

COMMITTEE REPORT
SENATE

5/13/76

_____ Date

Mr. President:

The Committee on Finance has had CS HB 893 (Fin)
g.o. bonds, bills & capital improvement of the state
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 _____ and that
CS for _____ do pass
- (and) recommends it be referred to the _____
committee
- reports it back without recommendation
- AND attaches a report of its intent
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____
_____ recommends: _____
_____ recommends: _____

_____ Chairman

Original sponsor: State Affairs Committee

Offered: 5/6/76
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 893 (Finance)

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 general obligation bonds, bills and
capital improvements of the state; and providing for an
8 effective date."

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

10 * Section 1. AS 15.15.040(b) is amended to read:

11 (b) The lieutenant governor shall prepare and issue or make avail-
12 able with each sample ballot for a special election the statement pro-
13 vided for in AS 24.30.037 [OF THE SCOPE OF EACH PROJECT INCLUDED] in a
14 proposed general obligation bond issue creating a state debt for capital
15 improvements that is submitted to the electorate for ratification under
16 AS 15.15.030(11). The statement [OF SCOPE FOR EACH PROJECT] shall be
17 the same statement included in the authorization bill. When a ballot
18 proposition is submitted to the voters at a primary or a special elec-
19 tion, a statement the same as that provided for in the election pamphlet
20 under AS 15.57.010(2) shall be made available with each sample ballot.

21 * Sec. 2. AS 15.57.010 is amended to read:

22 Sec. 15.57.010. CONTENTS OF PAMPHLET. The lieutenant governor
23 shall mail to each registered voter of the state before each state
24 general election an election pamphlet containing photographs and cam-
25 paign statements of eligible nominees who desire to participate in the
26 pamphlet and information and any recommendations regarding the retention
27 of judicial officers supplied by the judicial council. The pamphlet
28 shall also contain

29 (1) on a separate page, a map of the election district or

COMMITTEE COPY

1 districts to which the pamphlet has been directed, together with a
2 narrative description of the district boundaries;

3 (2) for each ballot proposition,

4 (A) a neutral summary of the proposition prepared by the
5 Legislative Affairs Agency;

6 (B) a statement by persons or organizations supporting
7 the proposition; and

8 (C) a statement by persons or organizations opposing the
9 proposition; and

10 (3) for each bond question a statement [OF THE SCOPE OF EACH
11 PROJECT] required by AS 24.30.037 to be included in the authorization
12 bill. The statement shall indicate that any part of the authorization
13 may be changed by subsequent action amending the scope, description,
14 location, or dollar amount of the capital improvement projects.

15 * Sec. 3. AS 24.20.201(a)(5) is amended to read:

16 (5) review all proposed changes to agency authorized operat-
17 ing and capital improvement budgets;

18 * Sec. 4. AS 24.30.037 is amended to read:

19 Sec. 24.30.037. GENERAL OBLIGATION BOND BILLS. A bill authorizing
20 the issuance of general obligation bonds creating a state debt for
21 capital improvements shall contain a statement of the type of project
22 and, where appropriate, the location and dollar amount of each project [
23 [SCOPE OF EACH PROJECT INCLUDED IN THE PROPOSED BOND ISSUE. THE STATE-
24 MENT SHALL INCLUDE A BRIEF DESCRIPTION OF EACH CAPITAL IMPROVEMENT
25 PROJECT, ITS LOCATION, AND, IN DOLLARS, THAT PORTION OF THE TOTAL BOND
26 ISSUE TO BE ALLOCATED TO THE PROJECT].

27 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 13, 1976

SUBJECT: CS HB 893 - Bonding
TO: State Affairs Committee
FROM: Billy G. Berrier *BGB*
Director, Legal Services Division

I have prepared the committee substitute as directed by the committee. As you are aware I have serious reservation about the workability of the amendment. The problem with the present law is indicated by the objections raised by C. Richard Walker, the State Bond Counsel, in his letter of March 1, 1976 which has been furnished to you. The change to a requirement of "an informative summary" would still leave the drafting problem of the adequacy of the summary.

I realize the objective is to present as much information to the legislature and public as possible but considering the strictness with which requirements relating to bonding are construed and the ambiguity of the phrase "informative summary" I strongly recommend consultation with bond counsel before adoption.

The change in Section 5 while clear in concept uses language that could create difficulties when read with Chapter 26, SLA 76 which has just been adopted. The language here could blur the clear distinction between "allocation" and "appropriation" created in Chapter 26. I would suggest review by Legislative Finance since simply changing "allocation" to "appropriation" would not work.

BGB:smh

ALASKA STATE LEGISLATURE

NINTH Legislature SECOND Session

HOUSE BILL NO. 893

By STATE AFFAIRS COMMITTEE

"An Act relating to general obligation bond bills; and providing for an effective date."

500 Bond Bills

Introduced in the House 4/5/76, 1976

HISTORY IN THE HOUSE

1976	Apr 5	Read first time and referred to Committee on State Affairs and Finance
	Apr 16	Reported back with recommendation that <i>State Affairs refer up to Finance</i>
	May 6	<i>Finance refer up to State Affairs</i> Read second time and
	May 11	<i>CS (Finance) referred</i> Read third time and
	May 12	<i>Reconsideration table</i>
	May 11	PASS <i>47</i> Effective Date Yeas <i>37</i> Yeas Nays <i>10</i> Nays Absent Absent Excused Excused
	May 11	Reconsideration
	May 12	PASS <i>21</i> Effective Date Yeas <i>19</i> Yeas Nays <i>2</i> Nays Absent Absent Excused Excused
	May 12	Reported correctly engrossed
	May 12	Signed by Speaker
	May 12	Sent to Senate
		<i>Doreen Cashner</i> CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

1976	May 13	Read first time and referred to Committee on Finance
		Reported back with recommendation that
		Read second time and
		Read third time and
		PASS Effective Date Yeas Yeas Nays Nays Absent Absent Excused Excused
		Reconsideration
		PASS Effective Date Yeas Yeas Nays Nays Absent Absent Excused Excused
		Reported correctly engrossed
		Signed by President
		Returned to House
		SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	Received from Senate
	Reported correctly enrolled
	Sent to Governor
	By Governor
	Filed with Lt. Governor
	Chapter No.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S - JUNEAU 99811

May 20, 1976

The Honorable Bill Ray
Chairman
Senate Finance Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Re: CSHB No. 893 (Finance)

Dear Senator Ray:

Committee Substitute for House Bill No. 893 (Finance), an Act relating to general obligation bonds, bills and capital improvements of the state, was introduced in the Senate on May 13, 1976 and was referred to the Senate Finance Committee.

For the consideration of the Senate Finance Committee, I am enclosing a copy of a letter from Mr. C. Richard Walker, State Bond Counsel concerning the reasons for the enactment of House Bill No. 893 as well as a copy of a letter dated April 28, 1976 concerning Committee Substitute for House Bill No. 893 at the time the House Finance Committee was considering the proposed legislation.

