

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

April 4, 2003

3:19 p.m.

**MEMBERS PRESENT**

Representative Tom Anderson, Chair  
Representative Bob Lynn, Vice Chair  
Representative Nancy Dahlstrom  
Representative Carl Gatto  
Representative Harry Crawford  
Representative David Guttenberg

**MEMBERS ABSENT**

Representative Norman Rokeberg

**COMMITTEE CALENDAR**

HOUSE BILL NO. 155

"An Act relating to the submission of payroll information by contractors and subcontractors performing work on a public construction contract; and providing for an effective date."

- MOVED CSHB 155(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 162

"An Act increasing the fee for a state business license; and providing for an effective date."

- MOVED CSHB 162(L&C) OUT OF COMMITTEE

**PREVIOUS ACTION**

BILL: HB 155

SHORT TITLE: PUBLIC CONSTRUCTION PROJECT REQUIREMENTS

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0423	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0423	(H)	L&C, FIN
03/05/03	0423	(H)	FN1: (LWF)
03/05/03	0423	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/14/03		(H)	L&C AT 3:15 PM CAPITOL 17

03/14/03 (H) Heard & Held  
 03/14/03 (H) MINUTE(L&C)  
 04/04/03 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 162

SHORT TITLE: INCREASE BUSINESS LICENSE FEE  
 SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0432	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0432	(H)	L&C, FIN
03/05/03	0433	(H)	FN1: (CED)
03/05/03	0433	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/12/03		(H)	L&C AT 4:00 PM CAPITOL 17
03/12/03		(H)	Heard & Held
03/12/03		(H)	MINUTE(L&C)
03/28/03		(H)	L&C AT 3:15 PM CAPITOL 17
03/28/03		(H)	<Bill Hearing Postponed to 04/04/03
04/04/03		(H)	L&C AT 3:15 PM CAPITOL 17

**WITNESS REGISTER**

DICK CATTANACH, Executive Director  
 Associated General Contractors  
 Anchorage, Alaska

POSITION STATEMENT: Offered five suggested changes to the proposed committee substitute (CS) for HB 155.

GREG O'CLARAY, Commissioner  
 Department of Labor & Workforce Development  
 Juneau, Alaska

POSITION STATEMENT: Supported the proposed CS to HB 155 and commented on suggestions offered by other witnesses.

RON TRUINI  
 Ironworkers Local 751  
 Anchorage, Alaska

POSITION STATEMENT: Suggested several revisions to the proposed CSHB 155.

VINCE BELTRAMI  
 IBEW Local 1547  
 Anchorage, Alaska

POSITION STATEMENT: Asked whether payroll reports will continue to be sent to the department under the proposed CSHB 155;

expressed concern that new user fees will not be dedicated to enforcement of the prevailing wage program.

CHRIS TUCK

IBEW Local 1547

Anchorage, Alaska

POSITION STATEMENT: Supported proposed revisions in the proposed CSHB 155 regarding contractors, subcontractors, and employers.

CHUCK WIEGERS

ABC [Associated Builders and Contractors] Alaska

Fairbanks, Alaska

POSITION STATEMENT: Testified on the proposed CSHB 155, noting that current law still gives the department the teeth to enforce the prevailing wage laws.

JOHN BROWN, President,

Fairbanks Central Labor Council

Fairbanks, Alaska

POSITION STATEMENT: During his testimony on the proposed CSHB 155, stressed the importance of user fees flowing back to the department to support enforcement activities.

NANCY PETERSON

City of Valdez

Valdez, Alaska

POSITION STATEMENT: Supported the changes in the proposed CSHB 155, particularly retaining the department as the collection point for the certified payroll reports.

DON ETHERIDGE, Lobbyist

for Alaska State AFL-CIO

Juneau, Alaska

POSITION STATEMENT: Testified on the proposed CSHB 155, supporting the sending of payroll reports to the department and urging the dedication of user fees to support enforcement activities.

PAULA SCAVERA, Special Assistant

Office of the Commissioner

Department of Labor & Workforce Development

Juneau, Alaska

POSITION STATEMENT: During testimony on the proposed CSHB 155, explained how a department "form" can be paper or electronic.

RICK URION, Director

Division of Occupational Licensing  
Department of Community & Economic Development (DCED)  
Juneau, Alaska

POSITION STATEMENT: Answered questions on HB 162.

DON JOHNSON, Fishing Charter Operator  
Kenai, Alaska

POSITION STATEMENT: Expressed concerns with HB 162.

JOSH APPLEBEE, Staff  
to Representative Tom Anderson  
House Labor and Commerce Standing Committee  
Alaska State Legislature

POSITION STATEMENT: Provided information with regard to fee changes under HB 162.

#### **ACTION NARRATIVE**

#### **TAPE 03-28, SIDE A**

Number 0001

**CHAIR TOM ANDERSON** called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Anderson, Lynn, Dahlstrom, Gatto, and Crawford were present at the call to order. Representative Guttenberg arrived as the meeting was in progress.

