

HB

639

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 22, 1976

SUBJECT: Attached Bill (CSHB 639 (Judiciary))  
Representative Gardiner

TO: House Judiciary Committee

FROM: Joel Bennett, Legislative Counsel

I believe Mr. Walker of our office has alerted your committee through Mr. Svodbody to the potential constitutional problem with the waiver provisor of CSHB 639. That some processors should be treated differently than others raises an equal protection argument under Art. I, Sec. 1, of the Alaska Constitution. When considering the purpose of the legislation (protecting wage claims), it does not appear reasonable to deny one group of persons (large processors) the enjoyment of certain rights which are afforded to another group (small processors).

I am in no way confident that the qualifying language in (b) of the new waiver provision meets this concern. It is an effort to do so, however.

Att.

*Put in my file on HB 639*

## MEMORANDUM

State of Alaska

DEPARTMENT OF COMMERCE &amp; ECONOMIC DEVELOPMENT

TO: Fran Ulmer  
Legislative Assistant  
Office of the Governor

DATE: March 25, 1976

FILE NO:

TELEPHONE NO:

FROM: / Jim Edenso *J.E.*  
Deputy Commissioner

SUBJECT: CSHB 639

This act would require bonding for fish buyers throughout Alaska. An immediate question that should be answered prior to the State taking a position on the bill is: What is the actual magnitude of the problem being addressed by this bill?

In the past the problem was fairly large but appears to have been reduced through the passage of time and improved stability of fish processors throughout the State. It is the opinion of this department that rather than help the fishermen, the bill would, in fact, hurt the fishermen. There are numerous small operators in the State who purchase for cash and exist on a marginal cash basis that may not be bondable. The only alternative for these people may be a cash deposit and this is plainly unreasonable: The bill may force some small operators entirely out of business, thereby indirectly enhancing the large processor who could obtain the required bonding. This would strengthen the position of the large processor in bargaining with the fishermen in the establishment of each year's fish prices.

Until we have more information on the total number of small operators and their capital characteristics, the State should either remain neutral or oppose CSHB 639.

cc: Mike Whitehead

- Rezin tends to agree*
- - input from labor on wage settlements*
  - they by experience in the past*
    - : Hearing - S.E.*
    - : In process*
  - no problems with past couple seasons. (but Rezin makes a*
  - handling on fishermen themselves*

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S - JUNEAU 99811

*file with 639  
members*

April 5, 1976

Honorable Terry Gardiner  
Chairman  
House Judiciary Committee  
Alaska State Legislature  
State Capitol Building  
Juneau, Alaska

Re: Committee Substitute for House Bill No. 639

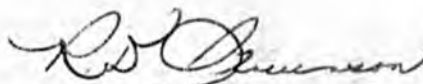
Dear Mr. Gardiner:

Committee Substitute for House Bill No. 639, an Act relating to security for the collection wages, according to the House Journal of April 3, 1976 was referred to the House Judiciary Committee.

For the consideration of the House Judiciary Committee, I am enclosing a copy of Fiscal Note and accompanying memorandum prepared by Gary L. Jenkins, Director, Audit Division, Department of Revenue advising of administrative costs and possible problems of administration.

If you or any members of the House Judiciary Committee have any questions on the material submitted, please telephone the writer at 465-2397 and I will contact Mr. Jenkins for further information or testimony at a hearing.

Very truly yours,



R. D. Stevenson  
Special Assistant

The Honorable Theodore Smith  
Chairman  
House Labor & Management Committee

Gary L. Jenkins  
Director, Audit Division  
Department of Revenue

RDS:lc

THE LEGISLATURE OF THE STATE OF ALASKA  
FISCAL NOTE

Second Session - Ninth Legislature

I. REQUEST

Bill No. CS for House Bill Number 639  
 Title: An Act relating to security for the collection of wages  
 Requested by: \_\_\_\_\_ Date: \_\_\_\_\_  
 Return Date Requested: \_\_\_\_\_  
 Agency: Revenue Program: Enforcement

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Enforcement

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES		15.8	16.3	16.8	17.3	17.8
200 TRAVEL						
300 CONTRACTUAL		3.0	3.0	3.0	3.0	3.0
400 COMMODITIES		.2	.2	.2	.2	.2
500 EQUIPMENT		.8				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>19.8</b>	<b>19.5</b>	<b>20.0</b>	<b>20.5</b>	<b>21.0</b>

B. FUNDING: (Thousands of dollars)

GENERAL FUND	-0-	19.8	19.5	20.0	20.5	21.0
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	0 / 0	1 / 0	1 / 0	1 / 0	1 / 0	1 / 0
MAN MONTHS (P./T.)	0 / 0	12 / 0	12 / 0	12 / 0	12 / 0	12 / 0

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

The above staffing would be for one tax examiner position to handle the processing of the security bonds.

IV. ATTACHMENTS

See memo to R. D. Stevenson dated March 26, 1976

V. DATE: 3-30-76 PREPARED BY: \_\_\_\_\_

Gary L. Jenkins, Director Audit Division

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

## MEMORANDUM

State of Alaska

TO: R. D. Stevenson  
Special Assistant

DATE: March 26, 1976

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins  
Director  
Audit Division

SUBJECT: CSHB 639

This bill would require a fish processor who did not have lienable property in the state, in excess of \$10,000, to file a security bond in the amount of \$10,000 guaranteeing payment of wages and benefits to employees and/or independent fishermen for fish purchased from them. I see two major problems with this piece of legislation.

The bill provides for a dual control over the bonding by the Commissioner of Revenue and the Commissioner of Labor which of itself would cause administrative problems. Further, the language of the legislation in defining the responsibilities of the two departments is both confusing and inconsistent. In Sec. 1, paragraph (a), the fish processor would be required to file a security bond with the Commissioner of Revenue, however, it assigns the tasks of determining if the security is satisfactory to the Commissioner of Labor. The bill continues in paragraph (b) to provide that the processor may file a cash deposit or other negotiable security acceptable to the Commissioner in lieu of the bond. In this case the Commissioner who makes the determination whether the deposit or negotiable security is acceptable in lieu of the bond is the Commissioner of Revenue. Thus, the bill provides for the bond to be filed with the Commissioner of Revenue but subject to approval by the Commissioner of Labor, which is very cumbersome, then turns around and assigns to the Commissioner of Revenue the authority to accept other security in lieu of the bond, which is completely inconsistent. The bill has similar inconsistent provisions regarding the respective functions of the Commissioner of Revenue and the Commissioner of Labor in subsequent sections.

Secondly, I feel that this is a piece of legislation which discriminates against one small segment of the business community. I seriously doubt that fish processors are any more guilty of failing to pay their employees or suppliers than any other business group. Further, I feel this is an encroachment of the bureaucracy in an area where it has no business. We already require a fish processor to file a bond with the Department of Revenue to guarantee payment of the fish processing tax. Further, if a processor is a non-resident business he is required to obtain a bond which will cover all potential tax liability to the State of Alaska including the fish processing tax. For the state to take on the function of requiring businesses to post a bond to guarantee they will

pay their employees and/or suppliers seems to be rather onerous to say the least. I do not feel that this legislation is in the best interest of the state or the business community within the state.

GLJ:lc