

2001 ANNUAL REPORT

Submitted April 2002
(In accordance with AS 23.05.370)

INTRODUCTION

The Alaska Labor Relations Agency administers the Public Employment Relations Act (PERA) for the State, municipalities, public schools, and university. The Agency also administers the railroad labor relations laws for the Alaska Railroad Corporation. It determines petitions for certification or decertification of bargaining representatives, petitions to clarify the composition of public employee bargaining units and to amend the certification of units, and charges of unfair labor practices from labor organizations, public employers, and public employees. It enforces terms of a collective bargaining agreement, determines strike eligibility of workers, and rules on claims for religious exemption from the obligation to pay fees to a bargaining representative.

PERSONNEL

BOARD MEMBERS

The Agency is governed by a board of six members who serve staggered three-year terms. The members must have backgrounds in labor relations, and two members each must be drawn from management, labor, and the general public. AS 23.05.360(b).

Aaron T. Isaacs Jr., Chair	Reappointed Jan. 18, 2002	Public
David D. Rasley, Board Member	Appointed Nov. 14, 2001	Public
Robert A. Doyle, Board Member	Reappointed Aug. 3, 1999	Management
Dick Brickley, Board Member	Reappointed June 30, 2000	Management
Roberta Demoski, Board Member	Appointed Jan. 18, 2002	Labor
Raymond Smith, Board Member	Reappointed July 31, 1998	Labor

STAFF

Mark Torgerson, administrator/hearing examiner
Jean Ward, hearing officer/investigator
Margie Yadlosky, personnel specialist I
Earl Gibson, Jr., administrative clerk III

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STATUTES

Relevant statutes appear in AS 23.05.360--23.05.390; AS 23.40.070--23.40.260 (PERA); and AS 42.40.705--42.40.890 (railroad).

REGULATIONS

The Agency's regulations appear in 8 AAC 97.010--8 AAC 97.990.

HIGHLIGHTS

The Agency started a regulation project in 2001 regarding regulations implementing the Public Employment Relations Act and railroad labor relations laws, AS 23.40.070 - 260 and 42.40.705 - 890. The subjects addressed include changing the number of sets of documents parties must initially file from five to two, amending provisions on unit amendment and unit clarification procedures, repealing a strike vote provision, creating a time limit for filing an appeal of an order or ruling of an hearing officer, amending the definition of "appointed officials," and making housekeeping amendments. The Agency Board published a public notice, completed public hearings, and adopted the amendments to the regulations. As of the end of March 2002, the regulation project has been reviewed by the Assistant Attorney General and the regulations will be readopted at the April 11, 2002, Agency board meeting.

During 2001, the Agency continued to play a proactive role in revitalizing the Alaska chapter of the Industrial Relations Research Association (IRRA). IRRA is the one organization in the country in which professionals from all aspects of industrial relations and human resources can share ideas and learn about new developments and practices in the field. IRRA sponsors and publishes research. It promotes education and

provides a forum for the exchange of ideas on employment issues. IRRA does not take partisan positions on policy issues; rather, it serves as a resource to labor and management professionals, including advocates and neutrals, government, and the academic community. An active Alaska chapter provides Alaska employment professionals with opportunities for networking and training, and it serves as a resource within the state.

The Alaska chapter met seven times in 2001. Monthly luncheon meetings were highlighted by speaker presentations. Speakers addressed a variety of issues, including workplace violence, the high maintenance employee from a management and union perspective, sexual harassment, and safety and risk management, particularly in light of the September 11 attacks. Recent speakers have provided updated information on the Family and Medical Leave Act and important decisions of the National Labor Relations Board.

The streamlined procedures implemented in 1998 and 1999 enabled the Agency to put a significant dent in a caseload backlog that had developed in the mid-1990's. The total number of pending cases continues to decrease each year due to efficiencies of operations and reduced case filings. For example, the total number of open cases in January 1999 was 170 compared to 92 in 2000, and 56 in 2001.

Cases filed in 2001 totaled 52, a 5.5 percent increase from the 49 cases filed in 2000. Although this is a slight increase from last year, it is still less than the 68 filed in 1999 and 106 filed in 1998. The number of cases filed, coupled with an increase in dispositions of previously pending cases, reduced the agency's total caseload significantly. The total 2001 filings are comparable to the number of filings in 2000, lower than the number of filings in 1999, and lower than the average number of filings during the 1991 to 1994 period (84). The Agency's backlog developed primarily due to the large number of cases filed in the 1995-to-1998 period, which averaged 149 per year. Due to the lean budget, the agency continued to work this increased caseload with the same number of staff. The number and type of total cases filed each year is unpredictable.

Unit clarification (UC) petitions filed in 2001 totaled 13, compared to 16 in 2000, 31 in 1999, and 66 in 1998. For the first time since 1995, unit clarification petitions were not the largest category of cases filed. Overall, the number of cases filed for unit clarifications has decreased since 1996, when the greatest number of cases was filed (148). These petitions usually concern the supervisory status of various State employees. The supervisory status of an employee determines the employee's bargaining unit placement. While the question who is a supervisor affects all State employee bargaining units, UC disputes before the Agency primarily involve the State, the Alaska State Employees Association (ASEA), which represents the general government unit, and the Alaska Public Employees Association (APEA), which represents the supervisors' unit. A significant increase in the number of petitions began in 1995, due in part to a 1995

amendment to a regulation defining “supervisory employee.” The validity of this amendment was eventually challenged in the courts. On October 15, 1999, the Alaska Supreme Court affirmed the regulation’s validity.

The UC caseload had increased to 207 by November 1, 1997. The procedure at that time, holding a hearing in each case, became impossible to keep up with, given staffing and budget limitations. To reduce the UC caseload backlog and improve production, the agency implemented streamlining procedures in 1998. These new procedures have been successful. In 2001, the Agency completed 11 investigations. The UC caseload has been reduced significantly in the past three years. (See “Final Disposition” data in chart at page 7, and discussion at pages 13 - 14).

The Agency experienced a 49 percent increase in the number of unfair labor practices (ULP) charges filed in 2001, to 27. This increase differs from the past three years, when the number of ULP charges filed had decreased to 20 in 1999 and 19 in 2000. The issue in 56 percent of the charges was bad faith bargaining. These charges often arise in the context of collective bargaining; one party believes the other party is not bargaining in good faith. The issue in 22 percent of the charges was interference with protected rights, such as organizing and collective bargaining. Eight percent of the charges relate to the duty of fair representation. Three percent of charges relate to Weingarten rights (the right to have a union representative present at an investigatory interview that could lead to discipline). The remaining eleven percent concern retaliation.

Effective January 1, 1999, the Agency implemented new procedures designed to reduce the time needed to complete ULP investigations. One pre- 1999 case remained in 2000, which took 825 days to complete. Under the new procedures, 21 ULP investigations were completed in an average of 187 days. With the inclusion of the pre-1999 case, the average for all ULP investigations is 216 days. This compares to 90 days in 1999 and 83 days in 2000. One factor contributing to the increased time required to complete ULP investigations is a 49 percent increase in the number of ULP’s filed during 2001. Times for completion are also affected by the complexity of the cases, the amount of work required to resolve cases informally, and the efforts to eliminate the entire backlog of older cases.

