employees are not afforded the statutory recognition they rightfully deserve and for them serious inequities exists.

-NEXT-

Voluntary recognition by employers of public employee groups has generally not worked. The concept of voluntary recognition is erroneous at best. The employer holds all the cards which makes it extremely difficult to balance the problem-solving and shared decision making intended. All public employees must come under the auspices of PERA and the Labor Relations Agency in order for the intent of the legislature to be met when it enacted PERA. At present the employers not covered by PERA enjoy the right to make the rules, play the game and act as the referee. This fact does not allow for shared decision-making affecting wages, working conditions and other related matters.

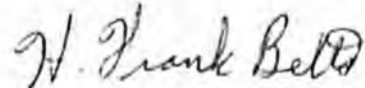
While consolidating SB 78, SB 104 and SB 154 into one bill, seems like a pragmatic approach we are apprehensive in that all opposition will be focused on one bill as opposed to splitting the self-interest opposition between the three bills. However, if in the wisdom of the legislature, and more specifically the Senate Finance Committee, the consolidation approach is taken then we would request that provisions of SB 104 be specifically included in that legislation. Senate Bill 104 as passed out of the Labor and Commerce Committee addresses our needs adequately.

We would be happy to respond to any specific questions you might have and if you believe it necessary would make ourselves available for the hearing before the Senate Finance Committee.

Please keep us informed as to how we can assist in the passage of this much needed legislation (SB 78, SB 104, and SB 154).

Thank you for your cooperation in this matter.

Sincerely,



H. Frank Belts,
Business Manager

P. S. Enclosed is a newspaper article which was printed in the Daily News-Miner dated March 29, 1983. This article provides further justification for repealing the Koslosky Amendment and placing all public employees under PERA.

Encl: 2

HFB:rll



Official Business

Alaska State Legislature

Senate

Office of the President

Pouch V
State Capitol
Juneau, Alaska 99811

February 21, 1983

TO: Senator Joe Josephson
Chairman
Senate Health, Education and Social Services Committee

FROM: Senator Jay Kerttu *JK/RR*
Senate President

SUBJECT: SB 78

The attached materials should suffice as background for SB 78 which makes the Public Employment Relations Act applicable to employees of school districts.

I recognize that the bill needs modifications. The Governor has expressed to me his interest in the bill.

Recent Legislation pertaining to the Teacher Bargaining
Law, PERA, or some combination of them.,

1. SB 226 10th Legislature
2. HB 492 10th Legislature
3. SB 304 10th Legislature
4. HB 1009 11th Legislature
5. SB 376 11th Legislature
6. HB 487 11th Legislature
7. HB 619 12th Legislature
8. SB 653 12th Legislature
9. SB 126 12th Legislature
10. HB 163 12th Legislature: Failed House (20 - 20)
11. HCSCS SB 668 (HESS) 12th Legislature: Failed House (20 - 19)
12. SCSCS HB 174 (Finance) 12th Legislature: Passed Senate (14 - 6)

COLLECTIVE BARGAINING ALTERNATIVES

Compulsory Binding-Interest Arbitration In Connecticut

by Leo L. Mann

The state of Connecticut reacted to a bitter teacher strike by enacting a law mandating mediation and compulsory binding-interest arbitration. Now, more than two years later, Mr. Mann reports that the law may have served as a catalyst to improve the negotiation process.

LEO L. MANN (University of Bridgeport Chapter) is a professor of educational management at the University of Bridgeport, Bridgeport, Conn.

A revised Connecticut statute that took effect on 1 July 1979 may go a long way toward improving the working relationship between teacher bargaining units and boards of education in the state. The statute revision had its roots in a lengthy and bitter teacher strike in Bridgeport, the state's largest city (population 139,552), in September 1978. The 19-day strike closed all 37 Bridgeport schools; 274 members of the teacher association were jailed, and the association was assessed \$194,000 in damages. The strike sent shock waves across Connecticut.

Gov. Ella Grasso reacted by calling for change in the state law governing teacher contract negotiations. Following her lead, the Connecticut State Legislature enacted the revised law. Its significant changes are a mandated mediation process and compulsory binding-interest arbitration; this latter provision makes Connecticut the seventh state (after Iowa, Maine, Nebraska, Nevada, Rhode Island, and Wisconsin) to provide such arbitration for teachers.