If you or any members of the Senate Finance Committee have any questions on the material submitted, I would suggest that you contact Mr. C. Richard Walker, of the firm of Orrick, Herrington, Rowley & Sutcliffe, San Francisco, California by phone at 415-392-1122.

Very truly yours,



R. D. Stevenson
Special Assistant

cc: Sterling Gallagher
Commissioner of Revenue

C. Richard Walker
Orrick, Herrington, Rowley & Sutcliffe
Counselors and Attorneys at Law
Eleventh Floor
600 Montgomery Street
San Francisco, California 94111



1776-A TRIBUTE FROM OUR STATE TO OUR NATION 1976

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE

COUNSELORS AND ATTORNEYS AT LAW

ELEVENTH FLOOR

600 MONTGOMERY STREET

SAN FRANCISCO, CALIFORNIA 94111

TELEPHONE (415) 392-1122

CABLE "ORRICK"
TELEX 34-0973

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WILLIAM D. MEE
SIDNEY E. ROBERTS
JAMES H. BENNEY
C. RICHARD WALTER
JAMES F. CRAFTS, JR.
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ROBERT J. GLOVSTEIN
W. PEECE BADER
PAUL J. SAZ
MARTHELLEN B. CATTANI
WILLIAM L. RILEY
THOMAS UNTERMAN

April 13, 1976

Mr. R. D. Stevenson
Special Assistant
Department of Revenue
State of Alaska
Pouch SA, Alaska Office Building
Juneau, Alaska 99811

Re: House Bill No. 893

Dear Mr. Stevenson:

Your letter of April 6, requesting my comments on this bill, arrived while I was in Anchorage.

I think that the enactment of House Bill No. 893 would be highly desirable. The reasons for my belief are substantially set forth in my letter of October 2, 1975 to the State Bond Committee. In the interest of time, instead of re-stating those reasons, I have attached a copy of that letter hereto.

I believe that House Bill No. 893 should be amended to provide, in addition to the repeal of AS §24.30.037, for the repeal of the first two sentences (but not the third sentence) of AS §15.15.040(b) and of subsection (3) of AS §15.57.010. The first two sentences of §15.15.040(b) require the Lieutenant Governor to make the statement provided for in §24.30.037 available with each sample ballot for a special election. Subsection (3) of §15.57.010 requires the inclusion of the §24.30.037 statement in election pamphlets for general elections. Neither of these provisions would have any function if §24.30.037 were repealed. Moreover, they threaten greater harm to efficient State capital improvement financing than does §24.30.037 itself.

If I can answer any further questions with respect to these provisions, please let me know.

Sincerely yours,

C. S. Salladin

cc: Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
Mr. John R. Messenger
Mr. Arthur H. Peterson
Mr. Eric E. Wohlforth

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MARYELLEN B. CATTANI
WILLIAM L. RILEY
THOMAS UNTERMAN

October 2, 1975

Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick

Gentlemen:

Looking forward to the 1976 legislative session, I would again like to call your attention to the following legislative matters:

House Bill No. 482

This bill, introduced in May of this year, provides for a continuing appropriation for the payment of debt service on general obligation bonds of the State. I have explained the need for its enactment in previous letters, and I understand that the State Bond Committee has determined to urge its passage in the coming session.

I think the adoption of this legislation is especially important now, in view of the crisis in New York, the talk in the financial press as to the enforceability and priority of general obligation bonds of New York City and the State of New York and the resulting general concern as to the practical effect of pledges of full faith and credit, etc.

AS §37.15.030

This section provides that general obligation bonds of the State shall bear interest at an effective rate not exceeding 7% per year. As you know, in view of the doubts as to whether the last two issues could be sold within this limit and the uncertain and perhaps unfavorable future outlook for the bond market, it certainly would be advantageous to the State to change this limit to 8% or 9%, or, preferably, to eliminate the limit entirely.

AS §§15.15.040(b), 15.57.010 and 24.30.037

AS §24.30.037 was added in 1973, and provided

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Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
October 2, 1975
Page 2

that a bill authorizing the issuance of general obligation bonds "shall contain a statement of the scope of each major project included in the proposed bond issue." This section was amended in 1975 to require a statement of the scope "of each project," rather than "each major project," and to require, in addition, that the statement "include a brief description of each capital improvement project, its location, and, in dollars, that portion of the total bond issue to be allocated to the project."

AS §15.15.040(b), as adopted in 1973, required the Lieutenant Governor to prepare and issue, or make available, with each sample ballot a similar statement of the scope of each major project. That provision was amended in 1975 to correspond with the amendment of §24.30.037. It was also amended in such a manner, together with a change in §15.57.-010, as to require the inclusion of the statement of scope in the election pamphlet to be mailed to each registered voter in the case of a general election, and to provide for a separate statement to accompany each sample ballot in the case of a special election.

The Legislature, since 1973, has not always followed the requirements of its own §24.30.037 in bills authorizing general obligation bonds. Sometimes those requirements have been followed; sometimes they have been expressly made inapplicable in a particular authorization bill; and sometimes they have simply been ignored. Undoubtedly the Legislature can expressly repeal or make inapplicable these requirements in any particular bond authorization bill, and presumably the Legislature can impliedly do the same thing by enacting a bond authorization bill and simply ignoring the requirements of §24.30.037, although the latter course may raise some questions.

To the extent that the Legislature follows §24.30.037, the administration will be faced with the problem of securing new legislation each time bond proceeds are used in a way somewhat different from the statement of scope of each project, including the brief description of each project, its location, and the amount of dollars to

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE

Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
October 2, 1975
Page 3

be allocated to it. As you know, this kind of procedure can often be quite impractical and inefficient. For example, I refer you to Chapter 118, SLA 1974, listing 56 projects to be financed with \$10,400,000 principal amount of bonds authorized by that statute for the general purpose of paying the cost of trunk and secondary airport construction. This list of 56 projects would not satisfy the new requirements of revised §24.30.037, in that it does not show, in dollars, that portion of the total bond issue to be allocated to each project, in that it does not show the location in every case, and probably in that there is not a sufficient "brief description" of each project. If Chapter 118 did satisfy those requirements, and probably even in its actual form, it would be surprising if it were not found, at some time during the course of expenditure of the proceeds of these bonds, that some of those proceeds should best be expended in a way somewhat different from the list in the statute.

This problem is compounded by the requirement of §15.15.040(b) and §15.57.010 that this detailed statement be distributed to every registered voter. The probable result is that any change in use of the proceeds from the detailed statement will require another election, as well as new legislation. Again looking at Chapter 118, SLA 1974, this might, for example, be an increase in the amount to be allocated to a maintenance depot at Aniak from \$100,000 to \$120,000 and a decrease in the amount to be allocated to apron construction at Chitina from \$80,000 to \$60,000.