The Agency received nine election petitions in 2001. Seven petitions requested certification of a bargaining representative. One petition requested decertification, and one requested decertification of the current representative and certification of a new bargaining representative. This compares to six election petitions filed in 2000, and four in 1999. This is a 34 percent increase in the number of election petitions filed in 2000 and a 45 percent increase since 1999.

The Agency conducted five elections in 2001. Three resulted in certification of a new bargaining unit representative and two resulted in the choice of no bargaining

representative. The result of the election activity in 2001 was a net increase in the number of public employees covered by collective bargaining under PERA.

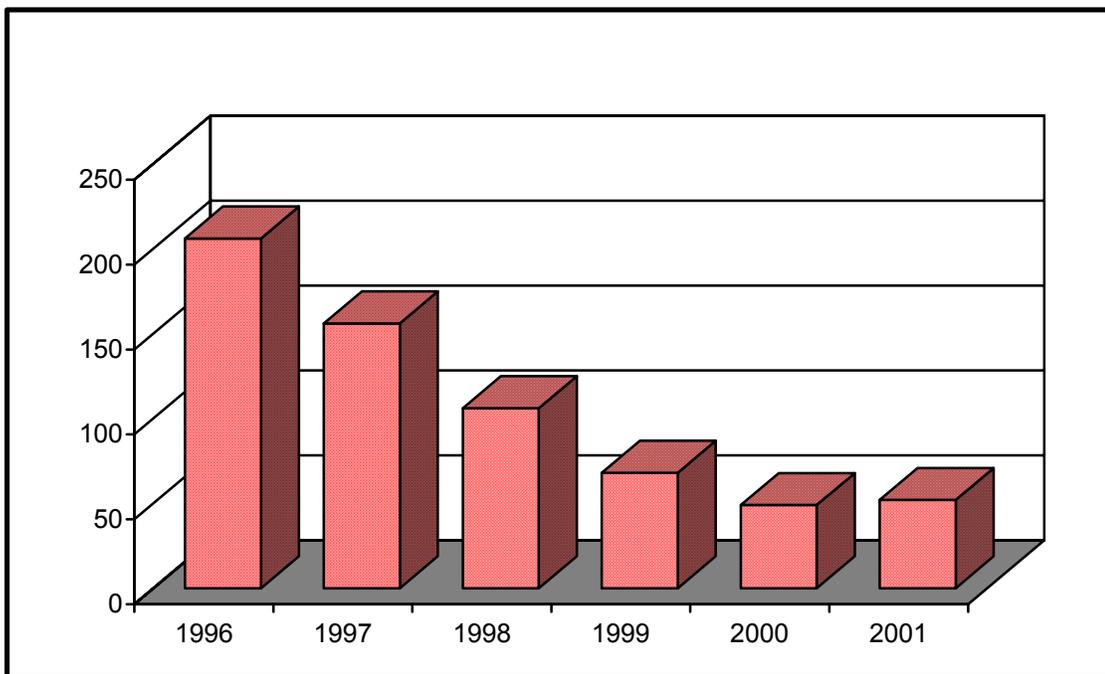
There were no strike petitions filed in 2001, compared to a total of 2 in 2000, 6 in 1999, 4 in 1998, and 2 in 1997. Petitions filed in past years were generally attributable to expiration of multi-year contracts between employers and labor organizations. The Agency anticipates the possibility of an increasing trend in strike petitions because several State and school district contracts expire in 2003.

The Agency continues to emphasize informal resolution of disputes. As a result, 13 unfair labor practice charges were resolved informally in 2001. This compares to 10 such resolutions in 2000, 18 in 1999, 15 in 1998, 20 in 1997, and 14 in 1996. The Agency's hearing officer/investigator works with parties to settle unfair labor practice charges, and has expanded mediation services to include collective bargaining agreement enforcement petitions. Successful mediation saves the parties, the Board, and the Agency the cost and time that would have been required for litigation of the disputes. The Agency hopes to train other staff to assist in mediation efforts.

Agency information is available on its internet web site, accessible through the State of Alaska's home page (<http://www.state.ak.us>) or directly at <http://www.labor.state.ak.us/laborr/home.htm>. The site contains a link to contact the administrator by e-mail, and information about agency programs and resources. In addition, a person can now research all Agency decisions by typing a word or phrase into a search field. The Agency continues to add new materials. The Agency met its goal of creating a cross-reference of Agency cases appealed to the Alaska Superior and Supreme Courts, including the decisions issued. The next goal for the Agency is to update the ALRA practice handbook and make it available on-line for the public.

CASE STATUS SUMMARIES

CASE LOAD COMPARISON BY YEAR

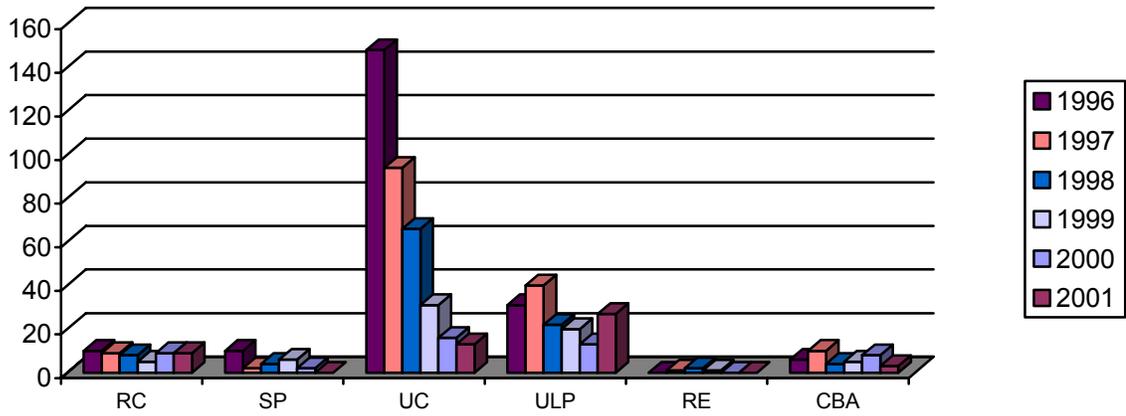


OVERVIEW

CASES FILED	2001	2000	1999	1998	1997	1996
Amended Certification (AC)	0	3	1	1	1	1
Representation (RC)	7	6	1	6	6	5
Decertification (RD)	1	0	1	1	1	2
Decert. to certify a new rep. (RC/RD)	1	0	2	0	1	2
Strike notice or strike class petition (SP)	0	2	6	4	2	10
Unit Clarification (UC)	13	16	31	66	94	148
Unfair Labor Practice Charge (ULP)	27	13	20	22	40	31
Religious Exemption Claims (RE)	0	0	1	2	1	0
Contract Enforcement (CBA)	3	8	5	4	10	6
Other (OTH)	0	1	0	0	0	1
TOTAL	52	49	68	106	156	206
AGENCY ACTIVITY	2001	2000	1999	1998	1997	1996
Unfair Labor Practice Investigations	22	10	31	24	26	20
Unit Clarification Investigations	11	48	93	NC	NC	NC
Decisions and Orders Issued	5	5	6	9	25	12
Other Board Orders Issued	5	1	16	NC	NC	NC
Hearing Officer Orders Issued	2	5	3	NC	NC	NC
Elections (includes AC)	6	3	3	6	7	6
TOTAL	51	72	152	39	58	38
FINAL DISPOSITION	2001	2000	1999	1998	1997	1996
Notices of dismissal issued	38	48	89	67	27	15
Cases settled or withdrawn	25	23	45	87	69	25
Cases that went to hearing	4	6	7	3	10	29
Impasse matters settled or withdrawn	0	0	5	2	0	1
Cases deferred to arbitration	3	1	1	1	0	1
TOTAL	70	78	147	160	106	71

