

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 5, 2008

8:11 a.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Gabrielle LeDoux
Representative Jay Ramras
Representative Robert L. "Bob" Buch

MEMBERS ABSENT

Representative Carl Gatto
Representative Berta Gardner

COMMITTEE CALENDAR

HOUSE BILL NO. 391

"An Act relating to project labor agreements."

- HEARD AND HELD

HOUSE BILL NO. 350

"An Act providing for an amount to be deducted and retained for collecting and submitting the vehicle rental tax."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 391

SHORT TITLE: STATE CONSTRUCT'N PROJECT LABOR AGREEMENT

SPONSOR(S): REPRESENTATIVE(S) KELLY

02/19/08	(H)	READ THE FIRST TIME - REFERRALS
02/19/08	(H)	L&C, FIN
03/05/08	(H)	L&C AT 8:00 AM CAPITOL 17

BILL: HB 350

SHORT TITLE: VEHICLE RENTAL TAX COLLECTION

SPONSOR(S): REPRESENTATIVE(S) HARRIS

02/04/08	(H)	READ THE FIRST TIME - REFERRALS
02/04/08	(H)	L&C, FIN

02/25/08 (H) L&C AT 3:00 PM CAPITOL 17
02/25/08 (H) Heard & Held
02/25/08 (H) MINUTE(L&C)
03/05/08 (H) L&C AT 8:00 AM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE MIKE KELLY
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 391 as the prime sponsor.

REBECCA LOGAN, President
Associated Builders and Contractors, Alaska Chapter (ABC)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 391.

JAMES GILBERT, President, Udelhoven Oilfield System Services,
Inc. (UOSS)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 391.

DON ETHERIDGE, Lobbyist
Alaska AFL-CIO
Juneau, Alaska

POSITION STATEMENT: Testified on HB 391.

CHIP THOMA
Juneau, Alaska

POSITION STATEMENT: Testified on HB 391.

PETE FELLMAN, Staff
to Representative John Harris
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions on HB 350.

JOHANNA BALES, Deputy Director
Anchorage Office
Tax Division
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 350.

ACTION NARRATIVE

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at [8:11:12 AM](#). Representatives LeDoux, Ramras, Neuman, and Olson were present at the call to order. Representative Buch arrived as the committee was in progress.

HB 391-STATE CONSTRUCT'N PROJECT LABOR AGREEMENT

[8:11:50 AM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 391, "An Act relating to project labor agreements."

[8:12:01 AM](#)

REPRESENTATIVE NEUMAN moved to adopt the proposed committee substitute (CS) for HB 391, labeled 25-LS1493\C, Wayne, 2/26/08, as the working document. There being no objection, Version C was before the committee.

[8:12:11 AM](#)

REPRESENTATIVE MIKE KELLY, Alaska State Legislature, explained that one provision in the Alaska Gasline Inducement Act (AGIA) requires the successful licensee to enter into a collective bargaining project labor agreement. Collective bargaining project labor agreements require contractors to remit fringe benefit payments into union health and pension plans on behalf of project workers. When non union companies are employed on such projects, their workers must make contributions to the union health, training, and pension contribution plans instead of their own. However, their contributions may provide little or no benefit to them, since the employee may not be employed long enough to meet the vesting thresholds of the union plan. At the same time, the employee is either not contributing to his/her non union company pension plan or is required to contribute to both plans. This bill would provide employees the option to elect to have fringe benefit payments or other contributions made on his/her behalf to either the employer's program or to the applicable union trust fund. This bill would ensure that the project labor agreement contains adequate safeguards to protect non union workers so they will benefit from the pension contributions that they make.

REPRESENTATIVE KELLY also pointed out that under HB 391, any state mandated collective bargaining project labor agreement

must allow employees to elect whether to participate in the employer's existing fringe benefit plan or in the applicable union trust fund. He related that all unions he is familiar with offer good plans. However, non union companies also offer competitive plans, too. Nevertheless, the point is to allow the employee to make the final decision of which plan to accrue benefits. This bill would require contractors, under collective bargaining project labor agreements, to permit their employees to execute a "Benefits Election Declaration". Thus, HB 391 would support Alaskan workers such that non union workers will have the opportunity to benefit from the pension plans that they have been making contributions. He characterized HB 391 as a bill that addresses a fairness issue, one that would provide equity for non union workers.