It has sometimes been held that the approval of a bond proposition by voters constitutes a "contract" between the government and the voters which can not be altered, without again securing the agreement of the voters, in spite of changes in conditions. The inclusion of the detailed list of projects in the authorization bill pursuant to §24.30.037 lends support to such a theory, even though the bond proposition itself merely speaks of a certain number of dollars in bonds for, e.g., capital improvements to airports. When this list is distributed to voters pursuant to an express requirement of law such as §15.15.040(b) or

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Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
October 2, 1975
Page 4

§15.57.010, and that requirement has apparently been enacted for the purpose of informing voters as to the exact use of the bond proceeds, the theory of a "contract" with the voters has very strong support.

This situation may cause a number of problems for bond counsel and in the marketing of bonds; however, I believe that the most likely and most difficult problems will be those of the state government in planning, contracting for and accomplishing capital improvements. After the bonds have been issued, a change in the use of the proceeds from the detailed list in the statement of scope of each project will probably have no effect upon the bondholders, but it could result in litigation by taxpayers causing numerous problems for the administration of state government.

I think that the Legislature should be apprised of the impracticability of the notion that every bond issue should be strait-jacketed by a mandatory, detailed list of projects, locations, dollar amounts, etc. If AS §§24.30.-037, 15.15.040(b) and 15.57.010(3) were all repealed, the Legislature could, of course, still place any restrictions upon the use of proceeds it might wish, of whatever specificity, in any particular bond authorization bill.

Sincerely yours,

C. Richard Miller

cc: Mr. Avrum M. Gross
Mr. R. D. Stevenson
Mr. Eric E. Wohlforth
Mr. Walter W. Filkin
Mr. Murray D. Snyder

GEORGE HERRINGTON
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CABLE "ORRICK"
TELE 34-0973

April 28, 1976

Mr. R. D. Stevenson
Special Assistant
Department of Revenue
State of Alaska
Pouch SA, State Office Building
Juneau, Alaska 99811

Re: Committee Substitute for House Bill No. 893

Dear Bob:

I was in New York most of last week. Upon re-
turning, I found letters from you, Larry Eppenbach and
Mr. Rhode, Administrative Assistant to Representative
Malone, all asking about this bill.

Mr. Rhode's note asked that I call him. I did,
and the enclosed letter is substantially what I told him.

Sincerely yours,

C. Richard Walker

cc: Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
Mr. Lawrence C. Eppenbach
Mr. Eric E. Wohlforth

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April 28, 1976

Mr. R. D. Stevenson
Special Assistant
Department of Revenue
State of Alaska
Pouch SA, State Office Building
Juneau, Alaska 99811

Re: Committee Substitute for House Bill No. 893

Dear Mr. Stevenson:

In accordance with your letter of April 21, I have reviewed this new version of House Bill No. 893.

I do not think that this version of the bill accomplishes anything toward alleviating the problems mentioned in our previous correspondence. Sections 1, 2 and 4 simply substitute the words "informative summary" for the phrase "statement of the scope of each project." However, AS 24.30.037, as amended by Section 4, would still require this summary to "include a brief description of each capital improvement project, its location, and, in dollars, that portion of the total bond issue to be allocated to the project." This requirement as to what must be included in the "summary" would apply to bills under AS §24.30.037, to election pamphlets under AS §15.57.010 and to materials required to be made available in connection with special elections under AS §15.15.040(b). Consequently, the situation would be the same as that under present law.

Instead of this mere change in the name of the statement or summary, and in view of apparent legislative insistence upon specific control over bond proceed expenditures, I suggest that the following language be added at the end of AS §24.30.037:

The statement shall indicate that any part thereof may be changed by subsequent legislative action before or after ratification of the proposed bond issue by the voters. Nothing in this section, in AS 15.15.040(b) or in AS 15.57.010 shall prevent subsequent legislative amendment of the scope, descrip-

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE

Mr. R. D. Stevenson
April 28, 1976
Page 2

tion or location of, or dollar allocation to, the capital improvement projects except to the extent expressly stated in the question submitted to the voters with respect to ratification of the proposed bond issue.

This change should eliminate the possibility that a second election might have to be called in order to authorize changes in particular projects included in a bond authorization. However, it would not, of course, eliminate the necessity for new legislation to provide for any such changes.

A further suggestion would be that AS §24.30.037, the first two sentences of AS §15.15.040(b) and subsection (3) of AS §15.57.010 all be repealed, as suggested in my letter of April 13, and that the Legislature adopt and rely upon sections 3 and 5 of Committee Substitute for House Bill No. 893 for control of expenditure of bond proceeds.

Sincerely yours,

C. Richard Walker

cc: Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
Mr. Lawrence C. Eppenbach
Mr. John R. Messenger
Mr. Arthur H. Peterson
Mr. Billy G. Berrier
Mr. Eric E. Wohlforth

Original sponsor: State Affairs Committee

Offered: 5/6/76
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 893 (Finance)

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 general obligation bonds, bills and
7 capital improvements of the state; and providing for an
8 effective date."

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11 (b) The lieutenant governor shall prepare and issue or make avail-
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17 the same statement included in the authorization bill. When a ballot
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29 (1) on a separate page, a map of the election district or

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6 (B) a statement by persons or organizations supporting
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16 (5) review all proposed changes to agency authorized operat-
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25 PROJECT, ITS LOCATION, AND, IN DOLLARS, THAT PORTION OF THE TOTAL BOND
26 ISSUE TO BE ALLOCATED TO THE PROJECT].

27 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S - JUNEAU 99811

May 20, 1976

The Honorable Bill Ray
Chairman
Senate Finance Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Re: CSHB No. 893 (Finance)

Dear Senator Ray:

Committee Substitute for House Bill No. 893 (Finance), an Act relating to general obligation bonds, hills and capital improvements of the state, was introduced in the Senate on May 13, 1976 and was referred to the Senate Finance Committee.

For the consideration of the Senate Finance Committee, I am enclosing a copy of a letter from Mr. C. Richard Walker, State Bond Counsel concerning the reasons for the enactment of House Bill No. 893 as well as a copy of a letter dated April 28, 1976 concerning Committee Substitute for House Bill No. 893 at the time the House Finance Committee was considering the proposed legislation.

If you or any members of the Senate Finance Committee have any questions on the material submitted, I would suggest that you contact Mr. C. Richard Walker, of the firm of Orrick, Herrington, Rowley & Sutcliffe, San Francisco, California by phone at 415-392-1122.

Very truly yours,



R. D. Stevenson
Special Assistant

cc: Sterling Gallagher
Commissioner of Revenue

C. Richard Walker
Orrick, Herrington, Rowley & Sutcliffe
Counselors and Attorneys at Law
Eleventh Floor
600 Montgomery Street
San Francisco, California 94111



"1776-A TRIBUTE FROM OUR STATE TO OUR NATION-1976"



GEORGE HERRINGTON
ERIC SUTCLIFFE
NATHAN D. ROWLEY
WALTER G. OLSON
WILLIAM D. WHEE
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TELEPHONE (415) 392-1122

CABLE "ORRICK"
TELEX 34 0973

April 13, 1976

Mr. R. D. Stevenson
Special Assistant
Department of Revenue
State of Alaska
Pouch SA, Alaska Office Building
Juneau, Alaska 99811

Re: House Bill No. 893

Dear Mr. Stevenson:

Your letter of April 6, requesting my comments on this bill, arrived while I was in Anchorage.