The Mediation Process

Under the revised law, negotiations between a board of education and a teacher bargaining unit must begin 180 days before the board is scheduled to submit its budget. If the parties fail to reach an agreement on the terms and conditions of teachers' employment, either side may submit the issues to the commissioner of education for mediation. This action can be taken at any time during the first 60 days of negotiations. If, after the first 60 days, the parties have neither reached an agreement nor initiated mediation, the commissioner must order mediation to begin.

From a panel of mediators approved by the state department of education, the parties mutually select the person who will work with them. The parties share equally in mediation costs. The mediator must make his or her recommendations within 30 days of the date that mandated mediation began. These recommendations are not binding, however.

The school board and the teacher bargaining unit are required to report their settlement to the state commissioner of education no later than the 50th day before the board is scheduled to submit its budget. (The date for submitting a budget is determined locally.) If issues remain unresolved at this point, the matter goes automatically to arbitration.

The Arbitration Process

Connecticut's 15 arbitrators for public education disputes are appointed by the governor and must be approved by the legislature. This panel of arbitrators represents the interests of local boards of

education, certified employees, and the general public. Each of these constituencies has a voice in the selection process.

The parties in arbitration may jointly select a single arbitrator, or each may choose an arbitrator who represents its own exclusive interests. When the second option is exercised, the two arbitrators, within five days of their selection, must appoint a third arbitrator who represents the interests of the general public. This arbitrator chairs the three-member panel. As in the case of mediation, arbitration costs are shared equally by the local board of education and the teacher bargaining unit.

The law strictly specifies the next steps. The school district must hold a hearing on the 10th day after the arbitrator or arbitrators have been named. Five days prior to the hearing, the parties to the dispute and the governmental body with budgetary responsibility for the school district must be notified in writing of the time and place of the hearing. The hearing must last no longer than 20 consecutive days.

Only unresolved items are addressed at this arbitration hearing. In fact, negotiators for the two sides may continue to meet and discuss items at issue while arbitration is going on. Should the parties manage to agree on a given contract provision before arbitration ends, they can stipulate that this provision be included in the arbitration decision.

The parties submit to arbitration their respective positions on each unresolved issue in the form of a "last best offer." The arbitrator or arbitrators accept either the last best offer of the board or the last best offer of the teachers. There can be no middle ground. Each unresolved issue is handled in this way.

Six factors influence an arbitration decision: 1) the negotiations between the parties before entering arbitration, 2) the public interest and the financial capability of the school district, 3) the interests 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.

The arbitrator(s) must present a decision in writing within 15 days after a hearing ends. This decision is binding on both parties and is not subject to rejection. Because arbitration is a quasi-judicial process, however, the law does provide for formal judicial review. Within 30 days of receiving the arbitration decision, a dissatisfied party may file a motion in superior court to annul or modify the arbitration award. After a hearing, the court may modify or annul an award if, in its judgment, the substantial rights of a party have been prejudiced.

During the first two years under the revised law, 78 Connecticut teacher contracts were open annually for negotiation. The number of contracts settled at the table through local bargaining increased slightly, from 25 in 1980-81 to 29 in 1981-82. This represents a 5% increase in the number of contracts settled without third-party intervention.

A marked change occurred during this same interval in the number of settlements reached through mediation and arbitration. Of 53 attempted mediations in 1980-81, only 15 (28%) were successful. By contrast, 26 of 49 attempted mediations (53%) resulted in settlements in 1981-82. During this second year under the revised law, 26 of the 78 open teacher contracts (33%) were settled through mediation. In 1980-81, by contrast, only 15 of the 78 open teacher contracts (19%) were settled in this manner.

As the number of successful mediations increased between 1980-81 and 1981-82, the number of arbitration awards declined sharply. Arbitration awards accounted for 38 of the 78 teacher contract settlements (49%) in 1980-81, but such awards accounted for only 23 of the 78 settlements (29%) in 1981-82. From another perspective, 52% of open teacher contracts were settled locally or through mediation in 1980-81, and 71% were settled in this fashion in 1981-1982.

When the legislature passed the new law, a doomsday view of the future of good-faith bargaining spread across Connecticut. The fact that nearly 50% of all teacher contracts went to arbitration in the first year under the new law suggests that good-faith bargaining *did* suffer a reversal. By 1981-82, however, slightly fewer than 30% of all teacher contracts went to arbitration. This suggests that boards of education and teacher bargaining units now seek to avoid arbitration when that is possible. Both parties give up control over the final outcome when they turn to arbitration. They are left instead to implement decisions made by an external agent. Many Connecticut school districts discovered in 1980-81 that settling contracts through arbitration can be traumatic.

