

SB

372

S.B. 372 resolution vote on bottom of
page 9 + top of page 10

MINUTES

RESCHEDULED MEETING

Fairbanks
CITY COUNCIL

March 28, 1988

A rescheduled meeting of the City Council was held at 7:00 p.m., on the above date, in the Council Chambers, 620 Fifth Avenue, Mayor Bill Walley presiding, and with the following Council Members in attendance:

Jerry Cleworth, Mary Hajdukovich, Janet Halvarson,
Jim Hayes, Jerry Norum, Lowell Purcell

Also Present: Brian C. Phillips, City Manager
Herb Kuss, City Attorney
Virgil Gillespie, Deputy City Manager - Utilities
Carma B. Roberson, City Clerk

INVOCATION

The invocation was given by W. R. Blackburn, First Shiloh Missionary Baptist Church.

PRESENTATION OF EMPLOYEE SERVICE AWARDS

The Mayor and City Manager presented a service award to the following employee:

Robert Helstrom, Utility Meter Reader, MUS/Billing Dept., 5 years

The following employee received a service award but was not present to accept the award in person:

Suzanne Drew, Account Specialist, MUS/Accounting Dept., 5 years

APPROVAL OF PREVIOUS MINUTES

- a) Regular Meeting, dated March 7, 1988, were presented.
- b) Reconvened Meeting, dated March 9, 1988, were presented.

Halvarson, seconded by Cleworth, moved to approve items a) and b). Without objection, the Mayor declared the motion CARRIED and ordered the minutes filed as presented.

SPECIAL ORDERS

None

MAYOR'S COMMENTS

The Mayor informed Council of recommendation of the following individual to serve on the Transportation Commission and requested Council's approval:

Dan Charles Mussatti Term to expire: August 31, 1989
P.O. Box 83110
Fairbanks, Alaska 99708

Purcell, seconded by Norum, moved to concur with the Mayor's recommendation. Without objection, the Mayor declared the motion CARRIED.

The Mayor briefed Council on the recent meeting of FDA regarding his suggestion of purchasing Savoy Bar Block, negotiation team with owners, and possible condemnation proceeding. The Mayor informed Council the FDA voted 4-3 to pursue the parking garage complex and explained public use and friendly condemnation proceedings.

The Mayor discussed briefly Ordinance No. 4755, saying Council will probably postpone action until regular meeting of April 18.

The Mayor discussed the coal contract. He said even though Utility Board almost unanimously supports contract, he feels ten years is too long. The Mayor discussed his veto power regarding a contract such as this, and uncertain if coal will be required 7-8 years from now, in regards to the gas line.

The Mayor said a Mayors' Group has been formed and briefly explained a "4 Point Program" being taken to Legislature regarding school funding, municipal assistance, shared revenue, etc. The Mayor and City Manager will be meeting with the Governor April 6 to discuss his position on these programs. A meeting will be scheduled, at a later date, with all railbelt mayors to meet with the Governor. The Mayor briefly commented on the Governor's ideas of potential local taxation.

The Mayor spoke in favor of Resolution No. 2954 regarding PERA, saying it is a matter of local option for municipalities. The Mayor discussed reasons for support saying binding arbitration has caused tremendous pressure on the budgetary process of City of Fairbanks.

The Mayor reported the Telephone Divestiture Committee conducted a meeting today and he was requested to inform Council of their decision. Due to none of the offers being of high enough value, the committee is recommending no action to be take at this time.

Hayes queried as to how much this report has cost the city, regarding committee, study, advertising, etc. Discussion of council and City Manager concluded it has been an 18-month venture and would be difficult to compute the exact amount, and would have to be an estimate.

UNFINISHED BUSINESS

a) Ordinance No. 4739 - An ordinance to submit to the qualified voters of the City of Fairbanks the question of a charter amendment to change the fiscal year of city government from a calendar fiscal year to a June - May fiscal year. (Postponed from 3/7/88), was presented and, without objection, read by title only. Cleworth, seconded by Hajdukovich, moved to adopt Ordinance No. 4739.

The Mayor noted this had been postponed for PUB's recommendation. Memorandum from PUB indicates unanimous decision to defeat the ordinance.

Cleworth asked for clarification as to whether an ordinance states MUS and City must have same fiscal year. After a brief discussion, Mr. Kuss, City Attorney, stated this was Charter Rule with the Mayor adding a charter amendment would have to be put to voters for change.

Cleworth said his concern for the presentation of this ordinance was for the city, not concerned about MUS ramifications. A lot of people over the years recommend change and he concurs. Cleworth added this is an issue to be resolved and should be put on ballot.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Cleworth, Hajdukovich
NAYS: Halvarson, Hayes, Norum, Purcell
The Mayor declared Ordinance No. 4739,
FAILED.

b) Ordinance No. 4752 - An ordinance to amend FGC Chapter 7, Traffic, Sec. 7.08.118, Authority to Impound Vehicles, by adding a new subsection providing for Post-Towing hearing. Second reading and public hearing, was presented and, without objection, read by title only. Hayes, seconded by Purcell, moved to adopt Ordinance No. 4752.

Council was resolved to a Committee of the Whole to hear public testimony and the Mayor inquired if anyone in the audience or council member desired to be heard. There being none, the Committee reverted back to Council.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Hajdukovich, Halvarson, Hayes,
Norum, Purcell, Cleworth
NAYS: None
The Mayor declared the motion CARRIED
and Ordinance No. 4752, ADOPTED, which
is as follows:

(Copy Ordinance No. 4752)

c) Ordinance No. 4753 - An ordinance to amend Ordinance No. 4718, the fourth amendment, to increase funding for the budget in the amount of \$10,000 for updating the 1986 comprehensive human needs assessments. Second reading and public hearing, was presented and, without objection, read by title only. Hayes, seconded by Purcell, moved to adopt Ordinance No. 4753.

Council was resolved to a Committee of the Whole to hear public testimony and the Mayor inquired if anyone in the audience or council member desired to be heard.

Elaine McKenzie, Chairperson of Health and Social Services Commission, addressed Council. Ms. McKenzie discussed the necessity of updating report emphasizing changes in local economy.

Cleworth voiced objections to 5% of administration costs to be used for update.

Hajdukovich complimented McKenzie for her efforts and expressed her support for the assessment plan and funding.

Hayes spoke in favor of the block grant for health and social services, and supports the ordinance.

There being no further testimony, the Committee reverted back to Council.

Norum commented on memorandum from City Manager with recommendation for approval and gave reasons for his support of the ordinance.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Halvarson, Hayes, Norum, Purcell
Hajdukovich
NAYS: Cleworth
The Mayor declared the motion CARRIED
and Ordinance No. 4753, ADOPTED, which
is as follows:

(Copy Ordinance No. 4753)

d) Ordinance No. 4754 - An ordinance to amend Ordinance No. 4718, the fifth amendment to increase funding for the Engineering Division in the amount of \$220,000. Second reading and public hearing, was presented and, without objection, read by title only. Halvarson, seconded by Norum, moved to adopt Ordinance No. 4754.

Council was resolved to a Committee of the Whole to hear public testimony and the Mayor inquired if anyone in the audience or council member desired to be heard. There being none, the Committee reverted back to Council.

Halvarson explained costs are covered by the MUS bond sale and grant funds, this is not an incurring cost to city general fund. Halvarson spoke in support of ordinance.

Norum commented in favor of ordinance and said funds are from non-local tax funding and suggested projects begin since funds are from the projects themselves.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Hayes, Norum, Purcell, Cleworth,
Hajdukovich, Halvarson
NAYS: None
The Mayor declared the motion CARRIED
and Ordinance No. 4754 ADOPTED, which
is as follows:

(Copy Ordinance No. 4754)

e) Ordinance No. 4755 - An ordinance to amend FGC Chapter 5, Taxation, Article IV, Hotel/Motel Tax, Sec. 5.402, purpose and limitation, and Sec. 5.402.A, reports. Second reading and public hearing, was presented and, without objection, read by title only. Purcell, seconded by Norum, moved to adopt Ordinance No. 4755.

Purcell, seconded by Norum, moved to postpone to regular meeting of April 18, 1988 and also set a work session for April 11, 1988 at 5:00 p.m.

The Mayor informed the public this postponement, without objection, was made at a prior work session. The Mayor asked if anyone in the audience desired to be heard and give testimony at this time.

The Mayor asked if there was objection to the motion and, hearing none, declared the motion CARRIED and the ordinance POSTPONED.

f) Ordinance No. 4756 - An ordinance to amend Ordinance No. 4718, the sixth amendment, to increase funding for the Building Department in the amount of \$109,296 and a decrease in the Police Department in the amount of \$6,000. Second reading and public hearing, was presented and without objection, read by title only. Hayes, seconded by Norum, moved to adopt Ordinance No. 4756.

Council was resolved to a Committee of the Whole to hear public testimony and the Mayor inquired if anyone in the audience or council member desired to be heard. There being none, the Committee reverted back to Council.

Cleworth, seconded by Hajdukovich, moved to amend ordinance to say: eliminate one (1) fire inspector and one (1) clerk in fire inspection office. Cleworth continued to explain his reasons.

The Mayor asked if there was objection to the motion. Norum objected.

A roll call vote was heard on the motion, as follows:

YEAS: Cleworth, Hajdukovich
NAYS: Norum, Purcell, Halvarson, Hayes
The Mayor declared the motion FAILED.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Purcell, Cleworth, Hajdukovich,
Halvarson, Hayes, Norum
NAYS: None
The Mayor declared the motion CARRIED
and Ordinance No. 4756, ADOPTED, which
is as follows:

(Copy Ordinance No. 4756)

Norum, seconded by Purcell, moved for immediate reconsideration.

A roll call vote was heard on the motion, as follows:

YEAS: None
NAYS: Cleworth, Hajdukovich, Halvarson,
Hayes, Norum, Purcell
The Mayor declared the motion FAILED.

CITIZEN'S COMMENTS

Frank Turney, P.O. Box 1015, Fairbanks, Alaska, informed council he was a prison advocate. Mr. Turney discussed "sting" operations involving felons carrying guns, releasing confidential information from City Attorney and City Police Departments, and computer work plan for prisoners.

Andy Warwick, 3200 Riverview Drive, addressed Council. Mr. Warwick commented on bill pending in legislature to authorize construction of gas line from Wasilla to Fairbanks. He also discussed Resolution No. 2950 and wondered if council has considered a shorter term, possibly 5 years. Mr. Warwick commented on benefits of

gas and voiced his opinion of a coal contract for 5 years in which time the gas line should be completed.

Marty Rose, 1600 Washington Drive, addressed Council. Mr. Rose agreed with Mayor and Mr. Warwick regarding Resolution No. 2950, saying 10 years is a long contract and gave reasons.

Mr. Rose spoke in favor of Resolution No. 2954 in that employees should not be obligated to PERA. Mr. Rose referred to an article in the Arizona Republic of February 22, 1988 and requested council read thoroughly and stated reasons.

Ann Smith, 1903 Capitol Avenue, addressed Council. Ms. Smith addressed Resolution No. 2954 and read a letter she received from Senator Fanning. The letter explained reason behind bill by clarifying intent of original 1972 law, by giving a municipality or political subdivision the choice to either opt in or out of PERA. Ms. Smith distributed copies of the bill and letter from Fanning to Council members. (Clerk's note: Copies were not given to City Clerk)

Ms. Smith also commented on Fairbanks North Star Borough's delinquent tax list published in the All Alaska Weekly.

Donna Gilbert, 2223 South Cushman, addressed Council. Ms. Gilbert spoke in favor of Resolution No. 2954 (PERA).

Ms. Gilbert said council needs to represent city as a whole, not one little group. In two elections, voters sent message to make some differences in city and give a little bit, so voters would want to work together but the city won't listen.

Rick Hundrup, Controller for Usibelli Coal Mine, Box 332, Healy, Alaska, urged Council to pass Resolution No. 2950. Mr. Hundrup discussed savings by city on a 10 year contract for coal rather than year-by-year. Mr. Hundrup commented savings to city of \$600,000 yearly could help fund other needs for city, i.e. from payback of bond issues to upgrade the existing plant. Mr. Hundrup further added contract removes an uncertainty from power plant and thus city operating budget, thereby adds stability at lower cost to rate base being passed to Fairbanks utility customers. Another reason it would add to moral and efficiency to MUS power plant employees knowing a commitment to burn coal for another ten years. Mr. Hundrup stated coal still controls 57% of market in power production in the United States.

Discussion as to comparative prices on last 10-year contract and proposed contract, and tonnage prices of coal shipped to Korea and to Fairbanks.

Mr. Hundrup concluded by saying Usibelli can be competitive with whatever alternative fuels available, but cannot compete with "phantom" projects and prices.

The Mayor informed Mr. Hundrup reason the Utilities Board signed short term contracts and involved with long negotiations was due to price being too high for the 10-year contract.

Amy Gossett, 5520 Old Steese North, addressed Council. Ms. Gossett commented briefly against Resolution No. 2954, saying she supports PERA. Ms. Gossett also mentioned she has property within city limits.

Don Allmond, Sr., 1103 Nenana Street, urged council to defeat Resolution No. 2954 and said PERA is stability to public employees. Mr. Allmond said he understands this is just a bill, but this is sending a message to employees that the city does not want to improve labor relations. He added PERA is "backbone" to collective bargaining.

Cleworth commented Resolution No. 2954 does not take collective bargaining away.

Joe Thomas, 17 Bridget Street, addressed Council. Mr. Thomas spoke against Resolution No. 2954 and agreed with Mr. Allmond's testimony. Mr. Thomas also mentioned the city can't depend on grants continuously, sooner or later a tax will have to be implemented, possibly a one-percent sales tax with no exemptions. Mr. Thomas agreed with approving contract with CJM Construction which will create more jobs in the area.

Richard Clauson, 5520 Old Steese, addressed Council. Mr. Clauson voiced opposition to Resolution No. 2954 (PERA).

Hugh Dugan, 359 Slater Street, told council he believed in binding arbitration. Mr. Dugan also commented in favor of Resolution No. 2950, regarding the coal contract.

Mr. Dugan questioned when Resolution regarding Illinois Street project will be before council, with the Mayor responding next regular meeting of April 4, 1988.

Charles Malin, Sr., 989 Cranberry Ridge Drive, addressed Council. Mr. Malin told council he owns property within city limits. He spoke against Resolution No. 2954. He said the National Labor Relations Act guarantees any workers in the United States the right to collective bargaining, if they so desire. He said bargaining is a two-way street and should be achieved to the best interest of both parties.

Mr. Malin said he had a question for ITA, since a couple of hundred people have been layed off, has anyone noticed any improvement in economy. Many foreclosures are listed, notice the people burdened now are the 12,000-13,000 property owners in Fairbanks.

Cleworth asked Mr. Malin if he was a union member and whether he worked for the city or borough. Mr. Malin said he was in the operator's union and did not work for either the city or borough.

At 8:40 p.m., without objection, the Mayor called a 5-minute recess.

The Mayor called the meeting back to order

NEW BUSINESS

a) Resolution No. 2948 - A resolution authorizing the City Manager to execute an agreement with the Department of Environmental Conservation for grant funds in the amount of \$142,431 for the Northeast Water and Sewer, Phase III (Derby Tract Subdivision Project), was presented and, without objection, read by title only. Halvarson, seconded by Norum, moved to adopt Resolution No. 2948.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Hajdukovich, Halvarson, Hayes,

Norum, Purcell, Cleworth
NAYS: None
The Mayor declared the motion CARRIED
and Resolution No. 2948 PASSED and
APPROVED, which is as follows:

(Copy Resolution No. 2948)

b) Resolution No. 2949 - A resolution amending the professional services contract with R.W. Beck and Associates, Inc. for record drawing preparation for the Downtown Utility/Street Upgrade Project - Phase I in an amount not to exceed \$30,065, was presented and, without objection, read by title only. Hajdukovich, seconded by Halvarson, moved to adopt Resolution No. 2949.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Halvarson, Hayes, Norum, Purcell,
Cleworth, Hajdukovich
NAYS: None
The Mayor declared the motion CARRIED
and Resolution No. 2949 PASSED and
APPROVED, which is as follows:

(Copy Resolution No. 2949)

c) Resolution No. 2950 - A resolution authorizing the Fairbanks Municipal Utilities System to enter into a ten (10) year coal contract with Usibelli Coal Mines, was presented and, without objection, read by title only. Hayes, seconded by Cleworth, moved to adopt Resolution No. 2950.

Cleworth said with all the opposition from public regarding a 10-year contract he would like Mr. Joe Usibelli, Jr. to come forward for questions from council.

Discussion between Council and Mr. Usibelli regarding negotiation possibilities in the event a better energy source becomes available during the 10-year coal contract and a price freeze included in contract for the first three years.

The Mayor asked if management was completely supportive of the contract, with Mr. Gillespie responding in the affirmative.

The time being 8:58 p.m., Halvarson
moved to extend the meeting until
finished. Without objection, the
Mayor so ORDERED.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Hayes, Norum, Purcell, Cleworth,
Hajdukovich, Halvarson
NAYS: None
The Mayor declared the motion CARRIED
and Resolution No. 2950 PASSED and
APPROVED, which is as follows:

(Copy Resolution No. 2950)

d) Resolution No. 2951 - A resolution urging the Governor and Alaska Legislature to reconsider the current plans for the Alaska State Telephone Network and for the State to attempt to cut Telecommunications Services costs in such a manner as to not force local telephone rates to rise, was presented and, without objection, read by title only. Purcell, seconded by Hayes, moved to adopt Resolution No. 2951.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Norum, Purcell, Cleworth,
Hajdukovich, Halvarson, Hayes

NAYS: None

The Mayor declared the motion CARRIED
and Resolution No. 2951 PASSED and
APPROVED, which is as follows:

(Copy Resolution No. 2951)

e) Resolution No. 2952 - A resolution authorizing the City Manager to enter into a grant agreement with the Alaska Department of Administration for funds for City Wide Street Improvements, Royal Court Street Improvements, Kantishna Way Water Main, Lift Station 44 Improvements, Shannon Park Post Indicator Valve, Techite Sewer Interceptor Repair and the Sewer Manhole Safety Project, for a total of \$1,742,000, was presented and, without objection, read by title only. Halvarson, seconded by Norum, moved to adopt Resolution No. 2952.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Purcell, Cleworth, Hajdukovich,
Halvarson, Hayes, Norum

NAYS: None

The Mayor declared the motion CARRIED
and Resolution No. 2952 PASSED and
APPROVED, which is as follows:

(Copy Resolution No. 2952)

f) Resolution No. 2953 - A resolution amending Resolution No. 2945, check signing authority for General and Enterprise accounts, for Special accounts of the City of Fairbanks, Alaska, was presented and, without objection, read by title only. Purcell, seconded by Halvarson, moved to adopt Resolution No. 2953. Without objection, the Mayor so ordered.

The Mayor declared Resolution
No. 2953 PASSED and APPROVED,
which is as follows:

(Copy Resolution No. 2953)

g) Resolution No. 2954 - A resolution endorsing Senate Bill #372 introduced by Senator Ken Fanning to allow Municipalities to opt out of PERA, was presented and, without objection, read by title only. Cleworth, seconded by Hajdukovich, moved to adopt Resolution No. 2954.

Cleworth disagreed with citizens making this resolution sound anti-union or anti-collective bargaining. Cleworth supported resolution and gave reasons.

Hajdukovich agreed with resolution and voiced her opinions.

The Mayor responded to a question from Halvarson stating according to State Statutes we would adopt a collective bargaining ordinance if City did opt out of PERA.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Cleworth, Hajdukovich
NAYS: Halvarson, Hayes, Norum,
Purcell
The Mayor declared Resolution
No. 2954 FAILED

h) Resolution No. 2955 - A resolution recommending the award of a construction contract to CJM Construction, Inc. and Associates Joint Venture, of Fairbanks, for the Water Treatment Plant Expansion Project, Phase B, in the amount of \$8,501,000, was presented and, without objection read by title only. Norum, seconded by Purcell, moved to adopt Resolution No. 2955.

At Norum's request, the City Manager explained process of events for awarding bid to CJM Construction.

Norum and Purcell voiced support for the resolution.

The City Manager interjected he would like to take this opportunity to introduce the new City Engineer, Ken Rydberg, to Council and Mayor. He also mentioned contacting Ken on questions or technical information regarding this bids process.

Hajdukovich said the public she has been in contact with are very pleased with the choice of Ken as City Engineer.

A roll call vote was heard on the motion to adopt, as follows:

YEAS: Hajdukovich, Halvarson, Hayes,
Norum, Purcell, Cleworth
NAYS: None
The Mayor declared the motion CARRIED
and Resolution No. 2955 PASSED and
APPROVED, which is as follows:

(Copy Resolution No. 2955)

i) Ordinance No. 4758 - An ordinance amending FGC Chapter 12, Utilities, repealing and reenacting Sec. 12.119.10, Telecommunications Utility Line Extension and special construction charges; and setting an effective date, was presented and, without objection, read by title only. Purcell, seconded by Hayes, moved that a public hearing be scheduled for the next regular meeting of 4/4/88, the ordinance be advanced from first to second reading to be read by title only and come up for passage at that time.

The Mayor asked if there was objection to

the motion and, hearing none, declared the motion CARRIED and the ordinance ADVANCED.

j) Ordinance No. 4759 - An ordinance to amend FGC Chapter 12, Utilities, by repealing, amending or enacting numerous portions of FGC 12.119; Telephone Utility General Regulations; and setting an effective date, was presented and, without objection, read by title only. Halvarson, seconded by Hayes, moved that a public hearing be scheduled for the next regular meeting of 4/4/88, the ordinance be advanced from first to second reading to be read by title only and come up for passage at that time.

The Mayor asked if there was objection to the motion and, hearing none, declared the motion CARRIED and the ordinance ADVANCED.

k) Ordinance No. 4760 - An ordinance to amend FGC Chapter 2, Article V, Personnel System, Sec. 2.509, pay ranges, to create the position of Budget Director for MUS; and setting an effective date, was presented and, without objection, read by title only. Purcell, seconded by Halvarson, moved that a public hearing be scheduled for the next regular meeting of 4/4/88, the ordinance be advanced from first to second reading to be read by title only and come up for passage at that time.

The Mayor asked if there was objection to the motion and, hearing none, declared the motion CARRIED and the ordinance ADVANCED.

WRITTEN COMMUNICATIONS TO COUNCIL

a) Memorandum from Purchasing Department, Re: FGC-Sec. 2.712 (E)(1) - Purchase Authority Limit; Purchase Order Summary for the month of December 1987, dated March 3, 1988, was presented.

b) Memorandum from Purchasing Department, Re: FGC-Sec. 2.712 (E)(1) - Purchase Authority Limit; Purchase Order Summary for the month of January 1988, dated March 3, 1988, was presented.

c) Memorandum from Purchasing Department, Re: FGC-Sec. 2.712 (E)(1) - Purchase Authority Limit; Purchase Order Summary for the month of February 1988, dated March 3, 1988, was presented.

Without objection, the Mayor ordered items a), b), and c) memorandums filed as presented.

d) Memorandum from Brian C. Phillips, City Manager, dated March 23, 1988, Re: Confidential correspondence proposed for compensation settlement, was presented.

The City Manager said direction is required from council as to approve or denial, specifics should be discussed in Executive Session.

Norum said since time is a factor, one of his questions is it still pertinent for council's comments, there was reference to a middle March date and wants to know if this can still be resolved. The City Manager said this is on hold pending a decision from council.

The Mayor said there will be a request for Executive Session during Council Member Comments. [NOTE: Item considered during Executive Session]

e) Resolution 2956 - A resolution prioritizing funding requests to the Alaska Legislature, was presented. Norum, seconded by Halvarson, moved to postpone Resolution No. 2956 to next regular meeting of April 4, 1988.

The Mayor asked if there was objection to the motion and, hearing none, declared Resolution No. 2956 POSTPONED.

f) Correspondence to Governor Cowper, Re: Funding Municipal Assistance FY 1989, was presented. Without objection, the Mayor ordered the correspondence filed as presented.

g) Letter from Pat Olds, Acting Executive Director, Fairbanks Development Authority (FDA), Re: "Blanchfield" parking lot, dated March 18, 1988, was presented.

The Mayor said he was present during the meeting, referenced in letter, when FDA voted on this. FDA's assumption is they can take parking lot by request. The Mayor was told earlier by City Manager that city cannot until a hotel is built there. The Mayor directed the question to the City Attorney, Mr. Kuss agreed FDA could take it back by request.

The City Manager said at time of negotiations there was representation the city could continue to use property as public parking lot until construction of hotel began. That was intent of negotiations of transfer of property.

Norum said the important part is that property be used for parking. The only difference would be possibly an improvement in overall appearance of area, but having the same operation. Norum suggested Council, FDA, Downtown Association, and people affected schedule a meeting addressing parking needs and parking meters.

City Manager said FDA Board moved to withdraw proposal made to city November 1987 regarding takeover of city parking pending act by city to develop parking plan.

The Mayor mentioned he is meeting with the City Manager regarding removal of meters in that area and will present this to Council, FDA, and Downtown Association.

Cleworth voiced objection to another Diamond control parking lot. Cleworth agreed with Norum to proceed with a decision regarding parking meters.

Discussions as to reviewing procedure Anchorage went through regarding the same situation, 2 or 4 hour free parking, and employee parking for downtown businesses.

Halvarson suggested a joint meeting be scheduled with Downtown Association Board, FDA, and Transportation Commission after information is gathered.

Norum requested a letter be transmitted to FDA stating Council's action.

Without objection, the Mayor ordered letter filed as presented and commented upon.

h) Public Utilities Board Meeting minutes, dated February 9, 1988, was presented. Without objection, the Mayor ordered the minutes filed as presented.

i) Senior Citizens Advisory Board Meeting minutes, dated March 16, 1988, was presented. Without objection, the Mayor ordered the minutes filed as presented.

COUNCIL MEMBER'S COMMENTS

Purcell said he would have a report for Council at next regular meeting of April 4, 1988 regarding his trip to Washington D.C. Purcell attended an Economic Development Conference but informed council information was not what he had expected for our area.

Norum commended City Manager and Department Heads for brief summaries submitted to council. Norum urged returning to planning sessions, time to engage city in process of involving voters regarding city and next budget session.

Norum briefly commented on report regarding burglary, robbery activity and arrests from Chief Cummings. Norum noted specific actions regarding this information might be considered and taken at planning sessions.

Hajdukovich commented she was pleased to see Far North Sanitation and City Sanitarian reach an amicable settlement.

Hajdukovich said she received police report of activity of the downtown core area.

Hajdukovich supports idea of removal of parking meters.

Hayes reported he enjoyed his trip to Washington D.C. and has given a report to each Council Member, the Mayor, and the City Manager. He briefly explained some of the seminars he attended. Hayes thanked Purcell for assistance in Washington D.C.

Hayes also thanked City Manager for information he requested regarding "take home" policy of city vehicles. He said he noticed several city vehicles at various places and times and was unsure of limitation in policy. Hayes asked the City Manager about authorization of city vehicles in regards to taking home the vehicle, with the City Manager responding the requests from 1983 are still in effect.

Hayes mentioned receiving calls on garbage collection for vacant rental property being charged for garbage pickup.

Cleworth asked City Manager about a meeting with MUS for employees to speak of problems, suggestions, cost savings ideas, etc. directly to upper management. The City Manager mentioned there was a meeting Friday, March 25, 1988, and will continue on a monthly basis. After a brief discussion the City Manager will announce to council members the dates of upcoming MUS meetings.

The City Manager said there is a meeting with Public Works Department scheduled March 31, 1988 regarding equipment configuration and refuse collection.

Halvarson, seconded by Purcell, moved to enter into Executive Session for discussion of settlement recommendations, the immediate knowledge of which will clearly have an adverse effect upon the finances of the city.

Discussion revealed Executive Session would commence when the agenda is finished, without objection, the Mayor so ORDERED.

Halvarson mentioned Project "Main Street" Steering Committee continues to meet and are looking into a statewide organization which would help Fairbanks financially. Lobbying efforts with the Interior Delegation have been started.

Halvarson commended everyone in the community for excellent participation during Arctic Winter Games and Ice Festival. A spectacular show was exhibited.

CITY ATTORNEY'S REPORT

None

CITY CLERK'S REPORT

a) Memorandum from Carma Roberson, City Clerk, Re: Report on vacancies and expired terms on Boards and Commissions, dated March 22, 1988, was presented. Without objection, the Mayor ordered the memorandum filed as presented.

DEPUTY CITY MANAGER - UTILITIES REPORT

a) Memorandum from Virgil Gillespie, Deputy City Manager - Utilities, Re: Miscellaneous Report, dated March 15, 1988, was presented. Without objection, the Mayor ordered the memorandum filed as presented.

CITY MANAGER'S REPORT

a) Memorandum from Brian C. Phillips, City Manager, Re: Applications for Games of Chance, dated March 21, 1988,

American Federation of Government Employees, Local 1834, P.O. Box 3526,
Ft. Wainwright, AK 99703

Fairbanks Racing Lions, P.O. Box 75333, Fairbanks, AK 99707

State Aerie, Fraternal Order of Eagles, Creek St., Ketchikan, AK
99901

World Eskimo-Indian Olympics, Inc., P.O. Box 2433, Fairbanks, AK
99707-2433

Halvarson, seconded by Purcell, moved to approve the applications. Without objection, the Mayor declared the motion CARRIED.

At 9:45 p.m., without objection, the Mayor called for a 5-minute recess and declared Council would go into Executive Session, upon its return. No objections were voiced.

The Council Chambers were vacated of all but Mayor, Council Members, City Manager, City Attorney, and City Clerk upon calling Session to order.

Council member Hayes left the meeting at 9:50 p.m.

At 10:30 p.m., Council reverted back to regular session and Halvarson reported Council discussed matters of settlement recommendations which clearly had an adverse effect on City finances and no action was taken.

Halvarson, seconded by Purcell, moved to approve the C & R Settlement as recommended by City Administration under Item (d), Written Communications to Council. Mayor asked if there were objections and, hearing none, declared the motion CARRIED.

There being no further business to come before Council, the meeting adjourned at 10:32 p.m.

Attest:

CARMA B. ROBERSON, City Clerk

BILL WALLEY, Mayor

Minutes prepared by: Jeanne Marks

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: DONALD R. ALLMOND, SR.
TITLE:
ADDRESS: 1103 NENANA STREET
CITY: FAIRBANKS ZIP: 99709
PHONE: 479-4913
BILL NO: SB 372

SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: THIS IS TO ADVISE YOU THAT THE FAIRBANKS CITY COUNCIL DOES NOT ENDORSE SEN FANNING'S SB372 WHICH WOULD GIVE MUNICIPALITIES ANOTHER CHANCE TO OPT OUT OF PERA COVERAGE FOR IT'S EMPLOYEES. CONTRARY TO MAYOR WALLEY'S PERSONAL OPINION ON SB372, THE COUNCIL ON 3/28 VOTED DOWN (4-2) CITY RESOLUTION 2954 WHICH WOULD HAVE ENDORSED SB372. THE CITY DOES NOT SUPPORT THIS BILL WHICH IS A CLEAR ATTACK ON COLLECTIVE BARGAINING AND PUBLIC EMPLOYEE RIGHTS. I URGE YOU TO VOTE NO.

POMID: 07160409
DATE: 03/31/88
TIME: 16:04:09
LIONAME: FAIRBANKS LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

ADAMS	BARNES	ABOOD
BOUCHER	BOYER	BINKLEY
BROWN	CATO	COGHILL
COLLINS	COTTEN	DUNCAN
DAVIDSON	DAVIS	ELIASON
DONLEY	ELLIS	FAHRENKAMP
FRANK	FURNACE	FAIKS
GOLL	GRUENBERG	FANNING
GRUSSENDORF	HANLEY	FISCHER
HERRMANN	HOFFMAN	HALFORD
HUDSON	KOPONEN	HENSLEY
LARSON	MARTIN	JONES
MENARD	MILLER	JOSEPHSON
NAVARRE	PEARCE	KELLY
PETTYJOHN	PHILLIPS	KERTTULA
POURCHOT	RIEGER	RODEY
SHULTZ	SPRINGER	SZYMAWSKI
SUND	SWACKHAMMER	UEHLING
TAYLOR	ULMER	ZHAROFF
WALLIS	ZAWACKI	

PUBLIC OPINION MESSAGE

D. : SENATOR STURGULEWSKI

NAME: DAVID ROCKNEY
TITLE:
ADDRESS: PO BOX 10164
CITY: FAIRBANKS ZIP: 99710
PHONE: 457-8029
BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: I WOULD LIKE TO URGE ALL COMMITTEE MEMBERS TO NOT PASS SB 372.
EOM/MJO

POMID: 07151323
DATE: 04/15/88
TIME: 15:13:23
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD
KELLY
SZYMANSKI
ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: GARY WOODY

TITLE:

ADDRESS: P.O. BOX 55189

CITY: NORTH POLE

ZIP: 99705

PHONE: 488-0296

BILL NO: SB 372

SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES

MESSAGE: I MOST STRONGLY OPPOSE SB 372. IT STRIKES AT THE HEART OF EMPLOYEE
RIGHT TO BARGAIN. FURTHER, IT GOES AGAINST ALL. THE STATE OF ALASKA HAS SPENT
MONEY TO TEACH ME ABOUT MANAGEMENT IN THE FIRE SERVICE.

EOM-FZ

POMID: 07163707

DATE: 04/15/88

TIME: 16:37:07

LIONAME: FAIRBANKS LIO

COPIES: SENATORS

FAHRENKAMP

FANNING

COGHILL

HALFORD

KELLY

SZYMANSKI

ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: LEE DESPAIN
TITLE:
ADDRESS: P.O.BOX 73246
CITY: FAIRBANKS ZIP: 99707
PHONE: 479-4062
BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: I URGE YOU TO DEFEAT SB372. IT WILL ELIMINATE MEANINGFUL COLLECTIVE BARGAINING FOR PUBLIC EMPLOYEES.

