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Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### SB 129: Sectional Analysis

- Section 1) Provides for a ballot choice of "no representation" in an initial election for representation.
- Section 2) Removes noncertificated employees of school boards from the class of public employees that may engage in a strike, for a limited time, after mediation. The effect would be to allow this class of public employees to strike for an unlimited time after a bargaining impasse.
- Section 3) Adds a new section which would prohibit a school board or a municipality from rejecting the provisions of PERA applying to their noncertificated employees.
- Section 4) Adds noncertificated employees of school boards to the definition of "public employee".
- Section 5) Changes the definition of "public employer" to include school board rather than the current school district.
- Section 6) Adds a new paragraph which defines "school board" to include an REAA school board.
- Section 7) Nothing in this act modifies a collective bargaining unit, representative, or agreement which is in effect on the effective date of this act.

STATUTES RELATED TO SB 129

AS23.40.100  
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CHAPTER = 23.40  
SECTION = 23.40.100  
TITLE = 23  
HEADINGS TITLE 23.  
Labor and Workers' Compensation.  
CHAPTER 40.  
Labor Organizations.  
ARTICLE 2.  
Public Employment Relations Act.  
CITATION Sec. 23.40.100.  
CATCH LINE

REPRESENTATIVES AND ELECTIONS.

TEXT (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 per cent 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

AS23.40.100 (cont.)

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.

HISTORY (Sec. 2 ch 113 SLA 1972)

AS23.40.200

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CHAPTER = 23.40  
SECTION = 23.40.200  
TITLE = 23  
HEADINGS TITLE 23.  
Labor and Workers' Compensation.  
CHAPTER 40.  
Labor Organizations.  
ARTICLE 2.  
Public Employment Relations Act.  
CITATION Sec. 23.40.200.

CATCH LINE

CLASSES OF PUBLIC EMPLOYEES; ARBITRATION.

TEXT

(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.

AS23.40.200(cont.)

(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 which 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.

(c) The class in (a)(2) of this section is composed of public utility, snow removal, sanitation and public school and other educational institution employees. 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 impact 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.

(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 (a)(2) 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 the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference.

HISTORY (Sec. 2 ch 113 SLA 1972)

AS09.43.030  
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CHAPTER = 09.43  
SECTION = 09.43.030  
TITLE = 09  
HEADINGS TITLE 9.  
Code of Civil Procedure.  
CHAPTER 43.  
Arbitration.  
ARTICLE 1.  
Uniform Arbitration Act.

CITATION Sec. 09.43.030.

CATCH LINE

APPOINTMENT OF ARBITRATORS BY COURT.

TEXT If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. If no method of appointment is provided, or if the agreed method fails or for any reason cannot be followed, or when before the hearing an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

HISTORY (Sec. 1 ch 232 SLA 1968)

AS23.40.250  
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CHAPTER = 23.40  
SECTION = 23.40.250  
TITLE = 23  
HEADINGS TITLE 23.  
Labor and Workers' Compensation.  
CHAPTER 40.  
Labor Organizations.  
ARTICLE 2.  
Public Employment Relations Act.

CITATION Sec. 23.40.250.

CATCH LINE

DEFINITIONS.

TEXT 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

AS23.40.250(cont.)

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 state personnel board with regard to the state and employees of the state, and means the Department of Labor with regard to all other public employees and all other public employers;

(4) "monetary terms of an agreement" means the changes in the terms and conditions of employment resulting from an agreement that will require an appropriation for their implementation or will result in a change in state revenues or productive work hours for state employees.

(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 teachers or noncertificated employees of school districts;

(7) "public employer" means the state or a political subdivision of the state, including without limitation, a town, city, borough, district, 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) "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.

HISTORY (Sec. 2 ch 113 SLA 1972; am sec. 2 ch 10 SLA 1984)

AS 26.15.040(b); (8) [deleted] and (9) the guaranteed portion of Small Business Administration loans. No more than 25 per cent of the surplus may be invested in mortgage securities of the Department of Commerce, and the state shall appropriate sufficient money from the general fund to reimburse the teachers' retirement system for any losses incurred as a result of failure of the obligors to pay on the notes. No more than \$400,000 of the surplus may be invested annually in the mortgage securities of the Department of Natural Resources, and the state shall appropriate sufficient money from the general fund to reimburse the teachers' retirement system for any losses incurred as a result of failure of the obligors to pay on the notes.