#### HB 155-PUBLIC CONSTRUCTION PROJECT REQUIREMENTS

Number 0060

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 155, "An Act relating to the submission of payroll information by contractors and subcontractors performing work on a public construction contract; and providing for an effective date."

Number 0083

REPRESENTATIVE DAHLSTROM moved to adopt the proposed committee substitute (CS) for HB 155, Version 23-GH1119\D, Craver, 4/3/03, as the working document. There being no objection, Version D was before the committee.

CHAIR ANDERSON noted that this CS resolves many of the issues raised during testimony at the earlier hearing. Section 1 was revised so that submission of certified payroll reports is every

two weeks instead of weekly, and it removes the requirement to submit the reports to the contracting agencies.

CHAIR ANDERSON noted that Section 2 of the CS states that the general contractor will pay all fees for the entire project at the beginning of the project -- the contractor's fee plus a fee for each subcontractor. The second part of Section 2 creates a sliding scale for the fee based on the contract amounts as follows: under \$5,000 - no fee; \$5,000 to \$10,000 - \$100 fee; \$10,000 to \$50,000 - \$150 fee; \$50,000 to \$500,000 - \$200 fee; \$500,000 to \$1 million - \$250 fee; and \$1 million and up - \$300 fee. The maximum fee to be paid by the contractor would be \$5,000. He noted that Sections 3 and 4 of the CS are unchanged from the original bill. Section 5 directs the Department of Labor & Workforce Development to computerize the submission process for certified payroll reports.

Number 0250

CHAIR ANDERSON described Conceptual Amendment 1, which read as follows:

1. Need exemption for emergencies (such as the wind disaster in Anchorage) to allow work to begin and then file notice of intent to pay prevailing wage.
2. Clarify that jobs under \$5,000 are exempt from the fee but not from filing notice of intent and an affidavit of compliance.
3. Make language consistent (e.g. the terms "contractor" and "subcontractor" need to be used consistently instead of "employer").

Number 0319

CHAIR ANDERSON moved to adopt Conceptual Amendment 1. There being no objection, it was so ordered.

The committee took an at-ease from 3:25 to 3:27 p.m.

Number 0497

DICK CATTANACH, Executive Director, Associated General Contractors (AGC), Anchorage, noted that construction is a cost-pass-through industry, so the AGC can support the concept of [the fees in] this bill. He said that the costs would be passed on to the ultimate owners, in this case, the state, the municipality, and the various political subdivisions. He said

he will suggest ways to make CSHB 155 work better. In Section 1, which requires the submission of certified payroll reports every second Friday, a company with numerous jobs could end up reporting every week. He suggested reporting all previously unreported payroll on the second and fourth Fridays, then every contractor would be reporting consistently on the same Friday. This would help reduce paperwork, he said.

Number 0578

MR. CATTANACH recommended in Section 2 that the minimum [threshold for contracts for purposes of calculating fees] be changed from \$5,000 to at least \$25,000. He also recommended that the fee be a percentage of the contract amount, up to the maximum of \$5,000. For example, a contract between \$50,000 and \$500,000 would result in a fee between \$500 and \$5,000 per job. This avoids burdening the contractor with additional accounting just to figure out how much he has to pay.

CHAIR ANDERSON asked how it was a burden to add up the total amounts of a job.

Number 0660

MR. CATTANACH replied that depending on the size of the job, general contractors have from five to fifteen specialty contractors working under them; he would have to aggregate those subcontracts to see how much he would have to pay. He suggested its simpler to take a percentage on the general contractor's total rather than the general contractor's job plus the associated subcontractors. He suggesting taking a simple one percent if the goal of this section of the bill is to raise money.

MR. CATTANACH pointed out problems with Section 2, subsection (c), on page 3, lines 3-7, which appears to hold up the final payment if one subcontractor has not signed the required affidavit of compliance. He said that this holds hostage all the good subcontractors who have signed the affidavit and followed the law. The provision puts enforcement on the contractor and that's not where it belongs, he said. He asked that this subsection be deleted or reconsidered.

MR. CATTANACH questioned the purpose of Section 4, page 3, starting on line 18 [which states that contractors starting work before the July 1, 2003, effective date] must file a notice of intent but no fee. He said he didn't see what the state gains

with this section. Rather, he suggested leaving existing contracts out of the bill, and making the bill apply to all new contracts issued on or before July 1, 2003, and making it a part of the required contract language. He suggested allowing for electronic reporting to the extent possible.