POMID: 07090730
DATE: 04/18/88
TIME: 09:07:30
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD
KELLY
SZYMANSKI
ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: JIM RICE
TITLE:
ADDRESS: PO BOX 1622
CITY: FAIRBANKS ZIP: 99707
PHONE: 477-3018
BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: I URGE YOU TO VOTE AGAINST SB 372. I URGE YOU TO CONSIDER THE
BARGAINING RIGHTS OF PUBLIC EMPLOYEES. THANK YOU. EOM/MJO

POMID: 07102128
DATE: 04/18/88
TIME: 10:21:28
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD
KELLY
SZYMANSKI
ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: ALDEN A WOODY
TITLE:
ADDRESS: PO BOX 55189
CITY: NORTH POLE ZIP: 99705
PHONE: 488-0296
BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: I WANT TO VOICE MY OPINION AGAINST THIS BILL. THANK YOU.
EOM/MJO

POMID: 07143256
DATE: 04/20/88
TIME: 14:32:56
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD
KELLY
SZYMANSKI
ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: DON CALLAHAN

TITLE:

ADDRESS: 475 HALVORSON

CITY: FAIRBANKS

ZIP: 99709

PHONE: 479-2678

BILL NO: SB 372

SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES

MESSAGE: I AM AGAINST PASSAGE OF SB 372. IT WILL ELIMINATE BINDING
ARBITRATION. JUST A THOUGHT. IF THE NATIONS OF THE WORLD HAD BINDING
ARBITRATION MAY BE THERE WOULD BE MORE SETTLEMENTS OF THE DISCORD IN
THE WORLD. EOM/MJO/C

POMID: 07143022

DATE: 04/20/88

TIME: 14:30:22

LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD

KELLY

SZYMANSKI

ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: SALLY HEFLINGER

TITLE:

ADDRESS: 1228 9TH AVE.

CITY: FAIRBANKS

ZIP: 99701

PHONE: 452-3231

BILL NO: SB 372

SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES

MESSAGE: I WOULD LIKE THIS READ INTO THE RECORD IF POSSIBLE. I WOULD LIKE TO EXPRESS MY STRONG OPPOSITION TO SB372, AND URGE YOU TO PREVENT IT'S PASSAGE.
EOM-FZ

POMID: 07141310

DATE: 04/22/88

TIME: 14:13:10

LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD
KELLY
SZYMANSKI
ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: KAYLE SCHOENBORN

TITLE:

ADDRESS: 440 SHANNON DRIVE

CITY: FAIRBANKS

ZIP: 99701

PHONE: 452-8683

BILL NO:

SUBJECT: SB 372

MESSAGE: I WISH TO EXPRESS VIOLENT OPPOSITION TO THIS BILL AND URGE YOU TO
STOP ITS PASSAGE. AND I WANT THAT IN THE RECORD PLEASE. EOM/MJO

POMID: 07091336

DATE: 04/22/88

TIME: 09:13:36

LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD

KELLY

SZYMANSKI

ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: WALTER HOOVER
TITLE:
ADDRESS: 1613 KENNEDY ST.
CITY: FAIRBANKS ZIP: 99709
PHONE: 474-9551
BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: AS A PUBLIC EMPLOYEE, I BELIEVE SB 372 IS EXTREMELY PREJUDICIAL
TOWARD ME. I WOULD THEREFORE ASK YOU NOT TO PASS THIS BILL. THANK YOU.
EOM-FZ-C

POMID: 07164732
DATE: 04/20/88
TIME: 16:47:32
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD
NELLY
SZYMANSKI
ZHAROFF

PUBLIC OPINION MESSAGE

DIAR: SENATOR STURGULEWSKI

NAM : ERIC MOHRMANN

TITLE:

ADDRESS: P.O.BOX 83688

CIT: FAIRBANKS

ZIP: 99708

PHONE: 479-5294

BILL NO: SB 372

SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES

MESSAGE: I URGE YOU TO KILL SB372 IN YOUR COMMITTEE. CLASS ONE EMPLOYEES ARE PROHIBITED FROM UTILIZING THE RIGHTS OTHER WORKERS ENJOY FOR THE REASON OF PUBLIC SAFETY. WITHOUT BINDING ARBITRATION WE WILL BE PLACED IN VIRTUAL BONDAGE AS DISPLAYED IN PAST INCIDENTS. PLEASE DO NOT PASS THIS BILL FROM YOUR COMMITTEE.

POMID: 07091741

DATE: 04/21/88

TIME: 09:17:41

LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD
KELLY
SZYMANSKI
ZHAROFF

Interior Public Employees Coalition

452-2023

2118 Cushman
Fairbanks, Alaska 99701

April 17, 1988

The Honorable Senator
Arliss Sturgulewski,
Chairwoman
Community & Regional Affairs Committee
Pouch V
Juneau, AK 99811

Dear Senator *Arliss* Sturgulewski:

The Interior Public Employees Coalition opposes Senate Bill 372 and disputes the rationale for such Legislation.

Our organization does support fair and equitable collective bargaining as provided under current statute and declared in AS 23.40.070.

SB 372 has been offered, with no small amount of inaccurate justification, as a form of relief for the City of Fairbanks. A notion the City itself rejects; having, on two occasions since the introduction of SB 372, refused to endorse it or its concept. Furthermore, Fairbanks North Star Borough Mayor Juanita Helms has stated her opposition to this Legislation.

If your committee does hear this bill, it is my intent to testify and I would appreciate early notification.

Sincerely,

Barry
Barry L. Haight
Chairman

WILLIAM K. HAO, Jr.
PO Box 82310
Fairbanks, AK 99708

April 21, 1988

Senator Arliss Sturgulewski, Chairman
Community & Regional Affairs
The Senate of Alaska
PO Box V
Juneau, AK 99811

RE: SB 372

Dear Senator Sturgulewski:

I am against SB 372 and would like this bill held in committee. Additionally, I ask this letter be read into the record of your committee.

The sponsor of SB 372, Sen. Fanning, claims his bill is to clarify the intent of PERA (Public Employment Relations Act). I contend this bill is a veiled attempt by Sen. Fanning to thwart the public employees' right to collective bargaining.

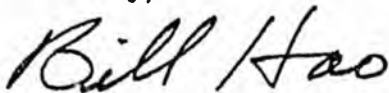
There is no evidence that PERA's intent is unclear to anyone except Sen. Fanning. In fact, for now, neither the City of Fairbanks nor the Fairbanks North Star Borough support SB 372. Both participate in PERA and both are in his election district.

Sen. Fanning's claim that binding arbitration is costly to local governments is based on only one ruling involving the City of Fairbanks and its police association. Hardly overwhelming evidence to compel, or justify, the enactment of this bill.

I see SB 372 as the product of an one session politician playing to the dictates of one person, Dick Randolph. The same person who will be running for Sen. Fanning's seat in the senate this year, and whose campaign treasurer happens to be Ken Fanning.

I ask therefore that SB 372 be held in committee.

Sincerely,



William K. Hao, Jr.
City of Fairbanks Employee

FAIRBANKS CENTRAL LABOR COUNCIL

A. F. of L. - C. I. O.

819 FIRST AVENUE
FAIRBANKS, ALASKA 99701



Honorable Arliss Sturgulewski
Alaska State Legislature
P.O. Box V (MS3100)
Juneau, Alaska 99811

April 12, 1988

RE: Senate Bill 372 and House Bill 164

Dear Senator Sturgulewski:

I ask for your support in defeating Senate Bill 372. This bill introduced by Senator Fanning serves no legitimate purpose. It only denies working people the ability to bargain collectively on equal footing with their employers.

There is very little support in Fairbanks at any level for this legislation. An ordinance was introduced twice in the City Council this year to support Senate Bill 372, it failed once for the lack of a second and the other time it was seconded for discussion purposes and failed 4 against and 2 for. This is the type of legislation that creates problems and should be shelved as it does not deserve consideration and time which could be devoted to productive legislation.

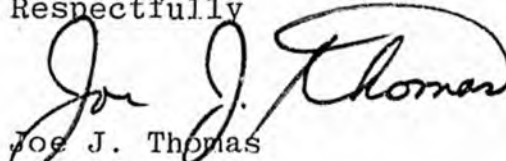
Productive legislation such as the re-evaluation of the Economic Limit Factor (ELF) and a realistic approach to what was intended by a "marginal oil field". No one has to tell you how ridiculous the situation is regarding ELF. Prudhoe Bay being considered a marginal field, although at the rate we are allowing extraction it may be by 1994, is similar to considering tourism in Alaska a waning industry.

Senate Bill 372 and House Bill 164
April 12, 1988
Page Two

In closing I urge you to put Senate Bill 372 on the shelf in your committee where it belongs and pursue a fair airing and debate of House Bill 164 which would allow a reasonable approach to the question of the ELF at Prudhoe Bay.

Thank you very much for your consideration in these two extremely important matters.

Respectfully

A handwritten signature in cursive script that reads "Joe J. Thomas". The signature is written in black ink and is positioned above the typed name.

Joe J. Thomas
President

Fairbanks Central Labor Council

JJT/jw

cc: file



EDUCATION SUPPORT STAFF ASSOCIATION
2118 Cushman Street
Fairbanks, Alaska 99701
(907) 452-2023

April 12, 1988

Senator Arliss Sturgulewski, Chair
Community and Regional Affairs
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

Dear Senator Sturgulewski:

I have been informed that SB 372 has been moved into your committee. I wish to express strong opposition to this bill and have enclosed written testimony stating our position.

I sincerely hope you'll find our views and testimony meritorious of consideration.

Sincerely,

H. Frank Belts
Business Manager

enclosure

cc: Interior Public Employees Coalition
Interior Delegation

HFB/nr



EDUCATION SUPPORT STAFF ASSOCIATION
2118 Cushman Street
Fairbanks, Alaska 99701
(907) 452-2023

TESTIMONY

S.B. 372

SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

I am writing in opposition to SB 372.

This bill, as I read it, would cause utter chaos in labor/management relations and could virtually eliminate all collective bargaining in our political subdivisions. Why? Because if a political subdivision chose to opt out of PERA (under the provisions of this bill) there is not a procedure for continuing a collective bargaining relationship once existing agreements have expired. Once existing agreements have expired, the collective bargaining process and other labor/management relations cease to exist, at least in any form that provides some semblance of equality. This bill in effect disenfranchises thousand of public employees from the decision-making and problem-solving processes now provided by law.

Senator Fanning told us here in Fairbanks on Saturday, February 13, that none of the above would occur if SB 372 is enacted into law.

The driving forces for the recent attacks on PERA are based on misinformation and misconceptions.

(continued)

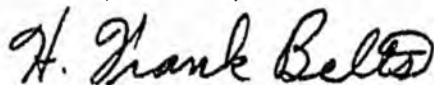
For the past two years we here in Fairbanks have been privy to hearing the attacks on PERA. More Specifically, the criticism seems to be aimed at the binding arbitration provisions for Class I employees. Arbitrators are being blamed for their lack of sensitivity to local issues as they relate to wages and fringe benefits. Arbitrators are accused of not taking under consideration the employers' ability to pay, the status of the local economy, and comparable wages locally and across the state.

These criticisms are a profound distortion of the facts. I have been in this business for 18 years and my experience leads me to state that the very first consideration an American Arbitration Association arbitrator gives to any salary issue dispute is the EMPLOYER'S ABILITY TO PAY and numerous related issues, i.e. comparable salaries, the local economy, etc.

The testimony I am giving can be verified if you will only read a AAA arbitrators' decision in any wage dispute.

You must remember that the issues before an arbitrator have been seriously discussed and negotiated prior to the arbitrator even receiving the issue for determination. In addition, it is also important to remember that not many collective bargaining issues go through the arbitration process because both parties would, in most cases, desire an at the table agreement.

Thank you for your time and interest.



H. Frank Belts
Business Manager

Alaska State Legislature

State Affairs

SENATOR KEN FANNING
P.O. BOX 80929
COLLEGE, ALASKA 99708



P.O. BOX V—STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3880

Senate

RECEIVED
FEB 5 1988

MEMORANDUM

TO: Senator Mitch Abood
FROM: Senator Ken Fanning *KF*
DATE: February 5, 1988
SUBJ: Public Employment Relations Act (PERA) and SB 372

C
W

In response to several queries I have had from legislators regarding SB 372 and the effect it will have on Alaskan communities, I would like to provide you with a synopsis of the bill and some backup materials. Briefly, what SB 372 will do is allow any municipality or political subdivision to either opt in or out of PERA, the Public Employment Relations Act. Currently all but seven communities in Alaska have opted out of PERA. This bill would provide the opportunity for the remaining seven communities to opt out of PERA if they so desire. Likewise, if a community had opted out of PERA some time ago, this would allow that community to opt back in.

The bill in no way prohibits collective bargaining. In fact, the communities we have contacted (who have opted out of PERA) have adopted their own local ordinances which include collective bargaining, and in some cases, binding arbitration. Based on our research, this bill does not introduce a new concept, it merely reinforces the intent of the original Act, that of providing a framework for the bargaining process between public employers and employees, while at the same time, giving local governments control of their own affairs.

If you have any questions regarding SB 372, please feel free to call and speak with me or Gail Thibodeau of my staff (3880).

Bill No. Senate Bill 372

Date February 2, 1988

Title "An Act relating to the applicability of the Public Employment Relations Act to municipalities and political subdivisions."

Contact: Eileen Plate
465-2700

This legislation repeals Section 4, Chapter 113, SLA 1972, which permits municipalities and political subdivisions to elect not to be covered by the Public Employment Relations Act; and replaces it with language that permits municipalities and political subdivisions to opt in, or out, of PERA coverage at will, subject to a lapse of three years between each action.

Under this bill, political subdivisions who are currently under PERA coverage would have the opportunity to opt out by adopting an ordinance or resolution to that effect. Similarly, as is provided under current law, political subdivisions who opted out in 1972 could rescind that exemption and come under PERA coverage. The only restriction placed on exercising one option or the other is that three years must have elapsed since the time an option was last exercised.

This has no practical effect on those political subdivisions who elected to opt out when PERA was passed in 1972. They may presently rescind that action by ordinance or resolution and come within coverage of PERA, as the City of Fairbanks did in 1983. However, this bill would allow those political subdivisions currently under PERA to exempt themselves from coverage, an option that does not currently exist.

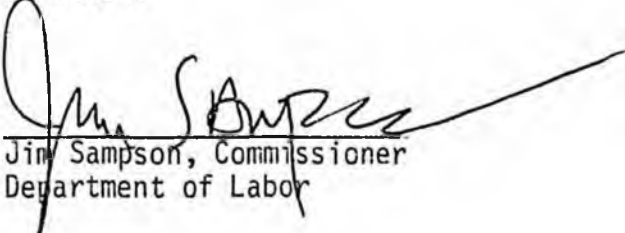
The municipality or political subdivision could, at its discretion, therefore rescind rights previously extended to employees without any participation by the workers in that decision. This clearly goes against the intent of the act which is to promote harmonious employer/employee relationships. The provisions of this bill are, therefore, contrary to the principals upon which collective bargaining laws are premised.

There are presently six communities that are covered by PERA - City of Fairbanks, Fairbanks North Star Borough, City of Petersburg, Ketchikan Gateway Borough, City of Unalaska, and City of Nome. These communities could, under this bill, exempt themselves and discontinue the collective bargaining relationship at the expiration of existing contracts.

This bill is not in the interest of good management and labor relations; and the Department is opposed to it.

There is no fiscal impact on the Department.

APPROVED:



Jim Sampson, Commissioner
Department of Labor

POSITION PAPER/Department of Labor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to Public
Employment Relations Act.."
Sponsor: Fanning
Requestor: State Affairs

Agency Affected: Labor
BRU: Labor Standards and Safety
Components: Wage and Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director *Stuart* Phone: 264-2452
Division: Labor Standards and Safety Date: 2/2/88

Approved by Commissioner: Jim Sandson *Jim Sandson* Date: 2/2/88
Agency: Labor

Distribution (by preparer) :

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

SPONSOR STATEMENT
for Senate Bill 372

The purpose of this bill is to clarify the conditions under which a municipality or political subdivision may opt in or out of PERA, the Public Employment Relations Act. Section 4 of Chapter 113, SLA 1972 indicates that PERA applies to all boroughs and political subdivisions of the state, "unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply." It seems clear that the legislature intended to give full control to the local governments, allowing them to decide whether or not they wished to come under the provisions of PERA, however the courts have not interpreted that provision of the law the way the legislature intended.

This bill merely clarifies the intent of the original 1972 law by giving a municipality or political subdivision the choice to either opt in or out of PERA. The Mat-Su Borough, Anchorage, Juneau, and Kenai have opted out of PERA; In fact, only seven communities in Alaska are currently covered by PERA. Passage of this bill would provide the opportunity for all local governments in Alaska to be on an equal footing - allowing them to retain local control of their bargaining process. This bill does not preclude collective bargaining, but rather allows the local governments, not the State of Alaska, to set the parameters.

In 1983 when Fairbanks chose to opt back into PERA, Alaska's economy was in good shape. The state's budget was \$600 million more for FY83 than it was for FY88. That, of course, also affected the revenues available to Fairbanks. Now the economic picture has changed, and communities across the state are tightening their belts. Binding arbitration, a measure mandated by PERA, can be extremely costly to local governments. In Fairbanks those employees who, under PERA, were mandated to go to binding arbitration, took substantively smaller pay and benefit reductions than those taken by other municipal employees. Since the city cannot, under PERA, achieve equitable and necessary pay cuts, they must resort to layoffs. Last year the City laid off 105 employees; an additional 42 layoffs are expected this year. We only have 300 employees - 1/2 the work force has been cut. It's bleak. This bill would give local governments the flexibility needed to ensure that all city and municipal employees would receive fair treatment.

While the legislation should be noncontroversial - in that it only clarifies current law, and while there are only seven communities in our state covered by PERA - those who want more and more pay, at the expense of their fellow employees who are being laid off, will undoubtedly protest loudly. This bill is supported by the Alaska Municipal League, which is composed of 135 municipal members.

SYNOPSIS OF SB 372

Section 1 (a) allows a municipality or a political subdivision to exempt itself from the provisions of PERA (the Public Employment Relations Act) by adopting an ordinance or resolution. If the municipality or political subdivision are not currently covered by PERA, this allows them to adopt the provisions of PERA through an ordinance or resolution.

Section 1 (b) mandates that a municipality or political subdivision who either adopt PERA or opt out of PERA, as provided for in Section 1(a), may not change their status for at least three years following that action.

Section 2 repeals a non-codified section of the original Public Employment Relations Act (PERA) that defines which political subdivisions are to be covered by the Act. SB 372 more clearly spells out this provision of PERA, so the old language is no longer needed.



P.O. Box 23, Craig, Alaska 99921

(907) 826-3275 ✓ ↗

FEB 22 1988

February 16, 1988

Senator Ken Fanning
Box V
Juneau, Ak 99811

Dear Senator Fanning:

This is to support your efforts in passing SB 372, a bill to allow a municipality or political subdivision of the state to either opt in or out of PERA.

The City of Craig supports the efforts to clarify the issues as proposed by the bill, and supports the concept of "local control" and "local options" wherein the people most affected by the actions are the ones who make the choices.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Palmer", written over a horizontal line.

David Palmer
Executive Assistant to the Mayor



Matanuska-Susitna Borough

BOX B. PALMER, ALASKA 99645 • PHONE 745-4801

BOROUGH ASSEMBLY

February 24, 1988

Senator Ken Fanning
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Senator Fanning:

We did participate in the teleconference on SB372, February 17, and enforced our view of local control. Lee Hall our personnel officer testified at that time. We currently are not under PERA and enjoy a very good relationship with our employees local union, but believe strongly for municipalities to have the options available to them.

Thank you for bringing this to our attention so that we may participate.

Sincerely,

A handwritten signature in cursive script that reads "Dorothy A. Jones".

Dorothy Jones
Mayor

Senator John B. (Jack) Coghill
Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

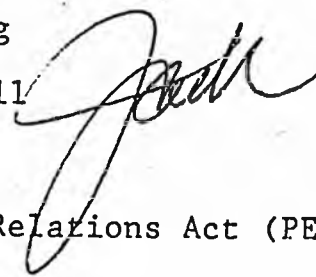
Box 55028
North Pole, Alaska 99705
(907) 488-0862

File ✓
PERA



MEMORANDUM

FEB 10 1988

TO: Senator Ken Fanning
FROM: Senator Jack Coghill 
DATE: February 9, 1988
RE: Public Employment Relations Act (PERA) and SB 372

Thank you very much for sending me a copy of SB 372. I will do everything I can to help support this bill.

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX 1149
JUNEAU, ALASKA 99802-0700
PHONE: (907) 465-2700

March 8, 1988

Ms. Carol Horos
Professional Assistant
State Affairs Committee
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Carol:

As you requested last week, following is a summary of the cases handled by the Department during the last three years which have gone to binding arbitration for final resolution.

1. Operating Engineers Local 302 vs. Fairbanks Municipal Utility System (1985).

Union asking: 4% wage increase plus 50¢/hr. health and welfare
City offering: 2.6% wage increase
Award: 4% wage increase

2. Fairbanks Police Employees Association vs. City of Fairbanks (1985).

Union asking: 8.5 to 22% wage increase
City offering: 2.6% wage increase
Award: 2.6% wage increase

3. Fairbanks Police Employees Association vs. City of Fairbanks (1986)

Union asking: 3.1% wage increase
City offering: wage freeze
Award: 3.1% wage increase

If you have any questions or need additional information, please let me know.

Sincerely,



Eileen Plate
Legislative Liaison

EP/gw
06703

PUBLIC OPINION MESSAGE

✓ fe

DEAR: SENATOR FANNING

NAME: ANNE M. SMITH
TITLE:
ADDRESS: 1903 CAPITOL AVE.
CITY: FAIRBANKS
PHONE: 456-5576

ZIP: 99709

BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: FOR THE RECORD, I URGE YOU TO SUPPORT SB 372. RESEARCH BY ITA SHOWS
EMPLOYEE REPRESENTATIVES IN FAIRBANKS LACKED INCENTIVE TO NEGOTIATE IN GOOD
FAITH BECAUSE OF BINDING ARBITRATION BACK PROCEDURES. DEMANDS MADE BY
ASSOCIATIONS AND CONCESSIONS GIVEN BY MANAGEMENT REFLECTED IN RESULTING
CONTRACT VERIFY THIS FACT.

EOM-FZ

POMID: 07145414
DATE: 02/18/88
TIME: 14:54:14
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

ABOOD
HENSLEY
JOSEPHSON
UEHLING

11

PUBLIC OPINION MESSAGE

6TV

DEAR: SENATOR FANNING

NAME: JIM WEIDNER
TITLE:
ADDRESS: 5479 CHSR
CITY: FAIRBANKS ZIP: 99712
PHONE: 488-6366
BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: I SUPPORT SB 372 AND URGE PROMPT PASSAGE.

EOM/MJO

POMID: 07120612
DATE: 02/16/88
TIME: 12:06:12
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

ABOOD
HENSLEY
JOSEPHSON
UEHLING
HALFORD
KELLY
STURGULEWSKI
SZYMANSKI
ZHAROFF

11

11

61
PUBLIC OPINION MESSAGE

DEAR: SENATOR FANNING

NAME: ANNE M. SMITH
TITLE:
ADDRESS: 1903 CAPITOL AVE.
CITY: FAIRBANKS
PHONE: 456-5576
BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: MUNICIPALITIES, ESPECIALLY FAIRBANKS, NEED TO REGAIN CONTROL OF LOCAL SPENDING. PERA'S BINDING ARBITRATION PROVISION HAS HAMSTRUNG LOCAL GOVERNMENT. I URGE YOU TO SUPPORT SB 372 ALLOWING LOCAL GOVERNMENT TO OPT OUT OF PERA.
EOM/MJO

ZIP: 99709

POMID: 07105001
DATE: 02/03/88
TIME: 10:50:01
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD
KELLY
STURGULEWSKI
SZYMANSKI
ZHAROFF
BINKLEY
DUNCAN
FISCHER
HENSLEY
UEHLING
JONES
JOSEPHSON
KERTTULA
FAIKS
RODEY
ELIASON
FAHRENKAMP
COGHILL
ABOOD

PUBLIC OPINION MESSAGE

gt ✓

DEAR: SENATOR FANNING

FEB 3 1988

NAME: FRANCIS ROSS
TITLE:
ADDRESS: 337 HAGELBARGER AVE.
CITY: FAIRBANKS ZIP: 99712
PHONE: 457-2439
BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: LOCAL GOVERNMENT NEEDS MORE CONTROL. WE NEED TO BE ABLE TO OPT
IN OR OUT OF PERA.

POMID: 07082221
DATE: 02/03/88
TIME: 08:22:21
LIONAME: FAIRBANKS LIO

7
0
7

PUBLIC OPINION MESSAGE

51

DEAR: SENATOR FANNING

NAME: ANN ROBERTS
TITLE:
ADDRESS: 2821 TOTEM DRIVE
CITY: FAIRBANKS
PHONE: 479-6375

ZIP: 99709

BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: PLEASE SUPPORT THE PEOPLE'S RIGHT TO CHOOSE. IF WE CAN OPT INTO PERA, WE SHOULD BE ABLE TO OPT OUT! PERA DOESN'T ADEQUATELY ADDRESS DECLINING REVENUES. WITH BINDING ARBITRATION FREEZING INFLATED WAGES, WE'RE FORCED TO LAY OFF EMPLOYEES RATHER THAN CUT BACK WAGES A LITTLE AND KEEP EVERYONE WORKING.

POMID: 07082425
DATE: 02/03/88
TIME: 08:24:25
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

FAIKS
JOSEPHSON
KERTTULA
RODEY
STURGULENSKI
COGHILL
DUNCAN
ELIASON
FISCHER
ZHAROFF
FAHRENKAMP
KELLY
SZYMANSKI
UEHLING
HALFORD
BINKLEY
HENSLEY
JONES
ABOOD

PUBLIC OPINION MESSAGE

GTV

FEB 3 1988

DEAR: SENATOR FANNING

NAME: MARLENE LEAK
TITLE:
ADDRESS: 771 8TH AVE.
CITY: FAIRBANKS
PHONE: 452-1015
BILL NO:
SUBJECT: SB372
MESSAGE: IT IS ONLY PROPER FOR A MUNICIPALITY TO HAVE THE OPTION TO
DISASSOCIATE ITSELF FROM PERA, UPON THE VOTE OF ITS ELECTED REPRESENTATIVE BODY,
SINCE ADOPTING PERA WAS OPTIONAL AND NOT MANDATORY TO BEGIN WITH. ALL
EMPLOYEES ARE PROTECTED BY STATE LABOR LAWS IN THE ABSENCE OF PERA.

ZIP: 99701

POMID: 07093029
DATE: 02/03/88
TIME: 09:30:29
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

ABOOD
HENSLEY
JOSEPHSON
UEHLING

67

PUBLIC OPINION MESSAGE

DEAR: SENATOR FANNING

FEB 5 1988

NAME: DOUG DIMBAT
TITLE:
ADDRESS: 135 LAKE DRIVE
CITY: NORTH POLE
PHONE: 488-9694
BILL NO:
SUBJECT: SB 372
MESSAGE: I BELIEVE THE LEGISLATURE SHOULD APPROVE FOR LOCAL GOVERNMENTS TO
OPTED OUT OF PERA.

ZIP: 99705

EOM-FZ

POMID: 07100149
DATE: 02/03/88
TIME: 10:01:49
LIONAME: FAIRBANKS LIO

1
0
1

BT ✓

PUBLIC OPINION MESSAGE

DEAR: SENATOR FANNING

NAME: KATE DESROCHERS
TITLE:
ADDRESS: P.O. BOX 61056
CITY: FAIRBANKS
PHONE: 474-8821

ZIP: 99706

BILL NO:
SUBJECT: SB 372
MESSAGE: FAIRBANKS VOTERS SHOULD BE ABLE TO CHOOSE FOR OR AGAINST PERA
AS OUR ECONOMY DICTATES. FAIRBANKS CANNOT AFFORD PERA AND BINDING ARBITRA-
TION AT THIS TIME.

ECT-FZ

POMID: 07200310
DATE: 02/02/88
TIME: 20:03:10
LIONAME: FAIRBANKS LIO

COPIES: SENATORS

ABOOD
HENSLEY
JOSEPHSON
UEHLING

PUBLIC OPINION MESSAGE

6 ✓

DEAR: SENATOR FANNING

FEB 3 1988

NAME: GEORGE DESROCHERS
TITLE:
ADDRESS: PO BOX 60456
CITY: FAIRBANKS
PHONE: 479-6652

ZIP: 99706

BILL NO: SB 372
SUBJECT: APPLICABILITY OF PERA TO MUNICIPALITIES
MESSAGE: I WOULD LIKE TO HAVE YOU PASS THIS BILL. THE REASON BEING IS
THAT THE LOCAL GOVERNMENT NEEDS MORE CONTROL OVER THE PERA. GIVE THEM THE
OPTION OF BEING IN IT OR OUT OF IT. EOM/MJO

POMID: 07085701
DATE: 02/03/88
TIME: 08:57:01
LIONAME: FAIRBANKS LIO

COPIES: SENATORS


ABOOD
HENSLEY
JOSEPHSON
UEHLING

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

TO: Senator Mitch Abood, Chair
Members of the Senate State Affairs Committee

FROM: Scott A. Burgess, Executive Director 

DATE: February 3, 1988

SUBJECT: SB 372 - Applicability of Public Employment Relations Act to municipalities and political subdivisions

On behalf of its 135 municipal members, the Alaska Municipal League supports SB 372, allowing municipalities and political subdivisions of the State to exempt themselves from the Public Employees Relations Act (PERA).

The AML's support is based on the language contained in the 1988 AML Policy Statement adopted by the membership at its annual meeting in Anchorage in November 1987:

1. Alaska Public Employees Labor Relations Act: The League strongly opposes any legislation that would force municipalities to be subject to the provisions of the Alaska Public Employees Labor Relations Act. The League opposes, just as strongly, any legislative efforts to dictate the provisions of local public employee labor relations ordinances. The League supports legislation to allow each municipality to reject or withdraw from the terms of the Alaska Public Employees Labor Relations Act at any time. The scope of decisions as to local government finance and labor policies is best left to the local governing body.

The bill would clarify existing exemptions provided by Section 4, Chapter 113, SLA 1972 which allowed municipalities to opt out of PERA by ordinance or resolution when the Act was first passed. The bill would place this into statute but would also allow municipalities and political subdivisions to change their status after three years.

While not opposed to collective bargaining, the membership supports each community's ability to determine its own process of dealing with its employees based on their unique circumstances. The AML is opposed to the State dictating provisions of local public employee relations ordinances. I have attached a policy paper developed by the AML Legislative Committee in 1986.

Again, the AML supports SB 372, and urges its passage.

Position Paper
of
AML Legislative
Subcommittee on Education
March 1986

RE: Proposed Legislation Relating to Local Governments
and Alaska Public Employees Labor Relations Act.

The 1986 Alaska Municipal League Policy, Part VIII, Local Government Powers, Section B(1), Alaska Public Employees Relations Act states "the League strongly opposes any legislation which would force municipalities to be subject to the provisions of the Alaska Public Employees Labor Relations Act. In addition, the League opposes just as strongly, any legislative efforts to dictate the provisions of local public employees labor relations ordinances. The League supports legislation to allow each municipality at anytime to reject or withdraw from the terms of the Alaska Public Employees Relation Act." In addition, Section B(2) states, that the League also opposes any legislation which forces municipalities to develop collective bargaining procedures ending in strike or binding arbitration. The following is in support of the League position:

1. Binding arbitration/PERA limits the authority of the Council/Assembly. If wages are set by binding arbitration, the Council/Assembly has to work any arbitration wage increases into the budget. If it is necessary to make cuts, cuts must be made in areas other than the arbitrated wages. The Council/Assembly would no longer have the authority to determine wages or control budgets.
2. Arbitrators tend to be from outside and do not have to deal with the overall budget or raise the funds to finance employee costs.
3. Municipal employees do have recourse -- the election process. They can influence voters to elect Council/Assembly members supportive of their positions. Also, employees still have the right to form employee organizations.
4. Each municipality is unique and should be allowed to handle collective bargaining in a manner that fits the community. Large communities have employee circumstances that are very different from small, and rural is different than urban. In addition, most of our local governments in Alaska are small, population under 1000, and there are not many staff members in any one category. This makes collective bargaining extremely impractical.
5. The provisions of PERA or binding arbitration are costly. There is the cost of the negotiation process itself. Municipalities in general do not have excess staff or staff time to prepare bargaining positions. Cost of hiring a negotiator is beyond most local budgets.

6. Government wages in Alaska tend to exceed those of private business and industry. Therefore, employees seem to be doing well without the added regulation.
7. In a time of funding cutbacks, increasing the cost of government doing business does not make much sense.
8. In regard to strikes, if a strike provision would ever be required, the municipality as an employer should have the same options that exist in private industry; for example, the employer (the municipality) should be able to continue services and hire others if employees strike.

In the end, it is, of course, the taxpayer who must bear any financial burden. The taxpayer now has control through the election process. With binding arbitration, the taxpayer gives up this control to the employee and arbitrator.

City of Soldotna

P.O. Box 409 • 177 North Birch • Soldotna, Alaska 99669 • Phone: 262-9107



February 11, 1988

Alaska Senate State Affairs Committee
c/o Senator Ken Fanning
P.O. Box V - State Capital
Juneau, Alaska 99811

DHL DELIVERY

Re: SB 372

Ladies and Gentlemen:

I would like to add my name to the growing list of municipal officials who have supported Senator Ken Fanning's effort to provide an opportunity for municipalities to opt out of PERA.

The Soldotna City Council recently reconsidered whether we should opt back into PERA and unanimously concluded that we should retain the right to govern our labor relations at the local level. I am enclosing a few pages of our local collective bargaining ordinance. The preamble to the ordinance and Section 2.30.020 set forth our findings as to why we think a local collective bargaining ordinance is more appropriate to our particular situation.

Our ordinance prohibits closed shops and strikes, but it also provides a binding arbitration procedure as the final step of the collective bargaining process if all other impasse resolution steps fail. In Soldotna, however, our voters will be the final arbitrators. Final and best offers will be put to the test of a referendum at the next general election.

I encourage you to approve SB 372 and to oppose any legislative effort that would force municipalities to be subject to provisions of PERA.

