

Alaska Labor Relations Agency 2011 Annual Report

*State of Alaska
Governor Sean Parnell*

*Department of Labor
& Workforce Development
Acting Commissioner David G. Stone*



*Alaska Labor Relations Agency
1016 West Sixth Avenue, Suite 403
Anchorage, Alaska 99501-1963
labor.relations@alaska.gov*

Mark Torgerson, Administrator

Submitted May 8, 2012

2011 ANNUAL REPORT

Submitted May 8, 2012
(In accordance with AS 23.05.370)

INTRODUCTION

The Alaska Labor Relations Agency, or ALRA, administers the Public Employment Relations Act (PERA) for the State, municipalities, public schools, and the University. The Agency also administers the railroad labor relations laws for the Alaska Railroad Corporation. ALRA has jurisdiction over 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. The Agency enforces collective bargaining agreements, determines employee strike eligibility, and rules on claims for religious exemption from the obligation to pay fees to a bargaining representative.

PERSONNEL

BOARD MEMBERS

A board of six members governs the Agency. They serve staggered three-year terms and must have backgrounds in labor relations. Two members each must be drawn from management, labor, and the general public. AS 23.05.360(b). Members volunteer their time as they are unpaid, but they receive per diem. Not more than three members may be from one political party. The following Alaskans serve on the Board:

Gary P. Bader, Chair	Reappointed March 1, 2010	Public
Aaron T. Isaacs, Jr., Vice Chair	Reappointed March 1, 2011	Public
Will Askren, Board Member	Reappointed March 1, 2011	Management
Tyler Andrews, Board Member	Reappointed March 1, 2012	Management
Matthew McSorley, Board Member	Reappointed March 1, 2012	Labor
Daniel Repasky, Board Member	Appointed March 1, 2010	Labor

STAFF

Mark Torgerson, Administrator/Hearing Examiner
Jean Ward, Hearing Officer/Investigator
Margie Yadlosky, Human Resource Specialist I
Kathleen Wagar, Office Assistant III

OFFICE

1016 W. Sixth Avenue, Suite 403
Anchorage, Alaska 99501-1963

Phone: 907.269.4895
Fax: 907.269.4898

Website: <http://www.labor.state.ak.us/laborr/home.htm>

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.

2011 HIGHLIGHTS.

Board Appointments. During the past year, Governor Sean Parnell reappointed board vice chair Aaron T. Isaacs Jr. to a public seat and reappointed Will Askren to a management seat. Management member Tyler Andrews was reappointed on March 1, 2012, as well as Labor member Matthew R. McSorley.

Caseload Trends. Case filings in 2011 decreased 18.5 percent over 2010's total, from 27 to 22. This continues a short-term trend of decreasing filings the previous few years. (See "CASE LOAD COMPARISON BY YEAR" chart page 5). Generally, annual case filings have decreased since 1996, when parties filed the most cases (206) for any year since the agency's beginning in 1991.

As illustrated by the "OVERVIEW" table on page 6, the number and type of cases filed each year is unpredictable. The Agency has no direct control over the number or type of cases filed. Factors that affect the filings include organizing efforts, expiration of collective bargaining agreements, economic factors, and changes to statutes and regulations.

Agency Appeals. There were no appeals of Agency Decision and Orders to the Superior or Supreme Courts during 2011.

Unit Clarification Petitions. In 2011, one unit clarification (UC) petition was filed. (See "CASES FILED" on page 6 for a year-by-year comparison). Except in 2006

when 42 were filed, the agency has seen a decrease in case filings the past five years. Historically, UC petitions have outnumbered all other case filings combined.

UC petitions usually involve a dispute over the extent of an employee's supervisory or confidential duties. The employee's actual duties affect bargaining unit placement. Generally, UC disputes have involved the State of Alaska, the Alaska State Employees Association (ASEA) (the largest state union, representing the general government unit), and the Alaska Public Employees Association (APEA) (representing the state supervisors' unit). In 2011, the only unit clarification petition filed involved a State of Alaska marine bargaining unit.

Unfair Labor Practice Complaints. Unfair labor practice (ULP) charges filed in 2011 decreased 44% from 2010. (See "CASES FILED" on page 6 for a year-by-year comparison). The completion of unfair labor practice cases is generally the most time-consuming part of the Agency's workload because the process includes investigations, prehearing conferences, and hearings. Like other case types, ULP case filings are unpredictable. (See "CASES FILED" page 6, analysis at page 12, and chart on page 14). In 2011, 15% of ULP filings were education-related, 55% were state-related, 15% were political subdivision cases, and the remaining 15% were railroad-related cases filed.

In 2011, the 47% of unfair labor practice charges concerned bad faith bargaining, followed by interference charges at 38%, and the remaining 15% were unilateral change charges. Bad faith bargaining charges usually arise in the context of collective bargaining: one party believes the other party has failed to bargain in good faith under the law. ULP charges concerning interference decreased from 2010 charges of 67% of all charges. Eight ULP investigations were completed in an average of 103 days in 2011.

Elections. There were four representation petitions filed in 2011. (See "CASES FILED" page 6). Although this is fewer than 2010 (11), it is comparable to past years. There have been no petitions for decertification filed for five years.

Strike Petitions. No strike petitions were filed in 2011. (See "CASES FILED" page 6).

Emphasis on Informal Resolution. The Agency encourages informal resolution through mediation and other means. The Agency's hearing officer works with parties to settle unfair labor practice charges. When successful, informal resolution saves the parties and the Agency the time and expense required for a hearing to litigate the disputes. The Agency continues to resolve some disputes informally. In 2011, the hearing officer resolved eleven unfair labor practice cases informally.

