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LETTER OF INTENT

SENATE BILL 55

Before an organization and the state 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, the proposed agreement shall be submitted to the legislature within ten (10) days after the agreement of the parties or ten (10) days after the convening of the next regular session. The monetary terms of the submitted 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.

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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 23.40.210 is amended by adding a new subsection to read:

(b) Before entering into an agreement between an organization and the state a proposed agreement approved by the organization and the state shall be submitted to the legislature for consideration of the monetary terms of the agreement. The proposed agreement shall be submitted to the legislature within 10 days after the agreement of the parties or 10 days after the convening of the next regular session. ~~An~~ <sup>the</sup> agreement <sup>may</sup> take effect if the monetary terms of the agreement are not rejected by the legislature by concurrent resolution within 30 days after the agreement is submitted to the legislature.

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

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

DB 50  
FOURTH STATE CAPITOL  
JUNEAU, ALASKA 99801  
TUT-443-3500

MEMORANDUM

February 11, 1983

SUBJECT: Collective bargaining  
(SB 55)

TO: Senator Bill Ray

FROM: Billy G. Berrier *BGB*  
Director  
Division of Legal Services

I have prepared a couple of suggestions for your consideration.

These are:

(1) (b) No agreement between an organization and the state is effective until the monetary terms of the agreement have been approved by the legislature by funding of the monetary terms through legislative appropriation.

or

(2) (b) Before entering into an agreement between an organization and the state a proposed agreement approved by the organization and the state shall be submitted to the legislature for approval of the monetary terms of the agreement. An agreement may not become effective until the monetary terms of the agreement have been approved by the legislature by funding of the monetary terms by appropriation.

If you prefer we can prepare a requirement that agreements be submitted to the legislature on an advisory basis and create a disapproval mechanism. Since it is questionable that a disapproval could have binding legal effect because of the separation of powers problem and because the approaches suggested are cleaner, I have not prepared suggested language for this.

BGB:ljb

# 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

February 10, 1983

Honorable Bill Ray  
Senator  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: SB 55; legislative review  
of collective bargaining  
agreements

Dear Senator Ray:

I have given further thought to our disagreement regarding the possible legal questions raised by SB 55. As I understand our most recent phone conversation, you propose through SB 55 to provide a mechanism for legislative oversight where the state and an employee organization reach tentative approval of a collective bargaining agreement. My concern, again, is that a separation of powers question arises if the legislature asserts a right to approve or disapprove those non-monetary terms of a collective bargaining agreement not defined through substantive enactments. Allow me to propose an approach which may accommodate our respective concerns.

Establishment of a process to solicit the legislature's advisory opinion does not pose any constitutional problems. Thus, my preliminary view is that it would be lawful to require the submission of a tentative agreement to the legislature. Somewhat along the lines suggested in SB 55, the legislature would have a specified period of time to express, through adoption of a resolution, its disapproval of all or part of the tentative agreement. If no resolution is adopted, the parties can assume that the legislature approves the tentative agreement. Further, since oftentimes tentative agreements are reached when the legislature is not in session, it may be desirable to delegate to the Legislative Council the responsibility to review any tentative agreements adopted in the interim period.

Any resolution adopted by the legislature to express disapproval of all or part of a proposed collective bargaining agreement would be advisory. As a legal matter, the parties to the tentative agreement would be free to proceed with execution of the proposed contract, or to return to the negotiating table. By the same token, however, the legislature retains the right to determine whether or not to appropriate money to fund the agreement. The practical consequences, however, may well be

Honorable Bill Ray  
Senator

February 10, 1983  
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substantially more far-reaching. The advisory review process offers a vehicle for the legislature to assume a more active role in the collective bargaining process. Also, it offers the parties an insight into the legislative view of the proposed terms of agreement, perhaps limiting the present state of uncertainty where money terms are submitted to the legislature. Last, an expression of legislative disapproval would, if nothing else, at least put the parties on notice that if they disregard legislative concerns, the likelihood of obtaining an appropriation to fund the agreement would be jeopardized.

I look forward to working with you to reconcile, if possible, any disagreement raised by SB 55. Please feel free to call if I can be of further assistance.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

  
Jonathan B. Rubini  
Assistant Attorney General

JBR:md

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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BGB:ljb

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BILLY:

THIS IS THE LANGUAGE  
PROPOSED BY SEN JOSEPHSON  
AS WE DISCUSSED.

John  $\frac{2}{22}$   
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