



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Law

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March 3, 2014

Honorable Senator Fred Dyson
Alaska State Senate
Alaska State Capitol, Room 121
Juneau, Alaska 99801-1182

Re: SB 182

Dear Senator Dyson:

We have received an inquiry from your office concerning whether consideration of the above bill which proposes certain changes to the Public Employment Relations Act, AS 23.40.070 – AS 23.40.260, raises a question regarding unfair labor practices. We do not believe so for the following reasons.

First, this bill is a proposal to change the Public Employment Relations Act ("PERA") which governs public sector labor relations in Alaska. Until any such bill is passed and becomes law, public employers and unions continue to be required to apply the existing law. Thus, parties continue to apply the terms of existing collective bargaining agreements and their negotiations for successor agreements are regulated by the existing requirements of PERA which include to negotiate in good faith regarding mandatory subjects of collective bargaining. AS 23.40.110(a)(5). We understand that an issue was raised regarding certain existing state agreements with unions representing Alaska Marine Highway employees that contain provisions paying cost of living premiums to employees based on their status as state residents. Our understanding is that the state continues to pay those premiums as required under existing agreements and thus there would not appear to be any unfair labor practice issue. As the parties negotiate successor agreements, both a union and a public employer can propose changes to mandatory subjects of bargaining which are then negotiated by the parties. AS 23.40.250. Therefore, any mandatory subject of bargaining in an existing collective bargaining agreement is subject to re-negotiation by the parties when they negotiate new agreements to succeed agreements that expire. Thus, simply seeking to change the existing terms of a mandatory subject of bargaining in negotiations for a new agreement would not seem to raise an unfair labor practice issue.

Second, the Legislature sets the parameters for public sector collective bargaining. It can change the law at any time to include, for example, greater or fewer subjects of mandatory bargaining between public employers and unions. *See* AS 23.40.075. In consideration of such proposals, it is reasonable to assume that representatives of public sector management and unions would have opinions regarding the appropriateness of any such changes. It is not apparent that either an employer or a union would commit an unfair labor practice simply by seeking to be heard regarding the wisdom of such proposals. Of course, until the law changes, both employers and unions would be required to comply with the existing law.

If you need additional information on this matter, please contact the undersigned at 465-3600.

Sincerely,

MICHAEL C. GERAGHTY
ATTORNEY GENERAL

By:



William E. Milks
Assistant Attorney General

WEM/ajh

cc: Cori Mills, Legislative Liaison, Department of Law
Deborah Behr, Chief Assistant Attorney General, Department of Law
Heather Brakes, Legislative Director, Office of the Governor
Nicki Neal, Director of Division of Personnel and Labor Relations