

STATE OF ALASKA
DEPARTMENT OF LABOR
ALASKA LABOR
RELATIONS AGENCY



ALASKA LABOR RELATIONS AGENCY
AS 23.05.360 -- 23.05.390

PUBLIC EMPLOYMENT RELATIONS ACT
AS 23.40.070 -- 23.40.260

ALASKA RAILROAD CORPORATION, LABOR RELATIONS
AS 42.40.705 -- 42.40.890

COLLECTIVE BARGAINING AMONG PUBLIC EMPLOYEES
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ALASKA LABOR RELATIONS AGENCY

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ALASKA STATUTES

TITLE 23. LABOR AND WORKERS' COMPENSATION

Chapter 05. Department of Labor

Article 5. Labor Relations Agency

Section

- 360. Alaska labor relations agency
- 370. Powers, duties, and functions of Alaska labor relations agency
- 380. Regulations
- 390. Definition

Sec. 23.05.360. Alaska Labor Relations Agency. (a) There is established within the Department of Labor the Alaska labor relations agency. The agency is comprised of six members appointed by the governor and confirmed by the legislature. The term of office of a member is three years. Members serve staggered terms in accordance with AS 39.05.055. A vacancy in an unexpired term shall be filled by appointment by the governor for the remainder of the term. The agency must include two members with a background in management, two members with a background in labor, and two members from the general public. All members must have relevant experience in labor relations matters.

(b) Not more than three members of the agency may be members of the same political party.

(c) Members of the agency may be removed by the governor only for cause.

(d) Members of the agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

(e) The governor shall designate a chair from the public members. The chair holds office at the pleasure of the governor.

(f) For purposes of holding hearings, the members of the board sit in panels of three members. The chair designates the panel that will consider a matter. Each panel must include a representative of management, a representative of labor, and a representative from the general public. A member of one panel may serve on the other panel when the chair considers it necessary for the prompt administration of AS 23.40.070 - 23.40.260 (Public Employment Relations Act) or AS 42.40 (Alaska Railroad Corporation Act). (E.O. No. 77 § 2 (1990); am § § 1 -- 3 ch 43 SLA 1993)

Sec. 23.05.370. Powers, duties, and functions of Alaska labor relations agency.

(a) The agency shall

- (1) establish its own rules of procedure;
- (2) exercise general supervision and direct the activities of staff assigned to it by the department;
- (3) prepare and submit to the governor an annual report on labor relations problems it has encountered during the previous year, including recommendations for legislative action; the agency shall notify the legislature that the report is available;
- (4) serve as the labor relations agency under AS 23.40.070 - 23.40.260 (Public Employment Relations Act) and carry out the functions specified in that Act; and
- (5) serve as the railroad labor relations agency for the Alaska Railroad under AS 42.40 (Alaska Railroad Corporation Act) and carry out the functions specified in that Act.

(b) Two members of a panel constitute a quorum for hearing cases. Action taken by a quorum of a panel in a case is considered the action of the full board. Four members constitute a quorum for the transaction of business other than hearing cases. (E.O. No. 77 § 2 (1990); am §§ 4, 5 ch 43 SLA 1993; am § 45 ch 21 SLA 1995)

Sec. 23.05.380. Regulations. The agency shall adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out labor relations functions under AS 23.05.360 -- 23.05.390, AS 23.40.070 -- 23.40.260, and AS 42.40.730 -- 42.40.890. (E.O. No. 77 § 2 (1990))

Sec. 23.05.390. Definition. In AS 23.05.360 -- 23.05.390, "agency" means the Alaska labor relations agency established in AS 23.05.360. (E.O. No. 77 § 2 (1990))

ALASKA STATUTES

TITLE 23. LABOR AND WORKERS' COMPENSATION

Chapter 40. Labor Organizations

Article 2. Public Employment Relations Act

Section

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Editor's Note--Section 4, ch. 113, SLA 1972, provides: "This Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply."

