



State of Alaska

LABOR RELATIONS AGENCY

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ORDER AND DECISION PERTAINING TO THE STRIKE
BALLOT ELECTION CONDUCTED BY THE TRI-TRADES
PUBLIC SERVICE COUNCIL DURING MARCH, 1975

ORDER AND DECISION NO. 17

Findings of Fact:

1. There were procedural defects in the strike ballot election conducted by the Tri-Trades Public Service Council during March, 1975, said defects arising from the procedures adopted by the parties and including difficulties inherent to the mail delivery system in the bush areas of Alaska.

2. The following stipulations were entered into by the parties during a hearing before the Alaska State Labor Relations Agency in Anchorage on April 3, 1975.

- a) There is nothing in the current statutes or administrative regulations precluding more than one strike vote election by an employee organization as part of the impasse procedures;
- b) Since regulations governing the conduct of strike ballot elections are in the process of revision by the Labor Relations Agency and will be the subject of hearings, those stipulations were entered into at the April 3 hearing and do not constitute binding

- precedent upon the Agency, the employee organization, or the administration of the State of Alaska;
- c) Should the Tri-Trades Public Service Council request approval for another strike vote election, employees in the "no strike" category will not be permitted to vote. Additionally, employees in the categories not permitted to vote will not be counted toward the total number of employees in the unit for the purposes of determining whether or not the strike vote perceives a majority of those eligible to vote;
 - d) If another strike vote is held in the Labor, Trades and Crafts Unit, the election list will be the computer printout of March 31, 1975, as amended by the parties by the first day of balloting, as per the procedures followed by the Division of Personnel in conjunction with the Alaska Public Employees Association in the conduct of the general government unit strike ballot;
 - e) Sufficient advance notice of another strike vote will be provided to allow the Division of Personnel to establish proceedings, prepare eligibility lists, provide for observers, and so forth;
 - f) Approval by the Labor Relations Agency of strike vote procedures is contingent upon the provision of adequate balloting facilities, together with a combination of mail balloting in remote areas where manual balloting would be impractical;
 - g) In the event of another strike vote in the Labor,

Trades and Crafts Unit, on this occasion only, observers at polling places will be permitted to have voter lists;

- h) Manual balloting will be conducted for a maximum of two consecutive days and in as limited a number of locations as possible;
- i) The Tri-Trades Public Service Council and the Division of Personnel are to meet and confer for the purpose of devising specific procedures in keeping with the interim rulings of the Labor Relations Agency and submit said procedures in advance to the Agency for final approval.

3. There has been considerable controversy as to which employees are actually in the "no strike" category. In general, the State argues that all employees in the departments, institutions and categories set forth in AS 23.40.200(b), ("the class in (b) (1) of this section is composed of police and fire protection employees, jail, prison and other correctional institution employees and hospital employees. Employees in this class may not engage in strikes") are ineligible to strike.

AS 23.40.200(a) reads: "For purposes of this section, public employees are employed to perform services in one of the three following classes: (1) those services which may not be given up for even the shortest period of time"

The Labor Relations Agency at one point took a tentative, interim position that a reading of (a) (1) together with (b) might indicate the intent of the Act was to prohibit certain employees from striking based upon what they actually perform rather than

on the basis of an occupational description or an assignment to a particular department.

4. In past strike vote elections the resources available have been inadequate to allow the Labor Relations Agency to conduct elections under complete laboratory conditions ("laboratory conditions" is a term used by the National Labor Relations Board to describe the circumstances under which elections should be conducted). The Agency has thus attempted to enable the parties to develop their own procedures, subject to approval by the Agency. This necessary informality has led to controversy and confusion.

Conclusions:

1. If negotiations between the State and the Tri-Trades Public Service Council reach impasse or deadlock, the Tri-Trades Public Service Council shall be permitted another strike vote election, subject to the stipulations set forth hereinabove, and subject to further rulings set forth hereinbelow.

2. The Agency is in the process of developing revised regulations which will include specific regulations governing the conduct of strike vote elections. During the interim, the Labor Relations Agency, pursuant to its statutory responsibilities and authority under AS 23.40.200(d) and AS 23.40.250(2), adopts the procedures described below with regard to strike balloting occurring after the date of this order and decision.

3. A strike vote may be conducted only when impasse or deadlock has been reached, including the exhaustion of mediation as a method of resolving the dispute.

4. All State employees in the Division of Fire Prevention and Fire Protection and employees of the Department of Public

Safety, and all State employees employed in jails, prisons or other correctional institutions, and all State employees employed in hospitals or pioneer homes are ineligible to strike, as provided in AS 23.40.200. These employees shall not be permitted to vote in strike ballot elections, nor shall their members be counted in determining the size of the unit.

5. A rigid construction and application of the law in this respect does not diminish the potential economic effects of a strike as an ultimate collective bargaining weapon. Such a construction and application will also serve to avoid further uncertainty and confusion.

DECISION:

1. If impasse occurs, and if the Tri-Trades Public Service Council petitions the Agency to conduct another strike vote election, the Agency will conduct such an election as discussed in the findings of fact and conclusions.

2. State employees in the Division of Fire Prevention and Fire Protection and State employees of the Department of Public Safety in jails, prisons, or other correctional institutions, and State hospital and pioneer home employees will not be eligible to vote in a strike vote election, and the numbers of those employees shall not be counted in determining the majority requirements.

3. This decision and order shall be superseded upon the promulgation and adoption of strike vote election regulations by the Labor Relations Agency.

DATED: May 2, 1975


C. R. "Steve" Hafling, Chairman

Morgan Reed, Member

/s/ Ronald M. Henry

Ronald M. Henry, Member