Because it is frequently difficult to live with the results of arbitration awards, teachers and school boards tried more vigorously to settle contracts for 1981-82 through mediation. The increase in the number of contracts settled through mediation in 1981-82 suggests that initial concern about the potential of binding arbitration to undermine good-faith bargaining in Connecticut is unjustified. The binding arbitration provision may, in fact, serve as a catalyst for improving the negotiation process between boards of education and teacher bargaining units in the state. □

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 E. Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

AUG 10 1982

THE SUPREME COURT OF THE STATE OF ALASKA

ANCHORAGE EDUCATION ASSOCIATION,)
Appellant,)
v.)
ANCHORAGE SCHOOL DISTRICT,)
Appellee.)

MERDES, SCHIAELE, STALEY
AND DELNEO, INC.

File No. 5021

O P I N I O N

[No. 2537 - August 6, 1982]

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Victor D. Carlson, Judge.

Appearances: John B. Patterson and John R. Strachan, John R. Strachan, P.C., Anchorage, for Appellant. Peter C. Partnow, Hellen & Partnow, P.C., Anchorage, for Appellee.

Before: Rabinowitz, Chief Justice, Connor, Burke, Matthews and Compton, Justices.

CONNOR, Justice.

RABINOWITZ, Chief Justice, dissenting.

This is an appeal from a temporary restraining order issued by the superior court which determined that the ongoing strike by public school teachers was illegal and which ordered the teachers to return to their classrooms. We agree that the entry of the order was proper.

In late 1978, Anchorage public school teachers and the Anchorage School District began to negotiate a collective bargaining agreement for the 1979-1980 school year. By September, 1979, the parties had not reached an agreement. In response, the teachers decided not to appear at the first scheduled day of classes on September 5, 1979. The teachers were still on strike on September 10th when the superior court issued the temporary restraining order. Later, the superior court issued contempt citations and bench warrants for those teachers who had ignored the order. The parties then agreed to a settlement plan, which was included in a settlement order issued by the superior court. Following the agreement and order, the teachers returned to their classrooms.

Before reaching the merits of this controversy, we find it necessary to address the question of whether this is an appealable order. Former Alaska Appellate Rule 5 stated:

"An appeal may be taken to this court from a final judgment entered by the superior court or a judge thereof in any action or proceeding, civil or criminal" 1/

1. Former Appellate Rule 5 is now Appellate Rule 202. Pursuant to Supreme Court Order No. 439 (Oct. 21, 1980), this case is governed by the old appellate rules.

The appeal in this matter was taken from an October 1, 1979, judgment which adopted the appointed arbitrator's report and confirmed the September 10th order. The October 1st order did not change the character of the September 10th order, which was a temporary restraining order. By its nature, such an order is tentative and remains in effect pending a fuller consideration of the issues. See 7 J. Moore & J. Lucas, Moore's Federal Practice § 65.05, at 65-73 (2d ed. 1980). Such an order cannot be considered a "final judgment" for purposes of former Appellate Rule 5.

Under the circumstances in this case, however, we choose to apply former Appellate Rule 46. Rule 46 stated:

"These rules are designed to facilitate business and advance justice. They may be relaxed or dispensed with by this court where a strict adherence to them will work surprise or injustice."

For almost all purposes, the temporary restraining order was the final statement by the superior court on the issue of whether teachers have a legitimate right to strike. Since the order and the agreement thereafter settled the strike, subsequent judicial proceedings of a more final nature might have been subject to dismissal on grounds of mootness. Thus, as long as strikes are settled by non-final orders by the superior court, these issues would continually evade review. Even with these concerns, we do not approve of the parties' procedure in bringing this matter as an appeal.

The strike settlement agreement of September 14, 1979, provided that

"All pending litigation shall be withdrawn by the parties with prejudice with each party bearing its own costs and attorneys' fees, except that the [Anchorage Education] Association may seek a declaratory judgment on the sole issue of the legality of strikes by public school teachers against school districts in Alaska."