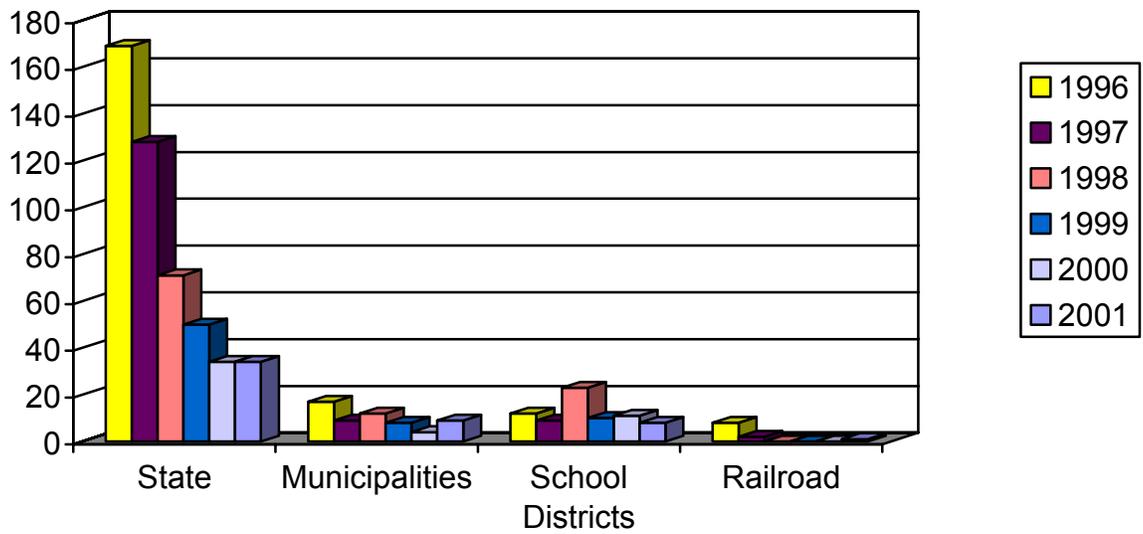
*NC = not counted

CHARTS



PROGRAM COMPARISON BY YEAR

- | | |
|---------------------------------|----------------------------------|
| RC Representation petitions | ULP Unfair labor practice charge |
| SP Strike notices and petitions | RE Religious exemption claim |
| UC Unit clarification petitions | CBA Contract Enforcement |



EMPLOYER COMPARISON BY YEAR

REPRESENTATION PETITIONS (AS 23.40.100; AS 42.40.750)

Representation petitions are filed by labor organizations, employers, or employees to initiate a secret ballot election for certification or decertification of an employee representative for collective bargaining. Less frequently, a petition is filed to advise the agency that the employer consents to the labor organization's representation of a particular unit of employees. Notification of consent to recognition does not require the Agency to conduct an election. In any event, most petitioners seek an election. Before an election can be conducted, the Agency must resolve any objections to the election or the composition of the bargaining unit. Often a hearing before the Agency is needed. Petitions for representation of a municipal bargaining unit frequently require examination of the validity of a municipality's rejection of PERA under the opt out clause in the legislation adopting PERA, section 4, ch. 113, SLA 1972. Employer objections to the unit that the labor organization seeks to represent also are common. The Agency conducts the election, rules on objections or challenges to the conduct of the election, and certifies the results. If the petitioner seeks to sever a group from an existing unit, the petitioner must demonstrate that the existing unit was not fairly representing the interests of the smaller group, and that the smaller group is an appropriate unit, among other factors.

The Agency conducted five elections in 2001. One of the election petitions resulted in the decertification of the Alaska Public Employees Association/AFT, AFL-CIO, and certification of the City of Fairbanks, General Government Employees Association (GGEA), to represent the City of Fairbanks class I, II, and III positions. One decertification petition was filed by Randall Bonnell, who is employed by the Matanuska Susitna Borough School District, and who was represented by Public Employees Local 71, AFL-CIO. The bargaining unit members voted to decertify the current bargaining unit representative, Public Employees Local 71, AFL-CIO, and voted for the choice of no bargaining representative. There were also three representation petitions filed. In one representation election, the classified employees of Skagway School District employees voted for representation by Skagway Teachers' Organization/NEA-AK/NEA. The International Union of Operating Engineers (IUOE) and Laborers Union Local 942 (Laborers) filed a petition to represent all employees working the expansion of the sewer and water system in the City of Nenana. Five employees voted for IUOE & Laborers and one employee voted for the choice of no bargaining representative. The third representation petition was filed by the Alaska State Employees Association/AFSCME Local 52, AFL-CIO (ASEA), who petitioned to represent all employees of the Human Rights Commission who would normally fit into job descriptions contained in the State's general government unit, including but not necessarily limited to the some partially-exempt positions. An in-person election was held on August 23, 2001, at the Human Rights Commission Office in Anchorage. The choice of no bargaining representative received the majority of the votes cast in the election.