I think that the enactment of House Bill No. 893 would be highly desirable. The reasons for my belief are substantially set forth in my letter of October 2, 1975 to the State Bond Committee. In the interest of time, instead of restating those reasons, I have attached a copy of that letter hereto.

I believe that House Bill No. 893 should be amended to provide, in addition to the repeal of AS §24.30.037, for the repeal of the first two sentences (but not the third sentence) of AS §15.15.040(b) and of subsection (3) of AS §15.57.010. The first two sentences of §15.15.040(b) require the Lieutenant Governor to make the statement provided for in §24.30.037 available with each sample ballot for a special election. Subsection (3) of §15.57.010 requires the inclusion of the §24.30.037 statement in election pamphlets for general elections. Neither of these provisions would have any function if §24.30.037 were repealed. Moreover, they threaten greater harm to efficient State capital improvement financing than does §24.30.037 itself.

If I can answer any further questions with respect to these provisions, please let me know.

Sincerely yours,

C. Richard Walker

cc: Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
Mr. John R. Messenger
Mr. Arthur H. Peterson
Mr. Eric E. Wohlforth

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CABLE "ORRICK"
TELEX 34-0873

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MARYELLEN B. CATTANI
WILLIAM L. RILEY
THOMAS UNTERMAN

October 2, 1975

Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick

Gentlemen:

Looking forward to the 1976 legislative session, I would again like to call your attention to the following legislative matters:

House Bill No. 482

This bill, introduced in May of this year, provides for a continuing appropriation for the payment of debt service on general obligation bonds of the State. I have explained the need for its enactment in previous letters, and I understand that the State Bond Committee has determined to urge its passage in the coming session.

I think the adoption of this legislation is especially important now, in view of the crisis in New York, the talk in the financial press as to the enforceability and priority of general obligation bonds of New York City and the State of New York and the resulting general concern as to the practical effect of pledges of full faith and credit, etc.

AS §37.15.030

This section provides that general obligation bonds of the State shall bear interest at an effective rate not exceeding 7% per year. As you know, in view of the doubts as to whether the last two issues could be sold within this limit and the uncertain and perhaps unfavorable future outlook for the bond market, it certainly would be advantageous to the State to change this limit to 8% or 9%, or, preferably, to eliminate the limit entirely.

AS §§15.15.040(b), 15.57.010 and 24.30.037

AS §24.30.037 was added in 1973, and provided

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE

Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
October 2, 1975
Page 2

that a bill authorizing the issuance of general obligation bonds "shall contain a statement of the scope of each major project included in the proposed bond issue." This section was amended in 1975 to require a statement of the scope "of each project," rather than "each major project," and to require, in addition, that the statement "include a brief description of each capital improvement project, its location, and, in dollars, that portion of the total bond issue to be allocated to the project."

AS §15.15.040(b), as adopted in 1973, required the Lieutenant Governor to prepare and issue, or make available, with each sample ballot a similar statement of the scope of each major project. That provision was amended in 1975 to correspond with the amendment of §24.30.037. It was also amended in such a manner, together with a change in §15.57.-010, as to require the inclusion of the statement of scope in the election pamphlet to be mailed to each registered voter in the case of a general election, and to provide for a separate statement to accompany each sample ballot in the case of a special election.

The Legislature, since 1973, has not always followed the requirements of its own §24.30.037 in bills authorizing general obligation bonds. Sometimes those requirements have been followed; sometimes they have been expressly made inapplicable in a particular authorization bill; and sometimes they have simply been ignored. Undoubtedly the Legislature can expressly repeal or make inapplicable these requirements in any particular bond authorization bill, and presumably the Legislature can impliedly do the same thing by enacting a bond authorization bill and simply ignoring the requirements of §24.30.037, although the latter course may raise some questions.

To the extent that the Legislature follows §24.30.-037, the administration will be faced with the problem of securing new legislation each time bond proceeds are to be used in a way somewhat different from the statement of the scope of each project, including the brief description of each project, its location, and the amount of dollars to

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE

Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
October 2, 1975
Page 3

be allocated to it. As you know, this kind of procedure can often be quite impractical and inefficient. For example, I refer you to Chapter 118, SLA 1974, listing 56 projects to be financed with \$10,400,000 principal amount of bonds authorized by that statute for the general purpose of paying the cost of trunk and secondary airport construction. This list of 56 projects would not satisfy the new requirements of revised §24.30.037, in that it does not show, in dollars, that portion of the total bond issue to be allocated to each project, in that it does not show the location in every case, and probably in that there is not a sufficient "brief description" of each project. If Chapter 118 did satisfy those requirements, and probably even in its actual form, it would be surprising if it were not found, at some time during the course of expenditure of the proceeds of these bonds, that some of those proceeds should best be expended in a way somewhat different from the list in the statute.

This problem is compounded by the requirement of §15.15.040(b) and §15.57.010 that this detailed statement be distributed to every registered voter. The probable result is that any change in use of the proceeds from the detailed statement will require another election, as well as new legislation. Again looking at Chapter 118, SLA 1974, this might, for example, be an increase in the amount to be allocated to a maintenance depot at Aniak from \$100,000 to \$120,000 and a decrease in the amount to be allocated to apron construction at Chitina from \$80,000 to \$60,000.

It has sometimes been held that the approval of a bond proposition by voters constitutes a "contract" between the government and the voters which can not be altered, without again securing the agreement of the voters, in spite of changes in conditions. The inclusion of the detailed list of projects in the authorization bill pursuant to §24.30.037 lends support to such a theory, even though the bond proposition itself merely speaks of a certain number of dollars in bonds for, e.g., capital improvements to airports. When this list is distributed to voters pursuant to an express requirement of law such as §15.15.040(b) or

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE

Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
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October 2, 1975
Page 4

§15.57.010, and that requirement has apparently been enacted for the purpose of informing voters as to the exact use of the bond proceeds, the theory of a "contract" with the voters has very strong support.

This situation may cause a number of problems for bond counsel and in the marketing of bonds; however, I believe that the most likely and most difficult problems will be those of the state government in planning, contracting for and accomplishing capital improvements. After the bonds have been issued, a change in the use of the proceeds from the detailed list in the statement of scope of each project will probably have no effect upon the bondholders, but it could result in litigation by taxpayers causing numerous problems for the administration of state government.

I think that the Legislature should be apprised of the impracticability of the notion that every bond issue should be strait-jacketed by a mandatory, detailed list of projects, locations, dollar amounts, etc. If AS §§24.30.-037, 15.15.040(b) and 15.57.010(3) were all repealed, the Legislature could, of course, still place any restrictions upon the use of proceeds it might wish, of whatever specificity, in any particular bond authorization bill.