The teachers did not proceed to the declaratory judgment stage, but, contrary to their own agreement, appealed indirectly from the restraining order. By not continuing to a declaratory judgment, only the hastily developed evidence on the effects of the strike and the hurriedly prepared memoranda of legal arguments from the injunctive proceeding formed the record on appeal. In light of the social and legal issues involved, this controversy would have benefited from the more complete consideration available in the proceedings for declaratory judgment. However, in the interest of judicial economy, and because of the importance of the issues involved, we have decided to relax the normal rules and proceed to a consideration of the merits of this case, as though a declaratory judgment had been entered.

We turn now to whether Alaska statutory law gives teachers the right to strike. The Public Employment Relations Act (PERA) divides "public employees" into three groups for the purpose of defining the right to strike. AS 23.40.200(a). One group, which includes police and fire

protection employees, correctional institution employees and hospital employees, is prohibited from striking, but is accorded the right to submit to binding arbitration. AS 23.40.200(b). Another group may engage in unlimited strikes. AS 23.40.200(d). An intermediate group may engage only in limited strikes;

"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 . . . for a limited time."

AS 23.40.200(c). At first glance, section 200(c) includes teachers. But the definition section of PERA, AS 23.40.250(5), excludes "teachers" from PERA wherever "public employee" appears.² Thus, teachers, who are not "public

2. AS 23.40.250 reads in part:

"Definitions. In §§ 70-260 of this chapter, unless the context otherwise requires,

(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 teachers or noncertificated employees of school districts;"

employees" for purposes of PERA, are not covered by AS 23.40.200.³

The Anchorage Education Association argues that the above construction renders the term "public school . . . employees" in section 200(c) meaningless. The argument is correct only if teachers are the only public school employees.⁴ Since other certificated employees, such as principals and counselors, are also public school employees, that term is not meaningless in light of our construction. Section 200(c) may well give certificated non-teaching

3. The definition of public employees excludes teachers and noncertificated employees "unless the context otherwise requires." Because of the substantial problems with interpreting AS 23.40.200 to include teachers and noncertificated employees, we cannot say that the context requires such a construction. For example, the basis, if any, for regulating their right to strike would be unclear. See page 10 infra. Further, such a construction would leave noncertificated employees in the anomalous position of having the right to form a union and the limited right to strike, but no right to compel their employer to collectively bargain. *Kenai Peninsula Borough School District v. Kenai Peninsula Dist. Classified Ass'n.*, 590 P.2d 437, 438-40 (Alaska 1979) (holding that non-certificated employees are not covered by the collective bargaining provisions of PERA).

4. We note that the use of "teachers" in AS 23.40.250(5) is not entirely clear. In Title 14 (Education), "teachers" is sometimes defined to include other certificated employees. However, in the absence of specific guidance from the legislature, we will give the word its ordinary meaning in this context.

employees the right to strike without giving teachers the right to strike.⁵

The legislative silence in this matter should be interpreted in light of the commonly held rules of public labor relations as of 1972, the time the legislature enacted PERA. By 1972, not one of the jurisdictions which had considered the question of strikes by public employees had found such strikes to be legal in the absence of express statutory permission. See Bennett v. Gravelle, 323 F.Supp. 203, 208 (D. Md. 1971), aff'd, 451 F.2d 1011 (4th Cir. 1971), cert. dismissed, 407 U.S. 917, 32 L.Ed.2d 692 (1972) (applying Maryland common law); Kirker v. Moore, 308 F.Supp. 615, 622 (S.D. W.Va. 1970), aff'd, 436 F.2d 423 (4th Cir. 1971), cert. denied, 404 U.S. 824, 30 L.Ed.2d 51 (1971) (applying West Virginia common law); Norwalk Teachers' Association v. Board of Education, 83 A.2d 482, 485 (Conn. 1951); Board of Education v. Redding, 207 N.E.2d 427, 430 (Ill. 1965); Anderson Federation of Teachers v. School City, 251 N.E.2d 15, 17 (Ind. 1969), cert. denied, 399 U.S. 928, 26 L.Ed.2d 794 (1970); Jefferson County Teachers Association v. Board of Education, 463 S.W.2d 627, 628 (Ky. App. 1970), cert.

