
Alaska Labor Relations Agency 2017 Annual Report

*State of Alaska
Governor Bill Walker*

*Department of Labor
and Workforce Development
Commissioner Heidi Drygas*



*Alaska Labor Relations Agency
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*Jean Ward, Chair
Nicole Thibodeau, Administrator*

Submitted August 29, 2018

2017 ANNUAL REPORT

Submitted August 29, 2018
(In accordance with AS 23.05.370)

INTRODUCTION

The Alaska Labor Relations Agency, or ALRA, administers the Public Employment Relations Act (PERA) for public employers and employees, including the State, municipalities, public schools, and the University. The Agency also administers the railroad labor relations laws for the Alaska Railroad Corporation. ALRA investigates and processes petitions for certification or decertification of bargaining representatives, petitions to clarify the composition of public employee bargaining units and to amend the certification of units, and charges of unfair labor practices. The Agency also enforces collective bargaining agreements, determines employee strike eligibility, and rules on claims for religious exemption from the obligation to pay fees to a bargaining representative.

PERSONNEL

BOARD MEMBERS

A board of six members governs the Agency. The board members serve staggered three-year terms and must have backgrounds in labor relations. Two members each must be drawn from management, labor, and the general public. AS 23.05.360(b). Members volunteer their time as they are unpaid, but they receive per diem. Not more than three members may be from one political party. The following Alaskans serve on the Board:

Jean M. Ward, Chair	Appointed March 1, 2016	Public
Lee Holen, Vice Chair	Appointed March 1, 2017	Public
Mila Cosgrove, Board Member	Appointed January 3, 2018	Management
Tyler Andrews, Board Member	Reappointed March 1, 2018	Management
Lon Needles, Board Member	Reappointed March 1, 2018	Labor
Matthew McSorley, Board Member	Reappointed March 1, 2016	Labor

STAFF

Nicole Thibodeau, Administrator/Hearing Examiner
Tiffany Thomas, Hearing Officer/Investigator
Margie Yadlosky, Human Resource Consultant I

*Mark Torgerson, Administrator/Hearing Examiner, retired Effective May 31, 2017

OFFICE

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STATUTES

Relevant statutes include AS 23.05.360--23.05.390; AS 23.40.070--23.40.260 (PERA); and AS 42.40.705--42.40.890 (railroad).

REGULATIONS

The Agency's regulations appear in 8 AAC 97.010--8 AAC 97.990.

2017 HIGHLIGHTS.

Board Appointments. In early 2017, two board members retired, Lynne Curry and Willard Askren. Governor Walker appointed current board member Jean Ward as Chair to replace Lynne Curry and appointed new board member Lee Holen to fill the second public seat. Retired board member Willard Askren's management seat was filled by the appointment of Elizabeth Pierce who resigned in October 2017. Mila Cosgrove was appointed by the Governor on January 3, 2018, to fill Ms. Pierce's vacant management seat. The Alaska Labor Relations Agency now enjoys a full board.

Caseload Trends. Case filings in 2017 (20) decreased by 16.7 percent over 2016 (24). This suggests the caseload is relatively stable. (See "CASE LOAD COMPARISON BY YEAR" chart, page 8).

As shown by the "OVERVIEW" table on page 7, the number and type of cases filed each year is unpredictable. The Agency has no direct control over case filings. Factors that affect filings include union organizing efforts, expiration of collective bargaining agreements, economic factors, and changes to statutes and regulations.

Appeals to Alaska Courts. There was one appeal filed in the Alaska Superior Court in 2017. That appeal and three others were recently decided by the Alaska

Superior Court and Alaska Supreme Court. Currently there are no appeals of agency Decision and Orders pending in state court.

The first appeal recently concluded concerns a funding dispute of an approved collective bargaining agreement between the City of Fairbanks and the Public Safety Employees Association. This case was appealed to the Alaska Supreme Court on October 17, 2016, after the superior court affirmed in part and denied in part the determination of the ALRA Board panel. On June 15, 2018, the Alaska Supreme Court issued its decision in *PSEA v. City of Fairbanks*, 420 P.3d 1243 (Alaska 2018) and a three member majority delivered the opinion of the court, holding that the record does not support a finding of bad faith and thus, no unfair labor practice occurred under Alaska's Public Employer Relations Act (PERA), reversing ALRA's decision in Decision and Order No. 305, Case No. 14-1658-ULP. Two members of the court dissented, concluding that there was substantial evidence to support ALRA's finding that an unfair labor practice occurred, and would have affirmed the decision of the ALRA panel. On July 26, 2018, the superior court issued an Order Upon Conclusion of Appeal in Civil Case in Trial Court Case No. 4FA-15-02868CI and Appeal Case No. S-16501/16510 and remanded the case to the Agency.

The second appeal recently decided by the Alaska Superior Court concerned a December 5, 2016, ALRA Board dismissal due to lack of jurisdiction over an event that occurred before the City of Kodiak had opted back under the Public Employment Relations Act and ALRA's jurisdiction. The General Teamsters Local 959, filed this appeal on January 6, 2017. On August 24, 2017, the superior court issued its "Decision Affirming Final Judgment of the Alaska Labor Relations Agency."

The third appeal recently decided by the supreme court was a 2014 appeal of an agency Decision and Order concerning unit disputes at the University of Alaska. On February 11, 2016, Superior Court Judge Guidi affirmed the Agency Board's decision in all respects. On March 11, 2016, this case was appealed to the Alaska Supreme Court. On January 18, 2018, this appeal was withdrawn by the parties due to a settlement agreement that the parties would mutually agree to a bargaining unit representative. In March 2018, the parties continued their commitment to settlement by filing a petition for mutual recognition with the Agency. On April 11, 2018, a Certification of Representation Resulting from Mutual Consent was issued.

The fourth closed appeal was filed by Fairbanks Natural Gas in superior court on August 4, 2017, and involved a case filed by International Brotherhood of Electrical Workers who filed a petition to certify itself as the exclusive representative of a unit of employees at Fairbanks Natural Gas. At issue was the Agency's jurisdiction and the determination that the Fairbanks Natural Gas was a political subdivision of the State pursuant to AS 23.40.250(7). The superior court issued an Order Granting Motion to Stay Proceedings on December 26, 2017, due to the pending sale of Fairbanks Natural Gas, and on July 10, 2018, the International Brotherhood of Electrical Workers Local

1547 withdrew its representation case pending at the Agency. The superior court issued an Order on July 17, 2018 dismissing the administrative appeal in 3 AN-17-8359 CI.

Unit Clarification Petitions. In 2017, four unit clarification (UC) petitions were filed. (See “CASES FILED” on page 7 for a year-by-year comparison). This is the first time since 2009 that the UC case filings have increased.

The primary factor in bargaining unit placement is the employee’s actual duties. Historically, UC petitions typically involved a dispute over the extent of an employee’s supervisory or confidential duties, and these petitions outnumbered all other filings combined. Most UC disputes have involved the State of Alaska, the Alaska State Employees Association (ASEA) (the largest state union, representing the general government unit), and the Alaska Public Employees Association (APEA) (representing the state supervisors’ unit).

