

ALASKA STATE LABOR RELATIONS AGENCY
Chairman

Pouch C, Juneau, Alaska 99801

C.R. "Steve" Hafling,

Joe Franich, Member
Morgan Reed, Member

ORDER AND DECISION
NUMBER 1

DECISION AND ORDER CONCERNING
PETITIONS NUMBER 1-72, 2-72, 3-72,
4-72, 5-72, AND RELEVANT INTERVENTIONS AND
OBJECTIONS

INTRODUCTION

The Alaska Public Employment Relations Act is both new and innovative. Although much of the Act has been borrowed from the National Labor Relations Act, as amended, there are significant differences, and not all of these differences are to be found in the laws of any other state regulating public employment. The Alaska State Labor Relations Agency must therefore make pioneering decisions, as befits the character of the State of Alaska. These decisions must, of course, carry out the purposes of the Act.

Sec. 23.40.090 COLLECTIVE BARGAINING UNIT, reads: "The labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by secs. 70 - 260 of this chapter, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable and unnecessary fragmenting shall be avoided."

Community of Interest: The general community of interest among all State of Alaska employees is too obvious to be belabored. They all derive their livelihood from the performance of services for the people of the State of Alaska and their direction from the elected representatives of the people. The classified employees come under a common civil service merit system and their compensation is set by the legislature. There is a uniform grievance procedure and a uniform system of progressive discipline. Recruitment, examination, transfer, promotion, orientation and training are conducted on a uniform system-wide basis.

Wages, Hours and other Working Conditions: Although there are variations in these, the general rules are system-wide.

History of Collective Bargaining: The only true history of collective bargaining, in the sense the term is used in the private sector, is to be found in the Marine Transportation Division, where collective bargaining has existed for a number of years, and whose collective bargaining agreements are specifically recognized by the Alaska Public Employment Relations Act. These collective bargaining agreements also contain the only significant exceptions from the general community of interest and uniformity of wages, hours and working conditions noted in the paragraphs above.

However, it must be noted that although the Alaska Public Employees association does not have a collective bargaining history with the State, it does have a history of

meeting and conferring with the Executive Branch on matters relating to wages, hours and other working conditions. Historically, it is the only organization that has represented state employees in general in the meet-and-confer process.

The Desires of the Employees: It would be contrary to the Public Employment Relations Act arbitrarily to ignore the desires of employees. Sec. 090 provides that the Labor Relations Agency shall determine, in each case, the unit appropriate for the purposes of collective bargaining, based on a number of factors, of which the "desires of the employees" is one. The act provides, in sec. 100, procedures for determining the desires of the employees in the question of representation subsequent to the determination of the appropriateness of a bargaining unit. Section 090 does not establish "the desire of the employees" as the sole criterion for deciding each case of unit determination.

Bargaining Units shall be as large as is reasonable and unnecessary fragmenting shall be avoided: In drafting the Alaska Public Employment Relations Act the legislature was guided in part by the National Labor Relations Act, as amended. The differences between sec. 090 and the comparable sections of the National labor Relations Act are significant. It can be assumed that the legislature had full knowledge of what it was doing when it imposed this mandate on the Labor Relations Agency, a mandate that is nowhere to be found in the National Labor Relations Act. When this provision is read in conjunction with the earlier phrase in sec. 090, "...the unit appropriate

for the purposes of collective bargaining," it seems that the legislature acted in full knowledge of the fact that in a state of Alaska's geographical immensity, with but a small population, undue fragmentation of bargaining units could only frustrate collective bargaining. Finally, it would seem to carry out the purposes of the act to remember that Humpty-Dumpty, who was fragmented very easily could not be put back together again by all the King's horses and all the King's men. The prudent carpenter knows that he can always see more from a board that is too long; he cannot make do with one that is too short.

PETITION NO. 3-72

FINDINGS OF FACT

1. Petitioner, Inland Boatmen's Union, has made the requisite showing of interest for a petitioner with regards to the proposed bargaining unit, as an accretion to an existing unit.

2. Alaska Public Employees Association has also made the requisite showing of interest.

3. The State of Alaska does not object to the proposed unit, as modified, with the exception to the inclusion of the Seattle Marine Terminal Manager on the ground that the position is a bona fide supervisory position as defined in 2 AAC 10.220.