Number 0899

MR. CATTANACH, at the request of Chair Anderson, restated his five suggested changes to the CS. 1) In Section 1, file reports the second and fourth Friday of the month for all payroll that has been incurred since the last reporting period, rather than every two weeks. 2A) In Section 2, change the minimum contract size from \$5,000 to \$50,000. 2B) For contracts from \$50,000 to \$500,000, calculate a simple fee of 1 percent calculated on the general contractor's contract. 3) Delete Section 2, subsection (c) because it allows one subcontractor who doesn't sign an affidavit to hold up payments to all other subcontractors. 4) Delete Section 4 because it requires a notice of intent from an ongoing project. 5) Expand the concept of electronic filing of certified payroll reports and allow those to be filed with the affidavits.

Number 1083

REPRESENTATIVE CRAWFORD noted his agreement with Mr. Cattanach's points. He said, however, that HB 155 is a smoke and mirrors way of raising revenue; all it does is add to the cost of public construction, which will be paid by the public entity that contracts to build a school or a road. This money won't flow to the Department of Labor & Workforce Development; it's not a fee to help fund their programs. If it's a tax, he suggested calling it a tax. He said he doesn't agree with the premise of the bill.

Number 1179

GREG O'CLARAY, Commissioner, Department of Labor & Workforce Development, stated that the CS is an improvement over the original HB 155. The department supports Conceptual Amendment 1. He said he disagreed with Mr. Cattanach's suggested \$50,000 as a minimum size contract; he preferred using \$25,000 for the minimum size of contracts. He said he agreed with using the 1 percent to calculate the general contractor's fee because the fee increases with the size of the contract.

Number 1316

CHAIR ANDERSON summarized Commissioner O'Claray's response to Mr. Cattanach's five points. 1) Commissioner O'Claray agreed with filing certified payroll reports on the second and fourth Fridays. 2) He preferred starting the fees with \$25,000 contracts and a 1 percent fee to calculate the contractor's fee. 3) He did not agree with deleting subsection 2(c) because it gives the department teeth to enforce the prevailing wage law, especially with a general contractor who is out of compliance. He said there should be a way for the department to address the problem of a subcontractor who is out of compliance so that others would not be penalized. 4) He agreed that Section 4 can be deleted because current law requires reporting, and the effective date of the bill will determine when the new fees are collected.

MR. CATTANACH clarified his fifth point about electronic filing and noted that it's already contained in the CS.

Number 1591

REPRESENTATIVE GUTTENBERG asked about holding a prime contractor responsible for a subcontractor filing on time. He noted that it's a set of teeth to keep the subcontractor in line.

COMMISSIONER O'CLARAY said he agreed in concept but was trying to avoid holding up a payment to a prime contractor because a bad subcontractor had "gone south." He said he wants to be able to hold up payment to the subcontractor.

Number 1688

MR. CATTANACH described a typical final pay request on a project that might have 15 subcontractors. This bill would hold up payment to the single subcontractor who hasn't filed the affidavit of compliance as well as payments to the prime contractor and the 14 other subcontractors. He suggested that if contractors don't comply with the rules, disbar them, and don't allow them to bid on any more projects until they comply. He asked why one would penalize the contractors who play by the rules.

REPRESENTATIVE GUTTENBERG said he'd support an amendment to deal with this issue.

REPRESENTATIVE CRAWFORD said he wholeheartedly agreed with the need to disbar people who violate the Little Davis-Bacon Act [AS

36.05]. He said he has investigated several instances of companies that do this repeatedly. But he said it's not clear how to incorporate that issue into this bill.

Number 1782

REPRESENTATIVE GATTO asked what happens if it is the contractor who goes south [thereby holding up payments to the subcontractors].

COMMISSIONER O'CLARAY explained that is exactly the issue being debated. The bill gives the department the authority to withhold payment in order to force compliance with the newly required reports. He said the bill gives the department enough teeth to keep the contractor from going south. He said he'd prefer to see CSHB 155 move out of committee, and perhaps the disadvantage to the subcontractor could be addressed by a future committee.

Number 1861

RON TRUINI, Ironworkers Local 751, proposed several changes to clarify payroll reports and employers.

REPRESENTATIVE CRAWFORD noted that Mr. Truini's concerns were already covered in Conceptual Amendment 1.

Number 1958

VINCE BELTRAMI, IBEW, [International Brotherhood of Electrical Workers] Local 1547, asked for confirmation that the proposed CSHB 155 will continue having the contractors send the certified payroll reports directly to the Department of Labor & Workforce Development. He also confirmed that contractors can continue to submit written payroll reports after the July 1, 2004, deadline when the department starts accepting electronic reports. He expressed concern regarding whether this bill raised revenue earmarked for the department. He asked the commissioner to comment about whether these funds will prevent cuts to the Title 36 [wage enforcement programs].

Number 2052

COMMISSIONER O'CLARAY responded that he could not guarantee that the money raised by CSHB 155 would flow to the Department of Labor & Workforce Development. The user fees will be deposited to the general fund. He said he hoped that these funds would

[prevent] future cuts to the enforcement section of the [Division of Standards and Safety]. He said he will advocate for retaining the funding for this program. He responded to another question from Mr. Beltrami, saying that the House Finance Standing Committee will be making decisions about the governor's proposed FY 04 budget. There's always the potential that Title [36] programs could be impacted, he said.