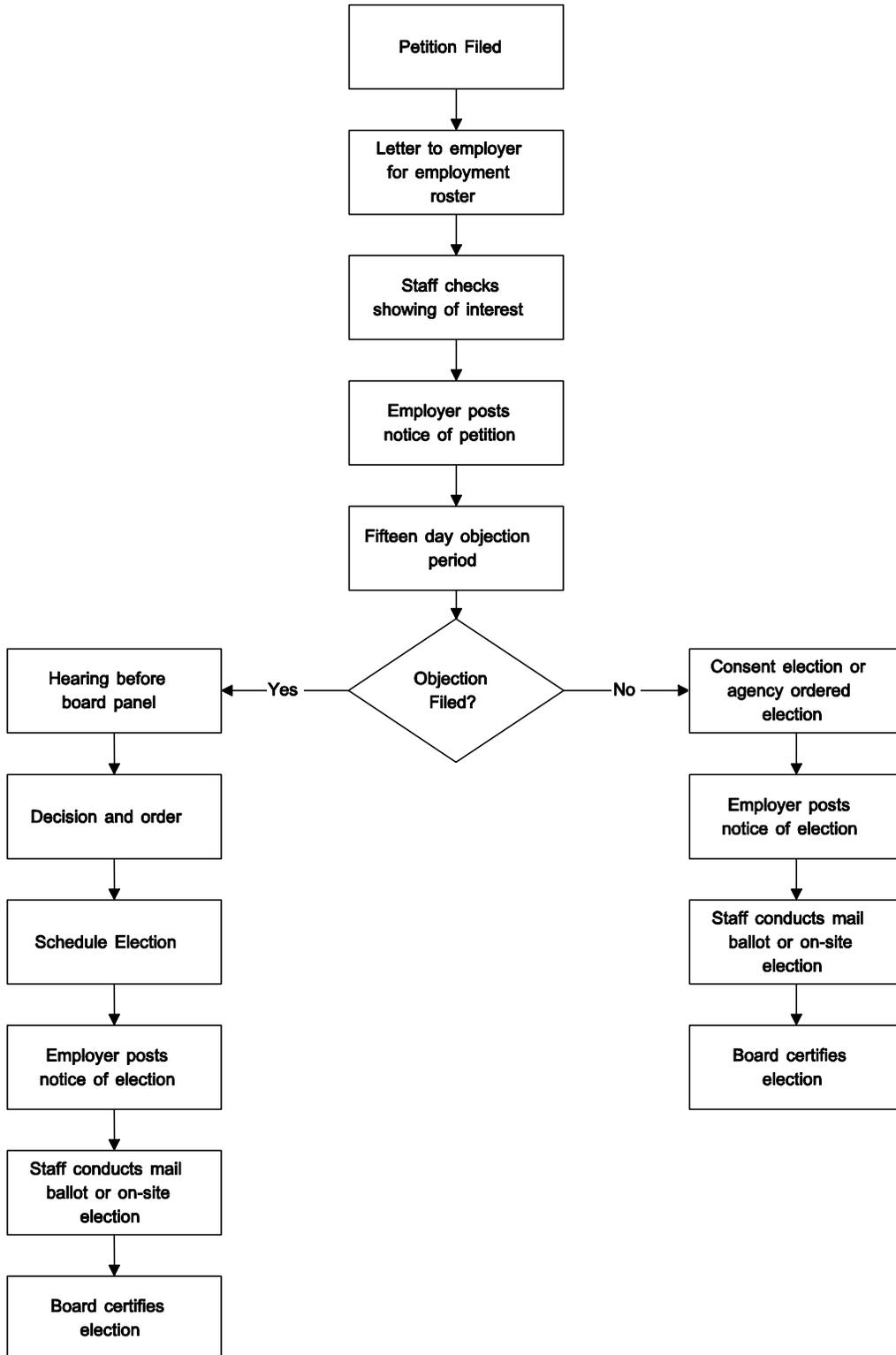
The Agency received one petition to amend an election certificate. The petition was filed by National Education Association-Alaska (NEA-AK) to show a disaffiliation with bargaining unit members of the Aleutians East Borough School District, who had been represented by the Aleutians East Education Support Personnel Association/NEA-AK. The Amendment of Certification was issued on January 30, 2001.

The decertification/representation petition filed by the Alaska Nurses Association required a hearing. The school nurses employed by the Fairbanks North Star Borough School District sought to decertify the Education Support Staff Association (ESSA) and be represented by the Alaska Nurses Association in a separate bargaining unit. Their petition to sever from the ESSA unit was dismissed by the Board in Decision and Order No. 258, which was issued in January 2002. Therefore, no election was held.

One representation petition that was pending in 2000 was heard in February 2002. In this case, APEA filed a petition to represent, in a separate unit, the Class I employees it now represents in a combined unit of Class I, II, and III Ketchikan Gateway Borough employees. A decision and order will be issued, which will either direct an election or dismiss the case.

REPRESENTATION PETITIONS FILED	9
Employer	
State	1
Municipalities	4
Public Schools	4
Type	
To certify a new unit	7
To decertify the unit	1
To change representatives	1
To amend certificate	0
Hearings conducted	1
Petitions that proceeded to election	5

REPRESENTATION PETITION FLOW CHART



STRIKE AND STRIKE CLASS PETITIONS (AS 23.40.200; 8 AAC 97.300; AS 42.40.850)

Public employees under PERA are divided into three classes, depending on their right to strike. Under PERA the agency hears disputes about strike classifications and impasse matters. It receives notices of strike vote election and monitors the election, which the labor organizations conduct themselves. The Agency rules on any objections to the conduct of elections. In the case of school district bargaining representatives, submission to advisory arbitration is required prior to a strike vote election. 8 AAC 97.300.

There were no strike petitions filed during 2001. The decrease of strike petitions filed continues a trend of past years. The number of strike petitions filed in 2000 was two, down from six filed in 1999. The decrease was primarily attributable to signed multi-year collective bargaining agreements. One prior strike petition case involved employees of the Anchorage School District, who filed a strike vote petition that involved disputes between the Anchorage School District and support personnel represented by Anchorage Education Association. The Inlandboatmen's Union of the Pacific and the State of Alaska were also involved in a strike vote petition in which the State alleged bad faith bargaining and requested enforcement of contract. These two strike petitions were resolved and bargaining unit members did not go out on strike.

STRIKE PETITIONS FILED	0
Employer	
State	0
Municipalities	0
Public Schools	0
Railroad	0
Hearings Conducted	0

UNIT CLARIFICATION AND UNIT AMENDMENT PETITIONS (8 AAC 97.050)

Unit clarification and unit amendment petitions can be filed to resolve disputes over unit composition. An employer's reorganization of its staff, or adding or eliminating positions can raise a question of the appropriate unit. Representation may not be an issue in a unit clarification petition, and unit issues that come up in the process of handling a representation petition are not counted here.

Historically, most unit clarification disputes have arisen as objections to State transfers of employees from one bargaining unit to another. For example, the State may change a position's job duties, which may affect the position's unit placement. Transfers between the general government unit (GGU) and the supervisory (SU) or confidential (CEA) units comprise most of the disputes. If investigation shows there is reasonable cause to believe that a question of unit clarification exists, the cases require a hearing with the State and both interested labor organizations as parties.

The number of unit clarification case filings in 2001 (13) decreased from 2000 (16) and 1999 (31). After several years of activity that challenged Agency resources, the caseload is becoming more manageable. Of the 13 unit clarification petitions filed in 2001, 11 were State-related petitions and the remaining two petitions were in political subdivisions. Most result from the State's shift of employees to the supervisory unit from the general government unit following the Agency's 1995 amendment to the definition of "supervisory employee." The amendment, intended to simplify determining who is a supervisor, has been controversial. However, on October 15, 1999, the Alaska Supreme Court upheld the validity of the regulation defining "supervisory employee." (*See Alaska State Employees Ass'n/AFSCME Local 52 v. State of Alaska*, 990 p.2d 14 (Alaska 1999)).