Website. The Agency provides information 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, information about Agency programs and resources, and access

to a searchable database of all agency decisions. The Agency continues to add new materials to the website. Public suggestions are encouraged.

Training. The ALRA Board consists of Board members who are currently employed in related fields (4) and those who are retired from related fields (2). The Board is supported on a day-by-day basis both legally and administratively by ALRA staff who have both certificated legal experience and many years of on-the-job experience. It is important that the Board and staff participate in periodic continuing education to allow a professional and objective response to the myriad of complex and ever evolving labor relations issues that come before the Agency. However, due to a-lack of funding, no Board member attended training in 2011. This lack of training could place the ALRA and its work at risk over the long term.

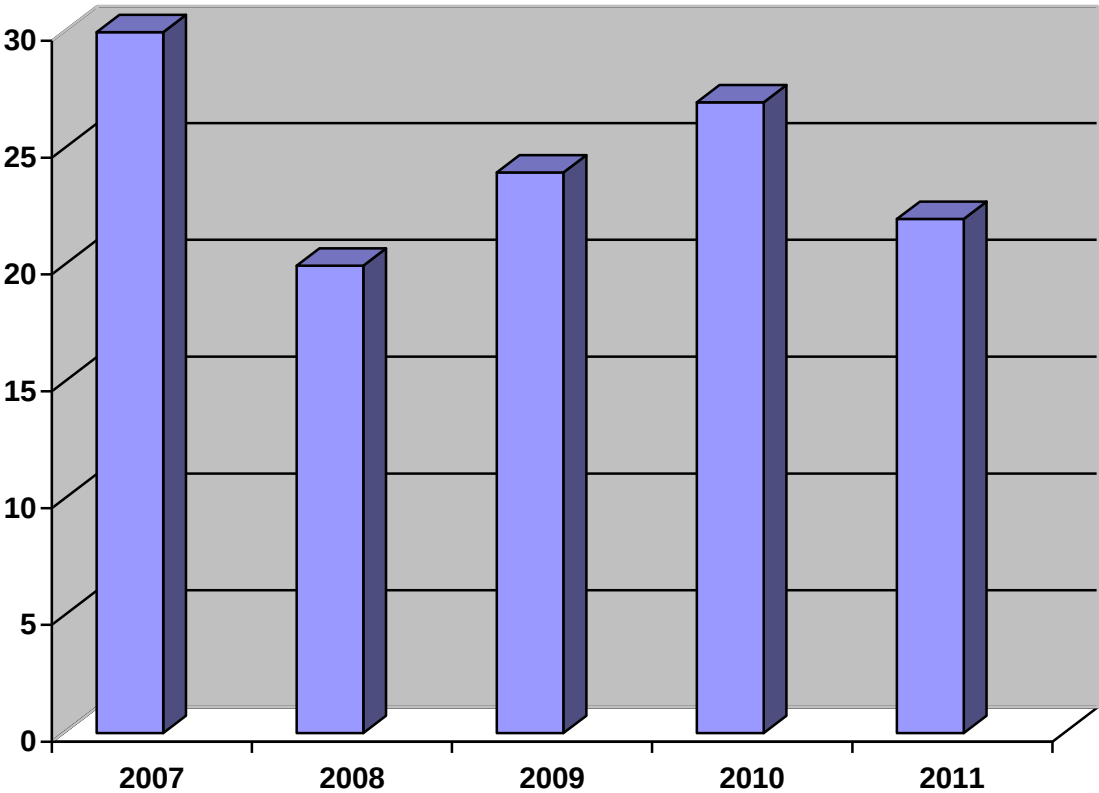
The Agency again provided training to two law student interns during the summer of 2011. This intern program, initiated in 2008, is shared with the Alaska Workers' Compensation Appeals Commission. This program is an effort by the law school, the University of Alaska Anchorage, and primarily governmental entities such as this Agency to provide legal experience and training to law students.

Interested law students apply for participation in the intern program through the Seattle University Law School as part of its "Study Law in Alaska" program. Students are interviewed and selected by the Administrator and the Chair of the Appeals Commission. Since Alaska does not have a law school, the program gives law students an opportunity to work in the labor law field and to experience a summer in Alaska. Interns are reimbursed for their plane fare but receive no other compensation.

The hope is that after spending a summer working here, students will seriously consider relocating to Alaska and consider working in the labor law field. The Agency has received positive reviews from participating student interns and from the Seattle University law school's Director of the program. Law students who participated in the summer program during 2011 were Holly Scott and Samantha Adams of the Seattle University School of Law. Thus far, three of the eight interns who have completed the program have either moved to Alaska or plan to move to Alaska. Two of the former interns have passed the Alaska Bar and are now practicing law in Alaska.