Sec. 23.40.070. Declaration of policy. The legislature finds that joint decision-making is the modern way of administering government. If public employees have been granted the right to share in the decision-making process affecting wages and

working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective. The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, to strengthen the merit principle where civil service is in effect, and to maintain a favorable political and social environment. The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are to be effectuated by

(1) recognizing the right of public employees to organize for the purpose of collective bargaining;

(2) requiring public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment;

(3) maintaining merit-system principles among public employees. (§ 2 ch 113 SLA 1972)

Sec. 23.40.075. Items not subject to bargaining. The parties may not negotiate terms contrary to the

(1) reemployment rights for injured state employees under AS 39.25.158;

(2) reemployment rights of the organized militia under AS 26.05.075;

(3) authority of the Department of Health and Social Services under AS 47.27.035 to assign Alaska temporary assistance program participants to a work activity considered appropriate by the Department of Health and Social Services; or

(4) authority for agencies to create temporary positions under AS 47.27.055(c);
or

(5) provisions contained in a contract under AS 14.40.210(a)(4). (§ 1 ch 86 SLA 1988; am § 2 ch 77 SLA 1990; am § 10 ch 107 SLA 1996; Eff. 07/01/97; am § 2 ch 22 SLA 2004, Eff. 07/22/04)

Sec. 23.40.080. Rights of public employees. Public employees may self-organize and form, join, or assist an organization to bargain collectively through representatives of their own choosing, and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. (§ 2 ch 113 SLA 1972)

Sec. 23.40.090. Collective bargaining unit. The labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by AS 23.40.070 -- 23.40.260, 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. (§ 2 ch 113 SLA 1972)

Sec. 23.40.100. Representatives and elections. (a) The labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency and is

(1) by an employee or group of employees or an organization acting in their behalf alleging that 30 percent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative, or

(B) assert that the organization which has been certified or is currently being recognized by the public employer as bargaining representative is no longer the representative of the majority of employees in the bargaining unit; or

(2) by the public employer alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the labor relations agency or an election in a bargaining unit agreed upon by the parties. The labor relations agency shall determine who is eligible to vote in an election and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest and the second largest number of valid votes cast in the election. If an organization receives the majority of the votes cast in the election it shall be certified by the labor relations agency as exclusive representative of all the employees in the bargaining unit.

(c) An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by a public agency by mutual consent.

(e) An election may not be directed by the labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, a collective bargaining agreement may not bar an election upon petition of persons in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later. (§ 2 ch 113 SLA 1972)

Sec. 23.40.110. Unfair labor practices. (a) A public employer or an agent of a public employer may not

(1) interfere with, restrain, or coerce an employee in the exercise of the employee's rights guaranteed in AS 23.40.080;

(2) dominate or interfere with the formation, existence, or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition, or complaint or given testimony under AS 23.40.070 -- 23.40.260;

(5) refuse to bargain collectively in good faith with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(b) Nothing in this chapter prohibits a public employer from making an agreement with an organization to require as a condition of employment

(1) membership in the organization which represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agent for the expense of representing the members of the bargaining unit.

(c) A labor or employee organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 23.40.080, or

(B) a public employer in the selection of the employer's representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with a public employer, if it has been designated in accordance with the provisions of AS 23.40.070 -- 23.40.260 as the exclusive representative of employees in an appropriate unit. (§ 2 ch 113 SLA 1972)

Sec. 23.40.120. Investigation and conciliation of complaints. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 23.40.110, or a written accusation that a person subject to AS 23.40.070 -- 23.40.260 has engaged in a prohibited practice, is filed with the labor relations agency, it shall investigate the complaint or accusation. If it determines after the preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding. (§ 2 ch 113 SLA 1972)

Sec. 23.40.130. Complaint and accusation. If the labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 23.40.070 -- 23.40.260, or, before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of AS 44.62 (Administrative Procedure Act). (§ 2 ch 113 SLA 1972)

Sec. 23.40.140. Orders and decisions. If the labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the labor relations agency shall issue and serve on the person an order or decision requiring the person to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of AS 23.40.070 -- 23.40.260. If the labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation. (§ 2 ch 113 SLA 1972)

Sec. 23.40.150. Enforcement by injunction. The labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the labor relations agency. Upon a showing by the labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order which is appropriate may be granted by the court and shall be without bond. (§ 2 ch 113 SLA 1972)