Sincerely,

A handwritten signature in cursive script that reads "Dolly M. Farnsworth".

Dolly M. Farnsworth
Mayor of Soldotna

Enclosure (1)

cc: Senator Paul Fischer
Representative Mike Navarre
Representative C.E. Swackhammer
Scott Burgess, Executive Director, Alaska Municipal League

CITY OF SOLDOTNA, ALASKA

ORDINANCE NO. 447

(As Amended October 21 and December 2 and Adopted December 16, 1987)

AN ORDINANCE CONCERNING COLLECTIVE BARGAINING WITH CITY EMPLOYEES

WHEREAS, the 1972 Alaska State Legislature adopted the "Public Employee Relations Act" and provided that it would be applicable to all political subdivisions, unless political subdivisions took action within six months after its effective date to exempt themselves from this Act; and,

WHEREAS, the Soldotna City Council voted to reject application of the "Public Employee Relations Act" pursuant to Resolution No. 72-17, adopted August 24, 1972; and,

WHEREAS, on consideration of this subject again on July 5, 1979, the Soldotna City Council rejected a request to rescind Resolution No. 72-17; and,

WHEREAS, it has been reported that some of the City's employees may want to affiliate with a labor organization for the purpose of collective bargaining with the City; and,

WHEREAS, the City Council is aware of the right of employees to join a union and to become subject to terms of a collectively bargained agreement;

WHEREAS, the Soldotna City Council desires to grant employees the right to become covered by a collectively bargained agreement, but under terms of a local ordinance, rather than by terms of the "Public Employee Relations Act", in order to retain local control over labor relations and to codify provisions on issues which might be in dispute among the various courts; and,

WHEREAS, the City Council wishes to make known some of its reasons for adopting a local ordinance concerning collective bargaining, rather than being bound by the State's "Public Employee Relations Act", now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA AS FOLLOWS:

Section 1. Chapter 2.30 is hereby added to the Soldotna Municipal Code to read as follows:

Chapter 2.30

COLLECTIVE BARGAINING

Sections:

2.30.010	Declaration of Policy
2.30.020	Legislative Findings
2.30.030	Rights of Employees
2.30.040	Employee Relations Board
2.30.050	Collective Bargaining Unit
2.30.060	Exemptions from Collective Bargaining
2.30.070	Representatives and Elections
2.30.080	Collective Bargaining
2.30.090	Mediation and Fact Finding
2.30.100	Final Determination of Disputed Issues
2.30.110	Grievance Resolution
2.30.120	Prohibited Activities
2.30.130	Unfair Labor Practices
2.30.140	Agreement
2.30.150	Reservation of Management Rights
2.30.160	Funding
2.30.170	Payroll Deduction for Dues & Fees
2.30.180	Definitions

2.30.010 Declaration of Policy.

A. The Soldotna City Council hereby declares that it is the policy of the City to promote harmonious and cooperative relations between the government and its employees and to protect the public by assuring orderly and effective operations of government. The City Council desires to govern its labor relations at a local level and, therefore, continues to exempt the City from application of the provisions of Chapter 113, SLA 1972 (Article 2 of AS 23.40, known as the Public Employment Relations Act) as prescribed in prior resolutions and actions.

B. The City's labor relations policies are to be effectuated (1) by recognizing the right of employees to organize for the purpose of collective bargaining under this Chapter, (2) by negotiating according to this Chapter with employee organizations on matters of wages, hours, and other terms and conditions of employment, and (3) by maintaining merit system principles among City employees.

C. Nothing in this Chapter shall be construed so as to make membership in any union or other employee organization a condition of employment with the City, nor to allow an agency shop, closed shop or union shop arrangement.

2.30.020 Legislative Findings. The Soldotna City Council makes the following legislative determinations in support of its reasons for adopting a local ordinance concerning collective bargaining, rather than being bound by the State's "Public Employee Relations Act":

A. The City of Soldotna provides essential public services including police protection, street repair, snow removal, water, sewer and other services critical to public health, safety and convenience.

B. Granting City employees the right to strike pertaining to wages, benefits and working conditions may be construed as granting employees the right to override the authority of the local governing body, and, as a first class municipality, the City of Soldotna desires its authorities, as provided by Alaska Constitution and Statutes, to be broadly construed.

C. Employees of the City of Soldotna, being agents of the City and serving only public purposes, are entirely different from employees in the private sector and a strike by them could contravene the public welfare and paralyze the City and endanger the public health, safety and convenience.

D. Since the terms of employment of City employees include economic obligations and commitments which under this Code can only be determined by the City Council, granting a right to strike would, in effect, permit employees to place undue pressure and influence on the City Council by striking. The City Council may be influenced to accede to the demands of the employees in order to protect the public from the affect of a strike, even though the concessions granted in so doing may be against the public interest. Employees should not be allowed to place the local government in such a dilemma.

E. Unlike private enterprise, the City of Soldotna does not perform its public functions and activities for profit. Thus, purely economic considerations may not appropriately be the most important considerations and should not be allowed to become the most important through public employee labor relations law and ordinances.

F. For the foregoing reasons, a strike or a work stoppage by public employees should not be condoned or permitted.

G. The efficient operation of the City and harmonious labor relations between the City and its employees will best be served when each individual employee has the maximum freedom possible to choose individually whether to affiliate with other employees or a labor organization for the purpose of collective bargaining.

H. The interests of the majority of the City employees should not infringe on the interests of the minority provided the interests of the majority can be accomodated.

I. Because the City of Soldotna has a long-standing set of personnel procedures and ordinances which, for the most part, have resulted in stable and harmonious labor relations, the public interest would be best served by permitting each individual employee the right to choose to continue to be subject to the existing personnel policies and procedures (as they may be amended from time to time), thus permitting each employee the widest freedom to choose while at the same time permitting those who wish to collectively bargain the right to do so. The City realizes that this approach could be construed as a possible violation under Section 8(a)(1) of the National Labor Relations Act in the private sector, but also realizes, for reasons set forth in this Chapter, that the City has the right to determine its own labor relations policies, and has determined, as a legislative matter, that the greatest freedom of choice for individual employees serves the public interest.

J. The City Council realizes its obligation never to surrender the power of taxation as set forth in Alaska Statutes. The City Council determines that the accountability of the City Council to the public can only be maintained if this power to tax remains exclusively with the City Council. Since the commitment of public monies in the form of wages, benefits and working conditions can result in a tax adjustment, the City Council determines that it is essential that the City Council approve any collective bargaining agreement before it can become effective. Because of the budget requirements set forth in Alaska Statutes, and in order to preserve the public's opportunity to be heard on the budget, any collective bargaining agreement which would result in a change in the amounts budgeted for City employees must be concluded in time for the changes to be considered in the annual budget prior to the end of the fiscal year.

K. The City Council finds that it would disrupt the orderly operation of the City if collective bargained agreements were to expire at any time other than the close of the fiscal year.

L. In recognition of certain commitments made by the City in a "memorandum of understanding" pertaining to wages, benefits and working conditions for a term beginning July 1, 1987, the City Council herein represents that in the event any employees affected thereby engage in collective bargaining that the provisions of this memorandum of understanding shall serve to establish the minimum standards upon which any such bargaining will be based during the term of the "memorandum of understanding".

2.30.030 Rights of Employees. City employees may self-organize and form, join or assist an organization for the purpose of collective bargaining through representatives of their own choosing in accordance with the terms and conditions of this Chapter.

2.30.040 Employee Relations Board.

A. There is hereby established an Employee Relations Board which shall administer the policy established by this Chapter and shall have duties which shall include but are not limited to:

- (1) Determining the units appropriate to collective bargaining;
 - (2) Certifying or decertifying employee organizations as exclusive representatives;
 - (3) Conducting representation elections; and
- (4) Handling the procedures for resolution of disputes and grievances, as provided in this Chapter.

B. The Employee Relations Board shall consist of three members. One member shall be appointed by the Mayor and confirmed by the City Council. One member shall be appointed by the City's employees pursuant to appropriate procedures devised by the employees' collective bargaining agent(s). If there is no collective bargaining agent, the employee member shall be elected by a majority of the City's employees under election procedures to be administered by the City Clerk. The third member shall be chosen by and mutually acceptable to the other two board members.

(1) The term of office of Employee Relations Board members shall be three years and shall run with the term of the Mayor.

(2) Members of the Employee Relations Board must be residents of the City of Soldotna. Members of the Board may not be employees of the City, nor members of any labor organization which represents or is attempting to represent City employees.

2.30.100 Final Determination of Disputed Issues:

A. If, upon conclusion of negotiation and after use of mediation and fact finding as appropriate, no agreement is reached, the City Council shall formulate a last best offer. The offer shall be reduced to writing and represent the proposed collective bargaining agreement for a term not to exceed three years.

B. If the Employee Organization is not satisfied with the last best offer of the City Council, the Employee Organization shall formulate its last best offer. This offer shall, likewise, be reduced to writing and represent the Employee Organization's proposed collective bargaining agreement for a term not to exceed three years.

C. The Council shall thereupon hold a public hearing on the proposed collective bargaining agreements, on at least seven days' notice. At the conclusion of the hearing, the Council shall: either approve the Employee Organization's last best offer; or, submit the last best offer of each party to a referendum of the Soldotna voters at the next general election. The results of the election shall be binding for the period of the agreement upon both parties, who in the interest of facilitating the prompt resolution of any and all labor disputes shall forebear from any judicial appeal of the decision.

(1) The question submitted at the election shall be substantially in the following form: "To resolve an impasse between the City and an Employee Organization over a collective bargaining agreement, each party has been asked to submit its last best offer to public referendum. Which offer shall be approved?"

The City Council's last offer.

The Employee Organization's last offer.

(2) The Clerk shall publish, with the regular notice of election, a summary, in 300 words or less, of the last best offers of the City and the Employee Organization, as prepared by a representative of each party, with a notice that copies of the full text of the last best offers of each party are available at the Office of the Clerk.

2.30.110 Grievance Resolution. Except as these provisions may be modified for covered employees by the terms of a collective bargaining agreement, employee grievances shall be handled according to Section 2.28.260 of the Soldotna Municipal Code.

2.30.120 Prohibited Activities.

A. Strikes or Other Concerted Cessation of Work.

(1) No City employee shall have the right to strike.

(2) A strike is defined as a concerted failure to report for duty, a willful absence from work, a stoppage of work, or an abstinence from the full and proper performance of duties for the purpose of inducing or coercing a change in working conditions or compensation. The term strike includes any refusal to perform regular duties while other City employees, or any other persons, are engaged in picketing or any other work stoppage, slowdown or refusal.

(3) An employee shall be subject to discipline, according to the City's Personnel Code, for an unauthorized absence from work or a failure or refusal to perform regular duties in a full and proper manner whether or not the unauthorized absence, action or inaction is in relation to a strike.

(4) Upon a finding by the City Council that employees are engaging or are about to engage in a strike or other concerted cessation of work, the City Council may petition the Courts for an injunction, restraining order or other such order as may be appropriate. The City Council may file a petition with the Courts without first submitting an unfair labor practice complaint to the Employee Relations Board.

B. Agency shop, Closed Shop or Union Shop Arrangements.

(1) No collective bargaining agreement shall contain terms which mandate affiliation with a designated labor organization as a prerequisite to employment or as condition of continued employment with the City.

(2) Neither the City nor any City employee shall discriminate against any employee solely by reasons of that employee's exercise of this right to choose whether or not to affiliate with a labor organization, although differences between terms and conditions of employment set forth in the City Personnel Code and those terms and conditions set forth in a collectively bargained agreement that result in differential treatment will not be a violation of this section.

(3) Each new employee shall, likewise, have the right to choose between the Personnel Code and any collectively bargained agreement after being offered a position, but before beginning work.



CITY OF FAIRBANKS

Office of City Manager
410 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
907-452-1881

February 3, 1988

Senator Ken Fanning
P.O. Box V
Juneau, Alaska 99811

RE: Support of Senate Bill #372

Dear Senator:

The City of Fairbanks has suffered economically, like the rest of the State, with the recent downturn in the economy. The City of Fairbanks attempted to reduce costs, to live within its means, through meaningful labor negotiations intended to reduce wage and benefit costs.

Due to the State's Public Employment Relations Act, the City's ability to reduce wage and labor rates is extremely limited. The Governor, likewise laboring under the terms and conditions of PERA, has found it nearly impossible to gain any meaningful reduction in wages and benefits in spite of the critical fiscal dislocation that governmental units in the State of Alaska have been experiencing.

While the City subscribes to the collective bargaining process, I can only point to the examples of the City's and State's bargaining results, under PERA, as an indictment of the PERA system. The ability of the City and the State to reduce wage costs is an impossible task under the procedures established by the PERA legislation.

Localities should be allowed to opt out or exempt themselves from the framework established by PERA. Local municipalities or political subdivisions should be allowed to establish its own rules and regulations to govern collective bargaining procedures. Local municipalities must gain control of its fiscal destiny, and be allowed to set wage and benefit rates at levels affordable to the local residents ability to pay. As Mayor of the City of Fairbanks, I wholeheartedly support SB372 as an act to give control of city finances back to the municipal government officials.

Very truly yours,

BILL WALLEY
Mayor, City of Fairbanks

Municipality of Anchorage

MEMORANDUM

*Govt
Affairs*
RECEIVED
FEB 02 1988
Discussion Review

DATE: February 1, 1987

TO: Lee Nunn, Executive Manager Government Affairs

THRU: Glenn Lundell, Employee Relations Director

FROM: Personnel Director *NRK*

SUBJECT: Senate Bill No. 372

As requested, I have reviewed the proposed amendment to AS 23.40 under Senate Bill 372 to add a proposed new section, 23.40.235. The effect of this proposal would be to give municipalities and political subdivisions of the State to option to elect exemption from the provisions of PERA if they had missed the window period originally provided in the act or were currently covered and wished to withdraw.

The immediate impact of this legislation on Anchorage would be negligible as the Municipality has elected to withdraw from PERA and is not covered by the terms of that act. I would, however, recommend our commenting favorably on the proposed legislation as it provides flexibility to local governments that does not currently exist. Employers under PERA who wish to enact a local labor relations ordinance to govern their bargaining currently cannot do so but could under this proposal. Conversely, those finding administration of a local ordinance too onerous could opt to come under PERA. The three year minimum status period proposed under 23.40.235 (b) provides a good vehicle for insuring some stability in employee relations while providing the local governments the flexibility in policy decision-making proposed under 23.40.235 (a).

While I support this proposed legislation I am concerned about another piece of proposed PERA legislation that is currently in the House Judiciary Committee. That bill is CSHB 170 which proposes the addition of a new section 23.40.075 would have the net effect of requiring coverage under PERA for municipalities or political subdivisions who do not either provide their employees the right to strike or final and binding arbitration as the last step in the negotiation process. The effect of this proposed change is that municipalities (including Anchorage) who do wish to control their employee relations through local ordinance must provide their employees either the right to strike or binding arbitration to settle negotiation impasses. If they do not do so, their PERA exemptions would no longer be valid and their employee relations would have to be governed by PERA.

Currently our labor ordinance AMC 3.70 does provide the proposed impasse resolution mechanisms so we would not come under PERA if CSHB 170 were to pass in its present form. If, however, we found that those mechanisms were not effective for us or responsive to the interests of the community and wished to replace them with other options such as advisory arbitration which is also commonly used in the public sector, we could not do so.

In summation, I would recommend support or at least positive monitoring of SB 372. I would recommend opposition to CSHB 170. If further information or recommendations on these bills is desired, please let me know.



City of Petersburg
P. O. Box 329
Petersburg, Alaska 99833

FEB 1 1988

January 29, 1988

Senator Fanning
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fanning:

This letter is a follow-up to a discussion that I had with your aide, Mrs. Gail Thibodeau concerning the City of Petersburg's experience under the Public Employees Relations Act of 1972 (PERA).

Prior to my initial discussion with Ms. Gail Thibodeau, I became aware of your Senate Bill #372 through the Alaska Municipal League. I was very pleased to see that there is the possibility of some relief from this oppressive piece of legislation.

As you are aware, the Charter of the City of Petersburg authorized the institution of a "home rule" municipality. In other words, the citizens of Petersburg in a "charter election" chose to maintain as much "local control" over their own affairs as was possible under the state law at that time. Since our Charter was adopted by these voters, there has been no single piece of state legislation that has had, as oppressive an impact on this fundamental concept (local control) as the Public Employee Relations Act of 1972 (PERA).

The problem with PERA has been this single opt-out "window" and the courts restrictive interpretation of this concept.

As a practical matter PERA gave Petersburg six months from the time of its passage, to opt-out.

In my opinion, this "single window of time" was totally inadequate for a City Council to digest the implications of PERA, and opt-out in an intelligent manner. In other words, with our own collective bargaining ordinance.

Coincidentally, during this time the "International Brotherhood of Electrical Workers" were actively "signing up" employees in our electric utility. Our City Council reacted to this "perceived threat", rather than the more fundamental issues, and passed a resolution to opt-out of PERA. The courts later interpreted this opt-out as invalid, because it was done concurrently with the unionizing efforts.

Compounding this, the court ruling did not address the rest of the employees, and whether or not, they were under PERA also, or under our existing ordinance. Ultimately, another large union

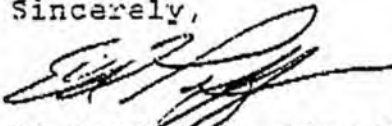
used this issue to organize the remaining employees and file suit against the city on the issue of "partial opt-out" or equity. After many thousands of dollars of legal expenses and employee consternation the court in 1987 ruled that there could not be a "partial opt-out" and consequently all our employees are under PERA.

Consequently, due to PERA we now have two large outside unions, IBEW and APEA. Their "leadership" and their expectations comes from outside Petersburg, the process is controlled by outside state agencies that are use to dealing with state issues and state resources.

Consequently, the Petersburg taxpayer and rate payer has "lost control" of the single largest expenditure in their annual budget.

Please let me know if I can be of any future assistance in your effort to amend PERA.

Sincerely,



Ed Pefferman, City Manager
City of Petersburg

cc: Senator Jones
Representative Taylor
Representative Sund

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 3, 1988

SUBJECT: Applicability of PERA to municipalities
(SB 372)

TO: Senator Ken Fanning

FROM: Teresa B. Cramer *IBC*
Legislative Counsel

You have asked several questions concerning the effect of SB 372 on the right of a municipality or a political subdivision to decide to withdraw from coverage under the Public Employment Relations Act.

1. Can a municipality reject coverage under PERA?

The right to withdraw from coverage is established in temporary law, sec. 4, ch. 113, SLA 1972, which states:

This Act [enacting the Public Employment Relations 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.

A municipality can reject coverage under PERA. To do so, the city council or borough assembly adopts an ordinance or resolution.

There are limits to a municipality's power to reject the application of the PERA. In an early case considering sec. 4, State v. City of Petersburg, 538 P.2d 263 (Alaska 1975), the state supreme court held that the city council of Petersburg could not validly adopt a resolution rejecting the application of PERA to its employees after members of the city council had learned that certain employees were engaged in collective bargaining organizational activity. The court noted, id. at 267,

The critical point beyond which the right and power of the City to reject the Act become subordinated to the rights of the employees granted by the same legislation must be ascertained. We hold that the analysis must turn on both the substantiality of the organizational activities undertaken by the employees and the extent of the City's awareness of those activities. Prior to becoming aware of substantial organizational activity, the City could have exempted itself from the applicability of the PERA without interfering with the right of the employees to organize. Rejection of the PERA after becoming aware of such activity constitutes a gross and impermissible interference with the employees' freedom to choose which collective bargaining association should represent them.
(Footnote omitted)

In a later case, the court permitted a city to reject the application of PERA even though the city's employees had earlier expressed an interest in membership in a union. In City & Bor. of Sitka v. International Brotherhood of Electrical Workers, 653 P. 2d 332 (Alaska 1982), Sitka had passed an ordinance in 1973, exempting the municipality from PERA under sec. 4. For many years before the ordinance was considered and passed, the plaintiff union in the case, IBEW, had attempted to have the city recognize it as representing certain city employees. The court upheld the exemption, distinguishing the situation from the Petersburg case by stating that Petersburg is limited to its factual setting. The court noted, id. at 335, that

there is not evidence in the record of any organizational activities occurring between PERA's effective date, September 5, 1972, and the passage of the exemption ordinance, July 10, 1973. Thus, in contrast to Petersburg, the employees in Sitka were not acting in reliance on rights granted them by PERA.

Although it held that Sitka had effectively exempted itself from PERA under sec. 4, the court did find that Sitka had failed to abide by the terms of its city charter and that therefore it would be required to recognize employee organizations under the terms of the charter.

In Anchorage Municipal Employees Assoc. v. Municipality of Anchorage, 618 P.2d 575, (Alaska 1980), considering whether the newly formed Municipality of Anchorage could properly

exempt itself from PERA in 1975, more than three years after PERA took effect, the court noted that the exemption option contained in sec. 4 was not limited to a period of time. The court stated, id. at 579, that the Petersburg decision

does not deprive a newly formed municipality of the option to reject PERA, so long as it does so promptly after its formation and without interfering with the employees' exercise of their established rights.

While sec. 4 does not grant unlimited ability to reject application of the PERA, as long as the legislative body of the municipality or political subdivision acts reasonably promptly after its employees gain collective bargaining rights under PERA and as long as it is not attempting, in adopting the rejection, to interfere with ongoing collective bargaining activity that is based on the PERA rights, the exemption will be upheld.

2. If a municipality is covered by an ordinance or resolution establishing a system of negotiation with employees, are there limitations on the municipality's power to amend the ordinance or resolution?

PERA does not limit the municipality's power to amend its own municipal law. In City of Fairbanks v. Fairbanks AFL-CIO, 623 P.2d 321 (Alaska 1981), the court held that a personnel ordinance which was adopted after the city had a collective bargaining system in place, and which limited the subjects of the existing collective bargaining system, did not violate PERA.

However, the terms of a collective bargaining contract may dictate when a change in the municipal system may take effect. In City of Fairbanks v. Fairbanks Fire Union, 623 P.2d 339 (Alaska 1981), the city had adopted a resolution establishing a system of employee bargaining and had negotiated a collective bargaining agreement that provided for automatic renewal from year to year unless one party notified the other of intent to change the terms. The agreement required that notice be given at least 90 days before the termination date of the contract. The city adopted a personnel ordinance that differed from the bargaining agreement in probationary periods, sick leave, annual leave, and other areas. However, the adoption

Senator Ken Fanning

Page 4

February 3, 1988

occurred less than 90 days before the termination of the contract. The court held that the change was ineffective for the next contract year but would apply to contracts in the years after that.

3. If a municipality rejects coverage under PERA, can it later reverse its decision and come within PERA?

I have found no cases addressing this issue. However, the policy set out in PERA and supported in the court opinions is to favor collective decision-making in matters affecting wages and working conditions. AS 23.40.070 states, in part,

. . . 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.

Although sec. 4, ch. 113, SLA 1972, does not specifically permit a municipality to elect to resume coverage under PERA, it is probable that a court would hold that the policy statement supports a finding that the law implicitly permits a municipality to do so.

If I may be of further assistance, please advise.

TBC:gc
WKG1:061

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.

CHAPTER NO. 113
SESSION LAWS OF ALASKA

1972

'88 02/16 16:07

☎ 907 262 1892 KENAI PENIN BORO

02



KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

TO Senator Ken Fanning
State Affairs Committee

DATE 2-16-88
SUBJECT SB 372

MESSAGE

The Kenai Peninsula Borough opted out of the Public Employment Relations Act (PERA) in 1972.

We favor SB 372 allowing municipalities to opt in or out of PERA.

SIGNED Don Gilman, Borough Mayor

REPLY

SIGNED

DATE

RECIPIENT • Please sign and return pink copy

Feb. 15, 1988

Senator Ken Fanning:
PO Box V
Juneau, AK 99811

Dear Senator Fanning:

We strongly urge you to amend the Public Employees Relations Act (PERA) to mandate that any arbitration process take into account economic realities in arriving at a settlement. We would find it unconscionable that an arbitrator could impose a settlement that would not include the ability of a municipality or the State to pay for the agreement. We would also like the arbitration process to include input concerning market-based salaries as part of the accounting for economic realities. We are happy to see our public sector employees be well paid for their efforts but, see no reason to pay much more than what is needed to attract and retain good workers.

Sincerely,

Ron Johnson
Ronald A. Johnson
2113 Jack St.
Fairbanks, Alaska 99709

cc. Sen Abood, Rep. Adams, Rep. Boyer, Sen. Coghill, Rep. Davis,
Sen. Fahrenkamp, Sen Faika, Rep. Frank, Rep. Grussendorf,
Sen. Halford, Rep. Koponen, Rep. Miller

Stanley Silasworth, 1400 Raven Drive, Fair, AK. 99709

Dr. Robert R. Logan 7300 Chewa Hot Springs Rd. Fairbanks, AK. 99712

Dr. Yeung-man Shieh 1937 University Dr Apt. G-61, Fairbanks, AK 99709

J Patrick O'Brien 3266 Bluebird Ave. Fairbanks, AK 99709

Paulette Powell 5002 Dartmouth #14, Fbks, AK 99709

John M... 1621 W. Henrietta St. Fair, AK 99709

Jack Murray 1129 Popovich Dr. Fair Ak. 99709

Joe... 15 Kottwacke Dr Fbks AK 99701

Tom Kinney 112 Nilgub, Fairbanks, AK 99712

Ed... POB 81497 (1642 Tanaka Dr.) Fairbanks, AK. 99708

Article 2. Public Employment Relations Act.

Section	Section
70. Declaration of policy	210. Agreement
80. Rights of public employees	212. Agreement with the Board of Regents
90. Collective bargaining unit	215. Funding and legislative approval
100. Representatives and elections	220. Labor or employee organization dues and employee benefits, deduction and authorization
110. Unfair labor practices	225. Exemption from Public Employment Relations Act
120. Investigation and conciliation of complaints	230. Assistance by Department of Labor
130. Complaint and accusation	240. Effect on certain units, representatives and agreements
140. Orders and decisions	245. Postsecondary student involvement in collective bargaining
150. Enforcement by injunction	250. Definitions
160. Power to investigate and compel testimony	260. Short title
170. Regulations	
180. Penalty for violation of order or decision	
190. Mediation	
200. Classes of public employees; arbitration	

Cross references. — For applicability of article to political subdivisions unless rejected by them, see § 4, ch. 113, SLA 1972 in the Temporary and Special Acts;

for provisions relating to collective bargaining for teachers, see AS 14.20.550 — 14.20.610.

NOTES TO DECISIONS

Right of public employees in Alaska to bargain collectively was created by this article. Alaska Pub. Employees Ass'n v. Municipality of Anchorage, Sup. Ct. Op. No. 1328 (File No. 3045), 555 P.2d 552 (1976).

This article confers upon public employees the right to organize and bargain collectively with their employers and requires public employers to recognize collective bargaining units designated pursuant to this article. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

This article allows political subdivisions of the state to reject its provisions for conduct of labor relations and to substitute their own provisions. Alaska Pub. Employees Ass'n v. Municipality of Anchorage, Sup. Ct. Op. No. 1328 (File No. 3045), 555 P.2d 552 (1976).

Applicability of article is the rule. — Under the present statute, applicability of this article is the rule, exemption the exception. State v. City of Petersburg, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975).

This article is expressly made applicable to home-rule municipalities, and thus municipalities are impliedly prohibited from refusing to negotiate with organizations selected by employees unless the exemption was timely enacted. State v. City of Petersburg, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975).

Applying a liberal construction to the powers of local government cannot override the express declaration of policy made a part of this article when coupled with considerations of the impact of the repeal of AS 23.40.010 and the different language used in the 1972 exemption provision, § 4, ch. 113, SLA 1972. State v. City of Petersburg, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975).

Article applicable unless state political subdivisions reject it. — The legislature provided for this article to be applicable to all political subdivisions of the state unless they rejected it rather than making the article inapplicable unless affirmative steps are taken by these same subdivisions to adopt the act (see § 4, ch. 113, SLA 1972). State v. City of

Petersburg, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975).

Section 4, ch. 113, SLA 1972, not temporary. — Had the legislature wanted § 4, ch. 113, SLA 1972, to be of temporary duration, it would have so indicated. Anchorage Mun. Employees Ass'n v. Municipality of Anchorage, Sup. Ct. Op. No. 2204 (File No. 4562), 618 P.2d 575 (1980).

When article may be rejected. — This article may be rejected when all evidence indicates that municipal governments exempted themselves solely for the purpose of retaining local control over their labor relations, and with the clear intent of continuing collective bargaining rather than to interfere with established employee rights. Anchorage Mun. Employees Ass'n v. Municipality of Anchorage, Sup. Ct. Op. No. 2204 (File No. 4562), 618 P.2d 575 (1980); City of Sitka v. International Bhd. of Elec. Workers, Local 1547, Sup. Ct. Op. No. 2578 (File No. 6116), 653 P.2d 332 (1982).

Rejection of this article in order to gain an undue advantage in a labor dispute or the negotiation of a new collective bargaining agreement constitutes a deliberate interference with the right of employees to organize and bargain collectively in derogation of the act's express declaration of policy. Anchorage Mun. Employees Ass'n v. Municipality of Anchorage, Sup. Ct. Op. No. 2204 (File No. 4562), 618 P.2d 575 (1980).

Rejection must be prior to substantial organizational activity by public employees. — It is evident from the wording of the exemption provision that the legislature intended to limit the freedom of the political subdivision to consider whether it wishes this article to apply to it by adopting the position that the article must be rejected prior to substantial organizational activity by public employees. State v. City of Petersburg, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975).

Prior to becoming aware of substantial organizational activity, the city could have exempted itself from the applicability of this article without interfering with the right of the employees to organize. Rejection of this article after becoming aware of such activity constitutes a gross and impermissible interference with the employees' freedom to choose which collective bargaining association should represent them. State v. City of Petersburg, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975).

This article was intended to recognize the right of employees to organize for the purpose of collective bargaining and to require public employers to negotiate and enter into labor contracts with employee organizations. It is apparent that this purpose would be substantially frustrated if a city could wait until the employees elected to be represented by a specific union, and then could exempt itself from the requirements of this article if that union was not favored by the city. In effect, this would give the city the right to control the organization to be selected by the employees. State v. City of Petersburg, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975).

A city council cannot validly reject application of this article more than six months after it becomes effective, and after the members of the council have learned of the organizational activity of the city's power plant employees. State v. City of Petersburg, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975).

The right and power of a city to reject this article becomes subordinated to the rights of the employees granted by the same legislation once the public employer becomes aware of substantial organizational activity on the part of its employees. Anchorage Mun. Employees Ass'n v. Municipality of Anchorage, Sup. Ct. Op. No. 2204 (File No. 4562), 618 P.2d 575 (1980).

Freedom to develop varying scheme of collective bargaining. — Local governments which have validly rejected this article are free to develop a local scheme of collective bargaining which varies from the state scheme as provided in this article. Anchorage Mun. Employees Ass'n v. Municipality of Anchorage, Sup. Ct. Op. No. 2204 (File No. 4562), 618 P.2d 575 (1980).

The legislature has expressly declared that the state policy of promoting harmonious and cooperative relations in public employment relations can best be effectuated by requiring public employers to bargain collectively with their employees. It is, therefore, most difficult to construe this article to prohibit local governments, which effectively rejected the article, from engaging in collective bargaining under their own local ordinances. It is far more likely that § 4, ch. 113, SLA 1972, was added to give political subdivisions of the state the freedom to fashion their own labor ordinances and systems of collective bargaining. Anchorage Mun. Employees Ass'n v. Municipality of

Sec. 23.40.010. Union contracts with state and political subdivisions. [Repealed, § 5 ch 113 SLA 1972.]

Sec. 23.40.020. Enforcement of certain contracts only if union registers. A labor contract executed in this state by a labor organization that has no local in this state or which contract is not to be executed by one or more of its locals in this state may not be enforced in the courts of this state unless the labor organization has registered with the department and complied with all regulations adopted by it. (§ 4 ch 108 SLA 1959)

Sec. 23.40.030. Definition of labor organization. For the purpose of AS 23.40.020 — 23.40.040 "labor organization" includes an organization constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees. (§ 1 ch 108 SLA 1959; am § 32 ch 53 SLA 1973)

Collateral references. — 48 A.n. Jur. 2d, Labor and Labor Relations, § 46.
51 C.J.S., Labor Relations, §§ 43-45. 56 C.J.S., Master and Servant, § 28(15).
Rights and remedies of workmen blacklisted by labor union. 46 ALR2d 1124.

Combination of separate plants or units of the same employer as single bargaining unit, 12 ALR3d 787.
Right of labor union to exclude applicants for membership and remedies of applicant so excluded, 33 ALR3d 1305.

Sec. 23.40.040. Collective bargaining agreement. The commissioner of transportation and public facilities or an authorized representative, in accordance with AS 23.40.020 — 23.40.030, may negotiate and enter into collective bargaining agreements concerning wages, hours, working conditions and other employment benefits with the employees of the division of marine transportation engaged in operating the state ferry system as masters or members of the crews of vessels or their bargaining agent. A collective bargaining agreement is not final without the concurrence of the commissioner of transportation and public facilities. The commissioner of transportation and public facilities may make provision in the collective bargaining agreement for the settlement of labor disputes by arbitration. (§ 1 ch 93 SLA 1962; am E. O. No. 39, § 11 (1977))

NOTES TO DECISIONS

This section was not repealed by implication by the enactment of the Public Employment Relations Act, AS 23.40.070, et seq. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).
Nor is it an exception to that act

This section cannot be read as an implied exception to the Public Employment Relations Act, AS 23.40.070, et seq. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

AS 23.40.070 et seq., was intended to incorporate existing collective bargaining agreements rather than exempt them. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Construed in pari materia. — Since this section cannot be treated as an implied exception to the Public Employment Relations Act, AS 23.40.070 et seq., and since the Public Employment Relations Act did not repeal this section by implication, the statutes are construed in pari materia. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This section and Public Employment Relations Act can be harmonized. — The Public Employment Relations Act, AS 23.40.070, et seq., and this section can be effectively harmonized to further the legislative purpose of establishing uniform procedures for public employee collective bargaining and to protect the policies the legislature thought important in enacting the Public Employment Relations Act. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Any possible conflict between this section and the Public Employment Relations Act is neither severe nor irreconcilable, particularly in light of AS 23.40.240 which incorporates existing agreements. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The most reasonable construction, consistent with the implied exception rule, is that the legislature was aware of this section and saw no inconsistency in enacting the Public Employment Relations Act, AS 23.40.070 et seq., to provide guidelines and

procedures for public employee collective bargaining. The Public Employment Relations Act does nothing to undercut the authorization of collective bargaining under this section. Rather, it gives it additional content. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This section was comprehensive when it was enacted. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

But it was further defined by the Public Employment Relations Act, AS 23.40.070, et seq. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The Public Employment Relations Act, AS 23.40.070, et seq., contains far more detailed provisions than this section. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Public Employment Relations Act, AS 23.40.070 et seq., applies to employees of the state division of marine transportation. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

If there is no implied exemption for ferry personnel under the Public Employment Relations Act, AS 23.40.070, et seq., it cannot be said that the two acts do not cover the same people. This section is a subset of the broader Public Employment Relations Act coverage and was likely left intact deliberately to designate the commissioner of public works as the state's representative in bargaining with the ferry unions. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Collateral references. — 48A Am. Jur. 2d, Labor and Labor Relations, §§ 1787-1999.