CASE STATUS SUMMARIES

CASE LOAD COMPARISON BY YEAR



OVERVIEW

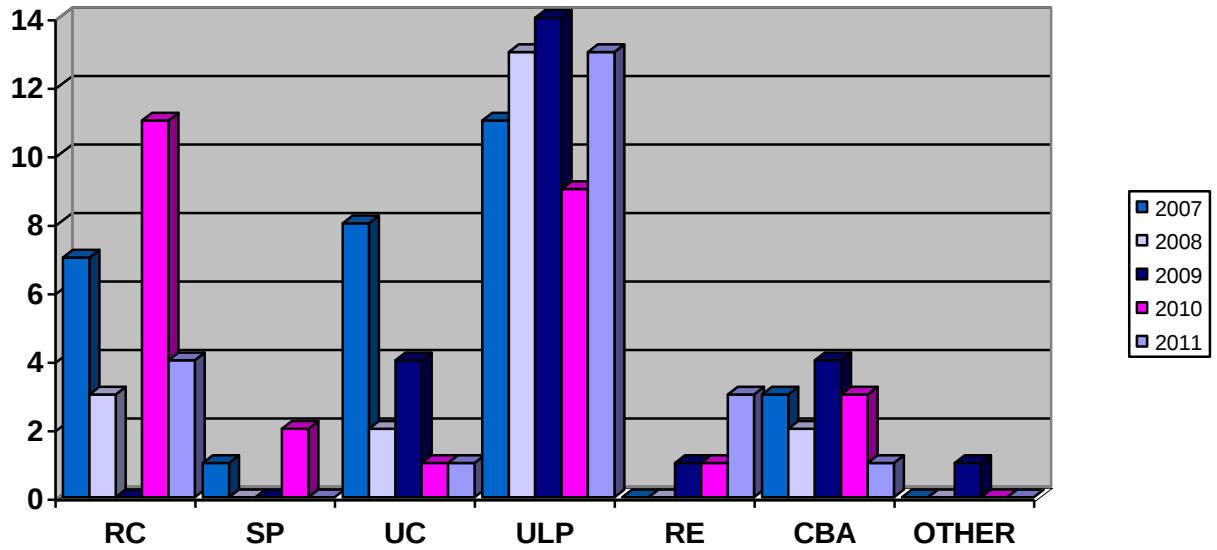
CASES FILED	2007	2008	2009	2010	2011
Amended Certification (AC)	0	0	0	1	0
Representation (RC)	6	2	0	7	2
Decertification (RD)	0	0	0	0	0
Decert. to certify a new rep.(RC/RD)	1	1	0	3	2
Strike notice or strike class petition (SP)	1	0	0	2	0
Unit Clarification (UC)	8	2	4	1	1
Unfair Labor Practice Charge (ULP)	11	13	14	9	13
Religious Exemption Claims(RE)	0	0	1	1	3
Contract Enforcement (CBA)	3	2	4	3	1
Other (OTH)	0	0	1	0	0
TOTAL	30	20	24	27	22

AGENCY ACTIVITY	2007	2008	2009	2010	2011
Unfair Labor Practice Investigations	4	10	11	8	8
Unit Clarification Investigations	8	0	0	0	4
Decisions and Orders Issued	1	4	2	2	5
Other Board Orders Issued	3	2	3	2	6
Hearing Officer Orders Issued	2	3	1	3	6
Elections Conducted (includes AC)	0	7	0	1	5
TOTAL	18	26	17	16	34

FINAL DISPOSITION	2007	2008	2009	2010	2011
Notices of dismissal issued	12	1	3	6	9
Cases settled or withdrawn	7	15	12	10	8
Cases that went to hearing	3	4	1	1	5
Impasse matters settled or withdrawn	0	0	0	0	0
Cases deferred to arbitration	1	0	0	1	0
TOTAL	23	20	16	18	22