Unfair Labor Practice Complaints. Unfair labor practice (ULP) charges filed in 2017 (7) reflect a decrease from the past five years. (See “CASES FILED” on page 7 for a year-by-year comparison). Completing unfair labor practice cases generally consumes a substantial percentage of the Agency’s workload duties because the process requires agency investigations, prehearing conferences, and board hearings. Like all case types, ULP case filings are unpredictable in their nature and complexity because of each case’s unique facts. (See “CASES FILED” page 7, analysis at page 15, and chart on page 16). In 2017, 58% of ULP filings were education-related, 14% were State-related cases, and 28% were political subdivision-related cases. There were no Alaska Railroad ULP cases filed during the year. (See “Unfair Labor Practice Charges Filed” page 16).

Bad faith bargaining charges arise in the context of collective bargaining: one party believes the other party has failed to bargain in good faith under the law. In 2017, 72% of unfair labor practice charges concerned bad faith bargaining, 14% concerned duty of fair representation, and 14% concerned the interference with employee’s protected rights. One ULP investigation was completed in an average of 10 days compared to 145 day average to finish seven in 2016. As indicated above, case nature, complexity and workload size can affect the time to conclude investigations.

Elections. The agency conducted three elections in 2017. All three of the elections conducted concerned certification of new bargaining units at the City of Kodiak. The number of representation and decertification petitions filed has generally decreased. (See “CASES FILED” page 7).

Strike Class Petitions. There was one strike class petition filed in 2017. (See “CASES FILED” page 7).

Emphasis on Informal Resolution. The Agency continues to encourage informal resolution through mediation and other means. To this end, the Agency’s hearing officer works with parties to resolve unfair labor practice disputes. When successful, this

informal resolution saves parties and the Agency the time and expense required to litigate these disputes through the hearing process. The Agency continues to resolve disputes informally. In 2017, the hearing officer successfully increased informal resolutions for eleven unfair labor practice cases, up from seven in 2016.

Website. The Agency provides information on its Internet web site, accessible through the State of Alaska's home page (<http://www.alaska.gov>) or directly at <http://labor.alaska.gov/laborr/home.htm>. The site contains a link for contacting the Administrator by e-mail, information about Agency programs and resources, and access to a searchable database of all Agency decisions. The Agency continues to add new materials to the website and welcomes public suggestions. The Agency also seeks feedback on the public's experience with the searchable database.

Training. The ALRA Board is supported on a day-by-day basis both legally and administratively by ALRA staff who have certificated legal experience and many years of on-the-job experience. It is important that the Board and staff members participate in continuing education to allow a professional and objective response to the myriad of complex and ever-evolving labor relations issues that arise before the Agency. Training provides information and tools that increase the Board and staff's ability to produce a quality work product for the public. However, due to a lack of funding, no board member attended training or continuing education in 2017. This lack of training funding could likely result in some board members losing knowledge of current case law, rules, and regulations pertinent to their decisions.

Law Externship. Alaska now enjoys its first law school connection in-state. Starting with the 2015 fall semester, Seattle University School of Law opened a satellite campus at Alaska Pacific University (APU) in Anchorage. This program, offering students the opportunity to spend their third year of law school in Alaska, provides a variety of Alaska-related courses taught by Alaska's bench and bar and by faculty from Seattle University's School of Law. One former agency intern is attending his third year of law school at APU.

With the transition of a new Administrator during the same time period, the Agency did not participate in the Seattle University Summer in Alaska Law Internship program during 2017. This intern/extern program, started in 2008, and is a combined effort by Seattle University Law School, the Alaska Pacific University, and primarily Alaskan governmental entities to provide legal experience and training to law students. Aaron Dobruck, 2016 Seattle University Law School ALRA summer intern, has since moved to Alaska to finish his law degree and practice law in Alaska.

Interning at the Agency requires law students to apply through the Seattle University School of Law as part of its "Study Law in Alaska" program. This program gives law students an opportunity to work in the labor law field and to experience a summer in Alaska. Students are selected by the ALRA Administrator. Due to limited funding, interns are no longer reimbursed for their plane fare or other expenses. Interns

do not receive any compensation from the State for their training and their contributions to the Agency.

Among other things, the intern/extern program encourages law students to consider relocating to Alaska and working in labor law or other legal fields. The Agency has received positive reviews from participating students and from Seattle University Law School's program director. This program allowed the intern to explore public labor laws, conduct labor relations research, write legal memoranda, read and digest opinions, briefs, and motions, write summaries of published agency decisions, and confer with agency staff on performing other technical duties they may encounter as a new lawyer. Thus far, five interns who have completed the program have either moved to Alaska or plan to move here. Two former interns have moved to Alaska, passed the Alaska Bar exam, and are now practicing law in Alaska.

Outreach. Agency staff provided information about the Public Employment Relations Act (PERA) and discussed the difference between it and the National Labor Relations Act (NLRA) with new representatives from public employee labor organizations and public employers. As part of their discussions with new representatives, ALRA staff provide a history of the evolution of public labor relations in Alaska and at the Agency, provide instruction on how to file documents at the agency, and share insights gained through their experience at the Agency. They emphasized the importance of parties' developing and maintaining good relationships, particularly after they experience long, difficult negotiations.