Number 2161

CHRIS TUCK, IBEW Local 1547, stated that his concerns have been voiced by previous speakers. He confirmed that the language for contractors and subcontractors in the proposed CSHB 155 has been amended.

MR. TRUINI suggested on page 1, line 8, deleting "wages paid" and inserting "payroll reports".

REPRESENTATIVE CRAWFORD noted that the wording in question is the current statute that has been in effect for quite a while. He reiterated that all of Mr. Truini's concerns have been dealt with in Conceptual Amendment 1.

Number 2267

CHUCK WIEGERS, ABC [Associated Builders and Contractors] Alaska, Fairbanks, noted that his issues have been addressed. He did note that under the current law, the department can ask the attorney general to prosecute any contractor who is not paying the prevailing wage; the teeth are still present in the law.

Number 2287

JOHN BROWN, President, [Fairbanks] Central Labor Council, stressed that the department needs the funds necessary to make the prevailing wage law work. Enforcement activities have been underfunded, he said.

REPRESENTATIVE CRAWFORD responded that if these user fees were designated as program receipts, the money could be used for enforcement. As the bill is written, all this money will go directly into the general fund, so the [proposed CSHB 155] will raise the cost of construction but won't really help the budget of the department.

Number 2348

NANCY PETERSON, City of Valdez, expressed appreciation for the changes in Section 1 of CSHB 155, keeping the certified payroll reports flowing to the Department of Labor & Workforce Development. She noted concerns with Section 2, subsection (c), withholding of final payment because it will place a burden on the local contracting agency that will have to pay interest while the department determines whether all the requirements have been met.

**TAPE 03-28, SIDE B**

Number 2375

REPRESENTATIVE GUTTENBERG asked where Valdez will find the funds to pay the fees that the contractor will pass on to the city.

MS. PETERSON said the fees being charged [and passed on to the City of Valdez by the contractors] will result in a small increase in the cost of the project. She said she was pleased to see that the changes in the proposed CS require the department to monitor the certified payrolls [rather than assigning the task to the contracting agencies].

Number 2284

DON ETHERIDGE, Lobbyist for Alaska State AFL-CIO [American Federation of Labor and Congress of Industrial Organizations], said his group supports the changes in the proposed CSHB 155, especially with the certified payroll reports remaining with the department. He also urged a method directing the user fees to the department, which he acknowledged is a different battle.

CHAIR ANDERSON pondered the need for a second conceptual amendment which incorporates the commissioner's suggested changes. These changes would be: Changing Section 1 to reporting on the second and fourth Fridays for all payroll incurred; changing Section 2, raising the minimum contract limit from \$5,000 to \$50,000 [per Mr. Cattanach] or \$25,000 as recommended by the commissioner; use a 1 percent figure to calculate the fee above \$50,000 instead of a sliding scale; leaving in the notice element in Section 4, per the commissioner, or removing it, per Mr. Cattanach.

Number 2181

REPRESENTATIVE GATTO suggested clarifying the interim periods between the second and fourth Friday deadlines of every month.

He suggested deleting "two weeks" and inserting "the previous reporting period" on page 1, line 12.

COMMISSIONER O'CLARAY agreed that "the previous reporting period" is a good clarification.

Number 2099

CHAIR ANDERSON reviewed the possible changes for Conceptual Amendment 2.

REPRESENTATIVE GATTO reiterated his suggestion of deleting "two weeks" and inserting "the previous reporting period" on page 1, line 12.

CHAIR ANDERSON confirmed that the second change [on page 2, lines 19-28] would set the minimum contract at \$25,000, per the commissioner's preference, and use the 1 percent calculation for the fees instead of the stepped amounts. He confirmed that the committee did not want to delete subsection 2(c) because the commissioner opposed this action.

Number 2007

REPRESENTATIVE CRAWFORD said he hated that [the final payment] could be held up because of one bad actor, but the law needs teeth to do the right thing.

CHAIR ANDERSON said he believes Section 4 of the CS needs to remain in place and thinks it has been misread. If not, he said he's willing to work to change it before it goes to the House finance committee.

REPRESENTATIVE GATTO asked whether the language "on a form provided by" on page 2, line 1, refers to a paper form or an electronic form. He noted that the CS uses both "form" and "electronic filing".

Number 1933

PAULA SCAVERA, Special Assistant, Office of the Commissioner, Department of Labor & Workforce Development, said that the word "form", found in various state laws, means paper or electronic.

Number 1901

CHAIR ANDERSON summarized Conceptual Amendment 2 as follows:

1. Page 1, line 12 - After the word "previous", delete "two weeks" and insert "reporting period".
2. In Section 2 adjust the minimum contract price to \$25,000. Additionally, the sliding scale needs to be removed and replaced with a flat 1 percent of the total contract price for all qualifying jobs.

