

~~"An Act relating to instruction centers in public buildings; effective date."~~

"An Act relating to pay differentials between state ferry employees residing inside and outside the state."

COMMITTEE REPORT

3/11/76

HOUSE

Mr. Speaker:

Date March 18 1976

The Committee on FINANCE has had HB 842

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR HB 842 AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

Introduced: 2/26/76
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 842

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to pay differentials between state
7 ferry employees residing inside and outside the state."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 23.40.040 is amended to read:

10 Sec. 23.40.040. COLLECTIVE BARGAINING AGREEMENT. The commissioner
11 of public works or his authorized representative, in accordance with
12 secs. 10 - 30 of this chapter, may negotiate and enter into collective
13 bargaining agreements concerning wages, hours, working conditions, and
14 other employment benefits with the employees of the division of marine
15 transportation engaged in operating the state ferry system as masters
16 or members of the crews of vessels or their bargaining agent. No
17 collective bargaining agreement is final without the concurrence of the
18 commissioner of public works. The commissioner of public works may
19 make provision in the collective bargaining agreement for the settlement
20 of labor disputes by arbitration, and for area differentials in pay as
21 between employees residing inside and outside the state, not to exceed
22 six pay steps.
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AMENDMENT.

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OFFERED IN THE HOUSE:

BY: State Affairs

TO: _____ HOUSE BILL No. 842

SENATE BILL No. _____

PAGE: 1

LINE: 21

Insert a period (".") after the word "state" and delete rest of sentence.

2213
3-15

Original sponsor: Judiciary Committee



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IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 842

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to pay differentials between state ferry employees residing inside and outside the state."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.040 is amended to read:

Sec. 23.40.040. COLLECTIVE BARGAINING AGREEMENT. The commissioner of public works or his authorized representative, in accordance with secs. 10 - 30 of this chapter, may negotiate and enter into collective bargaining agreements concerning wages, hours, working conditions, and other employment benefits with the employees of the division of marine transportation engaged in operating the state ferry system as masters or members of the crews of vessels or their bargaining agent. No collective bargaining agreement is final without the concurrence of the commissioner of public works. The commissioner of public works may make provision in the collective bargaining agreement for the settlement of labor disputes by arbitration. A collective bargaining agreement negotiated under authority of this section shall provide for an area differential in pay as between employees residing inside and outside the state to reflect the difference in the cost of living for those employees.



STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH - STATE CAPITOL
JUNEAU, ALASKA 99801

MEMORANDUM

March 12, 1976

SUBJECT: Legal issues involved in a legislative proposal to require any collective bargaining agreement entered into between the state and ferry employees to include an area pay differential as between employees residing inside and outside the state.

TO: Representative Gardiner

FROM: Joe Guthrie

This legislative proposal must be analyzed in terms of the two roles in which the state is cast vis-a-vis negotiating with ferry employees. First, the state is an employer, negotiating a contract with its employees on the various subjects incidental to their employment. As such, it is subject to federal and state law regarding employer-employee relations. Secondly, this proposal is a manifestation of legislative belief that a pay differential between ferry employees residing inside and outside the state is right, just, and a fair labor practice in particular labor management negotiations. As such this exercise of the state's power is "state action" subject to the constraints placed on the state's exercise of power by the U. S. Constitution.

As an employer, the state is subject to the Public Employment Relations Act (AS 23.40.070-260) and also federal laws governing labor practices. The proposal does not seem to fall within the prohibitions of any of the acts we reviewed, although our review was by no means exhaustive. A person with greater familiarity with the subject area would be able to furnish the committee with a more reliable answer.

As state action, this proposal is subject to the limitations imposed on the state's exercise of power by the Supremacy Clause of the U. S. Constitution. This means that if federal law regarding collective bargaining with respect to seamen is contrary to our proposal, or if federal law manifests an intent to exclude state regulation from the particular subject area addressed by this proposal, the proposal is

Representative Gardiner
March 12, 1976
Page #2

unconstitutional. A state law conflicts with federal law when both regulations cannot be enforced without impairing federal superintendance of the field. Our examination of federal law concerning collective bargaining and wages was hampered by our lack of comprehensive knowledge of this field, but we found no conflicts between the proposal and federal law, nor any intention on the part of federal law to preempt state regulation from the subject matter of this bill.

Preemption of state regulation may also be found even where the Congress has not enacted conflicting legislation or has not expressed an intention to preempt the field if the subject matter to be regulated are in their nature national in scope or admit of one uniform system or plan. In this system exclusive regulation by Congress is presumed to be required, and the state may not regulate in that area. In determining whether the state is preempted under that test, one might ask what would happen if all the states enacted statutes which provided for pay differentials reflecting the cost of living as between state employees residing inside and outside the state. If such a situation would result in confusion which would demand resolution by a uniform scheme, then it is self evident that state legislation in this field would be preempted. Since we have not found any cases which might be instructive on this issue, we can only be speculative as to how a court would resolve this issue.