OVERVIEW

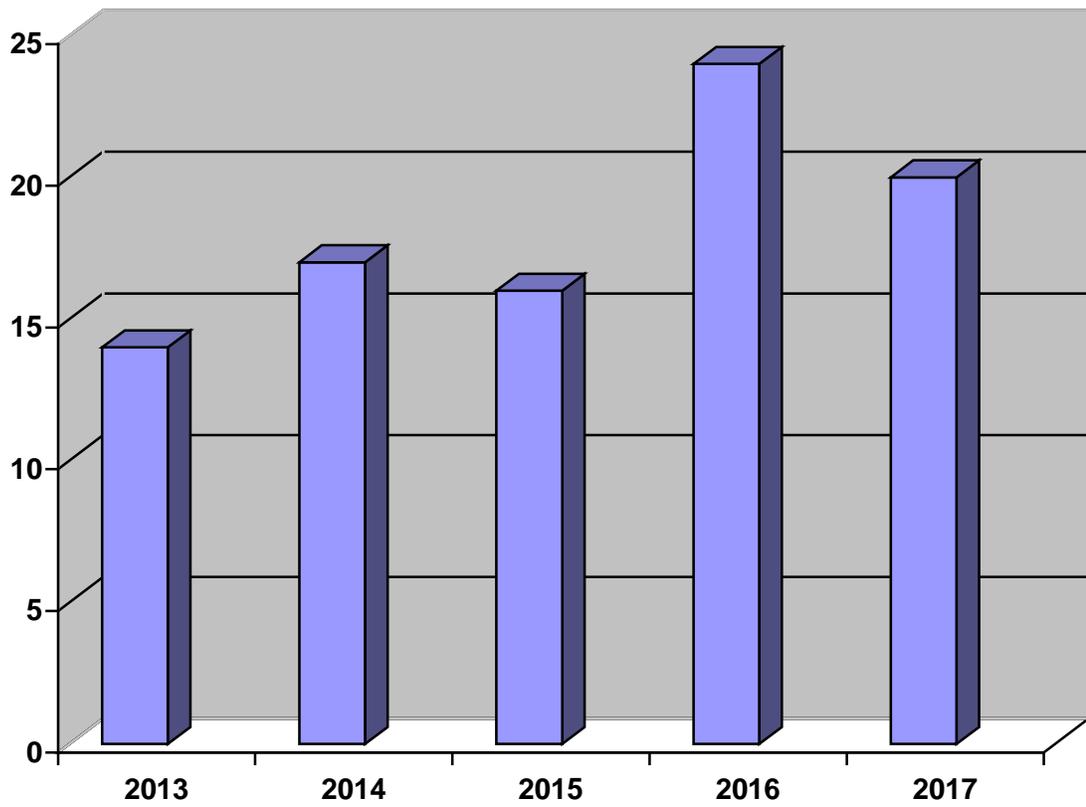
CASES FILED	2013	2014	2015	2016	2017
Amended Certification (AC)	0	0	0	2	0
Recognition by Mutual Consent (RM)	0	1	0	0	0
Representation (RC)	0	1	2	4	2
Decertification (RD)	0	1	1	0	0
Decert. to certify a new rep.(RC/RD)	0	0	1	0	0
Strike class petition (SP)	0	1	0	0	1
Unit Clarification (UC)	1	1	1	1	4
Unfair Labor Practice Charge (ULP)	12	9	10	13	7
Religious Exemption Claims(RE)	0	2	0	0	1
Contract Enforcement (CBA)	1	1	0	4	5
Other (OTH)	0	0	1	0	0
TOTAL	14	17	16	24	20

AGENCY ACTIVITY	2013	2014	2015	2016	2017
Unfair Labor Practice Investigations	5	9	4	7	1
Unit Clarification Investigations	1	1	0	0	2
Decisions and Orders Issued	4	2	3	4	4
Other Board Orders Issued	2	5	3	5	10
Hearing Officer Orders Issued	1	4	2	3	2
Elections Conducted (includes AC)	0	2	1	4	3
TOTAL	13	23	13	23	22

FINAL DISPOSITION	2013	2014	2015	2016	2017
Notices of dismissal issued	2	5	4	5	6
Cases settled or withdrawn	4	7	6	6	12
Cases that went to hearing	0	4	2	3	4
Impasse matters settled or withdrawn	0	1	0	0	0
Cases deferred to arbitration	0	1	0	0	1
TOTAL	6	18	12	14	23

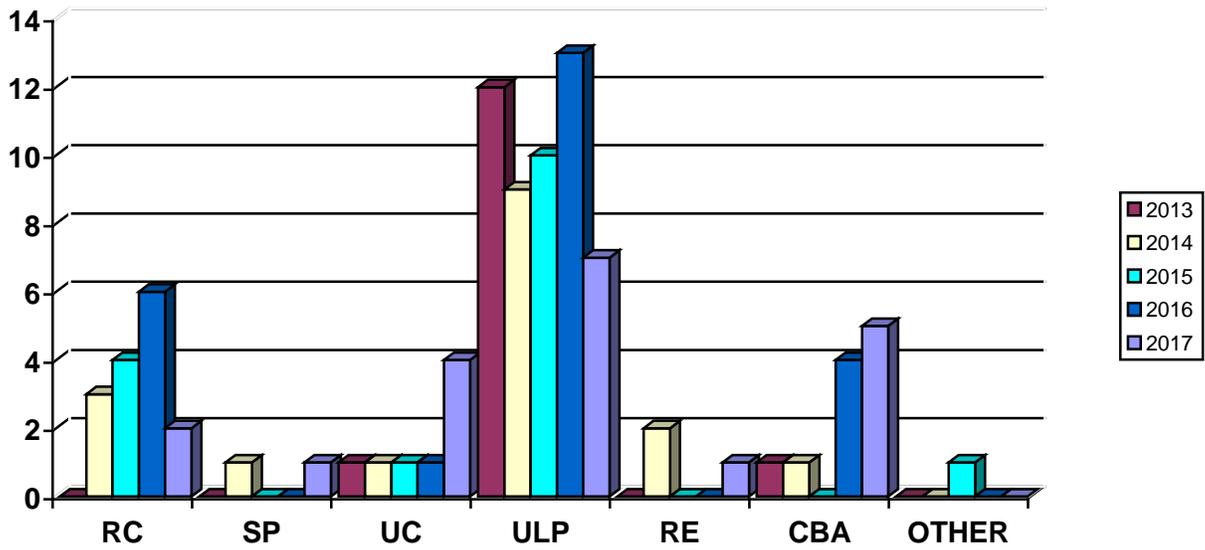
CASE STATUS SUMMARIES

CASE LOAD COMPARISON BY YEAR (FILED)



CHARTS

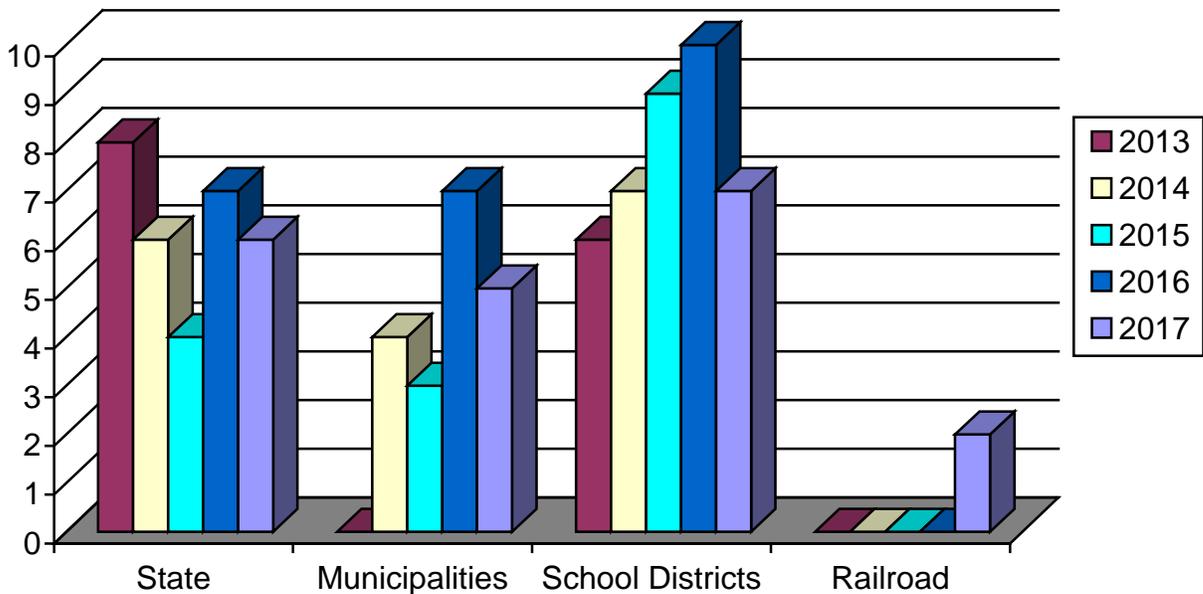
PROGRAM COMPARISON BY YEAR (FILED)



