

**HOUSE BILL NO. 200**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVE GATTO**

**Introduced: 3/21/11**

**Referred: Labor and Commerce, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to restricting collective bargaining by certain public employees."**

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

3 \* **Section 1.** AS 18.35.305 is amended to read:

4 **Sec. 18.35.305. Places where smoking is prohibited.** Smoking in any form is  
5 prohibited in the following indoor places:

6 (1) a public or private elementary or secondary school, preschool, or  
7 children's day care facility; if the school, preschool, or day care facility is in a building  
8 that is also a private residence, this paragraph applies only during the hours when the  
9 residence is being used as an elementary or secondary school, preschool, or children's  
10 day care facility and to the rooms used as an elementary or secondary school,  
11 preschool, or children's day care facility; if the school, preschool, or day care facility  
12 is in a building that includes more than one private residence or units that are not  
13 private residences, this paragraph applies only to the private residence in which the  
14 elementary or secondary school, preschool, or children's day care facility is located;  
15 [THE PROHIBITION IN THIS PARAGRAPH DOES NOT APPLY TO A

1 DESIGNATED SMOKING AREA THAT IS PROPERLY VENTILATED OR  
 2 EQUIPPED WITH AN EXHAUST FAN IN A PUBLIC OR PRIVATE  
 3 ELEMENTARY OR SECONDARY SCHOOL IF THE AREA IS LOCATED IN A  
 4 ROOM WHERE MINORS ARE NOT PERMITTED AND A SMOKING AREA  
 5 MUST BE DESIGNATED IN THE SCHOOL TO COMPLY WITH A  
 6 COLLECTIVE BARGAINING AGREEMENT COVERING EMPLOYEES WHO  
 7 WORK IN THE SCHOOL;]

8 (2) a room, chamber, or other place under the control of the state or a  
 9 political subdivision of the state while a public meeting or public assembly is in  
 10 progress;

11 (3) an office where dental care, health care, or the healing arts are  
 12 practiced, a public or private laboratory associated with dental care, health care, or the  
 13 healing arts if the laboratory is located within the same premises as an office where  
 14 dental care, health care, or the healing arts are practiced, and a public or private  
 15 hospital, or other nonresidential health care institution or facility; this paragraph does  
 16 not apply to a public or private office or facility that is engaged primarily in providing  
 17 mental health services;

18 (4) an elevator.

19 \* **Sec. 2.** AS 23.40.040 is amended to read:

20 **Sec. 23.40.040. Collective bargaining agreement.** The commissioner of  
 21 transportation and public facilities or an authorized representative, in accordance with  
 22 AS 23.40.020 - 23.40.030, may negotiate and enter into collective bargaining  
 23 agreements concerning wages [, HOURS, WORKING CONDITIONS, AND OTHER  
 24 EMPLOYMENT BENEFITS] with the employees of the division of marine  
 25 transportation engaged in operating the state ferry system as masters or members of  
 26 the crews of vessels or their bargaining agent. A collective bargaining agreement is  
 27 not final without the concurrence of the commissioner of transportation and public  
 28 facilities. The commissioner of transportation and public facilities may make provision  
 29 in the collective bargaining agreement for the settlement of wage [LABOR] disputes  
 30 by arbitration.

31 \* **Sec. 3.** AS 23.40.070 is amended to read:

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

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

18           (2) requiring public employers to negotiate with and enter into written  
 19 agreements with employee organizations on matters of wages, hours, and other terms  
 20 and conditions of employment **for firefighters, police officers, and emergency**  
 21 **medical technicians, and on matters of wages for public employees who are not**  
 22 **firefighters, police officers, or emergency medical technicians;**

23           (3) maintaining merit-system principles among public employees.

24 \* **Sec. 4.** AS 23.40.075 is amended by adding a new subsection to read:

25           (b) During collective bargaining, a labor organization may only bargain,  
 26 negotiate, or deal with an employer on the subject of wages, unless the labor  
 27 organization is bargaining, negotiating, or dealing on behalf of persons employed as  
 28 firefighters, police officers, or emergency medical technicians.

29 \* **Sec. 5.** AS 23.40.110(a) is amended to read:

30           (a) A public employer or an agent of a public employer may not

31           (1) interfere with, restrain, or coerce an employee in the exercise of the

1 employee's rights guaranteed in AS 23.40.080;

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

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

6 (4) discharge or discriminate against an employee because the  
7 employee has signed or filed an affidavit, petition, or complaint or given testimony  
8 under AS 23.40.070 - 23.40.260;

9 (5) refuse to bargain collectively in good faith with an organization  
10 **that** [WHICH] is the exclusive representative of employees in an appropriate unit,  
11 including but not limited to the discussing of grievances **of firefighters, police**  
12 **officers, or emergency medical technicians** with the exclusive representative.

