

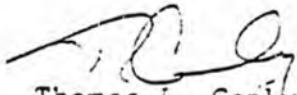
ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3214.72 HHESS HB 123 - HB 130

December 21, 1983  
Page Two

therefore propose both to the Office of the Management of the Budget on the legislative side, and to the Office of the Governor on the administrative side, that you give serious consideration to preventing funding of these programs.

Sincerely,



Thomas L. Conley, M.D.  
Secretary  
State Medical Board  
by direction

TLC:dp

Enclosure

Fairbanks Alternative  
Placement Center

Detention  
Furlough  
Re-Entry

# KILA, Inc.

*Locally Controlled  
Integrated and Coordinated  
Human Services*

3098 Airport Way  
Fairbanks, Alaska 99701-5500  
(907) 452-5972

Fairbanks Substance  
Abuse Center

Education  
Outreach  
Prevention  
Training  
Treatment

December 26, 1983

Darrel Miller  
Regulations Specialist  
Department of Commerce & Economic Development  
Pouch D  
Juneau, Alaska 99811

Dear Mr. Miller,

I just recently came into possession of the proposed regulations promulgated by the Board of Pharmacy (as required by AS 17.30.010 as passed under SB 190).

I have no overwhelming opposition to the proposed regulations developing, but I do need to ask why it only costs \$5/year to get registered with the feds and \$10/year to get registered with the State of Alaska? Why is registration with the State deemed desirable? Why not just get a listing of those registered with the feds from the feds? I am concerned only because the need for such registration evades my reading of the proposed regulations. Section 12 AAC 82.425 (6) is already covered under federal law and regulations; why does the state need to engage in such realms?

I would suggest that programs falling under the jurisdiction of the federal government's agencies (FIA and/or DEA) be exempted from having to secure a state license also. Why does the Board of Pharmacy want jurisdiction over programs it has succeeded in ignoring for the past 10+ years? The program to include us under the Board of Pharmacy is wasteful and of questionable value. Most important: Why is the Board committed to the growth of some state bureaucracy when the issues are already well covered by the federal government's bureaucracy?

Thank you for the opportunity to respond to the proposed regulations. It is indicative of the genuine interest in programs such as ours that the proposed regulations only just now arrived in this office--and then from an agency other than the Board of Pharmacy.

Darrel Miller, Regulations Specialist  
RE: Board of Pharmacy Proposed Regulations

Page 2  
12/26/83

Sincerely yours,



Frank A. Gold, EDD  
Executive Director & Staff Psychologist

FJG:iss

cc: SCADA  
Fairbanks Delegation

CTS #4167320

# KILA, Inc.

Fairbanks Alternative Placement Center

Fairbanks Substance Abuse Center

Detention  
Furlough  
Re-Entry

*Locally Controlled  
Integrated and Coordinated  
Human Services*

Education  
Counseling  
Prevention  
Training  
Treatment

3098 Airport Way  
Fairbanks, Alaska 99701-5599  
(907) 452-5972

June 12, 1984

RECEIVED  
JUN 14 1984

Governor Bill Sheffield  
Pouch A  
Juneau, Alaska 99811

GOVERNOR'S OFFICE

Dear Governor Sheffield,

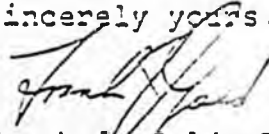
Attached find copies of the correspondence between this office and the Division of Occupational Licensing regarding the proposed regulations to be implemented by the Board of Pharmacy.

Note that we are not opposed to registration, but we are opposed to multiple registration. At this time, the Fairbanks Substance Abuse Center is registered with the US Food & Drug Administration, the US Drug Enforcement Administration, and the Alaska Office of Alcoholism & Drug Abuse. A fourth agency is not perceived as particularly welcome. More important, each of these agencies sees fit to come through the program and examine the dispensing records, the patient files, etc. To be very direct about this issue, we are not impressed with having to set aside still more time to deal with visitors who are coming to check what has already been checked by another visitor!

We are requesting that the regulations be modified to exempt certain agencies, like the Fairbanks Substance Abuse Center, who already are multiply registered. The examinations can be secured by the Board of Pharmacy (if they so desire) from each of our current examiners--and the state can save many dollars by not engaging in a quadruplication of effort.

Thank you for considering our view.

Sincerely yours,



Frank J. Gold, EdD  
Executive Director & Staff Psychologist

*Miller*

# *Ketchikan Medical Clinic, Inc.*

3612 TONGASS  
KETCHIKAN, ALASKA 99901

*H.J. Hennickson, M.D.*  
*D.E. Johnson, M.D.*  
*T.L. Conley, M.D.*  
*M.E. Bloom, M.D.*

Phone 225-5144  
Phone 225-5145

March 23, 1984

Board of Pharmacy  
Occupational Licensing Division  
Dept. of Commerce and Economic Development  
Pouch D  
Juneau, Alaska 99811

Dear Pharmacy Board Members:

This is in follow-up to our letter of December 19, 1983, suggesting non-funding of the mechanisms necessary to implement the changes envisioned in the addition of Chapters 5 and 6 to 12AAC52 (controlled substance registration and creation of the Marijuana Therapeutic Research Program, respectively). It reflects consideration of the material presented by your Board at the combined Medicine, Nursing and Pharmacy Board meeting of February 23, 1984 and subsequent reflection on the matter by the Medical Board at its meeting on February 24, 1984.

It was disturbing to us to learn that the federal Bureau of Narcotic and Dangerous Drugs programs for registration of practitioners, retail pharmacies, wholesale pharmacies and manufacturers is a virtual sham -- perhaps becoming more of a sham as it moves from the general (manufacturer) to particular (practitioner) and that the federal government is abrogating its responsibility in this matter without publicly announcing the fact. Additionally disturbing was your assertion -- offered we might note without proof -- that 50% of the illicit drugs available "on the streets" are being diverted from legitimate sources.

Disturbing as all this might be, the Medical Board found it to be a giant leap, unsupported by documentation, to suppose that a State registration of all practitioners was in order. If indeed there is massive diversion of controlled substances to the illicit market it is reasoned that the bulk of it is likely leaking at the level of manufacturer (none in Alaska) and wholesaler. There may therefore be a rationale for registration and control by another level of bureaucracy at the supra-pharmacy level. One is less than sure that this is justified at the retail and prescribing level as adequate controls in other formats in such a small state already seem to function quite well as recent prosecutions and investigations would indicate. Additionally, the original presentation of this idea about a year ago by the State's chief prosecutor, Mr. Hickey, left the Board very concerned that considerations of due process and humane inquiry, especially as they applied to terminal patients being prescribed significant amounts of controlled substances might well be ignored and trampled upon by the overzealous.

Board of Pharmacy  
March 23, 1984  
Page Two

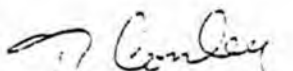
The Medical Board is, of course, not so naive as to believe that there is no diversion of illicit drugs by individual pharmacists and medical practitioners but rather wonders if you are not proposing that we acquire a big stick to swat a mosquito. We feel some time and careful inquiry is needed to determine just how necessary the program might be.

With this in mind, the State Medical Board would like to urge a "go slow" policy. Rather than adopting the registration idea on a permanent basis, we would suggest instead funding of a trial program to run for say two years. During that time we (the Pharmacy and Medicine Boards) would determine if such a program identifies any significant number of bad actors and whether it actually benefits the State. If it does fine; if it doesn't it gives us the option of bowing out of the program before it does permanent harm. Such a trial program takes cognizance of the fact that permanent legislation, whether of benefit or not, tends to create bureaucracies that servive on pure inertia.

The Medical Board also reconsidered the Marijuana Therapeutic Research Program in light of the simplification proposed by the utilization of the federally recognized pharmacy program at Providence Hospital in Anchorage to supply tetrahydrocannabinol capsules to practitioners treating cancer patients undergoing chemotherapy. The idea has merit and we approve.

However, in light of the simplification, we fail to understand why the State needs to spend money creating yet another board to administer the program and certify various physicians as investigators qualified to receive controlled substances from the federally designated pharmacy. Surely the already constituted Pharmacy and Medical Boards, either alone or in concert, are adequate to this rather simple task. It is felt that very few of the State's physician's will apply for such authority, and we could even limit it to a specified number by geographical location. Therefore, we don't understand the necessity for a special commission with all the attendant administrative support, travel, etc. to carry out this function. It seems manifestly a dreadful waste of money and the time of the proposed commissioners.

Sincerely,

  
Thomas L. Conley  
Secretary

Alaska State Board of Pharmacy

TLC:dp

4/8/84 copy  
Miller of Hardy

TO: Office of the Governor  
Legislative Office of the Management of the Budget

FROM: Alaska State Medical Board

RE: Proposed Regulatory Changes to 12AAC52

DATE: March 23, 1984

Enclosed is a reconsideration of proposed changes to 12AAC52 (Pharmacy Board regulations) by the State Medical Board. Reference is made to our memo to you of December 21, 1983. The reconsideration arises out of a conjoint meeting of the Boards of Medicine, Nursing and Pharmacy on February 24, 1984 in Juneau, and a subsequent meeting of the Medical Board on February 24, 1984.

The first of the reconsideration is a proposal to undertake registration of State health care providers (in the use of controlled substances) on a limited, two-year trial basis to see if it is of benefit to the State before committing ourselves to it permanently and at significant cost. Additionally, there is a reconsideration of the Marijuana Therapeutic Research Program with a proposal that the State save money by employing already constituted and functioning State agencies to administer the program rather than squandering funds to create a new, and as far as we can see unnecessary commission.

Functionally, the way to accomplish this would be the non-funding of the program needed to establish the Marijuana Therapeutic Research Program either at a legislative level or by line-item veto at the Executive level.

We will be happy to answer any questions on our suggestions in this regard. (Contact person: T. L. Conley, M.D., Secretary, Alaska State Medical Board, 3612 Tongass Avenue, Ketchikan, Alaska 99521. 907-225-5146).

Thomas L. Conley  
Secretary

TLC:dp

Enclosure

Department of Health & Economic Development

December 3, 1962

MEMORANDUM

TO: CITY MANAGER

FROM: HOSPITAL ADMINISTRATOR *ES*

SUBJECT: PHARMACY REGULATIONS

This memo is to report to you the difficulties this small rural hospital experiences when we try to meet the needs of our patients and comply with pharmacy regulations.

Drugs such as demeral, codeine, valium, etc., can only be issued to patients by order of a licensed physician. That is no problem and the way it should be. However, the problem arises after working hours and on weekends. A nurse can issue only one dose of the above class drugs in our emergency room unless a physician or pharmacist is present. Therefore, if more than one dose is needed the patient must return to the emergency room for another one dose.

As you know we do not have a pharmacist on duty at all times, and in many cases, the patient does not require the direct service of a physician/dentist.

If the patient is a fisherman or on a boat that will not be in Cordova when the drug store will open, then either the physician or dentist must come to the hospital to be present before the drug can be lawfully given to the patient. This means that the patient must needlessly pay for an after hours physician call or pay \$25.00 to the pharmacist for him to be called to the hospital. This problem is the same for all rural hospitals in Alaska.

RECOMMENDATION:

The pharmacy regulations should be changed so that a hospital emergency room nurse could issue these class drugs to patients in accordance with a physician/dentist prescription regardless whether a physician or pharmacist is available.



Box 1210 502 Railroad Avenue  
Cordova, Alaska 99574  
Phone: (907) 424-1237  
or 424-3238

CO#  
3004136

The Friendly City

RECEIVED  
DEC 22 1982

December 21, 1982



James A. Poor  
Mayor

Perry D. Lovett,  
Manager

Donna M. Sherby,  
Clerk: Treasurer

Council Members  
Richard Giraff  
R. J. Koonan  
Garry Harris  
Jim Henderson  
Phyllis Day  
Oliver Osborn

Governor Bill Sheffield  
Office of the Governor, GOVERNORS OFFICE  
Pouch V  
Juneau, AK 99811


Dear Governor Sheffield:

Enclosed find a recommendation submitted by the Cordova  
Community Hospital Administrator, Ed Zeina, regarding  
Pharmacy Regulations.

Would appreciate your consideration of this recommendation.

Best wishes to you, your family and staff for a Merry  
Christmas and Happy New Year!

Very truly yours,

  
Perry D. Lovett  
City Manager

Enclosure

RECEIVED

JAN 7 1983

OFFICE OF THE  
COMMISSIONER



Alaska Dental Society

3400 Scenard Road, Suite 10  
Anchorage, Alaska 99503  
(907) 277-4675

RECEIVED  
JUL 22 1983

DIV. OF OCCUPATIONAL LICENSING  
ANCHORAGE FIELD OFFICE

July 20, 1983

Richard A. Lyon, Commissioner  
Department of Commerce and Economic Development  
Division of Occupational Licensing  
Board of Pharmacy - Regulations  
Century Plaza  
142 East 3rd Ave.  
Anchorage, Alaska 99501

Dear Commissioner Lyon:

I have received and read the public notice of proposed changes in the regulations of the Department of Commerce and Economic Development, Board of Pharmacy. Of concern to me is Title 12, Alaska Administrative Code, Chapter 52, Sections 410 and 415. (12 ACC 52.410 and 12 ACC 52.415) I expect these also concern other practitioners in the healing arts who write prescriptions and have obligations in dealing with controlled substances.

An interpretation of proposed changes in 410 and 415 by medical and dental practitioners could be that another unnecessary bureaucracy is to be created. Why? The U.S. Treasury Department has been doing a fine job for many years. They have a large staff and a lot of money. These changes would call for hiring additional personnel and maintaining additional office space. (Costs for the remainder of 1984 - \$17,500 and for 1985 \$26,700). It seems a duplication of effort and a waste of dwindling state monies.

As president of the Alaska Dental Society, I will be questioned about this regulation by our membership. I would like to offer more of an explanation than is offered in the material sent out over your signature on July 11, 1983. Please help me understand the rationale behind these proposed changes. As presented, they seem dangerously incumbering, unnecessary and presumptuous in that you are entering the domain of the U.S. Treasury Department.

