



Tony Knowles, Governor  
Ed Flanagan, Commissioner

**ALRA BOARD MEMBERS**

Aaron T. Isaacs, Jr., Chair

Public, Klawock

David D. Rasley

Public, Fairbanks

Dick Brickley

Management, Fairbanks

Vacant

Management

Roberta Demoski

Labor, Anchorage

Raymond Smith

Labor, Anchorage

**EXECUTIVE STAFF**

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Newsletter is for information only; not

intended as legal advice.

The Alaska Labor Relations Agency was created to administer the Public Employment Relations Act and thereby promote cooperative relations between government and its employees. ALRA conducts elections on union representation for collective bargaining, hears disputes over composition of public employee bargaining units, hears unfair labor practice charges and considers employee claims for religious exemption from the obligation to pay fees to a bargaining representative. The goal is to protect the public through the orderly and uninterrupted provision of government services.

**Recent Changes to ALRA Board**

Bob Doyle, the most experienced ALRA board member, resigned in June to accept the Superintendent position for the Matanuska-Susitna School District. Bob served as an ALRA management member for nine years, and brought to the Board a keen grasp of labor relations issues. He worked with other board members to adopt recent amendments to the Agency's regulations. Bob demonstrated a calm, steady commitment to fostering more harmonious public labor relations in Alaska. His reliability and experience will be missed. We wish Bob the best as he moves on to the next stage of his life.

Bob's resignation opens a management vacancy on the Board. Governor Tony Knowles filled two other vacancies during the past year. The Governor appointed Fairbanks resident Dave Rasley to the vacant "public" position in November 2001. He appointed Anchorage resident Roberta Demoski to the vacant "labor" position in January 2002.

ALRA welcomes Dave and Roberta to the Board. Dave, a Fairbanks resident since the 1950s, did management consulting work for the Fairbanks North Star Borough. He has been a member of the Operating Engineers Local 302, and sits on the Fairbanks Memorial Hospital Board.

Roberta works as a business representative for the International Brotherhood of Electrical Workers, Local 1547, where she has served for the past six years. For seven previous years she worked in various capacities at the Alaska Court system. Roberta also serves on the Governor's Safety Advisory Council.

**ALRA Amends Regulations**

In May of this year, ALRA adopted the first major amendments to its regulations since 1995. The amendments eliminated ALRA's oversight of a labor organization's strike vote process, and amended the definition of "appointed official." To request a copy of the specific amendments, contact the Agency. Ask for Pamphlet 900, which contains the up-to-date statutes and regulations. Pamphlet 900 is also available on-line at <http://www.labor.state.ak.us/laborr/forms/pamphlet900.htm>.

**Board News**

In addition to the changes mentioned above, members Raymond Smith and Chair Aaron Isaacs, Jr., were reappointed to new three-year terms. Ray, who lives and works in Anchorage, has the most tenure (more than seven years) of anyone on the current Board. Fairbanks resident Dick Brickley has served for three years, and Board Chair and Klawock resident Isaacs has served a little more than two years. Aaron attended the international conference of the Association of Labor Relations Agency and also the ALRA Academy that precedes the conference. He enjoyed the academy and conference immensely and found them an excellent learning experience as well as an opportunity to meet other board chairs and labor relations professionals.

## Staff News

Hearing Examiner Mark Torgerson spoke at the Alaska Employment Law Seminar in October 2001. Mark provided an overview of the Agency, including its jurisdiction, and duties of board and staff members. Mark also attended the international conference of the Association of Labor Relations Agencies this past summer in San Diego. He moderated and spoke during a panel discussion entitled "Agencies in Crisis." The discussion addressed not only dealing with fiscal crises but also managing crises caused by catastrophic events. Attendees were rapt as Marlene Gold, Director of the Office of Collective Bargaining in New York City, described her agency's September 11, 2001, experience and its aftermath. Marlene's office building was located a block and a half from the World Trade Center, and her agency's offices looked out over the trade center grounds. Her offices sustained substantial damage from the twin towers' collapse, and staff literally ran for their lives. Fortunately, none of her staff was injured seriously. It took months to get case files put back together, but management and labor worked in extraordinary cooperation to assist Marlene's agency.