CHARTS

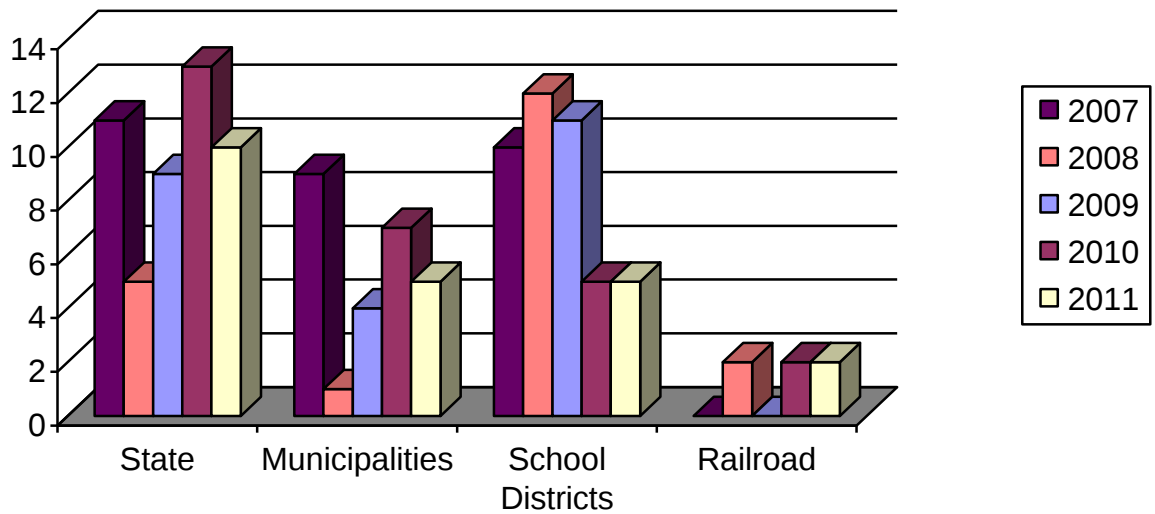
PROGRAM COMPARISON BY YEAR



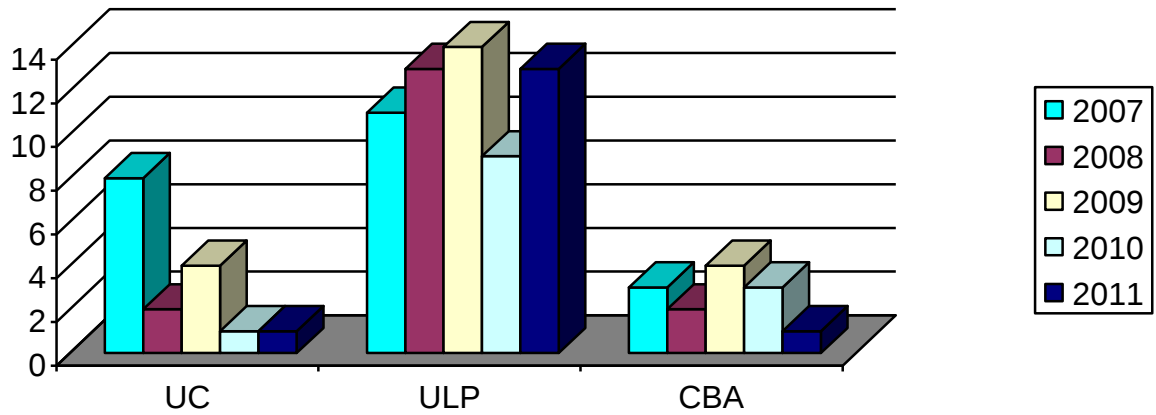
RC Representation petitions
 SP Strike notices and petitions
 UC Unit clarification petitions

ULP Unfair labor practice charge
 RE Religious exemption claim
 CBA Contract Enforcement

EMPLOYER COMPARISON BY YEAR

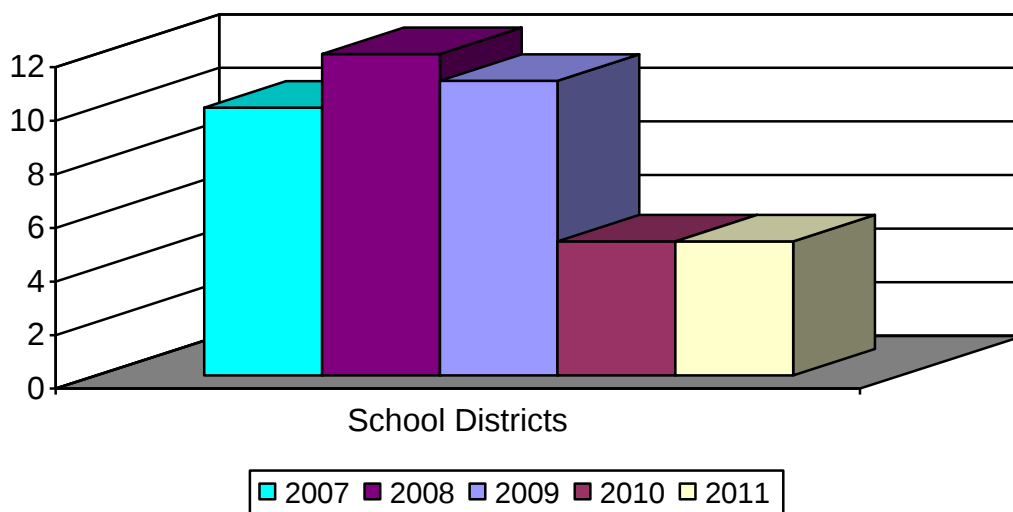


PROGRAM FIVE YEAR TRENDS



UC Unit clarification petitions
 ULP Unfair labor practice charges
 CBA Contract Enforcement petitions

SCHOOL DISTRICT ACTIVITY FROM 2007 TO 2011 FOR ALL CASES FILED



REPRESENTATION PETITIONS (AS 23.40.100; AS 42.40.750)

Labor organizations, employers, or employees may file petitions to initiate a secret ballot election for certification or decertification of a labor or employee organization for collective bargaining. Parties may also notify the Agency that the employer consents to the labor organization's exclusive representation of a particular unit of employees. When this occurs, no election is required if investigation verifies the majority status of the labor organization.

Prior to conducting an election, the Agency resolves any objections raised by a party. If a party files an objection, a hearing is conducted before the agency board which issues a decision and order that resolves disputes and clarifies who gets to vote in the election.

There were four elections conducted and certified in 2011. Two of these representation petitions were filed in 2010 and two were filed in 2011. Although there was a significant decrease in case filings for 2011, four compared to eleven in 2010, the number of elections conducted remained the same. Although the decrease in 2011 case filings is a significant decrease from 2010, the number of elections conducted remained the same. The average number of days from filing date to election date improved from 90 days in 2010 to 66 days for 2011. The Agency fielded numerous questions regarding organizing and decertification efforts in 2011.

Petitions for recognition by mutual consent are filed to change a bargaining unit's name, affiliation, site, or location. There was one such filing in 2011.

One decision and order was issued in 2011. (See "Decisions and Orders Issued", No. 5, at page 20.)

REPRESENTATION PETITIONS FILED 4

Employer	State	0
	Municipalities	3
	Public Schools	1
	Railroad	0
Type	To certify a new unit	2
	To decertify the unit	0
	To change representatives	2
	To amend certificate	0
Hearings conducted		2
Petitions that proceeded to election		3
Mutual Consent Petitions certified		1

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

Under the Public Employment Relations Act (PERA), the Agency hears disputes about strike classifications and impasse matters. Strike classification is important to employees and employers because it essentially determines whether employees have the legal right to go out on strike. PERA divides public employees into three separate classes for purposes of authorization to strike. Class I's, like police and fire fighters, are prohibited from striking. Class II's, like snow removal workers, may strike for limited periods of time until a court determines that public safety and health are affected. Class III's, which include a wide range of public employees, have a broad right to strike.