Sincerely,

Edward G. Wilkinson, D.D.S.  
President  
Alaska Dental Society

# *Ketchikan Medical Clinic, Inc.*

3612 TONGASS  
KETCHIKAN, ALASKA 99901

H.J. Hennickson, M.D.  
D.E. Johnson, M.D.  
T.L. Conley, M.D.  
M.E. Bloom, M.D.

Phone 225-5144  
Phone 225-5145

RECEIVED  
JUL 29 1983

DIV. OF OCCUPATIONAL LICENSING  
ANCHORAGE FIELD OFFICE

July 26, 1983

Department of Commerce & Economic Development  
Division of Occupational Licensing  
Board of Pharmacy - Regulations  
Century Plaza, 142 East Third Avenue  
Anchorage, Alaska 99501

RE: 12 AAC 52 New Article #5  
REGULATION AND MANUFACTURER DISTRIBUTION, PRESCRIPTION  
AND DISPENSING OF CONTROLLED SUBSTANCES

Gentlemen:

Thank you for this opportunity to again comment on the proposed regulation changes creating what is in effect a mini-DEA in the State of Alaska.

As I stated before, I find myself somewhat irritated by this whole procedure. We already have a national registration for drug control through the Drug Enforcement Administration in Washington, D.C. It totally escapes me what possible purpose could be served by creating a parallel organization in the State of Alaska. It creates a new level of bureaucracy, charges practitioners a fee of \$10 for no good purpose, and most importantly, squanders \$20,000 to \$30,000 a year of state funds in a useless effort.

I realize that the state legislature has essentially directed the Board of Pharmacy to come up with some regulations to make sure that everyone is registered. I do not pretend to understand their purpose in this. After watching the legislature over the last several years, I suspect they do not understand their purpose either. I realize, however, that it is a hassle and you probably have to do something. Perhaps, however, we could be imaginative about this, and deliver to the legislature the appearance without the reality. After all, that is all they ever really seem to care about anyway. It strikes me that at the next conjoint pharmacy, nursing and medical board meeting we might look at the possibility of registering everyone automatically at the time they are issued a license in the various disciplines. This could be construed as conforming to the letter of the law without getting ourselves involved in futile expenditures of time, effort and public resources.

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT  
JULY 26, 1983  
PAGE 2

I am quite aware that there is a significant problem with illicit drugs in the State of Alaska. I certainly agree that we should expend effort, time and public funding on trying to combat this problem. However, the proposed regulations, which I understand grew out of legislative desire to do something, are totally irrelevant to the problem and represent only bureaucratic handwringing. In any case I say, enough of this. Surely we have better things to do with our time.

Sincerely,



Thomas L. Conley, M.D.  
Alaska State Board of Medicine

TLC:dj

cc: Mr. Hugh Gellert  
406 "G" Street  
Anchorage, Alaska 99501

OCCUPATIONAL  
LICENSING ANCHORAGE  
HARRIET JACKSON SCHIRMER, M.D. 1980

BOX 773

WRANGELL, ALASKA 99787

874-3368

AUG 17 11 02 AM '83  
ALASKA DEPARTMENT OF  
COMMERCE AND ECONOMIC  
DEVELOPMENT

July 28, 1983

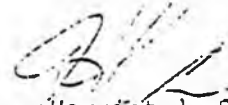
Richard A. Lyon, Commissioner  
Department of Commerce and  
Economic Development  
Board of Pharmacy

Dear Sir:

I have just received your public notice of proposed changes in regulations, and notice that under article number five, 12 AAC 52.400, provides that every person who dispenses any controlled substance, or proposes to do so, must obtain a certificate of registration with the Board of Pharmacy. Are you suggesting that there be a double registration business for narcotics and controlled substances, or that physicians would have a federal and a state registration? What about nurses who in the course of their activity in a hospital do dispense controlled substances?

I would appreciate your letting me know what this means.

Yours sincerely,



Harriet J. Schirmer, M.D.

HJS:kaw

# Susitna Valley Veterinary Clinic

Kenneth Aadsen, D.V.M.

Valerie Shepard, D.V.M.

Mile 48.2 Parks Highway Star Route 2100 Wasilla, Alaska 99687 Phone 376 - 2141

August 12, 1983

Department of Commerce and Economic Development  
Division of Occupational Licensing  
Board of Pharmacy Regulations  
Century Plaza  
142 East 3rd Avenue  
Anchorage Alaska 99501

Dear Sirs,

The Board of Veterinary Examiners at its last meeting, August 8, 1983, voted to oppose adoption of the proposed amendment to 12AAC52 designated Article 5, "Regulation of Manufacture, Distribution, Prescription, and Dispensing for Controlled Substances."

Board members had been approached by veterinarians and other individuals opposed to the adoption of these regulations prior to the meeting and had an opportunity to review the text of the proposed amendment as well as the new statute under Chapter 17.30 "Controlled Substances." Ms. Marian Hartley, Regulations Specialist, spoke to us regarding the development of the proposed regulations.

The Board listed the following reasons for its opposition:

1. Implementation of this regulation would merely duplicate the registration system already adequately administered by the Federal Drug Enforcement Agency.
2. The cost of this duplication would place an unnecessary financial burden on the citizens and proposed licensees of this state.
3. Other than compliance with Chapter 30 of Title 17, there has been no demonstrated need for such registration nor would its implementation appear to improve upon the already existing Federal system.
4. The requirement that all distributors register with the state may decrease the availability of some controlled substances utilized by veterinarians who ordinarily order such drugs from distributors located outside of Alaska.

The Board further suggested that the entire question of Statutorily mandated registration be reexamined by the Legislature with regard to eliminating unnecessary duplication of the Federal registration system.

We trust that the Board of Pharmacy will consider these comments along with others it might receive at the scheduled public hearing, and suggest that you move to withdraw the adoption order for Article 5.

*Valerie Shepard*  
Board of Veterinary Examiners

FAITH HOSPITAL  
CENTRAL ALASKAN MISSIONS, INC. PAGE  
GLENNALLEN, ALASKA 99588  
PHONE 822-3203

AUG

August 26, 1983

I feel a Marijuana Therapeutic Research Program is a waste of time and money. Pharmacologically, the effects of marijuana are no more beneficial than currently prescribed medications. For example, the use of marijuana in cancer patients or those with glaucoma has been shown to be less effective and more expensive. Research programs such as these will more than likely only promote the legalization of marijuana. I believe the legalization of marijuana would promote detrimental consequences to our already "mood altering" society.

Heidi Roth R.N. *Wid. R.N.*  
Box 369  
Glennallen, Alaska 99588

*Let's hope  
with Willie  
1983*

Box 3515  
Ketchikan, Alaska  
9/10/83

To: Board of Pharmacy  
Concerning - Marijuana Research Program  
From - Betty J. Wilson, President, Ketchikan Families in Action

Ketchikan Families in Action is a group concerned about drug use and abuse in Ketchikan and in the state of Alaska. For over two and one half years we have been studying the current research on Marijuana because we have observed what it is doing to our teenagers and friends.

The purpose of the legislation pertaining to the Alaska Therapeutic Research Act is not a good enough reason for Alaska to spend its time and money researching Marijuana as a medicine. The Federal government has been researching this for several years. We do not believe that Alaska has better methods for conducting this research therefore let us let the Federal government do it.

The research that has been done has shown Marijuana to have some problems and that it was not superior to other medicines for controlling nausea and helping Glaucoma. Dr. Richard Gralla of Memorial Sloan Kettering Cancer Center has conducted a comprehensive study using Metoclopramide to control Nausea in cancer chemotherapy patients. He found that 1. It was safe to administer at high doses, 2. Side affects are mild, 3. very effective in controlling nausea. Marijuana is none of the above. It has many unpleasant side affects, some are incoordination, dizziness, ataxia, paranoia and hallucination.

Another study was done comparing THC, a placebo and compazine. It was found that patients on THC and compazine did about as well except that they had many more side effects on THC, especially the older patients.

There are certain types of cancer therapy drugs on which THC does not work. One is cisplatinum, used against ovarion, testicular cancer as well as lung, bladder and prostat

There is lots of evidence that ORMAL the organization for reform of Marijuana laws is working hard in all states to get them to make pot available for therapeutic use since they have not had good luck in legalizing it. This is one more way of improving Marijuana's social acceptance.

In Ketchikan marijuana is already socially acceptable with all the problems that a psychologically addictive drug can cause a community and its people. We need this money that it would cost to implemet this research to help Alaska's people know that Marijuana is a dangerous drug and can get them hooked. The legislature has cut funds for drug prevention, and treatment. We need in-patient treatment facilities for youth and adequate out-patient counselling for youth and their families.

Another concern we have is that the bill says that the patient may possess Marijuana, its derivatives or its active ingredients, synthetic or natural. I believe Federal law says that only THC capsules are legal. I sincerely hope that we will follow federal law. We are now in conflict with the federal law by allowing 4 oz. of marijuana for personal use. If we are not very careful we may well compound this offense.

Please thoughtfully consider the ramifications of this legislation.

*Betty J. Wilson*

OFFICIAL  
LICENSING  
FD  
OCT 17 PM '83  
ALASKA  
DEPARTMENT  
OF  
PSYCHOLOGICAL  
SERVICES



Alaska Veterinary Clinic, Inc.  
300 EAST FIREWEED LANE  
ANCHORAGE, ALASKA 99503

Department of Commerce  
Division of Occupational Licensing  
Board of Pharmacy - Regulations  
Century Plaza  
142 East 3rd Ave.  
Anchorage, Ak. 99501

Sirs;

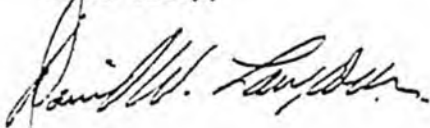
I wish to comment on the proposed regulations regarding manufacture distribution, prescription, and dispensing of controlled substances.

Unless the regulation specifies "for human use", I feel it places an unnecessary burden on members of the Veterinary profession. It appears that before I could order a controlled substance from a distributor, the manufacturer, distributor and myself would have to possess a permit from the Board of Pharmacy.

Please bear in mind that veterinarians use numerous anesthetic agents, sedatives, and analgesics on a daily basis, many of which are controlled substances which are purchased from numerous sources throughout the country. Veterinarians, of course, must possess a federal DEA Registration Number to utilize controlled substances. Additional state regulations and interference in the conduct of everyday practice are absolutely unwarranted and would only contribute to the growing state bureaucracy.

In summary, I wish to register my protest to the adoption of Article 5.

Yours Truly,



David W. Law D.V.M.

RECEIVED  
JUL 29 1983

DIV. OF OCCUPATIONAL LICENSING  
ANCHORAGE FIELD OFFICE

	OREGON	WYOMING	CALIFORNIA	COLORADO	FLORIDA	WASHINGTON
TITLE	Executive Director	Executive Director	Executive Officer	Program Administrator	Executive Director	Executive Secretary
APPOINTED BY (Hire/Fire)	Pharmacy Board	Interviewed by the Board, but in accordance with hiring procedures of the State.	Pharmacy Board	Director of the Division of Registration.	Director of the Division of Professions.	Pharmacy Board
RESPONSIBLE TO	Pharmacy Board	Pharmacy Board	Pharmacy Board	Director of the Division of Registration.	Director of the Division of Professions.	Pharmacy Board
AUTONOMOUS OR UMBRELLA AGENCY	Autonomous	Autonomous	Board operates as an autonomous board but falls under the Dept. of Consumer Affairs.	Umbrella Agency - Division of Registration in the Dept. of Regulatory Boards.	Umbrella Agency - Division of Professions in the Dept. of Professional Regulation.	Autonomous
NUMBER OF LICENSEES	10,000 of this, 2,800 pharmacies	110,000	117,500 - pharmacists 5,000 - pharmacies	4,100 - pharmacists 800 - pharmacies 275 - interns 1,000 - other drug related categories.	13,000 - pharmacists 3,600 - community & institutional pharmacies.	8 to 9,000
SIZE OF STAFF	7 (including the Exec. Director) 3 are inspectors who are pharmacists, full-time board staff.	3 (Exec. Director, Secretary, & Inspector who is a pharmacist.)	30 (4 Inspectors & one supervising Inspector for the Northern region; 12 Inspectors & one supervising inspector for the Southern region.)	7 (3 clerical, and 4 inspectors who are pharmacists, hired by the program administrator.	6 full-time 1 part-time 1 Exec. Director *NO INSPECTORS UNDER THE EXEC. DIRECTOR (see below)	6 Office staff 9 Inspector
NUMBER OF OFFICES (Statewide)	1 Central Office	1 Central Office	2 (Sacramento & LA)	1 Central Office	1 Central Office 10 (Investigative field offices)	1 Central Office
NUMBER OF BOARD MEMBERS	7 (2 public members)	6 (3 public members)	10 (2 public members)	7 (2 public members)	7 (2 public members)	7
AMOUNT OF BUDGET	not available	\$130,000. (annually)	\$2.4 million (annual)	\$366,982 (annually)	not available	\$1.0 million (biennial on odd-numbered years. Supplements may be requested on even-number years.

	OREGON	WYOMING	CALIFORNIA	COLORADO	FLORIDA	WASHINGTON
SOURCE OF FUNDING	Revenues	\$45.0 from revenues; \$85.0 - 10% from Licensing fees, & 90% from general funds.	Revenues	General funds allocated by the Dept. All revenues collected are deposited to the Department.	Revenues	General funds
EMPLOYMENT OF STAFF	Exec. Director hires staff under State employees personnel rules.	Same procedure as employment of the Executive Director.	Executive Officer in compliance with State personnel rules. All employees are classified as 'civil service' employees. Executive - Officer is the only exemption, as that person is responsible to the Board.	Program Administrator hires staff.  <u>NOTE: The Program Administrator is assigned various Licensing professions by the Director of Registration, and can be changed at any time.</u>	Executive Director employs staff under the Division of Professions with the approval of the Division Director. Inspectors are hired by the Chief Inspector with the approval of the Director of the Division of Investigative Services.  <u>*NOTE: A separate Division of Investigative Services provide enforcement. Within the Division of Investigative Services are full-time pharmacy inspectors.</u>	Executive Secretary hires staff in accordance with the State personnel system.