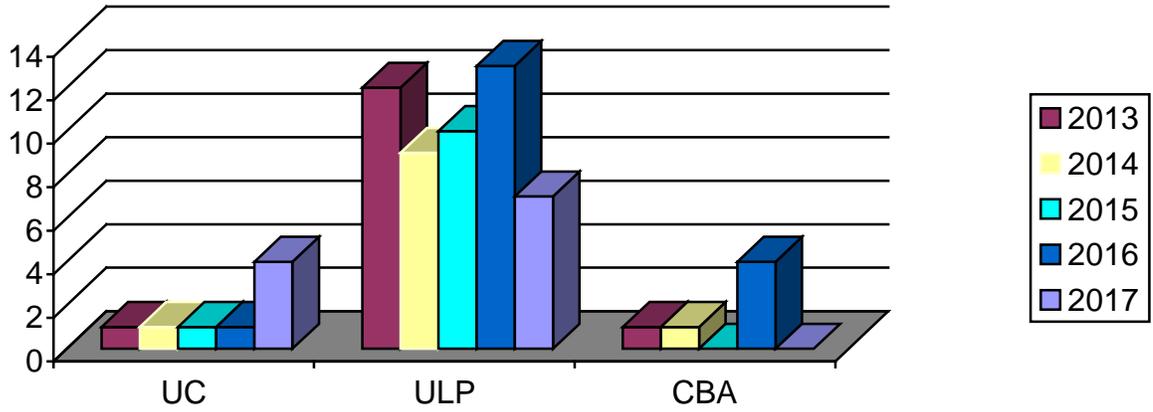
RC Representation petitions
 SP Strike notices and petitions
 UC Unit clarification petitions

ULP Unfair labor practice charge
 RE Religious exemption claim
 CBA Contract Enforcement

EMPLOYER COMPARISON BY YEAR (FILED)

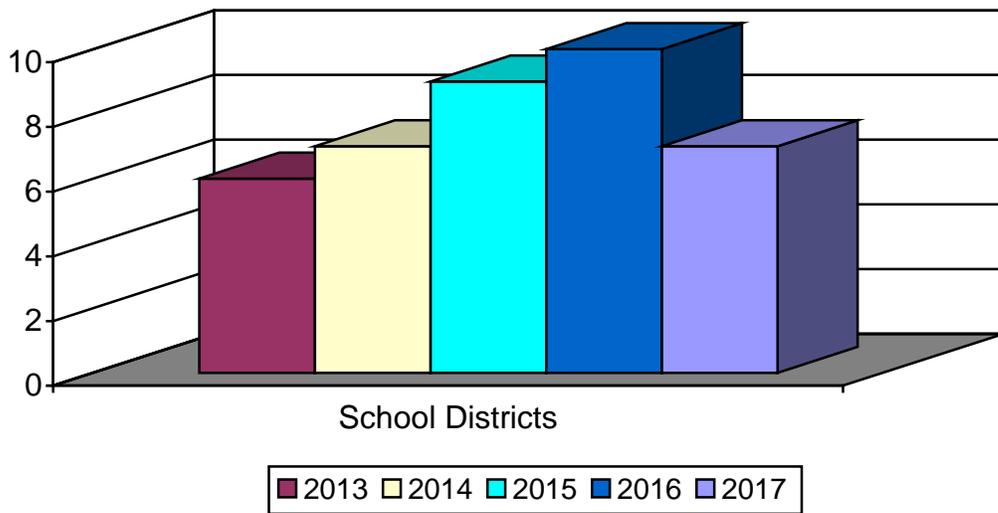


PROGRAM FIVE YEAR TRENDS



UC Unit clarification petitions
 ULP Unfair labor practice charges
 CBA Contract Enforcement petitions

**SCHOOL DISTRICT ACTIVITY FROM 2013 TO 2017
 FOR ALL CASES FILED**



REPRESENTATION PETITIONS (AS 23.40.100; AS 42.40.750)

Labor organizations, employers, or employees may file a petition to initiate a secret ballot election for certification or decertification of a labor or employee organization for collective bargaining. Alternatively, parties may notify the Agency that the employer consents to the labor organization’s exclusive representation of a particular unit of employees. When this occurs, no election is required if investigation verifies the majority status of the labor organization and no current collective bargaining agreement exists.

Prior to conducting an election, the Agency resolves any objections raised by a party. For example, the employer in a case may object to the composition of a bargaining unit. If a party files an objection, a hearing may be conducted before the agency board which issues a decision and order that clarifies who gets to vote in the election.

During 2017, the Agency fielded numerous questions on organizing and decertifying efforts. Two petitions were filed in 2017. Three elections were conducted, two of which were filed in late 2016 and one filed in 2017. One additional petition filed in 2017 is pending in 2018.

All three elections conducted in 2017 were related to the City of Kodiak’s 2016 vote to opt back in to the jurisdiction of the Public Employment Relations Act (PERA). After 44 years in “opted out” status, city residents voted to opt back in to PERA.

Petitions for recognition by mutual consent are a type of representation petition filed where the employer consents to the labor organization’s exclusive representation of a particular unit of employees. There were no petitions for recognition by mutual consent filed in 2017.

Unit amendment petitions are filed to change the unit's name, affiliation, site, or location. There were no unit amendment petitions filed in 2017.

REPRESENTATION PETITIONS FILED	2
Employer	
State	0
Municipalities	2
Public Schools	0
Railroad	0
Type	
To certify a new unit	2
To decertify the unit	0
To change representatives	0

To amend certificate	0
Hearings conducted	2
Petitions that proceeded to election	3
Mutual Consent Petitions certified	0

STRIKE CLASS PETITIONS (AS 23.40.200; AS 42.40.850)

Under the Public Employment Relations Act (PERA), the Agency hears disputes about strike classifications and impasse matters. Strike classification is important to employees and employers because it essentially determines whether employees have the legal right to strike. PERA divides public employees into three separate classes for purposes of authorization to strike. Class I's, such as police and fire fighters, are prohibited from striking. Class II's, such as snow removal workers, may strike for limited periods of time until a court determines that public safety and health are affected. Class III's, which include a wide range of public employees, have a broad right to strike.

There was one strike class petition filed in 2017. In this case the University of Alaska and United Academics, AAUP/AFT jointly requested the appointment of a mediator due to impasse. Parties participated in mediation and were able to agree on a tentative agreement that was ratified by the bargaining unit members and the case was dismissed.