4. The Seattle Marine Terminal Manager has substantial responsibility, requiring the exercise of independent judgement, in the performance of most of the following functions: employment, promotion, transfers, suspension, and adjudication of

employee grievances.

5. With the exception noted in (4), above, the parties at interest have consented to an election in which the affected employees would be afforded an opportunity to vote for:

(a) inclusion in the existing unit represented by the Inland Boatmen's Union; or (b) the proposed unit of general state government employees.

6. The problem of unnecessary fragmentation does not exist, because a vote to affiliate with either employee organization will result in accretion to an existing unit.

CONCLUSION

1. There having been consent, except as noted, the unit encompassed by Petition No. 3-72 is appropriate as an accretion to either one of two existing units.

2. Whereas the position of Seattle Marine Terminal Manager carries responsibilities of a supervisory nature which are conducted at a great geographical distance from management headquarters, the position is supervisory as defined in 2 AAC 10.220, and will be excluded from the voting unit.

ORDER

1. Notices of election shall be posted and an election conducted pursuant to 2 AAC 10.140-200.

2. Employees eligible to vote shall be Ferry Terminal Managers I and II and Ferry Terminal Assistants who are employees of the Division of Marine Transportation. The Seattle Marine Terminal Manager is not eligible to vote.

3. The ballot shall afford a choice between (a) a vote for inclusion in a unit of general state government employees; or (b) a vote for the Inland Boatmen's Union, which shall be considered a vote to affiliate with the existing collective bargaining unit of the Inland Boatmen's Union in the Division of Marine Transportation.

PETITIONS NO. 1-72 AND NO. 5-72

FINDINGS OF FACT

1. The Alaska Public Employees Association has made more than a 30% showing of interest by employees in the classifications covered by Petition No. 1-72, which includes confidential employees as defined in 2 AAC 10.220. These employees assist and act in a confidential capacity to those persons who formulate, determine and effectuate management policies in the area of collective bargaining.

2. Regulations 2 AAC 10.110 and .220 were adopted in recognition of the principle that confidential employees, defined as employees who assist and act in a confidential capacity to persons who formulate, determine and effectuate management policies in the area of collective bargaining, should not be in the same collective bargaining unit as other employees. Thus the proposed unit, although not numerically large, does not constitute unnecessary fragmentation as set forth in the Alaska Public Employment Relations Act, but rather is a necessary fragmentation to implement the purposes of the Act.

3. The unit proposed by Petition No. 1-72 is not exhaustive of classified confidential employees because the program budget analysts and their clerical support encompassed by Petition No. 5-72 are also confidential employees within the meaning of 2 AAC 10.220 (a). The deputy director of the Division of Budget and Management is also a confidential employee. Permitting more than one confidential unit would constitute unnecessary fragmentation. The concerned employees have manifested an interest to form bargaining units.

4. The program budget analysts and the employees of the Division of Personnel are all under the common supervision of the Commissioner of Administration.

5. The employees covered by Petition No. 5-72 are confidential employees by virtue of serving in a confidential capacity to the Commissioner of Administration, who due to his departmental responsibilities will have a significant role in the formulation and implementation of collective bargaining policies for the State of Alaska. Budget analysts develop proposed allocations of state money for such matters as reclassification, pay raises and overtime, and preparing formulations of policies or revisions relating to overtime. They have also made studies regarding possible pay inequities among state employees.

6. In petition No. 5-72 petitioner argues that there is not a community of interest with employees covered by Petition No. 1-72. The facts do not support this contention. At the management level most of the employees covered by Petition No. 1-72, have common management with employees covered by Petition No.

5-72, namely the Commissioner of Administration. The reasons for considering the employees confidential is in both cases the same. To find the reasons the same and yet hold for two separate units would be unnecessary fragmentation.

7. Petitioner 1-72 has more than the required 30% showing of interest even when employees covered by Petition No. 5-72 are added to the total.

8. The State of Alaska argues that the subject petitions should be dismissed on the grounds that the units petitioned for are inappropriate.