Testimony of Chuck Rush given to the  
Labor and Commerce Committee on Feb. 14, '85  
regarding the Pharmacy Sunset Legislation.

I AM CHUCK RUSH. I SERVED ON THE PHARMACY BOARD FOR 12 YEARS AND MOST OF THAT TIME AS SECRETARY OF THE BOARD. UP UNTIL 1983 OUR PHARMACY BOARD FELT WE DID AN EXCELLENT JOB. WE HAD BEEN COMMENDED FOR OUR HARD WORK BY THE SUNSET REVIEW IN 1980. up until 1982 OUR FUNCTION AS A BOARD OF PHARMACY HAD BEEN TO PROTECT THE PUBLIC BY:

1. licensing PHARMACISTS, PHARMACIES, WHOLESALERS, AND DRUG ROOMS IN HOSPITALS AND NURSING HOMES.
2. <sup>trying to</sup> physically inspecting ALL OF THESE YEARLY TO CHECK COMPLIANCE WITH ALASKA STATUTES, FEDERAL LAWS ETC + *we*
3. gave examinations and adopted regulations plus handling any complaints regarding pharmacy.

in 1982 THE LEGISLATURE PASSED THE CONTROLLED SUBSTANCES AND MARIJUANA RESEARCH PROGRAM. *Since probably 90% of the U.S. are dispensed by*

TO TAKE ON THE ADDITIONAL DUTIES REQUIRED BY THE NEW LAW. WE WERE IN PERFECT AGREEMENT WITH THE LEGISLATURE AS TO HOW THE NEWLY PASSED CONTROLLED SUBSTANCES PROGRAM WAS TO BE RUN. THE LEGISLATURE HAD BUDGETED \$150,000 for the board to run the program AND IT WAS TO BE MODELED AFTER MOST OF THE OTHER STATES WITH A PHARMACIST EXPERT, TO BE CALLED OUR EXECUTIVE SECRETARY, IN CHARGE OF THE PROGRAM.. HE WAS TO WORK DIRECTLY UNDER THE BOARD AND BE ACCOUNTABLE SOLELY TO THE BOARD. THE BOARD HAD ASKED FOR A BUDGET OF \$44,000 SALARY FOR HIM AND OTHER TRAVEL AND MISCELLANEOUS EXPENSES FOR A TOTAL OF LESS THAN THE \$150,000. HOWEVER, THE DIRECTOR OF THE DEPARTMENT OF LICENSING, DOL, TOTALLY ON HIS OWN AND IN DIRECT OPPOSITION TO THE BOARD'S BUDGET REQUEST AND LEGISLATIVE INTENT, HAD INFORMED THE PERSONNEL DEPARTMENT THAT TWO INVESTIGATORS AND A REGULATION SPECIALIST WERE NEEDED FOR THE \$150,000. the board did not learn of the reversal UNTIL FEBRUARY OF 1983. THE BOARD DID EVERYTHING IN ITS POWER TO

2

GET THIS ACTION REVERSED AND GET BACK ON THE CORRECT TRACK BY HIRING A PHARMACIST EXEC SECT WHO COULD RUN THE WHOLE PROGRAM IMMEDIATELY INSTEAD OF HIRING A REGULATION SPECIALIST AND INSPECTORS INEXPERIENCED IN PHARMACY. IN OTHER STATES WITH MORE POPULATION THAN OURS THE EXECUTIVE SECRETARY HAS WRITTEN THE REGULATIONS AND DONE ALL OF THE INSPECTIONS. WE KNEW WE COULD HIRE SOMEONE WITH THESE QUALIFICATIONS AS WE HAD ALREADY HAD A NUMBER OF APPLICANTS FOR THE POSITION. THE BOARD POINTED OUT THAT HIRING AN EXEC. SECT WAS FAR LESS EXPENSIVE AND MORE EFFECTIVE THAN HIRING THE THREE BUT WERE UNABLE TO GET THE DIRECTOR OF DOL TO COOPERATE. THE BOARD WROTE TO THE GOV., PRES OF THE SENATE, AND SPEAKER OF THE HOUSE AND IT WAS REFERRED TO THE THEN COMMISSIONER OF COMMERCE WHO FAILED TO ACT.

THE PLAN WAS THAT BY JAN 1st 1984 THE REGULATIONS WOULD ALL BE IN PLACE, ALL THE DRG, DENTISTS, VETERINARIANS, AND PHARMACIES WOULD BE REGISTERED, THE AUDIT PROCEDURES WOULD BE IN PLACE AND WE WOULD BE RECEIVING ALL OF THE PURCHASE RECORDS FROM THE DRUG ENFORCEMENT ADMINISTRATION AND WOULD BE IN A POSITION TO START EVALUATING ALL OF THIS INFORMATION TO SEE WHERE POSSIBLE INSPECTIONS WERE INDICATED. INSTEAD, NONE OF THIS HAS BEEN ACCOMPLISHED AND THE \$150,000 HAS EVIDENTLY BEEN SPENT A COUPLE OF TIMES IN WHAT THE BOARD FEELS WAS A TERRIBLE WASTE AND UNLESS WE GET THE EXPERT TO RUN THIS PROGRAM I FEEL THE PROGRAM IS A FAILURE.

AT THIS TIME IT IS EXTREMELY ALARMING TO FEEL THAT THE BOARD HAS BEEN GIVEN THIS IMPORTANT JOB OF MONITORING CONTROLLED SUBSTANCES IN THE STATE AND IS PREVENTED BY THE DOL FROM GETTING THIS DONE IN A TIMELY OR EFFICIENT MANNER. IT IS FRUSTRATING TO FIND THAT THE DEPT CAN OVERRULE THE BOARD ON SUCH AS IMPORTANT MATTER AS OUR EXEC SECT AND REGARDLESS OF WHAT MEASURES THE BOARD TAKES DOL ATTEMPTS TO RUN THE PROGRAM WITH NO BOARD INPUT, NO PHARMACY EXPERTISE

3

AND WITH NO QUALIFIED PERSONNEL.

WHEN WE EXPLAINED THIS TO THE LEGISLATURE LAST SESSION THEY RE-  
CONFIRMED WHAT THEY HAD TOLD THE BOARD ORIGINALLY. THEY PASSED  
QUITE UNANIMOUSLY, HB 716 WHICH WE FELT SOLVED THE PROBLEMS AND PUT  
THE QUALIFIED PHARMACY PERSONNEL BACK IN CHARGE OF THE CONT SUBSTANCES  
PROGRAM AND ALSO ALLOWED THE BOARD TO FULFILL ITS MAIN JOB OF  
PROTECTING THE PUBLIC. THE EXECUTIVE SECT WOULD ASSIST THE BOARD IN  
ITS REGULAR BOARD DUTIES AS WELL AS THE CONTROLLED SUBSTANCES PROGRAM.  
IN ADDITION TO THWARTING THE IMPLEMENTATION OF THE CONT SUBS BILL  
DOL HAS PREVENTED THE BOARD FRO' FULFILLING ITS PRIMARY DUTY OF  
PROTECTING THE PUBLIC IN ITS LICENSING AND INSPECTION FUNCTIONS.  
WITH NO PROFESSIONAL EXPERTISE DOL HAS GIVEN OUT INFORMATION TO  
PROSPECTIVE LICENSEES WHICH WAS IN ERROR AND IN ONE CASE CAUSED

GRIEVOUS PROBLEMS. BY DIRECTING <sup>against the Board's interests; that</sup> ALL INFORMATION FROM NABP, DEA, + the <sup>other states be sent to the Dept instead of the Board.</sup>

*ALL* ~~ALL~~ INFORMATION ~~coming from other states~~ REGARDING REVOKED, LICENSES,  
~~CHANGES IN STATUS, IMPAIRED PHARMACISTS & INFRACTIONS~~ <sup>go to</sup>  
THE DEPT INSTEAD OF TO THE BOARD AND ~~DOES NOT~~ <sup>IS NOT</sup> THIS INFORMATION  
ON TO THE BOARD. DOL REFUSED TO ALLOW BOARD MEMBERS TO KEEP COPIES  
OF ANY PERTINENT DOCUMENTS, BACKGROUND INFORMATION ETC EVEN THOUGH  
EACH BOARD MEMBER IS RESPONSIBLE FOR LICENSING INCOMING PHARMACISTS  
IN HIS AREA.

IN THE PAST COMPLAINTS FROM THE PUBLIC WERE WITHHELD FROM THE BOARD  
FOR EXAMPLE THE LEGISLATURE DURING SUNSET <sup>in 1980</sup> ASKED THE BOARD WHY NO

ANSWERS HAD BEEN GIVEN ON 14 COMPLAINTS SENT TO THE BOARD WHICH APPEARED  
NOT TO HAVE BEEN INVESTIGATED. WE LEARNED THE 14 HAD BEEN MADE DIRECTLY  
TO DOL AND NO INFORMATION REGARDING THEM HAD EVEN BEEN GIVEN TO THE  
BOARD. WE WERE ADVISED BY DOL THAT THESE 14 COMPLAINTS WERE UNIMPORTANT.

WE LEARNED LATER THAT TWO OF THESE WERE EXTREME CASES OF DIVERSION  
AND VERY LIFE THREATENING. *I wonder how many complaints*  
*are in the Dol. at this time that the Board has*  
*never seen.*

THE DEPARTMENT AND THE POOL OF INVESTIGATORS AT DOL DO NOT HAVE THE PHARMACY EXPERTISE TO RECOGNIZE WHAT COMPLAINTS MAY BE EXTREMELY DANGEROUS AND WHICH MAY BE OF LITTLE CONSEQUENCE. THE POOL OF INVESTIGATORS AT DOL SHOULD NOT BE DECIDING WHAT NEEDS TO BE INVESTIGATED IN PHARMACIES AND REGARDING CONTROLLED SUBSTANCES. THIS SHOULD BE DONE BY THE EXECUTIVE SECRETARY WORKING WITH THE BOARD. LAST YEAR THE LEGISLATURE REALIZED HOW DANGEROUS IT WAS THAT DOL, WITH NO PROFESSIONAL EXPERTISE, WAS CONTERMANDING DECISIONS MADE BY THE PHARMACISTS ON THE BOARD AND PASSED HB 716 CLARIFYING THEIR ORIGINAL INTENT TO HAVE THE PHARMACY EXPERT RUN THE PROGRAM. WE WERE ABSOLUTELY STUNNED WHEN THE GOVERNOR VETOED THE BILL LEAVING DOL THINKING THEY WERE NOT ONLY IN CHARGE OF THE CONTROLLED SUBSTANCES PROGRAM BUT ALSO IN CHARGE OF THE PHARMACY FUNCTIONS OF THE BOARD AS WELL. WE PHARMACISTS ARE POOR POLITICIANS AND WE EVIDENTLY FAILED TO SHOW THE GOVERNOR THE DANGER TO THE PUBLIC AND THE LIABILITY TO THE STATE WITH DOL IN CHARGE OF THE PROGRAM. THE GOVERNORS CONCERN WAS THAT THE BOARD SHOULD NOT HAVE AN AUTONOMOUS STAFF. THE BOARD HAD NO INTEREST IN HAVING AN AUTONOMOUS STAFF IT IS SIMPLY THAT THE DOL HAS NO KNOWLEDGE, EXPERTISE OR QUALIFIED PERSONNEL TO RUN SUCH A PROGRAM.

IF THERE IS NO CHANGE, IF HB 716 IS NOT PUT INTO EFFECT, IF DOL CONTINUES TO BE IN CHARGE OF THE CONTROLLED SUBSTANCES PROGRAM AND THE PHARMACY PROFESSION, WITH THE BOARD HAVING NO JURISDICTION OR INPUT BUT STILL BEING RESPONSIBLE FOR THE ACTIONS OF UNQUALIFIED PERSONNEL, THEN I FEEL THAT PHARMACY WOULD PREFER TO DISASSOCIATE ITSELF FROM THE PROGRAM.

IT PERPLEXES ME AS TO WHY DOL WANTS TO RUN THIS CONTROLLED SUBSTANCES PROGRAM AND WHY THEY WANT TO DO THE PHARMACY BOARDS JOB WHEN THEY HAVE NO PHARMACY EXPERTISE AND NO INSPECTORS CAPABLE OF INVESTIGATING OUR PHARMACIES. IF THIS IS TO BE THE ROLE OF DOL THEN I THINK THIS PLACES

5  
ALASKA IN THE POSITION OF BEING THE ONLY STATE IN THE UNION TO RUN A HIGHLY TECHNICAL AND EXTREMELY IMPORTANT PROGRAM WITHOUT THE INVOLVEMENT OF ANY PROFESSIONAL PHARMACY OR MEDICAL EXPERTISE AND WITHOUT ANY QUALIFIED PERSONNEL.

I DO NOT THINK THE LEGISLATURE INTENDED FOR US TO BE A COMPLETELY INDEPENDENT BOARD NOR DID WE HAVE ANYTHING LIKE THAT IN MIND. WE FEEL THAT OUR BOARD SHOULD BE UNDER THE COMMISSIONER OF COMMERCE BUT NOT UNDER OR INCLUDED WITH DOL. AN EXAMPLE IS THE " BOARD OF REALTY WHICH HAS A MUCH BIGGER BUDGET BUT WAS SET UP IN THIS MANNER WHEN THEY TOOK ON A SPECIAL EXTRA FUNCTION OF SURETY BONDING SIMILAR TO OUR TAKING ON THE EXTRA FUNCTION OF THE CONTROLLED SUBSTANCES ACT AND MARIJUANA RESEARCH PROGRAM. PROGRAMS WHICH DOL DOES NOT HAVE THE EXPERTISE TO ADMINISTER. SINCE IT IS POSSIBLE TO SET UP BOARDS IN THIS MANNER IT CERTAINLY SEEMS THIS WOULD BE APPROPRIATE FOR OUR BOARD AND THIS IS WHAT WE WOULD REQUEST.

10.00  
7

Testimony of Bill Larson given to the  
Labor and Commerce Committee on Feb. 14, '85  
regarding the Pharmacy Sunset Legislation.

