

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

6/22/83

Date:

1-24-84

Mr. Speaker:

The Committee on FINANCE has had CSSB 55 (R1s)

"An Act relating to collective bargaining; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^HCS for CSSB 55 (FIN) same title
- new title
- and recommends INDIVIDUAL RECOMMENDATIONS
- AND attaches a "Letter of Intent" New Fiscal Note 78.4
- Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry [Signature] - No recomm.

Robert P. [Signature] - No Recomm.

[Signature] Do not

[Signature]

CHAIRMAN

Original sponsor: Rules/Legislative Council

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 55 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to collective bargaining; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 23.40.215 is amended by adding a new subsection to
10 read:

11 (b) The Department of Administration shall submit the monetary
12 terms of an agreement to the legislature within 10 legislative days
13 after the agreement of the parties, if the legislature is in session,
14 or within 10 legislative days after the convening of the next regular
15 session. The legislature shall advise the parties by concurrent
16 resolution if it approves or disapproves of the monetary terms within
17 60 legislative days after the agreement is submitted to the
18 legislature. The approval of the monetary terms of an agreement under
19 this subsection is a nonbinding, advisory expression of legislative
20 intent. If within 60 legislative days after the agreement is
21 submitted the legislature advises the parties by concurrent resolution
22 that it disapproves the monetary terms of the agreement, the parties
23 may resume negotiations.

24 * Sec. 2. AS 23.40.250 is amended by adding a new paragraph to read:

25 (8) "monetary terms of an agreement" means the changes in
26 the terms and conditions of employment resulting from an agreement
27 that will require an appropriation for their implementation or will
28 result in a change in state revenues or productive work hours for
29 state employees.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-
10.070(c).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HCSCSSB 55 (Fin)
 Title: Act relating to Collective Bargaining

FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: General Government

Sponsor: Labor & Commerce
 Requestor: _____
 Date of Request: _____

BRU, Program or Subprogram(s) Affected:
Labor Relations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL	12.5	13.1	13.7	14.4	15.1	15.8
300 CONTRACTUAL	65.9	69.2	72.7	76.3	80.1	84.1
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	78.4	82.3	86.4	90.7	95.2	99.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	78.4	82.3	86.4	90.7	95.2	99.9
FEDERAL FUNDS						
OTHER						
TOTAL	78.4	82.3	86.4	90.7	95.2	99.9

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: House Finance Committee Phone: 465-3706
 Division: Al Adams, Chairman Date: 1-24-84

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

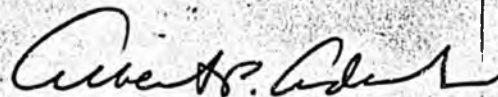
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

HOUSE JOURNAL

HOUSE FINANCE COMMITTEE
LETTER OF INTENT
FOR
HCS FOR CSSB 55 (FIN)

Before an organization and the state may enter into an agreement, the agreement proposed to be entered into shall be submitted to the legislature for consideration of the monetary terms of the agreement. Submittal of the proposed agreement to the legislature shall occur within ten (10) days after the proposed agreement of the parties has been reached, or ten (ten) days after the convening of the next regular session. The monetary terms of the proposed agreement take effect if they are not rejected by the legislature by concurrent resolution within sixty (60) days after the agreement is submitted to the legislature.

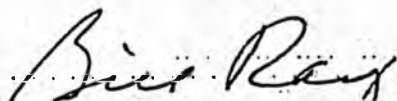


Al Adams, Chairman
House Finance Committee

Senate Judiciary Committee

Letter of Intent on SB 55

Before an organization and the state may enter into an agreement, the agreement proposed to be entered into shall be submitted to the legislature for consideration of the monetary terms of the agreement. Submittal of the proposed agreement to the legislature shall occur within ten (10) days after the proposed agreement of the parties has been reached, or ten (10) days after the convening of the next regular session. The monetary terms of the proposed agreement take effect if they are not rejected by the legislature by concurrent resolution within thirty (30) days after the agreement is submitted to the legislature. (60)


.....