Although there were no strike class petitions filed in 2011, two strike petition hearings were held in 2011. In the first hearing, the Alaska State Employees Association/AFSCME Local 52, AFL-CIO sought a determination of strike classification for seasonal wildfire protection employees. In ALRA Decision and Order No. 295, the ALRA board determined the positions were Class I employees and ineligible to strike. (See "Decisions and Orders Issued", No. 4, at page 19).

In the second hearing, the Petersburg Municipal Employees Association, APEA/AFT, AFL-CIO petitioned to include specific City of Petersburg Harbor, Fire, Law Enforcement and Parking, and Manor positions as Class I employees. The ALRA board issued Decision and Order No. 294 finding the duties of the positions did not meet the requirements to be classified as Class I employees under AS 23.40.200(a)(1) and (b). (See "Decisions and Orders Issued", No. 3, at page 18).

STRIKE PETITIONS FILED	0
-------------------------------	----------

Employer

State	0
Municipalities	0
Public Schools	0
Railroad	0

Hearings Conducted	2
--------------------	---

UNIT CLARIFICATION AND UNIT AMENDMENT PETITIONS (8 AAC 97.050)

Unit clarification (UC) and unit amendment petitions are 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 for the positions. 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.

In 2011, one new unit clarification petition was filed, leaving two open UC cases by year's end. Historically, most unit clarification disputes have arisen as objections to state transfers of employees from one bargaining unit to another. This usually has occurred when the State of Alaska changes a position's job duties, and the State proposes to move the position to the supervisory or confidential unit from the general government unit. If agency investigation shows there is reasonable cause to believe that a question of unit clarification exists, the case is scheduled for hearing.

There were no unit clarification petitions heard by the ALRA board in 2011. A case heard in 2010 involving a bargaining unit dispute between University of Alaska Federation of Teachers, Local 2404, APEA/AFT, AFL-CIO (formerly the Alaska Community Colleges Federation of Teachers) and the United Academics bargaining unit is pending. This dispute generally concerns the appropriate bargaining unit placement of a multitude of positions. Two related unfair labor practice complaints are in abeyance pending the outcome of the unit clarification dispute.

UNIT CLARIFICATION PETITIONS FILED 1

Employer

State	1
Public Schools	0
Municipalities	0
Railroad	0

Hearings conducted	0
--------------------	---

UNFAIR LABOR PRACTICE CHARGES (AS 23.40.110; AS 42.40.760)

Employers, labor organizations, or individual employees may file unfair labor practice (ULP) complaints. Charges against employers 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 filings in 2011 increased 44% over 2010's filings. (See "CASES FILED" page 6 for longer-term trends). Except for 2010, the filings the past few years suggest a short-term rising trend. (See "PROGRAM COMPARISON" page 7). Of the 13 charges filed in 2011, 31% concerned interference with protected rights, 47% concerned bad faith bargaining and 7% concerned domination or interference with formation, existence or administration of a union. The remaining 15% concerned unilateral changes. There were no filings related to a duty of fair representation charge.

The Agency ranks ULP's by level of priority for determining which cases are investigated first. For example, disputes that affect a large number of employees receive higher priority. There was one high priority ULP filed in 2011 compared to one filed in 2010 and five filed in 2009. Three pending ULP cases are in abeyance. This means that the Agency put these cases on hold for one reason or another. The parties often request a case be put on hold as they may be working on settlement. A case may also be put in abeyance because jurisdiction may lie in the courts. During 2011, the Agency completed eight investigations in an average of 103 days. (See "TIMELINESS" page 16). Of the eight investigations, three were normal priority and were concluded in an average of 103 days.

While priority ranking affects which cases are investigated first, the nature and complexity of a case and the extent of the parties' cooperation affect the time it takes to complete unfair labor practice investigations. The Agency's ability to complete investigations timely is affected negatively when case filings rise significantly.

If the investigating hearing officer finds there is probable cause that a violation occurred, the case is scheduled for hearing. However, these cases sometimes settle prior to hearing. No unfair labor practice hearings were conducted in 2011.

UNFAIR LABOR PRACTICE CHARGES FILED

13

Employer	
State	7
Municipalities	2
Public Schools	2
Railroad	2
Type	
Arbitration related	0
Bad faith bargaining	6
Retaliation	0
Interference with protected rights	4
Domination or interference (a)(2)	1
Union duty of fair representation	0
Employer action without bargaining	0
Information request	0
Scope of bargaining	0
Weingarten	0
Discrimination	0
Impasse	0
Other	0
Unilateral	2
Investigations	8
Hearings conducted	0
Other resolution	
Dismissals (no probable cause)	2
Deferrals to arbitration	0
Settled or withdrawn	7
Dismissed, inaction	2
Dismissed, final order	0
Dismissed, Insufficient	0
Remand	0
Other	0

Complainant	2007	2008	2009	2010	2011
Alaska Public Employees Ass'n	2	0	0	2	0
Alaska State Employees Ass'n	0	1	0	0	1
University of Ak Federation of Teachers (was ACCFT 2004-2007)	1	1	0	0	0
School Unions	6	6	3	0	0
Ferry Unions	0	0	0	2	3
Other Unions	1	2	9	2	8
Individuals	0	0	0	3	0
Employers	1	3	2	0	1
Total ULPs filed	11	13	14	9	13

COMPARISON BY ULP COMPLAINANT

	2007	2008	2009	2010	2011
UNION	10	10	12	6	12
EMPLOYER	1	3	2	3	1
INDIVIDUAL	0	0	0	0	0
Total ULPs filed	11	13	14	9	13

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 bona fide religious convictions. There were three such claims for exemption filed in 2011.