\* Sec. 2. AS 39.35.110(a) is amended by adding a new paragraph to read:

(9) the guaranteed portion of Small Business Administration loans.

\* Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.



# LAWS OF ALASKA

1972

Source

HB 683 am S

Chapter No.

112

## AN ACT

Relating to wages, hours and working arrangements.

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. AS 23.10.140 is amended to read:

Sec. 23.10.140. PENALTY. An employer who violates a provision of secs. 50 - 150 of this chapter, or of any regulation or order of the commissioner issued under it, upon conviction is punishable by a fine of not less than \$100 nor more than \$2,000, or by imprisonment for not less than 10 nor more than 90 days, or by both. Each day a violation occurs constitutes a separate offense.

\* Sec. 2. AS 23.40 is amended by adding new sections to read:

#### ARTICLE 2. PUBLIC EMPLOYMENT RELATIONS ACT.

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.

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.

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 secs. 70 - 260 of this chapter, 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.

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 per cent 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) No election may be directed by the labor relations agency in a bargaining unit in which there is in force and effect a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may 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.

Sec. 23.40.110. UNFAIR LABOR PRACTICES. (a) A public employer or his agent may not

- (1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in sec. 80 of this chapter;
- (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 he has signed or filed an affidavit, petition or complaint or given testimony under secs. 70 - 260 of this chapter;
- (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 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 sec. 80 of this chapter, or
    - (B) a public employer in the selection of his 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 secs. 70 - 260 of this chapter as the exclusive representative of employees in an appropriate unit.

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 sec. 110 of this chapter, or a written accusation that a person subject to secs. 70 - 260 of this chapter 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.

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 secs. 70 - 260 of this chapter, 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).

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 him to cease and desist from the prohibited practice and to take affirmative

action which will carry out the provisions of secs. 70 - 260 of this chapter. 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.

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.

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 secs. 70 - 260 of this chapter, 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 secs. 70 - 260 of this chapter, 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 him to comply with the subpoena.

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 secs. 70 - 260 of this chapter.

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.

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.

Sec. 23.40.200. 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 which 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.

(c) The class in (a)(2) of this section is composed of public utility, snow removal, sanitation and public school and other educational institution employees. 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 impact 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.

(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 (a)(2) 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 the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference.

Sec. 23.40.210. AGREEMENT. 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 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.

Sec. 23.40.215. FUNDING. The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation.

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.

Sec. 23.40.230. ASSISTANCE BY DEPARTMENT OF LABOR. When state employees are involved, the Department of Labor shall, if requested by the personnel board, and if there is no objection by the organization involved, assist the personnel board on matters such as, but not limited to, conducting elections and investigating unfair labor practices.

Sec. 23.40.240. EFFECT ON EXISTING 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 at the time this Act becomes effective.

Sec. 23.40.250. DEFINITIONS. In secs. 70 - 260 of this chapter, unless the context otherwise requires,

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or his 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 secs. 70 - 260 of this chapter;

(3) "labor relations agency" means the state personnel board with regard to the state and employees of the state, and means the Department of Labor with regard to all other public employees and all other public employers;

(4) "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;

(5) "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 teachers or noncertificated employees of school districts;

(6) "public employer" means the state or a political subdivision of the state, including without limitation, a town, city, borough, district, 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;

(7) "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.

Sec. 23.40.260. SHORT TITLE. Secs. 70 - 260 of this chapter may be cited as the Public Employment Relations Act.

\* Sec. 3. AS 09.43.010 is amended to read:

Sec. 09.43.010. ARBITRATION AGREEMENTS VALID; APPLICATION OF CHAPTER. A written agreement to submit an existing controversy to arbitration or a provision in a written contract to submit to arbitration a subsequent controversy between the parties is valid, enforceable and irrevocable, except upon grounds which exist at law or inequity for the revocation of a contract. However, this chapter does not apply to a labor-management contract unless it is incorporated into the contract by reference or its application provided for by statute.

\* Sec. 4. 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. 5. AS 23.40.010 is repealed.