9. In 2 AAC 10.090 (e) the regulations state: "If the labor relations agency determines that there is not a question of representation, it shall dismiss the petition or order other appropriate action." From this it is clear that the Labor Relations Agency may, when there has been in any case an adequate showing of interest, order such other appropriate action as modifying a proposed unit upon its own initiative and may proceed therefrom to the conduct of an election among the employees of the unit as modified by the Labor Relations Agency.

CONCLUSION

1. Employees in both units petitioned for are confidential.
2. There is a community of interest between the two units.
3. To authorize two separate units of confidential employees would be to create unnecessary fragmentation.
4. To dismiss the petitions is not necessary under

the regulations and would serve no equitable purpose.

ORDER

1. All employees of the Division of Budget and Management, including the Deputy Director, and all employees encompassed by Petition No. 1-72 are deemed to be an appropriate unit of confidential employees.

2. The Labor Relations Agency will cause notices of election to be posted and an election to be conducted pursuant to 2 AAC 10.140-200.

3. The ballot shall afford a choice between: (a) a vote for a unit of confidential employees to be represented by the Alaska Public Employees Association separately from any other unit; or, (b) no representation.

PETITION NO. 2-72

FINDINGS OF FACT

1. Whereas the Alaska Public Employees Association does not have a history of collective bargaining as the term is commonly used, it does have a history of being the sole recognized representative of state government employees, except for employees of the Marine Transportation Division, in the meet-and-confer process with the executive branch.

2. The Alaska Public Employees Association has a history of representing state employees in grievance procedures.

3. The Alaska Public Employees Association has within its membership employees in all classifications of state

government, professional and non-professional, supervisory and non-supervisory, manual and clerical.

4. Petition No. 2-72 seeks designation of a unit comprising all classified employees of the State of Alaska

except partially exempt employees, supervisors and confidential employees. By definition, and as stipulated in hearing, this excludes employees of the State Court System.

5. The Alaska Public Employees Association has demonstrated substantially more than the required 30% showing of interest for the unit sought or for any of the proposed modifications thereof.

6. The Alaska Public Employees Association and the Division of Personnel have, at the request of the Labor Relations Agency, stipulated agreement to a number of classifications as being supervisory as defined by the regulations. Certain classifications remain in dispute.

7. Employees covered by Petition No. 2-72 have a community of interest with all other state employees. They provide services to the people of Alaska at the direction of the elected representatives of the people. They all come under a common civil service merit system and their compensation is set by the legislature. There is a uniform grievance procedure and a uniform system of progressive discipline. Recruitment, examination, transfer, promotion, orientation and training are conducted on a uniform, system-wide basis.

8. Because of the nature of certain other petitions before the Labor Relations Agency it is of great factual importance to note that the membership of the Alaska Public Employees Association in the unit petitioned for includes a substantial

number or professionals, as defined under the National Labor Relations Act, averaging approximately one-third of all classified employees in the state government. There are 507 classifications in the unit petitioned for that can be defined as professional. The great majority of professional employees in the state government have not petitioned for separate representation. Approximately 90% of the employees in question are professional, technical or clerical. The interests of these groups are intertwined and the distinctions between them are often blurred. This establishes the fact that there is a substantial community of interest among state employees in general.

9. The foregoing factors notwithstanding, there are significant differences between general government workers and building trades workers.

10. The skills required and the working conditions involved in the case of building and construction tradesmen are of a different quality than those of general government workers.

Job progression for building tradesmen is generally limited within each craft, and therefore there is neither the same latitude for transfer nor the same prospect of upward mobility as there is for general government workers, and because of the foregoing factors, as well as long tradition in the private sector there is a community of interest among building tradesmen that they do not share with white-collar, professional and technical personnel.

11. There is a Building and Construction Trades Department within AFL-CIO, and in local jurisdictions there are building trades councils separate and distinct from local central labor councils. The same is true of the maritime trades, which also constitutes a separate department within the AFL-CIO, which consorts with the collective bargaining history of the Division of Marine Transportation.

12. The collective bargaining objectives of the building and construction trades are normally quite different from those of white-collar and service trades.

CONCLUSION

1. Technical, professional and clerical personnel in the employ of the State have a significant community of interest.

2. A unit of general state government employees, with the exceptions noted herein, does not constitute excessive fragmentation.