5. We are not, however, deciding the question of whether other certificated employees have the right to strike.

denied, 404 U.S. 865, 30 L.Ed.2d 109 (1971); Minneapolis Federation of Teachers, Local 59 v. Obermeyer, 147 N.W.2d 358, 366 (Minn. 1966); Board of Education v. New Jersey Education Association, 247 A.2d 867, 876 (N.J. 1968); City of Minot v. General Drivers and Helpers Union, No. 74, 142 N.W.2d 612, 618 (N.D. 1966); Goldberg v. City of Cincinnati, 271 N.E.2d 284, 288 (Ohio 1971); IBEW, Local 976 v. Grand River Dam Authority, 292 P.2d 1018, 1021 (Okla. 1956); City of Pawtucket v. Pawtucket Teachers' Alliance, 141 A.2d 624, 628 (R.I. 1958); City of Alcoa v. Local 760, IBEW, 308 S.W.2d 476, 481 (Tenn. 1957); Port of Seattle v. International Longshoremen's & Warehousemen's Union, 324 P.2d 1099, 1103 (Wash. 1958). Against this background, we cannot say that the absence of legislative action implies permission to strike. Rather, it is more reasonable to assume that the legislature intended that in its silence, the generally held rule would be followed. Had it wanted to allow teachers to have the legal ability to strike, it could have explicitly made the definition section, AS 23.40.250(5), inapplicable to AS 23.40.200. This would have clearly indicated that the law in the majority of states was not to be followed.

Since the legislature has neither expressly given the teachers the right to strike nor explicitly prohibited work stoppages, we must address whether there is a right to strike derived from the common law. No court has held that

the common law permits public employees to legally strike in the absence of explicit statutory consent.⁶ Our reasons for following the majority rule are not founded on the traditional fear of strikes as illegal conspiracies, see, e.g., UAW, Local 232 v. Wisconsin Employment Relations Board, 336 U.S. 245, 257-58, 93 L.Ed. 651, 665 (1949), but rather on a recognition of the special role that teachers fill in society and our acknowledgment of the functional limitations of this court when attempting to make social policy decisions.

Resolution of this controversy involves a delicate balancing of the citizens' need for a timely school year and of the teachers' need for an effective tool to influence their working conditions. See Kheel, Strikes and Public Employment, 67 Mich. L.A. Rev. 931, 932 (1969). While a teachers' strike would not directly affect the public's safety as would a police officers' strike, nonetheless teachers can be considered indispensable to the daily functioning of society during the scheduled academic year. See Note, Labor Relations in the Public Service, 75 Harv. L. Rev. 391, 410 (1961). Either refusing teachers the right to

6. See cases cited at pages 7-8 supra. Since 1972, more recent opinions have followed the majority rule. See, e.g., State v. Delaware State Educational Association, 326 A.2d 868, 874 (Del. Ch. 1974); City of Pana v. Crowe, 316 N.E.2d 513, 514 (Ill. 1974); Abney v. City of Winchester, 558 S.W.2d 622, 623 (Ky. App. 1977).

strike or finding such a right in Alaska common law would be an action by this court tipping the social balance in this state's labor relations. This social balance is more properly set by the legislature. See Port of Seattle v. International Longshoremen's & Warehousemen's Union, 324 P.2d 1099, 1103 (Wash. 1958). Thus, as a matter of common law in the area of labor relations, we will defer to what we believe the legislature intended by its silence.

The second reason for our decision is a realization of our functional limitations. If we found a right to strike, we would be allowing teachers to strike without the attendant mutual employee/employer obligations, see Smith, State and Local Advisory Reports on Public Employment Labor Legislation: A Comparative Analysis, 67 Mich. L. Rev. 891, 897 (1969), which have contributed to the fairness of strikes. It is beyond our power to create a system of legislation and regulations to ensure a fair setting for strikes. See Wellington & Winter, The Limits of Collective Bargaining in Public Employment, 78 Yale L. J. 1107, 1127 (1969).

The teachers argue that if they have no common law right to strike and if they are excluded from the strike provisions of PERA, then their right to equal protection of

the law has been violated.⁷ Their argument is that teachers, unlike other public employees, are allowed neither the right to strike nor the right to engage in binding arbitration.

However, unequal treatment is permissible if it is substantially related to the legitimate purposes of the legislation. State v. Erickson, 574 P.2d 1, 12 (Alaska 1978). The legislature declared in section 70 of PERA 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."

AS 23.40.070. The state assuredly has a legitimate interest in furthering these policies. Thus, we must determine whether the exclusion of teachers from PERA bears a fair and substantial relation to the purposes of promoting cooperative employment relations and assuring smooth government operations.