## ALRA Web Site Update

Our website now contains agency forms in format downloadable to Microsoft Word. This format enables you to fill out the forms on the computer, instead of handwriting them. We are glad to hear that many of you are utilizing the Decision and Order database on the website. For those who have not done so yet, go to the <http://www.labor.state.ak.us/laborr/home.htm>, click on "decisions and orders," and either click on the year a decision was issued, or type in a search word or phrase to find related cases. Give us a call if you have any questions. Pamphlet 900, which contains the up-to-date statutes and regulations is also available on-line at <http://www.labor.state.ak.us/laborr/forms/pamphlet900.htm>.

We are working on other website changes, including the updating of links. If you find errors or incomplete information, please let us know so we can make it more useful for everyone.

## Recent Board Decisions

**Severance.** In *Alaska Public Employees Ass'n v. Ketchikan Gateway Borough*, Decision and Order No. 259, the ALRA Board dismissed a petition to sever Class I employees (those employees forbidden to strike) from a wall-to-wall unit that also included Class II and III employees (who may strike). The Class I employees are safety officers and mechanics who work at the Ketchikan Airport. The Board analyzed community of interest, wages, hours, and other conditions, and found the current unit appropriate. In its analysis, the Board cited Decision and Order 187, in which it denied a petition to sever 10 aircraft rescue and fire fighting specialists from the State's general government unit, a wall-to-wall unit.

The Board also cited *Alaska Nurses Ass'n v. Fairbanks North Star Borough School District*, Decision and Order No. 258, a petition to sever school nurses from a wall-to-wall unit of school employees (excluding teachers). The Board denied the petition, concluding that although the nurses shared a strong community of interest, the nurses also shared a significant community of interest with other employees in the wall-to-wall unit. The Board declined to analogize to decisions by the National Labor Relations Board (NLRB) that found a separate unit of nurses to be an appropriate unit. The Board found significant differences between nurses in private psychiatric or acute care facilities, for example, and public school nurses. The Board noted the nurses were professional employees, but rejected the assertion that professional status — by itself — warrants carving out employees from a bargaining unit.

**Good Faith Bargaining.** The Board addressed the duty to bargain in good faith in *Southwest Region School District v. Southwest Region Education Association*, Decision and Order No. 257 (December 19, 2001). The Board found the duty to bargain to be bilateral. The Board will apply the totality of conduct standard and will consider both parties' conduct in analyzing an unfair labor practice charge.

The Board declined a request to interpret a contract in *Public Safety Employees Ass'n v. State of Alaska*, Decision and Order No. 260 (June 27, 2002). PSEA petitioned the board to order the State to implement a bi-weekly pay period which the parties' contract required to be applied "as soon as practical." The Board concluded it would be acting as arbitrator if it granted the petition.

Go to the ALRA website (<http://www.labor.state.ak.us/laborr/home.htm>) to review and research all published ALRA decisions.

## ALRA Public Meetings April 2003 and October 2003

The Agency will conduct business meetings in April 2003 and October 2003 at ALRA headquarters, 3301 Eagle St., Suite 208, Anchorage. Dates and times will be announced later. Telephone participation is available. The ALRA Board encourages the public to attend and participate. Contact ALRA for an agenda.

## Appellate Court Decisions

The Agency currently has one case pending in the Alaska Superior Court and one case pending in the Alaska Supreme Court. The Superior Court case concerns a decision by the Board to affirm the dismissal of an unfair labor practice (ULP) investigation. The Public Safety Employees Association filed a ULP against the State, alleging that the State unlawfully refused to settle a grievance by imposing a condition on settlement concerning a subject beyond the scope of PSEA's responsibility. *PSEA v. State of Alaska*, Case No. 00-1033-ULP. Investigator Jean Ward dismissed the charge, and PSEA appealed to the Board. PSEA's appeal contended, among other things, that the investigator exceeded the scope of a probable cause investigation by drawing erroneous legal conclusions that go beyond the level of the investigator's decision-making authority. In its July 2, 2001, order affirming the dismissal, the Board stated that PSEA's appeal appeared to be merely a disagreement with the investigator's conclusions regarding probable cause. PSEA appealed the "Order Affirming Dismissal" to the superior court, where it has been pending since July 26, 2001.