Sincerely yours,

C. Richard [Signature]

cc: Mr. Avrum M. Gross
Mr. R. D. Stevenson
Mr. Eric E. Wohlforth
Mr. Walter W. Filkin
Mr. Murray D. Snyder

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TELEPHONE (415) 392-1122

CABLE "ORRICK"
TELEX 34-0973

April 28, 1976

Mr. R. D. Stevenson
Special Assistant
Department of Revenue
State of Alaska
Pouch SA, State Office Building
Juneau, Alaska 99811

Re: Committee Substitute for House Bill No. 893

Dear Bob:

I was in New York most of last week. Upon re-
turning, I found letters from you, Larry Eppenbach and
Mr. Rhode, Administrative Assistant to Representative
Malone, all asking about this bill.

Mr. Rhode's note asked that I call him. I did,
and the enclosed letter is substantially what I told him.

Sincerely yours,

C. Richard Walker

cc: Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
Mr. Lawrence C. Eppenbach
Mr. Eric E. Wohlforth

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TELEX 34-0973

April 28, 1976

Mr. R. D. Stevenson
Special Assistant
Department of Revenue
State of Alaska
Pouch SA, State Office Building
Juneau, Alaska 99811

Re: Committee Substitute for House Bill No. 893

Dear Mr. Stevenson:

In accordance with your letter of April 21, I have reviewed this new version of House Bill No. 893.

I do not think that this version of the bill accomplishes anything toward alleviating the problems mentioned in our previous correspondence. Sections 1, 2 and 4 simply substitute the words "informative summary" for the phrase "statement of the scope of each project." However, AS 24.30.037, as amended by Section 4, would still require this summary to "include a brief description of each capital improvement project, its location, and, in dollars, that portion of the total bond issue to be allocated to the project." This requirement as to what must be included in the "summary" would apply to bills under AS §24.30.037, to election pamphlets under AS §15.57.010 and to materials required to be made available in connection with special elections under AS §15.15.040(b). Consequently, the situation would be the same as that under present law.

Instead of this mere change in the name of the statement or summary, and in view of apparent legislative insistence upon specific control over bond proceed expenditures, I suggest that the following language be added at the end of AS §24.30.037:

The statement shall indicate that any part thereof may be changed by subsequent legislative action before or after ratification of the proposed bond issue by the voters. Nothing in this section, in AS 15.15.040(b) or in AS 15.57.010 shall prevent subsequent legislative amendment of the scope, descrip-

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE

Mr. R. D. Stevenson
April 28, 1976
Page 2

tion or location of, or dollar allocation to, the capital improvement projects except to the extent expressly stated in the question submitted to the voters with respect to ratification of the proposed bond issue.

This change should eliminate the possibility that a second election might have to be called in order to authorize changes in particular projects included in a bond authorization. However, it would not, of course, eliminate the necessity for new legislation to provide for any such changes.

A further suggestion would be that AS §24.30.037, the first two sentences of AS §15.15.040(b) and subsection (3) of AS §15.57.010 all be repealed, as suggested in my letter of April 13, and that the Legislature adopt and rely upon sections 3 and 5 of Committee Substitute for House Bill No. 893 for control of expenditure of bond proceeds.

Sincerely yours,

C. Richard Walker

cc: Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
Mr. Lawrence C. Eppenbach
Mr. John R. Messenger
Mr. Arthur H. Peterson
Mr. Billy G. Berrier
Mr. Eric E. Wohlforth

Original sponsor: State Affairs Committee

Offered: 5/6/76
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 893 (Finance)

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 general obligation bonds, bills and
7 capital improvements of the state; and providing for an
8 effective date."

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

10 * Section 1. AS 15.15.040(b) is amended to read:

11 (b) The lieutenant governor shall prepare and issue or make avail-
12 able with each sample ballot for a special election the statement pro-
13 vided for in AS 24.30.037 [OF THE SCOPE OF EACH PROJECT INCLUDED] in a
14 proposed general obligation bond issue creating a state debt for capital
15 improvements that is submitted to the electorate for ratification under
16 AS 15.15.030(11). The statement [OF SCOPE FOR EACH PROJECT] shall be
17 the same statement included in the authorization bill. When a ballot
18 proposition is submitted to the voters at a primary or a special elec-
19 tion, a statement the same as that provided for in the election pamphlet
20 under AS 15.57.010(2) shall be made available with each sample ballot.

21 * Sec. 2. AS 15.57.010 is amended to read:

22 Sec. 15.57.010. CONTENTS OF PAMPHLET. The lieutenant governor
23 shall mail to each registered voter of the state before each state
24 general election an election pamphlet containing photographs and cam-
25 paign statements of eligible nominees who desire to participate in the
26 pamphlet and information and any recommendations regarding the retention
27 of judicial officers supplied by the judicial council. The pamphlet
28 shall also contain

29 (1) on a separate page, a map of the election district or

1 districts to which the pamphlet has been directed, together with a
2 narrative description of the district boundaries;

3 (2) for each ballot proposition

4 (A) a neutral summary of the proposition prepared by the
5 Legislative Affairs Agency;

6 (B) a statement by persons or organizations supporting
7 the proposition; and

8 (C) a statement by persons or organizations opposing the
9 proposition; and

10 (3) for each bond question a statement [OF THE SCOPE OF EACH
11 PROJECT] required by AS 24.30.037 to be included in the authorization
12 bill. The statement shall indicate that any part of the authorization
13 may be changed by subsequent action amending the scope, description,
14 location, or dollar amount of the capital improvement projects.

15 * Sec. 3. AS 24.20.201(a)(5) is amended to read:

16 (5) review all proposed changes to agency authorized operat-
17 ing and capital improvement budgets;

18 * Sec. 4. AS 24.30.037 is amended to read:

19 Sec. 24.30.037. GENERAL OBLIGATION BOND BILLS. A bill authorizing
20 the issuance of general obligation bonds creating a state debt for
21 capital improvements shall contain a statement of the type of project
22 and, where appropriate, the location and dollar amount of each project
23 [SCOPE OF EACH PROJECT INCLUDED IN THE PROPOSED BOND ISSUE. THE STATE-
24 MENT SHALL INCLUDE A BRIEF DESCRIPTION OF EACH CAPITAL IMPROVEMENT
25 PROJECT, ITS LOCATION, AND, IN DOLLARS, THAT PORTION OF THE TOTAL BOND
26 ISSUE TO BE ALLOCATED TO THE PROJECT].

27 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).

STATE OF ALASKA

DEPARTMENT OF REVENUE

JAY S. HAMMOND, GOVERNOR

OFFICE OF THE COMMISSIONER

POUCH S - JUNEAU 99811

May 20, 1976

The Honorable Bill Ray
Chairman
Senate Finance Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Re: CSHB No. 893 (Finance)

Dear Senator Ray:

Committee Substitute for House Bill No. 893 (Finance), an Act relating to general obligation bonds, bills and capital improvements of the state, was introduced in the Senate on May 13, 1976 and was referred to the Senate Finance Committee.