[8:17:15 AM](#)

REPRESENTATIVE KELLY, in response to Representative Neuman, recapped action on HB 177, the Natural Gas Pipeline (AGIA). He noted that he offered an amendment to AGIA that did not require a collective bargaining element. However, HB 177 was amended on the House floor to add the collective bargaining project agreement process.

[8:18:43 AM](#)

REPRESENTATIVE NEUMAN inquired as to whether a union welding apprentice would have preference over a welder who had worked for 30 years.

REPRESENTATIVE KELLY answered that HB 391 does not address hiring preferences, but focuses on the fringe benefits portion. He reiterated his earlier testimony regarding the employee's choice of pension plans. He posed a scenario in which an employee who is hired by the IBEW 1547, but has worked for a non union employer, could elect to select the benefit plan offered by IBEW 1547 or the non union employer with whom the employee has a long history of employment. He further explained that HB 391 has a narrow scope, limited to the selection of the benefit package. This bill would benefit non union employees who may work for six months or a year under a collective bargaining plan by electing to have their benefits continue to go into the non union plan rather than to switch to the union plan, he stated.

[8:22:01 AM](#)

REPRESENTATIVE NEUMAN inquired as to whether the non union company would be encouraged to increase its benefits to match the union benefit plan.

REPRESENTATIVE KELLY opined that an employee certainly would compare plans to select the best benefit plan.

CHAIR OLSON announced that public testimony would be held open on HB 391.

8:23:45 AM

REBECCA LOGAN, President, Associated Builders and Contractors, Alaska Chapter (ABC), characterized HB 391 as a good bill for all Alaskan workers. Everyone is looking forward to working on some of the mega projects that the state is considering, along with the financial boom, she opined. However, the majority of non union workers are financially disadvantaged under typical project labor agreements by being forced to contribute to fringe benefits in the union trust fund. She posed a scenario in which a typical trade craft fringe benefit package ranges from \$14-17 per hour, which translates to a total of \$25,000-\$36,000 annually that is paid into fringe benefits packages. However, if an employee works on a project that is covered under a project labor agreement and returns to his/her non union job, that person leaves behind fringe benefits paid into the collective bargaining benefits plan. She opined that HB 391 does a good job of addressing that basic issue by allowing them a choice of which plan to opt for during the hiring process. She encouraged members to support HB 391.

8:25:18 AM

JAMES GILBERT, President, Udelhoven Oilfield System Services, Inc. (UOSS), read from a prepared statement as follows [original punctuation provided]:

My company employs about 450 Alaskan workers.

I am here to testify in support of HB 391.

Project Labor agreements limit competition by forcing non-union employers to pay benefits twice: once to the union plan and once to their existing plans. This double payment causes non-union contractors to have a bloated labor cost and therefore, to be non-competitive in the bidding process. AGIA mandates

that a project labor contract agreement be negotiated at the same time that it mandates that the project owner use Alaska contractors to the maximum extent possible.

These two mandates contradict each other.

In addition to the double payment standard - standard project labor agreements state that non-union employers who contribute fringe benefits into local, regional, or national trust funds are bound to all lawful terms and conditions of such trust agreements and all amendments thereto. This means that a non-union contractor is bound to cover future unfunded vested liabilities of a union pension plan. Several months ago, a non-union contractor in Fairbanks was given a bill for close to \$100,000 for his portion of the unfunded vested liability of a local union pension plan. The threat of such future liability is another barrier to competition.

HB 391 goes a long way in addressing some of the unfair, discriminatory terms of a project labor agreement.

I encourage your support of the bill.

[8:27:15 AM](#)

MR. GILBERT, in response to Representative Neuman, answered that without HB 391 project costs would be increased and it is likely that non union companies would not be involved in the project.

[8:27:50 AM](#)

REPRESENTATIVE LEDOUX stated that Mr. Gilbert has testified that project labor agreements require the employer to bear a portion of unfunded liabilities. She inquired as to whether the sponsor could speak to unfunded liabilities.

REPRESENTATIVE KELLY related his understanding that employers are sometimes required to pay a portion of the unfunded vested liability of a local union pension plan, but noted that he is not an expert. In further response to Representative LeDoux, Representative Kelly answered that he thought an employee's decision to elect to select union benefits would trigger the situation that Mr. Gilbert described.