CLAIMS FILED	3
Employer	
State	2
Municipalities	0
Public Schools	1
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)**

Upon petition of a party, the Agency has statutory authority to enforce the terms of a collective bargaining agreement. All agreements must contain a grievance/arbitration procedure, which the parties must exhaust before filing a petition to enforce the agreement.

One such petition was filed in 2011. The highest annual total of CBA case filings during this decade was in 2003, when parties filed 9 petitions.

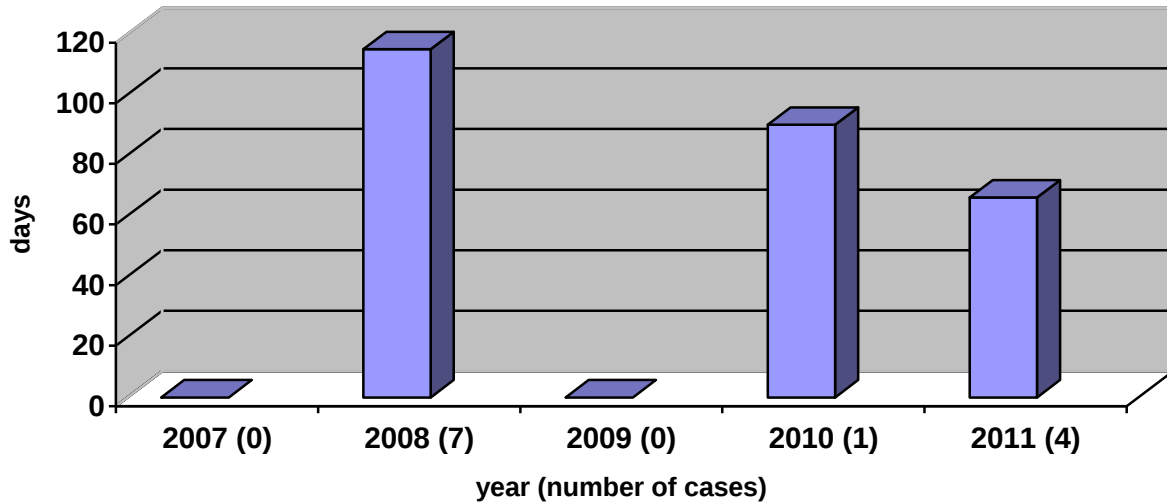
Two decisions and orders were issued in 2011. (See “Decisions and Orders Issued”, Nos. 1 & 2, at pages 17 and 18).

CBA PETITIONS FILED	1
Employer	
State	0
Municipalities	0
Public Schools	1
Railroad	0
Hearings conducted	1

TIMELINESS

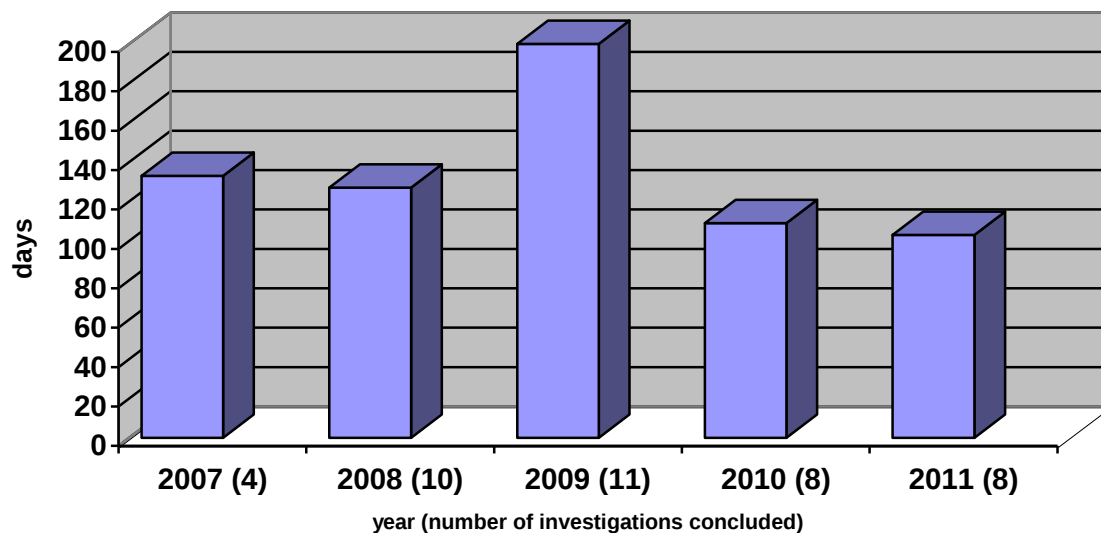
ELECTIONS

NUMBER OF DAYS TO CERTIFICATION OF ELECTION.