13 \* **Sec. 6.** AS 23.40.110(b) is amended to read:

14 (b) **In matters concerning an organization that is the exclusive**  
15 **representative of employees in an appropriate unit, nothing** [NOTHING] in this  
16 chapter prohibits a public employer from **requiring or, if the organization is**  
17 **representing firefighters, police officers, or emergency medical technicians,**  
18 making an agreement with an organization to require, as a condition of employment,

19 (1) membership in the organization, **if the organization** [WHICH]  
20 represents the unit on or after the 30th day following the beginning of employment or  
21 on the effective date of the agreement, whichever is later; or

22 (2) payment by the employee to the **organization** [EXCLUSIVE  
23 BARGAINING AGENT] of a service fee to reimburse the **organization**  
24 [EXCLUSIVE BARGAINING AGENT] for the expense of representing the members  
25 of the bargaining unit.

26 \* **Sec. 7.** AS 23.40 is amended by adding a new section to read:

27 **Sec. 23.40.208. Wage agreement limitations.** A wage increase negotiated  
28 under this chapter for public employees who are not employed as firefighters, police  
29 officers, or emergency medical technicians may not exceed the percentage increase in  
30 the Consumer Price Index for urban wage earners and clerical workers for Anchorage,  
31 Alaska, during the previous calendar year as determined by the United States

1 Department of Labor, Bureau of Labor Statistics.

2 \* **Sec. 8.** AS 23.40.210(a) is amended to read:

3 (a) Upon the completion of negotiations between an organization and a public  
4 employer, if a settlement is reached, the employer shall reduce it to writing in the form  
5 of an agreement. The agreement may include a term for which it will remain in effect,  
6 not to exceed three years. The agreement shall include a pay plan designed to provide  
7 for a cost-of-living differential between the salaries paid employees residing in the  
8 state and employees residing outside the state. The plan shall provide that the salaries  
9 paid, as of August 26, 1977, to employees residing outside the state shall remain  
10 unchanged until the difference between those salaries and the salaries paid employees  
11 residing in the state reflects the difference between the cost of living in Alaska and  
12 living in Seattle, Washington. [THE AGREEMENT SHALL INCLUDE A  
13 GRIEVANCE PROCEDURE WHICH SHALL HAVE BINDING ARBITRATION  
14 AS ITS FINAL STEP.] Either party to the agreement has a right of action to enforce  
15 the agreement by petition to the labor relations agency.

16 \* **Sec. 9.** AS 23.40.210 is amended by adding a new subsection to read:

17 (f) In addition to the other requirements of this section, if an agreement under  
18 (a) of this section is between a public employer and an organization acting as the  
19 exclusive representative of firefighters, police officers, or emergency medical  
20 technicians, the agreement must include a grievance procedure; the final step of the  
21 grievance procedure required in this subsection must be binding arbitration.

22 \* **Sec. 10.** AS 23.40.240 is amended to read:

23 **Sec. 23.40.240. Effect on certain units, representatives [, AND**  
24 **AGREEMENTS].** Nothing in this chapter terminates or modifies a collective  
25 bargaining unit or a [,] recognition of exclusive bargaining representative [, OR  
26 COLLECTIVE BARGAINING AGREEMENT] if the unit or the [,] recognition [,  
27 OR AGREEMENT] is in effect on September 5, 1972.

28 \* **Sec. 11.** AS 23.40.250(1) is amended to read:

29 (1) "collective bargaining" means the performance of the mutual  
30 obligation of the public employer or the employer's designated representatives and the  
31 representative of the employees to meet at reasonable times, including meetings in

1 advance of the budget making process, and negotiate in good faith with respect to  
2 wages, hours, or [AND] other terms and conditions of employment, or the negotiation  
3 of an agreement, or negotiation of a question arising under an agreement and the  
4 execution of a written contract incorporating an agreement reached if requested by  
5 either party, but these obligations do not compel either party to agree to a proposal or  
6 require the making of a concession;

7 \* **Sec. 12.** AS 23.40.250(5) is amended to read:

8 (5) "organization" means a labor or employee organization of any kind  
9 in which employees participate and that [WHICH] exists for the primary purpose of  
10 dealing with employers concerning grievances, labor disputes, wages, rates of pay,  
11 hours of employment, or [AND] conditions of employment;

12 \* **Sec. 13.** AS 39.20.245(b) is amended to read:

13 (b) An officer or employee, with the approval of the person authorizing the  
14 employment, may donate accrued personal or annual leave to another officer or  
15 employee only for use as leave for medical reasons. The official responsible for  
16 employee accounts shall debit the donor's personal or annual leave account and credit  
17 the donee's personal leave account, or sick leave account, as appropriate, for medical  
18 reasons only, by converting the donated leave into cash value at the donor's rate of pay  
19 and reconverting the cash value to hours of leave at the donee's rate of pay. Leave  
20 donated under this subsection is not leave taken by the donor for purposes of  
21 AS 39.20.225(c). An employee who is covered by a collective bargaining agreement  
22 may donate leave to or receive donations of leave from an employee or officer who is  
23 not covered by a collective bargaining agreement, notwithstanding AS 39.20.310(7)  
24 [AND (8)].