For the consideration of the Senate Finance Committee, I am enclosing a copy of a letter from Mr. C. Richard Walker, State Bond Counsel concerning the reasons for the enactment of House Bill No. 893 as well as a copy of a letter dated April 28, 1976 concerning Committee Substitute for House Bill No. 893 at the time the House Finance Committee was considering the proposed legislation.

If you or any members of the Senate Finance Committee have any questions on the material submitted, I would suggest that you contact Mr. C. Richard Walker, of the firm of Orrick, Herrington, Rowley & Sutcliffe, San Francisco, California by phone at 415-392-1122.

Very truly yours,



R. D. Stevenson
Special Assistant

cc: Sterling Gallagher
Commissioner of Revenue

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TELEX 34-0973

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April 13, 1976

Mr. R. D. Stevenson
Special Assistant
Department of Revenue
State of Alaska
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Juneau, Alaska 99811

Re: House Bill No. 893

Dear Mr. Stevenson:

Your letter of April 6, requesting my comments on this bill, arrived while I was in Anchorage.

I think that the enactment of House Bill No. 893 would be highly desirable. The reasons for my belief are substantially set forth in my letter of October 2, 1975 to the State Bond Committee. In the interest of time, instead of re-stating those reasons, I have attached a copy of that letter hereto.

I believe that House Bill No. 893 should be amended to provide, in addition to the repeal of AS §24.30.037, for the repeal of the first two sentences (but not the third sentence) of AS §15.15.040(b) and of subsection (3) of AS §15.57.010. The first two sentences of §15.15.040(b) require the Lieutenant Governor to make the statement provided for in §24.30.037 available with each sample ballot for a special election. Subsection (3) of §15.57.010 requires the inclusion of the §24.30.037 statement in election pamphlets for general elections. Neither of these provisions would have any function if §24.30.037 were repealed. Moreover, they threaten greater harm to efficient State capital improvement financing than does §24.30.037 itself.

If I can answer any further questions with respect to these provisions, please let me know.

Sincerely yours,

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CABLE "ORRICK"
TELEX 34-0973

October 2, 1975

Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick

Gentlemen:

Looking forward to the 1976 legislative session, I would again like to call your attention to the following legislative matters:

House Bill No. 482

This bill, introduced in May of this year, provides for a continuing appropriation for the payment of debt service on general obligation bonds of the State. I have explained the need for its enactment in previous letters, and I understand that the State Bond Committee has determined to urge its passage in the coming session.

I think the adoption of this legislation is especially important now, in view of the crisis in New York, the talk in the financial press as to the enforceability and priority of general obligation bonds of New York City and the State of New York and the resulting general concern as to the practical effect of pledges of full faith and credit, etc.

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AS §§15.15.040(b), 15.57.010 and 24.30.037

AS §24.30.037 was added in 1973, and provided

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October 2, 1975
Page 2

that a bill authorizing the issuance of general obligation bonds "shall contain a statement of the scope of each major project included in the proposed bond issue." This section was amended in 1975 to require a statement of the scope "of each project," rather than "each major project," and to require, in addition, that the statement "include a brief description of each capital improvement project, its location, and, in dollars, that portion of the total bond issue to be allocated to the project."

AS §15.15.040(b), as adopted in 1973, required the Lieutenant Governor to prepare and issue, or make available, with each sample ballot a similar statement of the scope of each major project. That provision was amended in 1975 to correspond with the amendment of §24.30.037. It was also amended in such a manner, together with a change in §15.57.-010, as to require the inclusion of the statement of scope in the election pamphlet to be mailed to each registered voter in the case of a general election, and to provide for a separate statement to accompany each sample ballot in the case of a special election.

The Legislature, since 1973, has not always followed the requirements of its own §24.30.037 in bills authorizing general obligation bonds. Sometimes those requirements have been followed; sometimes they have been expressly made inapplicable in a particular authorization bill; and sometimes they have simply been ignored. Undoubtedly the Legislature can expressly repeal or make inapplicable these requirements in any particular bond authorization bill, and presumably the Legislature can impliedly do the same thing by enacting a bond authorization bill and simply ignoring the requirements of §24.30.037, although the latter course may raise some questions.

To the extent that the Legislature follows §24.30.-037, the administration will be faced with the problem of securing new legislation each time bond proceeds are to be used in a way somewhat different from the statement of the scope of each project, including the brief description of each project, its location, and the amount of dollars to

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE

Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
October 2, 1975
Page 3

be allocated to it. As you know, this kind of procedure can often be quite impractical and inefficient. For example, I refer you to Chapter 118, SLA 1974, listing 56 projects to be financed with \$10,400,000 principal amount of bonds authorized by that statute for the general purpose of paying the cost of trunk and secondary airport construction. This list of 56 projects would not satisfy the new requirements of revised §24.30.037, in that it does not show, in dollars, that portion of the total bond issue to be allocated to each project, in that it does not show the location in every case, and probably in that there is not a sufficient "brief description" of each project. If Chapter 118 did satisfy those requirements, and probably even in its actual form, it would be surprising if it were not found, at some time during the course of expenditure of the proceeds of these bonds, that some of those proceeds should best be expended in a way somewhat different from the list in the statute.

This problem is compounded by the requirement of §15.15.040(b) and §15.57.010 that this detailed statement be distributed to every registered voter. The probable result is that any change in use of the proceeds from the detailed statement will require another election, as well as new legislation. Again looking at Chapter 118, SLA 1974, this might, for example, be an increase in the amount to be allocated to a maintenance depot at Aniak from \$100,000 to \$120,000 and a decrease in the amount to be allocated to apron construction at Chitina from \$80,000 to \$60,000.

It has sometimes been held that the approval of a bond proposition by voters constitutes a "contract" between the government and the voters which can not be altered, without again securing the agreement of the voters, in spite of changes in conditions. The inclusion of the detailed list of projects in the authorization bill pursuant to §24.30.037 lends support to such a theory, even though the bond proposition itself merely speaks of a certain number of dollars in bonds for, e.g., capital improvements to airports. When this list is distributed to voters pursuant to an express requirement of law such as §15.15.040(b) or

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE

Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
October 2, 1975
Page 4

§15.57.010, and that requirement has apparently been enacted for the purpose of informing voters as to the exact use of the bond proceeds, the theory of a "contract" with the voters has very strong support.

This situation may cause a number of problems for bond counsel and in the marketing of bonds; however, I believe that the most likely and most difficult problems will be those of the state government in planning, contracting for and accomplishing capital improvements. After the bonds have been issued, a change in the use of the proceeds from the detailed list in the statement of scope of each project will probably have no effect upon the bondholders, but it could result in litigation by taxpayers causing numerous problems for the administration of state government.

I think that the Legislature should be apprised of the impracticability of the notion that every bond issue should be strait-jacketed by a mandatory, detailed list of projects, locations, dollar amounts, etc. If AS §§24.30.-037, 15.15.040(b) and 15.57.010(3) were all repealed, the Legislature could, of course, still place any restrictions upon the use of proceeds it might wish, of whatever specificity, in any particular bond authorization bill.