Senator Bill Ray, Chairman

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2

REQUEST

Bill/Resolution No. HCSCSSB 55 (L&C)
Title: Act relating to Collective Bargaining

Sponsor: Labor & Commerce Committee
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: General Government

BRU, Program or Subprogram(s) Affected: Labor Relations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL	12.5	13.1	13.7	14.4	15.1	15.8
300 CONTRACTUAL	65.9	69.2	72.7	76.3	80.1	84.1
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	78.4	82.3	86.4	90.7	95.2	99.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
GENERAL FUND	78.4	82.3	86.4	90.7	95.2	99.9
FEDERAL FUNDS						
OTHER						
TOTAL	78.4	82.3	86.4	90.7	95.2	99.9

POSITIONS:

	/	/	/	/	/	/
FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Eleanor Andrews *Eleanor Andrews* Phone: _____
Division: Commissioner's Office Date: 1/23/84

Approved by Commissioner: Lisa Rudd *LJR* Date: 1/23/84
Agency: Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

HCSCSB 55 (L&C) Fiscal Note Analysis
Prepared by
Commissicner's Office
Department of Administration

January 23, 1984

The Department of Administration is concerned about potential fiscal impact of this legislation. The potential of costs is for additional staff time in negotiations because of this prolonged, cumbersome process.

Assumptions for least fiscal impact 0:

1. Assumes all nine contracts are negotiated with no problems in getting a concurrent resolution in support of agreements reached, and the legislature appropriates funds necessary to implement the monetary terms.

Assumptions for most severe impact 78.4 for FY 84:

2. Assumes legislature does not act within 60 days nor does it appropriate funds to implement the monetary terms of negotiated agreements. In order to avoid work slow downs on grievance processing and general contract administration, the division would need to add two Senior Labor Negotiators for six months each year to coordinate negotiation of collective bargaining agreements. We are assuming yearly negotiations rather than longer contracts because the unions would probably be unwilling to enter into longer contracts under the provisions of this bill. Additional potential fiscal impact could be Department of Law.

proposed language change from
Dept. of Administration

PROPOSED (Dept. of Law)

Offered: 3/3/83
Referred: Finance

Original sponsor: Rules/Legislative Council

IN THE SENATE

BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 55 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

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

* Section 1. AS 23.40.215 is amended by adding a new subsection to read:

(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 days after the agreement of the parties, if the legislature is in session, or within 10 days after the convening of the next regular session. Unless, within 30 days after the agreement is submitted, the legislature advises the parties by concurrent resolution that it will reject the monetary terms of the agreement, the monetary terms of the agreement are considered acceptable to the legislature. The approval or rejection of the monetary terms of an agreement under this subsection is a non-binding, advisory expression of legislative intent. If the legislature advises the parties by concurrent resolution that it will reject the monetary terms of the agreement, the parties shall resume negotiations.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

MAY 23 1983

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 20, 1983

The Honorable Bill Ray
Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: CSSB 55 -- collective
bargaining
Our file no.: 377-103-83

Dear Senator Ray:

Attached please find a proposed substitute for CSSB 55 which does not raise the legal concerns identified in our letter of May 18, 1983. As you will note, the substitute provides for the prompt submission of the monetary terms of an agreement to the legislature. The legislature, acting in its advisory capacity, will be considered to approve the monetary terms, unless a contrary concurrent resolution is adopted within 30 days. Any action under this new review procedure does not disturb any legislatures prerogatives with respect to the funding of an agreement.

We apologize that the Department of Law did not provide you with a prepared substitute for SB 55 at an earlier date. If you have any questions, please feel free to call.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:

Jonathan B. Rubini

Jonathan B. Rubini
Assistant Attorney General

JBR:jb

cc: Emil Notti
Legislative Assistant
Governor's Office

Eleanor Andrews
Deputy Commissioner -- Personnel Mgr.
Department of Administration

Position Paper

House CS for CS for Senate Bill 55 (L & C)

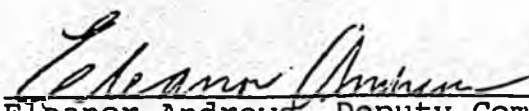
This amended version of the bill would add a new subsection to the Public Employment Relations Act providing:

1. for submission of the monetary terms of a collective bargaining agreement to the legislature within 10 days after the agreement of the parties, if the legislature is in session, or within 10 days after convening of the next regular session
2. legislative consideration of the monetary terms within 60 days after the agreement is submitted to the legislature and approval or disapproval of those terms by concurrent resolution as a nonbinding, advisory expression of legislative intent
3. that if the legislature does not pass a concurrent resolution under this section, the monetary terms are considered approved.

