

Alaska Department of Labor and Workforce Development

Alaska Labor Relations Agency Newsletter

IRRA MEETING SET FOR OCTOBER 20

After a year of inactivity, the Alaska chapter of the Industrial Relations Research Association (IRRA) is regrouping. At an informal meeting held September 8 in Anchorage, Elizabeth Atkinson agreed to serve as interim President. The group scheduled a meeting for Wednesday, October 20, and the third Wednesday of each month thereafter, except during the summer. Anchorage members and guests will meet at Room 208 of the Alaska Labor Relations Agency (Department of Labor Building, 34th and Eagle St., just off Denali). However, we will meet in the larger Teamsters conference room across the street if the number of attendees warrants it. Please RSVP this Agency (269-4895) so we can determine which room to reserve. Fairbanks residents who plan to attend by phone will meet in the Butrovich Building at the University in Fairbanks. Please RSVP to Rhonda Ooms at UAF (474-1144) so she can reserve the appropriate size room. The Juneau group should RSVP to David Stewart at the Department of Labor and Workforce Development (465-1864). Contact this Agency (269-4895) if you want to attend by phone from another area.

A highlight of the October 20 meeting will be a talk by arbitrators Bob Landau and J.R. "Randy" Carr titled "Off the Record with the Arbitrators." If you have specific questions or topics you'd like them to address, please contact Mark Torgerson (269-4895 or email Mark_Torgerson@labor.state.ak.us) prior to the meeting. Mr. Landau has practiced labor and employment law for over 20 years. He is a past Deputy Commissioner of the Alaska Department of Labor and an Assistant

Attorney General. Since 1988 he has specialized as an arbitrator and mediator in both public and private labor disputes, and as a hearing officer in government administrative hearings. He is a full-time neutral. Mr. Carr has worked for the Alaska Department of Labor and Workforce Development for more than 24 years and is currently Chief of Labor Standards. He has also worked as an independent arbitrator and mediator since 1985, and he owns The Arbitration & Mediation Group with his wife, Kathy Anderson. He is a frequent lecturer and panelist at seminars of the National Labor Relations Board, American Arbitration Association, the Alaska Bar Association and other organizations.

The Alaska chapter of IRRA was certified by the national organization in January 1998. The chapter encourages involvement in its activities. IRRA is the only organization in the country in which professionals from all areas of industrial relations and human resources can share ideas and learn about new developments in the field. IRRA sponsors research, promotes education and provides a forum for the exchange of ideas on employment issues. It does not take partisan positions on policy issues; rather, it serves as a resource to labor and management professionals, including advocates and neutrals, government, and the academic community.

An IRRA application is on the back of this newsletter. Please join and help develop an effective Alaska chapter.

REFRESHER ON FILING REQUIREMENTS

Some recent filings prompt reminders about requirements for filing and serving documents. See Agency regulations 8 AAC 97.010, .015 and .020. Section 10 states that a party files documents by mailing or delivering documents to the agency office. The date of filing is the date the Agency receives the document, not the date it is mailed. Section 15 requires the party to serve documents (by mail or hand delivery) on all other parties at the same time they file documents with the Agency.

If a party fails to do so, they have not met the service requirements. This could cause a delay in the processing of a petition. Section 15 also requires proof of service to accompany all documents filed with the Agency. This proof is not met by, for example, simply cc'ing other parties. The regulations states: "Proof must be by a written declaration of the names and addresses of the parties served and the date and manner of service." 8 AAC 97.015(b). If a party fails to send proof of service, agency staff must spend additional time contacting a party to do so, or staff may return the document with a note to resubmit the document with proof of service. Finally, if the Agency has assigned a case number to your petition, please include that number on all your filings and correspondence. This insures documents will be filed properly. Your cooperation in meeting these basic filing and service requirements will avoid delay and unnecessary use of your time, as well as that of Agency staff.

BOARD MEMBER NEWS

Board vice-chair Blair Marcotte and labor member Ray Smith have been confirmed by the legislature to second terms on the board.

Their new terms will expire on June 30, 2001.