Sincerely yours,

C. Richard [unclear]

cc: Mr. Avrum M. Gross
Mr. R. D. Stevenson
Mr. Eric E. Wohlforth
Mr. Walter W. Filkin
Mr. Murray D. Snyder

GEORGE HERRINGTON
ERIC SUTCLIFFE
NATHAN D. ROWLEY
WALTER G. OLSON
WILLIAM D. M'KEE
SIDNEY E. ROBERTS
JAMES H. BENNEY
C. RICHARD WALKER
JAMES F. CRAFTS, JR.
ANDREW DOWNEY ORRICK
JAMES A. HAYNES
RICHARD C. SALLADIN
RICHARD J. LUCAS
CARLO S. FOWLER
DONALD A. SLICHTER
PAUL A. WEBBER

JAMES R. MADISON
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WILLIAM L. MOISINGTON
THOMAS R. SHEPHERD, JR.
CAMERON W. HOLTE, JR.
JOSEPH J. HUGHES
RALPH C. WALKER
M. PETER LILLEVAND
WILLIAM E. CONOVAN
ROBERT J. GLOUSTEIN
W. REECE BADER
PAUL J. SAI
MARTELLEN B. CATTANI
WILLIAM L. RILEY
THOMAS UNTERMAN

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE
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ELEVENTH FLOOR
600 MONTGOMERY STREET
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TELEPHONE (415) 392-1122

CABLE "ORRICK"
TELEX 34-0973

April 28, 1976

Mr. R. D. Stevenson
Special Assistant
Department of Revenue
State of Alaska
Pouch SA, State Office Building
Juneau, Alaska 99811

Re: Committee Substitute for House Bill No. 893

Dear Bob:

I was in New York most of last week. Upon re-
turning, I found letters from you, Larry Eppenbach and
Mr. Rhode, Administrative Assistant to Representative
Malone, all asking about this bill.

Mr. Rhode's note asked that I call him. I did,
and the enclosed letter is substantially what I told him.

Sincerely yours,

C. Richard Walker

cc: Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
Mr. Lawrence C. Eppenbach
Mr. Eric E. Wohlforth

GEORGE HERRINGTON
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April 28, 1976

Mr. R. D. Stevenson
Special Assistant
Department of Revenue
State of Alaska
Pouch SA, State Office Building
Juneau, Alaska 99811

Re: Committee Substitute for House Bill No. 893

Dear Mr. Stevenson:

In accordance with your letter of April 21, I have reviewed this new version of House Bill No. 893.

I do not think that this version of the bill accomplishes anything toward alleviating the problems mentioned in our previous correspondence. Sections 1, 2 and 4 simply substitute the words "informative summary" for the phrase "statement of the scope of each project." However, AS 24.30.037, as amended by Section 4, would still require this summary to "include a brief description of each capital improvement project, its location, and, in dollars, that portion of the total bond issue to be allocated to the project." This requirement as to what must be included in the "summary" would apply to bills under AS §24.30.037, to election pamphlets under AS §15.57.010 and to materials required to be made available in connection with special elections under AS §15.15.040(b). Consequently, the situation would be the same as that under present law.

Instead of this mere change in the name of the statement or summary, and in view of apparent legislative insistence upon specific control over bond proceed expenditures, I suggest that the following language be added at the end of AS §24.30.037:

The statement shall indicate that any part thereof may be changed by subsequent legislative action before or after ratification of the proposed bond issue by the voters. Nothing in this section, in AS 15.15.040(b) or in AS 15.57.010 shall prevent subsequent legislative amendment of the scope, descrip-

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE

Mr. R. D. Stevenson
April 28, 1976
Page 2

tion or location of, or dollar allocation to, the capital improvement projects except to the extent expressly stated in the question submitted to the voters with respect to ratification of the proposed bond issue.

This change should eliminate the possibility that a second election might have to be called in order to authorize changes in particular projects included in a bond authorization. However, it would not, of course, eliminate the necessity for new legislation to provide for any such changes.

A further suggestion would be that AS §24.30.037, the first two sentences of AS §15.15.040(b) and subsection (3) of AS §15.57.010 all be repealed, as suggested in my letter of April 13, and that the Legislature adopt and rely upon sections 3 and 5 of Committee Substitute for House Bill No. 893 for control of expenditure of bond proceeds.

Sincerely yours,

C. Richard Walker

cc: Mr. Langhorne A. Motley
Mr. J. Sterling Gallagher
Mr. Andrew S. Warwick
Mr. Lawrence C. Eppenbach
Mr. John R. Messenger
Mr. Arthur H. Peterson
Mr. Billy G. Berrier
Mr. Eric E. Wohlforth

Original sponsor: State Affairs Committee

Offered: 5/6/76
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 893 (Finance)

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 general obligation bonds, bills and
7 capital improvements of the state; and providing for an
8 effective date."

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

10 * Section 1. AS 15.15.040(b) is amended to read:

11 (b) The lieutenant governor shall prepare and issue or make avail-
12 able with each sample ballot for a special election the statement pro-
13 vided for in AS 24.30.037 [OF THE SCOPE OF EACH PROJECT INCLUDED] in a
14 proposed general obligation bond issue creating a state debt for capital
15 improvements that is submitted to the electorate for ratification under
16 AS 15.15.030(11). The statement [OF SCOPE FOR EACH PROJECT] shall be
17 the same statement included in the authorization bill. When a ballot
18 proposition is submitted to the voters at a primary or a special elec-
19 tion, a statement the same as that provided for in the election pamphlet
20 under AS 15.57.010(2) shall be made available with each sample ballot.

21 * Sec. 2. AS 15.57.010 is amended to read:

22 Sec. 15.57.010. CONTENTS OF PAMPHLET. The lieutenant governor
23 shall mail to each registered voter of the state before each state
24 general election an election pamphlet containing photographs and cam-
25 paign statements of eligible nominees who desire to participate in the
26 pamphlet and information and any recommendations regarding the retention
27 of judicial officers supplied by the judicial council. The pamphlet
28 shall also contain

29 (1) on a separate page, a map of the election district or

1 districts to which the pamphlet has been directed, together with a
2 narrative description of the district boundaries;

3 (2) for each ballot proposition,

4 (A) a neutral summary of the proposition prepared by the
5 Legislative Affairs Agency;

6 (B) a statement by persons or organizations supporting
7 the proposition; and

8 (C) a statement by persons or organizations opposing the
9 proposition; and

10 (3) for each bond question a statement [OF THE SCOPE OF EACH
11 PROJECT] required by AS 24.30.037 to be included in the authorization
12 bill. The statement shall indicate that any part of the authorization
13 may be changed by subsequent action amending the scope, description,
14 location, or dollar amount of the capital improvement projects.