3. The desires of the employees are in substantial favor of a unit of general state government employees.

4. Although there is not a history of collective bargaining as such, the Alaska Public Employees Association is the only employee organization which has represented the employees in general state government in the meet-and-confer process.

5. A unit of general state government employees in the classified service, except partially exempt employees as defined by AS 39.25.120, and except supervisors and confidential

employees as defined by 2 AAC 10.220 (4) and (2), and except for certain building and construction trades classifications as set forth hereinbelow, and including Ferry Terminal Managers I and II and Ferry Terminal assistants only if a majority of employees voting in those classifications vote to affiliate with the unit of general state government employees, is found to be an appropriate unit within the provision of the Alaska Public Employment Relations Act.

6. Although the unit described above is a modification of that petitioned for, the Alaska Public Employees Association has demonstrated more than the required 30% showing of interest in the modified unit; it is not necessary under the regulations to dismiss the petition because of the modification, and no equitable purpose would be served by dismissal on this account.

7. Certain classifications are in dispute as to whether or not they are supervisory as defined in the regulations.

ORDER

1. The Labor Relations Agency finds that a unit of general state government employees is appropriate for collective bargaining purposes.

2. The unit of general state government employees shall include all classified employees of the State of Alaska except as follows:

(a) Partially exempt employees as defined by AS 39.25.120.

(b) Supervisors as defined by 2 AAC 10.220 (4).

(c) Confidential employees as defined by 2 AAC 10.220 (2).

(d) Ferry Terminal Managers I and II and Ferry Terminal Assistants unless a majority of employees voting in those classifications vote to be a part of the unit of general government employees.

(e) The building and construction trades classifications listed as follows:

- (1) Automotive Equipment Operator I, II, III
- (2) Automotive Mechanic Helper
- (3) Automotive Mechanic I, II, III
- (4) Automotive Shop Foreman
- (5) Carpenter
- (6) Electrician I,II
- (7) Electrical Shop Foreman
- (8) Laborer
- (9) Labor Foreman
- (10) Maintenance Mechanic I, II, III
- (11) Maintenance Mechanic Foreman I
- (12) Painter I, II
- (13) General Helper
- (14) Driller I, II,
- (15) Highway Maintenance Foreman I, II

3. The Labor Relations Agency will consider joint stipulation by the Department of Administration and the Alaska Public Employees Association as prima facie evidence that positions thus jointly stipulated are supervisory as defined in 2 AAC 10.220 (4).

4. In the case of each position as to which there is disagreement as to whether or not it is supervisory, the Department of Administration and the Alaska Public Employees Association shall, within 15 days following the issuance

of this decision, furnish the Labor Relations Agency with descriptions for each classification in dispute together with brief written statements as to how each disputed classification has similar or dissimilar responsibilities compared with classifications previously stipulated to as being supervisory. The Labor relations Agency will, as soon as practicable thereafter, decide on each disputed classification.

5. Following its determination as to which employees are non-supervisory, the Labor Relations Agency will cause notices of election to be posted and an election to be conducted pursuant to 2 AAC 10.140-200.

6. The ballot shall afford a choice between:
(a) a vote for the Alaska Public Employees Association; or,
(b) no representation.

PETITION NO. 4-72

FINDINGS OF FACT

1. Petition No. 4-72 seeks designation of a unit appropriate for collective bargaining employees engaged in field maintenance and building maintenance at the Anchorage and Fairbanks International Airports, including maintenance mechanics, automotive mechanics, building custodians, custodial workers, electricians, automotive equipment operators, and laborers.

2. The proposed unit is by no means exhaustive of similar classes of employees having a community of interest. There is no geographical community of interest, since Anchorage and Fairbanks are both included in the proposed unit. By

including some classifications whose work is indistinguishable from the responsibilities of other employees scattered throughout the state employment system the resultant collective bargaining would threaten the merit system principles which the Public Employment Relations Act states shall be maintained as a matter of public policy.

3. Although the classifications requested for inclusion in the petition may have a certain degree of common supervision, two if the classifications are not normally found in the same bargaining units with the others, namely: building custodians and custodial workers. These two classifications are service trades, not building and construction trades. Each of the other classifications may be found in building and construction work; this is not the case with custodians and custodial workers. Furthermore, while there are custodial workers employed at the same locations as the skilled classifications listed in the petition, there is no work relation or affinity, and there are many more custodial workers in the employ of the State at other locations where no skilled tradesmen are employed. Therefore it must be found as a fact that the community of interest of custodial workers lies with other custodial workers and other State employees, not with building and construction tradesmen.