In addition, Bob Doyle has been reappointed to another three-year term, subject to legislative approval at the next session. The Agency still has a management position vacancy. Interested persons are encouraged to apply by contacting the Agency (269-4895 in Anchorage), or by calling Lilla Giles at Boards and Commissions in Juneau at 465-3934. Their mailing address is: Office of the Governor, Boards & Commissions, P.O. Box 110001, Juneau, Alaska 99811-0001. Call Mark Torgerson at 269-4895 if you have any questions.

STAFF NEWS

Lisa. Truesdale added that success in streamlining could suffer a "devastating" blow if Congress passes a proposed 10 percent budget.

The Agency conducted two elections since the second quarter of 1999. Results from the first were certified from an April 23 secret ballot vote of all public works/water and sewer department employees of the City of Whittier.

The tally: four employees voted in favor of representation by the Laborers International Union of North America Local 341/AFL-CIO

Mark Torgerson attended the annual conference of the Association of Labor Relations Agencies in Phoenix, in July. Mark sat on a panel discussion of executive directors and administrators. One of the primary topics of discussion was dealing with changes to an organization, including staffing, board member composition and budget cuts. Other conference workshops included writing and editing, and sexual harassment. A highlight of the conference was a keynote address by John Truesdale, the recently appointed Chairman of the National Labor Relations Board. Mr. Truesdale, who began his career at the NLRB in 1948, said the federal agency is working on streamlining procedures to reduce the large case backlog. Regarding the issuing of decisions, Truesdale said it is sometimes important to just get a decision issued; not every case is a 'Mona

and International Union of Operating Engineers Local 302/AFL-CIO. There were no votes against such representation.

The second election resulted in a decertification. On June 30, employees of the Alaska State Court System voted to decertify the International Brotherhood of Electrical Workers (IBEW) as their representative. The IBEW had represented this bargaining unit since July 1994. By a vote of 138 to 53, the membership voted for no representation.

LEGISLATION

The first session of the twenty-first legislature ended on May 19, 1999. The legislature did not vote on any bills that would amend the Public Employment Relations Act (PERA). However, several bills are still in committee and could see action during the second session. House Bill 1 would amend AS 23.40.215 by making arbitration awards or negotiated agreements (for police or fire protection employees) that have been approved by a municipality's governing body a contract between the parties. House Bill 41 would amend AS 23.40.215(a) by adding that if the legislature votes to fund any monetary term of an agreement, that action constitutes approval of all monetary terms in the agreements. Finally, House Bill 129 would exclude school principals from the definition of "public employee" under PERA. Its effect would be to exclude school principals from the protections and rights under PERA.

The legislature did pass SCR 11am. This resolution addressed collective bargaining agreements reached between the State of Alaska and several unions representing various state employee bargaining units. The resolution states in part: "the Alaska State Legislature specifically disapproves the monetary terms of all agreements . . . that the Department of Administration may have entered into during 1999 under the authority of the Public Employment Relations Act" The resolution indicates the legislature "reserved the right to disapprove any agreement that failed to achieve net zero cost to the state" The legislature apparently disapproved the contracts because the Department of Administration "failed to adequately report the terms of these agreements" so the legislature could determine whether the net zero cost was met.

ALRA WEBSITE UPDATE

ALRA staff continues to work with the Department of Labor and Workforce Development's publications staff to improve and expand our web site. The 1998 Annual Report is now available online. In addition, we are working to have prior agency decision and orders available for viewing or downloading. Currently, 1998 decisions are available, but we plan to add past years' decisions as time allows. Please let us know if you have ideas or suggestions for improvements or changes to this web site. We appreciate the continuing efforts of publications staff employees Diana Kelm, Jo Ruby and Joanne Erskine for their great assistance.

LABOR RELATIONS ON THE NET

The Alaska Labor Relations Agency: <http://www.labor.state.ak.us/laborr/laborr.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: <http://128.174.170.20/irra/>

Federal Labor Relations Authority: <http://www.access.gpo.gov/flra>

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

Employee relations web picks: <http://www.nyper.com>

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.

ALRA WANTS YOUR COMMENTS

Comments or suggestions for improving this newsletter are encouraged. Also welcome are contributing articles, or announcements. Contact Margie Yadlosky at 907-269-4895 or email Margie.Yadlosky@labor.state.ak.us.

