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Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

DATE: 1/19/81
TO: Sen. Ray
FROM: Sen. Vic Fischer *Vic*
RE: SB 59, "An Act relating to collective bargaining
and providing for an effective date."

Senate Bill 59 has been referred to Senate State Affairs
Committee. Please forward any information and statements of
intent that would be helpful in committee analysis of the
bill. My office is Room 205, Behrends Building; phone 465-
4954.

Thank you.

SYNOPSIS OF SB NO. 59

Section 1: This section provides that once a collective bargaining agreement is negotiated with the administration, the agreement must be submitted to the legislature within thirty (30) days after it convenes. The monetary terms of the agreement may not take effect until approved by the legislature and the legislature may not adjourn until it either accepts or rejects the monetary terms of the agreement.

Section 2: This section provides that when a collective bargaining agreement is for more than one year, and does not provide for a wage reopener during the life of the agreement, the appropriation shall be for the entire cost of the contract during the life of the agreement. Thus the monetary package would only have to be funded once on a three-year agreement, rather than three times.

BACKGROUND INFORMATION

In 1977 the General Government Unit, represented by APEA, negotiated a three-year agreement. The first year of the agreement (1977) was funded by a supplemental appropriation, during the 1978 legislative session.

The second year of the contract (1978) provided for a five percent (5%) increase effective January 1, 1978 and the

following clause:

- Should the Consumer Price Index for Anchorage rise more than 5% during calendar year 1978, the Employer agrees that the salary schedule for year 1978, as adjusted effective January 1, 1978, shall be increased one percent for each full percentage point above five that the Consumer Price Index rises effective February 16, 1979, and shall be retroactive to the beginning of the calendar quarter in which the rise in the Anchorage Consumer Price Index exceeded five percent by a full percentage point.

- The salary schedule for calendar year 1979 shall be the salary schedule for year 1978, as adjusted on February 16, 1979, with the addition of 5% prepayment on the cost-of-living effective January 1, 1979. However, if the Anchorage Consumer Price Index fails to exceed 5% during calendar year 1978, the 1979 prepayment shall be reduced by each full percentage point the Consumer Price Index falls short of 5%.

During 1978 the Consumer Price Index for 1978 exceeded ten percent (10%). Thus the members of the General Government Unit were entitled to an additional five percent (5%) increase retroactive to July 1, 1978.

During the 1979 Legislative Session, a supplemental appropriation for the retroactive payment was introduced. Due to the controversy surrounding the payment and the contract, the Alaska State Senate adjourned the regular session without ever rejecting or accepting the supplemental appropriation. Also, the third year of the negotiated contract was not funded in the FY 79-80 operating budget. As a result of these events, there was a special session of the legislature in August 1979 to address the issue of negotiated salary increases.

The proposed legislation would assist in preventing situations which occurred in reference to the 1977-1979 General Government Agreement. Contracts would either be accepted or rejected by the legislature and multi-year agreements would be funded with one appropriation.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF ADMINISTRATIVE SERVICES

March 2, 1981

POUCH C - JUNEAU 19811
465-2277

Jay S. Hammond
JAY S. HAMMOND, GOVERNOR

Honorable Vic Fischer
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

Re: SB59

In response to a request from your office, the following are the expiration dates of contracts with the various bargaining units:

General Government Unit	12-31-82
Supervisory Unit	12-31-82
Labor Trades & Crafts	12-31-82
Public Safety Unit	12-31-81
Confidential Employees Unit	12-31-82
Non-Licensed Ferry System Employees (IBU)	3-31-83
Masters, Mates & Pilots	3-31-83
Marine Engineers	6-30-80

Although the contract for Marine Engineers has expired, there is a letter of agreement which extends the contract on a day to day basis.

If I can answer any other questions, please call.

Sincerely,

Judy
Judy Crondahl
Director

JC/bc
cc: Sandra Withers
Director
Division of Labor Relations
Department of Administration

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811
465-3600

March 5, 1981

Hon. Vic Fischer
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SB 59, collective bargaining
Our file: J-66-529-81

Dear Senator Fischer:

Reference is made to your letter dated February 2, 1981, inquiring about the constitutionality of SB 59. A copy of the bill is attached. Because of the novel approach taken by that bill to the problem of multi-year public sector collective bargaining agreements, we cannot opine with any great certainty the outcome of a legal confrontation. We attempt only to point out a number of serious questions.

Section 1 of SB 59 would forbid adjournment until the legislature has voted to accept or reject the monetary terms of a collective bargaining agreement; the matter could not be left unresolved.

We believe that section 1 of SB 59 may violate the separation of powers doctrine as well as sections 1, 10, and 12 of article II of the Alaska Constitution. These breaches might occur because the section cedes to the governor a larger measure of control over adjournment than the constitution otherwise provides. Should the legislature later decide to repeal this bill and adjourn without voting on a pay raise, the governor might block or delay adjournment by vetoing the bill or declining to sign it. This measure of executive control over legislative procedure is constitutionally suspect. See Bradner v. Hammond, 553 P.2d 1, 5, n. 8 (Alaska 1976).

We also note the very substantial problem of enforcement. It would be difficult indeed for the executive or judicial branches to force the legislature to vote on a particular bill. What if the houses could not agree on a resolution? Theoretically, there might be a remedy, but at what cost to the governmental fabric?

Section 2 of the bill appears to do two things:

March 5, 1981

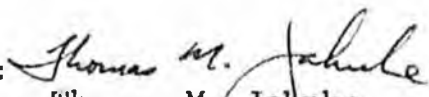
first, it purports to command the legislature to appropriate money to fund all years of a multi-year collective bargaining agreement; second, it attempts to forbid repeal or reduction of that appropriation in the successive years of the agreement. We believe that these features run afoul of a well-established rule that a legislature cannot bind its successor legislatures. This rule has been applied in the appropriation context. In Re Advisory Opinion to the Senate, 275 A.2d 256, 257-258 (R.I. 1971); Baczensky v. Hose, 253 N.Y.S.2d 32, 35-36 (Sp. Term. 1964); Opinion of the Justices, 32 N.E.2d 298, 306 (Mass. 1941); Commonwealth v. Barker, 61 A. 253, 254 (Pa. 1905); McQuillan on Municipal Corporations § 39.66. See Orbison v. Welsh, 179 N.E.2d 727, 736 (Ind. 1962). Cf., State v. Lewis, 559 P.2d 630, 643 (Alaska 1977); Morris v. Williams, 433 P.2d 697, 708 (Cal. 1967). One court has declared that an appropriation may be repealed even if its recipient has entered into contracts in reliance thereon; the aggrieved contractor is left to sue or seek legislative relief. State v. Donald, 157 N.W. 782, 783 (Wis. 1916).

These cases may not be dispositive of the question, for they present a chicken and egg dilemma: does SB 59 undercut the rule of these cases, or do the cases condition the binding force of SB 59? We believe that the serious shadows cast by the cases should incline you to view section 2 of SB 59 with much suspicion.

If we may be of further assistance, please let us know.

Sincerely yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Thomas M. Jahnke
Assistant Attorney General

TMJ/pjg

Enc.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF ADMINISTRATIVE SERVICES

March 2, 1981

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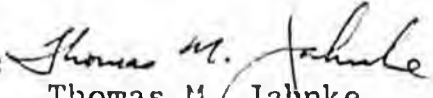
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