[8:29:49 AM](#)

DON ETHERIDGE, Lobbyist, Alaska AFL-CIO, applauded Representative Mike Kelly for his work in the best interest of employees who work under the project labor agreement(PLA). The AFL-CIO is not opposed to HB 391. However, he expressed concern over some provisions of the bill. He related his hope to offer specific recommendations as the bill moves through the process and the AFL-CIO attorneys' review any legal issues.

[8:31:12 AM](#)

MR. ETHERIDGE partially read a prepared statement, as follows:
[original punctuation provided]

First of all, the notion that the PLAs discriminate against non-union workers is a fallacy. Most non-union workers who have gone to work under the terms of a PLA have realized the superior benefits offered by the joint labor-management trust fund. In fact many of the workers that realize the benefits of a PLA stay on with the unions after the project is completed, once they realize how good the benefits are under the terms of the collective bargaining agreement.

Rep. Mike Kelly in his press release identified three primary fringe benefits that would discriminate against non-union employees working under a PLA: health or medical, training, and pension plans.

Contrary to the claims the non-union employers fringe benefit plans offered under the project labor agreements do not discriminate against non-union employees.

I'd like to address each one in order.

MEDICAL: Health plans are typically superior and employees become participants as soon as the minimum qualifying requirements are met. In a typical labor-management sponsored health plan an employee puts in around 300 qualifying hours, usually not more than a month and a half on a 7-10 schedule, and no different than what a long time union member must do to qualify.

Additionally, unlike typical non-union plans, participants build up an hour bank that can cover them with the finest medical plans for up to a year after the project is finished. I know of no non-union employer plan that offers comparable health benefits. Typically coverage under non-union plans cease immediately upon termination of the employee.

TRAINING: Training contributions make participants eligible to avail themselves of any skill improvement training available to union members as well. If contributions are made on behalf of any employee, that employee is entitled to training such as OSHA training, Hazwopper, CPR, 1st aid, skill specific upgrade training and dozens of other classes. I don't know of any comparable training programs in the non-union sector.

The only question that often arises and which is probably the impetus for the introduction of this bill comes in the context of PENSION CONTRIBUTIONS. I know you are all familiar with defined benefit plans. Universally, DB plans require 5 years of vesting for participants to earn benefits not 10 years like it used to be when the TAPS line was constructed, and the fact is that a gas pipeline project may not last long enough for a new participant to vest, though that is uncertain at this point.

Accordingly, organized labor fully expects for the licensee or whomever is negotiating the terms of a PLA to bring up alternatives to defined benefits negotiations, and of course many of the unions offer both defined benefit as well as defined contribution plans and fully expect the unions will agree to some sort of hybrid agreement that would allow fully vested union members to continue with their existing pension plans and an option that would allow what has been suggested in this bill.

[8:35:29 AM](#)

CHIP THOMA informed members that he has held four good jobs, which have all been union jobs. He related that he was a painter's apprentice in the Washington, D.C. area during high school, which helped him pay for his first year of college. He went on to describe his union jobs working for a mill in the

Washington state area and later on the Alaskan pipeline. He also related his own substantial bicycle injury and major surgery that were covered by the excellent medical coverage that was offered in his benefit package.

[8:39:12 AM](#)

CHAIR OLSON announced that he would hold public testimony open on HB 391.

HB 350-VEHICLE RENTAL TAX COLLECTION

[8:39:48 AM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 350, "An Act providing for an amount to be deducted and retained for collecting and submitting the vehicle rental tax." [Before the committee was proposed committee substitute (CS) labeled 25-LS1362\C, Bullock, 2/22/08.]

PETE FELLMAN, Staff, to Representative John Harris, Alaska State Legislature, outlined issues the committee raised on HB 350. He explained that HB 350 only applies to the vehicle rental tax and does not suggest a rebate for all taxes collected by third parties. He referred to a chart labeled, "FY 2007 timely filing credits 2% not to exceed \$4,000" and explained that the original bill established a 3 percent rebate of the 10 percent state vehicle rental tax collected by businesses on behalf of the state. He pointed out that the chart identifies all state taxes collected by third parties. He stated that the [column labeled, "current credit"] shows the amount that is rebated to businesses that collect certain state taxes. He noted the fees that credit card companies charge businesses. And lastly, he pointed out that if the rebate had a cap placed on it by quarter, it would adversely affect businesses in tourism due to fluctuation between earnings for quarters.

[8:42:36 AM](#)

REPRESENTATIVE NEUMAN asked for an explanation of the chart column titled, "2% not to exceed \$4,000" and asked if that caps the rebate amount to \$4,000 for each company.