Sec. 23.40.160. Power to investigate and compel testimony. (a) For the purpose of the investigations, proceedings, or hearings which the labor relations agency considers necessary to carry out the provisions of AS 23.40.070 -- 23.40.260, the labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 23.40.070 -- 23.40.260, the superior court in the district in which the person resides or is found may, upon application by the labor relations agency, issue an order requiring the person to comply with the subpoena. (§ 2 ch 113 SLA 1972)

Sec. 23.40.170. Regulations. The labor relations agency may adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of AS 23.40.070 -- 23.40.260. (§ 2 ch 113 SLA 1972)

Sec. 23.40.180. Penalty for violation of order or decision. A person who violates a provision of an order or decision of the labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than \$500. (§ 2 ch 113 SLA 1972)

Sec. 23.40.190. Mediation. If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, a deadlock exists between a public employer and an organization, the labor relations agency may appoint a competent, impartial, disinterested person to act as mediator in any dispute either on its own initiative or on the request of one of the parties to the dispute. The parties may also select a mediator by agreement or mutual consent. It is the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the labor relations agency has any power of compulsion in mediation proceedings. (§ 2 ch 113 SLA 1972)

Sec. 23.40.200. Classes of public employees; arbitration. (a) 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;

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

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

(b) The class in (a)(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. Upon a showing by a public employer or the labor relations agency that employees in this class are engaging or about to engage in a strike, an injunction, restraining order, or other order that may be appropriate shall be granted by the superior court in the judicial district in which the strike is occurring or is about to occur. If an impasse or deadlock is reached in collective bargaining between the public employer and employees in this class, and mediation has been utilized without resolving the deadlock, the parties shall submit to arbitration to be carried out under AS 09.43.030 or 09.43.480 to the extent permitted by AS 09.43.010 and 09.43.300. (am § 5 ch 170 SLA 2004)

(c) The class in (a)(2) of this section is composed of public utility, snow removal, sanitation, and educational institution employees other than employees of a school district, a regional educational attendance area, or a state boarding school. Employees in this class may engage in a strike after mediation, subject to the voting requirement of (d) of this section, for a limited time. The limit is determined by the interests of the health, safety, or welfare of the public. The public employer or the labor relations agency may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety, or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the effect of a strike on the public but also the extent to which employee organizations and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration to be carried out under AS 09.43.030 or 09.43.480 to the extent permitted by AS 09.43.010 and 09.43.300. (am § 6 ch 170 SLA 2004; Eff. 01/01/05)

(d) The class in (a)(3) of this section includes all other public employees who are not included in the classes in (a)(1) or (2) of this section. Subject to (g) of this section, employees in this class may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employees with the concurrence of the employer may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

(f) The parties to a collective bargaining agreement may provide in the agreement a contract for arbitration to be conducted solely according to AS 09.43.010 -- 09.43.180 (Uniform Arbitration Act) or AS 09.43.300 - 09.43.595 (Revised Uniform

Arbitration Act) to the extent permitted by AS 09.43.010 and 09.43.300 if either Act is incorporated into the agreement or contract by reference. (am § 7 ch 170 SLA 2004)

(g) Under the provisions of (d) of this section, if an impasse or deadlock is reached in collective bargaining negotiations between a municipal school district, a regional educational attendance area, or a state boarding school and its employees,

(1) the parties shall submit to advisory arbitration before the employees may vote to engage in a strike; the arbitrator shall

(A) be a member of the American Arbitration Association, Panel of Labor Arbitrators, or the Federal Mediation and Conciliation Service;

(B) have knowledge of and recent experience in the local conditions in the school district, regional educational attendance area, or state boarding school; and

(C) be determined from a list containing at least five nominees who meet the qualifications of this subsection; this list shall be considered a complete list for the purpose of striking names and selecting the arbitrator;

(2) if, under (1) of this subsection, advisory arbitration fails, a strike may not begin until at least 72 hours after notice of the strike is given to the other party; in any event, a strike may not begin on or after the first day of the school term, as that term is described in AS 14.03.030, unless at least one day in session with students in attendance has passed after notice of the strike is given by the employees to the other party. (§ 2 ch 113 SLA 1972; am §§ 3, 4 ch 1 SLA 1992; am §§ 17, 18 ch 113 SLA 1997; am §§ 1, 2 ch 130 SLA 2003)