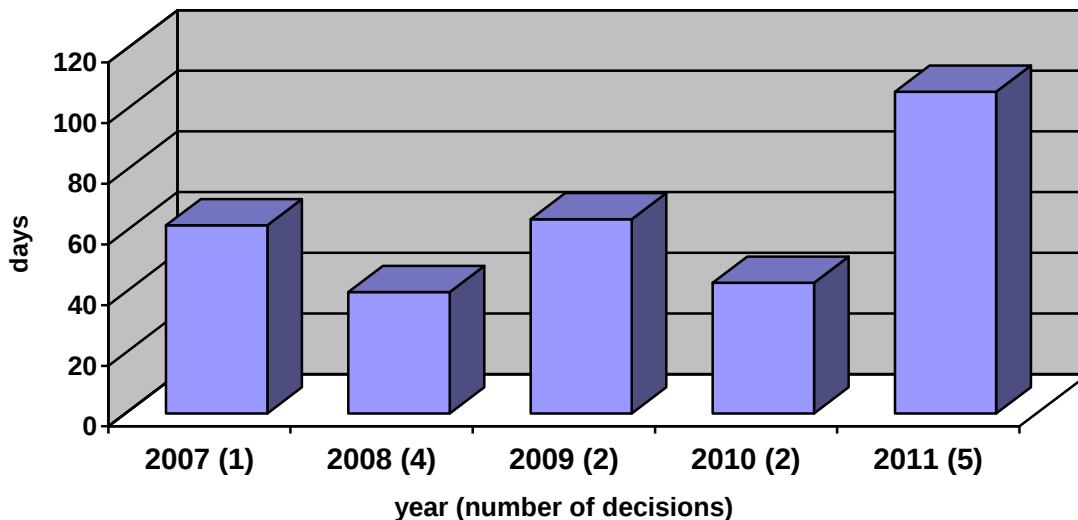
UNFAIR LABOR PRACTICE INVESTIGATIONS

NUMBER OF DAYS TO CONCLUSION OF INVESTIGATION.



DECISION AND ORDERS

NUMBER OF DAYS FROM CLOSING OF RECORD TO DECISION



In 2011, the Board did not meet its goal of issuing 90% of decision and orders within 90 days. Board decision and orders were issued in an average of 106 days from record closure compared to 43 days in 2010.

DECISIONS AND ORDERS ISSUED

1. ***Alaska Public Employees Association, AFT/AFL-CIO v. State of Alaska, Case No. 09-1559-CBA, Decision and Order No. 292 (March 1, 2011).***

APEA filed a petition to compel arbitration over a grievance filed on behalf of a member who, APEA alleged, had been demoted in violation of the collective bargaining agreement. APEA contended that an organizational realignment of responsibilities resulted in a de facto demotion to the employee. The State denied that the dispute was arbitrable, contending the member was not demoted and it took appropriate action under the classification provisions of Article 19 of the parties' agreement. The State also argued it took valid action under the agreement's management rights clause.

The Board ordered the parties to arbitration. The Board concluded that the parties disagreed about the meaning and interpretation of the term "demotion." The parties' agreement contained the term "demotion" but did not define it. The Board found that an arbitrator must resolve the dispute.

The Board also held that it was unclear whether the action taken by the State fell under one of the designated management rights provisions or whether the action was a valid Article 19 substantive classification issue. The Board therefore ordered this issue to arbitration as well.

2. ***Alaska State Employees Association, AFSCME Local 52, AFL-CIO v. State of Alaska, Case No. 10-1581-CBA, Decision and Order No. 293 (June 21, 2011).***

ASEA filed a petition to compel arbitration, alleging that the parties disputed whether the State had discriminated against two Alcohol Beverage Control Board employees, in its application of firearms policy, because of the employees' age. The State disputed the allegation, contending that the firearms policy was a "general policy describing the function and purposes of a public employer" and was not a term or condition of employment. The State asserted it was not required to submit such a fundamental policy to arbitration.

The Board ordered the parties to arbitration. The Board found that Article 6 of the parties' collective bargaining agreement contained a nondiscrimination clause, and the parties clearly disputed whether the State discriminated against the employees on the basis of age.

The State also argued that ASEA seems to argue that as "long as it alleges discrimination, it has the right to challenge any decision or action that the State makes without regard to whether the decision or action concerns wages, hours, or other terms and conditions of employment. Such a holding, if adopted by ALRA, would have significant implications and would frustrate the intent behind PERA." The Board held that the collective bargaining agreement contained no articles that precluded the parties from pursuing arbitration of discrimination claims.

3. ***Petersburg Municipal Employees Association/Alaska Public Employees Association, American Federation of Teachers Local 6132, AFL-CIO v. City of Petersburg, Case No. 10-1590-SP, Decision and Order No. 294 (July 29, 2011).***

The Association filed a petition to determine the strike classification of several bargaining unit employees. The employees worked at the city harbor, an assisted living home, and in parking and vehicle registration enforcement. The Association argued that these employees should be Class I employees who would be ineligible to strike.

The Association argued that the harbor employees and the parking attendant employee were essentially "police" employees, and the assisted living employees were "hospital" employees under AS 23.40.200(a)(1). Under this statute, Class I employees provide services "which may not be given up for even the shortest

period of time." The City argued that the employees were either Class II or more probably Class III. Class II employees include those whose "services . . . may be interrupted for a limited period but not for an indefinite period of time." Class III employees provide "services in which work stoppages may be sustained for extended periods without serious effects on the public.

The Board analyzed each job position and its duties and concluded that the Association failed to prove by a preponderance of the evidence that any of the positions should be Class I. The Board found, based on the evidence submitted, that all of the positions fit Class III status, strike eligible.

4. ***Alaska State Employees Association, AFSCME Local 52, AFL-CIO v. State of Alaska, Case No. 10-1572-SP, Decision and Order No. 295 (September 12, 2011).***

ASEA filed a petition to determine the strike classification of several wildland fire and resource technicians I -V and wildland fire dispatchers I – III in the general government unit. ASEA argued that these employees should be Class I employees, strike ineligible. ASEA asserted that the employees should be considered "fire protection" employees under AS 23.40.200(a)(1).

The State had always classified these employees as Class III, strike eligible. The State contended that the employees were seasonal, and their services could be given up for extended periods without serious effects on the public.

The Board concluded that the employees were Class I, strike ineligible. The board found that the technicians were hired to protect human life and natural resources. The Board also found that the dispatchers provide critical support to the technicians who fight the fires. The Board noted that the statute does not limit fire protection to fighting only structure fires. The urban/wildland interface areas are increasing in size and volume. It is important to have a well-trained and available fire-fighting crew that can respond quickly.