As state action, this proposal is subject to the limitations imposed by the Fourteenth Amendment of the U. S. Constitution requiring that the state's exercise of power not deny equal protection of the laws. The proposal would draw a distinction between employees residing inside and outside the state. However, unless the proposal was found to penalize the exercise of the employees fundamental right to travel, a rational basis may be found for the discrimination by referring to the cost of living in both places, permitting a court to uphold this proposal. If the court construed this proposal as penalizing an employee's exercise of his fundamental right to travel, then the state would have to show a compelling state interest to justify the difference in treatment. However, the right to travel has usually been invoked to invalidate durational residency requirements which penalize persons who exercise their right to travel interstate by depriving them of eligibility for state benefits. It is our feeling that the threshold requisite for establishing an infringement of the right to travel is not reached by providing that an employee would lose pay if he moves from Southeast Alaska to Seattle.

Representative Gardiner
March 12, 1976
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As state action, this proposal is subject to the limitations imposed on the state's exercise of power by the Commerce Clause of the U. S. Constitution. The federal government is granted plenary power over the regulation of interstate commerce. While the states, in the exercise of their police power, may regulate that part of interstate commerce which occurs within the borders of the state if such regulation is not unduly burdensome, the police power does not extend to the regulation of commerce as between the states. Since this proposal would affect interstate ferry trips between Southeastern ports and Seattle, this proposal would infringe on the federal governments plenary power to regulate interstate commerce. A court would have to find that the state was acting in its role as employer, rather than regulator, in order for the commerce clause objection to be overcome.

JG:smh

FISCAL NOTE

Second Session - Ninth Legislature

I. REQUEST

Bill No. HB 842

Title: Pay Differentials between State Ferry Employees Residing Inside & Outside

Requested by: _____ Date: _____ Alaska

Return Date Requested: _____

Agency: Administration Program: Budget & Management

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Marine Transportation

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES			1,162.3	2,325.3	3,488.0	4,650.6
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			1,162.3	2,325.3	3,488.0	4,650.6

B. FUNDING: (Thousands of dollars)

GENERAL FUND			1,162.3	2,325.3	3,488.0	4,650.6
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P. /T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attachment.

IV. ATTACHMENTS

V. DATE: 4/15 PREPARED BY: Ronald B. Lind

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 Division of Marine Transportation

Ronald B. Lind, Director
 Division of Budget and Management
 Department of Administration

FISCAL EFFECTS
HB 842

(COLA for Marine Transportation Employees in Alaska)

UNIT	Average Monthly FY 77 Wages (Incl. Eligible Benefits)	COLA %	Resulting Monthly Increase for FY 78	Number of Alaskan Employees	Total Cost (Monthly)	Total Cost (Yearly)
IBU	\$2,755	31%	\$ 854	388	\$331,371	\$3,976,452
MEBA	3,760	30%	1,128	8	9,024	108,288
MM & P	3,834	30	1,150	41	47,158	565,896
Total					\$387,553	\$4,650,636

Assumptions & Methodology:

- (1) Average monthly wages are for the period from 7/1/76 to 6/30/77 and include actual average wages per signed contracts with the appropriate union with the exception of MEBA. Average monthly wages includes benefits which are eligible for increases when the basic wage increases (benefits computed at 50%).
- (2) COLA based upon U.S. Department of Labor - Autumn 1974 Urban Family Budgets & Comparative Indexes for Selected Urban Areas. The COLA for Alaska was based upon the Anchorage vs. Seattle indices for intermediate and high income families with some interpolation between the two.
- (3) The increases in monthly costs for FY 78 does not take into account any wage increases given to all employees; thus, the base wage is admittedly low.
- (4) Costs are in constant dollars at the FY 77 value.
- (5) Full COLA for Alaska resident ferry employees assumed to be implemented over a four year period in equal (1/4) increments. Thus, year 1 = (1/4) x (4,650,636); year 2 = (2/4) x (4,650,636); year 3 = (3/4) x (4,650,636); year 4 = (4/4) x (4,650,636).

SEE
REVISED
FISCAL NOTE
4/15/76

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST

Bill No. House Bill 842
 Title: Pay Differential for State Ferry Employees
 Requested by: Legislative Finance Date: March 16, 1976
 Return Date Requested: March 17, 1976
 Agency: Public Works Program: Marine Transportation

II. FISCAL DETAIL

Budget Request Unit(s) Affected: _____

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Any application of a pay differential would necessarily have to be applied in the form of a special cost of living allowance as opposed to a wage differential.

The cost of such an application would depend upon the rate established and cannot be defined in monetary terms herein.

The State is currently committed to a two year contract with IBU and a three year contract with MM & P. Negotiations are still in progress with MEBA.

Realistically, the first application of this differential cost of living allowance pay would come with the upcoming IBU renegotiations, followed the next year with both MM & P and MEBA.

IV. ATTACHMENTS

V. DATE: 3-17-76 PREPARED BY: [Signature]

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)