It is apparent that the legislature chose to define "public employees" as excluding teachers from PERA

7. United States Const., amend. XIV, § 1; Alaska Const., art. 1, § 1. We need only analyze the equal protection challenge under the standard applicable to the Alaska Constitution, because if the statute is valid under the Alaska "substantial relationship" standard, then it is valid under the less strict federal "rational basis" standard.

Because the cooperative relations purpose of PERA was already fulfilled with regard to teachers under the provisions of Title 14 (Education). As to teachers, that title provides for collective bargaining (AS. 14.20.555 and AS 14.20.560), for mediation (AS 14.20.550), and for binding arbitration in grievance proceedings (AS 14.20.590). The teachers argue that in the absence of the right to strike, the right to engage in binding arbitration is needed in order to discourage bad faith negotiations by the employers. While it is true that binding arbitration rights may give the teachers greater bargaining leverage, we cannot say that it is required as a means of ensuring cooperative relations. In addition, the employers are required to negotiate in good faith. AS 14.20.550. We conclude, therefore, that the provisions of Title 14 are substantially related to the purpose of promoting cooperative relations between teachers and their employers.

Exclusion of teachers from the right to strike provisions of PERA is also substantially related to the purpose of ensuring the continuing operation of a government service. The teachers argue, however, that they were denied equal protection because, unlike other public employees without the right to strike, they were not accorded binding arbitration rights. In Hortonville Education Association v. Hortonville Joint School District, 225 N.W.2d 658 (Wis. 1975), the Wisconsin Supreme Court was confronted with the

same constitutional challenge. The court found that the legislature was justified in treating teachers differently than police and firefighters:

"If police or firemen go on strike the imminent and immediate danger to the community is so great that every reasonable measure must be taken to get them back on the job as soon as possible, or to prevent them from striking in the first instance."

Id. at 666. Similarly, the Alaska legislature appears to have determined that those employees in AS 23.40.200(B) are so essential that no work stoppage on their part could be tolerated. The legislature was willing to relinquish a part of the decisionmaking authority of public employers to permit binding arbitration in order to ensure that work stoppages in certain essential fields would not occur. It is permissible for the legislature to have found that teachers, although necessary to the functioning of society so as to forbid strikes, were not so essential as to require compulsory arbitration. Thus the strike provisions of AS 23.40.200 are substantially related to the legislative goal of uninterrupted school operation.

Finally, the teachers contend that even if their strike was illegal, the superior court should not have issued an injunction unless it made a separate finding of irreparable harm. Only a minority of jurisdictions impose

the requirement of irreparable harm in addition to illegality. See School District No. 351 v. Omieca Education Association, 567 P.2d 830, 834 (Idaho 1977); School District v. Holland Education Association, 157 N.W.2d 206, 210-11 (Mich. 1968); Timberlane Regional School District v. Timberlane Regional Education Association, 317 A.2d 555, 559 (N.H. 1974); School Committee v. Westerly Teachers Association, 299 A.2d 441, 445 (R.I. 1973).⁶

We reject the minority rule. In the other jurisdictions, illegality of the strike is a sufficient harm to justify injunctive relief. See Delaware River & Bay Authority v. International Organization of Masters, Mates & Pilots, 211 A.2d 789, 795 (N.J. 1965) and cases cited at pages 7-8 supra. Implicit in the majority rule is the recognition that by making these strikes illegal, the legislature has decided that a teachers' strike would cause irreparable harm. See State v. Delaware State Educational Association, 326 A.2d 868, 875-76 (Del. Ch. 1974).

The decision of the superior court is AFFIRMED.

8. The teachers' reliance on San Diego Teachers Association v. Superior Court, 593 P.2d 828 (Cal. 1979), is misplaced. The court expressly stated that "it is unnecessary here to resolve the question of the legality of public employee strikes if the injunctive remedies were improper" Id. at 842.

RABINOWITZ, Chief Justice, dissenting.

I concur in all aspects of the court's decision except for its rejection of the teachers' equal protection challenge to their exclusion from the strike and binding arbitration provisions of the Public Employment Relations Act.

The teachers claim that their exclusion from the strike and binding arbitration provisions of PERA violates their right to equal protection of the law under art. 1, section 1 of Alaska's constitution. The challenged exclusion involves a double classification: unlike other educational employees such as principals and counselors who are apparently given a limited right to strike under AS 23.40.200(c)¹ the teachers are prohibited from striking; unlike other public employees such as police and firefighters, who are denied the right to strike but who are granted binding arbitration,² the teachers have neither strike rights nor binding arbitration. Thus the equal protection issue here is whether the exclusion of school district teachers is "substantially related" to the purposes of PERA.