51 C.J.S., Labor Relations, §§ 148-216. 56 C.J.S., Master and Servant, §§ 28(20)-28(42).

Secs. 23.40.045 — 23.40.060. Records; local labor organizations; interference in chartering prohibited; civil enforcement; exemptions; penalties. [Repealed, § 55 ch 69 SLA 1970.]

Anchorage, Sup. Ct. Op. No. 2204 (File No. 4562), 618 P.2d 575 (1980).

Determining timely rejection. — Whether a local government has exercised its option to reject this article in a sufficiently timely fashion is best determined by looking at the circumstances of the individual case rather than setting an inflexible deadline. Anchorage Mun. Employees Ass'n v. Municipality of Anchorage, Sup. Ct. Op. No. 2204 (File No. 4562), 618 P.2d 575 (1980).

Forfeiture of exemption from article. — A city did not forfeit its exemption from coverage by this article, by continuing to recognize and negotiate with unions subsequent to its exemption. City of Fairbanks v. Fairbanks AFL-CIO Crafts Council, Sup. Ct. Op. No. 2285 (File Nos. 4950, 5011), 623 P.2d 321 (1981).

There is nothing in the language of the Public Employment Relations Act, AS 23.40.070 — 23.40.260, or its legislative history to suggest that the legislature intended to preclude local governments which have validly exempted themselves from coverage under the act from thereafter voluntarily engaging in collective bargaining with employee organizations. City of Fairbanks v. Fairbanks AFL-CIO Crafts Council, Sup. Ct. Op. No. 2285 (File Nos. 4950, 5011), 623 P.2d 321 (1981).

The city did not waive its exemption under § 4, ch. 113, SLA 1972, by negotiating with the union, and thus did not forfeit the authority to enact its own personnel guidelines. City of Fairbanks v. Fairbanks Firefighters Union, Sup. Ct. Op. No. 2290 (File No. 4925), 623 P.2d 339 (1981).

Effect of elimination of state from exemption authorization. — See State v. City of Petersburg, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975).

AS 23.40.040, relating to collective bargaining agreements, was not repealed by implication by the enactment of this article. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Nor is it an implied exception to article. — AS 23.40.040 cannot be read as an implied exception to this article. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This article was intended to incorporate existing collective bargaining agreements rather than exempt them. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Construed in pari materia. — Since AS 23.40.040 cannot be treated as an implied exception to this article, and since this article did not repeal AS 23.40.040 by implication, the statutes are construed in pari materia. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This article and AS 23.40.040 can be effectively harmonized to further the legislative purpose of establishing uniform procedures for public employee collective bargaining and to protect the policies the legislature thought important in enacting this article. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Any possible conflict between AS 23.40.040 and this article is neither severe nor irreconcilable, particularly in light of AS 23.40.240 which incorporates existing agreements. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The most reasonable construction, consistent with the implied exception rule, is that the legislature was aware of AS 23.40.040 and saw no inconsistency in enacting this article to provide guidelines and procedures for public employee collective bargaining. The Public Employment Relations Act does nothing to undercut the AS 23.40.040 authorization of collective bargaining. Rather, it gives it additional content. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This article contains far more detailed provisions than AS 23.40.040. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

And further defines AS 23.40.040. — AS 23.40.040 was comprehensive when it was enacted, but it was further defined by this article. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Action not in reliance on rights under article. — Where municipality's electrical department employees had pursued unionization since the early 1960's, long before the enactment of this article, although all the electrical department employees signed union authorization cards sometime in 1972, there was no evidence of any organizational activities occurring between the effective date of this article, September 5, 1972, and the passage of the exemption ordinance in question, July 10, 1973; thus the employees were not acting in reliance

on rights granted them by this article. City of Sitka v. International Bhd. of Elec. Workers, Local 1547, Sup. Ct. Op. No. 2578 (File No. 6116), 653 P.2d 332 (1982).

This article applies to employees of the state division of marine transportation. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

If there is no implied exemption for ferry personnel under this article, it cannot be said that the two acts do not cover the same people. AS 23.40.040 is a subset of the broader coverage under this article and was likely left intact deliberately to designate the commissioner of public works as the state's representative in bargaining with the ferry unions. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

"Public employees" excludes teachers. — The legislature chose to define "public employees" as excluding teachers from the Public Employment Relations Act because the cooperative relations purpose of that act was already fulfilled with regard to teachers under the

provisions of Title 14. Anchorage Educ. Ass'n v. Anchorage School Dist., Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

Employees covered by this article are free to join a national as well as a local union. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Borough School Dist. Classified Ass'n, Sup. Ct. Op. No. 1802 (File No. 3800), 590 P.2d 437 (1979).

As to procedural safeguards which local labor ordinances must afford concerning representation elections, see Alaska Pub. Employees Ass'n v. Municipality of Anchorage, Sup. Ct. Op. No. 1328 (File No. 3045), 555 P.2d 552 (1976).

Cited in Warwick v. State ex rel. Chance, Sup. Ct. Op. No. 1252 (File No. 2712), 548 P.2d 384 (1976); Public Safety Employees Ass'n v. State, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983); Carter v. Alaska Pub. Employees Ass'n, Sup. Ct. Op. No. 2657 (File No. 6586), 663 P.2d 916 (1983).

Collateral references. — 48A Am. Jur. 2d, Labor and Labor Relations, §§ 1764 — 1775.

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)

Opinions of attorney general. — Paragraph (2) of this section and AS 23.40.250(7), standing alone, clearly would make both group life and health insurance benefits and retirement benefits subject to collective bargaining since they both are "fringe benefits." January 23, 1978, Op. Att'y Gen.

Because health insurance deals with the economic interests of employees and does not deal with fundamental policy; because AS 39.30.090, the group insurance statute, authorizes the Department of Administration to obtain "a policy or policies"; and because AS 39.30.090 does not specify what levels of coverage or benefits must be included in the policy (or policies) obtained, the issue of group life and health insurance benefits is negotiable under the

Public Employment Relations Act (AS 23.40.070 — 23.40.260). January 23, 1978, Op. Att'y Gen.

Given AS 39.35.120(b) and AS 39.35.170, which make inclusion in the public employees retirement system (AS 39.35.010 — 39.35.590) a condition of employment for state employees and contributions to it mandatory, the conclusion is that the legislature intended the statutory provisions of the public employees retirement system to apply to all state employees, and benefits under the public employees retirement system may not be negotiated under the Public Employment Retirement Act (AS 23.40.070 — 23.40.260). January 23, 1978, Op. Att'y Gen.

NOTES TO DECISIONS

Applied in *State v. City of Petersburg*, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975); *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978); *Anchorage Mun. Employees Ass'n v. Municipality of Anchorage*, Sup. Ct. Op. No. 2234 (File No. 4562), 618 P.2d 575

(1980); *Anchorage Educ. Ass'n v. Anchorage School Dist.*, Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

Cited in *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

Collateral references. — 48A Am. Jur. 2d, *Labor and Labor Relations*, §§ 1764 — 1775.
51 C.J.S., *Labor Relations*, §§ 20-22, 33.

Bargainable or negotiable issues in state public employment labor relations, 84 ALR3d 242.

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)

NOTES TO DECISIONS

Quoted in *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

Applied in *Northwest Arctic Regional*

Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Collateral references. — Right of public employees to strike or engage in work stoppage, 37 ALR3d 1147.

Right of public employees to form or join a labor organization affiliated with a federation of trade unions or which includes private employees, 40 ALR3d 728.

Validity and construction of statutes or

ordinances providing for arbitration of labor disputes involving public employees, 68 ALR3d 885.

Who are employees forbidden to strike under state enactments or state common-law rules prohibiting strikes by public employees or stated classes of public employees, 22 ALR4th 1103.

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 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) 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)

NOTES TO DECISIONS

Applied in *Halling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

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

(1) interfere, 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 agency 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)

NOTES TO DECISIONS

Similarity to federal act. — Paragraphs (a)(1) and (a)(3) are substantially similar to § 8(a)(1) and (a)(3) of the Labor Management Relations Act, 29 U.S.C. § 158(a)(1) and (a)(3). *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

For establishment of violation of 29 U.S.C. § 158(a)(3), see *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

Derivative violation of (a)(1) from violation of (a)(3). — A violation of paragraph (a)(3) derivatively results in a violation of (a)(1) as well since employer discrimination in hiring, firing or working conditions also coerces or restrains employees in their rights to organize, bargain collectively and engage in other concerted activities. *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

Refusal to ratify tentative agreement. — It is permissible for an employer to refuse to ratify a tentative collective bargaining agreement in accordance with an agreed upon ground rule, so long as the employer's failure to ratify does not appear to have resulted from the employer's intent to string out negotiations and avoid reaching agreement. *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

Work rule changes. — Since employers are free to make unilateral changes on matters which fall outside mandatory subjects of bargaining, the labor relations agency erred insofar as it rescinded work rules pertaining to permissive bargaining subjects and ordered the extension of terms in the previously expired collective bargaining agreement pertaining to permissive bargaining subjects. *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of*

Alaska, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

Burden on union. — A union is required to demonstrate that an applicant was denied employment because of some antiunion motive on the part of the employer. *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

The union did not establish the presence of an antiunion motive on the part of the university where there was testimony that the applicant was not hired because more qualified applicants were available and ultimately because a lack of student interest caused the class to be cancelled and where although the union presented correspondence which demonstrated that the university considered the applicant's

unavailability (because of his position as a negotiator) in determining his qualification, there was unequivocal testimony that it was the mere fact of the applicant's unavailability, not the reason therefor, which was considered in this regard. *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

Applied in *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Quoted in *State v. City of Petersburg*, Sup. Ct. Op. No. 1175 (File No. 2341), 538 P.2d 263 (1975).

Cited in *Hicklin v. Orbeck*, Sup. Ct. Op. No. 1435 (File No. 3025), 565 P.2d 159 (1977).

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)

NOTES TO DECISIONS

Applied in *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

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 the Administrative Procedure Act (AS 44.62). (§ 2 ch 113 SLA 1972)

NOTES TO DECISIONS

Applied in *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

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)

NOTES TO DECISIONS

Distinction between mandatory and permissive bargaining subjects. — This section requires the labor relations agency to distinguish between mandatory and permissive bargaining subjects in its remedial orders. *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

While this section authorizes the agency to issue cease and desist orders barring prohibited practices, and to order affirmative action which will carry out the provisions of the Public Employment Relations Act, it does not require employers to bring to the bargaining table subjects other than wages, hours, and other terms and conditions of employment. *Alaska Community*

Colleges' Fed'n of Teachers Local 2404 v. University of Alaska, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

The labor relations agency erred insofar as it rescinded work rules pertaining to permissive bargaining subjects and ordered the extension of terms in the previously expired collective bargaining agreement pertaining to permissive bargaining subjects. *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

Applied in *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

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)

Applied in *Haffing v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

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)

NOTES TO DECISIONS

Applied in *Haffing v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

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)

NOTES TO DECISIONS

Stated in *Carter v. Alaska Pub. Employees Ass'n*, Sup. Ct. Op. No. 2657 (File No. 6586), 663 P.2d 916 (1983).

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)

Applied in *Haffing v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

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 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. (§ 2 ch 113 SLA 1972)

NOTES TO DECISIONS

- I. General Consideration.
- II. Arbitration.

I. GENERAL CONSIDERATION.

Certain teachers not covered by section. — Teachers, who are not "public employees" for purposes of this article, are not covered by this section. Anchorage Educ. Ass'n v. Anchorage School Dist., Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

Strikes by teachers. — Issuance of injunction to end teachers' strike, without separate finding of irreparable harm was not error, since by making these strikes illegal, the legislature has decided that a teachers' strike would cause irreparable harm. Anchorage Educ. Ass'n v. Anchorage School Dist., Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

Applied in *Haffing v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

II. ARBITRATION.

Not exclusive remedy. — The fact that an arbitrator cannot grant the relief afforded by a statute is an indication that holding arbitration to provide an exclusive

remedy would conflict with the statutory purpose. *Public Safety Employees Ass'n v. State*, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983).

Issues arbitrable. — The duty to maintain fit premises under a collective bargaining agreement providing for bush housing is one for which a contract remedy is available and is thus arbitrable. *Public Safety Employees Ass'n v. State*, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983).

Issues not arbitrable. — The legality of a clearly expressed and plainly applicable contract formula was held not arbitrable under the terms of a contract clause providing for arbitration in disputes involving the meaning or application of the express terms of the contract. *Public Safety Employees Ass'n v. State*, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983).

Because of the explicit nonwaiver provisions of AS 34.03.040, the right to sue under the Uniform Residential Landlord and Tenant Act, AS 34.03, cannot be prospectively bargained away in a collective bargaining agreement which provides for arbitration. *Public Safety Employees*

Ass'n v. State, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983).

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 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. (§ 2 ch 113 SLA 1972; am § 1 ch 62 SLA 1977)

NOTES TO DECISIONS

Applied in *Haffing v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

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. Funding and legislative approval. (a) The monetary terms of any agreement entered into under the Public Employment Relations Act 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 legislature shall advise the parties by concurrent resolution if it approves or disapproves of the monetary terms within 60 legislative days after the agreement is submitted to the legislature. The approval of the monetary terms of an agreement under this subsection

is a nonbinding, advisory expression of legislative intent. If within 60 legislative days after the agreement is submitted the legislature advises the parties by concurrent resolution that it disapproves the monetary terms of the agreement, the parties may resume negotiations. (§ 2 ch 113 SLA 1972; am § 1 ch 10 SLA 1984)

Effect of amendments. — The 1984 amendment, effective February 24, 1984, added subsection (b).

Opinions of attorney general. — To the extent the cost of negotiated group life and health insurance coverage exceeds

what the State would have paid under its employer-sponsored plan, the negotiated coverage is subject to legislative approval under this section. January 23, 1978, Op. Att'y Gen.

NOTES TO DECISIONS

Applied in *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Cited in *Warwick v. State ex rel. Chance*, Sup. Ct. Op. No. 1252 (File No. 2712), 548 P.2d 384 (1976).

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)

Editor's notes. — Section 2, ch. 85, SLA 1976 provides: "If any portion of AS 23.40.225 is declared unconstitutional or void by a court of competent jurisdiction, then that entire section is void."

Opinions of attorney general. — A

state employee in a collective bargaining unit who does not belong to an organized religion is entitled to an accommodation of his religious opposition to the payment of union dues. January 13, 1984, Op. Att'y Gen.

NOTES TO DECISIONS

Applied in *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

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. (§ 2 ch 113 SLA 1972)

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)

NOTES TO DECISIONS

Applied in *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978); *Northwest Arctic Regional Educ. Attendance Area v.*

Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3363), 591 P.2d 1292 (1979).

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 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 author-

ity 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. (§ 2 ch 113 SLA 1972; am § 2 ch 10 SLA 1984)

Revisor's notes. — In 1984, paragraph (8), added in 1984, was renumbered as paragraph (4) and former paragraphs (4)-(7) were renumbered as present paragraphs (5)-(8) to retain alphabetical order.

Effect of amendments. — The 1984 amendment, effective February 24, 1984, added paragraph (4). (See revisor's notes.)

Opinions of attorney general. — AS 23.40.070(2) and paragraph (7) of this section, standing alone, clearly would make both group life and health insurance benefits and retirement benefits subject to collective bargaining since they both are "fringe benefits." January 23, 1978, Op. Att'y Gen.

Because health insurance deals with the economic interests of employees and does not deal with fundamental policy; because AS 39.30.090, the group insurance statute, authorizes the Department of Administration to obtain "a policy or policies"; and because AS 39.30.090 does not specify

what levels of coverage or benefits must be included in the policy (or policies) obtained, the issue of group life and health insurance benefits is negotiable under the Public Employment Relations Act (AS 23.40.070 — 23.40.260). January 23, 1978, Op. Att'y Gen.

Given AS 39.35.120(b) and AS 39.35.170, which make inclusion in the public employees retirement system (AS 39.35.010 — 39.35.690) a condition of employment for state employees and contributions to it mandatory, the conclusion is that the legislature intended the statutory provisions of the public employees retirement system to apply to all state employees, and benefits under the public employees retirement system may not be negotiated under the Public Employment Retirement Act (AS 23.40.070 — 23.40.260). January 23, 1978, Op. Att'y Gen.

NOTES TO DECISIONS

Ferry personnel are public employees of a public employer and are not included within any of the itemized exceptions of paragraph (5). *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Since paragraph (3) of this section defines "labor relations agency," which supervises and enforces this article, as the state personnel board for state employees and the Department of Labor with regard to all other public employees, the state personnel board would be the applicable regulatory agency with regard to ferry personnel. Therefore, there is no inconsistency in the ferry crew exemption from the state personnel system and its inclusion with this article. *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Teachers, who are not "public

employees" for purposes of this article, are not covered by this section. *Anchorage Educ. Ass'n v. Anchorage School Dist.*, Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

The legislature defined "public employees" as excluding teachers from the Public Employment Relations Act because the cooperative relations purpose of that act was already fulfilled with regard to teachers under the provisions of Title 14. *Anchorage Educ. Ass'n v. Anchorage School Dist.*, Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

Noncertificated school employees are not among those within the ambit of this article. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Borough School Dist. Classified Ass'n*, Sup. Ct. Op. No. 1802 (File No. 3800), 590 P.2d 437 (1979).

Nor are noncertificated employees of regional educational attendance areas. — This article does not apply to the noncertificated employees of the regional educational attendance areas. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Since such attendance areas appear to be school districts. — Regional educational attendance areas appear to be school districts within the meaning of paragraph (5), defining "public employees" for the purposes of this article. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Thus, such attendance areas have no statutory duty to bargain with noncertificated employees. — This article exempts noncertificated employees of the regional educational attendance areas from its coverage. The regional educational attendance areas therefore have no statutory duty to bargain with a bargaining representative of the noncertificated employees. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

The legislature did not intend to bind the regional educational attendance areas to the employment contracts of their predecessor, the Alaska State Operated School System. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Although the Alaska State Operated

School System, the predecessor to the regional educational attendance areas, was a state agency subject to this article and not a "school district" whose noncertificated employees are exempt under paragraph (5), and therefore did not have a "right" to refuse to bargain which it could waive. Even if the Alaska State Operated School System had waived its right to claim exemption under this article, it does not follow that the regional educational attendance areas also have waived their right to assert the statutory exemption, since the regional educational attendance areas are not simply successors to the Alaska State Operated School System but are independent entities which have been given broad powers to run their individual school districts as they see fit. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Jurisdiction to determine applicability of collective bargaining agreement. — Because the noncertificated employees of school districts are not employees of the state directly or public employees under this article neither the state personnel board nor the Department of Labor has jurisdiction to determine the applicability of a collective bargaining agreement to the regional educational attendance areas. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Quoted in Carter v. Alaska Pub. Employees Ass'n, Sup. Ct. Op. No. 2657 (File No. 6586), 663 P.2d 916 (1983).

(3) "wages" means, except for the purposes of construing AS 23.20 and AS 23.30

(A) the basic hourly rate of pay; and

(B) all other compensation to an employee for services performed, including revocable and irrevocable contributions made by an employer to a trustee or third party for the benefit of the employee and contributions which may be reasonably anticipated in providing benefits to employees under an enforceable agreement to provide medical care, compensation for death or injury, or other fringe benefits. (am § 1 ch 115 SLA 1966)

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)

Chapter 45. General Provisions.

Section

10. Definitions

Sec. 23.45.010. Definitions. In this title

- (1) "commissioner" means the commissioner of labor;
- (2) "department" means the Department of Labor;

SYNOPSIS OF SB 372

Section 1 (a) allows a municipality or a political subdivision to exempt itself from the provisions of PERA (the Public Employment Relations Act) by adopting an ordinance or resolution. If the municipality or political subdivision are not currently covered by PERA, this allows them to adopt the provisions of PERA through an ordinance or resolution.

Section 1 (b) mandates that a municipality or political subdivision who either adopt PERA or opt out of PERA, as provided for in Section 1(a), may not change their status for at least three years following that action.

Section 2 repeals a non-codified section of the original Public Employment Relations Act (PERA) that defines which political subdivisions are to be covered by the Act. SB 372 more clearly spells out this provision of PERA, so the old language is no longer needed.

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.

CHAPTER No. 113
Session LAWS of ALASKA
1972

Sec. 01.10.050. Tense, number, and gender.

NOTES TO DECISIONS

Quoted in D.A.W. v. State, Sup. Ct. Op. No. 2935 (File No. S-169), 699 P.2d 340 (1985).

Cited in Dunlop v. State, Sup. Ct. Op. No. 3068 (File Nos. S-923, S-1163), 721 P.2d 604 (1986).

Sec. 01.10.055. Residency. (a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.

(b) A person demonstrates the intent required under (a) of this section

(1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and

(2) by providing other proof of intent as may be required by law or regulation, that may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

(c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state. (§ 1 ch 67 SLA 1983)

Sec. 01.10.060. Definitions. In the laws of the state, unless the context otherwise requires,

(1) "action" includes any matter or proceeding in a court, civil or criminal;

(2) "daytime" means the period between sunrise and sunset;

(3) "month" means a calendar month unless otherwise expressed;

(4) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

(5) "nighttime" means the period between sunset and sunrise;

(6) "oath" includes affirmation or declaration;

(7) "peace officer" means an officer of the state troopers, members of the police force of an incorporated city or borough, United States marshals and their deputies, and other officers whose duty it is to enforce and preserve the public peace;

(8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;

(9) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(10) "property" includes real and personal property;



City of Petersburg
P. O. Box 329
Petersburg, Alaska 99833

FEB 1 1988

January 29, 1988

Senator Fanning
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fanning:

This letter is a follow-up to a discussion that I had with your aide, Mrs. Gail Thibodeau concerning the City of Petersburg's experience under the Public Employees Relations Act of 1972 (PERA).

Prior to my initial discussion with Ms. Gail Thibodeau, I became aware of your Senate Bill #372 through the Alaska Municipal League. I was very pleased to see that there is the possibility of some relief from this oppressive piece of legislation.

As you are aware, the Charter of the City of Petersburg authorized the institution of a "home rule" municipality. In other words, the citizens of Petersburg in a "charter election" chose to maintain as much "local control" over their own affairs as was possible under the state law at that time. Since our Charter was adopted by these voters, there has been no single piece of state legislation that has had, as oppressive an impact on this fundamental concept (local control) as the Public Employee Relations Act of 1972 (PERA).

The problem with PERA has been this single opt-out "window" and the courts restrictive interpretation of this concept.

As a practical matter PERA gave Petersburg six months from the time of its passage, to opt-out.

In my opinion, this "single window of time" was totally inadequate for a City Council to digest the implications of PERA, and opt-out in an intelligent manner. In other words, with our own collective bargaining ordinance.

Coincidentally, during this time the "International Brotherhood of Electrical Workers" were actively "signing up" employees in our electric utility. Our City Council reacted to this "perceived threat", rather than the more fundamental issues, and passed a resolution to opt-out of PERA. The courts later interpreted this opt-out as invalid, because it was done concurrently with the unionizing efforts.

Compounding this, the court ruling did not address the rest of the employees, and whether or not, they were under PERA also, or under our existing ordinance. Ultimately, another large union

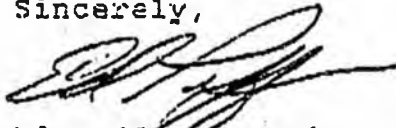
used this issue to organize the remaining employees and file suit against the city on the issue of "partial opt-out" or equity. After many thousands of dollars of legal expenses and employee consternation the court in 1987 ruled that there could not be a "partial opt-out" and consequently all our employees are under PERA.

Consequently, due to PERA we now have two large outside unions, IBEW and APEA. Their "leadership" and their expectations comes from outside Petersburg, the process is controlled by outside state agencies that are use to dealing with state issues and state resources.

Consequently, the Petersburg taxpayer and rate payer has "lost control" of the single largest expenditure in their annual budget.

Please let me know if I can be of any future assistance in your effort to amend PERA.

Sincerely,



Ed Pefferman, City Manager
City of Petersburg

cc: Senator Jones
Representative Taylor
Representative Sund

STATE of Alaska, Petitioner,

v.

CITY OF PETERSBURG, Alaska, and International Brotherhood of Electrical Workers, Local 1547, AFL-CIO, Respondents.

No. 2341.

Supreme Court of Alaska.

July 24, 1975.

The Superior Court, First Judicial District, Juneau, Thomas B. Stewart, J., upheld city's rejection of applicability to it of the Public Employment Relations Act, and the State and union petitioned for immediate review. The Supreme Court, Boochever, J., held that as to municipal power plant employees, city could not exempt itself from applicability of the Act at a time more than six months after its effective date and after becoming aware of fact that all such employees had authorized particular union to represent them.

Reversed and remanded.

Connor and Burke, JJ., filed separate dissenting opinions.

1. Appeal and Error ⇨363

Petition for review of order upholding city's rejection of application of the Public Employment Relations Act would be granted, though other issues remained to be determined in the case, where the order involved a controlling question of law as to which there was a substantial ground for difference of opinion and immediate decision might materially advance the ultimate termination of the litigation, and where the substance and importance of the order presented the need of present and immediate review. AS 23.40.070(1, 2); Rules of Appellate Procedure, rules 23(d), 24(a)(1, 2) 46.

2. Labor Relations ⇨52

Whether political subdivision may reject application of the Public Employment Relations Act turns on substantiality of or-

ganizational activities already undertaken by employees and the extent of the subdivision's awareness of those activities. AS 23.40.070(1, 2); Laws 1972, c. 113, § 4.

3. Labor Relations ⇨52

City could not exempt itself from applicability of the Public Employment Relations Act more than six months after its effective date, as to municipal power plant employees, after becoming aware of fact that all such employees had authorized particular union to represent them; city's prerogative to reject Act could not be used as a de facto veto against particular union, which would constitute interference with employees' freedom to choose which collective bargaining association should represent them. AS 23.40.010, 23.40.070, 23.40.070(1, 2), 23.40.110(a)(1, 5); Laws 1972, c. 113, § 4.

4. Labor Relations ⇨52

Applying a liberal construction to the powers of local government cannot override express declarations of policy made a part of the Public Employment Relations Act that the Act be applicable to all political subdivisions unless rejected. Const. art. 10, §§ 1, 11; Laws 1972, c. 113, § 4.

5. Labor Relations ⇨677

Where review of decision of the Department of Labor presented question of statutory interpretation, trial court did not err in substituting its independent judgment for that of the hearing examiner.

Michael R. Peterson, Deputy Atty. Gen., Ronald W. Lorensen, Asst. Atty. Gen., Norman C. Gorsuch, Atty. Gen., Juneau, for petitioner.

Robert B. Baker of Robertson, Monagle, Eastaugh & Bradley, Anchorage, for appellee City of Petersburg.

Robert M. Goldberg, Anchorage, for appellee Local 1547, IBEW.

Before RABINOWITZ, C. J., and CONNOR, ERWIN, BOOCHEVER and BURKE, JJ.

OPINION

BOOCHEVER, Justice.

On June 7, 1972, the Governor of the State of Alaska approved the Public Employment Relations Act (hereinafter PERA) which conferred upon public employees the right to organize and to bargain collectively with their employers, and correspondingly required public employers to recognize collective bargaining units formed under the PERA.¹ The actual effective date of the PERA was September 5, 1972.² Of particular concern in this case is a provision whereby the legislative body of any political subdivision of the state may reject the Act thereby preventing its application to the public employees of that subdivision.³ Specifically, we are confronted with the issue as to whether the Petersburg City Council could validly reject application of the Act more than six

months after it became effective,⁴ and after the members of the Council had learned of the organizational activity of the City's power plant employees.

Early in 1973, employees of the City of Petersburg light and power plant began discussing the possibility of joining a union. As a result, on March 23 and 24, 1973, the entire eight-man work force signed cards authorizing the International Brotherhood of Electrical Workers Union Local 1547 (hereinafter IBEW) to act as their collective bargaining representative. A few nights later, the Petersburg City Council held a special meeting at which it passed Resolution 366-R purporting to exempt the City from the provisions of the PERA.⁵ At the time of this meeting, the members of the City Council then present were well aware of the activities of the power plant employees concerning the formation of a collective bargaining unit.⁶ In

1. AS 23.40.070(1) and (2).
2. SLA ch. 113 (1972).
3. SLA ch. 113, § 4 (1972) provides as follows:

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.

4. In view of our holding in the instant case, we do not reach the issue of whether the City could act by means of passage of a resolution rather than by enactment of an ordinance.
5. Only four of six Council members were present at the meeting and only three voted for the resolution. Due to concern that procedural irregularities might have rendered the first resolution invalid, the Council met again on April 11, 1973 and passed a second resolution, 387-R, purportedly exempting the City of Petersburg from the applicability of the PERA.
6. This was indicated by testimony before the labor relations hearing officer. Paul Jones, an employee of the City testified that Councilman Ted Smith was aware that the employees of the power plant had signed pledge cards two or three days after the signing occurred. Doug Welde testified that on the day following the signing of the cards, Councilman Oines asked him "What's this I hear about the IBEW and the Union". Councilman

Ted Smith testified that he was aware prior to the March 20, 1973 meeting that the employees of the power plant had signed something indicating that they were interested in a union. Smith further testified that the resolution passed at the March 20 special meeting was in response to the organizational activities at the power plant. Councilman Oines testified to a similar motivation for this meeting and stated that the signing of the IBEW cards could have been discussed at the meeting. Councilman Fred Haltiner admitted that, prior to the March 20 meeting, he had been told that possibly all of the power plant employees had signed pledge cards. However, Ms. Jerry Van Bleek, the Clerk-Treasurer for the City of Petersburg, testified that at the March 20 meeting there was no mention of the power plant employees having signed authorization cards. In his decision, the hearing examiner deemed the following conclusively proved by the evidence:

The right of the City to exempt itself from the operation of the PERA had existed and was notice to the world since the Act was signed by the Governor in June of 1972; but the City took no action to escape from the PERA until it learned that its eight power plant employees had signed pledge cards. It acted five days later on March 20, 1973, at which time the City passed Resolution 366-R for the purpose of exempting itself from the operation of PERA. (emphasis added)

fact, Councilwoman Annie Taylor testified that, at the March 29 meeting and prior to the passage of Resolution 366-R, she told those members of the City Council then present that all of the power plant employees had signed pledge cards with the IBEW.

After an unsuccessful effort by the union to discuss the situation with the City Council, the matter was placed on the agenda for a meeting held on May 7, 1973. At that meeting, the Council refused to deal with the union, asserting that because of the passage of its resolution, it was not required to recognize the IBEW as the bargaining agent of the power plant employees. As a result, the union representative advised the Council that a strike vote would be held that night, and at 11:00 p. m., the employees notified the Mayor that they would go on strike at 6:00 the next morning. Notice was also given to the fire department and the hospital. At approximately 6:30 a. m. on May 8, the power plant was shut down. The three men involved in shutting down the power plant were immediately fired, and the other five were terminated when they refused to return to their jobs.

On May 16, 1973, the union sent a telegram to the Alaska Department of Labor alleging that the actions of the City in refusing to recognize the union and in firing the power plant employees constituted unfair labor practices under the PERA and requesting an immediate investigation. A formal accusation was filed on June 15, 1973. The Deputy Commissioner of the Department of Labor, on the basis of his preliminary investigation, found that there

AS 23.40.110(a)(1) and (5) provide:
 (a) A public employer or his agent may not
 (1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in § 50 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.

was probable cause to believe that the City had interfered with the rights of its employees to organize and had refused to bargain collectively in good faith with the IBEW, an organization which was the exclusive representative of employees in an appropriate unit. He concluded that such activities were in apparent violation of AS 23.40.110(a)(1) and (a)(5).⁷

The City of Petersburg filed a complaint in the superior court on June 29, 1973 (CA No. 73-201) seeking damages from the local IBEW and the employees involved in the strike. Additionally, the City alleged that the Department of Labor was without jurisdiction over this labor dispute, and that, therefore, it should be enjoined with regard to any further proceedings. On July 18, 1973, the superior court denied the City's motion for a temporary restraining order thereby allowing the Department to proceed with formal hearings on the accusation that the City had committed certain unfair labor practices.⁸

A hearing was held in Petersburg before Douglas L. Gregg, a hearing examiner of the state labor relations board, who, on January 14, 1974, issued an order requiring the City to recognize IBEW Local 1547 as the bargaining agent for the power plant employees. The hearing officer further ordered that no fines be imposed against any party and that all employees who were terminated be reinstated on their jobs at wage rates not less than those prevailing at the time they were terminated.

The City filed a notice of appeal to the superior court from this administrative order on January 24, 1974 once again raising the issue of the Department's jurisdiction

8. In denying the injunctive relief requested by the City, Judge Stewart reasoned that while there was a large degree of doubt as to the jurisdiction of the Department over this dispute, benefit might be derived from allowing the Department to deal with the question first, thereby taking advantage of whatever expertise it might possess, particularly since he felt there would not be a large or abnormal expense involved in allowing the administrative hearing to go forward.

over the matter (CA No. 74-30). The State of Alaska filed a notice of cross-appeal on February 1, 1974, claiming that the hearing officer's denial of back pay was an abuse of discretion.