4. Although petitioner arguably had a 30% showing of interest among the classifications stated in the petition, it is not clear what showing of interest might be found in the event the Labor Relations Agency were to decide that a different unit might be appropriate.

CONCLUSION

1. The unit requested in Petition No. 4-72 would result in unnecessary fragmenting and is therefore inappropriate.

2. The unit requested in Petition No. 4-72 would co-mingle employees in classifications that do not have a community of interest.

ORDER

1. Petition No. 4-72 is dismissed.

INTERVENTION OF ALASKA TRI TRADES PUBLIC SERVICE COUNCIL

FINDINGS OF FACT

1. The Labor Relations Agency has treated this petition as a petition to intervene in order that it might be timely considered along with petitions received prior to the deadline for the receipt of petitions to be considered at the first scheduled hearings.

2. The petition to intervene seeks a unit consisting of all employees engaged in field maintenance and building maintenance at the Aniak, Barrow, Bethel, Bettles Field, Cold Bay, Cordova, Dead Horse, Dillingham, Galena, Gulkana, Gustavus, Homer, Hoonah, Iliamna, King Salmon, Kodiak, Kotzebue, McGrath, Nome, Seward, Soldtna, Talkeetna, Tanana, Unalakleet, Yakutat, and Wrangell airports, including but not limited to maintenance mechanics, automotive mechanics, building custodians, custodial workers, electricians, automotive equipment operators,

laborers, and working foremen, excluding elected or appointed officials within the meaning of AS 23.10.140-.260, and supervisory and confidential employees.

3. This petition differs in no material way from Petition No. 4-72, which underscores the fact that both requests are for units which are unreasonably small and the granting of which would constitute undesirable fragmenting of bargaining units. No special community of interest exists among the employees in either unit, nor has there been any history of bargaining which would justify the establishment of this unit.

4. All other findings of fact are the same as in the case of Petition No. 4-72.

CONCLUSION

1. The subject intervention must be treated in the same way as Petition No. 4-72.

ORDER

1. The petition of intervention by the Alaska Tri Trades Council is dismissed.

INTERVENTION OF NATURAL RESOURCES PROFESSIONAL ASSOCIATION OF ALASKA

FINDINGS OF FACT

1. The petition of the Natural Resources Professional Association of Alaska has been treated by the Labor Relations Agency as a petition to intervene in order that it might be timely considered.

2. The petition was conditionally filed, to be effective only if the objections filed by Natural Resources Professional Association to Petition No. 2-72 should be denied.

3. The findings of fact and conclusions apply equally to the objections and the petition, and thus these findings of fact make no distinction between the two.

4. Many of the objections are, in fact, objections to the Alaska Public Employment Relations Act, for example to permissibility of either a union or an agency shop, or to the permissibility to strike granted to all but certain categories of state employees. The Labor Relations Agency is created by the Public Employment Relations Act and is charged with certain duties and responsibilities under the Act. The Labor Relations Agency may not amend or alter the Act, and it is not the function of the Labor Relations Agency either to defend or to criticize the Act. It is the Agency's function to administer its responsibilities under the Act as the Act is written.

5. The Alaska Public Employment Relations Act is in large part patterned after the National Labor Relations Act, with one of the significant differences being that the National Labor Relations Act specifically provides that the National Labor Relations Board shall not decide that any unit is appropriate for collective bargaining if such unit includes both professional and non-professional employees unless the professional employees vote for inclusion in such a unit. The Public

Employment Relations Act does not contain language such as that in the National Labor Relations Act which would ensure professional employees the opportunity for representation in a separate unit(s).

6. There is no past history of professional employees bargaining with the state.

7. Professionals in state employ share the broad community of interests with other employees of the state as discussed elsewhere.

8. The class of professionals proposed by this intervention is not an exhaustive one. There are numerous other professionals in the state government who are not included in the proposed bargaining unit.

