

**DEPARTMENT OF LABOR
ALASKA LABOR RELATIONS AGENCY
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GENERAL TEAMSTERS LOCAL 959,)
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Petitioner,)
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vs.)
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CITY OF NORTH POLE,)
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Respondent.)
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_____)
CASE NO. 91-021-RC

DECISION AND ORDER NO. 139

This matter was heard on November 5, 1991, in Anchorage, Alaska, before Alaska Labor Relations Agency Board Members Darrell Smith, B. Gil Johnson, and H. O. Williams, with Hearing Examiner Jan Hart DeYoung. The record closed on November 5, 1991.

Appearances:

Petitioner General Teamsters Local 959 was represented by attorney James Witt, and Respondent City of North Pole was represented by attorney Joseph W. Sheehan.

Digest:

City of North Pole Resolution 72-8 was effective under Section 4, ch. 113, S.L.A. 1972, to reject application of the Public Employment Relations Act to the City.

The Agency, having considered the stipulated facts, legal memoranda and the oral arguments, enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACTS

1. The Board accepts and adopts the stipulated facts set forth in City of North Pole's Prehearing Brief dated August 13, 1991.
2. That the Public Employment Relations Act (PERA) was enacted by the Alaska Legislature, signed by the governor, and became law on June 7, 1972. AS 23.40.070 -- 23.40.260.
3. That Section 4, ch. 113 of the S.L.A. 1972, allows a municipality, by ordinance or resolution, to exempt itself from the application of PERA. AS 23.40.070 -- 23.40.260.
4. On August 24, 1972, the City of North Pole passed Resolution No. 72-8, which in relevant part states the City of North Pole's election to exempt itself from the application of AS 23.40.070 -- 23.40.260, in conformance with the provisions of Section 4, ch. 113, S.L.A. 1972.

5. The City of North Pole has not revoked, amended, or repealed Resolution No. 72-8.

6. In 1985 the International Brotherhood of Electrical Workers filed a petition with the Department of Labor, Labor Relations Agency, Docket No. RC-1985-004, petitioning for an election pursuant to the provisions of PERA, AS 23.40.070 -- 23.40.260. After investigation this Agency, through its then Chairman Robert J. Bacolas, determined that the City of North Pole had exercised its right to exclude itself from the application of

PERA, AS 23.40.070 -- 23.40.260, pursuant to City of North Pole Resolution No. 72-8, and that the Agency, therefore, had no jurisdiction in the matter.

7. The City of North Pole has by ordinance established personnel regulations, as is more specifically set forth in chapters 2.44.010 -- 2.76.050 of the City of North Pole Code of Ordinances.

8. The Personnel Ordinances, which are presently in effect, are substantially similar to those which were in effect on December 9, 1985.

9. There have been no instances where an employee of the City of North Pole has been denied his right to grieve wage and working conditions through the City's Personnel Ordinances, chapters 2.44.010 -- 2.76.050.

10. The City of North Pole adopted a sufficient and timely resolution rejecting the application of the Public Employment Relations Act of 1972, Title 23, Chapter 40, Article 2 of the Alaska Statutes.

11. The City of North Pole presently has no contract or agreement with Teamsters Local 959 and has not agreed to enter into negotiations for the purpose of entering into a labor agreement with Teamsters Local 959.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Facts, this Agency enters the following Conclusions of Law:

1. The City of North Pole Resolution 72-8, dated August 24, 1972, is a valid and effective election by the City of North Pole to exempt itself from the application of PERA, AS 23.40.070 -- 23.40.260.

2. The City of North Pole's election to exempt itself from the application of PERA, AS 23.40.070 -- 23.40.260, is still an effective election.

3. This Agency has no jurisdiction over the City of North Pole concerning those matters encompassed in PERA, AS 23.40.070 -- 23.40.260.

ORDER

Having entered the above Findings of Fact and Conclusions of Law determining that it does not have jurisdiction to entertain a representation petition under the Public Employment Relations Act, AS 23.40.070 -- 23.40.260, IT IS ORDERED that the petition filed by General Teamsters Local 959 is hereby DISMISSED.

THE ALASKA LABOR RELATIONS AGENCY

Darrell Smith, Board Chairman

B. Gil Johnson, Board Member

H. O. Williams, Board Member