Sec. 23.40.205. Family leave. Notwithstanding any provision of AS 23.40.070 -- 23.40.260 to the contrary, an agreement between the employer subject to AS 23.10.500 -- 23.10.550 and an employee bargaining organization that does not contain benefit provisions at least as beneficial to the employee as those provided by AS 23.10.500 -- 23.10.550 shall be considered to contain the benefit provisions of those statutes. (§ 7 ch 96 SLA 1992)

Sec. 23.40.210. Agreement. (a) Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement shall include a pay plan designed to provide for a cost-of-living differential between the salaries paid employees residing in the state and employees residing outside the state. The plan shall provide that the salaries paid, as of August 26, 1977, to employees residing outside the state shall remain unchanged until the difference between those salaries and the salaries paid employees residing in the state reflects the difference between the cost of living in

Alaska and living in Seattle, Washington. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency.

(b) An employee is eligible for the cost-of-living differential under (a) of this section only if the individual is a state resident. The required presence of an employee at a work station where room and board are provided or reimbursed by the employer may not be considered to be physical presence in the state or physical absence from the state for purposes of determining eligibility for the cost-of-living differential.

(c) The commissioner of administration may adopt regulations under AS 44.62 (Administrative Procedure Act) to clarify and implement the criteria for establishing and maintaining eligibility for the cost-of-living differential.

(d) An agreement entered into under AS 23.40.070 -- 23.40.260 must require compliance with the eligibility criteria for receiving the cost-of-living differential contained in this section and the regulations adopted by the commissioner under (c) of this section.

(e) In this section, "state resident" means an individual who is physically present in the state with the intent to remain permanently in the state under the requirements of AS 01.10.055 or, if the individual is not physically present in the state, intends to return to the state and remain permanently in the state under the requirements of AS 01.10.055 and is absent only temporarily for reasons allowed under AS 43.23.008 or a successor statute. (§ 2 ch 113 SLA 1972; am § 1 ch 62 SLA 1977; am § 7 ch 4 SLA 1996 FSSLA; am § 1 ch 44 SLA 1998)

Sec. 23.40.212. Agreement with the board of regents. (a) The Board of Regents of the University of Alaska may delegate to the Department of Administration its authority under AS 23.40.070 -- 23.40.260 to negotiate with an organization for an agreement.

(b) The Department of Administration shall participate in the negotiations between the Board of Regents and an organization. An agreement between the board and an organization requires the approval of the department. (§ 1 ch 148 SLA 1978)

Sec. 23.40.215. Monetary terms subject to legislative funding. (a) The monetary terms of any agreement entered into under AS 23.40.070 -- 23.40.260 are subject to funding through legislative appropriation.

(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 legislative days after the agreement of the parties, if the legislature is in session, or within 10 legislative days after the convening of the next regular session. The complete monetary and nonmonetary terms of a tentative

agreement shall be submitted to the legislature no later than the 60th day of the legislative session to receive legislative consideration during that calendar year. However, if the department has submitted a tentative agreement in a timely manner and the parties to the agreement decide to renegotiate the terms, the renegotiated agreement shall be considered to have been submitted in a timely manner. In this subsection, "tentative agreement" means an agreement that has been reached by the negotiators for the employer and the bargaining unit but that may not yet have been ratified by the members of the bargaining unit.

(c) Notwithstanding (b) of this section, the monetary terms of an agreement entered into between a school district or regional educational attendance area and its employees are not required to be submitted to the legislature. (§ 2 ch 113 SLA 1972; am § 1 ch 10 SLA 1984; am § 5 ch 1 SLA 1992; am § 1 ch 15 SLA 2000; am § 8 ch 22 SLA 2001)

Sec. 23.40.220. Labor or employee organization dues and employee benefits, deduction and authorization. Upon written authorization of a public employee within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues, fees, and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative. (§ 2 ch 113 SLA 1972)

Sec. 23.40.225. Exemption from public employment relations act. Notwithstanding the provisions of AS 23.40.220, a collective bargaining settlement reached, or agreement entered into, under AS 23.40.210 that incorporates union security provisions, including but not limited to a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the labor relations agency, the agency shall declare the employee exempt from becoming a member of a labor organization or employee association. The employee shall pay an amount of money equivalent to regular union or association dues, initiation fees, and assessments to the union or association. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving union or association shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor, or employee organization. The union or association shall submit proof of contribution to the labor relations agency. (§ 1 ch 85 SLA 1976)

Sec. 23.40.230. Assistance by Department of Labor. [Repealed, E.O. No. 77 § 8 SLA 1990.]