15 * Sec. 3. AS 24.20.201(a)(5) is amended to read:

16 (5) review all proposed changes to agency authorized operat-
17 ing and capital improvement budgets;

18 * Sec. 4. AS 24.30.037 is amended to read:

19 Sec. 24.30.037. GENERAL OBLIGATION BOND BILLS. A bill authorizing
20 the issuance of general obligation bonds creating a state debt for
21 capital improvements shall contain a statement of the type of project
22 and, where appropriate, the location and dollar amount of each project
23 [SCOPE OF EACH PROJECT INCLUDED IN THE PROPOSED BOND ISSUE. THE STATE-
24 MENT SHALL INCLUDE A BRIEF DESCRIPTION OF EACH CAPITAL IMPROVEMENT
25 PROJECT, ITS LOCATION, AND, IN DOLLARS, THAT PORTION OF THE TOTAL BOND
26 ISSUE TO BE ALLOCATED TO THE PROJECT].

27 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 13, 1976

SUBJECT: CS HB 893 - Bonding
TO: State Affairs Committee
FROM: Billy G. Berrier *BGB*
Director, Legal Services Division

I have prepared the committee substitute as directed by the committee. As you are aware I have serious reservation about the workability of the amendment. The problem with the present law is indicated by the objections raised by C. Richard Walker, the State Bond Counsel, in his letter of March 1, 1976 which has been furnished to you. The change to a requirement of "an informative summary" would still leave the drafting problem of the adequacy of the summary.

I realize the objective is to present as much information to the legislature and public as possible but considering the strictness with which requirements relating to bonding are construed and the ambiguity of the phrase "informative summary" I strongly recommend consultation with bond counsel before adoption.

The change in Section 5 while clear in concept uses language that could create difficulties when read with Chapter 26, SLA 76 which has just been adopted. The language here could blur the clear distinction between "allocation" and "appropriation" created in Chapter 26. I would suggest review by Legislative Finance since simply changing "allocation" to "appropriation" would not work.

BGB:smh

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

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BGB:smh

Original sponsor: State Affairs Committee

Offered: 5/6/76
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 893 (Finance)

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 general obligation bonds, bills and
7 capital improvements of the state; and providing for an
8 effective date."

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

10 * Section 1. AS 15.15.040(b) is amended to read:

11 (b) The lieutenant governor shall prepare and issue or make avail-
12 able with each sample ballot for a special election the statement pro-
13 vided for in AS 24.30.037 [OF THE SCOPE OF EACH PROJECT INCLUDED] in a
14 proposed general obligation bond issue creating a state debt for capital
15 improvements that is submitted to the electorate for ratification under
16 AS 15.15.030(11). The statement [OF SCOPE FOR EACH PROJECT] shall be
17 the same statement included in the authorization bill. When a ballot
18 proposition is submitted to the voters at a primary or a special elec-
19 tion, a statement the same as that provided for in the election pamphlet
20 under AS 15.57.010(2) shall be made available with each sample ballot.

21 * Sec. 2. AS 15.57.010 is amended to read:

22 Sec. 15.57.010. CONTENTS OF PAMPHLET. The lieutenant governor
23 shall mail to each registered voter of the state before each state
24 general election an election pamphlet containing photographs and cam-
25 paign statements of eligible nominees who desire to participate in the
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29 (1) on a separate page, a map of the election district or

1 districts to which the pamphlet has been directed, together with a
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4 (A) a neutral summary of the proposition prepared by the
5 Legislative Affairs Agency;

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8 (C) a statement by persons or organizations opposing the
9 proposition; and

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13 may be changed by subsequent action amending the scope, description,
14 location, or dollar amount of the capital improvement projects.

15 * Sec. 3. AS 24.20.201(a)(5) is amended to read:

16 (5) review all proposed changes to agency authorized operat-
17 ing and capital improvement budgets;

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26 ISSUE TO BE ALLOCATED TO THE PROJECT].

27 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).

Original sponsor: State Affairs Committee

Offered: 5/6/76
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 893 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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27 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).

Original sponsor: State Affairs Committee

Offered: 4/16/76
Referred: Finance

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 893

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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14 PROJECT INCLUDED] in a proposed general obligation bond issue creating a
15 state debt for capital improvements that is submitted to the electorate
16 for ratification under AS 15.15.030(11). The informative summary
17 [STATEMENT OF SCOPE FOR EACH PROJECT] shall be the same statement
18 included in the authorization bill. When a ballot proposition is sub-
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22 The statement shall include a brief description of each capital improve-
23 ment project, its location, and, in dollars, that portion of the total
24 bond issue to be allocated to the project.

25 * Sec. 5. AS 37.07.020 is amended by adding a new subsection to read:

26 (b) As part of the long-range program of the state, the governor
27 shall annually submit a capital program which includes anticipated ex-
28 penditures for bond funds already approved by the electorate as well as
29 proposed new bond issues. Upon approval by the legislature, these funds

1 shall be considered allocated and may only be reallocated with approval
2 of the legislature.

3 * Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-
4 070(c).

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Original sponsor: State Affairs Committee

Offered: 4/16/76
Referred: Finance

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 893

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

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29 shall also contain

1 (1) on a separate page, a map of the election district or
2 districts to which the pamphlet has been directed, together with a
3 narrative description of the district boundaries;

4 (2) for each ballot proposition,

5 (A) a neutral summary of the proposition prepared by the
6 Legislative Affairs Agency;

7 (B) a statement by persons or organizations supporting
8 the proposition; and

9 (C) a statement by persons or organizations opposing the
10 proposition; and

11 (3) for each bond question the informative summary [A STATE-
12 MENT OF THE SCOPE OF EACH PROJECT] required by AS 24.30.037 to be in-
13 cluded in the authorization bill.

14 * Sec. 3. AS 24.20.201(a)(5) is amended to read:

15 (5) review all proposed changes to agency authorized operat-
16 ing and capital improvement budgets;

17 * Sec. 4. AS 24.30.037 is amended to read:

18 Sec. 24.30.037. GENERAL OBLIGATION BOND BILLS. A bill authorizing
19 the issuance of general obligation bonds creating a state debt for
20 capital improvements shall contain an informative summary of [A STATE-
21 MENT OF THE SCOPE OF EACH PROJECT INCLUDED IN] the proposed bond issue.
22 The statement shall include a brief description of each capital improve-
23 ment project, its location, and, in dollars, that portion of the total
24 bond issue to be allocated to the project.

25 * Sec. 5. AS 37.07.020 is amended by adding a new subsection to read:

26 (b) As part of the long-range program of the state, the governor
27 shall annually submit a capital program which includes anticipated ex-
28 penditures for bond funds already approved by the electorate as well as
29 proposed new bond issues. Upon approval by the legislature, these funds

1 shall be considered allocated and may only be reallocated with approval
2 of the legislature.

3 * Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-
4 070(c).

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Introduced: 4/5/76
Referred: State Affairs and
Finance

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 HOUSE BILL NO. 893

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 general obligation bond bills; and
7 providing for an effective date."

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

9 * Section 1. AS 24.30.037 is repealed.

10 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
11 070(c).

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