My Name is Bill Larson In Pharmacy Director  
for Care Quality Centers and the most recent  
governor appointe to the Board of Pharmacy

I have served on the Board of Pharmacy  
for nearly a year and during that time have  
had virtually no communication with the  
Division of Occupational Licensing other than  
to approve Continuing Education credits for  
relicensure.

I believe the Drug Enforcement Administration  
National Association of Boards of Pharmacy, and the  
Various State Boards of Pharmacy periodically  
communicate with DOL giving them vital information  
on drug diversion and illegitimate or impaired  
pharmacists seeking licensure in other States.

This information if it is being received by DOL  
is not being forwarded to the Board members  
who are granting temporary licenses without  
the benefit of all available information.

Also in the past year there have been no drug related problems brought to the attention of the Board of Pharmacy. This means that either Alaska has No Drug problems, which is very unlikely since Alaska has the highest Per Capita use of legitimate Cocaine in the U.S. or that there is no one with the expertise to even identify Drug problem much less act on them problems.

The Alaska legislature took positive action in 1952 in passing the Controlled Substance Bill.

12 AAC 52.400 - 455 and the Margaret Ureapaur + Research Bill 12 ACC 52.610 - 630 and again in 1954 when they passed HB 716 which was subsequently vetoed by the Governor.

I would propose that the committee amend HB 123 to include class years HB 716 so the Board of Pharmacy can begin implementation of the Controlled Substance bills that was passed 3 years ago.

Offered: 5/25/84  
Referred: Rules

Original sponsor: Labor and Commerce Committee

1 IN THE HOUSE BY THE LABOR AND  
COMMERCE COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 716 (L&C)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to the Board of Pharmacy; and pro-  
7 viding for an effective date."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 08.03.010(c)(4) is amended to read:  
10 (4) Board of Pharmacy (AS 08.30.010) -- June 30, 1986  
11 [1984].  
12 \* Sec. 2. AS 08.80.030 is amended to read:  
13 Sec. 08.30.030. POWERS OF THE BOARD. The board may  
14 (1) elect a president and secretary from its membership and  
15 adopt rules for the conduct of its business;  
16 (2) examine applicants for registration as pharmacists;  
17 (3) investigate individually, collectively, or through its  
18 agent, for violations of this chapter, or of any other state or  
19 federal statute relating to the practice of pharmacy;  
20 (4) adopt regulations [AND DO WHATEVER ELSE IS NECESSARY  
21 AND ADVISABLE] to carry out the purposes of this chapter;  
22 (5) [PROMULGATE REGULATIONS TO CARRY OUT THE PURPOSES OF  
23 THIS CHAPTER;  
24 (6) Repealed  
25 (7)] register intern pharmacists and adopt regulations  
26 [PROMULGATE RULES] relating to their minimum experience requirements;  
27 (6) adopt [(8) PROMULGATE] regulations to ensure adequate  
28 security for all dangerous drugs;  
29 (7) [(9)] adopt requirements for licensing in addition to

1 the requirements set out in this chapter.

2 \* Sec. 3. AS 08.80 is amended by adding new sections to read:

3 Sec. 08.80.095. EXECUTIVE SECRETARY. The board may hire an  
4 executive secretary to assist in implementing this chapter and in  
5 regulating controlled substances under AS 17.30. The executive  
6 secretary shall be a member of the partially exempt service under  
7 AS 39.25.120.

8 Sec. 08.80.097. DUTIES OF THE EXECUTIVE SECRETARY. The  
9 executive secretary shall

10 (1) serve as liaison with the national association of  
11 boards of pharmacy;

12 (2) under the supervision of the board, administer the  
13 state pharmacy examination;

14 (3) serve as liaison with the Drug Enforcement  
15 Administration on all matters pertaining to the legitimate use of  
16 controlled substances by members of the medical community;

17 (4) maintain files and records approved by the board; and

18 (5) perform other duties required by the board.

19 Sec. 08.80.099. INVESTIGATIONS. (a) The executive secretary,  
20 under the supervision of the board, may inspect pharmacies and  
21 investigate complaints to determine whether any person has violated  
22 this chapter or AS 17.30 or a regulation adopted under either chapter  
23 or to secure information useful in the administration of either  
24 chapter.

25 (b) If the executive secretary believes that a person may have  
26 engaged in or be about to engage in an act or practice in violation of  
27 this chapter or AS 17.30 or a regulation adopted under either chapter,  
28 the executive secretary shall investigate the matter in accordance  
29 with this chapter or AS 17.30 and immediately send written notice of

1 the investigation to each board member and to the department.

2 \* sec. AS 39.25.120(c) is amended to read:

3 (c) The following positions in the state service constitute the  
4 partially exempt service:

5 (1) deputy and assistant commissioners of the principal  
6 departments of the executive branch, including the assistant adjutant  
7 general of the Department of Military Affairs;

8 (2) the directors of the major divisions of the principal  
9 departments of the executive branch and the regional directors of the  
10 Department of Transportation and Public Facilities;

11 (3) attorney members of the staff of the Department of Law  
12 and of the public defender agency;

13 (4) one private secretary for each head of a principal  
14 department in the executive branch;

15 (5) employees of courts, boards, or commissions  
16 established by statute in the Office of the Governor or the office of  
17 the lieutenant governor, unless a different classification is provided  
18 by statute;

19 (6) the executive director, deputy director, hearing  
20 officers, and administrative law judges of the Alaska Public Utilities  
21 Commission;

22 (7) the director, deputy director, staff legal counsel, and  
23 hearing officers of the Alaska Transportation Commission;

24 (8) not more than two special assistants to the  
25 commissioner of each of the principal departments of the executive  
26 branch, but the number may be increased if the partially exempt  
27 service is extended under AS 39.25.130 to include the additional  
28 special assistants;

29 (9) the principal executive officer of the following

- 1 boards, councils, or commissions:
- 2 (A) Alaska Public Broadcasting Commission;
- 3 (B) Professional Teaching Practices Commission;
- 4 (C) Parole Board;
- 5 (D) Board of Nursing;
- 6 (E) Real Estate Commission;
- 7 (F) Alaska Royalty Oil and Gas Development Advisory
- 8 Board;
- 9 (G) Alaska Historical Commission;
- 10 (H) Alaska State Council on the Arts;
- 11 (I) Alaska Police Standards Council;
- 12 (J) Council on Science and Technology;
- 13 (K) Older Alaskans Commission;
- 14 (L) Board of Pharmacy;
- 15 (10) Alaska Pioneers' Home managers;
- 16 (11) hearing examiners in the Department of Revenue;
- 17 (12) the comptroller in the division of treasury, Department
- 18 of Revenue;
- 19 (13) investment officers in the Department of Revenue;
- 20 (14) airport managers in the Department of Transportation
- 21 and Public Facilities employed at the Anchorage and Fairbanks
- 22 International Airports;
- 23 (15) the deputy director of the division of tourism and the
- 24 deputy director of the division of insurance in the Department of
- 25 Commerce and Economic Development;
- 26 (16) the executive director and staff of the Alaska Public
- 27 Offices Commission;
- 28 (17) the director, deputy director, personnel analysts II,
- 29 labor relations analysts I, labor relations analysts II, senior

1 negotiators, and research directors of the division of labor relations  
2 in the Department of Administration;

3 (18) the rehabilitation administrator of the Workers'  
4 Compensation Board.

5 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.  
6 10.070(c).

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF LAW

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

OFFICE OF THE ATTORNEY GENERAL

June 29, 1984

Honorable Bill Sheffield  
Governor, State of Alaska  
Pouch A  
Juneau, Alaska 99811

Re: CSHB 716(L&C) -- Board of  
Pharmacy  
Our file: 388-156-84

Dear Governor Sheffield:

At Ray Gillespie's request on your behalf, we have reviewed CSHB 716(L&C), which extends the termination date of the Board of Pharmacy from June 30, 1984 to June 30, 1988, and makes changes in the board's powers, including authorizing it to hire an executive secretary.

Because of policy and possible legal problems raised by secs. 3 and 4 of the bill, we suggest that you consider vetoing it, even though the first two sections of the bill present no problems. Section 1 extends the termination date of the board. Section 2 of the bill amends AS 08.80.030, concerning the powers of the board, to eliminate some redundancy and generally to improve the clarity of the listing of the board's powers.

However, sec. 3 of the bill adds two new sections to AS 08.80. The first authorizes the board to hire an executive secretary in the partially exempt service. The second empowers the new executive secretary to inspect pharmacies, to investigate complaints of violations of AS 08.80 (pharmacist licensure) or 17.30 (controlled substances), and to secure any other "useful information." The executive secretary would send immediate written notice of each investigation of a violation to each board member and to the Department of Commerce.

This addition of an executive secretary raises several problems, both from a policy and possibly from a legal perspective. First, it sets an unnecessary and undesirable precedent moving away from centralization and uniformity among the many occupational licensing boards and commissions. The Department of Commerce and Economic Development currently provides staff for 19 different boards that regulate an even larger number of professions. Of these boards, only two have separate executive officers. The Real Estate Commission, with over 3,600 active licenses, is part of the department but not part of the division of occupational licensing, and has had an executive officer (oth-

BILL SHEFFIELD, GOVERNOR

Honorable Bill Sheffield  
388-156-84

June 29, 1984  
Page 2

er than the commissioner of commerce) since 1974. The Board of Nursing, with about 5,400 active licensees, has had an executive officer within the division since 1969.

There seems to be little justification for the Board of Pharmacy, with only about 360 active licensees, to join these two exceptions to the general rule that favors efficient centralized professional licensing and regulation.

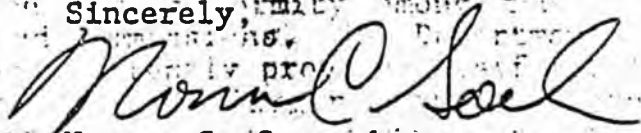
The new executive secretary would not be hired by the department like the executive secretary of the Board of Nursing but rather by the board like the executive director of the Real Estate Commission. No qualifications are set out for the new executive secretary even though the person chosen would be directly responsible for investigations and inspections.

It would appear that the Board of Pharmacy should be able to work with the division of occupational licensing without creating a new layer of bureaucracy and without setting a precedent that will make it difficult if not impossible to decline similar demands for independent executive officers by the half dozen or so other boards that have indicated their desires for one.

The requirement in proposed AS 08.80.097(b) that the new executive secretary immediately notify board members of investigations creates the danger of violating the due process rights of anyone eventually accused of violating the law because the board sitting in judgment on an accusation could be tainted by its early involvement in and knowledge of the case. The same problem arises if action is taken against a licensee based on inspection by the board members themselves under AS 08.80.030(3).

Although this bill raises no constitutional problems of the magnitude that would require veto, on the policy and legal grounds discussed above, we do recommend that you consider vetoing it nonetheless. As with the Board of Barbers and Hairdressers after your veto of CSSB 435(L&C), the Pharmacy Board would have until June 30, 1985 to conclude its affairs. AS 08.03.020(a) During that time, we can work with the board and the legislature to resolve any problems in a more logical and acceptable manner.

Sincerely,

  
Norman C. Gorsuch  
Attorney General

NCG:PF:md

FIELD  
RNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

July 6, 1984

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

RE: CSHB 716(L&C) (An act  
relating to the Board of  
Pharmacy)

Dear Mr. President:

Under the authority granted in art. II, sec. 15 of the Alaska Constitution, I have vetoed Committee Substitute for House Bill No. 716(L&C), concerning the Board of Pharmacy.

This bill would have authorized the Board of Pharmacy to hire its own executive secretary. This would have been an undesirable departure from the consolidation and uniformity of the occupational licensing system under AS 08.01. It would have set a disturbing precedent for other boards in securing autonomous staff, outside of the division of occupational licensing in the Department of Commerce and Economic Development.

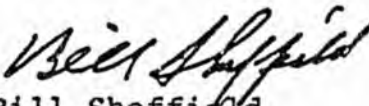
Another important reason for my veto is that the legislature failed to appropriate any money to fund the fiscal requirements of this position which was estimated by the department in a fiscal note to be \$135,000 this year.

Rather than allow this unfunded and administratively flawed bill to become law, I have directed the Department of Commerce and Economic Development and the Department of Law to review methods of better and more quickly implementing AS 17.30 concerning controlled substances. That chapter, which was enacted in 1982, gave the Board of Pharmacy some new powers and duties which have not been fully implemented, even though they largely overlap the board's continuing powers and duties under AS 08.80.

I believe that there are other better ways to implement the controlled substances legislation without unnecessarily disrupting the structure of the occupational licensing system. I am confident that the review I have directed will produce recommendations for alternatives that can be accomplished by the end of the next budget cycle, if the legislature will fund them.

Meanwhile even though this vetoed bill included a provision to extend the board's termination date from June 30, 1984 to June 30, 1988, under AS 08.03.020(a), the board will continue until June 30, 1985. Before that date the next session of the legislature can extend the board without granting it the power to hire an executive secretary.

Sincerely,

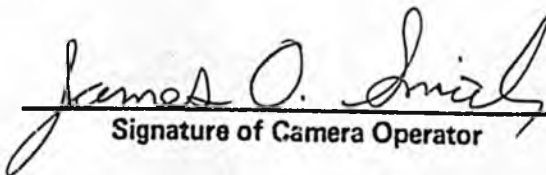
  
Bill Sheffield  
Governor

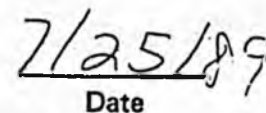


# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

H B

1 5 0

Offered: 3/27/85  
Referred: Health, Education &  
Social Services and Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

CS FOR HOUSE BILL NO. 130 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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

7

8

9

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

10

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

11

12

Sec. 14.20.540. DECLARATION OF POLICY. The legislature finds

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that public school employees are entitled to participate in formulat-

14

ing decisions that pertain to their employment and to the fulfillment

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of their professional duties. Effective and responsive administration

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of public schools is most readily obtained through the negotiation of

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labor agreements that incorporate both managerial and employee per-

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spectives. The legislature further finds that providing for harmoni-

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ous and cooperative relations between school boards and employee orga-

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nizations will promote public education in the state. Accordingly,

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the legislature declares that it is in the best interests of the state

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to guarantee educational employees the opportunity to form employee

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organizations and to negotiate with respect to the terms of their

24

employment.