BRIEFING PAPER  
SENATE BILL No. 129

Under this bill, the Department of Labor would act as the labor relations agency for 53 separate school districts involving approximately 4,400 non-certified employees. The Department would be responsible for investigating representation petitions, determining appropriate units for collective bargaining purposes, conducting elections, investigating unfair labor practices, conducting preliminary hearings and formal hearings under the Administrative Procedure Act, mediating labor disputes, strike action, resolving grievances, acting as a mediation and conciliation service subsequent to impasse during collective bargaining negotiations, and acting as an arbitration tribunal for the formal resolution of grievances pursuant to a collective bargaining agreement being entered into between school districts and labor organizations.

There are a number of employee groups and labor organizations that have indicated an interest in organizing this sizable group of public employees. Except for the four larger school districts in the state (Juneau, Anchorage, Kenai, and Fairbanks) which are loosely organized, virtually all other school districts are unorganized and unaffiliated. It would be necessary for the labor relations agency to determine community of interest groups, to hold representational elections, and to respond to unfair labor practice charges and related disputes.

Other states which have enacted PERA laws to cover this class of employees have advised the Department that during the first few years the laws were in effect, management or employee representatives of 50 percent of the covered school districts filed unfair labor practice charges which resulted in hearings before the labor relations agency. The hearings typically last from one to five days. Assuming that our experience would be comparable to that of other states, we would expect that approximately 26 of the school districts would generate unfair labor practice charges requiring hearings before the labor relations agency. Under PERA, such hearings are required to be heard by an attorney hearing officer using the Administrative Procedure Act guidelines.

In addition to unfair labor practice proceedings, we expect approximately 50 percent of the 53 school districts to be involved in employee organizing during the first year the new law is in effect. In each case, the Department would be responsible for determining the appropriate unit for collective bargaining, based upon such factors as community of interest, wages, hours, and other working conditions of the employees involved, and the history of collective bargaining and the desires of the employees.

Our experience with political subdivisions shows that the average representation/certification proceeding spans a period of two months. The proceeding begins with the filing of a petition by a labor organization with the agency which demonstrates a showing of a community of interest within the employee group to be represented.

The Department must then examine employer records to determine the accuracy of the information listed in the petition and whether or not a showing of a community of interest actually represents a minimum of 30 percent of the work force required for an election to be conducted. Once the community of interest has been verified, the petition is then posted for a period of 15 days to allow sufficient time for the employer or other interested persons to file objections to the conduct of an election or for intervention by other labor organizations. The 15-day posting period is also used to respond to inquiries generated by the petition and to prepare ballots, mailers, and other documents required by statute.

After the 15-day posting period, there is then a period of about two to three weeks when the agency will schedule hearings to resolve objections or challenges to the conduct of an election, to clarify the community of interest, and to make investigations into the right of an intervener to appear on the ballot. Once these issues have been resolved, the election can proceed. Two persons are required to conduct an election at the polling place to ensure that the persons voting are so entitled, that there is no tampering with the secret ballot process, and that electioneering is not conducted within the restricted limits of the polling place. After polling is completed, the ballots must be counted and notification given to all parties, who may challenge the conduct of the election, challenge any ballot, call for recount, or challenge the right to vote of any member of the community of interest. Once the election challenges have been resolved, a bargaining unit is then certified or representation is denied, based upon the vote of the majority. After certification, the agency acts as mediator if the parties reach an impasse during collective bargaining negotiations or acts as an arbitration tribunal to resolve formal grievances under the executed collective bargaining agreement.

Based on past experience, the Department anticipates that coverage of non-certified school employees will require substantial time and resources. Even though many of the employees covered by this legislation are in communities accessible by road, the majority of the school districts are located in the rural areas of Alaska and are accessible only by air travel, ferry, or charter aircraft. Typically, it would require two days of travel to conduct pre-election hearings, and two days of travel to conduct post-election hearings and certification. Moreover, if unfair labor practice charges are generated during the organizational activities or as a result of pre-election campaign interference, this would increase costs significantly. Hearings on unfair labor practice charges require an attorney hearing officer and are conducted under the formal rules of the Administrative Procedure Act. Such hearings are required whenever mediation or conciliation fails to resolve the unfair labor practice complaints or objections to the conduct of an election.