9. The intervention petition of the Natural Resources Professional Association covers some 70 employees, all of whom are at least arguably professional. However, a presently undetermined number of these are supervisors as defined in 2 AAC 10.220 (4) and therefore could not in any case be included in the same unit with the remaining classifications claimed, pursuant to 2 AAC 10.110 (1). Thus the number of employees which could be included in a Natural Resources Professional Association is something less than 70, and therefore the fragment would be even smaller than that proposed.

10. The unit requested represents a small fraction of all professionals (using the definition of the National Labor Relations Act) in the employ of the State. With the

exception of an intervention petition by the Alaska Engineers in State Government there have been no petitions by other professional groups for separate representation, which is an indication that a substantial majority of professionals in the States employ feel a community of interest with their fellow workers in government.

11. The major thrust of the objections and the accompanying exhibits, such as letters from professional societies, is to protest the concept that this particular group of professionals should be included in any unit, even one of their own, for collective bargaining purposes. As mentioned earlier, many of the objections are to the Public Employment Relations Act itself.

12. As to the general question of professional personnel being represented for collective bargaining purposes, the facts are that in both the public and private sectors many professional employees are organized for collective bargaining, both as distinct units of professional employees and as members of units including sub-professional employees. Professional personnel who have thus organized in the United States include medical doctors, registered nurses, lawyers, professional engineers, professional scientists, certificated school teachers, university professors and others. (In Denmark, the Lutheran ministers who are state employees have organized themselves into a union to negotiate with the State on stipends and fees for baptisms, weddings and funerals.)

13. Questions were raised by the objectors as to the constitutionality of the Public Employment Relations Act. These questions lie beyond the province of the Labor Relations Agency, except to note that the United States Supreme Court held the National Labor Relations Act constitutional in April 1937, in NLRB v. Jones & Laughlin Steel Corporation and four companion cases.

14. Several of the objections were to events which may happen but have not yet happened. For example, it is assumed in the objections that if the objections and/or intervening petition are denied that: (a) petitioner 2-72, Alaska Public Employee Association, will automatically win an election; (b) the union shop or agency shop will automatically follow; and (c) professional employees covered by the intervening petition may be required to strike. The fact with respect to (a), above, is not known. With respect to (b), above, it is permissive and not mandatory either that an employee organization request one of these forms of union security or that the State administration grant such a request if made. With respect to (c), above, even if assumptions (a) and (b) come to be true, and even if an employee organization were to strike, it is questionable that any individual employee could be forced to strike against his will (Monthly Labor Review, U.S. Department of Labor, Bureau of Labor Statistics, December 1972, pp. 42 ff.).

15. The Alaska Public Employment Relations Act and regulations 2 AAC 10.010-220 do not provide grounds for upholding the objections.

16. A unit of 70 professional employees, less those who are determined to be supervisors, and possibly less those in the unit petitioned for by the Alaska Engineers in State Government, would, if authorized, constitute unnecessary fragmentation in any case and would further establish and adverse precedent leading to possible proliferation and multiplicity of bargaining units leading in turn to a chaotic collective bargaining situation which could only work against the public interest and declaration of policy set forth in the Alaska Public Employment Relations Act.

ORDER

1. The objections set forth in the foregoing are dismissed.

2. The conditional intervening petition of the Natural Resources Professional Association of Alaska is dismissed.

INTERVENING PETITION BY ALASKA ENGINEERS IN STATE GOVERNMENT
FINDINGS OF FACT

1. Alaska Engineers in State Government filed a petition for certification as the bargaining representative of engineering employees of the State of Alaska regardless

of their work location. There are approximately 400 employees in the requested unit. The Labor Relations Agency has treated the petition as a request to intervene in the proceedings to be held on the petitions previously filed in order that it might be timely considered.

2. This intervening petition differs from the conditional intervening petition of the Natural Resources Professional Association in three respects:

(a) It is not conditional.

(b) It is inclusive of all engineers regardless of location or department.

(c) It is numerically a larger unit.

3. There is a substantial community of interest with general government employees as well as any community of interest shared by virtue of being engineers.

4. There is no past history of collective bargaining between the state and members of this proposed unit.

5. Despite the fact that this intervening petition involves less potential fragmentation in either a classification or a numerical sense than the intervening petition of the Natural Resources Professional Association it involves an adverse precedential potential for greater fragmentation along horizontal lines. Unlike the National Labor Relations Act, the Alaska Public Employment Relations Act does not provide special protection for professionals as such.

