

# OVERVIEW OF THE PUBLIC EMPLOYMENT RELATIONS ACT<sup>1</sup>

The Public Employment Relations Act (PERA) was established by the Alaska Legislature in 1972 as a means to govern public sector labor relations in Alaska. PERA is administered by the Alaska Labor Relations Agency (ALRA), a neutral quasi-judicial agency comprised of a six member volunteer board and three paid employees. PERA originally covered state (including the Alaska Railroad), university, political subdivision, home rule, and borough employees. In 1992, PERA's jurisdiction was expanded to include all public school employees.

In accordance with AS 23.40.255, a political subdivision may reject PERA by ordinance or resolution. However, this opt-out provision does not apply to public schools, and the timeframe to reject PERA is limited. There is no requirement for a political subdivision or an organized borough to report the adoption of an ordinance or resolution rejecting PERA. As such, ALRA only becomes aware of the status of a political subdivision if the issue is raised. Currently there are approximately fourteen political subdivisions that have timely opted out of PERA.

To opt out of PERA jurisdiction a political subdivision must do so timely,<sup>2</sup> and without intent to interfere with public employees' effort to exercise rights granted under PERA.<sup>3</sup> Opting out of PERA does not prevent opting back in. In fact, communities such as the City of Fairbanks, City of Kodiak, City of Wasilla, and City of Seward have all passed ordinances to come under PERA jurisdiction.

PERA was enacted with the purpose of establishing guidelines for public employment relations, to promote harmonious and cooperative relations between government and its employees, and to protect the public by assuring effective and orderly operations of government.<sup>4</sup> PERA recognizes "the rights of public employees to organize for the purpose of collective bargaining",<sup>5</sup> requires "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",<sup>6</sup> and maintains the merit-system principles among public employees.<sup>7</sup>

PERA provides oversight of the representation process. It ensures that public employees can "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."<sup>8</sup> ALRA determines the unit composition that "assure[s] employees the fullest freedom in exercising the rights guaranteed by AS 23.40.070—23.40.260."<sup>9</sup> To accomplish this, ALRA determines the unit based on 'such factors

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<sup>1</sup> This overview only refers to PERA as contained in AS 23.40.070-23.40.260. Please refer to AS 42.40.705-42.40.890 for a listing of the statutes that govern the Alaska Railroad.

<sup>2</sup> *Anchorage Mun. Emp. Ass'n v. Municipality of Anchorage*, 618 P.2d 575, 581 (Alaska 1980).

<sup>3</sup> *Kodiak Island Borough v. State, Dep't of Lab., Lab. Rels. Agency*, 853 P.2d 1111, 1114 (Alaska 1993).

<sup>4</sup> AS 23.40.070.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> AS 23.40.080

<sup>9</sup> AS 23.40.090

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.”<sup>10</sup> PERA also allows for wall to wall units that include supervisors, except at the state level.<sup>11</sup>

Once the appropriate unit is established, ALRA conducts an election to determine the exclusive representative.<sup>12</sup> After the exclusive representative is elected, negotiations may begin.<sup>13</sup> Upon completion of negotiations, PERA requires that the agreement shall be reduced to writing and may not exceed three years.<sup>14</sup> Additionally, the agreement shall include “a pay plan designed to provide for a cost-of-living differential between salaries paid employees residing in the state and employees residing outside the state”<sup>15</sup> and “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.”<sup>16</sup> With the exception of school districts and regional educational attendance areas, the monetary terms of any agreement entered into under PERA are subject to funding through legislative appropriation.<sup>17</sup>

In the event bargaining breaks down, PERA allows multiple mechanisms for review. A party may file an unfair labor practice under AS 23.40.110 or a petition to enforce the agreement under AS 23.40.210 and 8 AAC 97.510 with the ALRA. As a neutral agency, ALRA conducts an investigation and determines whether there is merit to the charge. If there is merit to the charge, an administrative hearing before a three member board panel is conducted.<sup>18</sup> Formal decisions of the agency are maintained on the agency website for reference.

Additionally, PERA also allows ALRA to conduct informal resolution of cases,<sup>19</sup> mediations,<sup>20</sup> strike class determinations,<sup>21</sup> impasse determinations,<sup>22</sup> order advisory arbitration,<sup>23</sup> and resolve disputes concerning the composition of an established unit.<sup>24</sup>

Since this document is only designed to provide a high level overview of PERA, please review the Agency’s *Pamphlet No. 900*<sup>25</sup> for a full listing of all the statutes and regulations that govern PERA and ALRA.

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<sup>10</sup> *Id.*

<sup>11</sup> 8 AAC 97.090

<sup>12</sup> AS 23.40.100

<sup>13</sup> 8 AAC 97.210

<sup>14</sup> AS 23.40.210

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> AS 23.40.215

<sup>18</sup> AS 23.40.130, 8 AAC 97.340, and 8 AAC 97.350

<sup>19</sup> AS 23.40.120 and 8 AAC 97.230

<sup>20</sup> AS 23.40.190 and 8 AAC 97.270

<sup>21</sup> AS 23.40.200

<sup>22</sup> AS 23.40.190 and 8 AAC 97.270

<sup>23</sup> 8 AAC 97.280

<sup>24</sup> 8 AAC 97.050

<sup>25</sup> <http://labor.alaska.gov/laborr/forms/pamphlet900.pdf>

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