An Agency decision pending in the Alaska Supreme Court deals with arbitrability and whether the State would provide legal representation for employees sued in civil court. After investigation, the State concluded it would not represent the employees. PSEA filed a grievance and eventually filed a petition asking the ALRA Board find that 1) legal indemnification is a mandatory subject of bargaining, 2) all mandatory subjects of bargaining must be subject to grievance/arbitration procedures, 3) the article in the parties' collective bargaining agreement that excludes legal indemnification from grievance arbitration is illegal, and 4) the parties must proceed to arbitration under their contract. After hearing, the ALRA Board concluded that 1) legal indemnification is a mandatory subject of bargaining; 2) AS 23.40.210 requires that collective bargaining agreements under PERA must include grievance procedures ending in binding arbitration; 3) during negotiations, parties may validly agree to waive the right to grieve a mandatory subject of bargaining; and 4) PSEA waived the right to file grievances over legal indemnification.

Eleven months after the appeal, the Alaska Superior Court reversed the Board, finding that the Board took "enormous liberties with the limited language and guidance provided by" the Alaska Supreme Court in *Hemmen v. Department of Public Safety*, 710 P.2d 1001 (Alaska 1985). 3AN -01-10051 CI (June 24, 2002). The court spent the majority of the decision criticizing what it saw as "flaws" in the Board's interpretation and analysis of case law. The State of Alaska appealed the court's decision to the Alaska Supreme Court. The court granted a stay of the superior court's decision.

## Comments?

ALRA encourages comments or suggestions to improve this newsletter or Agency procedures. We also welcome your contributing articles or announcements. Contact Margie Yadlosky at 907-269-4895 or email [Margie\\_Yadlosky@labor.state.ak.us](mailto:Margie_Yadlosky@labor.state.ak.us)

## IRRA Alaska Chapter

The Alaska chapter of the Industrial Relations Research Association (IRRA) continues to meet the fourth Wednesday of each month, excluding summer months. Bill Pierce, Elizabeth Atkinson, Dave Stewart, and Mark Torgerson recently completed terms as President, Vice-President, Treasurer, and Secretary. At the May 2002 chapter meeting, members re-elected Bill Pierce as President and Mark Torgerson, Secretary. They also elected Rebecca Franklin, Vice-President, and Elizabeth Atkinson, Treasurer.

The chapter continued to hold lunch meetings highlighted by invited presenters. Topics range from safety issues related to the September 11 terrorist attacks to current hot issues at the National Labor Relations Board (NLRB). The IRRA provided several free lunches for attendees. The chapter now offers lunch for \$5. Upcoming IRRA presentations will be given by Ed Flanagan, Alaska Commissioner of Labor and Workforce Development, and arbitrator/mediator Bob Landau.

IRRA members share ideas and learn about new developments in industrial relations and human resources. IRRA promotes education and provides a forum for exchange of ideas on employment issues. IRRA does not take partisan positions on policy issues. IRRA serves as a resource to labor and management professionals, including advocates, neutrals, government, and the academic community.

Contact ALRA's office at 269-4895 or email [mark\\_Torgerson@labor.state.ak.us](mailto:mark_Torgerson@labor.state.ak.us) to find out meeting location or to request an IRRA application. You can also download an IRRA application from the ALRA website.

## Comply with 8 AAC 97.500: File Your Contracts

This regulation requires public employers or the Alaska Railroad Corporation to file a copy of their negotiated and approved collective bargaining agreements within 60 days after execution of the agreement or amendment. Filing assists ALRA staff in their duties. Please file today!

## ***Labor Relations on the Net***

The Alaska Labor Relations Agency: <http://www.labor.state.ak.us/laborr/home.htm>

The National Labor Relations Board: <http://www.nlr.gov>

Alaska AFL-CIO: <http://www.alaska.net/~akaficio>

American Arbitration Association: <http://www.adr.org/>

State of Alaska Personnel/Labor Relations: <http://www.state.ak.us/local/akpages/ADMIN/labrel/labrel.htm>

Industrial Relations Research Association: [www.irra.uiuc.edu](http://www.irra.uiuc.edu)

Federal Labor Relations Authority: <http://www.flra.gov/index.html>

The Association of Labor Relations Agencies: <http://www.alra.org/>

For a general source of labor and employment links, choose "labor" in the subject matter index at <http://www.findlaw.com>. This site also contains the text of United States Supreme Court opinions on labor law. Please let us know if you find other useful web sites, or if any of the above web site addresses is out-of-date.

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