To illustrate the costs associated with representation/certification proceedings, the Department acting as a labor relations agency was recently involved in a lengthy and complex case involving 253 employees in the City of Fairbanks. This situation came about when the City of Fairbanks opted back into PERA in September of 1983. The size and composition of the unit would be equivalent to one medium-sized school district. The Department expended over 1,200 manhours to resolve the issues and certify the bargaining units. The personal services cost of these manhours which include clerical support,

investigators, hearing officers, and board member activities was \$34,000; travel and per diem was \$3,600; transcription cost was \$2,900; mailing, postage, and phone costs were \$300; the total cost of this activity was over \$41,000.

Other examples of the magnitude and complexity of labor relations activity related to school districts and PERA include the following:

- A. The State of Florida by legislative act recently transferred Labor Relations activity for school districts to their public employees relations board. The board's estimated cost for the initial hearings for each school district to clarify communities of interest, appropriateness of bargaining units, and intervention was approximately \$1,500 per day including transcription of the record but exclusive of travel and per diem costs. Hearings for small school districts usually required only one day. The larger districts, however, took several days. The Florida board estimates the cost of an onsite election for their school districts at \$5.00 per employee. Their largest district has 800 workers and cost \$4,000 for the election proceedings alone.
- B. The State of Oregon Public Employee Relations Board has an annual budget of \$1.25 million. They carry an annual case load of 300 matters including elections, unfair labor practices, petitions, and de-certifications. Sixty (60) cases deal with representation, which is about 1/5 of their case load. They allot \$250,000 each year to this type of activity. This figure is slightly larger than what the Department expects with 53 school districts in Alaska.

In summary, the Department believes that our first-year costs are comparable to those of other states. Moreover, in consideration of the higher cost of doing business in Alaska, particularly travel costs, we do not believe that the fiscal note associated with this legislation is extraordinary.

Without adequate funding, the Department would be unable to comply with the statutory mandate of this legislation and could well find itself explaining to a Superior Court judge why it is unable to hold hearings, conduct elections, and otherwise carry out its duties. The end result could be similar to the litigation that occurred a few years ago when the Workers' Compensation Division was unable to get the decisions out on time.



Alaska Public  
Employees Association **APEA**  
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

TO: Senator Fred Zharoff, Chairman  
Labor and Commerce Committee

FROM: Cherie Shelley *CS*  
Executive Director

SUBJECT: SB 129: Collective Bargaining/School Districts

DATE: March 11, 1985

Equal treatment of employees is the major concern addressed by SB 129. Long overdue, the measure grants collective bargaining rights to noncertificated employees of Alaska's public schools.

These employees are the only public employees excluded from collective bargaining. They include teachers' aides, secretaries and custodians. They are the lowest paid public employees in Alaska. They are the only employees in the educational system who absorb the economic backlash when school boards intimate the presence of financial problems.

SB 129 amends the Public Employment Relations Act to require that "no representation" be one of the ballot choices in all initial representation elections. This provision guarantees that each employee will have the opportunity to fully express his or her wishes on the question of representation.

The bill preserves all existing contracts, bargaining units and bargaining representatives. It establishes the ground rules under which collective bargaining can take place. School boards may not exclude their employees from the provisions of the Public Employment Relations Act.

APEA believes passage of SB 129 will promote better employer-employee relations by affording noncertificated employees the same collective bargaining rights that are provided to teachers and all other public employees.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST  
 Bill/Resolution No.: SB 129  
 Title: Labor Relations:  
School Boards/Employees  
 Sponsor: Senator Ray  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL  
 Agency Affected: Administration  
 Program Category Affected: \_\_\_\_\_  
Administrative Services  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Labor Relations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: William J. Gibbons, JR. *JKH*  
 Division: Labor Relations

Phone: 465-4404  
 Date: February 8, 1985

Approved by Commissioner: Mias Rudd  
 Agency: Administration

Date: 2/11/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

- Fiscal Notes (2) Admin. DOL -

12/1/83

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: SB 129  
 Title: "An Act relating to labor relations between school boards..."  
 Sponsor: Ray  
 Requestor: Senate Labor & Commerce  
 Date of Request: 2/15/85

