



State of Alaska
LABOR RELATIONS AGENCY

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ORDER AND DECISION NO. 20

PERTAINING TO STATUS OF ALASKA MARINE FERRY
SYSTEM EMPLOYEES
UNDER THE ALASKA PUBLIC EMPLOYMENT RELATIONS ACT

Background

The Administration of the State of Alaska has requested the Alaska State Labor Relations Agency to make certain determinations with respect to employees of the Alaska State Marine Ferry System, namely: (1) Are such employees under the coverage of the Alaska Public Employment Relations Act? (2) If the answer is affirmative to the preceding question, what is the status of such employees with respect to the right to strike under the APERA.

The State further asked the ASLRA to make determinations with respect to State employees in general with respect to their rights to strike under the APERA.

Three unions represent the seagoing personnel of the Marine Ferry System, namely: the Masters, Mates and Pilots; the Marine Engineers Beneficial Association; and, the Inland Boatmen's Union. Notification was given to these three unions that a hearing would be held by the ASLRA on December 15, 1975, in Anchorage, concerning the foregoing matters. The MM&P and the IBU declined to attend on the grounds that the ASLRA lacked jurisdiction over them; the MEBA representative was present, but

without conceding that the ASLRA had jurisdiction.

All parties were given an opportunity to present evidence and to examine witnesses.

The Alaska Department of Administration submitted a hearing memorandum, a copy of which is attached hereto.

Findings of Fact:

1. There is no explicit or implicit exemption of marine ferry system personnel from coverage of APERA. There are two Attorney General Opinions (see attachment) to support the conclusion that the PERA does in fact cover such personnel.

2. AS 23.40.240 simply preserved the existence and recognition of the MM&P, IBU and MEBA and "grandfathered" in their collective bargaining agreements that antedated the enactment of the PERA. Subsequent agreements are subject to the PERA.

3. Prior Orders and Decisions of the ASLRA (No.'s 1 and 4) implicated marine ferry system personnel as being under the coverage of the PERA without challenge.

Conclusion:

State employees of the Marine Ferry System, whether seagoing or otherwise, come under the jurisdiction of the PERA.

ORDER AND DECISION

The Alaska State Labor Relations Agency hereby deter-

mines that it has jurisdiction over State employees represented for collective bargaining purposes by the MM&P, the IBU and the MEBA.

Findings of Fact:

1. There are three classes of State employees set forth at AS 23.40.200(a):

(1) ["Class 1"] those services which may not be given up for even the shortest period of time;

(2) ["Class 2"] those services which may be interrupted for a limited period but not for an indefinite period of time; and

(2) ["Class 3"] those services in which work stoppages may be sustained for extended periods without serious effects on the public.

"Class 1" employees consist of "police and fire protection employees, jail, prison and other correctional institution employees, and hospital employees." Sec. 200(b). "Class 2" employees are "public utility, snow removal, sanitation and public school and other educational institution employees." Sec. 200(c). "Class 3" employees are all employees not included in Classes 1 or 2. Sec. 200(d).

2. The State ferry system provides services which may not be interrupted for extended periods without serious effects on the public.

Conclusions:

1. The PERA must be read as a whole; thus it would appear that the enumeration of specific classes of employees

in Sec. 200(b), (c) and (d) should be construed as illustrative rather than exhaustive, and that Sec. 200(a) (1), (2) and (3) is controlling. To conclude otherwise would be to conclude that a classification title is more important than the duties performed, and such a conclusion could thwart the purposes of Sec. 200(a).

2. The State ferry system provides essential services that are not provided by competing systems. These services are such that a common sense reading of the PERA can readily lead to the conclusion that the system is in fact a public utility.

3. It would be impractical for the SLRA to make prior determinations as to each State employee with respect to whether or not that employee falls in Class 1, 2 or 3. Such determinations should be made as the need arises.

DECISION AND ORDER

1. State ferry system employees are deemed to be employees in "Class 2".

2. Decisions as to other State employees with respect to their status under AS 23.40.200(a) will be made as requested and as the need arises to make such determinations.

DATED: February 24, 1976.

C. R. "Steve" Hafling
C. R. "Steve" Hafling, Chairman

Ronald M. Henry
Ronald M. Henry, Member

absent
Morgan Reed, Member

JRL