To address the significant rise in unit clarification cases, the agency implemented streamlining procedures in 1998. Caseloads were adjusted, and as a result, the personnel specialist I, rather than the hearing officer, now handles initial investigations. Under this procedure, the Agency utilizes a comprehensive questionnaire to gather needed information, rather than rely on and wait for the parties to provide it, or proceed to hearing, as was done previously. (For example, 28 UC disputes went to hearing in 1996). As a result of these new procedures, a total of 158 unit clarification disputes have been concluded since 1998. Sixteen percent of unit clarification cases open in February 2001(30), have been resolved. Fifty-four percent of unit clarification cases open in February 2000(55), have been resolved. At this time, 25 unit clarifications remain open. The Agency's hearing officer, who previously conducted these investigations, is only required to review and act on the personnel specialist's recommendations. This enables the hearing officer to focus more time on unfair labor practice investigations, mediation, and other duties.

Unit amendment petitions can be filed to obtain an amendment of certification due to changed circumstances, such as a change in name, affiliation, site, or location. The one unit amendment petition filed in 2001 was to end NEA-Alaska's affiliation with a bargaining unit of employees employed by the Aleutians East Borough School District.

UNIT CLARIFICATION PETITIONS FILED 13

Employer

State	11
Public Schools	0
Municipalities	2
Railroad	0

Hearings conducted 1

UNFAIR LABOR PRACTICE CHARGES (AS 23.40.110; AS 42.40.760)

Employers, employee representatives, and individual employees may file unfair labor practice charges. Charges against employers can include retaliation for union membership or exercise of employee rights, coercion, domination or interference with an organization, and bad faith bargaining. Charges against unions include coercion, bad faith bargaining, dues disputes, and interference with the employer's selection of its collective bargaining representative.

Unfair labor practice charge filings totaled 27 in 2001, compared to 13 in 2000 and 20 in 1999. The dispute in fifteen charges concerned bad faith bargaining. Six charges alleged interference with protected rights, two concerned the duty of fair representation, three alleged retaliation for exercise of protected rights, and one contended that an employee was denied Weingarten rights. Although some cases filed in 2000 remain open, they are either being held in abeyance at the complainant's request or are waiting for the complainant to exhaust internal union remedies. Some cases have been deferred to arbitration and are awaiting the arbitrator's decision, which will then be reviewed under Spielberg to determine if the arbitrator considered the factual issues that also would be considered in the unfair labor practice, among other things.

The Agency concluded 22 investigations in 2001, compared to 10 investigations in 2000. The 22 investigations were concluded in an average number of 216 days. As noted (see "Highlights"), the Agency implemented new investigative procedures designed to reduce the time needed to complete unfair labor practice investigations. Staff vacancies and the dramatic increase in the unit clarification caseload had impacted investigation, resolution and conclusion of unfair labor practice cases. The Agency had

prioritized unit clarifications in order to gain an element of control over that caseload. Consequently, the time to conclude unfair labor practice investigations and issue decisions increased significantly in 1998. (See timeliness charts at 19). As expected, this pattern continued into 1999 and 2000, as the agency worked through the older pending cases. However, the Agency implemented a streamlined, more efficient unfair labor practice procedure effective January 1, 1999. This procedure has reduced the time needed to conclude investigations in many cases. (See chart at page 19). The complexity of some of the cases investigated is reflected in the reduced number of investigations completed. Further, the case complexity affected the average time to complete investigations.

UNFAIR LABOR PRACTICE CHARGES FILED 27

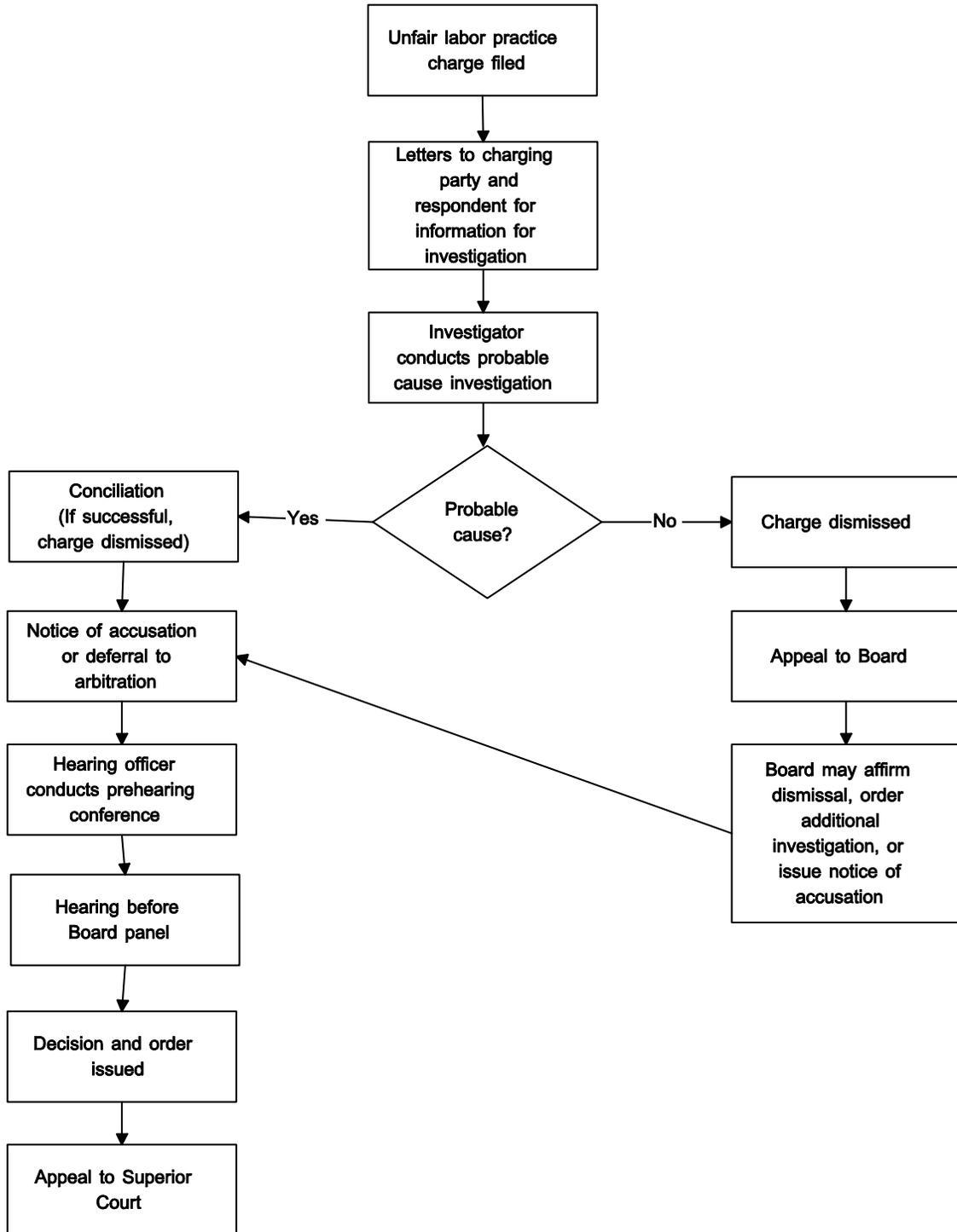
Employer	
State	19
Municipalities	3
Public Schools	4
Railroad	1
Type	
Arbitration related	0
Bad faith bargaining	15
Retaliation	3
Interference with protected rights	6
Union duty of fair representation	2
Employer action without bargaining	0
Information request	0
Scope of bargaining	0
Weingarten	1
Discrimination	0
Impasse	0
Other	0
Investigations	22
Hearings conducted	2
Other resolution	
Dismissals (no probable cause)	3
Deferrals to arbitration	3
Settled or withdrawn	13
Dismissed, inaction	0
Dismissed, final order	1
Dismissed, Insufficient	1

