

# LEGAL SERVICES

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## MEMORANDUM

March 4, 2024

**SUBJECT:** Pay increases for partially exempt and non-represented employees  
(Work Order No. 33-LS1440\B)

**TO:** Senator Elvi Gray-Jackson  
Attn: Jeff Stepp

**FROM:** Noah Klein   
Legislative Counsel

You asked for an opinion addressing whether current AS 39.27.011(m) requires salary schedule increases consistent with increases provided to the supervisory bargaining unit, or whether the legislature must adopt the new language in bill draft 33-LS1440\B to increase the salary schedule in AS 39.27.011(a).

AS 39.27.011(m) currently provides:

The legislature shall increase the salary schedule in (a) of this section at the same time and rate that the supervisory bargaining unit increases the salary schedule for members of the bargaining unit.

It is my understanding that the Department of Law contends that AS 39.27.011(m) does not provide sufficient authority for the governor to include funds for the salary schedule increase in his budget without further legislative action.

The intent of the legislature seemed clear when enacting AS 39.27.011(m), that it was a "matter of fairness"<sup>1</sup> that the salary schedule in AS 39.27.011(a) should increase at the same time and percentage as the salary schedule of bargaining unit employees. The governor has ultimate authority over what is included in the governor's budget, but this has no bearing on the legislative power of appropriation. The legislature could appropriate funds for the purpose of increasing the salary schedule in AS 39.27.011(a), consistent with AS 39.27.011(m), regardless of whether the funding is included in the governor's budget.

Because the Department of Law apparently interprets current AS 39.27.011(m) to require further legislative action before the raises can be implemented, the statute could be

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<sup>1</sup> See, e.g., Minutes of House Finance Committee, HB 226 from the 32<sup>nd</sup> Legislature, at 2:32:51 (May 5, 2022).

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amended to reduce any ambiguity, as provided in bill draft 33-LS1440\B. These changes should make it more likely that the governor will include funds to increase the salary schedule consistent with the supervisory unit percentage increases in future budgets.

Please let me know if you have any questions, or if I can be of further assistance.

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