REPRESENTATIVE GATTO asked for clarification on whether the contract total refers to the sum total or only the amount above \$25,000.

CHAIR ANDERSON confirmed the amount is the total contract.

Number 1856

CHAIR ANDERSON moved to adopt Conceptual Amendment 2. There being no objection, it was so ordered.

Number 1836

REPRESENTATIVE DAHLSTROM [moved to adopt Amendment 3, 23-GH1119\A.1, Craver, 3/19/03, with line numbers on page 3 hand-corrected to reflect Version D of HB 155] which read as follows:

Page 1, line 1, following "**relating to**":

Insert "**the definition of 'public construction' for purposes of paying prevailing wages, and to**"

Page 3, lines 1 - 3:

Delete all material and insert:

**"Sec. 36.05.900. Definitions.** In this chapter,

(1) "contracting agency" means the state or a political subdivision of the state that has entered into a public construction contract with a contractor;

(2) "public construction" does not include rehabilitation, alteration, extension, or repair, structural or otherwise, undertaken by tenants of a building owned or controlled by the state for government or public use after the initial construction or acquisition of the building by the state, notwithstanding AS 36.95.010."

REPRESENTATIVE DAHLSTROM explained that she was presenting Representative Rokeberg's amendment because he was not able to attend today's meeting. She referred to his accompanying cover memo in each member's bill packet.

Number 1753

REPRESENTATIVE CRAWFORD objected to Amendment 3. He stated that this would be a huge change in [AS 36.05, Wages and Hours of Labor] and would not have the general agreement of the various parties who worked on the CS. He said it's a huge change to remove rehabilitation, alternations, extensions, or repairs [of buildings] from the Little Davis-Bacon Act. No one has contemplated this kind of a change in the law, he said. He explained that he has worked on a rehabilitation of a public building that was worth many millions of dollars.

COMMISSIONER O'CLARAY acknowledged that Amendment 3 would have a major negative impact on the prevailing wage rate law. [Renovations of buildings] account for about 50 percent of construction projects, he said. The department could not support this amendment, and it would be a deal breaker on the CS.

REPRESENTATIVE GUTTENBERG stated that adopting this [amendment] would make the legislation a different bill. It is an entirely new concept with an entirely new constituency that would want to testify. [This amendment] goes to the core issues of the prevailing wage law, he said. It would be a disservice to this bill and the work accomplished by the various players to open the bill up to a [change] this large and wide.

Number 1570

A roll call vote was taken. No Representatives voted in favor of proposed Amendment 3. Representatives Guttenberg, Crawford, Dahlstrom, Gatto, Lynn, and Anderson voted against it. Therefore, Amendment 3 failed by a vote of 0-6.

CHAIR ANDERSON closed testimony and debate on the bill.

Number 1560

REPRESENTATIVE DAHLSTROM moved to report CSHB 155, Version 23-GH1119\D, Craver, 4/3/03, as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 155(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 162-INCREASE BUSINESS LICENSE FEE

Number 1529

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 162, "An Act increasing the fee for a state business license; and providing for an effective date."

CHAIR ANDERSON reminded the committee that at the March 12, 2003, hearing HB 162 was amended to tier the fee costs as follows:

0-5 employees	- \$50 per year
6-25 employees	- \$100 per year
26-plus employees	- \$200 per year

CHAIR ANDERSON noted that committee members should have a spreadsheet in which the groupings [of employees] were slightly revised as follows: 0-4, 5-19, and 20-plus. The spreadsheet illustrates what the governor's legislation will yield with the various changes in fees. He asked members to review the chart and decide whether there should be another amendment to the legislation in order to increase the amount or whether this tiered approach is sufficient.

Number 1379

RICK URION, Director, Division of Occupational Licensing, Department of Community & Economic Development (DCED), acknowledged that [the design of the bill] is the legislature's decision. However, he remarked that it would be best to keep the [fee system] simple. Mr. Urion highlighted that this legislation does bring in a lot of revenue and most business owners don't mind paying that fee.

Number 1350

DON JOHNSON, Fishing Charter Operator, informed the committee that he has a charter operation on the Kenai River and that in the 1980s there were no fees. Mr. Johnson pointed out that he is now paying between \$3,000-\$5,000 to put his boat in the water. This ongoing disregard of the public's willingness to pay fees is a mistake, he said. This [increase] in the business license fee is a generic tax on the state's residents who want to do business, and it discourages business. All these fees get passed on to the consumer. Mr. Johnson said, in the end, this [increase] will really hurt the fisheries industry.

REPRESENTATIVE GUTTENBERG asked Mr. Johnson what he viewed as a reasonable fee for a business license for a year.