Remand	0
Other	0

COMPARISON BY ULP COMPLAINANT

Complainant	2001	2000	1999	1998	1997	1996
Alaska Public Employees Ass'n	2	0	1	4	1	1
Alaska State Employees Ass'n	8	3	6	1	12	9
I.B.U.P.	1	0	1	0	0	0
I.B.E.W.	0	0	3	0	6	7
UA Classified Employees Ass'n	0	0	0	0	1	0
ACCFT	0	0	0	5	1	0
Other Unions	8	3	0	1	8	3
School Unions	1	2	0	6	3	2
Individuals	6	4	7	3	3	6
Employers	1	1	2	2	5	3
Total ULPs filed	27	13	20	22	40	31

UNFAIR LABOR PRACTICE CHARGE FLOW CHART



CLAIMS FOR RELIGIOUS EXEMPTION (AS 23.40.225; AS 42.40.880)

AS 23.40.225 and AS 42.40.880 allow a public employee to seek an exemption from union membership or agency fee payment on the basis of religious convictions.

CLAIMS FILED		0
Employer		
	State	0
	Municipalities	0
	Public Schools	0
	Railroad	0
Hearings conducted		0

PETITIONS TO ENFORCE THE COLLECTIVE BARGAINING AGREEMENT (AS 23.40.210; AS 42.40.860(b); 8 AAC 97.510)

AS 23.40.210 and AS 42.40.860(b) authorize the agency to enforce the terms of a collective bargaining agreement (CBA). Because all agreements under AS 23.40.210 must contain an arbitration clause to handle disputes under the agreement, 8 AAC 97.510 requires that parties first exhaust the arbitration clause or show that it does not apply before filing a petition with the agency to enforce the agreement.

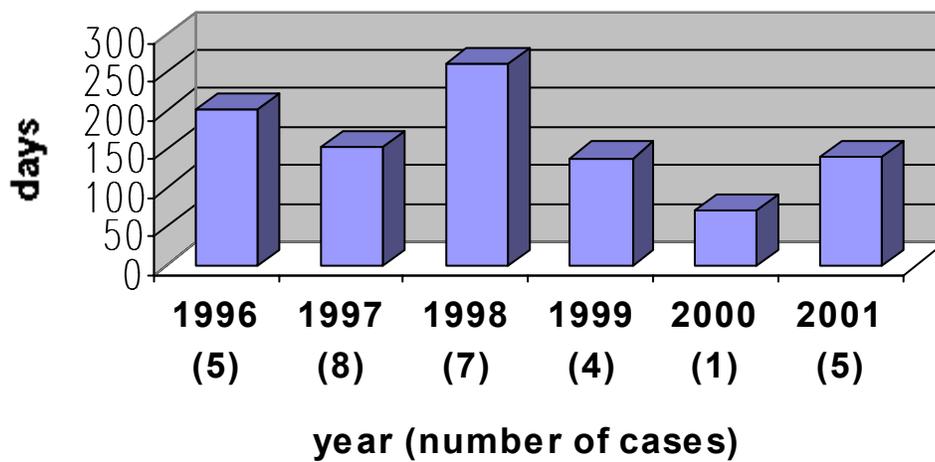
Three such petitions were filed in 2001, five less than 2000's (8) totals, and lower than the average number of CBA petitions filed yearly in the 1993 – 1996 period (4). The 1997 period contained the highest number of CBA petitions filed (10).

CBA PETITIONS FILED		3
Employer		
	State	3
	Municipalities	0
	Public Schools	0
	Railroad	0
Hearings conducted		0

TIMELINESS

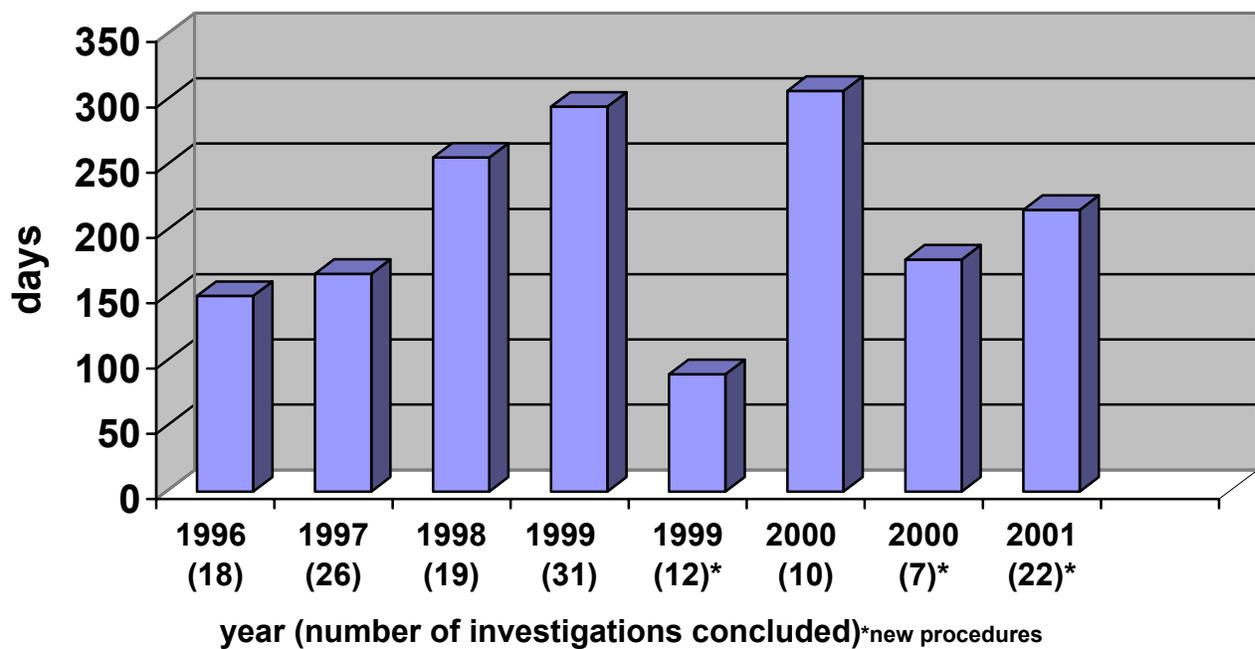
ELECTIONS

NUMBER OF DAYS TO CERTIFICATION OF ELECTION.