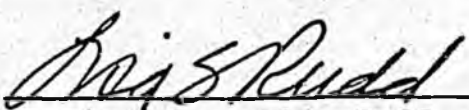
Further, the bill is amended by adding a new paragraph defining what portions of a collective bargaining agreement are considered "monetary terms".

House CS for CS for SB 55 (L & C) version of the bill still allows for the monetary terms of a collective bargaining agreement to become effective if the legislature does not pass a concurrent resolution within 60 days after submission. For this reason, the Department of Administration cannot support this bill. Attached is a copy of an Attorney General's opinion dated May 18, 1983 which explains the problems the administration has with monetary terms of a collective bargaining agreement taking effect without specific approval, and appropriation by the legislature, as written in HCSSB 55 (L & C). Also attached for your consideration is a substitute for CSCS for SB 55 drafted by the Department of Law on May 21, 1983 which satisfies this Department's concern about this issue.

The Department of Administration has another, serious concern about this bill. The State has a long history, relatively problem free, of collective bargaining with its employee representatives. This amendment to AS 23.40.215 will cloud the clear roles already established for the executive and legislative bodies in relation to collective bargaining, thereby disturbing a process that has worked to the benefit of all parties in the past. For this reason, also, we oppose this bill.


Eleanor Andrews, Deputy Commissioner

1/23/84
Date


Commissioner Lisa Rudd

1/24/84
Date



Alaska Public
Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

TO: Al Adams, Chairman
House Finance Committee

FROM: Cherie Shelley
Executive Director

SUBJECT: CSSB55 (Rules)

DATE: January 23, 1984

The Alaska Public Employees Association supports this bill as a method of determining legislative intent to fund negotiated contracts. The bill provides reasonable time for the legislature to review the financial aspects of labor agreements.

This bill would require a nonbinding resolution expressing legislative intent regarding the monetary terms of contract settlements. This affords both the labor union and the administration the opportunity to resume negotiations before the legislature adjourns.

CS/rb

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-8305

relates to Senate version of the bill

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 18, 1983

The Honorable Vic Fischer
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: CSSB 55 -- Collective
bargaining agreements
Our file no.: 366-612-83

Dear Senator Fischer:

In your letter of May 18, 1983, you have asked whether the procedures proposed in CSSB 55 to effectuate approval of a collective bargaining agreement raise constitutional concerns. As we discussed below, the bill raises substantial constitutional questions and, as a consequence, will almost undoubtedly foster extensive litigation. In light of the limited time available for our response and the complexity of the matter, we limit our response to identifying the legal questions posed by CSSB 55.

As you know, present law provides that the monetary terms of an agreement do not take effect without legislative approval. AS 23.40.215. In practical application, monetary terms take effect only when an appropriation to fund the agreement is adopted. The effective dates of other provisions in an agreement are not, however, contingent on legislative review and approval. CSSB 55 proposes, in contrast, that monetary terms of an agreement would take effect unless the legislature adopts within 30 days a concurrent resolution which disapproves of the monetary terms. Further, the effective date for other items in the agreement would be contingent on the monetary terms taking effect through legislative inaction.

We first question whether CSSB 55 proposes a permissible exercise of legislative powers. The novel feature of the legislation is the significance of the legislature's failure to

act. In State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980), the Alaska Supreme Court considered the constitutionality of a statute, AS 44.62.320(a), which provided for the annulment of administrative regulations through adoption of a concurrent resolution. The Court observed that "[t]he Alaska Constitution defines with specificity the mechanics of legislation. Each provision has a purpose 'designed to engender a responsible legislative process worthy of the public trust.'" Id. at 772, quoting Plumley v. Hale, 594 P.2d 497, 500 (Alaska 1979). With respect to the regulation annulment procedure at issue, the court concluded that the adoption of a concurrent resolution was an impermissible method to exercise legislative power. Indeed, since CSSB 55 infers legislative action through an absence of action, the bill arguably exacerbates the procedural deficiencies identified at length in A.L.I.V.E. Voluntary. Further, the A.L.I.V.E. Voluntary court also noted that where the legislature acts through the adoption of a concurrent resolution, the governor is deprived of an opportunity to exercise a veto of the legislative action. That concern is equally applicable to the procedures established under CSSB 55.