MR. FELLMAN answered that the chart does not reflect what is currently in HB 350. The chart attempts to provide information based on questions by members at the last hearing on HB 350. He explained that Version C would allow a 3 percent rebate of the

state vehicle rental tax collected by businesses which is capped at \$1,000 per quarter. In further response to Representative Neuman, Mr. Fellman explained that some businesses earn most of their income in two quarters, so the effect of the \$1,000 cap per quarter is to limit the rebate to \$2,000 annually.

[8:44:44 AM](#)

MR. FELLMAN, in response to Representative LeDoux, pointed out that the chart is to provide information for members to assess the effect on businesses and the state, as well as the numbers of businesses that would be affected by the reducing the rebate to 2 percent with a \$4,000 cap.

[8:45:58 AM](#)

REPRESENTATIVE RAMRAS inquired as to whether Mr. Fellman could explain the 2 and 3 percent rebate.

MR. FELLMAN explained that the 3 percent represents the amount of money the businesses would be allowed to retain for collecting the vehicle rental tax for the state. Version C sets the rebate at 3 percent with a \$1,000 cap. The chart provides figures to reflect a 2 percent rebate with a \$4,000 cap as a result of questions that members had at the last hearing.

REPRESENTATIVE RAMRAS asked if the 2 percent rebate is derived from the 3 percent tax rebate reflected in Version C.

MR. FELLMAN reiterated that the 3 percent is the percent tax [rebate] to the business owner for collecting the tax. The 2 percent represents a [rebate] for comparison.

[8:48:24 AM](#)

REPRESENTATIVE LEDOUX inquired as to the reason that the vehicle rental tax was singled out for a rebate instead of offering a rebate to third parties who collect any tax on behalf of the state as a policy decision.

MR. FELLMAN explained that the vehicle rental industry brought to the sponsor's attention that collecting the vehicle rental tax is a financial burden.

CHAIR OLSON suggested that examining all of the excise taxes may take considerable time. The vehicle rental tax is the only tax being considered by the committee.

REPRESENTATIVE LEDOUX asked for clarification on a line item in the chart for other tobacco products tax.

MR. FELLMAN, in response to Representative Ramras, related that currently, some industries do not offer a timely filing credit. He explained the chart. In further response to Representative Ramras, Mr. Fellman offered that HB 350 proposes a 3 percent rebate to companies. At the last hearing, some committee members thought the rebate was too high, so the chart reflects 2 percent.

[8:56:01 AM](#)

JOHANNA BALES, Deputy Director, Anchorage Office, Tax Division, Department of Revenue (DOR), explained that Version C represents the vehicle rental tax only with a three percent timely filing credit with a cap at \$1,000 per quarter. During the last hearing, Representative Gatto expressed concern about timely filing credits for all state tax types. He requested that the division prepare a chart to demonstrate the effects of a timely filing credit to all taxpayers who collect a tax from a third party on behalf of the state. Thus, all tax types were identified ranging from alcohol taxes and salmon enhancement taxes to tire fees. However, since an income tax is paid on behalf of the person remitting the tax and not from a third party, income taxes are not listed in the chart. However, excise taxes are collected from another person and remitted to the state. Currently, three tax types are provided a timely filing credit: [the tobacco products tax, the motor fuel tax, and the tire fee.] At the last hearing Representative Gatto also expressed concern that not all taxpayers are entitled to the timely filing credit. The chart reflects a 2 percent rebate since at the 3 percent threshold the rebate appeared to significantly impact the state. She related her understanding that the prime sponsor is interested in offering the timely filing credit to the companies that collect the vehicle rental tax, but would allow the committee to determine whether to expand the bill to consider other taxpayers.

MR. FELLMAN, in response to the Representative Ramras, responded that if the committee elected to adopt a CS that reflected 2 percent for timely filing credit, the three percent would be nonexistent.

[8:59:15 AM](#)

REPRESENTATIVE NEUMAN referred to the chart and inquired as to whether the cost for the vehicle rental tax would be \$65,000 per quarter or year.

MR. FELLMAN answered that the total cost would be a \$65,000 reduction in tax collected annually to the state. Of the 117 taxpayers, only 7 would be affected by the cap, which would result in a total of \$65,000 for the timely filing credit.

REPRESENTATIVE NEUMAN referred to the fiscal note of \$265,000.