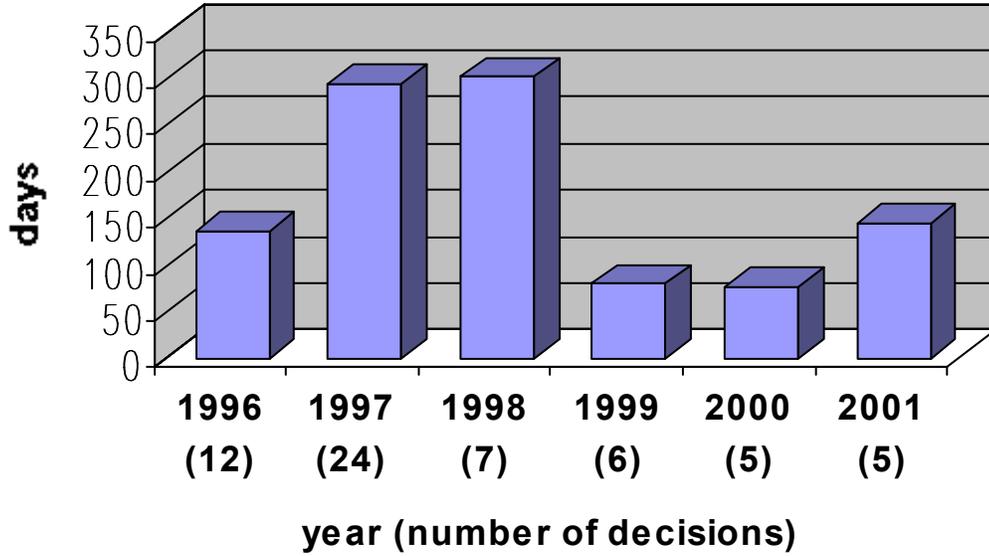
UNFAIR LABOR PRACTICE INVESTIGATIONS

NUMBER OF DAYS TO CONCLUSION OF INVESTIGATION.



DECISION AND ORDERS

NUMBER OF DAYS FROM CLOSING OF RECORD TO DECISION.



DECISIONS AND ORDERS ISSUED

1. *PUBLIC SAFETY EMPLOYEES ASSOCIATION vs. STATE OF ALASKA*, Decision & Order No. 253 (04/25/2001). The Agency will order the parties to arbitrate the arbitrability of their dispute where their collective bargaining agreement contains a broad clause granting jurisdiction over the arbitrability issue to the arbitrator, and no other contract clause creates an exception for the dispute at issue.
2. *ALASKA STATE EMPLOYEES ASSOCIATION, AFSCME LOCAL 52, AFL-CIO vs. STATE OF ALASKA*, Decision & Order No. 254 (04/25/2001). The Agency will not compel the parties to arbitration over the firearms policy at the Department of Corrections. The Alaska Supreme Court has held that establishment and implementation of firearms policy for probation and parole officers is the statutory responsibility of the Commissioner of Corrections. The Agency will compel the parties to arbitration over documents related to psychological testing of probation and parole officers, and whether those documents are “secret files” under Article 34 of the collective bargaining agreement, or are properly excluded from personnel files.
3. *PUBLIC SAFETY EMPLOYEES ASSOCIATION, AFL-CIO vs. STATE OF ALASKA*, Decision & Order No. 255 (07/25/2001). 1. Legal indemnification is a mandatory subject of bargaining. 2. AS 23.40.210 requires that all collective bargaining agreements include a grievance procedure that culminates in binding arbitration. AS 23.40.210 does not require that all mandatory subjects of bargaining must be subject to the parties' grievance-arbitration procedure.
4. *FAIRBANKS FIRE FIGHTERS ASSOCIATION LOCAL 1324, IAFF vs. CITY OF FAIRBANKS*, Decision & Order No. 256 (10/17/2001). A statement by the employer’s negotiator, during collective bargaining negotiations, that the employer will refuse to fund an arbitrator's award if the arbitrator finds in the union's favor, is a violation of AS 23.40.110(a)(5) and (a)(1). The statement is even more significant when it is part of a pattern of conduct involving the City’s statements about the Fairbanks Fire Fighters Association and non-funding of arbitration awards. The Agency has previously ordered the City of Fairbanks to “cease and desist from the routine, strategic use of the arbitrability defense and from the use of the statement reserving the right not to fund arbitration awards in correspondence pertaining to grievances.” *Fairbanks Fire Fighters Association, Local 1324, IAFF v. City of Fairbanks*, Decision and Order No. 221, at 19 (June 25, 1997). It is insignificant that one non-funding statement dealt with grievance arbitration awards and the other with an interest arbitration award. When an employer makes statements of this nature before arbitration occurs and before it has had an opportunity to consider the arbitration award, it is evidence of bad faith and coercion.
5. *SOUTHWEST REGION SCHOOL DISTRICT vs. SOUTHWEST REGION EDUCATION ASSOCIATION, NEA-ALASKA*, Decision and Order No. 257

(December 19, 2001). The duty to bargain in good faith is bilateral. In determining whether an accused party has committed an unfair labor practice, the charging party's conduct will also be considered. The totality of the parties' conduct negates a finding that the Southwest Region Education Association committed an unfair labor practice.

APPEALS

The Alaska Superior Court issued one decision in 2001 that relates to the Public Employment Relations Act. The decision was issued in the form of an opinion. It addressed agency Decision and Order No. 247 on alleged retaliation and interference with protected rights under AS 23.40.080. A dispute arose in 1998 between the Fairbanks Fire Fighters Association, Local 1324, IAFF and the City of Fairbanks. The Agency found that a threat by the employer of legal action against an employee/union business agent for filing grievances is a violation of AS 23.40.110(a)(5) and (a)(1). The fact that the employer decided to include a so-called reservation of rights statement along with the threat does not diminish the effect of the threat of legal action for damages. (*Fairbanks Fire Fighters Association, Local 1324, IAFF v. City of Fairbanks*, Decision and Order No. 247 (December 14, 1999). City of Fairbanks appealed, and the Alaska Superior Court reversed the Agency's decision. The Alaska Superior Court addressed the agency decision and order stating: "Upon an objective review of the entire context of the letters, the Court found that the letters do not constitute a 'threat' under AS 23.40.110(a)(1). The city did not 'interfere with, restrain, or coerce' the Association. The City only was reserving its rights if future litigation resulted from the Rice and Despain grievances. One facet that must be remembered in this case is that the City did not refuse to proceed with the grievance procedure of Rice and Despain in accordance with AS 23.40.110(a)(5). The City agreed to proceed, but with the addendum that it would reserve its rights against the Association if its grievances were successful and other employees brought grievances against the City. Therefore, the ruling of the Alaska Labor Relations Agency is reversed." 4 FA-00-98 (June 5, 2001).

OTHER AGENCY BUSINESS

The Agency did not hold any conferences. It began drafting regulations in 2000, but the process was not completed in 2001. It did conduct two business meetings. Other meetings will be scheduled as needed. Previously, the Agency had conducted four meetings per year but decreased the scheduled meetings to two for efficiency and cost reduction necessities. Due to the funding limitations pending for fiscal year 2003, the board will consider reducing the frequency from the current two meetings to just one per year, providing less opportunity for the public to discuss issues with the Board informally. This impacts the Board's ability to carry out the Legislature's declared statutory policy of promoting "harmonious and cooperative relations between government and its employees and to protect the public by assuring effective operations of government." AS 23.40.070.