FISCAL DETAIL

Agency Affected: Labor  
 Program Category Affected: Public Protection  
 BRU, Program or Subprogram(s) Affected: Labor Standards and Safety Wage and Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES	0	124.7	129.1	74.1	76.7	79.4
200 TRAVEL	0	27.9	29.6	19.5	20.1	21.3
300 CONTRACTUAL	0	89.1	94.5	85.1	90.2	95.6
400 SUPPLIES	0	2.0	2.1	1.4	1.5	1.6
500 EQUIPMENT	0	4.8	0	0	0	0
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>248.5</b>	<b>255.3</b>	<b>180.1</b>	<b>188.5</b>	<b>197.9</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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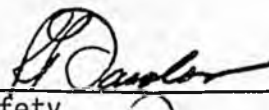
FUNDING: (Thousands of Dollars)

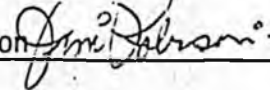
GENERAL FUND	0	248.5	255.3	180.1	188.5	197.9
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>248.5</b>	<b>255.3</b>	<b>180.1</b>	<b>188.5</b>	<b>197.9</b>

POSITIONS:

FULL-TIME	0	3	3	1	1	1
PART-TIME	0	0	0	1	1	1
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: <sup>MB</sup> Robert J. Bacolas, Sr.  Phone: 465-4870  
 Division: Labor Standards and Safety Date: 3/8/85

Approved by Commissioner: <sup>MB</sup> Jim Robison  Date: 3/8/85  
 Agency: Labor

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

Fiscal Note Analysis

Under this bill, the Department of Labor will act as the Labor Relations agency for all school districts and will be responsible for investigating representation petitions; determining appropriate units for collective bargaining purposes; investigating unfair labor practices; monitoring elections; and holding representation and unfair labor practices hearings.

Two investigators (located in Anchorage) are required to conduct the investigations, to monitor the elections, and to hold informal hearings. In addition, one clerical position is required to provide support to the investigators.

In addition to the costs associated with the two Wage and Hour Investigators and one clerical position, the fiscal note also includes costs to contract for a hearing officer on 26 occasions (\$24,000) and court reporting services including transcripts (\$12,700), plus printing (\$5,700) and legal costs (\$13,500). A total of \$6,800 has been included in travel for the hearing officer's transportation and per diem--ten trips of two days each (\$500 + \$180 x 10).

Line item costs for FY 86 are as follows:

Personal Services	\$124,700
Travel	27,900
Contractual Services	89,100
Commodities	2,000
Equipment	4,800
TOTAL	<u>\$248,500</u>

Of these costs, only the equipment costs of \$4,800 are one-time items.

For FY 87 through FY 90, an inflation rate of 3.5 percent has been used for personal services costs, and 6 percent for the other line items.

It is anticipated that the labor relations activity will stabilize after two years. Accordingly, beginning in FY 88, the costs reflect a three-month reduction in the clerk typist position and a deletion of one investigator position.

Other assumptions:

- 1) Effective date of July 1, 1985.
- 2) Contracts of 26 school districts will come up for renegotiations each year.
- 3) Fifty percent of the school districts (equates to approximately 26) will file unfair labor practice charges requiring hearing before the labor relations board.

1.	POSITION TITLE	STAFF MONTHS	RP NUMBER	PCN NUMBER	RANGE/STEP	BARC. UNIT	FORM 12	PAGE/LINE	GOV.	APPROV.	DISAPP.
1.	Clerk Typist III	12			8B	GGII					
2.	TYPE OF POSITION PFT				BRU PRIORITY	LOCATION	ELECTION DISTRICT				
3.	CONTINUATION LEVEL	ADDITION			JUSTIFICATION						
4.	TYPE OF EXPENDITURE			AMOUNT							
	1	2		3							
	PERSONAL SERVICES										
5.	Salary		20,136								
6.	Benefits		3,355								
7.	Supplemental Benefits		1,234								
8.	Fixed Benefits		2,732								
9.	TOTAL PERSONAL SERVICES	01		27,457							
0.	Travel	02		0							
1.	Contractual	03		13,016							
2.	Commodities	04		1,000							
3.	Equipment	05		1,600							
4.	Other										
5.	TOTAL COST			43,073							
	<p>This position will provide clerical support (typing, answering telephone, mail handling, etc.) for two wage and hour investigators.</p> <p>Contractual costs include rent of \$3,600, indirect of \$2,416, and equipment rental and other average expenses of \$7,000.</p> <p>Normal commodities of \$1,000 and a one-time equipment expense of \$1,600 are also included.</p>										
	RECEIPT CODE	FUNDING SOURCE									
6.		Federal Receipts 1002									
7.		G.F. Match 1003									
8.		General Funds 1004		43,073							
9.		I-A Receipts 1005									
10.		Program Receipts 1028									
11.		Other									