6. An undetermined number of those included in the proposed unit are supervisors and therefore may not be in the same unit with non-supervisors. If this were the only defect in the petition it could be overcome by modification of the proposed unit to exclude supervisors. However, this defect illustrates another potential precedential danger insofar as excessive fragmentation is concerned: if a unit of non-supervisory engineers were to be granted on the grounds that the professional community of interest was the overwhelming consideration, then it would logically follow that a separate and distinct unit of supervisory engineers in state government should be created. In other words, for each possible fragmentation along non-supervisory lines there is a possible parallel supervisory fragmentation.

7. Using the National Labor Relations Act's definition of professional it is possible to distinguish 507 professional classifications in the Alaska State Government.

8. As has been pointed out elsewhere, there are far more professionals in the employ of the state who have not petitioned for separate units than there are those who have.

9. Petitioner 2-72, the Alaska Public Employees Association, has a large percentage of professionals in its membership. Further, the overwhelming majority of its membership is white-collar. Therefore there is not the same parallel as is found in the private sector under the National Labor Relations Act, where mingling of professional and non-professional employees in the same unit normally implies mingling of white-

collar

professionals with blue-collar production and maintenance employees and where the disparities in community of interest may consequently be much greater than among different groups of white-collar employees in state government.

10. Each of the arguments advanced by the petitioner, whether of itself valid or not, can be made on behalf of many different professional and non-professional groupings in state government.

CONCLUSION

1. To grant a unit of engineers in state government could pave the way for separate units of all typists in state government, all key-punch operators in state government, and so forth.

2. The intervening petitioner has a substantial community of interest with other white-collar employees of the state.

3. There is no basis in the Alaska Public Employment Relations Act for establishing separate professional units for collective bargaining solely on the basis of professionalism.

4. The proposed unit is not as large as is reasonable and unnecessary fragmenting would result.

5. The proposed unit is not exhaustive of all professional employees in state government.

6. Wages, hours and working conditions are not unique to the proposed unit.

7. The employees in the proposed unit have in

the past been represented by the Alaska Public Employees Association, along with all other government employees, in the meet-and-confer process. There is no history of collective bargaining.

ORDER

1. The intervening petition by Alaska Engineers in State Government is dismissed.

INTERVENTION OF LOCAL UNION NO. 1547, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO

FINDINGS OF FACT

1. The intervening petition requests a unit consisting of all employees engaged in the installation, operation, modification, maintenance, repair and calibration of communications and electronic equipment at Anchorage, Fairbanks, and Juneau, including but not limited to electronic technicians, equipment installers, test and calibration technicians, technical supply clerks and radio operators. It excludes supervisors and elected or appointed officials. The requested unit consists of approximately 20 employees.

2. The requested unit is inappropriate in that it shares all the defects of the unit requested by Petition No. 4-72 and the intervention filed by Alaska Tri Trades Public Service Council; the precedential value of permitting 20 employees to form their own unit would create a nightmare if implemented by all of the 6,000 employees of the state.

3. There was not a showing of interest of 30% of the employees in the proposed unit.

CONCLUSION

1. In any case, in addition to an inadequate showing of interest, for reasons set forth under the Alaska Tri Trades Public Service Council's petition and intervention, the proposed unit is inappropriate.

ORDER

1. The intervention of Local Union No. 1547 is dismissed.

STATEMENT OF ROBERT N.REEVES, ADMINISTRATIVE DIRECTOR OF THE ALASKA COURT SYSTEM

1. This statement sets forth the reasons why employees of the Alaska Court System should not be included in any collective bargaining unit with employees of the executive branch.

2. There is no petition before the Labor Relations Agency which would contravene the position of the Alaska Court System, and therefore findings of fact, conclusions and orders are not called for. However, for the record, the Labor Relations Agency will state that it fully agrees with the position set forth by Mr. Reeves.

This order takes effect on March 1, 1973.

Dated: 2/3/73 ALASKA STATE LABOR RELATIONS AGENCY

(signed Hafling)
C. R. "Steve" Hailing, Chairman

Morgan Reed, Member (signed & dated 2/2/73 Franich)
Joe Franich, Member