The bill also raises substantial questions with respect to the appropriation process. Article 9, section 13 of the Alaska Constitution provides that "no money shall be withdrawn from the treasury except in accordance with appropriations made by law." Clearly, legislative inaction cannot suffice to permit the expenditure of public money without an appropriation. The bill, therefore, should not be construed to permit a "de facto appropriation" of public money to fund the agreement. And, if the monetary terms of an agreement became effective through legislative inaction, the terms of any outstanding appropriations would be determinative of whether the executive branch had authority to expend public money to fund the agreement. Of course, as a practical matter the use of a preexisting appropriation may require the dismissal of public employees to provide sufficient money to fund the agreement. A related, and more difficult problem is that once the monetary terms are effective, contractual obligations are established. We cannot opine with any certainty what ramifications would follow were the state in the difficult posture of being subject to contractual obligations, yet without the requisite appropriation to enable the expenditure of public money. We note that it is arguable that the legislature's continuing obligation to fund the monetary terms of an agreement pursuant to AS 23.40.215 may, ultimately, be compromised in this instance.

Hon. Vic Fischer
CSSB 55 -- collective bargaining agreements
366-612-83

May 18, 1983
Page 3

If you have any further questions on this matter,
please feel free to call.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: *Jonathan B. Rubini*
Jonathan B. Rubini
Assistant Attorney General

JBR:jb

cc: Honorable Bill Ray
Alaska State Legislature

Eleanor Andrews, Deputy Commissioner
Department of Administration



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

June 23, 1983

TO: House Finance Committee

FROM: Teresa B. Cramer *Teresa B Cramer*
Administrative Assistant

SUBJECT: CS for Senate Bill No. 55 (Labor & Commerce)
Relating to Collective Bargaining

The Public Employment Relations Act provides that the monetary terms of any agreement entered into between the state and an employee representative are subject to funding through legislative appropriation. AS 23.40.215. The PERA does not set out a system of legislative review for the monetary terms. If the legislature is dissatisfied with the negotiated terms, there is no formal vehicle to explain to the parties to the agreement (the Administration and the employee union or association) the substance of the legislature's concerns. Therefore, the parties do not have a concrete set of limitations from which to work should they decide to renegotiate the original agreement. Furthermore, legislative delay and rejection of negotiated contracts has, in the past, led to the calling of a Special Session, which is an expensive way to resolve the issue.

The Blue Ribbon Commission recommends legislation to encourage legislative review of collective bargaining agreements early in the session. If the legislature is dissatisfied with the monetary terms, the parties may choose to renegotiate before the session adjourns with a clear understanding of the legislature's concerns.

Bill Analysis

Page 1
Line 9

The first section requires that the monetary terms of a collective bargaining agreement be submitted to the legislature within 10 days of agreement by the parties. If the parties reach an agreement while the legislature is not in session, then the monetary terms are to be submitted within 10 days of the convening of the next regular session. The legislature is given 60 days to consider the agreement and express its opinion by concurrent resolution.

- Line 17 Any approval given by the legislature is a "nonbinding, advisory expression of legislative intent." This language makes clear that the resolution does not take the place of an appropriation bill to fund the contract and permits the legislature to change its mind, should circumstances warrant.
- Line 19 If the legislature disapproves the negotiated agreement, the parties may resume negotiations.
- Line 22 If the legislature fails to pass a concurrent resolution within 60 days of receiving the agreement, then the monetary terms are considered to have legislative approval. This will encourage the legislature to make any negative response it has to the contract known.
- Line 24 The second section adds a definition of "monetary terms of an agreement" to the Public Employment Relations Act to set out those items which are subject to legislative review.
- Page 2 The third section provides for an immediate effective
Line 3 date.