NEXT PUBLIC MEETING SET FOR OCTOBER

The Agency will conduct a business meeting on Friday, October 8, 1999 at ALRA headquarters, 3301 Eagle St., Suite 208, Anchorage. Telephone participation is available. The ALRA Board encourages the public to attend. There is always an opportunity to comment and provide suggestions. The October 8 meeting will include a discussion of time targets to complete various agency functions, such as unfair labor practice (ULP) investigations. Representatives from the National Labor Relations Board will discuss their procedures and time targets for ULPs.

RECENT BOARD DECISIONS

Arbitrability

The Agency addressed the issue of arbitrability in *Fairbanks Fire Fighters Association v. City of Fairbanks*, Decision and Order No. 244 (June 8, 1999). The Agency panel concluded that the issue in dispute must be submitted to arbitration. The City had argued the pertinent union members were not "employees" as that term is used in the parties' agreement. The panel concluded this was a contract interpretation matter appropriate for an arbitrator's determination.

Representation

In *Laborers Local 341 & Operating Engineers 302 v. City of Whittier*, Decision and Order No. 242 (March 3, 1999), the Agency panel concluded that temporary employees in the public works department shared a sufficient community of interest with permanent employees to form an appropriate unit.

Unfair Labor Practice

In *State of Alaska v. Inlandboatmen's Union of the Pacific, Alaska Division*, Decision and Order No. 243 (April 9, 1999), the State contended that the IBU committed an unfair labor practice by unreasonably delaying collective bargaining negotiations. This case was a remand from the Alaska Superior Court. The court had held the IBU was entitled to a reasonable delay in negotiations in order to conduct a valid pre-impasse strike vote. *Inlandboatmen's Union of the Pacific v. State of Alaska*, 3 AN-95-5882 CI (February 14, 1997) at 16. The Agency panel concluded that a delay of just over two weeks to conduct the vote was not unreasonable under the circumstances. The State's petition was therefore dismissed.

BOARD ORDERS ON UNIT CLARIFICATION

During the past year or so, the Agency has concluded several investigations on petitions for unit clarification regarding supervisory status. Recently, the Alaska State Employees Association (ASEA), which represents members of the general government unit (GGU), appealed several of the initial decisions to a panel of the Agency Board. The panel affirmed the investigator's recommendations to move the GGU members to the supervisory unit, represented by the Alaska Public Employees Association (APEA). ASEA then appealed 8 of these decisions to the Alaska Superior Court. The primary issue is whether the employee meets the regulatory definition of "supervisory employee" in 8 AAC 97.990(a)(5), and thus belongs in the supervisory unit. If not, the employee belongs in the GGU.

APPEALS OF AGENCY DECISIONS

Supervisory status

On July 7, 1998, the superior court affirmed the Agency's decision in *State of Alaska v. Alaska State Employees Association/AFSCME Local 52, AFL-CIO & Alaska Public Employees Association/AFT, AFL-CIO*, Decision & Order No. 219 (May 27, 1997). The superior court had previously remanded the matter for additional evidence, and to determine the validity of two agency regulations. Upon reviewing the evidence after the second hearing, the Agency concluded the incumbent employees (statewide environmental coordinator, technical engineer II/architect II, and natural resource manager I) were supervisors as defined in 8 AAC 97.990(a)(5). In addition, the Agency found valid its regulation requiring separate units for supervisors and non-supervisors (8 AAC 97.090(a)(1), and the regulation defining "supervisory employee" (8AAC 97.990(a)(5). Superior court Judge Rene Gonzalez agreed. (3AN-95-9083 CI).

Among other things, Judge Gonzalez held that there is "no requirement that a state employee must have formal documentation of officially delegated responsibility to be a supervisor." The court also found the agency's reliance on employees' opinions of their own authority was appropriate (3AN-95-9083 at 11). The case is currently on appeal to the Alaska Supreme Court. The parties have completed briefing, and the appeal is awaiting conference by the court.

As noted above, ASEA has appealed several recent Agency UC decisions to the superior court. As of this time, the superior court has not issued a decision on any of those cases.

Tony Knowles, Governor
Ed Flanagan, Commissioner

ALRA BOARD MEMBERS

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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.