25

\* Sec. 2. AS 14.20.550 is repealed and reenacted to read:

26

Sec. 14.20.550. NEGOTIATION BETWEEN SCHOOL BOARDS AND EMPLOYEES.

27

(a) A school board and an employee bargaining organization shall

28

negotiate in good faith on matters pertaining to employment and the

29

fulfillment of professional duties.

1 (b) In this section, "negotiate in good faith" means the perfor-  
2 mance of mutual obligations of the parties to meet at reasonable times  
3 and to participate actively, indicating a present intention to reach  
4 agreement, or to negotiate an agreement or a question arising under  
5 the agreement, and at the request of either party to execute a written  
6 contract incorporating any agreement reached. However, the require-  
7 ment to negotiate in good faith may not be interpreted to compel  
8 either party to agree to a proposal or to make a concession.

9 \* Sec. 3. AS 14.20.555(a) is amended to read:

10 (a) Negotiations between the [CERTIFICATED] employees of the  
11 regional educational attendance areas and the respective regional  
12 school boards shall be conducted by one team representing all the  
13 [CERTIFICATED] employees [, ONE TEAM REPRESENTING ALL THE CERTIFICATED  
14 ADMINISTRATIVE PERSONNEL IF THEY HAVE JOINED TOGETHER TO NEGOTIATE  
15 INDEPENDENTLY AS PROVIDED IN AS 14.20.560(f),] and one team represent-  
16 ing all the participating regional school boards. In addition, if  
17 administrative personnel or noncertificated employees have joined  
18 together to negotiate independently as provided in AS 14.20.560(f), a  
19 team representing the independent employee organizations shall partic-  
20 ipate in the negotiations.

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

22 Sec. 14.20.560. NEGOTIATING UNIT. (a) In order to assure to  
23 employees the fullest freedom in exercising the rights provided under  
24 AS 14.20.540 - 14.20.610, the agency shall decide in each case the  
25 unit appropriate for the purposes of negotiation, based on such fac-  
26 tors as community of interest, wages, hours, and other working con-  
27 ditions of the employees involved, the history of negotiating, and the  
28 desires of the employees. Negotiating units must be as large as is  
29 reasonable. The agency shall avoid unnecessary fragmenting of the

1 units.

2 (b) Upon petition for certification by 30 percent of the employ-  
3 ees in a proposed negotiating unit, and if the agency has reasonable  
4 cause to believe that a question of representation exists, the agency  
5 shall provide for an appropriate hearing after reasonable notice. If  
6 the agency finds that there is a question of representation, the  
7 agency shall direct an election by secret ballot to determine whether,  
8 or by which organization, the employees desire to be represented, and  
9 shall certify the results of the election. The parties may agree to  
10 waive a hearing for the purpose of a consent election, voluntary  
11 certification of an employee bargaining organization in accordance  
12 with the regulations of the agency, or an election in a negotiating  
13 unit agreed upon by the parties. The agency shall determine the  
14 persons eligible to vote in an election and shall adopt regulations  
15 governing the election. In an election in which none of the choices  
16 on the ballot receives a majority of the votes cast, the agency shall  
17 conduct a runoff election. The ballot in the runoff election must  
18 provide for selection between the two choices receiving the largest  
19 and the second largest number of valid votes cast in the election.  
20 The agency shall certify an organization that receives the majority of  
21 the votes cast in the election as the exclusive representative of all  
22 the employees in the negotiating unit.

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

26 (d) The parties may agree to recognize an employee bargaining  
27 organization as the exclusive representative.

28 (e) The agency may direct an election in a negotiating unit in  
29 which there is in force a valid collective bargaining agreement only

1 during the 90-day period preceding the expiration date of the agree-  
2 ment. However, an agreement may not bar an election upon petition of  
3 persons in the negotiating unit but not parties to the agreement if  
4 more than three years have elapsed since the execution of the agree-  
5 ment or the last timely renewal, whichever was later.

6 (f) Noncertificated employees or certificated administrative  
7 personnel may choose by secret ballot to negotiate independently of  
8 other personnel. If noncertificated employees or certificated admin-  
9 istrative personnel seek to negotiate independently of other certifi-  
10 cated employees, the agency shall review the submitted representation  
11 petition and, if 30 percent of the employees in a proper negotiating  
12 unit sign the petition, the agency shall conduct a representation  
13 election.

14 \* Sec. 5. AS 14.20 is amended by adding a new section to read:

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

22 (b) Notwithstanding AS 44.62.310, the parties may agree to hold  
23 a negotiation meeting in executive session, but the parties shall make  
24 all final agreements at a public meeting of the school board.

25 \* Sec. 6. AS 14.20.570(a) is amended to read:

26 (a) Upon [THE] written request for mediation by an employee bar-  
27 gaining organization [AGENCY] or a school board, and upon certifica-  
28 tion by the requesting party that the parties cannot agree on an  
29 independent private mediator and that good faith negotiations have

1 terminated in an impasse, the following procedure must be followed  
2 [OCCURS]:

3 (1) Within seven days after [OF] the certification, the  
4 requesting party shall ask the United States Federal Mediation and  
5 Conciliation Service to serve as the agency to resolve the dispute.  
6 The requesting party shall notify the agency that the parties have  
7 requested a mediator.

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

12 (3) [WITHIN 30 DAYS OF THE INITIAL MEETING OF THE PARTIES  
13 TO THE DISPUTE THE MEDIATOR SHALL HAVE REDUCED ALL THE AGREED TERMS,  
14 CONDITIONS AND OTHER ITEMS TO A WRITTEN CONTRACT. IF MUTUALLY AGREED  
15 THE PERIOD FOR REPORTING THE CONTRACT TO BOTH PARTIES MAY BE EXTENDED.

16 (4) Each party to the dispute may select a team [OF NOT  
17 MORE THAN FIVE PERSONS] to present the evidence, thinking, and posi-  
18 tion of the group they represent [,] to the mediator.

19 \* Sec. 7. AS 14.20.580 is repealed and reenacted to read:

20 Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall notify  
21 the agency when the parties jointly agree, or when the mediator inde-  
22 pendently determines, that further mediation would not promote resolu-  
23 tion of the dispute. Following mediation, the parties shall observe a  
24 10-day cooling-off period.

25 \* Sec. 8. AS 14.20 is amended by adding a new section to read:

26 Sec. 14.20.585. ARBITRATION. (a) If the agency is notified  
27 under AS 14.20.580 that further mediation will not promote resolution  
28 of the dispute, the parties shall submit to last-best-offer mediated  
29 arbitration. A collective bargaining agreement between a school board

1 and an employee bargaining organization must include a procedure to  
2 promptly select an arbitrator. If the parties are unable to agree on  
3 a procedure for the selection of an arbitrator, the agency shall  
4 direct the parties to use the services of and comply with the proce-  
5 dures of the United States Federal Mediation and Conciliation Service  
6 or the American Arbitration Association in the selection of an arbi-  
7 trator.

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

19 (c) When making the decision, the arbitrator shall consider

20 (1) the history of negotiations between the parties before  
21 entering arbitration;

22 (2) the public interest and financial abilities of the  
23 school district;

24 (3) the interest and welfare of the employee group;

25 (4) changes in the cost of living;

26 (5) the existing employment conditions of the employee  
27 group compared with those of similar groups; and

28 (6) the salaries, fringe benefits, and other conditions of  
29 employment prevailing in the state labor market.

1 (d) The arbitrator shall, without modification, adopt the last  
2 best offer of one of the parties, and shall issue a final and binding  
3 decision not more than 10 days after the parties have presented their  
4 last best offers.

5 (e) The parties shall share the cost of the arbitrator equally.

6 (f) Within 30 days after receipt of a final decision in an  
7 arbitration, a party to the arbitration may file a motion in the  
8 superior court for the judicial district in which the school district  
9 is located to vacate or modify the decision. The court, after hear-  
10 ing, may vacate or modify the decision if the substantial rights of a  
11 party have been prejudiced because

12 (1) the decision violates constitutional or statutory law;

13 (2) the decision exceeds the statutory authority of the  
14 arbitrator;

15 (3) the procedure in the arbitration was unlawful;

16 (4) the proceeding is affected by other error of law;

17 (5) the decision is clearly erroneous in view of the reli-  
18 able, probative and substantial evidence on the whole record; or

19 (6) the decision is arbitrary, capricious, or characterized  
20 by abuse of discretion or clearly unwarranted exercise of discretion.

21 \* Sec. 9. AS 14.20.590 is amended to read:

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

29 \* Sec. 10. AS 14.20.600 is amended to read:

1           Sec. 14.20.600. INDIVIDUAL RIGHTS [CASES]. Nothing in AS 14.-  
2           20.540 - 14.20.615 [AS 14.20.550 - 14.20.590] prohibits an employee  
3           from addressing a school board, as an individual, through the regular  
4           procedures of the school board for hearing individual cases.

5           \* Sec. 11. AS 14.20.600 is amended by adding a new subsection to read:

6           (b) The agency may adopt regulations setting out procedures  
7           consistent with the purposes of AS 14.20.540 - 14.20.615 to safeguard  
8           the rights of nonassociation of employees having bona fide religious  
9           convictions.

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

11          Sec. 14.20.605. EDUCATIONAL EMPLOYEES LABOR RELATIONS AGENCY.

12          (a) There is established in the Department of Administration an  
13          educational employees labor relations agency that consists of three  
14          members appointed by the governor for terms of three years. Members  
15          serve at the pleasure of the governor.

16          (b) Members of the agency receive no compensation for their  
17          services, but are entitled to per diem and travel expenses authorized  
18          for boards and commissions under AS 39.20.180.

19          (c) The agency may employ staff to implement the provisions of  
20          AS 14.20.540 - 14.20.615.

21          Sec. 14.20.606. POWER TO IMPLEMENT NEGOTIATIONS. (a) The  
22          agency shall perform the functions described in AS 23.40.120 - 23.40.-  
23          180 to carry out the provisions of AS 14.20.540 - 14.20.615.

24          (b) The prohibition of unfair labor practices, as described in  
25          AS 23.40.110, applies to a school board and an employee bargaining  
26          organization.

27          \* Sec. 13. AS 14.20.610 is amended to read:

28          Sec. 14.20.610. LEGAL RESPONSIBILITIES OF BOARDS. Nothing in  
29          AS 14.20.540 - 14.20.615 [AS 14.20.550 - 14.20.600] may be construed

1 as an abrogation or delegation of the legal responsibilities, powers,  
2 and duties of the school board, including its right to make final  
3 decisions on educational policies.

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

6 Sec. 14.20.615. DEFINITION. In AS 14.20.540 - 14.20.615  
7 "agency" means the educational employees labor relations agency.

8 \* Sec. 15. Notwithstanding AS 14.20.605 enacted by sec. 12 of this Act,  
9 one initial member of the educational employees labor relations agency  
10 shall serve a term of one year and one initial member shall serve a term of  
11 two years.

12 \* Sec. 16. This act does not modify or terminate a negotiating unit or  
13 agreement in existence on the effective date of this Act.

14 \* Sec. 17. This Act takes effect immediately in accordance with AS 01.-  
15 10.070(c).

HB 130 FILE CONTENTS

- 1) Bill Summary - Legislative Reporting Service
- 2) Overview -- Committee Staff
- 2) Sectional Analysis -- by National Educational Association
- 4) Governor's Letter of Transmittal
- 5) Fiscal Note -- Dept. of Administration  
(with fiscal analysis)
- 6) Fiscal Note -- Dept. of Education
- 7) Current Teacher's Negotiation Law --Statutory Backup  
(14.20.510-630).
- 8) Back-up materials provided by NEA
  - a) Concept Outline
  - b) Excerpts: Public Employee Relations Act (AS 23.40.110-180)  
(included by reference in AS 14.20.606 of HE 130)
  - c) NEA -- Position Paper
  - d) Public Surveys
  - e) Collective Bargaining Quarterly
- 9) Proposed Amendments to HB 130 -- by Bob Manners, NEA
- 10) Definitions of Terms -- Submitted by NEA

---

March 4, 1985 Additions:

- 11) Copy of William Gibbon's testimony to Committee Feb 18.
- 12) Proposed CS for HB 130 -- Dept. of Administration, with letter  
of transmittal by Bill Gibbon

COMMITTEE REPORT  
HOUSE

(7)

FURTHER: FINANCE

3/27/85

Date: 11 April 1985

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 130

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

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 130  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without <sup>INDIVIDUAL</sup> recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Do Not Pass - should only include certification

[Signature]

[Signature] DO NOT PASS WITHOUT AMENDMENTS

[Signature] (NO REC)

[Signature] NO REC

[Signature]  
CHAIRMAN  
[Signature] Co Chair

Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall notify the agency when the parties jointly agree, or when the mediator independently determines, that further mediation would not promote resolution of the dispute. The notification from the mediator to the agency shall indicate the items at impasse that qualify for arbitration determination. Those items shall be limited to wages and fringe benefits of a monetary nature. Following mediation, the parties shall observe a 10-day cooling off period.

DISTRICT 27:  
AKHIOK  
CHIGNIK  
CHIGNIK LAGOON  
CHIGNIK LAKE  
CHINIAK  
IVANOF BAY  
KARLUK  
KODIAK  
LARSEN BAY  
OLD HARBOR  
OUZINKIE  
PERRYVILLE  
PORT LIONS  
WOMEN'S BAY

# Alaska State Legislature



## House of Representatives

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DAVE THOMPSON  
WHILE IN JUNEAU  
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(907) 465-2498  
P.O. BOX 75  
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(907) 486-4899  
(907) 486-3116

April 1, 1985

Amendment #1

To: HESS committee  
Fr: Rep. Dave Thompson *DWT*  
Re: CSHB 130 (Labor and Commerce)

What follows are my recommendations for amendments to the CSHB 130, Labor and Commerce.

Page Two (2), line ten (10), insert:

" certificated " between the words " the " and " employees ".

Page Two (2), line thirteen (13), insert:

" certificated " before the word " employees ".

Page Two (2), line sixteen (16), delete:

everything after the word " boards " through and including line twenty (20).

The effect of these changes would be to restrict this legislation to certificated employees only.