Sec. 23.40.235. Public involvement in school district negotiations. Before beginning bargaining, the school board of a city or borough school district or a regional educational attendance area shall provide opportunities for public comment on the issues to be addressed in the collective bargaining process. Initial proposals, last-best-offer proposals, tentative agreements before ratification, and final agreements reached by the

parties are public documents and are subject to inspection and copying under AS 09.25.110 -- 09.25.140. (am § 13 ch 31 SLA 1996)

Sec. 23.40.240. Effect on certain units, representatives, and agreements. Nothing in this chapter terminates or modifies a collective bargaining unit, recognition of exclusive bargaining representative, or collective bargaining agreement if the unit, recognition, or agreement is in effect on September 5, 1972. (§ 2 ch 113 SLA 1972)

Sec. 23.40.245. Postsecondary student involvement in collective bargaining. (a) When a bargaining unit includes members of the faculty or other employees of a public institution of postsecondary education, the public employer and the representative of the bargaining unit shall permit student representatives of that institution to

(1) attend and observe all meetings between the public employer and the representative of the bargaining unit which are involved with collective bargaining;

(2) have access to all documents pertaining to collective bargaining exchanged by the employer and the representative of the bargaining unit, including copies of transcripts of the meetings.

(b) Student representatives may not disclose information concerning the substance of collective bargaining obtained in the course of their activities under (a) of this section, unless that information is released by the employer or the representative of the bargaining unit.

(c) For the purpose of this section, the students of the institution involved in negotiations shall select their representatives from the institution directly involved in negotiations.

(d) When the institutions are negotiating with bargaining units representing more than one major geographic area of the state, the student representatives shall be from those areas. No more than three student representatives may attend meetings at any time. (§ 1 ch 148 SLA 1978)

Sec. 23.40.250. Definitions. In AS 23.40.070 -- 23.40.260, unless the context otherwise requires,

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or the employer's designated representatives and the representative of the employees to meet at reasonable times, including meetings in advance of the budget making process, and negotiate in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 23.40.070 -- 23.40.260;

(3) "labor relations agency" means the Alaska labor relations agency established in AS 23.05.360;

(4) "monetary terms of an agreement" means the changes in the terms and conditions of employment resulting from an agreement that

(A) will require an appropriation for their implementation;

(B) will result in a change in state revenues or productive work hours for state employees; or

(C) address employee compensation, leave benefits, or health insurance benefits, whether or not an appropriation is required for implementation;

(5) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, and conditions of employment;

(6) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or superintendents of schools;

(7) "public employer" means the state or a political subdivision of the state, including without limitation, a municipality, district, school district, regional educational attendance area, board of regents, public and quasi-public corporation, housing authority, or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees;

(8) "regional educational attendance area" means an educational service area in the unorganized borough that may or may not include a military reservation, and that contains one or more public schools of grade levels K - 12 or any portion of those grade levels that are to be operated under the management and control of a single regional school board;

(9) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer. (§ 2 ch 113 SLA 1972; am § 2 ch 10 SLA 1984; am E.O. No. 77 § 3 (1990); am §§ 6 - 8 ch 1 SLA 1992; am § 2 ch 15 SLA 2000)

Sec. 23.40.260. Short title. AS 23.40.070 - 23.40.260 may be cited as the Public Employment Relations Act. (§ 2 ch 113 SLA 1972)

ALASKA STATUTES

TITLE 42. PUBLIC UTILITIES AND CARRIERS

Chapter 40. Alaska Railroad Corporation

Article 8. Personnel and Labor Relations

Section

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Sec. 42.40.705. Political activities. (a) Money, assets, or property of the corporation may not be used for political activities. However, board members and employees may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed \$5,000. An action to enforce this section may be brought by any person. (§ 2 ch 153 SLA 1984)

Sec. 42.40.710. Corporation employees. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. However, employees of the corporation shall be treated as employees of the state for the purposes of AS 39.52. The provisions of AS 39, other than AS 39.52, do not apply to employees of the corporation.