1. The majority states that it is not deciding the question of whether other certificated public school employees have the right to strike. The majority acknowledges, however, that if these employees are also denied the right to strike then the term public school employees in section 200(c) is meaningless.

2. AS 23.40.200(b).

One of the primary purposes of PERA is to provide rational and effective guidelines for public employment relations.³ While providing for public employee participation in the determination of wages and working conditions, PERA attempted to balance the employees' need for effective means of bargaining with the state's need to maintain uninterrupted services in certain essential governmental operations. The result of this balancing process was that certain "non-critical" public employees were granted a general right to strike, "semi-critical" public employees were allowed a limited right to strike, and "critical" public employees were denied any right to strike.⁴ AS 23.40.200. In return "critical" employees were given the right to enter binding arbitration if negotiations reached an impasse. AS 23.40.200(b). Given these provisions the question which must be answered is whether the exclusion of public school teachers from any of the foregoing categories is reasonable in light of the purposes of PERA.

The court concludes that the exclusion of teachers from the strike-binding arbitration provisions of PERA is

3. AS 23.40.070.

4. The term "semi-critical" employees include public utility, snow removal, sanitation, public school and educational institution employees. AS 23.40.200(c). "Critical" workers include police, fire protection, correctional and hospital employees. AS 23.40.200(b). The "non-critical" class consists of all public employees who are not included in the other two classes. AS 23.40.200(d).

constitutional on the rationale that the legislature could constitutionally "have found that teachers, although necessary to the functioning of society so as to not forbid strikes, were not so essential as to require compulsory arbitration."⁵ In my opinion this distinction is based on a mistaken view of the purpose behind the compulsory arbitration provisions. Under PERA the category of "critical" employees was granted the right to binding arbitration to compensate for the total denial of a right to strike. In essence the legislature realized that while a ban on strikes for "critical" public employees was necessary, such a ban placed these employees in a disadvantageous bargaining position. Therefore, in the interest of fair and meaningful negotiations these employees were given the right to binding arbitration. It follows that in situations where negotiations were deadlocked, the state would be assured that essential services would continue to be provided and the employees would be assured of a viable means of resolving labor disputes with the state. Viewed in this perspective, the denial of binding arbitration to teachers, coupled with the ban on strikes seems at odds rather than "substantially related" to the purposes of PERA, in that it significantly handicaps public school teachers in their collective bargaining efforts.

5. Citing Hortonville Ed. Ass'n v. Hortonville Joint School Dist., 225 N.W.2d 658 (Wis. 1975).

If public school teachers are so essential to society that they must be denied the right to strike then they should also be given the right to compulsory arbitration. On the other hand, if teachers are not as essential as the "critical" employees then they should enjoy the same limited strike rights given to other "semi-critical" public employees. The court's recognition of a separate category of public employees occupying a position between these two groups is in my judgment mistaken.

The majority acknowledges that the teachers are disadvantaged by their exclusion from PERA but concludes that while binding arbitration would improve the teachers bargaining position, it is not a required means for furthering the purposes of PERA. The question is not, however, whether the legislature is required to grant arbitration rights to public employees; rather, it is whether the legislature, having granted strike or binding arbitration rights to a substantial portion of public employees, can lawfully deny these same rights to a particular sub-class of public employees. In order to justify the exclusion of a particular group of citizens from the benefits of a legislative act it must be shown that there is a substantial difference between the group excluded and the group covered by the act. The suggested difference must be such that it is reasonable to treat the group differently with respect to the legislation in question. State v. Erickson, 574 P.2d 1, 11 (Alaska

1978): Isakson v. Rickett, 550 P.2d 359, 362 (Alaska 1976). In my view, no persuasive reason has been advanced for the exclusion of public school teachers from the limited right to strike -- binding arbitration provision provided for in AS 23.40.200.

Thus, I conclude that the exclusion of the teachers from the strike and arbitration provisions of AS 23.40.200 violates the equal protection clause of Alaska's constitution.⁶

6. Implicit in my position is the rejection of the District's argument that the legislature's provision for mediation (AS 14.20.570) and binding arbitration in grievance proceedings (AS 14.20.590), as well as requiring the state to negotiate in good faith (AS 14.70.550) legitimizes that failure of FERA to grant public school teachers either the right to strike or to binding arbitration.