MR. JOHNSON clarified that he works in a fishing and hunting guide business. He noted that this industry has experienced a tremendous increase in fees, and every time [there is an increase or a new fee] the comment is made, "No one will mind." He informed the committee that currently he has to take out a loan to pay all the fees before [starting his season]. Although he understands trying to fill in the fiscal gap with a user fee, he indicated that the fee structure would undermine the fishing industry. A lot of businesses have more than four, five, or ten employees, and those businesses will get hammered on this, he warned.

Number 1155

REPRESENTATIVE GATTO pointed out that 20 years ago, when there were no fees, 2 million barrels of oil were produced on the pipeline. However, today there are just about 1 million barrels of oil produced. This reduction in revenue is part of the reason for this increase as is the desire to control the amount of use on the rivers, which indirectly helps those involved in commercial hunting and fishing.

MR. JOHNSON reiterated that he thought generating revenue with a user fee is good, but he stressed the person wanting to access the lake or river should be charged rather than the businessperson.

CHAIR ANDERSON turned to a chart provided by committee staff. He explained that the first section lays out [the income for HB 162, as proposed by the governor], with detail for each category of employees targeted by [the committee]. The second section displays the three tiers of income under HB 162, as amended by the committee, and it illustrates a decrease in total income. The third section reflects the increase in income if the business license [fee for small employers] was increased [to \$75] per year. The fourth section reflects the income if the business license [fee for the small employers] was increased to \$100 per year; it moves the [revenue] closer to the governor's annual target of \$7 million.

Number 0970

JOSH APPLEBEE, Staff to Representative Tom Anderson, House Labor and Commerce Standing Committee, Alaska State Legislature,

informed the committee that if the 20-plus category of employees was charged \$500 for a business license and the 0-4 category of employees was charged \$75, there would be new revenue in the amount of \$4,244,900.

CHAIR ANDERSON highlighted the need for a balanced approach so that small companies aren't [favored] while [large] businesses continue to pay their share. He emphasized that the committee must develop a reasonable fee that also generates revenue.

REPRESENTATIVE CRAWFORD pointed out that [when a company pays for] a business license, it obtains a name that no one else can use, which is worthwhile and for which [there should be a fee]. He said he disagrees with the governor's legislation, which charges a \$200 fee regardless of the size of the business. He said he favors a modest change in the business fee.

Number 0862

CHAIR ANDERSON proposed the following:

0-4 employees	- \$75
5-19 employees	- \$100
20-plus employees	- \$200

He inquired as to how much more revenue would be generated by changing the 0-4 employees category to \$75, as specified above. He noted that the current legislation before the committee [example two on the spreadsheet] yields \$2,133,675.

MR. APPLEBEE informed the committee that the above change would result in total annual revenue of \$3.611 [million].

CHAIR ANDERSON explained that [this fee structure] would provide another \$1.5 million and would [reach] half of the governor's target.

Number 0772

REPRESENTATIVE CRAWFORD pointed out that there are many seasonal jobs that have great fluctuations in the numbers of employees. When the fee is based on the number of employees, Representative Crawford said he believes those businesses that temporarily hire larger numbers of employees will be hurt the worst.

REPRESENTATIVE GATTO asked if there is a breakdown that addresses sole proprietorships [separately] with the next category being 2-5 employees.

Number 0660

REPRESENTATIVE GUTTENBERG agreed that there are lots of sole proprietorships. He also concurred with Representative Crawford's warning about the impact on seasonal businesses.

MR. URION said that although the division has the number of sole proprietors, sole proprietors can have employees. With regard to determining the number of employees, Mr. Urion specified that those employers who file a quarterly report with the Department of Labor would be charged a fee on the basis of the number of employees [specified in the quarterly report]. Therefore, seasonal [businesses] will have to pay a fee at the high end [based on the number of employees during their busiest season].

Number 0504

REPRESENTATIVE CRAWFORD posed a situation in which an employee works for a single contractor [on and off] numerous times [during the year]. He asked if that employee would be counted once or each time the person was rehired.

CHAIR ANDERSON pointed out that a contractor wouldn't obtain a business license for each job but rather for the year. Therefore, he assumed that the contractor's maximum number of employees for one year would be [the number considered] when purchasing the business license the next year.

MR. URION, in response to Representative Crawford, explained that an employee would [only be counted once], no matter the number of times the employee worked for the employer in a year.

Number 0398

REPRESENTATIVE LYNN informed the committee that he is a [real estate] broker associate for a large company in Anchorage. The company employs probably 100 agents who are independent contractors. He asked what would happen if the broker of the large company had his business license based on his number of employees and each of the independent contractors had their own license.

MR. URION assumed that a real estate [broker] would have a business license.

Number 0318

REPRESENTATIVE LYNN said that he didn't have a business license and he didn't believe anyone [in his position] did either. Representative Lynn explained that all his commissions come through the broker, although he is an independent contractor rather than an employee.

MR. URION related his belief that an independent contractor had to have a business license. Furthermore, one can't be an independent contractor and an employee, the individual is one or the other.