TBC:lmk

Offered: 6/17/83

Original sponsor: Rules/Legislative Council

1 IN THE SENATE BY THE RULES COMMITTEE
2 CS FOR SENATE BILL NO. 55 (Rules)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to collective bargaining; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 23.40.215 is amended by adding a new subsection to
10 read:

11 (b) The Department of Administration shall submit the monetary
12 terms of an agreement to the legislature within 10 days after the
13 agreement of the parties, if the legislature is in session, or within
14 10 days after the convening of the next regular session. The legisla-
15 ture shall advise the parties by concurrent resolution if it approves
16 or disapproves of the monetary terms within 60 days after the agree-
17 ment is submitted to the legislature. The approval of the monetary
18 terms of an agreement under this subsection is a nonbinding, advisory
19 expression of legislative intent. If within 60 days after the agree-
20 ment is submitted the legislature advises the parties by concurrent
21 resolution that it disapproves the monetary terms of the agreement,
22 the parties may resume negotiations.

23 * Sec. 2. AS 23.40.250 is amended by adding a new paragraph to read:

24 (8) "monetary terms of an agreement" means the changes in
25 the terms and conditions of employment resulting from an agreement
26 that will require an appropriation for their implementation or will
27 result in a change in state revenues or productive work hours for
28 state employees.

29 * Sec. 3. This Act takes effect immediately in accordance with

1 AS 01.10.070(c).

Differences from final Senate version

Offered: 6/22/83
Referred: Finance

Original sponsor: Rules/Legislative Council

1 IN THE SENATE BY THE LABOR AND
COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 55 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to collective bargaining; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 23.40.215 is amended by adding a new subsection to
10 read:

11 (b) The Department of Administration shall submit the monetary
12 terms of an agreement to the legislature within 10 days after the
13 agreement of the parties, if the legislature is in session, or within
14 10 days after the convening of the next regular session. The legisla-
15 ture shall advise the parties by concurrent resolution if it approves
16 or disapproves of the monetary terms within 60 days after the agree-
17 ment is submitted to the legislature. The approval of the monetary
18 terms of an agreement under this subsection is a nonbinding, advisory
19 expression of legislative intent. If within 60 days after the agree-
20 ment is submitted the legislature advises the parties by concurrent
21 resolution that it disapproves the monetary terms of the agreement,
22 the parties may resume negotiations. If within 60 days after the
23 agreement is submitted, the legislature does not pass a concurrent
24 resolution under this section the monetary terms of the agreement are
25 considered approved.

26 * Sec. 2. AS 23.40.250 is amended by adding a new paragraph to read:

27 (8) "monetary terms of an agreement" means the changes in
28 the terms and conditions of employment resulting from an agreement
29 that will require an appropriation for their implementation or will

STATE OF ALASKA
Interdepartmental Route Slip

TO: Mail Station 3301	Department
Attention <i>Legislative Finance</i>	
<input type="checkbox"/> Approval <input type="checkbox"/> Note & Return <input type="checkbox"/> Signature <input type="checkbox"/> Initial & Return <input type="checkbox"/> Comment <input type="checkbox"/> Return as Requested <input type="checkbox"/> Contact Me <input type="checkbox"/> Return for Approval <input type="checkbox"/> Prepare Reply <input type="checkbox"/> Necessary Action <input type="checkbox"/> For Your File <input type="checkbox"/> For Your Information	
Remarks: <i>Kathy</i> <i>Reported but file</i>	
FROM: Mail Station 0200	Department
By <i>Comm Rudd</i>	Date <i>1/29</i>

Position Paper

House CS for CS for Senate Bill 55 (L & C)

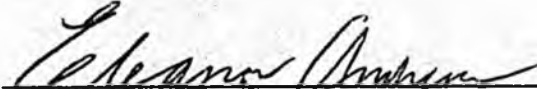
This amended version of the bill would add a new subsection to the Public Employment Relations Act providing:

1. for submission of the monetary terms of a collective bargaining agreement to the legislature within 10 days after the agreement of the parties, if the legislature is in session, or within 10 days after convening of the next regular session
2. legislative consideration of the monetary terms within 60 days after the agreement is submitted to the legislature and approval or disapproval of those terms by concurrent resolution as a nonbinding, advisory expression of legislative intent
3. that if the legislature does not pass a concurrent resolution under this section, the monetary terms are considered approved.