Judge Stewart issued an interlocutory order in which he dealt with both the case originally filed in superior court by the City and the case there on appeal from the administrative hearing, these having been consolidated by stipulation of the parties in March 1974. He ordered that the City be given time for full consideration of whether to enact an ordinance for the purpose of rejecting application of the PERA to the City of Petersburg. The judge indicated that if the City properly rejected the application of the PERA by passage of an ordinance, a final judgment would be entered affirming that rejection. Judge Stewart also ordered that the City was not required to reinstate the employees involved in the strike but rather should offer them jobs to the extent available within the City's workforce at rates not less than those prevailing at the time of termination. No decision was made concerning the City's damages claim found in the original complaint filed with the superior court.

The State of Alaska on October 21, 1974, joined by the IBEW on October 28, filed a petition with this court seeking immediate review of the superior court's interlocutory order. The petition was denied.

[1] A motion for reconsideration of the petition was filed with this court on December 5, 1974. By this time, the City had rejected the application of the PERA by

9. For this reason, we initially decided to consider the petition for review as an appeal under authority of *In re E.M.D.*, 490 P.2d 658, 661 (Alaska 1971), and Alaska R.App.P. 46 permitting relaxation of rules. Due, however, to the fact that there are a number of issues remaining to be resolved by the trial court, we have determined that it is preferable to consider this matter as a petition for review.

10. Review is granted in accordance with Alaska R.App.P. 23(d) because the order involves a controlling question of law as

ordinance and, therefore, with respect to that portion of the case, the lower court order was final.⁹ We have now decided to grant the petition for review limited to the question of whether a municipality can exempt itself from applicability of PERA at a time more than six months after its effective date and after it knows about organizational activity such as that which occurred here.¹⁰

We thus must determine the proper construction of the PERA exemption provision making the Act applicable to 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". Of particular significance to the resolution of this issue is that portion of the statement of policies to be effectuated by the PERA which provides:

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

..11

to which there is substantial ground for difference of opinion, and an immediate decision may materially advance the ultimate termination of the litigation. Moreover, under Alaska R.App.P. 24(a)(1) and (2), the substance and importance of the order sought to be reviewed justify departure from normal appellate procedure and the sound policy behind the general rule of requiring appeals to be taken only from final judgments is outweighed by the need of a present and immediate review of the order.

11. AS 23.10.070.

Thus, the Act was intended to recognize the right of employees to organize for the purpose of collective bargaining and to require public employers to negotiate and enter into labor contracts with employee organizations. It is apparent that this purpose would be substantially frustrated if the City could wait until the employees elected to be represented by a specific union, and then could exempt itself from the requirements of the Act if that union was not favored by the City.¹² In effect, this would give the City the right to control the organization to be selected by the employees. In fact, that is exactly what was attempted by the Petersburg City Council when, at a meeting held on April 4, 1973, it was suggested to the employees, who had been requested to attend the meeting, that they form their own union rather than join the IBEW.

[2.5] The critical point beyond which the right and power of the City to reject the Act become subordinated to the rights of the employees granted by the same legislation must be ascertained. We hold that the analysis must turn on both the substantiality of the organizational activities undertaken by the employees and the extent of the City's awareness of those activities. Prior to becoming aware of substantial organizational activity,¹³ the City could have exempted itself from the applicability of the PERA without interfering with the right of the employees to organize. Rejection of the PERA after becoming aware of such activity constitutes a gross and impermissible interference with the employees'

12. Even the City admits that the exemption provision cannot be read as placing no time limit on the action of political subdivisions. Otherwise, even after recognizing an employee organization, a City could exempt itself from the provisions of the Act and thereafter refuse to negotiate.

13. The City contends that determination of when it becomes aware of substantial organizational activity is too imprecise a standard. While admittedly difficult factual situations may be conjured up, courts are constantly required to make similarly difficult deter-

minations (as, for example, whether a party has exercised due care in a negligence case). See also *State v. Marathon Oil Co.*, 528 P.2d 293, 297-98 (Alaska 1974); *United States v. Ragen*, 314 U.S. 513, 523, 62 S.Ct. 374, 88 L.Ed. 393, 390 (1942). In any event, it is clear that substantial organizational activity has occurred when all of the employees of a particular unit of government have signed cards authorizing a specific union to represent them.

freedom to choose which collective bargaining association should represent them.

That the City's prerogative to reject the Act is not to be used as a de facto veto against particular unions is evidenced by a comparison of the exemption provision set forth in SLA ch. 113, § 4 (1972) with the prior provision expressly repealed by the 1972 Act.¹⁴ The earlier provision contained in AS 23.40.010¹⁵ specified that:

The state or any political subdivision thereof including . . . [a] municipal corporation . . . may enter into union contracts with any labor organization whose members furnish services to the state or such political subdivision. . . . [P]rovided however that nothing contained in this Act shall be construed to require the state or any political subdivisions thereof to enter into union contracts. (emphasis added)

Under that provision, neither the state nor its political subdivisions were required to enter into union contracts. Prior to the 1972 Act, a municipality could wait until approached by a specific organization and still refuse to negotiate with or even recognize that union. The position advocated by the City in this case, that the exemption provision may be invoked at any time prior to an official demand by the particular organization of public employees for recognition, would constitute a reversion to the situation existing under the former statute which expressly entrusted the local government with complete authority to block attempts by public employees to or-

minations (as, for example, whether a party has exercised due care in a negligence case). See also *State v. Marathon Oil Co.*, 528 P.2d 293, 297-98 (Alaska 1974); *United States v. Ragen*, 314 U.S. 513, 523, 62 S.Ct. 374, 88 L.Ed. 393, 390 (1942). In any event, it is clear that substantial organizational activity has occurred when all of the employees of a particular unit of government have signed cards authorizing a specific union to represent them.

14. SLA ch. 113, § 5 (1972).

15. SLA ch. 108, § 1 (1959).

ganize even after significant steps toward organization had been taken.¹⁶

The 1972 Act repealed AS 23.40.010, and in lieu thereof, the Act was specifically made applicable to "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". More than a nice semantical distinction may properly be made concerning the fact that the legislature provided for the PERA to be applicable to all political subdivisions of the state unless they rejected it rather than making the Act inapplicable unless affirmative steps are taken by these same subdivisions to adopt the Act. In its arguments, the City contends that adopting the position that the Act must be rejected prior to substantial organizational activity by public employees limits the freedom of the political subdivision to consider whether it wishes the PERA to apply to it. While no doubt true, it is equally evident from the wording of the exemption provision that this is precisely what the legislature intended. Had the legislature wished to bestow upon local governments the unlimited, unfettered discretion to deal with the question of the applicability of the PERA at their leisure, the exemption provision could have been written, as was the prior provision, to require affirmative action by the political subdivision to adopt the Act. It is not so written and the reason is not so written is apparently to preclude precisely what the City argues for here. Under the present statute, applicability of the PERA is the rule, exemption the exception.

The City in its able presentation contended that the reason that AS 23.40.010 was repealed and Section 4 of SLA ch. 113 (1972) enacted was to render the terms of

the Act mandatory as to the state and not for the purpose of changing the requirements with reference to labor negotiations by political subdivisions. It is true that the state was not furnished the option to exempt itself from the Act by the 1972 amendment. But if that had been the only change desired by the legislature, the former provision could have been re-enacted limited to political subdivisions only. The change in the language of the provision thus retains its significance as to political subdivisions, despite the elimination of the state from the exemption authorization.

The City also argues that small municipalities may not become aware of the terms of the PERA until after substantial organizational activity occurs, at which time they would have no reasonable opportunity to elect to be exempted. As noted at the outset, however, the Act, although signed into law on June 7, 1972, did not become effective until September 5, 1972. This interim period afforded adequate time for municipalities to become informed in most cases. In any event, it is apparent from the record that members of the Petersburg City Council were well aware of the terms of the Act. We are thus not required to pass on questions that might arise in the event that a small municipality was unaware of the statutory provisions.

[4,5] The City contends that under home rule provisions, its powers should be construed broadly, and the superior court based its decision on such a construction. Article X, § 1 of the Alaska Constitution provides in part that a liberal construction be given to the power of local government units, and Article X, § 11 specifies that a home rule borough may exercise all legislative powers not prohibited by law or charter. But here the Act was expressly made

16. The City of Petersburg seemingly concedes that once there has been an official demand for recognition by the public employee organization, the local governmental entity can no longer exempt itself from the PERA. As this case well illustrates, such a concession is rather meaningless. For all practical purposes, given the size of the communities in

Alaska, the local governmental entities will be aware of the organizational activities well enough in advance of a demand for recognition to pass legislation, however hastily, to prevent the necessity of ever being forced to deal with an organization selected by employees when such organization is not satisfactory to the city.

applicable to home rule municipalities, and thus municipalities were impliedly prohibited from refusing to negotiate with organizations selected by employees unless the exemption was timely enacted.¹⁷ Applying a liberal construction to the powers of local government cannot here override the express declaration of policy made a part of the PERA when coupled with considerations of the impact of the repeal of AS 23.40.010 and the different language used in the 1972 exemption provision, SLA ch. 113, § 4 (1972).¹⁸

The interlocutory order of the superior court is, therefore, overruled insofar as it permits the City to reject application of the PERA after becoming aware of the fact that all of the employees of the City power and light plant had authorized IBEW to represent them.¹⁹

Reversed and remanded.²⁰

CONNOR and BURKE, JJ., dissenting separately.

CONNOR, Justice (dissenting).

I must respectfully dissent.

I am unable to read § 4, ch. 113, SLA 1972 as imposing any definite time limit upon organized boroughs and political subdivisions in their rejection of the coverage of the Public Employment Relations Act. If the legislature had intended that municipalities should act within some definite

time, it would have been a simple matter to insert such a time limitation in the text of the statute. That the legislature did not do this is, to me, significant as a guide to interpreting the statute.

Several considerations buttress the conclusion which I have reached. For one thing, many small municipalities might not have been aware of the act and the need to expressly exempt themselves from its provisions until organizational activity actually occurred. Moreover, because the act stated no definite time limit, even those municipalities which were aware of the act might not have felt any sense of urgency in acting to exempt themselves before organizational activity among their employees began to occur. In these circumstances I have difficulty reading into the act an implied time limitation within which a municipality must exempt itself from the statutory coverage.

The majority opinion places emphasis on the contrast between the 1972 statute and the earlier provision contained in AS 23.40.010,¹ which did not require the state or any political subdivisions to enter into union contracts, although the state or a political subdivision was permitted to enter into such contracts. On the contrary, it can be argued that if the political subdivisions of the state were under no previous obligation to enter into union contracts they might well read the 1972 act as continuing the

17. See *Jefferson v. State*, 527 P.2d 37, 43 (Alaska 1974).

18. The state and the IBEW alternatively argued that the trial court erred in the standard of review it applied to the decision of the Department of Labor, contending that the superior court's review of the Department's construction of SLA ch. 113, § 4 (1972) should have been limited to a determination of whether there existed a reasonable basis for the hearing examiner's decision. Here the question presented involved statutory interpretation about which courts have specialized knowledge and experience. Although we disagree with the conclusions reached on the merits by the trial judge, we hold that he did not err in substituting his independent judgment for that of the hearing examiner. The standard applied by the trial court was

consistent with the guidelines set forth in *Kelly v. Zamarello*, 486 P.2d 908, 916-17 (Alaska 1971). The appropriate standards of *Kelly* should also be applied upon remand in reviewing other portions of the Department's decision.

19. Our decision is limited in its application to the municipal power plant employees. We do not pass on the question of whether the PERA shall now apply to all employees of the City of Petersburg.

20. The trial court may conduct such further proceedings as are necessary to resolve the remaining issues presented by the City of Petersburg complaint as well as by the appeal and cross-appeal from the order of the Department of Labor.

1. § 1, ch. 108, SLA 1959.

* right not to bargain collectively with labor unions, and as conferring upon the political subdivisions an indefinite time limit within which to exempt themselves should they be approached by a labor organization with a demand for collective bargaining. This might well explain why a municipality would wait until organizational activity among its employees actually occurred before acting to exempt itself from the coverage of the 1972 statute.

A quite different and more serious problem would be presented if a city had entered into a collective bargaining agreement with its employees and then later attempted to exempt itself from the coverage of the statute, but that is not the case here.

For the reasons stated I would affirm the judgment of the superior court.

BURKE, Justice (dissenting).

I respectfully dissent. Article X, Section 11 of the Constitution of the State of Alaska provides: "A home rule borough or city may exercise all legislative powers not prohibited by law or by charter." Exercising a legislative power expressly conferred upon it by Section 4, Chapter 113, SLA 1972, the City of Petersburg, by resolution, rejected the application of the provisions of the Public Employment Relations Act. The majority now says that such action was improper since the city was aware of "substantial organizational activity" on the part of certain of its employees. I do not agree.

* We are required to give a liberal construction to the powers of local government units.¹ With that principle in mind I can find nothing in the language of the Public Employment Relations Act, or its

legislative history, justifying the implied limitation suggested by the majority. Particularly where, as here, there has been an express delegation of legislative authority I believe that this court should act with the utmost restraint in placing any restriction on the exercise of that authority by a home rule city. In this case the legislature's failure to impose a time limitation, in express terms, is simply too obvious to be without meaning. To me there is clear evidence of an intent that there be no such limitation.

But, even if some limitation was intended, as found by the majority, I oppose the adoption of a standard as uncertain as one based upon a political subdivision's awareness of "substantial organizational activity" on the part of its employees. What level or awareness is sufficient? Is actual knowledge required? If so, whose knowledge? Does the term "substantial organizational activity" refer to the number of employees involved or the level of their activity? Does it mean substantial in relation to the size of the political subdivision's total work force, the number of employees eligible for membership in a particular union, or those working at a particular facility, such as a municipal light and power plant?

Because of these and other questions I foresee grave difficulty in any future attempt to determine whether a political subdivision is entitled to avail itself of the protection afforded by Section 4, Chapter 113, SLA 1972. The only safe course of action for such an entity would appear to be the immediate enactment of an ordinance or resolution rejecting the provisions of the Public Employment Relations Act.

1. Article X, Section 1, Constitution of the State of Alaska.



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

MEMORANDUM

TO: Senator Mitch Abood, Chairman
Senate State Affairs Committee

FROM: Cherie Shelley *CS*
APEA

SUBJECT: Senate Bill 372

DATE: February 2, 1988

The Alaska Public Employees Association (APEA) is adamantly opposed to Senate Bill 372, which strikes at the heart of collective bargaining for municipal employees.

APEA represents municipal employees covered under the Public Employee Relations Act in Ketchikan Gateway Borough, City of Petersburg, City of Fairbanks and Fairbanks North Star Borough. SB 372, if allowed passage could effectively destroy collective bargaining for these municipal employees. The legislation would allow municipal governments which have opted for coverage under PERA to now opt-out, leaving employees relations in a vacuum. Management would be free to unilaterally set wages and other working conditions.

In 1972 the legislature found that joint-decision making is the modern way of administering government, including municipal government. If public employees are granted the right to share in the decision-making process affecting wages and working conditions, they are more responsive and better able to exchange ideas, and information in operations with their administrators. Accordingly government is made more effective. PERA provides the legal structure for such process.

CS/jm

Fairbanks Field Office
825 College Road
Fairbanks, AK 99701
Telephone: (907) 458-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1888

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

Alaska Municipal League Policy Statement

1988



Adopted at the Business Meeting
of the 37th Annual Local Government Conference
of the
ALASKA MUNICIPAL LEAGUE
Anchorage, Alaska
November 13, 1987

and an amendment to the statutes governing these codes that would allow municipalities adopting these codes to provide for a transition period regarding licensing and certification requirements for plumbers and electricians working within their boundaries. The League supports the adoption of the national codes as the standards for Alaska.

9. Authorities: The League opposes any effort by the Legislature to restrict the method of establishment, form, powers, or other features of municipal port or other authorities. The League supports legislation that would clarify the authority of municipalities to form public corporations, authorities, and similar public entities through which they may exercise a power.

B. PUBLIC EMPLOYEE LABOR RELATIONS

1. Alaska Public Employees Labor Relations Act: The League strongly opposes any legislation that would force municipalities to be subject to the provisions of the Alaska Public Employees Labor Relations Act. The League opposes, just as strongly, any legislative efforts to dictate the provisions of local public employee labor relations ordinances. The League supports legislation to allow each municipality to reject or withdraw from the terms of the Alaska Public Employees Labor Relations Act at any time. The scope of decisions as to local government finance and labor policies is best left to the local governing body.

2. Binding Arbitration: The League opposes legislation imposing binding arbitration on local governments and school districts. Binding arbitration hinders local elected officials' ability to determine their personnel costs and prevents local governments from having complete control of determining the local tax rate. The scope of decisions with regard to what local government can afford for labor is best left to the local bodies possessing that knowledge.

C. UNORGANIZED BOROUGH

The League urges the Legislature to address the organization of the unorganized borough.

D. TRIBAL COUNCIL/LOCAL GOVERNMENT RELATIONS

The League supports and encourages efforts on the part of the Legislature and other concerned parties to address tribal/local government relations.

E. FORMATION OF NEW MUNICIPALITIES

1. State Policies: The League supports state policies that encourage rather than discourage the formation of new municipalities.

2. Funding: The League strongly supports legislation to provide adequate funds to assist in the study of the feasibility of forming new municipalities and in the unification and/or consolidation of borough and city governments. The League also supports increasing funds for the formation of newly organized municipalities.

STATE of Alaska, Petitioner,

v.

CITY OF PETERSBURG, Alaska, and International Brotherhood of Electrical Workers, Local 1547, AFL-CIO, Respondents.

No. 2341.

Supreme Court of Alaska,

July 24, 1975.

The Superior Court, First Judicial District, Juneau, Thomas B. Stewart, J., upheld city's rejection of applicability to it of the Public Employment Relations Act, and the State and union petitioned for immediate review. The Supreme Court, Boochever, J., held that as to municipal power plant employees, city could not exempt itself from applicability of the Act at a time more than six months after its effective date and after becoming aware of fact that all such employees had authorized particular union to represent them.

Reversed and remanded.

Connor and Burke, JJ., filed separate dissenting opinions.

1. Appeal and Error ⇐362

Petition for review of order upholding city's rejection of application of the Public Employment Relations Act would be granted, though other issues remained to be determined in the case, where the order involved a controlling question of law as to which there was a substantial ground for difference of opinion and immediate decision might materially advance the ultimate termination of the litigation, and where the substance and importance of the order presented the need of present and immediate review. AS 23.40.070(1, 2); Rules of Appellate Procedure, rules 23(d), 24(a)(1, 2) 46.

2. Labor Relations ⇐52

Whether political subdivision may reject application of the Public Employment Relations Act turns on substantiality of or-

ganizational activities already undertaken by employees and the extent of the subdivision's awareness of those activities. AS 23.40.070(1, 2); Laws 1972, c. 113, § 4.

3. Labor Relations ⇐52

City could not exempt itself from applicability of the Public Employment Relations Act more than six months after its effective date, as to municipal power plant employees, after becoming aware of fact that all such employees had authorized particular union to represent them; city's prerogative to reject Act could not be used as a de facto veto against particular union, which would constitute interference with employees' freedom to choose which collective bargaining association should represent them. AS 23.40.010, 23.40.070, 23.40.070(1, 2), 23.40.110(a)(1, 5); Laws 1972, c. 113, § 4.

4. Labor Relations ⇐52

Applying a liberal construction to the powers of local government cannot override express declarations of policy made a part of the Public Employment Relations Act that the Act be applicable to all political subdivisions unless rejected. Const. art. 10, §§ 1, 11; Laws 1972, c. 113, § 4.

5. Labor Relations ⇐677

Where review of decision of the Department of Labor presented question of statutory interpretation, trial court did not err in substituting its independent judgment for that of the hearing examiner.

Michael R. Peterson, Deputy Atty. Gen., Ronald W. Lorensen, Asst. Atty. Gen., Norman C. Gorsuch, Atty. Gen., Juneau, for petitioner.

Robert B. Baker of Robertson, Monagle, Eastaugh & Bradley, Anchorage, for appellee City of Petersburg.

Robert M. Goldberg, Anchorage, for appellee Local 1547, IBEW.

Before RABINOWITZ, C. J., and CONNOR, ERWIN, BOOCHEVER and BURKE, JJ.

OPINION

BOOCHEVER, Justice.

On June 7, 1972, the Governor of the State of Alaska approved the Public Employment Relations Act (hereinafter PERA) which conferred upon public employees the right to organize and to bargain collectively with their employers, and correspondingly required public employers to recognize collective bargaining units formed under the PERA.¹ The actual effective date of the PERA was September 5, 1972.² Of particular concern in this case is a provision whereby the legislative body of any political subdivision of the state may reject the Act thereby preventing its application to the public employees of that subdivision.³ Specifically, we are confronted with the issue as to whether the Petersburg City Council could validly reject application of the Act more than six

months after it became effective,⁴ and after the members of the Council had learned of the organizational activity of the City's power plant employees.

Early in 1973, employees of the City of Petersburg light and power plant began discussing the possibility of joining a union. As a result, on March 23 and 24, 1973, the entire eight-man work force signed cards authorizing the International Brotherhood of Electrical Workers Union Local 1547 (hereinafter IBEW) to act as their collective bargaining representative. A few nights later, the Petersburg City Council held a special meeting at which it passed Resolution 366-R purporting to exempt the City from the provisions of the PERA.⁵ At the time of this meeting, the members of the City Council then present were well aware of the activities of the power plant employees concerning the formation of a collective bargaining unit.⁶ In

1. AS 23.40.070(1) and (2).
2. SLA ch. 113 (1972).
3. SLA ch. 113, § 4 (1972) provides as follows:

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.

4. In view of our holding in the instant case, we do not reach the issue of whether the City could act by means of passage of a resolution rather than by enactment of an ordinance.
5. Only four of six Council members were present at the meeting and only three voted for the resolution. Due to concern that procedural irregularities might have rendered the first resolution invalid, the Council met again on April 11, 1973 and passed a second resolution, 367-R, purportedly exempting the City of Petersburg from the applicability of the PERA.
6. This was indicated by testimony before the labor relations hearing officer. Paul Jones, an employee of the City testified that Councilman Ted Smith was aware that the employees of the power plant had signed pledge cards two or three days after the signing occurred. Doug Welde testified that on the day following the signing of the cards, Councilman Oines asked him "What's this I hear about the IBEW and the Union". Councilman

Ted Smith testified that he was aware prior to the March 20, 1973 meeting that the employees of the power plant had signed something indicating that they were interested in a union. Smith further testified that the resolution passed at the March 20 special meeting was in response to the organizational activities at the power plant. Councilman Oines testified to a similar motivation for this meeting and stated that the signing of the IBEW cards could have been discussed at the meeting. Councilman Fred Haltiner admitted that, prior to the March 20 meeting, he had been told that possibly all of the power plant employees had signed pledge cards. However, Ms. Jerry Vnn Bleck, the Clerk-Treasurer for the City of Petersburg, testified that at the March 20 meeting there was no mention of the power plant employees having signed authorization cards. In his decision, the hearing examiner deemed the following conclusively proved by the evidence:

The right of the City to exempt itself from the operation of the PERA had existed and was notice to the world since the Act was signed by the Governor in June of 1972; but the City took no action to escape from the PERA until it learned that its eight power plant employees had signed pledge cards. It acted five days later on March 20, 1973, at which time the City passed Resolution 366-R for the purpose of exempting itself from the operation of PERA. (emphasis added)

...me effective,⁴ and aff-
he Council had learned
il activity of the City's
es.

employees of the City of
nd power plant began
sibility of joining
on March 23 and 24
eight-man work force
rizing the International
ectrical Workers Union
after IBEW) to act as
gaining representative
r, the Petersburg City
ial meeting at which
66-R purporting to ex-
n the provisions of the
me of this meeting, the
ty Council then present
of the activities of the
ees concerning the for-
ve bargaining unit.⁶

...that he was aware pro-
1973 meeting that the
power plant had signed
g that they were inter-
Smith further testified
passed at the March 23
is in response to the or-
ties at the power plant
testified to a similar me-
eting and stated that the
EW cards could have been
meeting. Councilman Fra-
that, prior to the March
d been told that possibly
lant employees had signed
ever, Ms. Jerry Van Blo-
r for the City of Peter-
at the March 29 meeting
tion of the power plant
signed authorization card
hearing examiner de-
usively proved by the

City to exempt itself from
the PERA had existed
o the world since the
he Governor in June
City took no action
PERA until it learned
near plant employees had
ris. It acted five days
9, 1973, at which time the
olution 366-R for the per-
g itself from the operation
asis aided)

fact. Councilwoman Annie Taylor testified that, at the March 29 meeting and prior to the passage of Resolution 366-R, she told those members of the City Council then present that all of the power plant employees had signed pledge cards with the IBEW.

After an unsuccessful effort by the union to discuss the situation with the City Council, the matter was placed on the agenda for a meeting held on May 7, 1973. At that meeting, the Council refused to deal with the union, asserting that because of the passage of its resolution, it was not required to recognize the IBEW as the bargaining agent of the power plant employees. As a result, the union representative advised the Council that a strike vote would be held that night, and at 11:00 p. m., the employees notified the Mayor that they would go on strike at 6:00 the next morning. Notice was also given to the fire department and the hospital. At approximately 6:30 a. m. on May 8, the power plant was shut down. The three men involved in shutting down the power plant were immediately fired, and the other five were terminated when they refused to return to their jobs.

On May 16, 1973, the union sent a telegram to the Alaska Department of Labor alleging that the actions of the City in refusing to recognize the union and in firing the power plant employees constituted unfair labor practices under the PERA and requesting an immediate investigation. A formal accusation was filed on June 15, 1973. The Deputy Commissioner of the Department of Labor, on the basis of his preliminary investigation, found that there

AS 23.40.110(a)(1) and (5) provide:

(a) A public employer or his agent may not
(1) interfere, restrain or coerce an em-
ployee in the exercise of his rights guaran-
teed in § 50 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.

was probable cause to believe that the City had interfered with the rights of its employees to organize and had refused to bargain collectively in good faith with the IBEW, an organization which was the exclusive representative of employees in an appropriate unit. He concluded that such activities were in apparent violation of AS 23.40.110(a)(1) and (a)(5).⁷

The City of Petersburg filed a complaint in the superior court on June 29, 1973 (CA No. 73-201) seeking damages from the local IBEW and the employees involved in the strike. Additionally, the City alleged that the Department of Labor was without jurisdiction over this labor dispute, and that, therefore, it should be enjoined with regard to any further proceedings. On July 18, 1973, the superior court denied the City's motion for a temporary restraining order thereby allowing the Department to proceed with formal hearings on the accusation that the City had committed certain unfair labor practices.⁸

A hearing was held in Petersburg before Douglas L. Gregg, a hearing examiner of the state labor relations board, who, on January 14, 1974, issued an order requiring the City to recognize IBEW Local 1547 as the bargaining agent for the power plant employees. The hearing officer further ordered that no fines be imposed against any party and that all employees who were terminated be reinstated on their jobs at wage rates not less than those prevailing at the time they were terminated.

The City filed a notice of appeal to the superior court from this administrative order on January 24, 1974 once again raising the issue of the Department's jurisdiction

8. In denying the injunctive relief requested by the City, Judge Stewart reasoned that while there was a large degree of doubt as to the jurisdiction of the Department over this dispute, benefit might be derived from allowing the Department to deal with the question first, thereby taking advantage of whatever expertise it might possess, particularly since he felt there would not be a large or abnormal expense involved in allowing the administrative hearing to go forward.

over the matter (CA No. 74-30). The State of Alaska filed a notice of cross-appeal on February 1, 1974, claiming that the hearing officer's denial of back pay was an abuse of discretion.

Judge Stewart issued an interlocutory order in which he dealt with both the case originally filed in superior court by the City and the case there on appeal from the administrative hearing, these having been consolidated by stipulation of the parties in March 1974. He ordered that the City be given time for full consideration of whether to enact an ordinance for the purpose of rejecting application of the PERA to the City of Petersburg. The judge indicated that if the City properly rejected the application of the PERA by passage of an ordinance, a final judgment would be entered affirming that rejection. Judge Stewart also ordered that the City was not required to reinstate the employees involved in the strike but rather should offer them jobs to the extent available within the City's workforce at rates not less than those prevailing at the time of termination. No decision was made concerning the City's damages claim found in the original complaint filed with the superior court.

The State of Alaska on October 21, 1974, joined by the IBEW on October 28, filed a petition with this court seeking immediate review of the superior court's interlocutory order. The petition was denied.

[1] A motion for reconsideration of the petition was filed with this court on December 5, 1974. By this time, the City had rejected the application of the PERA by

9. For this reason, we initially decided to consider the petition for review as an appeal under authority of *In re E.M.D.*, 490 P.2d 658, 661 (Alaska 1971), and Alaska R.App. P. 46 permitting relaxation of rules. Due, however, to the fact that there are a number of issues remaining to be resolved by the trial court, we have determined that it is preferable to consider this matter as a petition for review.

10. Review is granted in accordance with Alaska R.App.P. 23(d) because the order involves a controlling question of law as

ordinance and, therefore, with respect to that portion of the case, the lower court order was final.⁹ We have now decided to grant the petition for review limited to the question of whether a municipality can exempt itself from applicability of PERA at a time more than six months after its effective date and after it knows about organizational activity such as that which occurred here.¹⁰

We thus must determine the proper construction of the PERA exemption provision making the Act applicable to 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". Of particular significance to the resolution of this issue is that portion of the statement of policies to be effectuated by the PERA which provides:

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

. . .¹¹

to which there is substantial ground for difference of opinion, and an immediate decision may materially advance the ultimate termination of the litigation. Moreover, under Alaska R.App.P. 24(a)(1) and (2), the substance and importance of the order sought to be reviewed justify departure from normal appellate procedure and the sound policy behind the general rule of requiring appeals to be taken only from final judgments is outweighed by the need of a present and immediate review of the order.

11. AS 23.40.070.

before, with respect to the case, the lower court. We have now decided to review limited to the municipality can explicitly of PERA at six months after its effect it knows about or such as that which oc-

etermine the proper con- PERA exemption provi- applicable to political state, "home rule or e legislative body of sion, by ordinance or vng its provisions ap- gnificance to the res- is that portion of the to be effectuated by ades:

declares that it is the state to promote har- erative relations be- and its employees and ic by assuring effec- erations of govern- es are to be effec-

he right of public e for the purpose of

ic employers to ne- enter into written loyee organizations s, hours, and other ns of employment

antial ground for dif- in immediate decision the ultimate termina- oreover, under Alaska (2), the substance order sought to be re from normal ap- sound policy behind iring appeals to be gments is outweighed t and immediate re-

Thus, the Act was intended to recognize the right of employees to organize for the purpose of collective bargaining and to require public employers to negotiate and enter into labor contracts with employee organizations. It is apparent that this purpose would be substantially frustrated if the City could wait until the employees elected to be represented by a specific union, and then could exempt itself from the requirements of the Act if that union was not favored by the City.¹² In effect, this would give the City the right to control the organization to be selected by the employees. In fact, that is exactly what was attempted by the Petersburg City Council when, at a meeting held on April 4, 1973, it was suggested to the employees, who had been requested to attend the meeting, that they form their own union rather than join the IBEW.

[2.3] The critical point beyond which the right and power of the City to reject the Act become subordinated to the rights of the employees granted by the same legislation must be ascertained. We hold that the analysis must turn on both the substantiality of the organizational activities undertaken by the employees and the extent of the City's awareness of those activities. Prior to becoming aware of substantial organizational activity,¹³ the City could have exempted itself from the applicability of the PERA without interfering with the right of the employees to organize. Rejection of the PERA after becoming aware of such activity constitutes a gross and impermissible interference with the employees'

12. Even the City admits that the exemption provision cannot be read as placing no time limit on the action of political subdivisions. Otherwise, even after recognizing an employee organization, a City could exempt itself from the provisions of the Act and thereafter refuse to negotiate.

13. The City contends that determination of when it becomes aware of substantial organizational activity is too imprecise a standard. While admittedly difficult factual situations may be conjured up, courts are constantly required to make similarly difficult deter-

minations (as, for example, whether a party has exercised due care in a negligence case). See also *State v. Marathon Oil Co.*, 528 P.2d 293, 297-98 (Alaska 1974); *United States v. Ragen*, 314 U.S. 513, 523, 62 S.Ct. 374, 86 L.Ed. 393, 390 (1942). In any event, it is clear that substantial organizational activity has occurred when all of the employees of a particular unit of government have signed cards authorizing a specific union to represent them.

That the City's prerogative to reject the Act is not to be used as a de facto veto against particular unions is evidenced by a comparison of the exemption provision set forth in SLA ch. 113, § 4 (1972) with the prior provision expressly repealed by the 1972 Act.¹⁴ The earlier provision contained in AS 23.40.010¹⁵ specified that:

The state or any political subdivision thereof including . . . [a] municipal corporation . . . may enter into union contracts with any labor organization whose members furnish services to the state or such political subdivision. . . . [P]rovided however that nothing contained in this Act shall be construed to require the state or any political subdivisions thereof to enter into union contracts. (emphasis added)

Under that provision, neither the state nor its political subdivisions were required to enter into union contracts. Prior to the 1972 Act, a municipality could wait until approached by a specific organization and still refuse to negotiate with or even recognize that union. The position advocated by the City in this case, that the exemption provision may be invoked at any time prior to an official demand by the particular organization of public employees for recognition, would constitute a reversion to the situation existing under the former statute which expressly entrusted the local government with complete authority to block attempts by public employees to or-

minations (as, for example, whether a party has exercised due care in a negligence case). See also *State v. Marathon Oil Co.*, 528 P.2d 293, 297-98 (Alaska 1974); *United States v. Ragen*, 314 U.S. 513, 523, 62 S.Ct. 374, 86 L.Ed. 393, 390 (1942). In any event, it is clear that substantial organizational activity has occurred when all of the employees of a particular unit of government have signed cards authorizing a specific union to represent them.