STRIKE PETITIONS FILED 1

Employer	
State	0
Municipalities	0
Public Schools	1
Railroad	0
Hearings Conducted	0

UNIT CLARIFICATION AND UNIT AMENDMENT PETITIONS (8 AAC 97.050)

Unit clarification (UC) and unit amendment petitions are filed to resolve disputes over unit composition. An employer's reorganization of its staff's duties, or adding or eliminating positions can raise a question of the appropriate bargaining unit for the positions. Representation may not be an issue in a unit clarification petition, and unit issues that arise in the process of handling a representation petition are not counted here.

In 2017, four new unit clarification petitions were filed and all four were resolved. Investigation in two of the cases found that there was no reasonable cause to believe that a question of unit clarification existed, and the petitions were dismissed, one unit clarification case was dismissed due to insufficiency and the remaining case was settled or withdrawn by the parties.

UNIT CLARIFICATION PETITIONS FILED 4

Employer

State	2
Public Schools	1
Municipalities	1
Railroad	0

Investigations	2
Hearings conducted	0

UNFAIR LABOR PRACTICE CHARGES (AS 23.40.110; AS 42.40.760)

Employers, labor organizations, or individual employees may file unfair labor practice (ULP) complaints (charges). Types of charges against employers include retaliation for union membership or exercise of employee rights, coercion, domination or interference with an organization, and bad faith bargaining. Charges against unions include coercion, bad faith bargaining, dues disputes, and interference with the employer's selection of its own representative for collective bargaining or adjustment at grievances.

Unfair labor practice filings in 2017 decreased 46% from those filed in 2016. (See "CASES FILED" page 7 for longer-term trends). Of the 7 charges filed, 72% concerned bad faith bargaining, 14 were duty of fair representation charges, and 14% concerned domination or interference with formation, existence or administration of a union,

The Agency ranks ULP's by level of priority for determining which cases are investigated first. For example, disputes that affect a large number of employees usually receive high priority. There was one high priority ULP case filed in 2017. In the 2017 case, a unit of employees represented by International Brotherhood of Electrical Workers at the City and Borough of Wrangell went on Strike, alleging the City and Borough of Wrangell had engaged in bad faith bargaining. Ultimately the parties settled their dispute and the charge was withdrawn.

While priority ranking affects which cases are investigated first, the nature and complexity of a ULP case and the extent of the parties' cooperation affect the time it takes to complete ULP investigations. The Agency's ability to timely complete investigations is also affected when case filings rise significantly, or other workload components such as elections, or conducting hearings take priority.

During 2017, the Agency completed one ULP investigation in an average of 10 days, a 93% decrease in completion time over 2016's average of 145 days. (See "TIMELINESS" page 18). This investigation was a normal priority. Parties often request a case be put on hold as they attempt to reach settlement as was the case for many open ULP's in 2017. In 2017, eleven ULP cases were settled with informal resolution which negated the need for a full investigation. (See "Unfair Labor Practice Charges Filed-Other resolution" page 15). A case may also be put in abeyance because jurisdiction may lie in the appellate courts. The agency's hearing officer also conducts formal and informal mediation which can result in settlement of unfair labor practices. There were no mediations conducted in 2017.

If the investigating hearing officer finds there is probable cause that a ULP violation occurred, and informal resolution is unsuccessful, the case is scheduled for hearing. (Note that some cases scheduled for hearing will resolve prior to hearing.)

Hearings may be oral or be based upon the written record. In one case, the parties agreed to have the board decide the matter on the written record. By comparison, there was one hearing in 2016, where the parties agreed to consolidate two cases for hearing purposes, and heard both cases in one day, one hearing in 2015, one lengthy four-day hearing in 2014, no ULP hearings in 2013, and three ULP hearings in 2012.

UNFAIR LABOR PRACTICE CHARGES FILED 7

Employer	
State	1
Municipalities	2
Public Schools	4
Railroad	0
Type	
Arbitration related	0
Bad faith bargaining	5
Retaliation	0
Interference with protected rights	1
Domination or interference (a)(2)	0
Union duty of fair representation	1
Employer action without bargaining	0
Information request	0
Scope of bargaining	0
Weingarten	0
Discrimination	0
Impasse	0
Other	0
Unilateral	0
Investigations	1
Hearings conducted	1
Other resolution	
Dismissals (no probable cause)	0
Deferrals to arbitration	0
Settled or withdrawn	9
Dismissed, inaction	1
Dismissed, final order	0
Dismissed, Insufficient	1
Remand	0
Other	0

COMPARISON BY ULP COMPLAINANT

	2013	2014	2015	2016	2017
UNION	10	8	6	12	4
EMPLOYER	0	1	1	0	2
INDIVIDUAL	2	0	3	1	1
Total ULPs filed	12	9	10	13	7

CLAIMS FOR RELIGIOUS EXEMPTION (AS 23.40.225; AS 42.40.880)

AS 23.40.225 and AS 42.40.880 allow a public employee to seek an exemption from union membership or agency fee payment on the basis of bona fide religious convictions. One claim for exemption was filed in 2017, the first filed since 2014.

CLAIMS FOR RELIGIOUS EXEMPTION FILED	1
Employer	
State	0
Municipalities	0
Public Schools	1
Railroad	0
Hearings conducted	0

**PETITIONS TO ENFORCE THE COLLECTIVE BARGAINING AGREEMENT
(AS 23.40.210; AS 42.40.860(b); 8 AAC 97.510)**

The Agency has statutory authority to enforce the terms of a collective bargaining agreement. All agreements must contain a grievance/arbitration procedure, which the parties must exhaust before filing a petition to enforce the agreement (CBA).

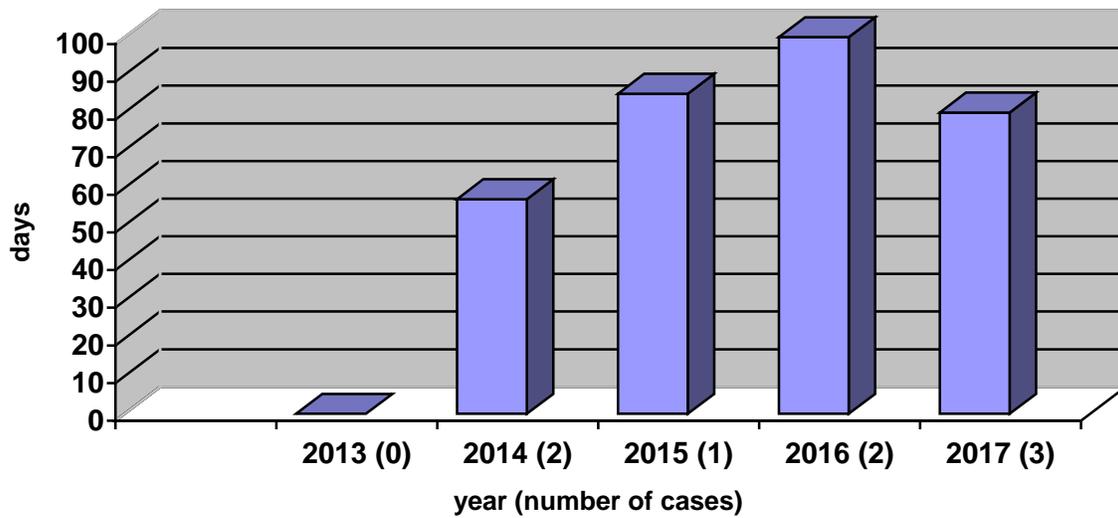
There were five CBA petitions filed in 2017 compared to four filings in 2016, and zero filings in 2015.