REPRESENTATIVE LYNN requested that Mr. Urion check on that.

CHAIR ANDERSON informed the committee that he has provided Mr. Applebee with various scenarios to plug into his spreadsheet. Chair Anderson proposed a hypothetical scenario in which an employer of 0-4 employees paid \$75, 5-19 employees paid \$150, and 20-plus employees paid \$300. Chair Anderson reiterated the need for balance, but mentioned that every other state has a higher business license fee than Alaska. He expressed the need to develop a number that brings in additional revenue to pay for the program and [ease] the budget deficit.

Number 0113

REPRESENTATIVE GUTTENBERG asked if 20 employees is the highest number that is tracked. He remarked that it would seem appropriate to increase the fee for employers with 50 or more employees.

CHAIR ANDERSON said that's something to consider.

REPRESENTATIVE GATTO mentioned a \$25 fee plus \$10 per employee.

**TAPE 03-29, SIDE A**

Number 0077

MR. URION indicated that 90 percent of the businesses [in Alaska] have 0-4 employees. The businesses on the high end [of employees] are so few that it would make little difference in [total revenue if fees for those few businesses were higher].

Number 0142

CHAIR ANDERSON gave the committee aide another set of figures to enter into his computer spreadsheet: \$75 for 0-4 employees, \$150 for 5-19 employees, and \$200 for 20-plus employees. He noted that it would total \$3,866,575, which is \$1.7 million more than the current amended version of the bill, assuming no "dropouts" - people who refuse to pay the fee. Chair Anderson referred to the spreadsheet in committee packets that shows the amounts under HB 162 as currently amended, in addition to other scenarios including the governor's proposal under which everyone would pay \$200. He explained that he'd like the total to be at least \$3.5 million, half the revenue requested by the governor in the original bill. He sought members' input.

Number 0219

REPRESENTATIVE GUTTENBERG suggested seeing how much would be generated if the fee were \$500 for 20-plus employees under that scenario.

CHAIR ANDERSON mentioned seasonal businesses and so forth, noting that it is quite a jump from the current \$25.

REPRESENTATIVE GUTTENBERG withdrew his suggestion.

CHAIR ANDERSON said there was merit in that thought process. However, as Mr. Urion had said, 90 percent of Alaskan businesses have the smaller number of employees, and the higher amount would apply to so few [businesses] that it wouldn't increase revenue much.

Number 0323

REPRESENTATIVE DAHLSTROM expressed concern that \$3 million isn't what the governor asked for and that he'll make [budget] adjustments elsewhere without the legislature's input.

CHAIR ANDERSON asked Mr. Urion whether he believes the \$3.8 [million] would be more acceptable than the \$2.1 million.

MR. URION said every [increase in revenue] is appreciated.

REPRESENTATIVE DAHLSTROM reiterated her concern [about additional budget cuts].

Number 0431

CHAIR ANDERSON said [this bill] reminded him of the [sharp increase] in the alcohol tax last year. He suggested the need to [increase revenues] in "baby steps" out of fairness.

Number 0440

REPRESENTATIVE CRAWFORD mentioned the 300 percent increase originally proposed for the alcohol tax. He pointed out that the governor's proposal [for the business license] would be an 800 percent increase.

REPRESENTATIVE DAHLSTROM highlighted Mr. Union's testimony that this is the first increase in 50 years. She said it will affect her personally too.

REPRESENTATIVE CRAWFORD pointed out that it won't affect [legislators] nearly as much as it will affect people who aren't [as well-off financially].

Number 0508

CHAIR ANDERSON returned attention to his recommendation of \$75, \$150, and \$200. He explained that the biggest increase would be for businesses with more than 20 employees. They would pay \$175 more a year, whereas businesses with 0-4 employees would pay only \$50 more. Acknowledging Representative Dahlstrom's point, he added, "We're trying to work with the governor to cut costs and generate revenue."

Number 0557

REPRESENTATIVE GATTO suggested that \$200 was too close [to the \$75 and \$150 fees]. He proposed \$250 or even \$300, indicating it should account for the major difference in the number of employees.

CHAIR ANDERSON indicated he was asking the committee aide to run a scenario for \$75 and \$150, and inquired about \$250. He expressed dislike for \$300, saying he wouldn't support such an amendment.

MR. APPLEBEE said [increasing the fee for large employers] changes the revenue to \$4,022,675.

REPRESENTATIVE DAHLSTROM noted that it is a \$400,000 increase.

CHAIR ANDERSON said he believes a \$275 increase a year [for a \$300 fee for large employers] is too much and thus he wouldn't support it because some seasonal companies have 4 or 5 employees in the winter but 20-plus in the summer. He referred to Representative Guttenberg's remarks and pointed out that [ExxonMobil Corporation], for example, is in that 20-plus category. He suggested perhaps the House Finance Committee could look at [setting a fee for the large employers] further.