25 \* **Sec. 14.** AS 39.20.275(a) is amended to read:

26 (a) Notwithstanding AS 39.20.310(1) - (3), (6), and (7) [AND (6) - (8)], paid  
27 administrative leave of not more than 80 hours and not less than 40 hours, unless the  
28 employee requests fewer hours, shall be granted under this section to an employee  
29 who requests leave to make a personal organ or bone marrow donation. Paid  
30 administrative leave may include time spent on a screening process to determine  
31 whether the employee is a compatible donor.

1 \* **Sec. 15.** AS 39.20.310 is amended to read:

2 **Sec. 39.20.310. Exceptions.** Except as provided in AS 39.20.275,  
3 AS 39.20.200 - 39.20.330 do not apply to

4 (1) members of the state legislature, the governor, the lieutenant  
5 governor, and justices and judges of the supreme and superior courts and of the court  
6 of appeals, but nothing in AS 39.20.200 - 39.20.330 may be construed to diminish the  
7 salaries fixed by law for these officers by reason of absence from duty on account of  
8 illness or otherwise;

9 (2) magistrates serving the state on less than a full-time basis;

10 (3) officers, members of the teaching staff, and employees of the  
11 University of Alaska;

12 (4) persons employed in a professional capacity to make a temporary  
13 and special inquiry, study, or examination as authorized by the governor, the  
14 legislature, or a legislative committee;

15 (5) members of boards, commissions, and authorities who are not  
16 otherwise employed by the state;

17 (6) temporary employees hired for periods of less than 12 consecutive  
18 months;

19 (7) [PERSONS EMPLOYED BY THE DIVISION OF MARINE  
20 TRANSPORTATION AS MASTERS AND MEMBERS OF THE CREWS  
21 OPERATING THE STATE FERRY SYSTEM WHO ARE COVERED BY  
22 COLLECTIVE BARGAINING AGREEMENTS AS PROVIDED IN AS 23.40.040,  
23 EXCEPT AS EXPRESSLY PROVIDED BY LAW;

24 (8)] persons employed by the state who are covered by collective  
25 bargaining agreements under [AS PROVIDED IN] AS 23.40.210 that provide  
26 benefits similar to benefits provided under AS 39.20.200 - 39.20.330, except as  
27 expressly provided by law.

28 \* **Sec. 16.** AS 39.20.530(b) is amended to read:

29 (b) The provisions of AS 39.20.500 - 39.20.550 are subject to collective  
30 bargaining if the employees are firefighters, police officers, or emergency medical  
31 technicians represented by an organization under AS 23.40.070 - 23.40.260 [.

1           HOWEVER, EXCEPT AS PROVIDED IN (c) OF THIS SECTION, A  
2           COLLECTIVE BARGAINING CONTRACT THAT DOES NOT CONTAIN  
3           BENEFIT PROVISIONS AT LEAST AS BENEFICIAL TO THE EMPLOYEE AS  
4           THOSE PROVIDED BY AS 39.20.500 - 39.20.550 SHALL BE CONSIDERED TO  
5           CONTAIN THE BENEFIT PROVISIONS OF THOSE STATUTES].

6           \* **Sec. 17.** AS 39.20.530 is amended by adding a new subsection to read:

7                   (d) Except as provided in (c) of this section, a collective bargaining contract  
8           that does not contain benefit provisions at least as beneficial to the employee as those  
9           provided by AS 39.20.500 - 39.20.550 shall be considered to contain the benefit  
10          provisions of those statutes.