CBA PETITIONS FILED	5
Employer	
State	3
Municipalities	0
Public Schools	0
Railroad	2
Hearings conducted	0

TIMELINESS

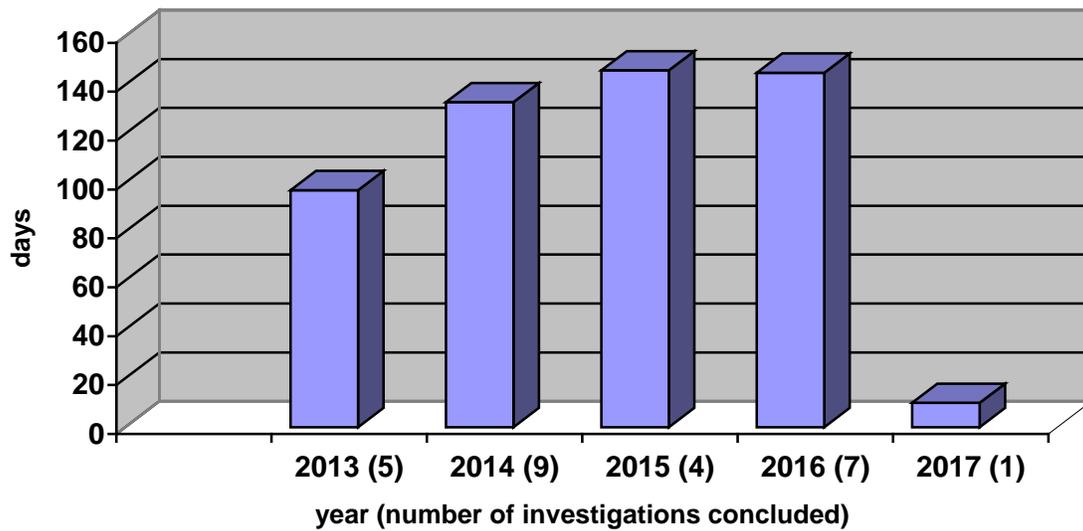
ELECTIONS

NUMBER OF DAYS TO CERTIFICATION OF ELECTION.



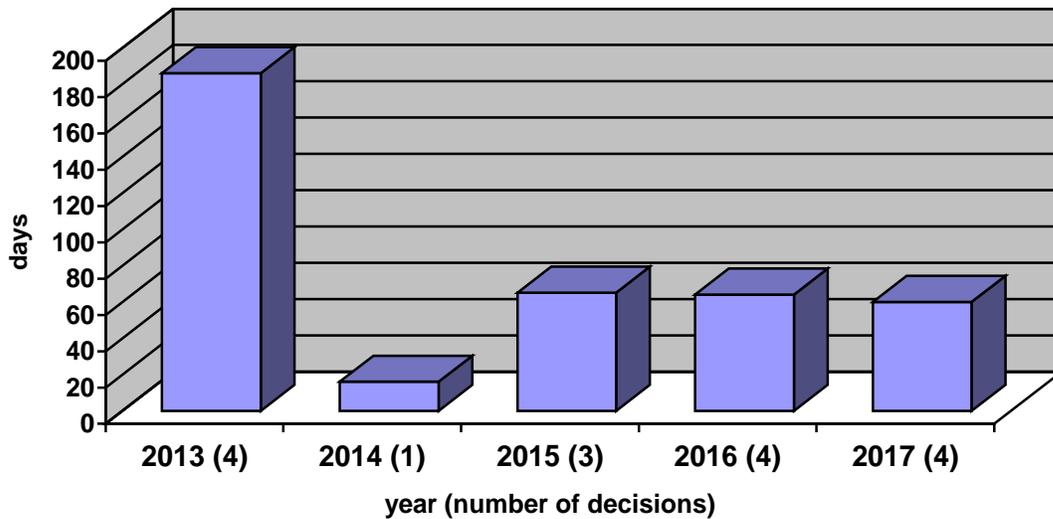
UNFAIR LABOR PRACTICE INVESTIGATIONS

NUMBER OF DAYS TO CONCLUSION OF INVESTIGATION.



DECISION AND ORDERS

NUMBER OF DAYS FROM CLOSING OF RECORD TO DECISION



In 2017, the Board met its goal of issuing 90% of decision and orders within 90 days from record closure. The board decision and orders were issued in an average of 60 days after record closure.

SUMMARY OF DECISION AND ORDERS ISSUED

1. Matanuska-Susitna Education Association v. Matanuska Susitna Borough School District, [Decision and Order No. 310](#) (ALRA February 23, 2017). The petition to enforce contract by the Matanuska-Susitna Education Association, NEA-Alaska/NEA is denied. The Association failed to prove the Academy Charter Advisory Board was a public employer under the Public Employment Relations Act.

2. International Organization of Masters, Mates & Pilots, AFL-CIO; Inlandboatmen’s Union of the Pacific, Alaska Region 1, International Longshore and warehouse Union; and Marine Engineers’ Beneficial Association, AFL-CIO v. State, [Decision and Order No. 311](#) (ALRA April 25, 2017). The unfair labor practice charge filed by the International Organization of Masters, Mates and Pilots, AFL-CIO; Marine Engineers’ Beneficial Association, AFL-CIO; and the Inlandboatmen's Union of the Pacific, Alaska Region 1, International Longshore and Warehouse Union, is denied and dismissed. The unions failed to prove that the State of Alaska committed a violation

by bad faith bargaining. The parties did not reach impasse until August 30, 2015, the deadline we set if the parties could not reach agreement by then.

3. General Teamsters Local 959 v. City of Kodiak, [Decision and Order No. 312](#) (ALRA May 30, 2017). The petition by the General Teamsters Local 959 is granted. A law enforcement unit of approximately 35 employees at the City of Kodiak is the unit appropriate for collective bargaining under AS 23.40.090. The City of Kodiak's request that the board panel include one of the management members who recused themselves is denied.

4. General Teamsters Local 959 v. City of Kodiak, [Decision and Order No. 313](#) (ALRA May 30, 2017). The petition by the General Teamsters 959 is granted. A separate bargaining unit of Public Works Department employees at the City of Kodiak is the unit appropriate for collective bargaining under AS 23.40.090. The City of Kodiak's request that the board panel include one of the management members who recused themselves is denied.