(b) Except as provided in this subsection, employees of the corporation are covered by AS 23.10.050 - 23.10.150 (Alaska Wage and Hour Act). If the terms of a collective bargaining agreement that was mutually agreed upon by an organization representing train or engine service employees and the corporation so provide, AS 23.10.050 - 23.10.150 do not apply to train or engine service employees to the extent set out in the collective bargaining agreement. (§ 2 ch 153 SLA 1984; am § 4 ch 87 SLA 1986; am § 102 ch 74 SLA 1998; am § 1 ch 89 SLA 2001)

Sec. 42.40.720. Collective bargaining rights. The provisions of AS 23.40.070 - - 23.40.260 do not apply to the corporation or to its employees. However, employees who are not executive officers may organize and form, join, or assist an organization to engage in collective bargaining through representatives of their own choosing and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. (§ 2 ch 153 SLA 1984)

Sec. 42.40.730. Railroad labor relations agency. (a) The Alaska labor relations agency, established in AS 23.05.360, is the sole railroad labor relations agency.

(b) The Alaska labor relations agency shall carry out the provisions of AS 42.40.730 -- 42.40.890. (§ 2 ch 153 SLA 1984; am E.O. No. 77 § 4 (1990))

Sec. 42.40.740. Collective bargaining unit. The railroad labor relations agency shall decide in each case, in order to ensure employees the fullest freedom in exercising the rights guaranteed by AS 42.40.710 -- 42.40.890 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. (§ 2 ch 153 SLA 1984)

Sec. 42.40.750. Representatives and elections. (a) The railroad labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the railroad labor relations agency by

(1) an employee or group of employees or an organization acting in their behalf alleging that 30 percent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative; or

(B) assert that the organization that has been certified or is currently being recognized by the corporation as bargaining representative is no longer the representative of the majority of employees in an appropriate unit; or

(2) the corporation alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the railroad labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for a hearing upon due notice. If the railroad labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this subsection prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the railroad labor relations agency or an election in a bargaining unit agreed upon by the parties.

(c) The railroad labor relations agency shall determine who is eligible to vote in an election held under this section and shall adopt regulations governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest number of valid votes cast in the election. If an organization receives the majority of the votes cast in the election, it shall be certified by the railroad labor relations agency as exclusive representative of all the employees in the bargaining unit. An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by the corporation by mutual consent.

(e) An election may not be directed by the railroad labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, a collective bargaining agreement may not bar an election upon petition of employees in the bargaining unit if

(1) the petitioners are not parties to the agreements; and

(2) more than three years have elapsed since the execution of the agreement or its last timely renewal, whichever was later. (§ 2 ch 153 SLA 1984; am § 24 ch 23 SLA 1995)

Sec. 42.40.760. Unfair labor practices. (a) The corporation or its agent may not

(1) interfere, restrain, or coerce an employee in the exercise of the rights guaranteed in AS 42.40.720;

(2) dominate or interfere with the formation, existence, or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or given testimony under AS 42.40.710 -- 42.40.890;

(5) refuse to bargain collectively in good faith with an organization that is the exclusive representative of employees in an appropriate unit, including the discussing of grievances with the exclusive representative.

(b) Nothing in AS 42.40.710 -- 42.40.890 prohibits the corporation from making an agreement with an organization to require as a condition of employment

(1) membership in the organization that represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) An organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 42.40.720; or

(B) the corporation in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with the corporation, if it has been designated in accordance with AS 42.40.710 -- 42.40.890 as the exclusive representative of employees in an appropriate unit. (§ 2 ch 153 SLA 1984)

Sec. 42.40.770. Investigation and conciliation of complaints. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 42.40.760 or a written accusation that a person subject to AS 42.40.710 -- 42.40.890 has engaged in a prohibited practice, is filed with the railroad labor relations agency, it shall investigate the complaint or accusation. If it determines after a preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding. (§ 2 ch 153 SLA 1984)

Sec. 42.40.780. Complaint and accusation. If the railroad labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 42.40.710 -- 42.40.890 or before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62). (§ 2 ch 153 SLA 1984)

Sec. 42.40.790. Orders and decisions. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor relations agency shall issue and serve on the person an order or decision requiring the person to cease and desist from the prohibited practice and to take affirmative action that will carry out the provisions of AS 42.40.710 -- 42.40.890. If the railroad labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the railroad labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation. (§ 2 ch 153 SLA 1984)