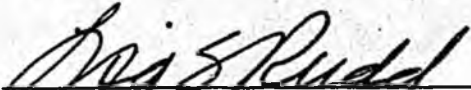
Further, the bill is amended by adding a new paragraph defining what portions of a collective bargaining agreement are considered "monetary terms".

House CS for CS for SB 55 (L & C) version of the bill still allows for the monetary terms of a collective bargaining agreement to become effective if the legislature does not pass a concurrent resolution within 60 days after submission. For this reason, the Department of Administration cannot support this bill. Attached is a copy of an Attorney General's opinion dated May 18, 1983 which explains the problems the administration has with monetary terms of a collective bargaining agreement taking effect without specific approval, and appropriation by the legislature, as written in HCSSB 55 (L & C). Also attached for your consideration is a substitute for CSCS for SB 55 drafted by the Department of Law on May 21, 1983 which satisfies this Department's concern about this issue.

The Department of Administration has another, serious concern about this bill. The State has a long history, relatively problem free, of collective bargaining with its employee representatives. This amendment to AS 23.40.215 will cloud the clear roles already established for the executive and legislative bodies in relation to collective bargaining, thereby disturbing a process that has worked to the benefit of all parties in the past. For this reason, also, we oppose this bill.


Eleanor Andrews, Deputy Commissioner

1/23/84
Date


Commissioner Lisa Rudd

1/24/84
Date

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2

REQUEST

Bill/Resolution No. HCSCSB 55 (L&C)
Title: Act relating to Collective Bargaining

Sponsor: Labor & Commerce Committee
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: General Government

BRU, Program or Subprogram(s) Affected: Labor Relations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL	12.5	13.1	13.7	14.4	15.1	15.8
300 CONTRACTUAL	65.9	69.2	72.7	76.3	80.1	84.1
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	78.4	82.3	86.4	90.7	95.2	99.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	78.4	82.3	86.4	90.7	95.2	99.9
FEDERAL FUNDS						
OTHER						
TOTAL	78.4	82.3	86.4	90.7	95.2	99.9

POSITIONS: / / / / / /

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Eleanor Andrews Phone: _____
Division: Commissioner's Office Date: 1/23/84

Approved by Commissioner: Lisa Rudd Date: 1/23/84
Agency: Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

HCSCSB 55 (L&C) Fiscal Note Analysis
Prepared by
Commissioner's Office
Department of Administration

January 23, 1984

The Department of Administration is concerned about potential fiscal impact of this legislation. The potential of costs is for additional staff time in negotiations because of this prolonged, cumbersome process.

Assumptions for least fiscal impact 0:

1. Assumes all nine contracts are negotiated with no problems in getting a concurrent resolution in support of agreements reached, and the legislature appropriates funds necessary to implement the monetary terms.

Assumptions for most severe impact 78.4 for FY 84:

2. Assumes legislature does not act within 60 days nor does it appropriate funds to implement the monetary terms of negotiated agreements. In order to avoid work slow downs on grievance processing and general contract administration, the division would need to add two Senior Labor Negotiators for six months each year to coordinate negotiation of collective bargaining agreements. We are assuming yearly negotiations rather than longer contracts because the unions would probably be unwilling to enter into longer contracts under the provisions of this bill. Additional potential fiscal impact could be Department of Law.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

MAY 23 1983

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 20, 1983

The Honorable Bill Ray
Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: CSSB 55 -- collective
bargaining
Our file no.: 377-103-83

Dear Senator Ray:

Attached please find a proposed substitute for CSSB 55 which does not raise the legal concerns identified in our letter of May 18, 1983. As you will note, the substitute provides for the prompt submission of the monetary terms of an agreement to the legislature. The legislature, acting in its advisory capacity, will be considered to approve the monetary terms, unless a contrary concurrent resolution is adopted within 30 days. Any action under this new review procedure does not disturb any legislatures prerogatives with respect to the funding of an agreement.

We apologize that the Department of Law did not provide you with a prepared substitute for SB 55 at an earlier date. If you have any questions, please feel free to call.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:

Jonathan B. Rubini
Jonathan B. Rubini
Assistant Attorney General

JBR:jb

cc: Emil Notti
Legislative Assistant
Governor's Office

Eleanor Andrews
Deputy Commissioner -- Personnel Mgr.
Department of Administration

negotiations.