Thank you for your consideration of these amendments.

yes: Thompson  
Hanley  
Taylor  
no: Koponen  
Hurley  
Gruenberg

DISTRICT 27:  
AKHIOK  
CHIGNIK  
CHIGNIK LAGOON  
CHIGNIK LAKE  
CHINIAK  
IVANOF BAY  
KARLUK  
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## House of Representatives

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(L)(907) 486-8116

### Amendment #2

April 1, 1985

To: HESS committee  
Fr: Rep. Dave Thompson *JWT*  
Re: CSHB 130 (Labor and Commerce)

What follows are my recommendations for amendments to CSHB 130,  
Labor and Commerce.

Page three (3), line two (2), change:

" 30 percent " to " 50 percent ". <sup>1</sup>

The effect of this change would be that proposed bargaining unit  
must have the approval of half of the effected employees .

Thank you for your consideration of this amendment.

<sup>1</sup> Page Four (4), line eleven (11) should also be changed from  
" 30 percent " to " 50 percent ".

yes: Hanley  
Thompson  
Taylor

no: Koponen  
Hurley  
Greenberg

---

Delete section 12 [ yes: Hurley, Thompson, Taylor  
no: Koponen, Greenberg, Hurley

Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall notify the agency when the parties jointly agree, or when the mediator independently determines, that further mediation would not promote resolution of the dispute. The notification from the mediator to the agency shall indicate the items at impasse that qualify for arbitration determination. Those items shall be limited to wages and fringe benefits of a monetary nature. Following mediation, the parties shall observe a 10-day cooling off period.

yes Thompson  
Taylor  
Hanley

no 3 Koponen  
Hanley  
Gruenberg

A M E N D M E N T

#2

Offered in the Health, Education and Social Services Committee By Hanley  
TO: CSHB 130(L&C)

Page 8, line 14, after "governor" insert:

"and confirmed by the legislature meeting in joint session. Members  
serve"

Page 8, line 15, after "governor." insert:

"The governor shall appoint as members one representative of manage-  
ment, one representative of organized labor, and one public member.  
The members representing management and organized labor must have  
knowledge and experience in educational employment issues.

*yes unanimous*

no: Hanley  
Fitzgerald  
Thompson

yes: Koponen  
Hanley  
Greenberg #1

AMENDMENT

Offered in the Health, Education and Social Services Committee By Hanley  
TO: CSHB 130(L&C)

Page 8, line 5, delete "a new subsection" and insert "new subsections"

Page 8, after line 9, insert:

"(c) An employee is entitled to

(1) organize, form, join, or assist an employee organization;

(2) negotiate collectively through representatives of the employees' choosing;

(3) engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection if the activity is not prohibited by law;

(4) refuse to join or participate in the activities of employee organizations, including the payment of dues, fees, or assessments or service fees of any type."

Page 9, after line 3, insert a new bill section to read:

\*\* Sec. 14. AS 14.20.610 is amended by adding a new subsection to read

(b) In addition to the powers and duties established by law, school board has the exclusive power and duty to

(1) direct the work of its employees;

- (2) hire, promote, demote, transfer, assign, and retain employees in positions within the school district;
- (3) suspend or discharge school district employees for proper cause;
- (4) maintain the efficiency of governmental operations;
- (5) relieve school district employees from duties because of lack of work or for other legitimate reasons;
- (6) ascertain and implement the methods, means, assignments and personnel by which the school district's operations are to be conducted;
- (7) take actions necessary to carry out the duties of the school district; and
- (8) initiate, prepare, certify, and administer its budget."

Renumber remaining bill sections accordingly.



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

## ANCHORAGE REGIONAL OFFICE

1411 W. 33RD  
ANCHORAGE, ALASKA 99503  
(907) 274-0536

## JUNEAU OFFICE

147 S. FRANKLIN #207  
JUNEAU, ALASKA 99801  
(907) 586-3090

## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456-4435

April 1, 1985

TO: Representative Niilo Koponen and Max Gruenberg, Co-Chairs  
Members of Health Education and Social Services Committee

RE: CSHB 130 (L & C)

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

NEA-Alaska strongly supports and urges passage of CSHB 130 (L & C).

It brings much needed reform to the current teacher negotiations law and provides an effective means of getting to finality in the negotiations process through last best offer arbitration.


This bill has spent several weeks in the Labor and Commerce Committee. The Committee members heard many hours of testimony, questioned and probed the components of the bill and finally adopted the Committee Substitute you have before you. From our perspective, the bill in its present form represents compromise. We feel that both sides were given full opportunity to advocate their positions and we believe the bill, if passed as is, would rectify the essential deficiencies of the current bargaining law.

We urge you to move the bill without further amendment.

Attached please find additional information which we hope will be useful to the Committee.

Thank you for your consideration of this crucial legislation.

Respectfully submitted:

  
Gayle Pierce  
President

L85:05

Attachments

ENCLOSURES

- A CSHB 130 (L&C)
- B Section Analysis
- C Concept Outline
- D Current Teacher Negotiation Law (AS 14.20.550-610)
- E Excerpts: Public Employee Relations Act sections included in CSHB 130 (L&C) by reference (AS 23.40.110-180)
- F Governor Sheffield's message to the House re HB 130
- G List of bargainable/non-bargainable issues---Alaska Supreme Court
- H NEA-Alaska Position Paper
- I Public Survey
- J State Board of Education supports last-best-offer binding arbitration in Connecticut.

A.

Offered: 3/27/85  
Referred: Health, Education &  
Social Services and Finance

Original sponsor: Rules/Governor

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 130 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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

7

8

9

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

10

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

11

12

Sec. 14.20.540. DECLARATION OF POLICY. The legislature finds that public school employees are entitled to participate in formulating decisions that pertain to their employment and to the fulfillment of their professional duties. Effective and responsive administration of public schools is most readily obtained through the negotiation of labor agreements that incorporate both managerial and employee perspectives. The legislature further finds that providing for harmonious and cooperative relations between school boards and employee organizations will promote public education in the state. Accordingly, the legislature declares that it is in the best interests of the state to guarantee educational employees the opportunity to form employee organizations and to negotiate with respect to the terms of their employment.

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\* Sec. 2. AS 14.20.550 is repealed and reenacted to read:

26

Sec. 14.20.550. NEGOTIATION BETWEEN SCHOOL BOARDS AND EMPLOYEES.

27

(a) A school board and an employee bargaining organization shall negotiate in good faith on matters pertaining to employment and the fulfillment of professional duties.

28

29

1 (b) In this section, "negotiate in good faith" means the perfor-  
2 mance of mutual obligations of the parties to meet at reasonable times  
3 and to participate actively, indicating a present intention to reach  
4 agreement, or to negotiate an agreement on a question arising under  
5 the agreement, and at the request of either party to execute a written  
6 contract incorporating any agreement reached. However, the require-  
7 ment to negotiate in good faith may not be interpreted to compel  
8 either party to agree to a proposal or to make a concession.

9 \* Sec. 3. AS 14.20.555(a) is amended to read:

10 (a) Negotiations between the [CERTIFICATED] employees of the  
11 regional educational attendance areas and the respective regional  
12 school boards shall be conducted by one team representing all the  
13 [CERTIFICATED] employees [, ONE TEAM REPRESENTING ALL THE CERTIFICATED  
14 ADMINISTRATIVE PERSONNEL IF THEY HAVE JOINED TOGETHER TO NEGOTIATE  
15 INDEPENDENTLY AS PROVIDED IN AS 14.20.560(f),] and one team represent-  
16 ing all the participating regional school boards. In addition, if  
17 administrative personnel or noncertificated employees have joined  
18 together to negotiate independently as provided in AS 14.20.560(f), a  
19 team representing the independent employee organizations shall partic-  
20 ipate in the negotiations.

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

22 Sec. 14.20.560. NEGOTIATING UNIT. (a) In order to assure to  
23 employees the fullest freedom in exercising the rights provided under  
24 AS 14.20.540 - 14.20.610, the agency shall decide in each case the  
25 unit appropriate for the purposes of negotiation, based on such fac-  
26 tors as community of interest, wages, hours, and other working con-  
27 ditions of the employees involved, the history of negotiating, and the  
28 desires of the employees. Negotiating units must be as large as is  
29 reasonable. The agency shall avoid unnecessary fragmenting of the

A<sub>3</sub>

1 units.

2 (b) Upon petition for certification by 30 percent of the employ-  
3 ees in a proposed negotiating unit, and if the agency has reasonable  
4 cause to believe that a question of representation exists, the agency  
5 shall provide for an appropriate hearing after reasonable notice. If  
6 the agency finds that there is a question of representation, the  
7 agency shall direct an election by secret ballot to determine whether,  
8 or by which organization, the employees desire to be represented, and  
9 shall certify the results of the election. The parties may agree to  
10 waive a hearing for the purpose of a consent election, voluntary  
11 certification of an employee bargaining organization in accordance  
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15 governing the election. In an election in which none of the choices  
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19 and the second largest number of valid votes cast in the election.  
20 The agency shall certify an organization that receives the majority of  
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22 the employees in the negotiating unit.

23 (c) An election may not be held in a negotiating unit or in a  
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25 within the preceding 12 months.

26 (d) The parties may agree to recognize an employee bargaining  
27 organization as the exclusive representative.

28 (e) The agency may direct an election in a negotiating unit in  
29 which there is in force a valid collective bargaining agreement only

1 during the 90-day period preceding the expiration date of the agree-  
2 ment. However, an agreement may not bar an election upon petition of  
3 persons in the negotiating unit but not parties to the agreement if  
4 more than three years have elapsed since the execution of the agree-  
5 ment or the last timely renewal, whichever was later.

6 (f) Noncertificated employees or certificated administrative  
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11 petition and, if 30 percent of the employees in a proper negotiating  
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15 Sec. 14.20.565. NEGOTIATION MEETINGS. (a) A school board  
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22 (b) Notwithstanding AS 44.62.310, the parties may agree to hold  
23 a negotiation meeting in executive session, but the parties shall make  
24 all final agreements at a public meeting of the school board.

25 \* Sec. 6. AS 14.20 570(a) is amended to read:

26 (a) Upon [THE] written request for mediation by an employee bar-  
27 gaining organization [AGENCY] or a school board, and upon certifica-  
28 tion by the requesting party that the parties cannot agree on an  
29 independent private mediator and that good faith negotiations have

A<sub>3</sub>

1 terminated in an impasse, the following procedure must be followed  
2 [OCCURS]:

3 (1) Within seven days after [OF] the certification, the  
4 requesting party shall ask the United States Federal Mediation and  
5 Conciliation Service to serve at the agency to resolve the dispute.  
6 The requesting party shall notify the agency that the parties have  
7 requested a mediator.

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

12 (3) [WITHIN 30 DAYS OF THE INITIAL MEETING OF THE PARTIES  
13 TO THE DISPUTE THE MEDIATOR SHALL HAVE REDUCED ALL THE AGREED TERMS,  
14 CONDITIONS AND OTHER ITEMS TO A WRITTEN CONTRACT. IF MUTUALLY AGREED  
15 THE PERIOD FOR REPORTING THE CONTRACT TO BOTH PARTIES MAY BE EXTENDED.

16 (4)] Each party to the dispute may select a team [OF NOT  
17 MORE THAN FIVE PERSONS] to present the evidence, thinking, and posi-  
18 tion of the group they represent [,] to the mediator.

19 \* Sec. 7. AS 14.20.580 is repealed and reenacted to read:

20 Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall notify  
21 the agency when the parties jointly agree, or when the mediator inde-  
22 pendently determines, that further mediation would not promote resolu-  
23 tion of the dispute. Following mediation, the parties shall observe a  
24 10-day cooling-off period.

25 \* Sec. 8. AS 14.20 is amended by adding a new section to read:

26 Sec. 14.20.585. ARBITRATION. (a) If the agency is notified  
27 under AS 14.20.580 that further mediation will not promote resolution  
28 of the dispute, the parties shall submit to last-best-offer mediated  
29 arbitration. A collective bargaining agreement between a school board

1 and an employee bargaining organization must include a procedure to  
2 promptly select an arbitrator. If the parties are unable to agree on  
3 a procedure for the selection of an arbitrator, the agency shall  
4 direct the parties to use the services of and comply with the proce-  
5 dures of the United States Federal Mediation and Conciliation Service  
6 or the American Arbitration Association in the selection of an arbi-  
7 trator.

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

19 (c) When making the decision, the arbitrator shall consider

20 (1) the history of negotiations between the parties before  
21 entering arbitration;

22 (2) the public interest and financial abilities of the  
23 school district;

24 (3) the interest and welfare of the employee group;

25 (4) changes in the cost of living;

26 (5) the existing employment conditions of the employee  
27 group compared with those of similar groups; and

28 (6) the salaries, fringe benefits, and other conditions of  
29 employment prevailing in the state labor market.

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1 (d) The arbitrator shall, without modification, adopt the last  
2 best offer of one of the parties, and shall issue a final and binding  
3 decision not more than 10 days after the parties have presented their  
4 last best offers.

5 (e) The parties shall share the cost of the arbitrator equally.

6 (f) Within 30 days after receipt of a final decision in an  
7 arbitration, a party to the arbitration may file a motion in the  
8 superior court for the judicial district in which the school district  
9 is located to vacate or modify the decision. The court, after hear-  
10 ing, may vacate or modify the decision if the substantial rights of a  
11 party have been prejudiced because

- 12 (1) the decision violates constitutional or statutory law;  
13 (2) the decision exceeds the statutory authority of the  
14 arbitrator;  
15 (3) the procedure in the arbitration was unlawful;  
16 (4) the proceeding is affected by other error of law;  
17 (5) the decision is clearly erroneous in view of the reli-  
18 able, probative and substantial evidence on the whole record; or  
19 (6) the decision is arbitrary, capricious, or characterized  
20 by abuse of discretion or clearly unwarranted exercise of discretion.

21 \* Sec. 9. AS 14.20.590 is amended to read:

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

29 \* Sec. 10. AS 14.20.600 is amended to read:

1           Sec. 14.20.600. INDIVIDUAL RIGHTS [CASES]. Nothing in AS 14.-  
2           20.540 - 14.20.615 [AS 14.20.550 - 14.20.590] prohibits an employee  
3           from addressing a school board, as an individual, through the regular  
4           procedures of the school board for hearing individual cases.