14. SLA ch. 113, § 5 (1972).

15. SLA ch. 108, § 1 (1959).

ganize even after significant steps toward organization had been taken.¹⁶

The 1972 Act repealed AS 23.40.010, and in lieu thereof, the Act was specifically made applicable to "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". More than a nice semantical distinction may properly be made concerning the fact that the legislature provided for the PERA to be applicable to all political subdivisions of the state unless they rejected it rather than making the Act inapplicable unless affirmative steps are taken by these same subdivisions to adopt the Act. In its arguments, the City contends that adopting the position that the Act must be rejected prior to substantial organizational activity by public employees limits the freedom of the political subdivision to consider whether it wishes the PERA to apply to it. While no doubt true, it is equally evident from the wording of the exemption provision that this is precisely what the legislature intended. Had the legislature wished to bestow upon local governments the unlimited, unfettered discretion to deal with the question of the applicability of the PERA at their leisure, the exemption provision could have been written, as was the prior provision, to require affirmative action by the political subdivision to adopt the Act. It is not so written and the reason it is not so written is apparently to prevent precisely what the City argues for here. Under the present statute, applicability of the PERA is the rule, exemption the exception.

The City in its able presentation contended that the reason that AS 23.40.010 was repealed and Section 4 of SLA ch. 113 (1972) enacted was to render the terms of

the Act mandatory as to the state and not for the purpose of changing the requirements with reference to labor negotiations by political subdivisions. It is true that the state was not furnished the option to exempt itself from the Act by the 1972 amendment. But if that had been the only change desired by the legislature, the former provision could have been re-enacted limited to political subdivisions only. The change in the language of the provision thus retains its significance as to political subdivisions, despite the elimination of the state from the exemption authorization.

The City also argues that small municipalities may not become aware of the terms of the PERA until after substantial organizational activity occurs, at which time they would have no reasonable opportunity to elect to be exempted. As noted at the outset, however, the Act, although signed into law on June 7, 1972, did not become effective until September 5, 1972. This interim period afforded adequate time for municipalities to become informed in most cases. In any event, it is apparent from the record that members of the Petersburg City Council were well aware of the terms of the Act. We are thus not required to pass on questions that might arise in the event that a small municipality was unaware of the statutory provisions.

[4, 5] The City contends that under home rule provisions, its powers should be construed broadly, and the superior court based its decision on such a construction. Article X, § 1 of the Alaska Constitution provides in part that a liberal construction be given to the power of local government units, and Article X, § 11 specifies that a home rule borough may exercise all legislative powers not prohibited by law or charter. But here the Act was expressly made

16. The City of Petersburg seemingly concedes that once there has been an official demand for recognition by the public employee organization, the local governmental entity can no longer exempt itself from the PERA. As this case well illustrates, such a concession is rather meaningless. For all practical purposes, given the size of the communities in

Alaska, the local governmental entities will be aware of the organizational activities well enough in advance of a demand for recognition to pass legislation, however hastily, to prevent the necessity of ever being forced to deal with an organization selected by employees when such organization is not satisfactory to the city.

s to the state and not changing the requirements. It is true that the legislature, the formative divisions only. The re of the provision as to political elimination of the authorization.

that small municipalities aware of the fact that all of the employees of the City power and light plant had authorized IBEW to represent them.¹⁹

ital entities will be able to exercise all legislative powers should be a construction. Alaska Constitution local government specifies that a law or charter expressly made

applicable to home rule municipalities, and thus municipalities were impliedly prohibited from refusing to negotiate with organizations selected by employees unless the exemption was timely enacted.¹⁷ Applying a liberal construction to the powers of local government cannot here override the express declaration of policy made a part of the PERA when coupled with considerations of the impact of the repeal of AS 23.40.010 and the different language used in the 1972 exemption provision, SLA ch. 113, § 4 (1972).¹⁸

The interlocutory order of the superior court is, therefore, overruled insofar as it permits the City to reject application of the PERA after becoming aware of the fact that all of the employees of the City power and light plant had authorized IBEW to represent them.¹⁹

Reversed and remanded.²⁰

CONNOR and BURKE, JJ., dissenting separately.

CONNOR, Justice (dissenting).

I must respectfully dissent.

I am unable to read § 4, ch. 113, SLA 1972 as imposing any definite time limit upon organized boroughs and political subdivisions in their rejection of the coverage of the Public Employment Relations Act. If the legislature had intended that municipalities should act within some definite

17. See *Jefferson v. State*, 527 P.2d 37, 43 (Alaska 1974).

18. The state and the IBEW alternatively argued that the trial court erred in the standard of review it applied to the decision of the Department of Labor, contending that the superior court's review of the Department's construction of SLA ch. 113, § 4 (1972) should have been limited to a determination of whether there existed a reasonable basis for the hearing examiner's decision. Here the question presented involved statutory interpretation about which courts have specialized knowledge and experience. Although we disagree with the conclusions reached on the merits by the trial judge, we hold that he did not err in substituting his independent judgment for that of the hearing examiner. The standard applied by the trial court was

time, it would have been a simple matter to insert such a time limitation in the text of the statute. That the legislature did not do this is, to me, significant as a guide to interpreting the statute.

Several considerations buttress the conclusion which I have reached. For one thing, many small municipalities might not have been aware of the act and the need to expressly exempt themselves from its provisions until organizational activity actually occurred. Moreover, because the act stated no definite time limit, even those municipalities which were aware of the act might not have felt any sense of urgency in acting to exempt themselves before organizational activity among their employees began to occur. In these circumstances I have difficulty reading into the act an implied time limitation within which a municipality must exempt itself from the statutory coverage.

The majority opinion places emphasis on the contrast between the 1972 statute and the earlier provision contained in AS 23.40.010,¹ which did not require the state or any political subdivisions to enter into union contracts, although the state or a political subdivision was permitted to enter into such contracts. On the contrary, it can be argued that if the political subdivisions of the state were under no previous obligation to enter into union contracts they might well read the 1972 act as continuing the

consistent with the guidelines set forth in *Kelly v. Zamarello*, 486 P.2d 906, 916-17 (Alaska 1971). The appropriate standards of *Kelly* should also be applied upon remand in reviewing other portions of the Department's decision.

19. Our decision is limited in its application to the municipal power plant employees. We do not pass on the question of whether the PERA shall now apply to all employees of the City of Petersburg.

20. The trial court may conduct such further proceedings as are necessary to resolve the remaining issues presented by the City of Petersburg complaint as well as by the appeal and cross-appeal from the order of the Department of Labor.

1. § 1, ch. 108, SLA 1959.

* right not to bargain collectively with labor unions, and as conferring upon the political subdivisions an indefinite time limit within which to exempt themselves should they be approached by a labor organization with a demand for collective bargaining. This might well explain why a municipality would wait until organizational activity among its employees actually occurred before acting to exempt itself from the coverage of the 1972 statute.

A quite different and more serious problem would be presented if a city had entered into a collective bargaining agreement with its employees and then later attempted to exempt itself from the coverage of the statute, but that is not the case here.

For the reasons stated I would affirm the judgment of the superior court.

BURKE, Justice (dissenting).

I respectfully dissent. Article X, Section 11 of the Constitution of the State of Alaska provides: "A home rule borough or city may exercise all legislative powers not prohibited by law or by charter." Exercising a legislative power expressly conferred upon it by Section 4, Chapter 113, SLA 1972, the City of Petersburg, by resolution, rejected the application of the provisions of the Public Employment Relations Act. The majority now says that such action was improper since the city was aware of "substantial organizational activity" on the part of certain of its employees. I do not agree.

* We are required to give a liberal construction to the powers of local government units.¹ With that principle in mind I can find nothing in the language of the Public Employment Relations Act, or its

legislative history, justifying the implied limitation suggested by the majority. Particularly where, as here, there has been an express delegation of legislative authority I believe that this court should act with the utmost restraint in placing any restriction on the exercise of that authority by a home rule city. In this case the legislature's failure to impose a time limitation, in express terms, is simply too obvious to be without meaning. To me there is clear evidence of an intent that there be no such limitation.

But, even if some limitation was intended, as found by the majority, I oppose the adoption of a standard as uncertain as one based upon a political subdivision's awareness of "substantial organizational activity" on the part of its employees. What level or awareness is sufficient? Is actual knowledge required? If so, whose knowledge? Does the term "substantial organizational activity" refer to the number of employees involved or the level of their activity? Does it mean substantial in relation to the size of the political subdivision's total work force, the number of employees eligible for membership in a particular union, or those working at a particular facility, such as a municipal light and power plant?

Because of these and other questions I foresee grave difficulty in any future attempt to determine whether a political subdivision is entitled to avail itself of the protection afforded by Section 4, Chapter 113, SLA 1972. The only safe course of action for such an entity would appear to be the immediate enactment of an ordinance or resolution rejecting the provisions of the Public Employment Relations Act.

1. Article X, Section 1, Constitution of the State of Alaska.



Alaska Public
Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

TO: Senator Mitch Abood, Chairman
Senate State Affairs Committee

FROM: Cherie Shelley *CS*
APEA

SUBJECT: Senate Bill 372

DATE: February 2, 1988

The Alaska Public Employees Association (APEA) is adamantly opposed to Senate Bill 372, which strikes at the heart of collective bargaining for municipal employees.

APEA represents municipal employees covered under the Public Employee Relations Act in Ketchikan Gateway Borough, City of Petersburg, City of Fairbanks and Fairbanks North Star Borough. SB 372, if allowed passage could effectively destroy collective bargaining for these municipal employees. The legislation would allow municipal governments which have opted for coverage under PERA to now opt-out, leaving employees relations in a vacuum. Management would be free to unilaterally set wages and other working conditions.

In 1972 the legislature found that joint-decision making is the modern way of administering government, including municipal government. If public employees are granted the right to share in the decision-making process affecting wages and working conditions, they are more responsive and better able to exchange ideas, and information in operations with their administrators. Accordingly government is made more effective. PERA provides the legal structure for such process.

CS/jm

Fairbanks Field Office
825 College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

RICK L. RASMUSSEN, ESQ., P.S.
3288 ADAMS DRIVE, SUITE 103 • FAIRBANKS, ALASKA 99700-5054

FEBRUARY 1, 1988

Senate State Affairs Committee
Room 423, Capitol Building
P.O. Box V
Juneau, AK 99811

FEB 1 1988
SB 372
D

Attn: Senators Ken Fanning (R) Dist. K-A ,
Mitch Abood (R) Dist. G-A (Chair),
Willie Hensley (d) Dist. L,
Rick Uehling (R) Dist. H-B (Vice-Chair),
and Senator Joe Josephson (D) Dist. H-A

RE: SB 372


Dear Senators:

I've been an unwilling member of APEA since July of 1985. After meeting all the qualifications for pre-employment and meeting all academic standards for my profession and finally after a lengthy interview process, I get hired, to later find that I had 10 working days in which to join an organization I neither heard of or knew anything about; set the stage for my continual efforts to thwart their efforts.

Municipal employees, including Policemen/women, Firefighters, and Public Service employees be it State and/or Municipal should not form Union-like organizations for collective bargaining for two main reasons. It protects those who do not really produce as an employee, but hide behind the grievance process and the other has to do with wages. Some of my fellow coworkers without a college degree are making as much, if not more, money than I was when I first graduated in 1980 (undergraduate). This is not fair, nor equitable, and I hope this Senate Bill 372 gets passed, hands down.

Thank you.

Sincerely,



RICK L. RASMUSSEN, Esq.

RLR/ur

ENCLOSURE

APEA Members of Municipalities and Political Subdivisions

Senate Bill 372 is important to you.

SB 372, introduced by Senator Ken Fanning (R) District K-A, is a direct attack on collective bargaining. . .

If it passes it will:

- Allow municipalities and political subdivisions to adopt an ordinance or resolution to exempt itself from the Public Employment Relations Act. PERA guarantees your legal right to bargain and the grievance process.
- In addition, a municipality or political subdivision that exempts itself under the language in this bill may not change its status for at least three years.

APEA has fought long and hard to protect PERA for its members.

The Fight Goes on and We Need Your Help.

The bill was introduced on January 26. It is scheduled for a hearing in **Senate State Affairs** on February 3. The time span between the bill's introduction and a scheduled hearing is unusually short. **This means that SB 372 will move fast.**

There's no time to waste!

Let the members of the Senate State Affairs Committee know that you object to the passage of this bill. Tell them that SB 372 is an attack on collective bargaining.

Senate State Affairs Committee Members

Mitch Abood (R) Dist. G-A (Chair)

Rick Uehling (R) Dist. H-B (Vice-Chair)

Willie Hensley (D) Dist. L

Joe Josephson (D) Dist. H-A

Ken Fanning (R) Dist. K-A

if one of these senators represents your district, then contact him directly.

If not, either call, send a telegram, or a public opinion message to the chairman. **Do it Today!**

State Affairs Committee: (907) 465-4522 – Room 423, Capitol Bldg., P.O. Box V, Juneau, AK 99811

Public Opinion Message: (907) 465-4648

Alaska Public Employees Association

January 28, 1988

Fairbanks Fire Fighters Association

LOCAL 1324

P.O. BOX 1739



FAIRBANKS, ALASKA 99707

Senator Mitch Abood, Chairman
Senate State Affairs Committee
P.O. Box V
Juneau, AK 99811

February 1, 1988

FEB 4 1988

Dear Senator Abood:

The majority of the members of Fairbanks Fire Fighters Local 1324 have directed me to communicate our position on PERA and binding arbitration to the Interior Delegation.

Prior to 1973, the Fire Fighters of the Fairbanks Fire Department were not recognized as a bargaining unit. Local 1324 tried to strike and gain recognition, the city had a court injunction issued. From 1973 to 1983 Local 1324 was recognized and negotiated contracts at the city's pleasure and convenience. The only recourse for emergency service bargaining units was the courts. PERA with binding arbitration was adopted in 1983 by the City Council. Since 1983 we have negotiated two contracts and have yet to go to binding arbitration or the courts on contract negotiation disputes. With PERA it is in the best interests of all parties to negotiate in good faith with reasonable requests. Neither party wants to go to arbitration as the results are unpredictable. Since 1983 the local political manipulations have not had as direct an impact on contract negotiations. The emergency service contracts are not as easily negotiated in the media. The emergency services are the core services of the city and should be insulated to some extent from the rapidly shifting views of special interest groups and political interests. The events surrounding negotiations and tax issues in 1987 are a classic example of why PERA and binding arbitration are necessary. During the contract negotiations in 1987 the Council was constantly approached by special interest groups demanding wage reductions. The media seemed to heighten the controversy. When our contract was signed September 1, 1987, some special interest groups were vocal with their displeasure of the negotiation process, blaming PERA because their lobbying had not achieved the results they wanted in the contract. Monday, January 25, 1988, a resolution brought before the City Council died for lack of a second.

Fairbanks Fire Fighters Local 1324 believes in PERA and binding arbitration and has strived to understand it and negotiate within the guidelines set down in the law. We are determined to oppose any attempt to weaken or discontinue the City's involvement in PERA. We believe that PERA is best for us and the public in the long term. We appreciate the efforts of those that support our views on this issue and encourage those that do not to communicate with us so that we might present our position in more detail.

Sincerely,

Rocky Duncan, President, Local 1324

★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907 452-4761

FEB 4 1988

February 1, 1988

Honorable Mitch Abood
Chairman
Senate State Affairs Committee
P.O. Box V
Juneau, AK 99811

*SB 372.. Applicability
OF PERA TO
MUNICIPALITIES*

Dear Senator Abood:

I urge you to defeat SB 372. As a strong supporter of collective bargaining, I see this bill as the beginning of the end for public employee collective bargaining.

Sincerely,

Juanita Helms
Borough Mayor

JH:rlf

cc: Members, Senate State Affairs Committee
Interior Delegation

TESTIMONY TO SENATE STATE AFFAIRS COMMITTEE

SENATE BILL 372

February 3, 1988

My name is Barry Haight. I represent the Fairbanks Fire Fighters Association and I am also a professional fire fighter. The Fairbanks Fire Fighters oppose S.B. 372 and support the right of municipal employees to bargain collectively. That support includes binding arbitration as the appropriate method of impasse resolution for public safety employees.

While Fairbanks had originally opted out of the Public Employee Relations Act; bargaining of sorts continued with some employee groups. Then in the fall of 1983 due to discord; and lack of uniformity in dealing with employees, the City Council voted unanimously to place the City under PERA. Today you have before you legislation proposing to change that law as a solution to a local issue. We maintain that changing state law is not the answer and will not solve the local problem.

According to news reports, Fairbanks' Mayor requested this legislation so the City can avoid going to binding arbitration with police and fire fighters. He claims this is necessary because an arbitrator won't award pay and benefit concessions in favor of the City. Then the assertion is made that layoffs of fire and police personnel will be the result. Such statements and conclusions are not based on fact or experience and leave out relevant information.

I would like to take a couple minutes and provide some of that information to this committee.

The Fairbanks Fire Fighters have negotiated only one contract with the City since coming under PERA. That contract was amicably concluded five months ago without impasse or arbitration. It was approved by the City Council and not vetoed by the Mayor. It is remarkable that while negotiations were in progress, the Mayor was making public demands for concessions that were not made by the City's actual negotiator.

I think it is important for the committee to know agreements reached with the fire fighters contained wage and benefit concessions. In fact, all City employee groups have made a variety of wage, benefit and reduction of hours concessions.

Staffing levels in both the police and fire departments have been less than adequate for nearly a decade. In 1979 fire fighters and policemen were laid off and attrition by nonreplacement was begun and continues to date. The lack of public safety employees in Fairbanks today is not simply the result of the current revenue crisis. To attempt to draw a connection between lack of fire fighters and binding arbitration is deceptive and untrue. The present City Mayor has opposed hiring the proper number of fire fighters for almost six years, and this includes those years when huge amounts of shared revenue were available from the state and federal government.

The Fairbanks City Council does not share this negative view of binding arbitration or bargaining and rejected a resolution opposing binding arbitration at the January 25th council meeting. The resolution died for lack of a second.

Fairbanks has a local problem and part of that problem is revenue. While other communities have that same revenue problem they have reacted differently to it. Unlike Fairbanks they have a sales tax, and unlike Fairbanks their property taxes are considerably more than 2.8 mills.

Two Budget Committees selected and appointed by the Mayor within the last two years have urged increases in local effort for revenues. These recommendations were shelved and twice the council's efforts at raising local revenues were vetoed by the Mayor.

City employees are doing their part; in addition to wage and benefit concessions, other noncontractual money saving work arrangements have been accomplished. Now all that is needed is a property tax increase of less than one mill to deterr further layoffs and start Fairbanks off in a more positive direction for the future.

Senate Bill 372 will not solve our problem. It will add to the mistrust and may deterr voluntary cooperation between employee groups and local government.

We ask you to allow Fairbanks to solve its own difficulties and not pass S.B. 372 from committee.



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

February 4, 1988

To: Sen. Mitch Abood, Chair
Members, Senate State Affairs Committee

Re: SB 372; "An Act relating to the applicability of the
Public Employment Relations Act to municipalities and
political subdivisions."

NEA-Alaska opposes SB 372 in its present form.

The Legislature has established that collective bargaining for public employees is public policy and in the interests of more effective government; AS 23.40.070.

It is our feeling that providing for political subdivisions to have the opportunity to opt out of PERA absent a requirement that they provide for collective bargaining through a local ordinance similar to PERA would only lead to instability in employer/employee relationships and the high probability of additional and unnecessary litigation between the parties.

Further, for the Legislature to send out a message to political subdivisions that it is now permissible for them to opt out of PERA would be inconsistent with the original purpose and intent of PERA and would compromise the rights which have been established for public employees.

If the Committee is of a mind revise or modify SB 372, we encourage that you give serious consideration to mandating the applicability of PERA to all political subdivisions, including school districts for non-certificated employees, unless they have adopted a local ordinance or resolution similar to PERA which establishes the right of employees to organize and negotiate their terms and conditions of employment.

Thank you for your consideration of our concerns.

Respectfully submitted,

Bob Manners
Executive Secretary

Alaska State Legislature

REPRESENTATIVE
MARK BOYER

HOUSE FINANCE COMMITTEE



House of Representatives

FAIRBANKS

.1098 LAKEVIEW TERRACE
FAIRBANKS, ALASKA 99701
(907) 456-6473

JUNEAU

P.O. BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3466

MEMORANDUM

TO: Senator Mitch Abood, Chairman
Senate State Affairs Committee

FROM: Representative Mark Boyer *MB*

SUBJECT: SB 372

DATE: February 22, 1988

RECEIVED
FEB 22 1988

I believe the attached memorandum from Brian Phillips, City Manager of the City of Fairbanks, will clarify the City's position with regard to SB 372, and rectify any misapprehension of that position which may have been engendered by Mayor Walley's testimony of February 17. I would greatly appreciate it if you would read Mr. Phillips' comments into the committee record of SB 372.

C
SB 372
M

City of Fairbanks

MEMORANDUM

TO: Honorable Mayor, and City Council Members,
City/FMUS Department Heads
Union Business Agents & Stewards

FROM: BRIAN C. PHILLIPS, City Manager

SUBJECT: Public Employment Relations Act (as23.40)

DATE: February 16, 1988

The City Council on January 25, 1988 defeated, by non-advancement, a resolution opposing the continuance of certain PERA provisions. I interpret this policy setting action to be the City Council's support, by majority, for a status quo relative to the provisions of PERA. Therefore, unless otherwise legislated by the Fairbanks City Council, this office and all department heads of the City will refrain from giving any new written or oral testimony, recommendations, or interviews relative contrary to this policy position.

Over 60% of the City's \$80.7 million dollar budget involves unionized personnel covered under this act; This directive affecting City employed personnel is intended to clarify this City's status quo position on PERA, relative to the recent action by the Fairbanks City Council, and to once again build upon the positive working relationship between the City and our employees.



BRIAN C. PHILLIPS
City Manager

BCP/sam

cc: Interior Delegation

RECEIVED
FEB 29 1988

(Senator or Representative)
Pouch V
Juneau, Alaska 99811

Dear (Senator or Representative)

As a member of the labor force in the Matanuska-Susitna Borough, I am concerned for the need to have House Bill 170 passed and made into law, and to have Senate Bill 372 defeated.

Public employees all over this State have the right to collective bargaining. I feel ALL employees are entitled to participate in formulating decisions that pertain to their employment. It is intolerable that the State of Alaska would have different standards for various groups of people. Alaska Statute Sec.23.40.070 DECLARATION OF POLICY clearly states reasons why ALL employees should be included.

".....joint decision-making is the modern way of administering government.become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly government is made more effective.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.

In closing, I urge appropriate action from you on this legislation - Pass HB 170 and Defeat SR 372.

Thank you.

Sincerely,

Sherry L May
HCO 3 Box 8438-2
PALMER 99645

Applicability of PERA to Municipalities

Coll. BARGAINING Municipalities School

Pouch V
Juneau, Alaska 99811

Collective Bargaining; Municipalities

Dear Senator Abood,

As a member of the labor force in the Matanuska-Susitna Borough, I am concerned for the need to have House Bill 170 passed and made into law, and to have Senate Bill 372 defeated.

Public employees all over this State have the right to collective bargaining. I feel ALL employees are entitled to participate in formulating decisions that pertain to their employment. It is intolerable that the State of Alaska would have different standards for various groups of people. Alaska Statute Sec. 23.40.070 DECLARATION OF POLICY clearly states reasons why ALL employees should be included.

".....joint decision-making is the modern way of administering government.become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly government is made more effective.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.

In closing, I urge appropriate action from you on this legislation - Pass HB 170 and Defeat SB 372.

Thank You.

Sincerely,

June Perry

*P.O. Box 870449
Wasilla 99687*

SB 462 *Signature*

SENATOR MITCH ABOOD
STATE AFFAIRS COMMITTEE
POUCH V
JUNEAU ALASKA 99811

DEAR SENATOR MITCH ABOOD,

AS A MEMBER OF THE LABOR FORCE IN THE MATANUSKA-SUSITNA BOROUGH, I AM CONCERNED FOR THE NEED TO HAVE HOUSE BILL 170 PASSED AND MADE INTO LAW, AND TO HAVE SENATE BILL 372 DEFEATED.

PUBLIC EMPLOYEES ALL OVER THIS STATE HAVE THE RIGHT TO COLLECTIVE BARGAINING. I FEEL ALL EMPLOYEES ARE ENTITLED TO PARTICIPATE IN FORMULATING DECISIONS THAT PERTAIN TO THEIR EMPLOYMENT. IT IS INTOLERABLE THAT THE STATE OF ALASKA WOULD HAVE DIFFERENT STANDARDS FOR VARIOUS GROUPS OF PEOPLE. ALASKA STATUTE SEC. 23.40.070 DECLARATION OF POLICY CLEARLY STATES REASONS WHY ALL EMPLOYEES SHOULD BE INCLUDED.

"..... JOINT DECISION-MAKING IS THE MODERN WAY OF ADMINISTERING GOVERNMENT.BECOME MORE RESPONSIVE AND BETTER ABLE TO EXCHANGE IDEAS AND INFORMATION ON OPERATIONS WITH THEIR ADMINISTRATORS. ACCORDINGLY GOVERNMENT IS MADE MORE EFFECTIVE.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.

IN CLOSING, I URGE APPROPRIATE ACTION FROM YOU ON THIS LEGISLATION- PASS HB 170 AND DEFEAT SB 372.

THANK YOU.
SINCERELY,

CLAUDIA DOLFI
POB 52
SUTTON, AK 99674

**PUBLIC
EMPLOYEES**



DON VALESKO
PRESIDENT
ASSISTANT BUSINESS MANAGER

HEADQUARTERS

2510 Arctic Blvd
Anchorage, Alaska 99503

208 Wendell Room 205
Fairbanks, Alaska 99701

701 W. 9th Street
Juneau, Alaska 99801

February 25, 1988

Senate State Affairs Committee
STATE OF ALASKA
P.O. Box V
Juneau, Alaska 99811

Dear Senators:

Local 71 would like to go on record as being against Senate Bill 372 (SB 372) and the unethical handling of the February 17, 1988 teleconference. Never before have I seen such an injustice as the one perpetrated by the sponsor of this bill.

At the teleconference there was greater than a 5-1 ratio of people against SB 372, with thirty-three (33) against the bill and six (6) people for it. Senator Fanning, in an effort to support his attack on public employees, solicited the testimony of private interest groups. This is supported by his requesting two (2) separate sign-in sheets: one for the bill and one against it. He then hand-picked from these lists who was to testify in an effort to make it appear that testimony was equal. Adding insult to injury, Donna Gilbert, who signed in after myself and approximately twenty-five other individuals, was one of the first to testify. This is clearly a misuse of the teleconference system by Senator Fanning.

If you were to support this bill, you would be going on record as supporting Senator Fanning's attack on public employees and organized labor.

Sincerely,

David L. Lambert
Business Representative
Interior Region

Senate State Affairs Committee: Senator Abood - Chairman
Senator Uehlings - Co-chairman
Senator Hensley - member
Senator Josephson - member
Senator Fanning - member

JUNEAU
DON ROULEAU
(907) 586-6993

ANCHORAGE
JENNIE DAY PETERSON GARLAND WARREN
(907) 276-7211

FAIRBANKS
DAVID L. LAMBERT
(907) 452-5024



EDUCATION SUPPORT STAFF ASSOCIATION
2118 Cushman Street
Fairbanks, Alaska 99701
(907) 452 2023

RECEIVED
FEB 22 1988

TELECONFERENCE TESTIMONY

S.B. 372

1:30 p.m.
February 17, 1988

SENATE STATE AFFAIRS COMMITTEE

I am writing in opposition to SB 372

PERA

C
[Signature]

This bill, as I read it, would cause utter chaos in labor/management relations and could virtually eliminate all collective bargaining in our political subdivisions. Why? Because if a political subdivision chose to opt out of PERA (under the provisions of this bill) there is not a procedure for continuing a collective bargaining relationship once existing agreements have expired. Once existing agreements have expired, the collective bargaining process and other labor/management relations cease to exist, at least in any form that provides some semblance of equality. This bill in effect disenfranchises thousand of public employees from the decision-making and problem-solving processes now provided by law.

Senator Fanning told us here in Fairbanks last Saturday, February 13, that none of the above would occur if SB 372 is enacted into law.

The driving forces for the recent attacks on PERA are based on misinformation and misconceptions.

<cont>

For the past two years we here in Fairbanks have been privy to hearing the attacks on PERA. More Specifically, the criticism seems to be aimed at the binding arbitration provisions for Class I employees. Arbitrators are being blamed for their lack of sensitivity to local issues as they relate to wages and fringe benefits. Arbitrators are accused of not taking under consideration the employers' ability to pay, the status of the local economy, and comparable wages locally and across the state.

These criticisms are a profound distortion of the facts. I have been in this business for 18 years and my experience leads me to state that the very first consideration an American Arbitration Association arbitrator gives to any salary issue dispute is the EMPLOYER'S ABILITY TO PAY and numerous related issues, i.e. comparable salaries, the local economy, etc.

The testimony I am giving can be verified if you will only read a AAA arbitrators's decision in any wage dispute.

You must remember that the issues before an arbitrator have been seriously discussed and negotiated prior to the arbitrator even receiving the issue for determination. In addition, it is also important to remember that not many collective bargaining issues go through the arbitration process because both parties would, in most cases, desire an at the table agreement.

Thank you for your time and interest.



H. Frank Belts
Business Manager



Alaska State Legislature

Please enter into the record my testimony to the SENATE STATE AFFAIRS
committee name

committee on BILL #372 . dated FEBRUARY 17, 1988
bill/subject

SENATE BILL #372 IS A DIRECT ATTACK ON COLLECTIVE BARGAINING. PERA QUARANTEES OUR RIGHTS TO BARGAIN AND TO USE THE GRIEVANCE PROCESS,

SINCE WE HAVE FOUGHT LONG AND HARD TO PROTECT OUR RIGHTS UNDER PERA WE PROTEST THE PASSAGE OF THIS BILL,

JIM CANARY - CHAPTER CHAIR APEA KETCHIKAN GATEWAY BOROUGH

LEE VOLLMER - SAC DELEGATE APEA KETCHIKAN GATEWAY BOROUGH

SHERRIE SLICK - S. E. EXECUTIVE BOARD APEA
MEMBER APEA - KETCHIKAN GATEWAY BOROUGH

Signed: _____

Testifier

ALASKA PUBLIC EMPLOYEES ASSOCIATION

Representing (Optional)

Address

Phone No

SENATE BILL 372, testimony

DATE: 17 February 1988

By: Donald A. Callahan, Jr.
475 Halvorson Rd.
Fairbanks, Alaska 99709
907-479-2678

Occupation: ^{Registered} Paramedic-Firefighter
Fairbanks Fire Dept.

I am testifying against the passage of this bill.

The reason I am against this bill is that it will destroy the effectiveness of our small union organizations in the state. Our Union, the International Association of Fire Fighters, Local 1324, has 40 members. If this bill passes we will have little recourse in dealing with disputes with our employer. We do not have the right to strike and even if we did, our small number would have little effect towards our goals. There has been talk by some that the right to strike should be given to police and fire employees. We feel the public ^{safety} employees have a moral obligation not to strike even if the legal right was given.

At this time under PERA, if an impasse in contract negotiations or other disputes arise, an arbitrator is selected by the State Department of Labor to hear both sides and make a legal decision. The impasse will then be settled. Without PERA the employer has no legal motivation to complete contract negotiations or to settle other contract disputes if he does not want to. This would especially be true with small public safety unions with little economic strength or membership clout.

PERA may not be needed for contract enforcement between an employer and a large union such as Teamsters or the Operating Engineers who have a healthy treasury and large body of members. When they strike the loss of their work force is immediately felt by the community. Fire and police employees do not have these same privileges.

In his presentation of this bill, Senator Fanning has stated its passage will insure city and municipal employees that they will be given fair and beneficial treatment. Unfortunately there is evidence that this would not be true. In a work session of the Fairbanks City Council, on November 25th, 1985, the present City Attorney stated and I quote, "We used to dictate to the unions how it would be, but now it is easy for them to file an Unfair Labor Practice with PERA." So I ask you, without PERA where will we resolve unfair labor practices? (In 1979 City Management unilaterally declared that our union contract was void and placed all city employees under a new city personnel ordinance. The fire chief immediately issued a memorandum which eliminated 13 negotiated benefits that the employees had under contract. Many of these items were not of a monetary nature and we believe they would have adversely effected the operation of the department. He further stated in that memo that more changes were forthcoming. It was later determined that the contract was valid and so these changes were not made.)

I am in a unique position as a government employee. I used to be in top management of the City and was a non-union employee. I do not have a history of a strong union affiliation. I was City Engineer for three years and Public Works Director for about one and a half years in charge of all City facilities maintenance except for the Municipal Utilities System. At the beginning of that period the city work force was non-union. My workers went for approximately three years without a raise in pay while wages in the private sector were going up 10 percent or more per year in the private sector due to pipeline activity. I made appeals to City Council through the City

Manager to make wage concessions to the employees so they would not unionize. No concessions were made and the city employees formed and joined various unions.

I believe this bill has been brought to you in the legislature for one reason. It is an attempt by a few individuals to solve a local financial crisis by appealing to you at the state level to enact vindictive legislation. Our city council realizes that the elimination of PERA is not the answer to our local financial problems. In their last council meeting the resolution to support passage of Senate Bill 372 was presented by one member of the council. His resolution died because it did not receive a second by any of the other five members. This indicates to me that they did not support the repeal of PERA.

The passage of the PERA bill would force small local unions such as our local police and fire department union to join forces with the large unions in the State in order to maintain our effectiveness. I believe our small union groups are much more responsive to our city's needs.

I ask you to let this local issue be resolved at the local level where it belongs. Please vote against Senate Bill 372.

Harold Callahan

*This testimony was presented verbally at the
teleconference on 17 January 1997.*

H. C.

Let me begin by stating that I am against Senate Bill 372. I have been a voting resident of Fairbanks since 1973 and an employee of the Fairbanks City Fire Department since 1981.