Number 0643

REPRESENTATIVE LYNN raised the possibility of a graduated system that changes to a percentage of the gross or net revenue after a certain point.

MR. URION surmised that NFIB [National Federation of Independent Business] would object and that many businesses wouldn't want to have to "disclose that to that degree."

CHAIR ANDERSON agreed it is a good idea to look at ways to capitalize on the larger companies without making the smaller companies incur debilitating fees. He asked whether anyone had an amendment to raise the fees at some level in order to get closer to the governor's requested revenue. He reminded members that an amendment was adopted at the March 12 meeting that would bring in \$2,133,675.

Number 0760

CHAIR ANDERSON moved to adopt a conceptual amendment such that \$75 would be the fee for 0-4 employees a year, \$150 would be the fee for 5-19 employees a year, and \$200 would be retained for 20-plus employees a year; that would yield \$3,866,575 if there were no "dropouts," and would raise revenue over the amended bill by another \$1,700,000. He said he'd like to raise it a little closer to the amount desired by the governor.

Number 0840

REPRESENTATIVE GUTTENBERG objected. He said the committee aide had done a good job, but he recalled asking for a larger spreadsheet to show some different numbers at the previous meeting. He suggested it would have helped to have had multiple scenarios "already built in to something." He expressed concern about the disproportionate burden on [companies with] 0-4 and 15-19 employees compared with [large oil companies like ExxonMobil Corporation, for example]. He also mentioned

[companies with] seasonal employees and the need to build those concerns into [the committee's solution]. He said he didn't think there was a simplistic answer.

CHAIR ANDERSON agreed.

Number 0919

REPRESENTATIVE DAHLSTROM reiterated that this will affect her and several members of her family, but expressed confidence that the governor will come up with the \$7 million. She said she'd rather know exactly where it will come from, rather than be surprised later.

Number 0961

REPRESENTATIVE CRAWFORD acknowledged that it isn't "fun business" to close a budget gap. He referred to Representative Guttenberg's comments and said this [amendment] doesn't address a lot of concerns. For example, a sole proprietor or a business with one employee could earn \$1 million a year, whereas a company with 100 employees in a year could do only a few hundred thousand dollars in business. He pointed out that there will be millions of dollars more to [raise] in future years. Representative Crawford suggested the need for a broad-based plan that addresses the whole problem with a phased approach over a number of years. He said he will wait for a good, honest-to-goodness fiscal plan.

CHAIR ANDERSON agreed and said he is wearing "two hats." One [of his concerns] is that there is a budget deficit that must be addressed immediately. Noting that this is one targeted area [in which to raise revenues], he said businesses should pay a little more "business tax," but asked what "a little bit more" should be. He said he was pleased that the committee passed an amendment to reduce what the governor proposed, but he now finds himself in a quandary coming back to the committee and asking for an amendment that would generate revenue closer to what the governor targeted. He said that he doesn't hear anyone else recommending this approach and said that if nobody supports this amendment, he will withdraw it and pass on the bill as amended previously. He acknowledged Representative Guttenberg's point about how the numbers were arrived at, but surmised that "everybody has an idea on what the categories could be."

Number 1118

REPRESENTATIVE LYNN commented that no combination of numbers would please everyone and that there is no perfect answer. Mentioning a desire to provide the revenue sought by the governor, he said it doesn't seem feasible when [the majority of the businesses] are mom-and-pop [operations]. Noting that he does photography on the side and has gladly paid \$50 [for a two-year license] to show his photographs at a Saturday market, he said he might not have been so eager to do that "hobby business" if he'd had to pay \$75, \$150, or \$200 [a year]. He admitted that the burden falls on those businesses [with 0-4 employees] because there are more of them. He expressed reluctance about doing that, however, and said it is too bad the committee cannot find a way to match [the business license fee] to the income [of the particular business]. He pointed out that everyone turns in a tax return, but acknowledged that it is confidential.

Number 1201

REPRESENTATIVE GATTO offered that sole proprietors are smart people and will [adapt]; for example, they may combine with others and obtain one license for the amalgamated business. "You're going to wind up with less money than you think," he predicted, indicating the numbers proposed by Chair Anderson were acceptable. He compared Alaska favorably with California, which is \$35 billion in the hole and already has a sales tax and income tax.

Number 1254

CHAIR ANDERSON withdrew his amendment. He explained that he believes businesses under the current amended bill would be paying enough. He suggested revisiting [business license fees] in the future if the department indicates that the state isn't "imposing enough business tax to operate." He suggested that the committee members concur with the witnesses like Mr. Johnson who say that businesses, with this hike, are paying enough. He requested a motion to move the bill from committee, stating that the message from the committee will be: "This is all we want businesses to pay at this stage, and it can be revisited by another legislature at another date."

Number 1299

REPRESENTATIVE GATTO moved to report HB 162, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 162(L&C) was reported from the House Labor and Commerce Standing Committee.

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:20 p.m.