MR. FELLMAN answered that the fiscal note refers to the original bill without a cap on the timely filing fee. In further response to Representative Neuman, Mr. Fellman agreed that \$65,000 would be the amount not retained by the state.

[9:01:33 AM](#)

REPRESENTATIVE RAMRAS inquired as to the source of funding.

MR. FELLMAN reiterated the tax represents 2 percent of the tax collected by the business. In further response to Representative Ramras, Mr. Fellman answered that a 2.5 percent rebate could be a compromise rate.

[9:04:04 AM](#)

CHAIR OLSON offered to have two committee substitutes prepared for the committee, along with spreadsheets that reflect the timely filing credit for the committee's consideration.

[9:05:33 AM](#)

MS. BALES, in response to Representative LeDoux, explained that the current timely filing credit for other tobacco products tax is .4 percent and not 4 percent, which is less than one percent without a cap. If the timely filing credit for other tobacco products tax was increased to 2 percent but was capped at 4,000 a year, the cost to the state would be \$4,181. The cost to the state is relatively small for the projected 2 percent timely filing credit since it is capped at \$4,000. Currently, some "other tobacco products tax" taxpayers accrue a timely filing credit of \$11,000, even at the lower rate of .4 percent.

MS. BALES, in response to Representative LeDoux answered that larger dealers would be allowed a smaller timely filing credit under the proposed cap.

9:07:00 AM

REPRESENTATIVE NEUMAN inquired as to the discussion during the time the legislature set the vehicle rental tax at 10 percent. He further inquired if the legislature considered a timely filing credit at the time the vehicle rental tax was set.

MR. FELLMAN answered that he did not know.

MS. BALES, in response to Representative Neuman, explained that in 2003 when the vehicle rental was established, the legislature reviewed other states' taxes and set the passenger vehicle rental tax at 10 percent. Additionally, the legislature set the recreational vehicle tax at 3 percent. In further response to Representative Neuman, Ms. Bales agreed that the vehicle rental tax is listed as a line item cost so the consumer pays the tax and the dealer remits the tax to the state.

REPRESENTATIVE NEUMAN inquired as to whether the administrative costs are passed on to the consumer by the dealer. Representative Neuman further inquired as to whether the tax, which could vary between 2 to 3 percent could be tacked on to the business license fees for simplicity and to reduce paperwork for businesses.

MS. BALES stated that she thought that businesses probably do pass on their overhead costs to consumers. She pointed out that since the individual taxpayer is the ultimate taxpayer, to require the dealer collect the tax saves the state collection costs. If the state were to collect directly from the individual, it would need to contact each person who rented vehicles. When the state collects the tax from dealers, it reduces its base for collections. Thus, offering a timely filing credit to businesses helps offset the administrative costs businesses incur when collecting the vehicle rental tax. She noted currently the state allows 3 types of businesses to qualify for a timely filing credit.

MR. FELLMAN, in response to Representative Ramras, opined that businesses who receive a timely filing credit ranging from 2 to 3 percent may choose to pass on their administrative costs to the consumer. However, since the business collects a 10 percent tax, HB 350 would authorize the business to withhold from 2 to 3 percent. The committee will decide the timely filing credit amount which will be deducted from the 10 percent total tax collected.

REPRESENTATIVE RAMRAS inquired as to whether the 2 to 3 percent tax represents the timely filing credit.

MR. FELLMAN agreed that the timely filing credit is applied towards the 10 percent total tax collected.

[9:14:59 AM](#)

REPRESENTATIVE LEDOUX inquired as to whether the businesses are required to place the vehicle rental tax collected in an interest bearing account on behalf of the state to accrue interest from the collection date to the quarterly remittance date.

MR. FELLMAN said he was not sure.

REPRESENTATIVE RAMRAS related his experience since his company collects a 3 percent bed tax and derives benefit for the 30 day period of time the funds are held prior to remittance. He opined that interest represents a fractional amount. Thus, the Fairbanks North Star Borough does not require hotels to account for the fractional amount of income derived.

[9:18:10 AM](#)

MR. FELLMAN, in response to Representative Ramras, answered that the proposed 2 percent could be taken from the 3 percent tax if the perspective is that the 3 percent is derived from the 10 percent total vehicle rental tax collected.

[HB 350, Version C, was held over.]

[9:19:53 AM](#)

ADJOURNMENT

There being no further business before the committee, the meeting was adjourned at 9:19 a.m.