APPEALS

Although, there was one appeal filed in Alaska Superior Court during 2017, a total of four were recently concluded. A summary of Alaska Superior Court and Alaska Supreme Court cases are listed below.

1. *University of Alaska v. University of Alaska Federation of Teachers, Local 2404, APEA/AFT AFL-CIO and United Academics-AAUP, AFL-CIO, Decision and Order No. 301* (ALRA December 18, 2013). **Appealed to Alaska Superior Court on January 17, 2014; Appealed to Alaska Supreme Court on March 11, 2016. Order issued January 18, 2018 by Alaska Supreme Court.** The University of Alaska filed a petition to clarify the unit boundaries and composition of the full-time faculty bargaining units represented by the University of Alaska Federation of Teachers (UAFT) and United Academics (UNAC). UAFT was the former community college union that represented faculty who taught lower division courses or in programs that lead to associate's degrees and certificates (such as in welding and surveying). UAFT was formed in 1973. Through the ensuing decades, some UAFT faculty occasionally taught upper division courses.

In 1996, UNAC was created and certified. UNAC's unit description provides that it represents all full-time faculty *not* represented by UAFT. Eventually, a rift developed between UNAC and UAFT primarily because UNAC believed it should have all faculty teaching upper division courses in its unit. UAFT disagreed, contending that its collective bargaining agreement with the University allows its faculty to teach upper division courses, if its faculty member and the University agree in writing.

The parties' dispute arose in the early 2000's and continued off and on until 2008, when the University filed a petition for clarification of unit boundaries and unit composition. After numerous attempts through the years at mediation and settlement, the parties went to hearing. The hearing lasted three weeks. The parties filed exhibits and pleadings totaling 7,500 pages, and 44 witnesses testified.

At hearing, the University contended that due to the evolution and expansion in some course programs (such as those formerly offering only lower division courses or certificates but now offering upper division courses that lead to bachelor's and graduate degrees), faculty teaching in these programs should be placed in UNAC. UNAC agreed with the University's contention.

UAFT disagreed with the University and UNAC. UAFT contended that UNAC should get all faculty who have a research component in their caseload and UAFT should get all faculty teaching bipartite (two-part) caseloads. This would result in a dramatic shift in the units' compositions.

The ALRA Board ultimately concluded that changed circumstances since certification of the units, including course evolution, change in university structure and technology (such as distance learning), and the merger of the community college system into the University system, resulted in substantial changes that justified clarifying the unit boundaries and descriptions of the two bargaining units. The Board found the current units inappropriate and modified the unit descriptions by applying the factors in AS 23.40.090.

The Board determined that the units should be modified so UNAC includes 'academic' faculty who teach courses that lead to bachelor's and graduate degrees, and those who engage in research. UAFT's unit under the modified unit description includes all faculty who teach in vocational technical programs that lead to certificates or associate's degrees as part of their workload.

UAFT subsequently appealed the Board's decision to the Alaska Superior Court. (3AN-14-04472 CI). On February 11, 2016, Superior Court Judge Andrew Guidi affirmed the Board's decision. UAFT filed an appeal to the Alaska Supreme Court on March 11, 2016. On June 16, 2016, the supreme court granted the parties Joint Stipulated Motion for Order Extending Time for Filing of Briefs stating that the parties are having ongoing discussions in an attempt to reach a settlement of their dispute, and they believe that they will be able to resolve the dispute. After the parties settlement negotiations had broken down the court reinstated a briefing schedule which was again stayed until February 12, 2018. The parties' settlement agreement was in regards to withdrawal of the appeal and implementation of ALRA's Decision and Order No. 301. On January 12, 2018, the parties agreed to a Stipulation for Dismissal and was granted by the supreme court in Case No. S-16243 on January 18, 2018. Due to the parties' settlement agreement a Certification of Representation Resulting from Mutual Consent Petition was issued on April 11, 2018.

2. *Public Safety Employees Association, AFSCME Local 853, AFL-CIO v. City of Fairbanks, Decision and Order No. 305 (November 24, 2015). Appealed to Alaska Superior Court on December 9, 2015; Appealed to Alaska Supreme Court on October 19, 2016. Decision issued on June 15, 2018 by Alaska Supreme Court.*

In this unfair labor practice dispute, the Public Safety Employees Association (PSEA) alleged that the City of Fairbanks committed an unfair labor practice when the Fairbanks City Council ratified the parties' tentative collective bargaining agreement, then reversed its decision and rejected the agreement more than two months later. PSEA argued that the parties had a binding and enforceable agreement after the City initially ratified the agreement. The City denied any wrongdoing and contended that its ultimate rejection of the agreement was valid. A majority of the board panel concluded there was an unfair labor practice violation.

During the negotiating process, the City's negotiating team would take monetary agreements it reached to the City Council for approval. Only after approval would the City then tentatively agree (TA) to the item. PSEA called this "pre-approving" the monetary terms.

After the parties agreed on all monetary and non-monetary terms, the City's Mayor presented the collective bargaining agreement to the City Council for approval at a public meeting. The Mayor advocated approval of the agreement. After taking public testimony and discussing the matter at a publicly scheduled meeting, the City Council voted to ratify the agreement.

Two days later, a council member requested reconsideration of the vote to ratify the agreement. The mayor denied the request because he said that under the rules, the request was made more than 24 hours after the meeting. Two weeks later, the city councilman requested suspension of the rules for the purpose of reconsidering the ratification vote. The council members voted in favor of suspension of the rules.

The reconsideration was then taken up at a council meeting two months later. After again taking testimony and discussing the matter, the City Council voted to reject the tentative agreement. PSEA then filed an unfair labor practice complaint.

The Board majority found that the City committed an unfair labor practice violation. The Board concluded first that because of the City Council's active involvement in negotiations, its actions should be considered in determining whether a violation occurred. The Board concluded that the City Council invoked unusual procedures and then, "by striking a deal, ratifying that deal, and then stringing out and delaying the reconsideration process to ultimately attempt to deny PSEA its due, the City violated the duty to bargain in good faith. . . ." The majority ordered the City to execute the original contract it ratified at its council meeting on August 25, 2014.

The dissent concluded the City Council was a legislative body and not a "public employer," and that without specific statutory authority, legislative bodies are outside the purview of this board's authority. Second, the dissent asserted that even if the board did have jurisdiction, PSEA failed to prove its case. The dissent would dismiss the unfair labor practice complaint on these bases and order the parties back to the bargaining table.

The City appealed the Board's decision. Alaska Superior Court Judge McConahy affirmed most aspects of the decision, and the City appealed the judge's decision to the Alaska Supreme Court on October 19, 2016.

On June 15, 2018, the Alaska Supreme Court issued its decision in PSEA v. City of Fairbanks, and a three member majority delivered the opinion of the court, holding that the record does not support a finding of bad faith and thus, no unfair labor practice occurred under Alaska's Public Employer Relations Act (PERA), reversing ALRA's decision in Decision and Order No. 305, Case No. 14-1658-ULP. Two members of the court dissented, concluding that there was substantial evidence to support ALRA's finding that an unfair labor practice occurred, and would have affirmed the decision of the ALRA panel.