FOR B&H USE ONLY  
4A KEY NUMBER

AGENCY Department of Labor  
 PROGRAM Public Protection  
 BRU Labor Standards and Safety

FY 86

3 REQUEST FOR NEW POSITION

Page 1 of 3

1.	POSITION TITLE Wage and Hour Investigator II		FORM 12	PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRG. UNIT GGU	LOCATION Anch	ELECTION DISTRICT
3.	CONTINUATION LEVEL 1	ADDITION 2			BRU PRIORITY 18A		
4.	TYPE OF EXPENDITURE		AMOUNT				

5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.
PERSONAL SERVICES*										
Salary	37,356									
Benefits	6,224									
Supplemental Benefits	2,290									
Fixed Benefits	2,732									
TOTAL PERSONAL SERVICES	01			48,602						
Travel	02			10,550						
Contractual	03			10,083						
Commodities	04			500						
Equipment	05			1,600						
Other										
TOTAL COST				71,335						

16.	17.	18.	19.	20.	21.
RECEIPT CODE		FUNDING SOURCE			
		Federal Receipts	1002		
		G.F. Match	1003		
		General Funds	1004	71,335	
		I-A Receipts	1005		
		Program Receipts	1028		
		Other			

FOR B&M USE ONLY  
4A KEY NUMBER

This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The position will be responsible for monitoring school district representation elections and assisting school districts in complying with state and federal labor relation laws. The investigator will travel extensively throughout the state performing these investigations, hearings, and monitoring functions.

Travel funds allow for 12 (four-day) trips, costing an average of \$539 for transportation and \$340 for per diem.

Contractual services costs include rent of \$3,600, indirect of \$4,483, and other average costs of \$2,000.

Normal commodities of \$500 and a one-time equipment expense of \$1,600 are also included.

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor  
PROGRAM Worker Protection  
BRU Labor Standards and Safety

Page 2 of 3

FY 86

1.	POSITION TITLE Wage and Hour Investigator II	FORM 12	PAGE/LINE	GOV.	DISAPT.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	
3.	RANGE/STEP 18A	BRU PRIORITY	LOCATION	ELECTION DISTRICT	
4.	CONTRIBUTION LEVEL	ADDITION	AMOUNT		
5.	1	2	3		
6.	PERSONAL SERVICES				
7.	Salary	37,356			
8.	Benefits	6,224			
9.	Supplemental Benefits	2,290			
10.	Fixed Benefits	2,732			
11.	TOTAL PERSONAL SERVICES	48,602			
12.	Travel	10,550			
13.	Contractual	10,083			
14.	Commodities	500			
15.	Equipment	1,600			
16.	Other				
17.	TOTAL COST	71,335			
18.	RECEIPT CODE	FUNDING SOURCE			
19.		Federal Receipts 1002			
20.		G.F. Match 1003			
21.		General Funds 1004	71,335		
22.		I-A Receipts 1005			
23.		Program Receipts 1028			
24.		Other			

JUSTIFICATION

This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The position will be responsible for monitoring school district representation elections and assisting school districts in complying with state and federal labor relation laws. The investigator will travel extensively throughout the state performing these investigations, hearings, and monitoring functions.

Travel funds allow for 12 (four-day) trips, costing an average of \$539 for transportation and \$340 for per diem.

Contractual services costs include rent of \$3,600, indirect of \$4,483, and other average costs of \$2,000.

Normal commodities of \$500 and a one-time equipment expense of \$1,600 are also included.