The Board rejected the State's argument that the employees' seasonal work schedule precludes them from having Class I status. The Board found that these employees' duties cannot be given up for even the shortest period of time during the period of their seasonal employment. The Board found that the evidence showed that "a prepared, locally available, well-trained and equipped" fire-fighting force with local knowledge increases the State's ability to suppress fires soon after they begin. Further, the dispatchers are an integral part of the fire-fighting system.

For these and several other reasons, the Board concluded that the technicians and dispatchers were Class I employees whose services could not be given up for even the shortest period of time. The Board granted ASEA's petition.

5. ***Alaska Nurses Association vs. Wrangell Medical Center, Case No. 10-1591-RC, Decision and Order No. 296 (December 8, 2011).***

The Alaska Nurses Association filed a petition to represent all non-supervisory nurses at the Wrangell Medical Center, excluding all other Center employees. The Board denied the petition under AS 23.40.090 because it would result in unnecessary fragmentation. In addition, the Board applied such factors as wages, hours, and other working conditions of the employees involved, history of collective bargaining, and the desires of employees. The Board concluded that, "[g]iven the limited size of the employee population at the Medical Center, the high degree of functional integration among all 54 employees, and the close similarity of wages, hours, and other working conditions, we conclude that the unit appropriate is a wall-to-wall unit. To find otherwise here would risk unnecessary fragmenting."

The Board found that the unit appropriate for collective bargaining is a wall-to-wall unit of *all* non-supervisory employees at the Center. The Board remanded petition to Agency staff to determine whether the Alaska Nurses Association has a sufficient showing of interest for the wall-to-wall unit. If appropriate, the election would then proceed under AS 23.40.100 and relevant regulations.

APPEALS

There were no appeals filed in 2011.

OTHER AGENCY BUSINESS

The Agency conducted two business meetings during calendar year 2011. The Board has discussed conducting some business meetings by phone but believes in-person meetings are important for board members, agency staff, and the public. In-person meetings give the public the opportunity for face-to-face communication with board members, and vice-versa.

LEGISLATION

The Agency did not propose legislation for consideration by the Governor in 2011, and legislation was not enacted that affected the Agency.

REGULATIONS

Agency regulations appear in 8 AAC 97.010 -- 8 AAC 97.990. Copies are available upon request. The Board did not propose or adopt any new regulations during 2011.

BUDGET

The agency budget remains lean. The Agency has requested a maintenance budget from FY2012 to FY2013. The principal component in the budget is the wages and benefits for the four full-time staff members. To stay abreast of its caseload under current staffing and budget limitations, the Agency streamlines procedures when possible while assuring the fairness of its due process. To minimize costs, the Agency schedules hearings in Anchorage when possible, schedules multiple hearings on successive days, and relies on telephone conferences for participation by persons outside the Anchorage area. The Agency also hears disputes for decision on the written record where appropriate. However, board members strongly believe that in-person hearings are the best way to conduct hearings. They prefer this alternative so they have the opportunity to listen to and question witnesses face-to-face, to judge witness credibility in person, and to give the parties the opportunity to see who is deciding their case. The board believes it is important to participate in continuing education and keep board members and agency staff skills current. Therefore, the board will request additional funds for training.

The Agency conducts elections by mail ballot, avoiding travel costs and loss of productive employee time during travel.

FISCAL YEAR 2012

TOTAL	543.4
Personnel	479.5
Travel	6.2
Services	48.7
Commodities	9.0

SUMMARY OF SERVICES AVAILABLE

Requests for services can be made either personally at the Agency's office in Anchorage, by telephone at 907.269.4895, by fax at 907.269.4898, or by e-mail to mark.torgerson@alaska.gov, unless otherwise indicated.

Board decisions.

Board decisions from 1973 to present are now available for download from the Agency's web site. Also available is a cross-reference list of Agency cases appealed to the Alaska Superior and Supreme Courts. Board decisions are also available by request from the Agency electronically or in hard copy by mail. Parties may pick up copies at the Agency office.

Business meetings.

The Board conducts business meetings at 1016 West 6th Avenue, Suite 403, in 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.

Facsimile filings.

The Agency will accept filing by fax, but the person filing by fax must still 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. Persons can pick up these forms at the Agency's office or by telephoning 907.269.4895. In addition, the forms are 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.

Agency staff members are available to answer questions about the mediation process and Agency mediation services. The Agency will conduct mediation at parties' request.

Publications.

Pamphlet. The Agency publishes a pamphlet containing the laws and regulations the Agency administers. Persons may request a copy of Pamphlet 900. The most recent pamphlet was published in July of 2007 and contains the changes to the regulations on collective bargaining among public employees 8 AAC 97.010 -- 8 AAC 97.990 effective on May 20, 2007, and updates to the Public Employment Relations Act AS 23.40.070 -- 23.40.260 passed during the first session of the 25th Legislature.

Report to Governor and the Legislature. The Agency is required to report to the governor annually. AS 23.05.370(a)(3). Copies of the annual report are available upon request.

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

Unfair Labor Practices pamphlet. This pamphlet is a basic description of unfair labor practices and related Agency proceedings. 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 must file or respond to petitions and unfair labor practice charges.

Speakers.

Agency staff members are available to speak to groups about the Agency, its programs, and topics on labor relations.

Electronic copies of agency proceedings.

Copies of CD's of Agency case proceedings are available upon request. Please call Agency staff to arrange copying. Generally, there is no charge if the appropriate type and number of CD's are provided.