5           \* Sec. 11. AS 14.20.600 is amended by adding a new subsection to read:

6           (b) The agency may adopt regulations setting out procedures  
7           consistent with the purposes of AS 14.20.540 - 14.20.615 to safeguard  
8           the rights of nonassociation of employees having bona fide religious  
9           convictions.

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

11          Sec. 14.20.605. EDUCATIONAL EMPLOYEES LABOR RELATIONS AGENCY.

12          (a) There is established in the Department of Administration an  
13          educational employees labor relations agency that consists of three  
14          members appointed by the governor for terms of three years. Members  
15          serve at the pleasure of the governor.

16          (b) Members of the agency receive no compensation for their  
17          services, but are entitled to per diem and travel expenses authorized  
18          for boards and commissions under AS 30.20.180.

19          (c) The agency may employ staff to implement the provisions of  
20          AS 14.20.540 - 14.20.615.

21          Sec. 14.20.606. POWER TO IMPLEMENT NEGOTIATIONS. (a) The  
22          agency shall perform the functions described in AS 23.40.120 - 23.40.-  
23          180 to carry out the provisions of AS 14.20.540 - 14.20.615.

24          (b) The prohibition of unfair labor practices, as described in  
25          AS 23.40.110, applies to a school board and an employee bargaining  
26          organization.

27          \* Sec. 13. AS 14.20.610 is amended to read:

28          Sec. 14.20.610. LEGAL RESPONSIBILITIES OF BOARDS. Nothing in  
29          AS 14.20.540 - 14.20.615 [AS 14.20.550 - 14.20.600] may be construed

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1 as an abrogation or delegation of the legal responsibilities, powers,  
2 and duties of the school board, including its right to make final  
3 decisions on educational policies.

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

6 Sec. 14.20.615. DEFINITION. In AS 14.20.540 - 14.20.615  
7 "agency" means the educational employees labor relations agency.

8 \* Sec. 15. Notwithstanding AS 14.20.605 enacted by sec. 12 of this Act,  
9 one initial member of the educational employees labor relations agency  
10 shall serve a term of one year and one initial member shall serve a term of  
11 two years.

12 \* Sec. 16. This Act does not modify or terminate a negotiating unit or  
13 agreement in existence on the effective date of this Act.

14 \* Sec. 17. This Act takes effect immediately in accordance with AS 01.-  
15 10.070(c).

B

SECTION ANALYSIS  
CSHB 130 (L & C)

An Act relating to Public School Employees Collective Bargaining

Section 1: Declaration of Policy; adds a new section AS 14.20.540 establishing that public school employees have a right to participate in formulating decisions pertaining to their employment, that such will provide cooperative and harmonious relationships and promote public education in the State.

Section 2: Repeals and reenacts AS 14.20.550 to define good faith bargaining.

Section 3: Amends AS 14.20.555 to make optional coordinated employee negotiations available to administrative certificated personnel and to classified employees.

Section 4: Repeals and reenacts AS 14.20.560 to establish guidelines for the Educational Employees Labor Relations Agency regarding who will be in a particular bargaining unit.

Section 5: Negotiation Meetings: Adds a new section AS 14.20.565, which establishes that negotiations will commence within 20 days of a request by either party and that all final agreements must be made at a public meeting of the school board.

Section 6: Amends AS 14.20.570 (A) to more clearly define the access to and utilization of the mediation procedure.

Section 7: Repeals and reenacts AS 14.20.580 to provide for a 10 day cooling off period in the event that mediation is unsuccessful in resolving the dispute.

Section 8: Arbitration: Amends by adding a new section, AS 14.20.585 which provides for last best offer mediated arbitration. It further provides that the parties attempt to agree on a procedure to select the arbitrator. If they are unable to agree the EELRA shall direct the parties to utilize the services and procedures of the Federal Mediation and Conciliation Service or the American Arbitration Association.

The arbitrator will receive the last best offer of each party; provide for argument, evidence, and testimony; may conduct a public hearing; and shall select the final offer of one of the parties as a binding determination.

Establishes criteria to be considered by an arbitrator in making a final decision.

Provides for court review of an arbitrator's decision.

The costs of the arbitrator are equally shared by the parties.

Section 9: Amends AS 14.20.590 to include all public school employees in the requirement that all collective bargaining agreements must contain a provision providing for a grievance procedure ending in arbitration.

Section 10: Provides for an employee's right, as an individual, to address a school board.

Section 11: Amends AS 14.20.600 to provide for bona fide religious objection to collective bargaining agreements containing provision for payment of a service fee to reimburse the exclusive bargaining agent for the expenses of representation.

Section 12: Adds a new section, AS 14.20.605, establishing an Educational Employees Labor Relation Agency which is responsible for the administration of the law.

Adds a new section, AS 14.20.606 which provides that the EELRA shall have responsibility to adjudicate unfair labor practices and incorporates, by reference, AS 23.40.120 - 180. Defines and prohibits unfair labor practices and incorporates by reference, AS 23.40.110.

Section 13: Legal Responsibilities of Boards: Amends AS 14.20.610 to clarify authority of a school board to make final decisions on educational policies.

Section 14: Defines "agency" as the educational employee labor relations agency.

Section 15: Provides for staggered terms of the agency members by making one initial term one year and a second initial term two years in duration.

Section 16: Provides grandparent protection to current recognized negotiating units and collective bargaining agreements in existence on the effective date of the Act.

Section 17: Effective date clause: immediate.



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

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House Bill 130

RE: Educational Employees Collective Bargaining  
Amends AS 14.20.550 - 610

### NEA-ALASKA

### CONCEPT OUTLINE

- \* Provides all school district employees the right to organize and negotiate.
- \* Establishes an Educational Employees Labor Relations Agency to administer the law.
- \* Continues to utilize mediation through the Federal Mediation and Conciliation Service.
- \* Provides for final offer arbitration on the issues not resolved in mediation. The arbitrator shall have authority to mediate an agreement before making a final decision.
- \* Provides a public hearing before selection of a final offer by the arbitrator.
- \* Provides for the selection of the arbitrator and for the costs of arbitration to be shared by the parties.
- \* Defines and prohibits unfair labor practices.

LCS:57

## Article 6. Negotiation and Mediation.

### Section

- 550. Negotiation with Certificated Employees
- 555. Optional Coordinated Employee Negotiations
- 560. Teachers bargaining groups
- 570. Mediation board
- 580. Duties of mediations board
- 590. Grievance procedures
- 600. Individual cases
- 610. Legal responsibilities of boards

**Sec. 14.20.550. Negotiation with Certificated Employees.** Each city, borough and regional school board, shall negotiate with its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties. (Sec. 1 ch 18 SLA 1970; am Sec. 3 ch 71 SLA 1972; am Sec. 21 ch 124 SLA 1975)

**Sec. 14.20.555. Optional Coordinated Employee Negotiations.** (a) Negotiations between the certificated employees of the regional educational attendance areas and the respective regional school boards shall be conducted by one team representing all the certificated employees, one team representing all the certificated administrative personnel if they have joined together to negotiate independently as provided in sec. 56(f) of this chapter, and one team representing all the participating regional school boards.

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

(c) A regional educational attendance area board may by resolution choose to conduct its own negotiations in accordance with sec. 550 of this chapter.

(Sec. 22 ch 124 SLA 1975)

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

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

(c) Upon the request of 25 percent of the certificated employees in a district, the school board shall hold, within 20 days, an election by secret ballot of all the certificated employees in order to determine their choice of a bargaining agency. The results of this election are binding for one year.

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

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

D<sub>2</sub>

(7) Nothing in this section shall be construed to prevent certificated administrative personnel groups, including principals and assistant principals, from having the right to negotiate independently of the other certificated personnel if they choose to do so as the result of a secret ballot. (Sec. 1 ch 18 SLA 1970; am Sec. 1 ch 43 SLA 1971)

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

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

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

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

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

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

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

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

(c) If the final report is rejected by either side, the governor may appoint an advisory arbitrator to review the issues and make recommendations for solution. (Sec. 1 ch 18 SLA 1970; am Sec. 2 ch 201 SLA 1975)

**Sec. 14.20.590. Grievance Procedures.** Negotiations agreements executed after the effective date of this Act shall define "grievances" and provide for grievance procedures for the certificated staff. The grievance procedures shall provide that the final step in the procedure shall be binding arbitration. The negotiations agreement shall provide a method for the selection of an arbitrator. (Sec. 1 ch 18 SLA 1970; am Sec. 3 ch 201 SLA 1975)

**Sec. 14.20.600. Individual cases.** Nothing in secs. 550—590 of this chapter prohibits an employee from addressing a school board, as an individual, through the regular procedures of the school board for hearing individual cases. (Sec. 1 ch 18 SLA 1970)

**Sec. 14.20.610. Legal responsibilities of boards.** Nothing in secs. 550—600 of this chapter may be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the school board including its right to make final decisions on policies. (Sec. 1 ch 18 SLA 1970)

**EDUCATION**

4 AAC 80.010  
4 AAC 80.040

**CHAPTER 80.  
ADVISORY ARBITRATION: TEACHER  
NEGOTIATIONS**

**Section**

- 10. Purpose
- 20. Request for appointment of advisory arbitrator
- 30. Appointment of advisory arbitrator
- 40. Arbitrator's report

4 AAC 80.010. **PURPOSE.** The purpose of this chapter is to set out the conditions upon which the governor will exercise his discretion to appoint an advisory arbitrator in certificated staff/school board negotiations under AS 14.20.580(c) and the procedures that will be followed in making the appointment. (Eff. 6/17/77, Reg. 62)

Authority: AS 14.20.580(c)

4 AAC 80.020. **REQUEST FOR APPOINTMENT OF ADVISORY ARBITRATOR.** (a) The bargaining representative for the certificated staff or the school board or both may request the governor to appoint an advisory arbitrator. Verbal requests for an advisory arbitrator must be followed by letter or telegram within five days.

(b) A request for an advisory arbitrator must contain the following:

(1) a statement, verified by the party not making the request, that the final report of a mediator, as provided for in AS 14.20.580(b), has been rejected by either or both parties to the negotiation process;

(2) a statement of how any expenses incurred by the advisory arbitrator will be funded by the parties; and

(3) a written nomination of up to three candidates for appointment as advisory arbitrator who are mutually acceptable to both parties in negotiations and who are willing to serve as advisory arbitrator, if appointed. If the parties cannot agree on any candidates for appointment as advisory arbitrator, the request must contain a statement that both parties will accept the appointment of an advisory arbitrator from the American Arbitration Association.

(c) A request for an advisory arbitrator may not contain any statement or description of the issues involved in the negotiations impasse. (Eff. 6/17/77, Reg. 62)

Authority: AS 14.20.580(c)

4 AAC 80.030. **APPOINTMENT OF ADVISORY ARBITRATOR.** (a) If the governor decides to exercise his discretion under AS 14.20.580(c), an advisory arbitrator will be appointed within 10 days of receipt of a request for an advisory arbitrator which conforms with the requirements of sec. 20 of this chapter. Notification of the appointment will be provided to both parties to the negotiations by the office of the governor.

(b) Following the notification of appointment to the parties, all communications related to the advisory arbitration of the issues at impasse must take place between the parties and the arbitrator. Attempts on the part of either party to discuss or otherwise communicate with the office of the governor with respect to the issues will not be acknowledged.

(c) If the governor decides not to exercise his discretion to appoint an advisory arbitrator under AS 14.20.580(c), both parties to the negotiations will be so advised within 10 days of receipt of the request for an advisory arbitrator. (Eff. 6/17/77, Reg. 62)

Authority: AS 14.20.580(c)

4 AAC 80.040. **ARBITRATOR'S REPORT.** At the conclusion of their arbitration duties, advisory arbitrators shall submit a summary of their activities and recommendations, along with a copy of their report, to the parties and to the office of the governor. (Eff. 6/17/77, Reg. 62)

Authority: AS 14.20.580(c)

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

(c) An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 22 months.

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

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

**Sec. 23.40.110. Unfair labor practices.**

— (a) A public employer or his agent may not

(1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in Sec. 80 [Sec. 23.40.80] of this chapter;

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

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

(4) discharge or discriminate against an employee because he has signed or filed an affidavit, petition or complaint or given testimony under Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter;

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

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

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

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining

agent for the expenses of representing the members of the bargaining unit.

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

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in Sec. 80 [Sec. 23.40.80] of this chapter, or

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

(2) refuse to bargain collectively in good faith with a public employer, if it has been designated in accordance with the provisions of Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter as the exclusive representative of employees in an appropriate unit.

**Sec. 23.40.120. Investigation and conciliation of complaints.** — If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by Sec. 110 [Sec. 23.40.110] of this chapter, or a written accusation that a person subject to Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter has engaged in a prohibited practice, is filed with the labor relations agency, it shall investigate the complaint or accusation.

If it determines after the preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

**Sec. 23.40.130. Complaint and accusation.** — If the labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter, or, before it attempts conciliation, it may serve a copy of the complaint or accusations upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

**Sec. 23.40.140. Orders and decisions.** — If the labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter. If

the labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

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

**Sec. 23.40.160. Power to investigate and compel testimony.** — (a) For the purpose of the investigations, proceedings, or hearings which the labor relations agency considers necessary to carry out the provisions of Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter, the labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

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

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

(d) If a person refuses to obey a subpoena issued under Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter, the superior court in the district in which the person resides or is found may, upon application by the labor relations agency, issue an order requiring him to comply with the subpoena.

**Sec. 23.40.170. Regulations.** — The labor relations agency may adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter.

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

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

HB 118

HOUSE BILL NO. 118 by the Rules Committee by request of the Governor, entitled:

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

was read the first time and referred to the Labor & Commerce, Health, Education, & Social Services and the Finance Committees.

HB 118

A zero fiscal note and a fiscal note were attached. The fiscal note appears in House Journal Supplement No. 8.