Mark Torgerson gave a talk October 19, 2001, at the Alaska Human Resources and Employment Law Update seminar sponsored by the Alaska Business Seminars, Ltd. The Agency has also conducted outreach to public employees and public employee labor organizations during this reporting period.

LEGISLATION

The Agency did not propose legislation for consideration by the Governor in 2001, and legislation was not enacted that affected the Agency.

REGULATIONS

During 2001, the Agency adopted the following proposals to adopt regulation changes in Title 8 of the Alaska Administrative Code, dealing with labor relations.

8 AAC 97.010 is proposed to be amended to change the number of sets of documents to be filed with the Agency from five to two, except that five sets must be filed after a prehearing conference is scheduled.

8 AAC 97.025(a)(3) is proposed to be amended to delete the words “permanent and probationary”. These words had been deleted previously from the definition of “employee,” which was repealed in 1995, but were inadvertently left in this subsection.

8 AAC 97.050 is proposed to be amended to add and consolidate procedures for unit amendment and unit clarification procedures. Some of these procedures are currently included in 8 AAC 97.060.

8 AAC 97.060(a) is proposed to be amended to delete reference to 8 AAC 97.050 and to unit clarification and amendment. Unit clarification and amendment procedures would be contained in 8 AAC 97.050.

8 AAC 97.085(a) is proposed to be amended to add procedures for showing of interest requirements for intervenors wishing to be on an election ballot.

8 AAC 97.160(d) is proposed to be amended to change the revision date of the *National Labor Relations Board Casehandling Manual (Part Two) Representation Proceedings* from September 1989 to August 1999. It would also incorporate by reference future revisions to this manual.

8 AAC 97.230(a) is proposed to be amended to stipulate that a complainant's failure to provide requested information in a timely manner may result in dismissal of the unfair labor practice charge.

8 AAC 97.270(b) is proposed to be amended to correct a minor spelling error, and would change the wording on agency appointment of a mediator from “will” to “may” to conform to the statute.

8 AAC 97.280, which contains procedures for advisory arbitration required of municipal school districts, regional educational attendance areas and state boarding school employees, is proposed to be repealed and readopted to eliminate reference to strike votes under 8 AAC 97.300, consistent with the proposed repeal of 8 AAC 97.300. It would also clarify the parties' rights after impasse following advisory arbitration.

8 AAC 97.300, which contains specified preconditions to taking a strike vote by a labor or employee organization, is proposed to be repealed. The intended effect of this repeal is to eliminate the requirement that the parties must be at impasse before the labor or employee organization may take a strike vote.

8 AAC 97.340 is proposed to be amended to correct a statutory citation to the Administrative Procedure Act.

8 AAC 97.350(g) is proposed to be amended to give the Agency discretion to determine the time and place of a hearing.

8 AAC 97.470 is proposed to be amended to place a time limit on the filing of an appeal of an order or ruling of an agency staff member.

8 AAC 97.990(b), is proposed to be amended to revise the definition of "appointed officials" to more closely reflect the analysis of the Alaska Superior Court in *Confidential Employees Association v. State of Alaska*, 1JU-93-656 CI (September 1, 1994).

The regulations appear in 8 AAC 97.010 -- 8 AAC 97.990, and copies are available upon request.

BUDGET

The Agency budget remains very lean. The Agency's budget has been flat lined for several years and any net reduction in the budget may require a reduction in personnel costs. The principal component in the budget is the wages and benefits for the four full-time staff members. To stay abreast of its caseload, the Agency has streamlined procedures when possible, and within the constraints of due process. The Agency also continues to increase reliance on automation. To minimize costs, it sets hearings in Anchorage when possible, and relies on telephone conferences for participation by persons outside the Anchorage area. Moreover, the Agency now hears disputes for decision on the written record where appropriate. The Agency also conducts most elections by mail ballot, avoiding travel and loss of productive employee time during travel.

FISCAL YEAR 2002

TOTAL	332.3
Personnel	287.4
Travel	13.0
Contractual	27.6
Supplies	3.9
Equipment	.4

SUMMARY OF SERVICES AVAILABLE

Requests for services can be made either personally at the agency's offices in Anchorage, by telephone at (907) 269-4895, by fax at (907) 269-4898, or by e-mail to Mark_Torgerson@labor.state.ak.us, unless otherwise indicated.

Board decisions.

Board decisions from 1973 to present are now available for download from the Agency's web site. The Agency met and exceeded its initial goal to have all decisions from 1991 to present on the site by July 2000. Board decisions are also available by request from the Agency electronically or by mail.

Business meetings.

The Board conducts business meetings in room 208 of the Department of Labor and Workforce Development building, 3301 Eagle St., Anchorage. A meeting agenda is available upon request to the Agency two weeks before the meeting. The Agency can accommodate requests to participate at the meeting by telephone. Such requests should be made seven days before the scheduled date for the meeting.

Fax filings.

The Agency will accept filing by fax, but the person filing by fax must then mail or personally serve the required number of copies of the document upon the Agency.

Filings.

The Agency maintains a record of all filings. The record is available for review in the office of the Agency, or by telephone at (907) 269-4895.

Forms.

The Agency has forms available to assist persons filing unfair labor practice charges, representation petitions, petitions for recognition by mutual consent, claims for religious exemption, petitions for unit clarification, and petitions to enforce the collective bargaining agreement. Parties are not required to use Agency forms, but the forms are provided for the convenience of the public. These forms can be obtained at the office of the agency, by telephoning (907) 269-4895, or are now available for download from the agency's web site at <http://www.labor.state.ak.us/laborr/forms.htm>.

Information.

Staff members are available between the hours of 8:00 a.m. and 4:30 p.m. to answer questions about agency process and procedure.

Library.

The Agency maintains a non-circulating library of labor relations texts, including BNA Labor Relations Reference Manuals. The library is open for public use.

Mediation.

Hearing Officer Jean Ward is available by appointment to answer general questions about mediation and Agency mediation services.

Publications.

Pamphlet. The Agency publishes a pamphlet containing the laws and regulations the Agency administers. The most recent pamphlet was published in February of 1997 and it contains the changes to the statutes effective in 1996 and 2000.

Report to Governor and the Legislature. The Agency is required to report to the governor and the legislature annually. AS 23.05.370(a)(4). Copies of the annual report are available upon request.

Representation Services pamphlet. This pamphlet is a basic description of the Agency's representation proceedings and is available at no charge.

Unfair labor practices pamphlet. This pamphlet is a basic description of unfair labor practices and the Agency's proceedings if an unfair labor practice is charged. The pamphlet is available at no charge.

Practice Handbook. This handbook provides information on practice before the Agency and is intended for use by persons who file or must respond to petitions and unfair labor practice charges.

Speakers.

Agency staff members are available to speak to groups about the Agency and its programs.

Tapes of agency proceedings.

Copies of tapes of Agency case proceedings are available upon a request. Please call Agency staff to arrange copying. Generally, there is no charge if the appropriate number of leaderless 90-minute tape cassettes is provided.