There has been much said in many circles about PERA and what it means to many people. I thank you for the opportunity to express my opinions.

The legislation Senator Fanning introduced as SB-372 reminds me of the days of the horse and carriage. When His Lordship's carriage carrying Mr. Randolph had it's lantern boy running ahead to light his way through the halls of our state legislature. It also carries with it a reminder of the days of the sweatshops and imported labor. If a governing body and those who work for them to provide vital services; and here I refer to Police protection, Fire protection, water and power distribution, and sewage removal; if these workers do not have a method to break an impasse during collective bargaining - then there is truly no bargaining process.

Fairbanks's city mayor stands alone among the elected government leaders of this municipality in trying to return to those days of yesterday. By that, I mean he does not have the support of the city council in his action or statements on, about, or involving PERA. This is evidenced by the city councils refusal to even consider a resolution supporting a bill to change PERA. Such a resolution died before our city council in January of 1989 for lack of a second.

An example of the dark times can be seen in the statement made by the city attorney during a budget work session on November 25 1985. Under pressure from the city mayor and others, not all of whom are apart of our local government, he said, " we use to dictate to the unions now it would be...".

Gentlemen, we in Police and Fire have been thru this before. In 1983 the city voted unanimously to go under PERA. Our present mayor did not know, nor does he now have the fortitude and backing for an outright VETO. Instead he tries to convince you of untruths or half truths by means of insinuations and vague statements which when faced with the facts he will either rudely cut you off on his radio talk show or reply "That is not really what I meant".

This bill is clearly a partisan issue. It is anti-union, designed by those persons intent on union busting and denying the employees that provide vital services to the public the opportunity to enjoy job security and the ability to plan for the future of their families; their children's future. All the while we risk ourselves in fires and hostile or violent situations not experienced by legislators, store owners, normal homemakers, or the tourists we protect. Yet the people (the public) wants- NO -they expect us to be there when they call. We are not allowed to- NO -we are forbidden "TO STRIKE". We can not say;

"NO- we are not coming- your house will just have to burn"

"NO- I will not save your child from the flood of 1967 or, the earthquake of 1964, or the ill happenings of tomorrow".

We are expected to risk our lives for them and those they hold dear. Yet a simple matter of the right to collective bargaining with binding arbitration as a last resort is too much to give us in return. How can we be expected to concentrate on giving professional service and responding to our citizens emergency needs while wondering if we will be the ones to loose our homes, our futures, and our jobs through the whims of one person who can arbitrarily change the terms and conditions of our employment to cover up their inability to properly manage our city. Gentlemen, we are human and such thoughts as these play on our minds while a bill, like SB-372, is alive in our state's legislature.

It astounds me why our local issue of city personnel manning is drug through the halls of our state legislature by our mayor and (under his direction) the city manager. What astounds me more is why an Alaskan Senator would pick up on this issue and introduce legislation unless it is designed to bolster his views of:

- 1) not hiring local Alaskan residents
- 2) anti-union practices and union busting
- 3) pro oil company sympathies.

I believe Mr. Fanning would do better by spending his time at our capital, short as it will be, in trying to increase state oil revenues to the people of the state of Alaska.

I am opposed to SB-372 because of the dire consequences it will have on me and my family and the potential down grading of services the citizens of our city will receive should it be enacted into law. - I urge you to kill this bill now before it costs the life of one of us.

Thank you,

Cliff Mercer



Alaska State Legislature

Please enter into the record my testimony to the State Affairs
 committee name
 committee on SB 372 , dated 2/18/88
 bill/subject

I favor SB 372 because it makes PERA optional for municipal governments: the level of government closest to the individual. Although Fairbanks's mill rate has been 2.8 since 1985, the assessed value of Fairbanks has roughly doubled since 1983; and though Fairbanks has done well previously with state and federal assistance, it is facing a budget deficit in excess of \$1.5 million.

The private sector and union members, public sector without binding arbitration and the private union members, have to face the vagaries of the economy. The 1st class public employees have the privilege of wage and benefit increases regardless of the ability of the rest of the local economy to pay. This situation is supported by the union leaderships which seem quite willing to rob Union Member Peter to pay Union Member Paul.

PERA has had the effect of raising 1st class wages and benefits out of proportion to the rest of the local economy. This is similar to the situation in the book Animal Farm in which the elite determined that all citizens of animal farm were equal, but some were more equal than others. Just like PERA.

Signed: *Marlene M. Leak, D.P.M.*

Testifier Marlene M. Leak, D.P.M.

self

Representing (Optional)

771 8th Avenue, Fairbanks, AK 99701

Address

(907) 452-1015

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate Bill 372
 committee name
 committee on PERA, dated 2/17/88
 bill/subject

Please add my testimony for
 Senate House Bill 372.

It is HIGH TIME WE CHOSE METHODS
 TO SAVE MONEY ON THESE COSTS.

KEEP IT SIMPLE - KEEP IT
 LOCAL!

Thank you

Signed: Angie Kruckenberg ANGIE
 Testifier KRUCKENBERG

Representing (Optional)

PO Box 10449

Fairbanks

Address

907-457-6270

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the State Affairs
committee name

committee on Bill 372, dated 02-17-88
bill/subject

that protect If everything was always fair + reasonable we would not need labor unions, contracts or Federal Labor Laws. There are ~~not~~ state labor laws employees that work for municipalities. As law enforcement we need protection from the local political arm, and find it hard to believe that anyone can support strikes by Police + Firefighters.

Collective bargaining + binding arbitration has not been unfair to the city. It has provided stability that is needed, and should not change.

Signed: *Robert Scooter Welch*
Testifier

Fairbanks Police Dept. Employees Assoc.
Representing (Optional)

150 7th Ave
Address

459-6500
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the State Affairs
committee name
committee on SB 372, dated February 17, 1988
bill/subject

Refer to attached, please.

Signed: Gayle Lynn Schenbren
Testifier

sup
Representing (Optional)

440 Shannon Drive, Fairbanks, Ak
Address

452-8683
Phone No.

TESTIMONY ADDRESSING SENATE BILL 372

TELECONFERENCE 2/17/88

My name is Kayle Schoenborn and I am here to testify in opposition to this bill. I have been with the Fairbanks Fire Department for seven years. For half of those years I have worked under the threat of layoff and have actually received two layoff notices. As a public employee I am tired of being held responsible for Fairbanks' revenue problems. There is a serious issue that goes beyond the misplaced blame suffered by public employees: the question of the public's safety.

In 1974, the Fairbanks Fire Department funded sixty-seven firefighting positions. Those sixty-seven protected 214 million dollars in property. The thirty-three firefighters we have today protect one billion, seventy-three million dollars in property. Our population has grown proportionately in those fourteen years. Our department is down by more than half.

The safety of the citizens of this community has become a political issue. The lives and property of the people we are charged to protect are seriously jeopardized. I am witnessing a degradation of my profession and a deadly decline in the quality of protection we are being allowed to give. I urge you to consider the welfare of the people who gave you the privilege of office.

It's embarrassing to see Fairbanks' dirty linen being aired in Juneau, this is a local issue generated by a vocal, regressive radical special interest group. To clear up any misconceptions, please consider: The City Council opposes this bill; a resolution to support it could not even muster a second. The City Manager is not supporting this bill. The Borough Mayor opposes this bill.

A ridiculous cliché has become a buzzword in Fairbanks: if the unions don't take concessions, there will be layoffs. Late last year a contract was signed with the city and the firefighters. The council approved it; the mayor did not veto it, the negotiations were amicable and there was no binding arbitration. The document contained wage and benefit reductions, as did all the city contracts signed recently.

HB 372 aims to remove the one mechanism which places both negotiating parties on equal footing: binding arbitration. Without some form of impasse resolution, collective bargaining is useless. Management can dictate. The right to bargain fairly was a hard-won democratic freedom. One of the underlying themes in this bill is an elitist desire to control and subjugate the worker: union busting.

I urge you to defeat this bill and seek a simple solution to our revenue woes: direct the oil companies to pay their fair share. It has been some legislators' stance for years to court the oil companies'

favor, oftentimes in exchange for fat campaign donations. This obeisance is costing every Alaskan, but most particularly the worker. I ask that you examine the dishonest motives beneath this piece of legislation and defeat it.

Thank you for allowing me to speak.

Kayle Schoenborn, 440 Shannon Drive, Fairbanks, Ak



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs
 committee name
 committee on S.B. # 372, dated February 7 1978
 bill/subject

See attached copy

Signed: Sandra L. Peterson
 Testifier
Prudhoe Bay Dept. 9
 Representing (Optional)
P.O. Box 2214 Prudhoe Bay AK 99707
 Address
488-2415
 Phone No.

Testimony to Senate State Affairs Committee
Senate Bill #372
February 17, 1988

My name is Sandra Trisone. My husband is a professional firefighter. Along with the Fairbanks Firefighters, I oppose Senate Bill #372 and support the right of municipal employees to bargain collectively. My support includes binding arbitration as the best method of impasse resolution for public safety employees. Without impasse resolution there is no future for collective bargaining.

State Senator Ken Tanning was quoted in the Daily Newsminer (1-28-88) that "The legislation will help promote fiscal stability while at the same time it will ensure city and municipal employees

that they will be given fair and beneficial treatment." This is the same Senator that does not support local hiring. Senator Manning "thinks" of municipal governments can't reduce pay and benefits for their police and firemen, their only option is to lay people off. This is not the answer due to the fact that the City Employees cannot give enough to solve Fairbanks problem. The City of Fairbanks problem is not Pay or high wages. It is the City's refusal to replace declining state and federal revenues with taxes.

The City has created the illusionment of full personnel having cushiony jobs. This is not a fact. There are continuous threats of

lay off even after cuts. The Fire Dept. personnel, excluding management and clerical, has dropped fourteen⁽¹⁴⁾ positions from 1986 to 1988. At this time there are thirty-three⁽³³⁾ positions left to protect the city. It is my opinion that both Fire and Police Dept. have too high of a management and clerical personnel.

The Fire and Police staff have been drastically reduced to the point that the public's safety has already been compromised. The Public Safety Employees contract not only deals with pay and benefits, but with employee safety which has been widely disregarded by City Management.

I would also like to address the facts of striking. First, it is unacceptable to firemen professionally. Secondly it is unacceptable to the courts, and, most importantly is unacceptable to their public. Yet the honorability and high moral standards of these employees have gained them the instability of a future work place, unsafe work conditions and continuous attempts to circumvent proper negotiating tactics by Mayor Bill Walley and a handful of local anti tax reactionaries. Please vote against Senate Bill #372.

Jander J. Truone
P.O. Box 2214
Fairbanks, Ak. 99707



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs
 committee name
 committee on SB 372, dated 2-17-88
 bill/subject

iii. chairman:

I am here today to express the opinion of the local Letter Carriers Union on SB312. Our NALC local has voted unanimous opposition to this legislation, which would undermine collective bargaining for local public employee unions.

Federal unions, like mine, have laws similar to PERA to protect our rights. Previous to 1971 we did not. PERA represents an equitable protection for workers and management, in the best tradition of fair bargaining.

NALC 4491 urges you vote against this bill.

Signed: Les G. Mitchell (vice president)

Testifier
National Association of Letter Carriers 4491

Representing (Optional)
315 5th Ave Fairbanks AK 99701

Address
wk. 479-6975 hm 452-8820

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs committee name

committee on S.B. 372, dated February 17, 1988 bill/subject

Signed George W. Bacon Testifier

Representing (Optional)

P.O. Box 82046 Fairbanks, AK 99708 Address

479-4413 Phone No.

TESTIMONY TO SENATE STATE AFFAIRS COMMITTEE

SENATE BILL 372

February 17, 1988

My name is George Bacon. For the past sixteen years I have been employed at the City of Fairbanks Fire Department. I am here to speak in opposition to Senate Bill 372.

Senator Fanning, the bill's sponsor, has been quoted in the Fairbanks Daily News-Miner of Jan 28, 1988 as saying, "The legislation will help promote fiscal stability while at the same time, it will ensure city and municipal employees that they will be given fair and beneficial treatment." I would take issue with that statement. I have read and re-read Senate Bill 372 and I have yet to find reference to fiscal stability nor have I found anything that ensures me, as a public employee, that I will be given fair and beneficial treatment. Quite the opposite.

I was a participant in contract negotiations with the City of Fairbanks prior to the city's adoption of PERA in 1983. I prefer to call this process "collective begging". It lasted for a year and a half. During this time I was painfully aware that the city's choice to participate was entirely their own. I also knew that there was no acceptable provision for impasse resolution. This arrangement precluded even basic equality amongst the participants. Certainly, this did not feel fair nor beneficial to me.

This Bill is also contrary to the declaration of policy contained in Sec 23.40.070 of the Public Employment Relations Act, which states in part:

".... 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....."

This Bill in fact is a first step in reversing this public policy because it certainly does nothing to strengthen or enhance it. It is further my opinion that this Bill, does nothing to ensure beneficial treatment for the public employee nor does it act to stabilize local revenues.

In citing the poor local revenue picture as reason for this legislation, supporters are laying down a smoke screen to hide the real issue. The issue plain and simple is their desire to engage in union busting and eliminate collective bargaining for public employees. I find the notion that public employees are to blame for the lack of a local revenue policy not only preposterous and inaccurate but personally offensive.

We do in fact have a local revenue problem and it deserves a local solution. The solution is not a continuation of the practice of "public employee bashing" as represented by this Bill. I believe that there exists on behalf of the Borough mayor and a majority of the City council a recognition that PERA is not the problem that it is being made out to be. The Borough mayor

has gone on record as opposing this Bill. The City of Fairbanks City council failed to second a measure that would have supported this Bill. I would ask you to make that same recognition and not pass Senate Bill 372 out of committee.



Alaska State Legislature

Please enter into the record my testimony to the STATE AFFAIRS
committee name
committee on SB 372, dated 17 FEB 88
bill/subject

SEE ATTACHMENT CONSISTING OF 4 PAGES
- 2 PAGES OF TYPED TESTIMONY
- 2 PAGE OF NEWS PAPER ARTICLES

Signed: Mike Nielsen
Testifier

Representing (Optional)
POB 73297 - FAIRBANKS AK 99707
Address
459-6500(W) 479-5496(H)
Phone No.

TESTIMONY IN OPPOSITION TO SB 372, INTRODUCED BY KEN FANNING

By: Mike A. Nielsen

I am fortunate to have such a unique perspective of the Public Employment Relations Act (PERA). For several years I represented the Police Employee's Association and most recently I represented the City in negotiations with the Police Association. I have held several offices within the Association including president and chief negotiator. During the last four years I have been on the City's management team as a command-staff officer within the police department and primary City negotiator on the police contract.

During my 13 years with the City, I have had the opportunity to evaluate the collective bargaining process with and without the benefit of PERA and from both the employee's and management's point of view. In the early 70's the employees were under the City Personnel Ordinance. In 1975 it was necessary to raise wages nearly 50% in order to retain and attract qualified police officers. This was the dawning of collective bargaining. Later the City allowed all contracts to expire and forced the employees back under the Personnel Ordinance. Many grievances resulted and finally in 1983 the City realized the benefits of collective bargaining and opted to come under PERA rather than duplicate the existing State system with one of its own. Quite clearly, it is in the best interest of all parties, including the tax paying public, to conduct collective bargaining within the parameters of PERA.

Our City's mayor would have you believe PERA is evil and contrary to the public's interest. This is not true as I will explain.

STATEMENT: The mayor and some other City officials have claimed Class One Employees have a "strangle hold" on the City because of binding arbitration under PERA. The mayor goes further saying it is impossible for the City to reduce wage and benefit cost under PERA.

FACT: There have only been two (2) occasions that the City and its employees have gone to binding arbitration. The City won one and the Police Association received a 3.1% cost of living adjustment in the other. This is hardly a strangle hold! Neither the mayor nor anyone else has shown any examples of this alleged "strangle hold". Both the City and its employees recognize the obligation to bargain fairly.

FACT: Class One Employees have received smaller NOT larger wage increases after PERA. The employees do NOT have a strangle hold on the City as misrepresented by the Mayor. The recent 1987-1989 Police Contract which was negotiated without arbitration, has numerous concessions including a pay cut for 1987-88 and only a three percent (3%) cost of living increase in 1989. The cost of living for 1987 alone exceeded three percent (3%). Other benefit reductions include no longevity pay (10% savings) for new hires, reduced certification pay, less holidays, recall minimum reduced to one hour, reduced clothing and cleaning allowances (+\$20,000 savings). The mayor has stated this contract is the best contract the City has ever negotiated with the Police Association, particularly with respect to management rights. I have to agree with this last claim. The Association made major concessions in this area. This is another example of how binding arbitration benefits the City also.

FACT: Without PERA the City took advantage of its employee's lack of protection; resulting in numerous grievances and law suits; disruption of service and violation of the principles of collective bargaining when employees were forced under the City's Personnel Ordinance.

FACT: Class One Employee Contracts contain the same or in many case less benefits than other employee contracts. Surely if Class Ones had a strangle hold they would have equal or greater benefits.

STATEMENT: The mayor claims the arbitrator cannot consider the economic condition of the City while making a decision.

FACT: The arbitrator not only can but SHOULD AND DID consider the economic condition of the City when making his decision. The arbitrator based his decision in part on the mayor's comments that the City had money and was not in financial trouble when awarding the 3.1% COL increase for 1985/86. (See attached articles from the Fairbanks Daily News Minor.)

STATEMENT: Anchorage is not under PERA.


FACT: Anchorage DOES have PERA in the form of it's own ordinance. The Anchorage version of PERA also allow for binding arbitration with its Class One Employees.

If harmony, stability and cooperative relations between the City and its employees are still important in maintaining public protection through effective and orderly operation of government, then you must void SB 372.

If the principles of collective bargaining were valid in 1972 then they are valid today and will be valid in the future. The only way to safeguard these principles for municipal employees against abuse by local government, is to include them in PERA and require municipalities to comply with PERA.

Thank you for the opportunity to express my view point and please support collective bargaining for ALL of Alaska's public employees by voting NO on SB 372.

Sincerely,


Mike A. Nielsen

Proposed police pact before council again

A proposed three-year contract with Fairbanks Police Department rank-and-file employees that includes a 4.36 percent raise in 1989 was the subject of a two-hour closed meeting by the Fairbanks City Council Monday night.

The council recessed after midnight, intending to resume meeting in private at 7 a.m. today to take up discussion on the status of two other contract negotiations. An evaluation of the city manager apparently will be delayed until after the next regular council meeting, May 18.

Before breaking Monday night, the council returned to public session and without objection advanced the police contract ordinance to public hearing and second reading.

Earlier in the evening, Councilman John Immel had indicated he would vote against advancing the ordinance to approve the contract. Councilman Lowell Purcell moved to postpone action until after the executive session.

The proposed contract would set a 1.21 percent wage cut, total, over 1987 and 1988, but then give police employees a raise in the third year. New hires would no longer receive longevity pay up to 10 percent over base pay, they would receive less certification

pay and have less leave time. Shift premiums would be raised in 1988 and 1989, and employees would give up one personal holiday and take reduced court and recall time and reduced clothing and cleaning allowances.

Last November, a state arbitrator ordered the city to pay \$88,196.37 back pay to about 50 members of the police bargaining unit. The pay had been part of a contract provision allowing a wage opener in 1985. The arbitrator's finding was that Fairbanks police workers were paid less than in Anchorage, the city had ability to pay the 3 percent increase and economic arguments should have applied only to 1985 and the first half of 1986.

Still in negotiations are contracts with city firefighters and the Operating Engineers. The latter is at impasse and a federal mediator met with both sides in an unsuccessful attempt to get talks moving.

During the council's regular meeting prior to the executive session, an ordinance to offer early retirement incentive pay to city police sergeants only was advanced for consideration May 18. Council members questioned why only one group of employees is being given the offer. City Manager Brian Phillips said it was part of a binding arbitration decision.

Walley turns against downtown hotel

By SUSAN FISHER
Staff Writer

Eliminating the "bar block" spurred private construction downtown, Fairbanks Mayor Bill Walley said Friday, but he no longer believes a first-class hotel should be built at the western end of that block.

"I am no longer for a hotel project" there, Walley said, citing the opening of the Regency Hotel on Tenth Avenue and Sophie Station off University Avenue and Airport Way as taking a good share of any prospective market.

Walley is seeking a third term as mayor, and faces opponents Randall Wallace, Robert Taylor and Ruth Burnett in the Oct. 7 election. Walley appeared Friday before the Farthest North Press Club.

His statement on the hotel comes as the Fairbanks Development Authority continues its efforts to secure a commitment from a developer based on interest by architects, a mortgage finance company and the

Sheraton chain. The FDA plans by December to make a decision on building an underground and surface parking lot in the middle of the block.

The "bar block" is a reference to the block bounded by First and Second avenues and Cushman and Lacey streets. A string of bars was acquired by the FDA and demolished in anticipation of a first-class hotel being built.

Walley said the removal of the bars, though, prompted major private construction downtown. He pointed to the Nerco Mineral Building and the First Interstate Bank building.

Tanana Valley Community College's plan to locate in the Chena Building on the eastern end of that block, and the new parking structure should entice private development at the western end. Walley said he's privately met with resource-related businesses encouraging them to consider locating managerial and maintenance personnel in Fairbanks.

The mayor also soundly re-

futed any references to a city budget deficit. He said the city does not have a deficit because it has a \$5 million permanent fund, which only voters can approve spending, a \$2.6 million balance in the sales tax fund and perhaps other surplus funds. But as the 1986 budget stands, there remains a projected shortfall of \$2.15 million between approved expenses and expected income, following the city manager's announcement this week that \$2 million is being cut.

"The city is in awfully good shape. We have not put on a sales tax. The property tax is now 2.8 mills—that's the lowest property tax of any city in Alaska. You might find one that's lower, but I don't think you will," Walley told reporters.

He said city residents' property taxes have not been raised in his four years as mayor. Walley also said that with Gov. Bill Sheffield's defeat in the primary, he expects the successor will resume an emphasis on

state assistance to municipalities.

As a former borough assemblyman, Walley said he introduced some of his own tax cap proposals, though none as restrictive as the Fairbanks Tax Alliance's Proposition 3 initiative. A city council-approved alternative, Proposition 1, would allow the council to raise local taxes to make up state and federal funding cuts, which the alliance's proposal would not. Walley said he will vote for Proposition 1.

Asked what would happen if voters approve both propositions, the mayor said he wasn't sure, and probably lawyers would have to decide.

Walley also refuted Bob Taylor's charge that two utility board members have at least an apparent conflict of interest in considering a recommended sale of the telephone utility. One of them, Frank DeLong, used to own an interest in Acme Electric. Walley said DeLong no longer has that interest, and the



BILL WALLEY
Market dwindles

mayor said none of the members has a conflict, and there is a pronounced mix of views and philosophies on the board. The mayor appoints those members.

The part-owner of KFAR radio, Walley also announced Friday that he and his partners plan to put KWLF-FM on the air this October or November, and that they've invested in a \$75,000, 10-kilowatt transmitter for KFAR.

PUBLIC OPINION FORM

POM's are limited to 25-50 words. These messages are transmitted via omnicom to Juneau by our staff on a time-available basis.

****ONLY THOSE SINGLE MESSAGES DELIVERED BY THE SIGNING INDIVIDUAL TO THE LEGISLATIVE INFORMATION OFFICE BY PHONE, HAND DELIVERED, OR WRITTEN AT THE LEGISLATIVE INFORMATION OFFICE WILL BE ACCEPTED FOR TRANSMISSION VIA OMNICOM AS A PUBLIC OPINION MESSAGE. (Legislative Council Policy 6/81)**

DATE 2-17-88

NAME Martin E. Gutowski

REPRESENTING FNSB - APEA

MAILING ADDRESS Box 80197

College ZIP 99708

PHONE (HOME) 488-0927 (WORK) 452-4761 X260

TO: Senate State Affairs Committee (members)

REGARDING: SB 372

MESSAGE: I am opposed to the possible option this bill gives to municipalities to overtly de-certify by legislation the collective bargaining rights afforded to public employees. This bill represents state sanctioned union busting!

SIGNATURE M. E. Gutowski



Alaska State Legislature

Please enter into the record my testimony to the _____

committee name

committee on SB 372, dated 2-17-88
bill/subject

we ALL HEARD DANN GILBERT FROM FBKS. STATE
SHE (AND OTHERS) WERE IN FAVOR OF SB 372 SO THEY COULD
USE THE (OFF OUT) AS A HAMMER TO GET WHAT THEY
WANT OR ELSE. WITH STAFF CUTBACKS YET DEMAND OF
SAME WORK LOAD, WE DON'T NEED ADD. STRESS OF NOT
KNOWING FROM ONE WEEK TO NEXT IF WE'RE GOING TO
BE IN OR OUT OF PERA. THE UNION EMPLOYEES AT
F.N.S.B HAVE NOT HAD A PAY RAISE IN 4 YRS.
NOW AND HAVE A CURRENT CONTRACT THROUGH 6-30-90
WITH NO BASE SALARY PAY RAISE. I AM AGAINST
SB 372.

Signed: _____

Testifier

Representing (Optional)

Address

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs committee name

committee on SB 372, dated February 17, 1988 bill/subject

I'm a past Vice President and President of the Fairbanks Police Dept. Employees Assoc. I participated in contract and wage negotiations with the City of Fairbanks. The negotiations occurred prior to the City of Fairbanks participation in PERA. (1980-1981) -

Prior to PERA the negotiations were not collective bargaining because the city simply offered what they wanted and the police employees had no recourse. The professionalism of the police employees resulted in no job actions such as strikes and sick-outs. This led to a great deal of frustration on the part of police employees. Fortunately we did receive pay and benefit increases due to the prosperous economy. This was also a result of very low wages paid during the early 1970s and the increases were somewhat of a catch-up situation.

Now in the face of poor economic conditions allowing the city to opt out of PERA could result in drastic wage and benefit cuts, and probably lead to the city not negotiating future contracts with police employees.

Lower wages and benefits would reduce the quality of people hired as police officers in Fairbanks. The lower quality applicants would result in increased citizens complaints, civil rights complaints and costly lawsuits against the city. Lower pay, less professional ethics could also encourage police corruption.

Signed: Frank W. Collett, Jr. Frank W. Collett, Jr.

Testifier

Fairbanks Police Dept Employees Assoc.

Representing (Optional)

P.O. Box 621 Fairbanks AK 99707

Address

44th St

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the SENATE STATE AFFAIRS
committee name

committee on SB 372, dated 2-17-86
bill/subject

MY NAME IS DON ALLMOND, SR. PERA DOES WORK. IN ECONOMIC HARD TIMES, CITY EMPLOYEES HAVE DONE MORE THAN THEIR PART WITH CONCESSIONS. I PERSONALLY HAVE SUFFERED A 3+% WAGE & BENEFIT CUT IN ORDER TO HELP OUR CITY. THIS WAS DONE WHILE UNDER PERA. TO ALLOW OPTING IN AND OUT OF PERA WOULD TAKE THE FULL INTENT AND BACKBONE OUT OF ANY MEANINGFUL COLLECTIVE BARGAINING. IT IS CLEARLY A UNION BUSTING MOVE. WITHOUT PERA, LOCAL GOVERNMENT EMPLOYEES WOULD BE SUBJECT TO EXTREME PHILOSOPHICAL CHANGES AT ALMOST EVERY LOCAL COUNCIL ELECTION. PERA ALLOWS LOCAL GOVERNMENT EMPLOYEES THE STABILITY REQUIRED TO BE TREATED FAIRLY. UNLIKE THE PRIVATE SECTOR, WE DO NOT HAVE THE PROFIT SHARING OR ADVANCEMENT INCENTIVE THAT THE PRIVATE SECTOR OFFERS. ALL GOVERNMENT EMPLOYEES HAVE A SET WAGE, WORKING CONDITIONS AND RETIREMENT PLAN. WITHOUT PERA, WE WOULD NOT HAVE ANY WORKING STABLE LABOR GUIDELINES.

Signed: [Signature]
Testifier

DON ALLMOND, SR.
Representing (Optional)

SELF

Address
1103 NENANA ST, FAIRBANKS, AK 99709

Phone No. 479-4913



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs Committee
committee name
committee on PERA SB 372, dated Feb. 17, 1988
bill/subject

see attached copy!

Signed: John K. Arnone
Testifier

Representing (Optional)

P.O. Box 2214 Fbks. AK, 99707

Address

488-2415

Phone No.

Testimony to Senate State Affairs

Senate Bill 372

February 17, 1988

My name is John Frisone. I've been a professional Fire Fighter for fourteen and one half years and a resident of the Fairbanks Area for over seventeen years. I strongly oppose S.B. 372 and support the right of municipal employees to bargain collectively. Without binding arbitration as a vehicle for impasse resolution there is no future for collective bargaining between Public Safety employees and the City of Fairbanks.

The right to strike is not a viable solution. We feel that striking is not morally acceptable to public safety employees, not acceptable at all to the public, and would not be allowed by the courts.

Senator Fanning, in a January 28, 1988 Daily News Miner article promises fair and beneficial treatment to municipal employees. Myself and

others have fought long and hard to achieve just the treatment Senator Fanning alludes to. And its called PERA. In 1983 the City council voted unanimously to place the City under PERA. This action was not vetoed by the existing mayor. I have much more faith in the text of PERA than in the word of an Alaskan Senator who does not support local hire.

In the face of State and Federal revenue sharing reductions Fairbanks has a local problem. One of misguided leadership and fallen revenue. Many other communities within our State have had to deal with similar revenue reductions. Their healthy approach was to pull up their suspenders and pay their own way. Unlike Fairbanks they chose to share the responsibilities by imposing sales

taxes, and paying more than 2.8 mills in property taxes. In the past two years Budget Committees and Council persons have urged increases in revenues. Only to be vetoed by the City Mayor. As late as January a resolution to opt out of PERA was dropped by the City Council for failure of a second.

On the other end of the spectrum, city employees have been concessionary during these hard times in wages, benefits, and unfortunately margins of safety.

I would like to urge you all to once more make Fairbanks a place of pride, where the community carries its own weight.

Please do not pass S.B. 372 from this committee.

Thanks ;

John K. Frisone
P.O. Box 2214
Fairbanks, AK. 99707



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs
committee name

committee on SB 372, dated 2/17/88
bill/subject

I was present at the Wednesday teleconference but did not have an opportunity to testify.

I speak on behalf of approximately 300 employees of the City of Fairbanks and the Fairbanks North Star Borough who are APEA members and covered by collective bargaining agreements.

- 1) Public employees want the right to share in decision-making regarding wages and working conditions because it makes for a more effective and stable government.
- 2) Allowing local governments to opt out of PERA disrupts the power balance. Collective bargaining brings to labor management relations.
- 3) The Fairbanks City Council does not support changes to PERA as evidenced by proposed Resolution 2936 that failed due to lack of a second.
- 4) In a letter dated February 1, 1988, Janita Helms, FNSB Mayor, urged Senator Atwood to defeat SB 372 because "as a strong supporter of collective bargaining, [she] sees this bill as the beginning of the end for public employee collective bargaining."
- 5) In a memorandum dated Feb 16, 1988, Fairbanks City Manager Brian Phillips interpreted the City Council's action of a resolution 2936 to be "the City Council's support, by →

Signed: Bett Schaffhauser BETT SCHAFFHAUSER

Testifier /

Alaska Public Employees Association

Representing (Optional)

825 College Rd Fairbanks 99701

Address

456-5412

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the State Affairs
committee name

committee on SB 372, dated 2-17-1988
bill/subject

Dear Senator Abood and Committee Members

I ask you to oppose Senate Bill 372. I am a Class I public employee of the Fairbanks Fire Department. The legislature and the court system have determined that the function of myself and similar public safety employees is vital enough to a community to dispense with normal collective bargaining rights such as job actions and strikes. Therefore, I will be ordered by the court to return to work if I should strike. This occurred some years ago in Fairbanks.

Other employees enjoy the right to collectively bargain and to negotiate fair contracts agreeable to both sides. In the event that agreement cannot be found, the employees have the right to say "we are unwilling to work under these conditions" and to strike if need be.

Our functions are such that job actions such as this cannot be tolerated, for if Class I employees strike, lives and property will be in jeopardy. This I can understand and accept. But by denying my right to these actions you are denying me a right that other citizens enjoy. In effect I would be a second class citizen. What reaction did the legislators have when they were ordered back into session some years ago and the Alaska State Troopers were sent out to force them to comply?

We are not asking for the right to strike. We are asking to be able to negotiate a fair agreement. If such agreement cannot be met it SHOULD go to a FAIR and UNBIASED arbitrator selected by BOTH sides. If PERA is not available, then there is nothing to prevent municipalities from dictating conditions of employment.

In answer to some testimony presented during the tele-conference by Mayor WALLY, I offer a Memorandum from our Fire Chief dated 16 July 1979. This memorandum confirms verbal notification that the City of Fairbanks no longer recognizes the provisions of the contract between themselves and the Firefighters Local 1324. Changes in employment conditions included ("but were not limited to") changes in pay rates, annual leave, sick leave, grievance procedures, longevity, overtime rates and probationary periods. Union dues would no longer be collected. The union was no longer recognized and seniority rights for layoff purposes were no longer recognized. So much for honoring contracts.

Continued

Signed:

Eric James Mohrman
Testifier

Representing (Optional)

656 7th Avenue Fairbanks, Alaska 99701

Address

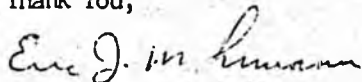
479-5294

Phone No.

If we don't learn from the past we are doomed to repeat it. In Alaska we don't even have to learn from the past. We can look at the current situation in smaller communities across the state and see that the rights of the public safety employees have been abrogated by cities that have opted out of PERA.

I urge you to defeat this bill in your committee. Since when in this country has the rights of the many or powerful been sufficient to take away the rights of the few or weak?

Thank You,



Eric J. Mohrmann



Alaska State Legislature

Please enter into the record my testimony to the _____

committee name

committee on PERH SB372, dated 2/17/88

bill/subject

I want to voice my opinion in opposition to this bill. I feel it is unfair.