3. *Kodiak City Employees' Association, General Teamsters Local 959, International Brotherhood of Teamsters v. City of Kodiak, Board Order Affirming Dismissal of Appeal (December 5, 2016). Appealed to Alaska Superior Court on January 6, 2017. Decision Affirming Final Judgment of the Alaska Labor Relations Agency issued by the Alaska Superior Court on August 24, 2017.*

Kodiak City Employees' Association, General Teamsters Local 959, International Brotherhood of Teamsters (KCEA) alleges that the City of Kodiak fired an employee for helping to organize KCEA and for helping to organize and initiate a ballot initiative to allow the City of Kodiak to opt back in to PERA.

Hearing Officer Thomas found that the City of Kodiak lawfully opted out of PERA, and ALRA had no jurisdiction to hear the complaint. Notice of Dismissal with appeal rights was issued on September 7, 2016. On September 19, 2016, KCEA, General Teamsters Local 959, International Brotherhood of Teamsters (Kimberly Dolph) filed a request that the Board review the dismissal. The City of Kodiak filed an opposition to the request for review. KCEA filed a Reply. An Order Affirming Dismissal of Appeal was issued by the ALRA board on December 5, 2016. This final order was appealed to superior court by the General Teamsters on January 6, 2017 in 3AN-17-04079CI. On August 24, 2017, the superior court issued its "Decision Affirming Final Judgment of the Alaska Labor Relations Agency."

4. *International Brotherhood of Electrical Workers, Local Union 1547 v. Fairbanks Natural Gas, Board Order on Motion to Dismiss (July 7, 2017). Appealed to Alaska Superior Court on August 4, 2017. Order Dismissing Administrative Appeal issued July 17, 2018.*

The fourth recently closed appeal was filed by Fairbanks Natural Gas in superior court on August 4, 2017, and involved a case filed by International Brotherhood of Electrical Workers who wanted to certify itself as the exclusive representative of a unit of employees at Fairbanks Natural Gas. This case concerned the Agency's jurisdiction and the determination of Fairbanks Natural Gas as a political subdivision of the State pursuant to AS 23.40.250(7). The superior court issued an Order Granting Motion to Stay Proceedings on December 26, 2017, and on July 10, 2018, the International Brotherhood of Electrical Workers, Local 1547 withdrew its representation case pending before the Agency. The superior court issued an Order on July 17, 2018 dismissing the administrative appeal in 3 AN-17-8359 CI.

OTHER AGENCY BUSINESS

The Agency conducted one business meetings during 2017.

LEGISLATION

The Agency did not propose legislation for consideration by the Governor in 2017, and no legislation was enacted that affected the Agency.

REGULATIONS

Agency regulations appear in 8 AAC 97.010 -- 8 AAC 97.990. Copies are available upon request. The Board did not propose or adopt any new regulations during 2017.

BUDGET

The Agency budget has been very lean and has become more so with the recent legislative emphasis on reduction of unrestricted general funds (UGF). The principal component in the budget is the wages and benefits for the three full-time staff members. Along with reduced staffing and budget limitations, the Agency is implementing streamlined procedures when possible to stay abreast of its caseload while assuring due process. To minimize costs, the Agency schedules in-person hearings in Anchorage when possible, schedules multiple hearings on successive days, and relies on telephone conferences for persons participating outside the Anchorage area. The Agency also hears disputes for decision on the written record where appropriate. However, board members strongly believe that in-person hearings are the best way to conduct hearings. They prefer in-person hearings so they have the opportunity to listen to and question witnesses face-to-face, to judge witness credibility in person, and to give the parties the opportunity to see who is deciding their case. The board believes it is important to participate in continuing education and keep board members and agency staff skills current.

The Agency has saved budget costs by conducting elections by mail ballot, thereby avoiding travel costs and loss of productive employee time during travel.

FISCAL YEAR 2018

TOTAL	538.6
Personnel	391.9
Travel	36.3
Services	77.8
Commodities	32.6

SUMMARY OF SERVICES AVAILABLE

Requests for services can be made either personally at the Agency's office in Anchorage, by telephone at 907.269.4895, by fax at 907.269.4898, or by e-mail to labor.relations@alaska.gov, unless otherwise indicated.

Board decisions.

Board decisions from 1973 to present are now available for download from the Agency's web site. Also available is a cross-reference list of Agency cases appealed to the Alaska Superior and Supreme Courts. Board decisions are also available by request from the Agency electronically or in hard copy by mail. Parties may pick up copies at the Agency office.

Business meetings.

The Board conducts business meetings at 3301 Eagle Street at the Department of Labor building in Anchorage. A meeting agenda is available upon request to the Agency two weeks before the meeting. The Agency can accommodate requests to participate at the meeting by telephone. Such requests should be made seven days before the scheduled date for the meeting.

Facsimile filings.

The Agency will accept filing by fax, but the person filing by fax must still mail or personally serve the required number of copies of the document upon the Agency.

Filings.

The Agency maintains a record of all filings. The record is available for review in the office of the Agency, or by telephone at 907.269.4895.

Forms.

The Agency has forms available to assist persons filing unfair labor practice charges, representation petitions, petitions for recognition by mutual consent, claims for religious exemption, petitions for unit clarification, and petitions to enforce the collective bargaining agreement. Parties are not required to use Agency forms, but the forms are provided for the convenience of the public. Persons can pick up these forms at the Agency's office or by telephoning 907.269.4895. In addition, the forms are available for download from the Agency's web site at <http://www.labor.alaska.gov/laborr/forms.htm>.

Information.

Staff members are available between the hours of 8:00 a.m. and 4:30 p.m. to answer questions about Agency process and procedure.

Library.

The Agency maintains a non-circulating library of labor relations texts. The library is open for public use. Please call the office to arrange your visit.

Mediation.

Agency staff members are available to answer questions about the mediation process and Agency mediation services. Parties interested in mediation may request mediation, which is conducted by the Agency's hearing officer.

Publications.

Pamphlet. The Agency publishes a pamphlet containing the laws and regulations the Agency administers. Persons may request a copy of Pamphlet 900. The most recent pamphlet was published in July of 2007 and contains updated state labor relations laws and regulations.

Report to Governor and the Legislature. The Agency is required to report to the governor annually. AS 23.05.370(a)(3). Copies of the annual report are available upon request.

Representation Services pamphlet. This pamphlet is a basic description of the Agency's representation process and is available at no charge.

Unfair Labor Practices pamphlet. This pamphlet is a basic description of unfair labor practices and related Agency proceedings. The pamphlet is available at no charge.

Speakers.

Agency staff members are available to speak to groups about the Agency, its programs, and topics on labor relations.

Electronic copies of agency proceedings.

Copies of CD's of Agency case proceedings are available upon request. Please call Agency staff to arrange copying. Generally, there is no charge if the appropriate type and number of CD's are provided.