FOR B&M USE ONLY  
4A KEY NUMBER

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

Page 3 of 3

FY 86

3 REQUEST FOR  
NEW POSITION

Position Paper  
Senate Bill 129

This bill would extend coverage of the Public Employment Relations Act (PERA - A.S. 23.40.070 et. seq.) to noncertificated school employees. Currently, where bargaining relationships exist, these employees bargain under local provisions. A clause protecting preexisting bargaining units, representation rights, or collective bargaining agreements is included. The bill would give noncertificated employees "class 3" status - that is, they would have the unlimited right to strike in the event of a bargaining impasse.

School boards, municipalities and REAA's would be expressly prohibited from rejecting the application of PERA to their noncertificated employees and substituting their own scheme of collective bargaining. A final provision, affecting all employees and employers, is the addition of a statutory requirement that "no representation" be a choice on ballots in initial representation elections.

We oppose this bill, for policy reasons. Our opposition is chiefly based upon our belief that bargaining rights for noncertificated school employees should be covered by Title 14, which currently provides for collective bargaining by certificated school employees.

The original PERA permitted political subdivisions of the State to "opt out" of coverage under PERA and substitute their own scheme of collective bargaining; if PERA is to be extended to noncertificated school employees, this local option should be preserved. Finally, the Labor Relations Agency regulations already provide for "no representation" to appear as a choice on all representation election ballots (2 AAC 10.165(b)) making it unnecessary to address this issue in statute.

Prepared by:

William J. Gibbons *WJG*  
William J. Gibbons, Director  
Division of Labor Relations

2-11-85  
Date

Approved By:

Lisa Rudd  
Commissioner Lisa Rudd  
Department of Administration

2/11/85  
Date

Bill No. Senate Bill No. 129

Date March 8, 1985

Title "An Act relating to labor relations between school boards and other public employers and their employees."

Contact: Eileen Plate - 465-2700  
Bob Bacolas - 465-4870

This legislation makes it mandatory for all school boards and municipalities to permit their noncertificated employees to enter into collective bargaining and mandates coverage by the Public Employment Relations Act (PERA).

Under this bill, the Department of Labor would become the labor relations agency for 53 separate school districts (including REAA's) involving approximately 4,400 noncertificated employees. The Department would be responsible for investigating representation petitions; determining appropriate units for the purpose of collective bargaining; conducting elections; investigating unfair labor practices; conducting preliminary hearings and formal hearings under the Administrative Procedures Act; mediating labor disputes; monitoring strike actions; resolving grievances; and mediating and arbitrating disputed issues subsequent to impasse during collective bargaining negotiations.

- Section 1: Amends AS 23.40.100(b) to make it mandatory that "no representation" be a choice on all election ballots for elections conducted by the labor relations agency under PERA.
- Section 2: Amends AS 23.40.200(c) to permit noncertificated employees of a school board to engage in a strike.
- Section 3: Adds a new section to AS 23.40 to prohibit a school board or municipality from rejecting having the provisions of the PERA apply to its relations with its noncertificated school employees.
- Section 4: Amends AS 23.40.250(6) to define public employees to include noncertificated employees of school boards and to exclude certificated employees.
- Section 5: Amends AS 23.40.250(7) to define a public employer to include school boards.
- Section 6: Amends AS 23.40.250 by adding a new paragraph to define a school board as including a regional education attendance area.
- Section 7: Provides for existing collective bargaining units, agreements, and recognized bargaining representatives to remain status quo.

There are 53 school boards within the State of Alaska (including REAA's). Therefore, the Department of Labor as the labor relations agency could be monitoring elections for the 53 separate school boards and holding hearings to settle grievances or unfair labor practice charges involving approximately 4,400 noncertificated employees.

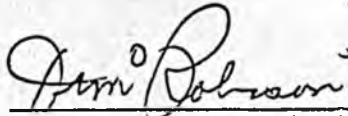
**POSITION PAPER/Department of Labor**

Four school districts are presently organized or have a collective bargaining agreement with a union or an association. These are Fairbanks, Kenai, Juneau, and Anchorage.

The Department supports the concept of extending collective bargaining to this group of public employees.

The Department's fiscal note is attached.

APPROVED:

  
\_\_\_\_\_  
Jim Robison, Commissioner  
Department of Labor