11          \* **Sec. 18.** AS 39.28.020(a) is amended to read:

12                   (a) The director of the division of personnel shall

13                           (1) assist state officials to carry out their equal employment  
14          opportunity responsibilities, including promoting the recruitment, employment,  
15          training, and retention of members of protected classes, and recommend solutions to  
16          any problems identified;

17                           (2) train state managers and supervisors in their equal employment  
18          opportunity and affirmative action responsibilities and offer orientation programs to  
19          employees to inform them of their rights and responsibilities under this chapter;

20                           (3) monitor records of personnel actions, develop auditing and  
21          reporting systems to acquire statistical information, and prepare federal and state  
22          reports concerning the composition of the work force;

23                           (4) prepare and submit the affirmative action plan for employment in  
24          the executive branch of state government to the governor;

25                           (5) prepare guidelines for the affirmative action programs of agencies  
26          and review, audit, and make recommendations concerning the programs;

27                           (6) ensure that agencies comply with the affirmative action plan and  
28          with the agency affirmative action program;

29                           (7) implement standards by which performance evaluations of  
30          supervisors reflect compliance with affirmative action plans and objectives, including  
31          the granting or denial of merit increases;



1 (8) assist the division of labor relations in collective bargaining  
 2 negotiations between the state and employee bargaining organizations to ensure that  
 3 each collective bargaining agreement negotiated by the state **with an organization**  
 4 **negotiating as the exclusive representative of firefighters, police officers, or**  
 5 **emergency medical technicians** ensures equal employment opportunity;

6 (9) file quarterly reports with the governor and the legislature  
 7 concerning agency compliance with and progress in its affirmative action program, the  
 8 affirmative action plan, state and federal equal employment opportunity laws and  
 9 regulations;

10 (10) accept, investigate, and resolve complaints of discrimination from  
 11 employees, previous employees, or applicants for employment;

12 (11) serve as primary liaison between the executive branch and state  
 13 and federal agencies, minority and women's organizations, and community groups  
 14 concerned with equal employment opportunity; and

15 (12) prepare and submit an annual report to the governor and the  
 16 legislature by February 15 on the progress and problem areas in the equal employment  
 17 opportunity program and the implementation of the affirmative action plan.

18 \* **Sec. 19.** AS 39.28.020(c) is amended to read:

19 (c) **If its terms apply to firefighters, police officers, or emergency medical**  
 20 **technicians, a** [A] collective bargaining agreement adopted under AS 23.40.070 -  
 21 23.40.260 (Public Employment Relations Act) must be consistent with principles of  
 22 equal employment opportunity and affirmative action. This chapter supersedes the  
 23 provisions of AS 39.25 (State Personnel Act).

24 \* **Sec. 20.** AS 39.35.680(22) is amended to read:

25 (22) "member" or "employee"

26 (A) means a person eligible to participate in the plan and who  
 27 is covered by the plan;

28 (B) includes

29 (i) an active member;

30 (ii) an inactive member;

31 (iii) a vested member;

- 1 (iv) a deferred vested member;
- 2 (v) a nonvested member;
- 3 (vi) a disabled member;
- 4 (vii) a retired member;
- 5 (viii) an elected public officer under AS 39.35.381;
- 6 (C) does not include
- 7 (i) former members;
- 8 (ii) persons compensated on a contractual or fee basis;
- 9 (iii) casual or emergency workers or nonpermanent
- 10 employees as defined in AS 39.25.200;
- 11 (iv) persons covered by the Alaska Teachers'
- 12 Retirement System except as provided under AS 39.35.131 and
- 13 39.35.381, or persons covered by a university retirement program;
- 14 (v) employees of the division of marine transportation
- 15 engaged in operating the state ferry system who are covered by a union
- 16 or group retirement system to which the state makes contributions;
- 17 (vi) justices of the supreme court or judges of the court
- 18 of appeals or of the superior or district courts of Alaska;
- 19 (vii) the administrative director of courts appointed
- 20 under art. IV, sec. 16 of the state constitution unless the director
- 21 becomes a member under AS 39.35.158;
- 22 (viii) members of the elected public officers' retirement
- 23 system (former AS 39.37); and
- 24 (ix) contractual employees of the legislative branch of
- 25 state government under AS 24.10.060(f);
- 26 (D) may include employees of the division of marine
- 27 transportation excluded under (C)(v) of this paragraph provided that
- 28 (i) the State of Alaska formally agrees to their inclusion
- 29 through the process of collective bargaining **before the effective date**
- 30 **of this Act**; and
- 31 (ii) no collective bargaining agreement has the effect of

1 obligating contributions made by the state under AS 39.30.150 in the  
2 event the state resumes participation in the federal social security  
3 system;

4 \* **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 **APPLICABILITY.** This Act applies to collective bargaining under AS 23.40.070 -  
7 23.40.260 that occurs on or after the effective date of this Act; however, this Act does not  
8 apply to collective bargaining settlements or agreements that exist before the effective date of  
9 this Act or to renegotiations of those settlements or agreements as permitted under  
10 AS 23.40.215, regardless of whether a settlement has been reduced to writing under  
11 AS 23.40.210, signed by the parties, or funded under AS 23.40.215.