Signed: _____

William L. Woody
Testifier

Representing (Optional)

PO Box 55157 N. Pole Ak 99705

Address

(907) 488-0276

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs
committee name

committee on S.B. 372, dated February 17, 1988
bill/subject

I wish to register my opposition to SB 372, which would gut PERA.

Public employees aren't responsible for the economic crisis local and state governments are now experiencing. You should not attempt to solve that problem by taking benefits away from workers. Public employees have been responsive to the fiscal crisis and have voluntarily contributed to the solution. This was done through and within the framework of collective bargaining. Obviously, collective bargaining does not preclude such cooperation. Public employees are concerned citizens and taxpayers, too.

It is dishonest to ignore the fact that this bill will allow a city or borough to deny employees the right to collective bargaining. Management will then be free to unilaterally set wages and other working conditions. This is a clever and insidious maneuver that strikes at the heart of collective bargaining. Pleading your intent for this bill is irrelevant; it is the results that count.

Giving public employees a right to share in decision-making regarding wages and working conditions makes a more effective government. Even the legislature has recognized this. Demoralizing employees is counter-productive for everyone.

Allowing local governments to opt out of PERA disrupts the power balance collective bargaining brings to labor-management relations.

Passage of this bill will totally destabilize employer/employee relations. Any time the assembly or city council meets, they will be able to--with one stroke of the pen, with no forewarning to employees--completely change the structure of the relationship. Why do you want to do this? Do you hate public employees so much?

I urge you to reconsider the consequences of this bill and kill it as a piece of harmful legislation. Please do not regress the status of public employees by removing the PERA guarantee of collective bargaining.

Thank you.

Signed: _____

Rachel Boyd
Testifier

Representing (Optional)

P.O. Box 75306, Fairbanks, AK 99707

Address

452-4761 x260 wk 452-7509 hm

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs
 committee name
 committee on #372, dated 2/17/88
 bill/subject

Defeat of this bill and preserving
 PERA will maintain the integrity of
 negotiations between employees and
 management (City and Borough).

Deadlock positions can be resolved by
 binding arbitration, & therefore
 recommend defeat of this bill 372.

Signed: Ray Wornock
 Testifier

Representing (Optional)

P.O. Box 1287 Fairbanks AK 99707

Address

488-9804

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs
committee name

committee on Senate Bill 372, dated Feb: 17, 1988
bill/subject

We the workers of the Fairbanks North Star Borough
and the City of Fairbanks and all workers covered
under PERA must unite now to defeat Bill 372
which will return our Collective Bargaining Rights to
the "Dark Ages" where we had no voice in
how we were paid or treated on the job.
Hordes of "Political Appointees" will be able to take
our jobs away when we lose the protection of our
Unions and Employee's Associations.

We must fight for our right to Collective
Bargaining which is our right in a free
Society.

We must and will defeat Senate Bill 372
and all the Legislators who support it.
You have my word I will work for that.

Please! Help us preserve our Job Rights as
outlined under PERA.

Signed: A. Elaine Womack
Testifier

I work for Fairbanks North Star Borough
Representing (Optional)

My address: PO Box 1287, Fairbanks, Ak. 99707
Address

Home: 488-9804
Phone No.



Alaska State Legislature

Senate State Affairs JB
~~Committee on~~

Please enter into the record my testimony to the _____ committee name

committee on HB 372 (PERA), dated 1-26-88

bill/subject

My name is John Baus. I am a Police Detective and have been directly employed and engaged in Law Enforcement in Interior Alaska for nearly twenty years. I've worked for the City as a contract employee with and without binding arbitration, and under the Personnel Ordinance. We have enjoyed fair and equitable negotiations over the years on both sides of the bargaining table. There have been times when agreement could not be reached on certain items. Because the City and Fairbanks Police Department Employees Association have agreed to binding arbitration, a third, disinterested party, have settled these matters. Two (2) matters have been settled; one on behalf of the City, and one on behalf of the FPDEA.

The Fairbanks City Council decided to put the issue of revenue in the hands of the voters. The result has been a reduction in services because of employee layoffs, furthering the economic decline in the Fairbanks Area. This had nothing at all to do with arbitration as some Interior Taxpayers Association members would have you believe. The Police Department is still struggling with insufficient personnel to accomplish its goals of citizen safety and timely response.

By allowing the City to opt out of PERA now would undermine employees ability to share in the decision making process, which is the reason the Legislature passed this law in the first place. You, as legislators recognized that Government is made more effective when employees and administrators can exchange information and ideas about operating Government. This give and take between Employer and Employee serves to better protect the public by assuring cost efficient and dependable operation of Government.

Before the City recognized the FPDEA as a collective bargaining unit, the working conditions were some of the worst imaginable. The Turn-over rate for Police employees was extremely high. People were fired from their positions at the whim of the Administration. Human rights and civil rights violations were common. Lawsuits because of inadequate training or improper behavior were litigated regularly.

Class I Employees, namely, Police and Fire Personnel, do not have and do want to have the right to strike. Because no other means of effective and fair collective bargaining is available to this class of employee, collective bargaining backed up with binding arbitration is absolutely necessary. Binding arbitration works for both sides in a dispute. This procedure has been refined over the years and serves to protect the interests of Employee and Employer.

FINALLY, I URGE YOU TO PUT AN END TO THIS LEGISLATION AND TO KILL SB 372.

Signed:

Testifier

John Baus

Representing (Optional)

364 Andy Drive Fairbanks Alaska

Address

456-3137

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs
committee name

committee on SB 372, dated February 17, 1988
bill/subject

My name is Tim Beck, President of the Alaska Public Employees Assoc. I object to SB372 and urge its defeat. It is a strongly devisive issue usually not argued on merit or logic but emotion from its supporters. Historically public employees have foregone opportunities to better paying positions in return for the security offered through public employment. By delving into P.E.R.A. (AS23.40) SB372 is lending instability to local governments. It's a "quick fix" bill to allow budgets to be balanced on the backs of public employees. Nothing, I repeat, nothing, replaces the benefits achieved by proper management and planning of local goverments. Currently the local Borough Assembly and City Council have final approval of all contracts now. All this bill does is allow for continuation of poor management and policies, knowing if there's a problem, just take it from the employees. We object strongly to that stance.

See attached position statements from local government leaders, either elected or staff representatives.

Signed: 

Testifier

Alaska Public Employees Association

Representing (Optional)

825 College Road

Address

Fairbanks, Alaska 99701

456-5412

Phone No.

MEMORANDUM

TO: Honorable Mayor, and City Council Members,
City/PMUS Department Heads
Union Business Agents & Stewards

FROM: BRIAN C. PHILLIPS, City Manager

SUBJECT: Public Employment Relations Act (as23.40)

DATE: February 16, 1988

The City Council on January 25, 1988 defeated, by non-advancement, a resolution opposing the continuance of certain PERA provisions. I interpret this policy setting action to be the City Council's support, by majority, for a status quo relative to the provisions of PERA. Therefore, unless otherwise legislated by the Fairbanks City Council, this office and all department heads of the City will refrain from giving any new written or oral testimony, recommendations, or interviews relative contrary to this policy position.

Over 60% of the City's \$80.7 million dollar budget involves unionized personnel covered under this act; This directive affecting City employed personnel is intended to clarify this City's status quo position on PERA, relative to the recent action by the Fairbanks City Council, and to once again build upon the positive working relationship between the City and our employees.



BRIAN C. PHILLIPS
City Manager

BCP/sam

cc: Interior Delegation

Introduced by: Council Member Cleworth
Date: January 25, 1988

RESOLUTION NO. 2936

Failed 1-25-88

A RESOLUTION OPPOSING CONTINUANCE OF PERA PROVISIONS FOR BINDING ARBITRATION FOR MUNICIPALITIES.

WHEREAS, THE CURRENT PROVISION IN THE ALASKA Public employees Act (PERA) providing for binding arbitration of labor disputes for certain classes of public employees applies to the City of Fairbanks; and

WHEREAS, said provision for binding arbitration takes away from local government the ability to determine its own future and goals with any degree of certainty, deprives the public of final authority over municipal labor terms and policies and gives the power of binding the public to important financial decisions and labor policies to a third party who is not answerable in any manner to the public; and

WHEREAS, it would be within the best interest of the city to be free of the binding arbitration provision of PERA.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, that it is opposed to the continuance of said binding arbitration provision and strongly recommends the amendment of PERA to delete this provision and its applicability to municipal governments.

PASSED and APPROVED this 25th day of January, 1988.

BILL WALLEY, Mayor

ATTEST:

NORMA J. MARKS, Acting City Clerk

 Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

452-4761

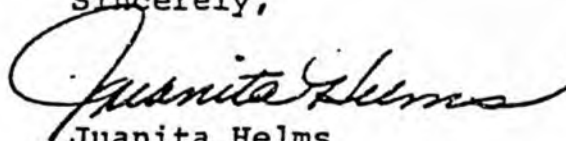
February 1, 1988

Honorable Mitch Abood
Chairman
Senate State Affairs Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Abood:

I urge you to defeat SB 372. As a strong supporter of collective bargaining, I see this bill as the beginning of the end for public employee collective bargaining.

Sincerely,



Juanita Helms
Borough Mayor

JH.
cc: Members, Senate State Affairs Committee
Interior Delegation



Alaska State Legislature

Senate State Affairs *JB*

Please enter into the record my testimony to the ~~CONSTITUTIONAL REFORMERS~~ committee name

committee on HB 372 (PERA), dated 1-26-88
bill/subject

I am writing ^{this} letter as there was not time allotted for all to testify at the teleconference on Feb. 17, 1988. I have been a police officer for 13 years with the City of Fairbanks and have been under both programs (in PERA and out of PERA) during that time. The City of Fairbanks opted to go into PERA after the city allowed ~~thier~~ employees to negotiate contracts with the City. Since that time binding arbitration with the police department has occurred on two occasions. The city has won one of the cases and the employees have won a case. The remainder of the bargaining has been both fair and equitable to both sides, with contracts being signed without binding arbitration.

Since the City of Fairbanks has decided not to raise revenue, they have attacked the public employees as the "bad guys" who have caused all the revenue problems with in the city of Fairbanks. This is simply not the case at all. The city of Fairbanks has known for two years that they were going to be short revenues if they continued to sit back and do nothing while they paid out salaries to ~~thier~~ employees. Concessions have been made with the city to alleviate the money crunch. The police department took a ten percent pay cut in wages to help out the city in the time of crisis. Since that time however; Brian Phillips the City Manager for the City of Fairbanks has publicly stated that in order to balance the budget then PERA must be stricken from the books. While it would be nice to be able to trust the City of Fairbanks, realistically that is not possible as they have proven time and time again that they would take advantage of their employees. With all the special interest groups that have formed since this issue began, I don't see how the City could be fair with out binding arbitration. Several groups have singled out the public employee as the problem that has caused the cities around the state of Alaska to face monetary problems. I don't see the public employee as the whole problem that the state is facing. State and local government employees spend ~~thier~~ money within the state just like private employees. The more money there is the more money is spent. These special interest groups would like to see government employees work for "peanuts". When considering this bill please don't consider the selfish few but the vast majority of loyal government workers who are signed: trying to make this state a better place to live and grow.

Testifier

PAUL A. Keller PAIC

Representing (Optional)

4448 STANFORD DR.

Address

479-0764

Phone No.

Mayor Walley sees no reason to panic

By MARGARET NELSON
Staff Writer

While the city council is pressing for ways to make up a deficit in this year's spending, which latest estimates put at \$4.2 million, Mayor Bill Walley says he doesn't see why everyone is in a panic.

Meanwhile, measures reducing the city council's and mayor's pay and per diem allowances by 20 percent are the first budget cutting measures the council will consider at its meeting Monday. The meeting takes place in city council chambers, 620 Fifth Avenue, beginning at 7 p.m.

Councilman Ted Lehne said today he's introducing those measures, as well as a proposal to increase the city's administrative charges to state grants, as an effort

to start balancing the budget.

"We've got to get on with it," Lehne said. "We've known since we adopted the budget that there would be a deficit and we haven't done much constructive yet. It's way past time."

The projected deficit for this year, according to the latest city figures, could be as high as \$4.2 million. However, City Manager Wally Droz said today it's really too soon to tell if that figure is high or low. Council members Monday asked Droz to give them some recommendations on budget trimming measures. Those recommendations may be forthcoming Monday.

Walley continues to say that the money needed to balance the budget can be raised by tapping un-

(See MAYOR, page 3)

MAYOR

(Continued from page 1)

designated funds in an unappropriated surplus account totaling \$5.7 million, \$5 million in the Permanent Investment Fund and tax money of more than \$1 million, and by cutting departments by 15 percent, taxing gambling and liquor and increasing bed taxes.

"I can't understand why people are in such a panic," Walley said. However, there's some problems

with using money in the funds Walley mentioned.

The \$5.7 million unappropriated surplus account serves as the city's operating and cash reserve account, said Finance Director Bob Wolting. The city needs most of that reserve to cover, for example, the bi-monthly payroll and bills.

It would take a vote of the people before money could be taken out of Permanent Investment Fund.

CREDIT

Mayor says it's too regressive

Walley vetoes sales tax

By SUSAN FISHER
Staff Writer

Lacking the five votes necessary to override Mayor Bill Walley's sales tax veto, the Fairbanks City Council is to meet at noon Wednesday to explore other options for balancing the city's 1986 budget.

Walley vetoed a 3 percent sales tax Friday, calling it "the most regressive tax that our people and economy can face" because it puts the most burden on the middle class family consumer.

The mayor, a candidate for governor, is in Anchorage campaigning, but called his instructions to City Clerk Carma Roberson Friday

and was to send his signed veto message by express mail.

Within an hour of Walley's notification, Acting Mayor Ted Lehne called for the work session.

Both Lehne and Councilman Lowell Purcell told the Daily News-Miner they informed Walley they would not vote to override his veto, and Councilman Jerry Norum is expected to miss the June 23 meeting. The six-member council passed the sales tax measure Monday on a 4-2 vote, with Lehne and Norum opposing it.

The council has a number of choices, but the challenge facing it is to find a common ground and a

plan that will escape another veto, Lehne said.

Since January, the city has been operating under a \$23 million calendar-year budget that is expected to exceed income by \$5-6 million. Only half a year remains to close the gap.

But the city also holds some \$6.8 million in its unappropriated fund and has a \$5 million permanent fund, which only voters can approve spending.

In a lengthy veto message, Walley again suggested a gambling tax on bingo games and raffles and a tax on luxury items. He endorsed Lehne's suggested approach of li-

imited taxes, digging into the surplus fund and cutting expenses.

Prior to Monday's sales tax vote, Lehne had proposed alternatives including limited taxes on such items as cigarettes and tobacco products, gasoline and restaurant meals, and raising city garbage collection fees, digging into the unappropriated fund and cutting some expenses.

Friday Lehne had another proposal. He said he would like the council to consider dropping the 4 percent franchise fee charged to Fairbanks Municipal Utilities System, and move instead to a 4 percent
(See VETO, back page)

VETO . . .

(Continued from page 1)

electricity tax. Half the city's electric customers are served by Golden Valley Electric Association, and the electricity tax on customers of both utilities would raise more money than the MUS franchise fee does, he said.

Lowell Purcell voted for the sales tax, but said he won't vote to override the veto.

He said the tobacco tax appeals to him, but he can't go along with a gasoline tax at a time when gas prices are so competitive it could drive business outside the city, and he's also reluctant about a restaurant/fast food tax.

"Gambling, I would support a tax like that, although I understand

public pressure pretty well shot that one down last time," he said.

Another option is raising city property taxes. In passing the sales tax, the council Monday set the 1986 mill levy at 2.8 mills.

Walley spoke to that issue in his veto message. If the council can't agree on a plan, he said, "then maybe we should just ask the voter to settle once and for all whether the people would prefer a 3 mill property tax increase or a sales tax."

The mayor pointed to a 1985 advisory vote in which 86 percent of city voters said no to sales tax, and said the sales tax is a burden on businesses, is difficult to collect and drives up costs to consumers.

Walley would veto 9-mill levy plan

NET NELSON
Writer

Property tax rate more than triple to city's proposed city manager Wally Droz members in his annual

Bill Walley says he'll allow property

taxes to increase that much and that he'll seek cuts in Droz's \$23.8-million spending proposal.

Droz is recommending the city set 1986 spending at \$23,871,507, up about 6 percent from this year's approved budget of \$22.5 million. No deficit is projected, using the projected assessed valuation and 9-mill levy, in Droz's 1986 proposal.

Property taxes for 1986 would pay \$9.6 million of the city's costs.

"It is going to initially take 9 mills to fund this proposed 1986 budget," Droz said in a message included with the budget made available to the six council members and the mayor late last week.

This year city residents paid 2.8 mills in property taxes plus 7.3

mills in borough taxes. The highest city's mill rate was in 1960 when the city levied 18 mills. During the pipeline years of 1973 to 1976 the city's mill rate ranged from 12 to 10 mills. One mill equals \$1 in taxes for each \$1,000 in property value.

Droz this morning said the 6.2-mill increase is needed to cover the proposed budget increase of 6 per-

cent, because of the big drops in city revenues. Chief among those funding sources now drying up are state and federal revenues, plus less interest earned on investments because of the smaller revenue.

In 1984, the city got \$3 million interest on investments; Droz projects the 1986 interest at \$1.5 million. The city expects state muni-

cipal assistance to drop \$600,000 next year, leaving \$4.2 million. State-shared revenue, estimated at \$3.5 million this year, is expected to drop to \$1.4 million.

"I don't think I'm going to allow a 9-mill levy," Walley said Monday. "I'd veto it in a minute."

"I'm not too happy with that (See BUDGET, back page)

ET . . .

(Continued from page 1)

Walley said, adding he believed the council can cut 10 percent in spending budget proposal.

Walley plans to announce a schedule of budget meetings at the next meeting Monday. In the meantime he says he'll meet with the council this week to seek ways to reduce the budget. The council, under Walley, must approve the budget by October 31.

Walley is reducing the 1986 budget to \$22.5 million, as Droz pointed out several

percent of the proposed 1986 budget goes to pay the wages and benefits of 281 city employees. This year's budget includes 245 employees.

Walley says employees, with the exception of top management, are

now represented by a union or association and have contracts with the city.

- Income investments were expected to receive \$2.2 million this year. However, in September the city had only received 55 percent of that figure.

- It was estimated that the city's assessed value would reach more than \$1 billion this year. But the city's value only reached \$998 million, resulting in less income for the city.

- The city's busy construction season resulted in the city selling \$286,593 in building permits through the first eight months of 1985. The city had only projected receiving \$250,000 for all of 1985.

Droz said in his budget message that from 1974 to 1980 the city experienced some "slack periods of

tough-to-get revenue" and "tough budgets." He pointed out that from 1974 to 1980 the city levied a property tax ranging up to 11 mills while at the same time levying a 3 percent sales tax.

The most expensive department in the city is the police department, according to the budget document. Police spending is proposed at nearly \$5.7 million, up from this year's \$5.4 million. If property taxes alone funded that department it would take 5.5 mills, Droz estimates.

The next most expensive service the city provides is fire protection. Spending in that department is proposed at \$4.75 million, down from this year's \$4.8 million.

Other major departments are public works with proposed spending at \$3.86 million and engineering with spending at \$1.9 million.

TESTIMONY TO SENATE STATE AFFAIRS COMMITTEE
SENATE BILL 372

April 6, 1988

My name is Barry Haight; I represent the Fairbanks Fire Fighters Association and the Interior Public Employees Coalition. Both organizations maintain strong opposition to Senate Bill 372, and challenge the stated reasons for the introduction of this legislation.

This committee has been told the bill is needed to provide relief for the City of Fairbanks; yet this past week, for a second time, the Fairbanks City Council has refused to support S.B. 372. Nonetheless, S.B. 372 remains before you along with the misleading claims and inaccurate assertions made by some of those who support the bill.

Mr. Chairman, I have a copy of a booklet prepared by the City of Fairbanks and mailed to city residents this past September. Also, a copy of the second and, most recent, arbitrator's decision rendered in a bargaining impasse between the City of Fairbanks and an employee group. I ask that they be entered into the record. I have copied several pages from the city booklet for committee members and would call your attention to certain facts.

On the first page is a graph demonstrating concessions and the percentage amount by bargaining unit. There is no relationship or meaning in the differing amounts nor should one be construed.

Every city union made concessions and dealt with city management independently. Furthermore, the percentage amounts do not tell the whole story. The percentile indicated includes not only base wage but overtime rates, fringe benefits, and, in some cases, contract language affecting work rules and subsequent cost to the city. It has been stated to this committee that because public safety employees did not give enough, further layoffs will be necessary. A look at the second page demonstrates that while the percentage amount given up by fire fighters is, as some would say, only 7% the dollar savings to the city is a substantial \$16,301. per person; very close to the second highest per employee savings in any city department.

On that same page the city told the voter that "These reductions far exceed any cost containment measures by the State, Borough, School District, or other municipalities in the State of Alaska." The following statement was also made: "The City and the employees have acted decisively and expeditiously to lower wage costs to Fairbanks residents."

It has been claimed that because of PERA and resultant wages that Fairbanks residents have been burdened with inordinately high taxes; however, the next graph shows that taxpayers paid only about 1/7 of the cost of all city services. The booklet was signed by the Mayor and five of six Council members.

Yet, this committee has been told lack of employee cooperation is causing otherwise unnecessary layoffs. The process of binding arbitration has been vilified and various assertions made, including:

binding arbitration has occurred numerous times;

arbitrators always find in favor of the union;

arbitrators come from out of state;

arbitrators do not take into account the employers' financial status or ability to pay.

In the first instance, the number of arbitration cases is answered by a summary provided this committee by the Labor Department. The summary reveals three cases. However, I would clarify that by pointing out that the first case listed was not a mandated arbitration, but was voluntarily agreed to by the union and city representatives. Of the remaining two arbitrations; the arbitrator agreed with the city's offer in a 1985 case.

As far as where arbitrators come from and what they take into account, we can get factual information in reading the arbitrator's decision in the last case involving the city--October 1986 with the Fairbanks Police Dept. Employees Association. On the front page of the arbitrator's opinion and award is the name and address of the arbitrator. He is Dennis Geary. He lives in Fairbanks and has done so for 10 years. Starting at the bottom of page 5 Mr. Geary states, and I quote: "A pivotal consideration in deciding this issue is the city's ability to pay."

Further reading of the arbitrator's findings are instructive and drive to the heart of what is really a local matter. I continue to quote: "The city has argued that a source of income has been substantially reduced by the current oil price fluctuation. While the city has reduced its expenditures and explored alternative funding sources, it has vacillated regarding a steadfast course of action to reduce the budget deficit. By illustration, FEDEA points to Mayor Bill Walley's veto of a proposed sales tax by the City Council, and his public statements (as recent as October 3, 1986) regarding the financial status of the city. The city argued in the hearing that reliance on Mr. Walley's statements while running for re-election, would be irresponsible. However, Mr. Walley's statements were intended to refute charges made by his opponents that the city is in a fiscal crisis. This is the same fiscal crisis alleged by the city in this arbitration." End quote. Some of those same people who denied a fiscal crisis now admit there is one; blame it on the employees and seek legislative relief by overturning 16 years of labor law. Meanwhile, they are also asking this legislature for more money and at the same time, vowing to fight any efforts to raise local revenues. They cap it all off by asking you and the employee to believe they still want to collectively bargain. We don't believe them, and ask you not to pass this bill.

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

2/10/86

IN THE MATTER OF THE ARBITRATION)	ARBITRATOR'S
MATTER)	
)	
CITY OF FAIRBANKS)	OPINION
)	
AND)	AND
)	
FAIRBANKS POLICE DEPARTMENT)	AWARD
EMPLOYEES ASSOCIATION)	
)	

HEARING SITE: CITY COUNCIL CHAMBERS
410 Cushman Street
Fairbanks, Alaska 99701

HEARING DATE: 9:00 am October 16, 1986

ARBITRATOR: Dennis Geary
P.O. Box 1536
Fairbanks, AK 99707

APPEARING FOR THE CITY OF FAIRBANKS:

HOMER JONES, DEPUTY CITY ATTORNEY
410 Cushman Street
Fairbanks, Alaska 99701

APPEARING FOR THE FAIRBANKS POLICE DEPARTMENT EMPLOYEES ASSOCIATION:

Gerald Laparle, Esq.
100 Cushman Street
Fairbanks, AK 99701

INTRODUCTION

At a hearing in Fairbanks, Alaska on October, 14, 1986, the parties acknowledged that this Wage Reopener had been processed in accordance with the agreement between the City of Fairbanks (City) and the Fairbanks Police Department Employees Association (FPDEA). The Wage Reopener was properly in arbitration and within the jurisdiction of the arbitrator to make a

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

final and finding decision, as set forth in the Working Agreement between the City and FPDEA (Agreement). Accordingly, full opportunity was afforded both FPDEA and the City to present opening statements, offer exhibits, examine and cross-examine witnesses, and otherwise to make known the relevant evidence, their positions and arguments to the arbitrator. The arbitrator accepted seven (7) exhibits from FPDEA and thirteen (13) exhibits from the City. The record was reopened on October 28, 1986 by the arbitrator to obtain and enter into the record applicable portions of the Agreement. Those who testified included Norman Brake, President of FPDEA, and Paul Taylor, University of Alaska. The parties argued closing oral arguments and waived the submission of post hearing briefs. The arbitrator tape-recorded the proceedings to supplement his written notes.

ISSUE

The parties directed the arbitrator to determine what, if any, adjustments to compensation should be made for the period of January 1, 1986 through December 31, 1986.

APPLICABLE CONTRACT PROVISION

CITY - FPDEA WORKING AGREEMENT

1.1 This agreement shall become effective January 1, 1984 and shall remain in effect until December 31, 1986. Any retroaction contained herein will affect only those employees covered by this Agreement and actually employed by the City on the precise date this Agreement

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

is signed by the City and the Fairbanks Police Department Employee's Association. This Agreement shall be opened annually, on or before the 1st day of November of each calendar year. The purpose of such reopening shall be to determine adjustments to compensation only and matters mutually agreed upon.

POSITION OF FPDEA

FPDEA has asserted that it should receive a wage increase of 3.1% for the period January 1, 1986, through December 31, 1986. This position is essentially based upon three arguments. First, FPDEA points to a rise in the Consumer Price Index (CPI) of 3.1% covering the period of January, 1985 through January, 1986. Secondly, FPDEA contends that a wage comparison between FPDEA and the Anchorage Police Department (APD) reflects APD members are compensated 8% more than FPDEA members, exclusive of any geographic differential, for work of a similar nature. Finally, FPDEA alleges the City has the ability to pay for the requested wage increases, citing: the recent defeat of the tax cap initiative; mayorial veto of tax increases; public statements by the Mayor and the expert testimony of its witness.

POSITION OF CITY

The City has argued for a wage freeze during this third and final year of the contract with FPDEA. The City has proclaimed that the "state of the State" is not good and the City does not currently have the ability to pay wage increases. The City maintains FPDEA wage scales are in line with the other police agencies in the State and there are no "ancient

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

wrongs" to be righted. As this contract will expire on 12/31/86, the City has asked that a wage freeze be instituted, leaving all matters for consideration during negotiations on the new contract.

DISCUSSION & FINDINGS

Police and fire services are among the most critical services offered by government. The Alaska Legislature recognized this when it mandated binding arbitration for these groups of workers. Binding arbitration, a quid pro quo for a no strike provision, insures that there is no interruption in these services due to labor-management disputes. Arbitrator Carr (FPDEA Exhibit #4) correctly described the nature and character of "interest" arbitration in his 7/16/86 decision. The arbitrator's objective in interest arbitration is to determine what the parties should have agreed upon by negotiation. In addition however, the arbitrator must also consider the relative time frame in which the negotiations were intended to have occurred. In the instant case, negotiations began in the Fall of 1985, and theoretically should have been concluded prior to January 1, 1986. Whatever agreement the parties might have reached, would then have taken effect on that date. I have made my decision based upon these premises.

The Agreement provides that "adjustments to compensation" shall be examined/negotiated annually. The Agreement does not specify the basis for these adjustments. FPDEA has suggested the CPI would be a valid basis for such adjustments. The City has also asked that I rely on the CPI, but that I consider data generated after 1/01/86. As I have already stated, this Wage

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

Reopener should have been decided by 1/01/86, and consideration of trends or data which occurred after 1/01/86 would not be proper. I have therefore determined that the CPI change for the period of January 1985 through January 1986, as submitted by FPDEA, is appropriate for consideration.

In reviewing criteria for determining wage adjustments, comparable worth evaluations are also a proper basis. Police officer's wages, as with any other skilled employee, should reflect the caliber of work expected from such workers. FPDEA and the City have both presented wage comparisons for consideration, and both rely on the comparisons to persuade me their respective positions are at least partially justified. The City has asserted that while FPDEA members are not the highest paid police officers in the State, their pay is "in the ball park". Their graphs depicting initial hourly wages for patrol officers and sergeants, submitted in support of this contention, would tend to bear this out. However, FPDEA contends that a comparison of FPDEA with all other police agencies in the State is improper. FPDEA maintains that a comparison with APD is the proper one and is in keeping with the 1985 decision by Arbitration Barr. I have also determined this to be the most proper comparison, but do not agree it is the only proper comparison. In this vein FPDEA, through expert testimony, has demonstrated that an approximate 5% wage disparity between APD and FPDEA exists, irrespective of any geographic differential. This disparity varies between job classifications and upon length of service, but is generally indicative of the relationship of wages between FPDEA and APD.

A pivotal consideration in deciding this issue is the City's ability to

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

pay. The employer shoulders the burden of producing sufficient evidence to support an inability to pay. The evidence submitted in support of this position must also be something more than speculative. The City has argued that a source of income has been substantially reduced by the current oil price fluxation. While the City has reduced its expenditures and explored alternative funding sources, it has vacilated regarding a steadfast course of action to reduce the budget deficit. By illustration, FPDEA points to Mayor Bill Walley's veto of a proposed sales tax by the City Council, and his public statements (as recent as October 03, 1986) regarding the financial status of the city. The City argued in the hearing that reliance on Mr. Walley's statements while running for re-election, would be irresponsible. However, Mr. Walley's statements were intended to refute charges made by his opponents that the city is in a fiscal crisis. This is the same fiscal crisis alleged by the City in this arbitration. Mayor Walley has pointed to a surplus balance in the sales tax and other surplus funds, with which the City might balance its budget. Consequently, the City has only produced evidence of a temporary inability to pay, which is not sufficient in and of itself to eliminate or reduce an increase warranted by other criteria.

The City has presented no legal bar regarding the City's ability to generate new/additional revenues. FPDEA has pointed to the recent defeat of Tax Cap Initiatives by the voters, which would have presented a restriction to generate additional funds. Evidence submitted during the hearing, from FPDEA's expert witness, and statements from Mayor Walley, reflect

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

that the tax rate within the city in recent years has steadily declined at the same time the tax base has increased. The taxing power of the City needs public support, and while that support has not specifically been shown, the Tax Cap defeat is significant. I have therefore determined that the City has failed to demonstrate an inability to pay.

In view of the above, I make the following findings:

1. A change in the CPI is a valid consideration when determining "adjustments" to compensation.
2. The CPI data covering the period of January 1985 through January 1986 is 3.1% and the most appropriate CPI data in consideration of this issue.
3. Comparable worth studies are a valid consideration when determining "adjustments" to compensation.
4. APD is the most proper group with which to compare FPDEA regarding wage rates.
5. APD employees enjoy an approximate 8% advantage in wages over FPDEA employees.
6. The City failed to produce conclusive evidence that it does not have an ability to pay.
7. A wage increase of 3.1% for the period of January 1, 1986 through December 31, 1986 is appropriate for the reasons asserted by FPDEA.

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

AWARD

The adjustment to compensation (wages) applicable to all employees in the bargaining unit for the period of January 1, 1986 through December 31, 1986, shall be an increase of 3.1%.

NOVEMBER 12, 1986
DATED

Dennis Geary
DENNIS GEARY
ARBITRATOR

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to Public
Employment Relations Act.."
Sponsor: Fanning
Requestor: State Affairs

Agency Affected: Labor
BRU: Labor Standards and Safety

Components: Wage and Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CJ.AIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director *Stuart* Phone: 264-2452
Division: Labor Standards and Safety Date: 2/2/88

Approved by Commissioner: Jim Sampson *J. Sampson* Date: 2/2/88
Agency: Labor

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

Bill No. Senate Bill 372

Date February 2, 1988

Title "An Act relating to the applicability of the Public Employment Relations Act to municipalities and political subdivisions."

Contact: Eileen Plate
465-2700

This legislation repeals Section 4, Chapter 113, SLA 1972, which permits municipalities and political subdivisions to elect not to be covered by the Public Employment Relations Act; and replaces it with language that permits municipalities and political subdivisions to opt in, or out, of PERA coverage at will, subject to a lapse of three years between each action.

Under this bill, political subdivisions who are currently under PERA coverage would have the opportunity to opt out by adopting an ordinance or resolution to that effect. Similarly, as is provided under current law, political subdivisions who opted out in 1972 could rescind that exemption and come under PERA coverage. The only restriction placed on exercising one option or the other is that three years must have elapsed since the time an option was last exercised.

This has no practical effect on those political subdivisions who elected to opt out when PERA was passed in 1972. They may presently rescind that action by ordinance or resolution and come within coverage of PERA, as the City of Fairbanks did in 1983. However, this bill would allow those political subdivisions currently under PERA to exempt themselves from coverage, an option that does not currently exist.


The municipality or political subdivision could, at its discretion, therefore rescind rights previously extended to employees without any participation by the workers in that decision. This clearly goes against the intent of the act which is to promote harmonious employer/employee relationships. The provisions of this bill are, therefore, contrary to the principals upon which collective bargaining laws are premised.

There are presently six communities that are covered by PERA - City of Fairbanks, Fairbanks North Star Borough, City of Petersburg, Ketchikan Gateway Borough, City of Unalaska, and City of Nome. These communities could, under this bill, exempt themselves and discontinue the collective bargaining relationship at the expiration of existing contracts.

This bill is not in the interest of good management and labor relations; and the Department is opposed to it.

There is no fiscal impact on the Department.

APPROVED:



Jim Sampson, Commissioner
Department of Labor

POSITION PAPER/Department of Labor