PROPOSED (Dept. of Law)

Offered: 3/3/83

Referred: Finance

Original sponsor: Rules/Legislative Council

IN THE SENATE

BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 55 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

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

* Section 1. AS 23.40.215 is amended by adding a new subsection to read:

(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 days after the agreement of the parties, if the legislature is in session, or within

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 18, 1983

The Honorable Vic Fischer
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: CSSB 55 -- Collective
bargaining agreements
Our file no.: 366-612-83

Dear Senator Fischer:

In your letter of May 18, 1983, you have asked whether the procedures proposed in CSSB 55 to effectuate approval of a collective bargaining agreement raise constitutional concerns. As we discussed below, the bill raises substantial constitutional questions and, as a consequence, will almost undoubtedly foster extensive litigation. In light of the limited time available for our response and the complexity of the matter, we limit our response to identifying the legal questions posed by CSSB 55.

As you know, present law provides that the monetary terms of an agreement do not take effect without legislative approval. AS 23.40.215. In practical application, monetary terms take effect only when an appropriation to fund the agreement is adopted. The effective dates of other provisions in an agreement are not, however, contingent on legislative review and approval. CSSB 55 proposes, in contrast, that monetary terms of an agreement would take effect unless the legislature adopts within 30 days a concurrent resolution which disapproves of the monetary terms. Further, the effective date for other items in the agreement would be contingent on the monetary terms taking effect through legislative inaction.

We first question whether CSSB 55 proposes a permissible exercise of legislative powers. The novel feature of the legislation is the significance of the legislature's failure to

act. In State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980), the Alaska Supreme Court considered the constitutionality of a statute, AS 44.62.320(a), which provided for the annulment of administrative regulations through adoption of a concurrent resolution. The Court observed that "[t]he Alaska Constitution defines with specificity the mechanics of legislation. Each provision has a purpose 'designed to engender a responsible legislative process worthy of the public trust.'" Id. at 772, quoting Plumley v. Hale, 594 P.2d 497, 500 (Alaska 1979). With respect to the regulation annulment procedure at issue, the court concluded that the adoption of a concurrent resolution was an impermissible method to exercise legislative power. Indeed, since CSSB 55 infers legislative action through an absence of action, the bill arguably exacerbates the procedural deficiencies identified at length in A.L.I.V.E. Voluntary. Further, the A.L.I.V.E. Voluntary court also noted that where the legislature acts through the adoption of a concurrent resolution, the governor is deprived of an opportunity to exercise a veto of the legislative action. That concern is equally applicable to the procedures established under CSSB 55.

The bill also raises substantial questions with respect to the appropriation process. Article 9, section 13 of the Alaska Constitution provides that "no money shall be withdrawn from the treasury except in accordance with appropriations made by law." Clearly, legislative inaction cannot suffice to permit the expenditure of public money without an appropriation. The bill, therefore, should not be construed to permit a "de facto appropriation" of public money to fund the agreement. And, if the monetary terms of an agreement became effective through legislative inaction, the terms of any outstanding appropriations would be determinative of whether the executive branch had authority to expend public money to fund the agreement. Of course, as a practical matter the use of a preexisting appropriation may require the dismissal of public employees to provide sufficient money to fund the agreement. A related, and more difficult problem is that once the monetary terms are effective, contractual obligations are established. We cannot opine with any certainty what ramifications would follow were the state in the difficult posture of being subject to contractual obligations, yet without the requisite appropriation to enable the expenditure of public money. We note that it is arguable that the legislature's continuing obligation to fund the monetary terms of an agreement pursuant to AS 23.40.215 may, ultimately, be compromised in this instance.

Hon. Vic Fischer
CSSB 55 -- collective bargaining agreements
366-612-83

May 18, 1983
Page 3

If you have any further questions on this matter,
please feel free to call.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:

Jonathan B. Rubini
Jonathan B. Rubini
Assistant Attorney General

JBR:jb

cc: Honorable Bill Ray
Alaska State Legislature

Eleanor Andrews, Deputy Commissioner
Department of Administration