The Governor's transmittal letter, dated January 25, 1985, appears below:

"Dear Representative Grasseford:

Under the authority of art. III, sec. 10, of the Alaska Constitution, I am transmitting a bill that relates to the collective bargaining privileges of educational employees throughout the state.

Other than employees of the University of Alaska, noncertificated educational employees in the state do not at present enjoy an effective opportunity to participate in the establishment of the terms and conditions of their employment through the collective bargaining process. As sec. 1 of the bill provides, the policy embodied in this bill is to extend to noncertificated educational employees the fundamental privileges of the collective bargaining process, an essential process now available to certificated employees and most other public employees.

The bill amends AS 14 to establish a comprehensive collective bargaining process to be implemented under the auspices of a newly-established educational employees labor relations agency. In large part, the proposed procedures are identical to procedures established under the Public Employment Relations Act (PERA), AS 23.40.070 -- 23.40.260. To assure continuity and consistency in public employment matters, the membership of the educational employees labor relations agency includes the three current members of the state personnel board, who will serve in their new capacity along with two additional gubernatorial appointees.

Once employees exercise their privilege to form employee organizations, sec. 2 of the bill would require school boards to engage in collective bargaining with respect to the terms of employment. If the parties are not able to reach agreement, sec. 6 requires the parties to use the services of a mediator in an attempt to informally resolve the bargaining impasse. If mediation is unsuccessful, the parties must observe a 10-day cooling-off period (sec. 7).

In the typical instance where the collective bargaining process reaches an impasse, employees are authorized to engage in a strike. Where educational employees are involved, however, the consequences of a strike pose unique and, in my view, unacceptable burdens to local communities. For that reason, the bill proposes that in the event of an impasse, the parties must resolve the impasse through binding arbitration. Under arbitration, each party must submit its last best offer to the arbitrator, and the arbitrator must decide which offer, in its entirety, is preferable. The "last best offer" form of arbitration is essential to the balance struck by this bill, because it provides a practical assurance that the parties will state realistic positions and, as importantly, that all parties will have an incentive to resolve their differences through bargaining, not arbitration.

I add that the purposes of this legislation could, in the alternative, be obtained through amendment of the Public Employment Relations Act (PERA; AS 23.40). While there are benefits to each of the possible legislative alternatives, I concluded that the policy consideration raised in defining the collective bargaining prerogatives of educational employees are sufficiently unique to merit a separate statutory scheme. Of course, I would be pleased to consider a bill that includes educational employees under PERA if that is the legislature's preference.

This bill provides a workable procedure which enables educational employees to enjoy the privileges of the collective bargaining process in a fashion which does not intrude upon the autonomy of local school boards.

Sincerely,

G

NEGOTIABLE AND NON-NEGOTIABLE

according to

The ALASKA SUPREME COURT

Those items which are non-negotiable are as follows:

1. Relief from Non-Professional Chores
2. Class Size and Teacher Load
3. Ombudsman
4. Evaluation of Administrators
5. Teacher Aides
6. Para-Professionals
7. PTR Formula
8. Specialists
9. Calendar

Those items which are negotiable are:

1. Recognition
2. Negotiation Procedures
3. Grievance Procedures
4. Salary Schedule Conditions
5. Salary Schedule
6. Automatic Cost of Living
7. Extra Curricular and Extra Duty
8. Extended Contract
9. Additional Educational Employment
10. Life Insurance
11. Health Insurance
12. Liability Insurance
13. Automobile Allowance
14. Tuition/In-Service Workshops
15. Reimbursement for Physical Examinations
16. Sabbatical Leave
17. Career Development
18. Administrative Leave
19. Personal Leave
20. Sick Leave and Bereavement
21. Personal and Sick Leave for Half-Time Employees

22. Unpaid Leave of Absence
23. Maternity Leave
24. Political Leave
25. Duty-Free Lunch
26. Teacher Preparation Periods
27. Monthly Planning Time
28. In-Service Days
29. Discretionary Materials
30. Personnel Files
31. Teacher Transfer
32. Teacher Retention
33. Job Openings
34. Reduction of Staff
35. Teacher Contracts
36. Association Rights and Privileges
  - (a) Information
  - (b) Release Time for Meetings
  - (c) Use of School Buildings
  - (d) Use of School Equipment
  - (e) Supplies
  - (f) Mail Facilities
  - (g) Subcontracting
  - (h) Non jeopardy
  - (i) Exclusive Rights
  - (j) KPEA Professional Leave
  - (k) Dues Deduction/Continuing Membership
  - (l) Other Deductions
  - (m) Conformity to Law
  - (n) School Board Agenda
  - (o) Preliminary Draft of Budget
37. Agreement Print-up and Dissemination
38. Duration of Contract



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

H.

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### NEA-Alaska Position Statement Teacher Negotiations Law AS 14.20.550-610

The absence of finality to the process of teacher negotiations is not in the public interest of the State of Alaska and is inconsistent with the public policies of the State as they pertain to employer/employee relationships for all other public employees.

Collective negotiations is well established in both the public and private sectors as the best procedure for employees to equitably share in the decision making processes regarding their terms and conditions of employment. The State of Alaska in AS 23.40.070, the public employee negotiations law, has further stated that it is the public policy of the State to promote harmonious and cooperative relationships between employees and government and that government will be more effective and responsive when employees have such opportunity.

The current teacher negotiations law fails every reasonable test relative to equity and effective bilateral decision making.

- There is no meaningful incentive for school boards to reach agreement on terms and conditions of employment as a result of the good faith negotiations requirement.
- The dispute settlement mechanism does not achieve finality in the process.
- The law does not define unfair labor practices.
- There is currently no administrative procedure for resolution of alleged unfair labor practices except through costly and time consuming court procedures.
- Bargaining unit determination procedures are ambiguous at best.
- Time, energy and valuable resources (human and financial) are being spent in a collective bargaining process which is substantially increasing in its length and its frustrations.
- The right of employees to organize and participate in matters pertaining to negotiations does not have adequate statutory protection.
- The law is silent on the negotiation of fair representation fees.

Minimally, the legislative reform should address finality through arbitration, preferably final offer on an item by item basis.

Final offer interest arbitration is the only effective labor relations alternative to strike as a method of achieving finality to a negotiations dispute.

H<sub>2</sub>

In the public sector it is a better alternative than strike, in that it provides for a continuity of services and does not adversely effect the public interest, health, safety, and welfare.

Final offer interest arbitration is effective because it represents a risk for both parties to a dispute and it subjects their positions to neutral scrutiny, thus causing them to be more defensible and rational.

The reality of final offer interest arbitration is that a very low percentage of disputes actually end up in written arbitration awards. The mere presence of such an arbitration procedure enhances the settlement potential and results in more bilateral agreements between the parties short of the arbitration itself.

In his dissenting opinion in the Supreme Court determination that teacher strikes are illegal, Justice Rabinowitz said: "If public school teachers are so essential to society that they must be denied the right to strike, then they should be given the right to compulsory arbitration".

Further, the public supports interest arbitration for teachers.

- Between 1979 and 1981 Senator Colletta, Representative Phillips, and Senator Kelly found constituent support for interest arbitration ranging from 67% to over 80%.
- In early 1983, a supermarket survey of nearly 5,000 shoppers in ten communities around the State found over 90% in support of arbitration for teachers.
- The 1983 He'llenthal Survey, commissioned by the Anchorage School District, reinforces the need for arbitration with a favorable response in excess of 80%.

The NEA-Alaska desire for finality through arbitration has been a matter of record for a number of years. Our commitment only intensifies as each round of bargaining with school districts produces a lengthening process and greater frustrations for our members.

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NEA-Alaska recommends the following as minimal revision to AS 14.20.550-610.

- a) Include a policy statement similar to PERA (As 23.40.070)
- b) Clarify procedures regarding questions of representation and bargaining unit determination
- c) ESTABLISH FINAL OFFER (item by item) ARBITRATION AS THE NEGOTIATIONS DISPUTE SETTLEMENT MECHANISM
- d) Define unfair labor practices
- e) Provide administrative procedures for resolution of alleged unfair labor practices
- f) Establish an agency for administration of the teacher negotiations law
- g) Provide non certified public school employees access to a negotiations law.

H3

The following points effectively summarize the positive effect of the recommended revisions to the teacher negotiations law.

1. Achieves finality in an expeditious way
2. Reinforces equity in the process
3. Reinforces good faith negotiations
4. Final offer is a risk for both parties
5. Final Offer forces the position to be defensible, rational
6. Third party assistance is sometimes necessary/desirable
7. An improper award can be challenged in court and set aside
8. Currently, too much time, money and energy is wasted in the impasse process
9. Management rights/prerogatives are protected by statute
10. Arbitration stops strikes
11. The public favors interest arbitration.

Attached please find:

- a) Summary of the Connecticut final offer arbitration law. It was passed subsequent to the 1979 Bridgeport teacher strike (the Anchorage teacher strike was also in 1979). The effect has clearly been an increase in the number of bilateral agreements reached short of the arbitration award itself. (Phi Delta Kappan)
- b) An article summarizing the viability and acceptability of arbitration as an alternative to teacher strikes. (American School Board Journal)
- c) A summary of the mediation-arbitration process which focuses on the Wisconsin procedure.

Enclosures

R2:42

Public Survey Results  
 re: Arbitration vs Strike  
 Sponsor: Anchorage School Bd.

I

Junior High students?

None (0 Minutes).....	2.9%
1-29 Minutes.....	0.2%
30 Minutes (One-Half Hour).....	4.3%
31-59 Minutes.....	4.2%
60 Minutes (One Hour).....	36.4%
61-119 Minutes.....	18.7%
120 Minutes (Two Hours).....	26.4%
Over 120 Minutes.....	6.8%

MEAN	= 86.330	SAMPLE SIZE	= 1417
MEDIAN	= 87.905	STANDARD DEVIATION	= 42.279
SKEWNESS	= 1.060	KURTOSIS	= 3.256

High School students?

None (0 Minutes).....	3.1%
1-29 Minutes.....	0.1%
30 Minutes (One-Half Hour).....	1.5%
31-59 Minutes.....	1.1%
60 Minutes (One Hour).....	21.4%
61-119 Minutes.....	15.8%
120 Minutes (Two Hours).....	34.9%
Over 120 Minutes.....	22.1%

MEAN	= 113.940	SAMPLE SIZE	= 1409
MEDIAN	= 119.406	STANDARD DEVIATION	= 59.350
SKEWNESS	= 1.398	KURTOSIS	= 5.379

36. The Anchorage School Board conducts collective bargaining sessions with the local teachers' association (THE ANCHORAGE EDUCATION ASSOCIATION). These sessions should allow the Board and Teachers' Association to reach mutual agreement on issues such as teachers' wages and working conditions. In the event an agreement cannot be reached between the Teachers' Association and the School Board, would you favor or oppose a plan that would require the dispute to be settled by the decision of an arbitrator or a panel acceptable to both the Teachers' Association and the School Board?

FAVOR.....	89.9%
OPPOSE.....	6.6%
DON'T KNOW.....	3.5%
(n = 1595)	

37. Should teachers have the right to strike?

YES.....	49.1%
NO.....	45.6%
DON'T KNOW.....	5.2%
(n = 1589)	

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ASSOCIATION

# CONTACT

A Leadership Publication of The Connecticut Education Association

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## CEA Lobbying Effort In High Gear

The lobbyists for the Connecticut Education Association have been very busy during the past month keeping close tabs on all of the education bills that have surfaced over at the legislature.

Heavy emphasis was spent dealing with a number of anti-binding arbitration bills that surfaced in the Education Committee. "Through the efforts of our CEA lobbyists, three bills that would have gutted the arbitration process have been boxed in committee," said CEA President Robert F. Eagon. The CEA President added, "Although these three bills are now dead in this session, there are other binding arbitration bills that still remain alive and if they are passed by the Education Committee, the binding arbitration issue would come to the floor of the General Assembly."

CEA Executive Director Tom Mondani said, "Local associations must continue to contact their local senator and representatives, particularly members of the Education Committee, urging them not to change any aspect of binding arbitration."

Michael Cooper, CEA Bargaining Services Coordinator, indicated that HB - 5595, which deals with the selection process of the neutral arbitrator, is one bill that still remains alive. Cooper said, "It is important for local associations to urge members of the Education Committee to reach the defeat of this bill."

On another education front, many of the legislative initiatives introduced by the State Board of Education will be nearing the public hearing stage. Among the issues to be discussed will be teacher certification and a longer school year.

## CEA Legislative Commission To Hold Workshops

The CEA Legislative Commission will be conducting four regional workshops during March. The program is designed to educate association members on the CEA legislative package; and to provide local association members with information on how they can be helpful in promoting the CEA legislative agenda.

The workshops are scheduled from 4:30 p.m. to 7 p.m. at the following locations:

- March 5 — Ridge Hill School, Hamden
- March 6 — Stratford High School, Stratford
- March 7 — Kelly Junior High School, Norwich
- March 12 — Farmington Junior High School, Farmington

For more information, contact CEA Government Relations Coordinator, Jane Glover at the CEA in Hartford.

## State Board Supports Binding Arbitration

At its meeting on February 6, the State Board of Education took an unprecedented action when it passed a motion in support of last-best-offer binding arbitration. Below is the text of the motion passed by the board.

*"Resolved that since the educational interests of the state have been well served by binding arbitration, the State Board of Education endorses in principle the concept of binding arbitration as provided for in Section 10-153a et seq. of the Connecticut General Statutes and urges the General Assembly not to amend or repeal said Act, and empowers the Commissioner to take the necessary action."*

Speaking for Commissioner Gerald Tirozzi at a public hearing held on this topic on February 9, by the Education Committee of the General Assembly, Lee Williamson, State Consultant for Teacher Board Negotiations, said, "The educational community has been well served by the arbitrators currently on the panel and by the administration of the arbitration process by the Department of Education. I can see no benefit in drastically changing a system that works."

Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall notify the agency when the parties jointly agree, or when the mediator independently determines, that further mediation would not promote resolution of the dispute. The notification from the mediator to the agency shall indicate the items at impasse that qualify for arbitration determination. Those items shall be limited to wages and fringe benefits of a monetary nature. Following mediation the parties shall observe a 10-day cooling off period.