Sec. 42.40.800. Enforcement by injunction. The railroad labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the railroad labor relations agency. Upon showing by the railroad labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order that is appropriate may be granted by the court and shall be without bond. (§ 2 ch 153 SLA 1984)

Sec. 42.40.810. Power to investigate and compel testimony. (a) For the purpose of the investigations, proceedings, or hearings that the railroad labor relations agency considers necessary to carry out AS 42.40.710 -- 42.40.890, the railroad labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The railroad labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 42.40.710 -- 42.40.890, the superior court in the district in which the person resides or is found may, upon application by the railroad labor relations agency, issue an order requiring the person to comply with the subpoena. (§ 2 ch 153 SLA 1984)

Sec. 42.40.820. Regulations. The railroad labor relations agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out AS 42.40.710 -- 42.40.890. (§ 2 ch 153 SLA 1984)

Sec. 42.40.830. Penalty for violation of order or decision. A person who violates a provision of an order or decision of the railroad labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than \$500. (§ 2 ch 153 SLA 1984)

Sec. 42.40.840. Mediation. (a) If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, an impasse as determined by the railroad labor relations agency exists between the corporation and an organization, the railroad labor relations agency shall appoint a person mutually agreeable to the parties from a list of seven qualified mediators or arbitrators knowledgeable in railway labor agreements to act as mediator in the dispute.

(b) Before the determination of an impasse under this section, the parties may also select a mediator by mutual consent.

(c) It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings. (§ 2 ch 153 SLA 1984)

Sec. 42.40.850. Strikes. (a) Following a decision by the mediator to end the mediation proceedings, employees of a collective bargaining unit may engage in a strike for a limited time if a majority of the employees in that collective bargaining unit vote by secret ballot to do so. The limit of the strike is determined by the interest of the health, safety, or welfare of the public.

(b) The corporation may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten, or is about to threaten, the health, safety, or welfare of the public. A court, in deciding whether to enjoin the strike, shall consider the total equities in the particular case, including the impact of a strike on the public and the extent to which an employee organization and the corporation have met their statutory obligations.

(c) If an impasse or deadlock still exists after issuance of an injunction, the parties shall submit the dispute to binding arbitration. The railroad labor relations agency shall appoint an arbitrator selected by the parties by mutual consent. If the parties are unable to agree on an arbitrator, the railroad labor relations agency shall appoint an arbitrator from a list of arbitrators knowledgeable in railroad labor agreements. The arbitrator shall fashion the award the arbitrator considers equitable.

(d) Notwithstanding (a) -- (c) of this section, an organization and the corporation may mutually agree to submit a dispute to binding arbitration at any time. (§ 2 ch 153 SLA 1984; am § 12 ch 43 SLA 1994)

Sec. 42.40.860. Agreements. (a) The Department of Administration may participate in labor negotiations between the corporation and an organization. The corporation may seek advice of the Department of Administration before entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements shall be made by the board.

(b) Upon the completion of negotiations between an organization and the corporation, if a settlement is reached, the corporation shall reduce it to writing in the form of an agreement. The agreement shall include a grievance procedure that shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the railroad labor relations agency.

(c) The parties to an agreement under this section may agree to terms that specify an expiration date for the agreement.

(d) Notwithstanding any provision of AS 42.40.710 -- 42.40.890 to the contrary, an agreement between the corporation and an employee bargaining organization that does not contain benefit provisions at least as beneficial to the employee as those provided by AS 23.10.500 -- 23.10.550 shall be considered to contain the benefit provisions of those statutes. (§ 2 ch 153 SLA 1984; am § 10 ch 96 SLA 1992)

Sec. 42.40.870. Organization dues and employee benefits, deduction and authorization. Upon written authorization of an employee within a bargaining unit, the corporation shall deduct from the payroll of the employee the monthly amount of dues, fees, and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative. (§ 2 ch 153 SLA 1984)

Sec. 42.40.880. Exemption. Notwithstanding the provisions of AS 42.40.870, a collective bargaining settlement reached, or agreement entered into, under AS 42.40.860 that incorporates union security provisions, including a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body

